

AGENDA

Georges River Local Planning Panel

Thursday, 21 March 2024

4:00 PM

Blended Meeting

**Online and Council Chambers, Civic Centre,
Hurstville**

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

GEORGES RIVER LOCAL PLANNING PANEL MEETING

ORDER OF BUSINESS

1. ON SITE INSPECTIONS

2. OPENING

3. ACKNOWLEDGEMENT OF COUNTRY

The Georges River Local Planning Panel acknowledges the Bidjigal people of the Eora Nation, who are the Traditional Custodians of all lands, waters and sky in the Georges River area. I pay my respect to Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples who live, work and meet on these lands.

4. APOLOGIES / LEAVE OF ABSENCE

5. NOTICE OF WEBCASTING

6. DISCLOSURES OF INTEREST

7. CONSIDERATION OF ITEM(S) AND VERBAL SUBMISSIONS

8. CLOSED SESSION – DELIBERATION OF REPORTS

LPP006-24	58A Algernon Street OATLEY – DA2023/0117 (Report by Consultant Planner)	3
LPP007-24	206 Railway Parade KOGARAH – MOD2022/0100 (Report by Consultant Planner)	83
LPP008-24	37 Endeavour Street SANS SOUCI NSW 2219 – DA2023/0346 (Report by Development Assessment Planner)	223
LPP009-24	34 Montgomery Street Kogarah – MOD2023/0086 (Report by Development Assessment Planner)	319
LPP010-24	219 Terry Street Connells Point – DA2023/0156 (Report by Development Assessment Planner)	420

9. CONFIRMATION OF MINUTES

Georges River Local Planning Panel Meeting - 21 March 2024

REPORTS AND LPP DELIBERATIONS**REPORT TO GEORGES RIVER LOCAL PLANNING PANEL MEETING OF THURSDAY, 21 MARCH 2024****LPP006-24 58A ALGERNON STREET OATLEY****LPP006-24**

LPP Report No	LPP006-24	Development Application No	DA2023/0117
Site Address & Ward Locality	58A Algernon Street OATLEY Peakhurst Ward		
Proposed Development	Demolition of Existing Structures and Construction of a Part Two, Part Three Storey Dwelling House with an Inground Swimming Pool and Associated Landscaping		
Owners	Yiannis Socratous		
Applicant	Yiannis Socratous		
Planner/Architect	Innovate		
Date Of Lodgement	20/04/2023		
Submissions	One (1)		
Cost of Works	\$2,087,569.00		
Local Planning Panel Criteria	Development Standard Variation Greater than 10% (Height of Building)		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Georges River Local Environmental Plan 2021, Georges River Development Control Plan 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021		
List all documents submitted with this report for the Panel's consideration	Architectural Plans, Statement of Environmental Effects, Clause 4.6 Variation Request, Arborist Report, Survey Plan, Stormwater Plans, Submissions, Acoustic Report, Privacy Assessment (prepared by applicant), Geotechnical Report.		
Report prepared by	Principal Assessment Planner		

RECOMMENDATION	Approval Subject to Conditions
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Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
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Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes – Height of Building
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	Yes – the applicant has reviewed the conditions

SITE PLAN



Figure 1: Aerial view of the subject site and the surrounding properties

EXECUTIVE SUMMARY PROPOSAL

1. This development application (DA) seeks consent for demolition of existing structures on site, and construction of a part two, part three storey dwelling with swimming pool and associated landscaping.

2. The proposed development complies with the floor space ratio development standard in the Georges River LEP 2021. A variation is sought to the LEP height of building standard, and this is addressed in this report.

SITE AND LOCALITY

3. The site is located at Lot 1 DP 56766, also known as No. 58A Algernon Street, Oatley. The site is irregular shaped, measuring 16.105m wide, approximately 44.195m long at the eastern elevation and 82.72m at the western elevation (southern half is a narrow sliver of land to access the boat shed. The land size is 671.8sqm according to the survey.
4. The development site is located on the southern side of Algernon Road and has access to the Georges River via a narrow sliver of land. The site falls approximately 39 metres from the frontage towards the river. The site is currently occupied by a 1970s era brick and tile roof two storey dwelling which sits atop a ridge. The remainder of the site is characterised by large rock outcrops that falls away steeply towards the Georges River.
5. The subject site adjoins a separate residential allotment to the rear which is accessed via a driveway at the eastern side of the site. Access to the waterfront is by the way of a narrow sliver of land at the western elevation. An existing boat shed is located on the foreshore and is proposed to be retained as part of this application.

ZONING AND PERMISSIBILITY

6. The subject site is zoned R2 Low Density Residential under the provisions of the Georges River LEP 2021. The proposal involves the construction of a dwelling house which is a permissible use in the zone with development consent.

SUBMISSIONS

7. The application was publicly notified to neighbours for a period of fourteen (14) days in accordance with the Georges River Development Control Plan 2021. In response, one (1) submission was received. This is discussed in greater detail in the body of this report.

REASON FOR REFERRAL TO THE LOCAL PLANNING PANEL

8. This application is referred to the Georges River Local Planning Panel for determination as the applicants seeks a variation to the height of building standard of greater than 10%.

CONCLUSION

9. 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 bulk and scale of the building is suitable given the articulation, appropriate building setbacks and the mix of materials and finishes textures.
10. As a result, the application is recommended for approval subject to conditions of consent.

REPORT IN FULL PROPOSAL

11. The proposal seeks consent for Demolition of Existing Structures and Construction of a Part Two Storey Part Three Storey Dwelling with Swimming Pool and Associated Landscaping. The dwelling comprises of:

Lower Ground Floor:

- Laundry room, guest bedroom, rumpus room, plant and pool equipment room, lift and stairs.

Ground floor

- Double garage, stairs to the first floor, lift, study room, bathroom, living room, dining room, kitchen and balcony.

First Floor:

- Four (4) bedrooms, bathroom, linen room, study room and lift.

BACKGROUND

12. On 15 November 2021, DA2021/0248 for Alterations and additions to a dwelling house, including, removal of rockery walls, excavation, filling, installation of an elevated swimming pool, screen walls, landscaping and site works was approved under delegated authority. It is understood that the owner is no longer proceeding with carrying out the approved development.

COMPLIANCE

13. The development has been assessed having regard to matters for consideration under Section 4.15 (1) of the Environmental Planning and Assessment Act 1979.

SECTION 4.15 EVALUATION**State Environmental Planning Policies (SEPPs)**

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

SECTION 4.15 EVALUATION

15. 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)

16. 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 (BASIX) 2004	Yes

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 - Vegetation in Non-Rural Areas

17. 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.
18. This chapter applies to clearing of:
 - (a) *Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and*
 - (b) *Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (Development Control Plan).*
19. No trees of any significance are proposed to be removed.

Chapter 11 – Georges River Catchment

20. The primary relevant aims and objectives of this chapter of the 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,*
21. The stormwater design was reviewed by Council's Engineering Section. No objection was raised with respect to the management and disposal of stormwater, subject to recommended conditions of consent.
22. The proposal is consistent with the objectives and purpose of Chapter 11 of the SEPP.

State Environmental Planning Policy (Resilience and Hazards) 2021

23. Chapter 2 and Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 are relevant to the proposal.
24. 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".*

Chapter 2 Coastal Management

25. It is noted that the subject site is mapped as being located to be within the coastal zone, however, it is noted identified as being located in the coastal vulnerability or coastal wetland area.



Figure 2 Coastal zone mapped in orange, site in yellow

26. The following is an assessment of the matters for consideration listed under the State Environmental Planning Policy as applicable to the Coastal Environment Area and Coastal Use Area.

Division 3 Coastal Area	Proposal	Complies
2.10 (1) Development on land within the coastal environment area		
(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:		
(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,	Surface water runoff is to be managed in accordance with the approved stormwater management plan and relevant conditions imposed. The proposal is satisfactory subject to conditions.	Yes
(b) coastal environmental values and natural coastal processes,	The proposal is used for residential purposes and will not unacceptably impact the coastal environmental values and there is no impact on coastal processes.	Yes
(c) the water quality of the marine estate (within the meaning of the	Appropriate standard conditions to be imposed to ensure water quality	Yes

Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,	is maintained. The site is not located on any of the sensitive coastal lakes identified in Schedule 1.	
(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,	There will be no unreasonable impact upon these features.	Yes
(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	There is currently no public access to the foreshore from the site.	Yes
(f) Aboriginal cultural heritage, practices and places,	The allotment is not known as a place of Aboriginal significance. There is no known impact in terms of Aboriginal heritage.	Yes
(g) the use of the surf zone.	The development is not located near the surf zone.	Yes
(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:		
(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or	The proposal does not seek to adversely impact upon the coastal environment.	Yes
(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	The development does not propose to impact upon a mapped Coastal Environment area and a Coastal Use area. Suitable conditions of consent have been applied to ensure the management of the mapped area during construction of the development.	Yes
(c) if that impact cannot be minimised—the development will be managed to mitigate that impact	The development does not propose to impact upon a mapped Coastal Environment area and a Coastal Use area. Suitable conditions of consent have been applied to ensure the management of the mapped area during construction of the proposal.	Yes
Division 4 Coastal Use Area		

2.11 Development on land within the coastal use area		
(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:		
(a) has considered whether the proposed development is likely to cause an adverse impact on the following:		
(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	There is no public access in this location.	N/A
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	The proposal will not impact on any public space.	Yes
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	No impact.	Yes
(iv) Aboriginal cultural heritage, practices and places,	The property is not a known site of Aboriginal heritage.	Yes
(v) cultural and built environment heritage, and	The site does not contain any heritage items.	Yes
(b) is satisfied that:		
(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or	The proposal does not seek to adversely impact upon the coastal environment.	Yes
(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	The proposal does not seek to adversely impact upon the coastal environment.	Yes
(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and	The proposal does not seek to adversely impact upon the coastal environment.	Yes
(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.	The proposed developments bulk and scale has been considered in this assessment report.	Yes

Chapter 4 Remediation of Land

27. Chapter 4 of this SEPP is relevant to the proposal.
28. This chapter 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.
29. Clause 4.6 of the SEPP 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.
30. The proposed works relate to the demolition of an existing dwelling and construction of a new two storey dwelling.
31. The site has a history of residential use and is suitable for the proposed development subject to conditions regarding removal of asbestos, and any unexpected finds.

32. The proposal is consistent with the provisions of the State Environmental Planning Policy (Resilience and Hazards) 2021.

State Environmental Planning Policy (Transport and Infrastructure) 2021

33. Compliance with SEPP (Transport and Infrastructure) 2021 has been considered during the assessment of this development application. The site is not mapped within a Transport and Infrastructure corridor and is unlikely to be impacted by rail noise or vibration. Ausgrid was consulted as required by Chapter 2, no objection was raised to the proposed development and standard conditions and advice were provided.

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

34. A BASIX Certificate has been issued for the proposed development and the commitments required under the certificate have been satisfied. Conditions of consent imposed.

GEORGES RIVER LOCAL ENVIRONMENTAL PLAN 2021

35. 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.
36. 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.
37. The proposal satisfies the objectives of the R2 Zone as it will continue to provide housing for the needs of the community, the proposal does not compromise the amenity of the surrounding area.
38. The proposal maintains the visual amenity of the locality.
39. The extent to which the proposal complies with the relevant standards of Georges River Local Environmental Plan 2021 is outlined in the table below.

GEORGES RIVER LOCAL ENVIRONMENTAL PLAN 2021

40. 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.

Clause	Standard	Proposed	Complies
Part 1 – Preliminary			
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	Dwelling House means: <i>a building containing only one dwelling.</i>	The proposed development is	Yes

		consistent with the definition.	
Part 2 - Permitted or prohibited development			
2.3 - Zone objectives and Land Use Table	Meets objectives of R2-Low Density Residential Zone.	The proposal meets all objectives.	Yes
	Development must be permissible with consent	The proposal is permissible with development consent.	Yes
Part 4 - Principal Development Standards			
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	10.3 metres	No, 14.4% variation to Clause 4.3 height of building development standard.
4.4 – Floor Space Ratio	0.55:1 as identified on Floor Space Ratio Map	Despite clause 4.4 (2), the floor space ratio for residential accommodation on land in Zone R2 Low Density Residential, Clause 4.4A applies.	Refer to Clause 4.4A
4.4A - Exceptions to floor space ratio—certain residential accommodation	<p>(2) The maximum floor space ratio for a dwelling house on land identified as “Area 1” on the <u>Floor Space Ratio Map</u> must not exceed the maximum floor space ratio specified in the table to this subclause.</p> <p>Site area</p> <ul style="list-style-type: none"> less than 1,000 square metres but not less than 650 square metres [(lot area – 650) × 0.3 + 357.5] ÷ lot area:1 <p>(3) The maximum floor space ratio for residential accommodation on land identified as “Area 2” on the <u>Floor Space Ratio Map</u> must not exceed 0.6:1.</p> <p>Site area: 671.8sqm</p>	Permissible FSR- 352.3sqm (0.524:1)	Yes

4.6 – Exceptions to development standards	In accordance with Clause 4.6 (1) through to and including (8)	The proposal is accompanied by a Clause 4.6 variation relating to the non-compliant height of building under Clause 4.3	Refer to the Clause 4.6 assessment below.
Part 5 - Miscellaneous Provisions			
5.7 – Development below mean high water mark	(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).	No development is carried out below the mean high water mark	N/A
5.10 – Heritage conservation	In accordance with Clause 5.10 (2)	The site is not a heritage item or is located a heritage conservation area.	N/A
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 site is not mapped as bush fire prone.	N/A
Part 6 - Additional Local Provisions			
6.1 – Acid sulfate soils	<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>Class 5: Works within 100 metres of adjacent Class 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 2, 3 or 4 land.</p>	<p>Subject site is located in an Acid Sulfate Soils Area- Class 5.</p> <p>The proposed works are within 100m of adjacent Class 1.</p> <p>Preliminary acid Sulfate soils assessment is not required as the land where the proposed development is proposed is not below 5 metres AHD.</p> <p>Suitable conditions of consent have been applied regarding unexpected finds.</p>	Yes
6.2 – Earthworks	(2) Development consent is required for earthworks unless—	The proposed earthworks are ancillary to the proposed	Yes

	<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 development that is permitted without consent under this Plan or to development for which development consent has been given.</p>	development and are acceptable for this form of development.	
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>	<p>Council's Development Engineers have reviewed the proposed development and it is supportable subject to conditions of consent.</p>	Yes

<p>6.4 - Foreshore area and coastal hazards and risk</p>	<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 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>The site is located in a foreshore area and/or coastal hazards and risk area.</p> <p>However, no works extend into the Foreshore area.</p>	<p>N/A</p>
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	<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— foreshore area means the land between the foreshore building line and the mean high water mark of the nearest bay or river. foreshore building line 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 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>	The site is not mapped as riparian land.	N/A

	<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 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</p>		
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	managed to mitigate that impact.		
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> <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,</p>	<p>The site is in a foreshore scenic protection area.</p> <p>The proposed development primarily occupies the footprint of the existing dwelling on top of the ridge. The rock outcrops towards the rear of the site are primarily retained.</p> <p>Native vegetation is proposed to facilitate biodiversity protection and native flora and fauna movement.</p> <p>The foreshore area of the subject site is largely rock formations with a set of access stairs to the waterway.</p> <p>View loss has not been raised as a concern by the neighbouring properties.</p>	Yes

	residential areas and public places, (g) the minimisation of the height and bulk of the development by stepping the development to accommodate the fall in the land.		
6.9 Essential Services	<p>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:</p> <ul style="list-style-type: none"> (a) the supply of water, (b) the supply of electricity, <ul style="list-style-type: none"> i the supply of telecommunications facilities, (d) the disposal and management of sewage, <ul style="list-style-type: none"> i stormwater drainage or on-site conservation, (f) suitable vehicular access. 	<p>The subject site has made available the essential services via the proposed development.</p> <p>The stormwater disposal is to be discharged to the Georges River within the boundaries of the site via a pollution control pit.</p> <p>The proposal has been reviewed by both Council's Development Engineer and Environmental Health Officers and is supported subject to suitable conditions of consent.</p> <p>Vehicular access is provided via amendments to the roadway to provide a complaint crossover.</p> <p>Other essential services are available on site and no concerns are raised subject to conditions of consent.</p>	Yes
6.10 - Design excellence	<p>(2) This clause applies to development on land referred to in subclause (3) involving—</p> <ul style="list-style-type: none"> (a) the erection of a new building, or 	<p>The proposal does not adjoin the public domain. However, the landscaped foreshore works will improve the quality and appearance of the</p>	Yes

	<p>(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 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 B1 Neighbourhood Centre,</p> <p>(iii) Zone B2 Local Centre,</p> <p>(iv) Zone B3 Commercial Core,</p> <p>(v) Zone B4 Mixed Use,</p> <p>(vi) Zone B6 Enterprise Corridor,</p> <p>(vii) Zone IN2 Light Industrial.</p> <p>(4) Development consent must not be granted for development to which this clause applies unless the consent authority considers that the</p>	<p>site when viewed from the waterway.</p> <p>The proposed development appropriately responds to the established built form patterns of dwelling houses within the immediate locality.</p> <p>From a design excellence prospective the proposed dwelling is an improvement to the site.</p>	
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	<p>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 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</p>		
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	<p>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 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>		
6.12 - Landscaped areas in certain residential and environment protection zones	<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</p>	<p>R2 Low Density Residential</p> <p>Required = 25% of 671.8sqm (site area)</p> <p>Total LSA required = 167.95sqm</p> <p>Proposed LSA = 195.4sqm (29%)</p>	Yes

	<p>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 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> <p>(b) for a dwelling house located on land within the Foreshore Scenic</p>		
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	<p>Protection Area—25% of the site area, or (c) for a dual occupancy located on land outside the Foreshore Scenic Protection Area—25% of the site area, or (d) for a dual occupancy located on land within the Foreshore Scenic Protection Area—30% of the site area, or (e) for development in Zone R3 Medium Density Residential—20% of the site area, or (f) for development in Zone R4 High Density Residential—10% of the site area, or (g) for development in Zone E2 Environmental Conservation—70% of the site area.</p> <p>(6) If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle and any right of carriageway is not to be included in calculating the site area for the purposes of subclause (5).</p> <p>(7) In this clause— <i>Foreshore Scenic Protection Area</i> means land shown on the <u>Foreshore Scenic Protection Area Map</u>.</p>		
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LPP006-24

GRLEP 2021 CLAUSE 4.6- EXCEPTIONS TO DEVELOPMENT STANDARDS ASSESSMENT

GRLEP 2021 Clause 4.3 Height of Building

41. The proposed development seeks a variation to development standard relating to height – Clause 4.3 of GRLEP 2021. GRLEP 2021 identifies a maximum height of 9m for the site. The Applicant has submitted a Clause 4.6 submission to vary the height to 10.3m measured to the roof RL, this results in a 14.4% variation to the development standard.
42. The extent of the variation is shown in the figures below.

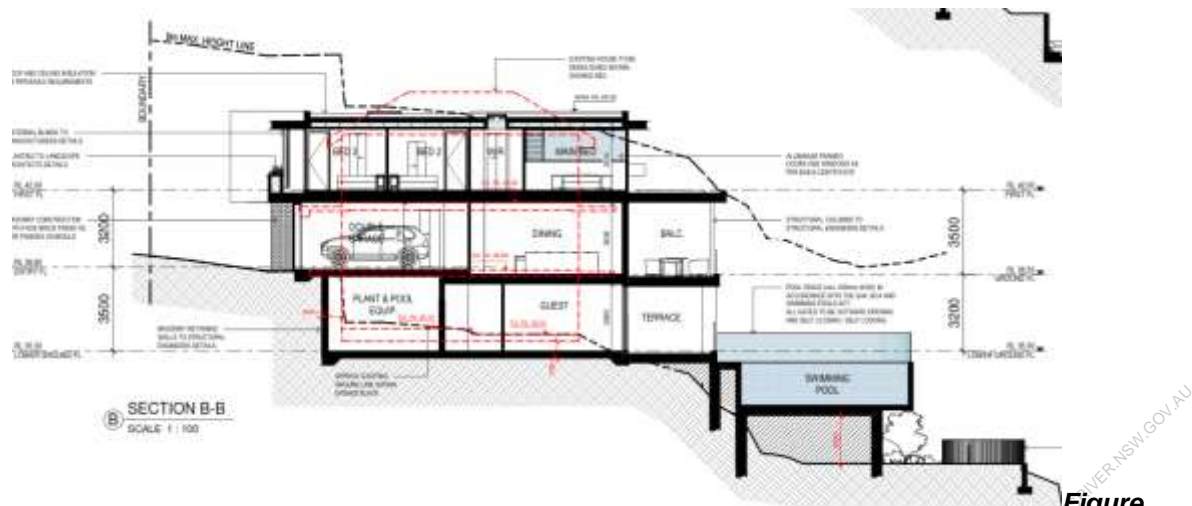


Figure 3:

Elevational Plan highlighting extent of height of building development standard variation (red dotted outline is existing building and black dotted outline is the proposed height).



Figure 13:: Plan highlighting extent of height of building development standard variation (yellow).

43. The applicant has lodged a written request in accordance with the requirements of Clause 4.6 of GRLEP 2021. Any variation to a statutory control can only be considered under Clause 4.6 – Exceptions to Development Standards of the GRLEP. An assessment of the proposed height against the survey plan levels and levels within the subfloor area was conducted to indicate the Applicant's calculations are accurate and the variation is well-founded.
44. 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".*

45. 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 GRLEP. The Clause 4.6 request for variation is assessed as follows:

Is the planning control in question a development standard?

46. Height of Buildings control under Clause 4.3 of the GRLEP 2021 is a development standard. The maximum permissible height is 9m.

What are the underlying objectives of the development standard?

47. The objectives of the height of buildings development standard set out in Clause 4.3 (1) of GRLEP 2021 are as follows:
- (a) *to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*
 - (b) *to minimise the impact of overshadowing, visual impact, disruption of views and loss of privacy on adjoining properties and open space areas,*
 - (c) *to ensure an appropriate height transition between new buildings and—*
 - (i) *adjoining land uses, or*
 - (ii) *heritage items, heritage conservation areas or Aboriginal places of heritage significance.*

COMPLIANCE IS UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE (CLAUSE 4.6(3)(A))

48. 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.
49. 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.*
50. The objectives and relevant provisions of Clause 4.3 of GRLEP 2021 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.

51. Objective (a) seeks to ensure that buildings are compatible with the height, bulk and scale of the existing and future character of the locality and positively complement adjoining developments and the natural character of the area.

It is noted that objective (a) refers to being 'compatible, consistent and complementary' with the above mentioned elements. It is considered that "compatible" does not promote "sameness" in built form but rather requires that development fits comfortably with its urban context.

The variations to the height of buildings development standard are limited to a maximum 1.3m variation to a portion of the roof toward the middle and rear of the dwelling. This variation is considered acceptable and will not be alarming to the visual aesthetic of the streetscape. With regards to the neighbouring properties, the non-compliant portions of the roof form are adequately setback from the boundaries shared with the neighbouring properties, particularly considering the adjoining access handles which further separate the proposed dwelling, and height non-compliances from the neighbouring properties. Given the variation only pertains to minor elements of the proposed contemporary roof form, as well as a small upper portion of the master bedroom, they will not be visually intrusive from the neighbouring properties as they are limited in extent and are a result of the steep topography of the site and its surrounds. Given the proposal is generally compliant with all other standards and retains the residential amenity of surrounding developments, this ensures that the height variation is compatible to the scale of neighbouring properties.

When viewed from Algernon Street and neighbouring properties, the building is situated well below the 9m height limit and will not create any height breaches which are visible from the public domain. Only where the site slopes towards the rear of the site, will a height breach be present. The proposed development has been designed as a high quality contemporary form which is consistent with the current and desired streetscape and waterfront character. When viewed from the waterway, the additional height breach will not be readily apparent as it is integrated into the proposed façade. As mentioned, the proposed design successfully masks the height breach and presents as a compliant built form which will not be visible to the casual observer given compatibility with the neighbouring properties. It is considered that the variation created by the roof will not result in a scale of development that is noticeably different from the remaining compliant built form. The design of the proposal, location of the height breach and setbacks provided to the non-compliant elements ensure that the development will nestle comfortably between the immediately adjoining neighbours and reflect the characteristics of the remaining buildings found along the waterfront.

As such, it is considered that this non-compliance will not be visually jarring when viewed from the public domain. As such, the proposal is therefore consistent with objective (a), despite the minor height breach.

Objective (b):

This objective envisage that building heights must be controlled to preserve the amenity of neighbouring properties, with regards to views, privacy, overshadowing or visual intrusion. The non-compliant height will not compromise the use and enjoyment of neighbouring properties in terms of views and outlook when compared to a building with a compliant height. The proposed development has been designed to provide a building footprint and envelope which sits well within the site and responds to the topography of the land, to that the building is of an appropriate bulk and scale. Furthermore, the height breach is located to the centre of the site where the land drops quite significantly. It is noted that no views from the neighbouring properties will be impacted by the proposed non-compliance, with any views over the site from

dwelling to the north protected due to the difference in gradient levels and the provision of a compliant building height at the street frontage.

The non-compliant height will not compromise the use and enjoyment of neighbouring properties in terms of privacy. The additional height created by the roof elements does not create any openings which will allow increased invasion of visual or aural privacy. As previously mentioned, a minor upper portion of the master bedroom extends above the height limit, however, only a small extent of this area contains glazing, and the glazing is setback over 6m to the side boundary, where the access handle provides further separation to the nearest dwelling.

The height breach will not create any additional shadows which will result in adverse impacts to the surrounding neighbours. The shadows cast by the proposed development have not been significantly exacerbated by the proposed height non-compliance and solar access to the neighbouring properties will be retained in accordance with the requirements stipulated in the SSDCP, where 3 hours of solar access to all neighbouring properties will be maintained between 9am and 3pm in midwinter. As such, the development will allow adequate daylight access to all neighbouring properties.

In terms of visual intrusion, the proposed roof elements have been designed to reflect the topography of the site. The additional height breach is limited to a minor portions of the roof and will not create any unreasonable sense of enclosure to the neighbouring properties, adequately retain the views from the surrounding developments and public domain.

It is therefore considered that the amenity of adjoining properties is preserved. That is, the amenity of adjoining properties will not be lessened in a significant way and certainly not beyond a scheme that is fully compliant with the relevant building envelope controls. Therefore, the proposal is consistent with objective (b), despite the minor height breach.

The site is not located within close proximity to or visible from any heritage items or heritage conservation areas. As such objective (c) is not considered relevant.

CLAUSE 4.6(3)(B) ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE STANDARD.**Applicant Comment:**

52. *The height breach is a result of the site topography, which has a fall of approximately 6m over the length of the dwelling, and 15m to the internal rear boundary. This is a specific site condition that the LEP height limit does not contemplate, in that the height limit applies equally to a vast area of the LGA with distinctly different topography. The proposed dwelling has been designed to respond to the topography of the site through stepping down the site and reducing physical bulk or scale as far as practicable. Therefore, the non-compliance for the roof element is a result of the steep and undulating topography.*

The site is unique in that it is bordered by access handles to the east and west, providing significant building separation to the adjoining dwellings, which have privacy benefits, as well as reducing the visual bulk of the development, when viewed from the streetscape and adjoining sites. Given the generous building separation provided by the site's context and the siting of the dwelling, the height noncompliance, which is centrally located on the site, does not result in a building bulk or scale which is visually excessive or dominating for the site and the streetscape.

The height exceedance will only be visible from the waterfront and to the casual observer, the proposal would appear compliant with the intended height and form of development on the site. The proposed non-compliance is not visible from Algernon Street, given the topography of the land. The centralised location of the proposed non-compliance will not impose an unreasonable bulk or scale when viewed from adjoining properties.

Furthermore, when viewed from the Georges River the height variation will not be readily apparent due to its location within the middle of the site, and the separation distance from the waterway provided by the rear adjoining dwelling. The proposed roof design will add to the articulation of the façade through a contemporary form which will not be visually obtrusive from the public domain.

Furthermore, the non-compliance only relates to the non-habitable roof form, with the exception of a small portion of the master bedroom. The proposed design and overall height is also considered to be entirely compatible with the built form and character of the locality.

When viewed from the waterway, the height breach will not be visually jarring when compared to the bulk and scale of residential dwellings surrounding the site, which often present as three storeys to the waterfront.

The social benefits of providing improved dwelling stock within a highly sought after location should be given weight in the consideration of the variation request. The proposed works will significantly improve the visual qualities of the proposed dwelling over the existing dwelling and it would be a loss to the future occupants (and contrary to the public interest) to deny the variation and require alterations to the design that seek to ultimately improve residential amenity and building aesthetics.

It is considered that there is an absence of any significant material impacts of the proposed noncompliance on the amenity of the environmental values of the locality, the amenity of future building occupants and on area character. Specifically:

- a. *The extent of the non-compliance creates no additional adverse overshadowing to adjoining properties which will create any adverse impacts in comparison to the overshadowing which results from the existing dwelling and adjoining dwellings and structures;*
- b. *The height breach does not result in any additional privacy impacts. There are no openings located within the non-compliant portions of the dwelling, and the height non-compliance relates to roof form and a small portion of the master bedroom only. The height variation will have no greater impact on the privacy of adjoining properties when compared to the complying elements of the building; and*
- c. *The proposed development will not result in any material loss of views or outlook when compared to a building with a compliant height, given its centralised location and height compliance at the street frontage. When considering the extent of view sharing against the backdrop of the applicable planning controls, the extent of view loss caused by the non-compliant elements would be insignificant or nil.*
- d. *The proposed development meets the objectives of the development standard and meets the objectives of the R2 Low Density Residential zone.*
- e. *The proposed building envelope has been carefully considered and is reflective of the topographical features of the site and compatible with the neighbouring dwellings and views afforded to the waterway. The proposed works have been designed with a compliant floor space ratio and provides suitable building setbacks (as discussed in this Statement) to mitigate any concerns regarding bulk and scale.*
- f. *The proposal provides for an appropriate scale and form that reflects the desired future character for development in the area. From Algernon Street, the proposal will appear as a two storey contemporary dwelling which sits well below the 9m maximum building height limit. From the waterway, the proposed development will be perceived as a compatibly scaled residential dwelling which responds to the topography of the locality and has incorporated high quality architectural elements and represents a significant improvement over the existing dwelling, ensuring that the non-compliance will not be perceivable by the casual observer.*
- g. *The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:*
 - *The proposal promotes the orderly and economic use and development of land through the redevelopment of an underutilised site for residential uses (1.3(c));*
 - *The proposed developed promotes good design and amenity of the built environment through a well considered design which is responsive to its setting and context (1.3(g)).*

The above environmental planning grounds are not general propositions. They are unique circumstances to the proposed development, particularly the steeply sloping topography which skews the height of buildings calculation and proposed nature of the development. The additional height delivers improved residential amenity and useability whilst providing a contemporary roof form to complement the character of the locality and deliver a high quality design which successfully addresses the waterway.

Assessing Officer Comment:

53. Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, it is considered that there is an absence of any negative impacts of the proposed non-compliance on the environmental quality of the locality and amenity of adjoining properties in terms of overshadowing, privacy, and amenity, in particular when considering the constraints of the site. The impacts have been minimised, as discussed above against the objectives of the development standard and the objections of the R2 Low Density Residential zone.
54. 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:*
55. Clause 4.6(4) states that:
"Development consent must not be granted for development that contravenes a development standard unless:
- (b) the consent authority is satisfied that:*
- the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and 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,"*
56. The proposal meets the objectives of the height of building standard as follows:
- (a) to establish the maximum height for buildings,*
- (b) to minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas,*
- (c) to provide appropriate scale and intensity of development through height controls.*

The area of non-compliance relates to a small element at the central part of the roof directly above the master bedroom. The height exceedance is not visually distinguishable from Algernon Street, given the significant slope of the land. While visible from the Georges River, the height variation will not be apparent given its central location. The proposed development and the variation will not result in any material loss of views or increase the bulk and scale.

The proposed dwelling has been designed to ensure that, despite the height variation towards the rear of the site, that the dwelling is compatible with the surrounding bulk and scale of the locality. The dwelling presents as a two-storey dwelling when viewed from the front street elevation. The dwelling presents as a three-storey dwelling when viewed from the side and rear elevations. Despite the proposal being three storeys in elevation, the proposed development appropriately responds to the steep topography of the site and the existing built form. The proposed development is of similar bulk and scale of development within the immediate locality.

The proposed roof design will add to the articulation of the façade through a contemporary form and provides a better level of amenity to the occupants. The additional height created by the roof element does not create any openings which will allow for increased invasion of visual or acoustic privacy. Given that the height breach is related to a minor upper portion of the master bedroom, only a small extend of this area contains glazing and is setback over 6 metres to the side boundary.

57. The proposal is consistent with the objectives of the R2 Low Density Residential zone 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.*
58. The proposed dwelling provides for the housing needs through the provision of additional floor area to suit the needs of the occupants, within a low-density residential area of single, two and three storey dwelling.
59. The majority of the development is located over the existing building footprint, rather than stepping down the site, which would require excavation of natural rock, results in a development that has been sensitively designed to minimise visual and environmental impacts upon the amenity of the surrounding area and the setting of the locality.
60. The area of non-compliance does not impact upon amenity of the adjoining sites, as the breaches in height relate to a minor portion of the roof form of the first floor.
61. Overall, the design maintains significant landform and topographical features of the site, through the minimising of excavation and fill to the sloping nature of the site.
62. Despite the non-compliance with the Height of Building development standard, the proposal satisfies the objectives of the R2 Low Density Residential zone, of the GRLEP 2021.

CLAUSE 4.6(B) THE CONCURRENCE OF THE SECRETARY HAS BEEN OBTAINED.

63. An assessment of the written request against Clause 4.6 (3)(a) and (b) Including comment about whether the request demonstrates the following:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
64. The application was supported by a Clause 4.6 Development Standard variation request (prepared by Planning Ingenuity). In this instance the variation request is considered adequate, particularly having regard to the constraints of the site.
65. The Applicant's written submission demonstrates that compliance with the height development standard is unreasonable or unnecessary in the circumstances of the case. It also demonstrates sufficient environmental planning grounds to justify varying this development standard.

66. Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, it is considered that there is an absence of any unreasonable impacts of the proposed non-compliance on the environmental quality of the locality and amenity of adjoining properties in terms of overshadowing, privacy, overlooking and amenity, in particular when considering the constraints of the site. The impacts have been minimised, as discussed above against the objectives of the development standard and the objectives of the R2 Low Density Residential zone.
67. The proposed development is in the public interest as the proposal complies with the objectives for both the Height of Buildings and the R2 Low Density Residential zone.
68. The proposed variation does not raise any matters of State or regional environmental planning significance.
69. The areas of non-compliance are considered to be reasonable and will not establish an undesirable precedent. It will not have any adverse impacts on the surrounding locality, which is characterised by residential development of comparable character. The proposal promotes the economic use and development of the land consistent with its zone and purpose. The Panel is requested to invoke its powers under Clause 4.6 to permit the variation proposed.
70. 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 given that in this case the proposal satisfies the objectives of the zone and development standard (Clause 4.3, building height development standard).

GEORGES RIVER DEVELOPMENT CONTROL PLAN 2021

71. 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 and controls contained within the DCP.

6.1.2 Single Dwellings		
Control	Proposal	Compliance
1. Streetscape Character and Built Form		
1. New buildings and additions are to consider the Desired Future Character statement in Part 5 of this DCP.	Proposal is in accordance with the desired future character statement for Oatley.	Yes
2. New buildings and additions are to be designed with an articulated front façade.	The front façade has incorporated sufficient building articulation on the front façade.	Yes
3. Developments on sites with two (2) or more frontages are to address all frontages.	Subject site only has 1 frontage- Algernon Street.	Yes
4. Dwelling houses are to have windows presenting to the street from a habitable room to encourage passive surveillance.	Several proposed windows face towards the public domain.	Yes

6.1.2 Single Dwellings		
Control	Proposal	Compliance
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.	The proposed development does not impact upon the view corridors of neighbouring private properties.	Yes
6. The maximum size of voids at the first-floor level should be a cumulative total of 15m ² (excluding voids associated with internal stairs).	N/A – All voids associated with stairs.	Yes
2. Building Scale and Height		
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 proposal is for a modern part two, part three storey dwelling that generally corresponds to the topographic landform by minimising cut and fill.	Yes
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 should respond to the topography of the site.	Not applicable.	N/A
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 proposed development reaches three (3) storey in height, with the lower ground floor sitting more than 1 m above the existing ground floor. This is discussed further at the end of this table.	Acceptable on merit.
4. Where topography conditions require a basement, the area of the basement should not exceed the area required to meet the car parking requirements for the development, access ramp to the parking and a maximum 10m ² for storage and 20m ² for plant rooms. Additional basement area to that required to satisfy these requirements may be included as floor space area when calculating floor space ratio.	N/A- no basement proposed.	N/A
5. Where the entry to the basement carpark is visible from the street, the entry should be recessed a minimum of 1m (from the edge of the external wall or	N/A- no basement proposed.	N/A

6.1.2 Single Dwellings		
Control	Proposal	Compliance
balcony) from the levels above and the external walls of the garage differentiated from the walls above through articulation and external materials.		
<p>The proposed development reaches three (3) storeys in height, with the lower ground floor sitting more than 1m above the existing ground floor level, and as such does not constitute a basement.</p> <p>The proposed third storey does not have any adverse visual impacts and is compatible with the scale of development within the immediate locality. The third storey contains 4 of the 5 bedrooms proposed, a small study space, a bathroom and a linen cupboard, and allows for an appropriate number of bedrooms and living spaces to be provided on the site, within a building envelope which is not excessive.</p> <p>The surrounding dwellings contain 1 and 2 storey presentations to Algernon Street. The proposed development is consistent with this and presents as a two storey dwelling at the street frontage, which sits well below the maximum building height limit for the site and sits at a similar bulk and scale as adjoining properties.</p> <p>When viewed from the waterway, development in the immediate context consists of detached dwellings of varying architectural styles and ages. The majority of dwellings along the southern side of Algernon Street have been designed to step down the steep sloping sites and appear as containing 3 storeys at the rear. The proposed development will be consistent with the site context and is compatible with the scale and character of development along Algernon Street. It is noted that some dwellings and structures along the southern side of Algernon Street have undergone redevelopment, however many have remained unaltered. It is anticipated that these sites will eventually be redeveloped, by way of new dwellings or alterations and additions, which will result in contemporary dwellings which step down the site, similar to that proposed.</p> <p>The proposed dwelling will not significantly alter the character of the locality and will continue to provide a dwelling which presents as 3 storeys at the rear, however, is not overly visible from the waterfront due to the siting of the rear adjoining property.</p>		
3. Setbacks		
Front Setbacks 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.	<p>The front setback to the main building wall ranges from 5.25m to 5.805m.</p> <p>It is noted that the minimum setback to the garage is 4.6 metres which is less than the 5.5 metre control.</p> <p>Notwithstanding, it is considered acceptable in this instance as the frontage alignment is irregular resulting in a garage setback that ranges from 4.6 metres to 7.4 metres.</p>	Acceptable on merit.

6.1.2 Single Dwellings		
Control	Proposal	Compliance
	<p>A review of the setbacks of dwellings in the vicinity of the site also have irregular frontage allotments and have similar front setbacks that range from 4.5 to 8 metres.</p> <p>Further, it is noted that the proposed front landscaping is appropriately proportioned and designed, providing an attractive interface with the public domain.</p>	
<p>Side and Rear Setbacks</p> <p>1. 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).</p> <p>2. The minimum side setbacks for ground and first floor are:</p> <ul style="list-style-type: none"> i. 900mm for lots up to 12.5m in width measured at the front building line for the length of the development. ii. 1.2m for lots greater than 12.5m in width 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. <p>3. Where alterations and additions (ground and first floor) to an existing dwelling are proposed, an existing side setback less than the setback required in Control 3 can be maintained, provided the reduced setback does not adversely affect compliance with the solar access and landscaped area controls or adversely impact upon the visual and acoustic amenity of neighbouring dwellings.</p> <p>4. For battle-axe lots, minimum side and rear boundary setbacks apply, except the front setback of the battle-axe lot without a street frontage, where a minimum setback of 4.0m is to be provided as illustrated in Figure 1.</p>	<p>Given the irregular shaped allotment, the rear setback ranges from 20 metres to 45 metres.</p> <p>Allowable Site Setback- 1.5m Proposed</p> <p>Side Setback <u>Eastern Elevation:</u> 1 metre <u>Western Elevation:</u> 1.5 metre</p> <p>Not a battle axe lot.</p>	<p>Yes</p> <p>Acceptable on merit – see discussion below.</p> <p>N/A</p> <p>N/A</p>

6.1.2 Single Dwellings		
Control	Proposal	Compliance
5. Any garages or parking structures fronting rear lanes may encroach upon the rear setback areas but are still to provide a minimum setback of 1m from the lane.	N/A	N/A
<p>Side Setbacks:</p> <p>It is noted that the proposed eastern elevation side setback is 1 metre. The side setback control for lots within the Foreshore Scenic Protection Area is 1.5 metres. Notwithstanding, the numerical deficiency is acceptable in this instance as the eastern elevation adjoins the vehicular access handle associated with the battle axe lot at No. 58 Algernon Street. This access handle is unlikely to be developed and despite the 1 metre side setback, still allows unhindered direct views from the streetscape towards the river.</p>		
4. Private Open Space		
<p>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 60m² with minimum dimensions of 6m and located on the same level (not terraced or over rock outcrops).</p> <p>2. Private open space is to be provided for all dwellings, (with the exception of secondary dwellings, which are able to share the private open space of the principal dwelling).</p> <p>3. Private open space is to be located so as to maximise solar access.</p> <p>4. Private open space is to be designed to minimise adverse impacts upon the privacy of the occupants of adjacent buildings.</p>	The proposed private open space is approximately 250sqm in area.	Yes
5. Landscaping		
<p>1. Landscaped area (has the same meaning as GRLEP 2021) is to be provided in accordance with the table contained within Clause 6.12</p> <p>Landscaped areas in certain residential and environmental protection zones of GRLEP 2021.</p> <p>2. Provide a landscape setting within the primary and secondary street frontages, where hard paved areas are minimised. At a maximum, impervious areas, including hard paving, gravel, concrete or other material that does not permit</p>	<p>The minimum deep soil landscaping for the R2 zone is 25% of the site or 167.95sqm.</p> <p>A total of 195.4sqm is provided across the site.</p> <p>The front setback landscaping area is 45.6sqm or 50% of the front setback area.</p> <p>Council's Landscape Officer has reviewed the landscape plan and raises no concerns subject to conditions.</p>	Yes

6.1.2 Single Dwellings		
Control	Proposal	Compliance
<p>landscaping, are to occupy no more than 40% of the street setback area.</p> <p>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.</p>		
6. Excavation (Cut and Fill)		
<p>1. Any excavation must not extend beyond the building footprint, including for any basement car park.</p> <p>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.</p> <p>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.</p>	<p>The maximum cut and fill proposed is 3.5 metres and 2 metres respectively.</p> <p>Given the topography of the site, it is considered that the proposed dwelling generally responds to the existing site levels and has been designed to step down the site.</p> <p>Cut and fill is proposed to allow for the dwelling to sit into the land, particularly the lower floor level.</p>	Acceptable on merit.
7. Vehicular Access, Parking and Circulation		
<p>1. Car parking is to be provided in accordance with the requirements in Part 3 of this DCP.</p> <p>2. A dwelling is to provide one (1) garage and one (1) tandem driveway parking space forward of the garage (unless otherwise accommodated within the building envelope).</p> <p>3. Driveways, garages and basements should be accessed from a secondary street or rear lane where this is available.</p> <p>4. Entry to parking facilities off the rear lane must be setback a minimum of 1m from the lane.</p> <p>5. Driveway crossings are to be positioned so that on-street parking and landscaping on the site are maximised,</p>	<p>An at grade double garage is proposed.</p> <p>The garage opening is 5.1 metres.</p>	Yes

6.1.2 Single Dwellings		
Control	Proposal	Compliance
<p>and removal or damage to existing street trees is avoided.</p> <p>6. The maximum driveway width between the street boundary and the primary building setback alignment of the garage is 4.0m.</p> <p>7. Basements are permitted where the LEP height development standard is not exceeded, and it is demonstrated that there will be no adverse environmental impacts (e.g. affectation of watercourses and geological structure). (i) Basements on land where the average grade is less than 12.5% are permitted only where they are not considered a storey (see definition in the LEP) and the overall development presents as two (2) storeys to the street.</p> <p>8. Car parking layout and vehicular access requirements and design are to be in accordance with the Australian Standards, in particular AS 2890.1 (latest edition).</p> <p>9. The maximum width of a garage opening is 6m.</p>		
8. Visual Privacy		
<p>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.</p> <p>2. For active rooms or balconies on an upper level, the design should incorporate placement of room windows or screening devices to only allow oblique views to adjoining properties.</p> <p>3. Upper-level balconies should not project more than 1500mm beyond the main rear wall alignment so as to minimise adverse visual privacy impacts to adjoining properties.</p> <p>4. Windows for primary living rooms must be designed so that they reasonably maintain the privacy of adjoining main</p>	<p>Satisfactory placement of openings.</p> <p>Privacy screens are provided to upper-level balconies at the eastern and western elevations. Highlight windows are proposed to high trafficked rooms including the dining room and living room. First floor balconies do not project more than 1.5 metres beyond the main wall.</p> <p>The proposed development maintains a reasonable level of</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

6.1.2 Single Dwellings		
Control	Proposal	Compliance
living rooms and private open space areas.	privacy for the occupants of the dwellings adjoining.	Yes
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.	A survey plan was submitted with the application.	Yes
9. Solar Access		
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.	Compliant - The proposal allows sufficient sunlight penetration to adjoining developments where possible.	Yes
2. To facilitate sunlight penetration to adjoining development, building bulk may be required to be articulated to achieve the required sunlight access.	Further building articulation is not required in order to facilitate sunlight access.	Yes
3. Direct sunlight to north-facing windows of habitable rooms and 50% of the principal private open space area of adjacent dwellings should not be reduced to less than 3 hours between 9.00am and 3.00pm on 21 June.	Adjoining properties are afforded more than the minimum solar access required being direct sunlight to north-facing windows of habitable rooms and 50% of the principal private open space area is not reduced to less than 3 hours between 9.00am and 3.00pm on 21 June.	Yes
4. Note: Variations will be considered for developments that comply with all other requirements but are located on sites with an east-west orientation or steeply sloping sites with a southerly orientation away from the street.	N/A	N/A
5. Shadow diagrams are required to show the impact of the proposal on solar access to the principal private open space and living rooms of neighbouring properties. Existing overshadowing by fences, roof overhangs and changes in level should also be reflected in the diagrams. It may also be necessary to provide elevations or views from sun diagrams to demonstrate appropriate solar access provision to adjoining development.	Shadow diagrams have been submitted with the proposal for the purposes of ensuring sufficient solar access is maintained in accordance with the development controls of GRDCP 2021.	Yes
10. Materials, Colour Schemes and Details		

6.1.2 Single Dwellings		
Control	Proposal	Compliance
1. Large expansive surfaces of predominantly white, light or primary colours which would dominate the streetscape or other vistas should not be used.	The colours and materials schedules will be conditioned to be satisfactory.	Yes
2. New development should incorporate colour schemes that have a hue and tonal relationship with the predominant colour schemes found in the street.	The colour and material scheme will be conditioned to be sympathetic to the current desired and future character of the immediate locality.	Yes
3. Matching buildings in a row should be finished in the same colour or have a tonal relationship.	The buildings in the immediate locality are not matching but have similar colour schemes and tonal relationships.	Yes
4. All materials and finishes utilised should have low reflectivity.	Materials and finishes have been chosen from a standard colour scheme that is low in reflectivity.	Yes
11. Site Facilities		
1. All dwellings are to be provided with adequate and practical internal and external storage (garage, garden sheds, etc.).	A large storage area is proposed within the lower ground floor.	Yes
2. Provision for water, sewerage and stormwater drainage for the site shall be nominated on the plans to Council's satisfaction.	The proposed stormwater system is supported subject to conditions.	Yes
3. Each dwelling must provide adequate space for the storage of garbage and recycling bins (a space of at least 3m x 1m per dwelling must be provided) and are not to be located within the front setback.	Sufficient area is provided within the garage to accommodate the required waste containers.	Yes
4. Letterboxes are to be located on the frontage where the address has been allocated in accordance with Australia Post requirements.	A letter box is proposed at the front setback.	Yes

6.4.1 Fences and Walls		
Control	Proposal	Compliance
1. Fence heights are to be limited to a maximum of: i. 900mm for solid masonry, and	In accordance with the landscape plan, a front fence is proposed. Notwithstanding, a details of the fencing has not been provided for assessment.	To be conditioned.

6.4.1 Fences and Walls		
Control	Proposal	Compliance
ii. 1.2m for open or partially transparent styles such as picket or palisade.	In this regard, a condition will be included to ensure that the fencing is compliant with the fencing requirement.	
2. Preferred materials for fencing are masonry, stone, ornate timber or ornate metal.	A condition will be included to ensure that the fencing is compliant with the fencing requirement.	To be conditioned.
3. For sloping streets, fences and walls must be stepped to comply with the required maximum fence height	A condition will be included to ensure that the fencing is compliant with the fencing requirement.	To be conditioned.
4. Where noise attenuation or protection of amenity requires a higher fence, front fences may be permitted to a maximum height of 1.8m and must be setback a minimum of 1m from the boundary to allow landscape screening to be provided. Landscape species chosen should be designed to screen the fence without impeding pedestrian movements along the roadway. Front fences and landscape screening must not compromise vehicular movement sightlines.	Given the development site's locality the requirement for a higher front fence is not triggered.	To be conditioned.
5. Fencing (and landscape screening) is to be located to ensure sight lines between pedestrians and vehicles existing the site are not obscured. Gates are not to open over the public roadway or footpath.	A condition will be included to ensure that the fencing is compliant with the fencing requirement.	To be conditioned.
Control	Proposal	Compliance
10. Construction of retaining walls or associated drainage work along common boundaries must not compromise the structural integrity of any existing retaining wall or structures on the subject or adjoining allotments. All components, including footings and aggregate lines, must be wholly contained within the subject property.	Retaining walls not proposed along common boundaries.	N/A
11. 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 a minimum setback of 1.0m between the retaining wall and the boundary is provided, to permit landscaping, and iii. Be constructed of materials that are durable and do not detract from the streetscape.	No retaining walls are visible from the street.	N/A

12. No part of any retaining wall or its footings is to encroach onto an easement unless approval from the beneficiary is obtained, and the purpose of the easement is not interfered with.	Retaining walls do not encroach into any known easements.	Yes
13. Any retaining walls, required as part of the dwelling construction to control potential land stability and/or the structural integrity of adjoining properties, must be completed and certified by an appropriately qualified and practicing engineer prior to occupation of the dwelling.	Retaining walls are required for lower ground floor and swimming pool construction. Suitable conditions of consent applied.	Yes
14. Excavation or filling requiring retaining shall be shored or retained immediately to protect neighbouring properties from loss of support and to prevent soil erosion.	Fill is required to construction the swimming pool. It is well setback from the boundary, however, conditions will be included to protect neighbouring properties.	Yes
6.4.2 Air Conditioning		
Control		
1. Air conditioning units should be sited so that they are no visible from the street. 2. The noise level from air conditioning condensers/systems is not to exceed the LAeq 15 minute by 5dBA measured at the property boundary.	A condition will be included to ensure air conditioning units are not visible from the street.	Yes
6.4.4 Swimming Pools		
1. Swimming pools/spas are to be located to the rear of properties	The proposed swimming pool is located to the rear of the property.	Yes
2. For corner allotments or where the property has two street frontages, swimming pools/spas are not to be located in the primary	Not applicable.	N/A
3. Swimming pools/spas must be positioned a minimum of 900mm from the property boundary with the water line being a minimum of 1500mm from the property boundary.	The proposed pool is setback more than 1.5 metre from the side and rear boundary.	N/A
4. In-ground swimming pools shall be built so that the top of the swimming pool coping is as close to the existing ground level as possible. On sloping sites this will often require excavation of the site on the high side to obtain the minimum out of ground exposure of the swimming pool consistent with the low side.	Not applicable.	N/A

<p>5. Swimming pools/spas are to be no more than 500mm above existing ground level. the swimming pool is treated to minimise impact. The materials and design of the retaining wall should be integrated with and complement the style of the swimming pool.</p> <p>7. Decking around a swimming pool must not be more than 600mm above existing ground level.</p> <p>8. Filling is not permitted between the swimming pool and the property boundary. The position of the swimming pool, in relation to neighbours and other residents, must be considered to minimise noise associated with activities carried out in the swimming pool or from the swimming pool equipment, such as cleaning equipment.</p> <p>9. Council may require mechanical equipment to be suitably acoustically treated so that noise to adjoining properties is reduced.</p> <p>10. A pool fence complying with the legislation is to separate access from the residential dwelling on the site to the pool.</p> <p>11. Safety and security measures for swimming pools must comply with the relevant requirements of the Swimming Pools Act 1992 and any relevant Australian Standards.</p>	<p>The proposed swimming pool is built into the lower ground floor terrace area. While the pool is elevated above the natural ground level, it is positioned below the proposed dwelling and is designed to respond to the site's sloping topography. Visually, the pool is well integrated into the development and will not appear dominant when viewed from the river or adjoining properties.</p> <p>It is noted that filling is only proposed directly beneath the swimming pool and not in the area between the pool and boundary.</p> <p>The swimming pool equipment is located on the lower ground floor of the dwelling and will not have any acoustic impact on adjoining properties.</p> <p>Swimming pool fencing is proposed. Conditions will be included to ensure compliance with the relevant Australian Standard.</p>	Yes
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6.5.1 Foreshore Scenic Protection Area

Control	Proposal	Compliance
1. Development applications are supported by a site analysis and design response demonstrating how the relevant provisions of the LEP and the objectives of this part of the DCP have been addressed.	Sufficient information has been submitted with the application to form an assessment.	Yes
2. Removal of existing native vegetation minimised to that which is reasonably required to site and construct a building.	The proposed development does not involve the removal of any significant vegetation on site.	Yes
3. The integrity of the existing edge of bushland closest to the Georges River is retained.	Achieved.	Yes

4. Vegetation along ridgelines and on hillsides is retained and supplemented to provide a backdrop to the waterway.	Achieved.	Yes
5. New, complementary planting and landscaping is encouraged.	Satisfactory, significant landscape planting proposed.	Yes
6. Where on a steep site, vegetation is used to screen the impact of support structures such as piers.	Vegetation is proposed in front of the existing retaining walls to soften the built elements.	Yes
7. Landscaped areas below the FBL should maximise the use of indigenous plant material and preferably use exclusively indigenous plants. Turf should be limited in this area. Details of planting are to be indicated on any landscape plan submitted to Council.	The land below the FBL has maximised the use of indigenous planting and turf is limited.	Yes
8. Natural features that make a contribution to the environmental qualities and scenic landscape values of the foreshore, including mature native tree and sandstone rock outcrops, platforms and low cliffs, are retained.	Satisfactory - the natural features of the site are retained and enhanced through landscape planting within the foreshore area.	Yes
9. The visual impact of buildings is minimised having regard to building size, height, bulk, siting, external materials, and colours and cut and fill.	The visual impact of the proposed development is consistent with the adjoining properties despite the height of building development standard variation. The materials and finishes are sympathetic to the existing streetscape of Algernon Street. Any proposed cut and fill does not give rise to an unreasonable loss of privacy and security for adjoining properties.	Yes
10. Buildings should be sited on the block to retain existing ridgeline vegetation, where possible. Siting buildings on existing building footprints or reducing building footprints to retain vegetation is highly recommended.	Proposed development does not seek to remove any significant vegetation on the site.	Yes
11. Where on a steep site, buildings are sited to sit discretely within the landscape using hillsides as a backdrop and below the tree canopy. The building footprint is to result in the following: (i) The preservation of topographic features of the site, including rock shelves and cliff faces; (ii) The retention of significant trees and vegetation, particularly in areas where the loss of this vegetation would result in the visual scarring of the landscape, when viewed from the water,	Proposed development does not seek to remove any significant vegetation on the site.	Yes

and (iii) Minimised site disturbance through cutting and/or filling of the site.		
12. Facades and rooflines of dwellings facing the water are to be broken up into smaller elements with a balance of solid walls to glazed areas. Rectangular or boxy shaped dwellings with large expanses of glazing and reflective materials are not acceptable. In this regard, the maximum amount of glazed area to solid area for façades facing the foreshore is to be 50%-50%.	The rear elevation of the dwelling is visually broken up through a mixture of solid and glazed elements, rooflines and material finishes. The proposal contains more than 50% glazed area at the rear to enable habitable rooms and living areas to be provided with adequate solar access noting that the rear is south facing. Further, it is noted that the rear is separated from the waterway by another dwelling and landscaped area.	Yes
13. Colours that harmonise with and recede into the background landscape are to be used. In this regard, dark and earthy tones are recommended and white and light coloured roofs and walls are not permitted. To ensure that colours are appropriate, a schedule of proposed colours is to be submitted with the Development Application and will be enforced as a condition of consent.	Satisfactory The colour and material scheme is sympathetic to the current desired and future character of the immediate locality.	Yes
14. Buildings fronting the waterway must have a compatible presence when viewed from the waterway and incorporate design elements (such as roof forms, textures, materials, the arrangement of windows, modulation, spatial separation, landscaping etc) that are compatible with any design themes for the locality	The proposed development has a compatible presence when viewed from the waterway having regard to the built form adjoining.	Yes
15. Blank walls facing the waterfront shall not be permitted. In this regard, walls are to be articulated and should incorporate design features, such as: (i) Awnings or other features over windows; (ii) Recessing or projecting architectural elements; or (iii) Open, deep verandas.	The development does not propose blank walls facing the waterfront.	Yes
16. Adequate landscaping shall be provided to screen undercroft areas and reduce their impact when viewed from the water.	N/A- no undercroft areas proposed	N/A
17. The extent of associated paved surfaces is minimised to that which	The site complies with the required landscaping.	Yes

provides essential site access and reasonable private open space.		
18. Buildings have external finishes that are non-reflective and coloured to blend with the surrounding landscape.	The proposed external finishes and materials are non-reflective and blend with the surrounding context.	Yes
19. Swimming pools and surrounds should be sited in areas that minimise the removal of trees and limit impact on natural landform features (rock shelves and platforms).	The swimming pool will require minor removal of a rock shelf, however the majority will be retained.	Yes
20. Fences are low in profile and are at least 50% transparent.	Conditions will be included to ensure the fence is compliant with this requirement.	Yes
21. Driveways and other forms of vehicular access are as close as practical to running parallel with contours	The proposed driveway is considered acceptable.	Yes
22. The natural landform is to be retained and the use of retaining walls and terracing is discouraged.	The proposed development is responsive to existing ground levels, with no significant impacts.	Yes
23. Retaining walls are not to be located: <ul style="list-style-type: none"> Between the FBL and MHWM Within 40m of MHWM 	Not applicable.	N/A
24. Where retaining walls are constructed in other areas, materials and colours that blend with the character and landscape of the area are used. Where retaining walls face the foreshore they are to be constructed of coarse, rock faced stone or a stone facing and are to be no higher than 600mm above natural or existing ground level. Under no circumstances will Council permit a masonry faced retaining wall facing the foreshore.	The proposed retaining walls are not visible from the waterway.	Yes
25. Development provides opportunities to create view corridors from the public domain to the Georges River.	Sufficient setback has been afforded to create view corridor opportunities.	Yes

Part 5 – Residential Locality Statements

72. The Development is required to consider the future character statement for the locality, in addition to the requirements within other parts of this DCP as shown on the map on Page 3, Part 5 of the DCP. The assessment of character for the applicable locality is provided below:

Oatley East

<ul style="list-style-type: none"> - Retain and enhance 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, alongside low fencing to enhance visual permeability. - Encourage the retention of trees and sharing of water views wherever possible, including screening via vegetation rather than solid walls. - Public views to waterways should be retained from streets and public places. 	<p>The proposal is consistent with the future desired character of the precinct.</p> <p>The proposed development seeks to enhance the landscaping on site via the planting of trees, shrubs, and a grassed area.</p> <p>The proposed development maintains consistent setbacks within the streetscape of Herbert Street via the proposed design. The landscaping within the front setback is increased in both quantity and quality via the proposed development.</p> <p>View sharing and view corridors are maintained via the proposed design.</p>
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IMPACTS

Natural Environment

73. The proposed development will not adversely affect the natural environment. The applicant has sensitively designed the sit atop the ridge.

Built Environment

74. 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 R2 Low Density Residential zoning.

Social Impact

75. No adverse social impacts have been identified as part of the assessment. The proposed development, in principle, will continue to provide housing in the area. The construction of a dwelling house is consistent with the residential zoning of the land.

Economic Impact

76. There is no apparent adverse economic impact that is likely to result within the locality due to the construction of the dwellings. It is likely there will be a small positive economic impact as a result of the construction of the development.

Suitability of the site

77. The site is zoned R2 – Low Density Residential. The proposal is a permissible form of development in this zone and has been designed to reflect the current and future context of the locality, in particular the Foreshore Scenic Protection Area.

Submissions and the Public Interest

78. The application was neighbour notified in accordance with Community Engagement Strategy for a period of fourteen (14) days. One (1) submission was received. In summary the following issues and concerns were raised.

Issue Raised	Assessment Officer Comment
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Concern relating to asbestos dust during demolition	Conditions of consent will be included to ensure a suitably licensed asbestos handler is engaged to remove asbestos. A work plan and safety statement in accordance with AS 2601:2001 shall be submitted to the Principal Certifier prior to the commencement of work.
Overlooking from rear balcony onto adjoining property's pool and living area. A privacy screen is requested.	A privacy screen over the eastern facing balcony is proposed as part of the amended plans.
A large window at the eastern side of bedroom 4 has potential overlooking impact.	Bedrooms are not considered high trafficked rooms. It is considered that the setback, together with the access handle provides sufficient setback to ameliorate any unreasonable overlooking impacts.
Concern in relation to bulk, scale, and height.	Notwithstanding, the height variation request, the proposal has a compliant floor space ratio and a built form that responds to the shape of the land. It is considered that the proposal represents an appropriate planning outcome.

Referrals

External Referrals

Ausgrid

79. The application was referred to Ausgrid in accordance with Clause 45 of State Environmental Planning Policy (Infrastructure) 2007. Ausgrid did not raise any objection to the proposal.

Council Referrals

Development Engineer

80. The application was referred to Council's Development Engineer for comment, they are satisfied with the stormwater drainage arrangement subject to the imposition of conditions of consent should the application be approved.

Infrastructure/Assets Engineer

81. The application was referred to Council's Infrastructure/Assets Engineer for comment, they are satisfied with the proposal subject to the imposition of conditions of consent should the application be approved.

Landscape Officer

82. Council's Landscape Officer has raised no objection to the proposal subject to conditions of consent.

CONCLUSION

83. 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 proposed scale, bulk and height is considered to be an acceptable planning and design outcome for this site and will be consistent with the desired future character of development in the R2 zoned land in this location and immediate locality.
84. The proposal has been assessed against the provisions of the Georges River LEP 2021 and Georges River DCP 2021. The proposal satisfies the key planning controls in the LEP

and DCP. The identified non-compliances with the height of the building have been addressed and justified in this report, the Clause 4.6 request to vary the Height of Building control is supported for reasons identified in this report,

85. The application is supported for reasons outlined in the report above.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

86. The reasons for this recommendation are:

- The proposed development complies with the requirements of the relevant environmental planning instruments except in the height of the development. A Clause 4.6 variation has been submitted in support of the application which is considered acceptable having regard to the justification provided in the report above.
- The proposed development complies with the objectives of the relevant environmental planning instruments.
- The proposal has effective façade modulation and wall articulation that will serve to provide visual interest and reduce the bulk of the dwelling.
- The proposal aims to provide a high-quality development that will establish a positive urban design outcome.

DETERMINATION

87. That Georges River Local Planning Panel support the request for variation under Clause 4.6 of Georges River LEP 2021, in relation to the Height of Buildings (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 but rather a superior design outcome.
88. Pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act, 1979 (as amended), Development Application DA2023/0117 Demolition of Existing Structures and Construction of a Part Two Storey Part Three Storey Dwelling with Swimming Pool and Associated Landscaping on Lot 1 DP 56766, known as 58A Algernon Street, Oatley, is granted Development Consent subject to the following conditions of consent:

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:

Description	Reference No.	Date	Revision	Prepared by
Site Plan	01	Jan 2024	B	Innovate
Floor Plan	02	Jan 2024	B	Innovate
Elevations	03	Jan 2024	B	Innovate
Sections	04	Jan 2024	B	Innovate
Shadow Diagrams	05	Jan 2024	B	Innovate

Calculations	06	Jan 2024	B	Innovate
Excavation Plan	07	Jan 2024	B	Innovate
Driveway Section	08	Jan 2024	B	Innovate
Height Plan Diagrams	09	Jan 2024	B	Innovate
External Finishes	-	Dec 2022	-	Innovate
Landscape Plan	L-01C to L-09C (inclusive)	06/02/2024	C	Site Design + Studios
South Elevation	DA 12	4/4/2022	B	Noho Architecture
Driveway and Garage Proposal	DA 18	14/3/2022	A	Noho Architecture
Stormwater Plan	SW01	23/02/2023	B	Hyten Engineering
Geotechnical report	AG-626_1	16/03/2023	-	Australian GeoEnviro
Waste Management Plan	-	-	-	Innovate

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Requirements Of Concurrence, Integrated & Other Government Authorities

2. **Sydney Water - Tap in™** - The approved plans must be submitted to a Sydney Water Tap in™ to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at www.sydneywater.com.au then see 'Building', or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap in™ agent has appropriately stamped the plans prior to the issue of the Construction Certificate.
3. Ausgrid Underground Cables are in the vicinity of the development - Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways. It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Dial Before You Dig (DBYD). In addition to DBYD the proponent should refer to the following documents to support safety in design and construction: SafeWork Australia - Excavation Code of Practice. Ausgrid's Network Standard NS156 which outlines the minimum requirements for working around Ausgrid's underground cables. The following points should also be taken into consideration. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Should ground anchors be required in the vicinity of Ausgrid underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.
4. Ausgrid Overhead Powerlines are in the vicinity of the development – The developer should refer to SafeWork NSW Document - Work Near Overhead Powerlines: Code of

Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.

Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site. The "as constructed" minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website at www.ausgrid.com.au <<http://www.ausgrid.com.au>>. It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer's cost. Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances". This document can be found by visiting the following Ausgrid website: www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries

Separate Approvals Required Under Other Legislation

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

6. **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. 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 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

7. **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.

Prior to the Issue of A Construction Certificate

8. **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, retaining walls or other structures including but not limited to:

- (a) 58 Algernon Street, Oatley; and
- (b) 56A Algernon Street, Oatley; and
- (c) 60A Algernon Street, Oatley; and
- (d) Any 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.

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

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

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$1,900.00
Inspection Fee for Refund of Damage Deposit	\$160.00
DEVELOPMENT CONTRIBUTIONS	
Georges River Council Local Infrastructure Contributions Plan 2021 (S7.11 and S7.12)	\$20,875.69

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 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 Contribution Plan.

A Section 7.12 contribution has been levied on the subject development pursuant to the Georges River Council Local Infrastructure Contributions Plan 2021 (S7.11 and S7.12).

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 *current Development Contributions Plans* may be inspected or a copy purchased at Council's offices (Civic Centre, MacMahon Street, Hurstville) or viewed on Council's website www.georgesriver.nsw.gov.au.

10. **Site Management Plan - Minor Development** - 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.

The site management measures are to be implemented prior to the commencement of any works including demolition and excavation and bushfire management in accordance the bushfire related conditions in this consent. 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.

11. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate Nos. 1343883S_02 must be implemented on the plans lodged with the application for the Construction Certificate.
12. **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.

13. **Stormwater System** – The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.
 - (a) All stormwater shall drain by gravity to the existing drainage system in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
 - (b) 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).
14. **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.

- 15. Traffic Management - Compliance with AS2890** - All driveways, access ramps, vehicular crossings and car parking spaces shall be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities) and AS 2890.2 (for commercial vehicle facilities).
- 16. 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.
- 17. Driveway Construction Plan Details** - Detailed engineering plans for the driveway shall be submitted with the Construction Certificate application for approval that show:
- 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.
 - Suitable underground provision for the supply of all relevant services to the proposed lots (proposed position of pipes and conduits).
 - 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.
- 18. Landscape Plans**
- The landscape plans are to be updated to be consistent with the approved architectural plans. They shall be updated prior to the issue of a construction certificate.
- 19. Front Fence**
- The front fence shall be limited to a maximum of 900mm for solid masonry construction and 1.2m for open or partially transparent styles such as picket or palisade. Details shall be submitted to the satisfaction of the certifier.

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

- 20. 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.

- 21. 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.
- 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:
- 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 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.

During Construction

26. **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.
27. **Hours of construction for demolition and building work** - Unless authorised by Council:
- a) Building construction and delivery of material hours are restricted to: 7.00am to 5.00pm (inclusive) Monday to Saturday and no work on Sundays and Public Holidays.
 - b) Demolition and excavation works are restricted to: 8.00am to 5.00pm (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.
28. **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. All site works and retaining walls are to be constructed wholly on the subject site, including footings.
29. **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.
30. **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.
31. **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.

- 32. 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.
- 33. 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.

Prior to the Issue of the Occupation Certificate

- 34. 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.

35. Requirements prior to the issue of the Occupation Certificate - The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:

- a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- b) The internal driveway construction works, together with the provision for all services (conduits and pipes laid) shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- c) Construct any new vehicle crossings required.
- d) Replace all redundant vehicle crossing laybacks with kerb and guttering, and replace redundant concrete with turf.
- e) 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.

36. 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.

37. 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.

38. **Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate.
39. **Vehicular crossing - Minor development** - 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.

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

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 (Ongoing)

41. **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.
42. **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.
43. **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.

Operational Requirements Under the Environmental Planning & Assessment Act 1979

- 44. Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
- 45. 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.

- 46. 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.

- 47. 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.

- 48. 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](#).

- 49. 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.

- 50. 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.

Prescribed Conditions

51. **Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
52. **Clause 98 - Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.
53. **Clause 98A - Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the PCA and the Principal Contractor.
54. **Clause 98B - Home Building Act 1989** - If the development involves residential building work under the [Home Building Act 1989](#), no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the [Home Building Act 1989](#).
55. **Clause 98E - Site Excavation** - Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site.

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided and adequate provision shall be made for drainage.

END CONDITIONS

NOTES/ADVICES

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. 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.

5. 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.

6. 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.
 - (b) In the Application Form, quote the Development Consent No and reference the condition number.
 - (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.

7. Council as PCA - Deemed to Satisfy Provisions of Building Code of Australia - 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 Building Code of Australia. However, if an alternative fire solution is proposed it must comply with the performance requirements of the Building Code of Australia, 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.
8. 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.

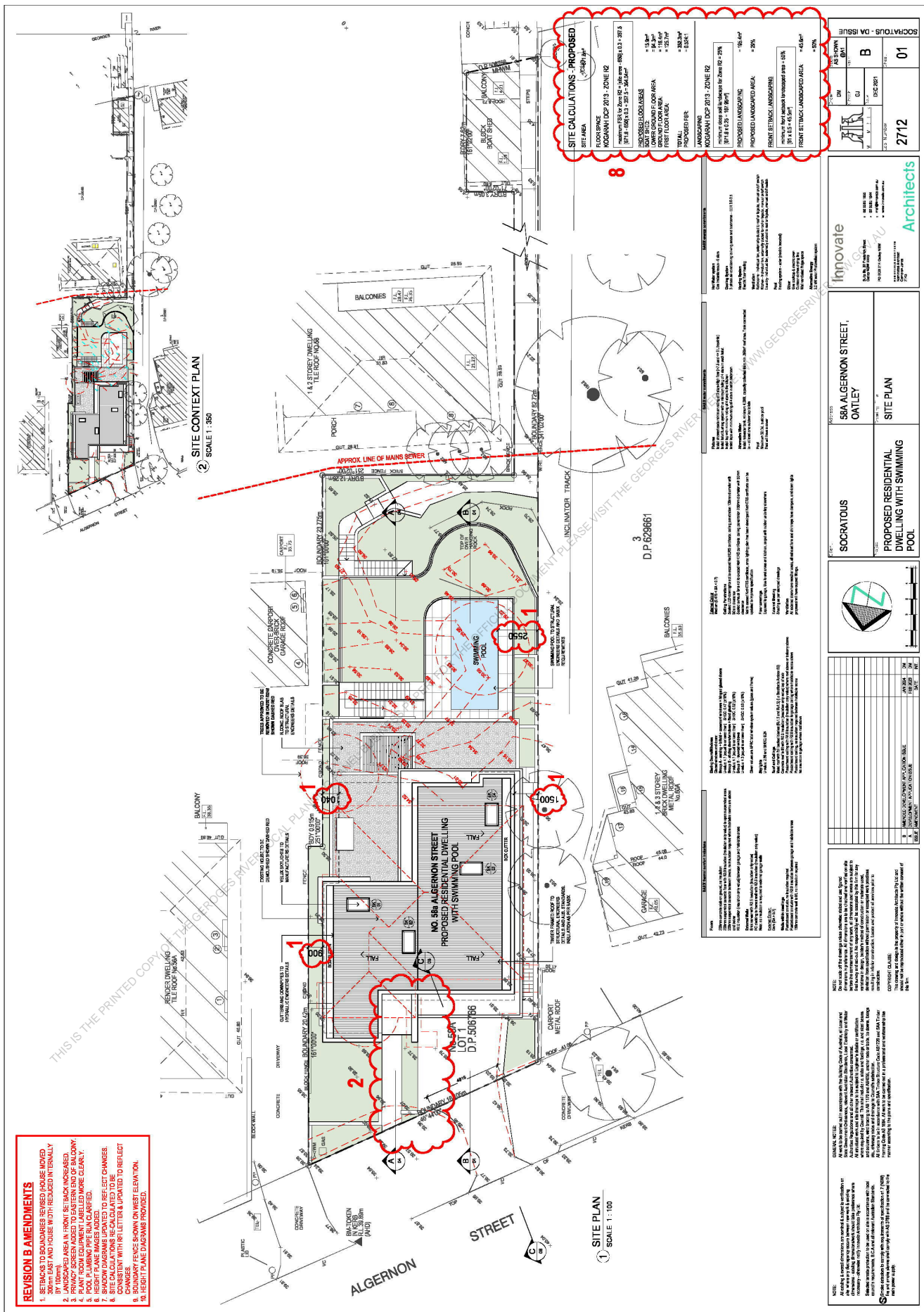
A demolition licence and/or a high risk work license may be required from SafeWork NSW (see www.SafeWork.nsw.gov.au).

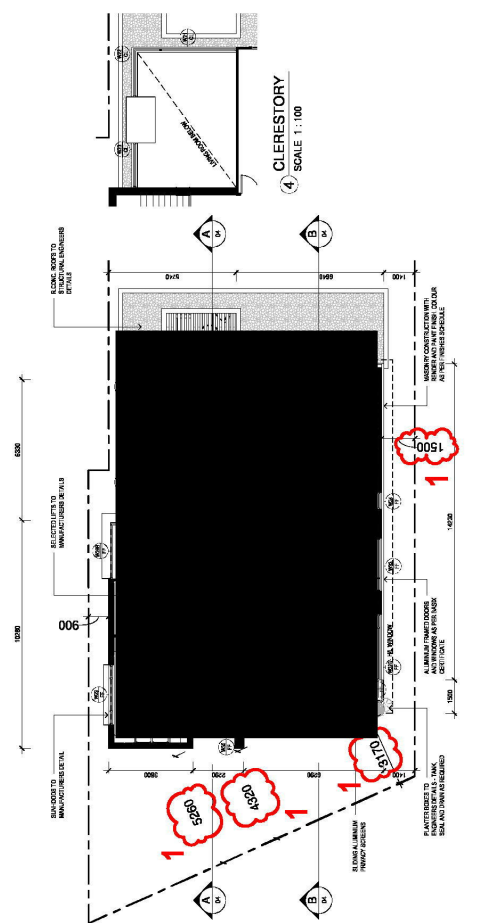
ATTACHMENTS

Attachment [1](#) Redacted Architectural Plans

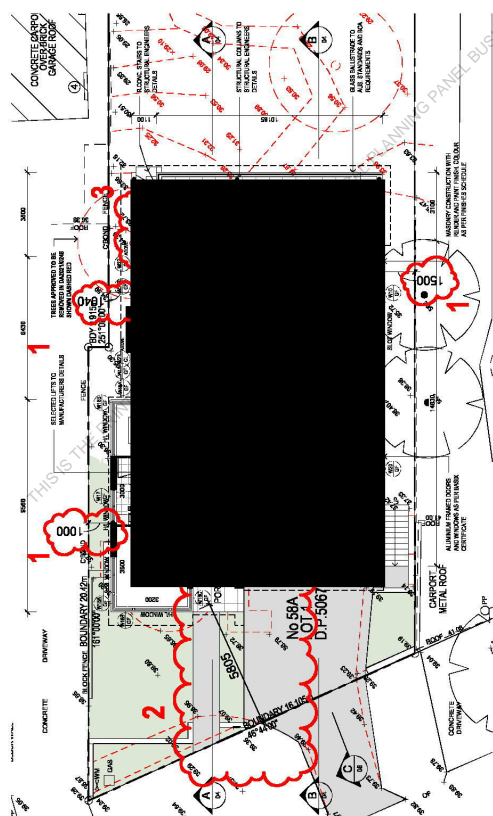


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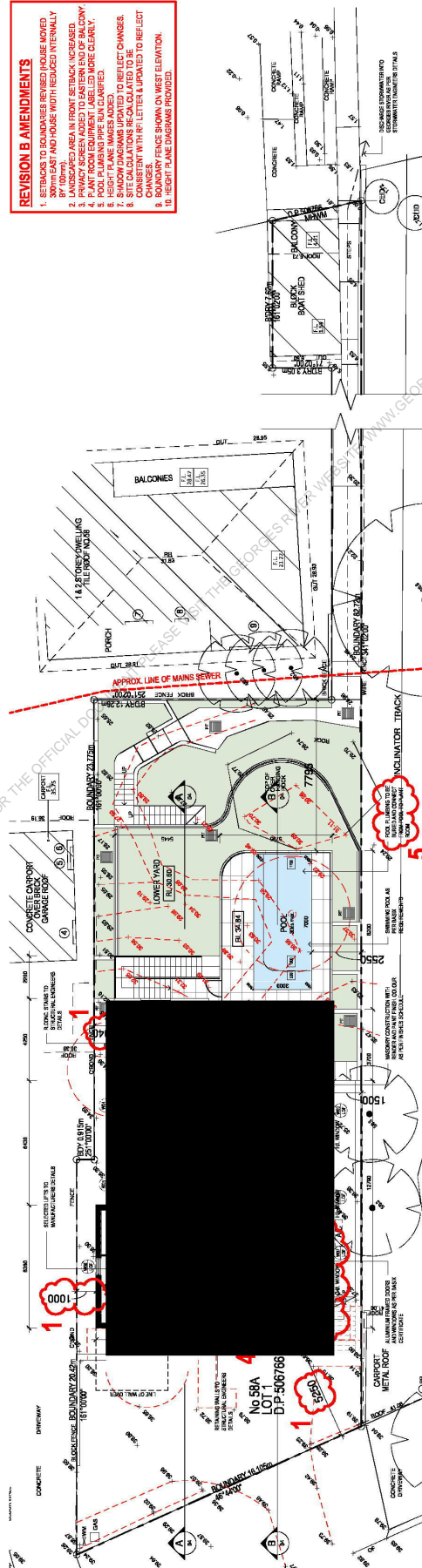




3 FIRST FLOOR PLAN
SCALE 1 : 100



2 GROUND FLOOR PLAN
SCALE 1 : 100



1 LOWER GROUND FLOOR PLAN
SCALE 1 : 100

REVISION B AMENDMENTS

1. SETBACKS TO SOUNDWALLS REVISED (HOUSE MOVED 300mm EAST AND HOUSE WIDTH REDUCED INTERNALLY BY 100mm).
2. LANDSCAPED AREA IN FRONT SETBACK INCREASED
3. PRIVACY SCREEN ADDED TO EASTERN END OF BALCONY.
4. FRONT ROOF CORNER CHANGED MORE CLEARLY.
5. POOL LIGHT LINE IMAGES ADDED.
6. HEIGHT LINE IMAGES ADDED.
7. SHADOW DIAGRAMS UPDATED TO REFLECT CHANGES.
8. SITE CALCULATIONS RECALCULATED TO BE CONSISTENT WITH R1 LETTERS & UPDATED TO REFLECT CHANGES.
9. BOUNDARY FENCE SHOWN ON WEST ELEVATION.
10. HEIGHT PLANE DIAGRAMS PROVIDED.

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REVISION B AMENDMENTS

1. SETBACKS TO BOUNDARIES REVISED (HOUSE MOVED 300mm EAST AND HOUSE WIDTH REDUCED INTERNALLY)
2. POOL DECK, LOWER GROUND LINE AND LOWER GROUND LINE BOUNDARY REVISED
3. BOUNDARY AREA IN FRONT SETBACK INCREASED
4. PLANT ROOM EQUIPMENT LABELLED MORE CLEARLY
5. SHADOW DIAGRAMS ADDED TO REFLECT CHANGES
6. HEIGHT PLANE IMAGES ADDED
7. SHADOW DIAGRAMS UPDATED TO REFLECT CHANGES
8. CHANGES TO REFLECT CHANGES
9. CHANGES TO REFLECT CHANGES
10. HEIGHT PLANE DIAGRAMS PROVIDED

1 NORTH ELEVATION (ALGERNON STREET)
SCALE 1:100

2 WEST ELEVATION
SCALE 1:100

3 SOUTH ELEVATION
SCALE 1:100

4 EAST ELEVATION
SCALE 1:100

PROPOSED RESIDENTIAL DWELLING WITH SWIMMING POOL

58A ALGERNON STREET, OATLEY

SOCRATOUS ARCHITECTS

DATE 01 DEC 2021

PROJECT 2712

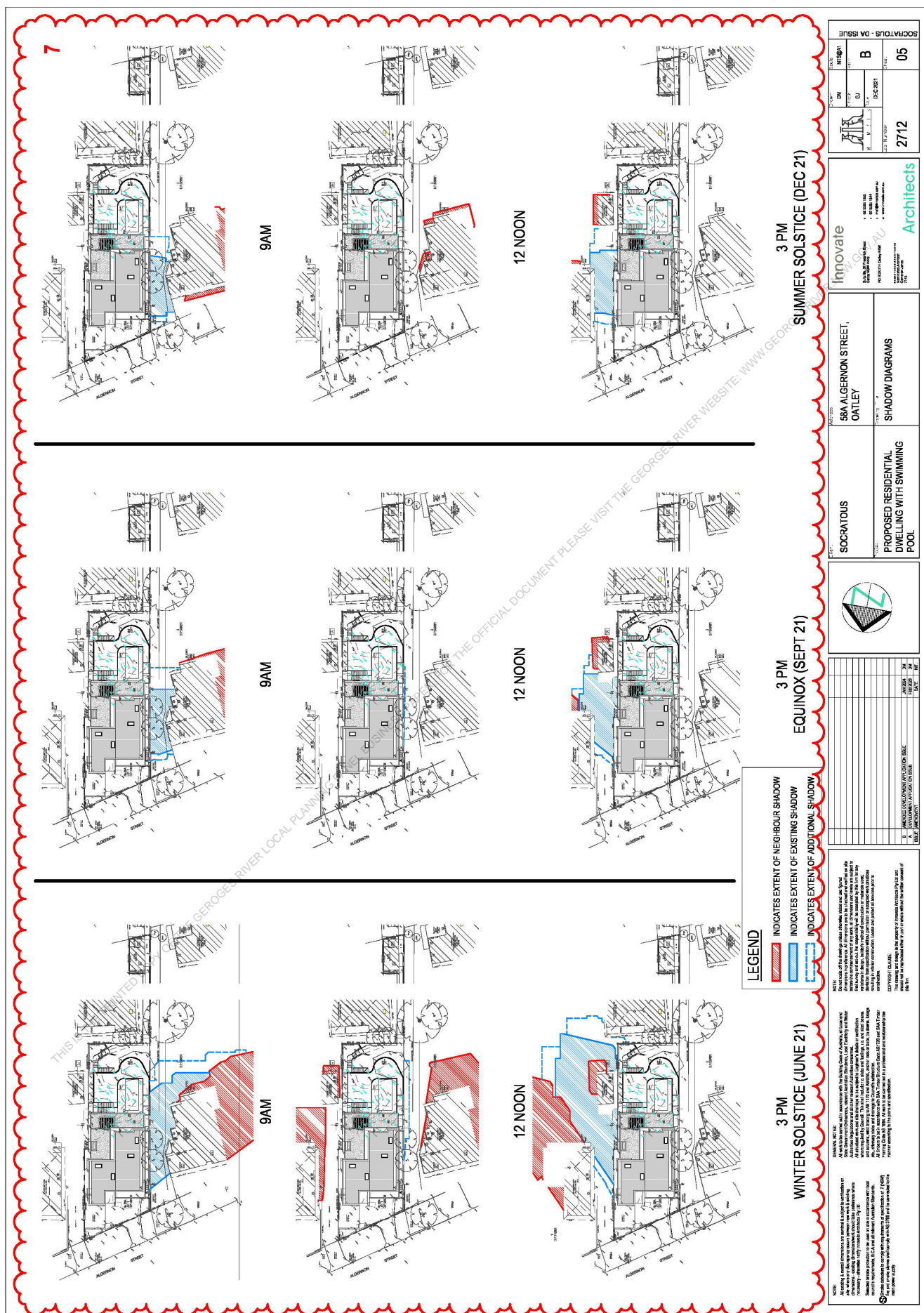
SCORATOUS - DA ISSUE

03

Architects

NOTE: This drawing set depicts a proposed development in accordance with the Building Code of Australia, all local and state laws and regulations, and all other relevant Australian standards. It is intended for use as a guide only and does not constitute a contract. The client is responsible for ensuring that the proposed development complies with all relevant laws and regulations. The client is also responsible for ensuring that the proposed development is in accordance with the relevant planning and zoning requirements. The client is also responsible for ensuring that the proposed development is in accordance with the relevant environmental and heritage requirements. The client is also responsible for ensuring that the proposed development is in accordance with the relevant infrastructure and services requirements. The client is also responsible for ensuring that the proposed development is in accordance with the relevant health and safety requirements. The client is also responsible for ensuring that the proposed development is in accordance with the relevant social and community requirements. The client is also responsible for ensuring that the proposed development is in accordance with the relevant cultural and heritage requirements. The client is also responsible for ensuring that the proposed development is in accordance with the relevant economic and development requirements. The client is also responsible for ensuring that the proposed development is in accordance with the relevant environmental and heritage requirements. The client is also responsible for ensuring that the proposed development is in accordance with the relevant infrastructure and services requirements. The client is also responsible for ensuring that the proposed development is in accordance with the relevant health and safety requirements. The client is also responsible for ensuring that the proposed development is in accordance with the relevant social and community requirements. The client is also responsible for ensuring that the proposed development is in accordance with the relevant cultural and heritage requirements. The client is also responsible for ensuring that the proposed development is in accordance with the relevant economic and development requirements.

LPP006-24 Attachment 1



REVISION B AMENDMENTS

1. SETBACKS TO BOUNDARIES REVISED (HOUSE MOVED 300mm EAST AND TOQUE WIDTH REDUCED INTERNALLY (4.50m))
2. UNDEVELOPED AREA IN FRONT SETBACK INCREASED
3. PLANT ROOM EQUIPMENT LABELLED MORE CLEARLY
4. PLANT ROOM EQUIPMENT LABELLED MORE CLEARLY
5. HEIGHTS OF SETBACKS AND TERRACES REVISED
6. HEIGHT PLANE IMAGES ADDED
7. SHADOW DIAGRAMS UPDATED TO REFLECT CHANGES
8. SHADOW DIAGRAMS UPDATED TO REFLECT CHANGES
9. CHANGES TO FENCE BOUNDARY ON WEST ELEVATION
10. HEIGHT PLANE DIAGRAMS PROVIDED

1 CALCS - LOWER GROUND FL
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3 CALCS - FIRST FL
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4 CALCS - GROUND FL (FRONT SETBACK)
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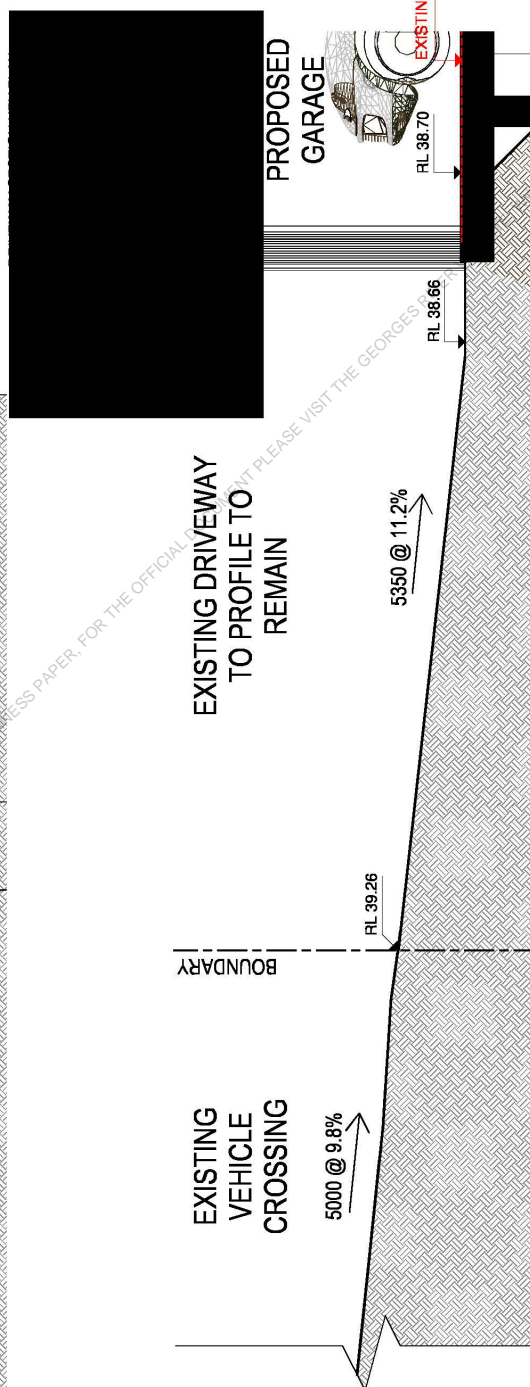
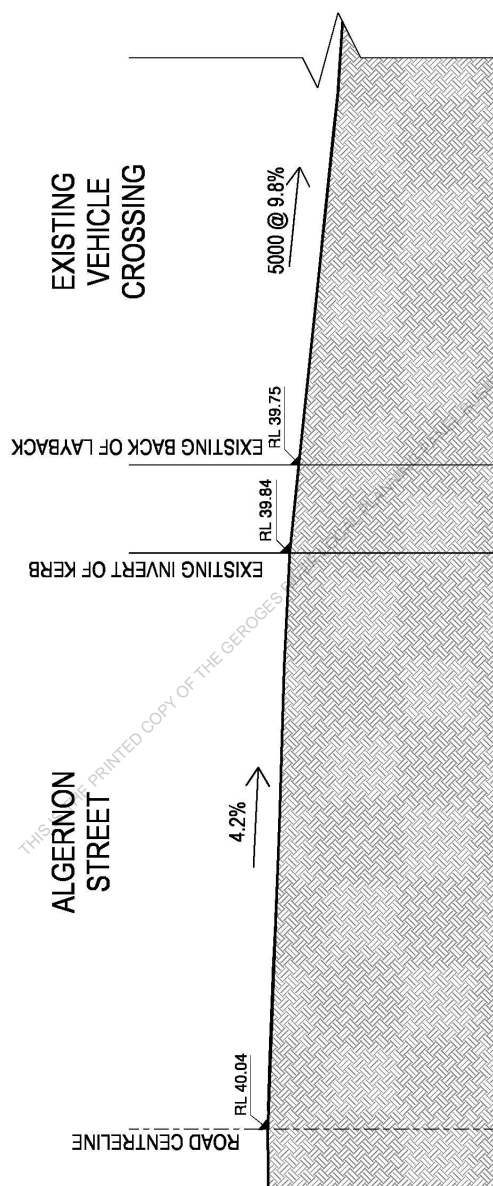
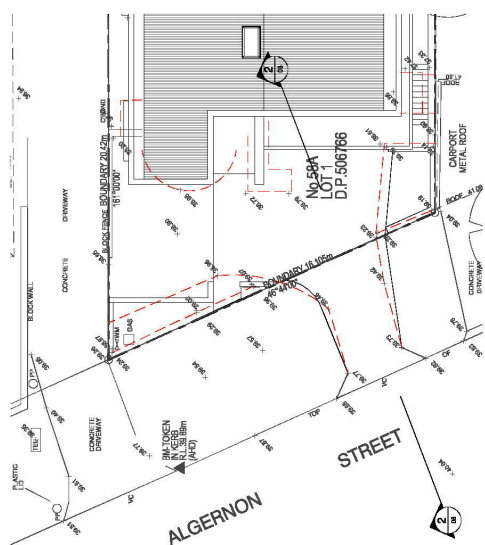
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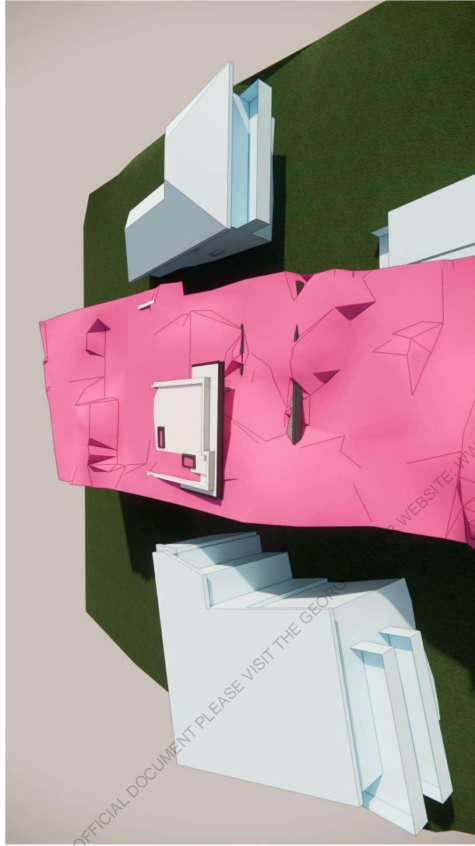
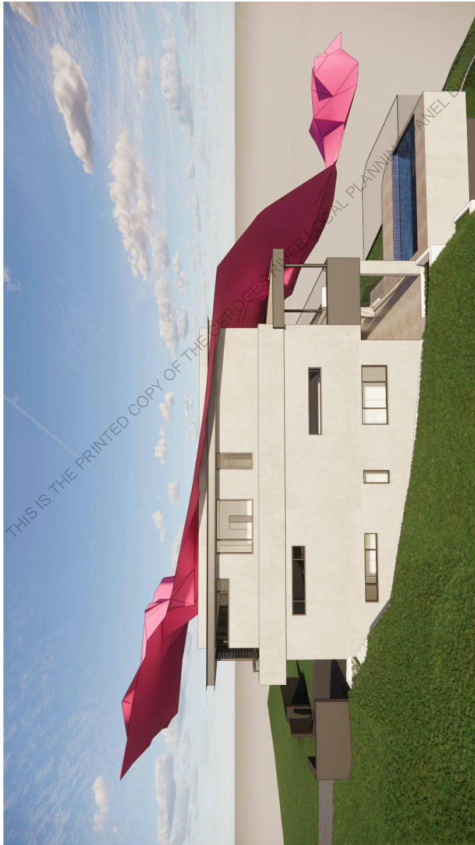
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LPP006-24 Attachment 1

LPP006-24 Attachment 1

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HEIGHT PLANE IMAGES SHOWING EXISTING DIP IN MIDDLE OF SITE TOPOGRAPHY

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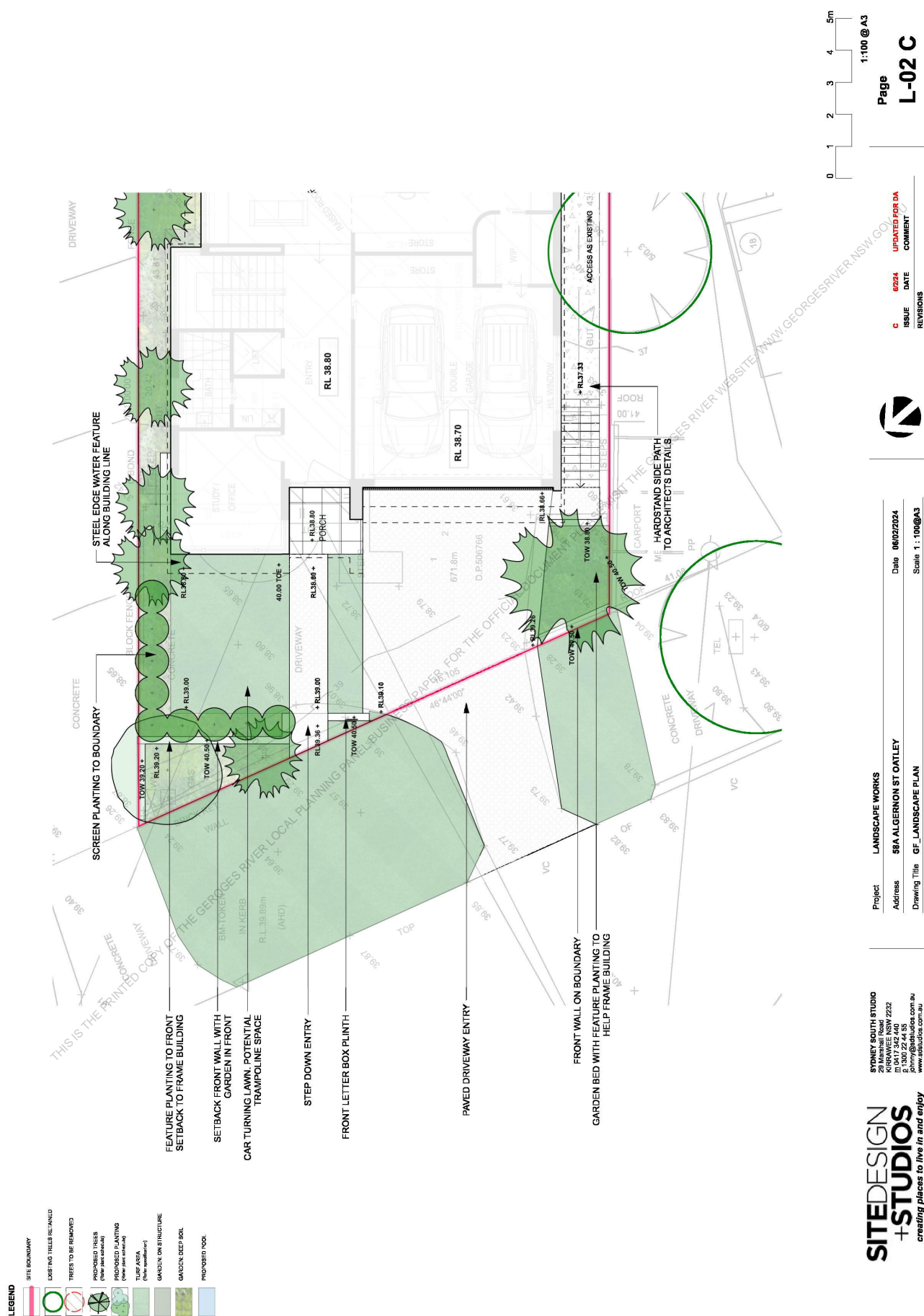
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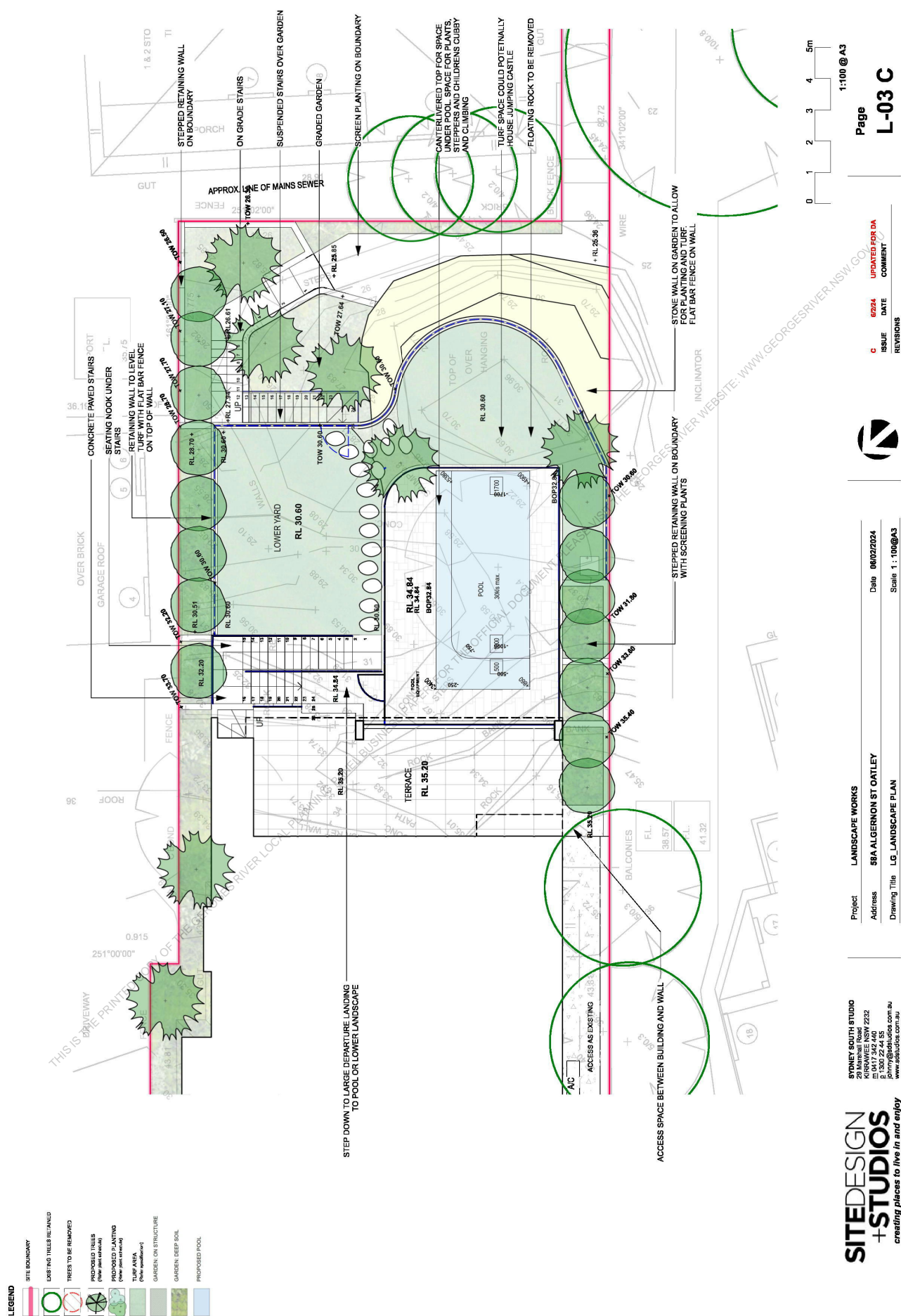
58A ALGERNON STREET, OATLEY	HEIGHT PLANE DIAGRAMS
PROPOSED RESIDENTIAL DWELLING WITH SWIMMING POOL	

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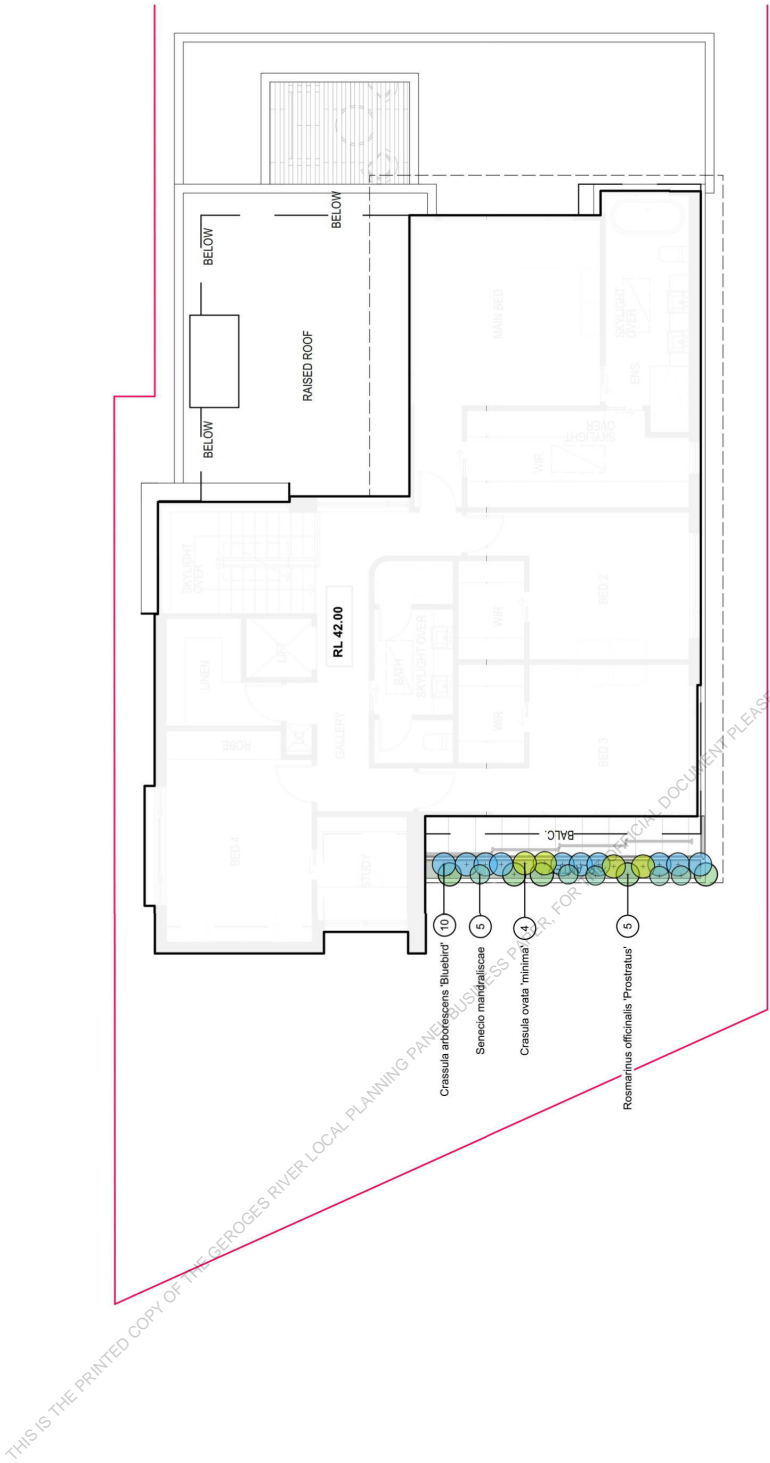
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- LEGEND**
- SITE BOUNDARY
 - EXISTING TREES RETAINED
 - TREES TO BE REMOVED
 - PROPOSED TREES (New plant material)
 - PROPOSED PLANTING (New plant material)
 - PLANT AREA (New plant material)
 - GARDEN ON SINGULARE
 - GARDEN DEEP SOIL
 - PROPOSED POOL



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Project LANDSCAPE WORKS
Address 58A ALGERNON ST OATLEY
Drawing Title L1 LANDSCAPE PLAN

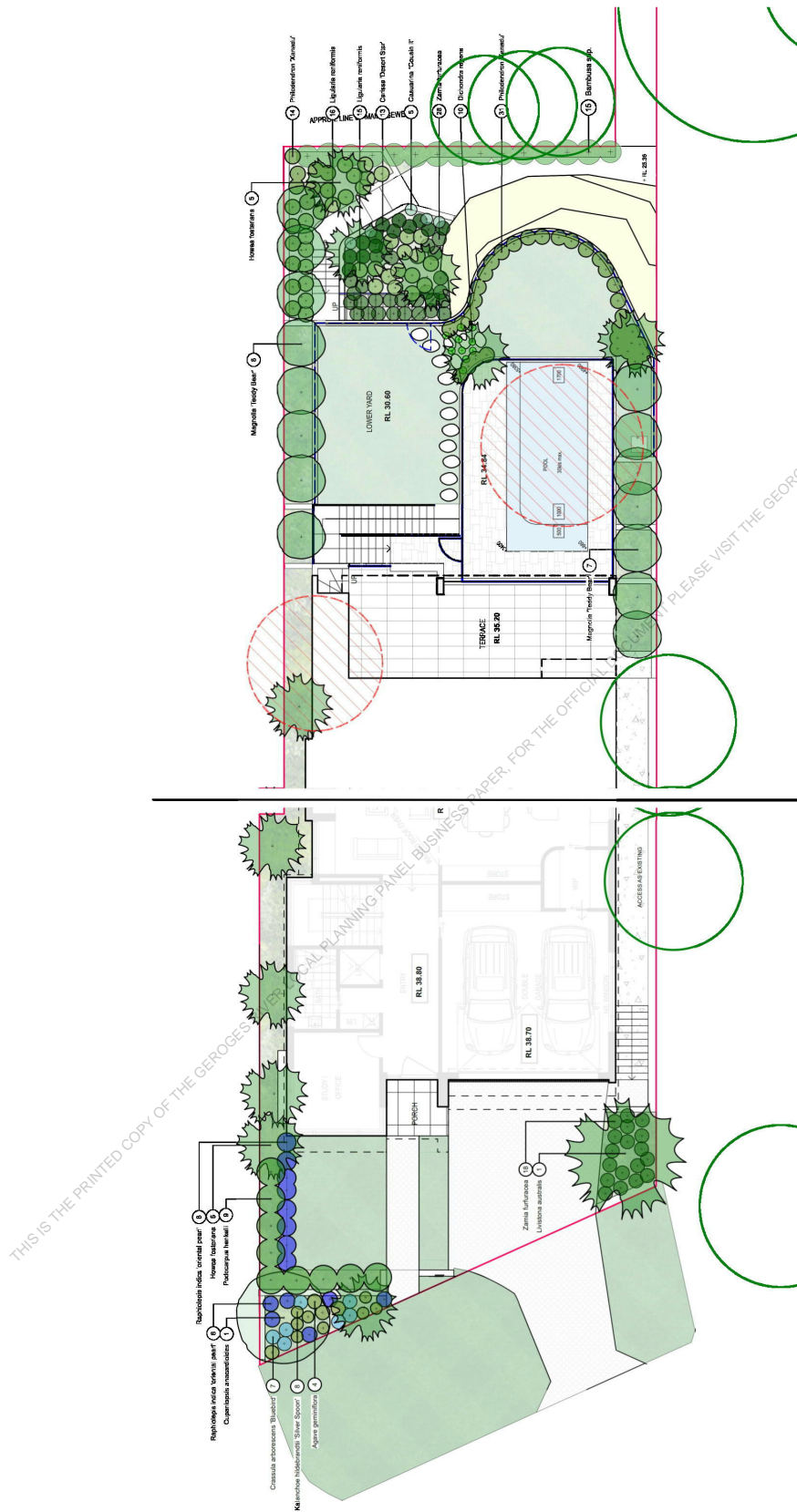
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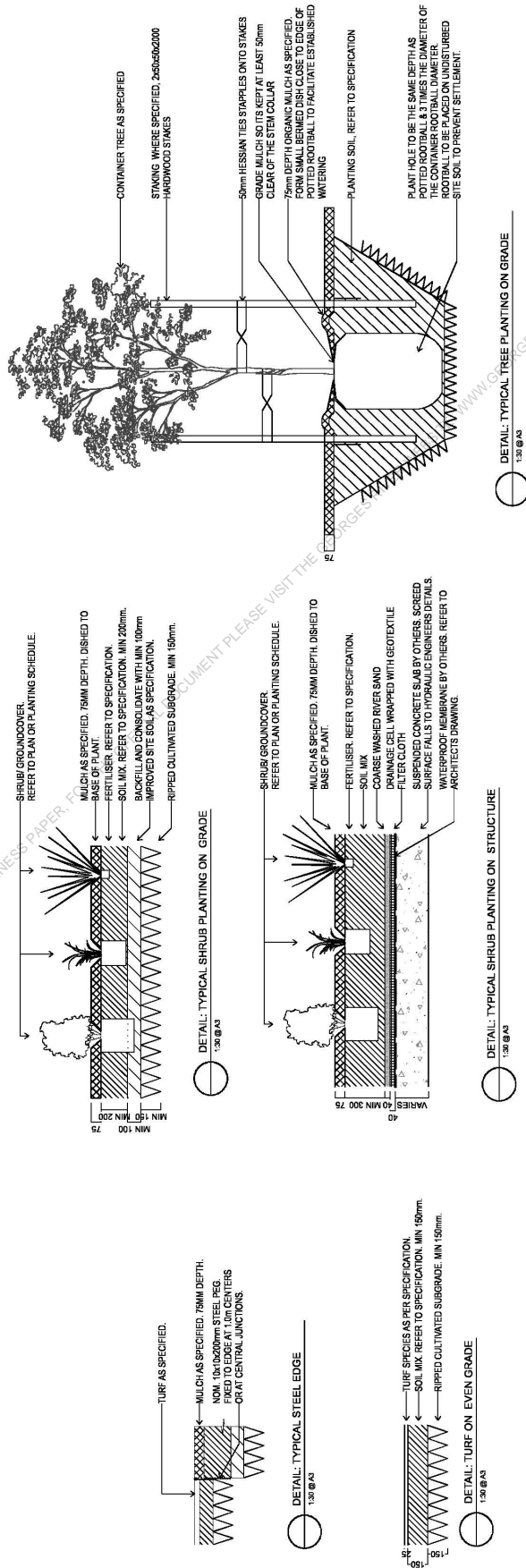
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✉ info@sitedesign.com.au
www.sitedesign.com.au

PLANTING SCHEDULE

Id	Botanical Name	Common Name	Scheduled Size	Qty
Trees				
Cana	Cupaniopsis anacardioides	Tuckeroo	100L	1
HFoat	Howea forsteriana	Kentia Palm	100L	11
LAust	Livistona australis	Cabbage-tree Palm	100L	1
Mag-ib	Magnolia 'Teddy Bear'	Magnolia	100L	15
Shrubs				
Bambusa spp	Bambusa nana	Slender Mosser Bamboo	400mm	15
Casua	Casuarina cunninghamiana	Blue Bird	200mm	17
Kal	Kalanchoe pinnatifida	Kalanchoe	200mm	8
Lig-Ben	Ligularia reifolia	Tractor Seat Plant	200mm	31
Ph-xan	Philodendron 'Xanadu'	Winterborn Philodendron	200mm	45
pod henk	Podocarpus henkelii	Henkel's Yellowwood	200mm	9
Rap-hoep	Raphiolepis indica 'oriental pearl'	Indian Hawthorn	200mm	14
Re-nit	Reynoldsia indica	Cardboard Plant	200mm	46
Ground Covers				
Agave	Agave geminifolia	Agave	200mm	4
Ca-de	Carex 'Desert Star'	Desert Star	200mm	13
cas-cu	Casuarina 'Cousin It'	Casuarina	200mm	5
cas-ov/min	Casuarina ovata 'minima'	mini Jade	200mm	4
Dic-rep	Dicentra repens	Körney Wood	200mm	10
Ros-mar	Rosmarinus officinalis 'Prostratus'	Trailing Rosemary/Creeping Rosemary	200mm	5
Sin-bat	Sinbad mandarinensis	Blue Chalk Stick	200mm	5
Grasses				
Climbers				
Aquatic Plants				
Perennials				
Ferns				



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Project: LANDSCAPE WORKS
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Date: 06/02/2024
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Revisions:

POOL COMPLIANCE NOTES

The design of the swimming pool and associated equipment must comply with the following requirements:

- i) The Swimming Pools Act & Regulations.
- ii) The Australian Standard AS1926 Swimming Pool Safety as prescribed under the Building Code of Australia.
- iii) The pump and associated equipment must be sound insulated and/or isolated so that the noise emitted does not exceed an LAeq (15min) of not more than 5 dB(A) above the background level in any octave band from 31.5Hz to 8KHz centre frequencies inclusive at the boundary of the site

The swimming pool excavation and/or swimming pool must be provided with a suitable barrier to prevent a risk of falling into the excavation or pool at all times throughout the construction phase.

Note:

- The measurement of sound must be carried out in accordance with Australian Standard 1055.1.
- Additional information is available from Sutherland Shire Swimming Pool Environmental Specification.
- Landscaping and ancillary structures must not intrude into the child-resistant barrier Non-Climbable Zone.
- Only structures associated with the pool may be located within the pool area.
- Clothes lines, barbecue, sheds, entertainment structure, outside toilets or any other non pool-related structures are not permitted within the pool area.

Before the issue of any Occupation Certificate:

- i) The pump and associated equipment must be maintained and operated in accordance with the noise levels described above.
- ii) The child resistant barrier must be installed in accordance with A above.
- iii) The swimming pool is to be registered in the NSW Swimming Pool Register.

The pump and associated equipment must be maintained and operated in accordance with the noise levels described above.

ii) The child resistant barrier must be maintained in accordance with the Australian Standard as described above.

EXTERNAL LIGHTING - AMENITY

To ensure that any lighting on the site does not cause a nuisance to neighbours or motorists on nearby roads:

Design

All lighting must be designed in accordance with Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting.

Ongoing

All lighting must be operated and maintained in accordance with the Standard above.

PLAN NOTES

This plan should be read in conjunction with the architectural and hydraulic plans. Work specific to these plans should be prepared in accordance to these plans, including specification and details prior to the installation of landscaping, and should not be altered or compromised during landscape construction.

Retaining wall details to engineers design.

Elements such as drainage swales may be incorporated in garden bed areas (using non-loadable mulch) without compromising the capacity or form.

The Design & location of new letter boxes shall be in accordance with Australia Post's "Requirements for Delivery of Mail to Residential Premises" published Feb 97. All noxious weeds listed in Councils weed lists & located on the site shall be continually removed & suppressed. Reinstall all boundary fencing in poor condition with Council approved 1.8m fencing to rear of building line, rake to 1m forward of BL. Pollution, sediment & erosion control devices as specified shall be in place, and maintained for the duration of the construction period. Proposed excavation near existing established trees to be supervised by arborist.

This plan has been prepared for DA approval only, not for construction.

Planting proposed using commercially available plant species selected from local planning lists and the BASIX local plant list.

D.A approved landscape plan's are required to be constructed as approved to obtain occupancy certificate.

GENERAL NOTES

GENERAL NOTES

All work to be carried out in accordance with the Building Code of Australia, all Local and State Government Ordinances, relevant Australian Standards, Local Authorities Regulations and all other relevant Authorities concerned. All structural work and site drainage to be subject to Engineer's details or certification where required by Council.

This shall include r.c. slabs and footings, r.c. and steel beams & columns, wind bracing to AS1170, AS4055, anchor rods or bolts, tie downs, fixings etc., driveway slabs and drainage to Council's satisfaction. All timbers to be in accordance with SAA Timber Structure Code AS1720 and SAA Timber Framing Code AS 1684.

NOTE

Do not scale off the drawings unless otherwise stated and use figured dimensions in preference.

All dimensions are to be checked and verified on site before the commencement of any work, all dimensions and levels are subject to final survey and set-out.

No responsibility will be accepted by Studeo for any variations in design, builder's construction or accepted work practices resulting in inferior construction. Locate and protect all services prior to construction.

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IRRIGATION NOTES

All gardens to have installed a drop irrigation system controlled from within the store & run off tank water (with possible town water top up). Irrigation system can be designed by Reese irrigation or equivalent and installed by a qualified professional.

LANDSCAPE MAINTENANCE NOTES

MONTH	MAINTENANCE	WEEDS	PRUNING	IRRIGATION	PLANT REPLACEMENT	REPAIRS
JAN	W	M	M	W	F	M
FEB	W	M	M	W	F	M
MAR	F	N/A	M	F	M	D
APR	F	N/A	M	F	M	D
MAY	F	N/A	M	F	M	D
JUN	F	N/A	M	F	M	D
JUL	M	N/A	M	N/A	2ND D	W
AUG	M	N/A	M	N/A	2ND D	W
SEP	M	N/A	M	N/A	2ND D	W
OCT	F	F	M	F	M	D
NOV	F	F	M	F	M	D



REPORT TO GEORGES RIVER COUNCIL

LPP MEETING OF THURSDAY, 21 MARCH 2024

LPP007-24

LPP Report No	LPP007-24	Development Application No	MOD2022/0100
Site Address & Ward Locality	206 Railway Parade KOGARAH Kogarah Bay Ward		
Proposed Development	Modification of Development Consent no. DA2020/0236: Demolition works, lot consolidation, site preparation and construction of a twelve (12) storey mixed use development containing ground floor and first floor commercial floor space and 49 residential apartments above three (3) levels of basement containing 75 car spaces, level one (1) and roof top communal open space, landscaping and site works. The modifications include internal and external changes.		
Owners	Bridgewell and SLD Kogarah Pty Ltd		
Applicant	William Lee		
Planner/Architect	SLD and BKA Architecture		
Date Of Lodgement	4/07/2022		
Submissions	One (1)		
Cost of Works	No change		
Local Planning Panel Criteria	Sensitive Development – Development to which State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development applies.		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	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 (Housing) 2021; Georges River Local Environmental Plan 2021		
List all documents submitted with this report for the Panel's consideration	Architectural Plans, Access Report, Traffic and Parking Report		
Report prepared by	Consultant Planner		

Recommendation	Approval, subject to conditions
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Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
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Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes - Height
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	Yes

Site Plan

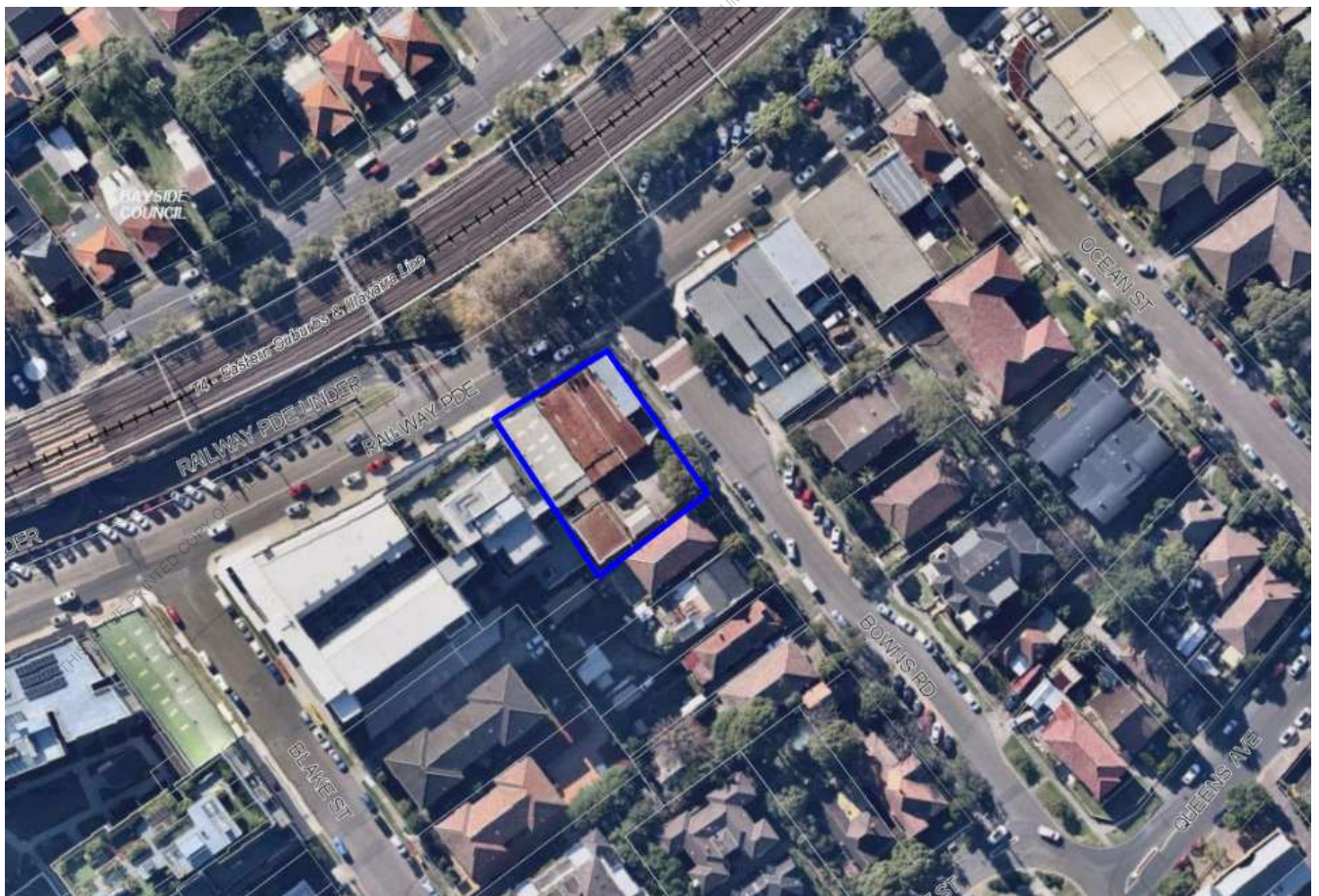


Figure 1 Aerial photo – the subject site is outlined in blue

Executive Summary

BACKGROUND

1. Council is in receipt of a modification application to an approved development DA2020/0236 which consisted of Demolition works, lot consolidation, site preparation and construction of a twelve (12) storey mixed use development containing ground floor and first floor commercial floor space and 49 residential apartments above three (3) levels of basement containing 75 car spaces, level one (1) and roof top communal open space, landscaping and site works. The approved development exceeds the height control of 39 metres with a non-compliance of height of 42.1 metres to accommodate a lift overrun and fire services.

PROPOSAL

2. The proposed modifications include:
 - a. Amendment to the configuration of the basement level to accommodate structures and services including structural columns, electrical services room and a fire passage access.
 - b. Amendment to the ground floor to accommodate two retail tenancies instead of one and alterations to the communal bathroom facilities and amendments to the vehicle ramp to achieve headroom height due to amendments to the floor level due to structural beams.
 - c. Amendment to the configuration of the first-floor commercial area to accommodate services (384 to 380sqm) and reduction of the residential communal open space by 8sqm to accommodate fire fighting water tank, reduction of floor level by 430mm to accommodate structural requirements.
 - d. Amendment to the 2 to 11 floor includes increasing the floor to height level from 3.05m to 3.1m to accommodate services, addition of smoke lobbies on each level, open gallery.
 - e. Amendment to the roof level includes the roof level and associated pergola structure being increased by 120mm (66.32m to 66.44m) and reduction of communal open space on rooftop by 22sqm (325sqm to 303sqm) to accommodate service risers.
 - f. Convert approved dual key units (U804 and U904) to 3 bedroom units.

SITE AND LOCALITY

3. Situated on the development site are three (3) commercial buildings and four (4) outbuildings. 206 Railway Parade contains a two storey building that is being used as a dance studio. 212 Railway Parade contains a single storey building that is being used by a tool and die making shop and 214 Railway Parade contains a single storey building currently being used as a gymnasium and personal training premises.
4. The site is located within the Kogarah Town Centre in the Railway Parade South Precinct. The intention of the controls in this precinct is to create a defined street wall to Railway Parade. The proposed development includes all the sites identified in the preferred amalgamation pattern.
5. The subject site is bounded by Railway Parade to the north and Bowns Road to the east. The site is approximately 550m north of Carlton railway station and 600 metres south of Kogarah railway station and Kogarah CBD.



Figure 2: Subject site as viewed from Railway Parade looking south

ZONING AND PERMISSIBILITY

6. The subject development site is zoned MU1 Mixed Use under Georges River Local Environmental Plan 2021 (GRLEP 2021). The approved mixed-use development remains permissible with consent under the zone applying to the land.

SUBMISSIONS

7. The application was notified for a period of fourteen (14) days in accordance with the Georges River Community Engagement Strategy. In total, one (1) submission objecting to the development was received.

REASON FOR REFERRAL TO THE LOCAL PLANNING PANEL

8. The proposed works falls under Sensitive Development where SEPP 65 – Design Quality of Residential Apartment Development applies. The subject Section 4.55 (2) modification proposes an additional 300mm above the height of building control.

CONCLUSION

9. 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:
 - Based upon the information provided to date, it is assessed that the proposal will not have an adverse or an unreasonable environmental impact in the following regard:
 - o The proposed development remains substantially the same as the approved mixed-use development.
 - o There is substantial amendment to the approved height.

- A number of proposed modifications are required to comply with relevant standards including accessibility, fire safety and the National Construction Code.
- There is no increase in the number of units proposed nor in the unit mix.
- Although there is a minor numerical reduction in deep soil and soft soil to accommodate the on-site detention tank requirements, they both still exceed the minimum requirements.

REPORT IN FULL

10. The proposed works under this modification application (MOD2022/0100) seeks consent to modify the approved development involve the following changes:

Basement Level

- Smoke lobbies added to lifts on all basement to satisfy FER requirements.
- Fire stairs access relocated to improve travel distances (less than 20m to a point of choice) and BCA compliance.
- Car Parking layout rearranged to accommodate structure design.
- Services Rooms including Electrical switchboard, Cold Water pump, Hydrant Booster, Sprinklers Pump, and grease arrestor, relocated following further construction design development.
- Basement 2&3 RLs have been lowered to achieve adequate floor to floor height of 2.95m and fit required equipment required by further mechanical design.
- Basement 1 RL lowered to achieve adequate floor-to-floor height once factored required transfer slab thicknesses as per further structure design.
- Supply air shaft added to basements as required by mechanical design.

Ground Floor

- Reconfiguration of retail areas as agreed with Council with improved lobby access, fire egress and access to service areas.
- Subdivision into 2 retail tenancies for commercial reasons. The proposed retail area is 236.9m² (a reduction from approved retail area of 287m²).
- Accessible bathroom facilities relocated accordingly.
- Driveway ramp rationalised to achieve required headroom as result of further structures requirements during design development.
- Landscaped steps added to Bowns Road frontage as agreed with Council for improved street frontage.
- Larger shared Residential/Commercial Ground Floor Lift Lobby provided in lieu of previous commercial lift access through Ground Floor retail private space due to operational and security challenges.
- Boundary Junction pit provided as per DA Condition 50 (f).

Level 1

- All residential levels included showing Lift Access to all levels as per DA Condition 50 (c).
- Accessible toilet provided for Level 1 Commercial tenancy as per DA Condition 50 (d).
- Awning across the frontage of Bowen Street extended to the full extent of commercial tenancy as per DA Condition 50 (a).
- On site water tank added to satisfy fire services requirement to provide 100kL effective capacity and service corridor is required.
- As well plant room for effective ventilation of the basement levels is required.

- Subsequently, communal open space of level 1 has a slight reduction for a proposed area of 245.54 m² (approved communal open space area for level 1 is 293 m²). The overall communal open space area required by Kogarah LEP 2012 remains compliant.
- Service risers and cupboards rationalised following further design development for construction documentation.
- FFL increased 300mm from Level 1 upwards to allow 4500mm floor to floor to Ground Floor commercial level as agreed with Council.

Level 2 -11

- Residential RLs has been increased to achieve a floor-to-floor height of 3.1m (approved DA floor-to-floor height = 3.05m). This increase of floor height is to provide extra space to fully accommodate all services while maintaining the minimum ceiling clearance in habitable spaces as required by ADG requirements. It is noted the overall building height has negligibly changed.
- FFL increased additional 300mm from Level 1 upwards to allow 4500mm floor to floor to Ground Floor commercial level as agreed with Council.
- Smoke lobby added on every level to provide an air lock lobby as specified by FER. This additional area of the smoke lobby adds to 44.8m². Factoring reductions in other areas, the total GFA remains below the maximum and an FSR of 4:1 is achieved.
- Open gallery extended due to hatch accesses are required for maintenance to water tank located on level 1, as per fire services requirement.
- Structure has been added on the East, North and South facade of the building due to structure design development. Subsequently, some glazing areas slightly reconfigured.
- All residential levels included showing Lift Access to all levels as per DA Condition 50 (c).
- Privacy screens provided to southeastern side of the balconies associated with apartments 206, 306, 406, 506 and 606 as per DA Condition 50 (b).
- Service risers, recycling bin cupboard, structural columns, and ventilation risers, following normal further detail design development during ongoing construction documentation.
- Dual key arrangement of units 804 & 904 amended to become a single 3 bedroom unit each.

Roof Level

- Due to residential RLs increased, subsequently the roof level RL has been increased by 420mm, also to allow a pavers on pedestal flooring solution for improved waterproofing. Minor additional encroachment into height plane limit only to non-habitable rooms or communal areas.
- Glass louvred provided in front to lift area to prevent wind driven rain to access the lift pits. Louvres added to External Finishes Schedule.
- Services riser has been added to the main core of the building and as a result, the communal open space for roof level has been reduced.

BACKGROUND

11. On 17 June 2021, DA2020/0236 for Demolition works, lot consolidation, site preparation and construction of a twelve (12) storey mixed use development containing ground floor and first floor commercial floor space and 49 residential apartments above three (3) levels of basement containing 75 car spaces, level one (1) and roof top communal open space, landscaping, and site works was approved by the Local Planning Panel.

12. On 13 July 2022, MOD 2022/0100 was formally lodged with Council.

SUBMISSIONS AND THE PUBLIC INTEREST

13. The application was on public notification from 15 July 2022 in accordance with the Georges River Development Control Plan 2021.
14. During this time one (1) submission was received raising concern. This is discussed in greater detail in the body of this report.

PLANNING ASSESSMENT

Assessment – Section 4.55 Considerations

15. The modification application has been submitted in accordance with Section 4.55(2) of the Environmental Planning and Assessment Act which relates to amendments of a more substantial nature. The following provisions of Section 4.55(2) of the Act need to be considered in the assessment of the application.

Section 4.55(2) Other modifications

16. A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—
- (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
 - (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
 - (c) it has notified the application in accordance with—
 - (i) the regulations, if the regulations so require, or
 - (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
 - (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.
17. Comment: The proposed changes to the development consent are considered to be “substantially the same” as they sit within the approved building envelope and footprint. The application has been appropriately notified.
18. The proposal therefore satisfies the provisions of Section 4.55(2), (a), (b), (c) and (d).

Section 4.55 subclause (3) states.

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.

19. Comment: A detailed Assessment against the provisions of S4.15(1) of the EP & A Act is provided below.

Section 4.55 subclause (4) states:

20. *The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.*
21. Comment: The proposed development satisfies this provision as the modifications are not granting consent to a DA but rather modifying DA2020/0236.

State Environmental Planning Policies

22. 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 – no change
State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes – no change
State Environmental Planning Policy No. 65 – <i>Design Quality of Residential Apartment Development</i>	Yes – see discussion below
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes – no change
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes – to be amended

State Environmental Planning Policy 65 – Design Quality of Residential Development

23. The ADG is a publication by the State Government which further expands on the design quality principles by providing some detailed practical guidance for the design of residential flat buildings.

Clause	Design Criteria	Comments	Complies
3C Public Domain interface	Transition between private and public domain is achieved without compromising safety and security. Amenity of the public domain is retained and enhanced.	Balconies overlook onto the street and to the future pedestrian walkway adjacent to the eastern site boundary. The proposed retail space provides a transition between the public and private domain and is also defined through the use of landscaping and finishes.	Yes.

Objective 3D-1	<p>1. Communal open space has a minimum area equal to 25% of the site.</p> <p>-Where it cannot be provided on ground level it should be provided on a podium or roof</p> <p>-Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:</p> <ul style="list-style-type: none"> • provide communal spaces elsewhere such as a landscaped roof top terrace or a common room • provide larger balconies or increased private open space for apartments • demonstrate good proximity to public open space and facilities and/or provide contributions to public open space <p>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 9am and 3pm on 21 June (mid-winter)</p>	<p>Yes</p> <p>The proposal seeks to reduce the quantum of communal open space by a total of 30sqm (8sqm on Level 1 and 22sqm on the roof), to accommodate firefighting services and mechanical services to accommodate with the building code.</p> <p>Notwithstanding, the overall proposed communal open space of 588sqm (54.38%) will exceed the minimum requirement of 270.325sqm. The roof top communal open space will achieve a minimum of 2 hours (or more) of solar access throughout the day in midwinter.</p>	Yes
3E-1 Deep Soil Zones	3E-1 Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality	No change to approved design.	No change to approved design.

3F-1 Visual Privacy	<p>3F-1 Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.</p> <p>Design Criteria Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room. Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>	No change to approved design.	No change to approved design.
3G Pedestrian access and entries	<p>Building entries and pedestrian access connects to and addressed the public domain.</p> <p>Access, entries and pathways are accessible and easy to identify.</p>	<p>As part of the modification, the lobby has been amended to improve passive surveillance between the street and the lifts. Services such as mailboxes, meters and fire passageways have also been rationalised.</p> <p>A tiered landscape stair system is proposed to provide better interface between the public domain and proposed shop 2. It is considered that this is significant improvement to the original standard stair and ramp design which hinders direct access between the street and the retail element.</p>	Yes

3H Vehicle Access	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	No change is proposed to the approved vehicular access to the site.	No change to approved design.
3J-Bicycle and car parking	<p>For development in the following locations:</p> <ul style="list-style-type: none"> - On sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area; or - On land zoned and sites within 400m of land zoned B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>The minimum car parking requirement for residents and visitors is set out in the Roads and Maritime Services Guide to Traffic Generating Developments (RMS), or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>In accordance with Section 5.4.3 (High Density Residential Flat Buildings) of the RMS Traffic Generating Guidelines. The site is located within the "Metropolitan Regional (CBD) Centres" and</p>	<p>No change to the proposed car parking spaces.</p> <p>While there are amendments to the position of several car parking spaces within basement level 3 to accommodate column structures, the spaces are still able to comply with AS 2890.1.</p> <p>The site is located within 800m of Carlton and Kogarah Railway station as such the RMS provisions are applicable to this assessment.</p> <p>Proposal relies on the following car parking provisions;</p> <ul style="list-style-type: none"> • 12 x 1 bedroom units = 0.4 x 12 = 4.8 spaces • 35 x 2 bedroom units = 0.7 x 35 = 24.5 spaces • 2 x 3 bedroom units = 1.2 x 2 = 2.4 spaces <p>Residential spaces required = 32 spaces</p> <p>Visitor total = 47/7 = 7 spaces required</p>	No numerical changes to approved design.

	<p>the following provisions apply;</p> <p>0.4 spaces per 1 bedroom unit 0.7 spaces per 2 bedroom unit 1.2 spaces per 3 bedroom unit 1 space per 7 units (visitor parking)</p> <p>The provision of at least one loading dock for residential use is desirable, although a dock intended for commercial uses may be sufficient.</p> <p>7. The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less</p> <p>The car parking needs for a development must be provided off street</p>		
4A-1 Solar Access	<p>1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area</p> <p>3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p>	<p>No changes to approval –</p> <p>A minimum of 98% of apartments receive a minimum of 2 hours of solar access during mid-winter. Only unit 201 does not achieve the minimum 2 hours.</p>	No change to approved design.
4B-3 Natural ventilation	1. At least 60% of apartments are naturally cross	No change to unit layout.	No change to

	<p>ventilated in the first nine storeys of the building.</p> <p>Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed</p> <p>2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p>	<p>All apartments have been designed to comply with minimum cross ventilation requirements.</p> <p>No apartment exceeds 18m in depth.</p> <p>Every apartment has a dual aspect.</p>	approved design.
4C-1 Floor to 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>	<p>No changes to approval -</p> <p>Approved development achieves 2.7m for all rooms.</p>	Yes
4D-1 Apartment Sizes	<p>1. Apartments are required to have the following minimum internal areas:</p> <p>1 bedroom = 50sqm</p> <p>2 bedroom = 70sqm</p> <p>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>2. Every habitable room must have a window in an external wall with a total</p>	<p>Unit 804 and 904 are proposed to be amended from dual key units to 3 bedroom units. The total size will be 105sqm which is compliant. With the exception of removing an internal door, there are no other layout amendments.</p> <p>All units comply</p> <p>Window provided for each habitable room.</p>	Yes

	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		
4D-2 Apartment layout	<p>1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height</p> <p>2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p> <p>1. Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space)</p> <p>2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p> <p>3. Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> -3.6m for studio and 1 bedroom - 4m for 2 and 3 bedroom apartments <p>4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>	<p>No changes to apartment layout.</p> <p>One bedroom units have minimum areas of 50sqm-61sqm.</p> <p>Two bedroom units have minimum area of 76-78sqm.</p> <p>Three bedroom units have minimum internal areas of 107sqm-108sqm.</p>	No change to approved design.
4E-1 Private open space and balconies	<p>1. All apartments are required to have primary balconies as follows:</p> <ul style="list-style-type: none"> -1 bedroom = 8sqm/2m depth -2 bedroom = 10sqm/2m depth 	<p>All units comply.</p> <p>All balcony areas are greater than the minimum dimensions required.</p>	No change to approved design.

	<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>2. 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>All ground floor units are provided with balconies 10sqm or greater.</p>											
Objective 4F-1	1. The maximum number of apartments off a circulation core on a single level is eight	No more than six (6) units access the lift from any one core on a single level in line with the ADG.	No change to approved design.										
4G - Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided</p> <table><tr><th>Apartment type</th><th>Storage size volume</th></tr><tr><td>Studio</td><td>4 m²</td></tr><tr><td>1 bedroom</td><td>6 m²</td></tr><tr><td>2 bedroom</td><td>8 m²</td></tr><tr><td>3 bedroom</td><td>10 m²</td></tr></table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Apartment type	Storage size volume	Studio	4 m ²	1 bedroom	6 m ²	2 bedroom	8 m ²	3 bedroom	10 m ²	<p>Each unit is provided with sufficient storage space with at least 50% located in individual units. The remaining is located in a dedicated secure location within the residential areas of the basement.</p> <p>Storage spaces within apartments are located as part of a holistic design approach and integrated into the overall layout.</p> <p>The modification proposes minor adjustments to the storage cages within the basement to accommodate structural elements.</p>	No numerical change to approved design.
Apartment type	Storage size volume												
Studio	4 m ²												
1 bedroom	6 m ²												
2 bedroom	8 m ²												
3 bedroom	10 m ²												
4H Acoustic Privacy	Noise transfer is minimised through the siting of buildings and building layout.	<p>No change to approved design.</p> <p>Building separation, orientation and arrangements are designed to mitigate noise pollution with openings shielded through setbacks and other arrangements from noise sources. Recommendations have been provided to ensure</p>	No change to approved design.										

		<p>separation between buildings complies. In addition the building must comply with the specific requirements of the NCC – BCA.</p> <p>Internal layouts further work to mitigate noise.</p> <p>The application is accompanied by an acoustic report addressing potential noises issues on the site from the roadways and the train line, from traffic generation and vehicle movements, noise from commercial usage and from mechanical plant. Recommendations of the report are to be implemented in the build.</p>	
4J Noise and Pollution	<p>In noisy or hostile environments, the impacts of external noise and pollution are minimised through the careful siting and layout of buildings.</p> <p>Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.</p>	<p>No change to approved design.</p> <p>Site layout and floor plan design seeks to minimise acoustic disruption on the enjoyment of the future residents/users of the development. The communal open space on level 01 is centrally located within the development and is shielded from Railway Parade and Bowns Parade by the proposed building.</p> <p>Vehicle entries are located and designed to minimise further noise impacts and the placement of non-residential uses aids in separating residents from noise sources.</p> <p>The design incorporates seals to prevent noise transfer through gaps, acoustic glazing, and other measures where necessary to attenuate noise impacts on apartments.</p>	No change to approved design.
4L Ground floor apartments	Street frontage activity is maximised where	No ground floor apartments proposed	N/A.

	ground floor apartments are located		
4M Facades	Building facades provide visual interest along the street while respecting the character of the local area.	No change to approved design. The façade treatments and the overall aesthetic is considered to be well resolved and is consistent with the desired streetscape character.	No change to approved design.
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. APPENDIX A - Apartment Design Guide (ADG) Compliance Table 7	A glass louvre is proposed to be added to the awning underside to reduce southerly weather exposure including wind and rain to increase the usability of the roof top area. A 22sqm reduction to the rooftop communal open space is also proposed to accommodate services required under the Building Code. Given the overall quantum of communal open space, no concerns are raised. There are no other modifications. The roof is a modern element that is generally consistent with new developments of this scale and form. It includes a communal area on the roof which is a benefit for future occupants.	Yes
4O Landscape design	Landscape design contributes to the streetscape and amenity.	The proposal seeks to reduce the quantum of communal open space by a total of 30sqm (8sqm on Level 1 and 22sqm on the roof), to accommodate firefighting services and mechanical services to accommodate with the building code. Notwithstanding, the overall proposed communal open space of 588sqm (54.38%) will exceed the minimum requirement of 270.325sqm. The roof top communal open space will achieve a minimum of 2 hours (or more) of solar access throughout the day in midwinter.	Yes

4S Mixed Use	Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement. Residential levels of the building are integrated within the development, and safety and amenity are maximised for residents.	The proposed design revisions are consistent with the approved scheme and maintain and enhance active pedestrian street frontages. Notwithstanding the separation of the retail tenancies into two and the lowering of the level associated with proposed tenancy two facing Bowns Road, the proposed interface and landscaping design is considered to be an improved outcome that promotes active frontages.	Yes.
4W Waste Management	Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.	There are no amendments to the approved waste storage facilities.	No change to approved design.

Georges River Local Environmental Plan 2021

24. The extent to which the proposed development complies with the relevant provisions of the Georges River Local Environmental Plan 2021 (GRLEP 2021) is detailed and discussed in the table below.

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
Mixed use mixed use development means a building or place comprising 2 or more different land uses.	The proposed development remains consistent with the definition.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Part 2 – Permitted or prohibited development		
Clause 2.3 – Zone objectives and Land Use Table		
Standard	Proposal	Compliance
The subject site zoned MU1 - Mixed Use The objectives of the zone are: • To provide a range of retail, business and community uses that	The modifications do not alter the approved use. The proposal is defined as a shop top housing being a mixed use development comprising a residential flat building	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

<p>serve the needs of people who live in, work in or visit the area.</p> <ul style="list-style-type: none"> • To encourage investment in local commercial development that generates employment opportunities and economic growth. • To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area. • To encourage business, retail, community and other non-residential land uses on the ground floor of buildings. • To maximise public transport patronage and encourage walking and cycling. • To encourage development that is compatible with the centre's position on the centres hierarchy. 	<p>development and commercial premises which are permitted land uses in the MU1 zone.</p>	
Part 4 – Principal Development Standards		
Clause 4.3 – Height of Buildings		
Standard	Approved/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 39m maximum identified on Height of Buildings Map</p>	<p>Approval</p> <p>As part of the original application approval under DA2020/0236, the building exceeds the 39m height limit and achieves an overall height at the highest point of 42.1m. The lift overrun, fire stairs and associated services are the elements which exceed the height control.</p> <p>Proposed Modification</p> <p>The modification proposes to increase the maximum height of building by a total of 300mm (from</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> N/A</p>

	<p>RL 70320 to RL 70620) to provide additional clearance to accommodate all services while maintain the minimum ceiling clearance in habitable spaces and to allow 4500mm floor to ceiling height for the retail space.</p> <p>It is noted that the 300mm increase is materially indistinguishable and does not result in any additional environmental impact. It is noted that the 300mm overall height increase does not result in any habitable part of the building exceeding the 39m maximum height plane. All elements exceeding relate to the communal rooftop space, lift overrun, service and services.</p> <p>It is noted that documentation originally submitted with the modification do not alter the height of the building, instead, decreases the floor to ceiling height of the ground floor retail element. This results in an undesirable outcome to the retail component which is located in a prominent street corner. After further discussions, the 300mm height increase compromise was considered noting that the impacts would be limited.</p>	
Clause 4.4 – Floor Space Ratio		
Standard	Approved/Proposal	Compliance
<p>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 Map.</p> <p>The maximum floor space is 2.5:1 or 5060.375m² as identified on Floor Space Ratio (FSR) Map.</p>	<p>The floor space ratio is amended slightly given that smoke lobbies are added to every level to provide an air lock lobby to comply with fire engineering requirements.</p> <p>Notwithstanding, the total GFA is 4,325.15sqm or FSR of 4:1.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p>
Clause 4.4B Exceptions to floor space ratio—non-residential uses		
Standard	Approved/Proposal	Compliance

(3) Development consent must not be granted for development on land in Zone E1 Local Centre or Zone MU1 Mixed Use unless the non-residential floor space ratio is at least 0.3:1.	No variations are sought.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Clause 4.6 - Exceptions to development standards		
Standard	Proposal	Compliance
In accordance with Clause 4.6 (1) through to and including (8)	No variations are sought.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Part 5 – Miscellaneous Provisions		
Clause 5.7 – Development below mean high water mark		
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
Clause 5.10 – Heritage conservation		
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.	The site is not a heritage item and not located within the vicinity of any heritage items. Site is not in a heritage conservation area.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Clause - 5.21 Flood Planning		
Standard	Proposal	Compliance
(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
Part 6 – Additional Local Provisions		
Clause 6.1 – Acid sulfate soils		
Standard	Proposal	Compliance
(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	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	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A

<p>Soils Map as being of the class specified for those works.</p> <p>Class 5 The site is identified as containing Class 5 Acid Sulfate Soils.</p>	<p>class, and is not below 5m Australian Height Datum. No further action is therefore required.</p>	
Clause 6.2 Earthworks		
Standard	Proposal	Compliance
<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 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</p>	<p>There are no amendments to the approved earthworks.</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> <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>Adequate measures have been proposed and implemented to avoid, minimize, or mitigate any potential negative impacts associated with the proposed earthworks.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>

impacts of the development.		
Clause 6.3 – Stormwater Management		
Standard	Proposal	Compliance
<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>	<p>There are no amendments to the approved stormwater design. Council's Development Engineer has reviewed the modification and no concerns are raised. The proposal is satisfactory with regards the matters identified.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>
Clause 6.4 – Foreshore area and coastal hazards and risk		
Standard	Proposal	Compliance
<p>(2) This clause applies to the following land—</p> <p>(a) and identified on the Coastal Hazard and Risk Map,</p> <p>(b) land identified on the Foreshore Building Line Map.</p>	<p>The site is not located on land identified in the Coastal Hazard and Risk Map or on the Foreshore Building Line Map.</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> N/A</p>
Clause 6.5 – Riparian land and waterways		
Standard	Proposal	Compliance

(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
Clause 6.6 Foreshore scenic protection area		
Standard	Proposal	Compliance
(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
Clause 6.8 Development in areas subject to aircraft noise		
Standard	Proposal	Compliance
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
Clause 6.9 Essential Services		
Standard	Proposal	Compliance
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: <ul style="list-style-type: none"> 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. 	The proposal has, or includes arrangements that will make available, the: <ul style="list-style-type: none"> • the supply of water, • the supply of electricity, • the supply of telecommunications facilities, • the disposal and management of sewage, • stormwater drainage or on-site conservation, • vehicular access. 	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Clause 6.10 Design Excellence		
Standard	Proposal	Compliance
(2) This clause applies to development: <ul style="list-style-type: none"> b) land in the following zones if the building concerned is 3 or more 	Council's Urban design has reviewed the proposal and raises no outstanding concerns.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

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— (i) Zone R4 High Density Residential, (ii) Zone E1 Local Centre, (iii) Zone E2 Commercial Centre, (iv) Zone E4 General Industrial, (v) Zone MU1 Mixed Use.		
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Georges River Development Control Plan 2021

25. Part 3 of the GRDCP 2021 is applicable to the development and the following controls apply:

3.3 Landscaping		
Control	Proposal	Compliance
<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"> 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; vi. Soften the visual impact of buildings, carparks and roads; vii. Cater for outdoor recreation areas; viii. Separate conflicting uses; 	<p>The landscaping scheme remains unchanged.</p> <p>A detailed landscape plan shall be provided to the satisfaction of Council to address the interface design as a condition of consent.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>

<ul style="list-style-type: none"> ix. Screen undesirable elements; x. Provide opportunities for on-site stormwater infiltration, in particular around existing trees and 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. 		
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.	
3.5.1 Earthworks		
Control	Proposal	Compliance
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.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
8. Earthworks are not to increase or concentrate overland stormwater flow or aggravating existing flood conditions on adjacent land.	The earthworks proposed do not impact adversely on stormwater or flood with regards to impacts on adjoining properties.	
3.10 Water Management		
Stormwater Management		
Control	Proposal	Compliance
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.	
Water Quality		
Control	Proposal	Compliance
6. Measures to control pollutants in stormwater discharge from development sites are to be included in any development. 7. Runoff entering directly to waterways or bushland is to be treated to reduce erosion and sedimentation, nutrient and seed dispersal.	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
3.11 Ecologically Sustainable Development		
Residential Buildings		
Control	Proposal	Compliance
1. All BASIX affected development must comply with SEPP (Building Sustainability Index: BASIX) 2004.	No change to approved design. 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
3.12 Waste Management		
Control	Proposal	Compliance
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
3.15.1 Infrastructure		
Control	Proposal	Compliance
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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3.17 Universal / Accessible Design		
Control	Proposal	Compliance

3. Accessways for pedestrians and vehicles to be separated	Achieved.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3.19 Crime Prevention / Safety and Security		
Control	Proposal	Compliance
1. Active spaces and windows of habitable rooms within buildings are to be located to maximise casual surveillance of the public domain.	The proposed development incorporates windows of habitable rooms which overlook active space enabling casual surveillance of the public domain.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
4. Building entries are to be clearly visible and identifiable from the public domain.	Conditions of consents have been included to amend the building entry to be more identifiable through the use of articulation elements and signage.	

Part 5 – Residential Locality Statements

26. Development is required to consider the future character statement for the locality, in addition to the requirements within other parts of this DCP as shown on the map on Page 3, Part 5 of the DCP.
27. The assessment of character for the applicable locality is provided below:

Lugarno	
Future Desired Character	Consistency with Desired Character
<ul style="list-style-type: none"> Retain and enhance 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. Public views to waterways should be retained from streets and public places. 	The proposal is consistent with the future desired character of the precinct for the following reasons:

Part 6 – Residential Controls

6.3 – Residential flat buildings and residential components of shop top housing

6.3.3 Building Setbacks and Street Interface		
Control	Approved/Proposal	Compliance
Side Setback Minimum of 6m from side boundary between ground floor level and up to 4 storeys.	There are no amendments to the approved setbacks.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A

Upper-level setbacks are 9m above 4 storeys.		
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6.3.5 Façade treatment and street corners		
Control	Proposal	Compliance
2. Building facades must be clearly articulated and employ high quality materials and finishes that enhance and complement the streetscape character	Achieved.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3. Street corners must be given prominence by a change in building articulation, materials, colours, form and scale.	Achieved.	
4. Human scale at street level must be reinforced in the design of the building and overall development. The scale, rhythm, materiality and landscaping treatment need to define the appearance of the building to create physical and visual connections between the private and public domain for pedestrians.	Achieved.	
6. Development must not rely solely on the use of two-dimensional colour and materials to create visual interest. Modulation and articulation in the building form must be considered in the design of the building, in plan view and elevation.	Achieved.	
7. Large areas of blank, minimally or poorly articulated walls are not acceptable. Façade treatments such as wall cladding, and green walls should be considered as alternatives to blank walls.	Achieved.	
8. Clear glazing to balustrades must be avoided where they are visible from nearby	Achieved.	

vantage points. Screening of balconies by way of adjustable or fixed panels should be included where there are issues of privacy, and/or excessive exposure to solar impacts.		
9. Noise mitigation treatments and design considerations for developments adjoining busy roads or rail corridors, that satisfy the requirements for habitable rooms in accordance with Department of Planning, Industry and Environment's 'Development Near Rail Corridors and Busy Roads – Interim Guideline' and the requirements of Clause 102 (3) of SEPP (Transport and Infrastructure) 2021 need to be considered	Achieved. See SEPP (Transport and Infrastructure) 2021 for further assessment.	
6.3.6 Landscaped Treatment and Private Open Space		
Control	Proposal	Compliance
8. Deep soil is to be provided within the setbacks areas as required in Figures 3, 4, 5 and 6 and consistent with Part 3E of the NSW State Government's Apartment Design Guide.	No change to approval. The original approval did not have any deep soil proposed.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
6.3.7 Communal Open Space		
Control	Proposal	Compliance
9. Communal open space to a minimum area of 25% of the site area and with a minimum dimension of 5m is to be provided.	<p>Yes</p> <p>The proposal seeks to reduce the quantum of communal open space by a total of 30sqm (8sqm on Level 1 and 22sqm on the roof), to accommodate firefighting services and mechanical services to accommodate with the building code.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

	Notwithstanding, the overall proposed communal open space of 588sqm (54.38%) will exceed the minimum requirement of 270.325sqm. The roof top communal open space will achieve a minimum of 2 hours (or more) of solar access throughout the day in midwinter.	
10. At least 50% of the required communal open space area is to receive 2 hours of direct sunlight between 9am and 3pm on 21 June.	No change to approved design.	

6.3.8 Solar Access

Control	Proposal	Compliance
11. Where the neighbouring lower density residential zoned dwellings are affected by overshadowing from a development, at least 50% of the neighbouring existing primary private open space and windows to primary living areas must receive a minimum of 3 hours sunlight between 9am–3pm on the winter solstice (21 June)	12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

6.3.9 Vehicular Access, Parking and Circulation

Control	Proposal	Compliance
25. Residential flat buildings and shop top housing: <ul style="list-style-type: none"> • 1 space per 1 and 2 beds • 2 spaces per 3 beds or more • 1 visitor space per 5 units or part thereof and 1 designated car wash bay which may also be a visitor space 	26. No change to approved design.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

6.3.11 Adaptable Housing

Control	Proposal	Compliance
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(1) To achieve a mix of living styles, sizes and layouts, all residential development (or residential component within a mixed development must provide a mix of one bedroom, two bedroom and three bedroom apartments	27. No change to approved design.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
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LPP007-24

ASSESSMENT OF SIGNIFICANT MODIFICATIONS

GROUND FLOOR

Retail and Public Domain Interface

28. As part of the original development approval, a single retail tenancy with a floor area of 287sqm was proposed. The modification seeks to separate the retail component into two different tenancies measuring 91.23sqm and 133.85sqm respectively with separate accessible toilet facilities. No concerns are raised in relation to this as the separate tenancies are economically laid out, providing opportunities for different commercial uses. As part of the assessment process, the floor to ceiling height of the retail space has been amended from 4.2 metres to 4.5 metres, which is a significantly improved outcome.
29. With respect to the retail tenancies and the public domain, the treatment has been modified to reflect a tiered stair elements interspaced by landscaping and seating. This landscape treatment significantly improves the urban design outcome of the corner of Railway Parade and Bowns Road, whilst responding to the topography of the site. Services and hard elements approved as part of the original plan including the fire boosters and planters have been relocated and removed respectively which improves passive surveillance opportunities and usability.
30. As a condition of consent, detailed landscape plans prepared by a suitably qualified landscape architect with respect to the tiered stair treatment shall be provided to the satisfaction of Council. It is also recommended that the extent of the stair towards the corner of the site shall be slightly reduced to improve accessibility outcomes. This will be included as a condition of consent.

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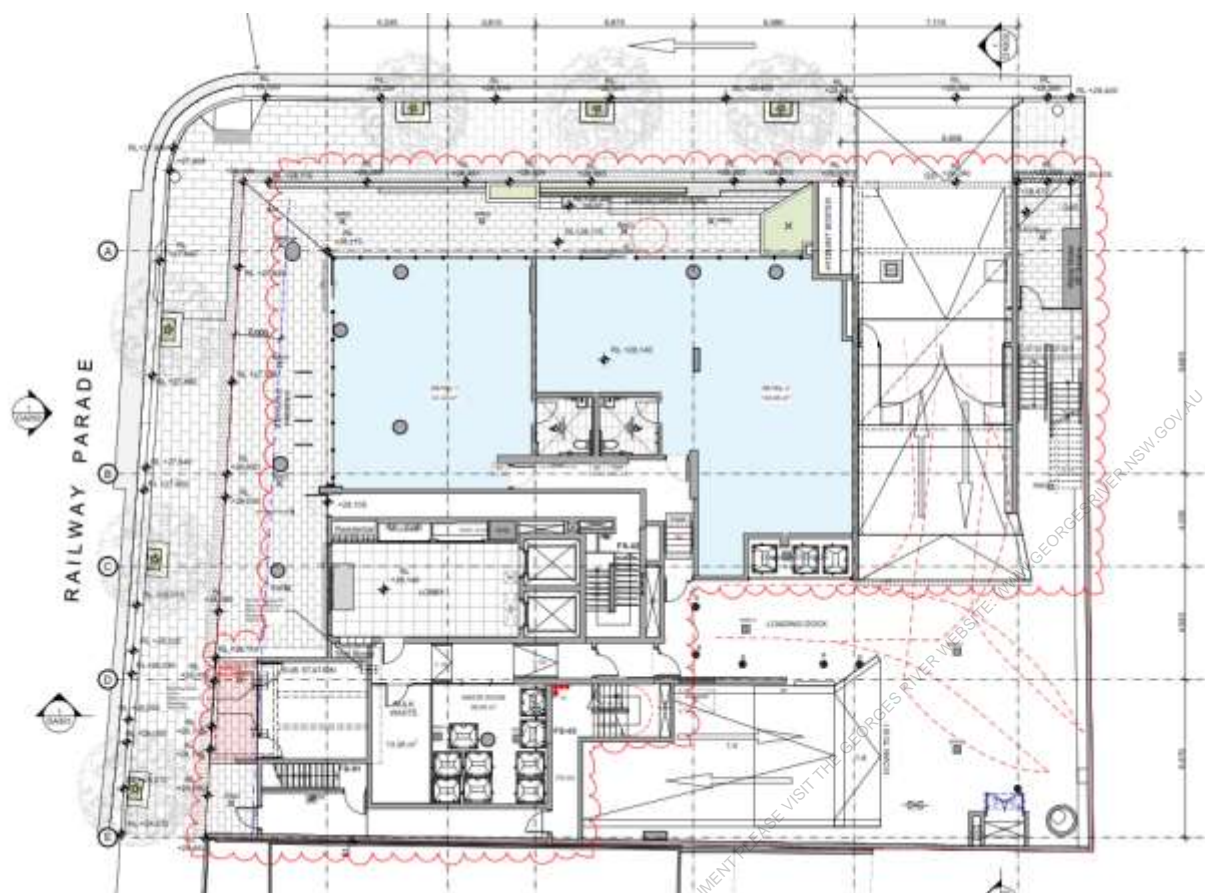


Figure 4: Ground Floor Plan

Modification to the internal lobby

31. The modified lobby when compared with the original lobby is significantly more efficient and rationalised, providing direct passive surveillance from the street to the two lifts. Previously, the second lift was only accessible from the ground floor retail which presented access and operational challenges. The combined residential and commercial lobby is also significant larger, providing opportunities for services to be concealed within a lobby features wall, improving the entry experience to all occupants. It is noted that there are additional opportunities for the entrance to the lobby to be provided with additional treatment to accentuate prominence and the sense of address. Accordingly, it is recommended that a condition be included which requires that additional treatment including address signage, lighting or façade treatment with varied massing projects or depths be submitted to Council prior to the issue of a Construction Certificate.

FIRST FLOOR

Amendment to the Commercial Space and Residential Communal Open Space

32. Noting that additional services including a ventilation plant room and firefighting water tank is required to be added to the first floor, the area of the communal open space is reduced by approximately 47sqm. Notwithstanding, the overall quantum of communal open space is still compliant. It is noted that the residential communal open space is only able to be accessed from a single lift. This would result in a scenario whereby if residents wishing to access the communal open space enter the alternate lift, the resident would be required to go to the ground floor first before waiting for the appropriate lift. It is considered that it is a more efficient outcome if both lifts can access to the level one communal open space. Accordingly, it is recommended that the extent of the lift lobby at the first floor be extended. This would also require that an additional security door be included to restrict access to the commercial space. A condition of consent is included recommended these amendments.

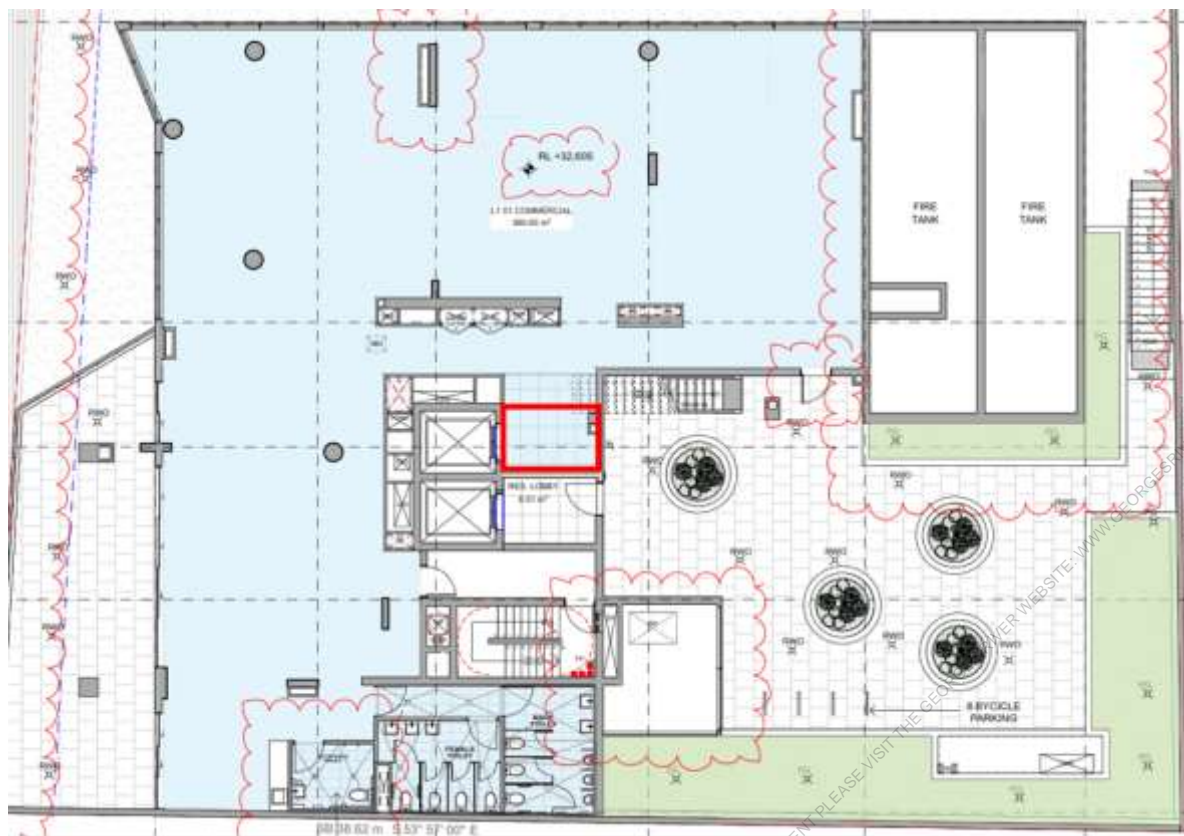


Figure 5: First Floor Plan

LEVEL 2 TO 11

Conversion of Dual Key Units (Unit 804 and 904) to 3 Bedroom Units

33. As part of the original approval, Unit 804 and 904 were dedicated as dual key units. As part of this modification, these units are proposed to be converted to 3 bedroom units. The layout amendments are minor and include the removal of a door that separated the dual key units. The development contributions have been amended accordingly to reflect the configuration.

ROOF LEVEL

Roof Level RL

34. As discussed previously in the LEP Section, the floor to ceiling height has been increased to accommodate services, resulting in an overall increase of 300mm to the height of building. The height exceedance over the height of building control is limited to non-habitable roof elements including the pergola structure and lift overrun. It is noted it is not materially distinguishable and result in no additional environmental impacts. It is considered that the height increase is minor and reasonable when compared to reducing the floor to ceiling height of the retail and commercial component, which would result in poorer amenity or dropping the building, which would result in significant impact to the driveway ramps and potential geotechnical requirements.

THE LIKELY IMPACTS OF THE DEVELOPMENT

35. *Section 4.15 (1) (b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.*

Likely Impacts of the Development	
Natural Environment	The development is located within an established residential and commercial area and is not considered to result in unreasonable impact on the natural environment.

Built Environment	<p>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.</p> <p>The development is occurring in a locality where adequate infrastructure exists to support the development during construction and ongoing use.</p>
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

CONTRIBUTIONS

36. The development is subject to Section 7.11 Contributions which has been included in the consent. The modification proposes converting U804 and 904 from dual key units to 3 bedroom units. This new indexed contribution are as follows:

Development Contributions	
Kogarah Section 94 Development Contributions Plan No 8 – Local Open Space and Public Domain	\$872,284.78
Kogarah Section 94 Development Contributions Plan No 8 – Kogarah Town Centre – Traffic Facilities	\$2,969.90
Kogarah Section 94 Development Contributions Plan No 8 – Kogarah Town Centre – Community Facilities	\$15,093.15
Kogarah Section 94 Development Contributions Plan No 9 – Kogarah Libraries – Buildings	\$14,066.82
Kogarah Section 94 Development Contributions Plan No 9 – Kogarah Libraries - Books	\$10,030.15
Total Section 7.11 Contributions	\$914,444.80

PLANNING AGREEMENTS

37. There is no planning agreement applicable to the development.

EP&A REGULATION 2000

38. No matters within the Regulation are affected by the modification.

SUITABILITY OF THE SITE FOR THE DEVELOPMENT

39. The site is zoned MU1 – Mixed Use. 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.

SUBMISSIONS AND THE PUBLIC INTEREST

40. The application was neighbour notified in accordance with Community Engagement Strategy for a period of fourteen (14) days. One (1) submission was received. In summary the following issues and concerns were raised.

Issue Raised	Assessment Officer Comment
Objection to height of the development and impact on solar access	The impacts of solar access were considered as part of the original development application. The additional 300mm proposed as part of the subject modification does not result in any additional solar access impacts.
Council's heritage classification on properties on Bowns Road is unfair	This is not relevant to the subject modification application.
Increase in traffic and parking impact	The subject modification does not result in any additional traffic or parking impact.

REFERRALS

Council Referrals

41. Council's Urban Design Officer reviewed the proposal and raises no concerns with the modification.
42. Council's Development Engineer reviewed the proposal and raises no concerns subject to compliance with the submitted hydraulic services plan.
43. Council's Traffic Engineer reviewed the proposal and raises no concerns subject to the bicycle storage room become compliance with the Australian Standard.
44. Council's Landscape Officer reviewed the proposal and raises no concerns with the modification.

CONCLUSION

45. The application has been assessed having regard to the Section 4.55 and the Matters for Consideration under Section 4.15(1) of the EP&A Act 1979. The proposal is considered to be a positive design outcome for the site and are necessitated to improve the functionality of the residential units and to ensure compliance with the building code.

The modification has been assessed against the provisions of the Georges River LEP 2021 and Georges River DCP 2021 and is compliant.

46. The modifications to the approved development are minor in nature and approval of the modification is recommended.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

47. The reasons for this recommendation are:
 - The proposed development complies with the requirements of the relevant environmental planning instruments and development control plan;
 - The proposal has been designed to generally satisfy the key provisions of the Apartment Design Guide in terms of meeting the provision of landscaped area and communal open space.
 - The proposed modifications to the approved plans are minor in nature and do not result in any adverse impact on the natural and built environment.
 - The proposal aims to provide a high-quality building that will establish a positive urban design outcome, setting the architectural and planning precedent in the area.

Determination

48. 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 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.
49. Pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended), MOD2022/0100 for modification of development consent DA2020/0236 for demolition works, lot consolidation, site preparation and construction of a twelve (12) storey mixed use development containing ground floor and first floor commercial floor space and 49 residential apartments above three (3) levels of basement containing 75 car spaces, level one (1) and roof top communal open space, landscaping and site works on Lot 23 DP 2013, Lot 24 DP 2013 and Lot 25 DP 2013 and known as 206 – 214 Railway Parade, Kogarah, is recommended for approval subject to the following conditions:

Development:

~~Demolition works, lot consolidation, site preparation and construction of a twelve (12) storey mixed use development containing ground floor and first floor commercial floor space and 49 residential apartments above three (3) levels of basement containing 75 car spaces, level one (1) and roof top communal open space, landscaping and site works.~~

Demolition works, lot consolidation, site preparation and construction of a twelve (12) storey mixed use development containing ground floor and first floor commercial floor space and 47 residential apartments above three (3) levels of basement containing 75 car spaces, level one (1) and roof top communal open space, landscaping and site works.

(The description of development is amended as part of MOD2022/0100)

SPECIFIC DEVELOPMENT 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.

Description	Reference No.	Date	Revision	Prepared by
Cover sheet	DA 000	02.06.2021 05/03/2024	J B	Fuse Architects BKA Architecture

Legend and BASIX	DA 001	02.06.2021 05/03/2024	I B	Fuse Architects BKA Architecture
Location Plan	DA 002	02.06.2021 05/03/2024	F B	Fuse Architects BKA Architecture
Site Analysis	DA 003	02.06.2021 05/03/2024	F B	Fuse Architects BKA Architecture
Planning Analysis	DA 004	02.06.2021 05/03/2024	F B	Fuse Architects BKA Architecture
Context Analysis	DA 005	02.06.2021 05/03/2024	F B	Fuse Architects BKA Architecture
Planning Diagrams	DA 006	02.06.2021 05/03/2024	F B	Fuse Architects BKA Architecture
Building Separation Analysis	DA 007	02.06.2021 05/03/2024	F B	Fuse Architects BKA Architecture
Envelope Transition	DA 008	02.06.2021 05/03/2024	G B	Fuse Architects BKA Architecture
Site Plan	DA 009	02.06.2021 05/03/2024	F B	Fuse Architects BKA Architecture
Streetscape Analysis	DA 010	02.06.2021 05/03/2024	F B	Fuse Architects BKA Architecture
Demolition Plan	DA 011	02.06.2021 05/03/2024	F B	Fuse Architects BKA Architecture

Basement 3 Plan	DA 101	02.06.2021 05/03/2024	J B	Fuse Architects BAK Architecture
Basement 2 Plan	DA 102	02.06.2021 05/03/2024	J B	Fuse Architects BAK Architecture
Basement 1 Plan	DA 103	02.06.2021 05/03/2024	I B	Fuse Architects BAK Architecture
Ground Floor Plan	DA 104	02.06.2021 05/03/2024	J B	Fuse Architects BAK Architecture
Level 01 Plan	DA 105	02.06.2021 05/03/2024	J B	Fuse Architects BAK Architecture
Level 02 Plan	DA 106	02.06.2021 05/03/2024	I B	Fuse Architects BAK Architecture
Level 03 Plan	DA 107	02.06.2021 05/03/2024	H B	Fuse Architects BAK Architecture
Level 04 Plan	DA 108	02.06.2021 05/03/2024	H B	Fuse Architects BAK Architecture
Level 05 Plan	DA 109	02.06.2021 05/03/2024	H B	Fuse Architects BAK Architecture
Level 06 Plan	DA 110	02.06.2021 05/03/2024	H B	Fuse Architects BAK Architecture
Level 07 Plan	DA 111	02.06.2021 05/03/2024	H B	Fuse Architects

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				DKA Architecture
Level 08 Plan	DA 112	02.06.2021 05/03/2024	H B	Fuse Architects DKA Architecture
Level 09 Plan	DA 113	02.06.2021 05/03/2024	H B	Fuse Architects DKA Architecture
Level 10 Plan	DA 114	02.06.2021 05/03/2024	H B	Fuse Architects DKA Architecture
Level 11 Plan	DA 115	02.06.2021 05/03/2024	H B	Fuse Architects DKA Architecture
Level 12 Plan	DA 116	02.06.2021 05/03/2024	H B	Fuse Architects DKA Architecture
Roof Plan	DA 117	02.06.2021 05/03/2024	H B	Fuse Architects DKA Architecture
East Elevation	DA 201	02.06.2021 05/03/2024	H B	Fuse Architects DKA Architecture
North Elevation	DA 202	02.06.2021 05/03/2024	H B	Fuse Architects DKA Architecture
West Elevation	DA 203	02.06.2021 05/03/2024	H B	Fuse Architects DKA Architecture
South Elevation	DA 204	02.06.2021 05/03/2024	H B	Fuse Architects DKA Architecture

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Section AA	DA 301	02.06.2021 05/03/2024	G B	Fuse Architects BAK Architecture
Section BB	DA 302	02.06.2021 05/03/2024	H B	Fuse Architects BAK Architecture
Driveway Section	DA 303	02.06.2021 05/03/2024	F B	Fuse Architects BAK Architecture
Unit Types Sheet 1	DA 310	02.06.2021 05/03/2024	G B	Fuse Architects BAK Architecture
Unit Types Sheet 2	DA311	02.06.2021 05/03/2024	G B	Fuse Architects BAK Architecture
Unit Types Sheet 3	DA311B	02.06.2021 05/03/2024	A B	Fuse Architects BAK Architecture
Adaptable Unit Type	DA312	02.06.2021 05/03/2024	G B	Fuse Architects BAK Architecture
GFA Diagrams	DA 501	02.06.2021 05/03/2024	F B	Fuse Architects BAK Architecture
Landscape Area Diagrams	DA 502	02.06.2021 05/03/2024	H B	Fuse Architects BAK Architecture
SEPP 65 Natural Ventilation	DA 601	02.06.2021 05/03/2024	F B	Fuse Architects BAK Architecture
SEPP 65 Daylight Access	DA 602	02.06.2021 05/03/2024	F B	Fuse Architects

				BKA Architecture
SEPP 65 South Facing	DA 603	02.06.2021 05/03/2024	F B	Fuse Architects BKA Architecture
LEP Height Plane	DA 604	02.06.2021 05/03/2024	I B	Fuse Architects BKA Architecture

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(Condition No. 1 is amended as part of MOD2022/0100)

2. **Fit out of commercial premises** - No approval is granted for the use or fit-out of any of the commercial premises. Separate Development consent for the use and fit out of each commercial tenancy is required prior to the occupation of any commercial component of the development.
3. **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.

Separate Approvals Required Under Other Legislation

4. **Vehicular Crossing - Major Development** - The following vehicular crossing and road frontage works will be required to facilitate access to and from the proposed development site:
 - (a) Construct a full width (boundary to kerb) footpath area in paving material for the full length of all frontages of the site in accordance with Council's Specifications applying at the time construction approval is sought.
 - (b) The thickness and design of the driveway shall be in accordance with Council's Specifications applying at the time construction approval is sought.
 - (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in accordance with Council's Specifications for kerb and guttering, applying at the time construction approval is sought.
 - (d) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant. The work shall be carried out in accordance with Council's specification, applying at the time construction approval is sought.

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

5. **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 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 and Section 138 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.
- (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 \$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.
- (e) The application must be endorsement by the Roads & Maritime Services (RMS) as the hoarding is located within 100m of an intersection with traffic lights. For assistance you should contact the DA unit at RMS and speak to Hans on 88492076. Or email hans.pilly.mootanah@rms.nsw.gov.au to obtain concurrence for the hoarding structure.

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 in accordance with Council's fees and charges. 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.

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

8. **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

9. **Sydney Trains** - The proposed development shall be carried out in accordance with the following requirements as detailed in their concurrence letter dated 2 September 2020:
- (a) Prior to the issuing of a Construction Certificate, the Applicant is to submit to Sydney Trains for review, comment and written endorsement the following items:

- A Geotechnical Engineering report, Structural Report and Drawing for review by Sydney Trains. The report shall demonstrate that the development has no negative impact on the rail corridor or the integrity of the infrastructure through its loading and ground deformation and shall contain structural design details/analysis for review by Sydney Trains. The report shall include the potential impact of demolition and excavation, and demolition- and excavation-induced vibration in rail facilities, and loadings imposed on Sydney Trains Facilities by the development.
- If required by Sydney Trains, and FE analysis which assesses the different stages of excavation and construction of the site and its effect on the rock mass surrounding the rail corridor.

The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

- (b) Prior to the issue of a Construction Certificate, the Applicant shall provide an accurate survey locating the development with respect to the rail boundary and rail infrastructure. This work is to be undertaken by a registered surveyor, to the satisfaction of Sydney Trains representative.
- (c) Prior to the issue of a Construction Certificate, the Applicant shall undertake a services search to establish the existence and location of any rail services. Persons performing the service search shall use equipment that will not have any impact on rail services and signalling. Should rail services be identified within the subject development site, the Applicant must discuss with Sydney Trains as to whether these services are to be relocated or incorporated within the development site
- (d) 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.
- (e) 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, Council and Sydney Trains 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.

- (f) If required by Sydney Trains, prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied
- (g) 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
- (h) 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.
- (i) 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.
- (j) 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 party interface team. In this instance the relevant interface team is Central and they can be contacted via email on Illawarra_Interface@transport.nsw.gov.au.
- (k) Where a condition of consent requires Sydney Trains or Transport for NSW endorsement the Principal Certifying Authority is not to issue a Construction Certificate or Occupancy Certificate, as the case may be, until written confirmation has been received from those entities that the particular condition has been complied with. The issuing of staged Construction Certificates dealing with specific works and compliance conditions can be issued subject to written agreement from those entities to which the relevant conditions applies.

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 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://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> 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.

12. **Utility Arrangements** - Arrangements are to be made with utility authorities in respect to the services supplied by those authorities to the development. 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.
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. **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.
15. **Department of Infrastructure, Regional Development and Cities** - In accordance with The Airports (Protection of Airspace) Regulations 1996, regulation 14(1) (b), by the Department of Infrastructure, Regional Development and Cities imposes the following conditions on any approval:
- The building **must not exceed** a maximum height of **70.32 metres AHD, this includes** all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any rooftop garden plantings, exhaust flues etc.
 - The building must be obstacle lit by low density steady red lighting during the hours of darkness at the highest point of the building. Obstacle lights are to be arranged to ensure the building can be observed in a 360 degree radius as per Chapter 9 of the Civil Aviation Safety Regulations 1998 – Part 139 (Aerodromes) Manual of Standards 2019 (the MOS). Characteristics for low intensity lights are stated in section 9.32 of the MOS.
 - Following completion of the building, the Proponent must advise SACL, in writing:

- That the future owner(s)/manager(s) of the building **have been informed** of their **obligation to maintain** the obstacle lighting in accordance with conditions of this approval; and
 - The contact details of the person/position **responsible for the maintenance** of the obstacle lighting. These details **must be reviewed regularly** and kept up to date.
- d) The Proponent **must ensure** the obstacle lighting is monitored. For detailed requirements for the monitoring of obstacle lights within the aerodrome's OLS refer to section 9.36 of the MOS.
- e) The proponent **must ensure** obstacle lighting is maintained in serviceable condition and any outage immediately notified to SACL.
- f) Separate approval **must be sought** under the Regulations for any equipment (i.e. cranes) required to construct the building. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Regulations. Therefore, it is advisable that approval to operate construction equipment (i.e. cranes) must be obtained prior to any commitment to construct.
- g) The Proponent must advise Airservices Australia at least three business days prior to the controlled activity commencing by emailing ifp@airservicesaustralia.com and quoting YSSY-CA-367.
- h) On completion of construction of the building, the applicant must provide Georges River Council and the airfield design manager with a written report from a certified surveyor on the finished height of the building.

Breaches of approval conditions are subject to significant penalties under Sections 185 and 187 of the Act.

16. NSW Ambulance - Critical to our ongoing operations and flight safety in and around St George Hospital, crane lighting during the construction period should be as described below:

The illumination requirements for cranes in the vicinity of a Hospital HLS are detailed below.

The crane tower and jib are to be illuminated in the following manner for the duration of the period the crane is erected – including periods where the site is inactive.

From recent crane/helicopter scenarios across the network, the following crane lighting requirements have been developed that provide good situational awareness to Helicopter pilots/crew with and without NVG.

Lesser lighting gets lost in the background lighting (houses, traffic lights, vehicle break lights) when viewed from above.

As a minimum for all tower cranes:

- Top of crane A frame or cabin: medium intensity flashing red obstruction light (night) and white by day.
- Both ends of Jib: medium intensity red obstruction light (night) and white by day.
- Along Jib: line of white LED fluoro on a PE cell along the full length of the jib, and
- Tower section: stairway lights or spot lights attached to the top of the tower pointing down and onto the tower (not up into pilot eyes).

The LED jib Fluro details are:

- Lights used: LED WEATHER PROOF EMERGENCY FLUROS (minimum 90 minute battery back up).
- Lights are controlled via a PE Cell.

Prior to the Issue of a Construction Certificate

16A. Required Design Changes - The following changes are required to be submitted to the satisfaction of Georges River Council prior to the issue of a Construction Certificate.

- I. The extent of the stair element (as annotated on the approved plans) shall be reduced/deleted to create an obstruction free corner to enhance disabled access.
- II. A final landscape plan prepared by a suitably qualified landscape architect shall be provided detailing the public/private interface treatment along Bowns Road especially the ramp blended into stairs and landscaping. The landscape plans shall include architectural renders, sections and elevations of the stairs including details of risers, landings, materials, colours, proposed planting species and schedule of maintenance.
- III. The residential and commercial building entries shall be provided with additional treatment to accentuate prominence. The entrance treatment shall be articulated to make the entries clearly identifiable and distinguishable from the street through the use of address signage, lighting, or façade treatment including varied massing projects and depths.
- IV. Access to the communal open space at the first floor shall be provided. Accordingly, the lobby shall be extended to include the area annotated in red on the approved plans. The access to the residential communal open space shall be restricted to residents only via a card system. A security door shall be included to the expanded lobby to ensure access to the commercial area is restricted.
- v. Solid roller shutters for the garage door will not be permitted along Bowns Road. Open grille shutters should be used that complement the architecture features and materials of the building and to minimise dominance on the streetscape.

The car park shutters should be setback to be by at least 500mm from the fire hydrant assemble to minimise the visual dominance on the street.

(Condition No. 16A inserted as part of MOD2022/0100)

- 17. Communal Open Space** - A Plan of Management (POM) for use of rooftop open space must be submitted to and approved by the PCA prior to the issue of any Construction Certificate, with a copy stamped as received by the PCA provided to Council. The POM must outline the:

- (i) hours of use of the rooftop communal open space and the Level 01 communal open space, which shall be restricted to between 8am to 10pm;
- (ii) maximum number of 25 users at any one time in each communal open space area
- (iii) provisions that no amplified music to be played; and
- (iv) identify other measures to ensure that the amenity and safety of persons within the development and in nearby existing and future development is maintained.
- (v) Location and type of signage to be installed in the building to notify residents and visitors in respect to the use of this space.
- (vi) The approved POM shall be incorporated into the Owners Corporation by-laws in any future Strata subdivision and a sign in the front entry of the building shall be included to ensure the use of this space is monitored and understood by all occupants.

The development must be carried out in accordance with this POM at all times.

- 18. Public Domain Plans** - The applicant is required to submit Public Domain Plans which are to consist of full civil engineering drawings to Australian Standards. These plans are to be inclusive of new kerbing long sections, cross sections, driveway, drainage, paved footpath, landscape and tree pits and in accordance with Council's "Public Domain Streetscape Works Specification."

The Public Domain works shall be constructed in accordance with the approvals and specifications issued under the "Application for Driveway Crossing and Associated Works on Council Road Reserve" Roads Act 1993 Section 138 Approval issued by Council's Assets and Infrastructure Division. Applications to be made at the Georges River Council Customer Service Centre.

The Plan must be approved by Council's Assets and Infrastructure Division prior to the issue of Construction Certificate. In this regard it is recommended the applicant liaise with Council's Assets and Infrastructure staff prior to preparing the public domain works design criterion.

The driveway and frontage works are to be completed before the issue of the Occupation Certificate

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

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

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

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$80,525.40 (Calculation is based on \$1236 per metre of street frontage as follows: Railway Parade – 28.575m Bowns Road – 36.575m)
Inspection Fee for Refund of Damage Deposit	\$742.00
DEVELOPMENT CONTRIBUTIONS	
Kogarah Section 94 Development Contributions Plan No 5 – Open Space	\$852,516.74
Kogarah Section 94 Development Contributions Plan No 8 – Kogarah Town Centre – Traffic Facilities	\$5,400.21
Kogarah Section 94 Development Contributions Plan No 8 – Kogarah Town Centre – Community Facilities	\$14,842.37
Kogarah Section 94 Development Contributions Plan No 9 – Kogarah Libraries – Buildings	\$13,833.05
Kogarah Section 94 Development Contributions Plan No 9 – Kogarah Libraries – Books	\$9,863.29
Total S94 Contributions	\$896,455.66

Development Contributions	
Kogarah Section 94 Development Contributions Plan No 8 – Local Open Space and Public Domain	\$872,284.78
Kogarah Section 94 Development Contributions Plan No 8 – Kogarah Town Centre – Traffic Facilities	\$2,969.90
Kogarah Section 94 Development Contributions Plan No 8 – Kogarah Town Centre – Community Facilities	\$15,093.15
Kogarah Section 94 Development Contributions Plan No 9 – Kogarah Libraries – Buildings	\$14,066.82
Kogarah Section 94 Development Contributions Plan No 9 – Kogarah Libraries – Books	\$10,030.15
Total Section 7.11 Contributions	\$914,444.80

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 94 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.

- If no Construction Certificate in respect of the erection of any building to which the consent relates has been issued on or before 25 September 2022, the monetary contribution must be paid before the issue of the first Construction Certificate after that date for any such building.

Note: Prior to the issue of any Occupation Certificate, written confirmation from Council's delegate that all outstanding s7.11 contributions have been paid, is to be obtained and provided to the satisfaction of the PCA.

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.

(Condition No. 19 is amended as part of MOD2022/0100)

20. Damage Deposit - Major Works - In order to insure against damage to Council property the following is required:

- (a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$80,525.40** (Not inclusive of drainage works).
- (b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee (for two inspections) to enable assessment of any damage and repairs where required: **\$742.00**
- (c) 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.

21. **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.
22. **Acoustic requirements for timber flooring** - If timber flooring is installed within the development, then appropriate insulation between floors shall be implemented to exceed the minimum sound attenuation.
23. **Driveway access/sight lines** - Driveway access to comply with figure 3.3-Minimum Sight Lines for Pedestrian Safety as per AS 2890.1:2004 of the Australian Standard for off-street car parking. Figure 3.3 specifies the minimum sight lines for pedestrian safety along a circulation driveway or domestic driveway.

Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distance requirements stipulated in the *Australian Standards AS2890.1*.

In the instance of multi storey car park and to prevent vehicles from running over the edge of a raised platform or deck of a multi-story car park, barriers in accordance to AS2890.1:2004 section 2.4.5.3 need to be installed.

24. **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*.
25. **BASIX Commitments** – All energy efficiency measures as detailed in the BASIX Certificate No must be implemented on the plans lodged with the application for the Construction Certificate.
26. **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.

- 27. Stormwater System** - The submitted stormwater plans as described in the table below have been assessed as a concept plan only.

Description	Reference No.	Date	Revision	Prepared by
Cover Sheet	SW100	13.5.2021	C	SGC Consulting Engineers
Basement 3 Plan	SW200	13.5.2021	C	SGC Consulting Engineers
Ground Floor Plan	SW201	13.5.2021	C	SGC Consulting Engineers
Roof Plan	SW202	13.5.2021	C	SGC Consulting Engineers
Details Sheet	SW300	13.5.2021	C	SGC Consulting Engineers
Erosion and Sediment Control Plan and Details	SW400	13.5.2021	C	SGC Consulting Engineers
OSD Catchment Plan	SW500	13.5.2021	C	SGC Consulting Engineers

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.

- All stormwater shall drain by gravity to Councils existing drainage pit located in the street using a 375mm diameter RCP pipe in accordance with the Australian Standard AS/NZS 3500.3: 2015 (as amended).
- The PCA shall ensure that the approved drainage design levels are surveyed during construction by a registered surveyor.
- 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.
- The design and structural adequacy of the OSD tank system shall be certified by a practising drainage engineer to the satisfaction of the PCA.

Design details and certifications shall be submitted for approval with the Construction Certificate application.

Stormwater Systems with Basement

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

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

Protection of basement from inundation of stormwater waters

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

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

- 28. On Site Detention** - The submitted stormwater plan has been assessed as a concept plan only. The 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 onsite detention (OSD) facility designed by a professional engineer who specialises in Hydraulic engineering must be designed, approved and installed. The design must comply with the results of the generated stormwater management report regarding the OSD storage volume and the stormwater permissible site discharge.

- (a) Provide grated access and sufficient ventilation to the OSD tank as shown on the stormwater plan.
- (b) The surcharge flow from the OSD tank to the street shall not be blocked.
- (c) The PCA shall ensure that a drainage engineer shall supervise the construction of the OSD stormwater system and certify his supervision in writing and state his satisfaction of the constructed stormwater system on site that it is built as intended in this consent.

The required OSD storage requirements and permissible discharge are to be calculated in accordance with Table 3 of Council's Stormwater Management Policy.

The OSD facility shall be designed to meet all legislated safety requirements and child proof 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.

Council's stormwater policy can be obtained from the following link:

<https://www.georgesriver.nsw.gov.au/StGeorge/media/Documents/Council/Governance/Codes%20and%20Policies/Pol-073-01-Stormwater-Management-Policy-July-2020.pdf>

- 29. 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.

30. Contamination – Prior to the issue of any Construction Certificate for above ground building works, the site must be remediated in accordance with the recommendations of the approved Site Investigation & Remedial Action Plan (RAP) prepared by Canopy Enterprises Pty Ltd dated 26 August 2020.

- a. The applicant must engage an appropriately qualified and experienced supervising environmental consultant to supervise all aspects of site remediation and validation. The environmental consultant must supervise all aspects of the remediation and validation works in accordance with the approved Remediation Action Plan.
- b. Any reports relating to contamination must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant. The front cover of the report must include the details of the consultant's certification.
- c. Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination must be immediately notified to Council and the Principal Certifying Authority in writing.
- d. Any variations to the approved Remediation Action Plan must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant, and submitted to Council prior to the commencement of such work.

Remediation Works

All remediation work must be carried out in accordance with: -

- the Managing Land Contamination: Planning Guidelines SEPP 55 Remediation of Land; and,
- the EPA Guidelines made under the Contaminated Land Management Act 1997;

and in accordance with the Remedial Action Plan.

31. Site Validation - Prior to the issue of any Construction Certificate for above ground building works, a Validation report shall be prepared in accordance with the requirements of the EPA (2020) Guidelines for Consultants Reporting on Contaminated Sites and the EPA (2017) Guidelines for the NSW Site Auditor Scheme and provided to Council and the PCA.

The Validation Report will confirm that the site has been remediated to a suitable standard and in accordance with the process stipulated in the Site Investigation & Remedial Action Plan prepared by Canopy Enterprises Pty Ltd dated 26 August 2020 and that the site is suitable for the proposed use.

The validation report shall be prepared in accordance with the Office Environment and Heritage Guidelines, *Consultants Reporting on Contaminated Sites*, and shall certify the suitability of the site for the proposed development.

- 1 describe and document all works performed;
- 2 include results of validation testing and monitoring;
- 3 include validation results of any fill imported on to the site;
- 4 show how the objectives of the Remedial Action Plan have been met;
- 5 show how all agreed clean-up criteria and relevant regulations have been complied with; and include clear justification as to the suitability of the site for the proposed development and the potential for off-site migration of any residual contaminants

The Validation Report must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant. The front cover of the report must include the details of the consultant's certification

- 32. Notice of Completion and monitoring Report** - After completion of all Remediation works and prior to the issue of any Construction Certificate for above ground building works, a Notice of completion of remediation work must be submitted to Council in accordance with clause 17(2) of the SEPP 55 and the Notice must address all requirements listed in Clause 18 of SEPP 55.

Where a full clean-up is not feasible, or on-site containment of contamination is proposed, the need for an ongoing monitoring program should be assessed. If a monitoring program is needed, it should detail the proposed monitoring strategy, parameters to be monitored, monitoring locations, frequency of monitoring, and reporting requirements.

- 33. 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) 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.

- 34. 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.

- 35. 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.
- 36. Structural Details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns & other structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works.
- 37. 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.**

- 38. Slip Resistance** - All pedestrian surfaces in areas such as foyers, public corridors, common areas, stairs and ramps as well as floor surfaces in all wet rooms including in any residential units must have slip resistance classifications, as determined using test methods in either wet or dry conditions, appropriate to their gradient and exposure to wetting. The classifications of the new pedestrian surface materials, in wet or dry conditions, must comply with AS/NZS4586:2013 - Slip Resistance Classifications of New Pedestrian Materials and must be detailed on the plans lodged with the application for the Construction Certificate.
- 39. Access for Persons with a Disability** - Access and or 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.

In regard to the above, pedestrian access throughout basement levels shall be highlighted and sign posted to safeguard access and egress.

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

- 40. Traffic Management** - 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).

- 41. Acoustic Requirements - Compliance with submitted Acoustic Report** - The Construction Certificate plans shall demonstrate compliance with the Acoustic Assessment Report submitted to Council, titled the *"Noise and Vibration Impact Assessment"* dated 24/06/2020 Revision 2; Reference Number: 20020_240220_Noise Impact Assessment_BW_R0 by White Noise Acoustics. This means that a review of glazing design and mechanical plant must be undertaken to ensure that acoustic objectives will be met. It is also imperative that section 6.4 of the *"Noise and Vibration Impact Assessment"* dated 26/04/2020; Reference Number: 20020_240220_Noise Impact Assessment_BW_R2 by White Noise Acoustics is addressed.

Written verification from a suitably qualified acoustic consultant must be submitted to Council validating that the acoustic objectives contained within the aforementioned report will be met, must be submitted to Council for approval.

The Construction Certificate will not be issued until Council approves this validation.

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.

- 42. NSW Police - Crime Prevention**- In line with the recommendations of the NSW Police Force, the following are to accompany the Construction Certificate application:
- (a) The development is to provide/install Closed-Circuit Television (CCTV) cameras within and around the development. A Closed-Circuit Television plan is to be prepared in that regard.
 - (b) A Crime Risk assessment report is to be provided and there must be strict adherence to the requirements of the 'Crime Risk Assessment Report'.
 - (c) The system must record continuously at all times.
 - (d) Recordings must be in a digital format and at a minimum of ten frames per second (10 fps).
 - (e) Any recorded image must specify the time and date of the recorded image.
 - (f) The systems cameras must cover the following areas
 - (i) All entry and exit points on the premises
 - (ii) The footpath immediately adjacent to the premises
 - (iii) All publicly accessible areas (other than toilets) within the premises.
 - (iv) Throughout the underground car park to monitor activities around these areas
- 43. Lighting in and around the Site**- Lighting, which complies with the Australian Standard, must be installed in and around the property to increase visibility during the hours of darkness. Lighting must comply with the relevant Australian Standard.

- 44. 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.
- 45. Geotechnical report** - The applicant must submit a Geotechnical Report, prepared by a professional engineer specialising in geotechnical engineering who holds the relevant Certificate of accreditation as required under the Building Professionals Act 2005 in relation to dilapidation reports, all site works and construction. This is to be submitted before the issue of the Construction Certificate and is to include:
- (a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks/stabilization works and any excavations.
 - (b) Dilapidation Reports on the adjoining properties including, but not limited to 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.
- 46. Construction Traffic Management Plan** - A Construction Traffic Management Plan detailing but not limited to the following:
- (a) Construction vehicle routes;
 - (b) Anticipated number of trucks per day;
 - (c) Anticipated number of staff per day
 - (d) Hours of construction;
 - (e) Duration of construction;
 - (f) Traffic Control Plans to manage construction vehicles;
 - (g) Access arrangements; and
 - (h) Proposed traffic measures to minimise impacts of construction vehicles.

The Construction Traffic Management Plan must be submitted for the approval of Council's Traffic Engineer. Council's Traffic Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.

- 47. Waste Room Design and Construction** - The Construction Certificate drawing shall show the waste room containing the following to minimise odours, deter vermin, protect surrounding areas, and make it a user-friendly and safe area:

- i. waste room floor to be sealed;
- ii. waste room walls and floor surface is flat and even;
- iii. all walls painted with light colour and washable paint;
- iv. equipment electric outlets to be installed 1700mm above floor levels;
- v. light switch installed at a height of 1.6m.
- vi. The bin storage rooms will be mechanically exhausted as required by AS 1668.2;
- vii. waste rooms must be well lit (sensor lighting required);
- viii. optional automatic odour and pest control system installed to eliminate all pest
- ix. types and assist with odour reduction - this process generally takes place at building handover - building management make the decision to install;
- x. all personnel doors are hinged and self-closing;
- xi. waste collection area must hold all bins - bin movements should be with ease of access;
- xii. conform to the Building Code of Australia, Australian Standards and local laws; and childproofing and public/operator safety shall be assessed and ensured.
- xiii. 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.
- xiv. Cleaners or other on-site personnel will monitor the bin storage area and all spills will be attended to immediately by cleaners.

48. Waste Handling Systems - 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.

49. 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.

50. Required Design Changes - The following changes are required to be made and shown on the Construction Certificate plans to the satisfaction of the PCA:

- (a) The awning across the frontage of Bowns Road is to be extended for the full length of the commercial tenancy. The awning is to project beyond the property boundary over the public footpath area to enhance pedestrian amenity by providing shade and weather protection.
- (b) 1.7m high privacy screens (as measured from the finished floor level of the balcony) with slats angled to enable eastern sunlight into the development and prevent overlooking to the adjoining allotment to the south east, are to be provided to the south eastern side of the balconies associated with apartments 206, 306, 406, 506 and 606.
- (c) The plans provided indicate that the commercial lift only provides access to basement 1, ground floor, level 01 and the roof top communal open space. The plans are to be amended to ensure that access can be made available to all residential levels of the building (Levels 02 to level 11 inclusive), in addition to the levels that access has already been provided to.
- (d) An accessible WC is to be provided within the first floor commercial tenancy.
- (e) Prior to the issue of the Construction Certificate, a registered surveyor shall survey the surface and invert levels of the existing kerb inlet pit in Railway Parade and incorporate the invert level in the proposed stormwater design.
- (f) It is required to provide a boundary junction pit prior to discharge into Council's kerb inlet pit.

51. Traffic Design Certificate - A detailed "design" certificate from an experienced and qualified traffic engineer with tertiary qualifications is to be submitted to and approved by the Principal Certifying Authority confirming the following:

- (a) The car parking layout and loading areas associated with the development (including, driveway grades, headroom clearance turn paths, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS2890.1:2004, AS2890.6:2009 and AS2890.2:2018.
- (b) Bicycle parking associated with the development is provided in accordance with AS2890.3 design requirements.
- (c) Driveway access complies with Figure 3.3 of AS2890.1:2004 minimum sight lines for pedestrian safety.
- (d) All vehicles shall enter and exit the premises in a forward direction.

52. 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.

- 53. 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 must be allocated as advised by Georges River Council.

Primary Address

- 206 Railway Parade, Kogarah NSW 2217

Unit Addresses

- Refer to the attached list of unit addresses for the subject development.

Details indicating compliance with this condition must be shown on the plans lodged with any Construction Certificate for approval.

- 54. Car Wash Bays** - Plans and specifications of the car washing system which has been approved by Sydney Water must be submitted with the application for the Construction Certificate.

All car washing bays shall be contained within a roofed and bunded car wash bay with pre-treatment approved by Sydney Water. The water from the car wash bay must be graded to a drainage point and connected to sewer.

If alternative water management and disposal options are proposed (i.e. where water is recycled, minimised or reused on the site), detailed plans and specifications of the water recycling system must be submitted with the application for the Construction Certificate for approval.

- 55. Materials and Finishes** - Any proposed cladding to the building shall be constructed of fire resistant materials which comply with the requirements of the National Construction Code (NCC) 2019 Volume (1) One Building Code of Australia (BCA). Details of the proposed materials and finishes are to be detailed on the construction certificate drawings and shall be to the satisfaction of the PCA.

- 56. 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.

- 57. 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.

58. 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).

59. Landscape Plans – All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by Black beetle Landscape Architecture, Ref No BB1263, LA LP 101 - 110/03 and dated 14/05/21. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following –

- (a) The proposed seventeen (17) trees (within site) and plant species, pot/ bag size and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan.
- (b) All seventeen (17) trees proposed within the site, 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)*, and be planted and maintained in accordance with Councils standard specification.
- (c) A minimum of 17 x 200 litre size trees, which will attain a minimum mature height of six (6) metres, shall be planted within the property
- (d) All trees and shrubs must be contract grown with a reputable and licensed nursery grower early within the build phase to ensure that the proposed trees, plant species, quantities and sizes are guaranteed at the time of landscape planting and implementation. The purchasing of all trees and shrubs must be signed off and certified by the Landscape Architect as a record, to ensuring that the trees and plants planted at the landscape stage and to confirm compliance to the PCA.
- (e) If the planted trees and plants are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size;

60. Tree Removal & Replacement

- (a) Tree removal

Permission is granted for the removal of the following trees:

Tree Species	Number of trees	Location
T1 – <i>Melaleuca linarifolia</i>	X1	Within site, south east corner
T2 - <i>Melaleuca quinquenervia</i>	X1	Within site, south east corner
T1 & T2 have been valued via the Thyer method of tree valuation, by Ross Jackson as being \$2512.00 for T1 and \$3777.00 for T2 , to be paid to Council prior to obtaining a Construction Certificate and prior to removal and signed off by the PCA		
<i>Callistemon viminalis</i>	X1	Within site, south east corner

General Tree Removal Requirements

- (a) All tree removal shall be carried out by a minimum certificate Level 3, Licenced and insured Tree Surgeon/Arborist to ensure that removal is undertaken in a safe manner and complies with the AS 4373-2007 - Pruning of Amenity Trees and Tree Works Industry Code of Practice (Work Cover NSW 1.8.98).
- (b) No trees are to be removed on the site or neighbouring properties without the prior written approval of Council.

Street Tree Removal / Replacement by Council –

- a) Six (6) street trees of species to be determined must be provided in accordance with the Public Domain Plan Approval.
- b) Council shall be appointed to remove and plant all tree/s on public land. All costs associated with the removal of the tree/s and the planting of replacement trees shall be met by the applicant. Fees and charges outlined in the table below are subject to change and are set out in the current version of Council's 'Schedule of Fees and Charges', applicable at the time of payment.
- c) The fees must be paid in accordance with the conditions of this consent. The fee payable is to ensure that the development makes adequate provision for the demand it generates for public amenities and public services within the area.
- d) The fees payable 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 conditions set out in this consent.

Fee Type – Tree planting on public land	Number of trees	Amount per tree
Administration Fee, tree planting and maintenance	X6	\$452.00
Cost of tree removal		N/A
Cost of Stump Grinding		N/A

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

61. 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, including:

- (a) Foot paths, Kerb and gutter and roadways
- (b) Stormwater drainage pits and pipes

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
- (f) 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.

62. 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.

63. 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.

64. 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.

65. **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.
66. **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.
67. **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

68. **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.
69. **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.

70. **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.
71. **Site contamination (additional information)** - Any new information that comes to light during demolition, excavation or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.

- 72. 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.
- 73. 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.
- 74. 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.
- 75. Structural Certificate During Construction** - The proposed building must be constructed in accordance with details designed and certified by the practising qualified structural engineer. All structural works associated with the foundations, piers, footings and slabs for the proposed building must be inspected and structurally certified for compliance by an independent practising geotechnical and structural engineer. In addition a Compliance or Structural Certificate, to the effect that the building works have been carried in accordance with the structural design, must be submitted to the Principal Certifying Authority at each stage of Construction or prior issue of the Occupation Certificate
- 76. 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 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 PCA is satisfied that the height and location of the building is proceeding in accordance with the approved plans.

- 77. Hazardous or Intractable Waste – Removal and Disposal-** Hazardous or intractable waste arising from the demolition or construction process shall be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority and with the provision of:
- Work Health and Safety Act 2011 (NSW) (as amended);
 - Work Health and Safety Regulation 2011 (as amended);
 - Protection Of the Environment Operations Act 1997 (NSW) (as amended); and
 - Protection of the Environment Operations (Waste) Regulation 2014 (as amended)
- 78. 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.
- 79. 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.
- 80. 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.
- 81. 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 Railway Parade.

Prior to the issue of the Occupation Certificate

- 82. BASIX Certificate** - All energy efficiency measures as detailed in the approved BASIX Certificate in the plans approved with the Development Consent, must be implemented before issue of any Occupation Certificate.
- 83. 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.
- 84. Payment of S7.11 and S7.12 Contributions** - Prior to the issue of any Occupation Certificate, written confirmation from Council's delegate that all outstanding s7.11 and s7.12 contributions have been paid, is to be obtained and provided to the satisfaction of the PCA.
- 85. Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the PCA prior to the issue of the Occupation/Subdivision Certificate.

86. **Acoustic Certification** – 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** – Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the construction has incorporated the recommendations in the DA Acoustic Report titled “206-214 Railway Parade Kogarah. Noise and Vibration Assessment” Project number: 20020 Revision 2; reference number: 20020_240220_Noise Impact Assessment_BW_RO prepared by White Noise Acoustics.

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

The report is to be prepared at the expense of the applicant and submitted to the PCA prior to the issue of the Occupation Certificate. In ascertaining whether adverse structural 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.

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

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

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

90. **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.*

91. **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.

- 92. 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;
- 93. Requirements prior to the issue of the Occupation Certificate-** The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:
- (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
 - (b) The internal driveway construction works, together with the provision for all services 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 and certified by a practicing drainage engineer when all the site engineering works are complete shall be submitted to the PCA prior to the issue of the Occupation Certificate.
- 94. Line marking of parking spaces** - Parking spaces shall be clearly designated (sign posted and marked on ground) and line marked prior to the issuing of an Occupation Certificate. Signage, pavement symbols and line marking shall comply with *Australian Standards, AS1742, Manual of Uniform Traffic Control Devices* and *NSW Road Transport (Safety and Traffic Management) Regulations 1999*.
- 95. Major Development** - Internal driveways and parking spaces are to be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface. All car parking spaces are to be line marked in accordance with AS1742, 'Australian Standard Manual of Uniform Traffic Control Devices' and the relevant guidelines published by the RMS.
- 96. SEPP 65 Design Verification Statement** - The PCA must not issue any Occupation Certificate to authorise a person to commence occupation of the residential flat development unless the PCA has received a design verification , 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*.

97. Vehicular crossing & Frontage work – 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 a full width (boundary to kerb) footpath area in paving material for the full length of all frontages of the site in 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) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage of the site in accordance with Council's Specifications for kerb and guttering, applying at the time construction approval is sought.
- (d) 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.

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.

98. Traffic Certification- An "as built" certificate from an experienced and qualified traffic engineer with tertiary qualifications is to be submitted to and approved by the Principal Certifying Authority confirming the following:

- (a) The car parking layout and loading areas associated with the development (including, driveway grades, headroom clearance turn paths, aisle widths, aisle lengths and parking bay dimensions) has been constructed in accordance with AS2890.1:2004, AS2890.6:2009 and AS2890.2:2018.
- (b) Bicycle parking associated with the development is provided in accordance with AS2890.3 design requirements.
- (c) Driveway access complies with Figure 3.3 of AS2890.1:2004 minimum sight lines for pedestrian safety.
- (d) All vehicles shall enter and exit the premises in a forward direction;
- (e) Parking spaces shall be clearly line marked prior to the issuing of an Occupation Certificate. Signage, pavement symbols and line marking shall comply with *Australian Standards, AS1742, Manual of Uniform Traffic Control Devices* where required.

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

100. 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) 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.

101. 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:

- (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) The full name and signature of the professional engineer.

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

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

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.

102. Allocation of car parking spaces – Car parking associated with the development is to be allocated as follows:

- a) Residential dwellings: 52 car parking spaces
- b) Commercial/Retail: 16 car parking spaces
- c) Visitors Spaces: 7 car parking spaces (includes visitor/car wash bay)
- d) Visitor/Car wash bay: 1 car parking space.

103. 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:

- (a) That the measure has been assessed by a person (chosen by the owner of the building) who is properly qualified to do so.
- (b) 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.

104. Slip Resistance - At completion of work an in-situ (on-site) test, in wet and dry conditions, must be carried out on the pedestrian floor surfaces used in the foyers, public corridors/hallways, stairs and ramps as well as the floor surfaces in wet rooms in any commercial/retail/residential units to ascertain the actual slip resistance of such surfaces taking into consideration the effects of grout, the gradients of the surface and changes from one material to another. The in-situ test must be carried out in accordance with AS/NZS 4663:2002. Proof of compliance must be submitted with the application for the Occupation Certificate for approval.

105. Electricity Supply - Evidence shall be provided demonstrating that the development has been connected to Ausgrid (or relevant electricity provider).

106. Allocation of street addresses - All street addresses are to be allocated in accordance 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.

107. Completion of Landscape Works

- (a) All landscape works, planting of seventeen (17) trees within the site and fees payable for Councils street tree planting must be completed before the issue of the Final Occupation Certificate and to the satisfaction of Councils Tree Management Officers and in accordance with approved landscape plans and specifications, drawn by Black beetle Landscape Architecture, Ref No BB1263, LA LP 101 - 110/03 and dated 14/05/21.
- (b) A certificate of compliance for the planting of all seventeen (17) trees and shrubs proposed for the development (this includes street trees). An AQF 5 Horticulturist shall be engaged and in writing certify that all trees have been planted as per landscape plan and specifications and forwarded to the PCA – Principal Certifying Authority, to form compliance.

107A Street Address Requirements

- (a) Photographs showing the property number and the unit number allocations on the letter box bank/banks must be provided to the satisfaction of the Spatial and Digital Services team, within Council, demonstrating compliance with the numbering allocation.
- (b) Spatial and digital services team staff are to inspect the display of the building's property number and inspect the sub-property numbering on the mailbox banks/banks and doors to ensure compliance with the numbering allocated.

Primary Address – 206 Railway Parade KOGARAH NSW 2217

Sub-Property Addressing: Refer to table at end of consent

(Condition No. 107A is amended as part of MOD2022/0100)

Operational Conditions (On-Going)

- 108. Communal Open Space** – The use of the roof top communal open space area is to be in accordance with the approved Plan of Management (POM) at all times.
- 109. Crime Prevention**- In line with the recommendation of the NSW Police Force, the premise is to always operate as per the following:
 - (a) The CCTV system must continuously record and operate at all times.
 - (b) Recordings must be in a digital format and at a minimum of ten frames per second (10 fps).
 - (c) Any recorded image must specify the time and date of the recorded image.
 - (d) The systems cameras must cover the following areas
 - i. All entry and exit points on the premises
 - ii. The footpath immediately adjacent to the premises
 - iii. All publicly accessible areas (other than toilets) within the premises.
 - iv. Throughout the underground car park to monitor activities around these areas
 - (e) Lighting in and around the Site- Lighting devices must be in operation in and around the property to increase visibility during the hours of darkness. Lighting must comply with the relevant Australian Standard.

The premise is to always operate as per the approved Crime Risk Assessment and Security Management Plan.

- 110. 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).
- 111. 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.

- 112. 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.
- 113. 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.
- 114. Maximum vehicle size** - No vehicle larger than a Small Rigid Vehicle (SRV) as defined in AS 2890.2: 2018 (Australian Standard for off street commercial vehicle facilities) is to be permitted to access the development for the purpose of loading or unloading of goods and/or services.
- 115. Deliveries** - No deliveries to the premises shall be made direct from a public place or street inclusive of footpaths, nature strip, roadway and car parks.
- 116. Deliveries** – No deliveries and/or waste removal to/from the site shall take place between 10pm and 6am, 7 days a week.
- 117. Loading and unloading areas** - All loading and unloading of vehicles in relation to the use of the premises shall take place wholly within the dedicated loading/unloading areas, which is wholly within the site.
- 118. Visitors Parking** - All allocated car parking spaces shall be freely available for the visitors of the proposed development.
- 119. Entering & Exiting of vehicles** - All vehicles shall enter and exit the site in a forward direction.
- 120. 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.
- 121. Maintenance of Landscaping** –
- (a) All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilising, pest and disease control, replacement of dead or dying plants and other operations required to maintain healthy trees, plants and turfed areas.

- (b) A final certificate of compliance letter, 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
- (c) If the replacement trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size.
- (d) A copy of the Hurstville City Council's Tree Removal and Pruning Guidelines and Kogarah City Council, Street Tree Management Strategy, Masterplan, and Tree Management Policy 2019, can be downloaded from Council's website www.georgesriver.nsw.gov.au

122. 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.

123. Responsibility of Strata/Building Manager - Movement of bins around the site is the responsibility of the Strata/Building Manager or a delegated contractor (such as cleaners).

It is the responsibility of the Strata/Building Manager or a delegated contractor to clean and maintain bin storage rooms to maintain a sanitary environment. It is also the responsibility of the Strata/Building Manager or a delegated contractor to monitor fill levels of all bins in each designated bin storage area discharge room and rotate these for servicing using bin lift equipment at the site. The Strata/Building Manager or a delegated contractor will also be responsible for monitoring the fill levels of bulky waste in the designated bulky waste storage areas.

The Strata/Building Manager shall also be responsible for maintaining all equipment, systems, facilities and storage areas used in conjunction with the provision of waste management services in accordance with all applicable regulatory requirements and relevant health and environmental standards.

124. Waste Management - The provision of all residential, public and commercial waste services are to be provided as per the Waste Management Plan prepared by Dickens Solutions Revision 3 dated April 2021. The Body Corporate/Strata Manager will be responsible for overseeing the provision of waste services in accordance with the approved WMP and relevant legislation, including maintaining bins in a clean and sanitary manner utilising the equipment provided as per the WMP.

It will be the responsibility of the Owners Corporation to arrange for the removal of all waste materials from the site on a regular basis. All common (litter bins), residential and commercial general waste, recycling and bulky waste (where applicable) collection services are to be provided by private waste contractor. The development will not be permitted to place bins or bulky waste on the kerbside at any time and all collection services must occur onsite within the designated loading bay, as per the Waste Management Plan and at cost to the Owners Corporation.

The Strata/Building Manager shall also be responsible for maintaining all equipment, systems, facilities and storage areas used in conjunction with the provision of waste management services in accordance with all applicable regulatory requirements and relevant health and environmental standards.

Chute discharge will be provided as per the WMP and architectural plans. The chute discharge area will only be accessible by authorised building or cleaning staff and must be secured by lock and key. Central bin storage must be by double door (or appropriate roller door if space requires) to enable the movement of 1100L bins in/out of the room. Chutes are to be installed and maintained as per manufacturers instruction and in order to maintain safe and hygienic infrastructure for resident's use.

The approval has been granted for the use of 1100L bins. Therefore the development is conditioned that door widths must enable the passage of 1100L bins from the residential bins central bin storage area to the SRV Loading Dock. The SRV Loading Dock has been designed to enable turning of a SRV vehicle, provided by private waste contractor.

Residential waste storage areas must be secured under lock and key and not accessible to commercial tenants.

Common bins must be enclosed by lid or rosette-opening enclosure to prevent wind-blown litter from the rooftop or other open space.

Waste collection services are restricted to 3 collection services per week to maintain amenity and reduce noise impacts. Waste collection services must be provided at a time that reduces impacts on the residents and tenants.

All garden organic waste generated onsite must be removed from the site by private contractor, at cost to the Owners Corporation, as per the arrangements within the Waste Management Plan.

Loose or unbagged waste materials are not permitted to be moved between levels or around the site without being contained within approved bins as per the Australian Standards.

Operational Requirements Under the Environmental Planning & Assessment Act 1979

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

126. 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.

- 127. 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.

- 128. 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.

- 129. 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.

- 130. 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.

- 131. 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.

Prescribed Conditions

- 132. Clause 97A – BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.

- 133. Clause 98 - Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.

- 134. Clause 98A - Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the PCA and the Principal Contractor.

- 135. Clause 98B – Home Building Act 1989** - If the development involves residential building work under the Home Building Act 1989, no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the Home Building Act 1989.
- 136. Clause 98E - Protection & support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.
- 137. Clause 98E - Site Excavation** - Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site.

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided and adequate provision shall be made for drainage.

END CONDITIONS

NOTES/ADVICES

- 138. 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

- 139. 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.
- 140. 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.
- 141. Access to NSW Legislation (Acts, Regulations and Planning Instruments)** – NSW Legislation can be accessed free of charge at www.legislation.nsw.gov.au.

- 142. 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.

- 143. 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.

- 144. Underground Cables**- Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Safework Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables. Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

- 145. 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 Industrial Noise Guidelines (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the Protection of the Environment Operations Act 1997.

Useful links relating to Noise:

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

- (f) Department of Gaming and Racing - (www.dgr.nsw.gov.au).

146. Acoustical 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)
- (b) Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au)
- (c) NSW Industrial Noise Policy – Office of Environment & Heritage (www.environment.nsw.gov.au)

147. 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.

148. FR NSW comments - 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 any Fire Engineered Solution developed to meet the performance requirements for external combustible cladding.

The applicant is also advised to seek written advice from FR NSW on the location and construction of the proposed Fire Control Centre Facility, the location of the Fire Indicator/Mimic Panels and the location, use and installation of Hydrants/Sprinkler Booster facilities.

149. 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.

150. Council appointed as the PCA - 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.

In this regard, detailed construction plans and specifications that demonstrate compliance with the above requirements of the BCA, in which case, including in relation to the provision of egress and the protection of openings etc must be submitted with the Construction Certificate Application.

- 151. 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.

- 152. 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).

- 153. 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.
- (b) In the Application Form, quote the Development Consent No. (e.g. 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.

- 154. Land Contamination** - Note: 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 in EPA webpage: <https://www.epa.nsw.gov.au/your-environment/contaminated-land/>

- 155. Underground Storage Tanks Removal** - You are reminded that if underground storage tanks and associated pipework are uncovered during excavation you have a duty to notify the Georges River Council as the ARA of the removal and decommissioning as per Clause 23(1)(a) of the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019, which states:

23 Notice and report of system being decommissioned

- (1) *If a storage system is to be decommissioned, the person responsible for the storage system must notify the relevant local authority of the decommissioning—*
- (a) *in the case of urgent and unforeseen decommissioning—as soon as reasonably practicable after the decision to decommission the system is made, or*
 - (b) *in any other case—no later than 30 days before the system is decommissioned or removed.*

Maximum penalty – 100 units (in the case of an individual) and 200 penalty units

SafeWork NSW (13 10 50) are to be contacted separately to obtain any additional requirements for the removal of underground storage tanks.

UNIT ADDRESSES

THIS IS THE PRINTED COPY OF THE GEORGES RIVER LOCAL PLANNING PANEL BUSINESS PAPER. FOR THE ORIGINAL DOCUMENT PLEASE VISIT THE GEORGES RIVER LOCAL PLANNING PANEL WEBSITE: <http://www.georgesriverlpp.nsw.gov.au/>

Sub-property Addressing:**Sub-property Addressing for 206 Railway Parade, KOGARAH NSW 2217**

Unit numbers on Amended Architectural Plans Set 1		Unit numbers and addresses allocated by Council
Level	Unit No.	COMPLETE ADDRESS
Basement 3	-	Basement CarPark 3 (B3)
Basement 2	-	Basement CarPark 2 (B2)
Basement 1	-	Basement Carpark 1 (B1)
Ground Floor	Retail 1	G01/206 Railway Parade, KOGARAH NSW 2217
Ground Floor	Retail 2	G02/206 Railway Parade, KOGARAH NSW 2217
Level 01	L1 01 Commercial	101/206 Railway Parade, KOGARAH NSW 2217
Level 02	L02 01	201/206 Railway Parade, KOGARAH NSW 2217
Level 02	L02 02	202/206 Railway Parade, KOGARAH NSW 2217
Level 02	L02 03	203/206 Railway Parade, KOGARAH NSW 2217
Level 02	L02 04	204/206 Railway Parade, KOGARAH NSW 2217
Level 02	L02 05	205/206 Railway Parade, KOGARAH NSW 2217
Level 02	L02 06	206/206 Railway Parade, KOGARAH NSW 2217
Level 03	L03 01	301/206 Railway Parade, KOGARAH NSW 2217
Level 03	L03 02	302/206 Railway Parade, KOGARAH NSW 2217
Level 03	L03 03	303/206 Railway Parade, KOGARAH NSW 2217
Level 03	L03 04	304/206 Railway Parade, KOGARAH NSW 2217
Level 03	L03 05	305/206 Railway Parade, KOGARAH NSW 2217
Level 03	L03 06	306/206 Railway Parade, KOGARAH NSW 2217
Level 04	L04 01	401/206 Railway Parade, KOGARAH NSW 2217
Level 04	L04 02	402/206 Railway Parade, KOGARAH NSW 2217
Level 04	L04 03	403/206 Railway Parade, KOGARAH NSW 2217
Level 04	L04 04	404/206 Railway Parade, KOGARAH NSW 2217
Level 04	L04 05	405/206 Railway Parade, KOGARAH NSW 2217
Level 04	L04 06	406/206 Railway Parade, KOGARAH NSW 2217
Level 05	L05 01	501/206 Railway Parade, KOGARAH NSW 2217
Level 05	L05 02	502/206 Railway Parade, KOGARAH NSW 2217
Level 05	L05 03	503/206 Railway Parade, KOGARAH NSW 2217
Level 05	L05 04	504/206 Railway Parade, KOGARAH NSW 2217
Level 05	L05 05	505/206 Railway Parade, KOGARAH NSW 2217
Level 06	L06 01	601/206 Railway Parade, KOGARAH NSW 2217
Level 06	L06 02	602/206 Railway Parade, KOGARAH NSW 2217
Level 06	L06 03	603/206 Railway Parade, KOGARAH NSW 2217
Level 06	L06 04	604/206 Railway Parade, KOGARAH NSW 2217
Level 06	L06 05	605/206 Railway Parade, KOGARAH NSW 2217
Level 07	L07 01	701/206 Railway Parade, KOGARAH NSW 2217
Level 07	L07 02	702/206 Railway Parade, KOGARAH NSW 2217
Level 07	L07 03	703/206 Railway Parade, KOGARAH NSW 2217
Level 07	L07 04	704/206 Railway Parade, KOGARAH NSW 2217
Level 07	L07 05	705/206 Railway Parade, KOGARAH NSW 2217
Level 08	L08 01	801/206 Railway Parade, KOGARAH NSW 2217

Level 08	L08 02	802/206 Railway Parade, KOGARAH NSW 2217
Level 08	L08 03	803/206 Railway Parade, KOGARAH NSW 2217
Level 08	L08 04	804/206 Railway Parade, KOGARAH NSW 2217
Level 09	L09 01	901/206 Railway Parade, KOGARAH NSW 2217
Level 09	L09 02	902/206 Railway Parade, KOGARAH NSW 2217
Level 09	L09 03	903/206 Railway Parade, KOGARAH NSW 2217
Level 09	L09 04	904/206 Railway Parade, KOGARAH NSW 2217
Level 10	L10 01	1001/206 Railway Parade, KOGARAH NSW 2217
Level 10	L10 02	1002/206 Railway Parade, KOGARAH NSW 2217
Level 10	L10 03	1003/206 Railway Parade, KOGARAH NSW 2217
Level 11	L11 01	1101/206 Railway Parade, KOGARAH NSW 2217
Level 11	L11 02	1102/206 Railway Parade, KOGARAH NSW 2217
Level 11	L11 03	1103/206 Railway Parade, KOGARAH NSW 2217

LPP007-24

ATTACHMENTS

Attachment [↓](#)1 Redacted Architectural Plan - 206 Railway Parade KOGARAH



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



S4.55 APPLICATION

Age increases by about 10% for each year of age.

NUMBER	DRAWING NAME	REVISION
DA0000	COVER SHEET	B
DA0001	LEGEND AND BASIC	B
DA0002	LOCATION PLAN	B
DA0003	SITE ANALYSTS	B
DA0004	PLANNING ANALYSIS	B
DA0005	CONTEXT ANALYSIS	B
DA0006	PLANNING DIAGRAMS	B
DA0007	PLANNING SEPARATION ANALYSIS	B
DA0008	ENVELOPE TRANSITION	B
DA0009	SITE PLAN	B
DA0010	STREETSCAPE ANALYSIS	B
DA0011	DEMOLITION PLAN	B
DA0012	BASEMENT 1 PLAN	B
DA0013	BASEMENT 2 PLAN	B
DA0014	GROUND LEVEL PLAN	B
DA0015	LEVEL 01 PLAN	B
DA0016	LEVEL 02 PLAN	B
DA0017	LEVEL 03 PLAN	B
DA0018	LEVEL 04 PLAN	B
DA0019	LEVEL 05 PLAN	B
DA0020	LEVEL 06 PLAN	B
DA0021	LEVEL 07 PLAN	B
DA0022	LEVEL 08 PLAN	B
DA0023	LEVEL 09 PLAN	B
DA0024	LEVEL 10 PLAN	B
DA0025	LEVEL 11 PLAN	B
DA0026	ROOF PLAN	B
DA0027	ROOF TOP	B
DA0028	EAST ELEVATION	B
DA0029	NORTH ELEVATION	B
DA0030	WEST ELEVATION	B
DA0031	SOUTH ELEVATION	B
DA0032	SECTION AA	B
DA0033	SECTION BB	B
DA0034	DRIVENWAY SECTION	B
DA0035	SHADOW DIAGRAMS - JUNE 9AM	B
DA0036	SHADOW DIAGRAMS - JUNE 10AM	B
DA0037	SHADOW DIAGRAMS - JUNE 11AM	B
DA0038	SHADOW DIAGRAMS - JUNE 12PM	B
DA0039	SHADOW DIAGRAMS - JUNE 1PM	B
DA0040	SHADOW DIAGRAMS - JUNE 2PM	B
DA0041	SHADOW DIAGRAMS - JUNE 3PM	B
DA0042	SUN VIEW DIAGRAMS 01	B
DA0043	SUN VIEW DIAGRAMS 02	B
DA0044	GLN CALCULATIONS	B
DA0045	LANDSCAPE AREA DIAGRAMS	B
DA0046	SEPP 16-MATERIAL VENTILATION	B
DA0047	SEPP 16-DAYLIGHT ACCESS	B
DA0048	SEPP 16-SOUTH FACING	B
DA0049	LEIGHT PLAN	B
DA0050	MATERIAL AND FINISHES SCHEDULE	B
DA0051	PHOTOMONTAGE	B

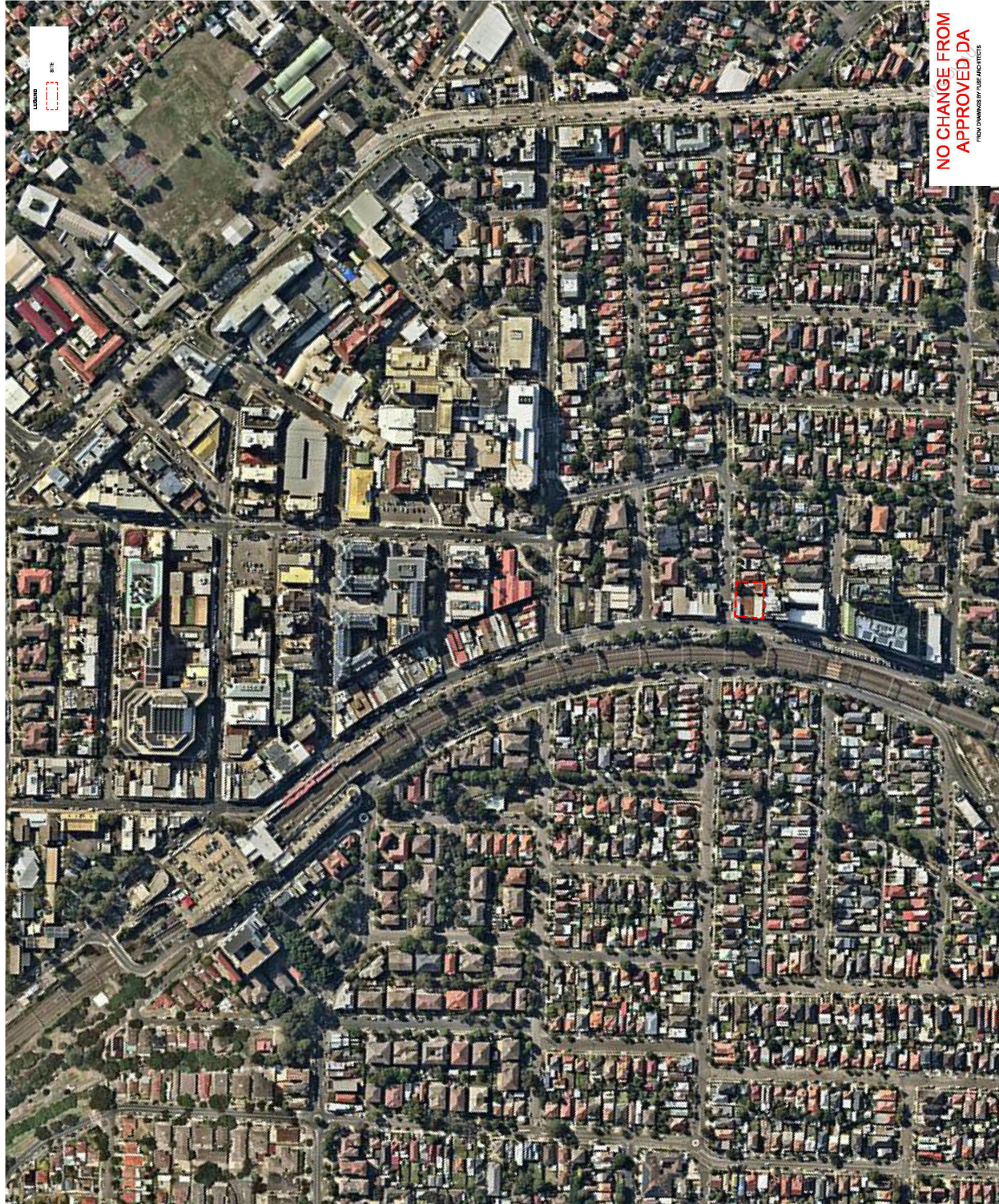
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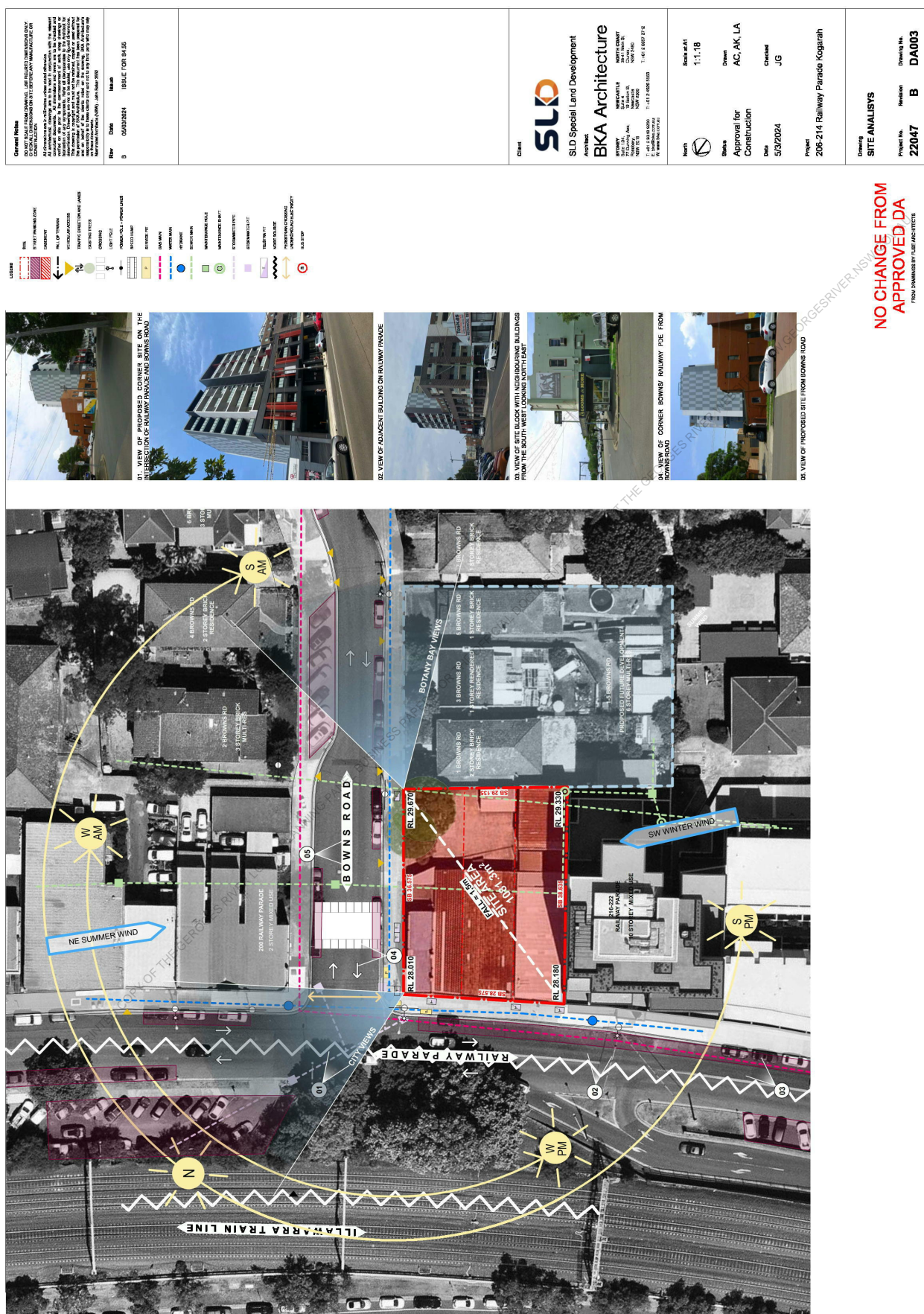
ARCHITECTURAL LEGEND

A	ACQUITTE	B	BATHROOM	C	CARPENTRY	D	DRAINAGE	E	ELECTRIC	F	FIRE SERVICES	G	GLASSWORK	H	HANGING	I	INTERIOR	J	JANITRY	K	KITCHEN	L	LIVING	M	MATERIAL SERVICES	N	MECHANICAL	O	OUTDOOR	P	PAINTING	Q	QUARTERS	R	REPAIRS	S	SCREENS	T	TERRAZZO	U	UPPER	V	VENTILATION	W	WATER	X	X-RAY	Y	YARD	Z	ZOO
AA	ACCESSORY	BB	BATHROOM	CC	CARPENTRY	DD	DRAINAGE	EE	ELECTRIC	FF	FIRE SERVICES	GG	GLASSWORK	HH	HANGING	II	INTERIOR	JJ	JANITRY	KK	KITCHEN	LL	LIVING	MM	MATERIAL SERVICES	NN	MECHANICAL	OO	OUTDOOR	PP	PAINTING	QQ	QUARTERS	RR	REPAIRS	SS	SCREENS	TT	TERRAZZO	UU	UPPER	VV	VENTILATION	WW	WATER	XX	X-RAY	YY	YARD	ZZ	ZOO
AAA	ACCESSORY	BBB	BATHROOM	CCC	CARPENTRY	DDD	DRAINAGE	EEE	ELECTRIC	FFF	FIRE SERVICES	GGG	GLASSWORK	HHH	HANGING	III	INTERIOR	JJJ	JANITRY	KKK	KITCHEN	LLL	LIVING	MMM	MATERIAL SERVICES	NNN	MECHANICAL	OOO	OUTDOOR	PPP	PAINTING	QQQ	QUARTERS	RRR	REPAIRS	SSS	SCREENS	TTT	TERRAZZO	UUU	UPPER	VVV	VENTILATION	WWW	WATER	XXX	X-RAY	YYY	YARD	ZZZ	ZOO
AAAA	ACCESSORY	BBBB	BATHROOM	CCCC	CARPENTRY	DDDD	DRAINAGE	EEEE	ELECTRIC	FFFF	FIRE SERVICES	GGGG	GLASSWORK	HHHH	HANGING	IIII	INTERIOR	JJJJ	JANITRY	KKKK	KITCHEN	LLLL	LIVING	MMMM	MATERIAL SERVICES	NNNN	MECHANICAL	OOOO	OUTDOOR	PPPP	PAINTING	QQQQ	QUARTERS	RRRR	REPAIRS	SSSS	SCREENS	TTTT	TERRAZZO	UUUU	UPPER	VVVV	VENTILATION	WWWW	WATER	XXXX	X-RAY	YYYY	YARD	ZZZZ	ZOO
AAAAA	ACCESSORY	BBBBB	BATHROOM	CCCCC	CARPENTRY	DDDDD	DRAINAGE	EEEEE	ELECTRIC	FFFFF	FIRE SERVICES	GGGGG	GLASSWORK	HHHHH	HANGING	IIIII	INTERIOR	JJJJJ	JANITRY	KKKKK	KITCHEN	LLLLL	LIVING	MMMMM	MATERIAL SERVICES	NNNNN	MECHANICAL	OOOOO	OUTDOOR	PPPPP	PAINTING	QQQQQ	QUARTERS	RRRRR	REPAIRS	SSSSS	SCREENS	TTTTT	TERRAZZO	UUUUU	UPPER	VVVVV	VENTILATION	WWWWW	WATER	XXXXX	X-RAY	YYYYY	YARD	ZZZZZ	ZOO
AAAAA	ACCESSORY	BBBBB	BATHROOM	CCCCC	CARPENTRY	DDDDD	DRAINAGE	EEEEE	ELECTRIC	FFFFF	FIRE SERVICES	GGGGG	GLASSWORK	HHHHH	HANGING	IIIII	INTERIOR	JJJJJ	JANITRY	KKKKK	KITCHEN	LLLLL	LIVING	MMMMM	MATERIAL SERVICES	NNNNN	MECHANICAL	OOOOO	OUTDOOR	PPPPP	PAINTING	QQQQQ	QUARTERS	RRRRR	REPAIRS	SSSSS	SCREENS	TTTTT	TERRAZZO	UUUUU	UPPER	VVVVV	VENTILATION	WWWWW	WATER	XXXXX	X-RAY	YYYYY	YARD	ZZZZZ	ZOO
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AAAAA	ACCESSORY	BBBBB	BATHROOM	CCCCC	CARPENTRY	DDDDD	DRAINAGE	EEEEE	ELECTRIC	FFFFF	FIRE SERVICES	GGGGG	GLASSWORK	HHHHH	HANGING	IIIII	INTERIOR	JJJJJ	JANITRY	KKKKK	KITCHEN	LLLLL	LIVING	MMMMM	MATERIAL SERVICES	NNNNN	MECHANICAL	OOOOO	OUTDOOR	PPPPP	PAINTING	QQQQQ	QUARTERS	RRRRR	REPAIRS	SSSSS	SCREENS	TTTTT	TERRAZZO	UUUUU	UPPER	VVVVV	VENTILATION	WWWWW	WATER	XXXXX	X-RAY	YYYYY	YARD	ZZZZZ	ZOO
AAAAA	ACCESSORY	BBBBB	BATHROOM	CCCCC	CARPENTRY	DDDDD	DRAINAGE	EEEEE	ELECTRIC	FFFFF	FIRE SERVICES	GGGGG	GLASSWORK	HHHHH	HANGING	IIIII	INTERIOR	JJJJJ	JANITRY	KKKKK	KITCHEN	LLLLL	LIVING	MMMMM	MATERIAL SERVICES	NNNNN	MECHANICAL	OOOOO	OUTDOOR	PPPPP	PAINTING	QQQQQ	QUARTERS	RRRRR	REPAIRS	SSSSS	SCREENS	TTTTT	TERRAZZO	UUUUU	UPPER	VVVVV	VENTILATION	WWWWW	WATER	XXXXX	X-RAY	YYYYY	YARD	ZZZZZ	ZOO
AAAAA	ACCESSORY	BBBBB	BATHROOM	CCCCC	CARPENTRY	DDDDD	DRAINAGE	EEEEE	ELECTRIC	FFFFF	FIRE SERVICES	GGGGG	GLASSWORK	HHHHH	HANGING	IIIII	INTERIOR	JJJJJ	JANITRY	KKKKK	KITCHEN	LLLLL	LIVING	MMMMM	MATERIAL SERVICES	NNNNN	MECHANICAL	OOOOO	OUTDOOR	PPPPP	PAINTING	QQQQQ	QUARTERS	RRRRR	REPAIRS	SSSSS	SCREENS	TTTTT	TERRAZZO	UUUUU	UPPER	VVVVV	VENTILATION	WWWWW	WATER	XXXXX	X-RAY	YYYYY	YARD	ZZZZZ	ZOO
AAAAA	ACCESSORY	BBBBB	BATHROOM	CCCCC	CARPENTRY	DDDDD	DRAINAGE	EEEEE	ELECTRIC	FFFFF	FIRE SERVICES	GGGGG	GLASSWORK	HHHHH	HANGING	IIIII	INTERIOR	JJJJJ	JANITRY	KKKKK	KITCHEN	LLLLL	LIVING	MMMMM	MATERIAL SERVICES	NNNNN	MECHANICAL	OOOOO	OUTDOOR	PPPPP	PAINTING	QQQQQ	QUARTERS	RRRRR	REPAIRS	SSSSS	SCREENS	TTTTT	TERRAZZO	UUUUU	UPPER	VVVVV	VENTILATION	WWWWW	WATER	XXXXX	X-RAY	YYYYY	YARD	ZZZZZ	

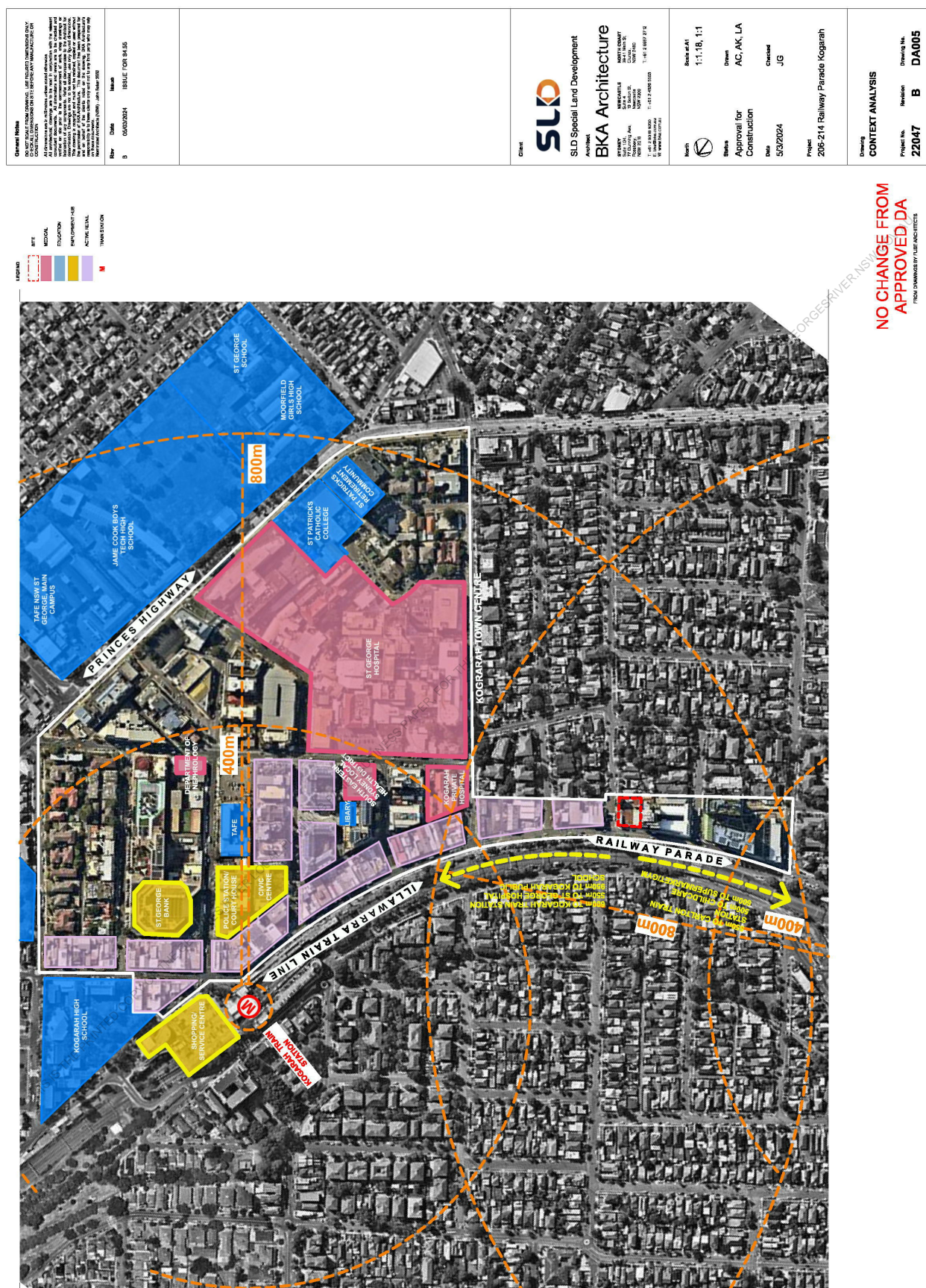
Drawing
LEGEND AND BASIS

Project No.	Revision	Drawing No.
22047	B	DA001

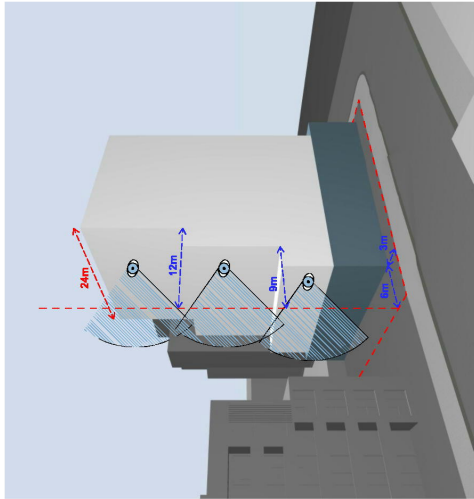




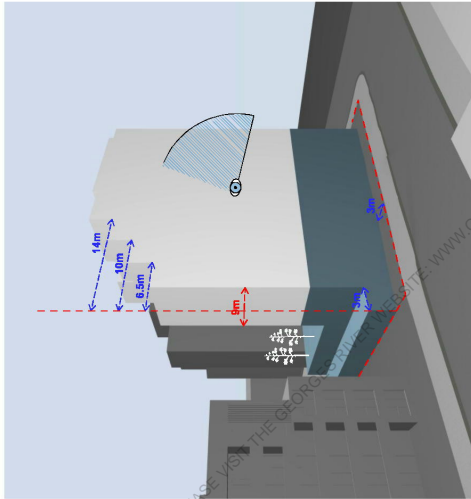




<div>General Notes</div> <div>DO NOT SCALE FROM DRAWING. USE FILED DIMENSIONS ONLY.</div> <div>CONSTRUCTION</div> <div>All dimensions are to the face of the building, unless the intent is otherwise.</div> <div>Site boundaries are shown in red.</div> <div>Site boundaries are shown in red.</div> <div>Site boundaries are shown in red.</div> <div>Site boundaries are shown in red.</div> <div>Site boundaries are shown in red.</div> <div>Site boundaries are shown in red.</div> <div>Site boundaries are shown in red.</div> <div>Site boundaries are shown in red.</div> <div>Site boundaries are shown in red.</div> <div>Site boundaries are shown in red.</div> <div>Site boundaries are shown in red.</div> <div>Site boundaries are shown in red.</div> <div>Site boundaries are shown in red.</div> <div>Site boundaries are shown in red.</div> <div>Site boundaries are shown in red.</div> <div>Site boundaries are shown in red.</div> <div>Site boundaries are shown in red.</div> <div>Site boundaries are shown in red.</div> <div>Site boundaries are shown in 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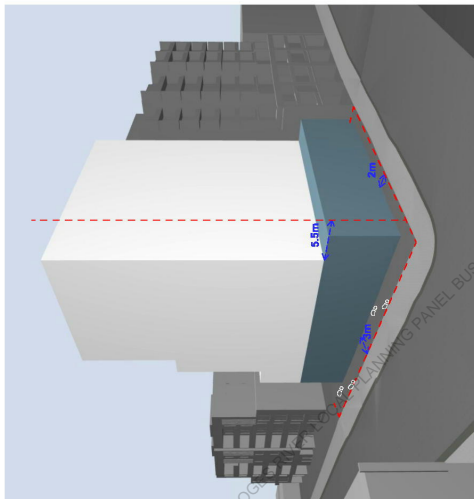


OPTION A - COMPLIANT WITH DCP
VIEW FROM NORTH EAST CORNER

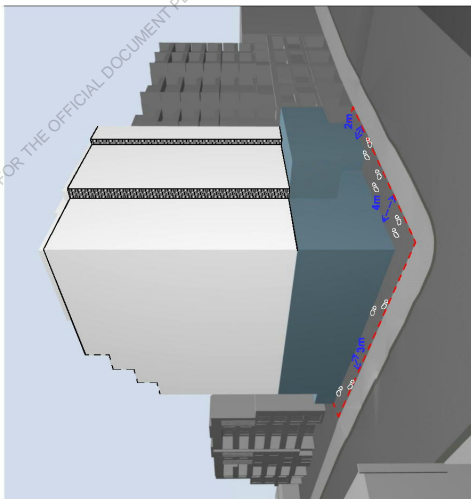


OPTION B - COMPLIANT WITH ADG
TERRACED FORM FOR IMPROVED OVERSIGHTING
VIEW FROM NORTH EAST CORNER

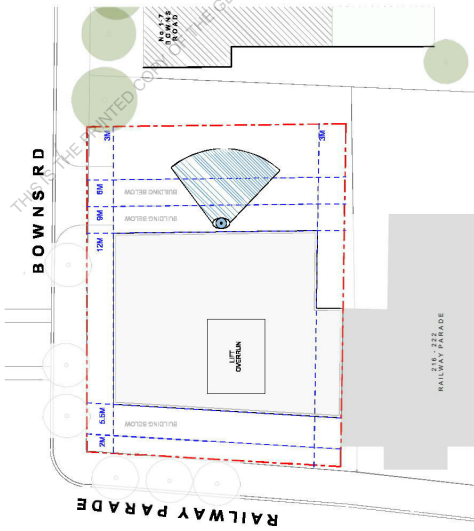
NO CHANGE FROM
APPROVED DA
FROM CHANGES BY TUE ARCHITECTS



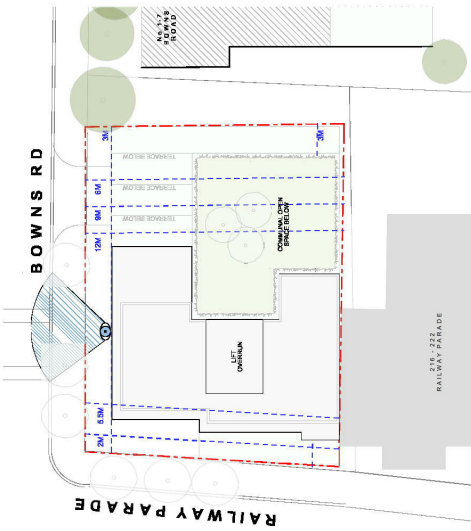
OPTION A - COMPLIANT WITH DCP
VIEW FROM NORTH WEST CORNER



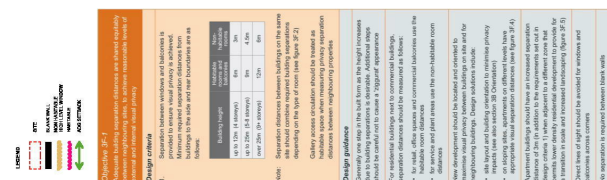
OPTION B - COMPLIANT WITH ADG
JAGGERED BUILDING EDGE FOR ENHANCED ACTIVE FRONTAGE TO RAILWAY
VIEW FROM NORTH WEST CORNER



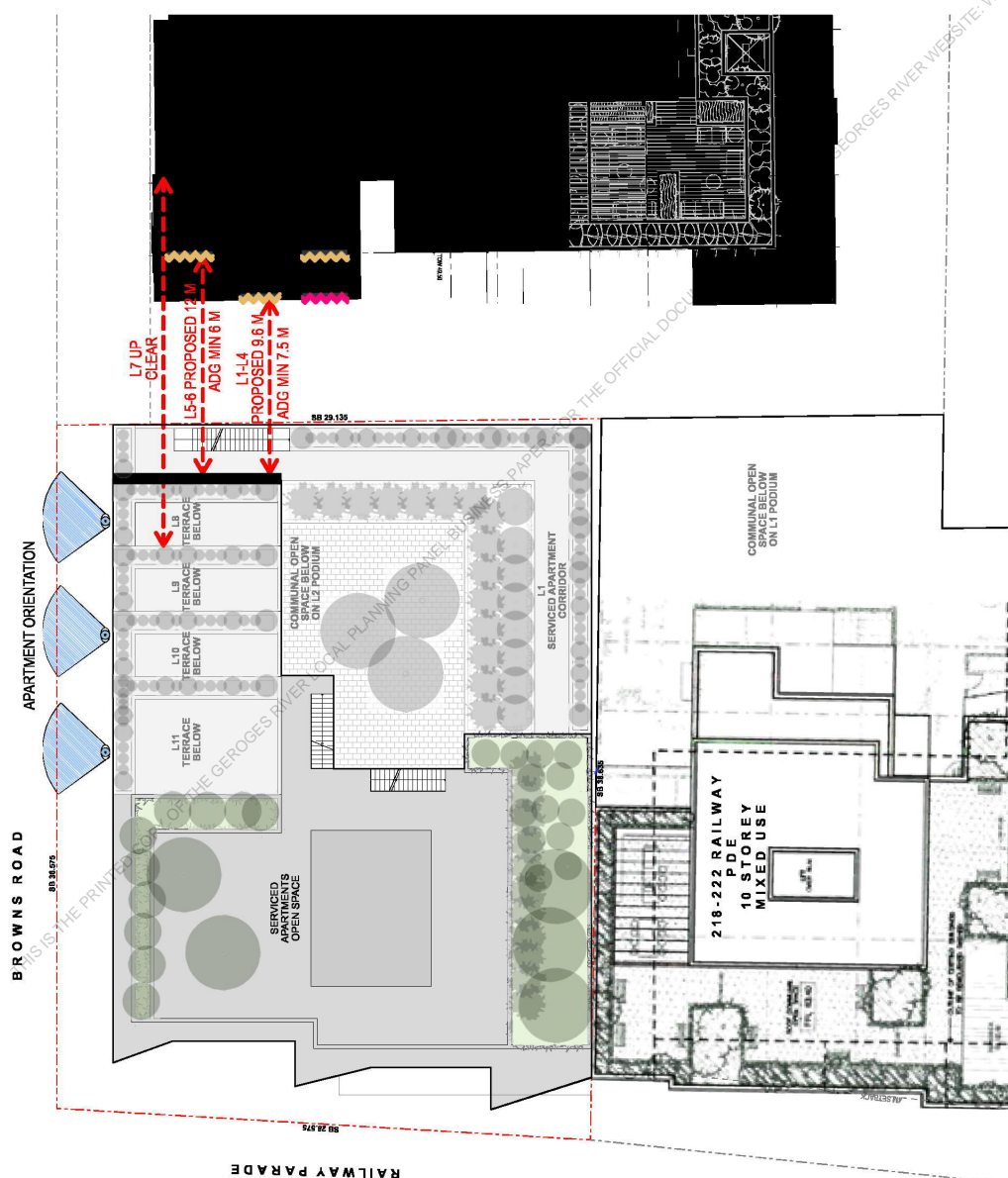
DCP COMPLIANT ENVELOPE
1/1250



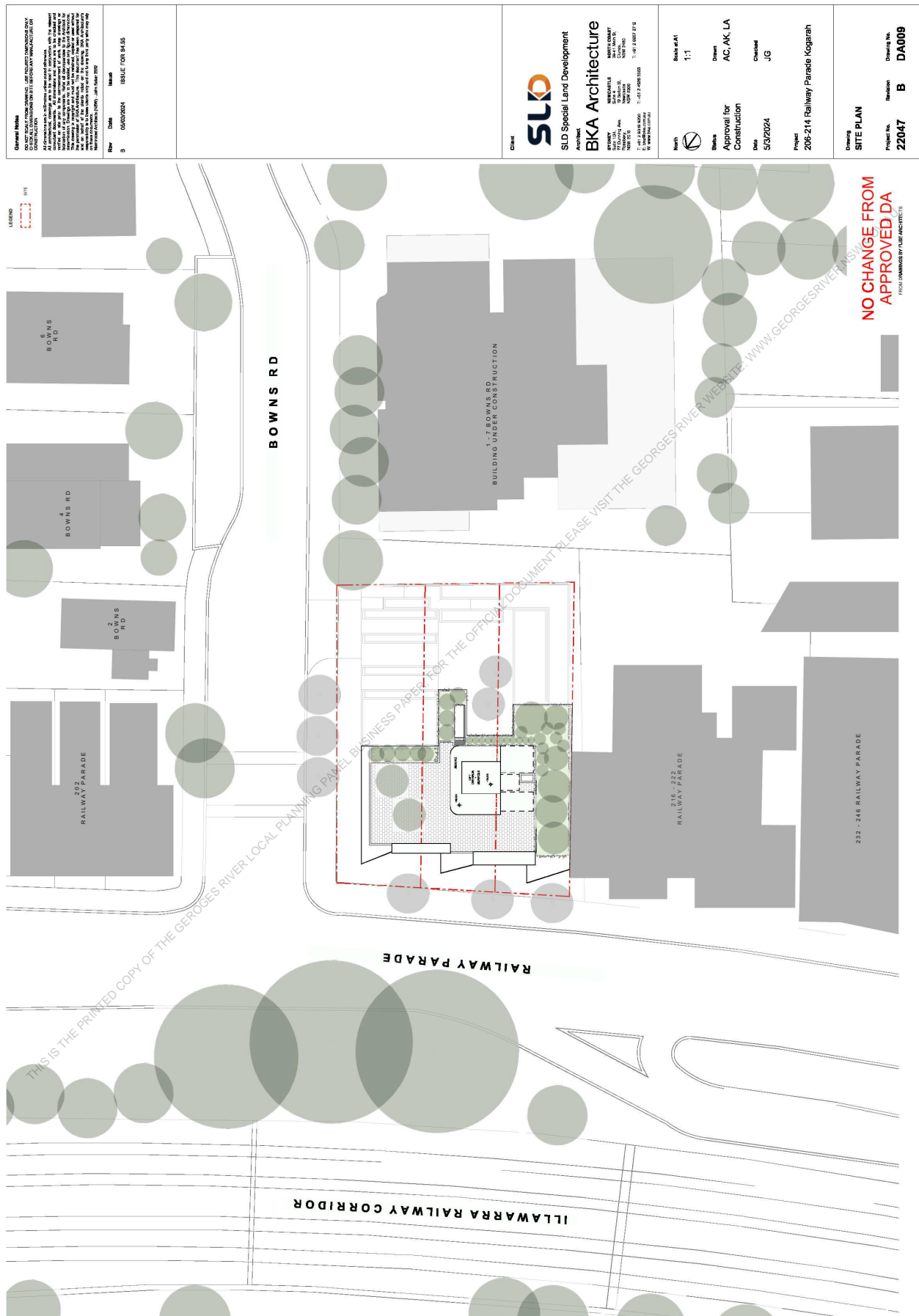
ADG COMPLIANT ENVELOPE
1/1250



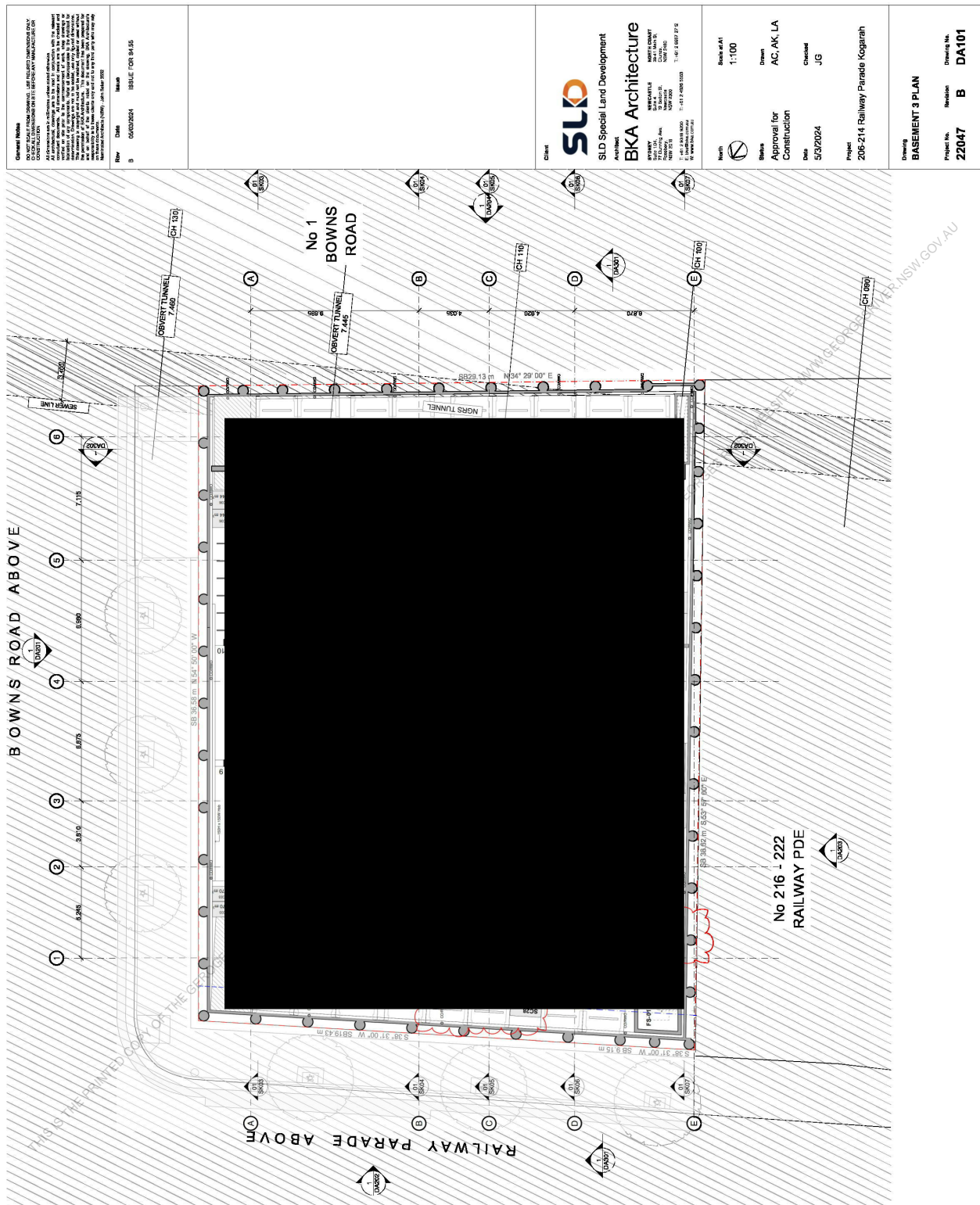
NO CHANGE FROM
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FROM DRAWINGS BY FUSE ARC-EFFECTS



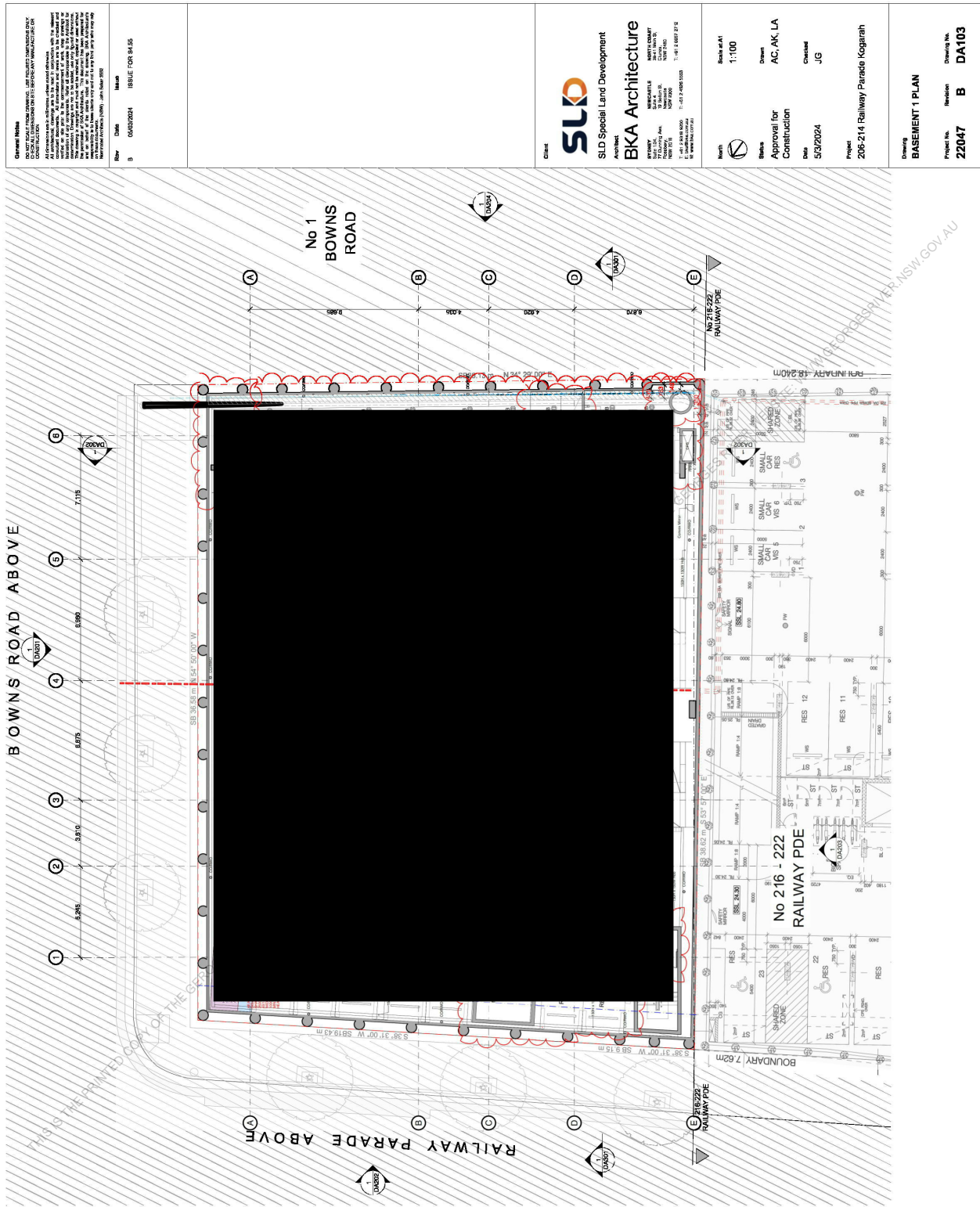






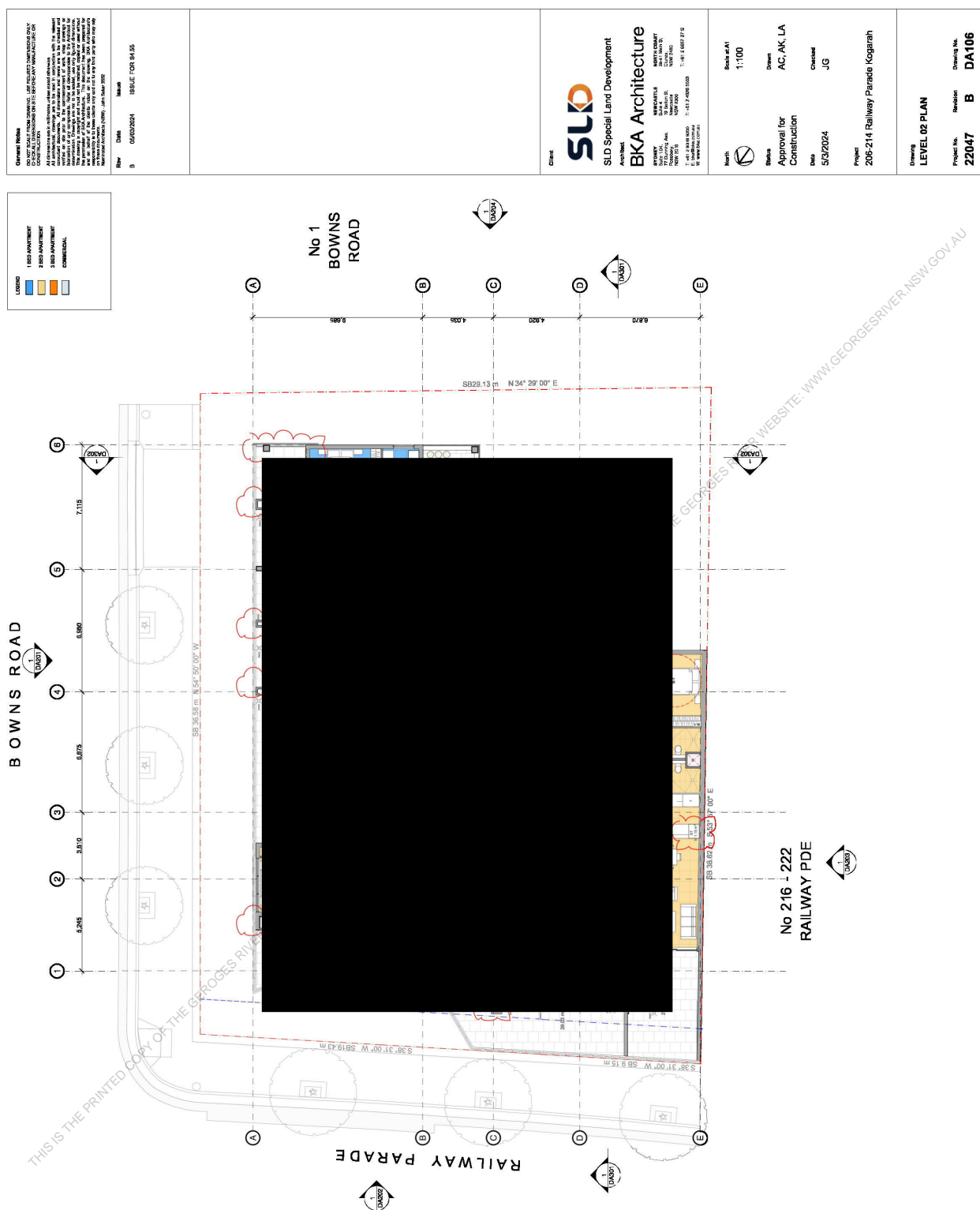








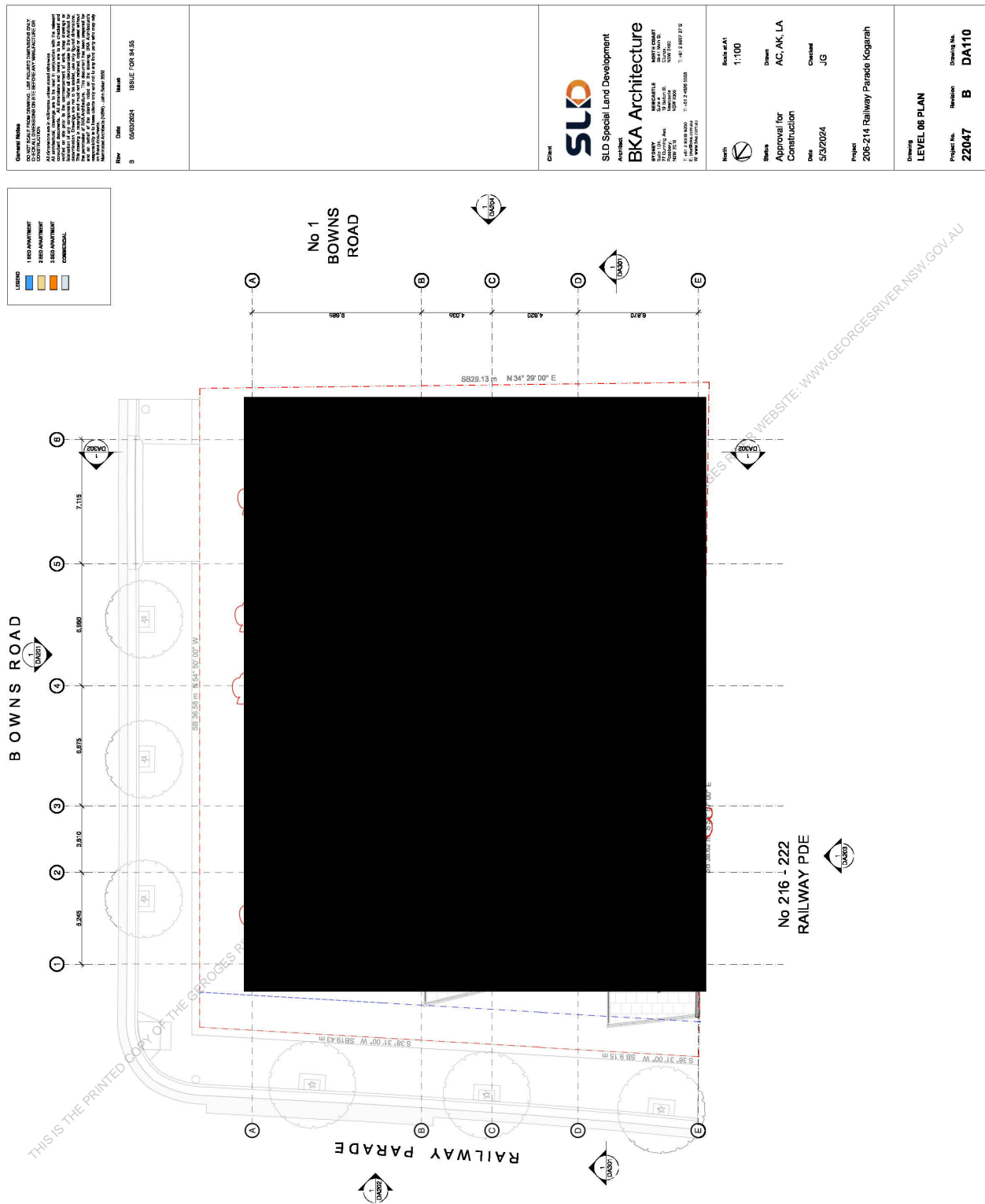










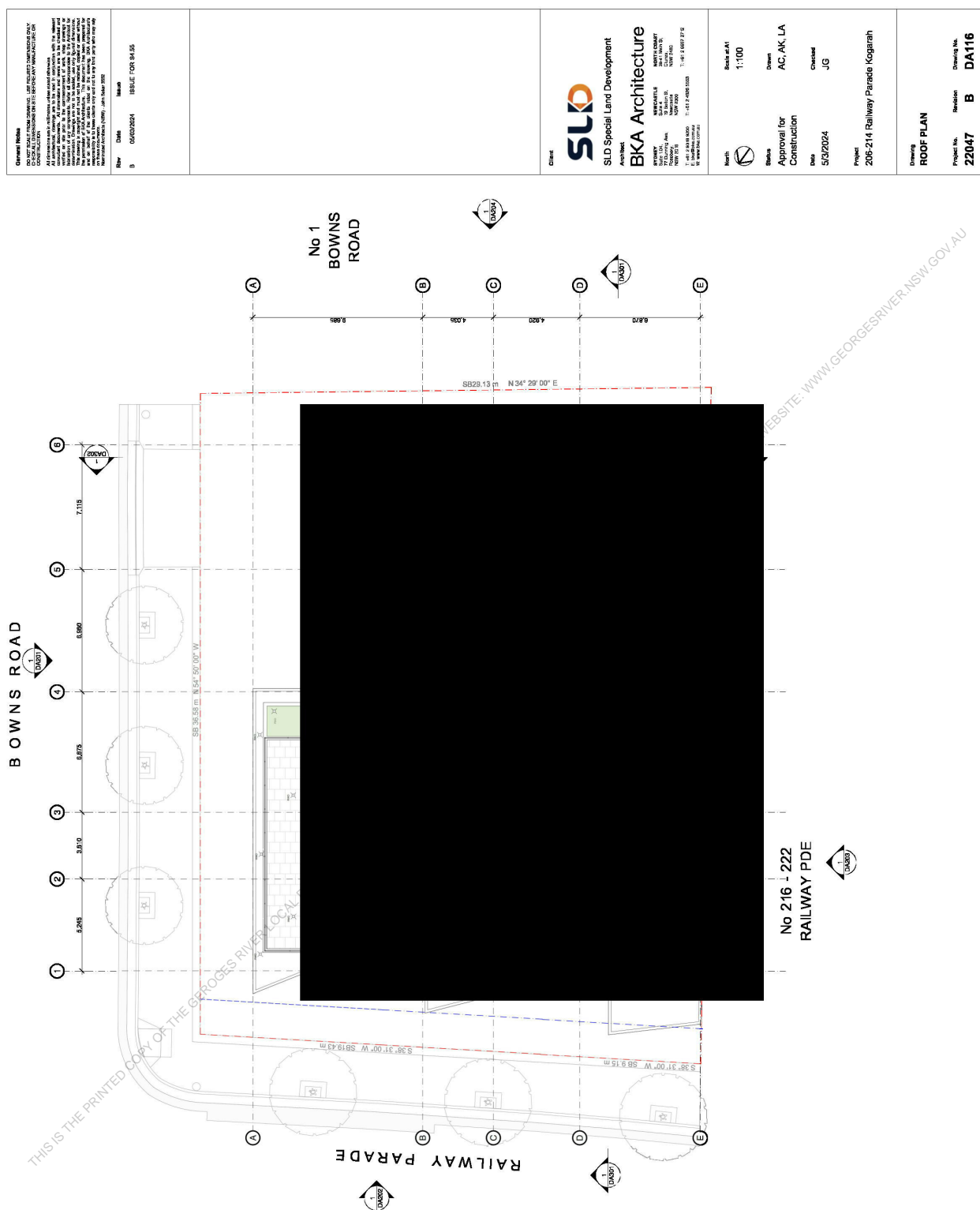




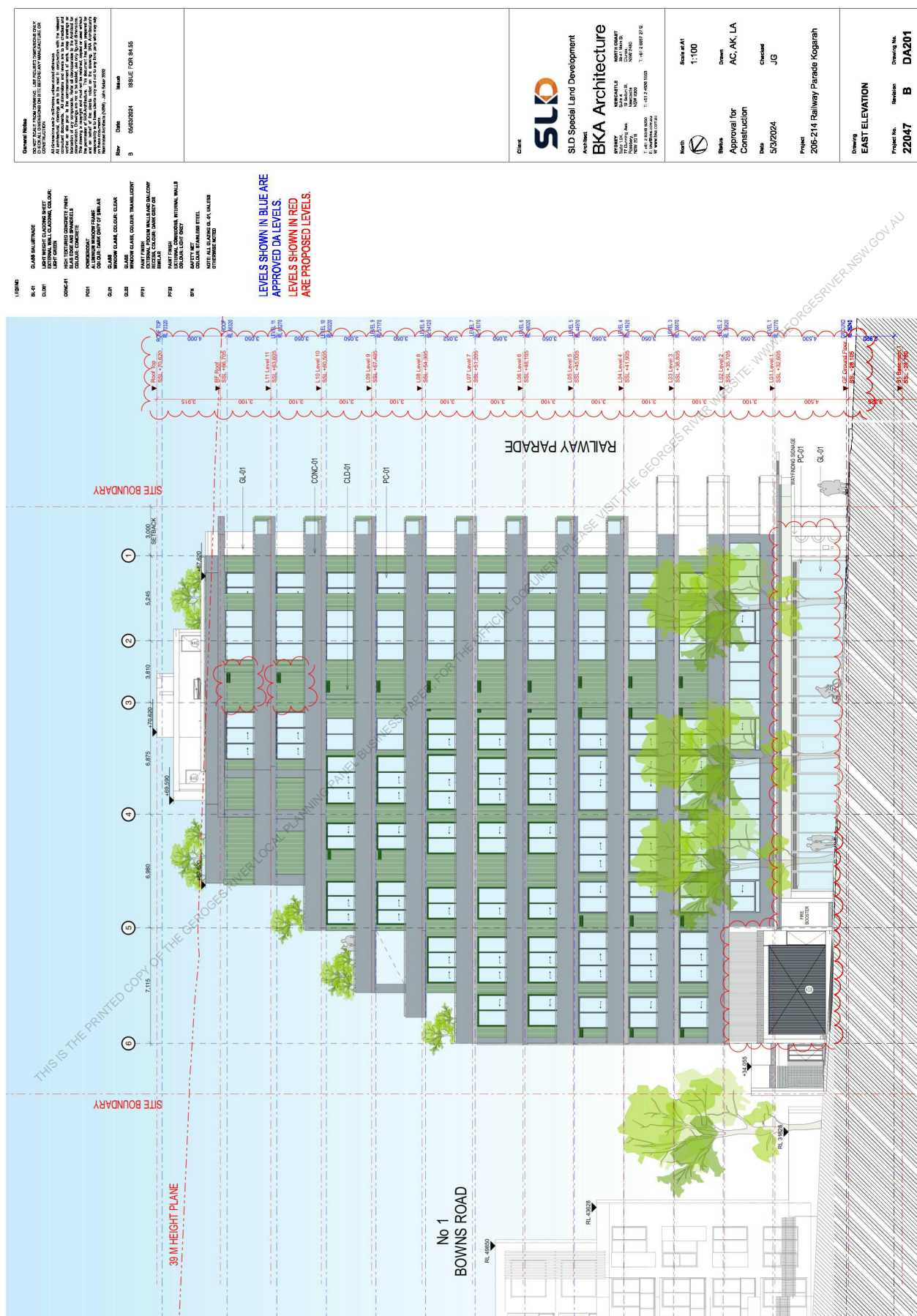












Client
SLD

Specialist Land Development

Architect
BKA Architecture

Project
206-214 Railway Parade Kogarah

Site
No 216 - 222
RAILWAY PARADE

Scale
1:100

Drawn
AC, AK, LA

Construction
Approval for Construction

Date
3/3/2024

Client
JG

Project
206-214 Railway Parade Kogarah

Project No.
22047

Revision
B

Drawing No.
DA202

Client
SLD

Specialist Land Development

Architect
BKA Architecture

Project
206-214 Railway Parade Kogarah

Site
No 216 - 222
RAILWAY PARADE

Scale
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Drawn
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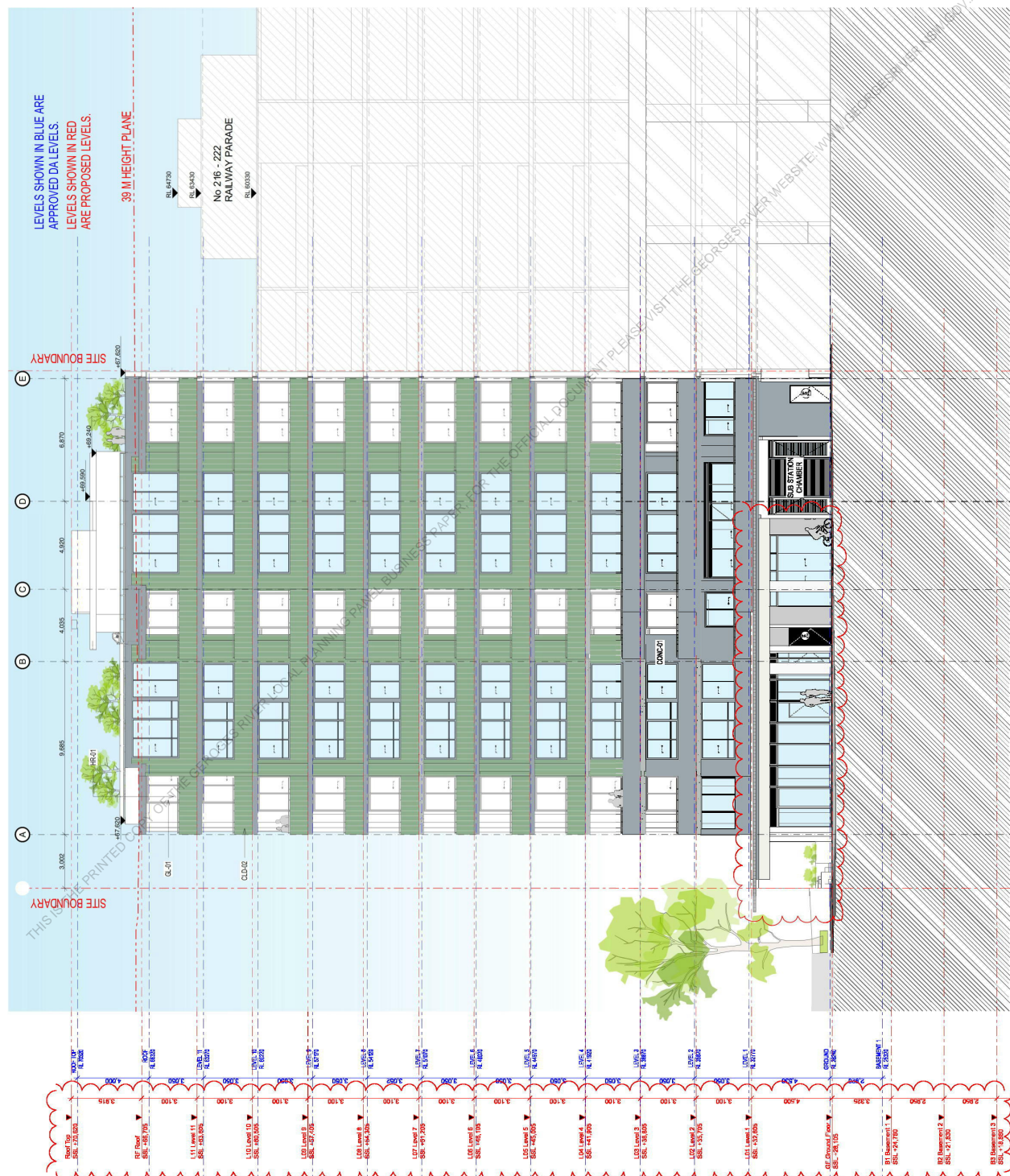
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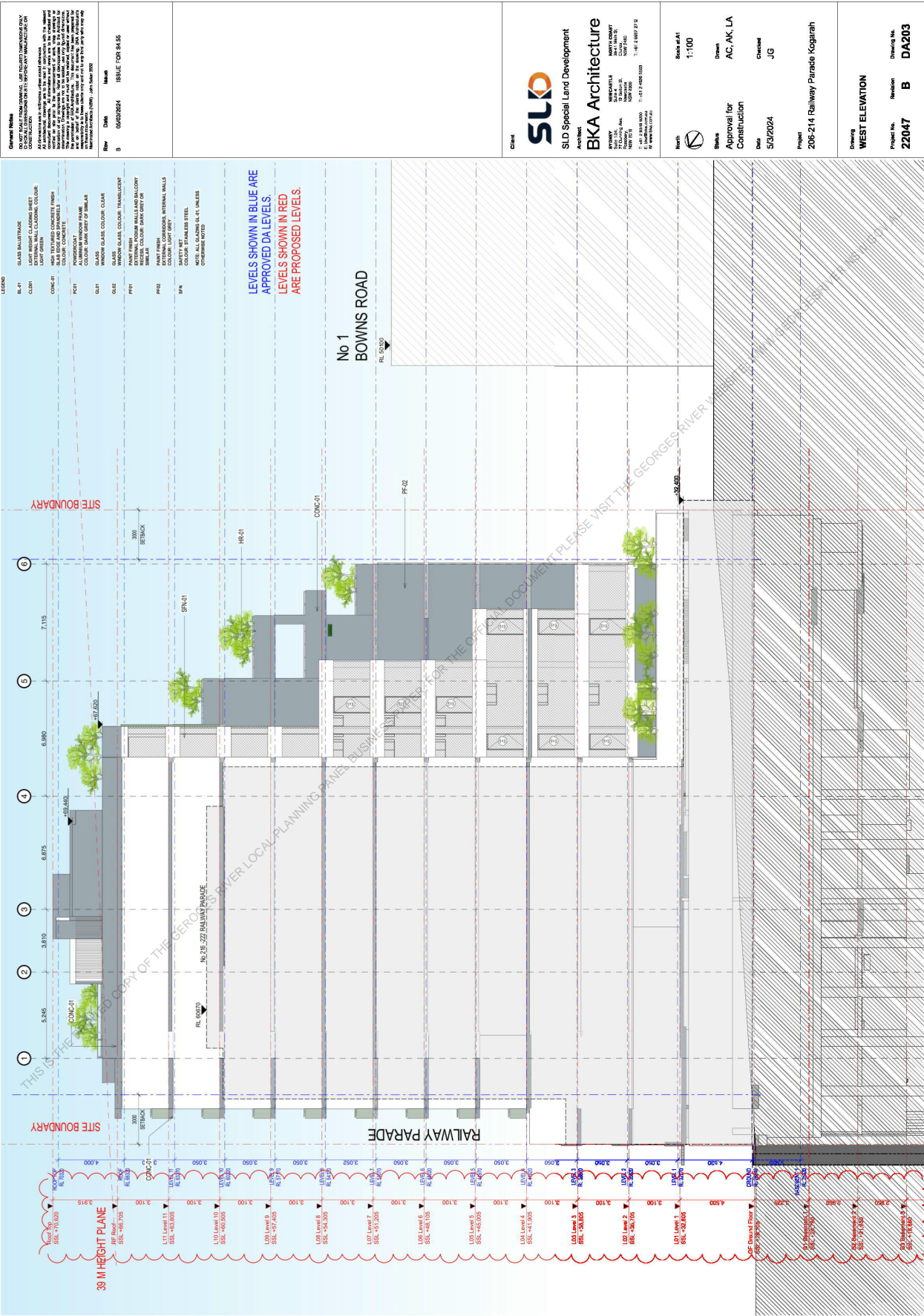
Project
206-214 Railway Parade Kogarah

Project No.
22047

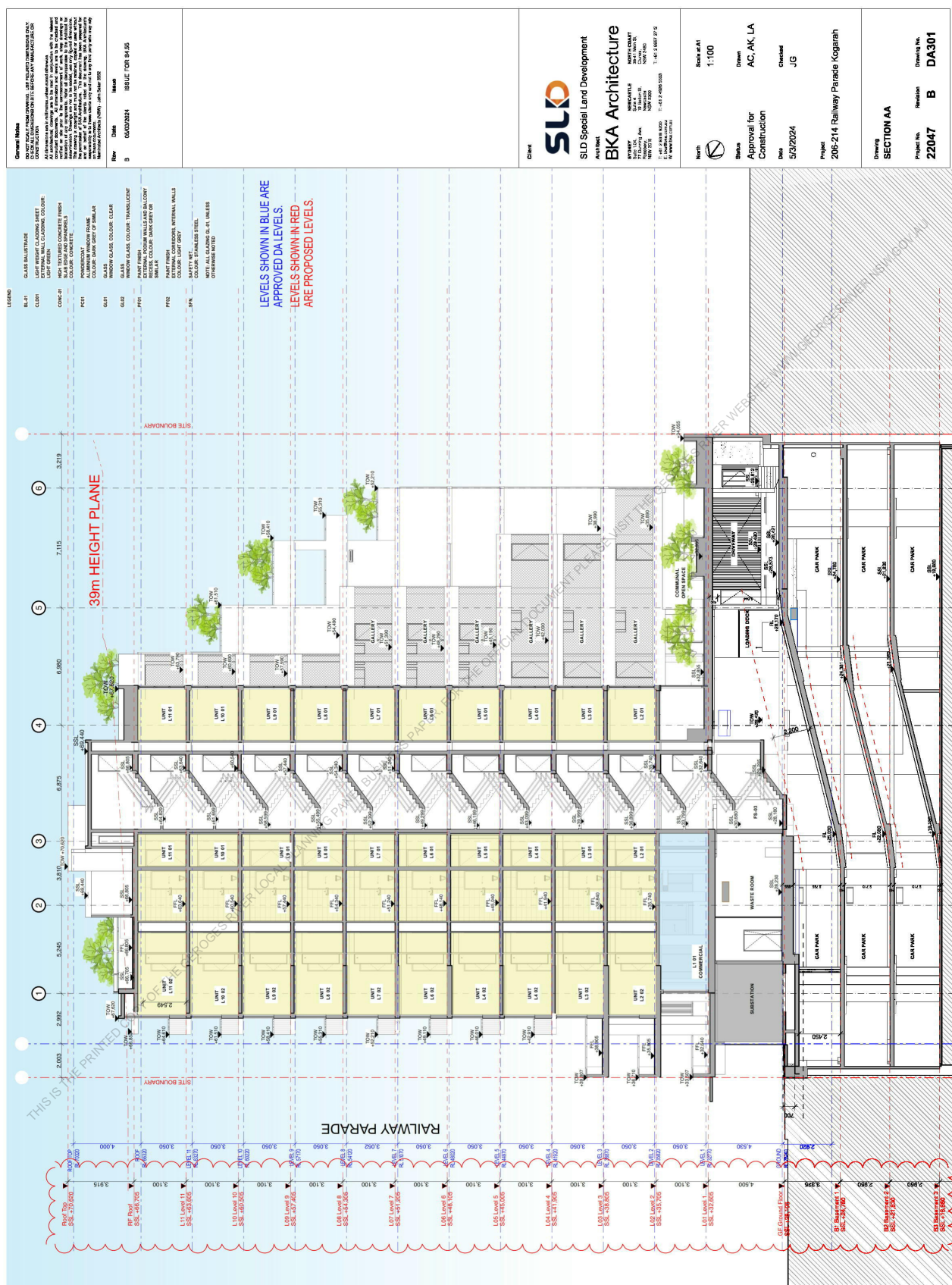
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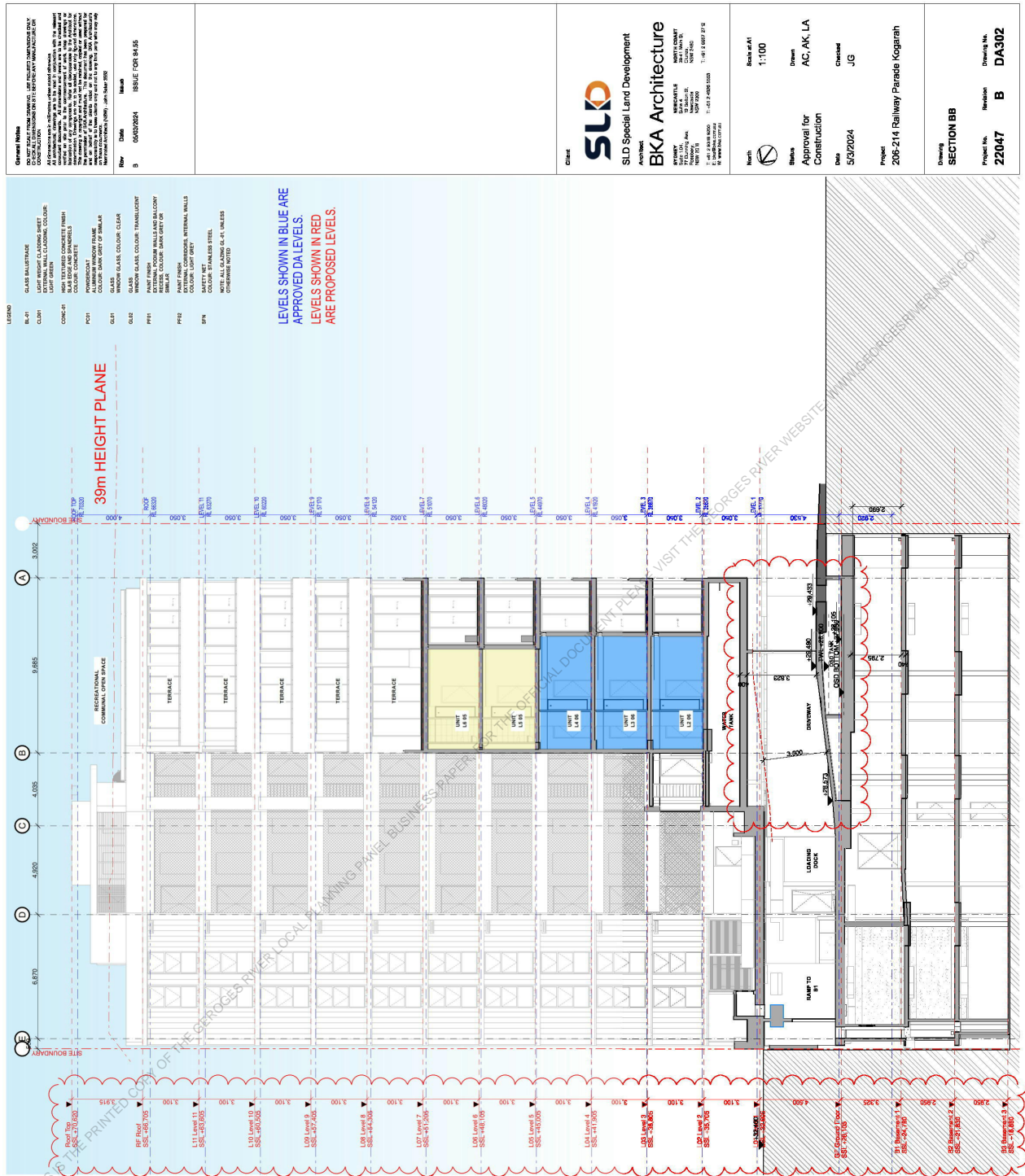
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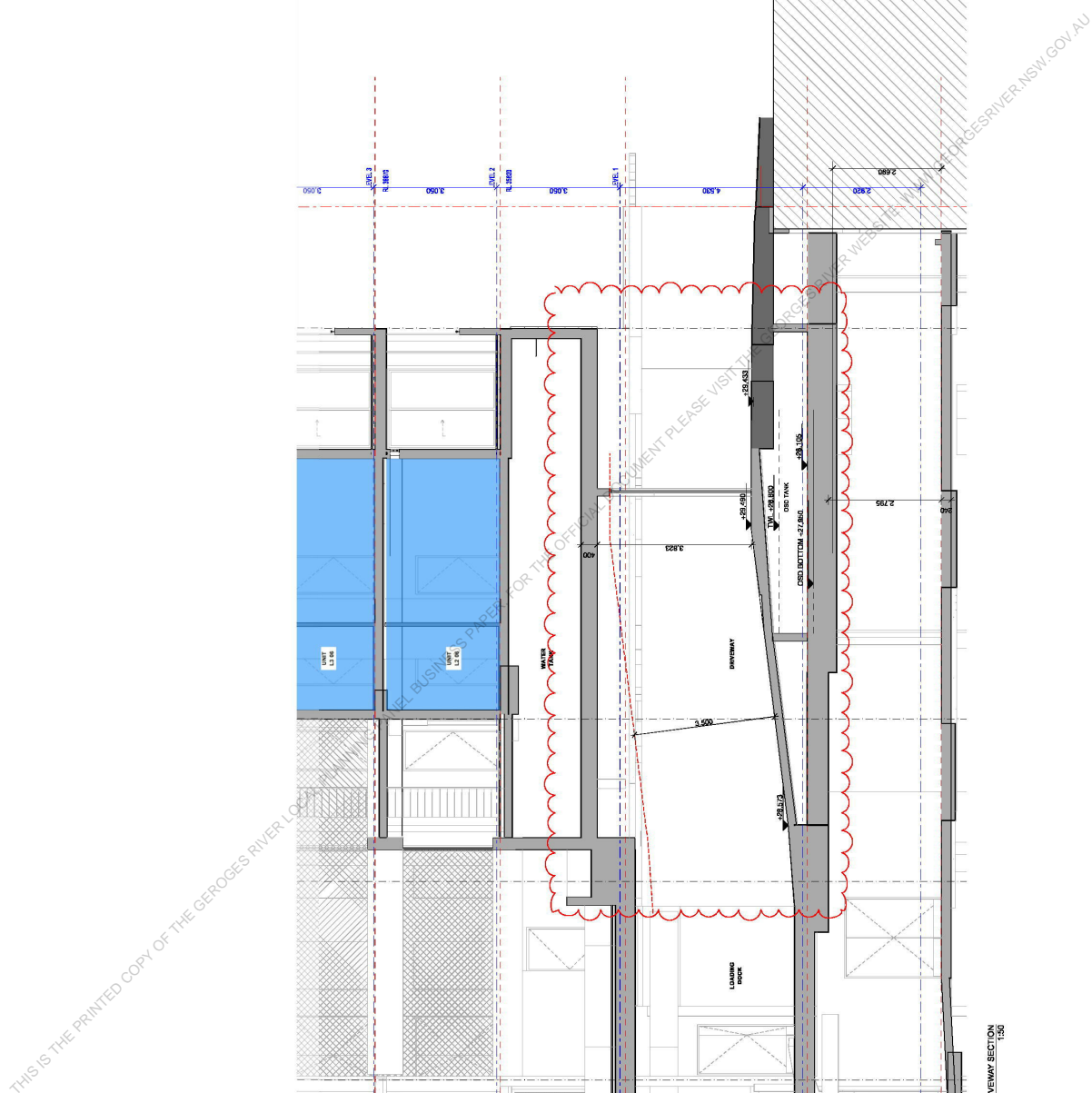




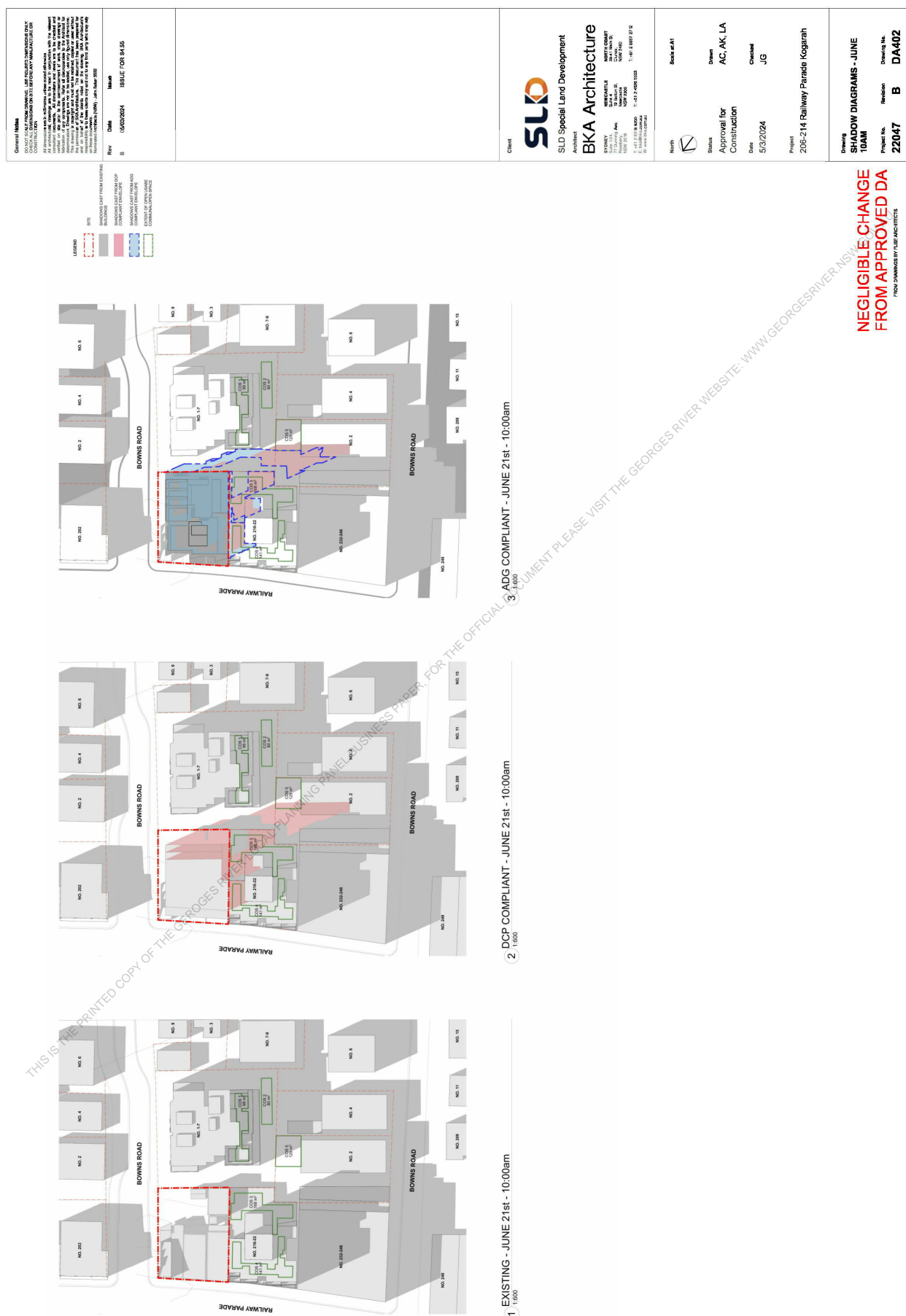


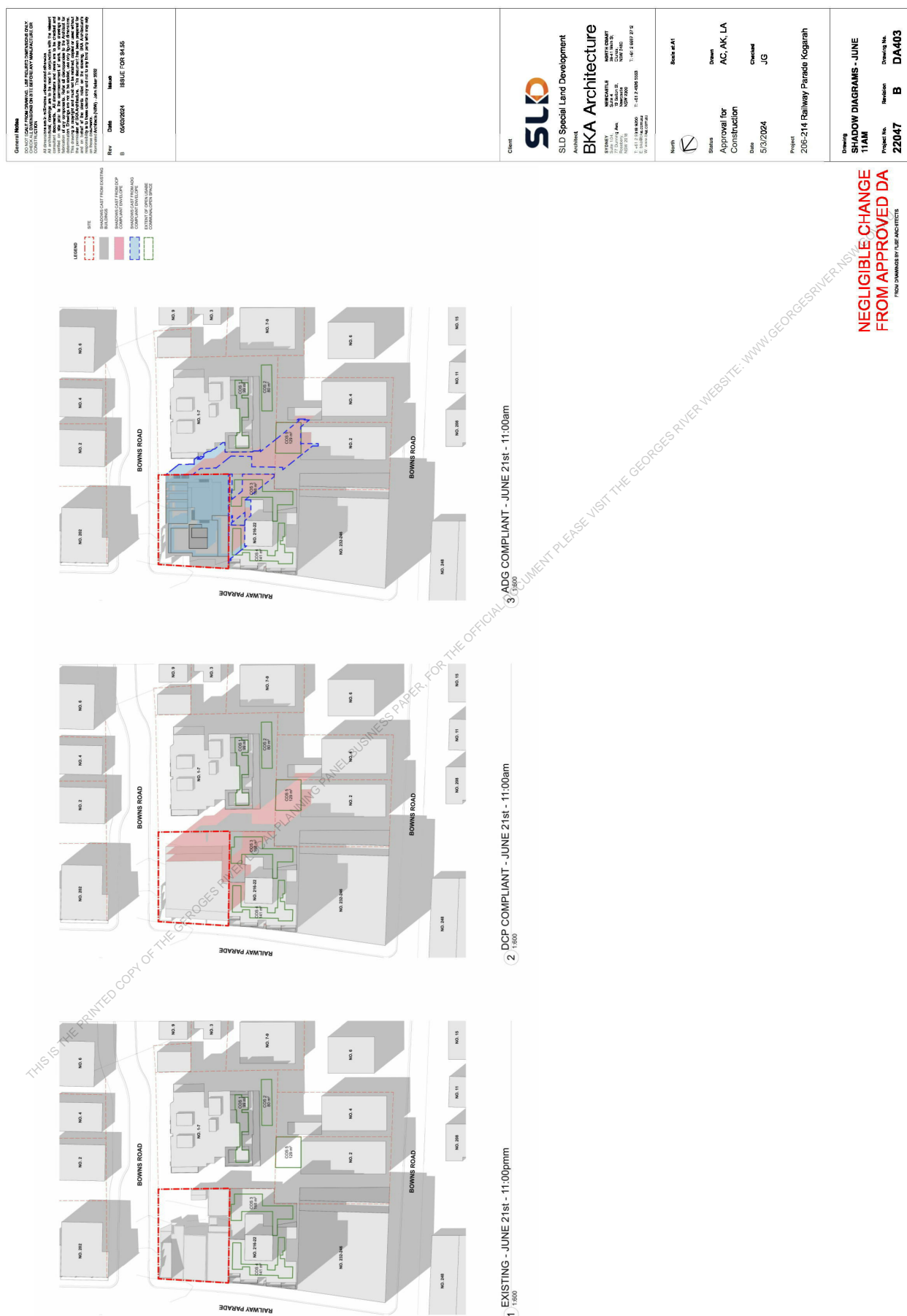


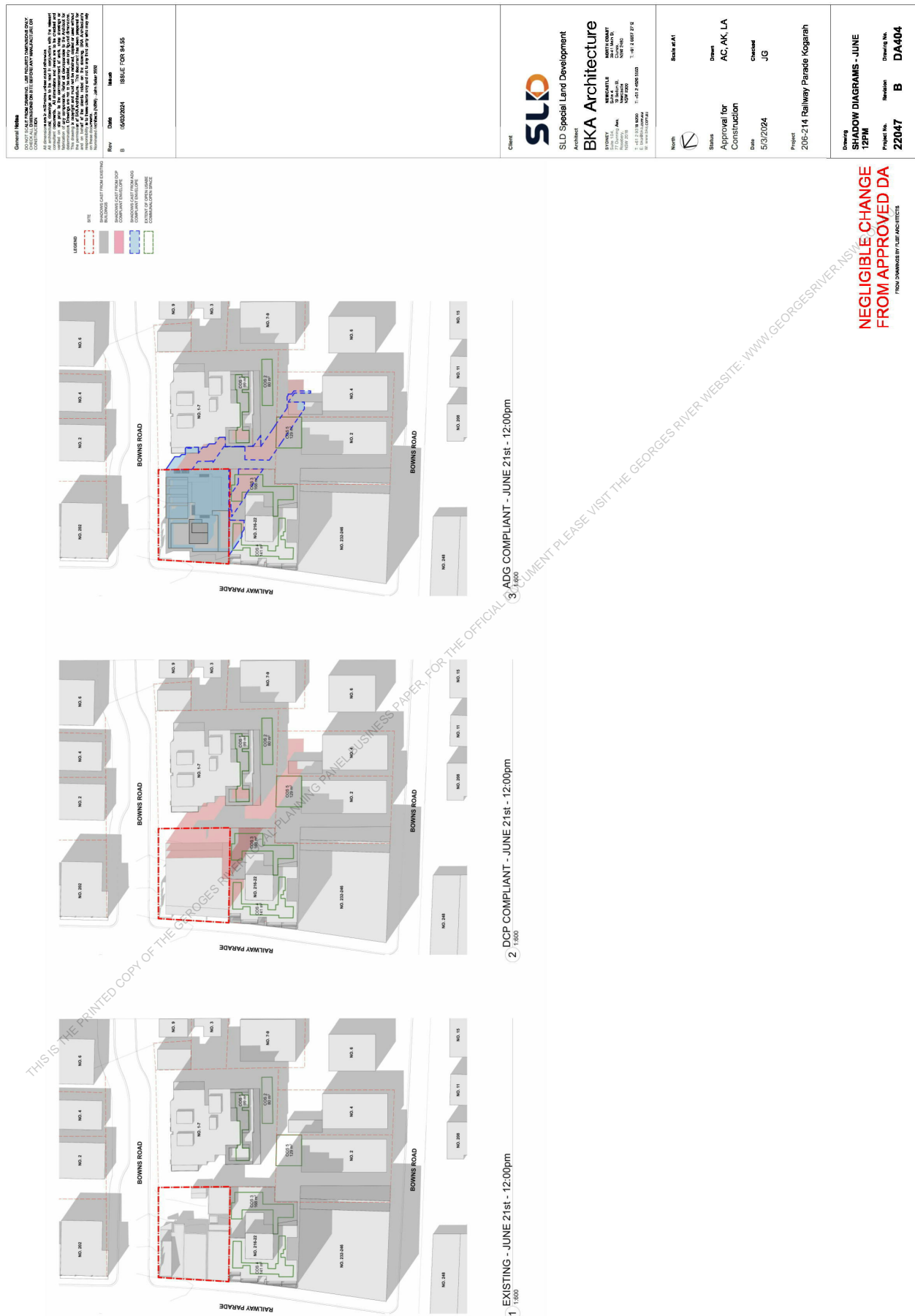


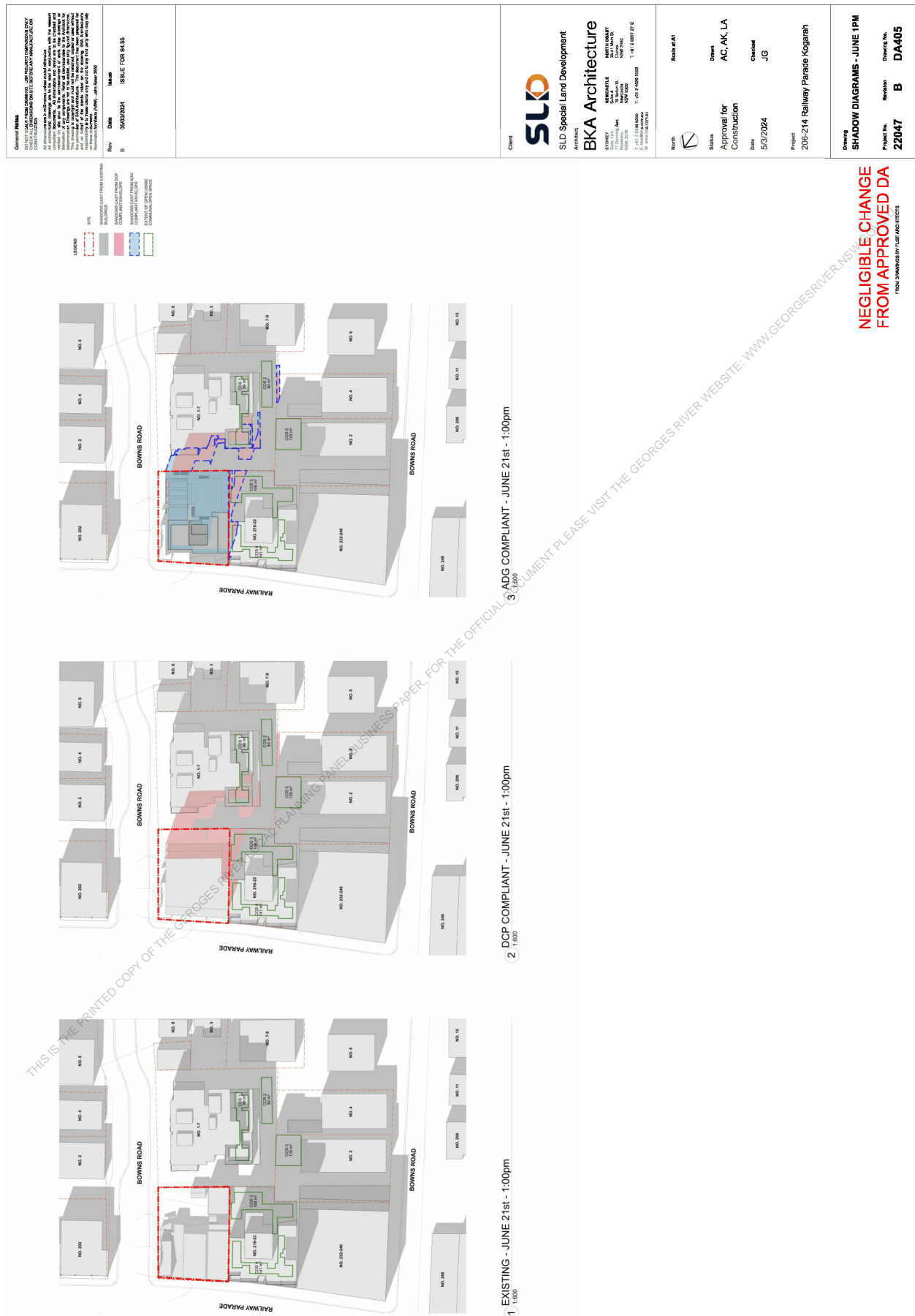


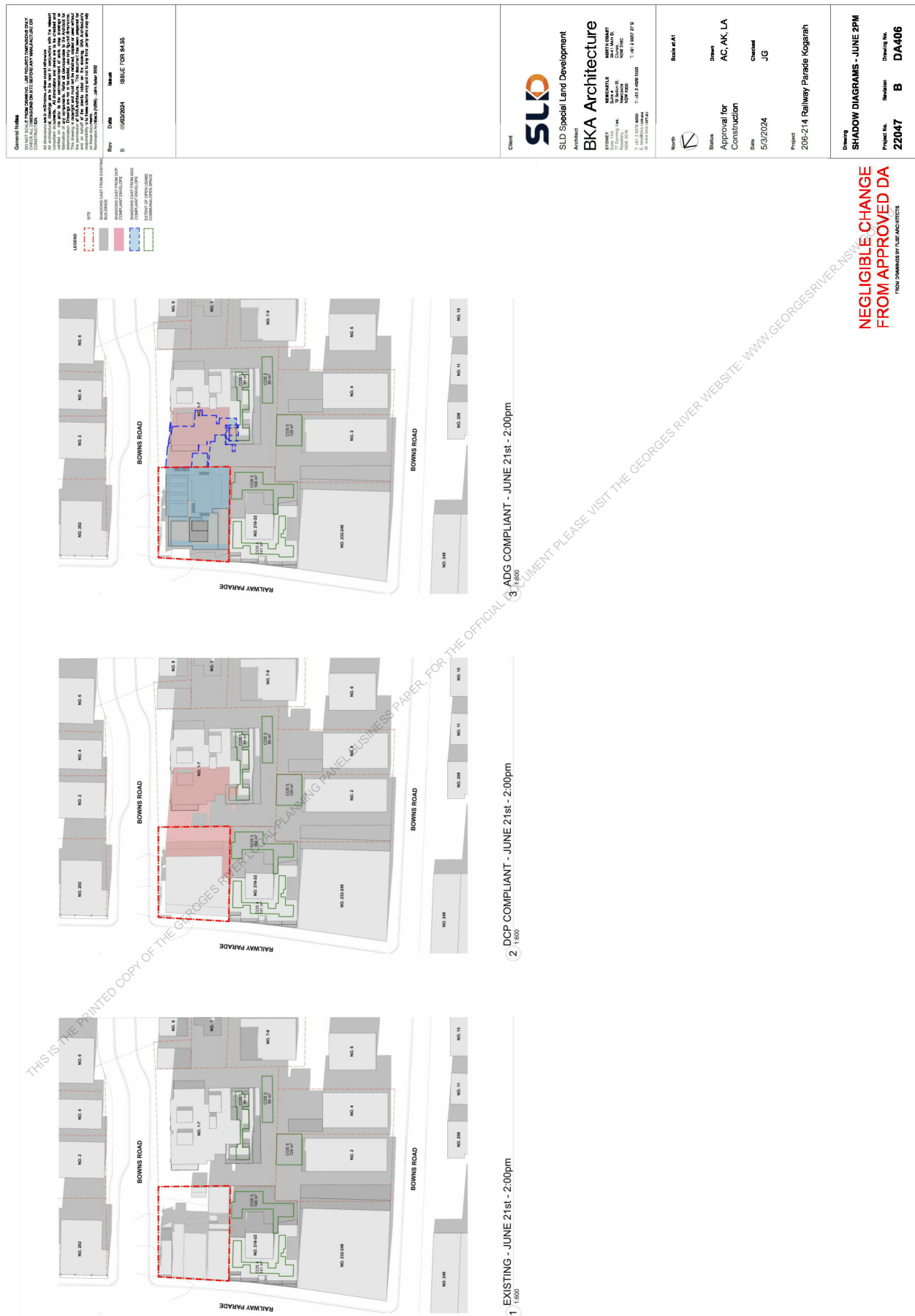


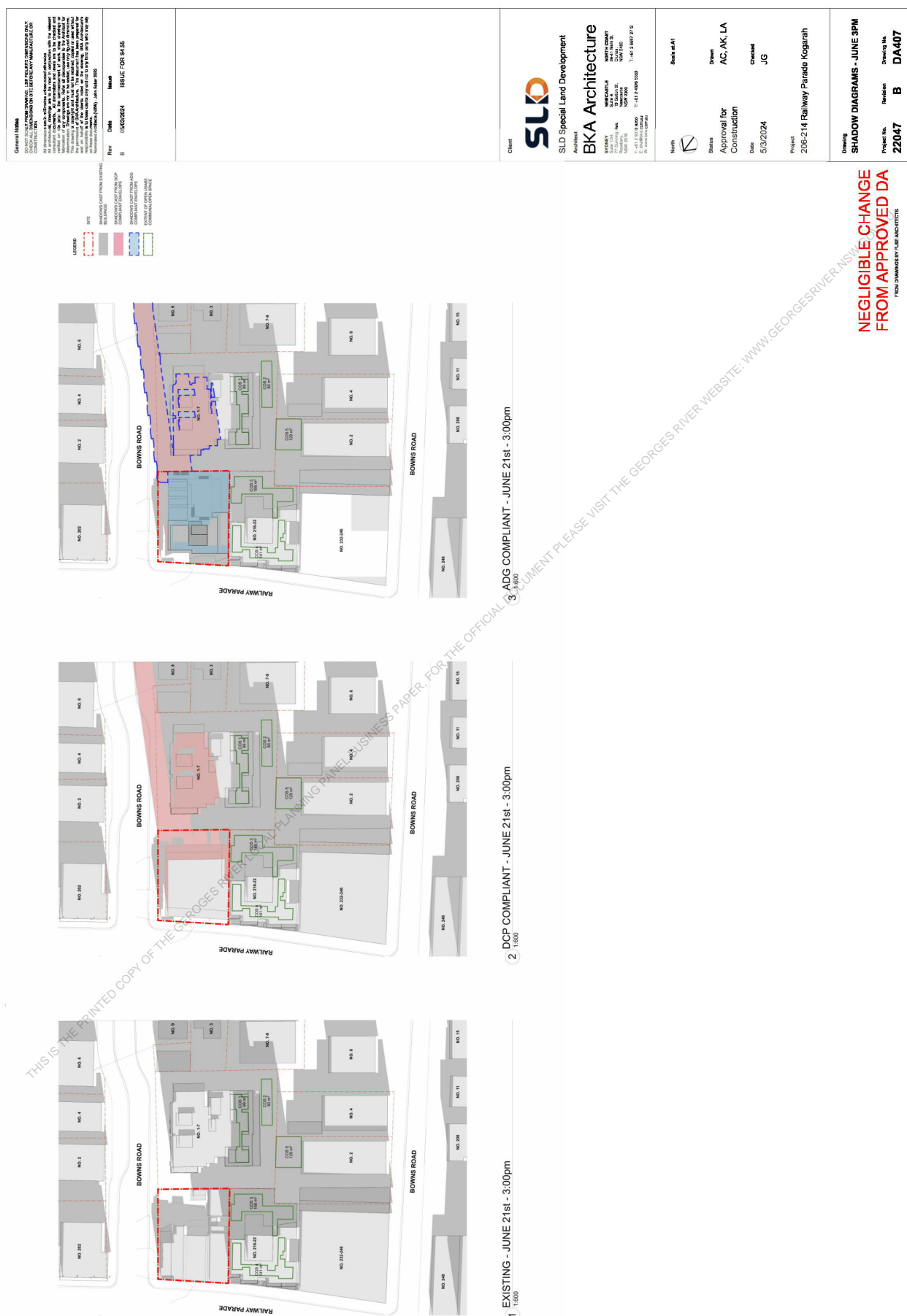


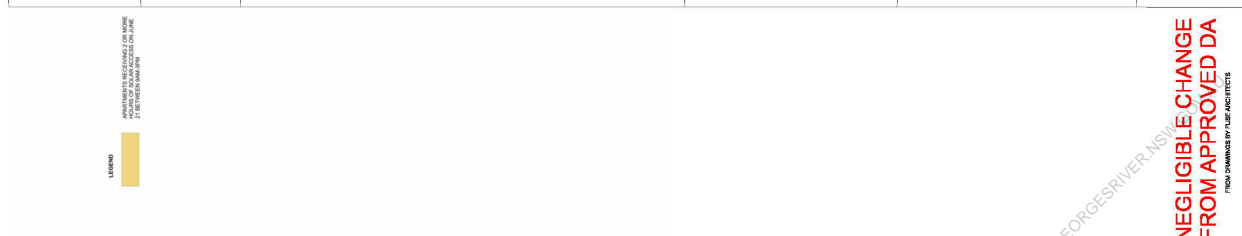










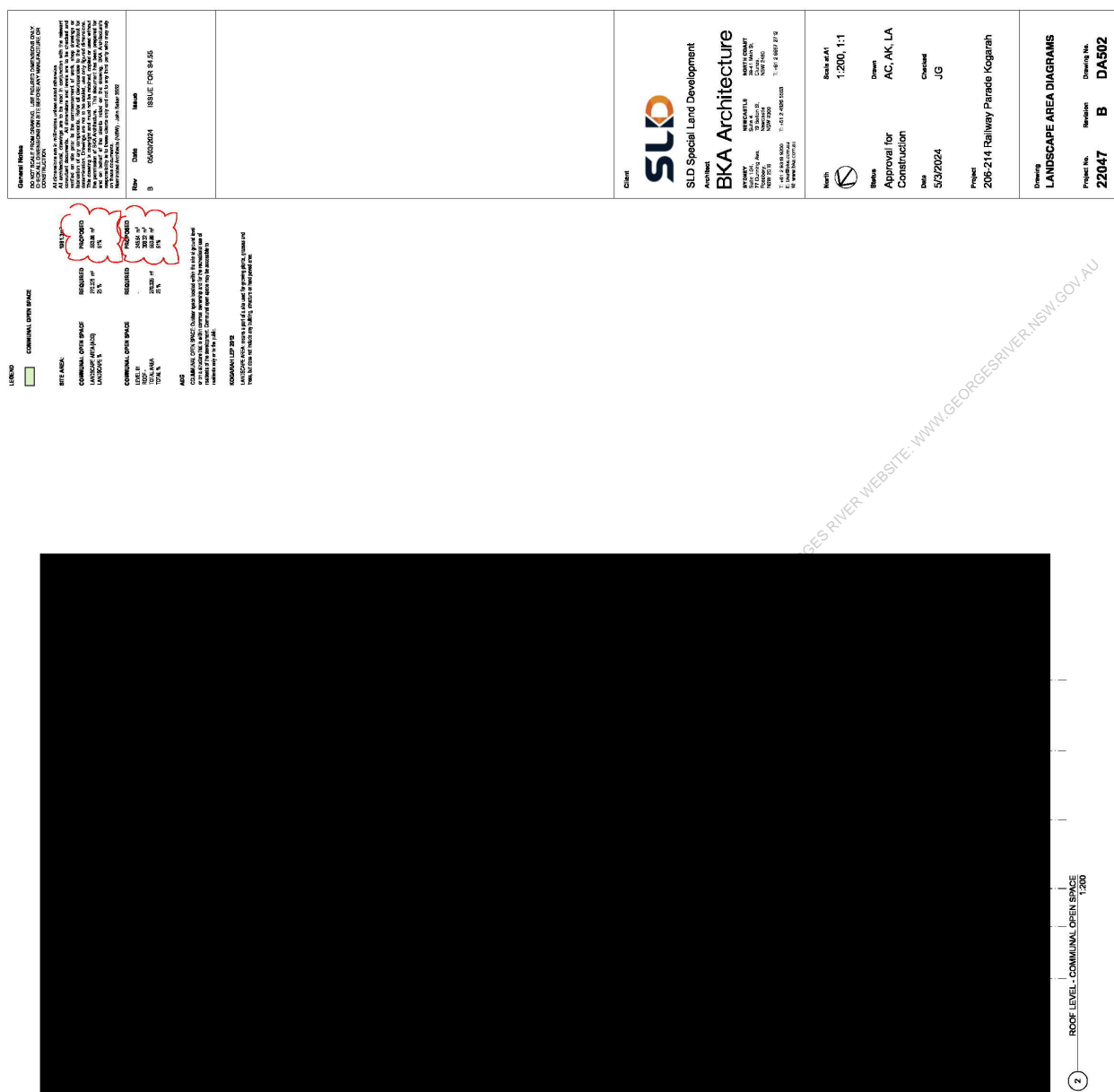


NEGLIGIBLE CHANGE
FROM APPROVED DA
FROM DRAWINGS BY FUSE ARCHITECTS

The drawing shows a floor plan of a building with a large section redacted with black ink. To the right, a table provides a breakdown of the building's area by level. The table is as follows:

TOTAL GFA	
LEVEL	AREA IN SQM
GF Ground Floor	331.01
L01 Level 1	380.00
L02 Level 2	384.47
L03 Level 3	384.47
L04 Level 4	394.40
L05 Level 5	398.63
L06 Level 6	398.63
L07 Level 7	381.15
L08 Level 8	381.15
L09 Level 9	381.15
L10 Level 10	271.29
L11 Level 11	271.29
RF Roof	6.35
SITE AREA: 1081.3 SQM	
FSR: 4.001	

Below the table, the text 'GFA ROOF' is visible. The drawing also includes a north arrow and a scale bar.



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**NO CHANGE FROM
APPROVED DA**
FROM "DRAINAGE BY A RESIDENTS EFFECTS"

(continued)

**NO CHANGE FROM
APPROVED DA**
FROM "DAMAGES BY A RISK ADJUSTMENTS"

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This is the PRINTED COPY OF THE GEROGES RIVER LOCAL PLANNING PANEL BUSINESS PLAN

01 CONC-01, HIGH TEXTURED CONCRETE FINISH, SLAB EDGES AND SPANDREL TO EAST AND WEST FACADE
02 IHR-01, POWDERCOAT BROWN OR SIMILAR, ALUMINIUM BALCONY HANDRAIL
03 IPC-01, POWDERCOAT DARK GREY OR SIMILAR, ALUMINIUM WINDOW FRAME
04 CLD-01, LIGHT GREEN LIGHTWEIGHT CLADDING SHEET INFILL PANELS AS SHOWN ON ELEVATION
05 IPF-01, DARK PAINT FINISH, PODIUM AND BALCONY RECESS IN VARIOUS LOCATION
06 CS-01, PERFORATED FIBRE CEMENT CEILING PANEL TO REAR GALLERIES
07 ISFN, STAINLESS STEEL SAFETY NET, REAR GALLERIES
08 LV-01, OPEABLE GLASS LOUVRES TO REAR ROOF FACADE



LPP007-24 Attachment 1

REPORT TO GEORGES RIVER LOCAL PLANNING PANEL MEETING OF THURSDAY, 21 MARCH 2024

LPP008-24 37 ENDEAVOUR STREET SANS SOUCI NSW 2219 - LOT 1 DP562671

LPP008-24

LPP Report No	LPP008-24	Development Application No	DA2023/0346
Site Address & Ward Locality	37 Endeavour Street SANS SOUCI NSW 2219 - Lot 1 DP562671 Kogarah Bay Ward		
Proposed Development	Reinstatement of the pitched tiled roof, external facade and fenestration which has been removed		
Owners	Mrs Kerrie Georgouloupoulos and Mr Peter Georgouloupoulos		
Applicant	Mrs Kerrie Georgouloupoulos		
Planner/Architect	TECTON GROUP		
Date Of Lodgement	16/09/2023		
Submissions	Nil		
Cost of Works	\$40,000.00		
Local Planning Panel Criteria	This development application is referred to the Georges River Local Planning Panel for determination as the variations to Clause 4.4A Exceptions to Floor Space Ratio – Certain Residential Accommodation, Clause 6.12 Landscaped Area in Certain Residential and Conservation Zones exceed the development standard by more than 10%. Clause 6.4 Foreshore area and Coastal Hazards and Risk has been breached and is supported by a Clause 4.6 variation request; however this does not exceed 10%.		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Biodiversity and Conservation) 2021; State Environmental Planning Policy (Resilience and Hazards) 2021; State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004; Georges River Local Environmental Plan 2021; Georges River Development Control Plan 2021.		
List all documents submitted with this report for the Panel's consideration	4.6 Variation Statements Architectural Plans SEE Structural statement		
Report prepared by	Development Assessment Planner		
RECOMMENDATION	That the Clause 4.6 variations to be development standards be supported and the application be approved subject to the conditions referenced at the end of this report.		

Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes - CI 4.6 variations relating to: CI 4.4A Exceptions to floor space ratio—certain residential accommodation CI6.4 Foreshore area and Coastal Hazards and Risk and CI 6.12 Landscaped areas in certain residential and conservation zones
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	Yes, the conditions can be reviewed when the report is published.

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SITE PLAN

Figure 1: Aerial view of the subject site (Blue) and the surrounding properties.

EXECUTIVE SUMMARY PROPOSAL

1. Council is in receipt of an application seeking consent for the reinstatement of the pitched tiled roof, external facade and fenestration which has been removed and falls outside the works approved as part of the Complying Development Certificate issued for the site.

SITE AND LOCALITY

2. The site currently contains the following:
 - An existing two storey dwelling house with landscaping; and
 - Vehicular access is gained via a double-width driveway from Endeavour Street.
 - Vegetation on the site consists of 2 palms greater than 3m in height and grassed areas.
 - A sewer connection is provided from the site to a main that is within waterway land.
 - Stormwater is discharged via a headwall to the Bay.

ZONING AND PERMISSIBILITY

3. The subject site is zoned R2 Low Density Residential under Georges River Local Environmental Plan 2021 (GRLEP 2021) and the proposed alterations and additions to a dwelling house are permissible with consent.

REASON FOR REFERRAL TO THE LOCAL PLANNING PANEL

4. This development application is referred to the Georges River Local Planning Panel for consideration and determination as the variations to CI 4.4A Exceptions to Floor Space Ratio – Certain Residential Accommodation and Clause 6.12 Landscaped Area in Certain Residential and Conservation Zones exceed the development standard by more than 10%.
5. In addition, the roof of the dwelling to the western elevation encroaches the foreshore building line and has the benefit of a Clause 4.6 request to vary the development standard relating to clause 6.4 - Foreshore area and coastal hazards and risk within the Georges River Local Environmental Plan 2021 as the encroachment is 1.578%.

SUBMISSIONS

6. The application was on public notification from 12 October 2023 to 26 October 2022. No submissions were received.

CONCLUSION

7. 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, the Georges River Local Environmental Plan 2021 and the Georges River Development Control Plan 2021.
8. The application is recommended for approval subject to the acceptance the Clause 4.6 variations to the development standards and the recommended conditions referenced at the end of this report.

REPORT IN FULL PROPOSAL

9. Council is in receipt of an application seeking consent for the reinstatement of the pitched tiled roof, external facade and fenestration which has been removed and falls outside the works approved as part of the Complying Development Certificate issued for the site.

THE SITE AND LOCALITY

10. The subject application is located at 37 Endeavour Street, Sans Souci which is legally described as Lot 1 in DP562671. The site is located on the northern side of Endeavour Street with its western boundary extending to intersect with Kogarah Bay.
11. The site is an irregularly shaped allotment, with a 36.38m (to MHW) frontage to Endeavour Street and a DP area of 562.3sqm.
12. The site comprises of a two-storey residential dwelling with ancillary development and landscaping which is presently undergoing construction works.

LOCALITY

13. The dwelling is located within a R2 low density residential zone which comprises one and two storey dwellings as well as dual occupancies along Endeavour Street. The subject sites southern boundary fronts Endeavour Street with the western boundary being to Kogarah Bay. The northern and eastern boundary of the site is the shared boundary of 35 Endeavour Street Sans Souci.

BACKGROUND

14. The following applications are relevant to the proposed works.
 - CDC 2022/0498 – Private Certifier issued application that granted approval for residential alterations and additions on 21 October 2022. The works involved internal alterations and additions to an existing two storey dwelling. Internal partition demolition, replacement of an internal staircase. Removal and repartitioning of all internal spaces.
 - Unauthorised works were undertaken, the matter was investigated by Council's Compliance Team on 25th November 2022, which resulted in the issuing of a Stop Work Order No - 2 to cease carrying out all building work to the roof, trusses, supporting beams and any other associated roof components located at the premises.

- DA2023/0023 - Alterations and additions to the dwelling house, swimming pool and front fence lodged via the Planning Portal. The application was returned on 20 February 2023 as the application failed to provide the minimum information required for the assessment of the application.
- DA2023/0169 - Alterations and additions to a dwelling house and front fence was lodged via the Planning Portal. The application was returned on 23 June 2023 as the application identified inconsistencies with the approved CDC2022/0498.

The works were outside the scope of the CDC and this application was necessary to reinstate the works that were undertaken without approval.

15. This application is seeking to reinstate works that were demolished and removed which were not part of the Comply Development Certificate issued for the site. In this regard, a Development Application was required to be lodged. The site is non-compliant with respect to various development standards as referenced in the Georges River Local Environmental Plan 2021 (GRLEP) and does not satisfy various assessment criterion as outlined in the Georges River Development Control Plan 2021.
16. The following development standards of the GRLEP are breached, resulting in the application required to be considered and determined by the Georges River Local Planning Panel are:
 - Clause 4.4A - Exceptions to floor space ratio - certain residential accommodation – the building envelope has a current FSR of 0.61:1. The permissible FSR is 0.55:1. The gross floor area of the site is not proposed to be altered, just the removed walls, roof and opening reinstated as part of this application. The permissible GFA is 309.265sqm, and the total GFA is 345.84sqm, being a variation 11.55%. The extent of this variation falls outside Council Officer Delegation.
 - Clause 6.4 - Foreshore area and coastal hazards and risk – The proposed works seek the reinstatement of the pitched tiled roof to be consistent with what existed prior to the unauthorised works being undertaken. The roof, eave and gutter to the western side of the dwelling extends within the foreshore build line by 1105mm. The works do not result in any addition breach of the foreshore building line beyond that which previously existed. The extent of the variation is 14.53%. The extent of this variation falls outside Council Officer Delegation.
 - 6.12 Landscaped areas in certain residential and conservation zones – the development application is seeking to reinstate facade works, fenestration and the pitched roof of the dwelling. These works do not result in the loss of any landscaped area or vegetation from the site. The site is currently deficient of landscaped areas as defined in the GRLEP, with the site only accommodating 18.36sqm of landscaping being 13% rather than the minimum required of 25%. The extent of the variation is 86.91%. The extent of this variation falls outside Council Officer Delegation.

SUBMISSIONS AND THE PUBLIC INTEREST

17. The application was on public notification from 12 October 2023 to 26 October 2023. No submissions were received.

COMPLIANCE AND ASSESSMENT

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

ENVIRONMENTAL PLANNING INSTRUMENTS

SECTION 4.15(1) EVALUATION

19. 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:

- (a) The provision of:

(i) *any environmental planning instrument,*

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPS)

20. 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 (BASIX) 2004	N/A
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	N/A
State Environmental Planning Policy (Industry and Employment) 2021	N/A

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

21. A BASIX Certificate must be lodged for any development application in NSW for a new home or any alteration and addition of \$50,000 or more to an existing home.
22. The development is not a BASIX affected development, as the cost of works is less than \$50,000.

STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

23. 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

24. This chapter applies to clearing of:
- (a) *Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and*
 - (b) *Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (Development Control Plan).*
25. There are no trees proposed to be removed as part of this application. The proposal is consistent with Chapter 2 of this Policy.

Chapter 6: Water Catchments

26. 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.*

27. The proposed stormwater drainage system is considered satisfactory subject to conditions. Council's Development Engineer is supportive of the development and has provided recommended conditions of consent.
28. No objection was raised with respect to the management and disposal of stormwater. The proposal is consistent with the objectives and purpose of Chapter 6 of the SEPP.

STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

29. Chapter 2 and Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 are relevant to the proposal.
30. 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"*.
31. The subject site is mapped as a Coastal Environment area and a Coastal Use area. These have the following management objectives under the *Coastal Management Act 2016* as referenced under the State Environmental Planning Policy:
- (a) *to protect and enhance the coastal environmental values and natural processes of coastal waters, estuaries, coastal lakes and coastal lagoons, and enhance natural character, scenic value, biological diversity and ecosystem integrity,*
 - (b) *to reduce threats to and improve the resilience of coastal waters, estuaries, coastal lakes and coastal lagoons, including in response to climate change,*
 - (c) *to maintain and improve water quality and estuary health,*
 - (d) *to support the social and cultural values of coastal waters, estuaries, coastal lakes and coastal lagoons,*
 - (e) *to maintain the presence of beaches, dunes and the natural features of foreshores, taking into account the beach system operating at the relevant place,*
 - (f) *to maintain and, where practicable, improve public access, amenity and use of beaches, foreshores, headlands and rock platforms.*
32. The following is an assessment of the matters for consideration listed under the State Environmental Planning Policy as applicable to the Coastal Environment Area and Coastal Use Area.

Division 3 Coastal Environmental Area Clause 2.10 Development on land within the coastal environment area	
Control	Comment and compliance
<p>(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:</p> <p>(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,</p> <p>(b) coastal environmental values and natural coastal processes,</p> <p>(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,</p> <p>(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,</p> <p>(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</p>	<p>Satisfied - The proposed works are for reinstating the removed façade, fenestration and the pitched tiled roof. There are no additional impacts on the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment.</p> <p>Surface water runoff is to be managed in accordance with the existing stormwater management for the site. The proposal is generally satisfactory subject to conditions for the new roof to connect into the existing drainage system on site.</p> <p>Condition to be imposed- All stormwater shall drain by gravity to the bay to the satisfaction of the PCA. All the civil works to be located within the property boundary and no scouring onto the downstream environment.</p> <p>The proposed works are for the reinstatement of pitched tiled roof, external facade and fenestration which has been removed without consent. These works will have no additional impacts beyond that that existed prior to their removal.</p> <p>The proposal is used for residential purposes and will not unacceptably impact the coastal environmental values and there is no impact on coastal processes.</p> <p>Appropriate standard conditions to be imposed to ensure water quality is maintained. The site is not located on any of the sensitive coastal lakes identified in Schedule 1.</p> <p>The site drainage system is in place, the connection of the new roof to the existing system will be made. There are no additional hard surfaces as a result of the development.</p> <p>The drainage system from the site to the bay is in place. The new roof will connect into the existing drainage lines. No additional impacts on the marine habitat will result.</p> <p>There is no public access along the foreshore of this site.</p>

(f) Aboriginal cultural heritage, practices and places,	The site is not known to be a place of Aboriginal significance.
(g) the use of the surf zone.	The site is not located within the surf zone.
(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:	The proposal does not seek to adversely impact upon the coastal environment. No change to the footprint of the development. The works are to reinstate the facade, fenestration and pitched tiled roof removed without consent.
(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or	The development does not propose to impact a mapped coastal environment area and a coastal use area.
(b) if that impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that impact, or	The development does not propose to impact a mapped coastal environment area and a coastal use area. Suitable conditions of consent have been applied.
(c) if that impact cannot be minimised - the development will be managed to mitigate that impact.	
Division 4 Coastal use area	
Clause 2.11 Development on land within the coastal use area	
Control	Comment and compliance
(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:	
(a) has considered whether the proposed development is likely to cause an adverse impact on the following:	
(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	There is no public access in this location. The proposal will not impact on any public space.
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	No change to the footprint of the development. Therefore, no additional impacts in this regard.
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	The building envelope remains unchanged; the works are to reinstate the facade and fenestration and the pitched tiled roof. No increased impacts on the scenic amenity.
(iv) Aboriginal cultural heritage, practices and places,	The property is not a known site of Aboriginal heritage.
(v) cultural and built environment heritage, and	The site does not contain any known heritage items.
(b) is satisfied that:	
(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or	The proposal does not seek any new changes to impact the coastal environment adversely.

(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	The development is the reinstatement of façade works, fenestration and the roof; no additional impacts beyond that which existed before the unauthorised demolition.
(iii) if that impact cannot be minimised -the development will be managed to mitigate that impact, and	The proposal does not seek to adversely impact the coastal environment.
(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.	The proposed developments' bulk and scale remains unchanged by the reinstatement works.
Division 5 General Clause 2.12 Development in coastal zone generally - development not to increase risk of coastal hazards	
Control	Comment and compliance
Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.	Satisfied - The proposed development is unlikely to increase the risk of coastal hazards.
Clause 2.13 Development in coastal zone generally - coastal management programs to be considered	
Control	Comment and compliance
Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land	<p>Satisfied - The proposed works are in keeping with the provisions of the Georges River Coastal Zone Management Plan.</p> <p>No changes to existing stormwater management. The proposal is generally satisfactory, subject to conditions.</p>

33. Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 - Remediation of Land is relevant to the proposal as it 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.
34. 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.
35. A review of historic aerial photography and a review of the site history indicates that the site has been used for residential purposes for extended periods of time, as such a use is not typically associated with activities that would result in the contamination of the site. The proposed works do not include any change to the use of the land that would result in any concerns with respect to contamination. There is no indication of previous uses that would cause contamination. In this regard there is no indication that the land is contaminated.

The proposed works do not penetrate any foundation material that may necessitate investigation.

STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

36. Compliance with SEPP (Transport and Infrastructure) 2021 has been considered during the assessment of this development application. The site is not mapped within a Transport and Infrastructure corridor and is unlikely to be impacted by rail noise or vibration. Ausgrid was consulted as required by Chapter 2, no objection was raised to the proposed development and no conditions are required.

STATE ENVIRONMENTAL PLANNING POLICY (INDUSTRY AND EMPLOYMENT) 2021

37. 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.


LOCAL ENVIRONMENTAL PLAN - GEORGES RIVER LOCAL ENVIRONMENTAL PLAN (GRLEP) 2021

38. 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.

Clause	Standard	Proposed	Complies
Part 1 – Preliminary			
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	Dwelling House means: <i>a building containing only one dwelling.</i>	The proposed development being alterations and additions to a dwelling house is consistent with this definition.	Yes
Part 2 – Permitted or prohibited development			
2.3 Zone Objectives and Land Use Table	The subject site zoned R2 General Residential: The objectives of the zone are: <ul style="list-style-type: none"> To provide for the housing needs of the community; To enable other land uses that provide facilities or services to meet the day to day needs of residents; 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, 	The proposal is consistent with the zone objectives.	Yes

	To provide for housing within a landscaped setting that enhances the existing environmental character of the Georges River Local Government Area.		
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	Demolition works are not proposed as part of this development application.	Yes
Part 4 – Principal Development Standards			
Clause 4.3 – Height of Buildings	Maximum height is 9m, as identified on the Height of Buildings Map	The proposal has a maximum overall height of 5.6 to 7.85m above the existing ground level. This will be consistent with the dwelling height as existed before the roof was removed.	Yes
4.4 Floor Space Ratio	not more than 650 square metres [site area × 0.55] ÷ site area:1	Refer to Clause 4.4A for assessment.	See clause 4.4A for assessment
4.4A – Floor Space Ratio	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 Map. The maximum floor space is 0.55:1 as identified on Floor Space Ratio (FSR) Map.	The existing FSR is: 0.61:1. Total lot size 562.3sqm. Maximum allowable floor space of 309.265 sqm Proposed: GF-179.43 sq m FF-166.41 sq m The total floor space of the dwelling is 345sqm, excluding car spaces and stair void. The FSR is 0.61:1 The percentage of the variation sought is 11.55%.	No – a Clause 4.6 Variation statement has been submitted and is assessed in detail below.
4.5 Calculation of floor space ratio and site area	(1) Objectives The objectives of this clause are as follows— (a) to define floor space ratio, (b) to set out rules for the calculation of the site area of development for the purpose of applying permitted floor space	The FSR has been calculated in accordance with this clause.	Yes

	<p>ratios, including rules to—</p> <p>(i) prevent the inclusion in the site area of an area that has no significant development being carried out on it, and</p> <p>(ii) prevent the inclusion in the site area of an area that has already been included as part of a site area to maximise floor space area in another building, and</p> <p>(iii) require community land and public places to be dealt with separately.</p>		
4.6 – Exceptions to development standards	In accordance with Clause 4.6 (1) through to and including (8)	<p>The proposal is accompanied by a Clause 4.6 variation relating to:</p> <ul style="list-style-type: none"> • CI 4.4A Exceptions to floor space ratio— certain residential accommodation • CI6.4 Foreshore area and Coastal Hazards and Risk and • CI 6.12 Landscaped areas in certain residential and conservation zones. 	<p>Clause 4.6 Variation statements have been submitted and are assessed in detail below.</p>
Part 5 – Miscellaneous Provisions			
5.7 – Development below mean high water mark	<p>In accordance with Clause 5.7 (1) and (2)</p> <p>(1) The objective of this clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.</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</p>	There are no works below the Mean High Water Mark.	N/A


	(including the bed of any such water).		
5.10 Heritage Conservation	The objectives of this clause are as follows: (a) to conserve the environmental heritage of the Georges River local government area, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (c) to conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.	The site is not identified as a heritage item or within a conservation area.	N/A
5.11 Bush Fire Hazard Reduction	Bush fire hazard reduction work authorised by the <i>Rural Fires Act 1997</i> may be carried out on any land without development consent.	The site is not identified as bush fire prone land.	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 and behaviour on the land, taking into account projected changes as a result of climate change, (c) to avoid adverse or cumulative impacts on flood behaviour and the environment, (d) to enable the safe occupation and efficient evacuation of people in the event of a flood.	<p>The site is not identified as being within a flood planning area.</p> <p>The site is not identified as being within a flood planning area.</p>  <p>Figure - 2 - The proposed development site is not affected by flood (Sources- Intra map)</p>	Yes


	(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—	N/A.	
Part 6 – Additional Local Provisions			
6.1 – Acid Sulfate soils	<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>Class 2: Works below the natural ground surface. Works by which the water table is likely to be lowered.</p>	No penetration of the foundation material proposed.	N/A
Clause 6.2 Earthworks	<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 development on the likely future use or redevelopment of the land, the quality of the fill or the soil to be excavated, or both,</p> <p>(c) the effect of the development on the</p>	<p>No earthworks are proposed.</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>	N/A


	<p>existing and likely amenity of adjoining properties,</p> <p>i 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>(d) the source of any fill material and the destination of any excavated material,</p> <p>(e) the likelihood of disturbing relics,</p> <p>(f) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(g) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>	
Clause 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</p>	<p>Councils Engineers have reviewed the proposed development and is supportable subject to conditions.</p> <p>The roof gutter and downpipes are connecting to the existing drainage system, discharging to the bay via the existing drainage lines.</p>	Yes

	<p>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>i 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>(c) is designed to minimise the impact on public drainage systems.</p>	<p>N/A</p> <p>N/A</p>	
6.4 Foreshore area and coastal hazards and risk	<p>(1) The objectives of this clause are as follows—</p> <p>(a) to protect people and property from unacceptable risk from coastal</p>	<p>The site is located in a foreshore area and/or coastal hazards and risk area.</p>	<p>No, Justified.</p> <p>The encroachment of foreshore</p>


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	<p>hazards associated with climate change,</p> <p>(b) to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the amenity of the area,</p> <p>(c) to facilitate opportunities for public access to and along the foreshore.</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</p>	<p>The proposed works involve the reinstatement of the dwelling pitched tiled roof, external façade walls and the replacement of all external windows and doors on both the ground and first floor.</p>  <p><i>Figure – 3 - The proposed foreshore building line is 7.6m (Source- Intramaps)</i></p> <p>The foreshore building line is 7.6m. The existing building is encroaching the Foreshore Building Line of 1.105m or 14.53%.</p> <p>The breach is not exacerbated by these works.</p> <p>The roof encroaches the foreshore building line by 1105mm, which is no further than that which existed prior to the unauthorised demolition.</p>	<p>building line will be the same as it was previously. No additional breach will result from this application.</p> <p>A variation under Clause 4.6 has been submitted with the application.</p>
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	<p>existing building into—</p> <p>(i) the foreshore building line, or</p> <p>(ii) the land identified on the Coastal Hazard and Risk Map,</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>(i) 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 authority</p>	<p>The western elevation shows the roof is beyond the foreshore building line, but no change from the envelope of the dwelling prior to the unauthorised demolition.</p> <p>Sufficient information has been submitted with the application to assess the application against the clauses, objectives and controls for the foreshore area.</p> <p>The proposed site is affected by coastal hazard risk.</p>  <p><i>Figure – 4 - Coastal Hazards map (source- Intramap)</i></p> <p>No proposed works at ground level.</p> <p>No changes to the existing sea walls, fences or jettys.</p>	
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	<p>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>The area is identified as subject to sea level rises. There are no level change or changes to the ground levels proposed as part of this application.</p>  <p><i>Figure – 5 - Sea level rise map Sources (Intra-map)</i></p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>No public access.</p>	
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	<p>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>	N/A	
6.5 Riparian land and waterways	<p>(1) The objective of this clause is to protect and maintain the following—</p> <p>(a) water quality within waterways,</p> <p>(b) the stability of the bed and banks of waterways,</p> <p>(c) aquatic and riparian species, communities, populations and their habitats,</p> <p>(d) ecological processes within waterways and riparian areas,</p> <p>(e) Aboriginal cultural heritage values of riparian land and waterways.</p>	<p>The subject site is mapped as being riparian land and waterways.</p> <p>No structure is proposed within the waterway.</p>  <p><i>Figure – 6 - Riparian Lands & Waterways Map (Source-Intra map)</i></p> <p>The proposed drainage design has been assessed and endorsed by the Council's Development Engineer, subject to suitable conditions of consent.</p> <p>The application is acceptable in this regard.</p>	Yes
6.6 Foreshore Scenic Protection Area (FSPA).	<p>(1) The objectives of this clause are—</p> <p>(a) to protect, maintain and improve the scenic amenity of</p>	<p>The subject site is within the foreshore scenic protection area.</p>	No, however there are no works that result in any

	<p>the Georges River foreshore,</p> <p>(b) to protect, maintain and improve significant views of and from the Georges River,</p> <p>(c) to protect, maintain and improve the diversity and condition of native vegetation and habitats,</p> <p>(d) to reinforce and improve the dominance of landscape over built form, hard surfaces and cut and fill,</p> <p>(e) to encourage the recovery of threatened species and their communities, populations and habitats,</p> <p>(f) to enhance existing environmental, cultural and built character values of the foreshore.</p> <p>(2) This clause applies to land identified as "Foreshore scenic protection area" on the Foreshore Scenic Protection Area Map.</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</p>	 <p><i>Figure – 7 - The subject site is located within Foreshore Scenic protection area.</i></p> <p>This application is seeking to reinstate work that was removed without consent and results in the development being inconsistent with the Complying Development Certificate applicable to the site.</p> <p>It is acknowledged the site is non-compliant with these controls.</p> <p>In order to remedy the unauthorised works this application is reinstating like for like the works removed.</p> <p>As a result, there is no additional floor area proposed, no additional façade extensions and no changes to the proposed height and configuration of the pitched roof. The fenestration openings remain unchanged in form and size. The non-compliant setbacks are retained as the envelope of the building is as existing. No landscaping works are proposed as part of this application.</p>	<p>further non-compliances as this application is for the reinstatement of works removed without consent.</p>
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	<p>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> <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,</p>	<p>As a result, in the reinstatement works there is not impact on the waterways, view corridors and natural feature of the foreshore.</p> <p>The proposed development does not seek to impact upon any rock formations, canopy vegetation or significant vegetation of the site.</p> <p>There is no new proposed development does seek to disturb or have adverse impacts on remnant vegetation communities, habitat or threatened species and populations.</p> <p>N/A</p> <p>No vegetation is proposed to be removed via the proposed development.</p> <p>The proposed development does not seek to clear steep slopes on the site.</p> <p>View loss has not been raised as a concern by the</p>	
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	<p>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>	<p>neighbouring properties. All will be as per existing.</p> <p>No new building form proposed and therefore not applicable under this control.</p>	
Clause 6.9 Essential Services	<p>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:</p> <p>(a) the supply of water,</p> <p>(b) the supply of electricity,</p> <p>(c) the supply of telecommunications facilities,</p> <p>(d) the disposal and management of sewage,</p> <p>(e) stormwater drainage or on-site conservation,</p> <p>(f) suitable vehicular access.</p>	<p>The proposal has access to</p> <ul style="list-style-type: none"> the supply of water, the supply of electricity, the supply of telecommunications facilities, the disposal and management of sewage, stormwater drainage or on-site conservation, vehicular access. 	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</p>	<p>The proposal is for the reinstatement of façade works, fenestration and roof form which was removed without consent and was inconsistent with</p>	Yes

	<p>(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 development on the following land—</p> <p>(a) land identified on the Foreshore Scenic Protection Area Map 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 B1 Neighbourhood Centre,</p> <p>(iii) Zone B2 Local Centre,</p> <p>(iv) Zone B3 Commercial Core,</p> <p>(v) Zone B4 Mixed Use,</p> <p>(vi) Zone B6 Enterprise Corridor,</p> <p>(vii) Zone IN2 Light Industrial.</p>	<p>the Complying Development Certificate issued for the site.</p> <p>A clause 4.6 variation statement has been submitted.</p> <p>The subject site is zoned R2 – Low Density Residential. The proposal is for</p> <p>(iv) residential accommodation and is not three or more storeys or has a height of 12 metres or greater above ground level (existing), or both.</p>	<p>Yes</p>
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6.11 Environmental sustainability	(1) The objective of this clause is to ensure that development to which this clause applies is consistent with principles of best practice environmentally sensitive design.	This clause does not apply to development zoned R2 – Low Density Residential.	N/A
Clause 6.12 Landscaped Area	<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>For a dwelling house located on land outside the Foreshore Scenic Protection Area—20% of the site area <i>is this not in the FSPA so the 25% clause needs to be referenced here.</i></p>	<p>The existing lot size is 562sqm. The proposed site is within foreshore scenic protection area.</p> <p>The existing lot required a minimum of 25% landscape area, equal to 140.5 sqm.</p> <p>The existing landscape area is only 3.26%, equal to 18.37sqm.</p> <p>An 86.91% variation to the development standard is requested.</p> <p>The application is not seeking to undertake any landscaping works and conditions of consent for the incorporation of landscaping cannot be imposed as it is beyond the scope of the application and cannot be readily achieved without demolition, excavation and removal of hard surfaces that have existing prior to this application and the CDC issued for the site.</p>	No, supported by a Clause 4.6 variation request which is assessed in detail later in this report.

Clause 4.6 - Exceptions to Development Standards

39. (1) *The objectives of this clause are as follows—*
- (a) *to provide an appropriate degree of flexibility in applying certain development standards to a particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

- (3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*
- (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - (b) *there are sufficient environmental planning grounds to justify the contravention of the development standard.*

40. In assessing an exception to vary a development standard, the following needs to be considered:
- *Is the planning control a development standard?*
 - *What is the underlying object or purpose of the standard?*
 - *Is compliance with the development standard consistent with the aims of the Policy, and in particular, does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EPA Act?*
 - *Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?*
 - *Is the exception well founded?*
41. The application is seeking a variation to the following development standards as referenced in the Georges River Local Environmental Plan 2021.
- Clause 4.4A - Exceptions to floor space ratio—certain residential accommodation.
 - Clause 6.4 - Foreshore area and Coastal Hazards and Risk.
 - Clause 6.12 - Landscaped areas in certain residential and conservation zones.

Is the planning control a development standard?

42. The following clauses of the GRLEP 2021 are development standards amendable by Clause 4.6:
- Clause 4.4A - Exceptions to floor space ratio—certain residential accommodation.
 - Clause 6.4 - Foreshore area and Coastal Hazards and Risk.
 - Clause 6.12 - Landscaped areas in certain residential and conservation zones.

A written variation to Clause 4.4A – Exceptions to floor space ratio – certain residential accommodation has been requested and assessed below:

43. The proposed development seeks a variation to the development standard relating to Clause 4.4A - Exceptions to floor space ratio—certain residential accommodation. GRLEP 2021 identifies a maximum floor space ratio for this site of 0.55:1 as the subject site is identified as “Area 1” on the floor space ratio map.
44. The floor space ratio proposed as part of this application exceeds the maximum permitted floor space ratio by 11.55%, equating to 345.85 sqm.
 Site Area – 562.3sqm
 Permitted FSR – 309.40sqm
 Proposed FSR – 0.61:1 or 345.84 sq m.
 Breach of FSR – 11.55 %
45. The applicant has lodged a written request in accordance with the requirements of Clause 4.6 of GRLEP 2021. Any variation to a statutory control can only be considered under Clause 4.6 – Exceptions to Development Standards of the GRLEP.

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”.*

46. The Clause 4.6 request for variation is assessed as follows:

Is the planning control in question a development standard?

47. Clause 4.4A - Exceptions to floor space ratio—certain residential accommodation of the GRLEP 2021 is a development standard. The maximum permissible FSR for this site is 0.55:1 of the site area.

What are the underlying objectives of the development standard?

48. The objectives of Clause 4.4A - Exceptions to floor space ratio—certain residential accommodation are as follows:

- (1) *The objectives of this clause are as follows—*
 - (a) *to ensure that the bulk and scale of development are compatible with the size of the lot,*
 - (b) *to promote good residential amenity.*

COMPLIANCE IS UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE (CLAUSE 4.6(3)(A))

49. 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.

50. 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.*

Applicants Comment:

It is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. The proposed variation is sought on its merits on the basis that strict compliance with the development standard is unreasonable or unnecessary in this circumstance by virtue of the proposed design. Despite the numerical departure, the objectives of the development standard have been achieved despite non-compliance with the standard as follows;

Georges River LEP 2021

The proposal has been considered in consideration with the objectives as follows;

- (a) *to ensure that the bulk and scale of development are compatible with the size of the lot,*

Comment: The proposed extent of the variation is not considered to be inconsistent with the underlying intent of this objectives for the following reasons;

- The proposal does not seek any increase in floor space to that previously approved.*
- The proposal does not seek any external physical changes to the size, scale or form of the existing dwelling. Therefore, on that basis it is considered that the bulk and scale of the development is compatible with the size of the lot.*

- (b) *to promote good residential amenity.*

Applicants Comment: *The proposal does not seek any increase in floor space. Given the above, the proposed variation is considered to be reasonable and not inconsistent with the zone objectives.*

Furthermore, Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 it was demonstrated by the Court that the correct approach to the consideration of clause 4.6 requests including that the clause does not require that a development that contravenes a development standard must have a neutral or better environmental planning outcome than one that does not.

The following considerations within this judgement have been undertaken:

“The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: Wehbe v Pittwater Council at [42] and [43].”

Applicant Comment: *It is considered that numerical compliance with the development standard is unreasonable or unnecessary as the objectives of the development standard have been achieved despite the numerical departure, as previously addressed within this report. Given this, the proposed extent of the variation has been designed thoughtfully as not compromise the amenity for future occupants or to adjoining properties.*

“A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: Wehbe v Pittwater Council at [45].”

Applicant Comment: The proposed variation seeks numerical departure at 9.6%. The proposed variation does not offend the underlying intent of the Clause 4.4A Objectives which are intended to an appropriate built form within the context of the R2 Low Density Residential zone.

“A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: *Wehbe v Pittwater Council* at [46].”

Applicant Comment: Whilst the proposal seeks a variation to floor space importantly this does not seek any changes to the previous dwelling form in relation to setback, height and the like.

“A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council’s own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: *Wehbe v Pittwater Council* at [47].

Applicant Comment: Council’s Clause 4.6 Register, assessment report recommendations have demonstrated that strict numerical compliance in relation the Clause 4.4A have been varied for similar planning reasons as to that sought within Clause 4.6 Variation. In this regard, strict numerical compliance is considered unnecessary and unreasonable. It is not considered that this development standard has been abandoned but rather that flexibility to this standard has been previously considered.

“A fifth way is to establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: *Wehbe v Pittwater Council* at [48].

However, this fifth way of establishing that compliance with the development standard is unreasonable or unnecessary is limited, as explained in *Wehbe v Pittwater Council* at [49][51]. The power under cl4.6 to dispense with compliance with the development standard is not a general planning power to determine the appropriateness of the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EPA Act.”

Applicant Comment: The zoning for the subject site is R2 Low Density Residential, in this instance this is considered to be reasonable given that the site is located within a residential area which is comprises of predominantly dwelling houses. It noted that for the immediate surrounding areas shares same zoning as that of the subject site.

“These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.”

Applicant Comment: Given the above, it is considered that several reasons have been provided in support of the variation to the prescribed development standard. Strict numerical compliance in relation to the application of this clause is not considered to result in any significant material planning benefit.

No unreasonable material amenity impacts arise from this departure. In this instance, given the above, whilst it is acknowledged that the proposed variation will indeed result in a lesser outcome than strict numerical compliance. It is considered that contravention of the Development Standard will result in a proposal which is still consistent with the underlying objectives of the control despite the numerical departure (Clause 4.4A). Furthermore, it is considered that the proposed exceedance to the Development Standard results in a minimal environmental impact as the extent of works seeks to reinstate the previous dwelling.

CLAUSE 4.6(3)(B) ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE STANDARD.

Applicant Comments:

The variation is inconsequential and does not result in any unreasonable impact. More importantly, the proposed variation satisfies the objectives of the underlying intent of Clause 4.4A and therefore the merits of the proposal are considered to be worthy of approval. It has been demonstrated within Council and the Courts have previously applied a reasonable approach in supporting variations to development standards. The proposed extent of variation is not considered to result in any adverse material amenity impact.

- *The proposed variation does not seek changes to the previous built form and therefore the impacts are not readily perceivable than the previous dwelling house.*
- *The extent of the variation is considered not inconsistent with the aims of the Georges River Local Environmental Plan 2021.*
- *Strict numerical compliance would unlikely result in a materially better planning outcome given the extent of the variation given that the minor extent of the variation. This is considered to result in negligible impacts in relation to; solar access, privacy and view loss in consideration with the extent of the variation, design and immediate context.*
- *The proposed variation is not considered to result in any adverse view loss impact given the extent of the proposed floor space which adopts a similar form to the previous dwelling.*
- *The extent of the variation is considered to be in the public interest as the proposal does not result in any adverse material impact to adjoining properties or beyond and still reads as a compatible built form within the R2 Low Density Residential zone. This is also considered to be in the public interest as the extent of the variation is not inconsistent with the objectives of the control.*
- *As previously discussed, the proposed extent of the variation regarding floor space adequately satisfies the underlying objectives of the controls of which do not result in any unacceptable impacts to the; built, natural, social or economic impacts for consideration under the Act.*
- *The extent of the variation of the additional floor space is not considered to be inconsistent with the Objects of the Act is considered to be satisfied regarding the merits of the variation sought.*

51. Clause 4.6 (3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances,

Assessing Officers Comment:

52. While FSR is non-compliant with GRLEP 2021, and there is a variation of 11.55%, in this instance, the variation is supported based on the following:

- The proposed FSR variation is consistent with the GFA of the dwelling as the envelope of the dwelling remains unchanged. The works involve the reinstatement of façade works, the roof and openings. are based on the existing FSR that was previously approved.
- The proposal does not seek any changes in design and does not increase the aspect of the building as it exists.
- The proposal can be supported in its current form, as the envelope is existing and is not being exacerbated. The variation does not result in additional impacts on the streetscape or adjoining allotments.

53. Georges River LEP 2021: The proposal has been considered against the objectives as follows:

Cl 4.4.(a) *to ensure that the bulk and scale of development are compatible with the size of the lot.*

Assessing Officers Comment:

54. After reviewing the submitted documentation via the DA2023/0300 planning portal, it is confirmed that the building bulk and scale will remain unchanged from the envelope existing. The reviewed documents being architectural plans, site surveys, and other related documents revealed no external physical impact on the development area's size and scale. The proposed extent of the variation is considered to be supportable in this individual instance.

Cl 4.4 (b) *to promote good residential amenity.*

Assessing Officers Comment:

55. The existing FSR non-compliance is not being increased, the proposed reinstatement works will not create any new impacts.
56. The non-compliance was pre-existing, the proposed development does not exacerbate any potential impacts beyond what already existed. There are no new adverse impacts relating to visual bulk, view loss, solar access or privacy.
57. Strict numerical compliance cannot be achieved in this instance as the envelope/slabs of the dwelling as is much of the existing dwelling. As a result, the proposed reinstatement, which will restore the previous development form, without introducing additional adverse effects on neighbouring properties or the surrounding environment.
58. The proposed development is not inconsistent with the objectives of the zone (cl 2.3 for R2 zone) as referenced in the GRLEP.
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 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,"*

59. The applicant's written request has demonstrated that the FSR breach does not undermine the public interest as the built form to be reinstated previously existed, the works will not result in any additional gross floor area.
60. Compliance with the development standard is considered to be unreasonable in the circumstances of the case for the following reasons:
- The proposed works do not result in any changes to the FSR for the site.
 - Strict compliance with the development standard would result in demolition of the existing dwelling to seek compliance.
 - The variation does not result in additional bulk when viewed relative to the existing building envelope as the works are seeking to reinstate the façade, fenestration and roof that was demolished and inconsistent with the CDC approval.
61. The variation does not result in additional overshadowing or overlooking impacts to adjoining owners as the proposed roof, façade and fenestration reinstatement is to replace the elements of the dwelling removed that are inconsistent with the CDC approval in place. No additional impacts result.

Is the exception well-founded?

62. Yes, the variation is well-founded. Chief Justice Preston of the NSW Land and Environment Court provided further guidance to consent authorities as to how variations to the standards should be approached. Justice Preston expressed the view that there are 5 different circumstances in which an objection may be well founded:
- *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
 - *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
 - *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
 - *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;*
 - *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 would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*
63. Court cases demonstrated that the correct approach to the consideration of clause 4.6 request including that the clause does not require that a development that contravenes a development standard must have a neutral or better environmental planning outcome than one that does not. The following court cases are mentioned in the report within this judgement have been undertaken.
- Dale v Ku-ring-gai Municipal Council [2004] NSWLEC 670 Conciliation conference on 28/10/2004 and 18/11/2004
 - Miller v Inner West Council [2020] NSWLEC 1543 Conciliation conference on 29 and 30 September 2020 and 16 October 2020
 - Doonside Holdings Pty Ltd v Woollahra Municipal Council [2023] NSWLEC 1343 Conciliation conference held on 17 May 2023

Assessing Officer Comments

64. Having reviewed to the cl 4.6 written request, it is considered the requirements of cl 4.6(3) by describing sufficient environmental planning grounds to justify the development standard exceedance and that strict compliance would be both unreasonable and unnecessary for the proposed development on this site. The proposed development does not adversely affect the character of the local area as the dwelling when these reinstatement works are completed will look like the dwelling did before the façade, openings and roof were removed.

CLAUSE 4.6(B) THE CONCURRENCE OF THE SECRETARY HAS BEEN OBTAINED

65. An assessment of the written request against Clause 4.6 (3)(a) and (b) Including comment about whether the request demonstrates the following:
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
66. The application was supported by a Clause 4.6 Development Standard variation request (prepared by Maximus Developments Australia). In this instance the variation request is considered adequate.
67. The Applicant's written submission demonstrates that compliance with the floor space ratio development standard is unreasonable or unnecessary in the circumstances of the case. It also demonstrates sufficient environmental planning grounds to justify varying this development standard.
68. Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, it is considered that there is an absence of any unreasonable impacts of the proposed non-compliance on the environmental quality of the locality and amenity of adjoining properties in terms of overshadowing, privacy, overlooking and amenity, in particular when considering the constraints of the site. The impacts are consistent with the exist built form of the dwelling given the works are seeking to reinstate the built form removed that is inconsistent with the CDC approval. The dwelling will appear as it did before this work was undertaken. No additional impacts arise.
69. The proposed development is in the public interest as the proposal complies with the objectives for both the Floor Space Ratio for this site and the R2 Low Density Residential zone.
70. The proposed variation does not raise any matters of State or regional environmental planning significance.
71. The areas of non-compliance are considered to be reasonable and will not establish an undesirable precedent as it is consistent with the dwelling constructed on site as the envelope and floor area remains unaltered.
72. 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 given that in this case the proposal satisfies the objectives of the zone and development standard of clause 4.4A of the GRLEP 2021.

A written variation to Clause 6.4 – Foreshore area and coastal hazards and risk has been requested and assessed below:

73. The proposed development seeks a variation to the development standard relating to Clause 6.4 - Foreshore area and coastal hazards and risk. GRLEP 2021 identifies a foreshore building line for this site of 7.6m from MHWL.
74. The breach of the foreshore building line is 1105mm, resulting in a breach of the foreshore building line of 14.53%.
75. The applicant has lodged a written request in accordance with the requirements of Clause 4.6 of GRLEP 2021. Any variation to a statutory control can only be considered under Clause 4.6 – Exceptions to Development Standards of the GRLEP.

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”.*

76. To support the non-compliance, the applicant has provided a request for a variation to Clause 6.4 in accordance with Clause 4.6 of GRLEP. The Clause 4.6 request for variation is assessed as follows:

Is the planning control in question a development standard?

77. Clause 6.4 - Foreshore area and coastal hazards and risk of the GRLEP 2021 is a development standard. The foreshore building line control is 7.6m from MHWL.

What are the underlying objectives of the development standard?

78. The objectives of Clause 6.4 - Foreshore area and coastal hazards and risk are as follows:
 - (1) *The objectives of this clause are as follows—*
 - (a) *to protect people and property from unacceptable risk from coastal hazards associated with climate change,*
 - (b) *to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the amenity of the area,*
 - (c) *to facilitate opportunities for public access to and along the foreshore.*
79. Foreshore area means the land between the foreshore building line and the mean high-water mark of the nearest bay or river.
80. The development is seeking the existing extent of the encroachment into the Foreshore Building Line of which comprises of an encroachment of 1105mm of which seeks the reinstatement of walls and roof form of the previous dwelling house.
81. The extent of variation is shown below:

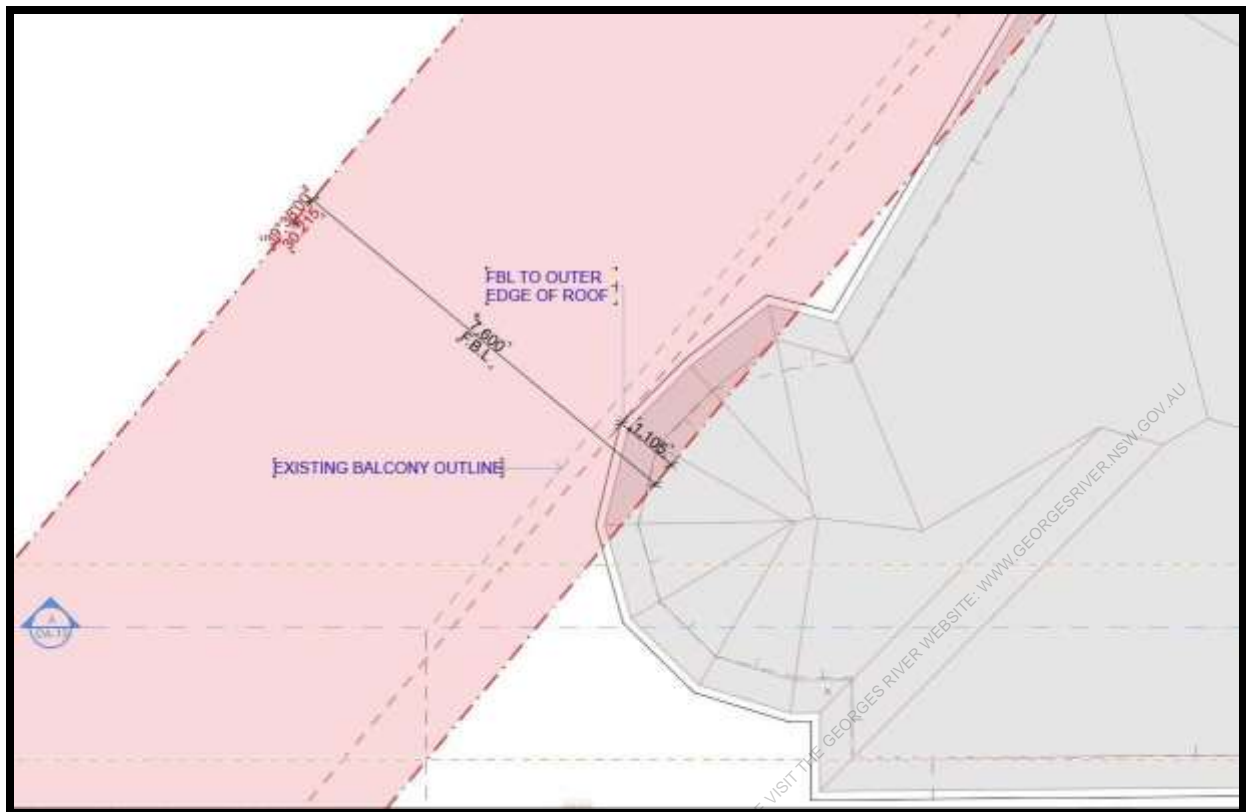


Figure-8: The extent of roof works within foreshore building line demonstrate maximum encroachment of 1105mm.

82. Before granting development consent to development on the foreshore area, the Council must be satisfied of certain matters. These matters include the appearance of the development, potential for environmental harm, retention and restoration of the foreshore's natural qualities, impact on the use of the waterway, public access to the foreshore, heritage significance, and sea level rise.

COMPLIANCE IS UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE (CLAUSE 4.6(3)(A))

83. Clause 4.6(3) of GRLEP 2021 requires development consent not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the Applicant that seeks to justify the contravention of the development standard by demonstrating:
- a. *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - b. *that there are sufficient environmental planning grounds to justify contravening the development standard*
84. Clause 6.4 of GRLEP 2021 highlights that development consent must not be granted for development on land to which this clause applies except for the following purposes -
- 3 (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—*
 - (i) *the foreshore building line, or*
 - (ii) *the land identified on the [Coastal Hazard and Risk Map](#),*
 - (b) *the erection of a building if the levels, depth or other exceptional features of the site make it appropriate to do so,*
 - (c) *boat sheds, cycling paths, fences, sea walls, swimming pools, water recreation structures or walking tracks.*

85. All works outside of the above is a development standard breach for which a Clause 4.6 variation of the standard is required to accompany the application if seeking to vary the control.
86. 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.
87. 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.*

Applicants Comment:

Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 it was demonstrated by the Court that the correct approach to the consideration of clause 4.6 requests including that the clause does not require that a development that contravenes a development standard must have a neutral or better environmental planning outcome than one that does not.

The following considerations within this judgement have been undertaken:

"The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: Wehbe v Pittwater Council at [42] and [43]."

Applicant Comment: *It is considered that numerical compliance with the development standard is unreasonable or unnecessary as the objectives of the development standard have been achieved despite the numerical departure, as previously addressed within this report. Given this, the proposed extent of the variation has been designed thoughtfully as not compromise the amenity for future occupants or to adjoining properties.*

"A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: Wehbe v Pittwater Council at [45]."

Applicant Comment: The proposed variation seeks numerical departure. The proposed variation does not offend the underlying intent of the Clause 6.4 Objectives given the existing condition.

“A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: *Wehbe v Pittwater Council* at [46].”

Applicant Comment: Whilst the proposal seeks a variation to the Foreshore Building Line importantly this does not seek any changes to the previous dwelling form in relation to setback, height and the like. The proposal seeks the reinstatement of the previous dwelling.

“A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council’s own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: *Wehbe v Pittwater Council* at [47].

Applicant Comment: Council’s Clause 4.6 Register, assessment report recommendations have demonstrated that strict numerical compliance in relation the Clause 6.4 has been varied for similar planning reasons as to that sought within Clause 4.6 Variation. In this regard, strict numerical compliance is considered unnecessary and unreasonable. It is not considered that this development standard has been abandoned but rather that flexibility to this standard has been previously considered for several approvals.

“A fifth way is to establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: *Wehbe v Pittwater Council* at [48]. However, this fifth way of establishing that compliance with the development standard is unreasonable or unnecessary is limited, as explained in *Wehbe v Pittwater Council* at [49][51]. The power under cl4.6 to dispense with compliance with the development standard is not a general planning power to determine the appropriateness of the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EPA Act.”

Applicant Comment: The zoning for the subject site is R2 Low Density Residential, in this instance this is considered to be reasonable given that the site is located within a residential area which is comprises of predominantly dwelling houses. It noted that for the immediate surrounding areas shares same zoning as that of the subject site.

“These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.”

Applicant Comment: Given the above, it is considered that several reasons have been provided in support of the variation to the Foreshore Building Line. Strict numerical compliance in relation to the application of this clause is not considered to result in any significant material planning benefit. No unreasonable material amenity impacts arise from this variation. In this instance, given the above, whilst it is acknowledged that the proposed variation will indeed result in a lesser outcome than strict numerical compliance with the Foreshore Building Line. It is considered that contravention of the Development Standard will result in a proposal which is still consistent with the underlying objectives of the control despite the departure. Furthermore, it is considered that the proposed exceedance to the Development Standard results in a minimal environmental impact as the extent of works do not significantly encroach the foreshore building line. Clause (3)(a)(i) provides a mechanism whereby such works may occur of which it is considered that the extent of the proposal satisfies this. Further that the extent of the variation is considered to be consistent with the R2 Low Density Residential Zone objectives.

CLAUSE 4.6(3)(B) ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE STANDARD.

Applicant Comments:

The extent of the variation is inconsequential and does not result in any unreasonable impact. More importantly, the proposed variation satisfies the objectives of the underlying intent of Clause 6.4 Foreshore Area and Coastal Hazards and Risk and therefore the merits of the proposal are considered to be worthy of approval. It has been demonstrated within Council and the Courts have previously applied a reasonable approach in supporting variations to development standards. The proposed extent of variation is not considered to result in any adverse material amenity impact.

- The proposed variation to the Foreshore Building Line does not seek changes to the previous built form and therefore the impacts are not readily perceivable than the previous dwelling house.
- The extent of the variation is considered not inconsistent with the aims of the Georges River Local Environmental Plan 2021.
- Strict numerical compliance would unlikely result in a materially better planning outcome given the extent of the variation given that the very minor extent of the variation. Further that this previous built form appears to have been on site for a long period of time.
- The extent of the variation is considered to be in the public interest as the proposal does not result in any significant adverse material impact to adjoining properties or beyond and still reads as a compatible built form within the R2 Low Density Residential zone and along the foreshore area. This is also considered to be in the public interest as the extent of the variation is not inconsistent with the objectives of the control.
- As previously discussed, the proposed extent of the variation regarding the Foreshore Building Line adequately satisfies the underlying objectives of the controls of which do not result in any unacceptable impacts to the; built, natural, social or economic impacts for consideration under the Act.
- The extent of the variation of landscaped area is not considered to be inconsistent with the Objects of the Act is considered to be satisfied regarding the merits of the variation sought.

88. Clause 4.6 (3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

(b) compliance with the development standard is unreasonable or unnecessary in the circumstances,

Assessing Officers Comment:

89. The proposed development is seeking to reinstate build form which will result in no change to the numeric breach of the foreshore building line. Under clause 6.4 (3)

“Development consent must not be granted for development on land to which this clause applies except for the following purposes—

- (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—*
(i) the foreshore building line, “

90. As the proposed works will not change the existing encroachment, compliance is unnecessary and unreasonable, and support the development in its current form is recommended, as it has no change to the impact in the foreshore area.

91. Georges River LEP 2021: The proposal has been considered against the objectives as follows:

6.4 Foreshore area and coastal hazards and risk

(1) The objectives of this clause are as follows—

- (a) to protect people and property from unacceptable risk from coastal hazards associated with climate change,*
(b) to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the amenity of the area,
(c) to facilitate opportunities for public access to and along the foreshore.

Assessment officer Comment

92. The proposed development is non-compliant with the foreshore area and coastal hazards and risks criterion. The proposed development will not result in additional encroachments therefore not further undermining the objectives of the clause and criterion as referenced in the GRLEP.

Clause 4.6(4) states that:

“Development consent must not be granted for development that contravenes a development standard unless:

- (b) the consent authority is satisfied that:*

- (ii) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and 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,”*

Assessment Officers Comment:

93. The submitted 4.6 variation for the Foreshore Building Line under clause 6.4 GRLEP 2021, does not undermine the public interest as the built form to be reinstated previously existed; the works will not result in any additional gross floor area beyond the existing.

Is the exception well-founded?

94. Yes, the variation is well-founded. Chief Justice Preston of the NSW Land and Environment Court provided further guidance to consent authorities as to how variations to the standards should be approached. Justice Preston expressed the view that there are 5 different circumstances in which an objection may be well founded:
- *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
 - *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
 - *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
 - *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;*
 - *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 would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*
95. Court cases demonstrated that the correct approach to the consideration of clause 4.6 request including that the clause does not require that a development that contravenes a development standard must have a neutral or better environmental planning outcome than one that does not. The following court cases are mentioned in the report within this judgement have been undertaken.
- Dale v Ku-ring-gai Municipal Council [2004] NSWLEC 670 Conciliation conference on 28/10/2004 and 18/11/2004
 - Miller v Inner West Council [2020] NSWLEC 1543 Conciliation conference on 29 and 30 September 2020 and 16 October 2020
 - Doonside Holdings Pty Ltd v Woollahra Municipal Council [2023] NSWLEC 1343 Conciliation conference held on 17 May 2023

Assessing Officer Comments

96. Having reviewed to the cl 4.6 written request, it is considered the requirements of cl 4.6(3) by describing sufficient environmental planning grounds to justify the development standard exceedance and that strict compliance would be both unreasonable and unnecessary for the proposed development on this site. The proposed development does not adversely affect the character of the local area, view corridors or how the development I viewed from the waterway and public domain as the dwelling when these reinstated works are completed, will look like the dwelling did before the façade, openings and roof were removed.

CLAUSE 4.6(B) THE CONCURRENCE OF THE SECRETARY HAS BEEN OBTAINED

97. An assessment of the written request against Clause 4.6 (3)(a) and (b) Including comment about whether the request demonstrates the following:
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

98. The application was supported by a Clause 4.6 Development Standard variation request (prepared by Maximus Developments Australia). In this instance the variation request is considered adequate.
99. The Applicant's written submission demonstrates that compliance with the building line breach development standard is unreasonable or unnecessary in the circumstances of the case. It also demonstrates sufficient environmental planning grounds to justify varying this development standard.
100. Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, it is considered that there is an absence of any unreasonable impacts of the proposed non-compliance on the environmental quality of the locality and amenity of adjoining properties and waterway. The impacts are consistent with the exist built form of the dwelling given the works are seeking to reinstate the built form removed that is inconsistent with the CDC approval. The dwelling will appear as it did before this work was undertaken. No additional impacts arise.
101. The proposed development is in the public interest as the proposal complies with the objectives for both the Foreshore area ana coastal hazards and risk criterion and the R2 Low Density Residential zone.
102. The proposed variation does not raise any matters of State or regional environmental planning significance.
103. The areas of non-compliance are considered to be reasonable and will not establish an undesirable precedent as it is consistent with the dwelling constructed on site as the envelope and floor area remains unaltered.
104. 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 given that in this case the proposal satisfies the objectives of the zone and development standard of clause 4.4A of the GRLEP 2021.

A written variation to Clause 6.12 – Landscaped areas in certain residential and conservation zones has been requested and assessed below:

105. The proposed development seeks a variation to development standard relating to Clause 6.12 – Landscaped areas in certain residential and conservation zones. The minimum permitted landscaped area of a development site within the Foreshore Scenic Protection Area is 25% of the site area.
106. The applicant has lodged a written request in accordance with the requirements of Clause 4.6 of GRLEP 2021. Any variation to a statutory control can only be considered under Clause 4.6 – Exceptions to Development Standards of the GRLEP.
The objectives of Clause 4.6 are:
The objectives of this clause are as follows:
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances*

107. The Clause 4.6 request for variation is assessed as follows:
Is the planning control in question a development standard?
108. Clause 6.12 Landscaped areas in certain residential and environment protection zones of the GRLEP is a development standard. The landscaped area for this site being within the Foreshore Scenic Protection Area is 25%.

What are the underlying objectives of the development standard?

(1) The objectives of this clause are as follows—

- (a) to ensure adequate opportunities exist for the retention or provision of vegetation that contributes to biodiversity and enhances the tree canopy of the Georges River local government area,*
- (b) to minimise urban run-off by maximising permeable areas on the sites of development,*
- (c) to ensure that the visual impact of development is minimised by sufficient and appropriately located landscaping that complements the scale of buildings,*
- (d) to ensure that the use of surfaces that absorb and retain heat are minimised.*

COMPLIANCE IS UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE (CLAUSE 4.6(3)(A))

109. 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.
110. 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.*

Applicants Comment:

- *The existing landscaped area is 18.37sqm being 3.26% of the required landscaped area. This results in a deficiency of 86.91% The application is not seeking removal or enhancement of landscaping as part of this application.*
- *The proposal does not seek the reduction of existing landscaped area of which has been in existence a significant period of time.*

- *The extent of the variation relates to the use for residential accommodation which is considered to be the most likely common use within the R2 Low Density Residential Zone.*
- *The extent of the variation does not detract from the local character or diminish residential amenity.*
- *The extent of the landscaped area is located behind a high masonry wall when viewed from Endeavour Street. The extent of the shortfall of landscape area is not visibly distinct when viewed from the Endeavour Street.*
- *The scale and density of the proposed works is that of the existing dwelling house. The proposed works do not seek to increase the building footprint or result in a reduction of landscaped area.*
- *The extent of the variation is not considered to result in the reduction of existing landscaping.*
- *The proposal does not impact any trees on site, neighbouring properties or within the Council road reserve.*
- *The extent of the proposal does not seek the further removal of any landscaped area as part of this application.*
- *The extent of variation does not affect existing trees, rock outcrops, remnant bushland, habitats and natural watercourses as the works are located above existing hard surface areas.*
- *The extent of the shortfall in landscaped area and the extent of the proposed works. The proposal does not result in any reduction to existing landscaped area.*

Assessing Officer Comment:

- The proposal does not involve any extension or reduction of the existing landscaped area, and no landscape work is proposed.
- No numerical changes relating to landscape area are proposed, no conditions can be imposed to increase the landscaped area as this is not proposed as part of this application.
- No change to the functionality of the foreshore area.
- No new landscape is proposed, no change of visual landscaping from the existing waterway.

COMPLIANCE IS UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE (CLAUSE 4.6(3)(A))

111. 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.
112. 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.*

In Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 it was demonstrated by the Court that the correct approach to the consideration of clause 4.6 requests including that the clause does not require that a development that contravenes a development standard must have a neutral or better environmental planning outcome than one that does not.

The following considerations within this judgement have been undertaken:

"The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: Wehbe v Pittwater Council at [42] and [43]."

Applicant Comment:

It is considered that numerical compliance with the development standard is unreasonable or unnecessary as the objectives of the development standard have been achieved despite the numerical departure, as previously addressed within this report. Given this, the proposed extent of the variation has been designed thoughtfully as not compromise the amenity for future occupants or to adjoining properties.

"A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: Wehbe v Pittwater Council at [45]."

Applicant Comment:

The proposed variation seeks numerical departure at 86.91%. The proposed variation does not offend the underlying intent of the Clause 6.12 Objectives given the existing condition.

"A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: Wehbe v Pittwater Council at [46]."

Applicant Comment:

Whilst the proposal seeks a variation to landscape importantly this does not seek any changes to the previous dwelling form in relation to setback, height and the like.

"A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: Wehbe v Pittwater Council at [47]."

Applicant Comment:

Council's Clause 4.6 Register, assessment report recommendations have demonstrated that strict numerical compliance in relation the Clause 6.12 has been varied for similar planning reasons as to that sought within Clause 4.6 Variation. In this regard, strict numerical compliance is considered unnecessary and unreasonable. It is not considered that this development standard has been abandoned but rather that flexibility to this standard has been previously considered for several approvals. The following table includes a list of recently determined applications.

Furthermore, as previously mentioned the proposal is likely to result in negligible impacts in relation to solar access, visual, bulk and scale as the landscaped area is unchanged.

"A fifth way is to establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: *Wehbe v Pittwater Council* at [48]. However, this fifth way of establishing that compliance with the development standard is unreasonable or unnecessary is limited, as explained in *Wehbe v Pittwater Council* at [49][51]. The power under cl4.6 to dispense with compliance with the development standard is not a general planning power to determine the appropriateness of the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EPA Act."

Applicant Comment:

The zoning for the subject site is R2 Low Density Residential, in this instance this considered to be reasonable given that the site is located within a residential area which comprises of predominantly dwelling houses. It noted that for the immediate surrounding areas shares same zoning as that of the subject site.

"These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way."

Applicant Comment:

It is considered that several reasons have been provided in support of the variation to the prescribed development standard. Strict numerical compliance in relation to the application of this clause is not considered to result in any significant material planning benefit. No unreasonable material amenity impacts arise from this departure. In this instance, given the above, whilst it is acknowledged that the proposed variation will indeed result in a lesser outcome than strict numerical compliance. It is considered that contravention of the Development Standard will result in a proposal which is still consistent with the underlying objectives of the control despite the numerical departure (Clause 6.12). Furthermore, it is considered that the proposed exceedance to the Development Standard results in a minimal environmental impact as the extent of works do not seek a reduction of landscaped area.

CLAUSE 4.6(3)(B) ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE STANDARD.

Applicant Comments:

As previously discussed, this extent of the variation is inconsequential and does not result in any unreasonable impact. More importantly, the proposed variation satisfies the objectives of the underlying intent of Clause 6.12 Landscape and therefore the merits of the proposal are considered to be worthy of approval. It has been demonstrated within Council and the Courts have previously applied a reasonable approach in supporting variations to development standards. The proposed extent of variation is not considered to result in any adverse material amenity impact.

The proposed variation to landscaping does not seek changes to the previous built form and therefore the impacts are not readily perceivable than the previous dwelling house. The extent of the variation is considered not inconsistent with the aims of the Georges River Local Environmental Plan 2021.

Strict numerical compliance would unlikely result in a materially better planning outcome given the extent of the variation given that the minor extent of the variation. Further that this existing condition of landscaping appears to have been on site for a long period of time.

The extent of the variation is considered to be in the public interest as the proposal does not result in any significant adverse material impact to adjoining properties or beyond and still reads as a compatible built form within the R2 Low Density Residential zone. This is also considered to be in the public interest as the extent of the variation is not inconsistent with the objectives of the control.

As previously discussed, the proposed extent of the variation regarding landscaped area adequately satisfies the underlying objectives of the controls of which do not result in any unacceptable impacts to the; built, natural, social or economic impacts for consideration under the Act.

The extent of the variation of landscaped area is not considered to be inconsistent with the Objects of the Act is considered to be satisfied regarding the merits of the variation sought.

113. Clause 4.6 (3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

(c) compliance with the development standard is unreasonable or unnecessary in the circumstances,

Assessing Officers Comment:

114. Compliance with the development standard is considered to be unreasonable in the circumstances of the case for the following reasons:

- The proposed works do not result in any additional non-compliances beyond that which existed prior to the unauthorised works.
- Strict compliance with the development standard would result in significant demolition works.
- The variation does not change the existing bulk when viewed from the waterway.

115. It was suggested by Council's Landscape Officer that additional landscaping be installed on site. This condition whilst desirable, cannot be imposed as it is beyond the scope of the application.
116. Georges River LEP 2021: The proposal has been considered against the objectives of the clause as follows:
 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:*
- (iii) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and 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,"*

Assessing Officers comment

117. The development application does not seek changes to the landscaping on the site. The development application is only for reinstating the existing building's external form and roof form with no design changes.
118. The proposal does not result in changes to visual privacy changes, overshadowing or streetscape. The proposed development appears as a two-story dwelling, which is not consistent with the future built form envisioned for the streetscape in its current form.

Is the exception well-founded?

119. Yes, the variation is well-founded if condition imposed. Chief Justice Preston of the NSW Land and Environment Court provided further guidance to consent authorities as to how variations to the standards should be approached. Justice Preston expressed the view that there are 5 different circumstances in which an objection may be well founded:
- *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
 - *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
 - *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
 - *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;*
 - *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 would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*
120. Court cases demonstrated that the correct approach to the consideration of clause 4.6 requests, including that the clause does not require that a development that contravenes a development standard must have a neutral or better environmental planning outcome than one that does not. The following court cases are mentioned in the report within this judgement have been undertaken.

- Dale v Ku-ring-gai Municipal Council [2004] NSWLEC 670 Conciliation conference on 28/10/2004 and 18/11/2004
- Miller v Inner West Council [2020] NSWLEC 1543 Conciliation conference on 29 and 30 September 2020 and 16 October 2020
- Doonside Holdings Pty Ltd v Woollahra Municipal Council [2023] NSWLEC 1343 Conciliation conference held on 17 May 2023

Assessing Officer Comments

121. Having reviewed to the cl 4.6 written request, it is considered the requirements of cl 4.6(3) by describing have not enough sufficient environmental planning grounds to justify the development standard exceedance and that strict compliance would be both unreasonable and unnecessary for the proposed development on this site.

CLAUSE 4.6(B) THE CONCURRENCE OF THE SECRETARY HAS BEEN OBTAINED

122. An assessment of the written request against Clause 4.6 (3)(a) and (b) Including comment about whether the request demonstrates the following:
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
123. The application was supported by a Clause 4.6 Development Standard variation request (prepared by Maximus Developments Australia). In this instance the variation request is considered adequate.
124. The Applicant's written submission demonstrates that compliance with the floor space ratio development standard is unreasonable or unnecessary in the circumstances of the case. It also demonstrates sufficient environmental planning grounds to justify varying this development standard.
125. Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, it is considered that there is an absence of any unreasonable impacts of the proposed non-compliance on the environmental quality of the locality and amenity of adjoining properties in terms of overshadowing, privacy, overlooking and amenity, in particular when considering the constraints of the site. The impacts are consistent with the existing built form of the dwelling given the works are seeking to reinstate the built form removed that is inconsistent with the CDC approval. The dwelling will appear as it did before this work was undertaken. No additional impacts arise.
126. The proposed development is in the public interest as the proposal complies with the objectives for both the Landscaped areas in certain residential and environment protection zones for this site and the R2 Low Density Residential zone.
127. The proposed variation does not raise any matters of State or regional environmental planning significance.
128. The areas of non-compliance are considered to be reasonable and will not establish an undesirable precedent as it is consistent with the dwelling constructed on site as the envelope and floor area remains unaltered.

129. 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 given that in this case the proposal satisfies the objectives of the zone and development standard of clause 6.12 of the GRLEP 2021.

GEORGES RIVER DEVELOPMENT CONTROL PLAN 2021

130. Part 3 of the GRDCP 2021 is applicable to the development and the following controls apply:

Part 3 – General Residential Controls

131. Part 3.2 Biodiversity of the GRDCP 2021 is applicable to the development and the following controls apply:

3.2 Biodiversity		
3.2.1 Trees and Vegetation		
Control	Proposal	Compliance
Tree removal and replacement planting is to comply with the provisions of the relevant SEPP's and Council's Tree Management Policy.	No vegetation removal or additional landscaping is proposed by this application.	N/A
3.3 Landscaping		
<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"> 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; 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 vegetation; 	<p>No change in landscaped area.</p> <p>The existing landscaped area is 3.26% equating to 18.37 sqm.</p> <p>The minimum required landscaped area is 25% of the site area which equates to 140.5sqm.</p> <p>Resulting in a shortfall is 121.94 sqm 86.91%.</p>	<p>No, the application has been accompanied by a Clause 4.6 - Variation statement which will be assessed as part of the GRLEP development standard.</p>




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.		
2. Landscape planting should achieve a mature height in scale with the structures on the site.	N/A	
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.	N/A	
3.4 Bushfire Prone Land		
2. Bushfire Asset Protection Zones should be located entirely within the development site.	N/A	
3.5 Earthworks		
1. Natural ground level should be maintained within 900mm of a side or rear boundary.	No earthworks are proposed. No works outside the footprint of the existing dwelling.	
2. Cut and fill should not alter natural or existing ground levels by more than 1m	N/A	
3. Habitable Rooms (not including bathrooms, laundries and storerooms) are to be located above existing ground level.	N/A	
4. Rock outcrops, overhangs, boulders, sandstone platforms or sandstone retaining walls are not to be removed or covered.	N/A	
5. Development is to be located so that the clearing of vegetation is avoided.	N/A	
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).	N/A	
7. Soil depth around buildings should be capable of sustaining trees as well as shrubs and smaller scale gardens.	N/A	
8. Earthworks are not to increase or concentrate overland stormwater flow or aggravating	N/A	

existing flood conditions on adjacent land.		
9. Fill material must be virgin excavated natural material (VENM)	N/A	
10. For flood-affected sites, cut and fill is to comply with the requirements of Chapter 6 of Council's Stormwater Management Policy	N/A	
3.5.2 Construction Management/Erosion and Sediment Control		
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"> - Sediment fencing; - Water diversion; - Single entry/exit points Filtration materials such as straw bales and turf strips.	No earthworks are proposed, and no erosion or sedimentation control is required. To be conditioned to submit a sedimentation control plan.	
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	N/A	
3. Development is to minimise site disturbance including impacts on vegetation and significant trees and the need for cut and fill.	N/A	
5. Development which has a high potential risk to groundwater must submit a geotechnical report to address how possible impacts on groundwater are minimised.	N/A	
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"> - Sediment fencing; - Water diversion; - Single entry/exit points Filtration materials such as straw bales and turf strips.	No earthworks are proposed. To be conditioned to submit a sedimentation control plan given there are construction materials that will be stored onsite.	

3.6 Contaminated Land		
<p>2. The application is accompanied by sufficient information to determine:</p> <ul style="list-style-type: none"> i. The extent to which the land is contaminated (both soil and ground water); 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; iii. Whether the land requires remediation to make the land suitable for the intended use prior to that development being carried out; and 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>Operating practices and technology must be employed to prevent contamination of ground water.</p>	<p>A review of the Council's record system, aerial imaging and observations from the site inspection revealed the site is not considered to be contaminated.</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>	<p>Yes</p>
3.10 Water Management		
<p>1. Development must comply with Council's Stormwater Management Policy.</p> <p>2. Water Sensitive Urban Design (WSUD) principles are to be incorporated into the design of stormwater drainage, on -site retention and detention, landscaping within the overall design of the development.</p>	<p>To be conditioned. Going to bay via exiting pipework.</p> <p>The application has been referred to Council's Development engineer, the proposal is acceptable subject to conditions for the roof water to be connected to the existing site drainage system.</p>	<p>Yes</p>

3.11. Ecologically Sustainable Development		
1. All BASIX affected development must comply with SEPP (Building Sustainability Index: BASIX) 2004.	N/A – the cost of works did not trigger the criterion of SEPP BASIX.	N/A
3.12. Waste Management		
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).	A waste management plan is required to be provided for the reconstruction works. The proposal needs to comply with Appendix 4 of the GRDCP and, therefore, complies with the controls of this section. Condition imposed prior to the issue of a Construction Certificate.	No. To be conditioned.
3.13. Parking and Transport		
As per the table within this section the development is to provide parking at the following rates: The development has 3 or more bedrooms therefore 2 spaces are required	The existing two garages remain functional and useable. No change from the existing parking arrangements.	Yes
3.14. Utilities		
5. Air conditioning units and mechanical plant should be sited away from adjacent sensitive land uses and/or screened by walls or other acoustic treatments.	This application does not propose air conditioning.	N/A
3.15. Public Domain		
3.15.1 Infrastructure		
3. The public domain should be improved by new street plantings and footpath improvements	No landscaping or tree planting proposed.	N/A
Part 6 Residential Dwelling		
6.1.2 Single Dwelling		
6.1.2.1 Streetscape Character and Built Form		
New buildings and additions are to consider the Desired Future Character statement in Part 5 of this DCP.	See Part 5 Assessment above. The proposal is not inconsistent with the desired future character statement for Connells Point and Kogarah Bay.	No, Justified
New buildings and additions are to be designed with an articulated front façade	No changes to the front façade. The proposal is to replace the fenestration within the existing opening, no enlargement of openings or new openings proposed.	Yes
Developments on sites with two (2) or more frontages are to address all frontages	Only a single frontage.	N/A

Dwelling houses are to have windows presenting to the street from a habitable room to encourage passive surveillance.	There are no changes to the existing opening dimensions; the fenestration is being replaced within the existing openings.	Yes.
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. This requirement is to balance this requirement with the amenity afforded to the new development.	The envelope of the dwelling remains unchanged. This application seeks to reinstate fenestration within the same openings, reinstate the façade with no extensions/enlargement and reinstate the pitched tiled roof over an unchanged dwelling envelope.	No, Justified
The maximum size of voids at the first-floor level should be a cumulative total of 15m ² (excluding voids associated with internal stairs).	All internal work was approved under the CDC. No changes to the internal configuration of the dwelling is sought.	N/A
6.1.2.2 Building Scale and Height		
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.	N/A	n/a
6.1.2.3 Setbacks - Front Setbacks		
1. The minimum setback from the primary street boundary is:		
i) 4.5m to the main building wall / facade;	4.057m	Yes
ii) 5.5m to the front facade of a garage or carport; or	There is a nil setback in the garage which is existing.	No – remains unchanged.
iii) Where the prevailing street setback is greater than the minimum, the average setback of dwellings on adjoining lots is to be applied.	The works proposed will reinstate what was demolished, no change to setbacks proposed.	No, Justified The development can be supported as no changes from that which previously existed.
6.1.2.3 Setbacks - Side and Rear Setbacks		
1. Buildings are to have a minimum rear setback of 15% of the average site length equivalent to or 6m, whichever is the greater (excluding detached secondary dwellings – see Point 12 in Section 6.1.2.12- Secondary Dwellings of this DCP).	No change proposed.	No, Justified as it is remain unchanged with the existing.

2. The minimum side setbacks for ground and first floor are:	No change – Ground floor Western side- 7.7m First floor: As per existing and more than 7.7m.	Yes
ii) 1.2m for lots greater than 12.5m in width measured at the front building line for the length of the development.	No change – As per as existing. Ranging between less than 1m to 2.47m,	No, Justified due to exactly same as previously approved.
1. Buildings are to have a minimum rear setback of 15% of the average site length equivalent to or 6m, whichever is the greater (excluding detached secondary dwellings – see Point 12 in Section 6.1.2.12- Secondary Dwellings of this DCP).	No change to the existing.	No, Justified due to exactly same as previously approved.
6.1.2.4 - Private Open Space		
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 ² with minimum dimensions of 6m and located on the same level (not terraced or over rock outcrops).	<p>No change from the existing.</p> <p>Western side- 73.5sqm</p>  <p>Eastern side- 1: 12.2sqm</p>  <p>Eastern side 2: 19.5sq m</p> 	Yes, it complies. More than 60sqm.
Private open space is to be provided for all dwellings, (with the exception of secondary dwellings, which are able to share the private open space of the principal dwelling).	Achieved. Western waterfront side: 73.5sqm. Eastern side 1- 12.2 sqm Eastern side 2 – 19.5 sqm	Yes

Private open space is to be located so as to maximise solar access.	Eastern side – 12.2 sqm and 19.5sqm Western side - 73.5 sqm.	Yes
Private open space is to be designed to minimise adverse impacts upon the privacy of the occupants of adjacent buildings.	No change is proposed.	Yes
6.1.2.6 Excavation (Cut and Fill)		
Any excavation must not extend beyond the building footprint, including for any basement car park.	No excavation is proposed. Sedimentation control will be conditioned as building products will be delivered and stored on site.	N/A
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.	N/A	N/A
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.	N/A	N/A
6.1.2.7 Vehicular Access, Parking and Circulation		
Car parking is to be provided in accordance with the requirements in Part 3 of this DCP.	No additional parking is proposed.	Yes
A dwelling is to provide one (1) garage and one (1) tandem driveway parking space forward of the garage (unless otherwise accommodated within the building envelope).	N/A – Existing double garage, remains unchanged.	Yes
Driveways, garages and basements should be accessed from a secondary street or rear lane where this is available.	N/A – no basement and secondary street present.	N/A
Entry to parking facilities off the rear lane must be setback a minimum of 1m from the lane.	N/A – no rear lane available.	N/A
Driveway crossings are to be positioned so that on-street parking and landscaping on the site are maximised, and removal or damage to existing street trees is avoided.	There is no change to the existing layback.	N/A
The maximum driveway width between the street boundary and the primary building setback alignment of the garage is 4.0m.	As existing – no change proposed.	N/A

Car parking layout and vehicular access requirements and design are to be in accordance with the Australian Standards, in particular AS 2890.1 (latest edition).	As an existing – no change proposed. Existing driveway will remain unchanged.	Yes
The maximum width of a garage opening is 6m.	As existing – no change proposed.	Yes
6.1.2.8 - Visual Privacy		
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.	No change in the opening sizes and locations, just reinstatement of the fenestration.	N/A
For active rooms or balconies on an upper level, the design should incorporate placement of room windows or screening devices to only allow oblique views to adjoining properties.	No change to the existing situation is proposed as part of this application.	N/A
Upper level balconies should not project more than 1500mm beyond the main rear wall alignment so as to minimise adverse visual privacy impacts to adjoining properties.	The balconies exist, no change is proposed as part of this application.	N/A
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.	No change in the opening sizes and locations, just reinstatement of the fenestration.	Yes
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.	No change in the opening sizes and locations, just reinstatement of the fenestration.	Yes
6.1.2.10 Solar Access		
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.	No changes in height. The same style and form of roof is proposed, replacing that removed being a minimum of a 25 degree pitch, no changes to the shadow cast.	N/A
To facilitate sunlight penetration to adjoining development, building bulk may be required to be articulated to achieve the required sunlight access.	No shadowing changes.	N/A
Direct sunlight to north-facing windows of habitable rooms and	No changes to shadow cast.	N/A

50% of the principal private open space area of adjacent dwellings should not be reduced to less than 3 hours between 9.00am and 3.00pm on 21 June.		
Note: Variations will be considered for developments that comply with all other requirements but are located on sites with an east-west orientation or steeply sloping sites with a southerly orientation away from the street.	N/A	N/A
Shadow diagrams are required to show the impact of the proposal on solar access to the principal private open space and living rooms of neighbouring properties. Existing overshadowing by fences, roof overhangs and changes in level should also be reflected in the diagrams. It may also be necessary to provide elevations or views from sun diagrams to demonstrate appropriate solar access provision to adjoining development.	N/A	N/A
Materials, Colour Schemes and Details		
Large, expansive surfaces of predominantly white, light or primary colours, which would dominate the streetscape or other vistas, should not be used.	No changes proposed. Reinstatement will be the same as the existing colour scheme.	Yes
New development should incorporate colour schemes that have a hue and tonal relationship with the predominant colour schemes found in the street.	No changes proposed. Reinstatement will be the same as the existing.	Yes
Matching buildings in a row should be finished in the same colour or have a tonal relationship.	No matching buildings.	Yes
All materials and finishes utilised should have low reflectivity.	All materials are low reflective.	Yes
6.1.2.13. Site Facilities		
All dwellings are to be provided with adequate and practical internal and external storage (garage, garden sheds, etc.).	Dwelling Internal changes were approved by the CDC. There are no changes for the current application except the replacement of the roof, windows and doors exactly the same as existed.	No, Justified by the merit-based assessment.
Provision for water, sewerage and stormwater drainage for the site	The sewerage line is shown on the plan on the western side, and the proposed development will	Yes

shall be nominated on the plans to Council's satisfaction.	not change any existing stormwater plan, which is releasing to Kogarah Bay via existing pipework.	
Each dwelling must provide adequate space for the storage of garbage and recycling bins (a space of at least 3m x 1m per dwelling must be provided) and are not to be located within the front setback.	Bin store locations remain unchanged by this application.	Yes
Letterboxes are to be located on the frontage where the address has been allocated in accordance with Australia Post requirements.	The existing letter box will be used, no changes proposed.	Yes
Part 6.5 Foreshore Locality Controls		
1.5.1. Foreshore Scenic Protection Area		
Environmental Qualities and Scenic Landscape Values		
1. Development applications are supported by a site analysis and design response demonstrating how the relevant provisions of the LEP and the objectives of this part of the DCP have been addressed.	No, it is supported by a variation statement submitted seeking a variation to be landscaping GRLEP development standard. It is noted that there is no change sought with respect to the landscaped area.	No, Justified
2. Removal of existing native vegetation minimises what is reasonably required to site and construct a building.	No removal or changes to vegetation proposed.	N/A
3. The integrity of the existing edge of bushland closest to the Georges River is retained.	N/A	N/A
4. Vegetation along ridgelines and on hillsides is retained and supplemented to provide a backdrop to the waterway.	N/A	N/A
5. New, complementary planting and landscaping is encouraged.	No new landscaping or planting is proposed. Remains as existing which is non-compliant with GRLEP and GRDCP 2021. Clause 4.6 variation request assessed above.	No, Justified with the imposing conditions
6. Where on a steep site, vegetation is used to screen the impact of support structures such as piers.	N/A	N/A
7. Landscaped areas below the Foreshore Building Line (FBL) should maximise the use of indigenous plant material and preferably use exclusively indigenous plants. Turf should be	N/A	N/A

limited in this area. Details of planting are to be indicated on any landscape plan submitted to Council.		
8. A landscape plan is to be submitted for any development between the FBL and Mean High Water Mark (MHWM). The level of detail required will depend on the level of works being undertaken. Where a landscape plan is submitted it should indicate the existing and proposed changes in contours, existing trees/vegetation to be retained and removed, measures to protect vegetation during construction and proposed planting, including species and common names.	N/A	N/A
9. Natural features that make a contribution to the environmental qualities and scenic landscape values of the foreshore, including mature native tree and sandstone rock outcrops, platforms and low cliffs, are retained.	N/A	N/A
10. The visual impact of buildings is minimised having regard to building size, height, bulk, siting, external materials and colours and cut and fill.	No external materials are changed, the works are for the reinstatement of work removed. The proposed colours will be the same as the existing.	Yes
11. Buildings should be sited on the block to retain existing ridgeline vegetation, where possible. Siting buildings on existing building footprints or reducing building footprints to retain vegetation is highly recommended.	Building envelope and footprint remain unchanged.	No, justified as the existing is non compliant but changes will remain as an existing.
12. Where on a steep site, buildings are sited to sit discretely within the landscape using hillsides as a backdrop and below the tree canopy. The building footprint is to result in the following: (i) The preservation of topographic features of the site, including rock shelves and cliff faces; (ii) The retention of significant trees and vegetation, particularly in areas where the loss of this vegetation would result in the visual scarring of the	N/A	N/A

landscape, when viewed from the water, and (iii) Minimised site disturbance through cutting and filling of the site.		
13. Facades and rooflines of dwellings facing the water are to be broken up into smaller elements with a balance of solid walls to glazed areas. Rectangular or boxy shaped dwellings with large expanses of glazing and reflective materials are not acceptable. In this regard, the maximum amount of glazed area to solid area for façades facing the foreshore is to be 50%-50%.	The colour scheme provided consists of dark/muted tones. But the brickwork is off-white and exists.	Yes
14. Colours that harmonise with and recede into the background landscape are to be used. In this regard, dark and earthy tones are recommended and white and light coloured roofs and walls are not permitted. To ensure that colours are appropriate, a schedule of proposed colours is to be submitted with the Development Application and will be enforced as a condition of consent.	The proposed glass balustrade with a white frame is not significant and expansive. The fenestration colour will be white to be consistent with that which existed. Dark brown garage arched doors exist. Dark grey concrete roof tiles will be used consistent with those removed.	Yes
15. Buildings fronting the waterway must have a compatible presence when viewed from the waterway and incorporate design elements (such as roof forms, textures, materials, the arrangement of windows, modulation, spatial separation, landscaping etc) that are compatible with any design themes for the locality	The proposed, white-framed windows are also acceptable, and all windows and textures are compatible with the design scheme of the existing dwelling.	Yes
16. Blank walls facing the waterfront shall not be permitted. In this regard, walls are to be articulated and should incorporate design features, such as: (i) Awnings or other features over windows; (ii) Recessing or projecting architectural elements; or (iii) Open, deep verandas.	No change – as existing.	Yes
17. Adequate landscaping shall be provided to screen undercroft areas and reduce their impact when viewed from the water.	No change to the existing envelope. Condition to be imposed	No, justified with the 4.6 variation report.

18. The extent of associated paved surfaces is minimised to that which provides essential site access and reasonable private open space.	No additional paving is proposed.	No, justified on merit based as no changes proposed from existing.
19. Buildings have external finishes that are non-reflective and coloured to blend with the surrounding landscape.	Achieved. Non- reflective materials used.	Yes
20. Swimming pools and surrounds should be sited in areas that minimise the removal of trees and limit impact on natural landform features (rock shelves and platforms).	N/A – no change to the existing situation.	N/A, as no swimming pool changes proposed.
21. Fences are low in profile and are at least 50% transparent.	N/A - no change to the existing situation.	Yes
22. Driveways and other forms of vehicular access are as close as practical to running parallel with contours.	No change to the existing driveway.	Yes
23. The natural landform is to be retained and the use of retaining walls and terracing is discouraged.	N/A	N/A
24. Retaining walls are not to be located: Between the FBL and MHWM Within 40m of MHWM	N/A	N/A
25. Landscaping works and other structures including retaining walls, stairs, paths and driveways are not permitted below the deemed MHWM except where approved by NSW Maritime.	No new landscaping proposed by the applicant.	No, justified by 4.6 variations.
26. Where retaining walls are constructed in other areas, materials and colours that blend with the character and landscape of the area are used. Where retaining walls face the foreshore they are to be constructed of coarse, rock faced stone or a stone facing and are to be no higher than 600mm above natural or existing ground level. Under no circumstances will Council permit a masonry faced retaining wall facing the foreshore.	No retaining walls proposed.	N/A
27. Development provides opportunities to create view corridors from the public domain to the Georges River.	The envelope remains unchanged by this application.	No, justified as no changed proposed

		from the existing.
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CONCLUSION AND RECOMMENDATIONS

132. This application seeks consent to reinstate works that were removed without approval which resulted in a development form inconsistent with that approved under the Complying Development Certificate.
133. The works do not seek to extend or enlarge the building envelope or increase the height of the dwelling nor reduce the landscaped area of the site. It is acknowledged that the development form prior to the demolition works resulted in a floor space ratio and landscaped area that is deficient when compared to that required by the George River Local Environmental plan 2021. The development breached the Foreshore Building Line to western side of the dwelling, this breach is not exacerbated by this application.
134. For consideration to be given to the support of these development standard breaches the application needed to be supported by Clause 4.6 requests seeking to vary the development standards relating to:
- Clause 4.4A - Exceptions to floor space ratio—certain residential accommodation
 - Clause 6.4 Foreshore area and coastal hazards and risk
 - Clause 6.12 Landscaped areas in certain residential and environment protection zones
135. The applicant provided the necessary Clause 4.6 variation statements; the details within the statements are considered to be well-founded and worthy of support.
136. It is also noted that various criteria of the Georges River Development Control Plan 2021 are breached by the development that exists on site relating to setbacks, landscaping, fencing, etc.
137. The works proposed under this application do not result in additional breaches beyond those that existed on the site prior to the fenestration, roof, and some façade removal.
138. As a result, it is recommended that the Clause 4.6 variations be accepted and consent granted to the development subject to the recommended conditions at the end of this report.

THE LIKELY IMPACTS OF THE DEVELOPMENT

139. Section 4.15 (1) (b) the likely impacts of the development, including environmental impacts on both the natural and built environments and social and economic impacts in the locality.

Natural Environment

140. The development is located within an established residential area. The application seeks to reinstate work demolished and removed without consent. This application is seeking to reinstate these works. No additional building form, scale or height is proposed. The drainage will be connected to the existing system and discharged without further impacting the waterway. The application will not reduce the landscaped area of the site. However, the conditions will be imposed for the new landscape plan before CC. The application will not result in any additional impact on the natural environment.

Built Environment

141. The built form proposed by this application will reinstate the works removed without consent. Once the works the subject of this application are completed the dwelling will look not dissimilar to the dwelling before the unauthorised works being undertaken. It is acknowledged that the work will look new as new materials are being used, however the envelope and roof of the dwelling will remain consistent as that which previously existed, not extensions or additional height is sought.

Social Impact

142. The proposal will have no impact on the social environment, the works sought will result in a dwelling that is consistent in scale and form as that which existed prior to the unauthorised works being undertaken.

Economic Impact

143. The proposal is not considered to result in an unreasonable economic impact.

REFERRALS

Internal Referrals

144. **Development Engineer** - No objections were raised to the proposal, and conditions were recommended and have been imposed in the recommended conditions of consent.
145. **Landscape Officer** - Objections raised to the proposal and conditions suggested. The conditions cannot be imposed that the condition require extensive demolition of built form to provide additional landscaped areas. This cannot be imposed a part of this application, even through increased landscaping is desirable, as it is beyond the scope of the application.

External Referrals

146. **Ausgrid** - in accordance with State Environmental Planning Policy (Transport and Infrastructure) 2021 - No objections were raised to the proposal and no conditions recommended.

CONTRIBUTIONS

147. The development is not subject to Section 7.11 Contributions, as proposed development costs are less than \$50,000.

PLANNING AGREEMENTS

148. There is no planning agreement applicable to the development.

EP&A REGULATION 2021

149. No matters within the Regulation are affected by the DA application.

SUITABILITY OF THE SITE FOR THE DEVELOPMENT

150. The site is zoned R2 – Low-Density Residential. The proposal is a permissible form of development in this zone with consent.

DETERMINATION AND STATEMENT OF REASONS

151. It is recommended that DA2023/0346 be approved for the following reasons:
- The clause 4.6 Variations to the development standards are considered worthy of support as the justifications are well founded and they have been prepared having regard to the Clause 4.6 criterion, the objectives of the zone and the objectives of each clause which is being breached.
 - The proposal when complete will result in the dwelling's envelope being consistent with the dwelling prior to the unauthorised demolition works being undertaken.
 - The proposed development will not have unreasonable impacts on the natural, social and built environment.

DETERMINATION

152. That Georges River Local Planning Panel support the request for variations under Clause 4.6 of Georges River Local Environmental Plan 2021, in relation to the Exceptions to floor space ratio — certain residential accommodation (Clause 4.4A) development standard and Foreshore Area and Coastal Hazards and Risk (Clause 6.4) in relation to the breach of the foreshore building line and Landscaped areas in certain residential and conservation zones (6.12) as the variations sought satisfies the objectives of the standards 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.
153. Pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act, 1979 (as amended), the Georges River Local Planning Panel grant development consent to DA2023/0346, for the reinstatement of the pitched tiled roof, external facade and fenestration which has been removed without consent at 37 Endeavour Street Sans Souci NSW 2219, subject to conditions referenced below.

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:

Description	Reference No.	Date	Issue	Prepared by
Detail Level of Survey	A335822	29/05/2023	-	S.J Surveying Services Pty Ltd
Site Analysis	DA-02	31/07/2023	-	Tecton Group
Streetscape Character Analysis	DA-03	"		Tecton Group
Site and Roof Plan	DA-04	"	-	Tecton Group
Existing Ground Floor	DA-05	"	-	Tecton Group
Proposed Ground Floor	DA-06	"	-	Tecton Group
Existing First Floor	DA-07	"	-	Tecton Group
Proposed First Floor	DA-8	"	-	Tecton Group
North Elevation Existing and Proposed.	DA-09	"	-	Tecton Group
East Elevation Existing and Proposed.	DA-10	"	-	Tecton Group
South Elevations Existing and Proposed.	DA-11	"	-	Tecton Group
West Elevations Existing and Proposed.	DA-12	"	-	Tecton Group
Section AA	DA-13	"	-	Tecton Group
Section BB	DA-14	"	-	Tecton Group
Shadow Diagrams	DA-15	"	-	Tecton Group
GFA and Landscape Calculations	DA-16	"	-	Tecton Group
Materials Schedules	DA-17	"	-	Tecton Group
Door and Window Schedules	DA-18	"	-	Tecton Group

Documents Relied Upon

Description	Reference No.	Date	Issue	Prepared by
Structural Design Statement	-	16/11/2023		RAFT DESIGNS
4.6 Variations Report	-	-		Maximus Development Australia

LPP008-24

Separate Approvals Required Under Other Legislation

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

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

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

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;
- (g) Constructing a vehicular crossing or footpath;
- (h) Establishing a "works zone";
- (i) Digging up or disturbing the surface of a public road (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. For further information, please contact Council's Customer Service Centre on (02) 9330 6400.

3. **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.
4. **Sydney Water - Tap in™** - The approved plans must be submitted to a Sydney Water Tap in™ to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at www.sydneywater.com.au then see 'Building', or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap in™ agent has appropriately stamped the plans prior to the issue of the Construction Certificate.

Prior to the Issue of a Construction Certificate

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

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

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$1,900.00
Inspection Fee for Refund of Damage Deposit	\$200.00
Georges River Council Local Infrastructure Contributions Plan 2021 (Section 7.11 And Section 7.12)	\$0.00 as works below \$100,000.00

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.

A Section 7.12 contribution has been levied on the subject development pursuant to the Georges River Council Local Infrastructure Contributions Plan 2021 (Section 7.11 And Section 7.12).

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 Georges River Council Local Infrastructure Contributions Plan 2021.

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

6. Damage Deposit - Minor Works - In order to insure against damage to Council property the following is required:

- (a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: \$1,900.00
- (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: \$200.00
- (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.

7. 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.

8. Low reflectivity roof - Roofing materials must be low glare and reflectivity. Details of finished external materials including colours and texture must be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

9. 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.

10. **Structural details** - Engineer's details prepared by a practising Structural Engineer 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 the construction of the specified works.

A copy shall be forwarded to Council where Council is not the PCA.

11. **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.

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

12. **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.
13. **Drainage Engineering Site Inspection** The PCA shall ensure that a registered surveyor is engaged to verify the design surface and invert levels of the proposed charge system to Australian Height Datum.
14. **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

15. **Registered Surveyors Report - During Development Work** - A report must be submitted to the Principal Certifying Authority at each of the following applicable stages of construction:

- (a) Set out before commencing excavation.
- (b) Floor slabs or foundation wall, before formwork or commencing brickwork.
- (c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
- (d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
- (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.

16. Hours of construction for 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) 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.

17. 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.

18. Stormwater System – All stormwater shall drain by gravity to the bay to the satisfaction of the PCA. All the civil works are to be located within the property boundary, without scouring onto the downstream environment. In this instance, the roof water drainage is to be connected to the existing pipe system on site which lawfully drains the site to the street gutter or the bay as per the existing arrangements.

19. 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.

- 20. 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.
- 21. 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.
- 22. 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.
- 23. 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 as per the conditions of this consent.
- 24. 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.

Prior to the issue of the Occupation Certificate

- 25. Stormwater drainage works - Works As Executed** – Prior to the issue of the Occupation Certificate, stormwater drainage works are to be certified by a professional engineer specialising in hydraulic engineering, with Works-As-Executed drawings supplied to Council detailing:
- a) Compliance with conditions of development consent relating to stormwater;
 - b) Pipe invert levels and surface levels to Australian Height Datum;
- 26. Requirements prior to the issue of the Occupation Certificate** - The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:
- a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
 - b) The internal driveway construction works, together with the provision for all services 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.

Operational Conditions (On-Going)

27. **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).
28. **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.
29. **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 are prohibited.
30. **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.

Operational Requirements Under the Environmental Planning & Assessment Act 1979

31. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
32. **Appointment of a PCA** – The erection of a building must not commence until the applicant has:
 - appointed a PC for the building work; and
 - 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, 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 PC 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 PC for your development.

33. **Notification Requirements of PCA** - 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 applicant of the critical stage inspections and other inspections that are to be carried out with respect to the building work.

34. **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.

35. **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 61 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021

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

Where Georges River Council has been appointed as the PC, 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.

37. **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.

An Occupation Certificate Application Form is attached for your convenience.

Prescribed Conditions

38. **Clause 19 - Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.
39. **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 PC and the Principal Contractor.
40. **Clause 67 - Home Building Act 1989** – If the development involves residential building work under the Home Building Act 1989, no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the Home Building Act 1989.

41. **Clause 98E - Protection & support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.
42. **Clause 73 - Site Excavation** - Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site.

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided and adequate provision shall be made for drainage.

END CONDITIONS

NOTES / ADVICES

1. **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.

2. **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.
- (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.

3. **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.
4. **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).

5. **Ausgrid Underground Cables** – Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Safework Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables. Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

6. **Ausgrid Overhead Powerlines** - Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website, www.ausgrid.com.au.

7. **Review of Determination** - 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.
8. **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.
9. **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.

ATTACHMENTS

Attachment [1](#) Redacted Plan DA2023/0346



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

PROPOSED REINSTATEMENT OF EXISTING ROOF AND FACADE TO EXISTING DWELLING AT
37 ENDEAVOUR STREET, SANS SOUCI

SITE SUMMARY

COUNCIL: GEORGES RIVER COUNCIL
LAND ZONE: R2- LOW DENSITY RESIDENTIAL
ACID SULFATE SOIL: CLASS 2
LOT SIZE: 562.3 m²
FRONTAGE: AS PER EXISTING

CALCULATIONS

Permissible Floor Space Ratio: 0.55:1
Permissible Total GFA: 309.265m²

Current GFA:

GF 179m²
FF 166m²
Total 345m²

Proposed GFA:

NO CHANGE

FORESHORE BUILDING LINE MAP

7.6m from MHWM

LANDSCAPE CALCS:

25% of site area required landscape
25% of 562.3m² = 140.5m²


Current Landscape:18.37m²

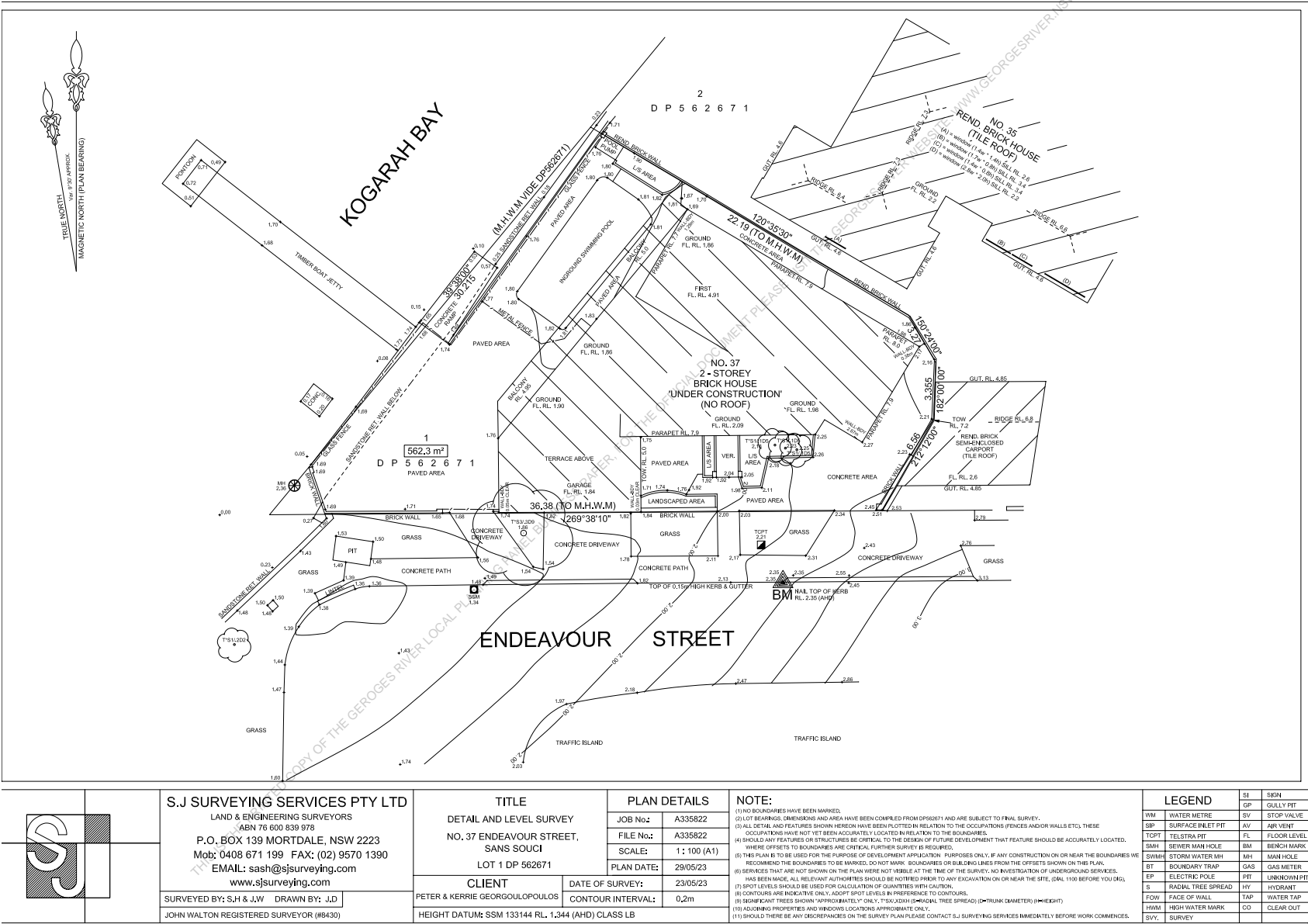
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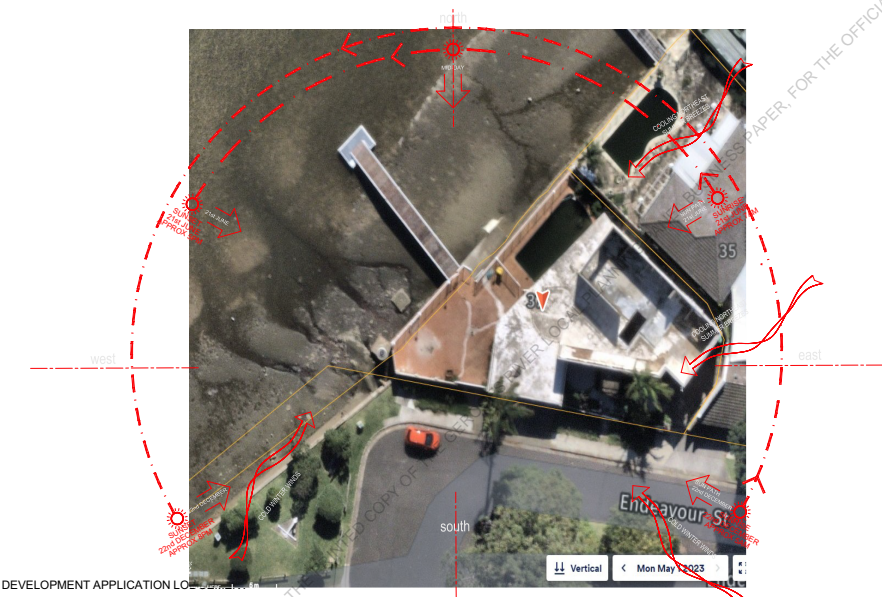
CONTENTS	
Layout ID	Layout Name
DA-00	COVER PAGE
DA-01	SURVEY
DA-02	SITE ANALYSIS
DA-03	STREETSCAPE CHARACTER ANALYSIS
DA-04	SITE AND ROOF PLAN
DA-05	EXISTING GROUND FLOOR
DA-06	PROPOSED GROUND FLOOR
DA-07	EXISTING FIRST FLOOR
DA-08	PROPOSED FIRST FLOOR
DA-09	NORTH ELEVATIONS EXISTING/PROPOSED
DA-10	EAST ELEVATIONS EXISTING/PROPOSED
DA-11	SOUTH ELEVATIONS EXISTING/PROPOSED
DA-12	WEST ELEVATIONS EXISTING/ PROPOSED
DA-13	SECTION AA
DA-14	SECTION BB
DA-15	SHADOW DIAGRAMS
DA-16	GFA AND LANDSCAPE CALCULATIONS
DA-17	MATERIALS SCHEDULE
DA-18	DOOR AND WINDOW SCHEDULE

DEVELOPMENT APPLICATION LODGEMENT

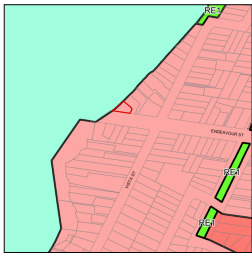
 <div>Tel: 8338 1883 Email: mail@tectongroup.com.au NOMINATED ARCHITECT AILEEN CHEAH NSW 7728</div>	<div>TECTON GROUP</div> <div>ARCHITECTURAL INTERIORS PROJECT MANAGEMENT AWARD WINNING BUILDERS</div>	<div>NOTE:</div> <div><div>- Do not take off the drawings</div><div>- All works to be set out by a registered surveyor</div><div>- Builder and contractors to verify all dimensions and levels as well as notify the architectural designer of any discrepancies prior to commencing any work</div><div>- Refer to engineering drawings for all structural details</div><div>- Not for construction unless noted otherwise in the issue and revision block</div><div>- All construction works are to comply with the NCC 2019 and where noted alternative performance solutions.</div><div>- Architectural drawings are to be read in conjunction with the specification and all referenced Australian standards and BCA clauses</div><div>- The design is licensed only to be used by the stated client and for that particular project as shown on the drawings and documents</div><div>- These drawings are not to be reproduced and ownership is not transferable without the written permission of Tecton Group Pty Ltd and are subject to copyright ©</div></div>	REVISION	DATE	DESCRIPTION	Project	Drawing	Drawing No
		DA	31/07/23	DA LODGEMENT	Proposed reinstatement of existing roof and facade to existing dwelling at 37 Endeavour Street Sans Souci NSW 2219	COVER PAGE	DA-00	
						Scale 1:1.67 @ A3 DOUBLE @ A1	Drawn DA, AP Checked AC	Issue date 31-7-2023



37 ENDEAVOUR STREET, SANS SOUCI NSW 2219



FORESHORE BUILDING LINE MAP




LAND ZONING MAP - R2

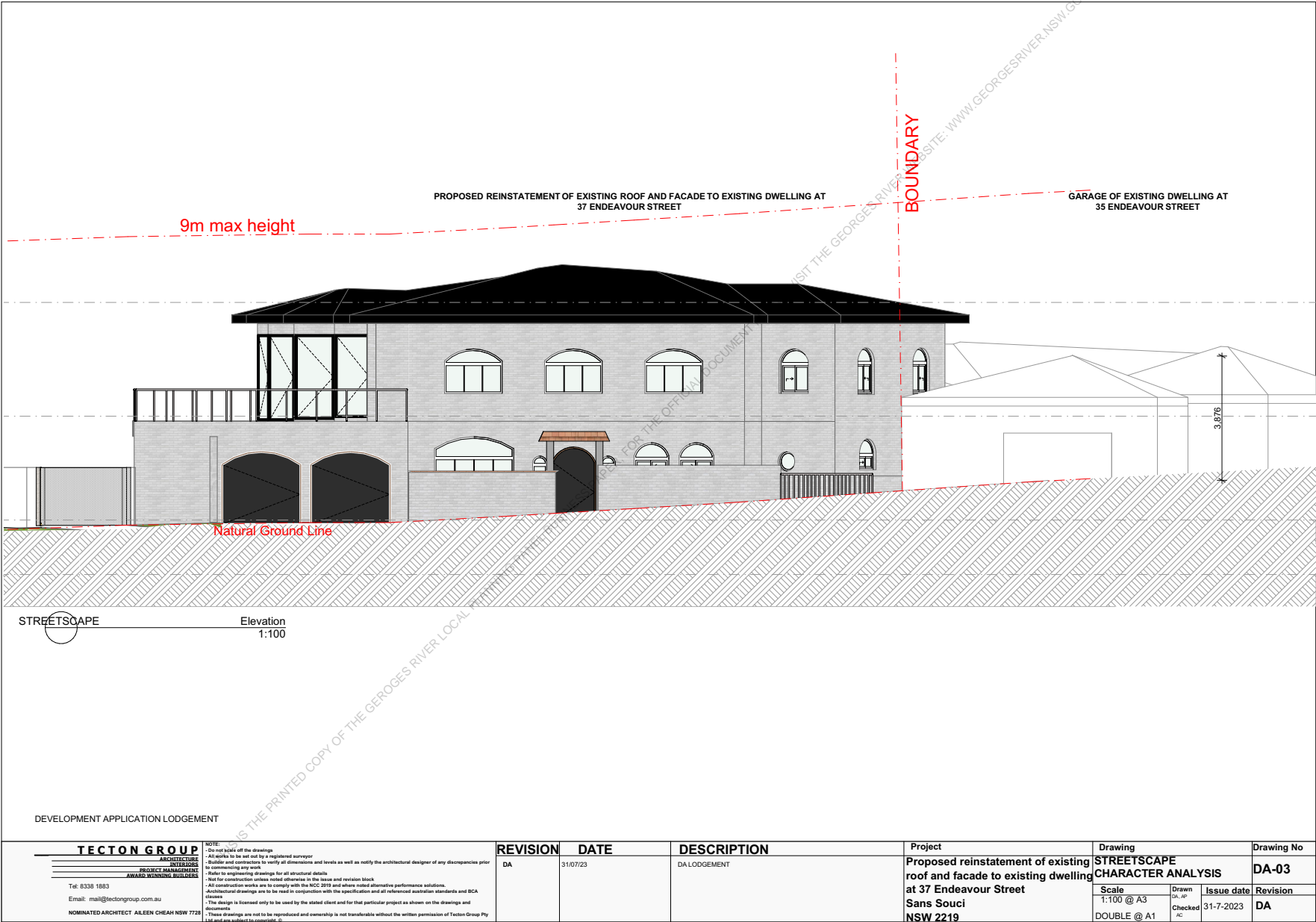


FLOOR SPACE RATIO MAP - AREA 1
0.55:1
[site area x 0.55] ÷ site area:1



HEIGHT OF BUILDING MAP - 9m

 TECTON GROUP ARCHITECTURE INTERIORS PROJECT MANAGEMENT AWARD WINNING BUILDERS Tel: 8338 1883 Email: mail@tectongroup.com.au NOMINATED ARCHITECT AILEEN CHEAN NSW 7728	NOTE: - Do not scale off the drawings - All works to be set out by a registered surveyor - Builder and contractors to verify all dimensions and levels as well as notify the architectural designer of any discrepancies prior to commencing any work - Refer to engineering drawings for all structural details - Refer for construction unless noted otherwise in the base and revision block - All construction works are to comply with the NCC 2019 and where noted alternative performance solutions - Architectural drawings are to be read in conjunction with the specification and all referenced Australian standards and BCA clauses - The design is licensed only to be used by the stated client and for that particular project as shown on the drawings and documents - These drawings are not to be reproduced and ownership is not transferable without the written permission of Tecton Group Pty Ltd and are subject to copyright ©		REVISION DA 31/07/23		DESCRIPTION DA LODGEMENT		Project Proposed reinstatement of existing roof and facade to existing dwelling at 37 Endeavour Street Sans Souci NSW 2219		Drawing SITE ANALYSIS Scale @ A3 DOUBLE @ A1 Drawn DA, AP Checked AC Issue date 31-7-2023		Drawing No DA-02 Revision DA



SITE SUMMARY

COUNCIL: GEORGES RIVER COUNCIL
LAND ZONE: R2- LOW DENSITY RESIDENTIAL
ACID SULFATE SOIL: CLASS 2
LOT SIZE: 562.3 m²
FRONTAGE: AS PER EXISTING

CALCULATIONS

Permissible Floor Space Ratio: 0.55:1
Permissible Total GFA: 309.265m²

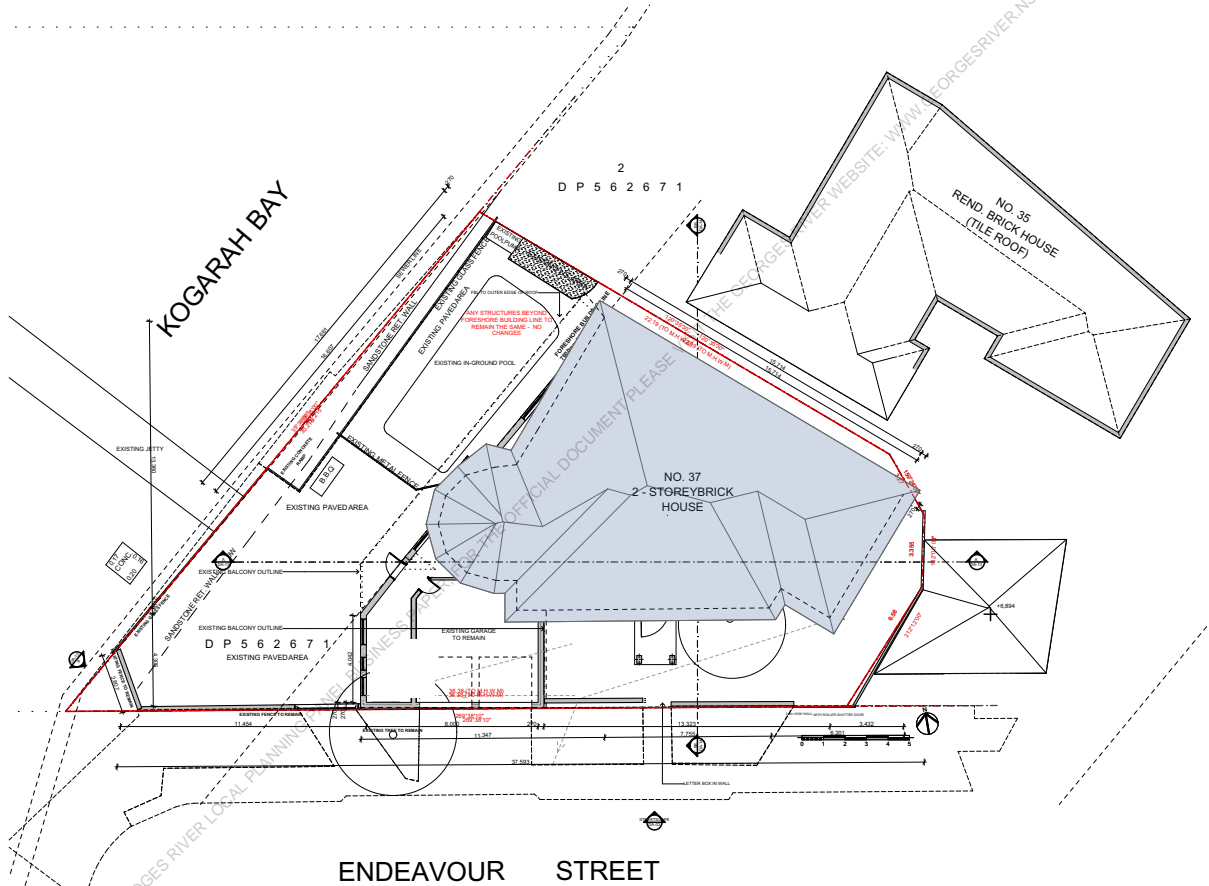
Current GFA:
GF 185m²
FF 165m²
Total 350m²

Proposed GFA:
NO CHANGE


FORESHORE BUILDING LINE MAP
7.6m from MHWM

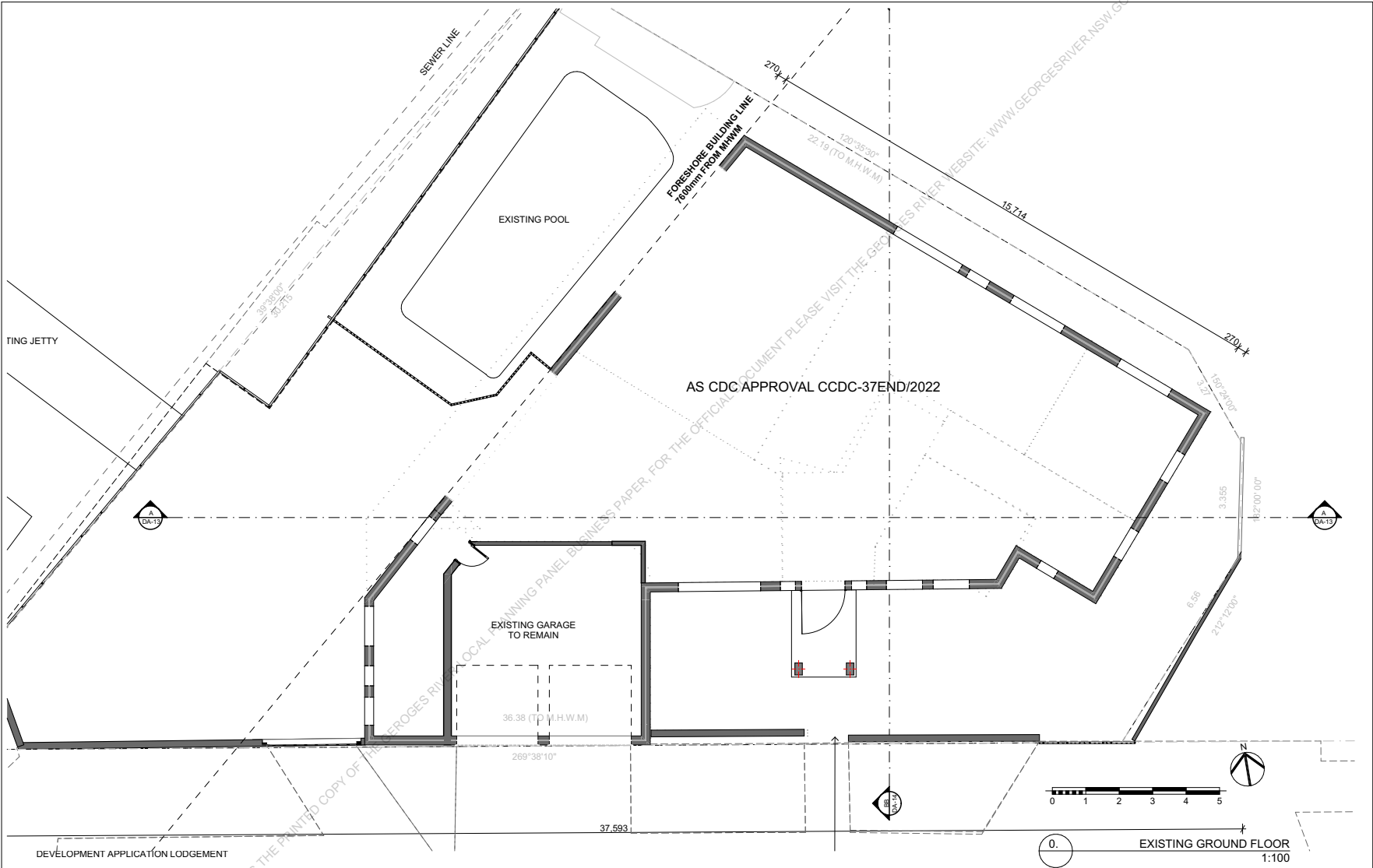
LANDSCAPE CALCS:
25% of site area required landscape
25% of 562.3m² = 140.5m²

Current Landscape:18.37m²
NO CHANGE



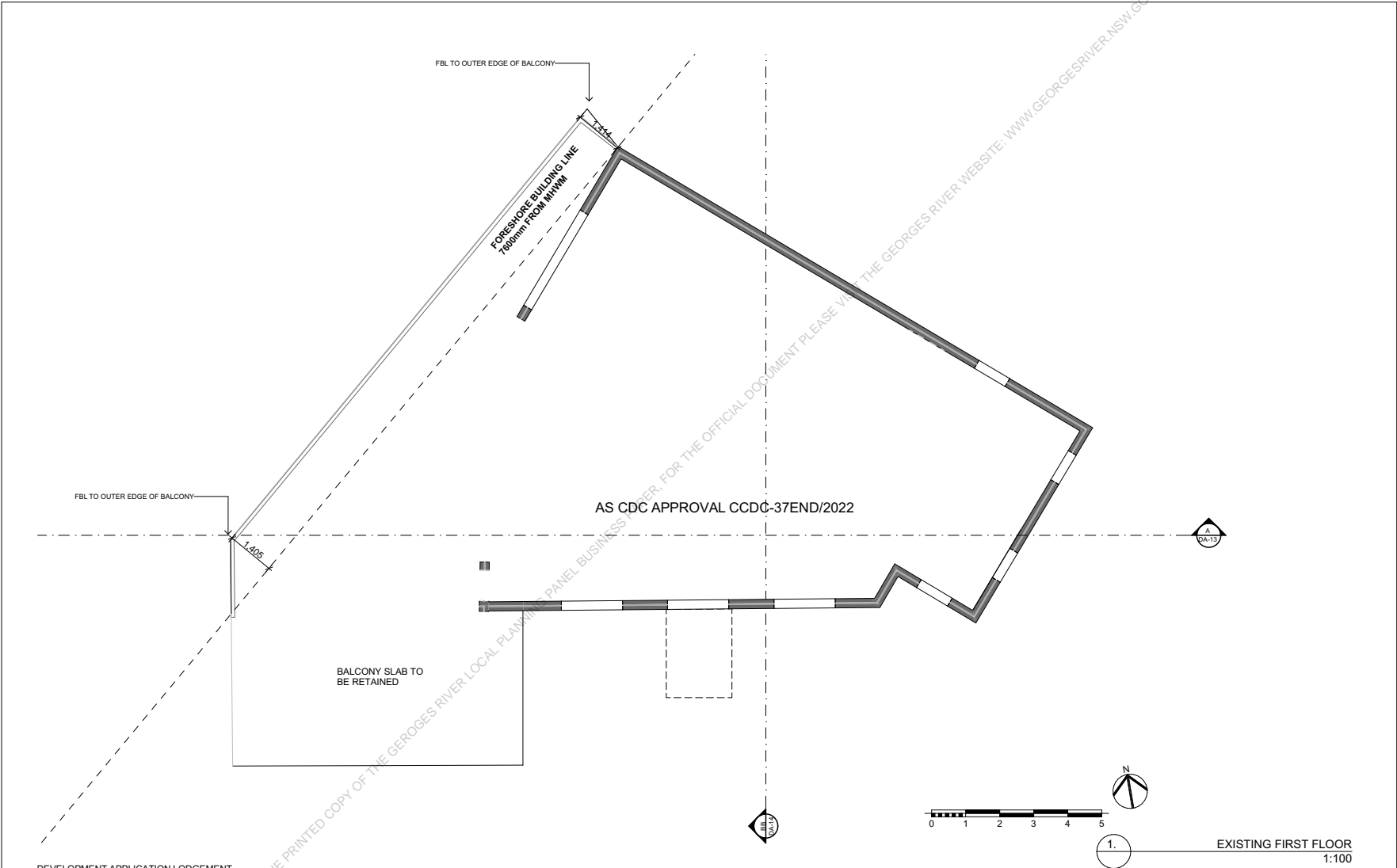
DEVELOPMENT APPLICATION LODGEMENT


 TECTON GROUP ARCHITECTS INTERIORS PROJECT MANAGEMENT AWARD WINNING BUILDERS Tel: 8338 1883 Email: mail@tectongroup.com.au NOMINATED ARCHITECT AILEEN CHEAH NSW 7728	<small>NOTE:</small> <ul style="list-style-type: none">- Do not scale off the drawings- All works to be set out by a registered surveyor- Builder and contractors to verify all dimensions and levels as well as notify the architectural designer of any discrepancies prior to commencing any work- Refer to engineering drawings for all structural details- Not for construction unless noted otherwise in the issue and revision block- All construction works are to comply with the NCC 2019 and where noted alternative performance solutions- Architectural drawings are to be read in conjunction with the specification and all referenced Australian standards and BCA clauses- The design is licensed only to be used by the stated client and for that particular project as shown on the drawings and documents- These drawings are not to be reproduced and ownership is not transferable without the written permission of Tecton Group Pty Ltd and are subject to copyright.	REVISION	DATE	DESCRIPTION	Project Proposed reinstatement of existing roof and facade to existing dwelling at 37 Endeavour Street Sans Souci NSW 2219	Drawing SITE AND ROOF PLAN		Drawing No DA-04	
		DA	31/07/23	DA LODGEMENT		Scale 1:200, 1:100 @ A1 DOUBLE @ A1	Drawn DA, AP	Issue date 31-7-2023	Revision DA
							Checked AC		

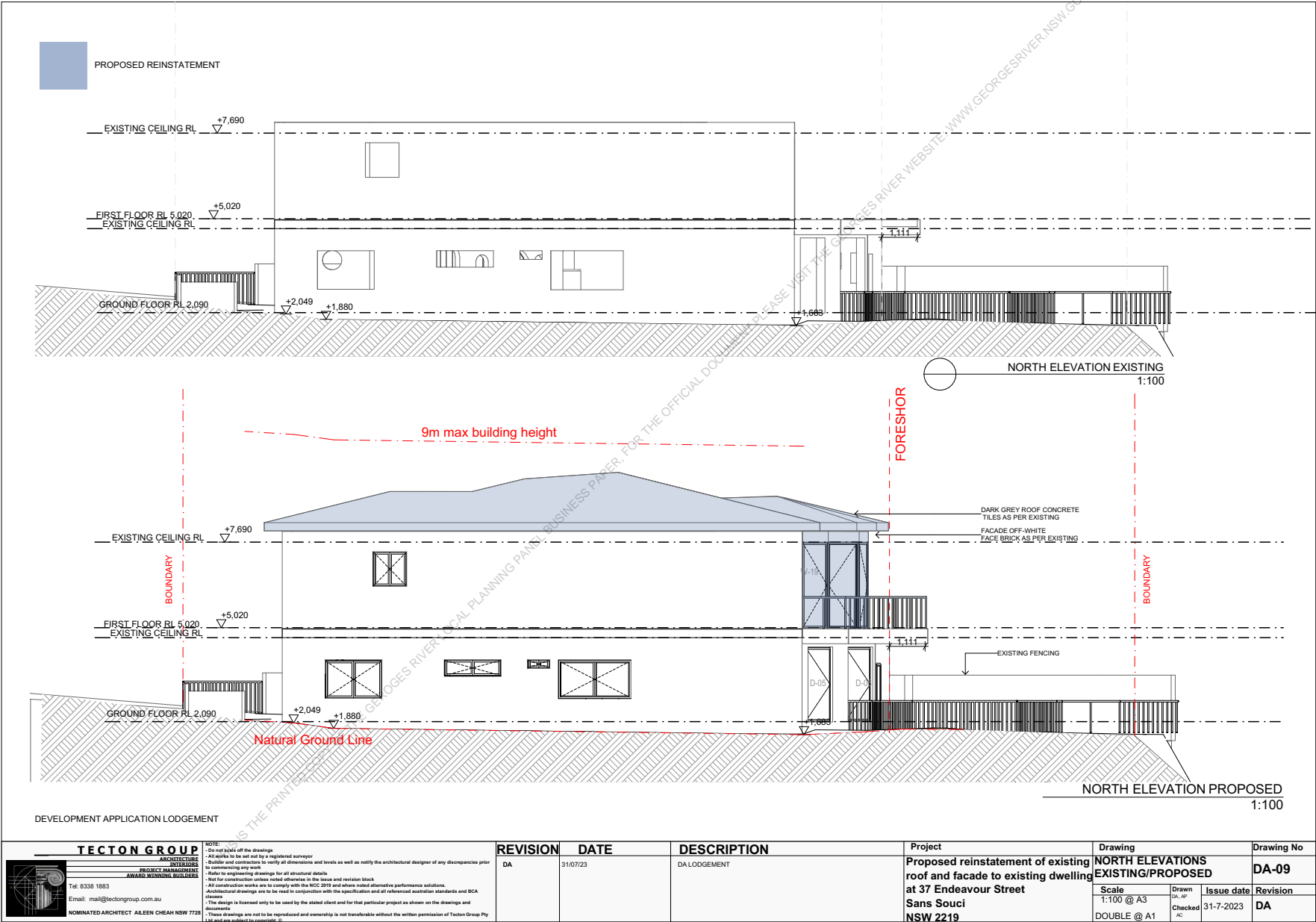


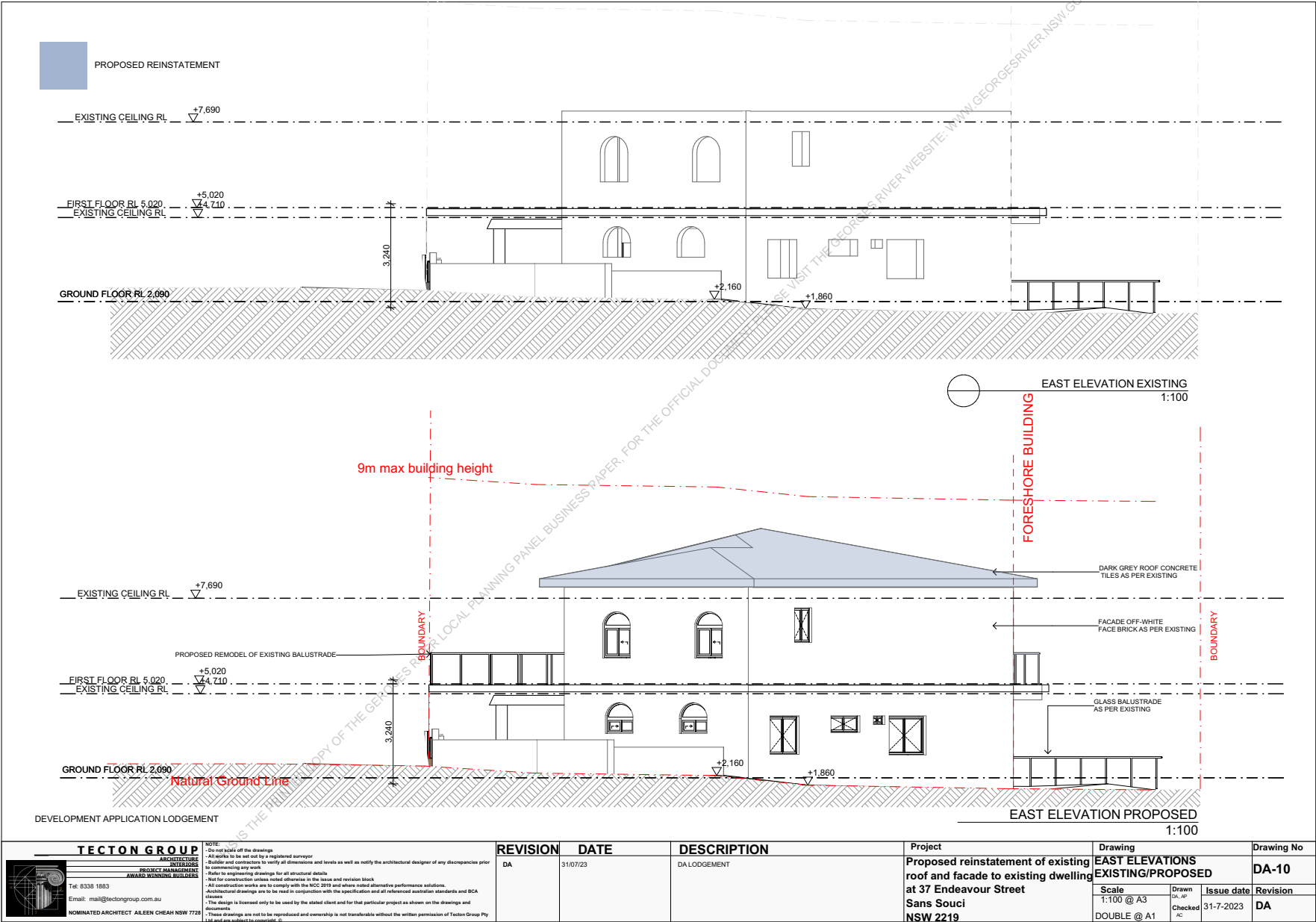
<div><div><div>T E C T O N</div><div>G R O U P</div></div><div><div>ARCHITECTURE</div><div>INTERIORS</div><div>PROJECT MANAGEMENT</div><div>AWARD WINNING BUILDERS</div></div><div><div>Tel: 8338 1883</div><div>Email: mail@tectongroup.com.au</div></div><div><div>NOMINATED ARCHITECT AILEEN CHEAH NSW 7728</div></div></div>	<div>NOTE:</div> <div><div>- Do not scale off the drawings</div><div>- All works to be set out by a registered surveyor</div><div>- Builder and contractors to verify all dimensions and levels as well as notify the architectural designer of any discrepancies prior to commencing any work</div><div>- Refer to engineering drawings for all structural details</div><div>- Not for construction unless noted otherwise in the issue and revision block</div><div>- All construction works are to comply with the NCC 2019 and where noted alternative performance solutions.</div><div>- Architectural drawings are to be read in conjunction with the specification and all referenced Australian Standards and BCA clauses</div><div>- The design is licensed only to be used by the stated client and for that particular project as shown on the drawings and documents</div><div>- These drawings are not to be reproduced and ownership is not transferable without the written permission of Tecton Group Pty Ltd and are subject to copyright.</div></div>			<div>REVISION</div> <div>DA</div>	<div>DATE</div> <div>31/07/23</div>	<div>DESCRIPTION</div> <div>DA LODGEMENT</div>	<div>Project</div> <div>Proposed reinstatement of existing roof and facade to existing dwelling at 37 Endeavour Street</div> <div>Sans Souci</div> <div>NSW 2219</div>	<div>Drawing</div> <div>EXISTING GROUND FLOOR</div> <table><tr><td>Scale</td><td>Drawn</td><td>Issue date</td><td>Revision</td></tr><tr><td>1:100 @ A3</td><td>DA AP</td><td>31-7-2023</td><td>DA</td></tr><tr><td>DOUBLE @ A1</td><td>Checked AC</td><td></td><td></td></tr></table>	Scale	Drawn	Issue date	Revision	1:100 @ A3	DA AP	31-7-2023	DA	DOUBLE @ A1	Checked AC			<div>Drawing No</div> <div>DA-05</div>
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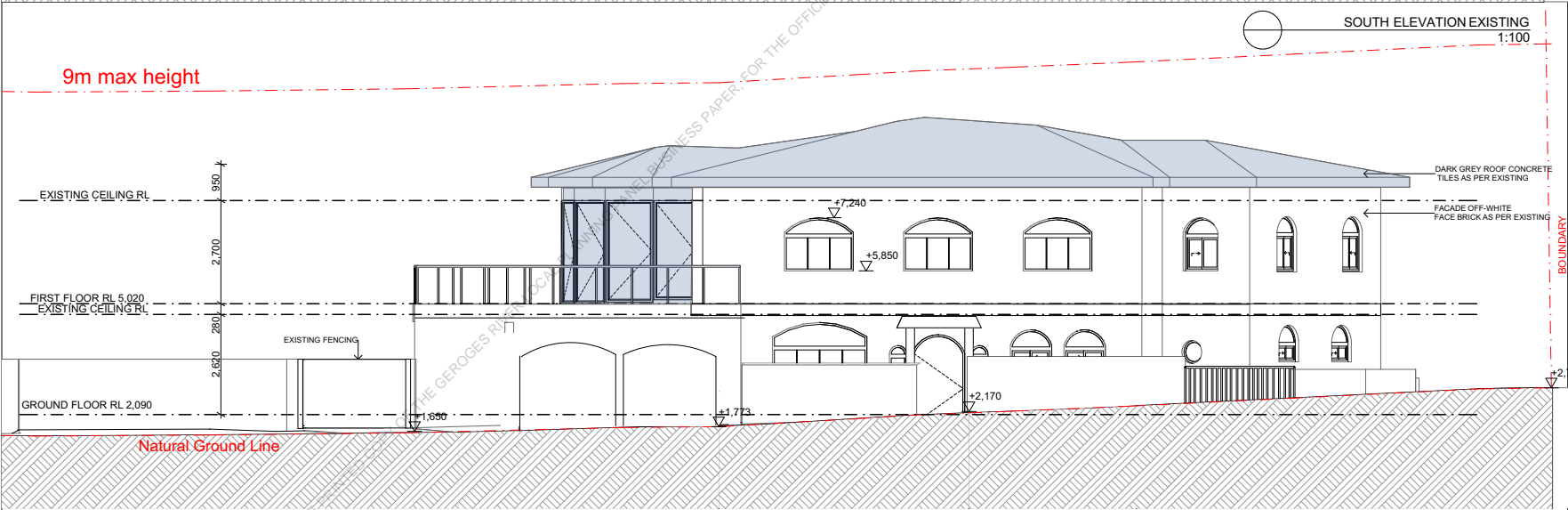
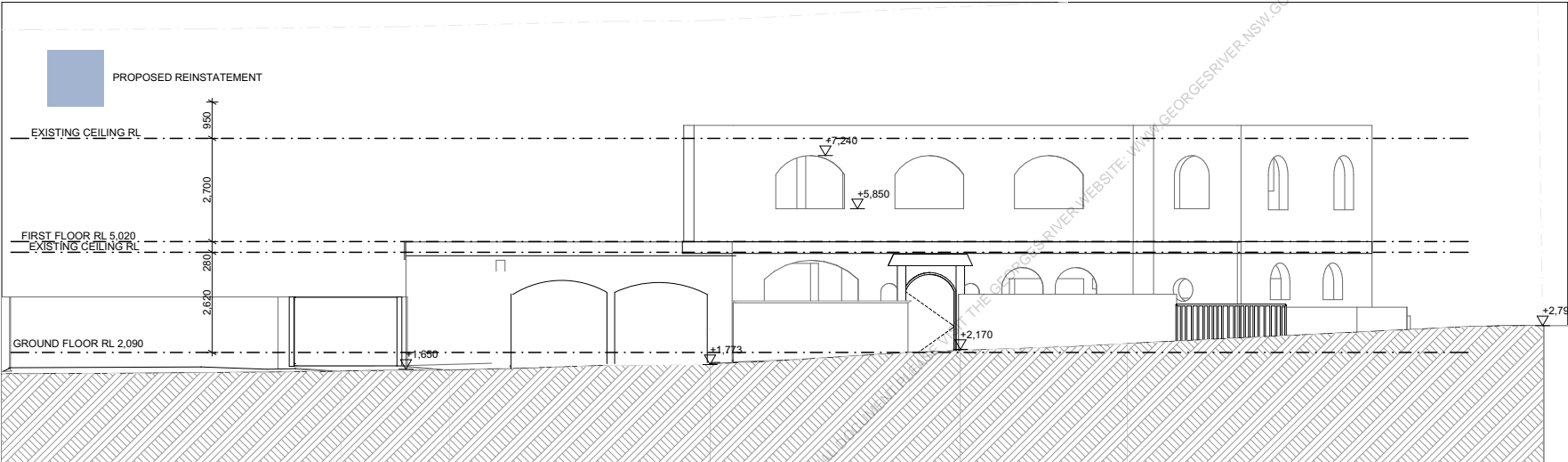




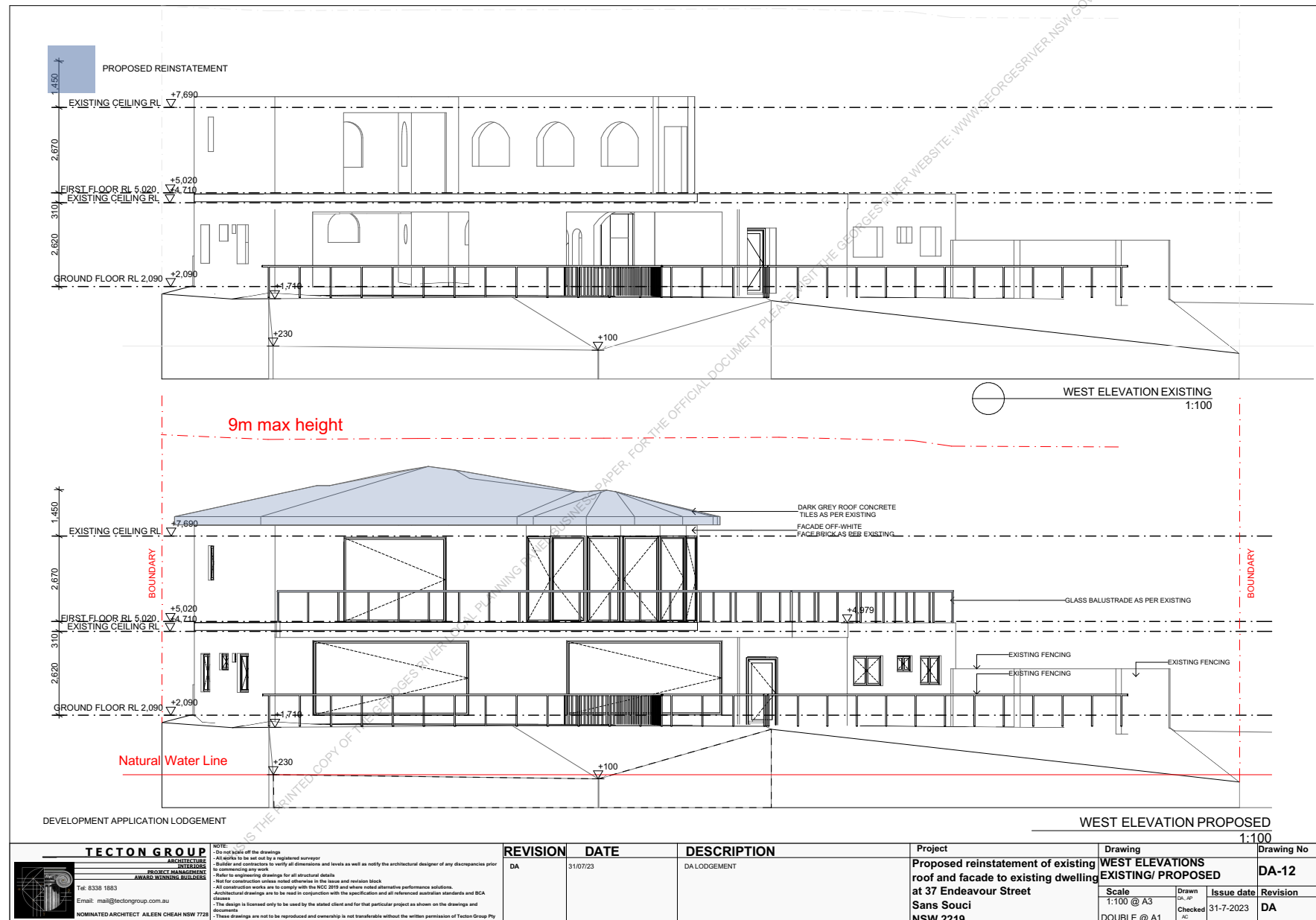
 <div>TECTON GROUP ARCHITECTS PROJECT MANAGEMENT AWARD WINNING BUILDERS Tel: 8338 1883 Email: mail@tectongroup.com.au NOMINATED ARCHITECT AILEEN CHEAH NSW 7728</div>	NOTE: <ul style="list-style-type: none">- Do not scale off the drawings- All works to be set out by a registered surveyor- Builder and contractors to verify all dimensions and levels as well as notify the architectural designer of any discrepancies prior to commencing any work- Refer to engineering drawings for all structural details- Not for construction unless noted otherwise in the issue and revision block- All construction works are to comply with the NCC 2019 and where noted alternative performance solutions- Architectural drawings are to be read in conjunction with the specification and all referenced Australian standards and BCA clauses- The design is licensed only to be used by the stated client and for that particular project as shown on the drawings and documents- These drawings are not to be reproduced and ownership is not transferable without the written permission of Tecton Group Pty Ltd and are subject to copyright ©		REVISION	DATE	DESCRIPTION	Project	Drawing	Drawing No
			DA	31/07/23	DA LODGEMENT	Proposed reinstatement of existing roof and facade to existing dwelling at 37 Endeavour Street Sans Souci NSW 2219	EXISTING FIRST FLOOR	DA-07
					Scale 1:100 @ A3 DOUBLE @ A1	Drawn DA, AP Checked AC	Issue date 31-7-2023	Revision DA

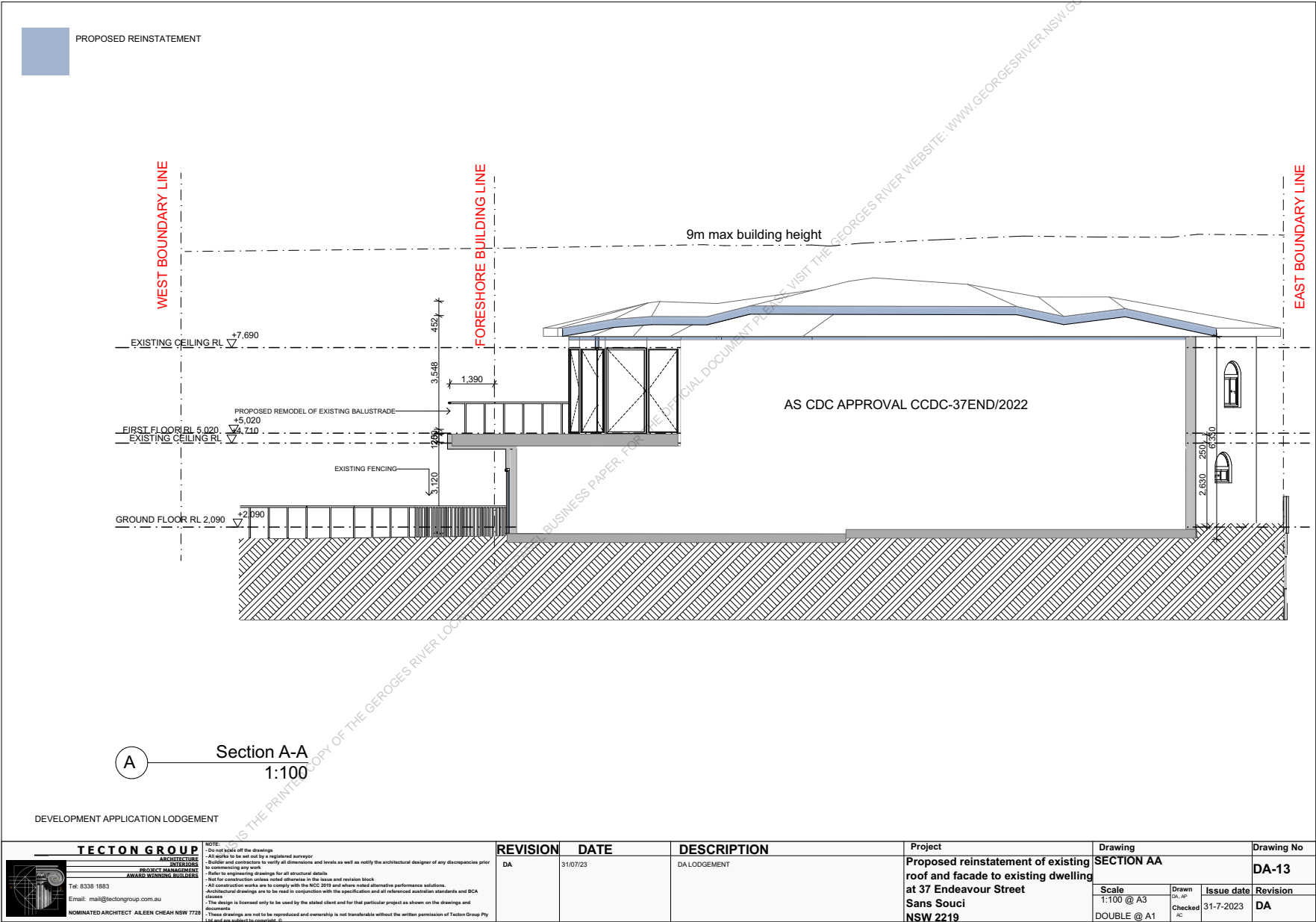


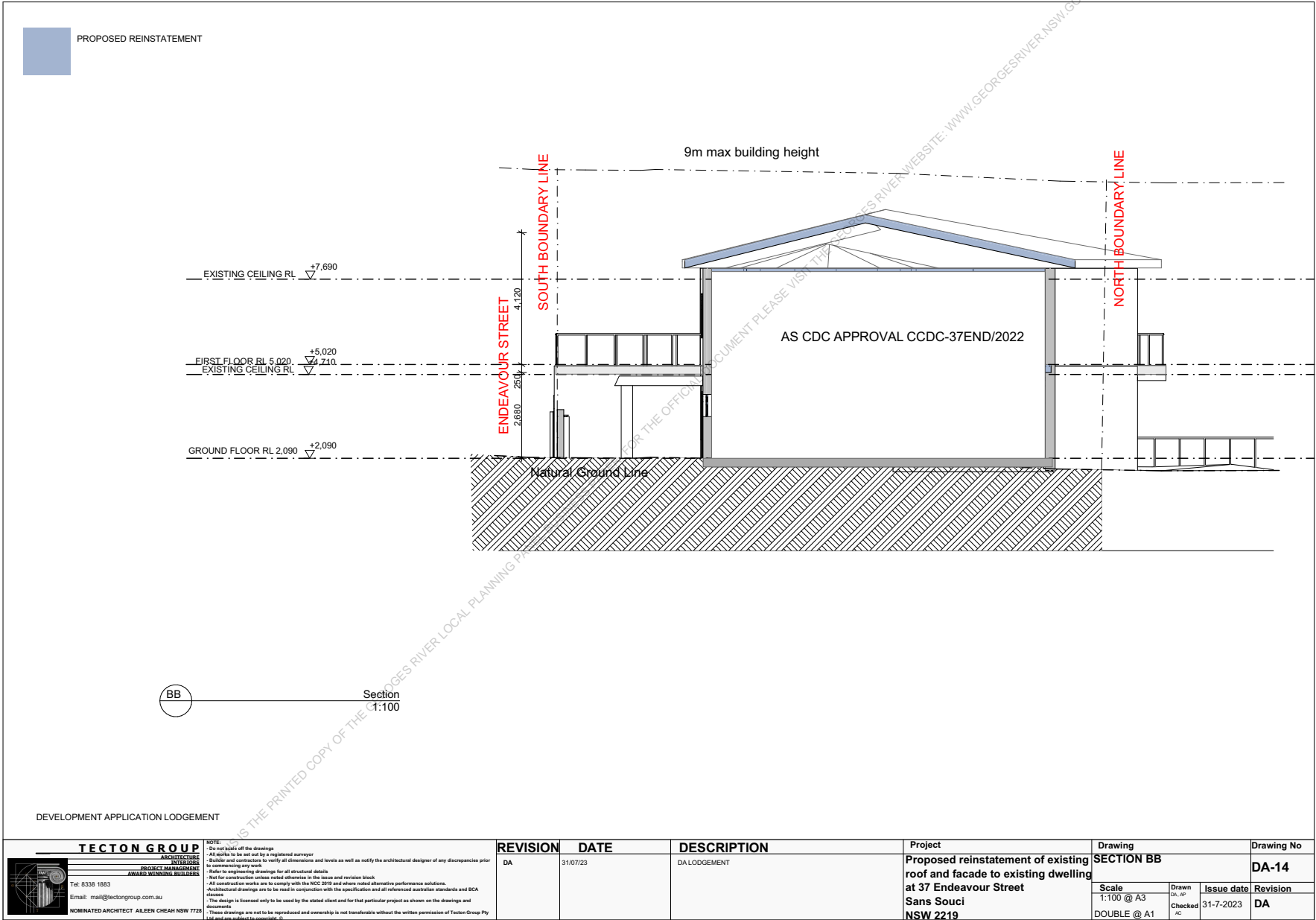




TECTON GROUP ARCHITECTS PROJECT MANAGEMENT AWARD WINNING BUILDERS Tel: 8338 1883 Email: mail@tectongroup.com.au NOMINATED ARCHITECT AILEEN CHEAH NSW 723		<small>NOTE:</small> - Do not scale off the drawings - All works to be not to a registered surveyor - Builder and contractors to verify all dimensions and levels as well as notify the architectural designer of any discrepancies prior to commencing any work - Refer to engineering drawings for all structural details - Not for construction unless noted otherwise in the issue and revision block - All construction works are to comply with the NCC 2019 and where noted alternative performance solutions. - Architectural drawings are to be read in conjunction with the specification and all referenced Australian standards and BCA clauses - The design is licensed only to be used by the stated client and for that particular project as shown on the drawings and documents - These drawings are not to be reproduced and ownership is not transferable without the written permission of Tecton Group Pty Ltd and are subject to copyright ©		REVISION DA	DATE 31/07/23	DESCRIPTION DA LODGEMENT	Project Proposed reinstatement of existing roof and facade to existing dwelling at 37 Endeavour Street Sans Souci NSW 2219	Drawing SOUTH ELEVATIONS EXISTING/PROPOSED Scale 1:100 @ A3 DOUBLE @ A1	Drawing No DA-11 Revision DA
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1 june 21st 9am new
1:500

2 june 21st 12pm new
1:500

3 june 21st 3pm new
1:500

DEVELOPMENT APPLICATION LODGEMENT

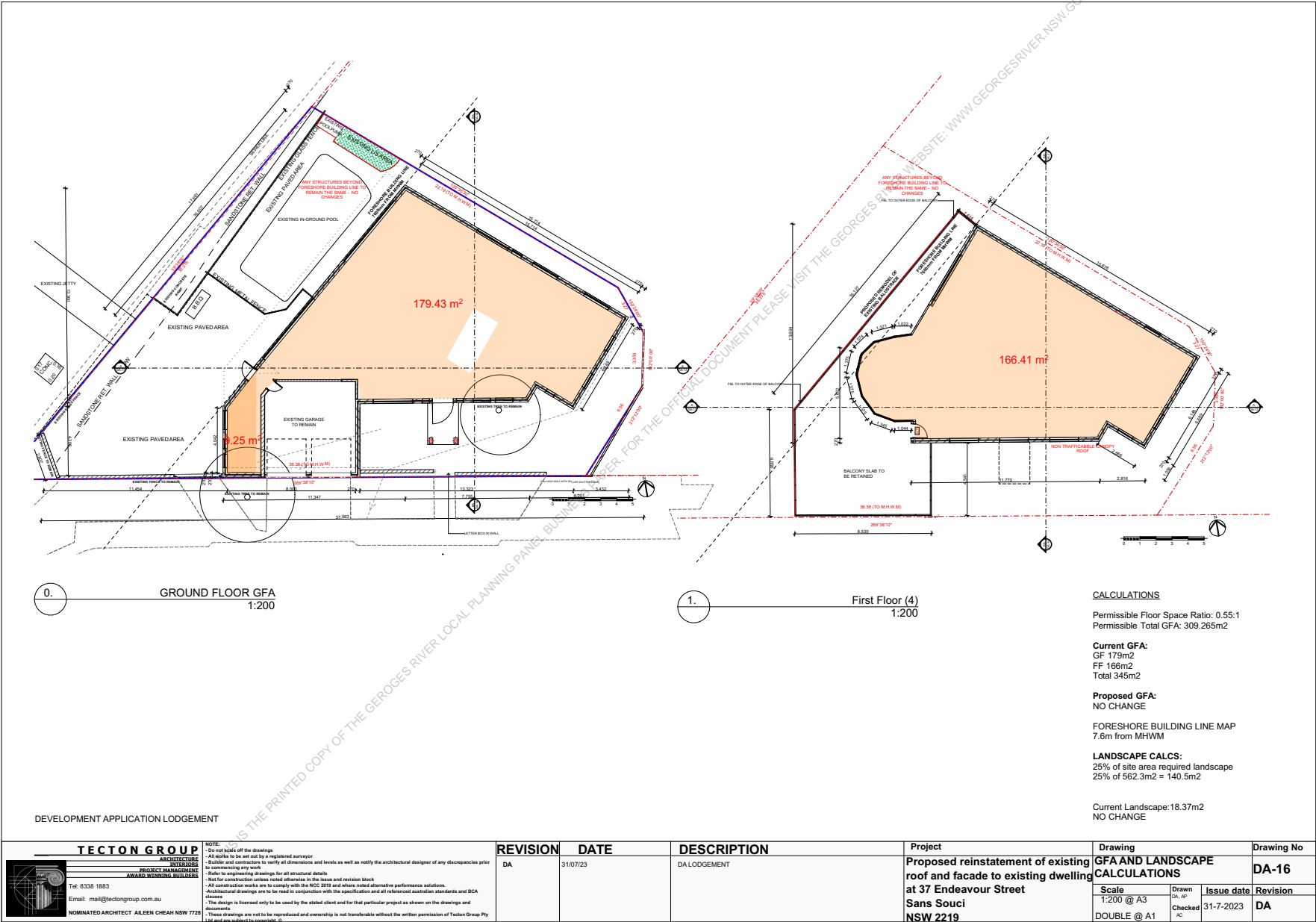
TECTON GROUP
ARCHITECTURE
INTERIORS
PROJECT MANAGEMENT
AWARD WINNING BUILDERS
Tel: 8338 1883
Email: mail@tectongroup.com.au
NOMINATED ARCHITECT AILEEN CHEAH NSW 7728

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REVISION	DATE	DESCRIPTION
DA	31/07/23	DA LODGEMENT

Project	Drawing	Drawing No
Proposed reinstatement of existing roof and facade to existing dwelling at 37 Endeavour Street Sans Souci NSW 2219	SHADOW DIAGRAMS	DA-15
	Scale 1:500 @ A3	Drawn DA, AP
	DOUBLE @ A1	Checked AC

Issue date	Revision
31-7-2023	DA



COLOUR SCHEDULE REINSTATING THE ORIGINAL FACADE



GLASS BALUSTRADE WITH WHITE FRAME



WHITE FRAMED WINDOWS



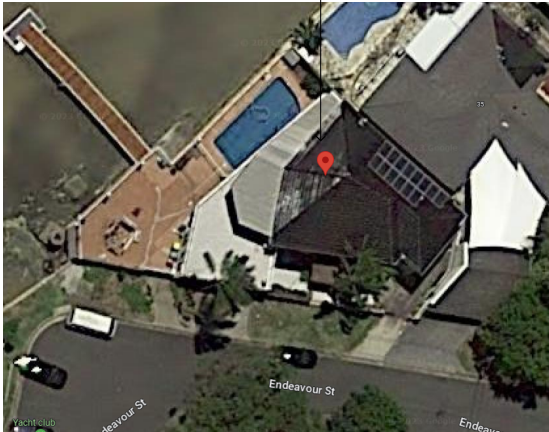
DARK GREY ROOF CONCRETE TILES



FACADE OFF-WHITE FACE BRICK
















































DARK BROWN GARAGE ARCHED DOORS



DARK GREY ROOF CONCRETE TILES

DEVELOPMENT APPLICATION LODGEMENT

 <div>TECTON GROUP ARCHITECTURE INTERIORS PROJECT MANAGEMENT AWARD WINNING BUILDERS Tel: 8338 1883 Email: mail@tectongroup.com.au NOMINATED ARCHITECT AILEEN CHEAH NSW 7728</div>	<small>NOTE: - Do not scale off the drawings - All works to be set out by a registered surveyor - Builder and contractors to verify all dimensions and levels as well as notify the architectural designer of any discrepancies prior to commencing any work - Refer to engineering drawings for all structural details - Not for construction unless noted otherwise in the issue and revision block - All construction works are to comply with the NCC 2019 and where noted alternative performance solutions - Architectural drawings are to be read in conjunction with the specification and all referenced Australian standards and BCA clauses - The design is licensed only to be used by the stated client and for that particular project as shown on the drawings and documents - These drawings are not to be reproduced and ownership is not transferable without the written permission of Tecton Group Pty Ltd and are subject to copyright ©</small>	REVISION	DATE	DESCRIPTION	Project Proposed reinstatement of existing roof and facade to existing dwelling at 37 Endeavour Street Sans Souci NSW 2219	Drawing MATERIALS SCHEDULE			Drawing No
		DA	31/07/23	DA LODGEMENT		Scale @ A3	Drawn DA, AP	Issue date 31-7-2023	Revision
						DOUBLE @ A1	Checked AC		DA

Window Schedule				
ID	Width	Height	View from Opening Side	
W-01	2,460	2,585		
W-02	430	1,749		
W-03	430	1,749		
W-003	946	2,600		
W-003	1,331	2,540		
W-04	1,080	900		
W-05	1,080	900		
W-06	660	660		
W-07	960	958		
W-08	960	958		
W-09	1,770	1,400		
W-10	1,770	710		
W-11	690	450		
W-12	2,260	1,400		
W-13	4,880	2,890		
W-14	4,870	2,890		
W-015	820	2,040		
W-16	1,190	940		
W-17	600	500		
W-18	840	910		
W-19	1,800	1,390		
W-20	1,800	1,390		
W-021	1,800	1,390		
W-022	1,060	1,390		
W-23	1,070	1,390		
W-24	1,070	1,390		
W-025	1,050	1,080		
W-26	3,486	2,220		
W-27	1,826	3,097		
W-28	1,006	2,600		
W-29	1,376	2,600		
W-30	969	2,600		
W-31	1,328	2,600		
W-32	1,311	2,600		
W-033	1,200	2,600		
W-34	1,200	2,600		
Door Schedule				
ID	Opening Width	Opening Height	Plan Preview	Elevation
D-01	1,300	2,300		
D-02	2,438	2,438		
D-03	2,438	2,438		
D-04	900	2,100		

REPORT TO GEORGES RIVER LOCAL PLANNING PANEL MEETING OF THURSDAY, 21 MARCH 2024

LPP009-24 34 MONTGOMERY STREET KOGARAH

LPP009-24

LPP Report No	LPP009-24	Development Application No	MOD2023/0086
Site Address & Ward Locality	34 Montgomery Street Kogarah Kogarah Bay Ward		
Proposed Development	Modification of Consent No: DA2018/0139 for demolition of existing structures and construction of a twelve / thirteen (12/13) storey mixed use development, basement car parking and landscaping. The modification includes glazing (fixed and openable) to the lift core and corridors for weather protection		
Owners	NGA Pyrmont Pty Ltd		
Applicant	Benjy Levy		
Planner/Architect	Avenue Town Planning/Stansic Architects		
Date Of Lodgement	27/06/2023		
Submissions	No submissions received.		
Cost of Works	\$30,000.00		
Local Planning Panel Criteria	Sensitive Development subject to State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, Water Management Act 2000, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development, State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Building Sustainability Index: BASIX), Georges River Local Environmental Plan 2021, Georges River Development Control Plan 2021		
List all documents submitted with this report for the Panel's consideration	Statement of Environmental Effects, SEPP65 Assessment, Design Verification Statement, ADG Assessment and Architectural Plans		
Report prepared by	Development Assessment Planner		

RECOMMENDATION	Approval, subject to conditions.
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Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	No, the conditions can be reviewed when the report is published.

SITE PLAN

Aerial view with site outlined in blue (Source: Intramaps, 2024)

EXECUTIVE SUMMARY

PROPOSAL

1. The Section 4.56 Modification Application is sought to modify the original development consent under DA2018/0139 (as modified), approved by the NSW Land and Environment Court on 6 August 2019, the amendments seek the following:
 - Installation of fixed openable louvres opposite the lift core on each residential building level
 - Installation of fixed open louvres at the south-eastern end (adjacent to the lift core) of the common corridors of each residential building level and,
 - Installation of full height glazing to enclose the rooftop (roof terrace) lift lobby.
 - External façade changes accommodating the proposed modifications including materials and finishes.

SITE AND LOCALITY

2. The site is located on the north-eastern side of Montgomery Street, Kogarah and forms part of the Kogarah Town Centre. The rectangular site has an area of approximately 1,347sqm with a frontage of 30.48m to Montgomery Street and a rear boundary of 30.48m to Moorefield Lane with an allotment depth of 44.4m. The site falls from Montgomery Street to Moorefield Lane, within the change in level being approximately 2.76m.
3. Situated on the site is a thirteen (13) storey shop top housing development with commercial tenancies located on level 1 (ground floor) fronting Montgomery Street and residential apartments located on levels 2 to 12. The communal open space is located on the roof terrace. The building occupies the entire site. Vehicular access to the site is via Moorefield Lane at the rear.

ZONING AND PERMISSIBILITY

4. The site is zoned MU1- Mixed Use under the Georges River Local Environmental Plan 2021 (GRLEP 2021) and the proposed development being works to a shop top housing development is permissible with consent.

SUBMISSIONS

5. The application was notified for a period of fourteen (14) days in accordance with the Georges River Community Engagement Strategy. No submissions objecting to the development were received.

REASON FOR REFERRAL TO THE LOCAL PLANNING PANEL

6. The proposed works fall under Sensitive Development where SEPP 65 – Design Quality of Residential Apartment Development applies.

CONCLUSION

7. 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:
8. The proposal will not have an adverse or an unreasonable environmental impact in the following regard:
 - The proposed development remains substantially the same as the approved shop top housing development. The proposed glazed louvres above existing balustrading and solid glazing to form a breezeway lobby enables weather protection and functionality around the lift core for the residential levels of the development.

- The proposed full height glazed enclosure with door access to the roof terrace area adjoining the lift core is to provide weather protection to the lift shaft and occupants of the building using the roof top facilities.
 - The increase in gross floor area results in an exceedance of the maximum permitted floor space ratio.
 - There is no increase in the number of units proposed or the unit mix.
9. Having regard to the matters for consideration under Section 4.15(1) and the applicable assessment criteria under Section 4.56 of the Environmental Planning and Assessment Act 1979 and following a detailed assessment, the proposed modification application (MOD2023/0086) is recommended for approval subject to the conditions referenced at the end of this report.

REPORT IN FULL

PROPOSAL

10. The Section 4.56 Modification Application is sought to modify the original development consent under DA2018/0139 (as modified by MOD2019/0245, MOD2020/0148 and MOD2022/0013), approved by the NSW Land and Environment Court on 6 August 2019. Development consent (DA2018/0139) granted consent for the demolition of existing structures and construction of a thirteen-storey mixed use development comprising a residential flat building with 61 apartments over 1,110sqm of retail and commercial space on the ground and first floor at 32-38 Montgomery Street, Kogarah.
11. DA2021/0110 for alterations to the mixed-use development by converting the first-floor commercial area to four (4) new apartments comprising of 3 x 2 bedroom (dual-key apartments) and 1 x 1-bedroom apartments. This approval supersedes and modifies the relevant parts of the application approved by the Court under DA2018/0139.
12. The amendments proposed as part of this modification application are further described as follows:
- Installation of fixed openable louvres opposite the lift core on each residential building level
 - Installation of fixed open louvres at the south-eastern end (adjacent to the lift core) of the common corridors of each residential building level and,
 - Installation of full height glazing to enclose the rooftop (roof terrace) lift lobby.
 - External façade changes accommodating the proposed modifications including materials and finishes.
13. The rationale as described by the Applicant for this modification is to provide better protection to the lifts during inclement weather. The proposed modifications have been recommended by the lift manufacturer. They will be beneficial to the future occupants in terms of reducing the potential for future mechanical lift issues through protection from rain, which will in turn improve the occupant amenity through reliable lift functionality.
14. The below figure is an extract from the submitted architectural plans which outlines the proposed glazing (this is repeated across each residential level).

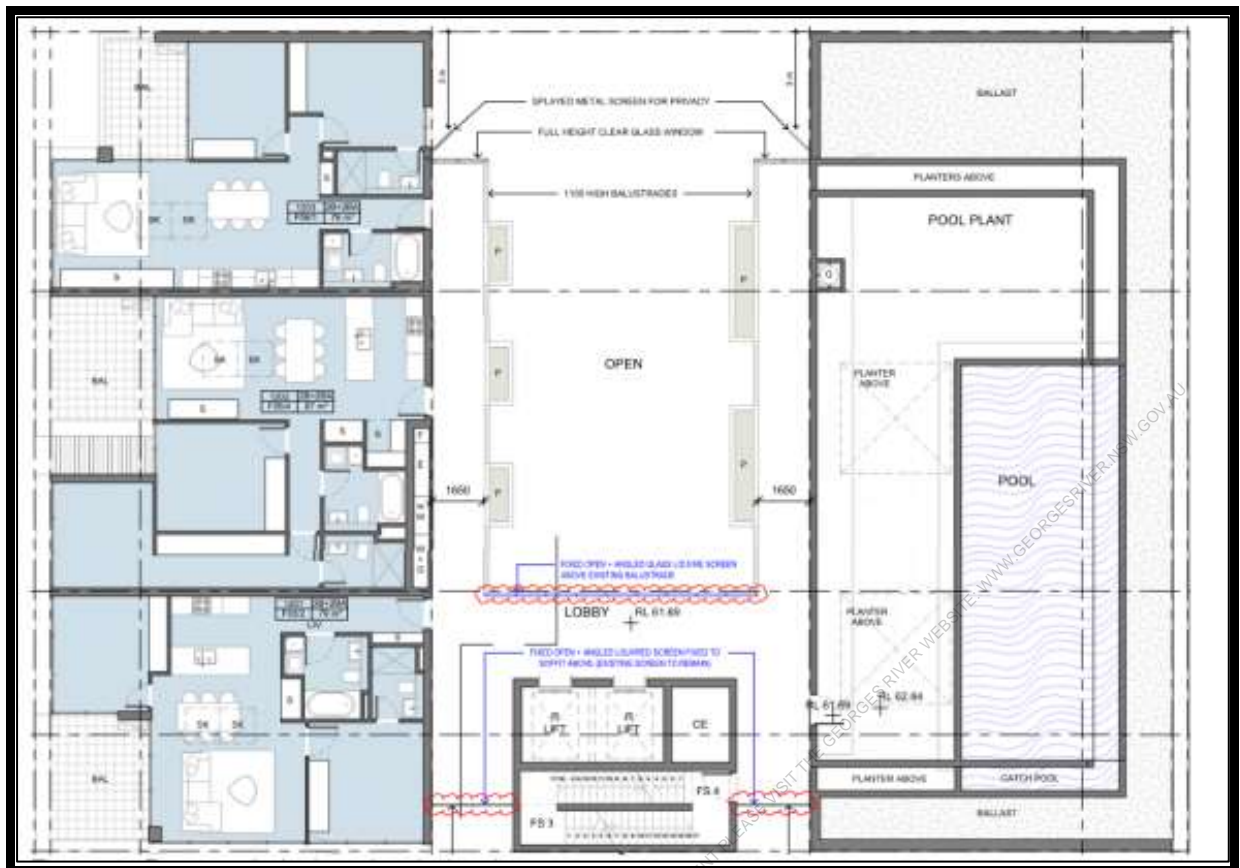


Figure 1: Proposed glazing clouded in red - the glazing is repeated across each residential level (Source: Architectural Plans).

15. The proposed rooftop lobby glazing is demonstrated below.

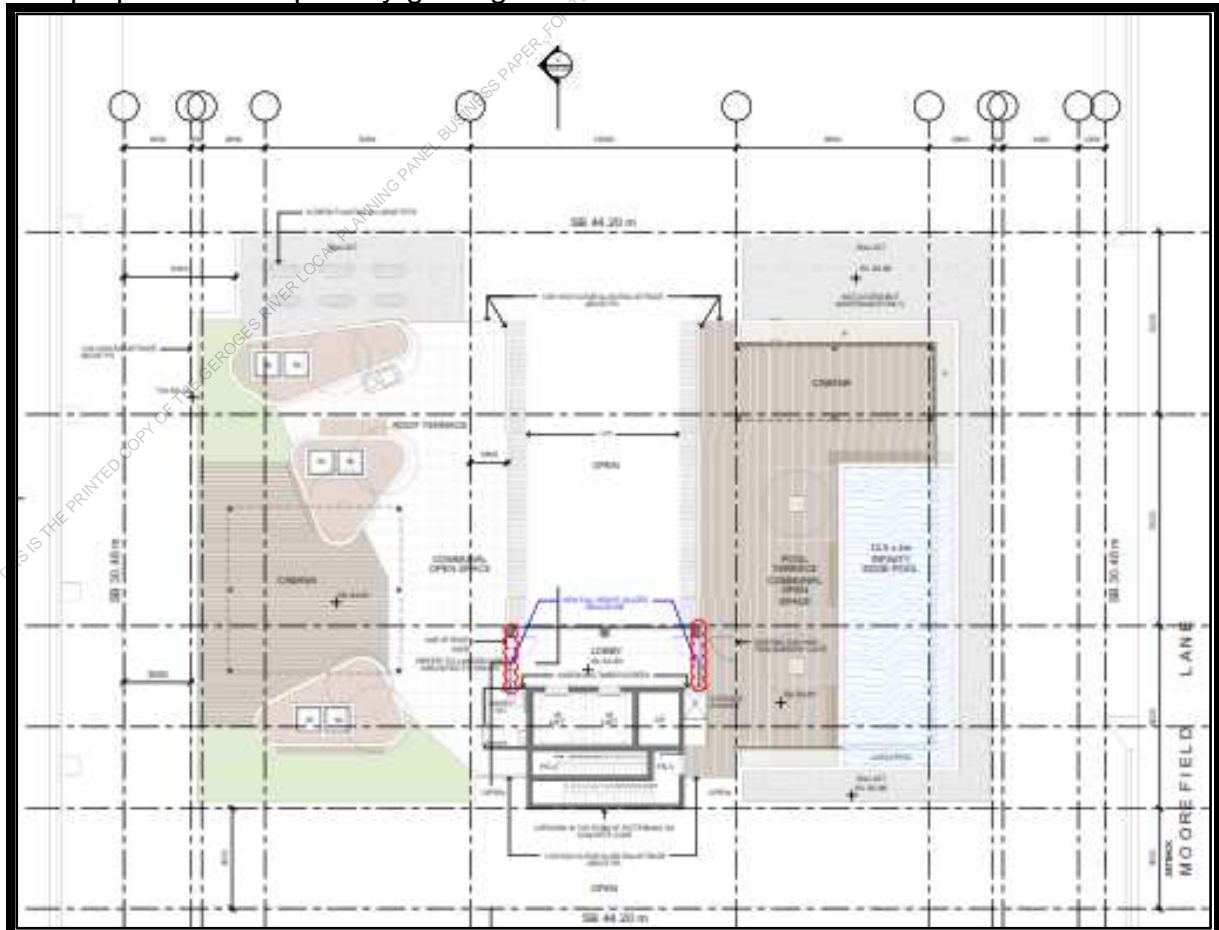


Figure 2: Proposed glazing clouded in red on the roof terrace plan (Source: Architectural Plans)

16. The application proposes to amend condition 1 entitled approved plans, no other conditions are required to be amended.

THE SITE AND LOCALITY

17. The subject site is now known as 34 Montgomery Street, Kogarah and legally known as SP100385.
18. The site is bounded to the north-east by Moorefield Lane and situated between Kensington Street to the south-east and Post Office Lane to the north west. It is located on the eastern side of the rail corridor and within 250m of Kogarah Railway Station. The development site is located on the north-eastern side of Montgomery Street, Kogarah and forms part of the Kogarah Town Centre.
19. The rectangular site has an area of approximately 1,347sqm with a frontage of 30.48m to Montgomery Street and a rear boundary of 30.48m to Moorefield Lane with an allotment depth of 44.4m. The site falls from Montgomery Street to Moorefield Lane.
20. Situated on the site is a thirteen (13) storey shop top housing development with commercial tenancies located on the level 1 (ground floor) fronting Montgomery Street and residential apartments located on level 2 to level 12. The communal open space is located on the roof terrace. The building occupies the entire site. Vehicular access to the site is via Moorefield Lane.



Figure 3: Site photo of subject development site off Montgomery Street (Council's Site Inspection, 2023)

21. Adjoining the site to the north-west is a two-storey brick commercial building (30 Montgomery Street), the building is known as Bethlehem House (aged care facility) containing a commercial building which also provides parking from Moorefield Lane.
22. Adjoining the site to the south is a 2-storey commercial building (40-42 Montgomery Street) known as the Kogarah Specialist Centre.
23. To the west on the opposite side of Montgomery Street is a commercial building being the Department of Technical Education (29-39 Montgomery Street).
24. Further to the north of the site at 22-26 Montgomery Street is a set of heritage listed terraces with a multi storey commercial building at the rear of the site.
25. Montgomery Street contains a mixture of single storey to multi storey buildings which are predominantly commercial in nature including the St George Bank building, the Kogarah Police Station, the heritage listed Kogarah Court House and St George TAFE.
26. The precinct is a combination of low, medium and high scale commercial development, the site being in close proximity to the rail line, St George Public and Private Hospitals and the St George Technical College.

BACKGROUND

27. A history of the development and modification proposal is as follows:
 - Development application (DA2018/0139) was lodged with Council on 11 April 2018. Applicant sought to appeal the application in the Land and Environmental Court (LEC) against the deemed refusal of the development application on 24 August 2018.
 - Development consent (DA2018/0139) was granted by the LEC on 6 August 2019 for the demolition of existing structures and construction of a thirteen-storey mixed use development comprising a residential flat building with 61 apartments over 1110sqm of retail and commercial space on the ground and first floor at 32-38 Montgomery Street, Kogarah.
 - Modification application (MOD2019/0245) lodged to modify the plans involving internal and external modifications. The modification was approved on 5 June 2020.
 - Modification application (MOD2020/0148) lodged to modify the plans involving internal and external modifications. The modification was approved on 5 November 2020.
 - Modification application (MOD2022/0013) lodged to modify the plans involving internal and external modifications. The Applicant appealed the application to the LEC. The modification consent was granted by the LEC on 12 November 2021.
 - The current (MOD2023/0086) modification application was lodged 27 June 2023.
 - Council's Building Surveyor provided comments on the proposal on 2 August 2023.
 - The application was placed on exhibition, with the last date for public submissions being 10 August 2023. No submissions were received.
 - Council's Assessing Officer conducted a site inspection on 28 September 2023.
 - Council's Urban Designer provided comments and conditions on the proposal on 14 December 2023.

PLANNING ASSESSMENT

28. The site has been inspected and the proposed development has been assessed under the provisions of Section 4.15(1) of the Environmental Planning and Assessment Act 1979.

ENVIRONMENTAL PLANNING INSTRUMENTS**Environmental Planning and Assessment Act 1979**

29. The proposal is considered to be consistent with the Objectives of the Act.

Section 4.56 Modification under Environmental Planning and Assessment Act, 1979

30. The proposal has been considered against relevant statutory provisions of Section 4.56 as follows:

(1) *A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if—*

(a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*

31. Comment: Applications under Section 4.56 of the Act cannot be granted if the modified development is not substantially the same as that which the consent was originally granted. In this regard, the modification should not be so substantial as to cause the application to lose its original identity. The proposed development as modified would represent substantially the same development for which consent was originally granted. The proposed changes to the development consent are considered to be “substantially the same” as they sit within the approved building envelope and footprint.

Section 4.55 subclause (3) states.

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.

(b) *it has notified the application in accordance with—*

(i) *the regulations, if the regulations so require, and*

(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*

(c) *it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and*

32. Comment: In accordance with the provisions of Council's Community Engagement Strategy, the application was placed on neighbour notification. During this time, no submissions were received.

33. As per clause 4.56 (1)(c) it is required that all original objectors be notified of the Section 4.56 Modification Application. A reasonable attempt has been made to notify all persons who have previously objected to DA2018/0139.

(d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

34. Comment: In accordance with the provisions of Council's Community Engagement Strategy, the application was placed on neighbour notification. During this time, no submissions were received.

(1A) *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.*

35. Comment: The proposal has been assessed under Section 4.15 which is detailed later in this report.

Environmental Planning and Assessment Regulation 2021

36. The proposal is considered to have met the statutory requirements under Schedule 1 of the Regulation.
37. The application has been accompanied by a design verification statement prepared by the appointed qualified designer pursuant to clause 115 (3) and (3A).

STATE ENVIRONMENTAL PLANNING POLICIES

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

State Environmental Planning Policy	Complies
State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development	Yes
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes
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 (Resilience and Hazards) 2021

39. Chapter 2 and Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 are relevant to the proposal.
40. 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".
41. The subject site is not mapped as a Coastal Environment area and a Coastal Use area.
42. 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.

43. 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.
44. The proposed modifications primarily relate to external changes. The application as approved already includes specific conditions in relation to contamination. The building is constructed and the works proposed as part of this application does not result in the penetration of the foundation material of the site, therefore no further assessment is required in this regard and no conditions to be imposed. The objectives of the SEPP are considered to be satisfied.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

45. 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

46. 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.
47. This chapter applies to clearing of:
- (a) *Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and*
 - (b) *Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (Development Control Plan).*
48. The application does not seek to change the landscaping on site.

Chapter 6 – Water Catchments

49. 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.*
50. The stormwater design has not been changed by this modification application.

State Environmental Planning Policy (Transport and Infrastructure) 2021

51. The application was not referred to Ausgrid pursuant to clause 2.48 of the SEPP as in the opinion of the Consent Authority the modified development is unlikely to affect electricity transmissions or distribution network.

State Environmental Planning Policy (Industry and Employment) 2021

52. SEPP (Industry and Employment) 2021 has been considered through the assessment of this application. It has been concluded that the above SEPP is not relevant to the proposed modification application. No further assessment is warranted in relation to this SEPP.

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

53. An amended BASIX Certificate is not required as no changes are proposed to the approved apartments or common areas which would alter the BASIX commitments.

State Environmental Planning Policy No 65 — Design Quality of Residential Apartment Development

54. The State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65) aims to improve the design quality of residential apartment development in New South Wales.
55. The proposed development meets the pre-requisites for the application of the SEPP 65 in that it constitutes development for the purpose of ‘shop top housing’ in a proposed building of more than three (3) storeys and having more than four (4) dwellings. Therefore, it must be considered against the provisions of SEPP 65 and the Apartment Design Guide (ADG).
56. The changes proposed are minor in scope and nature and do not result in amendments to the residential component of the development. As such, a detailed assessment against this SEPP is not required in this instance noting that the floor to ceiling heights of the commercial remain unchanged by this modification.

Clause	Standard	Proposal	Complies
3 - Definitions	Complies with definition of “Residential Apartment Development”	The proposal complies with this 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	This is a modification of an approval for the erection of a shop top housing development.	Yes

57. In addition to satisfying the Design Quality Principles, the proposal satisfies relevant requirements of the Environmental Planning and Assessment Regulation 2021 pertaining to design verification statement. Refer to the relevant clause below.

Compliance with the Environmental Planning and Assessment Regulation 2021

Clause	Standard	Proposal	Complies
29 - Residential apartment development	(1) A development application that relates to residential apartment development must be accompanied by a statement by a qualified designer.	Design Verification Statement provided by Registered Architect: Frank Stanisic (Registered Architect No. 4480).	Yes
	(2) The statement must —		Yes

	<p>(a) verify that the qualified designer designed, or directed the design of, the development, and</p> <p>(b) explain how the development addresses —</p> <p>(i) the design quality principles, and</p> <p>(ii) the objectives in Parts 3 and 4 of the Apartment Design Guide.</p>	<p>The provided design statement verifies that Frank Stanisic directed the design of the proposal. The design statement also addresses the proposals satisfaction of the design quality principles, and objectives in Parts 3 and 4 of the Apartment Design Guide.</p>	Yes
	<p>(3) If the development application is accompanied by a BASIX certificate for a building, the design quality principles do not need to be addressed to the extent to which they aim —</p> <p>(a) to reduce consumption of mains-supplied potable water or greenhouse gas emissions in the use of —</p> <p>(i) the building, or</p> <p>(ii) the land on which the building is located, or</p> <p>(b) to improve the thermal performance of the building.</p>	<p>A BASIX certificate was provided with modification application (MOD2020/0148). There is no change required to the BASIX Certificate under this modification application.</p> <p>The Applicant has noted via email that the NatHERS modelling always assumed that the hallways were outdoor air temp. Adding permanently fixed louvers does not change the BASIX.</p> <p>Furthermore, the Applicant noted that on an earlier set of plans, the area out the front of the rooftop lift lobby had been noted as a lobby and was picked up in the hallway area in the BASIX. Adding the louvres does not trigger a requirement for mechanical ventilation. Thus, there is no change required to BASIX Certificate.</p> <p>No advice obtained as no design review panel in place.</p>	N/A
	<p>(4) The additional fee payable for a development application for residential apartment development that is referred to the relevant design review panel for advice is specified in Schedule 4.</p>		

LPP009-24

58. Clause 29(2) of State Environmental Planning Policy 65 requires that the consent authority take into consideration the following as part of the determination of DAs to which State Environmental Planning Policy 65 applies:
- (a) *the advice (if any) obtained from the design review panel, and*
 - (b) *the design quality of the development (as modified) when evaluated in accordance with the design quality principles, and*

(c) *the Apartment Design Guide.*

59. The application has been reviewed having regard to the criterion of the ADG.

The proposal satisfactorily satisfies the Design Quality Principles and provisions of the ADG. The tables below provide a comprehensive assessment against the principles, objectives and controls of State Environmental Planning Policy 65 and the ADG.

SEPP 65 - Schedule 1 Design quality principles		
Clause	Council's comments	Complies
1 – Context and neighbourhood character	The proposed modification to the facades of the building in the form of adding clear glazing will not significantly alter the overall design of the approved building which was previously assessed as being in context with the surrounding area.	Yes
2 – Built form and scale	The built form of the development, as modified, is generally consistent with the built form envisaged for the subject site under the GRLEP 2021 and GRDCP 2021. The proposed amendment to the design is also consistent with the requirements of the Apartment Design Guide. The amendments to the façade are of clear glazed solid elements and louvres above the existing glazed balustrades. The overall built form is compatible with similar developments and the emerging character of the area undergoing upzoning. The proposed development is consistent with this design quality principle.	Yes
3 – Density	The density of the building is increasing by 22.89sqm which results in a 0.35% variation to Clause 4.4 floor space ratio development standard under GRLEP 2021. The variation to the development standard is supported in this instance as the additional gross floor area is contained within the building footprint and does not add addition bulk and scale to the development when viewed from the public domain. A full assessment of the variation to GRLEP 2021 is detailed in this assessment report.	Yes
4 – Sustainability	The modified built form did not need to be supported by a modified BASIX. The existing commitments remain in place.	Yes
5 – Landscape	The landscaped area remains as approved.	Yes
6 – Amenity	The proposed addition of solid glazing and louvers on the residential levels of the building achieves the amenity objectives and controls of the AGD.	Yes
7 – Safety	The main entrances to the building will remain as approved. The proposed modification uses clear glazing which satisfactorily addresses safety, providing opportunities for passive surveillance to the communal areas of the building.	Yes

8 – Housing diversity and social interaction	The proposal does not seek to change the apartment mix.	As existing.
9 – Aesthetics	The proposed modification to the built form is appropriate regarding the composition of building elements, textures, materials, and colours reflecting the use, internal design and structure of the building. The modifications to the design of the building are compatible with the desired built form and scale for the locality.	Yes

LPP009-24

Clause 29 (2)(c) – Consideration of Apartment Design Guide

60. An assessment has been undertaken based on the amended proposal being a studio apartment.

Objective	Standard	Proposal	Complies
Part 3 Siting the development			
3D – Communal and Public Open Space	<p>1. Communal open space has a minimum area equal to 25% of the site.</p> <p>- Where it cannot be provided on ground level it should be provided on a podium or roof.</p> <p>The communal open space is to be a minimum of 25% of the site, which equates to 513.6sqm for the subject site.</p> <p>- Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:</p> <ul style="list-style-type: none"> • provide communal spaces elsewhere such as a landscaped roof top terrace or a common room • provide larger balconies or increased private open space for apartments • demonstrate good proximity to public open space and 	The proposal does not involve amending the communal open space area as approved.	As approved.

	<p>facilities and/or provide contributions to public open space</p> <p>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)</p>	The communal open space is located on the rooftop which receives adequate levels of solar access given its unobstructed location.	As approved.
3E – Deep Soil Zones	<p>1. Deep soil zones are to meet the following minimum requirements: Where site area is between 650sqm and 1500sqm = 3m minimum dimension</p> <p>Deep soil = 7%</p>	The proposal does not change the location of deep soil landscaping approved under the DA as the extent of modification works are located within the approved building footprint.	As approved.
3F – Visual Privacy	<p>1. 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>Up to 12m (4 storeys) Habitable rooms and balconies = 6m</p>	The distance between the proposed apartments and the adjoining buildings will remain as existing. The modified design being the installation of fixed louvers and glazing is internally facing.	Yes
3G – Pedestrian access and entries	Building entries and pedestrian access connects to and addresses the public domain	The main building pedestrian entry points will not be modified by this application and will remain as approved. The proposed modification does not change how pedestrians access the building.	As approved.
3H – Vehicle Access	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and	This element remains unaltered by this proposal.	As approved.

	vehicles and create high quality streetscapes		
3J – Bicycle and car parking	<p>1. For development in the following locations:</p> <p>On sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area;</p> <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, whichever is less</p> <p>The car parking needs for a development must be provided off street</p>	The proposed modification does not result in any changes to the approved bicycle and car parking arrangement.	As approved.
Part 4 Designing the building			
4A – Solar 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 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p>	The modification to the common areas does not impact the solar access of the residential apartments.	As approved.
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>	The modification to the common areas does not adversely impact the natural ventilation of the residential apartments.	As approved.

4C – Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: Habitable rooms = 2.7m Non-habitable rooms = 2.4m	Remains as approved.	As approved.
4D 1 – Apartment size and layout	<p>Apartments are required to have the following minimum internal areas:</p> <p>1 bedroom: 50sqm 2 bedrooms: 70sqm 3 bedrooms: 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>	Remains as approved.	As approved.
4D 2 – Apartment rooms, location and sizes	<p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height</p> <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p>	Remains as approved.	As approved.
4D 3 – Apartment rooms, location and sizes	<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <p>1. Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm</p>	Remains as approved.	As approved.

	<p>(excluding wardrobe space).</p> <p>2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p> <p>3. Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 		
4E – Private Open Space and balconies	<p>All apartments are required to have primary balconies as follows:</p> <p>2 bedroom apartments: 10sqm and 2m</p> <p>3+ bedroom apartments: 12sqm 2.4m</p>	Remains as approved.	As approved.
4F – Circulation spaces	The maximum number of apartments off a circulation core on a single level is eight	Remains as approved.	As approved.
4G – Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <p>2 bedrooms - 8m³</p> <p>3+ bedrooms - 10m³</p> <p>50% of storage to be located within basement</p>	Remains as approved via the proposed modification application.	As approved.
4K – Apartment Mix	A variety of apartment types is provided	<p>The proposal will retain the approved apartment mix.</p> <p>62 apartments in total</p> <p>3 x 1 bedroom (4.8%)</p> <p>55 x 2 bedroom (88.7%)</p> <p>4 x 3 bedroom (6.45%)</p>	As approved.

61. As demonstrated above, the proposal generally complies with State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

Georges River Local Environmental Plan 2021 (GRLEP 2021)

62. The subject site is zoned MU1 Mixed Use under the provisions of the Georges River Local Environmental Plan 2021 (GRLEP 2021). The approved use as a shop top housing development comprising commercial premises and a residential units is a permissible form of development with consent.
63. The objectives of the MU1 Mixed Use zone as per clause 2.3 under the GRLEP 2021 are:
- To encourage a diversity of business, retail, office, and light industrial land uses that generate employment opportunities.
 - To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse, and functional streets and public spaces.
 - To minimise conflict between land uses within this zone and land uses within adjoining zones.
 - To encourage business, retail, community, and other non-residential land uses on the ground floor of buildings.
 - To integrate suitable business, office, residential, retail, and other development in accessible locations to maximise public transport patronage and encourage walking and cycling.
 - To allow residential development that contributes to the vitality of the centre and provides housing that meets the needs of the community.
 - To encourage the provision of community facilities and public infrastructure so that all residents have reasonable access to a range of facilities and services.

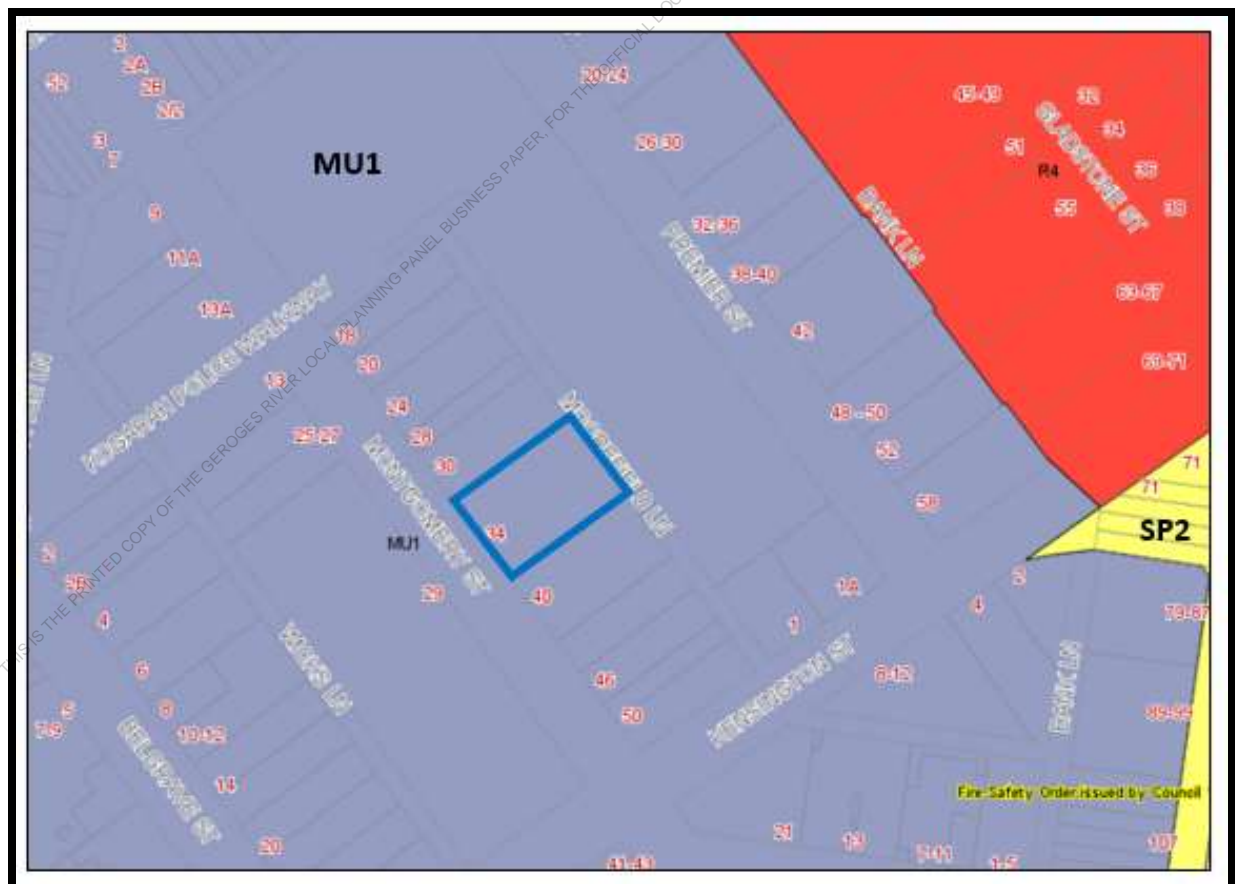


Figure 4: Zoning map as per GRLEP 2021 with the site highlighted in blue (Source: Intramaps 2023).

64. The modification of the proposed development is not inconsistent with the objectives of the zone, the approved development typology is not changing and will continue to be a mixed-use development comprising of residential apartments and commercial/retail premises.

65. The modified proposal will not impact upon the ability of the development to meet the objectives of the MU1 zone.
66. The site is within 250m of the Kogarah Railway Station and contained within the Kogarah Town Centre which makes the location highly accessible. The development will create employment opportunities in an accessible location with the ability to utilise more sustainable methods of transport given the proximity of the site to the railway station and town centre.
67. An assessment with the GRLEP 2021 provisions relevant to the amended plans is detailed within the following table.

GRLEP 2021 Compliance Table			
Clause	Standard	Comment	Complies
Part 1 – Preliminary			
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	The development is consistent with the aims of the plan.	Yes
Part 2 Permitted or prohibited development			
2.3 - Zone objectives and Land Use Table	Meets objectives of MU1 Mixed Use Zone. Development must be permissible with consent	The proposal is for a mixed-use development comprising retail, commercial, and residential uses. The proposal meets all objectives. The proposal is permissible with development consent.	Yes
2.7 –Demolition	Demolition requires development consent	No consent for demolition is sought under this modification.	Yes
Part 4 Principal development standards			
4.3 – Height of Buildings	39m as identified on Height of Buildings Map	The height of building will remain as approved.	As approved.
4.4 – Floor space ratio	4.5:1 (as identified on Floor Space Ratio Map) Allowable: 6061.5sqm	4.516:1 6083.68sqm	No - 0.35% variation to the development standard. Acceptable based on merit. Refer to merit based justification below in this assessment report.
Part 5 Miscellaneous provisions			
5.7 – Development	(2) Development consent is required to carry out	The proposal does not involve works below the Mean High-Water Mark.	N/A

below mean high water mark	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).		
5.10 – Heritage Conservation	Consider the effect of development on heritage significance of heritage items and heritage assessment may be required	<p>The subject site is within the vicinity of the following heritage items:</p> <ul style="list-style-type: none"> - Leah Buildings at 22-28 Montgomery Street (Item 183) and - Kogarah Courthouse at 25-27 Montgomery Street Kogarah (Item 184). <p>The proposed modification application was not referred to Councils Heritage Advisor as the proposed works are contained within the building footprint and internally facing not impacting the heritage items,</p>	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
Part 6 Additional local provisions			
6.1 – Acid sulfate soils (ASS)	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 not affected by acid sulfate soils.	N/A
6.2 – Earthworks	To ensure that earthworks do not have a detrimental impact on environmental functions and processes, neighbouring uses,	The proposed modification to the existing built form does not result in any earthworks.	Yes

	cultural or heritage items or features of the surrounding land		
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</p>	No changes to the approved stormwater management under this modification application.	N/A

	<p>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 Coastal Hazard and Risk Map,</p> <p>(b) land identified on the Foreshore Building Line Map.</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 Coastal Hazard and Risk Map,</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>	The site is not located in a foreshore area and/or coastal hazards and risk area.	N/A

	<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 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>		
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	<p>(f) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p> <p>(5) In this clause—</p> <p>foreshore area means the land between the foreshore building line and the mean high water mark of the nearest bay or river.</p> <p>foreshore building line means the line shown as the foreshore building line on the Foreshore Building Line Map.</p>		
6.5 - Riparian land and waterways	<p>(2) This clause applies to land identified as “Sensitive land” on the Riparian Lands and Waterways Map.</p> <p>(3) In deciding whether to grant development consent 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>	The site is not located on land identified as sensitive land.	N/A

	<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</p>		
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	<p>avoid significant adverse 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 Foreshore Scenic Protection Area Map.</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</p>	The site is not located in a foreshore scenic protection area.	N/A

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	<p>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> <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	The consent authority must not grant development	Approval has been previously provided permitting the building to be	As approved.

	consent to development that is a controlled activity within the meaning of Division 4 of Part 12 of the Airports Act 1996 of the Commonwealth unless the applicant has obtained approval for the controlled activity under regulations made for the purposes of that Division.	at a maximum height of 69.61m (AHD). The current modification does not seek to amend the height of the building.	
6.9 – Essential services	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— (a) the supply of water, (b) the supply of electricity, (c) the disposal and management of sewage, (d) stormwater drainage or on-site conservation, (e) suitable road and vehicular access.	All essential services are in place/provided to the site as the development is constructed.	As approved.
6.10 - Design excellence	(2) This clause applies to development on land referred to in subclause (3) involving— (a) the erection of a new building, or	Clause 6.10- design excellence is applicable to the subject site. The overall building envelope, bulk, scale, and general presentation to the street and neighbouring properties will remain	Yes

	<p>(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 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 B1 Neighbourhood Centre,</p>	<p>predominantly unchanged and where there is marginal change, the changes have responded appropriately to both the context of the site and public domain interface.</p> <p>The amendment to the development provides additional glazing presented to the side elevations, internally within the site.</p> <p>Further assessment in terms of Clause 6.10 design excellence is not warranted in this regard given the changes proposed.</p>	
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	<p>(iii) Zone B2 Local Centre,</p> <p>(iv) Zone B3 Commercial Core,</p> <p>(v) Zone MU1 Mixed Use,</p> <p>(vi) Zone B6 Enterprise Corridor,</p> <p>(vii) Zone IN2 Light Industrial.</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 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</p>		
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	<p>addresses the following matters—</p> <ul style="list-style-type: none"> (i) the suitability of the land for development, (ii) existing and proposed uses and use mix, (iii) heritage issues and streetscape constraints, (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, (v) bulk, massing and modulation of buildings, (vi) street frontage heights, (vii) environmental impacts such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity, (viii) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of pedestrian networks, (ix) the impact on, and proposed improvements to, the public domain, (x) achieving appropriate interfaces at ground level between the 		
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	building and the public domain, (xi) excellence and integration of landscape design, (xii) the provision of communal spaces and meeting places, (xiii) the provision of public art in the public domain, (xiv) the provision of on-site integrated waste and recycling infrastructure, (xv) the promotion of safety through the application of the principles of crime prevention through environmental design.		
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Clause 4.6 - Variation to Floor Space Ratio Assessment

68. The original development was approved without a variation to Clause 4.4 Floor Space Ratio development standard under GRLEP 2021. The proposed modifications seek to add additional gross floor area resulting in the development exceeding the maximum permitted floor space ratio. Applications assessed under Section 4.55 of the EPA Act 1979 modifications do not require a variation to be sought under Clause 4.6 of the Georges River LEP 2021. Notwithstanding this, a merit-based assessment of the variation to the development standard is provided below.

Clause 4.4 - Floor Space Ratio

69. Georges River Local Environmental Plan 2021 (GRLEP 2021) commenced on 8 October 2021 and replaced the former Kogarah Local Environmental Plan 2012 (KLEP 2012) that the parent development application (DA2018/0139) was assessed and granted approval under. The same floor space ratio is applicable under KLEP 2012 as under GRLEP 2021 for the site being 4.5:1.
70. The proposed modifications to the approved development seek to increase the approved gross floor area by 22.98sqm, which results in a 0.35% variation to Clause 4.4 floor space ratio of GRLEP 2021 development standard. The variation is the result of the enclosure of the rooftop lift lobby area.
71. Any variation to a statutory control under a development application can only be considered under Clause 4.6 – Exceptions to Development Standards of the GRLEP 2021. As this application is a modification to an approved development, a Clause 4.6 variation statement is not required. The variation has however, been considered against the relevant objectives of the floor space ratio development standard and the zone objectives.
72. The objectives of floor space ratio outlined under GRLEP 2021 is outlined below.

73. Clause 4.4 Floor space ratio

(1) *The objectives of this clause are as follows—*

- (a) *to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*
- (b) *to ensure that development provides appropriate built form transition between new buildings and—*
 - (i) *adjoining land uses, or*
 - (ii) *heritage items, heritage conservation areas or Aboriginal places of heritage significance,*
- (c) *to control development density and intensity of land use, taking into account—*
 - (i) *the environmental constraints and values of the site, including retaining the scenic, visual, and landscape qualities of the area, and*
 - (ii) *the amenity of adjoining land and the public domain, and*
 - (iii) *the availability of infrastructure to service the site, and*
 - (iv) *the capacity of the road network to accommodate the vehicular and pedestrian traffic that a development will generate.*

74. Objectives of the MU1 Mixed Use Zone

- *To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations to maximise public transport patronage and encourage walking and cycling.*
- *To allow residential development that contributes to the vitality of the centre and provides housing that meets the needs of the community.*
- *To encourage the provision of community facilities and public infrastructure so that all residents have reasonable access to a range of facilities and services.*

75. Clause 4.4b(4)(b) of GRLEP 2021 outlines that a minimum FRS of 1:1 for non-residential floor space on the site. The proposed modification application does not seek to alter the non-residential FSR.

76. The Applicant has outlined in their submission to Council that the proposed new rooftop glazing is located 40+m above street level, positioned within the footprint of the approved rooftop communal open space. The glazing will be visually transparent, will not cause any new or adverse impact on amenity of a neighbouring properties, would not be visible from the public domain and would only serve to improve the development through enhanced occupant amenity and protection of the mechanical components of the lifts. The proposed additional gross floor area/FSR will not alter the developments' ability to be consistent with the MU1 zone objectives in comparison to the previously approved development. The building will continue to remain consistent with development anticipated for the MU1 zone in terms of the mixture of land uses, accessibility to public transport and will contribute to the vitality of the Kogarah Town Centre.

77. The Applicant has noted the rationale for the added glazing in the form of louvers and solid glazing wall on the residential levels and the enclosure of the rooftop lobby is as a result of the environmental conditions of wind and sideways rain. A fixed open and angled glass louvred screen has been added to the southern end of the gallery above the existing 1.6m high opaque glass screen as well as louvers directly in front of the lifts on top of the existing balustrade to baffle the wind and prevent residents from getting wet from wind driven rain.
78. The addition of a glass louvred screen to the southern end of the gallery as well as directly in front of the lifts is consistent with the design of the approved development. The proposed modification does not seek to reduce the landscape planting within the planter boxed attached to the common walkway balconies within the centre of The Applicant has submitted a Design Verification Statement to support the application that verifies that the modifications do not diminish or detract from the design quality, or compromise the design intent, of the development for which the development consent was granted.
79. The enclosure of the lift lobby on the roof terrace level does not result in any additional intensification of the site and therefore has no impact on infrastructure, transport, jobs, communal facilities, or the environment.
80. As such, the overall bulk and scale of the building is acceptable in terms of its scale and built form and the relationship of the building to the street and adjoining development.
81. Despite the non-compliance in terms of the floor space (and gross floor area), the proposal is acceptable. The additional 0.35% of floor space (some 22.98sqm of gross floor area) is considered minor and not discernible where it is proposed and will not create any adverse environmental or amenity impacts.
82. The proposed development satisfies the objectives of the floor space control and the zone objectives and is therefore considered to be in the public interest.

GEORGES RIVER DEVELOPMENT CONTROL PLAN 2021

83. The proposed development does not affect the relevant provisions of GRDCP 2021 with regards to Mixed Use/Shop Top Housing Development.

IMPACTS

Natural Environment

84. The modified works are contained within the approved building footprint. The subject modification does not seek to adversely impact upon the approved landscaping on site.

Built Environment

85. The modification as proposed results in a scale and form being acceptable and consistent with the future character of the locality.

Social Impacts

86. The modification is unlikely to result in any unreasonable social impacts. The addition of glazing in the form of louvers do not change the mixture of uses contained in the proposal. The proposed modification maintains to achieve the objectives of the MU1 Mixed Use zone and still delivers a quality development within the Kogarah Town Centre.

Economic Impacts

87. The modification is unlikely to result in any unreasonable economic impacts given the mixed nature of the uses.

Suitability of the site

88. It is considered that the proposed modification of the approved development will not impact upon the approved building form and scale. The development remains a suitable development for the site having regard to the land shape, topography, the built form, and relationship to adjoining developments.

SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST

89. The application was notified as per Georges River Community Engagement Strategy. No submissions were received.

Council Referrals

Building Surveyor

90. No objections were raised, and no additional conditions of consent have been recommended to be amend, deleted, or added to the development consent.

Urban Designer

91. The application was referred to Council's Urban Designer for comment on the proposed modifications to the approved development. There comments are provided below:
- Since the approval of the original development application (DA2018/0139), it is considered that numerous design issues were subsequently addressed by retro fitting the development at times compromising the urban design outcome as evident by the numerous modification applications.
 - The proposed modifications under this modification application includes installation of fixed open / angled glass louvre screens above the balustrade of the approved lift lobbies of all the 12 / 13 storeys on the northwest façade. The circulation spaces on either side of the lifts too will receive similar treatment altering the southeast façade.
 - Following concerns are raised on the proposed amendments.
 - The Statement of Environmental Effects (SEE), dated 17 June 2023, prepared by Avenue Town Planning states that the proposed amendments to the approved design "*cannot be seen from the public domain.*" However, this is inaccurate as the proposal and the modifications will be visible from the street given height of the proposal, which is higher than most of the context, until such time as the surrounding context too is developed to the current controls.
 - The proposed modifications will result in eliminating the scant articulation and depth legible in the approved proposal. The proposed modifications are also contrary to the design philosophy of the approved design as described in the SEPP65 Principles Compliance Statement prepared by Stanasic Architects and states the following:
The central courtyard functions as a breezeway and bio sink of cool air that creates an invigorating and refreshing environment, and natural ventilation to apartments.
 - The original design intended an "open" corridor around a landscaped central courtyard.



Figure 5: Concept Sketch – view towards the lift lobby (Source: Stanisic Architects)

- It is unclear how the proposed modifications will impact on the “green screen” and “natural cooling” features proposed in the original approved DA. The proposed modifications will however, impact on the “openness” of the space as originally planned and the natural ventilation. The proposed louvers, (including its structural system) in spite of being “glass” will impact on the experience and views of the courtyard from the lift lobby. The additional louvers will also add to the building mass and the façade is perceived bulky and flat when viewed from the surrounding development and the streets.
- Hence the proposed addition of the fixed / open louvers above the approved balustrade are not supported. It is considered that the landscaping as originally proposed should provide the required weather protection in addition to the approved balustrade and ceiling above.

Assessing Officer Comment

92. It is acknowledged that the greening approved would be a better visual outcome, however the details from the lift provider have detailed that the design will result in functionality issues with the lifts and partial weather protection is required. As a result the applicants proposal is accepted.

Public Interest

93. The amended proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. Following a detailed assessment, the proposal as modified is considered to be in the public interest.

DEVELOPMENT CONTRIBUTIONS

94. Section 7.11 contributions were levied on the original DA2018/0139. The proposed modification will not change the demand for public facilities and therefore the Section 7.11 contributions as conditioned under the development application remain applicable.

CONCLUSION

95. The application has been assessed having regard to Section 4.15 and Section 4.56 of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policies and the provisions of the Georges River Local Environmental Plan 2021 and Georges River Development Control Plan 2021.
96. The proposal on its merits is acceptable for the reasons outlined within this report. The proposal is reasonable given the objectives of the controls have been adequately satisfied and the modification does not result in any unreasonable amendment to the built form or operation of the development.

97. Following a detailed assessment contained within this report, it is considered that MOD2023/0086 should be approved subject to conditions 1, being modified.

STATEMENT OF REASONS AND DETERMINATION

Statement of Reasons

98. The reasons for this recommendation are:

- The proposed modification to add fixed open louvres and a full height glazing to enclose the rooftop lift lobby is considered to represent substantially the same development as originally approved.
- The proposal is still a shop top housing development that responds to community needs and demands.
- The modifications will not unreasonably affect the amenity of any immediately adjoining properties in terms of unreasonable overlooking, overshadowing or view loss.
- The proposed development is sensitively designed so that it will not result in any unreasonable impacts on the natural and built environment.
- The modification remains consistent with the objectives of the zone and the character of the locality.
- The modifications have been sought to satisfy the lift installers criterion to provide weather protection.

Determination

99. That pursuant to Section 4.56 of the Environmental Planning and Assessment Act 1979 (as amended) the Georges River Local Planning Panel, grant consent to modification application (MOD2023/0086) seeking to include glazing (fixed and openable) to the lift core and corridors for weather protection and additional floor space that results in a variation to the floor space ratio development standard referenced in Clause 4.4 of the Georges River Local Environmental Plan 2021, to the approved development to accommodate a thirteen (13) storey mixed use development comprising a residential flat building with sixty two (62) apartments over 938sqm of retail and commercial space under DA2018/0139 (as modified) at 34 Montgomery Street Kogarah.

Conditions to be modified:

100. 1 – Approved plans.

DEVELOPMENT DETAIL

Section A Development Details

1. Approved Plans

The development must be implemented in accordance with the approved plans and supporting documentation listed below, except as amended by conditions of this consent:

Reference Number	Description	Date	Revision	Prepared by
DA001	Cover Page	16 July 2019 13 December 2019 30 June 2020	CC DD FF	Stanisic Architects
DA002	Context Analysis Plan	16 April 2019	AA	Stanisic Architects
DA008	Site Analysis Plan	16 April 2019	AA	Stanisic Architects

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DA009	Site Plan	16 July 2019 13 December 2019 30 June 2020	BB CC DD	Stanisic Architects
DA010	Montgomery Street Elevation	18 June 2019	BB	Stanisic Architects
DA100	Basement 3 Plan	17 July 2019 13 December 2019 30 June 2020	EE FF HH	Stanisic Architects
DA101	Basement 2 Plan	17 July 2019 13 December 2019 30 June 2020	EE FF GG	Stanisic Architects
DA102	Basement Plan 1	17 July 2019 13 December 2019 30 June 2020	FF GG II	Stanisic Architects
DA103	Level 0 (LG) Plan	17 July 2019 13 December 2019 30 June 2020	FF GG HH	Stanisic Architects
DA104	Level 1 (G) Plan	5 July 2019 13 December 2019 30 June 2020	CC DD EE	Stanisic Architects
DA105	Level 2 Plan	16 July 2019 13 December 2019 30 June 2020	HH JJ KK	Stanisic Architects
DA106 DA-B-106	Level 3 Plan	16 July 2019 13 December 2019 5 June 2023	FF GG KK	Stanisic Architects
DA107 DA-B-107	Level 4 Plan	16 July 2019 13 December 2019 5 June 2023	DD EE II	Stanisic Architects
DA108 DA-B-108	Level 5 Plan	16 July 2019 13 December 2019 5 June 2023	DD EE II	Stanisic Architects
DA109 DA-B-109	Level 6 Plan	16 July 2019 13 December 2019 5 June 2023	EE FF JJ	Stanisic Architects
DA110 DA-B-110	Level 7 Plan	16 July 2019 13 December 2019 5 June 2023	DD EE II	Stanisic Architects
DA111 DA-B-111	Level 8 Plan	16 July 2019 13 December 2019 5 June 2023	DD EE II	Stanisic Architects

		5 June 2023		
DA112 DA-B-112	Level 9 Plan	16 July 2019 13 December 2019 5 June 2023	DD EE II	Stanisic Architects
DA113 DA-B-113	Level 10 Plan	16 July 2019 13 December 2019 5 June 2023	DD EE II	Stanisic Architects
DA114 DA-B-114	Level 11 Plan	16 July 2019 13 December 2019 5 June 2023	DD EE II	Stanisic Architects
DA115 DA-B-115	Level 12 Plan	16 July 2019 13 December 2019 5 June 2023	DD EE II	Stanisic Architects
DA116 DA-B-116	Roof Terrace Plan	5 July 2019 13 December 2019 5 June 2023	DD EE II	Stanisic Architects
DA117	Roof Plan	12 July 2019 13 December 2019 30 June 2020	DD EE FF	Stanisic Architects
DA201	South West Elevation	16 July 2019 13 December 2019	GG DD	Stanisic Architects
DA202	North East Elevation	16 July 2019 13 December 2019 30 June 2020	GG DD EE	Stanisic Architects
DA203 DA-B-203	North West Elevation	12 July 2019 13 December 2019 5 June 2023	BB DD JJ	Stanisic Architects
DA204 DA-B-204	South East Elevation	16 July 2019 13 December 2019 5 June 2023	GG DD JJ	Stanisic Architects
DA205	Section AA	12 July 2019 13 December 2019 30 June 2020	GG DD EE	Stanisic Architects
DA206	Section BB	16 July 2019 13 December 2019 30 June 2020	GG DD EE	Stanisic Architects
DA207 DA-B-207	Section CC	16 July 2019 13 December 2019 30 June 2020 5 June 2023	GG DD EE JJ	Stanisic Architects

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DA208 DA-B-208	Section DD	12 July 2019 13 December 2019 30 June 2020 5 June 2023	CC DD EE KK	Stanisic Architects
DA209	Section EE	30 June 2020	AA	Stanisic Architects
A001	Typical Pool + Ceiling Section	18 June 2019	AA	Stanisic Architects
A002	Typical Floor to Ceiling Section	18 June 2019	AA	Stanisic Architects
A005	Loading dock plan	16 April 2019	AA	Stanisic Architects
DA701	Adaptable Unit Plan (F03)	19 July 2019	BB	Stanisic Architects
DA801	GFA Sheet 1	5 July 2019 13 December 2019 30 June 2020	CC DD EE	Stanisic Architects
DA802	GFA Sheet 2	5 July 2019 13 December 2019	CC DD	Stanisic Architects
DA803	GFA Sheet 3	5 July 2019 13 December 2019	CC DD	Stanisic Architects
DA804	GFA Sheet 4	5 July 2019 13 December 2019 30 June 2020 5 June 2023	CC DD EE II	Stanisic Architects
DA805	Open Space Diagram	16 July 2019 13 December 2019 30 June 2020	BB CC DD	Stanisic Architects
DA806	HOB 'Fog' Diagram	3 July 2019 13 December 2019	BB CC	Stanisic Architects
DA901	Montgomery Street View	16 July 2019 13 December 2019	BB DD	Stanisic Architects
DA902	Moorefield Lane View	16 July 2019 13 December 2019 30 June 2020	BB DD EE	Stanisic Architects
Unnumbered	External Materials, Finishes and Colour Board	16 April 2019 18 September 2019 and 29 July 2020	DD	Stanisic Architects
38031 - CI-000-01	Civil Works Cover Sheet	15 April 2019	A	Wood and Grieve Engineers

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38031 – CI-060-01	General Arrangement Plan - Ground	15 April 2019	C	Wood and Grieve Engineers
38031 – CI-060-02	General Arrangement Plan – Lower Ground	18 June 2019	D	Wood and Grieve Engineers
38031 – CI-060-03	General Arrangement Plan – Basement Level 1	15 April 2019	C	Wood and Grieve Engineers
38031 – CI-060-04	General Arrangement Plan – Basement Level 2	15 April 2019	C	Wood and Grieve Engineers
38031 – CI-060-05	General Arrangement Plan – Basement Level 3	15 April 2019	C	Wood and Grieve Engineers
38031 – CL 060- 12	General Arrangement Plan – Level 12	19 June 2019	A	Wood and Grieve Engineers
38031 – CI-066-01	General Arrangement - Details	15 April 2019	C	Wood and Grieve Engineers
38031 – CI-070-01	Erosion and Sediment Control Plan	15 April 2019	C	Wood and Grieve Engineers
38031 – CI-076-01	Erosions and Sediment Control Details	28 March 2018	A	Wood and Grieve Engineers
UT F04	F04	19 July 2019 13 December 2019	DD EE	Stanisic Architects
UT F03/2	F03/2	13 December 2019	AA	Stanisic Architects
UT F03/1	F03/1	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT F03	F03	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT F02/2	F02/2	13 December 2019	AA	Stanisic Architects
UF F02/1	F02/1	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT F02	F02	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT F01/1	F01/1	16 July 2019	BB CC	Stanisic Architects

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		13 December 2019		
UT F01	F01	16 July 2019 13 December 2019	DD EE	Stanisic Architects
UT A01	A01	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT B01	B01	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT J01/1	J01/1	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT J01	J01	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT F06/1	F06/1	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT F06	F06	19 July 2019 13 December 2019	CC DD	Stanisic Architects
UT F05/4	F05/4	13 December 2019	AA	Stanisic Architects
UT F05/3	F05/3	13 December 2019	AA	Stanisic Architects
UT F05/2	F05/2	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT F05/1	F05/1	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT F05	F05	16 July 2019 13 December 2019	AA CC	Stanisic Architects
UT F04/1	F04/1	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT F04/2	F04/2	13 December 2019	AA	Stanisic Architects
UT F04/3	F04/3	13 December 2019	AA	Stanisic Architects
913143M_10	BASIX Certificate	29 July 2020	-	Efficient Living Pty Ltd
18033-LDA00	Cover Page	22 July 2019 2 October 2019	E F	NBR Architecture Landscape
18033-LDA01	Landscape Plan - Ground Floor	22 July 2019 2 October 2019	E F	NBR Architecture Landscape

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18033-LDA02	Landscape Plan Level 02	22 July 2019 2 October 2019	E F	NBR Architecture Landscape
18033-LDA03	Landscape Plan Level 03	22 July 2019 2 October 2019	E F	NBR Architecture Landscape
18033-LDA04	Landscape Plan Level 04	22 July 2019 2 October 2019	E F	NBR Architecture Landscape
18033-LDA05	Landscape Plan Level 05	22 July 2019 2 October 2019	E F	NBR Architecture Landscape
18033-LDA06	Landscape Plan Level 06	22 July 2019 2 October 2019	E F	NBR Architecture Landscape
18033-LDA07	Landscape Plan Level 07	22 July 2019 2 October 2019	E F	NBR Architecture Landscape
18033-LDA08	Landscape Plan Level 08	22 July 2019 2 October 2019	E F	NBR Architecture Landscape
18033-LDA09	Landscape Plan Level 09	22 July 2019 2 October 2019	E F	NBR Architecture Landscape
18033-LDA10	Landscape Plan Level 10	22 July 2019 2 October 2019	E F	NBR Architecture Landscape
18033-LDA11	Landscape Plan Level 11	22 July 2019 2 October 2019	E F	NBR Architecture Landscape
18033-LDA12	Landscape Plan Level 12	22 July 2019 2 October 2019	E F	NBR Architecture Landscape
18033-LDA13	Landscape Plan Roof Terrace	22 July 2019 2 October 2019	E F	NBR Architecture Landscape
18033-LDA14	Details + Planting Palette	22 July 2019 2 October 2019	E F	NBR Architecture Landscape
17039	Operational Waste Management Plan	17 April 2019	G	Elephants Foot

Documents Relied Upon

Reference Number	Description	Date	Revision	Prepared By
10650 - 002	Plan of Site Detail and Levels	9 January 2018		Boxall
Project No. 20180289.1	Development Application	04/04/2018	REV: 1	Acoustic Logic

	Acoustic Report			
	Statement of Heritage Impact	03/07/ 2018		NBR Architecture Heritage
-	Landscape Design Statement	11 April 2019	-	NBR Architecture - Landscape
20180289.1/1 704A/RO/TA	Confirmation of Acoustic Design	17 April 2019		Acoustic Logic
-	Heritage Commentary Statement	17 April 2019		GBA Heritage
38031	Stormwater Management Report	15 April 2019	C	Wood and Grieve Engineers
18017	Assessment of Traffic and Parking Implications	April 2019	J	Transport and Traffic Planning Associates
1804298	Natural Ventilation Design Review	16 April 2019		RWDI
-	Design Verification Statement	30 June 2020 5 June 2023	-	Frank Stanisic
-	SEPP 65 Principles Compliance Statement	30 June 2020 5 June 2023	Issue A Issue C	Stanisic Architects
20-0637	Thermal Comfort and BASIX Assessment	08 July 2020	F	Efficient Living Pty Ltd
M180026	Clause 4.6 request	24 June 2019		Planning Ingenuity
19062	Structural Expert's Report by Ryan Campbell on Structural Engineering Issues at 32 – 38 Montgomery Street, Kogarah	2 July 2019		ABC Consultants Structural and Civil Engineers
	Joint Traffic Report of Ross Nettle and Paul Croft	1 July 2019		Ross Nettle and Paul Croft

- 1(a) Despite any other provision of this Development Consent DA2018/0139, this consent does not authorise or require anything that is inconsistent with the work approved in accordance with Development Consent DA2021/0110 and to the extent of any inconsistency the latter consent applies

(Condition 1(a) added via the provisions of Section 4.17(5) of the Environmental Planning and Assessment Act and Clause 97 of the Environmental Planning and Assessment Regulations – DA2021/0110)

~~(This condition has been modified by MOD2019/0245 (DA2018/0139))~~

~~(This condition is amended as part of MOD2020/0148 (DA2018/0139))~~

(This condition is amended as part of MOD2023/0086 (DA2018/0139))

2. Building design amendments

~~The following design changes are to be incorporated into the construction certificate plans which are to be submitted to the satisfaction of Council as part of the relevant construction certificate application:~~

- ~~(a) The locations of the basement columns adjacent to the Montgomery St boundary and the Moorefield Lane boundary on Basement Levels 0, B3, B2, and B1 are to be amended so that the column locations align between levels. A transfer beam is to be installed at level 0 to facilitate the changes in column location.~~
- ~~(b) Basement Levels 3, 2, 1 and 0 are to be modified in accordance with the plans at Appendix D of the Joint Traffic Report of Ross Nettle and Paul Croft filed 1 July 2019.~~
- ~~(c) Fixed screens shown on the bedroom windows of level 12 are to be deleted.~~
- ~~(d) The extent of the painted areas on the facades of the building is to be reduced or changed to a colour pigmented render and an external finishes board showing a more varied colour palette is to be prepared.~~

~~(This condition has been modified by MOD2019/0245 (DA2018/0139))~~

(This condition has been deleted as part of MOD2020/0148 (DA2018/0139))

Section B 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 in, on or over a public road;

- a) Placing or storing materials or equipment;
- b) Placing or storing waste containers or skip bins;
- c) Erecting a structure or carrying out work
- d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- e) Pumping concrete from a public road;

- f) Pumping water from the site into the public road;
- g) Constructing a vehicular crossing or footpath;
- h) Establishing a "works zone";
- i) Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of connections to utility providers);
- j) Stormwater & ancillary works in the road reserve; and
- k) Stormwater & ancillary to public infrastructure on private land
- l) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways.

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

The relevant Application Forms for these activities can be downloaded from Council's website www.georgesriver.nsw.gov.au. For further information, please contact Council's Customer Service Centre on (02) 9330 6400.

4. Stormwater Drainage Application

This Development Consent does not give approval to undertake works on Council stormwater drainage. 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:

- (1) Stormwater & ancillary works in the road reserve. This includes connections to Council stormwater pits and or pipes. Excludes connection of stormwater to the kerb.
- (2) 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, other than a construction certificate for demolition, excavation, shoring or piling.

To apply for the Stormwater Drainage Application:

- (a) Complete the 'Stormwater Drainage Application Form' which can be downloaded from Georges River Council's website at www.georgesriver.nsw.gov.au.
- (b) In the Application Form, quote the Development Consent No. (eg. DA2018/0139) and reference this condition number (e.g. Condition 4)
- (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 storm water drainage system are to be arranged by the applicant. The design plans must be lodged and approved by Council prior to the issue of a Construction Certificate, other than a construction certificate for demolition, excavation, shoring or piling.

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

5. Vehicular Crossing - Major Development

The following vehicular crossing and road frontage works will be required to facilitate access to and from the proposed development site:

- a) If required by the Council, construct new concrete footpaths for the full length of both frontages of the site (to their existing widths) in accordance with Council's Specifications applying at the time construction approval is sought.
- b) The thickness and design of the driveway shall be in accordance with Council's Specifications applying at the time the Section 138 approval is sought.
- c) If required by the Council, a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in accordance with Council's Specifications for kerb and guttering, applying at the time the Section 138 approval is sought.
- d) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath 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 the section 138 approval is sought.

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

6. 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.

7. Building - Hoarding Application

- a) 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.
- b) 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 where the hoarding is to be constructed on a public road.

8. 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:

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 and the Roads Act 1993 must be submitted for approval to Council where the hoarding is to be constructed on a public road.

The following information is to be submitted with a Hoarding Application under Section 68 of the Local Government Act 1993 and Section 138 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 at www.georgesriver.nsw.gov.au) before the commencement of work; and
- d) A 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.

9. Below ground anchors - Information to be submitted with S68 Application under LGA 1993 and S138 Application under Roads Act 1993

- a) 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 and the Roads Act 1993 for approval, prior to commencement of those works.
- b) The following details must be submitted.
 - (i) Cable anchors to be stressed released when the building extends above ground level to the satisfaction of Council;
 - (ii) The applicant has indemnified Council from all public liability claims arising from the proposed works, and provide adequate insurance cover to the satisfaction of Council;
 - (iii) Documentary evidence of such insurance cover to the value of \$20 million;
 - (iv) The applicant must register a non-terminating bank guarantee in favour of Council for the amount of **\$61,000.00** (based on the Montgomery Street and Moorefield lane frontages);
 - (v) The guarantee will be released when the cables are stress released. In this regard it will be necessary for a certificate to be submitted to Council from a structural engineer at that time verifying that the cables have been stress released.
 - (vi) In the event of any works taking place on Council's roadways/footways adjoining the property while the anchors are still stressed, all costs associated with overcoming the difficulties caused by the presence of the 'live' anchors will be borne by the applicant.

Section C Requirements of Concurrence, Integrated & Other Government Authorities

10. 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.

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 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the 'Plumbing, building and developing' section of the web site www.sydneywater.com.au then refer to 'Providers' under 'Developing' or telephone 13 20 92 for assistance.

Following application, a 'Notice of Requirements' will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, as it can take some time to build water/sewer pipes and this may impact on other services and building, driveway or landscape design.

The Notice of requirements must be submitted to the certifying authority prior to the issue of a construction certificate, other than a construction certificate for demolition, excavation, shoring and piling. A Section 73 Compliance Certificate will be required at the completion of development in accordance with further conditions.

12. Ausgrid

a) Ausgrid substation

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

b) Clearances to Overhead Mains

If any part of the proposed structure, within 5m of a street frontage, is higher than 3m above footway level, the applicant is to confer with Ausgrid to determine if satisfactory clearances to any existing overhead mains will be affected. If so, the applicant is to make arrangements with Ausgrid for any necessary modification to the electrical network in question. These works to be at the applicant's expense and Ausgrid's requirements are to be met prior to actual construction commencing on site or as agreed with Ausgrid.

13. Sydney Airport

In accordance with The Airports (Protection of Airspace) Regulations 1996, regulation 14(1) (b), by the Department of Infrastructure, Regional Development and Cities imposes the following conditions on any approval:

- a) The building must not exceed a maximum height of 69.61 metres AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues etc.
- b) The buildings must be obstacle lit by low intensity steady red lighting during the hours of darkness at the highest point of the building. Obstacle lights are to be arranged to ensure the building can be observed in a 360 degree radius as per subsection 9.4.3 of the Manual of Standards Part 139 – Aerodromes (MOS Part 139). Characteristics for low intensity lights are stated in subsection 9.4.6 of Part 139 of the MOS.
- c) The Proponent must ensure obstacle lighting arrangements have a remote monitoring capability, in lieu of observation every 24 hours, to alert SACL reporting staff of any outage. For detailed requirements for obstacle lighting monitoring within the OLS of an aerodrome, refer to subsection 9.4.10 of the MOS.
- d) The obstacle lighting must have a built in alarm system that will provide remote monitoring to notify the person responsible for the maintenance of the obstacle lighting. The designated person must be available 24 hours per day, 7 days per week. Immediate action must be taken to repair the obstacle lighting and notify Sydney Airport of any outage. The contact details of the person responsible for the maintenance of the obstacle lighting must be sent to Sydney Airport prior to the completion of the building being constructed, and must be kept up to date. In the event of the obstacle lighting being inoperable, the person responsible for the maintenance of the obstacle lighting is to immediately contact the Sydney Airport Airfield Operations Supervisor on 0419 278 208 Or 9667 9824.
- e) Following completion of the building, the Proponent must advise SACL, in writing, that the future owner(s) / manager(s) have been informed of their obligation to maintain the obstacle lighting in accordance with conditions of this approval.
- f) The Proponent must advise Airservices Australia at least three business days prior to the controlled activity commencing by emailing ifp@airservicesaustralia.com and quoting YSSY-CA-131.
- g) Separate approval must be sought under the Regulations for any construction equipment (i.e. cranes) required to construct the building. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Regulations. Therefore, it is advisable that approval to operate construction equipment (i.e. cranes) be obtained prior to any commitment to construct.
- h) On completion of construction of the building, the Proponent must provide the airfield design manager with a written report from a certified surveyor on the finished height of the building.

Breaches of approval conditions are subject to significant penalties under Section 185 and 187 of the Act.

Section D Prior to the Issue of a Construction Certificate

14. Building - (Structural Certificates prior to Construction Certificate)

The proposed structure must be designed and certified by a practising qualified structural engineer with details submitted at Construction Certificate stage demonstrating this to the satisfaction of the Principal Certifying Authority.

15. Fees Payment

- a) Any fees are to 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).
- b) 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).
- c) Council must be contacted prior to payment to determine correct total amount to be paid and bank account details (if applicable).

16. Damage Deposit - Major Works

- a) In order to insure against damage to Council property the following is required:
 - (i) 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: **\$75,346.56**.
 - (ii) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee (for two inspections) to enable assessment of any damage and repairs where required: **\$371.00**.

17. 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.

18. 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.

Contribution Plan	Description	Section 94 contributions payable
Plan No. 8	Streetscape, Open Space & Public Domain	\$877,926.31
Plan No. 8	Traffic Facilities	\$19,671.67
Plan No. 8	Community Facilities	\$16,293.28
Plan No. 9	Kogarah libraries - buildings component	\$15,185.25
Plan No. 9	Kogarah libraries - books component	\$10,827.50
Total Section 7.11 (Section 94) Contributions Currently Payable		\$939,904.01

a) 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. Please note that these contributions are indexed quarterly according to the relevant sections in each contributions plan. Indexation cannot take the contribution per dwelling above \$20,000 per dwelling.

b) Timing of Payment

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

c) 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.

(This condition is amended as part of MOD2020/0148 (DA2018/0139))

19. Use of Rooftop open space - A Plan of Management (**POM**) for use of rooftop open space and swimming pool must be submitted for approval of Council prior to the issue of a construction certificate, other than a construction certificate for demolition, excavation, shoring and piling. The POM must outline the:

- i. hours of use of the rooftop deck and swimming pool which shall be restricted to between 6am until 10pm;
- ii. maximum number of users at any one time;
- iii. provisions for no amplified music to be played; and
- iv. other measures to ensure that the amenity of persons within the development and in nearby existing and future development is maintained;

The approved POM shall be incorporated into the Owners Corporation by-laws in any future Strata subdivision and a sign summarising key rules under the plan of management must be erected in an appropriate location within the rooftop deck area.

20. Acoustic Report

The Applicant shall provide an Acoustic Assessment Report (**Acoustic Assessment Report**). The report is to be prepared by a qualified Acoustic Engineer having as a minimum Member grade of the Institution of Engineers Australia or Member grade of the Australian Acoustical Society. The report must include the following:

- (a) Unattended noise logging for both Montgomery Street and Moorefield Lane over a period of not less than 7 days. The loggers should be located at roof level of the existing building with the microphone to be fully exposed to the road traffic.
- (b) The unattended logging is to be supplemented by attended measurements in the day and night time periods to identify other noise sources impacting upon the Site. The results of the attended measurements are to be provided in both a graphical format of noise level over time and the relevant statistical results.

- (c) The Acoustic Assessment Report shall identify the façade reflected traffic noise levels allocated for each level of the development containing windows serving residential apartments
- (d) The assessment of traffic noise intrusion shall be undertaken in accordance with Appendix C10 of the EPA's Road Noise Policy, where the internal traffic noise levels exceed the 35 dB(A) and 40 dB(A) limits identified in the Infrastructure SEPP the appropriate noise controls are to be identified to satisfy the relevant internal criteria with windows and doors closed. If internal noise levels with windows or doors open exceed the criteria by more than 10dBA, the design of the ventilation for these rooms should be such that occupants can leave windows closed, if they so desire, and also to meet the ventilation requirements of the Building Code of Australia.
- (e) The Acoustic Assessment Report shall identify in a table format the glazing and ventilation requirements for every habitable room in each apartment.
- (f) The Acoustic Assessment Report shall identify the ambient background level applicable to existing residential occupancies in proximity to the Site and the relevant intrusiveness and amenity noise targets applicable to those locations.
- (g) The Acoustic Assessment Report shall nominate that the proposed rooftop pool be vibration isolated using minimum 40mm static deflection springs/neoprene vibration isolation mounts and any associated requirements including lateral buffers, isolation joints, etc.
- (h) The Acoustic Assessment Report shall identify the likely sources of mechanical plant to be provided in the development (car park ventilation, plant for commercial and residential premises) and identify the mechanical noise emission targets applicable to the development.
- (i) If alternative ventilation is to be provided to satisfy 00 in the form of air conditioning or alternative ventilation, the relevant noise targets are required for both internal and external noise (both solutions). The Acoustic Assessment Report is to specify those targets and must take into account the inaudibility requirement of the Regulations to the Protection of the Environment Operations Act with respect to air conditioners for residential premises.
- (j) There is potential for the installation of additional air conditioning plant to individual apartments (separate to compliance with the road traffic noise criteria). An external noise specification for such plant it be provided, taking into account the overall noise targets for the site and the requirements of the Regulations to the Protection of the Environment Operations Act with respect to air conditioners for residential premises.
- (k) The Acoustic Assessment Report shall address the specific requirements in relation to aural and visual privacy of the Building Code of Australia (BCA).

The acoustic report is to be submitted and approved by the Certifying Authority prior to the issue of a construction certificate, other than a construction certificate for demolition, excavation, shoring and piling.

21. Prior to release of Construction Certificate, a qualified Acoustic Engineer having as a minimum Member grade of the Institution of Engineers Australia or Member grade of the Australian Acoustical Society is to certify that the plans will comply with the findings of the Acoustic Assessment Report specified in Condition 0 to the satisfaction of the Principal Certifying Authority.

22. Protection of basement and building from stormwater entry from off the road reserve

- (a) Full details of proposed design boundary levels on both the Montgomery Street and Moorefield Lane street frontages are to be submitted for approval by Council. Proposed finished levels are to be provided at both edges of the driveway entry, loading bay and at all entrances to the building.
- (b) These levels are to be supported by evidence from a professional engineer who specialises in hydraulic engineering that all entrances to the building including the underground basement shall be protected from possible inundation by surface waters from the street.
- (c) Evidence that Council's Infrastructure department has reviewed and approved the design boundary levels is to be provided to the certifying authority prior to the issuing of a Construction Certificate other than a construction certificate for demolition, excavation, shoring and piling.

23. Required design changes

The following changes are required to be made and shown on amended Detailed Stormwater Plans prior to the release of the Construction Certificate (other than a Construction Certificate for demolition, excavation, shoring and piling):

Stormwater and Drainage

- a) The OSD section is to include revised details including an amended top water level, orifice size, variable width of the tank, a sump to be installed below the orifice, and trash screen to be installed over the orifice rather than the outlet downstream of the orifice.
- b) The kerb inlet pit detail would need to be removed and a grated gutter drain detail included on Drawing CI-066-01.
- c) It is to be clearly stated on Drawing CI-066-02 that a Stormwater Drainage Application will need to be lodged and receive written approval by Council for the stormwater works and connection to Council's stormwater pipe in Moorefield Lane.
- d) There is minimal height difference between the maximum overflow height at the Rainwater tank and the top water level of the OSD tank. The design is to be altered to prevent the potential for to discharge back to the Rainwater tank from the On-Site Detention system.

The Detailed Stormwater Plan is to be 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.

Design changes

- e) **One (1) residential visitor car space is to be allocated with a shared space so as to make it an accessible residential visitor car space. The shared space is to be achieved by converting one (1) residential car space along basement 1 (DA102 dated 28/06/2020) to a shared space in favour of the residential visitor car space. A reshuffle of residential and commercial/retail car spaces along basement 1 is permitted as long as the number of commercial/retail car parking spaces is not reduced.**

Note: If a compliant accessible car space for one residential visitor car space can be achieved in basement 1 without converting (1) residential car space into an accessible space, then this is considered to satisfy this condition.

Details are to be shown on the Construction Certificate Plans and Strata Subdivision Plan.

- f) **Appropriate pedestrian access in the form of a door is to be added between the communal open space (residential garden) and apartment 202 located along level 2 (reference DA105 dated 30/06/2020).**

(This condition is amended as part of MOD2020/0148 (DA2018/0139))

24. Natural Cross Ventilation requirement

- (a) In order to achieve the minimum natural cross ventilation performance as per the ADG Guidelines, each of the windows belonging to Apartments 201, **203, 204, 205**, 301, 303, 304, 306, 401, 403, 404, 406, 501, 503, 504, 506, 601, 603, 604, 606, 701, 703, 704, 706, 801, 803, 804, 806, 901, 903, 904 and 906 that discharge air into the central atrium space or to the south east aspect are to have a minimum ventilating area of no less than the greater of 5% of the floor area of the room required to be ventilated and a total openable area per aspect of 0.4sqm
- (b) These windows must not be obstructed by fly screen mesh, louvres or the like.
- (c) The top of the central atrium must not be covered other than to the extent shown on the drawings nominated in condition 0.
- (d) No obstruction is to be introduced between fire stairs/lift core and the apartments on any of the levels between a height of 1.6m and the height of the soffit or slab.

(This condition is amended as part of MOD2020/0148 (DA2018/0139))

25. Traffic and Parking

A detailed Traffic Management Plan must be submitted and approved by Georges River Council based on the design as amended. The Plan must include but not limited to:

- a) Driveway access to comply with figure 3.3-Minimum Sight Lines for Pedestrian Safety as per AS 2890.1:2004 of the Australian Standard for off-street car parking. Figure 3.3 specifies the minimum sight lines for pedestrian safety along a circulation driveway or domestic driveway.
- b) **At least 23 retail/commercial car parking spaces shall be freely available for customers of the business to which they are assigned. The spaces must either be freely available to such customers, for vehicles operated by the relevant business or designated retail/commercial staff of the relevant business.**
- c) Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distance requirements stipulated in the *Australian Standards AS2890.1*.
- d) The maximum size of truck/service vehicle using the proposed development shall be restricted to Medium Rigid Vehicle with a maximum length of 12.5 metres.

- e) All vehicles shall enter and exit the premises in a forward direction excepting that a service vehicle may enter the loading dock in a reversing fashion.
- f) No deliveries to the premises shall be made direct from a public place or street inclusive of footpaths, nature strip, roadway and car parks.
- g) All loading and unloading of vehicles in relation to the use of the premises shall take place wholly within the dedicated loading/unloading areas, which is wholly within the site.

(This condition is amended as part of MOD2020/0148 (DA2018/0139))

26. 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 if required;
- 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.

27. Council Property Shoring

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

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

28. Pre and Post Construction Dilapidation Reports on Public Land

Prior to and upon completion of works, two dilapidation reports must be prepared on Council infrastructure within and/or adjoining the development site. The reports must include both sides of the road and extend 40 metres past the development site in all directions within the road reserve or Council assets. The pre-dilapidation reports must be submitted prior to works commencing. The post dilapidation report must be submitted to Council prior to final inspection and issue of Occupation Certificate.

All dilapidation reports must be prepared by a suitably qualified engineer and include their full name, signature and qualification. The post dilapidation report must show clear detail of all defects following completion of the works.

The reports must be provided to the Principal Certifying Authority and a copy provided to the Council.

The reports must include the following:

- (a) Photographs showing the condition of the road pavement, kerb and gutter including drainage lintels, footway including footpath pavement and the condition of retaining walls.
- (b) Closed circuit television/video (CCTV) inspection, in digital format, of public stormwater drainage systems fronting, adjoining, or within the site, and is to include the inspection and notation of all visible defects and joints along the pipe. The post dilapidation report is to be carried out upon completion of all construction works. (A specialised plumber/contactor who has a CCTV tractor that can access the pipe and provide suitable quality footage will need to be engaged.)
- (c) The post dilapidation report summary is to include all recommended actions to rectify or remediate the defects that have arisen following the initial pre-dilapidation report.

The reports are to be supplied in digital format in Word or PDF. Photographs are to be included in the report and presented in colour and date stamped.

Any works required on Council's road related area require a separate application under Sec 138 Roads Act. The dilapidation reports will be taken into consideration when Council undertakes a final inspection of works on road related areas as part of the section 138 applications.

Council may use both reports to determine whether or not to; accept the works, issue further instructions and/or refund the damage deposit. Any omission in the pre-dilapidation report will be assessed as damage to be rectified.

29. 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.
- b) 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.

- c) 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.
- d) 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.

30. Stormwater System

- a) 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 other than a construction certificate for demolition, excavation, shoring and piling.
- b) All stormwater shall drain by gravity to the proposed grated gutter pit located in front of the property in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
- c) A 42.4m³ On-Site Detention system with a Maximum Site Discharge of 23.6 Litres per Second is to be provided in accordance with the Stormwater Concept Plan and associated Design Assessment Report. The overflow is to be directed to the site drainage system.
- d) 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 (2005 or 2016) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.
- e) The underground basement car park must pump to and all other stormwater must drain by gravity to the OSD system.
- f) The sub soil drainage for the below ground structures including basement car parks shall be designed in accordance with the findings and recommendations in the geotechnical report. The geotechnical report should assess any possible impact of the proposed development upon existing ground water table and surrounding land and buildings. Should the results of the report indicate that the site is likely to experience issues associated with groundwater management, a fully-tanked dry basement with no sub soil drainage collection or disposal and an allowance made for any hydrostatic pressures.

31. 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 designed in accordance with the requirements of AS/NZS 3500.3:2018 (As Amended) – Plumbing and Drainage - Stormwater Drainage.
- 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 other than a construction certificate for demolition, excavation, shoring and piling.

32. 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.

33. 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. In the design requires changes to the height of the building this will need to be considered as a modification.

34. Access for Persons with a Disability and Adaptable Housing

Access for persons with disabilities must be provided throughout the site, including to all common rooms, lobby areas, commercial premises and sanitary facilities 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 other than a construction certificate for demolition, excavation, shoring and piling.

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

35. Geotechnical report

The applicant must submit to the Certifying Authority a Geotechnical Report, prepared by a suitably qualified and practising Geotechnical Engineer. This is to be submitted prior to 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. On-site guidance by a vibration specialist during the early part of excavation.
- c. 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.
- d. 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.

36. 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.

37. Slip Resistance

All pedestrian surfaces in areas such as foyers, public corridors/hallways, stairs and ramps as well as floor surfaces in the wet rooms in any commercial/retail/residential apartments must have slip resistance classifications, as determined using test methods in either wet or dry conditions, appropriate to their gradient and exposure to wetting. The classifications of the new pedestrian surface materials, in wet or dry conditions, must comply with AS/NZS4586:2004 - Slip Resistance Classifications of New Pedestrian Materials and must be detailed on the plans lodged with the application for the Construction Certificate.

38. Traffic Management - Compliance with AS2890

All driveways, access ramps, vehicular crossings and car parking spaces shall be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities).

38A Prior to the issue of a Construction Certificate, a Construction Noise and Vibration Management Plan is to be prepared by the proponent to the satisfaction of the Certifying Authority. The Construction Noise and Vibration Management Plan is to be in accordance with the EPA Interim Construction Noise Guidelines.

The proponent must undertake noise and vibration monitoring during the demolition and excavation and construction phases of the project. The vibration monitoring will incorporate alarms and similar notifications in the event that noise or vibration levels are approaching the threshold limits. Where noise or vibration levels exceed the nominated limits, reasonable and feasible noise/vibration mitigation measures are to be incorporated. During the demolition and excavation and construction works, where any vibration exceedances occur, they will be documented and provided to both the PCA and Council, not more than 7 days after the occurrence of the exceedance

38B Prior to the issue of a Construction Certificate, other than a Construction Certificate for demolition, excavation, shoring and piling, a specification shall be provided in relation to individual air conditioners that may be installed to apartments in the subject development, including any restrictions on operating mode or night time use, in accordance with the targets set out in the Acoustic Assessment Report provided pursuant to Condition 0.

38C Prior to the issue of a Construction Certificate, other than a Construction Certificate for demolition, excavation, shoring and piling, the proponent must provide certification confirming that the physical noise and vibration controls required for the rooftop deck and pool area have been incorporated into the development.

- 38D** Prior to the issue of a Construction Certificate, other than a Construction Certificate for demolition, excavation, shoring and piling, the proponent must provide certification confirming the building will comply with the acoustic requirements of the BCA.

39. Roof Water and Surface Water Disposal

All roof water and surface water from paved or concreted areas are to be disposed of in accordance with the Stormwater Plan by means of a sealed pipeline constructed in accordance with AS/NZS 3500.3:2018 (As Amended) – Plumbing and Drainage - Stormwater Drainage.

40. Acoustic Requirements

Prior to issuing a Construction Certificate, other than a Construction Certificate for demolition, excavation, shoring and piling, the proponent must provide with a further Acoustic Assessment Report (further Acoustic Assessment Report) assessing the impact of all proposed mechanical plant on the receiving environment as well as demonstrating compliance with Noise Policy for Industry (NSW EPA, 2017). The further Acoustic Assessment Report must address the matters set out in the Acoustic Assessment Report required by Condition 0.

41. Car Wash Bays

Plans and specifications of the car washing system which has been approved by Sydney Water must be submitted with the application for the Construction Certificate (other than a Construction Certificate for demolition, excavation, shoring and piling).

All car washing bays shall be contained within a roofed and bunded car wash bay with pre-treatment approved by Sydney Water. The water from the car wash bay must be graded to a drainage point and connected to sewer.

If alternative water management and disposal options are proposed (i.e. where water is recycled, minimised or reused on the site), detailed plans and specifications of the water recycling system must be submitted with the application for the Construction Certificate for approval (other than a Construction Certificate for demolition, excavation, shoring and piling).

42. Compliance with Swimming Pool Acts 1992 and Australian Standards

The construction of the new building subject of this consent must not generate any non-compliances with the Swimming Pools Act 1992, Swimming Pool Regulation 2008, Building Code of Australia and/or AS 1926.1-2007 – Swimming Pool Safety. Details of compliance to be illustrated on the plans lodged with the application for the relevant Construction Certificate.

The fence of the swimming pool located on the rooftop of the development is to comply with Australian Standard AS1926-2012

43. Swimming Pools – Use and Maintenance

The following apply to the construction, use and maintenance of swimming pools and spas:

- (a) all pool/spa waste water is to be discharged to the sewer according to the requirements of Sydney Water;
- (b) the swimming pool must not be used for commercial or professional purposes;
- (c) drain paved areas to the landscaped areas or a suitable lawful drainage system;
- (d) arrange any external pool/spa lighting to minimise glare nuisance to adjoining owners; and
- (e) all structures within the bounds of the child-resistant barrier surrounding the swimming pool are to comply with section 12(c) of the Swimming Pools Act 1992 (NSW).

44. 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

45. Site Investigation Requirements - Detailed Site Investigation

A detailed site contamination investigation of the site must be carried out by an appropriately qualified contamination consultant in accordance with the requirements of the relevant NSW EPA Guidelines approved under the Contaminated Land Management Act 1997 including the EPA Guidelines for Consultants Reporting on contaminated sites and shall certify the suitability of the site for the proposed development. If investigation finds that contamination makes the land unsuitable for the proposed development and remediation is required, a Remedial Action Plan (RAP) must be submitted to Council prior to Council making a determination. Council reserves the right to require a site audit of the RAP.

46. Site contamination – Additional information

Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.

The following steps must then be taken before any further works proceed onsite.

A further detailed investigation of the site should then be prepared by a suitably qualified contaminated land consultant and submitted to Council.

This report must consider whether the land is contaminated;

- g) 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
- h) 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 used for that purpose.

47. Remedial Action Plan (RAP)

If required as a result of a further detailed investigation under Condition 45, all work is to cease and a Remedial Action Plan (RAP) must be prepared by a suitably qualified consultant in accordance with NSW Department of Environment and Conservation (DEC) and NSW Environmental Protection Authority (EPA) Guidelines and shall document all the remedial works to be undertaken at the site and also contain an environmental management plan and occupational health and safety plan for the remedial works.

48. Remediation Works

Any remediation work must be carried out in accordance with:

- a) The Managing Land Contamination: Planning Guidelines SEPP 55 Remediation of Land; and
- b) The EPA Guidelines made under the Contaminated Land Management Act 1997.
- c) And in accordance with the proposed Remedial Action Plan.

49. Validation Report

If applicable, after completion of all Remediation works, a copy of the Validation and Monitoring Report prepared by suitably qualified contaminated land consultant shall be submitted to Council. The Construction Certificate shall not be issued until Council approves this Report. The validation report shall be prepared in accordance with the Office Environment and Heritage Guidelines, *Consultants Reporting on Contaminated Sites*, and shall certify the suitability of the site for the proposed development.

- a) describe and document all works performed;
- b) include results of validation testing and monitoring;
- c) include validation results of any fill imported on to the site;
- d) show how the objectives of the Remedial Action Plan have been met;
- e) show how all agreed clean-up criteria and relevant regulations have been complied with; and
- f) include clear justification as to the suitability of the site for the proposed development and the potential for off-site migration of any residual contaminants.

50. 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.

51. Waste Storage

The construction certificate plans (other than a construction certificate for demolition, excavation, shoring and piling) shall include details of the waste storage area. The waste storage area shall not be visible from the street. The waste storage area shall be located within the lot/building in accordance with the approved plans.

The waste storage area shall be large enough to accommodate the required number of bins for the development and located in an area to suitably facilitate servicing on waste collection day.

The path to the bin room is to be at least 1.0 metres wide and kept clear and unobstructed at all times.

The required number of bins shall be 5 X1100L bins collected twice per week collected by a private contractor or if Council is contacted for collection, the development shall have a minimum of 24 X 240L recycling bins collected weekly or 12 X 240L recycling bins collected twice a week

Commercial Waste

Appropriate waste and recycling containers and facilities will need to be provided for all specific end use businesses in accordance with the following waste generation rates:

- a) Retail Trading – shops, to 100 square metres - 0.1-0.2 cubic metres per 100 square metres of floor area per day;
- b) Restaurants and Food Shops – 0.3-0.6 square metres per 100 meals, plus up to 0.15 cubic metres of beverage containers per 100 meals; and,
- c) Office – 0.01-0.03 cubic metres per 100 square metres of floor area per day.

Details of the waste storage area must be illustrated on the plans submitted with the application for the Construction Certificate for approval.

52. Waste – Commercial/Residential

The waste room will contain the following to minimise odours, deter vermin, protect surrounding areas, and make it a user-friendly and safe area and is to be provided with the construction certificate plans and documents (other than a construction certificate for demolition, excavation, shoring and piling).:

- 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) The 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
- i) types and assist with odour reduction - this process generally takes place at
- 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.
- n) 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.
- o) Cleaners will monitor the bin storage area and all spills will be attended to immediately by cleaners.

53. Landscape Plan

A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate, other than a Construction Certificate for demolition, excavation, shoring and piling. The plan must include:

- a) Location of all existing and proposed structures and services (including all services in the street) and existing and proposed trees with proposed planting depths;
- b) Details of earthworks including mounding and retaining walls and planter boxes;
- c) Location of proposed plants and a plant schedule showing the plant symbol, botanical name/ common name; quantity; pot size/; and mature height x width.
- d) All proposed trees to be planted onsite must be a minimum of 100 litres in size.
- e) Details of planting procedure and maintenance;
- f) Landscape specification;
- g) Details of drainage and watering systems;
- h) Details of garden edging and turf;
- i) Any required fencing, retaining walls and other structures not shown on other approved architectural and engineering plans.

The landscape architect shall liaise with the service authorities (eg Telstra, Sydney Water and Ausgrid) to ensure the street tree pit proposal does not negatively impact the authority's service and shall be designed in accordance with the service authority guidelines/requirements. Note: there is a water main 0.5m from back of kerb.

54. Landscape Plans

~~All landscape works shall be carried out in accordance with the approved landscape plans and specifications, being drawings 18033-LDA00-E, 18033-LDA01-E, 18033-LDA02-E, 18033-LDA03-E, 18033-LDA04-E, 18033-LDA05-E, 18033-LDA06-E, 18033-LDA07-E, 18033-LDA08-E, 18033-LDA09-E, 18033-LDA10-E, 18033-LDA11-E, 18033-LDA12-E, 18033-LDA13-E, 18033-LD15-E prepared by NBR Architecture Landscape dated 22 July 2019.~~

~~except for the following design change:~~

- ~~(a) The proposed tree plantings on Montgomery Street, Kogarah to be amended to 4 x *Fraxinus griffithii* (Evergreen Ash) minimum size of 100 litres.~~

~~The landscaping shall be maintained in accordance with the approved plans in perpetuity.~~

~~The proposed plant species, pot/ bag size and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan. If plant species, pot/ bag size and quantities cannot be sourced, Council shall be contacted for alternatives.~~

All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by NBR Architecture, Ref No 18033 – LDA00F to LDA14F and dated 2/10/19. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following

- a) The proposed Forty three (43) trees and plant species, pot/ bag size and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan. If plant species, pot/ bag size and quantities cannot be sourced, Council shall be contacted for alternatives;

- b) A total of four (4) street trees proposed at 100 litre pot/ bag size, upon the landscape plans as *Fraxinus griffithii*, shall be purchased by the applicant and planted by Council.
- 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)*, and be planted and maintained in accordance with Councils standard specification;
- d) If the planted forty three (43) trees and plants are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size;
- e) A certificate of compliance for the planting of all trees and shrubs proposed for the site. An AQF 5 Horticulturist shall be engaged and in writing certify that all trees have been planted as per landscape plan and specifications and forwarded to the PCA – Principal Certifying Authority.

Street Tree planting by Council

- a) Four (4) street trees of species being *Fraxinus griffithii* at 100 litre pot/ bag size must be provided in the road reserve fronting the site.
- b) Council shall be appointed to remove and plant all trees on public land. All costs associated with the removal of trees and the planting of replacement trees shall be met by the applicant.

(This condition is modified as part of MOD2019/0245 (DA2018/0139))

55. 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 addresses for the subject development must be allocated as advised by Georges River Council.

Details indicating compliance with this condition must be shown on the plans lodged with a Construction Certificate for approval, other than a Construction Certificate for demolition, excavation, shoring and piling.

56. Consolidation of Site

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

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

57. 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.

58. Council Infrastructure – Damage Deposit

The damage deposit will be refunded in full upon completion of work where no damage occurs, based upon review of the Pre and Post Construction Dilapidation reports 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.

59. Demolition & Asbestos

- a) 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.
- b) 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.
- c) 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.

60. Dial before your dig

The applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Council's Engineers for their records.

61. 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 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 PCA is satisfied that the height and location of the building is proceeding in accordance with the approved plans.

62. 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.

63. 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 Certifying Authority as it becomes available, with a copy to be provided to Council.

Demolition Conditions

64. Asbestos

- a) Demolition of buildings where asbestos is determined to be present should only occur 7am – 5pm Monday to Saturdays, and must not occur on Sundays or Public Holidays, to ensure that the persons carrying out the work have access to WorkCover professionals if required.

- b) All asbestos removal shall be undertaken in accordance with the requirements of WorkCover's 'How to Safely Remove Asbestos' Code of Practice and Council's Asbestos Policy.
- c) Written notice must be provided to Georges River Council five (5) working days (excluding public holidays) prior to commencement of any works. Written notice is to include the following details:
 - (i) Date the demolition will commence
 - (ii) Name, address, contact details (including after hours) and licence number of the demolisher and asbestos removalist (if different)
 - (iii) Work must not commence prior to the nominated demolition date
 - (iv) Note: it is the responsibility of the persons undertaking demolition work to obtain the relevant WorkCover licences and permits.
- d) The owner is to notify all owners and occupiers of premises on either side, opposite and at the rear of the development site five (5) working days prior to demolition. Such notification is to be clearly written on A4 size paper stating the date the demolition will commence and is to be placed in the letterbox of every premises (including every residential flat or apartment, if any). The demolition must not commence prior to the date and time stated in the notification.

65. Removal of asbestos

- a) A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10sqm of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).
- b) Removal of friable asbestos material must only be undertaken by a contractor that holds a current AS1 Friable Asbestos Removal Licence.
- c) Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.
- d) All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2005. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.
- e) A Clearance Certificate or Statement, prepared by a suitably qualified occupational hygienist must be provided to Council upon completion of
- f) and asbestos related works, which confirms that the relevant legislative requirements in relation to safe removal and disposal have been satisfied.

66. Work Cover Licensed Demolisher

A Work Cover Licensed Demolisher is to be engaged to carry out any demolition works using mechanical equipment where the structure is over 4 metres in height or to carry out any manual demolition works on a structure over 10 metres in height.

67. Compliance with Australian Standard AS 2601-1991:"The Demolition of Structures"

Compliance is to be met with the provisions of Australian Standard AS 2601-1991:"The Demolition of Structures", which requires notification of demolition to be submitted at least seven (7) days prior to demolition to the NSW WorkCover Authority.

68. 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 car park, structural engineer's details relating to the method of supporting the excavation must be submitted to Council.

Section F During Construction**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

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.

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 the approved plans.

72. 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 infrastructure.

73. 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.

74. Swimming Pools – Filling with water

The pool/spa shall not be filled until the safety fences have been completed in accordance with the approved plans and specifications and inspected by the PCA.

75. 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.

76. Building - Structural Certificate During Construction

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

77. 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)

78. 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.

Section G Prior to the issue of the Occupation Certificate

79. Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the PCA prior to the issue of the Occupation Certificate.

80. Acoustic Compliance

Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the construction has incorporated ALL the recommendations in the Acoustic Reports and all certification submitted to meet the requirements necessary to gain a Construction Certificate for this development.

80A. Allocation of car parking spaces

Car parking associated with the development is to be allocated as follows:

- (a) Residential dwellings: At least 62 car parking spaces are to be allocated to residential apartments.**
- (b) Residential visitors: At least 9 car spaces are to be provided.**
- (c) Retail/Commercial: At least 23 car parking spaces are to be allocated as retail and commercial parking for use by staff or visitors.**

(This condition is added as part of MOD2020/0148 (DA2018/0139))

81. Completion of Landscape Works

~~Landscape works are to be completed in accordance with drawings 18033-LDA00-E, 18033-LDA01-E, 18033-LDA02-E, 18033-LDA03-E, 18033-LDA04-E, 18033-LDA05-E, 18033-LDA06-E, 18033-LDA07-E, 18033-LDA08-E, 18033-LDA09-E, 18033-LDA10-E, 18033-LDA11-E, 18033-LDA12-E, 18033-LDA13-E, 18033-LDA14-E prepared by NBR Architecture Landscape dated 22 July 2019, except as amended by these conditions to the satisfaction of the Principal Certifying Authority prior to the release of an Occupation Certificate.~~

All landscape works and the payment and provision of four (4) street trees at 100 litre pot/ bag size must be completed before the issue of the Final Occupation Certificate and to the satisfaction of Councils Tree Management Officers. In accordance with approved landscape plans and specifications, drawn by NBR Architecture, Ref No 18033 – LDA00F to LDA14F and dated 2/10/19. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following -

- a) The proposed Forty three (43) trees and plant species, pot/ bag size and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan. If plant species, pot/ bag size and quantities cannot be sourced, Council shall be contacted for alternatives;

- b) A total of four (4) street trees proposed at 100 litre pot/ bag size, upon the landscape plans as *Fraxinus griffithii*, shall be purchased by the applicant and planted by Council.
- 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)*, and be planted and maintained in accordance with Councils standard specification;
- d) If the planted forty three (43) trees and plants are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size;
- e) A certificate of compliance for the planting of all trees and shrubs proposed for the site. An AQF 5 Horticulturist shall be engaged and in writing certify that all trees have been planted as per landscape plan and specifications and forwarded to the PCA – Principal Certifying Authority.
- f) All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, rubbish removal 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.

(This condition is modified as part of MOD2019/0245 (DA2018/0139))

82. Post Construction Dilapidation report - Private Land

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

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

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

83. Pre and Post Dilapidation Reports on Public Land

Prior to and upon completion of works, two dilapidation reports must be prepared on Council infrastructure within and/or adjoining the development site. The reports must include both sides of the road and extend 40 metres past the development site in all directions within the road reserve or Council assets. The pre-dilapidation reports must be submitted prior to works commencing. The post dilapidation report must be submitted to Council prior to final inspection and issue of Occupation Certificate.

All dilapidation reports must be prepared by a suitably qualified engineer and include their full name, signature and qualification. The post dilapidation report must show clear detail of all defects following completion of the works.

The reports must be provided to the Principal Certifying Authority and a copy provided to the Council.

The reports must include the following:

- (a) Photographs showing the condition of the road pavement, kerb and gutter including drainage lintels, footway including footpath pavement and the condition of retaining walls.
- (b) Closed circuit television/video (CCTV) inspection, in digital format, of public stormwater drainage systems fronting, adjoining, or within the site, and is to include the inspection and notation of all visible defects and joints along the pipe. The post dilapidation report is to be carried out upon completion of all construction works. (A specialised plumber/contactor who has a CCTV tractor that can access the pipe and provide suitable quality footage will need to be engaged.)
- (c) The post dilapidation report summary is to include all recommended actions to rectify or remediate the defects that have arisen following the initial pre-dilapidation report.

The reports are to be supplied in digital format in Word or PDF. Photographs are to be included in the report and presented in colour and date stamped.

Any works required on Council's road related area require a separate application under Sec 138 Roads Act. The dilapidation reports will be taken into consideration when Council undertakes a final inspection of works on road related areas as part of the section 138 applications.

Council may use both reports to determine whether or not to; accept the works, issue further instructions and/or refund the damage deposit. Any omission in the pre-dilapidation report will be assessed as damage to be rectified.

84. Major Development

Internal driveways and parking spaces are to be adequately paved with concrete 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.

85. Restriction to Use of Land and Positive Covenant for On-Site Stormwater Management System

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 (a) hereof. Such expense shall include reasonable wages for the Council's employees engaged in effecting the work referred to in (a) 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.*

86. 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.

87. Works as Executed and Certification of Stormwater works

Prior to the issue of an Occupation Certificate, the PCA must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards. A works-as-executed drainage plan and certification must be forwarded to the PCA and Council, from a professional engineer specialising in hydraulic engineering.

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

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

- (a) The location of any detention basin/s with finished surface levels;
- (b) Finished site contours at 0.2 metre intervals (if applicable)
- (c) Volume of storage available in any detention areas;
- (d) The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes;
- (e) The orifice size/s (if applicable);
- (f) Details of any pumping systems installed (including wet well volumes) (if applicable);
- (g) Compliance with conditions of development consent relating to stormwater;
- (h) The structural adequacy of the On-Site Detention system (OSD);
- (i) 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;
- (j) Pipe invert levels and surface levels to Australian Height Datum;
- (k) 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.
- (l) Council must advise in writing that they are satisfied with the Works-As-Executed prior to the issue of an Occupation Certificate.

88. Vehicular crossing & Frontage work - 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) If required by Council, construct a concrete footpath to its existing width for the full length of the frontage of the site in Montgomery Street as required by Council in accordance with Council's Specifications for footpaths.
- b) Construct the vehicular crossing in accordance with Council's Specifications for vehicular crossings.
- c) A section 138 Driveway and associated works application is to be lodged with Council for any vehicle crossing over Council's road related area.
- d) The applicant will be required to pay for all costs associated and not limited to the relocation of service utilities affected by the works.
- e) If required by Council, construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in accordance with Council's Specifications for kerb and guttering.

- f) 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.
- g) All vehicles must enter and leave the site in a forward direction.
- h) A private contractor shall carry out the above work, at the expense of the applicant and in accordance with Council's Specification for Vehicular Crossings and Associated Works.
- i) The driveway and road frontage works are to be completed before the issue of the Occupation Certificate.
- j) Parking spaces shall be clearly designated (sign posted and marked on ground) and line marked prior to the issuing of an Occupation Certificate. Signage, pavement symbols and line marking shall comply with *Australian Standards, AS1742, Manual of Uniform Traffic Control Devices* and *NSW Road Transport (Safety and Traffic Management) Regulations 1999*.

89. Completion of major road related 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 Assets and Infrastructure 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 (if required by the Council);
- (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 (if required by the Council); and
- (h) New or reinstated road surface pavement within the road, adjacent to the site, where damaged by the development works.

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.

90. 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:

- (a) That the measure has been assessed by a person (chosen by the owner of the building) who is properly qualified to do so.
- (b) 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.

91. Slip Resistance

At completion of work an in-situ (on-site) test, in wet and dry conditions, must be carried out on the pedestrian floor surfaces used in the foyers, public corridors/hallways, stairs and ramps as well as the floor surfaces in wet rooms in any residential units to ascertain the actual slip resistance of such surfaces taking into consideration the effects of grout, the gradients of the surface and changes from one material to another. The in-situ test must be carried out in accordance with AS/NZS 4663:2002. Proof of compliance must be submitted with the application for the Occupation Certificate for approval.

92. Building - (Structural Certificates)

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

93. Acoustic Compliance - General Operation of Premises

The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 (as amended) and Regulations.

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

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

94. Electricity Supply

Evidence shall be provided demonstrating that the development has been connected to the Ausgrid, if required.

95. Allocation of street addresses

Prior to issue of an Occupation Certificate, All house numbering are to be allocated in accordance 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. Council must be contacted in relation to all specific requirements for street numbering.

Section H Operational Conditions (Ongoing)

96. Swimming Pools – Resuscitation Notice

An expired air resuscitation warning notice complying with the Swimming Pools Act 1992 must be affixed in a prominent position adjacent to the pool.

97. Private Swimming Pools & Spas – Pump Noise

The swimming pool/spa pump and associated equipment must be located so that the noise emitted does not exceed 5dB(A) above the background level. If this cannot be achieved, a ventilated and sound-proofed enclosure must enclose the pump to achieve the required noise levels.

Swimming pool is to be installed with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):

- (a) before 8 am or after 8 pm on any Sunday or public holiday, or
- (b) before 7 am or after 8 pm on any other day.

98. 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.

98A. Use of Room

Room labelled as 'ST' within level 1(G) Plan (reference DA104 dated 30/06/2020) of Apartment 203 is to be removed from the unit and reallocated as storage accessible via residential entry lobby.

(This condition is added as part of MOD2020/0148 (DA2018/0139))

99. Noise Control

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

100. Compliance with POM for use of Communal Open Space

The approved POM for use of the rooftop open space shall be enforced by the Owners Corporation.

- 101.** Similar to above, to be enforced by Owner's corporation. Prior to issuing a Construction Certificate, other than a Construction Certificate for demolition, excavation, shoring and piling, a specification shall be provided in relation to individual air conditioners that may be installed to apartments in the subject development, including restriction on operating mode or night time use, in accordance with Condition 19.

102. 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.

103. Entering & Exiting of vehicles

All vehicles shall enter and exit the premises in a forward direction.

104. Maintenance of Sound Attenuation

Sound attenuation must be maintained in accordance with the Acoustic Report submitted as required by this consent.

105. Waste facilities

Occupational Health and Safety issues such as slippery floors in waste rooms and the weight of the waste and recycling receptacles will need to be monitored. Cleaners must monitor the bin storage area and all spills need to be attended to immediately by cleaners.

106. Letter Boxes

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

107. Air Conditioning / Offensive Noise

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

108. Responsibility of Owners Corporation

The Owners Corporation shall be responsible for presenting all approved recycling receptacles for collection on the driveway of the site, and returning all receptacles to the Main Waste Collection Room, as soon as practicable after they have been serviced.

The Owners Corporation shall also be responsible for maintaining all equipment, systems, facilities and storage areas used in conjunction with the provision of waste management services in accordance with all applicable regulatory requirements, relevant health and environmental standards, and to the satisfaction of Council.

109. 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.

110. 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.

111. 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.

112. 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.

Section I 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 Principal Certifying Authority

- a) The erection of a building must not commence until the beneficiary of the development consent has:
 - i. appointed a Principal Certifying Authority (PCA) for the building work; and
 - ii. if relevant, advised the PCA that the work will be undertaken as an Owner-Builder.
- b) If the work is not going to be undertaken by an Owner-Builder, then the beneficiary of the consent must:

- i. 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
- ii. notify the PCA of the details of any such appointment; and
- iii. 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.

115. Notification of Critical Stage Inspections

No later than two (2) days before the building work commences, the PCA must notify:

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

116. Notice of Commencement

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

117. Critical Stage Inspections

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

118. Notice to be given prior to critical stage inspections

The principal contractor for a building site, or the owner-builder, must notify the principal certifying authority at least 48 hours before each required inspection needs to be carried out.

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

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

Section J Prescribed Conditions

120. Clause 98A – Erection of Signs

Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifying Authority and the Principal Contractor.

121. Clause 98E – Protection & support of adjoining premises

- a. 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.
- b. Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site.
- c. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- d. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- e. If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided and adequate provision shall be made for drainage.

END CONDITIONS**NOTES/ADVICES****A. 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.

B. 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.

C. 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.

ATTACHMENTS

Attachment [1](#) MOD2023/0086 - Redacted Collated Plans - 34 Montgomery Street Kogarah



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

[illegible]

BASIS WATER INCLUSIONS		Deere #3402
Central newwater tank	16,300L newwater tank collecting from 130m ² of roof area and connected to at least one central line for use in all areas of common landscaping	
Fixtures within arid	Showerheads: 16L flow (4L, but < 0.5 L/min) Toilets: 4.8 star Kitchen sink: 5.0 star Bathroom vanity basin: 5.0 star	
Fixtures within common areas	Toilets: 4.8 star Fauc: 5.0 star	
Appliances within arid	Dishwashers: 3.0 star	
Free sprinkler test water	No BASIX restrictions	

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do not scale from drawings

the layout shown and the areas noted on this drawing are indicative only. layouts are to be read in conjunction with floor plans, elevations + sections.

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KYLIGHT

minor changes to form and configuration may be required when drawings are subsequently prepared for construction purposes after the grant of development consent

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LATERAL ESTATE

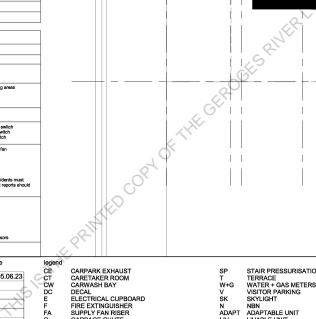
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project	MIXED USE DEVELOPMENT	
checked	32-38 MONTGOMERY ST KOGARAH	LEVEL 4 PLAN
drawn	JN	issue

project no	22 008	drawing no	DA-B-107
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DA-B-107

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the layout shown and the areas noted on this drawing are indicative only. layouts are to be read in conjunction with floor plans, elevations + sections.

minor changes to form and configuration may be required when drawings are subsequently prepared for construction purposes after the grant of development consent

client

LATERAL ESTATE

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checked	FS	drawing	LEVEL 5 PLAN
drawn	JN	issue	II
project no	22 008	drawing no	DA-B-108

[illegible]

do not scale from drawings

the layout shown and the areas noted on this drawing are indicative and are to be read in conjunction with floor plans, elevations + sections.

minor changes to form and configuration may be required when drawings are subsequently prepared for construction purposes after the grant of development consent.

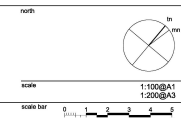
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LATERAL ESTATE



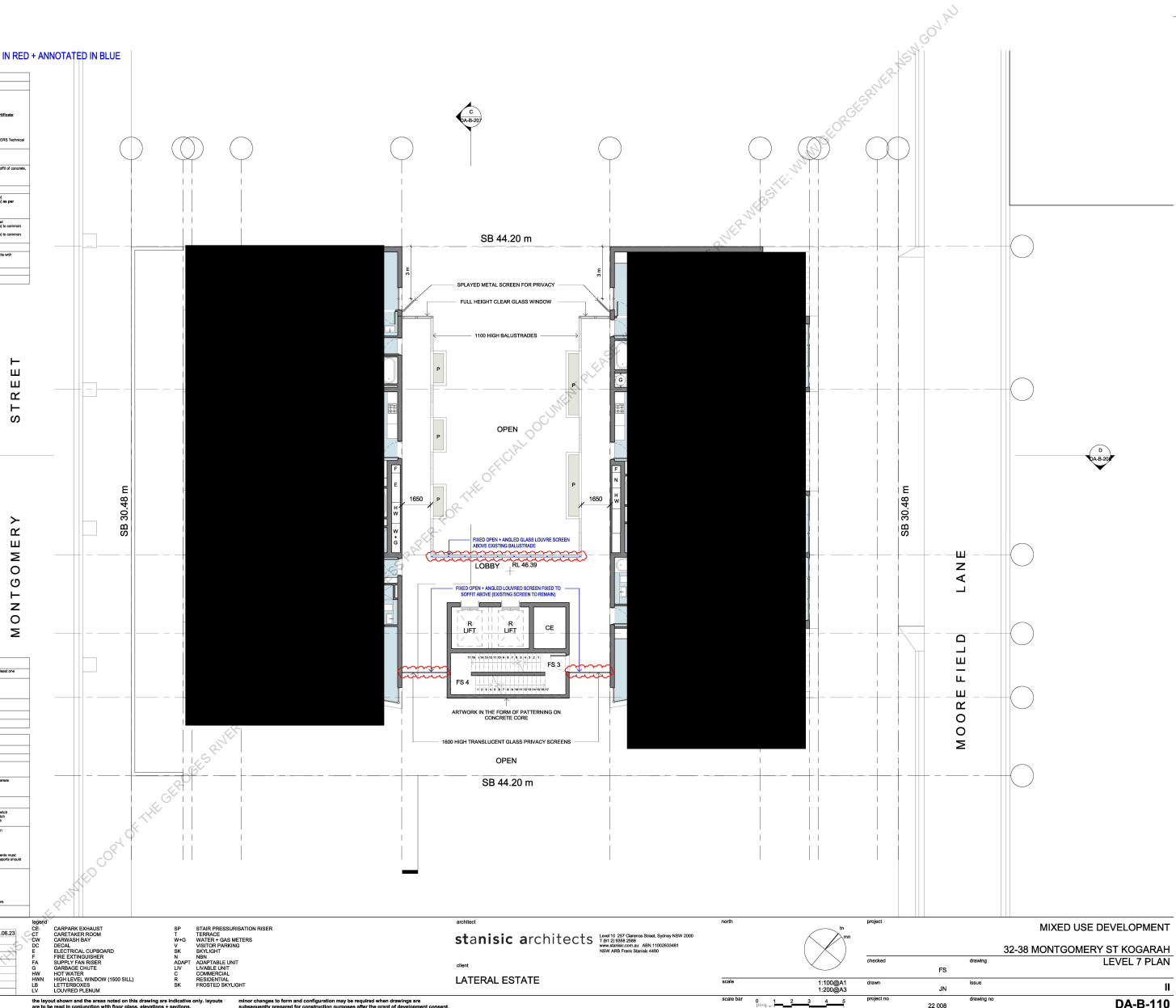
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	32-38 MONTGOMERY ST KOGARAH		
checked		drawing	LEVEL 6 PLAN
	FS		
drawn	JN	issue	JJ
project no	22 008	drawing no	DA-B-109

[illegible][illegible][illegible]

Legend		
CE:	CARPARK EXHAUST	SP STAIR PRESSURISATION RISER
CT:	CATERAKER ROOM	T TERRACE
CW:	CARWASH BAY	W+O WATER + GAS METERS
DC:	DECAL	V VISITOR PARKING
E:	ELECTRICAL CUPBOARD	SK SKYLIGHT
F:	FIRE EXTINGUISHER	N NBN
FA:	FIRE ALARM RASER	N ADAPT ADAPTABLE UNIT
F:	GARBAGE CHUTE	L/LV LIVABLE UNIT
HW:	HOT WATER	C COMMERCIAL
HWN:	HIGH LEVEL WINDOW (1500 SILL)	R RESIDENTIAL
LB:	LETTERBOXES	SK FROSTED SKYLIGHT
LV:	LOUNDED PLENUM	

the layout shown and the areas noted on this drawing are indicative only. layouts are to be read in conjunction with floor plans, elevations + sections.

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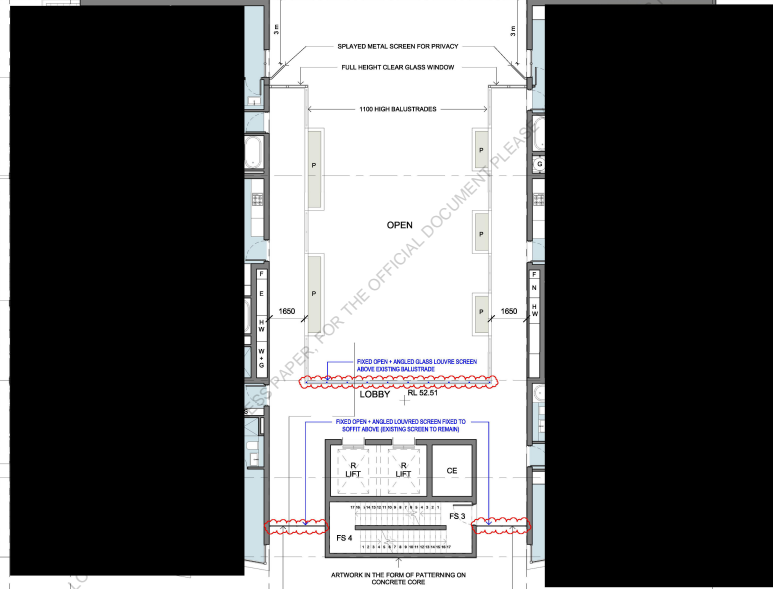
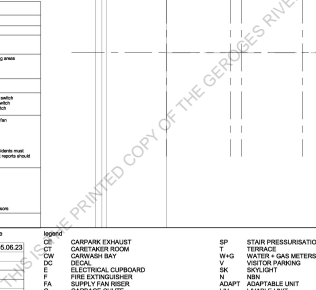


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the layout shown and the areas noted on this drawing are indicative and are to be used in conjunction with floor plans, elevations, and sections.

minor changes to form and configuration may be required when drawings are

project	MIXED USE DEVELOPMENT	
checked	FS	drawing
drawn	JN	issue
project no	22 008	drawing no

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MOORE FIELD LANE

stanisic architects
client
LATERAL ESTATE

project	MIXED USE DEVELOPMENT		
	32-38 MONTGOMERY ST KOGARAH		
checked	drawing	LEVEL 9 PLAN	
	FS		
drawn	issue		

MIXED USE DEVELOPMENT
MONTGOMERY ST KOGARAH
LEVEL 9 PLAN

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drawn	JN	issue	II
project no	22 008	drawing no	DA-B-112

DA-B-112

 PROPOSED CHANGES CLOUDED IN RED + ANNOTATED IN BLUE[illegible]

BASIS WATER INCLUSIONS		Revised 4/2018
Central municipal tank	11,000,000, rainwater tank collecting from 1000' of roof area and connected to at least one outside line for irrigation of common landscaping	
Fountains within units	Showerheads, bid flow (x6, but <= 7.5 L/min) Toilets: 4.0 star Kitchen: 3.0 star Bathroom vanity tap: 5.0 star	
Fountains within common areas	Toilets: 4.0 star Faucet: 5.0 star	
Appliances with air units	Dishwasher: min. 3.0 star	
Free sprinkler test water	No BASI's restrictions.	

[illegible][illegible]

Legend			
CE	CARPARK EXHAUST	SP	STAIR PRESSURISATION RISER
CR	CARETAKER ROOM	T	TERRACE
CW	CARWASH BAY	W+G	WATER + GAS METERS
DC	DECK	V	VISITOR PARKING
E	ELECTRICAL CU/BOARD	N	SKYLIGHT
F	FIRE EXTINGUISHER	SK	NBN
FA	SUPPLY FAN RISER	ADAPT	ADAPTABLE UNIT
FW	GARAGE CHUTE	L	LIVABLE UNIT
H	HOT WATER	C	COMMERCIAL
HVN	HIGH LEVEL WINDOW (1500 SILL)	R	RESIDENT SKYLIGHT
L	LETTERBOXES	SK	FROSTED SKYLIGHT
LS	LOW LEVEL PLENUM		

the layout shown and the areas noted on this drawing are indicative only. layouts are to be read in conjunction with floor plans, elevations + sections.

minor changes to form and configuration may be required when drawings are subsequently prepared for construction purposes after the grant of development consent.

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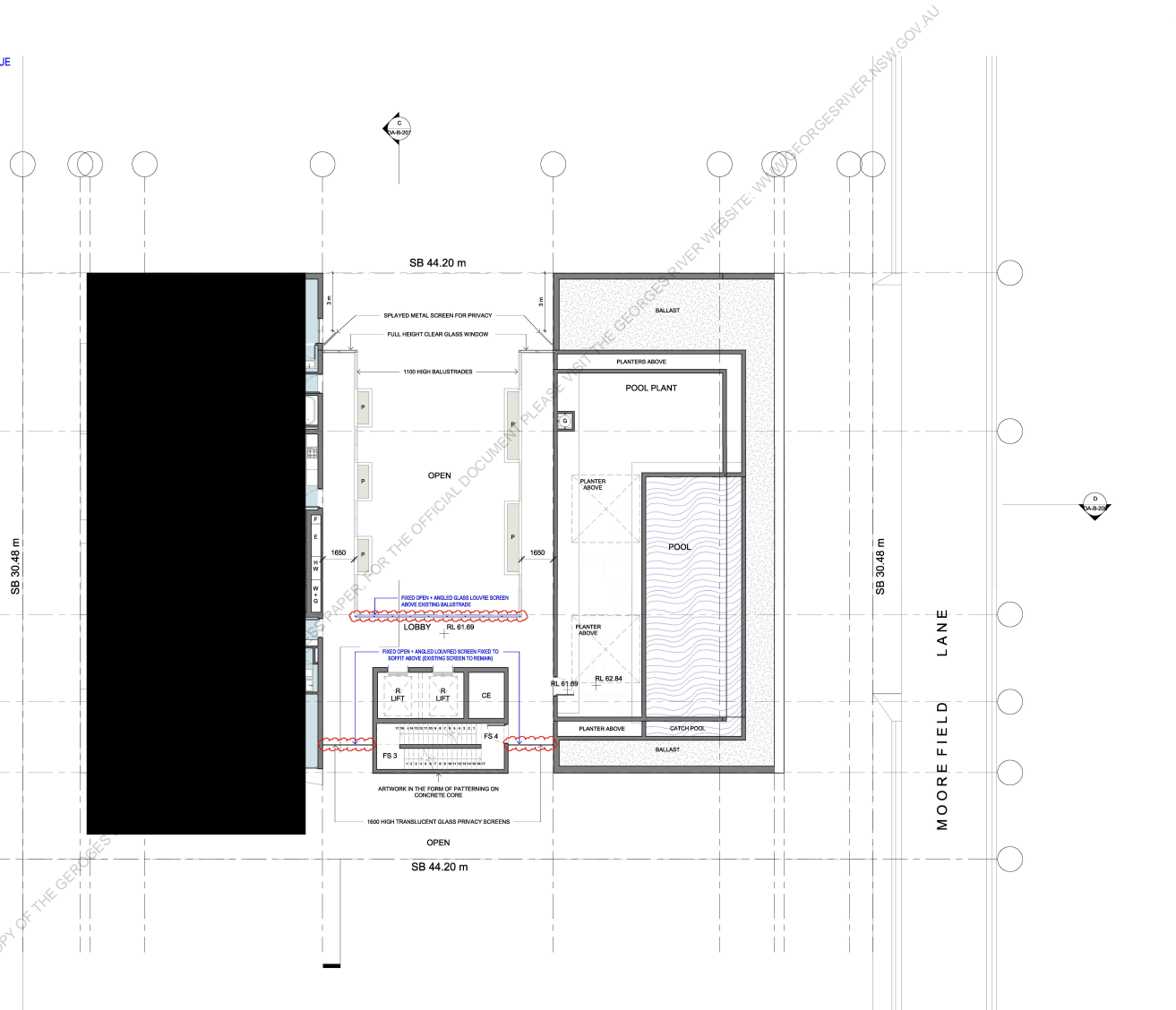
LATERAL ESTATE

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MIXED USE DEVELOPMENT
32-38 MONTGOMERY ST KOGARAH

checked		drawing	LEVEL 10 PLAN
	FS		
drawn	JN	issue	II

DA-B-113

[illegible][illegible]

do not scale from drawings

the layout shown and the areas noted on this drawing are indicative only. layouts may be used in combination with those above, above and to the right.

minor changes to form and configuration may be required when drawings are substantially completed for construction purposes after the work of development commences.

architect

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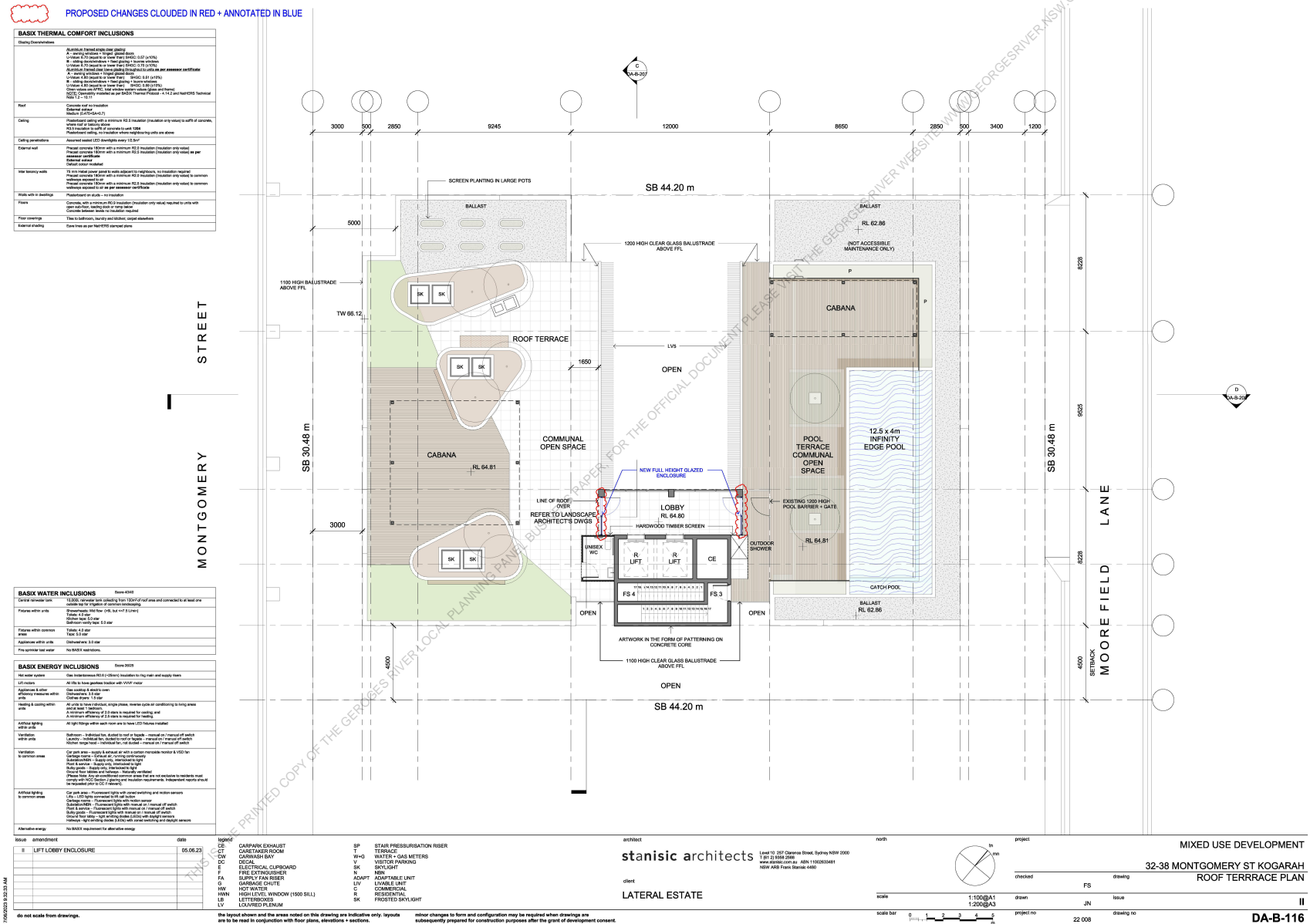
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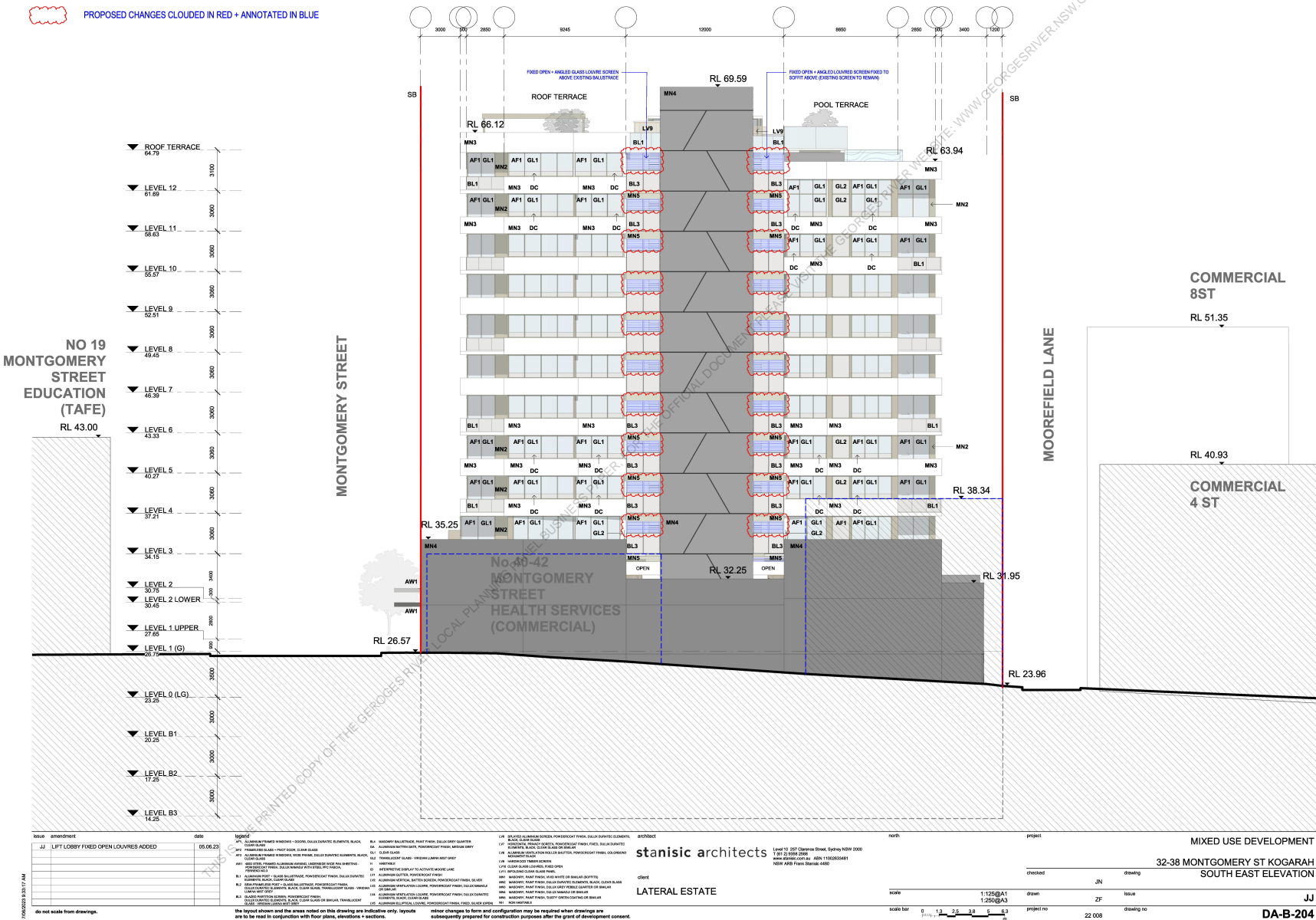
client

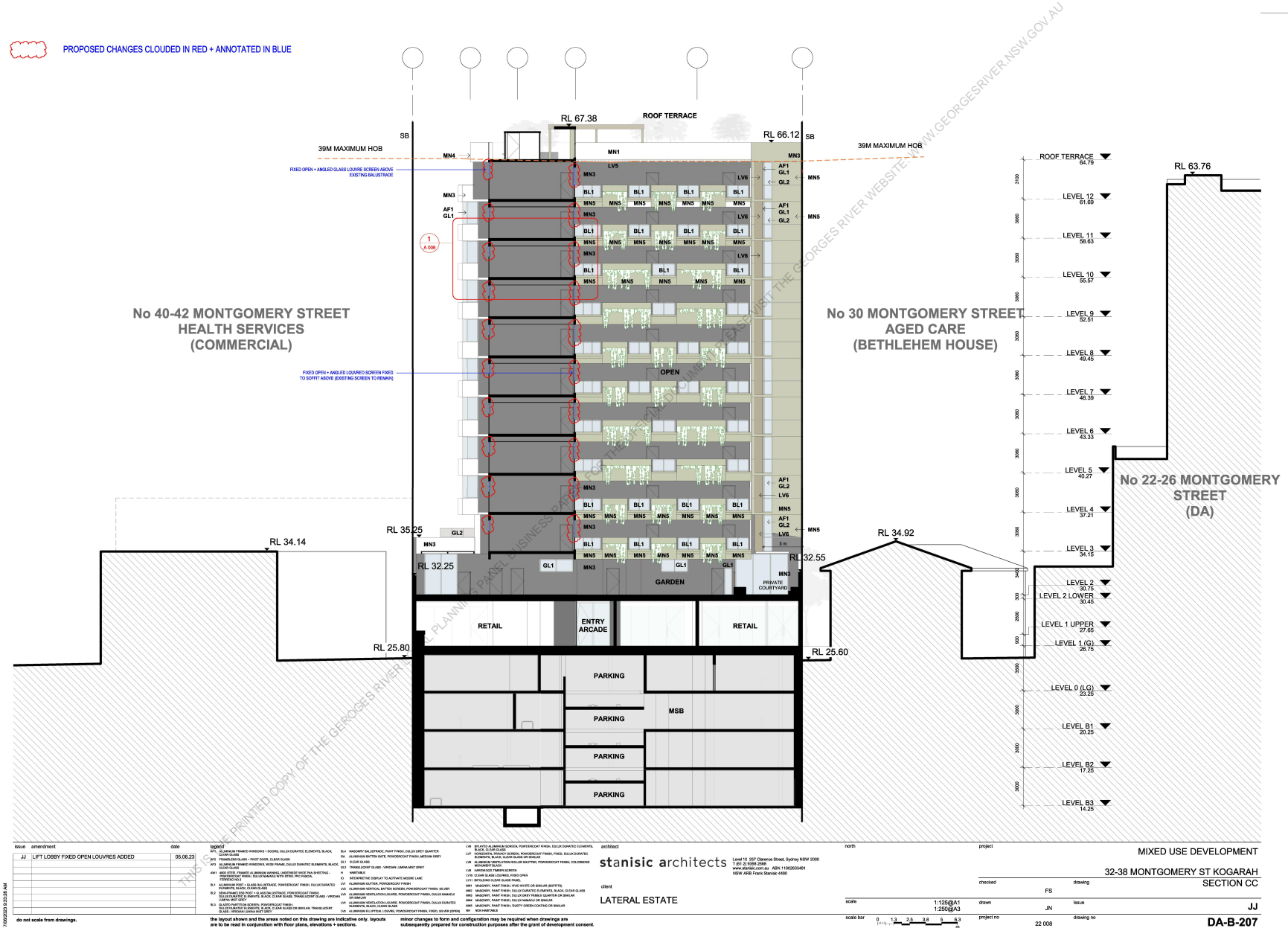
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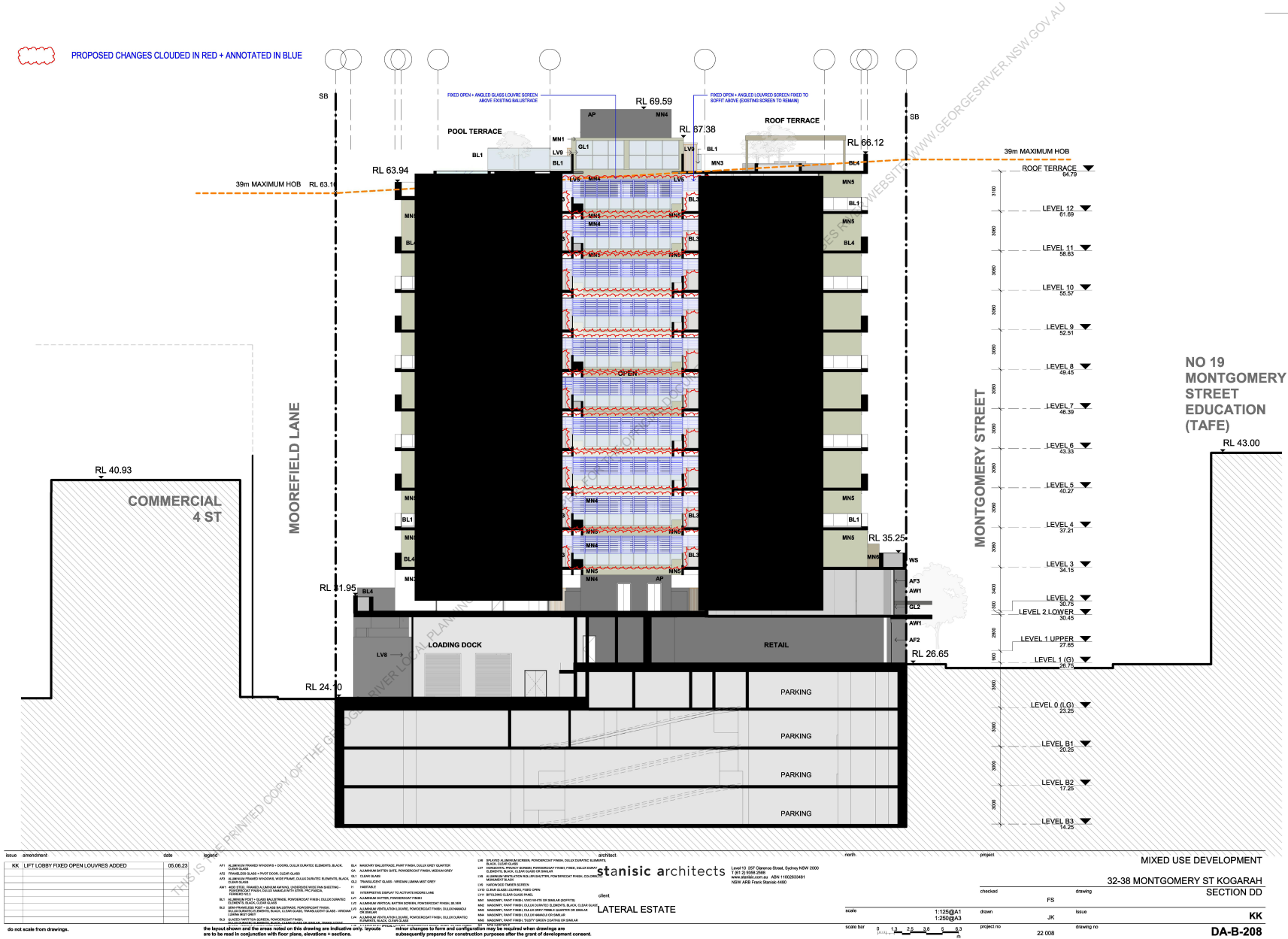
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drawn	FS	drawing	II
project no	JN	issue	
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DA-B-115



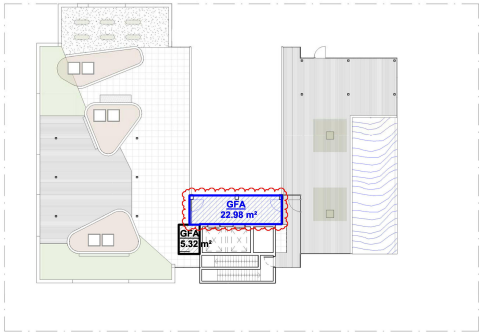








PROPOSED CHANGES CLOUDED IN RED + ANNOTATED IN BLUE



ROOF TERRACE
1:200

LEVEL	GFA (m²)
LEVEL 1 (G)	213.85
LEVEL 1 (G)	540.68
	754.53
LEVEL 2.	290.79
LEVEL 2.	415.03
	705.81
LEVEL 3.	238.09
LEVEL 3.	248.46
	484.57
LEVEL 4.	237.03
LEVEL 4.	246.35
	483.37
LEVEL 5.	237.03
LEVEL 5.	246.35
	483.37
LEVEL 6.	237.14
LEVEL 6.	246.35
	483.49
LEVEL 7.	237.14
LEVEL 7.	246.35
	483.49
LEVEL 8.	237.14
LEVEL 8.	246.35
	483.49
LEVEL 9.	237.14
LEVEL 9.	246.35
	483.49
LEVEL 10.	237.14
LEVEL 10.	246.35
	483.49
LEVEL 11.	236.51
LEVEL 11.	246.35
	482.86
LEVEL 12.	243.41
	243.41
ROOF TERRACE	5.32
ROOF TERRACE	22.98
	28.30
TOTAL GFA (EXISTING + PROPOSED)	6093.68 m²
PROPOSED ADDITIONAL GFA	22.98 m²
SITE AREA	2447 m²
TOTAL FSR (EXISTING + PROPOSED)	4.516/1
PROPOSED ADDITIONAL FSR	0.017/1
MAXIMUM PERMISSIBLE GFA	6061.5 m²
MAXIMUM PERMISSIBLE FSR	4.51

KOGARAH LEP 2012

Gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,

but excludes:

- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement:
- (i) storage, and
- (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

rev	amendment	date	type
1	LIFT LOBBY FIXED OPEN LOUVRES ADDED	05.06.23	PROPOSED GROSS FLOOR AREA

do not scale from drawings.

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client
LATERAL ESTATE

project
MIXED USE DEVELOPMENT

32-38 MONTGOMERY ST KOGARAH
GFA SHEET 4

checked FS drawing
drawn JN issue
project no 22 008 drawing no

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1:400@A3

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DA 804

REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 21 MARCH 2024

LPP010-24

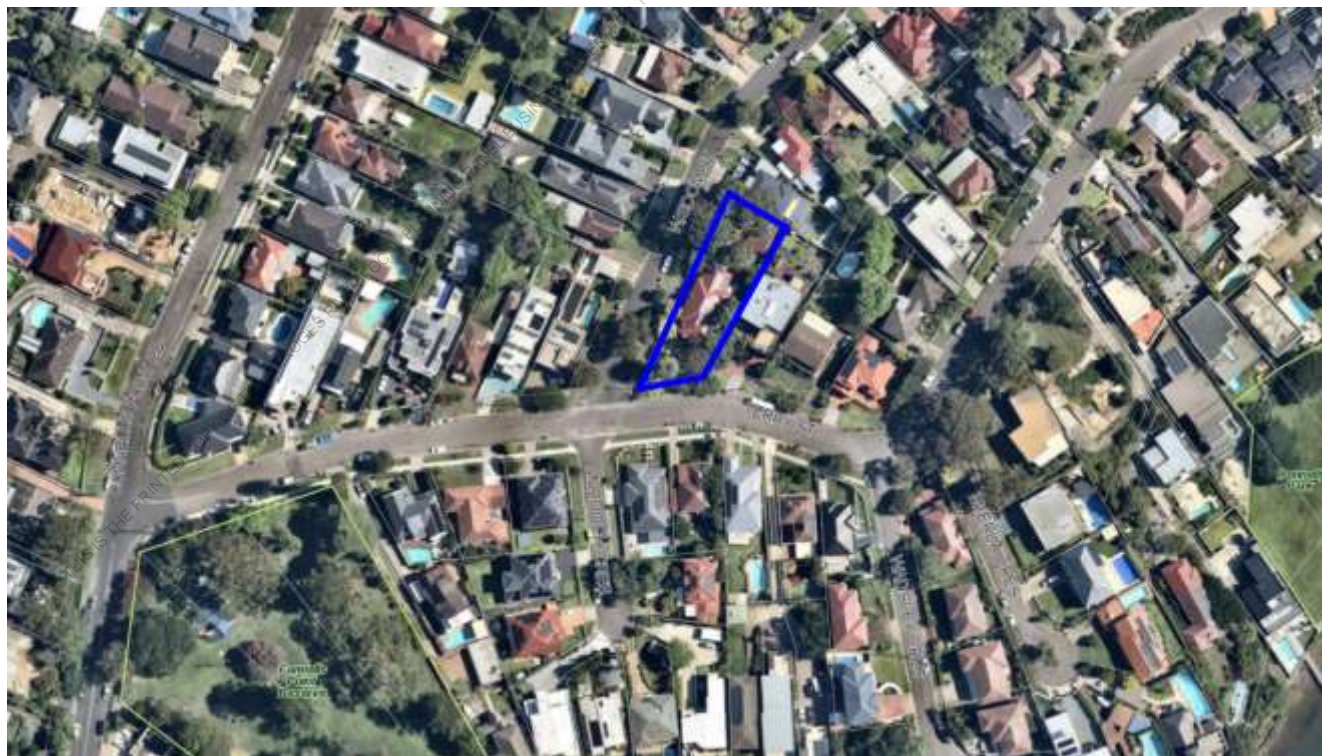
LPP Report No	LPP010-24	Development Application No	DA2023/0156
Site Address & Ward Locality	219 Terry Street Connells Point Blakehurst Ward		
Proposed Development	Demolition, alterations and additions to a single storey heritage listed dwelling house and construction of a carport forward of the garage		
Owners	Mr Mohamed Jomaa & Ms Jennifer Jomaa		
Applicant	Mrs Stephanie Kirovski		
Planner/Architect	Femme Build		
Date Of Lodgement	8/06/2023		
Submissions	Nil		
Cost of Works	\$200,000.00		
Local Planning Panel Criteria	The application is for the demolition, alteration and additions to a single storey dwelling house and construction of a carport. The subject development site is a listed Heritage Item under GRLEP 2021. As such the application is required to be determined by the Georges River Local Planning Panel under Georges River Council Delegations.		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	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, Georges River Local Environmental Plan 2021, Georges River Development Control Plan 2021		
List all documents submitted with this report for the Panel's consideration	Statement of Environmental Effects, Heritage Impact Statement, Architectural Plans, Stormwater Plans, Landscape Plan and an Arborist Report.		
Report prepared by	Development Assessment Planner		

Recommendation	That the application be refused in accordance with the reasons referenced at the end of this report.
-----------------------	--

Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
---	------------

Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	No, the application is recommended for refusal, the refusal reasons can be viewed when the report is published.

Site Plan



Aerial image of subject site in blue (Source: Intramaps, 2024)

Executive Summary

PROPOSAL

1. Council is in receipt of an application which seeks consent for the demolition, alterations and additions to a single storey heritage listed dwelling house and construction of a carport forward of the garage. The proposed works are specifically outlined below.
 - Demolition of an existing outbuilding which contains a WC within the rear yard.
 - Construction of an extension to the existing dwelling extending rearwards.
 - The floor plan consists of a porch, entry, living room, master bedroom with walk in robe, ensuite and balcony towards Terry Street, main bathroom, three additional bedrooms, linen closet, study, laundry, dining room, family room, and a kitchen with a walk in pantry.
 - The private open space consists of an alfresco area off the family room and kitchen.
 - Construction of a carport attached to the existing garage within the rear yard.
 - Landscaping and site works to facilitate the proposed development.

SITE AND LOCALITY

2. The subject site is legally described as Lot B in DP323295 with a street address of No. 219 Terry Street Connells Point. The site is a corner allotment with frontages to Terry Street to the south and Wisdom Street to the west and a total site area of 1,052.2sqm. The site is an irregular shape allotment with 5 boundaries: the fifth being the splay corner at the intersection of Terry Street and Wisdom Street.
3. The site currently is occupied by a single storey dwelling with pitched roof, detached garage and metal shed, and an outdoor toilet.
4. The site has a cross fall of 3.61m, sloping down from the northeast corner of the site to the south-west corner at the intersection of Wisdom Street and Terry Street. However, no excavation or changes to the existing finished floor levels (FFLs) are proposed via the development.

ZONING AND PERMISSIBILITY

5. The subject site is zoned R2 under the provisions of the Georges River Local Environmental Plan (GRLEP) 2021, and the proposed development is permissible with consent in the zone. The existing house and garden have been identified as items of local heritage significance under the Georges River Local Environmental Plan (GRLEP) 2021.

SUBMISSIONS

6. 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. No submissions were received during the neighbour notification period.

CONCLUSION

7. Development consent is sought for demolition, alterations and additions to a single storey heritage listed dwelling house and construction of a carport forward of the garage at 219 Terry Street, Connells Point.
8. The proposal has been assessed with regard to the matters for consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal is an inappropriate response to the context of the site and will not result in a good planning and urban design outcome for the locality.

9. The proposal has been assessed against the provisions of the relevant State Environmental Planning Policy (SEPP), Georges River Local Environmental Plan 2021, and Georges River Development Control Plan 2021 and fails to comply Chapter 2 Vegetation in Non-Rural Areas under SEPP Biodiversity and Conservation) 2021 and development objectives regarding landscaping of trees on site. Any variations have been addressed and are not worthy of support on merit.

Report in Full PROPOSAL

10. Council is in receipt of an application which seeks consent for the Demolition, alterations and additions to a single storey heritage listed dwelling house and construction of a carport forward of the garage. The proposed works are specifically outlined below.
- Demolition of an existing outbuilding which contains a WC within the rear yard.
 - Construction of an extension to the existing dwelling extending rearwards.
 - The floor plan consists of a porch, entry, living room, master bedroom with walk in robe, ensuite and balcony towards Terry Street, main bathroom, three additional bedrooms, linen closet, study, laundry, dining room, family room, and a kitchen with a walk in pantry.
 - The private open space consists of an alfresco area off the family room and kitchen.
 - Construction of a carport attached to the existing garage within the rear yard.
 - Landscaping and site works to facilitate the proposed development

THE SITE AND LOCALITY

11. The subject site is legally described as Lot B in DP323295 with a street address of No. 219 Terry Street Connells Point. The site is a corner allotment with frontages to Terry Street to the south and Wisdom Street to the west and a total site area of 1,052.2sqm. The site is an irregular shape allotment with 5 boundaries: the fifth being the splay corner at the intersection of Terry Street and Wisdom Street.
12. The site currently is occupied by a single storey dwelling with pitched roof, detached garage and metal shed, and a detached outbuilding containing a WC.
13. The site has a cross fall of 3.61m, sloping down from the northeast corner of the site to the south-west corner at the intersection of Wisdom Street and Terry Street. However, no excavation or changes to the existing finished floor levels (FFLs) are proposed via the development.
14. The adjoining site contains a double storey dwelling house and ancillary development within the rear yard. The precinct is predominantly dwelling houses of varying ages and scales.

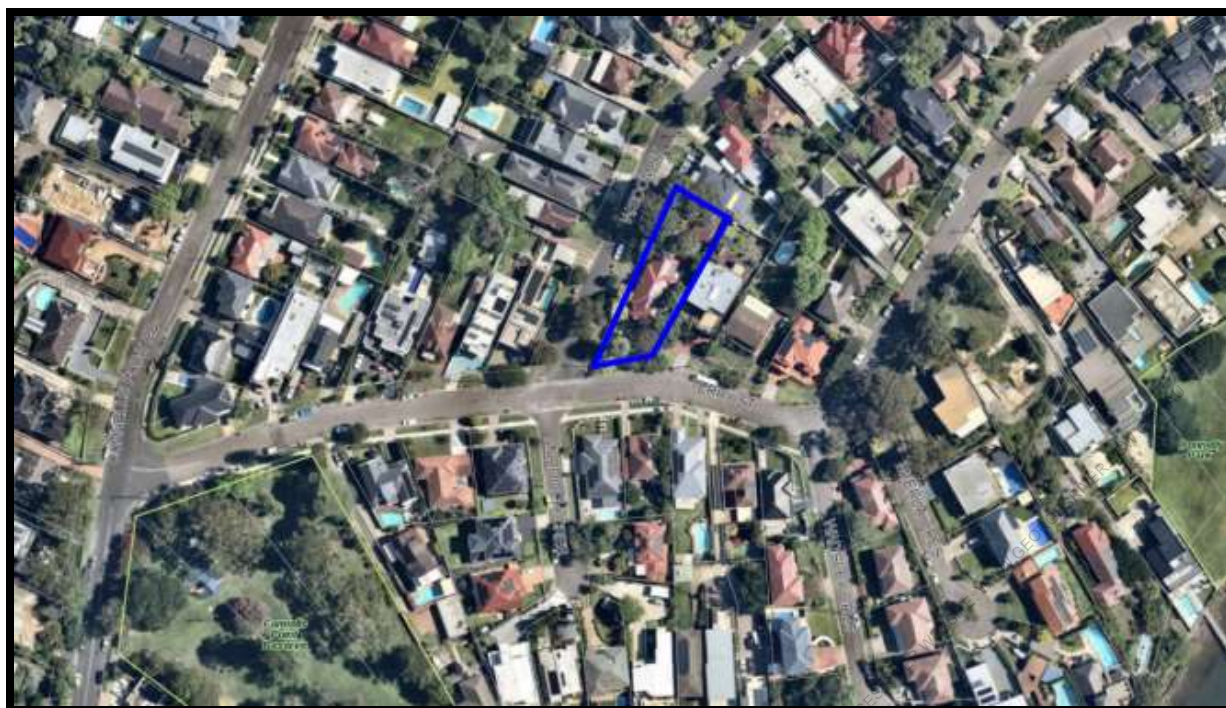


Figure 1 – aerial view – site outlined in blue.



Figure 2 – Streetview from Terry Street.

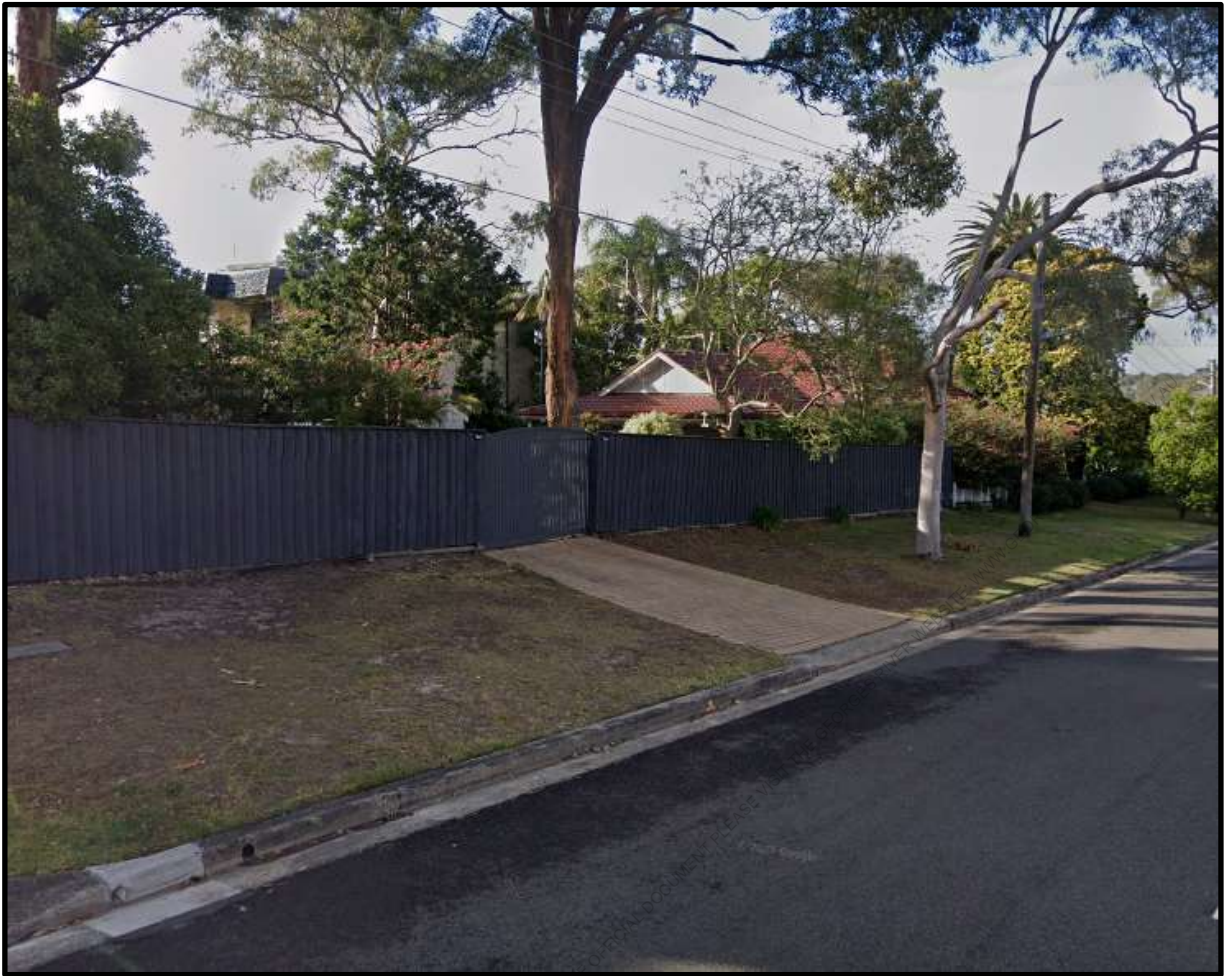


Figure 3 – Streetview from Wisdom Street

BACKGROUND

15. A history of the development proposal is as follows:
 - DA2022/0213 – tree removal on a heritage item returned to the Applicant on 31 May 2022.
 - A pre-application discussion was held regarding this application being PRE2022/0061 for the alterations and additions to the existing Heritage listed dwelling and garden, including addition of a first floor and removal of trees.
 - The current application was lodged on 8 June 2023.
 - The application was placed on exhibition, with the last date for public submissions being 2 August 2023. No submissions were received.
 - Council's Assessing Officer conducted a site inspection on 24 August 2023.
 - A request for additional information letter was sent via the Planning Portal on 19 September 2023, requesting information regarding heritage conservation, outbuildings (carport), and landscaping matters.
 - A MS Teams meeting was held virtually to discuss the request for additional information letter on 6 October 2023. Council's Assessing Officer, Heritage Advisor and Applicant attended the meeting.
 - A set of sketch plans were provided via email for review on 19 October 2023.
 - Council's Heritage Advisor reviewed the proposed sketch plans and provided comment via email on 20 October 2023.
 - The Applicant requested further clarification on the comments provided by Council's Heritage Advisor via email on 20 October 2023.
 - Council's Heritage Advisor responded to the Applicants questions via email on 20 October 2023.

- The Applicant sent a further email on 13 November 2023 requesting input from Council's Heritage Advisor.
- Council's Heritage Advisor provided comments on 23 November 2023 and these comments were communicated via email to the Applicant.
- The Applicant provided revised plans for review on 1 December 2023; following an extension of time.
- An email was sent to the Applicant on 4 December 2023 advising the Applicant that a revised stormwater plan had not been submitted with the revised plans and must be submitted by 8 December 2023 via the Planning Portal.
- The Owner emailed the General Manager of Georges River Council on 10 December 2023 regarding an urgent request for removal of a tree within the rear yard of the subject site.
- Council's Assessing Officer emailed the Applicant on 18 December 2023 advising that the requested landscaping matters in Council's request for additional information letter has not been submitted with the revised plans on 1 December 2023.
- The Owner sent via email on 8 January 2024, a Tree Assessment Report to support the urgent removal of a tree within the rear yard. The urgent tree removal was referred to Council's Compliance Unit.
- Council's Compliance Assessment Officer, Council's Landscape Officers attended the site on 24 January 2024 regarding the urgent tree removal. The urgent tree removal request was not supported. As such the assessment of the removal of the tree in question will come under the development application.
- Upon request from Council's Assessing Officer, the Applicant lodged a revised Arborist Report, Landscape Plan and Stormwater Plan via the Planning Portal on 6 February 2024.

PLANNING ASSESSMENT

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

ENVIRONMENTAL PLANNING INSTRUMENTS

Section 4.15 Evaluation

17. 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)

18. 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

LPP010-24

State Environmental Planning Policy (Biodiversity and Conservation) 2021

19. 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

20. 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.
21. 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).*
22. The proposed development is not supported from a landscape and arboricultural perspective, for the following reasons:
- The information provided including the Arborist Reports are insufficient to facilitate a full and effective assessment and determination of impacts.
 - The impacts from the stormwater proposal cannot be sufficiently assessed and/or mitigated.
 - The impacts from the proposed dwelling cannot be sufficiently assessed and/or substantiated.
 - The removal of trees that could be reasonably retained through a practical design amendment is not supported and inconsistent with Councils Tree Management Policy.

Chapter 6 – Water Catchments

23. 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.*

24. The stormwater design has been reviewed by Council's Development Engineer. No objection was raised with respect to the management and disposal of stormwater; subject to suitable conditions of consent if the application were to be supported. The proposal has the potential to be consistent with the objectives and purpose of Chapter 6 of the SEPP.

State Environmental Planning Policy (Resilience and Hazards) 2021

25. Chapter 2 and Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 are relevant to the proposal.
26. 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"*.
27. The subject site is not mapped as a Coastal Environment area and a Coastal Use area.
28. 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.
29. 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.
30. A review of historic aerial photography back to the early 1960's indicates that the site has historically been used for residential purposes. The site is known as house and garden and is known on the NSW State Heritage Inventory for its high level of integrity and well considered design on a prominent corner block. The place has substantial streetscape value enhanced by its original brick boundary fence, entrance gate and pergola, and large garden setting with mature Phoenix canariensis commonly known as the Canary Island date palm or pineapple palm, making it an important example of its type in the Georges River Local Government Area (previously the Kogarah LGA). Residential usage is not typically associated with activities that would result in the contamination of land. On this basis, the site is likely to be suitable for residential development in its current state for the development proposed with respect to contamination.

State Environmental Planning Policy (Transport and Infrastructure) 2021

31. Compliance with SEPP (Transport and Infrastructure) 2021 has been considered during the assessment of this development application. The site is not mapped within a Transport and Infrastructure area thus it is unlikely to be impacted by rail noise or vibration. Ausgrid was consulted as required by Chapter 2, no objection was raised to the proposed development.

State Environmental Planning Policy (Industry and Employment) 2021

32. SEPP (Industry and Employment) 2021 has been considered 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

33. 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.

34. A BASIX Certificate prepared by Femme Build, dated 30 May 2023, certificate number A489675, has been submitted with the Development Application satisfying the minimum requirements of SEPP (Building Sustainability Index: BASIX) 2004.

Georges River Local Environmental Plan 2021


35. 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.



Figure 4 – zoning map, the site is outlined in blue.

Clause	Standard	Proposed	Complies
Part 1 – Preliminary			
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	The development is considered to be inconsistent with the aims of the plan.	No
1.4 - Definitions	Dwelling House means: <i>a building containing only one dwelling.</i>	The proposed development is consistent with the definitions.	Yes
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 proposal in its current form fails to meet all objectives. The proposal is permissible with development consent.	No Yes
Land Use Table (Permissibility)	Dwelling houses are permitted in the zone.	The proposal primarily consists of a dwelling house and ancillary development.	Yes
Part 4 - Principal Development Standards			

4.3 – Height of Buildings	9m as identified on Height of Buildings Map	The proposal alterations and additions to the existing dwelling has a maximum overall height of 5.57m.	Yes
4.4 – Floor Space Ratio	0.55:1 as identified on Floor Space Ratio Map	Despite clause 4.4 (2), the floor space ratio for residential accommodation on land in Zone R2 Low Density Residential, Clause 4.4A applies.	Refer to Clause 4.4A
4.4A - Exceptions to floor space ratio—certain residential accommodation	<p>(2) The maximum floor space ratio for a dwelling house on land identified as “Area 1” on the <u>Floor Space Ratio Map</u> must not exceed the maximum floor space ratio specified in the table to this subclause.</p> <p>Site area</p> <ul style="list-style-type: none"> Maximum floor space ratio less than 650 square metres 0.55:1 <p>(3) The maximum floor space ratio for residential accommodation on land identified as “Area 2” on the Floor Space Ratio Map must not exceed 0.6:1.</p> <p>Site area: 1056sqm</p> <p>0.49:1 or 517.44sqm</p>	Gross floor area 212.4sqm Floor space ratio 0.2:1	Yes
Part 5 - Miscellaneous Provisions			
5.7 – Development below mean high water mark	(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).	The proposal does not involve works below the Mean High Water Mark.	N/A

5.10 – Heritage conservation	In accordance with Clause 5.10 (2)	<p>The site is a listed heritage item known as 'House and garden' (Item No. I53), which is listed in Schedule 5 of Georges River LEP 2021.</p> 	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 bush fire prone land.	N/A
5.21 – Flood Planning	<p>(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—</p> <ul style="list-style-type: none"> (a) is compatible with the flood function and behaviour on the land, and (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and 	The subject site is not impacted by flood.	N/A

	<p>will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and</p> <p>(d) incorporates appropriate measures to manage risk to life in the event of a flood, and will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.</p> <p>(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—</p> <p>(a) the impact of the development on projected changes to flood behaviour</p>		
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	<p>as a result of climate change,</p> <p>(b) the intended design and scale of buildings resulting from the development, whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,</p> <p>(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.</p>		
Part 6 - Additional Local Provisions			
6.1 – Acid Sulfate soils	<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>Class 5: Works within 100 metres of adjacent Class 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre</p>	<p>Subject site is located in an Acid Sulfate Soils Area being Class 5.</p> <p>The proposed works do not seek to lower the water table.</p>	Yes

	Australian Height Datum on adjacent Class 2, 3 or 4 land.		
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 development that is permitted without consent under this Plan or to development for which development consent has been given.</p>	The proposed earthworks are ancillary to the proposed development and are acceptable for this form of development.	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</p>	Councils Engineers have reviewed the proposed development and it is supportable subject to conditions, if the application was to be supported.	Yes

	<p>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>		
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 Coastal Hazard and Risk Map,</p> <p>(b) land identified on the Foreshore Building Line Map.</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</p>	The site is not located in a foreshore area and/or coastal hazards and risk area.	N/A

	<p>existing building into—</p> <p>(i) the foreshore building line, or</p> <p>(ii) the land identified on the Coastal Hazard and Risk Map,</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 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>		
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	<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>foreshore area means the land between the foreshore building line and the mean high water mark of the nearest bay or river.</p> <p>foreshore building line means the line shown as the foreshore building line on the Foreshore Building Line Map.</p>		
6.5 - Riparian land and waterways	<p>(2) This clause applies to land identified as “Sensitive land” on the Riparian Lands and Waterways Map.</p> <p>(3) In deciding whether to grant development consent 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>	The site is not located on land identified as sensitive land.	N/A

	<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 Foreshore Scenic Protection Area Map.</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>	The site is not in a foreshore scenic protection area.	N/A

	<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> <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 – 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,</p>	All essential services have been made available and can be extended to service the alterations and addition if the application was to be supported.	Yes

	(b) the supply of electricity, (c) the disposal and management of sewage, (d) stormwater drainage or on-site conservation, (e) suitable road and vehicular access.		
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</p> <p>(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 development on the following land—</p> <p>(a) land identified on the Foreshore Scenic Protection Area Map 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</p>	The proposed development site is not located within the Foreshore Scenic Protection Area.	N/A

	<p>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 B1 Neighbourhood Centre,</p> <p>(iii) Zone B2 Local Centre,</p> <p>(iv) Zone B3 Commercial Core,</p> <p>(v) Zone B4 Mixed Use,</p> <p>(vi) Zone B6 Enterprise Corridor,</p> <p>(vii) Zone IN2 Light Industrial.</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 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</p>		
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	<p>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</p>		
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	<p>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 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>		
6.12 - Landscaped areas in certain residential and environment protection zones	<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 State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development, clause 4.</p>	<p>R2 Low Density Residential.</p> <p>Required = 20% of 1052.2sqm (site area).</p> <p>Total LSA required = 210sqm.</p> <p>Proposed LSA = 266.4sqm (25%).</p>	Yes

	<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 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>		
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	(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— (a) for a dwelling house located on land outside the Foreshore Scenic Protection Area— 20% of the site area,		
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Georges River Development Control Plan 2021

36. 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 and controls contained within the DCP.

Part 5- Residential Locality Statements

Connells Point and Kyle Bay Locality Statement

Streetscape Character- Existing Character

- *The streets in this locality are generally well-proportioned tree lined streets, with a high standard of landscaping creating an open garden character.*
- *The built form does not dominate the streetscape, mostly due to generous front and side setbacks.*

Streetscape Character- Future Desired Character

- *Retain and enhance the prominence of the bushland landscaped character in new development through tree planting and landscaping.*
- *Encourage tree planting and landscaping within the front setback space to enhance the existing leafy streetscape character.*
- *Encourage the retention of trees and sharing of water views wherever possible, including screening via vegetation rather than solid walls.*
- *Public views to waterways should be retained from streets and public places.*

- The proposed development fails to maintain the existing and future desired character of Connells Point locality.
- The proposed development fails to retain and enhance the prominence of the bushland landscaped character of the site as insufficient information has been submitted to ensure the proposed development retains the existing trees on site.
- The proposal is inconsistent with the future desired character of the precinct as the proposal has failed to adequately address the trees proposed to be retained on the adjoining property which would be directly impacted by the development.

Part 6 – Low Density Residential Controls

Control	Proposal	Compliance
1. New buildings and additions are to consider the Desired Future Character statement in Part 5 of this DCP.	Proposed alterations and additions to the existing dwelling and construction of a carport do not appropriately respond to the desired future character of the locality.	No
2. New buildings and additions are to be designed with an articulated front façade.	The front façade facing Terry Street has incorporated sufficient building articulation.	Yes
3. Developments on sites with two (2) or more frontages are to address all frontages.	The subject site has two frontages as it is a corner allotment. The proposal addresses both frontages with the pedestrian access from Terry Street and vehicular access off the secondary street frontage being Wisdom Street.	Yes
4. Dwelling houses are to have windows presenting to the street from a habitable room to encourage passive surveillance.	The existing passive surveillance arrangement which is unimpacted via the proposed development.	Yes
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.	The proposed development does not unreasonably impact upon the amenity and view corridors of the neighbouring public and private properties. Reasonable amenity for both the future occupants of the proposal and the adjoining property owners is achieved by the design.	N/A
6. The maximum size of voids at the first floor level should be a cumulative total of 15m ² (excluding voids associated with internal stairs).	No additional voids proposed under this development application.	
1. New buildings are to consider and respond to the predominant and desired future scale of buildings within the neighbourhood,	The proposed alterations and additions to the existing dwelling house appropriately respond to the future scale of buildings within the neighbourhood.	Yes

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Control	Proposal	Compliance
and consider the topography and form of the site.		Yes
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 should respond to the topography of the site.	The proposed additions to the existing dwelling have followed the topography of the site and a split level design is not warranted.	Yes
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.	Single storey maintained.	N/A
4. Where topography conditions require a basement, the area of the basement should not exceed the area required to meet the car parking requirements for the development, access ramp to the parking and a maximum 10m ² for storage and 20m ² for plant rooms. Additional basement area to that required to satisfy these requirements may be included as floor space area when calculating floor space ratio.	N/A- No basement proposed.	N/A
5. Where the entry to the basement carpark is visible from the street, the entry should be recessed a minimum of 1m (from the edge of the external wall or balcony) from the levels above and the external walls of the garage differentiated from the walls above through articulation and external materials.	N/A- No basement proposed.	N/A
Front Setbacks		

Control	Proposal	Compliance
<p>1. The minimum setback from the primary street boundary is:</p> <ul style="list-style-type: none"> 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. 	<p>Front Setback- unchanged via the proposed development.</p> <p>Secondary street setback - 3.9m which follows the existing built form setback along the western elevation.</p>	Yes
<p>Side and Rear Setbacks</p> <p>1. 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).</p> <p>2. The minimum side setbacks for ground and first floor are:</p> <ul style="list-style-type: none"> i. 900mm for lots up to 12.5m in width measured at the front building line for the length of the development. ii. 1.2m for lots greater than 12.5m in width 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. <p>3. Where alterations and additions (ground and first floor) to an existing dwelling are proposed, an existing side setback less than the setback required in Control 3 can be maintained, provided the reduced setback does not adversely affect compliance with the solar access and landscaped area controls or</p>	<p>Allowable Rear Setback- 9.16m/8.04m Rear Setback- 16.5m</p> <p>Allowable Site Setback- 1.2m Proposed Side Setback- 2m/1.2m/2.8m eastern elevation. 3.9m western elevation (secondary street)</p> <p>N/A</p> <p>N/A</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p>

Control	Proposal	Compliance
<p>adversely impact upon the visual and acoustic amenity of neighbouring dwellings.</p> <p>4. For battle-axe lots, minimum side and rear boundary setbacks apply, except the front setback of the battle-axe lot without a street frontage, where a minimum setback of 4.0m is to be provided as illustrated in Figure 1.</p> <p>5. Any garages or parking structures fronting rear lanes may encroach upon the rear setback areas but are still to provide a minimum setback of 1m from the lane.</p>	N/A	N/A
<p>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 60m² with minimum dimensions of 6m and located on the same level (not terraced or over rock outcrops).</p> <p>2. Private open space is to be provided for all dwellings, (with the exception of secondary dwellings, which are able to share the private open space of the principal dwelling).</p> <p>3. Private open space is to be located so as to maximise solar access.</p> <p>4. Private open space is to be designed to minimise adverse impacts upon the privacy of the occupants of adjacent buildings.</p>	<p>The private open space proposed at the rear of the dwelling is compliant with the development control.</p> <p>The private open space is proposed in the form of an alfresco area and grassed area. The private open space is located directly off the primary living areas.</p> <p>Existing location of private open space not proposed to change under this development application.</p> <p>Existing location of private open space not proposed to change under this development application.</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p>
5. Landscaping		
1. Landscaped area (has the same meaning as GRLEP 2021) is to be	The landscape area is compliant with GRLEP 2021 minimum 20% deep soil landscape planting.	Yes

Control	Proposal	Compliance
<p>provided in accordance with the table contained within Clause 6.12 Landscaped areas in certain residential and environmental protection zones of GRLEP 2021.</p> <p>2. Provide a landscape setting within the primary and secondary street frontages, where hard paved areas are minimised. At a maximum, impervious areas, including hard paving, gravel, concrete or other material that does not permit landscaping, are to occupy no more than 40% of the street setback area.</p> <p>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.</p>	<p>11% hard stand area in the front setback.</p> <p>Existing established trees within the front setback to be retained via the proposed development.</p>	<p>Yes</p> <p>N/A- existing canopy trees within the front setback to be retained.</p>
<p>1. Any excavation must not extend beyond the building footprint, including for any basement car park.</p> <p>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.</p> <p>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</p>	<p>Excavation does not extend beyond the building footprint.</p> <p>The depth of cut and fill does not exceed 1m.</p> <p>The proposed development avoids unnecessary earthworks as it responds to the topography of the site.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

Control	Proposal	Compliance
to step in accordance with the slope of the land.		
1. Car parking is to be provided in accordance with the requirements in Part 3 of this DCP.	Achieved	Yes
2. A dwelling is to provide one (1) garage and one (1) tandem driveway parking space forward of the garage (unless otherwise accommodated within the building envelope).	2 car parking spaces proposed within the existing detached double garage with a further two spaces forward of the garage on a hard stand area with a carport over.	Yes
3. Driveways, garages and basements should be accessed from a secondary street or rear lane where this is available.	The existing driveway off the secondary street being Wisdom Street is to be retained via the proposed development.	Yes
4. Entry to parking facilities off the rear lane must be setback a minimum of 1m from the lane.	N/A	N/A
5. Driveway crossings are to be positioned so that on-street parking and landscaping on the site are maximised, and removal or damage to existing street trees is avoided.	Existing driveway off the secondary street being Wisdom Street is to be retained via the proposed development.	Yes
6. The maximum driveway width between the street boundary and the primary building setback alignment of the garage is 4.0m.	2.7m width existing driveway.	N/A
7. Basements are permitted where the LEP height development standard is not exceeded, and it is demonstrated that there will be no adverse environmental impacts (e.g. affectation of watercourses and geological structure). (i) Basements on land where the average grade is less than 12.5% are permitted	N/A- no basement proposed.	Yes
	Achieved	

Control	Proposal	Compliance
<p>only where they are not considered a storey (see definition in the LEP) and the overall development presents as two (2) storeys to the street.</p> <p>8. Car parking layout and vehicular access requirements and design are to be in accordance with the Australian Standards, in particular AS 2890.1 (latest edition).</p> <p>9. The maximum width of a garage opening is 6m.</p>	<p>Existing garage not proposed to be changed via this development</p>	<p>Yes</p>
<p>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.</p> <p>2. For active rooms or balconies on an upper level, the design should incorporate placement of room windows or screening devices to only allow oblique views to adjoining properties.</p> <p>3. Upper-level balconies should not project more than 1500mm beyond the main rear wall alignment so as to minimise adverse visual privacy impacts to adjoining properties.</p> <p>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.</p> <p>5. Development applications are to be accompanied by a</p>	<p>Acceptable visual privacy for both the future occupants of this dwelling and adjoining properties.</p> <p>Satisfactory – appropriately positioned.</p> <p>N/A</p> <p>The proposed development maintains a reasonable level of privacy for the future occupants of the dwelling.</p> <p>A site analysis plan with levels was submitted with the application and is an accurate representation of the site, its built form, natural features and levels for an assessment of this development application.</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p>

Control	Proposal	Compliance
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.		
1. Noise generators such as plant and machinery including air conditioning units and pool pumps are located away from windows or other openings in habitable rooms; they are to be screened to reduce noise or acoustically treated.	N/A	N/A
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 by the proposed design.	Yes
2. To facilitate sunlight penetration to adjoining development, building bulk may be required to be articulated to achieve the required sunlight access.	The proposed alterations and additions to the existing dwelling does not seek to change the sunlight penetration to adjoining development.	N/A
3. Direct sunlight to north-facing windows of habitable rooms and 50% of the principal private open space area of adjacent dwellings should not be reduced to less than 3 hours between 9.00am and 3.00pm on 21 June.	Unchanged via the proposed development.	N/A
4. Note: Variations will be considered for developments that comply with all other requirements but are located on sites with an east-west orientation or steeply sloping sites with a	N/A	N/A
	Solar access diagrams were submitted with the application for assessment and are considered acceptable.	Yes

Control	Proposal	Compliance
<p>southerly orientation away from the street.</p> <p>5. Shadow diagrams are required to show the impact of the proposal on solar access to the principal private open space and living rooms of neighbouring properties. Existing overshadowing by fences, roof overhangs and changes in level should also be reflected in the diagrams. It may also be necessary to provide elevations or views from sun diagrams to demonstrate appropriate solar access provision to adjoining development.</p>		
<p>1. Large expansive surfaces of predominantly white, light or primary colours which would dominate the streetscape or other vistas should not be used.</p> <p>2. New development should incorporate colour schemes that have a hue and tonal relationship with the predominant colour schemes found in the street.</p> <p>3. Matching buildings in a row should be finished in the same colour or have a tonal relationship.</p> <p>4. All materials and finishes utilised should have low reflectivity.</p>	<p>The colours and materials schedule are compatible with the existing streetscape setting.</p> <p>The colours and material scheme are sympathetic to the current desired and future streetscape.</p> <p>N/A</p> <p>Materials and finishes have been chosen from a standard colour scheme that is low in reflectivity.</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p>
<p>1. All dwellings are to be provided with adequate and practical internal and external storage (garage, garden sheds, etc.).</p> <p>2. Provision for water, sewerage and stormwater drainage for the site shall be</p>	<p>N/A- The proposed alterations and additions do not impact the existing internal and external storage on site. There is a shed located in the rear yard.</p> <p>The stormwater design has been reviewed by Councils Development Engineer and is supported subject to conditions.</p>	<p>N/A</p> <p>Yes</p>

Control	Proposal	Compliance
nominated on the plans to Council's satisfaction.		
3. Each dwelling must provide adequate space for the storage of garbage and recycling bins (a space of at least 3m x 1m per dwelling must be provided) and are not to be located within the front setback.	Sufficient area adjacent to the garage and shed, and not in a line of sight from the street.	Yes
4. Letterboxes are to be located on the frontage where the address has been allocated in accordance with Australia Post requirements.	N/A- The letterbox location is unchanged via the proposed development.	N/A

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Georges River Development Control Plan 2021 Draft Amendment

37. The draft Amendment No. 3 to the Georges River Development Control Plan (DCP) 2021 was 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. Existing savings provision apply, and all development applications lodged with Council prior to the gazelle of the amendment on 28 August 2023, will be determined as if the subject amendment had not commenced. This application has been assessed having regard to the relevant Development Control Plan.

IMPACTS

Natural Environment

38. Council's Landscape Officer has reviewed the proposed development and is not supportive of the proposed development from a landscape and arboricultural perspective. The proposed works will directly impact the natural environment being the tree with a neighbouring property.

Built Environment

39. The proposal fails to represent an appropriate planning outcome for the site with respect to its bulk, scale and density, expression and private open space areas. The development is an inappropriate response to the context of the site being a heritage item (house and landscape setting) and its R2 Low Density Residential zoning.

Social Impact

40. The assessment demonstrates that the proposal in its current form will have adverse impacts on the character of the landscape setting and the heritage significance of the site. The proposed alterations and additions do not respond to the landscape setting of the site and appropriately design a built form that retains canopy trees. The developments form undermines the heritage listed site with specific reference to the landscape setting.

Economic Impact

41. There is no apparent adverse economic impact that is likely to result within the locality due to the alterations and additions to the existing dwelling and carport structure. It is likely there may be a minor negative economic impact on the heritage item/listing as it is both the house and garden covered by the listing as a result of the construction of the development.

Suitability of the Site

42. The site is zoned R2 – Low Density Residential. Whilst the proposal being for demolition works and alterations and additions to an existing dwelling and construction of a carport, is a permissible form of development in this zone, it is considered that the proposal is not suitable for the site given the unsupportive elements of the proposal relating to tree retention and protection. It is acknowledged a less intrusive development and a reduced footprint that responds to the existing landscaping on site maybe acceptable on this site.

SUBMISSIONS, REFERRALS AND PUBLIC INTEREST

Submissions

43. The application was advertised, and adjoining residents were notified by letter and given twenty-eight (28) days in which to view the plans and submit any comments on the proposal. No submissions were received during the neighbour notification period.

Revised Plans

44. The Applicant lodged revised plans on 20 December 2023. In accordance with the requirements of Georges River Community Engagement Strategy these plans were not publicly exhibited as, the application was unacceptable from the assessing officer's perspective and resulted in the application being recommended for refusal by the Georges River Local Planning Panel.

Council (Internal) Referrals

Development Engineer

45. The Development Engineer advised that the application is supported on a stormwater drainage perspective and suitable conditions of consent were provided should the application be supported. The Development Engineer noted that the stormwater drainage was within close proximity to existing trees on site and consideration must be given to the retention of trees on site via the proposed stormwater drainage.

Landscape Officer

46. The Landscape Officer advised the proposed development is not supported for the following reasons:
- The provided Arborist report dated 3 January 2024, at 236 pages in length, is not supported.
 - The report contradicts itself stating that Tree 1 will suffer no impacts from the proposal to then detailing a level of impact exceeding 50% of the Tree Protection Zone.
 - The report details that the tree is proposed for removal due to its poor health and unacceptable level of risk.
 - The report is insufficient to allow for the effective review of impacts to trees on the site for the purposes of development assessment.

Risk Assessment Report

- The provided report does not sufficiently substantiate its claims regarding the severance of roots or risk associated with the tree.

Arboricultural

- Trees 1 and 2 are proposed for removal as part of the development. The removal of these trees is not supported as, via comprehensive site analysis during the design phase, these trees could have been reasonably and practically retained.

Building

- The level of impact from the proposed floor plan can be mitigated via either reducing the footprint or substantiating the absence of roots from the area proposed for development via root mapping.

Stormwater

- Impacts the provided stormwater plans annotate that the rear yard paving will be removed and replaced with gravel and pebble pavers. It is recommended that the pavers remain in situ to ensure the level of impact to the trees is reduced.
- The stormwater plans specify the installation of lines from the garage and main dwelling through the Tree Protection Zone (TPZ) and Structural Root Zones (SRZ) of trees within the property. They should be amended in consultation with an AQF5 Arborist to be specified to travel outside the TPZ and SRZ of trees.
- Reviewing the proposal, it does not appear practical to determine the application with deferred commencement design change conditions to address these issues.
- This is due to the complexity and extent of design changes required and level of documentation that would need to be reviewed to substantiate compliance.

Thus,

- The information provided, and Arborist Reports are insufficient to make effective assessment or determination.
- The impacts from the stormwater proposal have not been sufficiently assessed or mitigated.
- The impacts from the proposed dwelling have not been sufficiently assessed or substantiated.
- The removal of trees that could be retained though reasonable and practical design amendments is not supported and is not in line with Councils Tree Management Policy.

Heritage Advisor

47. As part of the assessment of this application, the application was referred to Council's Heritage Advisor for comment. The Heritage Advisors initial comments were unsupportive of the proposal however the revised plans and additional information submitted resulted in support of the proposal.

48. The Heritage Advisors comments are provided below.

The dwelling is complemented by its established garden setting, comprised of lawns, shrubs and mature tree canopy that encircle the dwelling to provide a pleasant outlook and framed by a complementary boundary fence. The dwelling is also visually prominent within the streetscape, being situated on a corner allotment, with direct views afforded from both the primary and secondary street frontages.

49. Council has received revised architectural plans in response to the previous heritage issues. The revised plans still involve the demolition of the freestanding WC at the rear of the existing dwelling, together with the removal of a number of trees and retain the overall quantum of the proposal. However, the additions have been reworked to provide a reduction in the overall height through a simplification of the roof form and footprint of the additions. This will now sufficiently allow for the retention of significant fabric of the dwelling and allow for the continued expression of the original silhouette and form, with the alterations and additions essentially limited to areas of the dwelling that have previously been modified.

50. *The extent of the demolition of the existing dwelling is acceptable.*
51. *The extent of tree removal is conserved acceptable upon further review of the Arboricultural Report and the revised plans with Council's Landscape Officer.*

Land Information Officer

52. The application was referred to Council's Land Information Officer, no objection was raised to the proposed development and no conditions were provided.

External Referrals

Ausgrid

53. The application was referred to Ausgrid as per Clause 45(2) of the State Environmental Planning Policy (Infrastructure) 2007. No concerns were raised subject to conditions being imposed in regard to overhead cables.

Public Interest

54. The amended proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. Following a detailed assessment, the proposal is not considered to be in the public interest.

DEVELOPMENT CONTRIBUTIONS

55. The development is subject to Section 7.12 Contributions. In accordance with the Georges River Local Development Contributions Plan 2021, a condition of consent requiring payment of the contribution would be imposed if the application was to be supported.

CONCLUSION

56. Development consent is sought for the demolition, alterations and additions to a single storey heritage listed dwelling house and construction of a carport forward of the garage at 219 Terry Street, Connells Point.
57. The proposal has been assessed with regard to the matters for consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal is an inappropriate response to the context of the site and will not result in a good planning, heritage and urban design outcome in the locality.
58. The proposal has been assessed against the provisions of the relevant State Environmental Planning Policy (SEPP), Georges River Local Environmental Plan 2021, and Georges River Development Control Plan 2021 and fails to comply Chapter 2 Vegetation in Non-rural Areas under SEPP Biodiversity and Conservation) 2021 and development objectives regarding landscaping of trees on site. Any variations have been addressed and are not worthy of support on merit.

STATEMENT OF REASONS AND RECOMMENDATION

75. Statement of Reasons

- The design of the development is incompatible with the character of the local area and landscape setting of the site, contrary to SEPP Biodiversity and Conservation 2021. This is due to the overall scale, sitting on the site and footprint of the proposed alterations and additions to the dwelling, carport, and proposed stormwater drainage.
- The development is inconsistent with the aims of the plan as it fails to promote a high standard of urban design and built form outcomes.

- The proposal fails to have adequate regard to the objectives of the R2 low density residential zone pursuant to Clause 2.3 of Georges River Local Environmental Plan 2021 *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 and to provide for housing within a landscaped setting that enhances the existing environmental character of the Georges River local government area.*
- The proposal is not considered to be suitable for the site given adverse landscaping impacts arising.

Recommendation

76. Pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act, 1979, as amended, the Georges River Local Planning Panel, refuses Development Application DA2023/0156 for demolition, alterations and additions to a single storey heritage listed dwelling house and construction of a carport forward of the garage at Lot B, DP323295 known as 219 Terry Street, Connells Point, is recommended for refusal for the reasons outlined below.

- 1. Refusal Reason - Environmental Planning Instrument** - Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the following sections of State Environmental Planning Policy (Biodiversity and Conservation) 2021. In particular:
 - a) The information provided, relating to arboricultural matters and submitted Arborist Reports are insufficient and conflicting in content to make an effective assessment and determination relating to tree impacts.
 - b) The impacts from the stormwater proposal have not been sufficiently assessed or mitigated.
 - c) The impacts from the proposed dwelling additions have not been sufficiently assessed or substantiated.
 - d) The removal of trees that could be retained through an alternate design is not supported, as it is not consistent with Councils Tree Management Policy.
- 2. Refusal Reason - Environmental Planning Instrument** - Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the following sections of Georges River Local Environmental Plan 2021:
 - a) Clause 2.3 - Zone Objectives. The proposal is inconsistent with the zone objectives as the proposal fails to provide for housing within a landscaped setting that enhances the existing environmental character of the Georges River Local Government Area.
- 3. Refusal Reason - Environmental Planning Instrument** - Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the following sections of Georges River Development Control Plan 2021:
 - a) Section 3.5.1 – Earthworks. The tree on the subject site will be impacted by the proposed development as the works fall within the Tree Protection Zone. An amended arborist report has not been submitted detailing the methods of retention and protection of impacted trees and root system.

- b) Part 5. Resident Locality Statement. The proposal is not consistent with the future desired character of the precinct as the proposal has failed to adequately address the trees proposed to be retained on the subject and adjoining site which would be directly impacted by the development.
4. **Refusal Reason – Impact on the Environment** – Pursuant to Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is likely to have an adverse impact on the following aspects of the environment:
- a) Natural Environment. The development is located within an established residential area and is considered to result in an unreasonable impact on the natural environment. Due to the insufficient information regarding the retention of trees on the subject and adjoining site, a full and complete assessment of the impact of the proposed development on the natural environment cannot be ascertained, resulting in non-support of the application.
5. **Refusal Reason – The Public Interest** – Pursuant to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.

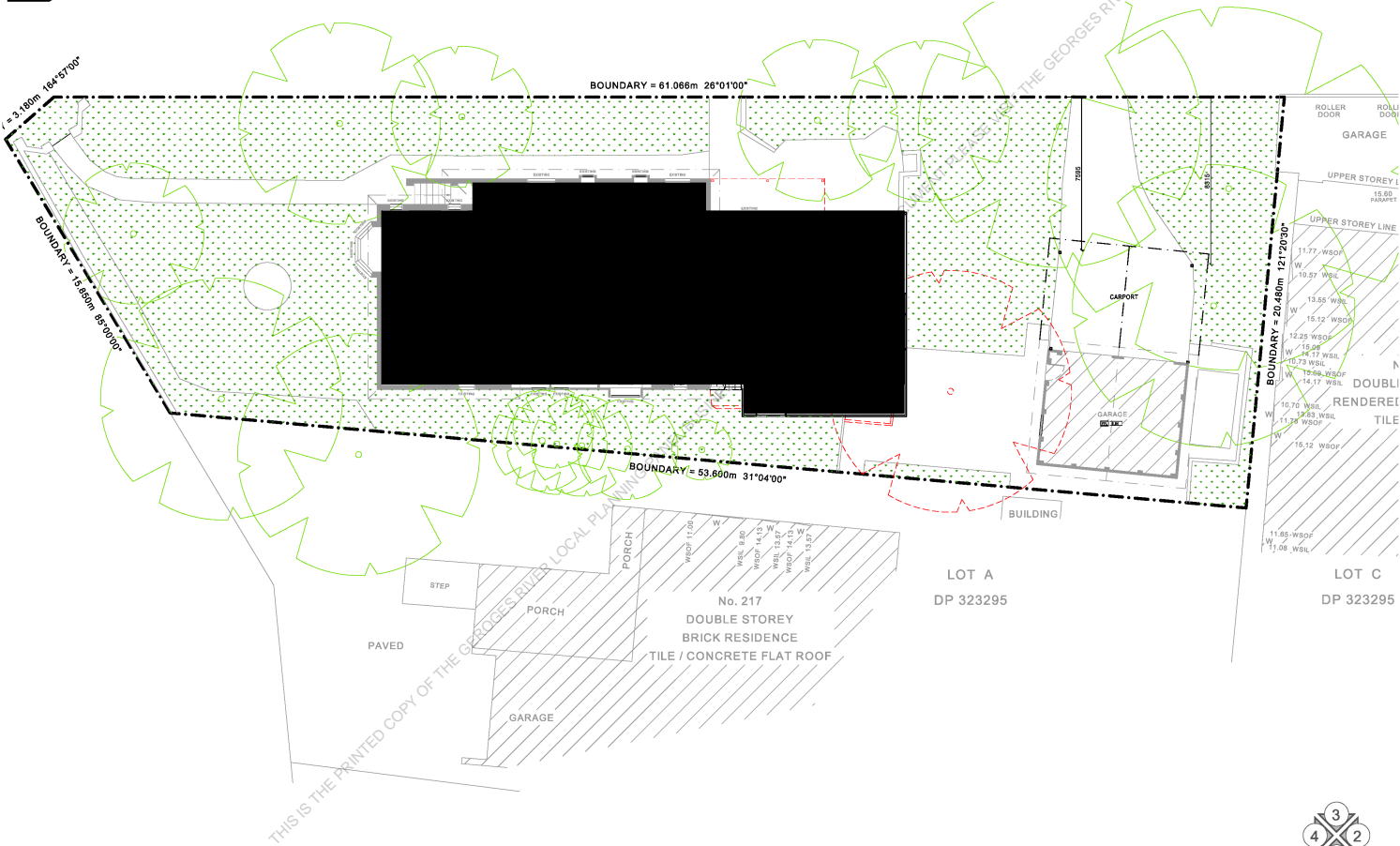
ATTACHMENTS

Attachment [↓](#) 1 Redated Architectural Plans - DA2023 0156 219 Terry Street Connells Point



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- CONSTRUCTION NOTES
- CONFIRM ALL DIMENSIONS ON SITE TO EXISTING RESIDENCE PRIOR TO COMMENCEMENT OF ANY WORK.
 - SUPPLY AND INSTALL 'BIFLEX' CHEMICAL TERMITE TREATMENT (UNLESS OTHERWISE APPROVED) TO COMPLY WITH AS3680.1 AND MANUFACTURER'S SPECIFICATIONS
 - ALL BRICKWORK (INCLUDING BRICK VENEER) SHALL BE IN ACCORDANCE WITH AS3700- MASONRY CODE
 - ALL TIMBER FRAMING SHALL BE IN ACCORDANCE WITH AS1684 - UNLESS OTHERWISE APPROVED
 - ROOF FRAMING SHALL BE OF TRADITIONAL TIMBER FRAMED CONSTRUCTION
 - FOR ALL STRUCTURAL MEMBERS, FOOTINGS, & LOAD BEARING WALLS REFER TO STRUCTURAL DOCUMENTATION PREPARED BY ENGINEERS.



PROPOSED GROUND FLOOR PLAN
SCALE - 1 : 100

FEMME BUILD
NEW CONSTRUCTION
REMODELS
ADDITIONS
RENOVATIONS
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- WALL SCHEDULE
- WALL BARKING & BULK INSULATION AS REQUIRED BY ENERGY ASSESSMENT
- BRICK VENEER WALL.
SELECTED EXPOSED FACE BRICK (RE-USE RECYCLED BRICK FROM DEMOLITION.
INTERIOR FINISH OTHER - PROVIDE FLUSH PLASTER FINISH.
- EXTERIOR & INTERIOR TIMBER STUD WALL.
SELECTED HORIZONTAL WEATHERBOARDS FIXED TO TIMBER STUD.
INTERIOR FINISH TO BE FLUSH PLASTERBOARD UNLESS SPECIFIED OTHERWISE.

NO	ADD INFO AS PER DRAWING NO.	REV	DATE
1	DEVELOPMENT APPLICATION	1	20.08.2023
2	MEASUREMENT DETAILS	1	20.08.2023

PROJECT STAGE
DEVELOPMENT APP.

PROJECT DETAILS
ALTERATIONS & ADDS.

219 TERRY STREET,
CONNELLS POINT NSW

CLIENT DETAILS
MR & MRS JOMAA

DRAWING TITLE
PROPOSED
GROUND FLOOR PLAN

DRAWN
SK

DESIGNED
FB

CHECK
FB

DATE DRAWN
OCT 2023

DRAWING SCALE
1 : 100

SHEET SIZE
A1

0 1m 2m 3m 4m 5m 6m 7m 8m 9m 10m
1:100 @ A1 1:200 @ A3 1:250 @ A4



ACCREDITATION NUMBER 0515 - MEMBER NUMBER 0763/21
PROJECT NUMBER FB0065
DRAWING NUMBER A.02.2
REVISION 01



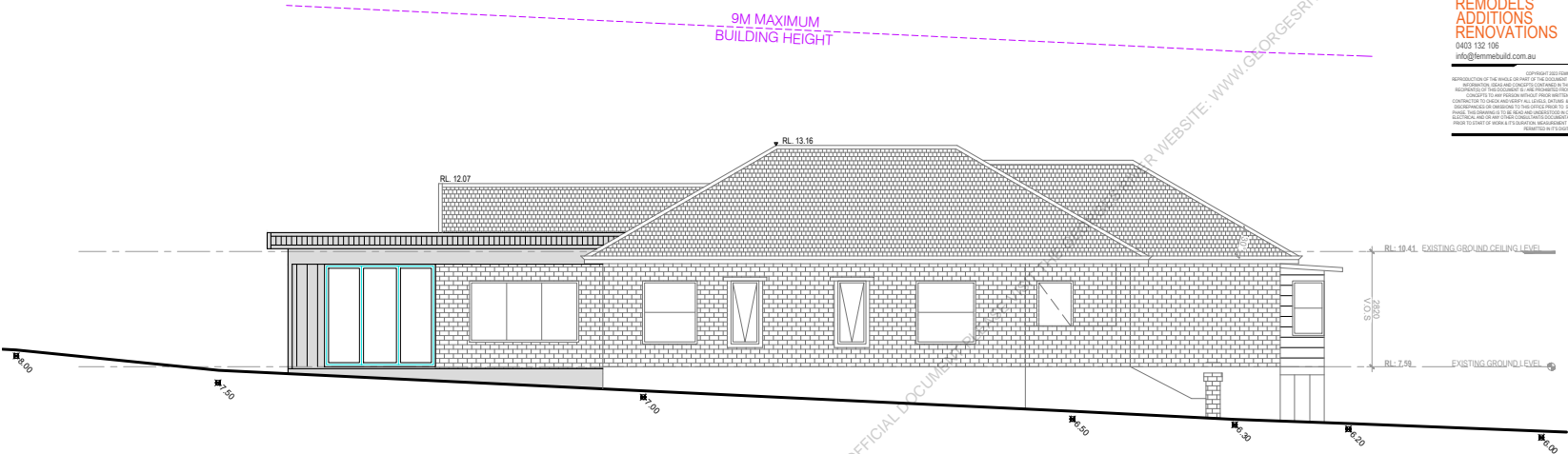
ELEVATION DIRECTION



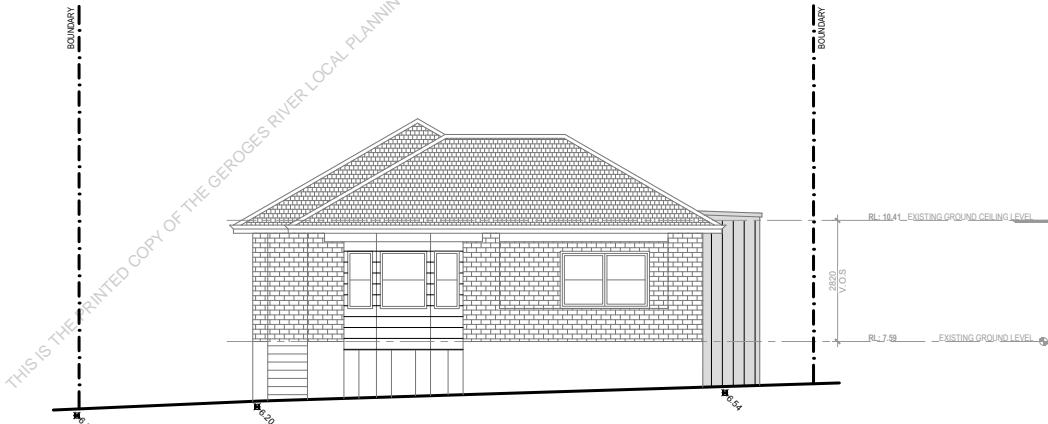
SCALE - 1 : 100



PROJECT NUMBER	DRAWING NUMBER	REVISION
FB0065	A.03.1	01



3. PROPOSED WESTERN ELEVATION
SCALE - 1 : 100



4. PROPOSED SOUTHERN ELEVATION
SCALE - 1 : 100

FEMME BUILD
NEW CONSTRUCTION
REMODELS
ADDITIONS
RENOVATIONS
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NO	ADD REVISIONS PER COUNCIL REQ.	BY	ON
01	DEVELOPMENT APPLICATION	SK	21.03.2023
02	REVISIONS	SK	21.03.2023

PROJECT STAGE
DEVELOPMENT APP.

PROJECT DETAILS
ALTERATIONS & ADDS.

219 TERRY STREET,
CONNELL'S POINT NSW

CLIENT DETAILS
MR & MRS JOMAA

DRAWING TITLE
PROPOSED
ELEVATIONS 3 & 4

DRAWN
SK

DESIGNED
FB

CHECK
FB

DATE DRAWN
OCT 2023

DRAWING SCALE
1 : 100

SHEET SIZE
A3

0 0.5m 1m 2m 3m 4m 5m

1:50 @ A1 1:100 @ A3 1:141 @ A4



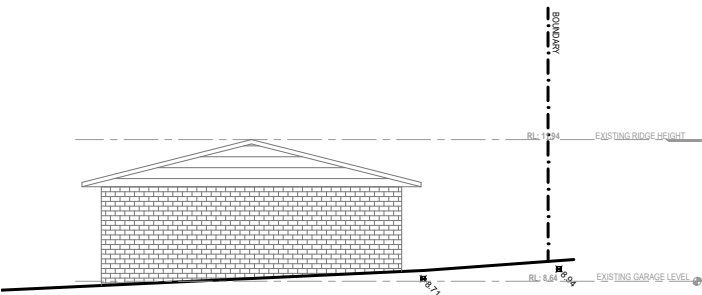
ACCREDITED
BUILDING DESIGNER

ACCREDITATION NUMBER 8615 MEMBER NUMBER 8763-21

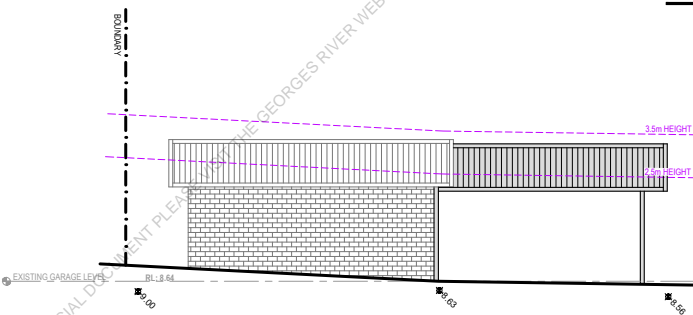
PROJECT NUMBER
FB0065

DRAWING NUMBER
A.03.2

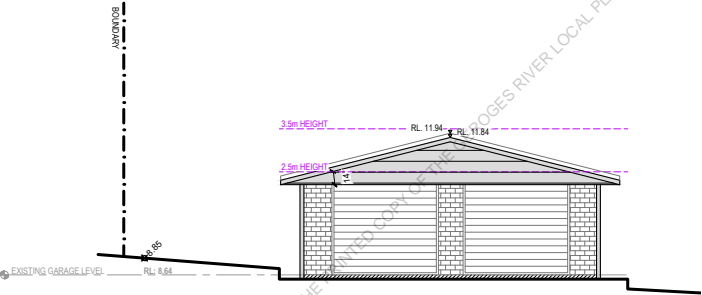
REVISION
01



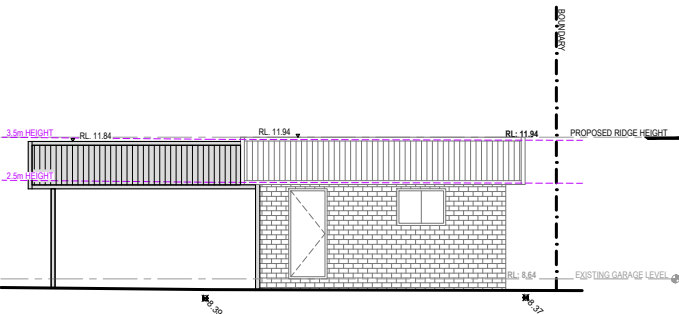
1. PROPOSED EASTERN ELEVATION
SCALE - 1 : 100



2. PROPOSED NORTHERN ELEVATION
SCALE - 1 : 100



3. PROPOSED WESTERN ELEVATION
SCALE - 1 : 100



4. PROPOSED SOUTHERN ELEVATION
SCALE - 1 : 100

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NO	ADD REF AS PER COUNCIL REG.	NO	26.10.2023
NO	DEVELOPMENT APPLICATION	NO	27.10.2023
NO	MEMORANDUM DETAILS	NO	28.10.2023

PROJECT STAGE
DEVELOPMENT APP.

PROJECT DETAILS
ALTERATIONS & ADDS.

219 TERRY STREET,
CONNELLS POINT NSW

CLIENT DETAILS
MR & MRS JOMAA

DRAWING TITLE
**PROPOSED
ELEVATIONS 1 & 2**

DRAWN
SK

DESIGNED
FB

CHECK
FB

DATE DRAWN
OCT 2023

DRAWING SCALE
1 : 100

SHEET SIZE
A3

0 0.5m 1m 2m 3m 4m 5m
1:50 @ A1 1:100 @ A3 1:141 @ A4



**ACCREDITED
BUILDING DESIGNER**

ACCREDITATION NUMBER 8615 MEMBER NUMBER 8762-21

PROJECT NUMBER
FB0065

DRAWING NUMBER
A.03.3

REVISION
01