

AGENDA

Georges River Local Planning Panel

Thursday, 23 October 2025

4:00 PM

Blended Meeting

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

Participants:

Donna Rygate (Chairperson)

Awais Piracha (Expert Panel Member)

David Epstein (Expert Panel Member)

Lisa Pemberton (Community Representative)

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. We pay our 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

LPP029-25	19-21 Argyle Street Penshurst – DA2024/0618 (Report by Principal Planner)	3
LPP030-25	44 Belmore Road Peakhurst – DA2025/0284 (Report by Consultant Planner)	68
LPP031-25	34 Parkside Drive, Kogarah Bay – DA2025/0248 (Report by Development Assessment Planner)	120
LPP032-25	4 Queens Road, Kogarah – DA2025/0266 (Report by Senior Development Assessment Planner)	185
LPP033-25	34 Beach Street, Blakehurst – DA2024/0460 (Report by Principal Planner)	281

9. CONFIRMATION OF MINUTES

Georges River Local Planning Panel Meeting - 23 October 2025

REPORTS AND LPP DELIBERATIONS**REPORT TO GEORGES RIVER LOCAL PLANNING PANEL MEETING OF THURSDAY, 23 OCTOBER 2025****LPP029-25 19-21 ARGYLE STREET PENSHURST**

LPP029-25

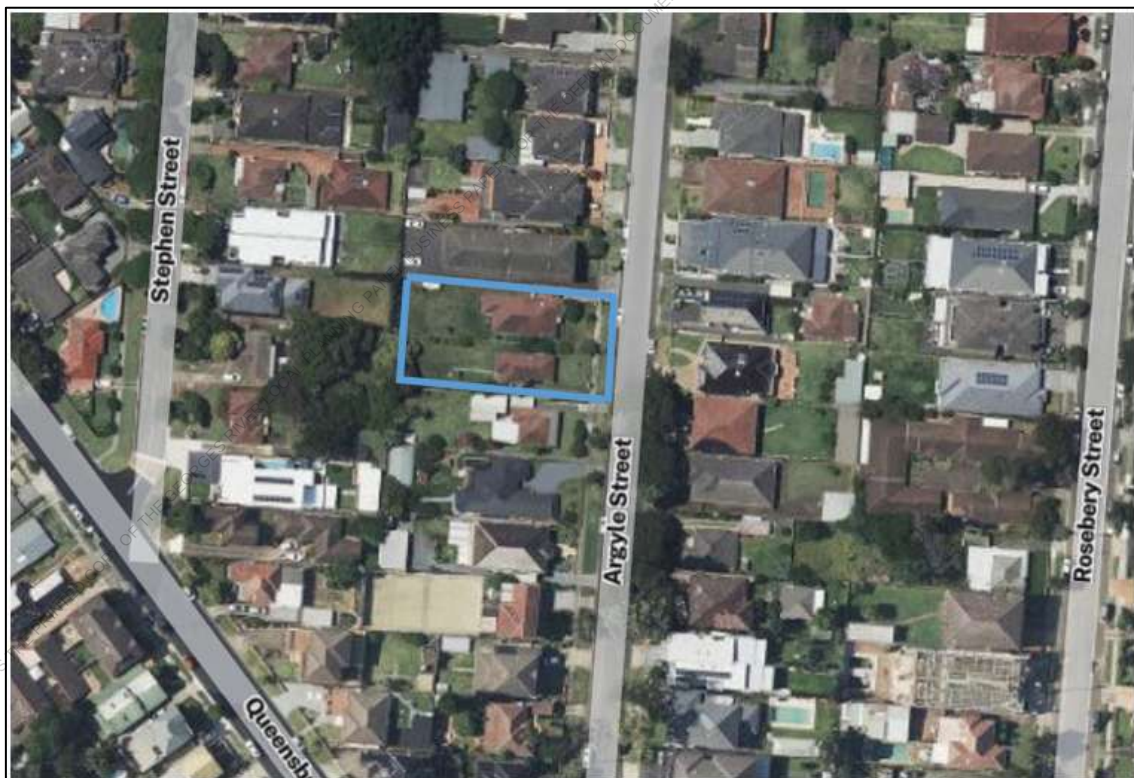
LPP Report No	LPP029-25	Development Application No	DA2024/0618
Site Address & Ward Locality	19-21 Argyle Street Penshurst Mortdale Ward		
Proposed Development	Lot consolidation, tree removal, demolition of the existing structures and construction of a 2 storey centre-based child care facility accommodating 76 children with associated basement parking and landscaping		
Owners	Mr Sam Michael Hanna		
Applicant	M Makhoul		
Planner/Architect	Think Planners		
Date Of Lodgement	29/01/2025		
Submissions	Seventy-nine (79)		
Cost of Works	\$2,541,306.07		
Local Planning Panel Criteria	More than 10 unique submissions		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Transport & Infrastructure) 2021 (T&I SEPP) Georges River Local Environmental Plan 2021 (GRLEP 2021) Georges River Development Control Plan 2021 (GRDCP 2021)		
List all documents submitted with this report for the Panel's consideration	Planning Assessment Report Architectural Drawings Acoustic Report		
Report prepared by	Principal Planner		

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

SITE PLAN



EXECUTIVE SUMMARY

PROPOSAL

- Development Application No. DA2024/0618 seeks development consent for lot consolidation, tree removal, demolition of the existing structures and construction of a 2 storey centre-based child care facility accommodating 76 children with associated basement parking and landscaping on the land at 19-21 Argyle Street, Penshurst.

2. The centre will cater for children as follows:
 - ☐ 16 x 0-2 year olds;
 - ☐ 30 x 2-3 year olds; and
 - ☐ 30 x 3-6 year olds.
3. A total of thirteen (13) educators will be employed and the hours of operation will be:
 - ☐ 7:00am to 6.00 pm Monday to Friday, with no operation on public holidays.
4. The proposed works will comprise the following:
 - ☐ Demolition of 2 single storey dwellings.
 - ☐ Construction of a 2-storey centre-based child care facility, consisting of the following:

Basement Level

- o Combined vehicular entry/exit into the basement to the northern corner of the site off Argyle Street.
- o 19 parking spaces incorporating 13 visitor spaces (including an accessible space) and 6 staff spaces (NB: 1 further staff space is site at grade within front setback to the south of access ramp, resulting in a total of 20 parking spaces).
- o A turning bay.
- o Pedestrian crossing.
- o Service areas including: waste storage area, pump room, lift and stair access.

Ground Floor Level

- o Pedestrian entry ramp off Argyle Street.
- o Four indoor playrooms catering for a range of children of varying age groups.
- o Outdoor area with covered patio.
- o Reception, admin/office, and WCs.
- o Lift and stair access.
- o First floor level
- o Office, staff room, kitchen, laundry and WCs
- o Lift and stair access.

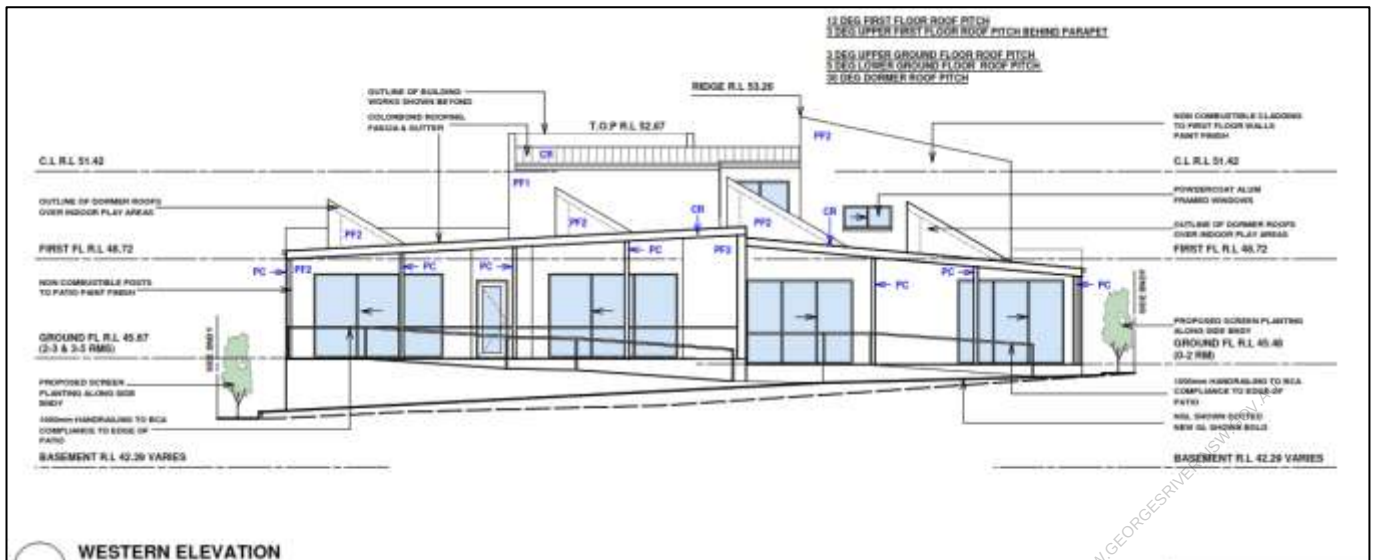
First Floor

- o Office, staff room, kitchen, laundry and WCs
- o Lift and stair access.

5. The following images outline the proposed development and built form.



Eastern Elevation – Argyle Street



Western Elevation (Rear)



Architectural Section of Child Care Centre

SITE AND LOCALITY

6. The site comprises of two allotments legally described as Lots 5 and 6 DP 35165 and known as 19 and 21 Argyle Street, Penshurst. The development also extends into a narrow parcel of land identified as Lot 35 Section 5 DP 3446, known as 21R Argyle Street, Penshurst, which contains an existing drainage easement (approximately 1.3m wide).
7. The combined site has a frontage of 28.35m, a depth of 50.75m and a total area of approximately 1,438.4m².
8. The site falls approximately 2.09m from the rear (north-western boundary RL43.49) to street (south-eastern boundary RL45.58).
9. Each lot is presently occupied by a single storey dwelling house and a variety of trees. In addition, a Weeping Bottlebrush is located within the street reserve, directly opposite 19 Argyle Street.
10. The properties immediately adjoining the site to the north and south are also occupied by single storey dwelling houses (25 Argyle Street – north and 17 Argyle Street – south).
11. A three storey “walk-up” residential flat building known as “Marana” is located further to the north at 27 Argyle Street.

ZONING AND PERMISSIBILITY

12. The subject site is zoned R2 Low Density Residential and centre-based child care facilities are permitted within the zone and satisfy the objectives of the zone, through the delivery of services to meet the day to day needs of residents.

REASON FOR REFERRAL TO THE LOCAL PLANNING PANEL

13. The application is referred to the Georges River Local Planning Panel for determination as more than seventy-nine (79) unique submissions were received.

SUBMISSIONS

14. The application was placed on public exhibition and adjoining residents were notified by letter and given twenty-one (21) days notification from 27 February 2025 to 20 March 2025. Seventy-nine (79) submissions were received.
15. Issues raised in the submissions are summarised below:
- ☐ Site suitability noting the site is located in low density residential zone rather than commercial and not in close proximity to train stations.
 - ☐ Acoustic impacts resultant from numbers of children and associated traffic.
 - ☐ Traffic congestion and impacts to on-street parking caused by the development, including pick-up and delivery.
 - ☐ Limiting access to footpath in Argyle Street.
 - ☐ Increase in noise and pollution during construction.
 - ☐ Safety concerns for residents.
 - ☐ Social impact noting that there are at least 9 childcare centres in Penhurst.

BACKGROUND

16. On 9 April 2025, the applicant submitted a class 1 appeal for the deemed refusal to the Land and Environment Court (LEC) (case number 2025/00134281).
17. The Section 34 conference was heard on 16 September 2025 and was adjourned pending further information on acoustic, stormwater, planning and landscaping matters.
18. The matter is listed for an updated with the LEC on 1 October 2025.

ASSESSMENT

19. The application has been assessed having regard to the Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, GRLEP2021 and GRDCP 2021. The subject application has not provided sufficient information and does not comply with the following applicable planning provisions:
- a) Biodiversity and Conservation SEPP:
 - i. Section 2.6 - Clearing that requires permit or approval
 - ii. Section 6.2 - Water quantity and quality
 - iii. Section 6.21 - Stormwater management
 - b) T&I SEPP:
 - i. Chapter 3 Section 3.3 – Early education and care facilities – specific development controls
 - c) GRLEP 2021
 - i. Clause 6.2 – Earthworks
 - ii. Clause 6.3 – Stormwater management
 - iii. Clause 6.8 – Development in areas subject to aircraft noise
 - iv. Clause 6.9 – Essential services

- d) GRDCP 2021
 - i. Section 3.12 – Waste management plan
 - ii. Section 3.13 – Parking and access
 - iii. Section 3.15 – Earthworks
 - iv. Section 3.17 – Accessible design
 - v. Section 4.2.2 – Child care parking requirements
 - vi. Section 3.5.2 – Construction management/erosion and sediment control
 - vii. Section 3.20.3 – Noise generating development
 - viii. Section 4.2.1 – Early education and child care facilities setbacks
 - ix. Section 4.2.4 – Management operations
 - x. Section 6.1.2.3 – Setbacks
 - xi. Section 6.4.1 – Fences and walls

- 20. The proposed development fails to comply with the *Child Care Planning Guideline (CCPG)* Part 3.2 requirements for local character compatibility and will result in adverse streetscape impacts from building form and removal of significant trees, resulting in a loss of the existing landscaped setting. On this basis, the application does not satisfy Section 3.23 of the Transport and Infrastructure SEPP.
- 21. The built form fails to comply with the setback controls under Section 4.2.1 and 6.1.2(3) of the GRDCP 2021. The development incorporates a front setback ranging from 6.60m to 7.93m, which is inadequate compared to the prevailing setback of 7.63m for adjoining properties.
- 22. The proposal includes excessive hardstand areas within the front setback, including at-grade parking, basement entry, pedestrian ramps, and a 3.39m x 2.36m hardstand area. This configuration, combined with the removal of all front setback trees, creates an incongruous streetscape that contradicts the locality's desired tree-lined character. The development also fails to provide compliant side setbacks, with nil basement setback to the drainage easement and only 0.4m basement setback to the southern boundary, preventing the ability to plant adequate landscape screening. Having regard to the above, the application is inconsistent with the provisions contained in Part 3.2, 3.3. and 3.4 of the CCPG, Parts 4.2, 5.5.1 and 6.1.2 of GRDCP 2021.
- 23. The car parking arrangement does not comply with Section 3.13 (12)(13) and (30) of the GRDCP 2021 and Clause 3.2.1(b) of AS 2890.1-2004 standards. The development fails to demonstrate compliant pedestrian sight distance at the driveway entry. The proposed tandem parking arrangement creates unsafe conflicts between visitor and staff parking, contravening Section 3.13(40)(vi) of the GRDCP 2021 which requires tandem spaces be allocated to staff only.
- 24. The parking layout incorporates a dangerous pedestrian walkway between drop-off and staff spaces, creating crushing risks, being inconsistent with Section 3.13 objectives (a)-(b) of the GRDCP 2021 and Section C35 of the CCPG. Swept path analysis is inadequate as it fails to demonstrate simultaneous two-way vehicle passing at the ramp base. Drop-off spaces do not meet User Class 3A requirements, and the provision of staff parking within the front setback area creates unacceptable streetscape impacts, resulting in a non-compliance with Objective C and Section 3.13(1) of Section 3.13 of the GRDCP 2021.

25. The Traffic and Parking Impact Assessment (TPIA) indicates the development will generate 61 morning and 53 evening peak hour vehicle trips but fails to adequately assess distribution impacts on the external road network. Concern exists regarding the closely spaced intersections of Queensbury Road/George Street and Forest Road/George Street, where three crashes have occurred over five years including one serious injury. The assessment has not demonstrated that the development will not create unacceptable impacts on intersection performance and safety, and inappropriately relies on two on-street parking spaces for child set-down and pick-up activities.
26. The Acoustic Assessment lacks sufficient detail for proper evaluation, failing to provide receiver levels (RL) for surrounding properties to verify the noise model. Inconsistencies exist between the Plan of Management (POM) and Acoustic Assessment regarding outdoor play schedules. The acoustic fence heights are unclear relative to existing versus finished ground levels, preventing proper assessment of mitigation effectiveness.
27. The proposal involves removal of all existing site vegetation, failing to satisfy the objectives of Clause 6.12(1) and requirements of Clause 6.12(4)(a)(e) of the GRLEP 2021 which requires integration with existing vegetation. The development does not achieve the 2:1 tree replacement ratio required by Council's Tree Management Policy, representing a poor environmental outcome. Several palms in good condition are recommended for removal despite providing instant height and landscape amenity. The extensive use of artificial turf in outdoor areas contradicts CCPG Principle 5 and Regulation 113 of the *Education and Care Services National Regulations*, which emphasise natural landscape elements for children's development.
28. The development fails to demonstrate adequate stormwater drainage arrangements as required by Clause 6.9(e) of the GRLEP 2021. Critical deficiencies include the absence of an Overland Flow Assessment Report despite a Council stormwater pipe traversing the northern boundary, inadequate basement flood risk consideration, insufficient on-site detention (OSD) tank sizing based on unrepresentative impermeability factors, and conflicts between the proposed sand pit and OSD tank location. The drainage easement planting appears incompatible with overland flow conveyance functions, and insufficient detail exists regarding connection to Council's stormwater network.
29. The proposed waste management arrangements fail to comply with Section 3.12 and Appendix 4 of the GRDCP 2021. The development lacks detailed architectural plans showing waste management infrastructure locations, including the proposed waste collection point. Insufficient information exists regarding construction material management and resource recovery procedures.
30. The site demonstrates fundamental unsuitability for child care use, requiring restrictive acoustic management including 2.4m high boundary fencing. The development fails to respond appropriately to site topography, with rear finished floor levels 1.67m above existing ground creating significant ramping requirements for users and overlooking impacts for adjoining residential properties. Combined with flooding and overland flow constraints, these factors indicate the site is inherently unsuitable for the proposed child care facility use as outlined in CCPG Part 3.1.
31. The development application should be refused because the proposed development is not in the public interest having regard to the adverse impacts raised in this report.
32. Finally, the submitted application contains insufficient and inconsistent information as outlined below:

- ☐ Owner's consent is required for any works located within the drainage easement in the northern portion of the site
- ☐ Gross Floor Area (GFA) calculations requiring scaled and annotated plans per level relative to site area, with clarification of areas protruding greater than 1m above existing ground and all GFA areas annotated on architectural plans
- ☐ Shadow impact diagrams distinguishing between existing and proposed building shadows, including fences and buildings on adjoining land, required for winter solstice (21 June) at 9:00am, 12:00pm and 3:00pm
- ☐ Visual privacy impact assessment specifying locations of windows and other sensitive areas to understand impacts on surrounding properties
- ☐ Detailed retaining wall and stair plans including existing and proposed levels to AHD, scaled and sited wholly within property boundaries
- ☐ Comprehensive acoustic fencing details including:
 - o Height of existing boundary fencing relative to existing ground level (in RLs to AHD and metres)
 - o Height of proposed boundary fencing including retaining walls to existing and proposed ground levels
 - o Confirmation fencing is sited wholly within property boundaries
 - o Consistency with Acoustic Assessment recommendations
- ☐ Building services details including type, dimensions and location of all services
- ☐ Building height compliance verification with annotated sections and building height plane diagram confirming compliance with GRLEP 2021 Clause 4.3, or written request under Section 35B if height variation sought
- ☐ Staff number inconsistencies between TPIA (14 staff), POM and SEE (13 staff), with no details of additional administrative and educator staff requirements
- ☐ Waste management inconsistencies including:
 - o TPIA references temporary holding area not shown on architectural drawings
 - o POM inconsistencies regarding staff car parking spaces
 - o Conflicting waste collection timeframes within POM
 - o Unclear basement car park access restrictions (maximum 2 staff vehicles 6:45am-7:00am)
- ☐ Flooding emergency procedures not identified in the POM
- ☐ Hazardous materials management plan for demolition of existing buildings not provided

33. The table below presents a summary of numerical compliance:

Development Standard	Required	Proposed	Compliance
T&I SEPP Chapter 3 Section 3.23 <i>Consideration any applicable provisions of the Child Care Planning Guideline (CCPG)</i>	CCPG Section 3.1 - Site selection: ☐ Consider acoustic and privacy impacts ☐ Traffic and parking ☐ Visual impacts	Insufficient acoustic report provided. Rear ramps and landscaping results in unacceptable overlooking of surrounding residential properties. Non-compliant setbacks with GRDCP 2021. Carparking layout and design is insufficient. Insufficient landscaping providing within the	No

Development Standard	Required	Proposed	Compliance
		front setback and throughout the site.	
	<u>CCPG</u> Section 3.2 – Local Character and the Public Domain Interface: ☐ respond to predominant streetscape ☐ orientation of building to maintain privacy ☐ height and setbacks consistent with surrounding form and streetscape	Insufficient information has been provided to confirm proposed height of the development and height of the basement above ground. <u>Northern side setback</u> ☐ Basement – nil ☐ Ground – 0.85m to drainage easement being 2.12m from boundary of 25 Argyle Street <u>Southern side setback:</u> ☐ Basement – 0.4m ☐ Ground – 1.6m The above setbacks are no sufficient and negate the ability to provide screen planting. In addition, the side elevations are not suitably articulated.	No
	<u>CCPG</u> Section 3.4 – Landscaping ☐ Appropriate planting should be provided along the boundary integrated with fencing.	Inadequate landscaping is proposed.	No
	<u>CCPG</u> Section 3.5 – Visual and acoustic privacy Section 3.36 – Noise and air pollution	As discussed above, the proposal fails to maintain acoustic and visual privacy.	No
	<u>CCPG</u> Section 3.8 – Traffic, Parking and pedestrian circulation	The parking and layout design and circulation is unacceptable as discussed above.	No
<u>T&I SEPP</u> Chapter 3 Section 3.26(b) <u>National Regulations</u> Section 107 and 108	<u>Indoor Space</u> ☐ Min 3.25m² per child <u>Indoor Storage</u> ☐ Min 0.2m² (15.2m²)	Indoor space = 267m ² Internal storage = 27m ² External space = 555m ² External storage = 23m ²	Yes

Development Standard	Required	Proposed	Compliance
	<u>Outdoor Space</u> ☐ Min 7m ² per child <u>External Storage</u> ☐ Min 0.3m ² (22.8m ²)		
Height (GRLEP 2021 - Cl.4.3)	Max of 9m	Approximately 8.1m but insufficient information provided with application to determine accurate height.	Not known
Floor Space ratio (GRLEP 2021 – Cl.4.4)	0.383:1 (550.1m ²)	0.30:1 (427m ²)	Yes
Car Parking (GRDCP 2021 – Section 3.13 and Section 3.17)	18 parking spaces required: ☐ 1 space per 2 staff (4 spaces) ☐ 1 space per 6 children (13 spaces); and ☐ 1 accessible space	The proposal provides 20 car parking spaces for: • 13 visitor spaces • 7 staff (includes one (1) staff car space provided at-grade).	Yes
Setbacks (GRDCP 2021)	Front = 7.66m Side = 1.2m Rear = 7.613m	Front = insufficient information to assess Side = 1.2m to 1.53m Rear = 14.87m	No
Fences and Walls (GRDCP 2021)	Fence heights are to be limited to a maximum of: ☐ 900mm for solid masonry; ☐ 1.2m for open or partially transparent styles such as picket or palisade.	Insufficient information has been provided to ascertain fencing height details.	Not known

CONCLUSION

34. The proposal has been assessed against the relevant provisions of the State Environmental Planning Policies, the provisions of the GRLEP 2021 and GRDCP 2021.
35. Having regard to the objectives of the applicable controls it is considered that the proposal fails to demonstrate compliance with the following Environmental Planning Instruments and Development Control Plan and is not considered to be suitable for the site.

RECOMMENDATION

36. Pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 (as amended), DA2024/0618 which seeks consent for lot consolidation, tree removal, demolition of the existing structures and construction of a 2 storey centre-based child care facility accommodating 76 children with associated basement parking and landscaping on Lot 5 and 6 DP 35165 at 19-21 Argyle Street, Penshurst, is refused for the reasons outlined below:
1. The application fails to provide sufficient information to assess the impacts of the proposed development, pursuant to Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act 1979.
 2. The proposed development fails to demonstrate compliance with Chapter 3 Section 3.23, of the State Environmental Planning Policy (Transport and Infrastructure) 2021 and in particular the *Childcare Planning Guideline*, pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
 3. The proposal fails to provide setbacks in accordance with Section 4.2.1 and 6.1.2.3 of the Georges River Development Control Plan 2021, pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979.
 4. The proposal fails to provide adequate car parking design requirements in accordance with Section 3.13 of the Georges River Development Control Plan 2021, pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979.
 5. The proposed acoustic fencing height is excessive and fails to comply with Section 6.4.1 of the Georges River Development Control Plan 2021, pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979.
 6. The proposed built form will result in unacceptable bulk and scale, overlooking and potential overshadowing of adjoining residential properties and the proposal has failed to demonstrate that the development will make a positive contribution to the streetscape and the character of the area as the siting, scale, bulk, massing, and landscaping of the development is generally inconsistent from an urban design perspective, pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, with regards to proposed built environment.
 7. The proposal, in its current form, is not considered to be suitable for the site, pursuant to Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979.
 8. The proposed development, in its current form, is not considered to be in the public interest and is likely to set an undesirable precedent, pursuant to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS

Attachment [1](#) Assessment Report - 19-21 Argyle Street Penshurst - DA2024-0618



Attachment [2](#) Architectural Plans for LPP - 19-21 Argyle Street Penshurst - DA2024-0618





Delegated Assessment Report

DA2024/0618

Lot 5 and 6 DP 35165

19-21 Argyle Street, PENSHURST

Acknowledgment of Country

Georges River Council acknowledges the Bidjigal people of the Eora Nation, who are the Traditional Custodians of all lands, waters and sky in the Georges River area. Council recognises Aboriginal and Torres Strait Islander peoples as an integral part of the Georges River community and values their social and cultural contributions. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples who live work and meet on these lands.

Report Summary	3
Proposal.....	3
Site and Locality.....	4
Site Description	4
Aerial Image of Land Zoning.....	5
Aerial Image of Site	6
Background	6
Processing.....	6
Site Inspection	6
Assessment - Section 4.15 Evaluation	7
The provisions of any environmental planning instrument (EPI).....	7
The Provisions of any applicable Act.....	7
The Provision of any Applicable State Environmental Planning Policy (SEPPs).....	7
Provisions of any Local Environmental Plan	31
Georges River Local Environmental Plan 2021	31
Provisions of any Proposed Instrument.....	35
Provisions of any Development Control Plan	35
Georges River Development Control Plan 2021	35
Any Planning Agreement Under Section 7.4.....	43
The Regulations	43
The Likely Impacts of the Development	43
Site Suitability	44
Submissions	44
The Public Interest.....	45
Referrals.....	45
Contributions.....	48
Conclusion.....	48
Determination	48



Report Summary

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

The assessment recommends that Council as the Consent Authority pursuant to Section 4.16 (1)(b) Environmental Planning & Assessment Act 1979, refuse to the before mentioned Development Application due to the reasons discussed within this report.

Proposal

The works proposed in this application are specifically outlined below:

Development Application No. DA2024/0618 seeks development consent for lot consolidation, tree removal, demolition of the existing structures and construction of a 2-storey centre-based child care facility accommodating 76 children with associated basement parking and landscaping on the land at 19-21 Argyle Street, Penshurst

The centre will cater for children as follows:

- 16 x 0-2 year olds;
- 30 x 2-3 year olds; and
- 30 x 3-6 year olds.

A total of thirteen (13) educators will be employed and the hours of operation will be:

- 7:00am to 6.00 pm Monday to Friday, with no operation on public holidays.

The proposed works will comprise the following:

- Demolition of 2 single storey dwellings.
- Construction of a 2-storey centre-based child care facility, consisting of the following:

Basement level

- Combined vehicular entry/exit into the basement to the northern corner of the site off Argyle Street.
- 19 parking spaces incorporating 13 visitor spaces (including an accessible space) and 6 staff spaces (NB: 1 further staff space is site at grade within front setback to the south of access ramp, resulting in a total of 20 parking spaces).
- A turning bay.
- Pedestrian crossing.
- Service areas including: waste storage area, pump room, lift and stair access.

Ground floor level

- Pedestrian entry ramp off Argyle Street.
- Four indoor playrooms catering for a range of children of varying age groups.



- Office, staff room, kitchen, laundry and WCs
- Lift and stair access.

[illegible]

Figure 1 – Landscape plan (Source: Contour Landscape Architecture)

Site and Locality

The site comprises of two allotments legally described as Lots 5 and 6 DP 35165 and known as 19 and 21 Argyle Street, Penshurst. The development also extends into a narrow parcel of land identified as Lot 35 Section 5 DP 3446, known as 21 Argyle Street, Penshurst, which contains an existing drainage easement (approximately 1.3m wide).

The combined site has a frontage of 28.35m, a depth of 50.75m and a total area of approximately 1,438.4m².

The site falls approximately 2.09m from the rear (north-western boundary RL43.49) to street (south-eastern boundary RL45.58).

Each lot is presently occupied by a single storey dwelling house and a variety of trees. In addition, a Weeping Bottlebrush is located within the street reserve, directly opposite 19 Argyle Street.

The properties immediately adjoining the site to the north and south are also occupied by single storey dwelling houses (25 Argyle Street – north and 17 Argyle Street – south).

A three storey “walk-up” residential flat building known as “Marana” is located further to the north at 27 Argyle Street.

Aerial Image of Land Zoning



Figure 2 –Aerial view of development site outlined in red (Source: NSW Spatial Viewer)



Aerial Image of Site

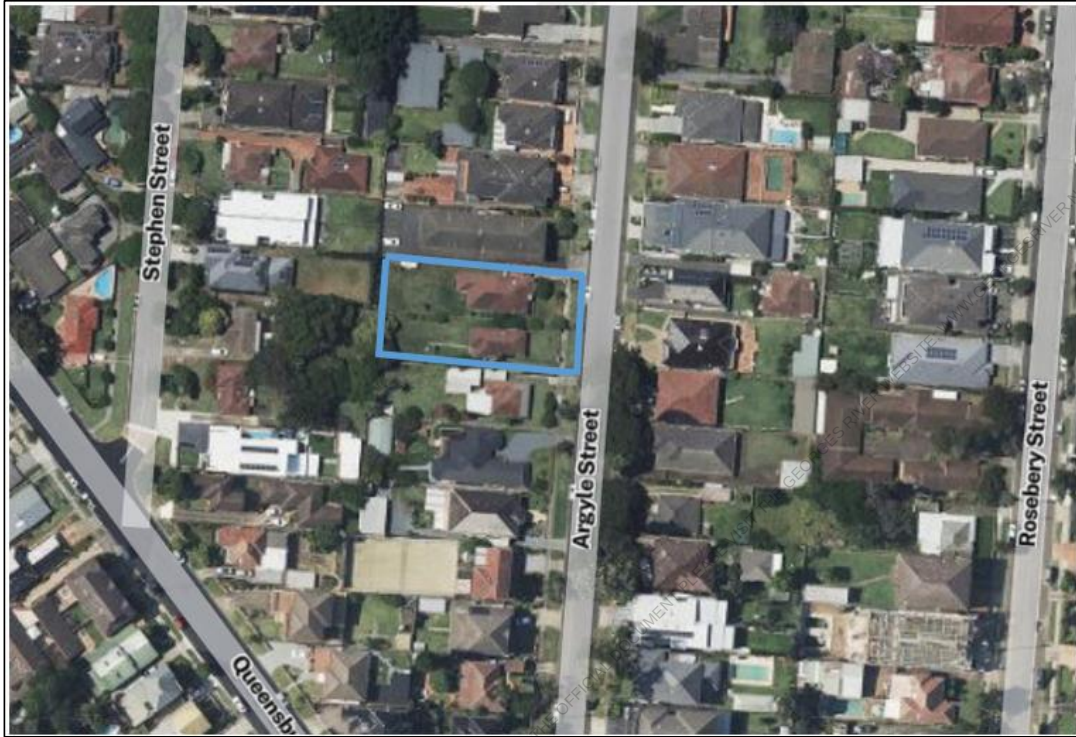


Figure 3—Aerial view of development site outlined in red (Source: NSW Spatial Viewer)

Background

Processing

Application History		
Action	Date	Comment
Submission Date	Friday, 20 December 2024	-
Lodgement Date	Wednesday, 29 January 2025	-
Site Inspection Conducted	Tuesday, 17 June 2025	-
Notification	Thursday, 27 February 2025	The application was publicly exhibited for 21 days until 20 March 2025.

Site Inspection

An image of the site is provided below:





Figure 4 - Street view of development site (image taken facing West) (Source: Google Maps)

Assessment - Section 4.15 Evaluation

The following is an assessment of the application with regard to Section 4.15(1) Evaluation of the Environmental Planning and Assessment Act 1979.

Section 4.15 (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 provisions of any environmental planning instrument (EPI)

Section 4.15 (1) (a) (i) *The provisions of any environmental planning instrument (EPI)*

The Provisions of any applicable Act

The Provision of any Applicable State Environmental Planning Policy (SEPPs)

Site Affections Relevant Under SEPPs

SEPPs		Applicable	
Affection	SEPP Name	Yes	No
Water Catchment	SEPP (Biodiversity Conservation) 2021	☒	☐
Land Contamination	SEPP (Resilience and Hazards) 2021	☐	☒
Coastal Zone	SEPP (Resilience and Hazards) 2021	☐	☒
Adjoins Classified Road	SEPP (Transport and Infrastructure) 2021	☐	☒
Adjoins Rail Corridor	SEPP (Transport and Infrastructure) 2021	☐	☒
Gas Pipeline Buffer	SEPP (Transport and Infrastructure) 2021	☐	☒



SEPPs	Applicable	
	Yes	No
SEPP (Biodiversity Conservation) 2021	☒	☐
SEPP (Housing) 2021	☐	☒
SEPP (Industry and Employment) 2021	☐	☐
SEPP (Resilience and Hazards) 2021	☒	☐
SEPP (Resource and Energy) 2021	☐	☒
SEPP (Sustainable Buildings) 2022	☐	☒
SEPP (Transport and Infrastructure) 2021	☒	☐

Compliance with the identified applicable State Environmental Planning Policies (SEPP) is detailed below.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP) is applicable, as the development involves the clearing of vegetation in non-rural areas. In particular, the accompanying arborist identified that a total of sixteen (16) trees within the site will be impacted as follows:

- eight (8) trees proposed to be removed
- three (3) will be removed but do not require approval under Council's Tree Preservation Order; and
- five (5) trees will be retained and protected, one of which is a street tree.

Figure 5 below outlines the location of the trees.

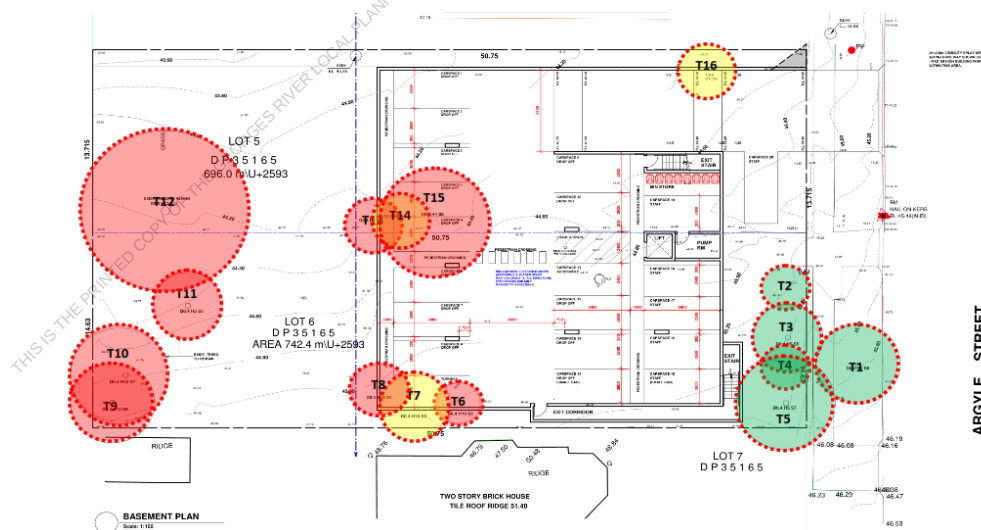


Figure 5 – Arborist Report (Source: Arborist Report)



The proposed landscaping conflicts with the architectural drawings which seek to remove all vegetation, insufficient information is provided to make an accurate assessment.

Notwithstanding, the site is not identified as containing biodiversity values on the NSW Government Biodiversity Values Map and Threshold tool and does not involve the removal of more than 0.25 hectares of vegetation, therefore being exempt from the Biodiversity Offsets Scheme threshold.

However, the total loss of vegetation in conjunction with the inadequate planting proposed in the landscape plan, which is a poor environmental outcome and does not allow the consent authority to be satisfied the development will preserve the amenity of the area being inconsistent with the aims of Section 2.1(b) of the Biodiversity and Conservation SEPP.

As such, the proposal therefore does not comply with SEPP (Biodiversity and Conservation) 2021.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 are relevant to the proposal.

Chapter 4 – Remediation of Land

Clause 4.6 of State Environmental Planning Policy (Resilience and Hazards) 2021 is applicable to the development. The clause is in relation to remediation of contaminated land.

As part of the assessment process, a site inspection was conducted, and Council's Contamination Records and aerial imaging (inc. historic imaging) were reviewed. 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 (Transport and Infrastructure) 2021

State Environmental Planning Policy (Transport and Infrastructure) 2021 is applicable to the development and the following clauses apply:

Division 5 – Electricity transmission or distribution

Pursuant to Clause 2.48, this application was referred to Ausgrid for comments as the development is located within 5m of an overhead electricity power line or within or immediately adjacent to an easement for electricity purposes.

Ausgrid raised no objection to the proposal.

Chapter 3 – Educational Establishments and Child Care Facilities

Given the proposal is related to a centre-based childcare facility, Chapter 3 of the SEPP (Transport and Infrastructure) 2021 applies to the proposed development. The table below is the assessment against the provisions of Chapter 3.



Chapter 3 Educational establishments and Child Care Facilities – Part 3.3 Early education and care facilities – specific development controls.	
Provisions	Comments
3.23 – Centre-based child care facility—matters for consideration by consent authorities Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development.	Considered – an assessment has been made in this report.
3.26 – non-discretionary development standards Location – the development may be located at any distance from an existing or proposed early education and care facility. indoor or outdoor space (i) for development to which regulation 107 (indoor unencumbered space requirements – min 3.25m ² per child) or 108 (outdoor unencumbered space requirements – min 7m ² per child) of the Education and Care Services National Regulations applies—the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those regulations, or (ii) for development to which clause 28 (unencumbered indoor space and useable outdoor play space) of the Children (Education and Care Services) Supplementary Provisions Regulation 2012 applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause, site area and site dimensions—the development may be located on a site of any size and have any length of street frontage or any allotment depth, colour of building materials or shade structures—the development may be of any	Noted. 267m ² of indoor space provided – equates to 3.51m ² per child. 555m ² of outdoor space provided – equates to 7.3m ² per child. Adequate space is provided. The site size is acceptable. Noted.



colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.	
Clause 3.27 – development control plans A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purpose of a centre-based child care facility— (a) operational or management plans or arrangements (including hours of operation), (b) demonstrated need or demand for child care services, (c) proximity of facility to other early education and care facilities, (d) any matter relating to development for the purpose of a centre-based child care facility contained in— (i) the design principles set out in Part 2 of the Child Care Planning Guideline, or (ii) the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).	Noted The provisions of the Georges River Development Control Plan (GRDCP) 2021 pertaining to this clause have been applied during the assessment of this development application except for those specified.

The *Childcare Planning Guideline 2021* identifies issues that must be taken into consideration when assessing the proposal for a centre-based child care facility. It also refers to the application of the *National Regulations for Childcare Centres*. The table below responds to each relevant consideration raised in the Guideline:

Part 3 – Matters for Consideration	
Provision	Comment / Compliance
Part 3 – Matters for Consideration	
3.1 Site Selection and Location	
C1 <i>For proposed developments in or adjacent to a residential zone, particularly if that zone is for low density residential uses consider:</i>	The development application should be refused because the information provided within the Acoustic Assessment prepared by Acoustic Dynamics dated 5 July 2024 is insufficient for determining whether the acoustic impacts are acceptable.



• the acoustic and privacy impacts of the proposed development on the residential properties • the setbacks and siting of buildings within the residential context • visual amenity impacts (e.g. additional building bulk and overshadowing, local character) • traffic and parking impacts of the proposal on residential amenity and road safety	The development application does not provide satisfactory car parking arrangements in respect of: - Pedestrian sightlines - Tandem parking arrangements - Swept path analysis - Design of drop-off parking spaces - Staff parking; and - Reliance on two (2) on-street parking spaces along street frontage. On this basis, the proposal fails to comply with Georges River Development Control Plan 2021 (GRDCP 2021), the CCPG and AS 2890.1-2004. The proposed building design does not comply with GRDCP 2021 DCP setbacks and when combined with tree removal results in unsuitable development impacting on the existing and desired character of the locality. Insufficient information has been provided to determine any shadow impacts.
C2 When selecting a site, ensure that: • the location and surrounding uses are compatible with the proposed development or use • the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards • there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed • the characteristics of the site are suitable for the scale and type of development proposed having regard to: - length of street frontage, lot configuration, dimensions and overall size - number of shared boundaries with residential properties	A centre- based childcare centre is permissible on the subject site. The proposal is not affected by environmental hazards and contaminants. The subject site is not located closely to incompatible social uses such as restricted premises, drug clinics, licenced alcohol and gambling premises, and sex services. The site and surrounds are zoned R2 low density residential and there is insufficient information to determine the noise impacts to adjoining residential properties. As discussed above, unacceptable drop off spaces are provided at-grade. On this basis, the proposal should not be supported.



• the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas • where the proposal is to occupy or retrofit an existing premises, the interior and exterior spaces are suitable for the proposed use. Where the proposal relates to any heritage item, the development should retain its historic character and conserve significant fabric, setting or layout of the item. • there are suitable and safe drop off and pick up areas, and off and on street parking • the characteristics of the fronting road or roads (for example its operating speed, road classification, traffic volume, heavy vehicle volumes, presence of parking lanes) is appropriate and safe for the proposed use • the site avoids direct access to roads with high traffic volumes, high operating speeds, or with high heavy vehicle volumes, especially where there are limited pedestrian crossing facilities • it is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises.	
C3 A child care facility should be located: • near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship	Located within a residential area in close proximity to open space and in close proximity to Penshurst West Public School.



• near or within employment areas, town centres, business centres, shops • with access to public transport including rail, buses, ferries • in areas with pedestrian connectivity to the local community, businesses, shops, services and the like.	
C4 A child care facility should be located to avoid risks to children, staff or visitors and environmental conditions arising from: • proximity to: heavy or hazardous industry, waste transfer depots or landfill sites Liquefied Petroleum Gas (LPG) tanks or service stations water cooling and water warming systems odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses extractive industries, intensive agriculture, agricultural spraying activities • any other identified environmental hazard or risk relevant to the site and/or existing buildings within the site.	Site is not located in proximity to land uses that environmental conditions could arise from.
3.2 Local Character, Streetscape and the Public Domain Interface	
C5 The proposed development should: • contribute to the local area by being designed in such a way to respond to the character of the locality and existing streetscape • build on the valued characteristics of the neighbourhood and draw from the physical surrounds, history and culture of place • reflect the predominant form of surrounding land uses, particularly in low density residential areas • recognise and respond to predominant streetscape qualities,	The proposed built form will adversely affect the desired future character of the locality with removal of all trees and inadequate landscaping provided to the street. The proposed setbacks and front facade will result in built form that will dominate the streetscape an inadequate landscaping is provided.



such as building form, scale, materials and colours • include design and architectural treatments that respond to and integrate with the existing streetscape and local character • use landscaping to positively contribute to the streetscape and neighbouring and neighbourhood amenity • integrate car parking into the building and site landscaping design in residential areas • in R2 Low Density Residential zones, limit outdoor play space to the ground level to reduce impacts on amenity from acoustic fences/barriers onto adjoining residence, except when good design solutions can be achieved.	
C6 Create a threshold with a clear transition between public and private realms, including: • fencing to ensure safety for children entering and leaving the facility • windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and a connection between the facility and the community • integrating existing and proposed landscaping with fencing.	Adequate window openings are provided to the street.
C11 Orient a development on a site and design the building layout to: • ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties - placing play equipment away from common boundaries with residential properties	Windows have been suitably placed or designed to minimise overlooking. However, the rear ramps and height above ground results in unacceptable overlooking for adjoining residential properties. The side and rear fencing is proposed to be 2.4m high to maintain acoustic privacy to adjoining residential uses, these details have not been provided nor has consideration been given to overshadowing impacts of adjoining residential properties and POS. The accompanying acoustic report has not adequately demonstrated that the proposal will not



locating outdoor play areas away from residential dwellings and other sensitive uses • optimise solar access to internal and external play areas • avoid overshadowing of adjoining residential properties • minimise cut and fill • ensure buildings along the street frontage define the street by facing it • ensure where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions.	adversely impact adjoining residential properties, and the report has not accounted for the inclement weather and the placement of the logger has skewed results.
C12 The following matters may be considered to minimise the impacts of the proposal on local character: • building height should be consistent with other buildings in the locality • building height should respond to the scale and character of the street • setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility • setbacks should provide adequate access for building maintenance • setbacks to the street should be consistent with the existing character.	Insufficient information has been provided to confirm proposed height of the development and height of the basement above ground. Notwithstanding, the built form combined with lack of landscaping results in unsuitable built form, being inconsistent with existing and desired future character of the locality. <u>Northern side setback</u> Basement – nil Ground – 0.85m to drainage easement being 2.12m from boundary of 25 Argyle Street <u>Southern side setback:</u> Basement – 0.4m Ground – 1.6m The above setbacks are no sufficient and negate the ability to provide screen planting. In addition, it has not been confirmed if the easement along the northern side boundary is owned by the current owners and part of the site are. This will need to be confirmed increased setbacks would be required. Side boundary walls are not adequately articulated and create unacceptable bulk and scale, when viewed from adjoining properties.
C13 Where there are no prevailing setback controls minimum setback to a	The minimum front setbacks to two properties either side of the Site are as follows: <u>North</u>



<i>classified road should be 10 metres. On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings. Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use.</i>	25 Argyle St - 9.15m 27 Argyle St - 7.37m <u>South</u> 17 Argyle St - 6.8m 15 Argyle St - 7.2m On this basis, the prevailing front setback is approximately 7.63m (i.e. $30.52 / 4 = 7.63\text{m}$). The proposed development incorporates a variable front setback at ground floor level ranging from 6.60m (admin / office) to 7.93m (access stair / enclosure). Significant hardstand areas are provided within the front setbacks, more soft landscaping should be provided as per the prevailing pattern.
C14 <i>On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.</i>	As discussed above, the side setbacks are not adequate.
C15 <i>Entry to the facility should be limited to one secure point which is:</i> <i>• located to allow ease of access, particularly for pedestrians</i> <i>• directly accessible from the street where possible</i> <i>• directly visible from the street frontage</i> <i>• easily monitored through natural or camera surveillance</i> <i>• not accessed through an outdoor play area.</i> <i>• in a mixed-use development, clearly defined and separate from entrances to other uses in the building.</i>	One single entry provided. Parking is directly accessible and visible from the street and/or basement with direct lift access to the lobby entry.
C16 <i>Accessible design can be achieved by:</i> <i>• providing accessibility to and within the building in accordance with all relevant legislation</i> <i>• linking all key areas of the site by level or ramped pathways that are</i>	An accessible car space is provided within the basement. Capable of complying.



accessible to prams and wheelchairs, including between all car parking areas and the main building entry • providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. Platform lifts should be avoided where possible • minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath.	
3.4 Landscaping	
C17 Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space. Use the existing landscape where feasible to provide a high quality landscaped area by: • reflecting and reinforcing the local context • incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping.	Council's Landscape Officer does not support the landscaping, this is addressed in the 'Referral' section of this report.
3.5 Visual and acoustic privacy	
C20 Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through: • appropriate site and building layout • suitably locating pathways, windows and doors • permanent screening and landscape design.	The plans do not contain sufficient information to enable an understanding of the likely impacts of the development on the visual privacy of surrounding properties in that they do not specify the locations of windows and other sensitive areas.
C21 Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through: • appropriate site and building layout	Insufficient landscaping is provided, which would assist in minimising overlooking and details of the acoustic screen side boundary fencing has not been provided to understand impacts and mitigation measures.



• suitable location of pathways, windows and doors • landscape design and screening.	
C22 A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should: • provide an acoustic fence along any boundary where the adjoining property contains a residential use. An acoustic fence is one that is a solid, gap free fence • ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure.	An acoustic screen if provided along the boundary but details have not been provided to understand impacts on adjoining residential properties.
C23 A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters: • identify an appropriate noise level for a child care facility located in residential and other zones • determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use • determine the appropriate height of any acoustic fence to enable the noise criteria to be met.	As discussed, the accompanying acoustic report is not adequate to assess impacts on surrounding uses and the application fails to provide adequate fencing details.
3.6 Noise and air pollution	
<i>Objective: To ensure that outside noise levels on the facility are minimised to acceptable levels.</i> C24 Adopt design solutions to minimise the impacts of noise, such as: • creating physical separation between buildings and the noise source • orienting the facility perpendicular to the noise source and where possible buffered by other uses	Noted. However, as outlined above the acoustic report is not adequate to ensure that the use will not adversely impact adjoining residential uses.



• using landscaping to reduce the perception of noise • limiting the number and size of openings facing noise sources • using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens) • using materials with mass and/or sound insulation or absorption properties, such as solid balcony balustrades, external screens and soffits • locating cot rooms, sleeping areas and play areas away from external noise sources.	
C27 A suitably qualified air quality professional should prepare an air quality assessment report to demonstrate that proposed child care facilities close to major roads or industrial developments can meet air quality standards in accordance with relevant legislation and guidelines. The air quality assessment report should evaluate design considerations to minimise air pollution such as: • creating an appropriate separation distance between the facility and the pollution source. The location of play areas, sleeping areas and outdoor areas should be as far as practicable from the major source of air pollution • using landscaping to act as a filter for air pollution generated by traffic and industry. Landscaping has the added benefit of improving aesthetics and minimising visual intrusion from an adjacent roadway • incorporating ventilation design into the design of the facility.	Site is not positioned on a major road.
3.7 Hours of operation	
Objective: To minimise the impact of the child care facility on the amenity of neighbouring residential developments.	Hours of operation are between 7am and 7pm Monday to Friday, no operation on public holidays.



C28 Hours of operation where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non-residential land uses.	
3.8 Traffic, parking, and pedestrian circulation	
C30 Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land. Where a Development Control Plan does not specify car parking rates, off street car parking should be provided at the following rates: Within 400 metres of a railway or Metro station within Greater Sydney: • 1 space per 10 children • 1 space per 2 staff. Staff parking may be stack or tandem parking with no more than 2 spaces in each tandem space. A reduction in car parking rates may be considered where: • the proposal is an adaptive reuse of a heritage item • the site is in a B8 Metropolitan Zone or other high-density business or residential zone • the site is in proximity to high frequency and well connected public transport • the site is co-located or in proximity to other uses where parking is appropriately provided (for example business centres, schools, public open space, public or commercially operated car parks) • there is sufficient on street parking available at appropriate times within proximity of the site.	Insufficient car parking is provided, refer to GRDCP 2021 discussion below.



C32 <i>A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses, to optimise the safety and convenience of the parking area(s) and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that:</i> <i>• the amenity of the surrounding area will not be affected</i> <i>• there will be no impacts on the safe operation of the surrounding road network.</i>	A Traffic and Parking Study has been provided but does not adequately assess the net increase in vehicle movements on the key intersection of Queensbury Road, George Street and Forest Road and distribution of vehicles.
<i>Objective: To provide a safe and connected environment for pedestrians both on and around the site.</i> C35 <i>The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:</i> <i>• separate pedestrian access from the car park to the facility</i> <i>• defined pedestrian crossings and defined/ separate paths included within large car parking areas</i> <i>• separate pedestrian and vehicle entries from the street for parents, children and visitors</i> <i>• pedestrian paths that enable two prams to pass each other</i> <i>• delivery, loading and vehicle turnaround areas located away from the main pedestrian access to the building and in clearly designated, separate facilities</i> <i>• minimise the number of locations where pedestrians and vehicles cross each other</i> <i>• in commercial or industrial zones and mixed use developments, the path of travel from the car parking to the centre</i>	Council's traffic engineer does not support the proposed as it fails to provide safe pedestrian accessways and sightlines.



entrance physically separated from any truck circulation or parking areas • vehicles can enter and leave the site in a forward direction • clear sightlines are maintained for drivers to child pedestrians, particularly at crossing locations.	
C37 Car parking design should: • include a child safe fence to separate car parking areas from the building entrance and play areas • provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards • include wheelchair and pram accessible parking.	Basement is accessed via internal lift.

Controls	Proposed	Compliance
Part 4 – Applying the National Regulations to Development Proposals (Checklist)		
4.1 Indoor space requirements		
Regulation 107 Every child being educated and cared for within a facility must have a minimum of 3.25m² of unencumbered indoor space. Storage does not need to be in a separate room or screened, and there should be a mixture of safe shelving and storage that children can access independently. Storage of items such as prams, bikes and scooters should be located adjacent to the building entrance.	267m ² provided = 3.51m ² per child	Yes
Design guidance Storage Storage areas including joinery units are not to be included in the calculation of indoor space. To achieve a functional unencumbered area free of clutter, storage areas need to be considered when designing and calculating the spatial requirements of the facility. It is recommended that a child care facility provide:	Internal storage = 27m³ External storage = 23m³	Yes



Controls	Proposed	Compliance
Part 4 – Applying the National Regulations to Development Proposals (Checklist)		
• a minimum of 0.3m³ per child of external storage space (req. 22.8m³) • a minimum of 0.2m³ per child of internal storage space (req. 15.2m³)		
4.2 Laundry and Hygiene Facilities		
Regulation 106 Design guidance Laundry and hygiene facilities are a key consideration for education and care service premises. The type of laundry facilities provided must be appropriate to the age of children accommodated. On site laundry facilities should contain: • a washer or washers capable of dealing with the heavy requirements of the facility • a dryer • laundry sinks • adequate storage for soiled items prior to cleaning • an on-site laundry cannot be calculated as useable unencumbered play space for children (refer to Figure 2).	A laundry area has been shown but lacks detail.	No
4.3 Toilet and Hygiene Facilities		
Regulation 109 Design guidance Toilet and hygiene facilities should be designed to maintain the amenity and dignity of the occupants (refer to Figure 3). Design considerations could include: • junior toilet pans, low level sinks and hand drying facilities for children • a sink and handwashing facilities in all bathrooms for adults • direct access from both activity rooms and outdoor play areas • windows into bathrooms and cubicles without doors to allow adequate supervision by staff • external windows in locations that prevent observation from neighbouring properties or from side boundaries.	Facilities have been appropriately positioned within the ground floor with separate access to each activity room.	Yes
4.4 Ventilation and Natural Light		



Controls	Proposed	Compliance
Part 4 – Applying the National Regulations to Development Proposals (Checklist)		
Regulation 110 Design guidance Ventilation Good ventilation can be achieved through a mixture of natural cross ventilation and air conditioning. Encouraging natural ventilation is the basis of sustainable design; however, there will be circumstances where mechanical ventilation will be essential to creating ambient temperatures within a facility. To achieve adequate natural ventilation, the design of the child care facilities must address the orientation of the building, the configuration of rooms and the external building envelope, with natural air flow generally reducing the deeper a building becomes. It is recommended that child care facilities ensure natural ventilation is available to each indoor activity room. Natural light Solar and daylight access reduces reliance on artificial lighting and heating, improves energy efficiency and creates comfortable learning environments through pleasant conditions. Natural light contributes to a sense of well-being, is important to the development of children and improves service outcomes. Daylight and solar access changes with the time of day, seasons and weather conditions. When designing child care facilities consideration should be given to: • providing windows facing different orientations • using skylights as appropriate • ceiling heights. Designers should aim to minimise the need for artificial lighting during the day, especially in circumstances where room depth exceeds ceiling height by 2.5 times. It is recommended that ceiling heights be proportional to the room size, which can be achieved using raked ceilings and exposed	Clerestory roof will provide solar access to within play areas.	Yes



Controls	Proposed	Compliance
Part 4 – Applying the National Regulations to Development Proposals (Checklist)		
trusses, creating a sense of space and visual interest.		
4.5 Administrative Space		
Regulation 111 Design guidance Design considerations could include closing doors for privacy and glass partitions to ensure supervision. When designing administrative spaces, consideration should be given to functions which can share spaces and those which cannot. Sound proofing of meeting rooms may be appropriate where they are located adjacent to public areas, or in large rooms where sound can easily travel. Administrative spaces should be designed to ensure equitable use by parents and children at the facility. A reception desk may be designed to have a portion of it at a lower level for children or people in a wheel chair	Administration office provided at ground level adjacent to entry.	Yes
4.6 Nappy Change Facilities		
Regulation 112 Design guidance In circumstances where nappy change facilities must be provided, design considerations should include: • properly constructed nappy changing bench or benches • a bench type baby bath within one metre from the nappy change bench • the provision of dedicated hand cleansing facilities for adults in the immediate vicinity of the nappy change area • a space to store steps • positioning to enable adequate supervision of the activity and play areas.	Nappy change facilities provided in all child bathroom areas.	Yes
4.7 Premises designed to facilitate supervision		
Regulation 115 Design guidance Design considerations should include: • solid walls in children's toilet cubicles (but no doors) to provide dignity whilst enabling supervision	All rooms are open with windows provided to allow for surveillance, a solid wall with no doors is provided for dignity.	Yes



Controls	Proposed	Compliance
Part 4 – Applying the National Regulations to Development Proposals (Checklist)		
• locating windows into bathrooms or nappy change areas away from view of visitors to the facility, the public or neighbouring properties • avoiding room layouts with hidden corners where supervision is poor, or multi room activity rooms for single groups of children • avoiding multi-level rooms which compromise, or require additional staffing, to ensure adequate supervision. If multi-level spaces are proposed, consideration should be given to providing areas that can be closed off and used only under supervision for controlled activities (refer to Figures 5, 6 and 7).		
4.8 Emergency and evacuation procedures		
Regulations 97 and 168 Regulation 168 sets out the list of procedures that an education and care service must have, including procedures for emergency and evacuation. Regulation 97 sets out the detail for what those procedures must cover including: • instructions for what must be done in the event of an emergency • an emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit • a risk assessment to identify potential emergencies that are relevant to the service. Design guidance Facility design and features should provide for the safe and managed evacuation of children and staff from the facility in the event of a fire or other emergency. This should take into consideration the number and age of the occupants, emergency and evacuation plans, the location of the facility and the relevant fire safety measures within the building. Multi-storey buildings with proposed child care facilities above ground level may	Provided in the accompanying plan of management.	Yes



Controls	Proposed	Compliance
Part 4 – Applying the National Regulations to Development Proposals (Checklist)		
consider providing additional measures to protect staff and children. For example: • independent emergency escape routes from the facility to the ground level that would separate children from other building users to address child protection concerns during evacuations • child appropriate handrails and barriers if shared fire stairs are utilised • a safe haven or separate emergency area where children and staff can muster during the initial stages of a fire alert or other emergency. This would enable staff to account for all children prior to evacuation. For all child care facilities, an emergency and evacuation plan should be submitted with a DA and should consider: • the mobility of children and how this is to be accommodated during an evacuation • the location of a safe congregation/assembly point, away from the evacuated building, busy roads and other hazards, and away from evacuation points used by other occupants or tenants of the same building or of surrounding buildings • how children will be supervised during the evacuation and at the congregation/assembly point, relative to the capacity of the facility and governing child-to-staff ratios. Fire safety of centres in high rise buildings The design and construction of new child care facilities must comply with the requirements of the National Construction Code. Specific fire safety provisions apply to certain child care facilities including those in multi-storey buildings.		
4.9 Outdoor space requirements		
Regulation 108 An education and care service premises must provide for every child being educated and cared for within the facility to have a	555m ² provided = 7.30m ² per child	Yes



Controls	Proposed	Compliance
Part 4 – Applying the National Regulations to Development Proposals (Checklist)		
minimum of 7.0m² of unencumbered outdoor space. If this requirement is not met, the concurrence of the regulatory authority is required under the Education SEPP. Unencumbered outdoor space excludes any of the following: • pathway or thoroughfare, except where used by children as part of the education and care program • car parking area • storage shed or other storage area • laundry • other space that is not suitable for children. Applicants should also note that Regulation 274 (Part 7.3 NSW Provisions) states that a centre-based service for children preschool age or under must ensure there is no swimming pool on the premises, unless the swimming pool existed before 6 November 1996. Where there is an existing swimming pool, a water safety policy will be required.		
Design Guidance <i>Simulated outdoor environments</i> Applicants should aim to provide the requisite amount of unencumbered outdoor space in all development applications. A service approval will only be granted in exceptional circumstances when outdoor space requirements are not met. For an exemption to be granted, the preferred alternate solution is that indoor space be designed as a simulated outdoor environment. Simulated outdoor space must be provided in addition to indoor space and cannot be counted twice when calculating areas. Simulated outdoor environments are internal spaces that have all the features and experiences and qualities of an outdoor space. They should promote the same learning outcomes that are developed during outdoor play. Simulated outdoor environments should have:	Various play areas are provided, as shown on the landscaping drawings.	Yes



Controls	Proposed	Compliance
Part 4 – Applying the National Regulations to Development Proposals (Checklist)		
• more access to natural light and ventilation than required for an internal space through large windows, glass doors and panels to enable views of trees, views of the sky and clouds and movement outside the facility • skylights to give a sense of the external climate • a combination of different floor types and textures, including wooden decking, pebbles, mounds, ridges, grass, bark and artificial grass, to mimic the uneven surfaces of an outdoor environment • sand pits and water play areas • furniture made of logs and stepping logs • dense indoor planting and green vegetated walls • climbing frames, walking and/or bike tracks • vegetable gardens and gardening tubs.		
4.10 Natural Environment		
Regulation 113 Design guidance Creating a natural environment to meet this regulation includes the use of natural features such as trees, sand and natural vegetation within the outdoor space. Shrubs and trees selected for the play space must be safe for children. Avoid plant species that risk the health and safety of the centre's occupants, such as those which: • are known to be poisonous, produce toxins or have toxic leaves or berries • have seed pods or stone fruit, attract bees, have thorns, spikes or prickly foliage or drop branches. The outdoor space should be designed to: • provide a variety of experiences that facilitate the development of cognitive and physical skills, provide opportunities for social interaction and appreciation of the natural environment • ensure adequate supervision and minimise opportunities for bullying and antisocial behaviour	A variety of experiences are provided within the outdoor play areas, as shown on the landscaped drawings.	Yes



Controls	Proposed	Compliance
Part 4 – Applying the National Regulations to Development Proposals (Checklist)		
enhance outdoor learning, socialisation and recreation by positioning outdoor urban furniture and play equipment in configurations that facilitate interaction.		
4.12 Fencing		
Regulation 104 Design guidance Fencing at child care facilities must provide a secure, safe environment for children and minimise access to dangerous areas. Fencing also needs to positively contribute to the visual amenity of the streetscape and surrounding area. In general, fencing around outdoor spaces should: - prevent children climbing over, under or through fences - prevent people outside the facility from gaining access by climbing over, under or through the fence - not create a sense of enclosure - if the outdoor space is being fenced internally, then the fence must be at least 1.2m high.	Fencing and secure gates are provided throughout the proposed centre.	Yes

Provisions of any Local Environmental Plan

Georges River Local Environmental Plan 2021

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 below:

Site Affections

Site Affections Relevant Under GRLEP 2021		Applicable	
Clause No.	Clause Name/Affection	Yes	No
5.7	Development Below Mean High Water Mark	☐	☒
5.10	Heritage Conservation Area and/or Heritage Item	☐	☒
5.21	Flood Liable Land	☐	☒
6.1	Acid Sulfate Soils	☐	☒
6.4	Foreshore Building Line	☐	☒
6.4	Coastal Hazard and Risk	☐	☒
6.5	Riparian Lands & Waterways	☐	☒



6.6	Foreshore Scenic Protection Area – also consider Design Excellence	☐	☒
6.8	Impacted by airspace operations (NOTE: Applies to 67-89 Croydon Road, 1-7 Somerset (odd only), 2-8 Bristol (even), 1-5 Bristol (odd) in Hurstville)	☐	☒
6.10	Design Excellence – FSPA or R4 land	☐	☒
Other Affectations			
	Bushfire Prone Land	☐	☒
	Council Owned Land	☐	☒
	Crown Land	☐	☒
	Easements Within Lot Boundaries	☒	☐
	Narrow lot housing precinct	☐	☒
	Other (if yes describe)	☐	☐

GRLEP 2021 Part 2 – Permitted or prohibited development		
Clause 2.3 – Zone objectives and Land Use Table		
Standard	Proposal	Compliance
The subject site is zoned R2 Low Density Residential. The objectives of the zone are: - To provide for the housing needs of the community; - To enable other land uses that provide facilities or services to meet the day to day needs of residents; - The promote a high standard of urban design and built form that enhances the local character of the suburb and achieves a high level of residential amenity, - To provide for housing within a landscaped setting that enhances the existing environmental character of the Georges River Local Government Area.	The proposal is consistent with the zone objectives, providing a service to meet the day to day needs of the residents.	☒ Yes ☐ No
Clause 2.7 - Demolition requires development consent		
Standard	Proposal	Compliance
The demolition of a building or work may be carried out only with development consent.	Demolition plans have been provided with the application.	☒ Yes ☐ No



GRLEP 2021 Numeric Controls			
Standard	Required	Proposed	Compliance
Cl. 4.3 Height of Buildings	Maximum 9m	Approximately 8.1m. However, insufficient information provided with application to determine accurate height.	☒ Yes ☐ No
Cl. 4.4 Floor Space Ratio	Maximum 0.383:1 (550.1m ²)	0.30:1 (427m ²)	☒ Yes ☐ No

GRLEP 2021 Part 6 – Additional Local Provisions		
Clause 6.2 - Earthworks		
Standard	Proposal	Compliance
Council must consider the following prior to granting consent for any earthworks: (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development, (b) the effect of the development on the likely future use or redevelopment of the land, (c) the quality of the fill or the soil to be excavated, or both, (d) the effect of the development on the existing and likely amenity of adjoining properties, (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, (f) the source of any fill material and the destination of any excavated material, (g) the likelihood of disturbing relics, (h) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,	Geotechnical Report has been provided. The report confirmed that the boreholes encountered ground water seepage but failed to confirm the level of groundwater and recommends further monitoring. On this basis, insufficient information is provided, and this may trigger the need for approval under the Water Management Act in accordance with Section 4.46 of the EP&A Act 1979.	☐ Yes ☒ No



(i) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.		
Clause 6.3 – Stormwater Management		
Standard	Proposal	Compliance
(2) In deciding whether to grant development consent for development, the consent authority must be satisfied that the development— (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 (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 (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 (d) is designed to minimise the impact on public drainage systems.	Inadequate arrangements have not been made for stormwater drainage and on-site conservation, in regard to: • Overland flow assessment • Basement flood risk • Insufficient OSD tank sizing • Conflict between landscape plans and OSD • Drainage easement planting • Sewerage system conflict.	☐ Yes ☒ No
Clause 6.9 Essential Services		
Standard	Proposal	Compliance
Development consent must not be granted to development unless Council is satisfied that any of the following services that are essential for the development are available, or that adequate arrangements have been made to make them available when required a) the supply of water, b) the supply of electricity, c) the supply of telecommunications facilities, d) the disposal and management of sewage	The proposal does not have, or make adequate provision for the following services: - stormwater; and - sewerage.	☐ Yes ☒ No



e) stormwater drainage or on-site conservation,		
f) suitable vehicular access.		

Provisions of any Proposed Instrument

Section 4.15 (1) (a) (i) - Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There is no proposed instrument that is or has been the subject of public consultation under this Act which is relevant to the proposal.

Provisions of any Development Control Plan

Section 4.15 (1) (a) (iii) The provisions of any development control plan

The proposed development is subject to the provisions of the Georges River Development Control Plan 2021. The following comments are made with respect to the proposal considering the objectives and controls contained within the DCP.

Georges River Development Control Plan 2021

The following GRDCP 2021 controls are applicable to the development and the following clauses apply:

Waste Management		
3.12 Waste Management		
Control	Proposal	Compliance
1. Development must comply with Council's Waste Management requirements regarding construction waste and ongoing management of waste materials (per Appendix 4 of the GRDCP).	The proposal fails to provide adequate waste management documentation and waste infrastructure has not been clearly shown on the submitted drawings.	☐ Yes ☒ No

Universal / Accessible Design		
3.17 Universal / Accessible Design		
Control	Proposal	Compliance
3. Accessways for pedestrians and vehicles to be separated	1 accessible car space provided.	☒ Yes ☐ No



Earthworks		
3.5.1 Earthworks		
Control	Proposal	Compliance
1. Natural ground level should be maintained within 900mm of a side or rear boundary.	A geotechnical report has been provided. Excavation is too close to the side boundaries and the position of groundwater has not been determined.	☐ Yes ☒ No
3. Habitable Rooms (not including bathrooms, laundries and storerooms) are to be located above existing ground level.		
4. Rock outcrops, overhangs, boulders, sandstone platforms or sandstone retaining walls are not to be removed or covered.		
5. Development is to be located so that the clearing of vegetation is avoided.		
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).		
7. Soil depth around buildings should be capable of sustaining trees as well as shrubs and smaller scale gardens.		
8. Earthworks are not to increase or concentrate overland stormwater flow or aggravating existing flood conditions on adjacent land.		
9. Fill material must be virgin excavated natural material (VENM)		
3.5.2 Construction Management/Erosion and Sediment Control		
Control	Proposal	Compliance
1. Development must minimise any soil loss from the site to reduce impacts of sedimentation on waterways through the use of the following: - Sediment fencing; - Water diversion; - Single entry/exit points	The proposal includes a sediment control plan indicating implementation of these measures. A suitable condition would be included if the application was approved, to ensures compliance with the control.	☐ Yes ☒ No



- Filtration materials such as straw bales and turf strips.	The geotechnical report is inadequate, as discussed above.	
2. Development that involves site disturbance is to provide an erosion and sediment control plan which details the proposed method of soil management and its implementation. Such measures are to be in accordance with The Blue Book – Managing Urban Stormwater, Soils & Construction by LandCom		
3. Development is to minimise site disturbance including impacts on vegetation and significant trees and the need for cut and fill.		
4. Construction works within a tree protection zone (TPZ) of a tree on the development site or adjoining land, must be undertaken in accordance with AS 4970 (Protection of trees on development sites).		
5. Development which has a high potential risk to groundwater must submit a geotechnical report to address how possible impacts on groundwater are minimised.		
6. Work must not be carried out in a public road or footpath unless a permit has been granted by Council (or other relevant roads authority) under s.138 of the Roads Act 1993, and / or s.68 of the Local Government Act 1993. These are separate approvals to development consent or a Complying Development Certificate. Consult with Council to determine if a permit is required.		
6.1.2.6 Excavation (Cut and Fill)		
Control	Proposal	Compliance
1. Any excavation must not extend beyond the building footprint, including for any basement car park.	The proposed basement setbacks do not comply with Part 6.1.2.6 and exceed the footprint of the building.	☐ Yes ☒ No

Vehicular Access, Parking and Circulation



3.13 Parking Access and Transport		
Control	Proposal	Compliance
1. Parking required: 1 space per 2 staff (4 spaces) plus: - Centres with 70-100 children – 1 space per 6 children (13 spaces). - Transport and Parking Assessment Study required	The proposal provides 21 car parking spaces for: 13 visitor spaces 8 staff One (1) car space provided at-grade.	☒ Yes ☐ No
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 street parking and commercial vehicles.	The proposal does not comply for the following reasons: - Tandem car parking unsuitable - Unsafe pedestrian safety and movement within basement - Swept path analysis drawings are insufficient - Drop-off car spaces do not comply with AS 2890.1-2004 - Car park at-grade is not suitable within the front setback; and - Inconsistent information in relation to accurate staff numbers.	☐ Yes ☒ No
13. Design vehicular access in accordance with the current Australian Standard for 'off-street parking (Part 1)' and 'off-street carparking for commercial vehicles (Part 2)'.		
15. Basement car parking is preferable in commercial and residential flat buildings. 16. Basement car parking is to be located within the building footprint. 17. All basement parking areas are to have security doors. 18. Include natural ventilation to basement and semi basement car parking. 19. Integrate ventilation design into the façade of the building, or parking structure, treating it with appropriate features such as louvres, well designed grilles, planting or other landscaping elements.		
<u>At Grade Parking</u> 20. Car parking areas may be designed as ground level parking provided that the design results in building frontages level with the street.		



23. Parking complies with AS 1428 Design for access and mobility and AS/NZS 2890.6.		
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.		
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.		
26. Accessible parking spaces shall be indicated by a permanent sign as specified in AS 1428.1.		
40. Tandem parking will only be considered with a max of 2 car spaces and utilised for staff.		
3.17 Universal/Accessible Design		
Control	Proposal	Compliance
<u>Accessible Parking</u> 7. Educational Establishments - 2-3% of total parking spaces (requires 1 spaces) An access report, prepared by a relevantly qualified access consultant may be required for development that involves the following: iii. Other developments that are required to comply with the Disability (Access to Premises - Buildings) Standards 2010.	One (1) accessible space provided.	☒ Yes ☐ No
4.2.2 Child Care Parking Requirements		
On-site car parking is to be provided in accordance with the requirements in Section 3.13 – Parking Access and Transport of this DCP and must be provided either at-grade or as basement parking.	Noted. Refer to discussion above.	☐ Yes ☒ No

Noise and Machinery

3.20.3 Noise Generating Development



Control	Proposal	Compliance
1. Development should be sited and designed so that noise is kept to a minimum and does not create offensive noise as defined by the Protection of the Environment Operations Act 1997. 2. Acoustic report required. 3. Noise generating activities to be sited away from sensitive landuses. 4. Noise management measures required.	Acoustic assessment is insufficient as it fails to include RLs on the surrounding sensitive receivers. The POM is inconsistent with the outdoor play schedule in the acoustic report. The top of acoustic wall heights has not been confirmed on the accompanying documentation.	☐ Yes ☒ No
2. The noise level from air conditioning condensers/systems is not to exceed the LAeq 15 minute by 5dBA measured at the property boundary.	The submitted acoustic report is insufficient.	☐ Yes ☒ No

Setbacks

6.1.2.3 Setbacks

Control	Proposal	Compliance
<u>Front Setbacks</u> 1. The minimum setback from the primary street boundary is the prevailing street setback of 7.66m 2. Balconies cannot encroach into the front setback space.	The submitted drawings have not calculated the front setback correctly and dimensioned setbacks have not been provided for the basement, on this basis insufficient has been provided.	☐ Yes ☒ No
<u>Side and Rear Setbacks</u> 4. Buildings are to have a minimum rear setback of 15% (7.613m) of the average site length, or 6m, whichever is the greater	Notwithstanding the following setbacks have been calculated by Council: Southern side setback = 1.2m Northern side setback = 1.53m Basement southern side setback = 420mm Basement northern side setback = 1.32m	
5. The minimum side setbacks for ground and first floor is 1.2m	Rear setback = 14.87m to rear ramps and 20.21m to rear of building.	

4.2.1 Early Education and Child Care Facilities Setbacks

Control	Proposal	Compliance
Refer to Section 6.1.2.3 of the GR DCP 2021, dwelling house setbacks apply.	Refer above.	☐ Yes ☒ No
6. Consider and minimise overshadowing impacts on the solar photovoltaic panels of neighbouring	No impacts proposed.	☒ Yes ☐ No



buildings where a variation to the building setbacks or number of storeys is sought		
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Plan of Management		
4.2.4 Management of Operations		
Control	Proposal	Compliance
Must be accompanied by a Plan of Management	A Plan of Management was provided but is inconsistent with the proposed development.	☐ Yes ☒ No

Fences and Walls		
6.4.1 Fences and Walls		
Control	Proposal	Compliance
1. Fence heights are to be limited to a maximum of: i. 900mm for solid masonry; ii. 1.2m for open or partially transparent styles such as picket or palisade.	Insufficient information has been provided to ascertain fencing height details. Higher acoustic fencing is proposed along the side and rear boundaries, given the acoustic report is insufficient the height of the acoustic fencing cannot be supported.	☐ Yes ☒ No
2. Preferred materials for fencing are masonry, stone, ornate timber, or ornate metal.		
3. For sloping streets, fences and walls must be stepped to comply with the required maximum fence height.		
4. Where noise attenuation or protection of amenity requires a higher fence, front fences may be permitted to a maximum 1.8m and must be setback a minimum of 1m from the boundary to allow landscape screening to be provided.		
Landscape species chosen should be designed to screen the fence without impeding pedestrian movements along the roadway. Front fences and landscape screening must not compromise vehicular movement sightlines.		



5. Fencing (and landscape screening) is to be located to ensure sightlines between pedestrians and vehicles exiting the site are not obscured. Gates are not to open over the public roadway or footpath.		
6. Side and rear boundary fences must not be higher than 1.8m on level sites, or 1.8m as measured from the low side where there is a difference in level either side of the boundary. An additional 300mm of lattice is permitted for privacy screening.		
10. Construction of retaining walls or associated drainage work along common boundaries must not compromise the structural integrity of any existing retaining wall or structures on the subject or adjoining allotments. All components, including footings and aggregate lines, must be wholly contained within the property.		
11. A retaining wall that is visible from the street or public area must: i. be constructed to a height no greater than 1.0m, and ii. be designed so a minimum setback of 1.0m between the retaining wall and the boundary is provided to permit landscaping, and iii. Be constructed of materials that are durable and do not detract from the streetscape.		
12. No part of any retaining wall or its footings is to encroach onto an easement unless approval from the beneficiary is obtained, and the purpose of the easement is not interfered with.		
13. Any retaining walls, required as part of the dwelling construction to contain potential land stability and/or the structural integrity of adjoining properties, must be completed and certified by an appropriately qualified and practicing engineer prior to occupation of the dwelling.		



14. Excavation or filling requiring retaining shall be shored or retained immediately to protect neighbouring properties from loss of support and to prevent soil erosion.		
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Any Planning Agreement Under Section 7.4

Section 4.15 (1) (a) (iia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

There are no planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter under section 7.4 applicable to the proposal.

The Regulations

Section 4.15 (1) (a) (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

There are no regulations (to the extent that they prescribe matters for the purposes of this paragraph) applicable to the proposal.

The Likely Impacts of the Development

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

Likely Impacts of the Development	
Natural Environment	The development is located within an established residential area and may impact on the natural groundwater. Insufficient information has been provided to determine these impacts. In addition, the basement setbacks from the side boundaries are in adequate, with the excavation is excessive.
Built Environment	The built form and supporting infrastructure are not appropriate within its setting as the finished ground floor level will result in unacceptable overlooking and privacy impacts for adjoining residential developments. Insufficient car parking is provided, and the design of car parking area is not suitable. In addition, the acoustic report is inadequate and has not determined what the existing background noise level is for the adjoining residential properties.



Social Impact	The proposal will have no significant social impact on the locality. The service will provide childcare spaces for the surrounding locality.
Economic Impact	The proposal is not considered to result in unreasonable economic impact

Site Suitability

Section 4.15 (c) the suitability of the site for the development

The site is zoned R2 Low Density Residential. The proposal is not considered a suitable outcome for the subject site for the following reasons:

- The site's constraints (size, shape, adjoining land uses) limit its ability to accommodate the required building form, and parking while maintaining amenity and safety.
- Proposed acoustic fence height is visually intrusive and inconsistent with the residential character of the area.
- The bulk and scale of the fence result in an overbearing appearance for neighbouring properties.
- The building and high acoustic fencing cause excessive overshadowing of adjoining dwellings and private open space.
- Elevated areas and windows overlook neighbouring yards, reducing residential privacy.
- The development does not adequately address stormwater drainage, increasing risk of runoff and flooding to adjacent properties.
- Insufficient provision for on-site detention or water quality treatment.
- The combination of design non compliances, and amenity impacts indicate that the site is unsuitable for a child care centre of the proposed scale and intensity.

Submissions

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 (21) days in which to view the plans and submit any comments on the proposal. 79 submissions were received during the neighbour notification period.

The matters relevant to this application raised in the submissions are considered below:

Issue	Comment
Site suitability noting the site is located in low density residential zone rather than commercial and not in close proximity to train stations.	The location is suitable, however, the integration into the locality is not supported as it will result in unacceptable overlooking and noise impacts for surrounding land uses.
Acoustic impacts resultant from numbers of children and associated traffic.	Agreed, as discussed in report above



Traffic congestion and impacts to on-street parking caused by the development, including pick-up and delivery	Agreed, as discussed above the proposed car parking and layout design are unsuitable.
Limiting access to footpath in Argyle Street	The footpath will remain accessible.
Increase in noise and pollution during construction	Conditions would be imposed to manage these impacts.
Safety concerns for residents	
Social impact noting that there are at least 9 childcare centres in Penhurst	There is no Council policy that restricts the number of childcare centres being positioned in same residential suburb, they are a permitted land use.

The Public Interest

Section 4.15 (e) the public interest.

The proposal is not considered to be in the public interest for the following reasons:

- Insufficient information has been submitted to enable a proper assessment
- The acoustic impacts have not been adequately assessed and the current proposal will impact on the acoustic privacy for adjoining residential properties.
- The groundwater level has not been determined and impact on the Georges River catchment cannot be assessed.
- Insufficient parking and car parking layout will impact the surrounding locality.
- Unacceptable overlooking will occur from the rear of the centre, due to the height of the ground level internal finished floor levels.

Referrals

Internal Referrals

Internal Referrals		
Specialist	Comment	Outcome
Development Engineer	Comments have not yet been received.	No comments have been received to date.
Landscape Officer	The officer has considered the following planning provisions: - SEPP (Biodiversity Conservation) 2021 - Part 3.2 of GRDCP 2021 - Part 3.3 of GRDCP 2021 - Georges River Tree Management Policy 2024 The following objections were raised:	Failure to achieve compliance with this matter forms part of the reasons to refuse this application.



	• Conflict between consultant arborist recommendations of tree retention and architectural drawings • Sand pit conflicts with the OSD; and • Lack of canopy trees in landscaping.	
Urban Design	The officer has considered the following planning provisions: - Clause 6.10 of GRLEP 2021 - Part 5 of GRDCP 2021 The following objections were raised: • The 1.2m wide drainage easement, along the northern boundary, is not in ownership of the subject owners and should be removed from the site area calculation • Setbacks are not suitable • Not compatible with the local character and streetscape. • Privacy impacts for adjoining neighbours • Lack of natural ventilation • Insufficient solar analysis undertaken • Removal of trees not supported • Insufficient deep soil landscaping provided • Waste management plan inadequate; and • the design should be amended for the façades to be of high quality with the asymmetry and informal balance of the proposal still achieving a visual equilibrium that creates a dynamic and visually interesting and integrated composition that extends to the side and rear elevations.	Failure to achieve compliance with this matter forms part of the reasons to refuse this application.



Land Information (GIS)	No objections raised to the proposal and conditions recommended.	Conditions should be imposed if recommended for approval.
Environmental Health Officer	The officer has considered the following planning provisions: - Clause 6.1 of GRLEP 2021 - Part 3.2 of GRDCP 2021 - Part 3.3 of GRDCP 2021 The following objections were raised: • Submitted drawings did not include kitchen details. • Acoustic report was not adequate, in particular the weather impacted days were not identified and the logger position was not suitable.	Insufficient information was provided and forms part of the reasons for refusal.
Traffic Engineering	The officer has considered the following planning provisions: - Clause 6.9 of GRLEP 2021 - Part 3.13 of GRDCP 2021 The following objections were raised: • All parking to be provided in the basement • Basement does not comply with the Australian standards • Inadequate sightlines for pedestrian safety; and • Traffic assessment does not include an assessment on net increase in vehicle movements will have on the intersection of Queensbury Road, George Street and Forest Road, the intersection at which the majority of drivers of vehicles will use to gain access to and from the childcare centre. Also fails to include distribution of movements.	Failure to achieve compliance with this matter forms part of the reasons to refuse this application.
Building Officer	The application was recommended for approval subject to conditions.	Noted. Conditions will be imposed should consent be granted.



External Referrals

External Referrals		
Referral Body	Comment	Outcome
Ausgrid	The referral body has considered the following planning provisions: - Clause 2.48 of SEPP (Transport and Infrastructure) 2021 No objections raised to the proposal and conditions recommended.	Conditions imposed should approval be granted.

Contributions

The development is subject to Section 7.11/7.12 Contributions. A condition of consent requiring payment of the contribution and identifying it is subject to indexation in accordance with the plan would be imposed should this application be recommended for approval.

Conclusion

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 application is not considered suitable with regards to the matters listed in Section 4.15 of the Environmental Planning and Assessment Act 1979 for the reasons outlined in the recommendation section.

Determination

Refusal of Application

Pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 (as amended), the delegated officer determines DA2024/0618 for a new childcare centre on Lot 5 and 6 DP 35165 on land known as 19-21 Argyle Street, Penshurst should not be approved subject to the refusal reasons referenced below:

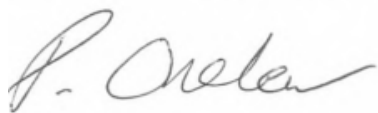
1. The application fails to provide sufficient information to assess the impacts of the proposed development, pursuant to Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act 1979.



2. The proposed development fails to demonstrate compliance with Chapter 3 Section 3.23, of the State Environmental Planning Policy (Transport and Infrastructure) 2021 and in particular the Childcare Planning Guideline, pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
3. The proposal fails to provide setbacks in accordance with Section 4.2.1 and 6.1.2.3 of the Georges River Development Control Plan 2021, pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979.
4. The proposal fails to provide adequate car parking design requirements in accordance with Section 3.13 of the Georges River Development Control Plan 2021, pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979.
5. The proposed acoustic fencing height is excessive and fails to comply with Section 6.4.1 of the Georges River Development Control Plan 2021, pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979.
6. The proposed built form will result in unacceptable bulk and scale, overlooking and potential overshadowing of adjoining residential properties and the proposal has failed to demonstrate that the development will make a positive contribution to the streetscape and the character of the area as the siting, scale, bulk, massing, and landscaping of the development is generally inconsistent from an urban design perspective, pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, with regards to proposed built environment.
7. The proposal, in its current form, is not considered to be suitable for the site, pursuant to Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979.
8. The proposed development, in its current form, is not considered to be in the public interest and is likely to set an undesirable precedent, pursuant to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act 1979.

Signed**Assessing Officer: Louise Meilak****Title: Principal Planner****Date: 25/09/2025**

The application is recommended for determination under the delegation associated with my position.

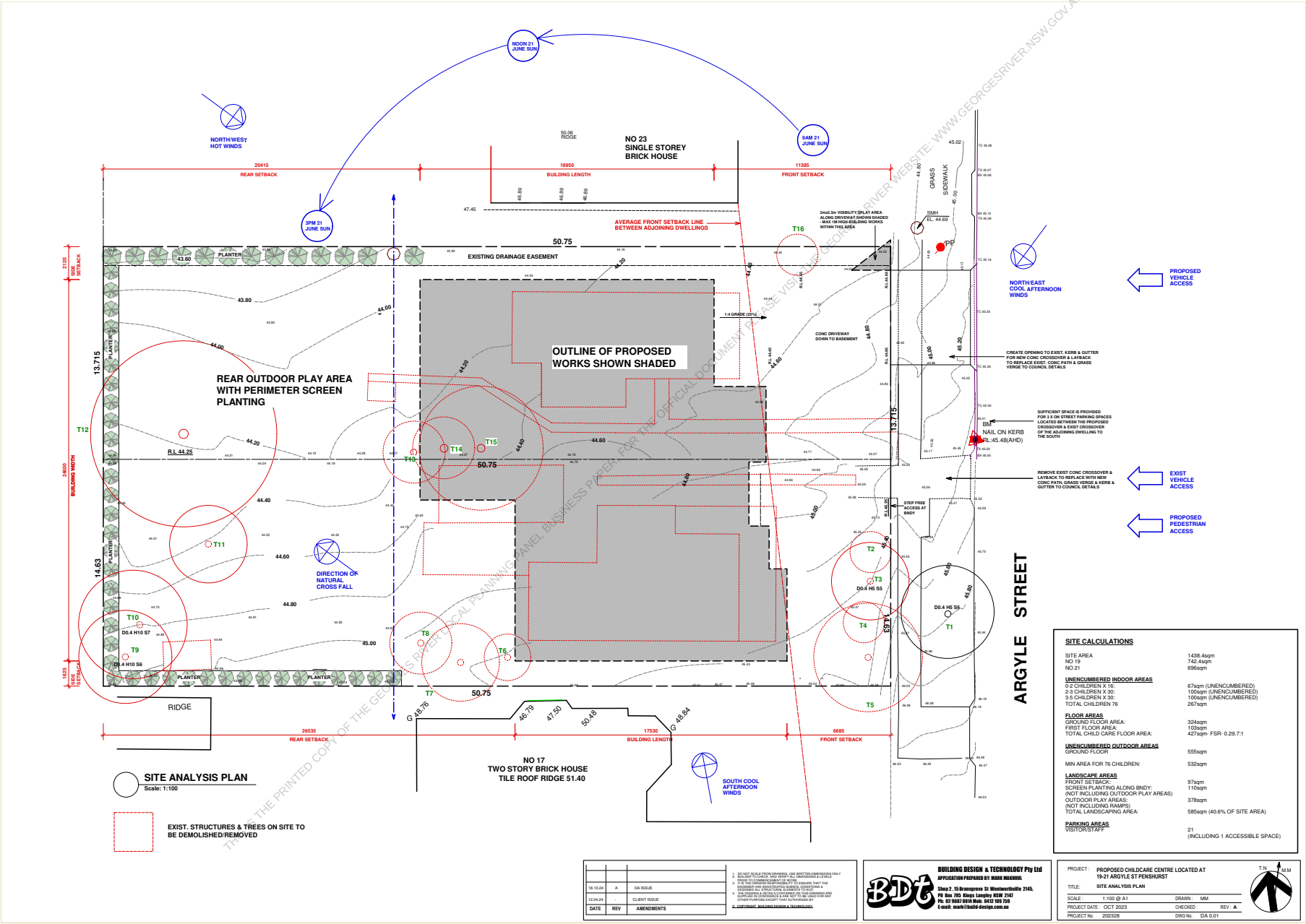
**Delegated Officer: Peter Oriehov****Title: Coordinator Development Assessment**

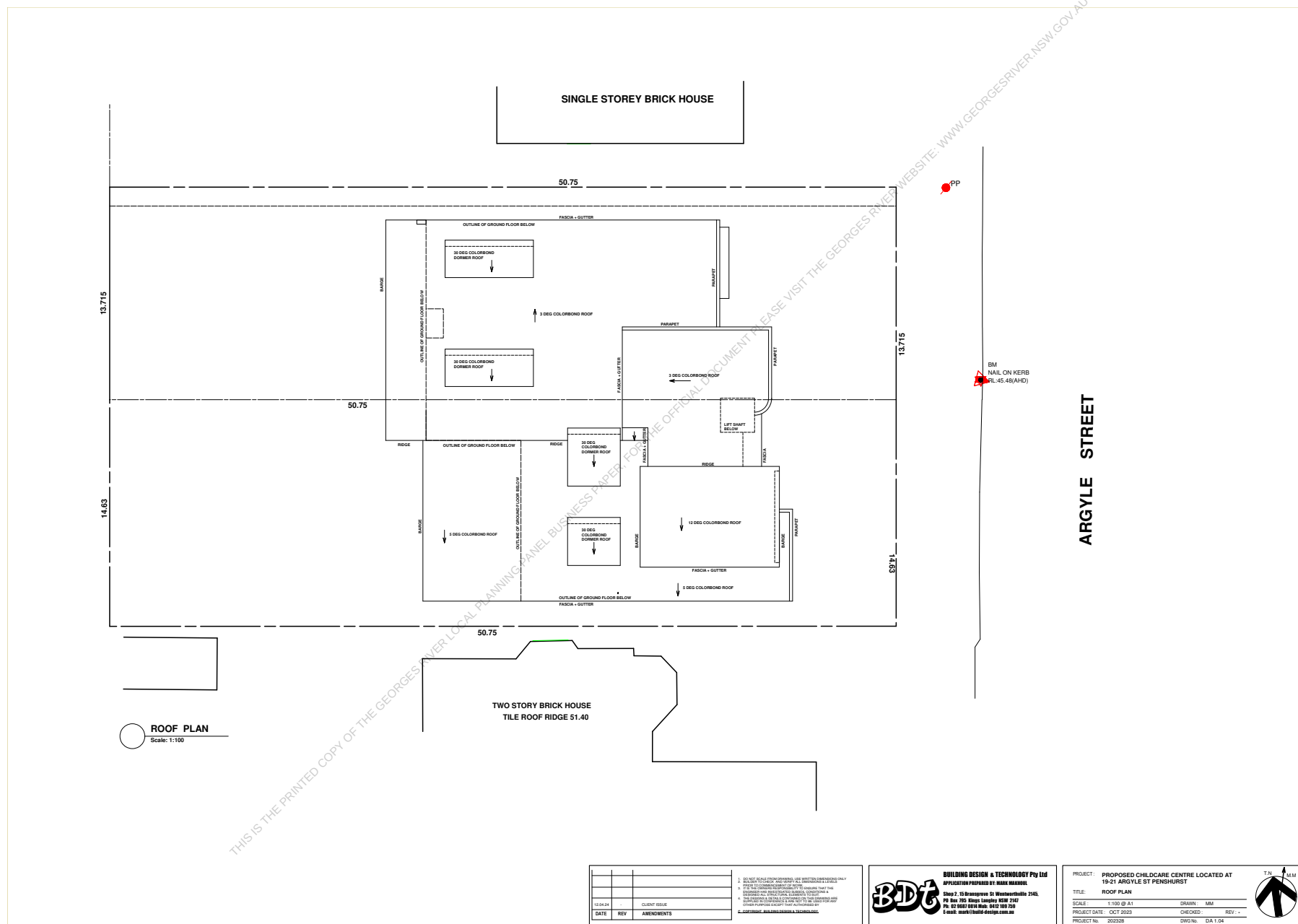
Date: 08 October 2025

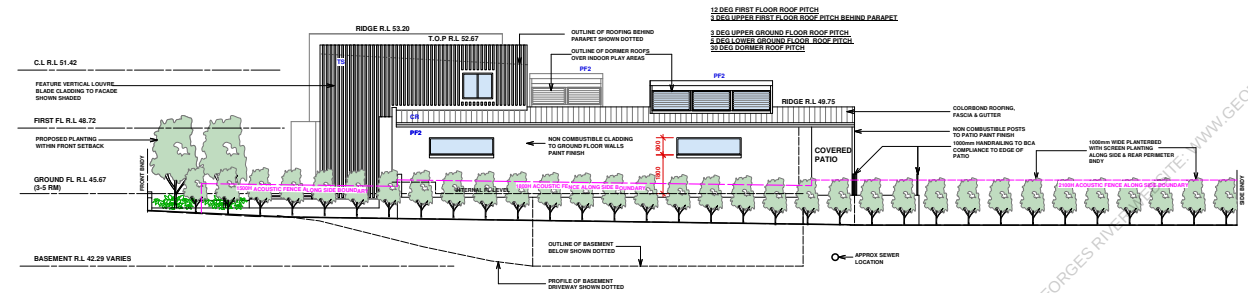
The application is determined in accordance with the recommendation and delegation under PLN03 associated with my position.

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

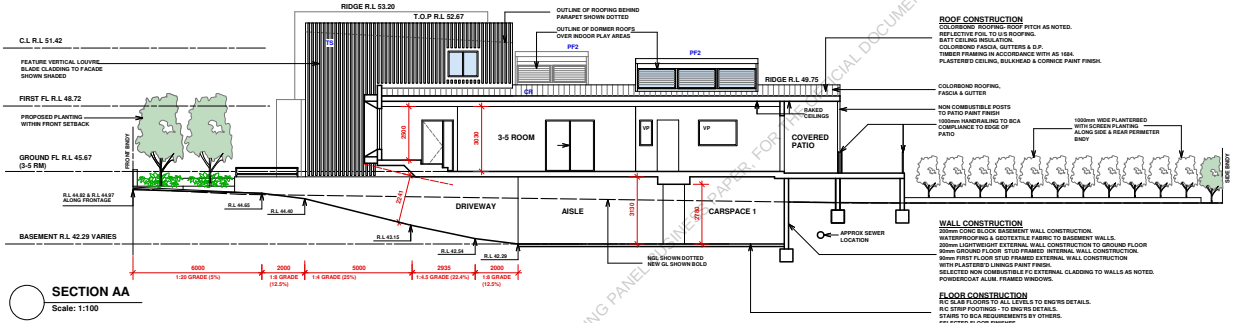




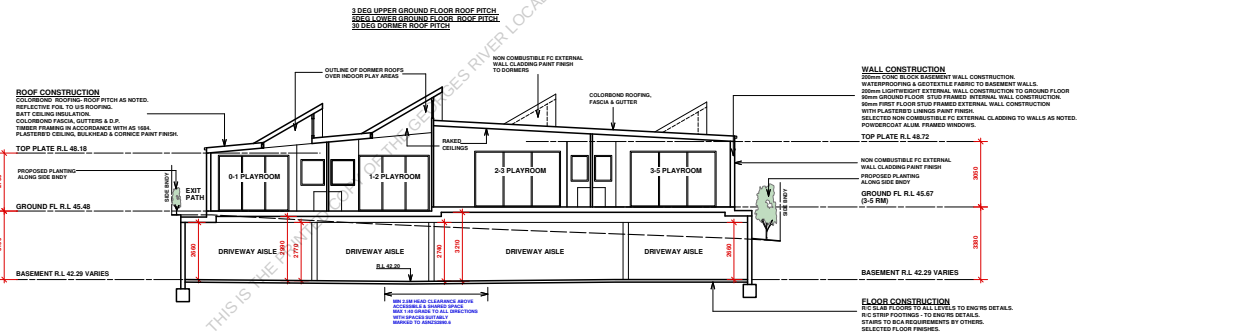




NORTHERN ELEVATION
Scale: 1:100



SECTION AA
Scale: 1:100



SECTION BB
Scale: 1:100

FINISHES LEGEND

- TS- TIMBER LOOK ALUMINIUM VERTICAL
BATTEN SCREEN
CR - COLORBOND ROOF SHALE GREY
- PF1 = DULUX- COLORBOND BASALT
PF2 = DULUX- NATURAL WHITE
PF3 = DULUX- HARVEST GOLD
PF4 = DULUX- RED CROWN
PF5 = DULUX- BRIGHT LETTUCE
- WINDOWS = COLORBOND MONUMENT
- PC= PAINTED COLUMNS VARIOUS COLOURS
- FASCIA/GUTTER = COLORBOND SHALE GREY
- PALISADE FENCING/ HANDRAILING= COLORBOND MONUMENT



COLORBOND SHALE GREY



DULUX NATURAL WHITE



COLORBOND BASALT



COLORBOND MONUMENT



DULUX HARVEST GOLD



DULUX BRIGHT LETTUCE



DULUX RED CROWN



VERTICAL TIMBER BATTEN SCREEN

DATE	REV	AMENDMENTS
10.04.24	1	CLIENT ISSUE

BDT BUILDING DESIGN & TECHNOLOGY Pty Ltd
APPLICATION PREPARED BY: DAVID MARRAS
Shop 7, 15 Bransgrove St Westmeath NSW 2145
PO Box 765 Kings Langford NSW 2147
Ph: 02 9618 1818 Fax: 02 9618 1818
E-mail: mark@build-design.com.au

PROJECT:	PROPOSED CHILCARE CENTRE LOCATED AT 19-21 ARGYLE ST PENSURST
TITLE:	ELEVATIONS & SECTIONS
SCALE:	1:100 @ A1
PROJECT DATE:	OCT 2023
PROJECT No:	2023208
DRAWN:	MM
CHECKED:	REV -
DWG No:	DA 1.06



12.04.24	-	CLIENT ISSU/E
DATE	REV	AMENDMENTS

1. DO NOT SCALE FROM DRAWING. USE WRITTEN DIMENSIONS ONLY.
2. BUILDER TO CHECK AND VERIFY ALL DIMENSIONS & LEVELS PRIOR TO COMMENCEMENT OF WORK.
3. IT IS THE OWNER'S RESPONSIBILITY TO ENSURE THAT THE ENGINEER HAS INVESTIGATED SUBSOIL CONDITIONS & DESIGNED ALL STRUCTURAL ELEMENTS TO SUIT.
4. THE DESIGN & DETAILS CONTAINED ON THIS DRAWING ARE SUPPLIED IN CONFIDENCE & ARE NOT TO BE USED FOR ANY OTHER PURPOSE EXCEPT THAT AUTHORIZED BY

C. COPYRIGHT, BUILDING DESIGN & TECHNOLOGY



BUILDING DESIGN & TECHNOLOGY Pty Ltd
APPLICATION PREPARED BY: MARK MAKHOOL

Shop 2, 15 Bransgrove St Westwetherbelle 2145,
PO Box 785 Kings Langley NSW 2147
Ph: 02 9687 0814 Mob: 0412 109 759
E-mail: mark@bdt-design.com.au

PROJECT:	PROPOSED CHILDCARE CENTRE LOCATED AT 19-21 ARGYLE ST PENSURST		
TITLE:	ELEVATIONS 1		
SCALE:	1:100 @ A1	DRAWN:	MM
PROJECT DATE:	OCT 2023	CHECKED:	
PROJECT No.	202328	DWG No.	DA



REPORT TO GEORGES RIVER LOCAL PLANNING PANEL MEETING OF THURSDAY, 23 OCTOBER 2025

LPP030-25 44 BELMORE ROAD PEAKHURST

LPP030-25

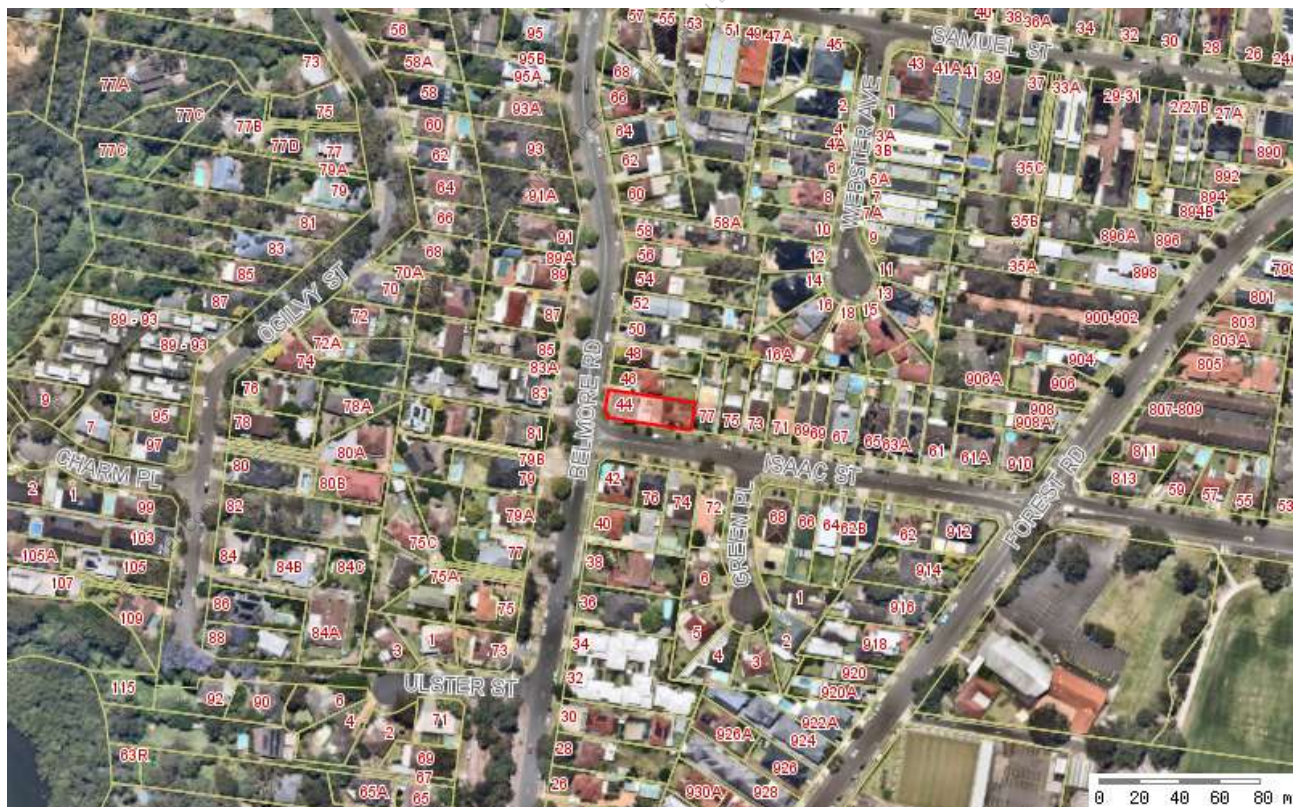
LPP Report No	LPP030-25	Development Application No	DA2025/0284
Site Address & Ward Locality	44 Belmore Road Peakhurst Peakhurst Ward		
Proposed Development	Change of use and Associated Alterations and Additions - Proposed Cafe at Ground Floor and Office, Storage to First Floor		
Owners	John Pashalis		
Applicant	George Lagoudakis		
Planner/Architect	Absolute Design and Construction Pty Ltd		
Date Of Lodgement	16/06/2025		
Submissions	Sixty- Eight (68) submissions of which Fifty-one (51) are unique submissions.		
Cost of Works	\$70,000.00		
Local Planning Panel Criteria	More than 10 unique submissions		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, Georges River Local Environmental Plan 2021, Georges River Development Control Plan 2021		
List all documents submitted with this report for the Panel's consideration	Architectural Plans, Statement of Environmental Effects, Waste Management Plan, Landscape Plan, Survey, Traffic and Parking Report.		
Report prepared by	Consultant Planner		

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

SITE PLAN



EXECUTIVE SUMMARY

PROPOSAL

- The development application seeks consent for Change of use and Associated Alterations and Additions - Proposed Cafe at Ground Floor and Office, Storage to First Floor located at 44 Belmore Road Peakhurst. The proposed works include:

Works	Proposal
Change of Use	☐ Change of use of existing building to a Café.
Ground Floor	☐ Proposed use of the ground floor as a Café.
First Floor	☐ Proposed use of the first floor as office, staff and storage areas.
External Works	☐ Construction of a concrete carpark to contain one (1) car parking space, one (1) accessible car parking space with a shared zone, one (1) loading space and associated driveways. ☐ Stormwater works. ☐ Construction of a pergola and external timber stairs to facilitate access to the first floor.
Operations	☐ 6am to 4pm Monday to Sunday ☐ Maximum of 6 staff members ☐ Maximum of 68 dine in customers ☐ Maximum of 20 patrons seated at the front and 16 patrons at the rear (8am to 4pm). ☐ Between 6am and 7am the front outdoor seating area will be limited to a maximum of 8 seated patrons and no patrons will be permitted to be seated at the rear during this time.

SITE AND LOCALITY

- The subject site at 44 Belmore Road, Peakhurst (Lot 8 DP 16573) is a corner block of approximately 600.7m² with frontages to Belmore Road and Issac Street. It contains a two-storey shop-top building with ground-floor commercial use and a first-floor residence.
- Unauthorised building works were undertaken on the premises, converting the upper floor residence to offices associated with a ground floor café. Building works have ceased on the site pending the outcome of this development application and a Building Information Certificate (BIC-40191) was issued on 20 May 2025 for the unauthorised works.
- The surrounding area is predominantly low-density residential, comprising single-storey dwellings, with no other nearby commercial premises.

ZONING AND PERMISSIBILITY

- The subject site is zoned E1 Local Centre under the Georges River Local Environmental Plan 2021 (GRLEP 2021). The proposal is defined as a 'café' which is defined as a 'food and drink premise' this use is permissible with consent in E1 Zone under the GRLEP 2021.

SUBMISSIONS

6. Council received a total of sixty-eight (68) submissions during the public notification period, of which fifty-one (51) are unique. The content of the submissions will be discussed in further detail in this report.

CONCLUSION

7. 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 (DA2024/0385) is recommended for approval for the reasons contained within this report.

REPORT IN FULL

PROPOSAL

8. The Development Application seeks consent for Change of use and Associated Alterations and Additions - Proposed Cafe at Ground Floor and Office, Storage to First Floor located at 44 Belmore Road Peakhurst. The proposed works include:

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Operations	☐ 6am to 4pm Monday to Sunday ☐ Maximum of 6 staff members ☐ Maximum of 68 dine in customers ☐ Maximum of 20 patrons seated at the front and 16 patrons at the rear (8am to 4pm). ☐ Between 6am and 7am the front outdoor seating area will be limited to a maximum of 8 seated patrons and no patrons will be permitted to be seated at the rear during this time.

THE SITE AND LOCALITY

9. The subject site is legally described as Lot 8 DP 16573. The site is commonly known as 44 Belmore Road, Peakhurst NSW 2210.
10. The subject site is a rectangularly shaped site with an approximate area of 600.7sqm by Deposited Plan. The site has a primary western street frontage of 11.555m to Belmore Street, 41.73m secondary street frontage to Issac Street, 43.89m northern side boundary, and 13.715m eastern rear boundary. The site is generally flat.

11. The site currently contains a two-storey shop top building with a ground floor commercial component and a residential component on the first floor. The building primarily addresses Belmore Road. No parking is currently provided on the site. A site inspection reveals that fitout works for the café internally have predominately been completed.
12. A review of Council's records reveals Building Information Certificate (BIC-40191) was issued by Council on 20 May 2025 for unauthorised works – Alterations and additions to existing ground floor shop and first floor residence including concrete slab.
13. Adjoining the site to the north is a single-storey brick detached dwelling house, and adjoining the site to the east is a single-storey weatherboard detached dwelling house with a detached carport.
14. The locality is predominantly low-density residential in character, featuring a mixture of one-to-two-storey detached dwelling houses. There is no other commercial premise within close proximity of the subject site.
15. The undertaken and proposed works are shown in Figures 2 and 3.



Figure 2: Ground floor plan. The components shaded in purple are the proposed works.

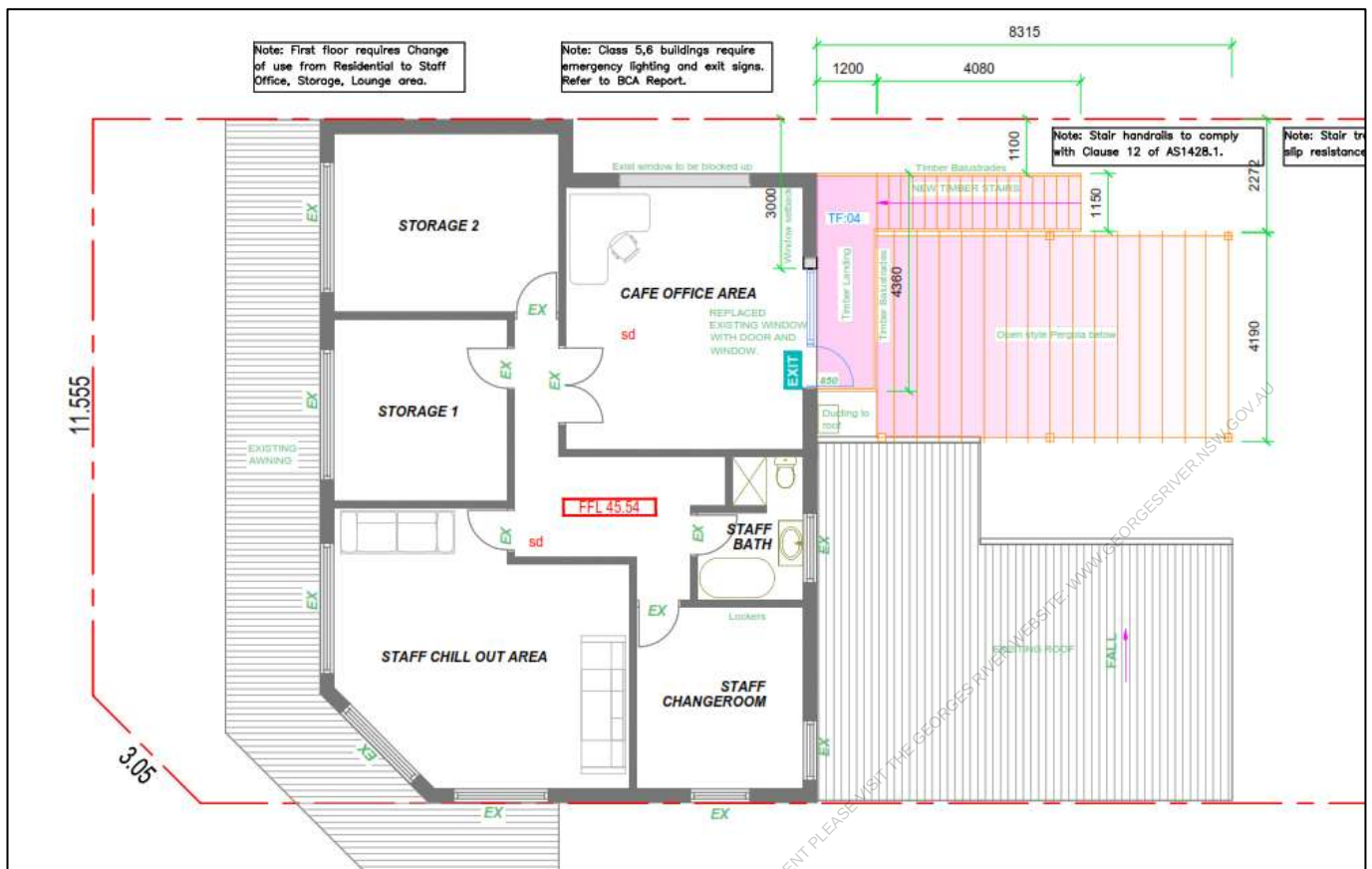


Figure 3: First floor plan. There are no proposed works to the first floor.

16. Figures 4 to 6 illustrate the subject site whilst Figure 7 details the internal works.



Figure 4: Subject site – Belmore Road frontage.



Figure 5: Subject site – Isaac Street frontage.



Figure 6: Subject site – Rear yard.



Figure 7: Subject site – Internal works.

BACKGROUND

17. The following table contains the application background of the subject site:

Application Number	Works Related
02/DA-213	On 6 November 2006, approval was granted for the alteration of mixed business. The mixed business is classified as a neighbourhood shop. This is the oldest application identified in Council's archive in relation to the subject site.
CDC2022/0347	On 12 August 2022, a Private Certifier issues approval for the alteration and addition to existing shop top housing to include a one-storey extension and internal alterations. (see Figure 9 below).

Application Number	Works Related
	 Figure 8: Ground floor plan. The yellow component denotes the works approved under CDC2022/0347. (Source: CDC2022/0347 documents).
OCC2024/0267	On 11 June 2024, an Occupation Certificate issued for the works approved under CDC2022/0347.
149D2024/0028	On 17 June 2024, a BIC for unauthorised works was refused on 17 June 2024 due to insufficient information. Compliance with relevant National Construction Codes is not demonstrated.
DA2024/0385	On 17 December 2024, an application for change of use to a café was withdrawn.
BIC 149D2025/0038	On 20 May 2025, a Building information certificate (BIC) for unauthorised works at the ground floor and first floor.

APPLICATION BACKGROUND

18. A history of the development application is provided as follows:
- ☐ The subject application (**2025/0284**) was lodged on 16 June 2025.
 - ☐ The application was placed on public exhibition between 19 June 2025 and 10 July 2025. In response, fifty-one (51) unique submissions (for and against) were received.
 - ☐ Site inspection was carried out on 16 July 2025.
 - ☐ A request for information letter was sent on 4 August 2025.

PLANNING ASSESSMENT

19. 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

20. 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)

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

State Environmental Planning Policy Title	Complies
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes
State Environmental Planning Policy (Industry and Employment) 2021	N/A
State Environmental Planning Policy (Sustainable Buildings) 2022	N/A

State Environmental Planning Policy (Biodiversity and Conservation) 2021

22. Chapter 6 – Water Catchments applies to the proposed development as the subject site is located within the Georges River Catchment.

Chapter 6 – Water Catchments

23. This chapter applies as the site is positioned within the Georges River Catchment.
24. The proposal has a neutral environmental impact on the Georges River Catchment. The proposed development will connect to the existing stormwater system and does not involve the enlargement of the building footprint.

State Environmental Planning Policy (Resilience and Hazards) 2021

25. Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 are relevant to the proposal.

Chapter 4 – Remediation of Land

26. 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.
27. 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.
28. A review of historic aerial photography dating back to 1943 indicates that the site has continually been used as shop top housing. Residential and commercial 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 and commercial developments in its current state for the development proposed with respect to contamination.

State Environmental Planning Policy (Transport and Infrastructure) 2021

29. Compliance with SEPP (Transport and Infrastructure) 2021 has been considered during the assessment of this development application. Ausgrid was consulted as required by Chapter 2, and no objection was raised to the proposed development subject to conditions.

Georges River Local Environmental Plan 2021

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

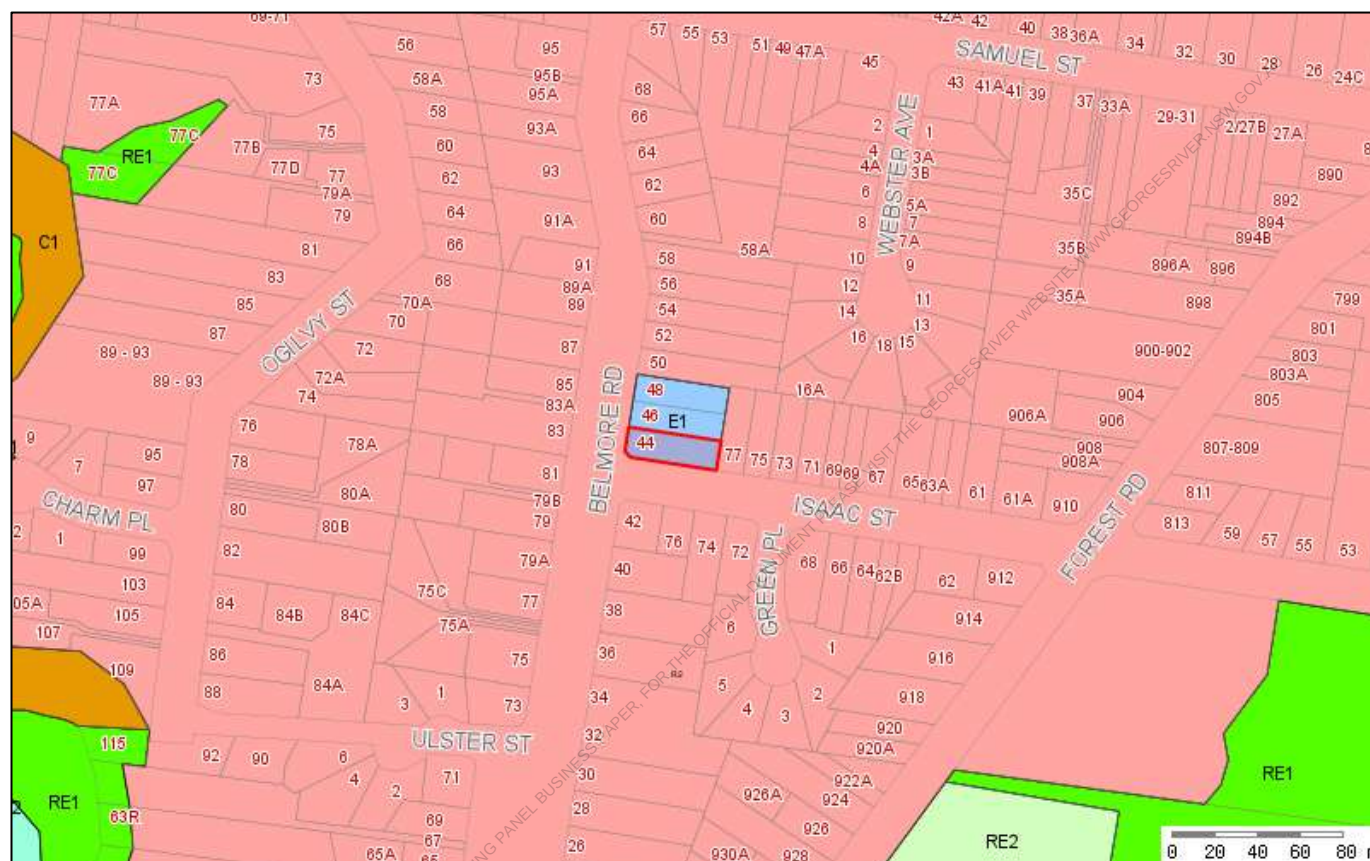


Figure 7: Zoning map. The subject site is outlined in red. The area shaded in red indicates R2 Low Density Residential Zone, and the area shaded in light blue denotes E1 Local Centre zone. (Source: Intramaps)

GRLEP 2021 - Part 1 – Preliminary		
Clause 1.2 – Aims of the Plan		
Standard	Proposal	Compliance
In accordance with Clause 1.2 (2)	The development is considered to be consistent with the aims of the plan as it will provide for a business use that will promote employment and economic growth and contribute to the viability and vibrancy of the local centre.	Yes
Clause 1.4 – Definitions		
Standard	Proposal	Compliance
restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the	The proposed use, being a café, is consistent with the definition.	Yes

premises, whether or not liquor, take away meals and drinks or entertainment are also provided. Note— Restaurants or cafes are a type of food and drink premises shop top housing means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities.		
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GRLEP 2021 Part 2 – Permitted or prohibited development

Clause 2.3 – Zone objectives and Land Use Table

Standard	Proposal	Compliance
The subject site is zoned E1 Local Centre: The objectives of the zone are: - To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area. - To encourage investment in local commercial development that generates employment opportunities and economic growth. - To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area. - To encourage business, retail, community and other non-residential land uses on the ground floor of buildings. - To maximise public transport patronage and encourage walking and cycling. - To encourage development that is compatible with the centre's position on the centres hierarchy.	The proposal is identified as a café, which is permissible within the E1 Zone. The proposal is consistent with the zone's objectives as outlined below: ☐ Provides a use that will serve the needs of the residents ☐ activates that public domain; and ☐ the hours of use are consistent with the surrounding residential character.	Yes
Land Use Table		
	The proposal is for a 'café' which is defined as a 'food and drink' premises and is permissible with consent within E1 zone.	Yes
GRLEP 2021 Part 4 – Principal Development Standards		

Clause 4.3 – Height of Buildings		
Standard	Proposal	Compliance
Maximum height is 9m as identified on Height of Buildings Map	8.4m (existing)	No change to existing height.
Clause 4.4 – Floor Space Ratio		
Standard	Proposal	Compliance
Maximum floor space ratio is 1.5:1, equivalent to 901.05sqm.	No change to the existing gross floor area, outlined below: ☐ Ground floor: 158.8m² ☐ First floor: 116.3m² Total floor area = 275.1m ²	No change to existing FSR.

GRLEP 2021 Part 6 – Additional Local Provisions		
Clause 6.1 Earthworks		
Standard	Proposal	Compliance
(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works. Class 5 The site is identified as containing Class 5 Acid Sulfate Soils. Consent may not be granted for any Works within 100 metres of adjacent Class 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 2, 3 or 4 land unless an acid sulfate soils management plan has been prepared.	The site identified as containing Class 5 acid sulfate soils, but no earthwork is proposed, and the subject site is not located below 5m Australian Height Datum. No further action is therefore required.	Yes
Clause 6.3 – Stormwater Management		
Standard	Proposal	Compliance
(2) In deciding whether to grant development consent for development, the consent authority must be satisfied that the development— (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 (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	The proposed stormwater design has been reviewed by Council's Development Engineer and no concerns are raised subject to conditions.	Yes

(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 (d) is designed to minimise the impact on public drainage systems.		
Clause 6.9 Essential Services		
Standard	Proposal	Compliance
Development consent must not be granted to development unless Council is satisfied that any of the following services that are essential for the development are available, or that adequate arrangements have been made to make them available when required a) the supply of water, b) the supply of electricity, c) the supply of telecommunications facilities, d) the disposal and management of sewage e) stormwater drainage or on-site conservation, f) suitable vehicular access.	The site provides adequate essential services.	Yes
Clause 6.10 Design Excellence		
Standard	Proposal	Compliance
(2) 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. (3) This clause applies to development on the following land: (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— (ii) Zone E1 Local Centre,	The existing building has a height of 8.4m and a built form of 2 storeys. The proposal does not propose to increase the building height or level of storeys. As such Clause 6.10 does not apply.	N/A

Clause 6.12 – Landscaped areas		
Standard	Proposal	Compliance
(2) This clause applies to land in the following zones— (a) Zone R2 Low Density Residential, (b) Zone R3 Medium Density Residential, (c) Zone R4 High Density Residential, (d) Zone C2 Environmental Conservation.	The subject site is situated within the E1 Zone. Therefore Clause 6.12 does not apply.	N/A
Clause 6.13 Development in Zones E1 and MU1		
Standard	Proposal	Compliance
(2) This clause applies to land in the following zones— (a) Zone E1 Local Centre, (b) Zone MU1 Mixed Use. (3) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied the development will not cause a part of the ground floor of a building that is facing a street to be used for the purposes of residential accommodation or tourist and visitor accommodation. (4) Subclause (3) does not apply to a part of a building that is used for the following purposes— (a) entrances and lobbies, including as part of a mixed use development, (b) access for fire services, (c) essential services. (5) Development consent must not be granted for the erection of a building with a gross floor area on the ground floor of more than 500m² on land identified as “Area A” on the Land Zoning Map unless the consent authority is satisfied at least 500m² of the gross floor area on the ground floor will be used for— (a) a purpose other than residential accommodation or tourist and visitor accommodation, and (b) a purpose specified in subclause (4).	The subject site is located in E1 Local Centre zone. The proposal will not result in residential accommodation or tourist and visitor accommodation to be located on ground floor facing a street. Subclause (4) does not apply as no part of the building is to be utilised for residential accommodation or tourist and visitor accommodation. Subclause (5) does not apply as the proposal does not involve the erection of a building, and the subject site is not located within the area zoned ‘Area A’.	Yes

Georges River Development Control Plan 2021 (GRDCP 2021)

Part 3 General Planning Considerations

LPP030-25

3.13 Parking Access and Transport

Control	Proposal	Compliance
As per the table within this section the development is to provide parking at the following rates: Parking: ≥800m walking distance of Railway station - 1 space per 30sqm (GFA)	The proposed café has a gross floor area of 275.1sqm, requiring 9.17 spaces (9) Accounting for parking credit of 7, three (3) on-site parking spaces are required. See Control 7 of Part 3.13 of the GRDCP for full parking assessment.	No – a condition is recommended to be imposed to require one (1) additional car space to be provided.
6. A parking credit is available when developing a site already occupied by a building. Provided the development retains the structure of the existing building, the proposed development will be exempted from the parking requirements for the existing floor space.	Noted. Parking credit applies as the proposal retains the existing building.	Yes
7. Where the development is for the change of use of an existing building and the new use requires more parking than the old use, the credit is for the original use, even though the floor space may not be increasing. For example, converting a warehouse with no parking into a shop, with no increase in floor space would still be required to provide extra parking but this will be for the shop requirement minus the warehouse requirement.	See table below.	No – but as discussed above a suitable condition is recommended.

Development Status	GRDCP2021 Parking Rate	GFA (Ground Floor plus First Floor)	Number of Car Parking Spaces
Proposed - cafe	1 space per 30m² GFA	275.1sqm	9.1
Previous-Retail (Shop)	1 Space per 40m² GFA	286.3sqm	7.2 (Parking Credit)
Number of Required Car Parking Spaces			2.5(3)
Number of Proposed Car Parking Spaces			3

In summary:

☐ Number of parking spaces required including the loading bay: four (4) spaces

- ☐ **Number of parking spaces proposed including loading bay: two (2) car spaces and one (1) loading bay**
- ☐ **Parking deficiency: one (1) car space**

Council's traffic engineer advises that there are opportunities to accommodate an additional car parking space next to the loading space. A recommended condition of consent will be included to require one (1) additional car parking space to be provided.

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.	The first floor is proposed to be used for staff amenity and storage.	NA
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.	One (1) accessible space with a shared space is provided.	Yes
31. Pedestrian entrances and exits shall be separated from vehicular access paths.	Entrance to the proposed café is separated from vehicular traffic.	Yes
53. Loading bay facilities are to be provided at the following rates: <u>Retail premise</u> Floor area >100m ² to 500m ² – 1 bay required	One (1) loading space is proposed.	Yes
3.17 Universal / Accessible Design		
Control	Proposal	Compliance
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.	Conditions will be included to ensure that proposal complies with internal accessibility provisions.	Yes
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.	Accessible path of travel is facilitated within the proposed café. The front entrance is accessible from the street.	Yes
3. Accessways for pedestrians and vehicles to be separated	Pedestrian and vehicular accesses are separated.	Yes
7. All off-street parking facilities shall allocate accessible parking spaces for people with disabilities outlined below in Table 6. <u>Commercial premises</u> 1-2% of total car parking spaces	The proposed café is classified under the 'commercial premise' category in GRLEP 2021. As such, at least one accessible space is to be provided.	Yes

	The proposal provides an accessible parking space and shared space on site.	
3.19 Crime Prevention / Safety and Security		
Control	Proposal	Compliance
2. In commercial, retail or public buildings, facilities such as toilets and parents rooms are to be conveniently located and designed to maximise casual surveillance to facility entries.	The toilets are conveniently located towards the rear of the building.	Yes
3. Minimise blind-corners, recesses and other external areas that have the potential for concealment or entrapment.	Blind corners are minimised within area accessible to customers.	Yes
4. Building entries are to be clearly visible, unobstructed and easily identifiable from the street, other public areas and other development. Where practicable lift lobbies, stairwells, hallways and corridors should be visible from the public domain.	The existing front entrance is clearly visible. The proposed café will retain the existing front entrance.	Yes
5. Ground floors of non-residential buildings, the non-residential component of mixed use developments, and the foyers of residential buildings, are to be designed to enable surveillance from the public domain to the inside of the building at night.	Existing street-facing windows are retained to enable surveillance from the public domain to the interior of the building.	Yes

Part 7 – Business Precincts

Part 7.1.2 Built Form

1. Minimum Site Requirements		
Control	Proposal	Compliance
3. Utility services and infrastructure are to be consolidated to minimise impacts on the streetscape and pedestrian amenity.	The subject site already has access to utility. The proposal will not change the existing utility arrangement.	Yes
2. Streetscape		
Control	Proposal	Compliance
5. Pedestrian amenity is to be addressed through the provision of continuous awnings for weather protection.	Existing awning to be retained.	Yes
7. In predominantly residential areas, strengthen the interaction between the public and private domain by providing multiple entrances for large developments, locate shops where they will be most visible and minimise the vehicular entrance width.	Interaction between public and private domain is strengthened by incorporating visually dominant front entrance, and provision of outdoor dining on the Belmore Road frontage.	Yes
11. Sub-stations, fire booster assemblies and waste bin storage structures need to be integrated into the development and identified at the DA stage. Lift over runs	The waste storage area is appropriately sited.	Yes

and plant equipment should be concealed within well designed roofs.

Part 7.1.3 Design

1. Design Excellence		
Control	Proposal	Compliance
2. If Clause 6.10 of the GRLEP 2021 does not apply, the new development is to address the following: a. The characteristics of the site and adjoining development by undertaking a thorough site analysis. b. Utilise innovative design which positively responds to the character and context of its locality. c. Large areas of flat façade need to be articulated using panels, bay windows, balconies, steps in the façade and changes in texture and colour. d. Enhance the streetscape character of the locality. e. Ensure that proposed development is consistent in height and scale with surrounding development. f. Development is integrated with the surrounding environment by considering pedestrian, bicycle, vehicular and visual links to the street, rear laneways and open spaces. g. Maintain established setbacks. h. Design buildings to minimise impacts on neighbours by maintaining appropriate levels of solar access and privacy. i. Ensure any development utilises materials and finishes which complement the locality. j. Design for acoustic and visual privacy. k. Ensure dwellings and open space areas achieve good solar access, and are energy efficient. l. Ensure building entries address the street and are clearly visible from the street or footpaths. m. Design development that provides good quality landscaping.	Minor improvements to the façade will enhance the streetscape character of the locality and adequately addresses the streetscape.	Yes

n. Consider the relationship of private open space to the layout of the dwelling.		
o. Use design techniques which promote safety and discourage crime; and		
p. Encourage active street frontages.		
2. Building Facades		
Control	Proposal	Compliance
14. Noise mitigation and design considerations for developments adjoining busy roads are to consider the Department of Planning, Industry and Environment's 'Development Near Rail Corridors and Busy Roads - Interim Guideline'.	Not applicable – Belmore Road is classified as a local road.	N/A
4. Public Domain Interface at ground level		
Control	Proposal	Compliance
2. Development must be designed so that it has a clearly definable entry and addresses the street.	The proposal retains a clearly definable street entry.	Yes
3. For mixed use development which contains residential dwellings, the primary area of outdoor private open space must not be located on the street frontage, unless it is on the first floor or above.	The proposal does not have a residential component. The first floor is proposed for staff/storage use.	Yes
5. Active Street Frontages		
Control	Proposal	Compliance
2. Any outdoor seating must be proposed so as not to compromise pedestrian safety and access or reduce vehicle sight lines. There must be a minimum of 2 metres available on the public footpath (clear of any obstruction) for pedestrian access.	The proposed outdoor seating will not encroach onto public footpath.	Yes
4. Active street frontage where possible must take advantage of public open spaces, and views and vistas to orientate the active uses on the ground floor. (i.e. café outdoor seating must be orientated to parks and open spaces to improve visual amenity for patrons).	There is no unique vista observable from the subject site. The proposed outdoor sitting area is located at the Belmore Street frontage to promote street activation.	Yes
8. Shop Top Housing		
Control	Proposal	Compliance
1. The ground floor level of shop top housing development shall comprise active retail/commercial uses facing the street.	The ground floor level is proposed to be utilised as a café.	Yes
2. Levels above ground are to sustain mixed uses, including commercial, professional services, and residential (where permitted).	The first floor is proposed to be used for storage and staff amenities.	Yes

3. Site and design non-residential and residential land uses in the same development in a manner that will not adversely affect the future operation of those land uses.	The first floor is proposed to be used for storage and staff amenities.	Yes
4. A direct visual connection is to be provided between footpaths and shops	Achieved. The proposal retains the existing windows and front entrance which provides strong visual connection between the ground floor and street level.	Yes
7. For cafe/dining uses, provide openable frontages in association with seating overlooking the street, to create the experience of outdoor dining. Note: Applications for outdoor dining must comply with Council's Code for Commercial Use of Public Footways.	Internal and external seating provided facing the street to facilitate street activation. No seating is proposed over Council land.	Yes
8. Incorporate continuous, independent and barrier free access to ground floor commercial entries, including effective signage, sufficient illumination, tactile ground surface indicators and pathways with limited cross-falls, sufficient width, comfortable seating and slip-resistant floor surfaces.	The access to the ground floor is barrier-free.	Yes
9. Pedestrian access to upper level uses is preferred from the side street or rear lane. If provided from the main street, openings for access are to be between 1.5m and 3m wide.	New stairs to access the first floor are proposed at the north elevation. A privacy screen is proposed at the landing.	Yes

Part 7.1.4 Amenity

1. Visual Privacy		
Control	Proposal	Compliance
1. Potential visual privacy impacts are to be mitigated by the following design measures: a. Fixed screens of a reasonable density (minimum 75% block out); b. Fixed windows with translucent glazing (providing natural ventilation is not compromised); c. Appropriate screen planting or planter boxes. Note: This option is only acceptable where it is demonstrated that the longevity of the screen planting will be guaranteed. d. Windows are to be off-set or splayed; and	The proposal will not create visual privacy intrusion given its ground floor location. The existing boundary fences are of sufficient height (approximately 1.8m) to deter overlooking. The proposed café is located entirely on the ground floor.	Yes

e. Windows with sill heights of 1.8 metres or more above floor level or fixed translucent glazing to any part of a window lower than 1.8 metres above floor level.		
2. Acoustic Privacy		
Control	Proposal	Compliance
5. In order to assist acoustic control of airborne noise between units: a. A wall shall have a Field Sound Transmission Class (FSTC) of not less than 50 if it separates a sole occupancy unit, or a sole occupancy unit from a plant room, stairway, public corridor, hallway or the like; b. A wall separating a bathroom, sanitary compartment, laundry or kitchen in one sole occupancy unit from a habitable room (other than a kitchen) in an adjoining unit, is to have a FSTC of not less than 55; c. A floor separating sole occupancy units must not have a FSTC less than 50; d. Noise impact associated with goods delivery and garbage collection, particularly early morning, should be minimised; e. Restaurants and cafes should be designed to minimise the impact of noise associated with late night operation, on nearby residents.	The submitted acoustic report has been reviewed by Council's Environmental Health officer and no concern is raised, conditions will be included to ensure compliance with the accompanying acoustic report.	Yes
3. Interface between Business Zones and adjoining land uses		
Control	Proposal	Compliance
1. Clear boundaries between the public and private domain must be created to enhance security, privacy and safety.	Clear boundaries provided between the public and private domains. The external walls and fences demarcate the private area.	Yes
4. Development will be designed to locate sources of noise such as garbage collection, loading/unloading areas, air conditioning plant/other machinery, and parking areas away from adjoining residential properties and where necessary, be screened by walls or other acoustical treatment.	The waste storage area is screened and adjoins the vehicle access area.	Yes
4. Utility Infrastructure		
Control	Proposal	Compliance
1. All existing and additional utility infrastructure must be identified, and an assessment of whether these services	The subject site is adequately serviced by utilities. No upgrade required.	Yes

need to be upgraded for the proposed development, at the site planning stage.		
5. Where existing street trees are lost as a result of trenching related to undergrounding of cables, a suitable replacement/s must be installed in keeping with Council's Tree Management Policy.	No street tree removal proposed.	Yes
7. Appropriate street lighting to the relevant standards must be installed at the applicants' cost where removed as part of the undergrounding of existing overhead power lines in accordance with the Council and Energy Australia approved standards.	No street lighting removal proposed.	Yes
8. Restoration of the street pavement, verge and footpath must be complementary to the materials and type of construction used in the vicinity, in accordance with Council's specifications.	The proposal incorporates no public domain work. If work is required, and if the proposal is to be recommended for approval, suitable conditions would be applied to achieve compliance with this control.	Yes

Part 7.1.7 Servicing

7.1.7 Servicing		
Control	Proposal	Compliance
5. No garbage collection is permitted between 10pm and 6am.	As per the acoustic report, waste collection is to occur between 7am and 6pm Monday to Saturday. This will be included as a condition of consent.	No

Part 7.1.8 Plan of Management

1. Minimum Site Requirements		
Control	Proposal	Compliance
1. A POM will be required when a commercial or light industrial use is proposed in proximity of a residential land use and Council considers it may unreasonably impact on the amenity of surrounding residences. Note: For the purpose of this control 'in proximity' may include a commercial or light industrial premise adjoining, abutting, adjacent to or contained within the same building as residential land use, or as determined by Council.	The subject site adjoins residential properties to the north and east. A plan of management (POM) is supplied. The plan of management is generally considered adequate. However, a condition is recommended to update the POM to align with traffic, acoustic and delivery requirements and a further condition is recommended to ensure compliance with the POM once the business is operational. .	Yes

2. A POM must provide all details relevant to the operation of the commercial or light industrial premise and will require information on the following: • Hours of operation • Noise and Vibration • Environmental Protection	The POM is considered acceptable, subject to recommended conditions. Council's Environmental Health Officer has reviewed the associated acoustic impacts and is satisfied subject to conditions of consent.	Yes
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Impacts

Natural Environment

31. The proposal is not considered to detrimentally affect the natural environment. The proposal requires no vegetation removal.

Built Environment

32. The proposal represents an appropriate use of the site that is compatible in the E1 Local Centre zone.
33. The proposed use of the existing commercial building as a café will contribute positively to the surrounding residential area. The siting, scale and massing is predominately consistent with the original building and will contribute positively to the character of the area, whilst providing suitable street activation and natural surveillance.
34. The proposed development is of a scale and form that is consistent with development of this nature which is unlikely to result in adverse social impacts.

Social Impact

35. The proposed development is of a scale and form that is consistent with developments of this nature and is unlikely to result in adverse social impacts.

Economic Impact

36. The proposal is unlikely to result in any unreasonable economic impacts upon existing and future residents.
37. The proposal may contribute to ongoing service jobs.

Suitability of the Site

38. The site is zoned E1 – Local Centre and the proposed café use is permissible in the zone. The subject site does not contain any impediments that would preclude it or compromise its suitability for the intended land use as proposed.

Submissions, Referrals and the Public Interest

Submissions

39. The application was advertised, and adjoining residents were notified and given fourteen (14) days in which to view the plans and submit any comments on the proposal. Council received fifty-one (51) unique submissions in total (for and against the proposal)
40. Concerns raised in the submissions are summarised and addressed below.

Concerns	Comments
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Off street parking and traffic The café does not accommodate sufficient on-site parking per the parking rate stipulated in the GRDCP 2021. Insufficient detail is provided in relation to staff parking.	The GRDCP 2021 does not require dedicated parking spaces for staff. The parking rate is calculated based on the gross floor area of the premise and an existing parking credit also applies. In accordance with the GRDCP 2021, the proposed café requires three on-site parking spaces. While it is acknowledged that the proposal only provides for two (2) parking spaces and one (1) loading space, it is considered that there is opportunity to include one (1) additional parking space and a suitable condition is recommended to be imposed on the consent to ensure that the development is compliant with the GRDCP 2021 requirements.
Concern is raised regarding the capacity of nearby residential streets to absorb the additional traffic and parking demand generated by the proposed development. Concern is also raised regarding road safety given on-street parking is proposed in close proximity to a roundabout and a bus stop.	The traffic report was adequately prepared based on industry standard and methodologies. Council's traffic engineer reviewed the submitted traffic report and raised no concern regarding traffic generation. The local road network is within its capacity to absorb the additional traffic volume resulted by the proposed development. A parking credit is applied on the subject site to account for the existing parking demand generated by the previous use and ensure that the proposed café (being a more intensive use compared to the previous neighbourhood shop) accommodates for the additional parking demand. The parking credit applies even if no on-site parking was provided for the previous use. Taking the parking credit into consideration, the proposed café is required to provide three (3) on-site parking spaces. As outlined above, subject to conditions of consent, the proposal is able to comply with the parking requirement.
Insufficient details provided on delivery zone and the size of the delivery vehicles.	One (1) dedicated loading space is provided. Council's Traffic Engineer raises no concerns with the proposed size and location of the loading space. A suitable condition will be recommended to limit the size of the delivery vehicle.

Footpath hinderance The proposed outdoor seating facing Belmore road would impede foot traffic on Council's footpath and access to nearby bus stops.	The proposed outdoor seating area is located entirely within the subject site and will not be placed over Council's footpath.
Intensification The necessity of the café is not demonstrated as there are other local cafes in close proximity to the subject site.	There is no planning control placing a limit on the number of cafés within a certain distance. The nearest café, which is in a walking distance of 850m, is unlikely to have any influence on the subject site.
Excessive amount of seating comparable to a restaurant rather than a café.	There is no planning control that places a limit on the customer capacity of a café.
Noise	
Concern is raised regarding the impacts of operation on the peace of the community.	The acoustic report and plan of management have been reviewed by Council's Environmental Health Officer and no concerns raised, subject to conditions of consent.
Concern is raised regarding noise generated from additional traffic, patrons, regular cleaning operation, and early morning deliveries.	The acoustic report outlines that garbage collection and deliveries will be between 7am to 6pm Monday to Saturday. A condition is recommended to be included in the consent to require compliance with the acoustic report.
It is unclear how the customers would be instructed to control noise emission.	The POM requires the following measures to be implemented to control noise emission from the customers: - Signs to be placed at prominent locations to remind customers to minimise noise, and - A log of complaints is to be maintained during operation, with the records being kept for five years. The measures above are adequate in promoting considerate customer behaviour. A condition is recommended to require compliance with the acoustic report.
It is unclear if music is played in the proposed development. The acoustic report includes background music in the assessment scenario.	Background music has been taken into account in the noise emission assessment within the acoustic report.
Odour	Council's Environmental Health Officer has reviewed the proposal and has recommended a condition to manage nuisance odour concerns, this have been included in the recommended conditions of consent.
Visual Privacy	The existing boundary fences are of sufficient height to deter overlooking from the backyard. No upper-level seating is

Concern is raised regarding visual privacy impacts on adjoining properties as a result of outdoor dining.	proposed, all seating is at ground level on this basis privacy will be maintained.
Property value Concerns are raised on potential reduction in property value due to adverse impacts.	Property value is not a planning consideration.
Use of first floor	The first floor is proposed to be for staff amenity and storage use only. Conditions will be included accordingly to manage the use of these spaces.
Serving of Alcohol	The application is for a café. Conditions will be included accordingly to ensure alcohol is not served.
Unauthorised works Unauthorised work was carried out on the premise.	The unauthorised works have been formalised by a BIC.
Operating hours The proposed opening hours from 06:00 to 16:00 for 7 days a week is not suitable.	There is no specific planning control limiting the operation hours of a café. The proposal demonstrates that the amenity impacts will be reasonable during the proposed operation hours and the proposed conditions of consent will mitigate impacts.
The operation hours indicated in the POM is not consistent with other supporting documents.	The operation hours indicated in the submitted POM, SEE, and acoustic report are all consistent. Hours of operation will form a recommended condition of consent along with acoustic, traffic and delivery requirements.
Waste management The submitted documents do not specify the time for waste collection.	The waste collection periods will be during the business operation periods, consistent with the acoustic report. A recommended condition will stipulate waste collection hours.

Council (Internal) Referrals

Building Surveyor

41. Council's building surveyor raised no objection to the proposed development, subject to conditions if the application was to be supported.

Traffic Engineer

42. Council's traffic engineer raised no objection to the proposed development, subject to conditions

Environmental Health Officer

43. Council's Environmental Health Officer raised no objection to the proposed development, subject to conditions, requiring one (1) additional onsite car parking space to be provided. A suitable condition has been recommended to this effect.

External Referrals

Ausgrid

44. The application was referred to Ausgrid as per Clause 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021. No concern was raised subject to conditions being included in relation to the overhead powerlines.

Development Contributions

45. The development is not subject to Section 7.12 Contributions as the proposed cost of work is less than \$100,000.

Conclusion

46. Development consent is sought for change of use to a cafe at 44 Belmore Road, Peakhurst NSW 2210.
47. The proposed use is consistent with the objectives of the E1 Local Centre zone.
48. 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 is considered a form of development which is compatible with its surrounding environment. The proposal is not likely to result in unreasonable adverse environmental impacts, subject to the imposition of appropriate conditions.
49. The application is recommended for approval subject to conditions.

STATEMENT OF REASONS AND DETERMINATION

Statement of Reasons

50. The reasons for this recommendation are:
- ☐ The proposed development is not considered to be incompatible with the surrounding development and surrounding land uses.
 - ☐ The proposed development, subject to recommended conditions of consent complies with the requirements of the relevant environmental planning instruments.

Recommendation

51. Pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended), DA2025/0284 for Change of use and Associated Alterations and Additions - Proposed Cafe at Ground Floor and Office, Storage to First Floor on Lot 8 in DP 16573 on land known as 44 Belmore Road Peakhurst is recommended for approval subject to the attached conditions of consent.

Development Details

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

Architectural Drawings

Description	Drawing No.	Date	Rev	Prepared by
Site Plan	DA01	15/09/2025	A	Absolute Design
Floor Plans	DA05	15/09/2025	A	Absolute Design
Proposed Elevations	DA06	15/09/2025	A	Absolute Design

Documents Relied Upon in Assessing

Description	Ref No.	Date	Rev	Prepared by
Stormwater Plans	SW000, SW001, SW100, SW200, SW210, SW300, SW310	19/08/2025	B	Vanguard
Traffic and Parking Impact Assessment	N244218A	June 2025	1a	Motion Traffic Engineers
Acoustic Report	J0900.2	30/05/2025	02	National Noise & Vibration

SEPARATE APPROVALS REQUIRED UNDER OTHER LEGISLATION

2. Section 138 Roads Act 1993 and Section 68 Local Government Act 1993 (APR7.2)

Unless otherwise specified by a condition of this consent, this Development Consent does not give any approval to undertake works on public infrastructure.

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

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

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

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

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

3. **Building – Hoarding Application**

Prior to demolition of the buildings on the site, or the commencement of work above ground level, a separate application for the erection of an 'A class' (fence type) or a 'B class' (overhead type) hoarding or 'C type' scaffold, in accordance with the requirements of SafeWork NSW, must be erected along that portion of the footways/roadway where the building is within 3 metres of the street boundary.

An application for this work under Section 68 of the [Local Government Act 1993](#) and the Roads Act 1993 must be submitted for approval to Council.

The following information is to be submitted with a Hoarding Application under Section 68 of the [Local Government Act 1993](#) and Section 138 of the [Roads Act 1993](#):

- (a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location; and
- (b) Hoarding plan and details that are certified by an appropriately qualified engineer; and
- (c) The payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges (available at www.georgesriver.nsw.gov.au) before the commencement of work; and
- (d) A Public Risk Insurance Policy with a minimum cover of \$20 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained a copy provided to Council. The Policy is to note Council as an interested party.

4. **Driveway Crossing - Minor Development** – Constructing a driveway crossing and/or footpath requires a separate approval under Section 138 of the [Roads Act 1993](#) prior to the commencement of those works.

To apply for approval, complete the 'Application for Driveway Crossing and Associated Works on Council Road Reserve issued under Section 138 Roads Act' which can be downloaded from Georges River Council's website at www.georgesriver.nsw.gov.au. Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Section P1 and P2, in Council's adopted Fees and Charges for the administrative and inspection charges associated with driveway crossing applications.

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

The design boundary level is to be received from Council prior to construction of the internal driveway.

REQUIREMENTS OF CONCURRENCE, INTEGRATED & OTHER GOVERNMENT AUTHORITIES

5. Trade Waste Agreements

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.

6. Sydney water - Tap in™

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

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

7. Site Management Plan

A Site Management Plan detailing all weather access control points, sedimentation controls, fencing, builder's site sheds office, amenities, materials storage and unloading arrangements must be submitted with the application for the Construction Certificate.

8. Required Design Change

The PCA shall ensure that the following design changes are required to be made and shown on the Construction Certificate plans:

- a) A Service Protection Report on existing site stormwater runoff discharge pit/pipe is required to demonstrate that subject site stormwater runoff can drain to Belmore Road frontage kerb outlet connection. The applicant provides evidence of the existing satisfactory drainage system by carrying out an Accredited Service Protection Report by a Licensed Plumber. The report will identify how downpipes are connected to a satisfactory existing disposal system and supported by a peg-out survey, dye testing and CCTV footage report with Photographic Evidence be provided for the length of existing pipe/pits leading to the existing kerb outlet connection.
- b) Subsequently, the above information needs to be verified by drainage design engineer from Vanguard Consulting Engineer on the submitted & referenced stormwater plan to confirm the validity/capacity to design for proposed development connection into existing site discharge pipe to demonstrate that developed site runoff can drain satisfactorily on to existing Belmore Road frontage kerb outlet. The final stormwater plan including a certification of satisfactory design from the drainage engineer shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.

9. Stormwater System

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 roof water and surface runoff must drain to an existing Belmore Road frontage kerb connection in accordance with Council's stormwater management policy and the AS/NZS 3500.3: 2015 (as amended) by a suitably designed gravity system. The design of this 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.
- b) The PCA shall ensure that a drainage engineer from Vanguard Consulting Engineer shall supervise the construction of the stormwater drainage 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.

10. Driveway Construction Plan Details

Detailed engineering plans for the driveway shall be submitted with the relevant Construction Certificate application for approval that show:

- (a) Longitudinal and cross sections, gradients, type of construction materials designed in accordance with AS/NZS2890.1-2004.
- (b) 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.

11. Provide One (1) Additional Car Parking Space Onsite

One (1) additional car space shall be installed onsite next to the loading space shown on drawing DA05 Issue "A" and shall be designed to satisfy the parking design requirements of *GRDCP2021*. Amended plans showing one (1) additional car space in tandem shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.

12. Sightlines for Pedestrian Safety

Having regard to the height and style of fencing on the common boundary between the site and 77 Isaac Street significantly reducing pedestrian sightlines at the exit from the car parking area onto Isaac Street, the driveway shall be designed to provide sightlines for pedestrian safety to satisfy the requirements of s3.2.4 – *Figure 3.1 of AS/NZS2890.1:2004 Parking Facilities, Part 1 – off street car parking*. Details of the design of the driveway at the Isaac Street boundary to achieve the required sightlines shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.

13. Vehicle crossing – western side splay

The proposed vehicle crossing shall be designed to make provision for vehicles when parked kerbside on the western side of the vehicle crossing to be sufficiently clear of the inside swept wheel path of a vehicle turning left into the carparking area as shown on Drawing DA07- Issue "A" prepared by Absolute Design and Construction dated 4/6/2025. Details of the design shall be prepared in conjunction with officers issuing approval of vehicle crossing applications under s138 of the Roads Act in Council's Assets and Infrastructure Directorate.

14. Food Premises – Details and fitout

Details of the construction and fit-out of food premises must be submitted to the satisfaction of Council's Environmental Health Officer. The plans and specifications must demonstrate compliance with the:

- a) Food Act 2003 (NSW) (as amended),
- b) Food Regulation 2015 (NSW) (as amended),
- c) Food Standards Code – Standard 3.2.3 (as amended) - published by Food Standards Australia,
- d) AS4674:2004 – Design, Construction and Fit out of Food Premises, and
- e) Sydney Water – Trade Waste Requirements.

Prior to the release of the Construction Certificate, written approval of Council's Environmental Health Officer must be provided to the Certifying Authority, and the plans approved by Council's Environmental Health Officer must be incorporated into the Construction Certificate documentation.

Reason: To ensure food premises are fitted out in accordance with legislative requirements.

15. Waste Facility

Details of the construction and fit out of the waste facility of the food premises must be submitted to Council's Waste Services Team for approval. Such details must demonstrate compliance with the **Food Act 2003** (as amended), **Food Regulation 20105** (as amended); the Food Standards Code as published by Food Standards Australia and New Zealand and Australian Standard AS 4674:2004 Design, construction and fit out of food premises (as amended.) and must be:

- i. provided with a hose tap connected to the water supply;
- ii. paved with impervious floor materials;
- iii. coved at the intersection of the floor and the walls;
- iv. graded and drained to a waste disposal system in accordance with the requirements of the relevant regulatory authority (Sydney Water);
- v. adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the Protection of the Environment Operations Act 1997;
- vi. Must be large enough to accommodate the bins required.

Prior to the release of the Construction Certificate, the written approval of Council's Environmental Health Officer must be provided to the Certifying Authority. The plans approved by Council's Environmental Health Officer must be incorporated into the Construction Certificate documentation.

16. Mechanical Ventilation

Detail plans and specifications of the proposed mechanical ventilation must be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate, demonstrating compliance with the:

- a) Protection of the Environment Operations Act 1997 (NSW) (as amended),
- b) The current or most recent version of AS1668.2 – The use of ventilation and air conditioning in building, Part 2: Mechanical ventilation in buildings.

Detailed plans and specifications of the mechanical ventilation must be incorporated into the Construction Certificate documentation.

Reason: To ensure containment of contaminants and to protect the environment.

17. 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 PC. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or PC will then issue a Fire Safety Schedule for the building.

18. Structural details

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

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

19. 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.

20. Commonwealth Disability (Access to Premises) Standard

The Commonwealth Disability (Access to Premises - Buildings) Standards 2010 (the Premises Standards) applies to all applications (i.e. Construction Certificate). This requires any new building, part of a building and the affected part of the existing building to comply with the Premises Standards, the Building Code of Australia and AS 1428.

21. Fees to be paid

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

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$3870.00
Inspection Fee for Refund of Damage Deposit	\$210.00

General Fees

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

22. 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.

23. Damage Deposit - Minor Works

In order to insure against damage to Council property the following is required:

- a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: \$3750.00
- 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: \$210.00
- 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.

24. 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.

25. Waste Collection Time

Waste collection shall be restricted to between 7:00am and 6:00pm Monday to Saturday, no waste collection is permitted on Sundays and Public Holidays.

26. Acoustic Report Compliance

The Report submitted to Council as referenced in the Application must demonstrate compliance with the Acoustic Report referenced in this consent.

Certification provided by a suitably qualified and experienced acoustic consultant, referencing the Construction Certificate Plans and confirming that the requirements of the Acoustic Report are met must be provided to the satisfaction of the Certifying Authority prior to the release of the Construction Certificate.

The Acoustic Report Compliance Certificate must be incorporated into the Construction Certificate documentation.

27. Food Premises – Details and Fit-Out

Details of the construction and fit-out of food premises must be submitted to the satisfaction of Council's Environmental Health Officer. The plans and specifications must include a hand wash facility to the front display area where coffee is prepared and demonstrate compliance with the:

- a. [Food Act 2003](#) (NSW) (as amended),
- b. [Food Regulation 2015](#) (NSW) (as amended),
- c. [Food Standards Code](#) – Standard 3.2.3 (as amended) - published by Food Standards Australia, and
- d. Sydney Water – Trade Waste Requirements.

Prior to the release of the Construction Certificate, written approval of Council's Environmental Health Officer must be provided to the Certifying Authority, and the plans approved by Council's Environmental Health Officer must be incorporated into the Construction Certificate documentation.

28. Food Premises - Waste Facility

Details of the construction and fit-out of the waste storage facility must demonstrate compliance with the following:

- a. [Food Act 2003](#) (NSW) (as amended),
- b. [Food Regulation 2015](#) (NSW) (as amended),
- c. AS4674:2004 – Design, Construction and Fit out of Food Premises, and
- d. The current or most recent version of the [Food Standards Code](#) – Standard 3.2.3 - published by Food Standards Australia.

and must be:

- i. provided with a hose tap connected to the water supply, and
- ii. paved with impervious floor materials, and
- iii. coved at the intersection of the floor and the walls, and
- iv. graded and drained to a waste disposal system in accordance with the requirements of Sydney Water, and
- v. adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the Protection of the Environment Operations Act 1997 (as amended), and
- vi. large enough to accommodate the bins required.

Prior to the release of the Construction Certificate, the written approval of Council's Environmental Health Officer must be provided to the Certifying Authority. The plans approved by Council's Environmental Health Officer must be incorporated into the Construction Certificate documentation.

29. Mechanical Ventilation prior to the issue of Construction Certificate

Prior to the issue of a Construction Certificate, the following must be provided and incorporated into the Construction Certificate documentation:

- ☐ Manufacturers specifications for the ovens and dishwasher, documenting that mechanical ventilation is not required for this equipment, or

- Updated plans detailing a mechanical ventilation system/s compliant, to AS/NZS1668.1 and AS/NZS1668.2, to remove steam and vapour from the ovens and dishwashers.

PRIOR TO THE COMMENCEMENT OF WORK (INCLUDING DEMOLITION & EXCAVATION)

30. 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.

31. 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 applicants expense.

DURING CONSTRUCTION

32. Physical connection of Stormwater to site –

No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to Council's stormwater system in the street.

33. Site Maintenance

The premises shall be maintained in a manner that will not adversely impact upon public health and safety until such time as an occupation certificate is issued. The premises shall be maintained during construction in accordance with the following:

- (a) There must be no burning of any material.
- (b) All putrescible waste must be removed daily.
- (c) All grass and vegetation must be maintained so the grass and vegetation (excluding trees) does not exceed a height of 100 mm above ground level.
- (d) Any accumulated or ponded water must be removed within 5 days (weather permits). The removal of any water must comply with the *Protection of the Environment Operations Act 1997* (NSW) so as to not cause a pollution incident.
- (e) Fencing must be provided and installed within the boundary of the premises. Fencing must be maintained so to eliminate access to the public.
- (f) All Activity associated with the development including storage or depositing of any goods or maintenance of any machinery and equipment must be conducted within the premises.

34. Damage within Road Reserve and Council Assets –

The owner shall bear the cost of restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site. This may include works by Public Utility Authorities in the course of providing services to the site.

35. Hours of construction for demolition and building work

Unless authorised by Council:

- a. Building construction and delivery of material hours are restricted to: 7.00 am to 5.00 pm (inclusive) Monday to Saturday and no work on Sundays and Public Holidays.

- b. Demolition and excavation works are restricted to: 8.00 am to 5.00 pm (inclusive) Monday to Friday only. Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site.

36. 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.

37. 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.

38. Public Utility and Telecommunication Assets

The owner shall bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines & cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

39. Plan of Management

An amended Plan of Management (POM) shall be submitted to reflect the recommendations within this consent and within the following reports:

- (a) *Acoustic Report No. J0900.2 dated 30 May 2025 Version 02 prepared by National Noise and Vibration*
- (b) *Traffic and Parking Impact Assessment Report No. N244218A dated June 2025 Issue 1a prepared by Motion Traffic Engineers*

The amended POM shall also ensure that any operational conditions, within this consent, are also incorporated into the final POM and shall be submitted to the satisfaction of Council's Coordinator of Development Assessment for approval prior to the issue of an Occupation Certificate.

40. Driveways, vehicle crossing design and certification

The design and construction of the vehicle crossing/driveway and internal driveways and car parking area shall comply with the requirements of *AS/NZS 2890.1:2004 Parking Facilities, Part 1- Off street car parking*.

Prior to the issue of an Occupation Certificate, documentation from a suitably qualified and experienced engineering consultant shall be submitted to the Principal Certifying Authority certifying the footpath crossing/driveway and internal driveways and car parking area have been constructed in accordance with the approved plans and the above Australian Standard.

41. Marking of Parking Spaces

Prior to the issue of an Occupation Certificate, the “Car Parking Spaces”, “Accessible Space” and “Shared Zone” shall be clearly designated and line marked to comply with AS1742, *Manual of uniform Traffic Control Devices*.

42. Commercial Mechanical Ventilation

Prior to the issue of any Occupation Certificate or use of part or whole of the building, a report prepared by a suitably qualified engineer specialising in air quality and mechanical engineering must be submitted to the Certifying Authority.

The report must certify that the mechanical ventilation, as installed, complies in all respects with the:

- a. [Protection of the Environment Operations Act 1997](#) (NSW) (as amended),
- b. [Protection of the Environment Operations \(Clean Air\) Regulation 2022](#) (NSW) (as amended), and
- c. The current or most recent version of AS1668.2 – *The use of ventilation and air conditioning in building, Part 2: Mechanical ventilation in buildings*.

The mechanical ventilation Compliance Certificate must be incorporated into the Occupation Certificate documentation and provided to Council.

Reason: To ensure the premises are suitably fitted out to maintain air quality and reduce adverse impact to the environment and surrounding neighbourhood.

43. Compliance with Acoustic Report – Mechanical Plants

Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the satisfaction of the Certifying Authority, certifying that the recommendations of the acoustic report submitted for the operation of mechanical plant and equipment have been implemented. The report must:

- a. Tests results demonstrating that the operation of the mechanical plant and equipment does not give rise to a sound pressure level at any affected premises that exceeds the background LA90, 15 min noise level, measured in the absence of the noise sources under consideration, by more than 5dB(A).
- b. demonstrate compliance with the Protection of the Environment Operations Act

The Acoustic Certification must be incorporated into the Occupation Certificate documentation and provided to Council.

Reason: To ensure appropriate acoustic levels to maintain the surrounding amenity.

44. Food Premises – Environmental Health Inspection and Notification

Prior to the issue of any Occupation Certificate or occupation or use of the food premises, evidence demonstrating compliance with the below requirements must be provided to the satisfaction of the Certifying Authority:

- a. Written confirmation of a satisfactory final inspection of the food premises fit out by Council's Environmental Health Officer and
- b. Notification of the food business with Council as required under Section 100 of the [Food Act 2003](#) (NSW) (as amended).

Reason: To ensure the food premises fit-out complies with legislative requirements.

45. Engineering Requirements

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. Construct any new vehicle crossings if required.
- c. Replace all redundant vehicle crossing laybacks with kerb and guttering, and replace redundant concrete with turf.
- d. Work as Executed Plans must be prepared jointly both by a Chartered Professional Engineer when all the site engineering works are completed and shall be submitted to the PCA prior to the issue of the Occupation Certificate.

46. Stormwater drainage works – Works As Executed

- a. Prior to the issue of the Occupation Certificate, Stormwater drainage Work as Executed Plans must be prepared jointly both by a Chartered Professional Engineer and a Registered Surveyor when stormwater drainage works are completed and shall be submitted to the PCA prior to the issue of the Occupation Certificate.
- b. Stormwater drainage works are to be certified by a professional engineer specialising in hydraulic engineering, with Works-As-Executed drawings supplied to Council detailing:
 1. Compliance with conditions of development consent relating to stormwater;
 2. Pipe and pits invert levels and surface levels including rainwater tank levels to Australian Height Datum;

47. Environmental Health Inspection and Notification

Prior to the issue of any Occupation Certificate or occupation or use of the food premises, evidence demonstrating compliance with the below requirements must be provided to the satisfaction of the Certifying Authority:

- (a) Written confirmation of a satisfactory final inspection of the food premises fit out by Council's Environmental Health Officer and
- (b) Notification of the food business with Council as required under Section 100 of the [Food Act 2003](#) (NSW) (as amended).

48. Fire Safety Certificate before Occupation or Use

In accordance with Clause 41 of the [Environmental Planning and Assessment \(Development Certification and Fire Safety\) Regulation 2021](#), 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 83 of the aforesaid Regulation. The Fire Safety Certificate must be in the form or to the effect of Clause 86 of the [Environmental Planning and Assessment \(Development Certification and Fire Safety\) Regulation 2021](#). 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.
[NOTE: ATTACH SCHEDULE]

A copy of the certificate is to be given by the applicant to the Commissioner of Fire & Rescue NSW under Cluse 85 of the [Environmental Planning and Assessment \(Development Certification and Fire Safety\) Regulation 2021](#) and a further copy is to be displayed in a frame and fixed to a wall inside the building's main entrance.

OPERATIONAL CONDITIONS (ONGOING)

49. Compliance with Acoustic Report

Ensure all noise mitigation strategies listed within the Noise Emissions Assessment – by National Noise and Vibration, dated 30 May 2025, ref: J0900.2 are complied with.

Reason: To ensure noise reduction methods specific to this site are complied with, protecting neighbourhood amenity.

50. No wood/charcoal cooking

The premises is not to undertake any cooking methods using wood/charcoal.

Reason: To ensure the surrounding amenity is protected from smoke/odour pollutants from this type of cooking.

51. Approved Hours

The approved hours of operation shall be restricted to the following:

- (a) Monday to Sunday 6am to 4pm
- (b) The first floor is restricted to staff amenity and administration purposes.

52. Patron Capacity

The maximum patron capacity within the premises shall be limited to 63 (30 indoors, 16 at the front and 17 at the rear).

53. Seating Management

The outdoor seating areas shall be restricted as follows:

- (a) The rear outdoor patron area shall not be used between 6am and 7am, seven days a week.
- (b) The front outdoor patron area is restricted to a maximum of 8 patrons between 6am and 7am, 7 days a week.

54. Service Vehicles

The maximum size of the service vehicle/s, delivering to the site, shall be limited to a delivery van up to B99 in size.

55. Plan of Management

The approved use shall operate in accordance with the approved Plan of Management that has been endorsed by the Council's Coordinator of Development Assessment, in accordance with Condition 39 above.

56. General amenity of the neighbourhood

The implementation of the development must not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, wastewater, waste products, grit, oil, or other harmful products.

57. Offensive Noise

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* (NSW) (as amended).

58. Acoustic mitigation infrastructure maintenance

Noise mitigation treatments must be maintained at all times to ensure their acoustic performance is not diminished and noise emissions remains compliant and in accordance with these conditions.

59. 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 88 of the [Environmental Planning and Assessment \(Development Certification and Fire Safety\) Regulation 2021](#).

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.

60. 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).

61. 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.

62. 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.

63. Access for persons with disabilities

Should the Council be appointed as the PC, 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.

OPERATIONAL REQUIREMENTS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

Requirement for a Construction Certificate – Division 2 [Environmental Planning and Assessment \(Development and Fire Safety\) Regulation 2021](#) - The erection of a building must not commence until a Construction Certificate has been issued.

64. Appointment of PC

The erection of a building must not commence until the applicant has:

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

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

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

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

65. Notification Requirements of PC- Clause 57 of Environmental Planning and Assessment (Development and Fire Safety) Regulation 2021

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.

66. Notice of Commencement – Clause 59 of Environmental Planning and Assessment (Development and Fire Safety) Regulation 2021

The applicant must give at least two days notice to the Council and the PC of their intention to commence the erection of a building. A Notice of Commencement Form is attached for your convenience.

67. 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 in accordance with Clause 58 of the [Environmental Planning and Assessment \(Development and Fire Safety\) Regulation 2021](#).

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.

68. Notice of Commencement

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

A 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.

69. Occupation Certificate – Part 5 Environmental Planning and Assessment (Development and Fire Safety) Regulation 2021

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

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

Prescribed Conditions**70. Clause 75 - BASIX Commitments**

This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.

71. Clause 69 - 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.

72. Clause 70 - Erection of Signs

Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the PC and the Principal Contractor.

73. 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.

74. Clause 74 - Site Excavation

Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site.

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

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

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

END CONDITIONS

NOTES/ADVICES

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

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

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

The required Long Service Levy payment can be direct to the Long Service Corporation via their web site <https://online.longservice.nsw.gov.au/bci/levy>. Payments can only be processed on-line for the full levy owing and where the value of work is between \$25,000 and \$6,000,000. Payments will be accepted for amounts up to \$21,000, using either MasterCard or Visa.

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

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

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

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

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

- (a) Complete the Stormwater Drainage Application Form which can be downloaded from Georges River Council's website at www.georgesriver.nsw.gov.au.
- (b) In the Application Form, quote the Development Consent No. (e.g. DA2025/0284) 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.

7. Ausgrid Underground Cables are in the vicinity of the development - Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways.

It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Dial Before You Dig (DBYD).

In addition to DBYD the proponent should refer to the following documents to support safety in design and construction:

SafeWork Australia – Excavation Code of Practice.

Ausgrid's Network Standard NS156 which outlines the minimum requirements for working around Ausgrid's underground cables.

The following points should also be taken into consideration.

Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.

Should ground anchors be required in the vicinity of Ausgrid underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

8. **Ausgrid – New or modified connection** - To apply to connect or modify a connection for a residential or commercial premises. Ausgrid recommends the proponent to 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>.

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.

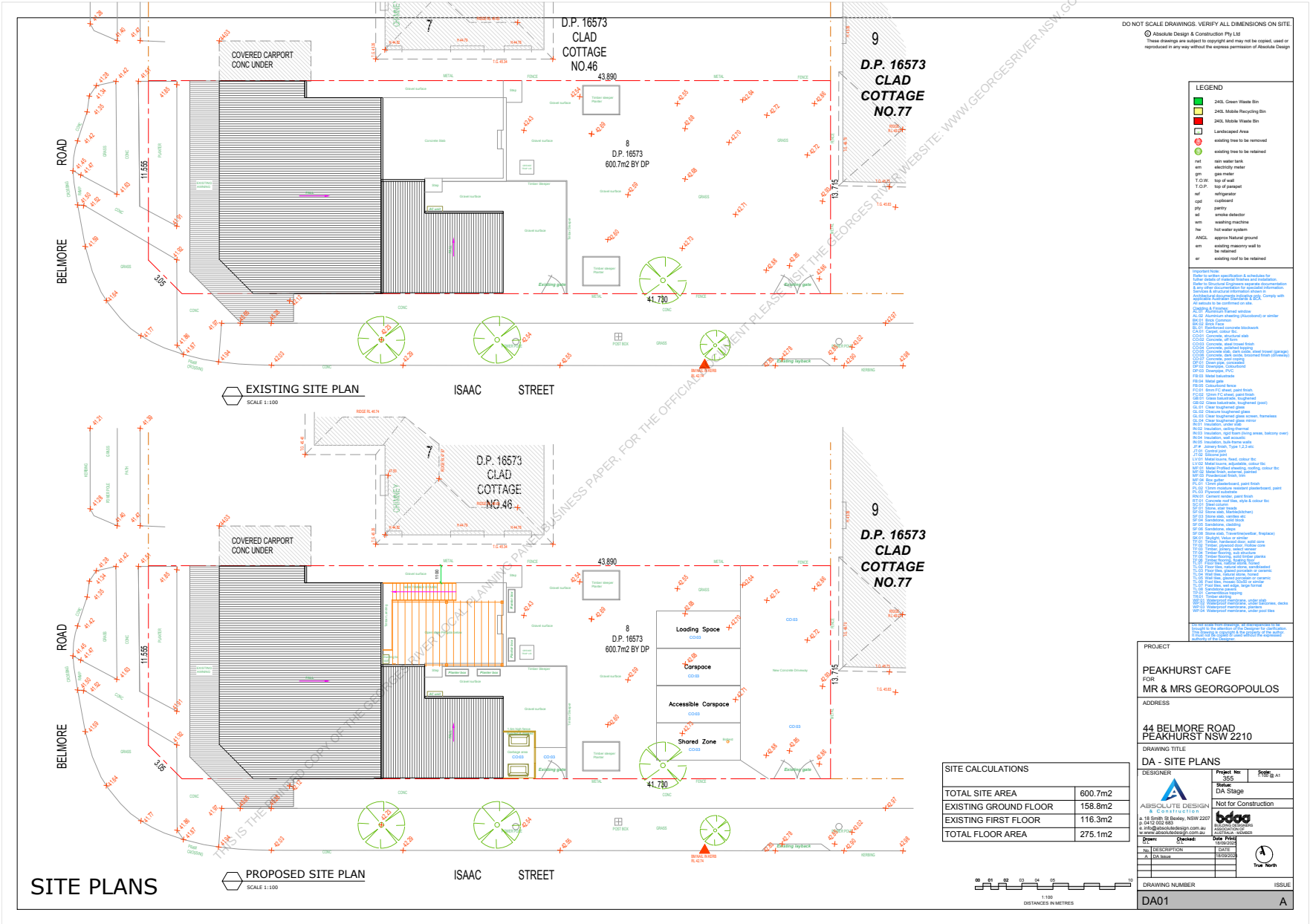
9. **Ausgrid – New driveways – proximity to existing poles** - Proposed driveways shall be located to maintain a minimum clearance of 1.5m from the nearest face of the pole to any part of the driveway, including the layback, this is to allow room for future pole replacements. Ausgrid should be further consulted for any deviation to this distance.
10. **Council as PC - Deemed to Satisfy Provisions of BCA** - Should the Council be appointed as the PC in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative fire solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justifying the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.
11. **Site Safety Fencing** - Site fencing must be erected in accordance with SafeWork Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained throughout any demolition and construction work.

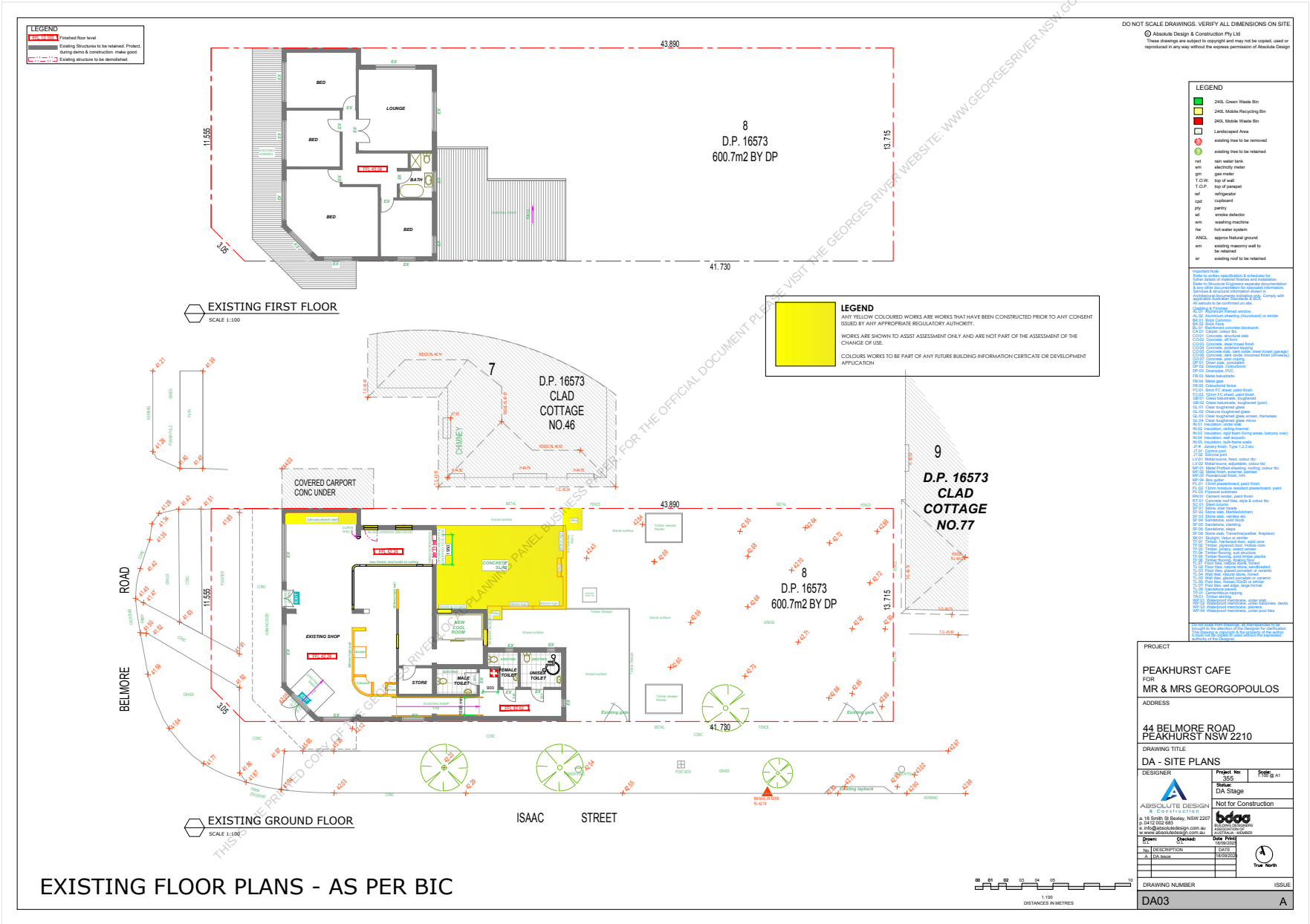
A demolition licence and/or a high risk work license may be required from SafeWork NSW (see www.SafeWork.nsw.gov.au).

ATTACHMENTS

Attachment [1](#) Amended Architectural plans- 44 Belmore Rd Peakhurst









REPORT TO GEORGES RIVER LOCAL PLANNING PANEL MEETING OF THURSDAY, 23 OCTOBER 2025

LPP031-25 34 PARKSIDE DRIVE, KOGARAH BAY

LPP031-25

LPP Report No	LPP031-25	Development Application No	DA2025/0248
Site Address & Ward Locality	34 Parkside Drive, Kogarah Bay Kogarah Bay Ward		
Proposed Development	Demolition of the existing dwelling, site clearance (including tree removal and excavation), and the construction of two new detached dwellings, for a proposed dual occupancy (detached) development		
Owners	Wen Yong Chen		
Applicant	Daniel Barber		
Planner/Architect	Wilson Perdigao		
Date Of Lodgement	23/05/2025		
Submissions	2 Submissions		
Cost of Works	\$2,267,240.00		
Local Planning Panel Criteria	The application seeks more than a 10% variation to Clause 4.1B – Minimum lot sizes and special provisions for certain dwellings standard.		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy (Sustainable Buildings) 2021, Georges River Local Environmental Plan 2021, Georges River Development Control Plan 2021.		
List all documents submitted with this report for the Panel's consideration	Architectural Plans, Survey Plan, Statement of Environmental Effects, and Clause 4.6 – variation to the 4.1B Minimum lot sizes and special provisions for certain dwellings standard.		
Report prepared by	Development Assessment Planner		

RECOMMENDATION	Refusal
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Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
---	-----

Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes - Clause 4.6 variation to the 4.1B Minimum lot sizes and special provisions for certain dwellings
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable, recommended for refusal.
Conditions Have draft conditions been provided to the applicant for comment?	Not Applicable, recommended for refusal.

SITE PLAN

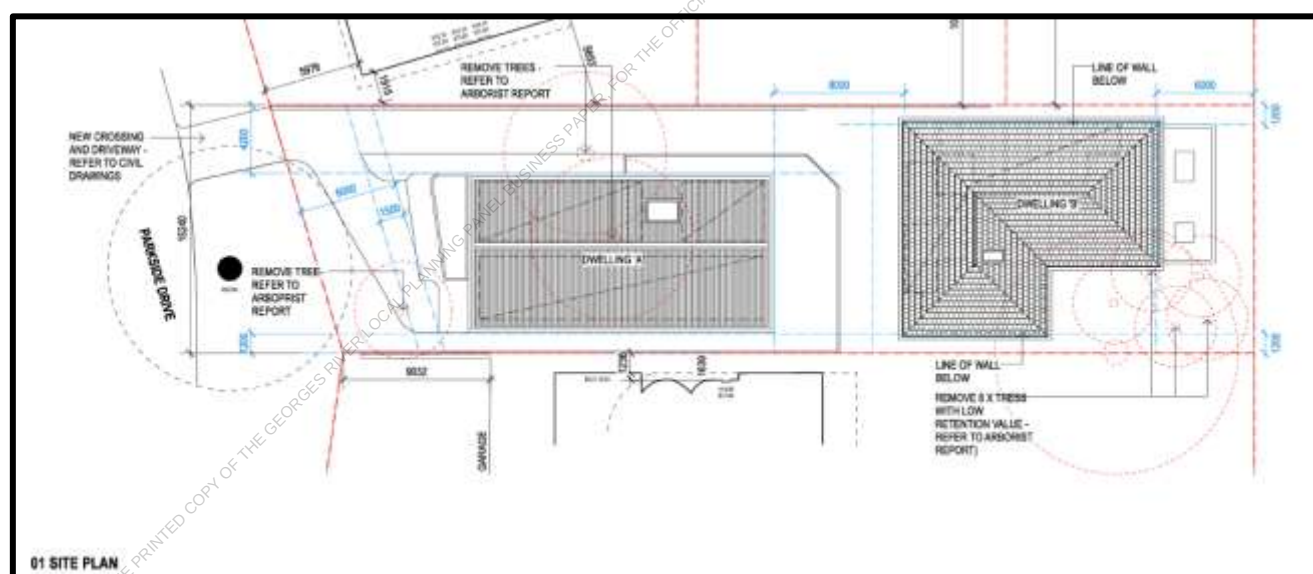


Figure 1 – Site Plan (Source: Submitted Documentation)

EXECUTIVE SUMMARY

PROPOSAL

- Council is in receipt of an application which seeks consent for Demolition of the existing dwelling, site clearance (including tree removal and excavation), and the construction of two new detached dwellings, for a proposed dual occupancy (detached) development.
- The works proposed in this application are specifically outlined below:

Demolition

- ☐ Demolition of existing single storey fibro dwelling and fibro shed.

Construction of a Detached Three Level Dual Occupancy**Dwelling A (Western)**

- ☐ **Lower Ground:** Plant room, bin storage, single garage, storage, storage closet, entry way, internal staircase, lift, undercroft, and washroom.
- ☐ **Ground Floor:** Two bedrooms with built-in wardrobes, Master bedroom with walk in wardrobe and ensuite, bathroom, void, internal staircase, lift, and internal staircase to upper floor. The ground floor also demonstrates a front facing balcony accessible from the master bedroom.
- ☐ **First Floor:** Bedroom with built-in wardrobe and ensuite, internal staircase, lift, living, dining, kitchen with island bench and walk in pantry, laundry, washroom, family area, and sitting area. The first floor also demonstrates a front facing balcony and terrace accessible from the bedroom and living room. A northern side facing courtyard is also proposed.

Dwelling B (Eastern)

- ☐ **Lower Ground:** Plant room, storage rooms, double side by side garage, entry way, internal staircase, and lift.
- ☐ **Ground Floor:** Formal living, bedroom with walk in wardrobe and ensuite, internal staircase, lift, linen closet, laundry basin, kitchen with island bench dining, sitting, guest bedroom with built in wardrobe, and bathroom. The ground floor also demonstrates a front facing balcony accessible from the formal living. A rear facing terrace with BBQ area is also proposed.
- ☐ **First Floor:** Bedroom with walk-in wardrobe and ensuite, internal staircase, lift, family, linen closet, study, bathroom, and two bedrooms with built-in wardrobes. The ground floor also demonstrates a front facing balcony accessible from the family room.

3. **Note:** A series of retaining walls, tree removal, and excavation is also proposed within the proposal. No subdivision of the lot is proposed.

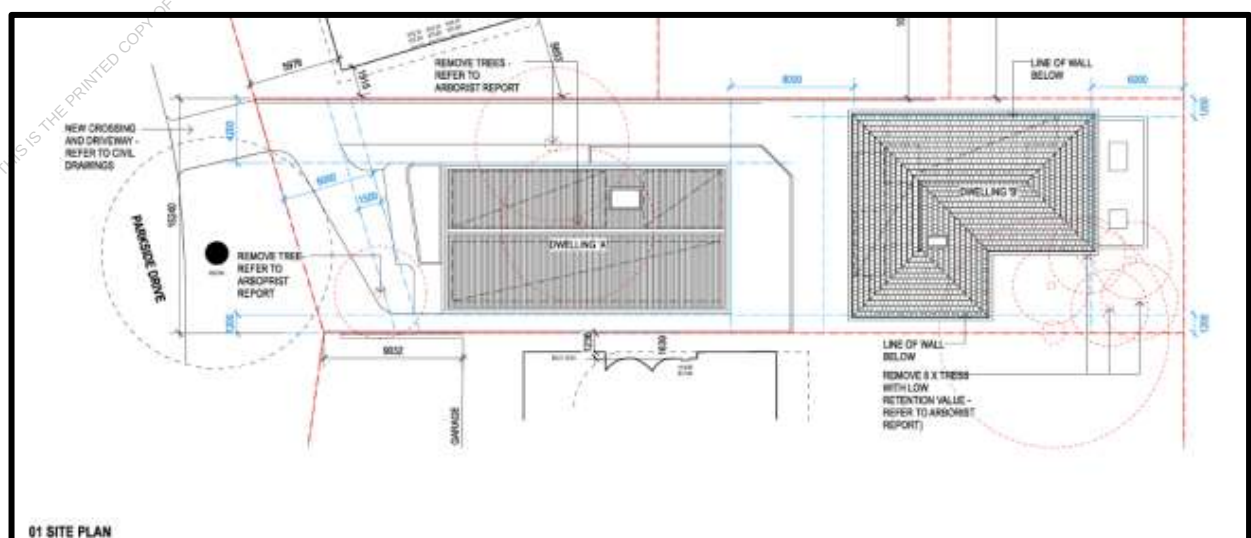


Figure – Site Plan (Source: Submitted Documentation)

SITE AND LOCALITY

4. The subject site is identified as Lot 20/8/DP1963, and is also known as 34 Parkside Drive, Kogarah Bay NSW 2217. The site is rectangular and demonstrates a primary frontage of 15.895m to Parkside Drive. The subject site is located on the south-eastern side of Parkside Drive and has a total site area is 885.2sqm (By DP).
5. Existing on the site currently is a single storey fibro residential dwelling with tiled roof. Adjoining the site to the north are no. 32, 30, and 28 Parkside Drive. All neighbouring dwellings are two storey residential dwellings with rear yards facing the subject site. Adjoining the site to the south is a two storey rendered dwelling with a flat metal roof.
6. The area is generally residential in character and features a mix of both double and three storey residential dwellings. The site is located approximately 270m from Wharf Road Reserve and 180m from Carss Park Flats.
7. It is noted that no Sydney sewer pipe traverses the site.



Figure – Aerial view of development site outlined in red (Source: IntraMaps)

ZONING AND PERMISSIBILITY

8. The subject site is zoned R2 Low Density Residential under the provisions of Georges River Local Environmental Plan 2021 (GRLEP 2021). The proposal involves a detached dual occupancy which is a permissible use in the zone with development consent.



LPP031-25

9. **Figure** – Aerial view of zoning with site outlined in red (Source: IntraMaps)

REASON FOR REFERRAL TO THE LOCAL PLANNING PANEL

10. This application is referred to the Georges River Local Planning Panel for determination as the proposed development seeks more than a 10% variation to Clause 4.1B – Minimum lot sizes and special provisions for certain dwellings standard.

SUBMISSIONS

11. The DA was publicly notified to neighbours for a period of fourteen (14) days in accordance with the Georges River Community Engagement Strategy.
12. Two (2) submissions were received during the neighbour notification period. The matters relevant to this application raised in the submissions are considered in detail within the assessment report.

ASSESSMENT

13. The application has been assessed having regard to the Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Georges River Local Environmental Plan 2021 and Georges River Development Control Plan 2021.
14. The extent to which the proposed development complies with relevant legislation and provisions is detailed and discussed in detail within the assessment report.

CONTRIBUTIONS

15. The development is subject to Section 7.11 Contributions. In accordance with the Georges River Local Development Contributions Plan 2021, a condition requiring payment of the contributions would have been imposed in the consent should this application have been recommended for approval.

CONCLUSION

16. 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 result in an unacceptable planning and urban design outcome in the locality.
17. The proposal has been assessed against the provisions of the relevant State Environmental Planning Policy, Georges River Local Environmental Plan 2021, and Georges River Development Control Plan 2021. The proposal fails to comply with a development standard of the Local Environmental Plan and fails to meet development controls under the Development Control Plan. Any variations have been addressed and are not worthy of support in this regard.

STATEMENT OF REASONS AND DETERMINATION

Recommendation

18. Pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 (as amended), the delegated officer recommends the refusal of DA2025/0248 for Demolition of the existing dwelling, site clearance (including tree removal and excavation), and the construction of two new detached dwellings, for a proposed dual occupancy (detached) development on Lot 20/8/DP1963 on land known as 34 Parkside Drive, Kogarah Bay NSW 2217, subject to the refusal reasons referenced below:

Statement of Reasons

19. State Environmental Planning Policy (Biodiversity and Conservation) 2021 - Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the requirements of the Biodiversity and Conservation State Environmental Planning Policy.
20. Local Environmental Plan - Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to satisfy the requirements of the following:
 - o Clause 2.3 – Zone objectives and Land Use Table
 - o Clause 4.1B – Minimum lot sizes and special provisions for certain dwellings
 - o Clause 4.3 – Height of buildings
 - o Clause 4.4A – Exceptions to floor space ratio—certain residential accommodation
 - o Clause 6.2 – Earthworks
 - o Clause 6.3 – Stormwater Management
 - o Clause 6.9 – Essential Services
 - o Clause 6.12 – Landscaped areas in certain residential and conservation zones
21. Development Control Plan - Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development has failed to demonstrate compliance with the following objectives of the Georges River Development Control Plan 2021:
 - o Biodiversity
 - o Landscaping

- o Earthworks
- o Water management
- o Parking access and transport
- o Crime prevention/safety and security
- o Future residential characteristic
- o Streetscape character and built form
- o Building scale and height
- o Setbacks
- o Visual privacy
- o Excavation (cut and fill)
- o Vehicle access, parking, and circulation
- o Landscaping
- o Site facilities
- o Fences and walls

22. Natural and Built Impacts - Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development does not seek to retain and enhance the natural setting of the site. The built form of the proposed development is not of a bulk and scale that is appropriate with its setting and consistent with the desired future character of the area.
23. Social Impacts - Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is likely to have an adverse social impact as the proposal is seeking consent for a proposal which will set an undesirable precedent that is not in keeping with surrounding development or the desired character of the area.
24. Suitability of Site - Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the site is not considered suitable for the proposed development as the proposal is incompatible with the scale, character and amenity of the subject site or the surrounding development within the R2 Low Density Residential locality with respect to streetscape character and built form, and landscaping.
25. 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 within the locality.

ATTACHMENTS

Attachment [1](#) Assessment Report - DA2025 0248



Attachment [2](#) Site Plan - DA2025/0248





Assessment Report

DA2025/0248

Lot 20/8/DP1963

34 Parkside Drive, Kogarah Bay NSW 2217

Acknowledgment of Country

Georges River Council acknowledges the Bidjigal people of the Eora Nation, who are the Traditional Custodians of all lands, waters and sky in the Georges River area. Council recognises Aboriginal and Torres Strait Islander peoples as an integral part of the Georges River community and values their social and cultural contributions. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples who live work and meet on these lands.

Development Summary	3
Report Summary	3
Site Affectations	4
Proposal	5
Site and Locality	6
Site Description	6
Locality Description	6
Aerial Image of Land Zoning	6
Aerial Image of Site	7
Background	8
History	8
Processing	8
Site Inspection	8
Assessment - Section 4.15 Evaluation	9
The provisions of any environmental planning instrument (EPI)	9
The Provisions of any applicable Act	9
The Provision of any Applicable State Environmental Planning Policy (SEPPs)	9
The Provisions of any Local Environmental Plan	10
Georges River Local Environmental Plan 2021	15
Provisions of any Proposed Instrument	30
Provisions of any Development Control Plan	30
Georges River Development Control Plan 2021	31
Part 3 – General Planning Considerations	31
Part 4 – General Land Use	36
Part 5 – Residential Locality Statements	37
Part 6 – Residential Controls	37
Part 6.4 – Ancillary Development	48
Summary of DCP assessment	Error! Bookmark not defined.
Any Planning Agreement Under Section 7.4	Error! Bookmark not defined.
The Regulations	Error! Bookmark not defined.
The Likely Impacts of the Development	Error! Bookmark not defined.
Site Suitability	Error! Bookmark not defined.
Submissions	Error! Bookmark not defined.
The Public Interest	Error! Bookmark not defined.
Referrals	Error! Bookmark not defined.
Contributions	Error! Bookmark not defined.
Conclusion	Error! Bookmark not defined.
Determination	Error! Bookmark not defined.
Appendix 1 - Conditions	Error! Bookmark not defined.

Development Summary

Development Summary	
Application Number	DA2025/0248
Development Description	Detached Dual Occupancy
Development Type	Local
Lot and DP	Lot 20/8/DP1963
Street Address	34 Parkside Drive, Kogarah Bay NSW 2217
Land Zoning	R2 Low Density Residential
Lot Size	885.2sqm (By DP)
Applicant	Daniel Barber
Owner(s)	Wen Yong Chen
Dated of Lodgement	23/05/2025
Cost of Works	\$2,267,240.00
Clause 4.6 Variations	Yes, Clause 4.1B – Minimum lot sizes and special provisions for certain dwellings
Public Notification	Yes
No. of Submissions	2 Submissions
Recommendation	Refusal
Assessment Officer	Diana Berro, Development Assessment Officer.
Consent Authority	Local Planning Panel
Delegation for Determination	Local Planning Panel

Report Summary

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

The assessment recommends that the Local Planning Panel pursuant to Section 4.16 (1)(b) Environmental Planning & Assessment Act 1979, refuse to the before mentioned Development Application due to the reasons discussed within this report.

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Site Affectations

Site Affectations	Yes	No
Bushfire Prone Land	☐	☒
Flood Liable Land	☐	☒
Foreshore Building Line	☐	☒
Foreshore Scenic Protection Area	☐	☒
Riparian Lands & Waterways	☐	☒
Coastal Hazard and Risk	☐	☒
Water Catchment Area	☒	☐
Ecological Significant Site	☐	☒
Contains Heritage Item(s)	☐	☒
Heritage Conservation Area	☐	☒
Adjoining rail corridor	☐	☒
Adjoining classified road	☐	☒
Impacted by airspace operations	☐	☒
Acid Sulfate Soils	☒	☐
Within Gas Main Buffer	☐	☒
Council Owned Land	☐	☒
Crown Land	☐	☒
Easements Within Lot Boundaries	☐	☒
Land Contamination	☐	☒
Narrow lot housing precinct	☐	☒
Other (if yes describe)	☐	☒

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Proposal

The works proposed in this application are specifically outlined below:

Demolition

- Demolition of existing single storey fibro dwelling and fibro shed.

Construction of a Detached Three Level Dual Occupancy

Dwelling A (Western)

- **Lower Ground:** Plant room, bin storage, single garage, storage, storage closet, entry way, internal staircase, lift, undercroft, and washroom.
- **Ground Floor:** Two bedrooms with built-in wardrobes, Master bedroom with walk in wardrobe and ensuite, bathroom, void, internal staircase, lift, and internal staircase to upper floor. The ground floor also demonstrates a front facing balcony accessible from the master bedroom.
- **First Floor:** Bedroom with built-in wardrobe and ensuite, internal staircase, lift, living, dining, kitchen with island bench and walk in pantry, laundry, washroom, family area, and sitting area. The first floor also demonstrates a front facing balcony and terrace accessible from the bedroom and living room. A northern side facing courtyard is also proposed.

Dwelling B (Eastern)

- **Lower Ground:** Plant room, storage rooms, double side by side garage, entry way, internal staircase, and lift.
- **Ground Floor:** Formal living, bedroom with walk in wardrobe and ensuite, internal staircase, lift, linen closet, laundry basin, kitchen with island bench dining, sitting, guest bedroom with built in wardrobe, and bathroom. The ground floor also demonstrates a front facing balcony accessible from the formal living. A rear facing terrace with BBQ area is also proposed.
- **First Floor:** Bedroom with walk-in wardrobe and ensuite, internal staircase, lift, family, linen closet, study, bathroom, and two bedrooms with built-in wardrobes. The ground floor also demonstrates a front facing balcony accessible from the family room.

Note: A series of retaining walls is also proposed within the proposal. No subdivision of the lot is proposed.

Proposed Detached Dual Occupancy

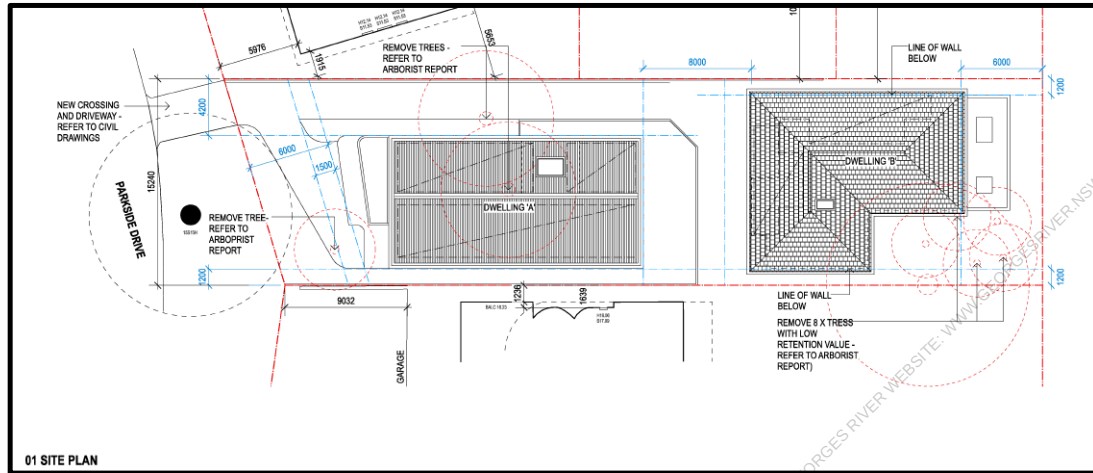


Figure 1 – Site Plan (Source: Submitted Documentation)

Site and Locality

Site Description

The subject site is identified as Lot 20/8/DP1963, and is also known as 34 Parkside Drive, Kogarah Bay NSW 2217. The site is rectangular and demonstrates a primary frontage of 15.895m to Parkside Drive. The subject site is located on the south-eastern side of Parkside Drive and has a total site area is 885.2sqm (By DP).

Locality Description

Existing on the site currently is a single storey fibro residential dwelling with tiled roof. Adjoining the site to the north are no. 32, 30, and 28 Parkside Drive. All neighbouring dwellings are two storey residential dwellings with rear yards facing the subject site. Adjoining the site to the south is a two storey rendered dwelling with a flat metal roof.

The area is generally residential in character and features a mix of both double and three storey residential dwellings. The site is located approximately 270m from Wharf Road Reserve and 180m from Carss Park Flats.

It is noted that no Sydney sewer pipe traverses the site.

Aerial Image of Land Zoning



Figure 2 – Aerial view of development site outlined in red (Source: IntraMaps)

Aerial Image of Site

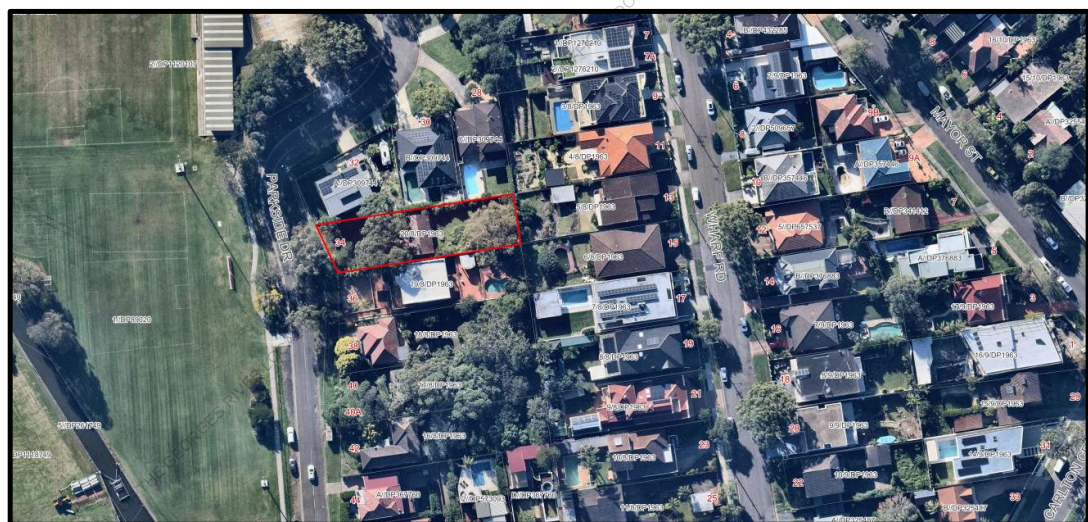


Figure 3 – Aerial view of development site outlined in red (Source: IntraMaps)

Figure 3

Background

History

DA2025/0226 – Returned application for Demolition works and construction of detached dual occupancy.

Processing

Application History		
Action	Date	Comment
Submission Date	Wednesday, 21 May 2025	Nil.
Lodgement Date	Friday, 23 May 2025	Nil.
Site Inspection Conducted	Thursday, 1 August 2024	Nil.
Withdrawal Letter Sent	Monday, 19 August 2024	Nil.

Site Inspection

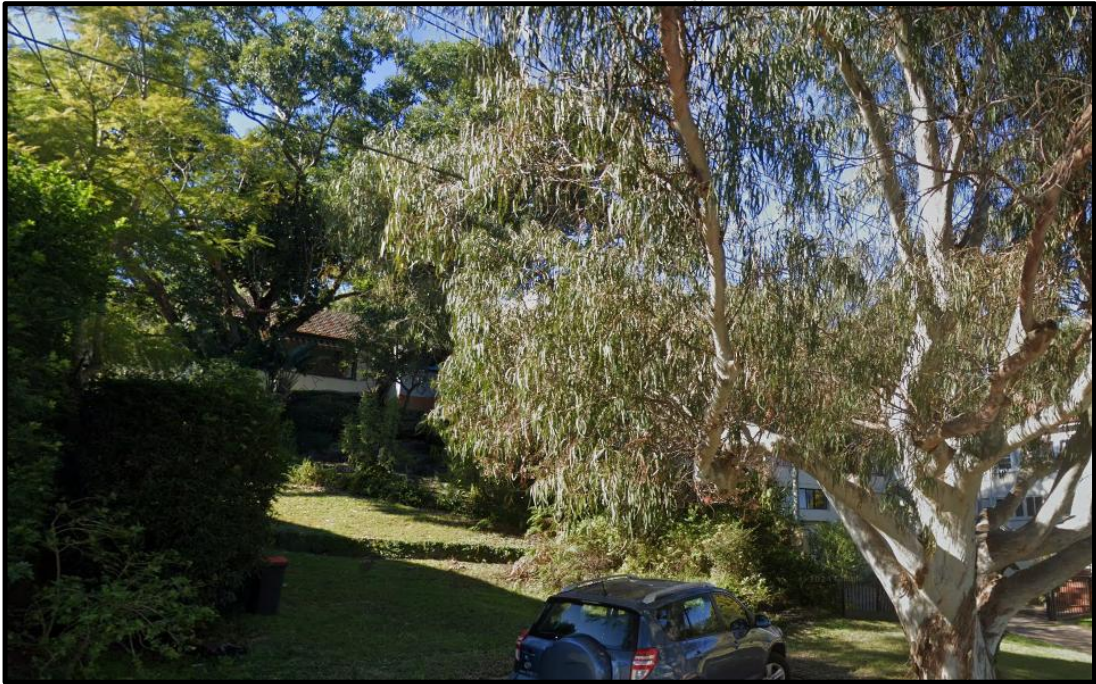


Image 4: Street view of development site (Source: IntraMaps))



Assessment - Section 4.15 Evaluation

The following is an assessment of the application with regard to Section 4.15(1) Evaluation of the Environmental Planning and Assessment Act 1979.

Section 4.15 (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 provisions of any environmental planning instrument (EPI)

Section 4.15 (1) (a) (i) *The provisions of any environmental planning instrument (EPI)*

The Provisions of any applicable Act

The Provision of any Applicable State Environmental Planning Policy (SEPPs)

Name of SEPP	Yes	No
SEPP (Biodiversity Conservation) 2021	☒	☐
SEPP (Resilience and Hazards) 2021	☒	☐
SEPP (Sustainable Buildings) 2022	☒	☐
SEPP (Transport and Infrastructure) 2021	☒	☐

Compliance with the identified applicable State Environmental Planning Policies (SEPP) is detailed below.



State Environmental Planning Policy (Biodiversity and Conservation) 2021

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

State Environmental Planning Policy (Biodiversity and Conservation) 2021		
Chapter 2 – Vegetation in non-rural areas, Clause 2.10		
Control	Proposal	Compliance
(1) A council may issue a permit to a landholder to clear vegetation to which this Part applies in any non-rural area of the State.	The application was referred to Councils Senior Landscape and Arboricultural Assessment Officer who is not supportive of the development application.	☐ Yes ☒ No ☐ N/A
(2) A permit cannot be granted to clear native vegetation in any non-rural area of the State that exceeds the biodiversity offsets scheme threshold.	There are a number of trees located upon the site, of varying quality and retention values. The Arborist Report provided does not accurately identify the multiple trees located on the site. Detailed consideration should be given to replacement tree planting to restore canopy upon the site and the treatment of the landscape area for Unit 2 due to the topography. The proposal in its current form fails to demonstrate the viability of existing biodiversity, and multiple retaining walls are required throughout the site which have not been detailed.	
(3) A permit under this Part cannot allow the clearing of vegetation— (a) that is or forms part of a heritage item or that is within a heritage conservation area, or (b) that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance, unless the council is satisfied that the proposed activity— (c) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and (d) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.		
(4) A permit may be granted under this Part subject to any conditions specified in the permit.		



State Environmental Planning Policy (Biodiversity and Conservation) 2021		
Chapter 6 Water Catchments		
Clause 6.6 Water Quality and Quantity		
Control	Proposal	Compliance
(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following— (a) whether the development will have a neutral or beneficial effect on the quality of water entering a waterway,	The proposed stormwater drainage system is not considered satisfactory. Council's Development Engineer is not supportive of the development in its current form. Furthermore, the proposed OSD is not marked on the submitted landscape plans. As a result, the proposed OSD will affect the landscaping arrangement.	☐ Yes ☒ No ☐ N/A
(b) whether the development will have an adverse impact on water flow in a natural waterbody,		
(c) whether the development will increase the amount of stormwater run-off from a site,		
(d) whether the development will incorporate on-site stormwater retention, infiltration or reuse,		
(e) the impact of the development on the level and quality of the water table,		
f) the cumulative environmental impact of the development on the regulated catchment,		
(g) whether the development makes adequate provision to protect the quality and quantity of ground water.		
Development consent must not be granted on land in a regulated catchment unless the consent authority is satisfied that the development ensures - (a) The effect on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial; and		
(b) The impact on the water flow in a natural water body will be minimised.		



Stormwater Management

Clause 6.21 Stormwater Management		
Control	Proposal	Compliance
Stormwater management works are prohibited if the works will cause untreated stormwater to be disposed of into a natural waterbody.	The works will not result in untreated stormwater entering a natural waterbody.	☒ Yes ☐ No ☐ N/A

State Environmental Planning Policy (Sustainable Buildings) 2022

The State Environmental Planning Policy (Sustainable Buildings) 2022 (Sustainable Buildings SEPP) applies to all residential development (excluding alterations and additions less than \$50,000, and pools less than 40,000L) and all non-residential developments (except those excluded in [chapter 3.1](#) of the Policy).

A BASIX Certificate accompanies the development application addressing the sustainability requirements for the proposed building. The proposal achieves the minimum performance levels and targets associated with water, energy, thermal efficiency, and embodied emissions.

The details of the provided BASIX Certificate are provided below:

BASIX Certificate Details	
Certificate Number:	1792699M
Author:	DVS INDUSTRIES PTY LTD
Date:	Wednesday, 23 April 2025

State Environmental Planning Policy (Resilience and Hazards) 2021

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

Chapter 4 – Remediation of Land

Chapter 4 – Remediation of Land		
Clause 4.6 – Contamination and remediation to be considered in determining development application		
Standard	Proposal	Compliance
(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	The Assessing Officer has reviewed: Councils Contamination Records Aerial Imaging (inc. historic imaging) and conducted a site inspection. A review of the above indicates that the site has historically been used for Residential purposes and there is no evidence that any use under	☒ Yes ☐ No ☐ N/A



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

State Environmental Planning Policy (Housing) 2021 is applicable to the development and the following clauses apply:

Land affected or in proximity to electricity transmission or distribution infrastructure (including powerlines)

Division 5 Electricity transmission or distribution networks		
Subdivision 2 Development likely to affect an electricity transmission or distribution network		
Clause 2.48 Determination of development applications – other development		
Standard	Proposal	Compliance



Where a development involves: (a) The penetration of ground within 2m of an underground electricity power line or electricity distribution pole, or within 10 of any part of an electricity tower, (b) Development carried out - Within or immediately adjacent to an easement for electricity purposes; - Immediately adjacent to an electricity substation, or - Within 5m of an overhead electricity power line, (c) The installation of a swimming pool any part of which is- - Within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level; - Within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool (d) Development involving, or requiring the placement of power lines underground, unless an agreement with respect to the placement of underground powerlines is in force between the electricity supply authority and the council for the land concerned. Council must give written notice to the electricity supply authority, and take into consideration any response to the notice received within 21 days after the notice is given.	Notice was sent to the electricity supply authority, with a response received. The matters identified in that response have been incorporated into the recommendation as conditions of consent.	☒ Yes ☐ No ☐ N/A
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The Provisions of any Local Environmental Plan

Georges River Local Environmental Plan 2021

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.

GRLEP 2021 - Part 1 – Preliminary		
Clause 1.2 – Aims of the Plan		
Standard	Proposal	Compliance
In accordance with Clause 1.2 (2)	The development is considered to be consistent with the aims of the plan.	☒ Yes ☐ No ☐ N/A
Clause 1.4 – Definitions		
Standard	Proposal	Compliance
dual occupancy (detached) means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.	The proposed development is consistent with the definition.	☒ Yes ☐ No ☐ N/A

GRLEP 2021 Part 2 – Permitted or prohibited development		
Clause 2.3 – Zone objectives and Land Use Table		
Standard	Proposal	Compliance
The subject site zoned R2 General Residential: The objectives of the zone are: - To provide for the housing needs of the community; - To enable other land uses that provide facilities or services to meet the day to day needs of residents; - To promote a high standard of urban design and built form that enhances the local character of the suburb and achieves a high level of residential amenity, - To provide for housing within a landscaped setting that enhances the existing environmental character of the Georges River Local Government Area.	The proposal is not consistent with the zone objectives as the development fails 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 provide for housing within a landscaped setting that enhances the existing environmental character of the Georges River Local Government Area.	☐ Yes ☒ No ☐ N/A
Land Use Table		
The proposal is for a Dual Occupancy (Detached)	Which is a type of development permitted with consent in the zone.	☒ Yes ☐ No ☐ N/A
Clause 2.7 – Demolition requires development consent		



Standard	Proposal	Compliance
The demolition of a building or work may be carried out only with development consent.	The proposal includes demolition of existing single storey fibro dwelling and fibro shed.	☒ Yes ☐ No ☐ N/A

GRLEP 2021 Part 4 – Principal Development Standards**Clause 4.1A – Minimum subdivision lot size for Dual Occupancies**

Standard	Proposal	Compliance
(1) The objective of this clause is to ensure that the lot sizes for dual occupancies are appropriate for the environmental capability of the land, having regard to the land's topography and other natural features. (2) Despite clauses 4.1 and 4.1B, development consent may be granted for the subdivision of land— (a) in Zone R2 Low Density Residential, Zone R3 Medium Density Residential or Zone R4 High Density Residential if— (i) there is a dual occupancy on the land that was lawfully erected or a dual occupancy is proposed on the land, and (ii) the lot size for each resulting lot will be at least 300 square metres, Or (b) in the Foreshore Scenic Protection Area as identified on the Foreshore Scenic Protection Area Map if— (i) there is a dual occupancy on the land that was lawfully erected or a dual occupancy is proposed on the land, and (ii) the lot size for each resulting lot will be at least 430 square metres. (3) 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.	No subdivision is proposed.	☐ Yes ☐ No ☒ N/A

Clause 4.1B – Minimum lot sizes and special provisions for certain dwellings

Standard	Proposal	Compliance
(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—	<u>By DP</u> Subject site: 885.2sqm (By DP) Frontage: 15.895m Variation: 2.105m or 11.69%	☐ Yes ☒ No ☐ N/A



(a) if only 1 dwelling faces the primary road—18 metres, or (b) otherwise—22 metres. <u>Dual occupancies</u> Zone R2 Low Density Residential 650 square metres	Refer to Clause 4.6.	
Clause 4.3 – Height of Buildings		
Standard	Proposal	Compliance
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 9m as identified on Height of Buildings Map	Inadequate information provided to enable assessment.	☐ Yes ☒ No ☐ N/A
Clause 4.4 – Floor Space Ratio		
Standard	Proposal	Compliance
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. Not more than 1,000 square metres 0.6:1	AREA 1 - Refer to clause 4.4A	☐ Yes ☒ No ☐ N/A
Clause 4.4A - Exceptions to floor space ratio—certain residential accommodation		
Standard	Proposal	Compliance
The maximum floor space ratio for a dual occupancy (as the site is situated on land identified as “Area 1” on the Floor Space Ratio Map) must not exceed the maximum floor space ratio specified below (based on allotment size). not more than 1,000 square metres [site area × 0.6] ÷ site area:1	Site Area: 885.2sqm (By DP) <u>Maximum FSR</u> : 531.12 or 0.6:1 <u>Proposed</u> : <u>Dwelling 1 (Western)</u> : Lower Ground: 61sqm Ground: 80.5sqm First: 138sqm <u>Dwelling 2 (Eastern)</u> : Lower Ground: 49.3sqm Ground: 124.1sqm First: 127.6sqm <u>Total FSR</u> : 580.5sqm or 0.65:1	☐ Yes ☒ No ☐ N/A
Clause 4.6 - Exceptions to development standards		



Standard	Proposal	Compliance
(1) The objectives of this clause are as follows— (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances. (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause. (3) Development consent must not be granted 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	The proposal does not satisfy the objectives of the Exceptions to Development Standards clause. Clause: Clause 4.1B – Minimum lot sizes and special provisions for certain dwellings Minimum Frontage Required: 18m	



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. (5) In deciding whether to grant concurrence, the Planning Secretary must consider— (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and (b) the public benefit of maintaining the development standard, and (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence. (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3). (8) This clause does not allow development consent to be granted for development that would contravene any of the following— (a) a development standard for complying development, (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability	
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Index: BASIX) 2004 applies or for the land on which such a building is situated, (c) clause 5.4, (caa) clause 5.5, (d) clause 6.14.	
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Subject Site: 885.2sqm (BY DP) Proposed Frontage: 15.895m (BY DP) Variation: 2.105m or 11.69% A clause 4.6 – Exceptions to Development Standards request has been lodged by the applicant seeking to vary Clause 4.1B – Minimum lot sizes and special provisions for certain dwellings. The requested variation is with regard to the non-compliant site frontage for a detached dual occupancy. The clause 4.6 does not acknowledge the DP frontage but utilises the survey calculator. Both numerics are deficient in this instance. The assessing officer has reviewed the written request from the applicant seeking a variation to the Minimum lot sizes and special provisions for certain dwellings standard. The non-compliance with this clause is not supported. See the Clause 4.6 assessment undertaken below. The assessing officer is not satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), the proposed development is not within the public interest as it is contradicting the objectives of the standard and does not remain in keeping with the objectives for development within the R2 Low density Residential zone. The proposal in its current form is not assumed to raise any matter of significance for State or regional environmental planning. The proposal in its current form is considered to undermine the intent of the clause.	☐ Yes ☒ No ☐ N/A
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Noted.	
Noted	

Clause 4.6 Assessment

Clause 4.1B – Minimum lot sizes and special provisions for certain dwellings of the Georges River Local Environmental Plan 2021 (GRLEP) relates to the Minimum lot sizes and special provisions for certain dwellings, in this instance the minimum frontage required for a detached dual occupancy.

The clause identifies the minimum as the following for the subject site:

- “(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—*
- (a) if only 1 dwelling faces the primary road—18 metres, or*
 - (b) otherwise—22 metres.”*

The proposed development seeks a variation to the frontage for a detached dual occupancy standard. GRLEP 2021 identifies the subject site as requiring a minimum of a 18m frontage.

The Applicant has submitted a Clause 4.6 request to vary the required minimum frontage, proposing a frontage of 15.895m (BY DP). This results in a variation of 2.105m or 11.69% of the development standard.

During assessment of the proposal, Council calculated the proposed variation in accordance with the DP registered frontage.

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 frontage was conducted.

Clause 4.6(1) outlines the objectives of the standard which are to

- (a) provide an appropriate degree of flexibility in applying certain development standards to particular development and*



- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

In the Judgment of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 (“Initial Action”), Preston CJ ruled that there is no provision that requires the applicant to demonstrate compliance with these objectives or that the consent authority be satisfied that the development achieves these objectives.

Furthermore, neither clause 4.6(3) nor clause 4.6(4) expressly or impliedly requires that development that contravenes a development standard “achieve better outcomes for and from development”.

Accordingly, the remaining subclauses of clause 4.6 provide the preconditions which must be satisfied before a consent authority may grant development consent to a development that contravenes a development standard imposed by an environmental planning instrument.

Clause 4.6(2) states that:

Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Is the planning control in question a development standard?

The Minimum lot sizes and special provisions for certain dwellings under Clause 4.1B of the Georges River Local Environment Plan 2021 is a development standard.

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*

Council is not satisfied that sufficient environmental planning grounds support the non-compliance. The applicant has provided a request for a variation to Clause 4.1B in accordance with Clause 4.6 of GRLEP 2021. The Clause 4.6 request for variation is assessed as follows:

What are the underlying objectives of the development standard?

The objectives of the Minimum lot sizes and special provisions for certain dwellings development standard under Clause 4.1B of GRLEP 2021 are:

- (1) *The objectives of this clause are as follows—*
 - (a) *to ensure that lots for residential accommodation are of sufficient size to accommodate proposed dwellings, setbacks to adjoining residential land, private open space and landscaped areas, driveways and vehicle manoeuvring areas,*



- (b) to ensure that dual occupancies in Zone R2 Low Density Residential retain the general low-density scale and character of existing single dwelling development,
- (c) to ensure that multi dwelling housing in Zone R3 Medium Density Residential retain the general medium-density scale and character of existing multi dwelling development,
- (d) to minimise any likely adverse impact of the development on the amenity of the area,
- (e) where an existing lot is inadequate in terms of its area or width—to require the consolidation of 2 or more lots.

Compliance is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a))

There have been several Court cases that have established provisions to assist in the assessment of Clause 4.6 statements to ensure they are well founded and address the provisions of Clause 4.6.

In *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ 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.”

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).”

Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation):

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;



4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone."*

In applying the tests of *Wehbe v Pittwater Council* [2007] NSWLEC 827, only one of the above rationales is required to be established. Notwithstanding, in consideration of the above tests the proposal is considered to be reasonable and compliance necessary in the circumstances of the case.

In his Judgment of *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 ('Micaul') Preston CJ confirmed that an established means of demonstrating that compliance with a development standard is unreasonable or unnecessary is to establish that a development would not cause environmental harm and is consistent with the objectives of the development standard.

In this respect, the objectives of Clause 4.1B Minimum lot sizes and special provisions for certain dwellings under the GRLEP 2021 and how these are achieved by the proposal are as follows:

- Objective (a) to ensure that lots for residential accommodation are of sufficient size to accommodate proposed dwellings, setbacks to adjoining residential land, private open space and landscaped areas, driveways and vehicle manoeuvring areas,

Applicant comment: *The subject site is of sufficient size and dimensions to accommodate the proposed detached dual occupancy. The design achieves compliance with all key development controls relating to setbacks, private open space, landscaped area, and vehicle access and manoeuvring. The proposed development will provide high levels of residential amenity for future occupants while ensuring that adequate separation to adjoining residential land is maintained. The proposed lot layout and built form have been carefully designed to optimise functional private open space areas, landscaping, and a compliant driveway width and gradient and vehicle manoeuvring areas.*

- Objective (b) to ensure that dual occupancies in Zone R2 Low Density Residential retain the general low-density scale and character of existing single dwelling development,

Applicants comment: *The proposal maintains the low-density scale and character typical of the R2 Low Density Residential zone. The proposed built form is two storeys in height and is consistent with surrounding development patterns. The proposal does not result in an overdevelopment of the site noting compliance with the applicable Floor Space Ratio development standard and will integrate seamlessly into the established streetscape, retaining the prevailing low-density character of the locality.*



- Objective (c) to ensure that multi dwelling housing in Zone R3 Medium Density Residential retain the general medium-density scale and character of existing multi dwelling development,

Applicants comment - Not applicable. The proposal is for a detached dual occupancy in a R2 zone.

- Objective (d) to minimise any likely adverse impact of the development on the amenity of the area,

Applicant Comment: *The proposal has been designed to minimise any significantly adverse amenity impacts for neighbouring properties including overshadowing of habitable room windows or principal areas of private open space, increased sense of enclosure, overlooking or additional acoustic impacts. The proposal has been designed to be sympathetic to the existing built environment and will not result in any significant loss of sunlight, privacy, or outlook for neighbouring properties.*

- Objective (e) where an existing lot is inadequate in terms of its area or width—to require the consolidation of 2 or more lots.

Applicant Comment: *The subject site comprises a single lot of regular shape that is capable of accommodating the proposed development. No consolidation of additional lots is required as the existing site area and width are sufficient to support the dual occupancy development. The existing 888m² lot size provides adequate space to satisfy the residential purposes of the site and amenity of future residents in incorporating appropriate private open spaces, setbacks, landscaping areas, and vehicle access. The configuration of Dwelling A at the front and Dwelling B at the rear presents a street frontage presentation not dissimilar to a single dwelling in the street, in alignment with the low-density neighbourhood setting. The lot width at the front building line (15.89m) satisfies the requirements for dual occupancy dwellings in principle noting the lot size area is greater than the minimum lot size for dual occupancies (control = 650m²; lot = 888m²), and greater than the minimum lot width for dual occupancies as measured at the front building line (control = 15m; lot = 15.89m) however, results in non-compliance as only the front dwelling (Dwelling A) faces the primary road.*

Clause 4.6(4)(b) the concurrence of the Director-General has been obtained.

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))

Contravention of the Minimum lot sizes and special provisions for certain dwellings development standard proposed by this application does not raise any matter of significance for State or regional environmental planning.

That the Development is not the Public Interest



Clause 4.6(5)(b) of GRLEP 2021 states:

"In deciding whether to grant concurrence, the Secretary must consider:

- (b) the public benefit of maintaining the development standard,

In *Lane Cove Council v Orca Partners Management Pty Ltd (No.2)* [2015] NSWLEC52, Judge Sheahan J referred to the question of public interest with respect to planning matters as a consideration of whether the public advantages of the proposed development outweigh the public disadvantages of the proposed development.

Applicant Comment: *The proposed development, notwithstanding the variation, is in the public interest and there is no public benefit in maintaining the standard.*

Conclusion – Assessment of Clause 4.6 Request for Variation

Council Comment:

The proposed variation is considered to be major and not adequately justified. Furthermore, it does not satisfy the provisions of Clause 4.6.

The proposed variation does not satisfy the objectives of the Minimum lot sizes and special provisions for certain dwellings as the non-compliant frontage does not facilitate a detached dual occupancy within the R2 Low Density Residential zoning that promotes good amenity and prevents adverse impacts to neighbouring properties. The non compliant frontage results in a proposal that is not consistent with other developments in the immediate locality. As a result, the scale of the development is not sympathetic with the existing scale and form of existing adjoining developments.

It is considered that the Clause 4.6 Statement lodged with the application does not address all the information required pursuant to Clause 4.6 and the statement is not considered to be well founded as there is not sufficient environmental planning grounds to justify contravening the standard given that in this case the proposal does not satisfy the objectives of the zone and development standard.

The proposal in its current form does not maintain and enhance the streetscape and the desired future character of the locality. It is deemed insufficient size exists to accommodate the proposed dwellings with respect to setbacks to adjoining residential land, landscaped areas, driveways, and vehicle manoeuvring areas.

Neither does the proposal enable the retention of the general low-density scale and character of existing single dwelling development. The proposal in its current form prioritises hard stance over landscaping, results in adverse impacts with respect to stormwater management and biodiversity, and results in adverse impacts to adjoining neighbouring properties with respect to privacy and excessive unnecessary excavation.

Despite the numerical non-compliance with the Minimum lot sizes and special provisions for certain dwellings development standard, the proposal is not consistent with the objectives of Clause 2.3 Zone objectives and land use table of the GRLEP 2021.

The proposed development is located within zone R2 Low Density. The objectives of this zone are as follows:



- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To promote a high standard of urban design and built form that enhances the local character of the suburb and achieves a high level of residential amenity.
- To provide for housing within a landscaped setting that enhances the existing environmental character of the Georges River local government area.

The proposal does not provide for the housing needs of the community within a low density residential environment. The proposal in its current form also does not 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. Furthermore, the proposal does not provide for housing within a landscaped setting that enhances the existing environmental character of the Georges River local government area.

The applicant's written submission states that the non-compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. The proposal does not demonstrate sufficient environmental planning grounds to justify varying this development standard.

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 the negative impacts of the proposed non-compliance on the environmental quality of the locality and amenity of adjoining properties in terms of stormwater and traffic management, undesirable precedent, and poor urban design when considering the constraints of the site. These impacts have not been adequately considered against the objectives of the development standard and the objections of the R2 Low Density Residential zone.

The proposed development is not within the public interest as the proposal does not comply with the objectives for both Minimum lot sizes and special provisions for certain dwellings and conservation zones and the R2 Low Density Residential zone.

The proposed variation does not raise any matters of State or regional environmental planning significance. The areas of non-compliance are considered to be unreasonable and will establish an undesirable precedent having adverse impacts on the surrounding locality, which is characterised by residential development of comparable character.

For these reasons the Clause 4.6 Statement is considered unfounded and cannot be supported.

The Panel is requested to invoke its powers under Clause 4.6 to deny the variation proposed.

GRLEP 2021 Part 6 – Additional Local Provisions		
Clause 6.1 – Acid sulfate soils		
Standard	Proposal	Compliance



(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.	The site is identified as being within a Class 5 acid sulfate soils area. An assessment of the proposed works reveals the works are not likely to lower the watertable.	☒ Yes ☐ No ☐ N/A
Clause 6.2 Earthworks		
Standard	Proposal	Compliance
Council must consider the following prior to granting consent for any earthworks: (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development, (b) the effect of the development on the likely future use or redevelopment of the land, (c) the quality of the fill or the soil to be excavated, or both, (d) the effect of the development on the existing and likely amenity of adjoining properties, (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, (f) the source of any fill material and the destination of any excavated material, (g) the likelihood of disturbing relics, (h) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, (i) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	The proposal has been considered in this regard. The proposed earth works are unsatisfactory with regards the matters identified. The development has been executed in a manner that does not minimize disruption to drainage patterns or ensure soil stability in the surrounding area. Measures have not been implemented to mitigate any adverse effects on the existing and anticipated amenity of neighbouring properties caused by the development. The design and construction of the development has not effectively minimized the need for extensive cut and fill operations. Adequate measures have not been proposed or implemented to avoid, minimize, or mitigate any potential negative impacts associated with the proposed earthworks.	☐ Yes ☒ No ☐ N/A
Clause 6.3 – Stormwater Management		
Standard	Proposal	Compliance
(2) In deciding whether to grant development consent for development, the consent authority must be satisfied that the development— (a) is designed to maximise the use of	The proposal is unsatisfactory with regards the matters identified. The proposed stormwater drainage system is not considered	☐ Yes ☒ No ☐ N/A



water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and (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 (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 (d) is designed to minimise the impact on public drainage systems.	satisfactory. Council's Development Engineer is not supportive of the development in its current form. Furthermore, the proposed OSD is not marked on the submitted landscape plans. As a result, the proposed OSD will affect the landscaping arrangement.	
Clause 6.9 Essential Services		
Standard	Proposal	Compliance
Development consent must not be granted to development unless Council is satisfied that any of the following services that are essential for the development are available, or that adequate arrangements have been made to make them available when required a) the supply of water, b) the supply of electricity, c) the supply of telecommunications facilities, d) the disposal and management of sewage e) stormwater drainage or on-site conservation, f) suitable vehicular access.	The proposal has not made arrangements that will make available, the: • the disposal and management of sewage, • stormwater drainage or on-site conservation, • vehicular access.	☐ Yes ☒ No ☐ N/A
Clause 6.12 – Landscaped areas		
Standard	Proposal	Compliance
(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	The subject site is situated within the R2 Low density Residential Zone. The provided landscape scheme and development is unsatisfactory with	☐ Yes ☒ No ☐ N/A



(a) allows for the establishment of appropriate plantings— that are of a scale and density commensurate with the height, bulk and scale of the buildings to which the development relates, and that will maintain and enhance the streetscape and the desired future character of the locality, and (b) maintains privacy between dwellings, and (c) does not adversely impact the health, condition and structure of existing trees, tree canopies and tree root systems on the land or adjacent land, and (d) enables the establishment of indigenous vegetation and habitat for native fauna, and (e) integrates with the existing vegetation to protect existing trees and natural landscape features such as rock outcrops, remnant bushland, habitats and natural watercourses. (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— (c) for a dual occupancy located on land outside the Foreshore Scenic Protection Area—25% of the site area	regards the matters identified in the Clause. Site Area: 885.2sqm (By DP) Minimum: 25% or 221.3sqm Inadequate information provided to enable assessment. Natural rock formation which exists on site is not included as deep soil area.	
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Provisions of any Proposed Instrument

Section 4.15 (1) (a) (i) - Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)

There is no proposed instrument that is or has been the subject of public consultation under this Act which is relevant to the proposal.

Provisions of any Development Control Plan

Section 4.15 (1) (a) (iii) The provisions of any development control plan



The proposed development is subject to the provisions of the Georges River Development Control Plan 2021. The following comments are made with respect to the proposal considering the objectives and controls contained within the DCP.

Georges River Development Control Plan 2021

Part 3 – General Planning Considerations

Part 3 of the GRDCP 2021 is applicable to the development and the following clauses apply:

3.2 Biodiversity

3.2 Biodiversity		
3.2.1 Trees and Vegetation		
Control	Proposal	Compliance
Tree removal and replacement planting is to comply with the provisions of the relevant SEPP's and Council's Tree Management Policy.	The application was referred to Council's Senior Landscape and Arboricultural Assessment Officer who is not supportive of the proposal.	☐ Yes ☒ No ☐ N/A

3.3 Landscaping

3.3 Landscaping		
Control	Proposal	Compliance
1. Landscaping on site should be incorporated into the site planning of a development to (where appropriate): - Reinforce the desired future character of the locality; - Maintain significant landscape features; - Be consistent with any dominant species in the adjoining area of ecological significance; - Incorporate fire resistant species in areas susceptible to bushfire hazard; - Provide planting within setback zones; - Soften the visual impact of buildings, carparks and roads; - Cater for outdoor recreation areas; - Separate conflicting uses; - Screen undesirable elements; - Provide opportunities for on-site	The submitted landscape plan does not satisfactorily address all requirements.	☐ Yes ☒ No ☐ N/A



stormwater infiltration, in particular around existing trees and vegetation; xi. Consider the future maintenance requirements of landscaped areas; xii. Protect the effective functioning of overhead, surface level or underground utilities; and xiii. Improve the aesthetic quality of the development.		
2. Landscape planting should achieve a mature height in scale with the structures on the site.		
3. Where landscaping is required, this should incorporate locally indigenous plants listed in the GRDCP 2021 Backyard Biodiversity Guide and Council's Tree Management Policy.		

3.5 Earthworks

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.	Natural ground levels are not maintained within 900mm of the side and rear boundaries of the site.	☐ Yes ☒ No ☐ N/A
2. Cut and fill should not alter natural or existing ground levels by more than 1m	Existing ground levels are altered by more than 1m.	
3. Habitable Rooms (not including bathrooms, laundries and storerooms) are to be located above existing ground level.	Habitable rooms are located above existing ground level.	
4. Rock outcrops, overhangs, boulders, sandstone platforms or sandstone retaining walls are not to be removed or covered.	Natural rock formations will be removed from the proposal.	
5. Development is to be located so that the clearing of vegetation is avoided.	Clearing of vegetation will occur as a result of the proposal.	
6. Cut and fill within a tree protection zone of a tree on the development site or adjoining land must be undertaken	Not supported.	



in accordance with AS4970 (protection of trees on development sites).		
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.	Councils Development Engineer is not satisfied that the proposed development will manage stormwater drainage effectively.	
9. Fill material must be virgin excavated natural material (VENM) or according to the NSW Environmental Protection Authority (EPA)	Should the application had been supported, this could be imposed by way of condition.	
10. For flood-affected sites, cut and fill is to comply with the requirements of Chapter 6 of Council's Stormwater Management Policy	The site is not flood affected.	
3.5.2 Construction Management/Erosion and Sediment Control		
Control	Proposal	Compliance
6. Development must minimise any soil loss from the site to reduce impacts of sedimentation on waterways through the use of the following: - Sediment fencing; - Water diversion; - Single entry/exit points - Filtration materials such as straw bales and turf strips.	Should the application had been supported, this could be imposed by way of condition.	☒ Yes ☐ No ☐ N/A
2. Development that involves site disturbance is to provide an erosion and sediment control plan which details the proposed method of soil management and its implementation. Such measures are to be in accordance with The Blue Book – Managing Urban Stormwater, Soils & Construction by LandCom		
3. Development is to minimise site disturbance including impacts on vegetation and significant trees and the need for cut and fill.		



5. Development which has a high potential risk to groundwater must submit a geotechnical report to address how possible impacts on groundwater are minimised.		
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3.6 Contaminated Land

3.6 Contaminated Land		
Control	Proposal	Compliance
2. The application is accompanied by sufficient information to determine: i. The extent to which the land is contaminated (both soil and ground water); ii. Whether the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out; iii. Whether the land requires remediation to make the land suitable for the intended use prior to that development being carried out; and iv. If the land has been previously investigated or remediated, development cannot be carried out until Council has considered the nature, distribution, and levels of residues remaining on the land, and Council has determined that the land is suitable for the intended use. Operating practices and technology must be employed to prevent contamination of ground water.	The Assessing Officer has reviewed: - Councils Contamination Records - Aerial Imaging (inc. historic imaging) - Conducted a site inspection. A review of the above indicates that the site has historically been used for Residential purposes and there is no evidence that any use under Table 1 of the contaminated land planning guidelines has occurred on site. Given this, there is no evidence that the site is contaminated, and the site is considered suitable for the proposed development.	☒ Yes ☐ No ☐ N/A

3.10 Water Management

3.10 Water Management		
Stormwater Management		
Control	Proposal	Compliance



6. Development must comply with Council's Stormwater Management Policy.	The proposal has been reviewed by Council's Development Engineer and has not been found to be satisfactory with regards to this clause.	☐ Yes ☒ No ☐ N/A
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3.11 Ecologically Sustainable Development

3.11 Ecologically Sustainable Development		
Residential Buildings		
Control	Proposal	Compliance
1. All BASIX affected development must comply with SEPP (Building Sustainability Index: BASIX) 2004.	A BASIX has been provided with the application for each dwelling. The proposal shall be conditioned to comply with the BASIX. See BASIX SEPP assessment.	☒ Yes ☐ No ☐ N/A

3.12 Waste Management

3.12 Waste Management		
Control	Proposal	Compliance
1. Development must comply with Council's Waste Management requirements regarding construction waste and ongoing management of waste materials (per Appendix 4 of the GRDCP).	The proposal complies with Appendix 4 of the GRDCP and therefore complies with the controls of this section.	☒ Yes ☐ No ☐ N/A

3.13 Parking Access and Transport

3.13 Parking Access and Transport		
Control	Proposal	Compliance
As per the table within this section the development is to provide parking at the following rates: Parking: The development has 3 or more bedrooms therefore 2 spaces are required	Dwelling 1 (Western): 1 car parking space Dwelling 2 (Eastern): 2 car parking spaces	☒ Yes ☐ No ☐ N/A



3.16.2 Roads, Vehicular Access and Car Parking		
Control	Proposal	Compliance
4. Driveway to comply with AS2890.1 (2004)	Unsatisfactory.	☐ Yes ☒ No ☐ N/A
3.16.3 Utilities and Services		
Control	Proposal	Compliance
1. Development is to comply with requirements outlined in Clause 6.9 Essential services of the Georges River LEP 2021.	Unsatisfactory.	☐ Yes ☒ No ☐ N/A

3.17 Universal / Accessible Design

3.17 Universal / Accessible Design		
Control	Proposal	Compliance
3. Accessways for pedestrians and vehicles to be separated	Access for pedestrians is separated for dwelling 1 (western).	☒ Yes ☐ No ☐ N/A

3.19 Crime Prevention / Safety and Security

3.19 Crime Prevention / Safety and Security		
Control	Proposal	Compliance
6. 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.	☐ Yes ☒ No ☐ N/A
4. Building entries are to be clearly visible and identifiable from the public domain.	The proposed building entry is not clearly identified from the public domain.	

Part 4 – General Land Use

The provisions of this part relate to specific development types not subject of this application and are not applicable to this proposal.



Part 5 – Residential Locality Statements

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

5.18 Carss Park and Kogarah Bay Locality Statement	
Future Desired Character	Consistency with Desired Character
• Retain and enhance the existing low density suburban residential character through articulated contemporary developments that respond to the human scale. • Encourage well-designed high density residential development in designated areas along Princes Highway. • Facilitate urban renewal in appropriate locations, allowing substantial change to the streetscape character while resulting in a high quality public domain. • Encourage consistent setbacks of buildings from the street and the provision of landscaping within the front setback. • Encourage the retention of trees and sharing of water views wherever possible, including screening via vegetation rather than solid walls. • Public views to waterways should be retained from streets and public places.	The proposal fails to comply with the future desired locality character as the proposal does not retain and enhance the existing low density suburban residential character through articulated contemporary developments that respond to the human scale, encourage consistent setbacks of buildings from the street and the provision of landscaping within the front setback, or encourage the retention of trees and sharing of water views wherever possible, including screening via vegetation rather than solid walls.

Part 6 – Residential Controls

6.1.3 Dual Occupancy

6.1.3.1 Streetscape Character and Built Form

6.1.2.1 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 of secondary street frontages.	Service rooms face the primary street frontage.	☐ Yes ☒ No ☐ N/A
2. Driveways and accessways should not dominate the streetscape and located to comply with AS2890 (latest edition).	Unsatisfactory.	



6.1.2.1 Streetscape Character and Built Form		
Control	Proposal	Compliance
3. The design of the street facing elevation of any dual occupancy development should seek to incorporate design features such as: (i) A defined entry feature; (ii) Awnings, louvers, shutters or other features over windows; (iii) Balcony or window box treatment to any first floor element; (iv) Recessed or projected prominent architectural elements to visibly break up the facade and avoid an expansive blank wall; (iv) Open verandahs; (v) Use of bay windows or similar features along the façade	The design of the proposal includes more than 2 design features. The proposal includes projected prominent architectural elements to visibly break up the facade and avoidance of expansive blank wall, and open front facing balconies.	
4. Each dwelling entrance is to be clearly identifiable from the street and recessed a maximum of 1m into the façade of the dwelling.	Both dwelling entrances are not clearly identifiable from the street and entryways are recessed more than a maximum of 1m into the façade of the dwelling.	
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.	Access to garaging for the proposed dual occupancy dwellings results in large expanses of paved surfaces within the street setback of the development.	
6. The maximum size of voids at the first floor level should be a total of 15m² (excluding voids associated with internal stairs) for each of the two dwellings.	Dwelling 1 (Western): 6.7sqm associated to internal staircase. Dwelling 2 (Eastern): nil.	
7. Garages for each dwelling within an attached dual occupancy development must be a single car space wide only. Two car garages in a tandem arrangement may be acceptable.	Dwelling 1 (Western): Single proposed. Dwelling 2 (Eastern): Double proposed.	

6.1.3.2 Building Scale and Height



6.1.2.2 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 respond to the predominant and desired future scale of buildings within the neighbourhood; and does not respond to the topography and form of the site.	☐ Yes ☒ No ☐ N/A
2. On sites with a gradient or cross fall greater than 1:10, dwellings are to adopt a splitlevel approach to minimise excavation and fill. The 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.	No cross fall or gradient greater than 1:10.	
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.	Both dwellings propose 3 storeys.	

6.1.3.3 Setbacks - Setbacks

6.1.3.3 Setbacks - Front Setbacks (Street facing dual occupancy)		
Control	Proposal	Compliance
1. The minimum setback from the primary street boundary is:		☐ Yes ☒ No ☐ N/A
i) 4.5m to the main building wall / facade;	N/A	
ii) 5.5m to the front facade of a garage or carport; or on -site parking space or	N/A	
iii) Where the prevailing street setback is greater than the minimum, the average setback of dwellings on	No. 38: 5.7m No. 36: 9.5m Prevailing: 7.55m	



adjoining lots is to be applied.	Dwelling 1 (Western): 7.2m Dwelling 2 (Eastern): Refer to control 6 below.	
6.1.3.3 Setbacks - Side and Rear Setbacks (detached dual occupancy)		
Control	Proposal	Compliance
<u>Side and Rear Setbacks – (detached dual occupancy in a battle axe configuration)</u> <u>Rear Setbacks</u> 5. The minimum rear setback (ground and first floor) is 4m to the rear boundary of the lot fronting the primary street. The minimum rear setback for the rear lot is 6m. <u>Front Setback</u> 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. <u>Side Setbacks</u> 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. See Figure 7. 8. The minimum side setback of the dwelling with frontage to a primary street to the access handle is to be 1.2m.	<u>Dwelling 1 (Western):</u> Min 4m Ground: Complies First: Complies <u>Dwelling 2 (Eastern):</u> Min 6m Ground: 2.3m First: 6m <u>Dwelling 2 (Eastern):</u> Min 6m Ground: 9.1m First: 7.2m <u>Dwelling 1 (Western):</u> Min. 1.2m <u>Basement:</u> Northern: 4.2m Southern: 1.24m <u>Ground:</u> Northern: 4.2m Southern: 1.24m <u>First:</u> Northern: 3m (balustrade) Southern: 1.24m <u>Dwelling 2 (Eastern):</u> Min. 1.2m	☐ Yes ☒ No ☐ N/A



	<u>Basement:</u> Northern: 1.2m Southern: 1.2m <u>Ground:</u> Northern: 1.2m Southern: 1.2m <u>First:</u> Northern: 1.2m Southern: 2m	
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6.1.3.4 – Solar Access

6.1.3.4 – Solar Access		
Control	Proposal	Compliance
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 is sited and designed to facilitate a minimum of 3 hours direct sunlight between 9am and 3pm on 21 June onto living room windows and at least 50% of the minimum amount of private open space.	☒ Yes ☐ No ☐ 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.	As a result of the orientation of the subject site, neighbouring adjoining site 22 Cooloongatta road is overshadowed by the casts created by the proposed dual occupancy. The property still receives the minimum required solar access.	
3. Shadow diagrams are to be submitted demonstrating the shadow impacts for the winter solstice (21 June) between 9.00am and 3.00pm.	Shadow diagrams accompany the proposed development.	
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	Shadow diagrams accompany the proposed development.	



diagrams to demonstrate appropriate solar access provision to adjoining development.		
5. 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.	Shadow diagrams have been lodged with the proposal demonstrating the impact of the proposal on solar access to the open space of neighbouring properties and existing overshadowing.	

6.1.3.5 – Visual Privacy

6.1.3.5 – Visual Privacy		
Control	Proposal	Compliance
1. Windows and balconies of main living areas are to be directed toward the front and rear of a site.	Windows and balconies of main living areas of both dwellings are not directed toward the front and rear of a site.	☐ Yes ☒ No ☐ 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: i. Physical screening devices such as fixed external timber battens; ii. Splaying or staggering the location of windows; iii. Use of level changes; iv. Use of increased window sill heights or the use of glazing such as frosted glass or glass blocks; v. Avoiding elevated decks or balconies; and vi. Increasing building setbacks from the side boundary.	Windows and balconies of habitable rooms overlook windows, balconies and the open space of adjacent dwellings in their current form.	
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	Dwelling 1 (Western): no rear balcony proposed. Dwelling 2 (Eastern): no rear	



fin walls or privacy screens on the sides to prevent overlooking of the living rooms and main private open space areas of adjoining properties.	balcony proposed.	
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6.1.3.6 - Noise

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.	The proposal shares the co-location of quieter rooms with the like, and noisier rooms with the like.	☒ Yes ☐ No ☐ 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.	A condition of consent will be imposed with regard to general noise.	

6.1.3.7 – Excavation (Cut and Fill)

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.	The proposal fails to avoid unnecessary earthworks as the designing and siting of the proposal does not respond to the natural slope of the land. The building footprint is also not designed to minimise cut and fill. The proposal is not designed to step in accordance with the slope and crossfall of the land.	☐ Yes ☒ No ☐ 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.		
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.		
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6.1.3.8 – Vehicle Access, Parking and Circulation

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).	Dwelling 1 (Western): 1 enclosed car parking space. Dwelling 2 (Eastern): 2 enclosed car parking spaces.	☐ Yes ☒ No ☐ N/A
2. Car parking is to be provided in accordance with the requirements in Part 3 General Issues of this DCP: 1 space in the driveway and 1 garage space per dwelling (2 per dwelling)	Provided in accordance with Part 3 General Issues.	
3. 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.	The proposal fails to ensure landscaping on the site and the public domain are maximised, and the removal or damage to existing street trees is avoided.	
4. The maximum driveway width between the street boundary and the primary building setback alignment of the garage is 4 metres.	Unsatisfactory.	
5. Internal driveway grades are to be in accordance with Australian Standard 2890.1 (latest edition).	Unsatisfactory.	
6. 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.	Dwelling 1 (Western): complies. Dwelling 2 (Eastern): 2 enclosed car parking space side by side.	



6.1.3.10 - Private Open Space

6.1.3.10 - Private Open Space		
Control	Proposal	Compliance
1. An area of Private Open Space is to be provided which: - Is located at ground level; - Has a minimum dimension of 4m x 5m; - Is not steeper than 1 in 20; - Is directly accessible from a main living area; and - May include a covered patio area.	An area of Private Open Space is provided at ground level, with minimum dimensions of 4mx5m, not steeper than 1 in 20, directly accessible from a main living area within the rear yard of both dwellings.	☒ Yes ☐ No ☐ 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.	
3. Private open space is to be provided for all dwellings.	Private open space is provided for both dwellings.	
4. For an attached dual occupancy in a duplex configuration (one dwelling above another) private open space for the upper dwelling is to be provided in the form of a balcony with a minimum area of 12m ² and minimum depth of 2.5m. This form of private open space is to be oriented towards the primary or secondary street.	N/A	
5. Private open space is to be located so as to maximise solar access.	Private open space is appropriately located within the rear yards of both dwellings so as to maximise solar access	
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.	Private open space is designed to minimise adverse impacts upon the privacy of the occupants of adjacent sites and within the proposed development.	



6.1.3.11 Landscaping

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.	Landscaped area (has the same meaning as GRLEP 2021) is not provided in accordance with the table contained within Clause 6.12 Landscaped areas in certain residential and environmental protection zones of GRLEP 2021.	☐ Yes ☒ No ☐ 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.	Inadequate information provided to enable assessment. Natural rock formation which exists on site is not included as deep soil area.	
3. To provide a landscape setting within the primary and secondary street frontages, impervious paved areas are to be minimised. Impervious areas include hard paving, gravel, concrete, artificial turf, rock gardens (excluding natural rock outcrops) and other material that does not permit soft soil landscaping.	The proposal fails to provide a landscape setting within the primary street frontage where impervious paved areas are minimised.	
4. Impervious areas are to occupy no more than: 65% of the street setback area where the front setback is 6m or greater	Prevailing: 7.55m Frontage: 130sqm 65%: 84.5sqm Proposed: 92.9sqm	
5. The front setback area is to have an area where at least one (1) tree capable of achieving a minimum mature height of 6-8m with a spreading canopy can be accommodated. A schedule of appropriate species is provided in Council's Tree Management Policy.	The front setback area has an area where at least one (1) tree capable of achieving a minimum mature height of 6-8m with a spreading canopy can be accommodated. A schedule of appropriate species is provided in Council's Tree Management Policy.	
6. Preference is to be given to incorporating locally indigenous plants.	If the application was supported this would have been reinforced by condition of consent.	



6.1.3.12 Materials, Colour Schemes and Details

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.	No large expansive surfaces of predominantly white, light or primary colours would dominate the streetscape.	☒ Yes ☐ No ☐ N/A
2. New development should incorporate colour schemes that have a hue and tonal relationship with the predominant colour schemes found in the street.	The proposed development incorporates the colour schemes that have a hue and tonal relationship with the predominant colour schemes found in the street.	
3. All materials and finishes utilised should have low reflectivity.	Should the application have been supported this could be conditioned.	

6.1.3.13 Site Facilities

6.1.3.6 Site Facilities		
Control	Proposal	Compliance
1. All dwellings are to be provided with adequate and practical internal and external storage (garage, garden sheds, etc.).	Provided.	☐ Yes ☒ No ☐ N/A
2. Provision for water, sewerage and stormwater drainage for the site shall be nominated on the plans to Council's satisfaction.	Unsatisfactory.	
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.	Provided.	
4. Letterboxes are to be located on the frontage where the address has been allocated in accordance with Australia Post requirements.	Can be appropriately located.	

Part 6.4 – Ancillary Development

Fences and Walls		
6.4.1 Fences and Walls		
Control	Proposal	Compliance
1. Fence heights are to be limited to a maximum of: i. 900mm for solid masonry; ii. 1.2m for open or partially transparent styles such as picket or palisade.	Inadequate information provided to enable assessment of retaining walls and fences.	☐ Yes ☒ No ☐ N/A
2. Preferred materials for fencing are masonry, stone, ornate timber, or ornate metal.		
3. For sloping streets, fences and walls must be stepped to comply with the required maximum fence height.		
4. Where noise attenuation or protection of amenity requires a higher fence, front fences may be permitted to a maximum 1.8m and must be setback a minimum of 1m from the boundary to allow landscape screening to be provided. Landscape species chosen should be designed to screen the fence without impeding pedestrian movements along the roadway. Front fences and landscape screening must not compromise vehicular movement sightlines.		
5. Fencing (and landscape screening) is to be located to ensure sightlines between pedestrians and vehicles exiting the site are not obscured. Gates are not to open over the public roadway or footpath.		
6. Side and rear boundary fences must not be higher than 1.8m on level sites, or 1.8m as measured from the low side where there is a difference in level either side of the boundary. An additional 300mm of lattice is permitted for privacy screening.		
7. In the case of corner sites with two street frontages, a 1.8m fence height is		



only permitted behind the building line. Fencing forward of the building line is limited to a maximum height of between 900mm-1.2m.		
9. Fencing must have regard for the Swimming pool Act 1992 where a swimming pool exists or is proposed.		
10. Construction of retaining walls or associated drainage work along common boundaries must not compromise the structural integrity of any existing retaining wall or structures on the subject or adjoining allotments. All components, including footings and aggregate lines, must be wholly contained within the property.		
11. A retaining wall that is visible from the street or public area must: i. be constructed to a height no greater than 1.0m, and ii. be designed so a minimum setback of 1.0m between the retaining wall and the boundary is provided to permit landscaping, and iii. Be constructed of materials that are durable and do not detract from the streetscape.		
12. No part of any retaining wall or its footings is to encroach onto an easement unless approval from the beneficiary is obtained, and the purpose of the easement is not interfered with.		
13. Any retaining walls, required as part of the dwelling construction to contain potential land stability and/or the structural integrity of adjoining properties, must be completed and certified by an appropriately qualified and practicing engineer prior to occupation of the dwelling.		
14. Excavation or filling requiring retaining shall be shored or retained immediately to protect neighbouring properties from loss of support and to prevent soil erosion.		



Any Planning Agreement Under Section 7.4

Section 4.15 (1) (a) (iia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4.

There is no planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 applicable to the proposal.

The Regulations

Section 4.15 (1) (a) (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

There are no regulations (to the extent that they prescribe matters for the purposes of this paragraph) applicable to the proposal.

The Likely Impacts of the Development

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

Likely Impacts of the Development	
Natural Environment	The development is located within an established residential area. The proposal does not seek to retain and enhance the natural setting of the site. The proposal fails to demonstrate adequate vehicular access and surrounding built form to facilitate access.
Built Environment	The built form of the proposed development is not of a bulk and scale that is appropriate with its setting and consistent with the desired future character of the area. The proposed development results in significant cut of the site to facilitate the built form.
Social Impact	The proposal in its current form will set an unwanted precedent.
Economic Impact	The proposal is not considered to result in unreasonable economic impact

Site Suitability

Section 4.15 (c) the suitability of the site for the development

The site is zoned R2 Low Density Residential.

The proposal is not considered a suitable outcome for the subject site for the reasons listed below:

- The proposed development is not considered to be suitable for the site or its locality and is likely to set an undesirable precedent.
- Large-scale excavation will disrupt the natural landscape, affecting soil stability and drainage patterns, which can lead to erosion.



- Extensive excavation will alter the visual character of the area, making it less aesthetically pleasing and potentially impacting the streetscape character.
- The cut to the public domain impacts pedestrian movements.

Submissions

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.

2 submissions were received during the neighbour notification period.

The matters relevant to this application raised in the submissions are considered below:

Issue	Comment
Exception to Development Standard	The proposal is not being supported in this regard.
Out of Character/Bulk and Scale	The proposal is not being supported as it fails to remain in keeping with the future characteristic of the vicinity.
Height of building	Concern was raised regarding the height of building of the development. Inadequate information was provided to enable assessment in this regard.
3 Storey Development	Council notes the proposal is designed over three distinct levels. It is considered that the development has not been sensitively designed and fails to respect the natural topography on site. It is deemed that the levels result in the proposal being considered out of character in this locality. Unreasonable impacts on adjoining allotments are also considered. As a result, the scale and form are considered unacceptable.
Privacy and Overlooking	It is considered that the development has not been sensitively designed to be respectful of impacts onto the adjoining allotments with respect to maintaining privacy and minimising overlooking.
Setbacks	It is considered that the development has not been sensitively designed with respect to proposed setbacks.
Solar Access and Overshadowing	Issues of solar access and overshadowing were raised. An assessment of the application has revealed that the application complies with the minimum requirements for solar access.
Structural Concerns	Concern is raised with respect to the construction methodology and structural adequacy of the proposed development. In its current form the proposal has not adequately demonstrated structural adequacy and as a result it is assumed the proposal is unsafe in construction methodology.
Public Interest	Assessment of the proposal concludes that the proposal is not within the



	public interest for reasons listed within the report. As a result, the proposal is not being supported.
Insufficient and Inaccurate Information	Assessment of the proposal concludes that provided information to date is not sufficient to enable detailed and accurate assessment. Further information is required to enable assessment.
Dilapidation to adjoining properties.	Concern has been raised regarding the proposals impact on adjoining neighbouring properties. It is assumed the proposal will have an adverse effect on neighbouring properties in its current form and as result is not being supported.
Environmental Impact	Council's Landscape Officer is not supportive of the proposed development in its current form.

The Public Interest.

Section 4.15 (e) the public interest.

The proposal is not considered to be in the public interest for the reasons listed within the report.

Referrals

Internal Referrals		
Specialist	Comment	Outcome
Development Engineer	Objections raised to the proposal in its current form.	Not supported.
Landscape Officer	Objections raised to the proposal in its current form.	Not supported.
Traffic Engineering	Objections raised to the proposal in its current form.	Not supported.
Land Information (GIS)	No objection raised.	Conditions imposed if the application were of a supportive nature.

External Referrals		
Referral Body	Comment	Outcome
Ausgrid	No objections raised to the proposal and conditions suggested.	Conditions would have been imposed if the application was supported.



Contributions

The development is subject to Section 7.11 Contributions. In accordance with the Georges River Local Development Contributions Plan 2021, a condition requiring payment of the contribution would have been included in the consent were this application recommended for approval.

Conclusion

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 result in an unacceptable planning and urban design outcome in the locality.

The proposal has been assessed against the provisions of the relevant State Environmental Planning Policy, Georges River Local Environmental Plan 2021, and Georges River Development Control Plan 2021. The proposal fails to comply with a development standard of the Local Environmental Plan and fails to meet development controls under the Development Control Plan. Any variations have been addressed and are not worthy of support in this regard.

Determination

Refusal of Application

Pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 (as amended), the delegated officer determines DA2025/0248 for Demolition of the existing dwelling, site clearance (including tree removal and excavation), and the construction of two new detached dwellings, for a proposed dual occupancy (detached) development on Lot 20/8/DP1963 on land known as 34 Parkside Drive, Kogarah Bay NSW 2217, should not be approved subject to the refusal reasons referenced below:

- 1. State Environmental Planning Policy (Biodiversity and Conservation) 2021** Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the requirements of the Biodiversity and Conservation State Environmental Planning Policy.
- 2. Local Environmental Plan** - Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to satisfy the zone objectives of Clause 2.3 – Zone objectives and Land Use Table outlined in the Georges River Local Environmental Plan (GRLEP) 2021.
- 3. Local Environmental Plan** - Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to provide an accurate and reasonable Clause 4.6 statement to address the Exceptions to development standards clause outlined in the Georges River Local Environmental Plan (GRLEP) 2021. The Clause 4.6 request to vary the Clause 4.1B – Minimum lot sizes and special provisions for certain dwellings has not been supported.



4. **Local Environmental Plan** - Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to provide adequate information to enable assessment of the Clause 4.3 - Height of buildings control outlined in the Georges River Local Environmental Plan (GRLEP) 2021.
5. **Local Environmental Plan** - Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to meet remain in keeping with the maximum floor space ratio applicable under Clause 4.4A - Exceptions to floor space ratio—certain residential accommodation. Notwithstanding, no Clause 4.6 was provided to Council in this regard to vary the Clause 4.4A - Exceptions to floor space ratio—certain residential accommodation clause.
6. **Local Environmental Plan** - Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to satisfy the objectives of Clause 6.2 - Earthworks within the Georges River Local Environmental Plan (GRLEP) 2021. Additionally, the proposed design of the development has not effectively minimized the need for extensive cut and fill operations.
7. **Local Environmental Plan** - Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to satisfy the requirements of the 6.3 - Stormwater Management clause control outlined in the Georges River Local Environmental Plan (GRLEP) 2021. The proposed OSD will affect the retention of valuable biodiversity on site which is not supported.
8. **Local Environmental Plan** - Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to provide essential services outlined in clause 6.9 essential services within the Georges River Local Environmental Plan (GRLEP) 2021.
9. **Local Environmental Plan** - Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to meet the minimum required Landscaped areas in certain residential and conservation zones control outlined Clause 6.12 in the Georges River Local Environmental Plan (GRLEP) 2021. Notwithstanding, a Clause 4.6 request to vary the minimum development standard has not been provided and would not be encouraged.
10. **Development Control Plan** - Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development has failed to demonstrate compliance with the following objectives of the Georges River Development Control Plan 2021:



biodiversity, landscaping, earthworks, water management, parking access and transport, crime prevention /safety and security, future residential characteristic, streetscape character and built form, building scale and height, setbacks, visual privacy, excavation (cut and fill), vehicle access, parking, and circulation, landscaping, site facilities, and fences and walls.

11. **Natural and Built Impacts** - Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development does not seek to retain and enhance the natural setting of the site. The built form of the proposed development is not of a bulk and scale that is appropriate with its setting and consistent with the desired future character of the area.
12. **Social Impacts** - Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is likely to have an adverse social impact as the proposal is seeking consent for a proposal which will set an undesirable precedent that is not in keeping with surrounding development or the desired character of the area.
13. **Suitability of Site** - Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the site is not considered suitable for the proposed development as the proposal is incompatible with the scale, character and amenity of the subject site or the surrounding development within the R2 Low Density Residential locality with respect to streetscape character and built form, and landscaping.
14. **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 within the locality.

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.

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.



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.

Signed:



Assessing Officer: Diana Berro
Title: Development Assessment Planner
Date: 19/09/2025

The application is recommended for determination under the delegations associated with my position.

Delegated Officer:
Title:
Date:

The application is determined in accordance with the recommendation under the delegations associated with my position.

REPORT TO GEORGES RIVER LOCAL PLANNING PANEL MEETING OF THURSDAY, 23 OCTOBER 2025

LPP032-25 4 QUEENS ROAD, KOGARAH

LPP032-25

LPP Report No	LPP032-25	Development Application No	DA2025/0266
Site Address & Ward Locality	4 Queens Road, Kogarah Kogarah Bay Ward		
Proposed Development	Construction and use of co-living housing		
Owners	Auzoom Holdings Pty Ltd		
Applicant	Mark Boffa		
Planner/Architect	Willowtree Planning/Read Studio		
Date Of Lodgement	30/05/2025		
Submissions	1 submission received.		
Cost of Works	\$4,656,177.00		
Local Planning Panel Criteria	This application is referred to the Georges River Local Planning Panel for determination as the proposal has been assessed under the provisions of State Environmental Planning Policy Housing 2021.		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Sustainable Buildings 2021), State Environmental Planning Policy (Transport and infrastructure) 2021, State Environmental Planning Policy (Housing 2021), Georges River Local Environmental Plan 2021 (GRLEP 2021) and Georges River Development Control Plan 2021 (GRDCP 2021).		
List all documents submitted with this report for the Panel's consideration	Architectural Plans, Assessment Report, Clause 4.6 Variation Statements, Heritage Impact Statement, Plan of Management, Landscape Plan, Stormwater Plan, Site Photo's and Statement of Environmental Effects.		
Report prepared by	Senior Development Assessment Planner		
RECOMMENDATION	That the application be refused in accordance with the reasons referenced at the end of this report.		

Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
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Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes - Clause 69 (1)(b) – minimum lot size of SEPP Housing 2021 and Clause 4.3 Height of Building of GRLEP 2021
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	No, the application is recommended for refusal, the refusal reasons can be viewed when the report is published.

SITE PLAN



REPORT IN FULL

PROPOSAL

- The works proposed in this application are specifically outlined below:
- Construction and use of a five-storey building containing co-living housing comprising the following:
 - 20 two-bedroom rooms
 - Three (3) one-bedroom rooms including one (1) room designated to the building manager

- Basement with five (5) car parking spaces, two (2) motorbike spaces, and four (4) bicycle bays
- Removal of three (3) trees
- Planting of 46 trees and additional shrubs and groundcover
- Minor demolition works including to the rear of the heritage listed item
- Associated civil works
- Restoration and interior refurbishment of the existing heritage listed item
- Landscape works

3. Operational details

- ☐ Nature of use
 - Co-living housing
- ☐ Staff
 - Building Manager
 - Maintenance Personnel and Cleaning Staff
 - Community Coordinator
- ☐ Maximum Number of Tenants
 - 43
- ☐ Hours of Operation - On-site Management and support services will be available during the following hours:
 - Monday – Friday: 8am to 5pm
 - Saturday: 9am to 1pm
 - Sunday and Public Holidays: Closed

SITE AND LOCALITY

4. The site is identified as 4 Queens Avenue, Kogarah, containing the following land holding: 4 Queens Avenue, Kogarah Lot B DP 384976 626sqm. The site is a rectangular-shaped allotment, featuring a primary frontage along Queens Avenue and located adjacent to the Kogarah Town Centre to the east and Kogarah South Heritage Conservation area to the west. The surrounding development consisting of low to medium density residential development up to four (4) storeys in height, mixed use development, and St George's Hospital which has a height of 38.7m. The site is approximately 500m from Kogarah Station and has numerous employment and social opportunities within a 1km radius including the Kogarah RSL, Kogarah Park, Kogarah Public and High Schools and the Kogarah Town Centre. The site is well connected to the existing road network, being in proximity to Princes Highway. The site is located approximately 4.5km south of the Sydney Kingsford Smith Airport and 11km southwest of the Sydney CBD.



Figure 3—Aerial view of development site outlined in red (Source: *Intramaps*)

ZONING AND PERMISSIBILITY

5. The subject site is zoned R4 High Density Residential under the provisions of Georges River Local Environmental Plan 2021 (GRLEP 2021). The proposal involves the construction and use of co-living housing which is a permissible use in the zone with development consent.



Figure 2 – Zoning of development site outlined in red (Source: *IntraMaps*)

REASON FOR REFERRAL TO THE LOCAL PLANNING PANEL

6. This application is referred to the Georges River Local Planning Panel for determination as the proposal has been assessed under the provisions of State Environmental Planning Policy Housing 2021.

SUBMISSIONS

7. The DA was publicly notified to neighbours for a period of twenty-eight (28) days in accordance with the Georges River Community Engagement Strategy. 1 submission was received. The following topics were raised in the submission received, streetscape and out of character, traffic and parking, waste management and construction management. A full breakdown of the submission is outlined in the full assessment report.

ASSESSMENT

8. The application has been assessed having regard to the Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Georges River Local Environmental Plan 2021 and Georges River Development Control Plan 2021.

State Environmental Planning Policy Housing 2021		
Chapter 3 – Part 3 – Co-living housing		
Standard	Proposal	Compliance
67 Co-living housing may be carried out on certain land with consent Development for the purposes of co-living housing may be carried out with consent on land in a zone in which—		
(d) communal open spaces— (i) with a total area of at least 20% of the site area, 20% of the site area = 125.2sqm and (ii) each with minimum dimensions of 3m,	Proposed = 104.8sqm Minimum of 3m not achieved.	☐ Yes ☒ No
69 Standards for co-living housing (1) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority is satisfied that—		
(a) each private room has a floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, that is not more than 25sqm and not less than— (i) for a private room intended to be used by a single occupant—12sqm, or (ii) otherwise—16sqm, and	Rooms 1,5-23 are double rooms and 2-4 are single rooms. Several rooms do not comply with the minimum 12sqm for single occupancy and 16sqm. It should be noted that Room G.06 robe is over the door opening. Furthermore, it should be noted that a small area forward of the kitchen/kitchenette area in each room must not be included in the room calculation and the door swings of the room as this is not usable/functional space.	☐ Yes ☒ No
(b) the minimum lot size for the co-living housing is not less than— (ii) for development on other land—800sqm, and	The site is not more than 800sqm (626sqm). 21.75% variation proposed.	☐ Yes ☒ No
2) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority considers whether—		
(a) the front, side and rear setbacks for the co-living housing are not less than— (ii) for development on land in Zone R4 High	6m side setbacks under GRDCP 2021 required. 6m rear setback under GRDCP 2021 required. 3m side setback proposed.	☐ Yes ☒ No

Density Residential—the minimum setback requirements for residential flat buildings under a relevant planning instrument, and	5m rear setback proposed. The proposed setbacks are as follows: ☐ Side (NE) - 1.5m ☐ Side (SW) - 0.4m ☐ Rear (SE) - 1.5m – 3.5m																					
(b) if the co-living housing has at least 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide, and	The proposal includes 4 storeys. Minimum is 6m side and rear boundary's; 5m front setback under the ADG for 4 storeys. <table><tr><th></th><th>Ground</th><th>2 - 4 Storeys (Level 1-3)</th><th>5 Storeys (Level 4)</th></tr><tr><td>Side (NE)</td><td>6.225m – ramp and fire garage room 3.0m – building</td><td>3.0m to building</td><td>3.0m – 3.5m TBC</td></tr><tr><td>Side (SW)</td><td>6m-3.5m – ramp 8.5m – Car lift 2.5m – Motor room 3.5m – Service Stairs</td><td>3.0m</td><td>3.0 – 3.5m TBC</td></tr><tr><td>Rear (SE)</td><td>5.0m – 5.4m (including projecting windows) 1.5m to the existing dwelling</td><td>5.0m – 5.4m (including window projection)</td><td>Varies 3.0m – 3.0m</td></tr><tr><td>Front (NW)</td><td></td><td></td><td></td></tr></table>		Ground	2 - 4 Storeys (Level 1-3)	5 Storeys (Level 4)	Side (NE)	6.225m – ramp and fire garage room 3.0m – building	3.0m to building	3.0m – 3.5m TBC	Side (SW)	6m-3.5m – ramp 8.5m – Car lift 2.5m – Motor room 3.5m – Service Stairs	3.0m	3.0 – 3.5m TBC	Rear (SE)	5.0m – 5.4m (including projecting windows) 1.5m to the existing dwelling	5.0m – 5.4m (including window projection)	Varies 3.0m – 3.0m	Front (NW)				☐ Yes ☒ No
	Ground	2 - 4 Storeys (Level 1-3)	5 Storeys (Level 4)																			
Side (NE)	6.225m – ramp and fire garage room 3.0m – building	3.0m to building	3.0m – 3.5m TBC																			
Side (SW)	6m-3.5m – ramp 8.5m – Car lift 2.5m – Motor room 3.5m – Service Stairs	3.0m	3.0 – 3.5m TBC																			
Rear (SE)	5.0m – 5.4m (including projecting windows) 1.5m to the existing dwelling	5.0m – 5.4m (including window projection)	Varies 3.0m – 3.0m																			
Front (NW)																						
(c) at least 3 hours of direct solar access will be provided between 9am and 3pm at mid-winter in at least 1 communal living area, and	To maximise the benefits to residents of direct sunlight access, design guidance under ADG Objective 4A-1 recommends a minimum of 1m ² measured at 1m above floor level to be achieved for at least 15 minutes. The Solar access diagram (Drawing DA023) provided illustrate that there is a considerable reduction in direct sunlight between 11am to 12noon. Detailed solar access diagrams should be provided to ascertain the compliance with direct sunlight requirement. The future development in the surrounding will also have an impact on the direct sunlight access. Hence the need for appropriate building separation.	☐ Yes ☒ No																				
(f) the design of the building will be compatible with— (i) the desirable elements of the character of the local area, or (ii) for precincts undergoing transition—the desired future character of the precinct.	In addition to the comments provided by Council's Heritage Architect, the lack of adequate side setbacks and massing composition especially on the side elevations, results in a built form that is overwhelming and detracts from the significance of the heritage item. The bulk and scale are disproportionate to the form and design of the heritage item and the existing site area.	☐ Yes ☒ No																				

Georges River Local Environmental Plan 2021			
Standard	Required	Proposed	Compliance
Cl. 4.3 <i>Height of Buildings</i>	Maximum 15m	16.1m (7.33% variation to development standard)	☐ Yes ☒ No
Cl. 4.4 <i>Floor Space Ratio</i>	Maximum 1.2:1 (751.20sqm)	1.16:1 (607sqm)	☒ Yes ☐ No
SEPP Housing (2021) <i>(ii) an additional 10% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of co-living housing,</i>	1.32:1 (826.32sqm)	1.16:1 (607sqm)	☒ Yes ☐ No
Cl 6.12 <i>Landscaped Area</i>	Minimum 10% (62.6sqm)	15% (92.4sqm)	☒ Yes ☐ No

GRLEP 2021 Part 4 – Principal Development Standards		
Clause 4.6 – Exceptions to development standards		
Standard	Proposal	Compliance
Clause 69 of SEPP (Housing) 2021 - (1) <i>Development consent must not be granted for development for the purposes of co-living housing unless the consent authority is satisfied that— (b) the minimum lot size for the co-living housing is not less than— (i) for development on land in Zone R2 Low Density Residential—600m², or (ii) for development on other land—800m², and</i>	R4 High Density Residential zoned land. The site is not more than 800sqm (626sqm). 21.75% variation proposed.	☐ Yes ☒ No
Clause 4.3 - Height of building maximum 15m	16.1m (7.33% variation to development standard)	☐ Yes ☒ No

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 site contains Item number I195 and known as House and garden as listed in Schedule 5 of the LEP. The proposal has been reviewed by Council's Heritage Advisor who has considered the effect of the proposal on the item and is not satisfied, that the proposal is appropriate in this regard. Detailed comments are provided later in this report.	☐ Yes ☒ No

GRLEP 2021 Part 6 – Additional Local Provisions**Clause 6.9 Essential Services**

Standard	Proposal	Compliance
Development consent must not be granted to development unless Council is satisfied that any of the following services that are essential for the development are available, or that adequate arrangements have been made to make them available when required a) the supply of water, b) the supply of electricity, c) the supply of telecommunications facilities, d) the disposal and management of sewage e) stormwater drainage or on-site conservation, f) suitable vehicular access.	The proposal does not have, or make adequate provision for the following services: - suitable vehicular access	☐ Yes ☒ No

Clause 6.10 Design Excellence

Standard	Proposal	Compliance
(3) This clause applies to development on the following land— (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,	The proposal fails to comply with Clause 6.10 for the following reasons: - Does not achieve the minimum lot size for Co-living - Does not response to the topography of the site - Does not allow for adequate building separation - Does not achieve a public/private interface treatment of the	☐ Yes ☒ No

(4) Development consent must not be granted for development to which this clause applies unless Council considers that the development exhibits design excellence. (5) In considering whether the development exhibits design excellence, Council must have regard to the following matters— (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved, (b) whether the form and external appearance of the development will improve the quality and amenity of the public domain, (c) whether the development detrimentally impacts on view corridors, (d) how the development addresses the following matters— - the suitability of the land for development, - existing and proposed uses and use mix, - heritage issues and streetscape constraints, - the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form, - bulk, massing and modulation of buildings, - street frontage heights, - environmental impacts such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity, - pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of pedestrian networks,	streetscape coupled with the building services - The transition from the Heritage item to the proposed addition is not appropriate in terms of bulk and scale - Does not achieve sufficient amenity for the surrounding properties and future occupants - Does not achieve sufficient solar access - The bulk and scale are disproportionate to the form and design of the heritage item and the existing site area.	
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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

ix. the impact on, and proposed improvements to, the public domain, x. achieving appropriate interfaces at ground level between the building and the public domain, xi. excellence and integration of landscape design, xii. the provision of communal spaces and meeting places, xiii. the provision of public art in the public domain, xiv. the provision of on-site integrated waste and recycling infrastructure, xv. the promotion of safety through the application of the principles of crime prevention through environmental design.		
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Georges River Development Control Plan 2021 (GRDCP 2021)		
Utilities		
3.14 Utilities		
Control	Proposal	Compliance
2. Any services and structures required by the providers should be located within the basement, or concealed within the facade, with appropriate access. Where this is not possible, an alternative method of minimising street impact should be demonstrated, such as screening with landscape or built elements.	The following noise generators are identified: - Gas hot water plant - Lift motor room The noise generators are placed away from and acoustically treated. Standard conditions to be imposed to limit noise generation.	☐ Yes ☒ No
3. With the exception of dwelling houses, all buildings should accommodate proposed or future air conditioning units within the basement or on rooftops, with provision of associated vertical/horizontal stacks to all sections of the building.	The proposed development fails to comply with GRDCP 2021 regarding noise generators being noise generators such as plant and machinery including air conditioning units and pool pumps are located away from windows or other openings in habitable rooms; they are to be screened to reduce noise or acoustically treated. It is not unreasonable to conclude that the proposed development will incorporate air conditioning units. The air conditioning units must be detailed on the architectural plans.	

Fences and Walls		
6.4.1 Fences and Walls		
Control	Proposal	Compliance
1. Fence heights are to be limited to a maximum of: 900mm for solid masonry. 1.2m for open or partially transparent styles such as picket or palisade.	The proposal has the following numeric controls: Front fence height (solid) – 2.3m Front fence height (open-form) – 1.6m The proposed re-alignment of the posts of the front fencing is proposed over the front boundary. The re-alignment of the post must be solely contained within the subject site.	☐ Yes ☒ No
2. Preferred materials for fencing are masonry, stone, ornate timber, or ornate metal.		
3. For sloping streets, fences and walls must be stepped to comply with the required maximum fence height.		
4. Where noise attenuation or protection of amenity requires a higher fence, front fences may be permitted to a maximum 1.8m and must be setback a minimum of 1m from the boundary to allow landscape screening to be provided. Landscape species chosen should be designed to screen the fence without impeding pedestrian movements along the roadway. Front fences and landscape screening must not compromise vehicular movement sightlines.		
5. Fencing (and landscape screening) is to be located to ensure sightlines between pedestrians and vehicles exiting the site are not obscured. Gates are not to open over the public roadway or footpath.		

REFERRALS

Internal Referrals		
Specialist	Comment	Outcome
Development Engineer	The officer has considered the following planning provisions: - Clause 5.21 of GRLEP 2021 - Clause 6.3 of GRLEP 2021 - Clause 6.9 of GRLEP 2021 - Part 3.10 of GRDCP 2021 - Georges River Stormwater Management Policy	Conditions imposed as recommended if the application were of a supportive nature.

	No objections raised to the proposal and conditions recommended.	
Landscape Officer	The officer has considered the following planning provisions: - SEPP (Biodiversity Conservation) 2021 - Part 3.2 of GRDCP 2021 - Part 3.3 of GRDCP 2021 - Georges River Tree Management Policy 2024 No objections raised to the proposal and conditions recommended.	Conditions imposed as recommended if the application were of a supportive nature.
Urban Design	The officer has considered the following planning provisions: - Clause 6.10 of GRLEP 2021 - Part 5 of GRDCP 2021	Failure to achieve compliance with this matter forms part of the reasons to refuse this application.
Land Information (GIS)	No objections raised to the proposal and conditions recommended.	Conditions imposed as recommended if the application were of a supportive nature.
Heritage Officer	The officer has considered the following planning provisions: - Clause 5.10 of GRLEP 2021 - Part 3.7 of GRDCP 2021	Failure to achieve compliance with this matter forms part of the reasons to refuse this application.
Traffic Engineering	The officer has considered the following planning provisions: - Clause 6.9 of GRLEP 2021 - Part 3.13 of GRDCP 2021	Failure to achieve compliance with this matter forms part of the reasons to refuse this application.
Waste Management Officer	The officer has considered the following planning provisions: - GRDCP2021 - Council website – waste management planning - Council waste collection service specifications - NSW EPA Better Practice Guide for Resource Recovery in Residential Developments	Conditions imposed as recommended if the application were of a supportive nature.
External Referrals		
Referral Body	Comment	Outcome
Ausgrid	The referral body has considered the following planning provisions: - Clause 2.48 of SEPP (Transport and Infrastructure) 2021	Conditions imposed as recommended if the application were of a supportive nature.

	No objections raised to the proposal and conditions recommended.	
Sydney Airport	The referral body is to consider the following planning provisions: - Georges River Local Environmental Plan 2021 - Development above 15m in LGA and any development which would impact on a controlled activity under Airports Act 1996	No referral comments received at the time of writing this assessment report.
NSW Ambulance	The referral body is to consider the following planning provisions: - To consider the potential impact of development in the vicinity of Strategic Helicopter Landing Sites (e.g. St George Public Hospital).	No referral comments received at the time of writing this assessment report.

CONTRIBUTIONS

9. The development is subject to Section 7.11/7.12 Contributions. A condition of consent requiring payment of the contribution and identifying it is subject to indexation in accordance with the plan would be imposed should this application be recommended for approval.

CONCLUSION

10. 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.
11. The proposal has been assessed against the provisions of State Environmental Planning Policies, Georges River Local Environmental Plan 2021 and Georges River Development Control Plan 2021. The identified non-compliances with this assessment report have been addressed and outlined in this report, the Clause 4.6 request to vary the site area and height of building development standard is not supported for the reasons identified in this report. Any variations have been addressed and are not worthy of support on merit.

STATEMENT OF REASONS AND DETERMINATION

12. Statement of Reasons

- ☐ The proposal fails to comply with the maximum height of building development standard.
- ☐ The proposal fails to provide a built form that appropriately responds to the heritage item and transition of built form within the streetscape.
- ☐ The proposal fails to have an adequate site area to facilitate the proposed built form of a co-living housing.
- ☐ The setbacks, communal living area and individual rooms of the co living are not in accordance with the minimum standards under SEPP Housing 2021 which result in an overdevelopment of the site.
- ☐ Inadequate vehicular access has been provided to facilitate the proposed car, bike and motor bike parking on site.

- ☐ The proposal is not considered to be suitable for the site given adverse impacts arising.

Determination

13. That: Pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 (as amended), the delegated officer recommends DA2025/0266 for construction and use of co-living housing on Lot B in DP 384976 on land known as 4 Queens Avenue, Kogarah, should not be approved subject to the refusal reasons referenced in this assessment report.
1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the provisions of State Environmental Planning Policy (Housing) 2021 with specific reference to the following development controls within Chapter 3 – Part 3 Co-Living Housing.
 - o Clause 68, (d) communal open spaces— (i) with a total area of at least 20% of the site area, 20% of the site area = 125.2sqm and (ii) each with minimum dimensions of 3m.
 - o Clause 69, (1)(a) each private room has a floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, that is not more than 25sqm and not less than— (i) for a private room intended to be used by a single occupant—12sqm, or (ii) otherwise—16sqm.
 - o Clause 69, (1)(b) the minimum lot size for the co-living housing is not less than— (ii) for development on other land—800sqm.
 - o Clause 69, (2)(a) the front, side and rear setbacks for the co-living housing are not less than— (ii) for development on land in Zone R4 High Density Residential—the minimum setback requirements for residential flat buildings under a relevant planning instrument.
 - o Clause 69, (2)(b) if the co-living housing has at least 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide.
 - o Clause 69, (2)(c) at least 3 hours of direct solar access will be provided between 9am and 3pm at mid-winter in at least 1 communal living area.
 - o Clause 69, (2)(f) the design of the building will be compatible with—
 - (i) the desirable elements of the character of the local area, or (ii) for precincts undergoing transition—the desired future character of the precinct.
 2. 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:
 - o Clause 4.3 – Height of Building. The proposed development fails to comply with the maximum 15m height of building development standard.
 - o Clause 5.10 – Heritage Conservation. - The proposed development is not supported as it will have an unacceptable, adverse visual and physical impact on the heritage item.
 - o Clause 6.9 – Essential Services. Development consent cannot be granted unless essential services, in particular suitable vehicular access have been made available.
 - o Clause 6.10 – Design Excellence. The lack of consideration to the existing heritage item has resulted in a development that is not visually compatible or complementary to the heritage significance of the existing dwelling. The 5-storey height without any massing composition adds to the building bulk when viewed from the sides. The articulation on the front and rear are considered

inconsequential as they fail to minimise the building bulk or enhance amenity.

3. 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 and development controls of the Georges River Development Control Plan 2021:
 - o Part 3.14 – Utilities. The proposed development fails to illustrate on the architectural plans noise generating machinery i.e. air conditioning units.
 - o Part 5.15 – Kogarah South Locality Statement. The proposal is not consistent with the existing and future desired character of Kogarah South.
 - o Part 6.4.1 – Fencing and wall. The proposed re-alignment of the posts of the front fencing is proposed over the front boundary. The re-alignment of the post must be solely contained within the subject site.
4. 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 built and social environment:
 - (a) The proposal fails to demonstrate adequate vehicular access and surrounding built form to facilitate access.
 - (b) The proposal fails to comply with multiple planning controls and represents an inappropriately designed development that is not suitable for the site.
 - (c) It is considered that the bulk and scale of the proposal is overwhelming and fails to achieve appropriate transition in scale down to the single storey heritage item and mitigate the impacts of the proposal.
5. 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 or its locality and is likely to set an undesirable precedent.
6. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development in its current form is not considered to be in the public interest.

ATTACHMENTS

Attachment [1](#) Site Plan - DA2025 0266 - 4 Queens Ave Kogarah



Attachment [2](#) DA Assessment Report - DA2025-0266 4 Queens Avenue Kogarah



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PROPOSED CO-LIVING DEVELOPMENT
4 QUEENS AVENUE KOGARAH NSW 2217

FOR DEVELOPMENT APPLICATION



SHEET NUMBER	SHEET NAME	VIEW SCALE	REVISION
DA001	COVER PAGE	-	6
DA002	CONTEXT ANALYSIS	1:200	6
DA003	SITE ANALYSIS	1:200	6
DA003A	STREETSCAPE ANALYSIS	-	6
DA004	SITE PLAN	1:200	6
DA005	DEMOLITION PLAN	1:100	6
DA006	DESIGN DIAGRAMS	-	6
DA007	SITE PLAN - GROUND FLOOR	1:100	6
DA008	BASEMENT & GROUND LEVEL PLAN	1:100	6
DA009	LEVEL ONE & TWO PLAN	1:100	6
DA010	LEVEL THREE & FOUR PLAN	1:100	6
DA011	ROOF PLAN	1:100	6
DA012	ELEVATIONS - SHEET 01	1:100	6
DA013	ELEVATIONS - SHEET 02	1:100	6
DA014	SECTION AA/BB	1:100	6
DA015	SECTION CC	1:100	6
DA016	SECTION DD	1:100	6
DA017	SECTION EE	1:100	6
DA018	EXTERIOR FINISHES & MATERIAL SHEET 1	1:100	6
DA019	EXTERIOR FINISHES & MATERIAL SHEET 2	1:100	6
DA020	3D PHOTO MONTAGES	-	6
DA021	SHADOW DIAGRAM SHEET 1	-	6
DA022	SHADOW DIAGRAM SHEET 2	-	6
DA023	SOLAR ACCESS DIAGRAM	-	6
DA024	HEIGHT PLANE DIAGRAM	-	6
DA025	GFA CALCULATIONS	1:150	6
DA026	ROOM TYPES & AREAS	-	6
DA027	LANDSCAPE / COMMON SPACE & DEEP SOIL AREA PLANS	1:150	6
DA028	NOTIFICATION PLAN	-	6
DA029	CUT & FILL PLAN	1:100	6



LEGEND

- SUBJECT SITE
- BUS STOP
- TRAIN STATION
- TOWN CENTRE

SIGNIFICANT BUILDINGS

- 01 - ST. GEORGE HOSPITAL
- 02 - FIRE AND RESCUE NSW KOGARAH FIRE STATION
- 03 - UNITING EARLY LEARNING KOGARAH
- 04 - SOUTHERN NEUROLOGY
- 05 - THE KOGARAH STOREHOUSE
- 06 - MULTI TASK MANAGEMENT AUSTRALIA
- 07 - KOGARAH SCHOOL OF ARTS
- 08 - CO-LIVING FACILITY
- 09 - TAFE ST GEORGE

PARKS AND PUBLIC SPACES

- 20 - EDITH BLAKE RESERVE
- 21 - MOOREFIELD HIGH SCHOOL GROUNDS
- 22 - ROCKDALE SPORTS CENTRE
- 23 - CIVIC AVENUE RESERVE
- 24 - MOOREFIELD RESERVE
- 25 - MONTEREY BEACH



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PROJECT

PROPOSED CO-LIVING DEVELOPMENT

4 QUEENS AVENUE KOGARAH NSW 2217

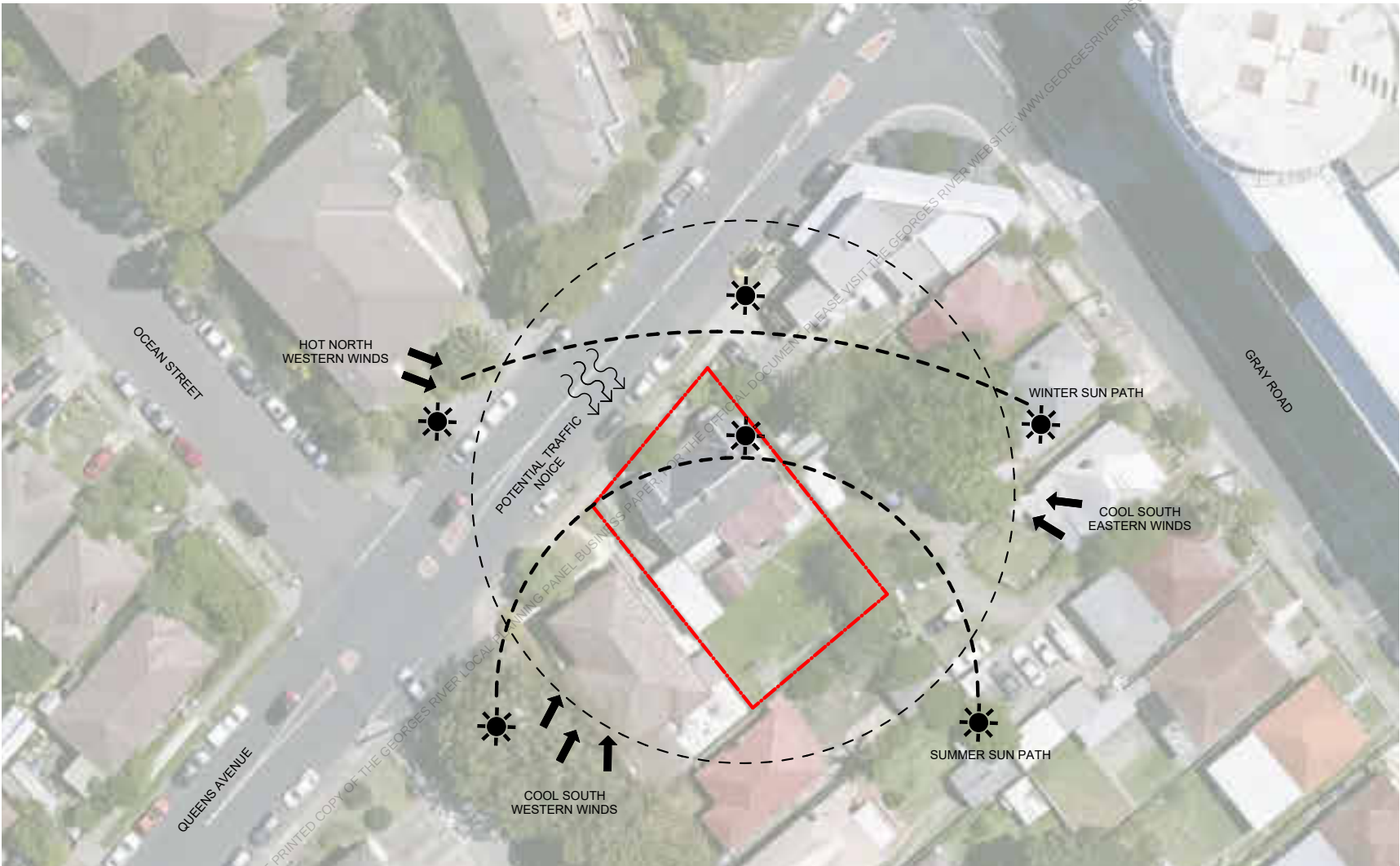
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CONTEXT ANALYSIS

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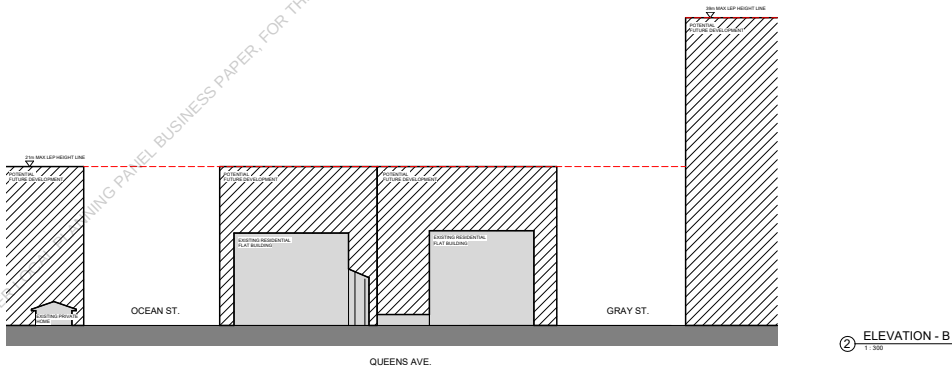
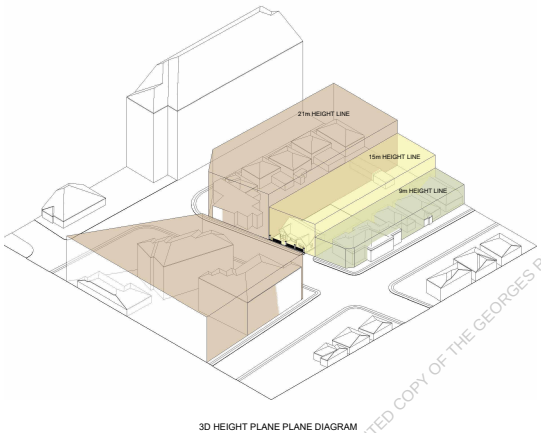
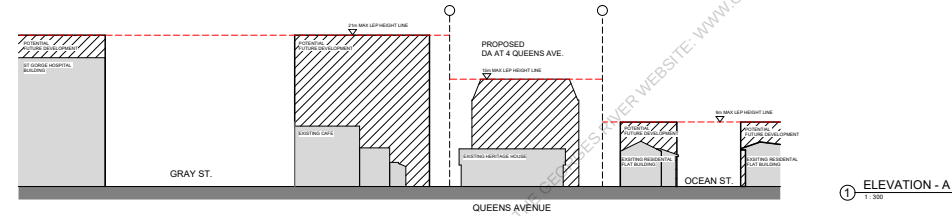
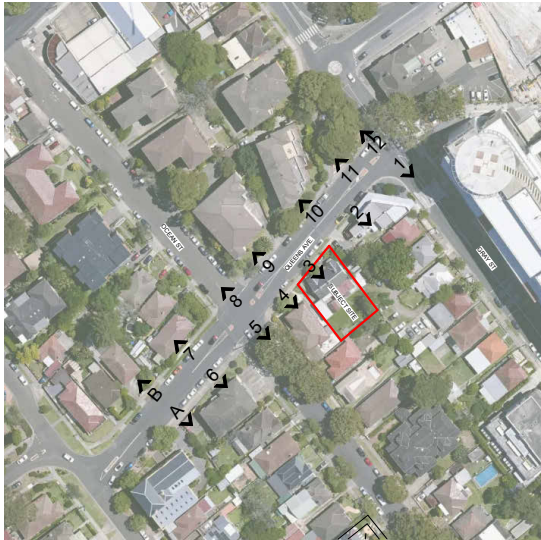
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5 FOR INFORMATION	07/11/24	SITE ANALYSIS
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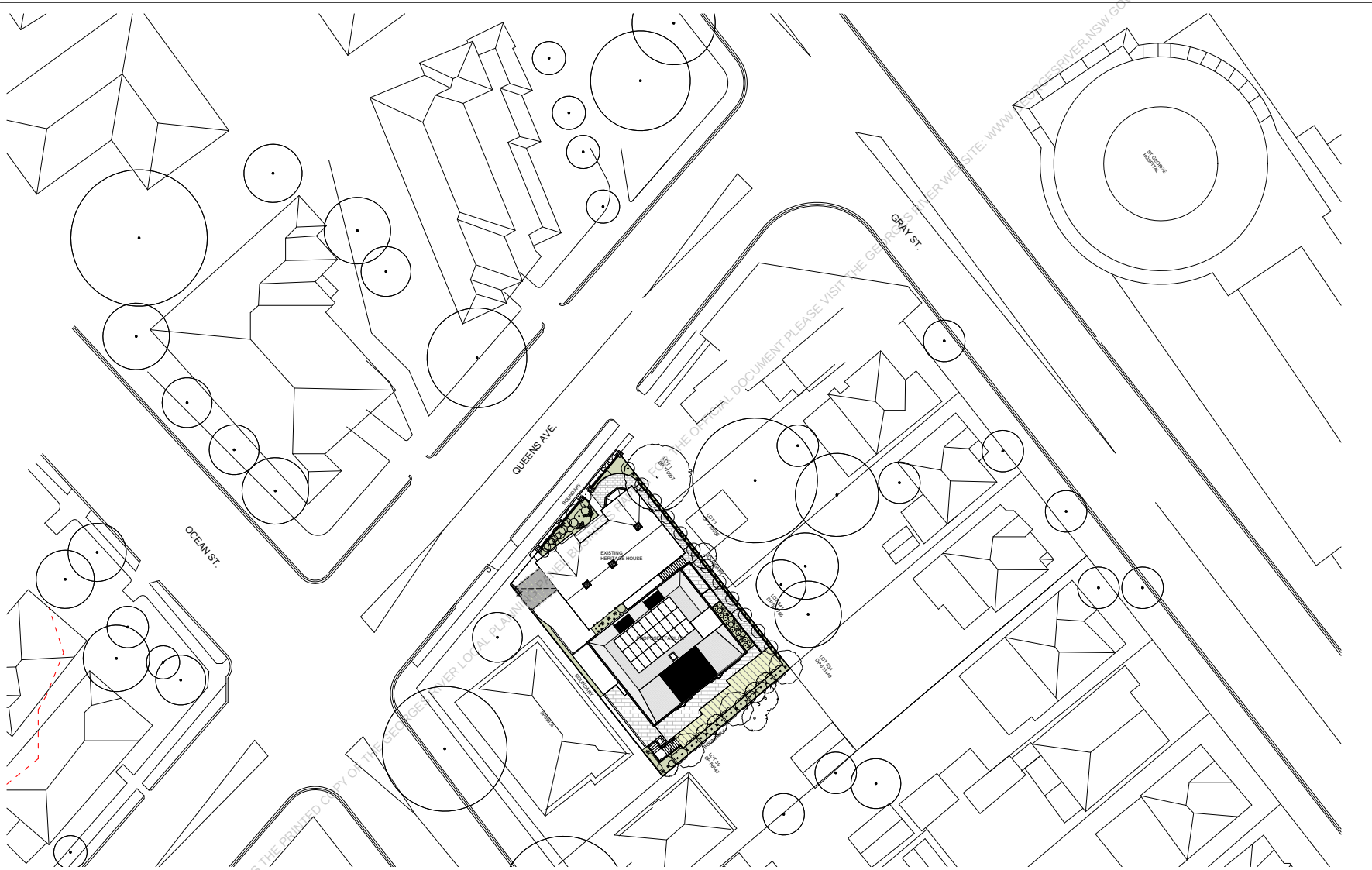
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PROJECT
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4 QUEENS AVENUE KOGARAH NSW 2217
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STREETSCAPE ANALYSIS

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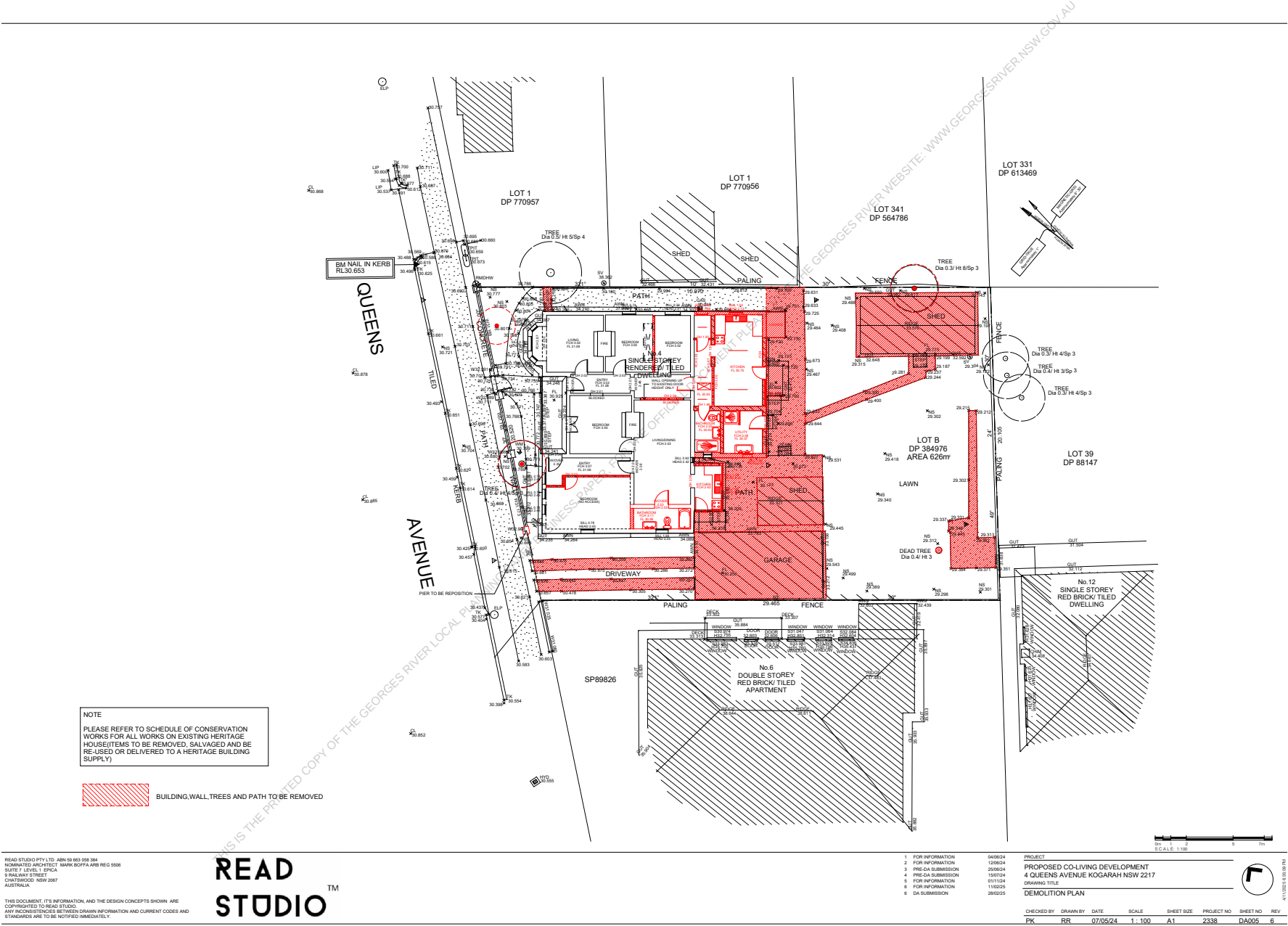


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SITE CONDITIONS



Figure Ground Map
Scale & density in the existing context.



Planning controls

Applicable FSR & height controls

Minimize the future growth and character for the area

HEIGHT & VOLUME



Early massing studies

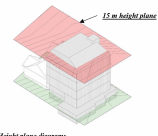


Massing studies

Building mass in the existing context and as a building of the heritage house

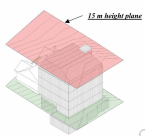
Building height / scale with a south-western

Reduced building height / scale with a full basement



Height plane diagrams

01 - Building height with semi basement - option presented for Pre DA
02 - Reduced building height with full basement



13 m height plane



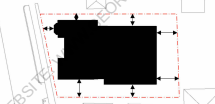
Sectional studies

Building height dependent on multiple factors:
vehicular ramp length, pedestrian ramp access to the new building and ground level in relation to the existing building

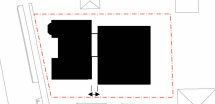
PLANNING STRATEGY



Preserve the significant elements of the heritage house
Preserve the existing street presence and character
Enhance and reposition the heritage icon



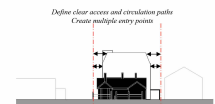
Maintain existing relationships
Establish new relationships with the built at the back
Develop site as a whole



Lightly touch the heritage icon
Maintain deliberate gap between old and new
Create physical visual connection of the two



Define zones that respond from indoor to outdoor
Define landscaped pockets and sources of natural light
Create usable outdoor areas and pleasant outlook



Define clear access and circulation paths
Create multiple entry points

Heritage house, garden & fence dominates the street frontage
New built creates a building in the existing

Roofed upper level to mitigate scale and massing of the new built
Sloping roof generate greater setbacks from boundaries

SPACE & AMENITY



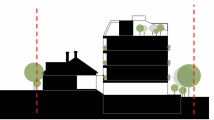
Grouped floor relationships
Foster a natural flow and interesting space through:
connecting multiple communal areas of various scale and mood
providing connection of indoor-outdoor spaces



Typical level
Planned for efficiency & clarity
Spacious rooms with high-level of amenity
private ensuite, kitchenette & laundry, natural light & ventilation for
allure house - landscaping opportunity
Glass block masonry for additional light - no overlooking
Northwest & Southeast aspect to rooms with possible views



Level four
Further subjects to floor plate
Northwest aspect with possible views
Communal service with landscaping and screening for privacy

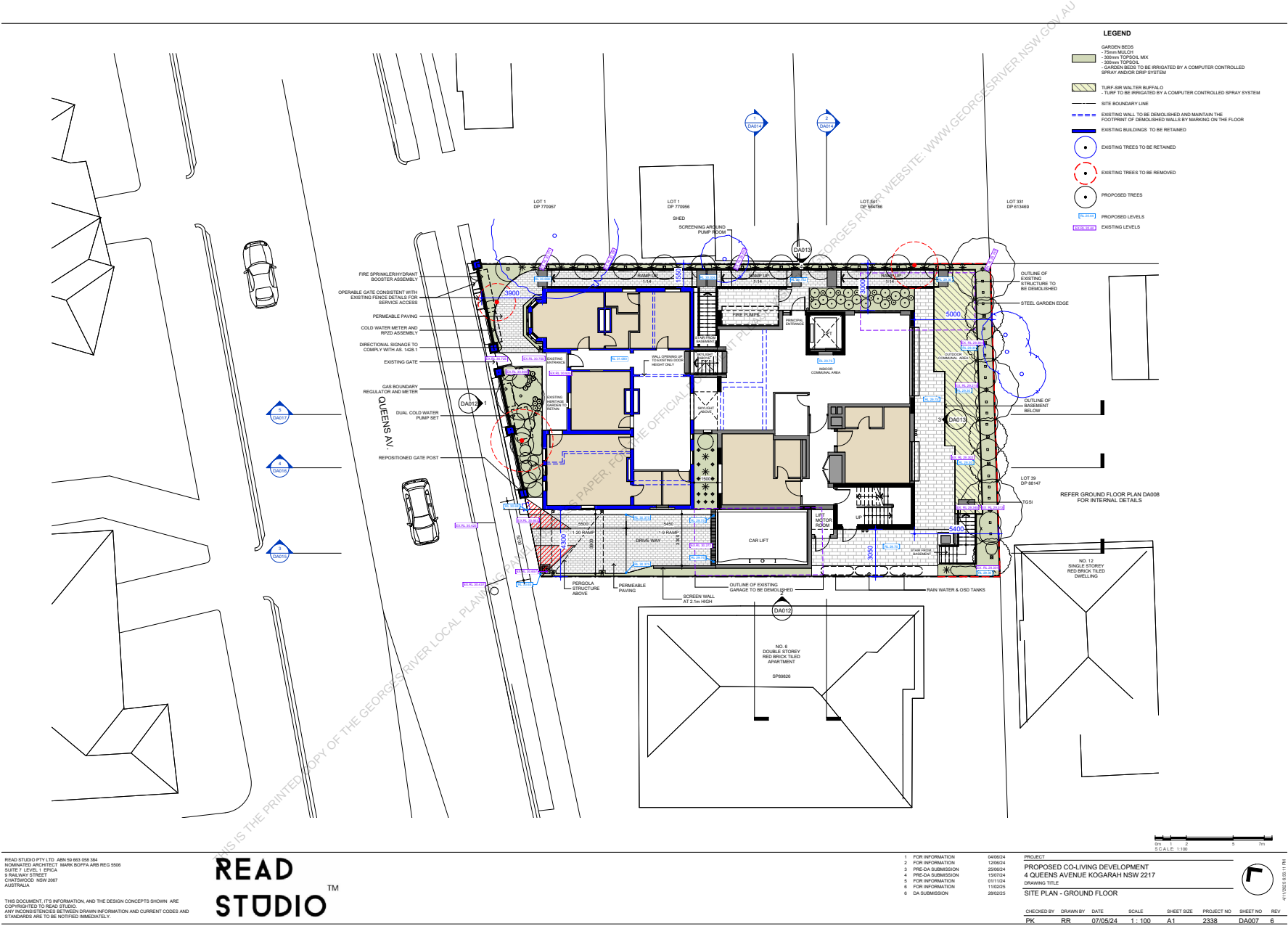


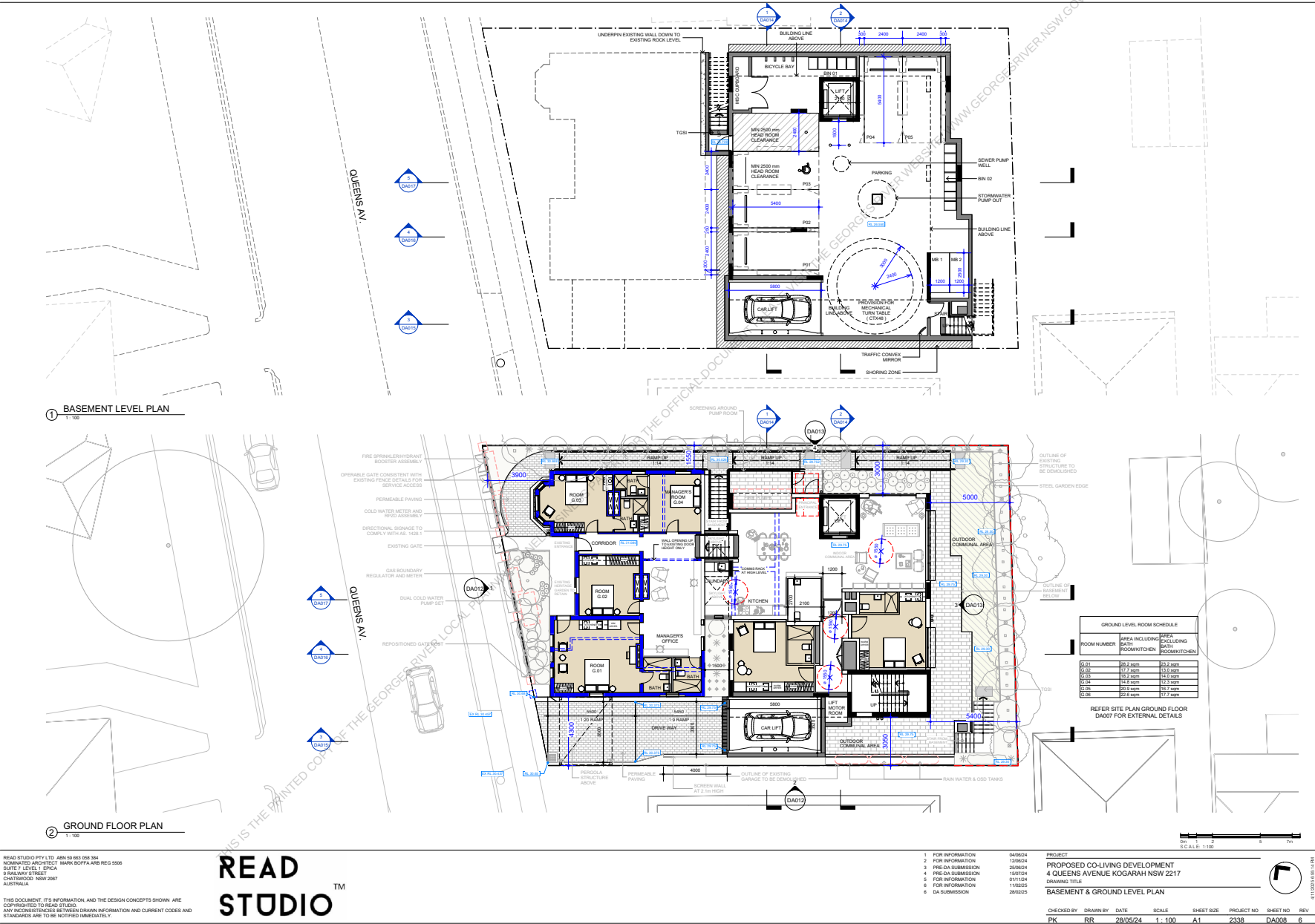
Typical section
Seamless flow of spaces between old and new
Communal common areas
A diverse range of common spaces, mix of scales, characters and moods
Seamless connections from indoor to outdoor communal spaces
Maximized landscape opportunity for greater amenity
Screening & landscaping in privacy buffers

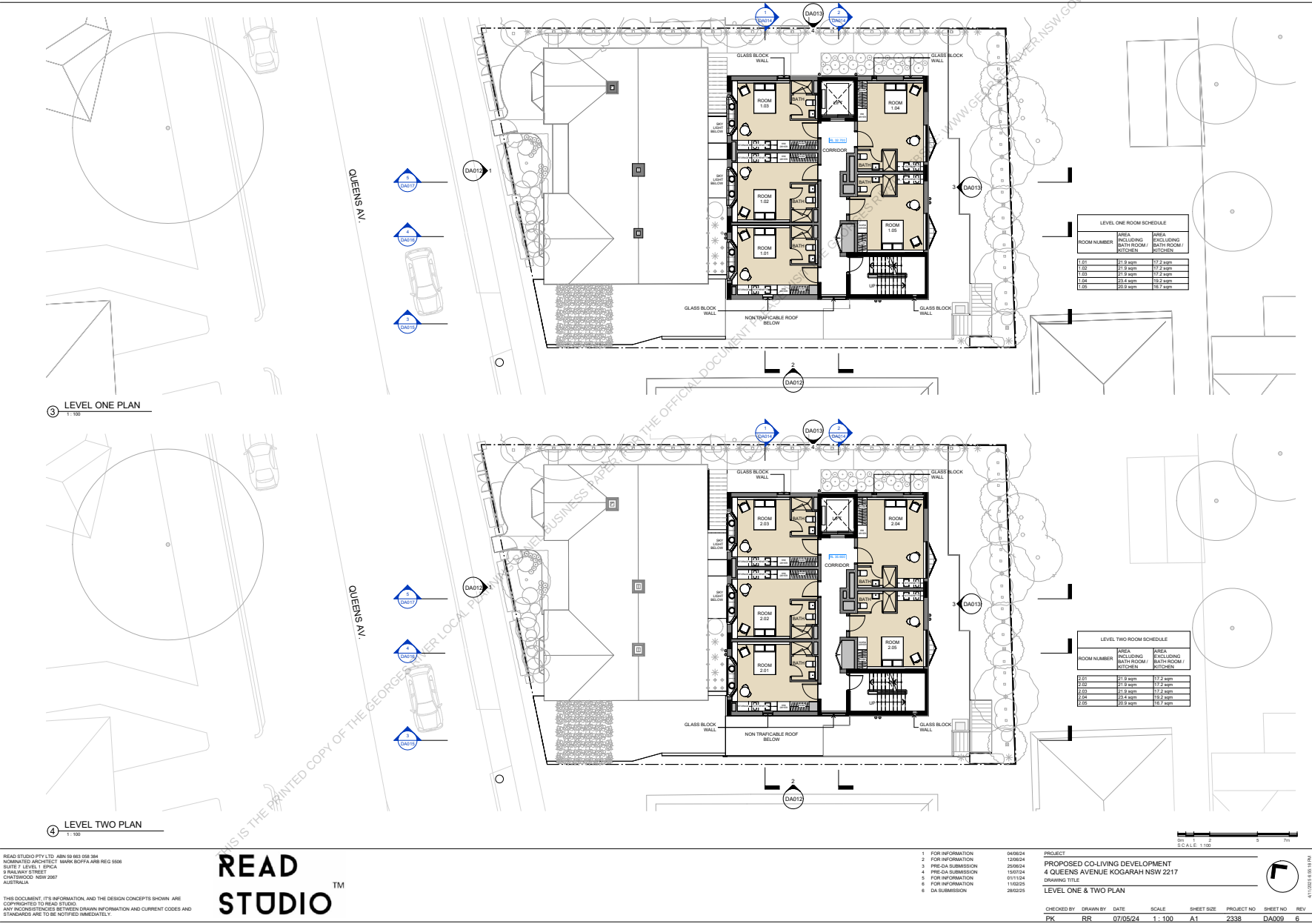


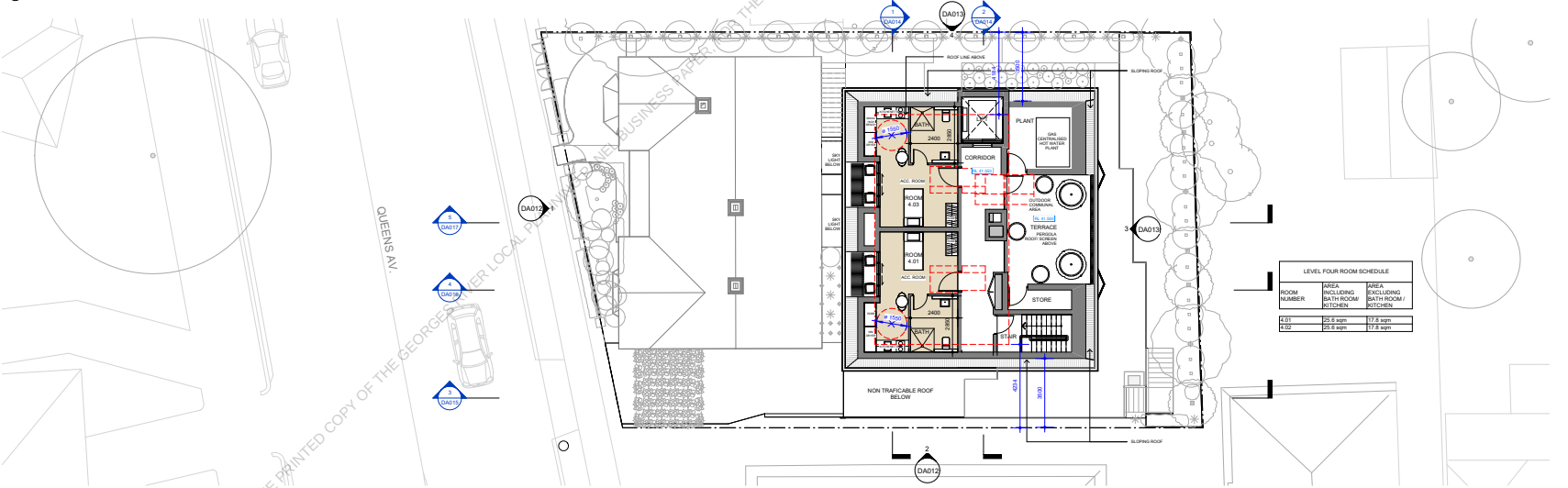
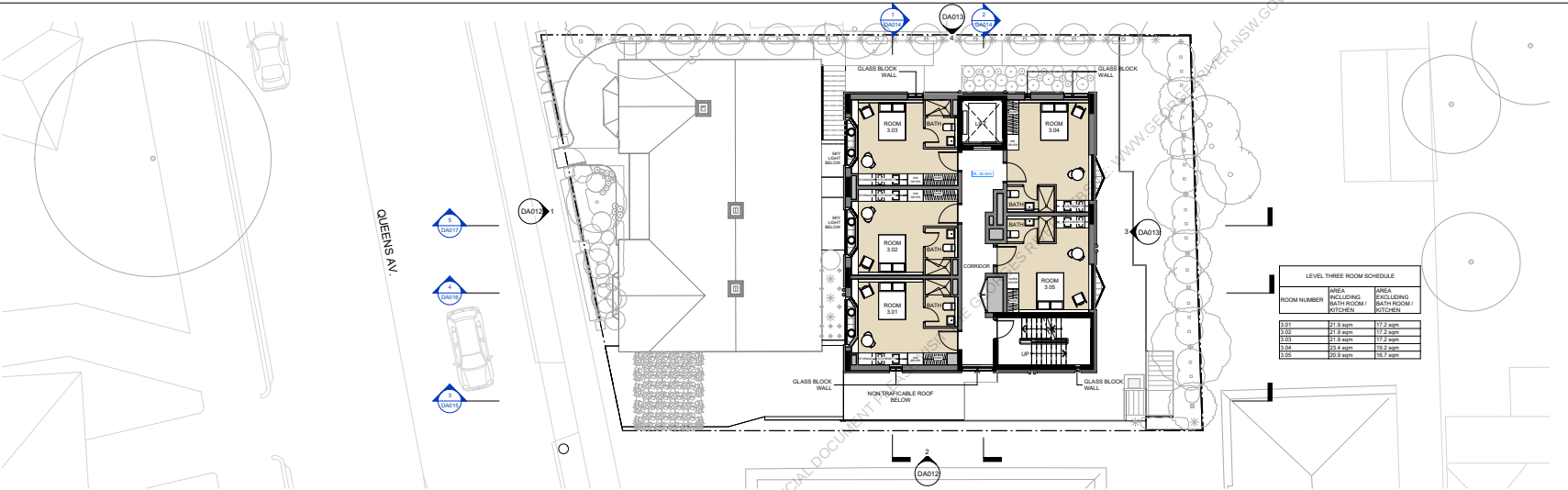
3D visuals

01-02 - Communal areas
03 - Outdoor communal space
04 - Roof top communal terrace
05-06 - Typical room interiors









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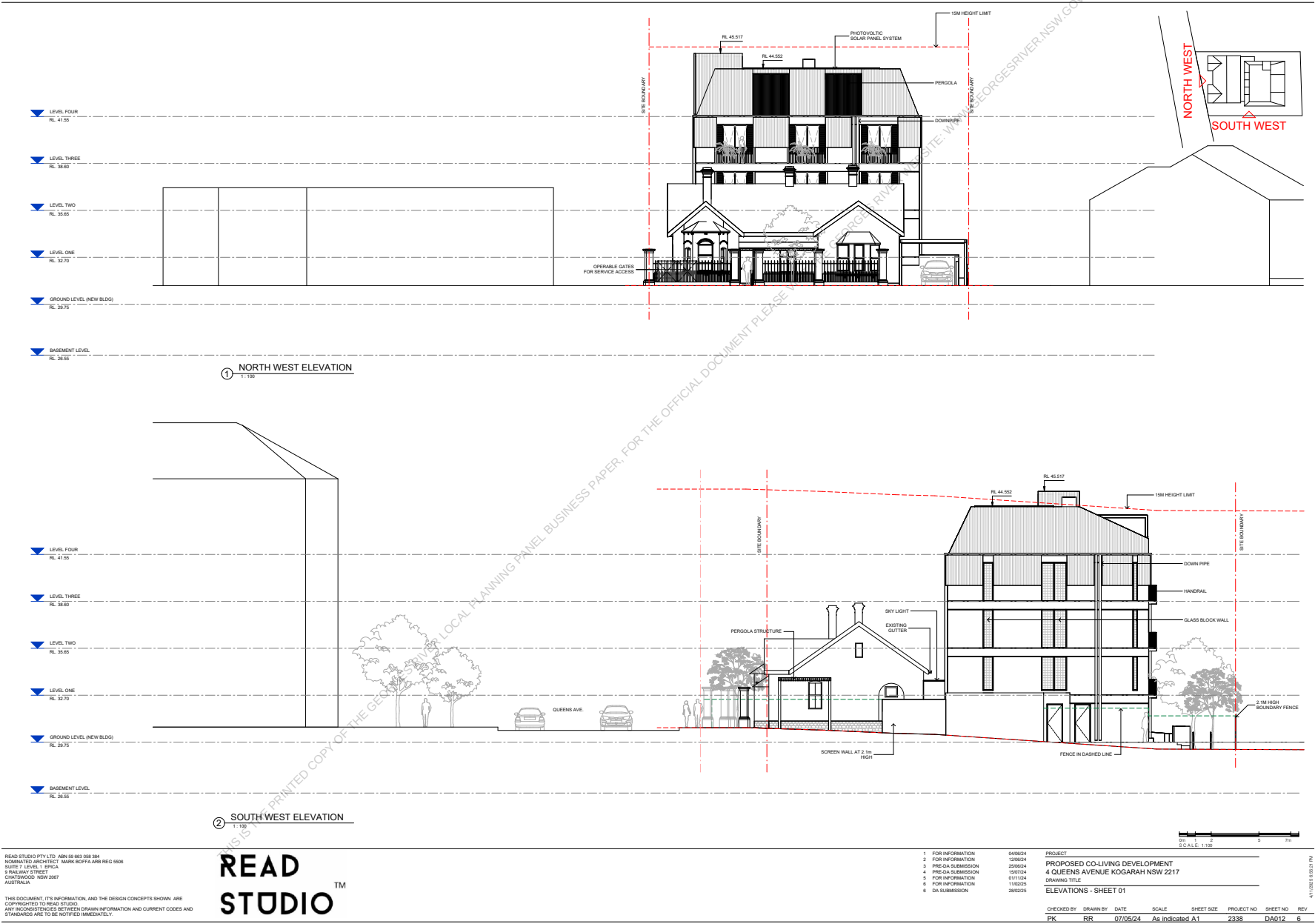
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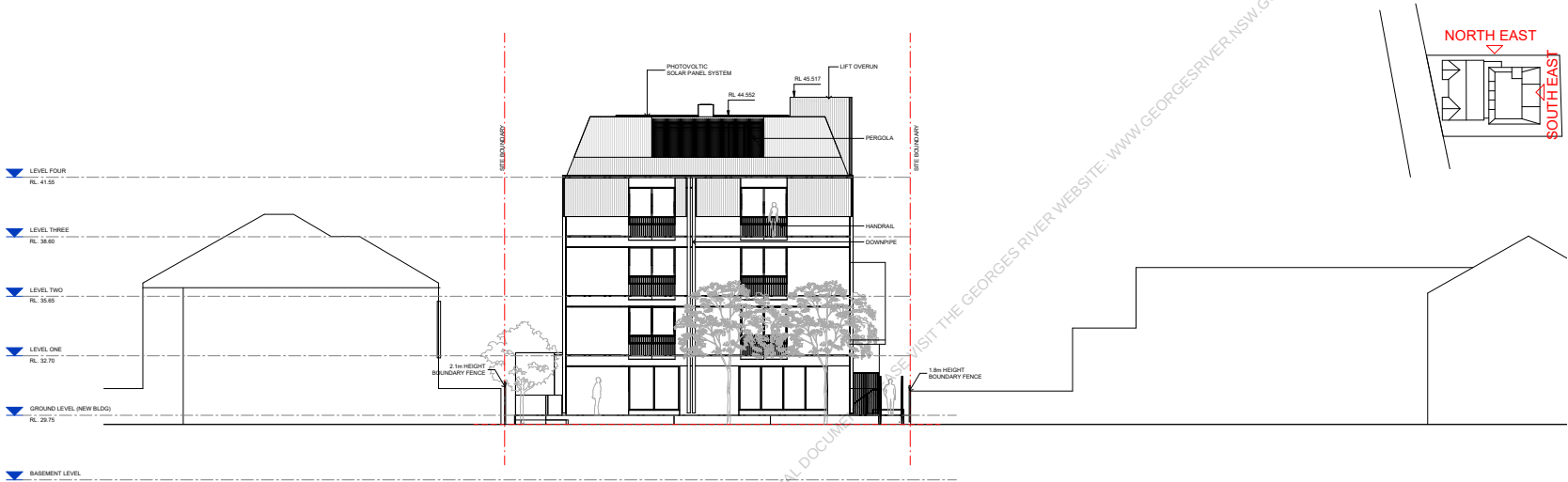
PROJECT
PROPOSED CO-LIVING DEVELOPMENT
4 QUEENS AVENUE KOGARAH NSW 2217
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LEVEL THREE & FOUR PLAN

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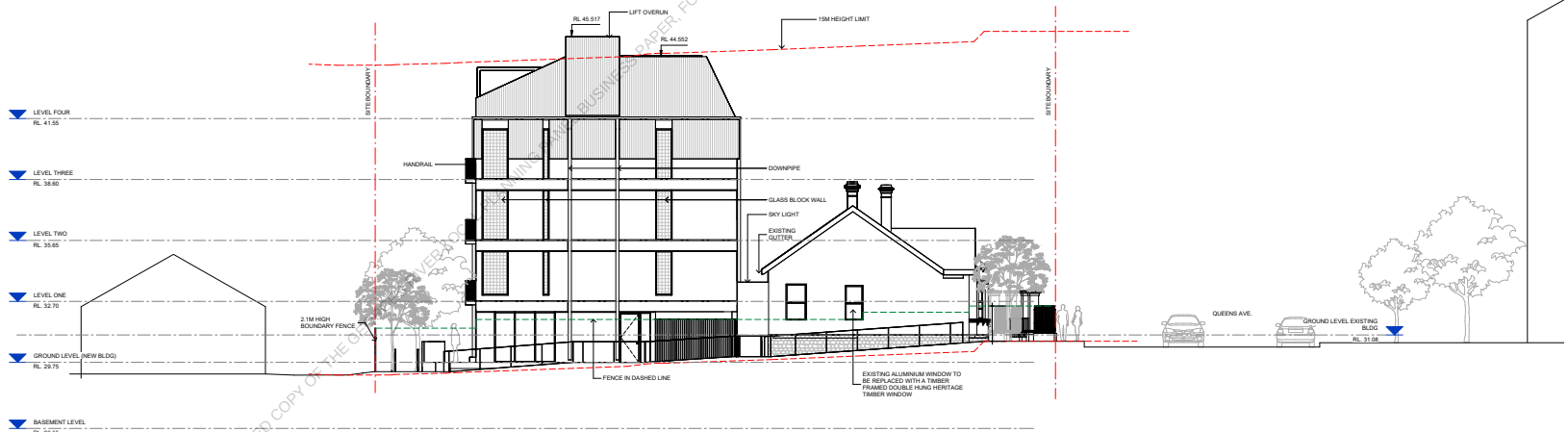


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③ SOUTH EAST ELEVATION
1:100



④ NORTH EAST ELEVATION
1:100

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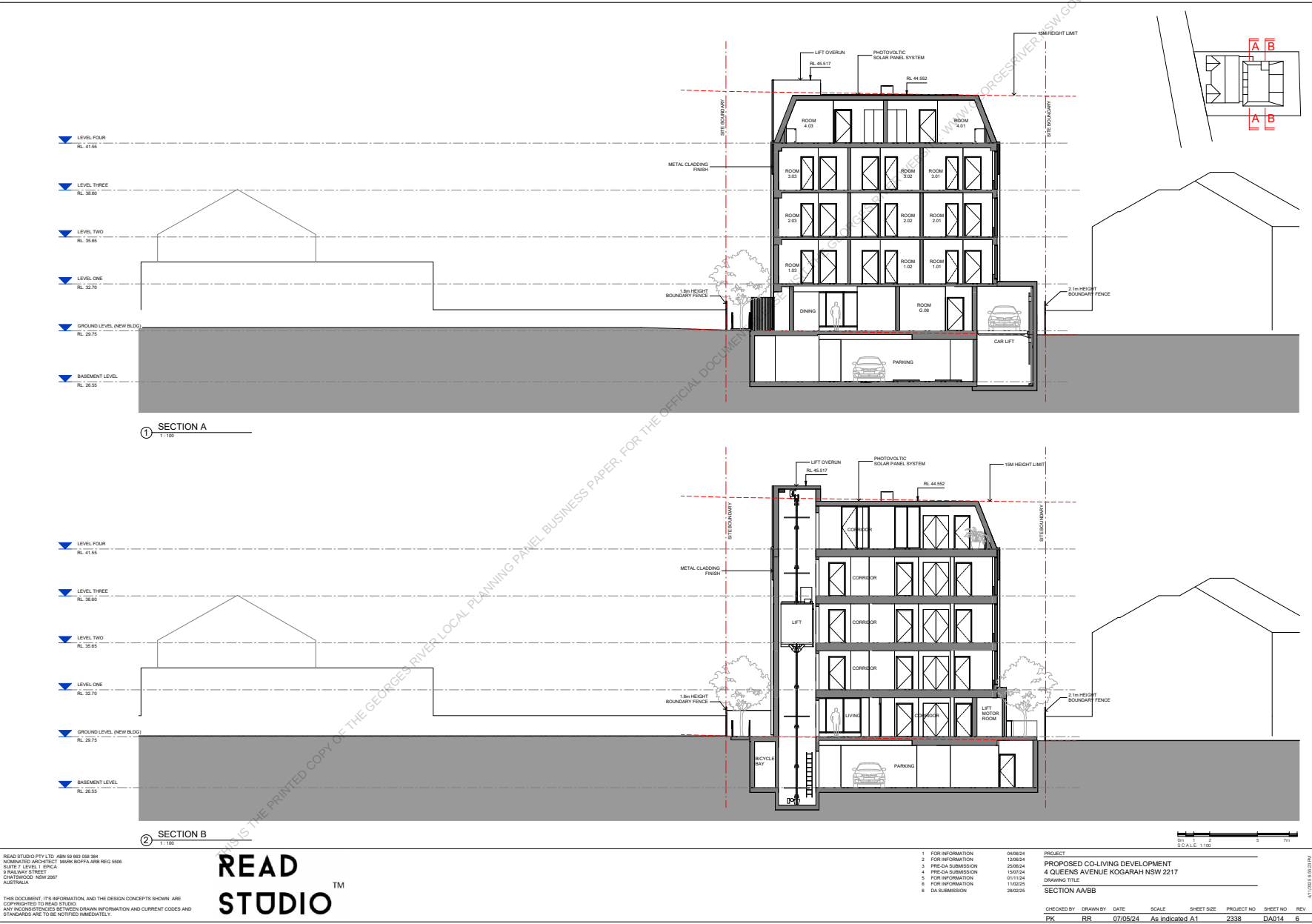
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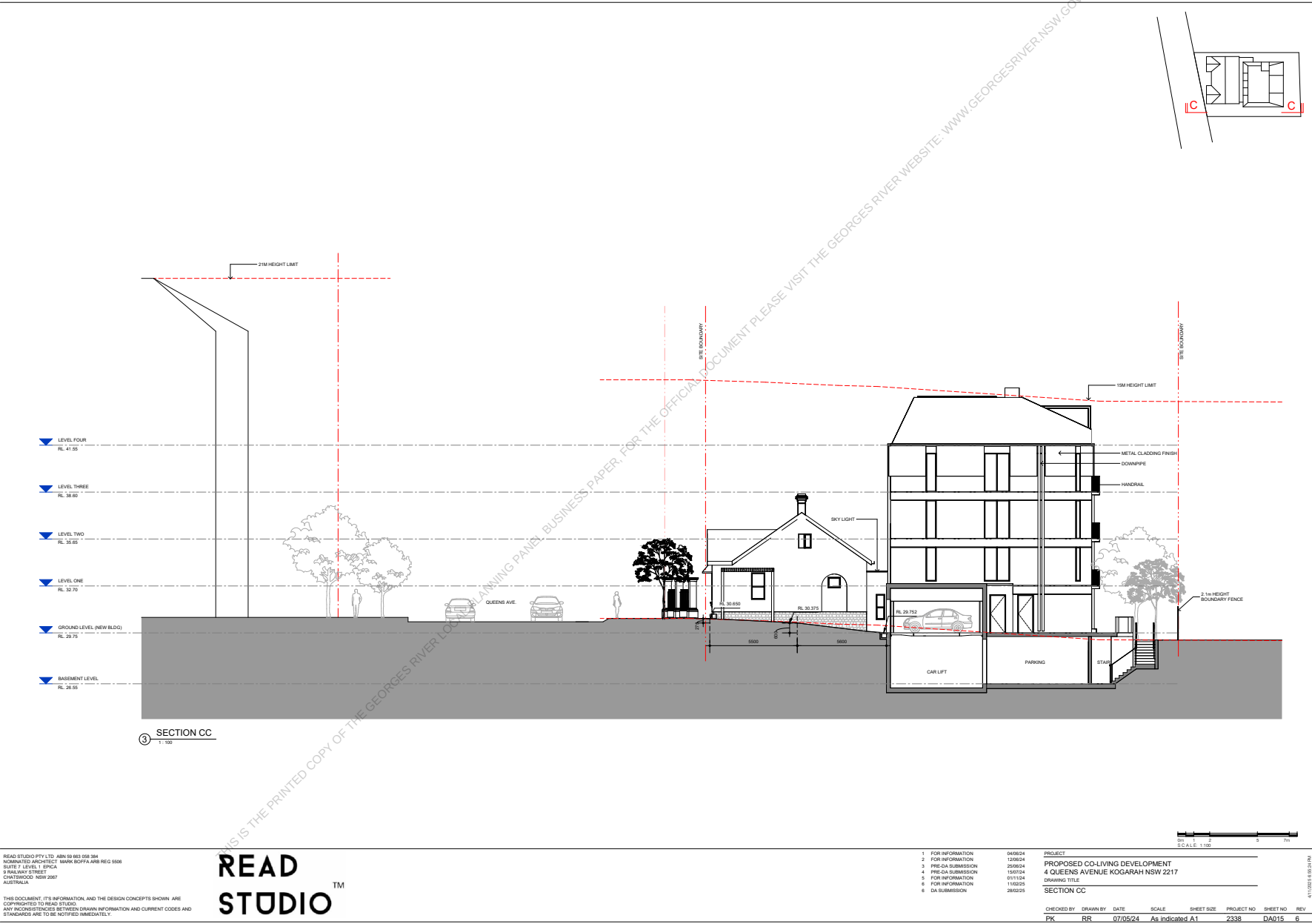
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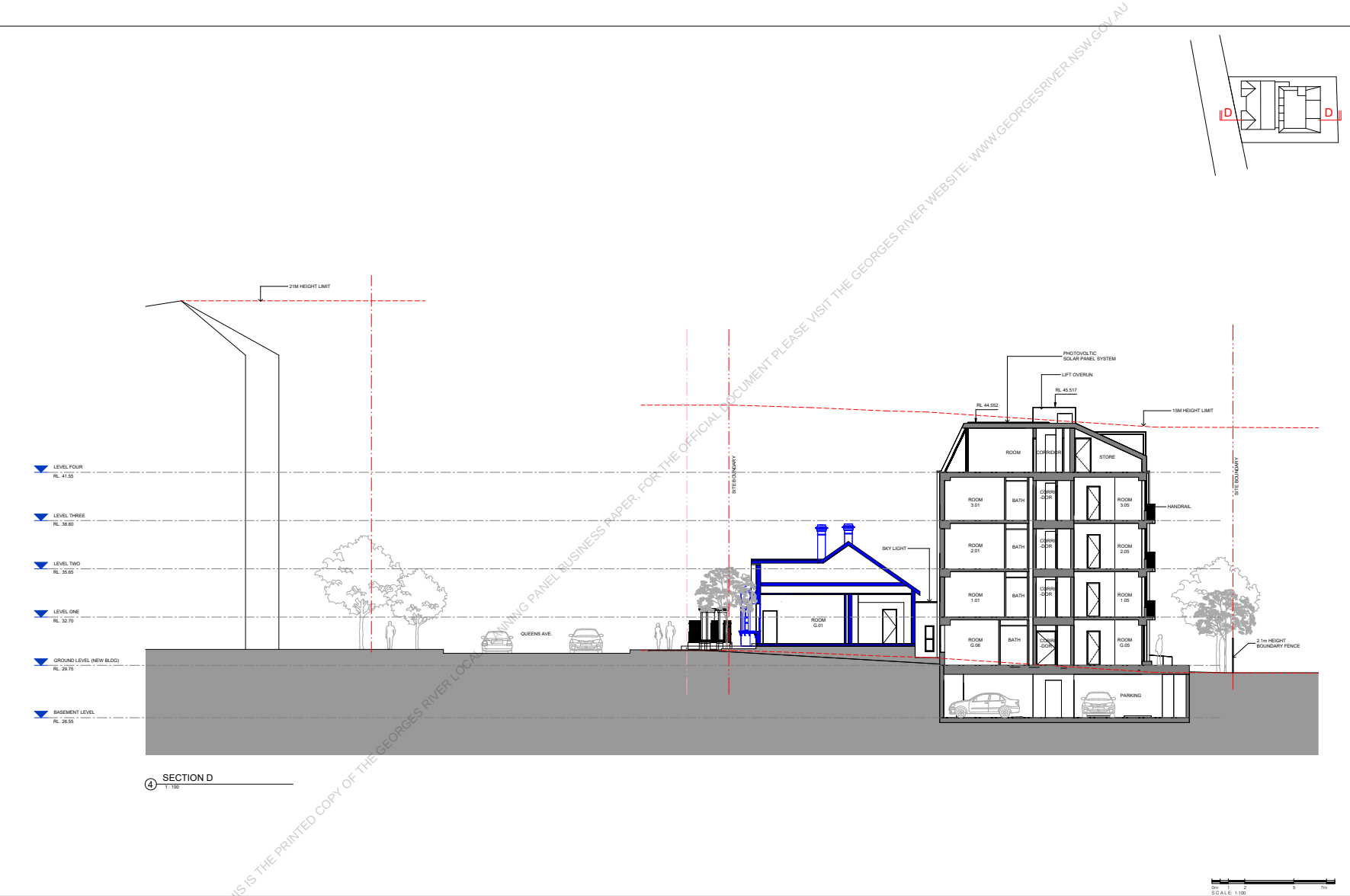
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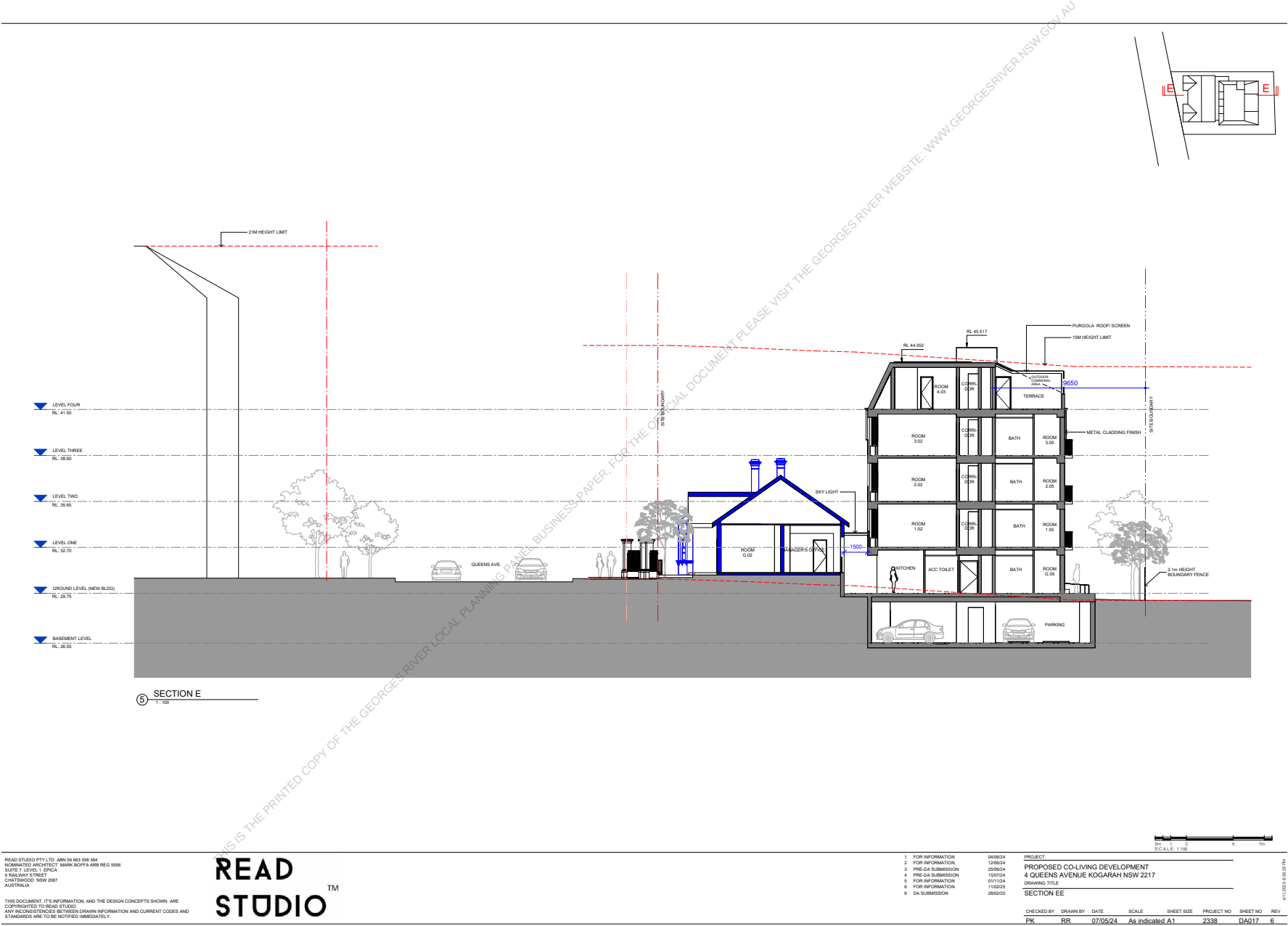
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ELEVATIONS - SHEET 02

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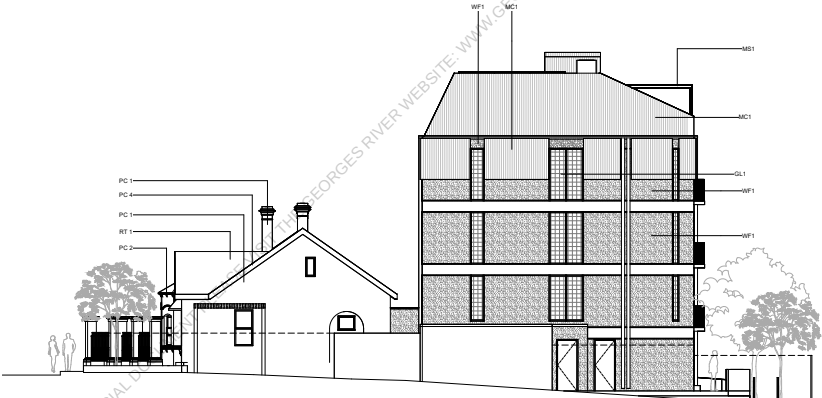




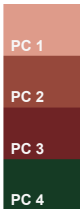




① NORTH WEST ELEVATION
1:100



② SOUTH WEST ELEVATION
1:100



PC - HERITAGE
HOUSE PAINT
COLOURS



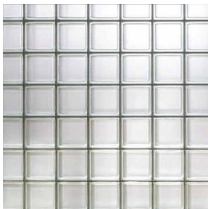
PC 3 - PAINT
COLOUR 3



RT1 - ROOF TILE SLATE
(EXISTING)



BL1 - METAL BALUSTRADE



GL1 - SQUARE GLASS BLOCK



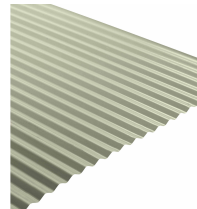
AL1 - CLEAR GLASS
WINDOWS IN
ALUMINIUM FRAME



WF1 - APPLIED WALL FINISH 1



MSI - METAL SCREENING



MC1 - METAL CLADDING & ROOFING

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EXTERIOR FINISHES & MATERIAL SHEET 1

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③ NORTH EAST ELEVATION
1:100



④ SOUTH EAST ELEVATION
1:100



PC - HERITAGE
HOUSE PAINT
COLOURS



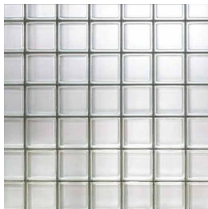
PC 3 - PAINT
COLOUR 3



RT1 - ROOF TILE SLATE
(EXISTING)



BL1 - METAL BALUSTRADE



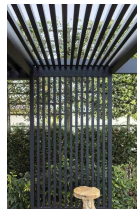
GL1 - SQUARE GLASS BLOCK



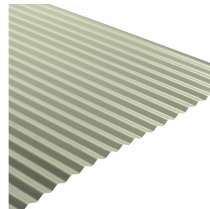
AL1 - CLEAR GLASS
WINDOWS IN
ALUMINIUM FRAME



WF1 - APPLIED WALL FINISH 1



MS1 - METAL SCREENING



MC1 - METAL CLADDING & ROOFING

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PROJECT
PROPOSED CO-LIVING DEVELOPMENT
4 QUEENS AVENUE KOGARAH NSW 2217
DRAWING TITLE
EXTERIOR FINISHES & MATERIAL SHEET 2

CHECKED BY: RR DRAWN BY: DATE: 07/05/24 SCALE: As indicated SHEET SIZE: A1 PROJECT NO: 2338 SHEET NO: DA019 REV: 6



VIEW 01



VIEW 02



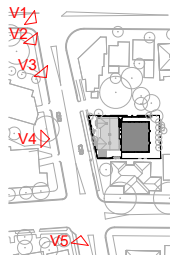
VIEW 03



VIEW 04



VIEW 05



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4 PRE-DA SUBMISSION	19/07/24	
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6 FOR INFORMATION	11/02/25	3D PHOTO MONTAGES
6 DA SUBMISSION	28/02/25	
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SCALE	SHEET SIZE	PROJECT NO
-	A1	2338
		DA020
		REV
		6

4/11/2025 10:50:51 AM



① SHADOW STUDY JUNE 21 9am
1:500



② SHADOW STUDY JUNE 21 10am
1:500



③ SHADOW STUDY JUNE 21 11am
1:500



④ SHADOW STUDY JUNE 21 12pm
1:500

— SHADOW OUTLINE OF THE EXISTING BUILDING
— SHADOW OUTLINE OF THE PROPOSED SCHEME

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PROJECT
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4 QUEENS AVENUE KOGARAH NSW 2217
DRAWING TITLE
SHADOW DIAGRAM SHEET 1

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⑤ SHADOW STUDY JUNE 21 1pm
1:500



⑥ SHADOW STUDY JUNE 21 2pm
1:500



⑦ SHADOW STUDY JUNE 21 3pm
1:500

— SHADOW OUTLINE OF THE EXISTING BUILDING
— SHADOW OUTLINE OF THE PROPOSED SCHEME

READ STUDIO PTY LTD. ABN 59 183 188 384
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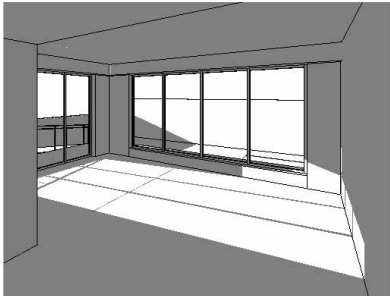
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PROJECT
PROPOSED CO-LIVING DEVELOPMENT
4 QUEENS AVENUE KOGARAH NSW 2217
DRAWING TITLE
SHADOW DIAGRAM SHEET 2

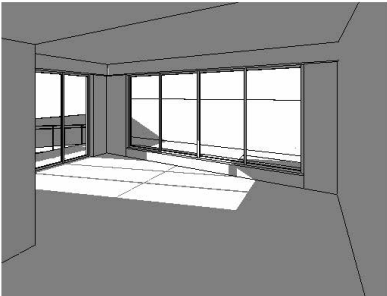
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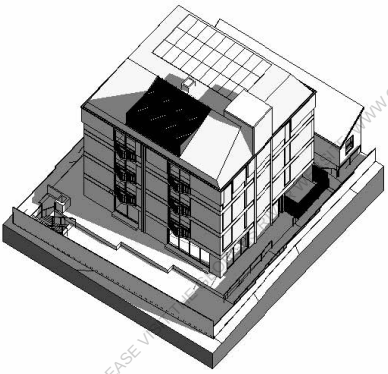
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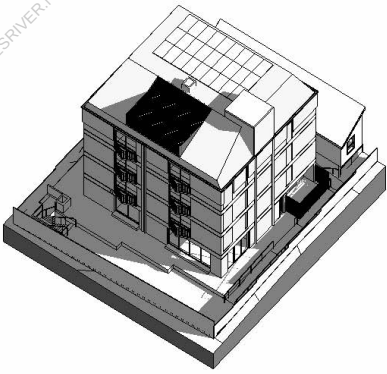
1 LIVING ROOM_JUNE 21_9AM



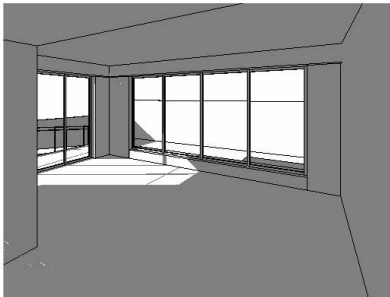
2 LIVING ROOM_JUNE 21_10AM



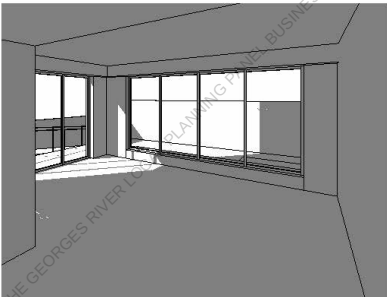
5 COMMUNAL OUTDOOR AREA_JUNE 21_9AM



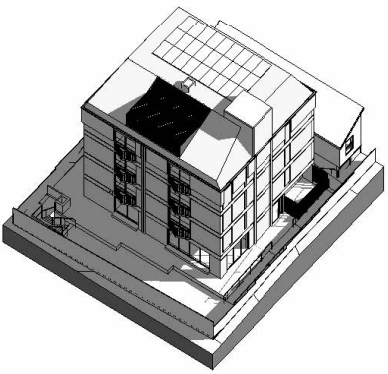
6 COMMUNAL OUTDOOR AREA_JUNE 21_10AM



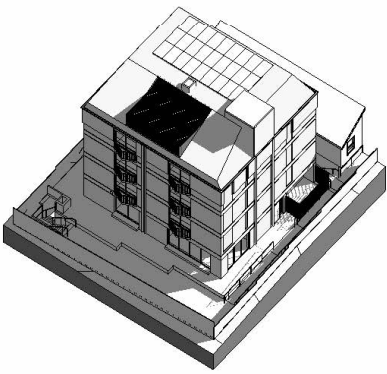
3 LIVING ROOM_JUNE 21_11AM



4 LIVING ROOM_JUNE 21_12PM



7 COMMUNAL OUTDOOR AREA_JUNE 21_11AM



8 COMMUNAL OUTDOOR AREA_JUNE 21_12AM

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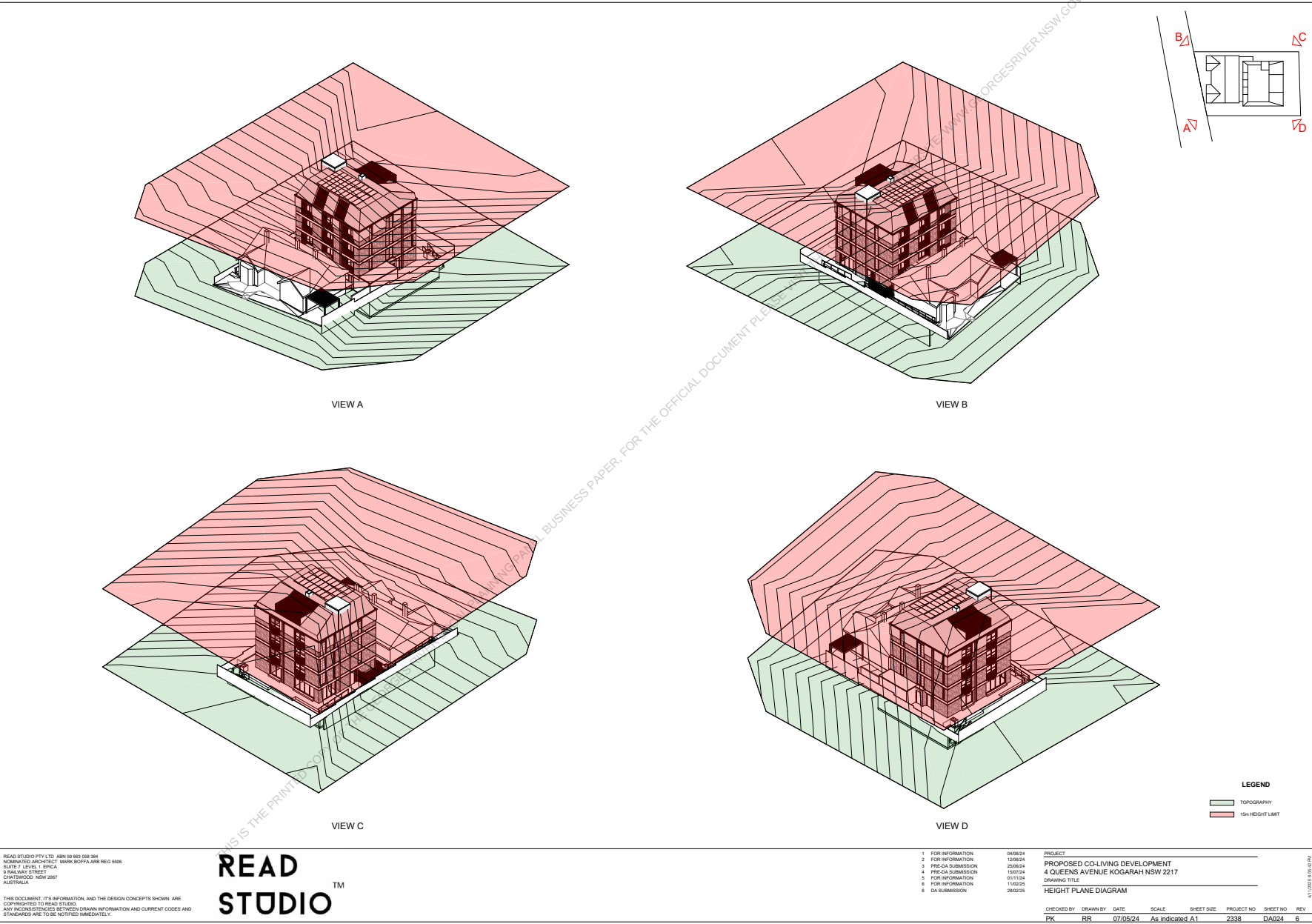
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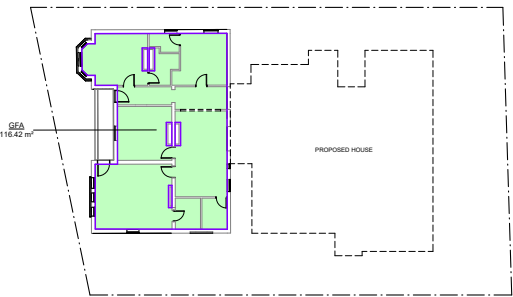
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PROJECT
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4 QUEENS AVENUE KOGARAH NSW 2217
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SOLAR ACCESS DIAGRAM

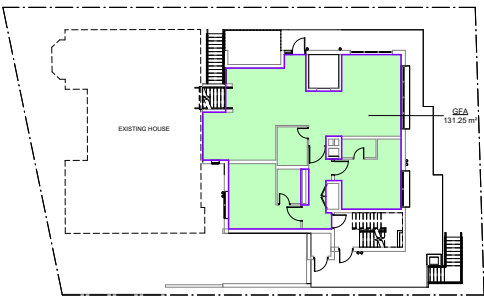
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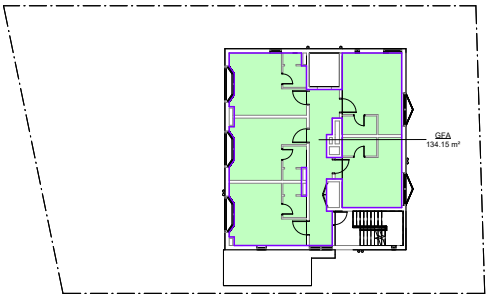




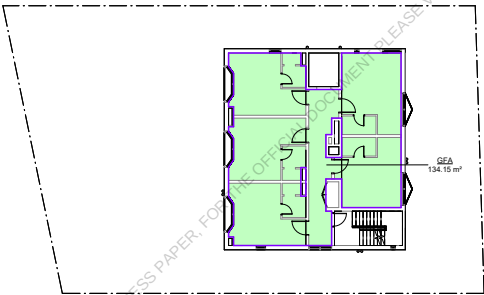
GFA GROUND_LEVEL_EXISTING



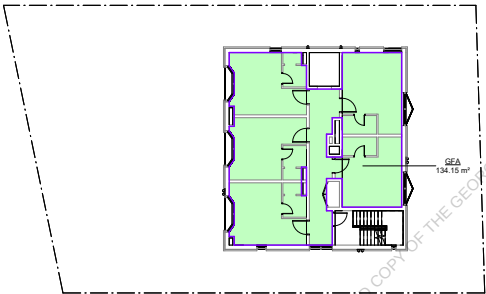
GFA GROUND_LEVEL_PROPOSED



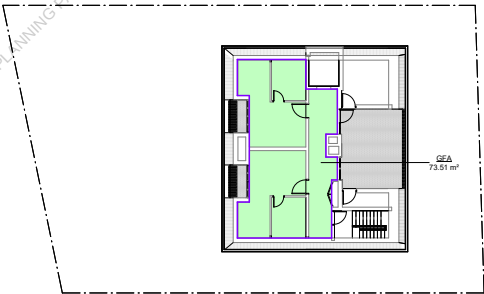
GFA FIRST LEVEL



GFA SECOND LEVEL



GFA THIRD LEVEL



GFA FOURTH LEVEL

Site Area (sqm)	626	
Site Frontage	20.52m	
FSR	1.2:1	751.20 Sqm
FSR with 10% Bonus	1.32:1	826.32 Sqm
Height Limit(m)	15	
Zoning	R4	
Heritage	Item 1100 (25/1/2013 - House & Garden	

	Existing Heritage House Sqm	Proposed New Building	FSR	
	GFA	GFA		
Ground Floor	116.42	131.09		
First Floor		134.15		
Second Floor		134.15		
Third Floor		134.15		
fourth Floor		73.51		
Sub Total	116.42	607.05		
Exis + Proposed		723.47	1.16	1

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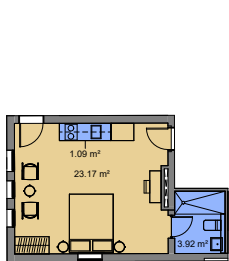
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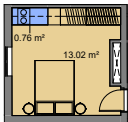
PROJECT
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4 QUEENS AVENUE KOGARAH NSW 2217
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GFA CALCULATIONS

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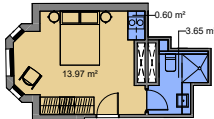




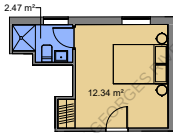
ROOM LAYOUT - G.01



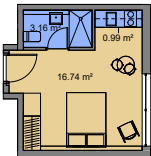
ROOM LAYOUT - G.02



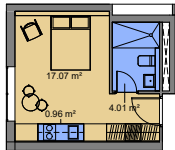
ROOM LAYOUT - G.03



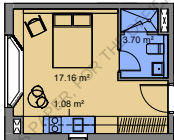
ROOM LAYOUT - G.04



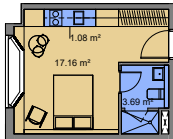
ROOM LAYOUT - G.05



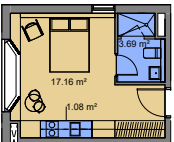
ROOM LAYOUT - G.06



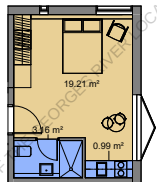
TYPICAL ROOM LAYOUT - 1.01 2.01 3.01



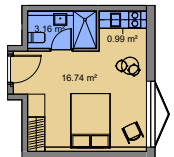
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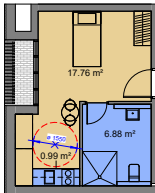
TYPICAL ROOM LAYOUT - 1.03 2.03 3.03



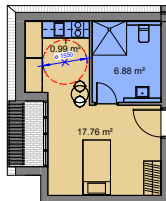
TYPICAL ROOM LAYOUT - 1.04 2.04 3.04



TYPICAL ROOM LAYOUT - 1.05 2.05 3.05



ROOM LAYOUT - 4.01



ROOM LAYOUT - 4.02

	Room number	Area including bath room / kitchen	Area excluding bath room / kitchen	Type	People
Ground level	1	0.61	28.2	23.5	2
	2	0.62	17.7	17.0	1
	3	0.63	18.2	14.0	1
	4	0.64	14.8	12.3	1
	5	0.65	20.9	16.7	2
	6	0.66	22.6	17.7	2
Level 1	7	1.01	21.9	17.2	2
	8	1.02	21.9	17.2	2
	9	1.03	21.9	17.2	2
	10	1.04	23.4	19.2	2
	11	1.05	20.9	16.7	2
	12	2.01	21.9	17.2	2
Level 2	13	3.01	21.9	17.2	2
	14	3.02	21.9	17.2	2
	15	3.03	23.4	19.2	2
	16	3.04	20.9	16.7	2
	17	3.05	21.9	17.2	2
	18	3.06	21.9	17.2	2
Level 3	19	3.07	21.9	17.2	2
	20	3.08	21.9	17.2	2
	21	3.09	23.4	19.2	2
	22	4.01	23.6	17.8	2
	23	4.02	25.6	17.8	2
23 rooms					43
Room legend					
Managers Room with bathroom (shared laundry & kitchen)					
Room with bathroom (shared laundry & kitchen)					
Self contained room (includes bathroom, kitchenware, WM and dryer)					

UNENCUMBERED AREA
SERVICE AREA

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PROJECT
PROPOSED CO-LIVING DEVELOPMENT
4 QUEENS AVENUE KOGARAH NSW 2217
DRAWING TITLE
ROOM TYPES & AREAS

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LEGEND

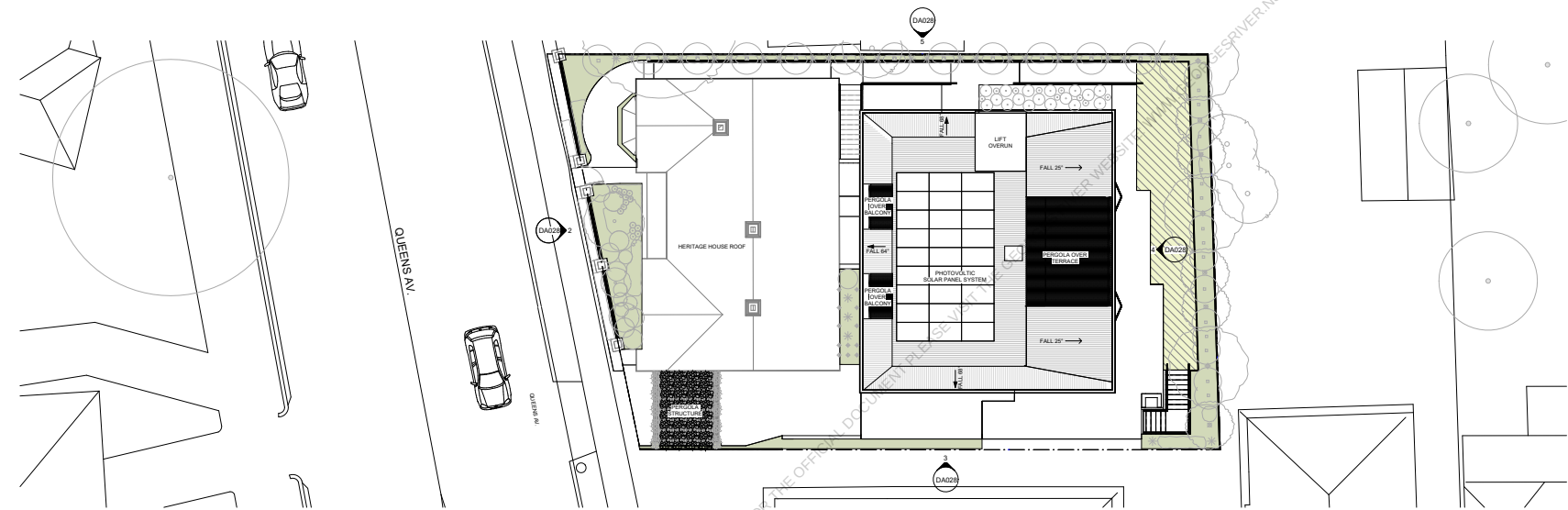
SITE AREA	= 828 sqm
20% LANDSCAPE AREA	= 125 sqm
PROVIDED LANDSCAPE AREA	= 127 sqm
10% DEEP SOIL AREA	= 63 sqm
PROVIDED DEEPSOIL AREA (includes Permeable Paving)	= 140 sqm
REQUIRED COMMON SPACE (35 sqm for first 6 units + 2 sqm for each additional unit)	= 64 sqm
PROVIDED COMMON SPACE	= 97 sqm
20% COMMON OPEN EXTERNAL	= 125 sqm
PROVIDED COMMON OPEN SPACE (Ground Floor + Roof Terrace)	= 132 (114+18) sqm

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3	PRE-DA SUBMISSION	25/06/24	4 QUEENS AVENUE KOGARAH NSW 2217					
4	PRE-DA SUBMISSION	19/07/24	DRAWING TITLE					
5	FOR INFORMATION	01/11/24						
6	FOR INFORMATION	11/02/25	LANDSCAPE / COMMON SPACE & DEEP SOIL AREA PLANS					
6	DA SUBMISSION	28/02/25						
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PK		RR	07/05/24	As indicated A1	2338	DA027	6	



1 ROOF LEVEL NOTIFICATION PLAN
1:100



2 NORTH WEST ELEVATION
1:200



3 SOUTH WEST ELEVATION
1:200



4 SOUTH EAST ELEVATION
1:200



5 NORTH EAST ELEVATION
1:200

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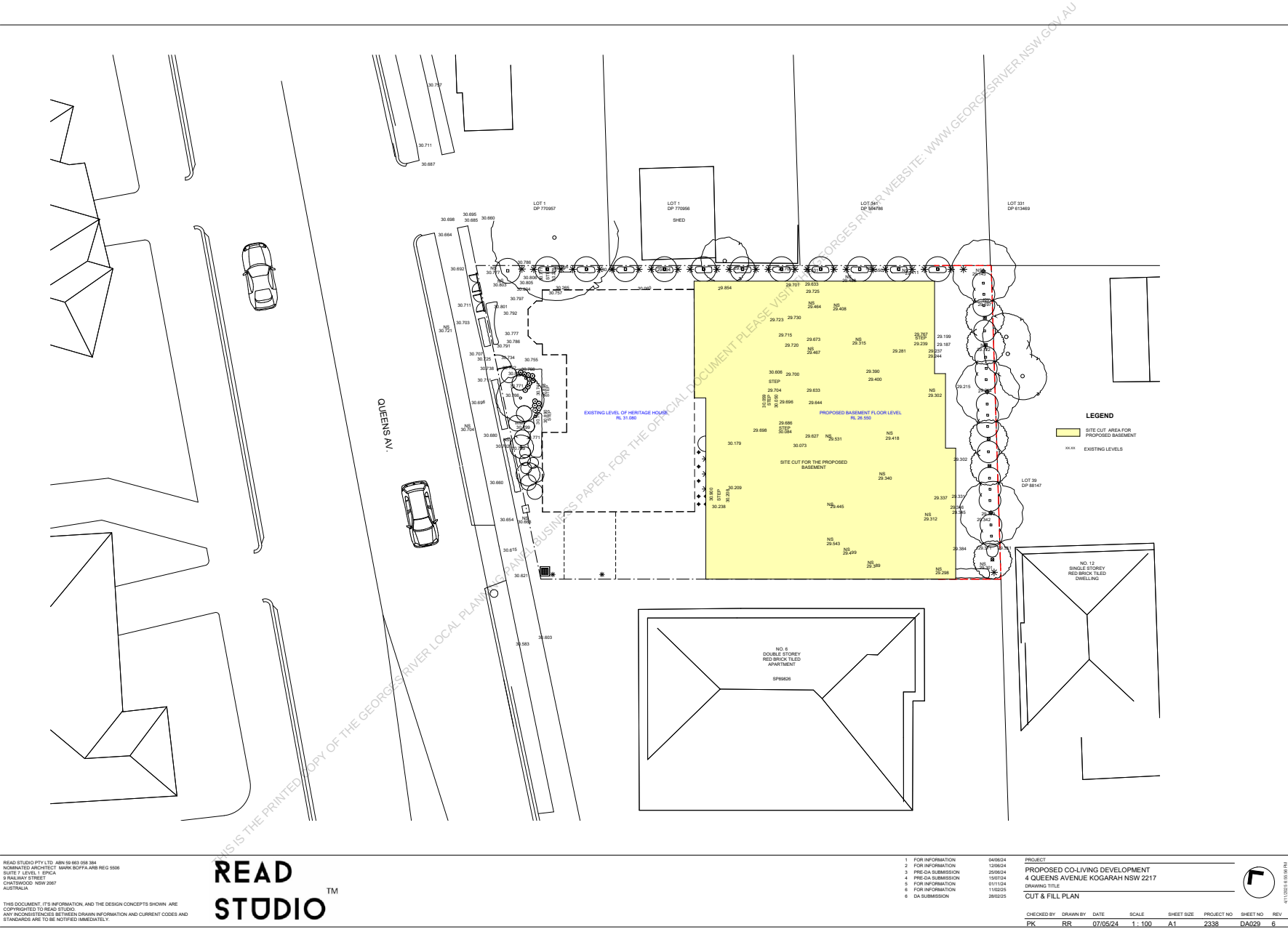
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PROJECT
PROPOSED CO-LIVING DEVELOPMENT
4 QUEENS AVENUE KOGARAH NSW 2217
DRAWING TITLE
NOTIFICATION PLAN

CHECKED BY DATE SCALE SHEET SIZE PROJECT NO SHEET NO REV
PK RR 07/05/24 As indicated A1 2338 DA028 6







Assessment Report

DA2025/0266

Lot B DP 384976

4 Queens Avenue KOGARAH NSW 2217

Acknowledgment of Country

Georges River Council acknowledges the Bidjigal people of the Eora Nation, who are the Traditional Custodians of all lands, waters and sky in the Georges River area. Council recognises Aboriginal and Torres Strait Islander peoples as an integral part of the Georges River community and values their social and cultural contributions. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples who live work and meet on these lands.

Report Summary	3
Proposal.....	3
Site and Locality.....	4
Aerial Image of Land Zoning.....	4
Aerial Image of Site	5
Background	5
History	5
Processing.....	5
Site Inspection	6
Assessment - Section 4.15 Evaluation	6
The provisions of any environmental planning instrument (EPI).....	6
The Provisions of any applicable Act.....	6
The Provision of any Applicable State Environmental Planning Policy (SEPPs).....	6
The Provisions of any Local Environmental Plan	15
Georges River Local Environmental Plan 2021	15
Provisions of any Proposed Instrument.....	31
Provisions of any Development Control Plan	31
Georges River Development Control Plan 2021	31
Any Planning Agreement Under Section 7.4.....	34
The Regulations	35
The Likely Impacts of the Development	35
Site Suitability	35
Submissions	36
The Public Interest.....	37
Referrals.....	37
Contributions.....	49
Conclusion.....	49
Determination	50
Appendix 1 - Conditions	Error! Bookmark not defined.



Report Summary

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

Refusal

The assessment recommends that Council as the Consent Authority pursuant to Section 4.16 (1)(b) Environmental Planning & Assessment Act 1979, refuse to the before mentioned Development Application due to the reasons discussed within this report.

Proposal

The works proposed in this application are specifically outlined below:

Construction and use of a five-storey building containing co-living housing comprising the following:

- 20 two-bedroom rooms
- Three (3) one-bedroom rooms including one (1) room designated to the building manager
- Basement with five (5) car parking spaces, two (2) motorbike spaces, and four (4) bicycle bays
- Removal of three (3) trees
- Planting of 46 trees and additional shrubs and groundcover
- Minor demolition works including to the rear of the heritage listed item
- Associated civil works
- Restoration and interior refurbishment of the existing heritage listed item
- Landscape works

Operational details

- Nature of use
 - Co-living housing
- Staff
 - Building Manager
 - Maintenance Personnel and Cleaning Staff
 - Community Coordinator
- Maximum Number of Tenants
 - 43
- Hours of Operation - On-site Management and support services will be available during the following hours:
 - Monday – Friday: 8am to 5pm
 - Saturday: 9am to 1pm
 - Sunday and Public Holidays: Closed

A site plan is provided below:



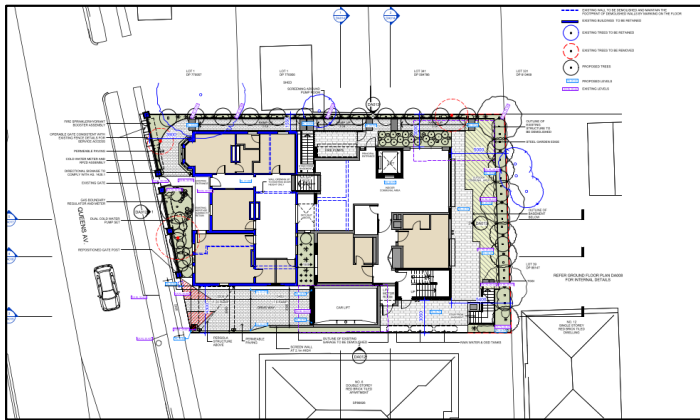


Figure 1 – Site plan (Source: Architectural Plans)

Site and Locality

The site is identified as 4 Queens Avenue, Kogarah, containing the following land holding: 4 Queens Avenue, Kogarah Lot B DP 384976 626sqm. The site is a rectangular-shaped allotment, featuring a primary frontage along Queens Avenue and located adjacent to the Kogarah Town Centre to the east and Kogarah South Heritage Conservation area to the west. The surrounding development consisting of low to medium density residential development up to four (4) storeys in height, mixed use development, and St George's Hospital which has a height of 38.7m. The site is approximately 500m from Kogarah Station and has numerous employment and social opportunities within a 1km radius including the Kogarah RSL, Kogarah Park, Kogarah Public and High Schools and the Kogarah Town Centre. The site is well connected to the existing road network, being in proximity to Princes Highway. The site is located approximately 4.5km south of the Sydney Kingsford Smith Airport and 11km southwest of the Sydney CBD.

Aerial Image of Land Zoning



Figure 2 –Aerial view of development site outlined in red (Source: IntraMaps)

Aerial Image of Site

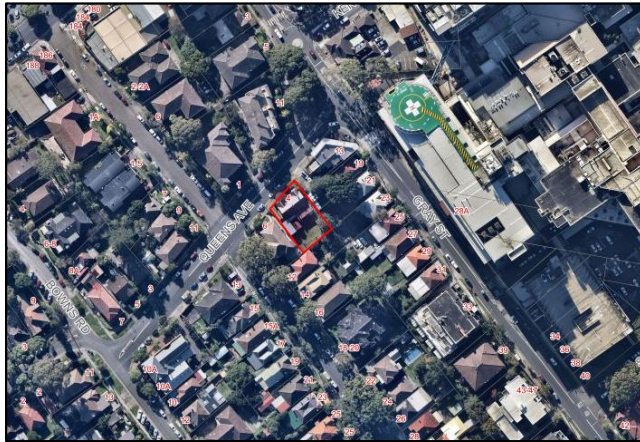


Figure 3—Aerial view of development site outlined in red (Source: *IntraMaps*)

Background

History

The following applications are relevant to the proposed works.

DA/CDC Number	Proposed Works	Determination	Date	Relevance
Pre2024/0038	Demolition works and construction of a five storey co-living development, including retention and refurbishment of existing heritage item on site	Advice provided	20 September 2024	
DA2025/0183	Demolition works and construction of a five storey co-living development, including retention and refurbishment of existing heritage item on site	Returned	22 April 2025	Returned for survey, Basix certificate, fire safety schedule, driveway info and social impact assessment

Processing

Application History		
Action	Date	Comment



Submission Date	Friday, 30 May 2025	
Lodgement Date	Friday, 6 June 2025	
Site Inspection Conducted	Tuesday, 29 July 2025	
Request to Withdraw Letter Sent	Wednesday, 10 September 2025	No response received by the Applicant
Class 1 Appeal to Land and Environmental Court	Thursday, 11 September 2025	

Site Inspection

Image(s) from the site inspection are available below:



Figure 4- Street view of development site (Source: Assessing Officer)

Assessment - Section 4.15 Evaluation

The following is an assessment of the application with regard to Section 4.15(1) Evaluation of the Environmental Planning and Assessment Act 1979.

Section 4.15 (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 provisions of any environmental planning instrument (EPI)

Section 4.15 (1) (a) (i) The provisions of any environmental planning instrument (EPI)

The Provisions of any applicable Act

The Provision of any Applicable State Environmental Planning Policy (SEPPs)

Site Affections Relevant Under SEPPs

SEPPs	Applicable
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Affectation	SEPP Name	Yes	No
Water Catchment	SEPP (Biodiversity Conservation) 2021	☐	☒
Land Contamination	SEPP (Resilience and Hazards) 2021	☒	☐
Coastal Zone	SEPP (Resilience and Hazards) 2021	☐	☒
Adjoins Classified Road	SEPP (Transport and Infrastructure) 2021	☐	☒
Adjoins Rail Corridor	SEPP (Transport and Infrastructure) 2021	☐	☒
Gas Pipeline Buffer	SEPP (Transport and Infrastructure) 2021	☐	☒

SEPPs	Applicable	
Name of SEPP	Yes	No
SEPP (Biodiversity Conservation) 2021	☐	☒
SEPP (Housing) 2021	☒	☐
SEPP (Industry and Employment) 2021	☐	☒
SEPP (Resilience and Hazards) 2021	☒	☐
SEPP (Resource and Energy) 2021	☐	☒
SEPP (Sustainable Buildings) 2022	☐	☒
SEPP (Transport and Infrastructure) 2021	☒	☐

Compliance with the identified applicable State Environmental Planning Policies (SEPP) is detailed below.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Clause 4.6 of State Environmental Planning Policy (Resilience and Hazards) 2021 is applicable to the development. The clause is in relation to remediation of contaminated land.

As part of the assessment process, a site inspection was conducted, and Council's Contamination Records and aerial imaging (inc. historic imaging) were reviewed. 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

The SEPP (Housing) is applied to the assessment as the proposed development is classified as a "co-living" development which falls under "Diverse Housing" of the SEPP.

Chapter 2 – Part 3 – Retention of existing affordable rental housing		
Standard	Proposal	Compliance
46 Buildings to which Part applies		



(1) This Part applies to a low-rental residential building on land within the following areas— (a) the Eastern Harbour City, (b) the Central River City, (c) the Western Parkland City, (d) the Central Coast City, (e) the City of Newcastle local government area, (f) the City of Wollongong local government area.	The proposal falls under the Eastern Harbour City. As such, this clause applies.	☒ Yes ☐ No
47 Reduction of availability of affordable housing		
1) Development for the following purposes, in relation to a building to which this Part applies, is permitted with development consent— (a) demolishing the building, (b) altering or adding to the structure or fabric of the inside or outside of the building, (c) changing the use of the building to another use, (d) if the building is a residential flat building—strata subdivision of the building.	The proposal includes the partial demolition of an existing heritage listed dwelling house.	☒ Yes ☐ No
(2) In determining whether to grant development consent, the consent authority must take into account the <i>Guidelines for the Retention of Existing Affordable Rental Housing</i>, published by the Department in October 2009 and the following— (a) whether the development will reduce the amount of affordable housing in the area, (b) whether there is available sufficient comparable accommodation to satisfy the demand for the accommodation, (c) whether the development is likely to result in adverse social and	The proposed development will increase the amount of affordable housing in the area	☒ Yes ☐ No



economic effects on the general community, (d) whether adequate arrangements have been made to assist the residents who are likely to be displaced to find comparable accommodation, (e) the extent to which the development will contribute to a cumulative loss of affordable housing in the local government area, (f) whether the building is structurally sound, including— (i) the extent to which the building complies with relevant fire safety requirements, and (ii) the estimated cost of carrying out work necessary to ensure the building is structurally sound and complies with relevant fire safety requirements, (g) whether the imposition of an affordable housing condition requiring the payment of a monetary contribution would adequately mitigate the reduction of affordable housing resulting from the development, (h) for a boarding house—the financial viability of the continued use of the boarding house.		
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Chapter 3 – Part 3 – Co-living housing		
Standard	Proposal	Compliance
67 Co-living housing may be carried out on certain land with consent Development for the purposes of co-living housing may be carried out with consent on land in a zone in which—		
(a) development for the purposes of co-living housing is permitted under another environmental planning instrument, or (b) development for the purposes of residential flat buildings or shop top housing is permitted under	Residential flat buildings are permitted in R4 High Density Residential zones. As such, co-living housing is permitted on the subject site.	☒ Yes ☐ No



Chapter 5 or another environmental planning instrument.		
68 non-discretionary development standards—the Act, s 4.15		
(2) The following are non-discretionary development standards in relation to development for the purposes of co-living housing— (a) for development in a zone in which residential flat buildings are permitted—a floor space ratio that is not more than— (i) the maximum permissible floor space ratio for residential accommodation on the land, and (ii) an additional 10% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of co-living housing,	Max FSR for the site is 1.2:1 or 751.2sqm. As the development proposes co-living development, it benefits from a 10% FSR bonus which results in a max FSR of 1.32:1 or 826.32sqm. Proposed: Ground Floor = 131.09sqm Level 1 = 134.15sqm Level 2 = 134.15sqm Level 3 = 134.15sqm Level 4 = 73.51sqm Total = 723.47sqm	☒ Yes ☐ No
(c) for co-living housing containing more than 6 private rooms— (i) a total of at least 30sqm of communal living area plus at least a further 2sqm for each private room in excess of 6 private rooms, and (ii) minimum dimensions of 3m for each communal living area, Required: 23 rooms = 64sqm	Proposed = 66sqm on the ground floor with minimum dimensions of 3m.	☒ Yes ☐ No
(d) communal open spaces— (i) with a total area of at least 20% of the site area, 20% of the site area = 125.2sqm and (ii) each with minimum dimensions of 3m,	Proposed = 104.8sqm Minimum of 3m not achieved.	☐ Yes ☒ No
(e) unless a relevant planning instrument specifies a lower number—	Proposed = 5 spaces (including 1 accessible space)	☒ Yes ☐ No



(i) for development on land in an accessible area—0.2 parking spaces for each private room, Required = 0.2 x 23 rooms = 4.6 spaces		
(g) for development on land in Zone R4 High Density Residential—the minimum landscaping requirements for residential flat buildings under a relevant planning instrument. Required = minimum 10% or 62.6sqm	Proposed = 15% or 92.4sqm	☒ Yes ☐ No
69 Standards for co-living housing		
(1) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority is satisfied that—		
(a) each private room has a floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, that is not more than 25sqm and not less than— (i) for a private room intended to be used by a single occupant—12sqm, or (ii) otherwise—16sqm, and	Rooms 1,5-23 are double rooms and 2-4 are single rooms. Several rooms do not comply with the minimum 12sqm for single occupancy and 16sqm. It should be noted that Room G.06 robe is over the door opening. Furthermore, it should be noted that a small area forward of the kitchen/kitchenette area in each room must not be included in the room calculation and the door swings of the room as this is not usable/functional space.	☐ Yes ☒ No
(b) the minimum lot size for the co-living housing is not less than— (ii) for development on other land—800sqm, and	The site is not more than 800sqm (626sqm). 21.75% variation proposed.	☐ Yes ☒ No
(d) the co-living housing will contain an appropriate workspace for the manager, either within the communal living area or in a separate space, and	It is proposed for the manager workspace to be within the ground floor communal workspace area.	☒ Yes ☐ No
(f) adequate bathroom, laundry and kitchen facilities will be available within the co-living housing for the use of each occupant, and	A separate bathroom and kitchen facility is provided for each private room.	☒ Yes ☐ No
(g) each private room will be used by no more than 2 occupants, and	No more than 2 occupants per room is proposed	☒ Yes ☐ No
(h) the co-living housing will include adequate	2 motorcycle spaces and 8 bicycle spaces are proposed.	☒ Yes ☐ No



bicycle and motorcycle parking spaces.																						
2) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority considers whether—																						
(a) the front, side and rear setbacks for the co-living housing are not less than— (ii) for development on land in Zone R4 High Density Residential—the minimum setback requirements for residential flat buildings under a relevant planning instrument, and	6m side setbacks under GRDCP 2021 required. 6m rear setback under GRDCP 2021 required. 3m side setback proposed. 5m rear setback proposed. The proposed setbacks are as follows: - Side (NE) - 1.5m - Side (SW) - 0.4m - Rear (SE) - 1.5m – 3.5m	☐ Yes ☒ No																				
(b) if the co-living housing has at least 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide, and	The proposal includes 4 storeys. Minimum is 6m side and rear boundary's; 5m front setback under the ADG for 4 storeys. <table><tr><td></td><td>Ground</td><td>2 - 4 Storey (Level 1-3)</td><td>5 Storey (Level 4)</td></tr><tr><td>Side (NE)</td><td>0.325m – ramp and fire pump room 3.0m – building</td><td>3.0m to building</td><td>Mansard Style roof 3.0m – 3.5m TBC</td></tr><tr><td>Side (SW)</td><td>0m - 0.5m – ramp 0.5m – Car lift 2.5m – Motor room 3.05m – Service Stairs</td><td>3.0m</td><td>3.0 – 3.5m TBC</td></tr><tr><td>Rear (SE)</td><td>5.0m – 5.4m (excluding projecting windows)</td><td>5.0m – 5.4m (excluding window projection)</td><td>Verandah 5.0m – 5.4m</td></tr><tr><td>Front (NW)</td><td>1.5m to the existing dwelling</td><td></td><td></td></tr></table>		Ground	2 - 4 Storey (Level 1-3)	5 Storey (Level 4)	Side (NE)	0.325m – ramp and fire pump room 3.0m – building	3.0m to building	Mansard Style roof 3.0m – 3.5m TBC	Side (SW)	0m - 0.5m – ramp 0.5m – Car lift 2.5m – Motor room 3.05m – Service Stairs	3.0m	3.0 – 3.5m TBC	Rear (SE)	5.0m – 5.4m (excluding projecting windows)	5.0m – 5.4m (excluding window projection)	Verandah 5.0m – 5.4m	Front (NW)	1.5m to the existing dwelling			☐ Yes ☒ No
	Ground	2 - 4 Storey (Level 1-3)	5 Storey (Level 4)																			
Side (NE)	0.325m – ramp and fire pump room 3.0m – building	3.0m to building	Mansard Style roof 3.0m – 3.5m TBC																			
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Rear (SE)	5.0m – 5.4m (excluding projecting windows)	5.0m – 5.4m (excluding window projection)	Verandah 5.0m – 5.4m																			
Front (NW)	1.5m to the existing dwelling																					
(c) at least 3 hours of direct solar access will be provided between 9am and 3pm at mid-winter in at least 1 communal living area, and	To maximise the benefits to residents of direct sunlight access, design guidance under ADG Objective 4A-1 recommends a minimum of 1m ² measured at 1m above floor level to be achieved for at least 15 minutes. The Solar access diagram (Drawing DA023) provided illustrate that there is a considerable reduction in direct sunlight between 11am to 12noon. Detailed solar access diagrams should be provided to ascertain the compliance with direct sunlight requirement. The future development in the surrounding will also have an impact on the direct sunlight access. Hence the need for appropriate building separation.	☐ Yes ☒ No																				
(f) the design of the building will be compatible with— (i) the desirable elements of the character of the local area, or (ii) for precincts undergoing transition—the	In addition to the comments provided by Council's Heritage Architect, the lack of adequate side setbacks and massing composition especially on the side elevations, results in a built form that is overwhelming and detracts from the significance of the heritage item. The bulk and scale are	☐ Yes ☒ No																				



desired future character of the precinct.	disproportionate to the form and design of the heritage item and the existing site area.	
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GRLEP 2021 Part 4 – Principal Development Standards		
Clause 4.6 – Exceptions to development standards		
Standard	Proposal	Compliance
Clause 69 of SEPP (Housing) 2021 - (1) <i>Development consent must not be granted for development for the purposes of co-living housing unless the consent authority is satisfied that—</i> <i>(b) the minimum lot size for the co-living housing is not less than—</i> <i>(i) for development on land in Zone R2 Low Density Residential—600m², or</i> <i>(ii) for development on other land—800m², and</i>	R4 High Density Residential zoned land. The site is not more than 800sqm (626sqm). 21.75% variation proposed.	☐ Yes ☒ No
Clause 69(1)(b)(ii) of the State Environmental Planning Policy (Housing) 2021 requires that development for the purposes of co-living housing on land zoned R4 High Density Residential must have a minimum lot size of 800m². The subject site has an area of 626m², which represents a 21.75% variation from the required minimum lot size. <u>Objectives of the Development Standard</u> The minimum lot size requirement is intended to: • Ensure that co-living housing developments are provided on sites of sufficient size to accommodate the intensity of use. • Maintain appropriate levels of residential amenity for occupants and surrounding properties. • Provide adequate space for communal open areas, landscaping, waste management, and other shared facilities. • Avoid overdevelopment and ensure compatibility with the desired future character of the zone. <u>Assessment Against Clause 4.6(3) of the LEP</u> (a) Compliance is unreasonable or unnecessary in the circumstances of the case The Applicant has not demonstrated that strict compliance with the development standard is unreasonable or unnecessary. The reduced site area significantly limits the ability to provide: • Sufficient communal open space and landscaping. • Adequate separation between built form and adjoining properties.		



- Functional internal layouts and circulation areas.

The proposal results in a built form that is disproportionate to the site size and inconsistent with the planning intent for co-living housing. The variation would undermine the strategic planning framework that seeks to ensure co-living developments are located on appropriately sized lots to manage their intensity and impacts.

(b) There are sufficient environmental planning grounds to justify the variation

The Applicant has not provided sufficient environmental planning grounds to justify the variation. The site does not exhibit unique physical characteristics or constraints that would warrant a departure from the standard.

Approval of the variation would:

- Set an undesirable precedent for co-living housing on undersized lots.
- Undermine the integrity of the SEPP's built form controls.
- Potentially result in cumulative impacts if replicated across similar sites.
- Is inconsistent with the scale and intensity envisaged for co-living housing.
- Does not adequately respond to the site's constraints.
- Risks adverse impacts on neighbouring properties due to overdevelopment.

Public Interest

The variation is not considered to be in the public interest. It fails to meet the objectives of the development standard, and may result in:

- Reduced residential amenity for future occupants and neighbours.
- Poor urban design outcomes.
- Pressure on local infrastructure and services due to increased intensity on a constrained site.

The proposed variation to the minimum lot size under Clause 69 of SEPP (Housing) 2021 is not supported. The application does not demonstrate that compliance is unreasonable or unnecessary, nor does it provide sufficient environmental planning grounds. The variation is inconsistent with the objectives of the development standard. Approval would not be in the public interest and may result in adverse planning outcomes.

State Environmental Planning Policy (Transport and Infrastructure) 2021

State Environmental Planning Policy (Transport and Infrastructure) 2021 is applicable to the development and the following clauses apply:

Division 5 – Electricity transmission or distribution

Pursuant to Clause 2.48, this application was referred to Ausgrid for comments as the development is located within 5m of an overhead electricity power line or within or immediately adjacent to an easement for electricity purposes. Ausgrid raised no objection to the proposal.



The Provisions of any Local Environmental Plan

Georges River Local Environmental Plan 2021

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 below:

Site Affectations

Site Affectations Relevant Under GRLEP 2021		Applicable	
Clause No.	Clause Name/Affectation	Yes	No
5.7	Development Below Mean High Water Mark	☐	☒
5.10	Heritage Conservation Area and/or Heritage Item	☒	☐
5.21	Flood Liable Land	☐	☒
6.1	Acid Sulfate Soils	☐	☒
6.4	Foreshore Building Line	☐	☒
6.4	Coastal Hazard and Risk	☐	☒
6.5	Riparian Lands & Waterways	☐	☒
6.6	Foreshore Scenic Protection Area – also consider Design Excellence	☐	☒
6.8	Impacted by airspace operations (NOTE: Applies to 67-89 Croydon Road, 1-7 Somerset (odd only), 2-8 Bristol (even), 1-5 Bristol (odd) in Hurstville)	☐	☒
6.10	Design Excellence – FSPA or R4 land	☒	☐
Other Affectations			
	Bushfire Prone Land	☐	☒
	Council Owned Land	☐	☒
	Crown Land	☐	☒
	Easements Within Lot Boundaries	☐	☒
	Narrow lot housing precinct	☐	☒
	Other (if yes describe)	☐	☒

GRLEP 2021 Part 1 – Preliminary

Clause 1.4 – Definitions

Standard	Proposal	Compliance
co-living housing means a building or place that— (a) has at least 6 private rooms, some or all of which may have private kitchen and bathroom facilities, and	The proposed development is consistent with the definition of co-living housing.	☒ Yes ☐ No



(b) provides occupants with a principal place of residence for at least 3 months, and (c) has shared facilities, such as a communal living room, bathroom, kitchen or laundry, maintained by a managing agent, who provides management services 24 hours a day, but does not include backpackers' accommodation, a boarding house, a group home, hotel or motel accommodation, seniors housing or a serviced apartment. Note— Co-living housing is a type of residential accommodation—see the definition of that term in this Dictionary.		
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GRLEP 2021 Part 2 – Permitted or prohibited development

Clause 2.3 – Zone objectives and Land Use Table

Standard	Proposal	Compliance
The subject site is zoned R4 High Density Residential. The objectives of the zone are: - 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.	The proposal is consistent with the zone objectives and is satisfactory.	☒ Yes ☐ No

Clause 2.7 - Demolition requires development consent



Standard	Proposal	Compliance
The demolition of a building or work may be carried out only with development consent.	The proposed development involves demolition works.	☒ Yes ☐ No

GRLEP 2021 Numeric Controls			
Standard	Required	Proposed	Compliance
Cl. 4.3 <i>Height of Buildings</i>	Maximum 15m	16.1m (7.33% variation to development standard)	☐ Yes ☒ No
Cl. 4.4 <i>Floor Space Ratio</i>	Maximum 1.2:1 (751.20sqm)	1.16:1 (607sqm)	☒ Yes ☐ No
SEPP Housing (2021) <i>(ii) an additional 10% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of co-living housing,</i>	1.32:1 (826.32sqm)	1.16:1 (607sqm)	☒ Yes ☐ No
Cl 6.12 <i>Landscaped Area</i>	Minimum 10% (62.6sqm)	15% (92.4sqm)	☒ Yes ☐ No

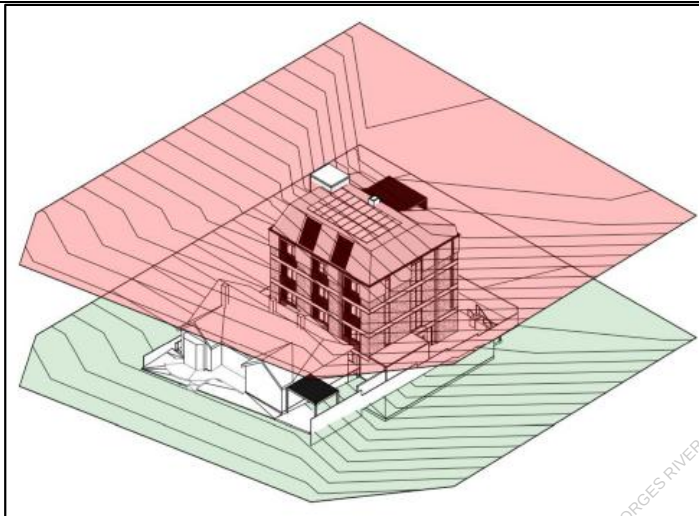
GRLEP 2021 Part 4 – Principal Development Standards		
Clause 4.6 – Exceptions to development standards		
Standard	Proposal	Compliance
Clause 4.3 - Height of building <i>maximum 15m</i>	16.1m (7.33% variation to development standard)	☐ Yes ☒ No
The Applicant has submitted a Clause 4.6 submission to vary Clause 4.3 - Height of Building development standard under GRLEP 2021. Under Clause 4.6 of GRLEP 2021, development consent may be granted even though the development would contravene a development standard imposed by this or any other environmental planning instrument. Under Clause 4.6(3), development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:		



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

The extent of the proposed variation is indicated in below.





The assessment of the Clause 4.6 variation request is contained below:

Adequacy of the written request pursuant to the matters outlined in Clause 4.6 (3)

Clause 4.6(3)(a) compliance with the development standard is unreasonable or unnecessary in the circumstances

In *Wehbe V Pittwater Council* (2007) NSW LEC 827, the Hon. Justice Preston CJ set out the five following criteria 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.*

The abovementioned matters of considerations form the basis to determine whether the compliance with development standard is unreasonable or unnecessary in the circumstances of the case. The assessment is as follows:

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

In response to this criterion, the Applicant indicated the following:

- The first test has been satisfied, and the objectives of the height of building standard are achieved notwithstanding the non-compliance with the numerical standard.

Assessment of the proposal against the clause objectives are contained below:

Objective	Assessment
(a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,	The proposed height breach detracts from the desired future character for the following reasons: - The proposed height breach exceeds the height beyond the height of the recently constructed buildings surrounding the development. - The proposed height breach involves the lift overrun. - The exceedance of height does not appropriately respect the heritage item on site.
(b) to minimise the impact of overshadowing, visual impact, disruption of views and loss of privacy on adjoining properties and open space areas,	The proposal will result in unacceptable visual impact on the heritage item within the frontage of the site and adjoining properties particularly to the southwest that have a less of a height of building development standard than the subject 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.	The exceedance of height does not appropriately respect the heritage item on site. Council has determined that the heritage impact of the proposal is unacceptable.

The proposal therefore is inconsistent with the objectives of the standard.

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

In response to this criterion, the Applicant indicated the following:

- The Clause 4.6 submission indicates that this test is not applicable.



The underlying objective or purpose of the standard is relevant to the development for the following reasons:

- The maximum building height development standard ensures an adequate visual transition is achieved between a higher density area and a lower density area.
- This development standard ensures adjoining properties will not be subjected to unreasonable amenity impacts such as overshadowing or view loss
- This development standard ensures new developments align with the desired future character of the suburb.

The proposal does not demonstrate that the underlying objective or purpose of the maximum building height development standard is not relevant in this instance.

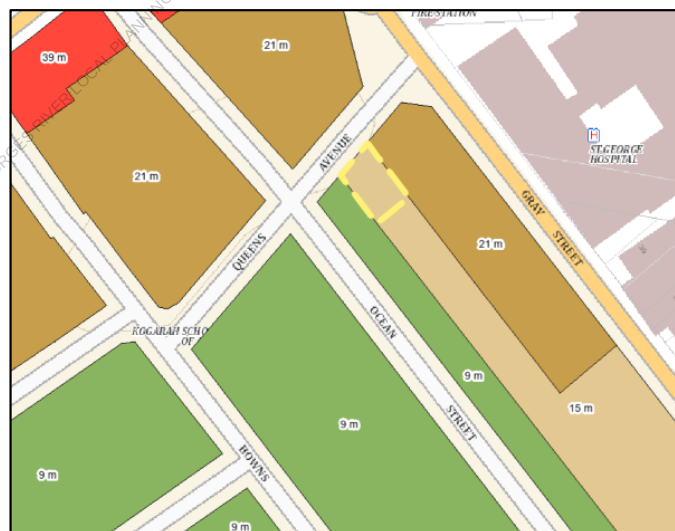
Third Test: The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.

In response to this criterion, the Applicant indicated the following:

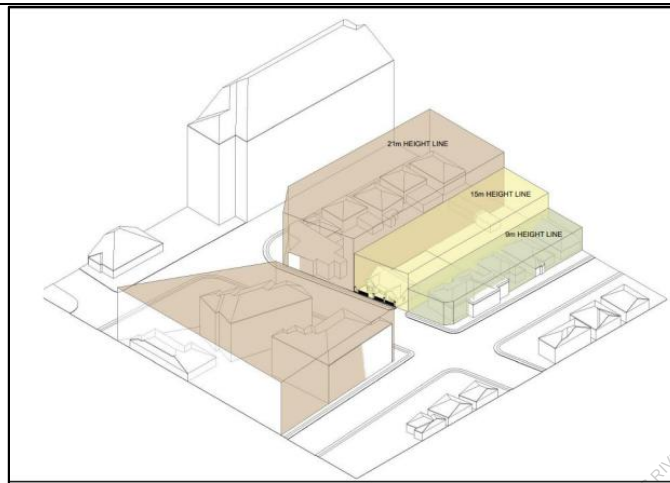
- The Clause 4.6 submission indicates that the third test has been satisfied, and the underlying object or purpose would be defeated or thwarted if compliance were required and therefore compliance is unreasonable.

The underlying objective or purpose of the standard will not be thwarted if compliance was required for the following reasons:

- Compliance with the maximum building height development standard is essential in ensuring future developments align with the desired future character of the suburb and enabling adequate visual transition between different densities.



GRLEP 2021 – Height of Building Map



Montage of GRLEP 2021 – Height of Building

The proposal does not demonstrate that compliance with the maximum building height development standard will thwart the clause objective or purpose in this instance.

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.

In response to this criterion, the applicant indicated the following:

- A compliant scheme in this respect would require the removal of the lift overrun or require additional excavation, which will result in unacceptable driveway access to the basement and additional stairway depth for access between the heritage dwelling and the new co-living building.
- The proposal provides for a scale of development that when viewed from the streetscape and surrounding properties is not dominant in terms of bulk, scale and consistent with the traditional character intended for the site, notwithstanding the minor variation to the building height development standard.
- The proposal provides a development outcome that, in replacing the existing underutilized site, improves the character of the area. The proposal considers the existing heritage item and is sympathetic to its existing character, incorporating the Victorian/federation dwelling as the centerpiece of the site, and ensuring no significant views are lost to ensure complete appreciation of the heritage significance.
- The proposal is consistent with the desired future character of the area and meets the objectives of the R4 High Density Residential zone prescribed by the GRLEP 2021. The proposal's density (as measured by FSR) is compliant with the 1.2:1 development standard prescribed for the site. The additional height does not increase GFA and is not visible when viewed from the public domain at Queens Avenue. Consequently, the proposal is consistent with the scale of the development.
- The height proposed is considered representative of market needs and demands for co-living housing.

- The proposal responds to the transitional bulk and scale consistent with development in the locality.

According to Council's Clause 4.6 variation register, Clause 4.3 has not been varied for co-living developments. Based on the variation register, Council has been applying the development standard consistently and only allow height variation to minor building components. On that basis, it is considered that Council has not abandoned or destroyed this development standard. The proposal, which involves a lift overrun exceeding the height limit, when coupled with the undersized lot for co-living developments is an overdevelopment of the site and the variation is unnecessary and unreasonable.

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.

In response to this criterion, the applicant indicated the following:

- Reducing the height to strictly meet the GRLEP 2021 development standard is considered unreasonable, as this would result in a less efficient use of the site, as well as being operationally unsound for future end users. Further, a reduced height would result in a building design that does not respond as well to the site's prevailing topography and market requirements affected by the housing crisis.

The R4 High Density Residential zoning of the subject site is considered to be appropriate given the zoning enables high density residential development to be provided in a locale that is readily accessible from main roads and infrastructure.

Conclusion

As discussed above, the Applicant's variation request fails to address the matters outlined in Clause 4.6 (3), and thus the requirements of this clause have not been met, and the variation cannot be supported.

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

In response to this subclause, the Applicant indicated the following:

- The proposal is entirely consistent with the underlying objectives of the building height standard.
- The proposal is entirely consistent with the objectives of the R4 High Density Residential zone.
- Compliance with the standard would be unreasonable and unnecessary.



- The proposal would integrate with both the existing and future desired character of the area, with specifically with regard to the R4 High Density Residential zone. The relationship of the development as proposed, with respect to height, would remain consistent due to the transition offered between the surrounding sites.
- The additional building height beyond the 15m development standard does not cause any impact on existing development in the vicinity of the site by way of visual impact, disruption of view, or loss of privacy.
- The proposal provides a sign that incorporates the heritage values of the site, ensuring that the heritage item is restored and made a key component of the development.
- The proposal has been architecturally designed to provide a materiality and form that sets a desirable precedent for future development and ensures that the visual impact of the building integrates with the surrounding environment, including that of the heritage item.
- There would be no measurable environmental or amenity benefits in maintaining the standard nor would this support the provision of co-living housing in the locality.

It is considered that the proposal does not demonstrate sufficient environmental planning grounds to warrant the variation for the following reasons:

- The Clause 4.6 submission does not provide sufficient environmental planning grounds to justify the contravention of the development standard. The justification relies primarily on design intent and future character assumptions, rather than site-specific constraints or planning merit.
- The proposed height is likely to result in adverse impacts on the amenity of surrounding properties, including increased visual bulk and potential overshadowing. The development does not adequately mitigate these impacts through design or siting.

Consistency with objectives of the development standard Clause 4.3 Height of Buildings

The objectives of Clause 4.3 and assess are as follows:

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

- a. *To ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality.*
- b. *To minimize the impact of overshadowing, visual impact, disruption of views and loss of privacy on adjoining properties and open spaces 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.*

(2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Maps.*

The proposed development is not considered to be consistent with the objectives of Clause 4.3(1)(d) of the GRLEP 2021 in that:



- The proposed building exceeds the 15m height limit and introduces a scale and bulk that is not compatible with the existing or desired future character of the locality. The surrounding developments generally comply with the height standard, and the proposed variation would result in a visually dominant structure that disrupts the established urban rhythm and scale. The development does not demonstrate how it aligns with strategic planning controls or urban design principles that support a harmonious built form.
- The additional height contributes to increased visual impact and potential overshadowing of adjoining properties and open space areas. While the applicant asserts no loss of privacy or view disruption, the bulk and height of the building may also reduce the sense of openness and amenity for nearby residents.
- The development fails to provide a sensitive transition in height between adjoining land uses and the heritage item. The proposed height does not respect the setting of the heritage item. Instead, it introduces a stark contrast that undermines the visual and contextual relationship between the new building and its surroundings. This abrupt transition is inconsistent with the objective of achieving a cohesive urban form.

For the reasons above, the proposed development is considered to be inconsistent with the objectives of Clause 4.3 of the GRLEP 2021.

Summary of 4.6 Assessment and Conclusion

As outlined in the assessment above, the proposed variation is not supported as the provided variation request does not adequately demonstrate the matters identified under Clause 4.6(3).

This forms part of the recommended reasons for refusal of the subject application.

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 site contains Item number I195 and known as House and garden as listed in Schedule 5 of the LEP. The proposal has been reviewed by Council's Heritage Advisor who has considered the effect of the proposal on the item and is not satisfied, that the proposal is appropriate in this regard. Detailed comments are provided later in this report.	☐ Yes ☒ No

GRLEP 2021 Part 6 – Additional Local Provisions		
Clause 6.2 - Earthworks		
Standard	Proposal	Compliance



Council must consider the following prior to granting consent for any earthworks: (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development, (b) the effect of the development on the likely future use or redevelopment of the land, (c) the quality of the fill or the soil to be excavated, or both, (d) the effect of the development on the existing and likely amenity of adjoining properties, (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, (f) the source of any fill material and the destination of any excavated material, (g) the likelihood of disturbing relics, (h) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, (i) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	The proposed earthworks are satisfactory with regards to the matters identified.	☒ Yes ☐ No
Clause 6.3 – Stormwater Management		
Standard	Proposal	Compliance
(2) In deciding whether to grant development consent for development, the consent authority must be satisfied that the development— (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 (b) includes, if practicable, on-site stormwater detention or retention to minimise stormwater runoff volumes and reduce the development's reliance	The proposal is satisfactory with regards to the matters identified.	☒ Yes ☐ No



on mains water, groundwater or river water, and (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 (d) is designed to minimise the impact on public drainage systems.		
Clause 6.8 Development in areas subject to aircraft noise		
Standard	Proposal	Compliance
(2) If a proposal is on land that is near the Kingsford Smith Airport and in an ANEF contour of 20 or greater, and Council considers the site is likely to be adversely affected by aircraft noise, and involves one or more of the following: i. the erection of a new building, ii. a substantial alteration or addition to an existing building, iii. an alteration or addition to a building that is required by a development consent to be compliant with AS 2021—2015, iv. the change of use of any part of a building to a centre-based child care facility, educational establishment, entertainment facility, health services facility, place of public worship, public administration building or residential accommodation, v. the change of use of any part of a building on land that is in an ANEF contour of 25 or greater to business premises, a hostel, office premises, retail premises or tourist and visitor accommodation, vi. the change of use of any part of a building on land that is in an ANEF contour of 30 or greater to light industry.	The proposal is impacted by aircraft noise and is one of the forms of development identified in the clause. An acoustic report accompanies the application which demonstrates that the matters identified in (3) of the Clause have been addressed. A referral was sent to Sydney Airport for comment however no response was received at the time of writing this assessment report.	☒ Yes ☐ No



(3) In deciding whether to grant consent to development to which this clause applies, the consent authority: (a) must consider whether the development will result in the creation of a new dwelling or an increase in the number of dwellings or people affected by aircraft noise, and (b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2015, and (c) must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2015.		
Clause 6.9 Essential Services		
Standard	Proposal	Compliance
Development consent must not be granted to development unless Council is satisfied that any of the following services that are essential for the development are available, or that adequate arrangements have been made to make them available when required a) the supply of water, b) the supply of electricity, c) the supply of telecommunications facilities, d) the disposal and management of sewage e) stormwater drainage or on-site conservation, f) suitable vehicular access.	The proposal does not have, or make adequate provision for the following services: - suitable vehicular access	☐ Yes ☒ No
Clause 6.10 Design Excellence		
Standard	Proposal	Compliance
(3) This clause applies to development on the following land— (b) land in the following zones if the building concerned is 3 or more storeys or has a height of 12 metres or greater	The proposal fails to comply with Clause 6.10 for the following reasons: - Does not achieve the minimum lot size for Co-living	☐ Yes ☒ No



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, (4) Development consent must not be granted for development to which this clause applies unless Council considers that the development exhibits design excellence. (5) In considering whether the development exhibits design excellence, Council must have regard to the following matters— (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved, (b) whether the form and external appearance of the development will improve the quality and amenity of the public domain, (c) whether the development detrimentally impacts on view corridors, (d) how the development addresses the following matters— i. the suitability of the land for development, ii. existing and proposed uses and use mix, iii. heritage issues and streetscape constraints, iv. the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form, v. bulk, massing and modulation of buildings, vi. street frontage heights,	- Does not response to the topography of the site - Does not allow for adequate building separation - Does not achieve a public/private interface treatment of the streetscape coupled with the building services - The transition from the Heritage item to the proposed addition is not appropriate in terms of bulk and scale - Does not achieve sufficient amenity for the surrounding properties and future occupants - Does not achieve sufficient solar access - The bulk and scale are disproportionate to the form and design of the heritage item and the existing site area.	
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vii.environmental impacts such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity, viii.pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of pedestrian networks, ix.the impact on, and proposed improvements to, the public domain, x.achieving appropriate interfaces at ground level between the building and the public domain, xi.excellence and integration of landscape design, xii.the provision of communal spaces and meeting places, xiii.the provision of public art in the public domain, xiv.the provision of on-site integrated waste and recycling infrastructure, xv.the promotion of safety through the application of the principles of crime prevention through environmental design.		
Clause 6.11 Environmental Sustainability		
Standard	Proposal	Compliance
(2) This clause applies to development— (a) on land in the following zones— (i) Zone R4 High Density Residential, (b) that involves— (i) the erection of a new building, or (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— (a) water demand reduction, including water efficiency, water recycling and minimisation of potable water usage,	The subject site is zoned R4 High Density Residential. The ESC result indicates the proposal achieves the minimum required environmental sustainability scores in energy, water and thermal comfort.	☒ Yes ☐ No



(b) energy demand reduction, including energy generation, use of renewable energy and reduced reliance on mains power, (c) indoor environmental quality, including daylight provision, glare control, cross ventilation and thermal comfort, (d) the minimisation of surfaces that absorb and retain heat and the use of surfaces that reflect heat where possible, (e) a reduction in new materials consumption and use of sustainable materials, including recycled content in concrete, sustainable timber 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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Provisions of any Proposed Instrument

Section 4.15 (1) (a) (i) - Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There is no proposed instrument that is or has been the subject of public consultation under this Act which is relevant to the proposal.

Provisions of any Development Control Plan

Section 4.15 (1) (a) (iii) The provisions of any development control plan

The proposed development is subject to the provisions of the Georges River Development Control Plan 2021. The following comments are made with respect to the proposal considering the objectives and controls contained within the DCP.

Georges River Development Control Plan 2021

The following GRDCP 2021 controls are applicable to the development and the following clauses apply:

View Impacts		
3.8 View Impacts		
Control	Proposal	Compliance



1. The development shall provide for the reasonable sharing of views. <u>Note:</u> Where a proposal is likely to adversely affect views from either private or public land, assessment of applications will refer to the Planning Principle established by the Land and Environment Court in Tenacity Consulting vs Warringah Council (2004) NSWLEC140.	The proposal allows for the reasonable sharing of views.	☒ Yes ☐ No
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Waste Management

3.12 Waste Management

Control	Proposal	Compliance
1. Development must comply with Council's Waste Management requirements regarding construction waste and ongoing management of waste materials (per Appendix 4 of the GRDCP).	The proposal complies with Appendix 4 of the GRDCP and therefore complies with the controls of this section.	☒ Yes ☐ No

Utilities

3.14 Utilities

Control	Proposal	Compliance
2. Any services and structures required by the providers should be located within the basement, or concealed within the facade, with appropriate access. Where this is not possible, an alternative method of minimising street impact should be demonstrated, such as screening with landscape or built elements.	The following noise generators are identified: - Gas hot water plant - Lift motor room The noise generators are placed away from and acoustically treated. Standard conditions to be imposed to limit noise generation.	☐ Yes ☒ No
3. With the exception of dwelling houses, all buildings should accommodate proposed or future air conditioning units within the basement or on rooftops, with provision of associated vertical/ horizontal stacks to all sections of the building.	The proposed development fails to comply with GRDCP 2021 regarding noise generators being noise generators such as plant and machinery including air conditioning units and pool pumps are located away from windows or other openings in habitable rooms; they are to be screened to reduce noise or acoustically treated. It is not unreasonable to conclude that the proposed development will incorporate air conditioning units. The air	



	conditioning units must be detailed on the architectural plans.	
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Universal / Accessible Design

3.17 Universal / Accessible Design

Control	Proposal	Compliance
3. Accessways for pedestrians and vehicles to be separated	Accessways for pedestrian and vehicles is separate.	☒ Yes ☐ No

Fences and Walls

6.4.1 Fences and Walls

Control	Proposal	Compliance
1. Fence heights are to be limited to a maximum of: i. 900mm for solid masonry. ii. 1.2m for open or partially transparent styles such as picket or palisade.	The proposal has the following numeric controls: Front fence height (solid) – 2.3m Front fence height (open-form) – 1.6m The proposed re-alignment of the posts of the front fencing is proposed over the front boundary. The re-alignment of the post must be solely contained within the subject site.	☐ Yes ☒ No
2. Preferred materials for fencing are masonry, stone, ornate timber, or ornate metal.		
3. For sloping streets, fences and walls must be stepped to comply with the required maximum fence height.		
4. Where noise attenuation or protection of amenity requires a higher fence, front fences may be permitted to a maximum 1.8m and must be setback a minimum of 1m from the boundary to allow landscape screening to be provided. Landscape species chosen should be designed to screen the fence without impeding pedestrian movements along the roadway. Front fences and landscape screening must not compromise vehicular movement sightlines.		
5. Fencing (and landscape screening) is to be located to ensure sightlines between pedestrians and vehicles exiting the site are not obscured. Gates are not to open over the public roadway or footpath.		



Site Isolation and Amalgamation

The proposal will result in isolation of No.6 Queens Avenue west of the subject site. No. 6 Queens Avenue has a site area of around 481sqm with 16.81m street frontage. This site does not meet the minimum site area requirement for high density development in R4 zone of 1,000m² with a minimum 24m lot width in Clause 6.3.1 of GRDCP. Nor does the site meet the minimum site area required for medium density development of 800m² in R4 Zone in Clause 4.1B of GRLEP.

The proposal must consider amalgamating with No.6 Queens Avenue.

The following was requested of the Applicant in the request to withdraw letter of any future proposal:

1. Firstly, is amalgamation of the sites feasible? (the First Test); and
2. Secondly, can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible? (the Second Test).

The First Test goes to the question of whether an adjacent site can reasonably be purchased, for the purposes of lot amalgamation. It further details that:

- negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application; and
- where no satisfactory result is achieved from the negotiations, the development application should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property; and
- A reasonable offer...is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.

The First Test assists in understanding how to approach and document the negotiations to acquire an adjacent site. The Second Limb instead goes to the question of whether an adjacent site will be isolated at all, by assessing what uses it may be put to, or what built form outcomes might be achieved, if it is not amalgamated with the subject site. The Second Test requires the following consideration:

- whether both sites can achieve a development that is consistent with the planning controls...will both sites be able to achieve a development of appropriate urban form and with acceptable level of amenity? And
- To assist in this assessment, an envelope for the isolated site may be prepared which indicates height, setbacks, resultant site coverage (both building and basement). This should be schematic but of sufficient detail to understand the relationship between the subject application and the isolated site and the likely impacts the developments will have on each other, particularly solar access and privacy impacts for residential development and the traffic impacts of separate driveways if the development is on a main road.

Any Planning Agreement Under Section 7.4

Section 4.15 (1) (a) (iia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

There is no planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter under section 7.4 applicable to the proposal.



The Regulations

Section 4.15 (1) (a) (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

There are no regulations (to the extent that they prescribe matters for the purposes of this paragraph) applicable to the proposal.

The Likely Impacts of the Development

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

Likely Impacts of the Development	
Natural Environment	The development is located within an established residential area and is not considered to result in unreasonable impact on the natural environment.
Built Environment	The proposed built form is fundamentally unsuitable for the site and fails to satisfy key planning measures. In particular, the non-compliant building height exceeds development controls and will result in unacceptable impacts on the heritage item and surrounding development. The submitted documentation reveals a concerning lack of consideration for recent surrounding developments, indicating that the proposal has not been adequately assessed within its evolving urban context. Most critically, the building's internal design will compromise the liveability of future residents through inadequate individual room sizes. These compounding design deficiencies collectively demonstrate that the proposed built form is inappropriate for the site and inconsistent with good planning practice.
Social Impact	Whilst the proposal would provide additional housing to the locality—a recognised benefit. The built impacts of the development do not outweigh the social impacts.
Economic Impact	The proposal is not considered to result in unreasonable economic impact

Site Suitability

Section 4.15 (c) the suitability of the site for the development

The site is zoned R4 High Density Residential. The proposal is not considered a suitable outcome for the subject site for the following reasons:

1. The proposed development has not demonstrated that it is suitable for the subject site.
2. The proposal fails to comply with multiple planning controls and represents an inappropriately designed development that is not suitable for the site.



3. The proposed development does not take into consideration site isolation and has not considered site amalgamation of an adjoining site.

Submissions

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 twenty-eight (28) days in which to view the plans and submit any comments on the proposal. 1 submission was received during the neighbour notification period.

The matters relevant to this application raised in the submissions are considered below:

Issue	Comment
Streetscape and out of character	A submission received raised concern that the architectural design is out of character. The built form has been reviewed regarding the built form and has established the built form fails to adequately respond to the surrounding area and existing built form on the site that is to be retained.
Traffic and parking	Concern was raised relating to parking within the locality due to limited opportunity for on street parking. This matter is a relevant concern however, the proposed development is compliant with the required vehicle parking on site and in accordance with GRDCP 2021 car parking controls.
Waste Management	The proposed development has been designed to incorporate appropriate waste management measures that align with Council's Waste Management Guidelines and relevant environmental standards.
Construction Management	A submission received raised concerns regarding the construction management during the construction of the proposed works. A construction management plan has been submitted as part of the documents supplied to Council for assessment of the proposed development. If the application were of a supportive nature, then a condition of consent would be applied to ensure the approved development is constructed in accordance with the approved construction management plan.



The Public Interest

Section 4.15 (e) the public interest.

The proposal is not considered to be in the public interest for the following reasons:

1. The proposed development has not demonstrated that it is suitable for the subject site.
2. The proposal fails to comply with multiple planning controls and represents an inappropriately designed development that is not suitable for the site.
3. The proposal development fails to respect and enhance the heritage listed item on the site via the proposed design.

Referrals

Internal Referrals		
Specialist	Comment	Outcome
Development Engineer	The officer has considered the following planning provisions: - Clause 5.21 of GRLEP 2021 - Clause 6.3 of GRLEP 2021 - Clause 6.9 of GRLEP 2021 - Part 3.10 of GRDCP 2021 - Georges River Stormwater Management Policy No objections raised to the proposal and conditions recommended.	Conditions imposed as recommended if the application were of a supportive nature.
Landscape Officer	The officer has considered the following planning provisions: - SEPP (Biodiversity Conservation) 2021 - Part 3.2 of GRDCP 2021 - Part 3.3 of GRDCP 2021 - Georges River Tree Management Policy 2024 No objections raised to the proposal and conditions recommended.	Conditions imposed as recommended if the application were of a supportive nature.
Urban Design	The officer has considered the following planning provisions: - Clause 6.10 of GRLEP 2021 - Part 5 of GRDCP 2021	Failure to achieve compliance with this matter forms part of the reasons to refuse this application.
The following objections were raised: 1.0 Minimum Lot Size and Land Use Zoning Pursuant to Clause 69 of SEPP (Housing) 2021: (1) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority is satisfied that— (b) the minimum lot size for the co-living housing is not less than—		



- (i) for development on land in Zone R2 Low Density Residential—600m², or
 (ii) for development on other land—800m², and

A Clause 4.6 variation request to co-living housing minimum lot size has been submitted. However, although the subject site is zoned R4, the site area of around 626m² is a significant variation to the minimum 800m² lot size required for co-living under Clause 69 of SEPP (Housing). In addition, given the urban design issues discussed in the following sections, it is considered that the proposal is an over development of the site. Hence, the proposal should not be supported.

2.0 Topography

The existing heritage listed garden within the rear setback has a gentle slope and slopes down from the western corner to the eastern corner with a cross fall of around 600mm. The FFL of the existing house is at RL 31.09.

The proposed ground floor FFL at 29.75 is relative to the existing natural ground. However, the communal open space (landscape area) within the rear setback has a level difference of 0.45m from the indoor communal area.

Following concerns are raised and still remain:

- The 0.45m difference between the FFL and the soft landscaping within the rear setback makes it inaccessible as the only access is via steps in the western corner
- The encroachment on the majority of the existing open space diminishes the low density setting and open character provided to the heritage item

3.0 Setbacks / Building Separation

Pursuant to Clause 69 of SEPP (Housing):

(2) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority considers whether—

- (a) *the front, side and rear setbacks for the co-living housing are not less than—*
- (ii) *for development on land in Zone R4 High Density Residential—the minimum setback requirements for residential flat buildings under a relevant planning instrument, and*
- (b) *if the co-living housing has at least 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide,*
- (f) *the design of the building will be compatible with—*
- (i) *the desirable elements of the character of the local area, or*
- (ii) *for precincts undergoing transition—the desired future character of the precinct.*

3.1 Building Setbacks / Separation

ADG visual privacy Objective 3F-1 prescribes the following setbacks from the boundary:

Building height	Habitable rooms and balconies	Non-habitable rooms
up to 12m (4 storeys)	6m	3m
up to 25m (5-8 storeys)	9m	4.5m



While Part 6.3.3 of GRDCP prescribes the following minimum setbacks:

- 0-4 Storeys – 6m side and rear boundary's; 5m front setback
- 5-9 Storeys – 9m side and rear boundary's; 8m front setback
- Driveway - 1.5m from side boundary (GRDCP Part 6.3.4 (3))

The existing dwelling is retained including the side setbacks. The proposed 5 storey addition located to the rear/SE of the existing dwelling provides the following setbacks:

	Ground	2 - 4 Storey (Level 1-3)	5 Storey (Level 4) Mansard Style roof
Side (NE)	0.325m – ramp and fire pump room 3.0m - building	3.0m to building	3.0m – 3.5m TBC
Side (SW)	0m -0.5m – ramp 0.5m – Car lift 2.5m – Motor room 3.05m – Service Stairs	3.0m	3.0 - 3.5m TBC
Rear (SE)	5.0m – 5.4m (excluding projecting windows)	5.0m – 5.4m (excluding window projection)	Terrace 5.0m – 5.4m
Front (NW)	1.5m to the existing dwelling		

- There is a non-compliance with the rear setback requirement.
- The driveway does not comply with the 1.5m side setback required
- The ramp along the entire NE boundary compromised opportunity for deep soil
- Terrace on 5th storey will be enclosed by Pergola screen of the entire SE façade and roof comprising amenity
- Impact on direct sunlight access (Refer Section 5.3 below) and internal amenity, especially considering GRLEP cl.610 – Design Excellence
- On the 5th storey (Level 4), setback from the SW boundary is proposed to be increased by 0.5m reducing the width of the service stairs. Sections through the service stairs have not been provided. Concern is raised that the service stairs may not achieve clear headroom.

Hence, the proposal is not supported.

In addition, around 2.4m high (except 5 storey) glass block walls are proposed to the habitable rooms on the NE and SW facades, while the SE façade has bedroom windows (2.4m high). Although, the glass block walls may obscure visual privacy, natural cross ventilation will be an issue. Majority of the rooms will have no access to natural cross ventilation. This is inconsistent with GELRP cl. 6.10 – Design Excellence.

In addition, it should be noted that building separation is not just about visual privacy. Building separation should contribute towards the urban form and skyline especially given the objective under Clause 6.10 Design Excellence, which is to deliver highest standard of sustainable architecture and urban design. The proposal also fails to achieve the future desired character as established for Kogarah South Locality under Part 5.15 of GRDCP includes:

- *Retain and enhance the existing low density suburban residential character through articulated contemporary developments that respond to the human scale.*



The 5 storey “box-like” built form with either non-compliant or minimum required setbacks and is inconsistent with low density suburban character. The sides elevations lack articulation, while there is minimum articulation of the front and rear elevations.

Appropriate building separation will allow for windows to be incorporated to provide amenity, incorporate meaningful deep soil, enhance a sense of openness and preserve visual scale.

3.2 Basement Setbacks

Under ADG Objective 3E-1, the design solutions include:

- *basement and sub-basement car park design that is consolidated beneath building footprints*
- *use of increased front and side setbacks*

Clause 69 (2)(f) of SEPP (Housing) 2021 includes:

(2) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority considers whether—
(f) the design of the building will be compatible with—
(i) the desirable elements of the character of the local area, or
(ii) for precincts undergoing transition—the desired future character of the precinct.

To maintain the low-density character as stated under Section 3.1 above, Part 6.3.4 of GRDCP requires basements to be located within the building footprint or a minimum 6m front and rear setbacks and 3m side setbacks to provide opportunity for deep soil.

The proposed setbacks are as follows:

- Side (NE) - 1.5m
- Side (SW) - 0.4m
- Rear (SE) - 1.5m – 3.5m

There is a significant variation to the required basement setbacks, which has resulted in inconsequential deep soil areas, which are unlikely to support growth of mature trees (Refer to Section 5.0 below for comments on Landscaping/ Deep Soil). Given the heritage significance of the house and garden, deep soil in this instance is significant as it will improve the landscape setting and enhance the heritage value of the existing dwelling.

The non-compliant basement setbacks are not supported.

3.3 Streetscape and Building Services

The existing public / private interface treatment includes an aluminium fence (pool type) which provides transparency and allows view of the building façade including the projecting bay window, the front door and verandah. The front setback is clear of any encroachments.

In contrast, the proposal includes a fire hydrant booster assembly, cold water meter and RPTZ assembly, gas regulator and cold-water pump set, which dominate the public / private interface and disrupt the streetscape.

Details on the fire hydrant booster and gas regulator (accurate dimensions, landscape treatment, materiality) has not been provided. No provision is made for a substation (if required) and letter boxes.

The proposed public / private interface treatment is considered undesirable. **It is recommended** that details of all building services, including landscape treatment, materiality and accurate dimensions should be provided. All building services should be located to minimise impact on the



streetscape and where possible in the basement. A letter from Ausgrid confirming that a substation is not required should be provided.

4.0 Transition and Heritage Item

GRLEP cl. 5.10 – Heritage includes the following objectives:

- (1) *(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views*

GRDCP Objective under Part 3.7.2, includes: *f) Allow changes to the rear of heritage items where the new work does not impact the heritage significance of the item.*

Following is prescribed to achieve the GRDCP objective.

3. New work is to be consistent with the setback, massing, form and scale of the significant features of the heritage item.

It is considered that the bulk and scale of the proposal is overwhelming and fails to achieve appropriate transition in scale down to the single storey heritage item and mitigate the impacts of the proposal. Refer to Section 6.0 below for comments on façade treatment and bulk and scale.

The proposal is not consistent with the GRLEP and GRDCP objectives especially since the massing, form and scale are not sympathetic to the building envelope of the heritage item. It also fails to maintain the landscape curtilage around the heritage item. Hence, the proposal is not supported. Please refer to comment from Council's heritage officer.

5.0 Amenity

5.1 Communal Open Space

Clause 68 (2) of SEPP (Housing) prescribed following non-discretionary development standards:

- (d) communal open spaces—
 (i) with a total area of at least 20% of the site area, and
 (ii) each with minimum dimensions of 3m,

ADG requires communal open space (COS) to be consolidated into well designed, easily identified and usable area.

Calculations provided (Refer Drawing DA027) includes space within the front setback including deep soil and circulation space. The calculations also include managers office and laundry. The COS within the rear setback is at different levels and not considered consolidated with minimum 3m dimensions.

This is inaccurate. Accurate calculations should be provided to ascertain the compliance of the proposed with the required COS.

5.2 Landscaping

Clause 68 (2) of SEPP (Housing) prescribed following non-discretionary development standards:

- (g) *for development on land in Zone R4 High Density Residential—the minimum landscaping requirements for residential flat buildings under a relevant planning instrument*

Clause 6.12 of GRLEP is not applicable to RFB's. Accordingly, deep soil requirements under ADG Objective 3E – 1 are applicable to the proposal, which requires minimum 7% of the site area as deep soil with minimum 3m dimensions.



ADG Deep soil definition: Deep soil zones are areas of soil not covered by buildings or structures within a development. They exclude basement car parks, services, swimming pools, tennis courts and impervious surfaces including car parks, driveways and roof areas.

Accordingly, the proposal required a minimum 43.82m² deep soil (landscaped area) with minimum 3m dimension. Drawing DA027 has established that around 140m² is provided. However, it includes paved area and areas less than 3m in dimensions. This is incorrect.

It is likely that the proposal does not comply with the deep soil requirement, hence not supported.

5.3 Solar Access

Clause 69 (2) of SEPP (Housing) prescribed following:

(c) at least 3 hours of direct solar access will be provided between 9am and 3pm at mid-winter in at least 1 communal living area,

To maximise the benefits to residents of direct sunlight access, design guidance under ADG Objective 4A-1 recommends a minimum of 1m² measured at 1m above floor level to be achieved for at least 15 minutes.

The Solar access diagram (Drawing DA023) provided illustrate that there is a considerable reduction in direct sunlight between 11am to 12noon.

Detailed solar access diagrams should be provided to ascertain the compliance with direct sunlight requirement. The future development in the surrounding will also have an impact on the direct sunlight access. Hence the need for appropriate building separation.

6.0 Architectural Expression and Bulk and Scale

In addition to the comments provided by Council's Heritage Architect, as stated before, given the lack of adequate side setbacks and massing composition especially on the side elevations, the proposal has resulted in a built form that is overwhelming and detracts from the significance of the heritage item. The bulk and scale are disproportionate to the form and design of the heritage item and the existing site area.

The lack of consideration to the existing heritage item has resulted in a development that is not visually compatible or complementary to the heritage significance of the existing dwelling. The 5-storey height without any massing composition adds to the building bulk when viewed from the sides. The articulation on the front and rear are considered inconsequential as they fail to minimise the building bulk or enhance amenity.

Concern is raised on the amenity of the rooms on the 5th storey contained within the mansard style roof and the feasibility of the service stairs.

It is recommended that the design should be amended to provide a complementary response which respects the form, scale of the existing heritage item. Any contemporary response may not necessarily seek to replicate heritage details or character of the heritage building but must preserve heritage significance and integrity with complementary and respectful building form, proportions, scale, style, materials, colours and finishes.

The proposal should include massing composition to minimise bulk and scale and create interest. The proposal should present as an integrated part of the heritage building.

Conclusion



The proposal is considered an overdevelopment of the site resulting in significant urban design issues. The proposal is not supported in its current form. The proposal will require considerable amendments for it to be supportable from an urban design perspective.		
Land Information (GIS)	No objections raised to the proposal and conditions recommended.	Conditions imposed as recommended if the application were of a supportive nature.
Heritage Officer	The officer has considered the following planning provisions: - Clause 5.10 of GRLEP 2021 - Part 3.7 of GRDCP 2021	Failure to achieve compliance with this matter forms part of the reasons to refuse this application.
The following objections were raised: - The proposed development involves partial demolition of the exiting heritage-listed building, internal alterations, together with basement level excavation and construction of a 23-room co-living development with a new 5-storey building attaching to the rear of the existing heritage item. - It is recognised that the significance of the heritage item is imbued in its historical significance as an early example of residential development in the locality, with the existing building being a good example of the style and class. The site also has aesthetic significance for its visual prominence in the streetscape. Furthermore, the existing listing of the site records the significance as being 'house and garden'. It is important to recognise that the heritage listing is defined by the lot boundaries of the site and that the 'heritage item' is not merely limited to the bricks and mortar of the site, but also the setting in which the building is situated. Per the above, it is acknowledged that the present garden setting is minimalistic, yet the spatial qualities still contribute positively to the heritage item by protecting the open sky backdrop when viewing the heritage item from the primary vantage points in Queens Avenue. The spatial qualities of the open landscaped setting also protect to ensure that adjoining built forms do not visually dominate the existing heritage item. - Pre-DA advice was provided by Council in August 2024 concerning a similar development proposal for the site. A visual comparison between the architectural plans submitted with at the pre-DA stage, with those submitted as part of this DA, reveal that the proposed development is substantially the same in its overall quantum, scale, intensity and material impacts. Notably, the floor to ceiling levels have been compressed, such that the overall finished height of the building sits marginally lower than the original pre-DA proposal. - It was advised at the pre-DA stage that the proposed development was considered too ambitious for the site and did not demonstrate a sympathetic design response or relationship to the heritage item, resulting in adverse and unacceptable impacts to the heritage item. As the proposal remains substantially the same development as considered at the pre-DA stage, the previously raised heritage issues have not been satisfactorily resolved and the proposal remains an overdevelopment of the site that will adversely impact on the significance of the heritage item. - In particular: a. The internal changes to the existing dwelling will necessitate the removal of original and significant fabric which will result in the loss of significant and defining features, together with the ability to interpret the original room configuration. The removal of later non-original partition walls however is acceptable.		



b. The proposed demolition works will involve the removal of significant features and fabric at the rear of the dwelling and will have a deleterious and adverse impact. Original skillion wings that contribute to the narrative and understanding of the building's function and are original elements, must be retained and protected. Retention of such elements would also provide greater opportunity for separation between the original dwelling and any new additions in a pavilion style relationship.

c. While the proposed five-storey building adopts somewhat of a pavilion style attachment to the existing dwelling, the overall height, scale and volume of the additions will overwhelm and visually dominate the existing heritage item. It is acknowledged that the statutory planning controls applicable to the site do permit a higher yield of development, however any development must still be sympathetic to the scale of the heritage item and not overwhelm it.

d. The architectural form and expression of the five-storey building does not relate well to the heritage item. Specifically, the building does not incorporate design features that provide any meaningful relationship or integration to the dwelling. Instead, the building sits off-centre to the heritage item and there is no regard to the heritage item through the vertical or horizontal resolution of the design or arrangement of features or proportions. Consequently, this exacerbates the disjointed appearance and unacceptable visual impacts.

e. The minimalistic separation afforded between the existing dwelling and the proposed 5 storey addition is tokenistic and does not allow for any meaningful separation, such that the additions will abruptly terminate the perceived setting and backdrop to the heritage item, effectively hemming it in to be divorced of any curtilage or setting.

f. The overall footprint of the building will substantively cover the site area, effectively saturating the site with built-upon areas and having an adverse impact to the existing spatial qualities of the open landscaped curtilage, which provides for a protective buffer to adjoining built forms and future redevelopment on adjoining sites, so that development in the vicinity of the site does not overwhelm the heritage item.

g. The substantially reduced curtilage is exacerbated by the proposed circulation pathways and basement level driveway which will effectively remove the existing (albeit minimalistic) garden setting and replacing it with a dominating driveway and pathway.

h. The basement level driveway requires the removal in part and permanent modification of the front fence and rendered masonry piers, which are identified in the Applicant's HIS as having high significance. The Applicant's Schedule of Conservation Works also specifies that the entirety of the front fence is to be retained and protected. The fence would be further removed in part on the northern end to accommodate the required fire services infrastructure. Cumulatively, these changes will have an unacceptable impact to the integrity of the fence, will have an unacceptable visual impact on the streetscape character and appearance of the heritage item and will adversely impact on the significance of the heritage item as an overall ensemble.

i. Structural design documentation has been submitted relating to the engineering of the proposed basement level excavation, however a detailed structural assessment has not been undertaken of the existing heritage item to determine or demonstrate its structural integrity and tolerance to the substantial changes proposed, particularly around deep excavation within the zone of influence and what (if any) pre-emptive works would be required to ensure the protection of the heritage item during excavation works.



- The Applicant is proposing to undertake a series of conservation works to the heritage item citing that the retention of the heritage item is a fundamental element to the development proposal. Ordinarily, the undertaking of conservation works would contribute positively to the protection of the heritage item. However, in this instance, the benefits of such conservation works would be far outweighed by the negative impacts of the proposed development and as such, the proposed conservation works do not provide cogent justification in offsetting or mitigating the visual and physical impacts of the proposed development.
- It is recommended that the Applicant consider a less ambitious proposal that has a sympathetic design response to the heritage item. In this manner, there is potential for carefully designed two-storey additions at the rear of the existing dwelling with a pavilion style relationship and form. Basement level excavation would not be supported, nor any built forms that saturate the site and overwhelm the scale and visual prominence of the existing heritage item.
- The proposed development is not supported as it will have an unacceptable, adverse visual and physical impact on the heritage item. Therefore, the proposal does not satisfy the objectives and requirements of clause 5.10 of the Georges River LEP 2021 and does not demonstrate satisfactory consistency with the provisions of Part 3.7 of the Georges River DCP 2021.
- The heritage issues discussed above are considered fundamental to the development proposal and cannot easily be resolved by amended plans, additional information or by the imposition of conditions of consent.

Traffic Engineering	The officer has considered the following planning provisions: - Clause 6.9 of GRLEP 2021 - Part 3.13 of GRDCP 2021	Failure to achieve compliance with this matter forms part of the reasons to refuse this application.
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The following objections were raised:

On site carparking – provision

Carparking requirements for the proposed, 23 room, co-living development are assessed using rates contained in *SEPP(Housing) 2021 – Chapter 3 – Part 3 Co-living housing 68(2)(e)* which contains the following non-discretionary parking rate for this site in an accessible area less than 800m walking distance to the closest train station, Kogarah Train Station:

Rate: 0.2 spaces for each private room

The *SEPP(Housing) 2021* does not require provision be made on site for the parking of **visitor vehicles** nor is any proposed.

The number of required and proposed resident parking spaces is summarised as follows:

Number of parking Spaces REQUIRED (23 rooms)	Number of Parking Spaces PROPOSED	Compliant Yes/no
4.6(5)	5	See NOTE 1



NOTE 1: The provision of the minimum required 5 onsite car parking spaces can only be achieved with **the basement having non-compliant setbacks**.

GRDCP2021 – Part 6.3 - 6.3.4 - Controls 1.i and ii requires basements be either located within the footprint of the building or be a minimum 6m from front and rear boundaries and 3m from side boundaries to provide opportunity for deep soil.

The proposed basement setbacks are as follows:

- NE Side - 1.5m
- SW Side - 0.4m
- Rear (SE) - 1.5m – 3.5m

Onsite Carparking – basement layout and design

The layout and design of the basement carpark for the 4 standard and 1 accessible parking spaces satisfies the requirements of *AS/NZS2890.1:2004 Parking Facilities, Part 1 – off street carparking* with regard to space lengths and widths; aisle width; blind aisle extensions; vehicle door opening envelopes adjacent to walls; shared zone and clearance heights.

On site bicycle and motorcycle parking - provision

In relation to the provision of bicycle and motorcycle parking, *SEPP(Housing)2021- Chapter 3 - Part 3 Co-living housing – 69(h)* states the following:

69(h) the co-living housing will include adequate bicycle and motorcycle parking spaces

As no specific parking rates are contained in the SEPP, application of parking rates contained in *GRDCP2021 Part 3 - 3.13 -Table 1* for the resident only component of a residential flat building comprising 23 dwellings revealed the following:

Component	GRDCP2021	Proposed
Bicycle Parking	7.6(8) (1 space per 3 dwellings)	8
Motorcycle Parking	Not required	2

Comment:

The applicant's proposal to provide parking for a total of 8 bicycles and 2 motorcycles in the basement is considered "adequate".

Onsite bicycle and motorcycle parking – layout and design

The layout and design of facilities for the parking of bicycles satisfies/can be conditioned to satisfy the requirements of *AS/NZS2890.3:2015 Parking Facilities, Part 3 – bicycle parking*. Facilities for the parking of 2 motorcycles are satisfactory.

Vehicle access – ramp design and gradients

Vehicle access to and from the basement car park is proposed via a single vehicle width crossing on Queens Road and a single vehicle width ramp/driveway within the site adjacent to the southern boundary.

Access to and from the basement is to be achieved via a car lift approximately 10m in from Queens Avenue.

A turntable is proposed in the basement in the vicinity of the car lift to make provision for vehicles to enter and exit the site in a forward direction as required.



Ramp/driveway design

The design of the ramp/driveway is **unsatisfactory and not supported** for the following reasons:

- (a) The driveway is proposed on a near zero setback to the southern boundary and is not setback the minimum 1.5m required in *GRDCP2021 Part 6.3 - 6.3.4 (3)*.
- (b) The design of the internal ramp/driveway from Queens Avenue to the car lift does not comply with the requirements of *GRDCP2021 Part 6 – 6.3.9 -Control 3* which states:

3. The design of the vehicular access should prevent vehicles queueing across footpaths and onto the public road. Vehicles should be accommodated wholly within the site before being required to stop.

A proposed driveway width of 4.3m for the first 5.5m in from Queens Avenue does not provide a suitable area for the concurrent passing of 2 x B85 Australian Standard Design Vehicles that satisfies the requirements of *Control 3*.

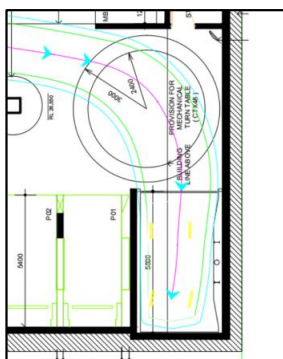
The design of the driveway from Queens Avenue to the car lift has dimensions that cater for single vehicle operation only and as a result, the vehicle passing bay will need to have a minimum width of 5.5m over the same length to make provision for a vehicle to come to a stop and wait inside the site while another exits.

Without an adequate passing bay and with vehicles exiting the basement car park via a car lift, the driver of a vehicle after entering the site will need to reverse out of the site and wait on the busy Queens Avenue roadway should another vehicle be exiting the site.

Vehicles reversing from the site to Queens Avenue is unacceptable and contrary to the requirements of *GRDCP2021*.

A vehicle passing bay of width 5.5m cannot be provided without demolishing part of the existing southern wall of the heritage listed dwelling.

- (c) Appendix "B" of the *Traffic and Parking Impact Assessment* prepared by Hemanote Consultants at page 48 shows the B85 Australian Standard Design Vehicle has a less than required clearance of 300mm to what is understood to be a part of the car lift on its northern/left side. The outer blue coloured line in the following image extracted from the above document is the 300mm clearance of the body of the design vehicle to an obstruction:

**Ramp/driveway gradients**

"*Driveway Longitudinal Section Plan*" drawing numbers HC999/2425-1 and HC999/2425-2 dated 21 May 2025 prepared by Hemanote Consultants are considered show vehicle access can be achieved with gradients that satisfy the requirements of Council and *AS/NZS2890.1:2004 Parking Facilities, Part 1 – off street car parking*.



Final design levels for the vehicle crossing will be determined by officers in Council's Assets and Infrastructure Directorate.

Traffic generation

No objections are raised to the assessment carried out by Hemanote Consultants of likely traffic movements generated by the proposed development. The consultant used industry standard documentation and methodologies when assessing traffic generation.

Traffic movements generated by the proposed development in the A.M. and P.M. peak periods are assessed as follows:

A.M. Peak: **7** vehicle trips per hour in and out

P.M. Peak: **8** vehicle trips per hour in and out

The nett increase in vehicle trips per hour when taking into consideration vehicle trips per hour associated with the existing dwelling will not negatively impact on traffic movements on Queens Avenue or at intersections close to or removed from the site.

Recommendation

It is recommended the application not be supported as proposed having regard to it being unsatisfactory on traffic and parking grounds as follows:

1. The proposed driveway with a zero setback to the southern boundary does not satisfy the minimum required boundary setback of 1.5m in GRDCP2021 Part 6 – 6.3.4(3).
2. The provision of the minimum required five (5) car parking spaces in the basement can only be achieved with basement setbacks that are significantly reduced from those required in GRDCP2021 Part 6 - 6.3 - 6.3.4 – Controls - 1.
3. The design of the driveway at Queens Avenue does not provide a vehicle passing bay area of suitable dimensions that provides for the concurrent passing of two (2) B85 Australian Standard Design Vehicles within the site which is contrary to the requirements of GRDCP2021 Part 6.3 - 6.3.9 - Control 3.
4. The design of the basement carpark with car lift does not provide for the 300mm minimum clearance of the B85 Australian Standard Design Vehicle to the northern side of the car lift frame when the vehicle is exiting the carpark.

Conclusion

The application is unsatisfactory on traffic and parking grounds and not supported as proposed.

Waste Management Officer	The officer has considered the following planning provisions: - GRDCP2021 - Council website – waste management planning - Council waste collection service specifications - NSW EPA Better Practice Guide for Resource Recovery in Residential Developments	Conditions imposed as recommended if the application were of a supportive nature.
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External Referrals



Referral Body	Comment	Outcome
Ausgrid	The referral body has considered the following planning provisions: - Clause 2.48 of SEPP (Transport and Infrastructure) 2021 No objections raised to the proposal and conditions recommended.	Conditions imposed as recommended if the application were of a supportive nature.
Sydney Airport	The referral body is to consider the following planning provisions: - Georges River Local Environmental Plan 2021 - Development above 15m in LGA and any development which would impact on a controlled activity under Airports Act 1996	No referral comments received at the time of writing this assessment report.
NSW Ambulance	The referral body is to consider the following planning provisions: - To consider the potential impact of development in the vicinity of Strategic Helicopter Landing Sites (e.g. St George Public Hospital).	No referral comments received at the time of writing this assessment report.

Contributions

The development is subject to Section 7.11/7.12 Contributions. A condition of consent requiring payment of the contribution and identifying it is subject to indexation in accordance with the plan would be imposed should this application be recommended for approval.

Conclusion

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 application is not considered suitable with regards to the matters listed in Section 4.15 of the Environmental Planning and Assessment Act 1979 for the reasons as follows:

Reasons

- The proposal fails to comply with the maximum height of building development standard.
- The proposal fails to provide a built form that appropriately responds to the heritage item and transition of built form within the streetscape.
- The proposal fails to have an adequate site area to facilitate the proposed built form of a co-living housing.



- The setbacks, communal living area and individual rooms of the co living are not in accordance with the minimum standards under SEPP Housing 2021 which result in an overdevelopment of the site.
- Inadequate vehicular access has been provided to facilitate the proposed car, bike and motor bike parking on site.
- The proposal is not considered to be suitable for the site given adverse impacts arising.

Recommendation

Refusal of Application

Pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 (as amended), the delegated officer recommends DA2025/0266 for construction and use of co-living housing on Lot B in DP 384976 on land known as 4 Queens Avenue, Kogarah, should not be approved subject to the refusal reasons referenced in this assessment report.

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the provisions of State Environmental Planning Policy (Housing) 2021 with specific reference to the following development controls within Chapter 3 – Part 3 Co-Living Housing.
 - o Clause 68, (d) communal open spaces— (i) with a total area of at least 20% of the site area, 20% of the site area = 125.2sqm and (ii) each with minimum dimensions of 3m.
 - o Clause 69, (1)(a) each private room has a floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, that is not more than 25sqm and not less than— (i) for a private room intended to be used by a single occupant— 12sqm, or (ii) otherwise—16sqm.
 - o Clause 69, (1)(b) the minimum lot size for the co-living housing is not less than—(ii) for development on other land—800sqm.
 - o Clause 69, (2)(a) the front, side and rear setbacks for the co-living housing are not less than— (ii) for development on land in Zone R4 High Density Residential—the minimum setback requirements for residential flat buildings under a relevant planning instrument.
 - o Clause 69, (2)(b) if the co-living housing has at least 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide.
 - o Clause 69, (2)(c) at least 3 hours of direct solar access will be provided between 9am and 3pm at mid-winter in at least 1 communal living area.
 - o Clause 69, (2)(f) the design of the building will be compatible with—
 - (i) the desirable elements of the character of the local area, or (ii) for precincts undergoing transition—the desired future character of the precinct.
2. 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:
 - o Clause 4.3 – Height of Building. The proposed development fails to comply with the maximum 15m height of building development standard.
 - o Clause 5.10 – Heritage Conservation. - The proposed development is not supported as it will have an unacceptable, adverse visual and physical impact on the heritage item.
 - o Clause 6.9 – Essential Services. Development consent cannot be granted unless essential services, in particular suitable vehicular access have been made available.
 - o Clause 6.10 – Design Excellence. The lack of consideration to the existing heritage item has resulted in a development that is not visually compatible or complementary to the



heritage significance of the existing dwelling. The 5-storey height without any massing composition adds to the building bulk when viewed from the sides. The articulation on the front and rear are considered inconsequential as they fail to minimise the building bulk or enhance amenity.

3. 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 and development controls of the Georges River Development Control Plan 2021:
 - o Part 3.14 – Utilities. The proposed development fails to illustrate on the architectural plans noise generating machinery i.e. air conditioning units.
 - o Part 5.15 – Kogarah South Locality Statement. The proposal is not consistent with the existing and future desired character of Kogarah South.
 - o Part 6.4.1 – Fencing and wall. The proposed re-alignment of the posts of the front fencing is proposed over the front boundary. The re-alignment of the post must be solely contained within the subject site.
4. 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 built and social environment:
 - (a) The proposal fails to demonstrate adequate vehicular access and surrounding built form to facilitate access.
 - (b) The proposal fails to comply with multiple planning controls and represents an inappropriately designed development that is not suitable for the site.
 - (c) It is considered that the bulk and scale of the proposal is overwhelming and fails to achieve appropriate transition in scale down to the single storey heritage item and mitigate the impacts of the proposal.
5. 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 or its locality and is likely to set an undesirable precedent.
6. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development in its current form is not considered to be in the public interest.



REPORT TO GEORGES RIVER LOCAL PLANNING PANEL MEETING OF THURSDAY, 23 OCTOBER 2025

LPP033-25 34 BEACH STREET, BLAKEHURST

LPP033-25

LPP Report No	LPP033-25	Development Application No	DA2024/0460
Site Address & Ward Locality	34 Beach Street, Blakehurst Blakehurst Ward		
Proposed Development	Use of works as constructed, rectification works and works to complete the dwelling		
Owners	Ahmad El Saadi		
Applicant	Chapman Planning Pty Ltd		
Planner/Architect	Chapman Planning Pty Ltd and Finesse Design Group		
Date Of Lodgement	28/10/2024		
Submissions	One (1) submission. Notified 28/10/2024-21/11/2024		
Cost of Works	\$1,523,835.64 inc. GST		
Local Planning Panel Criteria	Development Standard Variation Greater than 10% for both Building Height and FSR		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Georges River Local Environmental Plan 2021, Georges River Development Control Plan 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021		
List all documents submitted with this report for the Panel's consideration	Architectural Plans, Landscape Plan, Statement of Environmental Effects, BASIX Certificate, Clause 4.6 Variation Request re Height of Building Variation, Survey Plan, Stormwater Plans including Erosion and Sediment Control and OSD, Cost Summary Report, Driveway and Parking Assessment, Geotechnical Report, Preliminary Site Investigation Report, Schedule of Materials and Finishes, Shadow Diagrams, As Built Plans, Waste Management Plan, Public Submission – One (1).		
Report prepared by	Principal Planner		

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

SITE PLAN



Figure 1: Aerial view of the subject site and the surrounding properties (Source: Nearmap, 11 July 2025)

EXECUTIVE SUMMARY

PROPOSAL

1. This development application (DA) seeks consent for *'Use of works as constructed, rectification works and works to complete the dwelling'*. It has been assessed against the relevant provisions of State Environmental Planning Policies listed below, Georges River Environmental Plan 2021 (LEP) and Georges River Development Control Plan 2021 (DCP). The following is an assessment of the application with respect to Section 4.15(1) Evaluation of the *Environmental Planning and Assessment Act 1979*.
2. The subject development application does include numerical valuations under both the GRLEP 2021 and GRDCP 2021, and other non-compliances with GRLEP 2021. These are outlined below.
 - Clause 1.2(2)(f) Aims of the Plan: to promote a high standard of urban design and built form: is not met
 - Clause 2.3 Zone Objectives of the R2 Low Density Residential zone: is not met due to impacts on amenity and streetscape character and view loss
 - Clause 4.3 Height of Building: Proposal exceeds the maximum height of building by more than 10 per cent.
 - Clause 4.4 Floor Space Ratio: Proposal exceeds the FSR control of 0.464:1 by 34.5 per cent.
 - Clause 6.6 Foreshore Scenic Protection Area; and Clause 6.10 Design Excellence: objectives not met.
 - Clause 6.12 Landscaping in certain residential and conservation areas: Proposal does not meet the quality and treatment requirement outcomes within the control, noting it does exceed the development standard of 25 per cent landscaping provision of the net developable area.
 - GRDCP 2021 controls under Part 6.1.1 Low Density Residential as noted below; and Part 5 Blakehurst Locality Statement are not met.

The key issues include: the proposal does not comply with the floor space ratio development standard in the GRLEP 2021 and exceeds the ratio of 0.464:1 by 34.5 per cent; no clause 4.6 variation request has been submitted to seek a variation from the FSR development standard; the landscape plan does not provide sufficient detail to demonstrate compliance with the objectives under Clause 6.12 Landscaping in certain residential and conservation areas; the built form proposed is non-compliant with both the LEP and the DCP, as it has a building height with an exceedance of greater than 10 per cent, and presents a three-storey built form which is non-compliant, and is not in line with the character of the locality as it is boxy in shape, with bulk and scale and presentation to both the street and the Georges River which is excessively dominant and will have impacts in regard to streetscape and view corridors and view impacts from the public domain.

3. The application is referred to the Local Planning Panel for their review as the proposal exceeds the FSR development standard by 34.5 per cent (Clause 4.4) and the height of building standard by more than 10 per cent (Clause 4.3). The application for *"Use of works as constructed, rectification works and works to complete the dwelling"* is recommended for Refusal.

SITE AND LOCALITY

4. The site is located at Lot B DP 310289, also known as No. 34 Beach Street, Blakehurst. The site is irregular in shape, having a frontage to the street of 15.875m. At the rear of this waterfront lot, it has an access handle to access the foreshore, which is 47.175m long x 4.615m wide in dimensions. The site measures 15.875m in width, approximately 49.075m long at the southern side elevation and 94.795m at the northern side elevation (including the access handle to the foreshore). The total land size is 985.6sqm according to the deposited plan, with the access handle being 217.97sqm, and thus the net area under development is 767.63sqm.
5. The development site is located on the eastern side of Beach Street and has access to the Georges River along its frontage via its access handle. The site falls from the rear towards the river by approximately 6 metres from the street frontage to where the access handle meets the foreshore. The topography is mapped from RL 7.49-7.87 at the street frontage to RL 1.11-1.32 at the eastern boundary at the foreshore. The site is currently occupied by an existing partly built structure of brick construction, and a concrete structure which when completed under the proposal will provide for an in-ground swimming pool. There is minimal vegetation on site, and no canopy trees, with trees on adjoining property. Either side of the lot is the access handle to neighbouring lots which have their primary frontage to the foreshore.
6. The adjoining sites are developed with predominantly two-storey dwellings, including some with swimming pools and jetties and pontoon structures. The immediate vicinity consists of low-density housing varying in size and height, with recreational structures. The site is located within close proximity of the Princes Highway.

ZONING AND PERMISSIBILITY

7. The site is zoned R2 Low Density Residential under the provisions of the Georges River Local Environmental Plan (GRLEP) 2021. The proposal is for '*Use of works as constructed, rectification works and works to complete the dwelling*'. Simultaneously a BIC application has been lodged to address the unauthorised works. A dwelling house is a permissible use in the zone with development consent. The zone objectives are not met given the excessive bulk and scale, excessive height, FSR exceedance and insufficient landscaping treatment, and non-compliant side (southern) setback and non-compliant front setback for the garage which is required to be located behind the building line. All these factors give rise to various amenity impacts.
8. Floor Space Ratio: The site proposes an FSR of 0.464:1. The proposal seeks to exceed the FSR by 34.5%. No clause 4.6 variation request to address the breach from the control at Clause 4.4 Floor Space Ratio has been submitted to address the breach from the development standard. Due to the omission of a clause 4.6 variation request to address the exceedance to the FSR development standard as set out in Clause 4.4A of GRLEP 2021, the proposal on this basis is prohibited.
9. Height: The site has a maximum building height of 9m; the proposal exceeds this by more than 10 percent, being 10.32m. This height breach extends for 23m of the 26m length of the dwelling. A clause 4.6 variation request to address the breach from the control at Clause 4.3 Height of buildings has been submitted to address the breach of the development standard. The submitted clause 4.6 variation is incorrect and has failed to accurately reflect the true height variance across the entire building.

10. Landscaping Provision: The site requires a landscaping provision of 25 per cent of the net developable area on site under Clause 6.12 Landscaping in certain residential and conservation areas. Whilst the proposed landscaping provides for a compliant provision, it does not provide adequate detail in all areas on site, including in both the net developable area, and in the access handle to the foreshore area, and an amended landscape plan will be required. On this basis, the proposal in its current form does not meet the quality and treatment standard required under Clause 6.12.
11. Clause 6.2 Earthworks: the existing unauthorised built structure did not have regard to minimising cut and fill as required under this clause, which limits cut and fill to no more than 1m. Thus, the development is not designed to be stepped in line with the topography to accommodate the fall in the land, and excessive excavation has been undertaken, with the level of cut being up to 3m. As a result, a three-storey built form with non-compliant building height was proposed which does not comply with LEP or DCP controls.
12. Clause 6.10 Design Excellence: requires that proposals within the Foreshore Scenic Protection Area (FSPA) should provide the highest standard of sustainable architecture and urban design. The three-storey built form proposed would be highly visible from the Georges River, adds considerable additional bulk and scale to an existing structure, such that it would result in a non-compliant building due to the non-compliant side setback, height breach, and the FSR exceedance of 34.5 per cent, which would result in an overly dominant built form within the foreshore context. The development detrimentally impacts on view corridors and also impacts the views from the river, and the development does not meet Cl.6.10(5)(d)(iv) as the three-storey built form is exceedingly dominant and does not meet the objectives to “minimise the impact on the views and visual environment, including views to and from the Georges River, foreshore reserves, residential areas and public places”, as required by Cl.6.6(3)(f), at Clause 6.6 Foreshore Scenic Protection Area.

GEORGES RIVER DEVELOPMENT CONTROL PLAN (GRDCP) 2021

13. The proposal does not satisfy the provisions of the GRDCP 2021, as outlined below:
 - ☐ The side southern setback to the dwelling is non-compliant.
 - ☐ The front elevation of the dwelling does not comply with Part 6.1.2 of the DCP, given the proposed location of the garage forward of the building line and the proposed garage on the front elevation would be required to be setback back behind the front building face and entry way.
 - ☐ Dimensions are not clearly shown on the architectural plans.
 - ☐ Landscaping is non-compliant in terms of quality and treatment being limited to the front setback area, while the site is capable of meeting the minimum 25% landscaping provision required on the site.
 - ☐ The built form, and its materiality and finishes, and bulk and scale are not in accordance with the aims of the FSPA, and the Blakehurst Locality Statement.

SUBMISSIONS

14. The application was publicly notified to neighbours for a period of twenty-eight (28) days in accordance with the Georges River Development Control Plan 2021. In response, one (1) submission was received. It raised very general concerns which did not go to the specific attributes of the proposed development, stating the proposal ‘will ruin our beachside and infringe and disrupt our view and not allow our children the space to play on the beach front’. These issues are addressed at the end of this report.

REASON FOR REFERRAL TO THE LOCAL PLANNING PANEL

15. This application is referred to the Georges River Local Planning Panel for their review and determination as the proposal breaches the development standard in regard to both the building height and the FSR by over 10 per cent in both instances. The variation to the building height is a variation exceeding 10 per cent. A clause 4.6 variation request has been received to address this variation but has failed to adequately address the true height variation. The variation to the FSR control exceeds 34.5 per cent, and is not addressed in the SEE, and nor has a clause 4.6 variation request to address this variation been submitted.

CONCLUSION

16. The application has been assessed having regard to the Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Georges River Local Environmental Plan 2021 and Georges River Development Control Plan 2021.
17. Acknowledging the existing footprint of the built structure, which is retained at lower ground level., the proposed demolition work and the works to complete the dwelling at ground level and first floor level will result in non-compliances at both ground and first floor levels on the southern side elevation and at the uppermost rear elevation. The existing structure has side setbacks of 2.365m (as built) and 1.395m (as built). These side setbacks will be further reduced because of planters proposed to part of the structure on all elevations at first floor level. However, side setbacks of 1.5m are required within the FSPA in order to maintain view corridors. The front setback requirement is not met, as the building face of the dwelling is setback 5.1m, and insufficient details are provided of the adjoining dwellings to demonstrate that it is in alignment with these dwellings, and in addition the garage is setback forward of the front building line, rather than setback 1m behind the building line. Dwg A08 Proposed Setbacks by Finesse Design Group dated August 2024 shows that the setback of the front building line for the dwelling is 10.144m and for the garage is 7.742m.
18. The proposal has a built structure at the lower ground floor level which protrudes out of the ground by more than 1m and as such is not a basement but is rather a storey. A basement is defined as *the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1m above existing ground level*. The lower ground level contains several areas including a room which is 56m² in size marked as "inaccessible subfloor area" which has a floor to ceiling height of 2.7m. Council's Building section would require this room to be filled with concrete to a height of approximately 1.4m to provide a crawl space, such that it cannot be used for any habitable purpose. Insufficient information is provided on the lower ground floor level plans in regard to the uses of all of the rooms within this space, and whether or not habitable areas are proposed; the plan shows a plant room (14sqm), a storage room (65sqm), a bathroom (13.9sqm), an "inaccessible subfloor area" (56.2sqm), and a family games room which includes a kitchen (91.1sqm), and leads out to an alfresco area with BBQ, and is located adjacent to the existing pool structure (73sqm). At the present time the lower ground built form has a floor to ceiling height of 2.7m.

19. As a result of both the proposed ground floor plan and first floor plan combined with the existing lower ground level, a total GFA of 616.5m² is proposed equating to an FSR of 0.6255:1, this significantly exceeds that maximum FSR of 0.464:1 (458.18m²), being an exceedance of 34.5 per cent. Due to the omission of a clause 4.6 variation request to address the exceedance to the FSR development standard as set out in Clause 4.4A of GRLEP 2021, as required by section 35B of the EPA Regulation 2021, the proposal on this basis is prohibited. This has been noted above.
20. Due to the variations to height and FSR LEP development standards being greater than 10 per cent, the application is referred to the Local Planning Panel for determination. Having regard to the matters for consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* and the provisions of the relevant SEPPs, LEP and DCP and following a detailed assessment, the Development Application DA2024/0460 is recommended for Refusal for the reasons identified in this report.
21. The reasons for refusal of the application include:
 1. The proposal does not comply with Clause 2.120 of the SEPP (T&I), an acoustic report has not been submitted to assess the impact on the dwelling of traffic noise, Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*.
 2. The proposal fails to deliver built form that has a high standard or urban design being inconsistent with the Clause 1.2(2)(f) Aims of the Georges River Local Environmental Plan 2021, pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*.
 3. The proposal is inconsistent with the R2 Low Density Residential zone objectives under Clause 2.3 of the Georges River Local Environmental Plan 2021, pursuant to section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*.
 4. The proposed height of the dwelling fails to comply with the maximum height permitted under clause 4.3 of the Georges River Local Environmental Plan 2021, pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*.
 5. The proposed development has inaccurately calculated the floor space ratio, and it exceeds the maximum floor space ratio permitted under clause 4.4A of the Georges River Local Environmental Plan 2021, pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*.
 6. The development seeks to vary the height control and floor space ratio the submitted clause 4.6 variation report only relates to height and it fails to demonstrate that a height variation should be supported, pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*.

7. Without a clause 4.6 variation for the exceeded floor space ratio, the application cannot be determined in accordance with Clause 4.6(3) of the Georges River Local Environmental Plan 2021, pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
8. The proposed development will have unacceptable impacts within the foreshore scenic protection area and is inconsistent with Clause 6.6 of the Georges River Local Environmental Plan 2021, pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
9. The design of the dwelling does not achieve design excellence, being contrary to Clause 6.10 of the Georges River Local Environmental Plan 2021, pursuant to section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
10. The proposed landscaping fails to deliver adequate design to minimise visual impact and reduce bulk and scale within the foreshore scenic protection area, as required under clause 6.12 of the Georges River Local Environmental Plan 2021, pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
11. The proposed development fails to provide an arborist report and sufficient landscaping plans to determine how site will be landscaped with consideration of the foreshore scenic protection area to make an assessment in accordance with Section 3.2.1 of the Georges River Development Control Plan 2021, pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979.
12. The proposed development results in unacceptable bulk and scale and view impacts to Kogarah Bay being inconsistent with section 6.1.2.2 of the Georges River Development Control Plan 2021, pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979.
13. The proposed non-compliant southern side setback and garage forward of the building line results in an unacceptable variation to section 6.1.2.3 of the Georges River Development Control Plan 2021, pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979.
14. The proposed landscaping will not contribute to biodiversity and will not enhance the natural environment and foreshore having an adverse impact on the natural environment, pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979.
15. The development will result in unacceptable three-storey built form with excessive scale without adequate landscaping when viewed from adjoining properties and Kogarah Bay, will overlook adjoining properties, reduce view corridors along the site, relies on excessive cut and fill and has excessive glazing along the rear elevation. The built form is inconsistent from an urban design perspective, pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979.

16. The proposal, in its current form, is not considered to be suitable for the site, pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS

Attachment [↓1](#) Final LPP Report DA 2024/0460



Attachment [↓2](#) Redacted Architectural Plans



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LPP Assessment Report

DA2024/0460

LOT B/DP 310289

STREET ADDRESS

34 Beach Street BLAKEHURST

Acknowledgment of Country

Georges River Council acknowledges the Bidjigal people of the Eora Nation, who are the Traditional Custodians of all lands, waters and sky in the Georges River area. Council recognises Aboriginal and Torres Strait Islander peoples as an integral part of the Georges River community and values their social and cultural contributions. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples who live work and meet on these lands.

Report in Full

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

Proposal

1. The proposal seeks consent for 'Use of works as constructed, rectification works and works to complete the dwelling'.
2. The proposed development comprises of:

Existing Unauthorised Works:

Unauthorised Lower Ground Flo or Section and Pool-related Works as shown in the AS BUILT Basement set dated 14 August 2024, identified as "structure only" as the pool itself has not yet been built.

Building Information Certificate BIC No. 33196 was submitted on 21 October 2024 for the unauthorised works.

Proposed Works under this Development Application:

Lower Ground Floor Level:

- Demolition of minor section of interior wall
- Completion of swimming pool and surrounds
- Exterior Paved Alfresco with BBQ accessed from Family/Games Room
- Completion of interior of lower ground floor level including:
 - Family/Games Room of 91.1sqm
 - Kitchen
 - Bathroom and area outside of this area 13.9sqm
 - Plant room 14.8sqm
 - "Inaccessible subfloor area" 56.2sqm
 - Storage 65.6sqm
 - Lift shaft
 - Services
 - Stairs to Ground Level and circulation area
- Installation of various internal and external walls, doors and windows.

Ground floor

- Demolition of exterior and interior walls (workshop, laundry, WIP, kitchen, office, ensuite, balcony)
- Garage and workshop 53.9sqm
- Ground floor level of dwelling including courtyard which has a screened wall and is not landscaped area 188.1sqm
- Entry and spiral staircase near front entry to provide access to Level One
- Lift shaft
- Services
- Powder room and water closet (WC)
- Laundry
- Kitchen/dining/living



- Walk in pantry
- Balcony at rear with privacy screen
- Courtyard enclosed with privacy screen
- Stairs down to lower ground level

First Floor:

- Family room
- Void and spiral staircase
- Gallery
- Master bedroom (no door shown), with W.I.R., ensuite inclusive of WC, shower and double sink basins; and rear balcony
- Bedrooms 1, 2, 3 all with W.I.R.
- Linen cupboard
- Bathroom with bath, shower, double sinks (Note: no additional WC provided for bedrooms 1-3 and Family Room)
- Lift shaft
- Services
- Front balcony
- Rear balcony
- Planter structures attached to all elevations of the dwelling.

Figures 2 to 6 illustrate the proposal:



Figure 2: Proposed Front Elevation (West)

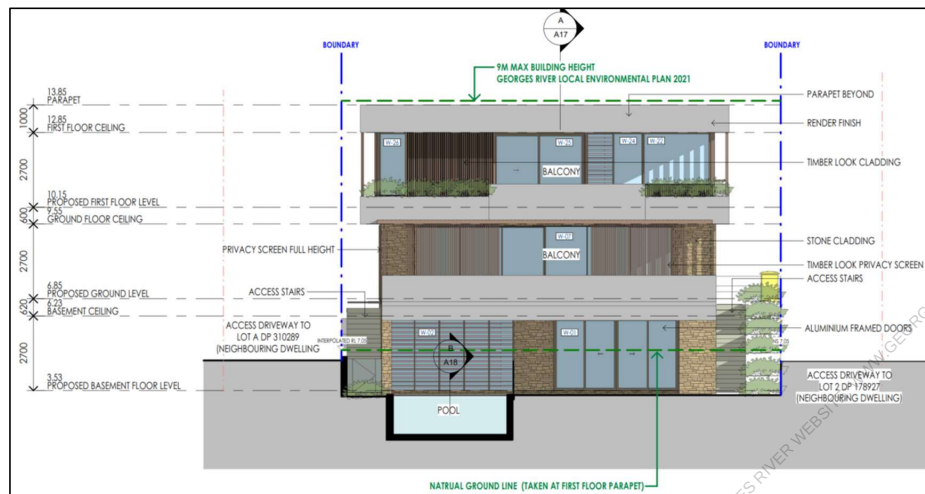


Figure 3: Proposed rear Elevation (East)



Figure 4: Proposed side Elevation (North)



Figure 5: Proposed side Elevation (South)



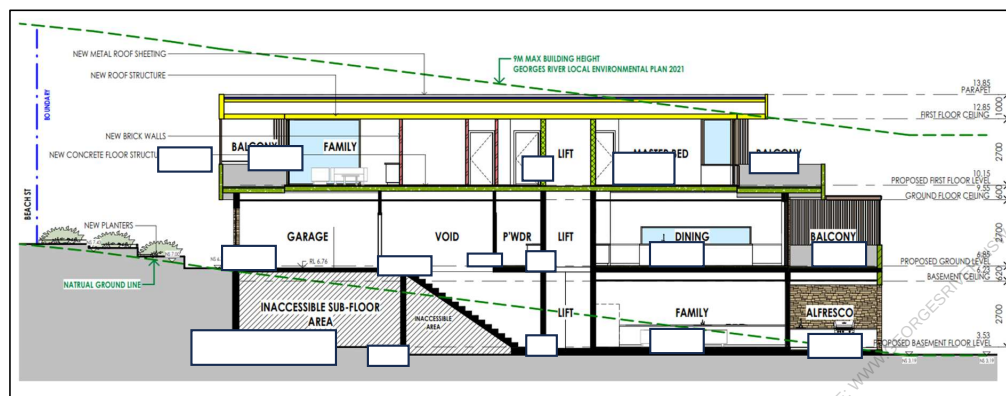


Figure 6: Section A – Proposed Dwelling

Background

3. Application History:

- On 27 June 2017, a Notice of Direction to provide pool fencing was issued under ON2019/0448 for Swimming Pool.
- 13 August 2020, approval for DA2020/0203 for alterations and additions to dwelling and pool.
- 3 October 2021 Stop work order issued under ON2021/0410.
- 10 October 2021 Order issued to demolish/remove all unauthorised works and back fill area excavated.
- 17 February 2022 149D2021/0045 Refusal issued for unauthorised works – change of footprint for basement.
- 15 November 2021 Refusal for MOD2021/0157 of DA2020/0203 for retrospective approval.
- 6 September 2022 DA2022/0097 for use of dwelling and additional works to a new dwelling (retrospective) Returned.
- 8 September 2022 ON2022/0537 issued to demolish/remove all unauthorised works and back fill area excavated.
- 17 October 2022 DA2022/0446 for retrospective approval of unauthorised excavation and construction within the basement and construction of a cabana. Returned for retrospective approval not possible as works already occurred.
- 18 September 2024 DA2024/0431 for alterations and additions to dwelling. Returned for erosion and sediment control plan and driveway information.
- On 30 September 2024, DA 2024/0460 was lodged for Use of works as constructed, rectification works and works to complete the dwelling. The proposal was notified for 28 days.
- On 21 October 2024, a BIC Application 33106 was lodged, for part of the DA, being the unauthorised works, which relates to: 'Completed lower ground level and basement concrete slab, completed ground floor level concrete slab, completed internal walls and the lower ground/basement level and ground floor level'.



- On 12 December 2024 a Part 5 hearing was heard before Chief Justice Preston. A judgment was delivered on 18 December 2024, see: 2024 NSWLEC 139, Georges River Council v RNA Building Solutions Pty Ltd; Georges River Council v El Saadi.
- 7 April 2025, site visit with applicant and owner, and Council's Senior Building Surveyor and Assessment Planner. See figures below.
- On 29 July 2025, a letter was sent to the applicant requesting withdrawal of the DA due to the substantive amendments that would be required the proposal was not acceptable in its current form. Given that a complete redesign is required, this would result in a significantly different development. Thus, we recommend the withdrawal of this application given the non-compliances which are extensive, and for which no variation from LEP and DCP controls have been sought.
- The substantive design amendments that would have been required, are outlined below:
 - a) Height exceedance
 - b) Design of the building is overly dominant and results in unacceptable bulk and scale
 - c) Roof design is not suitable and requires the removal the flat roof design, with facades and rooflines to be broken up into smaller elements
 - d) Removal of planter boxes on Level One (with exception of planter box attached to front balcony on front elevation which should be no more than 1.5m in depth)
 - e) Non-compliances with Part 6.1.2 of GRDCP 2021
 - f) Excessive FSR to be reduced
 - g) Amend front elevation to set garage back behind front building face and entry way
 - h) Reduce glazing and increase masonry element on the elevation facing the foreshore, to reduce reflectivity on the Georges River and residences within the vicinity
 - i) Dominant three storey-built form not in keeping with character guidelines at Part 5 of the DCP, or with Part 6.1.2.1 of the DCP which requires a maximum of two storeys for dwelling.
 - j) Non-compliant side setback on one side elevation, which impacts on the view corridors required within the FSPA.





Figure 7: View of the subject site from Beach Street (Source: Site Visit by assessing officer, 7 April 2025)

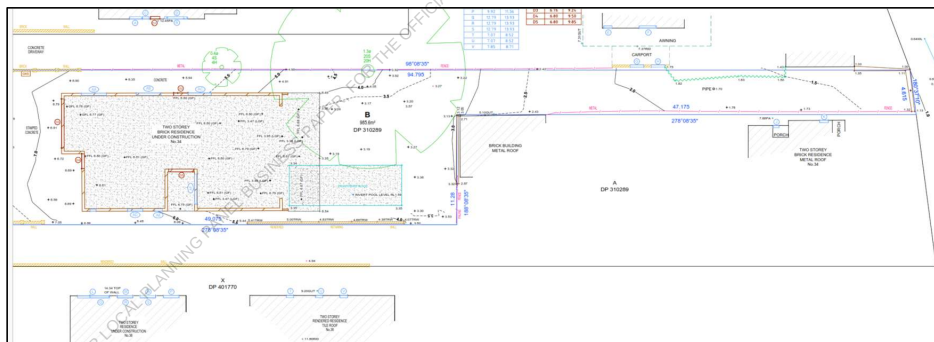


Figure 8: Survey by Ensure Consulting Pty Ltd, dated 28/11/2023



Figures 9 and 10: View constructed works at lower ground level and ground level; view of building forward of the site



Figures 11 and 12: View of works on adjoining site; view of construction at lower ground level

SECTION 4.15 EVALUATION

4. 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)

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

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



State Environmental Planning Policy (BASIX) 2004	Yes
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State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 - Vegetation in Non-Rural Areas

6. 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.
7. 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).*
8. No trees of any significance are proposed to be removed. It is noted the landscape plan shows an existing Melaleuca Sp. to be retained on the northern side boundary, and a tree located within the adjoining access handle to the south. Both trees, and the two street trees (Banksia Sp.) are to be protected.

Chapter 11 – Georges River Catchment

9. The primary relevant aims and objectives of this chapter of the plan are:
 - *to maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment,*
 - *to protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an ecologically sustainable manner,*
 - *to ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries,*
 - *to establish a consistent and coordinated approach to environmental planning and assessment for land along the Georges River and its tributaries and to promote integrated catchment management policies and programs in the planning and management of the Catchment,*
10. The site drainage plan, basement drainage plan / stormwater concept design and driveway long sections were reviewed by Council's Engineering Section. No objection was raised with respect to the management and disposal of stormwater, and proposed driveway crossing subject to recommended conditions of consent.
11. The proposal is consistent with the objectives and purpose of Chapter 11 of the SEPP.



State Environmental Planning Policy (Resilience and Hazards) 2021

12. Chapter 2 and Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 are relevant to the proposal.
13. Chapter 2 aims to: *"Promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016 including the management objectives for each coastal management area"*.

Chapter 2 Coastal Management

14. It is noted that the subject site is mapped as being located to be within the coastal zone.



Figure 13: Site outlined in red, within Foreshore Scenic Protection Area (Source: Intramaps)

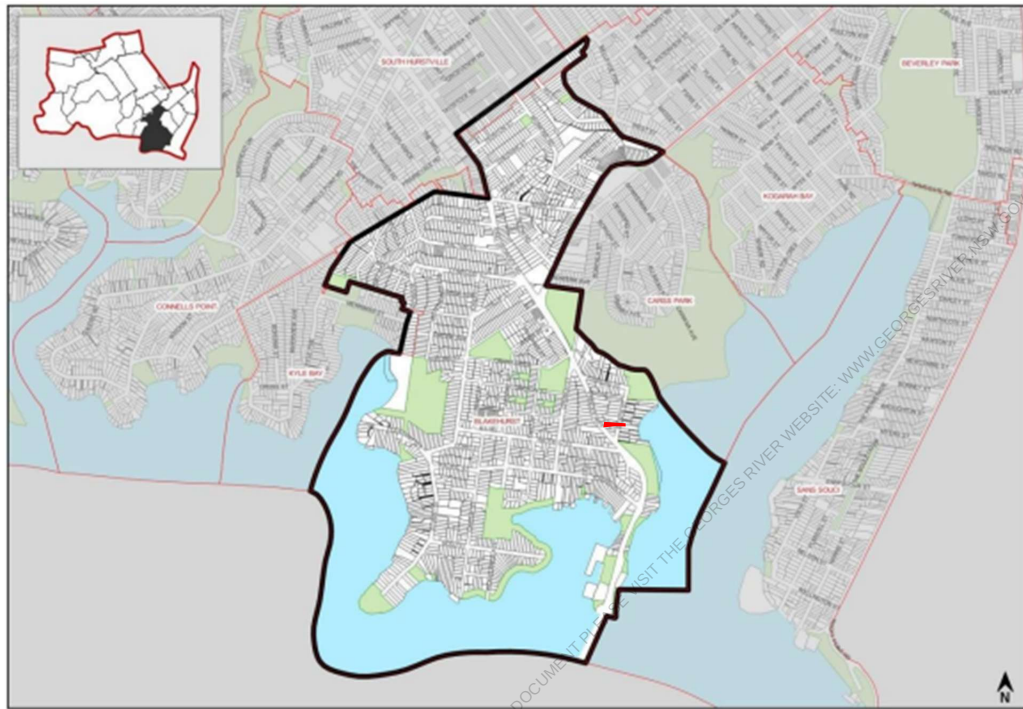


Figure 14: Blakehurst Locality – Site shown in Red (Source: GRDCP 2021 Part 5)

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

Division 3 Coastal Area	Proposal	Complies
2.10 (1) Development on land within the coastal environment area		
(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:		
(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,	Surface water runoff is to be managed in accordance with the approved stormwater management plan and relevant conditions imposed. The proposal is satisfactory subject to conditions.	Yes

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



(c) if that impact cannot be minimised—the development will be managed to mitigate that impact	The development does not propose to impact upon a mapped Coastal Environment area and a Coastal Use area. Suitable conditions of consent would be recommended if the application was supported for approval.	Yes
Division 4 Coastal Use Area		
2.11 Development on land within the coastal use area		
(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:		
(a) has considered whether the proposed development is likely to cause an adverse impact on the following:		
(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	There is no public access in this location.	N/A
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	The proposal may impact on public space with view loss impacts.	View impacts
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	No landscaping proposed adjacent to the foreshore, and hence no improvement of existing visual amenity.	No
(iv) Aboriginal cultural heritage, practices and places,	The property is not a known site of Aboriginal heritage.	Yes
(v) cultural and built environment heritage, and	The site does not contain any heritage items.	Yes
(b) is satisfied that:		
(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or	The proposal does not seek to adversely impact upon the coastal environment.	Yes
(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	The proposal does not seek to adversely impact upon the coastal environment.	Yes
(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and	The proposal does not seek to adversely impact upon the coastal environment.	Yes
(c) has taken into account the surrounding coastal and built	The proposed development's bulk and scale has been considered in	No



environment, and the bulk, scale and size of the proposed development.	this assessment report, noting there are impacts on view corridors and impacts when viewed from the Georges River. Due to the lack of landscape plan detail, it is not possible to assess visual impacts in relation to the foreshore and Georges River.	
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Chapter 4 Remediation of Land

16. Chapter 4 of this SEPP is relevant to the proposal.
17. This chapter aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment.
18. Clause 4.6 of the SEPP requires contamination and remediation to be considered in determining a DA. The consent authority must not consent to the carrying out of development on land unless it has considered whether or not the land is contaminated.
19. The proposed works relate to the demolition of internal structures such as part of a wall section on the lower ground floor level (Dwg A04 Demolition Basement Floor Plan by Finesse Design Group dated August 2024), otherwise the existing structure is to remain in situ, and there is proposed construction of two additional storeys to the dwelling, site works and landscaping.
20. The site has a history of residential use and is suitable for the proposed development subject to conditions regarding removal of asbestos, and any unexpected finds.
21. The proposal is consistent with the provisions of the State Environmental Planning Policy (Resilience and Hazards) 2021.

State Environmental Planning Policy (Transport and Infrastructure) 2021

22. Compliance with SEPP (Transport and Infrastructure) 2021 has been considered during the assessment of this development application. The site is located in close proximity to a classified road, being the Princes Highway, and is impacted by traffic noise. No acoustic report has been provided with the DA. Acoustic measures would be required to be included if the application was supported, in order to mitigate noise impacts and ensure compliance with Clause 2.120 of the SEPP (T&I) prior to Construction Certificate and Occupation Certificate to ensure compliance with noise requirements for:
 - a) the residential dwelling in regard to noise impacts from the Princes Highway, and
 - b) to control noise impacts from any air conditioning unit and from the swimming pool plant and equipment.
23. Ausgrid was consulted as required by Chapter 2, no objection was raised to the proposed development and standard advice was provided.

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



24. A BASIX Certificate has been issued for the proposed development and the commitments required under the certificate have been satisfied. Conditions of consent would be imposed should the application be approved.

GEORGES RIVER LOCAL ENVIRONMENTAL PLAN 2021

25. The extent to which the proposed development complies with the Georges River Local Environmental Plan 2021 (GRLEP 2021) is detailed and discussed in the table below.
26. The objectives of the zone are as follows:
- *To provide for the housing needs of the community within a low-density residential environment.*
 - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
 - *To promote a high standard of urban design and built form that enhances the local character of the suburb and achieves a high level of residential amenity.*
 - *To provide for housing within a landscaped setting that enhances the existing environmental character of the Georges River local government area.*
27. The proposal will deliver housing needs for the community but will compromise the amenity of the surrounding area, due to impacts on streetscape character, view loss, and view impacts from the Georges River, and potential acoustic and privacy impacts.
28. The proposal does not maintain the visual amenity of the locality.
29. The extent to which the proposal complies with the relevant standards of GRLEP 2021 is outlined in the table below.

GEORGES RIVER LOCAL ENVIRONMENTAL PLAN 2021

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

Clause	Standard	Proposed	Complies
Part 1 – Preliminary			
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	The development is inconsistent with the aims of the plan.	No
1.4 - Definitions	Dwelling House means: <i>a building containing only one dwelling.</i>	The proposed development for 'use of works as constructed, rectification works and works to complete the dwelling' is consistent with the definition.	Yes
Part 2 - Permitted or prohibited development			



2.3 - Zone objectives and Land Use Table	Meets objectives of R2-Low Density Residential Zone.	The proposal does not meet all objectives.	No
	Development must be permissible with consent	The proposal is permissible with development consent.	Yes
2.7 – Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	The proposed demolition works include: <u>Lower Ground</u> - a minor portion of wall on the lower ground level is proposed to be demolished, shown on the Dwg A04 Demolition Basement Floor Plan by Finesse Design Group dated August 2024. <u>Ground Level</u> - Demolition of exterior and interior walls (workshop, laundry, WIP, kitchen, office, ensuite, balcony)	Yes
Part 4 - Principal Development Standards			
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	10.32m at highest point (three storey dwelling), stated in SEE, and shown on Dwg A17 Proposed Section A by Finesse Design Group, dated August 2024. The dwelling is approx. 26.3m long, and for 23m of that	No – clause 4.6 variation request submitted but fails to accurately notate the existing ground level on the drawings and seeks to



		length it exceeds the 9m height control.	rely on NGL as at 2020 prior to 3m excavation.
4.4 – Floor Space Ratio	0.464:1 as identified on Floor Space Ratio Map	Despite clause 4.4 (2), the floor space ratio for residential accommodation on land in Zone R2 Low Density Residential, Clause 4.4A applies.	Refer to Clause 4.4A
4.4A - Exceptions to floor space ratio—certain residential accommodation	(2) The maximum floor space ratio for a dwelling house on land identified as “Area 1” on the <u>Floor Space Ratio Map</u> must not exceed the maximum floor space ratio specified in the table to this subclause. Site area: no more than 650sqm Maximum permitted floor space ratio 0.464:1 (458.18m²) Site area: 645sqm	FSR = 0.6255:1 (616.5sm ²), being a 34.5% exceedance.	No, exceeds allowable FSR. No clause 4.6 variation request submitted
4.6 – Exceptions to development standards	In accordance with Clause 4.6 (1) through to and including (8)	The proposal is accompanied by a Clause 4.6 variation relating to the non-compliant building height under Clause 4.3 Building height, seeking a variation of 14%. A Clause 4.6 variation to address the 34.5% FSR variation has not been provided.	Refer to the Clause 4.6 assessment below re exceedance from Clause 4.3 Height of Building.
Part 5 - Miscellaneous Provisions			
5.7 – Development below mean high water mark	(2) Development consent is required to carry out development on any land below the mean high-water mark of any body of water subject to tidal influence	Under the application, no proposed development is to be carried out below the mean high-water mark. This is	N/A



	(including the bed of any such water).	because the revised application deletes any reference to a jetty and pontoon which were shown on the original plans.	
5.10 – Heritage conservation	In accordance with Clause 5.10 (2)	The site is not a heritage item or is located a heritage conservation area.	N/A
5.11 – Bush Fire Hazard Reduction	Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.	The subject site is not mapped as bush fire prone.	N/A
Part 6 - Additional Local Provisions			
6.1 – Acid sulfate soils	(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. Class 5: Works within 100 metres of adjacent Class 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 2, 3 or 4 land.	The site is located in an Acid Sulfate Soils Area- Class 3-Class 5). A Geotechnical Report and Preliminary Site Investigation Report has been submitted and they determined that site soil can be suitably managed. Suitable conditions of would be included should consent be granted including an unexpected finds condition.	Yes
6.2 – Earthworks	(2) Development consent is required for earthworks unless— (a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or (b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which	Earthworks were carried out in 2021 and resulted in areas of excavation up to 3m. The current proposal proposes minimal excavation for the driveway.	Conditions would be imposed if the application was recommended for approval.



	development consent has been given.		
6.3 – Stormwater Management	(2) In deciding whether to grant development consent for development, the consent authority must be satisfied that the development— (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 (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 (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 (d) is designed to minimise the impact on public drainage systems.	The proposed stormwater system will be via gravity to the river with a spreader and a rainwater tank of 2000 litres is proposed. Council's engineer's support the proposed system and should the application be recommended for approval suitable conditions would be imposed.	Yes
6.4 - Foreshore area and coastal hazards and risk	(2) This clause applies to the following land— (a) land identified on the <u>Coastal Hazard and Risk Map</u>, (b) land identified on the <u>Foreshore Building Line Map</u>.	The site is located in a foreshore area and/or coastal hazards and risk area.	N/A



	(3) Development consent must not be granted for development on land to which this clause applies except for the following purposes— (a) the alteration, or demolition and rebuilding, of an existing building if the footprint of the building will not extend further forward than the footprint of the existing building into— (i) the foreshore building line, or (ii) the land identified on the <u>Coastal Hazard and Risk Map</u>, (b) the erection of a building if the levels, depth or other exceptional features of the site make it appropriate to do so, (c) boat sheds, cycling paths, fences, sea walls, swimming pools, water recreation structures or walking tracks. (4) In deciding whether to grant development consent, the consent authority must consider the following matters— (a) whether the development addresses the impacts of sea level rise and tidal inundation as a result of climate change, (b) whether the development could be located on parts of the site not exposed to coastal hazards, (c) whether the development will cause congestion or generate conflict between people using open space areas or the waterway, (d) whether the development will cause	However, no works extend into the Foreshore area.	
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	environmental harm by pollution or siltation of the waterway, (e) opportunities to provide reasonable, continuous public access along the foreshore, considering the needs of property owners, (f) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development. (5) In this clause— foreshore area means the land between the foreshore building line and the mean high-water mark of the nearest bay or river. foreshore building line means the line shown as the foreshore building line on the <u>Foreshore Building Line Map</u>.		
6.6 - Foreshore scenic protection area	(2) This clause applies to land identified as “Foreshore scenic protection area” on the <u>Foreshore Scenic Protection Area Map</u>. (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, (b) the avoidance or minimisation of the disturbance and adverse impacts on remnant vegetation communities,	The site is in the FSPA. The existing development which is at lower ground level and ground level was built without authorisation, and it is proposed that once the ground level works (demolition and construction) are completed, a further complete storey will be added to the existing two storey footprint. These works will add to the encroachment into the side southern setback (0.680m setback) and will result in a three-storey built form.	No - non-compliant building form, and insufficient information regarding the landscape plan.



	habitat and threatened species and populations, (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, (d) the achievement of no net loss of significant vegetation or habitat, (e) the avoidance of clearing steep slopes and facilitation of the stability of the land, (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, (g) the minimisation of the height and bulk of the development by stepping the development to accommodate the fall in the land.	There is a landscape plan which has been submitted, which is confined to the landscaping detail and species for the front setback and two side setbacks and incomplete and insufficient information has been provided in relation to the rear garden and the access handle which goes to the foreshore. Further information would be required, including an amended landscape plan to provide a landscape treatment that would adequately facilitate biodiversity protection and native flora and fauna movements within the foreshore area of the subject site. There is existing low vegetation across the site and one Melaleuca tree on the northern side boundary should be protected. Additional planting is proposed on planters that are attached to the perimeter of the built form on the first-floor level and will add additional bulk and scale to the dwelling and also result in the side	
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		setback encroachment. The foreshore area of the subject site contains the access handle connecting the main area of the site to the foreshore. There are no natural rock features. View loss results due to the reduced view corridor caused by the encroachment within the southern side setback. Side setbacks are required to be 1.5m in the FSPA. The existing side setbacks are 1.865m – 2.465m on the side northern side setback for the first-floor level. On the first-floor level for the southern side setback, it reduces and ranges from 680mm – 1280mm, increasing to 2.38m at the rear. The reduced setbacks on the first-floor level are due to the planters attached to the perimeter of all elevations. These impact on the southern side view corridor. The ground floor level and first floor level additions are also proposed to encroach into the side southern setback.	
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		The exceedance of the height and bulk of the development has not been addressed, and it is noted the development was not stepped in order to accommodate the fall in the land. Below at Clause 6.12 further assessment is provided on the landscaping treatment which is also found to be deficient.	
6.9 Essential Services	Development consent must not be granted to development unless Council is satisfied that any of the following services that are essential for the development are available, or that adequate arrangements have been made to make them available when required: (a) the supply of water, (b) the supply of electricity, - i the supply of telecommunications facilities, (d) the disposal and management of sewage, - i stormwater drainage or on-site conservation, (f) suitable vehicular access.	The subject site has made available the essential services via the proposed development. The stormwater disposal arrangements with discharge to the Georges River are proposed. Suitable conditions would be imposed should the application be recommended for approval. Vehicular access is proposed from Beach Street. Other essential services are available on site and no concerns are raised subject, should the application be recommended for approval suitable conditions of consent would be imposed.	Yes
6.10 - Design excellence	(2) This clause applies to development on land	The landscape plan does not address the foreshore. There are	No – insufficient



	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. (3) This clause applies to development on the following land— (a) land identified on the <u>Foreshore Scenic Protection Area Map</u> if the development is for one or more of the following purposes— (i) bed and breakfast accommodation, (ii) health services facilities, (iii) marinas, (iv) residential accommodation, except for secondary dwellings, (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 B1 Neighbourhood Centre, (iii) Zone B2 Local Centre, (iv) Zone B3 Commercial Core, (v) Zone B4 Mixed Use, (vi) Zone B6 Enterprise Corridor, (vii) Zone IN2 Light Industrial.	no plans provided for landscaping the access handle, and limited information on landscaping in the rear yard. Clause 6.10 requires that landscaping works including within the foreshore area are required to provide improvement to the quality and appearance of the site when viewed from the waterway, including extensive landscaping and mature canopy trees. The proposed rear elevation has extensive glazing which is contrary to the design guidance suggested for the FSPA which requires an equal balance between masonry and fenestration openings to ensure that reflectivity is lessened to reduce visual impacts with respect to users of the Georges River. The proposed development does not appropriately respond to the established built form patterns of dwelling houses within the immediate locality as the proposal will create a three-storey boxy-shaped dwelling that is 10.32m for the majority of its length,	information provided
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	(4) Development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits design excellence. (5) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters— (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved, (b) whether the form and external appearance of the development will improve the quality and amenity of the public domain, (c) whether the development detrimentally impacts on view corridors, (d) how the development addresses the following matters— (i) the suitability of the land for development, (ii) existing and proposed uses and use mix, (iii) heritage issues and streetscape constraints, (iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form, (v) bulk, massing and modulation of buildings, (vi) street frontage heights, (vii) environmental impacts such as	that will create amenity impacts and reduce view corridors to the river and creates view impacts from the river. From a design excellence prospective, the proposed dwelling will detract from the site's setting, due to its bulk and scale and lack of landscaping.	
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	sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity, (viii) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of pedestrian networks, (ix) the impact on, and proposed improvements to, the public domain, (x) achieving appropriate interfaces at ground level between the building and the public domain, (xi) excellence and integration of landscape design, (xii) the provision of communal spaces and meeting places, (xiii) the provision of public art in the public domain, (xiv) the provision of on-site integrated waste and recycling infrastructure, (xv) the promotion of safety through the application of the principles of crime prevention through environmental design.		
6.12 - Landscaped areas in certain residential and environment protection zones	(2) This clause applies to land in the following zones— (a) Zone R2 Low Density Residential, (b) Zone R3 Medium Density Residential, (c) Zone R4 High Density Residential, (d) Zone E2 Environmental Conservation. (3) Despite subclause (2), this clause does not apply to development referred to in <i>State Environmental</i>	R2 Low Density Residential Required = 25% (191.9m²) of net developable area of 767.63sqm (excludes 217.97m² access handle) Proposed LSA = 555.25m² - no diagram has been provided to confirm areas included in the deep soil calculation.	25% of the site is landscaped, complying with numerical requirements. The landscape design and treatment – fails to deliver adequate landscaping,



	<u>Planning Policy No 65— Design Quality of Residential Apartment Development</u>, clause 4. (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— (i) that are of a scale and density commensurate with the height, bulk and scale of the buildings to which the development relates, and (ii) that will maintain and enhance the streetscape and the desired future character of the locality, and (b) maintains privacy between dwellings, and (c) does not adversely impact the health, condition and structure of existing trees, tree canopies and tree root systems on the land or adjacent land, and (d) enables the establishment of indigenous vegetation and habitat for native fauna, and (e) integrates with the existing vegetation to protect existing trees and natural landscape features such as rock outcrops, remnant bushland, habitats and natural watercourses. (5) Development consent must not be granted to development on land to which this clause applies unless a percentage of the	Landscaping is required to be provided within the front setback, the rear yard, and the access handle. The landscape plan only provides limited landscaping to the front setback, and minor sections elsewhere in the rear yard and so the control is not met. Insufficient landscaping detail has been provided for the rear garden and access handle. Thus details provided are limited to landscape works to the front setback including stepped planting, a lawn of indeterminate species in the rear garden, a small section of hedge planting adjacent to the swimming pool, and no information on the access handle. The landscape plan does not provide a species for the lawn. There are no plants proposed within the majority of the southern side boundary, except adjacent to the pool area. There is hard stand pathways on both sides of the dwelling, and hardstand (steppers and pebbles) within the courtyard. Only two canopy trees are	particularly within foreshore area and along the access handle, being inconsistent with the landscaping objectives throughout the GRLEP 2021.
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	site area consists of landscaped areas that is at least— (a) for a dwelling house located on land outside the Foreshore Scenic Protection Area—20% of the site area, or (b) for a dwelling house located on land within the Foreshore Scenic Protection Area—25% of the site area, or (c) for a dual occupancy located on land outside the Foreshore Scenic Protection Area—25% of the site area, or (d) for a dual occupancy located on land within the Foreshore Scenic Protection Area—30% of the site area, or (e) for development in Zone R3 Medium Density Residential—20% of the site area, or (f) for development in Zone R4 High Density Residential—10% of the site area, or (g) for development in Zone E2 Environmental Conservation—70% of the site area. (6) If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle and any right of carriageway is not to be included in calculating the site area for the purposes of subclause (5). (7) In this clause— Foreshore Scenic Protection Area means land shown on the <u>Foreshore Scenic Protection Area Map</u>.	proposed (1 x <i>Tristaniaopsis laurina</i> and 1 x <i>Banksia integrifolia</i>), both in the front setback, and no trees proposed within the rear garden. No detail is provided regarding the landscaping within the access handle. The first floor level perimeter has planter boxes around the perimeter of the building; these add to the bulk and scale and encroachment within the side setbacks. Due to the insufficient treatment in the rear garden and access handle, it is considered that the landscape proposal does not satisfy meet Cl.6.12(4)(a)(i). The proposed plantings within the rear garden and nil plantings proposed for the access handle are not of a scale and density commensurate with the height, bulk and scale of the building's rear elevation, as viewed from the Georges River and does not provide for sufficient landscape treatment to 'ensure that the visual impact of development is minimised by sufficient and	
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		appropriately located landscaping that complements the scale of buildings' as required under Clause 6.12(1)(c); and fails to achieve 'excellence and integration of landscape design' required by Clause 6.10(5)(d)(xi) and fails to 'reinforce and improve the dominance of landscape over built form, hard surfaces and cut and fill', required under Clause 6.6(1)(d).	
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CLAUSE 4.6 ASSESSMENT

31. The applicant has submitted a clause 4.6 submission to vary clause 4.3 – height only.
32. Under clause 4.6 of the GRLEP 2021, development consent may be granted even though the development would contravene a development standard imposed by this or any other environmental planning instrument.
33. Under clause 4.6(3), development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:
 - a) *compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and*
 - b) *there are sufficient environmental planning grounds to justify contravening the development standard*
34. The proposed dwelling presents a three-storey built form on three elevations, a two-storey built form to the street, the proposed height and FSR variation has been calculated and provided below:
 - a) proposed height equates to 10.32m being a 14.5% (1.32m) variation to the 9m height maximum for majority of the dwelling, and
 - b) proposed floor space ratio 0.6255:1 (616.5m²) that being a 34.5% variation.
35. On this basis two clause 4.6 variation requests should have been submitted with the application in accordance with clause 35B (2) of the EP&A Regulation 2021 however



only a height variation request was submitted, and this was prepared by Chapman Planning Pty Ltd, dated 23 August 2024.

36. Clause 35B (2) of the Environmental Planning and Assessment Regulation 2021 requires a written request to be submitted with an application when seeking to vary a development standard and without a valid Clause 4.6 variation request, the LPP has no legal ability to approve a non-compliant development standard as such the application cannot be recommended for approval.
37. On this basis, only the height variation has been considered below and as the height variation exceeds 10% the application is required to be determined by the Local Planning Panel.
38. The variation request references the previously approved plans under DA2020/0203, as shown in **Figure 15** below. However, the clause 4.6 variation request should solely relate to the proposed development and associated drawings under DA2024/0460, being the first image shown in **Figure 15** below. The variation request is not accurate in this instance.

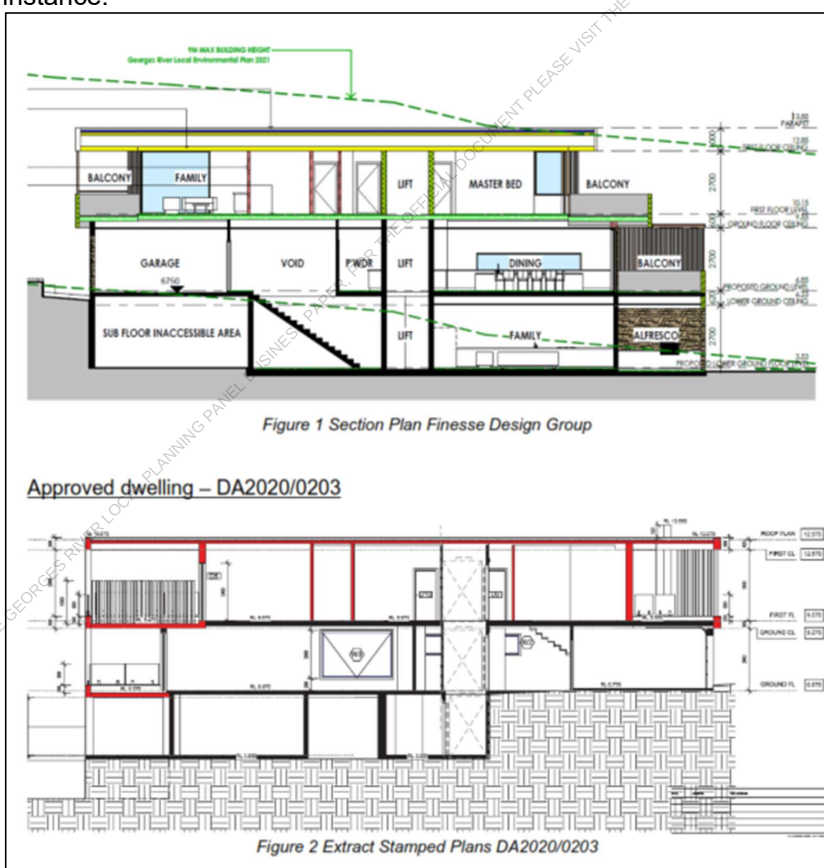


Figure 15: Proposed and approved (DA2020/0203) – extract from architectural section of relevant drawings



39. The proposal seeks a height of 10.32m (14.5%) with a height variation of 1.32m for the majority of the building. The proposed 9m dotted height line depicted on the architectural drawings in **Figure 11** to **Figure 15** has not been measured from the ground level (existing) but rather the former natural ground level. The definition of building height under the GRLEP 2021 is required to be measured from the ground level (existing), refer to definition below:

building height (or height of building) means—

- (a) 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
- (b) 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.

40. The 'ground level (existing)', is defined under the GRLEP 2021 as follows:

Ground level (existing) means the existing level of a site at any point

41. On this basis the current architectural drawings in relation to the ground level existing are not accurate and misleading, and the variation should not be supported by the Panel in this instance. Notwithstanding, an assessment of the Clause 4.6 variation report for height has been provided below.

Adequacy of the written request pursuant to the matters outlined in Clause 4.6 (3)

Clause 4.6(3)(a) compliance with the development standard is unreasonable and unnecessary in the circumstances

In *Wehbe V Pittwater Council (2007) NSW LEC 827*, the Hon. Justice Preston CJ set out the five following criteria 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 objective 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 or unreasonable;*
5. *the zoning of the particular land is unreasonable or inappropriate sorry that I development standard appropriate for that zoning is also unreasonable an unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone*

The above-mentioned matters of considerations form the basis to determine whether the compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. The assessment is as follows:



First test: the objectives of the standard are achieved notwithstanding non-compliance with the standard

In response to this criterion, the applicant indicated the following:

- **Objective (a)** – The contravention to height is largely the result of historical excavation associated with construction works and the technical measurement of height from existing ground level, which has distorted the height plane as overlaid above the site. The measurement of height in this regard is consistent with the court judgement *Merman Investments Pty Ltd v Woollahra Municipal Council*.

'Notwithstanding the technical variation from the historical excavation, the development proposal complies with the height at the front elevation of the building and presents a form 2-3 storeys consistent with the adjoining development. The height of the building at elevation sites comfortably within the streetscape, with additional visible bulk at the rear/internal elevation of the site, largely consistent with the massing of DA2020/02003 which was previously approved on site.'

- **Objective (b)** – As addressed, the height is a result of historical excavation within the building footprint presenting an anomaly in the height plane as overlaid over the building footprint. The development largely complies with the building height plane at the elevations of the building, appropriately relating to the natural topography of the site. The additional height is at the rear of the building and does not relate to any additional visual impact, with the height of the building compliant at the street frontage. The subject site is adjoined by access handles on both north and south elevations, providing appropriate visual separation from adjoining development and mitigating any overshadowing impact by the massing at the rear of the building footprint. The overall layout of the building, and its legibility from adjoining dwellings is comparable to DA2020/0203 which has been historically approved on site, demonstrating that a bulk of this nature is appropriate for this site.
- **Objective (c)(i)** – The subject site is an east/west sloping allotment which is adjacent to access handles to the north and south. The additional height is a result of historical excavation beneath the building footprint, and the topography of the site which falls away from the road frontage.

The 2 – 3 storey form is consistent with the massing envisaged by the 9m height limit, established built form in the vicinity of the site, and the historical approval on the site DA2020/0203, confirming the height as proposed is appropriate within context.

The development proposal presents as a two storey building to the street frontage, consistent with the massing of adjoining development. The part three storey form at the rear of the building is internal to the site, sufficiently separately from adjoining development to mitigate any unreasonable bulk.

- **Objective (c)(ii)** – Not applicable

*In accordance with the decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827 the development meets the first test because compliance with a development*



standard is unnecessary as the objectives of the development standard are achieved notwithstanding the non-compliance.

Furthermore, it is unreasonable to require compliance with the building height development standard due to the following reasons:

- *The development proposal is in the public interest because it is consistent with the applicable height of buildings standard and the objectives for development within the R2 Low Density Residential zone as addressed within the Statement of Environmental Effects submitted with the development application.*
- *The public benefit of maintaining the development standard is not considered significant because the contravention to the standard is largely the result of historical excavation works, which if completed as part of a proposed application would not form part of the calculation of building height.*
- *The subject site benefits from a historical development approval DA2020/0203 which proposed alterations and additions to the existing dwelling on site, presenting a 2 – 3 storey built form. Whilst this approval is no longer valid, in section the external massing of the development as proposed is comparable to this approval. Strict application of the height of buildings limit in this instance would be unreasonable, requiring the removal of the first floor as proposed, presenting a built form inconsistent with the previous approval on site, which was previously accepted by Council as suitable for the site.*

Assessment of the proposal against the clause objectives are contained in the below table.

Objective	Assessment
(a) to ensure that buildings are compatible with the height bulk and scale of the existing and desired future character of the locality,	The proposed height breach detracts from the desired future character for the following reasons: - The proposed height results in a 3-storey built form - The desired character should be consistent with a two-storey built form. - No consideration has been given to the impact at the rear to adjoining dwellings and when viewed from the Georges River.
(b) to minimise the impact of overshadowing, visual impact, disruption of views and loss of privacy on adjoining properties and open space areas,	The proposal will result in visual impact and disruption of views from the proposed height combined with non-compliance with the floor space ratio and side set back requirements. The proposed three-storey form, although positioned within the site, will impact when



	viewed from the waterway and adjoining properties. The bulk and scale is excessive and results in an unacceptable built form which should not be supported.
(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	The proposed height breach is inconsistent with the two-storey built form in the surrounding locality and results in a three-storey form which is considered to be an inappropriate height transition for the site particularly when positioned within the FSPA The development will not impact heritage items, heritage conservation areas or Aboriginal places of heritage significance. .

The proposal therefore is inconsistent with the objectives of the standard and the accompanying clause 4.6 variation does not support test 1 of the Wehbe case, as the applicant has suggested in their variation request.

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

42. The applicant's clause 4.6 submission remains silent on this test. **The proposal does not demonstrate that the underlying objective or purpose of the maximum building height development standard is unnecessary for reasons outlined below:**
43. We note that the approval under DA2020/0203 was granted under the former LEP, and prior to the gazettal of GRLEP 2021. We note that the proposal does not comply with requirements with regard to front and side southern setbacks, does not comply with the height standard, and does not comply with the FSR control. Thus, the reasoning that a historic approval is sufficient to provide approval or positive support in regard to a breach in height for a non-compliant structure is not sufficient reasoning, and the argument remains silent on the amenity impacts with regard to view loss, character, amenity impacts such as overlooking and overshadowing, and the excessive bulk and scale of the structure. Outcomes sought by the planning controls in Clause 6.10(5)(b) *whether the form and external appearance of the development will improve the quality and amenity of the public domain; (c) whether the development detrimentally impacts on view corridors; (d)(v) bulk, massing and modulation of building*, are not addressed. This section of the request does not provide any discussion or evidence to demonstrate how or why it follows that no amenity impacts on nearby properties, the Georges River or the public domain would result, as a result of both the height exceedance, FSR exceedance, three storey built form, materiality, boxy-like form and reduced view corridors.
44. *The Guide to Varying Development Standards*, DPE, November 2023 summarises the 5-part test which are common ways to address clause 4.6(3)(a) but are not exhaustive, and states an applicant only needs to satisfy at least one part, not all parts, with an argument that is factual, relevant to the area of non-compliance and consistent. In addition, the applicant must also satisfy clause 4.6(3)(b) with respect



to environmental planning grounds. It is our view the applicant has not provided a meritorious argument in this regard. The applicant does not address the various factual non-compliances which are a direct outcome resulting from the 'historical excavation', which breached the LEP controls relating to excavation and fill, which requires that no greater than 1m in cut or fill occurs. The proposal has well-exceeded this, at 3m, and has not stepped the dwelling in line with the topography and has created a structure which is clearly visible on three elevations as presenting three storeys in built form, which is in breach of Part 6.1.2 of the GRDCP 2021 which requires a maximum of two storey built form and permits a basement in certain circumstances. Thus, there is no disguising of the bulk, it is highly visible from the public domain, being Beach Street and the Georges River, and it impacts on view corridors, and creates overshadowing for adjacent dwellings.

45. The underlying objective or purpose is relevant to the development for the following reasons:
- The maximum building height development standard ensures adequate bulk and scale within the FSPA
 - The development standard ensures that view corridors can be maintained and ensures privacy and shadowing to adjoining properties is protected.
 - The development standard ensures new development aligns with the desired future character of the Blakehurst locality.

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

46. The applicant's clause 4.6 submission remains silent on this test.
47. Notwithstanding, the underlying objective or purpose of the standard will not be thwarted if compliance was required for the following reasons:
- Compliance with the maximum building height development standard is essential to ensure future developments align with the desired future character of the suburb and enabling protection of the FSPA when viewed from the street, adjoining properties and the Georges River.

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:

48. The applicant's clause 4.6 submission remains silent on this test.
49. The maximum height standard has been consistently applied throughout the R2 Low Density Residential zones throughout the wider LGA and as such the height development standard has not been abandoned.

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.

50. The applicant's clause 4.6 submission remains silent on this test.
51. The R2 Low Density Residential zoning of the subject site is considered to be appropriate given the zoning enables low density residential housing which needs to have consideration for bulk and scale privacy, views and solar access.

Planning Assessment of the 5-Part Test

52. The 5-part test outlined in Wehbe is relevant in demonstrating unreasonable and unnecessary in the circumstances of the case, although the tests are not exhaustive or prescriptive, but assist in adequately addressing the non-conformity.
53. The objectives of the development standard are not achieved notwithstanding the non-compliance and the assertion that the development meets the first test. The reasoning provided above is factually incorrect: the proposal is not consistent with the applicable height of buildings standard: it proposes 10.32m height when the maximum height control is 9m. It does not meet the objectives for development within the R2 zone as it does not meet the local character and streetscape standards for the Blakehurst locality. It argues that a historical excavation which was unauthorised is justification for not carefully considering the lawful element of what the maximum building height requirement is, and whether the built form is in accordance with the requirements under Clause 6.10 Design Excellence. It states the historical approval is no longer valid, however this approval was activated and so cannot be surrendered. Strict application of the height of buildings limit would be applied by Council, and be in line in current decisions both under delegated authority, by the LPP, or recent LEC decisions, where partial removal of the first floor would be required, in order to reduce the excessive FSR which exceedance cannot be justified, in order to achieve an outcome on site in terms of bulk, scale, storeys, form that is acceptable in terms of the locality and zoning.

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

54. The applicant asserts that:
 - *The contravention to building height is largely a result of a technical measurement of height from top of roof to the historically excavated lower ground level. The historical excavation creates an anomaly in the height plane overlaid above the site and does not reflect the true topography of the site prior to its development. The historical excavation is a recognised environmental planning ground. Merman Investments Pty Ltd v Woollahra Municipal Council.*
 - *The subject site benefits from a historical development approval DA2020/0203 which proposed alterations and additions to the existing dwelling on site, presenting a 2 – 3 storey built form. Whilst this approval is no longer valid, in section the external massing of the development as proposed is comparable to this approval and is submitted to finalise the building which has been partly*



constructed since 2020. Strict application of the height of buildings limit in this instance would be unreasonable, requiring the removal of the first floor as proposed, presenting a built form inconsistent with the previous approval on site, which was previously accepted by Council as suitable for the site.

- Noting this Clause 4.6 Request is submitted to address a contravention to the height limit created by historical excavation, the lack of adverse amenity impacts associated with the calculation of building height from the excavated lower level is a recognised environmental planning ground *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7*.
- The contravention in building height is consistent with the following relevant aims of the Georges River LEP 2021 found at clause 1.2(2):
 - (2)(f) The proposed dwelling is compatible with the mixed character of development within the streetscape, being a contemporary two-three storey form that is supported by similar scaled dwellings that surround the site and form the immediate visual catchment. The dwelling represents a high quality built form and character, well-articulated and finished with natural materials such as timber battens and sandstone cladding that re-inforce the environmental features of the locality.
 - (2)(g) The building height contemplated under this Clause 4.6 Request is the result of the technical measurement of building height from an existing excavated lower ground level. The resulting building height does not impede on the natural landscape of the locality, nor will it be read as excessive height from the public domain, noting the additional height is the result of the technical calculation of height from an existing Relative Level, lower than the natural topography adjoining the building footprint.

The proposed dwelling maintains a two storey form to the streetscape, and a three storey form at the internal elevation consistent with the established pattern of development on the eastern side of Beach Street.

The development maintains a form that is consistent with the building bulk envisaged under the planning controls for the Blakehurst locality. The contravention to the height standard does not present any additional amenity impacts with regards to overshadowing, visual privacy, view loss noting this height variation is the result of historical excavation.

- The contravention to building height is consistent with the following objects of the Environmental Planning and Assessment Act, 1979 as follows:
 - 1.3(c) – The proposal is an orderly and economic use of the site and the development proposal presents a contemporary dwelling house that recognises an approved form and surrounding development. The proposal, including the additional variation to building height results in no increase to intensity of land use, noting the application is submitted in response to historical excavation, that occurred following the approval of DA2020/0203, with the surplus areas non habitable areas within a basement.
 - 1.3(g) – The contravention to the building height standard under this application is a good design outcome allowing for the building works to be



finalised with a form previously accepted by Council as appropriate for the site and consistent with the external built form envisaged for this site under the planning regime.

55. It is considered that the proposal does not demonstrate sufficient environmental planning grounds to warrant the variation for the following reasons:

- As outlined in the *Guide to Varying Development Standards* at p.12 the term 'environmental planning grounds' whilst not defined in the EPA Act or in the Standard Instrument LEP, refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in Section 1.3 of the EPA Act. The scope of environmental planning grounds is wide as exemplified by the court decisions in this area. Sufficient environmental planning grounds need to be established by the facts of the request. The request must justify the contravention of the development standard, not simply promote the benefits of the development. The grounds must:
 - be sufficient to justify the contravention.
 - focus on the aspect of the development that contravenes the development standard, not the development as a whole.
- The environmental planning grounds listed above by the applicant are insufficient to justify the contravention, as the grounds listed are not accurate, may be misleading, irrelevant or are disingenuous. This is shown in our reasoning below:
 - The assertions that the dwelling is compatible with the mixed character of development and is consistent with the established pattern; is vague and generalised and limits itself to the eastern side of the street and does not provide any examples of this housing typology to justify the claim.
 - The claim that the development maintains a form consistent with the bulk envisaged under the controls is inaccurate. The controls do not permit exceedances at the level of 14.5% in height and 34% in FSR, and the GRLEP 2021 requires any variations in excess of 10% to provide a clause 4.6 variation request, which in the case of the height variance is not accurate and in the case of the FSR variance has not been submitted. The argument is silent on the requirements in the FSPA to maintain view corridors.
 - The applicant claims the proposal and the contravention of the height standard will not result in increase of intensity of land use, and that the height exceedance is a good design outcome. It also claims that the works would be finalised in a form previously accepted as appropriate.
 - Clearly this is in error as an increase in 34% of FSR will result in an intensified land use, as will the proposal from the proposed three-storey dwelling form, when the DCP control clearly states that a two-storey built form is the standard to be maintained. Thus, we strongly disagree that the height exceedance represents in any way 'a good design outcome'. The height breach is sustained for a length of 23m of the 26m length of the dwelling and so is at the uppermost level of exceedance.



- The reference to the previously approved built form under DA2020/0203 is a moot point; when the section drawings are compared, they are quite dissimilar to the current proposal.
 - In conclusion, it is considered the clause 4.6 request does not adequately address all the matters required to be addressed pursuant to clause 4.6 and the request is not well founded as there are insufficient environmental planning grounds to justify contravening the standard. We reject the claims made by the variation request. The proposal will not result in a satisfactory urban design outcome; the proposal is markedly in excess of the building height control, and there are no positive factors we can see that will benefit the locality as a result of this exceedance being permitted. The claims made are also not totally cogent, given that they contain notional ideas around anomalies, and historic excavations they seek to excuse, and use terms such as 'extrapolated ground level', where they seek to 'technically' calculate the height from an existing 'relative level', lower than the natural topography adjoining the building footprint, and that as it is a 'relative level' then the additional height can be easily justified, with a claim that no amenity impacts will result.
 - In addition, we do not agree with the variation request claim that the proposal aims to provide 'a high level of architectural quality that is compatible with the desired outcomes for development within the R2 Low Density Residential zone' and thus facilitates a good planning outcome. We would argue that in fact this is not met, given the impact on the streetscape, and the inability of the proposal to meet the character and locality guidelines, and the visual impacts upon the surrounding properties, Georges River and public domain that would result, as well as overlooking, overshadowing and acoustic impacts on immediate neighbours.
 - Thus, the clause 4.6 request fails to provide sufficient justification against the objectives of the development standard (both numerical and non-numerical), at clause 4.3, and the objectives of the Locality Statement, and clauses 6.6 and 6.10 of the GRLEP 2021 as they pertain to this unique foreshore location within the FSPA. On these limbs the applicant has failed to prove that they have provided sufficient environmental planning grounds which can justify in this circumstance the 14.5% breach from the height of buildings development standard.
56. It is our view that the applicant has not succeeded in making a case that the standard can be disregarded based solely on the historic excavation that took place in 2020/2021. This is more than an anomaly to be disregarded; it was a deliberate course of action to undertake unauthorised works which the Court has now addressed. The fact the action is historical does not negate the requirement to apply consideration of all the planning controls to the entire proposal.
57. Whilst the proposal promotes the economic use and development of the land consistent with its zone and purpose, it is our view this is irrelevant. It is not appropriate to exercise the flexibility provided by clause 4.6 in the circumstances of this application, and we would request the Panel to invoke its powers under clause 4.6 to not permit the variation proposed, given our reasonings above.
58. The proposed variation does not raise any matters of State or Regional environmental planning significance.



No clause 4.6 variation request submitted to address clause 4.4A FSR breach

59. A clause 4.6 variation request was not submitted with the development application to address the departure from the development standard under clause 4.4A Floor Space Ratio. Indeed, the proposal cannot be supported as the two additional storeys added to the existing lower ground floor structure would create a dwelling with an FSR of 0.6225:1, which is an exceedance of 34.5% above the maximum FSR and there is no clause 4.6 request submitted to address this; on this basis the Panel cannot approve the application.

GEORGES RIVER DEVELOPMENT CONTROL PLAN 2021

60. The proposed development is subject to the provisions of the GRDCP 2021. The following comments are made with respect to the proposal considering the objectives and controls contained within the DCP.

6.1.2 Single Dwellings		
Control	Proposal	Compliance
1. Streetscape Character and Built Form		
1. New buildings and additions are to consider the Desired Future Character statement in Part 5 of this DCP.	Proposal is not in accordance with the desired future character statement for Blakehurst.	No
2. New buildings and additions are to be designed with an articulated front façade.	The front facade does not incorporate sufficient building articulation on the front facade, with the garage placed forward of the entry and front building line. There are also additional planters attached to the entire perimeter of the first-floor level, and a balcony is proposed which is non-compliant with depth requirement of 1.5m on the rear elevation. As a result, the proposal is bulky and excessive in its dimensions.	No Yes
4. Dwelling houses are to have windows presenting to the street from a habitable room to encourage passive surveillance.	Several proposed windows face towards the public domain.	Yes No
5. Development must be sensitively designed so as to minimise adverse impacts on the amenity and view corridors of neighbouring public and private property while maintaining reasonable amenity for the proposed	The proposed development impacts upon the view corridor from the public domain due to non-compliant side setbacks.	



6.1.2 Single Dwellings		
Control	Proposal	Compliance
development and is to balance this requirement with the amenity afforded to the new development.		Yes
6. The maximum size of voids at the first-floor level should be a cumulative total of 15m ² (excluding voids associated with internal stairs).	All voids associated with stairs.	
2. Building Scale and Height		
1. New buildings are to consider and respond to the predominant and desired future scale of buildings within the neighbourhood and consider the topography and form of the site. 2. On sites with a gradient or cross fall greater than 1:10, dwellings are to adopt a split-level approach to minimise excavation and fill. The overall design of the dwelling should respond to the topography of the site. 3. A maximum of two (2) storeys plus basement is permissible at any point above ground level (existing). Basements are to protrude no more than 1m above existing ground level.	The proposal is for 'Use of existing structure, rectification works and works to complete the dwelling'. The proposal is for a three-storey dwelling. The proposal does not consider the topography and form of the site. The scale of the building exceeds the FSR control by 34.5% and is not accompanied by a Clause 4.6 variation request, as discussed above. The building has not been designed to respond to the topography of the site. The proposed dwelling reaches three (3) storeys in height and exceeds the height control by 14.5%.	No
The proposed dwelling will be three (3) storeys in height, with the lower ground level sitting more than 1m above the existing ground floor level, and as such does not constitute a basement. The proposal has adverse visual impacts due to encroachments within the side southern setback, which reduces the view corridor. The proposed glazing is excessive on the rear elevation and has the potential to result in unacceptably high levels of reflectivity when viewed from the Georges River. The proposal contains three full storeys, and this building envelope also encroaches within the side southern setback. This has been exacerbated by the planters which have been attached to the exterior of the dwelling at the first-floor level on all elevations and will increase and perpetuate encroachment and result in a building envelope which is excessive.		



6.1.2 Single Dwellings		
Control	Proposal	Compliance
The surrounding dwellings contain 1 and 2 storey presentations to Beach Street. The proposal has a non-compliant FSR, and encroaches within the southern side southern setback, and without complete details and information in regard to the landscaping details a complete assessment cannot be undertaken. The proposal is considered to be unacceptable in its current form as it exceeds the maximum building height limit for the site and exceeds the bulk and scale of adjoining properties. When viewed from the waterway, development in the immediate context consists of detached dwellings of varying architectural styles and ages. The majority of dwellings facing the foreshore along Beach Street have been designed to step down the sloping sites. The proposed development is two storeys in height as it presents to the street, and is excessive in bulk and scale as it breaches the side setback, and is three storeys when viewed at the rear and on the side elevations. Thus, it is not compatible with the scale and character of development along Beach Street in the near vicinity which are compliant with side setbacks. The proposed dwelling will alter the character of the locality and proposes a three-storey dwelling, has excessive bulk and scale and does not provide for a landscape setting that is appropriate given the foreshore location. The proposal will be overly visible from the waterfront with its extensive glazing, in addition the colour of the balustrades and eaves, currently unknown, but appear to be a pale tone, as shown on Dwg A21 Schedule of Materials and Finishes, will also be visually dominant. The first floor walls are of exterior timber wall cladding in spotted gum. No information is provided on the privacy screens apart from a pictorial representation. The windows and glass doors are to be of powder coated aluminium in a medium bronze. The lower level and ground level are to have stone cladding by Archello (there is no manufacturer of this name), described as 'banded irregular cladding stone' but no colour is cited. Pavers are in Tundra Grey; the driveway in Dark Cobblestones. Thus it is not able to be definitely ascertain that the colour palette will be entirely sympathetic and in harmony with the natural environment and incomplete information has been provided. Certainly the proposal lacks a provision of landscaping of such a scale and type and treatment that would balance the built form in its position overlooking the Georges River.		
3. Setbacks		
Front Setbacks	Front setback = 10.144m.	Yes
1. The minimum setback from the primary street boundary is: i. 4.5m to the main building wall / facade; ii. 5.5m to the front facade of a garage or carport; or iii. Where the prevailing street setback is greater than the minimum, the average setback of dwellings on adjoining lots is to be applied.	Garage setback = 7.742m which results in the garage being forward of the main building line and being non-compliant. The front setback to the proposed first floor extension is 6.64m to the edge of the planters attached to the building, and 9.85m to the edge of the building line,	No



6.1.2 Single Dwellings		
Control	Proposal	Compliance
	forward of which is located the balcony, and the planters which are attached to the entire perimeter of the building.	
Side and Rear Setbacks 1. Buildings are to have a minimum rear setback of 15% of the average site length, or 6m, whichever is the greater (excluding detached secondary dwellings – see Point 12 in Section 6.1.2.12- Secondary Dwellings of this DCP). 2. The minimum side setbacks for ground and first floor are: iii. 1.5m for all lots within the Foreshore Scenic Protection Area measured at the front building line for the length of the development. 3. Where alterations and additions (ground and first floor) to an existing dwelling are proposed, an existing side setback less than the setback required in Control 3 can be maintained, provided the reduced setback does not adversely affect compliance with the solar access and landscaped area controls or adversely impact upon the visual and acoustic amenity of neighbouring dwellings. 4. For battle-axe lots, minimum side and rear boundary setbacks apply, except the front setback of the battle-axe lot without a street frontage, where a minimum setback of 4.0m is to be provided as illustrated in Figure 1.	Noting the irregular shaped allotment due to the foreshore access handle, the rear setback is provided below in relation to the boundary of the net developable area, as follows: <u>Rear Setbacks:</u> Lower Ground Level: - 5.655m to the edge of the structure for the swimming pool - 14.1m to the edge of the alfresco; and - 17.855m to the edge of the building line (as built). Note: this does not include the rear setback from the foreshore, and so relates only to the rear setback as measured from the boundary of the net developable area. (Access handle is 47.175m in length). Ground Floor Level: - 14.1m to the edge of the Balcony; and - 17.955m to the building line (as built) First Floor Level: - 16.425m to the edge of the Balcony and Planters - 19.375m to the edge of the building line	Yes



6.1.2 Single Dwellings		
Control	Proposal	Compliance
5. Any garages or parking structures fronting rear lanes may encroach upon the rear setback areas but are still to provide a minimum setback of 1m from the lane.	<u>Side Setback</u>	Yes
	Northern side: - 2.365m at lower ground level - 2.3m (approx. as no dimensions given) at ground level - 1.865m to planters and 2.465m dwelling wall Southern side: - 1.87m to structure of swimming pool and 1.395m to dwelling wall at lower ground level - 1.4m (approx. as no dimensions given) to side dwelling wall at ground level - 0.680m to planters and 1.280m to dwelling wall at first level Whilst the side northern setbacks are compliant, the side southern setbacks have a major breach with the setback control, the southern side setback at the narrowest point is 0.680m to the Planters on the First Floor Level, resulting in a non-compliance of 0.820m. The extension of this reduced setback would adversely impact neighbouring properties due to bulk and scale, and size, resulting in visual and acoustic amenity impacts, and reduction of view corridors when viewed from the public domain and from the Georges River.	No Not acceptable due to amenity impacts and lack of Clause 4.6 request to address breach of FSR development standard



6.1.2 Single Dwellings		
Control	Proposal	Compliance
Side Setbacks: The side setback control for lots within the Foreshore Scenic Protection Area is 1.5 metres, whilst the northern setback complies the southern side setback is non-compliant at all levels and has the greatest exceedance at first floor level with a setback of only 0.680m. This is not acceptable given that there is an FSR exceedance of 34.5% for the dwelling. No Clause 4.6 request has been submitted to address this FSR exceedance.		
4. Private Open Space		
1. Private open space is to be located at the rear of the property and/or behind the building line and is to have a minimum area of 60m² with minimum dimensions of 6m and located on the same level (not terraced or over rock outcrops). 2. Private open space is to be provided for all dwellings, (with the exception of secondary dwellings, which are able to share the private open space of the principal dwelling). 3. Private open space is to be located so as to maximise solar access. 4. Private open space is to be designed to minimise adverse impacts upon the privacy of the occupants of adjacent buildings.	The proposed private open space has not been shown on the landscape plan, noting the area in the rear garden whilst dominated by the structure for the swimming pool, appears to have sufficient area to provide for a minimum area of 60sqm, being at least 150sqm in size, in the area that is adjacent to the structure for the swimming pool. The private open space will receive adequate solar access. There are no adverse impacts upon privacy of occupants of adjacent dwellings.	Yes
5. Landscaping		
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. 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	The minimum deep soil landscaping requirement for the R2 zone is 25% of the site. The net developable area is 767.63sqm, and thus a landscape provision of a minimum area of 191.90sqm is required, which is able to adequately be achieved. There is no landscaping provided within either the access handle to the foreshore or the rear garden, as treatments in these	No



6.1.2 Single Dwellings		
Control	Proposal	Compliance
landscaping, are to occupy no more than 40% of the street setback area. 3. The front setback area is to have an area where at least one (1) tree capable of achieving a minimum mature height of 10m with a spreading canopy can be accommodated. A schedule of appropriate species to consider is provided in Council's Tree Management Policy.	sections of the site are not shown on the landscape plan. Whilst planters are proposed to be attached to all elevations of the dwelling, they do not constitute landscaping as they do not meet the Standard Instrument definition of 'landscaped area' as they are located within a structure, and not within deep soil which would ensure permeability. The courtyard "garden" is also an area that cannot be included in the landscape calculations, as it does not provide for deep soil, and so is not capable of meeting the 'landscaped area' definition. Council's Landscape Officer has reviewed the site plan and raised concern with regard to protection of the tree on the adjoining sites, further information had been requested. See comments at Referral section below.	
6. Excavation (Cut and Fill)		
1. Any excavation must not extend beyond the building footprint, including for any basement car park. 2. The depth of cut or fill must not exceed 1.0m from existing ground level, except where the excavation is for a basement car park. 3. Developments should avoid unnecessary earthworks by designing and siting buildings that respond to the natural slope of the land. The building footprint must be designed to minimise cut and fill by allowing the building mass to step in accordance with the slope of the land.	The maximum cut and fill proposed is 1m. The topography of the site has been altered by the existing works, with excavation up to 3m already undertaken in 2021. No further excavation is proposed apart from minor works for the front garden and driveway. There is no alteration to the dimensions of the structure for the proposed swimming pool.	Considered under BIC.
7. Vehicular Access, Parking and Circulation		



6.1.2 Single Dwellings		
Control	Proposal	Compliance
1. Car parking is to be provided in accordance with the requirements in Part 3 of this DCP.	The double garage and workshop are located at ground level, and located within the building envelope.	Yes
2. A dwelling is to provide one (1) garage and one (1) tandem driveway parking space forward of the garage (unless otherwise accommodated within the building envelope).	One garage with two spaces provided, and one tandem driveway parking space.	
5. Driveway crossings are to be positioned so that on-street parking and landscaping on the site are maximised, and removal or damage to existing street trees is avoided.	Vehicular access is via the proposed driveway from Beach Street.	Yes
6. The maximum driveway width between the street boundary and the primary building setback alignment of the garage is 4.0m.	The driveway width is 4m which complies.	Yes
8. Car parking layout and vehicular access requirements and design are to be in accordance with the Australian Standards, in particular AS 2890.1 (latest edition).	Driveway and garage is compliant with AS 2890.1.	Yes
9. The maximum width of a garage opening is 6m.	The garage opening is 6m	Yes
8. Visual Privacy		
1. Windows from active rooms are to be offset with windows in adjacent dwellings, or appropriately treated so as to avoid direct overlooking onto neighbouring windows.	Placement of openings on the southern elevation has provided large windows, close to the boundary that will cause privacy impacts.	No
2. For active rooms or balconies on an upper level, the design should incorporate placement of room windows or screening devices to only allow oblique views to adjoining properties.	The proposed dwelling will result in unacceptable amenity impacts due to the reduced setback on side southern elevation which incorporates fenestration and the excessive depth of both rear balconies, both will result in overlooking of adjoining properties.	No
		No



6.1.2 Single Dwellings		
Control	Proposal	Compliance
3. Upper-level balconies should not project more than 1500mm beyond the main rear wall alignment so as to minimise adverse visual privacy impacts to adjoining properties. 4. Windows for primary living rooms must be designed so that they reasonably maintain the privacy of adjoining main living rooms and private open space areas. 5. Development applications are to be accompanied by a survey plan or site analysis plan (to AHD) of the proposed dwelling showing the location of adjoining property windows, floors levels, windowsill levels and ridge and gutter line levels.	The rear balcony is proposed to have a screening device. However, the two upper-level balconies at the rear project more than the 1500mm control. A survey plan dated 28/11/23 was submitted with the application which provided partial information on adjoining dwellings, but did not provide complete information to ascertain window impacts.	Insufficient information provided re adjoining properties
9. Solar Access		
1. New buildings and additions are sited and designed to facilitate a minimum of 3 hours direct sunlight between 9am and 3pm on 21 June onto living room windows and at least 50% of the minimum amount of private open space. 2. To facilitate sunlight penetration to adjoining development, building bulk may be required to be articulated to achieve the required sunlight access. 3. Direct sunlight to north-facing windows of habitable rooms and 50% of the principal private open space area of adjacent dwellings should not be reduced to less than 3 hours between 9.00am and 3.00pm on 21 June. 4. Note: Variations will be considered for developments that comply with all other requirements but are located on sites with an east-west orientation or steeply sloping sites with a southerly orientation away from the street.	The proposal allows sufficient sunlight penetration to adjoining developments where possible, to both windows and private open space. Improved articulation of the built form could improve sunlight penetration to the adjoining southern property. Shadow diagrams have been submitted with the proposal however these address the proposal, and do not provide the existing and the proposed in terms of overshadowing impacts.	Yes No No



6.1.2 Single Dwellings		
Control	Proposal	Compliance
5. Shadow diagrams are required to show the impact of the proposal on solar access to the principal private open space and living rooms of neighbouring properties. Existing overshadowing by fences, roof overhangs and changes in level should also be reflected in the diagrams. It may also be necessary to provide elevations or views from sun diagrams to demonstrate appropriate solar access provision to adjoining development.		
10. Materials, Colour Schemes and Details		
1. Large expansive surfaces of predominantly white, light or primary colours which would dominate the streetscape or other vistas should not be used. 2. New development should incorporate colour schemes that have a hue and tonal relationship with the predominant colour schemes found in the street. 3. Matching buildings in a row should be finished in the same colour or have a tonal relationship. 4. All materials and finishes utilised should have low reflectivity.	The Schedule of Materials and Finishes provide insufficient detail to be able to ascertain whether they meet the requirements of the FSPA and are sympathetic to the current desired and future character of the immediate locality. The render is represented in a pale colour, but no details given. Insufficient detail is provided for the other elements including manufacture, material, colour, relating to wall cladding in timber; stone cladding; pavers; driveway; privacy screens. Medium bronze is proposed for the aluminium windows and doors. The colour and material scheme are required to be revised so complete information can be reviewed and assessed to ensure that it is sympathetic to the current desired and future character of the immediate locality. The extensive glazing on the dwelling, including the rear elevation will not provide the desired low reflectivity or	No Insufficient information provided.



6.1.2 Single Dwellings		
Control	Proposal	Compliance
	address the visual amenity requirements of the Georges River. External walls for the lower ground level and ground floor level are to be stone clad – colour not provided. The first-floor level is to be timber clad in ‘spotted gum’ or similar – but no picture of this specific finish provided. There are rendered brick/concrete balustrades and parapet wall which are in a pale colour like cream or light grey but no details are provided. Doors and windows are to have aluminium frames in Medium Bronze. A schedule of materials and finished by Finesse Design Group has been submitted. On the architectural plans, the colour code legend shows the following materials: render; exterior timber wall cladding; aluminium doors and windows; driveway in cobblestone; stone clad walls; pavers assumed concrete; fixed and operable privacy screen – no colour or material type is provided. It is assumed glass windows. This insufficient detail for a dwelling within the foreshore area where natural colours are required, means that the proposal in its present form cannot be supported.	
11. Site Facilities		
1. All dwellings are to be provided with adequate and practical internal and	There is existing storage within the lower ground built structure.	Yes



6.1.2 Single Dwellings		
Control	Proposal	Compliance
external storage (garage, garden sheds, etc.).		Yes
2. Provision for water, sewerage and stormwater drainage for the site shall be nominated on the plans to Council's satisfaction.	There is a proposed stormwater system.	Yes
3. Each dwelling must provide adequate space for the storage of garbage and recycling bins (a space of at least 3m x 1m per dwelling must be provided) and are not to be located within the front setback.	Sufficient area is provided within the proposed garage to accommodate the required waste containers.	Yes
4. Letterboxes are to be located on the frontage where the address has been allocated in accordance with Australia Post requirements.	A letter box is proposed at the front setback.	Yes

6.4.1 Fences and Walls		
Control	Proposal	Compliance
1. Fence heights are to be limited to a maximum of: i. 900mm for solid masonry, and ii. 1.2m for open or partially transparent styles such as picket or palisade.	Fencing is existing. Dwg A05 Demolition Ground Floor Plan by Finesse Design Group dated August 2024 shows that all brick/masonry walls on both side boundaries and the front boundary are to be removed. There is existing metal wire fencing on side and rear elevations as shown on the Survey.	N/A
2. Preferred materials for fencing are masonry, stone, ornate timber or ornate metal.	Timber fencing proposed from the building line. No fencing proposed forward of the building line.	Yes

6.4.2 Air Conditioning		
Control		
1. Air conditioning units should be sited so that they are no visible from the street. 2. The noise level from air conditioning condensers/systems is not to exceed the LAeq 15 minute by 5dBA measured at the property boundary.	A condition will be included to ensure air conditioning units are not visible from the street in the event were an approval issued.	Yes
6.4.4 Swimming Pools		



1. Swimming pools/spas are to be located to the rear of properties	The proposed swimming pool is located within the rear garden.	Yes
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.	Swimming pool location is compliant in relation to the side property boundary	Yes
4. In-ground swimming pools shall be built so that the top of the swimming pool coping is as close to the existing ground level as possible. On sloping sites this will often require excavation of the site on the high side to obtain the minimum out of ground exposure of the swimming pool consistent with the low side.	Not applicable.	N/A
5. Swimming pools/spas are to be no more than 500mm above existing ground level. the swimming pool is treated to minimise impact. The materials and design of the retaining wall should be integrated with and complement the style of the swimming pool.	The structure for the future swimming pool is existing, and is assessed under the BIC application. The completion of the swimming pool is proposed under this application.	Yes
9. Council may require mechanical equipment to be suitably acoustically treated so that noise to adjoining properties is reduced.	Noted, this can be conditioned should consent be granted.	Able to comply
10. A pool fence complying with the legislation is to separate access from the residential dwelling on the site to the pool.	Pool barriers compliant to AS1926 ss noted on the architectural plans.	Yes
11. Safety and security measures for swimming pools must comply with the relevant requirements of the Swimming Pools Act 1992 and any relevant Australian Standards.	Noted	Able to comply
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.	Insufficient information has been submitted with the application to form an assessment.	No
2. Removal of existing native vegetation minimised to that which is reasonably required to site and construct a building.	The proposed development does not involve the removal of any significant vegetation on site.	Yes
5. New, complementary planting and landscaping is encouraged.	Unsatisfactory, no landscape planting proposed in the rear garden and foreshore area.	No
6. Where on a steep site, vegetation is used to screen the impact of support structures such as piers.	No vegetation has been proposed apart from the front setback, although built planters have been proposed attached to all elevations of the dwelling at the first floor level.	No
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.	Minimal landscaping information has been provided has been provided for the rear garden and the area within the access handle which links to the foreshore.	No
8. Natural features that make a contribution to the environmental qualities and scenic landscape values of the foreshore, including mature native tree and sandstone rock outcrops, platforms and low cliffs, are retained.	There are no natural features on the site adjacent to the foreshore such as bushrock or mature trees. As mentioned above there is no provision made for trees or tall shrubs on the site.	N/A
9. The visual impact of buildings is minimised having regard to building size, height, bulk, siting, external materials, and colours and cut and fill.	The visual impact of the proposed development is not consistent with the adjoining properties as the building size, height, bulk exceeds the development standards, and there is an existing variation from the side setback controls on the side southern elevation. The materials and finishes are unsympathetic to the existing streetscape of Beach Street and the FSPA as insufficient	No



	information has been provided to assess.	
10. Buildings should be sited on the block to retain existing ridgeline vegetation, where possible. Siting buildings on existing building footprints or reducing building footprints to retain vegetation is highly recommended.	There is no significant vegetation on the site.	Yes
11. Where on a steep site, buildings are sited to sit discretely within the landscape using hillsides as a backdrop and below the tree canopy. The building footprint is to result in the following: (i) The preservation of topographic features of the site, including rock shelves and cliff faces; (ii) The retention of significant tress 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 of the site.	There is no significant vegetation on the site.	Yes
12. Facades and rooflines of dwellings facing the water are to be broken up into smaller elements with a balance of solid walls to glazed areas. Rectangular or boxy shaped dwellings with large expanses of glazing and reflective materials are not acceptable. In this regard, the maximum amount of glazed area to solid area for façades facing the foreshore is to be 50%-50%.	It is noted that the rear elevation faces the waterway and has extensive glazing that is reflective, and the impact of this on the views from the water has not been addressed. In the event were the proposal to be approved, the rear facade would need to be amended to be 50% masonry and 50% glazing.	No
13. Colours that harmonise with and recede into the background landscape are to be used. In this regard, dark and earthy tones are recommended, and white and light-coloured roofs and walls are not permitted. To ensure that colours are appropriate, a schedule of proposed colours is to be submitted with the Development Application and will be enforced as a condition of consent.	The colour and material scheme have provided insufficient information. The render does not appear to be sympathetic to the current desired and future character of the immediate locality.	No
14. Buildings fronting the waterway must have a compatible presence when viewed from the waterway and incorporate design elements (such as	The proposed development has an excessive bulk and scale, and combined with excessive glazing will have an	No



roof forms, textures, materials, the arrangement of windows, modulation, spatial separation, landscaping etc) that are compatible with any design themes for the locality	overbearing impact, and pale render is not suitable, so view impacts, when viewed from the waterway.	
15. Blank walls facing the waterfront shall not be permitted. In this regard, walls are to be articulated and should incorporate design features, such as: (i) Awnings or other features over windows; (ii) Recessing or projecting architectural elements; or (iii) Open, deep verandas.	The development does not propose blank walls facing the waterfront.	Yes
17. The extent of associated paved surfaces is minimised to that which provides essential site access and reasonable private open space.	Paved surfaces are minimised to sections of front setback, side setbacks and alfresco area.	Yes
18. Buildings have external finishes that are non-reflective and coloured to blend with the surrounding landscape.	The proposed external finishes and materials are reflective and do not blend with the surrounding context.	No
19. Swimming pools and surrounds should be sited in areas that minimise the removal of trees and limit impact on natural landform features (rock shelves and platforms).	The swimming pool is proposed to be completed. There is no impact on natural landform features.	Yes
20. Fences are low in profile and are at least 50% transparent.	Fencing is proposed behind the building line, proposed 1800mm high constructed of timber palings and the fencing is not transparent. No detail on fencing in access handle provided	No
21. Driveways and other forms of vehicular access are as close as practical to running parallel with contours	Driveway proposed and suitably designed.	Yes
22. The natural landform is to be retained and the use of retaining walls and terracing is discouraged.	No further alteration to the existing ground levels proposed.	Yes
23. Retaining walls are not to be located: • Between the FBL and MHWMM • Within 40m of MHWMM	None in this location.	Yes
24. Where retaining walls are constructed in other areas, materials and colours that blend with the character and landscape of the area	Existing walls on the side and front boundaries are proposed for demolition.	N/A



are used. Where retaining walls face the foreshore they are to be constructed of coarse, rock faced stone or a stone facing and are to be no higher than 600mm above natural or existing ground level. Under no circumstances will Council permit a masonry faced retaining wall facing the foreshore.		
25. Development provides opportunities to create view corridors from the public domain to the Georges River.	Insufficient setback has been afforded to create view corridor opportunities. There is insufficient articulation of the building and the excessive height, bulk and scale impacts on views from the public domain.	No

PART 5 – RESIDENTIAL LOCALITY STATEMENTS

61. The Development is required to consider the future character statement for the locality, in addition to the requirements within other parts of this DCP as shown on the map on Page 59, Part 5 of the DCP (shown in Figure 9 above). The assessment of character for the applicable locality is provided below:

Blakehurst	
Retain and enhance the existing low density suburban residential character through articulated contemporary developments that respond to the human scale.	The proposal is not consistent with the future desired character of the precinct due to excessive bulk and scale.
Encourage well-designed high density residential development in designated areas along Princes Highway.	N/A
Facilitate urban renewal in appropriate locations, allowing substantial change to the streetscape character while resulting in a high quality public domain.	Proposal is for a contemporary-style building.
Encourage consistent setbacks of buildings from the street and the provision of landscaping within the front setback.	There is an existing building setback which breaches the front setback control; this is sought to be perpetuated with the garage located forward of the building line. Landscape plan primarily addresses the front setback.
	There is only one tree on site, and only two proposed in the front setback.



Encourage the retention of trees and sharing of water views wherever possible, including screening via vegetation rather than solid walls.	Encroachment in the side southern setback will reduce the view corridor.
Public views to waterways should be retained from streets and public places.	View sharing and view corridors are not maintained via the proposed design.

SUMMARY OF DCP ASSESSMENT

62. The proposal, therefore, does not comply with key provisions of the Georges River Development Control Plan as outlined below:

- a) Part 3 – General Planning Considerations:
 - Part 3.3 Landscaping: insufficient information
- b) Part 6.1 – Low Density Residential Controls
 - Part 6.1.1 Setbacks: noncompliant front setback (garage forward of building line) and southern side setback
 - Part 6.1.3.11 Landscaping: insufficient information.

ANY PLANNING AGREEMENT UNDER SECTION 7.4

Section 4.15(1)(a)(iii) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4.

63. There is no planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 applicable to the proposal.

THE REGULATIONS

Section 4.15(1)(a)(iv) the regulations to the extent that they prescribe matters for the purposes of this paragraph.

64. There are no regulations (to the extent that they prescribe matters for the purposes of this paragraph) applicable to the proposal.

THE LIKELY IMPACTS OF THE DEVELOPMENT

Natural Environment

65. The proposed development does not provide a positive benefit or contribution to the natural environment within the FSPA, as no details are given of landscaping treatment proposed for the access handle.

66. The landscaping drawing provides insufficient information on the nature and treatment of the landscaping across the wider site area and the lack of sufficient information results in unacceptable landscaping within the FSPA. The proposal is not a contributor in any positive sense to the foreshore location with respect to the biodiversity and ecological development standards which are outlined at Clauses 6.6, 6.10 and 6.12 of GRLEP 2021.

67. The Clause 4.6 request to address the departure from the height development standard was not well-founded and did not demonstrate that compliance with the Clause 4.3 development standard was unreasonable or unnecessary. The request



was unable to demonstrate the objectives of the standard were still met despite the contravention of that standard as its analysis was very narrow, mainly focused on the historical excavation to assert that the built form on the proposed first floor level should be entitled to breach the height control by 14.5% for 23m of the 26m length of the dwelling. The Clause 4.6 request also failed to provide sufficient reasons by way of environmental planning grounds to justify the maintenance of this breach, in both its nature and extent, and was unable to justify the contravention. The variation request did not demonstrate that compliance with the Clause 4.3 development standard was unreasonable or unnecessary and thus the request is not well-founded, and we would request the Panel not to support this request for the reasons identified in this report.

68. A Clause 4.6 variation request was not provided to support the FSR variation and on this basis the application cannot be approved by the Panel.

Built Environment

69. The dwelling provides housing in the area with a complement of four bedrooms, and living rooms on each of the three levels, three balconies but results in an unacceptable height exceedance of 14.5% and an unacceptable FSR exceedance of 34.5% without a clause 4.6 variation request, on this basis the application cannot be approved.
70. The proposal does not represent an appropriate planning outcome for the site with respect to its bulk, scale and density, facade articulation and expression and is not an appropriate response to the context of the site and its R2 Low Density Residential zoning resulting in a three storey built form being inconsistent with the desired two storey character.
71. The proposal is not considered to be consistent with the desired future character of development in the R2 zoned land in this foreshore location and immediate locality and the development is an inappropriate response to the context of the site.
72. The character requirements within the Blakehurst Locality Statement have not been appropriately addressed.

Social Impact

73. Adverse social impacts have been identified as part of the assessment due to amenity impacts: overshadowing, overlooking, visual privacy and acoustic privacy impacts. It will also impact the visual aspect of the Georges River.
74. A dwelling house is permissible with consent given the residential zoning of the land, however there are amenity impacts associated with the excessive FSR, non-compliant height and non-compliant front and side setback, and lack of sufficient landscaping. The existing development on site has non-compliances with respect to side and front encroachments, and these would be exacerbated in perpetuity if approved.



Economic Impact

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

Suitability of the site

76. The site is zoned R2 – Low Density Residential. The proposal is a permissible form of development in this zone however it has not had regard in its design to reflect the current and future context of the locality, in particular the FSPA. It is inconsistent with the zone objective in retaining the low-density residential character due to excessive height and bulk and non-compliant front and side setbacks. There is an exceedance to the maximum allowable FSR of 34.5% and height control of 14.5%, a Clause 4.6 variation request was only provided in relation to the height non-compliance and not the FSR non-compliance.
97. Insufficient and inadequate information was provided regarding landscaping design, and no arboricultural assessment report was provided.

SUBMISSIONS AND THE PUBLIC INTEREST**Submissions**

98. The application was neighbour notified in accordance with Community Engagement Strategy for a period of twenty eight (28) days. One (1) submission was received from a neighbour nearby. It did not make any specific point in regards to the development proposal apart from the impact on views, and stated:
- a. 'We would like to lodge an objection to this proposal as it will ruin our beachside and infringe and disrupt our view and not allow our children the space to play on the beach front.'

Assessing Officer's comments:

99. The concerns relate to a view impact in regard to the proposal under consideration, which is evident as discussed in our assessment. Regarding impacts on the beachside and beach front, there is minimal evidence, and suitable conditions of consent would be imposed if the proposal were to be approved to address erosion and sediment control.

The Public Interest**Section 4.15(3) the public interest**

100. The proposal is not considered to be in the public interest for the following reasons:
- Does not meet the aims of the plan in GRLEP 2021 to provide a high standard of urban design and built form
 - Inaccurate, insufficient and missing information: pertaining to FSR, height measurement, garage, pool barriers, proposed landscaping (complete landscape plan and arborist report not supplied)
 - Inconsistent with zone objective in retaining low density residential character due to excessive bulk and scale and non-compliant side and front setbacks
 - Exceedance to maximum allowable Floor Space Ratio (34.5%) and no Clause 4.6 variation request submitted to support this variation
 - Contravention of development standard relating to landscaping requirement of the type and nature of provision required within the Foreshore Scenic Protection Area



- Inconsistent with the future desired character of Blakehurst regarding streetscape, built form, foreshore locality and view corridors due to excessive bulk and scale and non-compliant setbacks, and deficiency of landscape provision
- Non-compliance with 6.1.1 of GRDCP 2021: setbacks on front and side boundary.

REFERRALS

External Referrals

Ausgrid

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

Council (Internal) Referrals

Development Engineer

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

Landscape Officer

103. Council's Landscape Officer had requested the following additional information:
- *an Arboricultural Impact Assessment written in accordance with AS Protection of trees on development sites AS4970-2009 and the Georges River Tree Management Policy. This is to include all trees impacted; details of tree protection zone, structural root zone and canopy spread; a scaled tree protection plan; pruning specifications; and other information.*
- The application should not be supported as insufficient information has been provided to undertake an assessment.

Senior Environmental Officer

104. The application was referred to Council's Senior Environmental Officer for comment, who have provided suitable conditions of consent relating to erosion and sediment controls to ensure no pollution or building material enters Kogarah Bay (Georges River waterway). These would be imposed if the application were to be supported.

DEVELOPMENT CONTRIBUTIONS

105. 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 AND RECOMMENDATION

106. 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.



107. The application is not considered suitable with regards to the matters listed in Section 4.15 of the EP&A Act 1979 for the reasons listed below:
108. The proposal is not considered to be in the public interest for the following reasons:
- *The proposal has been assessed against the provisions of the GRLEP 2021 and GRDCP 2021 and does not satisfy the key planning controls as follows:*
 - Clause 4.3, 4.4, 4.6, 6.6, 6.10, 6.12 of the GRLEP 2021
 - Inconsistent built form in relation to the Locality Statement and the Foreshore Scenic Protection Area requirements within the GRDCP 2021,
 - Unacceptable height and excess bulk and scale and insufficient articulation and non-compliant setback being inconsistent with GRDCP 2021.
 - Non-compliance with Section 6.1.1 of GRDCP 2021 in regard to side southern setback which is non-compliant, and the garage is located forward of the front building line rather than behind the front building line.
 - *The Clause 4.6 request to address the 14.5% variation to the building height control was not considered to be well founded and a height variation is not supported in this instance and did not provide adequate planning grounds to justify the variation.*
 - *The proposed FSR calculation was not correct and exceeds the maximum control. No Clause 4.6 variation was provided.*
 - *The proposal does not comply with Clause 2.120 of the SEPP (Transport and Infrastructure) 2021 as no acoustic report has been submitted to address the site location in close proximity to a classified road, being the Princes Highway, and impacts of traffic noise.*
 - *The proposed development is likely to have an adverse impact on residential amenity, privacy and acoustic impacts, loss of a view corridor, overshadowing, impact on streetscape and waterway due to bulk and scale, and provide inadequate landscaping and tree protection, particularly within the rear garden and along the rear access handle.*
109. The application is not supported for reasons outlined in the report above.

RECOMMENDATION

Refusal of Application

Pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act, 1979* (as amended), the delegated officer determines Development Application DA2024/0460 for *Use of works as constructed, rectification works and works to complete the dwelling* on Lot B DP 310289, on land known as 34 Beach Street BLAKEHURST 2221, as a refusal for the reasons below:

1. The proposal does not comply with Clause 2.120 of the SEPP (T&I), an acoustic report has not been submitted to assess the impact on the dwelling of traffic noise, Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
2. The proposal fails to deliver built form that has a high standard or urban design being inconsistent with the Clause 1.2(2)(f) Aims of the Georges River Local Environmental Plan 2021, pursuant to section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.



3. The proposal is inconsistent with the R2 Low Density Residential zone objectives under Clause 2.3 of the Georges River Local Environmental Plan 2021, pursuant to section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
4. The proposed height of the dwelling fails to comply with the maximum height permitted under clause 4.3 of the Georges River Local Environmental Plan 2021, pursuant to section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
5. The proposed development has inaccurately calculated the floor space ratio, and it exceeds the maximum floor space ratio permitted under clause 4.4A of the Georges River Local Environmental Plan 2021, pursuant to section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
6. The development seeks to vary the height control and floor space ratio the submitted clause 4.6 variation report only relates to height and it fails to demonstrate that a height variation should be supported, pursuant to section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
7. Without a clause 4.6 variation for the exceeded floor space ratio, the application cannot be determined in accordance with Clause 4.6(3) of the Georges River Local Environmental Plan 2021, pursuant to section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
8. The proposed development will have unacceptable impacts within the foreshore scenic protection area and is inconsistent with Clause 6.6 of the Georges River Local Environmental Plan 2021, pursuant to section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
9. The design of the dwelling does not achieve design excellence, being contrary to Clause 6.10 of the Georges River Local Environmental Plan 2021, pursuant to section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
10. The proposed landscaping fails to deliver adequate design to minimise visual impact and reduce bulk and scale within the foreshore scenic protection area, as required under clause 6.12 of the Georges River Local Environmental Plan 2021, pursuant to section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
11. The proposed development fails to provide an arborist report and sufficient landscaping plans to determine how site will be landscaped with consideration of the foreshore scenic protection area to make an assessment in accordance with Section 3.2.1 of the Georges River Development Control Plan 2021, pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979.
12. The proposed development results in unacceptable bulk and scale and view impacts to Kogarah Bay being inconsistent with section 6.1.2.2 of the Georges River Development Control Plan 2021, pursuant to section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979.



13. The proposed non-compliant southern side setback and garage forward of the building line results in an unacceptable variation to section 6.1.2.3 of the Georges River Development Control Plan 2021, pursuant to section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979.
14. The proposed landscaping will not contribute to biodiversity and will not enhance the natural environment and foreshore having an adverse impact on the natural environment, pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979.
15. The development will result in unacceptable three-storey built form with excessive scale without adequate landscaping when viewed from adjoining properties and Kogarah Bay, will overlook adjoining properties, reduce view corridors along the site, relies on excessive cut and fill and has excessive glazing along the rear elevation. The built form is inconsistent from an urban design perspective, pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979.
16. The proposal, in its current form, is not considered to be suitable for the site, pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
17. The proposed development, in its current form, is not considered to be in the public interest and is likely to set an undesirable precedent, pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS

Attachment 1 Redacted Architectural Plans

Attachment 2 Clause 4.6 Variation Request to address Height Breach Exceedance





PROPOSED REAR VIEW OF DWELLING - ARTIST IMPRESSION ONLY - SUBJECT TO CHANGE

ALTERATIONS & ADDITIONS TO EXISTING DWELLING
AT 34 BEACH STREET, BLAKEHURST
LOT B DP 310289
985.6m²

DRAWING LIST

Sheet No	Sheet Name
A00	DRAWING INDEX
A01	BASIX CERTIFICATE
A02	AS BUILT BASEMENT FLOOR PLAN
A03	AS BUILT GROUND FLOOR PLAN
A04	DEMOLITION BASEMENT FLOOR PLAN
A05	DEMOLITION GROUND FLOOR PLAN
A06	SITE ANALYSIS
A07	PROPOSED SITE PLAN
A08	PROPOSED SETBACKS
A09	PROPOSED SETBACKS
A10	PROPOSED BASEMENT FLOOR PLAN
A11	PROPOSED GROUND FLOOR PLAN
A12	PROPOSED FIRST FLOOR PLAN
A13	PROPOSED FRONT ELEVATION (WEST)
A14	PROPOSED SIDE ELEVATION (SOUTH)
A15	PROPOSED REAR ELEVATION (EAST)
A16	PROPOSED SIDE ELEVATION (NORTH)
A17	PROPOSED SECTION A
A18	POOL DETAILS
A19	FSR AREA COMPLIANCE
A20	LANDSCAPE AREA COMPLIANCE
A21	SCHEDULE OF MATERIALS & FINISHES
A22	SHADOW DIAGRAM JUN 21 - 9am
A23	SHADOW DIAGRAM JUN 21 - 10am
A24	SHADOW DIAGRAM JUN 21 - 11am
A25	SHADOW DIAGRAM JUN 21 - 12pm
A26	SHADOW DIAGRAM JUN 21 - 1pm
A27	SHADOW DIAGRAM JUN 21 - 2pm
A28	SHADOW DIAGRAM JUN 21 - 3pm

	Client Ahmad El Saadi		Project PROPOSED DWELLING HOUSE	Dwg No. A00	Title DRAWING INDEX	Revision A	Rev. #	Description	Date
	Job No. FDG23.02	Date AUG'24					A	ISSUED FOR CLIENT APPROVAL	14Aug24

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WINDOW SCHEDULE					
W No.	LOCATION	SILL	WIDTH	HIGHT	COMMENTS
W-01	FAMILY	50	4547	2700	
W-02	GUEST BED	0	4476	2700	
W-01	FAMILY	50	4547	2700	
W-02	GUEST BED	0	4476	2700	
W-03	GARAGE	-50	2500	2700	
W-04	GARAGE	-50	1000	2700	
W-05	WIP	900	3115	750	
W-06	KITCHEN	900	4500	750	
W-07	LIVING/DINING	0	9210	2700	
W-08	LIVING	600	2995	2170	
W-09	GALLERY	600	2530	2100	
W-10	LAUNDRY	0	920	2700	FROSTED GLASS
W-11	WC	1550	1923	600	
W-12	STAIR	0	3315	2700	

Legend

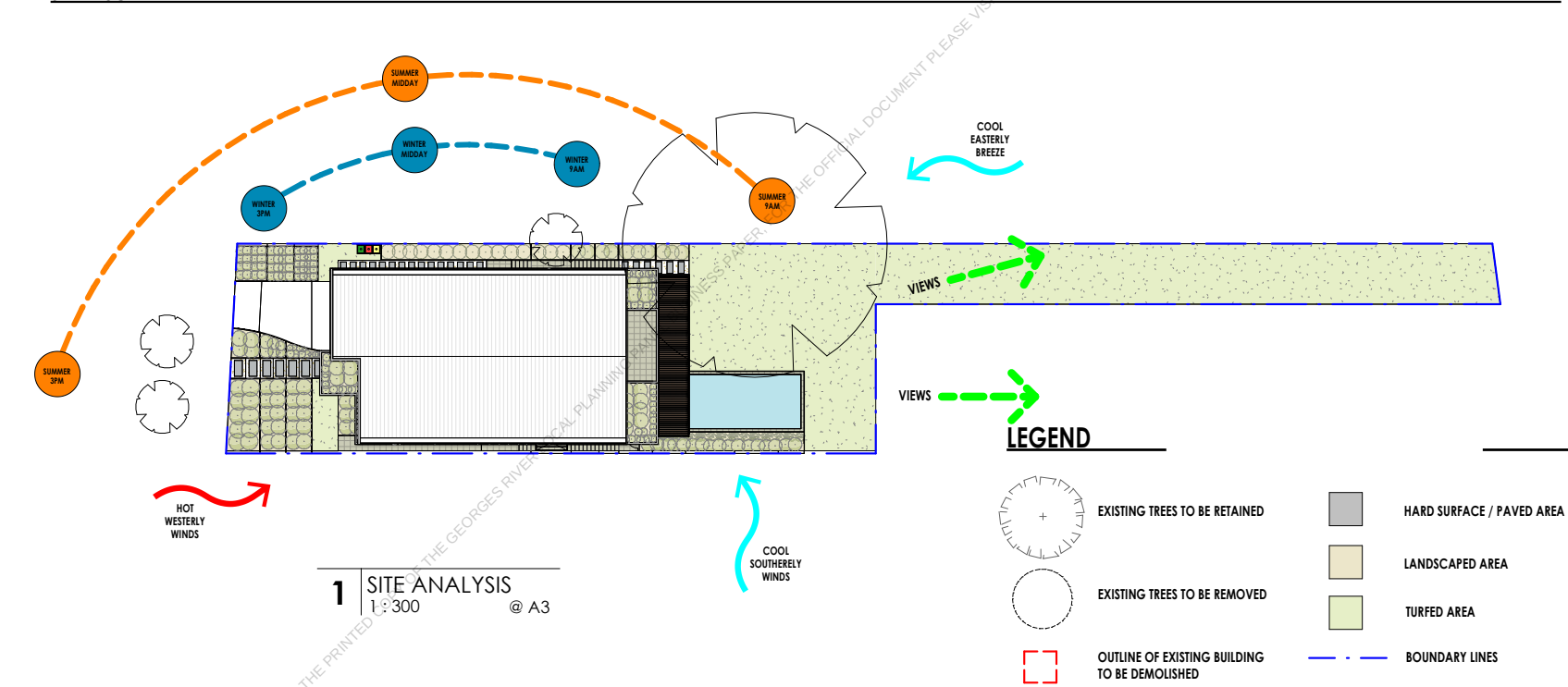
Is these commitments, "applicant" means the person carrying out the development.

Comments identified with a **✓** in the "Show on CA/CI plans" column must be shown on the plans accompanying the development application for the proposed development (if a development application is to be lodged for the proposed development).

Comments identified with a **✓** in the "Show on COCCO plans & specs" column must be shown in the plans and specifications accompanying the application for a construction certificate / compiling development certificate for the proposed development.

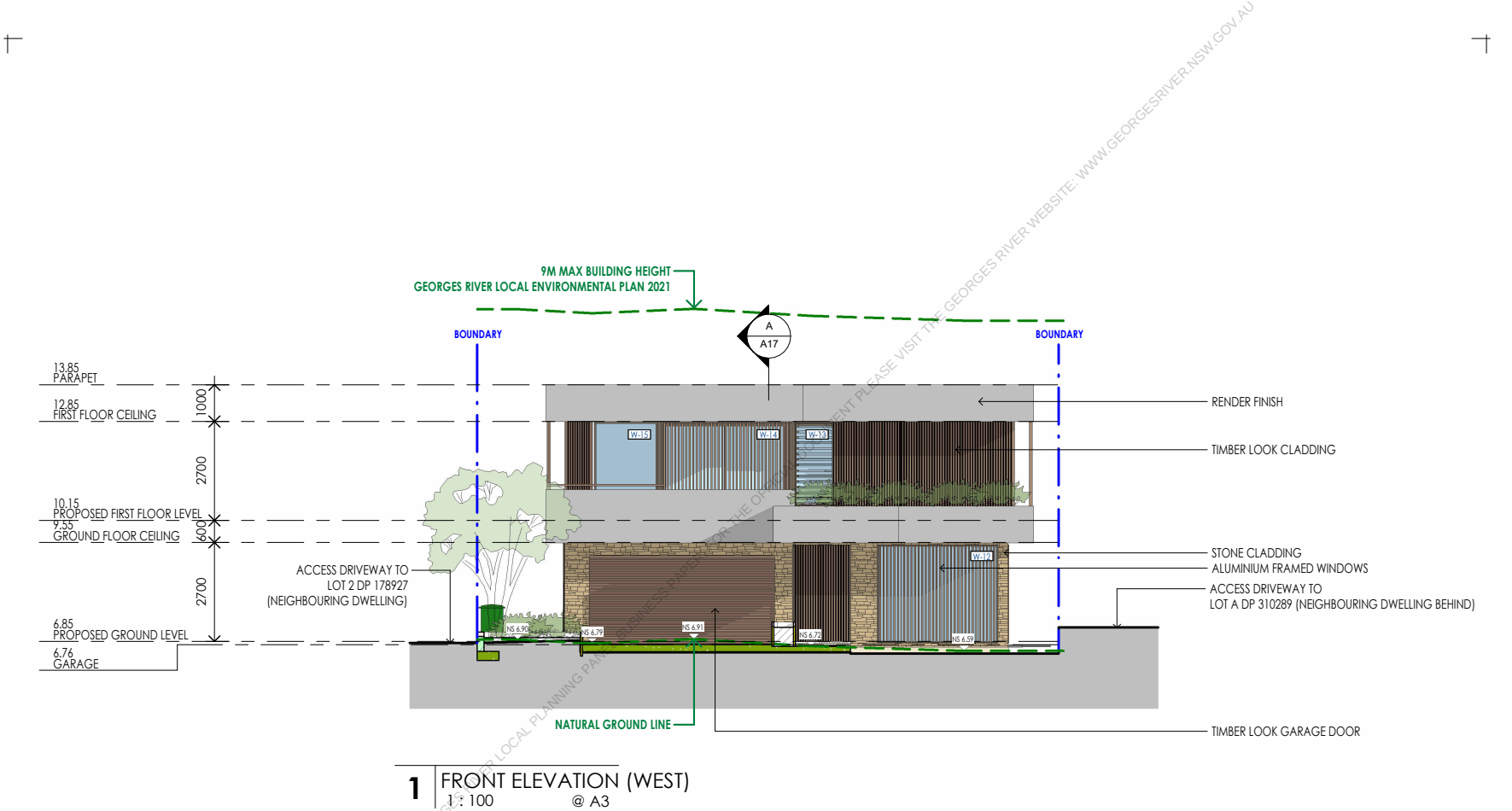
Comments identified with a **✓** in the "Confirm shire" column must be certified by a certifying authority on having been fulfilled, before a final occupation certificate for the development is issued.

W-13	VOID	400	1051	2300	
W-14	FAMILY	0	3479	2700	
W-15	FAMILY	0	1800	2700	
W-16	FAMILY	0	3100	2700	
W-17	BED 1	1000	2510	1700	
W-18	BATH	1000	2840	1700	
W-19	WCO	1800	1200	700	
W-20	ENSUITE	1800	1200	700	
W-21	ENSUITE	800	1600	1900	
W-22	ENSUITE	800	2510	1900	
W-23	ENSUITE	800	1395	1900	
W-24	ENSUITE	800	2075	1900	
W-25	MASTER BED	0	3316	2700	
W-26	BED 3	400	1100	2300	
W-27	BED 3	400	2000	2300	
W-28	BED 2	410	1000	2290	
W-29	VOID	400	3833	2300	



		Client Ahmad El Saadi		Project PROPOSED DWELLING HOUSE	Dwg No. A06	Title SITE ANALYSIS	Revision A	Rev. #	Description	Date
		Job No. FDG23.02	Date AUG'24	34 Beach Street, Blakehurst	Scale As indicated @ A3			A	ISSUED FOR CLIENT APPROVAL	14Aug24

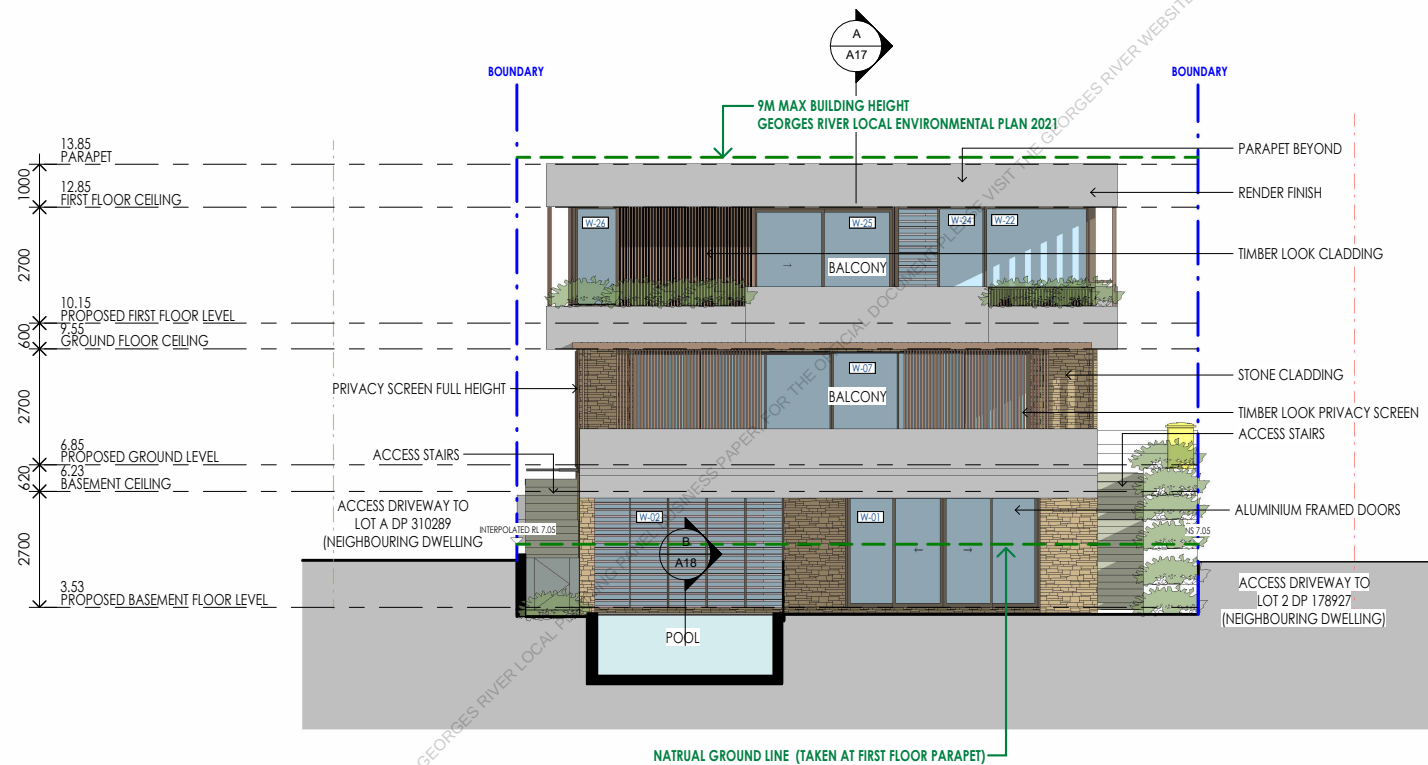
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	Client Ahmad El Saadi		Project PROPOSED DWELLING HOUSE	Dwg No. A13	Title PROPOSED FRONT ELEVATION (WEST)	Revision A	Rev. #	Description	Date
	Job No. FDG23.02	Date AUG'24	34 Beach Street, Blakehurst	Scale 1 : 100 @ A3			A	ISSUED FOR CLIENT APPROVAL	14Aug24



	Client Ahmad El Soladi		Project PROPOSED DWELLING HOUSE	Dwg No. A14	Title PROPOSED SIDE ELEVATION (SOUTH)	Revision A	Rev. #	Description	Date
	Job No. FDG23.02	Date AUG'24	34 Beach Street, Blakehurst	Scale 1 : 100 @ A3			A	ISSUED FOR CLIENT APPROVAL	14Aug24



1 REAR ELEVATION (EAST)
1 : 100 @ A3

	Client Ahmad El Saadi		Project PROPOSED DWELLING HOUSE	Dwg No. A15	Title PROPOSED REAR ELEVATION (EAST)	Revision A	Rev. #	Description	Date
	Job No. FDG23.02		34 Beach Street, Blakehurst	Scale 1 : 100 @ A3			A	ISSUED FOR CLIENT APPROVAL	14Aug24
	Date AUG'24								

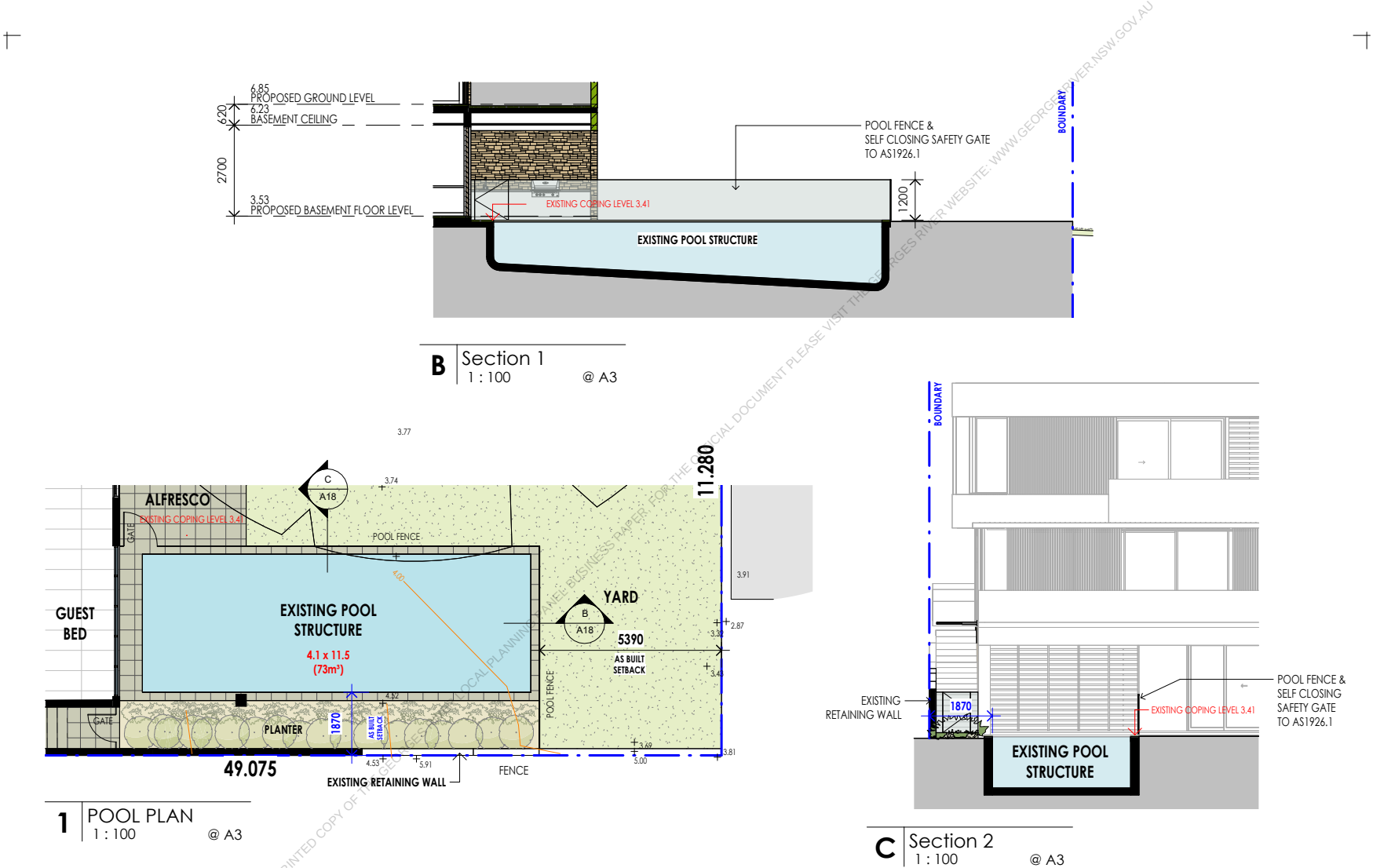
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1 SIDE ELEVATION (NORTH)
1 : 100 @ A3

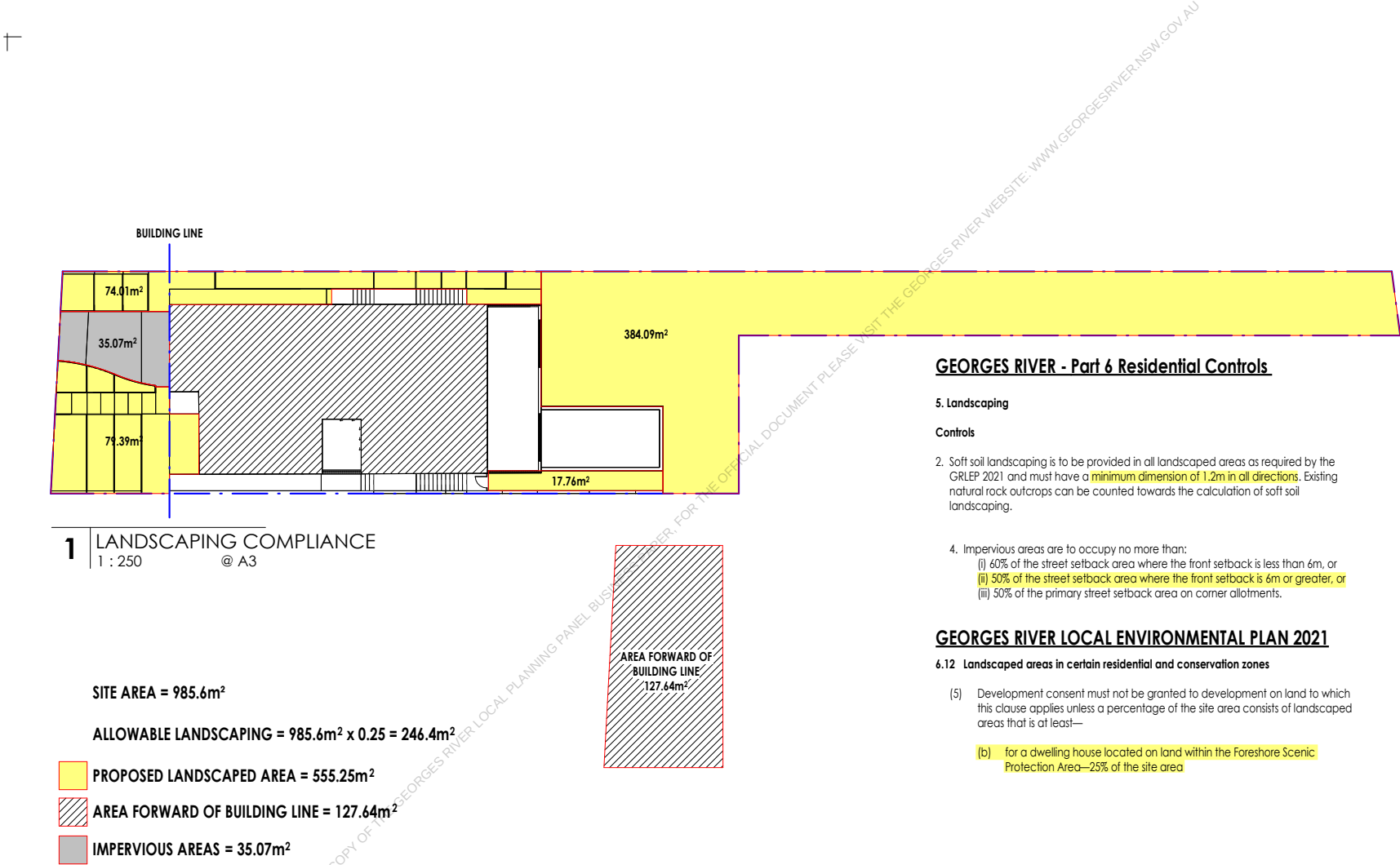
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	Job No. FDG23.02		Date AUG'24	34 Beach Street, Blakehurst			Scale 1 : 100 @ A3	A	ISSUED FOR CLIENT APPROVAL	14Aug24

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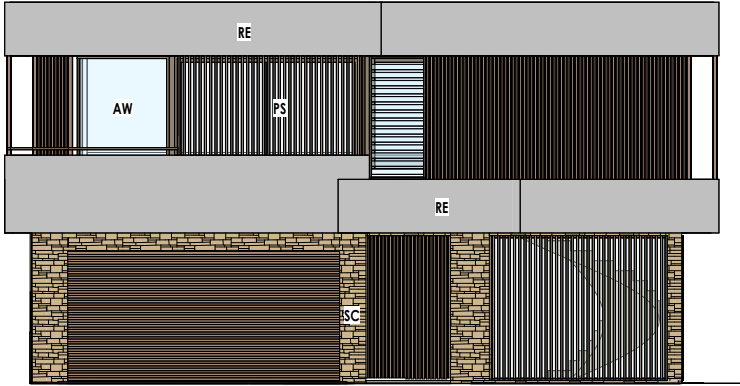
		Client Ahmad El Saadi		Project PROPOSED DWELLING HOUSE	Dwg No. A18	Title POOL DETAILS	Revision A	Rev. #	Description	Date
		Job No. FDG23.02	Date AUG'24					A	ISSUED FOR CLIENT APPROVAL	14Aug24

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		Client Ahmad El Saadi		Project PROPOSED DWELLING HOUSE	Dwg No. A20	Title LANDSCAPE AREA COMPLIANCE	Revision A	Rev. #	Description	Date
		Job No. FDG23.02	Date AUG'24	34 Beach Street, Blakehurst	Scale 1 : 250 @ A3			A	ISSUED FOR CLIENT APPROVAL	14Aug24

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SCHEDULE OF COLOURS & FINISHES



EWC- EXTERIOR TIMBER
WALLS CLADDING

MANUFACTURER: SELECTED
COLOUR: GUM SPOTTED (OR SIMILAR)



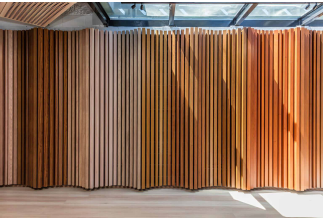
RE - RENDER

MANUFACTURER: SELECTED
COLOUR: SELECTED RENDER FINISH



AW - WINDOWS & GLASS DOORS

MANUFACTURER: SELECTED
COLOUR: POWDER COATED MEDIUM BRONZE



PS - FIXED + OPERABLE PRIVACY SCREEN

MANUFACTURER: SELECTED
COLOUR: SELECTED



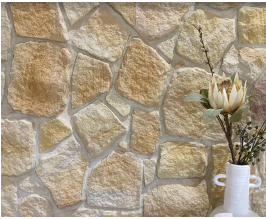
DW - DRIVEWAY

MANUFACTURER: SELECTED
COLOUR: DARK COBBLESTONE



PA - PAVERS

MANUFACTURER: SELECTED
COLOUR: TUNDRA GREY

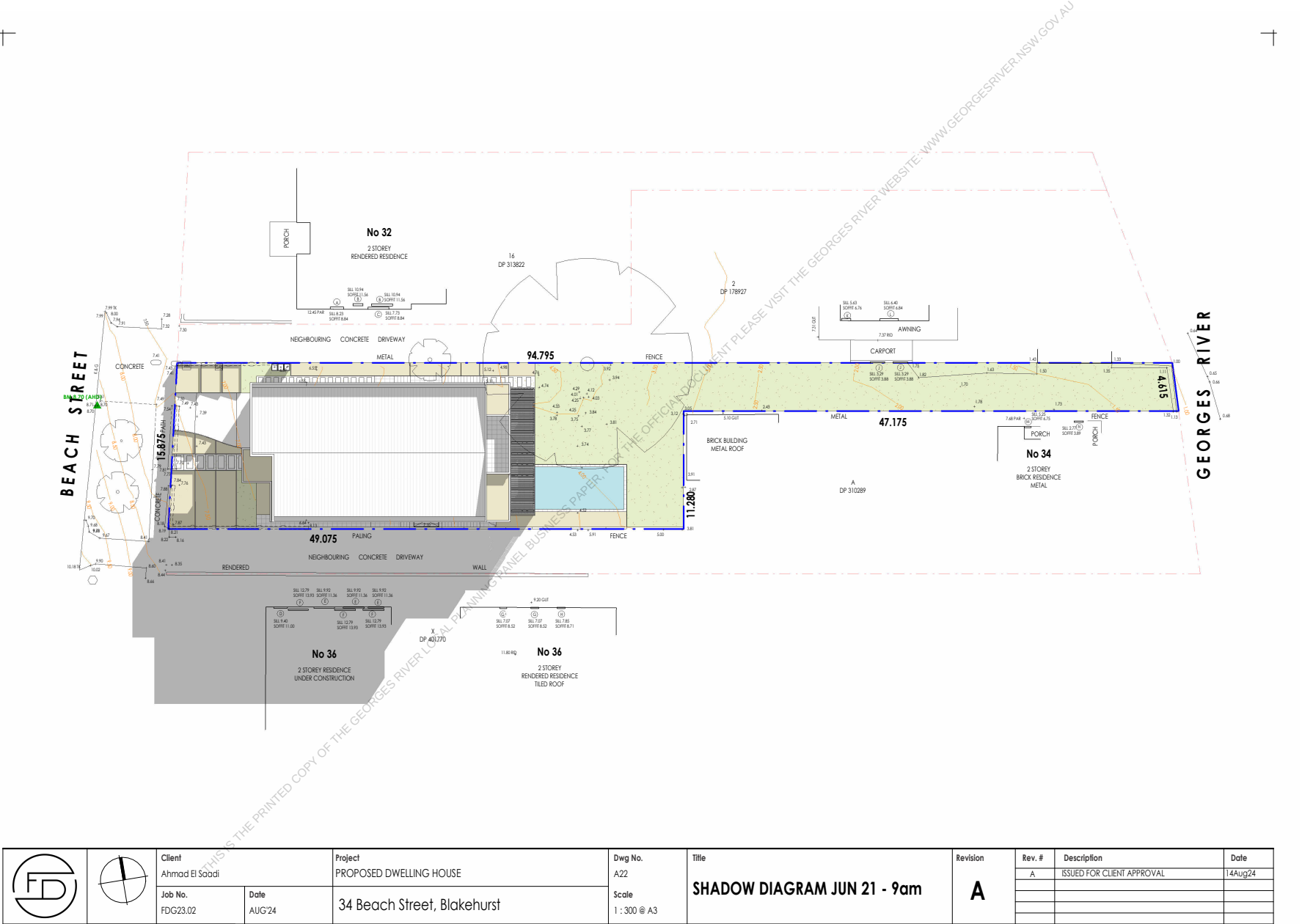


SC- STONE CLAD

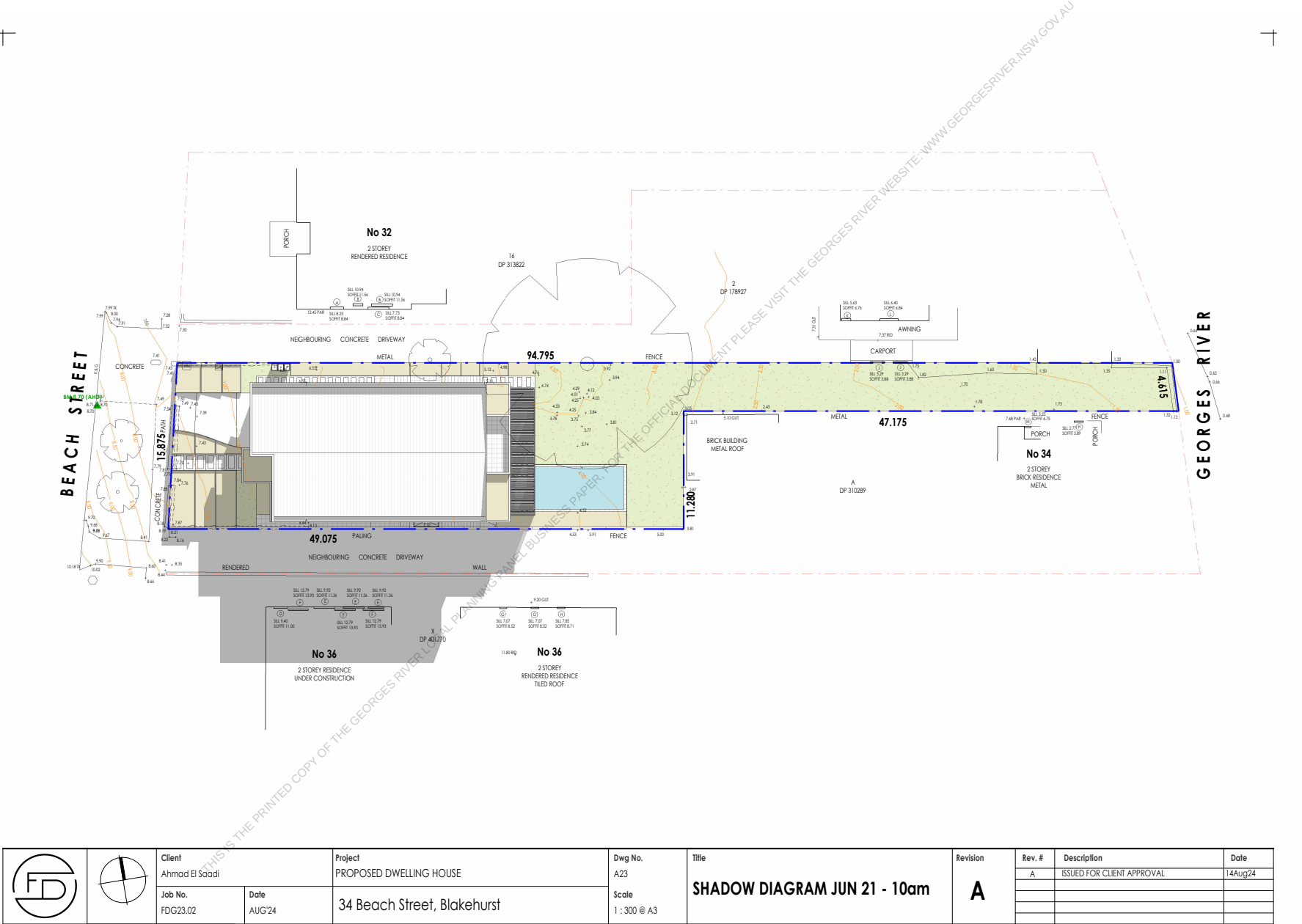
MANUFACTURER: ARCHELLO (OR SIMILAR)
COLOUR: BANDED IRREGULAR CLADDING STONE

	Client Ahmad El Saadi		Project PROPOSED DWELLING HOUSE	Dwg No. A21	Title SCHEDULE OF MATERIALS & FINISHES	Revision A	Rev. # A	Description ISSUED FOR CLIENT APPROVAL	Date 14Aug24
	Job No. FDG23.02	Date AUG'24	34 Beach Street, Blakehurst	Scale @ A3					

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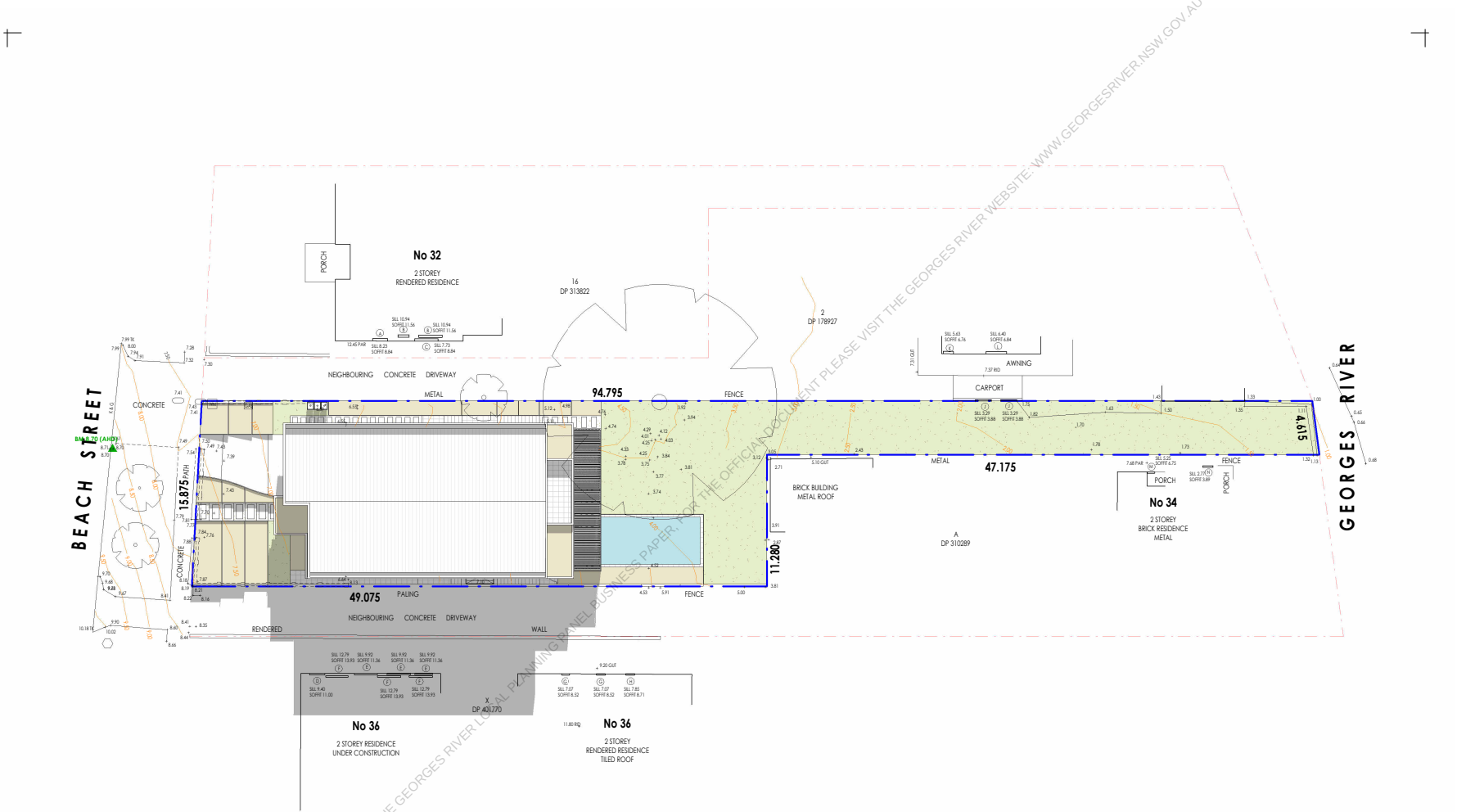


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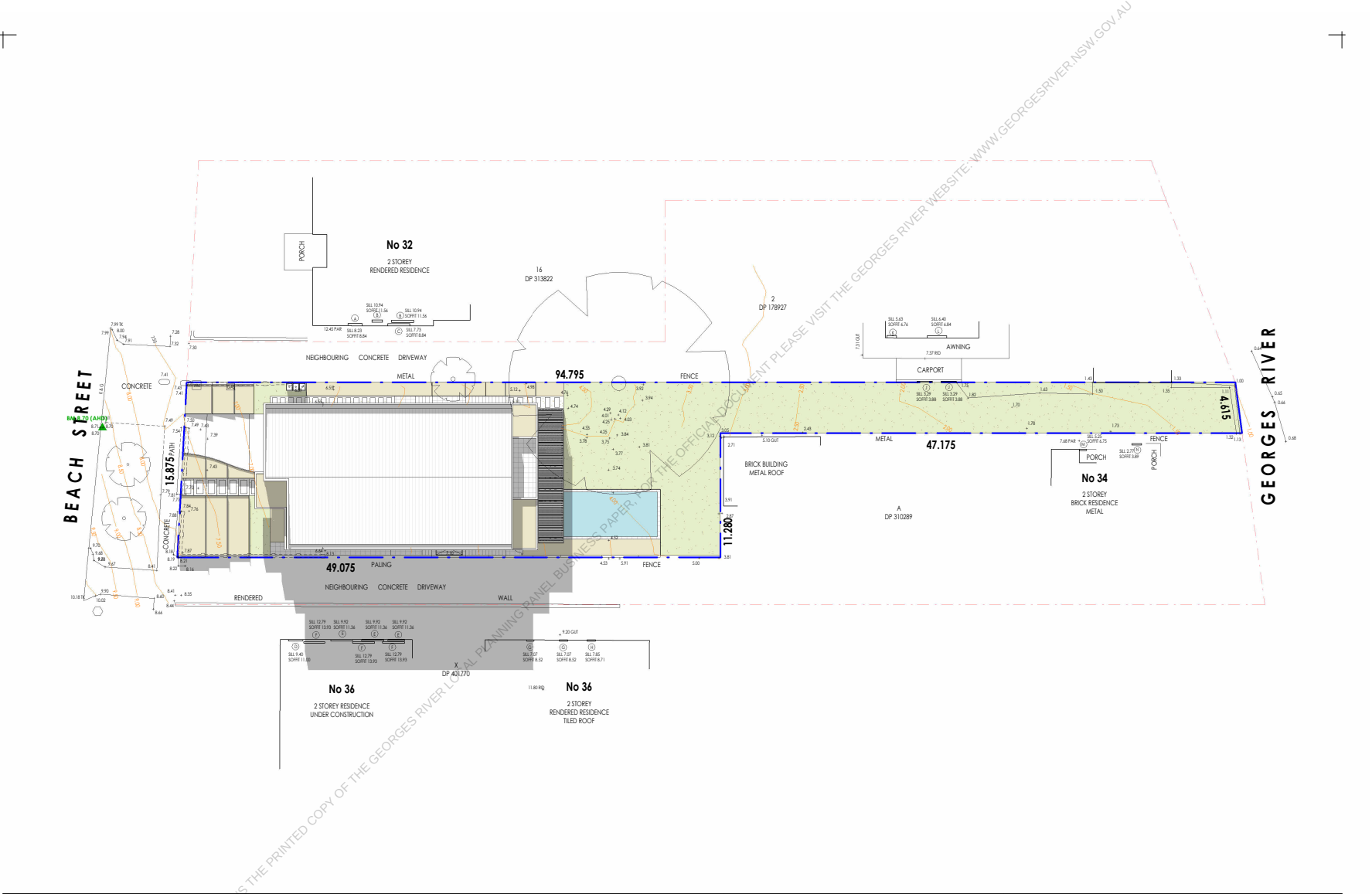
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		Job No. FDG23.02	Date AUG'24		34 Beach Street, Blakehurst			Scale 1 : 300 @ A3	A	ISSUED FOR CLIENT APPROVAL	14Aug24

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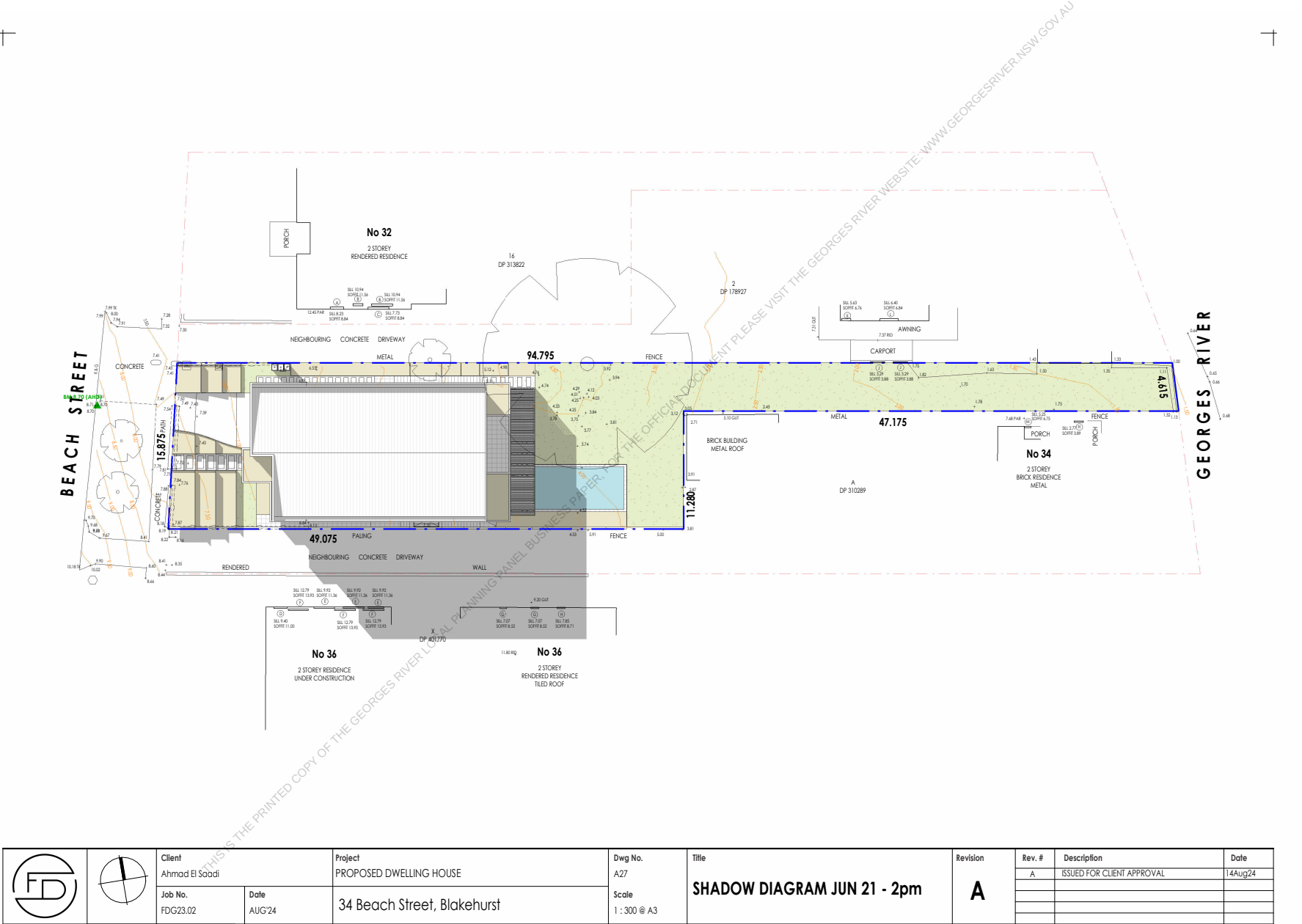
1 03 SHADOW DIAGRAM - JUNE 21 - 11am
1 : 300 @ A3

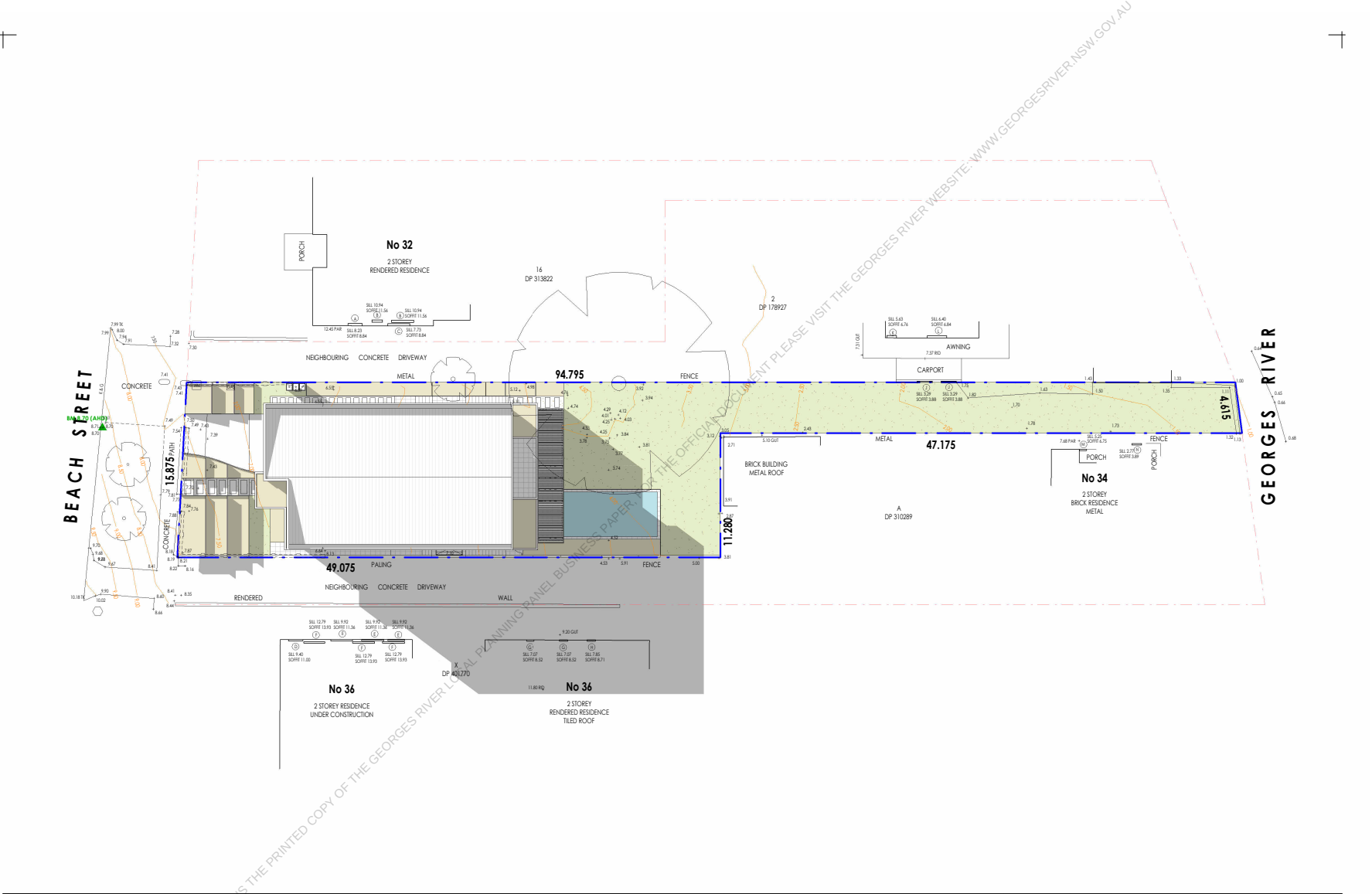
		Client Ahmad El Saadi		Project PROPOSED DWELLING HOUSE	Dwg No. A24	Title SHADOW DIAGRAM JUN 21 - 11am	Revision A	Rev. #	Description	Date
		Job No. FDG23.02	Date AUG'24	34 Beach Street, Blakehurst	Scale 1 : 300 @ A3			A	ISSUED FOR CLIENT APPROVAL	14Aug24



		Client		Project	Dwg No.	Title	Revision	Rev. #	Description	Date		
		Ahmad El Saadi		PROPOSED DWELLING HOUSE	A25			A	ISSUED FOR CLIENT APPROVAL	14Aug24		
		Job No.	Date	34 Beach Street, Blakehurst	Scale							
		FDG23.02	AUG'24									1 : 300 @ A3

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		Client Ahmad El Saadi		Project PROPOSED DWELLING HOUSE	Dwg No. A28	Title SHADOW DIAGRAM JUN 21 - 3pm	Revision A	Rev. #	Description	Date
		Job No. FDG23.02	Date AUG'24	34 Beach Street, Blakehurst	Scale 1 : 300 @ A3			A	ISSUED FOR CLIENT APPROVAL	14Aug24