

# **AGENDA**

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## **Georges River Local Planning Panel**

**Thursday, 16 May 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>LPP013-24</b>	<b>79 Queens Road, Connells Point NSW 2221 – DA2023/0439</b> (Report by Development Assessment Planner) .....	3
<b>LPP014-24</b>	<b>172-174 Railway Parade, Kogarah – MOD2022/0175</b> (Report by Team Leader Development Advisory Services).....	105
<b>LPP015-24</b>	<b>180-184 Princes Highway Beverley Park – DA2023/0012</b> (Report by Consultant Planner).....	186
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#### 9. CONFIRMATION OF MINUTES

**Georges River Local Planning Panel Meeting - 16 May 2024**

**REPORTS AND LPP DELIBERATIONS****REPORT TO GEORGES RIVER LOCAL PLANNING PANEL MEETING OF THURSDAY, 16 MAY 2024****LPP013-24 79 QUEENS ROAD, CONNELLS POINT NSW 2221****LPP013-24**

<b>LPP Report No</b>	<b>LPP013-24</b>	<b>Development Application No</b>	<b>DA2023/0439</b>
<b>Site Address &amp; Ward Locality</b>	79 Queens Road, Connells Point NSW 2221 Blakehurst Ward		
<b>Proposed Development</b>	Demolition works, construction of detached dual occupancy and swimming pools		
<b>Owners</b>	Isabel King		
<b>Applicant</b>	Yiou Tan		
<b>Planner/Architect</b>	Metropoint Group Architects		
<b>Date Of Lodgement</b>	26/09/2023		
<b>Submissions</b>	4		
<b>Cost of Works</b>	\$3,342,627.00		
<b>Local Planning Panel Criteria</b>	Proposed variation to Clause 4.3 of Georges River Local Environmental Plan 2021 in respect to Height of Buildings. Variation exceeds 10%.		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy (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>	Statement of Environmental Effects (contains Clause 4.6 Variation), Architectural Plans, Landscape Plans, Stormwater Plans, Arboricultural Impact Assessment Report, Geotechnical Report, Public Submissions, View Loss Analysis Inspection Pictures		
<b>Report prepared by</b>	Development Assessment Planner		

<b>RECOMMENDATION</b>	That the application be refused in accordance with the reasons referenced at the end of this report.
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<b>Summary of matters for consideration under Section 4.15</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes – Variation to Clause 4.3 Height of Buildings
<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 application is recommended for refusal, the refusal reasons are publicly available when the report is published.

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**SITE PLAN**

**Figure 1:** Aerial image of the subject site in red (Intramaps, 2024)

LPP013-24

## EXECUTIVE SUMMARY

### PROPOSAL

1. The Development Application seeks consent for demolition works, construction of a 4-level detached dual occupancy and swimming pools. The proposal comprises of the following components:
  - Demolition of the existing dwelling house and detached garage,
  - Removal of twenty-seven (27) trees including two (2) dead trees,
  - Planting of five (5) replacement trees to be provided,
  - Site 1 (west dwelling)
    - Ground floor
      - Swimming pool,
      - Terrace,
      - Rumpus,
      - Laundry room,
      - Toilet, and
      - Lift and stair access to all levels
    - Level 1
      - One bedroom with walk-in-robe, ensuite bathroom, and access to rear terrace,
      - One bedroom with walk-in-robe and ensuite bathroom,
      - Two bedrooms with access to rear terrace,
      - Bathroom and toilet, and
      - Storage area
    - Level 2
      - Open living, dining, and kitchen area,

- Pantry,
    - Powder room, and
    - Rear terrace
    - Level 3
      - Lobby,
      - Rooftop terrace,
      - Pedestrian access bridge,
      - Elevated single garage and single attached carport, and
      - Elevated turning bay and vehicle manoeuvring area shared with proposed Site 2. The vehicle manoeuvring area is accessed from the proposed Site 2.
  - Site 2 (east dwelling)
    - Ground floor
      - Swimming pool,
      - Terrace,
      - Rumpus,
      - Laundry room,
      - Toilet,
      - Lift and stair access to all levels, and
      - Access to existing jetty shared with proposed Site 1
    - Level 1
      - One bedroom with walk-in-robe, ensuite bathroom, and access to rear terrace,
      - One bedroom with walk-in-robe and ensuite bathroom,
      - Two bedrooms with access to rear terrace,
      - Bathroom and toilet, and
      - Storage area
    - Level 2
      - Open living, dining, and kitchen area,
      - Pantry,
      - Powder room, and
      - Rear terrace
    - Level 3
      - Lobby,
      - Rooftop terrace,
      - Pedestrian access bridge,
      - Elevated single garage and single attached carport, and
      - Elevated vehicle manoeuvring area. Site 2 has direct access of the existing access handle.
2. The submitted Statement of Environmental Effect (SEE) indicates no subdivision is proposed under this application, and subdivision is to be lodged in a future application. It is noted that the architectural plans illustrate proposed new allotment boundary, which indicate the intention to subdivide in the future. As such, the proposed allotments will be taken into consideration to determine whether a subdivision is viable from a planning point of view in the future.

## SITE AND LOCALITY

3. The subject site is legally described as Lot 1 of DP 605691, also known as 79 Queens Road, Connells Point NSW 2221.

4. The subject site is a battle-axe allotment with an approximate area of 1,585.3sqm by Deposited Plan. The site has a street frontage access of 2.745m facing Queens Road. The site has an eastern side boundary of 114.91m to Mean High Water Mark (MHWM), western side boundaries of 40.54m, and a northern rear boundary of approximately 38.0m adjoining Oatley Bay. The subject site has a gradient of approximately 28.08% beyond the access handle, situated on a north-facing slope.
5. The site currently contains a single storey detached brick dwelling house with attached garage located at the centre of the site, and a detached brick garage adjoining the southern boundary. The site also contains dense bushland between the existing dwelling house and Oatley Bay. A Sydney Water sewer is identified between the existing detached garage and the southern boundary. The subject site has access to a jetty on Oatley Bay.
6. Adjoining the site to the east is a three-storey detached brick house with a swimming pool currently under construction. Adjoining the site to the south is a two-storey rendered brick detached dwelling with a detached outbuilding and swimming pool at the backyard. Adjoining the site to the west is a part two-to-three-storey detached rendered brick house with a swimming pool.
7. The locality is residential in character, featuring a mixture of two-to-three storey detached dwelling houses with large backyards facing Oatley Bay. The subject site is within the Foreshore Scenic Protection Area (FSPA).

## **ZONING AND PERMISSIBILITY**

8. The subject site is zoned R2 – Low Density Residential under the Georges River Local Environmental Plan 2021 (GRLEP 2021). The proposal is defined as a 'dual occupancy (detached)', which is permissible with consent within the R2 Zone under GRLEP 2021.

## **SUBMISSIONS**

9. The application was advertised, and adjoining residents were notified by letter and given fourteen (14) days in which to view the plans and submit any comments on the proposal. Four (4) submissions were received during the neighbour notification period, raising concerns with respect to built form, view loss, visual privacy, and vegetation removal.

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

10. This Development Application is referred to the Georges River Local Planning Panel for consideration and determination as a variation to GRLEP 2021 development standard is requested which is greater than 10%. The proposed variation is 28.9%.

## **CONCLUSION**

11. The proposal has been assessed against the provisions of the GRLEP 2021 and the Georges River Development Control Plan 2021 (GRDCP 2021).
12. Having regard to the matters for consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and following a detailed assessment, the proposed Development Application (DA2023/0439) is recommended for refusal for the reasons identified in this report.

## **REPORT IN FULL**

### **PROPOSAL**

13. The development application seeks consent for the demolition works, construction of 4-level detached dual occupancy and swimming pools.

## 14. The proposal involves:

- Demolition of the existing dwelling house and detached garage,
- Removal of 27 trees including 2 dead trees. 5 replacement trees are proposed,
- Site 1 (west dwelling)
  - Ground floor
    - Swimming pool,
    - Terrace,
    - Rumpus,
    - Laundry room,
    - Toilet, and
    - Lift and stair access to all levels
  - Level 1
    - One bedroom with walk-in-robe, ensuite bathroom, and access to rear terrace,
    - One bedroom with walk-in-robe and ensuite bathroom,
    - Two bedrooms with access to rear terrace,
    - Bathroom and toilet, and
    - Storage area
  - Level 2
    - Open living, dining, and kitchen area,
    - Pantry,
    - Powder room, and
    - Rear terrace
  - Level 3
    - Lobby,
    - Rooftop terrace,
    - Pedestrian access bridge,
    - Elevated single garage and single attached carport, and
    - Elevated turning bay and vehicle manoeuvring area shared with proposed Site 2. The vehicle manoeuvring area is accessed from the proposed Site 2.
- Site 2 (east dwelling)
  - Ground floor
    - Swimming pool,
    - Terrace,
    - Rumpus,
    - Laundry room,
    - Toilet,
    - Lift and stair access to all levels, and
    - Access to existing jetty shared with proposed Site 1
  - Level 1
    - One bedroom with walk-in-robe, ensuite bathroom, and access to rear terrace,
    - One bedroom with walk-in-robe and ensuite bathroom,
    - Two bedrooms with access to rear terrace,
    - Bathroom and toilet, and
    - Storage area
  - Level 2
    - Open living, dining, and kitchen area,
    - Pantry,
    - Powder room, and
    - Rear terrace

- Level 3
  - Lobby,
  - Rooftop terrace,
  - Pedestrian access bridge,
  - Elevated single garage and single attached carport, and
  - Elevated vehicle manoeuvring area. Site 2 has direct access of the existing access handle.

15. The submitted SEE indicates no subdivision is proposed under this application, and subdivision is to be lodged in a future application. It is noted that the architectural plans illustrate proposed new allotment boundary, which indicate the intention to subdivide in the future. As such, the proposed allotments will be taken into consideration to determine whether a subdivision is viable from a planning point of view in the future.

### THE SITE AND LOCALITY

16. The subject site is legally described as Lot 1 of DP 605691, also known as 79 Queens Road, Connells Point NSW 2221.
17. The subject site is a battle-axe allotment with an approximate area of 1,585.3sqm by Deposited Plan. The site has a street frontage of 2.745m facing Queens Road. The site has an eastern side boundary of 114.91m to MHWM, western side boundaries of 40.54m, and a northern rear boundary of approximately 38.0m adjoining Oatley Bay. The subject site has a gradient of approximately 28.08% beyond the access handle, situated on a north-facing slope.
18. The site currently contains a single-storey detached brick dwelling house with attached garage at the centre of the subject site, and a detached brick garage adjoining the southern boundary. The site also contains dense bushland between the existing dwelling house and Oatley Bay. A Sydney Water sewer is identified between the existing detached garage and the southern boundary. The subject site has access to a jetty on Oatley Bay.
19. Adjoining the site to the east is a three-storey detached brick house with a swimming pool currently under construction. Adjoining the site to the south is a two-storey rendered brick detached dwelling with a detached outbuilding and swimming pool at the backyard. Adjoining the site to the west is a two-storey detached rendered brick house with a swimming pool.
20. The locality is residential in character, featuring a mixture of two-to-three storey detached dwelling houses with large backyards facing Oatley Bay. The subject site is within the FSPA.





**Figure 2:** Aerial image of the subject site in red (Intramaps, 2024)



**Figure 3:** View of the site from the access handle.





**Figure 4:** View of the site from the ground level of the existing house.



**Figure 5:** View of the site from jetty.



**BACKGROUND**

21. A history of the development application is provided as follows:
- The application was lodged on 26 September 2023.
  - The application was placed on public exhibition between 9 November 2023 to 23 November 2023. Four (4) submissions were received.
  - Council's Asset Officer provided comments on 8 November 2023 indicating that no referral is required as no Council asset is affected. However, the Officer noted that part of the existing driveway does not comply with Australian Standard.
  - Council's Land Information Officer provided addresses for the proposed development on 10 November 2023.
  - Council's Environment Officer provided referral comments on 11 December 2023 raising no objection to the proposal, subject to recommended conditions.
  - Council's Development Engineer provided referral comments on 13 December 2023 raising no objection to the proposal, subject to recommended conditions.
  - Site inspections on the subject site and submitters were carried out on 12 January 2024 and 15 January 2024.
  - Council's Landscape Officer provided referral comments on 22 January 2024, raising issues with regards to tree removal and the provision of replacement planting.
  - Council's Traffic Engineer provided referral comments on 13 February 2024, whilst not raising significant issues has indicated that the existing access handle has a width between boundaries of 2.75m along much of its length. This width is less than the required minimum of width of 3m. If approval was recommended Council's Traffic Engineer has provided conditions such as the provision of traffic signalisation.
  - Council's Urban Design Officer provided verbal comments in January 2024, followed by detailed written comments on 25 March 2024 raising issues with regards to bulk and scale, excavation, and vegetation removal.
  - Council is of the view that substantial design amendment is required to resolve issues raised and as such will not be substantially the same application. In this respect the applicant was requested to withdraw this application on 5 March 2024. Council assesses applications on the basis that the application as lodged is assessment ready, and any substantial amendments to the original Development Application is not accepted.
  - On 12 March 2024 the applicant indicated that they wished to pursue with the application in its current form and did not wish to withdraw.
  - A Class 1 Appeal against deemed refusal was filed in the Land and Environment Court on 10 April 2024.

**PLANNING ASSESSMENT**

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

**Section 4.15 Evaluation**

23. 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)**

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

State Environmental Planning Policy Title	Complies
State Environmental Planning Policy (Biodiversity and Conservation) 2021	No
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes
State Environmental Planning Policy (Industry and Employment) 2021	N/A
State Environmental Planning Policy (BASIX) 2004	Yes

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

25. 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**

26. 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.
27. 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).*
28. The scheme involves removal of 27 trees and 5 replacement trees are proposed. Council's landscape officer has indicated that most of the trees to be removed are of medium to low retention values, and some are exempt species that do not require Council approval to remove. However, Council's landscape officer is also of the view that the existing trees on site provide an abundance of canopy cover as a group. Council's Tree Management Policy requires a 2:1 replacement rate. In this instance, a total of fifty-four (54) replacement trees are required.
29. The proposed development will result in a large building footprint that does not physically permit the planting of 54 trees on site. Furthermore, the applicant's 5 proposed replacement trees are predominantly located in overshadowed areas and in close proximity to structures that reduce the survival rate of those trees.
30. As such, the proposed tree removal is not supported by Council's Landscape Officer. Detailed comments are available at the *Council (Internal) Referrals* section in the report.

**Chapter 6 – Water Catchments**

31. This chapter applies to Georges River Catchment which affects the subject site.

32. The proposal has a neutral environmental impact on the Georges River Catchment. The concept stormwater plan submitted to Council is considered suitable to enable the effective discharge of stormwater into Oatley Bay.

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

33. Chapter 2 and Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 are relevant to the proposal.
34. Chapter 2 aims to: *"Promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016 including the management objectives for each coastal management area"*.
35. The subject site is mapped as a Coastal Environment area, a Coastal Use area, and a Coastal Zone.
36. The proposal does not sufficiently address the matters related to Coastal Environmental Area (Clause 2.10). The proposed removal of 27 existing trees will have an adverse impact on coastal environmental value due to the loss of tree canopy. The proposed replacement of 5 trees is not sufficient in accordance with Council's Tree Management Policy which requires a total of 54 tree replacement. Replanting of 54 trees cannot be achieved due to the proposed expansive built footprint.
37. The proposal does not sufficiently reduce adverse impacts related to Coastal Use Area in accordance with Clause 2.11. It is considered that the proposal will substantially increase the dominance of built form and adversely diminish the scenic quality of Oatley Bay. No elevational shadow diagram is provided to ascertain the exact expanse of overshadowing impact on adjoining property.
38. Chapter 4 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment.
39. Clause 4.6 requires contamination and remediation to be considered in determining a DA. The consent authority must not consent to the carrying out of development on land unless it has considered whether or not the land is contaminated.
40. A review of historic aerial photography dating back to 1943 indicates that the site has continually been used for residential purposes. Residential usage is not typically associated with activities that would result in the contamination of land. On this basis, the site is likely to be suitable for residential development in its current state for the development proposed with respect to contamination.

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

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

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

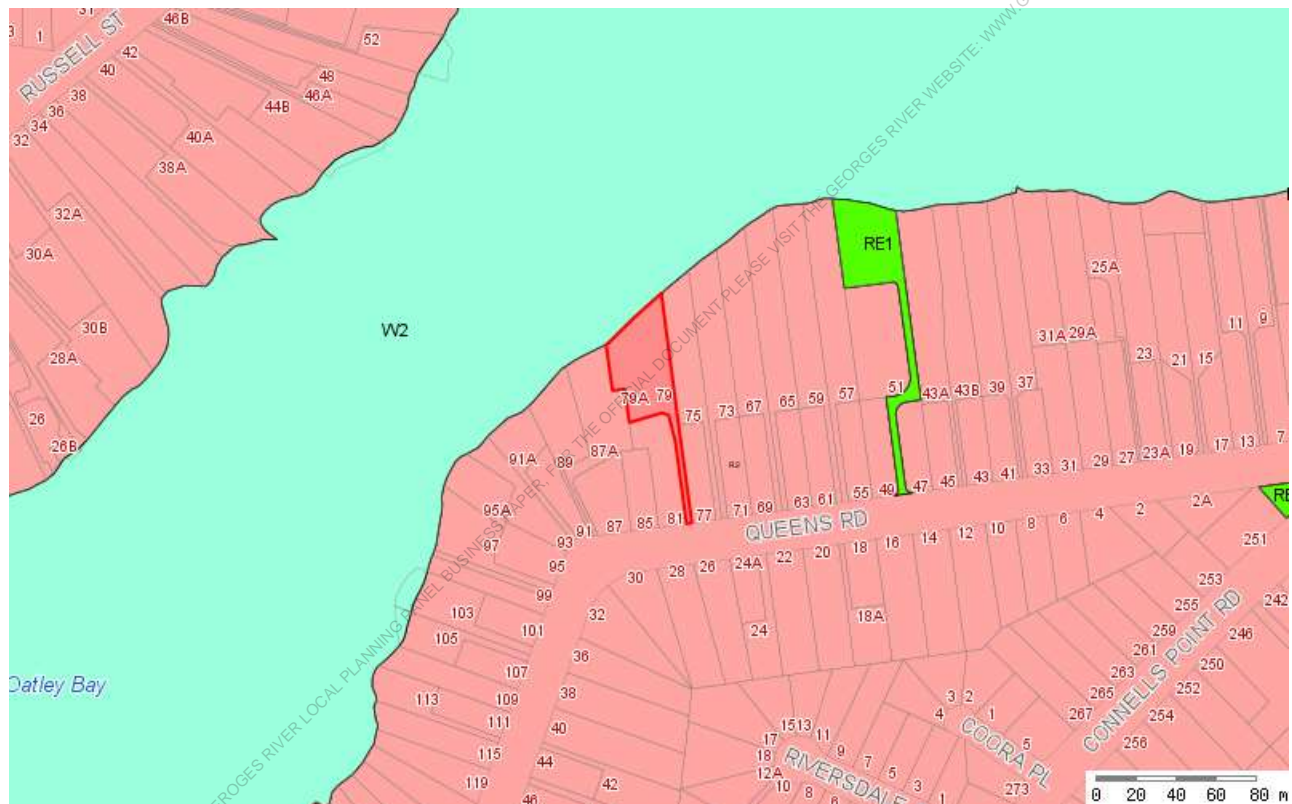
42. SEPP (Industry and Employment) 2021 has been consideration through the assessment of this development application. It has been concluded that the above SEPP is not relevant to the proposed development.

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

43. The trigger for BASIX Certification is when the estimated cost of works for residential development (new dwelling(s)/alterations and additions) is equal to or above \$50,000. BASIX Certification is also triggered when proposing a swimming pool with a volume of 40,000 litres.
44. A BASIX Certificate prepared by ESD Synergy Pty Ltd, dated 21 July 2023, certificate number 1404253M, has been submitted with the Development Application satisfying the minimum requirements of SEPP (Building Sustainability Index: BASIX) 2004.

**Georges River Local Environmental Plan 2021**

45. The extent to which the proposed development complies with the GRLEP 2021 is detailed and discussed in the table below.



**Figure 6:** Zoning map. The subject site is outlined in red. The area shaded in red indicates R2 Low Density Residential Zone.

<b>GRLEP 2021 - 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 inconsistent with the aims of the plan, in particular Aim (f). The proposal does not demonstrate a high standard of urban design and built form.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
<b>Clause 1.4 – Definitions</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<b>dual occupancy (detached)</b> means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.	The proposal is consistent with the definition.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

<b>GRLEP 2021 Part 2 – Permitted or prohibited development</b>		
<b>Clause 2.3 – Zone objectives and Land Use Table</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<p>The subject site is zoned R2 Low Density Residential:</p> <p>The objectives of the zone are:</p> <ul style="list-style-type: none"> <li>To provide for the housing needs of the community within a low density residential environment.</li> <li>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> <li>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.</li> <li>To provide for housing within a landscaped setting that enhances the existing environmental character of the Georges River local government area.</li> </ul>	<p>The proposal is identified as a dual occupancy (detached), which is permissible within the R2 Zone. However, the proposal is inconsistent with the following zone's objectives:</p> <ul style="list-style-type: none"> <li><i>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.</i></li> <li><i>To provide for housing within a landscaped setting that enhances the existing environmental character of the Georges River local government area.</i></li> </ul>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
<b>Land Use Table</b>		
The proposal is for a dual occupancy (detached) which is a type of development permitted with consent in the zone.	Proposal is a dual occupancy (detached).	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

<b>GRLEP 2021 Part 4 – Principal Development Standards</b>		
<b>Clause 4.1A – Minimum subdivision lot size for Dual Occupancies</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<p>FSPA</p> <p>Min. 430m<sup>2</sup> per lot</p> <p>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 lot size.</p>	<p>Site 1 – 585.8m<sup>2</sup></p> <p>Site 2 – 639.8 m<sup>2</sup></p> <p>Whilst the proposal does not involve subdivision based on the architectural plans it may be possible to subdivide in the future subject to detailed assessment.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>Clause 4.1B – Minimum lot sizes and special provisions for certain dwellings</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<p>Minimum lot size for a dual occupancy in this this location being FSPA is 1,000m<sup>2</sup></p> <p>Minimum frontage at the front building line –</p>	<p>Subject site has a lot size of 1,389.3sqm, excluding the battle-axe handle.</p> <p>30.1m width at the front building line.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

<p>Dual occupancy (detached) - no dwelling facing frontage: 22m</p> <p>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 lot size.</p>	<p>A subdivision for dual occupancy (detached) is permissible on the subject site.</p>	
<b>Clause 4.3 – Height of Buildings</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<p>Maximum height is 9m as identified on Height of Buildings Map</p>	<p>Site 1: 11.6m Site 2: 11.3m</p> <p>A Clause 4.6 variation is provided by the applicant. The variation is discussed in the <i>Clause 4.6 - Exceptions to Development Standards</i> section.</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A</p>
<b>Clause 4.4 – Floor Space Ratio</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<p>The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.</p>	<p>Refer to Clause 4.4A for GFA and FSR calculation</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A</p>
<b>Clause 4.4A - Exceptions to floor space ratio—certain residential accommodation</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<p>The maximum floor space ratio for <b>a dual occupancy</b> must not exceed the maximum floor space ratio specified below (based on allotment size).</p> <p>Site area: 1,585.3sqm</p> <p><u>Site area more than 1500m<sup>2</sup> but not more than 2000m<sup>2</sup></u></p> <p><math>[(\text{lot area} - 1,500) \times 0.2 + 750] \div \text{lot area}</math></p> <p>Equivalent to: 0.48:1</p> <p>(or 767.06sqm)</p>	<p>The proposed dual occupancy gross floor area compares as follows:</p> <p><u>Site 1:</u> G/F: 94.1sqm 1/F: 146.9sqm 2/F: 122.1sqm 3/F: 9.8sqm (18sqm garage excluded)</p> <p><u>Site 2:</u> G/F: 94.1sqm 1/F: 146.9sqm 2/F: 122.1sqm 3/F: 10.8sqm (18sqm garage excluded)</p> <p>Total: 746.8sqm</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p>
<b>Clause 4.6 - Exceptions to development standards</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<p>In accordance with Clause 4.6 (1) through to and including (8)</p>	<p>A variation is proposed to Clause 4.3 Height of Buildings. The variation request does not provide sufficient planning justification to</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A</p>



	warrant the granting of the proposed variation.  Detailed discussion of the Clause 4.6 variation is contained within the <i>Clause 4.6 - Exceptions to Development Standards</i> section.	
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**GRLEP 2021 Part 5 – Miscellaneous Provisions****Clause 5.10 – Heritage conservation**

Standard	Proposal	Compliance
Council must, before granting consent under this clause with respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.	The subject site is not a heritage item nor within a heritage conservation area. No heritage item nor heritage conservation area is located near the subject site.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A

**Clause - 5.21 Flood Planning**

Standard	Proposal	Compliance
(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area	The subject land is not flood affected.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A

**GRLEP 2021 Part 6 – Additional Local Provisions****Clause 6.1 – Acid sulfate soils**

Standard	Proposal	Compliance
<p>(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.</p> <p><u>Class 5</u> Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</p>	The subject site is affected by Class 5 acid sulfate soil. No work is proposed below 5m Australian Height Datum. Council's Environment Officer reviewed the application and raised no objection regarding acid sulfate soil.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

**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</p>	The proposal is unlikely to disrupt the existing natural drain pattern or soil stability.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A

<p>patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) measures to minimise the need for cut and fill, particularly on sites with a slope of 15% or greater, by stepping the development to accommodate the fall in the land,</p> <p>(f) the source of any fill material and the destination of any excavated material,</p> <p>(g) the likelihood of disturbing relics,</p> <p>(h) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(i) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	<p>The proposal will not adversely affect the future use of the site.</p> <p>The quality of the fill material would be controlled via conditions if this application is supportable.</p> <p>The proposal will result in adverse visual amenity impacts as the bulk and scale is not compatible within the low-density residential context of Connells Point. The proposal does not respond appropriately to the terrain.</p> <p>Measure to minimise the need for earthwork is not demonstrated. The proposal requires a maximum cut of 1.74m at ground level and does not demonstrate sufficient stepping.</p> <p>Soil management to be conditioned if this application is supportable.</p> <p>No known relic is identified on the subject site.</p> <p>The proposal is unlikely to cause adverse impacts on any waterway, drinking water catchment, or environmentally sensitive area.</p> <p>Soil management to be conditioned if this application is supportable.</p>	
<b>Clause 6.3 – Stormwater Management</b>		
<p><b>Standard</b></p> <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</p>	<p><b>Proposal</b></p> <p>The proposal has been considered in this regard. The proposal is satisfactory with regards the matters identified.</p> <p>The development maximises water permeable surfaces, considering soil characteristics for on-site water infiltration.</p>	<p><b>Compliance</b></p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>

<p>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 development incorporates on-site stormwater detention/retention to minimise runoff volumes.</p> <p>Adverse impacts on neighbouring properties, native bushland, receiving waters, and the downstream stormwater system and. public drainage systems are also not considered to be impacted.</p> <p>Council's Development Engineer reviewed this application and raised no objection.</p>	
<b>Clause 6.4 – Foreshore area and coastal hazards and risk</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<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 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>The subject site is identified on the Foreshore Building Line Map. No part of the subject site is identified on the Coastal Hazard and Risk Map.</p> <p>The Foreshore Building Line (FBL) is located 7.6m from the MHW. It is noted that the architectural plans indicate an FBL of 7.5m from MHW.</p> <p>No part of the proposal, except the proposed walking track accessing the existing jetty, encroach beyond the FBL. Walking track is permissible beyond the FBL.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>

<p>(4) In deciding whether to grant development consent, the consent authority must consider the following matters—</p> <p>(a) whether the development addresses the impacts of sea level rise and tidal inundation as a result of climate change,</p> <p>(b) whether the development could be located on parts of the site not exposed to coastal hazards,</p> <p>(c) whether the development will cause congestion or generate conflict between people using open space areas or the waterway,</p> <p>(d) whether the development will cause environmental harm by pollution or siltation of the waterway,</p> <p>(e) opportunities to provide reasonable, continuous public access along the foreshore, considering the needs of property owners,</p> <p>(f) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	<p>The proposal is situated on RL 12.8m at ground level which minimises impacts on sea level rise and tidal inundation.</p> <p>The proposed development avoids part of the subject site that is exposed to coastal hazards.</p> <p>The proposal will not cause congestion or generate conflicts at the public waterway and public open spaces. No additional boat mooring facility proposed.</p> <p>The proposal will not cause environmental harm by pollution or siltation of the waterway.</p> <p>The proposal does not hinder public access along the foreshore. The subject site has no existing public access to Oatley Bay.</p> <p>The proposal has a neutral impact regarding the environment and public access to the foreshore.</p>	
<b>Clause 6.5 – Riparian land and waterways</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<p>(2) This clause applies to land identified as “Sensitive land” on the Riparian Lands and Waterways Map.</p> <p>(3) In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must consider the following—</p> <p>(a) whether the development is likely to have an adverse impact on the following—</p> <p>(i) the water quality and flows within the waterway,</p>	<p>The site is located on Sensitive Land as identified on the Riparian Land and Waterways Map.</p> <p>The proposal will not affect the water quality and flows of Oatley Bay.</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>

<p>(ii) the stability of the bed, shore and banks of the waterway,</p> <p>(iii) the future rehabilitation of the waterway and riparian areas,</p> <p>(iv) the biophysical, hydrological or ecological integrity of adjacent coastal wetlands, including the aquatic and riparian species, habitats and ecosystems of the waterway,</p> <p>(v) indigenous trees and other vegetation,</p> <p>(vi) opportunities for additional planting of local native riparian vegetation,</p> <p>(b) whether the development is likely to increase water extraction from the waterway,</p> <p>(c) whether the development will cause environmental harm by pollution or siltation of the waterway,</p> <p>(d) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p> <p>(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—</p> <p>(a) the development is designed, sited and will be managed to avoid significant adverse environmental impact, or</p>	<p>The proposal will not affect the stability of the foreshore area.</p> <p>The proposal has neutral impact on future rehabilitation of the waterway.</p> <p>The proposal has a neutral impact on the ecosystem of Oatley Bay.</p> <p>The proposal will require the removal of 27 trees which include native trees. The proposed tree replacement schedule of 5 trees is insufficient and the location of those trees are not conducive to long-term survival. The suitable replacement rate of 54 trees also cannot be achieved due to the proposed large building footprint. The proposal will result in a substantial net loss of tree canopy.</p> <p>The proposal will not affect water extraction from the waterway.</p> <p>Sediment control conditions would be imposed if this application is to be recommended for approval.</p> <p>The proposal does not demonstrate sufficient measure to minimise tree removal.</p> <p>The proposal does not demonstrate sufficient design measure to minimise tree removal.</p>	
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<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>		
Clause 6.6 Foreshore scenic protection area		
Standard	Proposal	Compliance
<p>(2) This clause applies to land identified as “Foreshore scenic protection area” on the Foreshore Scenic Protection Area Map.</p> <p>(3) In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must be satisfied that the development would facilitate the following—</p> <p>(a) the protection of the natural environment, including topography, rock formations, canopy vegetation or other significant vegetation,</p> <p>(b) the avoidance or minimisation of the disturbance and adverse impacts on remnant vegetation communities, habitat and threatened species and populations,</p> <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>The subject site is identified on the Foreshore Scenic Protection Area Map.</p> <p>The proposal will require the substantial removal of canopy vegetation on site. Appropriate tree replacement is not viable due to the proposed site coverage.</p> <p>The proposal will require the removal of 27 trees on the subject site. The minimisation of disturbance to existing vegetation is not demonstrated.</p> <p>The proposed 5 replacement trees are not sufficient to compensate the proposed tree removals. Furthermore, the replacement trees are predominantly proposed at overshadowed locations that conflict with the built form which reduce the rate of survival. Appropriate tree replacement is not viable due to the proposed site coverage.</p> <p>Appropriate tree replacement in accordance with Council's Tree Management Policy is not viable due to the proposed site coverage.</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</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 will result in a net loss of trees on site.</p> <p>Steep slopes are proposed to be cleared.</p> <p>The proposed building bulk and scale is not compatible within the foreshore scenic protection area. The proposal will enhance the dominance of built form along Oatley Bay.</p> <p>The proposal exceeds the building height limit. The planning grounds to justify the building height variation is not sufficient.</p>	
Clause 6.9 Essential Services		
Standard	Proposal	Compliance
<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> <ol style="list-style-type: none"> <li>the supply of water,</li> <li>the supply of electricity,</li> <li>the supply of telecommunications facilities,</li> <li>the disposal and management of sewage</li> <li>stormwater drainage or on-site conservation,</li> <li>suitable vehicular access.</li> </ol>	<p>The subject site has access to reticulated water, electricity, and sewage network. The proposal also demonstrates effective stormwater disposal, and access to telecommunication facilities.</p> <p>As the proposal introduces an additional occupancy, an electronic vehicle control device is required to manage the additional traffic. Low density residential developments such as dwelling house and dual occupancy typically does not require a vehicle control device as internal driveways will have the capacity to enable safe vehicular movement. The requirement to install a vehicle control device indicates that ease of access cannot be facilitated on the subject site, and that a suitable vehicular access is not achievable.</p> <p>It is noted that part of the existing driveway demonstrates a gradient of 28.6%, exceeding AS2890:1 requirement. However, the non-compliant gradient is not deemed to hinder vehicular access given the driveway is currently usable.</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>

Clause 6.10 Design Excellence		
Standard	Proposal	Compliance
<p>(2) This clause applies to development on land within the Foreshore Scenic Protection Area 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) For land identified in on the Foreshore Scenic Protection Area Map:</p> <p>(i) bed and breakfast accommodation,</p> <p>(ii) health services facilities,</p> <p>(iii) marinas,</p> <p>(iv) residential accommodation, except for secondary dwellings,</p> <p>(4) Development consent must not be granted for development to which this clause applies unless Council considers that the development exhibits design excellence.</p> <p>(5) In considering whether the development exhibits design excellence, Council 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>The proposal is located in the FSPA. The proposal does not sufficiently demonstrate design excellence.</p> <p>Council identifies the following deficiencies with respect to the proposal:</p> <ul style="list-style-type: none"> <li>• The bulk and scale of the proposal is inconsistent with the predominant built form in the vicinity and the future desired character of the locality. The proposal will result in inappropriate intensification of the subject site.</li> <li>• The cantilevered component at the swimming pools further promotes the visual dominance of built form over natural features.</li> <li>• The eastern and western elevations incorporate large, unarticulated surfaces that enhance the bulk of the proposed dual occupancy.</li> <li>• The vehicular manoeuvring platform and the associated supporting pillars are inconsistent with the terrain of the site and the residential context of the locality. Those large structures have adverse visual impacts on adjoining properties that are situated on a lower level.</li> <li>• The proposed tree removal will substantially reduce the tree canopy which contributes to the scenic backdrop of Oatley Bay. The proposed replacement planting is insufficient and is unlikely to be viable due to site constraints.</li> <li>• A combination of excessive water-fronting glazing and repetitious architectural components further contribute to the visual domination of the built form observable from a public waterway (Oatley Bay).</li> </ul>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>

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<p>iii. heritage issues and streetscape constraints,</p> <p>iv. the relationship of the development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,</p> <p>v. bulk, massing and modulation of buildings,</p> <p>vi. street frontage heights,</p> <p>vii. environmental impacts such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,</p> <p>viii. pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of pedestrian networks,</p> <p>ix. the impact on, and proposed improvements to, the public domain,</p> <p>x. achieving appropriate interfaces at ground level between the building and the public domain,</p> <p>xi. excellence and 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>	<ul style="list-style-type: none"> <li>• Insufficient privacy screening is incorporated at the balconies to mitigate overlooking into adjoining properties.</li> <li>• The bulk and mass of the building detrimentally impacts view corridors from adjoining properties to the waterway.</li> <li>• The proposed flat roof design contributes to the building bulk and monotony of architectural elements. The proposed flat roof is not compatible with other residences in the locality which feature predominantly pitched roofs.</li> </ul> <p>Full comment from Council's Urban Design Officer is available at the <i>Internal (Council) Referral</i> section of the report.</p>	
<b>Clause 6.12 – Landscaped areas</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
(4) Development consent must not be granted to development on land to which the clause applies unless the consent authority is satisfied that the development (a) allows for the establishment of appropriate plantings—	Subject site is located within R2 Low Density Residential Zone. This clause therefore applies.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A

<p>i. that are of a scale and density commensurate with the height, bulk and scale of the buildings to which the development relates, and</p> <p>ii. that will maintain and enhance the streetscape and the desired future character of the locality, and</p> <p>(b) maintains privacy between dwellings, and</p> <p>(c) does not adversely impact the health, condition and structure of existing trees, tree canopies and tree root systems on the land or adjacent land, and</p> <p>(d) enables the establishment of indigenous vegetation and habitat for native fauna, and</p> <p>(e) integrates with the existing vegetation to protect existing trees and natural landscape features such as rock outcrops, remnant bushland, habitats and natural watercourses.</p> <p>(5) Development consent must not be granted to development on land to which this clause applies unless a percentage of the site area consists of landscaped areas that is at least—</p> <p>(b) For a dual occupancy located on land within the Foreshore Scenic Protection Area—30% of the site area (equivalent to 416.79m<sup>2</sup>)</p> <p>(6) If a lot is a battle-axe lot or other lot with an access handle, the</p>	<p>The proposed built footprint will require the removal of 27 trees and does not permit a suitable tree replacement rate of 54 to be achieved.</p> <p>The proposal will diminish the tree canopy of the subject site in contravention to the desired future character of the locality.</p> <p>Visual privacy between dwellings is maintained.</p> <p>The proposed removal of 27 trees will result in a substantial loss of tree canopy on site. The proposed replacement planting is insufficient.</p> <p>The proposed tree replacement locations are hindered by overshadowing and built form. Those locations are not suitable for tree planting.</p> <p>The proposed tree removal is considered excessive. In absence of structural details on the footing, the impact on the natural rock outcrop cannot be accurately ascertained.</p> <p>Council's Landscape Officer raised objection. Detailed landscape comment is available in the <i>Internal (Council) Referral</i> section of the report.</p> <p>Site 1: 200.8sqm</p> <p>Site 2: 283.3sqm</p> <p><u>Total: 484.1sqm (30.5%)</u></p>	<p>LPP013-24</p>
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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).

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### **Clause 4.6 - Exceptions to Development Standards**

46. The proposal seeks to vary Clause 4.3 *Height of Buildings* of the GRLEP 2021, which relates to the maximum building height. Variations to GRLEP 2021 development standards are required to be assessed against Clause 4.6 *Exceptions to Development Standards* of the GRLEP 2021.

47. For context, Building Height is defined in the GRLEP 2021 as:

***“Building height (or height of building) means:***

- *In relation to the height of a building in metres – the vertical distance from ground level (existing) to the highest point of the building, or*
- *In relation to the RL of a building the vertical distance from the Australian Height Datum to the highest point of the building*

*Including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.”*

The applicant submitted a written Clause 4.6 variation request (prepared by Maximus Developments Australia) as part of the SEE, seeking a variation to Clause 4.3 *Height of Buildings*. The variation request indicates a proposed building height of 11.47m, representing a 27.4% variation from the maximum building height of 9.0m.

It is noted that the building height indicated in the SEE is not consistent with the submitted architectural plans which demonstrate a building height of 11.6m on Site 1 (28.9% variation), and 11.3m on Site 2 (25.6% variation). It is considered that the architectural plans are the primary documents that indicate the proposed built form and as such, the Clause 4.6 assessment should be based on the building height indicated on the architectural plans.

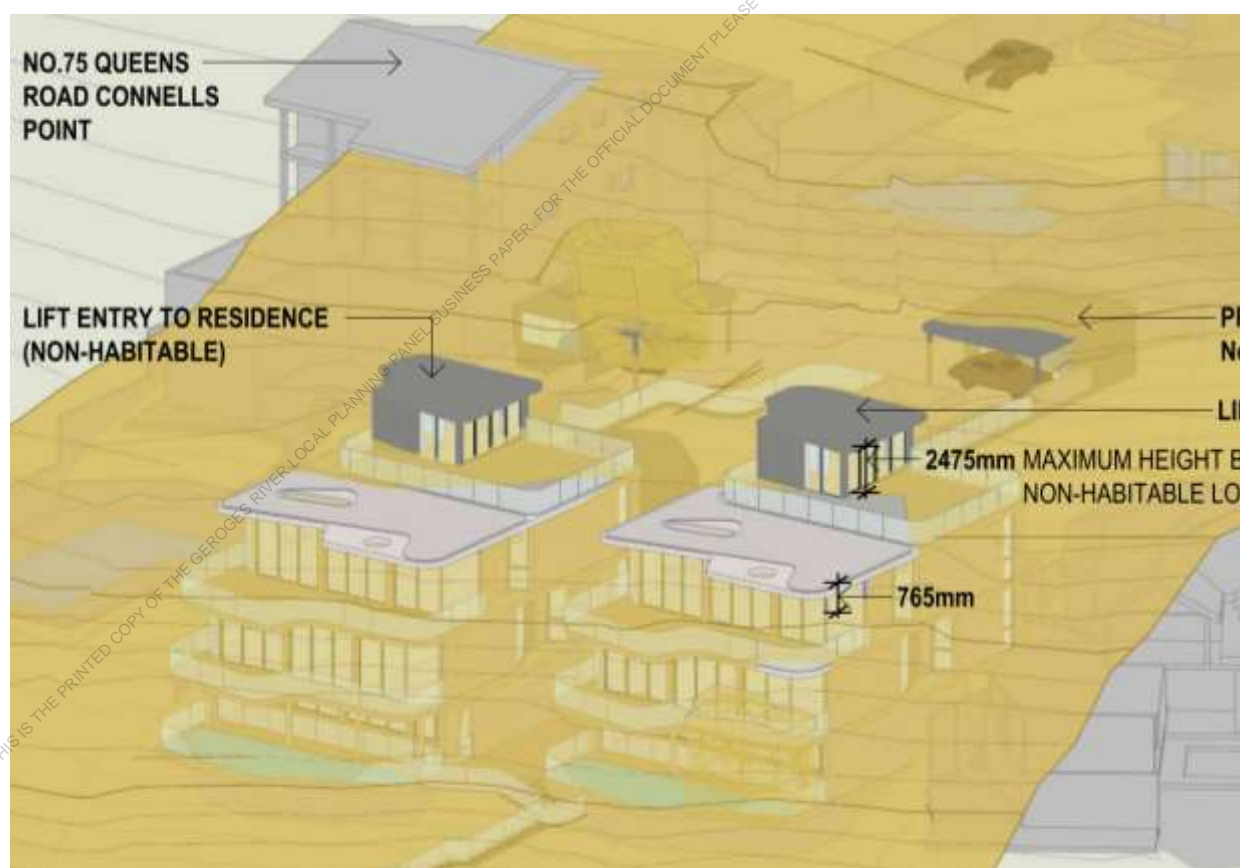
The extent of variation is indicated in Figures 7, 8, and 9 below:



**Figure 7:** Section of the proposed building on Site 1. The 9.0m height limit is represented by the orange dotted line.



**Figure 8:** Section of the proposed building on Site 2. The 9.0m height limit is represented by the orange dotted line.



**Figure 9:** Three-dimensional perspective diagram indicating the 9m height plane in orange.

48. In assessing whether the proposed height variation should be granted, considerations are given to the following Clause 4.6 provisions.

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless—*
- (a) *the consent authority is satisfied that—*
    - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
  - (b) *the concurrence of the Planning Secretary has been obtained.*

49. The Clause 4.6 variation request is assessed as follows:

**Clause 4.6(3)(a) Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case**

50. The applicant provided the following comments in response to Clause 4.6(3):

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

- (i) *to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*

*Comment: The proposed extent of the variation is not considered to be inconsistent with the underlying intent of this objectives for the following reasons; The proposed extent of the variation is not considered to detract from the desired and envisaged maximum height of building. Whilst the proposal seeks a maximum encroachment of 2.47m It is considered that the variation will not materially undermine the intention of this objective. The proposed centralised entry lobby does not detract from the objectives of the zone. The extent of the elements above the 9m height of building are well integrated into the remainder of the proposal and are considered to be well integrated into the remainder of the building.*

- (b) *to minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas,*

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



The maximum extent of the variation comprises of a centralised entry (No.79). The following diagrams indicate the extent of the additional shadow impact to adjoining properties as indicated below.



**Figure 10:** Shadow diagrams submitted by the applicant, as attached in the Clause 4.6 variation request statement.

Given the negligible impact demonstrated the above shadow diagrams, it is considered that the extent of the addition impacts is not unreasonable given the orientation of the site which still results in adjoining properties achieve good levels of solar access given the density of the zone. Given the sites immediate urban form context, it is considered that the proposed extent of the variation would not result in any apparent adverse view loss impacts in relation to any existing buildings. The proposed variation is unlikely to result in any adverse impacts in relation to privacy given the extent of the maximum breach is for a the upper level entry.

The visual impact generated by the additional height is not considered to be readily perceivable when viewed from the public domain. It is noted that that additional height sought results in a minor negligible overshadowing impact to the adjoining properties, the impact is short given orientation of the site.

- (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

*Comment: The extent of the variation is relatively minor elements forming a central upper levels which are well integrated into the remainder of the proposal. The extent of the variation does not include any residential floor area and is not considered to material detract from adjoining land uses or heritage items given the extent of the variation and negligible impact. It is also considered that the extent of the variation will not be readily perceivable from the street given the roof lines of the level below."*

51. There have been multiple case laws that have established the methodologies to assist in the assessment of Clause 4.6 statements. In *Wehbe V Pittwater Council (2007) NSW LEC 827*, the Hon. Justice Preston CJ set out the five following conditions where compliance with a development standard would be unreasonable or unnecessary:
1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
  2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
  3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
  4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
  5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*
52. The abovementioned matters of considerations form the basis to determine whether the compliance with development standard is unreasonable or unnecessary. The assessment is as follows:

*First Test: The objectives of the standard are achieved notwithstanding non-compliance with the standard;*

*Applicant Comment in respect to first test:*

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

*Assessing Officer comment in respect to the first test:*

54. Whilst the submitted Clause 4.6 request does not accurately reflect the architectural plans, assessment of the proposed variation (as indicated on the architectural plans) has been carried out against the objectives of Clause 4.3 of the GRLEP as outlined in the table below:

Clause 4.3 Objectives	Comments
(a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,	<p>Level 2 and 3 of both proposed dwellings, and the proposed carport on Site 1 exceed the maximum building height of 9.0m.</p> <p>The proposed four-storey built form represents a significant non-compliance with the GRDCP control, which defines the future desired character in this regard, and which requires a maximum two-storey built form.</p> <p>The proposed building scale is not compatible within the locality which features predominantly two-to-three storey detached houses. The excessive bulk and scale of the</p>

	<p>buildings is further exacerbated by a monotonous design, excessive water-fronting glazing, and substantial removal of tree canopy.</p> <p>The vehicle manoeuvring area is elevated approximately 8.0m above the existing ground level at its maximum, which contributes to the non-compliant building height of the Site 1 carport. The height and scale of the vehicle manoeuvring area is not sympathetic to the terrain and is not considered compatible with the low-density residential context of the neighbourhood.</p> <p>Therefore, the proposal in its current form is not considered to be compatible with the height, bulk and scale of the existing and desired future character of the locality.</p> <p>It is considered that alternative design solutions can be implemented to remove, or minimise, non-compliance with the maximum building height control. Design elements such as stair access to the front entrance or split-level design can be incorporated as an alternative to the Level 3 lobby.</p>
(b) to minimise the impact of overshadowing, visual impact, disruption of views and loss of privacy on adjoining properties and open space areas,	<p>The shadow diagrams indicate additional overshadowing on 87A Queens Road. No elevational shadow diagram is provided to ascertain the impact on 87A Queens Road.</p> <p>Design measures to minimise the visual impact is not evident. The proposal demonstrates a four-storey built form and a highly elevated vehicle manoeuvring area that is incompatible with the low-density residential context of the locality.</p> <p>The components that exceed the maximum building height limit will result in loss of view to Oatley Bay. As such, the proposed height exceedance is considered to have an unreasonable impact on existing sightlines. See the <i>Assessment</i> section of the report for further view loss analysis.</p> <p>The proposed Level 3 roof top terraces, which are located above the maximum building height line, will introduce additional opportunities to overlook into adjoining private open spaces. Roof top terraces are not permitted per the GRDCP 2021.</p> <p>Design measures to minimise the impacts of the proposal is not sufficiently demonstrated.</p>
(c) to ensure an appropriate height transition between new buildings and— (i) adjoining land uses, or	<p>The proposed dwellings and vehicle manoeuvring area is substantially higher than the adjoining 87A and 89 Queens Road which adjoins the waterway. As the proposed building bulk and scale is not compatible to the</p>



(ii) heritage items, heritage conservation areas or Aboriginal places of heritage significance.	locality, the proposal does not represent an appropriate height transition to adjoining land uses.  The proposal has no heritage impact given no heritage item is identified adjoining the subject site.
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55. The proposal achieves none of the three Clause 4.3 objectives.

*Second Test: The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*

*Applicant comment in respect to the second test:*

56. *"The proposed variation seeks numerical departure at (2,4700+mm) +27.4%. The proposed variation does not offend the underlying intent of the Clause 4.3 Objectives which are intended to an appropriate built form within the context of the R2 Low Density Residential Zone."*

*Assessing Officer comment in respect to the second test:*

57. The underlying purposes of Clause 4.3 is to ensure new developments are of a scale that is compatible to the locality and that new developments do not cause adverse amenity impacts on adjoining properties. The underlying purposes of Clause 4.3 do not conflict with the objectives of Zone R2 and other relevant GRLEP objectives. As such the underlying purposes is relevant to the development, and compliance is therefore necessary.
58. There is also no site-specific reason as to why the variation sought might be justified in respect of the objectives of the control.
59. As indicated in the first test above, the proposal is not considered to be appropriate with respect to the local context, and therefore offend the underlying intent of Clause 4.3. The standard is relevant and the application of it is necessary in the circumstances at hand.

*Third Test: The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

*Applicant comment in respect to the third test:*

60. *"Whilst the proposal seeks a variation to height of building, importantly a design has been achieved which is practical and centrally located on in regards to the site dimensions, boundaries and sloping topography. Strict compliance would result in a poor outcome whereby the omission of the central access which detracts from occupant and visitor amenity."*

*Assessing Officer comment in respect to the third test:*

61. The applicant's response does not demonstrate how compliance with the maximum building height would be contrary to achieving the objectives and purposes of Clause 4.3.
62. It is acknowledged that the subject site presents a challenge with regards to occupant amenity and access. However, an appropriate bulk and scale is required to be provided with all new developments. The proposed height variation is not considered to be in the public interest due to incompatible built form, visual privacy intrusion, and disruption to view corridors. Moreover, it is considered that an alternative design approach can be implemented to minimise or remove non-compliance with the maximum building height development standard.

*Fourth Test: The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*

*Applicant comment in respect to the fourth test:*

63. *"Council's Clause 4.6 Register, assessment report recommendations have demonstrated that strict numerical compliance in relation the Clause 4.3 have been varied for similar planning reasons as to that sought within Clause 4.6 Variation. In this regard, strict numerical compliance is considered unnecessary and unreasonable. It is not considered that this development standard has been abandoned but rather that flexibility to this standard has been previously considered for several approvals on significantly sloping sites.*
64. *Furthermore, as previously mentioned the proposal is likely to result in negligible impacts in relation to solar access and visual bulk and scale in comparison to strict numerical compliance. This is considered to result in a minor impact given the design and orientation of the site."*

*Assessing Officer comment in respect to the fourth test:*

65. Council's Clause 4.6 variation register was reviewed during the assessment of this application. Since GRLEP 2021 was in force, nine (9) residential Development Applications in R2 Low Density Residential Zone was approved with a variation to the maximum building height. Of those nine Development Applications, only one application was granted a variation greater than 28.9%. The extent of height variation proposed under this Development Application is greater than the other variations previously granted by Council or the Georges River Local Planning Panel, a control that is seldom varied in any event.
66. Notwithstanding the above each site is assessed on its merits and it is considered that the variation is not suitable in this instance given the adverse planning impacts as detailed in this report.
67. In addition, it is important to note that the nine Development Applications in question subject to height variation demonstrate no impacts to the amenity and are of a scale that is compatible to the neighbourhood. This is however not the case for this proposed dual occupancy, which demonstrates adverse visual amenity impacts and is not of a scale that is compatible with the neighbourhood. The proposed development also does not comply with multiple planning provisions in respect to building scale, tree removal, visual privacy, excavation, external finishes, outbuilding, and swimming pool.
68. As such, while variations to maximum building height can be considered, the proposal does not demonstrate sufficient merit to warrant the granting of a variation to the maximum building height.
69. It is clear given the limited number of variations granted to the height control that the standard has not been abandoned and therefore applies.

*Fifth Test: The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone;*

Applicant comment in respect to the fifth test:

70. "The zoning for the subject site is R2 Low Density Residential, in this instance this is considered to be reasonable given that the site and its location."

Assessing Officer comment in respect to the fifth test:

71. The R2 Low Density Residential zoning of the subject site is considered appropriate given the locality consists predominantly of low-density detached houses. The subject site and all similar neighbourhood sites share this zoning and it consistent with the prevailing land uses.

Assessing officer conclusion

72. As discussed above, the variation request submitted by the applicant is not considered to have satisfactorily justified that compliance with the maximum building height is unreasonable or unnecessary in the circumstances of this site and Development Application.
73. The proposal is not consistent with the objectives of Clause 4.3 – Height of Building due to excessive bulk and scale, adverse impacts with regards to visual amenity, visual privacy, and disruption of view lines. In addition, the submitted Clause 4.6 request is inaccurate as it does not reflect the submitted architectural plans.
74. It is considered that alternative design solutions are available to achieve compliance or sufficiently mitigate the adverse impacts, however such changes will require substantial change to the proposal. Council assesses applications on the basis that all Development Applications are assessment-ready, and as such substantial amendments to the proposal cannot be entertained under this Development Application.

**Clause 4.6(3)(b) There are sufficient environmental planning grounds to justify the contravention of the development standard.**

75. The applicant provided the following comments in response to Clause 4.6(3)(b):

Applicant Comment:

*As previously discussed, this extent of the variation is inconsequential and does not result in any unreasonable impact. More importantly, the proposed variation satisfies the objectives of the underlying intent of Clause 4.3 Height of Building and therefore the merits of the proposal are considered to be worthy of approval. It has been demonstrated within Council and the Courts have previously applied a reasonable approach in supporting variations to development standards. The proposed extent of variation is not considered to result in any adverse material amenity impact.*

- Strict numerical compliance would unlikely result in a materially better urban design outcome given the extent of the variation given that the minor extent of the variation. This is considered to result in negligible impacts in relation to; solar access, privacy and view loss in consideration with the extent of the variation design and immediate context.*
- The proposed variation is not considered to result in any adverse view loss impact given the extent of the proposed additional height of 2,470mm.*
- The extent of the variation is considered to be in the public interest as the proposal does not result in any adverse material impact to adjoining properties or beyond and still reads as a compatible built form within the evolving R2 Low Density Residential zone which is appropriately articulated and modulated. This is also considered to be in the public interest as the extent of the variation is not inconsistent with the objectives of the control.*

- *As previously discussed, the proposed extent of the variation regarding height adequately satisfies the underlying objectives of the controls of which do not result in any unacceptable impacts to the; built, natural, social or economic impacts for consideration under the Act.*
- *The extent of the variation of the additional height is not considered to be inconsistent with the Objects of the Act is considered to be satisfied regarding the merits of the variation sought as follows;*

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Object Reference	Object	Comment	Satisfies objective
(a)	To promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources.	The extent of the variation is not considered to result in any adverse impacts in relation to natural and other resources.	Yes
(b)	To facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment.	The extent of the variation is not considered to be inconsistent with economic, environmental and social considerations.	Yes
(c)	To promote the orderly and economic use and development of land.	The extent of the variation results in an orderly and economic use of the land by providing adequate occupant amenity on site.	Yes
(d)	To promote the delivery and maintenance of affordable housing,	The extent of the variation does not relate to affordable housing as defined within "SEPP affordable rental housing" or the Act.	N/A
(e)	To protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats.	N/A	N/A
(f)	To promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage).	The extent of the variation does not result in any material heritage impacts.	Yes
(g)	To promote good design and amenity of the built environment.	The extent of the variation results in a generally compatible built form given the	Yes

		site and immediate residential context.	
(h)	To promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State.	Noted.	Yes
(i)	To provide increased opportunity for community participation in environmental planning and assessment.	Noted.	Yes

#### Assessing Officer Comment

76. It is considered that the proposal does not have sufficient planning grounds to justify the variation request. The proposal is not of a scale that is compatible within the neighbourhood. Furthermore, the exceedance of maximum height development standard will result in adverse visual privacy impacts and unreasonable disruption of views on neighbouring properties.

**Clause 4.6(4)(a)(ii) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,**

77. As discussed in the Clause 4.6(3)(a) above, the proposal is not fully consistent with the objectives of Clause 4.3.

78. The Clause 4.6 variation request submitted by the applicant does not demonstrate how the proposed development is consistent with the objectives of R2 Low Density Zone. Below is an assessment of the proposal against the objective of the zone:

Zone R2 Objectives	Comments
To provide for the housing needs of the community within a low density residential environment.	Whilst the proposal will provide additional housing the proposal does not respond to low density residential environment.
To enable other land uses that provide facilities or services to meet the day to day needs of residents.	The proposal will not hinder the functioning of other facilities or services within the locality.
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.	Design excellence is not sufficiently demonstrated. The proposal is of a scale that is not compatible within the low-density residential context. The proposal will result in adverse impacts regarding visual privacy, view corridors, and tree canopy.
To provide for housing within a landscaped setting that enhances the existing environmental character of the Georges River local government area.	The proposed development will diminish the environmental character along Oatley Bay. 27 trees are proposed to be removed and the proposed built footprint does not allow a required tree replacement rate of 54. The proposal will result in a net loss of tree canopy. Furthermore, the proposed replacement tree planting locations are not conducive to the survival of those trees.

79. The proposal is not considered to be consistent with the objectives of Clause 4.3 and the objectives of Zone R2 due to adverse impacts to the neighbouring properties and the wider neighbourhood. The approval of this Clause 4.6 variation request is not in the public interest, and will set an adverse precedence within the Georges River Local Government Area.

**Clause 4.6(4)(b) The concurrence of the Planning Secretary has been obtained.**

80. The Planning Circular PS20-002 issued on 5 May 2020 outlines the conditions which concurrence of the Planning Secretary is assumed. For variations of development standards (which includes maximum building height), Secretary's concurrence is not required for decisions made by local planning panels.

**Conclusion**

81. Having reviewed the Clause 4.6 request to vary the maximum building height, it is considered that the proposed variation is not well-founded for the following reasons:
- The proposal will result in adverse impacts on visual amenity, visual privacy, and view corridors. The proposal demonstrates excessive bulk and scale that is incompatible with the existing and desired character of Connells Point,
  - The applicant's written submission does not sufficiently demonstrate that compliance with the maximum height standard is unreasonable or unnecessary in the circumstances of the case,
  - The applicant's written submission does not demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard given the adverse impacts of the proposed development on public amenity,
  - The proposed development is not in the public interest due to adverse impacts on visual amenity and view corridors. The proposal is not consistent with the objectives regarding Clause 4.3 Height of Buildings and the R2 Low Density Residential zone. The approval of the proposed variation to the maximum building height development standard will set an adverse precedent, and
  - The extent of variation proposed in the applicant's written submission is not consistent with the proposed building height as indicated on the architectural plans.

**Georges River Development Control Plan 2021**

82. The application was lodged on 26 September 2023 and as such GRDCP 2021 Amendment 2 has been considered in the assessment of this application. The following comments are made with respect to the proposal satisfying the objectives and controls contained within the GRDCP 2021.

**Part 3 General Planning Considerations**

<b>3.2 Biodiversity</b>		
<b>3.2.1 Trees and Vegetation</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
Tree removal and replacement planting is to comply with the provisions of the relevant SEPP's and Council's Tree Management Policy.	The proposed tree replacement planting does not comply with Council's Tree Management Policy. The proposal cannot accommodate the required replacement rate of 54 trees.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A

3.2.2 Green Web – All Green Web Areas		
Control	Proposal	Compliance
2. Green Web areas are to be landscaped with species indigenous to the Georges River Council area, listed in Council's Backyard Biodiversity Guide on Council's website and Council's Tree Management Policy (and its Appendix 1 – Tree Planting). Trees and landscaping should be provided in a form and configuration that maintains and enhances the core habitat and vegetated linkages.	Native vegetation species incorporated.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
3. Development should contribute to the maintenance of local habitats and connectivity between bushland remnants.	The proposed removal of 27 trees does not contribute to the maintenance of local habitat and connectivity between bushland remnants.	
4. Development should seek to retain unique environmental features of the site including: i. Rock outcrops; ii. Wetlands and the like; iii. Watercourses, drainage lines and riparian land; iv. Groups of significant trees and vegetation; and v. Mature trees with hollows and other fauna habitat features on the site.	<p>The proposal involves the removal of 27 trees of various significance which, considered altogether as a group, provides substantial tree canopy. The proposed replacement of 5 trees does not sufficiently compensate the loss of existing tree canopy, and the proposed extensive built footprint does not allow sufficient tree replacement planting.</p> <p>In absence of structural details on the footing, the impact on the natural rock outcrop cannot be ascertained.</p>	
6. Development should ensure that off-site impacts into adjoining bushland are minimised, such as weed invasion, increased runoff and stormwater pollutants.	The proposal demonstrates adequate stormwater management plan.	
3.2.2 Green Web – Green Web Habitat Reinforcement Corridor Areas		
Control	Proposal	Compliance
9. Development should, through its siting, design and landscape treatment, maximise habitat values and minimise disruption to connectivity through: i. Allocating one boundary of the site to planting of indigenous vegetation of a mix of canopy species (over 3m height at maturity) and understorey species (less than 3m height at maturity, or	The proposal retains the bushland along the FBL at the rear boundary. However, the proposed expansive built footprint does not allow adequate space for the provision of sufficient tree replacement planting.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A



ii. Retention and revegetation of remnant bushland elements.		
10. The required treatment will depend upon the scale of the bushland remnants linked by the land or the quality of the remnants to be retained on site.	The existing vegetation on site provides dense tree canopy on site. The proposed built footprint does not accommodate sufficient tree replacement.	

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3.3 Landscaping		
Control	Proposal	Compliance
<p>1. Landscaping on site should be incorporated into the site planning of a development to (where appropriate):</p> <ul style="list-style-type: none"> <li>i. Reinforce the desired future character of the locality;</li> <li>ii. Maintain significant landscape features;</li> <li>iii. Be consistent with any dominant species in the adjoining area of ecological significance;</li> <li>iv. Incorporate fire resistant species in areas susceptible to bushfire hazard;</li> <li>v. Provide planting within setback zones;</li> <li>vi. Soften the visual impact of buildings, carparks and roads;</li> <li>vii. Cater for outdoor recreation areas;</li> <li>viii. Separate conflicting uses;</li> <li>ix. Screen undesirable elements;</li> <li>x. Provide opportunities for on-site stormwater infiltration, in particular around existing trees and vegetation;</li> <li>xi. Consider the future maintenance requirements of landscaped areas;</li> <li>xii. Protect the effective functioning of overhead, surface level or underground utilities; and</li> <li>xiii. Improve the aesthetic quality of the development.</li> </ul>	<p>The subject application was referred to Council's Landscape Officer.</p> <p>The applicants proposed 5 replacement trees are not considered to be sufficient to compensate for the proposed removal of 27 existing trees, and in addition the proposed large footprint of the development prevents the required planting of 54 replacement trees. Furthermore, the proposed replacement trees are predominantly located in between the dwellings and vehicle manoeuvring area, which is not considered to be conducive to the survival of those trees due to overshadowing and conflicts with the built form.</p> <p>See <i>Council (internal) referral</i> section of the report for detailed comments of Council's Landscape Officer.</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
2. Landscape planting should achieve a mature height in scale with the structures on the site.	The proposed replacement trees between the dwellings and vehicle manoeuvring area are not viable due to overshadowing by large structures.	
3. Where landscaping is required, this should incorporate locally	The proposal suitably incorporates locally indigenous species,	

indigenous plants listed in the GRDCP 2021 Backyard Biodiversity Guide and Council's Tree Management Policy.	however the proposed locations of the replacement planting is not adequate to support the survival of the replacement trees. The proposed replacement rate of five trees is also not considered sufficient to compensate the loss of the proposed tree removal.	
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### 3.5 Earthworks

#### 3.5.1 Earthworks

Control	Proposal	Compliance
1. Natural ground level should be maintained within 900mm of a side or rear boundary.	Excavation proposed 0.5m from the rear boundary of 81 Queens Road for the vehicle manoeuvring area.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
2. Cut and fill should not alter natural or existing ground levels by more than 1m	Maximum proposed cut as indicated on the excavation plan:  Site 1: 1.02m Site 2: 1.74m	
3. Habitable Rooms (not including bathrooms, laundries and storerooms) are to be located above existing ground level.	Habitable rooms are located above existing ground level.	
4. Rock outcrops, overhangs, boulders, sandstone platforms or sandstone retaining walls are not to be removed or covered.	Existing rock outcrop is present on site. In absence of structural details on the footing, the impact on the natural rock outcrop cannot be ascertained.	
5. Development is to be located so that the clearing of vegetation is avoided.	The proposed vegetation clearing is considered excessive.	
6. Cut and fill within a tree protection zone of a tree on the development site or adjoining land must be undertaken in accordance with AS4970 (protection of trees on development sites).	N/A	
7. Soil depth around buildings should be capable of sustaining trees as well as shrubs and smaller scale gardens.	Adequate soil depths are provided which can sustain vegetation.	
8. Earthworks are not to increase or concentrate overland stormwater flow or aggravating existing flood conditions on adjacent land.	The earthworks associated with the proposal will not adversely impact stormwater flow.	
9. Fill material must be virgin excavated natural material (VENM)	If the subject application was to be recommended for approval, a condition of consent would be recommended to ensure that any fill proposed is VENM.	

<b>3.5.2 Construction Management/Erosion and Sediment Control</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
1. Development must minimise any soil loss from the site to reduce impacts of sedimentation on waterways through the use of the following: <ul style="list-style-type: none"> <li>- Sediment fencing;</li> <li>- Water diversion;</li> <li>- Single entry/exit points</li> <li>- Filtration materials such as straw bales and turf strips.</li> </ul>	If the subject application was to be recommended for approval, suitable conditions of consent would be recommended to ensure compliance with this control.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2. Development that involves site disturbance is to provide an erosion and sediment control plan which details the proposed method of soil management and its implementation. Such measures are to be in accordance with The Blue Book – Managing Urban Stormwater, Soils & Construction by LandCom	If the subject application was to be recommended for approval, suitable conditions of consent would be recommended to ensure compliance with this control.	
3. Development is to minimise site disturbance including impacts on vegetation and significant trees and the need for cut and fill.	If the subject application was to be recommended for approval sediment control conditions would be imposed.	
5. Development which has a high potential risk to groundwater must submit a geotechnical report to address how possible impacts on groundwater are minimised.	The proposal is not considered to have a high potential risk to groundwater.	

<b>3.8 View Impacts</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
1. The development shall provide for the reasonable sharing of views.	The proposal does not provide for reasonable sharing of views. See the <i>Assessment</i> section of the report for further comments.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A

<b>3.12 Waste Management</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
1. Development must comply with Council's Waste Management requirements regarding construction waste and ongoing management of waste materials (per Appendix 4 of the GRDCP).	Waste management to be conditioned if this application is to be recommended for approval.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

3.13 Parking Access and Transport		
Control	Proposal	Compliance
<p>As per the table within this section the development is to provide parking at the following rates:</p> <p>Parking: The development has 3 or more bedrooms and 2 spaces are required.</p>	<p>Whilst the proposal provides two spaces, one garage and one carport, for each dwelling, the existing access handle has a width between boundaries of 2.745m along much of its length. This width is less than the required minimum of width of 3.0m. The existing access handle may have been sufficient for 1 dwelling house however the proposed intensification of the site is of concern.</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A

3.14 Utilities		
Control	Proposal	Compliance
<p>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.</p>	<p>The locations of the pool pumps are not indicated.</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A

3.15.1 Infrastructure		
Control	Proposal	Compliance
<p>3. Embellishment of the public domain should be improved by new street plantings and footpath improvements</p>	<p>If the subject application was to be recommended for approval appropriate conditions would have been imposed requiring no damage to Council's infrastructure.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

3.16 Subdivision		
3.16.1 Lot Size and Shape		
Control	Proposal	Compliance
<p>1. Development is to comply with the minimum Lot Standard as prescribed in Clauses 4.1 through to 4.1B of the Georges River LEP 2021 and associated maps where applicable.</p>	<p>GRLEP minimum lot standard achieved.</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
<p>3. Battleaxe allotments are to comply with the below:</p> <p><b>R2</b> – maximum 6 lots accessed per access corridor.  <b>&lt;2 lots</b> – minimum access handle width of 3m</p>	<p>Two lots are indicated on the architectural plans. Those lots are subject to future applications.</p> <p>Driveway width 2.745m wide as existing at the access handle. Whilst the proposal will utilise the existing driveway access its intensification is of concern.</p>	

3.16.2 Roads, Vehicular Access and Car Parking		
Control	Proposal	Compliance
4. Driveway to comply with AS2890.1 (2004)	The existing driveway at the battle-axe handle will be utilised for the proposed development. The existing driveway demonstrates a gradient of 28.6%, exceeding AS2890:1 requirement, the driveway is currently in use and therefore the driveway gradient is considered suitable. The existing driveway width of 2.745m does not comply with AS2890.1 which requires a minimum domestic driveway width of 3.0m. The intensification of traffic along the existing access handle is of concern given the proposal will generate additional traffic on a driveway with non-compliant width.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
3.16.2 Roads, Vehicular Access and Car Parking		
Control	Proposal	Compliance
1. Development is to comply with requirements outlined in Clause 6.9 Essential services of the Georges River LEP 2021.	The proposal does not comply with Clause 6.9 of the GRLEP 2021.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
3. Adequate waste storage in an accessible collection location to be provided for battle axe subdivisions.	Sufficient space is available for waste storage in both sites.	

## Part 5 Residential Locality Statements

Part 5.16 Connells Point and Kyle Bay	
<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> </ul>	<p>The proposal is inconsistent with the future desired character of the precinct as specified below:</p> <ul style="list-style-type: none"> <li>The proposed vegetation removal and building scale will enhance the prominence of the built form in expense of the existing bushland character.</li> <li>The proposed tree replacement planting is insufficient. The proposed building footprint does not accommodate sufficient tree replacement.</li> <li>The proposal fails to facilitate the retention of trees and reasonable sharing of water views.</li> </ul> <p>Given the above, the proposal is inconsistent with the future desired character of the area and warrants refusal of the application.</p>

- Public views to waterways should be retained from streets and public places.

### Part 6.1.3 Dual Occupancies

6.1.3.1 Streetscape Character and Built Form		
Control	Proposal	Compliance
1. Dual occupancies are to have windows in all street-facing elevations. Service rooms such as bathrooms and ensuites are not to be within primary or secondary street frontages.	N/A – subject site is a battle-axe lot. Both proposed buildings have no street-facing elevation.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
2. Driveways and accessways should not dominate the streetscape and located to comply with AS2890 (latest edition)	<p>The proposal will utilise the existing access handle and driveway crossover. The existing driveway is not dominant in the streetscape.</p> <p>The existing driveway does not comply with AS2890.1:2004 as the driveway has a width of 2.745m, narrower than the compliant minimum width of 3.0m.</p>	
4. Each dwelling entrance is to be clearly identifiable from the street and recessed a maximum of 1m into the façade of the dwelling.	The subject site is a battle-axe allotment. Both dwellings are not identifiable from the street given the nature of the site.	
5. Access to garaging and additional parking spaces for dual occupancy dwellings should not result in large expanses of paved surfaces within the street setback of the development.	Car parking will not result in large expanses of paved surfaces readily observable from street. The subject site is a battle-axe allotment.	
6. The maximum size of voids at the first floor level should be a total of 15m <sup>2</sup> (excluding voids associated with internal stairs) for each of the two dwellings.	No void (excluding voids associated with internal stairs) proposed for both dwellings.	

6.1.3.2 Building Scale and Height		
Control	Proposal	Compliance
1. New buildings are to consider and respond to the predominant and desired future scale of buildings within the neighbourhood; and respond to the topography and form of the site.	The proposal fails to adequately consider and respond to the predominant and desired future scale of buildings within the neighbourhood, and the topography of the site.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
2. On sites with a gradient or cross fall greater than 1:10, dwellings are to adopt a split-level approach to minimise excavation and fill. The	The proposal does not demonstrate a split-level design. Both dwellings contain four-storey elements.	



overall design of the dwelling should respond to the topography of the site. On sloping allotments, dwellings are to adopt a split-level approach in the design of the development to minimise excavation and fill and to achieve a design response that relates appropriately to the sloping topography of the site.		
3. A maximum of two (2) storeys over a basement is permissible at any point above ground level (existing). Basements are to protrude no more than 1m above the existing ground level.	Four storeys proposed for both dwellings.	

#### 6.1.3.3 Setbacks - Front Setbacks (Street facing dual occupancy)

Control	Proposal	Compliance
1. The minimum setback from the primary street boundary is:	N/A - Street setback does not apply in this instance given the subject site is a battle-axe allotment. Both proposed dwellings do not have street frontage.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A

#### 6.1.3.3 Rear setbacks (attached and detached dual occupancy in 'side by side' configuration)

Control	Proposal	Compliance
4. For attached dual occupancies in a 'side-by-side' configuration where both dwellings address the street, each dwelling is to have a minimum rear setback (ground and first floor) of 15% of the average site length, or 6.0m, whichever is greater.	7.6m for both dwellings.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

#### 6.1.3.3 Side and Rear Setbacks – (detached dual occupancy in a battle axe configuration)

Control	Proposal	Compliance
6. The minimum front setback (ground and first floor) of any building on the non-primary street fronting lot is to be 2.0m, creating a minimum separation of 6.0m between the dual occupancy dwellings.	Site 1: 17.0m Site 2: 20.5m	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
7. Minimum side boundary setbacks of 1.2m (for lots outside a Foreshore Scenic Protection Area) are to be provided. Within Foreshore Scenic Protection Area zone, minimum side setbacks of 1.5m are to be provided.	1.5m for both dwellings.	

<b>6.1.3.4 – Solar Access</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
1. New buildings and additions are to provide 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 proposal achieves at least 3 hours of direct sunlight for at least 50% of private open space and living room for both buildings.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
2. Direct sunlight to north-facing windows of habitable rooms and 50% of the area of principal private open space of neighbouring dwellings should not be reduced to less than 3 hours between 9.00am and 3.00pm on 21 June. Note: Variations will be considered for developments that comply with all other requirements but are located on sites with an east-west orientation.	The proposal will enable more than 3 hours of solar exposure to at least 50% of private open spaces of neighbouring properties. The shadow diagrams provided to Council indicate overshadowing affecting the northeast-facing internal area of the adjoining 87A Queens Road for more than 3 hours. Overshadowing impact on the internal area of 87A Queens Road cannot be ascertained as no elevational shadow diagram is provided.	
3. Shadow diagrams are to be submitted demonstrating the shadow impacts for the winter solstice (21 June) between 9.00am and 3.00pm	Vertical shadow diagrams provided to Council indicating overshadowing between 09:00 to 15:00 on 21 June.	
4. Shadow diagrams are required to show the impact of the proposal on solar access available to the living rooms and main open space 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 elevational or view from the sun diagrams to demonstrate appropriate solar access provision to adjoining development.	Shadow diagrams provided to Council indicating overshadowing affecting internal rooms of the adjoining 87A Queens Road. No elevational shadow diagram is provided.	
7. Consider and minimise overshadowing impacts on the solar photovoltaic panels of neighbouring buildings where a variation to the building setbacks or number of storeys is sought.	The proposed bulk and scale, which is not considered compatible within the locality, will introduce additional overshadowing over the solar photovoltaic panel of the adjoining 87A Queens Road.	

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<b>6.1.3.5 – Visual Privacy</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
1. Windows and balconies of main living areas are to be directed toward the front and rear of a site.	The proposed windows and balconies of main living areas are directed towards the rear of the site for both dwellings.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
2. Windows and balconies of habitable rooms are not to directly overlook windows, balconies and the open space of adjacent dwellings. To ensure appropriate privacy, consideration should be given to including: <ul style="list-style-type: none"> <li>i. Physical screening devices such as fixed external timber battens;</li> <li>ii. Splaying or staggering the location of windows;</li> <li>iii. Use of level changes;</li> <li>iv. Use of increased window sill heights or the use of glazing such as frosted glass or glass blocks;</li> <li>v. Avoiding elevated decks or balconies; and</li> <li>vi. Increasing building setbacks from the side boundary.</li> </ul>	The rumpus and living area of both dwellings avoid overlooking by offsetting windows from adjoining properties. However, none of the proposed balconies and roof top terraces incorporate privacy screening. The lack of privacy protection will enable overlooking into adjoining private open spaces.	
4. First floor balconies located at the rear of dwellings must not project more than 1500mm beyond the main rear wall alignment and must incorporate fin walls or privacy screens on the sides to prevent overlooking of the living rooms and main private open space areas of adjoining properties.	Both proposed buildings share the same floor space and balcony design. None of the balconies comply with the maximum rear balcony width requirement. The widths of the balcony are as follows: Level 1: 3.2m Level 2: 4.9m The non-compliant width of the rear balconies, combined with a lack of screening device, will enable overlooking into adjoining private open spaces.	
5. Roof top terraces are not permitted on top of dual occupancies and ancillary structures, such as boat sheds and garages.	Roof top terraces proposed on both dwellings at Level 3.	

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6.1.3.6 – Noise		
Control	Proposal	Compliance
1. In developments sharing a common wall between dwellings, the co-location of quiet uses (such as bedrooms) with noisier rooms (such as bathrooms, laundries and living rooms) should be avoided.	N/A - No common wall proposed.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
2. Noise generators such as air conditioning units, pool pumps and other plant or equipment are to be located away from windows or other openings in habitable rooms. These are also to be screened or otherwise acoustically treated.	Pool pump locations not indicated.	

6.1.3.7 – Excavation (Cut and Fill)		
Control	Proposal	Compliance
1. Any excavation must not extend beyond the building footprint, including any basement car park.	No excavation beyond the building footprint proposed.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
2. The depth of cut and fill must not exceed 1.0m from existing ground level, except where the excavation is for a basement car park.	Maximum proposed cut  Site 1: 1.02m Site 2: 1.74m	
3. Developments are to avoid unnecessary earthworks by designing and siting developments to 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 proposal does not adequately respond to the natural slope of the land.	

6.1.3.8 – Vehicle Access, Parking and Circulation		
Control	Proposal	Compliance
1. Each 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).	Both dwellings are provided with one garage and one carport space.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
2. Car parking is to be provided in accordance with the requirements in Part 3 General Issues of this DCP.	Two spaces provided for each dwelling.	

1 space in the driveway and 1 garage space per dwelling (2 per dwelling)		
4. Driveway crossings are to be positioned so that on-street parking and landscaping on the site and the public domain are maximised, and the removal or damage to existing street trees is avoided.	Existing driveway crossing to be retained. The proposal has no impact on street tree and street parking.	
5. The maximum driveway width between the street boundary and the primary building setback alignment of the garage is 4 metres.	2.745m (existing driveway)	
6. For a detached dual occupancy development in a battle-axe allotment configuration, all vehicles must be able to enter and exit the site in a forward direction. Applications are to be supported by a swept path analysis to demonstrate that all required manoeuvring complies with the relevant Australian Standard.	Swept path diagrams are provided. Council's Traffic Engineer reviewed the proposed parking and manoeuvring arrangement. No objection was raised, subject to recommended conditions to install electronic vehicle access control devices to coordinate vehicular movement at the battle-axe handle.	
7. Internal driveway grades are to be in accordance with Australian Standard 2890.1 (latest edition).	Part of the existing driveway demonstrates a gradient of 28.6%, exceeding AS2890:1 requirement. Council's Traffic Engineer considered the gradient to be acceptable given the driveway is currently useable.	
9. Dual occupancy developments are to have only one (1) single width garage per dwelling. Where garaging is provided for two (2) cars, this must be in a tandem parking configuration.	Single detached garage proposed for each dwelling.	

#### 6.1.3.10 - Private Open Space

Control	Proposal	Compliance
1. An area of Private Open Space is to be provided which: <ol style="list-style-type: none"> <li>Is located at ground level;</li> <li>Has a minimum dimension of 4m x 5m;</li> <li>Is not steeper than 1 in 20;</li> <li>Is directly accessible from a main living area; and</li> <li>May include a covered patio area.</li> </ol>	<p>The private open space of both proposed dwellings incorporated the following features:</p> <ul style="list-style-type: none"> <li>Located at ground level</li> <li>Minimum dimension of 4m x 5m</li> <li>Located on a flat surface</li> </ul> <p>However, both proposed private open spaces are not accessible from the main living area, which is identified as the living room located on Level 2.</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A

2. The private open space is to be located at the rear of the property and/or behind the building line established by the front setback.	The private open space is located at the rear of the property for both dwellings.	
3. Private open space is to be provided for all dwellings.	Private open space provided for both proposed dwellings.	
5. Private open space is to be located so as to maximise solar access.	Private open space of both dwellings faces north to maximise solar exposure.	
6. Private open space is to be designed to minimise adverse impacts upon the privacy of the occupants of adjacent sites and within the proposed development.	The proposed private open spaces do not incorporate privacy screening to mitigate overlooking into adjoining sites that are lower than the subject site.	

**6.1.3.11 Landscaping**

Control	Proposal	Compliance
1. Landscaped area (has the same meaning as GRLEP 2021) is to be provided in accordance with the table contained within Clause 6.12 Landscaped areas in certain residential and environmental protection zones of GRLEP 2021.	Complies.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2. Soft soil landscaping is to be provided in all landscaped areas as required by the GRLEP 2021 and must have a minimum dimension of 1.2m in all directions. Existing natural rock outcrops can be counted towards the calculation of soft soil landscaping.	Soft soil area measured in accordance with this methodology.	
6. Preference is to be given to incorporating locally indigenous plants.	Native species incorporated.	

**6.1.3.12 Materials, Colour Schemes and Details**

Control	Proposal	Compliance
1. No large expansive surfaces of predominantly white, light or primary colours would dominate the streetscape or other vista should be used.	The proposed dwellings incorporate expansive surface of primary colour (exposed grey concrete wall) on ground floor and Level 2. The lack of variation in materiality intensifies the proposed bulk and scale.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
2. New development should incorporate colour schemes that have a hue and tonal relationship with the predominant	The proposed primary finish does not have a hue and tonal relationship with the predominant colour schemes, which consist	



colour schemes found in the street.	predominantly of rendered white finish and exposed red brick finish.	LPP013-24
3. Matching buildings in a row should be finished in the same colour or have a tonal relationship.	The proposed dwellings have a tonal relationship	
4. All materials and finishes utilised should have low reflectivity.	All proposed materials are of low reflectivity.	

**6.1.3.13 Site Facilities**

Control	Proposal	Compliance
1. All dwellings are to be provided with adequate and practical internal and external storage (garage, garden sheds, etc.).	Sufficient internal and external storage space is available for both dwellings.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2. Provision for water, sewerage and stormwater drainage for the site shall be nominated on the plans to Council's satisfaction.	Provision for water, sewerage, and stormwater drainage provided per Council's satisfaction.	
3. Each dwelling must provide adequate space for the storage of garbage and recycling bins (a space of at least 3m x 1m per dwelling must be provided) and are not to be located within the front setback.	Sufficient area is available for bin storage.	
4. Letterboxes are to be located on the frontage where the address has been allocated in accordance with Australia Post requirements.	The provision of letterboxes would be conditioned if this proposal is to be recommended for approval.	

**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.	The proposed detached garages and attached carports are considered outbuildings. Site 1 1.5m (south and west) Site 2 1.5m (east)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
2. Outbuildings must not be used as a secondary dwelling or dual occupancy.	The proposed outbuildings are to be utilised as car parking facilities.	
3. Outbuildings must be positioned so they do not overshadow habitable areas or open space of adjoining properties.	The outbuildings will enable adjoining private open spaces and windows to receive at least 3 hours of solar access.	
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> .	Proposed: Site 1: 19.2sqm Site 2: 20.2sqm	

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.	Site 1: 10.0m (above existing ground level)  Site 2: 7.9m (above existing ground level)	
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 protection zones of the GRLEP 2021.	Complies with numerical GRLEP landscaping development standard.	
7. The minimum setbacks for garages, gyms, cabanas and sheds are 900mm from all boundaries.	Site 1 1.5m (south and west)  Site 2 1.5m (east)	
9. External finishes and claddings of ancillary structures and outbuildings are to have low reflectivity finishes.	Low reflectivity finishes proposed for the garage and carport.	

#### 6.4.4 Swimming Pools and Spas

Control	Proposal	Compliance
1. Swimming pools/spas are to be located to the rear of properties.	Both swimming pools are located to the rear of the properties.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
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 – not a corner lot.	
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.	Site 1 Pool edge – 1.6m from boundary.  Waterline – 1.9m from nearest boundary  Site 2 Pool edge – 1.6m from boundary.  Waterline – 1.9m from nearest boundary	
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	The proposed swimming pools are elevated above the existing ground level.	

	swimming pool consistent with the low side.		<p>THIS IS THE PRINTED COPY OF THE OFFICIAL DOCUMENT. PLEASE VISIT THE OFFICIAL DOCUMENT WEBSITE: WWW.GEORGESRIVER.NSW.GOV.AU</p>
5.	Swimming pools/spas are to be no more than 500mm above existing ground level.	Both proposed swimming pools are located 2.6m above the existing ground level.	
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.	Both proposed swimming pools are located 2.6m above the existing ground level. The hedge plantings in front of the swimming pools are not sufficient to fully cover the exposed faces.	
7.	Decking around a swimming pool must not be more than 600mm above existing ground level.	Both proposed swimming pool decks are located 2.6m above the existing ground level.	
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.	No filling proposed between the pool and boundary.	
9.	Council may require mechanical equipment to be suitably acoustically treated so that noise to adjoining properties is reduced.	The locations of the pool equipment are not indicated.	
10.	A pool fence complying with the legislation is to separate access from the residential dwelling on the site to the pool.	Compliant pool fences provided for both proposed swimming pools.	
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.	Provided per Swimming Pools Act 1992.	

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.	The site analysis and design response are not considered to sufficiently demonstrate how provisions of the GRLEP 2021 and GRDCP 2021 are address, in particular matters related to bulk and scale, vegetation removal and replacement, and impacts on privacy and view sharing.	<input type="checkbox"/> Yes <input checked="" 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.	Multiple native trees are removed to accommodate the proposed development. The proposed tree removal is not supported due to net loss in tree canopy.	
3. The integrity of the existing edge of bushland closest to the Georges River is retained.	The proposal will not affect bushland edge closest to Oatley Bay.	
4. Vegetation along ridgelines and on hillsides is retained and supplemented to provide a backdrop to the waterway.	The proposal will result in substantial loss of vegetation on hillside.	
5. New, complementary planting and landscaping is encouraged.	The proposed replanting is not sufficient.	
6. Where on a steep site, vegetation is used to screen the impact of support structures such as piers.	The proposed 3m tall <i>Acmena smithii</i> shrubs along the side boundaries are insufficient to screen the support structures of the proposed vehicle manoeuvring area, which is approximately 8.0m in maximum height.	
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.	Existing vegetation beyond the foreshore building line is retained.	
8. A landscape plan is to be submitted for any development between the FBL and Mean High Water Mark (MHWM). The level of detail required will depend on the level of works being undertaken. Where a landscape plan is submitted it should indicate the existing and proposed changes in contours, existing trees/vegetation to be retained and removed, measures to protect vegetation	Landscaped plan and Arboricultural Impact Assessment supplied.	

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during construction and proposed planting, including species and common names.		
9. 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 proposal will result in substantial loss of existing tree canopy. In absence of structural details on the footing, the impact on the natural rock outcrop cannot be accurately ascertained.	
10. The visual impact of buildings is minimised having regard to building size, height, bulk, siting, external materials and colours, and cut and fill.	The proposed four-storey built form is not compatible within the locality.	
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.	N/A – the subject site is not situated on a ridgeline.	
12. Where on a steep site, buildings are sited to sit discreetly within the landscape using hillsides as a backdrop and below the tree canopy. The building footprint is to result in the following: (i) The preservation of topographic features of the site, including rock shelves and cliff faces; (ii) The retention of significant trees and vegetation, particularly in areas where the loss of this vegetation would result in the visual scarring of the landscape when viewed from the water, and (iii) Minimised site disturbance through cutting and/or filling the site.	The proposal involves the removal of 27 trees. The proposed tree removal will result in a substantial loss of existing canopy. The proposed tree replacement schedule is not sufficient, and there is insufficient space on the subject site to accommodate the required tree replacement rate of 54 as a result of the proposed building footprint.  The proposal also requires greater than 1.0m of cut at the ground floor of both dwellings.	
13. Facades and rooflines of dwellings facing the water are to be broken up into smaller elements with a balance of solid areas 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 to solid area for facades along the foreshore is to be 50%-50%.	Area of proposed glazing on the water-fronting northern elevation:  Site 1 95.6sqm (64.9%)  Site 2 96.7sqm (65.6%)	

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.	The proposed primary colour is exposed grey concrete wall, which is not compatible in the landscaped foreshore context. The lack of variation in materiality intensifies the proposed bulk and scale.	<p>THIS IS A PRINTED COPY OF THE GEORGES RIVER LOCAL PLANNING PANEL BUSINESS PAPER. FOR THE OFFICIAL DOCUMENT, VISIT: WWW.GEORGESRIVER.NSW.GOV.AU</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.	The proposed dwellings have a four-storey built form that is not compatible with the locality.	
16. Blank walls facing the waterfront shall not be permitted. In this regard, walls are to be articulated and should incorporate design features, such as: (i) Awnings or other features over windows; (ii) Recessing or projecting architectural elements; (iii) Open, deep verandas.	1.7m tall water-facing blank walls are proposed at the ground level of both dwellings, in front of the proposed swimming pools.	
17. Adequate landscaping shall be provided to screen the undercroft areas and reduce their impact when viewed from the water.	Six out of the twelve 3m tall <i>Acmena smithii</i> hedge plantings in front of the swimming pools are located below the RL9.0m. The proposed top of wall of the swimming pools is RL12.8m. The screen planting is not sufficient to fully cover the exposed faces, which contributes to the visual prominence of the proposed built form.	
18. The extent of associated paved surfaces is minimised to that which provides essential site access and reasonable private open space.	The proposed paved surfaces are excessive and does not accommodate sufficient tree replacement.	
19. Buildings have external finishes that are non-reflective and coloured to blend in with the surrounding landscape.	Proposed finishes are non-reflective.	
20. Swimming pools and surrounds should be sited in areas that minimise the removal of trees and limit impact on the natural landform	Both proposed pools will require tree removal.	



features (rock shelves and platforms)		
21. Fences are low in profile and at least 50% transparent.	All proposed fences are made of clear glass.	
22. Driveways and other forms of vehicular access are as close as practical to running parallel with contours.	The proposed vehicle manoeuvring area does not respond to the contours.	
23. The natural landform is to be retained and the use of retaining walls and terracing is discouraged.	No retaining wall proposed.	
25. Landscaping works and other structures including retaining walls, stairs, paths and driveways are not permitted below the deemed MHWM except where approved by NSW Maritime.	No structure proposed beyond the MHWM.	
27. Development provides opportunities to create view corridors from the public domain to the Georges River.	The proposal will not disrupt views from public domain to the Georges River.	

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6.5.2.7 – Swimming pools/spas		
Control	Proposal	Compliance
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 pools are elevated 2.6m above the natural ground level.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
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.	The hedge plantings in front of the swimming pools are not sufficient to fully cover the exposed faces.	
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.	The water-facing fencing of both swimming pools is transparent.	

## Assessment

### Georges River Development Control Plan 2021

#### View Loss Assessment

83. Council received four (4) submissions during the public notification period amongst other things raising concerns in respect to view loss. Assessment has been made in respect to view loss as detailed below:

Address	Location	Built form and elevation	View loss raised
73 Queens Road, Connells Point NSW 2221	Located two allotments east of the subject site.	Part two-to-three storey dwelling house southeast of the proposed dual occupancy with an expansive backyard fronting Oatley Bay and a swimming pool	General view loss issue raised.
75 Queens Road, Connells Point NSW 2221	Adjoins the subject site to the east.	Part two-to-three storey dwelling house southeast of the proposed dual occupancy with an expansive backyard fronting Oatley Bay and a swimming pool. The ground floor level is RL 23.67m	General view loss issue raised.
81 Queens Road, Connells Point NSW 2221	Adjoins the subject site to the south.	Two-storey dwelling house south of the proposed dual occupancy with an elevated deck and outbuilding. The level of the deck is approximately RL 25.0m. The allotment is located above the subject site.	Loss of 'current water views enjoyed by the property...and replaced by a solid wall'.
87A Queens Road, Connells Point NSW 2221	Adjoins the subject site to the west	Part two-to-three storey dwelling house west of the proposed dual occupancy. The residence contains an elevated patio facing Oatley Bay.	General view loss issue raised.



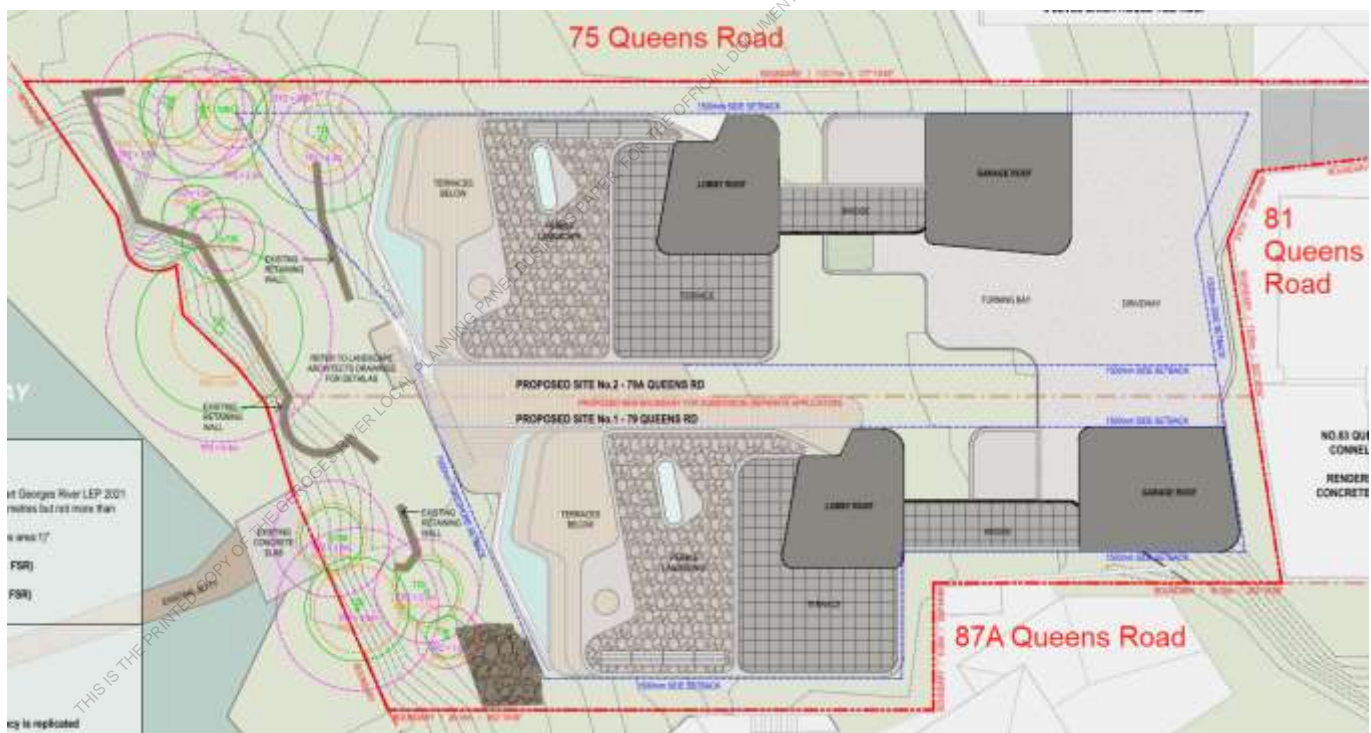
**Figure 11:** Satellite imagery indicating the subject sites in which view loss assessment has been carried out in orange

84. The applicant provided no documentation which addresses the view loss impacts. To determine the extent of the view loss impact, a view loss assessment was undertaken based on the following information:
- Site inspections of the subject site and all adjoining and nearby properties where view loss concerns were raised,
  - Aerial photography
  - Architectural plans of the proposed development, and
  - Survey plans of the subject site, which includes information on roof and floor levels of existing structures in the subject site and adjoining properties.
85. The Planning Principle established by the court case *Tenacity Consulting v Waringah [2004] NSWLEC 140* outlines four tests to determine whether reasonable sharing of views is achieved. The following matters for consideration form the basis of the view loss assessment:
- *The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*
  - *The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*
  - *The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*
  - *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. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. 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.*
86. As stated by Commissioner Roseth as part of the Planning Principle ‘*The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment.*’. In many cases, it is not reasonable for a proposed development to retain existing views in their entirety. The intention of a view loss analysis is to ensure new developments to retain a reasonable sharing of views.

87. Detailed view loss assessment is as follows in accordance with the Planning Principle established *Tenacity Consulting v Waringah [2004] NSWLEC 140*:

*First step – assessment of views to be affected.*

88. There are no iconic views or structures that is impacted. All properties where view loss concerns are raised currently have full northerly views towards Oatley Bay with an interface to the dense bushland along Oatley Bay. No notable view is identified across the side boundaries which mainly consist of bushland and residences. It is noted that, except 81 Queens Road, all properties where view loss concerns are raised have frontages to Oatley Bay. The water views observed from 81 Queens Road cut across 79 Queens Road.
89. The proposed dual occupancy has a footprint that is substantially larger than the existing structures on site and is located 3.9m further towards the waterway compared to the existing house which is likely to result in view loss to the southern neighbouring property. In addition to the proposed dwelling being built further to the water way, the building height of the proposal is higher than the existing dwelling which will also impact on existing view corridors. For instance, the proposed roof of Level 2 and floor level of the vehicle manoeuvring area has a height of RL 22.0m, and proposed Level 3 has a roof height of RL 24.6m. The roof ridge of the existing single-storey dwelling is RL 19.11m which means that the proposed built form will be 5.49m higher than the existing built form. Refer to Figure 12 for the site plan of the proposed development.



**Figure 12 – Site Plan with adjoining properties indicated.**

90. Given 73, 75, and 87A Queens Road have frontages to Oatley Bay, the proposal will still enable those properties to enjoy the northerly views which consist of the interface between the water and the land. Refer to Figures 13, 14, and 15 for the existing views.





**Figure 13** – North-westerly view of Oatley Bay from the ground floor of 73 Queens Road, in standing position. It is noted that the site has uninterrupted view towards Oatley Bay in other directions.



**Figure 14** – Northerly view of Oatley Bay from the ground floor of 75 Queens Road, in standing position.





**Figure 15** – Northerly view of Oatley Bay from the ground floor of 87A Queens Road, in standing position.

91. As indicated previously the proposal will disrupt the existing water views observed from 81 Queens Road. The combination of building bulk and positioning of structures will shift the visible built form towards the waterway, likely compromising the integrity of the views to the interface between water and land by replacing the existing sightlines to the waterway with built form. Figures 16 represents the existing views observed from 81 Queens Road, with annotation of the roof ridge of the existing dwelling house on 79 Queens Road.

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Existing roof ridge level at 79 Queens Road:  
RL19.11m

**Figure 16** – Northerly view of Oatley Bay from the deck of 81 Queens Road, in standing position.

*Second step - consider from what part of the property the views are obtained.*

92. The proposal will result in some view loss across the side boundaries given its bulk and scale, however no notable view is identified across the side boundaries. For 73, 75, and 87A Queens Road, the proposal has no discernible impact on the water views towards the rear boundary.
93. For 81 Queens Road, the full view to the waterway can only be obtained at the rear boundary, across the subject site. As indicated in Figure 16, the proposal will hinder standing views to Oatley Bay from the deck.

*Third step - assess the extent of the impact.*

94. 73, 75, and 87A Queens Road all contain north-facing living rooms with expansive balconies and private open spaces where direct views to the waterway are obtained. The proposal will not affect the north-facing views from the living areas of those properties. As such, view loss at 73, 75, and 87A Queens Road is considered negligible.
95. The views from the backyard, ground floor living room, and first floor balcony of 81 Queens Road are taken into consideration. Of those locations, the living room is identified as the primary living area where domestic activities take place. The first floor balcony relates to a bedroom.



96. The living room of 81 Queens Road is located on the ground floor and setback approximately 22.8m from the rear (northern boundary). As indicated in Figure 17, the living room enjoys only confined views to Oatley Bay given the setback. The proposed dual occupancy is unlikely to affect views from the living room.
97. Hence, the deck is considered the only space where a full view of interface between water and land can be obtained on 81 Queens Road. As established in Figure 16, the proposal will result in a substantial loss of views from the deck.
98. As the living area of 81 Queens Road will not be affected by the proposal, it is considered that the proposal will result in an overall minor view loss impact on 81 Queens Road.



**Figure 17** – Northerly view of Oatley Bay from the living room of 81 Queens Road, in standing position.

*Fourth step - assess the reasonableness of the proposal that is causing the impact.*

99. The proposal exhibits 28.9% exceedance of the GRLEP maximum building height limit, and a 100% exceedance of the GRDCP provision that requires a maximum two-storey built form. The proposal also does not demonstrate a split-level approach to address the terrain and minimise bulk and scale. The components identified to contribute to the view loss exceed the GRLEP maximum building height standard. As such, the view loss impact on 81 Queens Road is not considered unreasonable.

## Impacts

### Natural Environment

100. The proposed removal of 27 trees is considered to be excessive. The proposed tree removal will result in substantial loss of existing tree canopy. The proposed tree replacement locations do not promote the survival of replacement trees, and the footprint of the proposed development does not allow sufficient tree replacement to be established. Council's landscape officer reviewed the proposed development and is not supportive.

### Built Environment

101. The built form of the proposed development is considered to be excessive in bulk and scale. This is particularly prominent given the subject site is within the FSPA and the proposed bulk and scale *"instead of blending in with the surrounding environment, towers over the surrounds and is very dominant when viewed from the water"* as described by Council's Urban Design Officer. Furthermore, the proposed external finishes and architectural details are not sympathetic to the existing and desired future character of Connells Point. The development is an inappropriate response to the context of the site being within the FSPA and R2 Low Density Residential zoning.

### Social Impact

102. The assessment demonstrates that the proposal in its current form will have adverse impacts on view corridor, privacy, and visual amenity within the locality. The dual occupancy demonstrates a four-storey built form and incorporates a large vehicle manoeuvring area that is not compatible within the residential context. As a result of the bulk and scale, the proposal does not facilitate reasonable sharing of views. Additionally, the proposal fails to provide measures to mitigate overlooking from balconies and terraces. The development's scale and form promotes visual domination of the built form in expense of vegetation coverage along Oatley Bay.

### Economic Impact

103. The proposal is unlikely to result in any unreasonable economic impacts upon future residents.

### Suitability of the Site

104. The site is zoned R2 – Low Density Residential. Whilst the proposal is a permissible form of development in this zone, it is considered that the proposal is not suitable for the site given the adverse impacts on view corridor, visual amenity, privacy, and vegetation. The bulk and scale of the proposal is not sympathetic to the existing and desired future character of Connells Point, and does not protect the integrity of tree canopy along Oatley Bay.

## Submissions, Referrals and the Public Interest

### Submissions

105. The application was advertised, and adjoining residents were notified by letter and given fourteen (14) days in which to view the plans and submit any comments on the proposal. Four (4) submissions were received during the notification period.
106. Concerns raised in the submissions are summarised and addressed below.

Concerns	Comments
<p>Insufficient Information</p> <ul style="list-style-type: none"> <li>- No floor plan is made available during the public exhibition period.</li> <li>- No preliminary site contamination investigation provided.</li> <li>- No geotechnical report provided.</li> <li>- Multiple inconsistencies are identified in the SEE with respect to the type of development and documentations submitted to Council.</li> <li>- No stormwater management plan provided on Council's website.</li> <li>- No waste management plan provided.</li> </ul>	<p>Council does not upload floor plans on Council's webpage during the public exhibition process.</p> <p>A review of historical records indicate that the subject site has been utilised for residential purposes since 1943. Contamination is not considered likely on the subject site, and a preliminary site contamination investigation is therefore not considered necessary.</p> <p>A geotechnical report is provided which indicates that the proposal is suitable on the subject site from a geotechnical perspective.</p> <p>Both stormwater plan and waste management plan are provided to Council for assessment.</p> <p>It is acknowledged that the submitted SEE contains multiple inconsistencies. The architectural plans are considered the primary document which this assessment is relied upon.</p>
<p>Permissibility</p> <ul style="list-style-type: none"> <li>- Concern is raised over compliance with Clause 4.1B of the GRLEP regarding the minimum lot width requirement for a dual occupancy development.</li> </ul>	<p>The relevant Clause 4.1B provisions are as follows:</p> <p><i>(5) Development consent must not be granted for the erection of a dual occupancy (detached) unless the width of the lot at the front building line is at least—</i></p> <p><i>(a) if only 1 dwelling faces the primary road—18 metres, or</i></p> <p><i>(b) otherwise—22 metres.</i></p> <p>In this instance, the southern elevations of the proposed dual occupancy are considered the 'front' elevation, and a lot width of 22m is required <u>at the front building line</u>. The proposed dual occupancy is designed such that a lot width of 30.1m is achieved at the front building line.</p>
<p>Height Exceedance, Building Bulk and Setback</p> <ul style="list-style-type: none"> <li>- The proposal observes substantial exceedance of Clause 4.3 of the GRLEP. The applicable maximum building height is 9m.</li> <li>- The four-storey built form is not compatible with the adjoining buildings and the neighbourhood.</li> </ul>	<p>The proposed variation to the maximum building height is not supported. The proposed bulk and scale will enhance the prominence of the built form in expense of the existing bushland backdrop, which is not compatible within the FSPA. The Clause 4.6 variation request submitted by the applicant is considered to be deficient and lacking in planning grounds to justify the variation.</p>

<p>Multiple submissions recommended the removal of the fourth storey.</p> <ul style="list-style-type: none"> <li>- The supporting pylons associated with the proposed vehicle manoeuvring area is visually obtrusive and is not sympathetic with the terrain.</li> <li>- One submission raised concern over the close proximity of the proposed development to the rear boundary. The submitter is concerned that the proposed rear setback will hinder service access and negatively affect the stability of waterfront structures.</li> </ul>	<p>The proposed supporting pylons are not considered compatible with the established low-density residential character of the locality. The structure will be visually dominant to adjoining properties, particularly the properties that are situated lower than the subject site.</p> <p>The proposal demonstrates a rear setback of 7.6m from the MHW. The proposed detached dual occupancy complies with the rear setback requirement and does not encroach into the FBL.</p>
<p>View Loss</p> <ul style="list-style-type: none"> <li>- All submissions indicated that the proposal will result in view loss. Concerns are raised on the lack of view loss assessment provided by the applicant.</li> </ul>	<p>No view loss analysis is submitted to Council.</p> <p>The view loss analysis conducted by Council identified unreasonable view loss impact given the proposal does not comply with provisions regarding building height and building scale.</p> <p>See the <i>Assessment</i> section of the report for further discussion on view loss.</p>
<p>Visual Privacy</p> <ul style="list-style-type: none"> <li>- The proposed balconies and pedestrian access bridges will enable overlooking into adjoining properties.</li> </ul>	<p>No privacy screening is incorporated on any of the proposed balconies and roof top terraces. The lack of privacy screening will enable overlooking into adjoining private open spaces and active rooms. Roof top terraces are not permitted per GRDCP 2021 to maintain visual privacy.</p> <p>The pedestrian bridge at Site 2 will also introduce overlooking into adjoining private open space.</p>
<p>Overshadowing</p> <ul style="list-style-type: none"> <li>- Concerns are raised over the potential overshadowing over adjoining private open space.</li> <li>- One submission indicated that it is unclear whether the shadow diagrams are based on magnetic north or true north.</li> </ul>	<p>The orientation of the shadows aligns with the true north indicated on the survey plan.</p> <p>The proposal will not result in unacceptable overshadowing over adjoining private open space. All adjoining private open space can still receive at least three hours of solar exposure over 50% of the area.</p>
<p>Earthworks</p> <ul style="list-style-type: none"> <li>- Excessive earthwork proposed.</li> <li>- The excavation associated with the proposed vehicle manoeuvring area about a neighbouring retaining wall. Engineering details and</li> </ul>	<p>The excavation proposed for the vehicle manoeuvring area is located 500mm from the southern boundary, contravening GRDCP 2021. Furthermore, a maximum excavation of 1.74m is proposed to accommodate the dwellings, which exceeds the GRDCP 2021</p>

<p>dilapidation report are requested to ensure the structural integrity of adjoining buildings.</p> <ul style="list-style-type: none"> <li>- Excavation over an existing sewer main is proposed. The submitter raised a query regarding the possibility of excavation near public utilities.</li> </ul>	<p>provision that requires no excavation beyond 1.0m of the existing ground level.</p> <p>The preparation of engineering details and dilapidation reports would be conditioned should approval be recommended.</p> <p>This application was referred to Sydney Water for comments. Sydney Water raised no objection, subject to recommended conditions.</p>
<p>Traffic</p> <ul style="list-style-type: none"> <li>- The proposed dual occupancy will increase traffic on the existing access handle.</li> <li>- The access handle cannot accommodate passing vehicles. No traffic management plans provided.</li> </ul>	<p>The proposed dual occupancy will result in a net increase of one residence on the subject site. The proposal will increase traffic on the access handle.</p> <p>Council's traffic engineer reviewed the proposal and indicated that a vehicle access control device is needed to manage the additional traffic. It is considered that reliance on a vehicle access control device to provide safe access is excessive for a low-density residential development. The requirement to install a vehicle control device indicates that suitable access cannot be facilitated on the subject site.</p>
<p>Devaluation</p> <ul style="list-style-type: none"> <li>- Concern is raised regarding the potential devaluation of surrounding properties as a result of view loss and incompatible bulk and scale.</li> </ul>	<p>Potential devaluation of neighbouring properties is not a planning consideration.</p>
<p>Vegetation removal</p> <ul style="list-style-type: none"> <li>- The proposed removal of a large jacaranda tree will result in adverse impact to the streetscape and diminishes natural beauty.</li> </ul>	<p>The proposed vegetation removal, which includes three jacaranda trees, is not supported as sufficient tree replacement cannot be achieved on the subject site.</p>

### **Council (Internal) Referrals**

#### **Development Engineer**

107. Council's Development Engineer raised no objection to the proposed development.

#### **Environment Officer**

108. Council's Environment Officer raised no objection to the proposed development.

#### **Asset Officer**

109. Council's Asset Officer indicated that referral comment is not required as no Council asset is affected, however noted that part of the existing driveway demonstrates a gradient of 28.6%, exceeding AS2890:1 requirement.

**Land Information Officer**

110. Council's Land Information Officer raised no objection to the proposed development.

**Landscape Officer**

111. The Landscape Officer does not support the proposed development. The officer's comments are as follows:

*"A site inspection was undertaken on 10 January 2024. There are 41 trees within the site that will be affected by the proposed Development Application (DA).*

*The submitted Arboricultural Impact Assessment Report (AIA) is based on outdated plans and has not assessed the proposed stormwater or landscape plans. The AIA recommends the removal of 27 trees within the site. Most of these trees are of medium to low retention value or an exempt species. The only two trees of High Landscape Significance and High Retention Value rating within the site are dead, the death of the trees has been investigated by Councils Tree Compliance Officer where it was noted that cut point in the canopy were likely used to poison the trees. Regardless of the tree individual significance, as a group they provide an abundance of canopy cover that would not be replenished under the proposed plans.*

*In accordance with Councils Tree Management Policy, any approved tree removal is to replace at a 2:1 ratio with advanced species. This would require the site to plant a minimum of 54 advance trees, which is impossible under the current proposal.*

*The submitted Landscape Plan proposes five (5) replacement trees which are predominantly located in challenging growing conditions that will conflict with the built form and be overshadowed which reduces their survival rate.*

*Desktop research on IntraMaps indicates the subject site is located within the mapped Priority Habitat Reinforcement Corridor, Green Web Habitat Corridor and Foreshore Scenic Protection Area in GRDCP 2021.*

*Green Web (Appendix 1 Green Web) and in an identified SSROC Biodiversity corridor – priority habitat."*

**Controls for Green Web Habitat Reinforcement Corridor Areas**

9. *Development should, through its siting, design and landscape treatment, maximise habitat values and minimise disruption to connectivity through*

**Section 6.6 Foreshore Scenic Protection Area - Georges River LEP 2021**

(1) *The objectives of this clause are:*

- (c) *to protect, maintain and improve the diversity and condition of native vegetation and habitats,*
- (e) *to encourage the recovery of threatened species and their communities, populations and habitats,*

**Land within the "Foreshore Scenic Protection Area" - Georges River DCP**

1. *Environmental qualities and scenic landscape values*

**Objectives**

(b) *Retain significant existing natural landscape features.*



*The proposed development is excessive and will significantly reduce the canopy cover across the site with very little scope for adequate replacement planting in accordance with Councils Tree Management Policy of a 2:1 ratio replacement with advanced species.*

### RECOMMENDATIONS

*The proposed excessive development footprint results in a lack of suitable tree planting locations to meet Councils Tree Management Policy of a 2:1 ratio. Therefore, the current design cannot be supported from a Landscape and Arboricultural perspective.*

### Urban Design Officer

112. As part of the assessment of this application, the application was referred to Council's Urban Design Officer for comment in which it is not supported. The officer's comments are as follows:

#### "1.0 Bulk and Scale and Architectural Expression"

GRLEP prescribes a maximum building height of 9m from existing natural ground. The proposal has maximum 11.6m height (Site 1 (west): 11.6m Site 2 (east): 11.3m) (excluding the 1.8m excavation). This does not comply with the GRLEP. In addition, Part 6.1.3 (2)(3) prescribes a maximum building height of 2 storeys over a basement at any point above ground for dual occupancies. Given the subdivision pattern, it is acknowledged that the proposal will not be visible from the street. However, along the foreshore, the proposal has a 4 storey height above the existing natural ground. This does not comply with the maximum permitted number of storeys under GRDCP (Refer Figures 1 and 2). It should also be noted that the floor to ceiling height is only 3m; evidence should be provided that 2.7m floor to ceiling height can be achieved within the 3m proposed ceiling height. As this may further increase the height non-compliance.



Figure 1 – Section A (Source: MGA Architects)



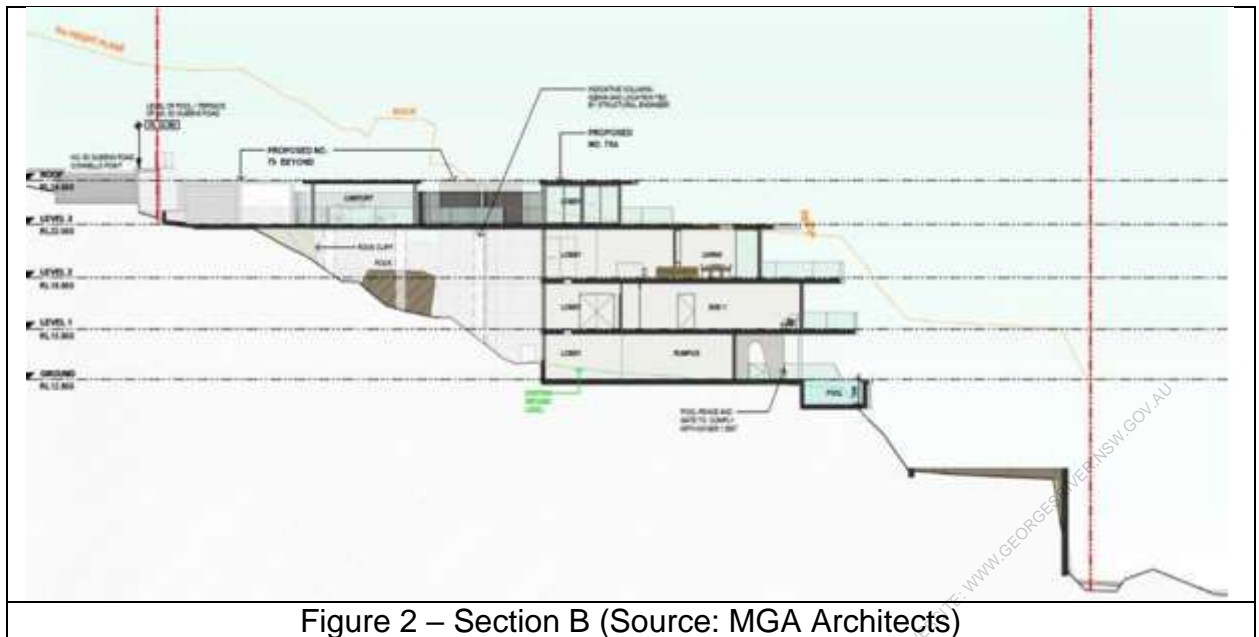


Figure 2 – Section B (Source: MGA Architects)

As discussed in detail under Section 2.0, a significant proportion of the existing natural features that make contribution to the scenic and environmental quality of the foreshore is proposed to be removed. This will result in a 4 story bulk dominating the foreshore without any landscaping to soften the visual impact. This is not supported.

Based on the photomontage and elevations provided, it appears that the foreshore façade is dominated by repetitious architectural detailing and lack of variation in materiality, presenting box like appearance with excessive glazing. Lack of any variation between the 2 dwellings, is enhancing the building bulk and monotony. The flat roofs are neither adding to the aesthetics of the buildings or the skyline. This does not comply with GRDCP Part 6.5.1 (1) (13) which requires roof lines and building facades facing the water to be broken up into smaller elements with a balance of solid walls to glazing (50% - 50%). In addition, excessive use of glazing and reflective materials and rectangular or boxy shaped dwellings are unacceptable.

The proposed façade design and materials are also not consistent with the GRDCP future desired character as well as the existing prevailing context, which is dominated by pitched roofs and brick facades that blend in with the landscaping. Given the topography and site constraints, it is considered that the proposed development is an overdevelopment on the site. Significant reduction in bulk and scale and variation in materiality should be accommodated in the design, in addition to retention of existing vegetation for the proposal to be taken into consideration.

## 2.0 Environmental Qualities and Scenic Landscape Values

### 2.1 Removal Of Vegetation

As stated before, the proposal includes removal of at least 27 existing trees located within the waterfront frontage. The Arboricultural Impact Assessment prepared by Urban Tree Care (dated 31-5-2023) in support of the removal of trees states that the 27 trees to be removed have a low or removal rating.

*Although, the trees proposed to be removed may have low or removal rating, it should be noted that collectively, the trees provide a scenic backdrop to the Georges River Foreshore and enhance the environmental quality. The removal of the existing 27 trees will significantly alter the existing natural environment as well as the scenic quality when viewed from the water (refer Figures 3 and 4).*



Figure 3 – Existing Views from the Water (Source: MGA Architects)



Figure 4 – Proposed Views from the Water (Source: MGA Architects)

*The proposal is not consistent with Clause 6.6 of GRLEP 2021, which states:*

- (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—*
  - a) *the protection of the natural environment, including topography, rock formations, canopy vegetation or other significant vegetation,*

- 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,*

*The proposal is also not consistent with the objectives under Part 6.5 of Georges River Development Control Plan (GRDCP) 2021, which includes:*

- (a) Achieve a balance between realising the development potential of sites with protecting the integrity of the environmental qualities and scenic landscape values of the Georges River foreshore.*
- (b) Retain significant existing natural landscape features.*
- (c) Ensure that development is sited and designed to blend with the surrounding environment, particularly when viewed from highly visited public viewing points*

*The proposal significantly alters the foreshore; it's environment and scenic qualities as well as the skyline. The bulk and scale of the 4 storey built form instead of blending in with the surrounding environment, towers over the surrounds and is very dominant when viewed from the water. This is not consistent with the above objectives and considered an undesirable outcome. Hence, the removal of trees and the proposed built form is not supported.*

## 2.2 Excavation

*The Geotechnical Investigation report, prepared by White geotechnical group (dated 21 July 2023), states that the piers for the proposed houses are expected to encounter Medium Strength Sandstone at depths of between ~0.7m to ~1.8m below the current surface. And the proposal will include excavation to a depth of 0.3m to 0.4m into the rock outcrop for the swimming pool and garage in part below the existing surface.*

*However, no structural details are provided regarding the footing i.e. depth and width of the footing. It is very likely that the excavation dimensions especially the depth will change at the construction phase following detail design resulting in significantly damage the rock outcrop in spite of the recommendation on excavation techniques and support requirements.*

*The Statement of Environmental Effects (SEE) prepared by Maximus Developments Australia (dated 24 July 2023) states that the proposal is consistent with GRLEP Clause 6.6 (as stated above). This is misleading, as the proposal involves excavation of the rock outcrop, and removal of vegetation which will significantly alter the natural topography including the existing rock outcrop and vegetation. This is not consistent with the GRLEP Clause 6.6.*

*In addition, the proposal also does not comply with GRDCP Part 3.5.1, which prescribes the following:*

- Cut and fill should not alter natural or existing ground levels by more than 1m.*
- Rock outcrops, overhangs, boulders, sandstone platforms or sandstone retaining walls are not to be removed or covered.*

*The proposal is not supported as it is not consistent with Clause 6.6 of GRLEP, is not compliant with Part 3.5.1 of GRDCP and results in maximum height non-compliance in spite of the proposed excavation. The proposal is considered an undesirable urban design outcome, where the proposal entirely alters the existing natural setting, topography and natural features.*

### 3.0 Amenity

#### 3.1 Solar Access

*Given the orientation of the site, it is likely that the neighbours on either side will receive minimum 3 hours direct sunlight. However a comparison (overlay) between the existing and proposed shadows as well as hourly shadows should be provided to ascertain the impact.*

#### 3.2 Visual Privacy

*None of the plans include window and POS location of the adjoining dwellings. Hence it is difficult to determine the visual impact. However, given the topography, projecting terraces on Level 1, 2 and 3, it is likely that the proposal will compromise the visual privacy of the neighbouring properties.*

#### 3.3 Private Open Space

*Level 2 terraces have a depth of around 5m.*

*Level 1 terraces have a depth of around 3.2m*

*The above projections do not comply with the maximum 1.5m projection beyond the main rear wall alignment prescribed for the rear balconies. This may compromise visual privacy as discussed under Section 3.2 above.*

### Conclusion

*The proposal is not supported in its current form. Significant design amendments are required for the proposal to be taken into consideration."*

### **Traffic Engineer**

113. Council's Traffic Engineer has indicated that the width of the right of way is not compliant. However, if approval was to be recommended conditions are provided which include the installation of an electronic vehicle access control devices. The Traffic Engineer also noted that the existing driveway demonstrates a gradient of 28.6%, exceeding AS2890:1 requirement.
114. From a planning point of view concern is raised with the non-compliant access handle width of 2.745m. Furthermore, the requirement to install a vehicle control device indicates that ease of access cannot be facilitated on the subject site due to intensification of traffic on the access handle.

### **External Referrals**

#### Ausgrid

115. The application was referred to Ausgrid as per Clause 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021. No concerns were raised subject to recommended conditions regarding overground and underground power cables.

#### Sydney Water

116. The application was referred to Sydney Water as per Section 78 of the Sydney Water Act 1994. No concerns were raised subject to recommended conditions.

## Development Contributions

117. The development is subject to Section 7.12 Contributions. In accordance with the Georges River Local Development Contributions Plan 2021, a condition of consent requiring payment of the contribution would have been imposed if the application were to be supported.

## Conclusion

118. Development consent is sought for demolition works, construction of dual occupancy and swimming pools at 79 Queens Road, Connells Point NSW 2221.
119. The proposal has been assessed with regard to the matters for consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal is an inappropriate response to the context of the site and will not result in a good planning, environmental and urban design outcome in the locality.
120. The proposal has been assessed against the provisions of the relevant State Environmental Planning Policies, GRLEP 2021 and GRDCP 2021. The proposal does not meet the relevant objectives and numerical compliances with the relevant planning controls. As such, the refusal of the application is warranted.

## Statement of Reasons

121. The reasons for refusal of the application:
- The development is incompatible with the character of the local area and landscape setting, contrary to SEPP (Biodiversity and Conservation) 2021 and SEPP (Resilience and Hazards) 2011. This is due to the proposed bulk and scale, vegetation removal, and failure to provide sufficient replacement tree planting which will result in a net loss of tree canopy.
  - The development is inconsistent with the aims of the GRLEP 2021 as it fails to promote a high standard of urban design and built form outcomes.
  - The proposal fails to have adequate regard to the objectives of the R2 low density residential zone pursuant to Clause 2.3 of GRLEP 2021 *to promote a high standard of urban design and built form that enhances the local character of the suburb and achieves a high level of residential amenity and to provide for housing within a landscaped setting that enhances the existing environmental character of the Georges River local government area.*
  - The proposed dual occupancy does not comply with Clause 4.3 of the GRLEP 2021 in relation to maximum building height. The proposal demonstrates a maximum building height of 11.6m, breaching the maximum height development standard of 9.0m.
  - The Clause 4.6 variation request is not considered adequate in justifying the planning ground for contravening the maximum building height development standard.
  - The proposed dual occupancy fails to achieve design excellence and poorly relates to the adjoining buildings and FSPA in terms of height, built form, fenestration design, and external finishes. The proposal is not consistent with the provisions of Clause 6.6 and Clause 6.10 of the GRLEP 2021.
  - The proposed excavation of the proposed dual occupancy is excessive, in contravention to Section 3.5.1 and Section 6.1.3.7 of the GRDCP 2021.
  - The subject site cannot facilitate ease of access. The existing 2.475m-wide access handle does not comply with Section 3.16 and Section 6.1.3.1 of the GRDCP 2021 which requires driveway to have a minimum width of 3.0m per Australian Standard 2890.1:2004. The proposal requires an electronic vehicle access device for traffic management, which is excessive for a dual occupancy.



- The proposed dual occupancy provides an excessive bulk and scale that is not compatible to the existing and future desired character of Connells Point. The proposed four-storey built form contravenes with Section 6.1.3.2 of the GRDCP 2021 which requires a maximum two-storey building form.
- The proposed dual occupancy fails to achieve sufficient mitigation of overlooking onto adjoining properties.
- The proposed siting and design of the dual occupancy does not achieve reasonable sharing of views.
- The applicant fails to provide sufficient information with respect to earthwork, view loss, solar impact, and location of pool pumps. The full impact of the proposed development cannot be ascertained, resulting in non-support of the application.
- The proposed vegetation removal is excessive and will result in a substantial net loss of tree canopy. A sufficient tree replacement rate of 54 trees cannot be accommodated.

### Recommendation

122. Pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act, 1979, as amended, the Georges River Local Planning Panel, refuses Development Application DA2023/0439 for *Demolition works, construction of detached dual occupancy and swimming pools* at Lot 1 DP 605691 known as 79 Queen's Road, Connells Point NSW 2221, is recommended for refusal of the development consent for the reasons outlined below.

1. **Refusal Reason - Environmental Planning Instrument** - Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with Part 2.2 of State Environmental Planning Policy (Biodiversity and Conservation) 2021. In particular:
  - a) The proposed removal of 27 trees will result in a substantial net loss of existing tree canopy. The proposed replacement of 5 trees is contrary to Council's Tree Management Policy in which 54 replacement tree planting is required.
  - b) The proposed large building footprint cannot accommodate the 54 replacement trees planting required by Council's Tree Management Policy.
2. **Refusal Reason - Environmental Planning Instrument** - Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the following sections of State Environmental Planning Policy (Resilience and Hazards) 2021. In particular:
  - a) Clause 2.10 – Development on land within the coastal environment area. The proposed tree removal will result in a substantial net loss of existing tree canopy and the proposed tree replacement planting is not sufficient.
  - b) Clause 2.11 – Development on land within the coastal use area. The proposal diminishes the scenic quality of Oatley Bay due to the excessive bulk and scale that exceeds the maximum building height standard. No elevational shadow diagram is provided to ascertain the overshadowing impact on adjoining property.

**3. Refusal Reason - Environmental Planning Instrument - Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the following sections of Georges River Local Environmental Plan 2021:**

- a) Clause 2.3 - Zone Objectives. The proposal is inconsistent with the zone objectives as the proposal fails demonstrate a high standard of urban design and built form that enhances the local character of Connells Point and achieve a high level of residential amenity, and fails to provide for housing within a landscaped setting that enhances the existing environmental character of the Georges River Local Government Area.
- b) Clause 4.3 – Height of Buildings. The proposal demonstrates a building height of 11.6m, exceeding the applicable maximum building height standard of 9.0m. The Clause 4.6 variation request is considered deficient in demonstrating sufficient planning grounds to vary the maximum building height development standard and is not well founded.
- c) Clause 6.2 – Earthworks. The proposal does not demonstrate sufficient measure to minimise earthwork by stepping the development to accommodate the fall in the land.
- d) Clause 6.5 – Riparian Land and Waterways. The proposal fails to minimise the removal of vegetation on site. The proposed building footprint cannot accommodate the required tree replacement rate of 54 trees per Council's Tree Management Policy.
- e) Clause 6.6 – Foreshore Scenic Protection Area. The proposal fails to maintain and enhance native vegetation as the proposal will result in a net loss of tree canopy, and that sufficient tree replacement cannot be achieved. Furthermore, the exceedance in maximum building height control and lack of stepping demonstrates insufficient minimisation of bulk and scale.
- f) Clause 6.9 – Essential Services. The proposal cannot facilitate suitable vehicular access as the proposal relies on a 2.745m-wide driveway that is not compliant with the minimum 3.0m width as required under Australian Standard 2890.1:2004. Furthermore, the proposal requires an electronic vehicle access device for traffic management, which is excessive for a dual occupancy.
- g) Clause 6.10 – Design Excellence. The proposal is inconsistent with the objective of this clause to deliver highest standard of urban design. The proposed bulk and scale relate poorly with adjoining developments and the landscaped context. The external appearance of the development intensifies visual dominance observable from Oatley Bay. The proposal will result in adverse visual privacy impacts, and does not achieve reasonable sharing of views. The proposed tree replacement is not consistent with Council's Tree Management Policy.
- h) Clause 6.12 – Landscaped Areas in Certain Residential and Conservation Zones. The proposal will result in a net loss of tree canopy, and sufficient tree replacement cannot be sufficiently established.


- 4. Refusal Reason – Development Control Plan - Pursuant to Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the following sections of Georges River Development Control Plan 2021:**
- a) Section 3.2 Biodiversity – the proposed building footprint does not permit sufficient tree replacement planting as required under Council's Tree Management Policy to compensate the proposed tree removal.
  - b) Section 3.3 Landscaping – The replacement trees are proposed in locations that are susceptible to overshadowing and conflict with the built form, which reduce the survival rate of those replacement trees.
  - c) Section 3.5.1 – Earthworks. The proposal is inconsistent with the requirements to maintain natural ground level within 900mm of a side boundary and a maximum excavation of 1.0m. The proposal demonstrates excavation 0.5m from a rear boundary and a maximum excavation of 1.74m at the ground level. No structural detail of the proposed footing is provided to ascertain impact on natural rock outcrop.
  - d) Section 3.8 – View Impacts. The proposal fails to facilitate reasonable sharing of views. No view loss analysis is submitted detailing the view impacts of the proposed development.
  - e) Section 3.16 – Subdivision. The proposal is inconsistent with the provision to comply with Australian Standard 2890.1:2004 which requires a minimum driveway width of 3.0m. The proposal relies on the existing driveway which is 2.745m wide.
  - f) Section 5. Resident Locality Statement. The proposal is not consistent with the future desired character of Connells Point as the proposal fails to facilitate retention of trees, provide sufficient tree replacement, and enable reasonable sharing of water views.
  - g) Section 6.1.3.1 – Streetscape Character and Built Form. The proposal does not comply with Australian Standard 2890.1:2004 which requires a minimum driveway width of 3.0m. The proposal relies on the existing driveway which is 2.745m wide.
  - h) Section 6.1.3.2 - Building Scale and Height. The proposal demonstrates a four-storey built form that is not compatible with the locality. The proposal also fails to demonstrate a split-level approach to minimise building bulk and scale.
  - i) Section 6.1.3.4 – Solar Access. No elevational shadow diagram is provided to ascertain the impact on adjoining property.
  - j) Section 6.1.3.5 – Visual Privacy. The proposed rear balconies exceed minimum width of 1.5m and does not demonstrate privacy screening. Both proposed dwellings incorporate roof top terraces that is not permitted under this section. The proposal will enable overlooking into adjoining properties.
  - k) Section 6.1.3.7 – Excavation (cut and fill). The proposed maximum excavation of 1.74m does not comply with the maximum permitted excavation of 1.0m.



- l) Section 6.1.3.10 - Private Open Space. The proposed private open spaces of both dwellings are not directly accessible from the main living area.
  - m) Section 6.1.3.12 - Materials, Colour Schemes and Details. The proposal demonstrates large expansive surfaces of exposed grey concrete finish that does not have a hue and tonal relationship with the colour schemes which consist primarily of white render finish and exposed red brick finish.
  - n) Section 6.4.3 - Outbuildings. The proposed garages on Sites 1 and 2 demonstrate a building height of 10.0m and 7.9m respectively. The maximum permissible outbuilding height is 3.5m.
  - o) Section 6.4.4 - Swimming Pools and Spas. The proposed swimming pools are located 2.6m above the existing ground level. The proposed vegetation screenings are not sufficient to fully cover the exposed faces of the swimming pool. The locations of the pool pumps are not indicated on architectural plans.
  - p) Section 6.5.1 – Foreshore Scenic Protection Area. The proposal fails to minimise disturbance of existing vegetation. The proposal demonstrates glazing that accounts for more than 50% of the foreshore fronting elevation and incorporate blank walls facing Oatley Bay. The proposed grey concrete finish does not harmonise with the background landscape, in contravention to the provision which requires earthy tone in Foreshore Scenic Protection Area.
  - q) Section 6.5.2.7 – Swimming pools/spas. The proposed swimming pools are located 2.6m above the existing ground level. The proposed vegetation screenings are not sufficient to fully cover the exposed faces of the swimming pool.
- 5. Refusal Reason – Impact on the Environment – Pursuant to Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is likely to have an adverse impact on the following aspects of the environment:**
- a) Natural Environment. The development fails to minimise vegetation removal. The proposed replacement tree planting is insufficient in quantity and inadequate to ensure the long-term survival of the replacement trees. The proposed built form does not permit the achievement of the tree replacement rate as required by Council's Tree Management Policy, resulting in a net loss of tree canopy.
  - b) Built Environment. The proposal is of a bulk and scale that is not appropriate within the Foreshore Scenic Protection Area and does not appropriately respond to the existing and future desired character of Connells Point. The proposed external finish, fenestration details, and architectural details do not demonstrate design excellence.
  - c) Social Impacts. The proposed bulk and scale will enhance visual dominance of built form observed along Oatley Bay and does not permit reasonable sharing of views. The proposal also fails to sufficiently mitigate overlooking into adjoining properties.

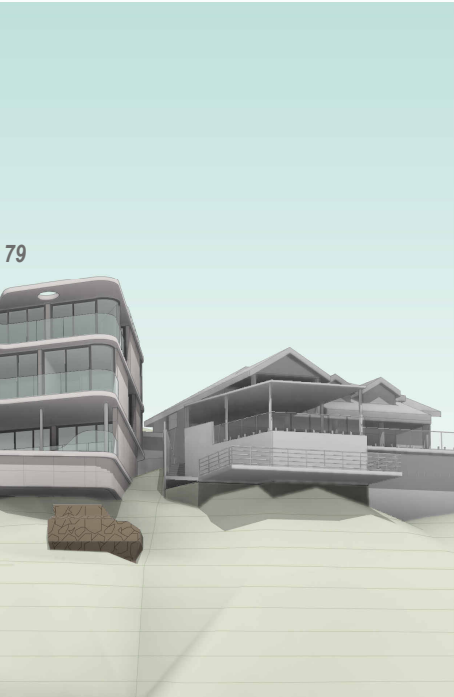
6. **Refusal Reason – Impact on the Environment** – Pursuant to Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be suitable for the site.
7. **Refusal Reason – The Public Interest** – Pursuant to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.

## ATTACHMENTS

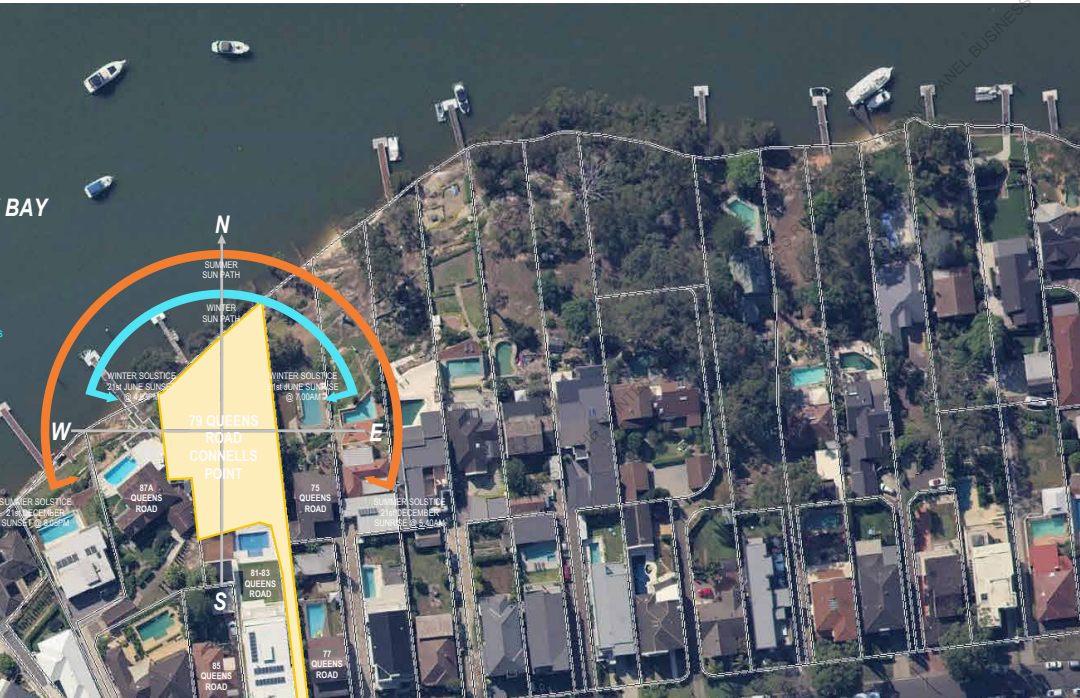
Attachment [↓](#)1  Redacted Architectural Plans - 79 Queens Road, Connells Point NSW 2221 - DA2023/0439

LPP013-24

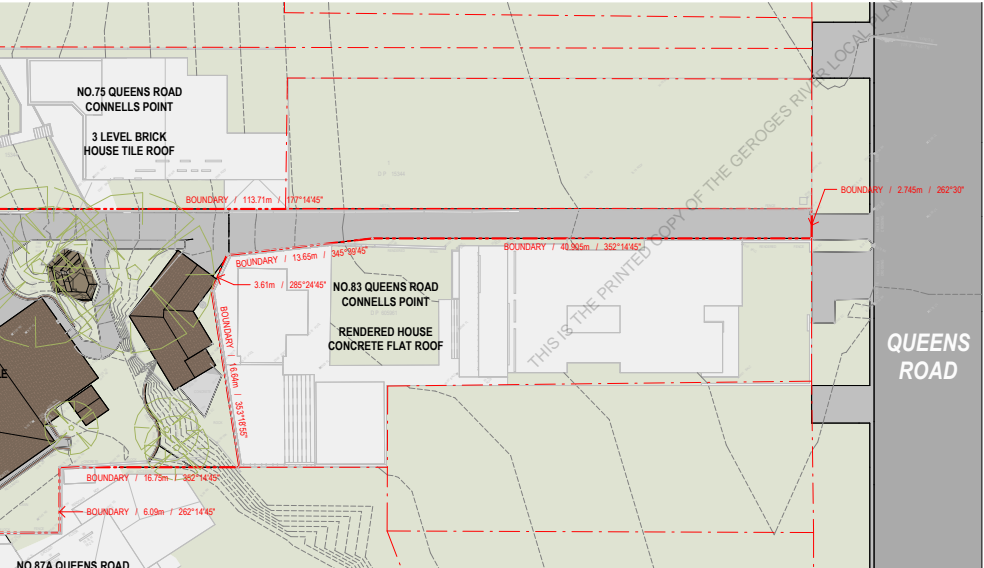
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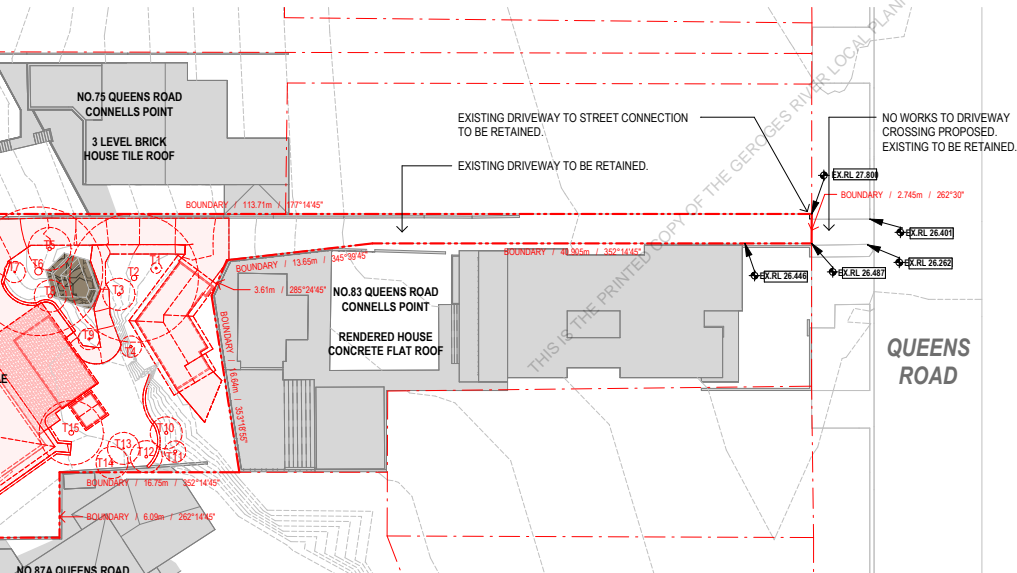


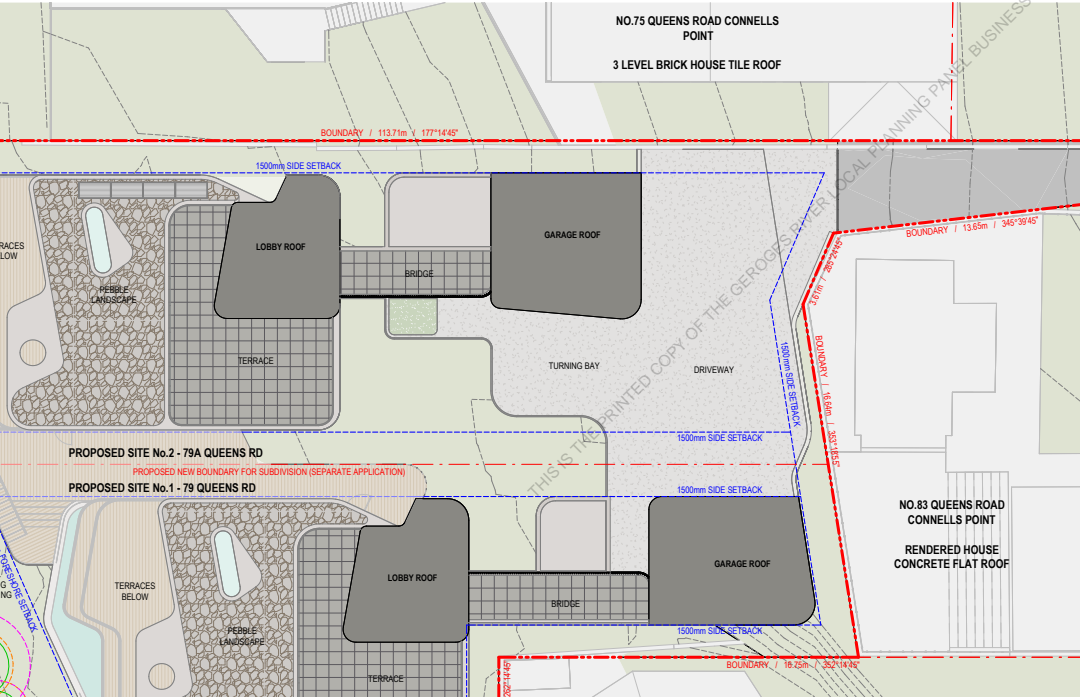
DRAWING REGISTER			
SHEET NO.	SHEET CONTENTS	REV	ISSUE DATE
DA00	COVER PAGE & DRAWING LIST	B	21.09.2023
DA01	SITE CONTEXT PLAN	A	21.07.2023
DA02	EXISTING SITE PLAN - FULL SITE	A	21.07.2023
DA03	DEMOLITION PLAN - FULL SITE	A	21.07.2023
DA04	SITE ANALYSIS PLAN	A	21.07.2023
DA05	SETBACKS PLAN	A	21.07.2023
DA06	AXONOMETRIC VIEW OF OCCUPANCY LOCATION	A	21.07.2023
DA11	GROUND FLOOR 1:200	A	21.07.2023
DA12	LEVEL 1 1:200	A	21.07.2023
DA13	LEVEL 2 1:200	A	21.07.2023
DA14	LEVEL 3 1:200	B	21.09.2023
DA15	ROOF 1:200	A	21.07.2023
DA21	ELEVATION - NORTH	A	21.07.2023
DA22	ELEVATION - EAST	A	21.07.2023
DA23	ELEVATION - WEST	A	21.07.2023
DA24	ELEVATION - SOUTH	A	21.07.2023
DA31	SECTION A	A	21.07.2023
DA32	SECTION B	A	21.07.2023
DA33	DRIVEWAY SECTION AND SWEEP PATH	B	21.09.2023
DA41	LANDSCAPE COVERAGE PLAN	A	21.07.2023
DA42	SITE ENVIRONMENTAL MANAGEMENT PLAN	A	21.07.2023
DA43	EXCAVATION DIAGRAMS 1	B	21.09.2023
DA43.A	EXCAVATION DIAGRAMS 2	A	21.09.2023
DA44	9M HEIGHT PLANE	A	21.07.2023
DA45	GFA CALCULATIONS	A	21.07.2023
DA51	SHADOW DIAGRAMS - EXISTING	A	21.07.2023
DA52	SHADOW DIAGRAMS - PROPOSAL	A	21.07.2023
DA61	SCHEDULE OF MATERIALS	A	21.07.2023
DA62	WATERSCAPE CHARACTER ANALYSIS	A	21.07.2023
DA63	PHOTOMONTAGE	A	21.07.2023
DA71	NOTIFICATION PLANS	A	21.07.2023

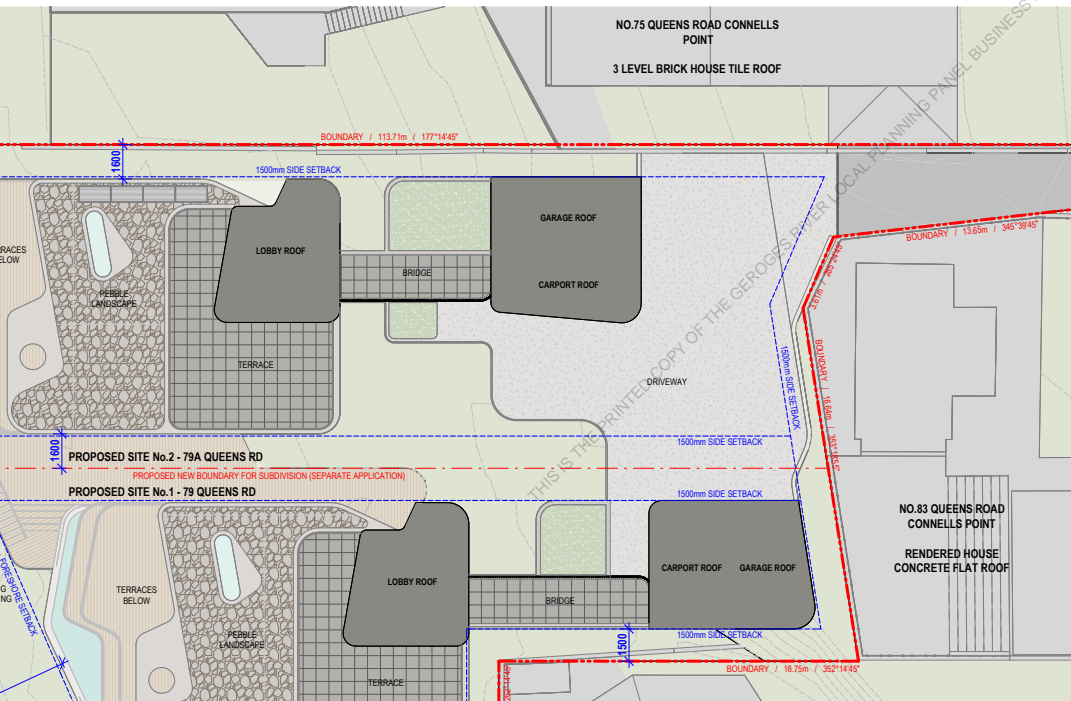


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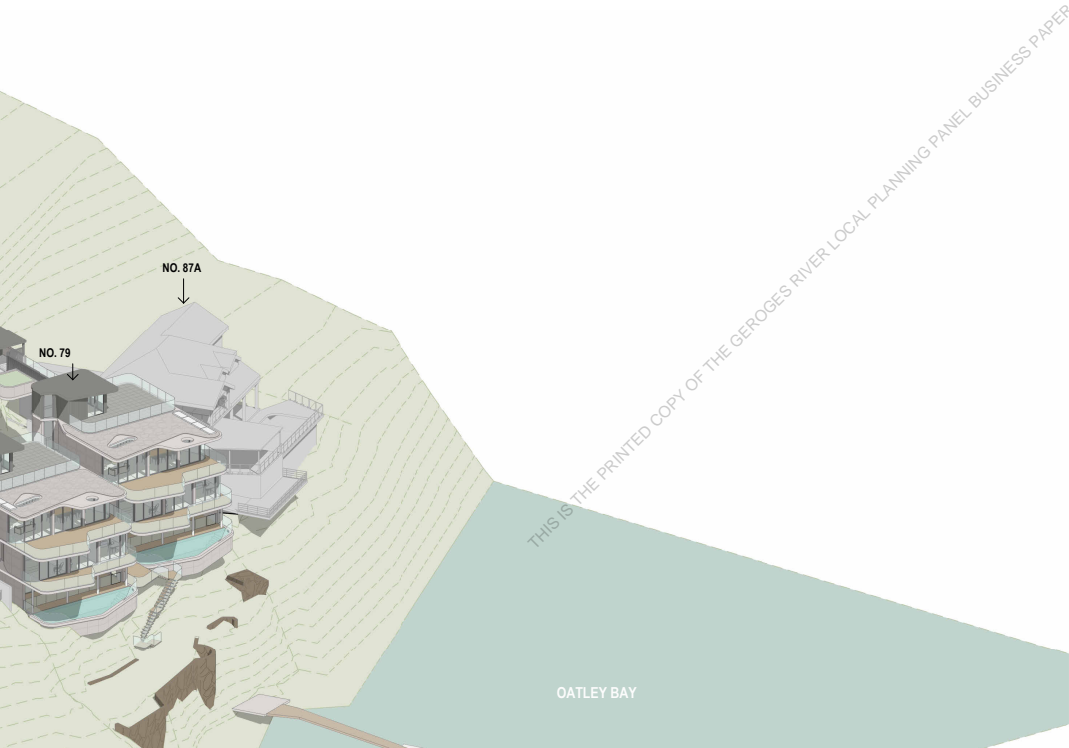




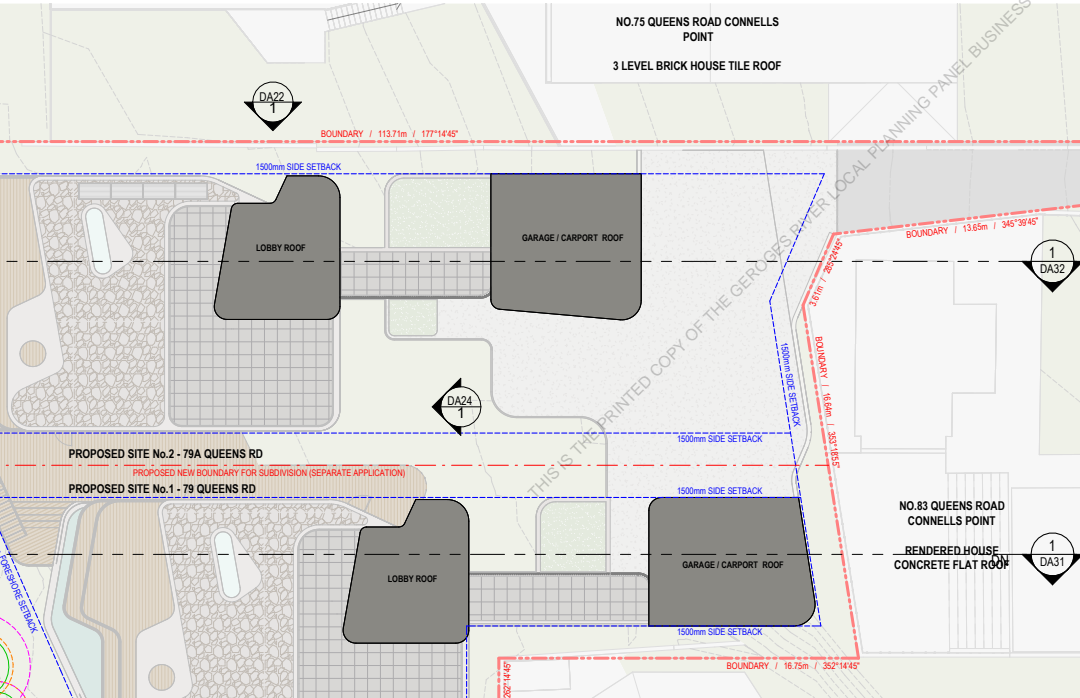


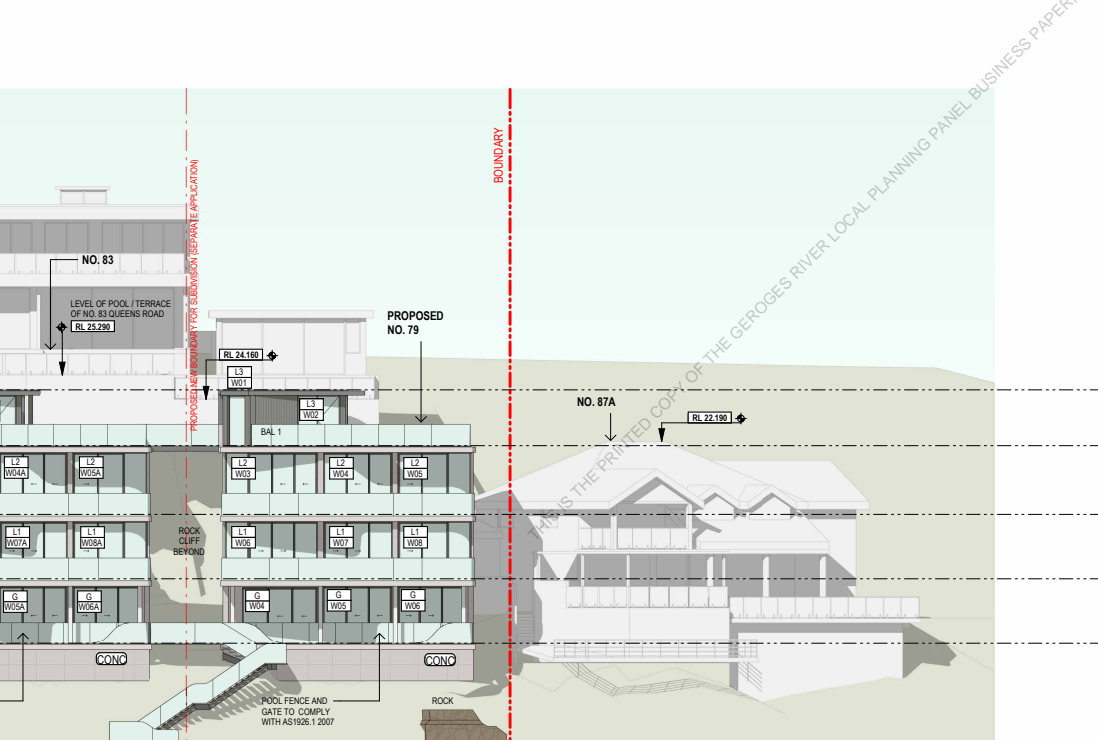


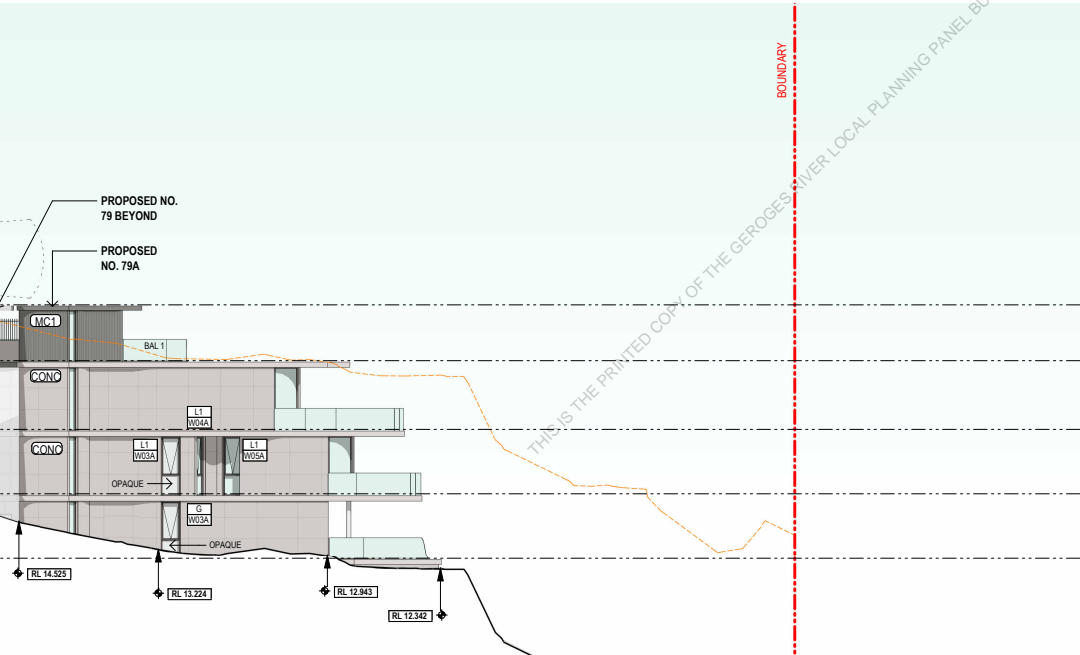




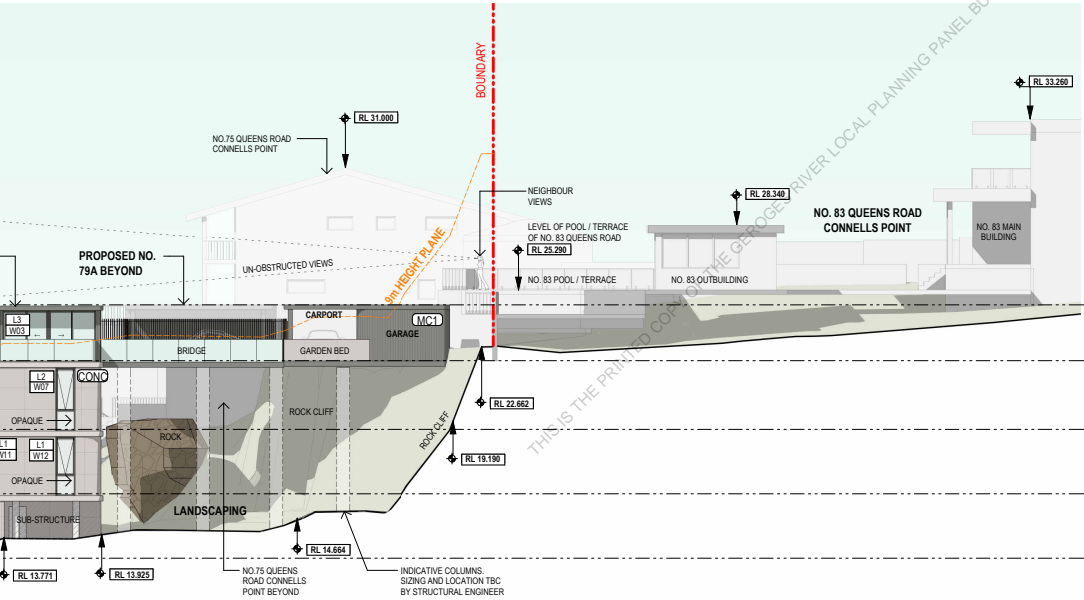
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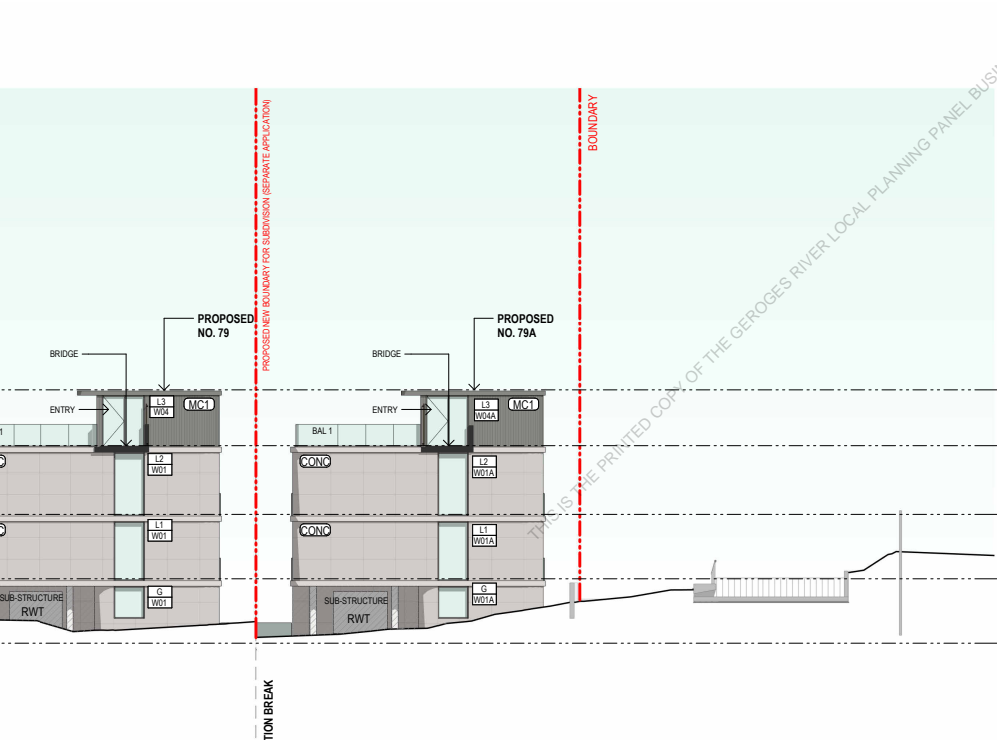


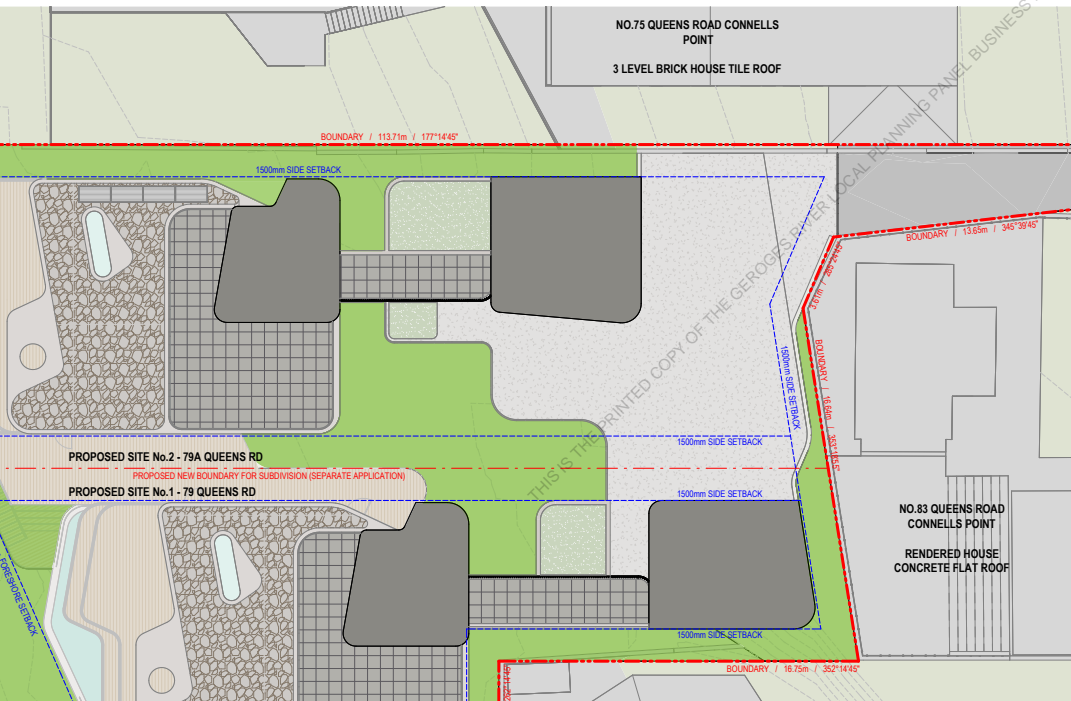




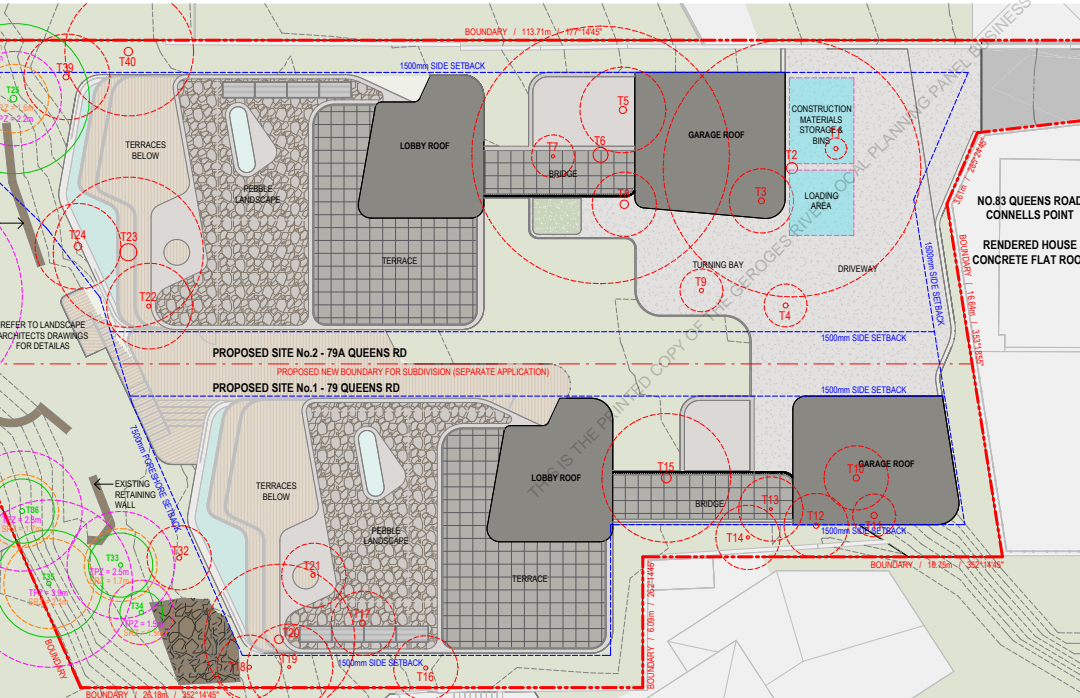
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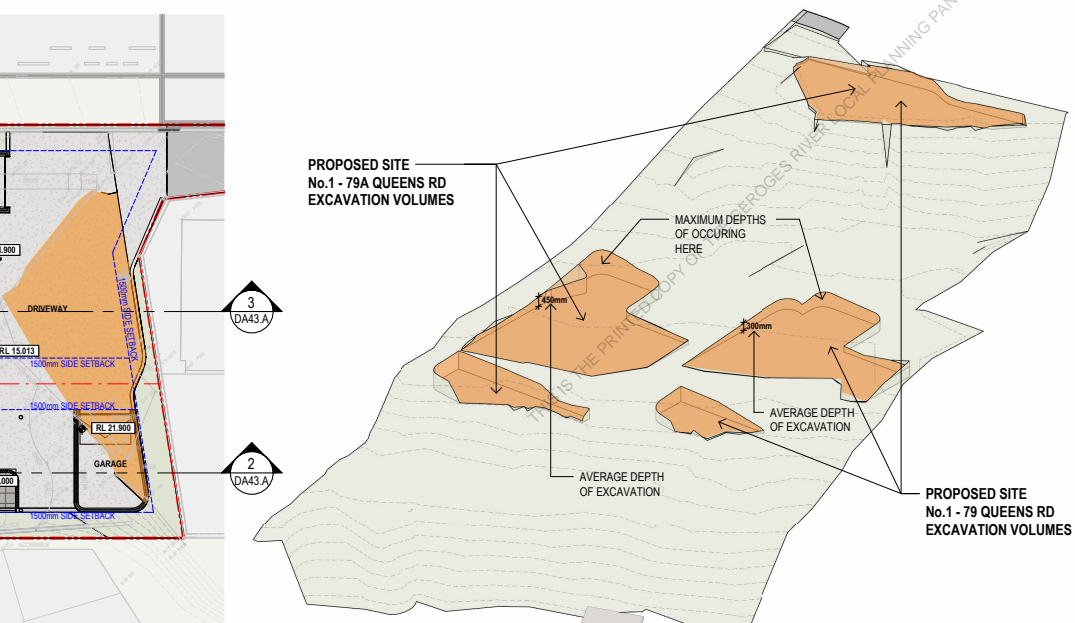


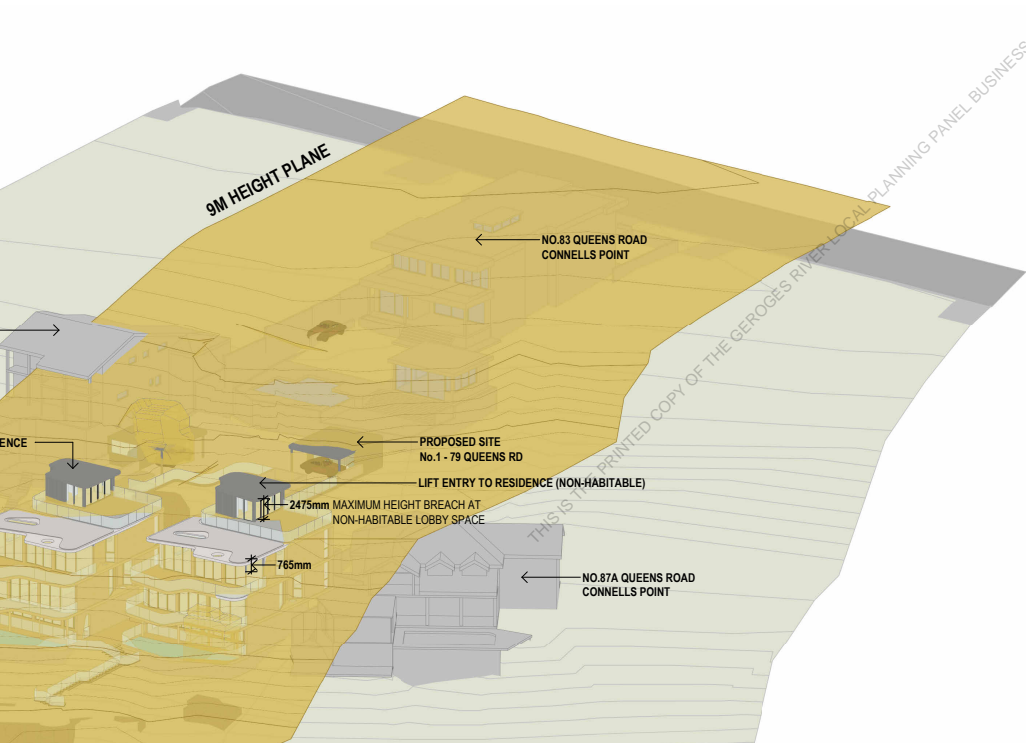


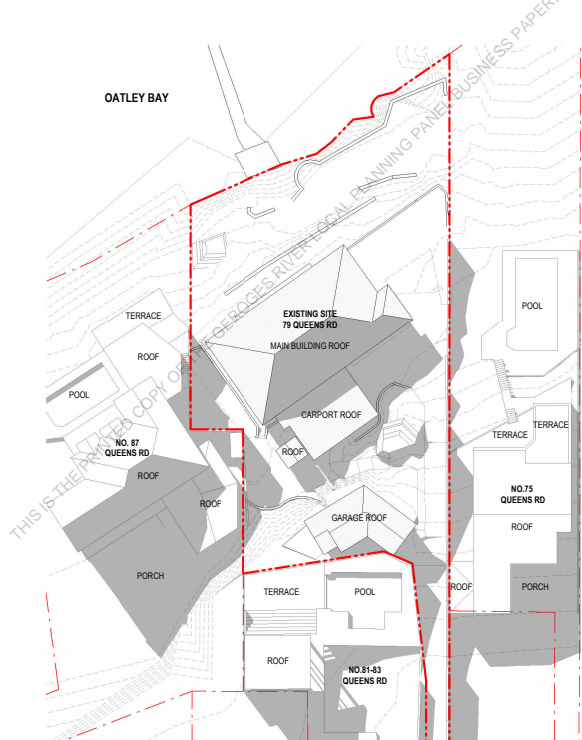
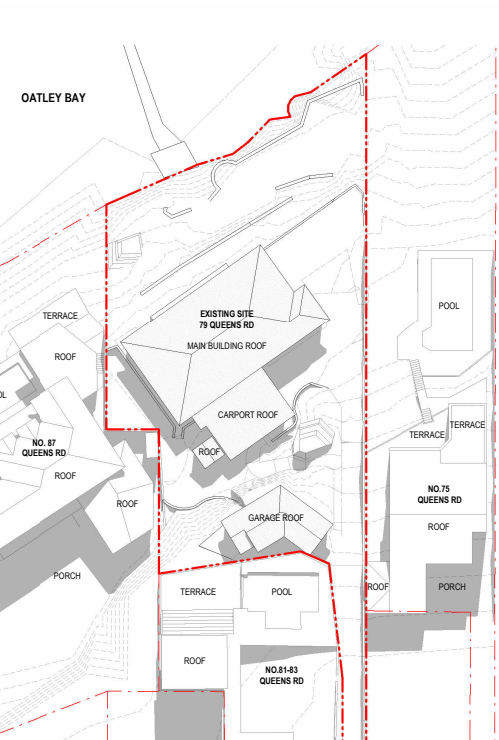












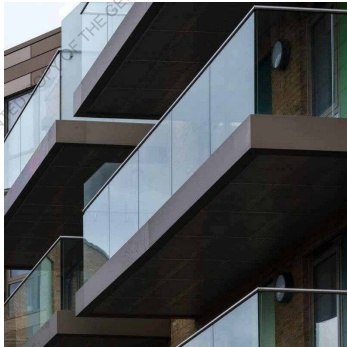




LUX METAL COLOUR



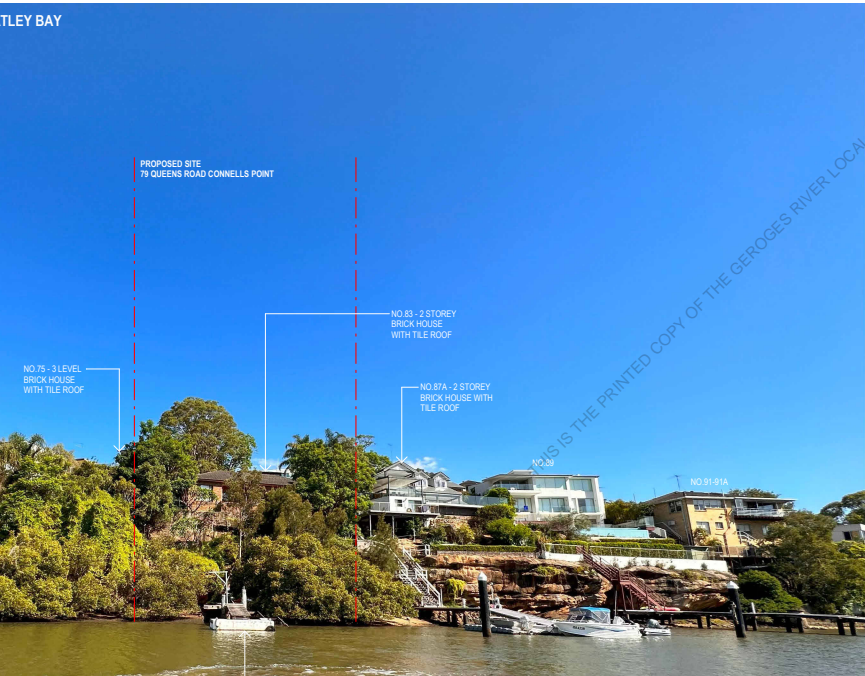
CONC - EXPOSED CONCRETE WALLS  
CONCRETE FORMED WALL IN MEDIUM TONES OF GREY



BAL 1  
GLASS BALUSTRADE

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# REPORT TO GEORGES RIVER LOCAL PLANNING PANEL MEETING OF THURSDAY, 16 MAY 2024

## LPP014-24 172-174 RAILWAY PARADE, KOGARAH

LPP014-24

<b>LPP Report No</b>	<b>LPP014-24</b>	<b>Development Application No</b>	<b>MOD2022/0175</b>
<b>Site Address &amp; Ward Locality</b>	172-174 Railway Parade, Kogarah Kogarah Bay Ward		
<b>Proposed Development</b>	Section 4.55(2) application to modify DA2018/0181 for demolition of existing structure and construction of a twelve (12) storey mixed use development consisting of fifty two (52) residential apartments, ground floor commercial/retail floor area and basement car parking. The proposed modifications include addition of services and various internal and external amendments.		
<b>Owners</b>	Majenttas Pty Ltd		
<b>Applicant</b>	AB Works, Mr J Loucas Architects Pty Ltd		
<b>Planner/Architect</b>	Theo Lucas		
<b>Date Of Lodgement</b>	27/09/2022		
<b>Submissions</b>	One (1)		
<b>Cost of Works</b>	\$18,300,557.00 – No change to the cost of works from the original consent.		
<b>Local Planning Panel Criteria</b>	Departure to development standard greater than 10% - Clause 4.4B – Exceptions to floor space ratio – non-residential uses		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	State Environmental Planning Policy (Resilience and Hazards) 2021; State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, Georges River Local Environmental Plan 2021		
<b>List all documents submitted with this report for the Panel's consideration</b>	Architectural Plan, Landscape Plan, Building Information Certificate,		
<b>Report prepared by</b>	Coordinator Development Assessment		

<b>RECOMMENDATION</b>	Approval, subject to conditions.
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<b>Summary of matters for consideration under Section 4.15</b>  Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
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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 for modification applications.</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, standard conditions have been attached and can be reviewed post publication.</b></p>

## SITE PLAN



Figure 1: Aerial view of the development site marked in blue arrow.

## EXECUTIVE SUMMARY

### PROPOSAL

- Consent is sought to modify the approved mixed-use development approved under DA2018/0181 for the demolition of existing structures and construction of a twelve (12) storey mixed use development consisting of fifty-two (52) residential apartments, ground floor commercial/retail floor area and basement car parking.

Summary of numerical changes to the approved development standards/controls			
Development Standard/Control	Approved under (DA2018/0181)	Proposed	Compliance
Clause 4.3 of Georges River LEP 2021 relating to Height Max permitted = 39m	38.85m	38.54m(reduction of the lift overrun by 310mm)	Yes
Clause 4.4 of Georges River LEP 2021 relating to Floor Space Ratio Max permitted = 4:1	4:1 or 4378.8m <sup>2</sup>	No change to the approved FSR	N/A
Clause 4.4B of Georges River LEP 2021 relating to Exception to Non-residential use as floor space.  1:1 or 1094.7sqm is required for the subject site as it is located in area 4	This clause did not apply under the now repealed Kogarah Local Environmental Plan 2012. However, 0.18:1 or 199m <sup>2</sup> of the site was approved for commercial use on the ground floor.	Due to the proposed services at the ground level the commercial area is proposed to be 185m <sup>2</sup> which equates to 0.17:1 Variation = 909.7sqm which is 83%	<b>No – Variation sought. Discussed further in the report.</b>
Pursuant to the provisions of Georges River DCP 2021 the number of Car Parking Spaces required: <ul style="list-style-type: none"> <li>1 space per 1 and 2 beds</li> <li>2 spaces per 3 beds or more</li> <li>1 visitor space per 5 units or part thereof and 1 designated car wash bay which may also be a visitor space</li> <li>Retail 1 space for 60sqm</li> </ul>	66 – Residential spaces 8 – Visitors spaces 6 – Retail spaces Total = 80 car parking spaces provided.	61 – Residential spaces 8 – visitor spaces Retail – 5 spaces Total = 74 car parking spaces	Yes

Total No. of Units = 52 Requires = 55 residential spaces Visitor = 10 spaces Retail = 3.08 spaces Total parking spaces required = 68			
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LPP014-24

2. The proposed modifications include:

- Relocation of garbage rooms
- Entrance to ground floor lobby redesigned
- Minor changes to lift and stairs core on all levels
- Sprinkler / hydrant booster room redesigned
- Services cupboards /raisers added or area increased
- Retail area reduced and 3 retail tenancies merged into 1 tenancy
- Mdb room relocated from ground floor to basement 1
- Ramp at driveway access on ground floor deleted
- Number of car parking spaces reduced from 80 spaces to 74 spaces
- Basement levels redesigned
- Car spaces, bicycle spaces and storage cages relocated
- Pedestrian ramps added on basement
- Grease arrestor room added to basement 1
- Heater water pump added to first floor
- Communal open space level on ground floor changed plus stair amended/added
- Hot water plant added to level
- Wall height increased
- Lift overrun height reduced

3. As a result of the proposed changes above the following conditions are to be amended/added in the consent:

- Condition 2 – Approved Plans
- Condition 10 – Electrical Supply
- Condition 40 – BASIX Commitments
- Condition 41 - Required design changes.
- Condition 43 - Stormwater System
- Condition 70A - Parking Provision
- Condition 70B - Removal of waste and recyclables



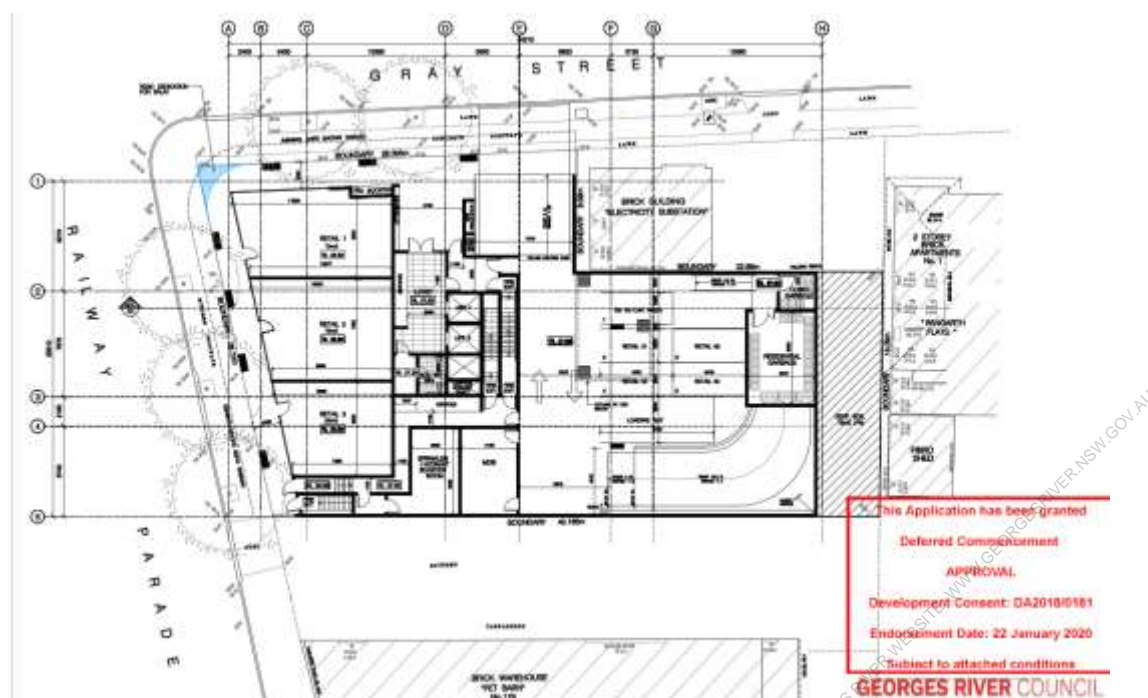


Figure 2: Approved ground floor plan under DA2018/0181.

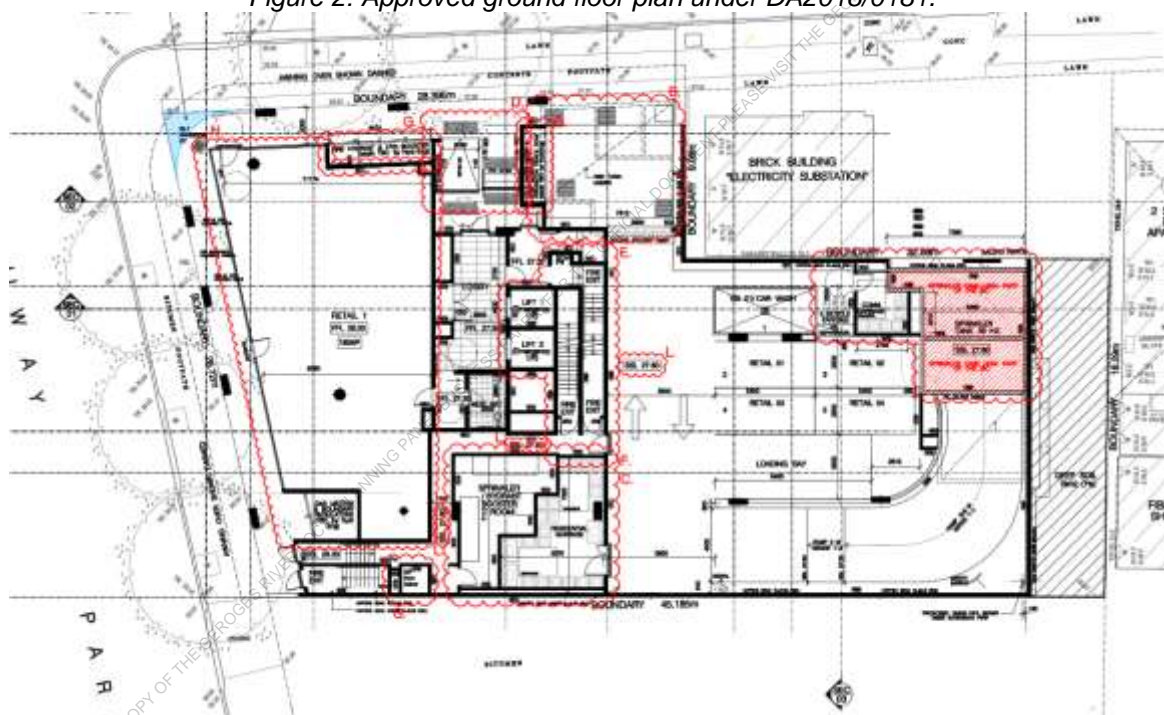


Figure 3: Proposed ground floor plan under subject application. Proposed modifications are clouded in red.



Figure 4: Approved north-west elevation plan (facing Railway Parade) under DA2018/0181.

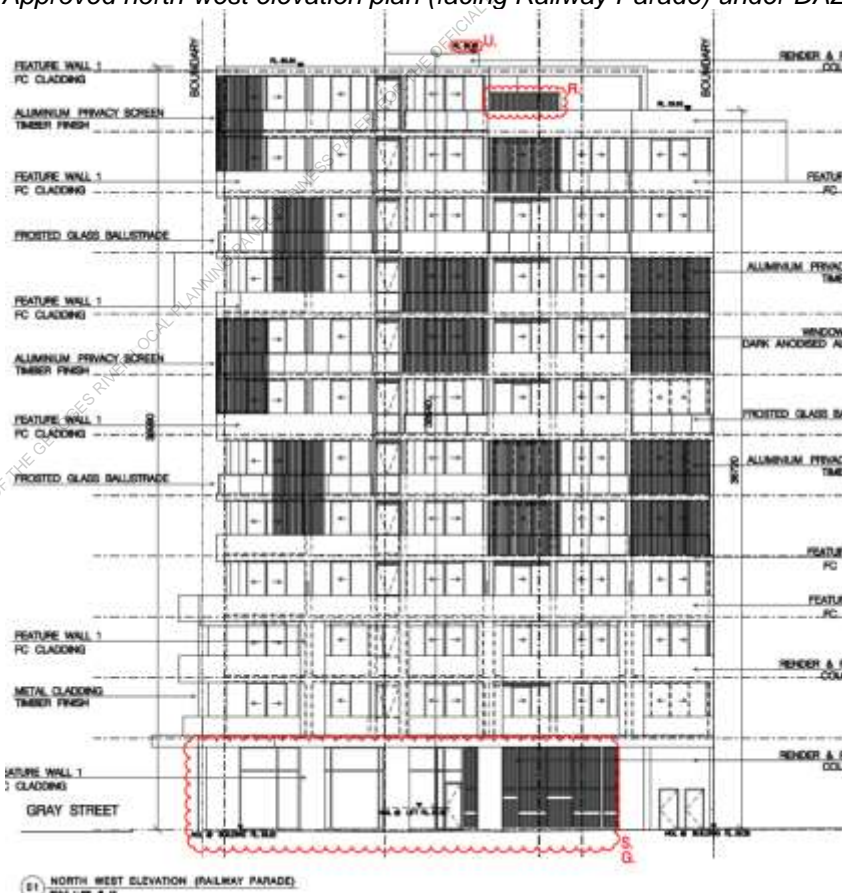


Figure 5: Proposed north-west elevation plan (facing railway parade). The proposed modifications are clouded in red.

## SITE AND LOCALITY

4. The site is identified as 172-174 Railway Parade, Kogarah and is legally described as Lot 100 DP 1279750.
5. The site is located on the corner of Railway Parade and Gray Street and has a total site area of 1094.7sqm.
6. The site is currently under construction of the approved mixed-use development under DA2018/0181.
7. The wider locality features a diverse mix of land uses including primarily medical related uses, commercial/retail activities, shop top housing and the St George Hospital campus, further to the southeast.

## ZONING AND PERMISSIBILITY

8. The site is zoned MU1 – Mixed Use under the Georges River Local Environmental Plan 2021. The approved use of shop top housing remains permissible with consent under the zone applying to the land.

## SUBMISSIONS

9. The subject modification application was notified in accordance with Council's Community Engagement Strategy from the 6 October 2022 to 20 October 2022. One (1) submission was received within the notification procedure. The concerns raised in the submission is addressed below:

**Concern raised by the objector:** "Since the updates have no detail of changes it's impossible to add comment".

**Planning Response:** The Statement of Environmental Effects was available for public view via the DA Tracker on the Council website. This document included all the details of changes to the approved development.

## Reason for referral to the Local Planning Panel

10. The proposed works includes a departure to a development standard under the Georges River Local Environmental Plan 2021 that is greater than 10%. The departure relates to amount of commercial floor area at the ground level. The original development application was determined pursuant to the now repealed Kogarah Local Environmental Plan 2012 in which there was no minimum requirement for non-residential uses. The approved ground floor retail floor area comprised of 199m<sup>2</sup>.
11. Clause 4.4B (Subclause 4, (b)), of the current Georges River Local Environmental Plan 2021 requires a floor space ratio of 1:1 or 1094.7m<sup>2</sup> of non-residential uses. As a result of the required services at the ground floor the ground floor area will provide a floor area of 185m<sup>2</sup> of non-residential uses representing a variation of 909.7m<sup>2</sup> or 83%.

## 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:
  - Based upon the information provided to date, it is assessed that the proposal will not have an adverse or an unreasonable environmental impact in the following regard:

- The proposed development remains substantially the same as the approved mixed-use development.
- The proposal does not include any changes to the approved floor space ratio.
- The proposal includes a non-compliance to *Clause 4.4B – Exceptions to floor space ratio – non-residential uses* under the Georges River Local Environmental Plan 2021. This non-compliance is supported for the following reasons:
  - The requirement for a certain percentage of the building to be allocated to a non-residential use was not applicable under the original assessment which was assessed under the now repealed Kogarah Local Environmental Plan 2012.
  - It is noted that the proposed modifications reduce the number of retail tenancies from 3 to 1 due to the requirement of having necessary services. Whilst the retail tenancy has reduced from 3 to 1 the active street frontage is not compromised.
  - The proposal has gone through several design revisions to ensure the final design will provide the best design outcome to include the necessary services to the building in addition to providing a large usable retail space.
  - Furthermore, care has been taken to ensure the appropriate street activation occurs along the corner of Railway Parade and Gray Street.
- There is no increase in the number of units proposed nor changes to the unit mix.

## REPORT IN FULL

### PROPOSAL

13. Consent is sought to modify the approved mixed-use development under DA2018/0181 for the demolition of existing structure and construction of a twelve (12) storey mixed use development consisting of fifty-two (52) residential apartments, ground floor commercial/retail floor area and basement car parking.

Summary of numerical changes to the approved development standards/controls			
Development Standard/Control	Approved under (DA2018/0181)	Proposed	Compliance
Clause 4.3 of Georges River LEP 2021 relating to Height Max permitted = 39m	38.85m	38.54m(reduction of the lift overrun by 310mm)	Yes
Clause 4.4 of Georges River LEP 2021 relating to Floor Space Ratio Max permitted = 4:1	4:1 or 4378.8m <sup>2</sup>	No change to the approved FSR	N/A
Clause 4.4B of Georges River LEP 2021 relating to Exception to Non-residential use as floor space.	This clause did not apply under the now repealed Kogarah Local Environmental Plan 2012. However, 0.18:1 or 199m <sup>2</sup> of the site was	Due to the proposed services at the ground level the commercial area is proposed to be 185m <sup>2</sup> which equates to 0.17:1 Variation = 909.7sqm which is 83%	<b>No – Variation sought. Discussed further in the report.</b>

1:1 or 1094.7sqm is required for the subject site as it is located in area 4	approved for commercial use on the ground floor.		
<p>Pursuant to the provisions of Georges River DCP 2021 the number of Car Parking Spaces required:</p> <ul style="list-style-type: none"> <li>• 1 space per 1 and 2 beds</li> <li>• 2 spaces per 3 beds or more</li> <li>• 1 visitor space per 5 units or part thereof and 1 designated car wash bay which may also be a visitor space</li> <li>• Retail 1 space for 60sqm</li> </ul> <p>Total No. of Units = 52 Requires = 55 residential spaces Visitor = 10 spaces Retail = 3.08 spaces Total parking spaces required = 68</p>	<p>66 – Residential spaces 8 – Visitors spaces 6 – Retail spaces Total = 80 car parking spaces provided.</p>	<p>61 – Residential spaces 8 – visitor spaces Retail – 5 spaces Total = 74 car parking spaces</p>	Yes

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14. The proposed modifications include:

- Relocation of garbage rooms
- Entrance to ground floor lobby redesigned
- Minor changes to lift and stairs core on all levels
- Sprinkler / hydrant booster room redesigned
- Services cupboards /raisers added or area increased
- Retail area reduced and 3 retail tenancies merged into 1 tenancy
- Mdb room relocated from ground floor to basement 1
- Ramp at driveway access on ground floor deleted
- Number of car parking spaces reduced from 80 spaces to 74 spaces
- Basement levels redesigned
- Car spaces, bicycle spaces and storage cages relocated
- Pedestrian ramps added on basement
- Grease arrestor room added to basement 1
- Heater water pump added to first floor
- Communal open space level on ground floor changed plus stair amended/added

- Hot water plant added to level
- Wall height increased
- Lift overrun height reduced

15. As a result of the proposed changes above the following conditions are to be amended/added in the consent:

- Condition 2 – Approved Plans
- Condition 10 – Electrical Supply
- Condition 40 – BASIX Commitments
- Condition 41 - Required design changes.
- Condition 43 - Stormwater System
- Condition 70A - Parking Provision
- Condition 70B - Removal of waste and recyclables

### THE SITE AND LOCALITY

16. The site is identified as 172-174 Railway Parade, Kogarah and is legally described as Lot 100 DP 1279750.
17. The site is located on the corner of Railway Parade and Gray Street and has a total site area of 1094.7sqm.
18. The site is currently under construction of the approved mixed-use development under DA2018/0181.
19. The wider locality features a diverse mix of land uses including primarily medical related uses, commercial/retail activities, shop top housing and the St George Hospital campus, further to the southeast.

### HISTORY

20. The following applications are relevant to the proposed works.

DA/CDC Number	Proposed Works	Determination	Date
DA2018/0181	Demolition of existing structure and construction of a twelve (12) storey mixed use development consisting of fifty-two (52) residential apartments, ground floor commercial/retail floor area and basement car parking	Deferred Commencement Approval by the Local Planning Panel	22/01/2020
MOD2021/0178	Defer the timing for issue of the Site Audit Report and Site Audit Statement in conditions 51 and 53 of the consent until prior to the issue of an Occupation Certificate	Approved under delegation	13/12/2021
149D2024/0005	Building Information Certificate was issued for the following unauthorised works: <ul style="list-style-type: none"> <li>• AFS External South-East and South-West Boundary Wall – modification to fire resisting wall construction</li> </ul>	Issued	3/04/2024



	<p>for the mixed-use development. To permit parts of the external walls to comprise of a block wall for the ground floor level to second floor level and AFS logicwall from third floor level to rooftop level.</p> <ul style="list-style-type: none"> <li>• Sprinkler tank – Sprinkler tank relocated from the roof to the ground floor level.</li> <li>• Ground Floor level – <ul style="list-style-type: none"> <li>○ Alteration to the ground floor level entrance lobby.</li> <li>○ Alteration to garbage room, sprinkler hydrant booster and lift stairs within the ground floor level.</li> <li>○ OSD stormwater tank relocated under driveway.</li> <li>○ Fire hydrant, hydrant booster and service cupboards modified within the ground floor level.</li> </ul> </li> <li>• Basement Level One (1) <ul style="list-style-type: none"> <li>○ Modification to basement level 1 internal layout, basement ramp modification between basement 1 and basement 2 and modification to concrete slab level to the basement carpark level 1.</li> </ul> </li> </ul>		
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### SUBJECT APPLICATION BACKGROUND

21. The following table includes the processing history of the modification application subject of this report.



<b>Application History</b>		
<b>Action</b>	<b>Date</b>	<b>Comment</b>
Lodgement Date	Tuesday, 27 September 2022	Application lodged with Council.
Notification	Thursday, 6 October 2022	Application was on public notification until 20 October 2022. One (1) submission was received during this period.
Request for Additional Information Letter Sent	Thursday, 27 October 2022	<p>A request for additional information letter was sent to the applicant for the following information:</p> <ul style="list-style-type: none"> <li>• Justification for the departure from the standard Clause 4.4B(4, b) under the GRLEP 2021.</li> <li>• Amended stormwater plans.</li> <li>• Amended BCA and Access Reports to be submitted addressing the proposed modifications.</li> </ul>
Additional information received	Monday, 31 October 2022	Amended stormwater plans and Access Report submitted. Amended documentation was re-referred to the relevant Council's Internal technical specialists.
Second Request for Additional Information Letter Sent	Tuesday, 29 November 2022	<p>A second request for additional information letter was sent to the applicant for the following:</p> <ul style="list-style-type: none"> <li>• Submitted amended stormwater plans insufficiently addressed the initial concerns raised. As such, further information was required.</li> </ul>
Additional information received	Thursday, 8 December 2022	Amended stormwater plan submitted. Amended documentation was re-referred to the relevant Council's Internal technical specialists.
Third Request for Additional Information Letter Sent	Monday, 27 February 2023	<p>A third request for additional information letter was sent to the applicant for the following:</p> <ul style="list-style-type: none"> <li>• Loading bay head clearances.</li> <li>• Vehicle manoeuvring on Basement 1.</li> </ul>

		<ul style="list-style-type: none"> <li>Submitted second set of amended stormwater plans insufficiently addressed the initial concerns raised. As such, further information was required.</li> </ul>
Additional information received	Tuesday, 7 March 2023	Amended stormwater plans and swept turn path plans submitted. Amended documentation was re-referred to the relevant Council's Internal technical specialists.
Fourth Request for Additional Information Letter Sent	Wednesday, 9 August 2023	A fourth request for additional information letter was sent to the applicant regarding Urban Design Concerns.
On-Site meeting	Thursday, 31 August 2023	<p>An on-site meeting was held where it was confirmed there were unauthorised works that had occurred which was proposed under the subject modification application.</p> <p>As such, it was requested the applicant lodge a Building Information Certificate (BIC) for all the works completed and amended architectural plans to be submitted that just shows the proposed works.</p>
Additional information received	Wednesday, 27 September 2023	Amended architectural plans addressing urban design concerns submitted. Amended documentation was re-referred to the relevant Council's Internal technical specialists.
Request for meeting	Thursday, 12 October 2023	Correspondence from applicant's architect to have a meeting to go through the plans prior to submitting.
Meeting held in Council chambers	Tuesday, 12 December 2023	Meeting held in the Council chambers with Council's Urban Design Officer, Applicant's architect, Council's Senior Planner and Co-ordinator Development Assessment regarding outstanding urban design issues including the relocation of the substation.

		<p>A final (fifth) request for additional information letter was sent for the submission of:</p> <ul style="list-style-type: none"> <li>• Amended SEE</li> <li>• Amended SEPP 65 Design Verification Statement.</li> <li>• Amended full set of architectural plans.</li> <li>• Amended schedule of materials and finishes focusing on the public and private domain.</li> <li>• Amended landscape plans.</li> <li>• 3D photomontages of the proposed works and the overall development.</li> </ul>
Additional information received	Friday, 12 January 2024	Amended architectural plans addressing urban design concerns submitted. Amended documentation was re-referred to the relevant Council's Internal technical specialists.
Sixth Request for Additional Information Letter Sent	Thursday, 29 February 2024	The submitted architectural plans were found to be incorrect as they still did not highlight which items were proposed under the BIC and which items were proposed under the modification application.
Additional information received	Tuesday, 5 March 2024	Final amended architectural plans submitted including an updated BIC list.
BIC issued for unauthorised works	Wednesday, 3 April 2024	Building Information Certificate issued for the unauthorised works.
Amended plans received	Wednesday, 1 May 2024	A letter of offer received from AUSGRID to connect to the existing substation. Amended plans submitted illustrating the deletion of the on-site substation on the ground floor.

## Planning Assessment

### Assessment – Section 4.55 Considerations

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

**Section 4.55(2) Other modifications**

23. A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—
- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and
  - (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and
  - (c) it has notified the application in accordance with—
    - (i) the regulations, if the regulations so require, or
    - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
  - (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Comment: The proposed changes to the development consent are considered to be “substantially the same” as they sit within the approved building envelope and footprint. There is no increase to the approved height and floor space ratio under the proposed modifications. There are no changes to the approved number of units and unit mix.

The proposal therefore satisfies the provisions of Section 4.55(2), (a), (b), (c) and (d). Section 4.55 subclause (3) states:

*In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

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

Section 4.55 subclause (4) states:

*The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.*

Comment: The proposed development satisfies this provision as the modifications are not granting consent to a DA but rather modifying DA2018/0181.

**State Environmental Planning Policies**

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

<b>State Environmental Planning Policy</b>		<b>Complies</b>
State Environmental Planning Policy (Resilience and Hazards) 2021		Yes
State Environmental Planning Policy No. 65 – <i>Design Quality of Residential Apartment Development</i>		Yes
State Environmental Planning Policy (Biodiversity and Conservation) 2021		Yes
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004		Yes

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

25. The original application was assessed against the requirements of State Environmental Planning Policy (Biodiversity and Conservation) 2021. No additional tree removal is proposed under the subject modification application. As such, further assessment under this SEPP is not required.

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

26. A BASIX Certificate is required to be lodged for any development application in NSW considered to be BASIX Affected Development by the Environmental Planning and Assessment Regulation 2000, unless the development constitutes BASIX Excluded Development (see Clause 3) of the Regulations.
27. The development is BASIX Affected Development and is accompanied by a BASIX Certificate.
28. The supplied plan set incorporates the provisions of the BASIX, and a condition of consent will be included in determination to ensure the proposal is constructed in accordance with a current BASIX.
29. Therefore, the proposal is considered to satisfy the requirements of this SEPP.
30. The details of the provided BASIX Certificate are provided below:

<b>BASIX Certificate Details</b>	
Author:	Max Brightwell
Certificate Date:	21 September 2022
Certificate Number	892771M_03

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

31. (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.
32. Site contamination was considered and resolved as part of the original application. The site has been adequately remediated.

**State Environmental Planning Policy (Housing) 2021**

33. The new Chapter 4 ('Design of residential apartment development') of the Housing SEPP (2021) does not apply to development applications that had been formally 'lodged' on the NSW Planning Portal before 14 December 2023. This development application was formally lodged on the NSW Planning Portal prior to 14 December 2023 thus SEPP No.65 is the relevant legislation applicable to this development application.

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

34. SEPP 65 applies to the development as the building is more than 3 storeys in height and contains a residential component. An assessment of the design principles is addressed below:

ADG design quality principle	Response
1. Context	<p>The design of the proposed development responds to the qualities and identity of the area with respect to its relationship to adjoining sites, streetscape, and neighbourhood. The site has been identified for high density redevelopment in accordance with the provisions for GRLEP 2021.</p> <p>The bulk and scale of the development is appropriate for the context of the area given the transition of height and floor space along Railway Parade. The proposal is consistent with the objectives and development controls for mixed use development outlined in the GRLEP 2021.</p>
2. Built form and scale	<p>The height of the proposed development has been reduced by 310mm as part of this modification. The proposed design is consistent with the requirements of the Apartment Design Guide. The overall built form is compatible with similar developments and the emerging character of the area undergoing redevelopment.</p> <p>Therefore, the proposed development is consistent with this design quality principle.</p>
3. Density	The proposed density is appropriate for the site and its context in terms of floor space yield and number of units when considering the site as a whole.
5. Landscape	A landscape plan was submitted with the original Development Application and is found to be satisfactory.
6. Amenity	The proposal is satisfactory with regards to amenity and has been designed to optimise internal amenity through orientation, visual and acoustic privacy, solar access, natural ventilation, apartment layout, storage areas, and service areas.
7. Safety	The proposal satisfactorily addresses safety and provides opportunities for passive surveillance to the street frontage and communal areas of the site through the use of balconies addressing the street frontage and glazed openings. The proposed retail spaces address the future pedestrian link adjacent to the site. The car park area has been designed for secure access to ensure that the area remains accessible only to building occupants and their visitors.

8. Housing Diversity and Social Interaction	No changes are proposed to the approved unit mix.
9. Aesthetics	The proposed built form is appropriate with regard to the composition of building elements, textures, materials, and colours, reflecting the use, internal design and structure of the building. The design of the building is compatible with the desired built form and scale for the locality.

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### The Apartment Design Guide (ADG).

35. The ADG is a publication by the State Government which further expands on the design quality principles by providing some detailed practical guidance for the design of residential flat buildings.
36. Minimal changes are proposed to the residential component of the development. As such, the modified proposal has been assessed against the relevant topic area provisions within Parts 3 & 4 of the ADG as follows:

Clause	Design Criteria	Comments	Complies
3C Public Domain interface	Transition between private and public domain is achieved without compromising safety and security.  Amenity of the public domain is retained and enhanced.	The proposed retail space provides a transition between the public and private domain and is also defined through the use of appropriate finishes.  The submitted plans indicate that the proposed paving and other finishes will improve the address of the retail tenancy from the public domain and will improve upon the current interface to the public domain.	Yes.
3D – Communal and public open space	Communal open space has a minimum area equal to 25% of the site (1079 x 0.25) = 269.75m <sup>2</sup>	Approved = Communal open space located on the first floor and rooftop spaces with a total of 527m <sup>2</sup> or 48.8%.  Proposed = Communal open space located on Level 1 and rooftop with a total area of 429m <sup>2</sup> .  The reduction to the approved communal open space is due to the introduction of necessary services.	Yes.
3G Pedestrian access and entries	Building entries and pedestrian access connects to and	Pedestrian entries are located off Railway Parade and Gray Street.	Yes.



	addressed the public domain. Access, entries and pathways are accessible and easy to identify.	The main building entry is easily identifiable.	Yes.
3H Vehicle Access	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	Amendments were made to the approved vehicular access which has been approved under the Building Information Certificate (149D2024/0005)	Yes.
4M Facades	Building facades provide visual interest along the street while respecting the character of the local area.	The proposal complies with the various objectives. A condition is included in the modified consent for compliance with the amended materials and finishes.	Yes.
4S Mixed Use	Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement.  Residential levels of the building are integrated within the development, and safety and amenity are maximised for residents.	The proposed design revisions are consistent with the approved scheme and maintain and enhance active pedestrian street frontages.  The proposed design revisions enhance safety and amenity for residents by providing clearer secure entry points to the development as well as separate secured access to the commercial/retail uses of the development,	Yes.
4W Waste Management	Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.	The proposed design revisions include the relocation of the residential waste storage from the basement to the ground floor. This is located on the side elevation and has no adverse impact on the streetscape, building entry and amenity of residents.	Yes.

37. 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 1.2 – Aims of the Plan</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<b>Mixed-use development</b> means a building or place comprising 2 or more different land uses.	The proposed development remains consistent with the definition.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>Part 2 – Permitted or prohibited development</b>		
<b>Clause 2.3 – Zone objectives and Land Use Table</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<p>The subject site zoned MU1 Mixed Use</p> <p>The objectives of the zone are:</p> <ul style="list-style-type: none"> <li>• To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.</li> <li>• To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.</li> <li>• To minimise conflict between land uses within this zone and land uses within adjoining zones.</li> <li>• To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.</li> <li>• To integrate suitable business, office, residential, retail and other development in</li> </ul>	The proposal is consistent with the zone objectives as the development:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

<p>accessible locations to maximise public transport patronage and encourage walking and cycling.</p> <ul style="list-style-type: none"> <li>• To allow residential development that contributes to the vitality of the centre and provides housing that meets the needs of the community.</li> <li>• To encourage the provision of community facilities and public infrastructure so that all residents have reasonable access to a range of facilities and services.</li> </ul>		
<b>Land Use Table</b>		
MU1 – Mixed Use	The approved use remains permissible with consent under the zone applying to the land.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>Part 4 – Principal Development Standards</b>		
<b>Clause 4.3 – Height of Buildings</b>		
<b>Standard</b>	<b>Approved/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 permitted building height is 39m as identified on Height of Buildings Map</p>	<p>Approved = 38.85m</p> <p>Proposed = 38.54m (Reduction of the lift overrun by 310mm).</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>Clause 4.4 – Floor Space Ratio</b>		
<b>Standard</b>	<b>Approved/Proposal</b>	<b>Compliance</b>
<p>The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.</p> <p>The maximum floor space is 4:1 or 5060.375m<sup>2</sup> as identified on Floor Space Ratio (FSR) Map.</p>	<p>Approved = 4:1 or 4378.8m<sup>2</sup></p> <p>No change proposed to the approved FSR.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A

<b>Clause 4.4B Exceptions to floor space ratio—non-residential uses</b>		
<b>Standard</b>	<b>Approved/Proposal</b>	<b>Compliance</b>
(3) Development consent must not be granted for development on land in Zone E1 Local Centre or Zone MU1 Mixed Use unless the non-residential floor space ratio is at least 1:1 or 1094.7sqm.	<p>This clause did not apply under the now repealed Kogarah Local Environmental Plan 2012. However, 0.18:1 or 199m<sup>2</sup> of the site was approved for commercial use on the ground floor.</p> <p>Due to provision of services, the commercial area at the ground level has been reduced by 14m<sup>2</sup> and as such the proposal floor space ratio is 0.17:1 representing a variation of 909 m<sup>2</sup> or 83%</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> <b>No, however acceptable under merit. Refer to assessment below the compliance table.</b> <input type="checkbox"/> N/A
<b>Clause 4.6 - Exceptions to development standards</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
In accordance with Clause 4.6 (1) through to and including (8)	A Clause 4.6 statement is not required under a modification application. However, an assessment regarding the variation of Clause 4.4B has been carried out below the compliance table.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<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 does not involve works below the Mean High Water Mark.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>Clause 5.10 – Heritage conservation</b>		
<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 or located within the vicinity of any heritage items. In addition the 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	The subject land is not flood affected	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A

considers to be within the flood planning area.		
<b>Part 6 – Additional Local Provisions</b>		
<b>Clause 6.1 – Acid sulfate soils</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<p>(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.</p> <p><b>Class 5</b> The site is identified as containing Class 5 Acid Sulfate Soils.</p>	<p>The site identified as containing Class 5 acid sulfate soils, but the works are not located on land within 500m of land of a lower class and is not below 5m Australian Height Datum. No further action is therefore required.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p>
<b>Clause 6.2 Earthworks</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<p>Council must consider the following prior to granting consent for any earthworks:</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the 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 proposed earth works are satisfactory with regards the matters identified.</p> <p>The development has been executed in a manner that minimizes disruption to drainage patterns and ensures soil stability in the surrounding area.</p> <p>Measures have been implemented to mitigate any adverse effects on the existing and anticipated amenity of neighbouring properties caused by the development.</p> <p>The design and construction of the development have effectively minimized the need for extensive cut and fill operations.</p> <p>Adequate measures have been proposed and implemented to avoid, minimize, or mitigate any potential negative impacts associated with the proposed earthworks.</p>	<p><input checked="" type="checkbox"/> Yes <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>		
Clause 6.3 – Stormwater Management		
Standard	Proposal	Compliance
<p>(2) In deciding whether to grant development consent for development, the consent authority must be satisfied that the development—</p> <p>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</p> <p>(b) includes, if practicable, on-site stormwater detention or retention to minimise stormwater runoff volumes and reduce the development's reliance on mains water, groundwater or river water, and</p> <p>(c) avoids significant adverse impacts of stormwater runoff on adjoining properties, native bushland, receiving waters and the downstream stormwater system or, if the impact cannot be reasonably</p>	<p>The proposal has been considered in this regard. The proposal is satisfactory in this respect.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>

avoided, minimises and mitigates the impact, and (d) is designed to minimise the impact on public drainage systems.		
<b>Clause 6.4 – Foreshore area and coastal hazards and risk</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
(2) This clause applies to the following land— (a) and identified on the Coastal Hazard and Risk Map, (b) land identified on the Foreshore Building Line Map.	The site is not located on land identified in the Coastal Hazard and Risk Map or on the Foreshore Building Line Map.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>Clause 6.5 – Riparian land and waterways</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
(2) This clause applies to land identified as “Sensitive land” on the Riparian Lands and Waterways Map.	The site is not located on Sensitive Land as identified on the Riparian Land and Waterways Map.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>Clause 6.6 Foreshore scenic protection area</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
(2) This clause applies to land identified as “Foreshore scenic protection area” on the Foreshore Scenic Protection Area Map.	The site is not located within the Foreshore Scenic Protection Area as identified on the Foreshore Scenic Protection Area Map.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>Clause 6.8 Development in areas subject to aircraft noise</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
NOTE: Applies to 67-89 Croydon Road, 1-7 Somerset (odd only), 2-8 Bristol (even), 1-5 Bristol (odd) in Hurstville.	The proposal is not located on the land identified by the Clause.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>Clause 6.9 Essential Services</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
Development consent must not be granted to development unless Council is satisfied that any of the following services that are essential for the development are available, or that adequate arrangements have been made to make them available when required a) the supply of water,	<p>The proposal has, or includes arrangements that will make available, the:</p> <ul style="list-style-type: none"> <li>the supply of water,</li> <li>the supply of electricity,</li> <li>the supply of telecommunications facilities,</li> <li>the disposal and management of sewage,</li> <li>stormwater drainage or on-site conservation,</li> <li>vehicular access.</li> </ul>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A



<ul style="list-style-type: none"> <li>b) the supply of electricity,</li> <li>c) the supply of telecommunication 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>	The applicant has provided a letter indicating that a cable can be run from the existing substation directly to the main switch board located in the basement and that no additional substation is required on site.	
<b>Clause 6.10 Design Excellence</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<p>(2) This clause applies to development:</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> <ul style="list-style-type: none"> <li>(i) Zone R4 High Density Residential,</li> <li>(ii) Zone E1 Local Centre,</li> <li>(iii) Zone E2 Commercial Centre,</li> <li>(iv) Zone E4 General Industrial,</li> <li>(v) Zone MU1 Mixed Use.</li> </ul>	<p>The proposal is zoned MU1 – Mixed Use and has a height greater than 12m.</p> <p>The proposal was referred to Council's Urban Design Officer and has been considered with regards to the matters identified in Clause (5). The proposed modifications are considered to suitably demonstrate compliance with this Clause. Detailed assessment is detailed in the referrals section of the report.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>

### VARIATION - CLAUSE 4.4B - EXCEPTIONS TO FLOOR SPACE RATIO—NON-RESIDENTIAL USES

38. Applications assessed under Section 4.55 of the EPA Act 1979 do not require a variation to be sought under Clause 4.6 of the Georges River Local Environmental Plan 2021. Notwithstanding this, a merit assessment of the variation is provided below.

The original development was approved under the now repealed Kogarah Local Environmental Plan 2012 (DA2018/0181) where a separate clause requiring designated floor space for non-residential uses was not applicable.

Clause 4.4B (Subclause 4, (b)) was introduced in the consolidated Georges River Local Environmental Plan 2021 requires at least 1:1 floor space ratio of non-residential floor space for sites located within 'Area 4' which is applicable to the subject site. In this respect the subject site will require floor area of 1094sqm non-residential floor space.

The originally approved commercial tenancies, located at the ground floor level of the shop-top housing development, comprised of an FSR of 0.18:1 or 199m<sup>2</sup>. The proposed modifications result in a reduction of 14m<sup>2</sup> to the commercial gross floor area, resulting in a FSR of 0.17:1 or 185m<sup>2</sup>.

The reduction in the commercial floor space is due to the requirement of the gas meter and fire hydrant booster which is located on the ground floor.

The variation is acceptable in this instance as the reduction of commercial GFA is considered to be minor and is a requirement due to the essential necessity of having the gas meter and fire hydrant booster located on the ground floor.

The application has gone through several amendments to ensure the remaining ground floor commercial area have the best design outcome. The proposed design includes active street frontage and has a positive outcome and relationship to the public domain.

### GEORGES RIVER DEVELOPMENT CONTROL PLAN

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

3.3 Landscaping		
Control	Proposal	Compliance
1. Landscaping on site should be incorporated into the site planning of a development to (where appropriate): <ul style="list-style-type: none"> <li>i. Reinforce the desired future character of the locality;</li> <li>ii. Maintain significant landscape features;</li> <li>iii. Be consistent with any dominant species in the adjoining area of ecological significance;</li> <li>iv. Incorporate fire resistant species in areas susceptible to bushfire hazard;</li> <li>v. Provide planting within setback zones;</li> <li>vi. Soften the visual impact of buildings, carparks and roads;</li> <li>vii. Cater for outdoor recreation areas;</li> <li>viii. Separate conflicting uses;</li> <li>ix. Screen undesirable elements;</li> <li>x. Provide opportunities for on-site stormwater infiltration, in particular</li> </ul>	The proposed landscape scheme addresses the matters identified as appropriate.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

<p>around existing trees and vegetation;</p> <p>xi. Consider the future maintenance requirements of landscaped areas;</p> <p>xii. Protect the effective functioning of overhead, surface level or underground utilities; and</p> <p>xiii. Improve the aesthetic quality of the development.</p>		
<b>3.10 Water Management</b>		
<b>Stormwater Management</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
<p>1. Development must comply with Council's Stormwater Management Policy.</p> <p>2. Water Sensitive Urban Design (WSUD) principles are to be incorporated into the design of stormwater drainage, on -site retention and detention, landscaping and within the overall design of the development.</p>	<p>The proposal has been reviewed by Council's Development Engineer and has been found to be satisfactory with regards to this clause.</p> <p>Conditions suggested by Council's Engineer have been applied.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>
<b>3.11 Ecologically Sustainable Development</b>		
<b>Residential Buildings</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
<p>1. All BASIX affected development must comply with SEPP (Building Sustainability Index: BASIX) 2004.</p>	<p>A BASIX has been provided with the application, the proposal shall be conditioned to comply with the BASIX.</p> <p>See BASIX SEPP assessment</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>
<b>3.12 Waste Management</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
<p>1. Development must comply with Council's Waste Management requirements regarding construction waste and ongoing management of waste materials (per Appendix 4 of the GRDCP).</p>	<p>The proposal complies with Appendix 4 of the GRDCP and therefore complies with the controls of this section.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>
<b>3.15.1 Infrastructure</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
<p>3. The public domain should be improved by new street plantings and footpath improvements</p>	<p>The proposed development does not warrant the need for new street tree plantings or footpath upgrades</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>
<b>3.17 Universal / Accessible Design</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>

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

## Part 6 – Residential Control

40. 6.3 – Residential flat buildings and residential components of shop top housing.

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

considered as alternatives to blank walls.		
8. Clear glazing to balustrades must be avoided where they are visible from nearby vantage points. Screening of balconies by way of adjustable or fixed panels should be included where there are issues of privacy, and/or excessive exposure to solar impacts.	Achieved.	
<b>6.3.7 Communal Open Space</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
Communal open space to a minimum area of 25% of the site area and with a minimum dimension of 5m is to be provided.	429m <sup>2</sup> or 39%	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>6.3.9 Vehicular Access, Parking and Circulation</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
Pursuant to the provisions of Georges River DCP 2021 the number of Car Parking Spaces required: <ul style="list-style-type: none"> <li>1 space per 1 and 2 beds</li> <li>2 spaces per 3 beds or more</li> <li>1 visitor space per 5 units or part thereof and 1 designated car wash bay which may also be a visitor space</li> <li>Retail 1 space for 60sqm</li> </ul> Total No. of Units = 52 Requires = 55 residential spaces Visitor = 10 spaces Retail = 3.08 spaces Total parking spaces required = 68	Residential = 61 spaces Visitor = 8 spaces including 1 shared vehicle wash bay Retail = 5 spaces Total = 74 spaces	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

### Part 8.1 – Kogarah Strategic Centre

41. This part applies to the subject site as it is within the boundaries of the Kogarah Town Centre.

<b>9 Railway Parade South Precinct</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
18. Conceal meter boxes, fire hydrant boosters, sprinkler valves and the like so they are not visible from the street.	Amended design ensures the required services such as fire hydrant boosters are not visible from the street and are satisfactory	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

	recessed while maintaining ease of access.	
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## THE LIKELY IMPACTS OF THE DEVELOPMENT

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

Likely Impacts of the Development	
Natural Environment	The proposed development is of a scale and character that is in keeping with other developments being constructed in the locality. Accordingly, the proposal is not considered to have an unreasonable impact on the natural and built environment of the locality.
Social Impact	The assessment demonstrates the proposal in its current form will not have adverse impact on the character of the locality and the amenity of neighbouring residential properties. The environmental impacts on the social environment are reasonable and the application is supported.
Economic Impact	The proposal is not considered to result in unreasonable economic impact

## SITE SUITABILITY

43. Section 4.15 (c) the suitability of the site for the development. The site is zoned MU1 – Mixed Use. It is considered that the proposal will have no adverse impacts on the adjoining properties and the streetscape in its current form.

## SUBMISSIONS

44. Section 4.15 (d) any submissions made in accordance with this Act or the regulations. The application was advertised, and adjoining residents were notified by letter and given fourteen (14) days in which to view the plans and submit any comments on the proposal. One (1) submission was received during the neighbour notification period. The concerns raised within the submission is addressed below:

**Concern raised by objector:** “Since the updates have no detail of changes it’s impossible to add comment”

**Planning response:** The Statement of Environmental Effects was available for public view via the DA Tracker on the Council website. This document included all the details of changes to the approved development.

## INTERNAL REFERRALS

### Urban Design

45. The proposal was referred to Council’s Urban Design Officer who provided the following comments:

*“Following the review of the amended drawing (Issue J, dated 24-04-2024), Ausgrid offer letter and letter from Level 3 Engineer provided by Theo, I have no more concerns on the proposed amendments subject to following conditions:*

- 1. If any electrical infrastructure such as 400Amp distributor is required, it should be located in the basement to avoid compromising street activation*
- 2. If a substation kiosk is required in the future, it should be located in the basement to avoid compromising street activation*

3. *The depth of the service cupboard for the Cold Meter adjacent the driveway indicated as "G" on Drawing No. A-0700 Issue J dated 24-0-4-2024 should have a maximum depth / width of 700mm, which will result in an the increase in the width of the pedestrian building entry*
4. *Instead of a steel railing between the ramp and steps at the pedestrian building entrance, a maximum 800mm high x 150mm wide blade wall with signage should be incorporated*
5. *The Fire Hydrant & Hydrant Booster cupboard adjacent the pedestrian building entry on the Northeast façade (indicated as "G" on Drawing No. A-0700 Issue J dated 24-04-2024) should be realigned to be perpendicular to the street with maximum 2m frontage to the street*
6. *The public / private interface along Gray Street and Railway Parade should be seamless and devoid of any structures including steps/ramps except the columns identified on Drawing No. A-0700 Issue J dated 24-0-4-2024. Steps indicated along Gray Street on the North west Elevation (Drawing No.A-2000, dated 24-04-2024 Issue J) should be deleted.*
7. *Building entries should be clearly identifiable and the commercial and residential entries clearly distinguishable on the façade. Change in colours, materiality, landscaping or architectural details should be used to identify building entries. Details including materials and finishes should be submitted to Council prior to the submission of an application for a construction certificate.*

### **Planning Comment**

46. Conditions included in the modified consent.

### **Development Engineering**

47. The modification application was referred to Council's Development Engineer who provided the following comments:

*"After reviewing the above stated submitted stormwater plans, prepared by Civil & Stormwater Engineering Services P/L, I have no objection to support from the stormwater point of view the modification application subject to adding the following subclauses (f) and (g) under condition CC9.34 - Stormwater System – of the consent:*

*ADD (f) and (g) to condition Stormwater System*

*f) the consultant drainage engineer shall ensure to the PCA and show on plan that any surcharge flow from the OSD tank will run onto the street by providing a high point on the driveway.*

*g) the consultant drainage engineer shall ensure that any surcharge flow from the boundary pit shall run onto the street."*

### **Planning Comment**

48. Conditions included in the modified consent.

### **Building Surveyor**

49. The proposed modification application was referred to Council's Building Surveyor who provided the following comments:

*"On the basis that BCA compliance is being sought via a combination of compliance with deemed to satisfy and performance-based solutions that will need to be assessed at CC stage, have no objections in building terms.*

*There no additional building conditions required, all building conditions as listed in the attached original deferred consent are re-affirmed to be included into this modification."*



**Planning Comment**

50. BIC - 149D2024/0005 approved and issued on 3 April 2024.

**Senior Traffic Engineer**

51. The proposed modification application was referred to Council's Traffic Engineer who provided the following comments:

*"It is recommended MOD2022/0175 be approved with DA2018/0181 being amended to include the following conditions:*

*Parking provision - Car parking associated with the development shall be provided as follows:*

- (a) Residential dwellings: 61 spaces
- (b) Residential visitors: 8 spaces including 1 shared vehicle wash bay
- (c) Retail: 5 spaces

**Removal of waste and recyclables-** removal of waste and recyclables from the residential and retail components shall be carried out within the site at all times.

*The removal of waste and recyclables shall be carried out by a waste service contractor using a small rigid vehicle of suitable length and height that makes provision for it to enter the site in a forward direction, stand in the loading bay area to service the waste rooms and be turned within the site to exit in a forward direction.*

*In this regard, the following shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Occupation Certificate.*

- (i) Details of the waste removal vehicle accessing the loading bay
- (ii) Written documentation from the waste removal service operator/contractor confirming the truck to be used to service the waste rooms can enter the site in a forward direction, stand in the dedicated loading bay when emptying the various sized bins and then be turned to exit the site in a forward direction."

**Planning Comment**

52. Conditions included in the modified consent.

**CONTRIBUTIONS**

53. The development is subject to Section 7.11 Contributions which has been included in the original consent. The proposed modifications do not increase the cost of works.

**Planning Agreements**

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

**EP&A Regulation 2000**

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

**Suitability of the site for the development**

56. The site is zoned MU1 – Mixed Use. The proposal is a permissible form of development in this zone. The proposed changes do not affect the suitability of the site for the development, and do not impact the development potential of the adjoining allotments.

**Determination and Statement of Reasons  
Statement of Reasons**

57. The reasons for this recommendation are:

- The development is permissible in the MU1 - Mixed Use.
- The proposed development complies with the requirements of the relevant environmental planning instruments with the exception of 4.4B – Non-Residential Floor Area which did not apply at the time of the original approval.
- The proposed development complies with the objectives of the relevant environmental planning instruments where numeric compliance has not been achieved.
- The proposal provides a quality development that will establish a positive urban design outcome and the modifications maintain this particularly in regards street activation.

### Determination

58. Pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended), MOD2022/0175 modification of development consent DA2018/0181 for demolition of existing structure and construction of a twelve (12) storey mixed use development consisting of fifty-two (52) residential apartments, ground floor commercial/retail floor area and basement car parking. The proposed modifications include reduction in height, reduction in retail space, addition of services on the ground floor on land known as 172-174 Railway Parade, Kogarah, is recommended for approval.

## **SECTION B – DEVELOPMENT CONDITIONS**

### Development Details

1. **Fit-out of retail premises** - No approval is granted for the use or fit-out of the retail premises. Separate Development Consent for the use and fit-out is required prior to the occupation of the retail component of the development.

This condition is modified under MOD2022/0175.

2. **If a substation kiosk is required in the future, it should be located in the basement to avoid compromising street activation.**

This condition is modified under MOD2022/0175.

3. **Any required electrical infrastructure such as 400Amp distributor should be located in the basement to avoid compromising street activation.**

This condition is modified under MOD2022/0175.

4. **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	A-0200	18/10/19	D	Architecture & Building Works
Basement 3 Plan	A-0400	18/10/19 <b>24/04/2024</b>	<del>D</del> -J	Architecture & Building Works
Basement 2 Plan	A-0500	18/10/19 <b>24/04/2024</b>	<del>D</del> -J	Architecture & Building Works

Basement 1 Plan	A-0600	18/10/19 <b>24/04/2024</b>	<del>D</del> -J	Architecture & Building Works
Ground Floor	A-0700	18/10/19 <b>24/04/2024</b>	<del>D</del> -J	Architecture & Building Works
First Floor	A-0800	18/10/19 <b>24/04/2024</b>	<del>D</del> -J	Architecture & Building Works
Second Floor	A-0900	18/10/19 <b>24/04/2024</b>	<del>D</del> -J	Architecture & Building Works
Third Floor	A-1000	18/10/19 <b>24/04/2024</b>	<del>D</del> -J	Architecture & Building Works
Fourth Floor	A-1100	18/10/19 <b>24/04/2024</b>	<del>D</del> -J	Architecture & Building Works
Fifth Floor	A-1200	18/10/19 <b>24/04/2024</b>	<del>D</del> -J	Architecture & Building Works
Sixth Floor	A-1300	18/10/19 <b>24/04/2024</b>	<del>D</del> -J	Architecture & Building Works
Seventh Floor	A-1400	18/10/19 <b>24/04/2024</b>	<del>D</del> -J	Architecture & Building Works
Eighth Floor	A-1500	18/10/19 <b>24/04/2024</b>	<del>D</del> -J	Architecture & Building Works
Ninth Floor	A-1600	18/10/19 <b>24/04/2024</b>	<del>D</del> -J	Architecture & Building Works
Tenth Floor	A-1700	18/10/19 <b>24/04/2024</b>	<del>D</del> -J	Architecture & Building Works
Eleventh Floor	A-1800	18/10/19 <b>24/04/2024</b>	<del>D</del> -J	Architecture & Building Works
Roof Plan	A-1900	18/10/19 <b>24/04/2024</b>	<del>D</del> -J	Architecture & Building Works
Elevations	A-2000	18/10/19 <b>24/04/2024</b>	<del>D</del> -J	Architecture & Building Works
Elevations	A-2100	18/10/19 <b>03/05/2024</b>	<del>D</del> -J	Architecture & Building Works
Elevations	A-2200	18/10/19 <b>24/04/2024</b>	<del>D</del> -J	Architecture & Building Works
Elevations	A-2300	18/10/19 <b>24/04/2024</b>	<del>D</del> -J	Architecture & Building Works
Sections	A-2500, A-2510 and A-2520	18/10/19 <b>24/04/2024</b>	<del>D</del> -J	Architecture & Building Works
Adaptable Unit Details	A-4000	18/10/19	D	Architecture & Building Works
Material Sample	<del>A-0002</del> <b>A-2000</b>	18/10/19 24/04/2024	<del>D</del> J	<del>Architecture &amp; Building Works</del>
<b>3D View 1</b>	<b>A-0001</b>	<b>April 2024</b>		<b>Loucas Architects</b>
<b>3D View 2</b>	<b>A-0002</b>	<b>April 2024</b>		<b>Loucas Architects</b>
Construction Management Plan	A-4300	18/10/19	D	Architecture & Building Works
Landscape Plan	ISO243DA1 to ISO243DA5	6/2/18	A	Isthmus Landscape Design

Traffic, Rail and Environmental Noise Assessment	2017-726	21/12/17	-	Acoustic Noise and Vibration Solutions Pty Ltd
Detailed Site Investigation	18/0222	February 2018	-	STS GeoEnvironmental Pty Ltd
Geotechnical Investigation	18/0109	January 2018	-	STS GeoEnvironmental Pty Ltd
Dilapidation Report - Substation 1A Gray St Kogarah	121040	5/3/19	-	ACSES Engineers
Further Geotechnical Assessment	19/0570	8/3/19	-	STS GeoEnvironmental Pty Ltd
Electromagnetic Field Testing Pre-Development Report	EMF856724	20/3/19	-	Ecolibria
Shoring Report	121040.R02	26/7/19	-	ACSES Engineers
Shoring Sections	Sheets 1 to 7	Feb 2019	A	ACSES Engineers
Remediation Action Plan	E24464.E06.Rev0	18 November 2019		EIAustralia

**Documents relied upon:**

- BASIX No. 892771M\_03 prepared by Max Brightwell dated 21 September 2022.

**This condition is modified under MOD2022/0175.**

**Separate Approvals Required Under Other Legislation**

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

- Construct a 1.2 metre wide footpath for the full length of the frontage of the site in Railway Parade and Gray Street in accordance with Council's Specifications applying at the time construction approval is sought.
- The thickness and design of the driveway shall be in accordance with Council's Specifications applying at the time construction approval is sought.
- Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant. The work shall be carried out in accordance with

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

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

6. **Hoarding Application** - Prior to demolition of the buildings on the site or the commencement of work above ground level a separate application for the erection of an A class (fence type) or a B class hoarding or C type scaffold, in accordance with the requirements of Work Cover Authority of NSW, must be erected along that portion of the footway/road reserve, where the building is within 3.0 metres of the street boundary. An application for this work under Section 68 of the Local Government Act 1993 and the Roads Act 1993 must be submitted for approval to Council.

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

- (a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location;
- (b) Hoarding plan and details that are certified by an appropriately qualified engineer;
- (c) The payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges (available on our website) before the commencement of work;
- (d) A Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained a copy provided to Council. The Policy is to note Council as an interested party; and
- (e) The application must be endorsement by the Roads & Maritime Services (RMS) as the hoarding is located within 100m of an intersection with traffic lights. For assistance you should contact the DA unit at RMS and speak to Hans on 88492076. Or email [hans.pilly.mootanah@rms.nsw.gov.au](mailto:hans.pilly.mootanah@rms.nsw.gov.au) to obtain concurrence for the hoarding structure.

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

- a) That cable anchors will be stressed released when the building extends above ground level to the satisfaction of Council.
- b) The applicant has indemnified Council from all public liability claims arising from the proposed works, and provide adequate insurance cover to the satisfaction of council.
- c) Documentary evidence of such insurance cover to the value of \$20 million.
- d) The applicant must register a non-terminating bank guarantee in favour of Council for the amount of \$50,000.

The guarantee will be released when the cables are stress released. In this regard it will be necessary for a certificate to be submitted to Council from a structural engineer at that time verifying that the cables have been stress released.

- e) That in the event of any works taking place on Council's roadways/footways adjoining the property while the anchors are still stressed, all costs associated with overcoming the difficulties caused by the presence of the 'live' anchors will be borne by the applicant.

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

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

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

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

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

The relevant Application Forms for these activities can be downloaded from Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au). For further information, please contact Council's Customer Service Centre on (02) 9330 6400.

9. **Road Opening Permit** - A Road Opening Permit must be obtained from Council, in the case of local or regional roads, or from the RMS, in the case of State roads, for every opening of a public road reserve to access services including sewer, stormwater drains, water mains, gas mains, and telecommunications before the commencement of work in the road.

## Requirements of Concurrence, Integrated & Other Government Authorities

10. **Sydney Trains** -

- a) Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains for endorsement the following final items in compliance with relevant ASA Standards.  
(<https://www.transport.nsw.gov.au/industry/asset-standards-authority>):
1. Geotechnical and Structural report/drawings that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducted on the site closest to the rail corridor.
  2. Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.
  3. Cross sectional drawings showing the rail corridor, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail corridor. All measurements are to be verified by a Registered Surveyor.
- Any conditions issued as part of Sydney Trains approval/certification of the above documents will also form part of the consent conditions that the Applicant is required to comply with.
- b) The Applicant shall prepare an acoustic assessment demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines". The Applicant must incorporate in the development all the measures recommended in the report. A copy of the report is to be provided to the Principal Certifying Authority and Council prior to the issuing of a Construction Certificate. The Principal Certifying Authority must ensure that the recommendations of the acoustic assessment are incorporated in the construction drawings and documentation prior to the issuing of the relevant Construction Certificate.
- c) Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate. The Principal Certifying Authority must ensure that the recommendations of the electrolysis report are incorporated in the construction drawings and documentation prior to the issuing of the relevant Construction Certificate.
- d) The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare, reflectivity and illumination to the satisfaction of the light rail operator. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- e) Prior to the issuing of a Construction Certificate the Applicant must submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. If required by Sydney Trains, the Applicant must amend the plan showing all craneage and other aerial operations



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

- f) If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains Engineering & Maintenance Interface to determine the need for public liability insurance cover. If insurance cover is deemed necessary this insurance be for sum as determined by Sydney Trains and shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure and must be maintained for the duration specified by Sydney Trains. The Applicant is to contact Sydney Trains Engineering & Maintenance Interface to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.
- g) If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains Engineering & Maintenance Interface to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.
- h) The Applicant must ensure that at all times they have a representative (which has been notified to Sydney Trains in writing), who: oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Trains;
  - acts as the authorised representative of the Applicant; and
  - is available (or has a delegate notified in writing to Sydney Trains that is available) on a 7 day a week basis to liaise with the representative of Sydney Trains, as notified to the Applicant.
- i) Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Trains in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Trains in relation to the works.
- j) Where a condition of consent requires consultation with Sydney Trains, the Applicant shall forward all requests and/or documentation to the relevant Sydney Trains external party interface team. In this instance the relevant interface team is Illawarra Interface and they can be contacted via email on [Illawarra\\_Interface@transport.nsw.gov.au](mailto:Illawarra_Interface@transport.nsw.gov.au).
- k) Copies of any certificates, drawings, approvals/certification or documents endorsed by, given to or issued by Sydney Trains or RailCorp must be submitted to Council for its records prior to the issuing of the applicable Construction Certificate or Occupation Certificate.
- l) If required by Sydney Trains, prior to the commencement of works or at any time during the excavation and construction period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is

to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required within 10 days following the undertaking of the inspection, unless otherwise notified by Sydney Trains.

- m) If required by Sydney Trains, prior to the issue of the Occupation Certificate, or at any time during the excavation and construction period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The Principal Certifying Authority is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied
- n) Sydney Trains or Transport for NSW (TfNSW), and persons authorised by those entities for the purpose of this condition, must be permitted to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being constructed and maintained in accordance with the approved plans and the requirements of this consent, on giving reasonable notice to the principal contractor for the development or the owner or occupier of the part of the site to which access is sought.
- o) Any conditions issued as part of Sydney Trains approval/certification of any documentation for compliance with the Sydney Trains conditions of consent, those approval/certification conditions will also form part of the consent conditions that the Applicant is required to comply with.

- 11. **Trade Waste Agreements** - A Trade Waste Agreement with Sydney Water may be required. Details of any work required to comply with the agreement must be detailed on the plans lodged with the Construction Certificate. If no trade waste agreement or grease trap is required, a letter from Sydney Water to this effect must be submitted with the application for the Construction Certificate.
- 12. **Electricity Supply** - An application is required to be made to Ausgrid **to the existing substation located at 1A Gray Street** for a network connection. This may require the network to be extended or its capacity augmented. Evidence of this application being lodged with Ausgrid and approved is required to be provided to the Certifying Authority prior to the issue of an **amended** Construction Certificate and prior to release of any occupation certificate. For further details, you are advised to contact Ausgrid on 13 13 65 or [www.ausgrid.com.au](http://www.ausgrid.com.au) (Business and Commercial Services).

**This condition is amended under MOD2022/0175.**

- 13. **Connection to the network will be required prior to the release of any Occupation Certificate** - Where works within the road reserve are to be carried out by the developer, a Road Opening Permit must be obtained from Council's Customer Service Centre before commencement of work.
- 14. **Electricity Supply to Development** - The electricity supply to the Development must be underground including power lines within the road reserve adjacent to the site.
- 15. **Geotechnical Report** - Prior to the issue of a Construction Certificate the Applicant shall

provide Sydney Trains with a Geotechnical Report and structural drawings/report. These reports shall provide confirmation that there will be no negative impact on Sydney Trains infrastructure and land. Written confirmation shall be provided from Sydney Trains to the Certifying Authority confirming this condition has been satisfied.

16. **Sydney Water - Tap in™** - The approved plans must be submitted to a Sydney Water Tap in™ to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then see 'Building', or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap in™ agent has appropriately stamped the plans prior to the issue of the Construction Certificate.
17. **Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements of what will eventually be required when issuing a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the 'Plumbing, building and developing' section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to 'Providers' under 'Developing' or telephone 13 20 92 for assistance.

Following application, a 'Notice of Requirements' will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, as it can take some time to build water/sewer pipes and this may impact on other services and building, driveway or landscape design.

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

18. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the PCA prior to the issue of the Occupation/Subdivision Certificate.

#### **Prior to the Issue of a Construction Certificate**

19. **Pre-Construction Dilapidation Report - Private Land** - A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises that shall be affected by the excavation as determined by the consulting engineer.

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

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

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

- 20. Railway Noise** - The site is affected by noise from the Eastern Suburbs Illawarra railway corridor. An Acoustic Report prepared by a suitably qualified acoustic consultant shall be submitted, prior to the issue of the Construction Certificate, demonstrating that the development has been designed to meet the internal noise and vibration levels specified in NSW Department of Planning 'Development Near Rail Corridors and Busy Roads - Interim Guidelines' and Clause 87 of State Environmental Planning Policy (Infrastructure) 2007.
- 21. On Site Detention** - The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.

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

- a) peak flow rates from the site are to be restricted to a permissible site discharge (PSD) equivalent to the discharge when assuming the site contained a single dwelling, garage, lawn and garden,
- b) at Annual Recurrence Intervals of 2 years and 100 years.

Refer to Flow Controls in Council's Draft/Adopted Stormwater Drainage Policy.

The OSD facility shall be designed to meet all legislated safety requirements and childproof safety fencing around the facility must be provided where the OSD facility is open or above ground when the design peak storage depth is greater than 300mm. A durable metal plate or similar sign is to be placed at the OSD facility and must bear the words:

"BEWARE: This is an on-site detention basin/tank for rainwater which could overflow during heavy storms."

Full details shall accompany the application for the Construction Certificate.

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

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

**23. Driveway Construction Plan Details** - Detailed engineering plans for the driveway shall be submitted with the Construction Certificate application for approval that show:

- a) Longitudinal and cross sections, gradients, access onto the proposed lots, type of construction materials designed in accordance with Council's Subdivision standards and AS/NZS2890.1-2004.
- b) The Loading Bay is compliant with AS2890.1-2004 for the use at a minimum of Small Rigid Vehicles
- c) Suitable underground provision for the supply of all relevant services to the proposed lots (proposed position of pipes and conduits).
- d) The full length of the driveway designed with a minimum 150mm thick reinforced concrete and minimum of 2.7m wide pavement/kerb face to kerb face width, and a non-slip surface.

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

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

**25. Fire Safety Measures** - Prior to the issue of a construction certificate a list of the essential fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a construction certificate, which is required to be submitted to either Council or a PCA. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or PCA will then issue a Fire Safety Schedule for the building.

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

- a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$68,122.14**
- b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: **\$371.00**
- c) Submit to Council, before the commencement of work, a dilapidation report of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

At the completion of work Council will review the dilapidation report and the Works-As-Executed Drawings (if applicable) and inspect the public works.

The damage deposit will be refunded in full upon completion of work where no damage occurs and where Council is satisfied with the completion of works. Alternatively, the damage deposit will be forfeited or partly refunded based on the damage incurred.

27. **Engineer's Certificate** - A certificate from a professional Engineer specialising in structural engineering certifying the structural adequacy of the existing structure, to support all proposed additional superimposed loads shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

28. **Access for Persons with a Disability** - Access for persons with disabilities must be provided throughout the site, including to all common rooms, lobby/terrace areas and sanitary facilities in accordance with the requirements of the Premises Standards, the Building Code of Australia and AS 1428.1. Details of which must be submitted with the Construction Certificate Application.

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

29. **Geotechnical report** - The applicant must submit a Geotechnical Report, prepared by a suitably qualified Geotechnical Engineer who holds the relevant Certificate of accreditation as required under the Building Professionals Act 2005 in relation to dilapidation reports, all site works and construction.

This is to be submitted **before the issue of the Construction Certificate** and is to include:

- (a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks/stabilization works and any excavations.
- (b) Dilapidation Reports on the adjoining properties prior to any excavation of site works. The Dilapidation Report is to include assessments on, but not limited to, the dwellings at those addresses and any external paths, grounds etc. This must be submitted to the Certifying Authority and the adjoining residents as part of the application for the Construction Certificate. Adjoining residents are to be provided with the report five (5) working days prior to any works on the site.
- (c) On-site guidance by a vibration specialist during the early part of excavation.
- (d) Rock breaking techniques. Rock excavation is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures.
- (e) Sides of the excavation are to be pierced prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.

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

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

31. **Slip Resistance** - All pedestrian surfaces in areas such as foyers, public corridors/hallways, stairs and ramps as well as floor surfaces in the wet rooms in any residential units must have slip resistance classifications, as determined using test methods in either wet or dry conditions, appropriate to their gradient and exposure to wetting. The classifications of the new pedestrian surface materials, in wet or dry conditions, must comply with AS/NZS4586:2004 - Slip Resistance Classifications of New Pedestrian Materials and must be detailed on the plans lodged with the application for the Construction Certificate

32. **Heritage Archaeology**

As required by the *National Parks and Wildlife Service Act 1974* and the *Heritage Act 1977*, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and the Heritage Division of the Office of Environment and Heritage (OEH) must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the *Heritage Act 1977* to obtain the necessary approvals/permits from the Heritage Division of the OEH.

**Note:** The *National Parks and Wildlife Service Act 1974* and the *Heritage Act 1977* impose substantial penalty infringements and / or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

**Photographic Archival Recording**

Prior to the commencement of any works, including the dismantling of fabric or demolition, a Photographic Archival Recording shall be undertaken of the building at 172 Railway Parade, Kogarah, and submitted to Council.

Written confirmation must also be obtained from Council's Heritage Advisor, confirming that the Photographic Archival Recording is of an acceptable quality that satisfies the requirements of this condition.

The Photographic Archival Recording shall be prepared in accordance with the guidelines "*Archival Recording of Heritage Items Using Film or Digital Capture*" published by the Heritage Division of the Office of Environment and Heritage.

Two complete copies of the Photographic Archival Recording shall be submitted to Council. Each copy should contain (for digital projects):

- A brief report or introduction which explains the purposes of the Photographic Archival Recording and gives a brief description of the subject site, as well as details of the



sequence in which images were taken. The report may also address the limitations of the photographic record and may make recommendations for future work;

- Plans of the building marked up to indicate where the photographs were taken and the direction of the photograph;
- The report should include all technical details including camera and lenses, image file size and format, technical metadata associated with the images, and colour information;
- Catalogue sheets, photographic plan, supplementary maps;
- Colour thumbnail image sheets (e.g. A4 page with six images by six images) showing images and reference numbers. The thumbnail sheets should be processed with archivally stable inks on archivally acceptable photographic paper and cross referenced to catalogue sheets;
- One full set of 10.5x14.8cm (A6) colour prints OR, if a large project, a representative set of selected images processed with archivally stable inks on archivally acceptable photographic paper.
- A CD or DVD containing electronic image files saved as RAW files with associated metadata, and cross-referenced to catalogue sheets.

The report should be presented on archival quality paper in a suitable archival binder and slipcase, and all storage of individual components must be in archival quality packaging suitable for long term storage.

**33. Construction Traffic Management Plan** - A Construction Traffic Management Plan detailing:

- (a) construction vehicle routes;
- (b) anticipated number of trucks per day;
- (c) hours of construction;
- (d) Access arrangements; and
- (e) Proposed traffic measures to minimise impacts of construction vehicles

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

**34. Acoustic Requirements - Compliance with submitted Acoustic Report** - The Construction Certificate plans shall demonstrate compliance with the Acoustic Assessment submitted to Council, titled *"Acoustic Report - Traffic & Environmental Noise Assessment - For proposed development at No. 172-174 Railway Parade Kogarah. Prepared By: ACOUSTIC NOISE & VIBRATION SOLUTIONS Pty Ltd Reference No.: 2017-726"*

This means that a review of glazing design and mechanical plant must be undertaken to ensure that acoustic objectives will be met. Written verification from a suitably qualified acoustic consultant must be submitted to Council validating that the acoustic objectives

contained within the aforementioned report will be met, must be submitted to Council for approval. The Construction Certificate will not be issued until Council approves this validation.

35. **SEPP 65 Design Verification Statement** - A design verification statement, prepared by a qualified designer, shall be submitted to the Certifying Authority verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out under Schedule 1 of State Environmental Planning Policy No 65 -Design Quality of Residential Flat Development.
36. **Electromagnetic Assessment** - The Construction Certificate plans shall demonstrate compliance with the recommendations of the Electromagnetic Assessment submitted to Council, titled "*Electromagnetic Field Testing Pre-Development Report Prepared for Architecture & Building Works Site Assessed - 172-174 Railway Parade, Kogarah, NSW. Report Date: Wednesday 20th March 2019 Report Number: EMF856724*" depicting that Units 1.05, 2.05 and 3.05 be configured so that a bed is not placed within four (4) meters of the substation (located at 1A Gray St Kogarah NSW 2217 Lot 12 DP 911188) wall AND that retail location 1 is configured so that the Gray Street boundary is used for display or storage and not as a location where people spend extended periods of time.
37. **Waste Storage - Residential and Mixed Use Developments** - The plans shall include details of the waste storage area. The waste storage area shall not be visible from the street. The waste storage area shall be located within the lot/building in accordance with the approved plans.

The waste storage area shall be large enough to accommodate the required number of bins for the development and located in an area to suitably facilitate servicing on waste collection day.

The path to the bin room is to be at least 1.0 metres wide and kept clear and unobstructed at all times.

### **Residential Waste**

The development will require the provision of the following waste and recycling facilities:

- (a) Domestic Waste - 3 x 1100 litre mobile bins.
- (b) Domestic Recycling - 19 x 240 litre mobile bins.

### **Commercial Waste**

For the Commercial portion of the building appropriate waste and recycling containers and facilities will need to be provided for all specific end use businesses in accordance with the following waste generation rates:

- (a) Retail Trading - shops, to 100 square metres - 0.1-0.2 cubic metres per 100 square metres of floor area per day;
- (b) Restaurants and Food Shops - 0.3-0.6 square metres per 100 meals, plus up to 0.15 cubic metres of beverage containers per 100 meals; and,
- (c) Office - 0.01-0.03 cubic metres per 100 square metres of floor area per day.

**38. Design Quality Excellence (Major Development) -**

- (a) In order to ensure the design quality excellence of the development is retained:
- i. The design architect is to have direct involvement in the design documentation, contract documentation and construct stages of the project;
  - ii. The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of the design issues throughout the life of the project;
  - iii. Evidence of the design architect's commission is to be provided to the Council prior to release of the Construction Certificate.
- (b) The design architect of the project is not to be changed without prior notice and approval of the Council.

**39. Waste Handling Systems** - All waste handling equipment and systems used in conjunction with the provision of waste and recycling services shall be manufactured, installed and maintained in accordance with any applicable regulatory requirements, relevant Australian Standards, and relevant manufacturer's specifications.

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

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

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

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

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

Fee Type	Fee
<b>GENERAL FEES</b>	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See <a href="https://portal.longservice.nsw.gov.au/bci/levy/">https://portal.longservice.nsw.gov.au/bci/levy/</a>	
Builders Damage Deposit	\$68,122.14
Inspection Fee for Refund of Damage Deposit	\$371.00
<b>DEVELOPMENT CONTRIBUTIONS</b>	
Kogarah Section 94 Development Contributions Plan No.8 - Kogarah Town Centre - Streetscape, Open Space & Public Domain	\$884,856.96
Kogarah Section 94 Development Contributions Plan No.8 - Kogarah Town Centre - Traffic Facilities	\$20,616.81
Kogarah Section 94 Development Contributions Plan No.8 - Kogarah Town Centre - Community Facilities	\$15,730.22

Kogarah Section 94 Development Contributions Plan No.9 - Kogarah Libraries - Buildings	\$14,660.94
Kogarah Section 94 Development Contributions Plan No.9 - Kogarah Libraries - Books	\$10,453.19

### General Fees

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

### Development Contributions

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

### Indexation

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

### Timing of Payment

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

### Further Information

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

#### 41. **Site Management Plan - Major Development** - A Site Management Plan must be submitted with the application for a Construction Certificate, and include the following:

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

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

available upon request.

42. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 892771M\_0203 must be implemented on the plans lodged with the application for the Construction Certificate.

**This condition is amended under MOD2022/0175.**

43. **Required design changes** - The following changes are required to be made and shown on the Construction Certificate plans:

- a. The Landscape Plans are to be updated to reflect the approved architectural plans.
- b. Five (5) street trees of species to be determined in consultation with council shall be provided in the road reserve, generally in accordance with the Public Domain Strategy and Technical Manual for Kogarah Town Centre.
- c. The stormwater concept plans shall be revised satisfying the following and shown on the Construction Certificate plans:
  - Details of the Bioretention Basin that was shown on the architectural ground floor plan.
  - Please note that all new commercial and industrial developments should incorporate water efficiency measures, and where possible should aim to harvest and reuse rainwater. It is recommended that at least 5 cubic meter of rainwater tank shall be designed and installed. When a rainwater tank is used on the property and is connected to supply toilet flushing and laundry demands, 1/3 of the provided storage volume can be used to offset the required volume for OSD.
  - The provided OSD storage volume in the stormwater concept plan is acceptable. However, Stormwater Management Report (Stormwater Calculator) shall be revised showing the impervious area percentage on the table.
- d. Submission to the satisfaction of Georges River Council of a public domain plan generally in accordance with the Public Domain Strategy and Technical Manual for Kogarah Town Centre.
- e. The width of the residential pedestrian entry off Gray Street should be minimum 4.8m clear (excluding the letter boxes), achieved by reducing the width of the service cupboard for the cold-water meter adjacent the driveway indicated as "G" on Drawing No. A-0700 Issue J dated 24-0-4-2024. Instead of a steel railing between the ramp and steps at the pedestrian building entrance, a maximum 800mm high x 150mm wide blade wall with signage should be incorporated.
- f. The Fire Hydrant & Hydrant Booster cupboard adjacent the pedestrian building entry on the Northeast façade (indicated as "G" on Drawing No. A-0700 Issue J dated 24-04-2024) should be realigned to be perpendicular to the street with maximum 2m frontage to the street.
- g. The public / private interface along Gray Street and Railway Parade should be seamless and devoid of any structures including steps/ramps except the columns identified on Drawing No. A-0700 Issue J dated 24-0-4-2024. Steps indicated along Gray Street on the North west Elevation (Drawing No. A-2000, dated 24-04-2024).

Issue J) should be deleted

- h. Building entries should be clearly identifiable and the commercial and residential entries clearly distinguishable on the façade. Change in colours, materiality, landscaping or architectural details should be used to identify building entries. Details including materials and finishes should be submitted to Council Manager Development and Building for approval prior to the submission of an application for a construction certificate.
- i. Amended landscape plans must be submitted to Council for approval by Manager Development and Building, which include landscaping on all 3 levels of the podium especially at the corner of Railway Parade and Gray Street along the entire curved of the balcony. The development must be finished, and thereafter maintained, in accordance with the approved landscape plans."

**This condition has been amended MOD2022/0175.**

**44. 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.

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

- (a) All stormwater shall drain by gravity to Council's drainage line directly in front of the development site in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
- (b) Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineer who specialises in Hydraulic Engineering in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (2005 or 2016) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.
- (c) The underground basement car park must pump to and all other stormwater must drain by gravity to the OSD system.
- (d) The construction of the building and driveway shall be designed to protect the underground basement from possible inundation by surface waters. The crest of the driveway shall be set least 150 mm above the top of the kerb levels.
- (e) The sub soil drainage for the below ground structures including basement car parks shall be designed in accordance with the findings and recommendations in the geotechnical report. The geotechnical report should assess any possible impact of the proposed development upon existing ground water table and surrounding land and buildings. Should the results of the report indicate that the site is likely to experience issues associated with groundwater management, a fully-tanked dry basement with no sub soil drainage collection or disposal and an allowance made for any hydrostatic pressures.
- (f) *the consultant drainage engineer shall ensure to the PCA and show on plan that any surcharge flow from the OSD tank will run onto the street by providing a high point on the driveway.*
- (g) *the consultant drainage engineer shall ensure that any surcharge flow from the boundary pit shall run onto the street.*

**This condition is amended under MOD2022/0175.**

- 46. Stormwater Drainage Plan Details** - Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineering specialising in hydraulic engineering shall be submitted with the Construction Certificate application.  
These plans shall be prepared in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (2005 or 2016) and Council's Water Management Policy (Kogarah Council), August 2006.
- 47. Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns and other structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works.  
A copy shall be forwarded to Council where Council is not the PCA.
- 48. Traffic Management - Compliance with AS2890** - All driveways, access ramps, vehicular crossings and car parking spaces shall be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities) and AS 2890.2 (for commercial vehicle facilities).
- 49. 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.

- 50. Landscape Plans** - All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by Isthmus Landscape Design, reference numbers - ISO243 - DA1 - DA5. The landscaping shall be maintained in accordance with the approved plans in perpetuity.

### **General Landscape Requirements**

- a) The proposed tree and plant species, pot/ bag size and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan. If plant species, pot/ bag size and quantities cannot be sourced, Council shall be contacted for alternatives.
- b) The eight (8) trees proposed upon the approved landscape plan shall comply with NATSPEC Specifying Trees: a guide to assessment of tree quality (2003), and be planted and maintained in accordance with Council's standard specification.

- 51. Allocation of street addresses** - In order to comply with AS/NZS 4819:2011 Rural and Urban Addressing & the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements, the street addresses for the subject development must be allocated as follows:

### **Street Address for Shops**

- 172 Railway Parade KOGARAH NSW 2217

### **Street Address for Residential Units**

- 1B Gray Street KOGARAH NSW 2217

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

### **Prior to the Commencement of Work**

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

The report must include the following:

- (a) Photographs showing the existing condition of the road pavement fronting the site,
- (b) Photographs showing the existing condition of the kerb and gutter fronting the site,
- (c) Photographs showing the existing condition of the footpath pavement fronting the site,
- (d) Photographs showing the existing condition of any retaining walls within the footway or road, and
- (e) The full name and signature of the structural engineer.

The Dilapidation Report must be prepared by a professional engineer. The report must be provided to the 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.

- 53. ~~Site Audit Report and Site Audit Statement~~** — After completion of all Remediation works, a Site Audit Report and Site Audit Statement are to be submitted to Council. These documents must clearly state that the site is suitable for the proposed use.

~~Note: The Applicant must comply with clauses 17 'Guidelines and notices: all remediation work' and clause 18 'Notice of completion of remediation work' under State Environmental Planning Policy No.55 Remediation of Land.~~

~~Note: Words and expressions used in these conditions have the same meaning as in the Contaminated Land Management Act 1997.~~

**This condition has been moved to 93A as part of MOD2021/0178 (DA2018/0181)**

- 54. Structural Engineers Details - Supporting excavations and adjoining land** - Prior to the commencement of work in connection with the excavation of the site associated with the basement car park, structural engineer's details relating to the method of supporting the excavation must be submitted.

- 55. ~~Site contamination – Additional information~~** — Any new information that comes to light during ~~excavation~~ (after demolition of the onsite structures and the conclusion of the detailed site investigation) which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.

~~The following steps must then be taken before any further works proceed onsite:~~

~~A further detailed investigation of the site should then be prepared by a suitably qualified contaminated land consultant and submitted to Council.~~

~~This report must consider whether the land is contaminated, and~~

- ~~• 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~~
- ~~• 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.~~

### **Remedial Action Plan (RAP)**

~~The Remedial Action Plan (RAP) must be prepared by an suitably qualified consultant in accordance with NSW Department of Environment and Conservation (DEC) and NSW Environmental Protection Authority (EPA) Guidelines and shall document all the remedial works to be undertaken at the site and also contain an environmental management plan and occupational health and safety plan for the remedial works.~~

### **Remediation Works**

~~All remediation work must be carried out in accordance with:—~~

- the Managing Land Contamination: Planning Guidelines SEPP 55 Remediation of Land; and,
- the EPA Guidelines made under the Contaminated Land Management Act 1997;
- and in accordance with the Remedial Action Plan prepared by EIAustralia dated 18 November 2019.

### Validation Report

After completion of all Remediation works, a copy of the Validation and Monitoring Report prepared by suitably qualified contaminated land consultant shall be submitted to Council. The Construction Certificate shall not be issued until Council approves this Report. The validation report shall be prepared in accordance with the Office Environment and Heritage Guidelines, *Consultants Reporting on Contaminated Sites*, and shall certify the suitability of the site for the proposed development.

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

**This condition has been moved to 93B as part of MOD2021/0178 (DA2018/0181)**

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

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

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

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

- 57. 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.

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

**59. Dial before your dig** - The applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from "Dial Before You Dig" shall be forwarded to the Principal Certifying Authority (PCA) and Council for their records.

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

- a) Set out before commencing excavation.
- b) Floor slabs or foundation wall, before formwork or commencing brickwork.
- c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
- d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.
- e) Completion of any Pool Formwork - Before concreting of pool shell, detailing the location of the pool relative to the adjacent boundaries and its height relative to the datum shown on the approved plans.
- f) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback

from boundaries.

- g) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

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

- 61. **Utility Arrangements** - Arrangements are to be made with utility authorities in respect to the services supplied by those authorities to the development. The cost associated with the provision or adjustment of services within the road and footway areas is to be at the applicant's expense including the required undergrounding of powerlines in the public domain adjacent to the site.
- 62. **Railway Parade Frontage** - All existing overhead power lines within or adjacent to the development site shall be relocated underground to the utility providers standards and specifications. If not practicable to relocate the power line underground, arrangements shall be made with the utility provider to place the conduit to carry those power lines underground so that they can be utilised at a later date by the utility provider. In this regard all associated costs shall be borne by the applicant.
- 63. **NBN Connection** - Prior to the issue of the Subdivision or Construction Certificate in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:
  - (i) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
  - (ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.
  - (iii) (Note real estate development project has the meanings given in section 372Q of the Telecommunications Act).
- 64. **Electricity Supply Development** - The electricity supply to the Development must be underground.

### During Construction

- 65. **Physical connection of Stormwater to site** - No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to Council's public drainage system.

### Utility Services

The applicant shall undertake and bear all costs associated with the liaison, approval and relocation of any utility services. All correspondence and approvals between the Applicant

and utility authorities shall be provided to the Council in conjunction with engineering documentation for the stormwater drainage works.

### **Drainage Works**

Construction inspections shall be required by Council's Asset Engineer for the Council stormwater drainage and connection works on public roads at the following hold points: -

- Upon excavation of trenches shown on the approved drainage drawings.
- Upon installation of pipes and other drainage structures.
- Upon backfilling of excavated areas and prior to the construction of the final pavement surface.

An inspection fee is applicable for each visit, and at least 24 hours' notice will be required for the inspections.

66. **Structural Certificate During Construction** - The proposed building must be constructed in accordance with details designed and certified by the practising qualified structural engineer. All structural works associated with the foundations, piers, footings and slabs for the proposed building must be inspected and structurally certified for compliance by an independent practising geotechnical and structural engineer. In addition a Compliance or Structural Certificate, to the effect that the building works have been carried in accordance with the structural design, must be submitted to the Principal Certifying Authority at each stage of Construction or prior issue of the Occupation Certificate.
67. **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.
68. **Hours of construction for demolition and building work** - Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Saturday inclusive. No work or ancillary activity is permitted on Sundays, or Public Holidays.

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

69. **Cost of work to be borne by the applicant** - The applicant shall bear the cost of all works associated with the construction of the development that occurs on Council property. Care must be taken to protect Council's roads, including the made footway, kerbs, etc., and, where plant and vehicles enter the site, the footway shall be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction shall be maintained in a state of good repair and condition throughout the course of construction.
70. **Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other

matter is not permitted unless separately approved by Council under Section 138 of the Roads Act 1993 and/or under Section 68 of the Local Government Act 1993. Penalty infringement Notices may be issued for any offences and severe penalties apply.

- 71. Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt.  
Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the PCA and Council, where Council is not the Principal Certifying Authority.

**69A. Contaminated Land – Contaminants found during demolition or construction**

Any new information that identified during demolition, excavation, construction or remediation which has the potential to alter previous conclusions about site contamination and remediation, must be notified to the Principal Certifying Authority (and Council if Council is not the principal certifying authority) immediately.

All works must case and a qualified Land Contamination Consultant, certified under the consultant certification schemes recognised by the NSW EPA, is engaged to assess and provide documentation on the management of the contamination in accordance with any relevant NSW EPA adopted guidelines.

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

**This condition has been added as part of MOD2021/0178 (DA2018/0181)**

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

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

**70A Parking Provision – Car parking associated with the development shall be provided as follows:**

- (a) Residential dwellings = 61 spaces.
- (b) Residential visitors = 8 spaces including 1 shared vehicle wash bay
- (c) Retail = 5 spaces

**This condition has been added under MOD2022/0175.**

- 70B Removal of waste and recyclables- removal of waste and recyclables from the residential and retail components shall be carried out within the site at all times.**

***The removal of waste and recyclables shall be carried out by a waste service contractor using a small rigid vehicle of suitable length and height that makes provision for it to enter the site in a forward direction, stand in the loading bay area to service the waste rooms and be turned within the site to exit in a forward direction.***

***In this regard, the following shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Occupation Certificate.***

- (a)** *Details of the waste removal vehicle accessing the loading bay*
- (b)** *Written documentation from the waste removal service operator/contractor confirming the truck to be used to service the waste rooms can enter the site in a forward direction, stand in the dedicated loading bay when emptying the various sized bins and then be turned to exit the site in a forward direction.*

**This condition has been added under MOD2022/0175.**

- 73. Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the PCA prior to the issue of the Occupation/Subdivision Certificate.
- 74. Connection to the network will be required prior to the release of any Occupation Certificate** - Where works within the road reserve are to be carried out by the developer, a Road Opening Permit must be obtained from Council's Customer Service Centre before commencement of work.
- 75. SEPP 65 Design Verification Statement** - The PCA must not issue an Occupation Certificate to authorise a person to commence occupation of the residential flat development unless the PCA has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No 65 Design Quality of Residential Flat Development.
- 76. Restriction to User and Positive Covenant for On-Site Detention Facility** - A Restriction on Use of the Land and Positive Covenant shall be created and registered on the title of the property, which places the responsibility for the maintenance of the on-site stormwater management system on the owners of the land. The terms of the instrument are to be in accordance with Council's standard terms and restrictions which are as follows;

#### **Restrictions on Use of Land**

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

Name of Authority having the power to release, vary or modify the Restriction referred to



is Georges River Council.

### Positive Covenants

1. *The registered proprietor of the lot(s) hereby burdened will in respect of the system:*
  - a) *keep the system clean and free from silt, rubbish and debris*
  - b) *maintain and repair at the sole expense of the registered proprietors the whole of the system so that it functions in a safe and efficient manner*
  - c) *permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land for the compliance with the requirements of this covenant*
  - d) *comply with the terms of any written notice issued by the Council in respect of the requirements of this covenant within the time stated in the notice.*
2. *Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council shall have the following additional powers:*
  - a) *in the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above the Council or its authorised agents may enter the land with all necessary materials and equipment and carry out any work which the Council in its discretion considers reasonable to comply with the said notice referred to in part 1(d) above*
  - b) *the Council may recover from the registered proprietor in a Court of competent jurisdiction:*
    - i. *any expense reasonably incurred by it in exercising its powers under subparagraph (i) hereof. Such expense shall include reasonable wages for the Council's employees engaged in effecting the work referred to in (i) above, supervising and administering the said work together with costs, reasonably estimated by the Council, for the use of materials, machinery, tools and equipment in conjunction with the said work.*
    - ii. *legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to section 88F of the Act or providing any certificate required pursuant to section 88G of the Act or obtaining any injunction pursuant to section 88H of the Act. Name of Authority having the power to release vary or modify the Positive Covenant referred to is Georges River Council.*

**77. Maintenance Schedule - On-site Stormwater Management** - A Maintenance Schedule for the proposed on-site stormwater management measures is to be prepared and submitted to Council. The Maintenance Schedule shall outline the required maintenance works, how and when these will be done and who will be carrying out these maintenance works.

**78. Works as Executed and Certification of Stormwater works** - Prior to the issue of an Occupation Certificate, the PCA must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards. A works-as-executed drainage plan and certification must be forwarded to the

PCA and Council, from a professional engineer specialising in hydraulic engineering.

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

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

- (a) The location of any detention basin/s with finished surface levels;
- (b) Volume of storage available in any detention areas;
- (c) The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes;
- (d) The orifice size/s.

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

- a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- b) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete shall be submitted to the PCA prior to the issue of the Occupation Certificate.

**80. Vehicular crossing & Frontage work - Major development** - The following road frontage works shall be constructed in accordance with Council's Specification for Vehicular Crossings and Associated Works together with the Vehicular Crossing Approval issued by Council's Engineering Services Division:

- (a) Construct footpath for the full length of the frontage of the site in accordance with Council's Specifications for footpaths.
- (b) Construct the vehicular crossing in accordance with Council's Specifications for vehicular crossings.
- (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in accordance with Council's Specifications for kerb and guttering.
- (d) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant and in accordance with Council's Specification for Vehicular Crossings and Associated Works.

The above works shall be carried out at the expense of the applicant and in accordance with Council's Specification for Vehicular Crossings and Associated Works.

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

**81. Completion of Major Works** - Prior to the issue of a Final Occupation Certificate, the following works must be completed at the applicant's expense to the satisfaction of Council's Engineering Services section Reference generally in accordance with public domain plan:

- (a) Driveways and vehicular crossings within the road related area;
- (b) Removal of redundant driveways and vehicular crossings;
- (c) New footpaths within the road related area;
- (d) Relocation of any existing above ground utility services
- (e) Relocation/provision of street signs
- (f) New or replacement street trees;
- (g) New footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street.
- (h) New or reinstated kerb and guttering within the road related area; and
- (i) New or reinstated road surface pavement within the road.

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

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

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

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

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

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

- (a) Compliance with conditions of development consent relating to stormwater;
- (b) The structural adequacy of the On-Site Detention system (OSD);
- (c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations; and

(d) Pipe inverts levels and surface levels to Australian Height Datum.

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

- (a) That the measure has been assessed by a person (chosen by the owner of the building) who is properly qualified to do so.
- (b) That as at the date of the assessment the measure was found to be capable of functioning at a standard not less than that required at the time of the issuance of the Development Occupation Certificate.

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

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

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

**88. Acoustic Certification** - Prior to the issue of any Occupation Certificate, a suitably qualified acoustic consultant shall certify that the operation of the premises and plant equipment shall not give rise to a sound pressure level at any affected premises that exceeds the acoustic criteria established by the Acoustic Report required by a condition of this consent. The development shall at all times comply with these noise levels post occupation.

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

**90. Acoustic Compliance** - Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the construction has incorporated the recommendations in the DA Acoustic Report titled "*Acoustic Report - Traffic & Environmental Noise Assessment - For proposed development at No. 172-174 Railway Parade Kogarah. Prepared By: ACOUSTIC NOISE & VIBRATION*".

*SOLUTIONS P/L Reference No.: 2017-726".*

- 91. Noise from roof top mechanical plant and equipment** - CBD Only - Noise from the operation of rooftop mechanical, equipment, ancillary fittings, machinery, mechanical ventilation system and / or refrigeration systems must not exceed background noise when measured at the nearest lot boundary of the site. Where noise sensitive receivers are located within the site, noise from the operation of mechanical plant and equipment must not exceed background noise when measured at the nearest strata, stratum or community title boundary.

A professional acoustic engineer shall be engaged to certify that the design and construction of the all sound producing plants and equipment associated with the building complies with the above requirements. Certification shall be submitted to the PCA prior to the issue of any Occupation Certificate.

- 92. Electricity Supply** - Evidence shall be provided demonstrating that the development has been connected to the Ausgrid, if required, and provided underground.
- 93. BASIX Compliance Certificate** - A Compliance Certificate must be provided to the PCA regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any Occupation Certificate is issued.
- 94. Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate in accordance with approved landscape plans and specifications, drawn by Isthmus Landscape Design, reference numbers - ISO243 - DA1 - DA5. The landscaping shall be maintained in accordance with the approved plans in perpetuity.

**General Landscape Requirements**

- a) The proposed tree and plant species, pot/ bag size and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan. If plant species, pot/ bag size and quantities cannot be sourced, Council shall be contacted for alternatives.
- b) The eight (8) trees proposed upon the approved landscape plan shall comply with NATSPEC Specifying Trees: a guide to assessment of tree quality (2003), and be planted and maintained in accordance with Councils standard specification.

**Street Tree Removal / Replacement by Council –**

- (a) Five (5) street trees of species to be determined in consultation with council shall be provided in the road reserve, in accordance with the Public Domain Strategy and Technical Manual for Kogarah Town Centre.
- (b) Council shall be appointed to remove and plant all tree/s on public land. All costs associated with the removal of the tree/s and the planting of replacement trees shall be met by the applicant. Fees and charges outlined in the table below are subject to change and are set out in the current version of Council's 'Schedule of Fees and Charges', applicable at the time of payment.

<b>Fee Type - Tree removal on public land</b>	<b>Amount</b>
Administration Fee for Tree Removal	\$154.50
Replacement Tree Fee (per Tree) x 5	\$185.40
Cost of tree removal	To be determined
Cost of Stump Grinding	To be determined

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

**95. Notice to Council - Allocation of street addresses** - Prior to the issue of any Occupation Certificate, 'as-built' drawings detailing the installed and allocated street/unit address and numbering must be submitted to the satisfaction of Council.

**93A. Site Audit Report and Site Audit Statement** – After completion of all Remediation works, a Site Audit Report and Site Audit Statement are to be submitted to Council. These documents must clearly state that the site is suitable for the proposed use.

Note: The Applicant must comply with clauses 17 'Guidelines and notices: all remediation work' and clause 18 'Notice of completion of remediation work' under State Environmental Planning Policy No.55-Remediation of Land.

Note: Words and expressions used in these conditions have the same meaning as in the Contaminated Land Management Act 1997.

**This condition has been moved as part of MOD2021/0178 (DA2018/0181)**

**93B. Site contamination - Additional information** - Any new information that comes to light during excavation (after demolition of the onsite structures and the conclusion of the detailed site investigation) which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.

The following steps must then be taken before any further works proceed onsite:

A further detailed investigation of the site should then be prepared by a suitably qualified contaminated land consultant and submitted to Council.

This report must consider whether the land is contaminated, and

- 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
- 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.

#### **Remedial Action Plan (RAP)**

The Remedial Action Plan (RAP) must be prepared by an suitably qualified consultant in accordance with NSW Department of Environment and Conservation (DEC) and NSW Environmental Protection Authority (EPA) Guidelines and shall document all the remedial works to be undertaken at the site and also contain an environmental management plan and occupational health and safety plan for the remedial works.

#### **Remediation Works**

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

- the Managing Land Contamination: Planning Guidelines SEPP 55 Remediation of Land; and,

- the EPA Guidelines made under the Contaminated Land Management Act 1997;
- and in accordance with the Remedial Action Plan prepared by EIAustralia dated 18 November 2019.

### **Validation Report**

After completion of all Remediation works, a copy of the Validation and Monitoring Report prepared by suitably qualified contaminated land consultant shall be submitted to Council. The ~~Construction~~ **Occupation** Certificate shall not be issued until Council approves this Report. The validation report shall be prepared in accordance with the Office Environment and Heritage Guidelines, *Consultants Reporting on Contaminated Sites*, and shall certify the suitability of the site for the proposed development.

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

**This condition has been moved and modified as part of MOD2021/0178 (DA2018/0181)**

### **93C. Contaminated Land – Site Audit Statement**

To ensure that the Detailed Site Investigation (DSI) has been completed appropriately and that the Remedial Action Plan (RAP) for the site will result in the land being made suitable for the proposed use, the Site Audit Statement (SAS) to be completed by an accredited site auditor under the Contaminated Land Management Act 1997 must be submitted to Council.

The SAS must clearly demonstrate that the Detailed Site Investigation (DSI) and Remedial Action Plan (RAP), have been completed in accordance with the NSW guidelines, and that the land has been made suitable for the proposed use by implementation of any specified Remedial Action Plan (RAP). This must be provided to Council and the accredited certifier immediately at the conclusion of the Site Validation and Monitoring Report and prior to the commencement of further construction as per the Statement from Site Auditor, Epic Environmental dated 2 November 2021.

**This condition has been added as part of MOD2021/0178 (DA2018/0181)**

### **Operational Conditions (Ongoing)**

- 96. Noise Control** - The use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the Protection of the Environment Operations Act 1997 (as amended).
- 97. Lighting - General Nuisance** - Any lighting on the site shall be designed so as not to

cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill or glare. Flashing, moving or intermittent lights or signs are prohibited.

98. **Activities and storage of goods outside buildings** - There shall be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.
99. **Loading & Unloading of vehicles** - All loading and unloading of vehicles in relation to the use of the premises shall take place wholly within a dedicated loading dock/area.
100. **Entering & Exiting of vehicles** - All vehicles shall enter and exit the premises in a forward direction.
101. **Annual Fire Safety Statement** - The owner of the building premises must ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given:
- (a) Within 12 months after the date on which the fire safety certificate was received.
  - (b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
  - (c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the Environmental Planning and Assessment Regulation 2000.
  - (d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.
102. **Outdoor Lighting** - To avoid annoyance to the occupants of adjoining premises or glare to motorist on nearby roads, outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting.
103. **Amenity of the neighbourhood** - The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.
104. **The development must be finished, and thereafter maintained, in accordance with the schedule provided and approved by Council's Manager Development and Building . The design details of the proposed building facade including all external finishes, colours, and glazing must be in accordance with the materials schedule and finishes, and specifications prepared by Loucas Architecture, especially as illustrated on the following drawings:**
- 3D View 1 – Drawing A-0001, dated April 2024
  - 3D View 2 – Drawing A-0001, dated April 2024
  - North West Elevation, Drawing No. A-2100, Issue J dated 03/05/2024

This condition is amended under MOD2022/0175.



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

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

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

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

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

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

An Information Pack is attached for your convenience should you wish to appoint Georges River Council as the PCA for your development.

**107. Notification Requirements of PCA** - No later than two days before the building work commences, the PCA must notify:

- (a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
- (b) the applicant of the critical stage inspections and other inspections that are to be carried out with respect to the building work.

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

A Notice of Commencement Form is attached for your convenience.

**109. Critical Stage Inspections** - The last critical stage inspection must be undertaken by the PCA. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the Environmental Planning and Assessment Regulation 2000.

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

Where Georges River Council has been appointed as the PCA, 48 hours notice in writing, or alternatively 24 hours notice by facsimile or telephone, must be given when specified work requiring inspection has been completed.

- 111. Occupation Certificate** - A person must not commence occupation or use of the whole or any part of a new building unless an Occupation Certificate has been issued in relation to the building or part.

Only the PCA appointed for the building work can issue the Occupation Certificate.

An Occupation Certificate Application Form is attached for your convenience.

### Prescribed Conditions

- 112. Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
- 113. Clause 98 - Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.
- 114. Clause 98A - Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the PCA and the Principal Contractor.
- 115. Clause 98B - Home Building Act 1989** - If the development involves residential building work under the Home Building Act 1989, no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the Home Building Act 1989.
- 116. 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.
- 117. Clause 98E - Site Excavation** - Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site.

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

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

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

### Advice

- 118. 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.

119. **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.
120. **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.
121. **Access to NSW Legislations (Acts, Regulations and Planning Instruments)** - NSW legislation can be accessed free of charge at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)
122. **Council as PCA - Compliance with the BCA** - Should the Council be appointed as the PCA, the Construction Certificate Application must be accompanied by the following details, with plans prepared and certified by an appropriately qualified person demonstrating compliance with the BCA:
  - a) Mechanical air handling, ventilation and car park exhaust system.
  - b) Essential fire services and equipment including hydrant systems, hose reels, sprinklers, mechanical air handling system, portable fire extinguishers, emergency lights, exit signs, smoke hazard management and warning systems, etc.
  - c) Smoke hazard management system and associated alarm system, stair pressurisation and fire modelling etc.
  - d) Emergency lights, exit signs and warning systems.
  - e) Energy efficiency report demonstrating compliance with the BCA.
  - f) Protection of wall openings that stand less than 3 metres from the boundary or fire source feature.
  - g) Fire Separation and Construction between Occupancies
  - h) Sound Transmission & Insulation between Occupancies
  - i) A new Fire Engineered Building Report prepared by an accredited fire engineer, confirming that the existing alternative solution implemented in the building will not be rendered ineffective by the proposed building alterations and fit-out works.
  - j) Floor plan of the whole of the existing building with sufficient details to enable assessment for compliance with the BCA.
123. **Energy Efficiency Provisions** - Should Council be appointed as the Principal Certifying Authority, a report prepared and endorsed by an Energy Efficiency Engineer or other suitably qualified person must be submitted, detailing the measures that must be implemented in the building to comply with Section J of the BCA. The proposed measures and feature of the building that facilitate the efficient use of energy must be identified and detailed on the architectural plans. At completion of the building and before the issue of an Occupation Certificate, a certificate certifying that the building has been erected to comply with the energy efficiency provisions must be submitted to the Principal Certifying Authority.

- 124. Compliance with Access, Mobility and AS4299** - Adaptable Housing - Should the Council be appointment as the PCA, the Construction Certificate Application must be accompanied by detailed working plans and a report or a Certificate of Compliance from an Accredited Access Consultant certifying that the building design and access to the adaptable units complies with Council's DCP and AS 4299 Adaptable Housing.
- 125. Noise** - Noise related conditions - Council will generally enforce noise related conditions in accordance with the Noise Guide for Local Government (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the Industrial Noise Guidelines (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the Protection of the Environment Operations Act 1997.

Useful links relating to Noise:

- (a) Community Justice Centres - free mediation service provided by the NSW Government ([www.cjc.nsw.gov.au](http://www.cjc.nsw.gov.au)).
  - (b) Department of Environment and Conservation NSW, Noise Policy Section web page ([www.environment.nsw.gov.au/noise](http://www.environment.nsw.gov.au/noise)).
  - (c) New South Wales Government Legislation home page for access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2000 ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)).
  - (d) Australian Acoustical Society - professional society of noise-related professionals ([www.acoustics.asn.au/index.php](http://www.acoustics.asn.au/index.php)).
  - (e) Association of Australian Acoustical Consultants - professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au)).
  - (f) Department of Gaming and Racing - ([www.dgr.nsw.gov.au](http://www.dgr.nsw.gov.au)).
- 126. Sydney Water Section 73 Certificates** - The Section 73 Certificate must be a separate certificate that relates specifically to this development consent. For example, if the development consent relates to the subdivision of the land, a Section 73 Certificate for the construction of the building that is subject to a different development consent will not suffice.
- 127. Electricity Supply** - This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or [www.ausgrid.com.au](http://www.ausgrid.com.au) (Business and Commercial Services) for further details and information on lodging your application to connect to the network.
- 128. Access for persons with disabilities** - Should the Council be appointed as the PCA, an Access report prepared by an Accredited Access Consultant may be required to be submitted with the Construction Certificate Application, detailing the existing level of compliance in the building with the above requirements, and to provide details of proposed upgrading work necessary to bring the building into conformity with the Premises Standards and the BCA. All recommendations of the accredited access consultant must be incorporated in the plans to be submitted with the Construction Certificate application.
- 129. Council as PCA - Total Conformity with BCA** - Should the Council be appointed as the Principal Certifying Authority, the Construction Certificate Application must be accompanied by the following details, with plans prepared and certified by an appropriately

qualified person demonstrating compliance with the BCA:

- Mechanical ventilation, provided to bathroom, laundry and basement areas not afforded natural ventilation.
- Fire-fighting services and equipment including control centre facility, hydrant systems, sprinkler systems, hose reels, mechanical air handling and stair pressurization systems, portable fire extinguishers, smoke hazard management systems and sound & warning systems.
- Emergency lighting and exit signs throughout the premises including terrace, common room/areas and basement areas.
- Fire resistance and fire hazard levels of building elements including walls, floors, roof tops, columns, and separation of electrical supply systems etc.
- Construction of all fire doors (doors to swing in the direction of egress) including operational and warning signage.
- Fire compartmentation and fire wall separation details including all stairway, lift and service shafts.
- Exit travel distances and access grades including the number of required exits, the distance between alternative exits and smoke separation of public corridors, must demonstrate compliance.
- Re-entry facilities from fire isolated exit stairways
- Stretcher facility and emergency lift installation.
- Sound transmission and insulation details.
- Disabled access that complies with the BCA and with AS 1428.1.2009
- Spandrel separation and the protection of openings.
- Window schedule is to include the protection of openable windows.

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

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

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

- 130. Referral to Fire and Rescue NSW** - Prior to the issue of a Construction Certificate the applicant may be required, under Clause 144 of the Environmental Planning & Assessment Regulation, 2000 to seek written comment from FR NSW about the location of water storage tanks the construction of hydrant/booster pump and sprinkler valve rooms, and any Fire Engineered Solution developed to meet the performance requirements under the Category 2 Fire Safety Provisions.

The applicant is also advised to seek written advice from FR NSW on the location and construction of the proposed Fire Control Centre Facility, Pump & Valve rooms and the installation of the sites Fire Indicator Panel.

- 131. 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.

- 132. Security deposit administration & compliance fee** - Under Section 97 (5) of the Local Government Act 1993, a security deposit (or part) if repaid to the person who provided it is to be repaid with any interest accrued on the deposit (or part) as a consequence of its investment.

Council must cover administration and other costs incurred in the investment of these monies. The current charge is \$50.00 plus 2% of the bond amount per annum.

The interest rate applied to bonds is set at Council's business banking facility rate as at 1 July each year. Council will accept a bank guarantee in lieu of a deposit.

All interest earned on security deposits will be used to offset the Security Deposit Administration and Compliance fee. Where interest earned on a deposit is not sufficient to meet the fee, it will be accepted in full satisfaction of the fee.

- 133. Council as PCA - Deemed to Satisfy Provisions of BCA** - Should the Council be appointed as the PCA in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative fire solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justifying the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.

- 134. 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)).

- 135. Stormwater & Ancillary Works - Applications under Section 138 Roads Act and/or Section 68 Local Government Act 1993** - To apply for approval under Section 138 of the Roads Act 1993 and/or Section 68 Local Government Act 1993:

- (a) Complete the Stormwater Drainage Application Form which can be downloaded from Georges River Council's website at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au).

- (b) In the Application Form, quote the Development Consent No. (eg. DA2018/0\*\*\*) and reference this condition number (e.g. Condition 23)
- (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with stormwater applications.

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

The preparation of all engineering drawings (site layout plans, cross sections, longitudinal sections, elevation views together with a hydraulic grade analysis) and specifications for the new stormwater drainage system to be arranged by the applicant. The design plans must be lodged and approved by Council prior to the issue of a Construction Certificate.

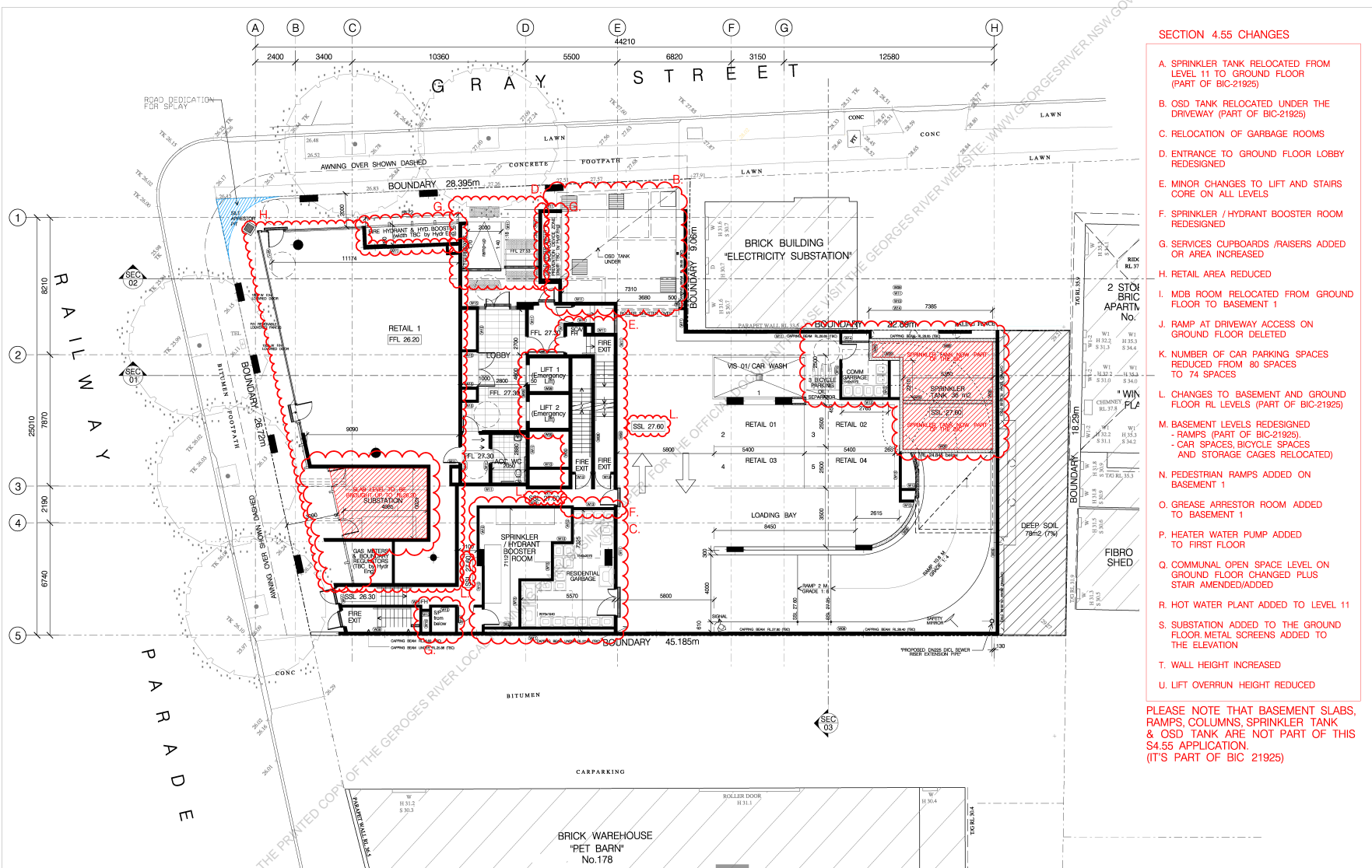
NOTE: A minimum of four weeks should be allowed for assessment.

## ATTACHMENTS

Attachment [↓1](#) Plans



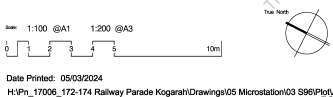
THIS IS THE PRINTED COPY OF THE GEORGES RIVER LOCAL PLANNING PANEL BUSINESS PAPER. FOR THE OFFICIAL DOCUMENT PLEASE VISIT THE GEORGES RIVER LOCAL PLANNING PANEL WEBSITE: [www.georgesriverlocalplanningpanel.nsw.gov.au](http://www.georgesriverlocalplanningpanel.nsw.gov.au)



SECTION 4.55 CHANGES

- A. SPRINKLER TANK RELOCATED FROM LEVEL 11 TO GROUND FLOOR (PART OF BIC-21925)
- B. OSD TANK RELOCATED UNDER THE DRIVEWAY (PART OF BIC-21925)
- C. RELOCATION OF GARBAGE ROOMS
- D. ENTRANCE TO GROUND FLOOR LOBBY REDESIGNED
- E. MINOR CHANGES TO LIFT AND STAIRS CORE ON ALL LEVELS
- F. SPRINKLER / HYDRANT BOOSTER ROOM REDESIGNED
- G. SERVICES CUPBOARDS /RAISERS ADDED OR AREA INCREASED
- H. RETAIL AREA REDUCED
- I. MDB ROOM RELOCATED FROM GROUND FLOOR TO BASEMENT 1
- J. RAMP AT DRIVEWAY ACCESS ON GROUND FLOOR DELETED
- K. NUMBER OF CAR PARKING SPACES REDUCED FROM 80 SPACES TO 74 SPACES
- L. CHANGES TO BASEMENT AND GROUND FLOOR RL LEVELS (PART OF BIC-21925)
- M. BASEMENT LEVELS REDESIGNED
  - RAMPS (PART OF BIC-21925).
  - CAR SPACES, BICYCLE SPACES AND STORAGE CAGES RELOCATED)
- N. PEDESTRIAN RAMPS ADDED ON BASEMENT 1
- O. GREASE ARRESTOR ROOM ADDED TO BASEMENT 1
- P. HEATER WATER PUMP ADDED TO FIRST FLOOR
- Q. COMMUNAL OPEN SPACE LEVEL ON GROUND FLOOR CHANGED PLUS STAIR AMENDED/ADDED
- R. HOT WATER PLANT ADDED TO LEVEL 11
- S. SUBSTATION ADDED TO THE GROUND FLOOR METAL SCREENS ADDED TO THE ELEVATION
- T. WALL HEIGHT INCREASED
- U. LIFT OVERRUN HEIGHT REDUCED

PLEASE NOTE THAT BASEMENT SLABS, RAMPS, COLUMNS, SPRINKLER TANK & OSD TANK ARE NOT PART OF THIS S4.55 APPLICATION. (IT'S PART OF BIC 21925)



Date Printed: 05/03/2024  
H:\Pn\_17008\_172-174 Railway Parade Kogarah\Drawings\05 Microstation\03 S96\PnA-0700\_Ground Floor Plan.dgn

REV	DESCRIPTION	DATE
1	ISSUED FOR TENDERS	05/03/2024
2	REVISED TO REFLECT THE 1:100	05/03/2024
3	REVISED TO REFLECT THE 1:200	05/03/2024
4	REVISED TO REFLECT THE 1:200	05/03/2024
5	REVISED TO REFLECT THE 1:200	05/03/2024
6	REVISED TO REFLECT THE 1:200	05/03/2024
7	REVISED TO REFLECT THE 1:200	05/03/2024
8	REVISED TO REFLECT THE 1:200	05/03/2024
9	REVISED TO REFLECT THE 1:200	05/03/2024
10	REVISED TO REFLECT THE 1:200	05/03/2024

ARCHITECTURE & BUILDING WORKS

Level 1, Suite 305, 70-72 Chifley Street,  
Kogarah NSW 2216  
Australia  
Tel: (02) 8575 9000  
Email: info@architects.com.au

Project Details

MIXED USE DEVELOPMENT  
172-174 RAILWAY PARADE, KOGARAH  
Architects  
Construction Managers  
Interior Designers  
Town Planners

Kaymet Constructions Pty Ltd

Drawing Title

GROUND FLOOR

Authority Approval

Project Number:

Pn-17006

Issue

H -

Date Printed:

05/03/2024

Drawing Number

A-0700



Architectural drawing of the North West Elevation (Railway Parade) of a building. The drawing shows a multi-story facade with various materials and features. Key elements include:

- Feature Wall 1** (FC Cladding)
- Aluminium Privacy Screen** (Timber Finish)
- Frosted Glass Balustrade**
- Feature Wall 2** (FC Cladding)
- Window Framed Dark Anodised Alum. Finish**
- Render & Paint Color 1**
- Render & Paint Color 2**

The elevation is divided into five vertical sections (1 to 5) with dimensions: 8210, 25010, 2190, and 6740. The building is situated on Gray Street, with a boundary line indicated. The drawing also shows the ground level (FFL 26.20) and the roof level (FFL 65.00). A red dashed line outlines a specific area on the ground floor, labeled 'S.G.'

A. SPRINKLER TANK RELOCATED FROM LEVEL 11 TO GROUND FLOOR (PART OF BIC-21925)

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F. SPRINKLER /HYDRANT BOOSTER ROOM REDESIGNED

G. SERVICES CUPBOARDS /RAISERS ADDED OR AREA INCREASED

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U. LIFT OVRUNN HEIGHT REDUCED

PLEASE NOTE THAT BASEMENT SLABS, RAMPS, COLUMNS, SPRINKLER TANK & OSD TANK ARE NOT PART OF THIS \$4.55 APPLICATION.  
(IT'S PART OF BIC 21925)

PLEASE NOTE THAT BASEMENT SLABS,  
RAMPS, COLUMNS, SPRINKLER TANK  
& OSD TANK ARE NOT PART OF THIS  
\$4.55 APPLICATION.  
(IT'S PART OF BIC 21925)



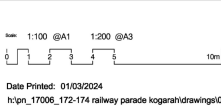
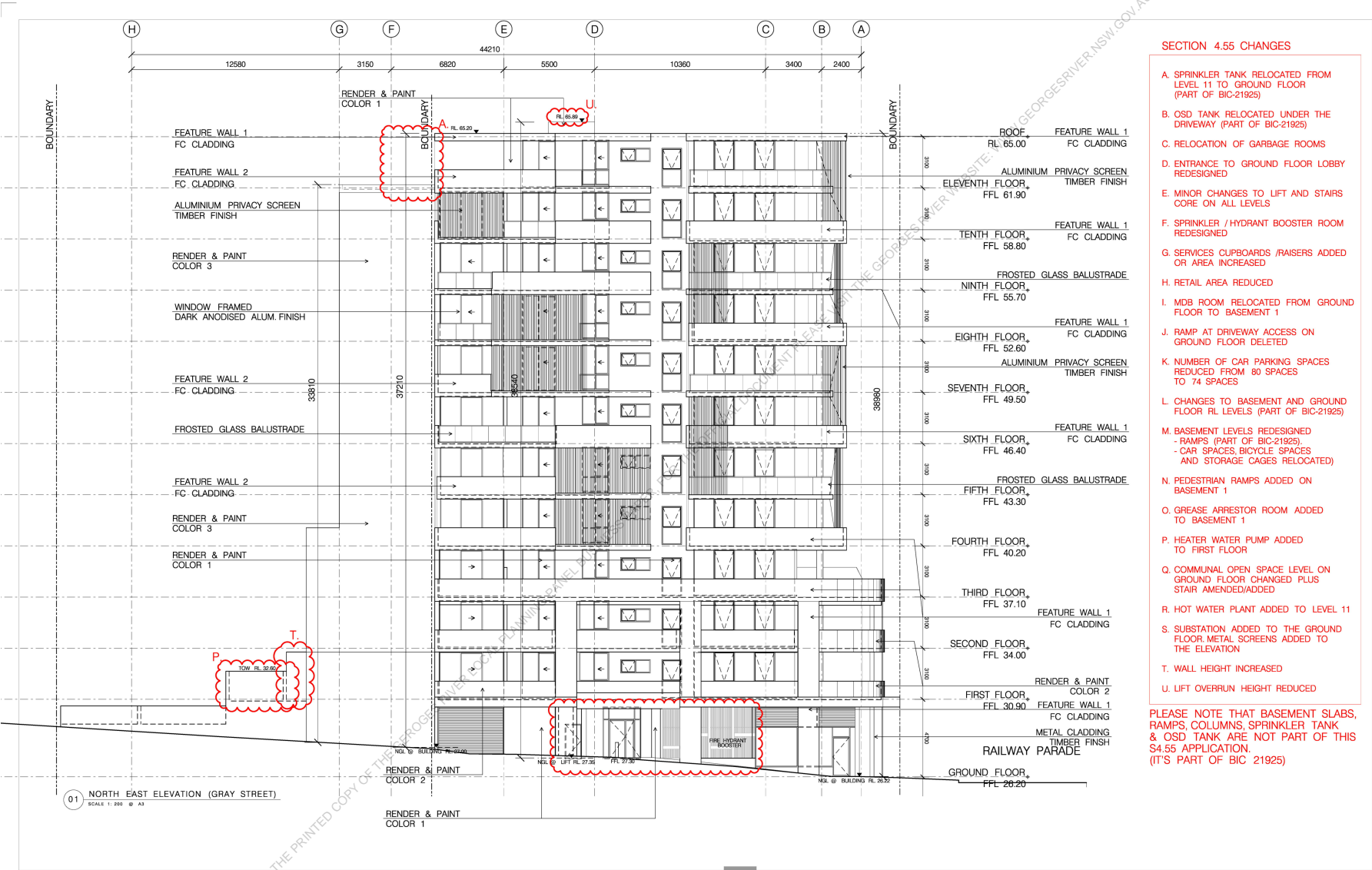
h:\pn\_17006\_172-174 railway parade kogarah\drawings\05 microstation\03 s96\plotA-2000 Elevations.dgn

A-2000 Elevations.dgn | THIS DRAWING IS AN UNCONTROLLED COPY UNLESS STAMPED OTHERWISE | THIS DRAWING SHOULD BE READ IN CONJUNCTION WITH ALL RELEVANT CONTRACTS, SPECIFICATION, REPORTS AND DRAWINGS | COPYRIGHT OF THIS DRAWING IS VESTED IN ARCHITECTURE AND BUILDING WORKS

MIXED USE DEVELOPMENT  
172-174 RAILWAY PARADE, KOGARAH  
Client:  
Kaymet Constructions Pty Ltd

Drawing Status:  
AUTHORITY APPROVAL  
Project Number:  
Pn-17006

Drawing Number:  
**A-2000**



REV	DESCRIPTION	DATE
01	ISSUED FOR PERMIT	01/03/2024
02	REVISIONS	01/03/2024

REV	DESCRIPTION	DATE
01	ISSUED FOR PERMIT	01/03/2024
02	REVISIONS	01/03/2024

**ARCHITECTURE & BUILDING WORKS**

ABW 05 003 191 018

Level 1, Suite 305, 7-9 Collins Street, Melbourne VIC 3000

Architects: Kaymet Constructions Pty Ltd

Construction Managers: Kaymet Constructions Pty Ltd

Structural Engineers: Kaymet Constructions Pty Ltd

**MIXED USE DEVELOPMENT**

**172-174 RAILWAY PARADE, KOGARAH**

Project Number: Pn-17008

Drawing Title: ELEVATIONS

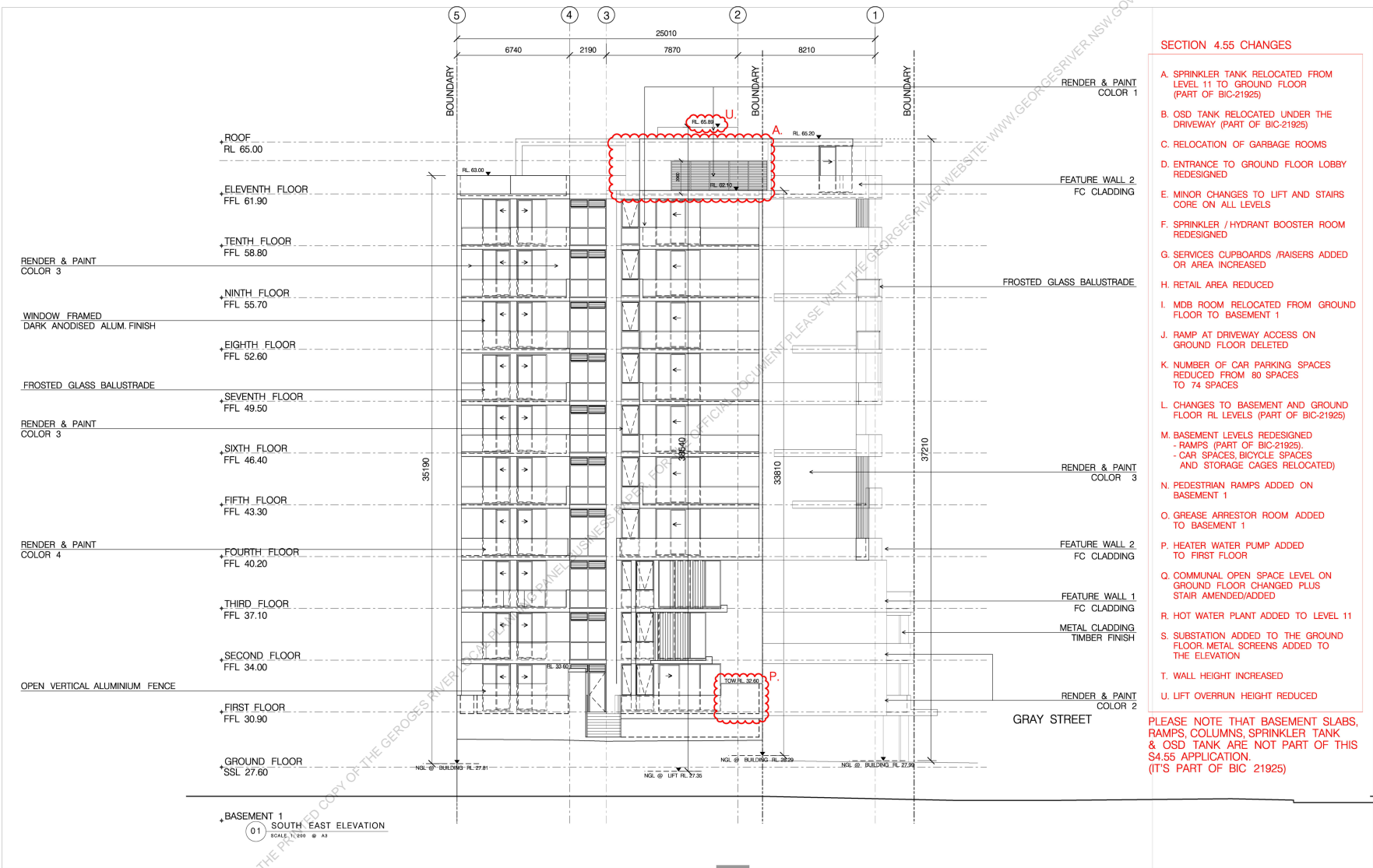
Drawing Status: AUTHORITY APPROVAL

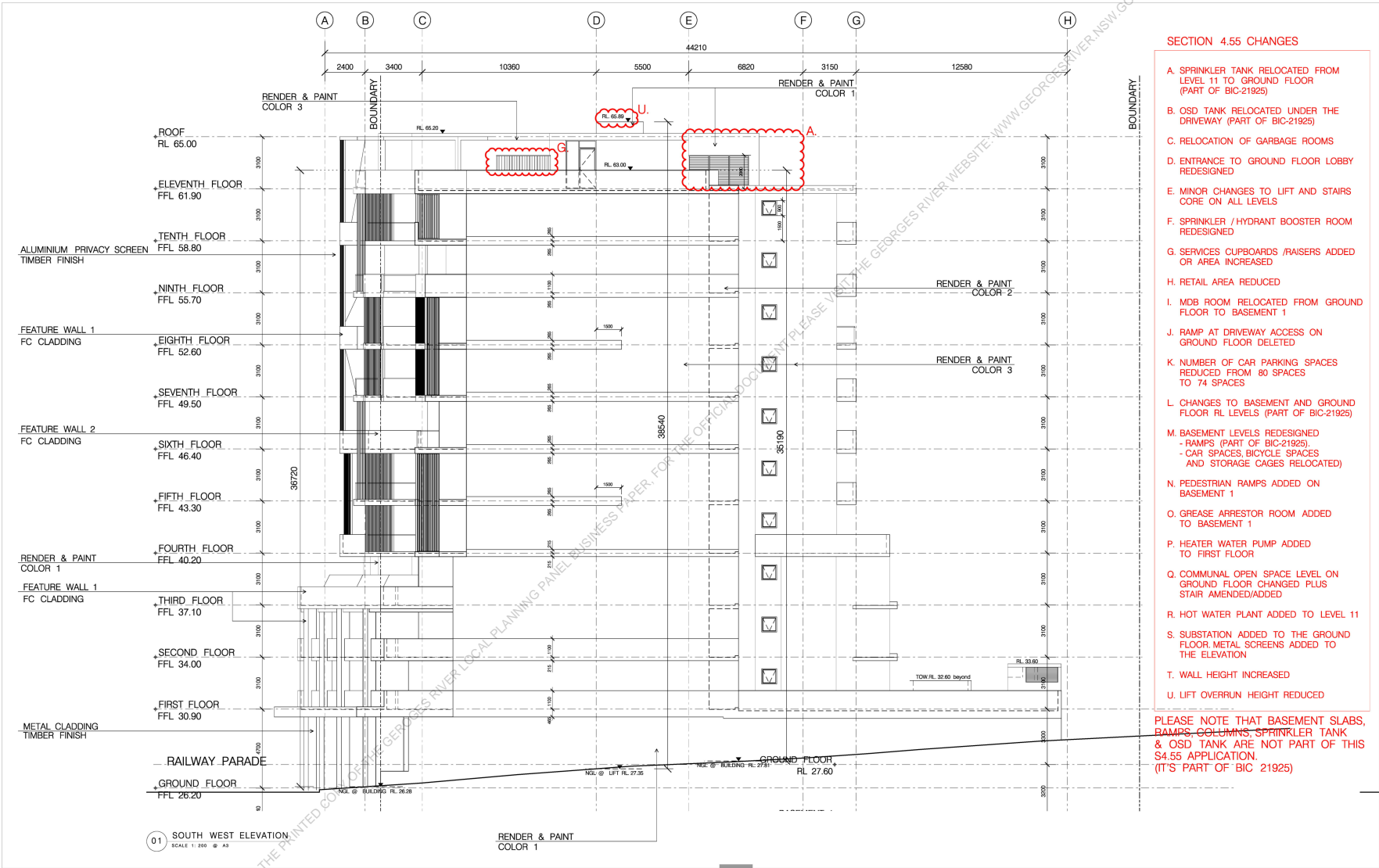
Project Number: A-2100

Drawing Title: ELEVATIONS

Drawing Status: AUTHORITY APPROVAL

Project Number: A-2100





## REPORT TO GEORGES RIVER LOCAL PLANNING PANEL MEETING OF THURSDAY, 16 MAY 2024

### LPP015-24 180-184 PRINCES HIGHWAY BEVERLEY PARK

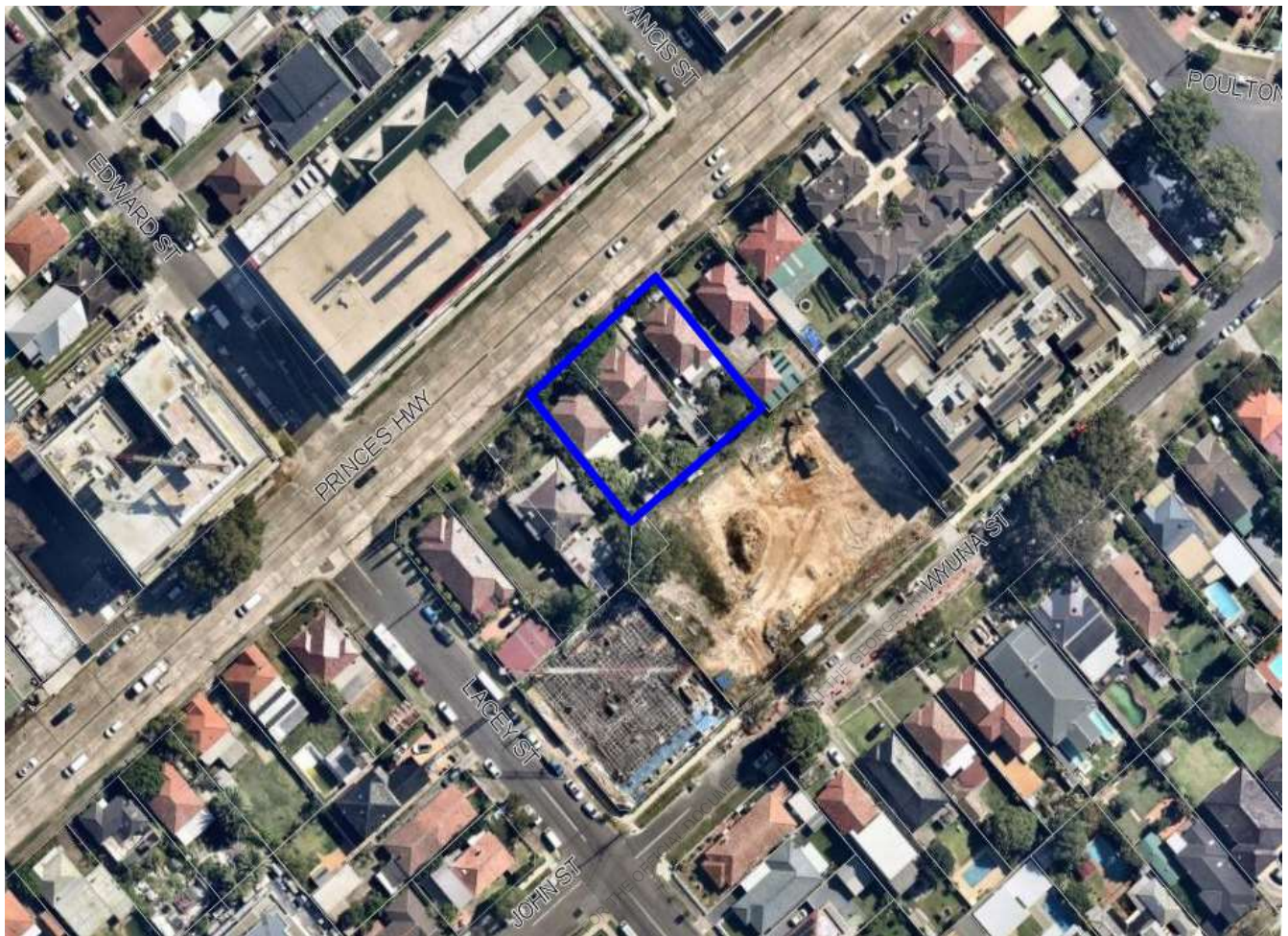
LPP015-24

<b>LPP Report No</b>	<b>LPP015-24</b>	<b>Development Application No</b>	<b>DA2023/0012</b>
<b>Site Address &amp; Ward Locality</b>	180-184 Princes Highway Beverley Park Kogarah Bay Ward		
<b>Proposed Development</b>	Demolition, lot consolidation and construction of a seven storey residential flat building with basement parking, landscaping and site works		
<b>Owners</b>	180 Princes Highway Beverley Park – Beverly Park Pty Ltd 182 Princes Highway Beverley Park – Beverly Park Pty Ltd 184 Princes Highway Beverley Park – Mr Mohamed Ibrahim		
<b>Applicant</b>	Mr Al Abraham		
<b>Planner/Architect</b>	BMA Urban – Mr Bernard Moroz and Mr Greg Hansell		
<b>Date Of Lodgement</b>	16/03/2023		
<b>Submissions</b>	Nil		
<b>Cost of Works</b>	\$9,617,548.00		
<b>Local Planning Panel Criteria</b>	The application is subject to the provisions of State Environmental Planning Policy 65 – Design Quality of Residential Flat Development		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy (Industry and Employment) 2021, State Environmental Planning Policy (BASIX) 2004, State Environmental Planning Policy (Housing) 2021, Draft State Environmental Planning Policy – Environment, Georges River Local Environmental Plan 2021, Georges River Development Control Plan 2021.		
<b>List all documents submitted with this report for the Panel's consideration</b>	Architectural Plans, Landscaping Plans, Drainage Plans, Reports and Supporting Documents		
<b>Report prepared by</b>	Consultant Planner		

<b>RECOMMENDATION</b>	That the application be refused in accordance with the reasons referenced at the end of this report.
-----------------------	--

<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 reasons for refusal will be available when the report is published.



**SITE PLAN**

Aerial photo of the subject site outlined in blue

## EXECUTIVE SUMMARY

### PROPOSAL

1. Council received development application DA2023/0012 seeking development consent for the demolition of existing structures, lot consolidation and construction of a 7 storey residential flat building containing 28 residential apartments, above three (3) levels of basement parking containing 43 car parking spaces, tree removal, landscaping and site works.
2. In response to the issues raised as part of Council's assessment the proposal was amended this assessment is based on the most recent set of amended plans submitted which were received by Council on 30 January 2024.

### SITE AND LOCALITY

3. The subject development site is known as 180-184 Princes Highway, Beverley.

The allotments and their legal description are noted below:

- 180 Princes Highway Beverley Park - Lot 1 DP 17552 – 455.7sqm by DP.
- 182 Princes Highway Beverley Park - Lot 2 DP 17552 – 452.6sqm by DP.
- 184 Princes Highway Beverley Park - Lot 3 DP 17552 – 452.6sqm by DP.

4. The development site is a regular shaped allotment with a 38.49 metre frontage to Princes Highway, and a depth of 35.355m. The development site once consolidated will have a total area of 1360.9sqm by Deposited Plan. The site is relatively flat with a cross fall of approximately 1.5 metre from the western corner at the front to the eastern corner at the rear of the development site. Vehicular and pedestrian access is obtained from the Princes Highway.
5. The site is currently occupied by 3 masonry and clad dwellings each with a tile roof and detached garages.
6. The subject site is located on the southern side of the Princes Highway Beverley Park within the R4 High Density Residential zone. The subject site is located among established residential development, set within a regularised subdivision pattern. The surrounding building stock is a combination of low and high density development which is consistent with the recently upzoned locality.
7. There is existing low-density building stock in the locality, with multi storey residential apartment buildings and mixed-use developments constructed and in progress along the Princes Highway and within the Beverley Park Precinct, resulting from a mix of R4 and E1 zoned land replacing the existing detached housing stock and altering the character of the area.

## **ZONING AND PERMISSIBILITY**

8. The site is zoned R4 High Density Residential under the provisions of the Georges River Local Environmental Plan 2021. The proposal satisfies the R4 zone objectives. The proposed application is for a residential flat building which is a permitted land use in the R4 High Density Residential zone under GRLEP 2021. The application seeks an increase to the statutory height limit being the lift over run which exceeds the maximum permitted height of 21m.

## **SUBMISSIONS**

9. The application was advertised for a period of fourteen (14) days between 3 May 2023 and 17 May 2023 in accordance with the Georges River Development Control Plan and the Georges River Council Community Engagement Strategy notification criterion. No submissions were received.
10. The revised plans submitted in January 2024 were readvertised between 8 February 2024 and 22 February 2024 in accordance with the Georges River Development Control Plan and the Georges River Council Community Engagement Strategy notification criterion. No submissions were received.

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

11. This application is referred to the Georges River Local Planning Panel for consideration and determination in accordance with s9.1 of the Environmental Planning and Assessment Act 1979, Ministerial Direction, as the proposal relates to a development in which the provisions of State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development applies.



## CONCLUSION

12. Having regard to the matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979 and following a detailed assessment, the proposed Development Application DA2023/0012 is recommended for refusal for the reasons listed at the end of this report.

## REPORT IN FULL PROPOSAL

13. Council received development application DA2023/0012 seeking development consent for the demolition of existing structures, lot consolidation and construction of a 7 storey residential flat building containing 28 residential apartments, above three (3) levels of basement parking containing 43 car parking spaces, tree removal, landscaping and site works.
14. In response to the issues raised as part of Council's assessment the proposal was amended; this assessment is based on the most recent set of amended plans which were received by Council on 30 January 2024.

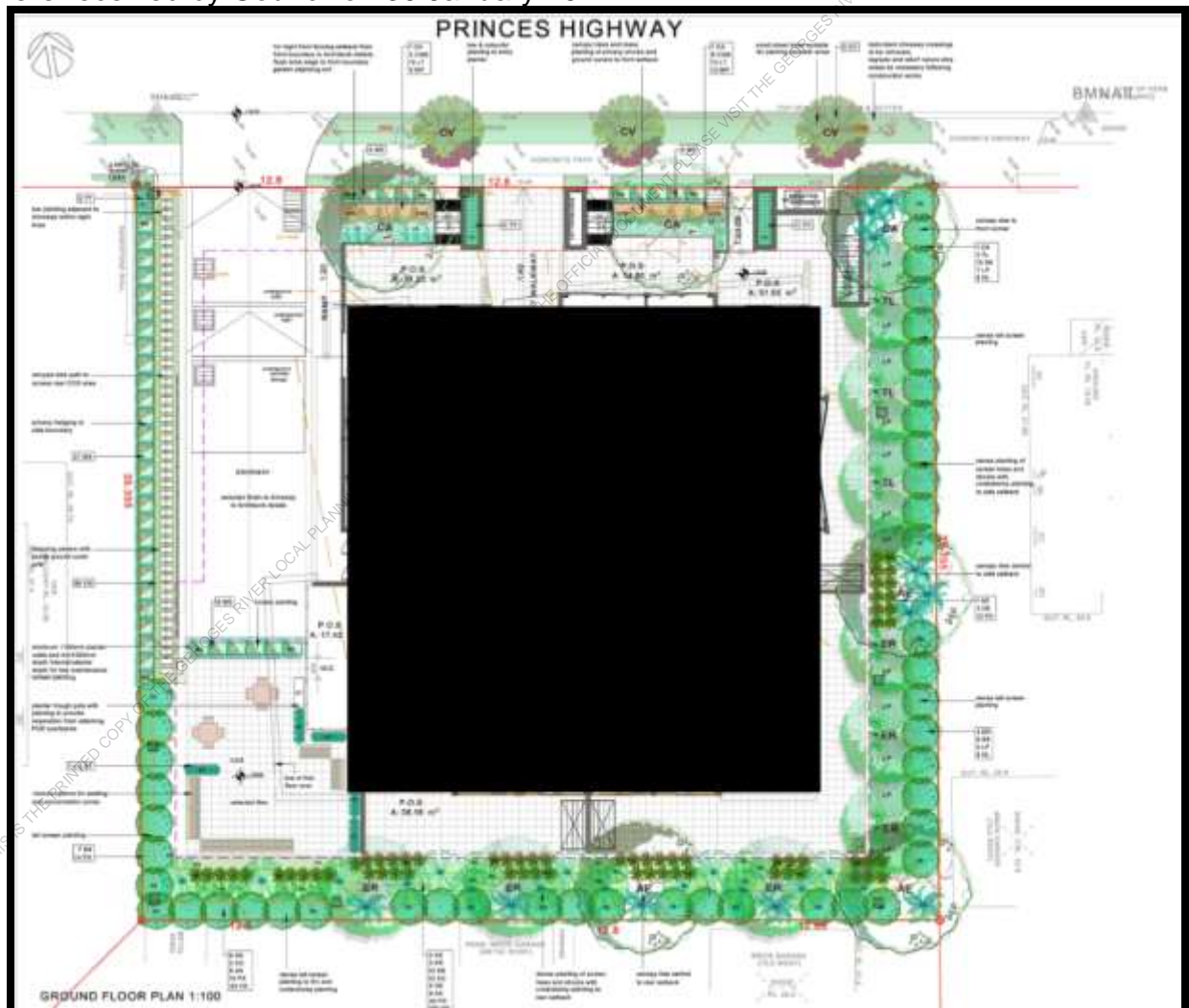


Figure 1: Site Plan



Figure 2: Perspective of proposal as viewed from the Princes Highway. (Source: Tecton Group)

15. A breakdown of the proposed development is as follows:
- Demolition of all existing structures on the development site;
  - Lot consolidation;
  - Removal of all existing vegetation within the boundaries of the development site;
  - Earthworks and excavation to create the basement levels;
  - Construction of a seven (7) storey residential flat building with vehicle and pedestrian access from the Princes Highway;
  - Site works, infrastructure and landscaping.

### Development Summary

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

Element	Proposal
Height	22.48m (RL41.8m)
Floor area	2716.5sqm
Levels	Seven (7) storeys, three (3) levels of basement
Apartments	28 Residential apartments comprised as follows: <ul style="list-style-type: none"> <li>• 2 x 1 bedroom, (7.14%)</li> <li>• 17 x 2 bedroom, (60.7%) and</li> <li>• 9 x 3 bedroom dwellings. (32.1%)</li> </ul>
Basement car parking spaces	43 car parking spaces comprising the following: <ul style="list-style-type: none"> <li>• 6 visitor spaces (including a shared visitor space/car wash bay).</li> <li>• 3 x accessible spaces.</li> <li>• 34 x standard spaces.</li> </ul>
Bicycle parking spaces	13 bicycle spaces.
Motorbike	Nil
Common open space	Ground Level – 291.66sqm (73.6%) Roof Top – 104.24sqm (26.4%) Total = 395.90sqm (29% of site area)



Deep soil Area	250.77sqm or 18.4% of site area
Solar access for apartments	75% or 21 of 28 apartments receive a minimum of 2 hours of solar access during mid-winter to the living areas and the private open space areas
Cross ventilation for apartments	85.7% or 24 of 28 apartments achieve cross ventilation.

LPP015-24

## THE SITE AND LOCALITY

17. The subject development site is known as 180-184 Princes Highway, Beverley.

The allotments and their legal description are noted below:

- 180 Princes Highway Beverley Park - Lot 1 DP 17552 – 455.7sqm by DP.
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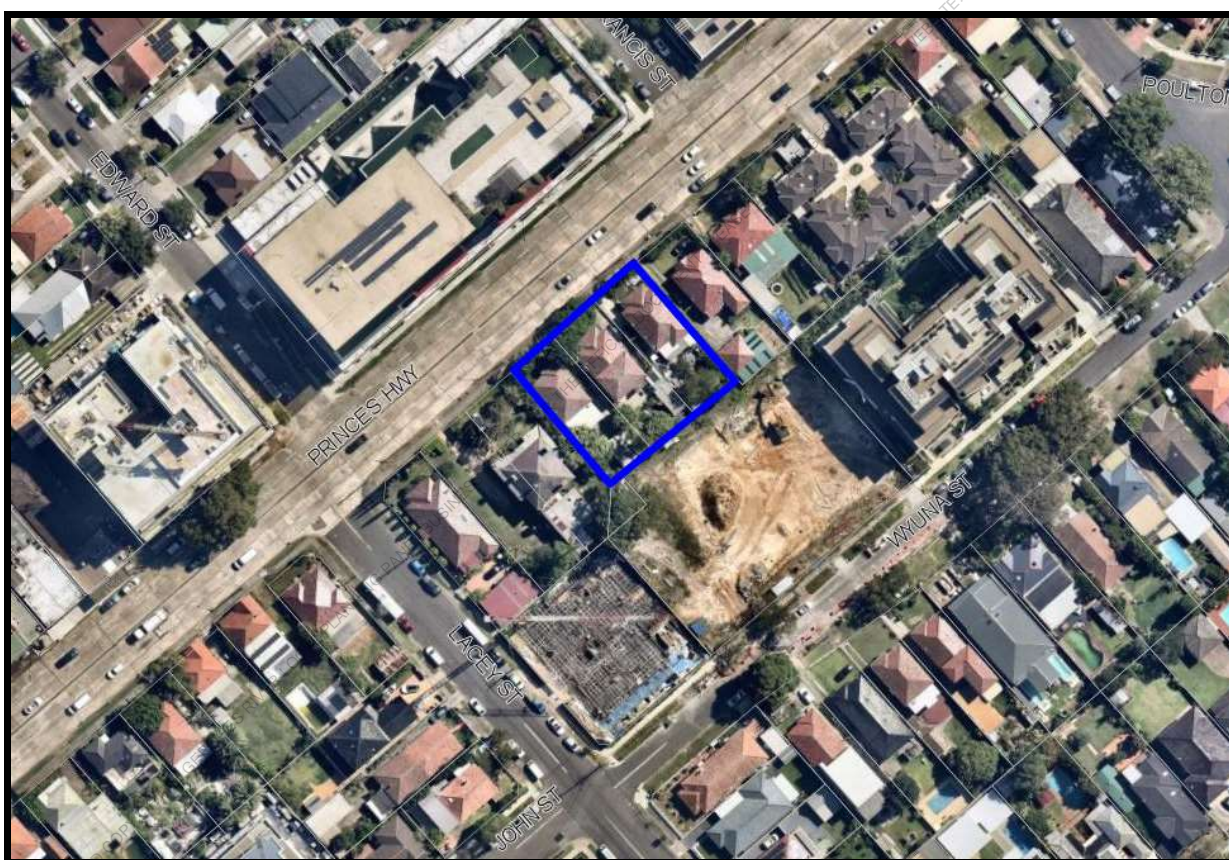
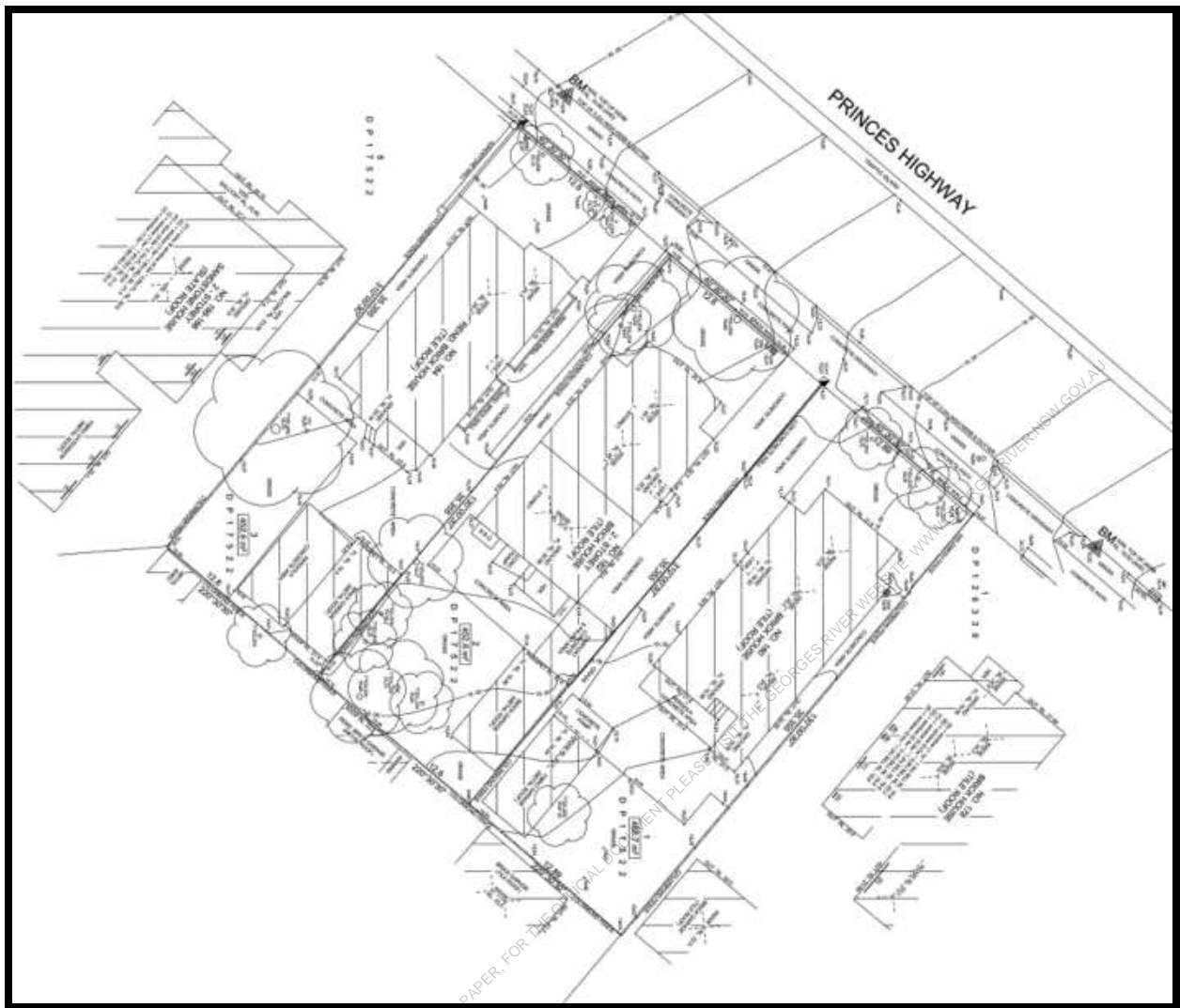


Figure 3: Aerial view of the subject site showing the three allotments of the subject site and local heritage item McWilliam House at 186-188 Princes Highway. (Source Nearmap 2023)



**Figure 4: Survey Plan of the subject properties showing boundary dimensions, spot levels and existing structures (Source: S.J. Surveying Services Pty Ltd)**

18. The development site is a regular shaped allotment with a 38.49 metre frontage to Princes Highway, and a depth of 35.355m. The development site once consolidated will have a total area of 1360.9sqm by Deposited Plan. The site is relatively flat with a cross fall of approximately 1.5 metre from the western corner at the front to the eastern corner at the rear of the development site. Vehicular and pedestrian access is obtained from the Princes Highway.
19. The site is currently occupied by 3 masonry and clad dwellings each with a tile roof and detached garages.





Figure 5: Existing dwellings at 180 and 182 Princes Highway. (Source: Site Inspection 2023)



Figure 6: Existing dwellings at 182 and 184 Princes Highway with Local Heritage Item - McWilliam House located at 186-188 Princes Highway shown on the right behind the power pole (Source: Site Inspection 2023)

### Surrounding Development

20. The subject site is located on the southern side of the Princes Highway Beverley Park within the R4 High Density Residential zone. The subject site is located among established residential development, set within a regularised subdivision pattern. The surrounding building stock is a combination low and high density development which is consistent with the recently upzoned locality.



21. There is existing low-density building stock in the locality, multi storey residential apartment buildings and mixed-use developments in progress and constructed along the Princes Highway and within the Beverley Park Precinct, replacing the existing detached housing stock and low scale commercial altering the character of the area.



Figure 7: Showing development in the locality. (Source: Nearmap 2024) with subject site outlined in blue.

22. Immediately adjoining the site to the south-east at 13-21 Wyuna Street Beverley Park there is a multi-storey residential flat building under construction.



Figure 8: Photomontage of the approved development at 13-21 Wyuna Street currently under construction.

23. Immediately adjoining the site to the south-west at 186–188 Princes Highway Beverley Park is a two storey sandstone house which is a locally listed heritage item known as



McWilliam House or Sunnyside. The house is a rare and important local example of a large residential dwelling constructed in the second half of the nineteenth century.

24. Although it has undergone some changes over time to its fabric (reflecting changing living standards) and to its setting (reflecting the area's subdivision and increase in density over time) its relative intactness has allowed it to retain its landmark qualities as an important and historical residence along the Princes Highway.



**Figure 9: Local Heritage Item - McWilliam House at 186-188 Princes Highway. (Source: Site Inspection 2023)**

25. Immediately adjoining the site to the north-east at 176–178 Princes Highway Beverley Park are two single storey dwelling houses; however it is noted that consent has been granted under development application DA2020/0462 for the construction of a six storey residential flat building containing 25 units over three basement levels.



Figure 10: North elevation of approved residential apartment building at 176–178 Princes Highway.  
(Source: Loucas Architects 2022)

26. To the north-east, on the opposite side of the Princes Highway, the land is zoned E1. The site directly opposite is 76 Edward Street Carlton formerly known as 313 - 323 Princes Highway Carlton extends between Francis Street and Edward Street is a large mixed-use development incorporating a supermarket on the ground floor with residential units above.





Figure 11: Mixed-use development at 76 Edward Street Carlton formerly known as 313-323 Princes Highway Carlton.

## BACKGROUND

27. A history of the development and modification proposal is as follows:
28. DA2023/0012 was lodged with Council on 6 March 2023 seeking development consent for the demolition of existing structures and construction of a 7 storey residential apartment building consisting of 28 residential apartments, above three (3) basement levels containing 43 car parking spaces, tree removal, landscaping and site works.
29. Internal and external referrals were affected and the application was advertised for a period of fourteen (14) days between 3 May 2023 and 17 May 2023 in accordance with the Georges River Development Control Plan and the Georges River Council Community Engagement Strategy notification criterion. No submissions were received.
30. A request for further information was sent to the applicant on 13 September 2023, the following issues were asked to be addressed:
31. Urban Design
  - Individual entries to ground floor apartments required,
  - Public and private entries should be at same level as street,
  - Widen communal circulation space at entry point to building,
  - Details on plans are inconsistent,
  - Proposal presents as overbearing to adjacent heritage item,
  - Lack of height transition (podium) makes building bulky,
  - Proposal presents as over development,
  - Basement setbacks do not comply,
  - Driveway and basement entry not integrated into building design,

- Communal Open Space unusable at ground level needs to be redesigned to be functional,
- Deep soil zones are too narrow in parts and contain structures so cannot be included in dep soil area calculation,
- Inadequate solar access to apartments,
- Apartment layout should be amended to enable cross ventilation,
- Booster assemblies to be integrated into design without compromising street activation,
- Architectural expression and built form to be amended to enhance the streetscape and be sympathetic to adjacent heritage item,
- Recessing and projecting massing elements to breakup flat monotonous facades,
- Appropriate building separation should be incorporated to provide transition, enhance sky views and provide relief from the built form.
- Include lightweight materials and detailing to minimise the perceived bulk and scale especially given the design excellence clause requirements.

### 32. Waste

- Inconsistencies between waste management plan and architectural plans,
- Inadequate space for waste bin storage,
- No provision for waste disposal from each occupied floor,
- No details provided on litter management in communal areas,
- No details on how bins will be conveyed to street for collection,
- No details on proposed method of waste collection, including bin and bulky waste collection locations and processes,
- Doorway width of the bulky good store is too narrow to be functional.

### 33. Traffic Engineer

The application is not supported as proposed due to significant amendments required to be carried out to the design of ramps and floor levels in order for the development to have appropriate vehicular access and loading area clearance heights that comply with the requirements of relevant Australian Standards. Amended plans shall be submitted to Council showing:

- Access to the loading/service area being amended to cater for the Small Rigid Vehicle (SRV) as described in *AS 2890.2:2018 Parking Facilities Part 2- off street commercial vehicle parking*.
- Gradients, gradient changes and transition sections on the access ramp/driveway complying with the requirements of *AS 2890.2:2018 Parking Facilities Part 2- off street commercial vehicle parking*.
- The dimensions and location of the proposed loading/service area.
- The width of the access aisle between the proposed loading/service area and the "Elect and Comms Room".
- The clearance height at the loading/service area being increased to 3.5m to comply with *AS 2890.2:2018 Parking Facilities Part 2- off street commercial vehicle parking*.
- The location of any proposed security gate/roller shutter and associated intercom and confirm vehicle queue lengths comply with s3.4 "Queuing Areas" of *AS/NZS 2890.1:2004 Parking Facilities Part 1- off street car parking*.

- A swept wheel path analysis to confirm the width of the driveway/footpath crossing and internal ramp for the first 6m into the site. The analysis is to be undertaken to confirm the unimpeded access of the B99 Australian Standard Design Vehicle fully into the site before stopping when the B85 Australian Standard Design Vehicle is concurrently exiting the site and is standing either within the site at the property boundary or fully on the driveway/footpath crossing.

#### 34. Landscape

- Basement carpark extends outside the building footprint creating inadequate deep soil and landscaping opportunities,
- Landscaped area too narrow in parts for inclusion in deep soil area calculation,
- Landscaped areas are compromised by basement excavation, stormwater infrastructure and basement stairs.
- All deep soils to be redesigned to be compliant with ADG requirements as to depths, volumes and area and be free of other infrastructure.
- Stormwater plans be amended to remove stormwater infrastructure piping from within the middle of garden beds.
- Landscaping adjacent to heritage house inadequate.
- The Arborist report submitted is incomplete as it fails to assess all trees that may be impacted by the proposal, on the site and adjacent sites.
- There is a large and significant tree to southwest on an adjoining site that other sites have had to protect and adjust their design around which was not included in the arborist report.
- An assessment of this large tree and any impacts that may occur to this tree arising from the proposed development need to be considered and addressed. The root zone of the tree extends into the southern corner of the site and the excavation for the basement in this area will be in conflict with the trees roots.

#### 35. Stormwater and Drainage

A review of the submitted drainage information found the following further information needs to be submitted:

- Submit OSD tank cross sections (section 1-1 and section 2-2) as marked up in the attached plan in 1:20 scale with detail dimensions, surface & invert levels and continuation of adjoining driveway/ramp profiles and lower floor level to demonstrate that minimum clear headroom has been achieved with the final detailed OSD design.
- Provide certification from Architect & Drainage design engineer stating that the Drainage Plan submitted is consistent with Architectural Plans and Landscaping Plan.

#### 36. Planning

The Statement of Environmental Effects (SEE) was found to be deficient and failed to address multiple planning policy controls including the following:

##### Apartment Design Guide

- 3G Pedestrian access and entries
- 3H Vehicle access
- 3J Bicycle and Carparking
- 4C Ceiling Heights
- 4F Common circulation areas
- 4G Storage
- 4H Acoustic Privacy
- 4J Noise and Pollution

- 4K Apartment Mix
- 4L Ground Floor Apartments
- 4M Facades
- 4N Roof design
- 4O Landscape Design
- 4P Planting on Structures
- 4Q Universal Design
- 4U Energy Efficiency
- 4V Water management and conservation
- 4W Waste Management
- 4X Building Maintenance

37. Please provide an update SEE addressing these requirements.  
Apartment Design Guide – 4A – Solar Access to the following Units fails to achieve the minimum solar access requirements to both their POS and the living areas:
- Unit G04
  - Unit G05
  - Unit 104
  - Unit 105
  - Unit 204
  - Unit 205
  - Unit 304
  - Unit 305
  - Unit 403
  - Unit 404
  - Unit 503
  - Unit 504
38. The proposal needs to be redesigned to comply. Detailed Elevation Solar Access diagrams are required to be submitted to demonstrate compliance.
39. Apartment Design Guide – 4E- Private Open space and balconies – the following units do not comply:
- Unit 001 - POS too narrow under 3m.
  - Unit 002 – POS too narrow under 3m and under 15sqm in area.
  - Unit 003 – POS is too narrow under 3m.
  - Unit 502 – balcony too narrow under 2.4m
  - Unit 503 – balcony too narrow under 2.4m
40. The proposal needs to be redesigned to comply.

#### **GRC Development Control Plan 6.3.4 Basement setback**

41. The proposal fails to comply with the minimum basement setbacks in various locations. The proposal needs to be amended to comply with the required setback to restore deep soil zones and the landscaping opportunities. Set back is to be a minimum of 6m from the front and rear boundaries and 3m from the side boundaries and located under the building footprint.
42. Fin wall extending forward of the front setback obscures the view of the heritage item and is not supported. The proposal needs to be redesigned to remove this wall to open views to the heritage item on the adjoining property.

Note

43. Great care should be taken to ensure that any amendments to the application do not generate new and additional non-compliances. Studies, plans and reports prepared by consultants in response to the request for further information need to be congruent with each other. Amendments to plans should be clearly shown using the red cloud convention. A detailed response is required in writing clearly explaining how the various items contained in the request for further information have been addressed.

**State Agencies**Transport for NSW

44. Based on the information provided, TfNSW cannot provide concurrence to the proposed vehicular crossing and associated civil works on Princes Highway under section 138 of the *Roads Act 1993* as the following additional information is required:
1. An additional swept path assessment showing a B99 and a B85 vehicle passing on the driveway at the intersection with Princes Highway consistent with the requirements AS2890.1:2004. The vehicle turning into the property is to do so wholly from within the kerb-side lane with adequate clearance to the middle lane.
  2. Clarification on whether a secure gate with an intercom to permit access to visitors is proposed, and if so, an assessment of queuing for vehicles back from the secure gate to Princes Highway because of this gate.
45. It is also noted that there is inconsistency in the proposed driveway design between the Traffic Report, Landscape Plans and the Driveway Profile plans prepared and submitted as part of the Development Application. Confirmation of the proposed driveway design is required before the agency can provide concurrence under section 138 of the *Roads Act 1993*.

NSW Police Force

46. Due to crime in the locality the following is required to be submitted:
1. a Crime Risk Assessment Report that examines the proposed development against Crime Prevention Through Environmental Design and provides recommendations.
  2. a Closed-Circuit Television plan.
47. On 9/11/2023 an online Teams meeting was held between Council staff and the consultants for the applicant to discuss the items raised in the request for further information. During this meeting each item was discussed in detail with the consultancy team for the applicant using the plans set to understand Council's concerns.
48. On the 30 January 2024 amended plans and documentation was submitted to Council via the planning portal.
49. Internal and external referrals were resent, and the application was renotified to neighbouring properties between 8 February 2024 and 22 February 2024. No submissions were received.

The assessment contained in the report is based upon the updated amended plan set and documentation referenced above.

**PLANNING ASSESSMENT**

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

## ENVIRONMENTAL PLANNING INSTRUMENTS

### Environmental Planning and Assessment Act 1979

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

### Environmental Planning and Assessment Regulation 2021

52. The proposal is not considered to have met the statutory requirements under Schedule 1 of the Regulation.

The revised application has not been accompanied by a design verification statement prepared by the appointed qualified designer pursuant to clause 115 (3) and (3A).

## STATE ENVIRONMENTAL PLANNING POLICIES

### State Environmental Planning Instruments

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

State Environmental Planning Policy	Compliance
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes
State Environmental Planning Policy (Biodiversity and Conservation) 2021	No
State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes
State Environmental Planning Policy – (Building Sustainability Index: BASIX) 2004	Yes
State Environmental Policy No 65 – Design Quality of Residential Flat Buildings (SEPP 65)	No
State Environmental Planning Policy (Industry and Employment) 2021	N/A

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

#### Chapter 4 Remediation of Land

54. Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 is relevant to the proposal. Chapter 4 seeks to promote the identification and appropriate remediation of contaminated land in order to reduce the risk of harm to human health or any other environmental impacts and ensure the suitability of the land for the proposed development.
55. Clause 4.6 requires contamination and remediation to be considered when determining a DA. The consent authority must not consent to the carrying out of development on land unless it has considered whether the land is contaminated and if contaminated, whether the land requires remediation in order to be suitable for the proposed development.
56. A Stage 1 Preliminary Site Investigation prepared by Coleman & Adams Environmental was submitted in support of the application. This report found that the history of the site and surrounding properties was residential since 1943 with minimal change over this time. The potential for the site to be contaminated from on-site sources and off-site sources was considered based on the findings of a site inspection and site history review, actual or potential contamination sources were identified as low in relation to the proposed development for the subject site.
57. The site historical review indicated the following areas of potential environmental concern:
- Potential importation of uncontrolled fill that may contain various contaminants;
  - Asbestos within potential imported fill material;
  - Asbestos within onsite structures; and

- Lead paint used as a finish on dwellings of that era.

58. A search of the NSW EPA Contaminated Land Management record of notices for the Beverley Park area and POEO public register of licensed and delicensed premises found nothing within 200m of the subject properties. Based on the finding of this investigation it is considered that the risk to human health and the environment associated with soil and groundwater contamination is low in relation to the proposed development for the subject site.
59. Given the lengthy history of residential use and no known records of contaminating activities being conducted on the subject site there is no indication that the land is contaminated. The provisions of Chapter 4 have been satisfied.

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

60. 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

61. 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.
62. Chapter 2 regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
63. This chapter applies to clearing of:
- (a) Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and
  - (b) Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (Development Control Plan).
64. The objectives of the Chapter are to protect the biodiversity values of trees and other vegetation in non-rural areas and preserve the amenity of non-rural areas through the preservation of trees and other vegetation. This policy is applicable pursuant to Clause 2.3 of the SEPP as the site is within both Georges River Council and the R4 High Density Residential zone.
65. The proposal seeks to remove 17 small/medium sized trees and shrubs considered to be of low landscape significance and retention value from the subject site. The proponents of the development provided an initial Arborists Report evaluating the existing trees onsite and Council's Landscape and Arboricultural Assessment Officer agrees with the findings of the report that it is acceptable to remove all the trees.



66. Adjoining the site to the south at 13-21 Wyuna Street, Beverley Park is a large Camphor Laurel tree. Council's Senior Landscape & Arboricultural Assessment Officer holds concerns that proposed stormwater pits and charged lines on the subject site situated within the Tree Protection Zone (TPZ) of this tree will negatively impact the tree. The tree already has encroachment into the TPZ arising from redevelopment of the adjoining property. The level of impact arising from the proposed development is defined under AS4970 as a major encroachment which requires either the design to be modified to remove the encroachment or substantiation regarding the level of impact to the tree through root mapping. The applicant was advised and provided an updated Arborist Report to address the matter. The updated Arborists Report which was referred to Council's Senior Landscape & Arboricultural Assessment Officer for comment. The report was again found to be inadequate and if the development proceeded it would result in an unacceptable level of impact to the tree. The proposed development is not supported from a landscape and arboricultural perspective.
67. Chapter 6 – Water Catchments has the following relevant aims and objectives:
- 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.
68. The proposed stormwater drainage system design is not considered satisfactory by Council's Senior Development Engineer and consequently they are not supportive of the development as proposed. The application has the potential to satisfy the requirements of Chapter 6 but this has not been demonstrated in the revised application. There remains uncertainty with the application as it may give rise to an undue impact upon the Georges River catchment, therefore is unable to be supported.

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

69. The Transport and Infrastructure SEPP applies to the site and relevant parts are discussed below.

#### **Chapter 2 Infrastructure**

70. The application was referred to Ausgrid pursuant to clause 2.48 of the SEPP. Ausgrid found the proposal satisfactory subject to conditions being imposed.

#### **Clause 2.119 - Development with frontage to classified road**

71. Clause 2.119 states the following:
- (2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*
- (a) *where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
  - (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*

- (i) *the design of the vehicular access to the land, or*
- (ii) *the emission of smoke or dust from the development, or*
- (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

72. The vehicular access to the site is from Princes Highway which is a classified road so the above provisions apply. A Traffic Report prepared by TerraTraffic was submitted in support of the application. This report calculated that the development would generate up to five (5) vehicle movements per hour during peak commuter periods. This equates to approximately one additional vehicle movement every 12 minutes during commuter peak hours. An increase in traffic volumes of this magnitude is considered to be an acceptable and would be unlikely to result in any unreasonable impacts on the existing operational performance of the surrounding road network.

Clause 2.120 - Impact of road noise or vibration on non-road development

73. Clause 2.120 requires the consent authority to consider the likely impact of noise and vibration on residential accommodation. This applies to land located adjacent to a road with an annual average daily traffic volume of more than 20,000 vehicles. As the subject site is located on a classified road and the development is traffic generating so the provisions of Clause 2.119 are applicable and a referral to Transport for NSW occurred. An acoustic report has been prepared by Acoustic Noise & Vibration Solutions P/L found that the proposed development is able to comply with the road noise and vibration requirements of the SEPP subject to the recommendations of the acoustic report being implemented. Transport for NSW considered the application raising no objections and provided the necessary concurrence subject to conditions being applied to the development consent.
74. If recommended for approval the proposed development will be conditioned that the recommendations of the Acoustic Report prepared by Acoustic Noise & Vibration Solutions P/L will be implemented to ensure compliance with the SEPP requirements and ensure acceptable amenity for future occupants.
75. Where the building is affected and reliant upon mechanical ventilation, these rooms will need to comply with the relevant provisions of the NCC and the relevant Australian Standards.
76. The application was referred to TFNSW (RMS) in accordance with Clause 2.118, 2.119 and 2.121 of State Environmental Planning Policy (Transport and Infrastructure) 2021. A formal response was provided, concurrence was obtained subject to the imposition of conditions if the application was to be supported.
77. The application was also referred internally to Council's Traffic Section who found the proposal unsatisfactory and their concerns are discussed further below.

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

78. A BASIX Certificate is required to be lodged for any development application in NSW for any new residential development where the proposed cost of works exceeds \$50,000.

79. A BASIX certificate was provided with the development application. BASIX certificate number provided with this development application is 1339950M\_03 dated 10 November 2022 by Green Sustainable Homes. No revised BASIX certificate was provided with the revised plans. The proposed development fails to satisfy the SEPP criterion.

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

80. Chapter 4 of State Environmental Planning Policy (Industry and Employment) 2021 relates to Advertising and Signage. The application does not propose any retail tenancies or advertising signage so the requirements of the SEPP are not relevant to this application.

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

81. State Environmental Planning Policy No 65 – Design Quality of Residential Flat Buildings (State Environmental Planning Policy 65) was gazetted on 26 July 2002 and applies to the assessment of DAs for residential flat developments of three (3) or more storeys in height and containing at least four (4) dwellings. Amendment 3 to State Environmental Planning Policy 65 commenced on 17 July 2015 and implemented various changes including the introduction of the Apartment Design Guide (ADG) to replace the Residential Flat Design Code. Given the nature of the development proposed, State Environmental Planning Policy 65 applies.
82. Clause 28(2) of State Environmental Planning Policy 65 requires that the consent authority take into consideration the following as part of the determination of DAs to which State Environmental Planning Policy 65 applies:
- the advice (if any) obtained from the design review panel, and*
  - the design quality of the development when evaluated in accordance with the design quality principles, and*
  - the Apartment Design Guide.*
83. Council does not have a design review panel, so the application has been reviewed with respect to the design quality of the proposal having regard to the nine (9) design quality principles. These design principles do not generate design solutions but provide a guide to achieving good design and the means of evaluating the merit of proposed solutions.
84. The application has been reviewed with respect to the relevant criteria as set out in the ADG. Comments have also been received from Council's Urban Designer.
85. The tables below provide a comprehensive assessment against the principles, objectives and controls of State Environmental Planning Policy No 65 and the ADG.

**Table - application of State Environmental Planning Policy 65**

Clause	Standard	Proposal	Complies
<b>3. Definitions</b>	Complies with definition of "Residential Apartment Development" (RAD) Section 4 (1) (Application of Policy) of the State Environmental Planning Policy 65 states that the policy " <i>applies to development for the purpose of a residential flat building,</i>	Complies with the definition.  The proposal is for a seven (7) storey residential flat building with three (3) levels of basement parking.	Yes

	<p><i>shop top housing or mixed use development with a residential accommodation component if:</i></p> <ul style="list-style-type: none"> <li>- <i>the development consists of any of the following:</i> <ul style="list-style-type: none"> <li><b>(a)</b> <i>the erection of a new building,</i></li> <li><b>(b)</b> <i>the substantial redevelopment or the substantial refurbishment of an existing building,</i></li> <li><b>(c)</b> <i>the conversion of an existing building, and</i></li> </ul> </li> <li>- <i>the building concerned is at least 3 or more storeys (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), and</i></li> <li>- <i>the building concerned contains at least 4 or more dwellings.”</i></li> </ul>		
<b>4. Application of Policy</b>	<p>Development involves the erection of a new RFB, substantial redevelopment or refurbishment of a RFB or conversion of an existing building into an RFB.</p> <p>The definition of an RFB in the State Environmental Planning Policy includes mixed use developments.</p>	The development proposes the construction of a new residential flat building development, which satisfies the definition of the policy.	Yes
<b>Clause 50 - Development Applications (E P &amp; A Regulation 2000)</b>	<p>Design verification statement provided by qualified designer.</p> <p>Registered Architect Name and Registration No.</p>	A Design Verification Statement provided by Tecton Group Pty Ltd Registered Architect Aileen Ceah (Registered Architect No.7728) accompanied the original submission, no revised statement has been provided with the revised application.	Yes

86. A design verification statement has been provided by Aileen Ceah (Registration No 7728) of Tecton Group Pty Ltd in accordance with Clause 29 of the *Environmental Planning and Assessment Regulation 2021* was provided with the original submission, however no revised design verification statement was provided with the revised plans.
87. The application was referred to Council's Urban Designer following lodgement of the DA who found the design proposed to be inadequate and offered detailed comments on the design deficiencies. These comments were provided to the applicant as part of the request for further information.
88. The applicant submitted amended plans and documentation to address the concerns raised in the request for further information. The amended plans were referred to Council's Urban Designer for review and found to be inadequate again.
89. The Urban Designers Comments are reproduced below:
90. Some of the amendments undertaken include the following:
- i. *Direct pedestrian access to the ground floor apartments from Princes Highway;*
  - ii. *Entrance lobby width increased from 2.036m to 2.6m; however the lift lobby width of 1.798m is unchanged;*
  - iii. *New COS above the driveway in the southern corner;*
  - iv. *Part of the 1.5m driveway setback converted to side path;*
  - v. *Fire stairs exit along the driveway combined;*
  - vi. *Basement car parking entry amendments;*
  - vii. *Minor amendments to POS and landscaping;*
  - viii. *Reduction in some of the balcony depths and realignment of some of the external walls;*
  - ix. *Some window sizes enlarged;*
  - x. *Amendments to sprinkler pump room, service rooms etc*
91. The revised design has not made any real attempt to address the urban design concerns raised. The amendments undertaken result in no real impact on achieving a good urban design outcome. The remaining outstanding issues are as follows:
- a. *Finished Floor Levels - Ground floor FFL has been amended from RL 19.06 to RL 19.20. This still is below the existing footpath level at the building entry at RL 19.56. In addition, Unit 1 is around 0.42m (maximum) below the existing natural ground. This is not supported.*
  - b. *Building Entrance - The entrance lobby width has been increased from 2.036m to 2.6m and the access way emphasised by planters. This is encouraging; however, the lift and the lift lobby remains unchained. It still is not visible from the street or provide space for seating or social interaction. This is not supported.*
  - c. *Communal Circulation - No adequate access to natural light and ventilation for the communal circulation and spaces above ground as well as no opportunity for social interaction.*
  - d. *Setbacks and Building Separation*
    - *Heritage item and transition (setback to southwest boundary)*
      - o *Units 105, 205 and 305 still do not comply with the required 9m setback*
      - o *The 5, 6 and 7th storey do not comply with the prescribed 12m setback*
    - *Other Setbacks*
- Front:*
- o *Ground – Unit 003 POS encroaches on to the front setback – not supported*
  - o *2,3,4 storey- minor non-compliance*

- o 5, 6 storey – minor non-compliance

Rear

- o 5, 6 storey – non-compliant – not supported

Northeast side

- o Ground - Fire stairs + minor non-compliance
- o 2,3,4 storey- minor non-compliance
- o 5, 6 storey – non-compliant – not supported;
- o 7th storey - minor non-compliance

Basement setbacks – not compliant – not supported.

- f. Vehicular access – not incorporated into the facade design impacting on the landscape and COS design.
- g. Communal Open Space – ground level COS still not integrated with the built form and not accessible from within the building. It still is a “left over” space and not supported. Location above the driveway and in the southern corner will result poor amenity for users due to noise pollution and lack of sunlight, hence undesirable and not compliant with the solar access requirements. It is acknowledged that COS is provided on roof top; however, the COS on ground should not be considered as secondary COS and designed accordingly.
- h. Ceiling Height - Ground floor ceiling height can be acceptable. However, Level 5 (6th Storey) proposed 3m floor to floor ceiling height not supported + Level 6 (7th storey) 2.4m – not acceptable.
- i. Solar Access - Sun eye diagrams should be provided to ascertain solar access compliance.
- j. Amenity – Unit 001 Bedroom window adjacent the service access ramp will compromise privacy.
- k. Building Services:
  - Confirmation is required on the adequacy of the area allocated for the booster assembly. Location adjacent to the basement stairs is a concern especially in case of emergency. Detail design including landscape treatment and materiality of the assembly should be provided. Where possible the pipes should be concealed from view.
  - Confirmation is also required that the proposed development will not require an electricity substation.
- l. Architectural Expression - It is considered that the proposal is not sited and designed to respect the future desired and streetscape character and the heritage item in terms of built form and scale as the proposal has excessive bulk and scale. The SEE and amended architectural drawings provided indicate that the proposal exceeds the maximum permitted building height. The overall design, which does not comply with building setbacks will dominate the streetscape and overwhelm the heritage item. An attempt has been made on heritage interpretation by including sandstone tiles; however, that is not considered adequate or appropriate given the significant impact of the built form on the heritage item.

92. Except for the setback above the fourth storey, the proposal lacks balanced composition of massing and is perceived as bulky. The north-east and south-east elevations have large portions of blank walls and lack articulation. The horizontal banding and half height render balcony balustrade emphasise horizontality and add to the building bulk. The rockcote quick render on the north-west elevation adds variety in materiality however, given its depth, it also adds bulk and will obstruct solar access to the balconies. In addition, the double height vertical louvre screens add to the mass and emphasis of the “box like” built form.

93. *The architectural expression of the elevations and overall built form require amending to enhance the streetscape for the proposal to be sympathetic to the adjacent heritage item.*
94. *The design should also incorporate thoughtful composition, lightweight materials and detailing to minimise the perceived bulk and scale especially given the design excellence requirement under Clause 6.10 of GRLEP 2021. Recessing and projecting massing and elements to break down the mass and avoid flat monotonous facades should be considered. Appropriate building separation should be incorporated to provide transition, enhance sky views and provide relief from the built form.*
95. *One of Council's priorities under the LSPS is to improve architectural quality of developments. Innovation is required in the design. Design solutions that integrate vertical gardens in the building façades must be explored to enhance visual appeal and address sustainability.*
96. *The amended proposal is not supported from an Urban Design perspective.*
97. Clause 28 of SEPP 65 requires the consent authority to take into consideration the provisions of the Apartment Design Code. The table below assesses the proposal against these provisions.

**Table - Design considerations of Part 3 and Part 4 of the Apartment Design Guide (ADG)**

Clause	Standard	Proposal	Complies
<b>3D - Communal open space</b>	<p>1. Communal open space has a minimum area equal to 25% of the site.</p> <p>- Where it cannot be provided on ground level it should be provided on a podium or roof</p> <ul style="list-style-type: none"> <li>• Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should: <ul style="list-style-type: none"> <li>• provide communal spaces elsewhere such as a landscaped roof top terrace or a common room</li> <li>• provide larger balconies or increased private open space for apartments</li> </ul> </li> </ul>	<p>Site area 1,360.9sqm.</p> <p>Required 25% of site area or 340.2sqm.</p> <p>Total area of communal open space provided is 144sqm or 10% of the site area with 72sqm at ground level and 72sqm on the 6<sup>th</sup> floor as rooftop communal open space.</p>	No



	<ul style="list-style-type: none"> <li>• demonstrate good proximity to public open space and facilities and/or provide contributions to public open space</li> </ul>		
	2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)	The application fails to demonstrate that either the Ground Level or Level 6 communal open space will achieve a minimum of 2 hours (or more) of solar access throughout the day in midwinter.	No
<b>3E – Deep Soil zones</b>	<p>1. Deep soil zones are to meet the following minimum requirements:</p> <p>Where the site has an area between 650sqm and 1,500sqm</p> <p>Minimum dimension 3m.</p> <p>Minimum deep soil area of 7%</p> <p>Achieving the design criteria may not be possible on some sites including where:</p> <ul style="list-style-type: none"> <li>• the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres)</li> <li>• there is 100% site coverage or non-residential uses at ground floor level</li> </ul> <p>Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and</p>	<p>Site area 1,360.9sqm.</p> <p>Required 7% of site area or 95.26sqm.</p> <p>Total area of deep soil zones provided 194sqm or 10% of the site area.</p>	Yes

	alternative forms of planting provided such as on structure.		
<b>3F- Visual Privacy</b>	<p>Separation between windows of habitable rooms and balconies is provided to ensure visual privacy is achieved.</p> <p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <p>Up to 12m (4 storeys) Habitable - 6m Non-habitable – 3m</p> <p>Up to 25m (5-8 storeys) Habitable – 9m Non-habitable – 4.5m</p> <p>Over 25m (9+ storeys) Habitable – 12m Non-habitable – 6m</p>	<p>The proposal manages privacy through a combination of adhering to the required minimum separation distances and where this is not achieved through the use of a combination of clear highlight windows, frosted fixed glass windows to habitable rooms and 1.8m high obscure glass privacy screen balustrades and planter boxes on balconies.</p> <p>It is considered a more appropriate outcome would be to design the development to achieve increased compliance to negate the need to enclose the long side of balconies with 1.8m high obscure glass privacy screens which removes access to air flow and outlook from the private open space and the habitable rooms adjacent to the balconies.</p> <p>The visual privacy is discussed below in greater detail.</p>	No
<p><b>Comment on Separation distances (3F Visual Privacy):</b></p> <p>The separation distances of the proposed building are intended to provide a balanced approach to achieving the privacy requirements identified in Objective 3F-1 of the Apartment Design Guide, as well as the need to avoid multiple steps in the built form as the height increases which would result in a 'ziggurat' appearance. Planning Circular PS17-001 identifies that <i>“the ADG is not intended to be and should not be applied as a set of strict development standards”</i>. Rather, the ADG provides objectives, design criteria and design guidance on how residential development proposals can meet the SEPP 65 principles through good design and planning practice.</p> <p>The setbacks proposed across the various elevations and levels whilst not always complying with the distance requirements are generally able to satisfy privacy through the inclusion of a combination of clear highlight windows, frosted fixed glass windows to habitable rooms and 1.8m high obscure glass privacy screens balustrades and planter boxes on balconies mentioned above.</p>			

North-western elevation

Across the frontage to the Princes Highway and the north-western elevation the setback ranges from 3.93m to 9m and is acceptable from a privacy perspective.

North-eastern elevation

Along the north-eastern elevation to the side boundary the setbacks range from 5.13m to 8.46m. The 5.13m setback is for the lowest 4 levels and relates to a small articulation in the building to provide greater visual interest as the site is too narrow for a podium level. The reduced setback is acceptable from a privacy perspective and the remainder of the building is setback 6m as required over these first 4 levels.

Levels 5 to 7 along the north-eastern elevation have setbacks ranging from 6.72m to 8.46m and fails to comply with the 9m minimum separation distance required. Privacy is proposed to be managed through a combination of clear highlight windows, frosted fixed glass windows, 1.8m high obscure glass privacy screens balustrades and planter boxes.

South-eastern elevation

Along the south-eastern elevation to the rear of the site, the building adopts varying separation distances between 6m for the first four levels which is compliant with the minimum separation distances.

Levels 5 to 7 have setbacks of between 7.6m to 9m with acceptable privacy outcomes even when the minimum distance is not achieved with the exception of the balconies of units 403, 404, 503 and 504.

These balconies have 1.8m high obscure glass privacy screens balustrades along the long sides of the balconies facing the site boundaries, not enabling the balcony to be further enclosed by a similar treatment to the rear elevation without further eroding the amenity of the balconies for future residents to unacceptable levels.

South-western elevation

Along the south-western elevation to the side boundary adjacent to McWilliam House being a local heritage item, the proposed setbacks range from 6m to 9m. As this setback adjoins a heritage item design guidance suggests increasing the separation distances required by a further 3m to provide for a greater transition in scale and increased landscaping opportunities. This has not been achieved.

The lowest 4 levels achieve the minimum 6m setback but have included 1.8m high obscure glass privacy screen balustrades to maximise privacy.

Levels 5 to 7 have setbacks of between 7.19m to 9m with acceptable privacy outcomes even when the minimum distance is not achieved through the use of 1.8m high obscure glass privacy screen balustrades.

1.8m high obscure glass privacy screens

Apartment privacy with adjoining properties to the south-west and north-east is achieved for seven (7) units by the use of 1.8m high obscure glass privacy screen balustrades where the minimum separation distances are not achieved.

This arrangement whilst not ideal is acceptable for managing privacy for units but the use of these obscure glass privacy screens along the long side of the balconies will make

the private open space feel enclosed and undermines the purpose of private open space eroding access to air flow and removing outlook.

#### Privacy between adjacent properties and the proposed development

As discussed above privacy between adjacent properties and the proposed development could be improved. It is considered that the building separation distances proposed combined with fenestration, floor layout and privacy screens satisfy the SEPP 65 design quality principles which is the key determinative in the matter and will not give rise to undue amenity impacts for occupants of the adjoining developments or future occupants of the proposed development.

#### Communal Open space

There is an unacceptable privacy concern for the Ground Floor Unit 05 as it is the ground level communal open space. When this communal open space is in use it will likely cause a loss of privacy for the occupants of the unit. There is a slight difference in level between the communal open space and the private open space and planter boxes are also proposed but the close proximity will lead to an unacceptable impact upon the privacy of Ground Floor Unit 05. This arrangement fails the design guidance under Objective 3F-2 which requires communal open space to be separated from private open space of apartments.

<b>3G – Pedestrian Access and entries</b>	<p>Building entries and pedestrian access connects to and addresses the public domain</p> <p>Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge</p>	<p>Entries have been provided from the Princes Highway footpath to individual ground floor units that have direct frontage to the main entrance of the building.</p>	Yes
<b>3H-Vehicle Access</b>	<p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.</p>	<p>The vehicular access point for the basement carpark is from the Princes Highway. The car park access is on the southern side of the building adjacent to McWilliam House. Council's Urban Designer is of the option that more could have been done to better integrate the vehicle entry into the design of the building to create a better streetscape outcome.</p>	No
<b>3J-Bicycle and carparking</b>	<p>For development in locations that satisfy Objective 3J-1 proximity to public transport then reduced carparking rates set out in the Roads and Maritime</p>	<p>Proposal requires the following car parking provisions.</p> <ul style="list-style-type: none"> <li>2 x 1 bedroom units = 1 x 2 = 2 spaces</li> </ul>	

	<p>Services Guide to Traffic Generating Developments (RMS), or the car parking requirement prescribed by the relevant council, whichever is less apply.</p> <p>The proposal fails to satisfy the location requirements so and the following DCP car parking provisions apply:</p> <p>1 space per 1 and 2 bedroom units, 2 spaces per 3 bedroom unit or greater and 1 space per 5 units (visitor parking) with 1 designated vehicle wash bays which maybe in a visitor space.</p> <p>1 space per Adaptable unit as per AS2890.6.</p>	<ul style="list-style-type: none"> <li>17 x 2 bedroom units = 1 x 17 = 17 spaces</li> <li>9 x 3 bedroom units = 2 x 9 = 18 spaces</li> </ul> <p>Residential spaces required = 37. Spaces are being provided = 37.</p> <p>Visitor spaces = <math>28/5 = 5.6</math> rounded up to 6 spaces. Spaces are being provided = 6.</p> <p>Total spaces required = 43. Total spaces provided = 43.</p> <p>The proposal provides a total of 43 off-street car parking spaces for residents and visitors.</p> <p>1 wash bay provided doubling as a visitors space.</p> <p>3 adaptable units proposed with three (3) accessible parking spaces provided.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<b>4A- Solar and daylight access</b>	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area</p> <p>A maximum of 15% of apartments in a building may receive no direct sunlight between 9am and 3pm in midwinter</p>	<p>A minimum of 75% or 21 of the 28 apartments receive a minimum of 2 hours of solar access during mid-winter to the living areas and the private open space areas in accordance with the assessment criterion.</p>	<p>Yes</p>
<b>4B- Natural Ventilation</b>	<p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p>	<p>A minimum of 85.7% or 24 of 28 apartments have been designed to comply with minimum cross ventilation requirements.</p>	<p>Yes</p>

	<p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p> <p>The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths</p>	<p>No apartment exceeds 18m in depth.</p> <p>The building has a mixture of dual aspect, cross through and corner apartments. Only 4 apartments are single aspect.</p>	<p>Yes</p> <p>Yes</p>
<b>4C-Ceiling Heights</b>	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <p>Habitable rooms = 2.7m</p> <p>Non-habitable rooms = 2.4m</p> <p>2 storey apartments = 2.7m for main living area floor and 2.4m for second floor where it does not exceed 50% of the apartment area</p>	<p>Most units have a 3.1m floor to ceiling height except for the cross over units on the top 2 floors which have 3m floor to ceiling height on level 6 and 2.4m floor to ceiling height on level 7.</p> <p>The second floor of crossover apartment 501 slightly exceeds the 50% apartment area requirement having a floor area that is 52.6% of the lower level. Whilst not ideal the small non-compliance is considered acceptable.</p> <p>The structures associated with the communal open space on that level have floor to ceiling heights of 2.4m which is acceptable as it is a non-habitable space.</p>	<p>Yes</p>
<b>4D- Apartment size and layout</b>	<p>Apartments are required to have the following minimum internal areas:</p> <p>Studio = 35sqm</p> <p>1 bedroom = 50sqm</p> <p>2 bedroom = 70sqm</p> <p>3 bedroom = 90sqm</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each</p> <p>Every habitable room must have a window in an external wall with a</p>	<p>Studio apartments - Nil.</p> <p>One bedroom units 2 proposed - having areas of between 56sqm -72.48sqm.</p> <p>Two bedroom units 17 - having areas of between 77.73sqm – 96.84sqm.</p> <p>Three bedroom units 9 - having areas of between 104.59sqm – 122.97sqm.</p> <p>Every habitable room has window openings larger than 10% of the room area.</p>	<p>Yes</p>

	total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms		
<b>4D-2 Apartment size and layout</b>	<p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p> <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p>	<p>All apartments have open plan living/dining room layouts.</p> <p>22 apartments generally comply with the minimum requirements for depth of habitable rooms. Apartments 104 - 9.4m 105 - 8.6m 204 - 9.3m 205 - 8.4m 304 - 8.8m and 504 - 9.4m which exceed the maximum depth limit of 8m and no variation request has been received. This is considered unsupportable.</p>	No
	<p>Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space).</p> <p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p> <p>Living rooms or combined living/dining rooms have a minimum width of: -3.6m for studio and 1 bedroom - 4m for 2 and 3 bedroom apartments</p> <p>The width of cross-over or cross-through apartments are at least</p>	<p>All master bedrooms have a minimum internal size of 10sqm.</p> <p>All bedrooms have minimum dimensions of 3m.</p> <p>The combined living/dining rooms of apartments 201 - 3.8m 301 - 3.7m 305 - 3.8m fail to achieve the minimum required width of 4m. This is considered unsupportable.</p> <p>Minimum 4m provided for cross-over or cross-through apartments is proposed.</p>	<p>Yes</p> <p>Yes</p> <p>No</p> <p>Yes</p>



	4m internally to avoid deep narrow apartment layouts		
<b>4E- Private Open space and balconies</b>	<p>All apartments are required to have primary balconies as follows:</p> <p>Studio = 4sqm</p> <p>-1 bedroom = 8sqm/2m depth</p> <p>-2 bedroom = 10sqm/2m depth</p> <p>-3+ bedroom = 12sqm/2.4m</p> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p> <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15sqm and a minimum depth of 3m</p>	<p>No studios proposed.</p> <p>Achieved.</p> <p>Apartments 101,102,103, 201, 202, and 203, have balconies that fail to achieve the minimum private open space area of 10sqm and no variation request has been received. This is considered unsupportable.</p> <p>Apartment 105 contains 2 balconies, neither achieve the 12sqm required for a primary balcony. Apartments 305 and 501 have a balcony that fails to achieve the minimum private open space area of 12sqm, no variation request has been received. This is considered unsupportable.</p> <p>Noted and applied in the calculation.</p> <p>All ground floor apartments have private open space areas that exceed 15sqm and have a depth of 3m or a balcony consistent with ADG requirements.</p>	<p>N/A</p> <p>Yes</p> <p>No</p> <p>No</p> <p>Yes</p> <p>Yes</p>
<b>4F- Common circulation areas</b>	The maximum number of apartments off a	No more than five (5) units are provided to any one core on a single level.	Complies

	circulation core on a single level is eight		
	For Buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	N/A	N/A
<b>4G- Storage</b>	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <p>Studio = 4m<sup>3</sup>  1 bedroom = 6m<sup>3</sup>  2 bedroom – 8m<sup>3</sup>  3 bedroom – 10m<sup>3</sup></p> <p>At least 50% of storage is to be located within the apartment.</p>	<p>All apartments have sufficient storage totals when in apartment storage and basement storage is combined, however apartments G03, 101, 201, 301, and 402 fail to provide at least 50% of the storage in the apartments. This could be achieved with a revised design.</p>	No
<b>4H- Acoustic Privacy</b>	<p>Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses. Window and door openings are generally orientated away from noise sources.</p> <p>Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas</p> <p>Storage, circulation areas and non-habitable rooms should be located to buffer noise from external sources</p>	<p>Building separation, orientation and arrangements are designed to mitigate noise pollution, with openings shielded through setbacks and other arrangements from noise sources. Recommendations have been provided to ensure separation between buildings comply. In addition, the building must comply with the specific requirements of the NCC – BCA.</p> <p>Internal layouts require further work to mitigate noise.</p> <p>The application is accompanied by an Acoustic Report prepared by Acoustic Noise &amp; Vibration Solutions P/L dated 12 September 2022 Reference No: 2022-297, this report was not revised to address the amended plans.</p> <p>No covering letter to state that the original report recommendations remain unchanged accompanied the amended plans.</p>	Yes

		<p>This report considered potential noises sources on the site from the roadways, relating to traffic generation and vehicle movements, noise from commercial usage and from mechanical plant.</p> <p>Should the application be supported conditions would be imposed that the recommendations of the acoustic report be incorporated into the development.</p>	
<b>4J – Noise and Pollution</b>	<p>To minimise impacts the following design solutions may be used:</p> <ul style="list-style-type: none"> <li>• physical separation between buildings and the noise or pollution source</li> <li>• residential uses are located perpendicular to the noise source and where possible buffered by other uses</li> <li>• buildings should respond to both solar access and noise. Where solar access is away from the noise source, non-habitable rooms can provide a buffer</li> <li>• landscape design reduces the perception of noise and acts as a filter for air pollution generated by traffic and industry</li> </ul>	<p>The site layout and floor plan design seeks to minimise acoustic disruption on the enjoyment of the future residents/users of the development generally. Waste storage area are situated in the basement.</p> <p>An Acoustic Report prepared by Acoustic Noise &amp; Vibration Solutions P/L dated 12 September 2022 found that noise and vibration levels would be acceptable for residents if the recommendations of the Acoustic Report are implemented.</p> <p>No covering letter to state that the original report recommendations remain unchanged accompanied the amended plans.</p> <p>The communal open space on the Ground Level is directly adjacent to unit G05 and concern is raised that noise from the use of the communal open space may disturb the residents of this unit.</p> <p>A redesign should be considered.</p>	No
<b>4K – Apartment Mix</b>	A range of apartment types and sizes is provided to cater for	The development offers a mix of accommodation offering 1 bedroom apartments, 2	Yes

	<p>different household types now and into the future.</p> <p>The apartment mix is distributed to suitable locations within the building.</p>	<p>bedroom apartments and 3 bedroom apartments.</p> <ul style="list-style-type: none"> <li>- 2 x 1 bedroom apartments (7.1%)</li> <li>- 17 x 2 bedroom apartments (60.7%)</li> <li>- 9 x 3 bedroom apartments (32.1%)</li> </ul> <p>The mix is acceptable and appropriate providing housing diversity.</p>	
<b>4L – Ground Floor Apartments</b>	<p>Street frontage activity is maximised where ground floor apartments are located.</p> <p>Design of ground floor apartments delivers amenity and safety for residents.</p>	<p>There are 3 ground floor apartments proposed with frontage directly to the Princes Highway and all have individual entries.</p>	Yes
<b>4M - Facades</b>	<p>Facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale.</p>	<p>The architectural expression of the elevations and overall built form fails to enhance the streetscape and is not sympathetic to the adjacent heritage item.</p> <p>The design lacks thoughtful composition, lightweight materials and detailing to minimise the perceived bulk and scale.</p> <p>Greater use of recessing and projecting massing and elements to break down the mass and avoid flat monotonous facades is required. Appropriate building separation should be incorporated to provide transition, enhance sky views and provide relief from the built form.</p>	No
<b>4N – roof design</b>	<p>Roof treatments are integrated into the building design and positively respond to the street. Opportunities to use roof space for residential accommodation and</p>	<p>The roof is a modern element that is generally consistent with new developments of this scale and includes a communal open space area to benefit the future occupants.</p>	Yes

	open space are maximised. Incorporates sustainability features.		
<b>4O – Landscape Design</b>	Landscape design is viable and sustainable, contributes to the streetscape and amenity	A detailed landscape design has been prepared and submitted with the application but is not supported by Council's Landscape and Arboricultural Officer.	No
<b>4P- Planting on Structures</b>	Planting on structures – appropriate soil profiles are provided, plant growth is optimised with appropriate selection and maintenance, contributes to the quality and amenity of communal and public open spaces	A detailed landscape design has been prepared and submitted with the application which includes planting on structures, but the plan is not supported by Council's Landscape and Arboricultural Officer.	Yes
<b>4Q – Universal Design</b>	Universal design – design of apartments allow for flexible housing, adaptable designs, accommodate a range of lifestyle needs.	Satisfactory.	Yes
<b>4R – Adaptive reuse</b>	Adaptive reuse as apartment of existing buildings- new additions are contemporary and complementary, provide residential amenity while not precluding future adaptive reuse.	N/A - A new development.	N/A
<b>4S Mixed Use</b>	Mixed use development are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	The site is located within the R4 High Density Residential zone, mixed use is not proposed.	N/A
<b>4U – Energy Efficiency.</b>	Development incorporates passive environmental design, passive solar design to optimise heat storage in winter and reduce heat transfer in summer, natural ventilation minimises need for mechanical ventilation	A compliant BASIX Certificate has not been provided with the revised design.	Yes

<b>4V – Water management and conservation</b>	Water management and conservation – potable water use is minimised, stormwater is treated on site before being discharged, flood management systems are integrated into the site design	The development has failed to demonstrate appropriate stormwater management measures and Council's Development Engineer is not satisfied with the design proposed.	No
<b>4W – Waste Management</b>	Waste management – storage facilities are appropriately designed, domestic waste is minimised by convenient source separation and recycling	The design includes designated rubbish, recycling and bulky waste facilities and storage areas for the residents. The proposed arrangements for ongoing waste management and collection, as proposed within the waste management plan are unacceptable and not supported. The applicant has also failed to demonstrate that a garbage truck can access the basement safely for waste collection.	No
<b>4X – Building Maintenance</b>	Building design provides protection from weathering and enables ease of maintenance, material selection reduces ongoing maintenance cost	The design incorporates a mix of external finishes that require minimal maintenance.	Yes

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98. The application has not demonstrated that it will satisfy all the relevant provisions of the Apartment Design Guide and is not considered able to be supported in its current form.

#### **Georges River Local Environmental Plan 2021 (GRLEP 2021)**

99. The subject development site is zoned R4 High Density Residential under the GRLEP 2021 as shown in Figure 12 below:




Figure 12: Zoning map (GRLEP 2021) - Subject site outlined in black.

100. An assessment of the proposal against the relevant LEP clauses and development standards is as follows:

Clause	Standard	Proposal	Complies
<b>Part 2: Permitted or Prohibited Development</b>			
<b>2.2 Zoning of Land to which Plan applies</b>	R4 High Density Residential	The proposed application is for a residential flat building in the R4 High Density Residential zone under GRLEP 2021.	Yes
<b>2.3 Zone objectives and Land use table</b>	Objectives of zone to be satisfied	The proposal satisfies objectives 1, 2 and 5 of the zone objectives by providing a mixture of residential apartments that are located to maximise public transport patronage and promote walking and cycling as viable transport options.	Yes
<b>2.7 Demolition</b>	Demolition requires development consent.	Consent for demolition of existing structures is sought.	Yes
<b>Part 4: Principal Development Standards</b>			
<b>4.3 Height of Buildings</b>	Maximum permitted height as per height of building map: 21m	Proposed height 22.48m to the top of the lift over run. Variation of 1.48m or 6.67%.	No, see clause 4.6 submitted.
<b>Note:</b> Clause 4.6 objection has been submitted requesting a variation to the development standards for the maximum building height. The non-compliance relates to the lift over run and a small section of the roof. This is discussed in greater detail below.			



4.4 Floor Space Ratio	Maximum permitted 2:1 or 2,721.8sqm	Proposed 1.99:1 or 2,721sqm	Yes
Note: Based on a site area of 1,360.9sqm.			
4.5 Calculations of Floor space and Site area	Floor space to be calculated in accordance with this Clause.	Floor space has been calculated in accordance with this clause.	Yes
4.6 Exceptions to Development Standards	A Clause 4.6 variation request has been submitted in relation to the proposed building height breach. This is discussed in greater detail below.		
Part 5: Miscellaneous Provisions			
5.10 Heritage Conservation	<p>(1) <b>Objectives</b> The objectives of this clause are as follows—</p> <p>(a) to conserve the environmental of the Georges River local government area,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(c) to conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</p>	<p>The site adjoins a local heritage item identified in Schedule 5 of the GRLEP as Item I3 “<i>McWilliam House</i>” located at 188 Princes Highway, Beverley Park. The proposed development is not considered to have an adverse impact upon this heritage item subject to conditions to protect the site during demolition an excavation if the application was to be approved.</p>  <p><b>Figure 13: Map showing the heritage item adjoining the subject site outlined in blue</b></p>	Yes
5.21 Flood Planning	<p>(1) <b>Objectives</b> The objectives of this clause are as follows—</p> <p>(a) to minimise the flood risk to life and property associated with the use of land,</p> <p>(b) to allow development on land that is compatible with the flood function and behaviour on the</p>	<p>This clause applies to development on land that the consent authority considers to be within the ‘flood planning area’.</p> <p>The site is not mapped as being part of a flood planning area.</p>	N/A

	land, taking into account projected changes as a result of climate change, (c) to avoid adverse or cumulative impacts on flood behaviour and the environment, (d) to enable the safe occupation and efficient evacuation of people in the event of a flood.		
<b>Part 6: Additional Local Provisions</b>			
6.1 Acid Sulfate Soils (ASS)	(1) <b>Objectives</b> The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	The site is identified as being affected by acid sulfate soils – Class 5. Development consent must not be granted under this clause for the carrying out of certain works, unless an acid sulfate soils management plan has been prepared for those works in accordance with the Acid Sulfate Soils Manual. Development consent is not required for the carrying out of these works pursuant to this clause, as the works are sited above 5m Australian Height Datum and are not likely to lower the water table on the adjacent class 2 & 3 mapped land. On this basis, an acid sulfate soils management plan is not required but in this instance an acid sulfate soils assessment report has been prepared by Coleman & Adams Environmental which demonstrates that there will be no adverse impacts or risks associated with acid sulfate soils.	Yes
6.2 Earthworks	(2) Development consent is required for earthworks unless— (a) the earthworks are exempt	The proposal includes the provision of three (3) levels of basement car parking.  This is a standard and acceptable amount of	Yes

	<p>development under this Plan or another applicable environmental planning instrument, or</p> <p>(b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.</p>	<p>excavation and site works to accommodate a development of this scale and density.</p> <p>The proposed earthworks are not considered to be unreasonable for the use sought.</p>	
6.3 Stormwater Management	<p>(2) In deciding whether to grant development consent for development, the consent authority must be satisfied that the development—</p> <p>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</p> <p>(b) includes, if practicable, on-site stormwater detention or retention to minimise stormwater runoff volumes and reduce the development's reliance on mains water, groundwater or river water, and</p> <p>(c) avoids significant adverse impacts of stormwater runoff on adjoining properties, native</p>	<p>Stormwater drainage has been reviewed by Councils Drainage Engineer and found to be unsatisfactory.</p>	No

	bushland, receiving waters and the downstream stormwater system or, if the impact cannot be reasonably avoided, minimises and mitigates the impact, and (d) is designed to minimise the impact on public drainage systems.		
6.7 Airspace Operations	<p>(2) Development consent must not be granted to development to which this clause applies unless—</p> <p>(a) the consent authority has consulted the relevant Commonwealth body, and</p> <p>(b) the relevant Commonwealth body advises the consent authority that—</p> <p>(i) the development will penetrate the Limitations or Operations Surface but it does not object to the development, or</p> <p>(ii) the development will not penetrate the Limitations or Operations Surface.</p>	The application has been reviewed by the relevant authorities. The subject building will not penetrate the Sydney Airport Obstacle Limitations Surface (OLS) which commences above 45.72m Above Existing Ground Height. The maximum height of the building is 41.80m AHD at the lift overrun.	Yes
6.8 Development in areas subject to aircraft noise	<p>(1) <b>Objectives</b> The objectives of this clause are as follows:</p> <p>(a) to prevent certain noise sensitive developments from being located near</p>	The proposed development is not on land that is in an ANEF contour of 20 or greater and therefore the matters for consideration under this clause are not triggered.	N/A

	<p>the Sydney (Kingsford Smith) Airport and its flight paths,</p> <p>(b) to assist in minimising the impact of aircraft noise from that airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,</p> <p>(c) to ensure that land use and development in the vicinity of that airport do not hinder or have any other adverse impacts on the ongoing, safe and efficient operation of that airport.</p>		
6.9 Essential Services	<p>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—</p> <p>(a) the supply of water,</p> <p>(b) the supply of electricity,</p> <p>(c) the supply of telecommunications facilities,</p>	<p>Water and electricity supply is available to the site and can be extended to service this new development.</p> <p>Sewage disposal is available from the site.</p>	<p>Yes</p> <p>Yes</p>

	<p>(d) the disposal and management of sewage,</p> <p>(e) stormwater drainage or on-site conservation,</p> <p>(f) suitable vehicular access.</p>	<p>Stormwater disposal plan has been assessment by Council's Development Engineer and found to be unsatisfactory.</p> <p>The development has vehicular access from Princes Highway but Council's traffic section found the access and loading arrangements for waste vehicle to be unsatisfactory.</p>	<p>No</p> <p>No</p>
6.10 Design Excellence	(1) The objective of this clause is to deliver the highest standard of sustainable architecture and urban design.	Noted.	Yes
6.10 (3) (b)	<p>(3) (b) land in the following zones if the building concerned is 3 or more storeys or has a height of 12 metres or greater above ground level (existing), or both, not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking—</p> <p>(i) Zone R4 High Density Residential,</p> <p>(ii) Zone E1 Local Centre,</p> <p>(iii) Zone E2 Commercial Centre,</p> <p>(iv) Zone E4 General Industrial,</p> <p>(v) Zone MU1 Mixed Use.</p>	The proposal is for a building greater than 3 storeys with a height greater than 12 metres in R4 High Density Residential Zone.	Yes
6.10 (4)	(4) Development consent must not be granted for development to	The amended plans still have multiple unresolved issues and the design is not supported by Council's Urban Designer. The	No

	which this clause applies unless the consent authority considers that the development exhibits design excellence.	application has failed to demonstrate that the development exhibits design excellence to satisfy the requirements of this clause.	
6.10 (5)	<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</p>	<p>The architectural plans fail to demonstrate a high standard of architectural design is proposed incorporating modern and complementary materials and finishes.</p> <p>The application fails to demonstrate that the external appearance of the building will improve the quality and amenity of the public domain.</p> <p>The application fails to demonstrate compliant separation distances, setbacks and massing, impacting the view corridors through the site.</p> <p>The application fails to demonstrate suitable ground level communal open space in accordance with ADG requirements.</p>	No



	<p>with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,</p> <p>(v) bulk, massing and modulation of buildings,</p> <p>(vi) street frontage heights,</p> <p>(vii) environmental impacts such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,</p> <p>(viii) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of pedestrian networks,</p> <p>(ix) the impact on, and proposed improvements to, the public domain,</p> <p>(x) achieving appropriate interfaces at ground level between the building and the public domain,</p> <p>(xi) excellence and 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>		
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	(xiv) the provision of on-site integrated waste and recycling infrastructure, (xv) the promotion of safety through the application of the principles of crime prevention through environmental design.		
<b>6.11</b> Environmental sustainability	(1) The objective of this clause is to ensure that the development to which this clause applies is consistent with principles of best practice environmentally sensitive design.	The application has failed to demonstrate that the development will not lead to a negative impact upon a significant tree within the adjoining property due to the works proposed impacting the TPZ and potential structural roots.	No
	(2) This clause applies to development— (a) on land in the following zones— (i) Zone R4 High Density Residential, (ii) Zone E1 Local Centre, (iii) Zone E2 Commercial Centre, (iv) Zone E4 General Industrial, (v) Zone MU1 Mixed Use. (b) that involves— (i) the erection of a new building, or (ii) the change of use of an existing building, or (iii) alterations or additions to an existing building that, in the opinion of the consent authority, are significant.	This clause applies to the proposed development as it is a new building on land zoned R4 High Density Residential.	Yes

	<p>(3) Development consent must not be granted to development on land to which this clause applies if the building is 1,500 square metres in gross floor area or greater unless adequate consideration has been given to the following in the design of the building—</p> <p>(a) water demand reduction, including water efficiency, water recycling and minimisation of potable water usage,</p> <p>(b) energy demand reduction, including energy generation, use of renewable energy and reduced reliance on mains power,</p> <p>(c) indoor environmental quality, including daylight provision, glare control, cross ventilation and thermal comfort,</p> <p>(d) the minimisation of surfaces that absorb and retain heat and the use of surfaces that reflect heat where possible,</p> <p>(e) a reduction in new materials consumption and use of sustainable materials, including recycled content in concrete, sustainable timber</p>	<p>The subject building exceeds 1,500sqm so the clause applies to this development.</p> <p>The applicant has failed to submit a revised BASIX Certificate to address the revised architectural plans.</p> <p>The design has incorporated environmentally sustainable measures.</p> <p>Landscaped areas are proposed on site which will minimise urban heat.</p> <p>The site is accessible by public transport with a bus stop being within walking distance to the site.</p> <p>The inclusion of bicycle parking spaces will also encourage active transport options.</p>	Yes
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	and PVC minimisation, (f) transport initiatives to reduce car dependence such as providing cycle facilities, car share and small vehicle parking spaces.		
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LPP015-24

## Clause 4.6 Exceptions to development standards

### Detailed assessment of variation to Clause 4.3 Height of Buildings

101. Clause 4.3 of the Georges River Local Environmental Plan 2021 (GRLEP) relates to the maximum permitted building height for a site and refers to the Height of Buildings Map. The relevant map identifies the subject site as having a maximum height of 21m. Building Height is defined as:

*“Building height (or height of building) means:*

- In relation to the height of a building in metres – the vertical distance from ground level (existing) to the highest point of the building, or*
- In relation to the RL of a building the vertical distance from the Australian Height Datum to the highest point of the building*
- Including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.”*

The maximum height zones within the immediate area are shown below:



Figure 14: Map showing maximum heights under GRLEP 2021 for the site and surrounding sites

102. The location and extent of the height non-compliance is provided in the image below.



**Figure 15: Height plan drawing which illustrates the components which are above the height control (Source: Tecton Group Architecture).**



**Figure 16: Northwest Elevation which illustrates the maximum height of the building (Source: Tecton Group Architecture).**

103. The proposed development seeks a variation to the development standard relating to height (Clause 4.3). The GRLEP identifies a maximum height control of 21m across this development site. The proposed development will exceed the height limit by 1.48m. The height breach relates primarily to the lift over run and part of the roof which has a maximum RL of 41.8m AHD resulting in a 6.6% variation of the height control.
104. Any variation to a statutory control can only be considered under Clause 4.6 – Exceptions to Development Standards of the GRLEP. An assessment of the proposed height against the survey plan levels was conducted to indicate the Applicant's calculations are generally accurate.
105. Clause 4.6(1) outlines the objectives of the standard which are to “provide an appropriate degree of flexibility in applying certain development standards to particular development” and “to achieve better outcomes for and from development by allowing flexibility in particular circumstances”.

106. Clause 4.6(3) states that:

*“Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

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

107. To support the non-compliance, the applicant has provided a request for a variation to Clause 4.3 in accordance with Clause 4.6 of GRLEP 2021. The Clause 4.6 request for variation is assessed as follows:

***Is the planning control in question a development standard?***

108. The Height of Buildings control under Clause 4.3 of the Georges River Local Environment Plan 2021 is a development standard.

***What are the underlying objectives of the development standard?***

109. The objectives of the Height of Buildings development standard under Clause 4.3 of GRLEP 2021 are:

- (a) *to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*
- (b) *to minimise the impact of overshadowing, visual impact, disruption of views and loss of privacy on adjoining properties and open space areas,*
- (c) *to ensure an appropriate height transition between new buildings and—*
  - (i) *adjoining land uses, or*
  - (ii) *heritage items, heritage conservation areas or Aboriginal places of heritage significance.*

***Compliance is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a))***

110. There have been several Court cases that have established provisions to assist in the assessment of Clause 4.6 statements to ensure they are well founded and address the provisions of Clause 4.6.

111. In *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. This list is not exhaustive. It states, inter alia:

*“An objection under State Environmental Planning Policy 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.”*

112. The judgment goes on to state that:

*“The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).”*

113. Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on the first method for the purposes of this Clause 4.6 variation):
1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
  2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
  3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
  4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
  5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.”*
114. The Clause 4.6 statement was prepared having regard to the recent court cases and their judgements.
115. Applicants comment: “Historically, the most common way to establish a development standard was unreasonable or unnecessary was by satisfying the first method set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827. This method requires the objectives of the standard are achieved despite the non-compliance with the standard.

This was recently re-affirmed by the Chief Judge in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [16]-[17]. Similarly, in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 at [34] the Chief Judge held that “establishing that the development would not cause environmental harm and is consistent with the objectives of the development standards is an established means of demonstrating that compliance with the development standard is unreasonable or unnecessary”.

This Request addresses the first method outlined in *Wehbe v Pittwater Council* [2007] NSWLEC 827. This method alone is sufficient to satisfy the ‘unreasonable and unnecessary’ requirement.

***The objectives of the standard are achieved notwithstanding non-compliance with the standard*** (the first method in *Wehbe v Pittwater Council* [2007] NSWLEC 827 [42]-[43])

The specific objectives of the height of buildings development standard as specified in clause 4.3 of GRLEP 2021 are detailed in the table below. An assessment of the consistency of the proposed development with each of the objectives is also provided.



Objectives	Assessment
<p><b>4.3 Height of buildings</b>  <b>(1) The objectives of this clause are as follows—</b></p>	
<p><i>a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality</i></p>	<p><i>The underlying purpose of this objective is to ensure that any future development is designed in a manner such that any resultant building height appropriately responds to both the existing and future context in a controlled manner. The proposal demonstrates that the building will visually adapt to the height, bulk and scale of neighbouring built forms (both existing and anticipated) and the resulting height breaches have been appropriately sited and integrated into the built form envelope, reducing their visual prominence from both neighbouring properties and the public domain.</i></p> <p><i>The proposal adopts a building height which generates a 6 storey form that it consistent with the anticipated scale of development in this locality, insofar as it relates to sites zoned R4 High Density Residential with a maximum height limit of 21m. There are various recently constructed RFB in the Immediate surroundings with a similar height, bulk and scale to what is proposed. It is considered that the proposal thus achieves an appropriate level of compatibility with the established and anticipated character of the locality.</i></p> <p><i>The height breaching elements do not influence the dwelling yield or intensity of the development, noting that the proposal complies with the FSR development standard in the LEP. Accordingly, there is no identifiable nexus between the proposed height variation and the extent of residential density sought for the land.</i></p> <p><i>Additionally, strict application of the building height limit would necessitate the removal of a residential floor level, resulting in a built form character that would be out of sorts with that envisaged for the site and its context.</i></p> <p><i>Specifically, the extent of non-compliance observed across the proposed built form is limited to a minor portion of the roof, lift and pergola over the rooftop COS. The elements in breach are centrally located within the building envelope and will not have a high degree of visibility from the public domain. Given the siting/scale of the elements that breach the height limit and their relationship to neighbouring properties and the adjacent public domain along the Princes Highway, the development is not inconsistent with that anticipated to result by way of a compliant scheme. The scale, nature and aspect of the site and, in turn, the height breaches, enables the proposed building to visually integrate with that of neighbouring buildings (both existing/anticipated) serving as an affirmation of the objective and not that of a building that abandons height controls.</i></p>

<p><i>(b) to minimise the impact of overshadowing, visual impact, disruption of views and loss of privacy on adjoining properties and open space areas,</i></p>	<p><i>The height breaching elements of the building are of a siting, scale and aspect where they will not identify as visually dominant nor jarring to the contextual character. Due to their minor nature and location fairly central within the building envelope, these protrusions will be largely imperceptible from vantage points in the vicinity of the site. Similarly, the non-compliant elements, in and of themselves, are not responsible for any additional adverse overshadowing impacts, visual impact, view loss or privacy impacts upon adjoining properties. It is noted that there would be no impacts upon open space. The vast majority of the proposed development is compliant with the 21m height limit.</i></p>
<p><i>(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.</i></p>	<p><i>To the north east, the proposed development has a comparably height to the approved development at 176-178 Princes Highway, Beverley Park. This is demonstrated in the Streetscape Elevation Analysis which is re-produced in Figure 4 below. The height limit on that site is also 21m, so the LEP therefore does not anticipate any intended height transition. To the south, the site adjoins a heritage item. As discussed in the Heritage Impact Statement, the transition is appropriately dealt with through larger than required building setback/separation and ensuring a height compliant elevation as it presents to the heritage item. The elements in breach of the height are located on the other side of the proposed building, more towards the north east and well away from the heritage item.</i></p>

116. Officer's comment: In respect to Prestons CJ judgement the NSW Land and Environment Court has established the five part test (outlined above). In this case the development satisfies the five part test and it is considered that the variation to the height control requested is worthy of support in this instance.

- As previously discussed, the objectives of the height standards are considered to be satisfied despite the numeric non-compliance.
- The underlying objectives of the standard remains relevant and therefore compliance is necessary and warranted. The majority of the building sits within the height limit with the lift over run exceeding the control. No habitable area extends beyond the 21m height limit, it is noted that some of the roof element of the habitable spaces are above the height control.
- In this case the underlying objective will not be defeated or thwarted by the approval of the building, as the building has been designed to generally comply with the height standard. The height control will not be abandoned or destroyed through this or any recent approvals for similar residential flat buildings in the locality.
- The R4 zoning is an appropriate zoning for the site and this parcel of land was subject to up zoning. The proposed scale of the development is consistent with the anticipated height for development within this zone and precinct.

117. The height control objectives articulate the ultimate function of establishing the height of buildings. The maximum height for buildings is identified on the height of buildings map. As previously described, the maximum height of the proposal is 41.8m AHD resulting in a 6.6% variation of the height control. The proposal contravenes the standard, as a result the amount and degree of non-compliance and its resultant impact needs to be considered.
118. The proposed height of the development is largely in keeping with the desired future character of development within the precinct.

**Clause 4.6(3)(b) are there sufficient environmental planning grounds to justify contravening the standard**

119. Clause 4.6 (3)(b) states that *(b) there are sufficient environmental planning grounds to justify contravening the development standard.*
120. Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, it is considered that there is an absence of any negative impacts of the proposed non-compliance on the environmental quality of the locality and amenity of adjoining properties.
121. Applicants Comment: *"Clause 4.6(3)(b) of the GRLEP 2021, requires the consent authority to be satisfied that the applicant's written request has adequately addressed clause 4.6(3)(b), by demonstrating:*

*"That there are sufficient environmental planning grounds to justify contravening the development standard".*

*The environmental planning grounds relied on in the written request under Clause 4.6 must be sufficient to justify contravening the development standard. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole. Therefore, the environmental planning grounds advanced in the written request must justify the contravention of the development standard and not simply promote the benefits of carrying out the development as summarised in (Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118).*

*There is an absence of environmental harm arising from the contravention and positive planning benefits arising from the proposed development as outlined in detail above. These include:*

- *The proposal is consistent with the objectives of the development standard and objectives of the R4 – High Density Residential Zone.*
- *The proposal is compliant with the maximum FSR applicable to the site. Therefore, the height variation does not seek to provide any additional density or gross floor area (GFA) outside of that prescribed to the development on the land.*
- *The lift overrun facilitates equitable access to the rooftop communal open space. The pergola improves the amenity of the space. Both of these elements (lift and pergola) penetrate the height limit to some degree.*
- *The location and design of the height breaching elements have been organised to ensure that they do not present as visually jarring to the streetscape and in addition, do not result in any adverse level of amenity impact on neighbouring properties. The elements in breach of the height are relatively centrally positioned within the building envelope, well away from the allotment boundaries.*

- The height breach does not have any adverse bearing on the proposed built form relationship with the adjoining heritage item at 186-188 Princes Highway, Beverley Park.
- Approval of the neighbouring RFB adjoining to the north east also does not fully comply with the statutory height limit.

Based on the above, it has been demonstrated that there are sufficient environmental planning grounds to justify the proposed non-compliance to the maximum height of buildings in this instance.

The Objects of the Act under s1.3 are also relevant to whether grounds exist to warrant a variation. While this does not necessarily require that the proposed development should be consistent with the objects of the Act, nevertheless, in the table below we consider whether the proposed development is consistent with each object.

The objects of this Act and how this proposal responds to the object are as follows:

Objects	Comment
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	This object is not relevant to this application.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The proposal will facilitate an ecologically sustainable development given that no negative impact on environmental and social considerations will arise. This in turn will serve to offer the ongoing sustainment of the economic health of the area.
(c) to promote the orderly and economic use and development of land,	The proposed development will promote the orderly and economic use of the land by way of providing a land use intensity consistent with that envisaged by Council.
(d) to promote the delivery and maintenance of affordable housing,	This object is not relevant to this development.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	Given the nature and character of the urban setting the proposed development is located within, no impact on threatened species or ecological communities is likely to result.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	This object is not relevant to this development.
(g) to promote good design and amenity of the built environment,	The proposed development promotes good design in that it serves to provide a built form and massing arrangement that serves to positively influence the future amenity of the dwelling occupants while adopting an architectural form and language, with an

	<i>overall silhouette, height and land use intensity compatible with both the established and emerging development and housing typology.</i>
<i>(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,</i>	<i>The proposed development will comply with all relevant BCA codes and will promote the health and safety of occupants.</i>
<i>(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,</i>	<i>This object is not relevant to this development.</i>
<i>(j) to provide increased opportunity for community participation in environmental planning and assessment.</i>	<i>This application has been neighbour notified in accordance with Council's DCP requirements.</i>

Officer's comment

122. The proposal fails to accord with two objects of the Act:

- (c) *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*

123. The application fails to demonstrate it will facilitate an ecologically sustainable development outcome and will not negatively impact the local environment through the impact on a significant tree on adjoining property and adequate means of stormwater disposal.

- (g) *to promote good design and amenity of the built environment*

124. The proposed development fails to promote good design in that it seeks to provide substandard ground level communal open space that will impact the amenity of the dwelling occupants and by adopting an architectural form that fails to achieve the design excellence requirements of GRLEP and the support of Council's Urban Designer.

125. Whilst the above matters of the development fail two objects of the Act the lift overrun and part of the roof which is the aspect of the development that contravenes the development standard is not inconsistent with the Objects.

**Clause 4.6(4)(a)(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out**

126. Clause 4.6(4) states that:

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

- *the consent authority is satisfied that:*

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

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

127. Applicants comment: *“Clause 4.6(4)(a)(ii) provides that development consent must not be granted for development that contravenes a development standard unless the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*
128. *In Part 4.1.1 of this request, it was demonstrated that the proposal is consistent with the objectives of the development standard. The proposal, inclusive of the non-compliance, is also consistent with the objectives of the R4 – High Density Residential zoning, as follows:*

**Zone R4 – High Density Residential.**

Objective	Comment
<i>To provide for the housing needs of the community within a high density residential environment.</i>	<i>The proposal provides for the housing needs of the community by increasing the supply of housing stock within the Beverley Park locality, with the addition of 28 new dwellings in an accessible location.</i>
<i>To provide a variety of housing types within a high density residential environment.</i>	<i>The proposal contributes to housing diversity by providing a mix of dwelling sizes including adaptable dwellings, in the form of residential apartments.</i>
<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	<i>This objective is not relevant to the proposal.</i>
<i>To enable other land uses that contribute to the vibrancy of the neighbourhood while ensuring that business centres remain the focus for business and retail activity.</i>	<i>This objective is not relevant to the proposal.</i>
<i>To encourage development that maximises public transport patronage and promotes walking and cycling.</i>	<i>The proposal will maximise public transport patronage and walking and cycling, being located in close proximity to regular bus services along Princes Highway that provide convenient access nearby amenities.</i>

129. *The objectives of the zones as demonstrated above, as well as the objectives for the standard, have been adequately satisfied. Therefore, the proposal is considered to be in the public interest.*
130. Officer's comment: *The non-compliance has been designed to ensure all habitable areas are located within the permitted height and the only exceedance relates to the lift over run and part of the roof form which is generally recessive in nature. The proposal generally satisfies the objectives of the development standard in the following ways:*

131. The amenity impacts associated with the non-compliance have been considered. In terms of visual impact, the structure is generally centrally located which reduces its visual appearance from the immediately adjoining streetscapes. It is considered that in this case the small-scale ancillary structure which will not be highly visible or an intrusive element given the scale and proportions of the building are considered acceptable. It will not be dominant from immediately adjoining properties and streetscapes given that it is centrally located. There will be no significant adverse impacts in terms of overshadowing or overlooking to adjoining properties.
132. New developments of a similar nature being residential apartment buildings have been approved within the Beverley Park Precinct which has established a precedent for development. The proposed development is consistent with the pattern of development that is emerging in this precinct.
133. The proposed development is considered to satisfy the objectives of the building height development standard for the following reasons:
- (a) The development is consistent with the height envisaged for the Beverley Park Precinct as described by GRLEP.
  - (b) Despite the variation, the bulk and scale of the development is compatible with the existing buildings that have been completed and under construction within the immediate vicinity.
  - (c) When considered in the context of the development, the variation is minor and would not be readily discernible from street level.
  - (d) The height variation will not result in any unreasonable adverse amenity impacts such as overshadowing on neighbouring properties or the public domain.
  - (e) The variation to the height would not result in an unreasonable visual impact on neighbouring properties or the streetscape.
134. The R4 High Density Residential zone objectives require the development to:
- *To provide for the housing needs of the community within a high density residential environment.*
  - *To provide a variety of housing types within a high density residential environment.*
  - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
  - *To enable other land uses that contribute to the vibrancy of the neighbourhood while ensuring that business centres remain the focus for business and retail activity.*
  - *To encourage development that maximises public transport patronage and promotes walking and cycling.*
135. The exceedance in the building height control generally satisfies the objectives of the zone for the following reasons:
- (i) The development will provide for a residential use, and the proposed variations will not impede the attainment of this objective.
  - (ii) The development is providing for the housing needs with a mix of apartment choices and layouts within a high density residential zone. (offering 1, 2 and 3 bedroom apartments, including adaptable apartments).
  - (iii) The development is located within a location with only a short walk to a number of bus stops within close proximity.
  - (iv) The development will provide residential development within close proximity to the Beverley Park business precinct whilst also activating the street through individual units entries from street level.



136. The area of non-compliance is considered not to be unreasonable and will not establish an undesirable precedent or undermine the objectives of the zone or height control. It will not have any adverse effect on the surrounding locality, which is consistent within the R4 location. The proposal promotes the economic use and development of the land consistent with the zone objectives and its purpose.
137. The public benefit of the variation is that it will appropriately facilitate the provision of a high density development on R4 zoned land and will provide for a range of housing stock. It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ clarified what items a Clause 4.6 needs to satisfy. Importantly, there does not need to be a "better" planning outcome resulting from the non-compliance.
138. The second matter was in cl 4.6(3)(b), where the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard has a better environmental planning outcome than a development that complies with the development standard.
139. The structure which breaches the building height is the lift over run and part of the roof. The lift over run is centrally located and will have minimal visual or amenity impacts.
140. In this case the proposal seeks to establish the preferred and appropriate design and built form outcome for this site with the building complying in large with the height standard. There will be no adverse amenity or visual impacts generated by the variation, the proposal satisfies the objectives of the zone and the development standard. In this case the justification to vary the height control is considered to be a reasonable and well-founded request.

**Clause 4.6(4)(b) the concurrence of the Director-General has been obtained.**

141. In accordance with clause 55 of the Environmental Planning and Assessment Regulation 2021, Council may assume the Secretary's concurrence for exceptions to development standards for applications made under clause 4.6 of the LEP. This was further confirmed by directions provided within Planning Circular PS 18-003 issued on 21 February 2018.

**Whether contravention of the development standard raises any matter of significance for State or regional environmental planning (Clause 4.6(5)(a))**

142. Contravention of the maximum height development standard proposed by this application does not raise any matter of significance for State or regional environmental planning.

**Conclusion – Assessment of Clause 4.6 Request for Variation**

143. Despite the non-compliance in terms of the height, the proposed variation is considered to be acceptable and satisfies the provisions of Clause 4.6.
144. The proposed variation satisfies the objectives of the height control as the non-compliant structure, being the lift overrun and part of the roof will not be visually dominating. The additional height is considered to be consistent with other developments in the immediate locality and the scale of the development is sympathetic with the existing scale and form of existing adjoining developments.

145. It is considered that the Clause 4.6 Statement lodged with the application addresses all the information required pursuant to Clause 4.6 and is considered well founded with sufficient environmental planning grounds to justify contravening the standard given that in this case the proposal satisfies the objectives of the zone and development standard Clause 4.3, building height control.

### **Georges River Development Control Plan 2021 (GRDCP 2021)**

146. The proposed development is subject to the provisions of Georges River Development Control Plan 2021 (GRDCP 2021).
147. The proposal needs to address and satisfy the following relevant provisions of GRDCP:
- Part 3 General Planning Considerations,
  - Part 5 Residential Locality Statements (Beverley Park and Ramsgate),
  - Part 6.3 High Density Residential Controls.
148. These provisions are addressed in detail below.

### **Part 3: General Planning Considerations**

149. Part 3 of GRDCP provides general planning considerations and is discussed in the table below:

<b>Part 3 General Planning Considerations</b>		
<b>3.3 Landscaping</b>		
<p>1. Landscaping on site should be incorporated into the site planning of a development to (where appropriate):</p> <ul style="list-style-type: none"> <li>i. Reinforce the desired future character of the locality;</li> <li>ii. Maintain significant landscape features;</li> <li>iii. Be consistent with any dominant species in the adjoining area of ecological significance;</li> <li>iv. Incorporate fire resistant species in areas susceptible to bushfire hazard;</li> <li>v. Provide planting within setback zones (setbacks identified within the relevant applicable parts of the DCP);</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</li> </ul>	<p>The Landscape Plan as submitted is not supported by Council's Landscape &amp; Arboricultural Officer. The proposal fails to demonstrate that it will not cause a negative impact on a significant tree within an adjoining property.</p>	<p>No</p>

the aesthetic quality of the development.			LPP015-24
2. Landscape planting should achieve a mature height in scale with the structures on the site.	The Landscape Plan as submitted is not supported by Council's Landscape & Arboricultural Officer.	No	
3. Where canopy trees, shrubs and groundcovers are required, preference should be given to incorporating locally indigenous plants listed in GRDCP 2021 Backyard Biodiversity Guide on Council's website and Council's Tree Management Policy (and its Appendix 1 – Tree Planting).	The Landscape Plan as submitted is not supported by Council's Landscape & Arboricultural Officer.	No	
4. Hydrological issues should be considered at the early stages of design for development around and close to trees on development sites.	The Landscape Plan as submitted is not supported by Council's Landscape & Arboricultural Officer.	No	
5. Public domain works including street tree planting should comply with Council's relevant policies including: i. Kogarah North Public Domain Plan ii. Kogarah Street Tree Management Strategy and Masterplan 2009; iii. Hurstville Street Tree Management Study 2015; and iv. Georges River Public Domain Streetscape works specifications 2019.	Public domain works are proposed but the landscape plan as submitted is not supported by Council's Landscape & Arboricultural Officer given the impact of the development of a tree within an adjoining allotment.	No	
6. Topsoil and mulch should be included in landscape areas and should contain organic matter to support plant growth.	Noted.	N/A	
<u>Planting on Structures</u> 7. Where landscaping is provided in a structured environment such as a raised planter box or 'on slab' they should include waterproofing, drainage and automatic irrigation. The minimum plant material pot container sizes for trees should be 75 litres and minimum soil depth for shrubs 200mm and groundcovers 150mm.	Planting on structures is proposed but, however the Landscape Plan as submitted is not supported by Council's Landscape & Arboricultural Officer given the impact of the development on a tree on an adjoining allotment.	No	
8. Green roofs and walls must be provided in higher density urban environments where opportunities for deep soil landscaping are limited and/or where large walls face active areas of the public domain.	Adequate opportunities exist for deep soil planting at ground level.	N/A	
<b>3.6 Contaminated Land</b>			
1. Each development application is to include information sufficient to allow Council to meet its obligation to	The property has a lengthy history of residential use, no known past	Yes	

determine whether development should be restricted due to the presence of contamination.	land uses are likely to cause contamination.	
<p>2. Proposals for the development of contaminated land or potentially contaminated land will need to determine:</p> <p>i. The extent to which land is contaminated (including both soil and groundwater contamination);</p> <p>ii. Whether the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out;</p> <p>iii. Whether the land requires remediation to make the land suitable for the intended use prior to that development being carried out; and</p> <p>iv. If the land has been previously investigated or remediated, development cannot be carried out until Council has considered the nature, distribution and levels of residues remaining on the land and Council has determined that the land is suitable for the intended use.</p>	Noted. The site is not a known contaminated site.	N/A
<b>3.7 Heritage</b>		
Any application for a property identified in the Georges River LEP 2021 as a heritage item or in the vicinity of a heritage item or heritage conservation area, must be accompanied by a Heritage Impact Statement.	A Heritage Impact Statement prepared by NBRIS & Partners Pty Ltd was submitted in support of the application.	Yes
<b>Development in the vicinity of a Heritage Item or Heritage Conservation Area</b>		
Respect and respond to the curtilage, setbacks, form, scale and style of the heritage item or heritage conservation area in the design and siting of new work.	The application was referred to Council's Heritage Officer who found the proposal acceptable from a heritage perspective.	Yes
Maintain significant public domain views to and from the heritage item or heritage conservation area.	The proposal is setback from the common side boundary with McWilliam House to open up views to the heritage item. Does not meet the setback suggested by the Apartment Design Guide.	No
Ensure compatibility with the orientation and alignment of the heritage item.	The application sits forward of the heritage item, the driveway is located on side of the site where the heritage item is to provide some visual relief to the heritage item.	Yes

	The heritage officer who has reviewed the proposal holds the opinion the application is considered acceptable from the heritage item.	
Provide an adequate area around the heritage item to allow for its interpretation.	The proposal is setback from the common side boundary with McWilliam House to allow a adequate area around the heritage item for the interpretation the heritage item.	Yes
Retain original or significant landscape features that are associated with the heritage item or that contribute to its setting.	N/A – all vegetation is being removed from the development site.	N/A
Protect and allow interpretation of archaeological features as appropriate.	The site is not known to contain archaeological relics.	N/A
<b>3.10 Water Management</b>		
<b>Stormwater Management</b>		
1. Development must comply with Council's Stormwater Management Policy 2020 which provides detail of drainage requirements for different development types. Consultation with Council is recommended.	The stormwater drainage plans have been reviewed by Councils Development Engineer and have been found to be unsatisfactory.	No
<b>3.11 Ecologically Sustainable Development</b>		
<b>Residential Buildings</b>		
1. All BASIX affected development must comply with SEPP (Building Sustainability Index: BASIX) 2004.	The application was initially accompanied by a BASIX certificate which confirms compliance with the minimum requirements. A revised BASIX certificate was not provided with the revised plans.	No
<b>3.12 Waste Management</b>		
1. Development must comply with Council's Waste Management requirements regarding construction waste and ongoing management of waste materials	A Waste Management Plan was submitted in support of the application that proposed designated rubbish, recycling and bulky waste facilities and storage areas for residents. The proposed arrangements for demolition and construction waste and ongoing waste management and collection referenced in the waste management plan were found to be unacceptable and are not supported.	No
<b>3.13 Parking Access and Transport</b>		
1. The car parking rate for development types are outlined in	The proposal is for the following units mix.	Yes

<p>Table 1 – Parking Requirements. In the event of a discrepancy between the parking rates specified in this Part of the DCP and any another, the specific requirements identified within the detailed controls for a locality/area shall prevail.</p> <p>Table 1: Off-street Car Parking requirements:</p> <p>Residential Flat Building</p> <ul style="list-style-type: none"> <li>• 1 space per 1 and 2 beds</li> <li>• 2 spaces per 3 beds or more</li> <li>• 1 visitor space per 5 units or part thereof and 1 designated car wash bay which may also be a visitor space</li> </ul>	<ul style="list-style-type: none"> <li>• 2 x 1 bedroom units (adaptable)</li> <li>• 17 x 2 bedroom units</li> <li>• 9 x 3 bedroom units</li> <li>• 28 units in total</li> </ul> <p>Car parking calculation</p> <ul style="list-style-type: none"> <li>• 19 x 1=19</li> <li>• 9 x 2 =18</li> <li>• 28/5=5.6 say 6 visitors</li> <li>• Total required 43</li> </ul> <p>Total car parking spaces provided 43 including 1 wash bay which doubles as a visitor space and 3 accessible spaces.</p>	
<p>2. Development types not listed in Table 1 would be subject to a merit assessment based on the provisions set out in the Roads and Traffic Authority – Guide to Traffic Generating Developments. Council may require a detailed Traffic &amp; Parking Study to be prepared for major development types or types of development not listed in the Guide.</p>	<p>Residential flat building is listed in Table 1.</p>	<p>N/A</p>
<p>5. In calculating the total number of car parking spaces required for a development type, the total should be rounded up to the nearest whole number (i.e. 0.5 or greater).</p>	<p>5.6 visitor spaces round up to 6.</p>	<p>Yes</p>
<p><u>Bicycle Parking</u></p> <p>8. All Commercial, Place of Public Worship, Residential flat building and Shop-top housing development is to provide on-site bicycle parking as outlined in Table 2 – Bicycle Parking Requirements.</p> <ul style="list-style-type: none"> <li>• 1 space per 3 dwellings plus 1 space per 10 dwellings (visitors)</li> </ul>	<p>Proposed units = 28</p> <p>Bicycle parking calculation</p> <ul style="list-style-type: none"> <li>• 28/3 = 9.33</li> <li>• 28/10 = 2.8</li> <li>• 2.8 + 9.33 = 12.13</li> <li>• Total required 13</li> </ul> <p>Total bicycle parking spaces provided 13.</p>	<p>Yes</p>
<p><u>Design and Layout of Car Parking Areas</u></p> <p>12. Internal car park layouts, space dimensions, ramp grades, access driveways, internal circulation aisles and service vehicle areas shall be designed in accordance with the requirements set out in AS 2890.1 (2004) and AS 2890.2 (2002) for off</p>	<p>The basement car parking area, car spaces, ramps, circulation aisles and the internal driveway between the basement and street frontage are required to be designed to comply with AS 2890.1 (2004) and Australian Standard for 'offstreet parking (Part 1). Council's Senior</p>	<p>No</p>

<p>street parking and commercial vehicles.</p> <p>13. Design vehicular access in accordance with the current Australian Standard for 'offstreet parking (Part 1)' and 'off-street carparking for commercial vehicles (Part 2)'.</p> <p>14. For mixed use development, residential off-street parking facilities shall be separated from the other uses and security roller doors shall be installed to provide security to residents.</p>	<p>Traffic Engineer reviewed the amended proposal and found it to be unsatisfactory.</p> <p>No mixed-use development proposed.</p>	N/A
<p><u>Parking for People with a Disability</u></p> <p>23. Parking complies with AS 1428 Design for access and mobility and AS/NZS 2890.6.</p> <p>24. All off-street parking facilities shall allocate accessible parking spaces for people with disabilities at the rate in accordance with Section 3.17 – Universal/ Accessible Design of this DCP.</p> <p>25. Accessible parking spaces shall be located close to an accessible lift, ramp or building entrance and be provided with an accessible path of travel.</p> <p>26. Accessible parking spaces shall be indicated by a permanent sign as specified in AS 1428.1. 27. For residential development, accessible car parking spaces are to be allocated to adaptable unit, or as visitor parking.</p>	<p>Three accessible spaces provided, all designed to comply with the applicable standards.</p>	Yes
<b>3.15 Public Domain</b>		
<b>3.15.2 Public Art</b>		
<p>1. Major developments (commercial, public administration, and retail development) and mixed-use developments with a capital investment value of \$5 million or more are to include an element of public art.</p>	<p>The application is not for a mixed-use development.</p>	N/A
<p>2. A minimum of 1% of the total cost of the development is to be allocated to the public art budget.</p>	N/A.	N/A
<p>3. Details of the nature of the work, its approximate location and size are to accompany the development application</p>	N/A	N/A
<p>4. Developers should consult the Georges River Council Public Art Guidelines, to determine any requirements for including public art in</p>	N/A	N/A



new developments, and to review what constitutes public art		
<p>5. The application must include a Public Art Plan which addresses how the proposed public art meets the following Design Selection Criteria:</p> <ul style="list-style-type: none"> <li>i. Standards of excellence and innovation.</li> <li>ii. Relevance and appropriateness of the work in relation to its site.</li> <li>iii. Its contribution to creating sense of place, and integration into the built form.</li> <li>iv. Where possible, participation of local artists, local groups, youth or indigenous groups.</li> <li>v. Consideration for public safety and the public's use of and access to the public space.</li> <li>vi. Consideration of maintenance and durability requirements of materials, including potential for vandalism and graffiti.</li> <li>vii. Where applicable, consistency with current planning, heritage and environmental policies and plans of management.</li> <li>viii. Evidence of appropriate Public Liability Insurance to cover construction and installation of work.</li> </ul>	N/A	N/A
<b>3.17 Universal / Accessible Design</b>		
<p>1. All new building work should comply with the accessibility provisions of the Building Code of Australia (BCA) and the Disability (Access to Premises - Buildings) Standards 2010 where required.</p> <p>2. Continuous unobstructed paths of travel should be provided from public footpaths, accessible car parking, and set down areas to public building entrances. Paths of travel should be designed in accordance with the Disability (Access to Premises - Buildings) Standards 2010.</p> <p>3. Accessways for pedestrians and for vehicles are to be separated.</p>	<p>The proposal has 3 x adaptable units, 3 accessible car parking spaces, ramp entry to building and lift to access all levels complying with the accessibility provisions of the Building Code of Australia (BCA) and the Disability (Access to Premises - Buildings) Standards 2010.</p> <p>Vehicle and pedestrian access to the building are separated.</p>	<p>Yes</p> <p>Yes</p>
<b>3.19 Crime Prevention / Safety and Security</b>		

<p>Provide a safe environment to minimise opportunities for criminal and anti-social behaviour through surveillance, access control, and territorial reinforcement.</p>	<p>A Crime Risk Assessment Report was submitted in support of the application. The report that examined the proposed development against Crime Prevention Through Environmental Design criteria and provided recommendations to minimise opportunities for crime and antisocial behaviour improve safety.</p> <p>The application was referred to NSW Police, recommendations were made that would be imposed if the application was to be supported.</p> <p>A Closed-Circuit Television plan was also prepared and submitted in support of the application.</p>	<p>Yes</p>
<p><b>3.20 Noise and Vibration</b></p>		
<p><u>Aircraft Noise and OLS</u></p> <p>1. Buildings exposed to aircraft noise are to be designed and constructed in accordance with the relevant Australian Standard (i.e. AS 2021-2000 – Acoustics- Aircraft noise intrusion – Building siting and construction).</p> <p>2. If the building is located within a specific area identified on the OLS map or seeks to exceed the height limit specified in the map the application must be referred to Civil Aviation Safety Authority and Airservices Australia for assessment.</p>	<p>The proposed development is not on land that is in an ANEF contour of 20 or greater and therefore the matters for consideration under this clause are not triggered.</p>	<p>N/A</p>
<p><u>Development near Road and Rail Corridors</u></p> <p>Acoustic assessments for noise sensitive developments as defined in clauses 87 and 102 of the Infrastructure SEPP may be required if located in the vicinity of a rail corridor or busy roads.</p>	<p>The subject site is located on a classified road and an acoustic report prepared by Acoustic Noise &amp; Vibration Solutions P/L found that the proposed development is able to comply with the road noise and vibration requirements of the SEPP subject to the recommendations of the acoustic report being implemented to ensure acceptable amenity for future occupants.</p> <p>The revised architectural plans were not accompanied by a revised acoustic report or a statement stating the</p>	<p>Yes</p>

	recommendations of the initial report remain unchanged.	
<b>3.21 Dedication of Land to Council for Road/Lane Widening</b>		
Approval for development in the locations listed in the table below will be subject to dedication of land (for road/lane widening) without cost to Council. A method for the dedication of land is by planning agreement under s 7.4 of the Environmental Planning and Assessment Act 1979.	The proposed development site is not subject to road widening.	N/A

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## Part 5 Residential Locality Statements

150. Part 5 provides locality statements for development within all residential areas of Georges River, except for Hurstville City Centre and Kogarah North. The statements are locality specific and identify the unique qualities that make up the local character and provide future desired character guidelines. The localities are generally based on suburb boundaries and character and include location, built form, setting, subdivision pattern, heritage and streetscape.
151. The statements build on the existing character of the neighbourhood and important elements that contribute to the existing character. These statements aim to reinforce and enhance the character of each locality. Development is required to consider the future character statement for the locality, in addition to the other requirements within other parts of this DCP.
152. The following table summarises the proposal against the relevant controls:

<b>Part 5 Residential Locality Statements</b>		
<b>5.19 Beverley Park and Ramsgate Locality Statement</b>		
<b>Future Desired Character</b>		
<b>Required</b>	<b>Proposed</b>	<b>Complies</b>
Retain and enhance the existing low density suburban residential character through articulated contemporary developments that respond to the human scale.	The proposal is a seven (7) storey residential flat building that displays articulation and responds to human scale in the locality.	Yes
Encourage well-designed high density residential development in designated areas along Rocky Point Road.	The proposed site is not on Rocky Point Road.	N/A
Encourage tree planting and landscaping within the front setback space to create a treelined streetscape character.	The Landscape Plan submitted shows landscaping is proposed within the front setback and within the public domain. The public domain shows 3 trees and the front setback has 4 trees. The 3 street trees cannot be supported as they will not get the approval of RMS due to site lines.	Yes

Encourage consistent setbacks of buildings from the street and the provision of landscaping within the front setback.	The front setback is compliant and generally consistent with the prevailing setback notwithstanding the heritage item McWilliam House situated to the south west adjoining the subject site. As stated above landscaping is proposed within the front setback that is acceptable.	Yes
Encourage development that provides a suitable transition between low scale residential areas and high density residential character towards Princes Highway where applicable.	The proposed site is situated in a high density residential zone but adjoins McWilliam House a two storey local heritage item. Council's Urban Designer found the transition in scale between the proposed seven (7) storey residential flat building and a two storey dwelling house to be unacceptable.	No

### Part 6.3 Residential Flat Buildings and residential components of shop top housing (High Density)

153. Part 6.3 provides objectives and specific planning controls for Residential Flat Buildings and the residential components of shop top housing and mixed use developments in the R4 High Density Residential Zone. The following table summarises the proposal against the relevant controls:

<b>Part 6 3 Residential Flat Buildings and residential components of shop top housing (High Density)</b>		
<b>6.3.1 Minimum Site Requirements</b>		
1. Minimum lot width is 24m.	The development site has a width of 35.49m.	Yes
<b>6.3.2 - Site Isolation &amp; Amalgamation</b>		
1. Development for the purpose of residential flat buildings or residential components of shop top housing is not to result in the creation of an isolated site that could not be developed in compliance with the relevant planning controls, including the GRLEP 2021 and this DCP.	The proposed development will not result in the isolation of adjoining properties on either side, noting that sites to the northeast benefit from a recent DA approval for a new RFB. (DA2020/0462 – 19 July 2022). To the south, there is an existing heritage item McWilliam House. To the rear fronting Wyuna Street also has a DA approval for a new RFB (DA2019/0439 – 6 August 2020).	Yes
<b>6.3.3 Building Setbacks and Street Interface</b>		
Building setbacks establish the minimum separation distances between buildings, site boundaries and the public domain. The setbacks provide opportunities for the provision of private and communal areas of open space, landscaping, view sharing and opportunities to manage visual and acoustic privacy. The building setbacks are important requirements	Overridden by ADG controls. See the assessment in the table above.	N/A

<p>which contribute to the streetscape and control the footprint and bulk of a building as well as the impact the building will have on the environment, neighbouring properties and the public domain. Setbacks define the overall footprint of a building and the outer extremities of that building in relation to the location and orientation of balconies, windows/doors and solid elements. The separation between buildings is also important and determines the urban form of the building, the rhythm of buildings in the streetscape and the character. Appropriate building setback controls can contribute to the public domain by enhancing the streetscape character and the continuity of street facades. Building setbacks can also be used to enhance the setting of the building. Building setbacks are measured from the site boundaries to the facade of the building.</p>		
<b>6.3.4 Basement Setbacks</b>		
<p>1. Basements are to be: i. Located within the building footprint (refer to Figure 5), or ii. Set back a minimum of 6m from the front and rear boundaries and 3m from the side boundaries (refer to Figure 6).</p>	<p>The proposed basement fails to comply with the 6m front and rear setback requirements and the 3m setback to the southwestern boundary as required by the DCP controls.</p>	<p>No</p>
<p>2. The basement setback areas are to be deep soil zones as defined in the Apartment Design Guide.</p>	<p>Due to drainage infrastructure and the narrowness of some of the basement setbacks the areas cannot be included as deep soil zones.</p>	<p>No</p>
<p>3. Driveways and driveway crossings are to be located a minimum of 1.5m from a side boundary.</p>	<p>The proposal is 2m from the closest side boundary.</p>	<p>Yes</p>
<p>5. The 6m basement setback at a zone boundary is to be planted to provide a vegetated landscape buffer between the development and adjoining lower density development.</p>	<p>The proposal is not situated on a zone boundary, however the site adjoins a local heritage item has the same effect as adjoining a lower density zone.</p>	<p>N/A</p>

Planting is to include trees that achieve a minimum mature height of 6.0m. Under canopy planting is to include lower scale planting that provides a visual buffer between developments and creates the desired landscape buffer.		
6. Basements fronting the primary street address are not to project above ground level (existing) at the street setback alignment.	The basement levels are wholly below ground level.	Yes

## Impacts

### **Natural Environment**

154. The proposed development has not demonstrated that it will not have an unacceptable impact on a significant tree on an adjoining site. The proposal has not demonstrated satisfactory stormwater disposal or waste management arrangements. On this basis the proposal has not demonstrated that it will not give rise to a negative impact on the natural environment of the locality.

### **Built Environment**

155. The proposed redevelopment will provide for the urban renewal of a three (3) older dwellings adjacent to "McWilliam House" a local heritage item under GRLEP. The proposal has not demonstrated that it will make a positive contribution to the streetscape and the character of the area as the siting, scale, bulk, massing, architectural language and design elements of the development is generally inconsistent from an urban design perspective. The proposal fails to accord with multiple planning controls and represents an inappropriately designed development that is not supported.

### **Social Environment**

156. The proposed development is unlikely to result in adverse social impacts.

### **Economic Environment**

157. The proposed development will have no adverse economic impact, it will benefit in the longer term the sustainability of the Beverley Park Precinct and will in the immediate term contribute to maintaining jobs in the construction industry.

### **Suitability of the Site**

158. The proposed development has not demonstrated that it is suitable for the subject site.

The proposal will have an unacceptable impact on a significant tree on an adjoining site.

The proposal fails to comply with multiple planning controls and represents an inappropriately designed development that is not suitable for the site.

## **SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST**

159. The application was advertised for a period of fourteen (14) days between 3 May 2023 and 17 May 2023 in accordance with the Georges River Development Control Plan and the Georges River Council Community Engagement Strategy notification criterion. No submissions were received.

160. The amended application was re-advertised for a period of fourteen (14) days between 8 February 2024 and 22 February 2024 in accordance with the Georges River Development Control Plan and the Georges River Council Community Engagement Strategy notification criterion. No submissions were received.

### Application Referrals

161. The application was referred to a number of external agencies and internal officers for comment as follows:

### Council Referrals

#### Heritage Advisor

162. Council's Heritage advisor has reviewed the proposal and found it to be acceptable, stating as the concluding recommendation:

*The proposed development is supported on heritage grounds, subject to the following conditions, which are required to address heritage issues.*

The conditions of development consent proposed largely relate to ensuring the structural stability of the heritage item during construction by requiring a pre-commencement dilapidation report, structural engineering design for the excavation and limiting the use of excavation equipment that will cause vibration to greater than 15m from McWilliam House.

#### Development Engineer

163. Council's Development Engineer has reviewed the third amendment Rev C (1/2/2024 - D24/45134) to the stormwater management plans and found the proposal to be unsatisfactory for the following reasons:

1. Earlier Council attached comments (dated 19/5/2023) on OSD details marked up sections (1-1 and 2-2) with ramp profile at the top surface and basement levels underneath the tank are clearly shown, the amendment have not been prepared and submitted.
2. Stormwater Systems within Basement:
  - i. A pump-out system (2.5 x 2.5 x 1.5 deep) with dual pumps for stormwater disposal from basement areas and adjoining ground seepage runoff only will be required. The underground basement car park must pump to an OSD tank which must drain by gravity to the drainage outlet system within the frontage of the site via a silt trap pit this has not been provided.
3. OSD sections and basement pump-out details with final ramp levels from the entry line and up to front kerb line.
4. Entry driveway width and all surface levels outside the boundary are not consistent with architectural and landscaping plans and need to be clearly documented.
5. There is no existing street drainage pipe fronting the development on Princes Highway to connect to. This non-existent pipe needs to be removed from the stormwater plan and new pit and pipe extension needs to be designed and proposed.

6. Rafi Design prepared entry driveway profile sections (section A and B) gradients are inconsistent with architectural plans. The maximum gradient shall be 5% within first 6m inside the boundary. The driveway profiles must show the final section of the OSD tank (including design invert/surface levels).
7. The application is not supported as submitted and diligently prepared amended stormwater plans are required to be prepared to address the abovementioned comments.

#### Traffic Engineer

164. Council's Senior Traffic & Parking Assessment Officer has reviewed the amended proposal and found the proposal to be unsatisfactory for the following reasons.
165. The amended architectural plans do not:
  - (i) Show the location and dimensions of the loading bay in which the waste vehicle is to stand while servicing the waste room.
  - (ii) The plans do not show if the service vehicle when standing in the loading bay restricts the movement of vehicles travelling to or from basement parking areas on levels B2 and B3.
  - (iii) The plans do not show if the design waste collection vehicle can access the loading bay with ramp gradients up to 20% and a change of gradient up to 15% at the top of the ramp.
  - (iv) The plans do not show if head clearances on the ramp and on Basement 1 are adequate for access and operation of the design waste collection truck.
  - (v) Confirmation required if the gradient change of 15% at the top of the ramp is suitable for access by the B99 Australian Standard Design Vehicle.

#### Senior Landscape & Arboriculture Assessment Officer

166. Council's Senior Landscape & Arboriculture Assessment Officer has reviewed the landscape plan and arborist report submitted with the amended application and provide the below summary of issues.
167. The proposal seeks to remove 17 small/medium sized trees and shrubs considered to be of low landscape significance and retention value from the subject site. The proponents of the development provided an initial Arborists Report evaluating the existing trees onsite and Council's Landscape and Arboricultural Assessment Officer agrees with the findings of the report that it is acceptable to remove all the trees.
168. Adjoining the site to the south at 13-21 Wyuna Street, Beverley Park is a large Camphor Laurel tree. Council's Senior Landscape & Arboricultural Assessment Officer holds concerns that proposed stormwater pits and charged lines on the subject site situated within the Tree Protection Zone (TPZ) of this tree will negatively impact the tree. The tree already has encroachment into the TPZ arising from redevelopment of the adjoining property therefore under AS4970 compensation needs to be provided contiguously via the remaining TPZ area (i.e the trees TPZ needs to be bigger because it has already been impacted by earlier development).
169. The level of impact arising from the proposed development is defined under AS4970 as a major encroachment of 17.7% which requires either the design to be modified to remove the encroachment or substantiation regarding the level of impact to the tree through root mapping. The applicant was advised and provided an updated Arborist Report to address the matter.



170. A review of the updated Arborists Report again found it to be inadequate and if the development proceeded it would result in an unacceptable level of impact to the tree. The proposed development is not supported from a landscape and arboricultural perspective.

#### Urban Designer

171. Council's Urban Designer has reviewed the proposal and provided detailed comments on the revised proposal. Some of the issues raised with the initial design have been resolved in the amended plans, but there remain multiple concerns that have not been addressed. The proposed development is not supported for the following reasons:
- a. **Finished Floor Levels** - Ground floor FFL has been amended from RL 19.06 to RL 19.20. This still is below the existing footpath level at the building entry at RL 19.56. In addition, Unit 1 is around 0.42m (maximum) below the existing natural ground. This is not supported.
  - b. **Building Entrance** - The entrance lobby width has been increased from 2.036m to 2.6m and the access way emphasised by planters. This is encouraging; however, the lift and the lift lobby remains unchanged. It still is not visible from the street and does not provide space for seating or social interaction. This is not supported.
  - c. **Communal Circulation** - No adequate access to natural light and ventilation for the communal circulation and spaces above ground as well as no opportunity for social interaction.
  - d. **Setbacks and Building Separation**
    - Heritage item and transition (setback to southwest boundary)
      - o Units 105, 205 and 305 still do not comply with the required 9m setback
      - o The 5th, 6th and 7th storey do not comply with the prescribed 12m setback
    - Other Setbacks
      - Front:
        - o Ground – Unit 003 POS encroaches on to the front setback – not supported
        - o 2nd, 3rd and 4th storey- minor non-compliance
        - o 5th and 6th storey – minor non-compliance
      - Rear
        - o 5th and 6th storey – non-compliant – not supported
      - Northeast side
        - o Ground - Fire stairs + minor non-compliance
        - o 2nd 3rd and 4th storey- minor non-compliance
        - o 5th and 6th storey – non-compliant – not supported
        - o 7th storey - minor non-compliance
      - Basement setbacks – not compliant – not supported.
  - e. Vehicular access – not incorporated into the facade design impacting on the landscape and COS design.
  - g. **Communal Open Space** – ground level COS still not integrated with the built form and not accessible from within the building. It still is a “left over” space and not supported. The location above the driveway and in the southern corner will result in poor amenity for users due to noise pollution and lack of sunlight, hence undesirable and non-compliant with the solar access requirements. It is acknowledged that COS is provided on the roof top; however, the COS on the ground should not be considered as secondary COS and designed accordingly.

- h. **Ceiling Height** - Ground floor ceiling height can be considered acceptable. However, Level 5 (6th Storey) proposed 3m floor to floor ceiling height not supported and Level 6 (7th storey) 2.4m – not acceptable.
- i. **Solar Access** - Sun eye diagrams should be provided to ascertain solar access compliance.
- j. **Amenity** – Unit 001 the bedroom window adjacent to the service access ramp will compromise privacy.
- k. **Building Services:**
  - o Confirmation is required on the adequacy of the area allocated for the booster assembly. Its location adjacent to the basement stairs is a concern especially in the case of an emergency. A detailed design including landscape treatment and materiality of the assembly should be provided. Where possible the pipes should be concealed from view, subject to compliance with the relevant Australian Standards.
  - o Confirmation is also required that the proposed development will not require an electricity substation.
- l. **Architectural Expression** - It is considered that the proposal is not sited and designed to respect the future desired and streetscape character and the heritage item in terms of built form and scale as the proposal has excessive bulk and scale. The SEE and amended architectural drawings provided indicate that the proposal exceeds the maximum permitted building height. The overall design, which does not comply with building setbacks will dominate the streetscape and overwhelm the heritage item. An attempt has been made on heritage interpretation by including sandstone tiles; however, that is not considered adequate or appropriate given the significant impact of the built form on the heritage item.

Except for the setback above the 4th storey, the proposal lacks balanced composition of massing and is perceived as bulky. The north-east and south-east elevations have large portions of blank walls and lack articulation. The horizontal banding and half height rendered balcony balustrades emphasise horizontality and add to the building bulk. The rockcote quick render on the north-west elevation does add variety in materiality however, given its depth, it also adds bulk and will obstruct solar access to the balconies. In addition, the double height vertical louvre screens add to the mass and emphasis of the “box like” built form.

The amendments undertaken are considered tokenistic with no real impact on achieving a good urban design outcome. The amended proposal is not supported from an Urban Design perspective.

#### Waste Development Officer

172. The amended application was referred to Council's Waste Development Officer for assessment and review. The Waste Development Officer advised that the proposal is not supported for the following reasons:

#### Waste Management Plan

- a. The Waste Management Plan is incomplete and inadequate for the following reasons.

- The OWMP and the Architect Drawings do not show, the path of travel of waste from the point of generation (each unit) to level specific waste/bin storage areas, then to the central storage areas and then, note the bin travel from storage areas to the proposed collection point.
  - The applicant has not outlined the proposed collection point being the location for bins and bulky waste to be stored prior to collection. The applicant must also outline where the waste collection vehicle stands while providing collection services.
- b. The applicant has failed to provide adequate provision in accordance with the current Georges River Council Development Control Plan 2021 for Council to provide On-property or a Wheel Out Wheel Back services. The applicant must provide the following.
- On-site collection from a ground-level loading dock with the provision of access for the Council waste collection vehicle (as stated in the Georges River Council Development Control Plan 2021)
- or
- Wheel Out Wheel Back service from a ground-level bin storage room (as stated in the Georges River Council Development Control Plan 2021).
- c. The applicant has provided waste disposal facilities on each occupied floor to manage the general waste, recycling waste or food organic waste streams but they are inadequate for the following reasons.
- The applicant must provide a dual chute system for general waste and commingled recycling waste, using either rotating or linear tracks at the discharge point. This type of chute system is compulsory for buildings with six or more levels. The applicant must provide in addition to the dual chute an interim waste storage area on each occupied floor of the development, suitable for the storage of at least 2 days' worth of food organics calculated at a rate of 13.71L per unit, per day.
- d. The applicant has made provisions for bulky waste storage, but it is inadequate for the following reason.
- The applicant has not provided sufficient door access to the bulky waste storage room. Double door access (at least 2500mm) must be provided into the bulky waste storage area, with a wide range of openings to enable ease of manoeuvring large bulky waste such as furniture without doors as obstructions. For any developments of 20 or more units, a minimum of 2500mm must be provided for the bin and bulky waste storage area access and for the entire path of bin travel to the collection point.

### **Construction and Demolition Waste**

- e. The provisions for managing construction and demolition waste are not acceptable for the following reasons.
- The applicant has not outline how demolition and construction waste will be sorted and stored in a source-separated manner at the point of generation to maximise reuse and recycling opportunities.
  - The applicant has not outline how construction and demolition waste will be avoided and minimised by implementing practices that consider sustainable procurement and the use of building materials that can be reused or recycled.
  - The applicant has not outlined a sufficient contingency budget and a plan for dealing with unearthed contamination. The plan will need to cover how the unearthed contamination will be managed and the estimated costs.
  - The applicant has not prepared a site plan clearly displaying the waste management storage areas and how waste collection vehicles will access the site.

- The applicant has not considered a reporting and monitoring structure, template, and methods for the management of construction and demolition waste material, including transport monitoring, such as GPS tracking and the use of the NSW Environment Protection (<https://wastelocate.epa.nsw.gov.au/>) where applicable.
- The applicant has not outlined how recycled materials will be used for the construction of the building, including the types and quantities of the materials.

#### Conclusion

- The applicant has failed to address a significant number of issues raised in the previous Waste Development Officer referral (D23/122426) dated 23/05/23.
- The current construction management plan is lacking a significant amount of detail and needs to be updated to include all requirements as outlined in the current GRDCP 2021.
- The ongoing waste management plan does not meet the GRDCP 2021 objectives which require good design and location of waste storage facilities so as to ensure a high standard of urban design and streetscapes.
- The proposed arrangements for construction and demolition waste along with ongoing waste management proposed in the waste management plan are unacceptable and is not supported.

#### Environmental Health Officer

173. Council's Environmental Health Officer has reviewed the proposal including the Acoustic Report prepared by Acoustic Noise & Vibration Solutions P/L dated 12 September 2022 Reference No: 2022-297 and Preliminary Site Investigation prepared by Coleman and Adams Environmental dated 29 June 2022 reference number CAE1191.v1f raising no objection to the proposal subject to conditions of consent if the application was to be supported.

#### Building Officer

174. Council's Building Officer raised no objection subject to conditions of development consent being imposed if the application was to be supported.

#### **External Referrals**

##### Ausgrid

175. The application was referred to Ausgrid in accordance with Clause 2.48 of State Environmental Planning Policy (Transport and Infrastructure) 2021. Ausgrid raised no objection to the proposed development subject to conditions of development consent being imposed if the application was to be supported.

##### Sydney Airport and Civil Aviation Safety Authority (CASA)

176. The application was referred to Sydney Airport who advised that the application is supported as the building will not penetrate the Sydney Airport Obstacle Limitations Surface (OLS) which commences above 45.72m Above Existing Ground Height in the locality. The maximum height of the building is 41.80m AHD at the lift overrun so the application does not exceed this criterion.
177. Approval was granted to 42m AHD subject to specific conditions relating to the height limitation for the building inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc. Sydney Airport advises that separate approval is required to operate construction equipment such as cranes above 42m AHD. This approvals is required prior to construction commencing onsite.

### NSW Police

178. The amended proposal was referred to NSW Police for comment, but no response was received. A response was received to the original referral and the comments remain relevant.

### NSW Ambulance

179. The initial proposal was referred to NSW Ambulance for comment, but no response was received.

### TfNSW (RMS)

180. The application was referred to TfNSW (RMS) in accordance with Clause 2.118, 2.119 and 2.121 of State Environmental Planning Policy (Transport and Infrastructure) 2021. A formal response was provided, concurrence was obtained subject to the imposition of conditions if the application was to be supported.

### **Developer Contributions**

181. The proposed development if approved would require the payment of developer contributions under Section 7.11 of the Environmental Planning and Assessment Act 1979 as the proposal is increasing the density of the locality. Conditions of development consent would be recommended should the application be supported.

### **CONCLUSION**

182. The proposal seeks consent for the demolition of existing structures, and construction of a 7 storey residential apartment building containing 28 residential apartments, above three (3) levels of basement parking containing 43 car parking spaces, tree removal, landscaping and site works.
183. The development is identified as potentially Integrated Development under the Water Management Act 2000 as the depth of the excavation being proposed for the basement levels means that it is likely that that groundwater will be encountered. The proponents geotechnical report states:

*Groundwater seepage would usually be encountered at the soil/rock interface and in joints and bedding partings within the bedrock. Seepage in sandstone bedrock may be assumed as typically flowing downwards toward local drainage lines or regional water table, along horizontal bedding planes and subvertical joints. The rock mass permeability will be governed by the joints, faults and bedding planes.*

*Due to the observed weathered seams within the bedrock and seepage observed on neighbouring sites it is anticipated that the permeability of the sandstone will be relatively moderate and that moderate to high seepage inflows will occur following rainfall.*

*Further geotechnical inspections should be carried out during construction to confirm the geotechnical and hydrogeological model.*

184. If groundwater is encountered (which is expected based on other developments in the locality involving excavation for basement levels) and dependent upon the extent of interference, then an aquifer interference approval may be required from WaterNSW. In this regard if the proposal is recommended for approval, then a condition of development consent needs to be added requiring further geotechnical investigation prior to the release of any Construction Certificate. If the investigation finds groundwater, then proponents obtain written correspondence or General Terms of Approval from WaterNSW. This evidence from WaterNSW is to be provided to the Principle Certifying Authority before the release of any Construction Certificate.

185. The proposal has been assessed in accordance with Section 4.15 (1) of the Environmental Planning and Assessment Act, 1979. As discussed throughout this report, the proposal has not demonstrated that it is a suitable development for the subject site.
186. The proposal seeks a variation to Clause 4.3 Height of Buildings development standard in the Georges River Local Environmental Plan. A Clause 4.6 Statement has been submitted with the application and is assessed in detail earlier in this report.
187. The proposed development fails to demonstrate compliance with the requirements of State Environmental Policy No 65 – Design Quality of Residential Flat Buildings. In particular the following requirements of the Apartment Design Guide:
- a) 3D - Communal open space – The proposal fails to demonstrate that a suitable amount of communal open space has been provided. The proposal fails to demonstrate that the proposed communal open space receives a minimum of 2 hours (or more) of solar access throughout the day in midwinter.
  - b) 3F- Visual Privacy - The proposal fails to demonstrate that the location of the ground level communal open space directly adjacent to Ground Floor Unit 05 will not lead to an unacceptable loss of privacy for the occupants of the unit.
  - c) 3H-Vehicle Access - The proposal fails to demonstrate a vehicle entry that is suitable integrated into the design of the building leading to a suboptimal streetscape outcome.
  - d) 4D-2 Apartment size and layout - The proposal fails to demonstrate that all apartments open plan living area achieve the maximum required habitable room depth of 8m from a window.
  - e) 4D-2 Apartment size and layout - The proposal fails to demonstrate that all apartments open plan living area achieve the minimum required room width of 4m.
  - f) 4E- Private Open space and balconies - The proposal fails to demonstrate that all apartments achieve the minimum required private open space areas.
  - g) 4G- Storage - The proposal fails to demonstrate that all apartments achieve the minimum requirement of 50% of the required storage within the apartments.
  - h) 4J – Noise and Pollution - The proposal fails to demonstrate that the location of the ground level communal open space will not lead to an unacceptable noise impact upon the occupants of unit G05.
  - i) 4M – Facades - The proposal fails to demonstrate well resolved façade treatments with an appropriate scale and proportion to the streetscape and human scale appropriate for the setting.
  - j) 4O – Landscape Design - The proposal fails to demonstrate an acceptable landscape design.
  - k) 4V – Water management and conservation - The proposal fails to demonstrate an acceptable stormwater management plan.
  - l) 4W – Waste Management - The proposal fails to demonstrate an acceptable waste management plan.
188. The proposal fails to satisfy the following requirements of Georges River Local Environmental Plan 2021:
- a) 6.3 Stormwater Management - the proposal has not demonstrated a satisfactory design for stormwater disposal.
  - b) 6.9 Essential Services
    - i. Stormwater - the proposal has not demonstrated a satisfactory design for stormwater disposal which is an essential service.
    - ii. Vehicular access - the proposal has not demonstrated a satisfactory design for vehicular access to the premises which is an essential service.

- c) 6.10 Design Excellence - the proposal has numerous unresolved issues and is not supported from an urban design perspective so has not demonstrated design excellence as required by the clause.
- d) 6.11 Environmental sustainability – the proposal has not demonstrated that it has achieved the environmental sustainability as the proposal will lead an unacceptable impact on a significant tree on an adjoining property.

189. Operationally the proposal will result in unreasonable impacts in the locality as stormwater disposal and waste management have not been resolved.

190. The application is recommended for refusal.

## **DETERMINATION AND STATEMENT OF REASONS**

### **Statement of Reasons**

191. The reasons for this recommendation are that:

- The proposed development fails to demonstrate compliance with the requirements of State Environmental Planning Policy (Biodiversity and Conservation) 2021.
- The proposed development fails to demonstrate compliance with the requirements of the Apartment Design Guide as required by State Environmental Policy No 65 – Design Quality of Residential Flat Buildings.
- The proposed development fails to demonstrate compliance with the requirements of Georges River Local Environmental Plan 2021 – 6.3 Stormwater Management, 6.9 Essential Services, 6.10 Design Excellence and 6.11 Environmental sustainability.
- The proposed development fails to demonstrate compliance with several relevant requirements of Georges River Development Control Plan 2021.
- The proposed development fails to demonstrate that it will not result in any unreasonable impact on the natural and built environment.
- The proposed development has not demonstrated that it is compatible with the streetscape and character of the locality.
- The proposed development has not demonstrated that it is in the public interest and that it will not set an undesirable precedent if approved.

### **Recommendation**

192. Pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 (as amended) the Georges River Local Planning Panel refuses Development Application DA2023/0012 for the demolition of existing structures and construction of a 7 storey residential apartment building consisting of 28 residential apartments, above three (3) basement levels of parking, containing 43 car parking spaces plus tree removal, landscaping and associated site works on Lot 1 DP 17552 - 180 Princes Highway Beverley Park, Lot 2 DP 17552 - 182 Princes Highway Beverley Park, Lot 3 DP 17552 - 184 Princes Highway Beverley Park, for the reasons outlined below:

### **Reasons for Refusal**

#### **1. Refusal Reasons - Environmental Planning Instrument**

Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to demonstrate compliance with the requirements of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

- a) The amended arborist report submitted was found to be unsatisfactory and failed to demonstrate appropriate mitigation measures to protect a significant tree on an adjoining property. If the development proceeded, it would result in an unacceptable level of impact to a significant tree which is contrary to the requirements of Chapter 2.

- b) The amended drainage plans and documentation submitted was found to be unsatisfactory and the impacts arising were not appropriately mitigated, as a consequence the proposal may give rise to an undue impact upon the Georges River catchment which is contrary to the requirements of Chapter 6.

## 2. Refusal Reasons - Environmental Planning Instrument

Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to demonstrate compliance with the requirements of State Environmental Policy No 65 – Design Quality of Residential Flat Buildings. In particular the following requirements of the Apartment Design Guide:

- m) 3D - Communal open space – The proposal fails to demonstrate that a suitable amount of communal open space has been provided. The proposal fails to demonstrate that the proposed communal open space receives a minimum of 2 hours (or more) of solar access throughout the day in midwinter.
- n) 3F- Visual Privacy - The proposal fails to demonstrate that the location of the ground level communal open space directly adjacent to Ground Floor Unit 05 will not lead to an unacceptable loss of privacy for the occupants of the unit.
- o) 3H-Vehicle Access - The proposal fails to demonstrate a vehicle entry that is suitable integrated into the design of the building leading to a sub-optimal streetscape outcome.
- p) 4D-2 Apartment size and layout - The proposal fails to demonstrate that all apartments open plan living area achieve the maximum required habitable room depth of 8m from a window.
- q) 4D-2 Apartment size and layout - The proposal fails to demonstrate that all apartments open plan living area achieve the minimum required room width of 4m.
- r) 4E- Private Open space and balconies - The proposal fails to demonstrate that all apartments achieve the minimum required private open space areas.
- s) 4G- Storage - The proposal fails to demonstrate that all apartments achieve the minimum requirement of 50% of the required storage within the apartments.
- t) 4J – Noise and Pollution - The proposal fails to demonstrate that the location of the ground level communal open space will not lead to an unacceptable noise impact upon the occupants of unit G05.
- u) 4M – Facades - The proposal fails to demonstrate well resolved façade treatments with an appropriate scale and proportion to the streetscape and human scale appropriate for the setting.
- v) 4O – Landscape Design - The proposal fails to demonstrate an acceptable landscape design.
- w) 4V – Water management and conservation - The proposal fails to demonstrate an acceptable stormwater management plan.



- x) 4W – Waste Management - The proposal fails to demonstrate an acceptable waste management plan.

### 3. Refusal Reasons - Environmental Planning Instrument

Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to demonstrate compliance with the requirements of Georges River Local Environmental Plan 2021. In particular:

- a) 6.3 Stormwater Management - the proposal has not demonstrated a satisfactory design for stormwater disposal.
- b) 6.9 Essential Services
  - i. Stormwater - the proposal has not demonstrated a satisfactory design for stormwater disposal which is an essential service.
  - ii. Vehicular access - the proposal has not demonstrated a satisfactory design for vehicular access to the premises which is an essential service.
- c) 6.10 Design Excellence - the proposal has numerous unresolved issues and is not supported from an urban design perspective so has not demonstrated design excellence as required by the clause.
- d) 6.11 Environmental sustainability – the proposal has not demonstrated that it has achieved the environmental sustainability as the proposal will lead an unacceptable impact on a significant tree on an adjoining property.

### 4. Refusal Reasons – Development Control Plan

Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the application fails to demonstrate compliance with the following requirements:

- a) 3.3 Landscaping - the proposal has not provided a satisfactory landscape plan or a suitable arborists report that protects a significant tree on an adjoining property.
- b) 3.10 Stormwater Management - the proposal has not demonstrated a satisfactory design for stormwater disposal.
- c) 3.12 Waste Management - the proposal has not demonstrated satisfactory arrangements for the management and collection of waste.
- d) 3.13 Parking Access and Transport - the proposal has not demonstrated a satisfactory access and car parking design.
- e) 6.3.4 Basement Setbacks - the proposal has not demonstrated a compliant design for basement setback and is unable to provide deep soils zones on all sides of the building.

**5. Refusal Reasons – Likely Environmental Impacts**

Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the application fails to demonstrate that it will not lead to adverse environmental impacts on both the natural and built environment in the locality.

- a) The proposed development has failed to demonstrate that it will not have an unacceptable impact on a significant tree on adjoining site. The proposal has not demonstrated satisfactory stormwater disposal or waste management arrangements. On this basis the proposal has not demonstrated that it will not give rise to a negative impact on the natural environment of the locality.
- b) The proposal has not demonstrated that it will make a positive contribution to the streetscape and the character of the area as the siting, scale, bulk, massing, architectural language and design elements of the development is generally inconsistent from an urban design perspective. The proposal fails to accord with multiple planning controls and represents an inappropriately designed development that is not supported.

**6. Refusal Reasons – Suitability of the Site**

Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the application fails to demonstrate that suitability of the site for the proposed development. In particular:

- a) The proposal will have an unacceptable impact on a significant tree on an adjoining site. The proposal fails to comply with multiple planning controls and represents an inappropriately designed development that is not suitable for the site.

**7. Refusal Reasons – Public Interest**

Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.


**NOTES/ADVICE**

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

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

2. **Appeal Rights** - Part 8 (Reviews and appeals) of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court of New South Wales.
3. **Access to NSW Legislation (Acts, Regulations and Planning Instruments)** – NSW Legislation can be accessed free of charge at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).

## ATTACHMENTS

Attachment [↓](#)1  DA2023/0012 - Architectural Attachments for LPP 180 - 184 Princes Highway  
Beverley Park

Attachment [↓](#)2  SEE and Clause 4.6

LPP015-24

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180-184 PRINCES HIGHWAY, BEVERLEY PARK, NSW 2217

**SITE SUMMARY**

COUNCIL: GEORGES RIVER COUNCIL

LAND ZONE: R4 HIGH DENSITY RESIDENTIAL

MAX HEIGHT OF BUILDING: 21M

FLOOR SPACE RATIO: 2:1

ADD BULKY WASTE: CLASS 5

**CALCULATIONS SUMMARY**

SITE AREA: 1,380.90

PERMISSIBLE FLOOR SPACE RATIO: 2:1

PERMISSIBLE TOTAL GFA: 2,761.80

GROUND FLOOR: 451.00m²

LEVEL ONE: 483.48m²

LEVEL TWO: 483.48m²

LEVEL THREE: 483.48m²

LEVEL FOUR: 386.40m²

LEVEL FIVE: 82.89m²

LEVEL SIX: 115.89m²

PROPOSED TOTAL GFA: 2,761.80

ADD MINIMUM COMMUNAL OPEN SPACE AREA: 20% = 340.29m²

GROUND COMMUNAL OPEN SPACE: 101.98m²

ROOFTOP COMMUNAL OPEN SPACE: 104.26m²

TOTAL: 385.50m² (28%)

ADD MINIMUM DEEP SOLAR AREA: 7% = 96.25m²

PROPOSED DEEP SOLAR AREA: 250.77m² (18.16%)

UNIT MIX: 1 BED 2 BED 3 BED

1 2 3

**PARKING SUMMARY**

28 RESIDENTIAL UNITS

GROUP PARKING RATE

1 bedroom unit 2 x1 + 2

2 bedroom unit 17 x2 + 18

3 bedroom unit 9 x2 + 18

Visitor spaces 280 x15

Bicycle spaces 13

Total parking: 37 resident car spaces + 6 visitor

TOTAL CAR SPACES PROVIDED: 43

RESIDENTS 34

ACCESSIBLE 3

VISITORS 3

CARWASH 3 (included as visitor)

BICYCLE RESIDENTS 3

BICYCLE VISITOR 3

MOTORCYCLE 2

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	DA.6.5	SOLAR ANALYSIS - LEVEL 3	A1
	DA.6.6	SOLAR ANALYSIS - LEVEL 4	A1
	DA.6.7	SOLAR ANALYSIS - LEVEL 5	A1
	DA.6.8	SOLAR ANALYSIS - LEVEL 6	A1
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	DA.7.02	PERSPECTIVE 02	A3
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DWELLING SCHEDULE				PRIVATE OPEN SPACE				UNIT STORAGE SCHEDULE				BASEMENT STORAGE SCHEDULE			
Level	Unit Number	No of bedrooms	Measured Area	Level	Unit Number	Measured Area	Basement Level	Unit Number	Measured Area(m <sup>2</sup> )	Volume (M <sup>3</sup> )	Basement Level	Unit Number	Measured Area	Volume (M <sup>3</sup> )	
GF	001	1BED	72.48	GF	001	35.73	GF	001	1.46	3.94	B2b	001	2.36	5.89	
	002	1BED	66.00		002	15.98		002	1.36	3.73		002	2.36	5.89	
	003	2BED	86.21		003	51.55		003	0.89	2.67		003	2.36	5.89	
	004	2BED	91.35		004	70.82		004	3.06	8.28		004	2.36	5.89	
	005	2BED	96.84		005	38.16		005	2.05	5.04		005	2.09	5.23	
1F	101	2BED	79.75	1F	101	9.51	1F	101	1.17	3.15	B3b	101	2.09	5.23	
	102	2BED	77.73		102	9.75		102	2.34	6.32		102	2.09	5.23	
	103	2BED	80.81		103	9.69		103	3.90	10.52		103	2.09	5.23	
	104	3BED	109.22		104	12.01		104	2.34	6.32		104	2.09	5.23	
	105	3BED	104.63		105	15.78		105	2.37	6.42		105	1.96	4.89	
2F	201	2BED	79.75	2F	201	9.51	2F	201	1.17	3.15	B3b	201	1.96	4.89	
	202	2BED	77.73		202	9.75		202	2.34	6.32		202	2.46	6.15	
	203	2BED	80.82		203	9.69		203	3.90	10.52		203	2.46	6.15	
	204	3BED	113.44		204	12.01		204	2.34	6.32		204	2.46	6.15	
	205	3BED	104.62		205	15.79		205	2.37	6.42		205	2.46	6.15	
3F	301	2BED	79.75	3F	301	10.32	3F	301	1.17	3.15	B3b	301	2.46	6.15	
	302	2BED	77.73		302	10.30		302	2.34	6.32		302	2.46	6.15	
	303	2BED	80.81		303	11.91		303	3.90	10.52		303	2.46	6.15	
	304	3BED	112.65		304	12.01		304	2.34	6.32		304	2.46	6.15	
	305	3BED	104.59		305	16.62		305	2.37	6.42		305	4.32	10.80	
4F	401	2BED	79.75	4F	401	11.73	4F	401	1.51	4.07	B3b	401	4.32	10.80	
	402	2BED	80.79		402	13.08		402	1.00	2.70		402	4.32	10.80	
	403	2BED	82.88		403	10.02		403	1.34	3.63		403	4.32	10.80	
	404	2BED	77.88		404	13.85		404	1.78	4.79		404	4.32	10.80	
	405	2BED	77.88		405	13.85		405	1.78	4.79		405	4.32	10.80	
5F	501	3BED	80.60	5F	501	11.73	5F	501	4.31	7.36	B3b	501	4.32	10.80	
	502	3BED	81.59		502	13.03		502	4.26	7.24		502	4.32	10.80	
	503	3BED	80.15		503	10.02		503	1.15	3.11		503	4.32	10.80	
	504	3BED	77.88		504	13.85		504	2.61	3.41		504	4.32	10.80	
	505	3BED	77.88		505	13.85		505	2.61	3.41		505	4.32	10.80	
6F Mezzanine	601	MEZ	42.37	6F Mezzanine	601	12.16	6F Mezzanine	601	12.16		B3b	601	4.32	10.80	
	602	MEZ	39.17		602	12.29		602	12.29			602	4.32	10.80	
	603	MEZ	39.17		603	12.29		603	12.29			603	4.32	10.80	
	604	MEZ	32.21		604	9.77		604	9.77			604	4.32	10.80	

**TECTON GROUP**

180-184 PRINCES HIGHWAY, BEVERLEY PARK, NSW 2217

7/18/2023 18:03 Fax: 02 938 1889 Email: mail@tectongroup.com.au

NOTES:

- Do not scale off the drawings

- All works to be set out by a registered surveyor

- Builder and contractors to verify all dimensions and levels as well as notify the architectural designer of any discrepancies prior to commencing any work

- Refer to engineering drawings for all structural details

- Not for construction unless noted otherwise in the issues and revision block

- All construction works are to comply with the NCC 2019 and where noted alternative performance solutions

- Design is to be used only for the project and for the particular project where shown on the drawings and documents

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REVISION DATE DESCRIPTION

DA.1 16/11/22 FOR DEVELOPMENT APPLICATION

DA.8 16/12/23 DEVELOPMENT APPLICATION - REVISED AS PER COUNCILS REQUEST FOR INFORMATION

Project

RESIDENTIAL DEVELOPMENT: 180-184 PRINCES HIGHWAY, BEVERLEY PARK, NSW 2217

Drawing COVER

Scale @ A1 HALF @ A3

Drawn DA, AP

Issue date 19-12-2023

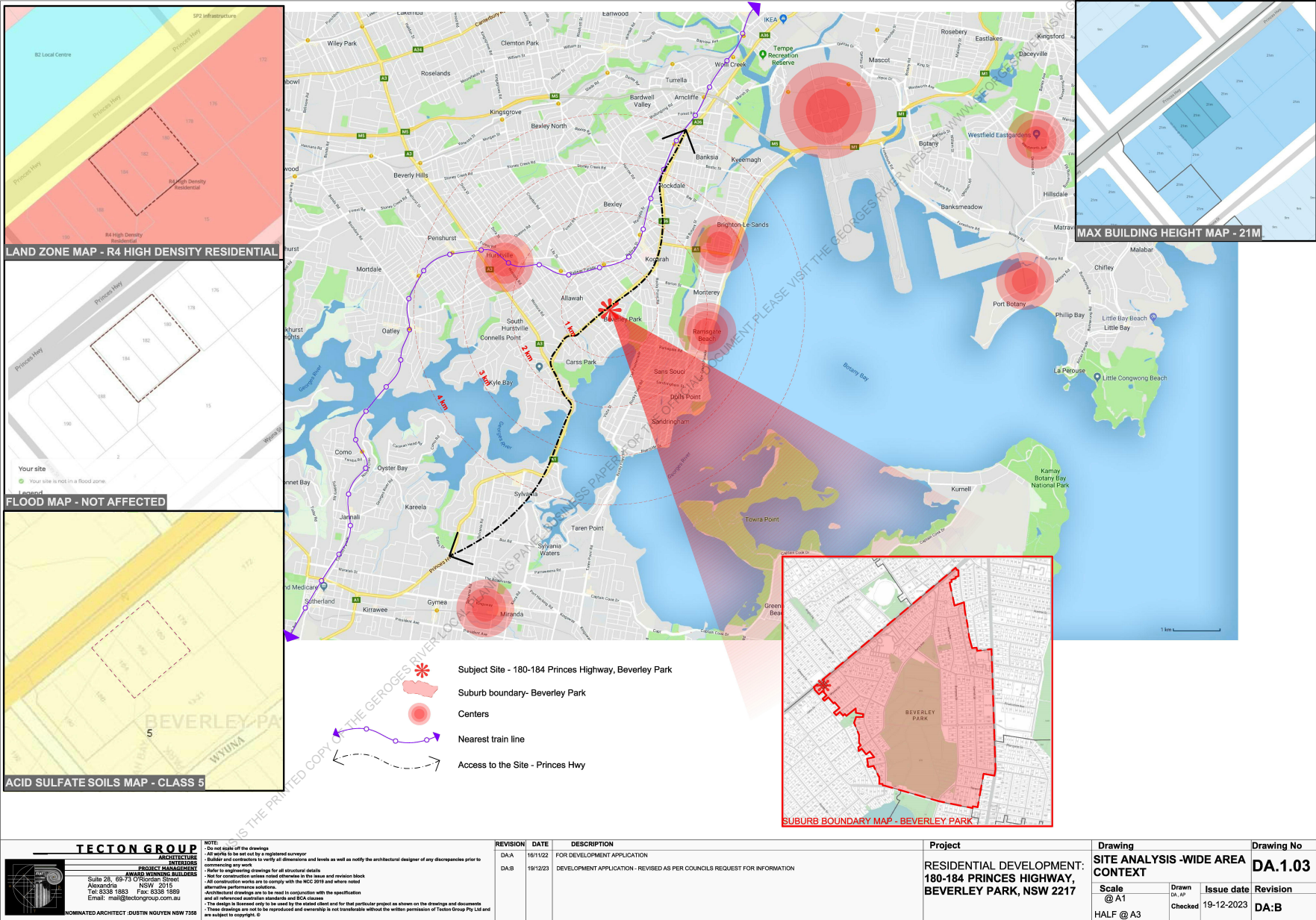
Revision DA:B

Drawing No

DA.1.01











EXISTING VIEW FACING SUBJECT SITE

EXISTING VIEW FACING SUBJECT SITE

EXISTING VIEW FACING SOUTH ALONG PRINCES HIGHWAY

PROPOSED VIEW FACING SUBJECT SITE

PROPOSED VIEW FACING NORTH ALONG PRINCES HIGHWAY

PROPOSED VIEW FACING SOUTH ALONG PRINCES HIGHWAY

**TECTON GROUP**  
ARCHITECTS  
INTERIORS  
PROJECT MANAGEMENT  
AWARD WINNING BUILDERS  
Suite 28, 69-73 O'Connell Street  
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Email: mail@tectongroup.com.au

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REVISION	DATE	DESCRIPTION
DA-A	16/11/22	FOR DEVELOPMENT APPLICATION
DA-B	19/12/23	DEVELOPMENT APPLICATION - REVISED AS PER COUNCILS REQUEST FOR INFORMATION

Project

**RESIDENTIAL DEVELOPMENT:  
180-184 PRINCES HIGHWAY,  
BEVERLY PARK, NSW 2217**

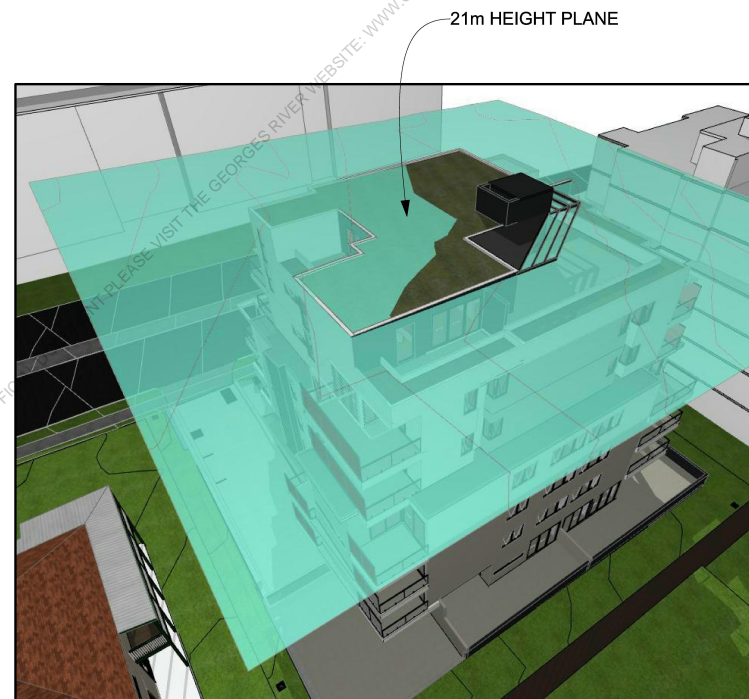
Drawing

**STREET VIEWS**

Scale	Drawn	Issue date	Revision
@ A1	DA, AP	19-12-2023	DA:1.05
HALF @ A3	Checked		DA:B




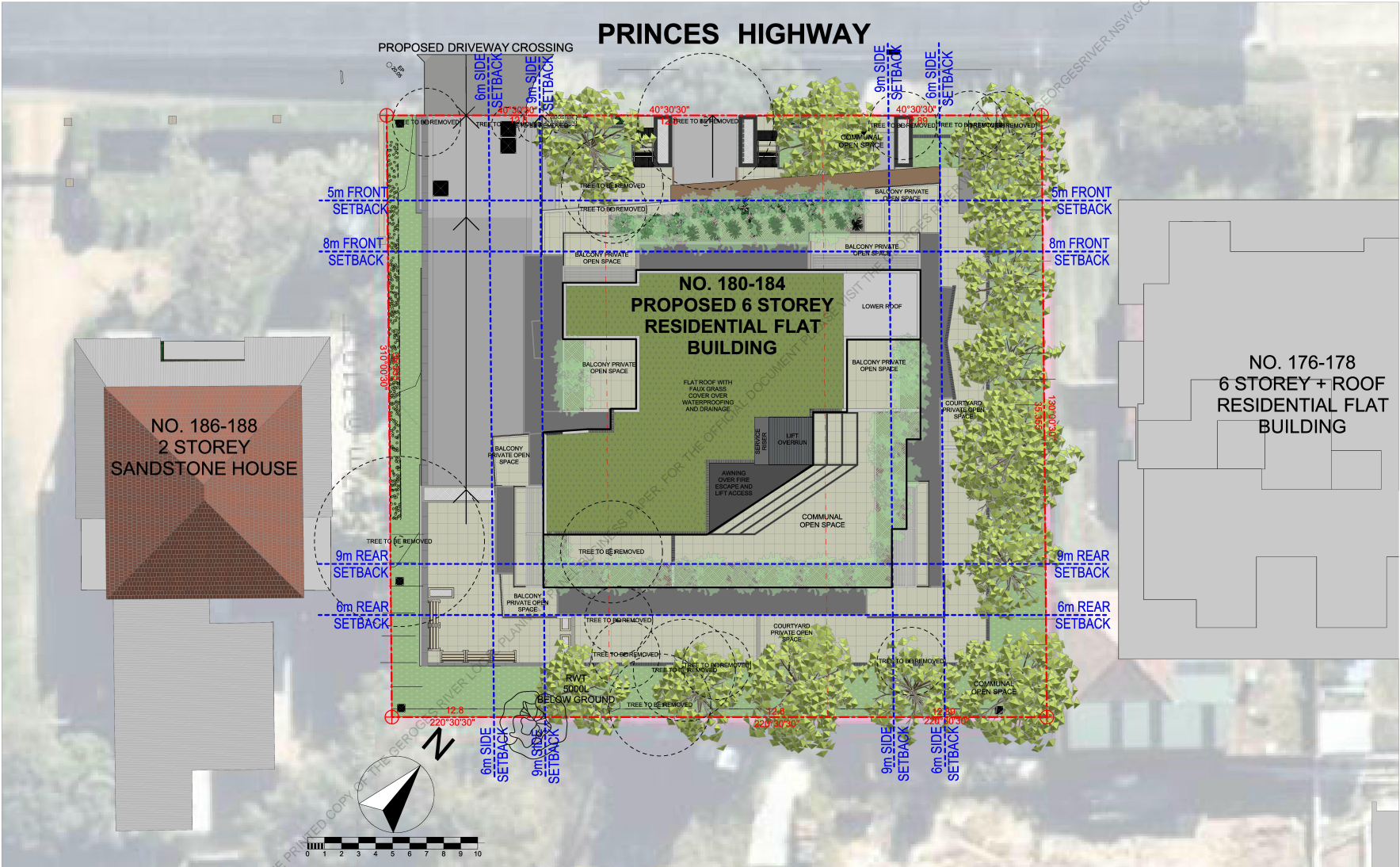





HEIGHT PLANE MODEL FRONT VIEW

HEIGHT PLANE REAR VIEW

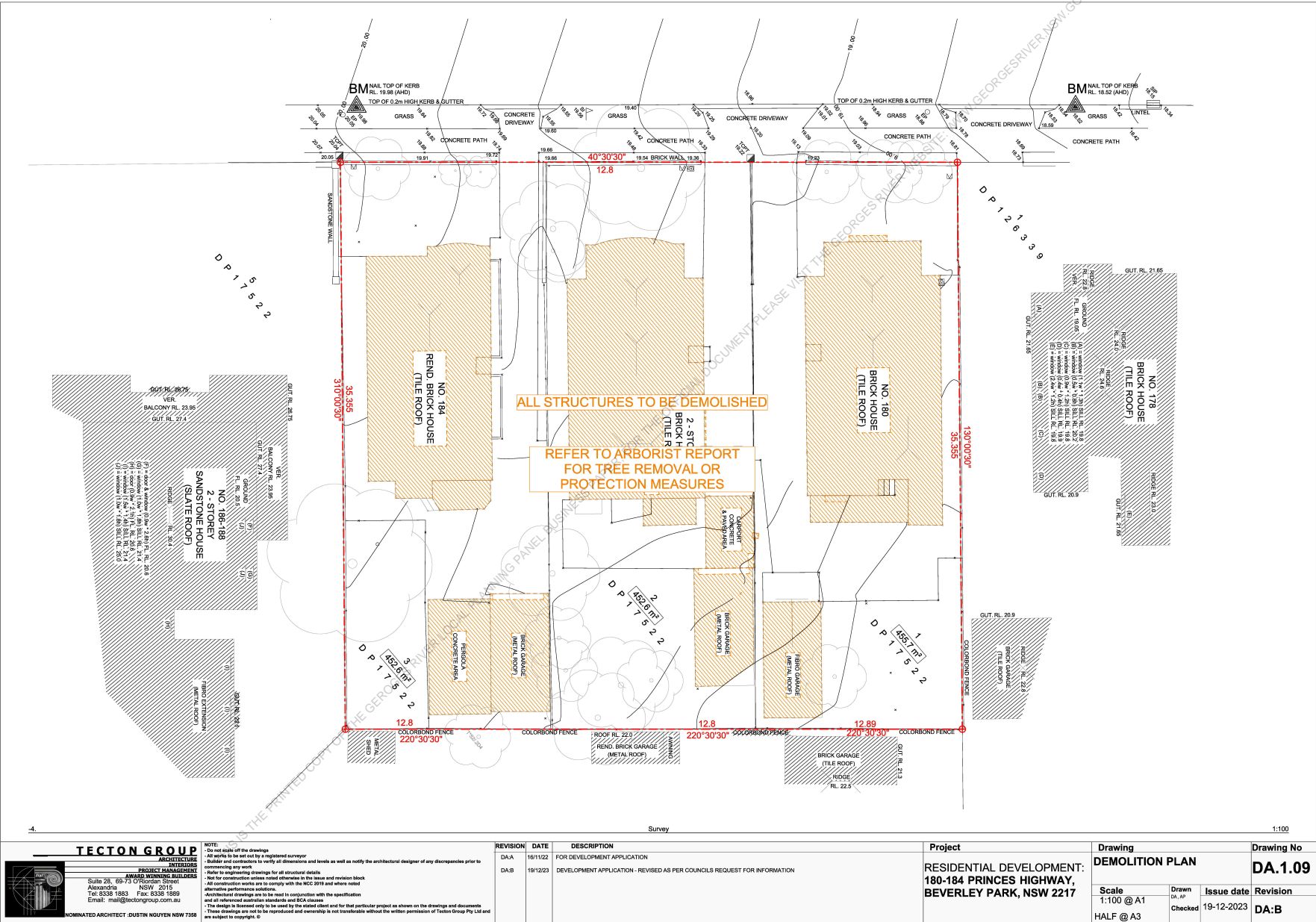
 <p><b>TECTON GROUP</b> ARCHITECTURE INTERIORS PROJECT MANAGEMENT AWARD WINNING BUILDINGS</p> <p>Suite 28, 69-70 (Rondan) Street Abbotsford NSW 2015 Tel: 8338 1883 Fax: 8338 1889 Email: mail@tectongroup.com.au</p> <p>NOMINATED ARCHITECT DUSTIN WUJENYAN NSW 7358</p>	<p><b>NOTE:</b></p> <ul style="list-style-type: none"> <li>- Do not scale off the drawings</li> <li>- All works to be set out by a registered surveyor</li> <li>- Builder and contractors to verify all dimensions and levels as well as notify the architectural designer of any discrepancies prior to commencing any work</li> <li>- Refer to engineering drawings for all structural details</li> <li>- Not for construction unless noted otherwise in the issues and revision block</li> <li>- All construction works are to comply with the NCC 2019 and where noted alternative provisions</li> <li>- Architectural drawings are to be read in conjunction with the specification and all referenced Australian standards and BCA clauses</li> <li>- The design is to remain the property of the client and for that particular project on the drawings and documents</li> <li>- These drawings are not to be reproduced and ownership is not transferable without the written permission of Tecton Group Pty Ltd and as outlined by schedule of fees</li> </ul>	<table border="1"> <thead> <tr> <th>REVISION</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>D/A</td> <td>16/11/22</td> <td>FOR DEVELOPMENT APPLICATION</td> </tr> <tr> <td>D/B</td> <td>19/12/23</td> <td>DEVELOPMENT APPLICATION - REVISED AS PER COUNCIL'S REQUEST FOR INFORMATION</td> </tr> </tbody> </table>	REVISION	DATE	DESCRIPTION	D/A	16/11/22	FOR DEVELOPMENT APPLICATION	D/B	19/12/23	DEVELOPMENT APPLICATION - REVISED AS PER COUNCIL'S REQUEST FOR INFORMATION	<p><b>Project</b></p> <p>RESIDENTIAL DEVELOPMENT: 180-184 PRINCES HIGHWAY, BEVERLY PARK, NSW 2217</p>	<p><b>Drawing</b></p> <p>HEIGHT PLANE MODEL</p> <p>Scale 1:100 @ A1</p> <p>HA1 E 03</p>	<table border="1"> <thead> <tr> <th>Issue date</th> <th>Revision</th> </tr> </thead> <tbody> <tr> <td>19-12-2023</td> <td>DA:B</td> </tr> </tbody> </table>	Issue date	Revision	19-12-2023	DA:B	<p><b>Drawing No</b></p> <p>DA.1.0</p>
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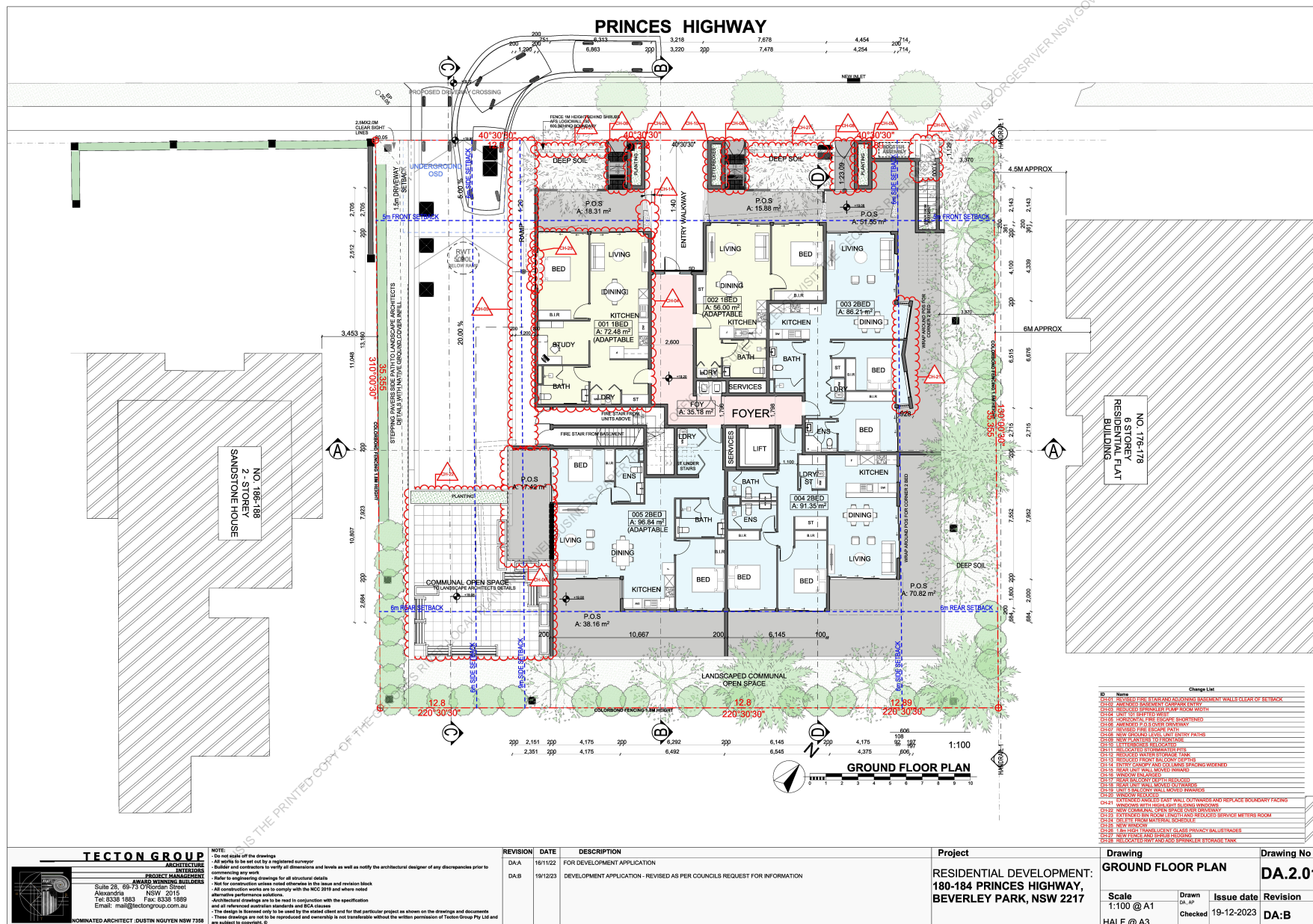


SITE PLAN  
1:100

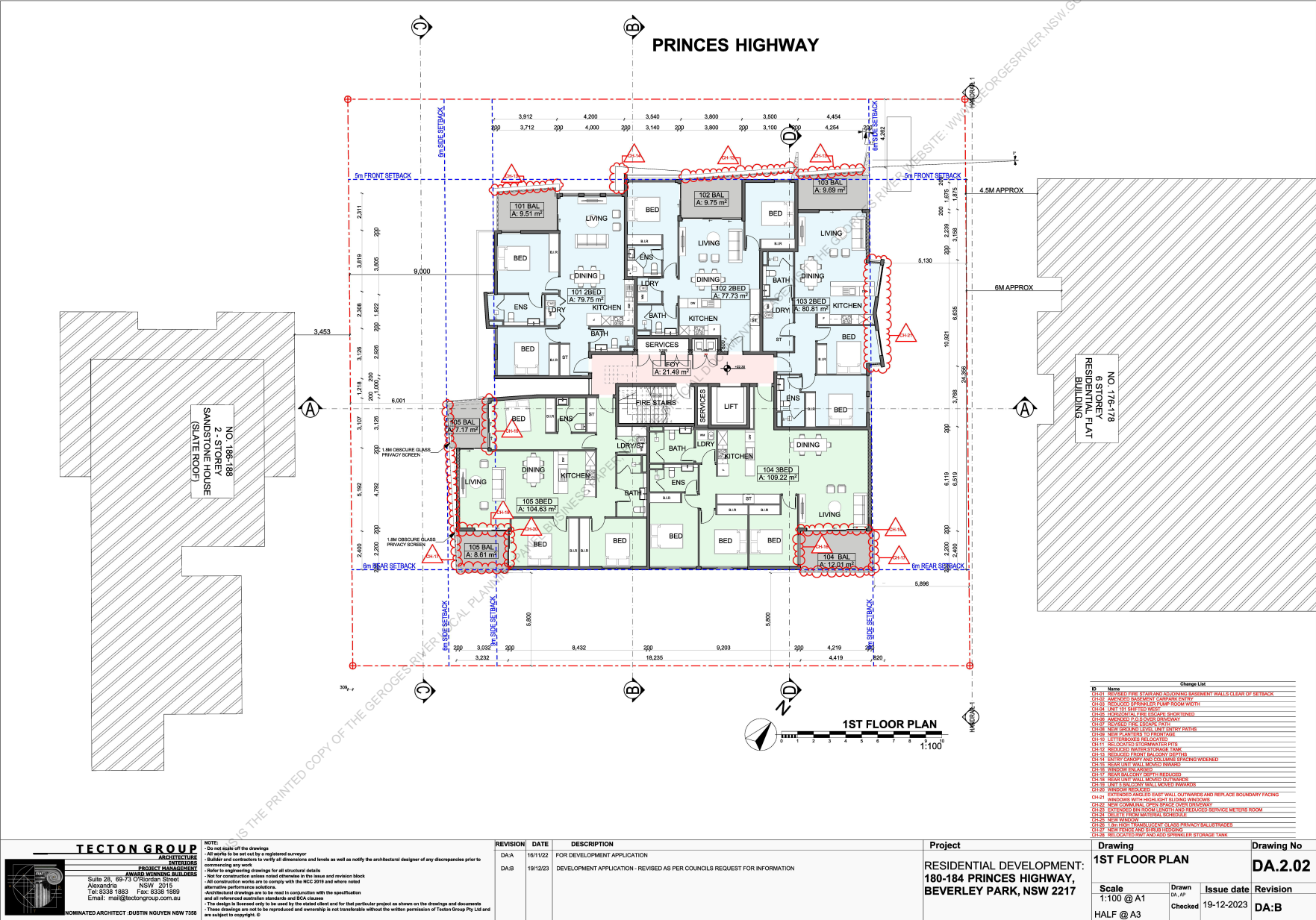
 <div><b>TECTON GROUP</b> ARCHITECTS PROJECT MANAGEMENT AWARD WINNING BUILDERS Suite 28, 69-73 O'Shannon Street Alexandria NSW 2015 Tel: 8338 1883 Fax: 8338 1889 Email: mail@tectongroup.com.au NOMINATED ARCHITECT: DUSTIN NGUYEN NSW 7308</div>	<div><b>NOTE:</b> - Do not scale off the drawings - All works to be set out by a registered surveyor - Builder and contractors to verify all dimensions and levels as well as notify the architectural designer of any discrepancies prior to commencing any work - Refer to engineering drawings for all structural details - Not for construction unless noted otherwise in the issue and revision block - All construction works are to comply with the NCC 2019 and where noted alternative performance solutions - Architectural drawings are to be used in conjunction with the specifications and all referenced Australian standards and BCA clauses - The design is intended only to be used by the stated client and for that particular project as shown on the drawings and documents - These drawings are not to be reproduced and ownership is not transferable without the written permission of Tecton Group Pty Ltd and are subject to copyright. ©</div>	<table><tr><th>REVISION</th><th>DATE</th><th>DESCRIPTION</th></tr><tr><td>DA.A</td><td>16/11/22</td><td>FOR DEVELOPMENT APPLICATION</td></tr><tr><td>DA.B</td><td>19/12/23</td><td>DEVELOPMENT APPLICATION - REVISED AS PER COUNCIL'S REQUEST FOR INFORMATION</td></tr></table>	REVISION	DATE	DESCRIPTION	DA.A	16/11/22	FOR DEVELOPMENT APPLICATION	DA.B	19/12/23	DEVELOPMENT APPLICATION - REVISED AS PER COUNCIL'S REQUEST FOR INFORMATION	<div>Project</div> <div>RESIDENTIAL DEVELOPMENT: 180-184 PRINCES HIGHWAY, BEVERLEY PARK, NSW 2217</div>	<div>Drawing</div> <div>SITE PLAN</div> <div>Scale 1:100 @ A1 HALF @ A3</div> <div>Drawn DA, AP Checked</div> <div>Issue date 19-12-2023</div> <div>Revision DA:B</div>	<div>Drawing No</div> <div>DA.1.08</div>
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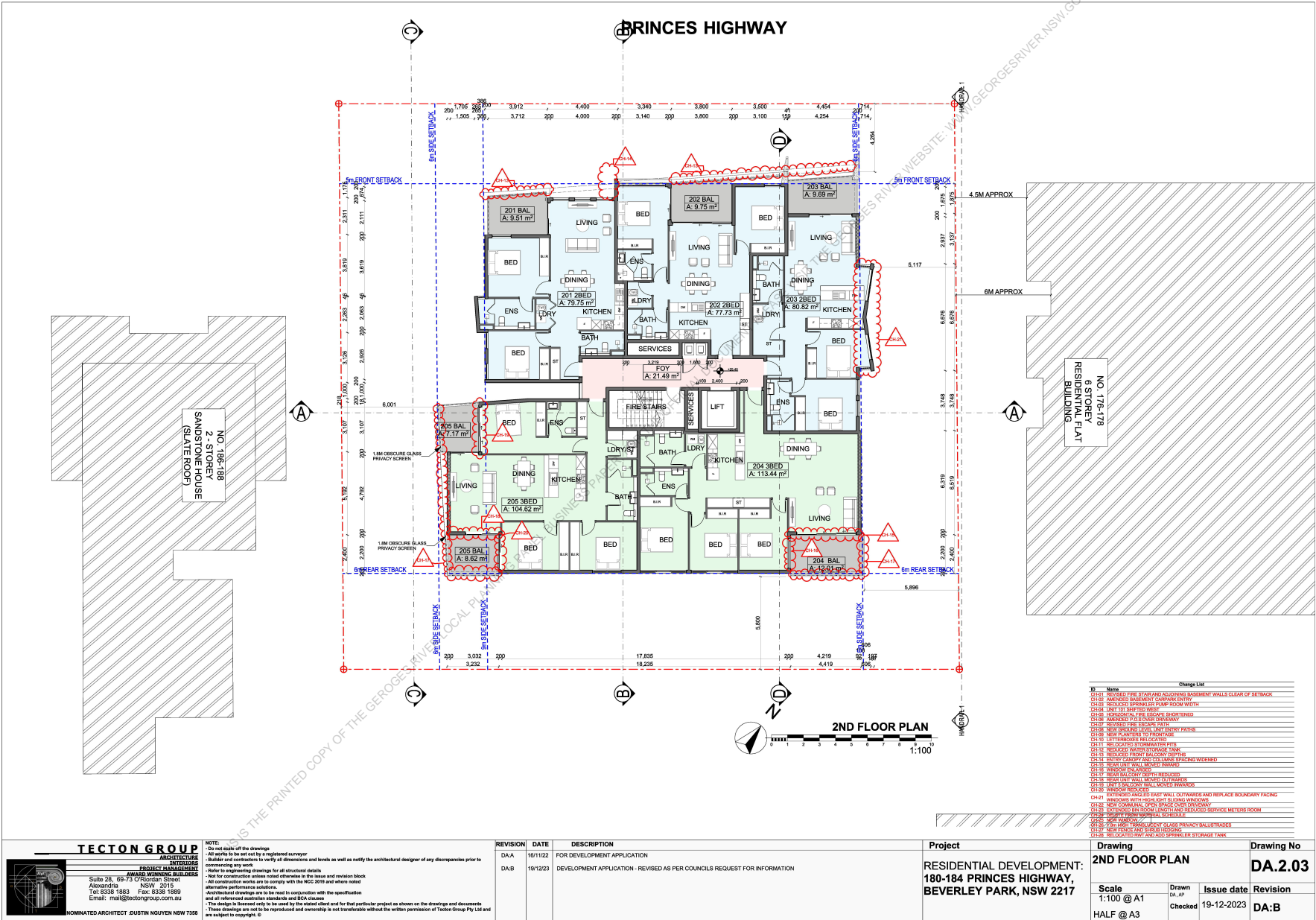


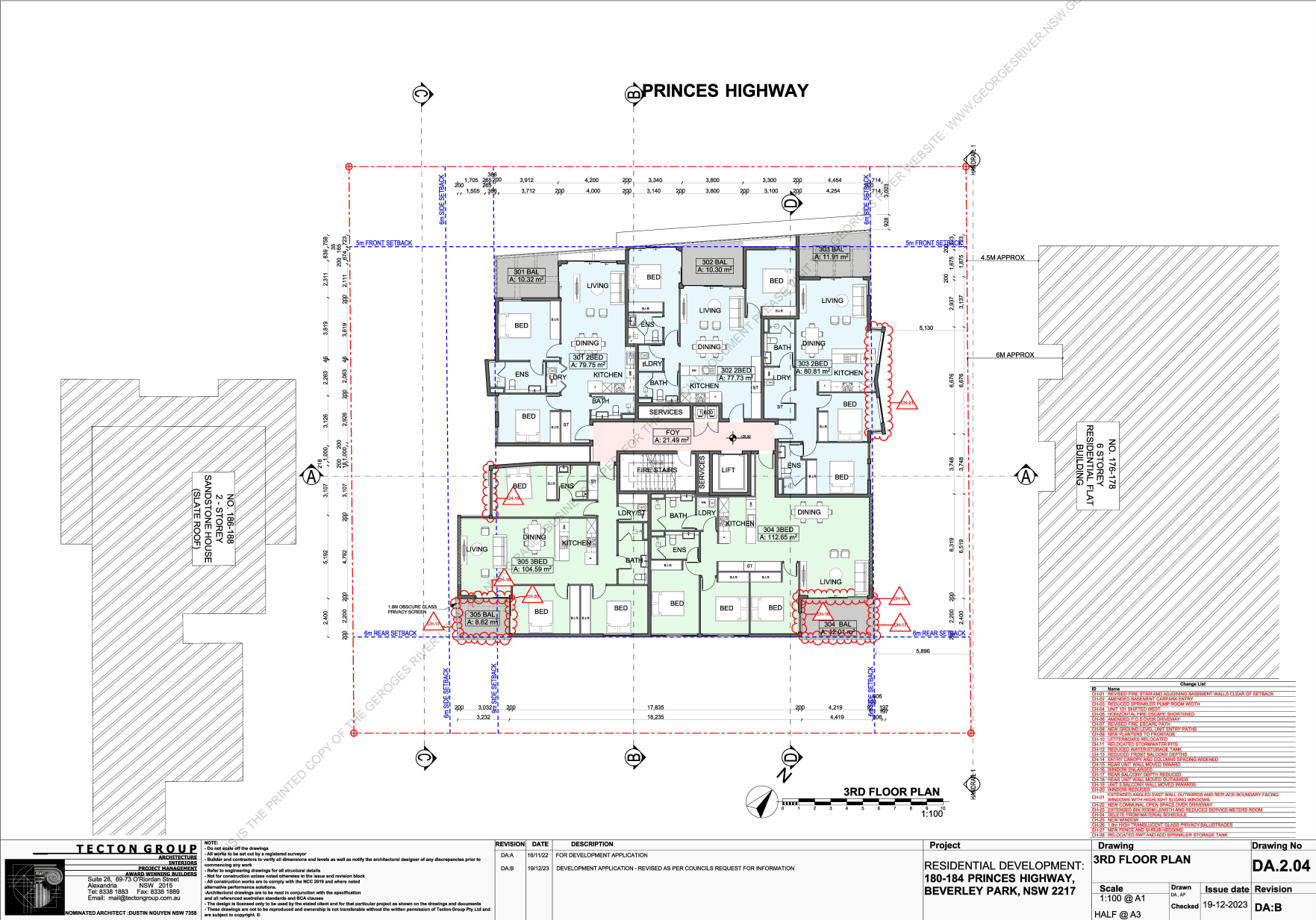




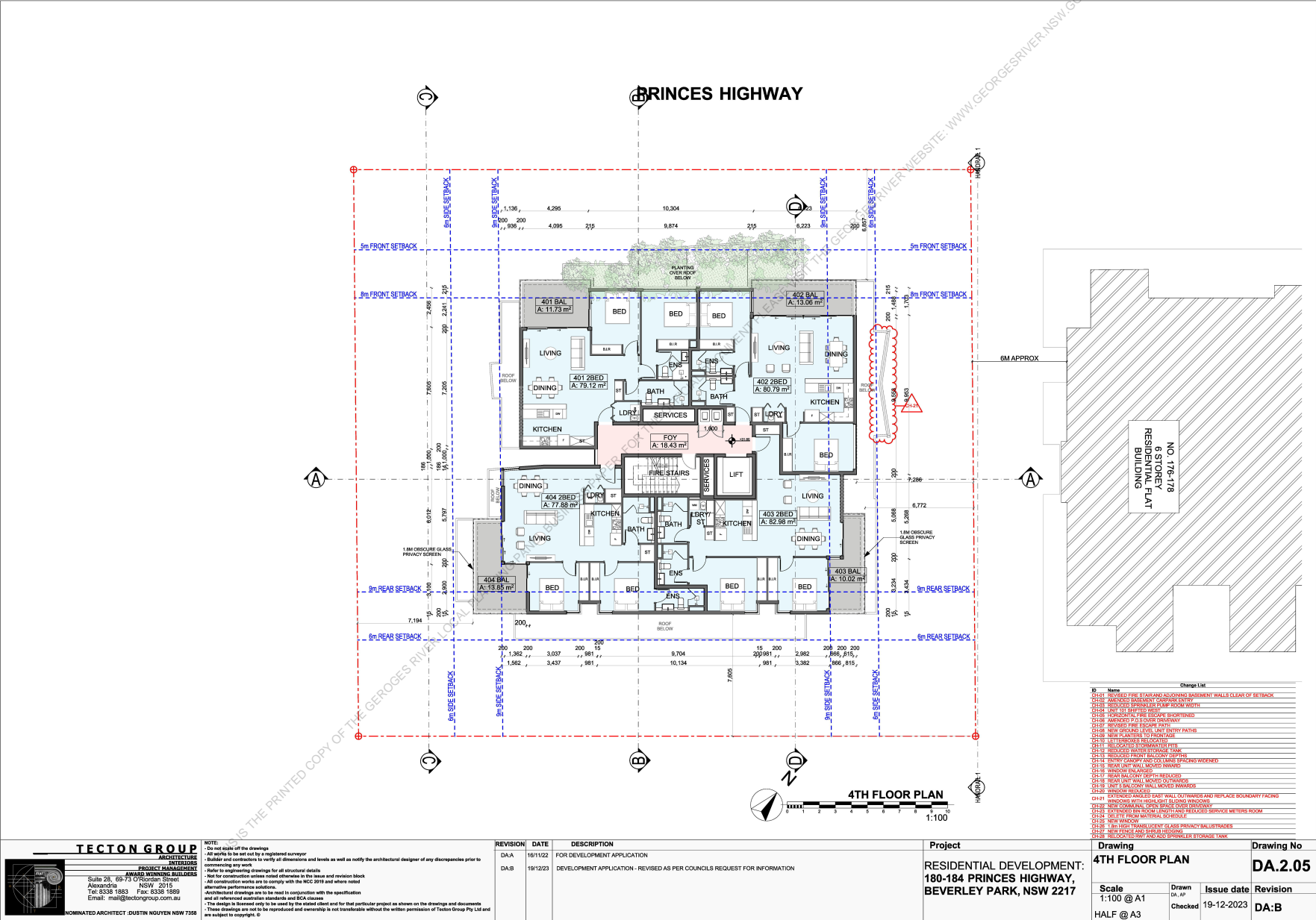


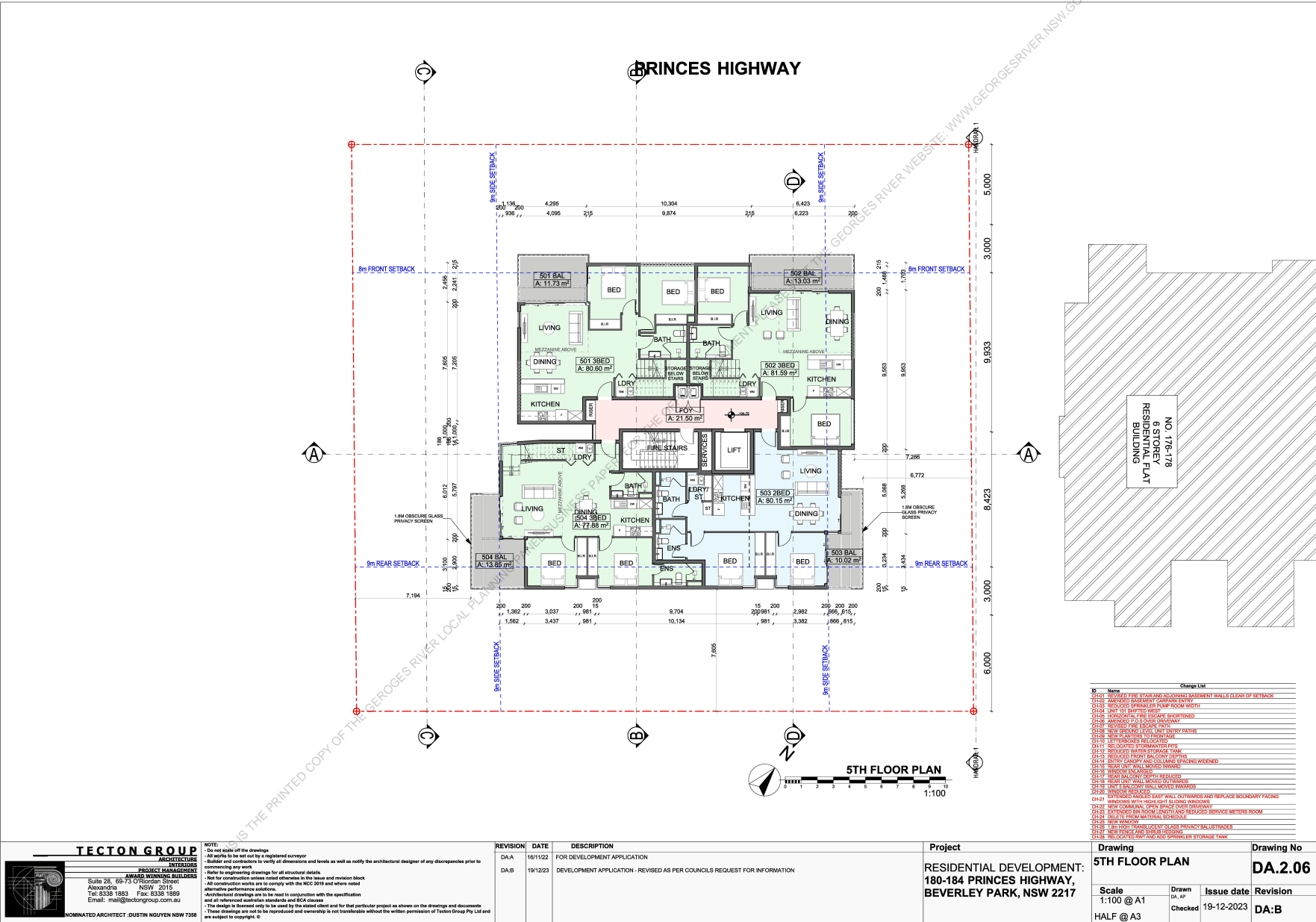


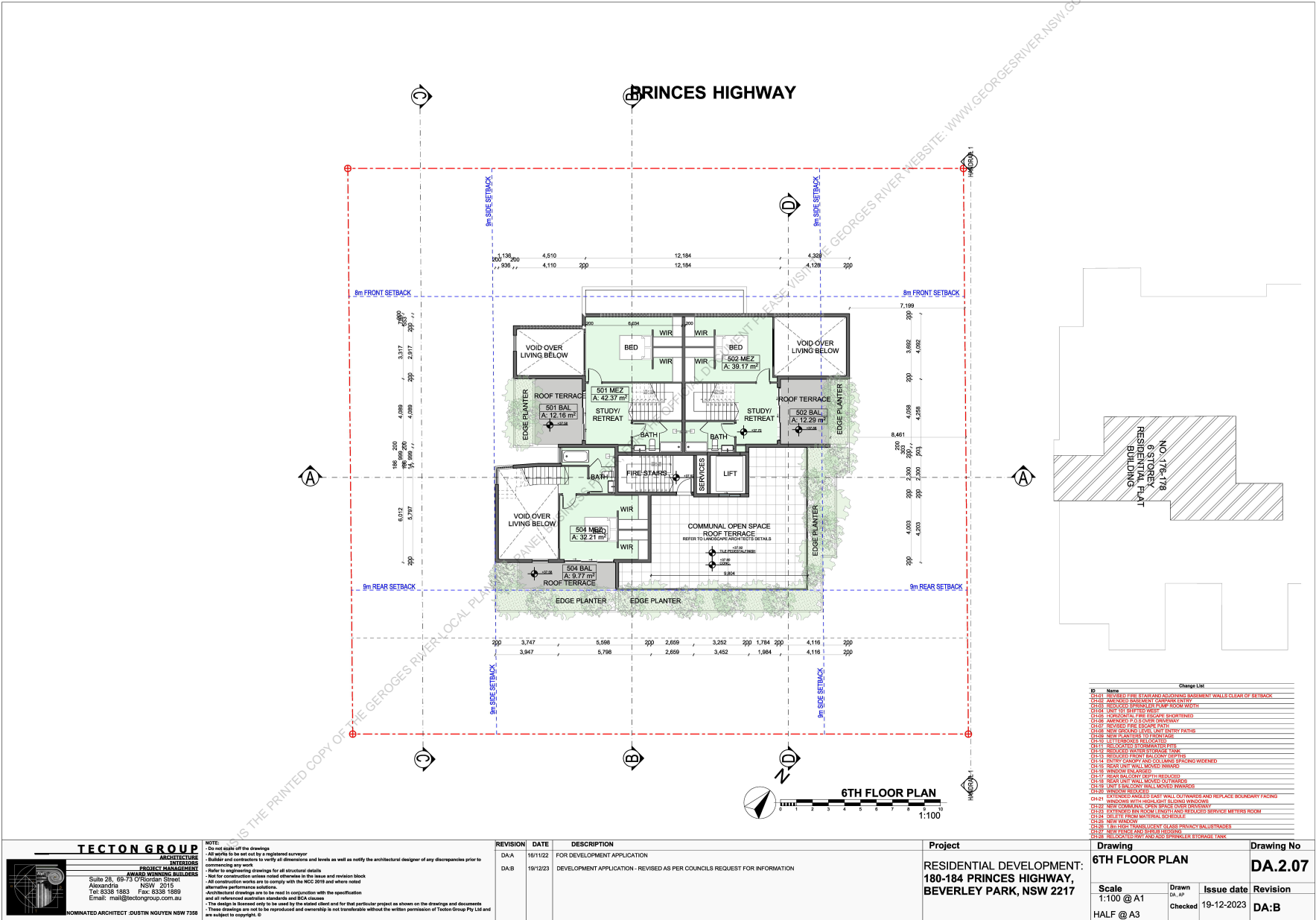


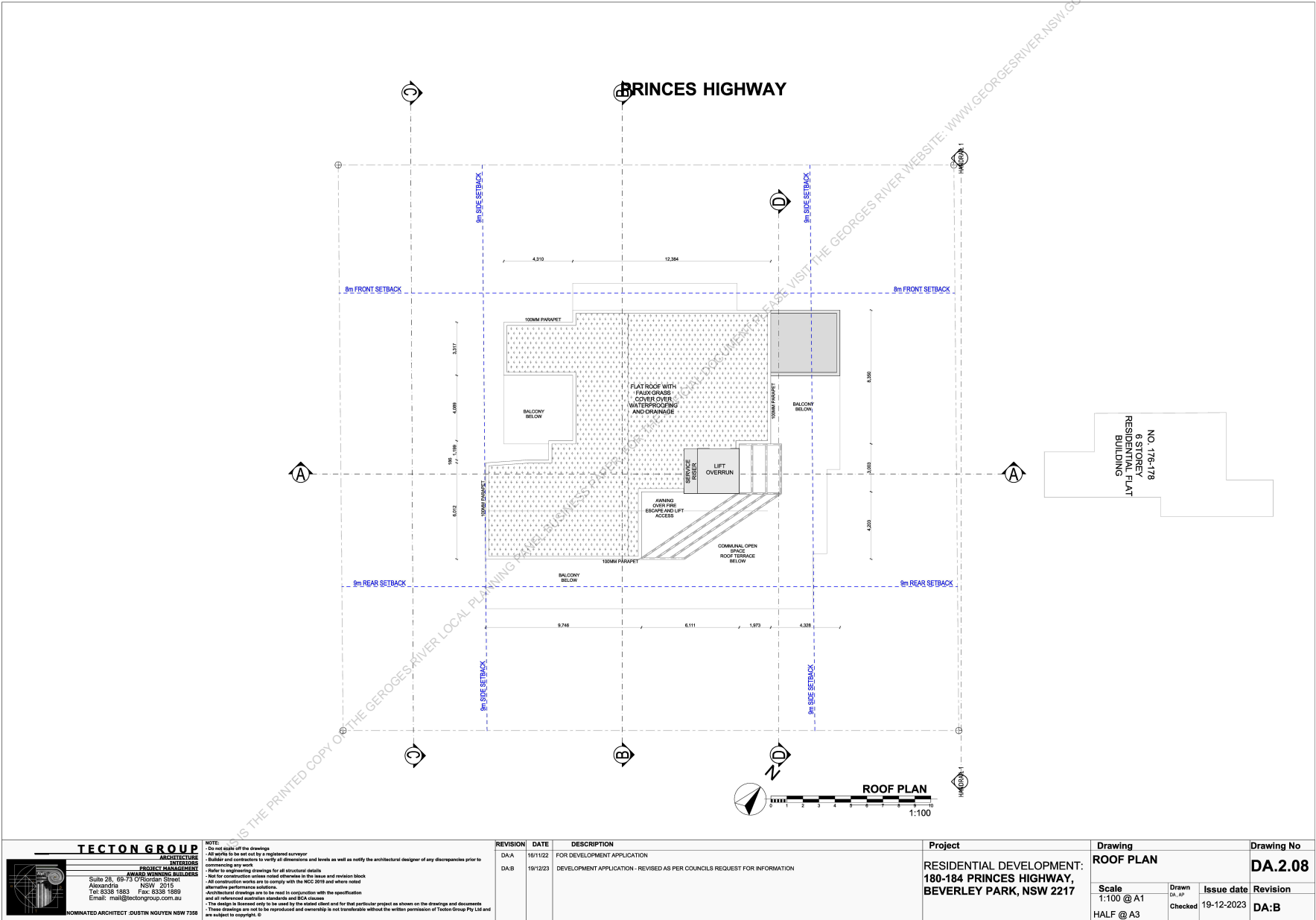


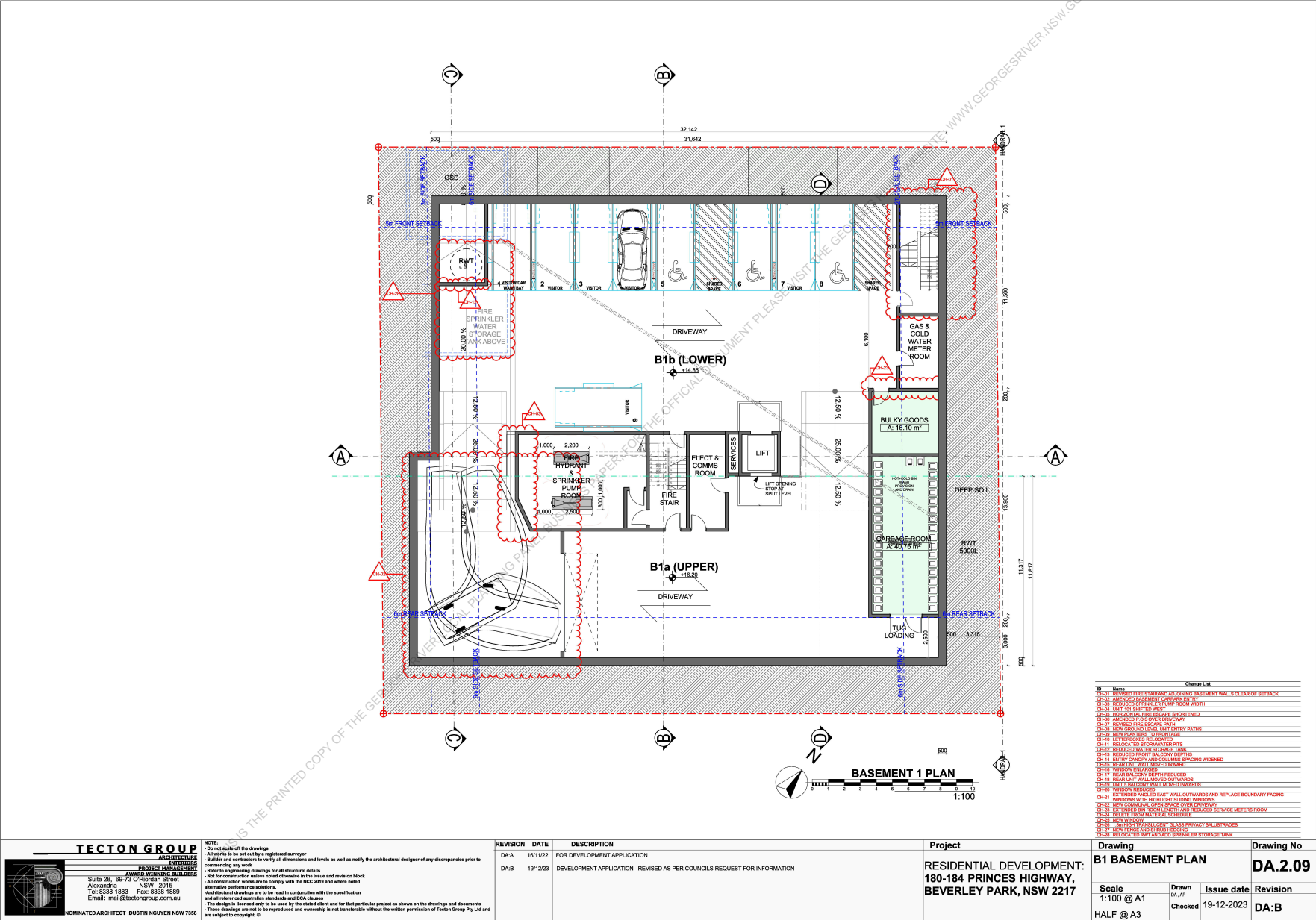


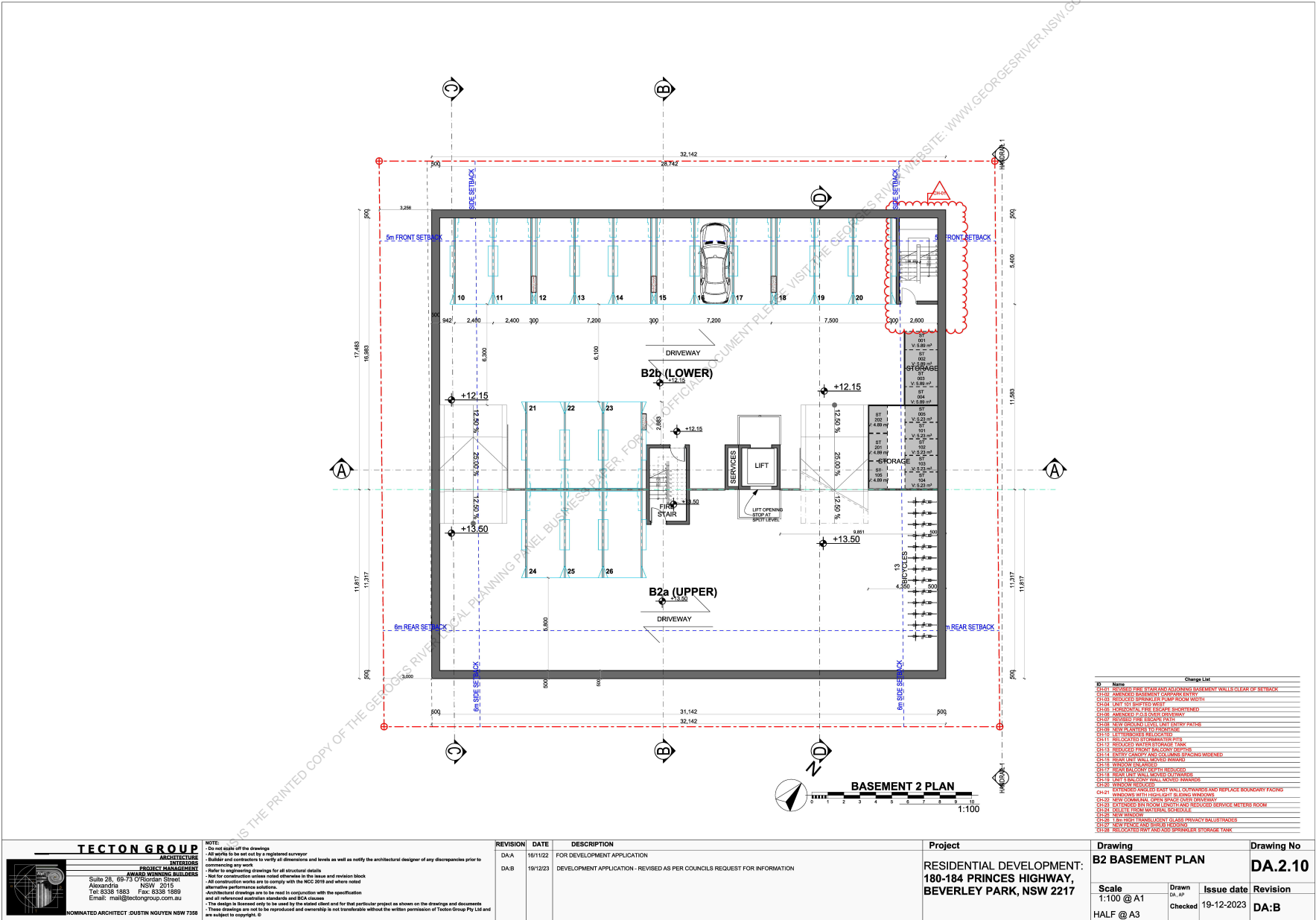




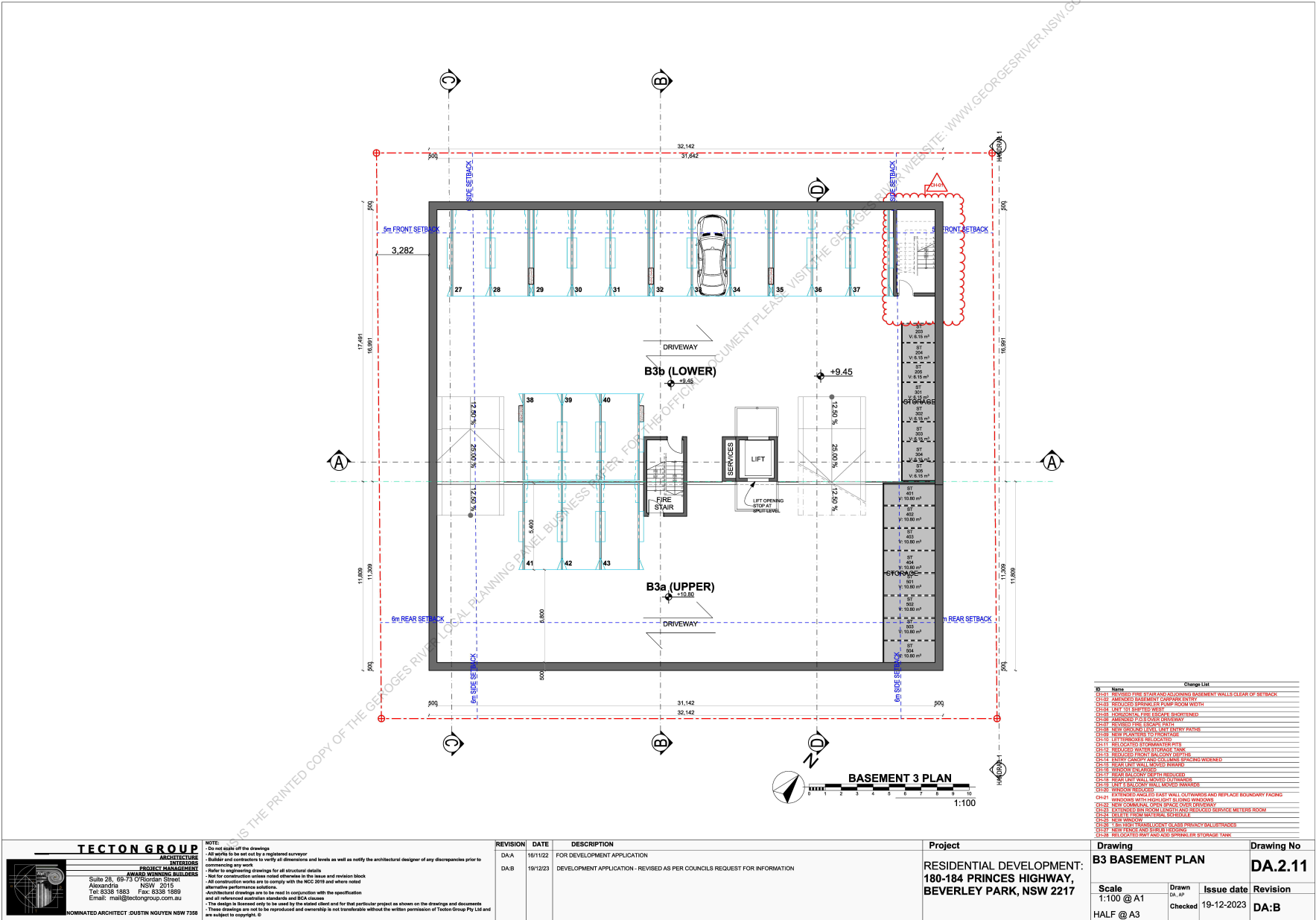


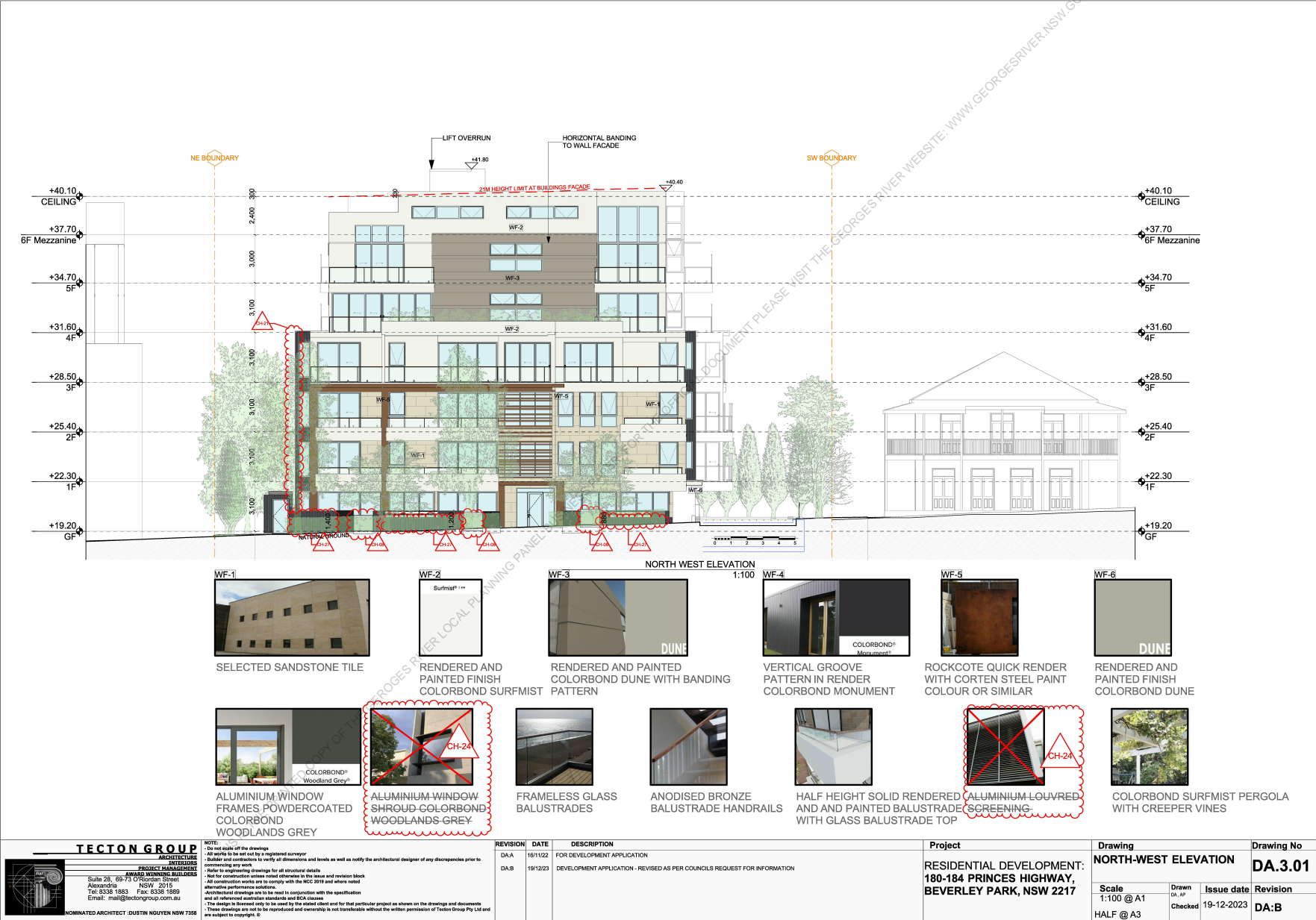




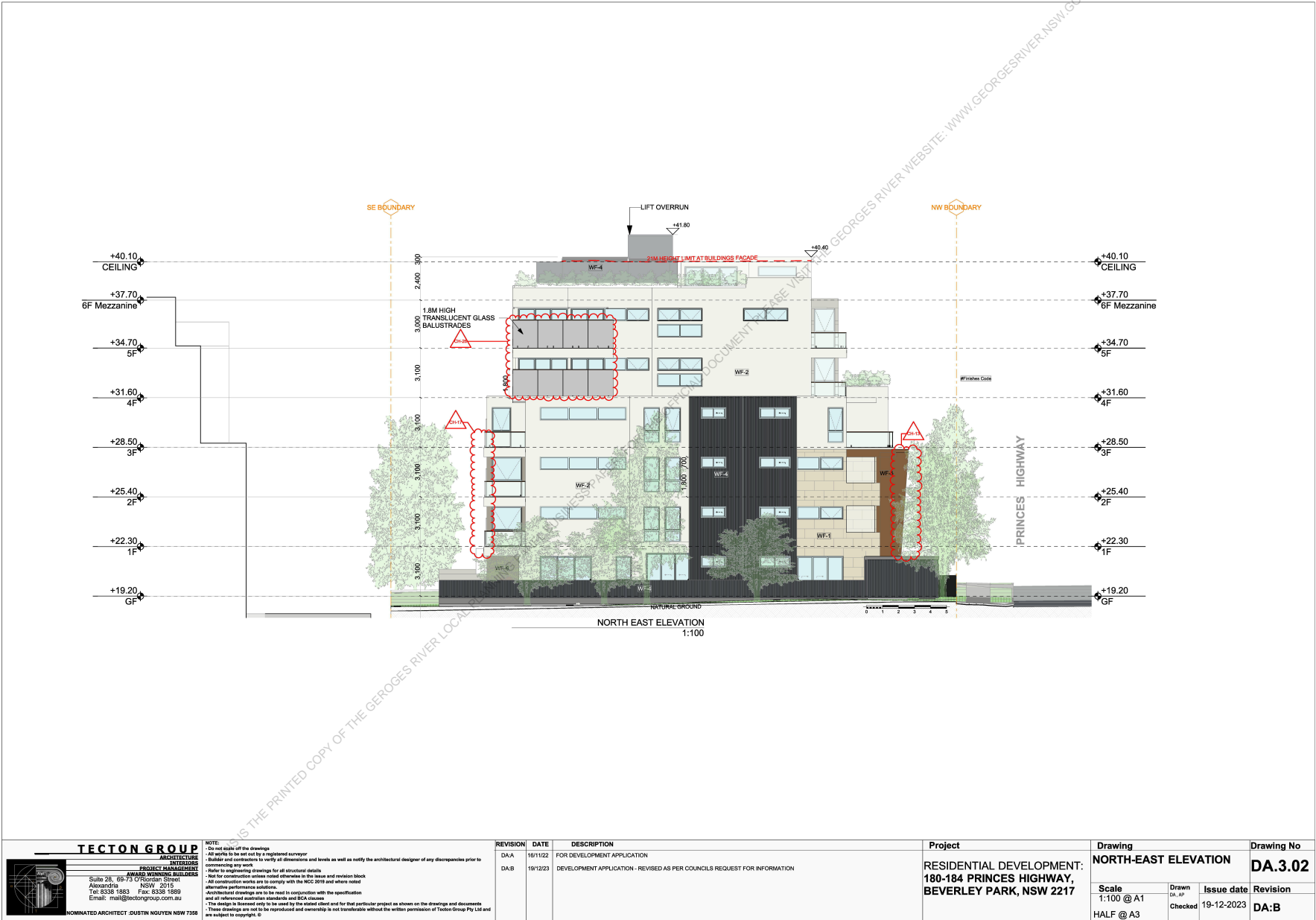


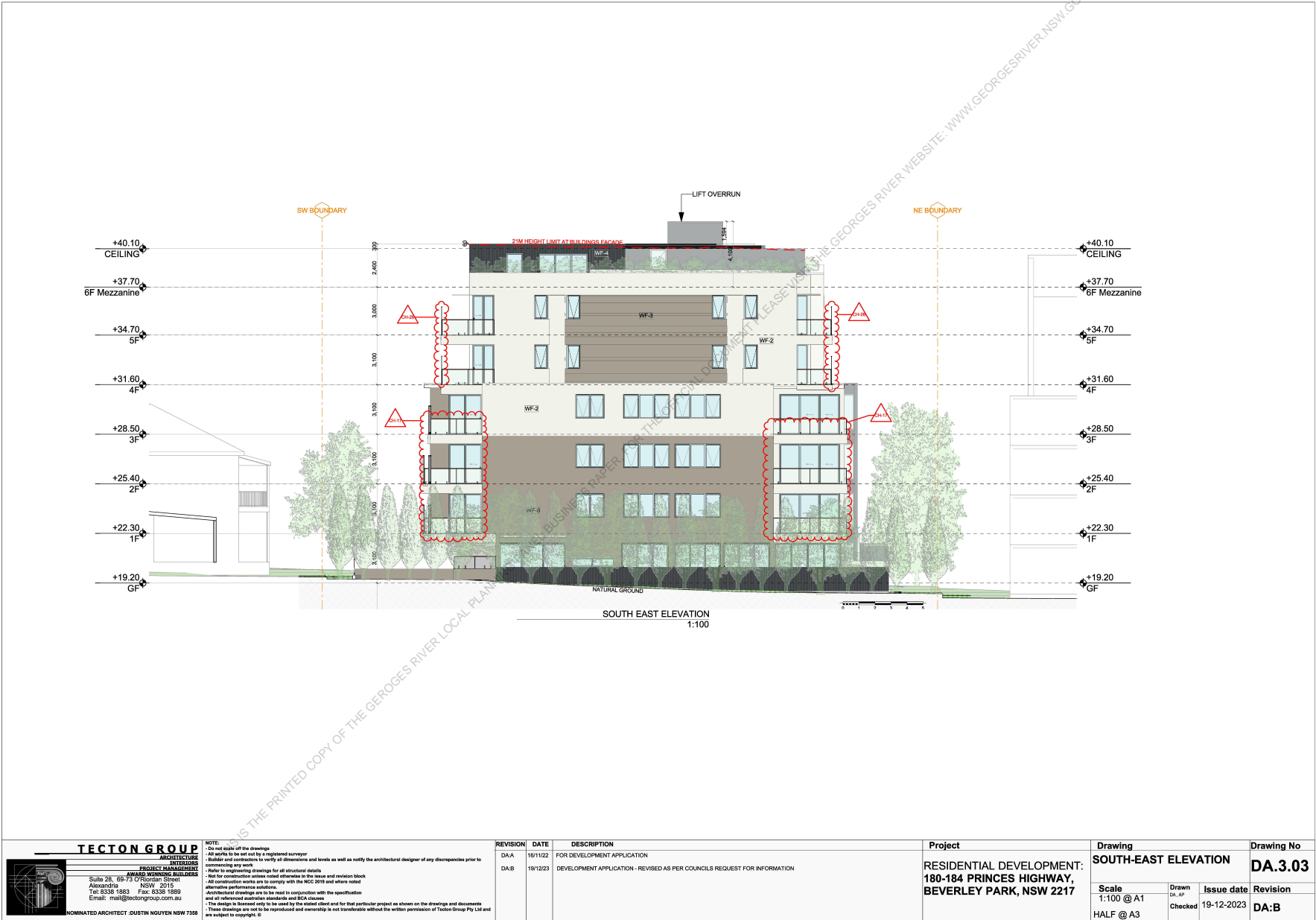


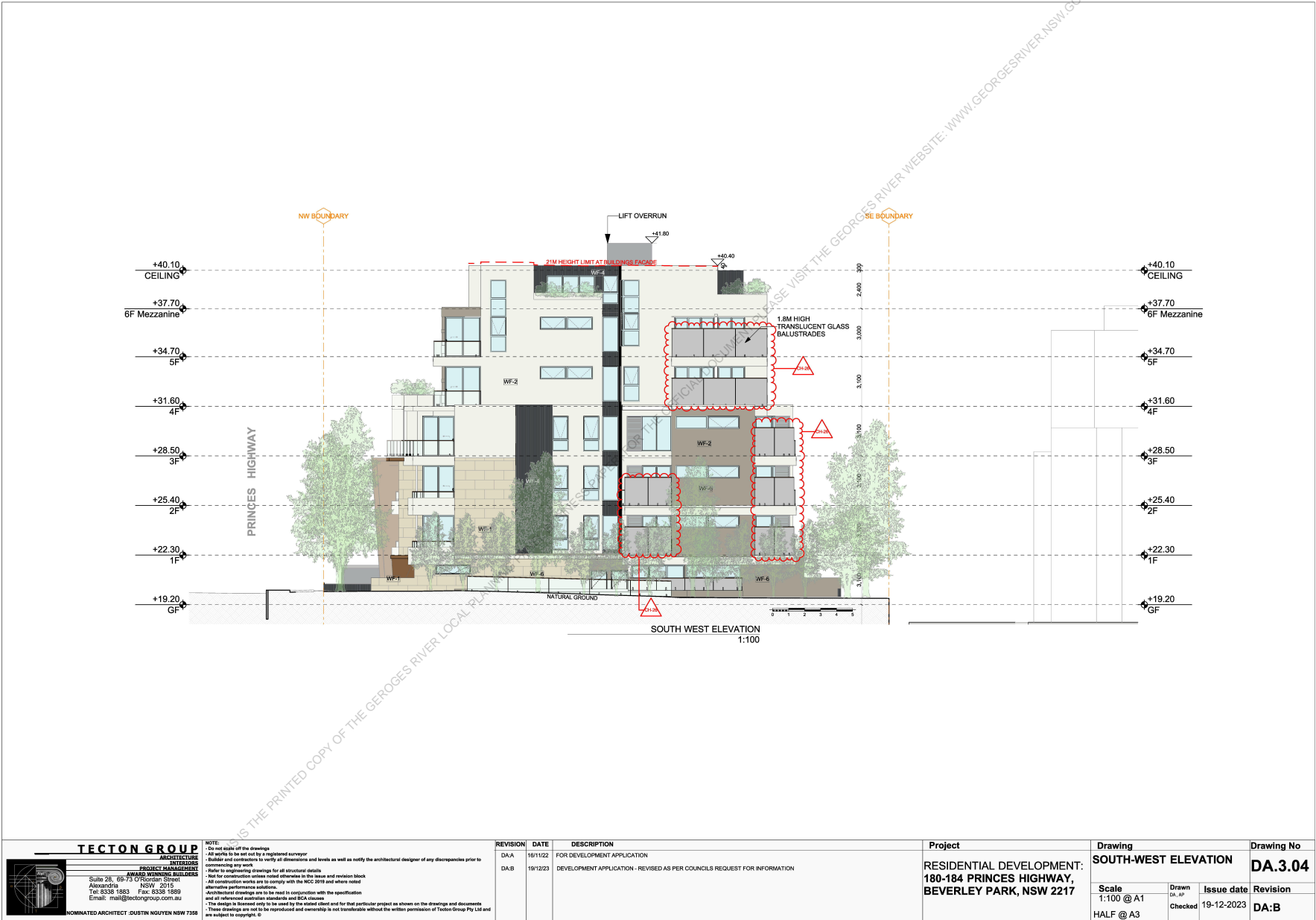














WF-1

SELECTED SANDSTONE TILE

WF-2

RENDERED AND PAINTED FINISH COLORBOND SURFMIST

WF-3

RENDERED AND PAINTED COLORBOND DUNE WITH BANDING PATTERN

WF-4

VERTICAL GROOVE PATTERN IN RENDER COLORBOND MONUMENT

WF-5

ROCKCOTE QUICK RENDER WITH CORTEN STEEL PAINT COLOUR OR SIMILAR

WF-6

RENDERED AND PAINTED FINISH COLORBOND DUNE

CH-2A

ALUMINIUM WINDOW FRAMES POWDERCOATED COLORBOND WOODLANDS GREY

CH-2A

ALUMINIUM WINDOW SHROUD COLORBOND WOODLANDS GREY

CH-2A

FRAMELESS GLASS BALUSTRADES

CH-2A

ANODISED BRONZE BALUSTRADE HANDRAILS

CH-2A


HALF HEIGHT SOLID RENDERED AND PAINTED BALUSTRADE SCREENING WITH GLASS BALUSTRADE TOP

CH-2A

ALUMINIUM LOUVRE SCREENING


CH-2A

COLORBOND SURFMIST PERGOLA WITH CREEPER VINES

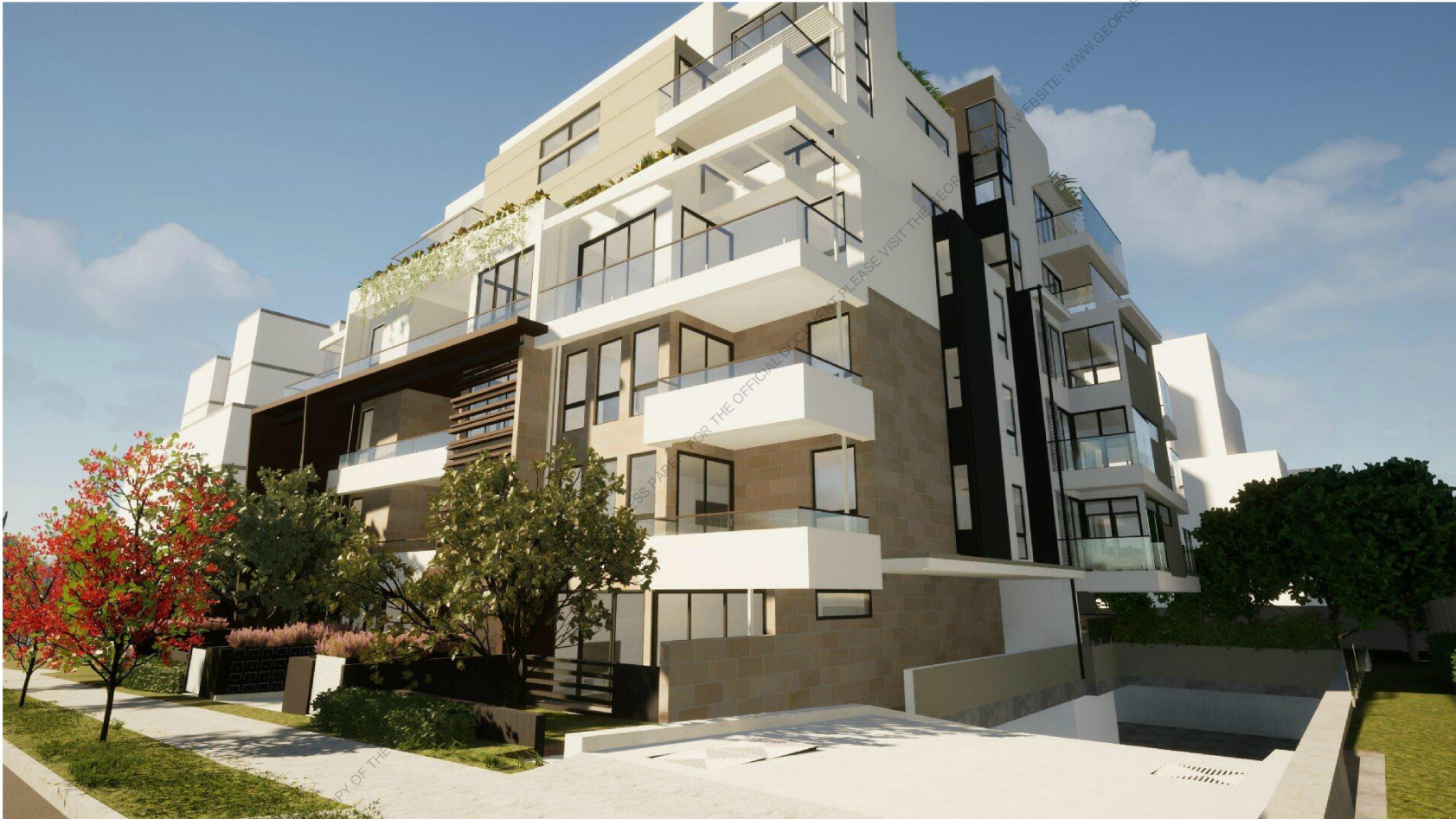
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	<b>TECTON GROUP</b> ARCHITECTURE INTERIORS PROJECT MANAGEMENT DESIGN WINNING SOLUTIONS Suite 28, 68-70 Rordian Street Alexandria NSW 2015 Tel: 6338 1893 Fax: 6338 1899 Email: mail@tectongroup.com.au	<p>NOTE:</p> <ul style="list-style-type: none"><li>- Do not scale off the drawings</li><li>- All plans to be sent out by a registered surveyor</li><li>- Builder and contractors to verify all dimensions and levels as well as notify the architectural designer of any discrepancies prior to commencing any work</li><li>- Refer to engineering drawings for all structural details</li><li>- Not for construction unless noted otherwise in the issues and revision block</li><li>- All construction works are to comply with the NCC 2019 and where noted alternative performance solutions</li><li>- Architectural drawings are to be read in conjunction with the specification and all referenced standards standards and BCA documents</li><li>- These drawings are to be used by the stated client and for that particular project as shown on the drawings and documents</li><li>- These drawings are not to be reproduced and ownership is not transferable without the written permission of Tecton Group Pty</li></ul>	<table><tr><th>REVISION</th><th>DATE</th><th>DESCRIPTION</th></tr><tr><td>D/A</td><td>16/11/22</td><td>FOR DEVELOPMENT APPLICATION</td></tr><tr><td>D/A B</td><td>19/12/23</td><td>FOR DEVELOPMENT APPLICATION - REVISED AS PER COUNCIL'S REQUEST FOR INFORMATION</td></tr></table>	REVISION	DATE	DESCRIPTION	D/A	16/11/22	FOR DEVELOPMENT APPLICATION	D/A B	19/12/23	FOR DEVELOPMENT APPLICATION - REVISED AS PER COUNCIL'S REQUEST FOR INFORMATION	<b>Project</b>  RESIDENTIAL DEVELOPMENT 180-184 PRINCES HIGHWAY, BEVERLY PARK, NSW 2217	<table><tr><th colspan="2">Drawing</th><th>Drawing No</th></tr><tr><td colspan="2">PERSPECTIVE 01</td><td>DA.7.0</td></tr><tr><td><b>Scale</b> @ A3 D:\B1 E @ A1</td><td><b>Drawn</b> J.A. AP <b>Checked</b> 19-12-2023</td><td><b>Issue date</b> 19-12-2023  <b>Revision</b> DA:B</td></tr></table>	Drawing		Drawing No	PERSPECTIVE 01		DA.7.0	<b>Scale</b> @ A3 D:\B1 E @ A1	<b>Drawn</b> J.A. AP <b>Checked</b> 19-12-2023	<b>Issue date</b> 19-12-2023  <b>Revision</b> DA:B
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PERSPECTIVE 01		DA.7.0																					
<b>Scale</b> @ A3 D:\B1 E @ A1	<b>Drawn</b> J.A. AP <b>Checked</b> 19-12-2023	<b>Issue date</b> 19-12-2023  <b>Revision</b> DA:B																					






 <div><b>TECTON GROUP</b> ARCHITECTS PROFESSIONAL BUILDERS Suite 28, 89-91 O'Hara Street Alexandria NSW 2015 Tel: 8338 1883 Fax: 8338 1889 Email: mail@tectongroup.com.au NOMINATED ARCHITECT AILEEN CHEAH 7728</div>	<b>NOTE:</b> - Do not scale off the drawings - All works to be set out by a registered surveyor - Builder and contractors to verify all dimensions and levels as well as notify the architectural designer of any discrepancies prior to commencing any work - Refer to engineering drawings for all structural details - Not for construction unless noted otherwise in the base and revision block - All construction works are to comply with the NCC 2018 and where noted alternative performance solutions - Architectural drawings are to be read in conjunction with the specification and all relevant Australian standards and BCA clauses - The design is licensed only to be used by the stated client and for that particular project as shown on the drawings and documents - These drawings are not to be reproduced and ownership is not transferable without the written permission of Tecton Group Pty Ltd and are subject to copyright.		<table><tr><th>REVISION</th><th>DATE</th><th>DESCRIPTION</th></tr><tr><td>DA.A</td><td>18/11/22</td><td>FOR DEVELOPMENT APPLICATION</td></tr><tr><td>DA.B</td><td>19/12/23</td><td>FOR DEVELOPMENT APPLICATION - REVISED AS PER COUNCILS REQUEST FOR INFORMATION</td></tr></table>	REVISION	DATE	DESCRIPTION	DA.A	18/11/22	FOR DEVELOPMENT APPLICATION	DA.B	19/12/23	FOR DEVELOPMENT APPLICATION - REVISED AS PER COUNCILS REQUEST FOR INFORMATION	<table><tr><td colspan="2"><b>Project</b></td><td colspan="2"><b>Drawing</b></td><td><b>Drawing No</b></td></tr><tr><td colspan="2" rowspan="5"><b>RESIDENTIAL DEVELOPMENT 180-184 PRINCES HIGHWAY, BEVERLEY PARK, NSW 2217</b></td><td colspan="2"><b>PERSPECTIVE 02</b></td><td rowspan="5"><b>DA.7.02</b></td></tr><tr><td><b>Scale</b></td><td><b>Drawn</b></td></tr><tr><td>@ A3</td><td>DA:AP</td></tr><tr><td><b>Checked</b></td><td><b>Issue date</b></td></tr><tr><td>DOUBLE @ A1</td><td>19-12-2023</td></tr><tr><td colspan="2"></td><td colspan="2"></td><td><b>Revision</b></td></tr><tr><td colspan="2"></td><td colspan="2"></td><td><b>DA:B</b></td></tr></table>	<b>Project</b>		<b>Drawing</b>		<b>Drawing No</b>	<b>RESIDENTIAL DEVELOPMENT 180-184 PRINCES HIGHWAY, BEVERLEY PARK, NSW 2217</b>		<b>PERSPECTIVE 02</b>		<b>DA.7.02</b>	<b>Scale</b>	<b>Drawn</b>	@ A3	DA:AP	<b>Checked</b>	<b>Issue date</b>	DOUBLE @ A1	19-12-2023					<b>Revision</b>					<b>DA:B</b>
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 <div><b>TECTON GROUP</b> ARCHITECTS PRINCIPAL ARCHITECT ALEEN CHEAH Suite 28, 80-90 O'Hara Street Alexandria NSW 2015 Tel: 9338 1880 Fax: 9338 1889 Email: mail@tectongroup.com.au NOMINATED ARCHITECT AILEEN CHEAH 7728</div>	<b>NOTE:</b> - Do not scale off the drawings - All works to be set out by a registered surveyor - Builder and contractors to verify all dimensions and levels as well as notify the architectural designer of any discrepancies prior to commencing any work - Refer to engineering drawings for all structural details - Not for construction unless noted otherwise in the base and revision block - All construction works are to comply with the NCC 2018 and where noted alternative performance solutions - Architectural drawings are to be read in conjunction with the specification and all relevant Australian standards and BCA clauses - The design is licensed only to be used by the stated client and for that particular project as shown on the drawings and documents - These drawings are not to be reproduced and ownership is not transferable without the written permission of Tecton Group Pty Ltd and are subject to copyright.			<b>REVISION</b> DATE DESCRIPTION DAA 18/11/22 FOR DEVELOPMENT APPLICATION DAB 19/12/23 FOR DEVELOPMENT APPLICATION - REVISED AS PER COUNCILS REQUEST FOR INFORMATION		<b>Project</b> RESIDENTIAL DEVELOPMENT 180-184 PRINCES HIGHWAY, BEVERLEY PARK, NSW 2217		<b>Drawing</b> PERSPECTIVE 03 Scale @ A3 DOUBLE @ A1		<b>Issue date</b> 19-12-2023	<b>Revision</b> DA:B

## Nationwide House Energy Rating Scheme NatHERS Certificate No. 23NNP0KSZI

Generated on 10 Nov 2022 using FirstRate5: 5.3.2b (3.21)

### Property

**Address** 105, 180-184 PRINCES HIGHWAY, BEVERLEY PARK, NSW, 2217  
**Lot/DP** 1/17522  
**NCC Class\*** Class 2  
**Type** New Home

### Plans

**Main plan** 15/07/22 /DA.5.1  
**Prepared by** Tecton Group

### Construction and environment

<b>Assessed floor area (m²)*</b>	<b>Exposure type</b>
Conditioned* 98.2	suburban
Unconditioned* 3.2	<b>NatHERS climate zone</b>
Total 101.4	56 Mascot AMO
Garage -	



### Accredited assessor

**Name** Robyn Jaber  
**Business name** Green Sustainable Homes  
**Email** robyn@grsh.com.au  
**Phone** 0404499403  
**Accreditation No.** DMN/16/1747  
**Assessor Accrediting Organisation** Design Matters National  
**Declaration of interest** Declaration completed: no conflicts

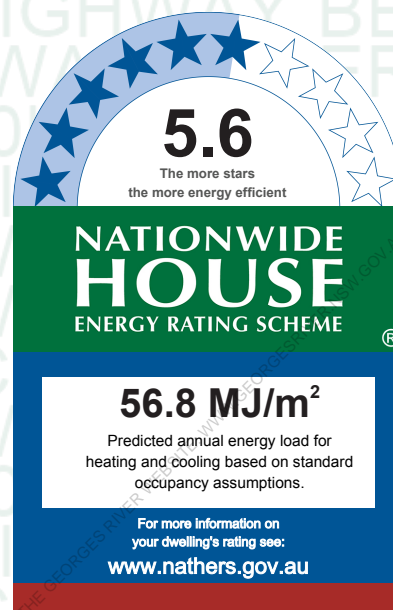
### National Construction Code (NCC) requirements

The NCC's requirements for NatHERS-rated houses are detailed in 3.12.0(a)(i) and 3.12.5 of the NCC Volume Two. For apartments the requirements are detailed in J0.2 and J5 to J8 of the NCC Volume One.

In NCC 2019, these requirements include minimum star ratings and separate heating and cooling load limits that need to be met by buildings and apartments through the NatHERS assessment. Requirements additional to the NatHERS assessment that must also be satisfied include, but are not limited to: insulation installation methods, thermal breaks, building sealing, water heating and pumping, and artificial lighting requirements.

The NCC and NatHERS Heating and Cooling Load Limits (Australian Building Codes Board Standard) are available at [www.abcb.gov.au](http://www.abcb.gov.au).

State and territory variations and additions to the NCC may also apply.



### Thermal performance

<b>Heating</b>	<b>Cooling</b>
<b>39</b>	<b>17.8</b>
<b>MJ/m²</b>	<b>MJ/m²</b>

### About the rating

NatHERS software models the expected thermal energy loads using information about the design and construction, climate and common patterns of household use. The software does not take into account appliances, apart from the airflow impacts from ceiling fans.

### Verification

To verify this certificate, scan the QR code or visit <https://www.fr5.com.au/QRCodeLanding?PublicId=23NNP0KSZI> When using either link, ensure you are visiting [www.FR5.com.au](http://www.FR5.com.au).



\* Refer to glossary.



**23NNP0KSZI NatHERS Certificate****5.6 Star Rating** as of 10 Nov 2022**Certificate Check**

Ensure the dwelling is designed and then built as per the NatHERS Certificate. While you need to check the accuracy of the whole Certificate, the following spot check covers some important items impacting the dwelling's rating.

**Genuine certificate**

Does this Certificate match the one available at the web address or QR code in the verification box on the front page?  
Does the set of NatHERS-stamped plans for the dwelling have a Certificate number on the stamp that matches this Certificate?

**Ceiling penetrations\***

Does the 'number' and 'type' of ceiling penetrations (e.g. downlights, exhaust fans, etc) shown on the stamped plans or installed, match what is shown in this Certificate?

**Windows**

Does the installed window meet the substitution tolerances (SHGC and U-value) and window type, of the window shown on this Certificate? Substituted values must be based on the Australian Fenestration Rating Council (AFRC) protocol.

**Apartment entrance doors**

Does the 'External Door Schedule' show apartment entrance doors? Please note that an "external door" between the modelled dwelling and a shared space, such as an enclosed corridor or foyer, should not be included in the assessment (because it overstates the possible ventilation) and would invalidate the Certificate.

**Exposure\***

Has the appropriate exposure level (terrain) been applied? For example, it is unlikely that a ground-floor apartment is "exposed" or a top floor high-rise apartment is "protected".

**Provisional\* values**

Have provisional values been used in the assessment and, if so, noted in "additional notes" below?

**Additional Notes****Window and glazed door type and performance****Default\* windows**

Window ID	Window description	Maximum U-value*	SHGC*	Substitution tolerance ranges	
				SHGC lower limit	SHGC upper limit
ALM-002-01 A	Aluminium B SG Clear	6.7	0.7	0.66	0.74
ALM-001-01 A	Aluminium A SG Clear	6.7	0.57	0.54	0.6

**Custom\* windows**

				Substitution tolerance ranges	
Window ID	Window description	Maximum U-value*	SHGC*	SHGC lower limit	SHGC upper limit
No Data Available					

**Window and glazed door Schedule**

Location	Window ID	Window no.	Height (mm)	Width (mm)	Window type	Opening %	Orientation	Window shading device*
Bed	ALM-002-01 A	D1022	2500	2800	sliding	60.0	SW	No
Bed	ALM-001-01 A	W1027	1500	1800	awning	10.0	SE	No
Bed	ALM-002-01 A	D1023	2500	2800	sliding	60.0	SW	No

\* Refer to glossary.

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**23NNP0KSZI NatHERS Certificate****5.6 Star Rating** as of 10 Nov 2022

Kitchen/Living/-Dining	ALM-002-01 A	D1021	2500	2093	sliding	45.0	SE	No
Kitchen/Living/-Dining	ALM-002-01 A	D1024	2500	1700	sliding	45.0	NW	No
Kitchen/Living/-Dining	ALM-001-01 A	W1028	800	4000	awning	45.0	SW	No

**Roof window type and performance value**

Default\* roof windows

				Substitution tolerance ranges	
Window ID	Window description	Maximum U-value*	SHGC*	SHGC lower limit	SHGC upper limit
No Data Available					

Custom\* roof windows

Window ID	Window description	Maximum U-value*	SHGC*	Substitution tolerance ranges	
				SHGC lower limit	SHGC upper limit
No Data Available					

**Roof window schedule**

Location	Window ID	Window no.	Opening %	Area (m²)	Orientation	Outdoor shade	Indoor shade
No Data Available							

**Skylight type and performance**

Skylight ID	Skylight description
No Data Available	

**Skylight schedule**

Location	Skylight ID	Skylight No.	Skylight shaft length (mm)	Area (m²)	Orient-ation	Outdoor shade	Diffuser	Skylight shaft reflectance
No Data Available								

**External door schedule**

Location	Height (mm)	Width (mm)	Opening %	Orientation
No Data Available				

**External wall type**

Wall ID	Wall type	Solar absorptance	Wall shade (colour)	Bulk insulation (R-value)	Reflective wall wrap*
1	AJP-CW-Insul - Concrete wall (Insul)	0.5	Medium	Glass fibre batt: R1.0 (R1.0)	No
2	AJP - concrete wall 200	0.5	Medium		No

**External wall schedule**

Location	Wall ID	Height (mm)	Width (mm)	Orientation	Horizontal shading feature* maximum projection (mm)	Vertical shading feature (yes/no)
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\* Refer to glossary.

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**23NNP0KSZI NatHERS Certificate****5.6 Star Rating** as of 10 Nov 2022

Bed	1	2870	2997	SW	4229	Yes
Bed	1	2870	4157	SE	0	No
Bed	1	2870	4154	SE	0	No
Bed	2	2870	2993	NE	0	No
Bath	2	2870	3799	NE	0	No
Laundry/St	2	2870	1714	NE	0	No
Laundry/St	2	2870	1860	NW	0	No
Ensuite	1	2870	1804	NW	0	No
Bed	1	2870	2974	SW	2563	Yes
Bed	1	2870	4371	NW	0	No
Kitchen/Living/Dining	1	2870	3630	SE	3888	Yes
Kitchen/Living/Dining	2	2870	1791	NE	0	No
Kitchen/Living/Dining	1	2870	1766	NW	0	No
Kitchen/Living/Dining	1	2870	1965	NW	3051	Yes
Kitchen/Living/Dining	1	2870	4086	SW	598	Yes

**Internal wall type**

Wall ID	Wall type	Area (m²)	Bulk insulation
1	TWL - Internal Hebel Wall	95.5	

**Floor type**

Location	Construction	Area (m²)	Sub-floor ventilation	Added insulation (R-value)	Covering
Bed	FR5 - 200mm concrete slab	12.5	Enclosed	R0.0	Carpet
Bed	FR5 - 200mm concrete slab	12.4	Enclosed	R0.0	Carpet
Bath	FR5 - 200mm concrete slab	7	Enclosed	R0.0	Tiles
Laundry/St	FR5 - 200mm concrete slab	3.2	Enclosed	R0.0	Tiles
Ensuite	FR5 - 200mm concrete slab	3.8	Enclosed	R0.0	Tiles
Bed	FR5 - 200mm concrete slab	16	Enclosed	R0.0	Carpet
Kitchen/Living/Dining	FR5 - 200mm concrete slab	46.5	Enclosed	R0.0	Tiles

**Ceiling type**

Location	Construction material/type	Bulk insulation R-value (may include edge batt values)	Reflective wrap*
No Data Available			

**Ceiling penetrations\***

Location	Quantity	Type	Diameter (mm)	Sealed/unsealed
Bath	1	Exhaust Fans	300	Sealed
Kitchen/Living/Dining	1	Exhaust Fans	300	Sealed

**Ceiling fans**

Location	Quantity	Diameter (mm)
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\* Refer to glossary.

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**23NNP0KSZI NatHERS Certificate****5.6 Star Rating** as of 10 Nov 2022

No Data Available

**Roof type**

Construction	Added insulation (R-value)	Solar absorptance	Roof shade
Slab:Slab - Suspended Slab : 225mm: 225mm Suspended Slab	0.0	0.5	Medium

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\* Refer to glossary.

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**23NNP0KSZI NatHERS Certificate****5.6 Star Rating** as of 10 Nov 2022**Explanatory Notes****About this report**

A NatHERS rating is a comprehensive, dynamic computer modelling evaluation of a home, using the floorplans, elevations and specifications to estimate an energy load. It addresses the building layout, orientation and fabric (i.e. walls, windows, floors, roofs and ceilings), but does not cover the water or energy use of appliances or energy production of solar panels.

Ratings are based on a unique climate zone where the home is located and are generated using standard assumptions, including occupancy patterns and thermostat settings. The actual energy consumption of a home may vary significantly from the predicted energy load, as the assumptions used in the rating will not match actual usage patterns. For example, the number of occupants and personal heating or cooling preferences will vary.

While the figures are an indicative guide to energy use, they can be used as a reliable guide for comparing different dwelling designs and to demonstrate that the design meets the energy efficiency requirements in the National Construction Code. Homes that are energy efficient use less energy, are warmer on cool days, cooler on hot days and cost less to run. The higher the star rating the more thermally efficient the dwelling is.

**Accredited assessors**

To ensure the NatHERS Certificate is of a high quality, always use an accredited or licenced assessor. NatHERS accredited assessors are members of a professional body called an Assessor Accrediting Organisation (AAO).

Australian Capital Territory (ACT) licensed assessors may only produce assessments for regulatory purposes using software for which they have a licence endorsement. Licence endorsements can be confirmed on the ACT licensing register

AAOs have specific quality assurance processes in place, and continuing professional development requirements, to maintain a high and consistent standard of assessments across the country. Non-accredited assessors do not have this level of quality assurance or any ongoing training requirements.

Any questions or concerns about this report should be directed to the assessor in the first instance. If the assessor is unable to address these questions or concerns, the AAO specified on the front of this certificate should be contacted.

**Disclaimer**

The format of the NatHERS Certificate was developed by the NatHERS Administrator. However the content of each individual certificate is entered and created by the assessor to create a NatHERS Certificate. It is the responsibility of the assessor who prepared this certificate to use NatHERS accredited software correctly and follow the NatHERS Technical Notes to produce a NatHERS Certificate.

The predicted annual energy load in this NatHERS Certificate is an estimate based on an assessment of the building by the assessor. It is not a prediction of actual energy use, but may be used to compare how other buildings are likely to perform when used in a similar way. Information presented in this report relies on a range of standard assumptions (both embedded in NatHERS accredited software and made by the assessor who prepared this report), including assumptions about occupancy, indoor air temperature and local climate.

Not all assumptions that may have been made by the assessor while using the NatHERS accredited software tool are presented in this report and further details or data files may be available from the assessor.

**Glossary**

<b>Annual energy load</b>	the predicted amount of energy required for heating and cooling, based on standard occupancy assumptions.
<b>Assessed floor area</b>	the floor area modelled in the software for the purpose of the NatHERS assessment. Note, this may not be consistent with the floor area in the design documents.
<b>Ceiling penetrations</b>	features that require a penetration to the ceiling, including downlights, vents, exhaust fans, rangehoods, chimneys and flues. Excludes fixtures attached to the ceiling with small holes through the ceiling for wiring, e.g. ceiling fans; pendant lights, and heating and cooling ducts.
<b>Conditioned</b>	a zone within a dwelling that is expected to require heating and cooling based on standard occupancy assumptions. In some circumstances it will include garages.
<b>Custom windows</b>	windows listed in NatHERS software that are available on the market in Australia and have a WERS (Window Energy Rating Scheme) rating.
<b>Default windows</b>	windows that are representative of a specific type of window product and whose properties have been derived by statistical methods.
<b>Entrance door</b>	these signify ventilation benefits in the modelling software and must not be modelled as a door when opening to a minimally ventilated corridor in a Class 2 building.
<b>Exposure category - exposed</b>	terrain with no obstructions e.g. flat grazing land, ocean-frontage, desert, exposed high-rise unit (usually above 10 floors).
<b>Exposure category - open</b>	terrain with few obstructions at a similar height e.g. grasslands with few well scattered obstructions below 10m, farmland with scattered sheds, lightly vegetated bush blocks, elevated units (e.g. above 3 floors).
<b>Exposure category - suburban</b>	terrain with numerous, closely spaced obstructions below 10m e.g. suburban housing, heavily vegetated bushland areas.
<b>Exposure category - protected</b>	terrain with numerous, closely spaced obstructions over 10 m e.g. city and industrial areas.
<b>Horizontal shading feature</b>	provides shading to the building in the horizontal plane, e.g. eaves, verandahs, pergolas, carports, or overhangs or balconies from upper levels.

\* Refer to glossary.

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**23NNP0KSZI NatHERS Certificate****5.6 Star Rating** as of 10 Nov 2022

<b>National Construction Code (NCC) Class</b>	the NCC groups buildings by their function and use, and assigns a classification code. NatHERS software models NCC Class 1, 2 or 4 buildings and attached Class 10a buildings. Definitions can be found at <a href="http://www.abcb.gov.au">www.abcb.gov.au</a> .
<b>Opening Percentage</b>	the openability percentage or operable (moveable) area of doors or windows that is used in ventilation calculations.
<b>Provisional value</b>	an assumed value that does not represent an actual value. For example, if the wall colour is unspecified in the documentation, a provisional value of 'medium' must be modelled. Acceptable provisional values are outlined in the NatHERS Technical Note and can be found at <a href="http://www.nathers.gov.au">www.nathers.gov.au</a>
<b>Reflective wrap</b> (also known as foil)	can be applied to walls, roofs and ceilings. When combined with an appropriate airgap and emissivity value, it provides insulative properties.
<b>Roof window</b>	for NatHERS this is typically an operable window (i.e. can be opened), will have a plaster or similar light well if there is an attic space, and generally does not have a diffuser.
<b>Shading device</b>	a device fixed to windows that provides shading e.g. window awnings or screens but excludes eaves.
<b>Shading features</b>	includes neighbouring buildings, fences, and wing walls, but excludes eaves.
<b>Solar heat gain coefficient (SHGC)</b>	the fraction of incident solar radiation admitted through a window, both directly transmitted as well as absorbed and subsequently released inward. SHGC is expressed as a number between 0 and 1. The lower a window's SHGC, the less solar heat it transmits.
<b>Skylight</b> (also known as roof lights)	for NatHERS this is typically a moulded unit with flexible reflective tubing (light well) and a diffuser at ceiling level.
<b>U-value</b>	the rate of heat transfer through a window. The lower the U-value, the better the insulating ability.
<b>Unconditioned</b>	a zone within a dwelling that is assumed to not require heating and cooling based on standard occupancy assumptions.
<b>Vertical shading features</b>	provides shading to the building in the vertical plane and can be parallel or perpendicular to the subject wall/window. Includes privacy screens, other walls in the building (wing walls), fences, other buildings, vegetation (protected or listed heritage trees).

\* Refer to glossary.

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# REPORT TO GEORGES RIVER LOCAL PLANNING PANEL MEETING OF THURSDAY, 16 MAY 2024

## LPP016-24 192-196 PRINCES HIGHWAY, KOGARAH BAY

LPP016-24

<b>LPP Report No</b>	<b>LPP016-24</b>	<b>Development Application No</b>	<b>MOD2023/0089</b>
<b>Site Address &amp; Ward Locality</b>	192-196 Princes Highway, Kogarah Bay Kogarah Bay Ward		
<b>Proposed Development</b>	Section 4.55(2) to DA2020/0144 demolition of existing structures and construction of a six-storey residential flat building with basement parking. The modifications include increase to building height, internal and external modifications.		
<b>Owners</b>	Kogarah Bay Property Pty Ltd		
<b>Applicant</b>	Anthony Charbel - Blu Print Designs Bureau Srh Pty Ltd		
<b>Planner/Architect</b>	SRH Architecture Pty Ltd		
<b>Date Of Lodgement</b>	13/09/2023		
<b>Submissions</b>	Nil		
<b>Cost of Works</b>	\$9,543,602.00 - No changes to the cost of works from the original consent		
<b>Local Planning Panel Criteria</b>	Departure to development standard greater than 10% - Clause 4.3 of Georges River Local Environmental Plan 2021 relating to Building Height		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	State Environmental Planning Policy (Resilience and Hazards) 2021; State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, Georges River Local Environmental Plan 2021		
<b>List all documents submitted with this report for the Panel's consideration</b>	Statement of Environmental Effects, Architectural Plans, Landscape Plans, Stormwater Plans, SEPP 65 Design Verification Statement, BASIX; Access Report; Adaptable Housing Report and Elevator specifications.		
<b>Report prepared by</b>	Coordinator Development Assessment		

<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?	Yes
---	-----



<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 for modification applications.</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, standard conditions have been attached and can be reviewed post publication.</b></p>

## SITE PLAN

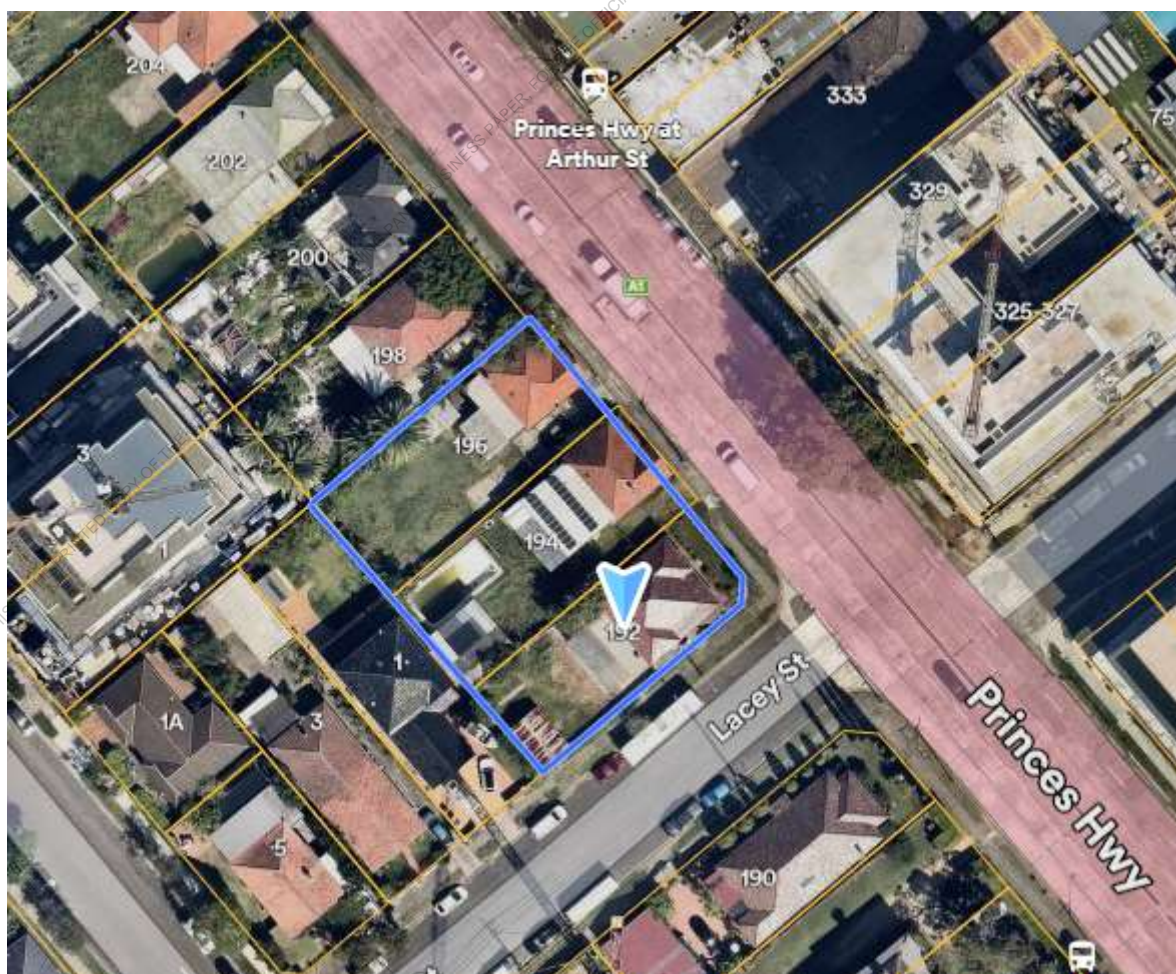


Figure 1: Aerial image of the subject site outlined in blue. Source: Nearmap

## EXECUTIVE SUMMARY

### PROPOSAL

- Consent is sought to modify development application (DA2020/0144) for demolition of existing structures and construction of a six-storey residential flat building with 2 level basement parking.

The proposed modifications include:

- Lift overrun raised to accommodate mechanical equipment and services which increases part of the building by a further 750mm. The table below illustrated approved and proposed building height.

Summary of numerical changes to the approved development standards		
Development Standard/Control	Approved scheme under (DA2020/0144)	Proposed modification
Clause 4.3 of Georges River LEP 2021 relating to building Height Max permitted height = 21m	22.7m	23.45m (lift overrun increased by 750mm) Variation = 2.45m or 11.7%

- Reconfiguration of fire stairs in both basement levels.
- Increase in bicycle storage area in both basement levels.
- Reduction of finished floor levels on certain levels to accommodate required services.
- Supply fan room added in basement 011
- Additional storage cage added for unit G08
- Reconfiguration of the waste storage area in basement 01.
- Amendment to the approved driveway.
- Amendment to the front fence and entry to the ground floor units as per Condition 36 of the original consent. The condition required each unit fronting Princes Highway and Lacey Street to have direct access to the street.
- Size of adaptable units increased in size to meet DDA and liveable standards requirements. No additional increase to FSR.
- Ground floor lobby extended to the east.
- Amendments to the approved landscape plan.
- Extension of lobby corridor to West.
- Rooftop communal open space amended due to the inclusions of services required.
- Materials and finishes amended.

### SITE AND LOCALITY

- The subject site is legally described as Lot 1 DP 655948, Lot 2 DP 658231, and Part 3 Section 17 DP 1963. The site is known as 192-196 Princes Highway Kogarah. The site is dimensioned as follows:

- Northern front boundary - 41.5m with a splay of 3.9m along the north-east corner of the site.
  - Southern rear boundary - 43.85m.
  - Western side boundary - 31.75m.
- With a total site area of 1,520.60sqm.

The site has a fall of approximately 1.26m from the north-west corner) to the south-east corner. Three dwelling houses, a swimming pool and ancillary structures are located on development site.

3. The immediate surrounding area is undergoing transitional change from dwellings to residential flat buildings. Shop top housing is located further to the north on the western side of the Princes Highway. The closet heritage item is located at 186-188 Princes Highway, Kogarah Bay (two storey dwelling and gardens) which is located approximately 33.7m to the north-east of the site.

### ZONING AND PERMISSIBILITY

4. The subject site is zoned R4 High Density Residential zone. The approved use as a residential flat building is permissible with consent.

### SUBMISSIONS

5. The modification application subject of this report was notified in accordance with Council's Community Engagement Strategy from the 14 September 2023 to 6 October 2023. No submissions were received.

### Reason for referral to the Local Planning Panel

6. The proposed increase in building height involves a departure to the maximum permitted development standard pursuant to the Georges River Local Environmental Plan 2021 that is greater than 10%. The proposed departure equates to 2.45m or 11.7%.

### CONCLUSION

7. An assessment has been undertaken in accordance with the applicable assessment criterion as outlined in this report and as such the proposal is considered satisfactory based upon the following conclusions:
- Based upon the information provided to date, it is assessed that the proposal will not have an adverse or an unreasonable environmental impact in the following regard:
    - o The development is permissible in the R4 High Density Residential Zone.
    - o The proposed variation to the maximum height is supported under merit as the affected area includes the lift overrun which has a significant setback from both street frontages and will not be visible from the street.
    - o The proposal provides a development that will establish a positive urban design outcome.
    - o There is no increase in the number of units proposed nor changes to the unit mix.
    - o All 36 units remain compliant with the required private open space area as outlined under the Apartment Design Guideline.
    - o Residential amenity improvements made to the adaptable units.

## REPORT IN FULL

### PROPOSAL

8. Consent is sought to modify the approved development application DA2020/0144 for demolition of existing structures and construction of a six-storey residential flat building with basement parking.

Summary of numerical changes to the approved development standards		
Development Standard/Control	Approved scheme under (DA2020/0144)	Proposed modification
Clause 4.3 of Georges River LEP 2021 relating to building Height Max permitted height = 21m	22.7m	23.45m (lift overrun increased by 750mm) Variation = 2.45m or 11.7%

9. Detailed summary of proposed modifications is identified below separated by each level.

**Basement 2:**

- Bicycle storage room increased.
- Reconfiguration of fire stairs due to sprinkler pump requirements.
- Lowering finished floor level by 250mm from approved RL 16.00 to RL 15.750 due to service requirements.
- Due to the amendments to the fire stairs and fire pump room the basement protrudes 500mm beyond the originally approved basement footprint to the western boundary for a length of 5.6m.
- Disability parking relocated from Basement 1 to Basement 2.

**Basement 1:**

- Reconfiguration of fire stairs due to sprinkler pump requirements.
- Bicycle storage room increased.
- Lowering finished floor level by 450mm from approved RL 19.00 to RL 18.55.
- Additional storage cage added for unit G08.
- Bin waste room reconfigured to contain 18 recycling bins and 18 general waste bins as per condition 85 of the original development consent DA2020/0144.
- Addition of exhaust fan room and electrical service room.
- Addition of supply fan room. Supply fan room added to the southwest portion of the basement due to service requirements. The room protrudes 1450mm to the southern boundary and 5850mm to the western boundary.
- Amendment to the approved driveway levels due to basement FFL and FCL amendments.

**Ground Floor:**

- Reconfiguration of fire stairs.
- Approved driveway levels amended due to basement FFL and FCL amendments.
- Front entry to Ground Floor lobby adjusted, which includes a 1:21 walkway and series of stairs as per design amendment requirement stipulated in Condition 36 of the original consent DA2020/0144.
- Services incorporated to side of driveway, sight line for pedestrian safety.
- Increase in floor area to adaptable units G02 and G04 through the extension of the glazing line to meet DDA and liveable standard requirements. No additional increase in FSR.
- Lowering finished floor level by 250mm from RL 22.00 to RL 21.750.
- Private open space to units G07 and G06 amended, planter extended over driveway ramp.
- Fire stairs from basement levels amended. Egress extended by 450mm.
- Landscape amended.

**Level 01**

- Lowering finished floor level by 100mm from RL 25.1 to RL 25.00
- Extension of slab edge over northern ground floor to provide cover.
- Level 1 lobby glazing line set back.

**Level 02**

- Lowering finished floor level by 100mm from RL 28.200 to RL 28.100.

**Level 03**

- Lowering finished floor level by 100mm from RL 31.300 to RL 31.200

**Level 04**

- No change

**Level 05**

- Increasing finished floor level by 100mm from RL 37.50 to RL 37.60

**Roof**

- Increasing roof level by 200mm from RL 40.60 to RL 40.80.
- Increase lift overrun by 750mm from RL 44.40 to RL 45.150
- Increase top of approved glass balustrade from RL 41.600 to RL 41.80.
- Roof terrace communal open space redesigned and landscaping amended.

**External finishes**

10. Materials and finishes amended.

**THE SITE AND LOCALITY**

11. The subject site is legally described as Lot 1 DP 655948, Lot 2 DP 658231, and Part 3 Section 17 DP 1963. The site is known as 192-196 Princes Highway Kogarah. The site is dimensioned as follows:
  - Northern front boundary - 41.5m with a splay of 3.9m along the north-east corner of the site.
  - Southern rear boundary - 43.85m.
  - Western side boundary - 31.75m.With a total site area of 1,520.60sqm.
12. The site has a fall of approximately 1.26m from the north-west corner to the south-east corner. Three dwelling houses, a swimming pool and ancillary structures are located on development site.
13. The immediate surrounding area is undergoing transitional change from dwellings to residential flat buildings. Shop top housing is located further to the north on the western side of the Princes Highway. The closet heritage item is located at 186-188 Princes Highway, Kogarah Bay (two storey dwelling and gardens) which is located approximately 33.7m to the north-east of the site.

**BACKGROUND**

14. On 1 July 2021, DA2020/0144 was approved by the Local Planning Panel for the demolition works and construction of a residential flat building.
15. On 13 September 2023, the subject modification application was lodged with Council.
16. On 14 September 2023, the application was public notification for 14 days till the 6 October 2023. No submissions were received.
17. On 27 November 2023, a request for additional information letter was sent to the applicant to address concerns raised by Council's Traffic Engineer, Landscape Officer and Urban Design Officer. This information was due by the 18 December 2023.

18. On 18 December 2023, email correspondence was received from the applicant requesting an extension to submit the additional information requested. An extension was granted till the 12 January 2024.
19. On 11 January 2024, additional information was submitted by the applicant and uploaded on the NSW Planning Portal. The additional information was re-referred to the relevant Council's technical referral specialists for final comments.
20. On 15 March 2024, all referral comments were received and form the basis of this assessment.

#### **Section 4.55(2) Other modifications**

21. *A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—*
  - (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
  - (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
  - (c) *it has notified the application in accordance with—*
    - (i) *the regulations, if the regulations so require, or*
    - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
  - (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*
22. Comment: The proposed changes to the development consent are considered to be “*substantially the same*” as they essentially sit within the approved building envelope and footprint. There is an increase to the approved height of the building. There are no changes to the approved number of units and unit mix.
23. The proposal therefore satisfies the provisions of Section 4.55(2), (a), (b), (c) and (d). Section 4.55 subclause (3) states.

*In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

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



**Section 4.55 subclause (4) states:**

25. *The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.*
26. Comment: The proposed development satisfies this provision as the modifications are not granting consent to a DA but rather modifying DA2020/0144.

**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 No. 65 – <i>Design Quality of Residential Apartment Development</i>	Yes
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes

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

28. The original application was assessed against the requirements of State Environmental Planning Policy (Biodiversity and Conservation) 2021. No tree removal is proposed under the subject modification application. As such, further assessment under this SEPP is not required.

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

29. The subject site fronts the Princes Highway which is classified as a classified road. As such, when DA2020/0144 was assessed, it was subject to the provisions of the State Environmental Planning Policy (Infrastructure) 2007. Since approval of the original application, the Infrastructure SEPP has been superseded by the State Environmental Planning Policy (Transport and infrastructure) 2021. When DA2020/0144 was approved, the development complied with requirements under the SEPP. The proposal does not alter vehicle access to the site, the general form of the building or change noise mitigation measures. Council's original assessment and conclusions remain valid.

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

30. A BASIX Certificate is required to be lodged for any development application in NSW considered to be BASIX Affected Development by the Environmental Planning and Assessment Regulation 2000, unless the development constitutes BASIX Excluded Development (see Clause 3) of the Regulations.
31. The development is BASIX Affected Development and is accompanied by a BASIX Certificate.
32. The supplied plan set incorporates the provisions of the BASIX, and a condition of consent will be included in determination to ensure the proposal is constructed in accordance with a current BASIX.
33. Therefore, the proposal is considered to satisfy the requirements of this SEPP.



34. The details of the provided BASIX Certificate are provided below:

BASIX Certificate Details	
Author:	EPS
Certificate Date:	16 June 2023
Certificate Number	1383417M

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

35. (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.
36. 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.

### State Environmental Planning Policy (Housing) 2021

37. The new Chapter 4 ('Design of residential apartment development') of the Housing SEPP (2021) does not apply to development applications that had been formally 'lodged' on the NSW Planning Portal before 14 December 2023. This development application was lodged on 13 September 2023 via the NSW Planning Portal thus SEPP No.65 is the relevant legislation applicable to this application.

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

38. SEPP 65 applies to the development as the building is more than 3 storeys in height and contains a residential component. An assessment of the design principles is addressed below:

ADG design quality principle	Response
1. Context	<p>The design of the proposed amended development responds to the qualities and identity of the area with respect to its relationship to adjoining sites, streetscape, and neighbourhood. The site has been identified for high density redevelopment in accordance with the provisions for GRLEP 2021.</p> <p>The bulk and scale of the development is appropriate for the context of the area given the transition of height along Princes Highway. The proposal is consistent with the objectives and development controls for residential development outlined in GRLEP 2021.</p>
2. Built form and scale	The height of the amended scheme is generally acceptable given that it relates to the lift overrun. The proposed design is consistent with the requirements of the Apartment Design

	<p>Guide. The overall built form is compatible with similar developments and the emerging character of the area undergoing redevelopment.</p> <p>It is considered that the proposed development is consistent with this design quality principle.</p>
3. Density	No change to the density as originally approved.
5. Landscape	The revised landscape plan is considered to be satisfactory.
6. Amenity	The proposal is satisfactory with regards to amenity and has been designed to optimise internal amenity through orientation, visual and acoustic privacy, solar access, natural ventilation, apartment layout, storage areas, and service areas.
7. Safety	The proposal satisfactorily addresses safety and provides opportunities for passive surveillance to the street frontage and communal areas of the site through the use of balconies addressing the street frontage and glazed openings. The proposed retail spaces address the future pedestrian link adjacent to the site. The car park area has been designed for secure access to ensure that the area remains accessible only to building occupants and their visitors.
8. Housing Diversity and Social Interaction	No changes are proposed to the approved unit mix.
9. Aesthetics	The proposed built form is appropriate with regard to the composition of building elements, textures, materials, and colours, reflecting the use, internal design and structure of the building. The design of the building is compatible with the desired built form and scale for the locality.

### The Apartment Design Guide (ADG).

39. The ADG is a publication by the State Government which further expands on the design quality principles by providing some detailed practical guidance for the design of residential flat buildings.
40. Minimal changes are proposed to the residential component of the development. As such, the modified proposal has been assessed against the relevant heads of consideration within Parts 3 & 4 of the ADG as follows:

Clause	Design Criteria	Comments	Complies
3C Public Domain interface	Transition between private and public domain is achieved without compromising safety and security.	<p>The proposed treatment to ground floor units provides an improved transition between the public and private domain and is also defined through the use of landscaping and finishes.</p> <p>The submitted plans indicate that the proposed landscaping, paving and other finishes will improve the address of the ground floor units from the public domain and will improve upon the current interface to the public domain.</p>	Yes.

	Amenity of the public domain is retained and enhanced.		
3D – Communal and public open space	Communal open space has a minimum area equal to 25% of the site (1520.6 x 0.25) = 380.15m <sup>2</sup>	The proposal provides one area of common open space, 1. Rooftop area = 380sqm (usable area excluding planter box and lift and stair access) (25%).  Every apartment includes a sizable and compliant balcony/terrace of which numerous balconies/terraces exceed the minimum requirements of the SEPP. It is noted that the calculations exclude balcony areas that are under the minimum depth.	Yes.
4E-Private Open Space and Balconies	All apartments are required to have primary balconies as follows:  -1 bedroom = 8sqm/2m depth -2 bedroom = 10sqm/2m depth -3+ bedroom = 12sqm/2.4m  The minimum balcony depth to be counted as contributing to the balcony area is 1m	All balconies have a minimum depth. 2m for all 1–2-bedroom units. 2.4m for all 3-bedroom units.  1-bedroom units range from 20sqm-45sqm 2-bedroom units range from 10sqm – 59sqm 3-bedroom units range from 12sqm to 60sqm	Yes Yes Yes Yes
4M Facades	Building facades provide visual interest along the street while respecting the character of the local area.	The design of the façade is modern and articulated. The design of the main entries and residential levels are differentiated by differing architectural treatments defining the spaces.  The building is of a high architectural and design quality and includes a number of visually attractive architectural elements and features that enhance the overall appearance of the development when viewed from the streets and public domain.	Yes.
4O – Landscape Design	Landscape design is viable and sustainable, contributes to the	The amended landscape design is considered appropriate for a corner allotment and provides suitable communal and private open space areas and the planting of canopy	Yes

	streetscape amenity and	trees which is supported by Council's Consulting arborist.	
4P – Planting on Structures	Planting on structures – appropriate soil profiles are provided, plant growth is optimised with appropriate selection and maintenance, contributes to the quality and amenity of communal and public open spaces	Planter boxes provide on the rooftop level.  The proposal is supported by Council's landscape officer.	Yes

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### Georges River Local Environmental Plan 2021

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

Part 1 – Preliminary		
Clause 1.2 – Aims of the Plan		
Standard	Proposal	Compliance
In accordance with Clause 1.2 (2)	The development is considered to be consistent with the aims of the plan.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Clause 1.2 – Aims of the Plan		
Standard	Proposal	Compliance
<b>residential flat building</b> means a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi dwelling housing.	The proposed development remains consistent with the definition.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Part 2 – Permitted or prohibited development		
Clause 2.3 – Zone objectives and Land Use Table		
Standard	Proposal	Compliance
<ul style="list-style-type: none"> <li>The subject site zoned R4 High Density Residential.</li> <li>The objectives of the zone are:               <ul style="list-style-type: none"> <li>To provide for the housing needs of the community within a high-density residential environment.</li> <li>To provide a variety of housing types within a</li> </ul> </li> </ul>	The proposal is consistent with the zone objectives as the development:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

high-density residential environment. <ul style="list-style-type: none"> <li>• To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> <li>• To enable other land uses that contribute to the vibrancy of the neighbourhood while ensuring that business centres remain the focus for business and retail activity.</li> <li>• To encourage development that maximises public transport patronage and promotes walking and cycling.</li> </ul>		
<b>Land Use Table</b>		
R4 High Density Residential	The approved use remains permissible with consent under the zone applying to the land.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>Part 4 – Principal Development Standards</b>		
<b>Clause 4.3 – Height of Buildings</b>		
<b>Standard</b> 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.  Maximum height is 21m maximum identified on Height of Buildings Map	<b>Approved/Proposal</b> 22.7m  Proposed = 23.45m  Variation = 2.45 or 11.7%	<b>Compliance</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> <b>No,</b> <b>however accepted under merit. Refer to further discussion below compliance table.</b> <input type="checkbox"/> N/A
<b>Clause 4.4 – Floor Space Ratio</b>		
<b>Standard</b>	<b>Approved/Proposal</b>	<b>Compliance</b>

<p>The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.</p> <p>The maximum floor space is 2:1 or 3041.2m<sup>2</sup> as identified on Floor Space Ratio (FSR) Map.</p>	<p>Approved = 1.99:1 or 3,037m<sup>2</sup></p> <p>Proposed = 1.99:1 or 3038m<sup>2</sup> (Proposed increase of 1m<sup>2</sup> is due to increase in bedroom size for adaptable units and minor decrease in certain units to increase fire stairs and services)</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, <input type="checkbox"/> N/A
<b>Clause 4.6 - Exceptions to development standards</b>		
<p><b>Standard</b></p> <p>In accordance with Clause 4.6 (1) through to and including (8)</p>	<p><b>Proposal</b></p> <p>The proposal exceeds the maximum height allowed for the site. A Clause 4.6 statement is not required under a modification application. However, an assessment regarding the variation has been carried out below the compliance table.</p>	<p><b>Compliance</b></p> <p><input type="checkbox"/> Yes  <input type="checkbox"/> No  <input checked="" type="checkbox"/> N/A</p>
<b>Part 5 – Miscellaneous Provisions</b>		
<b>Clause 5.7 – Development below mean high water mark</b>		
<p><b>Standard</b></p> <p>Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).</p>	<p><b>Proposal</b></p> <p>The proposal does not involve works below the Mean High Water Mark.</p>	<p><b>Compliance</b></p> <p><input type="checkbox"/> Yes  <input type="checkbox"/> No  <input checked="" type="checkbox"/> N/A</p>
<b>Clause 5.10 – Heritage conservation</b>		
<p><b>Standard</b></p> <p>Council must, before granting consent under this clause with respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.</p>	<p><b>Proposal</b></p> <p>The site is not a heritage item and not located within the vicinity of any heritage items. Site is also not within a heritage conservation area.</p>	<p><b>Compliance</b></p> <p><input type="checkbox"/> Yes  <input type="checkbox"/> No  <input checked="" type="checkbox"/> N/A</p>
<b>Clause - 5.21 Flood Planning</b>		
<p><b>Standard</b></p> <p>(2) Development consent must not be granted to development on land the consent authority</p>	<p><b>Proposal</b></p> <p>The subject land is not flood affected</p>	<p><b>Compliance</b></p> <p><input type="checkbox"/> Yes  <input type="checkbox"/> No  <input checked="" type="checkbox"/> N/A</p>

considers to be within the flood planning area.		
<b>Part 6 – Additional Local Provisions</b>		
<b>Clause 6.1 – Acid sulfate soils</b>		
Standard	Proposal	Compliance
<p>(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.</p> <p><b>Class 5</b> The site is identified as containing Class 5 Acid Sulfate Soils.</p>	<p>The site identified as containing Class 5 acid sulfate soils, but the works are not located on land within 500m of land of a lower class and is not below 5m Australian Height Datum. No further action is therefore required.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p>
<b>Clause 6.2 Earthworks</b>		
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 proposal has been considered in this regard. The proposed earth works are satisfactory with regards the matters identified.</p> <p>The development has been executed in a manner that minimizes disruption to drainage patterns and ensures soil stability in the surrounding area.</p> <p>Measures have been implemented to mitigate any adverse effects on the existing and anticipated amenity of neighbouring properties caused by the development.</p> <p>The design and construction of the development have effectively minimized the need for extensive cut and fill operations.</p> <p>Adequate measures have been proposed and implemented to avoid, minimize, or mitigate any potential negative impacts associated with the proposed earthworks.</p>	<p><input checked="" type="checkbox"/> Yes <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>		
Clause 6.3 – Stormwater Management		
Standard	Proposal	Compliance
<p>(2) In deciding whether to grant development consent for development, the consent authority must be satisfied that the development—</p> <p>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</p> <p>(b) includes, if practicable, on-site stormwater detention or retention to minimise stormwater runoff volumes and reduce the development's reliance on mains water, groundwater or river water, and</p> <p>(c) avoids significant adverse impacts of stormwater runoff on adjoining properties, native bushland, receiving waters and the downstream stormwater system or, if the impact cannot be reasonably</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>

avoided, minimises and mitigates the impact, and (d) is designed to minimise the impact on public drainage systems.		
<b>Clause 6.4 – Foreshore area and coastal hazards and risk</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
(2) This clause applies to the following land— (a) and identified on the Coastal Hazard and Risk Map, (b) land identified on the Foreshore Building Line Map.	The site is not located on land identified in the Coastal Hazard and Risk Map or on the Foreshore Building Line Map.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>Clause 6.5 – Riparian land and waterways</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
(2) This clause applies to land identified as “Sensitive land” on the Riparian Lands and Waterways Map.	The site is not located on Sensitive Land as identified on the Riparian Land and Waterways Map.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>Clause 6.6 Foreshore scenic protection area</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
(2) This clause applies to land identified as “Foreshore scenic protection area” on the Foreshore Scenic Protection Area Map.	The site is not located within the Foreshore Scenic Protection Area as identified on the Foreshore Scenic Protection Area Map.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>Clause 6.8 Development in areas subject to aircraft noise</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
NOTE: Applies to 67-89 Croydon Road, 1-7 Somerset (odd only), 2-8 Bristol (even), 1-5 Bristol (odd) in Hurstville.	The proposal is not located on the land identified by the Clause.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>Clause 6.9 Essential Services</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
Development consent must not be granted to development unless Council is satisfied that any of the following services that are essential for the development are available, or that adequate arrangements have been made to make them available when required a) the supply of water,	<p>The proposal has, or includes arrangements that will make available, the:</p> <ul style="list-style-type: none"> <li>the supply of water,</li> <li>the supply of electricity,</li> <li>the supply of telecommunications facilities,</li> <li>the disposal and management of sewage,</li> <li>stormwater drainage or on-site conservation,</li> <li>vehicular access.</li> </ul>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

b) the supply of electricity, c) the supply of telecommunication facilities, d) the disposal and management of sewage e) stormwater drainage or on-site conservation, f) suitable vehicular access.		
<b>Clause 6.10 Design Excellence</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
(2) This clause applies to development: 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— (i) Zone R4 High Density Residential, (ii) Zone E1 Local Centre, (iii) Zone E2 Commercial Centre, (iv) Zone E4 General Industrial, (v) Zone MU1 Mixed Use.	The proposal is zoned R4 High Density Residential and has a height greater than 12m.  The proposal was referred to Council's Urban Design Officer and has been considered with regards the matters identified in Clause (5). The proposed modifications are considered to suitably demonstrate compliance with the Clause. Detailed assessment is further below in the referrals section of the report.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

42. Applications assessed under Section 4.55 of the EPA Act 1979 do not require a variation to be sought under Clause 4.6 of the Georges River Local Environmental Plan 2021. Notwithstanding, a merit assessment of the variation is provided below.

#### **VARIATION - CLAUSE 4.3 - HEIGHT**

43. The proposal does not comply with the maximum permissible building height of 21.0m stipulated pursuant to Clause 4.3 of GRLEP 2021. The original scheme was approved with a building height of 22.7m. The proposed modified building height is 23.45 with an increase of 750mm to accommodate the lift overrun.
44. The applicant has indicated that the method used to calculate the need for the increase in height is based on the lift manufacturers requirement as illustrated below:

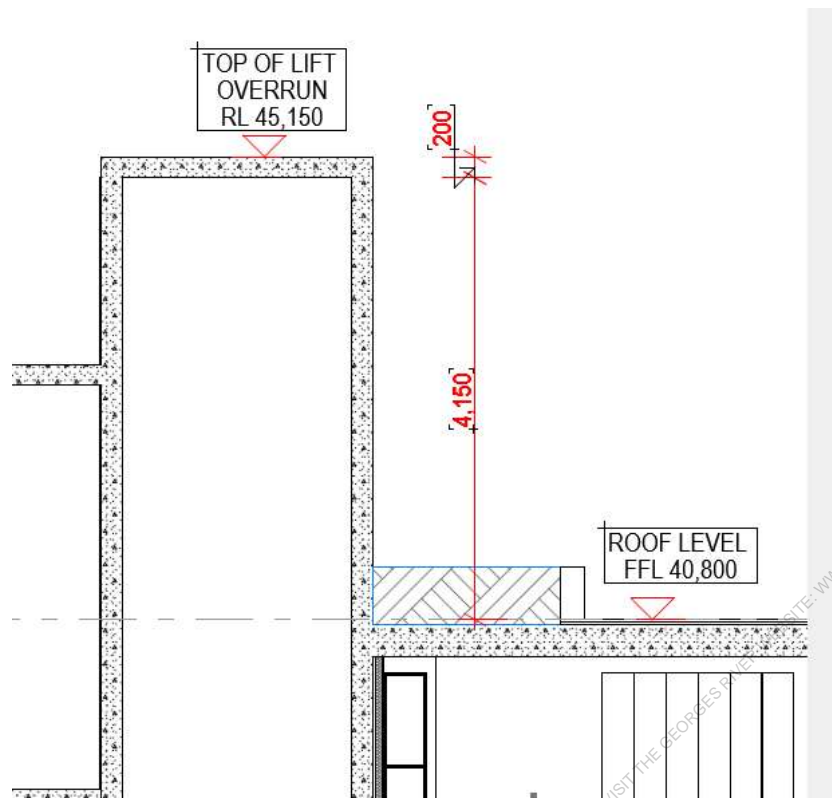


Figure 2: Sketch section of lift overrun. Source: applicant.

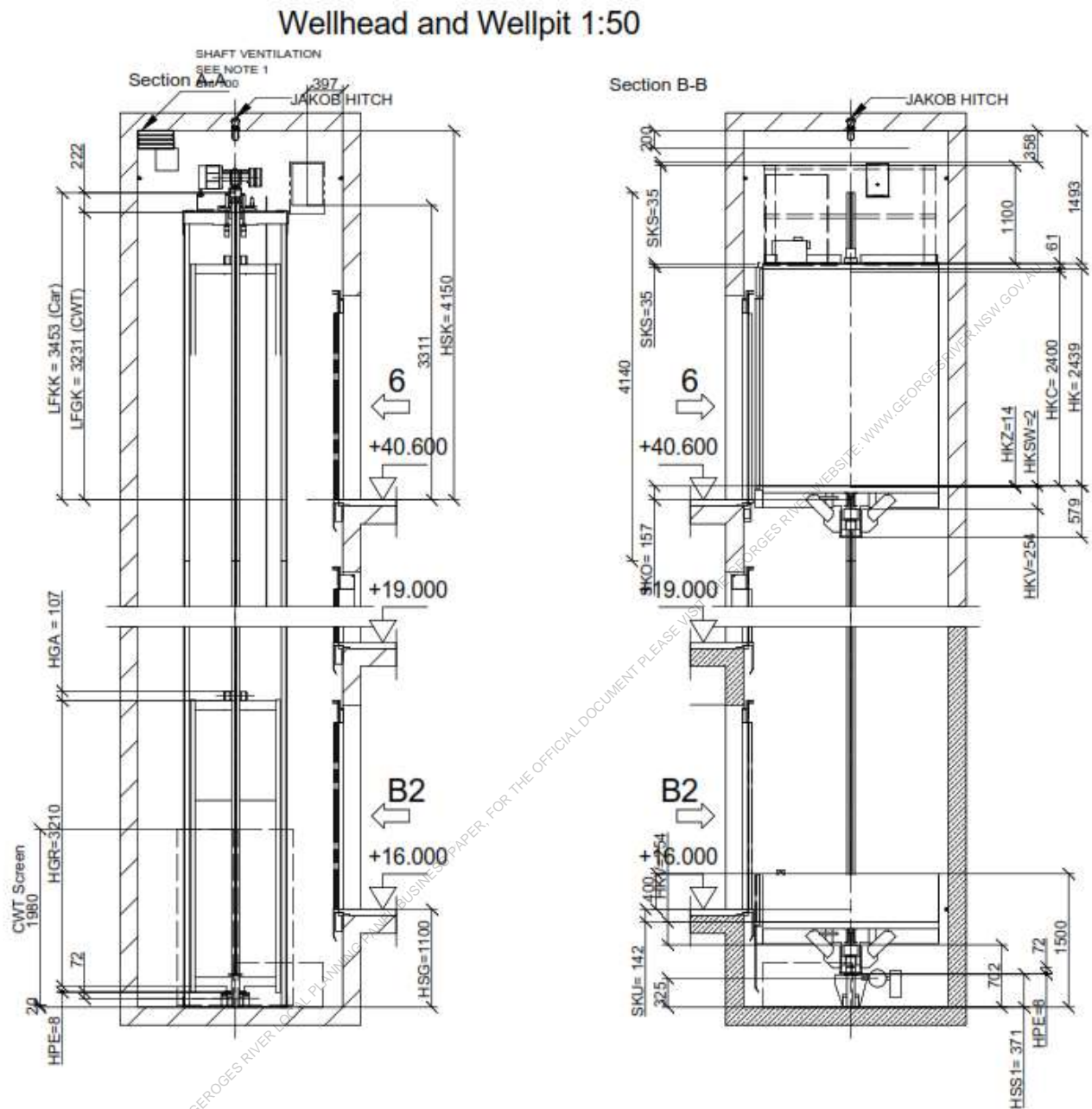


Figure 3: Manufactures specifications for Schindler 3000. Source: Schindler Lift Australia.

45. The variation to the approved building height is acceptable under merit for the following reasons:
- The increase in height is attributed to the increased height of the lift overrun to accommodate required building services on the roof top.
  - The approved building parapet (ranging from RL41.00 to RL41.300) and top of the approved fire stairs at RL 43.200 will be retained. The elements above this point which are proposed to be modified such as the lift overrun from RL 44.00 to RL 45.100 are setback from the parapet and will not be readily discernible from the public domain.
  - The proposed lift overrun, and awning are located centrally within the site and will be obscured when viewed from the public domain. To the casual observer on Princes Highway and Lacey Street, the proposed increase in height will not be readily visible.

- The elements above the 21m height limit create no significant additional overshadowing to adjoining properties when considering the extent of overshadowing against the backdrop of applicable planning controls.
- The height breach of the lift overrun, and awning is located centrally within the site and will not cast significant shadows onto the neighbouring properties between 9am and 3pm in midwinter.

### GEORGES RIVER DEVELOPMENT CONTROL PLAN

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

3.3 Landscaping		
Control	Proposal	Compliance
<p>1. Landscaping on site should be incorporated into the site planning of a development to (where appropriate):</p> <ul style="list-style-type: none"> <li>i. Reinforce the desired future character of the locality;</li> <li>ii. Maintain significant landscape features;</li> <li>iii. Be consistent with any dominant species in the adjoining area of ecological significance;</li> <li>iv. Incorporate fire resistant species in areas susceptible to bushfire hazard;</li> <li>v. Provide planting within setback zones;</li> <li>vi. Soften the visual impact of buildings, carparks and roads;</li> <li>vii. Cater for outdoor recreation areas;</li> <li>viii. Separate conflicting uses;</li> <li>ix. Screen undesirable elements;</li> <li>x. Provide opportunities for on-site stormwater infiltration, in particular around existing trees and vegetation;</li> <li>xi. Consider the future maintenance requirements of landscaped areas;</li> <li>xii. Protect the effective functioning of overhead, surface level or underground utilities; and</li> </ul>	<p>The amended plan was assessed by Council's Landscape Officer who provided the following comments:</p> <p><i>"In the amended landscape plan, the applicant has combined and extended soil areas within the rear of the property to allow for continuous soil volumes. These areas are now able to sustain trees within their bounds.</i></p> <p><i>The landscape areas within the front setback of the development have been amended and redesigned to allow for more contiguous soil volumes. They are now likely to be able to sustain trees and vegetation over the long term."</i></p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>

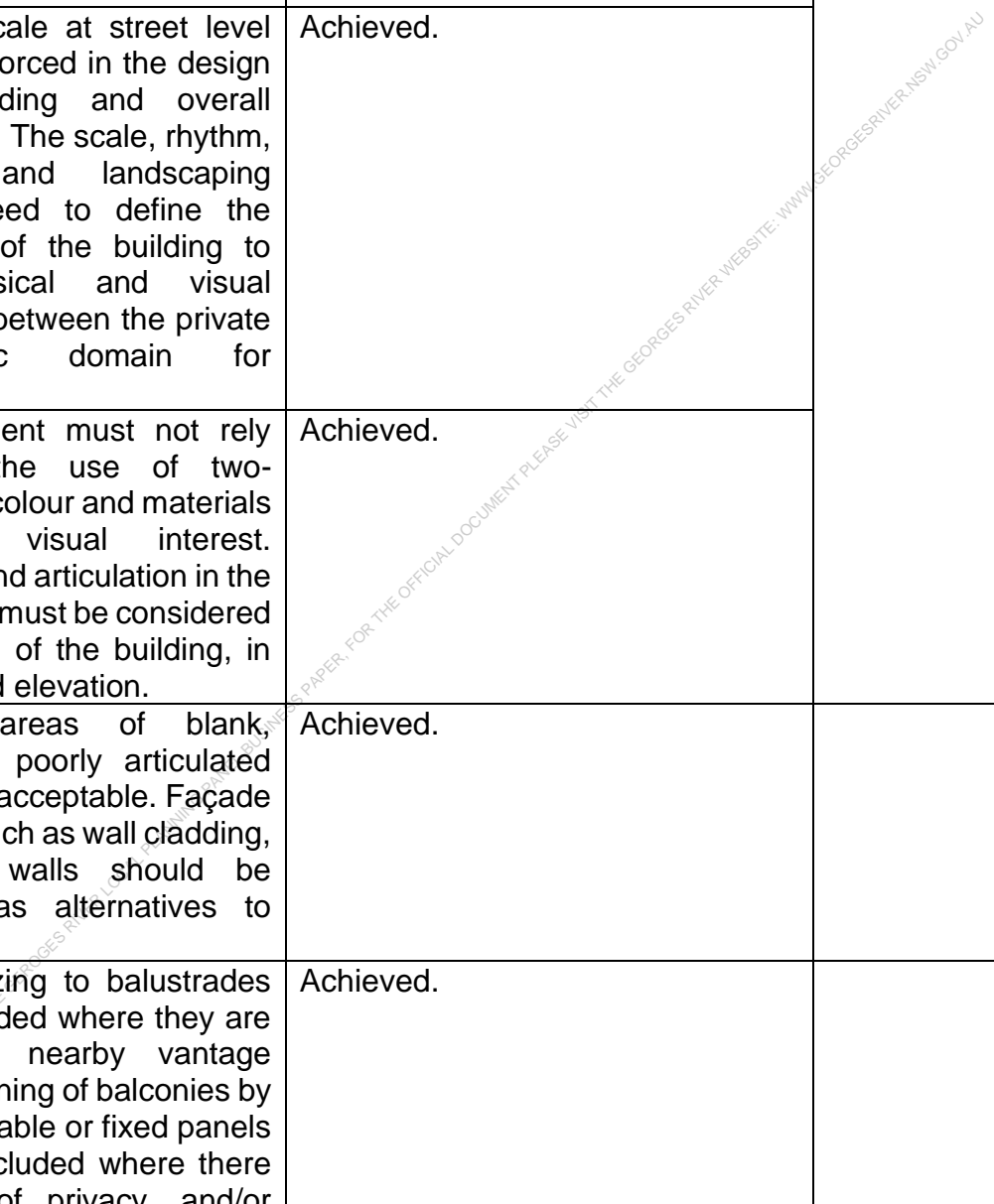
xiii. Improve the aesthetic quality of the development.		
<b>3.10 Water Management</b>		
<b>Stormwater Management</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
1. Development must comply with Council's Stormwater Management Policy.  2. Water Sensitive Urban Design (WSUD) principles are to be incorporated into the design of stormwater drainage, on -site retention and detention, landscaping and within the overall design of the development.	The proposal has been reviewed by Council's Development Engineer and has been found to be satisfactory with regards to this clause.  Conditions suggested by Council's Engineer have been applied.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>3.11 Ecologically Sustainable Development</b>		
<b>Residential Buildings</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
1. All BASIX affected development must comply with SEPP (Building Sustainability Index: BASIX) 2004.	A BASIX has been provided with the application, the proposal shall be conditioned to comply with the BASIX.  See BASIX SEPP assessment	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>3.12 Waste Management</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
1. Development must comply with Council's Waste Management requirements regarding construction waste and ongoing management of waste materials (per Appendix 4 of the GRDCP).	The proposal complies with Appendix 4 of the GRDCP and therefore complies with the controls applying to this section.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>3.15.1 Infrastructure</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
3. The public domain should be improved by new street plantings and footpath improvements	The proposed development is not considered to warrant the need for new street tree plantings or footpath upgrades	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>3.17 Universal / Accessible Design</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
3. Accessways for pedestrians and vehicles to be separated	Achieved.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

**Part 6 – Residential Control**

47. 6.3 – Residential flat buildings and residential components of shop top housing.

<b>6.3.5 Façade treatment and street corners</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>



2. Building facades must be clearly articulated and employ high quality materials and finishes that enhance and complement the streetscape character	Achieved.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3. Street corners must be given prominence by a change in building articulation, materials, colours, form and scale.	Achieved.	
4. Human scale at street level must be reinforced in the design of the building and overall development. The scale, rhythm, materiality and landscaping treatment need to define the appearance of the building to create physical and visual connections between the private and public domain for pedestrians.	Achieved.	
6. Development must not rely solely on the use of two-dimensional colour and materials to create visual interest. Modulation and articulation in the building form must be considered in the design of the building, in plan view and elevation.	Achieved.	
7. Large areas of blank, minimally or poorly articulated walls are not acceptable. Façade treatments such as wall cladding, and green walls should be considered as alternatives to blank walls.	Achieved.	
8. Clear glazing to balustrades must be avoided where they are visible from nearby vantage points. Screening of balconies by way of adjustable or fixed panels should be included where there are issues of privacy, and/or excessive exposure to solar impacts.	Achieved.	
<b>6.3.7 Communal Open Space</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
Communal open space to a minimum area of 25% of the site area and with a minimum dimension of 5m is to be provided.	380m <sup>2</sup> or 25%	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

## THE LIKELY IMPACTS OF THE DEVELOPMENT

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

Likely Impacts of the Development	
Natural Environment	The proposed development is of a scale and character that is in keeping with other developments currently being constructed in the locality. Accordingly, the proposal is not considered to have an unreasonable impact on the natural and built environment of the locality.
Social Impact	The assessment demonstrates the proposal in its current form will not have adverse impact on the character of the locality and the amenity of neighbouring residential properties. The environmental impacts on the social environment are reasonable and the application is supported.
Economic Impact	The proposal is not considered to result in unreasonable economic impact

## SITE SUITABILITY

49. Section 4.15 (c) the suitability of the site for the development
50. The subject site is zoned R4 High Density Residential zone. It is considered that the proposal will have no adverse impacts on the adjoining properties and the streetscape in its current form.

## SUBMISSIONS

51. Section 4.15 (d) any submissions made in accordance with this Act or the regulations.
52. The application was advertised, and adjoining residents were notified by letter and given fourteen (14) days in which to view the plans and submit any comments on the proposal.
53. No submissions were received during the neighbour notification period.

## INTERNAL REFERRALS

### Urban Design

54. The proposal was referred to Council's Urban Design Officer who was satisfied with the proposal with no further urban design conditions.

### Development Engineering

55. The modification application was referred to Council's Development Engineer who provided the following comments:  
*"The revised drainage plans including public domain drainage pits and pipeline have been assessed and Conditions Numbers 1, 18 & 54 are to be amended to reflect the proposed modifications."*

### Planning Comment:

56. Relevant Conditions modified in the consent.

### Landscape Officer

57. The proposed modification application was referred to Council's Building Surveyor who provided the following comments:

*“Reviewing amended landscape plan the applicant has combined and extended soil areas within the rear of the property to allow for continuous soil volumes. These areas are now able to sustain trees within their bounds.*

*The landscape areas within the front setback of the development have been amended and redesigned to allow for more contiguous soil volumes. They are now likely to be able to sustain trees and vegetation over the long term.”*

### Senior Traffic Engineer

58. The proposed modification application was referred to Council’s Traffic Engineer who provided the following comments:

- (a) The plans are satisfactory overall on traffic and parking grounds. Pedestrian sightlines are provided on the north-western side of the vehicle access ramp as per the RFI.
- (b) The amended plan for Basement B1, Drawing No. S4.55 102 “B” does not indicate which of the visitor car parking spaces will be a vehicle wash bay, the provision of which is required in Condition 78(b) of DA2020/0144. The modification application can contain a condition for the vehicle wash bay location to be provided.
- (c) It is considered Condition 28 of DA2020/0144 relating to the submission of a “Construction Traffic Management Plan” should be deleted and replaced with a “Construction Vehicle and Pedestrian Plan of Management (CVPPM)” condition. The CVPPM requires the applicant to provide more detailed information relating to truck sizes and movements which is more appropriate to the site having a frontage to the Princes Highway with high traffic volumes and Clearway and “No Stopping” restrictions.

59. It is recommended conditions 28 and 78 of DA2020/0144 be modified as follows:

**28. ~~Construction Traffic Management Plan~~ – A Construction Traffic Management Plan detailing:**

- ~~(a) construction vehicle routes~~
- ~~(b) anticipated number of trucks per day~~
- ~~(c) hours of construction~~
- ~~(d) Access arrangements; and~~

~~Proposed traffic measures to minimise impacts of construction vehicles must be submitted for the approval of Council’s Engineers. Council’s Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.~~

**28. Construction vehicle and pedestrian plan of management (CVPPM)**

Prior to the issuing of a Construction Certificate, a Construction Vehicle and Pedestrian Plan of Management (CVPPM) shall be submitted to Council for the approval of Council’s Senior Traffic and Parking Assessment Officer. The CVPPM shall be prepared for the various stages of the development and include, but not be limited to, the following:

- (a) Details of the scope of works to be undertaken during the demolition, excavation, construction stages etc., and the duration of each.
- (b) Indicate the consent approved hours of work.

- (c) Identify the routes to be travelled within the Council area for trucks travelling to and from the site.
- (d) Include a plan showing the location of any schools, preschools and long day care centres within 200m of the site.
- (e) Detail the number of and where construction worker vehicles will be parked during the various stages of the development.
- (f) Identify any proposed temporary road closures, temporary changes to traffic flow and loss of pedestrian or cyclist access likely to occur as a result of works being undertaken during the various work stages.
- (g) Detail the size (including dimensions), number and frequency of trucks movements to and from the site during the various stages of work.
- (h) Include copies of all required Traffic Control Plans (TCPs). All TCPs shall be prepared by RMS accredited persons.
- (i) Provide swept wheel path drawings for the different types of vehicles accessing the site. The swept wheel path drawings:
  - Are required to confirm truck movements into and out of the site associated with the various stages of development will not damage public or private infrastructure/property.
  - Are required to confirm truck movements into and out of the site can be carried out without a loss of on street vehicle parking spaces either in close proximity to or removed from the site.
  - Shall be prepared by a suitably qualified and experienced traffic engineering consultant.
- (j) Show the location and length of any proposed Works Zones including any adjustments required to Council's infrastructure, parking control signs etc. to implement the zones. **NOTE:** Works Zones require the approval of the Georges River Council Traffic Committee prior to installation.
- (k) Show the locations of where it is proposed to stand trucks remote from the site should they be unable on arrival to immediately enter the site or an approved Works Zone. Double parking, parking in NO STOPPING/NO STANDING zones or across neighboring property driveways is not permitted.

**NOTE:** A copy of the approved CVPPM must be kept at the site and made available to the Principal Certifying Authority or Council on request:

**78. Allocation of car parking spaces** - Car parking associated with the development is to be allocated as follows:

- (a) Residential dwellings: fifty-five (55)
- (b) Residential visitors: eight (8) inclusive of one (1) wash bay

Details of which of the resident visitor parking spaces is to be the shared vehicle wash bay shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.

### **Planning Comment**

60. Conditions amended in the consent.

### **CONTRIBUTIONS**

61. The development is subject to Section 7.11 Contributions which has been included in the original consent. The proposed modifications do not increase the cost of works.

## Planning Agreements

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

## EP&A Regulation 2000

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

## Suitability of the site for the development

64. The site is zoned R4 – High Density Residential. The proposal is a permissible form of development in this zone. The proposed changes do not affect the suitability of the site for the development, and do not impact the development potential of the adjoining allotments.

## Determination

### Statement of Reasons

65. The reasons for this recommendation are:

- The development is permissible in the R4 High Density Residential
- The proposed variation to the maximum height is supported under merit as the affected area includes the lift overrun which has a significant setback from both street frontages and will not be visible from the street.
- There is no increase in the number of units proposed nor changes to the unit mix.
- The proposal provides a quality development that will establish a positive urban design outcome.

## Determination

66. Pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended), MOD2023/0089 modification of development consent DA2020/0144 for demolition of existing structures and construction of a six-storey residential flat building with basement parking. The proposed modifications include increase in height, floor space ratio, internal and external modifications on land known as 192-196 Princes Highway, Kogarah Bay, is recommended for approval.

## SPECIFIC DEVELOPMENT CONDITIONS

### Development Details

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

Description	Reference No.	Date	Revision	Prepared by
Demolition, construction management and sediment control plan	DA004	30/03/20	A	Bureau SRH <b>SRHA Architects</b>
B2 Basement Plan	<del>DA101</del> <b>S4.55 101</b>	<del>13/4/21</del> <b>30/04/2024</b>	<del>D</del> <b>B</b>	Bureau SRH <b>SRHA Architects</b>
B1 Basement Plan	<del>DA S4.55</del> 102	<del>13/4/21</del> <b>30/04/2024</b>	<del>D</del> <b>C</b>	Bureau SRH <b>SRHA Architects</b>
Ground Floor Plan	<del>DA S4.55</del> 103	<del>13/4/21</del> <b>30/04/2024</b>	<del>D</del> <b>C</b>	Bureau SRH <b>SRHA Architects</b>

Level 1-3 Floor Plans	DA <b>S4.55</b> 104-106	13/4/21 <b>30/04/2024</b>	DC	Bureau SRH <b>SRHA Architects</b>
Level 4 Floor Plan	DA <b>S4.55</b> 107	13/4/21 <b>30/04/2024</b>	DC	Bureau SRH <b>SRHA Architects</b>
Level 5 Floor Plan	DA <b>S4.55</b> 108	13/4/21 <b>30/04/2024</b>	DC	Bureau SRH <b>SRHA Architects</b>
Sixth Floor Plan (communal roof terrace) <b>Roof Level Plan</b>	DA107 <b>S4.55109</b>	13/4/21 <b>30/04/2024</b>	DC	Bureau SRH <b>SRHA Architects</b>
<b>North Elevations</b>	DA <b>S4.55</b> 201-202	13/4/21 <b>30/04/2024</b>	DC	Bureau SRH <b>SRHA Architects</b>
<b>South, East and West Elevations</b>	DA <b>S4.55</b> 202 - 203	13/4/21 <b>30/04/2024</b>	DC	Bureau SRH <b>SRHA Architects</b>
<b>Cross Section</b>	DA <b>S4.55</b> 301	13/4/21 <b>30/04/2024</b>	DC	Bureau SRH <b>SRHA Architects</b>
Longitudinal Section	DA <b>S4.55</b> 302	13/4/21 <b>30/04/2024</b>	DC	Bureau SRH <b>SRHA Architects</b>
Traffic and Parking Impact Assessment	20-028	March 2020		Stanbury Traffic Planning
Drainage Plans <b>Stormwater Management Plan</b>	2079—S1/5 2079—S2/5 2079—S3/5 2079—S4/5 2079—S5/5 <b>2000267—STW-103,</b>  <b>2000267—STW-100</b>  <b>2000267—STW-301</b>  <b>2000267—STW-302</b>	11.11.20 11.11.20 11.11.20 11.11.20 11.11.20 <b>16.02.23</b>  <b>16.02.23</b>  <b>16.02.23</b>  <b>16.02.23</b>	D D D D D  <b>1</b> <b>1</b>  <b>1</b> <b>1</b>	John Romanous & Associates P/L— <b>Torinex Consulting Engineers</b>
Acoustic Report – Traffic and Environmental Noise	2020-048	17th March 2020		Acoustic, Vibration and Noise
Waste Management Plan		18th March 2020		Anthony Charbel
Geotechnical Report	14616/1-AA	20 March 2020		Geotechnique
Landscape Plans	L01/2-K24913 L02/2-K24913	20 March 2020 <b>Dec 2023</b>	A D	Michael Sui Ben <b>Kaye Garden Design</b>

	<b>202312_TAO UK_192- 196_Princes _Hwy_A0.3 _GF</b>			
Schedule of Colours and Finishes	DA505 S4.55 505	31/3/2020 <b>30/04/2024</b>	A B	John Romanous and Associates <b>SRHA Architects</b>
BCA Report	111700-Access-R1	19 March 2020		BCA Logic
BASIX	1087636M <b>1383417M</b>	19 March 2020-16 <b>June 2023</b>		Greenwood architectural Drafting- <b>EPS</b>
<b>Perspectives: corner of Princess Highway and Lacey Street</b>	<b>S4.55 800</b>	<b>30/04/2024</b>	<b>C</b>	<b>SRHA Architects</b>
<b>Perspectives: Princess Highway</b>	<b>S4.55 801</b>	<b>30/04/2024</b>	<b>C</b>	<b>SRHA Architects</b>
<b>Perspectives: Lacey Street</b>	<b>S4.55 802</b>	<b>30/04/2024</b>	<b>C</b>	<b>SRHA Architects</b>
<b>Perspectives: Lacey Street</b>	<b>S4.55 803</b>	<b>30/04/2024</b>	<b>B</b>	<b>SRHA Architects</b>
<b>Perspectives: Princess Highway</b>	<b>S4.55 804</b>	<b>30/04/2024</b>	<b>B</b>	<b>SRHA Architects</b>
<b>Perspectives: Princess Highway southwest corner comparison</b>	<b>S4.55 806</b>	<b>30/04/2024</b>	<b>B</b>	<b>SRHA Architects</b>

LPP016-24

This condition is amended under MOD2022/0089.

### Separate Approvals Required Under Other Legislation

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

- (a) Construct a 1.2m wide footpath for the full length of the frontage of the site in accordance with Council's Specifications applying at the time construction approval is sought.
- (b) The thickness and design of the driveway shall be in accordance with Council's Specifications applying at the time construction approval is sought.
- (c) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant. The work shall be carried out in accordance with Council's specification, applying at the time construction approval is sought.

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



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

- a) That cable anchors will be stressed released when the building extends above ground level to the satisfaction of Council.
- b) The applicant has indemnified Council from all public liability claims arising from the proposed works and provide adequate insurance cover to the satisfaction of Council.
- c) Documentary evidence of such insurance cover to the value of \$20 million.
- d) The applicant must register a non-terminating bank guarantee in favour of Council for the amount of \$50,000.

The guarantee will be released when the cables are stress released. In this regard it will be necessary for a certificate to be submitted to Council from a structural engineer at that time verifying that the cables have been stress released.

- e) That in the event of any works taking place on Council's roadways/footways adjoining the property while the anchors are still stressed, all costs associated with overcoming the difficulties caused by the presence of the 'live' anchors will be borne by the applicant.

4. **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.

5. **Road Opening Permit** - A Road Opening Permit must be obtained from Council, in the case of local or regional roads, or from the RMS, in the case of State roads, for every opening of a public road reserve to access services including sewer, stormwater drains, water mains, gas mains, and telecommunications before the commencement of work in the road.

### Requirements of Concurrence, Integrated & Other Government Authorities

6. **Trade Waste Agreements** - A Trade Waste Agreement with Sydney Water may be required. Details of any work required to comply with the agreement must be detailed on the plans lodged with the Construction Certificate. If no trade waste agreement or grease trap is required, a letter from Sydney Water to this effect must be submitted with the application for the Construction Certificate.
7. **Sydney Airport** – The applicant must liaise with Sydney Airports. It is noted that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct. Should the height of any temporary structure and/or equipment be greater than 45.72 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161. Construction cranes may be required to operate at a height significantly higher than that of the proposed development and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. Sydney Airport advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
8. **Transport for New South Wales** -
  1. TfNSW has previously vested a strip of land as road along the Princes Highway frontage of the subject property, as shown by grey colour on the attached Aerial – "X". The subject property (Lot 6 DP658231) is also affected by a Road Widening Order under Section 25 of the Roads Act, 1993 as published in Government Gazette 26 May 1933 and as shown by pink colour on the attached Aerial – "X".  
  
As such, all new buildings or structures, together with any improvements integral to the future use of the site, are erected clear of the land reserved for road widening (unlimited in height or depth) and Princes Highway boundary.
  2. The redundant driveways on Princes Highway are to be replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Princes Highway shall be in accordance with TfNSW requirements. Details of these requirements should be obtained by email to DeveloperWorks.Sydney@rms.nsw.gov.au.

Detailed design plans of the proposed gutter crossing are to be submitted to TfNSW for approval prior to the issue of a Construction Certificate and commencement of any road works. Please send all documentation to [development.sydney@rms.nsw.gov.au](mailto:development.sydney@rms.nsw.gov.au). A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved road design plans by TfNSW.

3. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to [development.sydney@rms.nsw.gov.au](mailto:development.sydney@rms.nsw.gov.au).

A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.

4. Sight distances from any proposed vehicular crossings are to be in accordance with the Austroads Guide to Road Design: Part 4A: Unsignalised and Signalised Intersections (Section 3 – Sight Distance) and AS 2890. Vegetation and proposed landscaping/fencing must not hinder sight lines to and from the vehicular crossings to motorists, pedestrians and cyclists.
5. The proposed development should be designed such that road traffic noise from Princes Highway is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 (3) of State Environmental Planning Policy (Infrastructure) 2007.
6. TfNSW is currently undertaking a program to implement “Clearways” on State roads within Sydney. If not already in place, “Clearway” restrictions will be implemented along the full Princes Highway frontage of the development site at no cost to TfNSW.
7. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Princes Highway.
8. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Princes Highway during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf> In addition to the above, TfNSW provides the following advisory comment to the proponent for consideration:
9. TfNSW also advises that the subject property is within the broad investigation area for future sections of the M6 project. Please find enclosed the June 2018 Project overview, which provides further information about the project, including a high level map.

The M6 Stage 1 (formerly f6 Extension Stage 1), between the New M5 Motorway at Arncliffe and President Avenue at Kogarah, is the first section of the proposed M6 project. The Minister for Planning and Public Spaces approved the Stage 1 in December 2019. Information about the M6 Stage 1 project is available on the project's interactive portal. To access the portal please visit: [nswroads.work/M6portal](https://nswroads.work/M6portal). It is anticipated that Section B of the project will potentially run from Kogarah to Taren Point via Carlton and Sans Souci, while Section C will potentially run from Taren Point to the A1 Princes Highway in Loftus. There is currently no timeline, funding commitment or planning approval for Section B or Section C. However, the road corridor reserved since 1951 for future sections of the M6 will remain in place.

9. **Electricity Supply** - An application is required to be made to Ausgrid for a network connection. This may require the network to be extended or its capacity augmented. Evidence of this application being lodged with Ausgrid is required to be provided to the Certifying Authority prior to the issue of a Construction Certificate. For further details, you are advised to contact Ausgrid on 13 13 65 or [www.ausgrid.com.au](https://www.ausgrid.com.au) (Business and Commercial Services).
10. **Ausgrid - Overhead Powerlines** - Safe work NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

The “*as constructed*” minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website, [www.ausgrid.com.au](https://www.ausgrid.com.au). It remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite. "Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost. It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site."

11. **Connection to the network will be required prior to the release of any Occupation Certificate** - Where works within the road reserve are to be carried out by the developer, a Road Opening Permit must be obtained from Council's Customer Service Centre before commencement of work.
12. **Electricity Supply to Development** - The electricity supply to the Development must be underground.
13. **Sydney Water - Tap in™** - The approved plans must be submitted to a Sydney Water Tap in™ to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at [www.sydneywater.com.au](https://www.sydneywater.com.au) then see 'Building', or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap in™ agent has appropriately stamped the plans prior to the issue of the Construction Certificate.

- 14. Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements of what will eventually be required when issuing a Section 73 Compliance Certificate under the [Sydney Water Act 1994](#) must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the 'Plumbing, building and developing' section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to 'Providers' under 'Developing' or telephone 13 20 92 for assistance.

Following application, a 'Notice of Requirements' will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, as it can take some time to build water/sewer pipes and this may impact on other services and building, driveway or landscape design.

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

### Prior to the Issue of a Construction Certificate

- 15. Low reflectivity roof** - Roofing materials must be low glare and reflectivity. Details of finished external materials including colours and texture must be provided to the Certifying Authority.
- 16. Acoustic requirements – Compliance with submitted Acoustic Report** - The Construction Certificate plans shall demonstrate compliance with the Acoustic Assessment submitted to Council, titled "Acoustic Report – Traffic & Environmental Noise – for proposed development at No. 192 – 196 Princes Hwy Kogarah Bay. Reference No. 2020-048" prepared by Acoustic, Vibration & Noise Pty Ltd dated 17 March 2020.

This means that a review of glazing design and mechanical plant must be undertaken to ensure that acoustic objectives will be met. Written verification from a suitably qualified acoustic consultant must be submitted to Council validating that the acoustic objectives contained within the aforementioned report will be met, must be submitted to Council for approval. The Construction Certificate will not be issued until Council approves this validation.

In addition to the above, the Acoustic Report has specified that a test report is to be provided from a recognised acoustic laboratory, verifying that the glazing system (glass, frame and seals) will meet the nominated sound rating required. A copy of this/these test reports must also be submitted to Council accompanying the aforementioned verification.

- 17. Pre-Construction Dilapidation Report** - A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises including but not limited to:
- a) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.

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

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

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

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

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

- a) peak flow rates from the site are to be restricted to a permissible site discharge (PSD) equivalent to the discharge when assuming the site contained a single dwelling, garage, lawn and garden,
- b) at Annual Recurrence Intervals of 2 years and 100 years.
- c) ***There must be four heavy duty (900x900) grates to be installed at the four corners of the OSD tank to ensure cross ventilation and visual inspection from top surface can be undertaken.***

Refer to Flow Controls in Council's Draft/Adopted Stormwater Drainage Policy. The OSD facility shall be designed to meet all legislated safety requirements and childproof safety fencing around the facility must be provided where the OSD facility is open or above ground when the design peak storage depth is greater than 300mm. A durable metal plate or similar sign is to be placed at the OSD facility and must bear the words:

"BEWARE: This is an on-site detention basin/tank for rainwater which could overflow during heavy storms."

Full details shall accompany the application for the Construction Certificate.

**This condition is amended under MOD2023/0089.**

- 19. Detailed Stormwater Drainage Design** - The submitted stormwater plan has been assessed as a concept plan only. A detailed drainage design supported by a catchment area plan and drainage calculations (including a Hydraulic Grade Line Analysis) must be submitted with the Construction Certificate application.
- 20. NBN Connection** - Prior to the issue of the Subdivision or Construction Certificate in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- i) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
- (ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

(Note real estate development project has the meanings given in section 372Q of the Telecommunications Act).

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

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

- 22. Fire Safety Measures** - Prior to the issue of a construction certificate a list of the essential fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a construction certificate, which is required to be submitted to either Council or a PCA. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or PCA will then issue a Fire Safety Schedule for the building.

- 23. Allocation of street addresses** - In order to comply with AS/NZS 4819:2011 Rural and Urban Addressing, the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements, the street address for the subject development is allocated as follows:

**Primary Address**

1A Lacey Street KOGARAH BAY NSW 2217

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

- (a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: \$102,754.00 (Not inclusive of drainage works).
- (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: \$742.00



- (c) Submit to Council, before the commencement of work, a dilapidation report of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

At the completion of work Council will review the dilapidation report and the Works-As-Executed Drawings (if applicable) and inspect the public works.

The damage deposit will be refunded in full upon completion of work where no damage occurs and where Council is satisfied with the completion of works. Alternatively, the damage deposit will be forfeited or partly refunded based on the damage incurred.

25. **Engineer's Certificate** - A certificate from a professional Engineer specialising in structural engineering certifying the structural adequacy of the existing structure, to support all proposed additional superimposed loads shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.
26. **Access for Persons with a Disability** - Access and or sanitary facilities for persons with disabilities must be provided to the premises/building in accordance with the requirements of the Premises Standards, the Building Code of Australia, and AS 1428.1. Details must be submitted with the Construction Certificate Application for approval.
27. **Geotechnical report** - The applicant must submit a Geotechnical Report, prepared by a professional engineer specialising in geotechnical engineering who holds the relevant Certificate of accreditation as required under the Building Professionals Act 2005 in relation to dilapidation reports, all site works and construction. This is to be submitted before the issue of the Construction Certificate and is to include:
  - (a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks/stabilization works and any excavations.
  - (b) Dilapidation Reports on the adjoining properties including, but not limited to adjoining properties prior to any excavation of site works. The Dilapidation Report is to include assessments on, but not limited to, the dwellings at those addresses and any external paths, grounds etc. This must be submitted to the PCA and the adjoining residents as part of the application for the Construction Certificate. Adjoining residents are to be provided with the report five (5) working days prior to any works on the site.
  - (c) On-site guidance by a vibration specialist during the early part of excavation.
  - (d) Measures to minimise vibration damage and loss of support to other buildings. Where possible any excavation into rock is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures. Where a hydraulic hammer is to be used within 30 metres of any building (other than a path or a fence) the report shall detail the maximum size of hammer to be used and provide all reasonable recommendations to manage impacts.
  - (e) Sides of the excavation are to be pierced prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.
- ~~28. **Construction Traffic Management Plan** - A Construction Traffic Management Plan detailing:
 
  - ~~(a) construction vehicle routes;~~
  - ~~(b) anticipated number of trucks per day;~~
  - ~~(c) hours of construction;~~~~

~~(d) Access arrangements; and~~

~~Proposed traffic measures to minimise impacts of construction vehicles must be submitted for the approval of Council's Engineers. Council's Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.~~

**28. Construction vehicle and pedestrian plan of management (CVPPM) - Prior to the issuing of a Construction Certificate, a Construction Vehicle and Pedestrian Plan of Management (CVPPM) shall be submitted to Council for the approval of Council's Senior Traffic and Parking Assessment Officer. The CVPPM shall be prepared for the various stages of the development and include, but not be limited to, the following:**

- (a) Details of the scope of works to be undertaken during the demolition, excavation, construction stages etc., and the duration of each.**
- (b) Indicate the consent approved hours of work.**
- (c) Identify the routes to be travelled within the Council area for trucks travelling to and from the site.**
- (d) Include a plan showing the location of any schools, preschools and long day care centres within 200m of the site.**
- (e) Detail the number of and where construction worker vehicles will be parked during the various stages of the development.**
- (f) Identify any proposed temporary road closures, temporary changes to traffic flow and loss of pedestrian or cyclist access likely to occur as a result of works being undertaken during the various work stages.**
- (g) Detail the size (including dimensions), number and frequency of trucks movements to and from the site during the various stages of work.**
- (h) Include copies of all required Traffic Control Plans (TCPs). All TCPs shall be prepared by RMS accredited persons.**
- (i) Provide swept wheel path drawings for the different types of vehicles accessing the site. The swept wheel path drawings:**
  - Are required to confirm truck movements into and out of the site associated with the various stages of development will not damage public or private infrastructure/property.**
  - Are required to confirm truck movements into and out of the site can be carried out without a loss of on street vehicle parking spaces either in close proximity to or removed from the site.**
  - Shall be prepared by a suitably qualified and experienced traffic engineering consultant.**
- (j) Show the location and length of any proposed Works Zones including any adjustments required to Council's infrastructure, parking control signs etc. to implement the zones. NOTE: Works Zones require the approval of the Georges River Council Traffic Committee prior to installation.**
- (k) Show the locations of where it is proposed to stand trucks remote from the site should they be unable on arrival to immediately enter the site or an approved Works Zone. Double parking, parking in NO STOPPING/NO STANDING zones or across neighboring property driveways is not permitted.**

**NOTE: A copy of the approved CVPPM must be kept at the site and made available to the Principal Certifying Authority or Council on request:**

**This condition is amended under MOD2023/0089.**

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

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

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

- 30. SEPP 65 Design Verification Statement** - A design verification statement, prepared by a qualified designer, shall be submitted to the Certifying Authority verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out under Schedule 1 of [State Environmental Planning Policy No 65 -Design Quality of Residential Flat Development](#).
- 31. Waste Handling Systems** - All waste handling equipment and systems used in conjunction with the provision of waste and recycling services shall be manufactured, installed and maintained in accordance with any applicable regulatory requirements, relevant Australian Standards, and relevant manufacturer's specifications.
- 32. Tree Removal prohibited** - This consent does not approve the removal or pruning (branches or roots) of any trees on the subject property, Council's public footway, public reserves or on neighbouring properties unless specifically referenced in this consent.
- 33. Fees to be paid** - The fees listed in the table below must be paid in accordance with the conditions of this consent and Council's adopted Fees and Charges applicable at the time of payment (available at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au)).

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

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

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

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

Fee Type	Fee
<b>GENERAL FEES</b>	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See <a href="https://portal.longservice.nsw.gov.au/bci/levy/">https://portal.longservice.nsw.gov.au/bci/levy/</a>	
Builders Damage Deposit	\$102,754.00

Inspection Fee for Refund of Damage Deposit	\$742.00
<b>DEVELOPMENT CONTRIBUTIONS</b>	
<b>KOGARAH</b>	
Kogarah Section 7.11 Development Contributions Plan No.1 - Roads and Traffic Management - Residential	\$7,411.88
Kogarah Section 7.11 Development Contributions Plan No.5 - Open Space 2007	\$382,209.99
Kogarah Section 7.11 Development Contributions Plan No.9 - Kogarah Libraries - Buildings	\$6,121.17
Kogarah Section 7.11 Development Contributions Plan No.9 - Kogarah Libraries - Books	\$8,585.32
<b>Total</b>	<b>\$404,328.36</b>

### General Fees

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

### Development Contributions

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

### Indexation

The above contributions will be adjusted at the time of payment to reflect changes in the cost of delivering public amenities and public services, in accordance with the indices provided by the relevant Section 7.11 Development Contributions Plan.

### Timing of Payment

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

### Further Information

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

- 34. Site Management Plan** - A Site Management Plan must be submitted with the application for a Construction Certificate, and include the following:

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

- m) construction and demolition traffic management details.

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

35. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate 4087636M **1383417M** dated ~~19 March 20~~ **16/06/2023** prepared by ~~Greenwood Architectural Drafting~~ **EPS** must be implemented on the plans lodged with the application for the Construction Certificate.

**This condition is amended under MOD2023/0089.**

36. **Required design changes** - The following changes are required to be made and shown on the Construction Certificate plans:

Front fence gate access.	Each unit fronting the Princes Highway and Lacey Street must have a front gate providing direct access the street.
Waste Requirements	The level B2 storage area is to be amended to accommodate waste storage. Individual basement storage areas for units maybe located within overhead car parking storage.
Location of OSD Tank	The OSD tank is to be located outside the habitable areas of the proposed building.

37. **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.

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

- (a) All stormwater shall drain by gravity to the stormwater kerb inlet pit in the Princes Highway in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended) and to the satisfaction of the relevant authority of the Princes Highway (RMS).
- (b) The PCA shall ensure that the existing public utility services within the nature strip under the footpath area, would not blocking the site stormwater discharge pipe from connecting into the drainage kerb inlet pit.
- (c) The PCA shall ensure that the approved drainage design levels are to be surveyed during construction by a registered surveyor.
- (d) The PCA shall ensure that a drainage engineer shall supervise the construction of the OSD stormwater system on site and certify his supervision in writing and state his satisfaction of the constructed site stormwater system is built as intended in this consent.
- (e) The stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineer who specialises in Hydraulic Engineering in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.

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

#### **Stormwater Systems with Basement**

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

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

#### **Protection of basement from inundation of stormwater waters**

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

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

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

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

- 40. Traffic Management - Compliance with AS2890** - All driveways, access ramps, vehicular crossings and car parking spaces shall be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities).
- 41. Pump-Out System Design for Stormwater Disposal** The design of the pump-out system for storm water disposal will be permitted for drainage of basement areas only, and must be designed in accordance with the following criteria:

- (a) The pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm. The holding tank shall be capable of holding one hour's runoff from a one-hour duration storm of the 1 in 20 year storm;
- (b) The pump system shall be regularly maintained and serviced, every six (6) months; and
- (c) Any drainage disposal to the street gutter from a pump system must have a stilling sump provided at the property line, connected to the street gutter by a suitable gravity line.

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

- 42. 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.
- 43. Landscape Plan** - A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted prior to the issue of the Construction Certificate. The plan must include:
- (a) Location of existing and proposed structures, services and existing trees;
  - (b) Details of earthworks including mounding and retaining walls and planter boxes;
  - (c) Location of proposed plants and a plant schedule showing the plant symbol, botanical name/ common name; quantity; pot size/; and mature height x width.
  - (d) Details of planting procedure and maintenance;
  - (e) Landscape specification;
  - (f) Details of drainage and watering systems;
  - (g) Details of garden edging and turf; and
  - (h) Any required fencing, retaining walls and other structures not shown on other approved architectural and engineering plans.
- 44. Landscape Plans** - All landscape works shall be carried out in accordance with the approved landscape plans. The landscaping shall be maintained in accordance with the approved plans in perpetuity. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following –
- a) The proposed twenty eight (28) trees and plant species, pot/ bag size and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan. If plant species, pot/ bag size and quantities cannot be sourced, Council shall be contacted for alternatives;



- b) All twenty eight (28) trees proposed upon the approved landscape plan shall comply with AS 2303 – 2018, Tree Stock for Landscape use and NATSPEC Specifying Trees: a guide to assessment of tree quality (2003), and be planted and maintained in accordance with Councils standard specification;
- c) If the planted twenty eight (28) trees and plants are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size;

**45. Tree Protection and Retention** - The following trees shall be retained and protected:

<b>Tree Species</b>	<b>Location of Tree / Tree No.</b>	<b>Tree Protection Zone (metres) TPZ as per AS4970 -2009 Fencing distance from trunk</b>
Phoenix canariensis x 2	Within 198 Princes Highway, rear yard side fence	3.5 metres radially

- a) The client shall engage a qualified Arborist who holds an AQF Level 5 or above in Arboriculture and who is a current practicing and financial member of an Arboricultural Association or Affiliation, with a letter of engagement forwarded to the nominated PCA.
- b) A certificate of compliance letter from the AQF 5 Arborist must be forwarded to the PCA – Principal Certifying Authority, at a minimum three (3) stages being, before works, during works and once all building works have been completed, that tree protection measures have been installed and being maintained during the building process.

**Tree Protection Measures**

- c) The tree protection measures must be undertaken in accordance AS4970 -2009 Protection of trees on development sites.
- d) All trees on Council property, subject site and adjacent sites, to be retained must be protected before site set up and maintained during demolition, excavation and construction of the site.
- e) Although trees may be on adjacent sites, the tree protection fencing must be placed on the nominated distances as per table above, out from the trees trunk, within the subject site to minimise impacts to neighbours trees and kept for the entirety of the project.
- f) Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a qualified Arborist who holds an AQF Level 5 or above in Arboriculture and who is a current practicing and financial member of an Arboricultural Association or Affiliation.

- g) The engaged AQF 5 Consulting Project Arborist must be present on-site during the stages of site set up, excavation, demolition and construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone of each tree.
- h) In accordance with AS 4970-2009 Protection of trees on development sites, a protective fence consisting of 2.4 x 1.8 metres high, fully supported chainmesh fence shall be used. The distance of the fence out from the base of each tree is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill should be placed within the protection area.
- i) The tree protection fencing must be kept in place during demolition, excavation and construction and also have a sign displaying 'Tree Protection Zone – DO NOT ENTER' attached to the fence and must also include the name and contact details of the Project Arborist.
- j) The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly and regularly to minimise the effects of construction works.
- k) No building products, preparation of building products, storage of materials, stockpiling, site sheds or services shall be installed within the TPZ of the trees to be retained.

#### **Excavation works near tree to be retained**

- l) Excavations around the trees to be retained on site, Councils street verge or the adjoining properties shall be supervised by the AQF 5 Project Arborist to ensure that the root system will not adversely be affected.
- m) Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the AQF 5 Project arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.
- n) Tree Protection Zones around the trees to be retained are not to have soil level changes, building product / materials stored or services installed in this area.

- 46. Tree Removal & Replacement - Tree removal** - Permission is granted for the removal of the following trees:

<b>Tree Species</b>	<b>Number of trees</b>	<b>Location</b>
Dracaena marginata	X1	Located within rear of 196 Princes Highway.

#### **General Tree Removal Requirements**

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

Street Tree Removal / Replacement by Council

- a) Three (3) street trees of species to be determined must be provided in the road reserve fronting the site from Lacey Street.
- b) Council shall be appointed to remove and plant all tree/s on public land. All costs associated with the removal of the tree/s and the planting of replacement trees shall be met by the applicant. Fees and charges outlined in the table below are subject to change and are set out in the current version of Council's 'Schedule of Fees and Charges', applicable at the time of payment.
- c) The fees must be paid in accordance with the conditions of this consent. The fee payable is to ensure that the development makes adequate provision for the demand it generates for public amenities and public services within the area.
- d) The fees payable will be adjusted at the time of payment to reflect changes in the cost of delivering public amenities and public services, in accordance with the indices provided by the relevant conditions set out in this consent.

Fee Type – Tree planting on public land	Number of trees	Amount per tree
Administration Fee, tree planting and maintenance	X3	\$452.00
Cost of tree removal ( <i>Pittosporum rhombifolium</i> )	X1	To be determined
Cost of Stump Grinding ( <i>Pittosporum rhombifolium</i> )	X1	To be determined

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

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

The report must include the following:

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

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

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

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

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

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

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

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

- 49. 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.

- 50. Dial before your dig** - The applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from "Dial Before You Dig" shall be forwarded to the Principal Certifying Authority (PCA) and Council for their records.

51. **Demolition work involving asbestos removal** - Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the [Work Health and Safety Regulation 2011](#).
52. **Registered Surveyors Report - During Development Work** - A report must be submitted to the PCA at each of the following applicable stages of construction:
- Set out before commencing excavation.
  - Floor slabs or foundation wall, before formwork or commencing brickwork.
  - Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
  - Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.
  - Completion of any Pool Formwork - Before concreting of pool shell, detailing the location of the pool relative to the adjacent boundaries and its height relative to the datum shown on the approved plans.
  - Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
  - Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

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

53. **Utility Arrangements** - Arrangements are to be made with utility authorities in respect to the services supplied by those authorities to the development. The cost associated with the provision or adjustment of services within the road and footway areas is to be at the applicant's expense.

### During Construction

54. **Physical connection of Stormwater to site** - No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system ***with the extension of drainage pits and pipeline from the ramp entry point to the downstream existing pit along Lacey Street*** as indicated on the approved stormwater plans.

This condition is amended under MOD2023/0089.

55. **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.

- 56. Site contamination – Additional information** - Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.

It is mandatory that this information is reported to Council in order to comply with Section 148 of the POEO Act 1997 and Section 60 of the CLM Act 1997.

- 57. Hours of construction for demolition and building work** - Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Saturday inclusive. No work or ancillary activity is permitted on Sundays, or Public Holidays.

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

- 58. Ground levels and retaining walls** - The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved by Council.

- 59. Cost of work to be borne by the applicant** - The applicant shall bear the cost of all works associated with the construction of the development that occurs on Council property. Care must be taken to protect Council's roads, including the made footway, kerbs, etc., and, where plant and vehicles enter the site, the footway shall be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction shall be maintained in a state of good repair and condition throughout the course of construction.

- 60. Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the [Roads Act 1993](#) and/or under Section 68 of the [Local Government Act 1993](#). Penalty infringement Notices may be issued for any offences and severe penalties apply.

- 61. Tree Removal on Private Land** - The trees identified as 'to be removed/pruned' on the approved plans or by conditions of this consent shall be removed in accordance with AS4373 -2007 and the *Amenity Tree Industry Code of Practice* (SafeWork NSW, August 1998).

- 62. Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt.

Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the PCA and Council, where Council is not the Principal Certifying Authority.

- 63. Excavation works near tree to be retained** - Excavation around the tree/s to be retained on site or the adjoining properties shall be supervised by the Project Arborist to ensure that the root system will not be adversely affected.

Where the Tree Protection Zone of trees on site or adjoining sites become compromised by any excavation works, the Project Arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.

### Prior to the issue of the Occupation Certificate

64. **Major Development** - Internal driveways and parking spaces are to be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface. All car parking spaces are to be line marked in accordance with AS1742, 'Australian Standard Manual of Uniform Traffic Control Devices' and the relevant guidelines published by the RMS.
65. **SEPP 65 Design Verification Statement** - The PCA must not issue an Occupation Certificate to authorise a person to commence occupation of the residential flat development unless the PCA has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Part 2 of [State Environmental Planning Policy No 65 Design Quality of Residential Flat Development](#).
66. **Restriction to User and Positive Covenant for On-Site Detention Facility** - A Restriction on Use of the Land and Positive Covenant shall be created and registered on the title of the property, which places the responsibility for the maintenance of the on-site stormwater management system on the owners of the land. The terms of the instrument are to be in accordance with Council's standard terms and restrictions which are as follows:

#### Restrictions on Use of Land

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

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

#### Positive Covenants

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



2. Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council shall have the following additional powers:
- a) in the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above the Council or its authorised agents may enter the land with all necessary materials and equipment and carry out any work which the Council in its discretion considers reasonable to comply with the said notice referred to in part 1(d) above
  - b) the Council may recover from the registered proprietor in a Court of competent jurisdiction:
    - i. any expense reasonably incurred by it in exercising its powers under subparagraph (i) hereof. Such expense shall include reasonable wages for the Council's employees engaged in effecting the work referred to in (i) above, supervising and administering the said work together with costs, reasonably estimated by the Council, for the use of materials, machinery, tools and equipment in conjunction with the said work.
    - ii. legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to section 88F of the Act or providing any certificate required pursuant to section 88G of the Act or obtaining any injunction pursuant to section 88H of the Act. Name of Authority having the power to release vary or modify the Positive Covenant referred to is Georges River Council.
67. **Consolidation of Site** - The site shall be consolidated into one allotment and by a Plan of Consolidation being prepared by a Registered Surveyor. This Plan shall be registered at the NSW Land and Property Information prior to the issue of a final occupation certificate.
68. **Maintenance Schedule – On-site Stormwater Management** - A Maintenance Schedule for the proposed on-site stormwater management measures is to be prepared and submitted to Council. The Maintenance Schedule shall outline the required maintenance works, how and when these will be done and who will be carrying out these maintenance works.
69. **Completion of Major Works** - Prior to the issue of a Final Occupation Certificate, the following works must be completed at the applicant's expense to the satisfaction of Council's Engineering Services section:
- (a) Stormwater pipes, pits and connections to public stormwater systems within the road related area;
  - (b) Driveways and vehicular crossings within the road related area;
  - (c) Removal of redundant driveways and vehicular crossings;
  - (d) New footpaths within the road related area;
  - (e) Relocation of existing power/light pole
  - (f) Relocation/provision of street signs
  - (g) New or replacement street trees;
  - (h) New footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street.

- (i) New or reinstated kerb and guttering within the road related area; and
- (j) New or reinstated road surface pavement within the road.

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

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

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

- 71. Dilapidation Report on Public Land for Major Development Only** - Upon completion of works, a follow up dilapidation report must be prepared for the items of Council infrastructure adjoining the development site including all adjoining property.

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

- (a) Photographs showing the condition of the road pavement fronting the site
- (b) Photographs showing the condition of the kerb and gutter fronting the site
- (c) Photographs showing the condition of the footway including footpath pavement fronting the site
- (d) Photographs showing the condition of retaining walls within the footway or road
- (e) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- (f) The full name and signature of the professional engineer.

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

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

Council's Assets and Infrastructure Division must advise in writing that the works have been completed to their satisfaction prior to the issue of an Occupation Certificate.

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

- (a) Compliance with conditions of development consent relating to stormwater;
- (b) The structural adequacy of the On-Site Detention system (OSD);

- (c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations;
- (d) Pipe invert levels and surface levels to Australian Height Datum;
- (e) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

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

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

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

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

**75. BASIX Certificate** - All energy efficiency measures as detailed in the approved BASIX Certificate 1087636M **1383417M** dated 19 March 20 **16/06/2023** prepared by Greenwood Architectural Drafting **EPS** in the plans approved with the Development Consent, must be implemented before issue of any Occupation Certificate.

**This condition is amended under MOD2023/0089.**

**76. Electricity Supply** - Evidence shall be provided demonstrating that the development has been connected to the Ausgrid, if required.

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

- a) all adjoining properties.

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.

**78. Allocation of car parking spaces** - Car parking associated with the development is to be allocated as follows:

- (a) Residential dwellings: fifty five (55)
- (b) Residential visitors: eight (8) inclusive of one (1) wash bay.

***Details of which of the resident visitor parking spaces is to be the shared vehicle wash bay shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.***

This condition is amended under MOD2023/0089.

~~**79. BASIX Compliance Certificate** - A Compliance Certificate must be provided to the PCA regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate, 1087636M dated 19 March 20 prepared by Greenwood Architectural Drafting before any Occupation Certificate is issued.~~

This condition is deleted under MOD2023/0089 (Repetition of Condition 75).

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

- (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- (b) The internal driveway construction works, together with the provision for all services (conduits and pipes laid) shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- (c) Construct any new vehicle crossings required.
- (d) Replace all redundant vehicle crossing laybacks with kerb and guttering and replace redundant concrete with turf.
- (e) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete shall be submitted to the PCA prior to the issue of the Occupation Certificate.

**81. Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate. All landscape works, the planting of twenty eight (28) trees and the fee payment for street tree planting must be completed before the issue of the Final Occupation Certificate and to the satisfaction of Councils Tree Management Officers and in accordance with approved landscape plans and specifications, drawn by Michael Siu Landscape Architecture.

- a) A certificate of compliance for the planting of all twenty eight (28) trees and shrubs proposed for the site. An AQF 5 Horticulturist shall be engaged and in writing certify that all trees have been planted as per landscape plan and specifications and forwarded to the PCA – Principal Certifying Authority.

82. **Tree Protection Measures** - A final certificate of compliance letter, once all building and landscape works have been completed, from the engaged AQF 5 Consulting Arborist, that tree protection measures have been installed and maintained for the entirety of the project and report on the condition of the trees that as part of this Consent, were to be protected and retained.

A copy of the Hurstville City Council's Tree Removal and Pruning Guidelines and Kogarah City Council, Street Tree Management Strategy, Masterplan, and Tree Management Policy 2019, can be downloaded from Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au).

83. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the [Sydney Water Act 1994](#) must be submitted to the PCA prior to the issue of the Occupation Certificate.

84. **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
- (e) Photographs showing the condition of retaining walls within the footway or road
- (f) 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.

### Operational Conditions (Ongoing)

85. **Waste** - The property requires 18 x 240L waste bins and 18 x 240L recycling bins. All bins must be taken to kerb side for collection. ***The dimensions of the bin room should not be modified. Any additional area gained by reducing the number of bins should be utilised to provide the 8m bulky waste storage area required.***

***An updated WMP must be submitted to Council with all relevant information as outlined above. The applicant must submit updated Architectural Plans corroborating all information outlined in the updated WMP.***

- *The applicant is required to redesign the Architectural Plans and Waste Management Plan to satisfy current relevant planning instruments and Council's requirements specified above.*
- *The applicant is required to provide details of all contractors for managing construction and demolition waste in the revised Waste Management Plan.*
- *The applicant must allow for the required organic waste bins and bulky waste storage for residential tenants in line with this referral.*
- *The location and travel paths of bin and bulky waste storage must facilitate the ability to move bulky waste and bins safely, including double door openings and appropriately sized corridors on the paths of waste and bin relocation.*
- *The applicant is required to cater for bin wash arrangements and for maintaining the waste area in a clean and hygienic manner in line with the above referral.*
- *The applicant must outline the provisions for litter management in the common areas in line with this referral.*
- *The applicant is required to outline the proposed method of residential waste collection as well as bin and bulky waste collection locations that satisfy the Council's requirements in the revised Waste Management Plan and the updated Architectural Plans.*

**This condition is amended under MOD2023/0089.**

86. **Waste requirements** - Occupational Health and Safety issues such as slippery floors in waste rooms and the weight of the waste and recycling receptacles will need to be monitored. Cleaners will monitor the bin storage area and all spills will be attended to immediately by cleaners.
87. **Noise Control** - The use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the [Protection of the Environment Operations Act 1997](#) (as amended).
88. **Hours of operation – limitation of roof top communal open space** - The approved hours of operation shall be restricted to the following:
- Monday – Sunday - 7.00am to 9.00pm.
89. **Lighting - General Nuisance** - Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill or glare.
- Flashing, moving or intermittent lights or signs are prohibited.
90. **Activities and storage of goods outside buildings** - There shall be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.
91. **Loading & Unloading of vehicles** - All loading and unloading of vehicles in relation to the use of the premises shall take place wholly within a dedicated loading dock/area.
92. **Entering & Exiting of vehicles** - All vehicles shall enter and exit the premises in a forward direction.



- 93. Annual Fire Safety Statement** - The owner of the building premises must ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given:
- (a) Within 12 months after the date on which the fire safety certificate was received.
  - (b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
  - (c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the [Environmental Planning and Assessment Regulation 2000](#).
  - (d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.
- 94. Maintenance of Landscaping** - All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turf areas.
- 95. Amenity of the neighbourhood** - The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.
- 96. Use of Rooftop open space** - A Plan of Management (POM) for use of rooftop open space must be submitted for approval of Council. The POM must outline the:
- (i) hours of use of the rooftop communal open space shall be restricted from 7.00am until 9.00pm seven days a week;
  - (ii) a maximum number of ten (10) users at any one time;
  - (iii) provisions for no amplified music to be played;
  - (iv) and identify other measures to ensure that the amenity of persons within the development and in nearby existing and future development is maintained;
  - (v) The approved POM shall be incorporated into the Owners Corporation by-laws in any future Strata subdivision and a sign in the front entry of the building shall be included to ensure the use of this space is monitored and understood by all occupants.

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

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

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

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



An Information Pack is attached for your convenience should you wish to appoint Georges River Council as the PCA for your development.

**99. Notification Requirements of PCA** - No later than two days before the building work commences, the PCA must notify:

- (a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
- (b) the applicant of the critical stage inspections and other inspections that are to be carried out with respect to the building work.

**100. Notice of Commencement** - The applicant must give at least two days notice to the Council and the PCA of their intention to commence the erection of a building. A Notice of Commencement Form is attached for your convenience.

**101. Critical Stage Inspections** - The last critical stage inspection must be undertaken by the PCA. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the Environmental Planning and Assessment Regulation 2000.

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

Where Georges River Council has been appointed as the PCA, 48 hours notice in writing, or alternatively 24 hours notice by facsimile or telephone, must be given when specified work requiring inspection has been completed.

**103. Occupation Certificate** - A person must not commence occupation or use of the whole or any part of a new building unless an Occupation Certificate has been issued in relation to the building or part.

Only the PCA appointed for the building work can issue the Occupation Certificate. An Occupation Certificate Application Form is attached for your convenience.

**Prescribed Conditions**

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

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

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

- 107. Clause 98B - Home Building Act 1989** - If the development involves residential building work under the Home Building Act 1989, no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the Home Building Act 1989.
- 108. 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.
- 109. Clause 98E - Site Excavation** - Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site.

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

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

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

## END OF CONDITIONS

## NOTES/ADVICES

- 110. 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.

- 111. 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.
- 112. 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.
- 113. Access to NSW Legislations (Acts, Regulations and Planning Instruments)** - NSW legislation can be accessed free of charge at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)

- 114. Principal Certifier** - Should the Council be appointed as the Principal Certifier in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative 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.
- 115. Energy Efficiency Provisions - Energy Efficiency Provisions** - Should Council be appointed as the Principal Certifier, a report prepared and endorsed by an Energy Efficiency Engineer or other suitably qualified person must be submitted, detailing the measures that must be implemented in the building to comply with Section J of the BCA. The proposed measures and feature of the building that facilitate the efficient use of energy must be identified and detailed on the architectural plans. At completion of the building and before the issue of an Occupation Certificate, a certificate certifying that the building has been erected to comply with the energy efficiency provisions must be submitted to the Principal Certifier.
- 116. Compliance with Access, Mobility and AS4299 - Adaptable Housing** - Should the Council be appointment as the PCA, the Construction Certificate Application must be accompanied by detailed working plans and a report or a Certificate of Compliance from an Accredited Access Consultant certifying that the building design and access to the adaptable units complies with Council's DCP and AS 4299 Adaptable Housing.
- 117. Noise** - Noise related conditions - Council will generally enforce noise related conditions in accordance with the Noise Guide for Local Government (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the Industrial Noise Guidelines (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the Protection of the Environment Operations Act 1997.

Useful links relating to Noise:

- (a) Community Justice Centres - free mediation service provided by the NSW Government ([www.cjc.nsw.gov.au](http://www.cjc.nsw.gov.au)).
  - (b) Department of Environment and Conservation NSW, Noise Policy Section web page ([www.environment.nsw.gov.au/noise](http://www.environment.nsw.gov.au/noise)).
  - (c) New South Wales Government Legislation home page for access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2000 ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)).
  - (d) Australian Acoustical Society - professional society of noise-related professionals ([www.acoustics.asn.au/index.php](http://www.acoustics.asn.au/index.php)).
  - (e) Association of Australian Acoustical Consultants - professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au)).
  - (f) Department of Gaming and Racing - ([www.dgr.nsw.gov.au](http://www.dgr.nsw.gov.au)).
- 118. Acoustical Engineer Contacts & Reference Material** - Further information including lists of Acoustic Engineers can be obtained from:

- (a) Australian Acoustical Society - professional society of noise-related professionals ([www.acoustics.asn.au](http://www.acoustics.asn.au))
- (b) Association of Australian Acoustical Consultants - professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au))
- (c) NSW Industrial Noise Policy - Office of Environment & Heritage ([www.environment.nsw.gov.au](http://www.environment.nsw.gov.au))

**119. Strata Subdivisions**

- (a) Council will check the consent conditions on the relevant Strata Subdivision consent. Failure to submit the required information will delay endorsement of the plan of subdivision.
- (b) Council will undertake the required inspections to satisfy the requirements of the Strata Schemes Development Regulation 2016 to determine the Strata Certificate.
- (c) Strata Plans, Administration Sheets, 88B Instruments and copies must not be folded.
- (d) All Strata Plans, Strata Plan Administration Sheets and 88B Instruments shall be submitted to Council enclosed in a protective cardboard tube (to prevent damage during transfer).

**120. Sydney Water Section 73 Certificates** - The Section 73 Certificate must be a separate certificate that relates specifically to this development consent. For example, if the development consent relates to the subdivision of the land, a Section 73 Certificate for the construction of the building that is subject to a different development consent will not suffice.

**121. Electricity Supply** - This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or [www.ausgrid.com.au](http://www.ausgrid.com.au) (Business and Commercial Services) for further details and information on lodging your application to connect to the network.

**122. Disability Discrimination Act** - This application has been assessed in accordance with the Environmental Planning and Assessment Act 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992. The applicant is responsible to ensure compliance with this and other anti-discrimination legislation. The Disability Discrimination Act 1992 covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which refers to AS1428.1-Design for Access and Mobility.

**123. Council as PCA - Total Conformity with BCA - Accompanying Information** - Should the Council be appointed as the Principal Certifier, the Construction Certificate Application must be accompanied by the following details, with plans prepared and certified by an appropriately qualified person demonstrating compliance with the BCA:

- a) Mechanical ventilation to bathroom, laundry and basement areas not afforded natural ventilation.
- b) Fire-fighting services and equipment including hydrant systems and booster assembly location, sprinkler and valve room systems, hose reels, portable fire extinguishers, smoke hazard management systems, sound and warning systems.
- c) Emergency lighting and exit signs throughout, including communal open space areas, lobby/foyer and basement areas.

- d) Construction of all fire doors including warning and operational signage to required exit and exit door areas.
- e) Egress travel distances to exits and the discharge from fire isolated exits including the swing of exit doors.
- f) The spandrel protection of openings in external walls
- g) The protection of paths of travel from a fire isolated exit when passing within 6m of an opening within the external wall of the building.
- h) Fire compartmentation and fire wall separation details including all stairway, lift and service shaft areas.
- i) The location and construction of an electricity substation, including the location and smoke separation of electrical distribution boards.
- j) Sound transmission and insulation details.
- k) Window schedule is to include the protection of openable windows.

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

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

- 124. 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.

- 125. Security deposit administration & compliance fee** - Under Section 97 (5) of the Local Government Act 1993, a security deposit (or part) if repaid to the person who provided it is to be repaid with any interest accrued on the deposit (or part) as a consequence of its investment.

Council must cover administration and other costs incurred in the investment of these monies. The current charge is \$50.00 plus 2% of the bond amount per annum.

The interest rate applied to bonds is set at Council's business banking facility rate as at 1 July each year. Council will accept a bank guarantee in lieu of a deposit.

All interest earned on security deposits will be used to offset the Security Deposit Administration and Compliance fee. Where interest earned on a deposit is not sufficient to meet the fee, it will be accepted in full satisfaction of the fee.

- 126. 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)).

- 127. Stormwater & Ancillary Works - Applications under Section 138 Roads Act and/or Section 68 Local Government Act 1993** - To apply for approval under Section 138 of the Roads Act 1993 and/or Section 68 Local Government Act 1993:

- (a) Complete the Stormwater Drainage Application Form which can be downloaded from Georges River Council's website at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au).
- (b) In the Application Form, quote the Development Consent No. (eg DA2018/0\*\*\*) and reference this condition number (eg Condition 23)
- (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with stormwater applications.

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

The preparation of all engineering drawings (site layout plans, cross sections, longitudinal sections, elevation views together with a hydraulic grade analysis) and specifications for the new stormwater drainage system to be arranged by the applicant. The design plans must be lodged and approved by Council prior to the issue of a Construction Certificate.

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

## ATTACHMENTS

Attachment [1](#) Plans - 192-196 Princes Highway Kogarah Bay - MOD2023/0089





SECTION 4.55  
APPLICATION.  
RFI ISSUE  
MODIFICATION TO  
APPROVED RESIDENTIAL  
FLAT BUILDING  
DEVELOPMENT

192-196 Princes Highway,  
Kogarah Bay

DRAWING ID	NAME	REV	SCALE
S4.55.102	BASEMENT B1	B	1:100
S4.55.103	GROUND FLOOR PLAN	B	1:100
S4.55.104	LEVEL 01 PLAN	B	1:100
S4.55.105	LEVEL 02 PLAN	B	1:100
S4.55.106	LEVEL 03 PLAN	B	1:100
S4.55.107	LEVEL 04 PLAN	B	1:100
S4.55.108	LEVEL 05 PLAN	B	1:100
S4.55.109	ROOF LEVEL PLAN	B	1:100
S4.55.201	NORTH ELEVATION	B	1:100
S4.55.202	SOUTH ELEVATION	B	1:100
S4.55.203	WEST AND EAST ELEVATIONS	B	1:100
S4.55.301	CROSS SECTION	B	1:100
S4.55.302	LONGITUDINAL SECTION	B	1:100
S4.55.500	GFA CALCULATIONS	B	1:200
S4.55.501	LANDSCAPE CALCULATIONS	A	1:200
S4.55.602	STORAGE CALCULATIONS	B	1:125
S4.55.600	PERSPECTIVES: CORNER OF PRINCESS HIGHWAY AND LACEY STREET	B	
S4.55.601	PERSPECTIVES: PRINCESS HIGHWAY	B	
S4.55.602	PERSPECTIVES: LACEY STREET	B	
S4.55.603	PERSPECTIVES: STREETSCAPE LACEY STREET	A	
S4.55.604	PERSPECTIVES: STREETSCAPE PRINCESS HIGHWAY	A	
S4.55.605	ISOMETRIC COMPARISON: PRINCESS HIGHWAY SOUTHWEST CORNER	B	1:100
S4.55.606	PERSPECTIVES: PRINCESS HIGHWAY SOUTHWEST CORNER COMPAR.	A	



- AMENDMENTS
1. Fire Stairs reconfigured due to sprinkler pump requirements. Bicycle storage Room increased. Minor extension to basement envelope
  2. Basement FFL to FCL amended due to services requirements.
  3. Supply Fan room incorporated to Southeastern corner of Basement. Minor extension to basement envelope
  4. Additional storage Cage added for unit G08.
  5. Bin Waste room reconfigured to contain 18 recycling bins and 18 General Waste bins as per DA condition 85. Electrical service room and exhaust fan room provided at per services requirements.
  6. Approved driveway levels amended due to basement FFL and FCL amendments.
  7. Front entries to Ground Floor units as per DA Condition 36.
  8. Front entry to Ground Floor Lobby adjusted which includes and access Ramp and a series of stairs. Access ramp and Stairs integrated to front Landscaping.
  9. Services incorporated to side of driveway. Sight line for pedestrian safety incorporated and indicated.
  10. Unit G02 and G04 extended, and layout amended due to DDA and Liveable standards requirements. No additional increase to FSR.
  11. Unit layouts amended. FFL to FFL amended due to service requirements. Proposed ground floor reduced by 250mm, new proposed Ground Floor FFL 21,750
  12. Private open space to Units G07 and G06 amended. Planter extended over driveway ramp.
  13. Fire stair from basement levels amended. Egress extended by 450mm.
  14. Landscaping amended, refer to updated Landscape Plan
  15. Approved Level 1 lobby glazing line set back.
  16. Unit layouts amended. FFL to FFL amended due to services requirements. No increase to building envelope.
  17. Roof terrace Communal open space redesigned, Landscaping amended, refer to Landscape drawings.
  18. Lift Overrun increased due to lift manufactures details.
  19. Materials and finishes amended.
  20. CGI views amended to reflect changes.

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Registered Architect: Simon Harrison #9739

General  
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Notes/Legend:

Rev	Date	Description
A	18/04/2023	S4.55 ISSUE FOR COUNCIL SUBMISSION
B	30/04/2024	ISSUE FOR COUNCIL RFI CONSOLIDATED CHANGES

Project:  
**192-196 Princes Highway**

Stage:  
**S4.55 APPLICATION**

Scale @A1

Drawing title  
**COVER PAGE**

Drawn <b>IL</b>	Checked <b>HHH</b>	Approved <b>SRH</b>
Client <b>ANTHONY TAOUK</b>	Date <b>30/04/2024</b>	

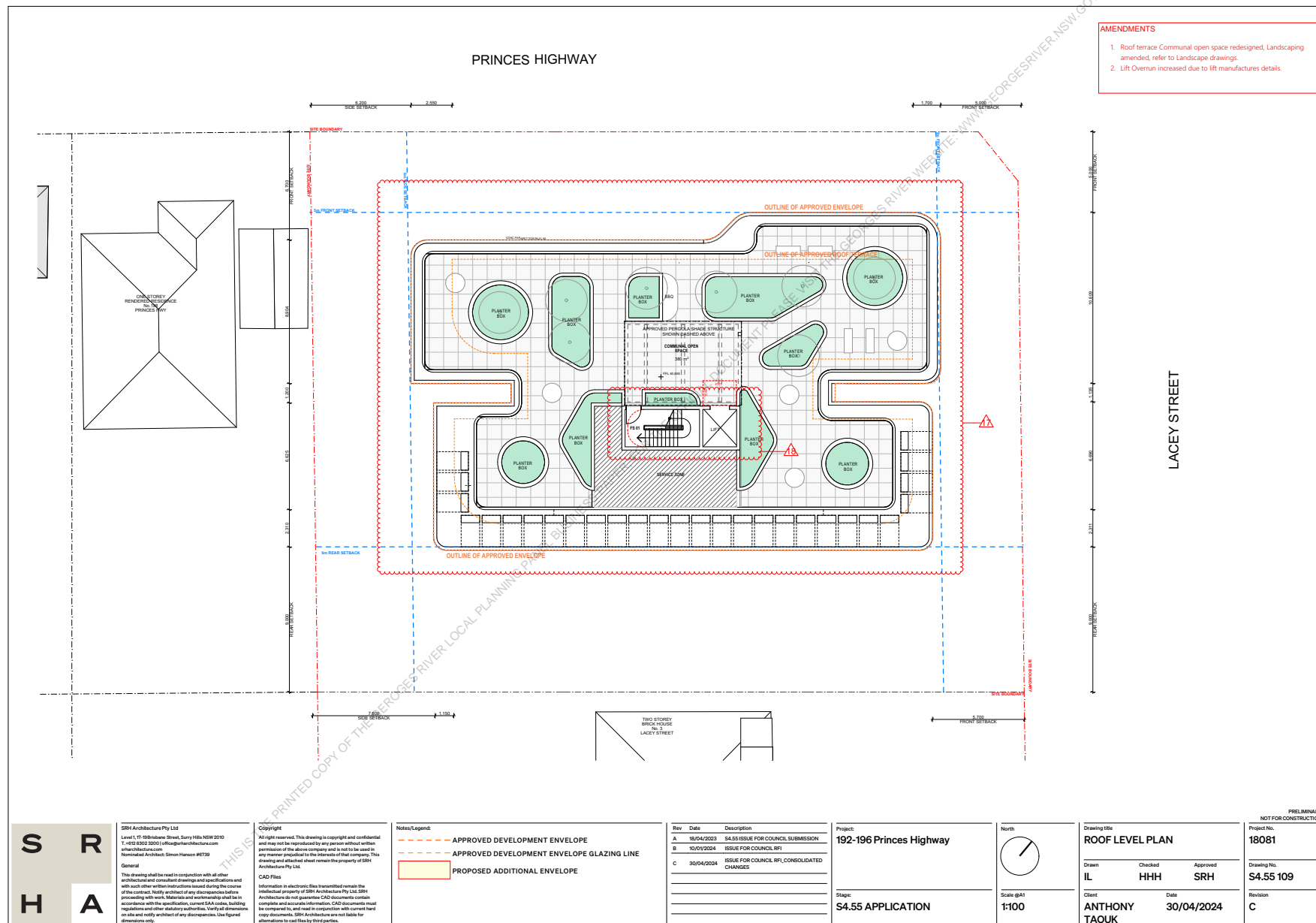
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NOT FOR CONSTRUCTION

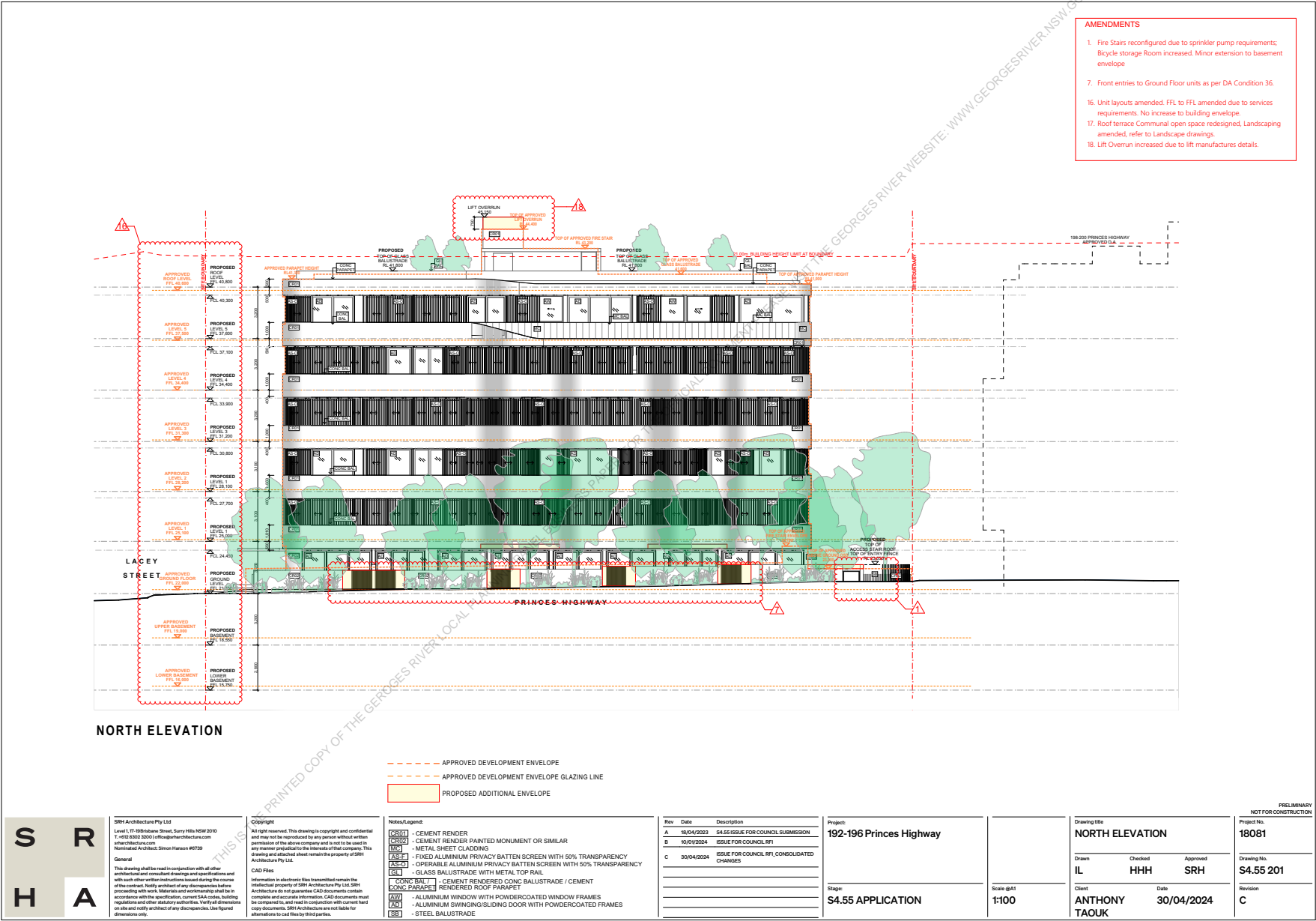
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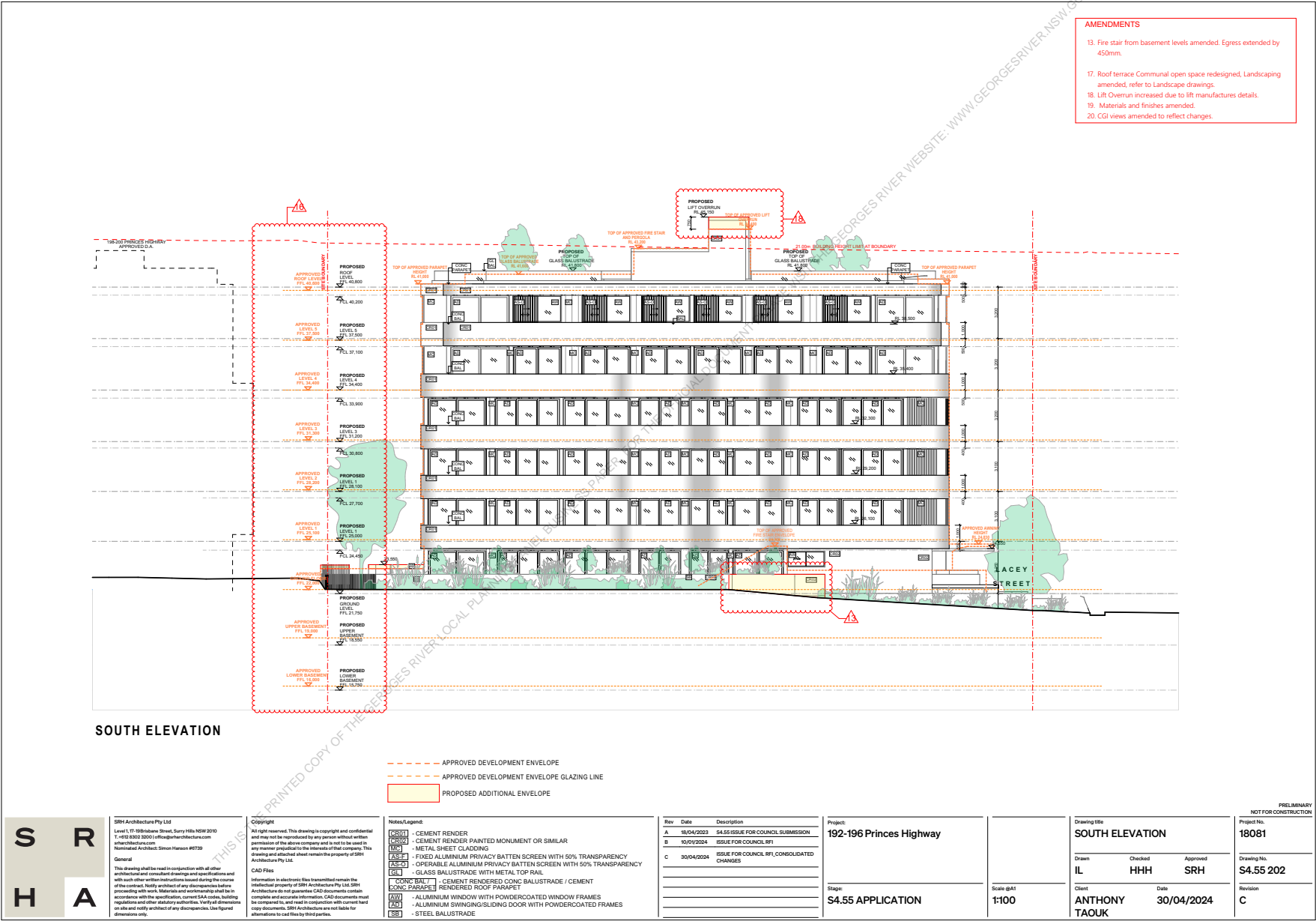
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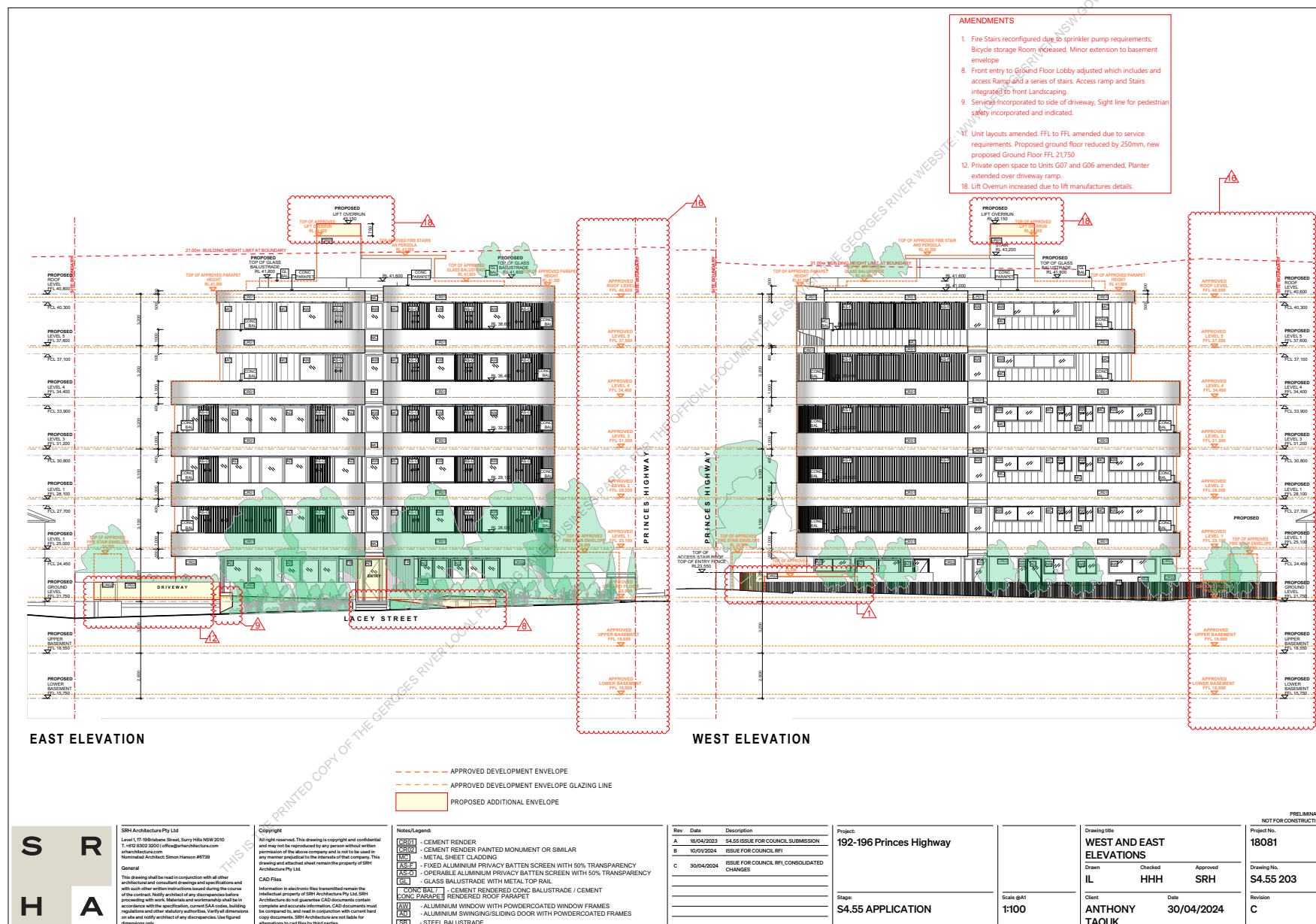
Revision  
**B**

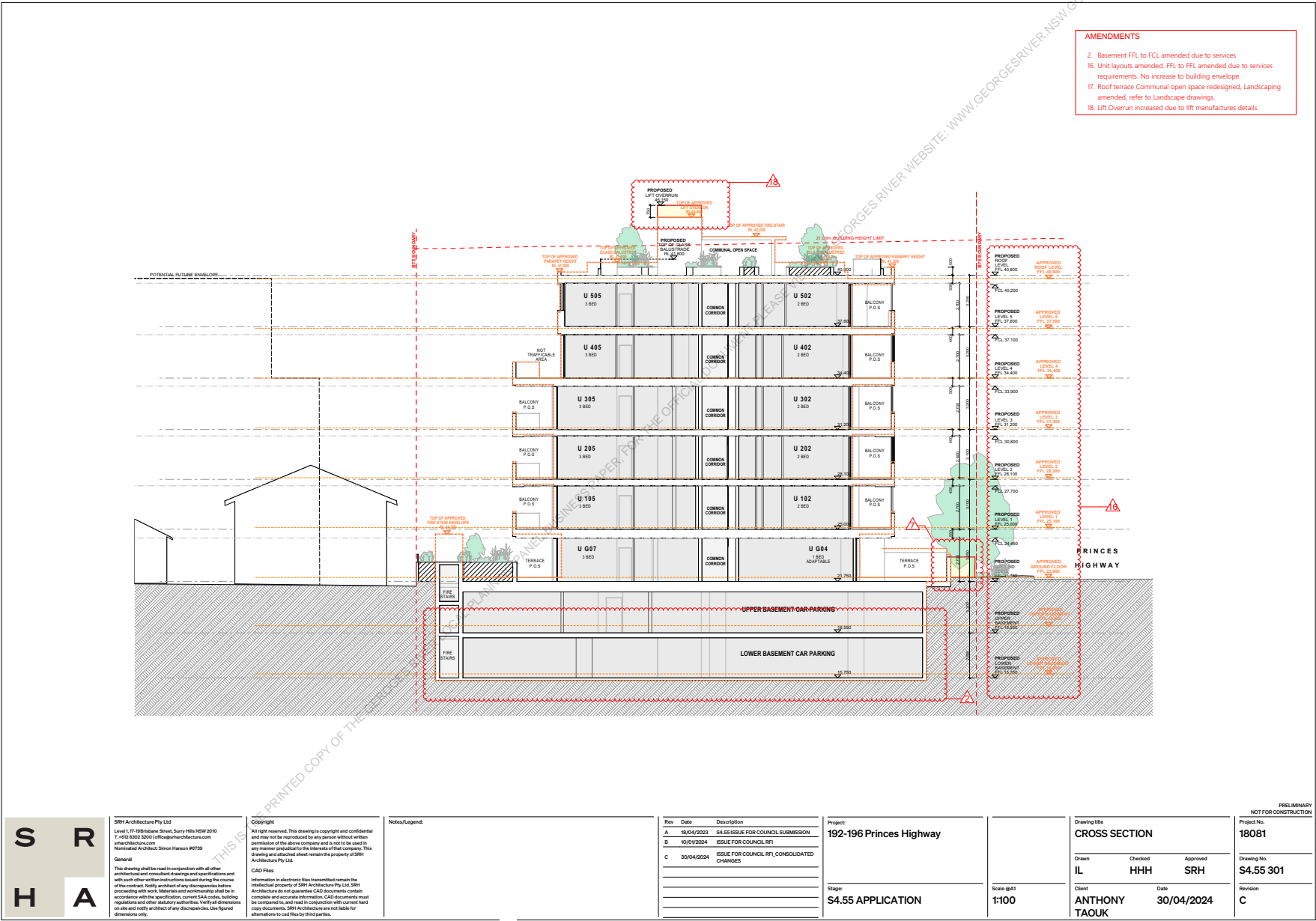


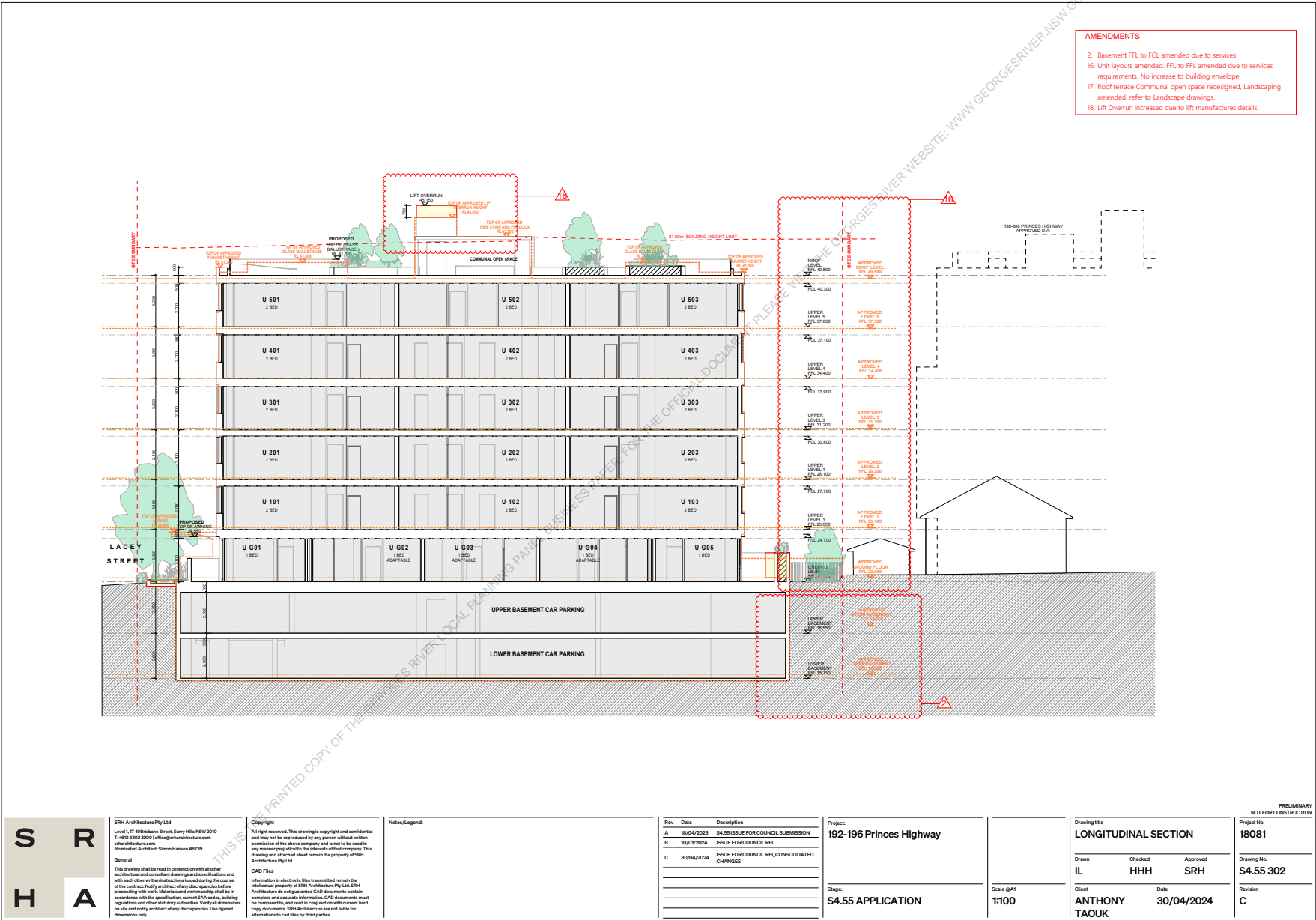


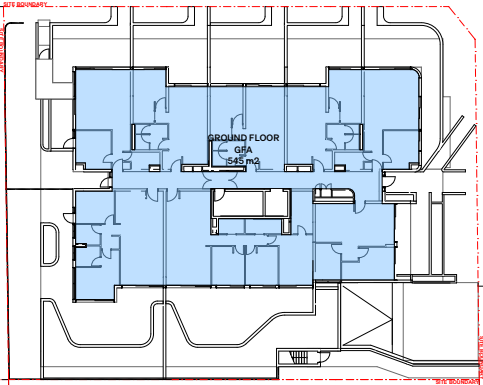




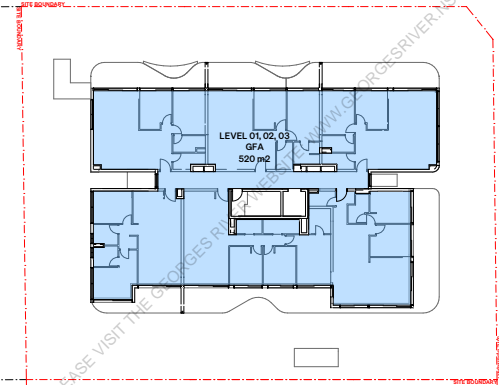




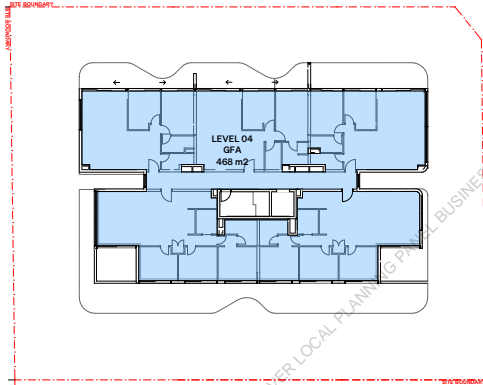




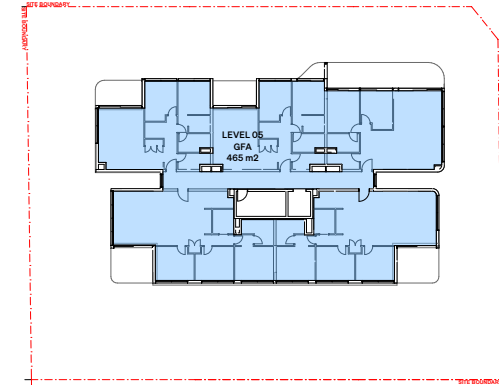
GROUND LEVEL: GROSS FLOOR AREA CALCULATIONS  
TOTAL GROUND FLOOR GFA: 545m2



LEVEL 1, 2 & 3: GROSS FLOOR AREA CALCULATIONS  
TOTAL LEVEL 1,2 & 3 GFA: 1,560m2



LEVEL 4: GROSS FLOOR AREA CALCULATIONS  
TOTAL LEVEL 4 GFA: 468m2



LEVEL 5: GROSS FLOOR AREA CALCULATIONS  
TOTAL LEVEL 5 GFA: 465m2

CALCULATIONS

SITE AREA	1529 m²	
APPROXIMATED GROSS FLOOR AREA		PROPOSED GROSS FLOOR AREA
GROUND FLOOR LEVEL	537m2	545m2
LEVEL 01, 02, 03	520 (2 x 1560m2)	520 (2 x 1560m2)
LEVEL 04	470m2	468m2
LEVEL 05	470m2	465m2
ROOF LEVEL		
TOTAL	3037 m2	3038 m2
	F.S.R. 1.99-1	F.S.R. 1.99-1

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Registered Architect: Simon Hanson #97239

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**Notes/Legend:**

GFA

Rev	Date	Description
A	18/04/2023	S4.55 ISSUE FOR COUNCIL SUBMISSION
B	10/01/2024	ISSUE FOR COUNCIL RFI
C	30/04/2024	ISSUE FOR COUNCIL RFI, CONSOLIDATED CHANGES

Project:  
**192-196 Princes Highway**

Stage:  
**S4.55 APPLICATION**

North

Scale @A1  
**1:200**

Drawing title		
<b>GFA CALCULATIONS</b>		
Drawn	Checked	Approved
IL	HHH	SRH
Client	Date	
ANTHONY TAOUK	30/04/2024	

Project No.  
**18081**






Drawing No.  
**S4.55 500**

Revision  
**C**

PRELIMINARY  
NOT FOR CONSTRUCTION



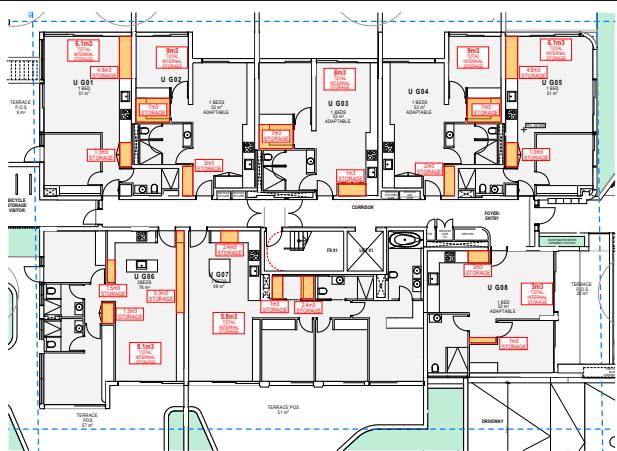
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	LANDSCAPE AREA
	COMMUNAL OPEN SPACE
	DEEP SOIL 3M WIDE
	DEEP SOIL LESS THAN 3M WIDE
	OUTLINE OF BASEMENT BELOW

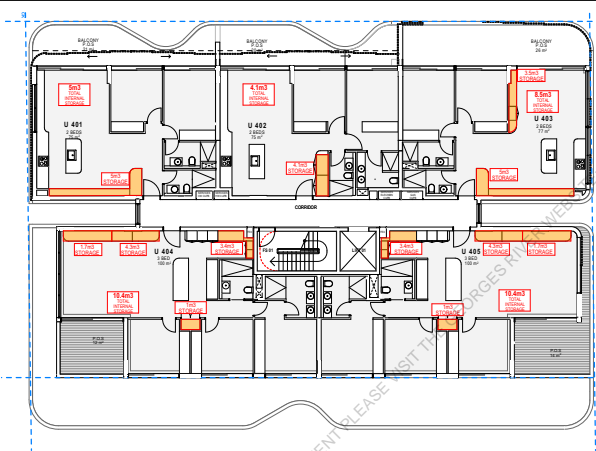
Project No.  
**18081**

Drawing No.  
**S4.55 501**

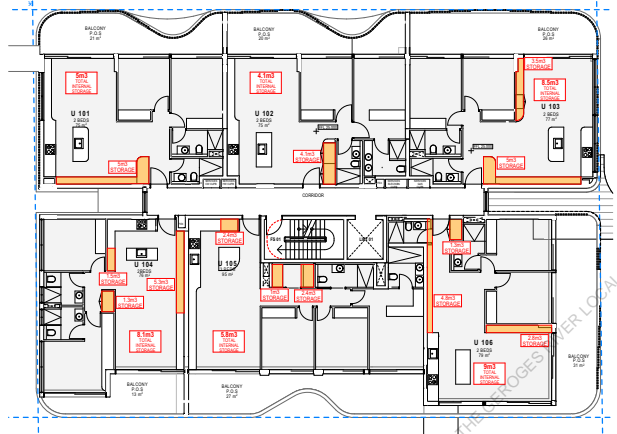
Revision  
**B**



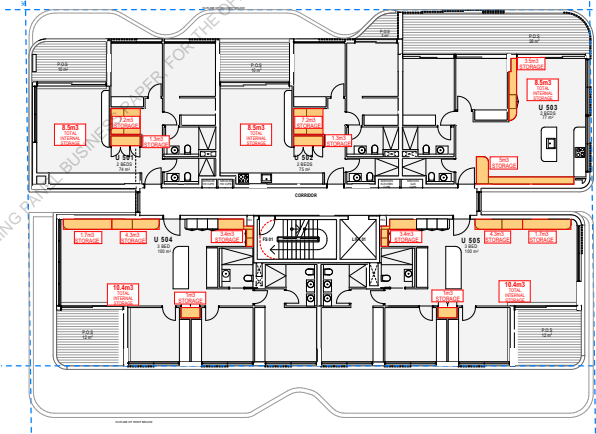
GROUND LEVEL: STORAGE CALCULATIONS



LEVEL 4 : STORAGE CALCULATIONS

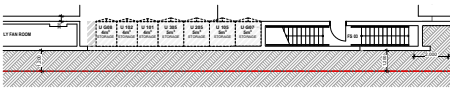


LEVEL 1, 2 & 3 : STORAGE CALCULATIONS

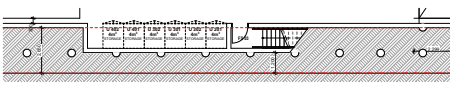


STORAGE CALCULATION

UNITS	UNIT TYPE	INTERNAL STORAGE M3	BASEMENT STORAGE M3	REQUIRED STORAGE M3	TOTAL STORAGE M3
GROUND FLOOR					
U G01	1 BED	6.1	0	6	6.1
U G02	1 BED	9	0	6	9
U G03	1 BED	8	0	6	8
U G04	1 BED	9	0	6	9
U G05	1 BED	6.1	0	6	6.1
U G06	2 BED	8.1	0	8	8.1
U G07	3 BED	5.8	5	10	10.8
U G08	1 BED	3	4	6	7
LEVEL 01					
U 101	2 BED	5	4	8	9
U 102	2 BED	4.1	4	8	8.1
U 103	2 BED	8.5	0	8	8.5
U 104	2 BED	8.1	0	8	8.1
U 105	3 BED	5.8	5	10	10.8
U 106	2 BED	9	0	8	9
LEVEL 02					
U 201	2 BED	5	4	8	9
U 202	2 BED	4.1	4	8	8.1
U 203	2 BED	8.5	0	8	8.5
U 204	2 BED	8.1	0	8	8.1
U 205	3 BED	5.8	5	10	10.8
U 206	2 BED	9	0	8	9
LEVEL 03					
U 301	2 BED	5	4	8	9
U 302	2 BED	4.1	4	8	8.1
U 303	2 BED	8.5	0	8	8.5
U 304	2 BED	8.1	0	8	8.1
U 305	3 BED	5.8	5	10	10.8
U 306	2 BED	9	0	8	9
LEVEL 04					
U 401	2 BED	5	4	8	9
U 402	2 BED	4.1	4	8	8.1
U 403	2 BED	8.5	0	8	8.5
U 404	3 BED	10.4	0	10	10.4
U 405	3 BED	10.4	0	10	10.4
LEVEL 05					
U 501	2 BED	8.5	0	8	8.5
U 502	2 BED	8.5	0	8	8.5
U 503	2 BED	8.5	0	8	8.5
U 504	3 BED	10.4	0	10	10.4
U 505	3 BED	10.4	0	10	10.4



BASEMENT 01 : STORAGE CALCULATIONS



BASEMENT 02 : STORAGE CALCULATIONS

S

R

H

A

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C	30/04/2024	ISSUE FOR COUNCIL RFI, CONSOLIDATED CHANGES

Project:  
**192-196 Princes Highway**

Stage:  
**\$4.55 APPLICATION**

Drawing title <b>STORAGE CALCULATIONS</b>	Drawn <b>IL</b>	Checked <b>HHH</b>	Approved <b>SRH</b>
Client <b>ANTHONY TAOUK</b>	Date <b>30/04/2024</b>		

Project No.  
**18081**

Drawing No.  
**\$4.55 502**

Revision  
**C**



CR-01 - CEMENT RENDER COLOUR 1, CONCRETE LOOK RENDER



(AS APPROVED) CR-02 - CEMENT RENDER , PAINT GREY



DULUX Monument' or Similar



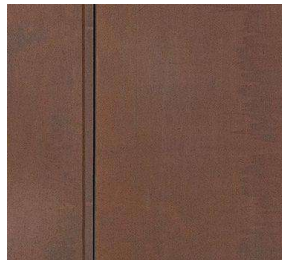
AS-F & AS-O - OPERABLE AND FIXED ALUMINIUM BATTENS SCREEN AND WALL CLADDING TO MATCH DULUX: TERRAIN SATIN OR SIMILAR



(AS APPROVED) GL - FRAMELESS GLASS BALUSTRADE WITH TOP RAIL



(AS APPROVED) AD & AW - ALUMINIUM FRAMED GLAZED DOORS AND WINDOWS



MC - METAL SHEET CLADDING TO MATCH DULUX COLOUR "TERRAIN SATIN" OR SIMILAR



(AS APPROVED) SB - STEEL BALUSTRADE

AMENDMENTS  
19. Materials and finishes amended.

S

R

H

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Project:

192-196 Princes Highway

Stage:

\$4.55 APPLICATION

Scale @A1

Drawing title

SCHEDULE OF COLOURS AND FINISHES

Drawn

IL

Checked

HHH

Approved

SRH

Client

ANTHONY TAOUK

Date

30/04/2024

Project No.

18081

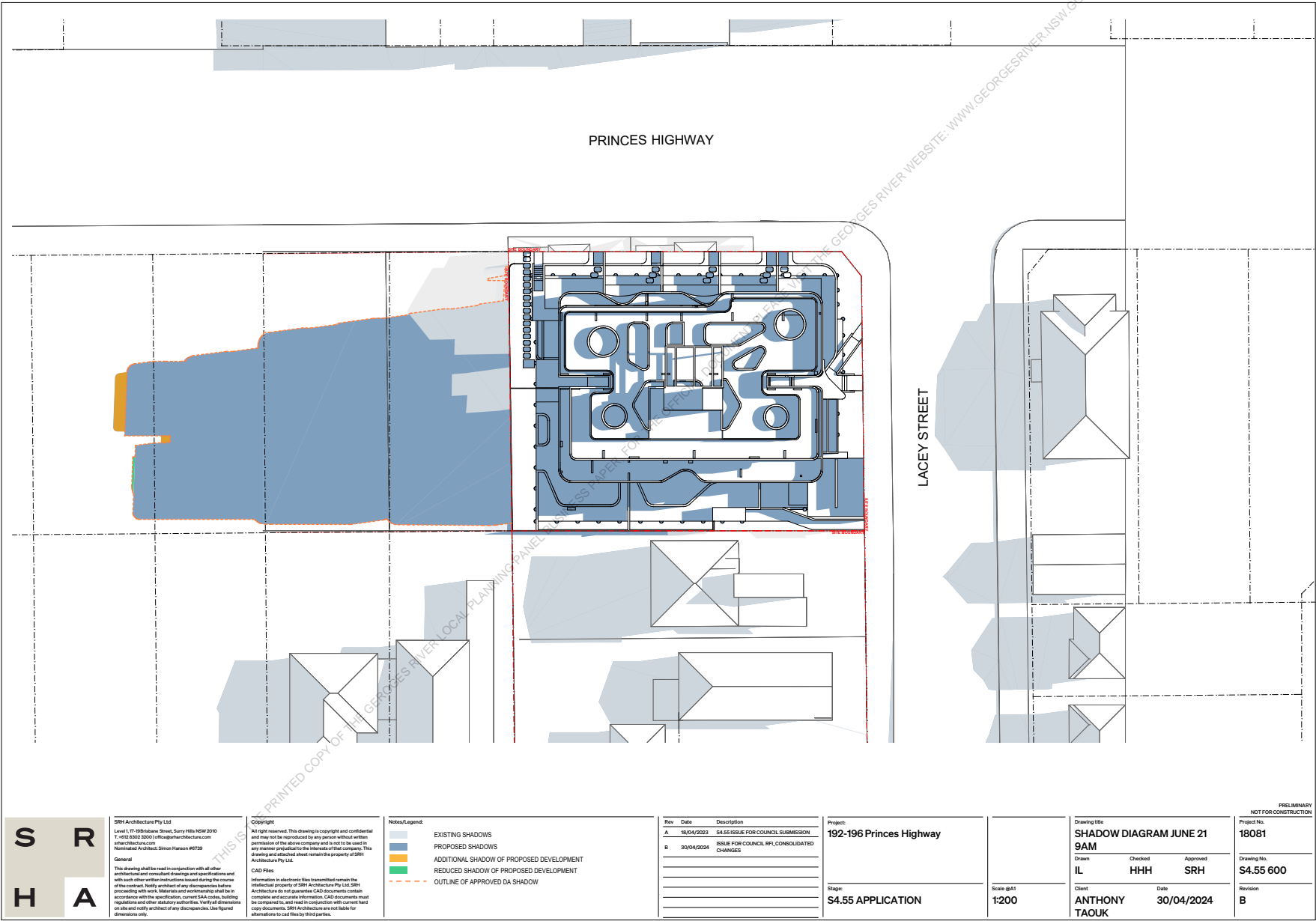
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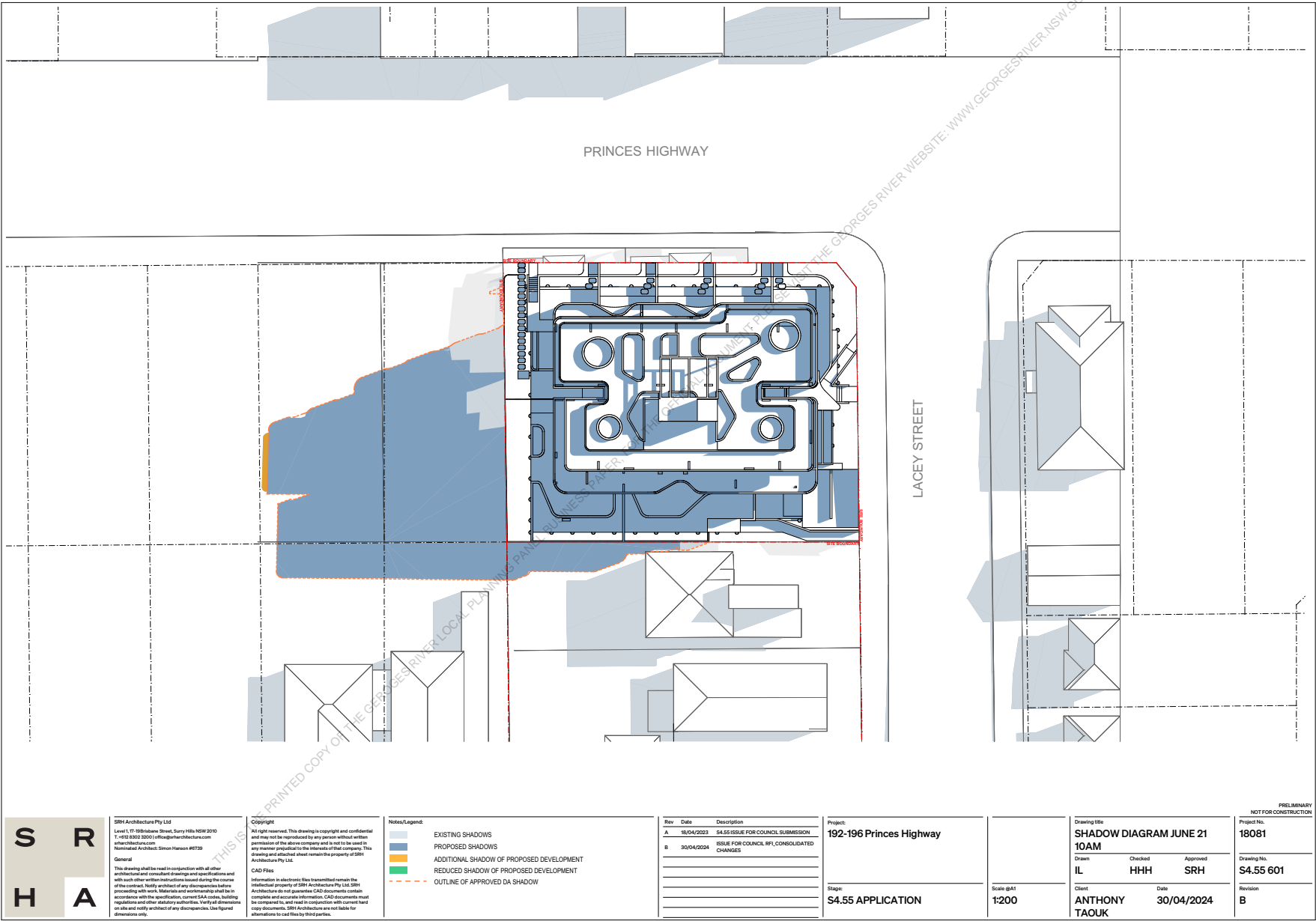
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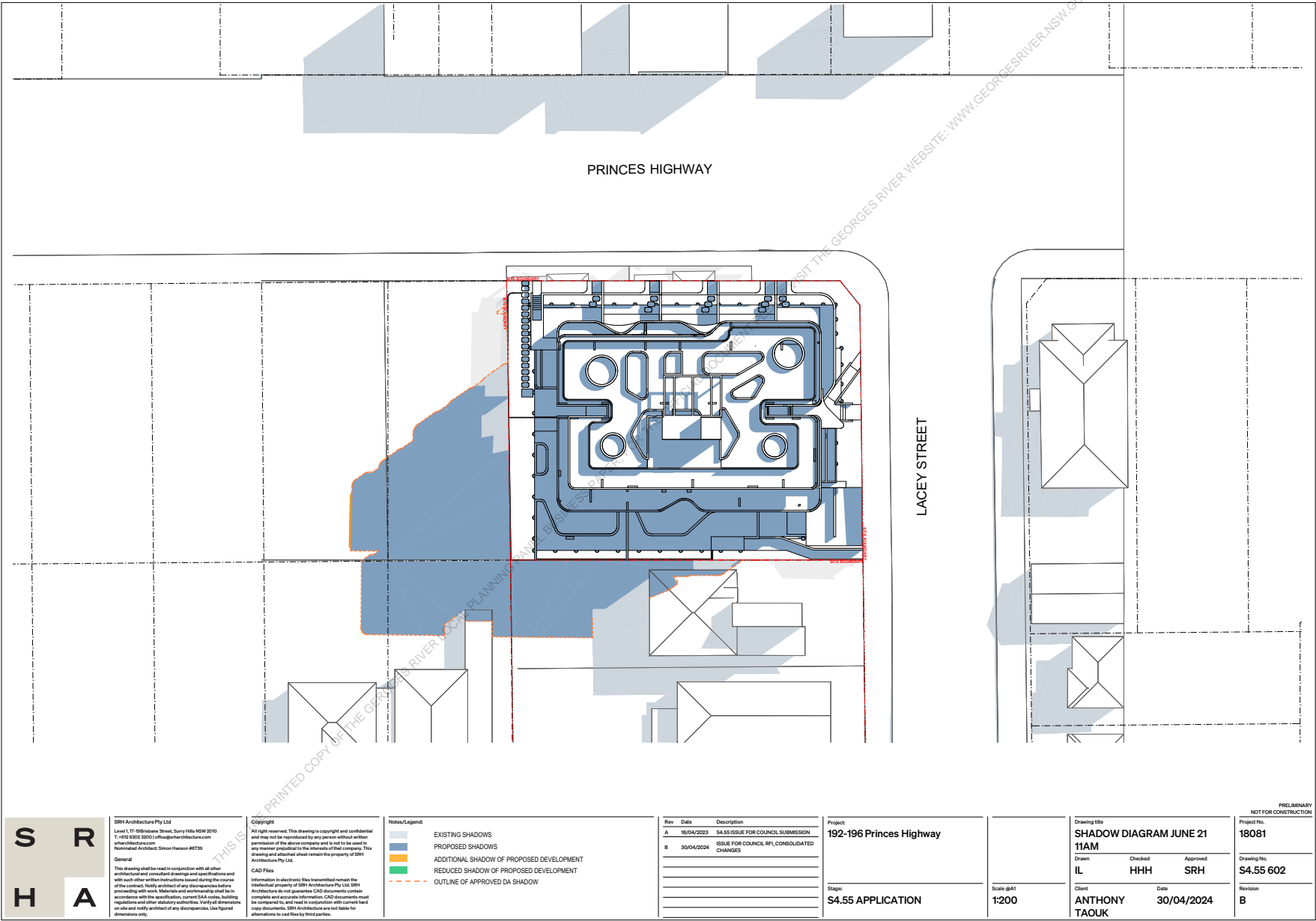
Revision

B

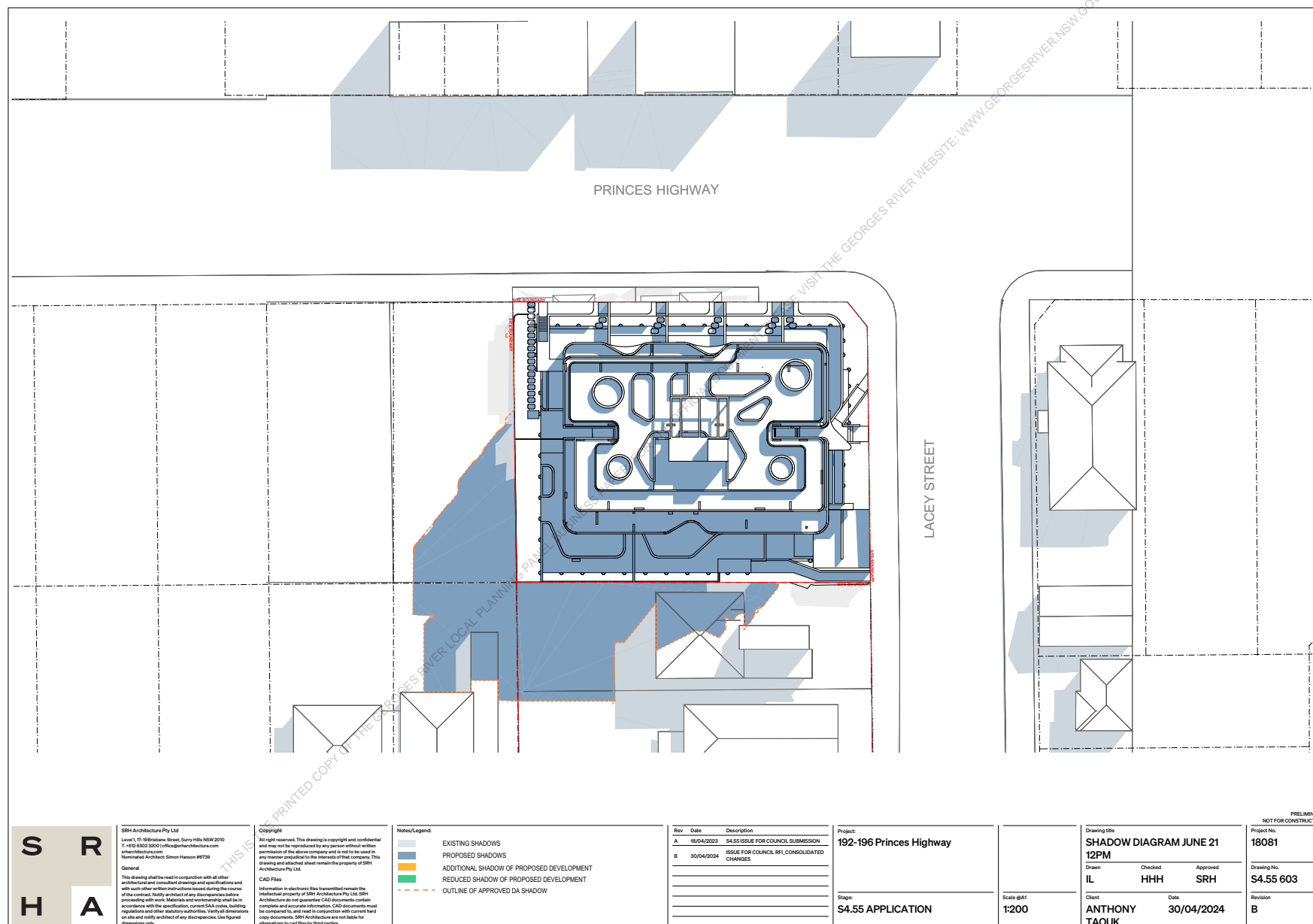
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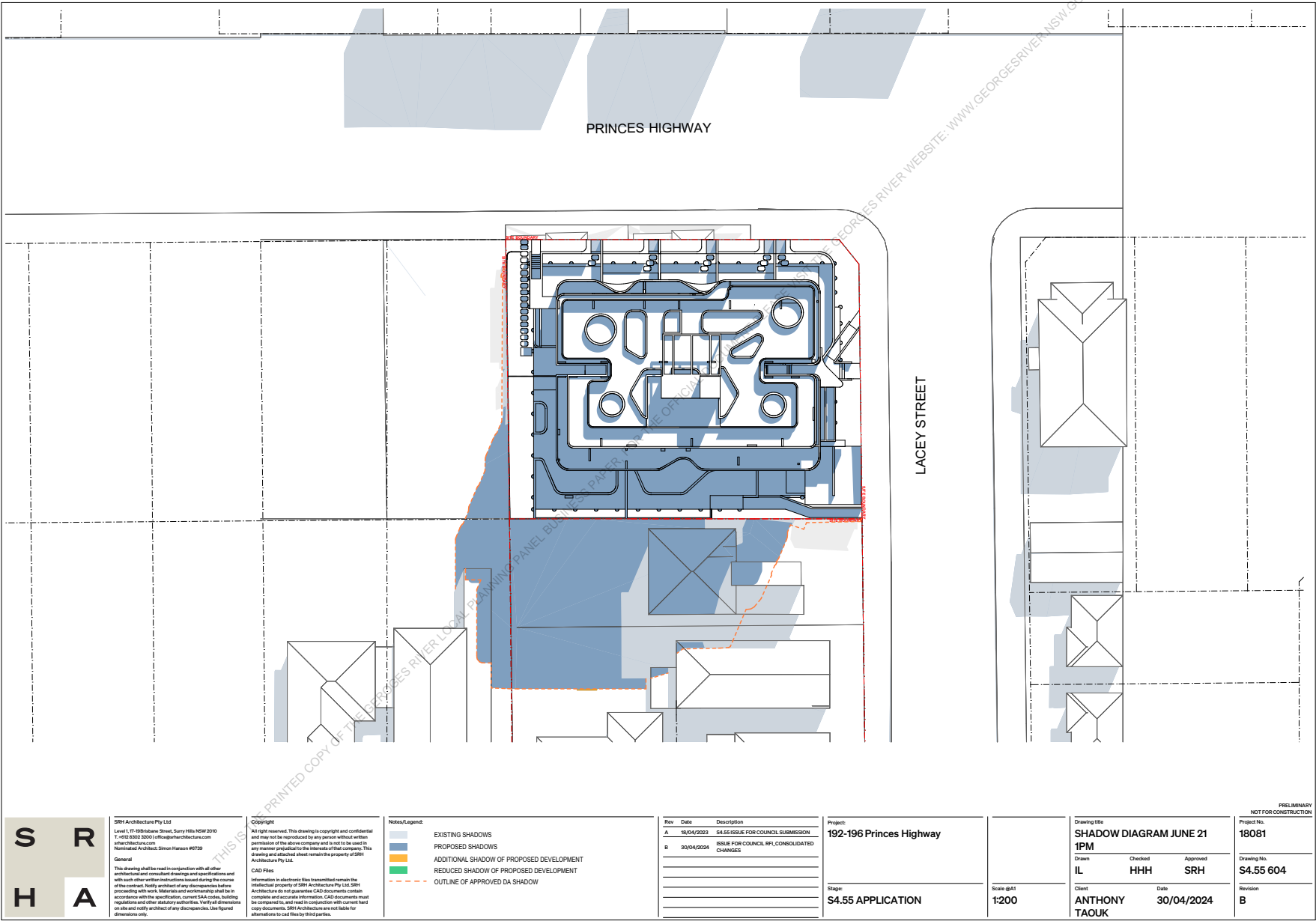


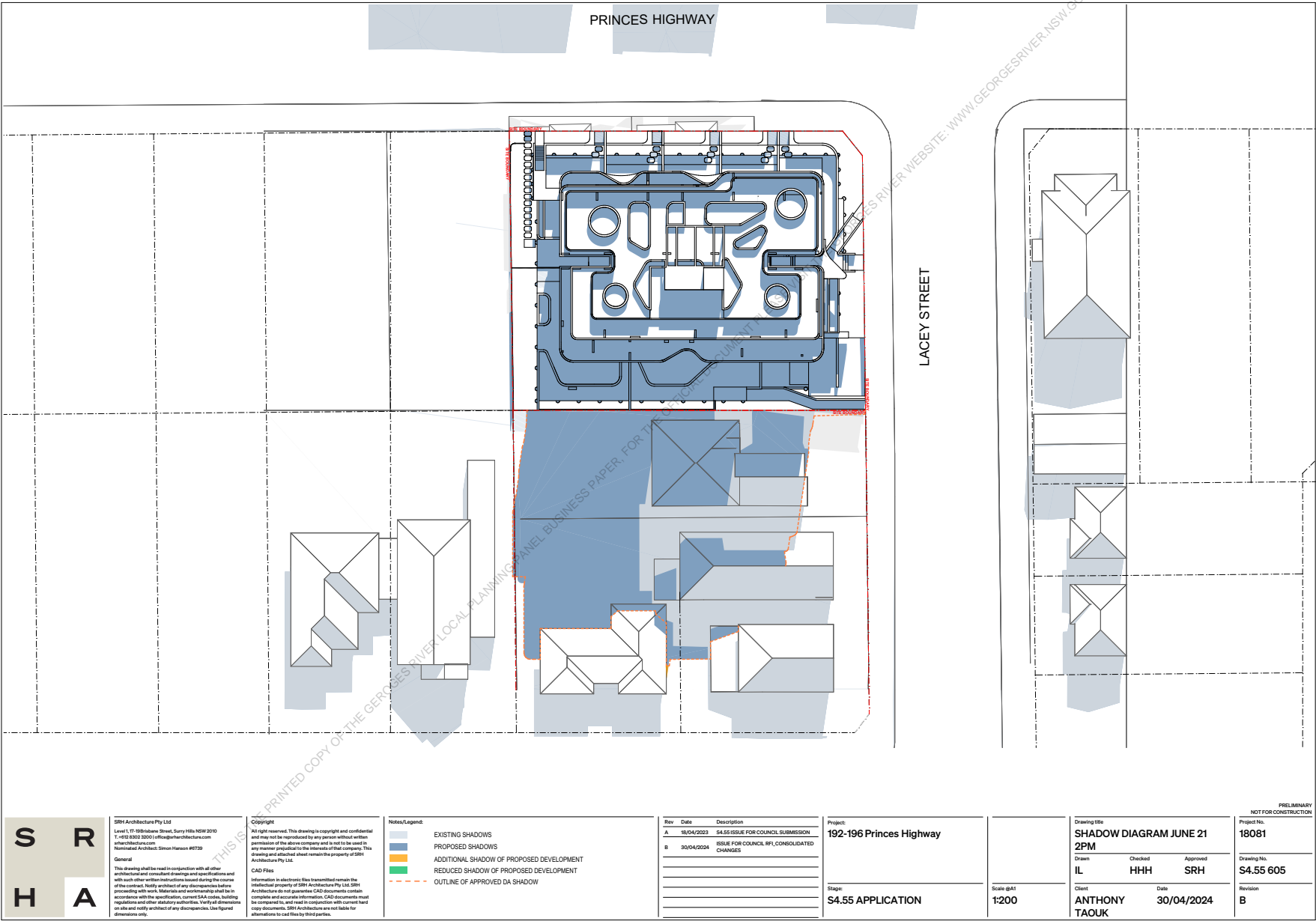


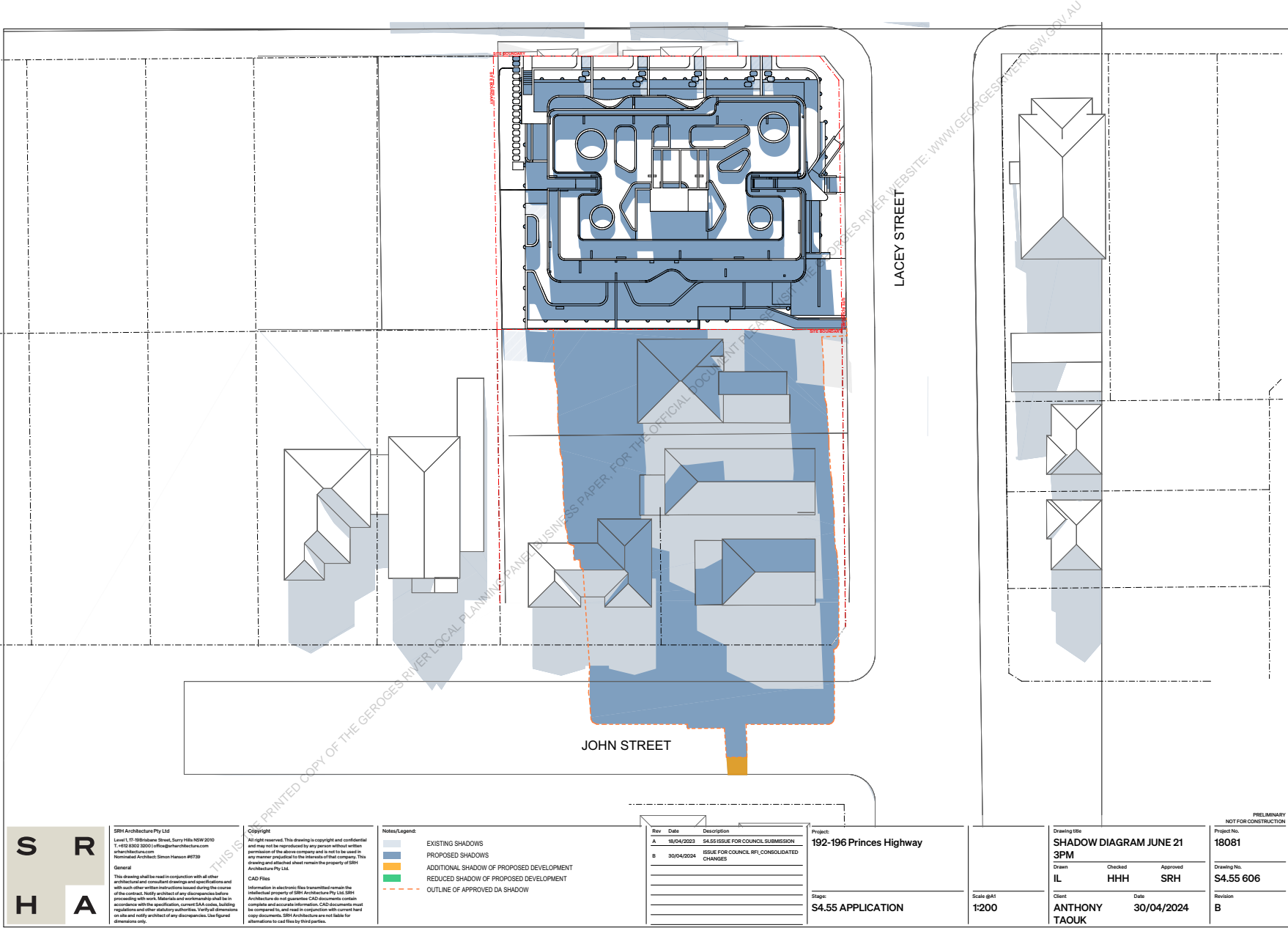














APPROVED SCHEME CORNER OF PRINCES HIGHWAY AND LACEY STREET



PROPOSED SCHEME CORNER OF PRINCES HIGHWAY AND LACEY STREET

AMENDMENTS  
20. CGI amended to reflect planning changes.

3D IMAGE OF BUILDING ENTRANCE

S  
R  
H  
A

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C	30/04/2024	ISSUE FOR COUNCIL RFI, CONSOLIDATED CHANGES

**Project:**  
**192-196 Princes Highway**

**Stage:**  
**\$4.55 APPLICATION**

**Drawing title**  
**PERSPECTIVES: CORNER OF PRINCESS HIGHWAY AND LACEY STREET**  
IL HHH SRH  
Client: **ANTHONY TAOUK** Date: **30/04/2024**

Scale @A1

**Project No.**  
**18081**

**Drawing No.**  
**\$4.55 800**

**Revision**  
C





APPROVED SCHEME PRINCESS HIGHWAY



PROPOSED SCHEME PRINCESS HIGHWAY

AMENDMENTS  
20. CGI amended to reflect planning changes.

3D IMAGE OF BUILDING ENTRANCE

S  
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A

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Certified Architect: Simon Hanson #97239

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Project:  
192-196 Princes Highway

Stage:  
\$4.55 APPLICATION

Scale: 60A1

Drawing title PERSPECTIVES: PRINCESS HIGHWAY		
Drawn IL	Checked HHH	Approved SRH
Client ANTHONY TAOUK	Date 30/04/2024	

Project No.  
18081

Drawing No.  
\$4.55 801

Revision  
C



APPROVED SCHEME LACEY STREET



PROPOSED SCHEME LACEY

AMENDMENTS  
20. CGI amended to reflect planning changes.

3D IMAGE OF BUILDING ENTRANCE

S

R

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**Project:**  
**192-196 Princes Highway**

**Stage:**  
**S4.55 APPLICATION**

**Drawing title**  
**PERSPECTIVES: LACEY STREET**

Drawn	Checked	Approved
IL	HHH	SRH

**Client**  
ANTHONY TAOUK

**Date**  
30/04/2024

**Scale**  
@A1

**Project No.**  
**18081**

**Drawing No.**  
**S4.55 802**

**Revision**  
C

PRELIMINARY  
NOT FOR CONSTRUCTION





PROPOSED SCHEME LACEY STREET, STREET FRONTAGE

3D IMAGE OF BUILDING ENTRANCE

S  
R  
H  
A

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**Project:**  
**192-196 Princes Highway**

**Stage:**  
**S4.55 APPLICATION**

**Drawing title**  
**PERSPECTIVES: STREETSCAPE LACEY STREET**

Checked	Approved
HHH	SRH

**Client**  
ANTHONY TAOUK

**Date**  
30/04/2024

**Scale**  
@A1

**Project No.**  
**18081**

**Drawing No.**  
**S4.55 803**

**Revision**  
B

PRELIMINARY  
NOT FOR CONSTRUCTION





PROPOSED SCHEME PRINCESS HIGHWAY, STREET FRONTAGE

3D IMAGE OF BUILDING ENTRANCE

S  
R  
H  
A

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Project:  
**192-196 Princes Highway**

Stage:  
**S4.55 APPLICATION**

Scale @A1

Drawing title  
**PERSPECTIVES:  
STREETSCAPE PRINCESS  
HIGHWAY**

Checked	Approved
HHH	SRH

Client  
**ANTHONY  
TAOUK**

Date  
**30/04/2024**

Project No.  
**18081**

Drawing No.  
**S4.55 804**

Revision  
**B**

PRELIMINARY  
NOT FOR CONSTRUCTION

# REPORT TO GEORGES RIVER LOCAL PLANNING PANEL MEETING OF THURSDAY, 16 MAY 2024

## LPP017-24 9 BOWNS ROAD KOGARAH

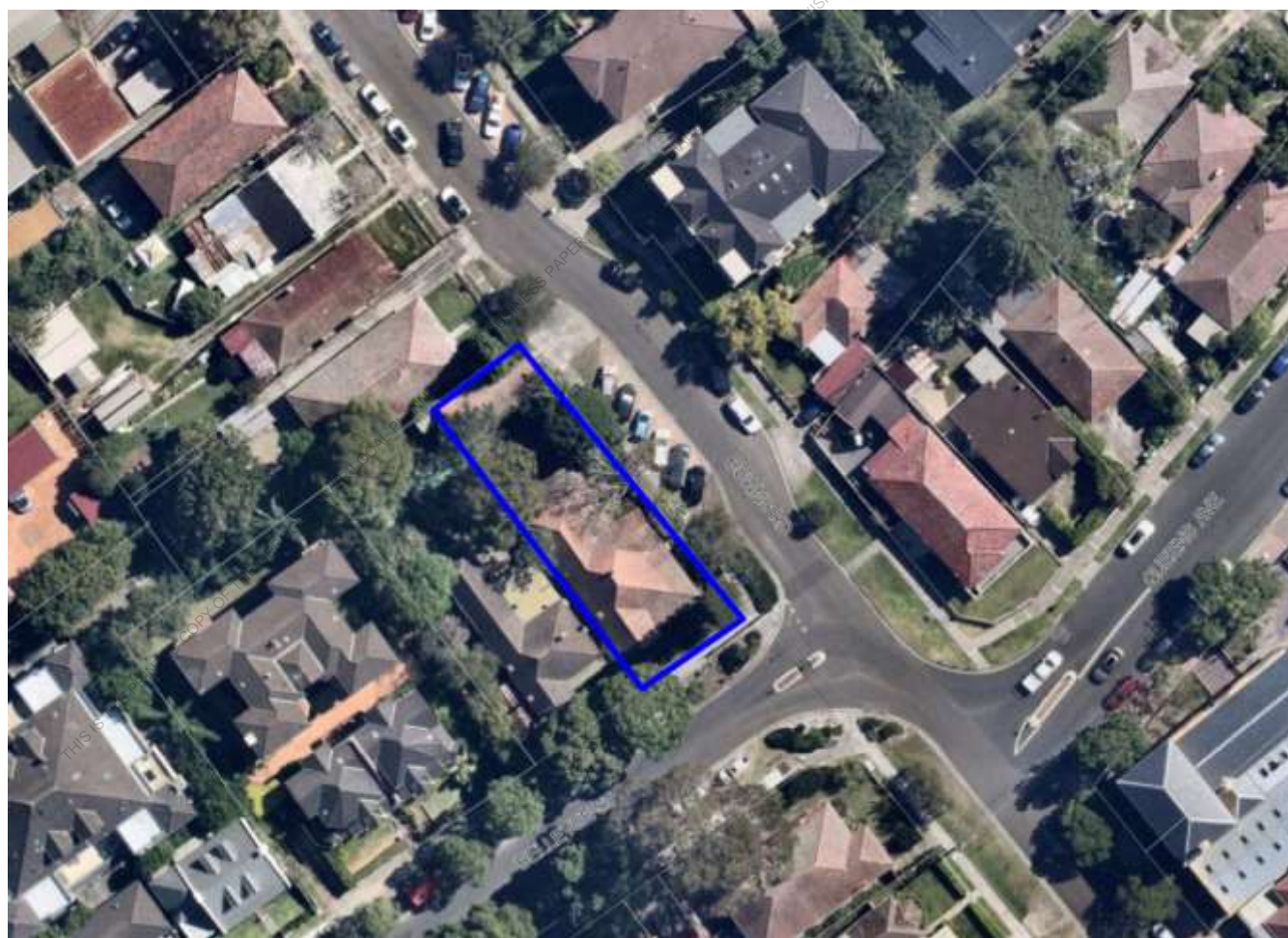
LPP017-24

<b>LPP Report No</b>	<b>LPP017-24</b>	<b>Development Application No</b>	<b>DA2024/0047</b>
<b>Site Address &amp; Ward Locality</b>	9 Bowns Road Kogarah Kogarah Bay Ward		
<b>Proposed Development</b>	Removal of Three (3) Trees being an Acer negundo (Box Elder) and two (2) Robinin pseudoacacia (Black Locust)		
<b>Owners</b>	Kevin Coleman		
<b>Applicant</b>	Kevin Coleman		
<b>Planner/Architect</b>	Not Applicable		
<b>Date Of Lodgement</b>	18/03/2024		
<b>Submissions</b>	No Submissions Received		
<b>Cost of Works</b>	\$2,500		
<b>Local Planning Panel Criteria</b>	Demolition works involving a Local Heritage Item – Removal of Three (3) Trees from the Site of a Local Heritage Item.		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 Georges River Council Local Environmental Plan 2021 Georges River Council Development Plan 2021		
<b>List all documents submitted with this report for the Panel's consideration</b>	Statement of Environmental Effects Site Plan Arboricultural Assessment Report		
<b>Report prepared by</b>	Stuart Reid - Development Assessment Planner - Fast Track		

<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?	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?	<b>Yes</b>
<b>Clause 4.6 Exceptions to development standards</b>	<b>Not Applicable</b>
<b>Special Infrastructure Contributions</b>	<b>Not Applicable</b>
<b>Conditions</b> Have draft conditions been provided to the applicant for comment?	<b>No.</b> <b>The conditions can be reviewed when the report is published.</b>

**SITE PLAN**

**Aerial Photo of Locality – Subject Site outlined in blue (Source: Council Intramaps)**



## EXECUTIVE SUMMARY

### PROPOSAL

1. Council is in receipt of Development Application No. DA2024/0047 for the removal of three (3) trees within a heritage listed site.
2. The proposed trees to be removed are:
  - a. One (1) *Acer Negundo* (Box Elder) within the Eastern side setback.
  - b. Two (2) *Robina pseudoacacia* (Black Locust) within the rear yard.
3. The subject site is a listed Local Heritage Item described as '*House and Garden*' and identified as I162 within Schedule 5 Part 1 of the Georges River Local Environmental Plan 2021 and known as Lot 14, Section 1, DP 975157 being 9 Bowns Road Kogarah.
4. The consent authority is the Georges River Local Planning Panel (GRLPP) as the property is identified as a local heritage item and the works involve demolition (tree removal) of a heritage item as referenced by the Ministerial Direction.

### SITE AND LOCALITY

5. The subject site is located on the south-western side of Bowns Road and has a secondary frontage to Bellevue Street. The site has a frontage of 45.72m to Bowns Road a secondary frontage of 15.24m to Bellevue Street and has a total site area of 696.77sqm by Deposited Plan.



**Photo 1:** Front of the subject site from Bowns Road, the Box Elder proposed to be removed is centre of photo.

6. Existing on site is a one storey detached dwelling house with a detached double garage within the rear yard of the allotment. The subject site is identified as a Local Heritage Item (I162) and is described as '*House and garden*'.



**Photo 2:** The subject site as viewed from Bellevue Street.

7. The site includes a driveway off Bowns Road which provides direct access to the detached double garage within the rear yard.





**Photo 3:** Rear of the subject site, directly abutting the garage to the left is one of the two black locusts proposed to be removed.

8. To the south-west is a detached single storey dwelling house known as 3 Bellevue Street which is a listed heritage item. To the north-west is 7 Bowns Road which is a single storey detached dwelling house of no known heritage significance. It is noted that there is a development approval for 1-7 Bowns Road Kogarah for '*demolition of existing dwellings, lot consolidation and construction of six (6) storey residential flat building consisting of fifty five (55) residential units and basement car parking*' approved on 15 August 2019.
9. The site is located within a predominantly residential streetscape which exhibits a broad range of architectural styles and varying densities due to the street having both R4 High Density Residential and R2 Low Density zoned land.

### **ZONING AND PERMISSIBILITY**

10. The subject site is zoned R4 – High Density Residential in accordance with the provisions of the Georges River Local Environmental Plan 2021.
11. Demolition works associated with a dwelling house is a permissible use in the zone with consent.

## SUBMISSIONS

12. The application was advertised and notified with a sign placed onsite for a 28-day period in accordance with the provisions of Section 2.4 of the Georges River Development Control Plan 2021 and the Georges River Community Engagement Strategy 2023-2033. No submissions were received.

## CONCLUSION

13. The proposal was referred to Council's Heritage Advisor who raised no concerns or objections to the proposed tree removal, subject to conditions.
14. The proposed tree removal is considered to be small-scale works that are required for the ongoing maintenance of the dwelling without unreasonable impacts on heritage fabric subject to the imposition of conditions.
15. The proposed development complies with the provisions of applicable State Environmental Planning Policies, the Georges River Local Environmental Plan 2021 and the Georges River Development Control Plan 2021 and is therefore considered to be a reasonable and acceptable planning outcome without adverse impact on the historic significance and integrity of the property.
16. Having regard to the matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans, the proposed development application DA2024/0047 is recommended for approval subject to the recommended conditions referenced at the end of this report.

## REPORT IN FULL

### PROPOSAL

17. The proposal involves the following works:
  - Removal of one (1) Acer Negundo (Box Elder) within the Eastern side setback.
  - Removal of two (2) Robina pseudoacacia (Black Locust) within the rear yard.
  - The trees are proposed to be removed as they are in poor health and low amenity value.
  - The Box Elder has a height of 10 meters and a spread of 13 meters, the supplied arborist report states that the structural condition of this tree is poor, and its amenity value is low. At the time of site inspection, the tree appeared in poor health with much of the canopy bare due to dropped leaves.
  - The two black locust trees, vary in height the tree on the eastern boundary is 8 meters tall and the specimen on the western boundary is 12 meters tall the trees have a canopy spread of 7 meters and 10 meters respectively. At the time of site inspection, the trees appeared in poor health with much of the canopy bare due to dropped leaves.
  - All three trees are non-native species and Black Locust Trees are listed on NSW Weed Wise as weeds of concern in New South Wales.

### THE SITE AND LOCALITY

18. The subject site is located on the western side of Bowns Road and has a secondary frontage to Bellevue Street. The site has a frontage of 42.67m to Bowns Road and has a total site area of 618.29 Sqm by Deposited Plan. The site has a frontage of 45.72m to Bowns Road a secondary frontage of 15.24m to Bellevue Street and has a total site area of 696.77sqm by Deposited Plan.



19. The subject site is an a large early twentieth-century, single-story brick dwelling displaying Federation Bungalow stylistic influence. The dwelling house is substantially intact with original details and features large roof planes, a deep L-shaped veranda, bay windows, bulls eye veranda, and an original brick fence.
20. The site also contains a sympathetic single storey addition and detached double garage. Located on a corner site, 9 Bowns Road is considered to be of high streetscape value.
21. The subject site is a listed Local Heritage Item described as '*House and Garden*' and identified as I162 within Schedule 5 Part 1 of the Georges River Local Environmental Plan 2021 and known as Lot 14, Section 1, DP 975157.
22. The site is located within a predominantly residential streetscape which exhibits a broad range of architectural styles and varying densities due to the streets mixed zoning of R4 High Density Residential and R2 Low Density zoned land.

## BACKGROUND

23. A history of the development proposal is as follows:
  - On the 24<sup>th</sup> of August 2022 the applicant was advised via email from Councils Strategic Planner that any tree removal on the subject property would require a development application be lodged for a permissibility pathway.
  - On 24 October 2023 a Tree Removal and Pruning Application (TA2023/0688) was submitted for the removal of 4 trees, inclusive of the three trees the subject of this application and the Norfolk Island Pine in the front yard. On 30 November 2023 the application was cancelled and a refund was issued to the applicant as the application related to a heritage item and therefore no permissibility pathway existed for removal under a tree application, a Development Application is required as outlined by Council's Strategic Planner.
  - On 19 December 2023, Council's Manager Development and Building advised the applicant that the permissibility pathway for removal of the trees was via a Development Application unless removal warranted an emergency works order.
  - Council's Tree Compliance Assessment Officer attended the site on 29 January 2024 regarding the urgent tree removal and unauthorised pruning. The urgent tree removal request was not supported, the applicant was advised that pruning required Council Consent.
  - Following the application for a Tree Permit for the removal of 4 trees, Councils Manager Development and Building sought advice from Council's Heritage Advisor and Arborist if the removal could be granted under Clause 5.10 (3) of the Georges River Local Environment Plan 2021. On 9 February 2024, it was concluded that the works could not be considered under this clause, as there was no imminent risk to life or property from the trees.
  - The subject application was submitted on 22 February 2024 and formerly lodged following the payment of fees on 18 March 2024.
  - On 21 March 2024 the application was placed on exhibition for a period of 28 days, with the last date for public submissions being 2 May 2024. No submissions were received.
  - Council's Assessing Officer conducted a site inspection on 21 March 2024.
  - Council's Heritage Advisor reviewed the proposed sketch plans and provided comment via email on 21 March 2024. Supporting the application subject to conditions.
  - Council's Landscape and Arboricultural Officer provided comments on 2 April 2024, supporting the application subject to conditions.

- A request for additional information letter was sent via the Planning Portal on 3 April 2024, requesting information regarding valid owners consent, a revised cost of works, a revised statement of environmental effects and a site plan for the proposal.
- Ausgrid responded to the referral of the proposal made under Clause 2.119 of SEPP Transport and Infrastructure 2021 on 3 April 2024 supporting the application subject to conditions.
- The applicant responded to the request for additional information on 3 April 2024 providing the requested additional information.

## PLANNING ASSESSMENT

### Section 4.15 Evaluation

24. The following is an assessment of the application with regard to Section 4.15(1) Evaluation of the Environmental Planning and Assessment Act 1979.

#### (1) **Matters for consideration – general**

*In determining an application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

#### (a) **The provision of:**

- (i) Any environmental planning instrument,

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

## ENVIRONMENTAL PLANNING INSTRUMENTS

### Environmental Planning and Assessment Act, 1979 (EP&A Act)

26. The proposal is considered to be consistent with the aims and objectives of the Act.

### Environmental Planning and Assessment Regulation 2000

27. The proposal is considered to have met the statutory requirements under Schedule 1 of the Regulations.

## STATE ENVIRONMENTAL PLANNING POLICIES

### State Environmental Planning Policies (SEPPs)

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

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

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

29. Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 is relevant to the proposal. Chapter 4 Remediation of Land aims to promote and identify contaminated land/s and whether remediation is required in order to reduce the risk of harm to human health or any aspect to the environment. It aims to ensure land is suitable for its intended use.

30. Clause 4.6 of the policy requires contamination and remediation to be considered in determining a development application. The consent authority must not consent to the carrying out of development on land unless it has considered whether or not the land is contaminated.
31. A review of the above indicates that the site has historically been used for residential purposes and there is no evidence in Council records 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, the site is considered suitable for the proposed development.

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

32. 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.
33. Chapter 2 - Vegetation in Non-Rural Areas  
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.

This chapter applies to clearing of:

- (a) *Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and*
- (b) *Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (Development Control Plan).*

As part of the proposal, 3 trees have been nominated for removal, as such assessment against this chapter is required.

The application was referred to Council's Landscape Officer as the vegetation on site forms part of the heritage listing. No objection was raised with respect to the proposed works which are considered to be supportable as the trees are non-native species, exhibiting poor health and of low biodiversity and amenity value. The removal of the three trees is therefore supportable, subject to the imposition of conditions which will ensure replacement planting occurs.

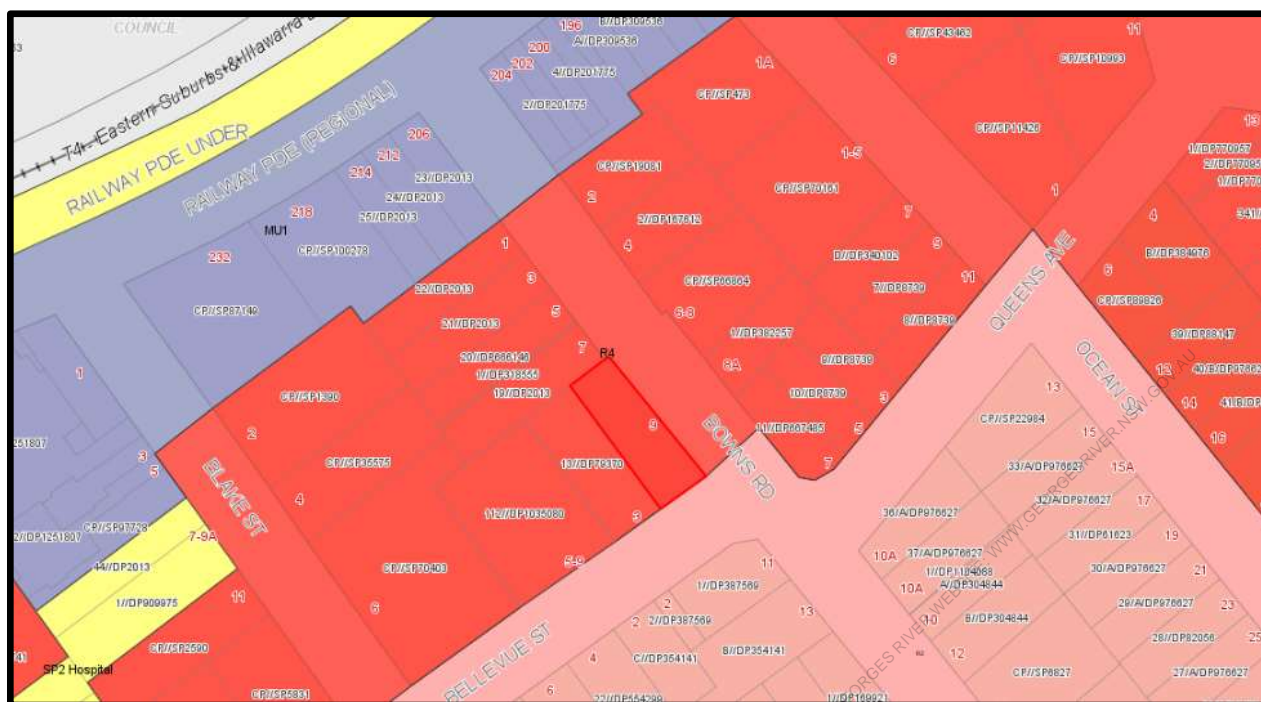
### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

#### **Ausgrid referral**

50. The proposal includes works that are within proximity to electrical infrastructure. Therefore, the proposal was referred to Ausgrid per Division 5, Subdivision 1, Clause 2.48 of State Environmental Planning Policy (Transport and Infrastructure) 2021. Ausgrid responded that they had no objection to the proposal provided that the works are in accordance with Ausgrid's Network Standards. As such standard advice regarding Ausgrid Clearances have been included in the consent relevant to the tree removal works.

### **Georges River Local Environmental Plan 2021 (GRLEP)**

34. The subject site is zoned R4 – High Density Residential in accordance with the provisions of the GRLEP 2021. The proposed tree removal is ancillary to the use being a dwelling house and is permissible with development consent satisfying the objectives of the zone which include the following:



**Figure 1:** The subject site which is in the R4 – Low-Density Residential Zone. The site is in proximity to MU1 and R2 Zoned land (Source: GRLEP 2021 zoning map)

35. Table 1 below summarises the proposals compliance against the relevant GRLEP 2021 provisions and controls.

**Table 1: GRLEP 2021 Compliance Table**

Clause	Standard	Proposed	Complies
2.2 - Zone	R4 High Density Residential	The proposal comprises of tree removal within the grounds of a dwelling house which is permissible within the zone.	Yes
2.3 - Objectives	Objectives of the Zone	Consistent with the zone objectives.	Yes
2.7 - Demolition	The demolition of a building or work may be carried out only with development consent.	Tree removal is considered demolition when associated with a Heritage Item. Demolition is proposed and requires consent.	Yes
4.3 – Height of Buildings	21m as identified on Height of Buildings Map	The proposed development will not affect the overall height of the building.  The dwelling is one storey and currently below the 21m height control.	Yes

4.4 – Floor Space Ratio	2:1 as identified on Floor Space Ratio Map	The proposal does not result in additional floor area.	Yes
4.4A - Exceptions to floor space ratio—certain residential accommodation	Clause 4.4A (Exceptions to floor space in the R2 Zone) includes a ratio depending on the size of the site and if the works relate to residential development in the R2 zone.	Not Applicable, the development site is Zoned R4.	Yes
4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with Cl.4.5	FSR has been calculated in accordance with this clause.	Yes
4.6 – Exceptions to Development Standards	The objectives of this clause are as follows: - <i>to provide an appropriate degree of flexibility in applying certain development standards to particular development,</i> - <i>to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</i>	The proposal complies with the key statutory planning controls relating to height, landscaping and floor space.  No Clause 4.6 Variation to a development standard is required.	N/A
5.10 – Heritage Conservation	The objectives of this clause are: (a) to conserve the environmental heritage of the Georges River local government area, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (c) to conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.	The subject site is a listed local item of heritage pursuant to Schedule 5 of the GRLEP.  The proposal was referred to Council's Heritage Advisor who raised no objections to the proposed works on heritage grounds.  The works proposed are not considered to be of adverse impact on the heritage item, this is discussed in greater detail later in this report.	Yes
6.1 - Acid Sulphate Soils (ASS)	The objective of this clause is to ensure that “ <i>development does not disturb, expose or drain acid sulfate soils and cause environmental damage</i> ”	The site is not identified as being impacted by Acid Sulphate Soils.	Yes

6.4 - Foreshore area and coastal hazards and risk	<p>The objectives of this clause are as follows—</p> <p>(a) to protect people and property from unacceptable risk from coastal hazards associated with climate change,</p> <p>(b) to ensure that development in the foreshore area will not foreshore impact on natural processes or affect the amenity of the area,</p> <p>(c) to facilitate opportunities for public access to and along the foreshore.</p>	The proposal is not located on a site identified in the Coastal Hazard and Risk Map.	Yes
6.6 Foreshore Scenic Protection Area	<p>The objectives of this clause are—</p> <p>(a) to protect, maintain and improve the scenic amenity of the Georges River foreshore,</p> <p>(b) to protect, maintain and improve significant views of and from the Georges River,</p> <p>(c) to protect, maintain and improve the diversity and condition of native vegetation and habitats,</p> <p>(d) to reinforce and improve the dominance of landscape over built form, hard surfaces and cut and fill,</p> <p>(e) to encourage the recovery of threatened species and their communities, populations and habitats,</p> <p>(f) to enhance existing environmental, cultural and built character values of the foreshore.</p>	The proposal is not located within a Foreshore Scenic Protection Area.	Yes
6.9 Essential Services	Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—	The subject site is serviced by water, sewer and telecommunication services as well as lawful discharge of water and vehicular access.	

	<p>(a) the supply of water,  (b) the supply of electricity,  (c) the supply of telecommunications facilities,  (d) the disposal and management of sewage,  (e) stormwater drainage or on-site conservation,  (f) suitable vehicular access.</p>	The necessary utilities are not impacted by the proposed works.	
6.10 Design excellence	<p>The objective of this clause is to deliver the highest standard of sustainable architecture and urban design.</p> <p>This clause applies to development on land referred to in subclause (3) involving—  (a) the erection of a new building, or  (b) additions or external alterations to an existing building that, in the opinion of the consent authority, are significant.</p>	The proposed development is not subject to the considerations of this Clause as there are no building works proposed.	Yes
6.12 Landscaped areas in certain residential and conservation zones	<p>(a) to ensure adequate opportunities exist for the retention or provision of vegetation that contributes to biodiversity and enhances the tree canopy of the Georges River local government area,  (b) to minimise urban run-off by maximising permeable areas on the sites of development,  (c) to ensure that the visual impact of development is minimised by sufficient and appropriately located landscaping that complements the scale of buildings,  (d) to ensure that the use of surfaces that absorb and retain heat are minimised.</p> <p>Development consent must not be granted to development on land to</p>	<p>The development site is characterised by established landscaping.</p> <p>The proposal results in the removal of 3 non-native trees of poor health and low environmental impact.</p> <p>Replacement planting of the 3 trees is proposed with native species.</p> <p>There is no net loss of landscaped area on the site. Soft soil and deep soil landscaping remains as existing.</p>	Yes

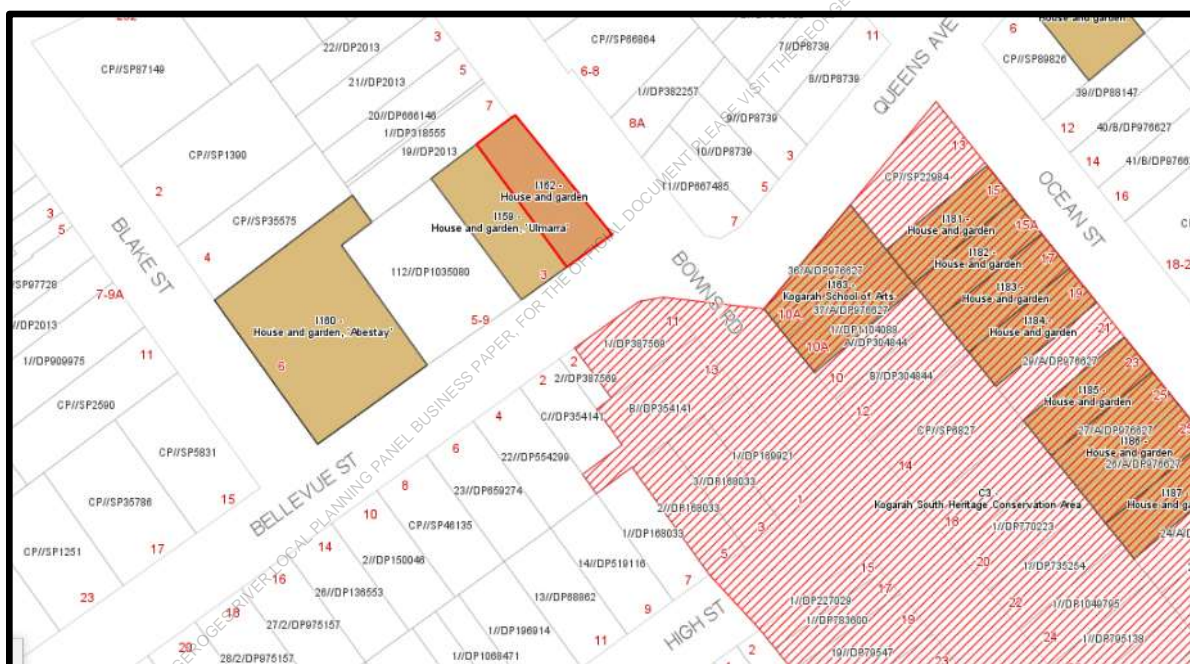


	which this clause applies unless a percentage of the site area consists of landscaped areas that is at least for a dwelling house located on land within the Foreshore Scenic Protection Area—25% of the site area		
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### Heritage Conservation

36. Clause 5.10 of the GRLEP 2021 relates to Heritage Conservation. The subject property is identified as an item of local heritage in accordance with Schedule 5 of the GRLEP 2021 and identified as item number I162. The home was built circa 1910 and a photo of the dwelling in 1924 is represented below at Figure 6 below.
37. Figure 3 below shows the site mapped as item of heritage and its proximity to other heritage items and the nearby Kogarah Heritage Conservation Area in accordance with GRLEP 2021.



**Figure 3:** The subject site identified as a local heritage item I162

38. A Heritage Impact Statement has not been submitted with this proposal to consider the significance of the trees or the impact of removal. However, it is acknowledged that the trees are later introduced plantings to the site and do not appear in the 1943 aerial photos, whereby the trees are not part of an early or original landscaped garden theme or setting to the heritage item, with the dwelling originally built in the early 20<sup>th</sup> century. The early photos of the site contained in the inventory sheet for the heritage item on the SHI Database also depict an open garden setting.

39. The proposed application was referred to Council's Consultant Heritage Advisor for comment. No objection was raised with respect to the proposed works. The proposal is considered to satisfy the objectives and requirements of clause 5.10 of the Georges River LEP 2021 and demonstrates satisfactory consistency with the provisions of Part 3.7 of the Georges River DCP 2021. The proposed development is supported on heritage grounds, subject to recommended conditions which have been referenced at the end of this report. See referral officers' comments at point 59 below.

### DEVELOPMENT CONTROL PLANS

40. The proposed development is subject to the provisions of the Georges River Development Control Plan 2021 (GRDCP). Table 2 below summarises the key planning controls which need to be satisfied and considered in the assessment of the application.

**Table 2: Compliance with GRDCP 2021**

<b>Part 3 – General Planning Considerations</b>			
<b>Applicable Controls</b>	<b>Standards</b>	<b>Proposal</b>	<b>Compliance</b>
<b>3.2.1 Trees and Vegetation</b>	1. Development is to comply with the provisions of the State Environmental Planning Policy (Biodiversity and Conservation) 2021.	1. Complies, Clearance does not exceed the BOST and Council can grant consent for the vegetation removal.	Yes
	2. Development is to comply with the provisions of the Biodiversity Conservation Act 2016 and the Biodiversity Regulation 2017.	2. The proposed works comply with the Biodiversity Conservation Act 2016 and the Biodiversity Regulation 2017.	
	3. Development is to comply with Council's Tree Management Policy and Appendix 1 – Green Web Map and Biodiversity Guide on Council's website.	The proposal has been reviewed by Council's Arboricultural and Landscape Officer and is deemed to comply with Council's Tree Management Policy subject to the imposition of conditions for replacement planting.	
<b>3.7.2 Non-Aboriginal Heritage</b>	1. Retain features (including landscape features) that contribute to the significance of the item. 2. Remove unsympathetic elements, especially where substantial changes are proposed to a heritage	The application has been assessed against the considerations of Clause 5.10 of the GRLEP 2021.  Further to this, Council's Heritage Advisor has reviewed the proposal and is satisfied the outlined matters are	Yes

	<p>item, and there is potential for an improved heritage outcome.</p> <p>Georges River DCP 2021 – Part 3 General Planning Considerations – Amendment No.2 – 28 August 2023 13</p> <p>3. New work is to be consistent with the setback, massing, form and scale of the significant features of the heritage item.</p> <p>4. Retain significant fabric, features or parts of the heritage item that represent key periods of the item's history or development.</p> <p>5. Locate change away from original areas of the heritage item that are intact. For example, where a building's significance is related to the front of a building, locate new work to the rear.</p> <p>6. All works are to be consistent with an adopted Conservation Management Plan/s where applicable.</p>	<p>addressed, the proposal is suitable for the site and will not undermine the significance and integrity of the property and its listing.</p>	
<p><b>3.7.6 - Development in the vicinity of a Heritage Item or Heritage Conservation Area</b></p>	<p>1. Respect and respond to the curtilage, setbacks, form and style of the heritage item or heritage conservation area in the design and siting of new work.</p> <p>2. Maintain significant public domain views to and from the heritage item or HCA.</p> <p>3. Ensure compatibility with the orientation and alignment of the heritage item.</p> <p>4. Provide an adequate area around the heritage item to allow for its interpretation.</p>	<p>The proposal is located in proximity to Local Heritage Item - I159 - <i>House and garden, Ulmarra</i> located at 3 Bellevue Street, the development is considered to be sympathetic for the following reasons:</p> <p>The proposal is minor in nature, the removal of the vegetation will not have an impact on the heritage significant of the adjoining heritage item.</p>	<p>Yes</p>

	<p>5. Retain original or significant landscape features that are associated with the heritage item or that contribute to its setting.</p> <p>6. Protect and allow interpretation of archaeological features as appropriate.</p>	Further to this, Council's Heritage Advisor has reviewed the proposal and is satisfied that the outlined matters are addressed, the proposal is suitable for the locality.	
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### Part 5 – Residential Locality Statements

Applicable Controls	Standards	Proposal	Compliance
Kogarah South Locality Statement	<ul style="list-style-type: none"> <li>• Retain and enhance the existing low density suburban residential character through articulated contemporary developments that respond to the human scale.</li> <li>• Encourage well-designed high density residential development where applicable.</li> <li>• Preserve the high quality of the existing streetscape, especially within the Heritage Conservation Area.</li> <li>• Encourage tree planting and landscaping within the front setback space to enhance the existing leafy streetscape character.</li> <li>• Encourage consistent setbacks of buildings from the street and the provision of landscaping within the front setback with uniform front fence heights.</li> </ul>	<p>The proposal is consistent with the future desired character of the precinct for the following reasons:</p> <p>The proposal does not change the low-density character of the existing dwelling house which is a desired development type in the locality.</p> <p>The proposal does not increase the existing setback of the dwelling to the street or side boundaries.</p> <p>The trees proposed to be removed are considered to be of low amenity value and replacement planting is conditioned which will enhance the landscaping quality of the area.</p>	Yes

### Part 6.1 – Low Density Residential Controls

Applicable Controls	Standards	Proposal	Compliance
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<p><b>6.1.2.5 - Landscaping</b></p>	<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 60% of the street setback area.</p> <p>3. The front setback area is to have an area where at least one (1) tree capable of achieving a minimum mature height of 6m with a spreading canopy can be accommodated. A schedule of appropriate species to consider is provided in Council's Tree Management Policy.</p>	<p>1. The development site is characterised by established landscaping. The proposal results in the removal of 3 non-native trees of poor health and low environmental impact.</p> <p>Replacement planting for the 3 trees is proposed with native species.</p> <p>There is no net loss of landscaped area on the site. Soft soil and deep soil landscaping remains as existing.</p> <p>2. Landscaped area within the front setback (Bellevue frontage) remains unchanged by the proposal.</p> <p>3. The front setback area of the site includes a Norfolk Island Pine which address the criteria for trees with a mature height of 6m. This is not proposed to be removed.</p>	<p>Yes</p>
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## IMPACTS

### Natural Environment

41. The proposed development is not considered to have a detrimental impact on the natural environment, the three trees proposed to be removed are non-native species of limited biodiversity value, the three trees are proposed to be replaced with native, endemic species which as they mature will support fauna in the locality.

### Built Environment

42. The proposed development will not result in an impact on the existing built form of the site, as the dwelling that occupies the site is a heritage item, to ensure no damage occurs to the structure during works, conditions of consent will be imposed to protect the structure during works.

### Social impacts

43. The proposal will not generate any adverse social impacts. The integrity of the heritage item is maintained. Any amenity loss from the removal of the trees to the streetscape will be mitigated by replacement planting.

### Economic impacts

44. The proposed works are not considered to result in any unreasonable economic impacts.

### Suitability of the site

45. The proposed development is permissible in the zone and involves tree removal within the site of a heritage-listed dwelling house. The site is suitable for the development as the three trees listed for removal are of poor health and subsequently limited amenity value, there is sufficient area on site to accommodate replacement planning. The removal of vegetation will not undermine the heritage significance of the listing, subject to compliance with the recommended conditions.

## SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST

46. The application was advertised and notified with a sign placed onsite for a 28 day period in accordance with the provisions of Section 2.4 of the Georges River Development Control Plan 2021 and the Georges River Community Engagement Strategy 2023-2033. No submissions were received.

### Council Referrals

#### Heritage Advisor

47. The application was referred to Council's Heritage Advisor for comment. No objection was raised in respect to the works subject to the imposition of conditions. The following response was provided.
- In this manner, while the removal of the trees will result in a denuding of the landscaped setting of the site, the existing trees are not considered to substantially contribute to the landscaped setting and are considered of low significance, where there are no objections to removal.*
  - Replacement tree planting of a suitable species that is complementary to the period and style of the heritage item is encouraged but not essential.*
  - The proposal is considered to satisfy the objectives and requirements of clause 5.10 of the Georges River LEP 2021 and demonstrates satisfactory consistency with the provisions of Part 3.7 of the Georges River DCP 2021.*
  - The proposed development is supported on heritage grounds, subject to the following conditions, which are required to address heritage issues:*

All supplied conditions have been included in the recommended conditions of consent referenced at the end of this report.

#### Landscape Officer

48. The application was referred to Council's Landscape Officer to assess if removal of the three trees was a suitable outcome for the site. Council's Landscape Officer provided the following assessment:

- a) *Reviewing the Arboricultural Impact report and after a site inspection conducted at the property it has been determined that Tree 1, an Acer negundo (Box Elder) in poor health and condition, warrants removal.*
- b) *Trees 2 and 3 are Robinia pseudoacacia (Black Locust) while not on the Georges River undesirable species list they are regarded as weeds by the state government and are often included in exempt lists of other Local Governments.*
- c) *Due to the low landscape significance of the trees and their undesirable nature there is no objection to their removal and replacement.*
- d) *It is recommended that the trees are replaced at a 1:1 ratio as the property is already substantially vegetated and a 2:1 replacement ratio would not be appropriate or allow for a sustainable landscape scheme.*

49. No objection was raised in respect of the proposed works which are considered to be supportable subject to the imposition of conditions. Council's Landscape Officer has supplied standard conditions of consent for the removal of the three trees and a 1 for 1 replacement planting.

#### **External Referrals**

##### Ausgrid

50. The proposal includes works that are within proximity to electrical infrastructure. Therefore, the proposal was referred to Ausgrid per Division 5, Subdivision 1, Clause 2.48 of State Environmental Planning Policy (Transport and Infrastructure) 2021. Ausgrid responded that they had no objection to the proposal provided that the works are in accordance with Ausgrid's Network Standards. As such standard advice regarding Ausgrid Clearances have been included in the consent relevant to the tree removal works.

#### **Public Interest**

51. The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls and specific numeric standards. This development is considered to be a satisfactory outcome for the site without impacting the heritage item. No submissions were received.

#### **Section 7.12 Contributions**

52. The development is not subject to Section 7.11/7.12 Contributions in accordance with the Georges River Local Development Contributions Plan 2021 as the cost of works are less than \$100,000.

#### **CONCLUSION**

53. The application has been assessed having regard to Section 4.15 of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policies and the provisions of the Georges River Local Environmental Plan 2021 and the Georges River Development Control Plan 2021.



54. The proposal on its merits is an acceptable outcome (subject to the imposition of conditions) for the reasons outlined within this report. The proposal is reasonable and compliant with the key planning controls and will not result in any unreasonable or adverse amenity outcomes. Considering this the proposal is recommended for approval subject to the conditions recommended below.

## DETERMINATION AND STATEMENT OF REASONS

### Statement of reasons

55. The reasons for the recommendation are:
- The proposed tree removal does not undermine the heritage significance of the listing being 'home and garden'.
  - The tree removal and its replacement has been supported by Council's Consulting Heritage Advisor.
  - The development is permissible in the zone.
  - The development complies with the Georges River Local Environmental Plan 2021 and the Georges River Development Control Plan 2021.
  - The proposed tree removal will not adversely affect adjoining properties or users of the public domain.
  - The proposal will retain the significance and integrity of the Heritage Item on site and that adjoining, the tree removal will not adversely affect the contributory nature of the garden to the heritage item subject to the imposition of conditions for replacement planting.

### Determination

56. That pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979 (as amended) the Georges River Local Planning Panel, grant development consent to development application DA2024/0047 for removal of three (3) trees being an Acer negundo (Box Elder) and two (2) Robinia pseudoacacia (Black Locust) within Lot 14 Section 1 DP975157 known as 9 Bowns Street, Kogarah subject to the following conditions.

### Development Details

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

Approved Plans				
Description	Drawing No.	Date	Revision	Prepared by
Site Plan	1 of 1	04 April 2024	-	Kevin Coleman

Documents Relied Upon				
Description	Drawing No.	Date	Revision	Prepared by
Arboricultural Assessment Report	-	27 JAN 2024	-	Seasoned Tree Consulting

## 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. **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	\$550.00
Inspection Fee for Refund of Damage Deposit	\$200.00.
<b>DEVELOPMENT CONTRIBUTIONS</b>	
Georges River Council Local Infrastructure Contributions Plan 2021 (Section 7.11 and Section 7.12)	Nil

### General Fees

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

### Development Contributions

A Section 7.12 contribution has been levied on the subject development pursuant to the Georges River Council Section 94A Contributions Plan 2017.

### Timing of Payment

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

### Further Information

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

#### 4. **Damage Deposit** - In order to insure against damage to Council property the following is required:

- a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$550.00**
- b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: **\$200.00**
- c) Submit to Council, before the commencement of work, a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

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

5. **Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the Roads Act 1993 and/or under Section 68 of the Local Government Act 1993. Penalty infringement Notices may be issued for any offences and severe penalties apply.
6. **Cost of work to be borne by the applicant** - The applicant shall bear the cost of all works associated with the construction of the development that occurs on Council property. Care must be taken to protect Council's roads, including the made footway, kerbs, etc., and, where plant and vehicles enter the site, the footway shall be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction shall be maintained in a state of good repair and condition throughout the course of construction.

#### **Prior to the Commencement of Work (Including Demolition And Excavation)**

7. **Uncovering of concealed architectural features or detailing** - Should any concealed architectural features or detailing, not previously noted in the DA documentation, be discovered during demolition or building works, all works are to immediately cease and the architectural features or detailing to be photographically recorded and Council's Heritage Advisor is to be contacted for advice.

#### **During Construction**

8. **Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the [Roads Act 1993](#) and/or under Section 68 of the [Local Government Act 1993](#). Penalty infringement Notices may be issued for any offences and severe penalties apply.
9. **Hours of construction for demolition and building work** - Unless authorised by Council:
  - a. Building construction and delivery of material hours are restricted to: 7.00am to 5.00pm (inclusive) Monday to Saturday and no work on Sundays and Public Holidays.
  - b. Demolition and excavation works are restricted to: 8.00 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.
10. **Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt.

Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the PCA and Council, where Council is not the Principal Certifying Authority

11. 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.
12. Tree Removal and Replacement Planting on site - Permission is granted for the removal of the following trees:

Tree No.	Species	Location
1	<i>Acer negundo</i> (Box Elder)	Read yard
2	<i>Robinia pseudoacacia</i> (Black Locust)	Rear yard
3	<i>Robinia pseudoacacia</i> (Black Locust)	Rear yard

*Note: refer to Arboricultural Impact Assessment Report prepared by Seasoned Tree Consulting dated 2 January 2024 for tree numbering and location only.*

All tree removal shall be carried out by a minimum AQF Level 3 Arborist with appropriate insurance. Tree removal is to be undertaken safely and in compliance with AS 4373-2007 - *Pruning of Amenity Trees* and *Tree Works Industry Code of Practice (Work Cover NSW 1.8.98)*.

- a) Three (3) x 300mm replacement trees, which will attain a minimum mature height of six (6) metres and minimum canopy spread of five (5) at maturity, must be planted within the property. The tree must be grown to AS2303 – 2018, *Tree stock for landscape use*. The species must be selected from Georges River Tree Management Policy 2019, Appendix 1. The new tree must be planted in natural ground and appropriately located away from existing buildings and structures to grow without restriction. These trees are to be in place prior to the damage deposit being returned.
13. Tree Pruning - The consent from Council must be obtained prior to the undertaking of any tree pruning, including tree roots greater than 40mm in diameter. Only minor pruning will be permitted by Council.

## OPERATIONAL CONDITIONS

### 14. 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 Councils Tree Management Controls. If any trees are found to be faulty, damaged, dying or dead before they are protected by Councils Tree Management Controls then they must be replaced with the same species and pot/bag size.

## POST COMPLETION OF WORKS

15. Completion of Landscape Works - All landscape works, the planting of all tree and plant material in accordance with approved landscape plans and specifications and conditions of consent must be completed. A certificate of compliance prepared by a qualified Landscape Designer, AQF3 Horticulturist, or AQF5 Arborist must be submitted to Council within 72 hours after tree installation. This documentation must be made available to Council's Tree Compliance Officer on request.

## END CONDITIONS

## NOTES/ADVICE

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

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

2. Appeal Rights - Part 8 (Reviews and appeals) of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court of New South Wales.
3. Lapsing of Consent - This consent will lapse unless the development is physically commenced within 5 years from the Date of Operation of this consent, in accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979 as amended.
4. Sydney Water Section 73 Certificates - The section 73 Certificate must be a separate certificate that relates specifically to this development consent. For example, if the development consent relates to the subdivision of the land, a Section 73 Certificate for the construction of the building that is subject to a different development consent will not suffice.
5. Ausgrid Underground Cables – Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways. It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Dial Before You Dig (DBYD).

In addition to DBYD the proponent should refer to the following documents to support safety in design and construction:

SafeWork Australia – Excavation Code of Practice.

Ausgrid's Network Standard NS156 which outlines the minimum requirements for working around Ausgrid's underground cables.

The following points should also be taken into consideration.

Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.

Should ground anchors be required in the vicinity of Ausgrid underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

6. Ausgrid Overhead Powerlines - The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.

Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected to be entering and leaving the site.

The “as constructed” minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website at [www.ausgrid.com.au](http://www.ausgrid.com.au).

It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer’s cost.

Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances “Working Near Ausgrid Assets - Clearances”. This document can be found by visiting the following Ausgrid website: [www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries](http://www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries).

For new connections or to alter the existing electrical connection to the property from the Ausgrid network, the proponent should engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable.

Visit the Ausgrid website for further details:

<https://www.ausgrid.com.au/Connections/Get-connected>

7. 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 above \$250,000.

Payments will be accepted for amounts up to \$21,000, using either MasterCard or Visa.



## ATTACHMENTS

Attachment [↓](#)1 Revised Site Plan - 9 Bowns Road, KOGARAH NSW 2217 - DA2024/0047



LPP017-24

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)

Site plan. (Already covered in the level 5 Arborist report.)

