

# **AGENDA**

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## **Georges River Local Planning Panel**

**Thursday, 04 April 2024**

**4:00 PM**

**Blended Meeting**

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

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## 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

<b>LPP011-24</b>	<b>53A Vista Street, Sans Souci – DA2023/0282</b>	
	(Report by Senior Development Assessment Planner) .....	3
<b>LPP012-24</b>	<b>117 Kyle Parade Kyle Bay – MOD2022/0186</b>	
	(Report by Consultant Planner) .....	56

#### 9. CONFIRMATION OF MINUTES

**Georges River Local Planning Panel Meeting - 04 April 2024**

**REPORTS AND LPP DELIBERATIONS****REPORT TO GEORGES RIVER LOCAL PLANNING PANEL MEETING OF THURSDAY, 04 APRIL 2024****LPP011-24 53A VISTA STREET, SANS SOUCI**

LPP011-24

<b>LPP Report No</b>	<b>LPP011-24</b>	<b>Development Application No</b>	<b>DA2023/0282</b>
<b>Site Address &amp; Ward Locality</b>	53A Vista Street, Sans Souci Kogarah Bay		
<b>Proposed Development</b>	Alterations and additions to existing jetty, mooring piles, ramp, pontoon and construction of a boatshed and mooring pen.		
<b>Owners</b>	Mr P Gentile		
<b>Applicant</b>	Mr C Turner		
<b>Planner/Architect</b>	Harbour Planning Pty Ltd		
<b>Date Of Lodgement</b>	18/10/2023		
<b>Submissions</b>	Fifteen (15) submissions		
<b>Cost of Works</b>	\$70,000.00		
<b>Local Planning Panel Criteria</b>	Contentious Development - Number of unique submissions		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	State Environmental Planning Policy (Biodiversity and Conservation) 2021; State Environmental Planning Policy (Resilience and Hazards) 2021; State Environmental Planning Policy (Transport and Infrastructure) 2021; Georges River Local Environmental Plan 2021.		
<b>List all documents submitted with this report for the Panel's consideration</b>	Statement of Environmental Effects, Architectural Plans, Landowner's Consent from the Department of Planning and Environment – Crown Lands, Department of Primary Industries – Fisheries Approval, Transport for NSW – Maritime Approval, Marine Habitat Report		
<b>Report prepared by</b>	Senior Development Assessment Planner		
<b>RECOMMENDATION</b>	Approval, subject to conditions.		

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

## SITE PLAN



**Figure 1:** Aerial image of the subject site (orange arrow) and the surrounding properties.

## EXECUTIVE SUMMARY

### PROPOSAL

1. The scope of proposed works include:
  - Extension of the existing jetty, ramp, and pontoon length from 33m to 43m from Mean High Water Mark (MHW).
  - Replace decking of existing jetty with mesh material (similar to the proposed jetty extension).
  - Extension of approved slip rails to the boatshed above the MHW.
  - Relocation of 4 x existing mooring piles to form 8m x 5m mooring pen (adjacent to the proposed pontoon location).
  - Construction of a boatshed (7m length x 4m width x 3.4m height) above MHW:
    - The proposed boatshed includes a side setback of 0.8m from the southern boundary.
  - Demolition of existing timber shed.
  - Additional planting of two mature trees at the rear.

### SITE AND LOCALITY

2. The site of the proposed works is the waterfront abutting 53A Vista Street, Sans Souci, legally known as Lot 132 DP 733298. The property is located along the Georges River.
3. The site is a battle-axe shaped allotment that is accessed via a long vehicular right of way from Vista Street and comprises of an overall site area of 765m<sup>2</sup>. The site presents a substantial slope from the eastern side of the street to the western side where it joins Kogarah Bay.
4. Existing structures on the site consist of a two-storey dwelling, detached shed and an in-ground swimming pool. Seaward of the reclamation area is an existing jetty, ramp, and pontoon with a total length of approximately 21m and existing slip rails and concrete ramp extending out at the corner of the lot's southern boundary.
5. This section of Kogarah Bay has a strong and well-developed marine character. Existing domestic water facilities, i.e., long jetties, ramps, pontoons, sea stairs, skid ramps, sliprails, seawall with reclamations etc are positioned along the MHW are located to the north and south of the site.

### ZONING AND PERMISSIBILITY

6. The proposed water structures are located below the MHW, and as such, are under the care, control and management of Maritime, Fisheries, Crown Lands, and Georges River Council and are zoned W2 – Recreational Waterways under the Georges River Local Environmental Plan 2021. Documents have been submitted providing approval from the relevant authorities.
7. The proposed boatshed is above the MHW and is permissible with consent on the subject site which is zoned R2 Low Density Residential zone pursuant to Georges River Local Environmental Plan 2021.

### REASON FOR REFERRAL TO THE LOCAL PLANNING PANEL

8. The proposed works received more than five (5) unique submissions.

### SUBMISSIONS

9. The application was on public notification from 19 October 2023 to 9 November 2023.

10. A total of fifteen (15) submissions were received within this notification period. The following table summarises the main concerns raised within the submissions:

Concern	Comment
<b>Overdevelopment of the site</b> <ul style="list-style-type: none"> <li>- Too many structures on the property for such a narrow lot.</li> <li>- Too cluttered.</li> <li>- New boatshed detracts from the visual qualities of Kogarah Bay</li> <li>- If approved, would set an undesirable precedent.</li> </ul>	<p>The subject site includes an existing jetty, pontoon and mooring piles structure. The only new addition to the subject site will be the construction of the boatshed. The proposed boatshed is permissible with consent under the R2 Low Density Residential zone applying to the land. Consent from Crown Lands, DPI, Fisheries and TfNSW - Maritime has been provided for the proposed works. It is noted that there are no other boatsheds within the immediate locality, and this will be the first boatshed in this locality. It is also understood that the structure will not be accommodate a boat.</p>
<b>Non-compliance with Council's Controls.</b> <ul style="list-style-type: none"> <li>- Non-compliance with Clause 6.6 Foreshore Scenic Protection area under the Georges River Local Environmental Plan. In particular, the proposal fails to minimise the impact on the views and visual environment, including views to and from the Georges River, foreshore reserves, residential areas and public places.</li> <li>- Non-compliance with Section 6.5.1 - Jetty, Ramp and Pontoon Structures under Georges River Development Control Plan 2021.</li> <li>- Non-compliance with Section 6.5.2 - Boatsheds under Georges River Development Control Plan 2021</li> </ul>	<p>Refer to GRLEP 2021 and GRDCP 2021 Compliance table for full assessment under the relevant controls.</p> <p>A condition has been included in the consent prior to the issue of the construction certificate for the width of the proposed boatshed to be reduced from 4m to 3.4m in order to achieve the required 1.5m side setback.</p>
<b>Unauthorised works</b> <ul style="list-style-type: none"> <li>- It is considered that the location of the mooring pen, removal of sea wall and extension of rails are unauthorised.</li> <li>- Concerns are raised that the slip rail may have been extended and pontoon location extended without any approval.</li> <li>- The Statement of Environmental Effects refers that the works are "subsequently to comply with the recent directive of Crown Lands to undertake a DA for the 4-x existing mooring piles". A copy of this Directive has not been provided with this development application. It is questioned, that the location of the mooring piles proposed in this DA have been undertaken without any approval.</li> </ul>	<p>Crown consent has been submitted with the development application for the proposed works including the proposed relocation of the existing jetty, ramp, pontoon, extension of slip rails to boatshed and mooring piles.</p>

<b>Accuracy of Information</b> <ul style="list-style-type: none"> <li>- Inconsistency of the location of the boatshed in the Statement of Environmental Effects.</li> </ul>	The location of the proposed boatshed has been assessed from the submitted Architectural plans.
<b>View Loss Impacts</b>	See View Loss Assessment below under Point 11.
<b>Clearing of trees and loss of landscape</b> <ul style="list-style-type: none"> <li>- It is uncertain if the removal of these trees were granted approval to now facilitate the proposed outbuilding.</li> <li>- No notification was received to the adjoining properties regarding the removal of trees on-site.</li> </ul>	Council had issued a tree permit (TA2021/0690) for the removal of 6 x trees on 15 December 2021. Notification is not required for Tree Permits on private land under the Georges River Community Engagement Strategy.

### View Loss Assessment

11. In the Land and Environment court case *Tenacity Consulting v Warringah [2004] NSWLEC 140*, Senior Commissioner Dr John Roseth outlined the planning principles by which potential view sharing will be assessed. He defined the following four-step process in assessing the view from a qualitative, quantitative, and merit-based perspective.
1. *The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views are valued more highly than views without icons. Whole views are valued more highly than partial views.*

The view loss reported by the objector is a water view. However, the proposed view loss does not contain iconic views and is a partial view from the objector's property along the northern boundary of the adjoining property at ground level. See image below:

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**Figure 2:** Photo taken on site visit dated 7 March 2024. The timber pole with blue tape indicate the approximate location and height of the proposed boat shed. The orange marker on the ground indicates the approximate depth of the boatshed.

2. *The second step is to consider from what part of the property the views are obtained. Protection of views across side boundaries is more difficult than protection of views from the front and rear boundary. In addition, the position from which the view is obtained is also taken into account. Protection of sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

The view is obtained from a standing position from entrance of the private open space. The rear view from the objector's property is uninterrupted by buildings with the view of the water along the western boundary. The views, while understandably worthy of retention, are over the side boundary. The Tenacity test acknowledges these are more difficult to protect. Photos submitted from the objector show a partial view can be seen from the side/rear boundary (see below).

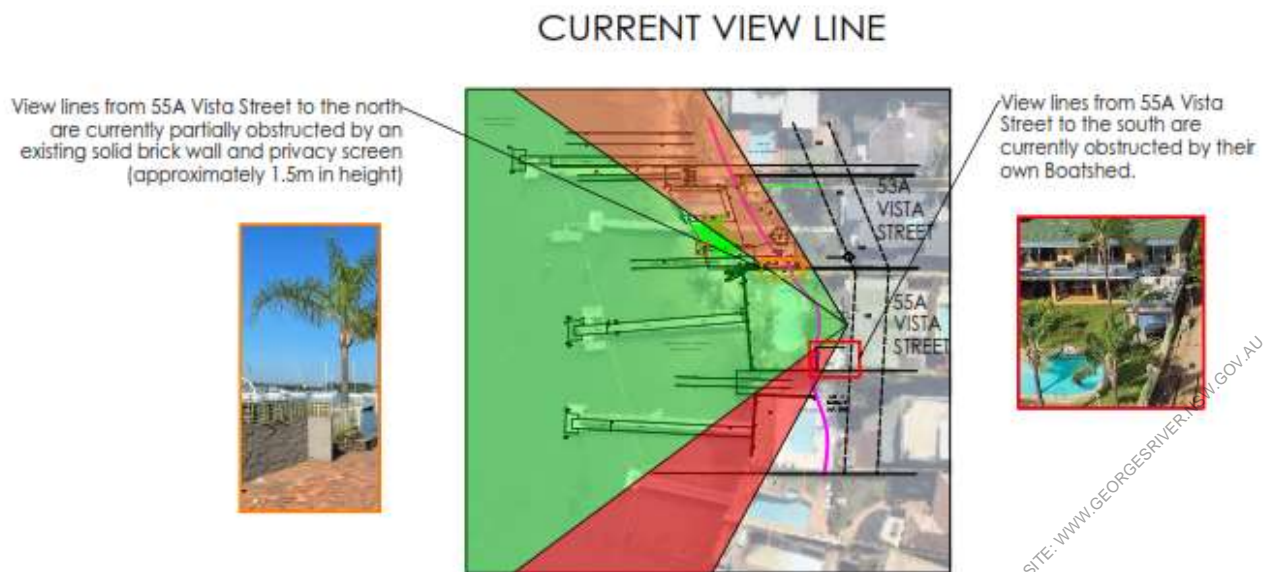


**Figure 3:** Photo supplied by objector standing position at rear balcony of 55A Vista Street, Sans-Souci. The timber pole leaning against the tree demonstrates the end of the proposed boatshed.



**Figure 4:** Photo taken on site visit dated 7 March 2024 viewing the subject site (the boatshed) from 55A Vista Street, Sans Souci. The timber poles represent the location of the proposed boatshed.





**Figure 5:** Current view line from 55A Vista Street along the northern boundary. Source: View line assessment from Harbour Planning.



**Figure 6:** Proposed view line from 55A Vista Street along the northern boundary with the proposed boatshed in blue. Source: View line assessment from harbour Planning.

3. *The third step is to assess the extent of the impact. The impact on views from living areas is more significant than from bedrooms or service areas (though views from the kitchen are highly valued). It is more useful to assess the view loss qualitatively than quantitatively as negligible, minor, moderate, severe, or devastating.*

The view impact created by the proposed development, when quantitatively assessed is negligible in that it represents only a minor portion of the overall view to the water from the side corner along the northern boundary of the objector's property. The view loss is minor and the expectation to retain such side views is unrealistic in the circumstances of the case.

4. *The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

It should be noted that the Tenacity principle acknowledges the difficulty in retaining views across side boundaries. The proposed development is compliant to all controls outlined in the GRLEP 2021. A modification to the design of the proposed development is conditioned prior to the issue of consent with the reduction in height and increase in side setback of the proposed boatshed to reduce the impact on the views of the neighbours. As such, the view impact from the proposed development is considered acceptable and the view sharing is reasonable.

## CONCLUSION

12. An assessment has been undertaken in accordance with the applicable assessment criterion as outlined in this report and as such the proposal is considered satisfactory based upon the following conclusions:
  - The proposed works include the relevant Crown Consent.
  - The proposed works have been assessed by the DPI Fisheries and were approved with stamped plans provided.
  - The proposed works were assessed by the TfNSW – Maritime and was approved with stamped plans provided.
  - A condition of consent has been included in the consent for the proposed boatshed to be compliant with the requirements outlined under the Georges River Development Control Plan 2021.
  - Relocation of the mooring pen forward, away from the sea grass, is an improvement to the existing location which was a concern to the DPI Fisheries.
  - The existing location of the jetty was impractical as it was located in an area that was too shallow. Relocation of the existing jetty, ramp and pontoon is an improvement as the proposed location will be in the correct water depth at -1.5m AHD.
  - Reason for extension for the sliprail is to reach the boatshed above Mean High Water Mark (MHW).
  - The proposed mooring pen shall be used to berth the family vessel whilst the proposed boat shed shall be used to store tinnies and sports equipment (e.g., kayaks, paddle boards, canoes) above the MHW.

## REPORT IN FULL

### PROPOSAL

13. The scope of proposed works include:
  - Extension of the existing jetty, ramp, and pontoon length from 33m to 43m from Mean High Water Mark (MHW).
  - Replace decking of existing jetty with mesh material (similar to the proposed jetty extension).
  - Extension of approved slip rails to the boatshed above the MHW.

- Relocation of 4 x existing mooring piles to form 8m x 5m mooring pen (adjacent to the proposed pontoon location).
- Construction of a boatshed (7m length x 4m width x 3.4m height) above MHWL:
  - The proposed boatshed includes a side setback of 0.8m from the southern boundary.
- Demolition of existing timber shed.
- Additional planting of two mature trees at the rear.

## THE SITE AND LOCALITY

14. The site of the proposed works is the waterfront abutting 53A Vista Street, Sans Souci, legally known as Lot 132 DP 733298. The property is located along the Georges River.
15. The site is a waterfront battle-axe shaped allotment that is accessed via a long vehicular right of way from Vista Street and comprises of an overall site area of 765m<sup>2</sup>. The site presents a substantial slope from the eastern side of the street to the western side where it joins Kogarah Bay.
16. Existing structures on the site consist of a two-storey dwelling, detached shed, in-ground swimming pool. Seaward of the reclamation area is an existing jetty, ramp, and pontoon with a total length of about 21m and the existing slip rails and concrete ramp extending out at the corner of the lot's southern boundary.
17. This section of Kogarah Bay has a strong and well-developed marine character. Existing domestic water facilities, i.e., long jetties, ramps, pontoons, sea stairs, skid ramps, sliprails, seawall with reclamations etc are positioned along the MHWL are located to the north and south of the site.

## BACKGROUND

18. On 18 October 2023, the subject application was formally lodged with Council.
19. On 19 October 2023, the application was on public notification for a period of 14 days till 9 November 2023. During this notification period fifteen (15) submissions were received. The concerns raised within the submissions are addressed later in the report.
20. On 18 December 2023, a request for additional information letter was sent to the applicant requiring the submission of a revised Statement of Environmental Effects outlining the existing and proposed floor space ratio including the total area of the boatshed and the assessment of the State Environmental Planning Policy (Biodiversity and Conservation) Chapter 6 requirements.
21. On 21 December 2023, a revised Statement of Environmental Effects was submitted to Council.
22. On 25 January 2024, an on-site meeting was held with Council's Senior Development Assessment Planner and the Applicant. Based on the site inspection, amended plans were requested to reduce the dimensions of the proposed boatshed to mitigate view loss impacts to the adjoining properties.
23. On 30 January 2024, amended architectural plans were submitted and form part of the assessment.
24. On 7 March 2024, a site visit was undertaken at 55A Vista Street, Sans Souci to assess the view loss impact from the proposed works.

**SUBMISSIONS**

25. The application was on public notification from 19 October 2023 to 9 November 2023.
26. A total of fifteen (15) submissions were received within this notification period. The following table summarises the main concerns raised within the submissions:

Concern	Comment
<b>Overdevelopment of the site</b> <ul style="list-style-type: none"> <li>- Too many structures on the property for such a narrow lot.</li> <li>- Too cluttered.</li> <li>- New boatshed detracts from the visual qualities of Kogarah Bay</li> <li>- If approved, would set an undesirable precedent.</li> </ul>	<p>The subject site includes an existing jetty, pontoon and mooring piles structure. The only new addition to the subject site will be the construction of the boatshed. The proposed boatshed is permissible with consent under the R2-Low Density Residential zone applying to the land. Consent from Crown Lands, DPI – Fisheries and TfNSW - Maritime has been provided for the proposed works. It is noted that there are no other boatsheds within the immediate locality, and this will be the first boatshed in this locality. It is also understood that the structure will not be accommodate a boat.</p>
<b>Non-compliance with Council's Controls.</b> <ul style="list-style-type: none"> <li>- Non-compliance with Clause 6.6 Foreshore Scenic Protection area under the Georges River Local Environmental Plan. In particular, the proposal fails to minimise the impact on the views and visual environment, including views to and from the Georges River, foreshore reserves, residential areas and public places.</li> <li>- Non-compliance with Section 6.5.1 - Jetty, Ramp and Pontoon Structures under Georges River Development Control Plan 2021.</li> <li>- Non-compliance with Section 6.5.2 - Boatsheds under Georges River Development Control Plan 2021</li> </ul>	<p>Refer to GRLEP 2021 and GRDCP 2021 Compliance table for full assessment under the relevant controls.</p> <p>A condition has been included in the consent prior to the issue of the construction certificate for the width of the proposed boatshed to be reduced in order to achieve the required 1.5m side setback.</p>
<b>Unauthorised works</b> <ul style="list-style-type: none"> <li>- It is considered that the location of the mooring pen, removal of sea wall and extension of rails are unauthorised.</li> <li>- Concerns are raised that the slip rail may have been extended and pontoon location extended without any approval.</li> <li>- The Statement of Environmental Effects refers that the works are "subsequently to comply with the recent directive of Crown Lands to undertake a DA for the 4-x existing mooring piles". A copy of this</li> </ul>	<p>Crown consent has been submitted with the development application for the proposed works including the proposed relocation of the existing jetty, ramp, pontoon, extension of slip rails to boatshed and mooring piles.</p>

Directive has not been provided with this development application. It is questioned, that the location of the mooring piles proposed in this DA have been undertaken without any approval.	
<b>Accuracy of Information</b> <ul style="list-style-type: none"> <li>Inconsistency of the location of the boatshed in the Statement of Environmental Effects.</li> </ul>	The location of the proposed boatshed has been assessed from the submitted Architectural plans.
<b>View Loss Impacts</b>	See View Loss Assessment below under Point 11.
<b>Clearing of trees and loss of landscape</b> <ul style="list-style-type: none"> <li>It is uncertain if the removal of these trees were granted approval to now facilitate the proposed outbuilding.</li> <li>No notification was received to the adjoining properties regarding the removal of trees on-site.</li> </ul>	Council had issued a tree permit (TA2021/0690) for the removal of 6 x trees on 15 December 2021. Notification is not required for Tree Permits on private land under the Georges River Community Engagement Strategy.

## Planning Assessment

### State Environmental Planning Policies

27. Compliance with the relevant State Environmental Planning Policies (SEPPs) are discussed in the table below.

State Environmental Planning Policy	Complies
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes

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

28. State Environmental Planning Policy (Biodiversity and Conservation) 2021 is applicable to the development and the following clauses apply:

State Environmental Planning Policy (Biodiversity and Conservation) 2021		
Chapter 6 Water Catchments - Clause 6.6 Water Quality and Quantity		
Control	Proposal	Compliance
(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following— (a) whether the development will have a neutral or beneficial effect on the quality of water entering a waterway,	The development works do not influence drainage patterns for the site or change the amount of pervious site area.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
(b) whether the development will have an adverse impact on water flow in a natural waterbody,	The development works are for open form, pier supported structures. As such, there is no risk of constriction to natural	

	ebbs and flows of water at the site resulting from the proposed works.	
(c) whether the development will increase the amount of stormwater run-off from a site,	The water recreational development works are located entirely below MWHM over the waterway as such, have no potential to influence established drainage on site. Stormwater from the boatshed is to be appropriately designed with an outlet flowing into the Georges River. Given the minimal size of the boatshed, additional stormwater is not considered to create adverse run-off from the site.	
(d) whether the development will incorporate on-site stormwater retention, infiltration or reuse,	The development works are located entirely below MWHM over the waterway as such, have no potential to influence established drainage on site.	
(e) the impact of the development on the level and quality of the water table,	The proposed works do not disturb more than 1 tonne of acid sulphate soil and the works are not likely to lower the water table.	
f) the cumulative environmental impact of the development on the regulated catchment,	The proposed works were assessed by Council's Senior Environmental Officer who was satisfied with the submitted documents at the minimal environmental impact of the proposed works.	
(g) whether the development makes adequate provision to protect the quality and quantity of ground water.	The proposed works do not impact on the site permeability and is achieved without a reliance of excavation, with support piers driven into the seabed.	
Development consent must not be granted on land in a regulated catchment unless the consent authority is satisfied that the development ensures - (a) The effect on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial; and	The development works do not influence drainage patterns for the site or change the amount of pervious site area.	
(b) The impact on the water flow in a natural water body will be minimised.	The development works are for open form, pier supported structures. As such, there is no	

	risk of constriction to natural ebbs and flows of water at the site resulting from the proposed works.	
<b>Clause 6.7 Aquatic Ecology</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
<p>(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following—=</p> <p>(a) Whether the development will have a direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation;</p>	<p>The proposed works were assessed by Council's Senior Environmental Officer and the following comments were provided:</p> <p>"The Marine Habitat report states that no seagrass, macroalgae or mangroves were observed during the study period. The piers of the existing jetty have an abundance of Sydney Rock oysters and barnacles present. A large patch of <i>Zostera</i> (seagrass) was identified just south of the existing pontoon. Extra care must be taken during construction works of the alterations/additions to the jetty, mooring piles, ramp and pontoon. It is noted that Meshed decking is to be used to allow for further light penetration to the seabed. Additional measures could also include reducing the width of the jetty, however meshed decking being used this is an adequate measure.</p> <p>The letter from DPI Fisheries states <i>sliprails must not terminate in seagrass, they must finish outside the seagrass bed. This allows the use of sliprails not have a negative effect on the adjacent seagrass.</i></p> <p>Using pile driving techniques and correct methodology for the installation on piles will help minimise the immediate impact on the site and sedimentation should settle over a short period of time. There appears to be minimal impact to the surrounding ecology, however safeguard measures must be implemented during construction</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>

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	<p>to ensure there is no damage to the surrounding seagrass. A desktop analysis of the NSW Fisheries spatial data portal that was undertaken on 05 December 2023 and there was no significant vegetation mapped at the footprint of the subject site. However, on site, there is a significant patch of <i>Zostera</i> (seagrass)."</p> <p>Suitable conditions have been included for the appropriate methodology to be used for the construction of proposed works.</p>	
<p>(b) Whether the development involves the clearing of riparian vegetation and, if so, whether the development will require –</p> <p>(i) A controlled activity permit under the <i>Water Management Act 2000</i>, or</p> <p>(ii) A permit under the <i>Fisheries Management Act 1994</i></p>	<p>The proposed works were assessed by Council's Senior Environmental Officer. The works can be carried out without a controlled activity or permit as referenced in the DPI – Fisheries consent letter.</p>	
<p>(c) Whether the development will minimise or avoid:</p> <p>(i) Erosion of land abutting a natural waterbody, or</p> <p>(ii) The sedimentation of a natural waterbody.</p> <p>(d) Whether the development will have an adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area,</p>	<p>The development works will have no bearing on shoreline stability or erosion. Intermittent turbidity generated from the driving of the support piers into the seabed is expected to clear within one tide cycle (generally).</p>	



<p>(e) Whether the development includes adequate safeguards and rehabilitation measures to protect aquatic ecology.</p> <p>(f) If the development site adjoins a natural waterbody – whether additional measures are required to ensure a neutral or beneficial effect on the water quality of the waterbody.</p>	<p>Adopting the typical safeguards ensures that the construction works are carried out with adequate methods of mitigation in protection to the marine ecology. Suitable conditions have been included in the consent.</p>	
<p>(2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following:</p> <p>(a) The direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation will be kept to the minimum necessary for the carrying out of the development.</p>	<p>The proposal has minimal impact and unlikely to cause significant damage to any marine life. These conclusions cemented by DPI – Fisheries supported that the development works do not raise cumulative impact.</p>	
<p>(b) The development will not have a direct, indirect or cumulative adverse impact on aquatic reserves.</p>	<p>The development works are not located near or adjacent to a dedicated marine reserve.</p>	
<p>(c) If a controlled activity approval under the Water Management Act 2000, or a permit under the Fisheries Management Act 1994 is required in relation</p>	<p>No marine permit required.</p>	
<p>(d) The erosion of land abutting a natural waterbody or the sedimentation of a natural waterbody will be minimised,</p>	<p>The development works are located abutting to an existing seawall. As such do not generate a risk of erosion or sedimentation of the land adjacent to the waterway.</p>	
<p>(e) the adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area will be minimised.</p>	<p>The site is not identified as wetlands, coastal wetlands, or littoral rainforest area.</p>	

Clause 6.8 Flooding		
Control	Proposal	Compliance
(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the likely impact of the development on periodic flooding that benefits wetlands and other riverine ecosystems.	The development works are sustainable to the periodic flooding events of the Georges River, typical to the adjacent water recreation structures and slip rails.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
(2) Development consent must not be granted to development on flood liable land in a regulated catchment unless the consent authority is satisfied the development will not (a) If there is a flood, result in a release of pollutants that may have an adverse impact on the water quality of the natural waterbody. (b) Have an adverse impact on the natural recession of floodwaters into the wetlands and other riverine ecosystems.	The development works use materials that are not deleterious to marine life, being that they are constructed over and are at times intermittently submerged within the water body of the Kogarah Bay. As such there is no risk generated of pollutants released during periodic flooding events.	
Clause 6.9 Recreation and Public Access		
Control	Proposal	Compliance
(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider: (a) the likely impact of the development on recreational land uses in the regulated catchment, and	The proposed works are located along a shoreline that contains an abundance of domestic water recreation structures.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
(b) Whether the development will maintain or improve public access to an around foreshores without adverse impacts on natural waterbodies, watercourses, wetlands, or riparian vegetation.	The development works abut to freehold title and terminate inshore of the public access of the Kogarah Bay. On this basis are able to operate without influencing the publics use or enjoyment of the Kogarah Bay.	
Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following— (a) the development will maintain or improve public	The development works are achieved without entering into the active body of the Kogarah Bay which remains open for recreational use and enjoyment by the general public, as	

access to and from natural waterbodies for recreational purposes, including fishing, swimming and boating, without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation,	supported by Transport for NSW and Crown Lands approvals.	
(b) new or existing points of public access between natural waterbodies and the site of the development will be stable and safe,	The development works are achieved outside of any existing or future potential for public access from the land to the Kogarah Bay.	
(c) if land forming part of the foreshore of a natural waterbody will be made available for public access as a result of the development but is not in public ownership—public access to and use of the land will be safeguarded.	The development works will result in a domestic Licence over Crown Land for occupation and use of Crown Land for a water recreation structure.	

### **Division 3 – Controls on development in specific areas**

<b>6.11 Land within 100m of a natural waterbody</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
The land uses proposed for land abutting the natural waterbody are water-dependent uses, and	The seabed is to be occupied by Domestic Water Access Structures.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Conflicts between land uses are minimised.	TfNSW – Maritime and the Crown have assessed the Application respective to site suitability (as will Council) and determined that the development works which service an existing use at the site of the boatshed are acceptable to operate without risk of conflict to either adjacent neighbours or the general boating public.	

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

29. State Environmental Planning Policy (Resilience and Hazards) 2021 is applicable to the development and the following clauses apply:

### **Chapter 2 – Coastal Management**

<b>Chapter 2 – Coastal Management</b>		
<b>Clause 13 Development on land within the coastal environment area</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>

(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:		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<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>(f) Aboriginal cultural heritage, practices and places,</p>	<p>Satisfied – The proposed works will not have unreasonable impacts on the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment.</p> <p>Satisfies the coastal environmental values and natural coastal processes. Appropriate standard conditions to be imposed to ensure adequate sediment control is in place.</p> <p>Satisfied – The development site does not contain any sensitive marine vegetation. The development will not have unreasonable impacts on marine and native vegetation. The proposed structures will be built on piers that are driven into the seabed.</p> <p>There is no public access across the foreshore within the vicinity of this site.</p> <p>The works are respectful of the cultural heritage, practices and places. The site is not a</p>	

<p>(g) the use of the surf zone.</p> <p>(2) 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 an adverse impact referred to in subclause (1), 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>	<p>known European or Aboriginal place of significance.</p> <p>The site is not located within the surf zone.</p> <p>The development is well-confined within the frontage of the subject property. No unreasonable impact on the waterway is expected.</p>	
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#### Clause 14 Development on land within the coastal use area

Control	Proposal	Control
<p>(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:</p> <p>(a) has considered whether the proposed development is likely to cause an adverse impact on the following:</p> <p>(i) existing, safe access to and along the foreshore, beach, headland or rock</p>	<p>The development does not impact any of these waterway features.</p> <p>There is no public access to the waterway within the vicinity of this site.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>

<p>platform for members of the public, including persons with a disability,</p> <p>(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,</p> <p>(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,</p> <p>(iv) Aboriginal cultural heritage, practices and places,</p> <p>(v) cultural and built environment heritage, and</p> <p>(b) is satisfied that:</p> <p>(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or</p> <p>(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</p> <p>(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and</p> <p>(iv) has considered the surrounding coastal and built environment,</p>	<p>The proposed works are considered acceptable structures. No unreasonable impact on overshadowing, wind funnelling and loss of views from public spaces to the foreshore is expected.</p> <p>Satisfied – The development does not have an unreasonable impact on the visual amenity and scenic qualities of the coast, including coastal headlands.</p> <p>Satisfied – The works are respectful of the cultural heritage, practices, and places. The site is not identified as a place of European or Aboriginal significance.</p> <p>Satisfied – The works retain the historical connections between the domestic use of the Kogarah Bay and connection of people and property to the Kogarah Bay.</p> <p>Satisfied – The development will not have unreasonable impacts on the coastal zone and its processes. It is considered that the proposed development has been designed in a way to avoid unreasonable adverse impacts as stipulated in Clause 2.11 (1) (a).</p> <p>Satisfied – The application has considered the surrounding coastal area. The</p>	
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and the bulk, scale and size of the proposed development.	development form and scale are not inconsistent with the built form immediately adjoining and that of the visual catchment.	
<b>Chapter 4 – Remediation of Land</b>		
<b>Clause 4.6 – Contamination and remediation to be considered in determining development application</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
(1) A consent authority must not consent to the carrying out of any development on land unless— (a) it has considered whether the land is contaminated, and (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	The Assessing Officer has reviewed: Councils Contamination Records Aerial Imaging (inc. historic imaging) Conducted a site inspection.  A review of the above indicates that the site has historically been used for Residential purposes and there is no evidence that any use under Table 1 of the contaminated land planning guidelines has occurred on site. Given this, there is no evidence that the site is contaminated, and the site is considered suitable for the proposed development.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

## Georges River Local Environmental Plan 2021

30. 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.

<b>Part 1 – Preliminary</b>		
<b>Clause 1.2 – Aims of the Plan</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
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
<b>Clause 2.3 – Zone objectives and Land Use Table</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
The subject site zoned R2 General Residential:	The subject site is zoned R2 – Low Density Residential and W2 Recreational Waterways, the	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

<p>The objectives of the zone are:</p> <ul style="list-style-type: none"> <li>To provide for the housing needs of the community;</li> <li>To enable other land uses that provide facilities or services to meet the day to day needs of residents;</li> <li>The promote a high standard of urban design and built form that enhances the local character of the suburb and achieves a high level of residential amenity,</li> <li>To provide for housing within a landscaped setting that enhances the existing environmental character of the Georges River Local Government Area.</li> </ul>	<p>proposed works are defined as a “jetty”, “mooring pen”, “slip rails”, “pontoon” and “boatshed” under the provisions of GRLEP 2021, the works are within W2 zoned land and R2 Low Density Residential and thus a permissible form of development with Council’s consent. The proposed development satisfies the objectives of the zone under GRLEP 2021.</p>	<input type="checkbox"/> N/A
<b>Principal Development Standards</b>		
<b>Clause 4.3 – Height of Buildings</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<p>The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</p> <p>Maximum height is 9m as identified on Height of Buildings Map</p>	<p>Boatshed = 3.4m</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>Clause 4.4A – Floor Space Ratio</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<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"> <li>less than 1,000 square metres but not less than 650 square metres <math>[(765 - 650) \times 0.3 + 357.5] \div 765:1</math></li> </ul>	<p>Existing FSR = 0.51:1 or 390.15m<sup>2</sup></p> <p>Proposed FSR = 0.48:1 or 364m<sup>2</sup></p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A



Site area: 765sqm 0.51:1 or 390.15sqm		
<b>Part 5 – Miscellaneous Provisions</b>		
<b>Clause 5.7 – Development below mean high water mark</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
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 is not likely to result in substantial environmental impacts as detailed in the reports provided with the application. The proposal will not adversely impact any sensitive marine habitat. Council's environmental officer raised no objection to the information submitted by the applicant. Consent for the works in the location proposed has been issued by the Crown being the land owner.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>Clause 5.10 – Heritage conservation</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
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
<b>Clause - 5.21 Flood Planning</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—must consider the following matters—	The subject land is not flood affected	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>Part 6 – Additional Local Provisions</b>		
<b>Clause 6.1 – Acid sulfate soils</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
(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	The site identified as containing Class 5 acid sulfate soils, but the works are not located on land within 500m of land of a lower class, and is not below 5m Australian Height Datum. No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

<p>of the class specified for those works.</p> <p><b>Class 5</b> The site is identified as containing Class 5 Acid Sulfate Soils.</p> <p>Consent may not be granted for any Works within 100 metres of adjacent Class 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 2, 3 or 4 land unless an acid sulfate soils management plan has been prepared.</p>	<p>further action is therefore required.</p> <p>The proposed works will disturb less than 1 tonne of soil with the excavation to be a clean cut into the rock. All support piers will be driven into the seabed and not excavated. The works undertaken in the waterway would not adversely impact the water table levels. On this basis, there is no potential to lower the water table and no requirement to submit as Acid Sulphate Soils Management Plan.</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>The documents submitted by the applicant indicates that the proposed earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p> <p>Council's environmental officer has reviewed the documents and raised no objection to the proposal.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p>

<p>(f) the source of any fill material and the destination of any excavated material,</p> <p>(g) the likelihood of disturbing relics,</p> <p>(h) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(i) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>		
<b>Clause 6.3 – Stormwater Management</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<p>(2) In deciding whether to grant development consent for development, the consent authority must be satisfied that the development—</p> <p>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</p> <p>(b) includes, if practicable, on-site stormwater detention or retention to minimise stormwater runoff volumes and reduce the development's reliance on mains water, groundwater or river water, and</p> <p>(c) avoids significant adverse impacts of stormwater runoff on adjoining properties, native 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>The proposal has been considered in this regard. 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>(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— the foreshore building line, or</p> <p>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</p>	<p>The subject site is identified as being within a foreshore area and coastal hazards and risk area.</p> <p>The proposed works, besides the boatshed, are proposed beyond the foreshore building line. The proposed development is permissible in the W2 zoned land.</p> <p>The proposed boatshed is set sufficiently above the sea level to protect against tidal inundation.</p> <p>N/A. There is no other viable location within the frontage of the subject site for a boatshed or mooring pen. The entire water-facing frontage of the site is exposed to coastal hazards.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>

<p>not exposed to coastal hazards,</p> <p>(c) whether the development will cause congestion or generate conflict between people using open space areas or the waterway,</p> <p>(d) whether the development will cause environmental harm by pollution or siltation of the waterway,</p> <p>(e) opportunities to provide reasonable, continuous public access along the foreshore, considering the needs of property owners,</p> <p>(f) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	<p>The proposal will not introduce excessive boat traffic.</p> <p>Council's Environmental Officer has assessed the proposal and the proposed works will not affect any sensitive marine habitat.</p> <p>No public access is currently available.</p> <p>Appropriate measures are proposed to minimise environmental impacts through conditions of consent.</p>	
Clause 6.5 – Riparian land and waterways		
Standard	Proposal	Compliance
<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, Council must consider the following—</p> <p>(a) whether the development is likely to have an adverse impact on the following—</p> <ul style="list-style-type: none"> <li>i. the water quality and flows within the waterway,</li> <li>ii. the stability of the bed, shore and banks of the waterway,</li> <li>iii. the future rehabilitation of the waterway and riparian areas,</li> <li>iv. the biophysical, hydrological or ecological integrity of adjacent coastal</li> </ul>	<p>The subject site is identified as being within riparian land and waterways.</p> <p>The proposal works are permitted under the Clause.</p> <p>The proposal is unlikely to adversely impact the water quality and flows, stability of the shore, and the future rehabilitation of waterway and riparian areas.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>

<p>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 Council 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 managed to mitigate that impact.</p>	<p>The proposal will not diminish the hydrological or ecological integrity of coastal wetlands, indigenous trees and vegetations, and opportunities of additional planting of native riparian vegetation.</p> <p>The proposal is unlikely to increase water extraction and cause environmental harm or siltation of the waterway.</p> <p>The proposal has demonstrated appropriate measures to minimise impacts of the development.</p> <p>The development is sited on an existing rocky area that possess little ecological value. The proposal is appropriately designed to avoid significant adverse environmental impacts.</p>	
Clause 6.6 Foreshore scenic protection area		
Standard	Proposal	Compliance
(2) This clause applies to land identified as “Foreshore scenic protection area” on	The subject site is identified as being within the Foreshore Scenic Protection Area.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

<p>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> <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>	<p>The proposal satisfies the objectives of this clause. The proposal recognises, protects, and maintains the natural, visual, environmental and heritage qualities of the scenic areas of the Kogarah Bay.</p> <p>The proposal protects the natural environment, including topography, rock formations, canopy vegetation or other significant vegetation.</p> <p>The proposal avoids and minimises the disturbance and adverse impacts on remnant vegetation communities, habitat and threatened species and populations.</p> <p>The proposal maintains and enhances 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>The proposal demonstrates the achievement of no net loss of significant vegetation or habitat.</p> <p>The proposal avoids clearing steep slopes and demonstrates the facilitation of the stability of the land.</p> <p>The proposal minimises 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>The proposal is appropriately designed to accommodate the topography of the land.</p>	
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<b>Clause 6.9 Essential Services</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<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"> <li>a) the supply of water,</li> <li>b) the supply of electricity,</li> <li>c) the supply of telecommunications facilities,</li> <li>d) the disposal and management of sewage</li> <li>e) stormwater drainage or on-site conservation,</li> <li>f) suitable vehicular access.</li> </ul>	<p>All utility (essential) services on site (water, sewerage, power, telecommunications) are available.</p> <p>The proposal will not result in excessive stormwater runoff.</p> <p>The proposal will not alter the existing vehicular access.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>
<b>Clause 6.10 Design Excellence</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<p>(2) This clause applies to development on land within the Foreshore Scenic Protection Area involving—</p> <ul style="list-style-type: none"> <li>(a) the erection of a new building, or</li> <li>(b) additions or external alterations to an existing building that, in the opinion of the consent authority, are significant.</li> </ul> <p>(3) For land identified in on the Foreshore Scenic Protection Area Map:</p> <ul style="list-style-type: none"> <li>(i) bed and breakfast accommodation,</li> <li>(ii) health services facilities,</li> <li>(iii) marinas,</li> <li>(iv) residential accommodation, except for secondary dwellings,</li> </ul>	<p>The proposal is for the extension of a jetty, ramp, pontoon, sliprails, relocation of mooring pen and construction of a boatshed.</p> <p>The subject development site is located within a foreshore scenic protection area and classified as a “mooring pen” and “boatshed” in the GRLEP. The proposed development does not allow for the permanent storage of boats (as per the conditions of consent from Crown Lands) and therefore cannot be classified as a “marina”. Consequently, this clause does not apply.</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> N/A</p>



(c) the establishment of appropriate plantings—

- i. that are of a scale and density commensurate with the height, bulk and scale of the buildings to which the development relates, and
- ii. that will maintain and enhance the streetscape and the desired future character of the locality, and

(b) maintains privacy between dwellings, and

(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

(d) enables the establishment of indigenous vegetation and habitat for native fauna, and

(e) integrates with the existing vegetation to protect existing trees and natural landscape features such as rock outcrops, remnant

No change proposed to the existing landscaped area. The proposed boatshed will be located on existing hardstand area.

## Georges River Development Control Plan 2021

**Part 3 – General Planning Considerations** - Part 3 of the GRDCP 2021 is applicable to the development and the following clauses apply:

3.9 Coastal Hazards and Risks		
3.9.1 Coastal Management		
Control	Proposal	Compliance
1. Development is to comply with the provisions of SEPP (Coastal Management) 2018 and the Coastal Management Act 2016.	See assessment of SEPP (Resilience and Hazards) (earlier in this report) which superseded the referenced SEPP.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

### Part 5 – Residential Locality Statements

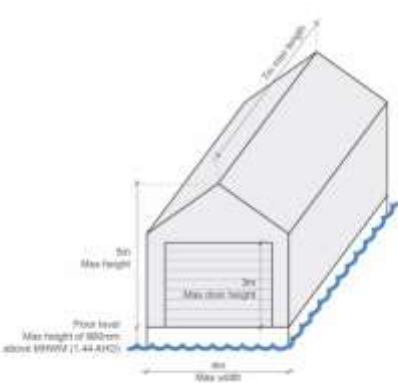
31. Development is required to consider the future character statement for the locality, in addition to the requirements within other parts of this DCP as shown on the map on Page 3, Part 5 of the DCP.
32. The assessment of character for the applicable locality is provided below:

Sans Souci	
<ul style="list-style-type: none"> <li>- Retain and enhance the existing low density suburban residential character through articulated contemporary developments.</li> <li>- Encourage well-designed high density residential development in designated areas along Rocky Point Road.</li> <li>- Encourage consistent setbacks of buildings from the street and the provision of landscaping within the front setback, alongside low fencing to enhance visual permeability.</li> <li>- Encourage the retention of trees and sharing of water views wherever possible, including screening via vegetation rather than solid walls.</li> <li>- Protect public vistas over Georges River towards Kogarah Bay from Vista Street.</li> </ul>	The proposal is consistent with the future desired character of the precinct.

**Part 6 – Residential Controls - Part 6.5 Foreshore Locality Controls** - Part 6.5 of the GRDCP 2021 is applicable to the development and the following clauses apply:

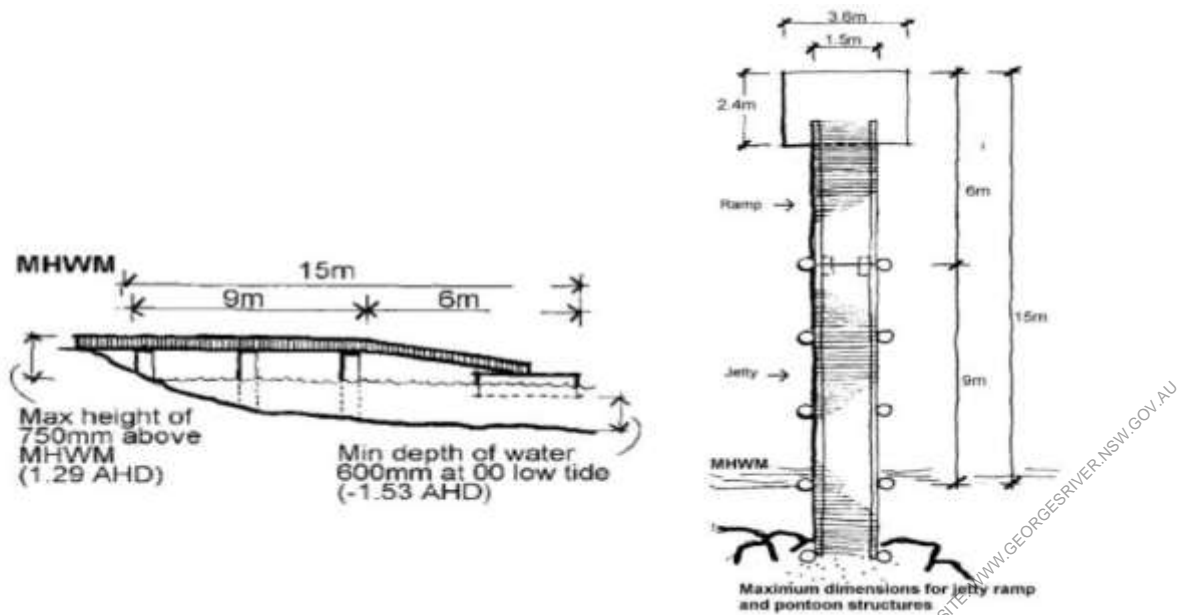
<b>6.5.1 – Foreshore Scenic Protection Area</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
1. Development applications are supported by a site analysis and design response demonstrating how the relevant provisions of the LEP and the objectives of this part of the DCP have been addressed.	The proposal is 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.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2. Removal of existing native vegetation minimised to that which is reasonably required to site and construct a building.	No native vegetation is removed as part of the proposed development.	
3. The integrity of the existing edge of bushland closest to the Georges River is retained.	The proposal retains the integrity of the existing edge of bushland along Kogarah Bay.	
4. Vegetation along ridgelines and on hillsides is retained and supplemented to provide a backdrop to the waterway.	The proposal retains vegetation along ridgelines and on hillsides and provides a backdrop to the waterway.	
5. New complementary planting and landscaping is encouraged.	The proposal retains spaces for complementary planting and landscaping throughout the site.	
8. Natural features that make a contribution to the environmental qualities and scenic landscape values of the foreshore, including mature native trees and sandstone rock outcrops, platforms and low cliffs, are retained.	The proposed works will be sited such that natural features on the subject site, including mature native tree, sandstone rock outcrops, platforms, and low cliffs are retained.	
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 proposal minimises the visual impact of the building having regard to building size, height, bulk, siting, external materials and colours.	
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.	The proposal will not result in the removal of any ridgeline vegetation.	
25. Development provides opportunities to create view	The development provides opportunities to create view	

corridors from the public domain to the Georges River.	corridors from the public domain to the Georges River.	
<b>6.5.2 Development in the Foreshore Area</b>		
<b>6.5.2.1 Jetty, Ramp and Pontoon Structures</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
The jetty, ramp and pontoon structures must not exceed the maximum dimensions shown in Figure 1 on page 5 of this section of the DCP.	Revised jetty dimensions from approved 33m (length) to be 43m (length) from MHW and 1.5m wide (jetty).	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> <b>No</b> <input type="checkbox"/> N/A <b>Non-compliance deemed acceptable – refer to assessment below the compliance table for further discussion.</b>
These structures are to be treated in brown or dark tones to reduce the visual impact of the structure.	Proposed structures are to be treated in brown or dark tones.	Yes
Materials used for construction must not be deleterious to marine life (e.g., antifouling paints).	Materials to be used are not deleterious to marine life.	Yes
No foreshore structures will be permitted over <i>Posidonia australis</i> (Shapweed seagrass)	No seagrass is located at the site.	Yes
Railings will not be permitted on jetties, ramps, or pontoons.	No handrails are proposed.	Yes
<ul style="list-style-type: none"> <li>The proposed development:               <ul style="list-style-type: none"> <li>(i) will not result in any adverse damage to the existing marine environment which may include seagrass vegetation, regenerating mangroves and fish breeding/fish feeding grounds; and</li> <li>(ii) retains and protects the mud/sand flats, reef, and scattered rocks.</li> </ul> </li> </ul>	The proposed have an acceptable buffer to the <i>Zostera</i> seagrass at the site per the Marine Habitat Report. In addition, consent received from DPI Fisheries confirms that application will not have any adverse damage to marine ecology.	Yes

6.5.2.3 Boatsheds		
Control	Proposal	Compliance
<p>1. Boatsheds have a specific form and dimensions as shown in Figure 2. They must be single storey with a maximum floor level 900mm above MHW and a maximum length of 7m. Flat roof with a slope of less than 15% is not permitted.</p>  <p>Figure 2: Boatsheds must have specific form and dimensions</p>	<p>Wall height = 3m Ridge height = 3.4m Front width = 4m Length = 7m The structure will be 1 storey and at the same level as the MHW.</p> <p>The proposal includes a skillion roof.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p>
2. Boatsheds are to be designed to minimise excavation and constructed of timber, stone, brick or other material satisfactory to Council.	The proposed boatshed will be constructed with brick masonry material.	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p>
3. Boatsheds should be sited to minimise the removal of remnant native vegetation and the excavation of sandstone rock shelves and outcrops.	The boatshed is sited on an existing hardstand area, therefore there is no removal of native vegetation and excavation of sandstone rock shelves.	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p>
<p>4. Boatsheds are setback a minimum 1.5m from the side boundary. Council may consider a variation where there is:</p> <p>(i) No detrimental impact on the view from the waterway (ii) No loss of an existing view to the water from the adjoining lands to the waterway (iii) A need to accommodate any significant vegetation, natural rock formations or other site features.</p>	The proposed boat shed has a setback of 0.8m from the side boundary.	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> <b>No, refer to discussion below.</b> <input type="checkbox"/> N/A</p>

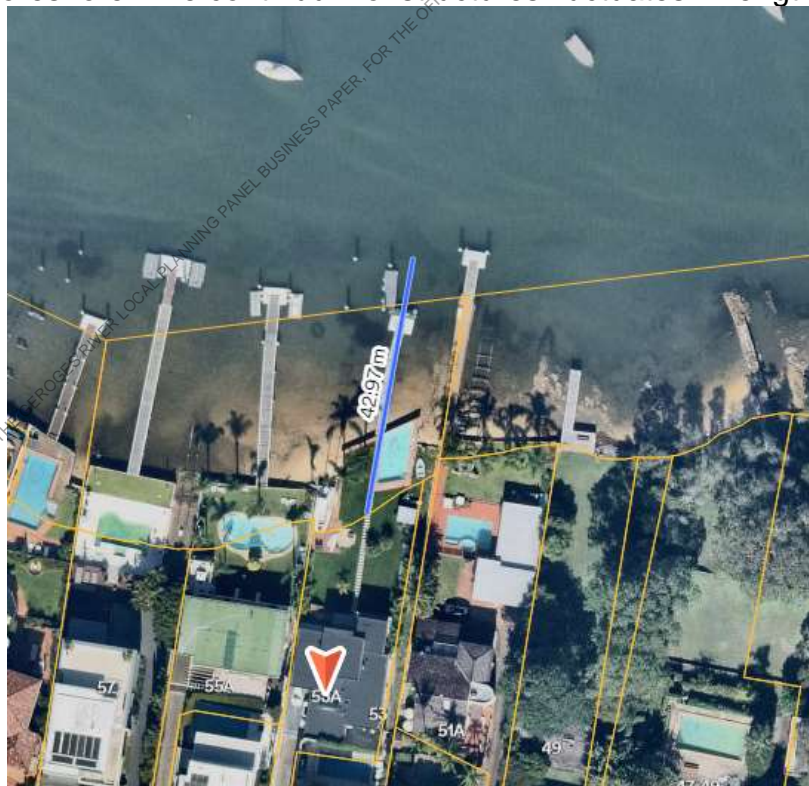
### Variation to Part 6.5.2.1 under GRDCP 2021

33. Part 6.5.2.1 (1) promotes that a jetty, does not exceed the maximum dimensions as illustrated below:



**Figure 5:** Maximum dimensions for a jetty, ramp and pontoon under GRDCP 2021.

34. A variation is requested for the fixed jetty to be from the approved 33m (length) x 1.5m (width) to 43m in length and 1.5m in width. This is a variation of 10m in length from Part 6.5.2.1 under GRDCP 2021. This variation is acceptable for the following reasons:
- The proposed modification to the approved jetty, ramp and pontoon will be for the use of the residents of the site.
  - The locality includes neighbouring jetties varying in length with the natural contour of the foreshore. The continuum of structures fluctuates in length from 33m to 43m.



**Figure 6:** Approximate length of the extension for the jetty and pontoon in comparison with the water structures for the surrounding properties.

- The length of the proposed works has been designed such that they do not detract from the visual quality of the waterway.
- The proposal will not result in adverse impact on the local marine ecosystem and the local landscape.

- The proposal is endorsed by the Transport for NSW, Department of Primary Industries (Fisheries), and Department of Planning, Industry and Environment – Crown Lands (DPIE Crown Lands).

### Variation to Part 6.5.2.3 under GRDCP 2021

35. Part 6.5.2.3 (4) promotes that boatsheds are to be setback a minimum of 1.5m from the side boundary.
36. A variation is requested for the boatshed to be set 0.8m from the southern boundary. This is a variation of 700mm or 46.7% from the Part 6.5.2.3 (4) under the required 1.5m side setback control under GRDCP 2021. The variation is **unacceptable** for the following reasons:
  - The subject site contains an existing public view to the water from Vista Street, as shown in the photo below taken during site inspection:



**Figure 7:** Photo taken from the driveway of the subject site.

- The proposed boatshed is located directly within this sightline. A variation is only considered if there is to be no loss of an existing public view to the water from the adjoining lands to the waterway. Setbacks are a form of measurement to determine to bulk and scale of a development. A variation of 46.6% to the required side setback is considered to be excessive in this instance and would create an unacceptable bulk and scale issue from the public waterview.
- In addition, the Statement of Environmental Effects state the proposed boatshed is to be used to store tinnies and sport equipment (e.g. kayaks, paddle boards and canoes). The family's boat is to be berthed from the proposed mooring pen.
- A condition has been included for a design change of the proposed boatshed to be reduced in width from 4m to 3.3m to facilitate a 1.5m side setback along the southern boundary. This condition is to be applied prior to the issue of the construction certificate.

## REFERRALS

Internal Referrals		
Specialist	Comment	Outcome
Senior Environmental Officer - Biodiversity	No objections raised to the proposal.	Conditions imposed.
External Referrals		
Referral Body	Comment	Outcome
Ausgrid	No objections raised to the proposal.	No conditions required.
<p><u>DPI Fisheries and DPE Crown Lands</u>: The proposal was granted consent by DPI Fisheries on 4 October 2022, and was referred to DPIE Crown Lands NSW. DPE Crown Lands consented to the development on 29 May 2023. Recommendations from DPI Fisheries will be included in the conditions.</p> <p><u>Transport for NSW (TfNSW)</u>: TfNSW granted consent to the development on 9 September 2022.</p>		

### Developer Contributions

37. Contributions on this application have been determined in accordance with the Georges River Council Local Infrastructure Contributions Plan 2021 (Section 7.11 and Section 7.12). The proposed cost of work is \$70,000.00. No contribution is therefore applicable for this Development Application.

### Planning Agreements

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

### EP&A Regulation 2000

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

### Suitability of the site for the development

40. The site is zoned R2 - Low Density Residential and W2 - Recreational Waterways. The proposal is a permissible form of development in this zone. The proposed changes do not affect the suitability of the site for the development, and do not impact the development potential of the adjoining allotments.

## DETERMINATION AND STATEMENT OF REASONS

### Statement of Reasons

41. The reasons for this recommendation are:

- The proposed works include the relevant Crown Consent.
- The proposed works have been assessed by the DPI Fisheries and were approved with stamped plans provided.
- The proposed works were assessed by the TfNSW – Maritime and was approved with stamped plans provided.
- A condition of consent has been included in the consent for the proposed boatshed to be compliant with the requirements outlined under the Georges River Development Control Plan 2021.
- Relocation of the mooring pen forward, away from the sea grass, is an improvement to the existing location which was a concern to the DPI Fisheries.



- The existing location of the jetty was impractical as it was located in an area that was too shallow. Relocation of the existing jetty, ramp and pontoon is an improvement as the proposed location will be in the correct water depth at -1.5m AHD.
- Reason for extension for the sliprail is to reach the boatshed above Mean High Water Mark (MHW).
- The proposed mooring pen shall be used to berth the family vessel whilst the proposed boat shed shall be used to store tinnies and sports equipment (e.g., kayaks, paddle boards, canoes) above the MHW.

## RECOMMENDATION

42. That Georges River Local Planning Panel support the proposal as it is generally compliant with relevant planning policies, provides a suitable development that responds to the heritage item on the site, and satisfies the zone objectives. Approval of the development is unlikely to result adverse environmental or social impacts on the locality. The design proposed is considered to be acceptable for the site.
43. Pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended), DA2023/0282 for alterations and additions to existing jetty, mooring piles, ramp, pontoon and construction of a boatshed and mooring pen on Lot 132 DP 733298 on land known as 53A Vista Street, Sans Souci, is recommended for approval subject to attached 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	DWG 01	March 2024	03	Harbour Planning
Boatshed floor plan, roof plan and section plan at "a"	DWG 02	March 2024	03	Harbour Planning
North and East Elevations	DWG 03	March 2024	03	Harbour Planning
South and West Elevations	DWG04	March 2024	03	Harbour Planning
Owners Consent Letter – NSW Government Sizes of the approved structures.	MN81H2209-003#02 LOC No. 638008	29/05/2023	-	NSW – Planning & Environment
Department of Primary Industries – Fisheries	C22/538	4/10/2022	-	Department of Primary Industries – Fisheries

Stamped Plans and Consent				
Maritime Approval	-	9/09/2022		Transport for NSW – Maritime
Maritime Habitat Report				Harbour Port

LPP011-24

## 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](http://www.georgesriver.nsw.gov.au). For further information, please contact Council's Customer Service Centre on (02) 9330 6400.

### Prior to the Issue of a Construction Certificate

3. **Design Changes** – The proposed boatshed is to be setback 1.5m from the southern boundary. This is to be achieved by reducing the width of the boatshed from 4m to 3.3m. Reason: To comply with the setback requirements outlined under the Georges River Development Control Plan 2021.
4. **Owner's Consent - Department of Planning Industry & Environment** - Prior to the issue of a Construction Certificate, the applicant should ensure that all the requirements of the Owners Consent (reference MN80H3863 #02 LOC No:637887 ) issued by the Department of Planning Industry and Environment – Crown Lands are satisfactory met.
5. **Materials** - The following requirement is to be addressed and incorporated into the plans to be lodged with the Construction Certificate application.
  - (a) Materials used for construction must not be deleterious to marine life (e.g., antifouling paints).
  - (b) The proposed structures are to be treated in brown or dark tones to reduce the visual impact of the structure.
6. **Fees to be paid** - The fees listed in the table below must be paid in accordance with the conditions of this consent and Council's adopted Fees and Charges applicable at the time of payment (available at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au)).

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

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

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

Fee Type	Fee
<b>GENERAL FEES</b>	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See <a href="https://portal.longservice.nsw.gov.au/bci/levy/">https://portal.longservice.nsw.gov.au/bci/levy/</a>	
Builders Damage Deposit	\$1,900.00
Inspection Fee for Refund of Damage Deposit	\$175.00

### 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.

7. **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: \$175.00
- c) Submit to Council, before the commencement of work, a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

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

8. **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.
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. 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)**

- 11. Access by barge** - Prior to the commencement of any works the PC must ensure that all works are accessed by barge via the waterway only.
- 12. 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 PC prior to the commencement of works.

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

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

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

- 13. 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.

## During Construction

- 14. Registered Surveyors Report - During Development Work** - A report must be submitted to the PC at each of the following applicable stages of construction:
- (a) Set out before commencing piling.
  - (b) Completion of all Work - Detailing the location of the structure relative to adjacent boundaries, the seabed and mean high watermark 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.
  - (c) Work must not proceed beyond each stage until the PC is satisfied that the height and location of the development is proceeding in accordance with the approved plans.
- 15. 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.
- 16. Hours of construction for demolition and building work** - Unless authorised by Council:
- (a) Building construction and delivery of material hours are restricted to: 7.00 am to 5.00 pm (inclusive) Monday to Saturday and no work on Sundays and Public Holidays.
  - (b) Demolition and excavation works are restricted to: 8.00 am to 5.00 pm (inclusive) Monday to Friday only. Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site.
- 17. 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 <http://www.legislation.nsw.gov.au/>](http://www.legislation.nsw.gov.au/) and/or under Section 68 of the [Local Government Act 1993 <http://www.legislation.nsw.gov.au/>](http://www.legislation.nsw.gov.au/). Penalty infringement Notices may be issued for any offences and severe penalties apply.
- 18. 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 PC and Council, where Council is not the Principal Certifier.
- 19. Biodiversity Considerations** – during construction, the PC should ensure that the following requirements are met:
- I. **No building materials are to be stored below the mean-high water mark to ensure no debris or pollution enters Kogarah Bay (Georges River waterway).**
  - I. **Sliprails must finish outside of the seagrass bed**

- II. **The following safeguards measures must be implemented during construction:**
- **Silt curtains should be put in place to minimise siltation on nearby habitats during works with potential to mobilise sediments**
  - **No materials should be stored or placed on the seabed**
  - **All construction works should be done without excavation and by driving any required footings to minimise potential disturbance to the seabed and seagrass**

20. **Acid Sulfate – unexpected find** - Any new information identified during excavation or construction which has the potential to alter previous conclusions about the presence of Potential Acid Sulfate Soils (PASS) or Acid Sulfate Soils (AASS) across the site, must be notified to the Principal Certifying Authority and Council, if Council is not the principal certifying authority) immediately.

All works must cease and a suitably and experienced qualified Environmental Consultant, certified under the consultant certification schemes recognised by the NSW EPA, is engaged to assess, and provide documentation to the management of the PASS or AASS in accordance with any relevant NSW EPA adopted guidelines.

Works on site must not recommence until such time as Council has reviewed the documentation and has accepted the contamination management in writing to the applicant.

#### **Prior to the issue of the Occupation Certificate**

21. **Final Surveyor Report** - Prior to the issue of an Occupation Certificate, a final check survey conducted by a registered practising professional must be prepared ensuring that the works have been completed in accordance with the measurements provided on the Council stamped plans.

#### **Operational Conditions (On-Going)**

22. **No permanent berthing of vessels** - Casual berthing of vessels shall only occur at suitable tides and wave conditions. At no time is permanent berthing of vessels permitted. The cradle and vessel shall be stored in an approved boat shed or above the mean high water mark at all times.
23. **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, wastewater, waste products, grit, oil or other harmful products.

#### **Operational Requirements Under the Environmental Planning & Assessment Act 1979**

24. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
25. **Appointment of a PC** - The erection of a building must not commence until the applicant has:
- (a) appointed a PC for the building work; and
  - (b) if relevant, advised the PC that the work will be undertaken as an Owner -Builder.



If the work is not going to be undertaken by an Owner - Builder, 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.

**26. Notification Requirements of PC** - 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.

**27. Notice of Commencement** - The applicant must give at least two days notice to the Council and the PC of their intention to commence the erection of a building.

A Notice of Commencement Form is attached for your convenience.

**28. 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](#).

**29. 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.

**30. 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

31. **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.
32. **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.
33. **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.

## 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. **Council as PC - Deemed to Satisfy Provisions of BCA** - Should the Council be appointed as the PC 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.
3. **Site Safety Fencing** - Site fencing must be erected in accordance with SafeWork Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained throughout any demolition and construction work.

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

4. 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.

5. 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.
6. 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.

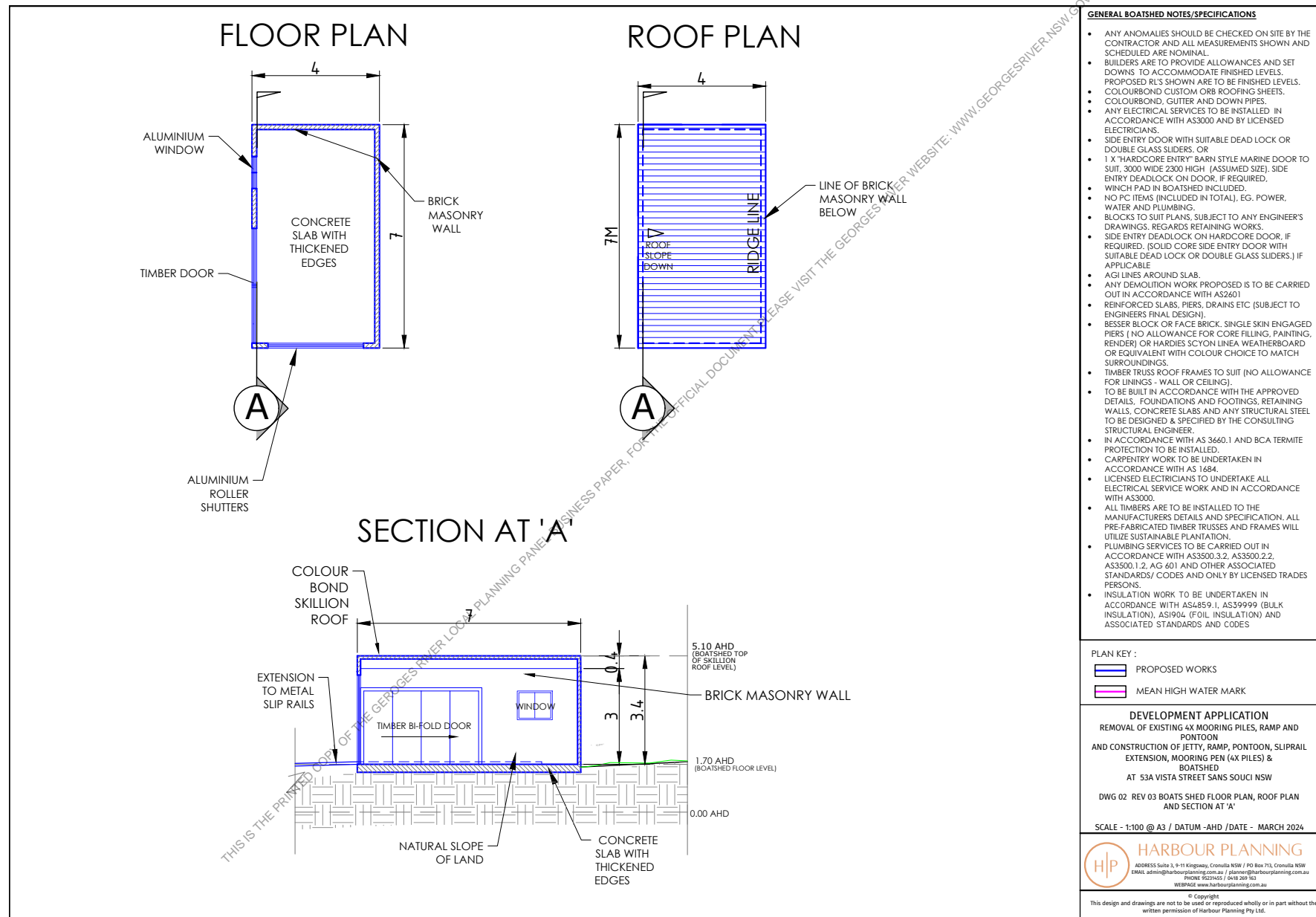
## ATTACHMENTS

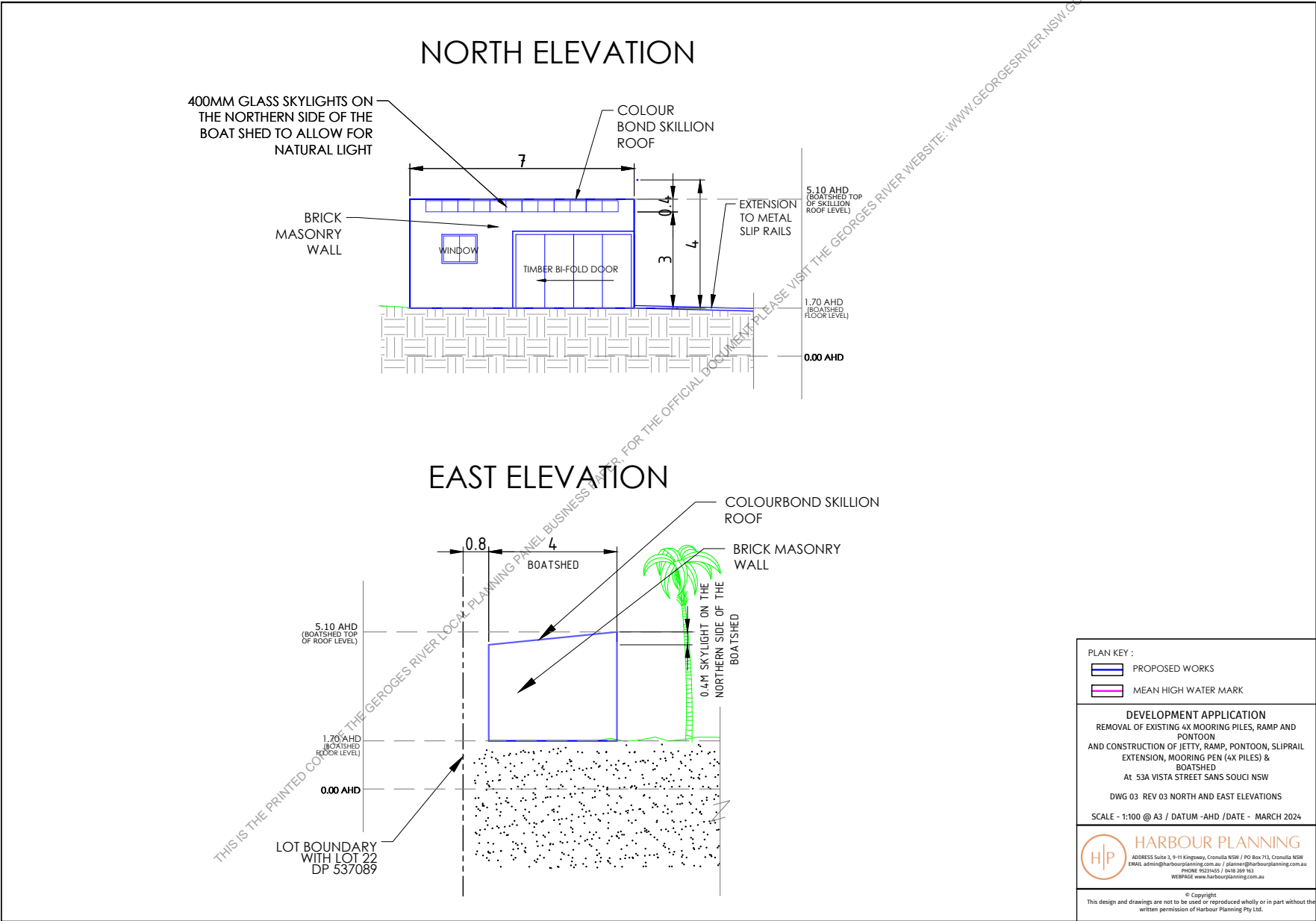
Attachment [1](#) Architectural Plans - DA2023/0282 - 53A Vista Street, Sans Souci



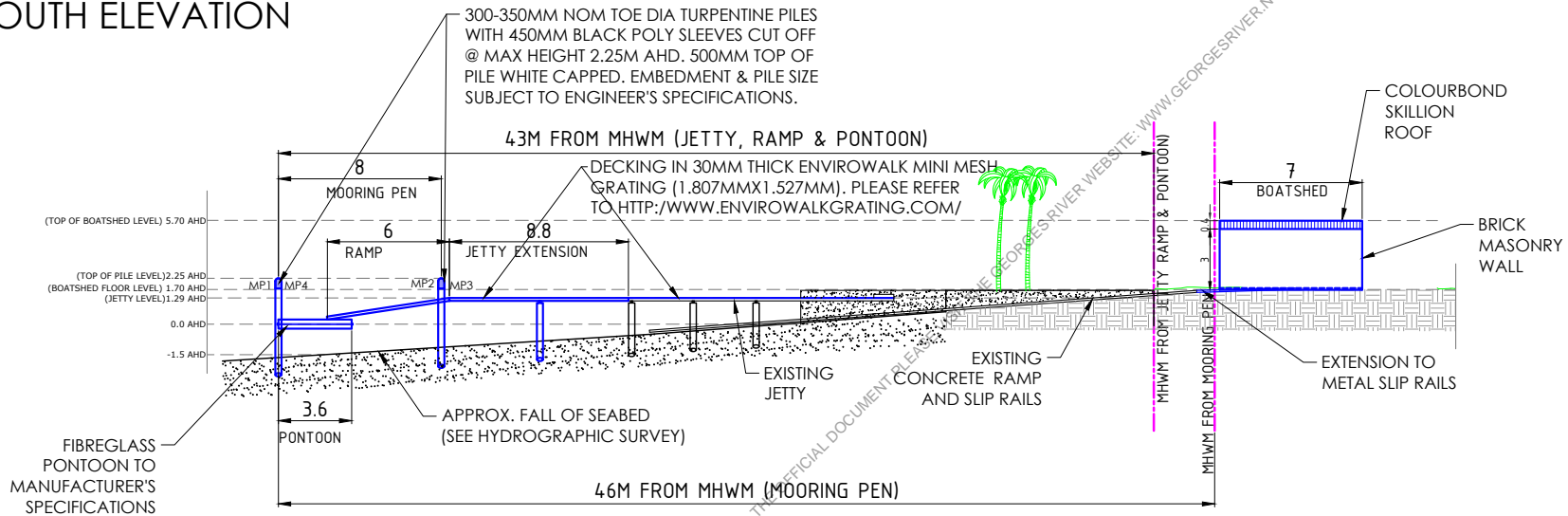
THIS IS THE PRINTED COPY OF THE GEORGES RIVER LOCAL PLANNING PANEL BUSINESS PAPER. FOR THE OFFICIAL DOCUMENT PLEASE VISIT THE GEORGES RIVER WEBSITE: [WWW.GEORGESRIVER.NSW.GOV.AU](http://WWW.GEORGESRIVER.NSW.GOV.AU)







## SOUTH ELEVATION



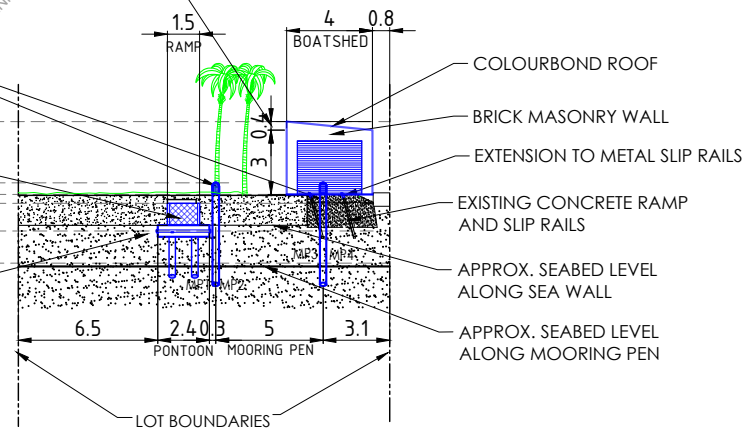
## WEST ELEVATION

300-350MM NOM TOE DIA TURPENTINE PILES WITH 450MM BLACK POLY SLEEVES CUT OFF @ MAX HEIGHT 2.25M AHD. 500MM TOP OF PILE WHITE CAPPED. EMBEDMENT & PILE SIZE SUBJECT TO ENGINEER'S SPECIFICATIONS.

DECKING IN 30MM THICK ENVIROWALK MINI MESH GRATING (1.807MMX1.527MM). PLEASE REFER TO [HTTP://WWW.ENVIROWALKGRATING.COM/](http://www.envirowalkgrating.com/)

EXISTING FIBREGLASS PONTOON TO BE RE-ATTACHED

400MM GLASS SKYLIGHTS ON THE NORTHERN SIDE OF THE BOAT SHED TO ALLOW FOR NATURAL LIGHT



PLAN KEY :

- PROPOSED WORKS
- MEAN HIGH WATER MARK

**DEVELOPMENT APPLICATION**  
REMOVAL OF EXISTING 4X MOORING PILES, RAMP AND PONTOON AND CONSTRUCTION OF JETTY, RAMP, PONTOON, SLIPRAIL EXTENSION, MOORING PEN (4X PILES) & BOATSHED  
At 53A VISTA STREET SANS SOUCI NSW  
DWG 04 REV 03 SOUTH AND WEST ELEVATIONS  
SCALE - 1:200 @ A3 / DATUM - AHD / DATE - MARCH 2024



**HARBOUR PLANNING**  
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# REPORT TO GEORGES RIVER LOCAL PLANNING PANEL MEETING OF THURSDAY, 04 APRIL 2024

## LPP012-24 117 KYLE PARADE KYLE BAY

LPP012-24

<b>LPP Report No</b>	<b>LPP012-24</b>	<b>Development Application No</b>	<b>MOD2022/0186</b>
<b>Site Address &amp; Ward Locality</b>	117 Kyle Parade Kyle Bay Blakehurst Ward		
<b>Proposed Development</b>	Modification to DA2001/461 (and related modifications) relating to demolition of existing dwelling house and construction of a new dwelling house, swimming pool and front fence. This modification is seeking the reconfiguration of the floor plates, changes to floor levels, changes to openings and awnings, landscaping amendments and the inclusion of a lifts and modifying conditions of consent.		
<b>Owners</b>	Rana Ghazzawi		
<b>Applicant</b>	868 Architects Pty Ltd		
<b>Planner/Architect</b>	GAT & Associates Pty Ltd and 868 Architects Pty Ltd		
<b>Date Of Lodgement</b>	5/12/2022		
<b>Submissions</b>	Three (3)		
<b>Cost of Works</b>	\$2,013,540.00		
<b>Local Planning Panel Criteria</b>	The instrument of delegations requires developments which in the opinion of the Manager Development and Building is in the public interest to be reported to the Georges River Local Planning Panel for determination.		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, 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.		
<b>List all documents submitted with this report for the Panel's consideration</b>	Architectural Plan Set, Landscape Plan, Statement of Environmental Effects, Cover Letter		
<b>Report prepared by</b>	Consultant Planner		

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

## SITE PLAN



**Figure 1** - Aerial View of subject site outlined in blue (Intramaps)



## EXECUTIVE SUMMARY

### PROPOSAL

1. Development consent DA2001/0461 was approved by Kogarah Council on 11 February 2002 for the demolition of the existing dwelling house and construction of a new dwelling house, swimming pool and front fence at 117 Kyle Parade, Kyle Parade.
2. This modification application (MOD2022/0186) seeks consent to modify the approved development and related modifications for the demolition of the existing dwelling house and construction of a new dwelling house, swimming pool and front fence by seeking *reconfiguration of the floor plates, changes to floor levels, changes to openings and awnings, landscaping amendments, the inclusion of a lifts and modifying conditions of consent.*

### SITE AND LOCALITY

3. The subject site is known as 117 Kyle Parade, Kyle Bay and is legally described as Lot 44, Section 1, in Deposited Plan 9592. Currently located on the site are several dilapidated structures including a garage at the front of the site, a boat shed at the rear of the site and old stairs traversing the site. There are also sandstone blocks and other remnant material arising from the demolition of the previous dwelling including a shipping container.
4. The site is located on the southern side of Kyle Parade, Kyle Bay. The site is irregular in shape with a front boundary dimension of 18.29m by the survey. The site then expands in width towards the south, where it adjoins Georges River – the rear boundary is variable where the site adjoins the river (H.W.M). The site has a total area of 1,657m<sup>2</sup>. Figure 2 shows the existing garage on the subject site from Kyle Parade.
5. To the north, east and west of the subject site are a mix of large traditional and contemporary dwellings, which are reflective of the R2 Low Density Residential zone and the waterfront location. Properties on the southern side of Kyle Parade are characterised by a significant slope from the road towards the water but enjoy extensive water views. Typically, garages are forward of the dwelling building lines and dominate the street frontage as a result of the slope. Though presenting as a mix of one-to-two storeys from the Kyle Parade streetscape, the waterfront dwellings are generally substantial in scale and stories cascading down the sites towards the Georges River.

### ZONING AND PERMISSIBILITY

6. The subject site is zoned R2 – Low Density Residential under the provisions of Georges River Local Environmental Plan 2021 (GRLEP 2021) Dwelling Houses are permitted with consent in the zone.
7. The proposed modification satisfies the substantially the same test as it is consistent with the original development proposal approved being for the demolition of the existing dwelling house and construction of a new dwelling house, swimming pool and front fence.
8. The modification application was found to be generally satisfactory having regard to the applicable planning policy documents. A detailed assessment of the proposal against these controls is provided later in this report.

### GEORGES RIVER DEVELOPMENT CONTROL PLAN 2021

9. The provisions of Georges River Development Control Plan 2021 are applicable to the proposed development.

10. A detailed assessment of the proposal against these controls is provided later in this report.

### **SUBMISSIONS**

11. The application was notified for a period of fourteen (14) days on three (3) occasions in accordance with the Georges River Development Control Plan and the Georges River Council Community Engagement Strategy notification criterion.
12. First notification period - three (3) submissions of objection with one (1) subsequently withdrawn.
13. Second notification period - three (3) submissions of objection with one (1) subsequently withdrawn.
14. Third notification period – two (2) submissions of support one of which formally withdraws their earlier two (2) objections submitted to the first and second notifications periods.

### **REFERRALS INTERNAL**

15. The modification application was referred to the following Council staff for comment on the proposal:
- Development Engineer
  - Landscape Officer
16. All officers that responded found the proposal satisfactory and provided conditions of development consent were required.

### **REFERRALS EXTERNAL**

17. The modification application was referred to Department of Planning and Environment – Water Licensing and Ausgrid for comment on the proposal. Ausgrid advised that there was no response required as there were no assets present. Department of Planning and Environment – Water Licensing failed to respond.

### **REASON FOR REFERRAL TO THE LOCAL PLANNING PANEL**

18. The proposal has been referred to the Georges River Local Planning Panel (LPP) as the instrument of delegations requires developments which in the opinion of the Manager Development and Building is in the public interest to be reported to the Georges River Local Planning Panel for determination. The Manager Development and Building has exercised his delegation in this regard.

### **CONCLUSION**

19. The modification application has been assessed having regard to the matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979 and Regulation, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plan and the Georges River Development Control Plans and found to be acceptable and MOD2022/0186 is recommended for approval subject to additional and amended conditions.

### **REPORT IN FULL PROPOSAL**

20. Development consent DA2001/0461 was approved by Kogarah Council on 11 February 2002 for the demolition of the existing dwelling house and construction of a new dwelling house, swimming pool and front fence at 117 Kyle Parade, Kyle Parade.

21. This modification application (MOD2022/0186) seeks consent to modify the approved development and related modifications for the demolition of the existing dwelling house and construction of a new dwelling house, swimming pool and front fence by seeking *reconfiguration of the floor plates, changes to floor levels, changes to openings and awnings, landscaping amendments, the inclusion of a lifts and modifying conditions of consent*. Details of the proposed changes request include the following:

#### **Conditions to be Modified**

- **Condition 1 (relating to the approved plans):**
  - Subject to approval, modify condition to reflect the new architectural plans as prepared by 868 Architects.

#### **Conditions to be Deleted**

- **Condition 38 Protection of existing trees**
  - Delete this condition - replaced by updated landscape conditions.
- **Condition 39 Protection of existing trees**
  - Delete this condition - replaced by updated landscape conditions.
- **Condition 40 Pruning of trees**
  - Delete this condition - replaced by updated landscape conditions.
- **Condition 55 Soften visual impact of wall relating to bedroom 4 balcony**
  - Delete this condition - as it is irrelevant to the revised layout.
- **Condition 56 Minimum 75 litre pot size when replacing trees**
  - Delete this condition - new condition provided on pot size for compensatory planting.

#### **Conditions to be Added**

- **45A. Irrigation System for Roof Top Garden**
  - Condition added - to ensure vegetation on the roof top is adequately maintained.
- **57. Excavation and building works close to trees**
  - Condition added - updated landscape condition.
- **58. Tree Removal prohibited on adjoining properties**
  - Condition added - updated landscape condition.
- **59. Landscape Works in accordance with the approved plans**
  - Condition added - updated landscape condition.
- **60. Completion of Tree Works**
  - Condition added - updated landscape condition.
- **61. Completion of Landscape Works**
  - Condition added - updated landscape condition.
- **62. Ongoing Tree & Landscape Maintenance Works**
  - Condition added - updated landscape condition
- **63. Boundary Fences**
  - Condition added – low open style fences.
- **64. Development Contributions**
  - Condition added – 7.12 Contribution.
- **65. Pre-Construction Dilapidation Report – Private Land**
  - Condition added – to reduce disputes between neighbours over construction impacts.
- **66. Pre-Construction Dilapidation Report – Public Land**
  - Condition added – to reduce disputes between developers and Council over construction impacts on public infrastructure.

- **67. Post-Construction Dilapidation Report – Private Land**
  - Condition added – to reduce dispute between neighbours over construction impacts.
- **68. Post-Construction Dilapidation Report – Public Land**
  - Condition added - to reduce disputes between developers and Council over construction impacts on public infrastructure.
- **69. Roof Top Landscaped Garden**
  - Condition added - to ensure roof top landscaped garden is not used as outdoor terrace of other usable space.

## **SUMMARY OF PROPOSED MODIFICATION.**

### **Demolition**

- The approval of DA/2001/461 provided for the demolition of the existing dwelling as well as ancillary structures. The dwelling has already been demolished but the garage and adjacent stairs remains on site and will be demolished before construction of the dwelling commences onsite.

### **A10 - Site/Roof Plan**

- Clerestory feature within the roof above the upper floor void has been deleted reducing the height by 1.13m. The previous approved maximum height was RL 27.99 the new maximum height will be RL26.86.
- Reduction in height to a portion of the eastern roof structure. This was reduced to allow a view corridor for the neighbour at 115 Kyle Parade.
  - The roof has been reduced 2.55m from the approved dwelling height.
  - The new roof height is RL 24.45.
- Reduction in height to a portion of the western roof structure.
  - Roof has been reduced 1.15m from the approved dwelling height.
  - New roof height is RL 23.70.
- Reduction in size of the skylight above the entry
- Front façade changes to include portico entry and entry into the dwelling with the location of the letterbox more accessible.
- Metal roof sheeting modified to a glass roof over the void and kitchen/dining, with landscaped roof gardens on the upper-most roofs.
- Deleted the entry awning that otherwise extended forward of the building line along the length of the entry path.
- Deleted central awning/roof and courtyard between the two dwelling 'wings' and introduced an extension to the approved swimming pool to create an infinity pool.
- Improved detailing on the central courtyard area to demonstrate the function and relationship between the site levels (previously undetailed on the approved plans).
- Detailed a sitting area with fire pit to the lower ground floor level.
- The width of the eastern dwelling wing has been reduced to create greater separation between the two wings to allow more natural light.

### **A11 – Upper Floor Level (East)**

- Driveway & Garage
  - Retention of the existing approved driveway crossing location and widening of approved driveway within the site boundary.
  - Addition of 1 car space and garage door.
  - Addition of a lift to run through the dwelling located at rear of approved garage.
  - 2 x entry doors from the garage to the dwelling.

- Entry
  - Proposed portico entry and modification of the front fencing.
  - Proposed bin store area to be more accessible and integrated into façade obscured from the street.
  - Access between the approved driveway and entry proposed.
  - Rationalised planter boxes within the front setback to work with the natural topography.
  - External covered entry to the front door, to address privacy and safety concerns.
- Floor Plan
  - The living room, lounge/bar, and viewing deck from the eastern wing as shown in the modification plan set has been removed and the building mass previously in line with rear of 115 Kyle Parade, reduced towards the street.
  - The living room and alfresco space from the western wing as shown in the modification plan set has now been removed, and the associated roof form modified.
  - The level change between the eastern and western wings was a 2.15m difference in the initial modification plan set consistent with the existing approval. It is now proposed the entry floor level be the same level at RL 23.65. This was the level of the eastern wing in the modification set.
  - Length of hallway reduced.
  - The proposed change to the lift and stair core, to allow for the same level between wings.
  - Proposed change to stair core, now a curved wall throughout.
- Privacy Screens
  - A privacy screen is proposed, added to the eastern façade ground level balcony for privacy and safety concerns.

### **A12 – Ground Floor Level (East)**

- Proposed rationalisation of rear structural wall for ease of excavation design and simplifying subterranean water management. The proposed change has this wall straight, the modified set documents this wall stepped.
- Floor Plan
  - The level change between the eastern and western wings was a 1.5m difference in the modification plan set. It is now proposed the ground floor be at the same level being RL 20.00. This was the level of the eastern wing in the modification plan set.
  - The “sunken living” has been removed as the level change is removed (noting the annotation of ‘sunken’ has remained on the plans.
  - The alfresco has been raised by 500mm (previously shown at RL 19.50) to RL 20.00.
  - The “meals” space has been reduced to allow for the bin storage lift to be incorporated.
  - Services allowance proposed behind the “meals” space.
  - Storage allowance proposed behind Bed 3.
  - Bed 3 – Ensuite and bed have been flipped to ensure bedroom receives more natural light.
  - Bed 2 – Ensuite and bed have been flipped to ensure bedroom receives more natural light.
  - Proposed main laundry space has been included on this level. A single laundry was shown on the lower floor level (east) in the modification set.
  - Proposed service lift allowance and entry point.
  - Master bedroom has been reduced in size to allow for proposed laundry and service lift location.
  - Master bedroom balcony raised to RL 20.00 to align to floor level of East wing.

**A13 – Lower Floor Level (East)**

- Proposed rationalisation of rear structural wall for ease of excavation design and simplifying subterranean water management. The proposed change has this wall straight, the modified plan set documents this wall stepped.
- Floor Plan
  - The level change between the eastern and western wings was a 1.05m difference in the modification plan set. It is now proposed the ground floor to be the same level at RL 16.55. This was the level of the eastern wing in the modification set.
  - Proposed addition of the storage room and cellar to the eastern wing.
  - Proposed addition of storage/battery room to the western wing.
  - Proposed second light use laundry and storage space has been reduced.
  - Proposed allowance for service lift.
  - Bed 6 – balcony raised to RL 16.55
  - Outline of proposed tunnel shown below the western wing hallway.
  - Access to tunnel is provided by proposed service lift.
  - Addition of underground storage to hold services, UPS, solar and batteries.
- Pool
  - Proposed reduction of pool width from the alfresco.
  - Proposed pool equipment to be located below pool/alfresco.
  - Proposed compliant shallow pool entry from bed 6 into the pool.
  - Landscape treatment around the pool to be replaced with water.
  - Curved stairs from the firepit down onto the lawn as per Site Design Studio (landscape architect's) documentation and details.

**A14-A16 Floor Plan Comparisons**

- All drawings have been updated to incorporate the above-proposed changes.

**A17 – Height Comparison**

- Proposed height changes as above, are highlighted in this plan.

**A64 – GFA and Landscape Areas**

- Modification set calculations.
  - Approved Dwelling Gross Floor Area – 835m<sup>2</sup>
  - Approved Dwelling Landscaped Area – 465.48m<sup>2</sup>
- Proposed calculations
  - Gross Floor Area – 835m<sup>2</sup> (consistent with approved dwelling)
  - Landscaped Area – 809m<sup>2</sup>(increased)

**Internal Alterations**

- The upper level void positioned above the kitchen has been reduced in size.
- General layout modifications to accommodate the family requirements of the current owner.
  - Note: The building footprint is generally retained as it is approved, with only modest modifications such as to the central void sizes and removal of the approved sunken front garden. The internal changes to the layout are largely consistent with the approved numerical standards, such as gross floor area, reduced building height, increased landscaped areas and deep soil; and largely fit within the approved building form. Creation of three (3) levels instead of six (6) levels in the previous approval.
- Areas and location of glazing modified to accommodate the proposed changes to internal layout.

- Design of the central staircase modified to present as a grand architectural feature ('circulation core'), with a new residential lift for ease of traversing the dwelling for all future residents. Note: Residential lifts do not require substantial plant, nor a lift overrun as it can be accommodated for within the proposed roof; and there is no change to the proposed height to facilitate the lift.
- Level 3 Upper Floor Level (Entry)
  - Central lightwell size increased.
  - Clerestory deleted.
  - Deleted the approved sunken courtyard within the site frontage that was accessed from Level 2. This modification seeks a more complementary form to the ground level within the site frontage, with a new living room/study adjacent to the entry, improving upon the street presentation and passive interaction within the street frontage.
  - Landscaped perimeter around the rear edging of the dwelling (i.e. extended concrete awnings).
- Level 2 Ground Floor Level (Middle Level)
  - With deletion of the sunken courtyard, the approved excavation will be utilised as part of the building by extending level 2 to the north. These areas, being below ground have been designed to be non-habitable.
  - The layout is similar to what was approved, with minor adjustments to the western setbacks to remove the feature bay windows to the bedrooms and extend the wall to align with a 1.2m setback (as approved to the articulated point of the original bay window).
  - Window sizes are modified to improve privacy, in addition to the planter boxes.
- Level 1 Lower Floor Level (Rear Access Level)
  - Central lightwell size increased.
  - New shade tolerant plants are detailed on the landscape plan.
  - Improved detailing and relationship of the outdoor alfresco, swimming pool and courtyard area.
  - Dedicated areas for pool equipment, storage and services.

### Landscaping and Site Works

- No significant structural works or built forms are proposed within the foreshore area.
- The proposed landscape plan illustrates minor terracing towards the rear, prior to the significant cliff edge adjacent to the river, and minor landscaped structures to accommodate the passive and recreational use of the back garden.
- Improved access to the existing boatshed/pier.
- The proposed landscaped plan has improved upon the detailing of the terraced planter boxes along the western side boundary to manage and better accommodate the significant slope of the site. The original approval included planter boxes along this boundary, however these were poorly detailed.
- Roof gardens have been detailed with appropriate low maintenance planting.
- Perimeter planter boxes have been detailed with appropriate planting.
- Details of the sweeping lawns and rear garden levels, with feature plants and new trees throughout.

### THE SITE AND LOCALITY

22. The subject site is known as 117 Kyle Parade, Kyle Bay and is legally described as Lot 44, Section 1, in Deposited Plan 9592. Currently located on the site are several dilapidated structures including a garage to the frontage of the site, boat shed to the rear of the site and old stairs. There are also sandstone blocks and other remnant materials arising from the demolition of the previous dwelling including a shipping container on the upper portion of the site.

23. The site is located on the southern side of Kyle Parade, Kyle Bay. The site is irregular in shape with a front boundary dimension of 18.29m. The site expands in width towards the south, where it adjoins Georges River, the rear boundary is variable where the site adjoins the river (H.W.M). The site has a total area of 1,657m<sup>2</sup>. Figure 2 shows the existing garage on the subject site from Kyle Parade.
24. To the north, east and west of the subject site are a mix of large contemporary dwellings, which are reflective of the R2 Low Density Residential zone and the waterfront location. Properties on the southern side of Kyle Parade are characterised by a significant slope from the road towards the water and enjoy extensive water views. Garages are forward of the dwelling building lines and dominate the street frontage. Though presenting as a mix of one-to-two storeys from the Kyle Parade streetscape, the waterfront dwellings are generally substantial in scale cascading down the towards the Georges River.



**Figure 2** - Photograph of subject site showing old garage and site fencing viewed from Kyle Parade.  
(Council's Site Inspection)





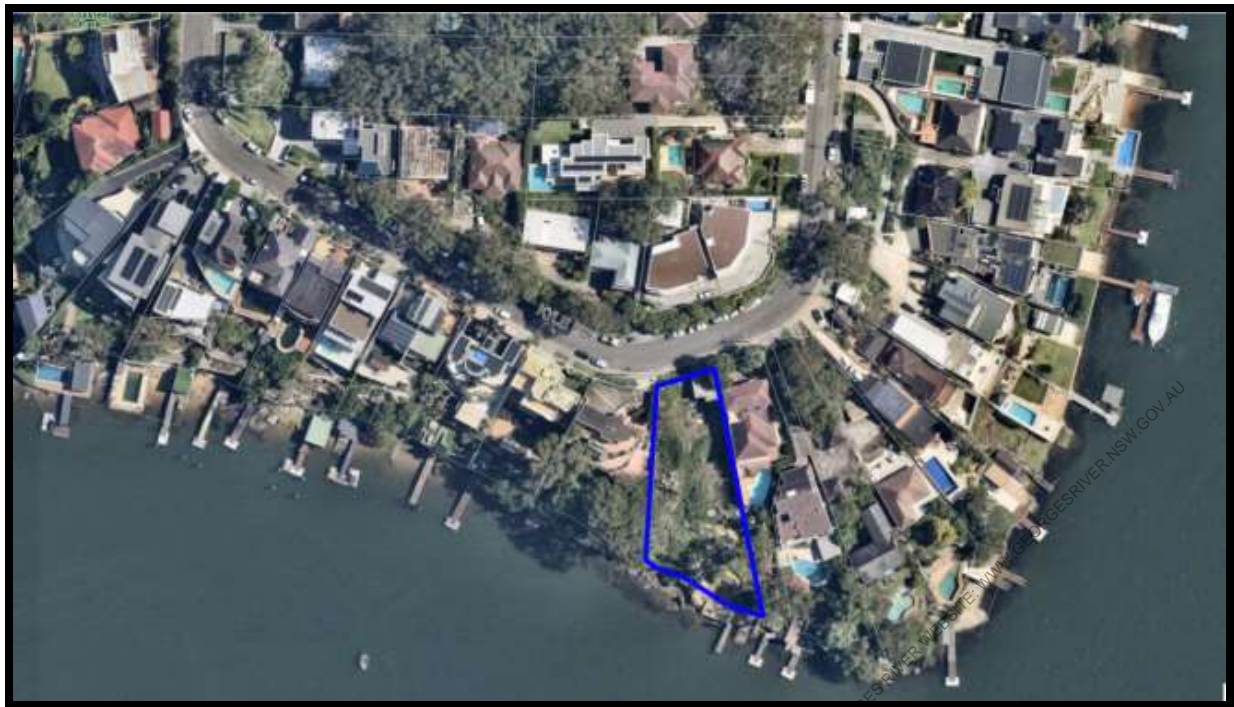
**Figure 3** - Photograph from subject site looking towards the Georges River with rear of existing garages shown in foreground and rear of adjoining dwelling at 115 Kyle Parade in background. (Council's Site Inspection).



**Figure 4** - Photograph from subject site looking towards the Georges River showing the rear of adjoining dwelling at 119 Kyle Parade stepping down slope towards the water. (Council's Site Inspection).

25. The site is zoned R2 – Low Density Residential under the Georges River Environmental Plan 2021 (GRLEP 2021).





**Figure 5** - Aerial View of subject site marked in red showing adjoining dwellings. (Near Maps, 2024)

## BACKGROUND

26. A history of the development site and current proposal is as follows:

- Development consent DA2001/461 was granted by Kogarah Council on 11 February 2002 with the notice of determination issued on 15 February 2002 for *the demolition of the existing dwelling house and construction of a new dwelling house, swimming pool and front fence* at 117 Kyle Parade, Kyle Parade.
- Modification Application DA/2001/461/1 was approved on 12 November 2002 with the proposed works described as *several internal modifications, the replacement of external staircases, inclusion of glazed windows, the garbage room height reduced, lowering of the pool area and revised western bedroom wing façade to face brick*.
- Development commenced under Construction Certificate CC/2001/461, issued by Sargeant's Property Inspections Pty Ltd a Private Certifier acting as the Principal Certifying Authority on 24 December 2002. The Construction Certificate as approved for excavation only. Works onsite resulted in the original dwelling being demolished, and site excavation works being commenced in January 2003.
- Council undertook a site inspection on 7 February 2003 following a complaint being received stating trees were being damaged. The inspection revealed that the excavation material had been placed against remaining trees marked to be retained. A fine was issued for development not carried out in accordance with consent.
- On 19 February 2003 a further complaint was received that excavated material and building debris was being pushed into the Georges River. Council issued fines, stop work order and clean up notice.
- On 21 February 2003 Council Officers met with owner Mr Lowe and verbally directed him to remove the building debris from around the trees and foreshore. Council Officers explained to Mr Lowe that the works undertaken needed development consent and owners' consent from Department of Land and Water Conservation. Council also intended to issue a clean-up notice to Mr Lowe.
- In late February Mr Lowe commenced removal of the debris but over excavated the site and proceeded to build gabion retaining walls without consent.
- On 6 March 2003 a further complaint was received from the neighbour concerning the works.

- On 7 March 2003 the PCA for the CC was contacted who advised that he found the works were consistent with the development consent.
- On 21 March & 31 March 2003 Council received more complaints from neighbours concerning ongoing works.
- 21 March 2003 a modification application DA/2001/461/2 was lodged with Council to amend the approval, but the modification application made no mention of the retaining walls or earth works.
- On 3 April 2003 Council Officers attended the site and found further unauthorised works had been undertaken including a 3.9m gabion retaining wall.
- On 24 April 2003 Council Officers met with Mr Lowe who advised that all the works were consistent with the approval, and he would be getting engineering drawings to substantiate his claims.
- On 29 April 2003 Department of Land and Water and NSW Fisheries were notified and advised of the unauthorised works on Crown Land and below the mean high-water mark. NSW Fisheries subsequently issued a clean up notice due to the potential impact on aquatic/marine environment.
- On 29 May 2003 Department of Land and Water advised that owner's consent would not be issued and that all fill on Crown Land and below the mean high-water mark had to be removed.
- On 6 June 2003 a Notice was served by Council on Mr Lowe requiring him to demolish and remove the unauthorised retaining walls and fill from the site.
- On 30 October 2003 Council issued an order to remove fill and excavation material from southern boundary, remove unauthorised gabion and dry stacked retaining walls erected on top of rock ledge adjacent to southern boundary.
- Modification Application DA/2001/461/2 was approved at a Council meeting held on 27 October 2003 with the proposed works including *internal layout changes, modify the shape of the swimming pool, addition of stairs to the internal courtyard, driveway and garage levels modified, modify glazing sill heights, relocate waste area and addition of concrete awnings for weather protection.*
- Modification Application DA/2001/461/3 was refused on 22 March 2004 with the proposed works including *reconstruction of sandstone retaining walls, gabion walls and revised landscape plan.*
- On 5 May 2004 the applicant appealed the refusal to the Land and Environment Court and the matter was listed for hearing on 26 October 2004. Commissioner Murrell ordered the applicant to submit a new DA to Council for the works as it fell outside the scope of a modification application.
- On 27 November 2003 the property owner filed an appeal in the Land and Environment Court against the order that was subsequently discontinued.
- Development Consent DA/2004/603 was approved on 13 December 2004 and became operational on 15 December 2004 for *construction of retaining walls and landscaping.*
- Construction Certificate CC/2004/603 was approved on 2 December 2006.
- The current application is Modification Application MOD2022/0186 which proposes a fourth modification to DA/2001/461 (and related modifications) relating to the *demolition of existing dwelling house and construction of a new dwelling house, swimming pool and front fence.* The modification includes *reconfiguration of the floor plates, changes to openings and awnings, landscaping amendments and the inclusion of a lift.*

- On 4 August 2022 Councils Tree Compliance Officer inspected the premises in response to a complaint from neighbours. The Officer observed that two (2) mature Eucalyptus Pilularis species had been illegally cut down with the tree remains left onsite. The tree removal works occurred during the property settlement period therefore making it challenging to identify the offender. Council as part of the investigation made relevant enquiries to the vendor, purchaser and three (3) neighbouring properties with all parties involved in the investigation unable to provide Council with any information or evidence that may be able to assist in the investigation. The new owners of the premises made arrangements to remove the tree remains in November 2022. No action be taken due to Council being unable to identify the offender of the illegal tree removal works. The landscape plan for the subject site submitted with MOD2022/0186 proposed 5 x Eucalyptus Haemastoma as compensatory planting.
- Construction Certificate CC2022/0241 was also lodged on 9 December 2022.
- Internal and external referrals sent on 9 December 2022
- First Neighbour Notification 22 December 2022 until 19 January 2023.
- Assessing officer resigned from Council 23 March 2023.
- Application assigned to new assessing officer 27 April 2023.
- Council's Assessing Officer conducted a site inspection on 19 July 2023.
- Currently located on the site are several dilapidated structures including a garage fronting Kyle Parade, a boat shed at the rear and old stairs. There are also sandstone blocks and other remnants arising from the demolition of the previous dwelling including a shipping container.
- Request for Further Information sent 16 October 2023 asking the applicants to address:
  - Floor Space Ratio – proposal appears to exceed the approved floor space ratio.
  - Shadow Diagrams - appear to be inaccurate.
  - Glare from Roof top Glazing elements.
  - Details of proposed Letter Box - design and location.
  - Inadequate deep soil for proposed Queensland Bottle Tree.
  - Privacy/Overlooking.
  - Detailed View Impact Analysis.
  - Elements of the Architectural Plans appear unclear of inconsistent.
- Amended Plans and documentation received 1 December 2023.
- Second Neighbour Notification 7 December 2023 until 21 December 2023.
- Another set of amended plans and documentation received 31 January 2024.
- The latest set of amended plans reflect changes to the design to accommodate the needs and desires of the new owner and to improve amenity outcomes for neighbours especially related to view sharing and privacy.
- Third Neighbour Notification 8 February 2024 until 22 February 2024.

#### SECTION 4.55 ASSESSMENT

27. The Modification Application MOD2022/0241 has been made pursuant to Section 4.55(2) of the *Environmental Planning & Assessment Act 1979* to modify development consent DA/2001/461 (and related modifications) for the *demolition of an existing dwelling house and construction of a new dwelling house, swimming pool and front fence* approved by Kogarah Council on 11 February 2001. The modification includes *reconfiguration of the floor plates, changes to floor levels, changes to openings and awnings, landscaping amendments, the inclusion of a lifts and modifying conditions of consent*.

28. Section 4.55(2) of the *EP&A Act* 1979 enables the consent authority to modify a development consent upon application being sought by the applicant or any person entitled to act on the consent, provided that the consent authority and subject to and in accordance with the regulations, modify the consent if it:
- (a) **It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and**
29. The power to modify a development consent is conditional on the consent authority being satisfied that the proposed modified development is 'substantially the same development' as the originally approved development. The '*substantially the same*' test is a threshold test that must be met before the modification can be dealt with on its merits. In applying the '*substantially the same*' test, the focus is on 'the development'. A comparison must be made between the development as modified and the development as originally granted (*Scrap Realty Pty Limited v Botany Bay City Council* [2008] NSWLEC 333 [16]).
30. The result of the comparison must be a finding that the modified development is 'essentially' or 'materially' the same as the approved development (*Moto Projects (No 2) at 309; Vacik Pty Ltd v Penrith City Council* [1992] NSWLEC 8).
31. A qualitative and quantitative comparison is required. However, differences in qualitative and quantitative effects do not necessarily mean that the character of a development is changed in a material respect (*Davi Development v Leichardt Council* (2007) NSWLEC 106).
32. In the present case, when the proposed modification works are compared between:
- the originally approved development as modified; and
  - the proposed modified development, it would be reasonable to conclude that the proposed modified development is substantially the same as the original development and as such satisfies the 'substantially the same development test'.
33. In the case of the proposal:
- The approved land use remains the same and there is no increase in the intensity of use on-site.
  - The height of the proposed modified dwelling reduces by 1.13m going from RL 27.99 to RL 26.86.
  - The gross floor area of the dwelling remains the same.
  - The approved building footprint is to remain similar to what was approved.
  - The floor levels change slightly to create 3 levels instead of 6 remaining consistent with what was approved.
  - Setbacks remain as approved or are increased slightly.
  - Car parking increases from 4 to 5 spaces.
34. The proposed development as modified would represent substantially the same development for which consent was originally granted being for the demolition of the existing dwelling house and construction of a new dwelling house, swimming pool and front fence.

- (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**
35. The Department of Land and Water Conservation issued a Part 3A permit under the Water Management Act 2000 and the conditions were included in the development consent when the approval was issued in February 2002. The planning policy has since changed and works related to dwellings situated on waterfront land now no longer require a Controlled Activity Approval. The Water Management (General) Regulation 2018 now specifies at Schedule 4 Exemptions, Part 2 Controlled activities exemptions, clause 29 a number of exemptions to Controlled Activity Approvals for dwellings where a development consent is in force under the Environmental Planning and Assessment Act.
36. A referral was sent to Department of Planning and Environment – Water Licensing but no response was received. The conditions of consent based on the general terms of approval (GTA) remain unchanged by this modification.
37. Ausgrid was consulted in relation to the current modification application and raised no issues.

**It has notified the application in accordance with—**

- (i) the regulations, if the regulations so require, or
38. The application was neighbour notified in accordance with the regulations and resulted in the following:
- First notification period - three (3) submissions of objection with one (1) subsequently withdrawn.
  - Second notification period - three (3) submissions of objection with one (1) subsequently withdrawn.
  - Third notification period – two (2) submissions of support one of which withdraws their earlier two (2) objections submitted to the first and second notifications periods.
- (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
39. The application was neighbour notified in accordance with the provisions of Georges River Development Control Plan 2021 and the Community Participation Plan which as stated above resulted in the following:
- First notification period - three (3) submissions of objection with one (1) subsequently withdrawn.
  - Second notification period - three (3) submissions of objection with one (1) subsequently withdrawn.
  - Third notification period – two (2) submissions of support one of which withdraws their earlier two (2) objections submitted to the first and second notifications periods.

- (c) **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.**

40. The submissions received during the three (3) notification periods were considered in the assessment of the proposed modification and are discussed below under the Submissions section of this report.

#### **SECTION 4.15 ASSESSMENT**

41. 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.
42. 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)**

43. Compliance with the relevant State Environmental Planning Policies is summarised in the following table and discussed in further detail below.

<b>State Environmental Planning Policy Title</b>	<b>Complies</b>
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 (BASIX) 2004	N/A

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

44. 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**

45. 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.
46. 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).*

47. The applicant is not proposing the removal of any trees. All significant vegetation on site has been removed prior to the current owner taking possession of the property. The proposed landscape plan proposes compensatory planting of five (5) x *eucalyptus haemastoma* and two (2) x *eucalyptus piperita* trees at the rear of the site and 3 x cabbage-tree palms (*Livingstonia australis*) and 1 x Queensland Bottle Tree (*Brachychiton rupestris*) forward of the building line. It is considered that the proposal satisfies the requirements of this Chapter.

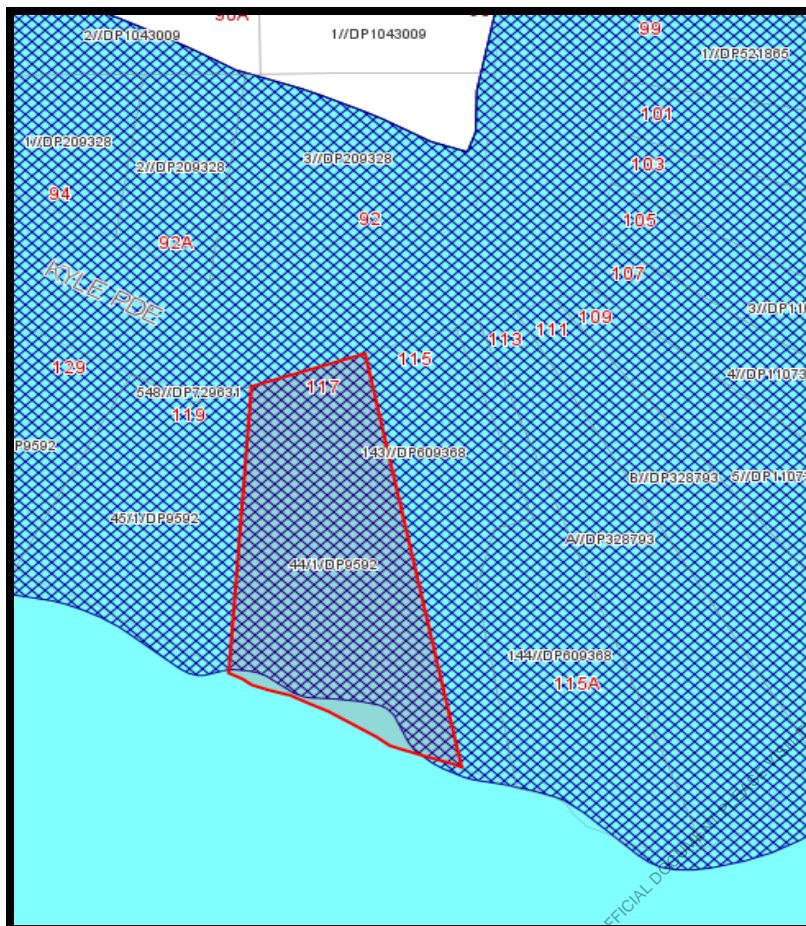
#### Chapter 6 – Water Catchments

48. The principles of Chapter 6 - Water Catchments apply when a consent authority determines a development application in the Georges River Catchment. The proposal is considered against the relevant aims and objectives of this Chapter shown below:
- *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.*
49. The stormwater design has been reviewed by Council's Development Engineer. No objection was raised with respect to the proposed method of management and disposal of stormwater.
50. The proposal is satisfactory having regard to the relevant requirements of Chapter 6 - Water Catchments as it relates to the Georges River Catchment.

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

51. Chapter 2 and Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 are relevant to the proposal.
52. Chapter 2 - Coastal Management 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".
53. The subject site is mapped as Coastal Zone and comprises the following two coastal management areas - Coastal Environment Area and Coastal Use Area.





**Figure 6** - The map shows the development site is mapped as part of the Coastal Zone – Coastal Environment Area and Coastal Use Area (Intramaps 2023)

54. Both clause 2.10 Coastal environment area and clause 2.11 Coastal use area in the SEPP state that development consent must not be granted unless a consent authority has considered whether the proposed development will cause an adverse impact on the range of relevant matters listed for consideration. As this is a modification application and development consent has already been granted these requirements are not relevant to the application. It should be noted however that regardless of the relevancy of these clauses the proposal is consistent with both the requirements and the intent of the Chapter and is unlikely to cause any undue impacts in the coastal zone.

Division 3 Coastal Area	Proposal	Complies
<b>2.10 (1) Development on land within the coastal environment area</b>		
(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 water runoff is to be satisfactorily managed in accordance with the approved	Yes

(surface and groundwater) and ecological environment,	stormwater management plan. The proposal is satisfactory subject to the conditions in place.	
(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 as a result of the amendments.	Yes
(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,	The site is not located on any of the sensitive coastal lakes identified in Schedule 1. The proposed modification will not negatively impact water quality.	Yes
(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 this site.	Yes
(f) Aboriginal cultural heritage, practices and places,	The allotment is not a known 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 proposed modification 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 will not unduly impact upon a mapped Coastal Environment area and a Coastal Use area.	Yes

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact	The development will not unduly impact upon a mapped Coastal Environment area and a Coastal Use area.	Yes
<b>Division 4 Coastal Use Area</b>		
<b>2.11 Development on land within the coastal use area</b>		
(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 known 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 and is not inconsistent with the approved development scale and form.	Yes

55. Chapter 4 – Remediation of Land 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.

56. Clause 4.6 requires contamination and remediation to be considered in the assessment and determination of a development application. As this is a modification application and development consent has already been granted these requirements are not relevant to the application.
57. It should be noted however that regardless of the relevancy of this clause the site has a history of residential uses and is unlikely to be contaminated and is therefore suitable for continued residential development.

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

58. SEPP (Transport and Infrastructure) 2021 Chapter 2, Subdivision 2 - Development likely to affect an electricity transmission or distribution network, requires consultation with Ausgrid prior to determination a development application. Again, as this is a modification application and development consent has already been granted these requirements are not relevant to the application. Ausgrid was however consulted and raised no objection to the proposed development and did not require any new conditions be imposed.

#### **State Environmental Planning Policy (Industry and Employment) 2021**

59. SEPP (Industry and Employment) 2021 has been consideration through the assessment of this development application. It has been concluded that the above SEPP is not relevant to the proposed development.

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

60. DA2001/41 was approved on 15 February 2002 two years before the commencement of the SEPP BASIX on 1 July 2004. The current modification application does not trigger the need for a BASIX certificate.

#### **Georges River Local Environmental Plan 2021**

61. The subject site is zoned R2 – Low Density Residential under the Georges River Local Environmental Plan 2021 (GRLEP 2021).

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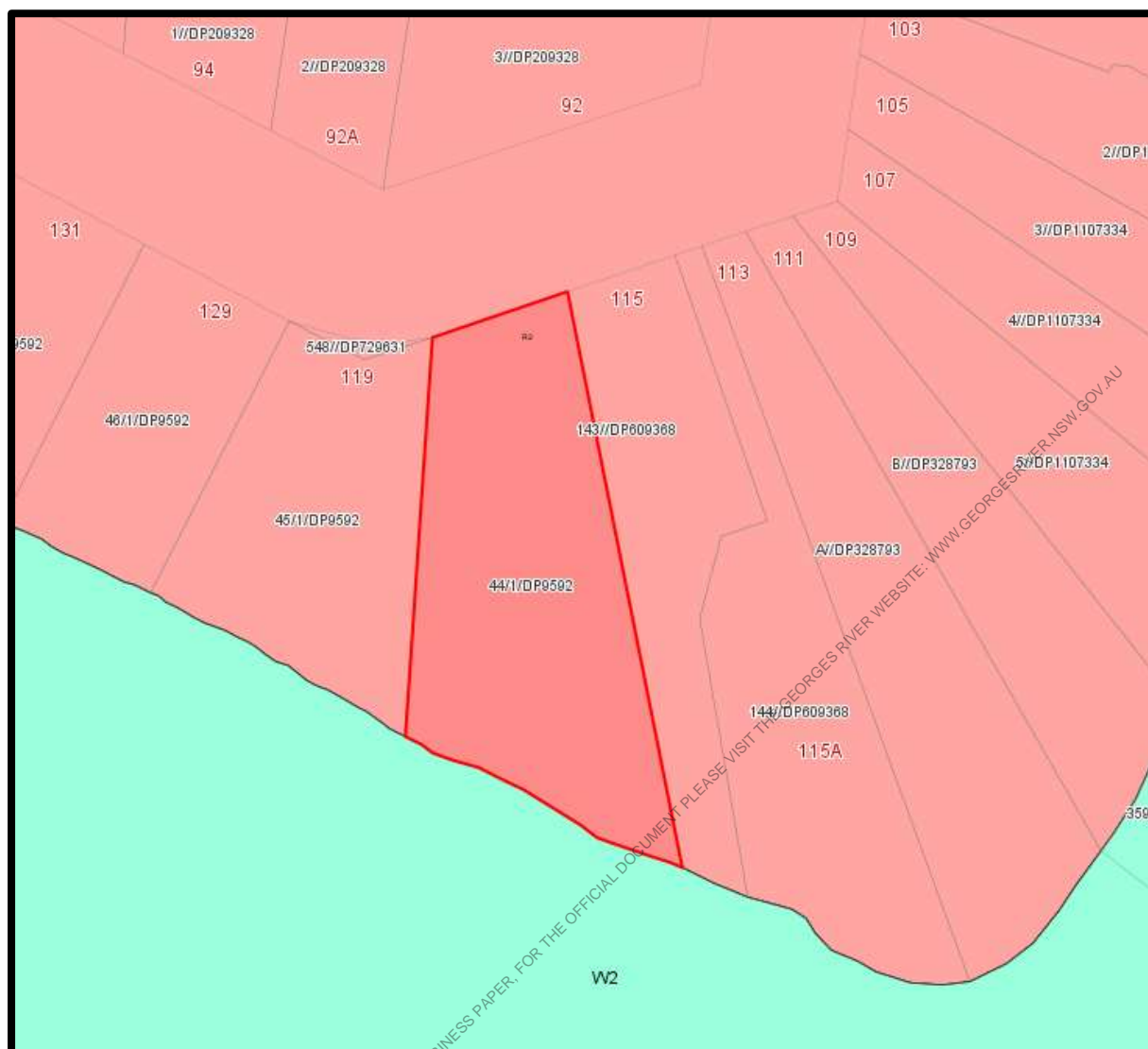


Figure 7 - GRLEP 2021- Land Zoning Map – site outlined in red (Intramaps, 2023)

62. An assessment against the requirements of the GLEP is detailed in the table below.

Clause	Standard	Proposed	Complies
<b>Part 1 – Preliminary</b>			
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	The development is consistent with the aims of the plan.	Yes
1.4 - Definitions	Dwelling House means: <i>a building containing only one dwelling.</i>	The proposed development is consistent with the definition of dwelling house.	Yes
<b>Part 2 - Permitted or prohibited development</b>			
2.3 - Zone objectives and Land Use Table	Meets objectives of R2- Low Density Residential Zone.	The proposal meets objectives 1,3 and 4 of the R2 zone.	Yes
	Development permissible with development consent	The proposal was a permissible land use when originally approved under	Yes

		Kogarah Local Environment Plan 1998 and remains a permissible land use in the R2 zone with development consent.	
<b>Part 4 - Principal Development Standards</b>			
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	The proposal was approved with a maximum building height of 11m. The modification seeks approval for a slightly reduced maximum overall height of 10.8m.	No, the proposal exceeds the current LEP maximum height of building limit but is lower than what was previously approved so is considered to be acceptable. As it is a modification application no Clause 4.6 Exception to Development Standard request is required to be submitted with the application despite the non-compliance with a 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	(2) The maximum floor space ratio for a dwelling house on land identified as “Area 1” on the <u>Floor Space Ratio</u>	Permissible FSR- 578.2sqm or 0.349:1.  The proposed development has a	No, the proposal exceeds the current LEP maximum

accommodation	<p><u>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"> <li>Maximum floor space ratio less than 650 square metres 0.55:1</li> <li>more than 1,000 square metres but not less than 650 square metres <math>[(\text{lot area} - 650) \times 0.3 + 357.5] \div \text{lot area}:1</math></li> <li>more than 1,000 square metres but not less than 1,500 square metres <math>[(\text{lot area} - 1,000) \times 0.2 + 462.5] \div \text{lot area}:1</math></li> <li>more than 1,500 square metres <math>[(\text{lot area} - 1,500) \times 0.1 + 562.5] \div \text{lot area}:1</math></li> </ul> <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 -1657sqm</p> <p>Floor space ratio 0.504:1 or 835sqm</p>	total FSR of 835sqm or 0.504:1.	<p>floor space ratio limit but is consistent with what was previously approved so is considered to be acceptable. As it is a modification application no Clause 4.6 Exception to Development Standards request is required to be submitted with the application despite the non-compliance with a development standard.</p>
4.6 – Exceptions to development standards	In accordance with Clause 4.6 (1) through to and including (8)	The proposal is seeking to vary two development standards but a request having regard to clause 4.6 is not required as the application is a modification.	N/A
<b>Part 5 - Miscellaneous Provisions</b>			

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 is a modification application, no works are proposed below the Mean High Water Mark.	Yes
5.10 – Heritage conservation	In accordance with Clause 5.10 (2)	The site is not a heritage item and not located within the vicinity of a heritage item. The site is not in 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 land is not mapped as being bush fire prone.	N/A
<b>Part 6 - Additional Local Provisions</b>			
6.1 – Acid sulphate soils	(2) for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulphate Soils Map as being of the class specified for those works.  <b>Class 5:</b> Works within 100 metres of adjacent Class 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 2, 3 or 4 land.	The proposal is a modification application.  The subject site is located in an Acid Sulphate Soils Area - Class 5 and the proposed works are more than 100m from the closest Class 1 Acid Sulphate Soils Area. An Acid Sulphate Soil Management Plan is not required.	Yes
6.2– Earthworks	(2) <b>Development consent</b> is required for earthworks unless— (a) the earthworks are exempt development under this Plan or another applicable	The proposal is a modification application.  The proposed earthworks are ancillary to the	Yes



	<p>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>	<p>proposed development and are not inconsistent with the approval in place, therefore the works are considered acceptable.</p>	
6.3 – Stormwater Management	<p>(2) <b>In deciding whether to grant development consent</b> 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</p>	<p>The proposal is for a modification application.</p> <p>Council's Development Engineer has reviewed the proposed modification application from a stormwater management perspective and is supportive of the application raising no issues to modified proposal.</p>	Yes

	on public drainage systems.		
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 <a href="#">Coastal Hazard and Risk Map</a>,</p> <p>(b) land identified on the <a href="#">Foreshore Building Line Map</a>.</p> <p>(3) <b>Development consent must not be granted</b> 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 <a href="#">Coastal Hazard and Risk Map</a>,</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</p>	<p>The site is not located within an area mapped as Coastal Hazards and Risk.</p> <p>The site is mapped as affected by a 30m Foreshore Building Line.</p> <p>The proposal is a modification application.</p> <p>The dwelling will remain behind the foreshore building line consistent with the existing approval and will not undermine the criterion of this clause.</p>	<p>N/A</p> <p>Yes</p>

	<p>the impacts of sea level rise and tidal inundation as a result of climate change,</p> <p>(b) whether the development could be located on parts of the site not exposed to coastal hazards,</p> <p>(c) whether the development will cause congestion or generate conflict between people using open space areas or the waterway,</p> <p>(d) whether the development will cause environmental harm by pollution or siltation of the waterway,</p> <p>(e) opportunities to provide reasonable, continuous public access along the foreshore, considering the needs of property owners,</p> <p>(f) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p> <p>(5) In this clause—  <b>foreshore area</b> means the land between the foreshore building line and the mean high water mark of the nearest bay or river.  <b>foreshore building line</b> means the line shown as the foreshore building line on the <a href="#">Foreshore Building Line Map</a>.</p>		
<p><b>6.5 - Riparian land and waterways</b></p>	<p>(2) This clause applies to land identified as “Sensitive land” on the <a href="#">Riparian Lands and Waterways Map</a>.</p> <p>(3) <b>In deciding whether to grant development consent</b></p>	<p>The site is mapped as Riparian Lands and Waterways, the application is a modification application. The modified works do not undermine the criterion of this</p>	<p>Yes</p>

	<p>for development on land to which this clause applies, the consent authority must consider the following—</p> <p>(a) whether the development is likely to have an adverse impact on the following—</p> <p>(i) the water quality and flows within the waterway,</p> <p>(ii) the stability of the bed, shore and banks of the waterway,</p> <p>(iii) the future rehabilitation of the waterway and riparian areas,</p> <p>(iv) the biophysical, hydrological or ecological integrity of adjacent coastal wetlands, including the aquatic and riparian species, habitats and ecosystems of the waterway,</p> <p>(v) indigenous trees and other vegetation,</p> <p>(vi) opportunities for additional planting of local native riparian vegetation,</p> <p>(b) whether the development is likely to increase water extraction from the waterway,</p> <p>(c) whether the development will cause environmental harm by pollution or siltation of the waterway,</p> <p>(d) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p> <p>(4) <b>Development consent must not be granted</b> to development on land to which this</p>	<p>clause, protecting the natural environment.</p> <p>The application will result in a positive environmental outcome given the planting of additional trees within the site.</p>	
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	<p>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 managed to mitigate that impact.</p>		
<p><b>6.6 - Foreshore scenic protection area</b></p>	<p>(2) This clause applies to land identified as “Foreshore scenic protection area” on the Foreshore Scenic Protection Area Map.</p> <p>(3) <b>In deciding whether to grant development consent</b> 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</p>	<p>The site is within the mapped Foreshore Scenic Protection Area, the application is a modification application and the setbacks approved are largely maintained, the modifications have resulted in a few locations where the setbacks have increased.</p>	<p>Yes</p>

	<p>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>		
<b>6.9 Essential Services</b>	<p><b>Development consent must not be granted</b> 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> <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>The proposal is for a modification application, it has been demonstrated the site can be serviced and drained in accordance with this criterion.</p>	Yes

	(f) suitable vehicular access.		
<b>6.10 - Design excellence</b>	<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><b>(a) land identified on the <u>Foreshore Scenic Protection Area Map</u> if the development is for one or more of the following purposes—</b></p> <p>(i) bed and breakfast accommodation,</p> <p>(ii) health services facilities,</p> <p>(iii) marinas,</p> <p><b>(iv) residential accommodation, except for secondary dwellings,</b></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>The site is within the mapped Foreshore Scenic Protection Area, and the proposal is for a type for residential accommodation, the modification sought is not inconsistent with the approval in place.</p>	Yes

	<p>(v) Zone B4 Mixed Use, (vi) Zone B6 Enterprise Corridor, (vii) Zone IN2 Light Industrial.</p> <p>(4) <b>Development consent must not be granted</b> 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 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)</p>		
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	<p>on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,</p> <p>(v) bulk, massing and modulation of buildings,</p> <p>(vi) street frontage heights,</p> <p>(vii) environmental impacts such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,</p> <p>(viii) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of pedestrian networks,</p> <p>(ix) the impact on, and proposed improvements to, the public domain,</p> <p>(x) achieving appropriate interfaces at ground level between the building and the public domain,</p> <p>(xi) excellence and 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>		
<b>6.12 - Landscaped areas in certain</b>	(2) This clause applies to land in the following zones—	The site is zoned R2 Low Density Residential and is mapped as within the	Yes

<p><b>residential and environment protection zones</b></p>	<p>(a) <b>Zone R2 Low Density Residential</b>,  (b) Zone R3 Medium Density Residential,  (c) Zone R4 High Density Residential,  (d) Zone E2 Environmental Conservation.  (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.  (4) <b>Development consent must not be granted</b> to development on land to which the clause applies unless the consent authority is satisfied that the development—  (a) allows for the establishment of appropriate plantings—  (i) that are of a scale and density commensurate with the height, bulk and scale of the buildings to which the development relates, and  (ii) that will maintain and enhance the streetscape and the desired future character of the locality, and  (b) maintains privacy between dwellings, and  (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  (d) enables the establishment of indigenous vegetation</p>	<p>Foreshore Scenic Protection Area, as a result 25% of the site is to be landscaping. The landscaped area proposed exceeds 25%.</p>	
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	<p>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>(b) for a dwelling house located on land within the Foreshore Scenic Protection Area—25% of the site area, or</b></p> <p>(c) for a dual occupancy located on land outside the Foreshore Scenic Protection Area—25% of the site area, or</p> <p>(d) for a dual occupancy located on land within the Foreshore Scenic Protection Area—30% of the site area, or</p> <p>(e) for development in Zone R3 Medium Density Residential—20% of the site area, or</p> <p>(f) for development in Zone R4 High Density Residential—10% of the site area, or</p> <p>(g) for development in Zone E2 Environmental Conservation—70% of the site area.</p>		
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	<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—  <b><i>Foreshore Scenic Protection Area</i></b> means land shown on the <u>Foreshore Scenic Protection Area Map</u>.</p>		
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## Georges River Local Environmental Plan 2021

### Clause 4.6 - Variation to Height of Buildings Assessment

63. The existing approval was issued under an earlier Local Environmental Plan. The approved design has a height of 11m which exceeds the current height limit of 9m. The proposed modification will result in the dwelling having a maximum height of 10.8m that still exceeds the current building height limit. 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 4.3 – Height of Buildings

64. Georges River Local Environmental Plan 2021 (GRLEP 2021) commenced on 8 October 2021 but the initial development consent was issued under a far earlier planning instrument being Kogarah Local Environmental Plan 1998.
65. The proposed modifications to the approved development seek to decrease the approved maximum height by 200mm from 11m to 10.8m, which still results in a 20% variation to Clause 4.3 height limit of GRLEP 2021 development standard.
66. 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 height of buildings development standard and the zone objectives.
67. **4.3 Height of buildings**
- (1) *The objectives of this clause 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.*

68. The proposed development is considered to be consistent with the height of building objectives in that it proposes a height, bulk and scaler consistent with adjoining developments in the locality. The proposed modification will not cause undue amenity impacts for neighbours and is consistent with the existing approval. Whilst the building exceeds the 9m height limit it presents as a single storey from the road.
69. Objectives of the R2 Low Density Residential Zone
- *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.*
70. The proposed modification is considered to be consistent with the zone objectives in that provides for the housing needs of the community. It also provides a high standard of urban design and will afford a high level of residential amenity that will enhance the existing environmental character of the locality.
71. The proposed modification will not alter the developments' ability to be consistent with the R2 zone objectives in comparison to the previously approved development. The building will continue to remain consistent with development anticipated for the R2 zone in terms of the urban design response and neighbourhood amenity.
72. The proposed modifications improve the design quality through an updated design response that is an improvement on the development consent granted. The maximum height of the building is slightly lower overall than the existing approval and continues to be acceptable in terms of its scale and built form and the relationship of the adjoining development.
73. Despite the non-compliance in terms of the height, the proposal is considered to be acceptable. The additional 20% of height over the 9m height limit is considered acceptable and will not create any adverse environmental or amenity impacts.
74. The proposed development satisfies the objectives of the height of buildings control and the zone objectives and is therefore considered to be in the public interest.

#### **Clause 4.6 - Variation to Floor Space Ratio Assessment**

75. The existing approval was issued under an earlier Local Environmental Plan. The approved design has a floor space ratio which exceeds the current control applicable to the site of 0.349:1. The proposed modification will result in the dwelling having a floor space ratio of 0.504:1 which exceeds the current floor space ratio limit. 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**

76. Georges River Local Environmental Plan 2021 (GRLEP 2021) commenced on 8 October 2021, but the initial development consent was issued under a far earlier planning instrument being Kogarah Local Environmental Plan 1998. The approved floor space ratio is 0.504:1 and the current control applicable to the site is 0.349:1. The proposed modifications seek to maintain the gross floor approved under the existing approval resulting in the development exceeding the current maximum permitted floor space ratio by 44.4%.
77. 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.
78. The objectives of floor space ratio outlined under GRLEP 2021 are outlined below.

**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.*

79. The proposed development is considered to be consistent with the floor space ratio objectives in that it proposes a height, bulk and scale consistent with adjoining developments in the locality. The proposed modification will afford an appropriate built form transition with adjoining development. The proposal offers an acceptable design solution having regard to the environmental constraints of the site and the landscape qualities of the locality. The modified proposal will not cause undue amenity impacts for neighbours and to the public domain and is consistent with the existing approval. Whilst the building exceeds the floor space ratio limit it will not exceed the infrastructure availability in the area or the capacity of the road network due to pedestrian and vehicular traffic.

## 80. Objectives of the R2 Low Density Residential Zone

- 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.

81. The proposed modification is considered to be consistent with the zone objectives in that provides for the housing needs of the community. It also provides a high standard of urban design and will afford a high level of residential amenity that will enhance the existing environmental character of the locality.

82. The proposed modification will not alter the developments' ability to be consistent with the R2 zone objectives in comparison to the previously approved development. The building will continue to remain consistent with development anticipated for the R2 zone in terms of the urban design response and neighbourhood amenity.

83. The proposed modifications improve the design quality through an updated design response that is an improvement on the development consent granted. The floor space ratio of the building equal to the existing approval and continues to be acceptable in terms of its scale and built form and the relationship of the adjoining development.

84. Despite the non-compliance in terms of the floor space, the proposal is considered to be acceptable. The additional 44.4% of floor area over the applicable floor space ratio is considered acceptable and will not create any adverse environmental or amenity impacts.

85. 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**

86. 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 3 – General Planning Considerations**

<b>3.3 Landscaping</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
1. Landscaping on site should be incorporated into the site planning of a development to (where appropriate): i. Reinforce the desired future character of the locality;	The landscape scheme proposed addresses the matters identified and is considered to be an appropriate response for the site in this location.	Yes

<ul style="list-style-type: none"> <li>ii. Maintain significant landscape features;</li> <li>iii. Be consistent with any dominant species in the adjoining area of ecological significance;</li> <li>iv. Incorporate fire resistant species in areas susceptible to bushfire hazard;</li> <li>v. Provide planting within setback zones;</li> <li>vi. Soften the visual impact of buildings, carparks and roads;</li> <li>vii. Cater for outdoor recreation areas;</li> <li>viii. Separate conflicting uses;</li> <li>ix. Screen undesirable elements;</li> <li>x. Provide opportunities for on-site stormwater infiltration, in particular around existing trees and vegetation;</li> <li>xi. Consider the future maintenance requirements of landscaped areas;</li> <li>xii. Protect the effective functioning of overhead, surface level or underground utilities; and</li> <li>xiii. Improve the aesthetic quality of the development.</li> </ul>		
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.	Yes
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.	Yes
<b>3.10 Water Management</b>		
<b>Stormwater Management</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
1. Development must comply with Council's Stormwater Management Policy.  2. Water Sensitive Urban Design (WSUD) principles are to be incorporated into the design of	The proposal has been reviewed by Council's Development Engineer and found to be satisfactory.	Yes



stormwater drainage, on -site retention and detention, landscaping and within the overall design of the development.		
<b>3.14 Utilities</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
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.	The location of the proposed air conditioning units is within the pool equipment storage areas located below the pool. This location ensures that negative impacts on adjoining land uses is mitigated.	Yes

## Part 5 Residential Locality Statements

### 5.16 Connells Point and Kyle Bay Locality Statement

<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
Future Desired Character <ul style="list-style-type: none"> <li>Retain and enhance the prominence of the bushland landscaped character in new development through tree planting and landscaping.</li> <li>Encourage tree planting and landscaping within the front setback space to enhance the existing leafy streetscape character.</li> <li>Encourage the retention of trees and sharing of water views wherever possible, including screening via vegetation rather than solid walls.</li> <li>Public views to waterways should be retained from streets and public places.</li> </ul>	Proposed modification is not inconsistent with the Future Desired Character of Kyle Bay.  The proposed modification to the approved dwelling and ancillary development includes extensive landscaping.  The proposed development does not unreasonably impact upon the amenity and view corridors of neighbouring public and private properties.	Yes

## Part 6.1 – Low Density Residential Controls

### 6.1.2 Single Dwellings

<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
1. New buildings and additions are to consider the Desired Future Character statement in Part 5 of this DCP.	The proposed modified dwelling appropriately responds to the desired future character of the locality.	Yes
		Yes

Control	Proposal	Compliance
2. New buildings and additions are to be designed with an articulated front façade.	The front façade incorporates sufficient building articulation through a stepped design, the use of different materials to create visual interest.	Yes
3. Developments on sites with two (2) or more frontages are to address all frontages.	The subject site only has 1 frontage – Kyle Parade.	Yes
4. Dwelling houses are to have windows presenting to the street from a habitable room to encourage passive surveillance.	The design of the proposed modifications to the dwelling incorporates a living room with windows which look towards the street in the front elevation to assist with passive surveillance of the street.	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 amendments do not unreasonably impact upon the amenity and view corridors of neighbouring public and private properties. Reasonable amenity for both the future occupants of the proposal and the adjoining property owners is achieved via the modified design, and the privacy measures that have been put into place.	No but acceptable based on the existing approval.
6. The maximum size of voids at the first-floor level should be a cumulative total of 15m <sup>2</sup> (excluding voids associated with internal stairs).	There are two substantial voids proposed being 47.58m <sup>2</sup> and 25.44m <sup>2</sup> , totalling 73.02m <sup>2</sup> . The existing approval had 3 voids of 68m <sup>2</sup> , 14m <sup>2</sup> and 2.5m <sup>2</sup> , totalling 84.5m <sup>2</sup> . The new proposed voids fail to comply with the current control but represent a reduction from the approved design so are considered to be acceptable given the approval in place	Yes
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 proposed modified design is similar to the existing approved dwelling house and is an acceptable response to the topography of the site. The existing approval exceeds the current planning controls development standards relating to height and FSR. The	Yes

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Control	Proposal	Compliance
<p>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.</p> <p>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.</p> <p>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<sup>2</sup> for storage and 20m<sup>2</sup> for plant rooms. Additional basement area to that required to satisfy these</p>	<p>proposed modification is of similar dimensions to that approved, which is consistent with the scale of the existing buildings within the neighbourhood.</p> <p>The site falls steeply from Kyle Parade to the Bay. The development is proposed to step down the site over three levels. The approval in place has the dwelling over 6 levels as there are split levels within the three defined levels of the development. This amendment provides consistent levels on each of the three levels of the dwelling and acceptably responds to the site topography.</p> <p>The modified design presents as a mix of 2 and 3 storeys, noting that the approval in place had the floor plans over 6 levels as each of the defined levels was split level. This modification provides consistent levels throughout each defined level of the dwelling and is consistent with the existing approval.</p> <p>The modified design is similar to the existing approval being constructed over three levels cascading down the slope towards the water. The northern edge of the dwelling, below street level, is cut into the earth, these rooms lack windows and facilitate service areas.</p> <p>There is no basement proposed.</p>	<p>Yes</p> <p>No but acceptable based on the existing approval.</p> <p>N/A</p>

Control	Proposal	Compliance
<p>requirements may be included as floor space area when calculating floor space ratio.</p> <p>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.</p>	N/A – no basement car park proposed.	N/A
<p><b>Front Setbacks</b></p> <p>1. The minimum setback from the primary street boundary is:</p> <p>i. 4.5m to the main building wall / facade;</p> <p>ii. 5.5m to the front facade of a garage or carport; or</p> <p>iii. Where the prevailing street setback is greater than the minimum, the average setback of dwellings on adjoining lots is to be applied.</p>	<p>Front Setback to the proposed dwelling facade is 6.8m at the closest point being the garage with the front door setback 11m.</p> <p>The garage is the closest point of the building to the street being setback 6.8m. Whilst garages forward of the front facade is generally undesirable from an urban design and streetscape outcome, it is consistent with the existing approval in place which has the garage setback 5.5m and the front door is setback 15m from the front boundary. This modified application does not increase the extent of non-compliance.</p> <p>The proposal is consistent with adjoining dwelling setbacks.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<p><b>Side and Rear Setbacks</b></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>Allowable Rear Setback - <math>64.16\text{m} \times 0.15 = 9.624\text{m}</math></p> <p>Proposed Rear Setback ranges between 16.274m at the closest point to 32.9m at the furthest point.</p> <p>The existing development pattern is of houses built deep into the site from Kyle Parade,</p>	Yes

Control	Proposal	Compliance
<p>2. The minimum side setbacks for ground and first floor are:</p> <ul style="list-style-type: none"> <li>i. 900mm for lots up to 12.5m in width measured at the front building line for the length of the development.</li> <li>ii. 1.2m for lots greater than 12.5m in width measured at the front building line for the length of the development.</li> <li>iii. 1.5m for all lots within the Foreshore Scenic Protection Area measured at the front building line for the length of the development.</li> </ul> <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>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>	<p>up to the foreshore building line to maximise views and proximity to the Georges River. The proposal is consistent with the prevailing setback configuration in the locality.</p> <p>Require Side Setback is 1.5m as the development site is located within the Foreshore Scenic Protection Area</p> <p>Existing Approved Setback - 1.2m Proposed Side Setback - 1.2m</p> <p>N/A – new dwelling.</p> <p>N/A</p> <p>N/A</p>	<p>No but consistent with existing approval and therefore acceptable.</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>
1. Private open space is to be located at the rear of the property	The proposed design is very similar to the existing approval	Yes

Control	Proposal	Compliance
<p>and/or behind the building line and is to have a minimum area of 60m<sup>2</sup> with minimum dimensions of 6m and located on the same level (not terraced or over rock outcrops).</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>in place, extensive private open space areas at the rear of the dwelling on the southern side taking in the water views are proposed. The private open space proposed is in the form several alfresco terraces over each level accessed internally from the living areas, swimming pool and extensive landscaped yard areas extending down to the Georges River.</p> <p>Compliant private open space provided.</p> <p>Solar access to the private open space area is acceptable given the north south orientation of the property and the fall towards the water.</p> <p>The proposed balcony on the western side has incorporated planter boxes to reduce the risk of amenity or privacy concerns to the adjoining properties.</p>	<p></p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
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 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>The landscape area is compliant with GRLEP 2021 minimum 25% deep soil landscape planting.</p> <p>The development proposes an acceptable landscaped treatment within the front setback.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

Control	Proposal	Compliance
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.	Landscaping within the front setback proposes 3 x cabbage-tree palms ( <i>Livingstonia australis</i> ) and 1 x Queensland Bottle Tree ( <i>Brachychiton rupestris</i> ).	
1. Any excavation must not extend beyond the building footprint, including for any basement car park.	Excavation extends beyond the building footprint at the northern end of the middle level, this is consistent with the existing approval.	No but consistent with existing approval and therefore acceptable.
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.	The proposed depth of cut exceeds 1m for the lower storeys but is consistent with the existing approval.	No but consistent with existing approval and therefore acceptable.
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.	The proposed development steps down the site consistent with the existing approval.	Yes
1. Car parking is to be provided in accordance with the requirements in Part 3 of this DCP.		
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).	Five (5) carparking spaces are proposed within the garage in a stacked arrangement. Two (2) more tandem driveway parking spaces forward of the garage are also available without overhanding the footpath. The proposal is compliant with the relevant carparking requirements.	Yes
3. Driveways, garages and basements should be accessed from a secondary street or rear lane where this is available.	N/A	N/A

Control	Proposal	Compliance
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.	Driveway location doesn't require any street trees to be removed.	Yes
6. The maximum driveway width between the street boundary and the primary building setback alignment of the garage is 4.0m.	Existing approved development has a width of width of 7.25m the proposed modification decreases it to 7.1m.	No but consistent with existing approval and therefore acceptable.
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.	The proposed development is consistent with existing approved development and includes a 'basement' style element associated with the middle floor. The proposal presents as single storey to the street but both the proposed and the existing approved development exceed the LEP height limit as it transitions down the site. This modification seeks a reduction in the height breach approved.	No but consistent with existing approval and therefore acceptable.
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).	The car parking layout and vehicular access arrangements comply with the requirements of Australian Standards AS 2890.1.	Yes
9. The maximum width of a garage opening is 6m.	Existing approved opening is 6.37m and the proposal has a double garage opening of 5.8m and a single garage opening of 2.9m.	No, but acceptable on merit.
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.	The proposed development has removed all windows on the eastern side approved in the existing design. The proposed western elevation has introduced a large window in the master bedroom (ground floor),	Yes



Control	Proposal	Compliance
	bedrooms 5 and 6 (lower ground floor). These windows have fixed louvers to maintain privacy between the proposed development and the neighbours at 119. The louvers are 1.8m high on the ground floor and 1.6m high on the lower ground floor. The louvers will act like highlight windows and when combined with the difference in floor levels between 119 and 117, privacy will be achieved for both allotments.	
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>Balconies Eastern Side Width and Screening</p> <p>Top Existing – No balcony</p> <p>Top Proposed – No balcony</p> <p>Mid Existing – 5m with no screen</p> <p>Mid Proposed – 4.8m with full screening</p> <p>Lower Existing – 6m with partial screen</p> <p>Lower Proposed – 5m partial screen</p>	No but consistent with existing approval therefore acceptable. No additional screening required.
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>Balconies Western side</p> <p>Top Existing – 7.43m with no screening</p> <p>Top Proposed – No balcony</p> <p>Mid Existing - 2.66m with full screening</p> <p>Mid Proposed – 2.0m with partial screening</p> <p>Lower Existing – 1.8m with full screening</p> <p>Lower Proposed – 1.6m with full screening</p>	No but consistent with existing approval therefore acceptable. No additional screening required.
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.	The proposed design is acceptable, a living room is orientated towards the water.	Yes
5. Development applications are to be accompanied by a survey plan or site analysis plan (to AHD) of the proposed dwelling showing the	A detailed survey plan has been submitted with the application.	Yes

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Control	Proposal	Compliance
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.	Complies – plant room proposed adjacent to the pool.	Yes
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.	The water views to the south means most of the living areas are on the southern side. This coupled with a southern orientation of the property makes it difficult to have north facing windows to the primary living spaces. The new design includes a north facing living area at ground level which when included with the generous size of the private open space at the rear achieves a complaint level of solar access.	Yes
2. To facilitate sunlight penetration to adjoining development, building bulk may be required to be articulated to achieve the required sunlight access.	Proposed development has a lot of bulk but is consistent with built form of the existing approval. The style and design is not inconsistent with surrounding development.	No but consistent with existing approval and therefore acceptable.
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.	Solar access to adjoining properties will change from the current situation given the site is currently largely vacant. But the proposed solar access is considered to be acceptable and compliant.	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.	The site has north-south orientation falling steeply from the street (north) to the Georges River (south). The proposal is largely consistent with the existing approval being the dwelling cascading down the site over three defined levels.	Yes
		Yes

Control	Proposal	Compliance
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 provided demonstrating the impact of overshadowing on adjoining properties in the locality is acceptable and compliant levels of solar access are provided.	
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 schedule includes white and other light colours which is consistent with other existing dwellings in the immediate locality and in the Kyle Bay area generally, therefore is considered 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 is sympathetic to the current and desired future streetscape.	Yes
3. Matching buildings in a row should be finished in the same colour or have a tonal relationship.	N/A	N/A
4. All materials and finishes utilised should have low reflectivity.	Materials and finishes have been chosen from a standard colour scheme that includes white and other light colours but is considered to be satisfactory and will not cause undue glare or reflectivity.	Yes
1. All dwellings are to be provided with adequate and practical internal and external storage (garage, garden sheds, etc.).	The proposal provided an extensive amount of internal and external storage for the future occupants of the dwelling.	Yes
2. Provision for water, sewerage and stormwater drainage for the site shall be nominated on the plans to Council's satisfaction.	Water, sewer and stormwater drainage are available and appropriately designed.	Yes
3. Each dwelling must provide adequate space for the storage of	The proposed bin storage location is 8.45m from the front	Yes

Control	Proposal	Compliance
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.	boundary, the existing approval had the bin store forward of the garage just 2.6m from the front boundary.	
4. Letterboxes are to be located on the frontage where the address has been allocated in accordance with Australia Post requirements.	The design and location of the letterbox is satisfactory.	Yes

## Part 6.4 – Ancillary Development

### 6.4.3 Outbuildings

Control	Proposal	Compliance
1. Outbuildings are not to be located within the front building line setback and must be set back a minimum of 900mm from all site boundaries. Windows and glass doors must face into the yard of the subject site or be appropriately treated to reduce visual impacts if facing a neighbouring property.	No outbuildings proposed.	N/A
2. Outbuildings must not be used as a secondary dwelling or dual occupancy.	N/A	N/A
3. Outbuildings must be positioned so they do not overshadow habitable areas or open space of adjoining properties.	N/A	N/A
4. The sum of the floor space of all outbuildings on a site (excluding carports and open structures such as pergolas, awnings and the like) must not exceed 30m <sup>2</sup> .	N/A	N/A
5. The maximum height of outbuildings is 3.5m to the ridge and 2.5m to the underside of the eaves, above existing ground level.	N/A	N/A
6. Landscaped area for single dwellings (as defined in the GRLEP 2021) is to be provided in accordance with the table contained within Clause 6.12 Landscaped areas in certain residential and environmental	25% required exceeded.	Yes

Control	Proposal	Compliance
protection zones of the GRLEP 2021.		
7. The minimum setbacks for garages, gyms, cabanas and sheds are 900mm from all boundaries.	N/A	N/A
8. Outbuildings, other than garages, where located on rear laneways, are to be setback a minimum of 1m from the laneway boundary.	N/A	N/A
9. External finishes and claddings of ancillary structures and outbuildings are to have low reflectivity finishes.	N/A	N/A

#### 6.4.4 Swimming Pools

Control	Proposal	Compliance
1. Swimming pools/spas are to be located to the rear of properties.	Pool is at 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 frontage.	N/A	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 swimming pool is positioned 1.2 metres from the eastern side boundary. The pool will be 1.2m lower than the adjoining neighbours pool area and a submission of support was received from the owners of 115 and is therefore considered acceptable.	No, but acceptable on merit.
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.	The wet edge of the proposed pool is approximately 0.8m above the lower wall of the pool on the eastern side. The lower wall of the pool is 1.35m above the finished ground level. There is landscaping proposed adjacent to the lower wall which will have a mature height of 1 - 2m. The existing approved pool	No but consistent with existing approval and is therefore acceptable.

Control	Proposal	Compliance
<p>5. Swimming pools/spas are to be no more than 500mm above existing ground level.</p> <p>6. On steeply sloping sites, Council may consider allowing the top of the swimming pool at one point or along one side to extend up to 1m above existing ground level, provided that the exposed face of the swimming pool wall 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>includes a wet edge 1.25m above ground level.</p> <p>The proposal and the existing approval have wet edges that exceed 1m above the proposed finished ground level. Landscaping is proposed below the wet edge with a mature height of 1 - 2m. The wet edge will be a significant feature once completed and landscaped so will present well from the waterway.</p> <p>The existing approved pool didn't include any pool decking but did include paved area to the east of the pool approximately 1.4m above finished ground level. There is no pool decking proposed in this modification either, but paving adjacent to the pool within the pool fenced area is proposed adjacent to the dwelling and at the same level as the alfresco area on the lower ground level. This level is approximately 2.35m above the finished ground level below. No decking or paved area extends around the pool on the eastern, western or southern sides. No decking will be visible from the water or adjoining properties and no privacy concerns associated with elevated decking around the pool is likely to arise.</p> <p>No filling is proposed, the pool filter is to be located internally within the proposed plant room below the pool.</p>	<p>No but consistent with existing approval and therefore acceptable.</p> <p>No but generally consistent with existing approval and will not give rise to any undue negative impacts to neighbours or to the scenic qualities of the foreshore so is therefore acceptable.</p> <p>N/A</p> <p>Yes</p>

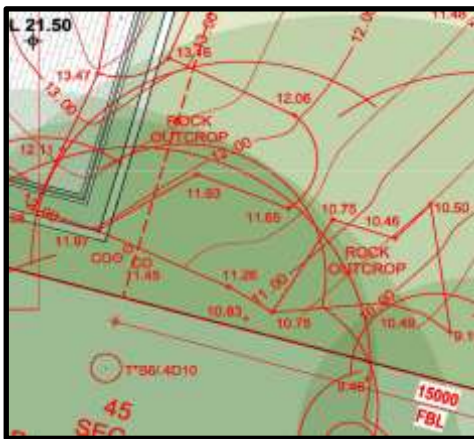
Control	Proposal	Compliance
9. Council may require mechanical equipment to be suitably acoustically treated so that noise to adjoining properties is reduced.	Pool filter to be located indoors in the proposed plant room below the pool.	Yes
10. A pool fence complying with the legislation is to separate access from the residential dwelling on the site to the pool.	Compliant pool fence is a construction certificate matter but has been referenced on the DA plans.	Yes
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.	Compliant pool fence is a construction certificate matter but has been referenced on the DA plans.	N/A
12. A spa is not required to be surrounded by a child resistant barrier provided that the spa is covered or secured by a child-safe structure (e.g. door, lid or mesh) that is fastened to the spa pool by a child-resistant device at all times when the spa pool is not in actual use and complies with Swimming Pools Act 1992 and any relevant Australian Standards.	N/A	

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## Part 6.5 – Foreshore Locality Controls

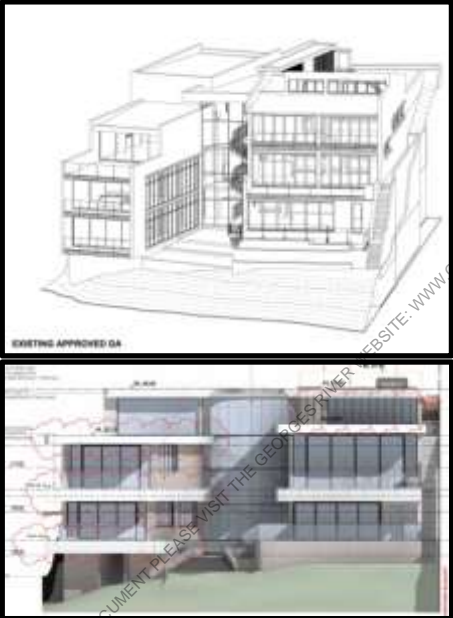
### 6.5.1 Foreshore Scenic Protection Area


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 enable a complete assessment.	Yes
2. Removal of existing native vegetation minimised to that which is reasonably required to site and construct a building.	All significant vegetation on site has been previously removed so the proposed development does not involve the removal of any significant native vegetation on site.	Yes
3. The integrity of the existing edge of bushland closest to the Georges River is retained.	As all significant vegetation on the site was removed previously the landscape plan proposes compensatory planting of five (5) x <i>eucalyptus haemastoma</i> and two (2) x <i>eucalyptus piperita</i> trees.	Yes
4. Vegetation along ridgelines and on hillsides is retained and supplemented	No significant vegetation left on the site.	Yes


to provide a backdrop to the waterway.		
5. New, complementary planting and landscaping is encouraged.	Proposed landscaping includes selection of both native and exotic trees and shrubs.	Yes
6. Where on a steep site, vegetation is used to screen the impact of support structures such as piers.	No exposed piers proposed. Rear of dwelling is proposed to be landscaped.	N/A
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.	Council's Landscape officer found the species selection proposed to be acceptable.	Yes
8. A landscape plan is to be submitted for any development between the FBL and Mean High Water Mark (MHW). 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.	A Landscape Plan was submitted and found to be acceptable by Council's Landscape officer.	Yes
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.	<p>The proposal retains sandstone outcropping on the western side at the rear near the foreshore building line and extensive sandstone outcropping is present further south adjacent to the water. Figure below notes sandstone rock outcrop.</p> 	Yes
10. The visual impact of buildings is minimised having regard to building size, height, bulk, siting, external materials, and colours and cut and fill.	Proposed development exceeds the current FSR and height of building control but is consistent with existing approved development.	No but consistent with existing approval and therefore acceptable.



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.	The proposed development is largely sited in the location of the previous dwelling approved.	Yes
<p>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:</p> <p>(i) The preservation of topographic features of the site, including rock shelves and cliff faces;</p> <p>(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, and</p> <p>(iii) Minimised site disturbance through cutting and/or filling of the site.</p>	<p>The proposed development is consistent with the existing approved development and sits below the higher land across the road on the northern side of Kyle Parade. The subject site however especially northward of the foreshore building line is highly disturbed through a combination of demolition of the previous dwelling, extensive cutting as part of an earlier construction certificate combined with multiple unauthorised works involving cutting, regrading and construction of retaining structures using earth moving equipment and machinery. There has also been remediation works to rectify the unauthorised works.</p> <p>Rock shelves and the cliff face are retained below the foreshore building line. The remainder of the site northward of the foreshore building line is highly disturbed and further cutting is proposed with this application consistent with the existing approval. The area shown as rock outcrop coloured pinky brown on the survey plan is not bedrock but a pile of sandstone floaters that have been pushed together as evidenced during the site inspection.</p> <p>All significant vegetation on site has been removed but the proposed landscape plan proposes compensatory planting of five (5) x <i>eucalyptus haemastoma</i> and two (2) x <i>eucalyptus piperita</i> trees.</p> <p>The site is highly disturbed with cutting proposed due to the steepness of the site and to accommodate a dwelling of this size over three (3) levels. The proposal seeks less cutting than the existing approval.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

<p>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%.</p>	<p>Proposed development exceeds the required 50:50 of solid elements to glazed area incorporating extensive amounts of glazing to maximise the water views, but this extent of glazing is consistent with existing approved development.</p>  <p>Proposed southern elevation.</p>	<p>No but consistent with existing approval and therefore acceptable.</p>
<p>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.</p>	<p>Some light colours are proposed in the external colours and finishes schedule, but the design is consistent with the approved colour scheme and development in the locality.</p>	<p>No but consistent with existing approval and therefore acceptable.</p>
<p>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</p>	<p>The proposed dwelling is consistent with the existing approved dwelling houses and offers a compatible presence when viewed from the waterway below.</p>	<p>Yes</p>
<p>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:</p> <ul style="list-style-type: none"> <li>(i) Awnings or other features over windows;</li> <li>(ii) Recessing or projecting architectural elements; or</li> <li>(iii) Open, deep verandas.</li> </ul>	<p>There are no blank walls proposed facing the waterfront. Extensive amounts of glazing are employed in the southern/waterfront elevation in the design to maximise the views. The proposal is not inconsistent with the approval in place.</p>	<p>Yes</p>


17. Adequate landscaping shall be provided to screen undercroft areas and reduce their impact when viewed from the water.	Extensively landscaping is proposed to the rear of the dwelling and there are no exposed undercroft areas when viewed from the water.	Yes
18. The extent of associated paved surfaces is minimised to that which provides essential site access and reasonable private open space.	<p>Achieved. There are paved areas throughout the development, these are not excessive and there are adequate areas of soft landscaping on the site. Paving is limited to the stairs in the rear private open space below the alfresco area and pool.</p>  <p>Extract from the landscape plan.</p>	Yes
19. Buildings have external finishes that are non-reflective and coloured to blend with the surrounding landscape.	The proposed design has a lot of glazed areas fronting the Georges River that is consistent with the existing approval and other adjoining development in the locality.	No but consistent with existing approval and therefore acceptable.
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).	The swimming pool is sited adjoining the dwelling at the rear of the property above the sandstone rock outcropping in a similar location to the existing approval.	Yes
21. Fences are low in profile and are at least 50% transparent.	The proposed eastern and western elevation plans show a solid 1.8m high boundary fences along both side boundaries including below the Foreshore Building Line. This is inconsistent with the requirements of this clause. A condition of consent has been applied to ensure compliance.	No but condition applied to ensure compliance.
22. Driveways and other forms of vehicular access are as close as practical to running parallel with contours	N/A	N/A
23. The natural landform is to be retained and the use of retaining walls and terracing is discouraged.	The proposed development includes terracing and retaining walls to the rear consistent with the existing approvals.	No but consistent with existing approval and therefore acceptable.

<p>24. Retaining walls are not to be located:</p> <ul style="list-style-type: none"> <li>Between the FBL and MHWM</li> <li>Within 40m of MHWM</li> </ul>	<p>The proposed development includes terracing and retaining walls to the rear consistent with the existing approvals. The works the subject of this application are not proposed below the 30m foreshore building line consistent with the existing approvals.</p>	<p>Consistent with existing approval and therefore acceptable.</p>
<p>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.</p>	<p>No works proposed below the MHWM as part of this application.</p>	<p>N/A</p>
<p>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.</p>	<p>Planter box retaining walls are proposed in the front setback to manage the change in level from the property boundary (24.93m) to the entry to the dwelling (23.65m). The planter box retaining walls will blend with the proposed dwelling design to create a feature at the front of the house.</p> <p>Retaining walls are proposed across the rear of the site with some exceeding 600mm but consistent with the existing approvals and will constructed of block work with decorative sandstone cladding.</p>  <p>Extract from the landscape plan.</p>	<p>No but consistent with existing approval and therefore acceptable.</p>
<p>27. Development provides opportunities to create view corridors from the public domain to the Georges River.</p>	<p>The new side boundary setbacks requirements in the foreshore scenic protection area are 1.5m to open up water views between buildings from the public domain. The proposal is setback 1.2m consistent with the existing approval. The proposed development does not unduly impact the view corridors from the public domain any more than the existing approval as it is consistent in terms of height, FSR, side and rear boundary setbacks with the existing approval.</p>	<p>No but consistent with existing approval and therefore acceptable.</p>

## 6. Fencing

1. Fencing, between the Mean High Water Mark (MHWM) and the Foreshore Building Line (FBL), including boundary fencing should be no higher than 1200mm above the natural or finished ground level.	The proposed eastern and western elevation plans show a solid 1.8m high boundary fence along both side boundaries including below the Foreshore Building Line. This is inconsistent with the requirements of this clause. A condition of consent has been applied to ensure compliance.	No but a condition applied to the consent to ensure compliance.
2. Fences, between the Mean High Water Mark (MHWM) and the Foreshore Building Line (FBL), are to be constructed of open weave materials to enable vines, creepers and hedges to provide natural cover.	The proposed eastern and western elevation plans show a solid 1.8m high boundary fence along both side boundaries including below the Foreshore Building Line. This is inconsistent with the requirements of this clause. A condition of consent has been applied to ensure compliance.	No but a condition applied to the consent to ensure compliance.

### 7.1 Swimming pool/spas

1. Any swimming pool or spa pool is to be sited as close to natural or existing ground level as possible. In this regard, the coping level of swimming pools and spa pools is not to be elevated more than 500mm above natural or existing ground level.	The proposed swimming pool includes a wet edge that is more than 500mm above existing ground level.	No but consistent with existing approval and therefore acceptable.
2. Any exposed edge is to have the natural or existing ground level reinstated and be suitably landscaped with mature trees and landscaping so as to reduce the visual impact from the waterway.	<p>The landscape plan planting detail shows extensive landscaping proposed.</p>  <p>Extract from the landscape plan.</p>	Yes, extensive landscaping is proposed to reduce the visual impact from the water of the exposed pool edge.
3. The construction of swimming pools and spa pools below the FBL and above MHWM should avoid reshaping of the landform and removal of native vegetation and significant trees. In areas where the construction of a pool will necessitate excessive excavation or the removal of significant vegetation, the siting of the pool may be restricted to above the FBL.	Pool is above the Foreshore Building Line.	N/A
4. Pool/spa fencing that is visible from the foreshore/water must be open or transparent and must be of a colour that blends into the landscape character of the waterway.	Pool fencing is annotated as clear glass.	Yes

5. With respect to existing swimming pools/spa pools below MHW, Council is unlikely to request that the pool be removed or filled, unless it is considered that its economic life has been reached. In circumstances where it is considered that the economic life of the pool has been reached, and the Department of Lands is in agreement, then Council may require, upon substantial redevelopment, that the pool be removed.	N/A	N/A
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LPP012-24

## Impacts

### **Natural Environment**

87. The modified proposal will not unreasonably impact the natural environment. The applicant has sensitively designed the proposal to have regard to the constraints of the site and protect the natural features of the allotment having regard to the existing approval.

### **Built Environment**

88. The modified proposal represents an acceptable planning outcome for the site with respect to its bulk, scale and density, façade articulation and expression that is consistent with the existing approval or an improvement upon the existing approval. The modified proposal is an appropriate response to the context of the site, similar developments in the locality and the R2 Low Density Residential zoning.

### **Social Impact**

89. The assessment demonstrates that the proposed modification in its current form will have no unreasonable social impacts on the character of the locality and the amenity of neighbouring residential properties. The environmental impacts on the social environment are considered to be reasonable and the application is supported.

### **Economic Impact**

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

### **Suitability of the Site**

91. 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, Referrals and the Public Interest

### **Submissions**

92. The proposed modification was notified on three (3) occasions and outcomes of the respective notification periods are discussed below.
93. First Notification Period - The notification period began on 22/12/2022 and closed on 19/01/2023. Notification letters were sent out to residents with interested parties given the opportunity to review the application and submit any comments on the proposal. At the

conclusion of the neighbour notification period three (3) submissions were received objecting to the proposal from adjoining neighbours with one (1) subsequently withdrawn.

94. Second Notification Period – The notification period began on 08/12/2023 and closed on 21/12/2023. Notification letters were sent out to residents with interested parties given the opportunity to review the application and submit any comments on the proposal. At the conclusion of the neighbour notification period three (3) submissions were received objecting to the proposal from adjoining neighbours with one (1) subsequently withdrawn.

## **Objections Raised**

### **View Loss**

95. New roofline, extending balconies and parapet overhangs are outside the approved building envelope will cause view loss for neighbours.
96. Proposed landscaping in planter boxes, roof garden and hedging will grow up and negatively impact views.
97. Side boundary setbacks on the eastern and western sides were 1.2m and increasing to the rear. The new design is all at 1.2m setback and reducing the side boundary setbacks at the rear of the development causing view loss.
98. No View Impact Analysis provided.

### **Comment**

99. The revised design has reduced the overall height of the development further and a view loss analysis has been prepared. The new design reduces view loss when compared to the approved design and no submissions objecting to the current proposal were received following the third notification period.

### **Privacy**

100. Upper level floor and balcony on eastern side overlooks the outdoor entertainment and pool area of 115.
101. Western balconies overlook 119 will lead to a loss of privacy.
102. All balconies are wider and larger increasing negative impact on privacy for neighbours.
103. Side boundary setbacks on eastern and western side were 1.2m and increasing to the rear. The new design is all at 1.2m setback and reducing the side boundary setbacks at the rear of the development causes loss of privacy for neighbours.

### **Comment**

104. The revised design has maintained the existing side boundary setbacks and the design will not lead to any significant privacy loss. Windows are screened and balconies incorporate planter boxes. The design is orientated towards the water not to neighbouring properties. The new design will not lead to increased privacy loss over the approved design and no submissions objecting to the current proposal were received following the third notification period.

### **Over Shadowing**

105. Parapets, eave overhangs and reduced setbacks to less than 900mm increasing overshadowing.



106. The shadow diagrams provided are misleading and inaccurate, underrepresenting the extent of overshadowing.
107. New roofline and extended parapet overhangs are outside the approved building envelope will cause overshadowing for neighbours.
108. New living area where a sunken garden was proposed on the north-eastern side will block the breeze and cause overshadowing.
109. The proposed development will overshadow the western side of 115 permanently, water over spray from the roof garden and blocking of breeze will lead to moisture and dampness problems.

### **Comments**

110. The revised design is slightly lower than the existing approval leading to overshadowing being slightly reduced but largely consistent with the existing approval. The new design will not lead to increased overshadowing over the approved design and no submissions objecting to the current proposal were received following the third notification period.

### **Bulk and Scale**

111. Bulk and Scale is excessive overwhelming adjoining dwellings leading to adverse impacts for neighbours.
112. Proposal presents as overdevelopment from the waterway.
113. Proposal presents as a monolithic 3 storey apartment block out of character with streetscape and locality.
114. Side boundary setbacks on eastern and western side were 1.2m and increasing to the rear, new design is all 1.2m setback leading to an increasing perception of bulk and scale.

### **Comments**

115. The submissions raised concerns with the proposed height, bulk and scale of the proposal. The assessment of the proposed modification found that it was largely consistent with the existing approval albeit slightly lower in height. The new design is considered acceptable from a bulk and scale perspective given the existing approval, furthermore, no submissions objecting to the current proposal were received following the third notification period.

### **Roof**

116. Plans are misleading as roof is shown as flat but fall is required for drainage so what is actual new roof height once pitch in included.
117. Roofline adjoining 115 is straight lacking any variation or visual interest.

### **Comments**

118. The submissions raised concerns that the pitch of the roof was not shown correctly, and the roofline lacked visual interest. The new design is considered to be an improvement on the existing approval, furthermore, no submissions objecting to the current proposal were received following the third notification period.

### **External Colours and Finishes**

119. Glare from roof top glass will impact neighbours.



120. External colour scheme includes large expanses of white and light coloured finishes which are too dominant not sympathetic to the streetscape and the locality. External finishes should be low reflectivity and of colours that recede into landscape.

### **Comments**

121. There are numerous examples of light coloured dwellings in the immediate locality, the colours and finishes proposed are similar to the existing approvals. No submissions objecting to the current proposal were received following the third notification period and the external colours and finishes proposed are considered to be acceptable.

### **Timing of First Notification Period**

122. Timing of Notification Period was most inconvenient being over Christmas/New Year break.

### **Comments**

123. First notification letters were sent out 12/12/2022 with the notification period being from 22/12/2022 until 19/01/2023 which is an acceptable amount of time in which to review the proposal and make a submission and consistent with the extended notification criterion of the DCP and Public Consultation Strategy. The proposal was notified on two (2) further occasions. No submissions objecting to the current proposal were received following the third notification period.

### **Removal of Black Butt Trees**

124. Unlawful removal of existing Black Butt trees resulting in a breach of the consent condition.

### **Comments**

125. The unauthorised removal of the existing native trees was investigated by Council's Compliance team, but no evidence was able to be obtained to identify who the perpetrators were so no further action could be taken. Additional compensatory planting of native trees is proposed in the landscape plan comprising five (5) x *eucalyptus haemastoma* and two (2) x *eucalyptus piperita* trees.

### **Proposal should comply with current planning policy**

126. The proposed development should be redesigned to fully comply all current planning policy. All rear balconies should all be made to comply with 1.5m maximum depth in the DCP.

### **Comments**

127. The submissions received raised concern with the proposed developments compliance with the requirements of GRLEP 2021 and GRDCP 2021. A detailed analysis of the proposal's compliance with GRLEP 2021 and GRDCP 2021 is outlined above but this assessment needs to be tempered by the fact that an existing approval exists which was designed based on older planning policy requirements.

### **Roof Top Garden maintenance is unsafe**

128. Roof top garden will need continual maintenance creating safety concerns for contractors.

### **Comments**

129. The maintenance of the roof top garden can be undertaken safely by using a harness and tether to protect against falling from the roof by appropriately accredited contractors. A condition has been imposed concerning irrigation and access for maintenance.

**Proposal chooses between past and current planning policy**

130. Applicant has picked and chosen between past and current planning policy to get everything they want at the expense of neighbours and should be made to comply with current controls or build what was approved.

**Comments**

131. The applicant is permitted to lodge a modification application and that has been assessed against the current planning controls. The amenity impacts for neighbours arising from the proposed design has also been assessed and the proposal found to be acceptable. As outlined above the assessment against current planning policy needs to be tempered by the fact that an existing approval exists which was designed based on older planning policy requirements.

**Not substantially the Same**

132. The proposal is not substantially the same development as doesn't look the same.

**Comments**

133. The proposed modification works were compared with the existing approved development in a qualitative and quantitative regard in accordance with the legislation. It was found that the proposed modified development is substantially the same as the original development and as such satisfies the 'substantially the same development test'.

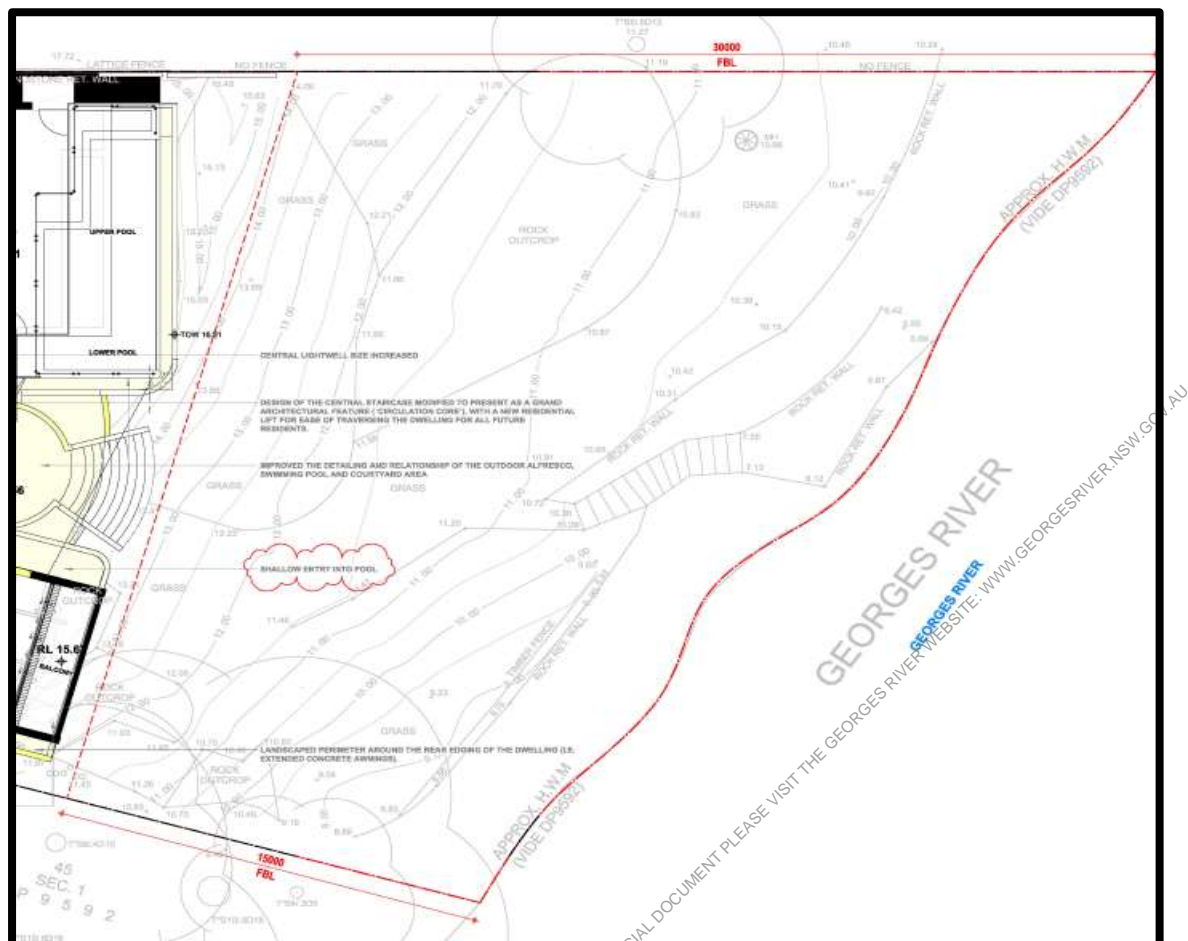
**Closer to Foreshore Building Line**

134. The proposal is closer to foreshore building line than previous approval.

**Comments**

135. The proposal is slightly closer due to the use of planter boxes but still behind the foreshore building line. The yellow in the diagram below indicates where the new proposal extend past the existing approval.

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**Figure 8** – showing relationship between current proposal, existing approval in yellow and the foreshore building line. (868 Architects 2024)

### **Application inaccurate and misleading**

136. Perspective Drawing is misleading shows bushland instead of adjoining dwellings.

### **Comments**

137. The perspective drawing referenced as being misleading is from a superseded landscape plan set and was used to indicatively illustrate what the landscape treatment of the southern rear yard will potentially look like once completed and the trees are mature.



**Figure 9** – showing indicative landscape perspective. (Site Design & Studio 2022)

### **Adjoining dwellings not shown accurately**

138. Depiction of existing dwellings at 115 and 119 out of scale and inaccurate, drawn larger than they actually are to make the modification appear smaller.

### **Comment**

139. The depiction of the adjoining dwellings appears accurate having regard to the nominated levels.



**Figure 10** – showing Southern Elevation with adjoining dwellings shown. (868 Architects 2024)

### **Plans are Inadequate**

140. The plans submitted are inadequate as they:
- Lacks dimensions to highlight the extent of the modifications.
  - No natural ground levels shown on sections.
  - There are areas on the plans that have been modified but not highlighted as such.

**Comments**

141. Any inadequacies in the earlier plan sets have now been resolved. No submissions objecting to the current proposal were received following the third notification period.
142. Third Notification Period – The notification period began on 08/02/2024 and closed on 22/02/2024. Notification letters were sent out to residents, with interested parties given the opportunity to review the application and submit any comments on the proposal. At the conclusion of the neighbour notification period two (2) submissions were received in support of to the proposal from adjoining neighbours.
143. Withdrawal of Previous Objection – One (1) submission not only offered support for the proposal but also withdrew their previous objections submitted in response to the first and second notification plans.

**Council (Internal) Referrals**Senior Landscape & Arboricultural Assessment Officer

144. No objection was raised to the proposal and new conditions were required to be imposed to protect trees on neighbouring properties adjoining the subject site and to include compensatory planting to offset the significant native trees removed without approval.

Development Engineer

145. No objection was raised to the proposal and no new conditions required to be imposed.

**External Referrals**Ausgrid

146. The application was referred to Ausgrid as per Clause 45(2) of the State Environmental Planning Policy (Infrastructure) 2007. Comments received raised no impact to Ausgrid assets with the proposed alterations and additions.

Department of Planning and Environment – Water Licensing

147. The application was referred to Department of Planning and Environment – Water Licensing as the original approval was integrated development and included General Terms of Approval which were included in the development consent as conditions. The Department of Planning and Environment – Water Licensing failed to provide a response to the referral. The conditions of consent based on the general terms of approval (GTA) remain unchanged by this modification.

**CONTRIBUTIONS**

148. 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 has been imposed.

**CONCLUSION**

149. The proposal has been assessed using the matters for consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposed modification is considered to be substantially the same as the original proposal and represents a reasonable built form outcome consistent with the existing approval. The modified proposal presents as acceptable in terms of scale, bulk and height is considered to be an appropriate 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.

150. The proposal has been assessed against the provisions of the Georges River Local Environmental Plan 2021 and Georges River Development Control Plan 2021. The proposal satisfies the key planning controls in the LEP and DCP. The identified non-compliances are considered to be minor and have been addressed and justified in this report and are worthy of support based on merit.
151. The application is supported and recommended for approval for reasons outlined in the report above.

## STATEMENT OF REASONS AND DETERMINATION

### Statement of Reasons

152. The reasons for this recommendation are:

- The proposed development is considered to be substantially the same as the development consent in place.
- The proposed development complies with the requirements of the relevant environmental planning instruments and where non-compliant have been assessed on merit.
- The proposed development complies with the objectives of the relevant environmental planning instruments.
- The proposed development will not result in any significant adverse amenity impacts on the neighbouring properties or community in the locality or the foreshore scenic protection area.

### DETERMINATION

153. Pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act, 1979, as amended, Modification Application MOD2022/0186 which seeks to modify the approved development and related modifications for the demolition of the existing dwelling house and construction of a new dwelling house, swimming pool and front fence by seeking reconfiguration of the floor plates, changes to openings and awnings, landscaping amendments and the inclusion of a lift at Lot 44, Section 1 in DP9592, known as 117 Kyle Parade, Kyle Bay is determined by way of approval subject to the following modified conditions of consent:

### SPECIFIC DEVELOPMENT CONDITIONS

The following conditions are current for the existing consent:

1. ~~The building subject of this approval being carried out in accordance with the plans accompanying the Section 96 Modification submitted to Council on the 21 March 2003 and identified by plans drawn by Erik Rudolfsson Architecture drawing No.0207-101-108 dated 11 March 2003, except where amended by the following conditions.~~

**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	Rev	Prepared by
Site Plan	Job 2210 DA-A10	31/01/2024	DA-3	868 Architects Pty Ltd
Upper Floor Level (East)	Job 2210 DA-A11	31/01/2024	DA-3	868 Architects Pty Ltd

Ground Floor Level (East)	Job 2210 DA-A12	31/01/2024	DA-2	868 Architects Pty Ltd
Lower Floor Level (East)	Job 2210 DA-A13	31/01/2024	DA-2	868 Architects Pty Ltd
North Elevations, Sections & Context	Job 2210 DA-A20	31/01/2024	DA-3	868 Architects Pty Ltd
East Elevation & Context	Job 2210 DA-A21	31/01/2024	DA-3	868 Architects Pty Ltd
South Elevations, Context	Job 2210 DA-A22	31/01/2024	DA-3	868 Architects Pty Ltd
West Elevation & Context	Job 2210 DA-A23	31/01/2024	DA-3	868 Architects Pty Ltd
Sections	Job 2210 DA-A30	31/01/2024	DA-2	868 Architects Pty Ltd
Sections	Job 2210 DA-A31	31/01/2024	DA-2	868 Architects Pty Ltd
Sections	Job 2210 DA-A32	31/01/2024	DA-2	868 Architects Pty Ltd
Construction & Waste Management	Job 2210 DA-A70	31/01/2024	DA-3	868 Architects Pty Ltd
External Finishes Schedule	Job 2210 DA-A70	31/01/2024	DA-3	868 Architects Pty Ltd
Waste Management Plan	Job 1022 -KYL	30/09/2022	-	Crearte Building Design & Consulting
Landscape Cover Sheet	L-01	14/2/2024	C	Site Design & Studios
Landscape Roof Plan	L-02	14/2/2024	C	Site Design & Studios
Landscape Upper Floor Plan	L-03	14/2/2024	C	Site Design & Studios
Landscape Ground Floor Plan	L-04	14/2/2024	C	Site Design & Studios
Landscape Lower Ground Floor Plan	L-05	14/2/2024	C	Site Design & Studios
Landscape Lower Ground Planting Plan	L-05.1	14/2/2024	C	Site Design & Studios
Landscape Section Elevation A-B	L-06	14/2/2024	C	Site Design & Studios
Landscape Section Elevation C-D	L-07	14/2/2024	C	Site Design & Studios
Landscape Planting Details	L-08	14/2/2024	C	Site Design & Studios
Landscape Existing Trees	L-09	14/2/2024	C	Site Design & Studios
Landscape Precedent Images	L-10	14/2/2024	C	Site Design & Studios
Landscape Notes	L-11	14/2/2024	C	Site Design & Studios
Landscape Specifications	L-12	14/2/2024	C	Site Design & Studios

(Modified via MOD2022/0186).

2. The erection of a building in accordance with a Development Consent must not be commenced until:
  - detailed plans and specifications of the building have been endorsed with a construction certificate by:
    - Council; or
    - an accredited certifier.
  - the person having the benefit of the development consent has:
    - appointed a Principal Certifying Authority(PCA); and
    - notified Council (if Council is not the PCA) in writing of the appointment; and
    - given at least 2 days notice to Council of their intention to commence the erection of the building.
3. Any Construction Certificate issued in respect of this Development Consent only remains valid while the Development Consent is valid.
4. If the building is designed using Building Code of Australia (BCA) performance criteria, documentary evidence of compliance with the relevant BCA objectives is to be provided to Council with the Construction Certificate.
5. Prior to the issue of any Construction Certificate for this development the following is required:
  - Payment of a road / kerb / footpath damage deposit of: \$ 1,730.00
  - Payment of a Long Service Levy of: \$ 1,650.00
  - Payment of a footpath levels fee of: \$ 346.50
  - Provision of details for the Australian Bureau of Statistics.
6. The approved plans relating to any Construction Certificate issued in respect of this Development Consent must be submitted to Sydney Water at least fourteen (14) days prior to commencement of work. The closest office of Sydney Water is at 564 Princes Hwy, Rockdale.
7. Prior to the commencement of works, the Principal Certifying Authority must be informed in writing of:
  - the name and contractor licence number of the licensee who has contracted to do or intends to do the work; or
  - the name and permit number of the owner-builder who intends to do the work.

Further, if a contract is entered into for the work to be done by a different licensee or arrangement for doing the work are otherwise changed, the Principal Certifying Authority is to be immediately informed in writing of sufficient particulars for it to update its records.



8. Approval is subject to the condition that the builder or person who does the residential building work complies with the applicable requirements of Part 6 of the Home Building Act, 1989 whereby a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the applicable requirements of Part 6. The Principal Certifying Authority must not carry out any inspections in relation to the building works until a copy of the insurance certificate is received, and a copy is given to Council.
9. The following list of inspections should be the minimum number carried out during the course of this development and prior to the issue of any Occupation Certificate.
- Erosion and sediment control measures
  - Earthworks / excavation
  - Building set out
  - Concrete reinforcement
  - Timber and / or steel framework
  - Wet areas
  - Stormwater disposal
  - Work associated with driveways and parking bays, including pavement and finishing
  - Landscaping work
  - External building finishes
  - Pool Fencing
  - Completion / Final
10. A Compliance Certificate shall be issued prior to occupation and use of the building certifying that all building works and associated development have been constructed in accordance with the development consent and construction certificate.
11. Underground pipes and cables may be affected by excavation works. Excavators are requested to contact NSW Dial Before You Dig Service by phoning 1100 at least two (2) days before work commences.
12. No trees as defined by Council's Tree Preservation Order may be removed from the site without the prior written approval of Council.
13. No work in connection with the demolition of existing buildings; excavation or earth works on or adjacent to the site; use of power operated plant such as compressors, jack hammers, bulldozers, excavators and/or loaders, woodworking machines, (i.e. saws, planers etc.) use of explosive fixing guns, use of concrete or cement mixers, floating and/or trowelling machines, vibrators, concrete delivery wagons, hoists or winches, use of welding and/or rivetting machines and the like, removal or placing of concrete forms; placing or tying of steel reinforcement of structural members; fixing of timber framework; stacking or handling of bricks or blocks; or any other building activity involving objectionable noise being carried out between the hours of 7:00 pm to 7:00 am, Mondays to Saturdays inclusive and no such work being carried out on Sundays, Good Friday and Christmas Day.

14. This Development Application approval or any related Construction Certificate does not allow for any form of road or footpath opening to be made external to the subject property boundary. Should such an opening be required a separate application will have to be approved through the Engineering Services Section. Applications may be made at Council's Customer Service Centre at 84 Railway Parade, Kogarah.
15. Erosion and sediment control measures are to be undertaken during the course of construction, in accordance with "Sediment and Erosion Control Guidelines". Failure to implement and maintain appropriate measures will result in a \$750 Penalty Infringement Notice (individual) or \$1,500 (corporations) being issued and/or the incurring of a maximum penalty of \$120,000 (individual) and \$250,000 (corporation) through the Land and Environment Court.
16. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
17. 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.
18. 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 must be provided; and
  - adequate provision must be made for drainage.
19. If the work involved in the erection or demolition of a building:
  - is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - involves the enclosure of a public place:
    - a hoarding or fence must be erected between the work site and the public place;
    - if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place;
    - if the work site is likely to be hazardous to persons in the public place, it must be kept lit between sunset and sunrise;
    - any such hoarding, fence or awning is to be removed when the work has been completed.
20. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - stating that unauthorised entry to the work site is prohibited; and

- showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours; and
- showing the name and telephone number of the builder or owner-builder, if not the same as b); and
- the licence number of the builder or permit number of the owner-builder.

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

Each toilet provided:

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

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

- 22.** The applicant/developer shall bear the cost of restoring any footpath, roadway, etc damaged by public authorities in the course of providing services to the proposed building works.
- 23.** All building work must be carried out in accordance with the provisions of the Building Code of Australia, except where an exemption is in force under clause 80H or 80I of the Environmental Planning and Assessment Amendment Regulation 1998 subject to the terms of any condition or requirement referred to in clause 80H(6) or 80I(4).
- 24.** The proposed structure being securely fastened to prevent uplift during high wind loads.
- 25.** The owner and/or builder is requested to install approved smoke detectors at suitable locations within the building.
- 26.** Television antennas being provided and located where possible within the roof space and all ducting associated with the antennas being concealed.
- 27.** The site and size of proposed household mail boxes being in accordance with the requirements of Australia Post.
- 28.** The proposed building not being erected at a height greater than that indicated on the approved plan.

29. All rock excavation being carried out by hand operated machinery and no blasting being permitted on site.
30. Excavation of the site is to extend only to that area required for building works depicted upon the approved plans.
31. The proposed swimming pool shall be fenced and constructed in accordance with Council's requirements and the Swimming Pools Act, 1992. If required, you may confer with Council for assistance with respect to the location of pool fencing.
32. An approved resuscitation sign being provided within the pool area, in an easily seen location.
33. The filter pump motor being positioned on the site so as not to increase to the ambient noise level when measured at the boundary. Council reserves the right to require the filter pump motor to be enclosed in a sound proof enclosure in the event a noise nuisance occurs.
34. Depth markers expressing the pool depth in metres being provided to the swimming pool so that the depth(s) of the pool are readily apparent to pool users.
35. The pool fencing being of an open design and unobtrusive colour.
36. All waste water from the proposed pool and ancillary equipment is to be directed to Sydney Water's Sewer and to the requirements of such authority.
37. All chemicals associated with the maintenance of the pool are to be stored in a child safe location.
38. ~~The existing trees on the site to be retained shall be protected during the construction of the proposed development to the requirements of Council's Tree Management Officer. Prior to the commencement of any site works, all trees to be retained shall be enclosed with protective fencing, at least 2 metres clear of the trunk of the tree, to prevent the tree trunk and root system being damaged during the construction period.~~

***Deleted via MOD2022/00186.***

39. ~~Trees within the property of the proposed development that have been nominated on the approved landscape plan for retention shall be preserved and protected during demolition and construction. A protective fence (1.5 metres high) shall be erected around the base of the trees the minimum distance of which is 2.5 metres. This fence shall be kept in place during demolition and construction. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill should be placed within. There shall be no services installed within the drip line of the tree.~~

~~Excavations around trees to be retained shall be supervised by an experienced arborist to ensure that the root system will not be adversely affected.~~

***Deleted via MOD2022/00186.***

- 40.** ~~The existing trees on the property can be pruned to accommodate the proposed development. The canopies can be thinned by up to 25% only. Trees are to retain their shape, height and character after pruning. Dead wooding of canopy should be ensured. Canopy can be raised until clearance is achieved. Pruning should be done by a qualified and experienced arborist.~~

***Deleted via MOD2022/00186.***

- 41.** When the canopy of a neighbouring tree overhangs into the property of the proposed development and branches will need to be pruned to accommodate the proposed development, a separate application shall be submitted in writing to Council requesting permission to prune. In addition, the applicant shall notify the owner of the tree about the proposed pruning. No pruning work shall take place until a written confirmation from Council has been received. The pruning should be supervised by an experienced arborist.

Excavations around neighbouring trees shall be supervised by an experienced arborist to ensure that the root system will not be adversely affected.

- 42.** The garden beds shall be mulched using organic leaf / pine bark mulch or similar approved material. The mulch shall spread a minimum of 100 millimetres thick over the entire garden bed areas.
- 43.** All plant material shall be of high quality, free of pests, diseases and any structural defects.
- 44.** Advanced trees shall be staked using at least two hardwood stakes, 2 metres high x 50mm x 50mm. These stakes shall be driven into the ground outside of the tree's rootball area. Hessian tie or similar shall be used to secure the trees.
- 45.** An automatic irrigation system shall be installed along the entire planter box and garden bed areas. The system shall be designed to comply with AS 2698, AS 2698.1-1994, AS 2698.2-1985, AS 2698.3-1990, Water Board regulations and any other relevant authorities.
- 45A** The roof top garden area is to be equipped with an irrigation system on a timer to ensure that the vegetation within the rooftop garden is maintained.
- 46.** The turf shall be free of weeds, pests and disease. The area to be turfed shall be levelled prior to laying turf. The preparation shall be according to the landscape plan. The turf shall be butted flush and finished with a suitable top dressing material.
- 47.** Trees that are to be planted along boundaries and near structures shall be provided with root barriers.
- 48.** All works proposed must be designed, constructed and operated to minimise sedimentation, erosion and scour of the banks or bed of the watercourse / foreshore and to minimise adverse impacts on aquatic and riparian environments.

49. Erosion and sediment control measures are to be implemented prior to any works commencing at the site and must be maintained, for as long as necessary after the completion of works, to prevent sediment and dirty water entering the watercourse / foreshore environment. These control measures are to be in accordance with the requirements of Council or the consent authority and best management practices as outlined in the NSW Department of Housing's "Managing Urban Stormwater: Soils and Construction" Manual (1998) – the "Blue Book".
50. The Part 3A Permit from DLWC is issued for works on FREEHOLD land only. This Permit is null and void for any works on Crown Land.
51. Rehabilitation of the area in accordance with the 3A Permit Conditions or any direction from DLWC is the responsibility of the Permit holder and owner or occupier of the land.
52. Work as executed survey plans of a professional standard and including information required by DLWC shall be provided to DLWC on request.
53. If, in the opinion of a DLWC officer, works are carried out in such a manner that they may damage or adversely affect the watercourse or foreshore environment, the DLWC officer may issue an oral or written direction to immediately stop all work/s.
54. If any DLWC Part 3A Permit conditions are breached, the Permit holder shall restore the site in accordance with these conditions and any other necessary remedial actions as directed by DLWC. If any breach of the Part 3A Permit Conditions requires a site inspection by DLWC, then the permit holder shall pay a fee prescribed by DLWC for this inspection and all subsequent breach inspections.
55. ~~The proposed new wall located below the bedroom 4 balcony on the southern elevation is to be faced with a natural stone finish and provided with a native shrub screen planting to the south of the wall to soften the visual impact.~~

***The above condition was deleted via MOD2022/00186.***

56. ~~The trees indicated on the approved Landscape Plan to be retained that have been removed must be replaced with the same species with a minimum pot size of 75 litres.~~

***The above condition was deleted via MOD2022/00186.***

57. Excavation and building works close to trees – All trees located upon the subject site and neighbouring sites, within 5m of the property boundary are to be inspected prior to any works, and monitored during all excavations and building works by a qualified AQF Level 5 Project Arborist. Regular inspections and documentation from the Arborist to the PCA and Council's Tree Compliance Officer are required at the following hold points:

Hold Point	Action Required by AQF Level 5 Project Arborist
a) a) Prior to commencement of	Site meeting with builder to discuss and confirm understanding of tree protection measures required for

demolition/construction works.	trees on site and adjacent site and within 5m of boundary
1. b) Prior to commencement of demolition/construction works.	Supervise and certify installation of tree protection measures. Tree protection measures are to be installed as per AS4970 – 2009, <i>Protection of trees on development sites</i> , Section 4, in their entirety
2. Works within the TPZ areas of trees to be retained	Supervise, direct and photograph all approved works with the TPZ areas of tree to be retained.
3. Once per month during construction	Inspect, photograph and report on tree health and condition, maintenance of tree protection measures and remedial tree works as required.
4. Prior to issue of Occupation Certificate	Final inspection of trees to be retained and provision of follow up report detailing activities during construction including any damage to the trees and any remedial work required to ensure the ongoing health and structural stability of the trees. Site visit by Councils Tree Compliance Officer shall be sought and required prior to sign off of OC.
All neighbouring trees within 5m of boundary, must not be affected by excavations, stormwater /services installations, ground level changes and or root loss.	

**The above condition was added via MOD2022/00186.**

58. Tree Removal prohibited on adjoining properties – No tree on Council's public footway, public reserves or on neighbouring properties and protected under the Georges River Tree Management Policy 2019 may be removed, pruned or otherwise damaged without Council consent.

**The above condition was added via MOD2022/00186.**

59. Landscape Works in accordance with the approved plans – All landscape works shall be carried out in accordance with the approved landscape plans and specifications, subject to the following -
- An additional two (2) *Eucalyptus piperita* trees at minimum 100 litre pot/bag size are required to offset the loss of trees upon the foreshore area.
  - The applicant must engage a licensed and reputable nursery grower early within the build phase and order all trees and plant material early to ensure that all tree and plant material, pot/bag sizes and quantities are guaranteed at the time of the landscape and planting phase.
  - 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).

**The above condition was added via MOD2022/00186.**

60. Completion of Tree Works – A certificate of compliance prepared by the AQF Level 5 Project Arborist with all tree protection and required monitoring documentation must be submitted to the PCA for approval prior to the issue of an occupation certificate. Documentation must be made available to Council's Tree Compliance Officer on request.

***The above condition was added via MOD2022/00186.***

61. Completion of Landscape Works – All landscape works, the planting of all trees and plant material in accordance with approved landscape plans, additional two (2) *Eucalyptus piperita*, specifications and conditions of consent, must be completed prior to the issue of a final occupation certificate for the site. A certificate of compliance for the planting of all trees and shrubs proposed for the site must be prepared by a qualified Horticulturist, Landscape Designer or AQF Level 5 Arborist and forwarded to the PCA for approval prior to the issue of an occupation certificate.

***The above condition was added via MOD2022/00186.***

62. Ongoing Tree & Landscape Maintenance Works

- a) All newly planted trees and plants must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilising, pest and disease control, replacement of dead or dying trees and plants and other operations required to maintain healthy trees, plants and turfed areas.
- b) Trees must be maintained until they reach a height where they are protected by Council's Tree Management Controls. If any trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species and pot/bag size. If the trees are found dead before they reach a height where they are protected by Council's Tree Management Controls, they must be replaced with the same species and pot/bag size.
- c) Mature trees shall be inspected for health and structural integrity by an AQF Level 5 Arborist 12 month post completion of works. A certificate of compliance and/or report with recommendations for remedial work will be required to be approved by Council's Tree Compliance Officer.

***Condition added via MOD2022/00186.***

63. Boundary Fences – Boundary fencing shall be low in profile and at least 50% open or transparent. Where the fencing extends between the foreshore building line and the mean high water mark the fencing shall be no higher than 1.2m above natural or finished ground level and be of open weave material.

***The above condition was added via MOD2022/00186.***

64. Development Contributions – Fees to be paid - The fees listed in the table below must be paid in accordance with the conditions of this consent and Council's adopted Fees and Charges applicable at the time of payment (available at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au)).



Fee Type	Fee
<b>DEVELOPMENT CONTRIBUTIONS</b>	
Georges River Council Local Infrastructure Contributions Plan 2021	<b>\$20,135.40</b>

- a) Payments must be made prior to the issue of the Construction Certificate.
- b) Council must be contacted prior to payment to determine correct total amount to be paid and bank account details (if applicable).
- c) 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.

**Section 7.12 Levy** - Pursuant to the *Georges River Council Local Infrastructure Contributions Plan 2021*, a Section 7.12 levy of **\$20,135.40** is required to be paid for this development to be applied towards the provision, extension or augmentation of public amenities or public services.

#### Indexation

The proposed cost of carrying out the development to which this consent relates is to be adjusted quarterly to reflect inflation in the CPI for All Groups (Sydney), in accordance with Section 208 of the *Environmental Planning and Assessment Regulation 2021* and Section 5.2.6 of the *Georges River Council Local Infrastructure Contributions Plan 2021*.

The levy payable at the time of payment is found by multiplying the levy rate by the adjusted proposed cost of carrying out the development.

#### Timing of Payment

The contribution must be paid and receipted by Council prior to the release of a construction certificate.

#### Further Information

A copy of the current Development Contributions Plan may be inspected at Council's offices (Georges River Civic Centre, MacMahon Street, Hurstville and Kogarah Library and Service Centre, Kogarah Town Square, Belgrave Street, Kogarah) or viewed on Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au)

**Condition added via MOD2022/00186.**

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

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

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

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

**Condition added via MOD2022/00186.**

66. Pre-Construction Dilapidation Report on Public Land – A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of infrastructure on public land adjoining the development site prior to the commencement of works (including demolition and excavation):

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

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.

**Condition added via MOD2022/00186.**

67. 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.

**Condition added via MOD2022/00186.**

- 68.** Dilapidation Report on Public Land for Major Development – Upon completion of works, a follow up dilapidation report must be prepared for the items of Council infrastructure adjoining the development site:

The dilapidation report must be prepared by a professional engineer specialising in structural engineering, and include:

- (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 Engineering Services Division must advise in writing that the works have been completed to their satisfaction prior to the issue of an Occupation Certificate.

***Condition added via MOD2022/00186.***

### Ongoing use

- 69.** Roof top landscaped garden

The roof top garden area is not to be accessed and used as a roof top terrace or any form of useable or functional space. No furniture or cooking equipment is to be placed on the roof at any time. Nor balustrading is permitted to be installed to its perimeter. A fixing point for access and maintenance is to be provided and a service ladder is permitted, no fixed staircase is permitted.

***Condition added via MOD2022/00186.***

### ATTACHMENTS

Attachment 1 Amended Architectural plans - Version 2



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

PROJECT: KYLE BAY RESIDENCE  
SITE ADDRESS: 117 KYLE PDE, KYLE BAY

- A00 Cover
- A01 Site Analysis
- A10 Site Plan
- A11 Upper Floor level (East)
- A12 Ground Floor Level (East)
- A13 Lower Floor Level (East)
- A14 Upper Floor level (East) Comparison
- A15 Ground Floor Level (East) Comparison
- A16 Lower Floor Level (East) Comparison
- A17 Height Comparison
- A20 North Elevations - Sections & Context
- A21 East Elevation & Context
- A22 South Elevations & Context
- A23 West Elevation & Context
- A30 Sections
- A31 Sections
- A32 Sections
- A40 Axonometric Comparison
- A41 Axonometric Comparison
- A50 Shadow Diagrams - Summer
- A51 Shadow Diagrams - Winter
- A52 Shadow Diagrams - Equinox
- A53 Existing Approved Shadow Diagrams - Summer
- A54 Existing Approved Shadow Diagrams - Winter
- A55 Existing Approved Shadow Diagrams - Equinox
- A56 Sun Eye Diagram - 0900
- A57 Sun Eye Diagram - 1000
- A58 Sun Eye Diagram - 1100
- A59 Sun Eye Diagram - 1200
- A60 Sun Eye Diagram - 1300
- A61 Sun Eye Diagram - 1400
- A62 Sun Eye Diagram - 1500
- A64 G.F.A and Landscape Areas
- A65 G.F.A and Landscape Areas - Existing Approved DA Dwelling
- A70 Construction & Waste Management
- A80 External Finishes Schedule
- A90 View Analysis - Key Reference Plan
- A91 View Analysis - 115 Kyle Parade
- A92 View Analysis - 119 Kyle Parade



PROPOSED DEVELOPMENT DETAILS SUMMARY

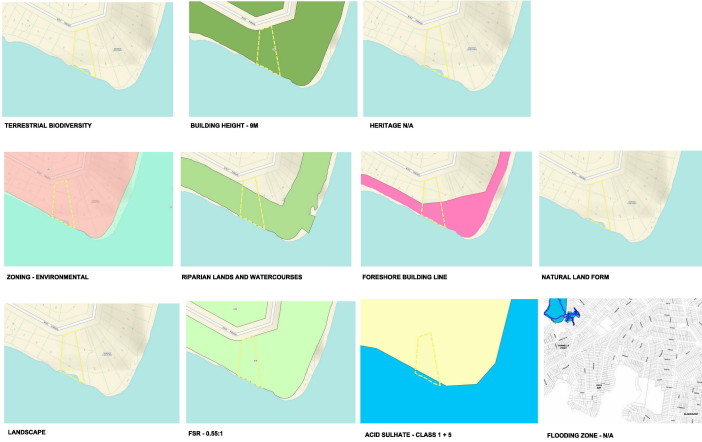
Standard	Georges River Council Min/Max	Approved 2002	Proposed 2022
Site Area	1657m <sup>2</sup>	-	-
Council	Georges River Council	-	-
Zone	R2	= YES - R2	= YES - R2
Max FSR	(1657 - 1000) x (0.2 + 462.5) + 1657 = 0.35:1	= 0.50:1 (835m <sup>2</sup> )	= 0.50:1 (835m <sup>2</sup> )
Max Building Height	LEP: 9m	= 11m	= 10.80m
Min landscaping	465.48m <sup>2</sup> (40%)	= 465.48m <sup>2</sup> (40%)	= 465.48m <sup>2</sup> (40%)
Proposed Landscaping	LEP: 25% (414.25m <sup>2</sup> )	= 869m <sup>2</sup> (52%)	= 831m <sup>2</sup> (50%)
POS	60m2 with 6m dim	= x	= 570m2 + pool
Site cover	-	= 52%	= 58%
Acid Sulphate	Class 1 + 5	= Class 1 + 5	= Class 1 + 5
Heritage	N/A	= N/A	= N/A
Bushfire	N/A	= N/A	= N/A
Flooding	N/A	= N/A	= N/A
PARKING			
Provided	2	= 4	= 4
Front Setback	4.5m to dwelling wall   5.5m to garage	= 5.5m garage / 2.0m lower	= 6.3m garage / 2.2m lower
Rear Setback	15% of the average site length	= 15m	= 15.7m
Side Setback E	1500mm for foreshore lots / existing can be retained	= 1.2m increasing to rear	= 1.2m
Side Setback W	1500mm for foreshore lots / existing can be retained	= 1.2m increasing to rear	= 1.2m
Storeys	2	= 3	= 3

REVISION OF WORKS 31/01/2024

9.86m

809m<sup>2</sup> (48%)

570m2 + pool



Project	KYLE BAY RESIDENCE		117 Kyle Parade Kyle Bay		Drawing Name		Cover	Date	31/01/2024	Scale	Sheet Size	Job No.	2210	Drawing No.	DA-A00	North Point	888 ARCHITECTS PTY LTD Nom. Arc: Robert Chapman-Maleki Reg. No: 30115 20716 Wymook Circuit Carlingbah M: 0425 954 448 E: robert@888architects.com		868	ARCHITECTS
<p>DO NOT SCALE FROM THESE DRAWINGS use given dimensions. Contractor Builder is to check all dimensions on site prior to commencement of site clearing or foundation. Any discrepancies are to be referred to the architect/designer prior to commencement of work. This drawing is to be used in accordance with its 'purpose of issue' only. No responsibility will be accepted for the improper use of this drawing. Architectural drawings indicate design intent only. Builder is to ensure that all construction is in accordance with all relevant Australian Standards, legislation, policies, Building Code of Australia, Development Consent and any other council or certifier requirements. This set of drawings does not include all possible construction details and the builder is required to complete the design where the information is not available. Please contact the architect in case of doubt.</p>																	/ DA-4			
Drawn	LG		Chk:	RCM																



Project	Drawing Name	Date	Scale	Sheet Size	Job No.	Drawing No.	North Point
KYLE BAY RESIDENCE	117 Kyle Parade Kyle Bay	31/01/2024	As indicated @	A210		DA-A01	
		Drawn Log LPC				Revision / DA-4	

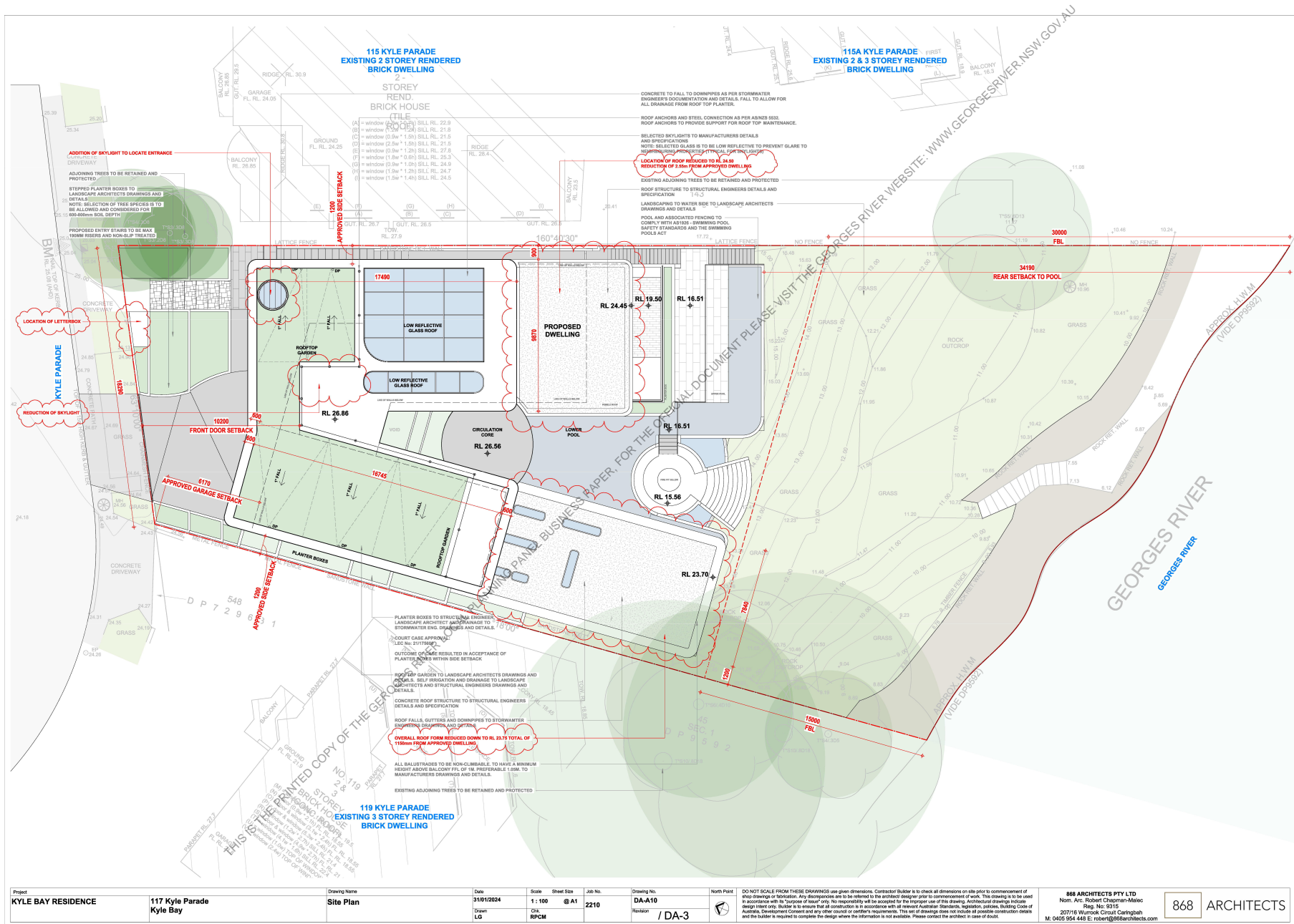
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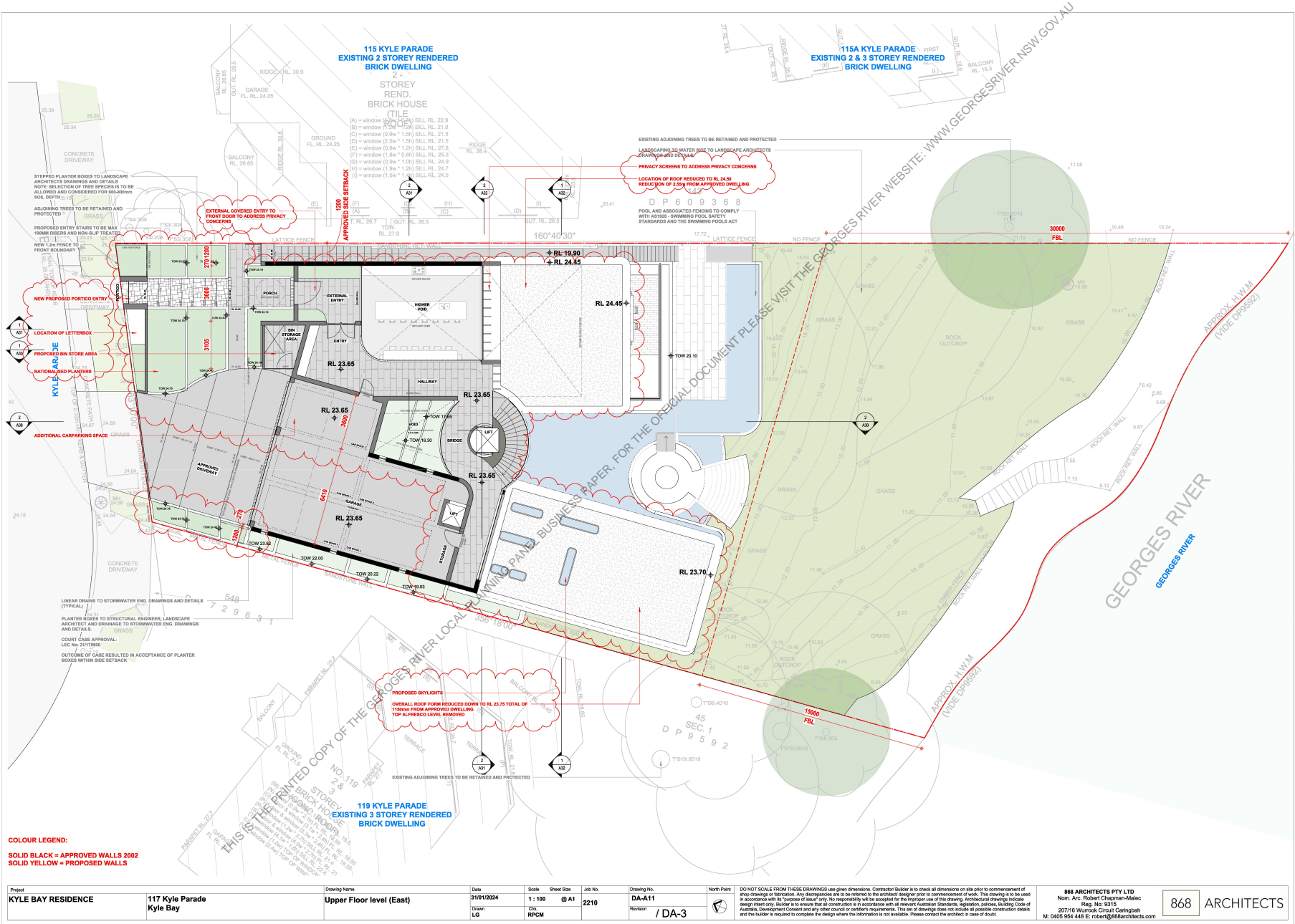
DO NOT SCALE from these drawings as given dimensions. Contractor Builder is to check all dimensions on site prior to commencement of shop drawing or fabrication. Any DIMENSIONS are to be referred to the architect/designer prior to commencement of work. This drawing is to be used in accordance with the "Suppose of drawings". No responsibility will be accepted for the improper use of this drawing. Architectural drawings indicate design intent only. Builder is to ensure that all construction is in accordance with all relevant Australian Standards, Building Code of Australia, Development Consent and any other council or certifier's requirements. This set of drawings does not include a possible construction detail. The builder is required to complete the design where the architect has not provided. The architect is not responsible for the construction of the building.

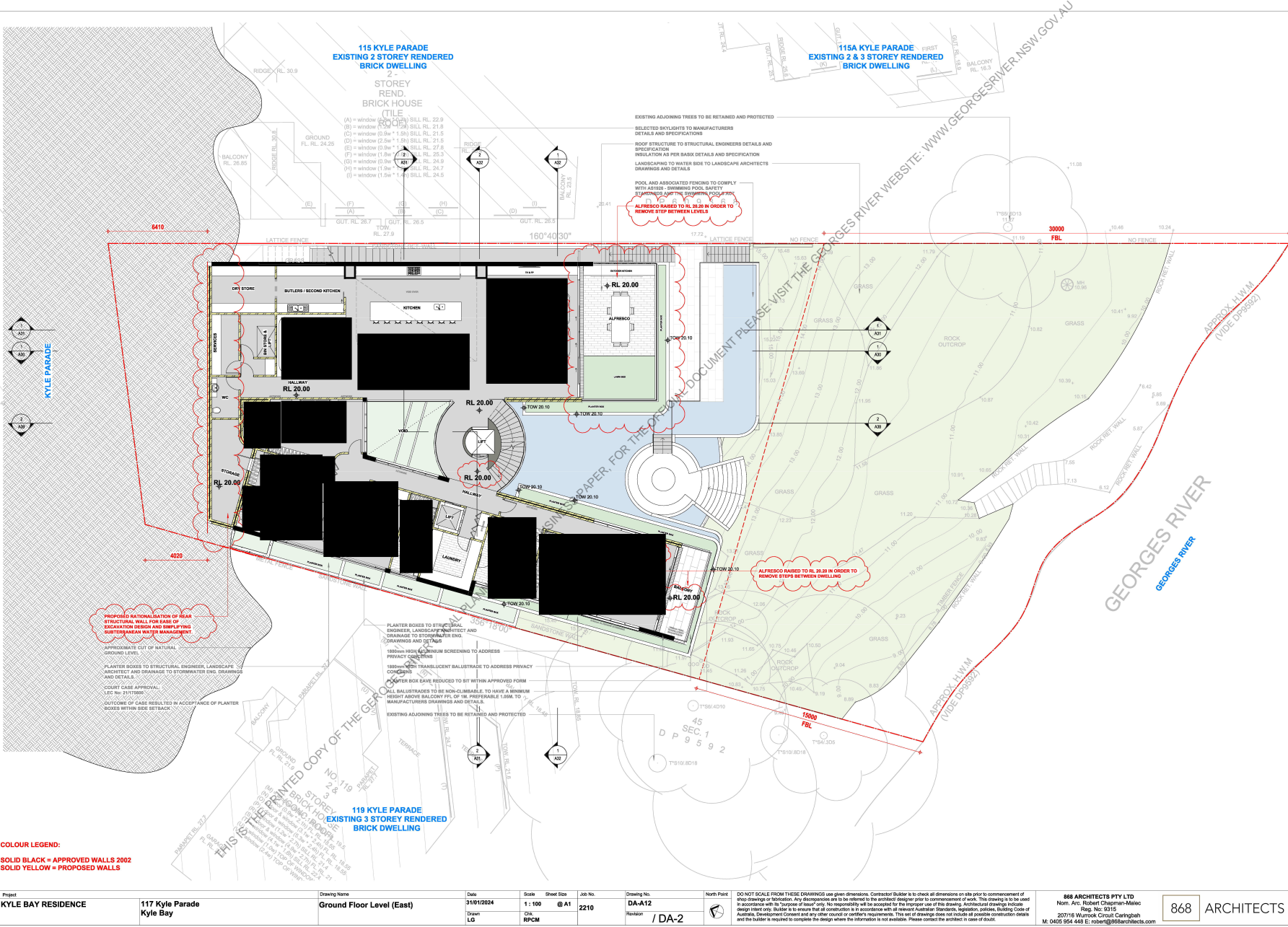
**868 ARCHITECTS PTY LTD**  
 Nomin. Arch. Robert Cheesman-Harris  
 Tel: 08 9315  
 20716 Warracoo Creek-Melba  
 M 08 954 4481 E rcheesman@868architects.com.au

**868 ARCHITECTS**

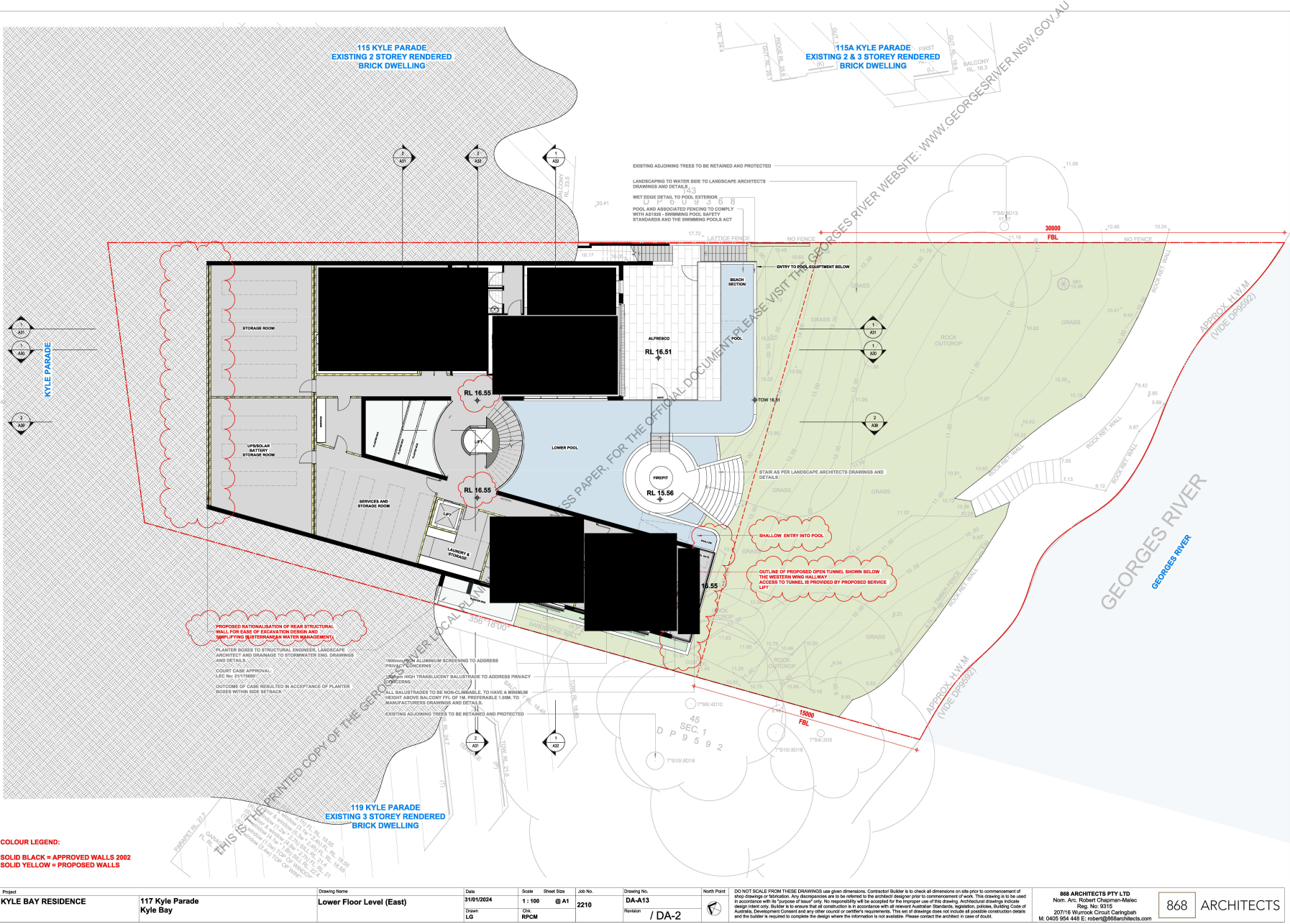


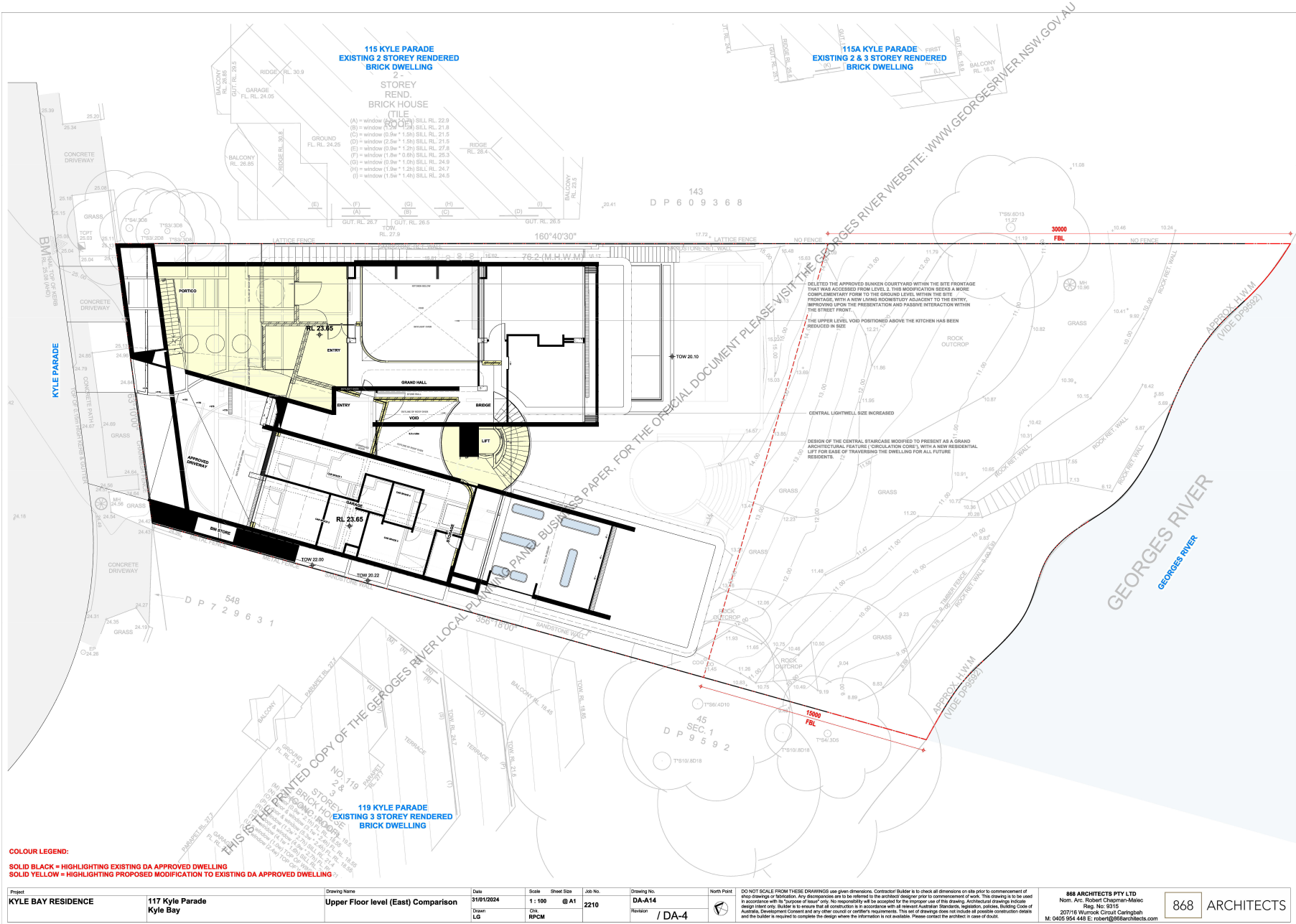




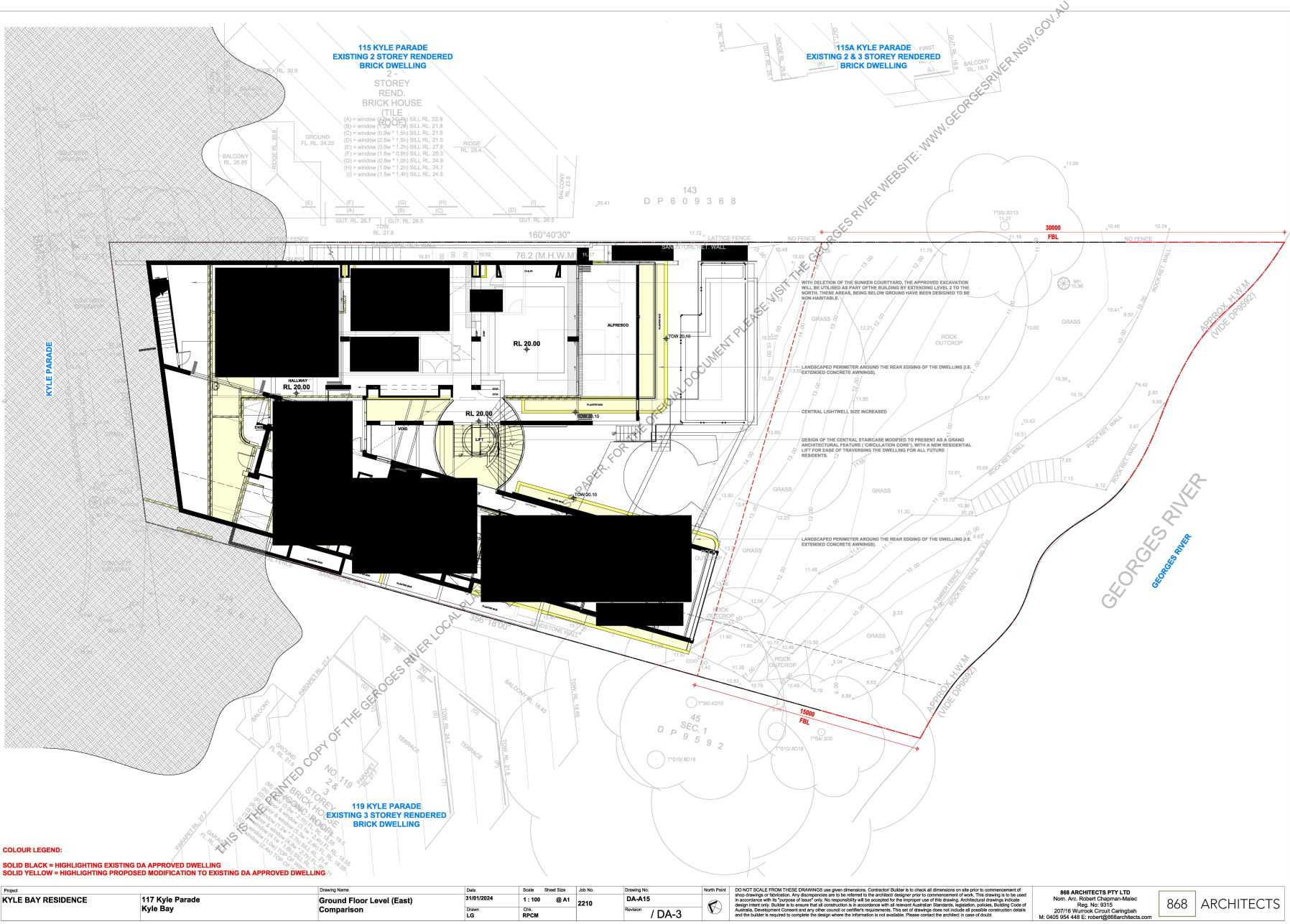


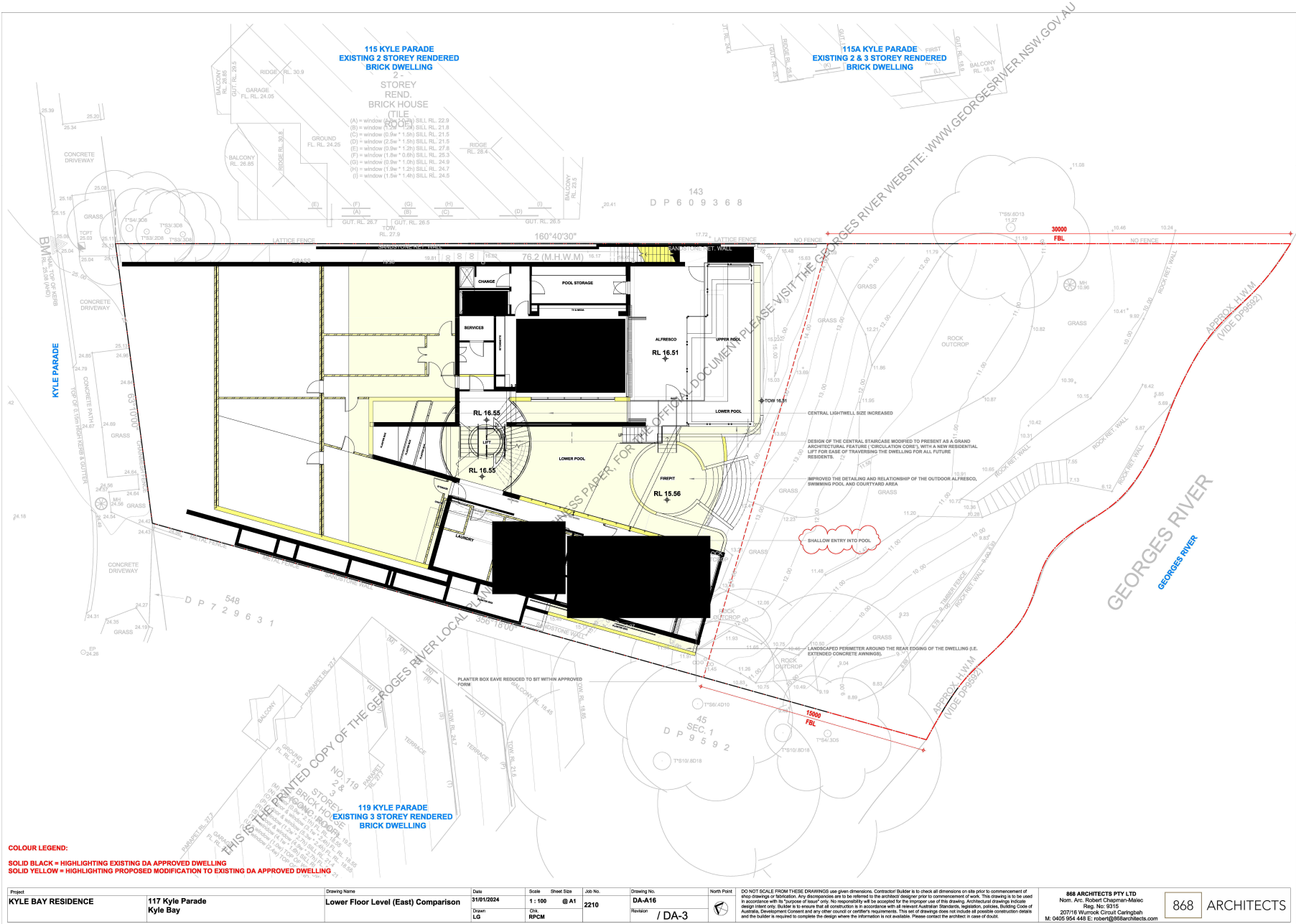


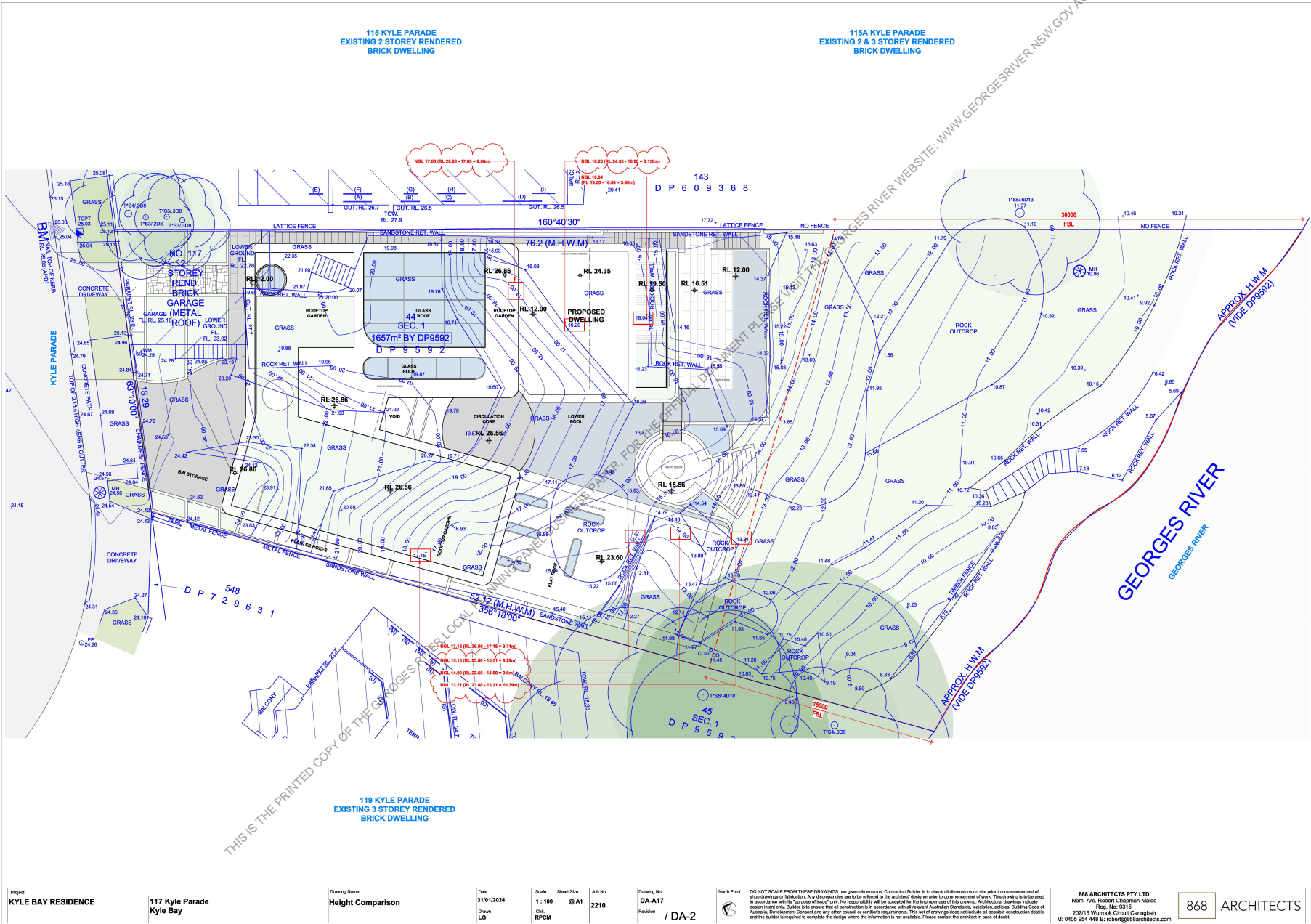




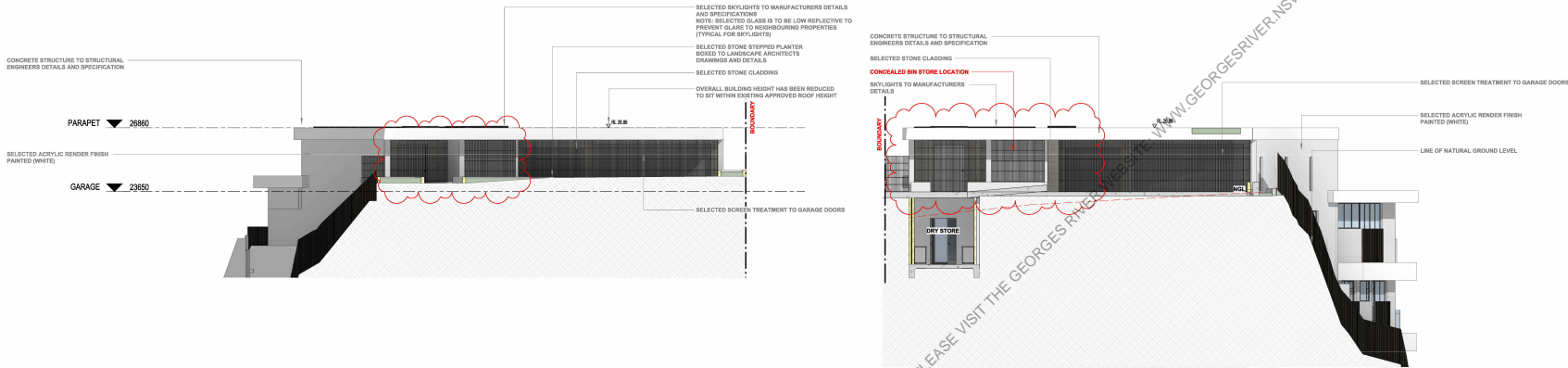






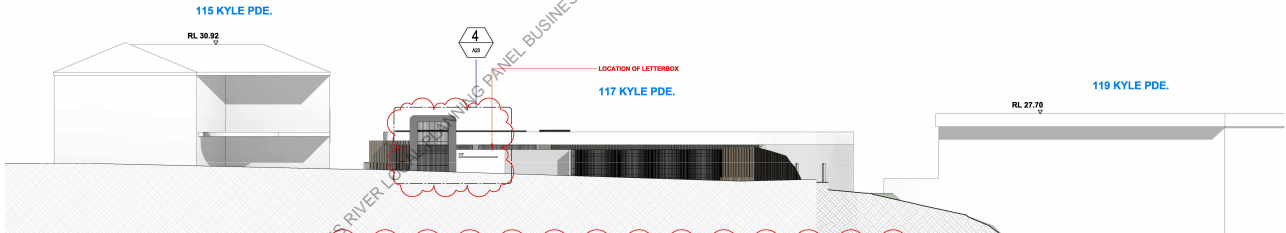




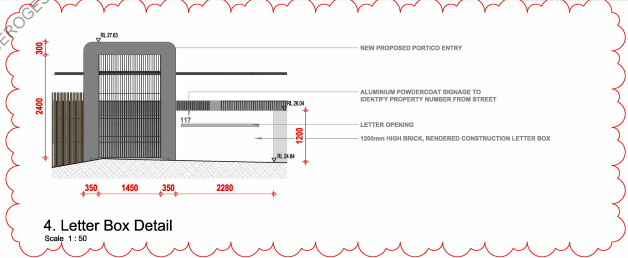


1. North Elevation  
Scale 1 : 100

2. North Elevation  
Scale 1 : 100

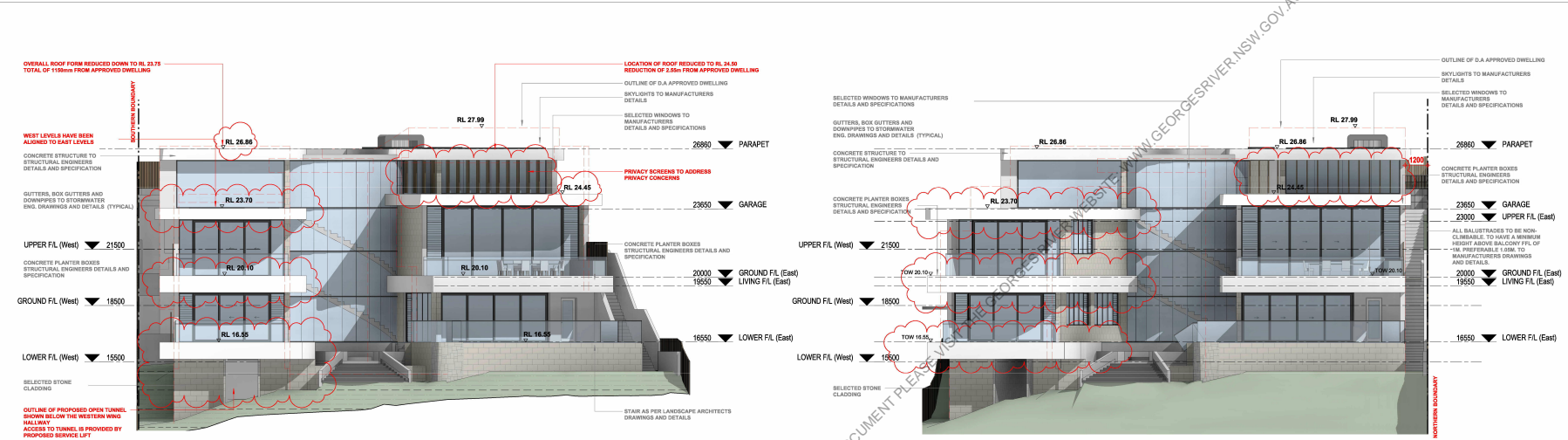


3. North Elevation Context  
Scale 1 : 100



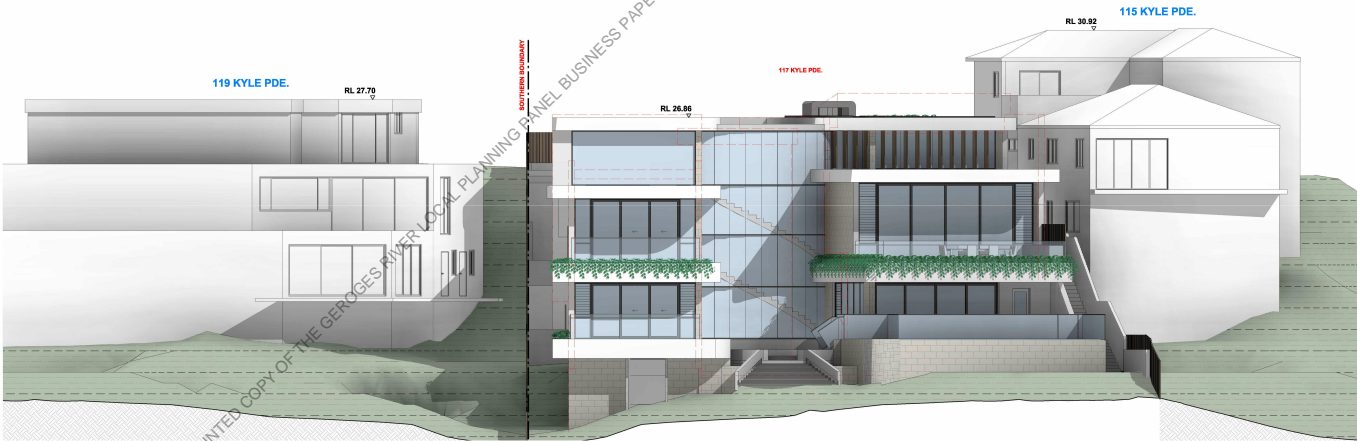
Project	KYLE BAY RESIDENCE	117 Kyle Parade Kyle Bay	Drawing Name	North Elevations , Sections & Context	Date	31/01/2024	Scale	As indicated @ A1	Sheet Size	A1	Job No.	2210	Drawing No.	DA-A20	North Point	DO NOT SCALE FROM THESE DRAWINGS use given dimensions. Contractor/Buyer is to check all dimensions on site prior to commencement of shop drawings or fabrication. Any discrepancies are to be referred to the architect/designer prior to commencement of work. This drawing is to be used in accordance with its "purpose of issue" only. No responsibility will be accepted for the improper use of this drawing. Architectural drawings indicate design intent only. Builder is to ensure that all construction is in accordance with all relevant Australian Standards, regulatory codes, Building Code of Australia, Development Consent and any other council or certifier requirements. This set of drawings does not include all possible construction details and the builder is required to complete the design where the information is not available. Please contact the architect in case of doubt.	888 ARCHITECTS PTY LTD Nom. Arc: Robert Chapman-Maleko Reg. No: 3315 207148 Wymook Circuit Caringbah M: 0425 954 448 E: robert@888architects.com	868 ARCHITECTS
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1. South Elevation  
Scale 1 : 100

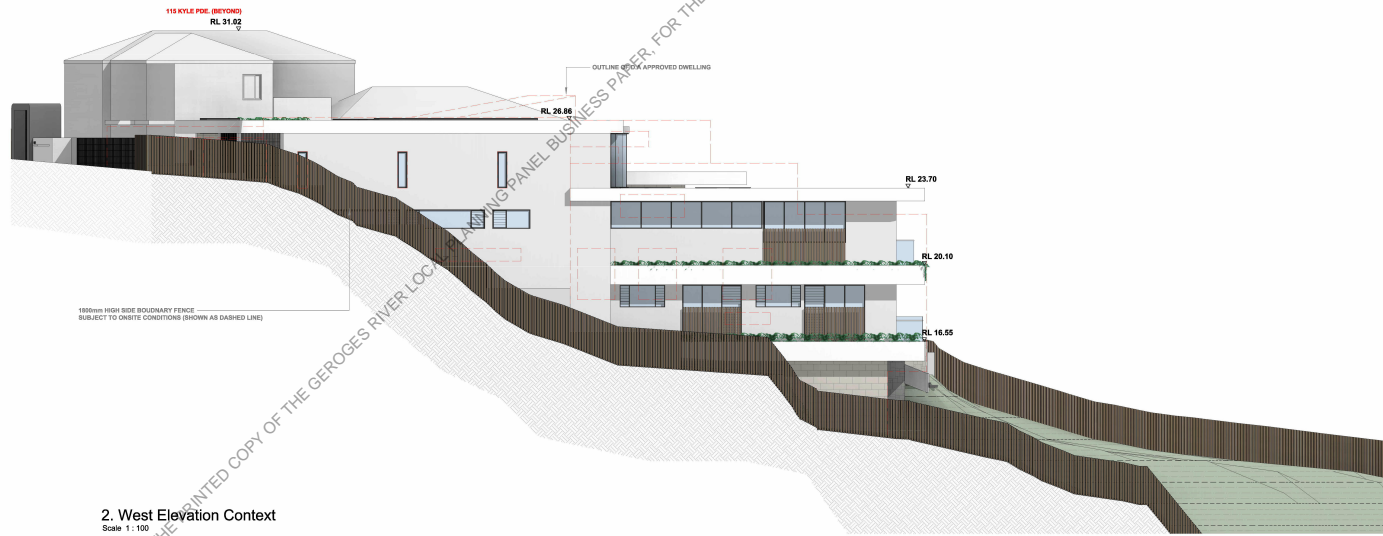
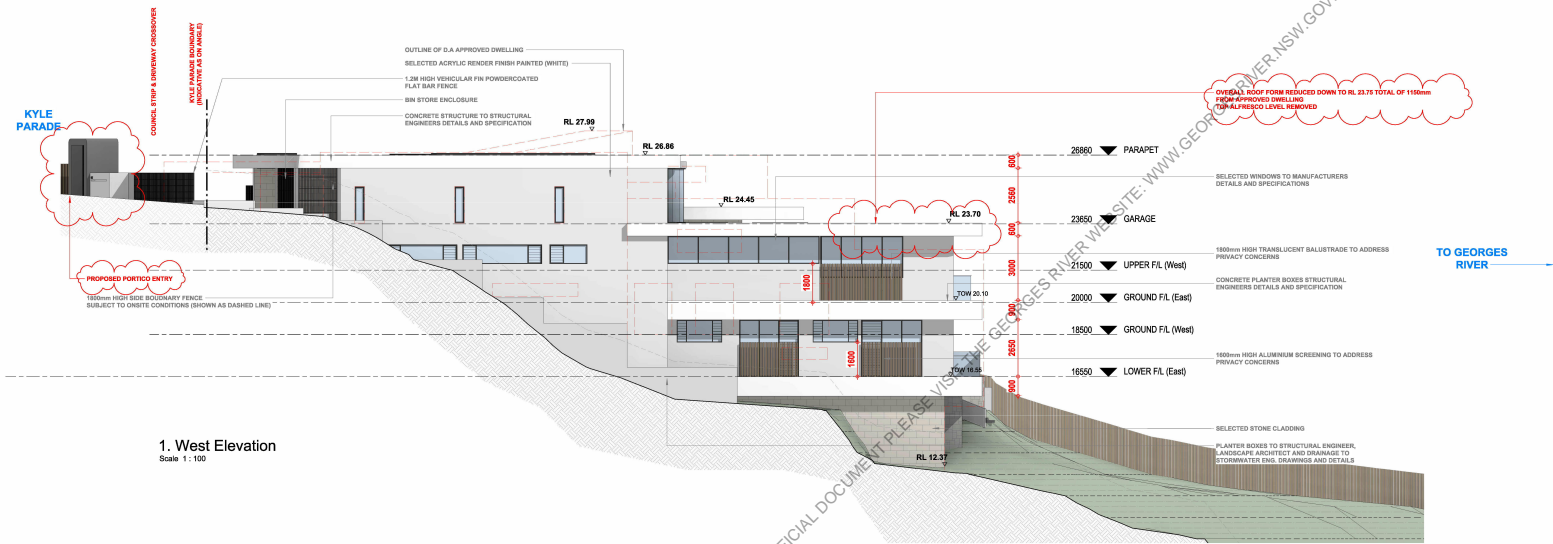
2. South Elevation  
Scale 1 : 100



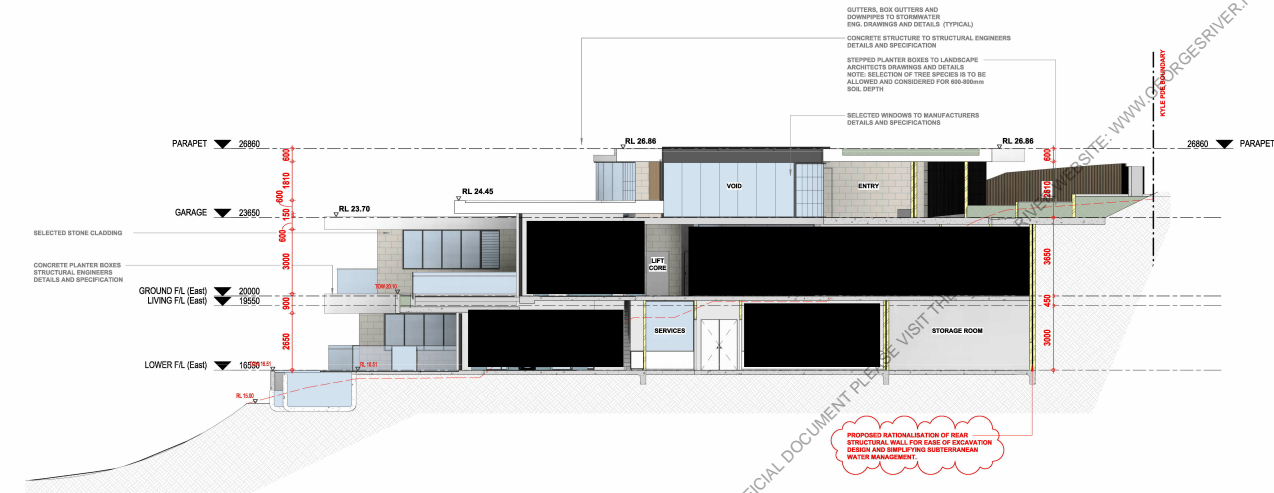
3. South Elevation Context  
Scale 1 : 100

Project		Drawing Name		Date	Scale	Sheet Size	Job No.	Drawing No.	North Point	888 ARCHITECTS PTY LTD Nom. Arc: Robert Chapman-Maleko Reg. No: 33115 207148 Wymook Circuit Caringbah M: 0425 954 448 E: robert@888architects.com	
KYLE BAY RESIDENCE		117 Kyle Parade Kyle Bay		31/01/2024	1 : 100	@ A1	2210	DA-A22		868 ARCHITECTS	
		South Elevations & Context						Revision	/ DA-3		
		Drawn LG		Chk. RPCM							

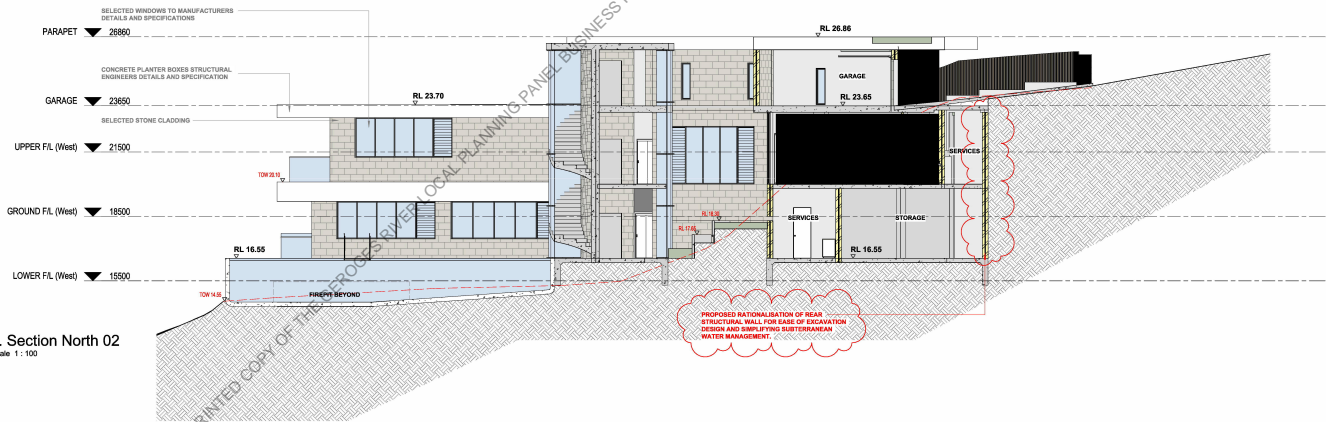




Project	KYLE BAY RESIDENCE	117 Kyle Parade Kyle Bay	Drawing Name	West Elevation & Context	Date	31/01/2024	Scale	1 : 100	Sheet Size	@ A1	Job No.	2210	Drawing No.	DA-A23	North Point	DO NOT SCALE FROM THESE DRAWINGS use given dimensions. Contractor/Buyer is to check all dimensions on site prior to commencement of shop drawings or fabrication. Any discrepancies are to be referred to the architect/designer prior to commencement of work. This drawing is to be used in accordance with its "purpose of issue" only. No responsibility will be accepted for the improper use of this drawing. Architectural drawings indicate design intent only. Buyer is to ensure that all construction is in accordance with all relevant Australian Standards, regulatory codes, Building Code of Australia, Development Consent and any other council or certifier requirements. This set of drawings does not include all possible construction details and the builder is required to complete the design where the information is not available. Please contact the architect in cases of doubt.	888 ARCHITECTS PTY LTD Nom. Arc: Robert Chapman-Maleko Reg. No: 3315 207148 Wymook Circuit Caringbah M: 0425 954 448 E: robert@888architects.com	868 ARCHITECTS
Drawn	LG	CHK	RP-CH										Revision	/ DA-3				

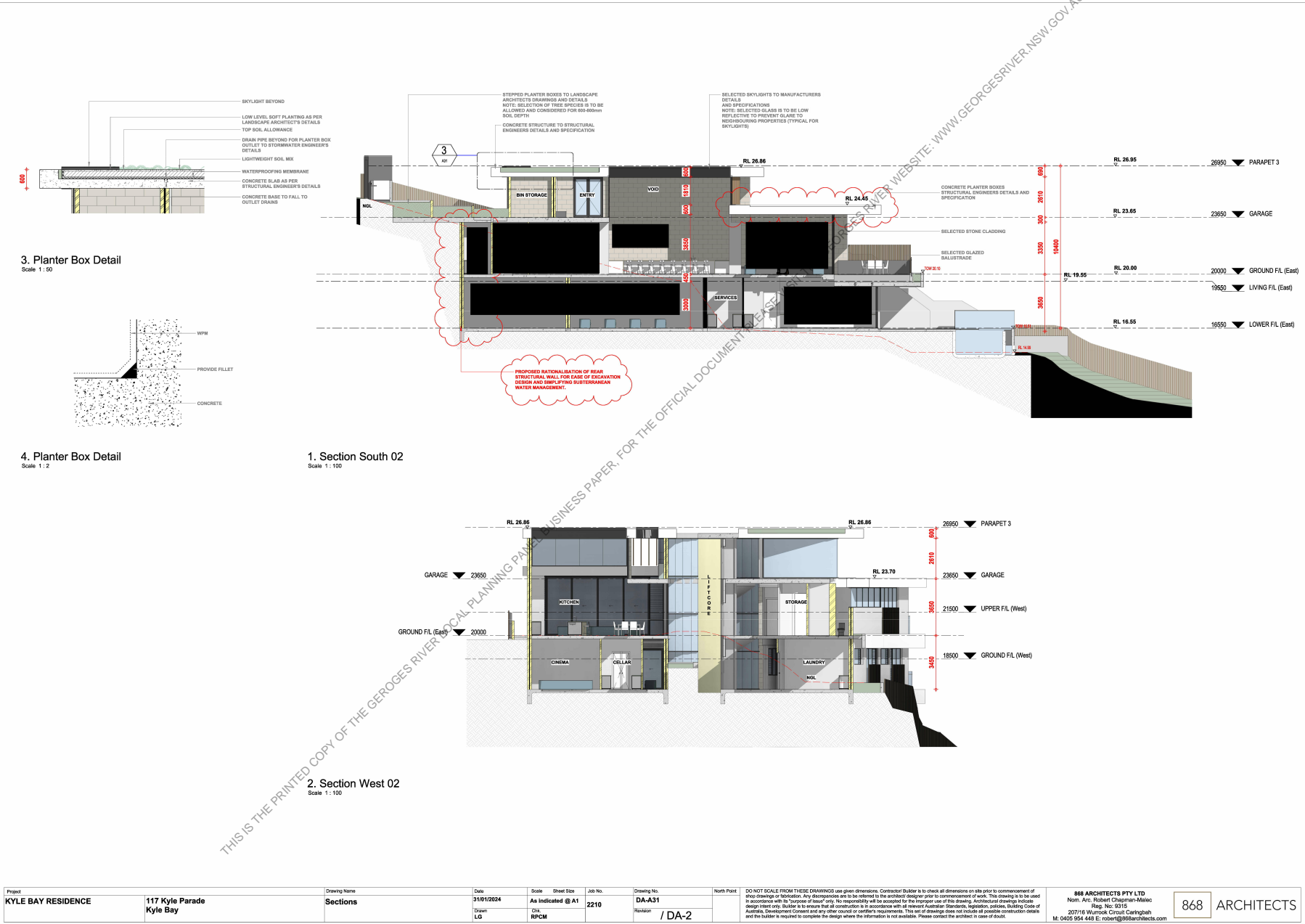


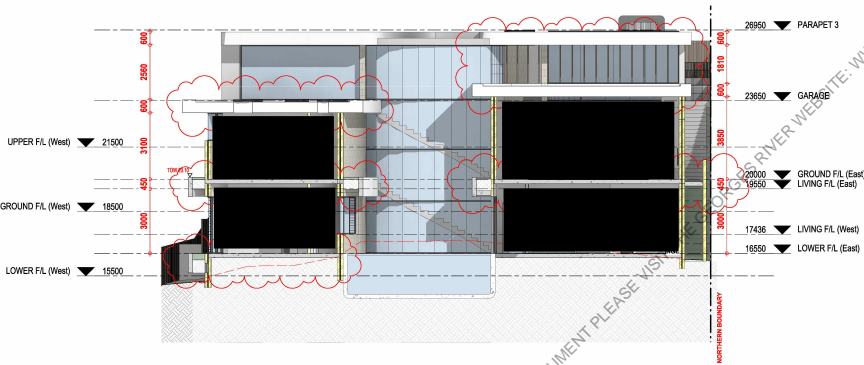
1. Section North 01  
Scale 1 : 100



2. Section North 02  
Scale 1 : 100

Project		Drawing Name		Date		Scale		Sheet Size		Job No.		Drawing No.		North Point		888 ARCHITECTS PTY LTD Nom. Arc: Robert Chapman-Maleki Reg. No: 33115 207148 Wymook Circuit Caringbah M: 0425 954 448 E: robert@888architects.com	
KYLE BAY RESIDENCE		117 Kyle Parade Kyle Bay		Sections		31/01/2024		1 : 100 @ A1		2210		DA-A30		/ DA-2		868 ARCHITECTS	
Drawn		Chk.															
LG		RPCM															



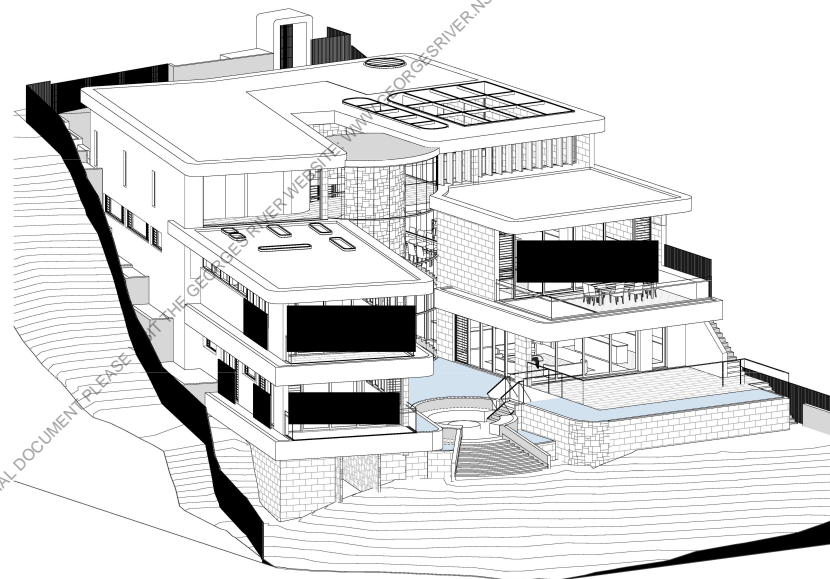


1. Section East 01  
Scale 1 : 100

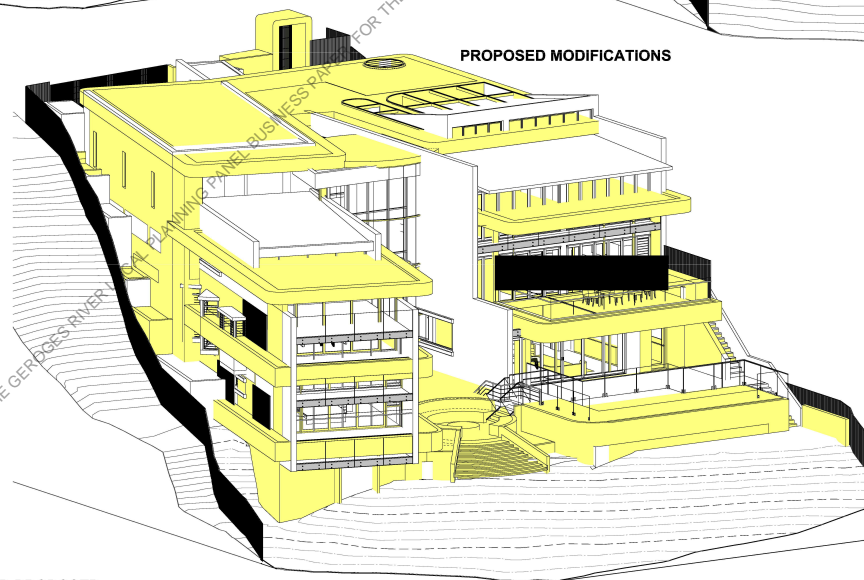


2. Section East 02  
Scale 1 : 100

Project		Drawing Name		Date		Scale		Sheet Size		Job No.		Drawing No.		North Point		888 ARCHITECTS PTY LTD Nom. Arc: Robert Chapman-Maleki Reg. No: 33115 207148 Wymook Circuit Caringbah M: 0425 954 448 E: robert@888architects.com		868 ARCHITECTS	
KYLE BAY RESIDENCE		117 Kyle Parade Kyle Bay		Sections		31/01/2024		1 : 100 @ A1		2210		DA-A32							
Drawn		Chk.										Revision							
LG		RPCM										/ DA-2							



## PROPOSED MODIFICATIONS



### EXISTING AND PROPOSED MODIFICATIONS OVERLAY

Project	Drawing Name	Date	Scale	Sheet Size	Job No.	Drawing No.	North Point
KYLE BAY RESIDENCE	Axonometric Comparison	31/01/2024		A1	2210	DA-440	
		Drawn LG	CHK RPM		Revision / DA-3		

**117 Kyle Parade**  
**Kyle Bay**

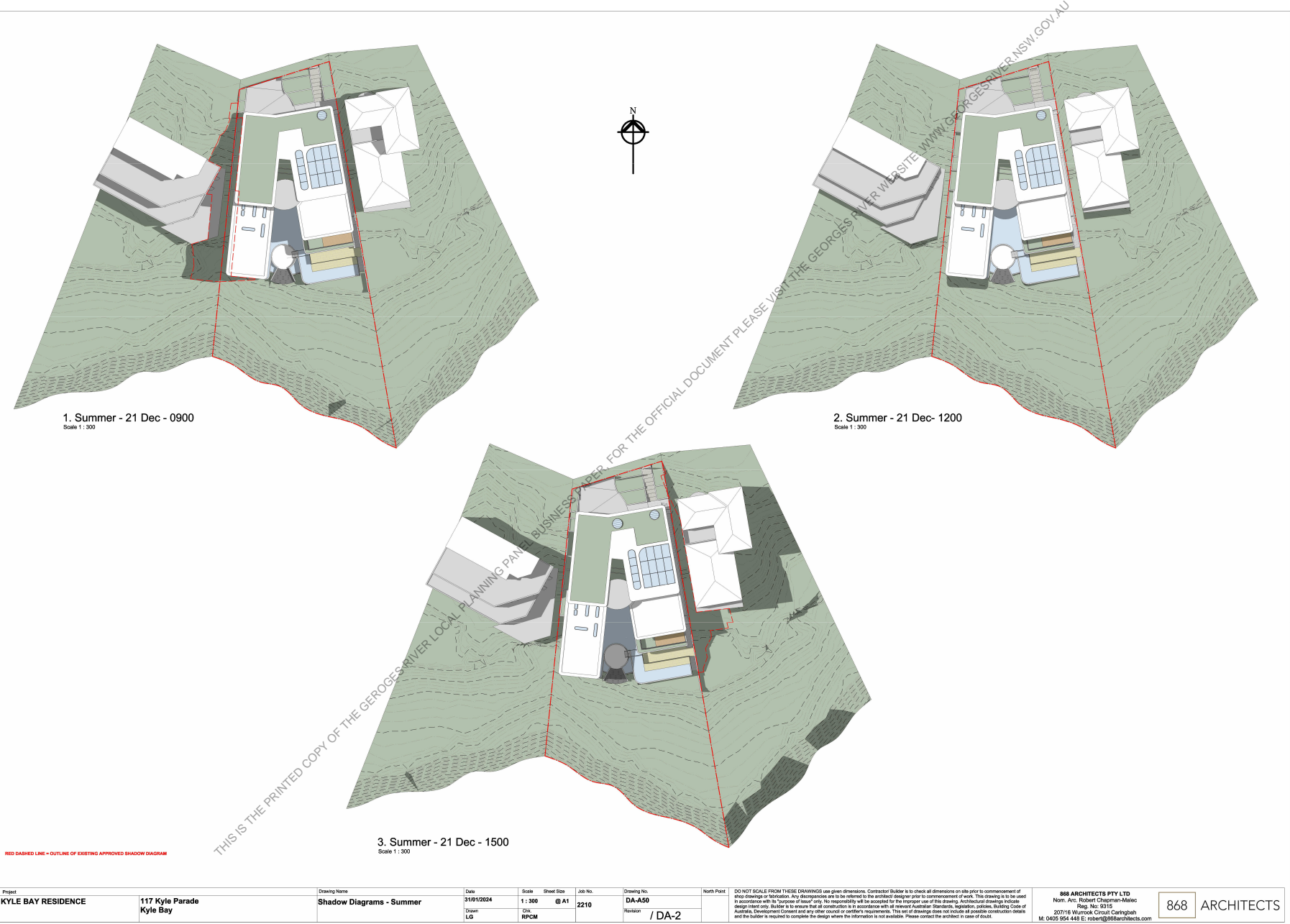
**868 ARCHITECTS PTY LTD**  
NORMAN, ACT  
Robert Cheesman-Harris  
Tel: 02 9315  
20716 Warrumbidgee Circuit  
M: 08 05 648 10 - rcheesman@868architects.com

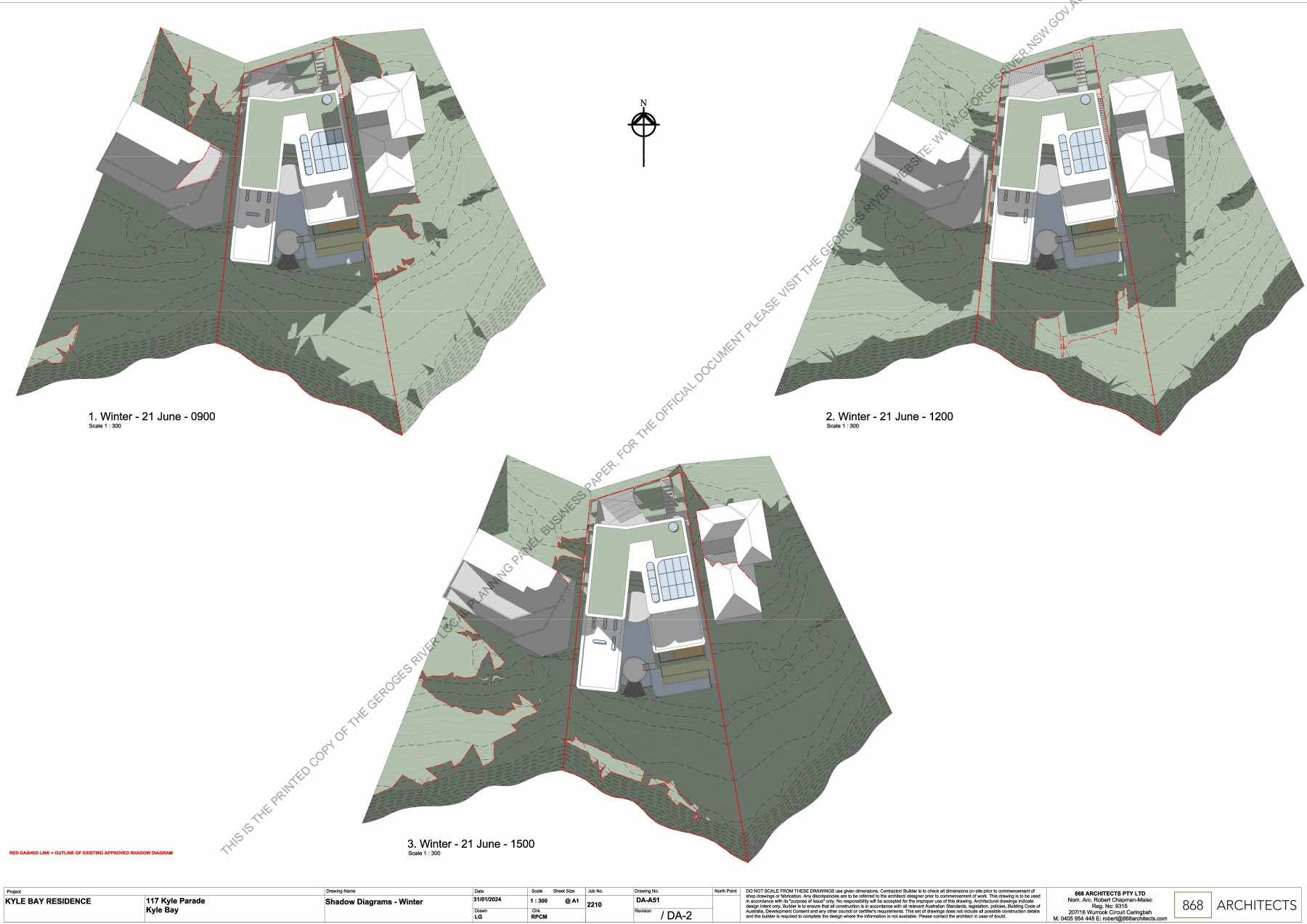




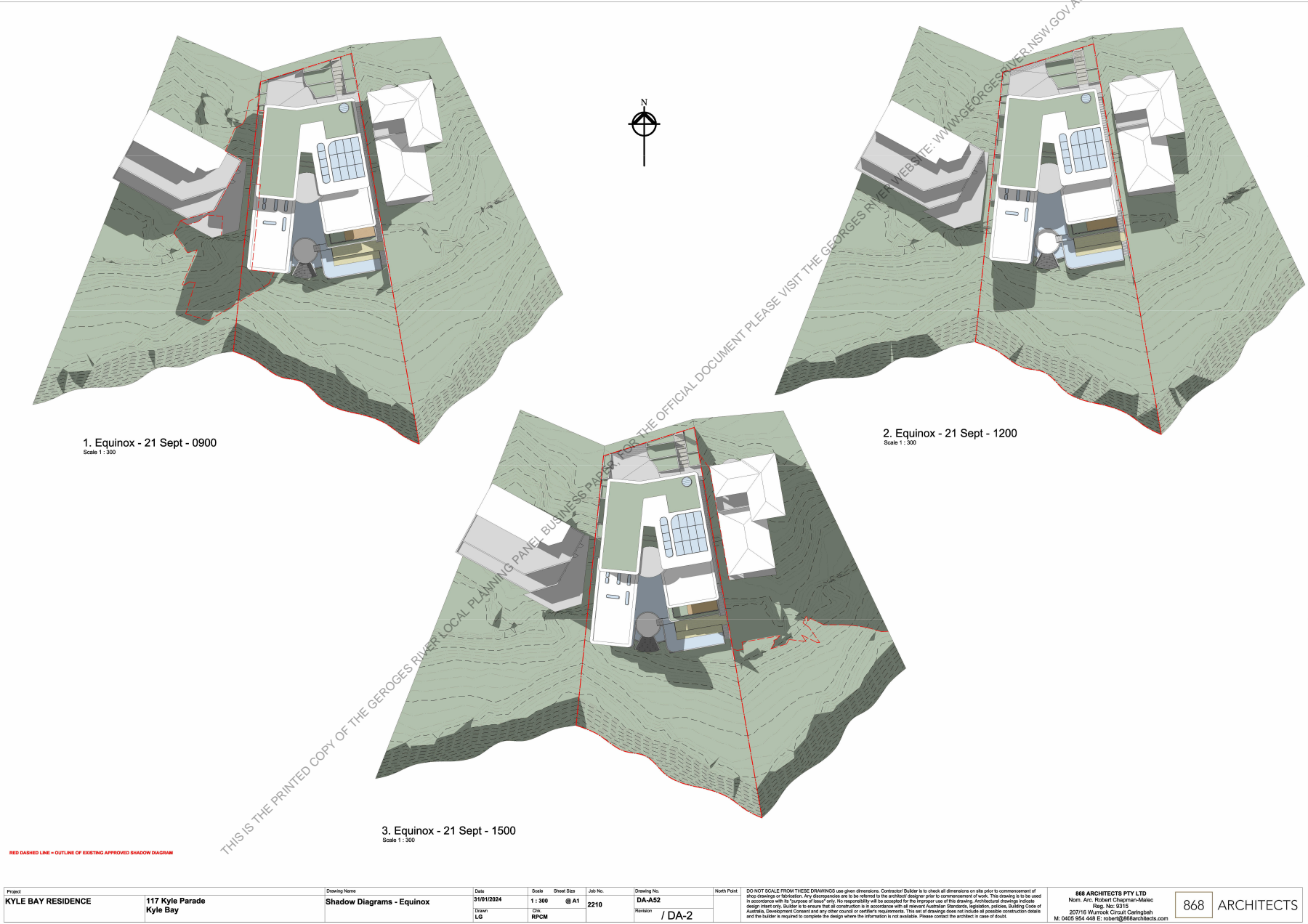
**SOLID YELLOW = HIGHLIGHTING PROPOSED MODIFICATIONS**

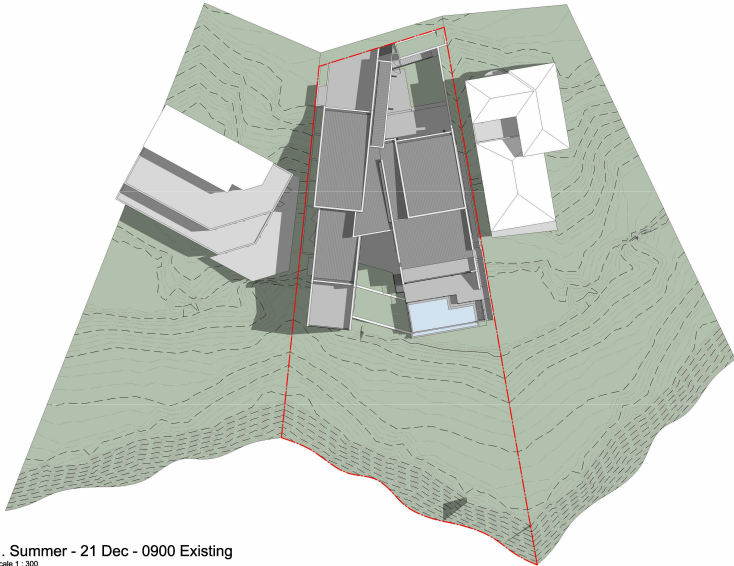
Project	Drawing Name	Date	Scale	Sheet Size	Job No.	Drawing No.	North Point	868 ARCHITECTS PTY LTD Naim, Arie, Robert, Christopher & Hishia Tel: 09 3915 20716 Wairoa Road, Carlsbad M 04 55 441 10 - naim@868architects.com
KYLE BAY RESIDENCE	Axonometric Comparison	31/01/2024	@ A1	2210		DA-441		868 ARCHITECTS
117 Kyle Parade Kyle Bay	Drawn LG	CHK RPM	DO NOT SCALE FROM THIS DRAWING as given dimensions are site info for comparison to commencement of shop drawings or fabrication. Any dimensions not to be referred to the architect designer prior to commencement of work. This drawing is to be used in accordance with the "suppose of drawings". No responsibility will be accepted for the improper use of this drawing. Architectural drawings indicate design intent only. Builder is to ensure that all construction is in accordance with all relevant Australian Standards, Building Code of Australia, Development Consent and any other council or certifier's requirements. This set of drawings does not include a possible construction detail and the builder is required to complete the design where the architect has not provided. The architect is not liable for any errors or omissions.					
						Revision / DA-3		



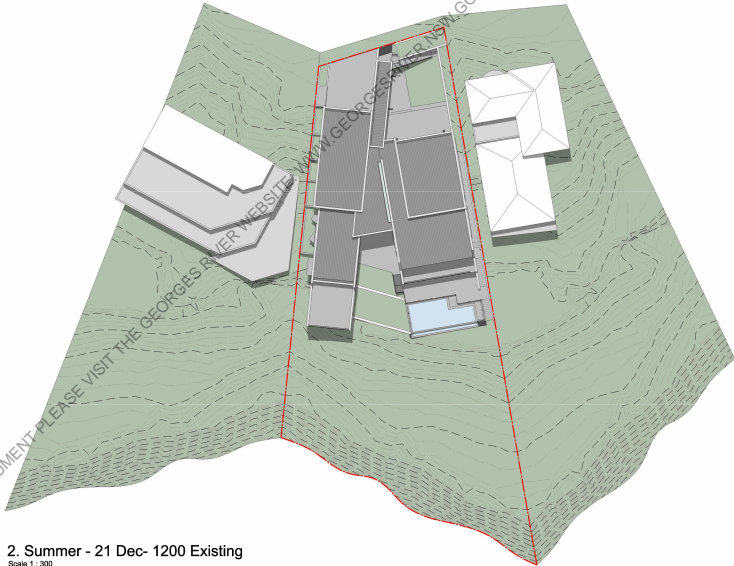




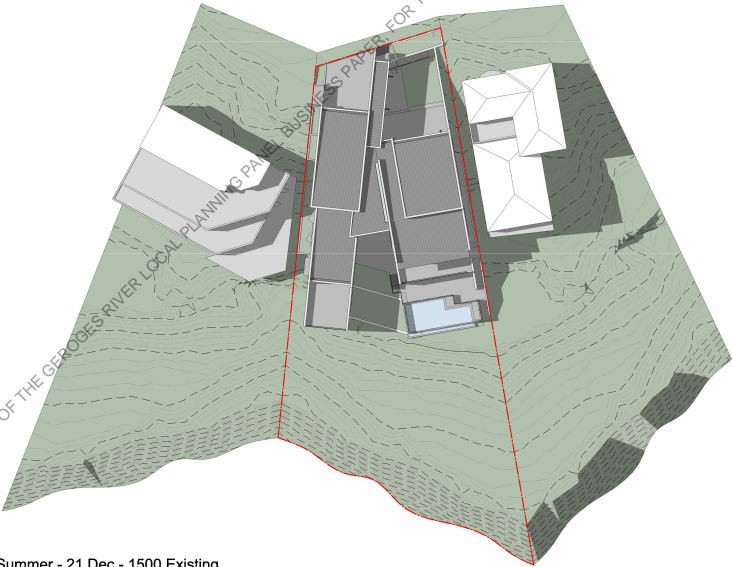




1. Summer - 21 Dec - 0900 Existing  
Scale 1 : 300

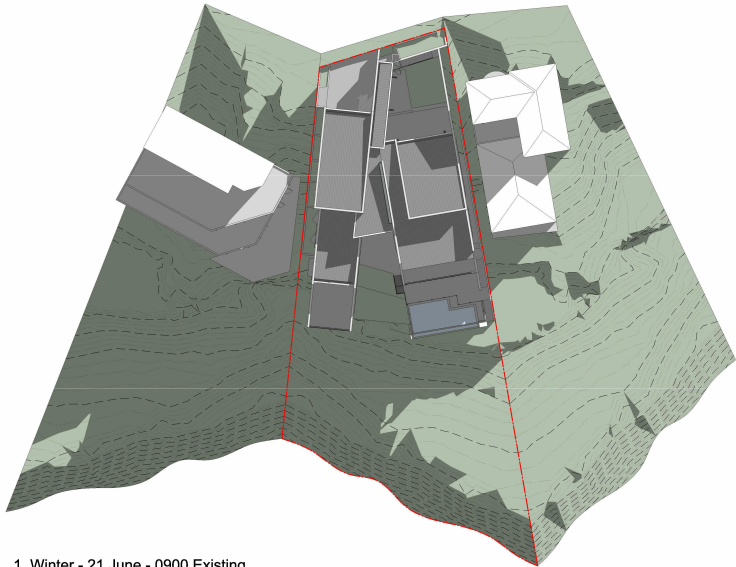


2. Summer - 21 Dec- 1200 Existing  
Scale 1 : 300



3. Summer - 21 Dec - 1500 Existing  
Scale 1 : 300

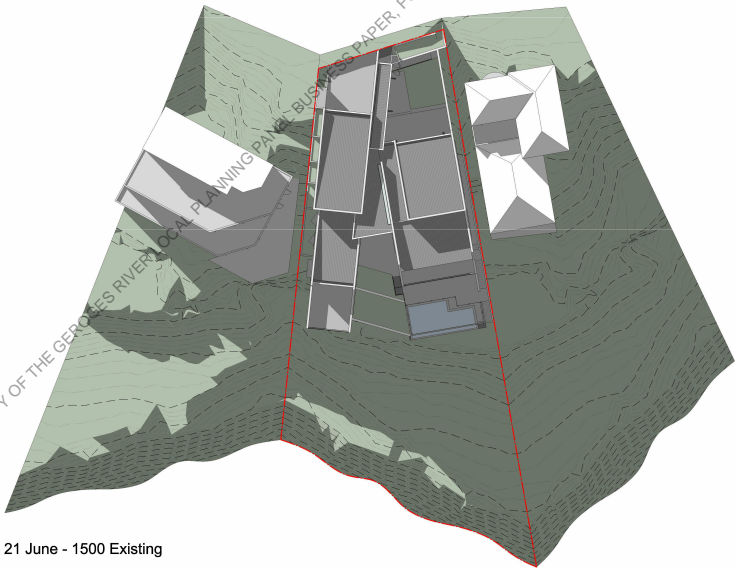
Project	117 Kyle Parade Kyle Bay	Drawing Name	Date	Scale	Sheet Size	Job No.	Drawing No.	North Point	DO NOT SCALE FROM THESE DRAWINGS use given dimensions. Contractor/Buyer is to check all dimensions on site prior to commencement of site clearance or foundation. Any discrepancies are to be referred to the architect/designer prior to commencement of work. This drawing is to be used in accordance with its "purpose of issue" only. No responsibility will be accepted for the improper use of this drawing. Architectural drawings indicate design intent only. Builder is to ensure that all construction is in accordance with all relevant Australian Standards, regulatory codes, Building Code of Australia, Development Consent and any other council or certifier requirements. This set of drawings does not include all possible construction details and the builder is required to complete the design where the information is not available. Please contact the architect in case of doubt.	888 ARCHITECTS PTY LTD Nom. Arc: Robert Chapman-Maleki Reg. No: 33115 207148 Wymook Circuit Darlinghurst M: 0425 954 448 E: robert@888architects.com	868 ARCHITECTS
KYLE BAY RESIDENCE		Existing Approved Shadow Diagrams - Summer	31/01/2024	1 : 300	A1	2210	DA-A53 Revision / DA-2				
		Drawn LG		Obs. RPM							



1. Winter - 21 June - 0900 Existing  
Scale 1 : 300



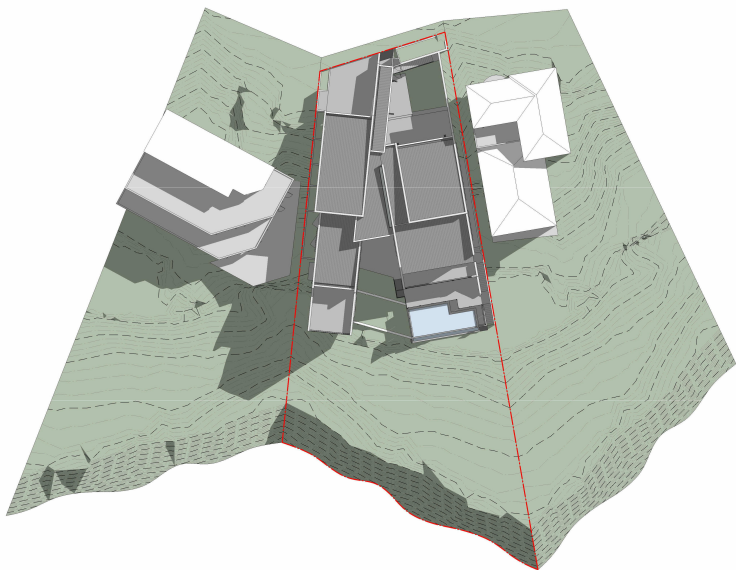
2. Winter - 21 June - 1200 Existing  
Scale 1 : 300



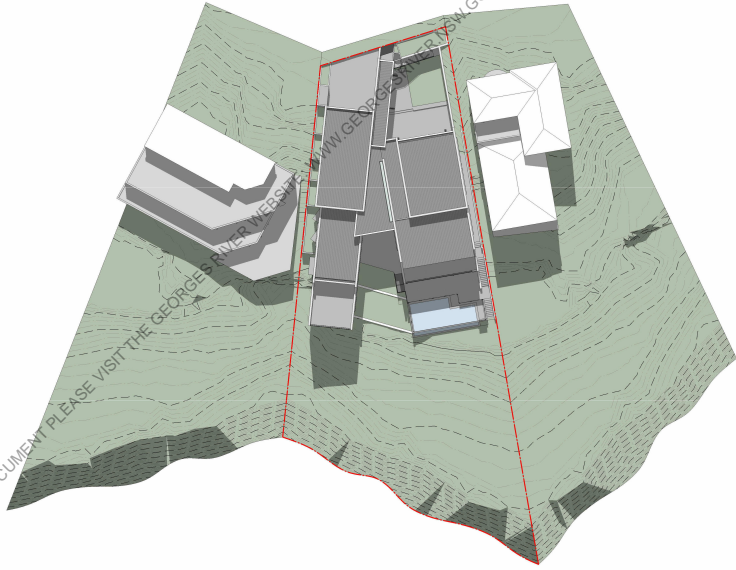
3. Winter - 21 June - 1500 Existing  
Scale 1 : 300

Project		Drawing Name		Date	Scale	Sheet	Job No.	Drawing No.	North Point	888 ARCHITECTS PTY LTD Nom. Arc: Robert Chapman-Maleki Reg. No: 33115 207148 Wymook Circuit Caringbah M: 0425 954 448 E: robert@888architects.com	
KYLE BAY RESIDENCE		117 Kyle Parade Kyle Bay		31/01/2024	1 : 300	@ A1	2210	DA-A54	DO NOT SCALE FROM THESE DRAWINGS use given dimensions. Contractor/Buyer is to check all dimensions on site prior to commencement of site development or construction. Any discrepancies are to be referred to the architect/designer prior to commencement of work. This drawing is to be used in accordance with its "purpose of issue" only. No responsibility will be accepted for the improper use of this drawing. Architectural drawings indicate design intent only. Buyer is to ensure that all construction is in accordance with all relevant Australian Standards, regulatory codes, Building Code of Australia, Development Consent and any other council or certifier requirements. This set of drawings does not include all possible construction details and the builder is required to complete the design where the information is not available. Please contact the architect in case of doubt.	868 ARCHITECTS	
		Existing Approved Shadow Diagrams - Winter		Drawn LO	Chk. RPCM			Revision / DA-2			

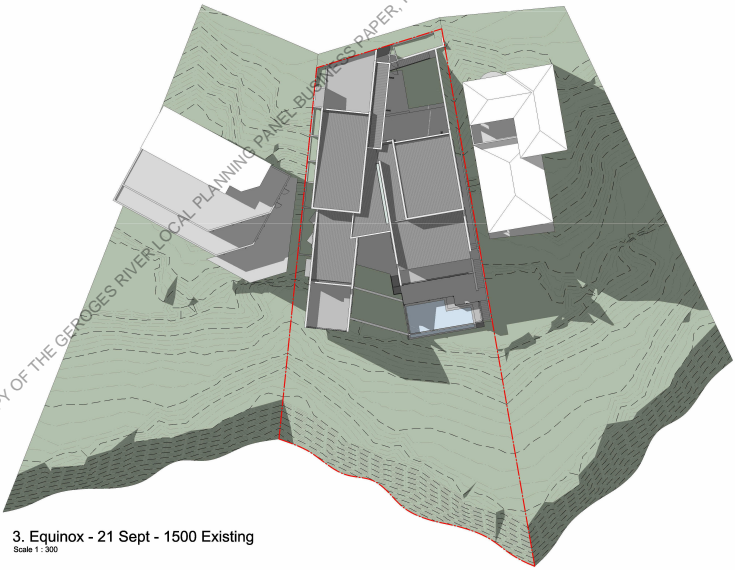




1. Equinox - 21 Sept - 0900 Existing  
Scale 1 : 300

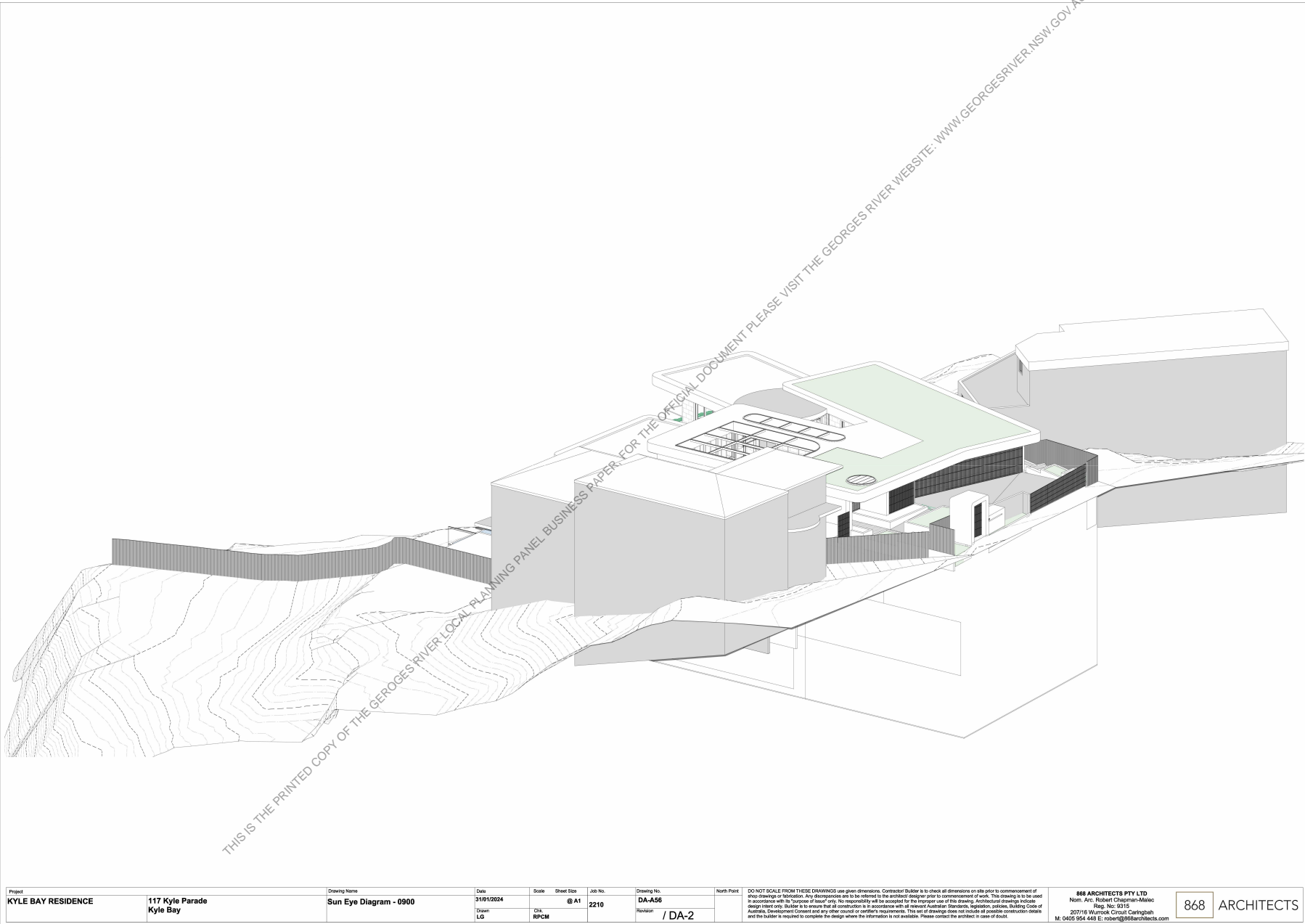


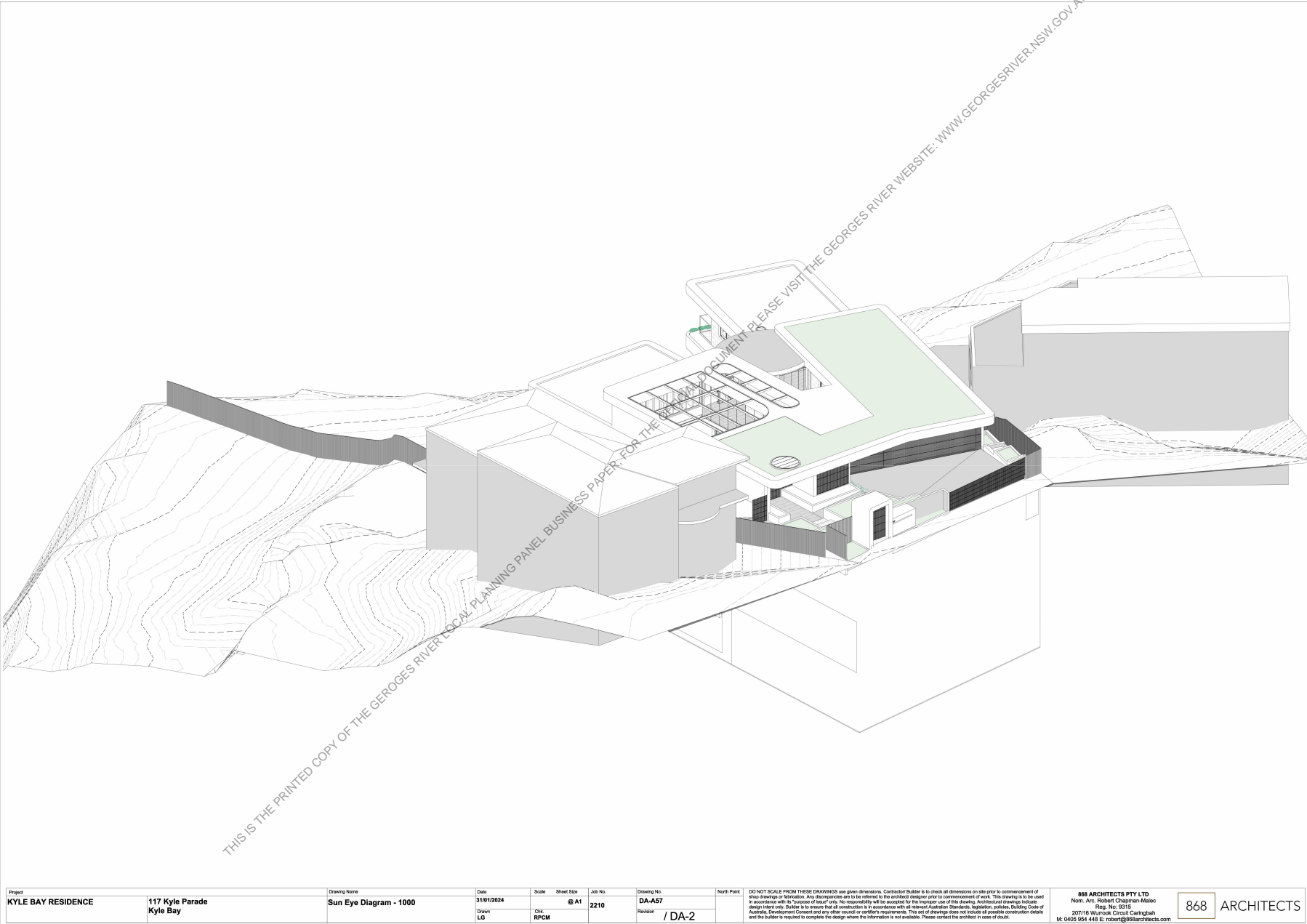
2. Equinox - 21 Sept - 1200 Existing  
Scale 1 : 300

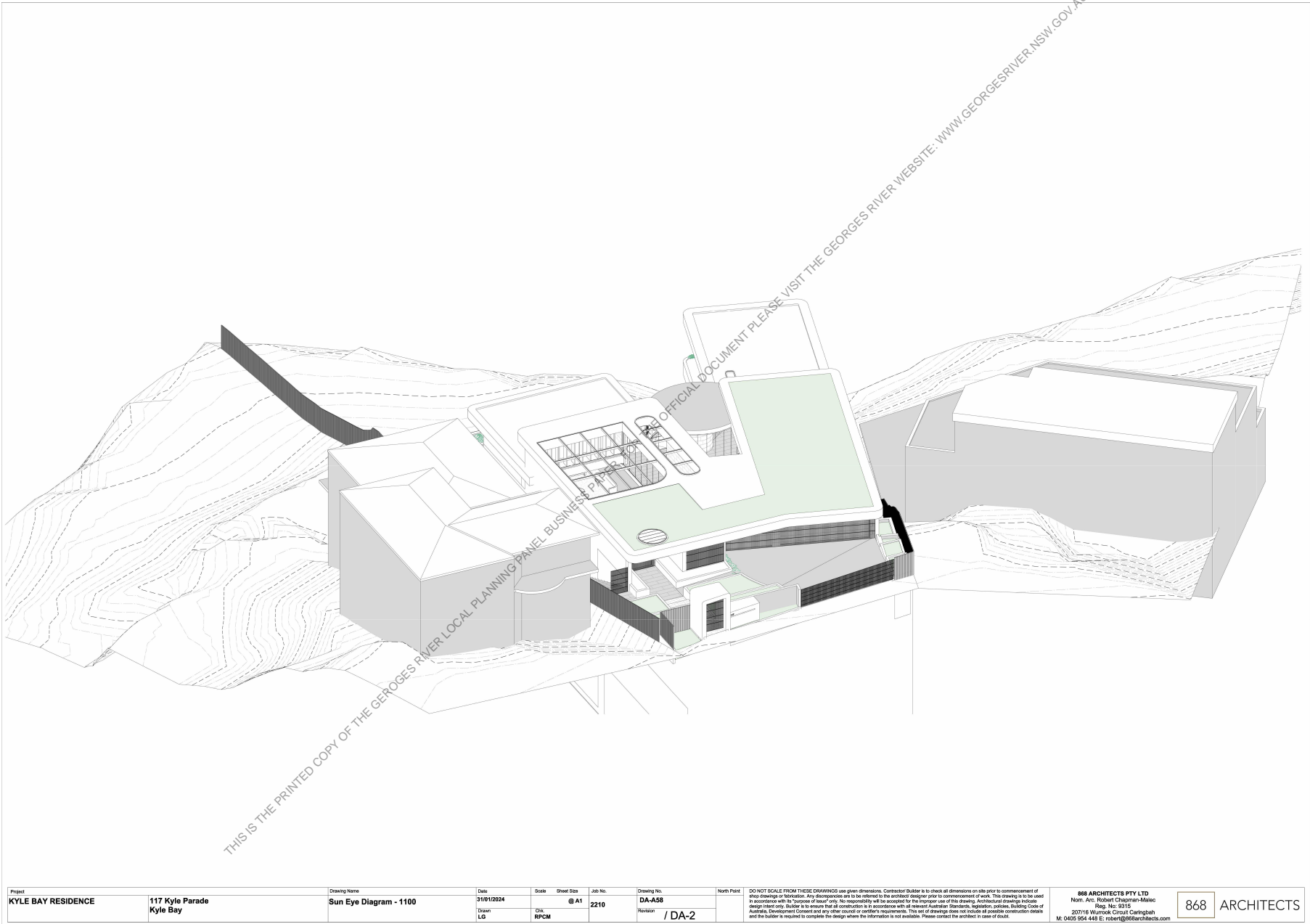


3. Equinox - 21 Sept - 1500 Existing  
Scale 1 : 300

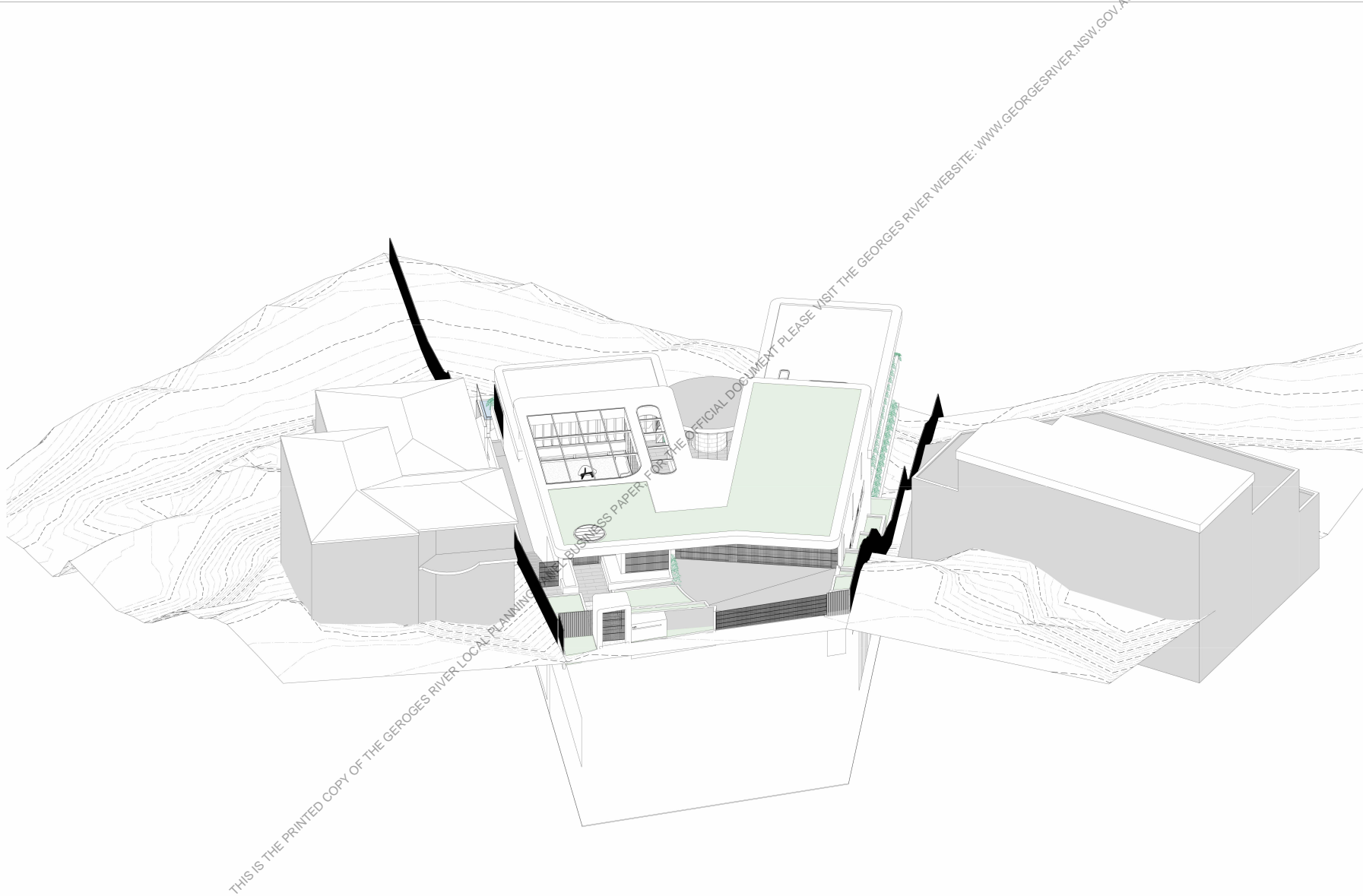
Project	117 Kyle Parade Kyle Bay	Drawing Name	Date	Scale	Sheet Size	Job No.	Drawing No.	North Point	DO NOT SCALE FROM THESE DRAWINGS use given dimensions. Contractor/Buyer is to check all dimensions on site prior to commencement of site clearance or foundation. Any discrepancies are to be referred to the architect/designer prior to commencement of work. This drawing is to be used in accordance with its "purpose of issue" only. No responsibility will be accepted for the improper use of this drawing. Architectural drawings indicate design intent only. Builder is to ensure that all construction is in accordance with all relevant Australian Standards, regulatory codes, Building Code of Australia, Development Consent and any other council or certifier requirements. This set of drawings does not include all possible construction details and the builder is required to complete the design where the information is not available. Please contact the architect in case of doubt.	888 ARCHITECTS PTY LTD Nom. Arc: Robert Chapman-Maleki Reg. No: 33115 207148 Wymook Circuit Darlinghurst M: 0425 954 448 E: robert@888architects.com	868 ARCHITECTS
KYLE BAY RESIDENCE		Existing Approved Shadow Diagrams - Equinox	31/01/2024	1 : 300	A1	2210	DA-A55 Revision / DA-2				
			Drawn LG	Obs. RPM							



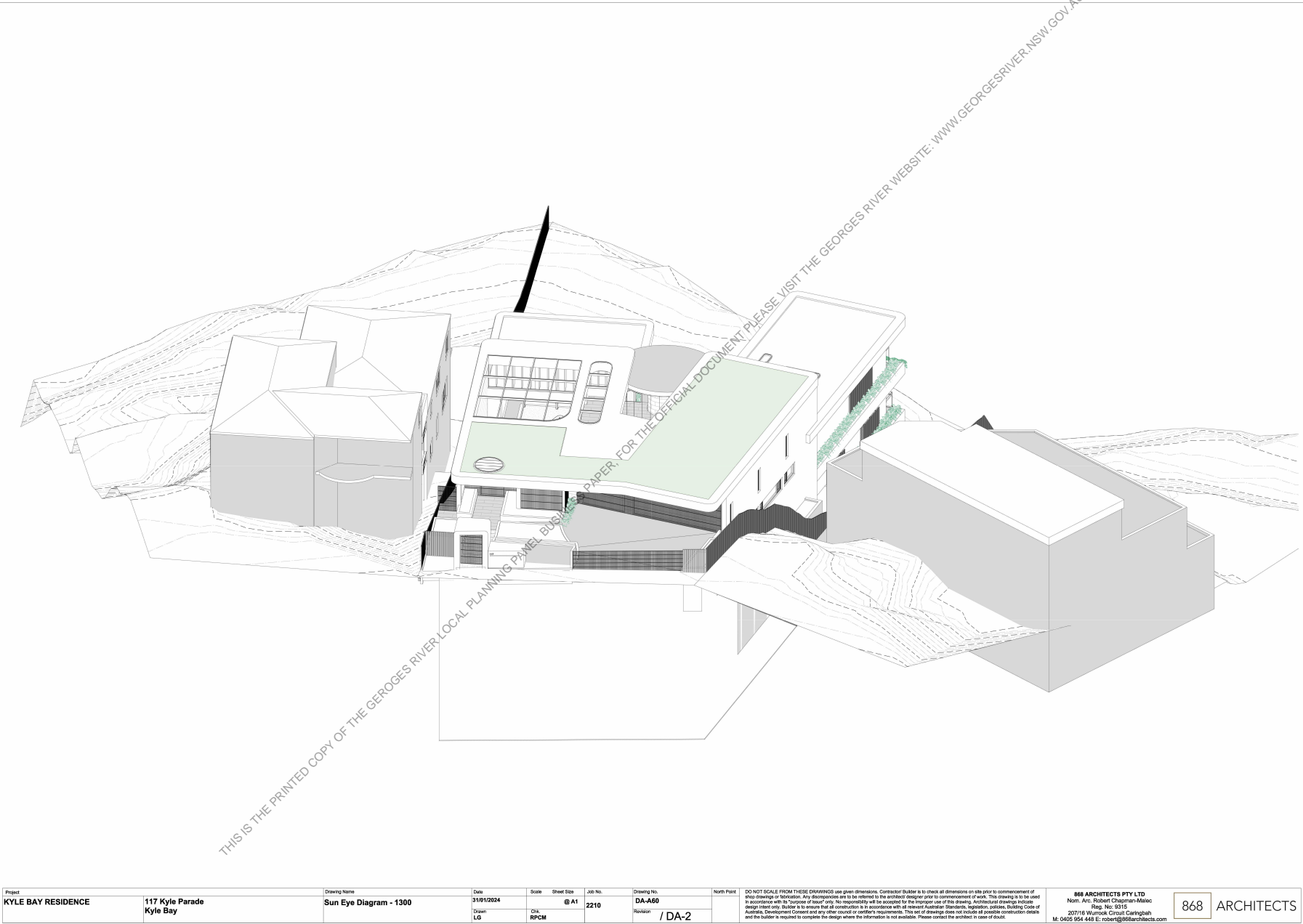


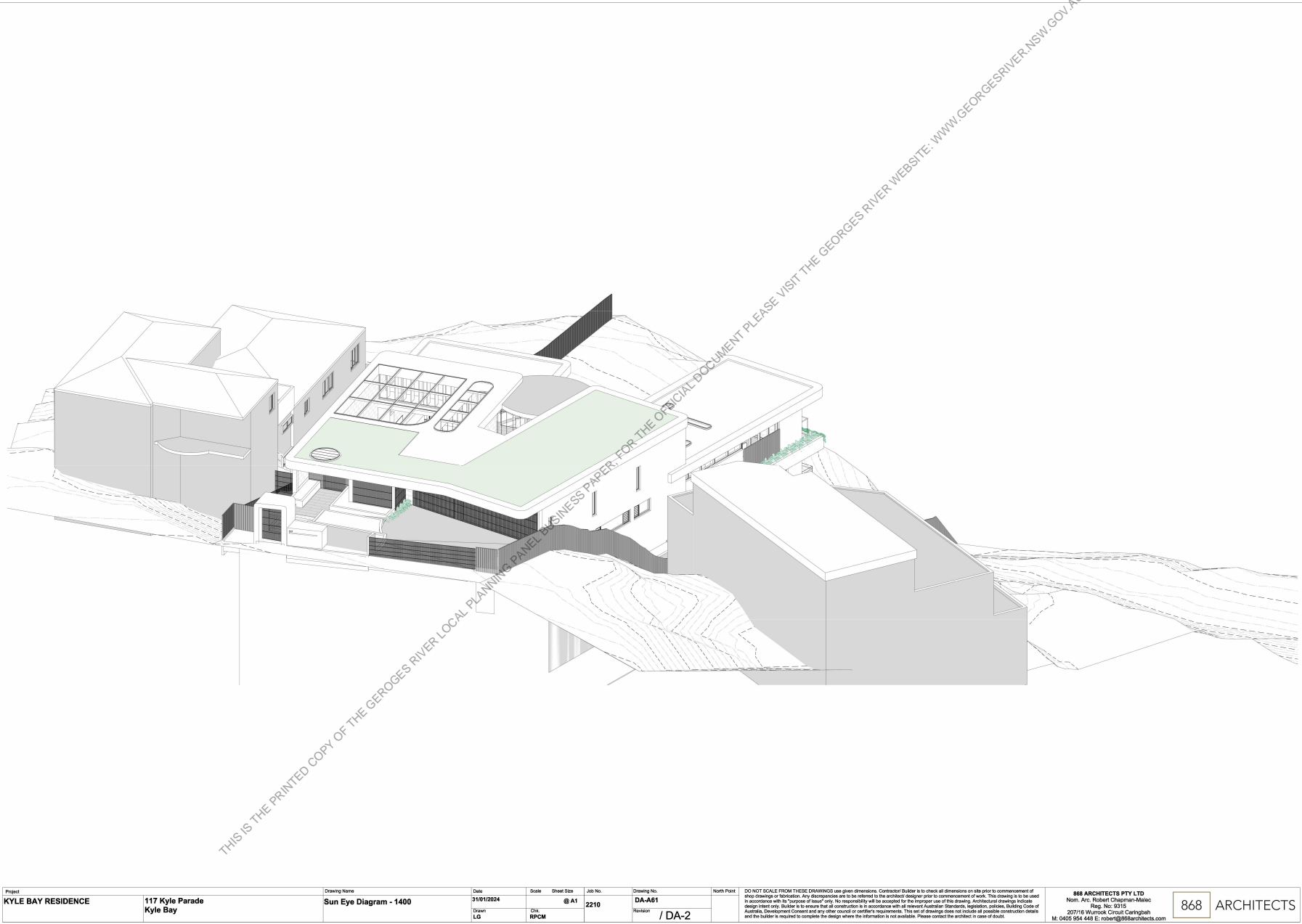






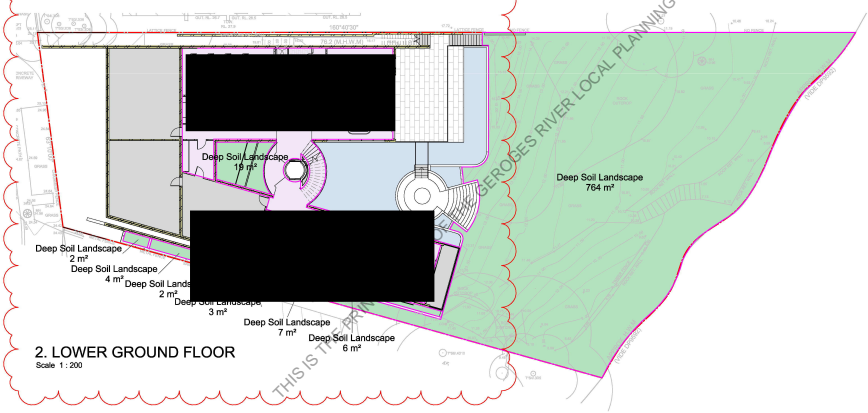
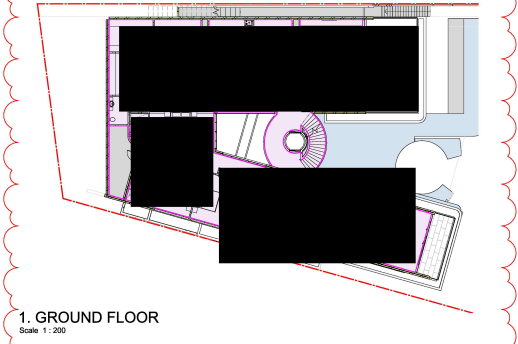
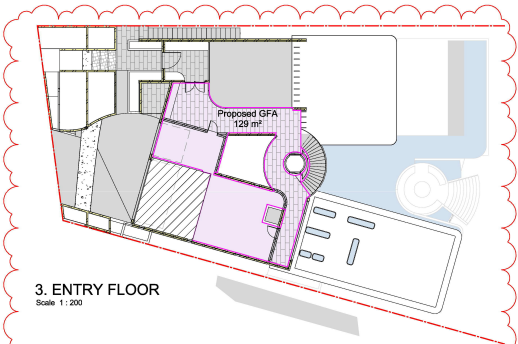
Project	Drawing Name	Date	Scale	Sheet Size	Job No.	Drawing No.	North Point	DO NOT SCALE FROM THESE DRAWINGS use given dimensions. Contractor/Buyer is to check all dimensions on site prior to commencement of site work or construction. Any discrepancies are to be referred to the architect/designer prior to commencement of work. This drawing is to be used in accordance with its 'purpose of issue' only. No responsibility will be accepted for the improper use of this drawing. Architectural drawings indicate design intent only. Builder is to ensure that all construction is in accordance with all relevant Australian Standards, regulatory codes, Building Code of Australia, Development Consent and any other council or certifier requirements. This set of drawings does not include all possible construction details and the builder is required to complete the design where the information is not available. Please contact the architect in case of doubt.	888 ARCHITECTS PTY LTD Nom. Arc: Robert Chapman-Maleko Reg. No: 3315 207148 Wymook Circuit Caringbah M: 0425 954 448 E: robert@888architects.com	868 ARCHITECTS
KYLE BAY RESIDENCE	Sun Eye Diagram - 1200	31/01/2024		A1	2210	DA-A59				
117 Kyle Parade Kyle Bay		Drawn LG	Obs. RPM			Revision / DA-2				



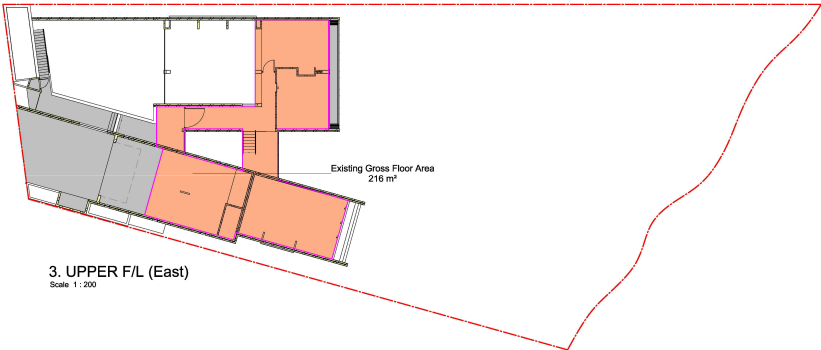




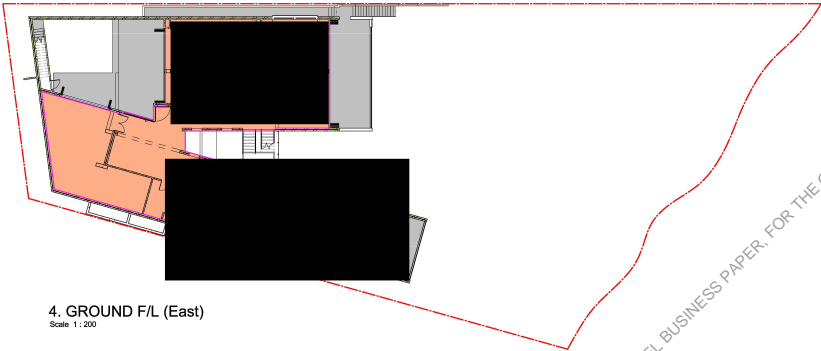
<b>Project</b> KYLE BAY RESIDENCE	<b>117 Kyle Parade</b> Kyle Bay	<b>Drawing Name</b> Sun Eye Diagram - 1500	<b>Date</b> 31/01/2024	<b>Scale</b> @ A1	<b>Sheet Size</b> 2210	<b>Job No.</b> 2210	<b>Drawing No.</b> DA-A62	<b>Revision</b> / DA-2	<b>North Point</b>  DO NOT SCALE FROM THESE DRAWINGS use given dimensions. Contractor/Buyer is to check all dimensions on site prior to commencement of site clearing or foundation. Any discrepancies are to be referred to the architect/designer prior to commencement of work. This drawing is to be used in accordance with its "purpose of issue" only. No responsibility will be accepted for the improper use of this drawing. Architectural drawings indicate design intent only. Builder is to ensure that all construction is in accordance with all relevant Australian Standards, regulatory codes, Building Code of Australia, Development Consent and any other council or certifier requirements. This set of drawings does not include all possible construction details and the builder is required to complete the design where the information is not available. Please contact the architect in case of doubt.	<b>888 ARCHITECTS PTY LTD</b> Nom. Arc: Robert Chapman-Makino Reg. No: 33115 207148 Wymook Circuit Caringbah M: 0425 954 448 E: robert@888architects.com	<div>868</div> <div>ARCHITECTS</div>
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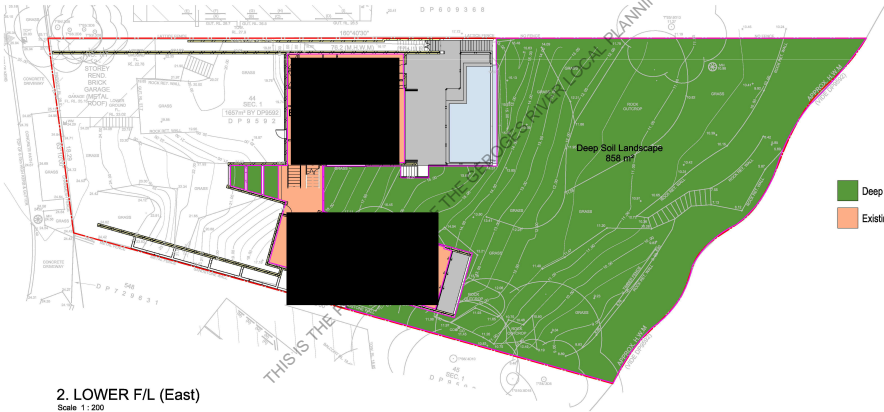
Area Schedule (GFA)			
Area	Name	Area Type	Level
764 m²	Deep Soil Landscape	Exterior Area	LOWER F/L (East)
7 m²	Deep Soil Landscape	Exterior Area	LOWER F/L (East)
6 m²	Deep Soil Landscape	Exterior Area	LOWER F/L (East)
3 m²	Deep Soil Landscape	Exterior Area	LOWER F/L (East)
2 m²	Deep Soil Landscape	Exterior Area	LOWER F/L (East)
2 m²	Deep Soil Landscape	Exterior Area	LOWER F/L (East)
4 m²	Deep Soil Landscape	Exterior Area	LOWER F/L (East)
15 m²	Deep Soil Landscape	Exterior Area	LOWER F/L (East)
809 m²			
290 m²	Proposed GFA	Floor Area	LOWER F/L (East)
415 m²	Proposed GFA	Floor Area	GROUND F/L (East)
129 m²	Proposed GFA	Floor Area	UPPER F/L (East)
835 m²			



3. UPPER F/L (East)  
Scale 1 : 200



4. GROUND F/L (East)  
Scale 1 : 200

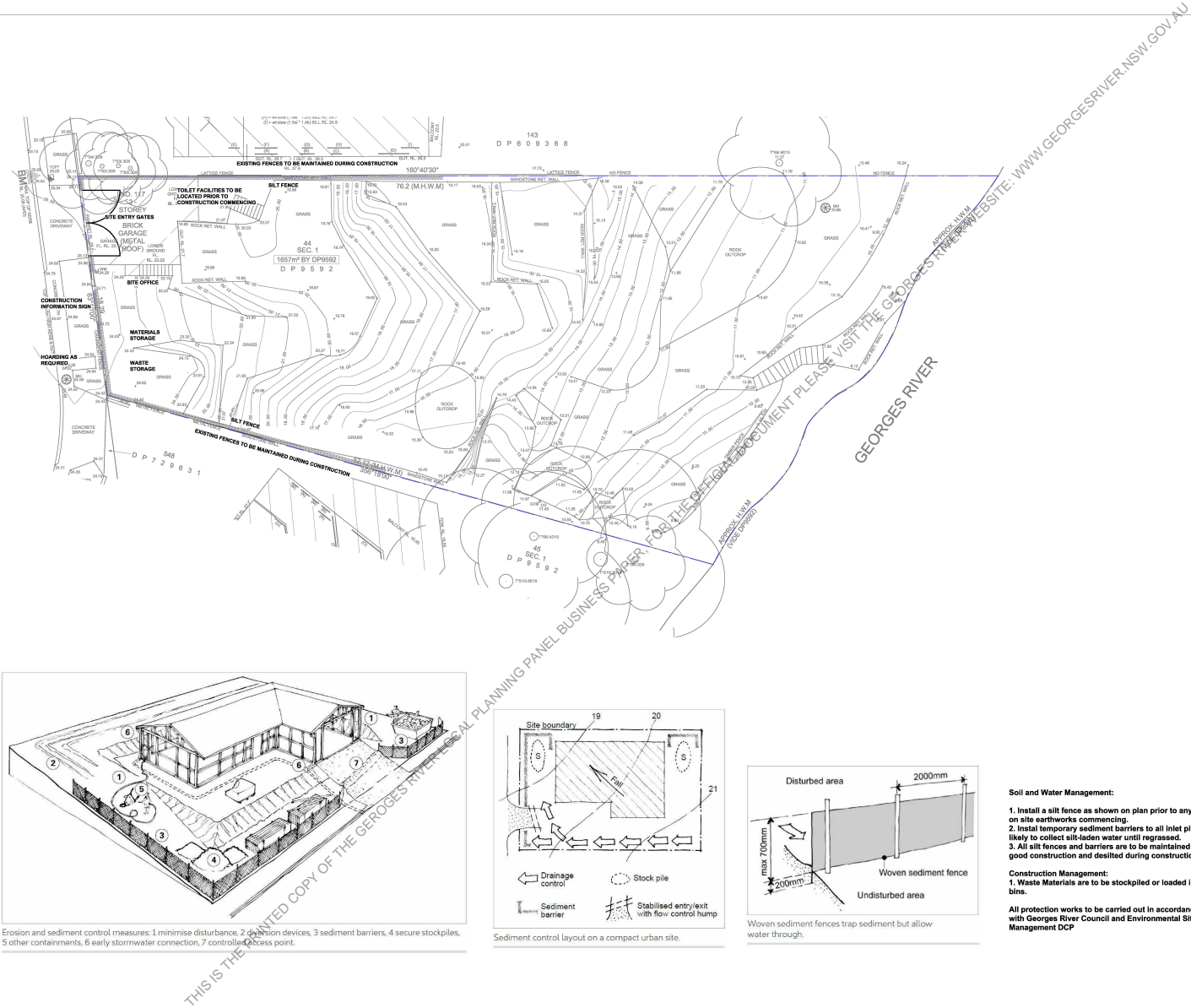


2. LOWER F/L (East)  
Scale 1 : 200

Area Schedule (GLAR)			
Area	Name	Area Type	Level
858 m²	Deep Soil Landscape	Building Common Area	LOWER F/L (East)
4 m²	Deep Soil Landscape	Building Common Area	LOWER F/L (East)
3 m²	Deep Soil Landscape	Building Common Area	LOWER F/L (East)
3 m²	Deep Soil Landscape	Building Common Area	LOWER F/L (East)
869 m²	Existing Gross Floor Area	Building Common Area	LOWER F/L (East)
220 m²	Existing Gross Floor Area	Building Common Area	UPPER F/L (East)
216 m²	Existing Gross Floor Area	Floor Area	GROUND F/L (East)
400 m²	Existing Gross Floor Area	Floor Area	GROUND F/L (East)
638 m²			

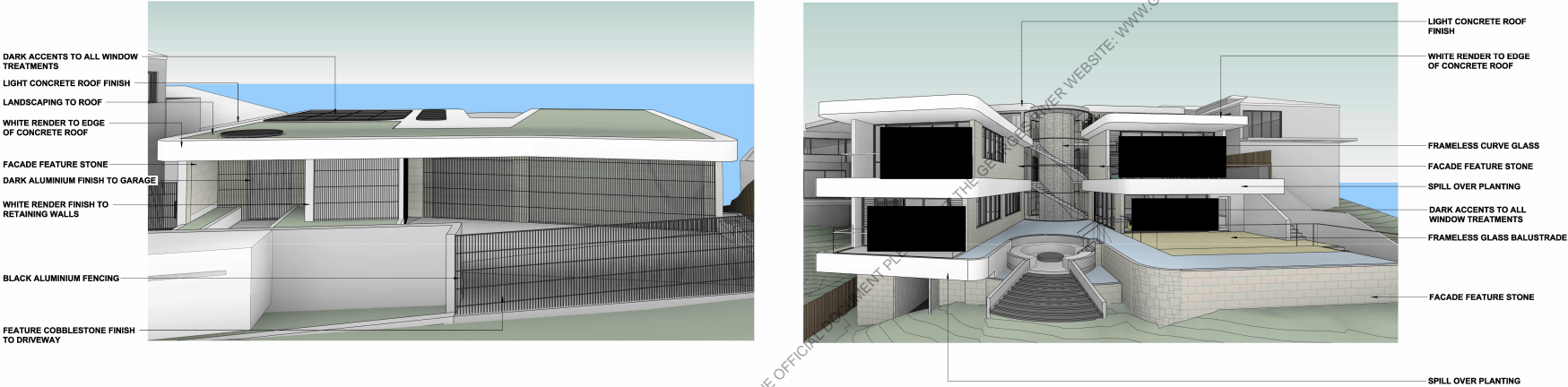
Deep Soil Landscape  
Existing Gross Floor Area

Project		Drawing Name		Date	Scale	Sheet Size	Job No.	Drawing No.	North Point	DO NOT SCALE FROM THESE DRAWINGS use given dimensions. Contractor/Buyer is to check all dimensions on site prior to commencement of shop drawings or fabrication. Any discrepancies are to be referred to the architect/designer prior to commencement of work. This drawing is to be used in accordance with its "purpose of issue" only. No responsibility will be accepted for the improper use of this drawing. Architectural drawings indicate design intent only. Builder is to ensure that all construction is in accordance with all relevant Australian Standards, regulatory codes, Building Code of Australia, Development Consent and any other council or certifier requirements. This set of drawings does not include all possible construction details and the builder is required to complete the design where the information is not available. Please contact the architect in case of doubt.	888 ARCHITECTS PTY LTD Nom. Arc: Robert Chapman-Maleki Reg. No: 30115 207116 Wymook Circuit Darlinghurst M: 0425 954 448 E: robert@888architects.com	868 ARCHITECTS
KYLE BAY RESIDENCE		117 Kyle Parade Kyle Bay		31/01/2024	1 : 200	@ A1	2210	DA-A65				
		G.F.A and Landscape Areas - Existing Approved DA Dwelling		Drawn LG	Chk. RPM			Revision / DA-3				

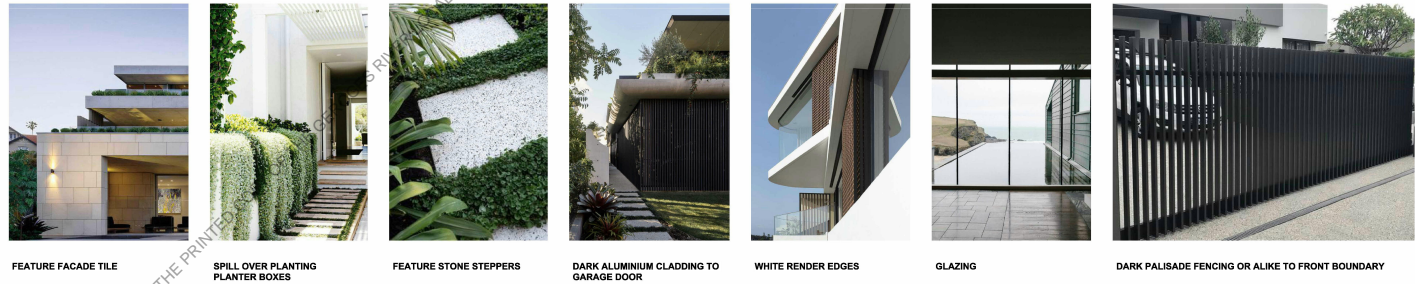


Project		Drawing Name		Date	Scale	Sheet Size	Job No.	Drawing No.	North Point	888 ARCHITECTS PTY LTD Nom. Arc: Robert Chapman-Maleko Reg. No: 33115 20714 Wyrmook Circuit Caringbah M: 0425 954 448 E: robert@888architects.com		868 ARCHITECTS
KYLE BAY RESIDENCE		117 Kyle Parade Kyle Bay		31/01/2024	As indicated @ A1	2210	DA-A70	Revision / DA-3		DO NOT SCALE FROM THESE DRAWINGS use given dimensions. Contractor/Buyer is to check all dimensions on site prior to commencement of shop drawings or fabrication. Any discrepancies are to be referred to the architect/designer prior to commencement of work. This drawing is to be used in accordance with its "purpose of issue" only. No responsibility will be accepted for the improper use of this drawing. Architectural drawings indicate design intent only. Builder is to ensure that all construction is in accordance with all relevant Australian Standards, regulatory codes, Building Code of Australia, Development Consent and any other council or certifier requirements. This set of drawings does not include all possible construction details and the builder is required to complete the design where the information is not available. Please contact the architect in case of doubt.		
		Drawn LG	On: RPM									



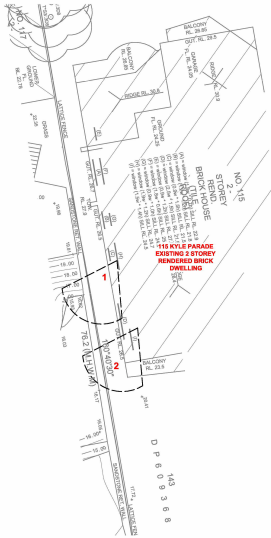


REFERENCE IMAGES OF MATERIALS



Project	117 Kyle Parade Kyle Bay	Drawing Name	External Finishes Schedule	Date	31/01/2024	Scale	Sheet Size	Job No.	2210	Drawing No.	DA-A80	North Point	DO NOT SCALE FROM THESE DRAWINGS use given dimensions. Contractor/Buyer is to check all dimensions on site prior to commencement of shop drawings or fabrication. Any discrepancies are to be referred to the architect/designer prior to commencement of work. This drawing is to be used in accordance with its "purpose of issue" only. No responsibility will be accepted for the improper use of this drawing. Architectural drawings indicate design intent only. Builder is to ensure that all construction is in accordance with all relevant Australian Standards, regulatory codes, Building Code of Australia, Development Consent and any other council or certifier requirements. This set of drawings does not include all possible construction details and the builder is required to complete the design where the information is not available. Please contact the architect in case of doubt.	888 ARCHITECTS PTY LTD Nom. Arc: Robert Chapman-Maleko Reg. No: 33715 20718 Wymook Circuit Caringbah M: 0425 954 448 E: robert@888architects.com	868 ARCHITECTS
		Drawn	LG	Check	RP-CH		@ A1			Revision	/ DA-3				

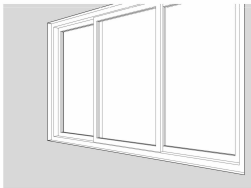




115 KYLE PARADE  
EXISTING 2 STOREY RENDERED BRICK DWELLING  
REF: DRONE FOOTAGE CAPTURED BY MB ARCHITECTS (2022)

VIEW 1 WINDOW 1  
FL RL: 23500 + 1650mm (EYE LEVEL) = 25150 RL

VIEW 2 WINDOW 1  
FL RL: 23500 + 1650mm (EYE LEVEL) = 25150 RL



APPROVED DWELLING  
VIEW 1  
FL RL: 23500 + 1650mm (EYE LEVEL) = 25150 RL



PROPOSED MODIFICATION  
VIEW 1  
FL RL: 23500 + 1650mm (EYE LEVEL) = 25150 RL



COMPARISON OF APPROVED AND PROPOSED MODIFICATION  
VIEW 1  
FL RL: 23500 + 1650mm (EYE LEVEL) = 25150 RL  
NOTE: PROPOSED MODIFICATION IS SHOWN IN YELLOW



APPROVED DWELLING  
VIEW 2  
WINDOW (I) BILL HEIGHT RL: 23500 + 1650mm (EYE LEVEL) = 25150 RL



PROPOSED MODIFICATION DWELLING AS PER CLIENT'S REQUEST (2012/2022)  
VIEW 2  
WINDOW (I) BILL HEIGHT RL: 23500 + 1650mm (EYE LEVEL) = 25150 RL  
LOCATION OF ROOF REDUCED TO RL 24.90 REDUCTION OF 2.55m FROM APPROVED DWELLING



COMPARISON OF APPROVED AND PROPOSED MODIFICATION  
VIEW 2  
WINDOW (I) BILL HEIGHT RL: 23500 + 1650mm (EYE LEVEL) = 25150 RL  
REVISED ROOF SHOWN IN YELLOW

Project	117 Kyle Parade Kyle Bay	Drawing Name	View Analysis - 115 Kyle Parade	Date	31/01/2024	Scale	1 : 150	Sheet Size	@ A1	Job No.	2210	Drawing No.	DA-A91	North Point	DO NOT SCALE FROM THESE DRAWINGS use given dimensions. Contractor/Buyer is to check all dimensions on site prior to commencement of site preparation or construction. Any discrepancies are to be referred to the architect/designer prior to commencement of work. This drawing is to be used in accordance with its "purpose of issue" only. No responsibility will be accepted for the improper use of this drawing. Architectural drawings indicate design intent only. Builder is to ensure that all construction is in accordance with all relevant Australian Standards, regulatory codes, Building Code of Australia, Development Consent and any other council or owner's requirements. This set of drawings does not include all possible construction details and the builder is required to complete the design where the information is not available. Please contact the architect in case of doubt.	888 ARCHITECTS PTY LTD Nom. Arc: Robert Chapman-Makino Reg. No: 3315 20716 Wymook Circuit Caringbah M: 0425 954 448 E: robert@888architects.com	868 ARCHITECTS
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