

AGENDA

Georges River Local Planning Panel

Thursday, 15 February 2024

4:00 PM

Blended Meeting

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

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GEORGES RIVER LOCAL PLANNING PANEL MEETING

ORDER OF BUSINESS

1. ON SITE INSPECTIONS

2. OPENING

3. ACKNOWLEDGEMENT OF COUNTRY

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

4. APOLOGIES / LEAVE OF ABSENCE

5. NOTICE OF WEBCASTING

6. DISCLOSURES OF INTEREST

7. CONSIDERATION OF ITEM(S) AND VERBAL SUBMISSIONS

8. CLOSED SESSION – DELIBERATION OF REPORTS

LPP001-24	46A Russell Street Oatley (Report by Student Development Assessment Planner)	3
LPP002-24	31 Ocean Street, Penshurst (Report by Development Assessment Planner)	81
LPP003-24	2-12 Lime Kiln Road LUGARNO (Report by Consultant Planner)	142
LPP004-24	198-200 Princes Highway Kogarah Bay (Report by Senior Development Assessment Planner)	243
LPP005-24	2-10 Palmerston Street, Kogarah (Report by Development Assessment Planner)	291

9. CONFIRMATION OF MINUTES

Georges River Local Planning Panel Meeting - 15 February 2024

REPORTS AND LPP DELIBERATIONS**REPORT TO GEORGES RIVER LOCAL PLANNING PANEL MEETING OF THURSDAY, 15 FEBRUARY 2024****LPP001-24 46A RUSSELL STREET OATLEY****LPP001-24**

LPP Report No	LPP001-24	Development Application No	DA2023/0115
Site Address & Ward Locality	46A Russell Street Oatley Blakehurst Ward		
Proposed Development	Alterations and additions to a dwelling house		
Owners	Stuart Palmer		
Applicant	Stuart Palmer		
Planner/Architect	Mark Phillips		
Date Of Lodgement	2/05/2023		
Submissions	One (1) submission was received		
Cost of Works	\$447,317.00		
Local Planning Panel Criteria	The application is referred to the Georges River Local Planning Panel for determination as the proposed works result in a more than 10% variation to Clause 4.3 relating to height of buildings and Clause 6.12 relating to Landscaped areas in certain residential and conservation zones		
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 (BASIX) 2004, Georges River Local Environmental Plan 2021, Georges River Development Control Plan 2021		
List all documents submitted with this report for the Panel's consideration	Statement of Environmental Effects, Clause 4.6 Variation Statements, Architectural Plans, Landscape Plans and Stormwater Plans		
Report prepared by	Student Development Assessment Planner		

RECOMMENDATION	Approval
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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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<p>Legislative clauses requiring consent authority satisfaction</p> <p>Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?</p>	<p>Yes</p>
<p>Clause 4.6 Exceptions to development standards</p> <p>If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?</p>	<p>Yes</p> <ul style="list-style-type: none"> • Clause 4.3 Height of building, • Clause 6.4 Foreshore Area and Coastal Hazards and Risk, and • Clause 6.12 Landscaped areas in certain residential and conservation zones
<p>Special Infrastructure Contributions</p> <p>Does the DA require Special Infrastructure Contributions conditions (under s7.24)?</p>	<p>Not Applicable</p>
<p>Conditions</p> <p>Have draft conditions been provided to the applicant for comment?</p>	<p>No, the conditions can be reviewed when the report is published</p>

SITE PLAN



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

EXECUTIVE SUMMARY

PROPOSAL

1. The proposal seeks consent for alterations and additions to an existing dwelling. This includes minor alterations to the ground floor level of the existing dwelling and the construction of a first floor.
2. The proposed development complies with the Floor Space Ratio (FSR) standard in the Georges River LEP 2021, (GRLEP 2021) and the works do not extend beyond the existing building footprint. A Clause 4.6 variation is provided seeking variation to Clause 4.6 relating to height of buildings, Clause 6.4 relating to foreshore area and coastal hazards and risk, and Clause 6.12 relating to landscape area. The variations are discussed in detail in this report.

SITE AND LOCALITY

3. The proposed development is within an existing residential area, characterised by dwelling houses and ancillary structures.
4. The subject site is located on the south-eastern side of Russell Street and is a waterfront property accessed via a battle axe handle. The legal description of the site is Lot 3, DP1096084 and the site is known as 46A Russell Street, Oatley.
5. The site is accessed via a right of carriageway from Russell Street and has an approximate site area of 678.4m² (including the access handle). The site is subject to a mean high-water mark and a foreshore building line as the site adjoins Oatley Bay.
6. On site is existing split-level dwelling house, inground swimming pool, detached garage that provides parking for 2 vehicles, and water recreational structures comprising of a jetty, pontoon and boat shed. The existing garage also comprises of a lower ground level used for the purposes of a home gym.

ZONING AND PERMISSIBILITY

7. The site is zoned R2 Low Density Residential under the provisions of Georges River Local Environmental Plan 2021 (GRLEP 2021). Dwelling houses are permitted with consent.

SUBMISSIONS

8. The Development Application (DA) was publicly notified to neighbours for a period of fourteen (14) days in accordance with the Georges River Development Control Plan 2021 (GRDCP 2021). One (1) submission was received raising concerns relating to lack of detail in submission, privacy impact to adjoining properties, overshadowing impact to the adjoining properties, inadequate landscaping and excessive bulk and height. The submission is discussed in greater detail in the body of this report.

CONCLUSION

9. The proposal has been assessed using the matters for consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal has been assessed against the provisions of the Georges River Local Environmental Plan 2021 and Georges River Development Control Plan 2021.

10. The identified non-compliances with the maximum height, foreshore building line and landscape area have been supported by Clause 4.6 variation statements to the respective development standards and have been justified in this assessment report.
11. The proposal is recommended for approval subject to conditions.

REPORT IN FULL

PROPOSAL

12. The proposal seeks consent for alterations and additions to an existing dwelling. The proposed works are specifically outlined below.
 - (a) Minor alterations to the ground floor level providing a staircase to the proposed first floor.
 - (b) The construction of a first floor consisting of a master bedroom with a walk-in-robe and an ensuite. Additionally, there is a second bedroom and bathroom with a rear facing balcony accessed from the second bedroom.
13. The proposed development complies with the FSR standard in Georges River LEP 2021, and the works do not extend beyond the existing building footprint. A variation is sought to the GRLEP 2021 in relation to height of buildings, foreshore area and coastal hazards and risk, and landscape area which are accompanied by Clause 4.6 variation statements to the development standards which are discussed in detail later in this report.

THE SITE AND LOCALITY

14. The subject site is located on the south-eastern side of Russell Street and is a waterfront property accessed via a battle axe handle. The legal description of the site is Lot 3, DP1096084 and the site is known as 46A Russell Street, Oatley. The site is accessed via a right of carriageway from Russell Street and has a total site area of approximately of 678.4m² (including the access handle). The site is subject to a mean high-water mark and a foreshore building line of 15.0m as the site adjoins Oatley Bay.
15. On site is existing split-level dwelling house, inground swimming pool, detached garage that provides parking for 2 vehicles, and water recreational structures comprising of a jetty, pontoon and a boat shed. The adjoining sites consist of a double storey rendered brick dwelling houses with swimming pool and water recreational structures being jetties and pontoon structures. The streetscape in the immediate vicinity is characterised by low density housing of 1, 2 & 3 storey dwellings, water recreational structures i.e., jetties, pontoons.

BACKGROUND

16. Council records indicates the following development history for the development site:
 - Development application (DA1995/250) seeking approval for alterations and additions to a dwelling house, and construction of a retaining wall was approved under delegation by the former Kogarah Council on 4 December 1995.
 - Development application (DA1996/186) seeking approval for the construction of swimming pool, deck and retaining wall was approved under delegation by the former Kogarah Council on 19 November 1996.
 - Development application (DA1997/210) seeking approval for the construction of a Jetty, Seawall, Slipway and Boatshed was approved under delegation by the former Kogarah Council on 13 January 1997.
 - Development application (DA2010/249) seeking approval for the construction of a jetty, ramp and pontoon was approved under delegation by the former Kogarah Council on 25 October 2010.

- Development application (DA2012/293) seeking approval for the construction of a new roof over the existing dwelling was approved under delegation by the former Kogarah Council on 28 February 2012.
- The current application (subject of this report) was submitted on 22 May 2023.
- The application was placed on exhibition, with the last date for public submissions being 16 June 2023. One submission was received.
- A site inspection was conducted by Council on 1 November 2023.
- Council requested additional information on 2 November 2023, requesting information regarding height of building, foreshore building line, landscaped area, bulk and scale of the proposed third storey, rear balcony, amendments to the SEE to address all relevant legislation, and to confirm the site area.
- The Applicant provided a draft revised plan for review on 16 November 2023.
- A meeting was held on 5 December to discuss the resubmitted draft plans and possible design amendments to satisfy the requests raised in the letter.
- The Applicant provided additional information comprising of two (2) 4.6 variations to Clause 4.6 height of buildings and Clause 6.12 Landscaped areas in certain residential and conservation zones and submitted final plans on 20 December 2023.
- The Applicant also provided a 4.6 variation to Clause 6.4 relating to Foreshore area and coastal hazards and risk on 19 January 2024.

COMPLIANCE

17. 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

18. 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)

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

State Environmental Planning Policy Title	Complies
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes
State Environmental Planning Policy (BASIX) 2004	Yes

STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

20. The relevant parts of the above Policy that apply to this application are Chapter 2 – Vegetation in non-rural areas, and Chapter 11 – Georges River Catchment.

Chapter 2 - Vegetation in Non-Rural Areas

21. 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.
22. This chapter applies to clearing of:
- Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and*
 - Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (Development Control Plan).*
23. The development does not propose removal of vegetation on the site and seeks to retain all existing vegetation.

Chapter 11 – Georges River Catchment

24. The primary relevant aims and objectives of this plan are:
- to maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment,*
 - to protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an ecologically sustainable manner,*
 - to ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries,*
 - to establish a consistent and coordinated approach to environmental planning and assessment for land along the Georges River and its tributaries and to promote integrated catchment management policies and programs in the planning and management of the Catchment,*
25. The stormwater design was reviewed by Council's Development Engineer and is supported subject to suitable conditions of consent. The proposal is consistent with the objectives and purpose of Chapter 11 of the SEPP.

STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

26. Chapter 2 and Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 are relevant to the proposal.
27. 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".*
28. The subject site is mapped as a Coastal Environment area and a Coastal Use area. These have the following management objectives under the State Environmental Planning Policy:

- (a) *to protect and enhance the coastal environmental values and natural processes of coastal waters, estuaries, coastal lakes and coastal lagoons, and enhance natural character, scenic value, biological diversity and ecosystem integrity,*
- (b) *to reduce threats to and improve the resilience of coastal waters, estuaries, coastal lakes and coastal lagoons, including in response to climate change,*
- (c) *to maintain and improve water quality and estuary health,*
- (d) *to support the social and cultural values of coastal waters, estuaries, coastal lakes and coastal lagoons,*
- (e) *to maintain the presence of beaches, dunes and the natural features of foreshores, taking into account the beach system operating at the relevant place,*
- (f) *to maintain and, where practicable, improve public access, amenity and use of beaches, foreshores, headlands and rock platforms.*

29. 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.

State Environmental Planning Policy Control	Proposal	Complies
13. 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,	There is currently no public access to the foreshore from the site.	Yes

beach, headland or rock platform for members of the public, including persons with a disability,		
(f) Aboriginal cultural heritage, practices and places,	The allotment is not known as a place of Aboriginal significance. There is no known impact in terms of Aboriginal heritage.	Yes
(g) the use of the surf zone.	The development is not located near the surf zone.	Yes
(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:		
(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or	The proposal does not seek to adversely impact upon the coastal environment.	Yes
(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	The development does not propose to impact upon a mapped Coastal Environment area and a Coastal Use area. Suitable conditions of consent have been applied to ensure the management of the mapped area during construction of the development.	Yes
(c) if that impact cannot be minimised—the development will be managed to mitigate that impact	The development does not propose to impact upon a mapped Coastal Environment area and a Coastal Use area. Suitable conditions of consent have been applied to ensure the management of the mapped area during construction of the proposal.	Yes
14 Development on land within the coastal use area		
(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:		
(a) has considered whether the proposed development is likely to cause an adverse impact on the following:		
(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	There is no public access in this location.	N/A
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	The proposal will not impact on any public space.	Yes
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	No impact.	Yes
(iv) Aboriginal cultural heritage, practices and places,	The property is not a known site of Aboriginal heritage.	Yes

(v) cultural and built environment heritage, and	The site does not contain any heritage items.	Yes
(b) is satisfied that:		
(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or	The proposal does not seek to adversely impact upon the coastal environment.	Yes
(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	The proposal does not seek to adversely impact upon the coastal environment.	Yes
(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and	The proposal does not seek to adversely impact upon the coastal environment.	Yes
(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.	The proposed developments bulk and scale has been considered in this assessment report.	Yes

LPP001-24

30. 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.
31. 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.
32. A review of historic aerial photography indicates that the site has historically been used for residential purposes. Residential usage is not typically associated with activities that would result in the contamination of land. On this basis, the site is likely to be suitable for residential development in its current state for the development proposed with respect to contamination.

STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

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

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

34. The trigger for BASIX Certification is when the estimated cost of works for residential development (new dwelling(s)/alterations and additions) is equal to or above \$50,000. BASIX Certification is also triggered when proposing a swimming pool with a volume of 40,000 litres.

A BASIX Certificate prepared by Building and Energy Consultants Australia, dated 9 December 2023, certificate number A482030_03, has been submitted with the Development Application satisfying the minimum requirements of SEPP (Building Sustainability Index: BASIX) 2004.

The new *State Environmental Planning Policy (Sustainable Buildings) 2022* encourages the design and delivery of more sustainable buildings across NSW. It sets sustainability

standards for residential and non-residential development and starts the process of measuring and reporting on the embodied emissions of construction materials.

As the subject development application was lodged prior to the gazettal of the SEPP Sustainable Buildings 2022 on 1 October 2023, the previous SEPP Building Sustainability Index: BASIX is applicable.

GEORGES RIVER LOCAL ENVIRONMENTAL PLAN 2021


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



Figure 1: Land Zoning map of subject site in red (Intramaps, 2024)

Clause	Standard	Proposed	Complies
Part 1 – Preliminary			
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	The development is considered to be consistent with the aims of the plan.	Yes
1.4 - Definitions	Dwelling House means: <i>a building containing only one dwelling.</i>	The proposed development is 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. Development must be permissible with consent	The proposal meets all objectives. The proposal is permissible with development consent.	Yes Yes
Part 4 - Principal Development Standards			

4.3 – Height of Buildings	Maximum height of 9.0m applies to the site.	Proposed height = 10.11m	No 12.3% variation to height limit. Clause 4.6 variation to development standard lodged. Detailed in this report.
4.4 – Floor Space Ratio	0.55:1 as identified on Floor Space Ratio Map	Despite clause 4.4 (2), the floor space ratio for residential accommodation on land in Zone R2 Low Density Residential, Clause 4.4A applies.	Refer to Clause 4.4A
4.4A - Exceptions to floor space ratio— certain residential accommodation	<p>(2) The maximum floor space ratio for a dwelling house on land identified as “Area 1” on the <u>Floor Space Ratio Map</u> must not exceed the maximum floor space ratio specified in the table to this subclause.</p> <p>Site area</p> <ul style="list-style-type: none"> less than 1,000 square metres but not less than 650 square metres [(lot area – 650) × 0.3 + 357.5] ÷ lot area:1 <p>(3) The maximum floor space ratio for residential accommodation on land identified as “Area 2” on the <u>Floor Space Ratio Map</u> must not exceed 0.6:1.</p> <p>Site area: 678.4m²</p>	<p>Permissible FSR- 0.54:1 or 366.34m²</p> <p>The proposed development has a total gross floor area of 311.4m² or 0.46:1.</p>	Yes
4.6 – Exceptions to development standards	In accordance with Clause 4.6 (1) through to and including (8)	The proposal is accompanied by a Clause 4.6 variation relating to the non-compliance with height, foreshore building line and landscape.	Discussed in detailed in this report
Part 5 - Miscellaneous Provisions			

5.7 – Development below mean high water mark	(2) Development consent is required to carry out development on any land below the mean high-water mark of any body of water subject to tidal influence (including the bed of any such water).	The proposal does not involve works below the Mean High Water Mark.	N/A
5.10 – Heritage conservation	In accordance with Clause 5.10 (2)	The site is not a heritage item and not located within the vicinity of a heritage item. Site is not in a heritage conservation area.	N/A
5.11 – Bush Fire Hazard Reduction	Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.	The subject land is not mapped as bush fire prone area.	N/A
Part 6 - Additional Local Provisions			
6.1 – Acid sulfate soils	<p>(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.</p> <p>Class 5: Works within 100 metres of adjacent Class 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 2, 3 or 4 land.</p>  <p><i>Figure 2: Acid Sulfate Soils</i></p>	<p>Subject site is located in an Acid Sulfate Soils Area- Class 5.</p> <p>The proposed works are within 100m of adjacent Class 1.</p> <p>Preliminary acid Sulfate soils assessment is not required as the land where the proposed development is proposed is not below 5 metres AHD.</p> <p>Suitable conditions of consent have been applied regarding unexpected finds.</p>	Yes, subject to suitable condition of consent.

6.2 – Earthworks	<p>(2) Development consent is required for earthworks unless—</p> <p>(a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or</p> <p>(b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.</p>	No earthworks are proposed as part of this application.	N/A
6.3 – Stormwater Management	<p>(2) In deciding whether to grant development consent for development, the consent authority must be satisfied that the development—</p> <p>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</p> <p>(b) includes, if practicable, on-site stormwater detention or retention to minimise stormwater runoff volumes and reduce the development's reliance on mains water, groundwater or river water, and</p> <p>(c) avoids significant adverse impacts of stormwater runoff on adjoining properties, native bushland, receiving waters and the downstream stormwater system or, if the impact cannot be reasonably avoided, minimises and mitigates the impact, and</p>	Councils Engineers have reviewed the proposed development and it is supportable subject to conditions of consent.	Yes

	(d) is designed to minimise the impact on public drainage systems.		
6.4 - Foreshore area and coastal hazards and risk	<p>(2) This clause applies to the following land—</p> <p>(a) land identified on the <u>Coastal Hazard and Risk Map</u>,</p> <p>(b) land identified on the <u>Foreshore Building Line Map</u>.</p> <p>(3) Development consent must not be granted for development on land to which this clause applies except for the following purposes—</p> <p>(a) the alteration, or demolition and rebuilding, of an existing building if the footprint of the building will not extend further forward than the footprint of the existing building into—</p> <p>(i) the foreshore building line, or</p> <p>(ii) the land identified on the <u>Coastal Hazard and Risk Map</u>,</p> <p>(b) the erection of a building if the levels, depth or other exceptional features of the site make it appropriate to do so,</p> <p>(c) boat sheds, cycling paths, fences, sea walls, swimming pools, water recreation structures or walking tracks.</p> <p>(4) In deciding whether to grant development consent, the consent authority must consider the following matters—</p> <p>(a) whether the development addresses the impacts of sea level rise and tidal inundation as a result of climate change,</p> <p>(b) whether the development could be located on parts of the site</p>	<p>The site is located in a foreshore area and/or coastal hazards and risk area.</p> <p>The proposed alterations and additions extend 1.3m into the Foreshore Building Line.</p> <p>This results in an 8% variation from the standard.</p>	No, 8% variation. Detailed in this report.

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 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 Foreshore Building Line Map.



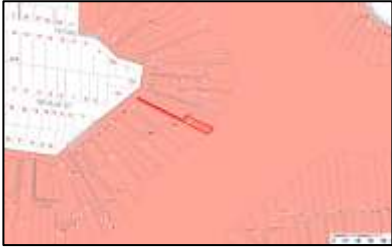
Figure 3: Coastal Hazards Map

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	 <p>Figure 4: Foreshore Building Line Map</p>  <p>Figure 5: Foreshore Area Map</p>		
6.5 - Riparian land and waterways	<p>(2) This clause applies to land identified as “Sensitive land” on the <u>Riparian Lands and Waterways Map</u>.</p> <p>(3) In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must consider the following—</p> <p>(a) whether the development is likely to have an adverse impact on the following—</p> <p>(i) the water quality and flows within the waterway,</p> <p>(ii) the stability of the bed, shore and banks of the waterway,</p> <p>(iii) the future rehabilitation of the waterway and riparian areas,</p> <p>(iv) the biophysical, hydrological or ecological integrity of adjacent coastal wetlands, including the aquatic and riparian species, habitats and ecosystems of the waterway,</p> <p>(v) indigenous trees and other vegetation,</p> <p>(vi) opportunities for additional planting of local native riparian vegetation,</p>	<p>The site is mapped as riparian lands and waterways map.</p> <p>The proposed drainage design has been assessed and endorsed by Council’s Development Engineer, subject to suitable conditions of consent.</p> <p>The works are proposed to be undertaken in a manner that respects and follows the objectives of Clause 6.5 Riparian land and waterways.</p> <p>Suitable conditions of consent have been applied to the application to ensure the proposed works do not impact on the waterway adjoining the subject site.</p> <p>The application is acceptable in this regard.</p>	Yes


	<p>(b) whether the development is likely to increase water extraction from the waterway,</p> <p>(c) whether the development will cause environmental harm by pollution or siltation of the waterway,</p> <p>(d) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p> <p>(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—</p> <p>(a) the development is designed, sited and will be managed to avoid significant adverse environmental impact, or</p> <p>(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</p> <p>(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</p>  <p><i>Figure 6: Riparian Lands & Waterways Map</i></p>		
6.6 - Foreshore scenic protection area	<p>(2) This clause applies to land identified as “Foreshore scenic protection area” on the <u>Foreshore Scenic Protection Area Map</u>.</p> <p>(3) In deciding whether to grant development consent for development on land to</p>	<p>The site is in a foreshore scenic protection area.</p> <p>The proposed development does not seek to impact upon any rock formations, canopy</p>	Yes

	<p>which this clause applies, the consent authority must be satisfied that the development would facilitate the following—</p> <p>(a) the protection of the natural environment, including topography, rock formations, canopy vegetation or other significant vegetation,</p> <p>(b) the avoidance or minimisation of the disturbance and adverse impacts on remnant vegetation communities, habitat and threatened species and populations,</p> <p>(c) the maintenance and enhancement of native vegetation and habitat in parcels of a size, condition and configuration that will facilitate biodiversity protection and native flora and fauna movement through biodiversity corridors,</p> <p>(d) the achievement of no net loss of significant vegetation or habitat,</p> <p>(e) the avoidance of clearing steep slopes and facilitation of the stability of the land,</p> <p>(f) the minimisation of the impact on the views and visual environment, including views to and from the Georges River, foreshore reserves, residential areas and public places,</p> <p>(g) the minimisation of the height and bulk of the development by stepping the development to accommodate the fall in the land.</p>	<p>vegetation or significant vegetation of the site.</p> <p>The proposed development does not seek to disturb or have adverse impacts on remnant vegetation communities, habitat or threatened species and populations.</p> <p>No vegetation is proposed to be removed via the proposed development.</p> <p>The proposed development does not seek to clear steep slopes on the site. The foreshore area of the subject site is largely rock formations with a set of access stairs to the waterway.</p> <p>View loss has not been raised as a concern by the neighbouring properties.</p>	
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	 <p>Figure 7: Foreshore Scenic Protection Area Map</p>		
6.9 Essential Services	<p>Development consent must not be granted to development unless Council is satisfied that any of the following services that are essential for the development are available, or that adequate arrangements have been made to make them available when required:</p> <ul style="list-style-type: none"> (a) the supply of water, (b) the supply of electricity, <ul style="list-style-type: none"> i the supply of telecommunications facilities, (d) the disposal and management of sewage, <ul style="list-style-type: none"> i stormwater drainage or on-site conservation, (f) suitable vehicular access. 	<p>The subject site has available all essential services. The proposed development maintains the availability to essential services. The stormwater disposal is to be connected into the existing outlet in the sea wall to drain to the waterway. The proposal has been reviewed by Council's Development Engineer and is supported subject to suitable conditions of consent. No change to the existing vehicular access.</p>	Yes
6.10 - Design excellence	<p>(2) This clause applies to development on land referred to in subclause (3) involving—</p> <ul style="list-style-type: none"> (a) the erection of a new building, or (b) additions or external alterations to an existing building that, in the opinion of the consent authority, are significant. <p>(3) This clause applies to development on the following land—</p> <ul style="list-style-type: none"> (a) land identified on the <u>Foreshore Scenic</u> 	<p>The proposed alterations and additions to the existing dwelling house partially protrude above both the maximum height and below the FBL. A Clause 4.6 variation statement has been submitted for the proposal.</p> <p>The proposed materials are</p>	Yes

	<p><u>Protection Area Map</u> if the development is for one or more of the following purposes—</p> <ul style="list-style-type: none"> (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— <ul style="list-style-type: none"> (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. <p>(4) Development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits design excellence.</p> <p>(5) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters—</p> <ul style="list-style-type: none"> (a) whether a high standard of architectural design, materials and 	<p>consistent with the adjoining dwelling.</p> <p>The proposal does not adjoin the public domain.</p> <p>The site does not contain a heritage item or within a heritage conservation area.</p> <p>The proposed development appropriately responds to the established built form patterns of dwelling houses within the immediate locality.</p> <p>From a design excellence prospective the proposed alterations and additions to the dwelling are supported as proposed.</p>	
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	<p>detailing appropriate to the building type and location will be achieved,</p> <p>(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,</p> <p>(c) whether the development detrimentally impacts on view corridors,</p> <p>(d) how the development addresses the following matters—</p> <p>(i) the suitability of the land for development,</p> <p>(ii) existing and proposed uses and use mix,</p> <p>(iii) heritage issues and streetscape constraints,</p> <p>(iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,</p> <p>(v) bulk, massing and modulation of buildings,</p> <p>(vi) street frontage heights,</p> <p>(vii) environmental impacts such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,</p> <p>(viii) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of pedestrian networks,</p> <p>(ix) the impact on, and proposed improvements to, the public domain,</p> <p>(x) achieving appropriate interfaces at ground level between the building and the public domain,</p>		
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	<p>(xi) excellence and integration of landscape design,</p> <p>(xii) the provision of communal spaces and meeting places,</p> <p>(xiii) the provision of public art in the public domain,</p> <p>(xiv) the provision of on-site integrated waste and recycling infrastructure,</p> <p>(xv) the promotion of safety through the application of the principles of crime prevention through environmental design.</p>		
	 <p>Figure 8: Foreshore Scenic Protection Area Map</p>		
6.12 - Landscaped areas in certain residential and environment protection zones	<p>(2) This clause applies to land in the following zones—</p> <p>(a) Zone R2 Low Density Residential,</p> <p>(b) Zone R3 Medium Density Residential,</p> <p>(c) Zone R4 High Density Residential,</p> <p>(d) Zone E2 Environmental Conservation.</p> <p>(3) Despite subclause (2), this clause does not apply to development referred to in <u>State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development</u>, clause 4.</p> <p>(4) Development consent must not be granted to development on land to which the clause applies unless the consent authority is satisfied that the development—</p>	<p>R2 Low Density Residential</p> <p>The site is in a foreshore scenic protection area.</p> <p>Site area = 551.3m² (site area – area of access handle)</p> <p>Total landscaped area required = 137.82m² (equates to 25%)</p> <p>Existing LSA = 69.57m² (Equates to 12.6%)</p> <p>Variation = 68.25 (equates to 12.7%)</p>	<p>No, 12.7% variation. Detailed in this report.</p>

	<p>(a) allows for the establishment of appropriate plantings—</p> <ul style="list-style-type: none"> (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 <p>(b) maintains privacy between dwellings, and</p> <p>(c) does not adversely impact the health, condition and structure of existing trees, tree canopies and tree root systems on the land or adjacent land, and</p> <p>(d) enables the establishment of indigenous vegetation and habitat for native fauna, and</p> <p>(e) integrates with the existing vegetation to protect existing trees and natural landscape features such as rock outcrops, remnant bushland, habitats and natural watercourses.</p> <p>(5) Development consent must not be granted to development on land to which this clause applies unless a percentage of the site area consists of landscaped areas that is at least—</p> <p>(b) for a dwelling house located on land within the Foreshore Scenic Protection Area—25% of the site area, or</p>		
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LPP001-24

GRLEP 2021 Clause 4.3 Height of Building

36. The proposed development fails to comply with the development standard for height. Clause 4.3(2) of GRLEP 2021 stipulates a maximum height limit of 9m for this site.
37. The proposed height is 10.11m, resulting in a 12.3% variation. The height breach arises from the proposed first-floor roof eave. It is important to note that the building is within the height limit please refer to figures 9 and 10.
38. The applicant has lodged a written request in accordance with the requirements of Clause 4.6 of GRLEP 2021. Any variation to a statutory control can only be considered under Clause 4.6 – Exceptions to Development Standards of the GRLEP.
39. The extent of the variation is shown in the figures below.

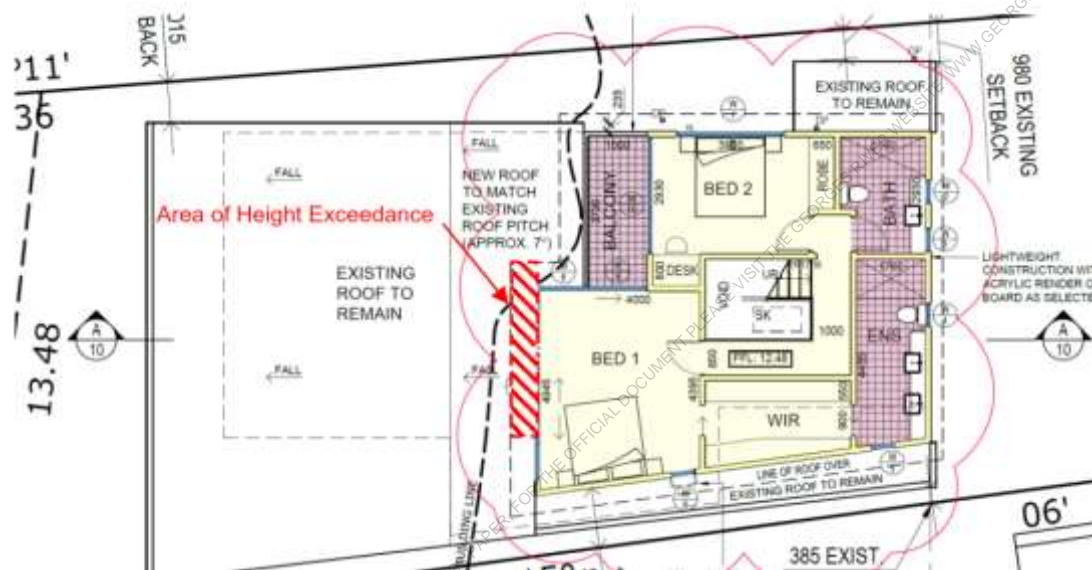


Figure 9: Floor Plan highlighting extent of height of building development standard variation

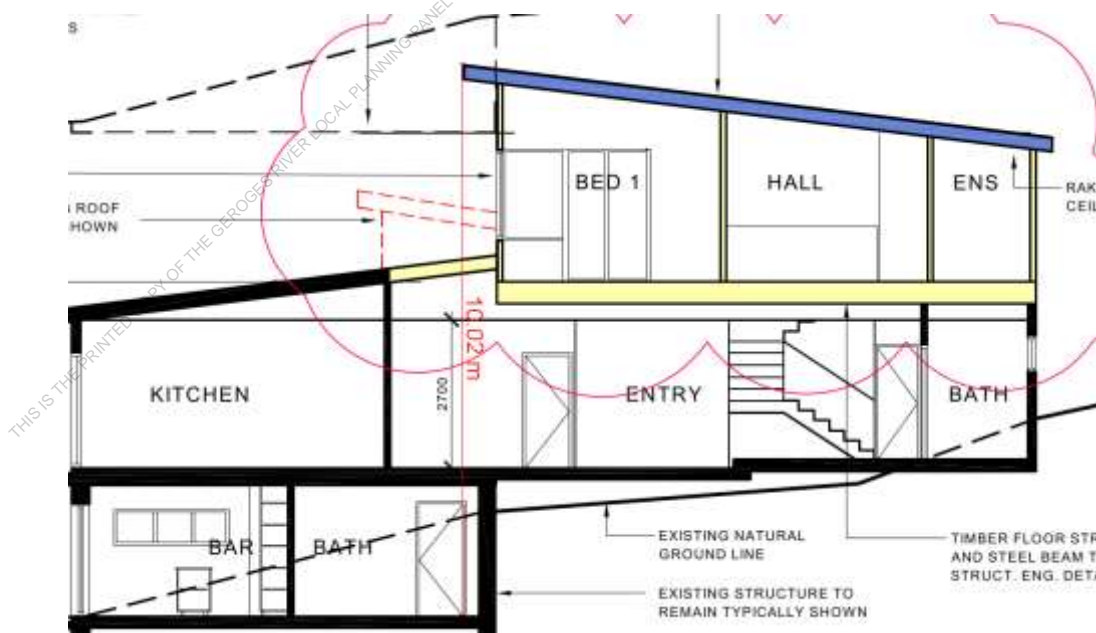


Figure 10: Section Plan highlighting extent of height of building development standard variation

40. Clause 4.6(3) of GRLEP 2021 requires development consent not be granted for development that contravenes a development standard unless the consent authority has

considered a written request from the Applicant that seeks to justify the contravention of the development standard by demonstrating:

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

41. To support the non-compliance, the applicant has provided a request for a variation to Clause 4.3 in accordance with Clause 4.6 of GRLEP 2021. The Clause 4.6 request for variation is assessed as follows:

Is the planning control in question a development standard?

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

What are the underlying objectives of the development standard?

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

Compliance Is Unreasonable Or Unnecessary In The Circumstances Of The Case (Clause 4.6(3)(A))

Applicant Comments:

44. The applicant provided the following comment:

The Court decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827 provides the five-part test to determine if compliance with a development standard is unreasonable or unnecessary with only one test needing to be satisfied.

Note: *These five tests are not exhaustive of the ways in which you might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. You do not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, you can demonstrate that compliance is unreasonable or unnecessary in more than one way.*

Test 1: in our view, the proposal satisfies the first test in *Wehbe v Pittwater Council* [2007] NSWLEC 827 as the objectives of the standard are achieved notwithstanding non-compliance with the standard. Refer to discussion below relating to compliance with the objectives of the development standard.

Assessing Officer Comment:

45. Council agrees with the applicant's comment that the court decision in *Wehbe v Pittwater Council* (2007) NSW LEC 827 establishes 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. The five different tests provided in the ruling supply a framework in which an objection may be well founded, and that approval of the objection may be consistent with the aims of the policy with emphasis placed on test one (1) when considering 4.6 variations:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*

Compliance with the objectives will be discussed further in this report.

Clause 4.6(3)(B) Are There Sufficient Environmental Planning Grounds To Justify Contravening The Standard.

Applicant Comments:

46. Please see the attached document (4.6 Variation to Clause 4.3 Height of Buildings) for the applicant's full comments, a summary of the justification is given below:

The height exceedance arises from the need to technically measure the building height from ground level (existing), which in the circumstances of the site is an excavated portion of the western extent of the lower ground floor level. This ground level is not visible from any elevation, and, as such, the existing ground level is not representative of the perceived natural contours of the land and appears to be compliant.

In addition to the above, whilst it is accepted that the building appears fully compliant with the maximum height limit, the proposed alterations to the existing dwelling will be viewed from a context that does not comprise a uniform pattern of buildings that extend to a consistent height.

This variation in the topography and alignment of dwellings provides further support for the proposal and that such a minor and indistinguishable variation will not impact on the visual character and scale of development in the foreshore context.

The proposed alterations and will not give rise to any impacts on the amenity of the adjoining neighbours in terms of privacy, overshadowing or view loss. The modified first floor addition will be setback from the waterway, behind the foreshore building line and will maintain acceptable impacts on the adjoining properties in terms of view impacts and overshadowing.

Assessing Officer Comment:

47. Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, it is considered that there is an absence of any negative impacts of the proposed non-compliance on the environmental quality of the locality and amenity of adjoining properties in terms of overshadowing, privacy, and amenity, in particular when considering the constraints of the site.
48. Clause 4.6(4) states that:
"Development consent must not be granted for development that contravenes a development standard unless:
- (a) *the consent authority is satisfied that:*

- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,"*

49. The proposal meets the objectives of the height of building standard as follows:
- (a) *to establish the maximum height for buildings,*
 - (b) *to minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas,*
 - (c) *to provide appropriate scale and intensity of development through height controls.*
50. The proposed dwelling has been designed to ensure that, despite the height variation, the dwelling is compatible with the surrounding bulk and scale of the locality. The dwelling presents as a two-storey dwelling when viewed from the side elevations. The dwelling presents as a three-storey dwelling when viewed from the rear elevation. The proposed development appropriately responds to the steep topography of the site and the existing built form. The proposed development is of similar bulk and scale of development within the immediate locality.
51. The height of building objective seeks to "minimise" the visual impact, it is not requiring it to be eliminated or totally negated. The proposed height of building variation relates to the dwellings first floor roof eave and existing subfloor area. There will be no unreasonable impacts in terms of amenity or overlooking to adjoining properties from the parts of the building where the height is exceeded.
52. If the building were to comply with the height control of 9m, a compliant design (complete re-design of the proposal) would impact upon amenity of the proposed dwelling as it would further reduce the floor space of the proposed first floor. Furthermore, foreshortening the proposed first floor addition to be height compliant for the purpose of numerical compliance would not contribute to any additional benefits in terms of solar access, privacy and/or amenity to the adjoining properties given the exceedance supported and where the exceedance is located.
53. The siting of the dwelling does not diminish the outlook from the public domain, nor impact upon the public domain. This site is visible from across the waterway of the Georges River.
54. The proposal is consistent with the objectives of the R2 Low Density Residential zone as follows:
- *To provide for the housing needs of the community within a low density residential environment.*
 - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
 - *To promote a high standard of urban design and built form that enhances the local character of the suburb and achieves a high level of residential amenity.*
 - *To provide for housing within a landscaped setting that enhances the existing environmental character of the Georges River local government area.*

55. The proposed dwelling provides for the housing needs through the provision of additional floor area to suit the needs of the occupants, within a low-density residential area of single, two and three storey dwellings as well as, water recreational structures and detached ancillary structures.
56. The siting of the development over the existing built form, rather than stepping down the site, which would require excavation of natural rock, results in a development that has been sensitively designed to minimise visual and environmental impacts upon the amenity of the surrounding area and the setting of the locality.
57. The area of non-compliance does not impact upon amenity of the adjoining sites, as the breaches in height relate to a minor portion of the roof eave of the first floor.
58. The dwelling achieves a high level of residential amenity through natural ventilation and solar access.
59. The roof eave element that protrudes above the maximum height of buildings is necessary for design excellence, providing visual balance to the roof structure. It also has benefit to sustainability, providing shading from the elements to the proposed windows, resulting in a more sustainable development.
60. Despite the non-compliance with the Height of Building development standard, the proposal satisfies the objectives of the R2 Low Density Residential zone, of the GRLEP 2021.

Clause 4.6(B) The Concurrence Of The Secretary Has Been Obtained.

61. An assessment of the written request against Clause 4.6 (3)(a) and (b) Including comment about whether the request demonstrates the following:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
62. The application was supported by a Clause 4.6 Development Standard variation request (prepared by Avenue Town Planning). In this instance the variation request is considered adequate, particularly having regard to the constraints of the site.
63. The Applicant's written submission demonstrates that compliance with the height development standard is unreasonable or unnecessary in the circumstances of the case. It also demonstrates sufficient environmental planning grounds to justify varying this development standard.
64. Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, it is considered that there is an absence of any unreasonable impacts of the proposed non-compliance on the environmental quality of the locality and amenity of adjoining properties in terms of overshadowing, privacy, overlooking and amenity, in particular when considering the constraints of the site. The impacts have been minimised, as discussed above against the objectives of the development standard and the objectives of the R2 Low Density Residential zone.
65. The proposed development is in the public interest as the proposal complies with the objectives for both the Height of Buildings and the R2 Low Density Residential zone.

66. The proposed variation does not raise any matters of State or regional environmental planning significance.
67. The areas of non-compliance are considered to be reasonable and will not establish an undesirable precedent. It will not have any adverse impacts on the surrounding locality, which is characterised by residential development of comparable character. The proposal promotes the economic use and development of the land consistent with its zone and purpose. The Panel is requested to invoke its powers under Clause 4.6 to permit the variation proposed.
68. It is considered that the Clause 4.6 Statement lodged with the application addresses all the information required pursuant to Clause 4.6 and the statement is considered to be well founded as there are sufficient environmental planning grounds to justify contravening the standard given that in this case the proposal satisfies the objectives of the zone and development standard (Clause 4.3 Height of buildings).

GRLEP 2021 Clause 6.4 Foreshore Area And Coastal Hazards And Risk

69. The proposed development seeks a variation to development standard relating to the roof eaves proposed below the foreshore building line (FBL) – Clause 6.4 Foreshore Area and Coastal Hazards And Risk of GRLEP 2021.
70. Clause 6.4 of GRLEP 2021 limits works within the foreshore area, which is defined on Council's mapping by a shaded area extending various distances into the site above the surveyed mean high-water mark. Clause 6.4 outlines that *development consent must not be granted for development on land to which this clause applies except for the following purposes:*
- the alterations, or demolition and rebuilding, of an existing building if the footprint of the building will not extend further forward than the footprint of the existing building into*
- (i) *the foreshore building line or*
 - (ii) *the land identified on the Coastal Hazard and Risk Map.*
71. Foreshore area means the land between the foreshore building line and the mean high-water mark of the nearest bay or river.
72. The development application seeks consent for the construction a portion of the first-floor eave 1.3m below the FBL, resulting in a 8% variance.
73. The extent of the variation is shown in figure 11.

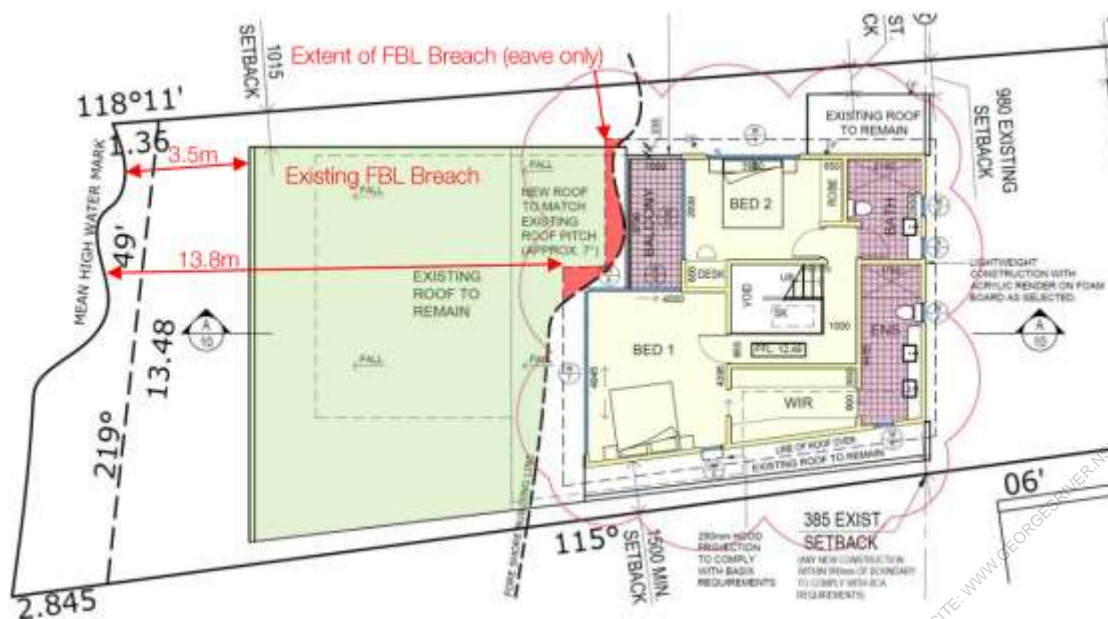


Figure 11: Site Plan illustrating works below FBL.

74. It is noted that both adjoining waterfront neighbouring dwellings to the north and south are compliant and wholly located behind the FBL while the existing dwelling is mostly located forward of the FBL.
75. Clause 4.6(3) of GRLEP 2021 requires development consent not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the Applicant that seeks to justify the contravention of the development standard by demonstrating:
- that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - that there are sufficient environmental planning grounds to justify contravening the development standard.*
76. To support the non-compliance, the Applicant has provided a request for a variation to Clause 6.4 in accordance with Clause 4.6 of GRLEP 2021.

Is the planning control in question a development standard?

77. Clause 6.4 of GRLEP 2021 highlights that development consent must not be granted on land to which this clause applied except for the following purposes-
- the erection of a building if the levels, depth or other exceptional features of the site make it appropriate to do so.*
78. Roof eaves fall under the definition of a building which is defined to include part of a building and any structure or part of a structure.

What are the underlying objectives of the development standard?

79. The objectives of the foreshore area and coastal hazards and risk development standard set out in Clause 6.4 (1) of GRLEP 2021 are as follows:
- to protect people and property from unacceptable risk from coastal hazards associated with climate change,*
 - to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the amenity of the area,*
 - to facilitate opportunities for public access to and along the foreshore.*

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

Applicant Comments:

80. The applicant provided the following comment:

The Court decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827 provides the five-part test to determine if compliance with a development standard is unreasonable or unnecessary with only one test needing to be satisfied.

Note: *These five tests are not exhaustive of the ways in which you might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. You do not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, you can demonstrate that compliance is unreasonable or unnecessary in more than one way.*

Test 1: in our view, the proposal satisfies the first test in *Wehbe v Pittwater Council* [2007] NSWLEC 827 as the objectives of the standard are achieved notwithstanding non-compliance with the standard. Refer to discussion below relating to compliance with the objectives of the development standard.

Assessing Officer Comment:

81. Council agrees with the applicant's comment that the court decision in *Wehbe v Pittwater Council* (2007) NSW LEC 827 establishes 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. The five different tests provided in the ruling supply a framework in which an objection may be well founded, and that approval of the objection may be consistent with the aims of the policy with emphasis placed on test one (1) when considering 4.6 variations:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*

Compliance with the objectives will be discussed further in the discussion below.

Clause 4.6(3)(B) Are There Sufficient Environmental Planning Grounds To Justify Contravening The Standard.

Applicant Comments:

82. Please see the attached document (4.6 Variation to Clause 6.4 Foreshore area and coastal hazards and risk) for the applicant's full comments, a summary of the justification is given below:

Whilst the development standard seeks to limit development within the foreshore area, there is also a provision for new works, such as alterations and additions to an existing building that is within the FBL to be undertaken, provided the building footprint does not extend further into the FBL. Clause 6.4(3)(a) anticipates the proposed circumstances where a non-conforming building is to be altered so far as the non-compliance is not exacerbated. The proposed works have been designed to ensure that the external walls of the upper level addition do not project into the foreshore area and the only non-compliant elements relate to the ancillary eaves, which is a functional requirement of the dwelling as well as being visually unimposing.

The building footprint can be defined as the area of the building as it occupies a site. The entire works proposed exist within the building bulk when compared to the extent of the existing dwelling within the foreshore area.

The mean high water mark for the site is irregular and as a result the FBL is also irregular. The projection of eave into the FBL is due to the irregular nature of the FBL, a more regular line that follows the foreshore would result in a fully compliant dwelling entirely behind the FBL.

Assessing Officer Comment:

83. Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, it is considered that there is an absence of any negative impacts of the proposed non-compliance on the environmental quality of the locality and amenity of adjoining properties in terms of overshadowing, privacy, and amenity, in particular when considering the constraints of the site.
84. Clause 4.6(4) states that:

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

 - (c) the consent authority is satisfied that:*
 - (ii) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,”*
85. The proposal meets the objectives of the Foreshore area and coastal hazards and risk standard as follows:
 - (a) to protect people and property from unacceptable risk from coastal hazards associated with climate change,*
 - (b) to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the amenity of the area,*
 - (c) to facilitate opportunities for public access to and along the foreshore.*
86. The proposed works will not increase any coastal risks at the site and are located above the water level, and as such, not vulnerable to sea level rise or other impacts associated with climate change.
87. The proposed works will not impact on any natural features or processes within the foreshore area as all works are within the limits of the existing structure. In addition, the projection of the eaves into the FBL are minor and therefore have little to no affect on the amenity of the adjoining properties when considering privacy, overshadowing, and view loss.

88. If the building were to comply with the FBL of 15m, a compliant design (complete re-design of the proposal) would impact upon amenity of the proposed dwelling as it would further reduce the floor space of the proposed first floor. Furthermore, foreshortening the proposed first floor addition to be compliant for the purpose of numerical compliance would not contribute to any additional benefits in terms of solar access, privacy and/or amenity to the adjoining properties given the exceedance supported and where the exceedance is located.
89. The proposed works will not impact on the access to or along the public foreshore.
90. The proposal is consistent with the objectives of the R2 Low Density Residential zone as follows:
- *To provide for the housing needs of the community within a low density residential environment.*
 - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
 - *To promote a high standard of urban design and built form that enhances the local character of the suburb and achieves a high level of residential amenity.*
 - *To provide for housing within a landscaped setting that enhances the existing environmental character of the Georges River local government area.*
91. The proposed dwelling provides for the housing needs through the provision of additional floor area to suit the needs of the occupants, within a low-density residential area of single, two and three storey dwellings as well as, water recreational structures and detached ancillary structures.
92. The siting of the development over the existing built form, rather than stepping down the site, which would require excavation of natural rock, results in a development that has been sensitively designed to minimise visual and environmental impacts upon the amenity of the surrounding area and the setting of the locality.
93. The area of non-compliance does not impact upon amenity of the adjoining sites, as the breaches in height relate to a minor portion of the roof eave of the first floor.
94. The dwelling achieves a high level of residential amenity through natural ventilation and solar access.
95. The roof eave element that protrudes into the FBL is necessary for design excellence, providing visual balance to the roof structure. It also has benefit to sustainability, providing shading from the elements to the proposed windows, resulting in a more sustainable development.
96. Despite the non-compliance with the Foreshore area and costal hazards and risk development standard, the proposal satisfies the objectives of the R2 Low Density Residential zone, of the GRLEP 2021.

Clause 4.6(b) the concurrence of the Secretary has been obtained.

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

98. The application was supported by a Clause 4.6 Development Standard variation request (prepared by Avenue Town Planning). In this instance the variation request is considered adequate, particularly having regard to the constraints of the site, an updated Clause 4.6 has been requested to reference the correct LEP.
99. The Applicant's written submission demonstrates that compliance with the foreshore area and coastal hazards and risk development standard is unreasonable or unnecessary in the circumstances of the case. It also demonstrates sufficient environmental planning grounds to justify varying this development standard.
100. Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, it is considered that there is an absence of any unreasonable impacts of the proposed non-compliance on the environmental quality of the locality and amenity of adjoining properties in terms of overshadowing to the adjoining sites, and visual appearance of the eaves, in particular when considering the constraints of the site. The impacts have been minimised, as discussed above against the objectives of the development standard and the objectives of the R2 Low Density Residential zone.
101. The proposed development is in the public interest as the proposal complies with the objectives for both the foreshore area and coastal hazards and risk and the R2 Low Density Residential zone.
102. The proposed variation does not raise any matters of State or regional environmental planning significance.
103. The roof eaves are considered to be reasonable and will not establish an undesirable precedent. It will not have any adverse impacts on the surrounding locality, which is characterised by residential development of comparable character. The proposal promotes the economic use and development of the land consistent with its zone and purpose. The Panel is requested to invoke its powers under Clause 4.6 to permit the variation proposed.
104. It is considered that the Clause 4.6 Statement lodged with the application addresses all the information required pursuant to Clause 4.6 and the statement is considered to be well founded as there are sufficient environmental planning grounds to justify contravening the standard given that in this case the proposal satisfies the objectives of the zone and development standard (Clause 6.4 foreshore area and coastal hazards and risk development standard).

Clause 4.6 Assessment- GRLEP 2021 Clause 6.12 Landscape Area in Certain Residential and Conservation Zones

105. The existing and proposed development fails to comply with the development standard for landscape area. Clause 6.12 of GRLEP 2021 stipulates a minimum landscape area of 25% (137.82m²) for this site, whereas the current onsite provision is 12.6% (69.57m²) which is a variation of 49% (68.25m²).
106. The proposed development seeks to construct a first-floor addition to the existing dwelling house. No change is proposed to the landscaped area. As such the existing landscaped area remains non-compliant.

107. Clause 4.6(3) of GRLEP 2021 requires development consent not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the Applicant that seeks to justify the contravention of the development standard by demonstrating:
- a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
108. To support the non-compliance, the Applicant has provided a request for a variation to Clause 6.12 in accordance with Clause 4.6 of GRLEP 2021.
109. In assessing an exception to vary a development standard, the following needs to be considered:

Is the planning control a development standard?

110. The planning control, Clause 6.12 Landscaped areas in certain residential and environment protection zones is a development standard pursuant to Georges River Local Environmental Plan 2021.

What is the underlying object or purpose of the standard?

111. The underlying purpose of Clause 6.12 is to ensure adequate opportunities exist for the retention or provision of vegetation that contributes to biodiversity and enhances the tree canopy of Georges River local government area. Additionally, Clause 6.12 aims to ensure that the visual impact of the development is minimised by sufficient and appropriately located landscaping that complements the scale of buildings.

Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Applicant Comments:

112. The applicant provided the following comment:

The Court decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827 provides the five-part test to determine if compliance with a development standard is unreasonable or unnecessary with only one test needing to be satisfied.

Note: *These five tests are not exhaustive of the ways in which you might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. You do not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, you can demonstrate that compliance is unreasonable or unnecessary in more than one way.*

Test 1: in our view, the proposal satisfies the first test in *Wehbe v Pittwater Council* [2007] NSWLEC 827 as the objectives of the standard are achieved notwithstanding non-compliance with the standard. Refer to discussion below relating to compliance with the objectives of the development standard.

Assessing Officer Comment:

113. Council agrees with the applicant's comment that the court decision in *Wehbe v Pittwater Council* (2007) NSW LEC 827 establishes 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. The five different tests provided in the ruling supply a framework in which an objection may be well founded, and that approval of the objection may be consistent with the aims of the policy with emphasis placed on test one (1) when considering 4.6 variations:
1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
114. Compliance with the objectives will be discussed further in this report. Compliance with the development standard is unreasonable in the circumstances of the case for the following reasons:
- a) The proposed works result in no change to the landscaped area and do not result in any increase to impervious surface on the site.
 - b) Strict compliance with the development standard would require removal of existing hard stand area on the site resulting in reduced amenity and functionality of existing structures on the site.
 - c) The site is burden by a significant access handle to the site as well as significant hard stand area to ensure the functionality of the structures being a detached garage are accessible and forward entry and exit from the site can be accommodated on the site.

Clause 4.6(3)(B) Are There Sufficient Environmental Planning Grounds To Justify Contravening The Standard.**Applicant Comments:**

115. Please see the attached document (4.6 Variation to Clause 6.12 Landscaped areas in certain residential and conservation zones) for the applicant's full comments, a summary of the justification is given below:

The subject site has been developed in its current form for a number of years and has always had a deficiency in landscaping to accommodate structures such as a swimming pool, dwelling house, detached garage, pathways and driveway areas.

The proposal is for the internal remodelling of the ground floor level and the provision of a first-floor level with adjustments to the existing ground floor roof. No works are proposed outside of the existing building footprint or within existing landscaped areas of the site.

The proposed works will not only maintain the existing landscaped area at the site, it will also maintain the existing impervious areas at the site by modifying the building within the existing footprint. As such, the proposed works will not increase urban runoff which is typically associated with sites that contain landscaped area deficiencies.

Given the long-standing nature of the existing structures at the site and the extent of works proposed, it is unreasonable to expect that the design is modified to accommodate the required landscaped area as this would require works that are beyond the scope and budget of the proposal.

Assessing Officer Comment:

116. Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, it is considered that there is an absence of any negative impacts of the proposed non-compliance on the environmental quality of the locality and amenity of adjoining properties in terms of water runoff, and biodiversity when considering the constraints of the site.
117. Clause 4.6(4) states that:
"Development consent must not be granted for development that contravenes a development standard unless:
- (d) *the consent authority is satisfied that:*
- (iii) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,"*
118. The proposal meets the objectives of the Landscaped areas in certain residential and conservation zones standard as follows:
- (a) *to ensure adequate opportunities exist for the retention or provision of vegetation that contributes to biodiversity and enhances the tree canopy of the Georges River local government area,*
- (b) *to minimise urban run-off by maximising permeable areas on the sites of development,*
- (c) *to ensure that the visual impact of development is minimised by sufficient and appropriately located landscaping that complements the scale of buildings,*
- (d) *to ensure that the use of surfaces that absorb and retain heat are minimised.*
119. The proposed works will not result in the removal of any existing vegetation from the site and will maintain all existing landscaped areas. The existing landscaped area will be maintained and have some scope to be improved.
120. The proposed works will not alter the existing impervious areas at the site and will use and maintain the existing stormwater drainage system. Therefore, there will be no significant increase to runoff.
121. The proposed works relate to an addition of a first floor. The visual impact has been minimised by setting back the proposed first floor from the water to minimise the bulk of the building. The existing landscaped area will not be reduced and as such, the existing screening shall remain.
122. The proposal will maintain the existing building footprint and will not change the hardstand surfaces.

Clause 4.6(b) the concurrence of the Secretary has been obtained.

123. An assessment of the written request against Clause 4.6 (3)(a) and (b) Including comment about whether the request demonstrates the following:
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

(b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

124. The application was supported by a Clause 4.6 Development Standard variation request (prepared by Avenue Town Planning). In this instance the variation request is considered adequate, particularly having regard to the constraints of the site, an updated Clause 4.6 has been requested to reference the correct LEP.
125. The Applicant's written submission demonstrates that compliance with the Landscaped areas in certain residential and conservation zones is unreasonable or unnecessary in the circumstances of the case. It also demonstrates sufficient environmental planning grounds to justify varying this development standard.
126. Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, it is considered that there is an absence of any unreasonable impacts of the proposed non-compliance on the environmental quality of the locality and amenity of adjoining properties in terms of stormwater runoff and biodiversity, in particular when considering the constraints of the site. The impacts have been minimised, as discussed above against the objectives of the development standard.
127. The proposed development is in the public interest as the proposal complies with the objectives for the Landscaped areas in certain residential and conservation zones.
128. The proposed variation does not raise any matters of State or regional environmental planning significance.
129. The existing landscaping is considered to be reasonable and will not establish an undesirable precedent. It will not have any adverse impacts on the surrounding locality, which is characterised by residential development of comparable character. The proposal promotes the economic use and development of the land consistent with its zone and purpose. The Panel is requested to invoke its powers under Clause 4.6 to permit the variation proposed.
130. It is considered that the Clause 4.6 Statement lodged with the application addresses all the information required pursuant to Clause 4.6 and the statement is considered to be well founded as there are sufficient environmental planning grounds to justify contravening the standard given that in this case the proposal satisfies the objectives of the zone and development standard (Clause 6.12 Landscaped areas in certain residential and conservation zones development standard).

GEORGES RIVER DEVELOPMENT CONTROL PLAN 2021

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

6.1.2 Single Dwellings		
Control	Proposal	Compliance
1. Streetscape Character and Built Form		
1. New buildings and additions are to consider the Desired Future Character statement in Part 5 of this DCP.	Proposal is in accordance with the desired future character statement for Oatley.	Yes

6.1.2 Single Dwellings		
Control	Proposal	Compliance
2. New buildings and additions are to be designed with an articulated front façade.	The front façade has incorporated sufficient building articulation on the front façade.	Yes
3. Developments on sites with two (2) or more frontages are to address all frontages.	Subject site only has 1 frontage- Russell Street	Yes
4. Dwelling houses are to have windows presenting to the street from a habitable room to encourage passive surveillance.	N/A- the site is the rear of a battle axe allotment and does not directly front Russell Street.	N/A
5. Development must be sensitively designed so as to minimise adverse impacts on the amenity and view corridors of neighbouring public and private property while maintaining reasonable amenity for the proposed development and is to balance this requirement with the amenity afforded to the new development.	The proposed development does not impact upon the view corridors of neighbouring private properties.	Yes
6. The maximum size of voids at the first-floor level should be a cumulative total of 15m ² (excluding voids associated with internal stairs).	N/A – All voids associated with stairs.	Yes
2. Building Scale and Height		
1. New buildings are to consider and respond to the predominant and desired future scale of buildings within the neighbourhood and consider the topography and form of the site.	N/A - The proposed development is for alterations and additions to the existing dwelling.	N/A
2. On sites with a gradient or cross fall greater than 1:10, dwellings are to adopt a split-level approach to minimise excavation and fill. The overall design of the dwelling should respond to the topography of the site.	N/A- existing dwelling not being altered via the proposal. The proposed addition does not result in any cut or fill.	N/A
3. A maximum of two (2) storeys plus basement is permissible at any point above ground level (existing). Basements are to protrude no more than 1m above existing ground level.	N/A- dwellings number of storeys is unchanged via the proposed development.	N/A
4. Where topography conditions require a basement, the area of the basement should not exceed the area required to		

6.1.2 Single Dwellings		
Control	Proposal	Compliance
<p>meet the car parking requirements for the development, access ramp to the parking and a maximum 10m² for storage and 20m² for plant rooms. Additional basement area to that required to satisfy these requirements may be included as floor space area when calculating floor space ratio.</p> <p>5. Where the entry to the basement carpark is visible from the street, the entry should be recessed a minimum of 1m (from the edge of the external wall or balcony) from the levels above and the external walls of the garage differentiated from the walls above through articulation and external materials.</p>	<p>N/A- no basement proposed.</p> <p>N/A- no basement proposed.</p>	<p>N/A</p> <p>N/A</p>
3. Setbacks		
<p>Front Setbacks</p> <p>1. The minimum setback from the primary street boundary is:</p> <p>i. 4.5m to the main building wall / facade;</p> <p>ii. 5.5m to the front facade of a garage or carport; or</p> <p>iii. Where the prevailing street setback is greater than the minimum, the average setback of dwellings on adjoining lots is to be applied.</p>	<p>No change to front setbacks</p>	<p>N/A</p>
<p>Side and Rear Setbacks</p> <p>1. Buildings are to have a minimum rear setback of 15% of the average site length, or 6m, whichever is the greater (excluding detached secondary dwellings – see Point 12 in Section 6.1.2.12- Secondary Dwellings of this DCP).</p> <p>2. The minimum side setbacks for ground and first floor are:</p> <p>i. 900mm for lots up to 12.5m in width measured at the front building line for the length of the development.</p> <p>ii. 1.2m for lots greater than 12.5m in width measured at the front building line for the length of the development.</p> <p>iii. 1.5m for all lots within the Foreshore Scenic Protection Area measured at the front building line for the length of the development.</p> <p>3. Where alterations and additions (ground and first floor) to an existing</p>	<p>No change to rear setback, alterations are within the building footprint.</p> <p>Allowable Site Setback- 1.5m Proposed (new works)</p> <p>Side Setback</p> <p><u>Lower ground floor</u></p> <p>No change</p> <p><u>Ground floor</u></p> <p>No change</p> <p><u>First Floor</u></p> <p>1.98m to 2.71m northern side</p> <p>1.5m southern side</p>	<p>Yes</p> <p>Yes</p>

6.1.2 Single Dwellings		
Control	Proposal	Compliance
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.	While the existing side setbacks are less than the required amount, the proposed works are fully compliant.	N/A
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.	Not a battle axe lot.	N/A
5. Any garages or parking structures fronting rear lanes may encroach upon the rear setback areas but are still to provide a minimum setback of 1m from the lane.	N/A	N/A
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).	No change to private open space.	N/A
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.		
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	Landscape area is not compliant with GRLEP 2021 minimum 25% deep soil landscape planting. Works proposed is an addition of a first floor to the existing	No, Discussed in detailed in this report

6.1.2 Single Dwellings		
Control	Proposal	Compliance
<p>and environmental protection zones of GRLEP 2021.</p> <p>2. Provide a landscape setting within the primary and secondary street frontages, where hard paved areas are minimised. At a maximum, impervious areas, including hard paving, gravel, concrete or other material that does not permit landscaping, are to occupy no more than 40% of the street setback area.</p> <p>3. The front setback area is to have an area where at least one (1) tree capable of achieving a minimum mature height of 10m with a spreading canopy can be accommodated. A schedule of appropriate species to consider is provided in Council's Tree Management Policy.</p>	<p>dwelling, therefore there is no change to landscaping or impervious areas on the development site.</p>	
6. Excavation (Cut and Fill)		
<p>1. Any excavation must not extend beyond the building footprint, including for any basement car park.</p> <p>2. The depth of cut or fill must not exceed 1.0m from existing ground level, except where the excavation is for a basement car park.</p> <p>3. Developments should avoid unnecessary earthworks by designing and siting buildings that respond to the natural slope of the land. The building footprint must be designed to minimise cut and fill by allowing the building mass to step in accordance with the slope of the land.</p>	<p>N/A – no excavation proposed</p>	<p>N/A</p>
7. Vehicular Access, Parking and Circulation		
<p>1. Car parking is to be provided in accordance with the requirements in Part 3 of this DCP.</p> <p>2. A dwelling is to provide one (1) garage and one (1) tandem driveway parking space forward of the garage (unless otherwise accommodated within the building envelope).</p>	<p>N/A – no change to existing double garage</p>	<p>N/A</p>

6.1.2 Single Dwellings		
Control	Proposal	Compliance
<p>3. Driveways, garages and basements should be accessed from a secondary street or rear lane where this is available.</p> <p>4. Entry to parking facilities off the rear lane must be setback a minimum of 1m from the lane.</p> <p>5. Driveway crossings are to be positioned so that on-street parking and landscaping on the site are maximised, and removal or damage to existing street trees is avoided.</p> <p>6. The maximum driveway width between the street boundary and the primary building setback alignment of the garage is 4.0m.</p> <p>7. Basements are permitted where the LEP height development standard is not exceeded, and it is demonstrated that there will be no adverse environmental impacts (e.g. affectation of watercourses and geological structure). (i) Basements on land where the average grade is less than 12.5% are permitted only where they are not considered a storey (see definition in the LEP) and the overall development presents as two (2) storeys to the street.</p> <p>8. Car parking layout and vehicular access requirements and design are to be in accordance with the Australian Standards, in particular AS 2890.1 (latest edition).</p> <p>9. The maximum width of a garage opening is 6m.</p>		
8. Visual Privacy		
<p>1. Windows from active rooms are to be offset with windows in adjacent dwellings, or appropriately treated so as to avoid direct overlooking onto neighbouring windows.</p>	<p>Satisfactory placement of openings.</p>	<p>Yes</p>
<p>2. For active rooms or balconies on an upper level, the design should incorporate placement of room windows</p>	<p>Satisfactory</p>	<p>Yes</p>

6.1.2 Single Dwellings		
Control	Proposal	Compliance
or screening devices to only allow oblique views to adjoining properties.		
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.	Balcony has a maximum width of 1.5m	Yes
4. Windows for primary living rooms must be designed so that they reasonably maintain the privacy of adjoining main living rooms and private open space areas.	The proposed development maintains a reasonable level of privacy for the occupants of the dwellings adjoining.	Yes
5. Development applications are to be accompanied by a survey plan or site analysis plan (to AHD) of the proposed dwelling showing the location of adjoining property windows, floors levels, window sill levels and ridge and gutter line levels.	A survey plan was submitted with the application.	Yes
9. Solar Access		
1. New buildings and additions are sited and designed to facilitate a minimum of 3 hours direct sunlight between 9am and 3pm on 21 June onto living room windows and at least 50% of the minimum amount of private open space.	Compliant - The proposal allows sufficient sunlight penetration to adjoining developments where possible.	Yes
2. To facilitate sunlight penetration to adjoining development, building bulk may be required to be articulated to achieve the required sunlight access.	Further building articulation is not required in order to facilitate sunlight access.	Yes
3. Direct sunlight to north-facing windows of habitable rooms and 50% of the principal private open space area of adjacent dwellings should not be reduced to less than 3 hours between 9.00am and 3.00pm on 21 June.	Adjoining properties are afforded more than the minimum solar access required being direct sunlight to north-facing windows of habitable rooms and 50% of the principal private open space area is not reduced to less than 3 hours between 9.00am and 3.00pm on 21 June.	Yes
4. Note: Variations will be considered for developments that comply with all other requirements but are located on sites with an east-west orientation or steeply sloping sites with a southerly orientation away from the street.	N/A	N/A

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.	Shadow diagrams have been submitted with the proposal for the purposes of ensuring sufficient solar access is maintained in accordance with the development controls of GRDCP 2021.	Yes
10. Materials, Colour Schemes and Details		
1. Large expansive surfaces of predominantly white, light or primary colours which would dominate the streetscape or other vistas should not be used.	The colours and materials schedules will be conditioned to be satisfactory.	Yes
2. New development should incorporate colour schemes that have a hue and tonal relationship with the predominant colour schemes found in the street.	The colour and material scheme will be conditioned to be sympathetic to the current desired and future character of the immediate locality.	Yes
3. Matching buildings in a row should be finished in the same colour or have a tonal relationship.	The buildings in the immediate locality are not matching but have similar colour schemes and tonal relationships.	Yes
4. All materials and finishes utilised should have low reflectivity.	Materials and finishes have been chosen from a standard colour scheme that is low in reflectivity.	Yes
11. Site Facilities		
1. All dwellings are to be provided with adequate and practical internal and external storage (garage, garden sheds, etc.).	No change to storage areas	Yes
2. Provision for water, sewerage and stormwater drainage for the site shall be nominated on the plans to Council's satisfaction.	The stormwater system supported subject to conditions.	Yes
3. Each dwelling must provide adequate space for the storage of garbage and recycling bins (a space of at least 3m x 1m per dwelling must be provided) and are not to be located within the front setback.	No change to the bin storage	Yes

6.1.2 Single Dwellings		
Control	Proposal	Compliance
4. Letterboxes are to be located on the frontage where the address has been allocated in accordance with Australia Post requirements.	No change to letter box location	Yes
6.5.1 Foreshore Scenic Protection Area		
Control	Proposal	Compliance
1. Development applications are supported by a site analysis and design response demonstrating how the relevant provisions of the LEP and the objectives of this part of the DCP have been addressed.	Sufficient information has been submitted with the application to form an assessment.	Yes
2. Removal of existing native vegetation minimised to that which is reasonably required to site and construct a building.	The proposed development does not involve the removal of any significant vegetation on site.	Yes
3. The integrity of the existing edge of bushland closest to the Georges River is retained.	Achieved.	Yes
4. Vegetation along ridgelines and on hillsides is retained and supplemented to provide a backdrop to the waterway.	Achieved.	Yes
5. New, complementary planting and landscaping is encouraged.	Satisfactory, significant landscape planting proposed.	Yes
6. Where on a steep site, vegetation is used to screen the impact of support structures such as piers.	No change to landscaping proposed	Yes
7. Landscaped areas below the FBL should maximise the use of indigenous plant material and preferably use exclusively indigenous plants. Turf should be limited in this area. Details of planting are to be indicated on any landscape plan submitted to Council.	No change to the landscaping or area below the FBL	Yes
8. Natural features that make a contribution to the environmental qualities and scenic landscape values of the foreshore, including mature native tree and sandstone rock outcrops, platforms and low cliffs, are retained.	Satisfactory - the natural features of the site are retained.	Yes
9. The visual impact of buildings is minimised having regard to building size, height, bulk, siting, external materials, and colours and cut and fill.	The visual impact of the proposed development is consistent with the adjoining properties despite the height of building development standard variation. The proposed alterations and additions to the existing dwelling is contained within the existing building footprint, with a first-floor	Yes

	addition. The materials and finishes are sympathetic to the existing streetscape of Russell Street.	
10. Buildings should be sited on the block to retain existing ridgeline vegetation, where possible. Siting buildings on existing building footprints or reducing building footprints to retain vegetation is highly recommended.	Proposed development does not seek to remove any vegetation on the site.	Yes
11. Where on a steep site, buildings are sited to sit discretely within the landscape using hillsides as a backdrop and below the tree canopy. The building footprint is to result in the following: (i) The preservation of topographic features of the site, including rock shelves and cliff faces; (ii) The retention of significant trees and vegetation, particularly in areas where the loss of this vegetation would result in the visual scarring of the landscape, when viewed from the water, and (iii) Minimised site disturbance through cutting and/or filling of the site.	Proposed development does not seek to remove any 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%.	Compliant -27% glazed area.	Yes
13. Colours that harmonise with and recede into the background landscape are to be used. In this regard, dark and earthy tones are recommended and white and light coloured roofs and walls are not permitted. To ensure that colours are appropriate, a schedule of proposed colours is to be submitted with the Development Application and will be enforced as a condition of consent.	Satisfactory The colour and material scheme will be conditioned to be sympathetic to the current desired and future character of the immediate locality. Roofing materials and finishes have been chosen from a standard colour scheme that is low in reflectivity.	Yes
14. Buildings fronting the waterway must have a compatible presence when viewed from the waterway and incorporate design elements (such as roof forms, textures, materials, the arrangement of windows, modulation, spatial separation, landscaping etc) that are compatible with any design themes for the locality	The proposed development has a compatible presence when viewed from the waterway having regard to the built form adjoining.	Yes

15. Blank walls facing the waterfront shall not be permitted. In this regard, walls are to be articulated and should incorporate design features, such as: (i) Awnings or other features over windows; (ii) Recessing or projecting architectural elements; or (iii) Open, deep verandas.	The development does not propose blank walls facing the waterfront.	Yes
16. Adequate landscaping shall be provided to screen undercroft areas and reduce their impact when viewed from the water.	N/A- no undercroft areas proposed	N/A
17. The extent of associated paved surfaces is minimised to that which provides essential site access and reasonable private open space.	No change to paved area.	N/A
18. Buildings have external finishes that are non-reflective and coloured to blend with the surrounding landscape.	Satisfactory finishes proposed.	Yes
19. Swimming pools and surrounds should be sited in areas that minimise the removal of trees and limit impact on natural landform features (rock shelves and platforms).	Existing swimming pool to remain unchanged.	N/A
20. Fences are low in profile and are at least 50% transparent.	All proposed balustrades are glass and are fully transparent	Yes
21. Driveways and other forms of vehicular access are as close as practical to running parallel with contours	No change to the existing vehicular access.	N/A
22. The natural landform is to be retained and the use of retaining walls and terracing is discouraged.	No change to landscaping	N/A
23. Retaining walls are not to be located: • Between the FBL and MHWM • Within 40m of MHWM	No retaining walls are proposed under this application.	N/A
24. Where retaining walls are constructed in other areas, materials and colours that blend with the character and landscape of the area are used. Where retaining walls face the foreshore they are to be constructed of coarse, rock faced stone or a stone facing and are to be no higher than 600mm above natural or existing ground level. Under no circumstances will Council permit a masonry faced retaining wall facing the foreshore.	N/A	N/A
25. Development provides opportunities to create view corridors from the public domain to the Georges River.	No view loss concerns were raised during the neighbour notification period. The proposed development does not impact upon view corridors.	Yes

Part 5 – Residential Locality Statements

132. 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.

133. The assessment of character for the applicable locality is provided below:

Oatley East	
<ul style="list-style-type: none"> - Retain and enhance the prominence of the bushland landscaped character in new development through tree planting and landscaping. - Encourage consistent setbacks of buildings from the street and the provision of landscaping within the front setback, alongside low fencing to enhance visual permeability. - Encourage the retention of trees and sharing of water views wherever possible, including screening via vegetation rather than solid walls. - Public views to waterways should be retained from streets and public places. 	<p>The proposal is consistent with the future desired character of the precinct.</p> <p>The proposed development does not seek to remove any landscaping, retaining all the existing natural features and vegetation.</p> <p>The proposed development maintains consistent setbacks within the streetscape of Russell Street via the proposed design.</p> <p>View sharing and view corridors are maintained via the proposed design.</p>

IMPACTS

Natural Environment

134. The proposed development will not adversely affect the natural environment. Proposed works have no impact to the existing landscaped area and will not result in any increase of impervious areas.

Built Environment

135. The proposal represents an appropriate planning outcome for the site with respect to its bulk, scale and density, façade articulation and expression and is an appropriate response to the context of the site and its R2 Low Density Residential zoning.

Social Impact

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

Economic Impact

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

Suitability of the Site

138. The site is zoned R2 – Low Density Residential. The alterations and additions to the existing dwelling is a permissible form of development in this zone and has been designed to reflect the current and future context of the locality. Whilst, the proposed roof eaves are not permitted below the foreshore building line, and are above the 9m maximum height of buildings, the proposal has been supported by a Clause 4.6 variation statement to Clause 6.4 Foreshore Area and Coastal Hazards and Risk, and Clause 4.3 Height of buildings, which is supported subject to suitable conditions of consent.

SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST

Submissions

139. The application was advertised, and adjoining residents were notified by letter and given fourteen (14) days in which to view the plans and submit any comments on the proposal. One (1) submission was received during the notification period. The concerns raised are summarised below:

140. Issue 1: lack of detail in submission

Assessing officer comment

Concern was raised by the objector that the submitted plans lacked details such as no dimensions, lack of detail on adjoining properties, and missing plans to fully assess the impact of the development.

It is considered that the submitted plans were adequately dimensioned and provided an appropriate scale to make all necessary calculations.

Concern was also raised by the objector that all relevant planning information was not provided in the statement of environmental effects. The submitted statement of environmental effects with the initial DA was considered to be sufficient as it did address all required planning issues.

141. Issue 2: Privacy impact to adjoining properties

Assessing officer comment

The objectors raised concerns that the proposed development would present privacy impacts to 48 and 44B Russell Street. In response to this concern the applicant was requested to make design changes such as deletion of the large balcony that would have resulted in privacy impact. The proposal is for bedroom and as such it is considered that the rooms are low impact as it does not involve living areas. It is also important to note that all north facing windows are opaque which further reduces any potential privacy impact.

142. Issue 3: Overshadowing impact to adjoining properties

Assessing officer comment

The objector voiced concern that the proposed development would result in excessive overshadowing to 44B Russell Street. The proposal will cast minor overshadowing to a portion of the objector's private open space for no more than 4 hours and therefore it is considered the objectors property will receive the required amount of sunlight.

143. Issue 4: Inadequate landscaping

Assessing officer comment

The objector raised concern regarding the lack of landscaped area for the subject development site that would be less than the required 25%. Whilst it is agreed that the subject development site has less than 25% landscaped area, this is the current existing situation and the proposed first floor addition will not result any further reduction to the landscape area. This issue has been addressed in the 4.6 Assessment above and is considered acceptable.

144. Issue 5: Excessive bulk and height

Assessing officer comment

The objector is of the view that the proposed size of the development will result in excessive bulk. To address this issue the applicant was required to delete the initial proposed 3-storey component and reduce the overall size of the building. The height exceedance which only relates to eave projection has been addressed in the 4.6 assessment above.

REVISED PLANS

145. The applicant lodged revised plans on 20 December 2023. In accordance with the requirements of Council's Community Engagement Strategy 2018 – 2028 these plans were not required to be renotified as, in the opinion of Council, the changes being sought did not intensify or change the external impact of the development to the extent that neighbours ought to be given the opportunity to comment. The proposed changes address some of the issues raised by the objector.

COUNCIL (INTERNAL) REFERRALSDevelopment Engineer

146. No objections raised to the proposal upon review of additional information submitted regarding the dispersal of stormwater. Conditions imposed.

EXTERNAL REFERRALSAusgrid

147. The application was referred to Ausgrid as per Clause 45(2) of the State Environmental Planning Policy (Infrastructure) 2007. Comments received raised no impact to Ausgrid assets with the proposed alterations and additions subject to suitable conditions in relation to underground cables and overhead powerlines.

DEVELOPER CONTRIBUTIONS

148. The development is subject to Section 7.12 Contributions. In accordance with the Georges River Local Development Contributions Plan 2021, a condition of consent requiring payment of the contribution has been imposed.

CONCLUSION

149. Development consent is sought for alteration to the ground floor of the existing dwelling, and construction of a first-floor addition.
150. The proposal has been accompanied by an adequate Clause 4.6 variation to development standards justifying the necessity for a variation to the GRLEP 2021 in respect to height standard. The proposal seeks to vary the maximum 9.0m height limit standard to 10.1m which represents a 12.3% variation and is supported based on the reasons outlined above in this assessment report.

The proposal also seeks to vary Clause 6.4 relating to Foreshore Area and Coastal Hazards and Risk in relation to roof eaves proposed below the foreshore building line. The

proposal seeks to vary the 15.0m Foreshore Building Line development standard to 13.8m which represents an 8% variation to the development standard and is supported based on the reasons outlined above in this assessment report.

The proposal also seeks to vary Clause 6.12 relating to Landscaped areas in certain residential and conservation zones. The proposal seeks to vary the 25% Landscaped Area development standard to 12.6% which represents an 49% variation to the development standard. It is important to note that the existing landscape area is not changed and will maintain the current noncompliance as the proposal is for a first floor addition. The variation is supported based on the reasons outlined above in this assessment report.

151. 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 appropriate response to the context of the site and will result in a good planning and urban design outcome in the locality.
152. 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 and complies with the development standards of the Local Environmental Plan and meets the objectives of the Development Control Plan. Any variations have been addressed and are worthy of support on merit.

STATEMENTS OF REASONS AND DETERMINATION

153. The reasons for this recommendation are that:
 - The proposed development complies with the requirements of the relevant environmental planning instruments except in respect to the height, foreshore building line and landscape. Clause 4.6 variation to development standards have been submitted in support of the application which is considered well founded as demonstrated in this report.
 - The proposed development complies with the objectives of the relevant environmental planning instruments.
 - The proposal aims to provide a development that will establish a positive urban design outcome given the context of the locality.
154. That Georges River Local Planning Panel support the request for variation under Clause 4.6 of Georges River Local Environmental Plan 2021, in relation to the Height of Buildings (Clause 4.3), Foreshore Area and Coastal Hazards and Risk (Clause 6.4) and Landscaped areas in certain residential and conservation zones (Clause 6.12) development standards, as the variations sought satisfy the objectives of the standard and sufficient environmental planning grounds have been provided in the written request for variation justifying that compliance would be unnecessary and unreasonable in the circumstances of the case. The proposal is also in the public interest and it satisfies the objectives of the zone resulting in no adverse environmental impacts.
155. Pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979, (as amended) the Georges River Local Planning Panel approve DA2023/0115 for alteration to the ground floor of an existing dwelling and construction of a first-floor addition on Lot 3 DP1096084 known as 46A Russell Street Oatley, subject to the following conditions:

Development Details

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

Description	Reference No.	Date	Revision	Prepared by
Site Context and Roof Plan	DWG NO: 2/A	December 2023	A	MJP Design Architects
First Floor Plan	DWG NO: 4/A	December 2023	A	MJP Design Architects
Existing Ground Floor Plan	DWG NO: 5/A	December 2023	A	MJP Design Architects
Existing Lower Ground Floor Plan	DWG NO: 6/A	December 2023	A	MJP Design Architects
North Elevation	DWG NO: 7/A	December 2023	A	MJP Design Architects
South Elevation	DWG NO: 8/A	December 2023	A	MJP Design Architects
East Elevation	DWG NO: 9/A	December 2023	A	MJP Design Architects
Section	DWG NO: 10/A	December 2023	A	MJP Design Architects
Landscape Area	DWG NO: 12/A	December 2023	A	MJP Design Architects
Finishes Schedule	DWG NO: FS1	December 2022	-	MJP Design Architects

Documents relied upon:

Description	Reference No.	Date	Revision	Prepared by
Clause 4.6 Variation Height of Building	-	12 December 2023	-	Avenue Town Planning
Clause 4.6 Variation Foreshore Area and Coastal Hazards and Risks	-	17 January 2024	-	Avenue Town Planning
Clause 4.6 Variation Landscaped areas in certain residential and conservation zones	-	12 December 2023	-	Avenue Town Planning
Concept plan of drainage and erosion and sediment control plan first floor	22135-C01 Sheet 1 of 2	21 December 2022	-	Civil & Structural Consulting Engineers
Concept plan of drainage and erosion and sediment control plan first floor	22135-C01 Sheet 2 of 2	21 December 2022	-	Civil & Structural Consulting Engineers

Separate Approvals Required Under Other Legislation

2. **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.

3. **Ausgrid Overhead Powerlines are in the vicinity of the development** – The developer should refer to SafeWork NSW Document - Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.

Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site. The "as constructed" minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website at www.ausgrid.com.au

It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer's cost.

Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances". This document can be found by visiting the following Ausgrid website: www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries

For new connections or to alter the existing electrical connection to the property from the Ausgrid network, the proponent should engage an Accredited Service Provider and

submit a connection application to Ausgrid as soon as practicable. Visit the Ausgrid website for further details: <https://www.ausgrid.com.au/Connections/Get-connected>

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

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

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

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

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

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

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

To apply for approval, complete the "Application for Driveway Crossing and Associated

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

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

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

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

Requirements of Concurrence, Integrated & Other Government Authorities

7. **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.sydneypwater.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

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

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

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

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

Fee Type	Fee
GENERAL FEES	

Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$1,900.00
Inspection Fee for Refund of Damage Deposit	\$200.00
DEVELOPMENT CONTRIBUTIONS	
Georges River Council Section 94A Development Contributions Plan 2017	\$4,473.17

General Fees

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

Development Contributions

A Section 7.12 contribution has been levied on the subject development pursuant to the Georges River Council Section 94A Contributions Plan 2017.

Timing of Payment

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

Further Information

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

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

- a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: \$1,900.00
- b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: \$200.00
- c) Submit to Council, before the commencement of work, a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

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

10. 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.

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

11. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. A482030_03 must be implemented on the plans lodged with the application for the Construction Certificate.
12. **Required Design Changes** - Prior to the issue of a construction certificate the following design amendments shall be reflected on the architectural plans:
 - a) The eastern facade should be vertically articulated to break the horizontality emphasised by the shape and size of the windows. This should be achieved by incorporating windows of similar shape and proportions to the existing, which will ensure that the development presents an integrate built form and consistent architectural rhythm when viewed from the water (Refer to marked up plans).
 - b) The flat and bland facade should be amended to incorporate variation in materials such as timber slats to continue verticality, create interest and avoid large blank walls when viewed from the water. (Refer marked up plans).
13. **Low reflectivity roof** - Roofing materials must be low glare and reflectivity. Details of finished external materials including colours and texture must be provided to the Certifying Authority.
14. **Pre-Construction Dilapidation Report - Private Land** - A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises including but not limited to:
 - a) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.
 - b) 44B Russell Street, Oatley
 - c) 48 Russell Street, Oatley

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

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

Should the owners of properties (or their agents) refuse access to carry out inspections, after being given reasonable written notice, this shall be reported to Council to obtain

Council's agreement to complete the report without access. Reasonable notice is a request for access in no sooner than 14 days between 8.00am-6.00pm.

15. Erosion & Sedimentation Control - Erosion and sediment controls must be provided to ensure:

- (a) Compliance with the approved Erosion & Sediment Control Plan
- (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
- (c) All clean water runoff is diverted around cleared or exposed areas
- (d) Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways
- (e) All erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works
- (f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
- (g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
- (h) Compliance with [Managing Urban Stormwater - Soils and Construction \(Blue Book\) produced by Landcom 2004](#)

These measures are to be implemented prior to the commencement of work (including demolition and excavation) and must remain until works are completed and all exposed surfaces are landscaped/sealed.

16. 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) The PCA shall ensure that all stormwater runoff as per CPM Engineering prepared concept stormwater drainage plan (project No. 22135-C01, Dwg No. Sheet 2 of 2, Dated 21.12.2022) from the development shall drain by gravity to the bay and the drainage system must be in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).

17. Stormwater Drainage Plan Details - Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineering specialising in hydraulic engineering shall be submitted with the Construction Certificate application.

These plans shall be prepared in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Hurstville Development Control Plan 1 which includes Appendix 2.

18. Structural details - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns and other

structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works.

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

19. **Traffic Management - Compliance with AS2890** - All driveways, access ramps, vehicular crossings and car parking spaces shall be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities) and AS 2890.2 (for commercial vehicle facilities).
20. **Waste Management Plan** - A Waste Management Plan incorporating all requirements in respect of the provision of waste storage facilities, removal of all materials from the site that are the result of site clearing, extraction, and, or demolition works and the designated Waste Management Facility shall be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

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

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

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

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

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

22. **Demolition Notification Requirements** - The following notification requirements apply to this consent:
- The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.
 - Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.
 - On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words "DANGER ASBESTOS

REMOVAL IN PROGRESS” measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.

23. **Demolition work involving asbestos removal** - Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the [Work Health and Safety Regulation 2011](#).
24. **Before You Dig Australia** - The applicant shall contact “Before You Dig Australia” at <https://www.byda.com.au/> to obtain a Service Diagram prior to the issuing of the Construction Certificate. The reference number for the enquiry obtained from “Before You Dig Australia” shall be forwarded to the Principal Certifying Authority (PCA) and Council for their records.
25. **Registered Surveyors Report - During Development Work** - A report must be submitted to the PCA at each of the following applicable stages of construction:
 - a) Set out before commencing excavation.
 - b) Floor slabs or foundation wall, before formwork or commencing brickwork.
 - c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
 - d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.
 - e) Completion of any Pool Formwork - Before concreting of pool shell, detailing the location of the pool relative to the adjacent boundaries and its height relative to the datum shown on the approved plans.
 - f) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
 - g) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

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

During Construction

- 26. Site sign - Soil & Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.
- 27. Hours of construction for demolition and building work** - Unless authorised by Council:
- a) Building construction and delivery of material hours are restricted to: 7.00 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.
- 28. 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.
- 29. Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the [Roads Act 1993](#) and/or under Section 68 of the [Local Government Act 1993](#). Penalty infringement Notices may be issued for any offences and severe penalties apply.
- 30. Ground levels and retaining walls** - The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved by Council.
- 31. Construction Works** - All construction associated with this application is to be constructed wholly within the subject site and not on, over or within Council land without prior approval.
- 32. Tree Removal Prohibited on Adjoining Properties** - No tree on Council's public footway, public reserves or on neighbouring properties and protected under the Georges River Tree Management Policy 2019 may be removed, pruned or otherwise damaged without Council consent.
- 33. Acid Sulfate - Unexpected Finding** - Any new information identified during excavation or construction which has the potential to alter previous conclusions about the presence of Potential Acid Sulfate Soils (PASS) or Acid Sulfate Soils (AASS) across the site, must be notified to the Principal Certifying Authority and Council, if Council is not the principal certifying authority) immediately.

All works must cease and a suitably and experienced qualified Environmental Consultant, certified under the consultant certification schemes recognised by the NSW EPA, is

engaged to assess, and provide documentation to the management of the PASS or AASS in accordance with any relevant NSW EPA adopted guidelines.

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

34. **Environmental Sustainability**

- i. The proposed works must install sediment and erosion controls above the mean high-water mark to ensure building materials, soil and debris do not enter the adjacent waterway.
- ii. No materials are to be stored or placed below the mean high-water mark.

35. **Development Engineering - Damage within Road Reserve and Council Assets** - The owner shall bear the cost of restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site. This may include works by Public Utility Authorities in the course of providing services to the site.

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

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. **Tree Removal on Private Land** - The trees identified as 'to be removed/pruned' on the approved plans or by conditions of this consent shall be removed in accordance with AS4373 -2007 and the *Amenity Tree Industry Code of Practice* (SafeWork NSW, August 1998).

Prior to the issue of the Occupation Certificate

39. **BASIX Compliance Certificate** - A Compliance Certificate must be provided to the PCA regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any Occupation Certificate is issued.

40. **BASIX Compliance Certificate** - A Compliance Certificate must be provided to the PCA regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any Occupation Certificate is issued.

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

- (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation

Certificate.

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

- a) 44B Russell Street, Oatley
- b) 48 Russell Street, Oatley

The report is to be prepared at the expense of the applicant and submitted to the PCA prior to the issue of the Occupation Certificate. In ascertaining whether adverse structural damaged has occurred to the adjoining premises, the PCA, must compare the post-construction dilapidation report with the pre-construction dilapidation report required by conditions in this consent.

Evidence confirming that a copy of the post-construction dilapidation report was delivered to the adjoining properties subject of the dilapidation report must be provided to the PCA prior to the issue of any Occupation Certificate.

Operational Conditions (On-Going)

43. **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.
44. **Amenity of the neighbourhood** - The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.

Operational Requirements Under the Environmental Planning & Assessment Act 1979

45. **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.
46. **Appointment of a Principal Certifier (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.

In accordance with Clause 57 of the [Environmental Planning and Assessment \(Development and Fire Safety\) Regulation 2021](#)

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

- (a) appoint a Principal Contractor to undertake the building work. If residential building work (within the meaning of the [Home Building Act 1989](#)) is to be undertaken, the Principal Contractor must be a holder of a contractor licence; and
- (b) notify the PC of the details of any such appointment; and 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..

47. 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 PC must notify:

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

48. 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.

49. Critical Stage Inspections - The last critical stage inspection must be undertaken by the PC. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 68 of the [Environmental Planning and Assessment \(Development and Fire Safety\) Regulation 2021](#).

50. Notice to be given prior to critical stage inspections - The principal contractor for a building site, or the owner-builder, must notify the PC at least 48 hours before each required inspection needs to be carried out 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 PC, 48 hours notice in writing, or alternatively 24 hours notice by facsimile or telephone, must be given when specified work requiring inspection has been completed.

51. 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 PC appointed for the building work can issue the Occupation Certificate.

Prescribed Conditions

52. Clause 44 - BASIX Commitments - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.

53. Clause 67 - 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.

54. **Clause 75 - Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the PC and the Principal Contractor.
55. **Clause 67 - Home Building Act 1989** - If the development involves residential **building** work under the Home Building Act 1989, no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the Home Building Act 1989.
56. **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.
57. **Clause 61 - 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. (eg. DA2018/0***) and reference this condition number (e.g. Condition 23)
- (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with stormwater applications.

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

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

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

7. **Council as PCA - Deemed to Satisfy Provisions of BCA** - Should the Council be appointed as the PCA in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative fire solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justifying the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.
8. **Site Safety Fencing** - Site fencing must be erected in accordance with SafeWork Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained throughout any demolition and construction work.

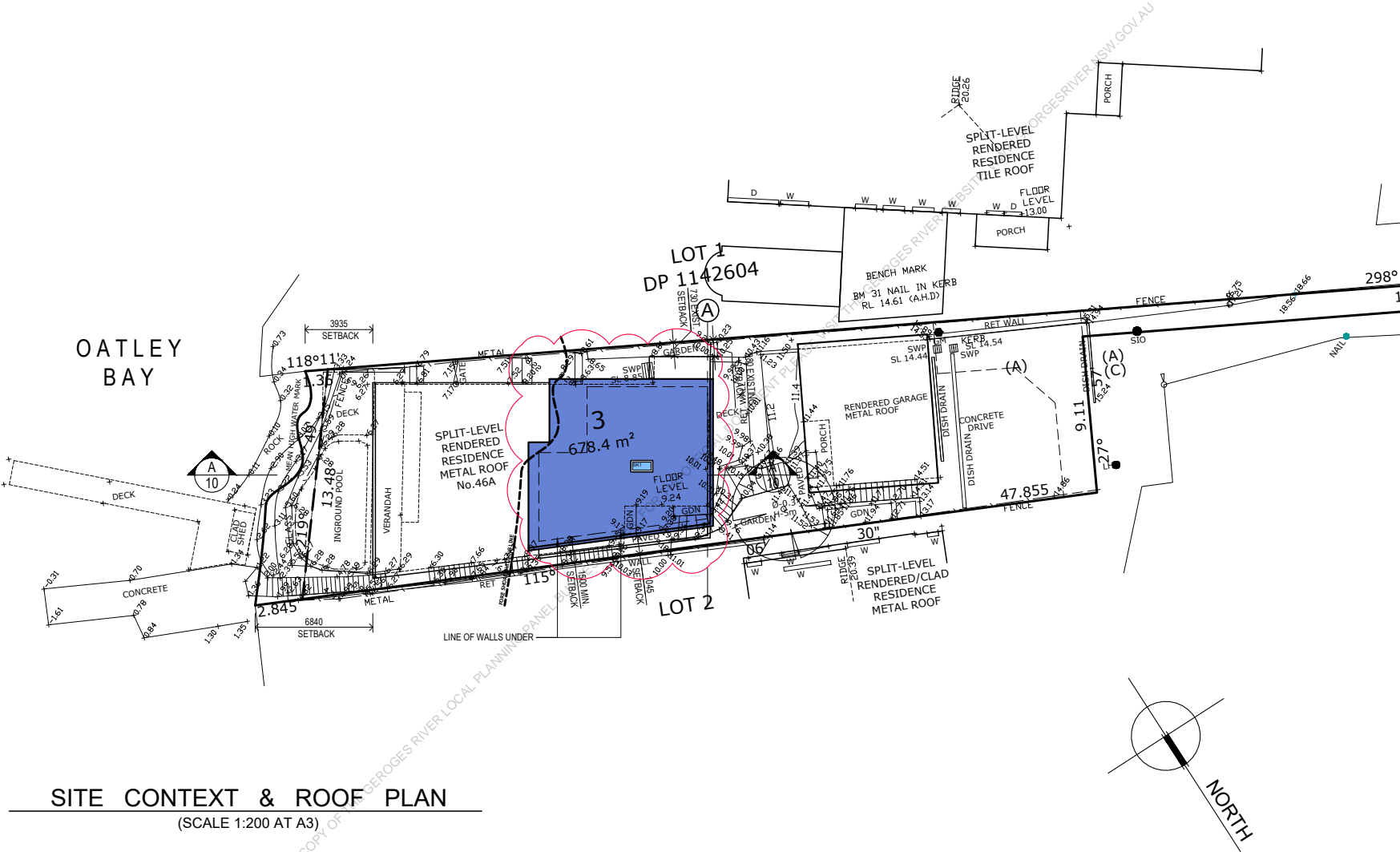
A demolition licence and/or a high risk work license may be required from SafeWork NSW (see www.SafeWork.nsw.gov.au).

ATTACHMENTS

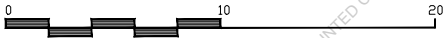
Attachment [↓](#)1 Plans - 46A Russell Street Oatley - DA202/0115



THIS IS THE PRINTED COPY OF THE GEORGES RIVER LOCAL PLANNING PANEL BUSINESS PAPER. FOR THE ORIGINAL DOCUMENT, VISIT THE GEORGES RIVER WEBSITE: www.georgesriver.nsw.gov.au



SITE CONTEXT & ROOF PLAN
(SCALE 1:200 AT A3)



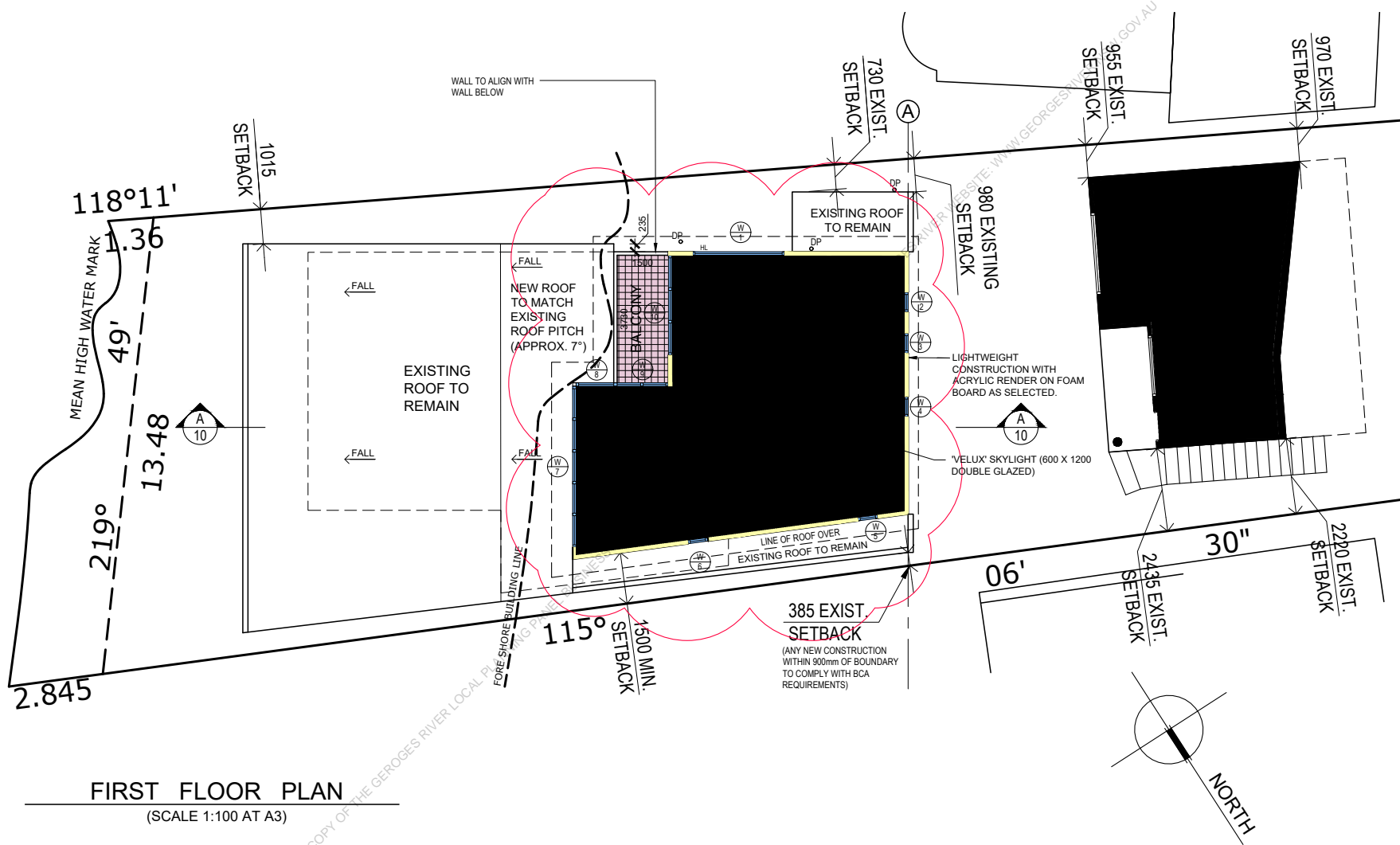


**MJP design.
Architects.**
 120 LUGARNO PARADE, LUGARNO, 2210.
 ph: (02) 9533 5399 mb: 0414 969 496
 M.PHILLIPS B.Arch (1st HONS) (No. 7149)

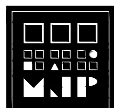
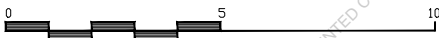
Project:
ALTERATIONS AND ADDITIONS TO
EXISTING DWELLING,
AT 46A RUSSELL STREET, OATLEY.
FOR MR & MRS PALMER

Details:
SITE CONTEXT &
ROOF PLAN

REVISION	AMENDMENT	DATE
A	DA AMENDMENTS	DEC 23
FEB 2023		DWG NO: 2 /A



FIRST FLOOR PLAN
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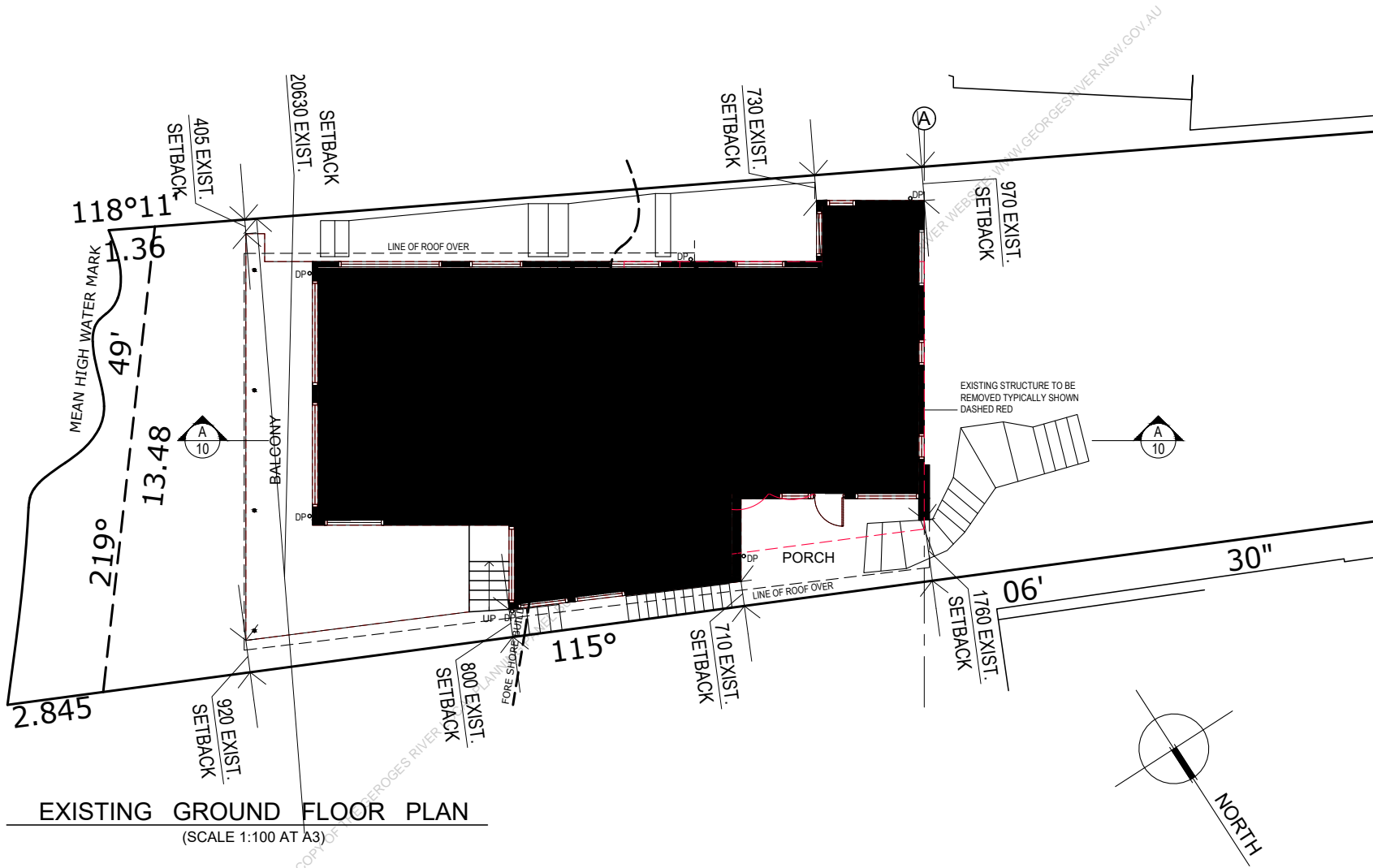


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Project:
ALTERATIONS AND ADDITIONS TO
EXISTING DWELLING,
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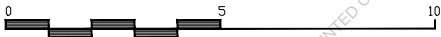
Details:
FIRST FLOOR PLAN

REVISION	AMENDMENT	DATE
A	DA AMENDMENTS	DEC 23
FEB 2023		DWG NO: 4 /A



EXISTING GROUND FLOOR PLAN

(SCALE 1:100 AT A3)



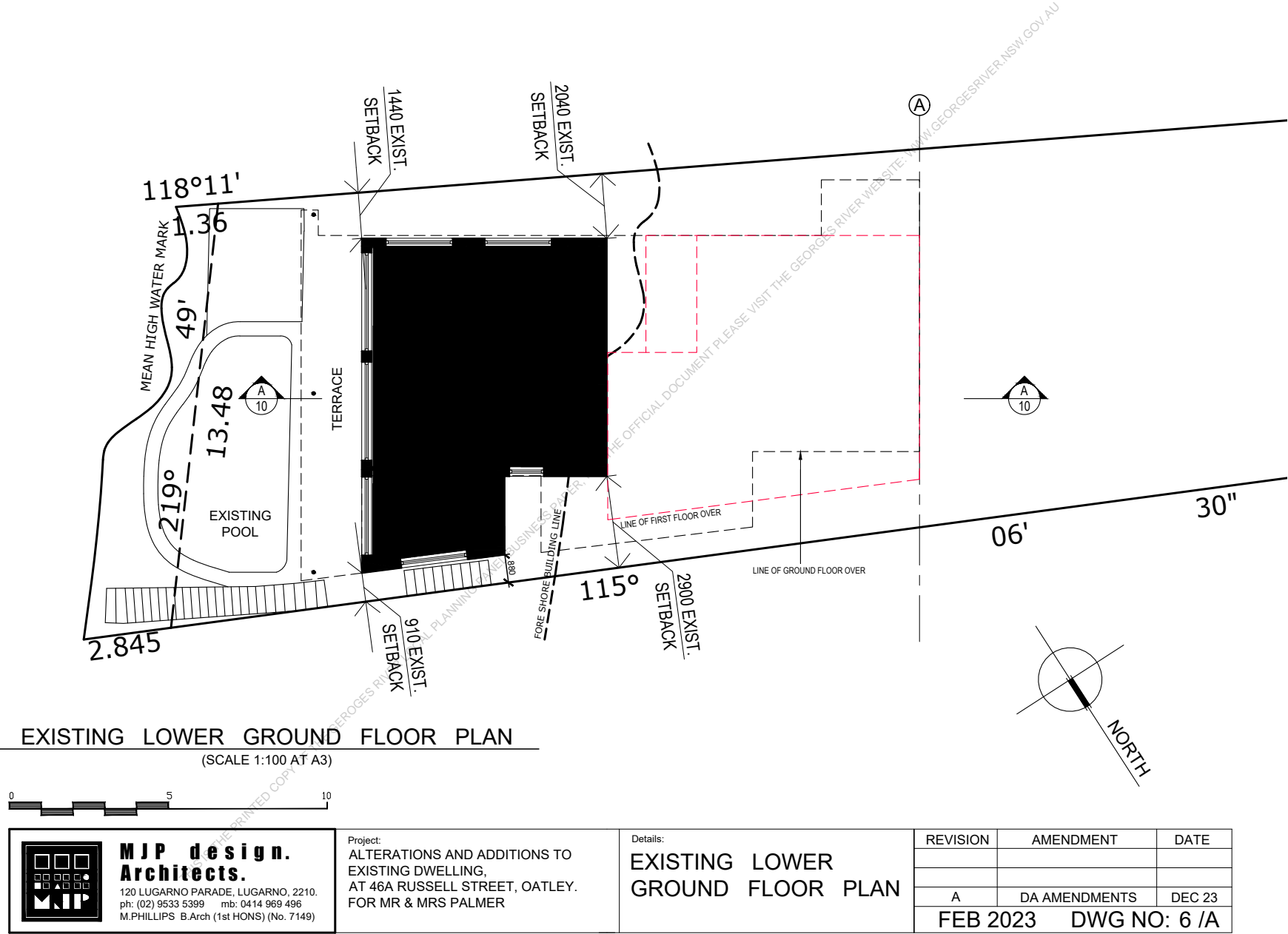


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Project:
ALTERATIONS AND ADDITIONS TO
EXISTING DWELLING,
AT 46A RUSSELL STREET, OATLEY.
FOR MR & MRS PALMER

Details:
**EXISTING GROUND
FLOOR PLAN**

REVISION	AMENDMENT	DATE
A	DA AMENDMENTS	DEC 23
FEB 2023		DWG NO: 5 /A



EXISTING LOWER GROUND FLOOR PLAN
(SCALE 1:100 AT A3)

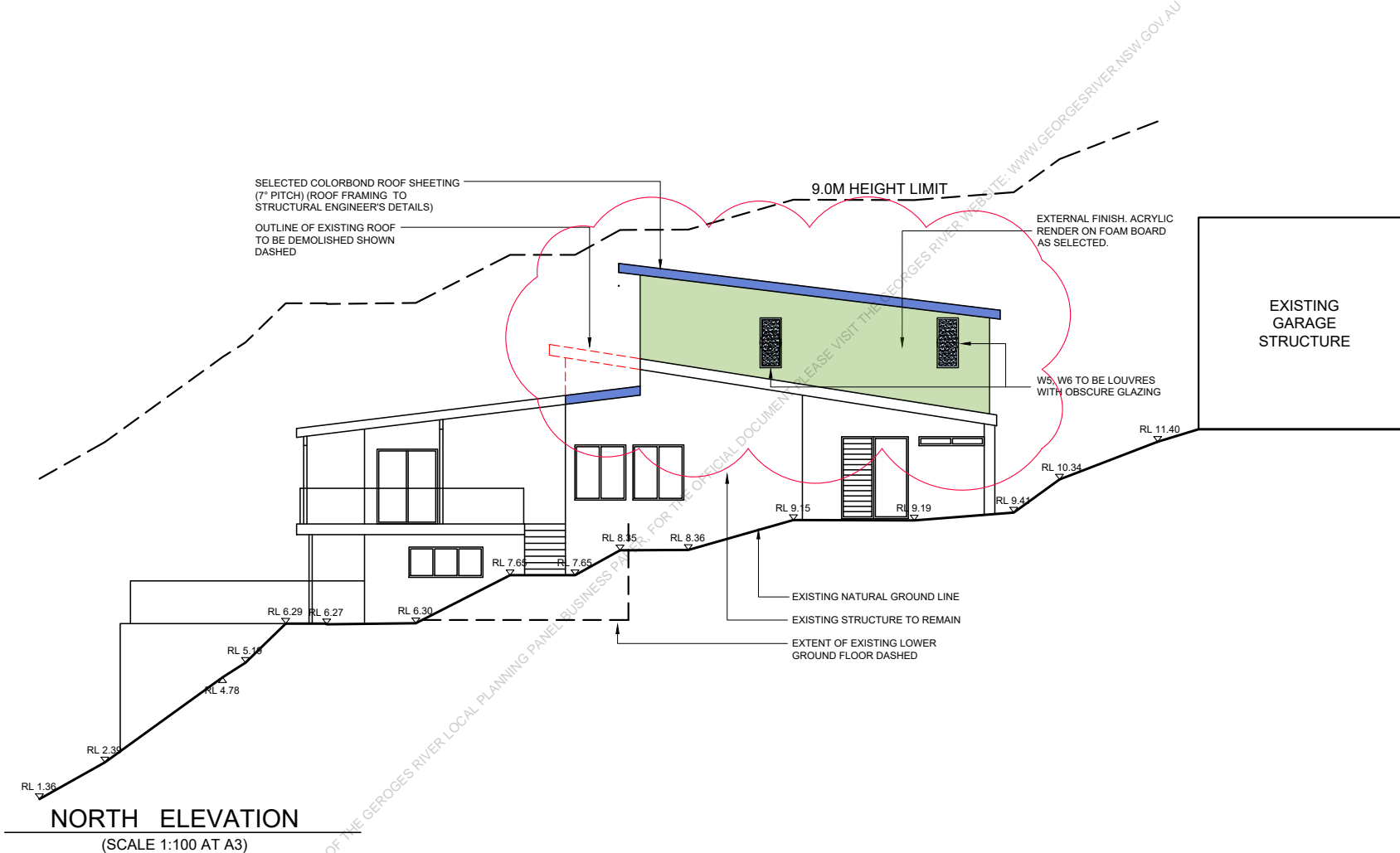


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Project:
ALTERATIONS AND ADDITIONS TO
EXISTING DWELLING,
AT 46A RUSSELL STREET, OATLEY.
FOR MR & MRS PALMER

Details:
**EXISTING LOWER
GROUND FLOOR PLAN**

REVISION	AMENDMENT	DATE
A	DA AMENDMENTS	DEC 23
FEB 2023		DWG NO: 6 /A





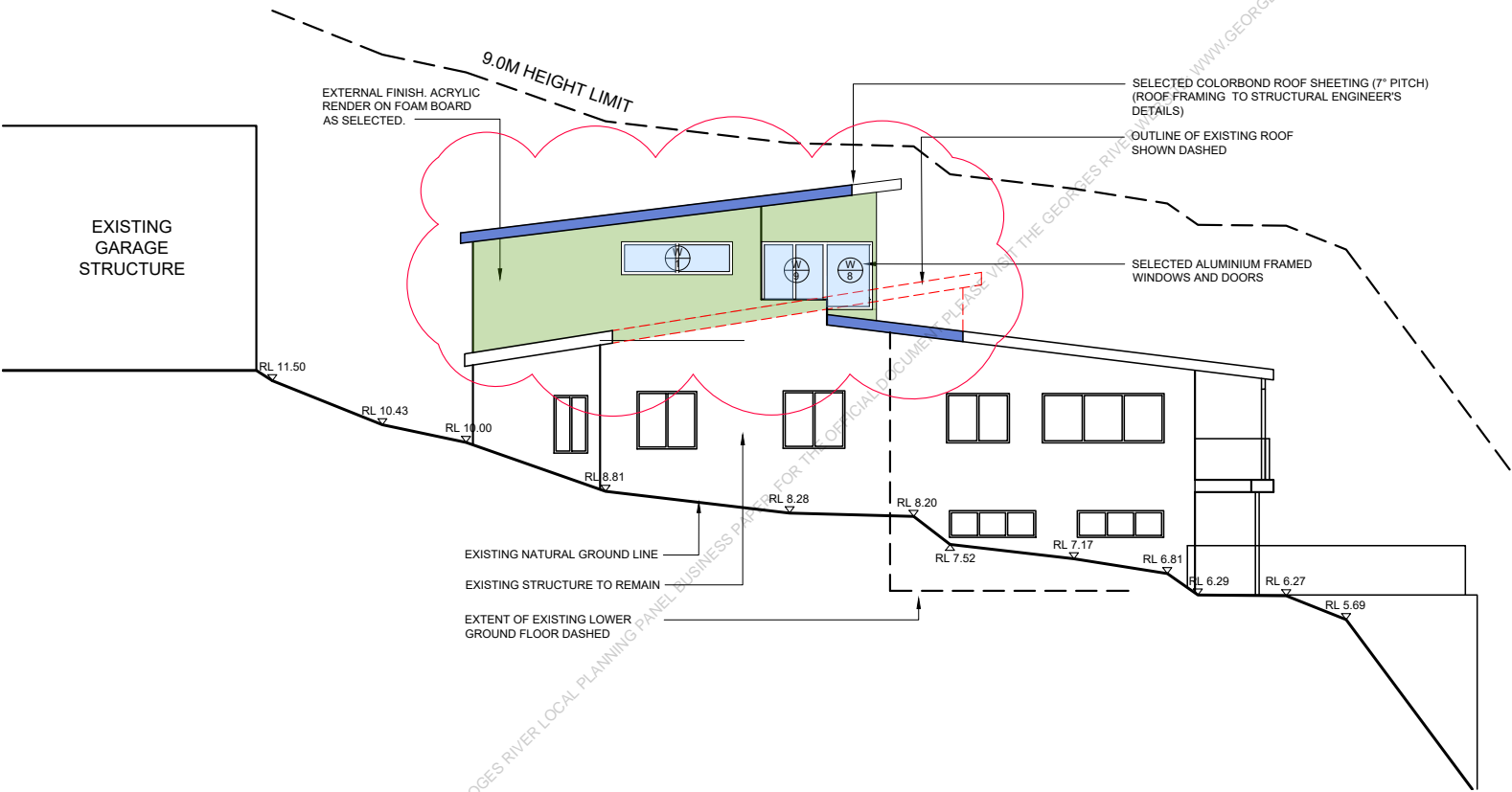
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Project:
ALTERATIONS AND ADDITIONS TO
EXISTING DWELLING,
AT 46A RUSSELL STREET, OATLEY.
FOR MR & MRS PALMER

Details:
NORTH ELEVATION

REVISION	AMENDMENT	DATE
A	DA AMENDMENTS	DEC 23
FEB 2023		DWG NO: 7 /A



SOUTH ELEVATION
(SCALE 1:100 AT A3)





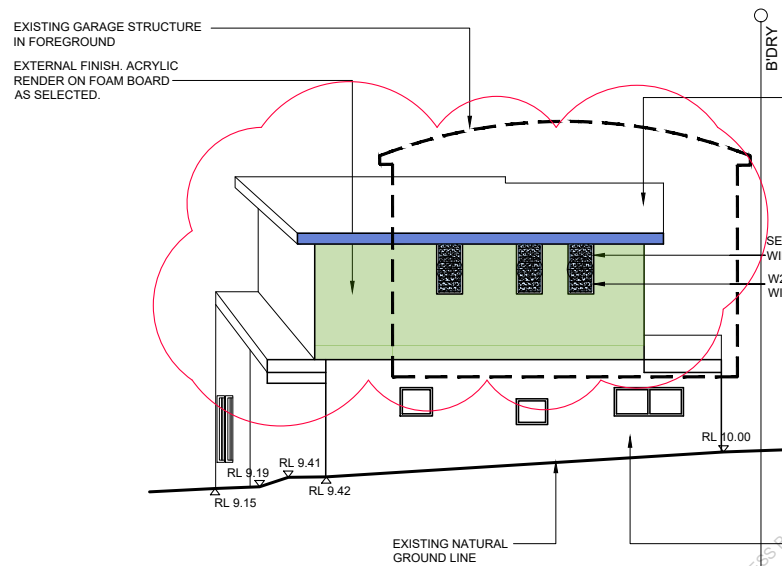
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Architects.**

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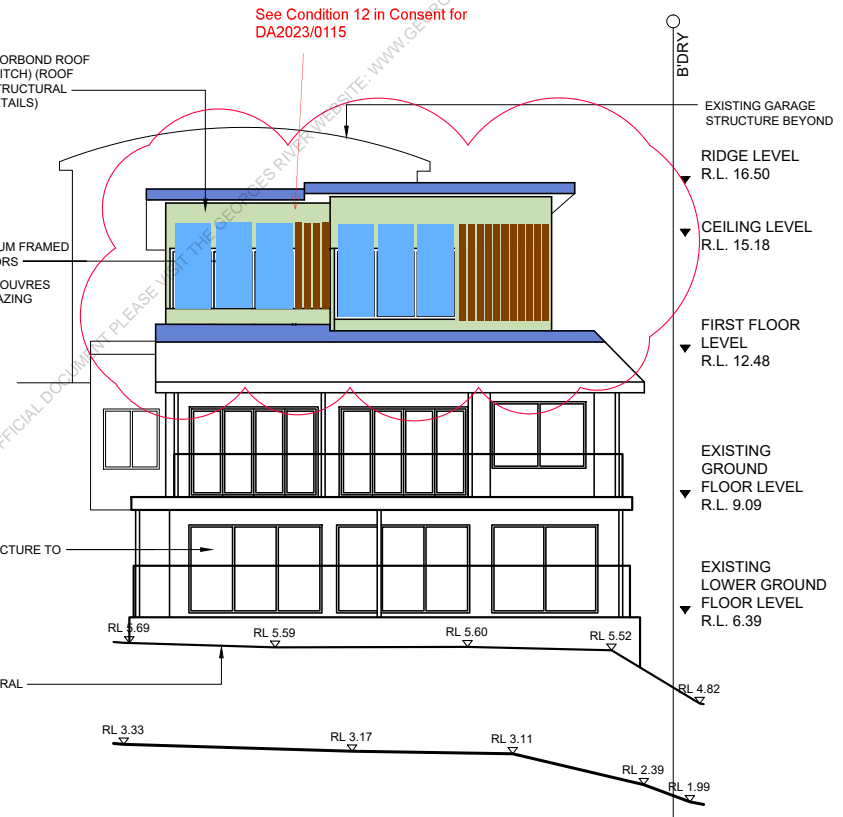
Project:
ALTERATIONS AND ADDITIONS TO
EXISTING DWELLING,
AT 46A RUSSELL STREET, OATLEY.
FOR MR & MRS PALMER

Details:
SOUTH ELEVATION

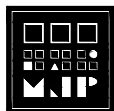
REVISION	AMENDMENT	DATE
A	DA AMENDMENTS	DEC 23
FEB 2023		DWG NO: 8 /A



WEST ELEVATION
(SCALE 1:100 AT A3)



EAST ELEVATION
(SCALE 1:100 AT A3)

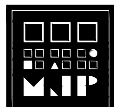
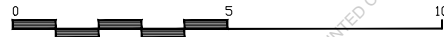


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Project:
ALTERATIONS AND ADDITIONS TO
EXISTING DWELLING,
AT 46A RUSSELL STREET, OATLEY.
FOR MR & MRS PALMER

Details:
**WEST & EAST
ELEVATIONS**

REVISION	AMENDMENT	DATE
A	DA AMENDMENTS	DEC 23
FEB 2023		DWG NO: 9 /A

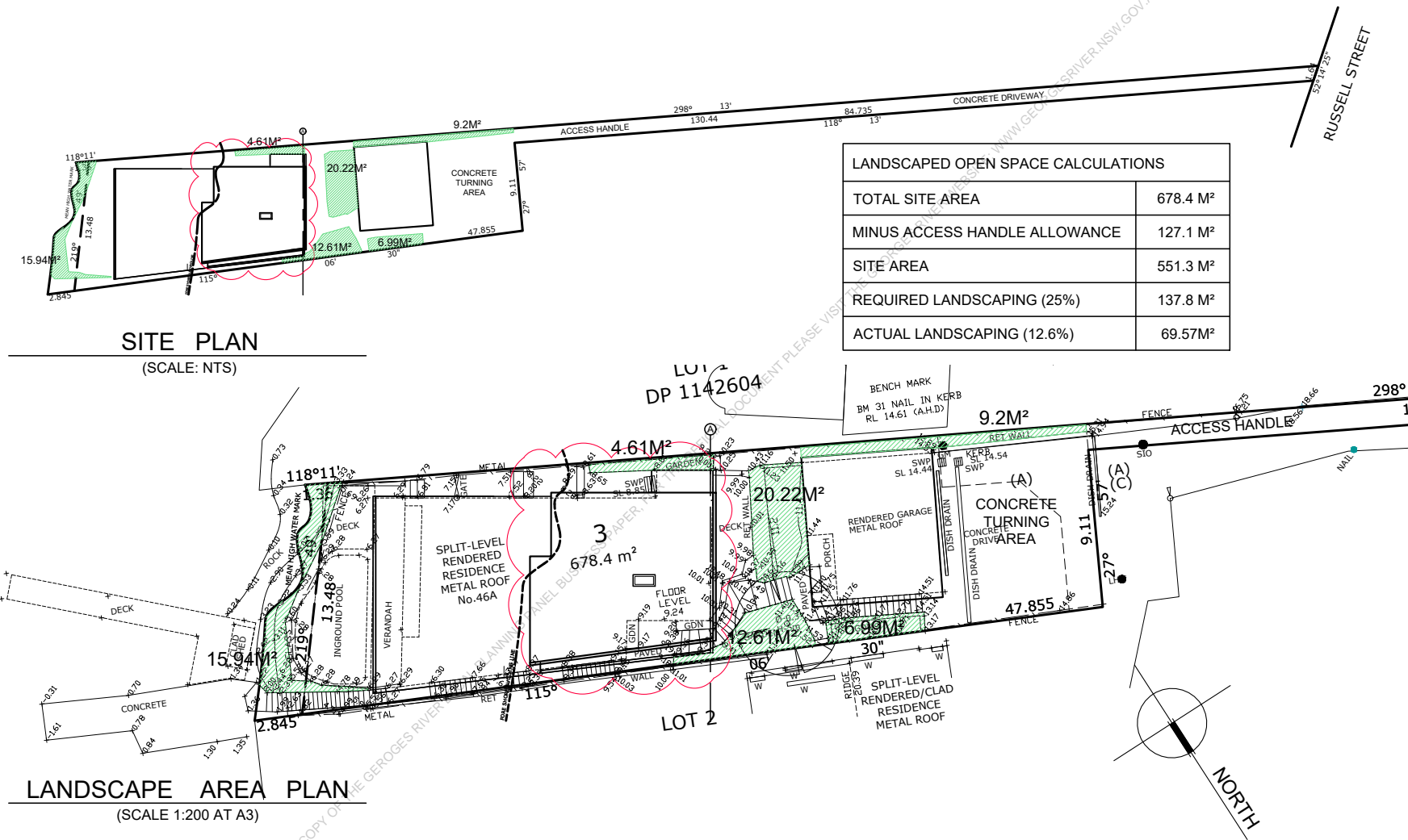


120 LUGARNO PARADE, LUGARNO, 2210.
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Details:

SECTION A - A

REVISION	AMENDMENT	DATE
A	DA AMENDMENTS	DEC 23
FEB 2023		DWG NO:10/A





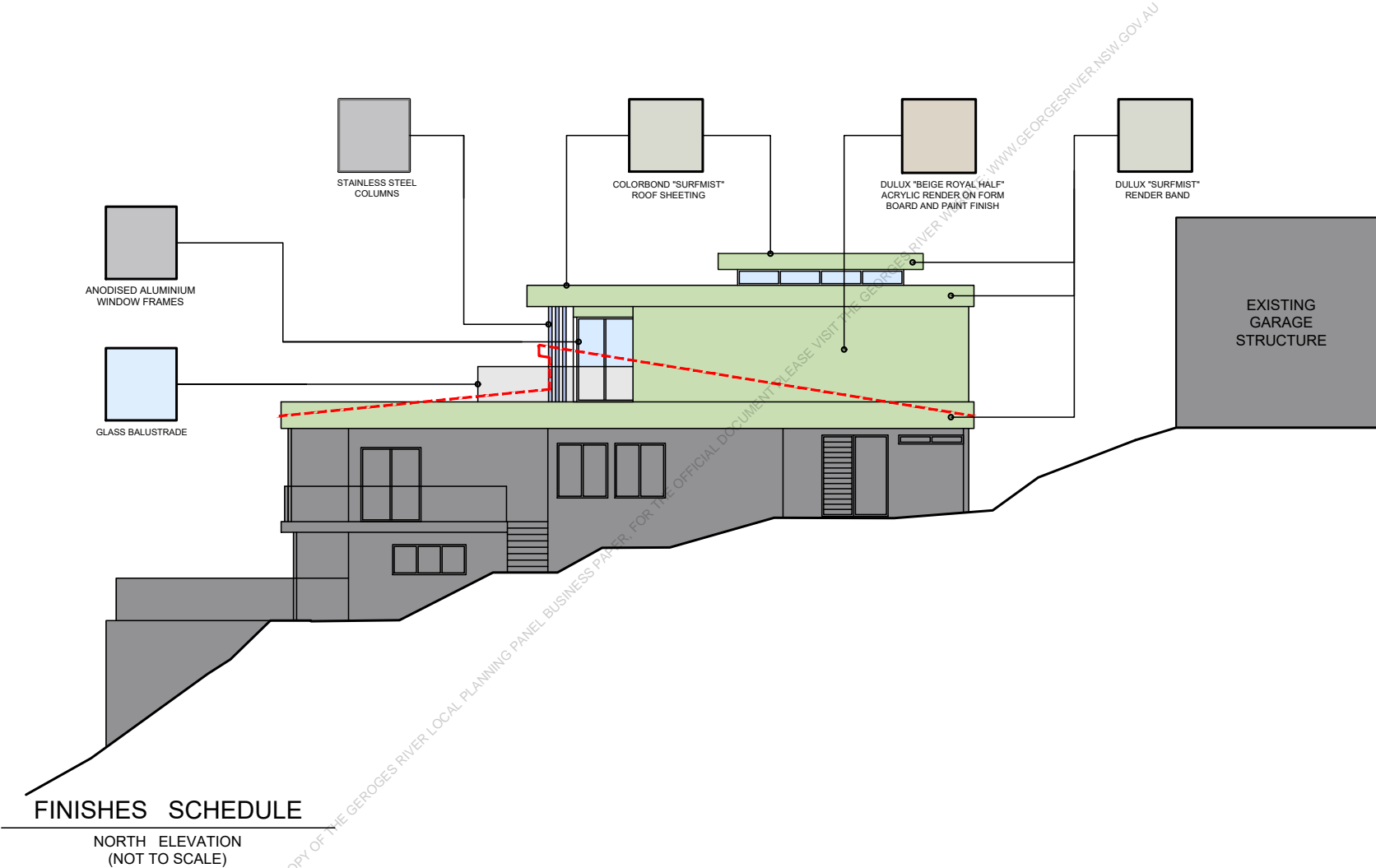
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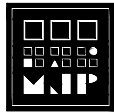
120 LUGARNO PARADE, LUGARNO, 2210.
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M.PHILLIPS B.Arch (1st HONS) (No. 7149)

Project:
ALTERATIONS AND ADDITIONS TO
EXISTING DWELLING,
AT 46A RUSSELL STREET, OATLEY.
FOR MR & MRS PALMER

Details:
**LANDSCAPE AREA
PLAN**

REVISION	AMENDMENT	DATE
A	DA AMENDMENTS	DEC 23
FEB 2023		DWG NO.12/A





**MJP design.
Architects.**

120 LUGARNO PARADE, LUGARNO, 2210.
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M.PHILLIPS B.Arch (1st HONS) (No. 7149)

Project:
ALTERATIONS AND ADDITIONS TO
EXISTING DWELLING,
AT 46A RUSSELL STREET, OATLEY.
FOR MR & MRS PALMER

Details:
FINISHES SCHEDULE

REVISION	AMENDMENT	DATE
DEC 2022	DWG NO: FS1	

**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 15 FEBRUARY 2024**

LPP002-24

LPP Report No	LPP002-24	Development Application No	DA2023/0186
Site Address & Ward Locality	31 Ocean Street, Penshurst Mortdale Ward		
Proposed Development	Alterations to an existing residential flat building - balcony and opening refurbishment/replacement		
Owners	Owners Corporation - Strats Plan 8698		
Applicant	Mr Dave Moody		
Planner/Architect	Fab Siqueira Architect		
Date Of Lodgement	3/07/2023		
Submissions	No submissions received.		
Cost of Works	\$289,554.00		
Local Planning Panel Criteria	Sensitive Development subject to State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, Water Management Act 2000, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development, State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Building Sustainability Index: BASIX), Georges River Local Environmental Plan 2021, Georges River Development Control Plan 2021		
List all documents submitted with this report for the Panel's consideration	Architectural Plans, Statement of Environmental Effects and Technical Specification Schedule		
Report prepared by	Development Assessment Planner		

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

Site Plan



Aerial view with site outlined in blue (Source: Intramaps, 2023)

Executive Summary

PROPOSAL

1. Council is in receipt of an application seeking consent for alterations to an existing residential flat building involving the refurbishment of existing balconies and replacement of openings. Refurbishment of the balconies that are located on the first, second and third floor levels of the development located on the northern, southern, and western elevations of the existing residential flat building. A total of 18 balconies are to undergo the refurbishment works. The proposed works are specifically outlined below.
 - The existing access to the balconies is to be upgraded with the replacement of the glass sliding doors. The opening sizes is to remain as existing.
 - New glass balustrades that are to be core drilled into the existing concrete slab.
 - Re-waterproofing of the balcony floors.
 - Screeding of the balconies and re-tiling of the balcony floors.
 - Balcony edges will be provided with drainage to direct the water away from the slab edges by installing new metal drip edges.
 - Repair and repainting slab edges and the door frames to match the existing colour scheme.
 - Repair the internal areas impacted by the removal and replacement of the glass sliding door providing access to the balconies.
2. The proposed development does not seek to change the height of building, building setbacks and/or building envelope except for the balcony works.

SITE AND LOCALITY

3. The site is located on the south-western side of Ocean Street, Penshurst. The subject site contains a 4-storey residential flat building. The residential flat building is masonry with a tiled roof. The site fronts Ocean Street with vehicular access from the street's frontage across a driveway with garages provided at ground level. The site is rectangular in shape and has a total site area of 949.8sqm. The site does have an unnamed laneway at the rear of the site, which is commonly known as Ocean Lane, but no access is currently available.
4. The front boundary to Ocean Street has a total length of 20.115m, the side boundaries have a length of 47.22m. The immediate area is characterised by residential flat buildings varying in the number of storeys, ages and materiality.

ZONING AND PERMISSIBILITY

5. The site is zoned R4 High Density Residential under Georges River Local Environmental Plan 2021 (GRLEP 2021) and the proposed development is permissible with development consent.

SUBMISSIONS

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

CONCLUSION

7. Having regard to the matters for consideration under Section 4.15(1) and the applicable assessment criteria under of the Environmental Planning and Assessment Act 1979 and following a detailed assessment, the proposed development application (DA2023/0186) is recommended for approval subject to the conditions referenced at the end of this report.

Report in Full

8. Council is in receipt of an application seeking consent for alterations to an existing residential flat building involving the refurbishment of existing balconies and replacement of openings. Refurbishment of the balconies that are located on the first, second and third floor levels of the development located on the northern, southern, and western elevations of the existing residential flat building. A total of 18 balconies are to undergo the refurbishment works. The proposed works are specifically outlined below.
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 - Repair and repainting slab edges and the door frames to match the existing colour scheme.
 - Repair the internal areas impacted by the removal and replacement of the glass sliding door providing access to the balconies.
9. The proposed development does not seek to change the height of building, building setbacks and/or building envelope except for the balcony works.

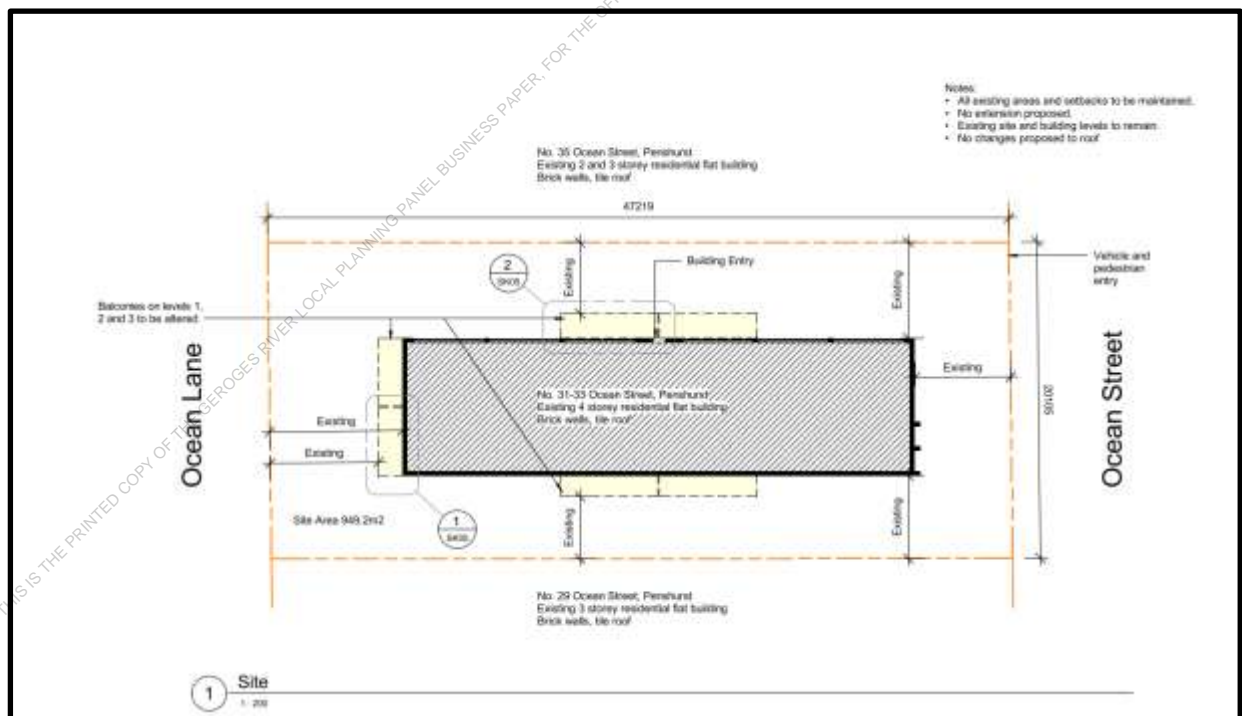




Figure 2: View of existing masonry balustrade as viewed from the ground floor (Technical Specification Report, 2022)

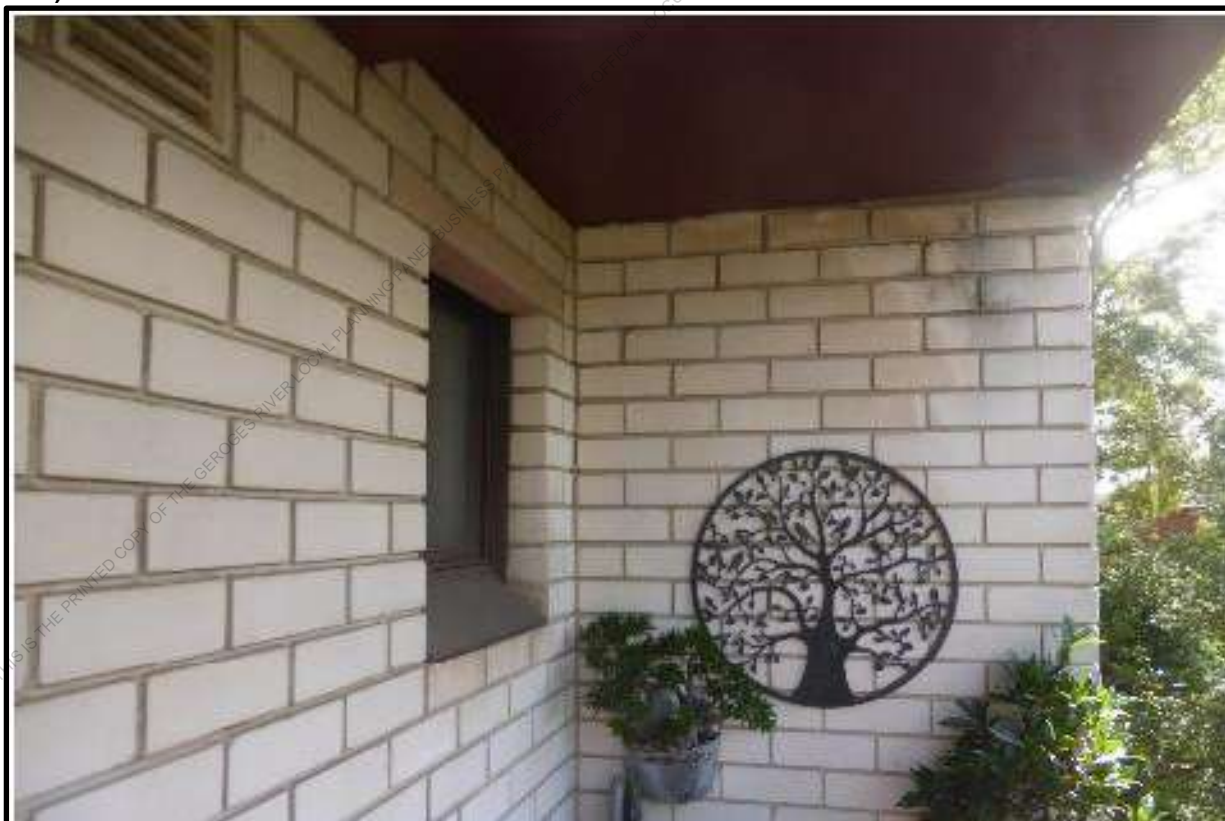


Figure 3: View of the party wall to the external balconies (Technical Specification Report, 2022)



Figure 4: View of the masonry party wall at the top level of the property (Technical Specification Report, 2022)



Figure 5: View of the masonry balustrade viewed from the external balcony (Technical Specification Report, 2022)



Figure 6: View of the balcony floor (Technical Specification Report, 2022)

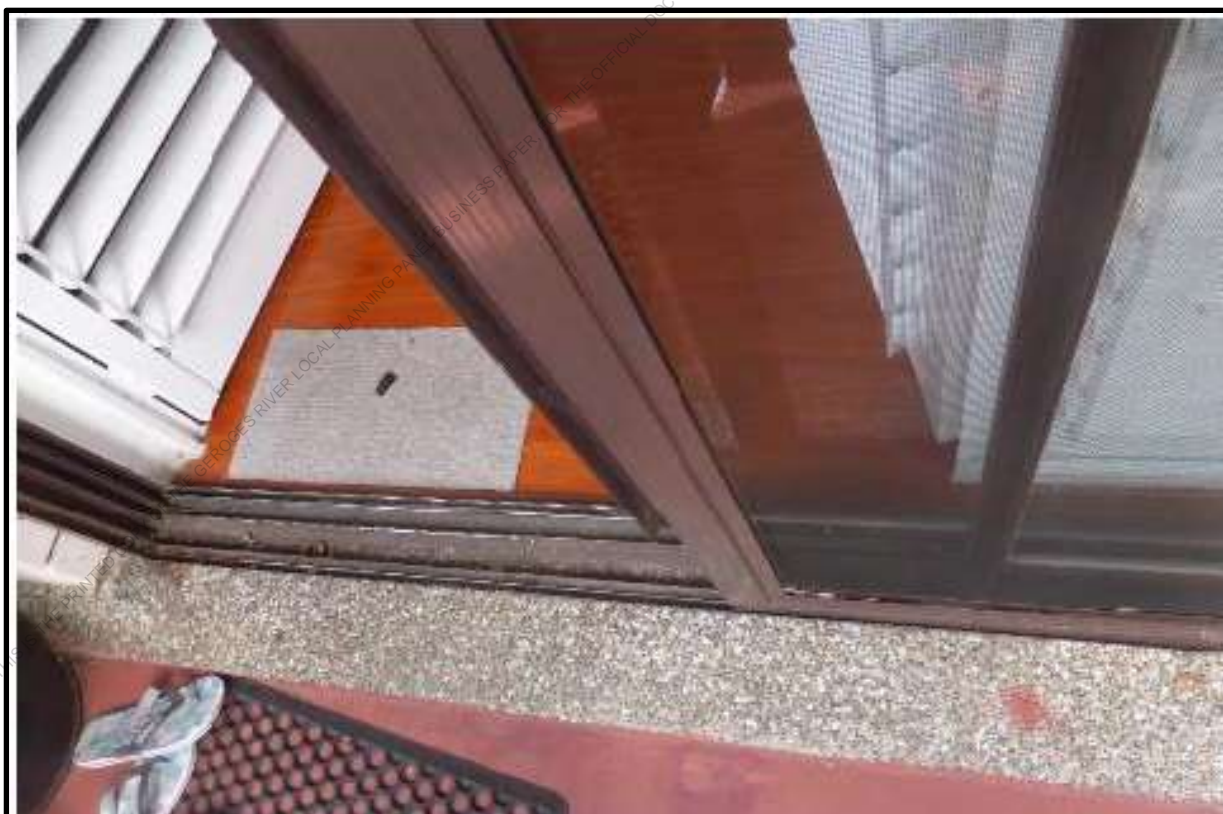


Figure 7: View of the external balcony sliding door (Technical Specification Report, 2022)



Figure 8: Elevational Plans



Figure 9: Elevational Plans

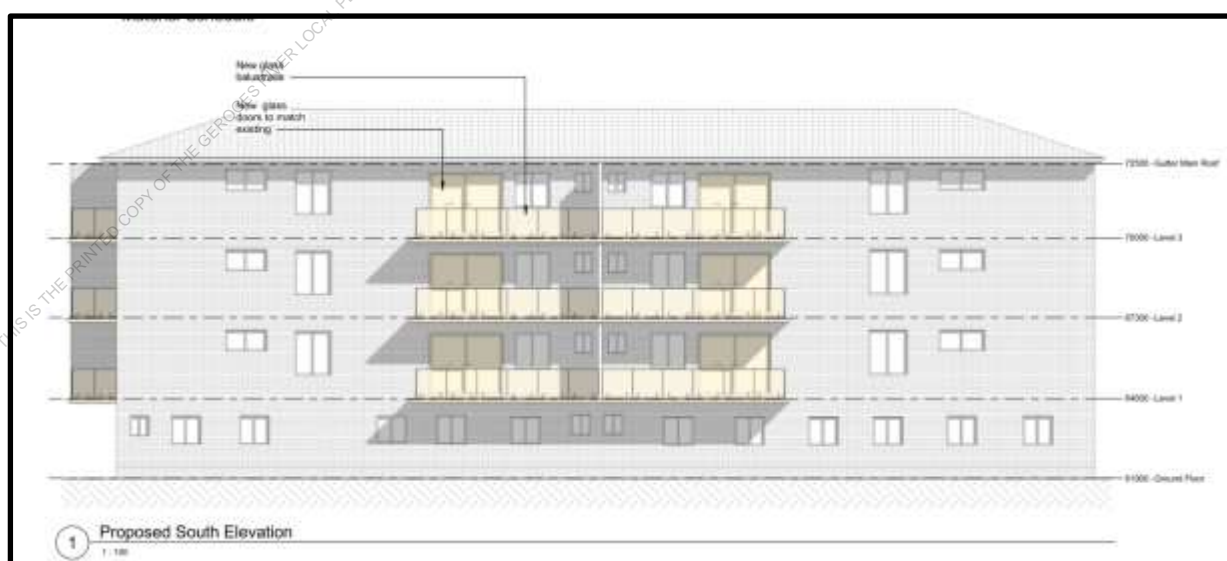


Figure 10: Elevational Plans

THE SITE AND LOCALITY

10. The site is located on the south-western side of Ocean Street, Penshurst. The subject site contains a 4-storey residential flat building. The residential flat building is masonry with a tiled roof. The site fronts Ocean Street with vehicular access from the street's frontage across a driveway with garages provided at ground level. The site is rectangular in shape and has a total site area of 949.8sqm. The site does have an unnamed laneway at the rear of the site, which is commonly known as Ocean Lane, but no access is currently available.
11. The front boundary to Ocean Street has a total length of 20.115m, the side boundaries have a length of 47.22m. The immediate area is characterised by residential flat buildings varying in the number of storeys, ages and materiality.



Figure 11: Site photo of subject development site off Ocean Street (Council's Site Inspection, 2023)

12. Adjoining the site to the north is a three-storey brick residential flat building (35-37 Ocean Street), and adjoining the south is also a three-storey residential flat building (29 Ocean Street).
13. The development site is within close proximity to the Penshurst Local Centre and T4 Illawarra Train Line.

BACKGROUND

14. A history of the development proposal is as follows:
- A pre-application discussion was not held regarding this application.
 - The current application was lodged on 3 July 2023.
 - The application was placed on exhibition, with the last date for public submissions being 10 August 2023. No submissions were received.
 - Council's Building Surveyor provided comments and conditions on the proposal on 24 July 2023.
 - Council's Assessing Officer conducted a site inspection on 28 September 2023.
 - Council's Urban Designer provided comments and conditions on the proposal on 5 December 2023.
 - Council's Assessing Officer requested additional information via the Planning Portal on 18 December 2023 regarding a Design Verification Statement being submitted.
 - The Applicant submitted the requested additional information via the Planning Portal on 19 December 2023 and 15 January 2024 via email.

PLANNING ASSESSMENT

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

ENVIRONMENTAL PLANNING INSTRUMENTS

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

Section 4.15 Evaluation

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

(1) Matters for consideration - general

In determining an application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

The provision of:

- (i) Any environmental planning instrument,*

STATE ENVIRONMENTAL PLANNING POLICIES

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

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

STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

19. Chapter 2 and Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 are relevant to the proposal.
20. 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"*.
21. The subject site is not mapped as a Coastal Environment area and a Coastal Use area.
22. 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.
23. 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.
24. The proposed works do not result in changes to the foundation material. The proposed modifications primarily relate to external changes to the balconies and the sliding doors providing access to this space. The development area is visible and does not appear to raise concerns with contamination, however a condition will be recommended to be imposed in case any contamination is identified during the construction phase. In this regard, no further assessment is warranted with regard to site contamination and the objectives of the SEPP are considered to be satisfied.

STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

25. The relevant parts of the above Policy that apply to this application are Chapter 2 – Vegetation in non-rural areas, and Chapter 6 – Water Catchments.

Chapter 2 - Vegetation in Non-Rural Areas

26. Chapter 2 aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.
27. This chapter applies to clearing of:
 - (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).*
28. The application does not seek to change the landscaping on site.

Chapter 6 – Water Catchments

29. The primary relevant aims and objectives of this Chapter are:
 - *whether the development will have a neutral or beneficial effect on the quality of water entering a waterway,*
 - *whether the development will have an adverse impact on water flow in a natural waterbody,*
 - *whether the development will increase the amount of stormwater run-off from a site,*

- *whether the development will incorporate on-site stormwater retention, infiltration or reuse,*
- *the impact of the development on the level and quality of the water table,*
- *the cumulative environmental impact of the development on the regulated catchment,*
- *whether the development makes adequate provision to protect the quality and quantity of ground water.*

30. The stormwater design has not been changed via the proposed modification application. A condition will be imposed that the gutters to the edge of the balconies are to be connected to the site drainage system.

STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

Ausgrid

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

STATE ENVIRONMENTAL PLANNING POLICY (INDUSTRY AND EMPLOYMENT) 2021

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

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

33. A BASIX Certificate has accompanied the application from Credwell Energy certificate number A491154 dated 27 April 2023. Conditions will be imposed relating to this certificate and the commitments to be achieved.

State Environmental Planning Policy No 65 — Design Quality of Residential Apartment Development – remains a relevant matter for consideration as this application was lodged prior to it being repealed on 14 December 2023.

34. The State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65) aims to improve the design quality of residential apartment development in New South Wales.
35. The proposed development meets the pre-requisites for the application of the SEPP 65 in that it constitutes development for the purpose of residential flat building in an existing building of more than three (3) storeys and having more than four (4) dwellings. Therefore, it must be considered against the provisions of SEPP 65 and the Apartment Design Guide (ADG).

Clause	Standard	Proposal	Complies
3 - Definitions	Complies with definition of "Residential Apartment Development"	The proposal complies with this definition.	Yes
4 - Application of Policy	Development involves the erection of a new RFB, substantial redevelopment or refurbishment of a RFB or conversion of an existing building into a RFB	This is a development application involving the substantial refurbishment of an existing RFB.	Yes

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

Compliance with the Environmental Planning and Assessment Regulation 2021

Clause	Standard	Proposal	Complies
29 - Residential apartment development	(1) A development application that relates to residential apartment development must be accompanied by a statement by a qualified designer.	Design Verification Statement provided by Registered Architect: Fab Siqueira (Registered Architect No. 8308).	Yes
	(2) The statement must — (a) verify that the qualified designer designed, or directed the design of, the development, and (b) explain how the development addresses — (i) the design quality principles, and (ii) the objectives in Parts 3 and 4 of the Apartment Design Guide.	The provided design statement verifies that Fab Siqueira directed the design of the proposal. The design statement also addresses the proposals satisfaction of the design quality principles, and objectives in Parts 3 and 4 of the Apartment Design Guide.	Yes
	(3) If the development application is accompanied by a BASIX certificate for a building, the design quality principles do not need to be addressed to the extent to which they aim — (a) to reduce consumption of mains-supplied potable water or greenhouse gas emissions in the use of — (i) the building, or (ii) the land on which the building is located, or (b) to improve the thermal performance of the building.	A BASIX certificate was provided with the development application. BASIX certificate number A491154, issued on 27 April 2023, prepared by Credwell Energy.	Yes
	(4) The additional fee payable for a development application for residential apartment development that is referred to the relevant design review panel for advice is specified in Schedule 4.	No advice obtained as no design review panel in place.	N/A

37. Clause 29(2) of State Environmental Planning Policy 65 requires that the consent authority take into consideration the following as part of the determination of DAs to which State Environmental Planning Policy 65 applies:
- (a) *the advice (if any) obtained from the design review panel, and*
 - (b) *the design quality of the development (as modified) when evaluated in accordance with the design quality principles, and*
 - (c) *the Apartment Design Guide.*
38. The application has been reviewed having regard to the criterion of the ADG.
39. The proposal satisfactorily satisfies the Design Quality Principles and provisions of the ADG. The tables below provide a comprehensive assessment against the principles, objectives and controls of State Environmental Planning Policy 65 and the ADG.

SEPP 65 - Schedule 1 Design quality principles		
Clause	Council's comments	Complies
1 – Context and neighbourhood character	<p>The proposed refurbishment will not significantly alter the overall design of the existing residential flat building. The works will however alter the visual appearance as the existing masonry balustrading will be replaced with glazed balustrading and new sliding doors. The refurbishment of the balconies remains consistent with the context and neighbourhood character of the surrounding area.</p> <p>The building maintains the visual expression as the size of the balconies remains unchanged and is in keeping with the adjoining properties whilst providing revitalisation of the balcony facades. The refurbishment of the balconies and replacement of the doors leading to the balconies will not result in adverse visual impact and or privacy concerns to the neighbouring properties noting the balustrading will be glazed.</p>	Yes
2 – Built form and scale	<p>The refurbishment of the balconies and doors leading to the balconies is compatible with the existing and desired future character of the area.</p> <p>The built form and scale of the building will not be increased via the proposed development. It is considered the change from the masonry balustrading to glazing will provide a visual reduction in perceived bulk.</p>	Yes
3 – Density	The proposal does not seek to alter the existing Floor Space Ratio under this development application.	As existing.
4 – Sustainability	The works have been accompanied by a compliant BASIX certificate in accordance with the Building and Sustainability Index (BASIX).	Yes
5 – Landscape	The landscaped area remains as existing.	Yes
6 – Amenity	The proposed refurbishment of the balconies achieves the amenity objectives and controls as per the AGD.	Yes

7 – Safety	The main entrances to the building will remain as existing. The refurbishment of the balconies maintains the passive surveillance of the street.	Yes
8 – Housing diversity and social interaction	The proposal does not seek to change the apartment mix.	As existing.
9 – Aesthetics	It is considered that the proposed refurbishment is consistent with that of the approved building.	Yes

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Clause 29 (2)(c) – Consideration of Apartment Design Guide

40. An assessment has been undertaken based on the amended proposal being a studio apartment.

Objective	Standard	Proposal	Complies
Part 3 Siting the development			
3D – Communal and Public Open Space	1. Communal open space has a minimum area equal to 25% of the site. - Where it cannot be provided on ground level it should be provided on a podium or roof. - Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should: • provide communal spaces elsewhere such as a landscaped roof top terrace or a common room • provide larger balconies or increased private open space for apartments • demonstrate good proximity to public open space and facilities and/or provide contributions to public open space	The proposal does not involve amending the communal open space.	As existing.
	2. Developments achieve a minimum of 50% direct	The development does not result in additional built form that would cast additional shadow.	As existing.

	sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)		
3E – Deep Soil Zones	1. Deep soil zones are to meet the following minimum requirements: Where site area is between 650sqm and 1500sqm = 3m minimum dimension	The proposal does not change the location of or amount of deep soil landscaping on site. The extent of the proposed works is located within the approved building footprint and is elevated off the ground.	As existing.
3F – Visual Privacy	1. Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: Up to 12m (4 storeys) Habitable rooms and balconies = 6m	The proposed development maintains the visual privacy between the balconies via the masonry wall. The distance between the apartments and the adjoining buildings will remain as existing. The refurbishment of the balconies retains the existing setbacks and building separation as the balconies are not changing in size or form.	Yes
3G – Pedestrian access and entries	Building entries and pedestrian access connects to and addresses the public domain	The main building pedestrian entry points will not be modified by this application and will remain as existing.	As existing.
3H – Vehicle Access	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	This element remains unaltered by this proposal.	As existing.
3J – Bicycle and car parking	1. For development in the following locations: On sites that are within 800m of a railway station or light rail stop	The proposed development does not result in any changes to the existing bicycle and car parking.	As existing.

	<p>in the Sydney Metropolitan Area;</p> <p>- The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant Council, whichever is less.</p> <p>The car parking needs for a development must be provided off street</p>		
Part 4 Designing the building			
4A – Solar Access	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p>	<p>The proposed development which results in the removal of masonry balustrading and its replacement with glazing will result in greater penetration of solar access and light availability to the units.</p> <p>N/A the developments openings are not changing in size or location.</p>	As existing.
4B – Natural Ventilation	<p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p>	<p>The proposed development does not result in any changes to the natural ventilation to the building. The sliding doors are being replaced, however their replacement have the same dimensions as existing.</p>	As existing.
4C – Ceiling Heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <p>Habitable rooms = 2.7m</p>	<p>The proposed development does not result in any changes to the ceiling heights within the units.</p>	As existing.

	Non-habitable rooms = 2.4m		
4D 1 – Apartment size and layout	<p>Apartments are required to have the following minimum internal areas:</p> <p>1 bedroom: 50sqm 2 bedrooms: 70sqm 3 bedrooms: 90sqm</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each</p> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</p>	The unit sizes, balcony sizes and depths remain unaltered by this application.	As existing.
4D 2 – Apartment rooms, location and sizes	<p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height</p> <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p>	The unit layout remains unchanged by this application.	As existing
4D 3 – Apartment rooms, location and sizes	<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <p>1. Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space).</p>	The unit layout remains unchanged by this application.	As existing.

	<p>2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p> <p>3. Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 		
4E – Private Open Space and balconies	<p>All apartments are required to have primary balconies as follows:</p> <p>2 bedroom apartments: 10sqm and 2m</p> <p>3+ bedroom apartments: 12sqm 2.4m</p>	The balconies sizes, widths, depths and configuration remain unchanged by this application.	As existing.
4F – Circulation spaces	The maximum number of apartments off a circulation core on a single level is eight	The circulation spaces remain unchanged by this application.	As existing.
4G – Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <p>2 bedrooms - 8m³</p> <p>3+ bedrooms - 10m³</p> <p>50% of storage to be located within basement</p>	Remains as existing.	As existing.
4K – Apartment Mix	A variety of apartment types is provided	The apartment mix remains unchanged.	As existing.
4M – Facades	<p>Facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale.</p>	<p>The façade articulation remains unchanged with respect to dimensions of the built form. The change in the balustrading finishes will introduce a new materiality providing varied materials and finishes.</p> <p>The glazed balustrading and new glass sliding</p>	Yes

		doors modernises the building.	
4N – Roof Design	<p>Roof treatments are integrated into the building design and positively respond to the street.</p> <p>Opportunities to use roof space for residential accommodation and open space are maximised. Incorporates sustainability features.</p>	No proposed changes to the roof.	As existing.
4O – Landscape Design	Landscape design is viable and sustainable, contributes to the streetscape and amenity	The proposal does not result in changes to the landscape areas that exist.	As existing.
4P – Planting on structures	Planting on structures – appropriate soil profiles are provided, plant growth is optimised with appropriate selection and maintenance, contributes to the quality and amenity of communal and public open spaces.	The proposal does not result in changes to the landscape planting existing.	As existing.
4Q – Universal Design	Universal design – design of apartments allows for flexible housing, adaptable designs, accommodate a range of lifestyle needs	The units internally remain unchanged in design and layout.	As existing.
4R – Adaptive Reuse	Adaptive reuse as apartment of existing buildings- new additions are contemporary and complementary, provide residential amenity while not precluding future adaptive reuse	N/A - The development is an existing RFB.	N/A
4U – Energy Efficiency	Development incorporates passive environmental design, passive solar design to optimise heat storage in winter and reduce heat transfer in summer, natural ventilation	The proposal is accompanied by a compliant BASIX Certificate.	Yes

	minimises need for mechanical ventilation		
4W – Waste Management	Waste management – storage facilities are appropriately designed; domestic waste is minimised by convenient source separation and recycling	Waste facilities remain unchanged. An acceptable waste management plan has been provided for the construction phase.	Yes.
4X – Building Maintenance	Building maintenance – building design provides protection from weathering, enables ease of maintenance, material selection reduces ongoing maintenance cost	The works are a building maintenance matter to address balcony maintenance.	Yes.

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41. As demonstrated above, the proposal generally complies with State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

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

GEORGES RIVER LOCAL ENVIRONMENTAL PLAN 2021 (GRLEP 2021)


43. The subject site is zoned R4 High Density Residential Zone under the provisions of the Georges River Local Environmental Plan 2021 (GRLEP 2021). The approved residential flat building is a permissible form of development with consent.
44. The objectives of the R4 High Density Residential zone as per clause 2.3 under the GRLEP 2021 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.*



Figure 12: Zoning map as per GRLEP 2021 with the site highlighted in blue (Source: Intramaps 2023).

45. The proposal is not inconsistent with the objectives of the zone as the approved development typology is not changing and will continue to be a residential flat building.
46. The modified proposal will not impact upon the ability of the development to meet the objectives of the R4 zone.
47. An assessment with the GRLEP 2021 provisions relevant to the plans is detailed within the following table.

GRLEP 2021 Compliance Table			
Clause	Standard	Comment	Complies
Part 1 – Preliminary			
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	The development is consistent with the aims of the plan.	Yes
Part 2 Permitted or prohibited development			
2.3 - Zone objectives and Land Use Table	Meets objectives of R4 High Density Zone. Development must be permissible with consent	The proposal meets all objectives. The proposal is permissible with development consent.	Yes
2.7 – Demolition	Demolition requires development consent	Demolition of the existing balustrading and glass sliding doors and finishes of the balconies is sought under this application.	Yes
Part 4 Principal development standards			

4.3 – Height of Buildings	12m as identified on Height of Buildings Map	The height of building will remain unchanged by this application.	As existing.
4.4 – Floor space ratio	4.5:1 (as identified on Floor Space Ratio Map)	The FSR will remain unchanged by this application.	As existing.
Part 5 Miscellaneous provisions			
5.7 – Development below mean high water mark	(2) Development consent is required to carry out development on any land below the mean high-water mark of any body of water subject to tidal influence (including the bed of any such water).	The proposal does not involve works below the Mean High-Water Mark.	N/A
5.10 – Heritage Conservation	Consider the effect of development on heritage significance of heritage items and heritage assessment may be required	The subject site is not within the immediate vicinity of a heritage item, the image below is a heritage item on Jersey Avenue. 	Yes
5.11 – Bush Fire Hazard Reduction	Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.	The subject size is not mapped as bush fire prone land.	N/A
Part 6 Additional local provisions			
6.1 – Acid sulfate soils (ASS)	The objective of this clause is to ensure that development does not disturb, expose, or drain acid sulfate soils and cause environmental damage	The site is not affected by acid sulfate soils.	N/A
6.2 – Earthworks	To ensure that earthworks do not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land	The proposed works being to the balconies and sliding doors to access the balconies do not result in any earthworks as they are elevated above the ground.	N/A

6.3 – Stormwater Management	<p>(2) In deciding whether to grant development consent for development, the consent authority must be satisfied that the development—</p> <p>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</p> <p>(b) includes, if practicable, on-site stormwater detention or retention to minimise stormwater runoff volumes and reduce the development's reliance on mains water, groundwater or river water, and</p> <p>(c) avoids significant adverse impacts of stormwater runoff on adjoining properties, native bushland, receiving waters and the downstream stormwater system or, if the impact cannot be reasonably avoided, minimises and mitigates the impact, and</p> <p>(d) is designed to minimise the impact on public drainage systems.</p>	No changes to the existing stormwater management under this development application. A condition will be recommended that the new gutter area attached to the balcony edge of each balcony be connected to the site drainage.	Condition recommended
6.4 - Foreshore area and coastal hazards and risk	<p>(2) This clause applies to the following land—</p> <p>(a) land identified on the Coastal Hazard and Risk Map,</p> <p>(b) land identified on the Foreshore Building Line Map.</p>	The site is not located in a foreshore area and/or coastal hazards and risk area.	N/A

	<p>(3) Development consent must not be granted for development on land to which this clause applies except for the following purposes—</p> <ul style="list-style-type: none"> (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— <ul style="list-style-type: none"> (i) the foreshore building line, or (ii) the land identified on the Coastal Hazard and Risk Map, (b) the erection of a building if the levels, depth or other exceptional features of the site make it appropriate to do so, (c) boat sheds, cycling paths, fences, sea walls, swimming pools, water recreation structures or walking tracks. <p>(4) In deciding whether to grant development consent, the consent authority must consider the following matters—</p> <ul style="list-style-type: none"> (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, 		
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	<p>(d) whether the development will cause environmental harm by pollution or siltation of the waterway,</p> <p>(e) opportunities to provide reasonable, continuous public access along the foreshore, considering the needs of property owners,</p> <p>(f) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p> <p>(5) In this clause— foreshore area means the land between the foreshore building line and the mean high water mark of the nearest bay or river. foreshore building line means the line shown as the foreshore building line on the Foreshore Building Line Map.</p>		
6.5 - Riparian land and waterways	<p>(2) This clause applies to land identified as “Sensitive land” on the Riparian Lands and Waterways Map.</p> <p>(3) In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must consider the following—</p> <p>(a) whether the development is likely to have an adverse impact on the following—</p> <p>(i) the water quality and flows within the waterway,</p>	The site is not located on land identified as sensitive land.	N/A

	<p>(ii) the stability of the bed, shore and banks of the waterway,</p> <p>(iii) the future rehabilitation of the waterway and riparian areas,</p> <p>(iv) the biophysical, hydrological or ecological integrity of adjacent coastal wetlands, including the aquatic and riparian species, habitats and ecosystems of the waterway,</p> <p>(v) indigenous trees and other vegetation,</p> <p>(vi) opportunities for additional planting of local native riparian vegetation,</p> <p>(b) whether the development is likely to increase water extraction from the waterway,</p> <p>(c) whether the development will cause environmental harm by pollution or siltation of the waterway,</p> <p>(d) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p> <p>(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—</p> <p>(a) the development is designed, sited and will be managed to avoid significant adverse environmental impact, or</p> <p>(b) if that impact cannot be reasonably avoided—the</p>		
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	development is designed, sited and will be managed to minimise that impact, or (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.		
6.6 - Foreshore scenic protection area	<p>(2) This clause applies to land identified as “Foreshore scenic protection area” on the Foreshore Scenic Protection Area Map.</p> <p>(3) In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must be satisfied that the development would facilitate the following—</p> <p>(a) the protection of the natural environment, including topography, rock formations, canopy vegetation or other significant vegetation,</p> <p>(b) the avoidance or minimisation of the disturbance and adverse impacts on remnant vegetation communities, habitat and threatened species and populations,</p> <p>(c) the maintenance and enhancement of native vegetation and habitat in parcels of a size, condition and configuration that will facilitate biodiversity protection and native flora and fauna movement through biodiversity corridors,</p>	The site is not located in a foreshore scenic protection area.	N/A

	<p>(d) the achievement of no net loss of significant vegetation or habitat,</p> <p>(e) the avoidance of clearing steep slopes and facilitation of the stability of the land,</p> <p>(f) the minimisation of the impact on the views and visual environment, including views to and from the Georges River, foreshore reserves, residential areas and public places,</p> <p>(g) the minimisation of the height and bulk of the development by stepping the development to accommodate the fall in the land.</p>		
6.7 – Airspace Operations	<p>The consent authority must not grant development consent to development that is a controlled activity within the meaning of Division 4 of Part 12 of the Airports Act 1996 of the Commonwealth unless the applicant has obtained approval for the controlled activity under regulations made for the purposes of that Division.</p>	Height of building remains unchanged vis the proposed development.	As existing.
6.9 – Essential services	<p>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—</p> <p>(a) the supply of water,</p>	All essential services are in place/provided to the site as the development is constructed and occupied.	As existing.

	(b) the supply of electricity, (c) the disposal and management of sewage, (d) stormwater drainage or on-site conservation, (e) suitable road and vehicular access.		
6.10 - Design excellence	(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— (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,	Clause 6.10 - design excellence is applicable to the subject site. The overall building envelope, bulk, scale, and general presentation to the street and neighbouring properties will remain predominantly unchanged and where there is marginal change the changes have responded appropriately to both the context of the site and public domain interface. The proposed development to the existing building provides additional glazing presented to the street and a greater public domain interface. Further assessment in terms of Clause 6.10 design excellence is not warranted in this regard given the minor changes proposed.	Yes

	<p>(ii) Zone B1 Neighbourhood Centre, (iii) Zone B2 Local Centre, (iv) Zone B3 Commercial Core, (v) Zone MU1 Mixed Use, (vi) Zone B6 Enterprise Corridor, (vii) Zone IN2 Light Industrial.</p> <p>(4) Development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits design excellence.</p> <p>(5) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters—</p> <p>(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,</p> <p>(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,</p> <p>(c) whether the development detrimentally impacts on view corridors,</p> <p>(d) how the development addresses the following matters—</p> <p>(i) the suitability of the land for development,</p>		
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	<p>(ii) existing and proposed uses and use mix,</p> <p>(iii) heritage issues and streetscape constraints,</p> <p>(iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,</p> <p>(v) bulk, massing and modulation of buildings,</p> <p>(vi) street frontage heights,</p> <p>(vii) environmental impacts such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,</p> <p>(viii) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of pedestrian networks,</p> <p>(ix) the impact on, and proposed improvements to, the public domain,</p> <p>(x) achieving appropriate interfaces at ground level between the building and the public domain,</p> <p>(xi) excellence and integration of landscape design,</p> <p>(xii) the provision of communal spaces and meeting places,</p> <p>(xiii) the provision of public art in the public domain,</p> <p>(xiv) the provision of on-site integrated waste and recycling infrastructure,</p>		
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	(xv) the promotion of safety through the application of the principles of crime prevention through environmental design.		
6.12 - Lands capped areas in certain residential and environment protection zones	<p>(2) This clause applies to land in the following zones—</p> <p>(a) Zone R2 Low Density Residential,</p> <p>(b) Zone R3 Medium Density Residential,</p> <p>(c) Zone R4 High Density Residential,</p> <p>(d) Zone E2 Environmental Conservation.</p> <p>(3) Despite subclause (2), this clause does not apply to development referred to in State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development, clause 4.</p> <p>(4) Development consent must not be granted to development on land to which the clause applies unless the consent authority is satisfied that the development—</p> <p>(a) allows for the establishment of appropriate plantings—</p> <p>(i) that are of a scale and density commensurate with the height, bulk and scale of the buildings to which the development relates, and</p> <p>(ii) that will maintain and enhance the streetscape and the desired future character of the locality, and</p> <p>(b) maintains privacy between dwellings, and</p>	<p>R4 High Density Residential.</p> <p>Landscaped area and landscaping on site is not impacted by the proposed development.</p>	As existing.

	<p>(c) does not adversely impact the health, condition and structure of existing trees, tree canopies and tree root systems on the land or adjacent land, and</p> <p>(d) enables the establishment of indigenous vegetation and habitat for native fauna, and</p> <p>(e) integrates with the existing vegetation to protect existing trees and natural landscape features such as rock outcrops, remnant bushland, habitats and natural watercourses.</p> <p>(5) Development consent must not be granted to development on land to which this clause applies unless a percentage of the site area consists of landscaped areas that is at least—</p> <p>(a) for a dwelling house located on land outside the Foreshore Scenic Protection Area—20% of the site area, or</p>		
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GEORGES RIVER DEVELOPMENT CONTROL PLAN 2021 DRAFT AMENDMENT

48. The draft Amendment No. 3 to the Georges River Development Control Plan (DCP) 2021 was publicly exhibited between 19 April – 19 May 2023. This amendment seeks to harmonise all DCP controls relating to the Hurstville City Centre into the Georges River DCP 2021 and rectify a number of housekeeping issues comprising of unintended omissions, numerical, typographical, interpretation and formatting errors throughout the Georges River DCP 2021. Existing savings provision apply, and all development applications lodged with Council prior to the gazettal of the amendment on 28 August 2023, will be determined as if the subject amendment had not commenced. This application has been assessed having regard to the current provisions of the relevant Development Control Plan.

DEVELOPMENT CONTROL PLANS

49. The proposed development is subject to the provisions of Georges River Development Control Plan 2021 (GRDCP 2021).

50. The proposal needs to address and satisfy the relevant provisions of Part 3 General Planning Considerations, and Part 6.3 High Density Residential Controls as part of the GRDCP. These provisions are addressed in detail below.

Part 3: General Planning Considerations

51. Part 3 of GRDCP provides general planning considerations and is discussed in the table below:

Part 3 General Planning Considerations		
Control	Proposed	Complies
3.6 Contaminated Land		
1. Each development application is to include information sufficient to allow Council to meet its obligation to determine whether development should be restricted due to the presence of contamination.	The property has a lengthy history of residential uses, and no known past land uses likely to cause contamination. The application is not seeking to impact the foundation material of the site.	Yes
2. Proposals for the development of contaminated land or potentially contaminated land will need to determine: i. The extent to which land is contaminated (including both soil and groundwater contamination); 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.	Noted - the proposed development site is not a known contaminated site.	N/A
3.10 Water Management		
Stormwater Management		
1. Development must comply with Council's Stormwater Management Policy 2020 which provides detail of drainage requirements for different development types. Consultation with Council is recommended.	No changes to the existing stormwater management under this development application.	N/A
3.11 Ecologically Sustainable Development		
Residential Buildings		

1. All BASIX affected development must comply with SEPP (Building Sustainability Index: BASIX) 2004.	The application is accompanied by a BASIX certificate which confirms compliance with the minimum requirements.	Yes
3.12 Waste Management		
1. Development must comply with Council's Waste Management requirements regarding construction waste and ongoing management of waste materials (see Appendix 4).	A Waste Management plan for the demolition of the existing balconies materials was submitted with the application.	Yes

LPP002-24

Part 5- Residential Locality Statements

Penshurst North Locality Statement
<p><u>Streetscape Character- Existing Character</u></p> <ul style="list-style-type: none"> The area between Forest Road and the railway line is dominated largely by 1960s and 1970s residential flat buildings and which adjoins the Penshurst local centre on Penshurst Street. A small light industrial area is split by Forest Road. The remaining areas of this locality consist of low-density residential dwellings with some villa and town house development. There is a mix of housing styles with no dominant architectural style. The streetscape exhibits an eclectic character attributed to the variety of housing and fence materials, roof forms, driveway widths and garage styles. However, the front building setbacks appear largely consistent in many streets and most dwelling houses feature landscaping within the front setback. Street tree plantings are common throughout the locality with the most notable plantings being the mature trees along Penshurst Street and the streets between Forest Road and the railway line.
<p><u>Streetscape Character- Future Desired Character</u></p> <ul style="list-style-type: none"> Encourage appropriate medium and high-density development towards the Penshurst commercial centre. Retain and enhance the existing low density suburban residential character through articulated contemporary developments that respond to the human scale. Encourage tree planting within the front setback space to create a tree-lined streetscape character. Encourage consistent setbacks of buildings from the street and the provision of landscaping within the front setback with uniform front fence heights.
<ul style="list-style-type: none"> — The proposed development maintains the existing and future desired character of Penshurst North locality. — The proposed development being the refurbishment of existing balconies maintains the high density residential flat building and contributes to the housing needs of Penshurst. — The residential building retains sufficient building articulation and balance of building materials, finishes and colours that is consistent with the existing and future desired character of Penshurst. — The proposed development does not seek to change the existing landscaping on site via the refurbishment of the balconies. — The proposed development maintains the building setbacks and building separation.

Part 6.3 Residential Flat Buildings and residential components of shop top housing (High Density)

52. Part 6.3 provides specific planning controls for Residential Flat Buildings and residential components of shop top housing (High Density). The following table summarises the proposal against the relevant controls:

Part 6.3 Residential Flat Buildings and residential components of shop top housing (High Density)		
Control	Proposed	Complies
6.3.5 Façade Treatment and Street Corners		
1. New buildings and additions are to consider the Desired Future Character statement in Part 5 of this DCP.	The proposed development responds to the existing and future desired character of Penshurst.	Yes
2. Building facades must be clearly articulated and employ high quality materials and finishes that enhance and complement the streetscape character.	The proposed development ensures a well portioned built form and façade treatments that minimise the appearance of the building bulk when viewed from the public domain as the solid balconies are being replace with glazing. The proposed development maintains the existing RL's, location and sizes of the balconies and glass sliding door openings via the development and seeks to enhance the visual appeal of the development via the refurbishment works.	Yes
3. Street corners must be given prominence by a change in building articulation, materials, colours, form, and scale.	The subject site is not located on a street corner. Notwithstanding this, the proposal has incorporated sufficient building articulation, a balance of building materials and colours and maintains the form and scale as existing.	Yes
4. Human scale at street level must be reinforced in the design of the building and overall development. The scale, rhythm, materiality, and landscaping treatment need to define the appearance of the building to create physical and visual connections between the private and public domain for pedestrians.	The overall scale of the development remains unchanged. The exterior of the building is brick, and the balustrade of the balconies is brick. The proposed proposes to remove the solid brick balustrading and glass sliding doors which are to be replaced with glass balustrading and new glass sliding doors. The balcony dimensions and the opening side of the glass sliding doors remain unchanged.	Yes

5. Services such as substations and fire booster assemblies must be integrated into the design of the façade.	N/A	N/A
6. Development must not rely solely on the use of two-dimensional colour and materials to create visual interest. Modulation and articulation in the building form must be considered in the design of the building, in plan view and elevation.	The proposed development has incorporated both plan view and elevational plans to detail the proposed development.	Yes
7. Large areas of blank, minimally, or poorly articulated walls are not acceptable. Façade treatments such as wall cladding, and green walls should be considered as alternatives to blank walls.	The proposed development is for the replacement of the balustrading of all balconies, resurfacing of the balconies and replacement of glass sliding doors to the balconies. The walls of the RFB remain unchanged.	Yes
8. Clear glazing to balustrades must be avoided where they are visible from nearby vantage points. Screening of balconies by way of adjustable or fixed panels should be included where there are issues of privacy, and/or excessive exposure to solar impacts.	The glazing proposed is of a translucent material which allows light but not detailed shapes to pass through.	Yes
9. Noise mitigation treatments and design considerations for developments adjoining busy roads or rail corridors, that satisfy the requirements for habitable rooms in accordance with Department of Planning, Industry and Environment's 'Development Near Rail Corridors and Busy Roads – Interim Guideline' and the requirements of Clause 102 (3) of State Environmental Planning Policy (Transport and Infrastructure) 2021 need to be considered.	The proposed development site is not located adjacent to or in close proximity to a busy road and/or rail corridor that would require additional noise mitigation treatments.	Yes

ASSESSMENT

Design Change Conditions

53. The application is subject to design change conditions as detailed below.
54. The following conditions be added to the development consent.
 - i. All painting and repair work to be undertaken must be consistent with the materiality of the existing building. The paint finish to the slab edge and colour of the door frames must match the existing (the brown colour included on Drawing SK07 for slab edge does not match the existing).

- ii. The gutters to the edge of the balconies are to be connected to the existing site drainage system to prevent concentrated discharged that may enter the garages on the ground level.

IMPACTS

Natural Environment

55. The modified works are contained within the approved building footprint. The proposal will not result in changes to stormwater disposal or impact on any neighbouring or street trees.

Built Environment

56. The proposal results in a scale and form being acceptable and consistent with the future character of the locality. The façade expression is an appropriate response to the context of the site and its R4 High Density Residential zoning.

Social Impacts

57. The proposal is unlikely to result in any unreasonable social impacts given the proposal is for balcony refurbishment and the glass sliding doors to the balcony. The assessment demonstrates that the proposal in its current form will have no adverse impact on the character of the locality and the amenity of neighbouring residential properties. The environmental impacts on the social environment are reasonable and the application is supported.

Economic Impacts

58. The proposal is unlikely to result in any unreasonable economic impacts. There is no apparent adverse economic impact that is likely to result within the locality due to the refurbishment of the balconies. It is likely there will be a small positive economic impact as a result of the construction of the development.

Suitability of the site

59. It is considered that the proposed modification of the existing development will not impact upon the building form and scale. The development remains a suitable development for the site having regard to the built form and relationship to adjoining developments.

SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST

60. The application was notified as per Georges River Community Engagement Strategy. No submissions were received.

COUNCIL REFERRALS

Building Surveyor

61. No objections were raised, suitable conditions of consent have been recommended to be added to the development consent.

Urban Designer

62. Council's Urban Designer is supportive of the proposed development subject to suitable design change conditions in relation to materiality, colours and finishes and works being contained within the existing width and depth of the balcony. Council's Urban Design advised that the glazing should be change via a design change condition to frosted glazing to ensure privacy and amenity for the occupants. The architectural plans outline that the glazing is translucent in materiality. The translucent glazing allows light but not detailed shapes to pass through. As such, frosted glazing has not been enforced and translucent glazing has been provided.

PUBLIC INTEREST

63. The amended proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. Following a detailed assessment, the proposal is considered to be in the public interest.

DEVELOPMENT CONTRIBUTIONS

64. The development is subject to Section 7.12 Contributions. In accordance with the Georges River Local Development Contributions Plan 2021, a condition of consent requiring payment of the contribution has been imposed.

CONCLUSION

65. The application has been assessed having regard to Section 4.15 of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policies and the provisions of the Georges River Local Environmental Plan 2021 and Georges River Development Control Plan 2021.
66. The proposal on its merits is acceptable for the reasons outlined within this report. The proposal is reasonable given the objectives of the controls have been adequately satisfied and the proposed development does not result in any unreasonable amendment to the existing built form and scale.
67. Following a detailed assessment contained within this report, it is considered that DA2023/0186 should be approved subject to the recommended conditions at the end of this assessment report.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

68. The reasons for this recommendation are:
- The proposed development generally complies with the requirements of the relevant environmental planning instruments and development control plan.
 - The proposed refurbishment of an existing residential flat buildings balconies and glass sliding doors accessing the balconies remains consistent with the objectives of the zone and the character of the locality.
 - The proposal maintains to be a residential building that responds to community needs and demands.

Determination

69. That pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 the Georges River Local Planning Panel, grant consent to development application (DA2023/0186) seeking alterations and additions to an existing residential flat building involving balcony and opening refurbishment/replacement of CP SP 8698 known as 31 Ocean Street, PENSHURST NSW 2222 subject to the conditions referenced below.

DEVELOPMENT DETAILS

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

Description	Reference No.	Date	Revision	Prepared by
Site Plan	SK01	30 September 2022	A	Fab Siqueira Architect
Typical Balcony Floor Plan- Rear	SK05	30 September 2022	A	Fab Siqueira Architect
Balconies-Details	SK06	30 September 2022	A	Fab Siqueira Architect
Elevations-Proposed	SK07	30 September 2022	A	Fab Siqueira Architect
SK08	Elevations-Proposed	30 September 2022	A	Fab Siqueira Architect
SK09	Elevations-Proposed	30 September 2022	A	Fab Siqueira Architect

Documents relied upon:

Description	Reference No.	Date	Revision	Prepared by
Statement of Environmental Effects	-	-	-	Northern Development Assessment
Technical Specification Schedule	Page 1-17	21 January 2022	-	Partridge

Separate Approvals Required Under Other Legislation

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

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

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

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;
- (g) Constructing a vehicular crossing or footpath;
- (h) Establishing a "works zone";

- (i) Digging up or disturbing the surface of a public road (eg Opening the road for the purpose of connections to utility providers);
- (j) Stormwater and ancillary works in the road reserve;
- (k) Stormwater and ancillary to public infrastructure on private land; and
- (l) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways.

These separate activity approvals must be obtained and evidence of the approval provided to the Certifying Authority prior to the issue of the Construction Certificate. The relevant Application Forms for these activities can be downloaded from Council's website www.georgesriver.nsw.gov.au. For further information, please contact Council's Customer Service Centre on (02) 9330 6400.

Requirements of Concurrence, Integrated & Other Government Authorities

3. **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

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

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

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$1,900.00
Inspection Fee for Refund of Damage Deposit	\$200.00
DEVELOPMENT CONTRIBUTIONS	
Georges River Council Section 7.12 Development Contributions Plan	\$2,895.54

General Fees

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

Development Contributions

A Section 7.12 contribution has been levied on the subject development pursuant to the Georges River Council Section 94A Contributions Plan 2017.

Timing of Payment

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

Further Information

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

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

- a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: \$1,900.00
- b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: \$200.00
- c) Submit to Council, before the commencement of work, a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

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

6. **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.

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

7. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. A491154 must be implemented on the plans lodged with the application for the Construction Certificate.
8. **Required design changes** - The following changes are required to be made and shown on the Construction Certificate plans:
- All painting and repair work to be undertaken must be consistent with the materiality of the existing building. The paint finish to the slab edge and colour of the door frames must match the existing (the brown colour included on Drawing SK07 for slab edge does not match the existing).
 - The gutters to the edge of the balconies are to be connected to the existing site drainage system to prevent concentrated discharged that may enter the garages on the ground level.
9. **Erosion & Sedimentation Control** - Erosion and sediment controls must be provided to ensure:
- Compliance with the approved Erosion & Sediment Control Plan
 - Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
 - All clean water runoff is diverted around cleared or exposed areas
 - Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways
 - All erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works
 - Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
 - All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
 - Compliance with [Managing Urban Stormwater - Soils and Construction \(Blue Book\) produced by Landcom 2004](#).

These measures are to be implemented prior to the commencement of work (including demolition and excavation) and must remain until works are completed and all exposed surfaces are landscaped/sealed.

10. **Waste Management Plan** - A Waste Management Plan incorporating all requirements in respect of the provision of waste storage facilities, removal of all materials from the site that are the result of site clearing, extraction, and, or demolition works and the designated Waste Management Facility shall be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

11. Fire Safety Measures

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

12. Engineer's Certificate

An Engineering Certificate must be provided to the PC for each balcony certifying that the balcony structures are able to carry the imposed dead and live loads to be accommodated on the balconies prior to the issue of the Construction Certificate.

13. Electrical Confirmation

The balconies are showing evidence of water damage, as a result an electrician must provide confirmation to the PC that the electrical connections within the balcony slabs for the balcony lighting has not been impacted by water damage.

14. Demolition & Asbestos

Prior to the issue of a construction certificate, confirmation is to be provided to the PC from an appropriately qualified consultant that the elements of the development to be demolished and removed do not contain asbestos. If asbestos is identified the conditions in this consent relating to its removal are to be complied with.

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

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

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

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

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

- 16. Demolition Notification Requirements** – The following notification requirements apply to this consent: (a) The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site. (b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition. (c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words “DANGER ASBESTOS REMOVAL IN PROGRESS” measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.
- 17. Demolition work involving asbestos removal** - Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the [Work Health and Safety Regulation 2011](#).
- 18. Before You Dig Australia** - The applicant shall contact “Before You Dig Australia” at <https://www.byda.com.au/> to obtain a Service Diagram prior to the issuing of the Construction Certificate. The reference number for the enquiry obtained from “Before You Dig Australia” shall be forwarded to the Principal Certifying Authority (PCA) and Council for their records.
- 19. Registered Surveyors Report - During Development Work** - A report must be submitted to the PCA at each of the following applicable stages of construction:
- Completion of all Work - Detailing the location of the alterations relative to adjacent boundaries to be shown on the approved plans.

During Construction

- 20. Site sign - Soil & Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site until the completion of all site and building works.
- 21. Hours of construction for demolition and building work** - Unless authorised by Council:
- 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.
 - 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.

- 22. 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.
- 23. Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the [Roads Act 1993](#) and/or under Section 68 of the [Local Government Act 1993](#). Penalty infringement Notices may be issued for any offences and severe penalties apply.
- 24. Waste Management Facility** - All materials removed from the site as a result of demolition, 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.

- 25. Unexpected Finding** – Any new information identified during demolition or construction which has the potential to alter previous conclusions about contamination across the site, must be notified to the Principal Certifying Authority and Council, if Council is not the principal certifying authority, immediately.

All works must cease and a suitably and experienced and suitably qualified person is to be engaged to assess and provide documentation regarding the contamination. Works on site must not recommence until such time as the PC has reviewed the documentation and has accepted the contamination management in writing to the applicant.

Prior to the issue of the Occupation Certificate

- 26. BASIX Compliance Certificate** - A Compliance Certificate must be provided to the PCA regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any Occupation Certificate is issued.
- 27. 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 Part 11 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. A copy of the certificate is to be given by the applicant to the Commissioner of Fire & Rescue NSW and a further copy is to be displayed in a frame and fixed to a wall inside the building's main entrance.

Operational Conditions (On-Going)

- 28. Outdoor Lighting** - To avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads, outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting.

- 29. Amenity of the neighbourhood** - The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.
- 30. Annual Fire Safety Statement** – The owner of the building premises must ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given: (a) Within 12 months after the date on which the fire safety certificate was received. (b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given. (c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the Environmental Planning and Assessment Regulation 2000. (d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.

Operational Requirements Under the Environmental Planning & Assessment Act 1979

- 31. 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.
- 32. Appointment of a Principal Certifier (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.

In accordance with Clause 57 of the [Environmental Planning and Assessment \(Development and Fire Safety\) Regulation 2021](#)

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

- (a) appoint a Principal Contractor to undertake the building work. If residential building work (within the meaning of the [Home Building Act 1989](#)) is to be undertaken, the Principal Contractor must be a holder of a contractor licence; and
 - (b) notify the PC of the details of any such appointment; and 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..
- 33. 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 PC must notify:
- a. the consent authority and the Council (if not the consent authority) of his or her appointment; and
 - b. the applicant of the critical stage inspections and other inspections that are to be carried out with respect to the building work.
- 34. Notice of Commencement** – 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.

35. **Critical Stage Inspections** - The last critical stage inspection must be undertaken by the PC. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 68 of the [Environmental Planning and Assessment \(Development and Fire Safety\) Regulation 2021](#).
36. **Notice to be given prior to critical stage inspections** - The principal contractor for a building site, or the owner-builder, must notify the PC at least 48 hours before each required inspection needs to be carried out 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 PC, 48 hours notice in writing, or alternatively 24 hours notice by facsimile or telephone, must be given when specified work requiring inspection has been completed.

37. **Occupation Certificate** – 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 PC appointed for the building work can issue the Occupation Certificate.

Prescribed Conditions

38. **Clause 44 - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
39. **Clause 67 - 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.
40. **Clause 75 - Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the PC and the Principal Contractor.
41. **Clause 67 - Home Building Act 1989** - If the development involves residential building work under the [Home Building Act 1989](#), no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the [Home Building Act 1989](#).
42. **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.

- 43. Clause 61 - 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. (eg. DA2018/0***) and reference this condition number (e.g. Condition 23)
- (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with stormwater applications.

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

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

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

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

8. Site Safety Fencing - Site fencing must be erected in accordance with SafeWork Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained throughout any demolition and construction work.

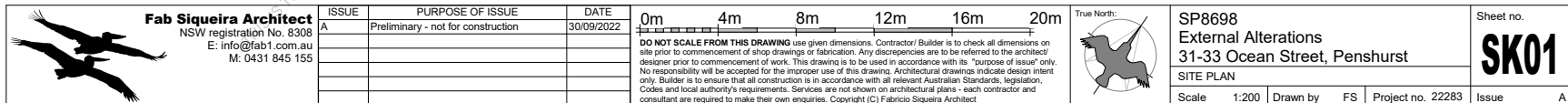
A demolition licence and/or a high risk work license may be required from SafeWork NSW (see www.SafeWork.nsw.gov.au).

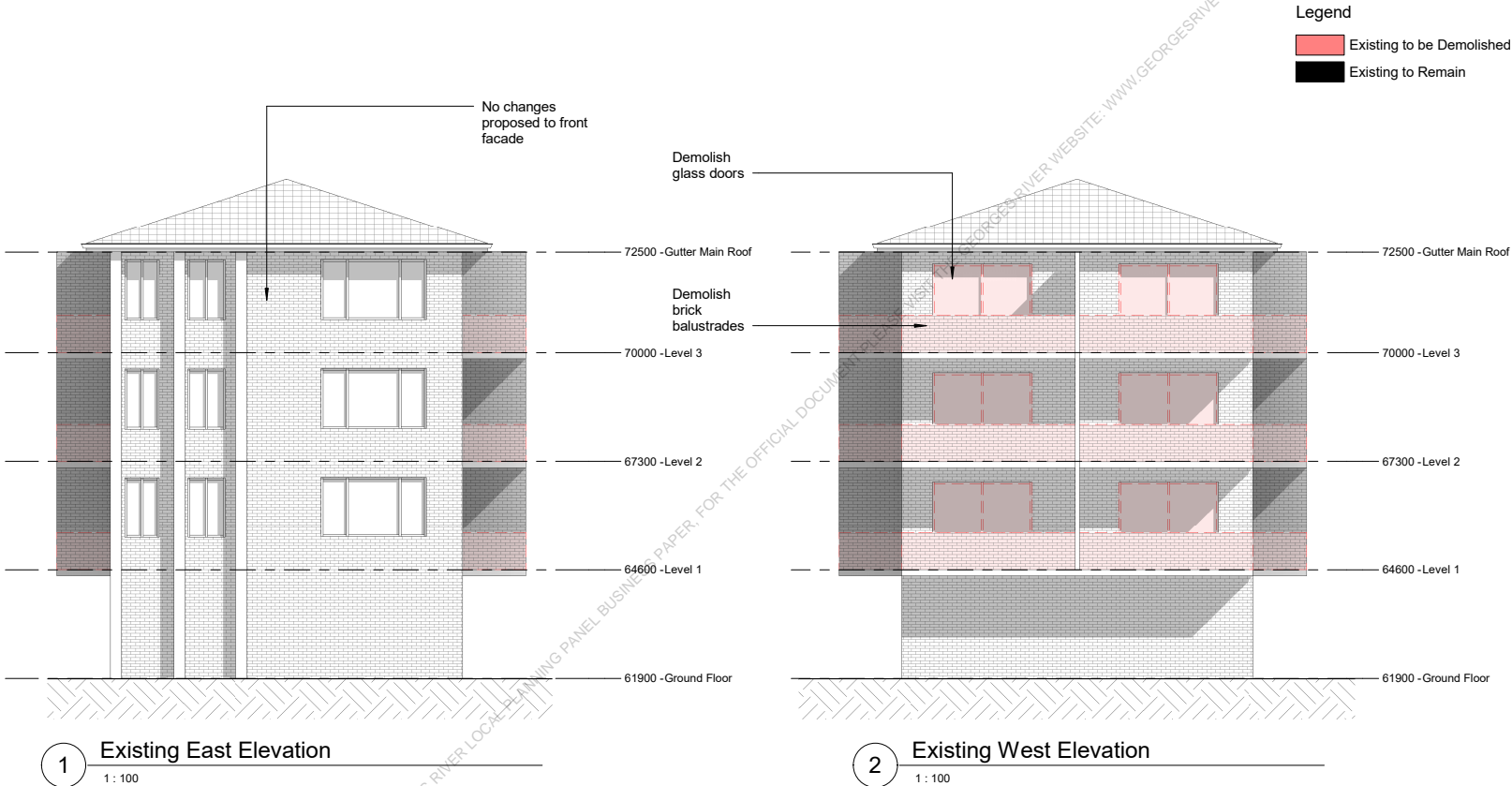
ATTACHMENTS

Attachment [↓](#)1 Architectural Plans - 31-33 Ocean St Penshurst - DA2023 0186



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





ISSUE	PURPOSE OF ISSUE	DATE
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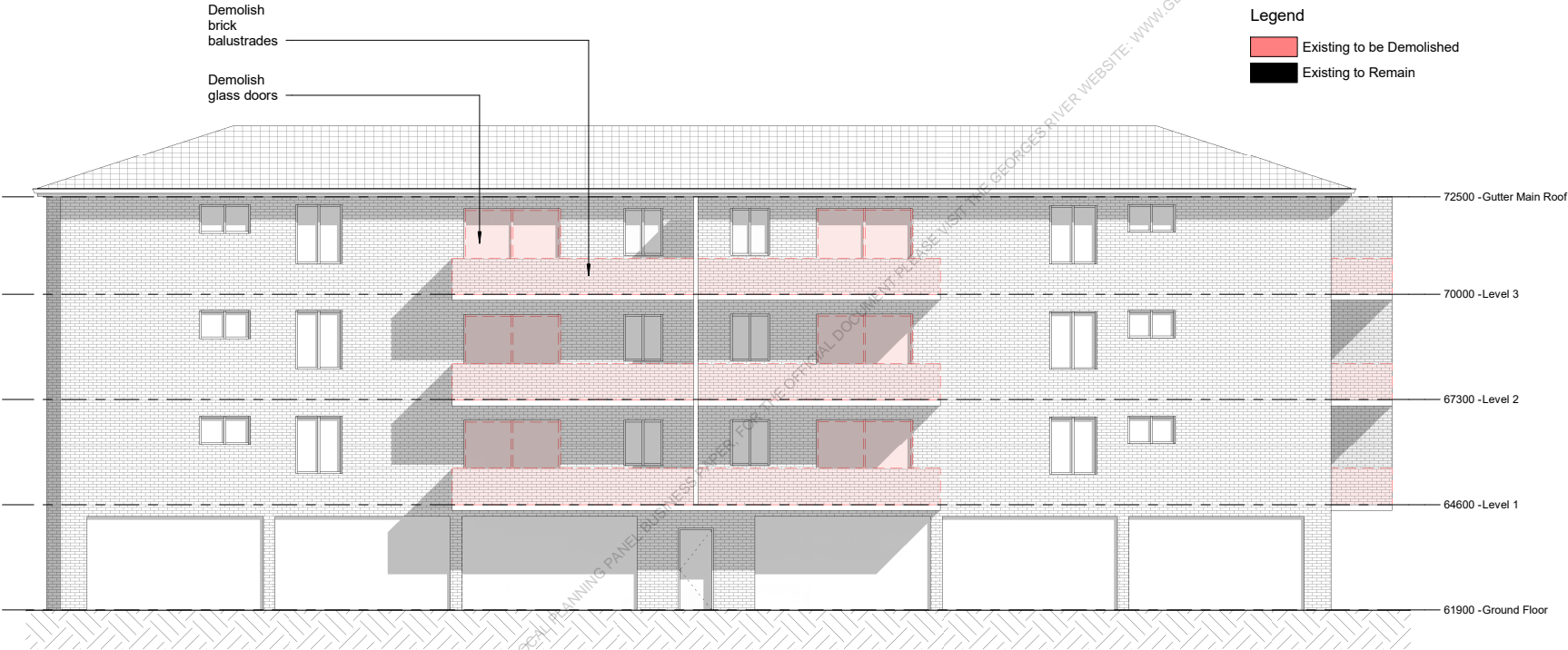
DO NOT SCALE FROM THIS DRAWING Use given dimensions. Contractor/ Builder is to check all dimensions on site prior to commencement of shop drawings or fabrication. Any discrepancies are to be referred to the architect/ designer prior to commencement of work. This drawing is to be used in accordance with its "purpose of issue" only. No responsibility will be accepted for the improper use of this drawing. Architectural drawings indicate design intent only. Builder is to ensure that all construction is in accordance with all relevant Australian Standards, legislation, Codes and local authority's requirements. Services are not shown on architectural plans - each contractor and consultant are required to make their own enquiries. Copyright (C) Fabricio Siqueira Architect




SP8698
External Alterations
31-33 Ocean Street, Penshurst
ELEVATIONS - EXISTING
Scale 1:100
Drawn by FS
Project no. 22283

Sheet no.
SK02
Issue A

4/10/22 4:28:38 PM






Fab Siqueira Architect
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ISSUE	PURPOSE OF ISSUE	DATE
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True North:



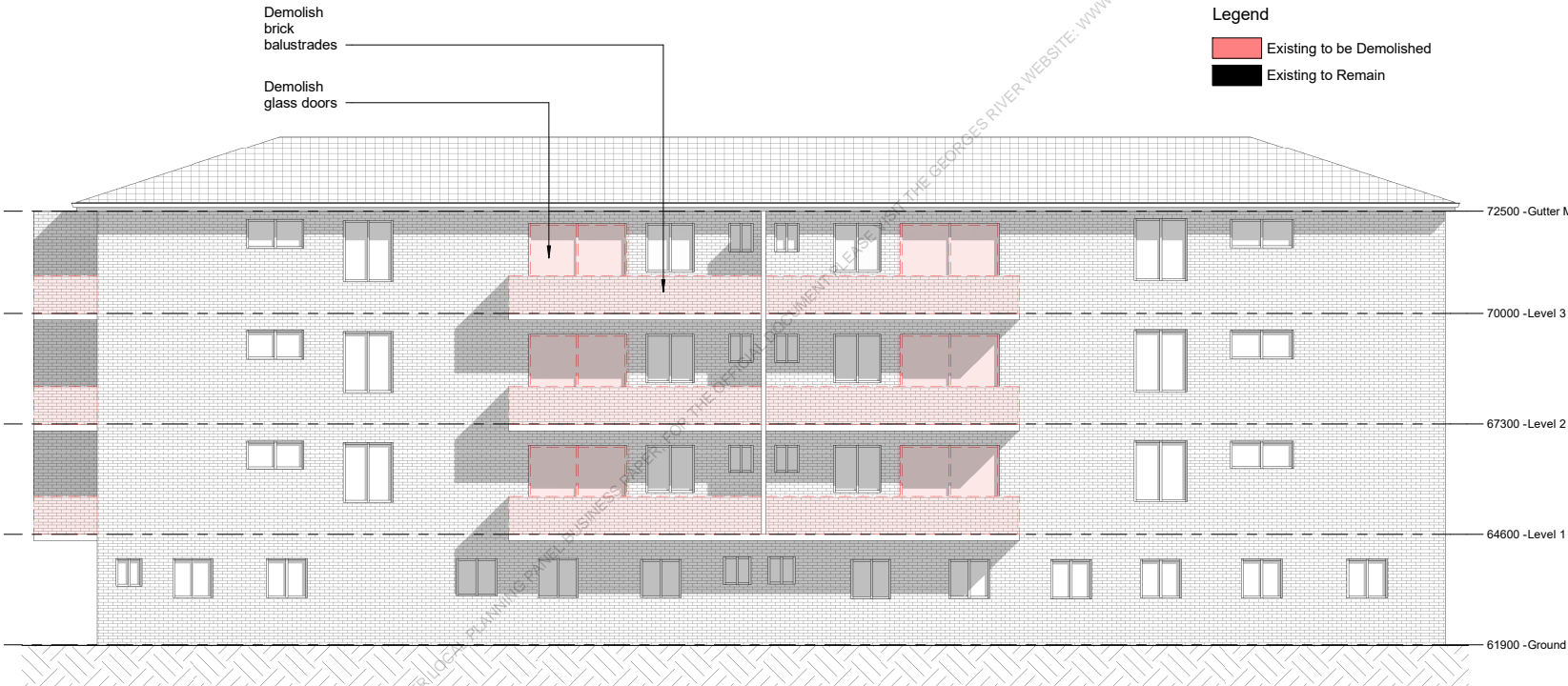
SP8698
External Alterations
31-33 Ocean Street, Penshurst

ELEVATIONS - EXISTING

Scale 1:100 Drawn by FS Project no. 22283 Issue A

Sheet no.
SK03

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1 Existing South Elevation
1 : 100



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ISSUE	PURPOSE OF ISSUE	DATE
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SP8698
External Alterations
31-33 Ocean Street, Penshurst

ELEVATIONS - EXISTING

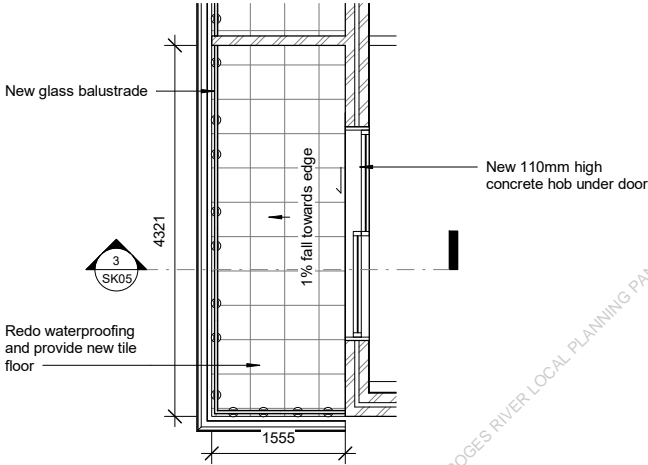
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SK04

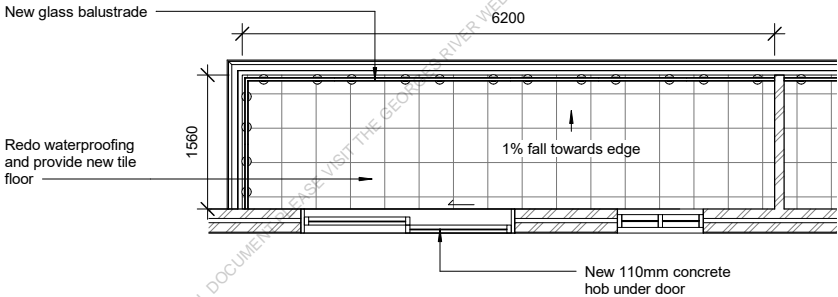
Issue A

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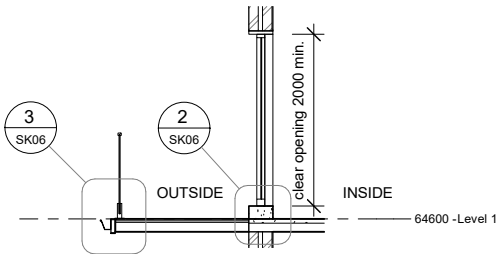
- NOTES:
- Dimensions may vary, builder to check each balcony on site
 - Balustrade spigots to be installed on concrete slab prior to waterproofing
 - Waterproofing membrane to be installed in accordance with AS4654.2
 - Provide dripping edge to protect concrete edge front face
 - Provide floor waste for rainwater drainage to engineer's details
 - Structural fixing of spigots and new concrete hob to engineer's details



1 Typical Balcony Floor Plan - Rear
1 : 50



2 Typical Balcony Floor Plan - Side
1 : 50



3 Section 1
1 : 50



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ISSUE	PURPOSE OF ISSUE	DATE
A	Preliminary - not for construction	30/09/2022

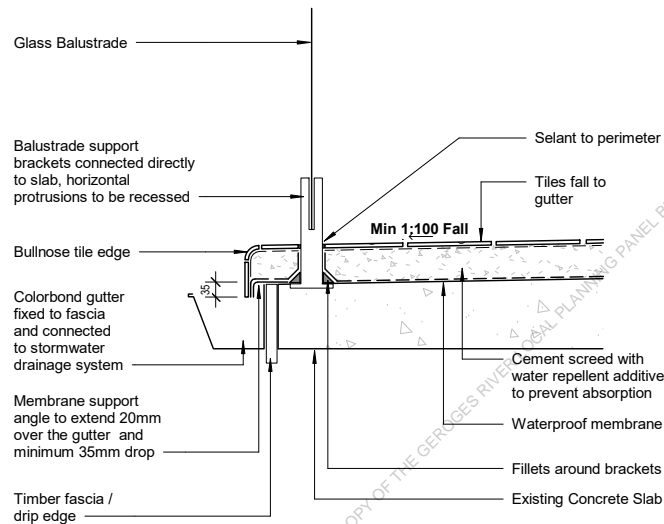
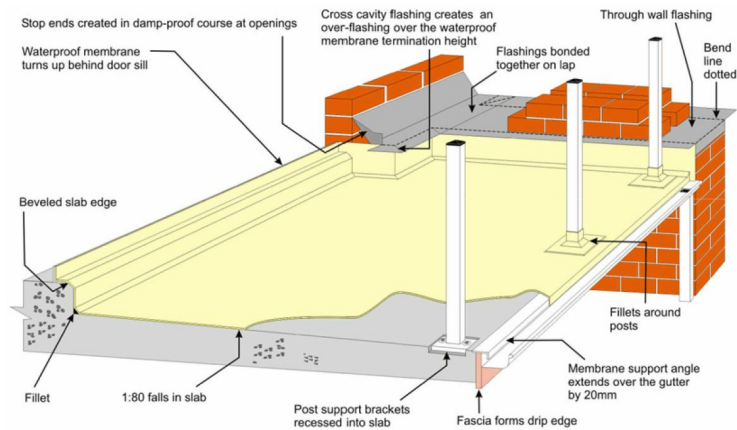
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DO NOT SCALE FROM THIS DRAWING Use given dimensions. Contractor/ Builder is to check all dimensions on site prior to commencement of shop drawings or fabrication. Any discrepancies are to be referred to the architect/ designer prior to commencement of work. This drawing is to be used in accordance with its "purpose of issue" only. No responsibility will be accepted for the improper use of this drawing. Architectural drawings indicate design intent only. Builder is to ensure that all construction is in accordance with all relevant Australian Standards, legislation, Codes and local authority's requirements. Services are not shown on architectural plans - each contractor and consultant are required to make their own enquiries. Copyright (C) Fabricio Siqueira Architect

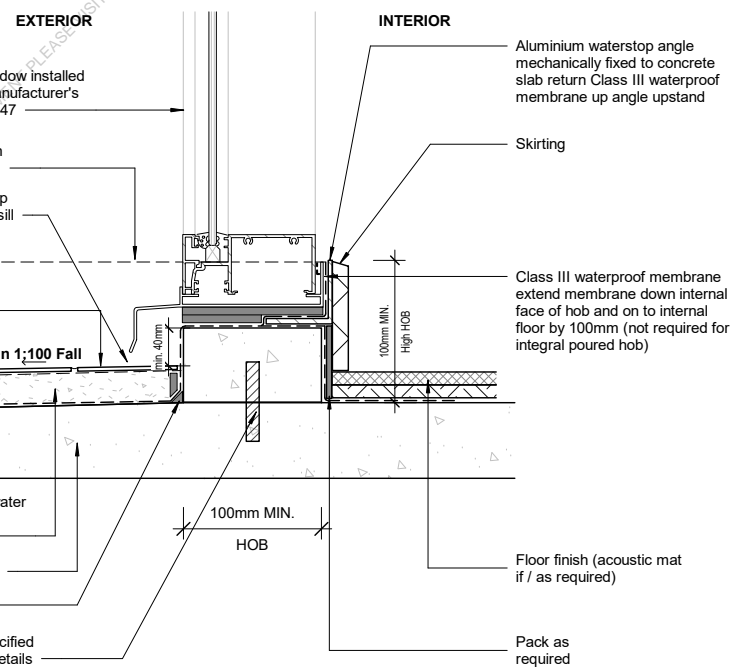


SP8698
External Alterations
31-33 Ocean Street, Penshurst
BALCONIES - PLAN & SECTION
Scale 1:50 Drawn by FS Project no. 22283 Issue A

Sheet no.
SK05
4/10/22 4:28:42 PM



3 DETAIL - Balcony external drip edge
1 : 10



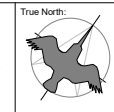
2 DETAIL - Balcony door sill with hob detail
1 : 10

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ISSUE	PURPOSE OF ISSUE	DATE
A	Preliminary - not for construction	30/09/2022

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DO NOT SCALE FROM THIS DRAWING Use given dimensions. Contractor/ Builder is to check all dimensions on site prior to commencement of shop drawings or fabrication. Any discrepancies are to be referred to the architect/ designer prior to commencement of work. This drawing is to be used in accordance with its "purpose of issue" only. No responsibility will be accepted for the improper use of this drawing. Architectural drawings indicate design intent only. Builder is to ensure that all construction is in accordance with all relevant Australian Standards, legislation, Codes and local authority's requirements. Services are not shown on architectural plans - each contractor and consultant are required to make their own enquiries. Copyright (C) Fabricio Siqueira Architect



SP8698
External Alterations
31-33 Ocean Street, Penshurst
BALCONIES - DETAILS

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Sheet no.
SK06

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Proposed Glass Balustrade with interlinking Metal Handrail



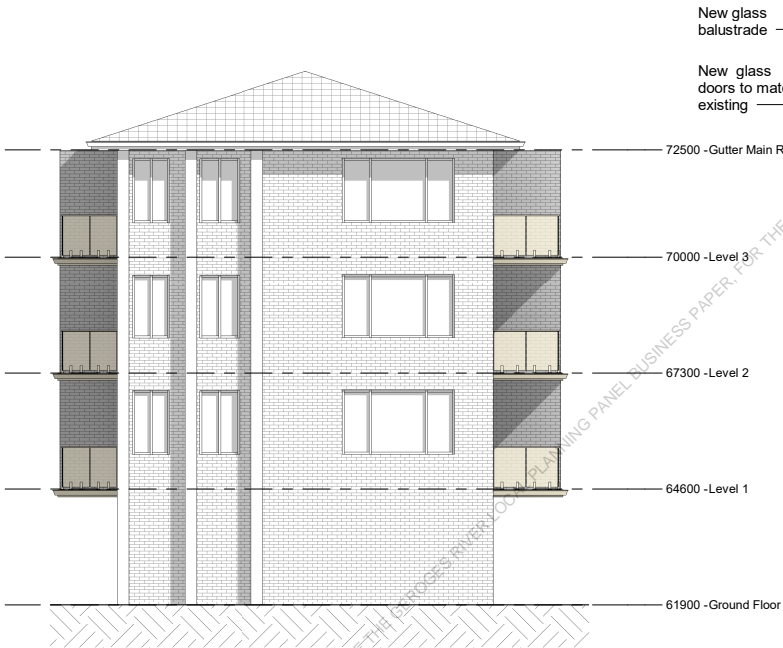
Paint finish to slab edges and colour of the door frames to match existing



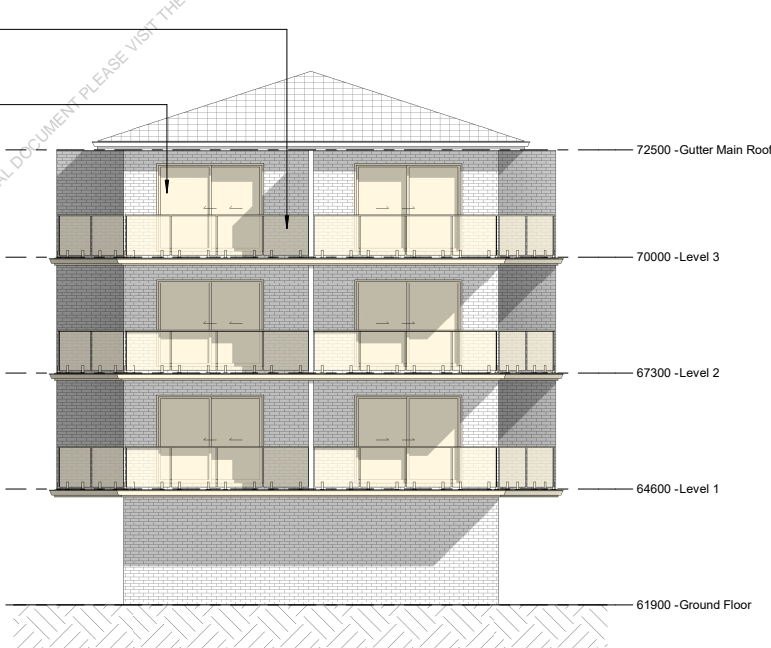
Existing brick walls to be retained

- NOTES:
- All existing RLs to remain
 - New balustrade spigot to be core drilled into existing concrete slab, provide certificate from engineer. To be done before waterproofing.
 - Re-waterproof and re-tile balcony floors
 - Balcony edges: Provide drainage to direct water away from slab edges, by installing new metal drip edges
 - Repair render & paint slab edges
 - Repair and repaint balcony soffits

Material Schedule



1 Proposed East Elevation
1 : 100



2 Proposed West Elevation
1 : 100



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ISSUE	PURPOSE OF ISSUE	DATE
A	Preliminary - not for construction	30/09/2022

0m 2m 4m 6m 8m 10m

DO NOT SCALE FROM THIS DRAWING use given dimensions. Contractor/ Builder is to check all dimensions on site prior to commencement of shop drawings or fabrication. Any discrepancies are to be referred to the architect/ designer prior to commencement of work. This drawing is to be used in accordance with its "purpose of issue" only. No responsibility will be accepted for the improper use of this drawing. Architectural drawings indicate design intent only. Builder is to ensure that all construction is in accordance with all relevant Australian Standards, legislation, Codes and local authority's requirements. Services are not shown on architectural plans - each contractor and consultant are required to make their own enquiries. Copyright (C) Fabricio Siqueira Architect



SP8698 External Alterations 31-33 Ocean Street, Penshurst ELEVATIONS - PROPOSED		
Scale	1:100	Drawn by FS
Project no. 22283		Issue

Sheet no.
SK07
Issue

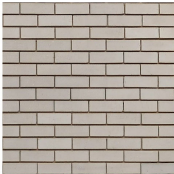
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Proposed Glass Balustrade with interlinking Metal Handrail



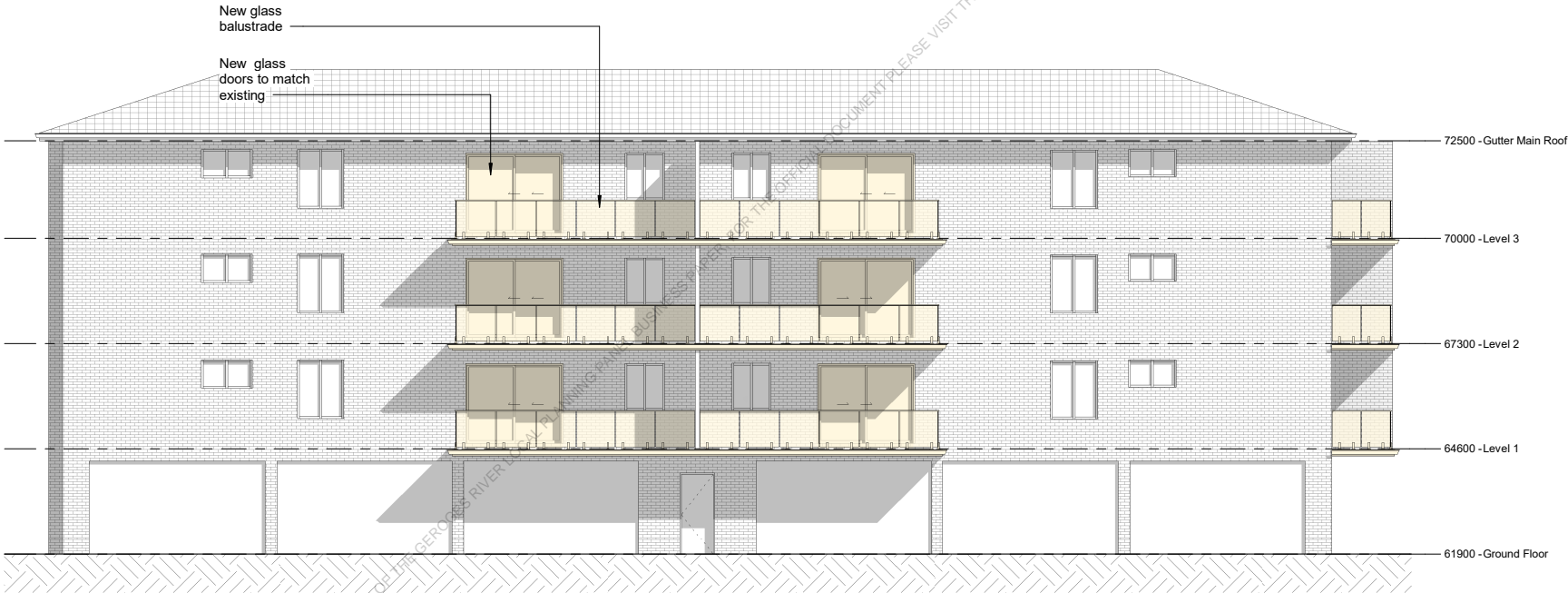
Paint finish to slab edges and colour of the door frames to match existing



Existing brick walls to be retained

- NOTES:
- All existing RLs to remain
 - New balustrade spigot to be core drilled into existing concrete slab, provide certificate from engineer. To be done before waterproofing.
 - Re-waterproof and re-tile balcony floors
 - Balcony edges: Provide drainage to direct water away from slab edges, by installing new metal drip edges
 - Repair render & paint slab edges
 - Repair and repaint balcony soffits

Material Schedule



1 Proposed North Elevation
1 : 100



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ISSUE	PURPOSE OF ISSUE	DATE
A	Preliminary - not for construction	30/09/2022

0m 2m 4m 6m 8m 10m

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SP8698
External Alterations
31-33 Ocean Street, Penshurst
ELEVATIONS - PROPOSED

Scale 1:100 Drawn by FS Project no. 22283 Issue A

Sheet no.
SK08

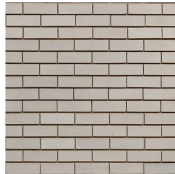
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Proposed Glass Balustrade with interlinking Metal Handrail



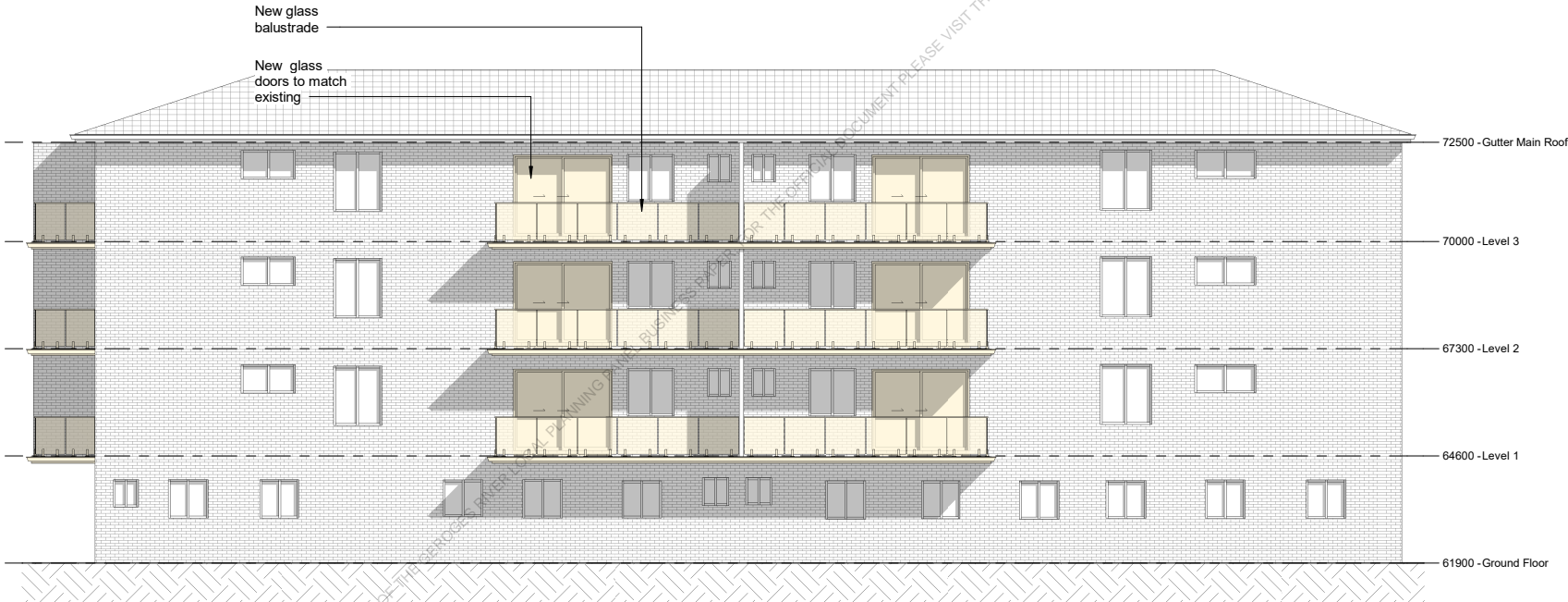
Paint finish to slab edges and colour of the door frames to match existing



Existing brick walls to be retained

- NOTES:
- All existing RLs to remain
 - New balustrade spigot to be core drilled into existing concrete slab, provide certificate from engineer. To be done before waterproofing.
 - Re-waterproof and re-tile balcony floors
 - Balcony edges: Provide drainage to direct water away from slab edges, by installing new metal drip edges
 - Repair render & paint slab edges
 - Repair and repaint balcony soffits

Material Schedule



1 Proposed South Elevation
1 : 100

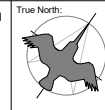


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ISSUE	PURPOSE OF ISSUE	DATE
A	Preliminary - not for construction	30/09/2022

0m2m4m6m8m10m

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SP8698
External Alterations
31-33 Ocean Street, Penshurst

ELEVATIONS - PROPOSED

Scale	1:100	Drawn by	FS	Project no.	22283
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Sheet no.

SK09

Issue	A
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REPORT TO GEORGES RIVER COUNCIL

LPP MEETING OF THURSDAY, 15 FEBRUARY 2024

LPP003-24

LPP Report No	LPP003-24	Development Application No	MOD2023/0005
Site Address & Ward Locality	2-12 Lime Kiln Road LUGARNO Peakhurst Ward		
Proposed Development	Section 4.55(2) for DA2017/0217 Amalgamation of three lots, demolition of existing structures and construction of a mixed development containing ground floor retail or commercial area, 14 apartments, and basement car parking area. The modifications include building services provisions, modification to structural layout, and modifications to internal layouts to accommodate internal efficiency and accessible requirements.		
Owners	Mrs Lynette McKenzie		
Applicant	Hamptons Property Services PTY LTD		
Planner/Architect	Planner: Hamptons Property Services Architect: PTI Architects Pty Ltd		
Date Of Lodgement	21/02/2023		
Submissions	None		
Cost of Works	No change		
Local Planning Panel Criteria	Sensitive Development – Development to which State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development applies.		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Biodiversity and Conservation) 2021; State Environmental Planning Policy (Resilience and Hazards) 2021; State Environmental Planning Policy (Transport and Infrastructure) 2021; State Environmental Planning Policy (Housing) 2021; Georges River Local Environmental Plan 2021		
List all documents submitted with this report for the Panel's consideration	Statement of Environmental Effects, Architectural Plans, Hydraulic Plans		
Report prepared by	Consultant Planner		

Recommendation	That the application be approved in accordance with the conditions included in the 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
---	------------

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

Site Plan



Site plan – subject site outlined in yellow and marked with a blue arrow

Executive Summary

BACKGROUND

1. Council is in receipt of a modification application to an approved development DA2017/0217 which consisted of the amalgamation of three lots, demolition of the existing structures and construction of a mixed development containing ground floor commercial area, fourteen (14) apartments, and basement car parking area with access off Forest Road on the subject site. The approved development exceeds the height control of 9m with a non-compliance of height of 12.48m.
2. The first modification (MOD2018/0170) proposed two (2) additional residential units (14 to 16) at level 2, increasing the gross floor area and intensifying the density of the non-compliant height, reducing one (1) bedroom units and increasing two (2) and three (3) bedroom units, decrease community open space at roof level, alteration to level 1 units with minor increase to floor plate, alterations to the layout of the commercial tenancies increasing from 3 to 4 commercial units, and increase the basement car parking spaces by three (3).

PROPOSAL

3. The proposed modifications include:
 - a. Amendment to the configuration of the basement level to accommodate structures and services including structural columns, electrical services room and an extended fire passage access.
 - b. Amendment to the lower ground floor to accommodate amended on-site detention tank, accessibility requirements, and associated services.
 - c. Amendment to the configuration of the ground floor units to improve functionality and comply with the National Construction Code. Amendments to the shopfronts to comply with accessibility requirements and addition of required services.
 - d. Amendment to the first and second level residential units to improve internal layout and functionality.

SITE AND LOCALITY

4. The subject site is located at 2-12 Lime Kiln Road, Lugarno and together they form the subject site. The site was formerly occupied by single storey neighbourhood shops and dwelling houses. At the time of inspection, all structures have been demolished.



Image 2 – View of subject site

5. The site has a frontage of 23.775m to Forest Rd and 28.86m to Lime Kiln Rd and a total area of 1401sqm. The site has a slope to the rear of the site towards the Forest Rd frontage. Lawrence Park is located on the north east corner of the site and fronts Forest Rd and Lime Kiln Rd.
6. The subject site is within a small block of properties which are zoned B1 Neighbourhood Centre. Adjoining the site on Lime Kiln Rd are shops within the B1 Neighbourhood Centre zone and adjoining these is Taylor Park. Adjoining the site on Forest Rd is a two storey dwelling house and adjoining this are dwelling houses.
7. Apart from the B1 Neighbourhood Centre zone, the area surrounding the subject site is primarily characterised by one and two storey dwelling houses.

ZONING AND PERMISSIBILITY

8. The proposal is zoned in E1 Local Centre. The approved mixed-use development remains permissible with consent under the zone applying to the land.

SUBMISSIONS

9. The application was on public notification from 23 February 2023 to 9 March 2023 in accordance with the Georges River Development Control Plan 2021.
10. No submissions were received in response.

REASON FOR REFERRAL TO THE LOCAL PLANNING PANEL

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

CONCLUSION

12. An assessment has been undertaken in accordance with the applicable assessment criterion as outlined in this report and as such the proposal is considered satisfactory based upon the following conclusions:
- Based upon the information provided to date, it is assessed that the proposal will not have an adverse or an unreasonable environmental impact in the following regard:
 - o The proposed development remains substantially the same as the approved mixed-use development.
 - o There is no proposed amendment to the approved height.
 - o There is a proposed minor decrease in floor space.
 - o The proposed amendments to the layout of the residential units improves amenity and functionality for residents including improved solar access and privacy.
 - o A number of proposed modifications are required to comply with relevant standards including accessibility, fire safety and the National Construction Code.
 - o There is no increase in the number of units proposed nor in the unit mix.
 - o Although there is a minor numerical reduction in deep soil and soft soil to accommodate the on-site detention tank requirements, they both still exceed the minimum requirements.

REPORT IN FULL

PROPOSAL

13. The works proposed in this application are specifically outlined below: -

Basement Level

- Relocation of motorcycle spaces;
- Addition of service access underneath driveway ramp to access OSD;
- Addition of stormwater drainage pits and perimeter drainage;
- Relocation of residential car spaces to accommodate additional columns required for structural support;
- Extension of fire passage access;
- Lowering of floor level to accommodate service structures;
- Reconfiguration of the bike storage room to accommodate service structures;
- Alteration to the electrical services room;
- Modification to the layout of the chamfering of the basement walls along the southern side.

Lower Ground Floor – Forest Road

- Modification to the on-site detention tank to comply with stormwater requirements. There will be a minor reduction to the landscaping;
- Modification to the driveway and footpath from Forest Road to comply with Council requirements;
- Modification to the car parking ramp to respond to the modified floor levels;
- Modification to the shopfront facing Forest Road to comply with AS1428.1 resulting in a minor reduction to the approved retail area;
- Addition of a ramp to LG01 from the retail parking to comply with accessibility standards.
- Addition of a ramp to enable access into the accessible toilet;

- Provision of service ducts and line marking, as well as perimeter drainage to accommodate hydraulic engineering requirements including hydraulic pits and car park exhaust;
- Rearrangement of car parking spaces to accommodate column positioning, noting no reduction in the number of spaces provided;
- Rearrangement of the accessible car parking spaces for residential purposes, due to change of column location;
- Raise floor level to fit thickened structural slab & beams & fit services in basement;
- Relocate WC access for retail use;
- Columns and beams added throughout as per structural engineer's requirements;
- Change layout of approved bulky storage and service room to accommodate car park exhaust and two storerooms, including alteration to store and service duct room;
- Relocated service cupboard to across the hallway and bulky storeroom to adjoin bin room.
- Add line marking to car park floor;
- Relocate sprinkler tank from basement to lower ground floor for compliance purposes, resulting in a minor reduction in communal open space and landscaped area along the southern site boundary;
- Modification to the commercial and residential bins storage areas;
- Addition of air intake into the basement, and modification to the slab and rainwater tank again resulting in a minor reduction in communal and landscape open space to accommodate compliance with building services.

Ground Floor – Lime Kiln Road

- Apartment G03 - Modified layout for improved functionality; and
- addition of a study;
- Apartment G04 – Modified layout for improved functionality and addition of a study and storage. The balcony area calculation has also been modified to exclude balustrade/screen areas;
- Apartment G05 – Modified internal layout for improved functionality and apartment is no longer classified as an adaptable unit (replaced by Apartment 102). Modification to the window size in Bedroom One, to ensure compliance with fire safety requirements;
- Amendments to the service duct, storeroom and accessible WC2 which is to be used by Retail G04, along with modification to the shopfront and floor area; inclusion of the fire hydrant booster being relocated to the corner of the tenancy to comply with the fire;
- engineering requirements;
- Increased lift size and modified layout;
- Modifications to the shopfronts (windows and doors) to all four retail shops facing Lime Kiln Road to comply with AS1428.1 and to accommodate with existing footpath levels;
- Modification to the floor levels of Retail tenancies G01, G02 & G03 to comply with AS1428.1;
- Addition of plumbing provisions for future toilet facilities;
- Addition of car park exhaust;
- Relocation of the sprinkler tank from under floor in basement to the western side of Retail G01;
- Apartment G01 – modified layout to enable this apartment to function as an adaptable unit;
- Apartment G02 – modified layout to include a study and storage area, as well as a modified layout to Bedroom 1.

First Floor

- Apartment 103 – modified layout for improved functionality and addition of a study;
- Apartment 104 – inclusion of risers added to the bathroom and modified internal layout for improved functionality;
- Apartment 105 – modified internal layout for improved functionality;
- Apartment 106 – modified internal layout for improved functionality;
- Apartment 107 – modified internal layout for improved functionality;
- Amended structural design of Apartment 107 due to relocation of sprinkler tank below and provision of kitchen exhaust ducts;
- Increased lift size and modified layout;
- Addition of car park exhaust and kitchen exhaust risers;
- Apartment 102 – Internal layout change to comply as an adaptable apartment in lieu of G04;
- Apartment 101 – modified layout for improved functionality.

Second Floor

- Addition of extra service cupboards;
- Increased lift size and modified layout;
- Apartment 201 - modified layout for improved functionality;
- Apartment 202 - modified layout for improved functionality;
- Partitioning screen added to balcony between Apartment 201 and Apartment 202 for privacy purposes;
- Additional of balcony screen on the southern side of Apartment 202 as conditioned in DA approval for privacy purposes;
- Addition of kitchen exhaust risers and car park exhaust;
- Minor external wall adjustments to work with brick dimensions and allow correct wall thickness.

External Façade

- Amendment to ground floor canopy facing Lime Kiln Road for structural purposes and buildability;
- Amendment to the retail shop front openings to accommodate natural ground levels and comply with AS1428.1;
- Modified location of windows for Apartments G03 and G02 at ground floor;
- Remove screens to northern windows of Apartment 101, 102 and 103;
- Additional louvre proposed to the western balcony elevation of Apartment 103;
- Deletion of the window at the lift lobby at level 2; and
- Modified sizes of windows at Apartment 202 on level 2.

BACKGROUND

14. On 21 June 2018, DA2017/0217 for the amalgamation of three lots demolition of existing structures and construction of a mixed development containing ground floor retail/commercial area, 14 residential apartment and basement car parking area was approved by the Local Planning Panel.
15. On 17 October 2019, MOD2018/0170, a Section 4.55 (2) modification seeking to add two residential units and amendment to retail tenancy and communal space was approved by the Local Planning Panel.
16. On 21 February 2023, MOD2023/0005 was formally lodged with Council.

SUBMISSIONS AND THE PUBLIC INTEREST

17. The application was on public notification from 23 February 2023 to 9 March 2023 in accordance with the Georges River Development Control Plan 2021.
18. During this time no submissions were received opposing the proposed works.

PLANNING ASSESSMENT

Assessment – Section 4.55 Considerations

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

Section 4.55(2) Other modifications

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

Comment: The proposed changes to the development consent are considered to be “*substantially the same*” as they sit within the approved building envelope and footprint. The proposal therefore satisfies the provisions of Section 4.55(2), (a), (b), (c) and (d). Section 4.55 subclause (3) states.

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

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

Section 4.55 subclause (4) states:

The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other

Act to a development consent includes a reference to a development consent as so modified.

Comment: The proposed development satisfies this provision as the modifications are not granting consent to a DA but rather modifying DA2017/0217

STATE ENVIRONMENTAL PLANNING POLICIES

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

ASSESSMENT

Section 4.55 Considerations

22. The application has been made pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act 1979 to modify Development Consent DA2017/0217 determined on 21 June 2018 and a further Modification Application (MOD2018/0170). A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to an in accordance with regulations, modify the consent if:

Is satisfied that the proposed development as modified is substantially the same development for which consent was originally granted?

Comment: The proposed development as modified would represent substantially the same development for which consent was originally granted being mixed use development with commercial space at ground level and 14 units over three (3) levels, and basement and ground level car parking.

Has consulted with the relevant Minister, public authority or approval body with respect to a condition imposed on the consent or general terms of approval?

Comment: Not applicable.

Has been advertised and or notified the application in accordance with the regulation or a development control plan?

Comment: The application was neighbour notified in accordance with the provisions of GRLEP2021 once, from 2 March to 16 March 2023.

Has considered any submissions made concerning the proposed modification?

Comment: No submission was received.

SECTION 4.15 EVALUATION

23. In determining a Section 4.55(2) modification the provision of Section 4.15 of the EP&A Act 1979 needs to be considered as part of the assessment. The following considers the proposal in respect to these requirements.

STATE ENVIRONMENTAL PLANNING POLICIES

24. Compliance with the relevant state environmental planning policies is summarised in the table and discussed in more detail below.

State Environmental Planning Policy	Complies
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes – no change
State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes – no change
State Environmental Planning Policy (Housing) 2021	Yes – see discussion below
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes – no change
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes – to be amended

GREATER METROPOLITAN REGIONAL ENVIRONMENTAL PLAN NO 2 – GEORGES RIVER CATCHMENT

25. All stormwater from the proposed development can be treated in accordance with Council's Water Management Policy and would satisfy the relevant provision of the Deemed State Environmental Planning Policy – Georges River Catchment and the original engineering conditions of consent. The proposal is not considered to be inconsistent with the aims, objectives and purpose of the Regional Plan.

STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021 – CHAPTER 4

26. Chapter 4 of SEPP Housing applies to the development as the building is more than 3 storeys in height and contains a residential component.
27. An assessment of the design principles is addressed below:

ADG design quality principle	Response
1. Context	<p>The design of the proposed development responds to the qualities and identity of the area with respect to its relationship to adjoining sites, streetscape and neighbourhood. The site has been identified for local centre development in accordance with the provisions for GRLEP 2021.</p> <p>The bulk and scale of the development is appropriate for the context of the area given the transition of height and floor space along Lime Kiln Road. The proposal is consistent with the objectives and development controls for local centre development outlined in the GRLEP 2021.</p>
2. Built form and scale	The height of the proposed development is not proposed to be amended as part of this modification.
3. Density	The floor space ratio (FSR) will decrease from 1.35:1 to 1.34:1 as part of the modification due to the thickening of walls and services provision. It is noted that the maximum floor space ratio applicable for the site is 1.5:1.
4. Sustainability	The proposal achieves a minimum 2 hours sunlight during mid-winter to balconies to both the private

	<p>open space and the living rooms to all of the proposed units.</p> <p>The on-site stormwater detention system provides opportunities for stormwater to be re-used for irrigation of communal landscape areas.</p> <p>All units within the development are designed with open layouts and private balconies.</p>
5. Landscape	A landscape plan was submitted with the original Development Application and is found to be satisfactory.
6. Amenity	The proposal is satisfactory with regards to amenity and has been designed to optimise internal amenity through orientation, visual and acoustic privacy, solar access, natural ventilation, apartment layout, storage areas, and service areas.
7. Safety	The approved development is consistent with crime prevention principles and provides appropriate separation to reduce lifestyle conflict between the commercial and residential uses. The proposed development does not amend these design parameters.
8. Housing Diversity and Social Interaction	The proposed development provides a diversity of unit sizes and configurations and two (2) adaptable units located at ground level. The private open space on level two provides for passive recreation for residents.
9. Aesthetics	The proposed built form is appropriate with regard to the composition of building elements, textures, materials and colours, reflecting the use, internal design and structure of the building. The design of the building is compatible with the desired built form and scale for the locality.

THE APARTMENT DESIGN GUIDE (ADG).

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

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

	Amenity of the public domain is retained and enhanced.	landscaping and finishes.	
Objective 3D-1	<p>1. Communal open space has a minimum area equal to 25% of the site.</p> <p>-Where it cannot be provided on ground level it should be provided on a podium or roof</p> <p>-Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:</p> <ul style="list-style-type: none"> • provide communal spaces elsewhere such as a landscaped roof top terrace or a common room • provide larger balconies or increased private open space for apartments • demonstrate good proximity to public open space and facilities and/or provide contributions to public open space <p>2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter)</p>	<p>Yes</p> <p>The proposal seeks to reduce the quantum of communal open space by 34sqm to accommodate firefighting services to accommodate with the building code. Notwithstanding, the proposed communal open space of 378.9sqm (27%) will exceed the minimum requirement of 350.25sqm (25%).</p> <p>Approximately 71.2sqm of communal open space is located at roof level of the second floor.</p> <p>Additional landscaped area provided at ground level and first floor planter boxes.</p> <p>Taylors Reserve is approximately 50m from the proposal on Lime Kiln Road.</p> <p>The communal open space area has good amenity in that it receives at least 3 hours sunlight during winter and is a functional area with seating provided.</p>	Yes
3E-1 Deep Soil Zones	3E-1 Deep soil zones provide areas on the site that allow for and support healthy plant	The revised proposal achieves deep soil zone of 156.9sqm (11.2%) which is	Yes.

	and tree growth. They improve residential amenity and promote management of water and air quality	slightly less than the approved scheme of 164sqm (11.7%). Notwithstanding, it is still compliant with the minimum requirement.	
3F-1 Visual Privacy	3F-1 Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy. Design Criteria Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room. Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.	The proposed modification does not alter the approved building separations.	Yes.
3G Pedestrian access and entries	Building entries and pedestrian access connects to and addressed the public domain. Access, entries and pathways are accessible and easy to identify.	Pedestrian entries are located off Lime Kiln Road. The main building entry is easily identifiable.	Yes. Yes.
3H Vehicle Access	Vehicle access points are designed and located to achieve safety, minimise	No change is proposed to the approved vehicular access to the site.	Yes.

	conflicts between pedestrians and vehicles and create high quality streetscapes.		
4A-1 Solar Access	<p>1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area</p> <p>3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p>	<p>No changes to approval – The proposal achieves 78.6% of living room and private open spaces of the units receive at least 3 hours of solar access.</p> <p>1 unit receives no direct sunlight being 7.14%.</p>	Yes
4B-3 Natural ventilation	<p>1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed</p> <p>2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p>	<p>No changes to approval – 78.6% (11) of units are naturally cross ventilated. Maximum depth is less than 18m.</p>	Yes
4C-1 Floor to Ceiling Heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are: Habitable rooms = 2.7m</p>	<p>No changes to approval -</p> <p>Approved development achieves 2.7m for all rooms.</p>	Yes

		Non-habitable rooms = 2.4m		
4D-1 Apartment Sizes		<p>1. Apartments are required to have the following minimum internal areas:</p> <p>1 bedroom = 50sqm 2 bedroom = 70sqm 3 bedroom = 90sqm</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each</p> <p>2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</p>	<p>All units comply</p> <p>Window provided for each habitable room.</p>	Yes
4D-2 Apartment layout		<p>1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height</p> <p>2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p> <p>1. Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space)</p> <p>2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p>	<p>Yes all within range.</p> <p>Open plan layouts less than 8m from a window.</p> <p>Yes the proposed development complies with these requirements</p>	

	<p>3. Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> -3.6m for studio and 1 bedroom - 4m for 2 and 3 bedroom apartments <p>4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>		
4E-1 Private open space and balconies	<p>1. All apartments are required to have primary balconies as follows:</p> <ul style="list-style-type: none"> -1 bedroom = 8sqm/2m depth -2 bedroom = 10sqm/2m depth -3+ bedroom = 12sqm/2.4m <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p> <p>2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15sqm and a minimum depth of 3m</p>	<p>Yes</p> <p>All balcony areas are greater than the minimum dimensions required.</p> <p>All ground floor units are provided with balconies 10sqm or greater.</p>	Yes
Objective 4F-1	1. The maximum number of apartments off a circulation core on a single level is eight	Yes, maximum seven on the first floor.	
4G - Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <p>Studio 4sq.m</p> <p>1 bd 6sq.m</p>	<p>The modification proposes to alter the layout of the storage area for unit G02 and G04.</p> <p>Notwithstanding, the</p>	Yes.

	<p>2 bd 8sq.m</p> <p>3 bedroom 10sq.m</p> <p>At least 50% of the required storage is to be located within the apartment.</p>	volume of storage remains as approved.	
4H Acoustic Privacy	Noise transfer is minimised through the siting of buildings and building layout.	The proposed modification does not alter the acoustic privacy of the building.	Yes.
4J Noise and Pollution	<p>In noisy or hostile environments, the impacts of external noise and pollution are minimised through the careful siting and layout of buildings.</p> <p>Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.</p>	The revised design incorporates additional screening to the western balcony elevation of unit 103 to ameliorate privacy impact between units.	Yes.
4L Ground floor apartments	Street frontage activity is maximised where ground floor apartments are located	The proposed design revisions incorporate amendments to the retail shopfronts to comply with accessibility requirements, however, there are no changes to the street frontage of the ground floor apartments.	N/A.
4M Facades	Building facades provide visual interest along the street while respecting the character of the local area.	The proposal complies with the various objectives.	Yes.
4N Roof design	Roof treatments are integrated into the building design and positively respond to the street.	The revised design proposes modifications to a very minor portion of the roofing structure	Yes

	<p>Opportunities to use roof space for residential accommodation and open space are maximised.</p> <p>APPENDIX A - Apartment Design Guide (ADG) Compliance Table 7</p>	<p>to ensure symmetrical built form and compliance with structural requirements. The modifications are not materially noticeable.</p>	
4O Landscape design	<p>Landscape design contributes to the streetscape and amenity.</p>	<p>The revised design results in a reduction in the quantum of landscaping from 554.1sqm to 529.8sqm to accommodate for a firefighting sprinkler tank on the rooftop and ground floor courtyard as required under the Building Code. Notwithstanding the landscaping is still well in excess of the minimum requirement of 280.24sqm.</p>	Yes.
4S Mixed Use	<p>Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement.</p> <p>Residential levels of the building are integrated within the development, and safety and amenity are maximised for residents.</p>	<p>The proposed design revisions are consistent with the approved scheme and maintain and enhance active pedestrian street frontages.</p>	Yes.
4W Waste Management	<p>Waste storage facilities are designed to minimise impacts on the streetscape,</p>	<p>There are no amendments to the approved waste storage facilities.</p>	N/A

	building entry and amenity of residents.		
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GEORGES RIVER LOCAL ENVIRONMENTAL PLAN 2021

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

Part 1 – Preliminary		
Clause 1.2 – Aims of the Plan		
Standard	Proposal	Compliance
In accordance with Clause 1.2 (2)	The development is considered to be consistent with the aims of the plan.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Clause 1.2 – Aims of the Plan		
Standard	Proposal	Compliance
Mixed use mixed use development means a building or place comprising 2 or more different land uses.	The proposed development remains consistent with the definition.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Part 2 – Permitted or prohibited development		
Clause 2.3 – Zone objectives and Land Use Table		
Standard	Proposal	Compliance
The subject site zoned E1 Local Centre The objectives of the zone are: <ul style="list-style-type: none"> • 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 	The proposal is consistent with the zone objectives as the development:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

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.		
Land Use Table		
E1 Local Centre	The approved use remains permissible with consent under the zone applying to the land.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Part 4 – Principal Development Standards		
Clause 4.3 – Height of Buildings		
Standard	Approved/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 maximum identified on Height of Buildings Map	There are no amendments to the approved height of building. For reference, it is noted that a variation to the height of building was approved as part of the original application. The maximum height of building is 12.28m.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Clause 4.4 – Floor Space Ratio		
Standard	Approved/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. The maximum floor space is 1.5:1 or 2101.8m ² as identified on Floor Space Ratio (FSR) Map.	The floor space ratio will decrease from that approved at 1.35:1 (1898.3sqm) to 1.34:1 (1880.2sqm).	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Clause 4.4B Exceptions to floor space ratio—non-residential uses		
Standard	Approved/Proposal	Compliance
(3) Development consent must not be granted for development on land in Zone E1 Local Centre or Zone MU1 Mixed Use unless the non-residential floor space ratio is at least 0.3:1.	No variations are sought.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Clause 4.6 - Exceptions to development standards		

Standard	Proposal	Compliance
In accordance with Clause 4.6 (1) through to and including (8)	No variations are sought.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Part 5 – Miscellaneous Provisions		
Clause 5.7 – Development below mean high water mark		
Standard	Proposal	Compliance
Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).	The proposal does not involve works below the Mean High Water Mark.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Clause 5.10 – Heritage conservation		
Standard	Proposal	Compliance
Council must, before granting consent under this clause with respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.	The site is not a heritage item and not located within the vicinity of any heritage items. Site is not in a heritage conservation area.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Clause - 5.21 Flood Planning		
Standard	Proposal	Compliance
(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area.	The subject land is not flood affected	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Part 6 – Additional Local Provisions		
Clause 6.1 – Acid sulfate soils		
Standard	Proposal	Compliance
(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works. Class 5 The site is identified as containing Class 5 Acid Sulfate Soils.	The site identified as containing Class 5 acid sulfate soils, but the works are not located on land within 500m of land of a lower class, and is not below 5m Australian Height Datum. No further action is therefore required.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Clause 6.2 Earthworks		

Standard	Proposal	Compliance
<p>Council must consider the following prior to granting consent for any earthworks:</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) measures to minimise the need for cut and fill, particularly on sites with a slope of 15% or greater, by stepping the development to accommodate the fall in the land,</p> <p>(f) the source of any fill material and the destination of any excavated material,</p> <p>(g) the likelihood of disturbing relics,</p> <p>(h) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(i) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	<p>The proposal has been considered in this regard. The proposed earth works are satisfactory with regards the matters identified.</p> <p>The development has been executed in a manner that minimizes disruption to drainage patterns and ensures soil stability in the surrounding area.</p> <p>Measures have been implemented to mitigate any adverse effects on the existing and anticipated amenity of neighbouring properties caused by the development.</p> <p>The design and construction of the development have effectively minimized the need for extensive cut and fill operations.</p> <p>Adequate measures have been proposed and implemented to avoid, minimize, or mitigate any potential negative impacts associated with the proposed earthworks.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>

Clause 6.3 – Stormwater Management

Standard	Proposal	Compliance
<p>(2) In deciding whether to grant development consent for development, the consent authority must be satisfied that the development—</p> <p>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil</p>	<p>Council's Development Engineer has reviewed the modification and no concerns are raised. The proposal is satisfactory with regards the matters identified.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>

<p>characteristics affecting on-site infiltration of water, and</p> <p>(b) includes, if practicable, on-site stormwater detention or retention to minimise stormwater runoff volumes and reduce the development's reliance on mains water, groundwater or river water, and</p> <p>(c) avoids significant adverse impacts of stormwater runoff on adjoining properties, native bushland, receiving waters and the downstream stormwater system or, if the impact cannot be reasonably avoided, minimises and mitigates the impact, and</p> <p>(d) is designed to minimise the impact on public drainage systems.</p>		
Clause 6.4 – Foreshore area and coastal hazards and risk		
Standard	Proposal	Compliance
<p>(2) This clause applies to the following land—</p> <p>(a) and identified on the Coastal Hazard and Risk Map,</p> <p>(b) land identified on the Foreshore Building Line Map.</p>	<p>The site is not located on land identified in the Coastal Hazard and Risk Map or on the Foreshore Building Line Map.</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> N/A</p>
Clause 6.5 – Riparian land and waterways		
Standard	Proposal	Compliance
<p>(2) This clause applies to land identified as “Sensitive land” on the Riparian Lands and Waterways Map.</p>	<p>The site is not located on Sensitive Land as identified on the Riparian Land and Waterways Map.</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> N/A</p>
Clause 6.6 Foreshore scenic protection area		
Standard	Proposal	Compliance
<p>(2) This clause applies to land identified as “Foreshore scenic protection area” on the Foreshore Scenic Protection Area Map.</p>	<p>The site is not located within the Foreshore Scenic Protection Area as identified on the Foreshore Scenic Protection Area Map.</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> N/A</p>
Clause 6.8 Development in areas subject to aircraft noise		
Standard	Proposal	Compliance
<p>NOTE: Applies to 67-89 Croydon Road, 1-7 Somerset (odd only), 2-8 Bristol (even), 1-5 Bristol (odd) in Hurstville.</p>	<p>The proposal is not located on the land identified by the Clause.</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> N/A</p>

Clause 6.9 Essential Services		
Standard	Proposal	Compliance
<p>Development consent must not be granted to development unless Council is satisfied that any of the following services that are essential for the development are available, or that adequate arrangements have been made to make them available when required</p> <ul style="list-style-type: none"> a) the supply of water, b) the supply of electricity, c) the supply of telecommunications facilities, d) the disposal and management of sewage e) stormwater drainage or on-site conservation, f) suitable vehicular access. 	<p>The proposal has, or includes arrangements that will make available, the:</p> <ul style="list-style-type: none"> • the supply of water, • the supply of electricity, • the supply of telecommunications facilities, • the disposal and management of sewage, • stormwater drainage or on-site conservation, • vehicular access. 	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Clause 6.10 Design Excellence		
Standard	Proposal	Compliance
<p>(2) This clause applies to development:</p> <p>b) land in the following zones if the building concerned is 3 or more storeys or has a height of 12 metres or greater above ground level (existing), or both, not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking—</p> <ul style="list-style-type: none"> (i) Zone R4 High Density Residential, (ii) Zone E1 Local Centre, (iii) Zone E2 Commercial Centre, (iv) Zone E4 General Industrial, (v) Zone MU1 Mixed Use. 	<p>The proposal is zoned E1 Local Centre and has a height less than 12 metres.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A

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

3.3 Landscaping		
Control	Proposal	Compliance
<p>1. Landscaping on site should be incorporated into the site planning of a development to (where appropriate):</p> <ul style="list-style-type: none"> i. Reinforce the desired future character of the locality; ii. Maintain significant landscape features; iii. Be consistent with any dominant species in the adjoining area of ecological significance; iv. Incorporate fire resistant species in areas susceptible to bushfire hazard; v. Provide planting within setback zones; vi. Soften the visual impact of buildings, carparks and roads; vii. Cater for outdoor recreation areas; viii. Separate conflicting uses; ix. Screen undesirable elements; x. Provide opportunities for on-site stormwater infiltration, in particular around existing trees and vegetation; xi. Consider the future maintenance requirements of landscaped areas; xii. Protect the effective functioning of overhead, surface level or underground utilities; and 	<p>The landscaping scheme remains unchanged.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>

xiii. Improve the aesthetic quality of the development.		
2. Landscape planting should achieve a mature height in scale with the structures on the site.	The proposed landscaping is of an appropriate scale relative to the proposed structures.	
3. Where landscaping is required, this should incorporate locally indigenous plants listed in the GRDCP 2021 Backyard Biodiversity Guide and Council's Tree Management Policy.	The proposal suitably incorporates locally indigenous species.	
3.5.1 Earthworks		
Control	Proposal	Compliance
3. Habitable Rooms (not including bathrooms, laundries and storerooms) are to be located above existing ground level.	Habitable rooms are located above existing ground level.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
8. Earthworks are not to increase or concentrate overland stormwater flow or aggravating existing flood conditions on adjacent land.	The earthworks proposed do not impact adversely on stormwater or flood with regards to impacts on adjoining properties.	
3.10 Water Management		
Stormwater Management		
Control	Proposal	Compliance
1. Development must comply with Council's Stormwater Management Policy.	The proposal has been reviewed by Council's Development Engineer and has been found to be satisfactory with regards to this clause.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2. Water Sensitive Urban Design (WSUD) principles are to be incorporated into the design of stormwater drainage, on -site retention and detention, landscaping and within the overall design of the development.	Conditions suggested by Council's Engineer have been applied.	
Water Quality		
Control	Proposal	Compliance
6. Measures to control pollutants in stormwater discharge from development sites are to be included in any development.	The proposal includes a sediment control plan, and is otherwise satisfactory with regards the relevant parts of the clause.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

7. Runoff entering directly to waterways or bushland is to be treated to reduce erosion and sedimentation, nutrient and seed dispersal.		
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, the proposal shall be conditioned to comply with the BASIX. See BASIX SEPP assessment	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3.12 Waste Management		
Control	Proposal	Compliance
1. Development must comply with Council's Waste Management requirements regarding construction waste and ongoing management of waste materials (per Appendix 4 of the GRDCP).	The proposal complies with Appendix 4 of the GRDCP and therefore complies with the controls of this section.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3.15.1 Infrastructure		
Control	Proposal	Compliance
3. The public domain should be improved by new street plantings and footpath improvements	The proposed development is not considered to warrant the need for new street tree plantings or footpath upgrades	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3.17 Universal / Accessible Design		
Control	Proposal	Compliance
3. Accessways for pedestrians and vehicles to be separated	Achieved.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3.19 Crime Prevention / Safety and Security		
Control	Proposal	Compliance
1. Active spaces and windows of habitable rooms within buildings are to be located to maximise casual surveillance of the public domain.	The proposed development incorporates windows of habitable rooms which overlook active space enabling casual surveillance of the public domain.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
4. Building entries are to be clearly visible and identifiable from the public domain.	The proposed building entry is clearly identified from the public domain	

PART 5 – RESIDENTIAL LOCALITY STATEMENTS

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

Lugarno		
Future Desired Character	Consistency	with Desired Character
<ul style="list-style-type: none"> • Retain and enhance the prominence of the bushland landscaped character in new development through tree planting and landscaping. • Encourage consistent setbacks of buildings from the street and the provision of landscaping within the front setback. • Encourage the retention of trees and sharing of water views wherever possible, including screening via vegetation rather than solid walls. • Public views to waterways should be retained from streets and public places. 		<p>The proposal is consistent with the future desired character of the precinct for the following reasons:</p>

PART 6 – RESIDENTIAL CONTROLS

33. 6.3 – Residential flat buildings and residential components of shop top *housing*

6.3.3 Building Setbacks and Street Interface		
Control	Approved/Proposal	Compliance
Side Setback Minimum of 6m from side boundary between ground floor level and up to 4 storeys. Upper-level setbacks are 9m above 4 storeys.	There are no amendments to the approved setbacks.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
6.3.5 Façade treatment and street corners		
Control	Proposal	Compliance
2. Building facades must be clearly articulated and employ high quality materials and finishes that enhance and complement the streetscape character	Achieved.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3. Street corners must be given prominence by a change in building articulation, materials, colours, form and scale.	Achieved.	
4. Human scale at street level must be reinforced in the design of the building and overall development.	Achieved.	

The scale, rhythm, materiality and landscaping treatment need to define the appearance of the building to create physical and visual connections between the private and public domain for pedestrians.		
6. Development must not rely solely on the use of two-dimensional colour and materials to create visual interest. Modulation and articulation in the building form must be considered in the design of the building, in plan view and elevation.	Achieved.	
7. Large areas of blank, minimally or poorly articulated walls are not acceptable. Façade treatments such as wall cladding, and green walls should be considered as alternatives to blank walls.	Achieved.	
8. Clear glazing to balustrades must be avoided where they are visible from nearby vantage points. Screening of balconies by way of adjustable or fixed panels should be included where there are issues of privacy, and/or excessive exposure to solar impacts.	Achieved.	
9. Noise mitigation treatments and design considerations for developments adjoining busy roads or rail corridors, that satisfy the requirements for habitable rooms in accordance with Department of Planning, Industry and Environment's 'Development Near Rail Corridors and Busy Roads – Interim Guideline' and	Achieved. See SEPP (Transport and Infrastructure) 2021 for further assessment.	

the requirements of Clause 102 (3) of SEPP (Transport and Infrastructure) 2021 need to be considered

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

articulated walls are not acceptable. Façade treatments such as wall cladding, and green walls should be considered as alternatives to blank walls.		
8. Clear glazing to balustrades must be avoided where they are visible from nearby vantage points. Screening of balconies by way of adjustable or fixed panels should be included where there are issues of privacy, and/or excessive exposure to solar impacts.	Achieved.	
9. Noise mitigation treatments and design considerations for developments adjoining busy roads or rail corridors, that satisfy the requirements for habitable rooms in accordance with Department of Planning, Industry and Environment's 'Development Near Rail Corridors and Busy Roads – Interim Guideline' and the requirements of Clause 102 (3) of SEPP (Transport and Infrastructure) 2021 need to be considered	Achieved. See SEPP (Transport and Infrastructure) 2021 for further assessment.	

6.3.6 Landscaped Treatment and Private Open Space

Control	Proposal	Compliance
Deep soil is to be provided within the setbacks areas as required in Figures 3, 4, 5 and 6 and consistent with Part 3E of the NSW State Government's Apartment Design Guide.	There are minor reductions to the deep soil at the side setback area to accommodate a sprinkler tank to comply with the Building Code. Notwithstanding, the proposed deep soil of 156.8sqm (11.2%) is in excess of the required quantum of 140.1sqm (10%).	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

6.3.7 Communal Open Space

Control	Proposal	Compliance
Communal open space to a minimum area of 25% of the site area and with a	529.8sqm is proposed (37.8%)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

minimum dimension of 5m is to be provided.		<input type="checkbox"/> N/A
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6.3.8 Solar Access

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

6.3.9 Vehicular Access, Parking and Circulation**6.3.11 Adaptable Housing**

Control	Proposal	Compliance
51+ units require 6 adaptable units	6 adaptable units	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<ul style="list-style-type: none"> 2 spaces per 3 beds or more 1 visitor space per 5 units or part thereof and 1 designated car wash bay which may also be a visitor space <p>Requirement: 16 + 4 car spaces</p> <p>Commercial: Requirement: 9 car spaces</p> <p>Approved: 16 spaces for residential units 4 spaces for visitor parking spaces 9 spaces for retail/commercial units Total = 29 spaces.</p>	structural column. The space is able to comply with AS2890.1.	

THE LIKELY IMPACTS OF THE DEVELOPMENT

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

Likely Impacts of the Development	
Natural Environment	The development is located within an established residential and commercial area and is not considered to result in unreasonable impact on the natural environment.
Built Environment	<p>The built form of the proposed development is of a bulk and scale that is appropriate with its setting and consistent with the desired future character of the area.</p> <p>The development is occurring in a locality where adequate infrastructure exists to support the development during construction and ongoing use.</p>
Social Impact	The proposal will have no significant social impact on the locality.
Economic Impact	The proposal is not considered to result in unreasonable economic impact

REFERRALS

Internal Referrals		
Specialist	Comment	Outcome
Development Engineer	No objections raised to the proposal and conditions suggested.	Conditions imposed
Urban Design	No objections raised to the proposal and conditions suggested	Conditions imposed
Environmental Health Officer	No objections raised to the proposal and conditions suggested	No amendment to original conditions.
Traffic Engineering	No objections raised to the proposal and conditions suggested	Conditions imposed
Waste	No objections raised to the proposal and conditions suggested	Conditions imposed
Building Surveyor	No objections raised to the proposal and conditions suggested	Conditions imposed

External Referrals		
Referral Body	Comment	Outcome
Ausgrid	No objections raised to the proposal	Original conditions apply.
Sydney Airport	No objections raised to the proposal	Original conditions apply.
Transport for New South Wales	No objections raised to the proposal	Original conditions apply.

CONTRIBUTIONS

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

PLANNING AGREEMENTS

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

EP&A REGULATION 2000

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

SUITABILITY OF THE SITE FOR THE DEVELOPMENT

38. The site is zoned E1 – Local Centre. The proposal is a permissible form of development in this zone. The proposed changes do not affect the suitability of the site for the development, and do not impact the development potential of the adjoining allotments.

REFERRALS**Council Referrals**

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

CONCLUSION

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

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

43. The modifications to the approved development are minor in nature and approval of the modification is recommended.
44. The changes required to the existing notice of determination are limited to the modified drawings submitted with the modification application (Condition 1) and inclusion of an additional condition ensuring bicycle parking spaces are compliant with the AS2890.3.

DETERMINATION AND STATEMENT OF REASONS**Statement of Reasons**

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

DETERMINATION

46. That Georges River Local Planning Panel support the proposal as it is generally compliant with relevant planning policies, provides a suitable development that responds to the site, and satisfies the zone objectives. Approval of the development is unlikely to result adverse environmental or social impacts on the locality. The design proposed is considered to be acceptable for the site.
47. That pursuant to Section 4.55 of the Environmental Planning and Assessment Act 1979 that the Georges River Local Planning Panel grant consent to Modification Application MOD2023/0005 for modifications to DA2017/0217 in accordance with the conditions of consent originally imposed at Lot 1, 2 and 3 in DP 533797 known as 2-12 Lime Kiln Road, Lugarno and 1041a, 1041b and 1041c Forest Road, Lugarno, subject to updating Condition 1 being the approved plans, the reference to the updated BASIX Certificate (Condition 37), an additional condition regarding bicycle parking – storage facility prior to Occupation Certificate.

GENERAL CONDITIONS**Section A Development Details**

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

Description	Reference No.	Date	Revision	Prepared by
Cover sheet and locality plan	Job No 2017/0121 DA01	March 17	C	PTI Architects Pty Ltd
Sediment and erosion control plan and details	204520 DA2.01 DA2.02	13.11.18 8 Nov 17	C	RGH Consulting Group
Arboricultural Impact Assessment	17-097	6 Nov 17	2	Advanced Treescape Consulting
Project Information 2	01A	21.10.22	E	PTI Architects Pty Ltd
Site Plan & Site Analysis	02	21.10.22	G	PTI Architects Pty Ltd
Basement Floor Plan	10	21.10.22	I	PTI Architects Pty Ltd
Forest Road Lower Ground Floor Plan	11	21.10.22	J	PTI Architects Pty Ltd
Lime Kiln Road ground floor plan	12	21.10.22	J	PTI Architects Pty Ltd
Level 1 Floor Plan	13	21.10.22	H	PTI Architects Pty Ltd
Level 2 Floor Plan	14	21.10.22	I	PTI Architects Pty Ltd
East & North Elevation	15	21.10.22	I	PTI Architects Pty Ltd

West & South Elevation	16	21.10.22	E	PTI Architects Pty Ltd
Section A-A / B-B	17	21.10.22	E	PTI Architects Pty Ltd
FSR Calculation	18	21.10.22	H	PTI Architects Pty Ltd
Communal Open Space Calculation	18A	21.10.22	D	PTI Architects Pty Ltd
Shadow Study	19	20.11.18	D	PTI Architects Pty Ltd
External Finishes and Materials	23	01.08.19	C	PTI Architects Pty Ltd
Pre & Post Adaptable Unit Plans	24	01.08.19	E	PTI Architects Pty Ltd
Demolition Plan	25	01.08.19	D	PTI Architects Pty Ltd
Landscape Plan	2LK/S4.55/LP/01	04.10.2019	L	JCA Urban Designers
Sediment & Erosion Control Plan	DA.2.01	08.10.19	G	RGH Consulting Group
Sediment & Erosion Control Details	DA.2.02	08.10.19	E	RGH Consulting Group
Concept Surface Stormwater Management Plan	DA.3.01	08.10.19	H	RGH Consulting Group
Concept Upper Basement Stormwater Management Plan	DA.3.02	08.10.19	G	RGH Consulting Group
Concept Lower Basement Stormwater Management Plan	DA3.03	08.10.19	G	RGH Consulting Group
Concept Stormwater Management Details	DA.3.04	08.10.19	G	RGH Consulting Group
Demolition and construction waste management plan, Waste management plan		Oct 2018	-	Waste Audit and Consultancy Services

LPP003-24

Hydraulic Services Plan	H102 and H400	11.11.2022	08 and 04	IGS
Stormwater Management Plan	H401 and 402	Oct 22	02	IGS

(This condition is amended as part of MOD2023/0005 (DA2017/0217) and by MOD218/0170 (DA2017/0217))

Section B Separate Approvals Required Under Other Legislation

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

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

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

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

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

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

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

- (a) Construct a metre wide footpath for the full length of the frontage of the site in accordance with Council's Specifications applying at the time construction approval is sought.

- (b) The thickness and design of the driveway shall be in accordance with Council's Specifications applying at the time construction approval is sought.
- (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in accordance with Council's Specifications for kerb and guttering, applying at the time construction approval is sought.
- (d) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant. The work shall be carried out in accordance with Council's specification, applying at the time construction approval is sought.
- (e) Relocation of the existing power pole is to be approved by the relevant authority.

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

- 4. **Road Opening Permit** - A Road Opening Permit must be obtained from Council, in the case of local or regional roads, or from the RMS, in the case of State roads, for every opening of a public road reserve to access services including sewer, stormwater drains, water mains, gas mains, and telecommunications before the commencement of work in the road.
- 5. **Building - Hoarding Application** - Prior to demolition of the buildings on the site or the commencement of work above ground level a separate application for the erection of an A class (fence type) or a B class hoarding or C type scaffold, in accordance with the requirements of Work Cover Authority of NSW, must be erected along that portion of the footway/road reserve, where the building is within 3.0 metres of the street boundary. An application for this work under Section 68 of the Local Government Act 1993 and the Roads Act 1993 must be submitted for approval to Council.

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

- (a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location; and
- (b) Hoarding plan and details that are certified by an appropriately qualified engineer; and
- (c) The payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges (available on our website) before the commencement of work; and
- (d) A Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained a copy provided to Council. The Policy is to note Council as an interested party; and

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

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

- (a) That cable anchors will be stressed released when the building extends above ground level to the satisfaction of Council.
- (b) The applicant has indemnified Council from all public liability claims arising from the proposed works, and provide adequate insurance cover to the satisfaction of council.
- (c) Documentary evidence of such insurance cover to the value of \$20 million.
- (d) The applicant must register a non-terminating bank guarantee in favour of Council. The guarantee will be released when the cables are stress released. In this regard it will be necessary for a certificate to be submitted to Council from a structural engineer at that time verifying that the cables have been stress released.
- (e) That in the event of any works taking place on Council's roadways/footways adjoining the property while the anchors are still stressed, all costs associated with overcoming the difficulties caused by the presence of the 'live' anchors will be borne by the applicant.

Section C Requirements of Concurrence, Integrated & Other Government Authorities

7. Notice of Requirements for a Section 73 Certificate - A Notice of Requirements of what will eventually be required when issuing a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the 'Plumbing, building and developing' section of the web site www.sydneywater.com.au then refer to 'Providers' under 'Developing' or telephone 13 20 92 for assistance.

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

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

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

9. **Trade Waste Agreements** - A Trade Waste Agreement with Sydney Water may be required. Details of any work required to comply with the agreement must be detailed on the plans lodged with the Construction Certificate. If no trade waste agreement or grease trap is required, a letter from Sydney Water to this effect must be submitted with the application for the Construction Certificate.

Section D Prior to the Issue of a Construction Certificate

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

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

Please contact council prior to the payment of S94 Contributions to determine whether the amounts have been indexed from that indicated below in this consent and the form of payment that will be accepted by Council.

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$63,162.00
Inspection Fee for Refund of Damage Deposit	\$150.00
DEVELOPMENT CONTRIBUTIONS	
Hurstville Section 94 Development Contributions Plan 2012 - Residential (Community Facilities)	\$19,652.14
Hurstville Section 94 Development Contributions Plan 2012 - Residential (Open Space, Recreation, Public Domain)	\$138,952.15 \$168,082.11

(This condition is amended as part of MOD218/0170 (DA2017/0217))

General Fees

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

Development Contributions

The Section 94 contribution is imposed to ensure that the development makes adequate provision for the demand it generates for public amenities and public services within the area.

A Section 94A contribution has been levied on the subject development pursuant to the Georges River Council Section 94A Contributions Plan.

Indexation

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

Timing of Payment

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

Further Information

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

11. **Fire Safety Measures** - Prior to the issue of a construction certificate a list of the essential fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a construction certificate, which is required to be submitted to either Council or a PCA. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or PCA will then issue a Fire Safety Schedule for the building.
12. **Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns and other structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works. A copy shall be forwarded to Council where Council is not the PCA.
13. **Access for Persons with a Disability** - Access for persons with disabilities must be provided throughout the site, including to all common rooms, lobby areas, commercial premises and sanitary facilities in accordance with the requirements of the Premises Standards, the Building Code of Australia and AS 1428.1. Details must be submitted with the Construction Certificate Application.

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

14. **Geotechnical report** - Geotechnical Reports: The applicant must submit a Geotechnical Report, prepared by a suitably qualified Geotechnical Engineer who holds the relevant Certificate of accreditation as required under the Building Professionals Act 2005 in relation to dilapidation reports, all site works and construction. This is to be submitted **before the issue of the Construction Certificate** and is to include:
 - (a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks/stabilization works and any excavations.

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

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

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

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

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

The applicant is also advised to seek written advice from FR NSW on the location and construction of the proposed Fire Control Centre Facility and location and installation of the sites Fire Indicator / mimic Panels.

18. **Traffic Management - Compliance with AS2890** - All driveways, access ramps, vehicular crossings and car parking spaces shall be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities) and AS 2890.2 (for commercial vehicle facilities).

19. **Erosion & Sedimentation Control** - Erosion and sediment controls must be provided to ensure:

- (a) Compliance with the approved Erosion & Sediment Control Plan
- (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
- (c) All clean water runoff is diverted around cleared or exposed areas
- (d) Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways
- (e) All erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works
- (f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
- (g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
- (h) Compliance with Managing Urban Stormwater - Soils and Construction (Blue Book) produced by Landcom 2004.

These measures are to be implemented prior to the commencement of work (including demolition and excavation) and must remain until works are completed and all exposed surfaces are landscaped/sealed.

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

- (a) All stormwater shall drain by gravity to Council's kerb and gutter directly in front of the development site in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).

- 21.** All roof water and surface water from paved or concreted areas are to be disposed of in accordance with the Stormwater Plan by means of a sealed pipeline constructed in accordance with AS/NZS 3500.3:2015.

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

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

- (a) Maximum Site Discharge to be provided in accordance with the Stormwater Concept Plan and associated Design Assessment Report. The overflow is to be directed to the site drainage system.

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

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

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

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

Full details shall accompany the application for the Construction Certificate.

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

- (a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development **\$63,162.00**.
- (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. **\$150.00**
- (c) Submit to Council, before the commencement of work, a dilapidation report of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

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

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

24. Structural details - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns and other structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works. A copy shall be forwarded to Council where Council is not the PCA.

25. Site Management Plan - A Site Management Plan must be submitted with the application for a Construction Certificate, and include the following:

- (a) location of protective site fencing;
- (b) location of site storage areas/sheds/equipment;
- (c) location of building materials for construction, e.g. stockpiles

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

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

- 26. Traffic Management - Compliance with AS2890** - All driveways, access ramps, vehicular crossings and car parking spaces shall be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities) and AS 2890.2 (for commercial vehicle facilities).

- 27. Acoustic Requirements - Compliance with submitted Acoustic Report** - The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 (as amended) and Regulations.

An Acoustic Report shall be prepared by a suitably qualified acoustic consultant demonstrating that the operation of the premises and plant equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background LA90, 15 min noise level, measured in the absence of the noise sources under consideration by more than 5dB. The source noise level shall be assessed as an LAeq, 15 min in accordance with the NSW Environment Protection Authority's NSW Industrial Noise Policy.

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

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

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

- 29. Site Investigation Requirements - Detailed Site Investigation** - A detailed site contamination investigation must be carried out by an appropriately qualified contamination consultant in accordance with the requirements of the relevant NSW EPA Guidelines approved under the Contaminated Land Management Act 1997 including the EPA Guidelines for Consultants Reporting on contaminated sites and shall certify the suitability of the site for the proposed development. If investigation finds that contamination makes the land unsuitable for the proposed development and remediation is required, a Remedial Action Plan (RAP) must be submitted to Council prior to Council making a determination. Council reserves the right to require a site audit of the RAP.

Site contamination – Additional information

Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.

Remedial Action Plan (RAP)

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

Remediation Works

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

- The Managing Land Contamination: Planning Guidelines SEPP 55 Remediation of Land; and
- The EPA Guidelines made under the Contaminated Land Management Act 1997.
- And in accordance with the proposed Remedial Action Plan.

Validation Report

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

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

- 30. 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.

- 31. Waste Storage - Residential and Mixed Use Developments** - The plans shall include details of the waste storage area. The waste storage area shall not be visible from the street. The waste storage area shall be located within the lot/building in accordance with the approved plans.

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

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

Residential Waste

The property will require 4 x 240L garbage bins collected twice a week and 7 x 240L recycling bins collected once a week, and 1 x 240L green waste bin. The bins must be taken to the kerbside for collection.

The waste room will contain the following to minimise odours, deter vermin, protect surrounding areas, and make it a user-friendly and safe area:

- waste room floor to be sealed;
- waste room walls and floor surface is flat and even;
- all walls painted with light colour and washable paint;
- equipment electric outlets to be installed 1700mm above floor levels;
- The bin storage rooms will be mechanically exhausted as required by AS 1668.2;
- light switch installed at height of 1.6m;
- waste rooms must be well lit (sensor lighting recommended);
- optional automatic odour and pest control system installed to eliminate all pest types and assist with odour reduction - this process generally takes place at building handover - building management make the decision to install;
- all personnel doors are hinged and self-closing;
- waste collection area must hold all bins - bin movements should be with ease of access;
- conform to the Building Code of Australia, Australian Standards and local laws; and childproofing and public/operator safety shall be assessed and ensured.
- Occupational Health and Safety issues such as slippery floors in waste rooms and the weight of the waste and recycling receptacles will need to be monitored.
- Cleaners will monitor the bin storage area and all spills will be attended to immediately by cleaners.

- 32. Landscape Plans** - All landscape works shall be carried out in accordance with the approved landscape plans referenced in the table above. The landscaping shall be maintained in accordance with the approved plans in perpetuity.

- 33. Tree Removal prohibited** - This consent does not approve the removal or pruning (branches or roots) of any trees on the subject property, Council's public footway, public reserves or on neighbouring properties.

- 34. Compliance with submitted Arborist Report** - The recommendations outlined in the Arborist's Report titled Arboricultural Impact Assessment prepared by Advanced Treescape Consulting (dated 6 November 2017, reference 17-097, rev 2), must be implemented throughout the relevant stages of construction. Details of tree protection measures to be implemented must be detailed and lodged with the Construction Certificate application for approval and shall be in accordance with Section 4 - *Australian Standard AS 4970-2009: Protection of trees on development sites*.

The tree/s to be protected are listed in the table below.

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres)
T1 - <i>Eucalyptus botryoides</i> (Bangalay)	Within Lawrence Park	9m
T2 – <i>Glochidion ferdinandi</i> (Cheese Tree)	Within Lawrence Park	2.4m

- 35. Tree Protection and Retention** - The following trees shall be retained and protected:

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres)
T1 - <i>Eucalyptus botryoides</i> (Bangalay)	Within Lawrence Park	9m
T2 – <i>Glochidion ferdinandi</i> (Cheese Tree)	Within Lawrence Park	2.4m

Details of the trees to be retained must be included on the Construction Certificate plans.

General Tree Protection Measures

- All trees to be retained shall be protected and maintained during demolition, excavation and construction of the site.
- The tree protection measures must be undertaken in accordance *AS4970 -2009 Protection of trees on development sites*.
- Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a suitably qualified Arborist (AQF Level 5 or above in Arboriculture).
- The Arborist must be present on-site during the stages of construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone to implement the tree protection measures as required.
- Unless otherwise specified in AS 4970-2009, a protective fence consisting of 1.8 metres high, fully supported chainmesh fence shall be erected around the base of the tree. The distance of the fence from the base of each tree is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill should be placed within the protection area.
- No services shall be installed within the TPZ of the tree unless approved by Council. This fence shall be kept in place during demolition, construction and also have a sign displaying 'Tree Protection Zone' attached to the fence and must also include the name and contact details of the Project Arborist.

Excavation works near tree to be retained

- (g) Excavations around the trees to be retained on site or the adjoining properties shall be supervised by the Project Arborist to ensure that the root system will not adversely be affected.
- (h) Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the Project arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.
- (i) Tree Protection Zone around the trees to be retained are not to have soil level changes or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.

Details satisfying this condition shall be shown on the Construction Certificate plans.

36. Tree Removal & Replacement

Tree removal

Permission is granted for the removal of the following trees:

Tree species	Number of trees	Location
T3 – <i>Lagerstroemia indica</i> (Crepe Myrtle) T4 – <i>G. ferdinandi</i> (Cheese Tree) T5 – <i>Pittosporum undulatum</i> (Native Daphne) T6 – <i>Cupressus macrocarpa</i> 'Brunniana Aurea' (Brunnings Golden Cypress)	1 of each	Located within the site

General Tree Removal Requirements

- (a) All tree removal shall be carried out by a certified Tree Surgeon/Arborist to ensure that removal is undertaken in a safe manner and complies with the AS 4373-2007 - Pruning of Amenity Trees and Tree Works Industry Code of Practice (Work Cover NSW 1.8.98).
- (b) No trees are to be removed on the site or neighbouring properties without the prior written approval of Council.
- (c) Council shall be appointed to remove all tree/s on public land. All costs associated with the removal of the tree/s and the planting of replacement trees shall be met by the applicant. Fees and charges outlined in the table below are subject to change and are set out in the current version of Council's 'Schedule of Fees and Charges', applicable at the time of payment.

Fee Type – Tree removal on public land	Amount
Administration Fee for Tree Removal	TBA
Replacement Tree Fee (per Tree)	TBA
Cost of tree removal	TBA
Cost of Stump Grinding	TBA

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

37. **BASIX Commitments – All energy efficiency measures as detailed in the BASIX Certificate must be implemented on the plans lodged with the application for the construction certificate.**

(This condition is amended as part of MOD2023/0005 (DA2017/0217))

37. **Consolidation of Site** - The site shall be consolidated into one allotment and by a Plan of Consolidation being prepared by a Registered Surveyor. This Plan shall be registered at the NSW Land and Property Information prior to the issue of a final occupation certificate.
38. **Car Wash Bays** - Plans and specifications of the car washing system which has been approved by Sydney Water must be submitted with the application for the Construction Certificate.

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

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

39. **SEPP 65 Design Verification Statement** - A design verification statement, prepared by Peter Israel, shall be submitted to the Certifying Authority verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out under Schedule 1 of State Environmental Planning Policy No 65 -Design Quality of Residential Flat Development.

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

(a) In order to ensure the design quality excellence of the development is retained:

- i. The design architect, Peter Israel is to have direct involvement in the design documentation, contract documentation and construct stages of the project;
- ii. The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of the design issues throughout the life of the project;
- iii. Evidence of the design architect's commission is to be provided to the Council prior to release of the Construction Certificate.

(b) The design architect of the project is not to be changed without prior notice and approval of the Council.

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

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

- 42. Pre-Construction Dilapidation Report - Private Land** - A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises including but not limited to:

(a) All neighbouring buildings with a common boundary to the subject site

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

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

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

- 43. Mechanical Ventilation** - To ensure that adequate provision is made for ventilation of the commercial portions of the building mechanical and/or natural ventilation systems adequate for commercial kitchen for restaurants/café cooking facilities are required to be shall be designed, constructed and installed centrally within the building (not externally) in accordance with the provisions of the Building Code of Australia and Australian Standard 1668.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

- 44. Noise from Buildings Containing Housing Above Shops or Adjacent to Housing** - A certificate from an Acoustic Engineer is to be submitted with the Construction Certificate certifying that the development and all sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level during the day and evening and not exceeding the background level at night (10.00pm to 6.00am) when measured at the boundary of the property, and will comply with the Environmental Protection Authority Industrial Noise Policy.

The development is not to give rise to an offensive noise as defined under the Protection of the Environment Operations Act 1997.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

- 45. Relocation of Stormwater Onsite Detention System** - ~~To provide opportunity for additional deep soil landscaping, The Onsite Detention System is to be relocated from adjacent to the western the side boundary setback to under the driveway of the approved development in accordance with DA.3.01, prepared by RGH Consulting Group~~ **Revision No. H, dated 08.10.19.** The amended OSD system is to be fully compliant with Council's Technical Specification and the Australian Standards.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

- a. **The RHS galvanised pipe must have a minimum of 50mm of cover along its length through the road reserve and at least one pipe of 100 x 200mm RHS galvanised between the boundary and the street kerb, in order to avoid blockage to the system. A detailed section of the connection through the road reserve is to be prepared and shown on the final drainage plan;**
- b. **Prior to the commencement of works, the PCA shall ensure that a registered surveyor is engaged to verify the approved design surface and invert levels of the proposed OSD stormwater system in order to drain the site by gravity to the street.**

(This condition is amended as part of MOD2018/0170 (DA2017/0217))

46. **Additional Security Screen** - A security screen no greater than 1.8m above finished floor level is to be provided to the outer most projection of the balcony located on Level 2 off Unit 9202 between the balustrade and the front building elevation in order to prevent unauthorised access from the adjoining property.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

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

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

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

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

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

48. **Dial before your dig** - The applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Council's Engineers for their records.

- 49. Registered Surveyors Report - During Development Work** - A report must be submitted to the PCA at each of the following applicable stages of construction:
- (a) Set out before commencing excavation.
 - (b) Floor slabs or foundation wall, before formwork or commencing brickwork.
 - (c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
 - (d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.
 - (e) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
 - (f) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

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

- 50. Utility Arrangements** - Arrangements are to be made with utility authorities in respect to the services supplied by those authorities to the development. The cost associated with the provision or adjustment of services within the road and footway areas is to be at the applicant's expense.
- 51. Demolition Notification Requirements** - The following notification requirements apply to this consent:
- (a) The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.
 - (b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.
 - (c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste

facility.

- 52. Demolition work involving asbestos removal** - Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the Work Health and Safety Regulation 2011.
- 53. Structural Engineers Details - Supporting Council road/footway** - Prior to the commencement of work in connection with the excavation of the site associated with the basement car park, structural engineer's details relating to the method of supporting the excavation must be submitted.
- 54. Dilapidation Report on Public Land - Major Development Only** - Prior to the commencement of works (including demolition and excavation), a dilapidation report must be prepared for the Council infrastructure adjoining the development site, including:

The report must include the following:

- (a) Photographs showing the existing condition of the road pavement fronting the site,
- (b) Photographs showing the existing condition of the kerb and gutter fronting the site,
- (c) Photographs showing the existing condition of the footpath pavement fronting the site,
- (d) Photographs showing the existing condition of any retaining walls within the footway or road, and
- (e) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- (f) The full name and signature of the structural engineer.
- (g) The Dilapidation Report must be prepared by a qualified structural engineer. The report must be provided to the PCA and a copy provided to the Council.

The Dilapidation Report must be prepared by a professional engineer. The report must be provided to the PCA and a copy provided to the Council.

The report is to be supplied in electronic format in Word or PDF. Photographs are to be in colour, digital and date stamped.

Note: Council will use this report to determine whether to refund the damage deposit after the completion of works.

Section F During Construction

55. **Site sign - Soil & Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.
56. **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.
57. **Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the Roads Act 1993 and/or under Section 68 of the Local Government Act 1993. Penalty infringement Notices may be issued for any offences and severe penalties apply.
58. **Hours of construction for demolition and building work** - Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Saturday inclusive. No work or ancillary activity is permitted on Sundays, or Public Holidays.

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

59. **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.

60. **Excavation works near tree to be retained** - Excavation around the tree/s to be retained on site or the adjoining properties shall be supervised by the Project Arborist to ensure that the root system will not be adversely affected.

Where the Tree Protection Zone of trees on site or adjoining sites become compromised by any excavation works, the Project Arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.

61. **Ground levels and retaining walls** - The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved by Council.

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

Section G Prior to the issue of the Occupation Certificate

- 64. Restriction to User and Positive Covenant for On-Site Detention Facility** - A Restriction on Use of the Land and Positive Covenant shall be created and registered on the title of the property, which places the responsibility for the maintenance of the on-site stormwater management system on the owners of the land. The terms of the instrument are to be in accordance with Council's standard terms and restrictions which are as follows;

Restrictions on Use of Land

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

Name of Authority having the power to release, vary or modify the Restriction referred to is Georges River Council.

Positive Covenants

1. *The registered proprietor of the lot(s) hereby burdened will in respect of the system:*
 - a) *keep the system clean and free from silt, rubbish and debris*
 - b) *maintain and repair at the sole expense of the registered proprietors the whole of the system so that it functions in a safe and efficient manner*
 - c) *permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land for the compliance with the requirements of this covenant*
 - d) *comply with the terms of any written notice issued by the Council in respect of the requirements of this covenant within the time stated in the notice.*
2. *Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council shall have the following additional powers:*

- a) *in the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above the Council or its authorised agents may enter the land with all necessary materials and equipment and carry out any work which the Council in its discretion considers reasonable to comply with the said notice referred to in part 1(d) above*
- b) *the Council may recover from the registered proprietor in a Court of competent jurisdiction:*
 - i. *any expense reasonably incurred by it in exercising its powers under subparagraph (i) hereof. Such expense shall include reasonable wages for the Council's employees engaged in effecting the work referred to in (i) above, supervising and administering the said work together with costs, reasonably estimated by the Council, for the use of materials, machinery, tools and equipment in conjunction with the said work.*
 - ii. *legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to section 88F of the Act or providing any certificate required pursuant to section 88G of the Act or obtaining any injunction pursuant to section 88H of the Act. Name of Authority having the power to release vary or modify the Positive Covenant referred to is Georges River Council.*

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

66. Works as Executed and Certification of Stormwater works - Prior to the issue of an Occupation Certificate, the PCA must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards. A works-as-executed drainage plan and certification must be forwarded to the PCA and Council, from a professional engineer specialising in hydraulic engineering.

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

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

- (a) The location of any detention basin/s with finished surface levels;
- (b) Finished site contours at 0.2 metre intervals (if applicable)
- (c) Volume of storage available in any detention areas;
- (d) The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes;

- (e) The orifice size/s (if applicable);
- (f) Details of any infiltration/absorption systems; and (if applicable);
- (g) Details of any pumping systems installed (including wet well volumes) (if applicable).

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

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

A private contractor shall carry out the above work, at the expense of the applicant and in accordance with Council's Specification for Vehicular Crossings and Associated Works.

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

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

- (a) Compliance with conditions of development consent relating to stormwater;
- (b) The structural adequacy of the On-Site Detention system (OSD);
- (c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations;
- (d) Pipe invert levels and surface levels to Australian Height Datum;
- (e) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

Council's Engineering Services section must advise in writing that they are satisfied with the Works-As-Executed prior to the issue of an Occupation Certificate.

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

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

- (a) Photographs showing the condition of the road pavement fronting the site
- (b) Photographs showing the condition of the kerb and gutter fronting the site
- (c) Photographs showing the condition of the footway including footpath pavement fronting the site
- (d) Photographs showing the condition of retaining walls within the footway or road
- (e) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- (f) The full name and signature of the professional engineer.

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

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

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

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

The report is to be prepared at the expense of the applicant and submitted to the PCA prior to the issue of the Occupation Certificate. In ascertaining whether adverse structural damage has occurred to the adjoining premises, the PCA, must compare the post-construction dilapidation report with the pre-construction dilapidation report required by conditions in this consent.

Evidence confirming that a copy of the post-construction dilapidation report was delivered to the adjoining properties subject of the dilapidation report must be provided to the PCA prior to the issue of any Occupation Certificate.

- 71. Allocation of street addresses** - Prior to issue of an Occupation Certificate, All house numbering are to be allocated in accordance with AS/NZS 4819:2011 Rural and Urban Addressing & the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements. Council must be contacted in relation to all specific requirements for street numbering.

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

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

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

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

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

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

76. BASIX Compliance Certificate - A Compliance Certificate must be provided to the PCA regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any Occupation Certificate is issued.

77. Electricity Supply - Evidence shall be provided demonstrating that the development has been connected to the Ausgrid, if required.

78. Completion of Landscape Works - All landscape works must be completed before the issue of the Final Occupation Certificate.

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

- (a) Residential dwellings: 16 car spaces (1 car space/1 or 2 bedroom unit, 2 car spaces per 3 or more bedroom unit)
- (b) Accessible car spaces: 1 accessible car space per adaptable dwelling
- (c) Residential visitors: 4 car spaces which shall remain as common property.
- (d) Carwash bay: 1 car wash bay (which can be within a visitor's space)
- (e) Retail: 9 car spaces
- (f) 1 loading/unloading area
- (g) Bicycle spaces: 14 spaces

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

81. SEPP 65 Design Verification Statement - The PCA must not issue an Occupation Certificate to authorise a person to commence occupation of the residential flat development unless the PCA has received a design verification from Peter Israel, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No 65 Design Quality of Residential Flat Development.

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

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

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

83. Certification - Air handling systems (including water-cooling system, hot-water systems and warm-water systems) - Certification by a suitably qualified person engineer '2012 must be submitted to the PCA prior to the issue of any occupation certificate verifying that the air handling system has been installed in accordance with:

- (a) Public Health Act 2010 (as amended)
- (b) Public Health Regulation 2012 (as amended)
- (c) AS/NZS 3666.1:2011 Air-handling and water systems of buildings -Microbial control -Design, installation and commissioning

Section H Operational Conditions (Ongoing)

84. Activities and storage of goods outside buildings - There shall be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.

- 84A. Bicycle parking- storage facility – facilities proposed for the storage/standing of bicycles in the “bike room” shown on the “Basement Floor Plan” shall comply with the requirements of AS 2890.3: 2015 Parking Facilities Part 3 -bicycle parking.**

Details of the facilities shall be submitted to the Principal Certifying Authority for approval and the facility installed prior to the issue of the Occupation Certificate.

(This condition is amended as part of MOD2023/0005 (DA2017/0217))

- 85. 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).

- 86. Operation of Air Handling Systems** - The occupier must operate air handling systems in compliance with Part 2 of the Public Health Regulation 2012 (as amended).

Where there is any change in the air handling system the occupier must register the changes in the regulated systems with Council.

Water cooling systems must be certified annually by a competent person as being an effective process of disinfection under the range of operating conditions that could ordinarily be expected.

- 87. Outdoor Lighting** - To avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads, outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting.

- 88. Final Acoustic Report – Verification of Noise report** - Within three months from the issue of an Occupation Certificate, an acoustic assessment is to be carried out by an appropriately qualified acoustic consultant, in accordance with the [EPA's Industrial Noise Policy](#) and submitted to Council for consideration. This report should include but not be limited to, details verifying that the noise control measures as recommended in the acoustic report submitted by Vipac Engineers and Scientists Ltd, titled “Development Application Acoustic Assessment report No. 20E-17-0115-TRP-458521-2 dated 19 September 2017”, are effective in attenuating noise to an acceptable noise level and that the use is not likely to give rise to ‘offensive noise’ as defined under the provision of the [Protection of the Environment Operation Act 1997](#) (as amended).

- 89. Lighting – General Nuisance** - Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill or glare. Flashing, moving or intermittent lights or signs are prohibited.

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

- 91. Maintenance of Landscaping** - All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas. The maintenance schedule shown on the approved landscape plan is to be undertaken in accordance with the details of that schedule. On the completion of the 12 month maintenance period, the landscape works shall be inspected and at the satisfaction of the landscape architect (PDS Paterson Design Studio), the responsibility will be signed over to the client.
- 92. Annual Fire Safety Statement** - The owner of the building premises must ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given:
- (a) Within 12 months after the date on which the fire safety certificate was received.
 - (b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
 - (c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the Environmental Planning and Assessment Regulation 2000.
 - (d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.
- 93A. Provisions of accessible sanitary facilities** - If the commercial units are used for cafes/restaurants in the future, the provision of accessible sanitary facilities will be required if more than 20 patrons are to be accommodated in a single commercial unit.

(This condition is added as part of MOD2018/0170 (DA2017/0217))

Section I Operational Requirements Under the Environmental Planning & Assessment Act 1979

- 93. Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited certifier.

An application form for a **Construction Certificate** is attached for your convenience.

- 94. Appointment of a Principal Certifying Authority** - The erection of a building must not commence until the beneficiary of the development consent has:

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

If the work is not going to be undertaken by an Owner-Builder, then the beneficiary of the consent must:

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

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

95. Notification of Critical Stage Inspections - No later than two (2) days before the building work commences, the PCA must notify:

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

96. Notice of Commencement - The beneficiary of the development consent must give at least two (2) days notice to the Council and the PCA of their intention to commence the erection of a building.

A **Notice of Commencement Form** is attached for your convenience.

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

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

Where Georges River Council has been appointed PCA, forty eight (48) hours notice in writing, or alternatively twenty four (24) hours notice by facsimile or telephone, must be given to when specified work requiring inspection has been completed.

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

Only the Principal Certifying Authority appointed for the building work can issue the Occupation Certificate.

An **Occupation Certificate** Application Form is attached for your convenience.

Section J Prescribed Conditions

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

- 101. Clause 98 – Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.
- 102. Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifying Authority and the Principal Contractor.
- 103. Clause 98B – Home Building Act 1989** - If the development involves residential building work under the Home Building Act 1989, no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the Home Building Act 1989.
- 104. Clause 98E – Protection & support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

END CONDITIONS

NOTES/ADVICES

- 105. Review of Determination** - Section 82A 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.

- 106. Appeal Rights** - Division 8 (Appeals and Related matters) Part 4 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.
- 107. Lapsing of Consent** - This consent operates from the date the original consent was determined, ie 21 June 2018, except as qualified by Section 4.50 of the Act.

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 95 of the Environmental Planning and Assessment Act 1979 as amended.

- 108. Noise - Noise related conditions** - Council will generally enforce noise related conditions in accordance with the Noise Guide for Local Government (<http://www.environment.nsw.gov.au/noise/nqlg.htm>) and the Industrial Noise Guidelines (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the Protection of the Environment Operations Act 1997.

Useful links relating to Noise:

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

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

- 110. Energy Efficiency Provisions** - Should Council be appointed as the Principal Certifying Authority, a report prepared and endorsed by an Energy Efficiency Engineer or other suitably qualified person must be submitted, detailing the measures that must be implemented in the building to comply with Section J of the BCA. The proposed measures and feature of the building that facilitate the efficient use of energy must be identified and detailed on the architectural plans. At completion of the building and before the issue of an Occupation Certificate, a certificate certifying that the building has been erected to comply with the energy efficiency provisions must be submitted to the Principal Certifying Authority.

- 111. Compliance with Access, Mobility and AS4299** - Adaptable Housing - Should the Council be appointment as the PCA, the Construction Certificate Application must be accompanied by detailed working plans and a report or a Certificate of Compliance from an Accredited Access Consultant certifying that the building design and access to the adaptable units complies with Council's DCP and AS 4299 Adaptable Housing.

112. Council as PCA - Total Conformity with BCA - Should the Council be appointed as the Principal Certifying Authority, the Construction Certificate Application must be accompanied by the following details, with plans prepared and certified by an appropriately qualified person demonstrating compliance with the BCA:

- Mechanical ventilation to bathroom, laundry and basement areas not afforded natural ventilation.
- Provision of natural light to all habitable areas.
- Fire-fighting services and equipment including hydrant and booster assembly systems, sprinkler and valve room systems, hose reels, portable fire extinguishers, smoke hazard management systems and sound & warning systems.
- Emergency lighting and exit signs throughout, including terrace areas, lobby and basement areas.
- Construction of all fire (smoke) doors including warning and operational signage to required exit and exit door areas.
- Egress, travel distance and the discharge from an exit including the swing of exit doors.
- The protection of openings including spandrel separation.
- Fire compartmentation and fire wall separation details including all stairway, lift and service shaft areas.
- Protection of openings including paths of travel from fire isolated exists
- Re-entry facilities from fire isolated exit stairways.
- Sound transmission and insulation details.
- Window schedule is to include the protection of openable windows.
- The location of sanitary facilities for employees in accordance with Table F2.1

In this regard, detailed construction plans and specifications that demonstrate compliance with the above requirements of the BCA must be submitted to the Principal Certifying Authority with the Construction Certificate Application. Should there be any non-compliance, an alternative method of fire protection and structural capacity must be submitted, with all supporting documents prepared by a suitably qualified person.

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

113. 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).

- 114. 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.

- 115. Sydney Water Section 73 Certificates** - The Section 73 Certificate must be a separate certificate that relates specifically to this development consent. For example, if the development consent relates to the subdivision of the land, a Section 73 Certificate for the construction of the building that is subject to a different development consent will not suffice.
- 116. Electricity Supply** - This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services) for further details and information on lodging your application to connect to the network.

- 117. Development Engineering** - Conditions relating to future Strata Subdivision of Buildings

No approval is expressed or implied for the subdivision of the subject building(s). For any future Strata subdivision, a separate Complying Development Certificate shall be approved by Council or an Accredited Certifier.

Prior to the issue of any Strata Certificate of the subject building(s) the following conditions shall be satisfied:

(a) Unit Numbering

Apartment type numbers shall be installed adjacent or to the front door of each unit.

The unit number shall coincide with the strata plan lot numbering.

(b) Car Parking Space Marking and Numbering

Each car space shall be line marked with paint and numbered in accordance with the strata plan lot numbering.

"Visitor Parking" signs shall be installed adjacent to any and all visitor car spaces prior to the issue of any Strata Certificate.

(c) Designation of Visitor Car Spaces on any Strata Plan

Any Visitor car spaces shall be designated on the final strata plan as "Visitor Parking - Common Property".

(d) Allocation of Car Parking Spaces, Storage Areas and Common Property on any Strata Plan

- i. All car parking spaces shall be created as a part lot of the individual strata's unit lot in any Strata Plan of the subject building.
- ii. All storage areas shall be created as a part lot of the individual strata's unit lot or a separate Utility Lot (if practical) in any Strata Plan of the subject building.
- iii. The minimum number of parking spaces required to be allocated as a part lot to each individual strata's unit lot shall be in accordance with the car parking requirements of Council's Development Control Plan and as required by the relative development consent for the building construction.
- iv. No parking spaces shall be created as an individual strata allotment on any Strata Plan of the subject building unless these spaces are surplus to the minimum number of parking spaces required.

If preferred the surplus car spaces shall be permitted to be created as separate Utility Lots, (instead as a part lot of the individual strata's unit lot), in accordance with section 39 of the Strata schemes (freehold development Act 1973).

The above requirements regarding car parking spaces and storage areas may only be varied with the conditions of a separate Development Application Approval for Strata Subdivision of the Building(s).

(e) On Site Detention Requirements

The location any on-site detention facility shall be shown on the strata plan and suitably denoted.

(f) Creation of Positive Covenant

A Positive Covenant shall be created over any on-site detention facility by an Instrument pursuant to Section 88B of the Conveyancing Act 1919, with the covenant including the following wording:

"It is the responsibility of the Owner's Corporation to keep the on-site detention facilities, together with any ancillary pumps, pipes, pits etc, clean at all times and maintained in an efficient working condition. The on-site detention facilities shall not be modified in any way without the prior approval of Georges River Council."

Georges River Council is to be nominated as the Authority to release, vary or modify this Covenant.

118. 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.

119. 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:

- (a) Complete the Driveway Crossing on Council Road Reserve Application Form which can be downloaded from Georges River Council's Website at www.georgesriver.nsw.gov.au.
- (b) In the Application Form, quote the Development Consent No. (eg. DA2017/0491) 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 Vehicular 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 by a private contractor in accordance with Council's specifications prior to the issue of an Occupation Certificate.

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

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

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

ATTACHMENTS

Attachment 1 Plans - 2-12 Lime Kiln Road Lugarno



DRAWING LIST

00	COVER SHEET
01	PROJECT INFORMATION
01A	PROJECT INFORMATION 2
02	SITE PLAN & SITE ANALYSIS
03	SITE STREET PHOTOS 1
04	SITE STREET PHOTOS 2
05	PHOTO LOCATION AND RL'S - VIEW ANALYSIS
06	VIEW ANALYSIS 1
06A	VIEW ANALYSIS 1A
07	VIEW ANALYSIS 2
07A	VIEW ANALYSIS 2A
08	VIEW ANALYSIS 3
08A	VIEW ANALYSIS 3A
9	LIME KILN ROAD PHOTOMONTAGE
9A	FOREST RD PHOTOMONTAGE
9B	CORNER OF LIME KILN ROAD AND FOREST ...
10	BASEMENT FLOOR PLAN
11	FOREST ROAD LOWER GROUND FLOOR PLAN
12	LIME KILN ROAD GROUND FLOOR PLAN
13	LEVEL 1 FLOOR PLAN
14	LEVEL 2 FLOOR PLAN
15	EAST + NORTH ELEVATION
16	WEST + SOUTH ELEVATION
17	SECTION A-A / B-B
18	FSR CALCULATION
18A	COMMUNAL OPEN SPACE CALCULATION
19	SHADOW STUDY
20	SHADOW STUDY 1
21	SHADOW STUDY 2
22	PERSPECTIVE WITH 9M HEIGHT PLANE
23	EXTERNAL FINISHES AND MATERIALS
24	UNIT G01 & UNIT 102 PRE & POST ADAPTABL
25	DEMOLITION PLAN
26	BASIX COMMITMENTS 1
27	BASIX COMMITMENTS 2



REVISIONS TO APPROVED
RETAIL + RESIDENTIAL
DEVELOPMENT

2 - 12 LIME KILN RD, 1041a + 1041c
FOREST RD
LUGARNO

OCTOBER 2020
PREPARED FOR
IAN MCKENZIE



A3 BOTTOM



Unit 20/21, Level 2, 188 Rye Street, Sydney NSW 1500
Phone: 02 9550 1234
Email: info@ptarchitecture.com.au
Website: www.ptarchitecture.com.au



SITE LOCATION



Main Office Level 2, 56 Sophie Street, Surry Hills NSW 2010
Perennia Office Levels A, 3 Perennia Square, 53 Macquarie St, NSW 2550
61 2 9283 0880 | www.planchitecture.com.au
Nominated Registered Architects: Peter Israel (reg no 50564)
NSW 90 350 07 022

REV	DESCRIPTION	#	DATE	CLIENT	PROJECT SITE	PROJECT DATE	DRAWN BY	DD
A	DEVELOPER'S APPLICATION	MS	10/27/17	IAN MCKENZIE	2-1/2 LIME KILN ROAD, 1041A + 1041C FOREST ROAD, LUGARNO, 22110			
B	AMENDMENTS AS PER COMMISSIONER'S REVIEW	MS	01/07/17					
C	SECTION 4.65 APPLICATION	MS	01/11/18					
D	AMENDMENTS TO SECTION 4.65 APPLICATION	MS	01/11/18					
E	AMENDMENTS TO SECTION 4.65 APPLICATION	MS	01/10/22					



PROJECT INFORMATION

SEC. 4.55 01

SCALE: 1"=50' @ A3

PROJECTING: P392

DATE: 10/27/17

BY: [Signature]

PROJECT: [Signature]

2 - 12 LIME KILN ROAD,
1041A + 1041C FOREST ROAD,
LUGARGO, 2210

GEORGES RIVER COUNCIL

ZONING = B1 NEIGHBOURHOOD CENTRE
HEIGHT = 9M (12M FUTURE LEP)
FSR = 1.5:1

SITE AREA= 1,401.2M2

MAX FSR = 2,101.8M2

PROPOSED FSR = 1,880.2 m2 (FSR = 1.34:1)

APARTMENT SCHEDULE				
	1 BED	2 BED	3 BED	TOTAL
GROUND FLOOR - LIME KILN ROAD		5		5
LEVEL 1	1	5	1	7
LEVEL 2		1	1	2
TOTAL NUMBER OF UNITS	1	11	2	14
ADAPTABLE UNITS	1	1	1	2

CAR PARKING CALCULATIONS			
TYPE	NO OF APARTMENTS	CAR PARKING RATES	CAR PARK SPACES
1 BEDROOM APARTMENTS	1	1 SPACE PER APARTMENT	
2 BEDROOM APARTMENTS	11	1 SPACE PER APARTMENT	11
3 BEDROOM APARTMENTS	2	2 SPACES PER APARTMENT	4
TOTAL NO OF SPACES			TOTAL = 16
VISITORS		1 SPACE PER 100 SQ. FT. OF FLOOR AREA	4
RETAIL		1 SPACE PER 100 SQ. FT. OF FLOOR AREA	9
TOTAL			29
REQUIRED CAR PARK SPACES			29
TOTAL REQUIRED CAR PARK SPACES			29


(SEE TABLE 2009 - VEHICLE SPACING)

SEPP 65			
SUN STUDY + VENTILATION SCHEDULE			
UNIT NO.	SUN STUDY	CROSS VENTILATION	
14	11 UNITS = 78.6%	11 UNITS = 78.6%	
LANDSCAPING CALCULATIONS			
COUNCIL REQUIREMENTS			
LANDSCAPING (SITE 1, 401 2M2 X 20%),			280.24 m2
DEEP SOIL LANDSCAPING (SITE 1, 401 2M2 X 10%),			140.1 m2
COMMUNAL OPEN SPACE (SITE 1, 401 2M2 X 25%),			350.3 m2
PROPOSED			
SOFT LANDSCAPING + DEEP SOIL - 37.0%			329.9m2
DEEP SOIL LANDSCAPING - 11.2%			156.8 m2
COMMUNAL OPEN SPACE - 27.0%			378.9 m2

CAR PARKING CALCULATIONS			
TYPE	No OF APARTMENTS	CAR PARKING RATES	CAR PARK SPACES
1 BEDROOM APARTMENTS	1	1 (PROPOSED TO BE PROVIDED)	1
2 BEDROOM APARTMENTS	11	1 (PROPOSED TO BE PROVIDED)	11
3 BEDROOM APARTMENTS	2	1 (PROPOSED TO BE PROVIDED)	4
TOTAL NO. OF APART.			TOTAL = 16
VISIONS		1 (PROPOSED TO BE PROVIDED)	4
RETAIL		1 (PROPOSED TO BE PROVIDED)	9
		TOTAL	29
REQUIRED CAR PARK SPACES			29
PROPOSED CAR PARK SPACES			29

17 OCT 2019 APPROVED (MOD2018/01170) SITE INFORMATION

PROPOSED - SITE INFORMATION


 DRAWING: DID
 CHECKED BY: PJ
 SCALE: 1:100 @ A3
 PROJECT NO: P392
 SEC. 4.55 01A E
 FOODS OWNED BY: random

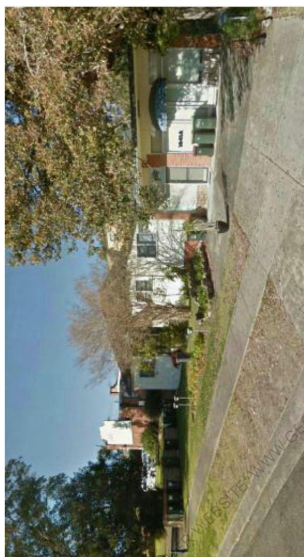
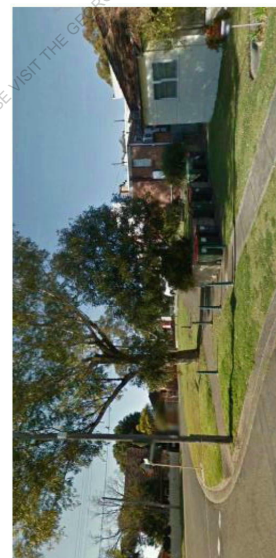
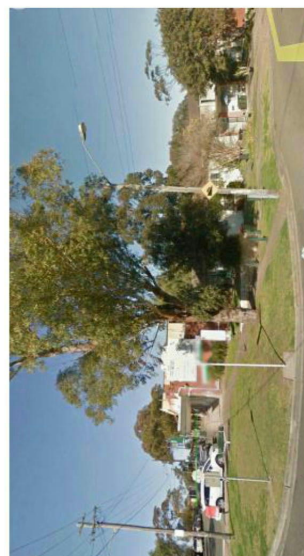
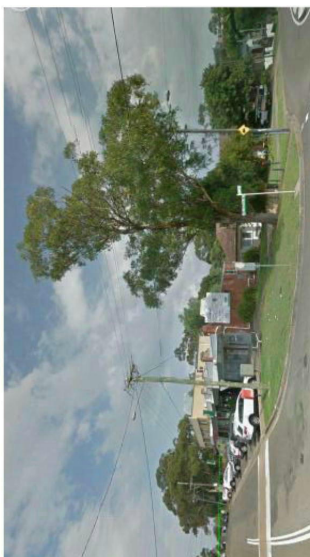
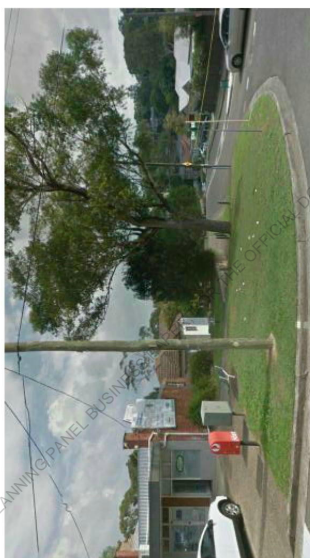
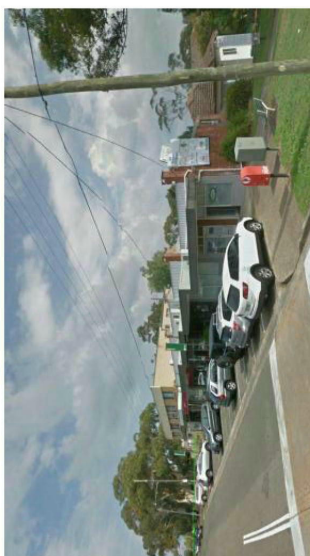
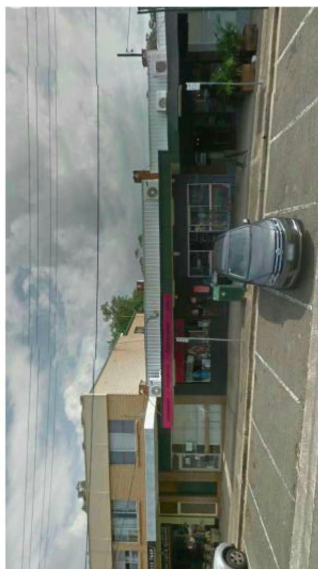
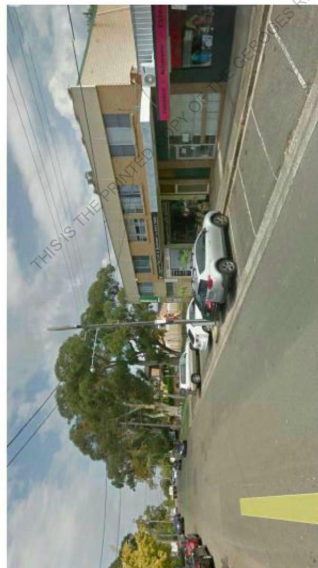
PROJECT TITLE:
2 - 12 LIME KILN ROAD, 1041A + 1041C
FOREST ROAD, LUGARNO, 2210
DRAWING TITLE:
PROJECT INFORMATION 2

AN MCKENZIE

NO	DESCRIPTION
	SECTION 4.55 APPLICATION
	AMENDMENTS TO SECTION 4.50 APPLICATION
	AMENDMENTS TO SECTION 4.55 APPLICATION
	AMENDMENTS TO SECTION 4.55 APPLICATION
	AMENDMENTS TO SECTION 4.55 APPLICATION

Main Office Level 2, 58 Scotch Street, Surry Hills NSW 2010
Perimeter Office Level 14, 3 Perimeter Square, 33 Macquarie St, NSW 2160
• 61 2 8283 0880 | www.perimeter.com.au
Nominated Registered Architect: Peter Israel (reg no S296)
AN on 260 071 202






SITE STREET PHOTOS - (GOOGLE STREET VIEW)

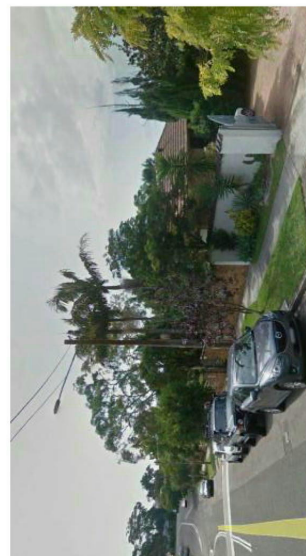
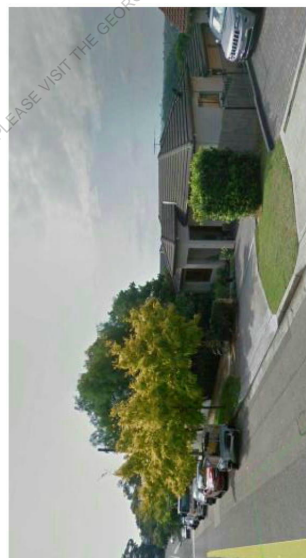
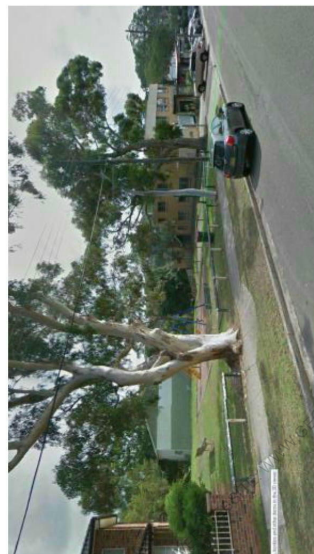
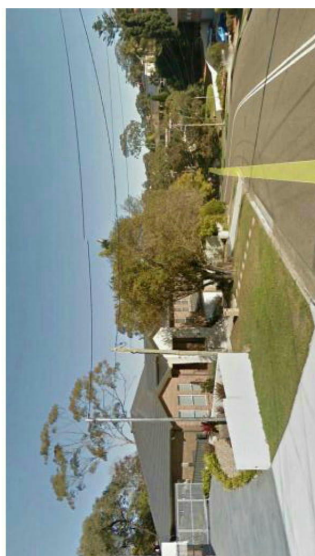
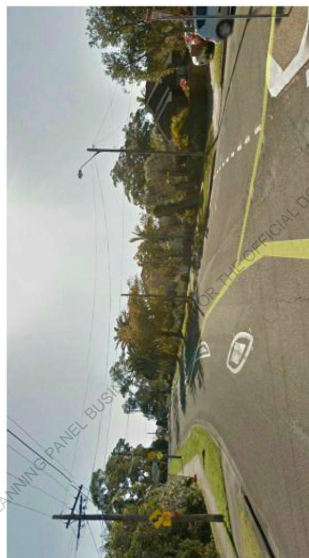
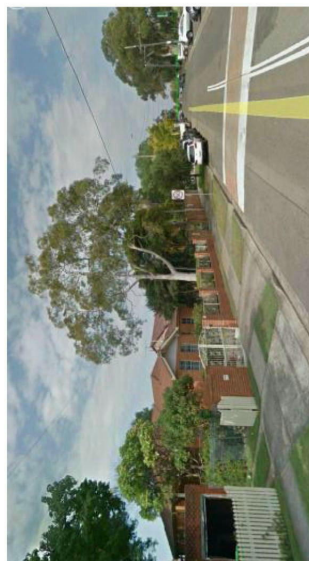
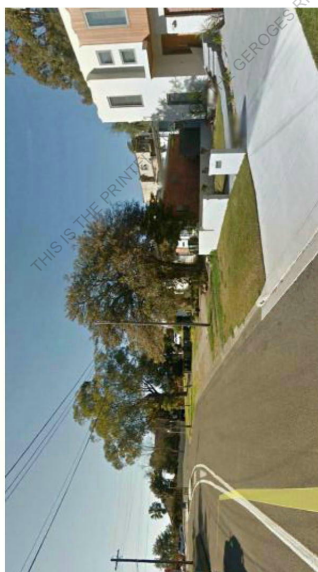
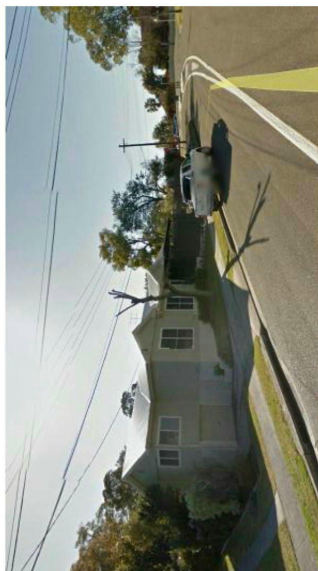
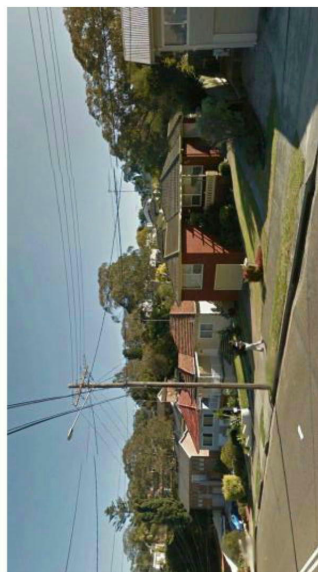
Main Office: Level 2, 56 Scotch Street, Surry Hills NSW 2010
Permatama Office: Level 4, 3 Permatama Square, 53 Macquarie St, NSW 2150
51 2 5283 0800 | www.platarchitect.com.au
Nominated Registered Architect, Peter Israel (reg no 50954)
ABN 90 350 071 022

CHITECTURE
Tourism + Residential



pti ARCHITECTURE
Architecture - Residential

Plot: 07/10/14/01/25/28/30/31/32/33/34/35/36/37/38/39/40/41/42/43/44/45/46/47/48/49/50/51/52/53/54/55/56/57/58/59/60/61/62/63/64/65/66/67/68/69/70/71/72/73/74/75/76/77/78/79/80/81/82/83/84/85/86/87/88/89/90/91/92/93/94/95/96/97/98/99/100/101/102/103/104/105/106/107/108/109/110/111/112/113/114/115/116/117/118/119/120/121/122/123/124/125/126/127/128/129/130/131/132/133/134/135/136/137/138/139/140/141/142/143/144/145/146/147/148/149/150/151/152/153/154/155/156/157/158/159/160/161/162/163/164/165/166/167/168/169/170/171/172/173/174/175/176/177/178/179/180/181/182/183/184/185/186/187/188/189/190/191/192/193/194/195/196/197/198/199/200/201/202/203/204/205/206/207/208/209/210/211/212/213/214/215/216/217/218/219/220/221/222/223/224/225/226/227/228/229/230/231/232/233/234/235/236/237/238/239/240/241/242/243/244/245/246/247/248/249/250/251/252/253/254/255/256/257/258/259/260/261/262/263/264/265/266/267/268/269/270/271/272/273/274/275/276/277/278/279/280/281/282/283/284/285/286/287/288/289/290/291/292/293/294/295/296/297/298/299/300/301/302/303/304/305/306/307/308/309/310/311/312/313/314/315/316/317/318/319/320/321/322/323/324/325/326/327/328/329/330/331/332/333/334/335/336/337/338/339/340/341/342/343/344/345/346/347/348/349/350/351/352/353/354/355/356/357/358/359/360/361/362/363/364/365/366/367/368/369/370/371/372/373/374/375/376/377/378/379/380/381/382/383/384/385/386/387/388/389/390/391/392/393/394/395/396/397/398/399/400/401/402/403/404/405/406/407/408/409/410/411/412/413/414/415/416/417/418/419/420/421/422/423/424/425/426/427/428/429/430/431/432/433/434/435/436/437/438/439/440/441/442/443/444/445/446/447/448/449/450/451/452/453/454/455/456/457/458/459/460/461/462/463/464/465/466/467/468/469/470/471/472/473/474/475/476/477/478/479/480/481/482/483/484/485/486/487/488/489/490/491/492/493/494/495/496/497/498/499/500/501/502/503/504/505/506/507/508/509/510/511/512/513/514/515/516/517/518/519/520/521/522/523/524/525/526/527/528/529/530/531/532/533/534/535/536/537/538/539/540/541/542/543/544/545/546/547/548/549/550/551/552/553/554/555/556/557/558/559/560/561/562/563/564/565/566/567/568/569/570/571/572/573/574/575/576/577/578/579/580/581/582/583/584/585/586/587/588/589/590/591/592/593/594/595/596/597/598/599/600/601/602/603/604/605/606/607/608/609/610/611/612/613/614/615/616/617/618/619/620/621/622/623/624/625/626/627/628/629/630/631/632/633/634/635/636/637/638/639/640/641/642/643/644/645/646/647/648/649/650/651/652/653/654/655/656/657/658/659/660/661/662/663/664/665/666/667/668/669/670/671/672/673/674/675/676/677/678/679/680/681/682/683/684/685/686/687/688/689/690/691/692/693/694/695/696/697/698/699/700/701/702/703/704/705/706/707/708/709/710/711/712/713/714/715/716/717/718/719/720/721/722/723/724/725/726/727/728/729/730/731/732/733/734/735/736/737/738/739/740/741/742/743/744/745/746/747/748/749/750/751/752/753/754/755/756/757/758/759/760/761/762/763/764/765/766/767/768/769/770/771/772/773/774/775/776/777/778/779/780/781/782/783/784/785/786/787/788/789/790/791/792/793/794/795/796/797/798/799/800/801/802/803/804/805/806/807/808/809/810/811/812/813/814/815/816/817/818/819/820/821/822/823/824/825/826/827/828/829/830/831/832/833/834/835/836/837/838/839/840/841/842/843/844/845/846/847/848/849/850/851/852/853/854/855/856/857/858/859/860/861/862/863/864/865/866/867/868/869/870/871/872/873/874/875/876/877/878/879/880/881/882/883/884/885/886/887/888/889/890/891/892/893/894/895/896/897/898/899/900/901/902/903/904/905/906/907/908/909/910/911/912/913/914/915/916/917/918/919/920/921/922/923/924/925/926/927/928/929/930/931/932/933/934/935/936/937/938/939/940/941/942/943/944/945/946/947/948/949/950/951/952/953/954/955/956/957/958/959/960/961/962/963/964/965/966/967/968/969/970/971/972/973/974/975/976/977/978/979/980/981/982/983/984/985/986/987/988/989/990/991/992/993/994/995/996/997/998/999/1000/1001/1002/1003/1004/1005/1006/1007/1008/1009/1010/1011/1012/1013/1014/1015/1016/1017/1018/1019/1020/1021/1022/1023/1024/1025/1026/1027/1028/1029/1030/1031/1032/1033/1034/



SITE STREET PHOTOS - (GOOGLE STREET VIEW) - ADJOINING NEIGHBOURS

2-12 LIMEKILN ROAD, 1041A + 1041C
FOREST ROAD, LUGARNO, 2210
DRAWING TITLE: SITE STREET PHOTOS 2

PROJECT NO.	NO. 1041C	DRAWN BY	DD
CHECKED BY	PJ	DATE	1/1
SCALE:	N.T.S. A3	PROJECT NO.	P392
SEC. 4.55	04	DATE	1/1

REV	DESCRIPTION	BY	DATE	CLIENT
A	DEVELOPMENT APPLICATION	AMG	10.07.17	IAN MCKENZIE
	SECTION 4.3.5 APPLICATION	BH	20.11.18	

Main Office: Level 2, 88 South Street, Suite 1111, NSW 2000
Perimeter Office: Level 4, 4 Perimeter Square, 53 Macquarie St, NSW 2500
P.O. Box 2, 2205 Oldfield Rd, Sydney NSW 1585
Tel: 61 2 9295 0880 www.pclandscapes.com.au
Nominated Registered Architect, Pearc Israel Reg No. 52954
ASN 90 050 07 022

pli **ARCHITECTURE**
Tourism + Residential

Architect: ptg ARCHITECTURE Pty Ltd (ABN 66 236 021 032) 1/15 NSW 2002
Project: 14720023

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PHOTO RL'S

- P1 - RL59.40
- P2/P2A - RL57.70
- P3 - RL56.58
- P4 - RL57.31
- P5 - RL51.48

LEGEND



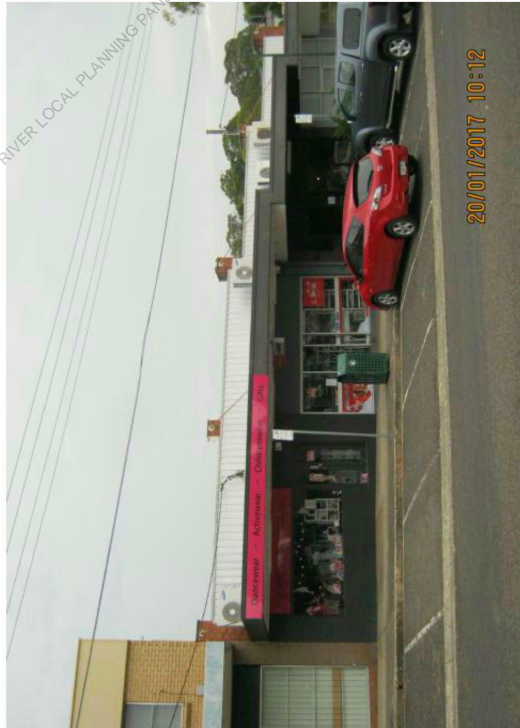
SITE AERIAL PHOTO



Map: Office Level 2, 88 South Street, Surry Hills NSW 2002
Perimeter Office Level 2, 88 South Street, Surry Hills NSW 2002
Notwithstanding to the contrary, the above information is provided for informational purposes only and does not constitute an offer of any financial product or service.

PROJECT TITLE	2-12 LIME KILN ROAD, 1041A + 1041C FOREST ROAD, LUGARNO, 2210	DRAWN BY	IAN MCKENZIE	DATE	21/02/24
PROJECT NO.	P392	CHECKED BY	PI	DATE	21/02/24
SCALE	NOT TO SCALE	DRAWN TITLE	PHOTO LOCATION AND RL'S - VIEW ANALYSIS	DATE	21/02/24
PROJECT NO.	P392	PROJECT NO.	P392	PROJECT NO.	P392
SEC. 4.55	05	SEC. 4.55	05	SEC. 4.55	05
05	C	05	C	05	C

Architect: ptg ARCHITECTURE
Project: 2017/10-12
Drawing: 14/12/2022



P1

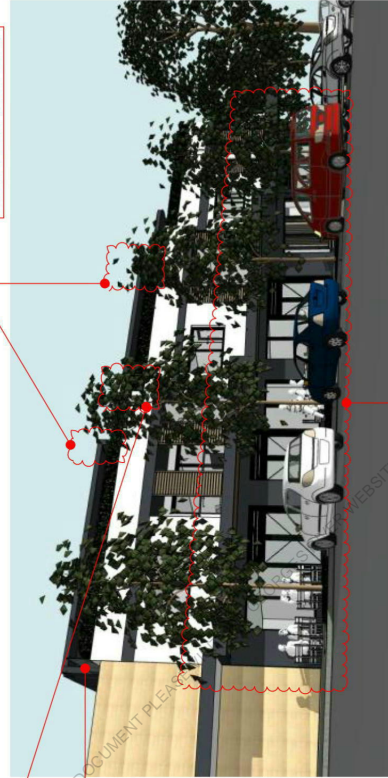


17 OCT 2019 APPROVED 4.55

AMENDMENT TO CANOPY ROOF
UPPER CONNECTED TO LOWER
NOTE: NO CHANGES TO ROOF HEIGHTS


PRIVACY SCREEN ADDED BETWEEN
UNIT BALCONIES ADDED

PRIVACY SCREEN RETAIN AS PER
DA CONDITION



THIS PROPOSED SCHEME

AMENDMENTS TO RETAIL WINDOWS
AND GLAZING TO CANOPY ROOF
AMENDMENT TO CANOPY FOR STRUCTURE
& EASE OF BUILDABILITY



ptg ARCHITECTURE
Township + Residential

Map: Office Level 2, 38 South Street, Surry Hills NSW 2010
Perimeter Office Level 1, 3 Perimeter Street, 33 Macquarie St, NSW 2100
Nominated Registered Architect, Prior Board Reg no 5094
ABN 85 205 071 032

REV	DESCRIPTION	BY	DATE	CLIENT	PROJECT TITLE	DRAWN BY
A	CONCEPTUAL DESIGN	IM	15/11/17	IAN MCKENZIE	2-12 LIME KILN ROAD, 1041A + 1041C	DD
B	CONCEPTUAL DESIGN	IM	15/11/17		FOREST ROAD, LUGARNO, 2210	PI
C	SECTION 4.55 APPLICATION	IM	20/11/18			
D	SECTION 4.55 APPLICATION	IM	20/11/18			
E	AMENDMENT TO SECTION 4.55 APPLICATION	IM	21/12/22			

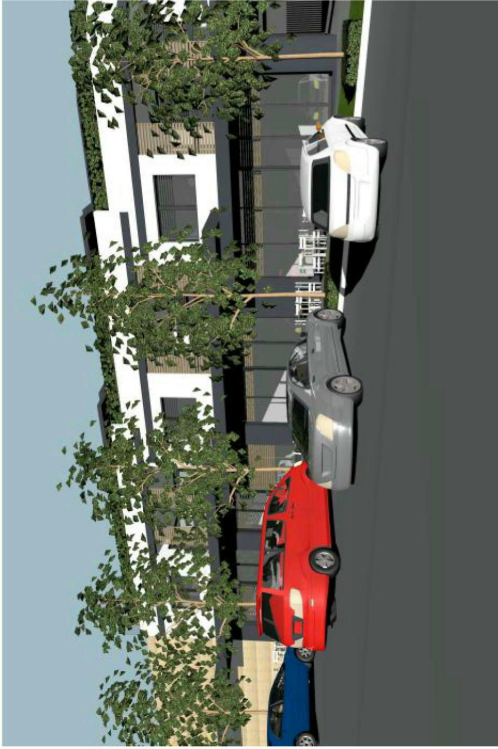
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PROJECT NO: P392

SEC. 4.55 06 E

FIGURE 1

Blackout_Scheme2019 - Blackout_Cover_400_Roadside_001_Forest Road, Lugarno, 200313, ACC, 02, Cover - Printed: 14/12/2022



17 OCT 2019 APPROVED 4.55

AMENDMENT TO CANOPY/ROOF
FOR STRUCTURE & EASE OF BUILDABILITY.
NOTE NO CHANGES TO ROOF HEIGHTS

PRIVACY SCREENS ADDED BETWEEN
UNIT BALCONIES ADDED

AMENDMENT TO FOLD OF PLANTER WALL
FOR STRUCTURE & EASE OF BUILDABILITY.
NOTE NO CHANGES TO HEIGHTS

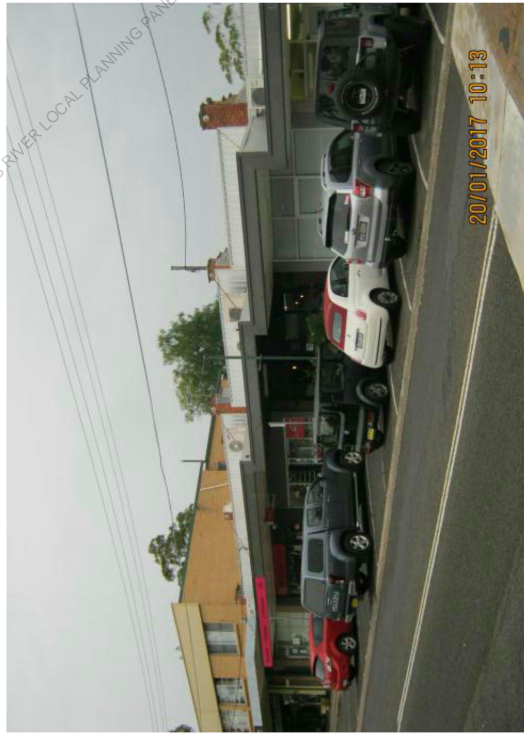
PRIVACY SCREEN RETAINED
AS PER A CONDITION




AMENDMENTS TO RETAIN WINDOWS
AND DOORS TO COMPLY WITH AS1 2881
AMENDMENT TO CANOPY FOR STRUCTURE
BASE OF BUILDABILITY

THIS PROPOSED SCHEME

ROOFERS CTD RELOCATED
TO HERE TO COMPLY WITH STANDARDS.



P2



pti ARCHITECTURE
Interior • Residential

MAIN OFFICE: Level 2, 38 South Street, Surry Hills NSW 2010
Parramatta Office: Level 14, 3 Riverina Street, NSW Macquarie St, NSW 2150
Nominated Registered Architect, Peter Ireland (Reg no 5294)
ABN 95 256 071 022

REV DESCRIPTION
A AMENDMENT TO CANOPY FOR STRUCTURE BASE OF BUILDABILITY
B AMENDMENT TO FOLD OF PLANTER WALL FOR STRUCTURE & EASE OF BUILDABILITY
C AMENDMENT TO RETAIN WINDOWS AND DOORS TO COMPLY WITH AS1 2881

BY DATE
BY: IAN MCKENZIE
DO: 21/10/22

CLIENT
IAN MCKENZIE

PROJECT TITLE
2-12 LIME KILN ROAD, 1041A + 1041C
FOREST ROAD, LUGARNO, 2210

DRAWING TITLE
VIEW ANALYSIS 1A

DRAWN BY: DD
CHECKED BY: PH
SCALE: 1:1, 1:100 @ A3
PROJECT NO: P392
SEC. 4.55 06A C
PAGE: 06A NO. 1

WEBSITE: WWW.GEORGESRIVER.NSW.GOV.AU

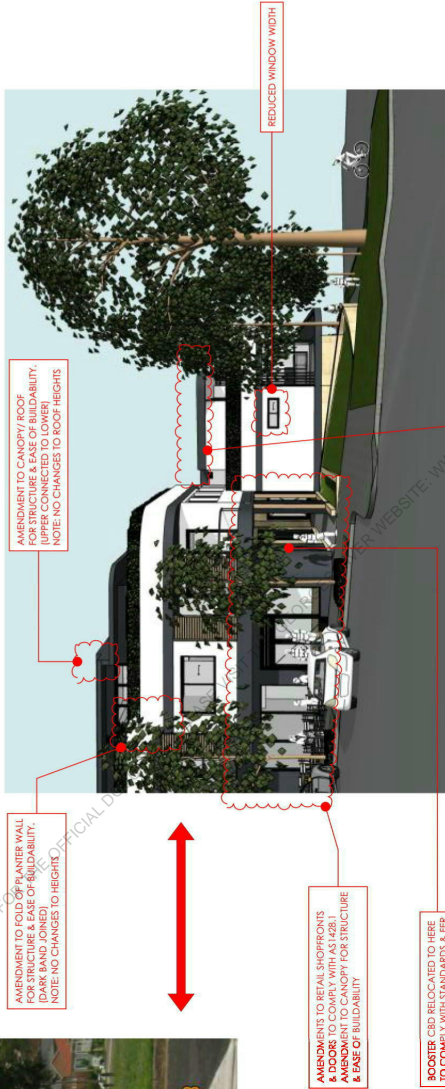
Architect: ptg ARCHITECTURE
Project: 20/01/2017 10:13
Drawing: P2A



17 OCT 2019 APPROVED 4.55



P2A



THIS PROPOSED SCHEME

DARK COLOUR BAND AMENDED TO TERMINATE INTO WALL & EXTENDED TO UPPER PORTION IN LID OF WHITE. THIS REDUCES THE RAINFALL TO COLLECT ALL ROOF WATER.

REDUCED WINDOW WIDTH

AMENDMENT TO CANOPY / ROOF FOR STRUCTURE & EASE OF BUILDABILITY. NOTE NO CHANGES TO ROOF HEIGHTS

AMENDMENT TO FOLD OF PLANTER WALL FOR STRUCTURE & EASE OF BUILDABILITY. NOTE NO CHANGES TO HEIGHTS

AMENDMENTS TO RETAIL SHOPFRONTS, DOORS TO CANOPY WITH SLIDING GLASS DOORS TO CANOPY FOR STRUCTURE & EASE OF BUILDABILITY

ROOSTER CBD RELOCATED TO HERE TO COMPLY WITH STANDARDS & PER

REV	DESCRIPTION	BY	DATE	CLIENT	PROJECT TITLE	NORTH	DRAWN BY
A	AMENDMENTS TO CANOPY / ROOF FOR STRUCTURE & EASE OF BUILDABILITY	MS	18/11/17	IAN MCKENZIE	2-12 LIME KILN ROAD, 1041A + 1041C	PI	DD
B	AMENDMENTS TO CANOPY / ROOF FOR STRUCTURE & EASE OF BUILDABILITY	MS	18/11/17	IAN MCKENZIE	2-12 LIME KILN ROAD, 1041A + 1041C	PI	DD
C	AMENDMENTS TO CANOPY / ROOF FOR STRUCTURE & EASE OF BUILDABILITY	MS	18/11/17	IAN MCKENZIE	2-12 LIME KILN ROAD, 1041A + 1041C	PI	DD
D	AMENDMENTS TO CANOPY / ROOF FOR STRUCTURE & EASE OF BUILDABILITY	MS	18/11/17	IAN MCKENZIE	2-12 LIME KILN ROAD, 1041A + 1041C	PI	DD
E	AMENDMENTS TO CANOPY / ROOF FOR STRUCTURE & EASE OF BUILDABILITY	MS	18/11/17	IAN MCKENZIE	2-12 LIME KILN ROAD, 1041A + 1041C	PI	DD
F	AMENDMENTS TO CANOPY / ROOF FOR STRUCTURE & EASE OF BUILDABILITY	MS	18/11/17	IAN MCKENZIE	2-12 LIME KILN ROAD, 1041A + 1041C	PI	DD

ptg ARCHITECTURE
10/01/17 + Residential

2-12 LIME KILN ROAD, 1041A + 1041C
FOREST ROAD, LUGARNO, 2210

VIEW ANALYSIS 2

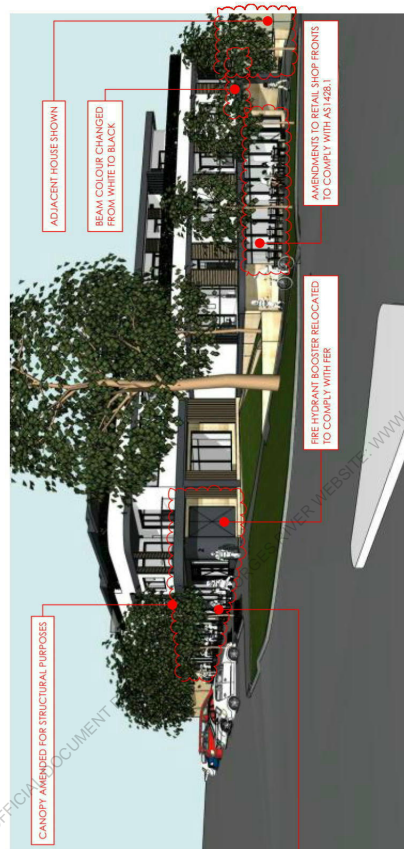
SEC. 4.55 07 F




P3



17 OCT 2019 APPROVED 4.55



THIS PROPOSED SCHEME



pti
ARCHITECTURE
tourism + residential

Main Office: Jeyaraj S. Ramani Street, Salford M6 6PU, UK
 Tel: +44 (0)161 275 1100
 Fax: +44 (0)161 275 1101
 Email: info@ptichitect.com
 Website: www.ptichitect.com
 VAT No: 264 090 940

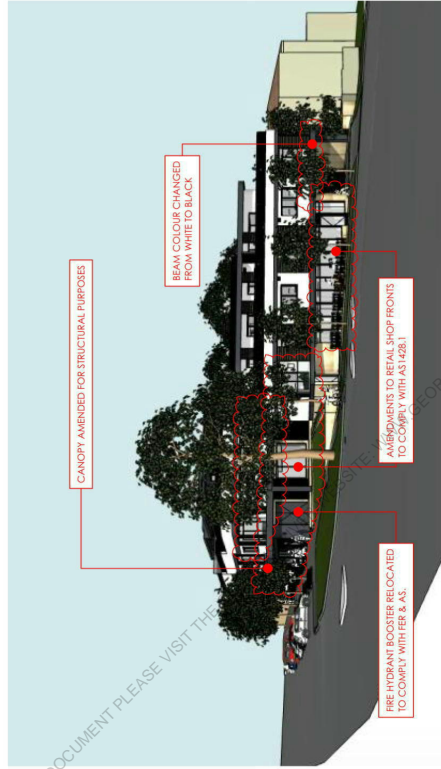
PROJECT NO: 2016-001
 PROJECT NAME: 2 - 12 LIME KILN ROAD, 1041A + 1041C FOREST ROAD, LUGARNO, 2210
 CLIENT: IAN MCKENZIE
 DATE: 01.11.2016
 DRAWING NO: P392
 SCALE: 1:1, 1:100 @ A3
 CHECKED BY: PJ
 DRAWING DATE: 01.11.2016
 PROJECTING: P392
 DRAWING TITLE: VIEW ANALYSIS 2A
 SEC: 4.55 07A
 C
 DATE: 01.11.2016
 DRAWING NO: P392

Architect: ptg ARCHITECTURE
Project: 2017-01-17
Drawing: 14/12/2022

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17 OCT 2019 APPROVED 4.55



THIS PROPOSED SCHEME

PROJECT TITLE
2-12 LIME KILN ROAD, 1041A + 1041C
FOREST ROAD, LUGARNO, 2210
DRAWING TITLE
VIEW ANALYSIS 3
SEC. 4.55 08 F
REVISION

CLIENT
IAN MCKENZIE
BY DATE
AS 19/11/17
MD 03/11/17
BH 01/08/19
DD 21/02/22

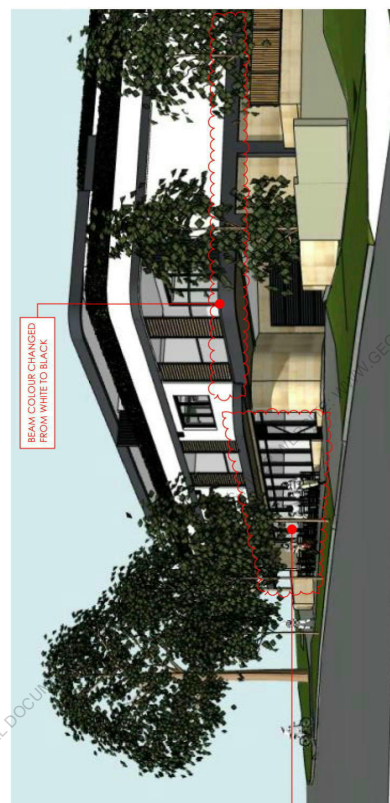
DESCRIPTION
A DEVELOPMENT APPLICATION
B ASSESSMENT AS PER COUNCIL REVIEW
C MARKET AMENDMENTS
D AMENDMENTS TO SECTION 4.55 APPLICATION
E AMENDMENTS TO SECTION 4.55 APPLICATION
F AMENDMENTS TO SECTION 4.55 APPLICATION

Map: Office Level 2, 38 South Street, Surry Hills NSW 2010
Perimeter Office Level 1, 1 Perimeter Street, 33 Macquarie St, NSW 2104
Nominated Registered Architect: Peter Lloyd (Reg no 1094)
ABN 88 256 021 032





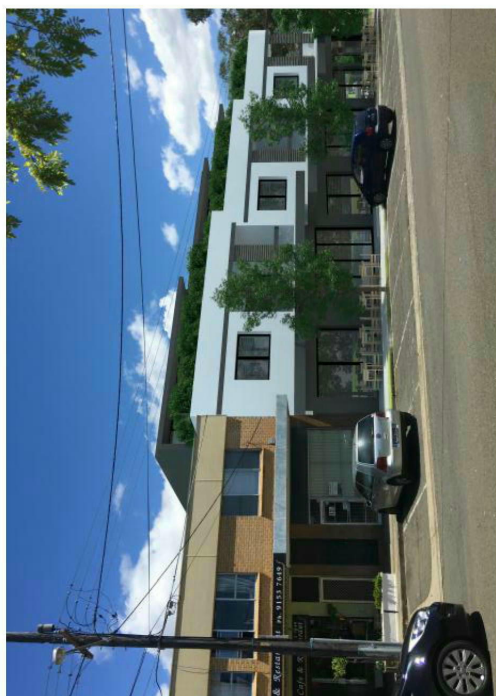
17 OCT 2019 APPROVED 4.55



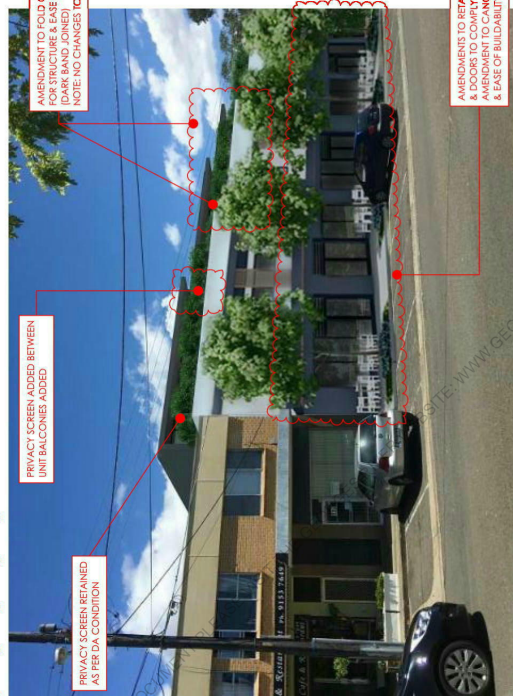
BEAM COLOUR CHANGED
FROM WHITE TO BLACK

AMENDMENTS TO RETAIL SHOP FRONTS

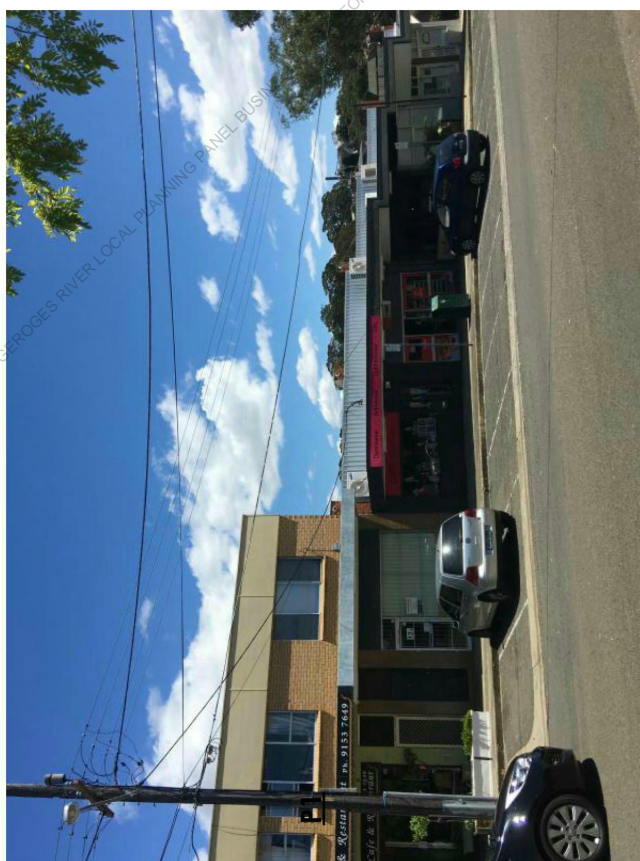
THIS PROPOSED SCHEME



\$4.55 APPROVED



THIS PROPOSED SCHEME



EXISTING

PHOTOMONTAGE - LIME KILN ROAD

[illegible]



BEAM COLOUR CHANGED
FROM WHITE TO BLACK

AMENDMENTS TO RETAIL SHOPFRONT
& DOORS TO COMPLY WITH AS1428.1

THIS PROPOSED SCHEME

PHOTOMONTAGE - FOREST ROAD

Main Office Level 2, 38 South Street, Surry Hills NSW 2010
Perennia Office Level 4, 1 Perennia Square, 153 Macquarie St, NSW 2150
• 61 2 9283 0860 | www.platarchitect.com.au
Nominated Registered Architect, Peter Israel (reg no 5094)
ABN 90 350 071 022



PROJECT FILE: 2-12 LIME KILN ROAD, T041A + T041C
FOREST ROAD, LUGARNO, Z210

DRAWING TITLE: FOREST RD PHOTOMONTAGE

DRAWING NO.: DD
CHECKED BY: PJ
SCALE: 1:1 @ A3
PROJECT NAME: P392

SEC. 4.55 9A C

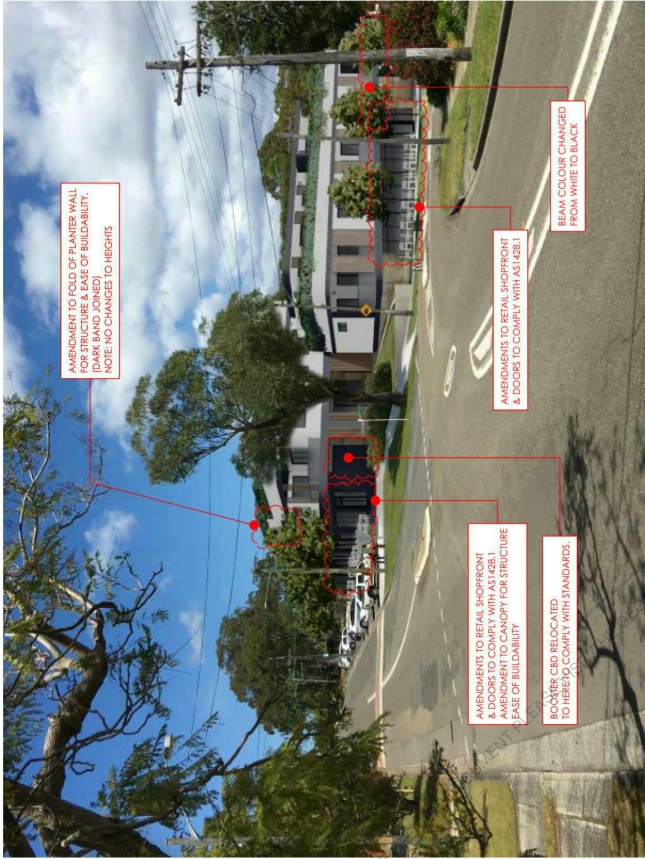
DATE: 11/1/2011
DRAWN BY: [signature]
CHECKED BY: [signature]
DATE: 11/1/2011

Architect: ptg ARCHITECTURE
Project: 2024-01-01
Drawing: 1000-01-01
Scale: 1:100
Date: 14/02/2024

THIS IS THE PRINTED COPY OF THE GEORGES RIVER LOCAL PLANNING PANEL BUILDING



S4.55 APPROVED



THIS PROPOSED SCHEME

AMENDMENT TO FOLD OF PLANTER WALL
(DARK BAND JOINED)
NOTE: NO CHANGES TO HEIGHTS

AMENDMENTS TO RETAIL SHOPFRONT
& DOORS TO COMPLY WITH AS1428.1
AMENDMENT TO CANOPY FOR STRUCTURE
BASE OF BUILDABILITY

BOOZER CBI RELOCATED
TO HERE, TO COMPLY WITH STANDARDS.

AMENDMENTS TO RETAIL SHOPFRONT
& DOORS TO COMPLY WITH AS1428.1

ESKIN COLOUR CHANGED
FROM WHITE TO BLACK

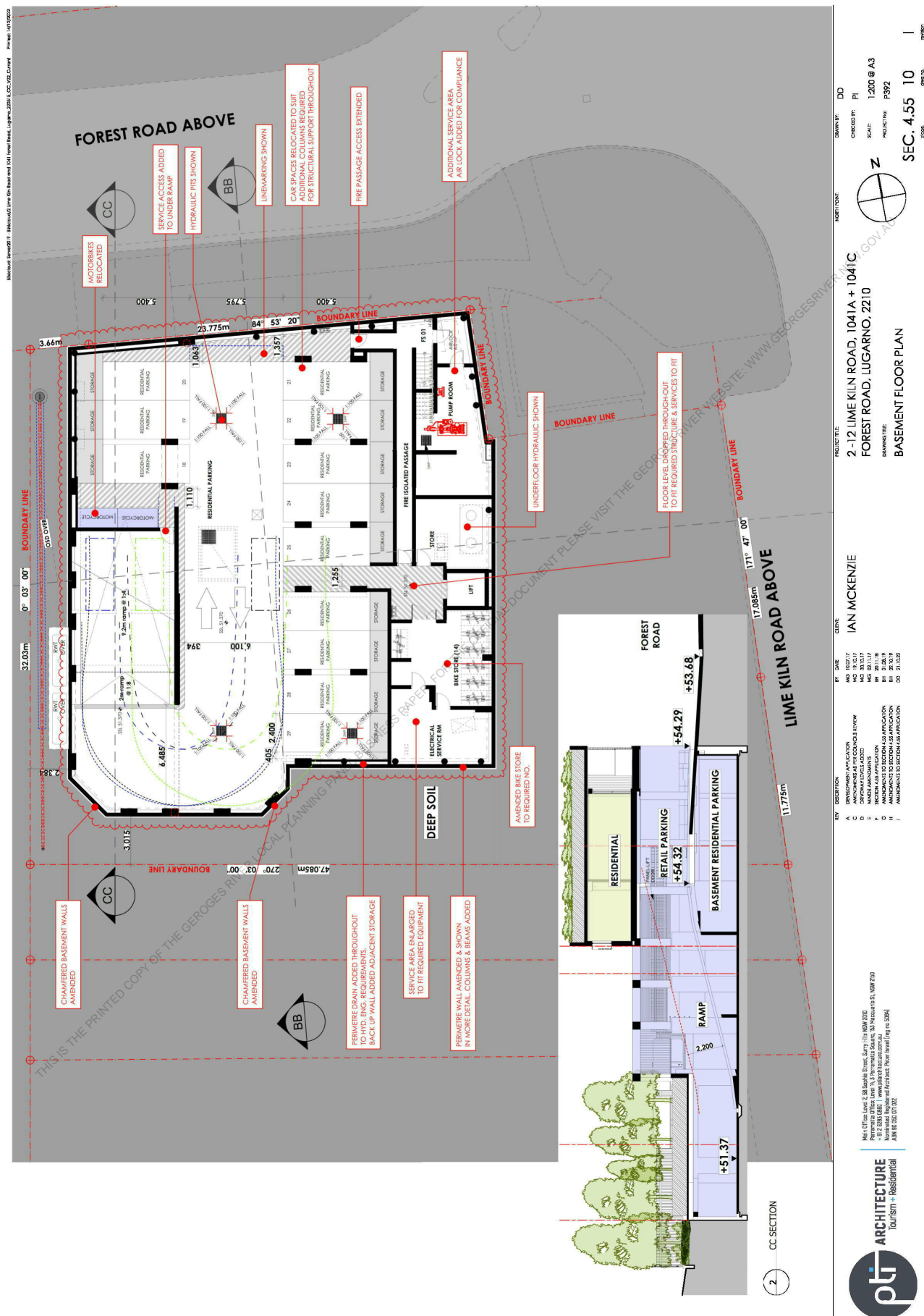
PHOTOMONTAGE - CORNER OF LIME KILN ROAD AND FOREST ROAD

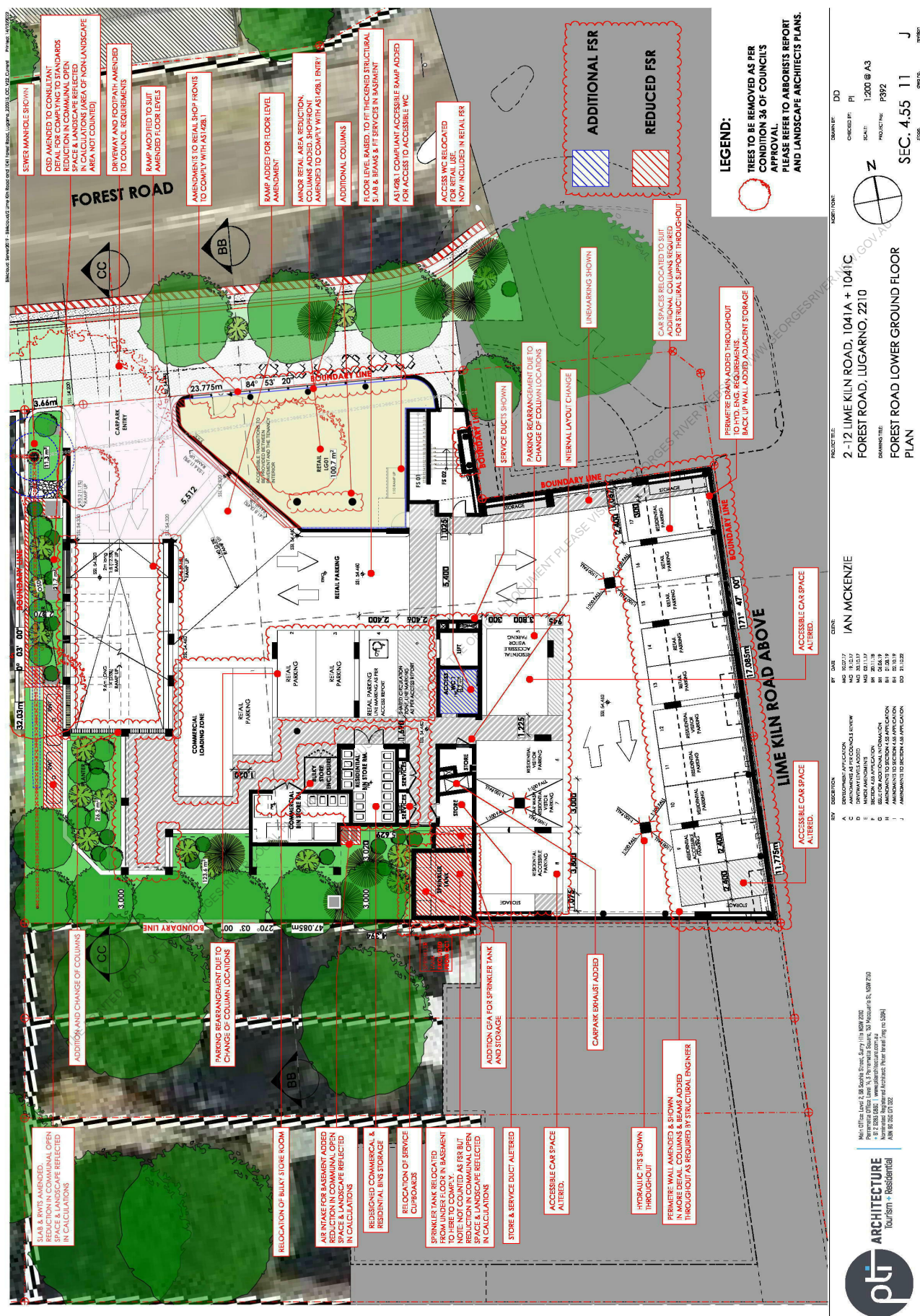


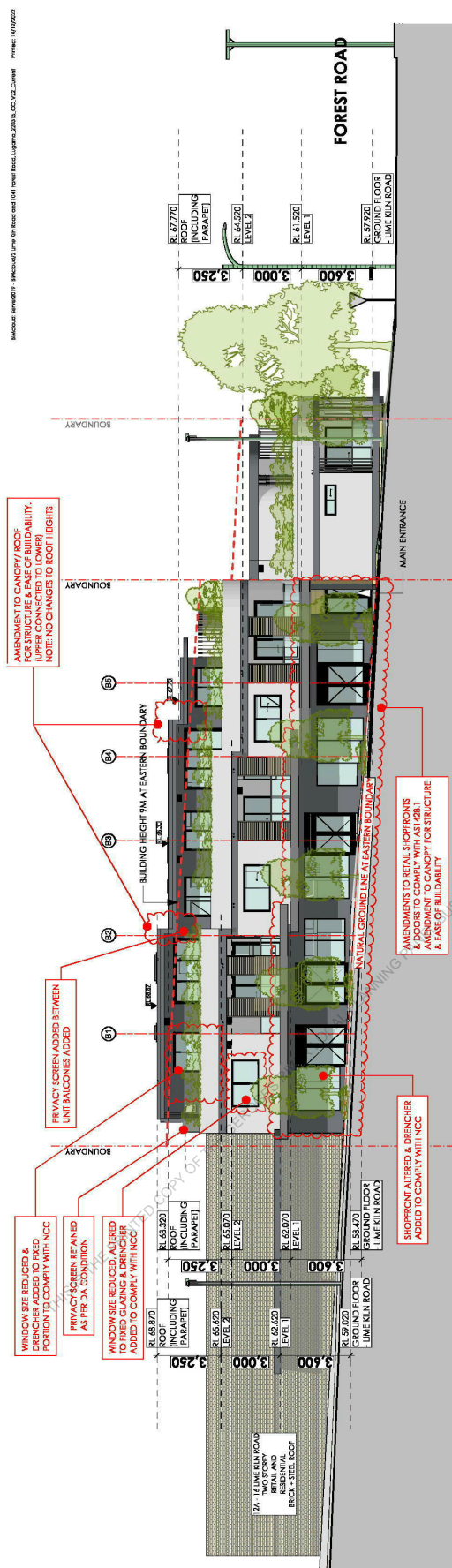
Map: Office Level 2, 38 South Street, Surry Hills NSW 2010
Perimeter Office Level 1, 11 Perimeter Street, NSW Measures 5, 5000 250
Nominated Registered Architect, Peter Innes (Reg no 5204)
ABN 88 250 021 022

REV	DESCRIPTION	BY	DATE	CLIENT
A	AMENDMENT TO SECTION AS APPLICATION	IAN MCKENZIE	21/10/23	IAN MCKENZIE
B	AMENDMENT TO SECTION AS APPLICATION	IAN MCKENZIE	21/10/23	IAN MCKENZIE
C	AMENDMENT TO SECTION AS APPLICATION	IAN MCKENZIE	21/10/23	IAN MCKENZIE

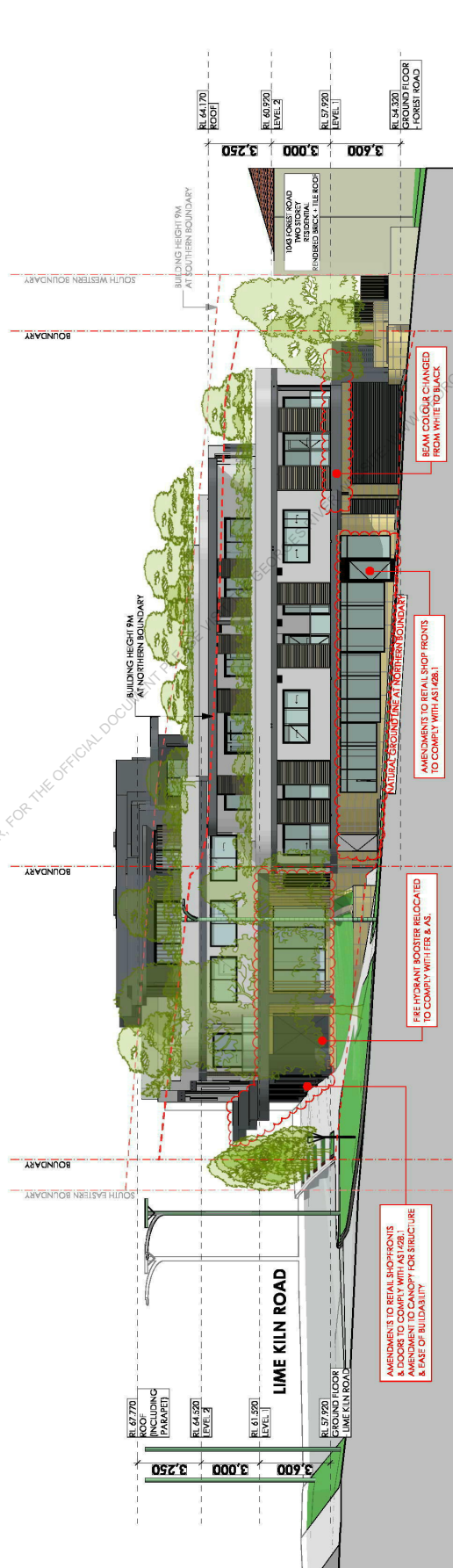
PROJECT TITLE: 2-12 LIME KILN ROAD, 1041A + 1041C
FOREST ROAD, LUGARNO, 2210
DRAWING TITLE: CORNER OF LIME KILN ROAD AND FOREST ROAD PHOTOMONTAGE
SCALE: 1:1 @ A3
PROJECT NO: P392
SEC. 4.55 9B C
PAGE 10/10







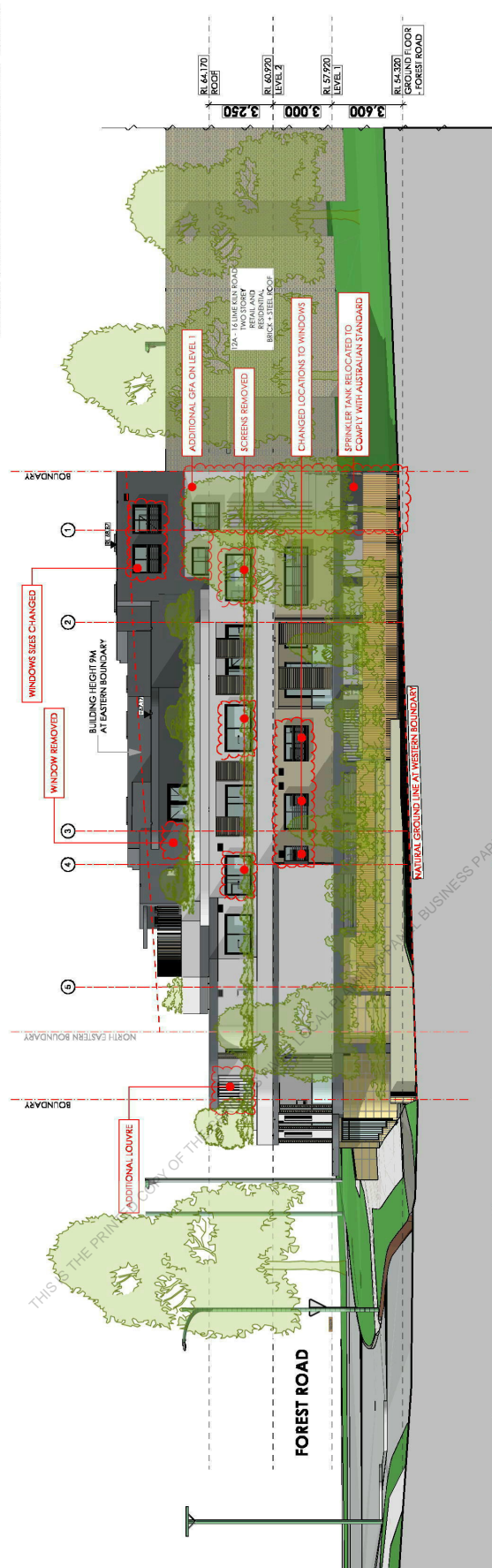
EAST ELEVATION



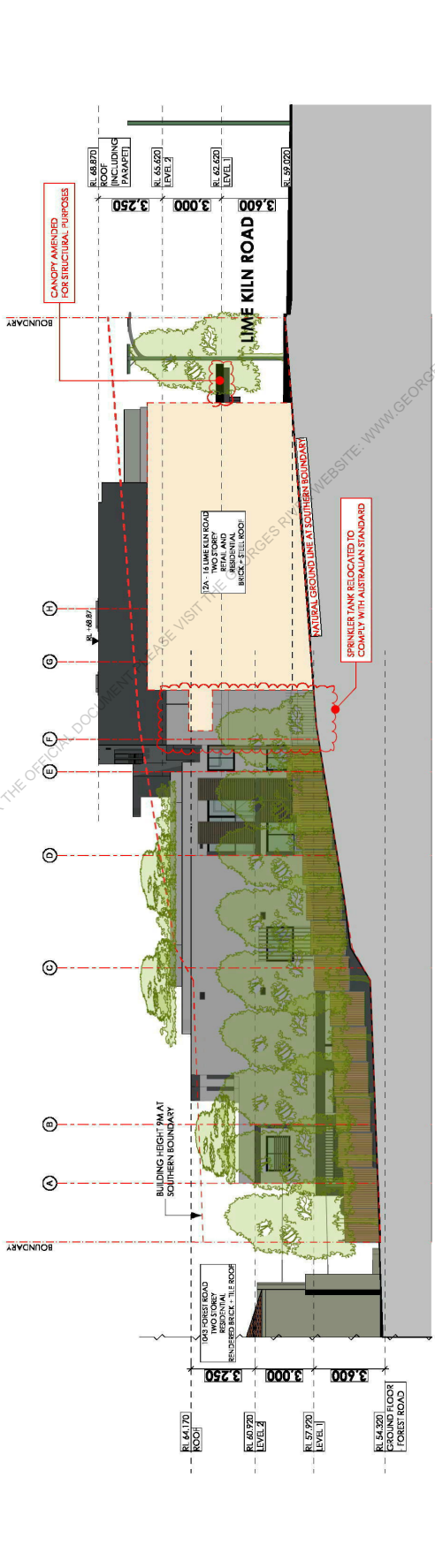
NORTH ELEVATION

[illegible]


Architect: ptg ARCHITECTURE
Project: 2-12 Lime Kiln Road, 1041A + 1041C
Drawing: P392
Scale: 1:200 @ A3
Date: 21/12/23



WEST ELEVATION



SOUTH ELEVATION



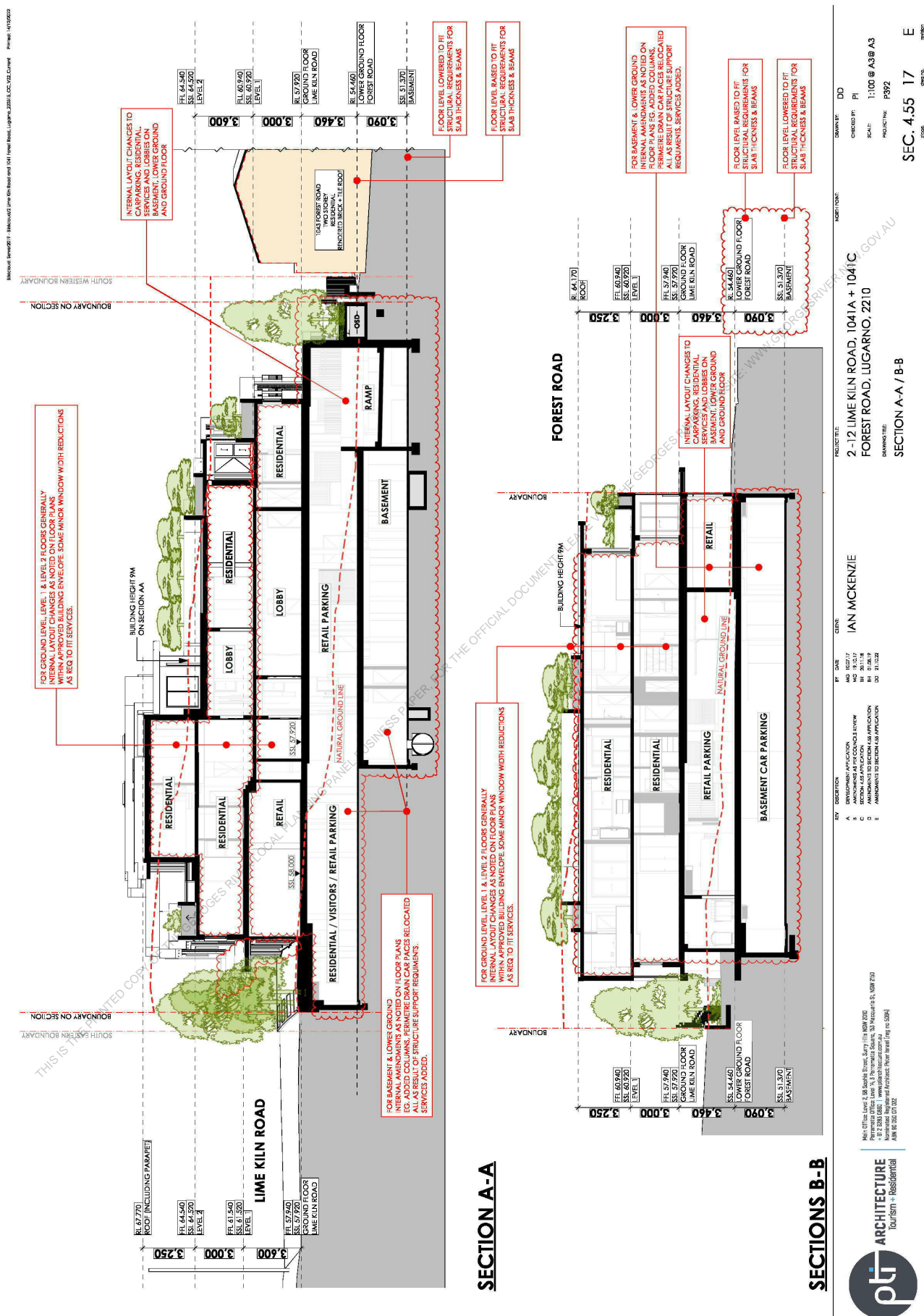
ptg ARCHITECTURE
Residential

REV DESCRIPTION

A	DATE	BY	DATE	CLIENT	PROJECT TITLE	DRAWN BY	DD
A	21/12/23	IAN MCKENZIE	21/12/23	IAN MCKENZIE	2-12 LIME KILN ROAD, 1041A + 1041C FOREST ROAD, LUGARNO, 2210	PI	
B	21/12/23						
C	21/12/23						
D	21/12/23						
E	21/12/23						

MAIN OFFICE: Level 2, 28 South Street, Surry Hills NSW 2010
Phone: 02 9251 1111
Email: info@ptg.com.au
Website: www.ptg.com.au
ABN 96 256 071 022

SEC. 4.55 16 E





LOWER GROUND FLOOR - FOREST ROAD
RENAMED FROM GROUND FLOOR FOREST ROAD



GROUND FLOOR - LIME KILN ROAD



LEVEL 1 - LIME KILN ROAD



LEVEL 2 - LIME KILN ROAD

- TOP SHOP HOUSING
- RETAIL
- ADDITIONAL FSR
- DECREASED FSR

FSR CALCULATION (APPROVED 4.55 - 17 OCT 2019)

FOREST ROAD	- RETAIL	= 106m ²
LIME KILN ROAD	- RETAIL	= 325m ²
	- RESIDENTIAL	= 535.1m ² (5 UNITS)
LEVEL 1	- RESIDENTIAL	= 703.7m ² (7 UNITS)
LEVEL 2	- RESIDENTIAL	= 228.5m ² (2 UNITS)
SITE AREA = 1,401.2m ²		
PROPOSED TOTAL FSR = 1898.3m ² (FSR 1.35:1)		
MAX FSR = 2,101.8m ² (FSR 1.5:1)		
REQUIRED COMMUNAL OPEN SPACE (SITE 1,401.2M ² X 25%) - 350.3M ²		
PROPOSED COMMUNAL OPEN SPACE - 29.4% - 412.9M ²		
14 UNITS		

FSR CALCULATION (PROPOSED)

FOREST ROAD	- RETAIL	= 106.9m ²
LIME KILN ROAD	- RETAIL	= 325m ²
	- RESIDENTIAL	= 531.3m ² (5 UNITS)
LEVEL 1	- RESIDENTIAL	= 699.0m ² (7 UNITS)
LEVEL 2	- RESIDENTIAL	= 218.0m ² (2 UNITS)
SITE AREA = 1,401.2m ²		
PROPOSED TOTAL FSR = 1880.2m ² (FSR 1.34:1)		
MAX FSR = 2,101.8m ² (FSR 1.5:1)		
REQUIRED COMMUNAL OPEN SPACE (SITE 1,401.2M ² X 25%) - 350.3M ²		
17 OCT 2019 APPROVED 4.55 COMMUNAL OPEN SPACE - 29.4% - 412.9M ²		
PROPOSED COMMUNAL OPEN SPACE - 27.0% - 378.9M ²		
(84M ² REDUCTION, BUT STILL 28.6M ² OVER REQUIRED COMMUNAL OPEN SPACE)		
14 UNITS		

FSR CALCULATION

pti ARCHITECTURE
Interior • Residential

Map: Office Level 2, 28 South Street, Surry Hills NSW 2010
Perimeter Office Level 1, 1 Perimeter Street, St Michaels St, NSW 2204
Not a registered architect. Please contact the architect for more information.
ABN 86 206 071 022

REV	DESCRIPTION	BY	DATE	CLIENT
1	PRELIMINARY DESIGN	MS	15/11/17	IAN MCKENZIE
2	MAJOR AMENDMENTS	MS	03/11/17	
3	MAJOR AMENDMENTS	MS	01/10/17	
4	AMENDMENTS TO DESIGN AS APPLIED	MS	01/10/17	
5	AMENDMENTS TO DESIGN AS APPLIED	MS	01/10/17	
6	AMENDMENTS TO DESIGN AS APPLIED	MS	01/10/17	

PROJECT TITLE: 2-12 LIME KILN ROAD, 1041A + 1041C
FOREST ROAD, LUGARNO, 2210
DRAWN BY: IAN MCKENZIE
CHECKED BY: PI
SCALE: 1:500 @ A3
PROJECT NO: P392
SEC. 4.55 18 H
REVISION

Project: Sewer219 - 11600/d/2 Line Kin Road and 1041 Forest Road, Laguna 20315 OC V22 Current Printed: 14/12/2022



COMMUNAL OPEN SPACE

- ADDITIONAL COMMUNAL OPEN SPACE

- DECREASED
COMMUNAL OPEN SPACE

COMMUNAL OPEN SPACE - PROPOSED



Main Office Level 2, 58 Sophia Street, Surry Hills NSW 2010
Perennial Office Level 14, 3 Perennial Square, 53 Macquarie St, NSW 2550
✦ 61 2 5283 0882 | www.pilarchitects.com.au
Nominated Registered Architect, Peter Israel (reg no 52694)
ABN 90 250 071 022

NO.	REVISION	DATE	BY	CHKD	CLERK	PROJECT TITLE	ASSET NAME	DESIGN BY	DD
001	RECORD AS APPLICATION	04/08/18	MM	MM	MM			CHIEFED BY	PI
002	AMENDMENTS TO SECTION 4.55 AS APPLICATION	05/08/19	MM	MM	MM			SCALE:	1:100 @ A3
003	AMENDMENTS TO SECTION 4.55 AS APPLICATION	27/10/22	MM	MM	MM			PROJECT NO.	P392
004	AMENDMENTS TO SECTION 4.55 AS APPLICATION	27/10/22	MM	MM	MM			DESIGNING TITLE	



N

2-12 LINE KILN ROAD, 1041A + 1041C

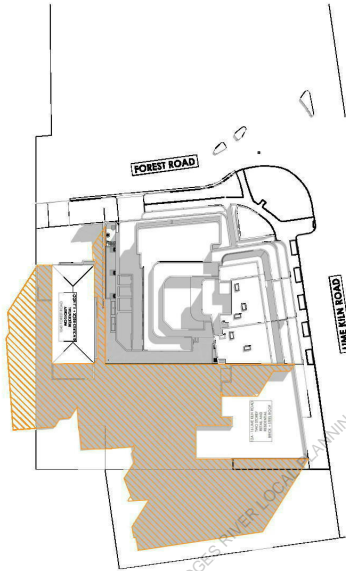
FOREST ROAD, LUGARNO, 2210

COMMUNAL OPEN SPACE

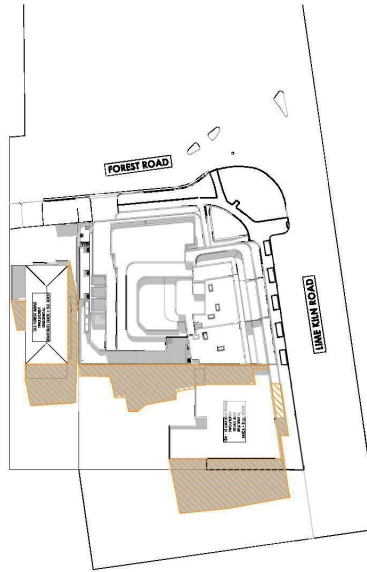
SEC. 4.55 18A

Calculation

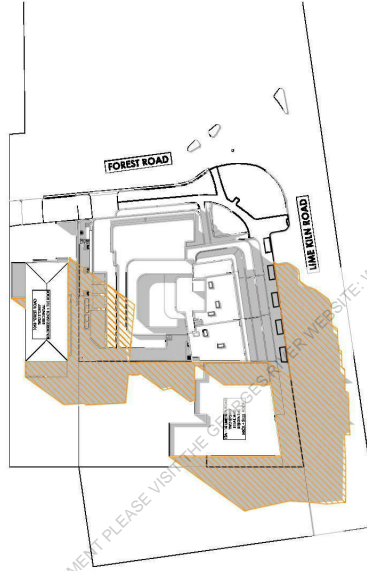
SHADOW STUDY - 2D - 12 LIME KILN ROAD, 1041A + 1041C
 FOREST ROAD, LUGARNO, 2210
 DATE: 14/02/2024



9am. 21st June



12pm. 21st June



3pm. 21st June

SHADOW STUDY



Map: Office Level 2, 28 South Street, Surry Hills NSW 2010
 Phone: 02 9211 1111
 Email: info@ptg.com.au
 Website: www.ptg.com.au

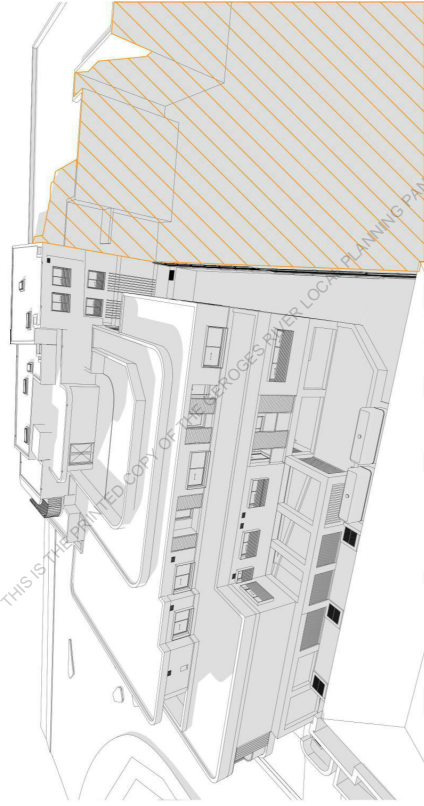
CLIENT
 IAN MCKENZIE

PROJECT TITLE
 2-12 LIME KILN ROAD, 1041A + 1041C
 FOREST ROAD, LUGARNO, 2210
 DRAWING TITLE
 SHADOW STUDY

REV	DESCRIPTION	BY	DATE
A	DATE: 14/02/2024	MD	14/02/24
B	DATE: 14/02/2024	MD	14/02/24
C	DATE: 14/02/2024	MD	14/02/24
D	DATE: 14/02/2024	MD	14/02/24
E	DATE: 14/02/2024	MD	14/02/24
F	DATE: 14/02/2024	MD	14/02/24

DRAWN BY	DD
CHECKED BY	PI
SCALE	1:1000 @ A3
PROJECT NO.	P392
SEC.	4.55 19 F
DATE	14/02/24

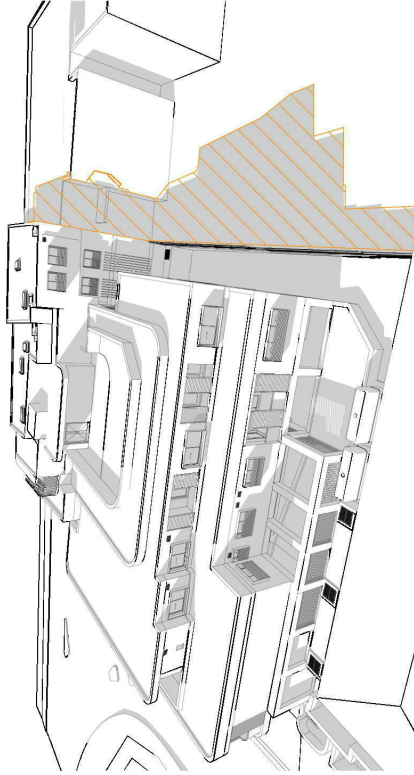
SHADOW STUDY 1 - 2-12 LIME KILN ROAD, LUGARNO, 2210 NSW, LOCAL GOVERNMENT OF GEORGES RIVER LOCAL COUNCIL, 14/02/2024



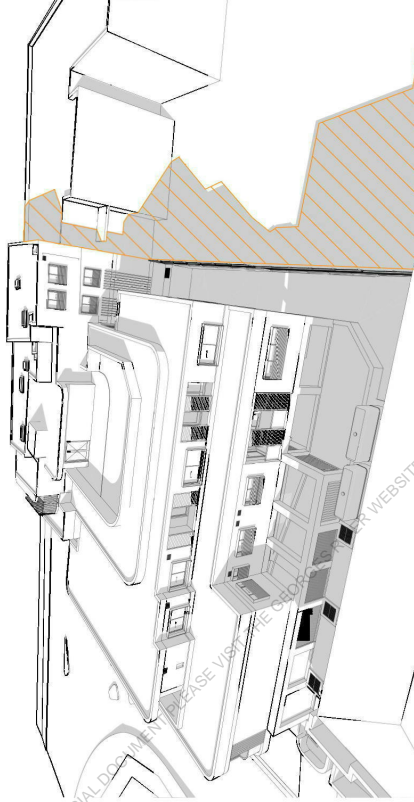
9am, 21st June

LEGEND:

- PROPOSED DEVELOPMENT SHADOWS WITH ADDITIONAL FSR AND EXISTING ADJOINING PROPERTIES
- DA APPROVED SHADOWS FROM SUBJECT SITE



12pm, 21st June



3pm, 21st June

ELEVATIONAL SHADOW STUDY - SOUTHERN NEIGHBOUR



Main Office: Level 2, 28 South Street, Surry Hills NSW 2010
Perimeter Office: Level 1, 11 Perimeter Square, 55 Macquarie St, NSW 2104
Not a registered architect. Please contact: Peter Hoad, Prop. no. 10041
ABN 85 205 021 022

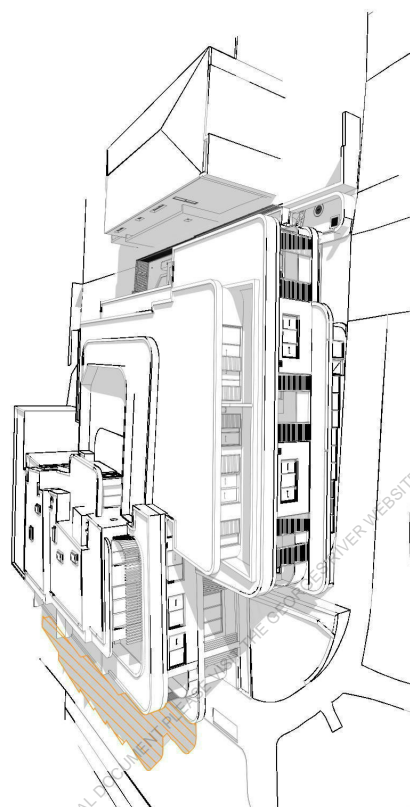
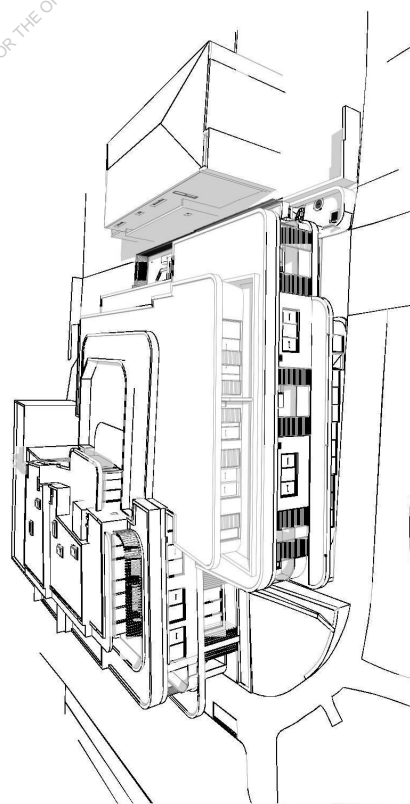
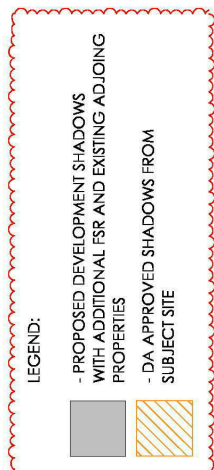
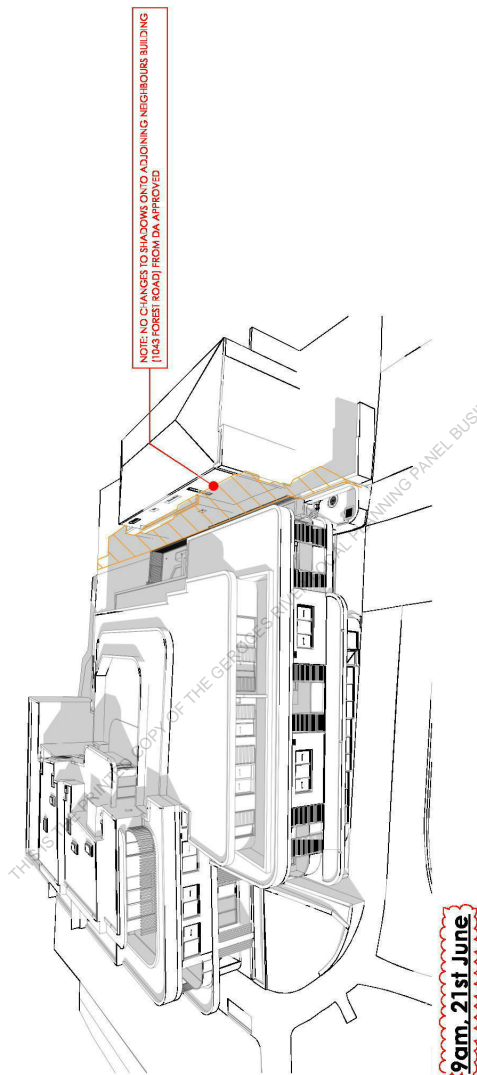
REV	DESCRIPTION
A	CONSTRUCTION OF PROPOSED SHADOW STUDY
B	SECTION 4.5.5 APPLICATION
C	AMENDMENTS TO SECTION 4.5.5 APPLICATION
D	AMENDMENTS TO SECTION 4.5.5 APPLICATION
E	AMENDMENTS TO SECTION 4.5.5 APPLICATION
F	AMENDMENTS TO SECTION 4.5.5 APPLICATION

CLIENT: IAN MCKENZIE

PROJECT TITLE: 2-12 LIME KILN ROAD, 1041A + 1041C
FOREST ROAD, LUGARNO, 2210
DRAWING TITLE: SHADOW STUDY 1

DRAWN BY: DD
CHECKED BY: PI
SCALE: 1:1000 @ A3
PROJECT NO: P392
SEC. 4.5.5 20 F
PAGE: 0001/01

Microsoft Server2019 - Microsoft/2 Line Kin Road and [C4] Forest Road, Lugarno 200315 CC V22 Current Printed: 14/12/2022



12pm, 21st June

3 pm, 21st June

ELEVATIONAL SHADOW STUDY - WESTERN NEIGHBOUR

Main Office Level 2, 98 South Street, Surray Hills NSW 2102
Perimeter Office Levels 4, 5 Perimeter Square, 153 Macquarie St, NSW 2150
51 2 9285 0885 | www.peterarchitect.com.au
Nominated Registered Architect, Peter Israel (reg no 5094)
NSW 950 071 022



1. PROJECT LOCATION: 2. PROJECT NAME: 3. PROJECT NUMBER: 4. PROJECT DATE: 5. PROJECT STATUS: 6. PROJECT TYPE: 7. PROJECT PHASE: 8. PROJECT DESCRIPTION: 9. PROJECT OBJECTIVES: 10. PROJECT SCOPE: 11. PROJECT BOUNDARIES: 12. PROJECT CONSTRAINTS: 13. PROJECT RISKS: 14. PROJECT BENEFITS: 15. PROJECT IMPACTS: 16. PROJECT SUSTAINABILITY: 17. PROJECT MONITORING: 18. PROJECT EVALUATION: 19. PROJECT REPORTING: 20. PROJECT COMMUNICATION: 21. PROJECT STAKEHOLDERS: 22. PROJECT PARTNERSHIPS: 23. PROJECT FUNDING: 24. PROJECT BUDGET: 25. PROJECT COSTS: 26. PROJECT REVENUE: 27. PROJECT PROFIT: 28. PROJECT LOSS: 29. PROJECT BREAK-EVEN: 30. PROJECT ROI: 31. PROJECT NPV: 32. PROJECT IRR: 33. PROJECT PAYBACK PERIOD: 34. PROJECT SENSITIVITY ANALYSIS: 35. PROJECT SCENARIO ANALYSIS: 36. PROJECT RISK ANALYSIS: 37. PROJECT IMPACT ANALYSIS: 38. PROJECT SUSTAINABILITY ANALYSIS: 39. PROJECT MONITORING ANALYSIS: 40. PROJECT EVALUATION ANALYSIS: 41. PROJECT REPORTING ANALYSIS: 42. 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Architect: S455 Architecture Pty Ltd
Project: 2-12 Lime Kiln Road, 1041A + 1041C, Forest Road, Lugarno, NSW 2210
Drawing: P392
Scale: N.T.S. A3
Project: P392
Sheet: 22
Revision: E



PROPOSED WITH 9M HEIGHT PLANE



S.455 APPROVED WITH 9M HEIGHT PLANE

PERSPECTIVE WITH 9M HEIGHT PLANE



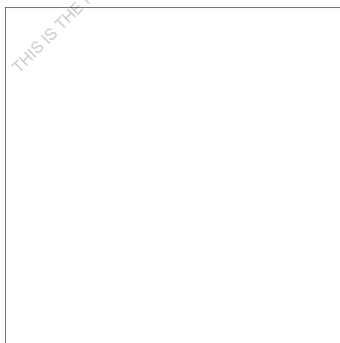
Head Office: Level 2, 28 South Street, Surry Hills NSW 2010
Perimeter Office: Level 1, 11 Perimeter Street, St Macquarie NSW 2104
Nominate Registered Architect: Peter Innes (Reg no 5294)
ABN 85 256 021 032

REV	DESCRIPTION
A	DEVELOPMENT APPLICATION
B	DEVELOPMENT APPLICATION
C	SECTION 4.55 APPLICATION
D	SECTION 4.55 APPLICATION
E	AMENDMENT TO SECTION 4.55 APPLICATION

CLIENT
IAN MCKENZIE

PROJECT TITLE
2-12 LIME KILN ROAD, 1041A + 1041C,
FOREST ROAD, LUGARNO, 2210
DRAWING TITLE
PERSPECTIVE WITH 9M HEIGHT PLANE

DRAWN BY: DD
CHECKED BY: PI
SCALE: N.T.S. A3
PROJECT NO: P392
SEC. 4.55 22 E
PAGE: 22



EXTERNAL WALLS
CEMENT RENDER
DULUX 'LEXICON' QUARTER-
PWT9GQ



EXTERNAL WALLS
CEMENT RENDER
DULUX 'DOMINO' PAINT
FINISH



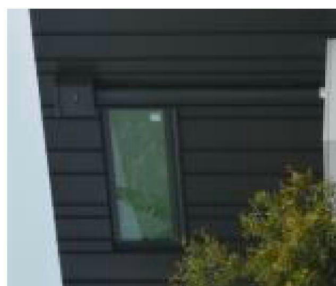
EXTERNAL WALLS
STONE CLADDING
SANDSTONE



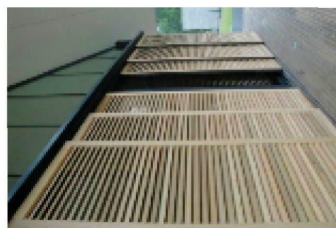
WINDOW FRAMES
ANODISED ALUMINIUM
'SATIN BLACK'



ROOF
COLORBOND INTERLOCKING PANEL
COLORBOND MONUMENT



TIMBER LOOKING PRIVACY SCREENS
ITALIAN WALNUT OR SIMILAR

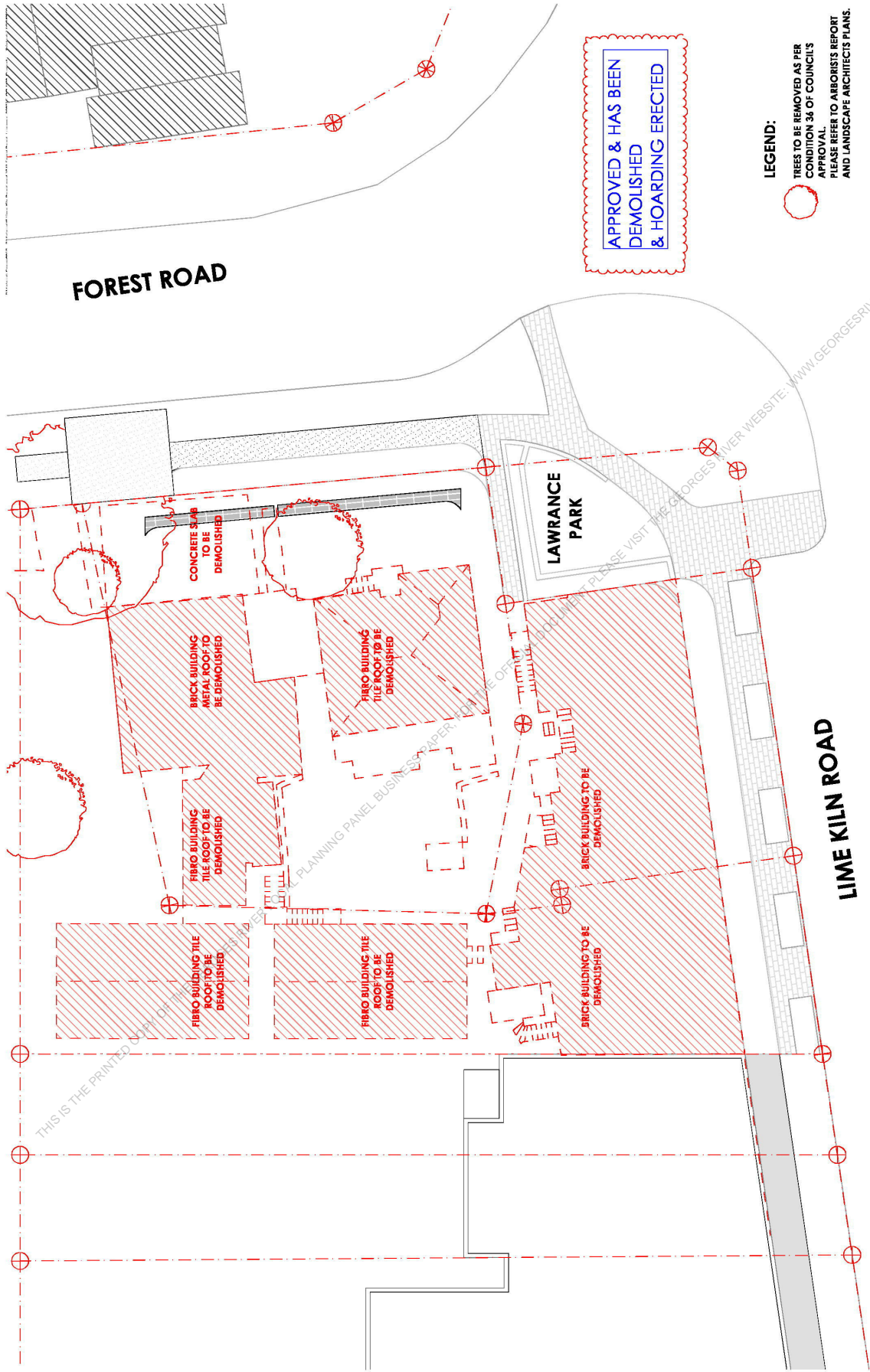
CHITECTURE
Tourism + Residential

Touris

Main Office: Level 2, 56 Scotch Street, Surry Hills NSW 2010
Permatama Office: Level 4, 3 Permatama Square, 53 Macquarie St, NSW 2150
51 2 5283 0800 | www.platarchitect.com.au
Nominated Registered Architect, Peter Israel (reg no 50954)
ABN 90 350 071 022

EXTERNAL FINISHES & MATERIALS

REV	DESCRIPTION	BY	DATE	CHECKED BY	DATE	PROJECT TITLE	PROJECT NO.	SCALE	PROJECTING	PROJECTING
1	SECTION A3 APPLICATION	MS	20/11/20			2-1/2 LIME KILN ROAD, 1041A + 1041C FOREST ROAD, LUGARNO, 2210	1041A	N.T.S.	P392	C
2	SECTION A3 APPLICATION	MS	20/11/20							
3	SECTION A3 APPLICATION	MS	20/11/20							
4	AMENDMENTS TO SECTION A3 APPLICATION	MS	21/11/20							
EXTERNAL FINISHES AND MATERIALS										
SEC. 4.55 23										



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Legend:
TREES TO BE REMOVED AS PER CONDITION 36 OF COUNCIL'S APPROVAL. PLEASE REFER TO ARCHITECTS REPORT AND LANDSCAPE ARCHITECT'S PLANS.

APPROVED & HAS BEEN DEMOLISHED & HOARDING ERECTED

CLIENT: IAN MCKENZIE

PROJECT TITLE: 2-12 LIME KILN ROAD, 1041A + 1041C, FOREST ROAD, LUGARNO, 2210

DATE: 21/12/22

SCALE: 1:200 @ A3

PROJECT NO: P392

SECTION: SEC. 4.55 25 E

REVISION:

ARCHITECTURE
p.t. ARCHITECTURE
p.t. ARCHITECTURE
p.t. ARCHITECTURE

Map: Office Level 2, 38 South Street, Surry Hills NSW 2010
Perimeter Office Level 1, 38 South Street, Surry Hills NSW 2010
Notwithstanding to the contrary, the above information is provided for information only and does not constitute an offer of any financial product or service.

REPORT TO GEORGES RIVER LOCAL PLANNING PANEL MEETING OF THURSDAY, 15 FEBRUARY 2024

LPP004-24 198-200 PRINCES HIGHWAY KOGARAH BAY

LPP004-24

LPP Report No	LPP004-24	Development Application No	MOD2022/0148
Site Address & Ward Locality	198-200 Princes Highway Kogarah Bay Kogarah Bay Ward		
Proposed Development	Section 4.55 (2) to DA2017/0655 for the demolition of existing structures, construction of six storey residential flat building comprising twenty two (22) residential units and two (2) levels of basement car park. The modification includes reconfiguration of all levels of the development, façade changes and landscaping amendments.		
Owners	NPC Advisory (NSW) Pty Ltd		
Applicant	Mr S Romanous		
Planner/Architect	Sam Romanous Architects		
Date Of Lodgement	19/10/2022		
Submissions	Nil		
Cost of Works	\$6,334,536		
Local Planning Panel Criteria	Sensitive Development – Development to which State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development applies.		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Biodiversity and Conservation) 2021; State Environmental Planning Policy (Resilience and Hazards) 2021; State Environmental Planning Policy (transport and Infrastructure) 2021; State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, Georges River Local Environmental Plan 2021		
List all documents submitted with this report for the Panel's consideration	Statement of Environmental Effects Architectural Plan, Landscape Plan, Stormwater Plan Traffic and Parking Report, Access Report SEPP 65 Design Verification Statement		
Report prepared by	Senior Development Assessment Planner		

RECOMMENDATION	Refusal
-----------------------	---------

Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable as Clause 4.6 is not required under a Modification Application
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

SITE PLAN

Figure 1: Aerial view of the subject side (yellow) and the surrounding properties

EXECUTIVE SUMMARY

PROPOSAL

- Development consent is sought for the Section 4.55(2) modification to DA2017/0655 which was approved by the Local Planning Panel for the demolition of existing structures, construction of six storey residential flat building comprising twenty-two (22) residential units and two (2) levels of basement car park. The proposed modifications include:

Numerical Modification	Standard	Approved	Proposed
Height	21m	22.6m	23.15m
FSR	2:1	1.79:1	1.78:1
Setbacks	Basements are to be setback a minimum of 3m from site boundaries	3m (northern boundary) and 600mm (southern boundary)	Nil setback to the side boundaries.
Landscaped Area	Minimum 7% or 74sqm	109.37sqm or 10%	148sqm or 14%
Number of car spaces	38 spaces in total required under the former Kogarah DCP under which the original report was assessed. Pursuant to GRDCP 2021 a total of 29 spaces is required.	40 spaces including: Residential = 33 spaces Visitors = 5 spaces Accessible = 3 spaces	30 spaces including: Residential = 21 spaces Visitors = 5 spaces Accessible spaces = 4 The 30 spaces complies with the GRDCP2021

- Internal reconfiguration of all units.
- Changes to the landscaped finished floor levels from RL 23 (northern boundary) to RL23.3. The communal open space remains at grade around RL 22.11.
- Reduction in basement footprint and internal reconfiguration.
- Changes to the basement setbacks to accommodate the fire stairs and addition of deep soil due to the reduced basement footprint.
- Consolidation + relocation of OSD tanks + landscaping – planter boxes above the OSD tanks deleted.
- Increase in the private open space (POS) width by 0.5m along Princes Highway (POS width 3.7m).
- Changes to the communal circulation spaces and circulation core/lift lobby
- Associated changes to the façade design.
- Changes to the roof top terrace landscaping

SITE AND LOCALITY

- The subject comprises of two (2) allotments – 198 Princes Highway and 200 Princes Highway. Both lots are almost identical in size and configuration. 198 Princes Highway is known as Lot 4 in DP1963. The site has a frontage of 15.24m to Princes Highway, depth of 34.75m and total site area of 529.5sqm. Existing on site is a single storey brick and tile dwelling house with a metal shed at the rear and a detached garage and associated outbuilding along the eastern boundary. The site contains some larger mature trees and palms at the rear.

3. 200 Princes Highway is known as Lot 5 in DP1963. The site has a frontage of 15.24m to Princes Highway, depth of 34.75m and a total site area of 529.5sqm. Existing on site is a single storey brick and tile dwelling house and includes a large, rendered single storey outbuilding at the rear and a smaller structure noted as a “cabana” on the survey plan. It also includes a carport located along the western side of the dwelling.
4. The proposed development relies on the amalgamation of the two (2) sites and the combined area and dimensions of the subject site are as follows:

Site Area	1,059sqm
Frontage to Princes Highway	30.48m
Rear boundary	30.48m
Side eastern/western boundaries	34.75m

5. The subject site is located on the southern side of Princes Highway between Lacey Street to the east and Park Road to the west. The site has a slight fall from the street frontage to the rear, of some 2%.
6. Immediately to the north is a low scale retail shopping strip with most properties comprising of commercial properties and offices, further north are lower scale residential properties and residences. To the south of the site is a lower scale residential area comprising of dwelling houses of varying forms and types.
7. To the east and west of the site are predominantly lower scale residential properties.
8. The site is accessible, some 16km from the CBD and within close proximity to other local services and amenities including St George Leagues Club, Kogarah Oval, Beverley Park Golf Club, Carss Park, Harold Fraser Oval and Kogarah Bay, Rockdale Plaza and Westfield at Hurstville.

ZONING AND PERMISSIBILITY

9. The subject site is zoned R4 High Density Residential under the provisions of the Georges River Local Environmental Plan 2021. The proposal is permissible with consent.

REASON FOR REFERRAL TO THE LOCAL PLANNING PANEL

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

SUBMISSIONS

11. The application was on public notification from 27 October 2022 to 10 November 2022.
12. No submissions were received within this notification period.

CONCLUSION

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, Local Environmental Plan and Development Control Plan.

14. The proposed amendments is an inappropriate response to site with respect to poor design outcome due to non-compliances with the design principles prescribed under the State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65), non-compliances with the matters within the Apartment Design Guideline (ADG), non-compliances with the Georges River Local Environmental Plan 2021 and Georges River Development Control Plan 2021.
15. As a result of the non-compliance and failure to submit outstanding information to address the concerns raised, the application is recommended for refusal.

REPORT IN FULL

PROPOSAL

16. Development consent is sought for modification to DA2017/0655 which was approved by the Local Planning Panel for the demolition of existing structures, construction of six storey residential flat building comprising twenty two (22) residential units and two (2) levels of basement car park. The proposed modifications include:

Overall changes:

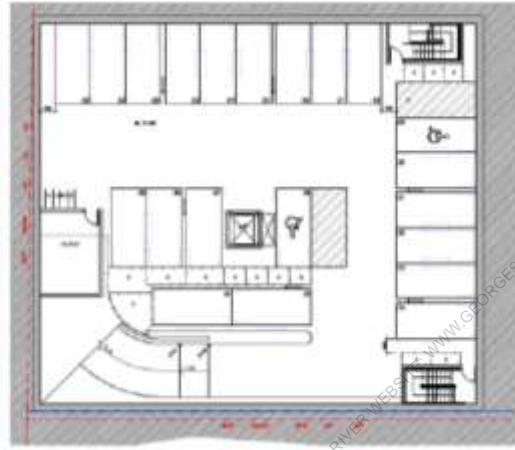
Numerical modifications	Standard	Approved	Proposed
Height	21m	22.6m	23.15m
FSR	2:1	1.79:1	1.78:1
Setbacks	Basements are to be setback a minimum of 3m from site boundaries	3m (northern boundary) and 600mm (southern boundary)	Nil setback to the side boundaries.
Landscaped Area	Minimum 7% or 74sqm	109.37sqm or 10%	148sqm or 14%
Number of car spaces	38 spaces in total required under the former Kogarah DCP under which the original report was assessed. Pursuant to GRDCP 2021 a total of 29 spaces is required.	40 spaces including: Residential = 33 spaces Visitors = 5 spaces Accessible = 3 spaces	30 spaces including: Residential = 21 spaces Visitors = 5 spaces Accessible spaces = 4 The 30 spaces complies with the GRDCP2021

The modifications proposed on each level is outlined below:

Basement Level 2:

- Reduction in basement footprint.
- Reduction in number of car parking spaces from 38 spaces to 30 spaces on Level 1 and 2, of which 4 are accessible with 5 visitor spaces including one car wash bay.
- Addition of stormwater pit in accordance with hydraulics.
- Relocation of the accessible car parking spaces.
- Marked storage for each unit.
- Relocation of the fire stairs.
- Addition of a carwash bay.

- Relocation of plant room.

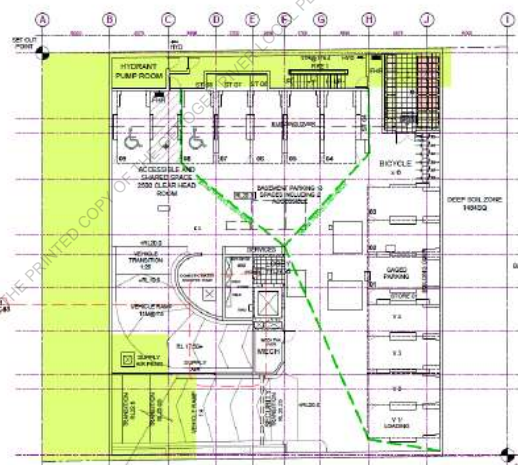
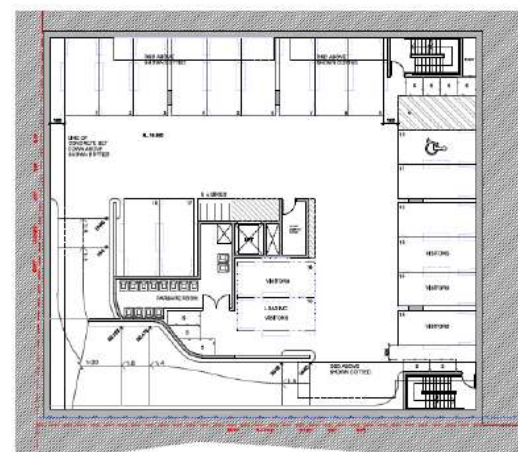
Proposed Basement L2**Approved Basement L2**

a. Figure 1 Proposed and approved Basement Level 2 plan.

Source: SEE

Basement Level 1:

- Reduction of basement footprint.
- Relocation of the bin area.
- Relocation of accessible car spaces
- Relocation of bicycle spaces
- Relocation of fire stairs from internal to external.
- Relocation of visitor car spaces
- Additional services added such as domestic water booster pump, plant rooms and services.

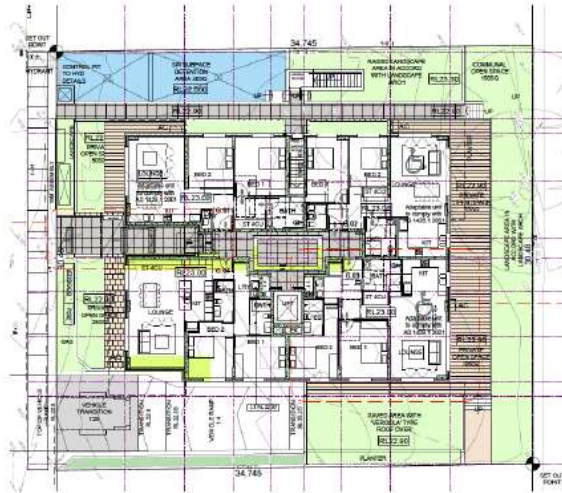
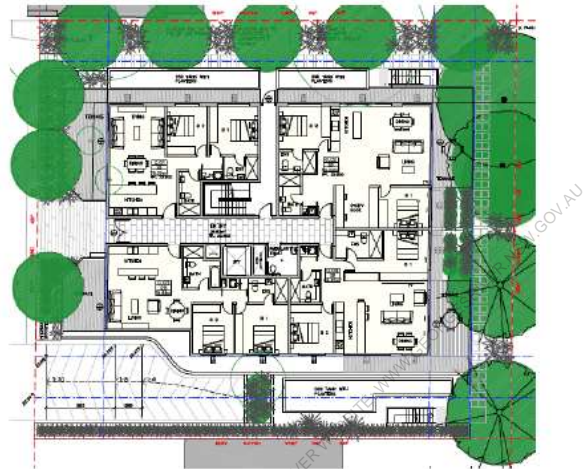
Proposed Basement L1**Approved Basement L1**

b. Figure 2: Proposed and approved Basement Level 1 plan.

Source: SEE

Ground Floor:

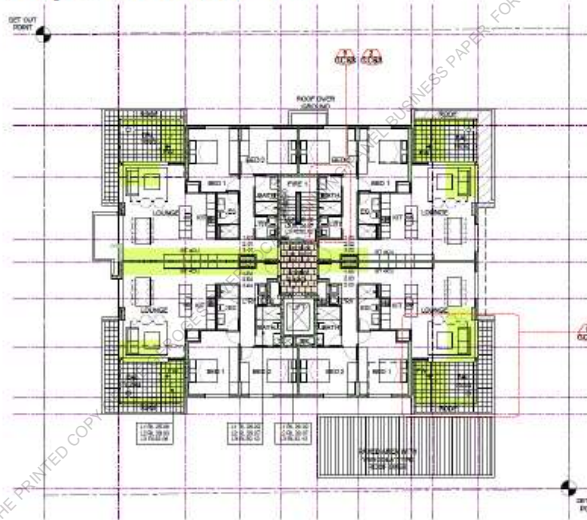
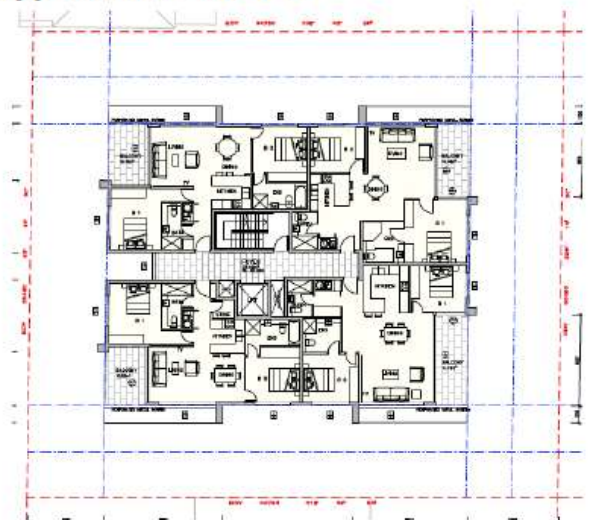
- Reconfiguration of the layout for all units.
- Reduction of the common circulation area. This reduction allows for a minor increase in the floor space of the units and balcony redesign.

Proposed Ground Floor**Approved Ground Floor**

c. Figure 3: Proposed and approved ground floor plan. Source: SEE

Levels 1 – 3:

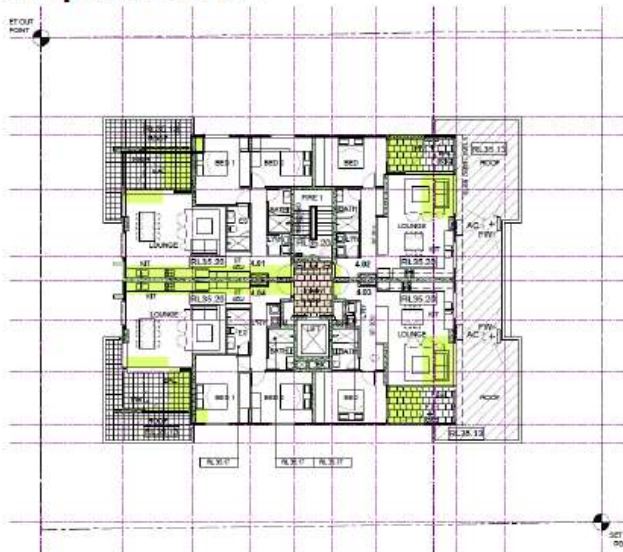
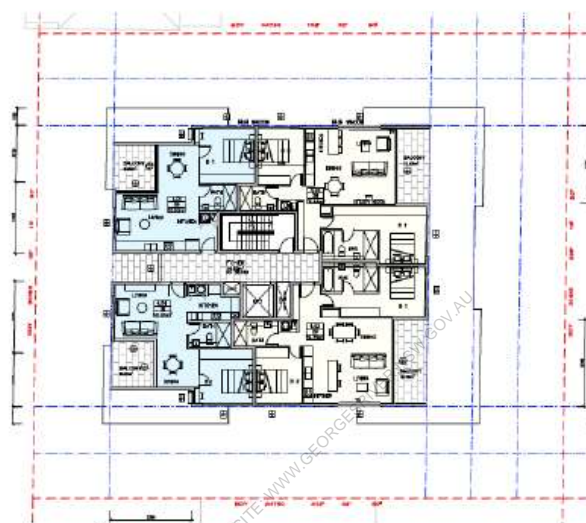
- Reconfiguration of the layout for all units.
- Reduction of the common circulation area. This reduction allows for a minor increase in the floor space of the units and balcony redesign.

Proposed Levels 1-3**Approved Levels 1-3**

d. Figure 4: Proposed and approved Levels 1 -3 plan. Source: SEE

Level 4:

- Reconfiguration of the layout for all units.
- Reduction of the common circulation area. This reduction allows for a minor increase in the floor space of the units and balcony redesign.

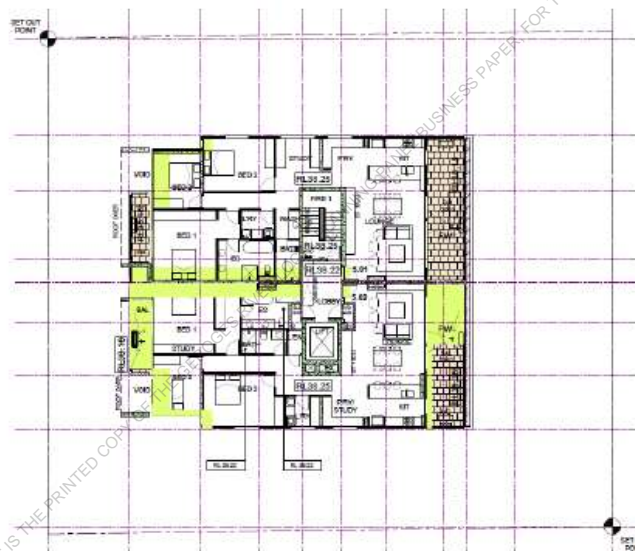
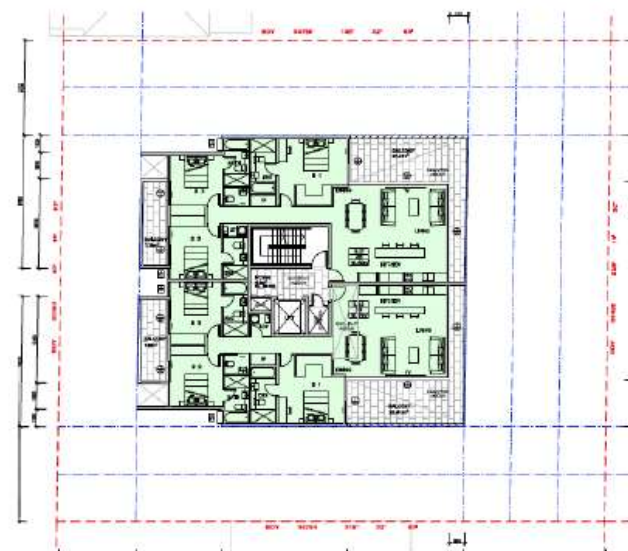
Proposed Level 4**Approved Level 4**

e. Figure 5: Proposed and approved Level 4 plan.

Source: SEE

Level 5:

- Reconfiguration of the layout for all units.
- Reduction of the common circulation area. This reduction allows for a minor increase in the floor space of the units and balcony redesign.
- Relocation of fire stairs.

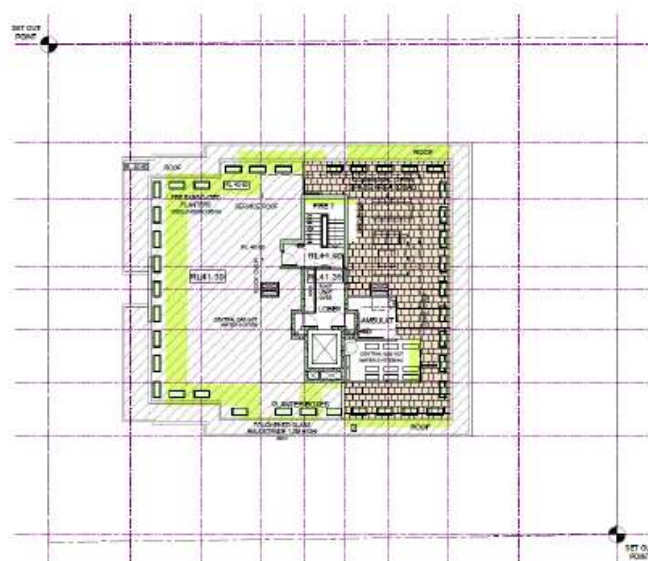
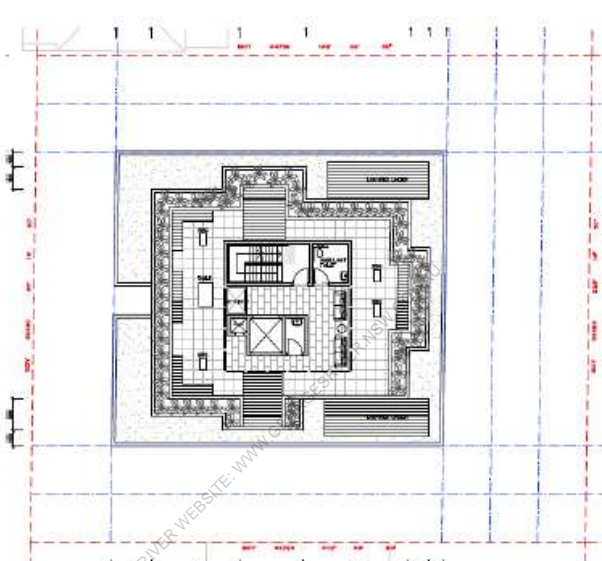
Proposed Level 5**Approved Level 5**

f. Figure 6: Proposed and approved Level 5 plan.

Source: SEE

Roof Level:

- Reconfiguration of the communal open space.
- Addition of services.

Proposed Roof Level**Approved Roof Level**

g. Figure 7: Proposed and approved roof level plan.

Source: SEE

THE SITE AND LOCALITY

17. The subject comprises of two (2) allotments – 198 Princes Highway and 200 Princes Highway. Both lots are almost identical in size and configuration. 198 Princes Highway is known as Lot 4 in DP1963. The site has a frontage of 15.24m to Princes Highway, depth of 34.75m and total site area of 529.5sqm. Existing on site is a single storey brick and tile dwelling house with a metal shed at the rear and a detached garage and associated outbuilding along the eastern boundary. The site contains some larger mature trees and palms at the rear.
18. 200 Princes Highway is known as Lot 5 in DP1963. The site has a frontage of 15.24m to Princes Highway, depth of 34.75m and a total site area of 529.5sqm. Existing on site is a single storey brick and tile dwelling house and includes a large, rendered single storey outbuilding at the rear and a smaller structure noted as a “cabana” on the survey plan. It also includes a carport located along the western side of the dwelling.
19. The proposed development relies on the amalgamation of the two (2) sites and the combined area and dimensions of the subject site are as follows:

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Rear boundary	30.48m
Side eastern/western boundaries	34.75m

20. The subject site is located on the southern side of Princes Highway between Lacey Street to the east and Park Road to the west. The site has a slight fall from the street frontage to the rear, of some 2%.
21. Immediately to the north is a low scale retail shopping strip with most properties comprising of commercial properties and offices, further north are lower scale residential properties and residences. To the south of the site is a lower scale residential area comprising of dwelling houses of varying forms and types.

22. To the east and west of the site are predominantly lower scale residential properties.
23. The site is accessible, some 16km from the CBD and within close proximity to other local services and amenities including St George Leagues Club, Kogarah Oval, Beverley Park Golf Club, Carss Park, Harold Fraser Oval and Kogarah Bay, Rockdale Plaza and Westfield at Hurstville.

BACKGROUND

24. On 18 January 2019, DA2017/0655 was approved by the Local Planning Panel for the demolition of existing structures, construction of six storey residential flat building comprising twenty-two (22) residential units and two (2) levels of basement car park. The consent has not been activated with the lapse date being 18 January 2026 due to the further 2-year extension provided under the COVID-19 Legislation Amendment Act 2020.
25. On 19 October 2022, the subject modification application was lodged with Council.
26. From 27 October 2022 to 10 November 2022 the application was on public notification. No submissions were received during this period.
27. On 20 July 2023, comments were received from Council's Urban Design officer requesting additional information.
28. On 14 September 2023, requests for amended plans and additional information was requested from the applicant. Generally, the issues to be addressed included non-compliances with SEPP 65, ADG, GRLEP 2021 and GRDCP 2021. The information was due on 5 October 2023.
29. On 15 September 2023, the applicant requested an extension to submit the request for additional information letter.
30. On 18 September 2023, email correspondence was sent to the applicant requesting clarification on the timeframe for the extension. No response has been provided to the email to date. As such, the application is assessed on the original submitted plans and as the request for additional information has not been addressed the application is recommended for refusal.

SUBMISSIONS AND THE PUBLIC INTEREST

31. The application was on public notification from 27 October 2022 to 10 November 2022.
32. During this time no submissions were received opposing the proposed works.

PLANNING ASSESSMENT

ASSESSMENT – SECTION 4.55 CONSIDERATIONS

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

Section 4.55(2) Other modifications

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

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

Comment: The proposed changes to the development consent are considered to be “*substantially the same*” as they sit within the approved building envelope and footprint.

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

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

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

Section 4.55 subclause (4) states:

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

Comment: The proposed development satisfies this provision as the modifications are not granting consent to a DA but rather modifying DA2017/0655.

STATE ENVIRONMENTAL PLANNING POLICIES

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

State Environmental Planning Policy	Complies
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes – No change
State Environmental Planning Policy No. 65 – <i>Design Quality of Residential Apartment Development</i>	No

State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes – No change
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes

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STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

35. The original application was assessed against the requirements of State Environmental Planning Policy (Transport and Infrastructure) 2021 as the subject site fronts a classified road (Princes Hwy). A referral was sent to Transport for New South Wales (TfNSW) for comment and no objections were raised regarding the proposed modifications.

STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

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

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

37. A BASIX Certificate is required to be lodged for any development application in NSW considered to be BASIX Affected Development by the Environmental Planning and Assessment Regulation 2000, unless the development constitutes BASIX Excluded Development (see Clause 3) of the Regulations.
38. The development is BASIX Affected Development and is accompanied by a BASIX Certificate.
39. The submitted plans incorporates the provisions of BASIX and a condition of consent would have been included to ensure the proposal is constructed in accordance with the submitted BASIX Certificate if approval was recommended.
40. The details of the provided BASIX Certificate are provided below:

BASIX Certificate Details	
Author:	Eco Engineering Group
Certificate Date:	10 June 2023
Certificate Number	891709M_03

STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

41. (1) A consent authority must not consent to the carrying out of any development on land unless—
- (a) it has considered whether the land is contaminated, and
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

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 remains suitable for the proposed development.

STATE ENVIRONMENTAL PLANNING POLICY 65 – DESIGN QUALITY OF RESIDENTIAL DEVELOPMENT

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

ADG design quality principle	Response
1. Context	The design of the proposed development responds to the qualities and identity of the area with respect to its relationship to adjoining sites, streetscape, and neighbourhood. The site has been identified for high density redevelopment in accordance with the provisions for GRLEP 2021.
2. Built form and scale	<p>The proposed modifications were referred to Council's Urban Design Officer who provided the following comments:</p> <p><i>"The proposed façade treatments attempts to maintain the architectural detailing and materiality of the approved design. However, the orientation of all the balconies located at the four corners of the building envelop has changed. This has reduced the interface of the private open space with the street on the north-western façade and altered the massing composition and enhanced building bulk especially on the south-west and north-east elevations. In addition, the deletion of the central corridor, which provided a break in the building mass, has enhanced the building bulk. The centrally located fins walls on the northwest facade are purely cosmetic and do not provide a break in the building massing. Hence considered undesirable.</i></p> <p><i>Balconies on Levels 1-3 encroach (0.45m) into the side setbacks and the proposal does not comply with the ADG building separation. While the "roof" extends further (1.1m). However, 1.1m deep fin walls encroaching within the side setbacks were approved. The proposed main building entrance door is well inset and does not have clear sight lines to the street. Given the length of the entry passage, it is considered to provide poor sense of address with unclear front door and potential to gather litter."</i></p> <p>Additional information was requested to address the above comments. However, no correspondence has been received from the applicant. As such, the proposal as assessed against the original set of plans is considered to be inconsistent with this design principle.</p>
3. Density	No changes are proposed to the approved number of units.
4. Sustainability	Insufficient information has been submitted regarding adequate solar access to all units from the proposed modifications.

	Additional information was requested; however, no correspondence has been received from the applicant. As such, the proposal as assessed against the original set of plans is inconsistent with this design principle.
5. Landscape	Insufficient information was submitted with regards to the amendments to the finished floor levels for the approved landscaped areas, along the north-east section where it is higher than the ground floor finished floor area. It is noted that building finished floor levels can be a necessity to facilitate stormwater, however changes to the landscaped area and communal open space was not supported. Amended plans were requested for all landscaped areas and COSs within the site should be connected and accessible by addressing existing topography, minimising steps, and incorporating ramps with gentle slope if necessary. No correspondence has been received regarding the request for additional information. As such, the proposal as assessed against the original set of plans is inconsistent with this design principle.
6. Amenity	<p>The proposed modifications were referred to Council's Urban Design Officer who provided the following comments:</p> <p><i>"Insufficient information has been submitted to accurately assess the impact on the amenity of the future occupants by the proposed modifications. In particular:</i></p> <ul style="list-style-type: none"> <i>Cross ventilation diagrams have not been provided.</i> <i>Solar access to the Private Open Space, especially of the apartments to the rear, is a concern given that they are enclosed from 3 sides.</i> <i>Solar access to the apartment in the eastern corner is also of concern given the privacy screen and balcony depth.</i> <i>Terrace within the rear setback on Level 4 is of concern as it compromises privacy of the Private Open Space."</i> <p>Additional information was requested to address the above comments. However, no correspondence has been received from the applicant. As such, the proposal as assessed against the original set of plans is inconsistent with this design principle.</p>
8. Housing Diversity and Social Interaction	No changes are proposed to the approved unit mix.
9. Aesthetics	The proposed built form is not considered to be appropriate with regard to the composition of building elements, textures, materials and colours, reflecting the use, internal design and structure of the building.

THE APARTMENT DESIGN GUIDELINE (ADG)

44. The ADG is a publication by the State Government which further expands on the design quality principles by providing some detailed practical guidance for the design of residential flat buildings.
45. The modified proposal has been assessed against the relevant topic area provisions within Parts 3 & 4 of the ADG as follows:

Clause	Design Criteria	Comments	Complies
3C Public Domain interface	<p>Transition between private and public domain is achieved without compromising safety and security.</p> <p>Amenity of the public domain is retained and enhanced.</p>	<p>The proposal was referred to Council's Urban Design Officer who provided the following comments:</p> <p><i>"There is a considerable increase in the area allocated to accommodate building services. In fact, except for the hydrant booster, none of the other building services were identified on the approved plans / elevations. The proposed building services along Princes Highway dominate the entire street frontage and is not considered as a good urban design outcome.</i></p> <p><i>The width of the private open space areas along Princes Highway has been increased by 0.5m. This is not supported as it restricts opportunity for landscaping along Princes Highway and growth of mature trees as required Under Part 6.3.3 of GRDCP2021.</i></p> <p><i>In addition, the relocation of the OSD tanks along Princes Highway and the driveway on the other end of the site has added adverse impact on deep soil and streetscape with both the ends devoid of landscaping to soften the impact of the proposal (The reasons for the relocation of the OSD tanks is unclear).</i></p> <p><i>The 3D visualisation images included in the SEE of the proposed modifications is incorrect as it includes two tiers of landscaping between fences along Princes Highway to make the proposal look aesthetically pleasing rather than the actual public / private treatment, which includes various building services and the driveway provided along Princes Highway.</i></p>	No

		<p><i>It is recommended that the design should be amended to minimise the visual impact of the building services on the streetscape. All the pipes should be concealed / integrated in the design on the building. In fact water, gas and electricity meter assembly shouldn't be required to be at the street interface and installation of smart meters should be considered, which do not required access by service providers.</i></p> <p><i>The encroachment of the POSs along Princes Highway should be restricted to as approved as healthy growth of mature trees is unlikely in the proposed 1.8m width, which also incorporates building services.</i></p> <p><i>Amended 3D visualisation images should be provided that depict accurate information including all the building services along Princes Highway and landscaping between as indicated.</i></p> <p><i>Similarly, the Landscape Plans should also be amended to indicated building services.</i></p> <p><i>The OSD tanks should be relocated away from the street interface to minimise the impact of hard surfaces. If OSD tanks are desired at the proposed location, the area at the interface should be landscaped as approved.</i></p> <p><i>Council's Development Engineers should be consulted."</i></p> <p>Additional information was requested to address the above comments. However, no correspondence has been received from the applicant. As such, the proposal as assessed against the original set of plans is inconsistent with this design guideline.</p>	
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3E Deep Soil Zones	3E-1 Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.	The revised proposal achieves deep soil zone of 14% of the site area which is above the approved scheme.	Yes
3F Visual Privacy	3F-1 Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy. Design Criteria Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room. Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.	Balconies on Levels 1-3 encroach (0.45m) into the side setbacks and the proposal does not comply with the ADG building separation. Additional information was requested to address the above comments. However, no correspondence has been received from the applicant. As such, the proposal as assessed against the original set of plans is inconsistent with this design guideline.	No
3G Pedestrian access and entries	Building entries and pedestrian access connects to and addressed the public domain. Access, entries, and pathways are accessible and easy to identify.	The proposal was referred to Council's Urban Design Officer who provided the following comments: <i>"There is an increase in the area of the lift lobby opposite the lift. Electrical and gas supplies cupboards are located on either side of the lift door. The redesign of the lift core has</i>	No

		<p><i>resulted in the lift being further inset from the entry corridor. This is inconsistent with the objective which requires lift lobbies, stairwells and hallways to be clearly visible from the public domain. In addition, the electrical and gas cupboard on either side of the lift door is not supported due to the potential conflict with the pedestrian movement and the lift entrance being confined.</i></p> <p><i>The approved design included the provision of a pedestrian connection between the open space and the lift lobby.</i></p> <p><i>The proposed pedestrian access to the landscaped area within the rear and northeastern setbacks is confined to the pedestrian path located within the northeastern setback, which can only be accessed from Princes Highway and the fire stairs. This is not supported especially given the numerous changes in the FFL, which requires steps and make the pedestrian movement inaccessible for people with a disability.”</i></p> <p>Additional information was requested to address the above concerns and no response was received. As such, the original plans submitted are not supported and forms as a reason for refusal.</p>	
4A Solar Access	1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and	<p>The proposed modifications were referred to Council’s Urban Design Officer who provided the following comments:</p> <p><i>“Solar access to the private open spaces especially of the apartments to the rear is a</i></p>	No

	<p>in the Newcastle and Wollongong local government areas</p> <p>2. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter</p> <p>3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter</p>	<p><i>concern given that they are enclosed from 3 sides.</i></p> <p><i>Solar access to the apartment in the eastern corner is also of concern given the privacy screen and balcony depth."</i></p> <p>Additional information was requested to address the above concerns and no response was received. As such, the original plans submitted are not supported and forms as a reason for refusal.</p>	
4B Natural Ventilation	<p>1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed</p> <p>2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p>	<p>The proposed modifications were referred to Council's Urban Design Officer who provided the following comments:</p> <p><i>"Cross ventilation diagrams have not been provided."</i></p> <p>Additional information was requested to address the above concerns and no response was received. As such, the original plans submitted are not supported and forms as a reason for refusal.</p>	No
4F Common circulation and spaces	<p>Greater than minimum requirements for corridor widths and/ or ceiling heights allow comfortable movement and access particularly in entry lobbies, outside lifts and at apartment entry doors.</p>	<p>The proposed reduction in foyer spaces from levels 1 – 5 demonstrates a poor design outcome that does not allow for adequate natural ventilation.</p> <p>Additional information was requested to address the above concerns and no response was received. As such, the original</p>	No

	Daylight and natural ventilation should be provided to all common circulation spaces that are above ground	plans submitted are not supported and forms as a reason for refusal.	
4M Facades	Building facades provide visual interest along the street while respecting the character of the local area.	<p>The proposal was referred to Council's Urban Design Officer who provided the following comments:</p> <p><i>"The orientation of all the balconies located at the four corners of the building envelope has changed. This has reduced the interface of the private open space with the street on the north-western façade and altered the massing composition and enhanced building bulk, especially on the southwest and north east elevations.</i></p> <p><i>The proposed main building entrance door is well inset and does not have clear sight lines to the street. Given the length of the entry passage, it is considered to provide a poor sense of address with unclear front door and potential gather to litter.</i></p> <p><i>In addition, the deletion of the central corridor which provided a break in the building mass, has enhanced the building bulk. The centrally located fin walls on the northwest façade are purely cosmetic and do not provide a break in the building massing."</i></p> <p>Additional information was requested to address the above concerns and no response was received. As such, the original plans submitted are not supported and forms as a reason for refusal.</p>	No

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

GEORGES RIVER LOCAL ENVIRONMENTAL PLAN 2021



h. Figure 8: Zoning map of the subject site (outlined in red) and the surrounding properties.

47. The subject site zoned R4 High Density Residential pursuant to the provisions of GRLEP 2021. The proposal is permissible with consent.
48. The extent to which the proposed development complies with the relevant provisions of the Georges River Local Environmental Plan 2021 (GRLEP 2021) is detailed and discussed in the table below.

Part 1 – Preliminary		
Clause 1.2 – Aims of the Plan		
Standard	Proposal	Compliance
In accordance with Clause 1.2 (2)	The development is inconsistent with the aims of the plan as it fails to promote a high standard of urban design and built form.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
Clause 1.2 – Aims of the Plan		
Standard	Proposal	Compliance
<i>Residential Flat Building means a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi-dwelling.</i>	The proposed development remains consistent with the definition.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Part 2 – Permitted or prohibited development		
Clause 2.3 – Zone objectives and Land Use Table		
Standard	Proposal	Compliance
The subject site zoned R4 High Density Residential	The proposal is consistent with the zone objectives as the development:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

<p>The objectives of the zone are:</p> <ul style="list-style-type: none"> • 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. 		
Land Use Table		
R4 High Density Residential	The approved use remains permissible with consent under the zone applying to the land.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
(a) Part 4 – Principal Development Standards		
Clause 4.3 – Height of Buildings		
Standard	(b) Approved/Proposal	Compliance
<p>The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</p> <p>Maximum height is 21m maximum identified on Height of Buildings Map</p>	<p>(c) Approved = 22.6m</p> <p>(d) Variation = 1.6m or 7.6% variation</p> <p>(e)</p> <p>(f)</p> <p>(g)</p> <p>(h)</p> <p>(i) Proposed = 23.15m (addition of 550mm for the lift overrun)</p> <p>(j) Variation = 2.15m or 10% variation</p> <p>(k)</p> <p>(l)</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No. Refer to assessment below the compliance table. <input type="checkbox"/> N/A
Clause 4.4 – Floor Space Ratio		
Standard	Approved/Proposal	Compliance
The maximum floor space ratio for a building on any land is not to exceed the floor	Approved = 1.79:1 or 1902.8m ²	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

space ratio shown for the land on the Floor Space Ratio Map. The maximum floor space is 2:1 or 2118m ² as identified on Floor Space Ratio (FSR) Map.	Proposed = 1.78:1 or 1893.9m ²	<input type="checkbox"/> N/A
Clause 4.6 - Exceptions to development standards		
(m) Standard	(n) Proposal	Compliance
(o) In accordance with Clause 4.6 (1) through to and including (8)	(p) The proposal exceeds the maximum height and allowed for the site. A Clause 4.6 statement is not required under a modification application. However, an assessment regarding the variation has been carried out below the compliance table. (q)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
(r) Part 5 – Miscellaneous Provisions		
Clause 5.7 – Development below mean high water mark		
Standard	Proposal	Compliance
Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).	The proposal does not involve works below the Mean High Water Mark.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Clause 5.10 – Heritage conservation		
Standard	Proposal	Compliance
Council must, before granting consent under this clause with respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.	The site is not a heritage item and not located within the vicinity of any heritage items. Site is not in a heritage conservation area.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Clause - 5.21 Flood Planning		
Standard	Proposal	Compliance
(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area.	The subject land is not flood affected	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
(s) Part 6 – Additional Local Provisions		
(t) Clause 6.1 – Acid sulfate soils		
Standard	Proposal	Compliance

<p>(u) (2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.</p> <p>(v)</p> <p>(w) Class 5</p> <p>(x) The site is identified as containing Class 5 Acid Sulfate Soils.</p>	<p>The site identified as containing Class 5 acid sulfate soils, but the works are not located on land within 500m of land of a lower class, and is not below 5m Australian Height Datum. No further action is therefore required.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>
(y) Clause 6.2 Earthworks		
Standard	Proposal	Compliance
<p>(z) Council must consider the following prior to granting consent for any earthworks:</p> <p>(aa)</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) measures to minimise the need for cut and fill, particularly on sites with a slope of 15% or greater, by stepping the development to accommodate the fall in the land,</p> <p>(f) the source of any fill material and the destination of any excavated material,</p> <p>(g) the likelihood of disturbing relics,</p> <p>(h) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p>	<p>The proposal has been considered in this regard. The proposed earth works are satisfactory with regards the matters identified.</p> <p>The development has been executed in a manner that minimizes disruption to drainage patterns and ensures soil stability in the surrounding area.</p> <p>Measures have been implemented to mitigate any adverse effects on the existing and anticipated amenity of neighbouring properties caused by the development.</p> <p>The design and construction of the development have effectively minimized the need for extensive cut and fill operations.</p> <p>Adequate measures have been proposed and implemented to avoid, minimize, or mitigate any potential negative impacts associated with the proposed earthworks.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>

(i) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.		
Clause 6.3 – Stormwater Management		
Standard	Proposal	Compliance
<p>(2) In deciding whether to grant development consent for development, the consent authority must be satisfied that the development—</p> <p>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</p> <p>(b) includes, if practicable, on-site stormwater detention or retention to minimise stormwater runoff volumes and reduce the development's reliance on mains water, groundwater or river water, and</p> <p>(c) avoids significant adverse impacts of stormwater runoff on adjoining properties, native bushland, receiving waters and the downstream stormwater system or, if the impact cannot be reasonably avoided, minimises and mitigates the impact, and</p> <p>(d) is designed to minimise the impact on public drainage systems.</p>	<p>The proposal has been considered in this regard. The proposal is satisfactory with regards the matters identified.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>
Clause 6.4 – Foreshore area and coastal hazards and risk		
Standard	Proposal	Compliance
<p>(2) This clause applies to the following land—</p> <p>(a) and identified on the Coastal Hazard and Risk Map,</p> <p>(b) land identified on the Foreshore Building Line Map.</p>	<p>The site is not located on land identified in the Coastal Hazard and Risk Map or on the Foreshore Building Line Map.</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> N/A</p>
Clause 6.5 – Riparian land and waterways		
Standard	Proposal	Compliance

(2) This clause applies to land identified as "Sensitive land" on the Riparian Lands and Waterways Map.	The site is not located on Sensitive Land as identified on the Riparian Land and Waterways Map.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Clause 6.6 Foreshore scenic protection area		
Standard	Proposal	Compliance
(2) This clause applies to land identified as "Foreshore scenic protection area" on the Foreshore Scenic Protection Area Map.	The site is not located within the Foreshore Scenic Protection Area as identified on the Foreshore Scenic Protection Area Map.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Clause 6.8 Development in areas subject to aircraft noise		
Standard	Proposal	Compliance
NOTE: Applies to 67-89 Croydon Road, 1-7 Somerset (odd only), 2-8 Bristol (even), 1-5 Bristol (odd) in Hurstville.	The proposal is not located on the land identified by the Clause.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Clause 6.9 Essential Services		
Standard	Proposal	Compliance
Development consent must not be granted to development unless Council is satisfied that any of the following services that are essential for the development are available, or that adequate arrangements have been made to make them available when required a) the supply of water, b) the supply of electricity, c) the supply of telecommunications facilities, d) the disposal and management of sewage e) stormwater drainage or on-site conservation, f) suitable vehicular access.	The proposal has, or includes arrangements that will make available, the: <ul style="list-style-type: none"> the supply of water, the supply of electricity, the supply of telecommunications facilities, the disposal and management of sewage, stormwater drainage or on-site conservation, vehicular access. 	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Clause 6.10 Design Excellence		
Standard	Proposal	Compliance
(2) This clause applies to development: 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	The proposal is zoned R4 High Residential and has a height greater than 12m. The proposal was referred to Council's Urban Design Officer and has been considered with regards the matters	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A

<p>ground level (existing), or both, not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking—</p> <p>(i) Zone R4 High Density Residential,</p> <p>(ii) Zone E1 Local Centre,</p> <p>(iii) Zone E2 Commercial Centre,</p> <p>(iv) Zone E4 General Industrial,</p> <p>(v) Zone MU1 Mixed Use.</p>	<p>identified in Clause (5). The proposed modifications do not suitably demonstrate compliance with the Clause. Detailed assessment is further below in the report.</p>	
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VARIATION TO HEIGHT MERIT ASSESSMENT

49. The original development was approved with a variation to the maximum building height development standard. The proposed modifications include an increase to the approved height by 550mm. Applications assessed under Section 4.55 of the EPA Act 1979 do not require a variation to be sought under Clause 4.6 of the Georges River LEP 2021. Notwithstanding, a merit assessment of the variation is provided below.

Clause 4.3 – Height of Buildings

50. The proposal does not comply with the maximum permissible building height of 21m stipulated within Clause 4.3 – Height of Buildings. The approved building height is 22.6m. Approval is sought to modify the building height to be 23.15m. The proposed modification involves the addition of 550mm to the lift overrun to meet the revised Work Health and Safety (WHS) considerations within the lift.



- (bb)
- i. Figure 10: North-east elevation showing approved height at RL44.850 and proposed RL 45.4 on the right outlined in yellow.

51. The increase in height relates to the lift overrun (towards the centre of each building). The proposed modification is required to meet the revised Work Health and Safety (WHS).

GEORGES RIVER DEVELOPMENT CONTROL PLAN 2021

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

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, the proposal would have been conditioned were this application recommended for approval. See BASIX SEPP assessment	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

Part 6.3 – High Density Residential Controls

53. Part 6.3 of the GRDCP 2021 is applicable to the development and the following controls apply:

Control	Proposal	Compliance
6.3.4 Basement Setbacks		
Basements are to be set back a minimum of 3m from the site boundaries. The basement setback areas are to be deep soil areas as defined in the Apartment Design Guide	The approved basement had provided a 3m setback to the northeast boundary and a setback to the rear boundary. The proposed modifications include a 5m setback to Princes Highway (northwest). Although, the front setback will be desirable. However, in this instance most of the front setback is occupied by private open space (POS) and building services. In addition, the proposed nil setback to the northeast takes away the opportunity for deep soil within the side setback that is required to enhance amenity (privacy) for future residents and character of the area.	No
6.3.5 Façade Treatment and Street Corners		
Services such as substations and fire booster assemblies must be integrated into the design of the façade.	The submitted 3D visualisation images included in the Statement of Environmental Effects for the proposed modifications is incorrect as it includes two tiers of landscaping between fences along Princes Highway to make the proposal look aesthetically pleasing rather than the actual public / private treatment, which includes various building services and the driveway provided along	No

Control	Proposal	Compliance
	Princes Highway. As such, the proposed modifications have not suitably integrated the services into the design of the façade.	
Large areas of blank, minimally or poorly articulated walls are not acceptable. Façade treatments such as wall cladding, and green walls should be considered as alternatives to blank walls.	The proposed modifications add inappropriate building bulk/mass and large spans of unarticulated walls. The balcony encroachment compromises the ADG requirement for building separation.	No
6.3.6 Landscaped Treatment and Private Open Space		
Deep soil is to be provided within the setbacks areas as required in Figures 3, 4, 5 and 6 and consistent with Part 3E of the NSW State Government's Apartment Design Guide. To be included as deep soil as required by Part 3E of the Apartment Design Guide, the deep soil area must have a minimum dimension of 3m on any axis. Planting in the deep soil areas is to include trees that achieve a minimum mature height of 6m.	The proposed reduction of basement footprint includes a nil setback to the side boundaries. This eliminates the opportunity for deep soil to be provided along the side setbacks which would mitigate adverse visual privacy impacts to adjoining properties.	No
Where services including fire booster valves, substations and other infrastructure required as part of the any new development present to a public road or public space, they must be concealed by a screen or fence that corresponds with the materiality of the building façade.	Although additional front setback is proposed, majority of the front setback is occupied by private open space and building services.	No
6.3.7 Communal Open Space		
The useable and trafficable area of any rooftop communal open space is to be set back a minimum of 2.5m from the edge of the roof of	The width of the planter boxes has been reduced on the proposed rooftop communal open space. The proposed design allows for greater adverse visual privacy impacts to the adjoining properties.	No

Control	Proposal	Compliance
the floor immediately below with landscape planters provided to prevent close and direct views into adjoining properties.		
Roof top communal open space areas, amenities and common (non-private) rooms should include equitable access for all residents, and must be designed to ensure that noise and overlooking will be avoided, by way of screening and setbacks from boundaries as detailed in Figure 7.	Has not been achieved. See above.	No
6.3.8 Solar Access		
New development shall maintain solar access to the living rooms and private open space of apartments within existing residential flat buildings	Solar access to the private open spaces, especially of the apartments to the rear is a concern given that they are enclosed from 3 sides. Solar access to the apartment in the eastern corner is also of concern given the privacy screen and balcony depth.	No
6.3.9 Vehicular Access, Parking and Circulation		
Developments on Classified Roads are to: <ul style="list-style-type: none"> i. Minimise the number of access points or seek alternative access wherever possible. ii. Provide safe vehicle access, adequate sight distances and make provision for vehicles to leave the site in a forward direction in accordance with AS2890.1 (latest edition). 	Achieved. TfNSW has provided a response and no further comments were included with regards to the proposed modifications.	Yes

Control	Proposal	Compliance
<p>iii. Sufficient space within the property boundary is to be provided to accommodate vehicles entering the property and waiting for security gates or booms to open. The queuing area is to be sufficient to ensure waiting vehicles are wholly within the property boundary.</p> <p>iv. Comply with any conditions imposed by Council to satisfy the requirements of TfNSW.</p>		

LPP004-24

THE LIKELY IMPACTS OF THE DEVELOPMENT

54. *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	
Built Environment	The built form of the proposed development is of a bulk and scale that is inappropriate with its setting and inconsistent with the desired future character of the area.

55. Referrals

Internal Referrals		
Specialist	Comment	Outcome
Urban Design	Not supported.	Forms reason for refusal.
Traffic Engineering	No objections raised to the proposal and conditions suggested	Conditions would have been imposed if the application was recommended for approval.
External Referrals		
Specialist	Comment	Outcome

Transport for New South Wales	No further comments provided regarding proposed modifications.	Original conditions apply.
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LPP004-24

CONTRIBUTIONS

56. The development is subject to Section 7.11 Contributions which has been included in the original consent. The proposed modifications does not change the original condition.

PLANNING AGREEMENTS

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

EP&A REGULATION 2000

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

SUITABILITY OF THE SITE FOR THE DEVELOPMENT

59. The site is zoned R4 – High Density Residential. The proposal is a permissible form of development in this zone. The proposed changes are not supported due to the reasons provided within the assessment. Additional information was requested to address the concerns raised by Council's Urban Design Officer regarding the poor design outcomes of the proposed modifications. No response was provided; therefore, the assessment was made against the original submitted plans which were insufficient and non-compliant.

DETERMINATION AND STATEMENT OF REASONS STATEMENT OF REASONS

60. The reasons for this recommendation are:
- Insufficient information has been provided with the application with regards to the impacts of the proposed modifications such as cross ventilation plans.
 - The proposed development fails to comply with State Environmental Planning Policy – 65 *Apartment Design Guideline*.
 - The proposed development fails to comply with the Apartment Design Guideline.
 - The proposed development fails to comply with the Georges River Local Environmental Plan 2021.
 - The proposed development fails to comply with the Georges River Development Control Plan 2021.
 - The proposal fails to provide a quality development that will establish a positive urban design outcome.


DETERMINATION

61. Pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended), the Georges River Local Planning Panel refuse MOD2022/0148 for Section 4.55(2) for the demolition of existing structures, construction of six storey residential flat building comprising twenty-two (22) residential units and two (2) levels of basement car park. The proposed modifications include increase in height, reduction in basement footprint, reduction in number of car spaces, decrease in basement side setbacks, reconfiguration of all levels of the development, façade changes and landscaping amendments for the following reasons:

1. The proposed modifications fails to comply with the following design principles outlined under the State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development:
 - a. Principle 2 - Built form and scale
 - b. Principle 4 - Sustainability

- c. Principle 5 - Landscape
 - d. Principle 6 - Amenity
 - e. Principle 9 – Aesthetics
2. The proposed modifications fails to comply with the following design guidelines outlined under the Apartment Design Guideline:
 - a. 3C – Public Domain Interface
 - b. 3F – Visual Privacy
 - c. 3G – Pedestrian Access and Entries
 - d. 4A – Solar Access
 - e. 4B – Natural Ventilation
 - f. 4F – Common Circulation & Spaces
 - g. 4M – Facades
 3. The proposed modifications fail to comply with the following clauses under the Georges River Local Environmental Plan 2021:
 - a. Clause 1.2 – Aims of Plan
 - b. Clause 6.10 – Design Excellence
 4. The proposed modifications fail to comply with the following controls under the Georges River Development Control Plan 2021:
 - a. Control 6.3.4 – Basement Setbacks
 - b. Control 6.3.5 – Façade Treatment and street corners
 - c. Control 6.3.6 – Landscaped Treatment and private open space
 - d. Control 6.3.7 – Communal Open Space
 - e. Control 6.3.8 – Solar Access
 5. The proposal is unsatisfactory having regard to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 as the development will cause adverse impacts upon the following aspects of the environment:
 - a. Built Environment: An adverse impact would result from the proposed development on the amenity of adjoining premises relating to privacy and overlooking upon adjoining neighbours.

ATTACHMENTS

Attachment [1](#)  Proposed plans (redacted) - MOD2022/0148 - 198-200 Princes Hwy, Kogarah Bay

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AMENDMENTS UNDER SECTION 4.55

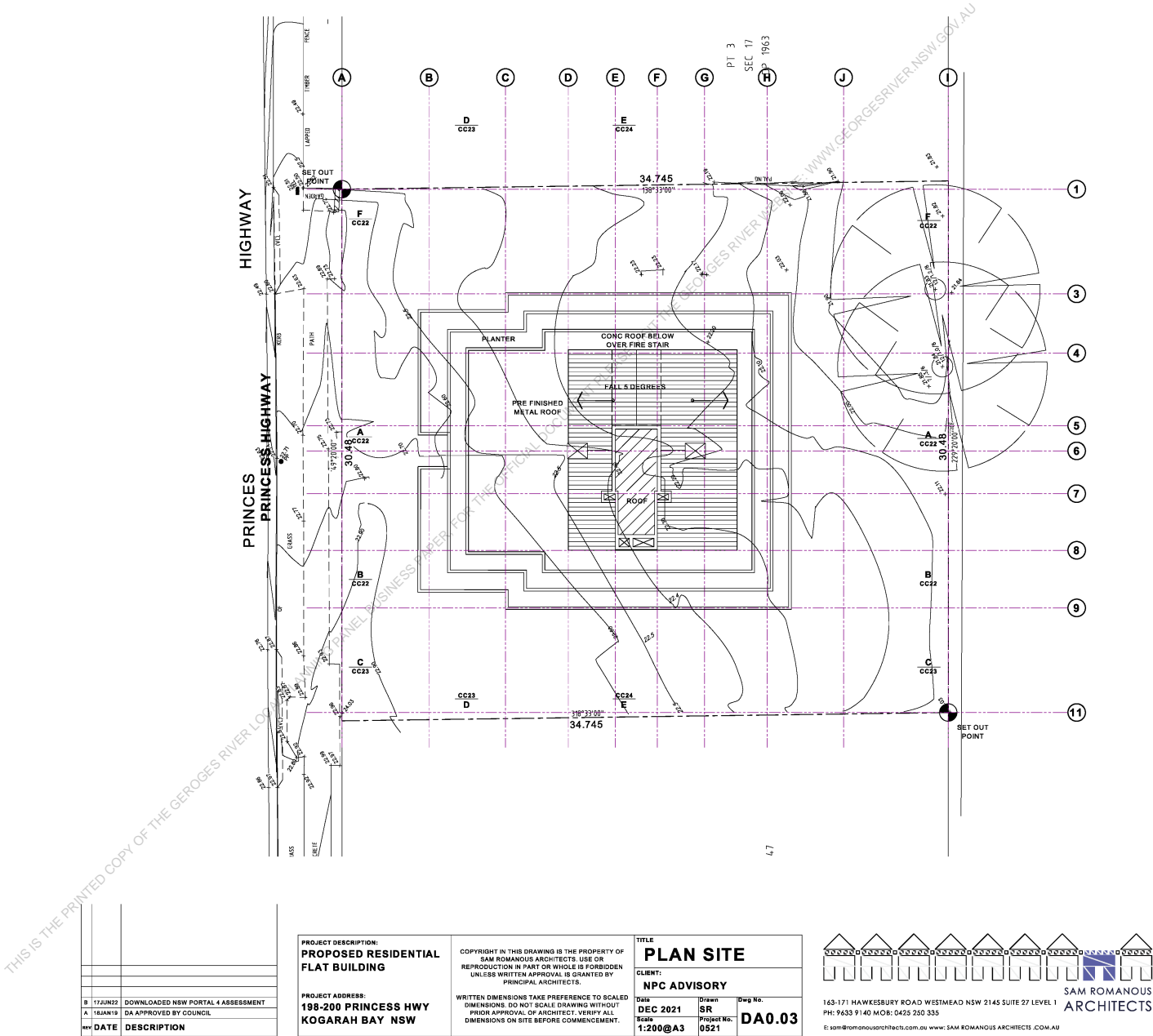
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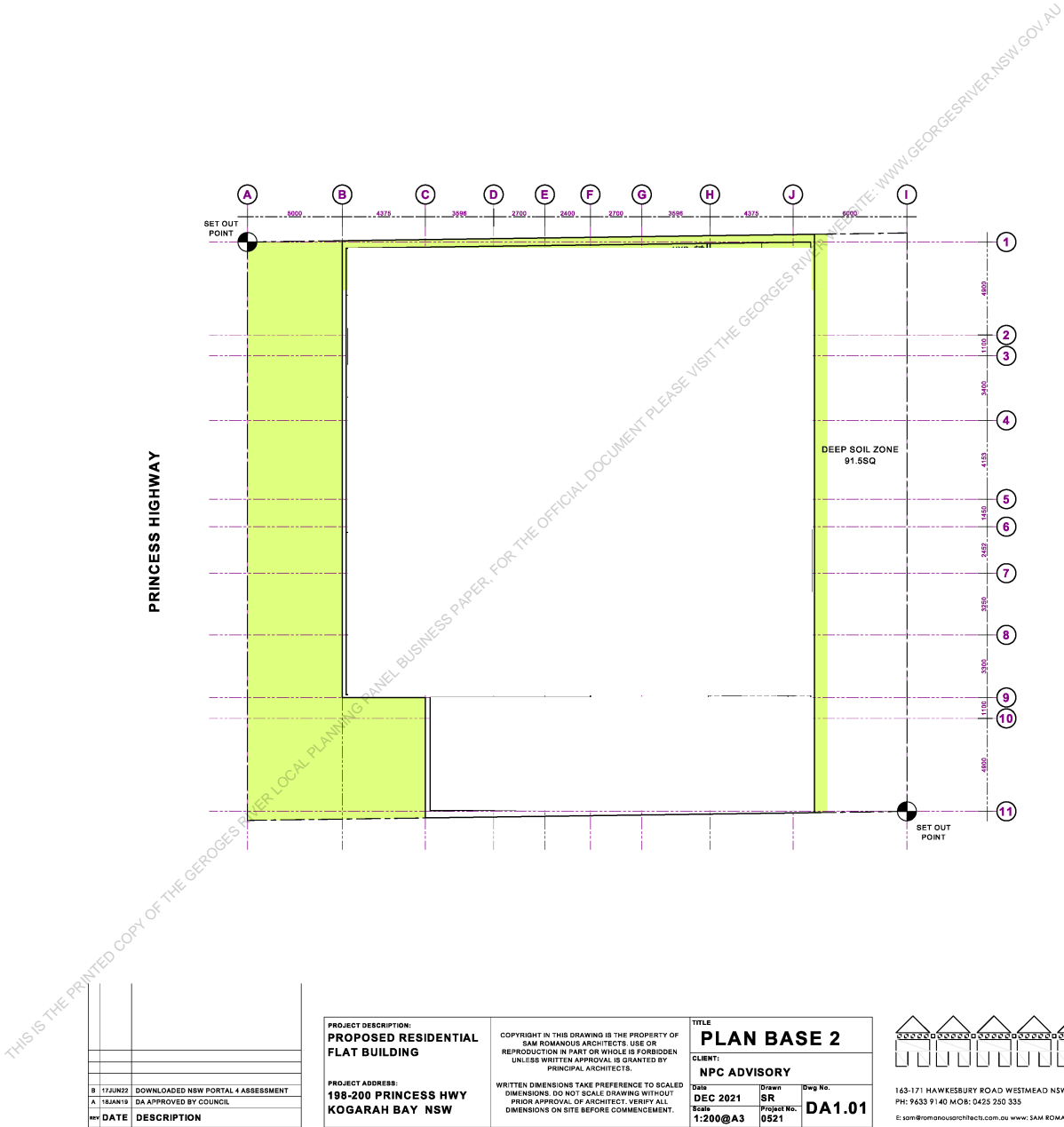
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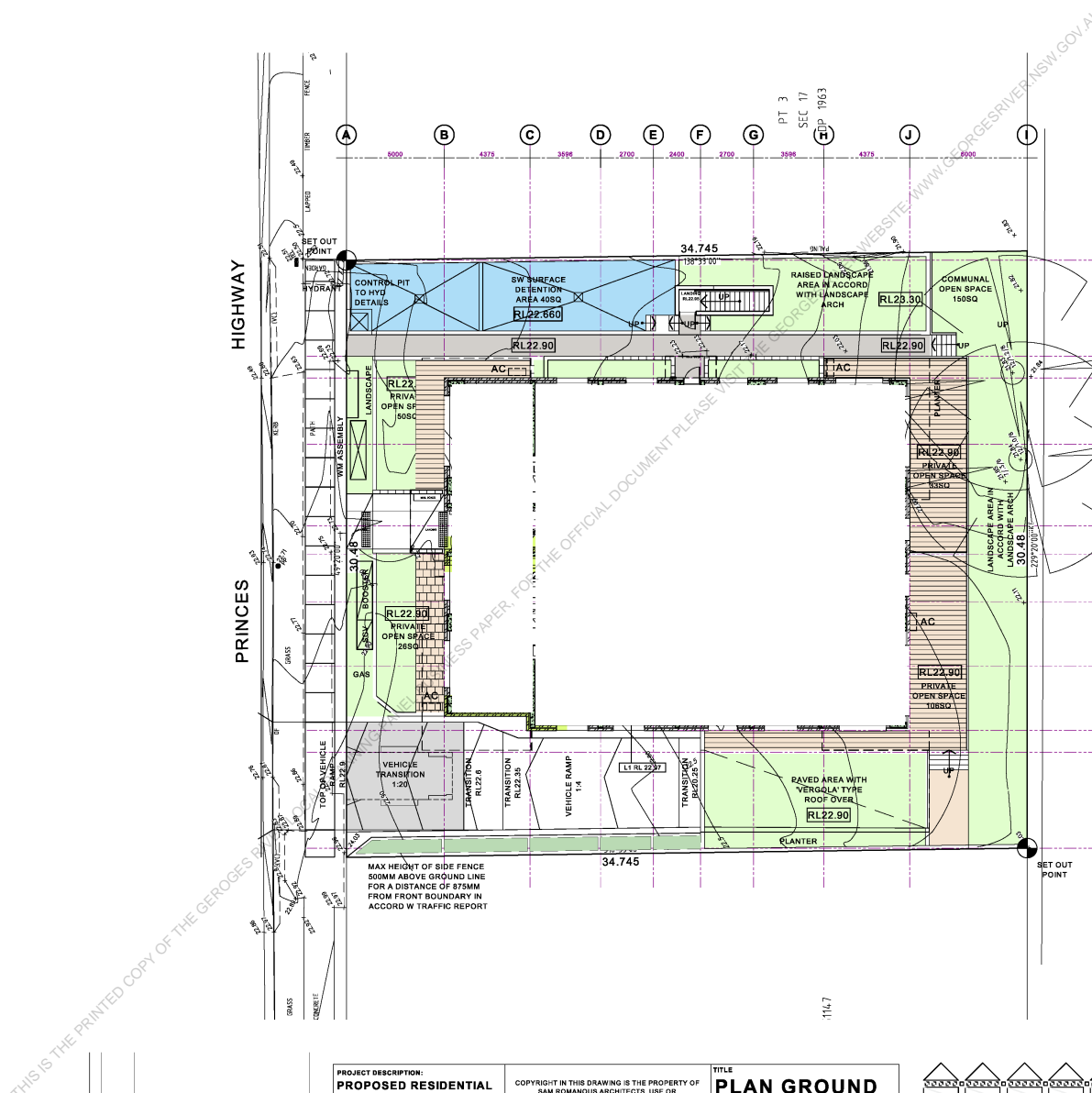
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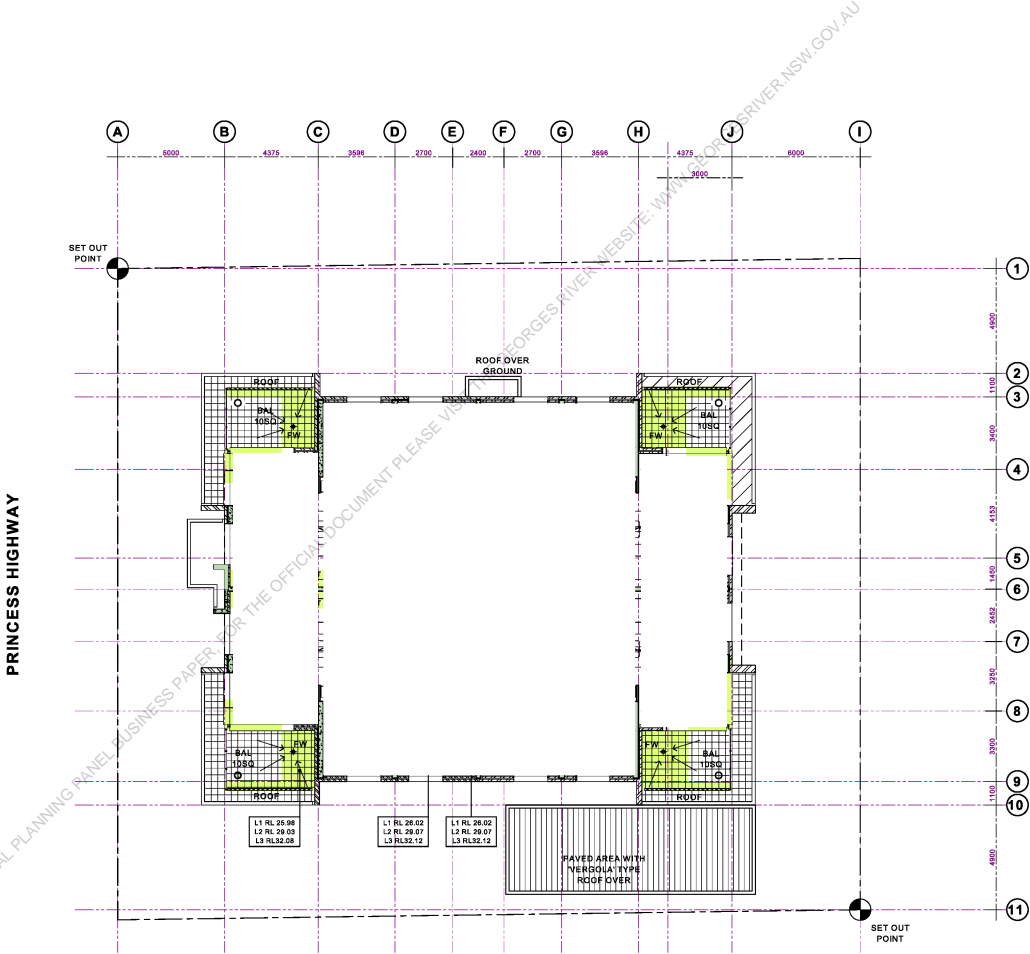
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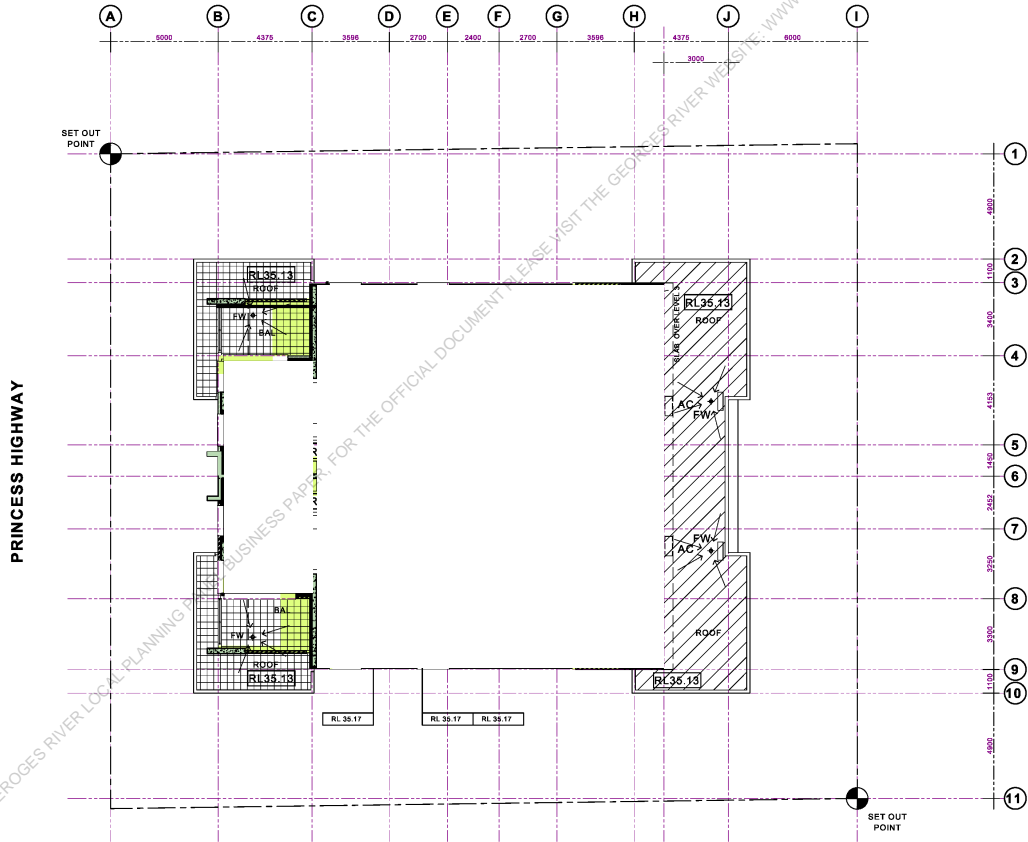
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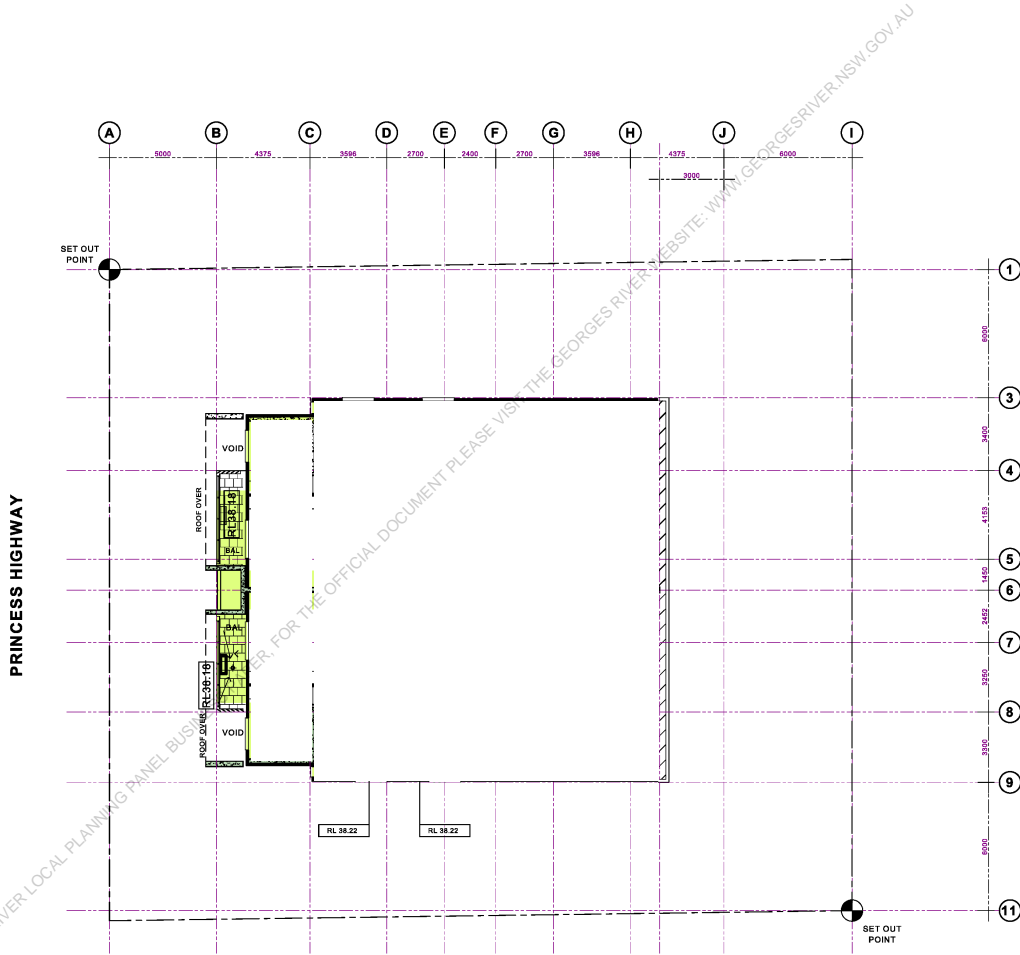
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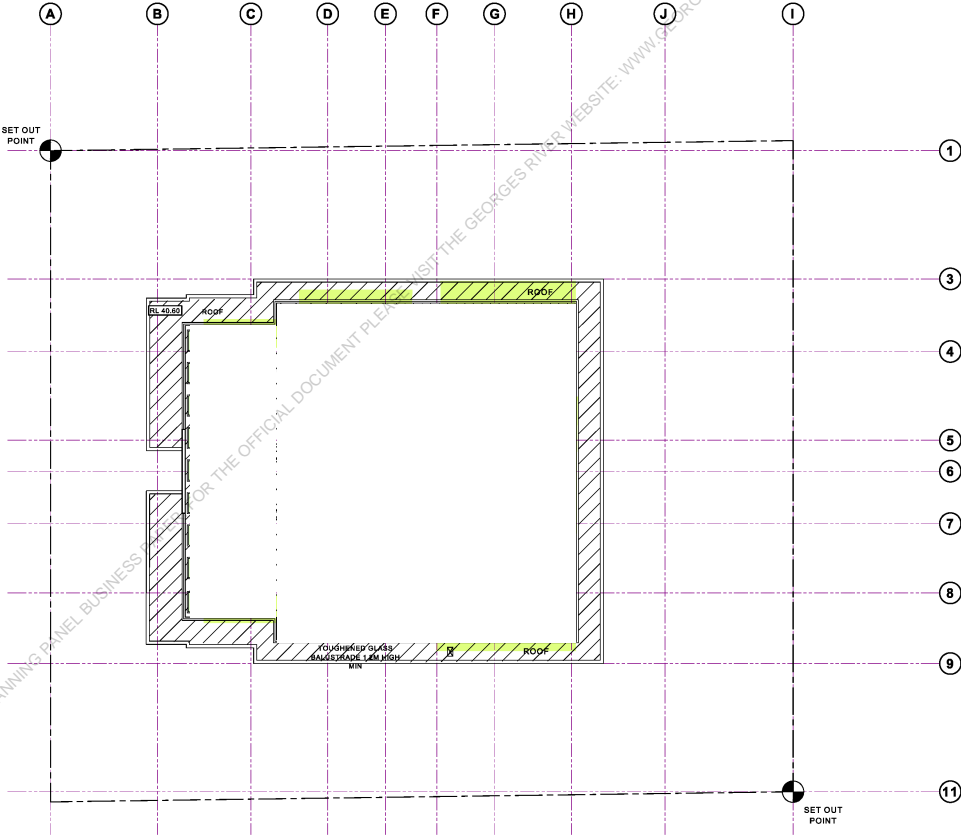
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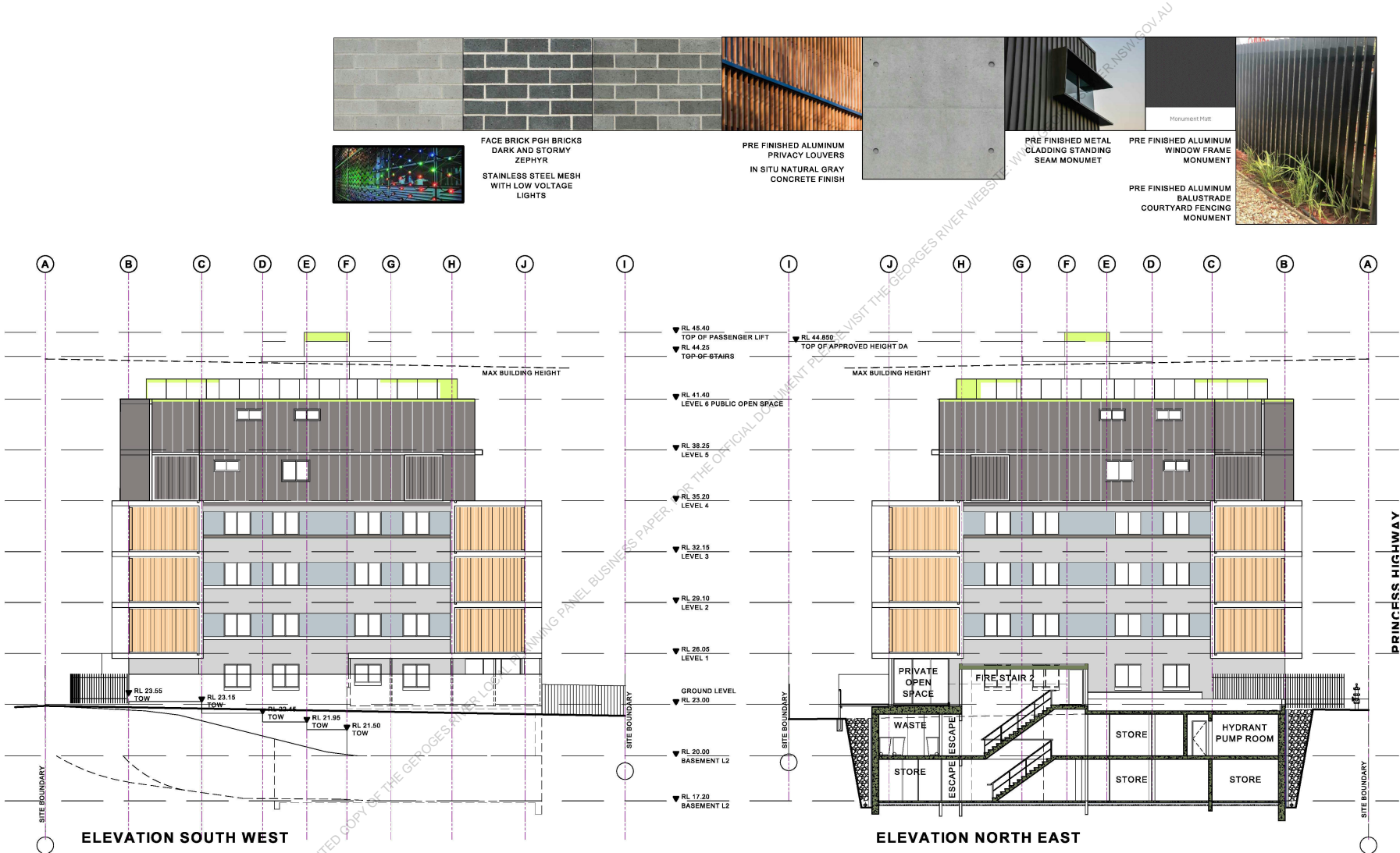
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PRINCESS HIGHWAY





LEGEND

- R1 RENDER AND PAINT WHITE
- R2 RENDER AND PAINT CHARCOAL
- BAL2 FRAME LESS GLASS BALUSTRADE CLEAR
- BW EXTERNAL BRICK DARK GRAY/LIGHT GRAY
- MC1 VERTICAL PROFILE METAL CLADDING CHARCOAL
- WT1 EXTRUDED WINDOW WITH STEEL PLATE CHARCOAL
- PL1 ALUM PRIVACY SCREEN CHARCOAL ANODIZED ALUMINUM

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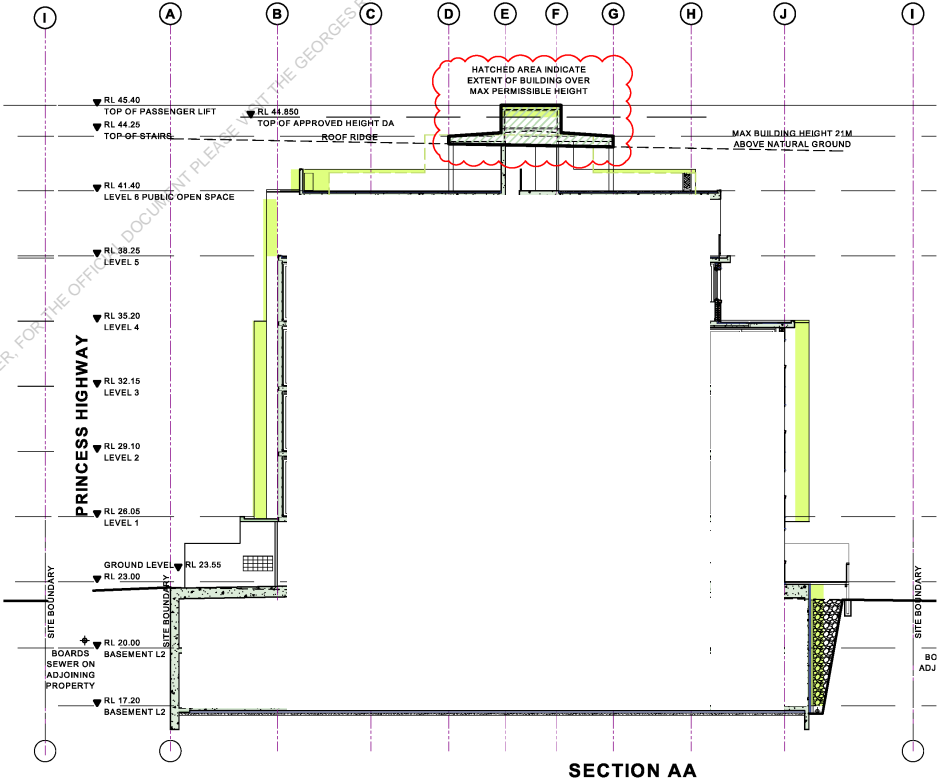
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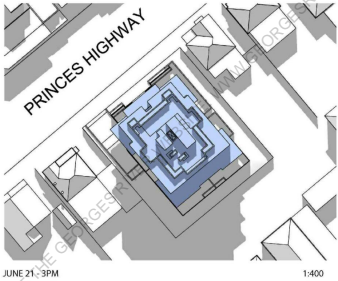
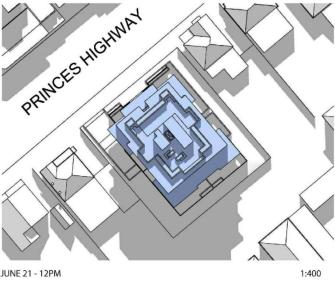
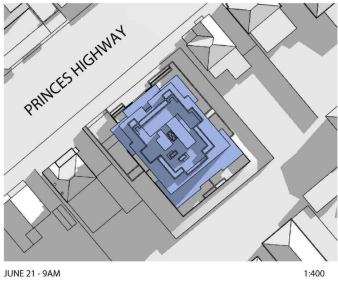
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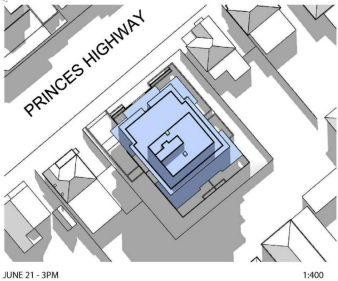
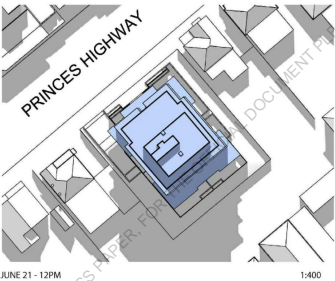
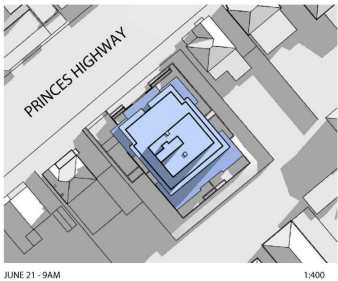
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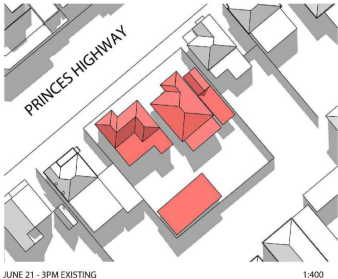
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EXISTING



REV	DATE	DESCRIPTION
B	17JUN23	DOWNLOADED NSW PORTAL 4 ASSESSMENT
A	15JUN19	DA APPROVED BY COUNCIL

PROJECT DESCRIPTION: PROPOSED RESIDENTIAL FLAT BUILDING		COPYRIGHT IN THIS DRAWING IS THE PROPERTY OF SAM ROMANOUS ARCHITECTS. USE OR REPRODUCTION IN PART OR WHOLE IS FORBIDDEN UNLESS WRITTEN APPROVAL IS GRANTED BY PRINCIPAL ARCHITECTS.	
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TITLE SHADOW DIAGRAM JUNE		CLIENT: NPC ADVISORY	Dwg No.: SR
DATE: DEC 2021		Scale: NTS	DA4.01



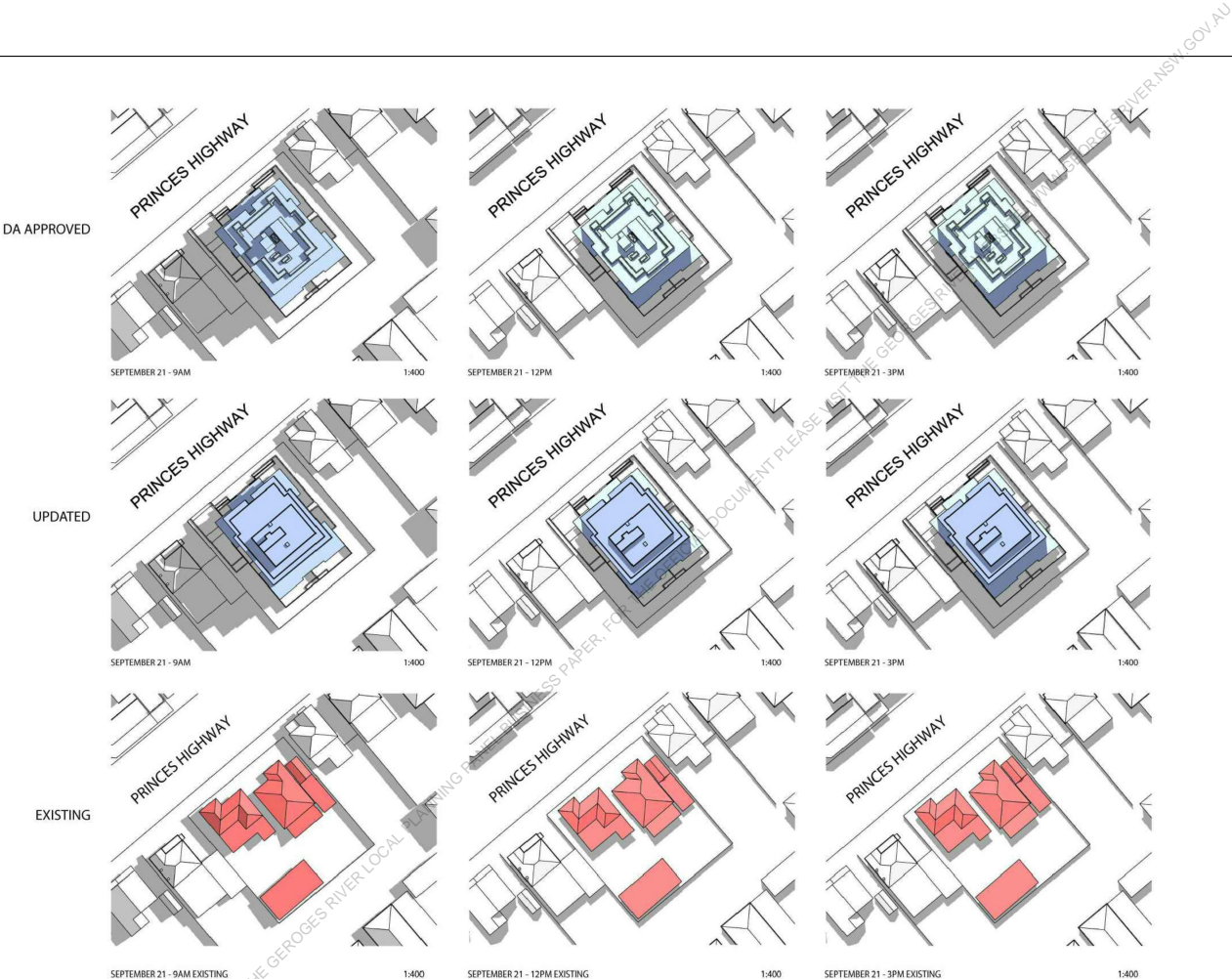
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B	17JUN22	DOWNLOADED NSW PORTAL 4 ASSESSMENT
A	16JAN19	DA APPROVED BY COUNCIL
REV	DATE	DESCRIPTION

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PROJECT ADDRESS: 198-200 PRINCESS HWY KOGARAH BAY NSW	WRITTEN DIMENSIONS TAKE PREFERENCE TO SCALED DIMENSIONS. DO NOT SCALE DRAWING WITHOUT PRIOR APPROVAL OF ARCHITECT. VERIFY ALL DIMENSIONS ON SITE BEFORE COMMENCEMENT.	CLIENT: NPC ADVISORY <div> <div>Date</div> <div>Drawn</div> <div>Dwg No.</div> </div> <div> <div>DEC 2021</div> <div>SR1</div> <div>0521</div> </div> <div> <div>NTS</div> <div>0521</div> <div>DA4.02</div> </div>





REV	DATE	DESCRIPTION
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PROJECT ADDRESS: 198-200 PRINCESS HWY KOGARAH BAY NSW	<small>WRITTEN DIMENSIONS TAKE PREFERENCE TO SCALED DIMENSIONS. DO NOT SCALE DRAWING WITHOUT PRIOR APPROVAL OF ARCHITECT. VERIFY ALL DIMENSIONS ON SITE BEFORE COMMENCEMENT.</small>	CLIENT: NPC ADVISORY
	DATE: DEC 2021	DWG No.: SR
	Scale: NTS	Project No.: 0521
		DA4.03



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REPORT TO GEORGES RIVER LOCAL PLANNING PANEL MEETING OF THURSDAY, 15 FEBRUARY 2024

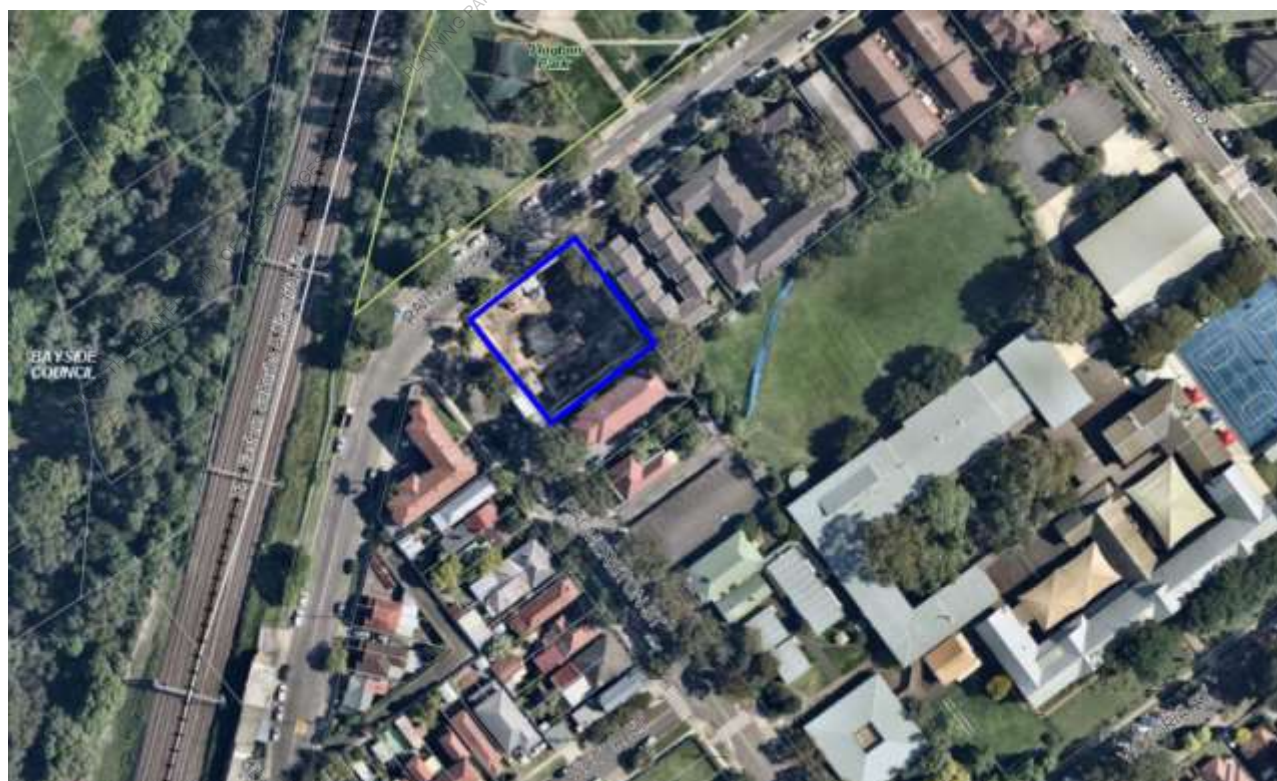
LPP005-24 2-10 PALMERSTON STREET, KOGARAH

LPP005-24

LPP Report No	LPP005-24	Development Application No	MOD2023/0076
Site Address & Ward Locality	2-10 Palmerston Street, Kogarah Kogarah Bay Ward		
Proposed Development	Modification of Consent No: DA2017/112 for construction of a residential flat building comprising fifty five (55) residential dwellings including four (4) serviced apartments over three (3) levels of basement parking for seventy (70) car parking spaces. The modification seeks to amend condition 82F - Car Parking Allocation.		
Owners	AVJennings SPV NO 19 PTY LTD		
Applicant	Guy Sedunary		
Planner/Architect	Jillian Sneyd (Planner)		
Date Of Lodgement	23/06/2023		
Submissions	No submissions received.		
Cost of Works	\$19,780,072.00 (as per DA) – nil for this modification		
Local Planning Panel Criteria	Sensitive Development subject to State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, Water Management Act 2000, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development, State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Building Sustainability Index: BASIX), Georges River Local Environmental Plan 2021, Georges River Development Control Plan 2021.		
List all documents submitted with this report for the Panel's consideration	Architectural Plans, Statement of Environmental Effects, Response to Request for Additional Information Letter		
Report prepared by	Development Assessment Planner		
RECOMMENDATION	Approval, subject to amended conditions.		

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

SITE PLAN



Aerial view of development site outlined in blue (Source: Intramaps)

EXECUTIVE SUMMARY

PROPOSAL

1. An application has been received for the modification of DA2017/112 for the construction of a residential flat building comprising fifty-five (55) residential units including four (4) serviced apartments over three (3) levels of basement parking for seventy (70) car parking spaces. The specific modification seeks to amend condition 82F in relation to car parking allocation for the residential units.

SITE AND LOCALITY

2. The Site is legally described as Lot 1 in DP1276253 formerly known as Lots 51, 52 and 56 in Section A of DP1397, Lot 1 in DP908581 and Lot 1 in DP 908582. The Site is located on the corner of Palmerston Street and Railway Parade, Kogarah, and forms part of the Kogarah North Precinct area. The Site has a frontage to Palmerston Street of 36.705 meters and a frontage to Railway Parade of 36.575 meters. The total Site area is 1349sqm. The Site has a cross fall of up to approximately 5.5 metres running from south to north. The site is currently vacant with the commencement of earthworks, with a visible step in the topography with a rock outcrop. Several onsite and street trees are located along the site's perimeter.
3. Adjoining the Site to the south-east is No. 12 Palmerston Street, Kogarah. This allotment currently accommodates a two (2) storey residential flat building.
4. Adjoining the Site to the north-east is a multi storey residential flat building at Nos. 22–24 Railway Parade, Kogarah as well as a large, open green space associated with St George Girls' High School. To the south-east of the Site, on the opposite side of Palmerston Street, are detached single dwellings as well as a part 2, part 3 storey residential flat building on the corner of Palmerston Street and Railway Parade, Kogarah as well as Hogben Park to the northern side of Railway Parade. To the north/northwest of the Site on the opposite side of Railway Parade is the rail corridor. The Site is in close proximity to Kogarah Town Centre, Kogarah Railway Station, Kogarah High School, St George Girls' High School and St George TAFE. The Site is located approximately 750m from Rockdale Plaza.

ZONING AND PERMISSIBILITY

5. The site is zoned R4 High Density Residential under Georges River Local Environmental Plan 2021 (GRLEP 2021) and the proposed development is permissible with development consent.

SUBMISSIONS

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

CONCLUSION

7. Having regard to the matters for consideration under Section 4.15(1) and the applicable assessment criteria under of the Environmental Planning and Assessment Act 1979 and following a detailed assessment, the proposed modification application (MOD2023/0076) is recommended for approval subject to the conditions as modified referenced at the end of this report.

REPORT IN FULL

PROPOSAL

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BACKGROUND

12. The following applications are relevant to the proposed modification application.
 - Development consent (DA9/2017/112/1) was granted by the NSW Land and Environment Court (LEC) on 20 September 2018 for the construction of a residential flat building comprising fifty-one (51) residential dwellings and six (6) serviced apartments over three (3) levels of basement parking for sixty-three (63) car parking spaces at 2 – 10 Palmerston Street, Kogarah.
 - A subsequent modification application (MOD2019/0116) made under sections 4.55 (2) and (8) of the Environmental Planning and Assessment Act 1979 was granted by the NSW Land and Environment Court (LEC) on 01 July 2020 to modify development consent No. DA9/2017/112/1.
 - A further modification application (MOD2022/0025) was determined by Georges River Council on 16 June 2022.
 - The current modification application was lodged on 23 June 2023.
 - A site inspection was conducted on 19 September 2023.

- Council requested additional information via a request for additional information letter via the Planning Portal on 30 November 2023; following an extension of time. The letter requested that suitable justification as to the intent of the modification to condition 82F, with specific regard to the objectives and provisions of the car parking controls.
- The Applicant lodged a statement letter in response to the request for additional information letter via the Planning Portal on 22 December 2023.

PLANNING ASSESSMENT

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

ENVIRONMENTAL PLANNING INSTRUMENTS

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

Section 4.15 Evaluation

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

(1) Matters for consideration - general

In determining an application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

The provision of:

- (i) Any environmental planning instrument,*

Section 4.56 Assessment

16. Section 4.56 of the Environmental Planning and Assessment Act 1979 enables the consent authority to modify a development consent upon application being sought by the applicant or any person entitled to act on the consent, provided that the consent authority:
- (a) It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
17. Comment - The proposed modification is considered to be of minimal environmental impact. The modifications proposed in the section 4.56 application are unlikely to result in any additional visual impacts to the adjoining developments. The proposed changes to the development consent condition is considered to be substantially the same as that within the approved building envelope and footprint and are a matter of a condition change involving car parking allocation. The proposed modification is within the intent of the original approval that was granted.
- (b) it has notified the application in accordance with—*
- (i) the regulations, if the regulations so require, and*
- (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

18. **Comment** - The proposed development is considered to be substantially the same development as that for which development consent has been granted. The proposed amendment being to a condition relating to carparking allocation does not change the external appearance of the building, the amendment meets this criterion.
- (c) *it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and*
19. **Comment** – In accordance with the provisions of Council's Public Notification Policy, this modification application was not required to be notified.
- (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*
20. **Comment** - In accordance with the provisions of Council's Public Notification Policy, this modification application was not require to be notified.

STATE ENVIRONMENTAL PLANNING POLICIES

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

State Environmental Planning Policy	Complies
State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development – lodged prior to its repeal on 14 December 2023.	Yes
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes
State Environmental Planning Policy (Industry and Employment) 2021	Yes
State Environmental Planning Policy (Housing) 2021	Yes

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

State Environmental Planning Policy (Biodiversity and Conservation) 2021

23. The relevant parts of the above Policy that apply to this application are Chapter 2 – Vegetation in non-rural areas, and Chapter 6 – Water Catchments.

Chapter 2 - Vegetation in Non-Rural Areas

24. 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.
25. 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).*

26. No landscaping is proposed to be removed or modified under this modification application.

Chapter 6 – Water Catchments

27. The primary relevant aims and objectives of this Chapter are:

- *whether the development will have a neutral or beneficial effect on the quality of water entering a waterway,*
- *whether the development will have an adverse impact on water flow in a natural waterbody,*
- *whether the development will increase the amount of stormwater run-off from a site,*
- *whether the development will incorporate on-site stormwater retention, infiltration or reuse,*
- *the impact of the development on the level and quality of the water table,*
- *the cumulative environmental impact of the development on the regulated catchment,*
- *whether the development makes adequate provision to protect the quality and quantity of ground water.*

28. The modification application does not seek to modify the approved built form and therefore the stormwater design. The application is seeking to amend a condition of consent about parking allocation.

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

29. A BASIX Certificate was submitted as part of the parent development application. As a result of this modification application being to the condition relating to parking allocation, there is change to the built form of the approved development. As such, an updated BASIX Certificate is not required. The below details are of the BASIX Certificate from the parent application.

30. The details of the provided BASIX Certificate are provided below:

BASIX Certificate Details	
Author:	Smith & Tzannes
Certificate No:	1005888M_05
Certificate Date:	26 November 2021

State Environmental Planning Policy (Resilience and Hazards) 2021

31. Chapter 2 and Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 are relevant to the proposal.
32. 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".
33. The subject site is not mapped as a Coastal Environment area and a Coastal Use area.
34. 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.

35. 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.
36. The proposed modification is to a condition of consent relating to parking allocation only, no change to the built form. The application as approved includes specific conditions in relation to contamination which will ensure that any contamination found is adequately remediated. In this regard, no further assessment is warranted with regards to site contamination and the objectives of the SEPP are considered to be satisfied.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 Infrastructure

37. The application was not referred to Ausgrid pursuant to clause 2.48 of the SEPP, as the proposed modification is to a condition of consent relating to car parking allocation only.

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

38. State Environmental Planning Policy No 65 – Design Quality of Residential Flat Buildings (State Environmental Planning Policy 65) was gazetted on 26 July 2002 and applies to the assessment of DAs for residential flat developments of three (3) or more storeys in height and containing at least four (4) dwellings. Amendment 3 to State Environmental Planning Policy 65 commenced on 17 July 2015 and implemented various changes including the introduction of the Apartment Design Guide (ADG) to replace the Residential Flat Design Code. Given the nature of the development proposed, State Environmental Planning Policy 65 applies.
39. An amended design verification statement was not required in this instance as the proposed modification application is for the modification of a condition relating to car parking allocation only, not to the change in carparking numbers. No built form changes proposed.

Clause	Standard	Proposal	Complies
3 - Definitions	Complies with definition of “Residential Apartment Development”	The proposal complies with this definition.	Yes
4 - Application of Policy	Development involves the erection of a new RFB, substantial redevelopment or refurbishment of a RFB or conversion of an existing building into a RFB	This is a modification of an approved mixed use/shop top housing and serviced apartment development.	Yes

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

41. The modification application was not referred to Council's Urban Designer given the application did not change the external finishes, footprint or internal layout. The application has been reviewed having regard to the criterion of the ADG.
42. The proposal does not impact the Design Quality Principles and provisions of the ADG as the application is for the change in a condition to the carparking allocation not the change in carparking numbers or built form amendments. The tables below provide a comprehensive assessment against the principles, objectives and controls of State Environmental Planning Policy 65 and the ADG.

SEPP 65 - Schedule 1 Design quality principles

Clause	Council's comments	Complies
1 – Context and neighbourhood character	The application seeks to amend a condition of consent in relation to car parking allocation for the residential component of the development, no changes to the number of parking spaces.	As approved.
2 – Built form and scale	The approved shop top housing development and serviced apartments are located in an area undergoing change and is therefore compatible with the future character of the area given the uplift presently being experienced. There is no change to the approved built form.	As approved.
3 – Density	The proposal complies with the Floor Space Ratio control as per the Georges River LEP 2021. No change proposed.	As approved.
4 – Sustainability	The development remains an efficient use of natural resources, namely energy and water throughout its full life cycle. The BASIX certificate did not require amending as part of this proposal.	As approved.
5 – Landscape	The landscaped area remains consistent with the design approved.	As approved.
6 – Amenity	The residential apartments remain unchanged by this application.	As approved.
7 – Safety	The main entrances to the building remain as approved.	As approved.
8 – Housing diversity and social interaction	The proposal will retain the existing approved apartment mix being: <ul style="list-style-type: none"> • 7 x 1 bedroom • 30 x 2 bedrooms • 14 x 3 bedrooms • 4 x Serviced Apartments 	As approved.
9 – Aesthetics	The proposed modification to amend a condition of consent relating to carparking allocation of the residential units does not change the number of parking spaces or aesthetics of the development.	As approved.

Clause 29 (2)(c) – Consideration of Apartment Design Guide

43. An assessment has been undertaken based on the amended proposal.

Objective	Standard	Proposal	Complies
Part 3 Siting the development			
3D – Communal and Public Open Space	<p>1. Communal open space has a minimum area equal to 25% of the site.</p> <p>- Where it cannot be provided on ground level it should be provided on a podium or roof.</p> <p>The communal open space is to be a minimum of 25% of the site, which equates to 513.6sqm for the subject site.</p> <p>- Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:</p> <ul style="list-style-type: none"> • provide communal spaces elsewhere such as a landscaped roof top terrace or a common room • provide larger balconies or increased private open space for apartments • demonstrate good proximity to public open space and facilities and/or provide contributions to public open space 	The proposed modification of a condition relating to carparking allocation of the residential units does not change the communal and public open space.	As approved.
	<p>2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2</p>	The proposed modification of a condition relating to carparking allocation of the residential units does not change the communal and public open space.	As approved.

LPP005-24

	hours between 9 am and 3 pm on 21 June (mid-winter)		
3E – Deep Soil Zones	<p>1. Deep soil zones are to meet the following minimum requirements: Where site area is between 650sqm and 1500sqm = 3m minimum dimension</p> <p>Deep soil = 7%</p>	The proposed modification of a condition relating to carparking allocation of the residential units does not change the deep soil zones.	As approved.
3F – Visual Privacy	<p>1. Separation between windows and balconies is provided to ensure visual privacy is achieved.</p> <p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <p>Up to 12m (4 storeys) Habitable rooms and balconies = 6m</p>	The proposed modification of a condition relating to carparking allocation of the residential units does not change the visual privacy of the development.	As approved.
3G – Pedestrian access and entries	Building entries and pedestrian access connects to and addresses the public domain	The proposed modification of a condition relating to carparking allocation of the residential units does not change the pedestrian access and entries to the development.	As approved.
3H – Vehicle Access	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	This element remains unaltered by this proposal. The proposal is to amend a condition relating to the allocation of carparking of the residential units.	As approved.
3J – Bicycle and car parking	<p>1. For development in the following locations:</p> <p>On sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area;</p>	In total the development provides 71 car spaces, while the requirement is 66 (5 additional car spaces were required to contribute towards FSR as per section 12 (2) of Part 10 of the Georges River DCP 2021.	As Approved.

	<p>- The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant Council, whichever is less</p> <p>The car parking needs for a development must be provided off street</p>	The GFA is compliant.	
Part 4 Designing the building			
4A – Solar Access	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p>	Solar access to units will remain as approved.	As approved.
4B – Natural Ventilation	<p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p>	Ventilation to units will remain as approved.	As approved.
4C – Ceiling Heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are: Habitable rooms = 2.7m Non-habitable rooms = 2.4m</p>	2.7m to all residential units, remains as approved.	As approved.
4D 1 – Apartment size and layout	<p>Apartments are required to have the following minimum internal areas:</p> <p>1 bedroom: 50sqm</p>		

	<p>2 bedrooms: 70sqm 3 bedrooms: 90sqm</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each</p> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</p>	<p>All bedroom sizes to remain as approved.</p> <p>Remains unchanged.</p>	<p>As approved.</p> <p>As approved.</p>
4D 2 – Apartment rooms, location and sizes	<p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height</p> <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p>	Remains as approved.	As approved.
4D 3 – Apartment rooms, location and sizes	<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ol style="list-style-type: none"> 1. Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space). 2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space). 3. Living rooms or combined living/dining rooms have a minimum width of: 	Remains as approved.	As approved.

	<ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 		
4E – Private Open Space and balconies	<p>All apartments are required to have primary balconies as follows:</p> <p>2 - bedroom apartments: 10sqm and 2m</p> <p>3+ bedroom apartments: 12sqm 2.4m</p>	Remains as approved.	As approved.
4F – Circulation spaces	The maximum number of apartments off a circulation core on a single level is eight	Remains as approved.	As approved.
4G – Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <p>1 bedroom – 8m³ 2 bedrooms - 8m³ 3+ bedrooms - 10m³</p> <p>50% of storage to be located within the apartment.</p>	Remains as approved.	As approved.
4K – Apartment Mix	A variety of apartment types is provided	Remains as approved.	As approved.
4M – Facades	Facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale.	Remains as approved.	As approved.
4N – Roof Design	<p>Roof treatments are integrated into the building design and positively respond to the street.</p> <p>Opportunities to use roof space for residential accommodation and open space are</p>	Remains as approved.	As approved.

	maximised. Incorporates sustainability features.		
4O – Landscape Design	Landscape design is viable and sustainable, contributes to the streetscape and amenity	Remains as approved.	As approved.
4P – Planting on structures	Planting on structures – appropriate soil profiles are provided, plant growth is optimised with appropriate selection and maintenance, contributes to the quality and amenity of communal and public open spaces.	Remains as approved.	As approved.
4Q – Universal Design	Universal design – design of apartments allow for flexible housing, adaptable designs, accommodate a range of lifestyle needs	Remains as approved.	As approved.
4R – Adaptive Reuse	Adaptive reuse as apartment of existing buildings- new additions are contemporary and complementary, provide residential amenity while not precluding future adaptive reuse	The development is new, no adaptive reuse proposed.	N/A.
4U – Energy Efficiency	Development incorporates passive environmental design, passive solar design to optimise heat storage in winter and reduce heat transfer in summer, natural ventilation minimises need for mechanical ventilation	Remains as approved.	As approved.
4W – Waste Management	Waste management – storage facilities are appropriately designed, domestic waste is minimised by convenient source separation and recycling	Remains as approved.	As approved.
4X – Building Maintenance	Building maintenance – building design provides protection from weathering, enables ease of maintenance,	Remains as approved.	As approved.

	material reduces maintenance cost	selection ongoing		
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44. As demonstrated above, the proposal generally complies with State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

Georges River Local Environmental Plan 2021

45. The subject site is zoned R4 High Density Residential Zone under the provisions of the Georges River Local Environmental Plan 2021 (GRLEP 2021). The approved residential flat building is a permissible form of development with Council's consent.

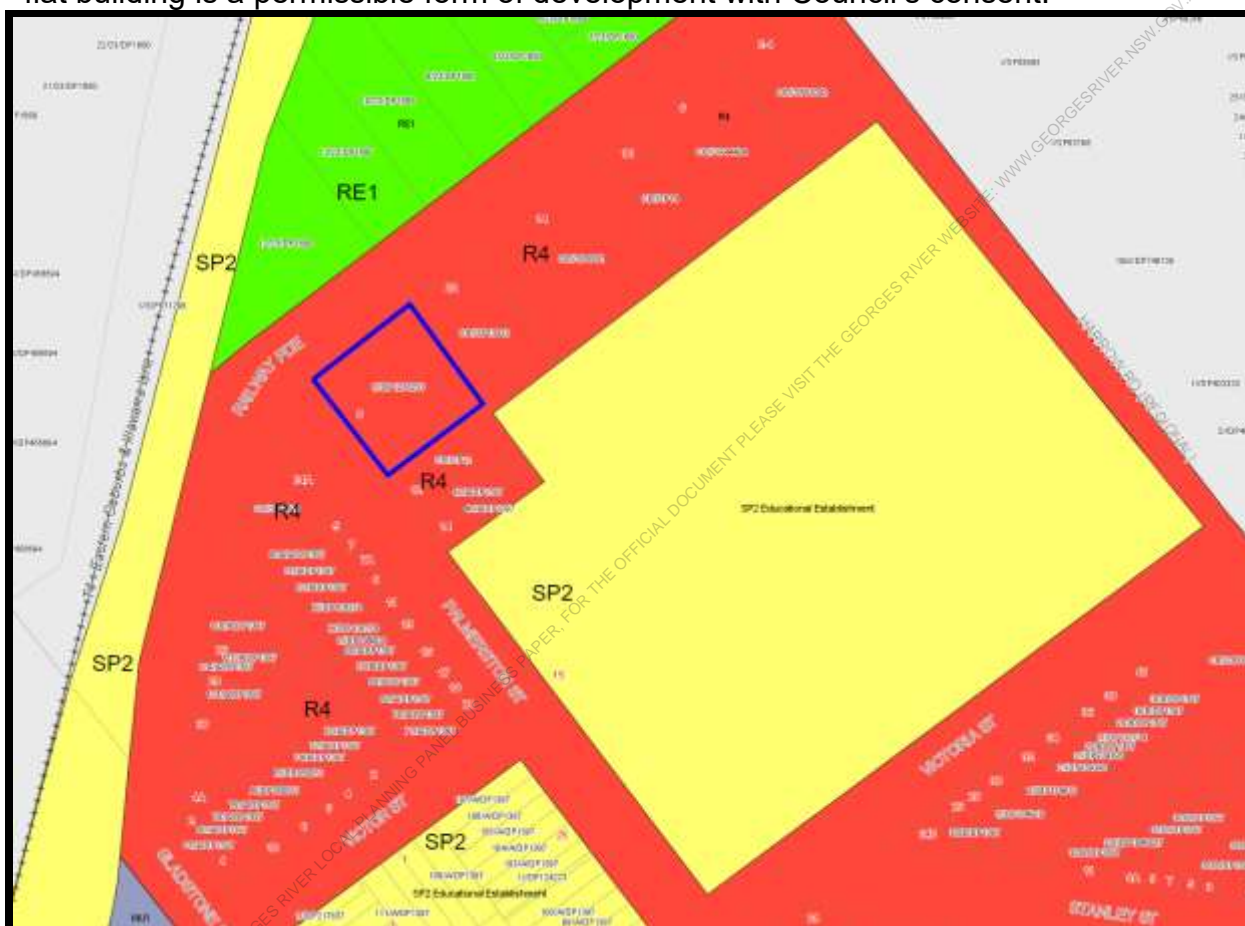


Figure 1: GRLEP 2021 Land Zoning Map subject site outlined in blue (Intramaps, 2024)

46. The objectives of the R4 High Density Residential zone as per clause 2.3 under the GRLEP 2021 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.

47. 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.

Clause	Standard	Proposal	Complies
Part 2: Permitted or Prohibited Development			
2.2 Zoning of Land to which Plan applies	R4 High Density Residential	The proposal is defined as shop top housing and serviced apartments which are all permitted uses in the zone under GRLEP 2021 with consent.	Yes
2.7 Demolition	Demolition requires development consent.	Consent for demolition of existing structures was approved as part of the parent DA.	Yes
Part 4: Principal Development Standards			
4.3 Height of Buildings	33m as identified on Height of Buildings Map.	Remains as approved.	As approved.
4.4 Floor Space Ratio	4:1 as identified on Floor Space Ratio Map (5,382.8sqm)	Remains as approved, excess parking spaces previously included as GFA.	As approved.
4.4B Exceptions to floor space ratio—non-residential uses	(3) Development consent must not be granted for development on land in Zone B1 Neighbourhood Centre, Zone B2 Local Centre or Zone B4 Mixed Use unless the non-residential floor space ratio is at least 0.3:1 (403.71sqm)	N/A	N/A.
4.5 Calculations of Floor space and Site area	Floor space to be calculated in accordance with Clause.	Remains as approved.	As approved.
4.6 Exceptions to Development Standards	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.	N/A	N/A
Part 5: Miscellaneous Provisions			

5.6 Architectural roof features	Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.	No architectural roof feature proposed or approved.	N/A
5.10 Heritage Conservation	(1) Objectives The objectives of this clause are as follows— (a) to conserve the environmental heritage of the Georges River local government area, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (c) to conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.	The site is within the vicinity of multiple heritage items however the site does not adjoin any heritage items. The site is not within a heritage conservation area and is not a draft heritage item. The changes in the carparking allocation for the residential units does not impact the development externally.	Yes
5.21 Flood planning	As per clause 5.21	The site is not flood affected.	N/A
Part 6: Additional Local Provisions			
6.1 Acid Sulfate Soils (ASS)	The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage	The site is not affected by any Acid Sulfate Soils.	N/A
6.2 Earthworks	To ensure that earthworks do not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land	Remains as approved.	As approved.
6.3 Stormwater management	As per clause 6.3	Remains as approved.	As approved.
6.7 Airspace operations	(2) Development consent must not be granted to development to which this clause applies unless—	Remains as approved.	As approved.

	(a) the consent authority has consulted the relevant Commonwealth body, and (b) the relevant Commonwealth body advises the consent authority that— (i) the development will penetrate the Limitations or Operations Surface but it does not object to the development, or (ii) the development will not penetrate the Limitations or Operations Surface.		
6.9 Essential services	As per clause 6.9	Site has access to all essential services.	Yes
6.10 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,	Remains as approved.	As approved.

	<p>amenity and urban form, (v) bulk, massing and modulation of buildings, (vi) street frontage heights, (vii) environmental impacts such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity, (viii) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of pedestrian networks, (ix) the impact on, and proposed improvements to, the public domain, (x) achieving appropriate interfaces at ground level between the 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.</p>		
6.11 Environmental sustainability	<p>(3) Development consent must not be granted to development on land to which this clause applies if the building is 1,500 square metres in gross floor area or greater unless adequate consideration has been given to the following in</p>	Remains as approved.	As approved.

	<p>the design of the building—</p> <p>(a) water demand reduction, including water efficiency, water recycling and minimisation of potable water usage,</p> <p>(b) energy demand reduction, including energy generation, use of renewable energy and reduced reliance on mains power,</p> <p>(c) indoor environmental quality, including daylight provision, glare control, cross ventilation and thermal comfort,</p> <p>(d) the minimisation of surfaces that absorb and retain heat and the use of surfaces that reflect heat where possible,</p> <p>(e) a reduction in new materials consumption and use of sustainable materials, including recycled content in concrete, sustainable timber and PVC minimisation,</p> <p>(f) transport initiatives to reduce car dependence such as providing cycle facilities, car share and small vehicle parking spaces.</p>		
6.12 Landscaped areas in certain residential and environment protection zones	(f) for development in Zone R4 High Density Residential—10% of the site area,	Remains as approved. Overridden by the ADG provisions and SEPP 65.	As approved.

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

Required	Proposed	Complies
3.3 Landscaping		
(a) Contribute to the creation of a distinct landscape character for the Georges River LGA.	Remains as approved.	As approved.
(b) Protect existing significant trees and vegetation as outlined in Council's Tree Management Policy		
3.8 Views Impacts		
1.Development shall provide for the reasonable sharing of views.	Remains as approved.	Yes
3.11 Ecologically Sustainable Development		
1. All BASIX affected development must comply with SEPP (Building Sustainability Index: BASIX) 2004.	BASIX as part of the parent DA and subsequent modifications. This modification application does not seek to change the developments' ability to comply with SEPP BASIX.	Yes
3.12 Waste Management		
1. Development must comply with Council's Waste Management requirements regarding construction waste and ongoing management of waste materials	Remains as approved.	As approved.
3.13 Parking Access and Transport		
<u>Residential flat building:</u> <ul style="list-style-type: none">• 1 space per 1 and 2 beds• 2 spaces per 3 beds or more• 1 visitor space per 5 units or part thereof and 1 designated car wash bay which may also be a visitor space	Parking has been assessed in detail under section 3J – Bicycle and car parking of SEPP 65 above.	Refer to SEPP 65 assessment.
<u>Retail Premises (Take away food and drink premises)</u> <ul style="list-style-type: none">• ≤800m walking distance of Railway station - 1 space per 40m2 (GFA)	Parking has been assessed in detail under section 3J – Bicycle and car parking of SEPP 65 above.	Refer to SEPP 65 assessment.
<u>Hotel or motel accommodation and serviced apartments</u> <ul style="list-style-type: none">• 1 space per 5 bedrooms / unit of accommodation plus the requirements of any associated restaurant/ function room, etc.• Provision to be made for off street accommodation of buses and taxis.	Parking has been assessed in detail under section 3J – Bicycle and car parking of SEPP 65 above.	Refer to SEPP 65 assessment.
3.17 Universal / Accessible Design		
1. All new building work should comply with the accessibility provisions of the Building Code of Australia (BCA) and the Disability (Access to Premises -	Remains as approved.	As approved.

LPP005-24

Buildings) Standards 2010 where required.		
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Part 4 – General Land Use

48. 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

49. 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.
50. The assessment of character for the applicable locality is provided below.

Kogarah North	
<ul style="list-style-type: none"> - Retain and enhance the existing low density suburban residential character through articulated contemporary developments. - Encourage well-designed high density residential development where applicable. - Preserve the high quality of the existing streetscape, especially within the heritage Conservation Area. - Encourage tree planting and landscaping within the front setback space to enhance the existing leafy streetscape character. - Encourage consistent setbacks of buildings from the street and the provision of landscaping within the front setback with uniform fence heights. 	<ul style="list-style-type: none"> • The proposal is consistent with the future desired character of the precinct. • The layout of the shop top housing development and serviced apartments is the same development as originally approved. • The modification remains consistent with the objectives of the zone and the character of the locality by providing housing that meets the needs of the community. • The proposed modification does not result in any unreasonable impacts upon the streetscape character or the amenity of any immediately adjoining properties in terms of unreasonable overlooking, overshadowing or view loss. • The proposed modifications of the development are not considered to be incompatible with surrounding development and surrounding land uses. The development as modified remains consistent with the desired and future character of the Kogarah North Precinct by providing a high-density development consistent with adjoining and approved development.

GRDCP Part 6 – Residential Controls

51. The most relevant sections of Part 3 – Residential Controls of GRDCP 2021 are addressed in the table below.

Required	Proposed	Complies
Section 3 – Street Frontage Height		
<p>6.3.3 Building Setbacks and Street Interface</p> <p><u>Front setback</u></p> <p>i. Street setback: up to a building height of four storeys, a minimum setback of 5m is to be provided.</p> <p>ii. Corner sites: up to a building height of four storeys, a minimum setback of 5m to both street frontages is to be provided.</p> <p>iii. Above four storeys, the front setback of the upper building levels is to be increased to a minimum of 8m to the street. The minimum 8m setback also applies to balconies, terraces and balustrades and must be accommodated behind the setback.</p> <p>iv. On a corner site, both frontages are to provide the increased setback above four storeys.</p> <p>v. Above level four (ground plus 3 storeys); an increased setback of the upper levels/s may be required depending on the width of the street. The required additional upper level setback for sites fronting a road with a reservation width less than 20m will be determined based on their visual impact in the specific context of the development. If the assessment determines that an additional setback is required, the minimum additional setback will be 2m and up to 3m based on the assessment.</p> <p>vi. The street setback area needs to be predominantly landscaped and is to accommodate a minimum of two (2) canopy trees to a mature height of at least 6m.</p>	Building setbacks will remain as approved.	As approved.
<u>Side Setbacks</u>	Building setbacks will remain as approved.	As approved

i. Minimum setback of 6m from side boundary between ground floor level and up to four storeys.		
ii. Upper-level setbacks are 9m above four storeys.		
<u>Rear setbacks</u>	Building setbacks will remain as approved.	As approved
i. Minimum 6m setback from a rear boundary between ground floor level and up to four storeys.		
ii. Upper level setbacks are 9m above four storeys.		
6.3.4 Basement Setbacks		
1. Basements are to be set back a minimum of 3m from the site boundaries	Building setbacks will remain as approved.	As approved
6.3.5 Façade Treatment and Street Corners		
1. New buildings and additions are to consider the Desired Future Character statement in Part 5 of this DCP	Remains as approved.	As approved.
2. Building facades must be clearly articulated and employ high quality materials and finishes that enhance and complement the streetscape character.		
3. Street corners must be given prominence by a change in building articulation, materials, colours, form and scale.		
5. Services such as substations and fire booster assemblies must be integrated into the design of the façade.		
6.3.6 Landscaped Treatment and Private Open Space		
1. Deep soil is to be provided within the setbacks areas as required in Figures 3, 4, 5 and 6 and consistent with Part 3E of the NSW State Government's Apartment Design Guide. To be included as deep soil as required by Part 3E of the Apartment Design Guide, the deep soil area must have a minimum dimension of 3m on any axis. Planting in the deep soil areas is to include trees that achieve a minimum mature height of 6m.	Remains as approved.	As approved.

6.3.7 Communal Open Space		
1. Communal open space to a minimum area of 25% of the site area and with a minimum dimension of 5m is to be provided.	Remains as approved.	As approved.
5. The useable and trafficable area of any rooftop communal open space is to be set back a minimum of 2.5m from the edge of the roof of the floor immediately below with landscape planters provided to prevent close and direct views into adjoining properties.		
6.3.8 Solar Access		
1. Shadow diagrams are to be submitted for the winter solstice (21 June) to demonstrate impacts at a minimum of 9am, midday and 3pm.	Remains as approved.	As approved.
6.3.11 Adaptable Housing		
vi. 51+ units – 6 adaptable units + 10% of additional dwellings beyond 60 (rounded up to the nearest whole number).	Remains as approved.	As approved.
6.3.12 Universal Design		
1. Developments achieve a benchmark of 20% of the total apartments incorporating the Liveable Housing Guideline's silver level universal design features.	Remains as approved.	As approved.
6.3.13 Shops, Restaurants and Cafes, and Small Bars in R4 Zones		
1. The maximum gross floor area of any single tenancy to be used as a shop, restaurant or café or small bar in the R4 High Density Residential zone is 120m2.	Remains as approved.	As approved.
2. The car parking required for a non-residential land use must be provided on-site in accordance with the requirements of this DCP.		
3. Any application for a non-residential use in the R4 High Density Residential zone must be supported by a Plan of Management detailing the hours of operation, waste removal and goods delivery methods. For details refer to the DA Guide.		

4. The maximum hours of operation for non-residential uses in the R4 High Density Residential zone are 7.00am to 10.00pm seven days per week.		
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GRDCP Part 10 – Kogarah North Precinct

52. The most relevant sections of Part 10.1 – Kogarah North Precinct of GRDCP 2021 are addressed in the table below.

Part 10.1.6 – Kogarah North Precinct		
Required	Proposed	Complies
Section 3 – Street Frontage Height		
1. Development is to establish a four-storey street wall height to provide human scale and set back taller elements above the four storey street wall height. Exceptions to this podium height may be required where a site adjoins a low-scale heritage item.	Remains as approved.	As approved.
Section 5 Trees and Landscape		
1. All development is to be designed to eliminate the impact upon significant trees on site, street trees and trees on adjoining land including public open space and educational establishments. Existing mature trees in good health and condition are to be retained through the appropriate siting of buildings, car parks, basements, pools, ancillary buildings, driveways and hard stand areas.	Remains as approved.	As approved.
2. Landscaped areas must be effectively distributed on the site to minimise the dominance of buildings, structures and paving when viewed from the street, public places and surrounding properties.	Remains as approved.	As approved.
5. Communal open space on roof tops is encouraged in locations where it does not adversely impact on the residential amenity of surrounding residents. A plan of management will be required for the use of large communal terraces that must be implemented through the Owners Corporation by-laws.	Remains as approved.	As approved.
6. Deep soil zones are to be located within ground floor setbacks providing screening/interface to the street where large trees will benefit the maximum	Remains as approved.	As approved.

number of residents and are to be located where they will contribute to the public domain.		
Section 8 – Housing Choice		
1. Developments that propose more than 10 apartments are to provide a mix of dwellings consistent with the following percentage mix: (a) Studio and 1 bed apartments – Minimum of 20% (b) 2 bed apartments – Maximum of 30% (c) 3+ bed apartments – Minimum of 15%	Remains as approved.	As approved.
Section 9 – Addressing the Street and Public Domain		
1. Landscaping in the public domain is to enhance, complement and reinforce existing streetscape planting themes and patterns. Council will require street tree planting, landscaping and paving of the public footway, for locations including those shown on Figure 5 and this must be included in the Landscape Plan.	Remains as approved.	As approved.
4. Buildings must be sited to address the street and relate to neighboring buildings. Developments on sites with two or more frontages are to address both frontages.	Remains as approved.	As approved.
5. Buildings are to be designed to minimise the number of entries, visible internal uses at ground level, and include high quality finishes to enhance the public domain.	Remains as approved.	As approved.
Section 12 – Vehicular Access and Car parking		
1. As the Precinct is within 800m of Kogarah Railway Station, the residential parking rate that applies is in accordance with the Objective 3J-1 of the Apartment Design Guide, which references the RMS Guide to Traffic Generating Development. The applicable rates are those for a Sub-regional Centre.	Remains as approved.	As approved.
4. 1% of all car parking spaces are to be designated “accessible” spaces for people with mobility impairments.	Remains as approved.	As approved.

5. For car parks between 10 to 99 spaces at least one “accessible” space must be provided	Remains as approved.	As approved.
Bicycle parking		
<p>7. Bicycle storage is to be provided at the rate of:</p> <ul style="list-style-type: none"> • 1 secure bicycle storage facility per 2 residential units • 1 bike space per 10 car spaces for the first 200 spaces then 1 space per 20 car spaces thereafter, for commercial and retail land uses. <p><i>55 units proposed.</i> <i>28 bicycle spaces required</i></p> <p><i>1 retail premise proposed (with two car space).</i> <i>1 bicycle space required.</i></p>	Remains as approved.	As approved.
Vehicular Access and Driveways		
9. Parking is to be located below ground and access is to be from laneways and side streets.	Basement parking access will remain as approved. The only change is the condition relating to the allocation of parking for the residential units. No change in car parking numbers.	As approved.
Section 13 – Architectural Articulation – Façade, Roof and wall design and private open space		
Facades and Articulation		
1. Large areas of flat facade are to be avoided. Facades should be articulated into separate sections, using steps in the facade, expressed entries, panels, bay windows, balconies, pergolas and other architectural elements.	Remains as approved.	As approved.
2. Articulation elements must be integral with the building design and should consider the whole building- with the building having distinct façade elements being the podium, centre and upper storey/roof.	Remains as approved.	As approved.
5. Façades must be articulated and employ materials and finishes to	Remains as approved.	As approved.

enhance and complement the character of the streetscape.		
6. Reinforce a desired pattern characterised by simple, rectilinear building forms, a consistent street wall height, and a balance of horizontal elements (parapet, central area, below-awning area) and vertical elements (subdivision patterns, building bays).	Remains as approved.	As approved.
7. Retain the pedestrian scale and give continuity to the 'base' of the built form.	Remains as approved.	As approved.
9. Avoid large expanses of blank walls or glass curtain walls	Remains as approved.	As approved.
10. Conceal meter boxes, fire hydrant boosters, sprinkler valves and the like so that they are not visible from the street.	Remains as approved.	As approved.
Roofs		
14. Conceal lift over-runs and plant equipment, including satellite dishes, within well designed roof forms.	Remains as approved.	As approved.
17. Buildings greater than 9 storeys are to incorporate green facades or landscaped features (i.e. landscaped communal areas located on podiums and roofs).	Remains as approved.	As approved.
18. Roof top areas designed for use as recreation facilities are to have a high standard of finish and design. The design of exterior private open spaces such as roof top gardens must address visual and acoustic privacy, safety, and security and wind effects.	Remains as approved.	As approved.
Balconies		
23. Design building facades and apartment layout so that balconies are functional and responsive to environmental conditions.	Remains as approved.	As approved.
24. Integrate balconies into the overall building form and to enhance the articulation of facades.	Remains as approved.	As approved.
25. Design balustrades which allow for views into, and along the street but avoid all glass and all brick balustrades.	Remains as approved.	As approved.
16. Solar Access to Public Domain		
1. Maintain solar access to public open space.	Remains as approved.	As approved.

2. New development shall maintain solar access to open space, including the open space (including the area currently used for car parking) bounded by Victoria Street, Gladstone Street, Victor Street and Palmerston Street. This open space is identified by Council as being a future Town Common, for shared use by the school and residents	Remains as approved.	As approved.
Section 17 - Safety and Security		
1. The design of development is to incorporate Crime Prevention Through Environmental Design (CPTD) principles.	Remains as approved.	As approved.
Section 18 - Waste Minimisation		
2. For buildings more than 3 storeys, provide a waste and recycling chute on each floor such that the total travel distance from any dwelling to a waste chute does not exceed 40m.	Remains as approved.	As approved.
3. Where a waste and recycling chute system is used: (a) Chute openings are to open only into a waste service compartment or room for safety purposes; and (b) The waste service compartment or room on each floor must also include space for containers for the intermediate storage of recyclables.	Remains as approved.	As approved.
5. An additional room or caged area with a minimum volume of 8m ³ is to be allocated and designated with signs for the storage of discarded bulky items and recyclable electronic goods.	Remains as approved.	As approved.
9. It is preferable for waste trucks to enter the site in a forward direction, but it is permitted for waste trucks to reverse onto a site, where design and site conditions make it safe to do so. It is never acceptable for a truck to reverse out of a site	The waste design remains as approved.	As approved.
Section 19 – Site Facilities		
2. Mailboxes will be located indoors in accordance with Australia Post's requirements.	Remains as approved.	As approved.
9. Any electrical kiosk, fire booster assembly or similar utilities will be in a	Remains as approved.	As approved.

location that is visible from the main entrance of the development, unable to be obstructed, and readily accessible to vehicles and service staff. Fire booster assemblies are to be a minimum of 10m distance to an electrical kiosk, and housed within the external face of the building structure or in a built enclosure with screen doors. The enclosure is to be integrated with the architectural design of the development and compliant with AS2419. Applicants are encouraged to provide landscaping that will not impede access to, and effective use of, the utilities to reduce the visual impact of the utilities on the streetscape and public domain.		
Section 20 – Maintenance		
2. Buildings must incorporate and integrate building maintenance systems into the design of the building form, roof and facade	Remains as approved.	As approved.
4. Appropriate landscape elements and vegetation must be chosen along with suitable irrigation systems.	The landscape plan remains as approved.	Yes
Section 21 – Acoustic Privacy		
1. The location of driveways, open space and recreation areas and ancillary facilities external to the dwelling must be carefully planned to ensure minimal noise impact on adjoining residential properties.	Remains as approved.	As approved.

ASSESSMENT

53. The Applicant provided a response to clarify the parking allocations within the approved building and the proposed modifications sought. The Applicant's letter outlines that the modification application to amend condition 82F is to provide flexibility in the allocation of parking within the building in the interest of housing affordability, meeting the needs of the future residents, and acknowledging that the subject site is located within 800m of a railway station. The Applicant's letter further acknowledged that there are 55 spaces available, and 51 units however are seeking flexibility in the allocation of parking. The Applicant noted that it is the intent that all resident parking will be allocated to units within the building or in the instance a purchaser does not have the need for parking, the space would be held as common property. The Applicant requested that the amendment to condition 82F will enable all 2 and 3 bedroom units to be allocated at a minimum of 1 car parking space.
54. It should be noted that the development provided 4 additional carparking spaces (included in the gross floor area/FSR), 51 required and 55 were provided.

55. As a result of this, under the previous modification application (MOD2022/0025) condition 82F was imposed, this detailed that one space was to be provided to each unit. Given the excess carparking spaces these were the 4 tandem spaces which were conditioned to be allocated to the same unit. The car parking numerically complied with the development controls.
56. It is acknowledged that the carparking is considered as a collective when the numeric's are calculated, namely a total not totals based on bedroom numbers, which undermines the Applicants arguments. The rationale as to why the condition (82F) was imposed was due to Council's concern at the time that some units would not be provided any carparking, which was considered an issue at the time given the limited availability of on street parking within the immediate vicinity of the subject site.
57. In relation to the comments in the GLN letter of 17 November 2023, it is noted that justification is provided if the unit purchaser does not need the parking space it becomes common property. If this was common property, there are concerns as to the lettable possibility of these spaces, this calls into question a commercial carpark use.
58. Thus, upon review of the Applicant's justification for amendment to condition 82F and the previous modification applications rationale for imposing the condition, it is concluded that the condition cannot be deleted entirely but amended.
59. Condition 82F has been amended to read as follows:
60. *Each two-bedroom unit must be allocated with at least one (1) car parking space within the basement. Each three-bedroom unit must be allocated with at least two (2) car parking spaces within the basement. Each tandem/stacked car space on Basement 3 shall be allocated to the same unit/strata title.*
61. The modification of the condition ensures that the two and three bedroom units are allocated minimum car parking allocations. The one (1) bedroom units car parking allocation is up to the discretion of the Applicant.
62. Furthermore, during the assessment of this modification application it was noted that the number of car parking spaces outlined in condition 79 was incorrect as a total of 71 car parking spaces and a total of 55 for the residential portion of the development have been provided within the basement areas. This condition has been amended accordingly.

The Regulations

63. *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.

IMPACTS

Natural Environment

65. The development approved is not changing as a result of this application which is for a condition change relating to the allocation of car parking spaces to the residential units and a condition change relating to total parking numbers as approved.

Built Environment

66. The development approved is not changing as a result of this application which is for a condition change relating to the allocation of car parking spaces to the residential units and a condition change relating to total parking numbers as approved.

Social Impact

67. The development approved is not changing as a result of this application which is for a condition change relating to the allocation of car parking spaces to the residential units and a condition change relating to total parking numbers as approved.

Economic Impact

68. The development approved is not changing as a result of this application which is for a condition change relating to the allocation of car parking spaces to the residential units and a condition change relating to total parking numbers as approved.

Site Suitability

69. The site is zoned R4 – High Density Residential. The proposal is a permissible form of development in this zone and the modifications are not altering the approved uses. This immediate precinct is going through a process of change and transition through the increase in FSR and height. The development approved is not changing as a result of this application which is for a condition change relating to the allocation of car parking spaces to the residential units and a condition change relating to total parking numbers as approved.

SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST

70. The application was not advertised, and adjoining residents were not notified as the modification sought to modify a condition of consent did not result in external impacts to the adjoining properties.
71. The proposal is considered to be in the public interest for the following reasons:
- The proposed modification to amend a condition in relation to car parking allocation is considered to represent substantially the same development as originally approved.
 - The modification remains consistent with the objectives of the zone and the character of the locality by providing housing that meets the needs of the community.
 - The proposed modification of a condition of consent in relation to car parking allocation does and a condition change relating to total parking numbers as approved not result in any unreasonable impacts upon the streetscape character or the amenity of any immediately adjoining properties in terms of unreasonable overlooking, overshadowing or view loss and satisfied the objectives of the height of building development standard.
 - The proposed modifications to the development conditions are not considered to be incompatible with surrounding development and surrounding land uses. The development as modified remains consistent with the desired and future character of the Kogarah North Precinct by providing a high-density development consistent with adjoining and approved development.

Internal Referrals**Traffic Engineering**

72. The modification application was referred to Council's Traffic Engineer for review and their comments are provided below.

Current condition of consent:

Condition 82F. Car Parking Allocation

Each residential unit must be allocated with at least one car space.

Each tandem/stacked carspace in Basement 3 shall be allocated to the same unit/strata title.

The suggested wording of the condition is below:

82F. Basement 3- tandem parking spaces

Each tandem/stacked car space in Basement 3 shall be allocated to the same unit/strata title.

73. The condition has been amended taking into consideration Council's Traffic Engineers referral comments and amendments to condition 82F. The condition reads as follows:
74. *Each two-bedroom unit must be allocated with at least one (1) car parking space within the basement. Each three-bedroom unit must be allocated with at least two (2) car parking spaces within the basement. Each tandem/stacked car space in Basement 3 shall be allocated to the same unit/strata title.*

DEVELOPMENT CONTRIBUTIONS

75. The proposal does not result in a reconfiguration of the unit mix and as such the Section 7.11 contributions are not required to be amended.

CONCLUSION

76. The proposal has been assessed having regard to the matters for consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979.
77. 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 and complies with the development standards of the Local Environmental Plan and meets the objectives of the Development Control Plan. The proposal is recommended for approval subject to amending condition 79 and 82F.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

78. The reasons for this recommendation are:
- The proposed modification to amend a condition in relation to car parking allocation is considered to represent substantially the same development as originally approved.
 - The modification remains consistent with the objectives of the zone and the character of the locality by providing housing that meets the needs of the community.
 - The proposed modification of conditions of consent in relation to car parking allocation and carparking numbers do not result in any unreasonable impacts upon the streetscape character or the amenity of any immediately adjoining properties in terms of unreasonable overlooking, overshadowing or view loss and satisfied the objectives of the height of building development standard.
 - The proposed modifications of the conditions of consent are not considered to be incompatible with surrounding development and surrounding land uses. The development as modified remains consistent with the desired and future character of the Kogarah North Precinct by providing a high-density development consistent with adjoining and approved development.

Determination

79. That pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 the Georges River Local Planning Panel, grant consent to modification application (MOD2023/0076) seeking to modify conditions 79 and 82F in relation to car parking numbers and allocation.
80. The following conditions have been modified:
- Condition 79 – Condition amended in relation to the approved number of car spaces.
 - Condition 82F – Condition amended in relation to car parking allocation.

DEVELOPMENT DETAILS

These conditions have been imposed to ensure that the development is carried out in accordance with the approved plans and to ensure that the appropriate fees and bonds are paid in relation to the development.

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

Description	Reference No.	Date	Revision	Prepared by
Site Plan	MOD2-A-010	12 May 2022	-	Smith & Tzannes
Basement 3	MOD2-A-100	12 May 2022	A	Smith & Tzannes
Basement 2	MOD2-A-101	12 May 2022	A	Smith & Tzannes
Basement 1	MOD2-A-102	12 May 2022	A	Smith & Tzannes
Ground Floor	MOD2-A-103	12 May 2022	B	Smith & Tzannes
Upper Ground Floor	MOD2-A-104	12 May 2022	B	Smith & Tzannes
Levels 1 - 3	MOD2-A-105	12 May 2022	A	Smith & Tzannes
Level 4	MOD2-A-106	12 May 2022	A	Smith & Tzannes
Levels 5 - 9	MOD2-A-107	12 May 2022	A	Smith & Tzannes
Level 10	MOD2-A-108	12 May 2022	B	Smith & Tzannes
Level 11	MOD2-A-109	26 May 2022	C	Smith & Tzannes
Roof Plan	MOD2-A-110	12 May 2022	B	Smith & Tzannes
Adaptable Apartments	MOD2-A-111	12 May 2022	A	Smith & Tzannes
Detailed Section Floor To Ceiling	MOD2-A-207	19 November 2021	-	Smith & Tzannes
Railway Parade Elevation	MOD2-A-200	19 November 2021	-	Smith & Tzannes
Palmerston St Elevation	MOD2-A-201	12 May 2022	A	Smith & Tzannes
NE Elevation	MOD2-A-202	12 May 2022	A	Smith & Tzannes
SE Elevation	MOD2-A-203	12 May 2022	A	Smith & Tzannes

Description	Reference No.	Date	Revision	Prepared by
Section 1	MOD2-A-204	26 May 2022	A	Smith & Tzannes
Section 2	MOD2-A-205	12 May 2022	A	Smith & Tzannes
Driveway Section	MOD2-A-206	17 May 2022	-	Smith & Tzannes
Section- DD	MOD-A-208	27 May 2020	C	Smith & Tzannes
Excavation Diagram	MOD2-A-808	17 May 2022	-	Smith & Tzannes
GFA Calculations	MOD2-A-800	12 May 2022	A	Smith & Tzannes
Deep Soil Plan	MOD2-A-805	17 May 2022	B	Smith & Tzannes
Solar and Cross Vent	MOD2-A-803	17 May 2022	-	Smith & Tzannes
Communal Open Space Calculations	MOD2-A-804	26 May 2022	A	Smith & Tzannes
Storage Calculation Diagram	MOD2-A-801	12 May 2022	-	Smith & Tzannes
Storage Calculation Schedule	MOD2-A-802	12 May 2022	-	Smith & Tzannes
Height Plane Diagram	MOD2-A-806	12 May 2022	A	Smith & Tzannes
Fence details	MOD2-A-900	12 May 2022	-	Smith & Tzannes
Landscape Plan	Pages L-01, L-02, L-01, L-03, L-01, L-04, L-05, L-06, L-07	13 May 2022	J	SiteDesign+Studios
BASIX Certificate	1005888M_05	26 November 2021	-	Smith & Tzannes
Stormwater Concept Plans	Job 200293-SW drawings D1, D2, D3, D4, D5, D6, D7, D8, D9	13 May 2022	C	Quantum Engineers
Access Report	114226-Access-r1	23 November 2021	1	BCA Access
Acoustic Assessment for Modification Application	TK866-01F02	11 April 2019	R2	Renzo Tonin & Associates
Parking Assessment Report	21.373r01v04	14 December 2021	-	Traffix
Traffic and Parking Assessment Report	15054	17 January 2020		Terraffic Pty Ltd

LPP005-24

Description	Reference No.	Date	Revision	Prepared by
Detail Survey	9767-18 DET	19 September 2018		C & A Surveyors NSW P/L
Survey Plan	9767-18DET	19/9/2018 and 15/3/2019		C & A Surveyors NSW P/L additional levels provided by Boxall Surveys

LPP005-24

(CONDITION AMENDED BY MOD2022/0025)**SEPARATE APPROVALS UNDER OTHER LEGISLATION**

These conditions have been imposed to ensure that the applicant is aware of any separate approvals required under other legislation, for example: approvals required under the Local Government Act 1993 or the Roads Act 1993.

2. **Section 138 Roads Act 1993 and Section 68 Local Government Act 1993** - Unless otherwise specified by a condition of this consent, this Development Consent does not give any approval to undertake works on public infrastructure. Separate approval is required under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993 for any of the following activities carried out in, on or over a public road (including the footpath) listed below.

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

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;
- (g) Constructing a vehicular crossing or footpath;
- (h) Establishing a "works zone";
- (i) Digging up or disturbing the surface of a public road (eg Opening the road for the purpose of connections to utility providers);
- (j) Stormwater and ancillary works in the road reserve;
- (k) Stormwater and ancillary to public infrastructure on private land; and
- (l) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways.
- (m) A concrete median within Railway Parade across the proposed driveway and associated signage to ensure safe operation of the driveway for passing traffic. The median is to physically prohibit right turn entry and exit traffic associated with the proposed basement car park. The works may include prohibition of kerbside parking opposite the site in front of Hogben Park.
- (n) Signage along the Railway Parade frontage between the proposed driveway serving the development site to Palmerston Street to prohibit kerbside parking on domestic waste collection days and time periods required by Council's refuse vehicle.

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.

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

- (a) Construct a footpath for the full length of the frontages of the site in accordance with Council's Specifications applying at the time construction approval is sought.
- (b) The thickness and design of the driveway must be in accordance with Council's Specifications applying at the time construction approval is sought.
- (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in accordance with Council's Specifications for kerb and guttering, applying at the time construction approval is sought.
- (d) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas must be restored at the expense of the applicant. The work must be carried out in accordance with Council's specification, applying at the time construction approval is sought.
- (e) Construct a concrete median within Railway Parade across the proposed driveway to the extent required to physically prohibit right turn entry and exit traffic in accordance with any approval issued by Council following endorsement by Council's Local Traffic Committee (**LTC**). The works may include prohibition of kerbside parking opposite the site in front of Hogben Park.
- (f) Install "No Parking, 5am to 10am Wednesdays and Fridays", or as otherwise approval by the LTC, along the frontage of the site between the proposed development driveway and Palmerston Street.

Constructing a vehicular crossing, footpath, "No Stopping" / "No Parking" signage where required and concrete median within Railway Parade across the proposed driveway (if LTC approval is granted) requires separate submission to Council and receipt of formal approval under Section 138 of the Roads Act 1993, prior to the commencement of those works.

4. Building - Hoarding Application - Prior to 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.
5. **Road Opening Permit** - A Road Opening Permit must be obtained from Council, in the case of local or regional roads, or from the RMS, in the case of State roads, for every opening of a public road reserve to access services including sewer, stormwater drains, water mains, gas mains, and telecommunications before the commencement of work in the road.
6. **Below ground anchors - Information to be submitted with S68 Application under LGA 1993 and S138 Application under Roads Act 1993** - In the event that the excavation associated with the basement carpark is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways, an application must be lodged with Council under Section 68 of the Local Government Act 1993 and the Roads Act 1993 for approval, prior to commencement of those works. The following details must be submitted.
- (a) That cable anchors will be stressed released when the building extends above ground level to the satisfaction of Council.
 - (b) The applicant has indemnified Council from all public liability claims arising from the proposed works, and provide adequate insurance cover to the satisfaction of council.
 - (c) Documentary evidence of such insurance cover to the value of \$20 million.
 - (d) The applicant must register a non-terminating bank guarantee in favour of Council for the amount set out in the applicable Fees and Charges.
The guarantee will be released when the cables are stress released. In this regard it will be necessary for a certificate to be submitted to Council from a structural engineer at that time verifying that the cables have been stress released.
 - (e) That in the event of any works taking place on Council's roadways/footways adjoining the property while the anchors are still stressed, all costs associated with overcoming the difficulties caused by the presence of the 'live' anchors will be borne by the applicant.

REQUIREMENTS OF OTHER GOVERNMENT AGENCIES

These conditions have been imposed by other NSW Government agencies either through their role as referral bodies, concurrence authorities or by issuing General Terms of Approval under the Integrated provisions of the Environmental Planning and Assessment Act 1979.

7. **Geotechnical Report** - Prior to the issue of a Construction Certificate the Applicant must provide Sydney Trains with a Geotechnical Report and structural drawings/report. These reports must provide confirmation that there will be no negative impact on Sydney Trains infrastructure and land. Written confirmation must be provided from Sydney Trains to the Certifying Authority confirming this condition has been satisfied.

7A. 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.

(CONDITION ADDED BY MOD2022/0025)

- 8. Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements of what will eventually be required when issuing a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the 'Plumbing, building and developing' section of the web site www.sydneywater.com.au then refer to 'Providers' under 'Developing' or telephone 13 20 92 for assistance.

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

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

- 9. Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the Principal Certifier prior to the issue of the Occupation/Subdivision Certificate.
- 10. Electricity Supply** - An application is required to be made to Ausgrid for a network connection. This may require the network to be extended or its capacity augmented. Evidence of this application being lodged with Ausgrid is required to be provided to the Certifying Authority prior to the issue of a Construction Certificate. For further details, you are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services).

PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

These conditions either require modification to the development proposal or further investigation/information prior to the issue of the Construction Certificate to ensure that there is no adverse impact.

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

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

Please contact council prior to the payment of S94 Contributions to determine whether the amounts have been indexed from that indicated below in this consent and the form of payment that will be accepted by Council.

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

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

Contribution Plan	Description	Section 94 contributions payable
Plan No. 8	Streetscape, Open Space & Public Domain	\$902,197.18
Plan No. 8	Traffic Facilities	\$23,582.75
Plan No. 8	Community Facilities	\$16,018.66
Plan No. 9	Kogarah libraries - buildings component	\$14,929.53
Plan No. 9	Kogarah libraries - books component	\$10,645.27
Total Contributions Currently Payable		\$967,373.39

General Fees

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

Development Contributions

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

Indexation

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

Timing of Payment

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

Further Information

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

(CONDITION AMENDED BY MOD2022/0025)

- 12. Service Utilities - Land Subdivision Only** - Arrangements must be made to the satisfaction of all Service Utility Authorities in respect to the services supplied by those authorities to the development. All services to any future dwellings erected on the site must be underground.
- 13. Erosion & Sedimentation Control** - Erosion and sediment controls must be provided to ensure:
- (a) Compliance with the approved Erosion & Sediment Control Plan
 - (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
 - (c) All clean water runoff is diverted around cleared or exposed areas
 - (d) Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways
 - (e) All erosion and sediment controls are fully maintained for the duration of excavation and/or development works
 - (f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
 - (g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
 - (h) Compliance with Managing Urban Stormwater - Soils and Construction (Blue Book) produced by Landcom 2004.

These measures are to be implemented prior to the commencement of work (including excavation) and must remain until works are completed and all exposed surfaces are landscaped/sealed.

- 14. Pre-Construction Dilapidation Report - Private Land** - A professional engineer specialising in structural or geotechnical engineering must prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises including but not limited to:

- (a) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.

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

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

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

- 15. 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 Principal Certifier. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or Principal Certifier will then issue a Fire Safety Schedule for the building.
- 16. Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns and other structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works.

A copy must be forwarded to Council where Council is not the Principal Certifier.

- 17. Damage Deposit - Major Works** - In order to insure against damage to Council property the following is required:
- (a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development and to ensure the construction of the civil works to be complete at the applicant's expense: **\$47,800**
 - (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: **\$150.00**
 - (c) Submit to Council, before the commencement of work, a dilapidation report of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

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

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

- 18. 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.
- 19. Geotechnical report** - Geotechnical Reports: The applicant must submit a Geotechnical Report, prepared by a professional engineer specialising in geotechnical engineering who holds the relevant Certificate of accreditation as required under the Building Professionals Act 2005 in relation to dilapidation reports, all site works and construction. This is to be submitted before the issue of the Construction Certificate and is to include:
- (a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks/stabilization works and any excavations.

- (b) Dilapidation Reports on the adjoining properties prior to any excavation of site works. The Dilapidation Report is to include assessments on, but not limited to, the dwellings at those addresses and any external paths, grounds etc. This must be submitted to the Principal Certifier and the adjoining residents as part of the application for the Construction Certificate. Adjoining residents are to be provided with the report five (5) working days prior to any works on the site.
- (c) On-site guidance by a vibration specialist during the early part of excavation.
- (d) Measures to minimise vibration damage and loss of support to other buildings. Where possible any excavation into rock is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures. Where a hydraulic hammer is to be used within 30 metres of any building (other than a path or a fence) the report must detail the maximum size of hammer to be used and provide all reasonable recommendations to manage impacts.
- (e) Sides of the excavation are to be pierced prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.

20. Site Management Plan

Major Development

A Site Management Plan must be submitted with the application for a Construction Certificate, and include the following:

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

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

21. **Traffic Management - Compliance with AS2890** - All driveways, access ramps, vehicular crossings and car parking spaces must be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1-2004 (for car / motorbike parking facilities), AS 2890.2-2002 (for commercial vehicle facilities), AS 2890.6-2009 (Off-street parking for people with disabilities) and AS 2890.3-2015 (bicycles). A *"Detailed Design"* certificate, prepared by a tertiary qualified and experienced traffic engineer that fully addresses this condition, must be submitted to the Principal Certifier with the Construction Certificate Application. An *"As Constructed"* certificate, prepared by a tertiary qualified and experienced traffic engineer that fully addresses this condition, must be submitted to the Principal Certifier with the Occupation Certificate Application. The certificates must also confirm:

- (a) that all vehicles can and are to enter and leave the site in a forward direction, that the required parking;
- (b) that car and bicycle parking complies with the required quantum as required by Condition 84;
- (c) that car space dimensions for the different user classes are in accordance with *Figure 2.2 of AS2890.1-2004* and with *Clauses 2.2 and 2.4 of AS2890.6-2009*, where relevant;
- (d) That no individual parking spaces are enclosed by side walls or separate garage doors

22. Construction Traffic Management Plan - A Construction Traffic Management Plan detailing:

- (a) construction vehicle routes;
- (b) anticipated number of trucks per day;
- (c) hours of construction;
- (d) Access arrangements; and
- (e) Proposed traffic measures to minimise impacts of construction vehicles must be submitted for the approval of Council's Engineers. Council's Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.

23. SEPP 65 Design Verification Statement - A design verification statement, prepared by a qualified designer, must be submitted to the Certifying Authority **prior to the issue of any Construction Certificate** verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out under Schedule 1 of State Environmental Planning Policy No 65 -Design Quality of Residential Flat Development.

(CONDITION AMENDED BY MOD2019/0116)

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 and, or extraction works and the designated Waste Management Facility must be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

As per the plan of the bin room. The 3 X 1100L garbage bins will be provided an wheel in wheel out service where the contractor will take to kerbside empty and return to the bin room.

The 9 X 240L recycling bins will have to be taken to kerbside for collection by the cleaner and returned to the bin room.

No Parking signs will need to be installed along Railway Pde nth for collection days. No Parking Wednesday and Friday between 5am and 10am.

25. Landscape Plans – The landscape plans shall be amended to be consistent with the approved level 11 floor plans in relation to the perimeter planter boxes. The planter boxes along the north-eastern and south-western sides of level 11 shall observe similar characteristics and contain similar species to the planter boxes along the north-western and south-eastern sides.

All landscape works must be carried out in accordance with the approved landscape plans. The landscaping must be maintained in accordance with the approved plans in perpetuity.

(CONDITION AMENDED BY MOD2022/0025)

25A. (CONDITION DELETED BY MOD2019/0116)

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

- (a) Longitudinal and cross sections, gradients, access serving the proposed basement car park, type of construction materials designed in accordance with Council's driveway engineering standards and AS/NZS2890.1-2004.
- (b) Suitable underground provision for the supply of all relevant services to the proposed lots (proposed position of pipes and conduits).

27. Stormwater Plan. The submitted stormwater plan has been assessed and approved as a concept plan only. No detailed assessment of the design has been undertaken. A Detailed Stormwater Plan and supporting information of the proposed on-site stormwater management system is to be submitted. The required details in this Plan and the relevant checklist are presented in the document 'Water Management Policy. Kogarah Council. August 2006'

The design parameters and the general concept of the proposed on-site stormwater management system are to be the same as documented in the approved Concept Stormwater Plan for the proposed development. Any conceptual variations to the stormwater design will require written approval from Council and will require to be justified and supported by appropriate details, calculations and information to allow for proper assessment.

The Detailed Stormwater Plan is to address the following issue(s):

- (a) A suitably qualified engineer is to certify that appropriate design measures have been taken to ensure that the ground floor and basement levels have been protected from flooding in the case of the On-site Detention system malfunctioning or reaching capacity.

The Detailed Stormwater Plan is to be certified by a professional engineer specialising in hydraulic engineering. A Statement that the stormwater system has been designed in accordance with the document 'Water Management Policy. Kogarah Council. August 2006' and satisfies the provisions and objectives of that policy along with the requirements stated above must be included with the Detailed Stormwater Plan.

28. On-site Detention. A 26.5m³ On-Site Detention system with a Maximum Site Discharge of 25 Litres per Second is to be provided in accordance with the Stormwater Concept Plan and associated Design Assessment Report. The overflow is to be directed to the site drainage system.

(CONDITION AMENDED BY MOD2022/0025)

28A. Basement Pump Sump.

An additional 900x900mm square heavy duty grate must be placed at the opposite corner of the existing proposed grate for conducting visual inspection from the basement and maintenance accessibility purposes.

(CONDITION ADDED BY MOD2022/0025)

- 29. Oil/Silt Separator** – An oil/silt separator sized to the catchment area must be specified on the Stormwater Detailed Plans and located downstream of the proposed basement car park and prior to discharge to councils stormwater system.
- 30. Roof/Surface Water** - All roof water and surface water from paved or concreted areas are to be disposed of in accordance with the Stormwater Plan by means of a sealed pipeline constructed in accordance with AS/NZS 3500.3:2015.
- 31. Council Property Shoring** - Prior to the issue of the Construction Certificate, plans and specifications prepared by a professional engineer specialising in practising structural engineering must detail how Council's property must be supported at all times.

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

- 32. Health - Acoustic Certification - Mechanical Plants and Equipment -**
The Construction Certificate plans must be accompanied by a certificate from a professional acoustic engineer certifying that noise from the operation of mechanical plant and equipment will not give rise to offensive noise as defined under the provision of the *Protection Of the Environment Operations Act 1997 (as amended)* and will comply with the noise intrusion criteria as defined under the *NSW Industrial Noise Policy published by the NSW Environment Protection Authority*. If sound attenuation is required, this must be detailed on the plans lodged with the Construction Certificate.
- 33. Health – Acoustic Validation** - The plans submitted to the Principle Certifying Authority with the construction certificate must incorporate the recommended level of acoustic and vibration mitigation methods as detailed in the Acoustic Assessment report prepared by Renzo Tonin & Associates dated **11 April 2019**, reference **TK866-01F02** Acoustic Report for DA **Modification (R2)** including the further assessment recommended in the report. The report and the plans are to comply with the requirements of the State Environmental Planning Policy (Infrastructure) 2007, relevant Australian Standards and NSW Industrial Noise Policy.

(CONDITION AMENDED BY MOD2019/0116)

- 34. Health - Regulated Systems - Details and Fit out** - Details of any regulated system must be submitted to the Principal Certifying Authority. Such details must demonstrate compliance with the following:

Public Health Act 2010 (as amended)

Public Health Regulation 2012 (as amended)

AS/NZS 3666.1:2002 Air-handling and water systems of buildings - Microbial control - Design, installation and commissioning (as amended)

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

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

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

- 36. BASIX Commitments** - All energy efficiency measures as detailed in the approved BASIX Certificate must be implemented on the plans lodged with the application for the Construction Certificate.

- 37. Public Domain Works.** A public domain plan is to be submitted to Council in accordance with the requirements of the Kogarah North Public Domain Strategy/Plan prepared by Atlas Urban on behalf of Council. The plan is to address the design criteria, including but not limited to:

- Retain and protect existing Tallowoods.
- Rationalise on street greenery outside school and balance trees and circulation needs of people.
- All ages play.
- Porous paving in parking lane.
- Plant small trees adjacent to large Tallowoods.
- Plant large trees in parking lane on western side.
- Trees to have kerb inlet for passive irrigation and contribute to water quality.
- Remove existing bottle brush and underground powerlines.
- Realign street corners to make crossing safer for pedestrians and reduce vehicle entry speeds for Railway Parade.
- Provide street side seating adjacent secondary entrance to SGGHS.
- Formalise and extend landscape street address adjacent to SGGHS entrance.
- Biofiltration basins in parking lanes and kerb extensions
- WSUD tree pits.

Please contact Council for further details.

- 37A Construction Vehicle and Pedestrian Plan of Management** - Construction Vehicle and Pedestrian Plan of Management (CVPPM) shall be submitted to Council for the approval of Council's Traffic Engineer. The CVPPM shall be prepared for the various stages of the development and include, but not be limited to, the following:

- (a) Details of the scope of works to be undertaken during the demolition, excavation, construction stages etc., and the duration of each.

- (b) Indicate the consent approved hours of work.
- (c) Identify the routes to be travelled within the Council area for trucks travelling to and from the site.
- (d) Identify other developments occurring concurrently in the area including those within the street and up to 500m from the site.

The developer/builder shall liaise fortnightly with other identified developers/builders to minimize any cumulative traffic impacts.

- (e) Include a plan showing the location of any schools, preschools and long day care centres within 200m of the site.
- (f) Detail the number of and where construction worker vehicles will be parked during the various stages of the development.
- (g) Identify any proposed temporary road closures, temporary changes to traffic flow and loss of pedestrian or cyclist access likely to occur as a result of works being undertaken during the various work stages.
- (h) Detail the size (including dimensions), number and frequency of trucks movements to and from the site during the various stages of work.
- (i) Include copies of all required Traffic Control Plans (TCPs). All TCP's shall be prepared by RMS accredited persons.
- (j) Provide, if required, swept wheel path drawings for the different types of vehicles accessing the site. The swept wheel path drawings:
 - May be required if it is considered truck movements into and out of the site associated with the various stages of development have the potential to damage public or private infrastructure/property.
 - May be required if it is considered truck movements into and out of the site cannot be carried out without a loss of on street vehicle parking spaces either in close proximity to or removed from the site.
 - Shall be prepared by a suitably qualified and experienced traffic engineering consultant.
- (k) Show the location and length of any proposed Works Zones including any adjustments required to Council's infrastructure, parking control signs etc. to implement the zones.

NOTE: Works Zones require the approval of the Georges River Council Traffic Committee prior to installation.

- (l) Show the locations of where it is proposed to stand trucks remote from the site should they be unable on arrival to immediately enter the site or an approved Works Zone. Double parking, parking in NO STOPPING/NO STANDING zones or across neighboring property driveways is not permitted.

NOTE: A copy of the approved CVPPM must be kept at the site and made available to the Principal Certifying Authority or Council on request:

(CONDITION ADDED BY MOD2022/0025)

PRIOR TO THE COMMENCEMENT OF WORK (INCLUDING EXCAVATION)

These conditions have been imposed to ensure that all pre-commencement matters are dealt with and finalised prior to the commencement of work.

- 38. Dial before your dig** - The applicant must 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" must be forwarded to Council's Engineers for their records.
- 39. Dilapidation Report on Public Land - Major Development Only** - Prior to the commencement of works (including excavation), a dilapidation report must be prepared for the Council infrastructure adjoining the development site, including:
The report must include the following:
- (a) Photographs showing the existing condition of the road pavement fronting the site,
 - (b) Photographs showing the existing condition of the kerb and gutter fronting the site,
 - (c) Photographs showing the existing condition of the footpath pavement fronting the site,
 - (d) Photographs showing the existing condition of any retaining walls within the footway or road, and
 - (e) The Dilapidation Report must be prepared by a qualified structural engineer. The report must be provided to the Principal Certifier and a copy provided to the Council.

The Dilapidation Report must be prepared by a professional engineer. The report must be provided to the Principal Certifier and a copy provided to the Council.

The report is to be supplied in electronic format in Word or PDF. Photographs are to be in colour, digital and date stamped.

Note: Council will use this report to determine whether to refund the damage deposit after the completion of works.

- 40. Registered Surveyors Report - During Development Work** - A report must be submitted to the Principal Certifier at each of the following applicable stages of construction:
- (a) Set out before commencing excavation.
 - (b) Floor slabs or foundation wall, before formwork or commencing brickwork.
 - (c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
 - (d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.
 - (e) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
 - (f) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

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

- 41. Utility Arrangements - Arrangements are to be made with utility authorities in respect to** the services supplied by those authorities to the development. The cost associated with the provision or adjustment of services within the road and footway areas is to be at the applicant's expense.
- 42. Structural Engineers Details - Supporting Council road/footway -** Prior to the commencement of work in connection with the excavation of the site associated with the basement carpark, structural engineer's details relating to the method of supporting Council's roadways/footways must be submitted to the satisfaction of Council.
- 43. Tree Removal –** Permission is granted for the removal of the onsite trees as shown on the approved drawings.

General Tree Removal Requirements

- (a) All tree removal must be carried out by a certified Tree Surgeon/Arborist to ensure that removal is undertaken in a safe manner and complies with the AS 4373-2007 - Pruning of Amenity Trees and Tree Works Industry Code of Practice (Work Cover NSW 1.8.98).
- (b) No trees are to be removed on the site or neighbouring properties without the prior written approval of Council.
- 44. Tree Protection.** Prior to the commencement of any works on the site the tree protection measures required for the established Tree Protection Zone (TPZ) of the trees to be retained must be installed in accordance with Section 4 - *Australian Standard AS 4970-2009 - Protection of trees on development sites*.

Unless otherwise specified in AS 4970-2009 a protective fence consisting of 1.8m high fully supported chainmesh must be erected around the base of the tree. The distance of the fence from the base of each tree is to be in accordance with the TPZ listed below. A layer of organic mulch 100 millimetres thick must be placed over the protected area and no soil or fill should be placed within the protection area.

There must be no services installed within the drip line TPZ of the tree. This fence must be kept in place during construction and also have a sign displaying "Tree Protection Zone" attached to the fence, this must also include the name and contact details of the Project Arborist.

- 45. Tree Retention – Arborist Report-** The trees identified for retention in the Level 5 Arborist Report dated 25th May 2016 by Russell Kingdom of Advanced Treescape Consulting listed below must be protected in accordance with the above report and the requirements of Section 4 - *Australian Standard AS 4970-2009 - Protection of trees on development sites*.

Tree Species	Tree No / Location on site	TPZ
Tree 1 <i>Eucalyptus microcorys</i>	2 – 10 Palmerston Street	9.0m
Tree/s 2, 3, 4, 19 – 22	2 – 10 Palmerston Street	As per arborist report

Note: Tree 1 *Eucalyptus microcorys* is to be retained which supersedes what was stated in the Level 5 Arborist report dated 25th May 2016 by Russell Kingdom of Advanced Treescape Consulting.

46. **Tree Protection – Excavation.** Excavations around the trees to be retained on site or the adjoining properties (including those trees on 12 Palmerston Street) must be supervised by the Project Arborist to ensure that the root system will not adversely be affected.
47. Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the Project Arborist must be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist must be submitted to Council prior to any further construction works taking place.
48. Tree Protection Zone (TPZ) around the trees to be retained are not to have soil level changes or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.
49. **Tree Removal.** The trees identified in the table below may be removed as recommended in the Level 5 Arborist Report dated 28th March 2017 by Russell Kingdom of Advanced Treescape Consulting.

Tree Species	Tree No / Location on site	Work Required
Tree/s 5 – 18	2 – 10 Palmerston Street	Remove

All tree removals are to be carried out by a certified Tree Surgeon/Arborist to ensure that removal is undertaken in a safe manner and complies with the AS 4373-2007 - Pruning of Amenity Trees) and Tree Works Industry Code of Practice (Work Cover NSW 1.8.98).

Note: Tree 20 *Tristaniopsis Laurina* identified for retention in the Level 5 Arborist report dated 25th May 2016 by Russell Kingdom of Advanced Treescape Consulting is to be removed pursuant to the amended Landscape Plans dated 10 January 2020.

No trees are to be removed on the site or neighbouring properties without the prior written approval of Council.

(CONDITION AMENDED BY MOD2019/0116)

DURING WORK

These conditions have been imposed to ensure that there is minimal impact on the adjoining development and surrounding locality during the construction phase of the development.

50. **Site sign - Soil & Erosion Control Measures** - Prior to the commencement of works (including excavation), a durable site sign, issued by Council in conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.

51. **Cost of work to be borne by the applicant** - The applicant must 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 must be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction must be maintained in a state of good repair and condition throughout the course of construction.
52. **Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the Roads Act 1993 and/or under Section 68 of the Local Government Act 1993. Penalty infringement Notices may be issued for any offences and severe penalties apply.
53. **Hours of construction for building work** - Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site must not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Saturday inclusive. No work or ancillary activity is permitted on Sundays, or Public Holidays.
Note: A penalty infringement notice may be issued for any offence.
54. **Tree Protection – Excavation** - Excavations around the tree(s) to be retained on site or the adjoining properties must be supervised by the Project Arborist to ensure that the root system will not adversely be affected.
Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the Project Arborist must be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist must be submitted to Council prior to any further construction works taking place.
Tree Protection Zone (TPZ) around the trees to be retained are not to have soil level changes or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.
55. **Stormwater to Kerb** - Any stormwater connections to the kerb and gutter are to be in accordance with Council's '*Specification for Construction by Private Contractors*'.
56. **Redundant Driveway** - All existing vehicular crossings adjacent to the subject premises that have become redundant must be removed and the footway and kerb and gutter reinstated at the developer/applicants expense.
57. **Damage within Road Reserve & Council Assets** - The owner must 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.
58. **Public Utility & Telecommunication Assets** - The owner must 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.

59. **Works Zone** - The installation of a "Works Zone" for the site will require the approval from the Traffic Advisory Committee. As a result, the applicant must provide a formal request to Council's Traffic Section with the duration and exact location of the required "Works Zone" at least 6 weeks prior to its required installation date. All costs associated with the installation of a "Works Zone" will be at the applicants expense.
60. **Waste Management Facility** - All materials removed from the site as a result of site clearing, site preparation and, or excavation must be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like must be ignited or burnt.
61. Copies of all receipts for the disposal, or processing of all such materials must be submitted to the Principal Certifier and Council, where Council is not the Principal Certifying Authority.
62. **Hazardous or Intractable Waste – Removal and Disposal.** Hazardous or intractable waste arising from the construction process must be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority and with the provision of:
- Work Health and Safety Act 2011 (NSW) (as amended);
 - Work Health and Safety Regulation 2011 (as amended);
 - Protection Of the Environment Operations Act 1997 (NSW) (as amended); and
 - Protection of the Environment Operations (Waste) Regulation 2014 (as amended)
63. **Conditions from Department of Infrastructure, Regional Development and Cities**
- (a) The building must not exceed a maximum height of 56.53 metres AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues etc.
- (b) Separate approval must be sought under the Regulations for any construction equipment (i.e. cranes) required to construct the building. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Regulations. Therefore, it is advisable that approval to operate construction equipment (i.e. cranes) be obtained prior to any commitment to construct.

The Proponent must advise Airservices Australia at least three business days prior to the controlled activity commencing by emailing <ifP@airservicesaustralia.com> and quoting YSSY-CA-592 P2 dated 11 May 2022.

On completion of construction of the building, the Proponent must provide Sydney Airport Corporation Limited (SACL) with the surveyed height of building.

A separate assessment and approval under the regulations will be required for any further addition to the building's height (e.g. the installation of additional aerials, antennas, etc.) as it will increase the building's penetration of the OLS.

(CONDITION AMENDED BY MOD2022/0025)

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

These conditions have been imposed to ensure that all works have been completed in accordance with the Development Consent prior to the issue of the Occupation Certificate.

- 64. SEPP 65 Design Verification Statement** - The Principal Certifier must not issue an Occupation Certificate to authorise a person to commence occupation of the residential flat development unless the Principal Certifier has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No 65 Design Quality of Residential Flat Development.
- 65. Restriction to User and Positive Covenant for On-Site Detention Facility** - A Restriction on Use of the Land and Positive Covenant must be created and registered on the title of the property, which places the responsibility for the maintenance of the on-site stormwater management system on the owners of the land. The terms of the instrument are to be in accordance with Council's standard terms and restrictions which are as follows;

Restrictions on Use of Land

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

Name of Authority having the power to release, vary or modify the Restriction referred to is Georges River Council.

Positive Covenants

1. *The registered proprietor of the lot(s) hereby burdened will in respect of the system:*
 - a) *keep the system clean and free from silt, rubbish and debris*
 - b) *maintain and repair at the sole expense of the registered proprietors the whole of the system so that it functions in a safe and efficient manner*
 - c) *permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land for the compliance with the requirements of this covenant*
 - d) *comply with the terms of any written notice issued by the Council in respect of the requirements of this covenant within the time stated in the notice.*
2. *Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council must have the following additional powers:*
 - a) *in the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above the Council or its authorised agents may enter the land with all necessary materials and equipment and carry out any work which the Council in its discretion considers reasonable to comply with the said notice referred to in part 1(d) above*
 - b) *the Council may recover from the registered proprietor in a Court of competent jurisdiction:*

- i. *any expense reasonably incurred by it in exercising its powers under subparagraph (i) hereof. Such expense must include reasonable wages for the Council's employees engaged in effecting the work referred to in (i) above, supervising and administering the said work together with costs, reasonably estimated by the Council, for the use of materials, machinery, tools and equipment in conjunction with the said work.*
- ii. *legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to section 88F of the Act or providing any certificate required pursuant to section 88G of the Act or obtaining any injunction pursuant to section 88H of the Act. Name of Authority having the power to release vary or modify the Positive Covenant referred to is Georges River Council.*

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

(CONDITION AMENDED BY MOD2022/0025)

- 67. Works as Executed and Certification of Stormwater works** - Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards. A works-as-executed drainage plan and certification must be forwarded to the Principal Certifier and Council (for record), from a professional engineer specialising in hydraulic engineering.

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

The works-as-executed drainage plan must be prepared and signed jointly by a professional engineer specialising in hydraulic engineering and a Registered Surveyor with registration numbers and qualifications as outlined which include the following details:

- (a) The location of any detention basin/s with finished surface levels;
- (b) Finished site contours at 0.2 metre intervals (if applicable)
- (c) Volume of storage available in any detention areas;
- (d) The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes;
- (e) The orifice size;
- (f) Details of any infiltration/absorption systems; and (if applicable);
- (g) Details of basement pumping systems installed (including wet well details and volumes).

(CONDITION AMENDED BY MOD2022/0025)

- 68. Consolidation of Site** - The site must be consolidated into one allotment and by a Plan of Consolidation being prepared by a Registered Surveyor. This Plan must be registered at the NSW Land and Property Information prior to the issue of a final occupation certificate.
- 69. Requirements prior to the issue of the Occupation Certificate** - The following must be completed and or submitted to the Principal Certifier prior to the issue of the Occupation Certificate:
- (a) All the stormwater/drainage works must be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
 - (b) The internal driveway construction works, together with the provision for all services (conduits and pipes laid) must be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
 - (c) Construct any new vehicle crossings required.
 - (d) Replace all redundant vehicle crossing laybacks with kerb and guttering, and replace redundant concrete with turf.
 - (e) A Section 73 (Sydney Water) Compliance Certificate for the Subdivision must be issued and submitted to the Principal Certifier prior to the issue of the Occupation Certificate.
 - (f) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete must be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.
- 70. Completion of Major Works** - Prior to the issue of a Final Occupation Certificate, the following works must be completed at the applicant's expense to the satisfaction of Council's Engineering Services section:
- (a) Stormwater pipes, pits and connections to public stormwater systems within the road related area;
 - (b) Driveways and vehicular crossings within the road related area;
 - (c) Removal of redundant driveways and vehicular crossings;
 - (d) New footpaths within the road related area;
 - (e) Relocation of existing power/light pole where required;
 - (f) Relocation/provision of street signs where required;
 - (g) New or replacement street trees where required;
 - (h) New footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street.
 - (i) New or reinstated kerb and guttering within the road related area; and
 - (j) New or reinstated road surface pavement within the road.

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

- 71. Dilapidation Report on Public Land for Major Development Only** - Upon completion of works, a follow up dilapidation report must be prepared for the items of Council infrastructure adjoining the development site including:
The dilapidation report must be prepared by a professional engineer specialising in structural engineering, and include:

- (a) Photographs showing the condition of the road pavement fronting the site
- (b) Photographs showing the condition of the kerb and gutter fronting the site
- (c) Photographs showing the condition of the footway including footpath pavement fronting the site, and
- (d) The full name and signature of the professional engineer.

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

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

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

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

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

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

- 73. Acoustic Validation** - Documentation from suitably qualified acoustic consultant certifying that the noise control measures as recommended in the Acoustic Assessment report prepared by Renzo Tonin & Associates (dated 11 April 2019, reference TK866-01F02 Acoustic Report for DA Modification (R2)) have been completed must be submitted to the Certifying Authority.

(CONDITION AMENDED BY MOD2019/0116)

- 74. Acoustic Certification** - Prior to the issue of any Occupation Certificate, a suitably qualified acoustic consultant must certify that the operation of the premises and plant equipment must not give rise to a sound pressure level at any affected premises that exceeds the relevant acoustic criteria. The development must at all times comply with these noise levels post occupation.

- 75. Health – Regulated Systems – Inspection, Certification and Registration** - Certification by a 'competent person' as defined under the Public Health (Microbial Control) Regulation 2000 must be submitted that verifies that the regulated system has been installed in accordance with:

- (a) Public Health Act 2010 (As amended)
- (b) Public Health Regulation 2012 (As amended)
- (c) AS/NZS 3666.1:2002 Air-handling and water systems of buildings - Microbial control - Design, installation and commissioning (as amended)

and can operate as required by Clause 9 of the Public Health (Microbial Control) Regulation, 2000 (as amended).

- 76. BASIX Certificate** - All energy efficiency measures as detailed in the approved BASIX Certificate in the plans approved with the Development Consent, must be implemented before issue of any Occupation Certificate.
- 77. BASIX Compliance Certificate** - A Compliance Certificate must be provided to the Principal Certifier regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any Occupation Certificate is issued.
- 78. Notice to Council - Allocation of street addresses** - Prior to the issue of any Occupation Certificate, 'as-built' drawings detailing the installed and allocated street/unit address and numbering must be submitted to the satisfaction of Council.
- 79. Allocation of car and bicycle parking spaces** – A total of ~~70~~ 71 car parking spaces and a minimum of 27 bicycle parking spaces associated with the development is to be provided for users of the premises and be allocated as follows:
- (a) ~~54~~ 55 resident car spaces.
 - (b) 10 visitor car spaces including 1 car wash bay.
 - (c) 2 commercial car spaces.
 - (d) 4 serviced apartment car parking spaces.
 - (e) 9 Motorcycle spaces.
 - (f) 27 bicycle spaces.

(CONDITION AMENDED BY MOD2023/0076)

- 80. Electricity Supply** - Evidence must be provided demonstrating that the development has been connected to the Ausgrid, if required.
- 81. Acoustic Compliance – General Operation of Premises.** The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the [Protection of the Environment Operations Act 1997](#) (as amended) and [Regulations](#).

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

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

- 82. Public Domain Works – Compliance.** The works in the approved Public Domain Plan lodged in accordance with the requirements of the Kogarah North Public Domain Strategy/Plan prepared by Atlas Urban on behalf of Council are to be completed prior to issue of the occupation certificate.

82A. Post Construction Dilapidation report – Private Land

At the completion of the construction works, a suitably qualified person is to be engaged to prepare a post-construction dilapidation report. This report is to ascertain whether the construction works associated with the subject development created any structural damage to any of the properties identified in the preconstruction dilapidation report prepared for this development. The report is to be prepared at the expense of the applicant and submitted to the PCA prior to the issue of the Occupation Certificate. In ascertaining whether adverse structural damaged has occurred to the adjoining premises, the PCA, must compare the post-construction dilapidation report with the pre-construction dilapidation report required by conditions in this consent. Evidence confirming that a copy of the post-construction dilapidation report was delivered to the adjoining properties subject of the dilapidation report must be provided to the PCA prior to the issue of any Occupation Certificate.

82B. Traffic Light System

A traffic light system shall be installed and operational on the single vehicle ramps on Basement B2 and B3 to prevent two (2) vehicles being on the ramps at the same time. Details shall be submitted to the Principal Certifying Authority for approval.

(CONDITION ADDED BY MOD2022/0025)

82C. Car Space Delineation and Numbering

All resident, resident visitor, disabled, commercial, waiting bay and motorcycle parking spaces shall be clearly delineated, numbered and marked, where required, to comply with the relevant Australian Standard.

(CONDITION ADDED BY MOD2022/0025)

82D. Bicycle Parking- Provision of Racks

All bicycle parking spaces shall be fitted with racks complying with the requirements of AS 2890.3:2015 Parking facilities, Part 3 – Bicycle parking. Details of the racks shall be submitted to the Principal certifying Authority.

(CONDITION ADDED BY MOD2022/0025)

82E. Plan Of Management (Communal Open Space) -

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

- (i) hours of use of the rooftop communal open space which shall be restricted to between 8am to 10pm;
- (ii) maximum number of 25 users at any one time;

- (iii) provisions that no amplified music to be played; and
- (iv) identify other measures to ensure that the amenity and safety of persons within the development and in nearby existing and future development is maintained.
- (v) Location and type of signage to be installed in the building to notify residents and visitors in respect to the use of this space.
- (vi) The approved POM shall be incorporated into the Owners Corporation by-laws in any future Strata subdivision and a sign in the front entry of the building shall be included to ensure the use of this space is monitored and understood by all occupants.

(CONDITION ADDED BY MOD2022/0025)

ONGOING CONDITIONS

These conditions have been imposed to ensure that the use or operation of the development does not adversely impact on the amenity of the neighbourhood or environment.

82F. Car Parking Allocation

~~Each residential unit must be allocated with at least one car space.~~

~~Each tandem/stacked carspace in Basement 3 shall be allocated to the same unit/strata title.~~

Each two-bedroom unit must be allocated with at least one (1) car parking space within the basement. Each three-bedroom unit must be allocated with at least two (2) car parking spaces within the basement. Each tandem/stacked car space in Basement 3 shall be allocated to the same unit/strata title.

(CONDITION MODIFIED BY MOD2023/0076)

82G. Plan Of Management (Communal Open Space) -

The development must at all times be carried out in accordance with the approved plan of management (as per condition 82E) relating to the use of the rooftop communal open space area.

(CONDITION ADDED BY MOD2022/0025)

- 83. 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).
- 84. Lighting - General Nuisance** - Any lighting on the site must 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.
- 85. Amenity of the neighbourhood** - The implementation of this 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, waste water, waste products, grit, oil or other harmful products.

86. **Smoking-** The premises must comply with the Smoke Free Environment Act 2000.
87. **Activities and storage of goods outside buildings** - There must be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.
- 87A. **Noise from Roof Top area.** There is to be no live bands, amplified music or speakers live bands permitted in the roof top area of the building.
88. **Maintenance of Landscaping** - All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas.
89. **Loading & Unloading of vehicles** - All loading and unloading of vehicles in relation to the commercial use of the premises must take place wholly within the commercial car parking spaces. A sign restricting the height of vehicles to 2.2m must be installed at the car park entry.
90. **Annual Fire Safety Statement** - The owner of the building premises must ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given:
- (a) Within 12 months after the date on which the fire safety certificate was received.
 - (b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
 - (c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the Environmental Planning and Assessment Regulation 2000.
 - (d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.
91. **Responsibility of Owners Corporation** - The Owners Corporation must be responsible for presenting all approved waste and recycling receptacles for collection, and returning all receptacles to the Main Waste Collection Room, as soon as practicable after they have been serviced.
- The Owners Corporation must also be responsible for maintaining all equipment, systems, facilities and storage areas used in conjunction with the provision of waste management services in accordance with all applicable regulatory requirements, relevant health and environmental standards, and to the satisfaction of Council.
92. **Site Safety Fencing** - Site fencing must be erected in accordance with SafeWork Guidelines, to exclude public access to the site throughout the 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 construction work.

A high risk work license may be required from SafeWork NSW (see www.SafeWork.nsw.gov.au).

- 93. 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.

- 94. Sydney Water Section 73 Certificates** - The Section 73 Certificate must be a separate certificate that relates specifically to this development consent. For example, if the development consent relates to the subdivision of the land, a Section 73 Certificate for the construction of the building that is subject to a different development consent will not suffice.

- 95. Electricity Supply** - This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services) for further details and information on lodging your application to connect to the network.

- 96. Disability Discrimination Act** - This application has been assessed in accordance with the Environmental Planning and Assessment Act 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992. The applicant is responsible to ensure compliance with this and other anti-discrimination legislation. The Disability Discrimination Act 1992 covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which refers to AS1428.1-Design for Access and Mobility.

- 97. 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.

- 98. 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:

- (a) Complete the Driveway Crossing on Council Road Reserve Application Form which can be downloaded from Georges River Council's Website at www.georgesriver.nsw.gov.au.
- (b) In the Application Form, quote the Development Consent No. (eg. 2012/DA) 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 Vehicular 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 must be carried out by a private contractor in accordance with Council's specifications prior to the issue of an Occupation Certificate.

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

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

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

ADVISORY CONDITIONS

98A. Overhead Powerlines

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

The "as constructed" minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website, www.ausgrid.com.au. It remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

"Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost.

It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site."

Should you have any enquiries, please contact Ausgrid at development@ausgrid.com.au

(CONDITION ADDED BY MOD2022/0025)

98B. Use and Fitout of Retail Premises

Future development consent (via DA or CDC) must be obtained for the use and fit out of the retail tenancy unless the works are exempt development as per State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

(CONDITION ADDED BY MOD2022/0025)

Schedule C – Prescribed Conditions

Prescribed conditions are those which are mandated under Division 8A of the *Environmental Planning and Assessment Regulation 2000* and given weight by Section 80A (11) of the *Environmental Planning and Assessment Act 1979*.

Detailed below is a **summary** of all the prescribed conditions which apply to development in New South Wales. Please refer to the full details of the prescribed conditions as in force, at www.legislation.nsw.gov.au.

It is the responsibility of the beneficiary of this consent to determine which prescribed conditions apply.

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

Clause 98 – Building Code of Australia - Requires all building work to be carried out in accordance with the Building Code of Australia.

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

Clause 98E – Protection & support of adjoining premises - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

Schedule D – Operational & Statutory Conditions

These conditions comprise the operational and statutory conditions which must be satisfied under the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning & Assessment Regulation 2000*. Please refer to the full details of the Act and Regulations as in force, at www.legislation.nsw.gov.au.

It is the responsibility of the beneficiary of this consent to determine which operational and statutory conditions apply.

Requirement for a Construction Certificate - The erection of a building must not commence until a Construction Certificate has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited certifier.

An application form for a Construction Certificate is attached for your convenience.

Appointment of a Principal Certifying Authority - The erection of a building must not commence until the beneficiary of the development consent has:

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

If the work is not going to be undertaken by an Owner-Builder, then the beneficiary of the consent must:

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

Notification of Critical Stage Inspections - No later than two (2) days before the building work commences, the Principal Certifier must notify:

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

Notice of Commencement - The beneficiary of the development consent must give at least two (2) days notice to the Council and the Principal Certifier of their intention to commence the erection of a building.**Subdivision Work – Construction Certificate & Appointment of Principal Certifying Authority - Subdivision work in accordance with a development consent cannot commence until:**

- (a) A Construction Certificate has been issued by the consent authority, the council (if not the consent authority) or an accredited certifier; and
- (b) The beneficiary of the consent has appointed a Principal Certifying Authority for the subdivision work.

No later than two (2) days before the subdivision work commences, the Principal Certifier must notify:

- (a) The consent authority and the council (if not the consent authority) of his or her appointment; and
- (b) The beneficiary of the development consent of the critical stage inspections and other inspections that are to be carried out with respect to the subdivision work.

Subdivision work – Notice of Commencement - The beneficiary of the development consent must give at least two (2) days notice to the Council and the Principal Certifier of their intention to commence the subdivision works.

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

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

Where Georges River Council has been appointed Principal Certifier, forty eight (48) hours notice in writing, or alternatively twenty four (24) hours notice by facsimile or telephone, must be given to when specified work requiring inspection has been completed.

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

Only the Principal Certifying Authority appointed for the building work can issue the Occupation Certificate.

ATTACHMENTS

Attachment [1](#) STATEMENT OF ENVIRONMENTAL EFFECTS MOD2023/0076



Attachment [2](#) Additional Information - MOD2023/0076



Attachment [3](#) Response to Request for Additional Information Letter - MOD2023/0076



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STATEMENT OF ENVIRONMENTAL EFFECTS

Section 4.56 Application
2-10 Palmerston St Kogarah

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Statement of Environmental Effects
2-10 Palmerston St Kogarah



Statement of Environmental Effects

Section 4.56 Application - 2-10 Palmerston St Kogarah

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Statement of Environmental Effects

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Planning
Institute
Australia

Date of final issue: 26 May 2023

File Path: 11556 4.56 Mod 3 SEE

Project Manager: Jillian Sneyd

Client: AV Jennings

Project Number: 11556

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Final	Council	1-e	26/05/2023	JS	JS

Statement of Environmental Effects
2-10 Palmerston St Kogarah

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Statement of Environmental Effects
2-10 Palmerston St Kogarah



1 Introduction

GLN Planning Pty Limited (**GLN**) has been commissioned by AV Jennings SPV No.19 Pty Ltd (**the Applicant**) to prepare this Statement of Environmental Effects (**SEE**).

A SEE was prepared and submitted with an application to modify Notice of Determination No. DA9/2017/112/1 (**the Determination**) approved by the NSW Land and Environment Court (**the Court**) on 20 September 2018 for the construction of a residential flat building comprising fifty one (51) residential dwellings and six (6) serviced apartments over three (3) levels of basement parking for sixty three (63) car parking spaces at Lots 51, 52 and 56, Section A in DP 1397, Lot 1 in DP 908581 and Lot 1 in DP 908582, 2 – 10 Palmerston Street, Kogarah (**the site**).

An application MOD2019/0116 (**Modification 1**) under S. 4.56 of the Environmental Planning and Assessment Act, 1979 was lodged in 2019 seeking modification of the Court issued consent. Modification 1 was approved by the Court providing for the construction of a residential flat building comprising 4 x 1 bedroom, 35 x 2 bedroom and 16 x 3 bedroom (4 of which are serviced apartments) including a retail shop over three (3) levels of basement parking for 75 car parking spaces. It is noted that the description of the development was not modified by Modification 1.

An application MOD 2022/0025 (**Modification 2**) under Section 4.56 of the Environmental Planning and Assessment Act 1979 was lodged in 2020 Modification 2 arose as a result of services and structure requirements during preparation of the Construction Certificate.

This Application (**Modification 3**) seeks modification of Condition 82F which was imposed on Modification 2. The condition requires the allocation of one car space per unit which cannot be achieved as a result of the approved carparking configuration.

1.1 Background and Proposed Modification

The approved development is located within the Kogarah North Precinct, which was rezoned to implement the Kogarah North Urban Design Strategy permitting higher density residential uses with increased height limits and FSR.

Development Application (DA) DA9/2017/112/1 (**Parent DA**) was approved by the Land and Environment Court on 20 September 2018. The approval was granted for the demolition of the existing dwelling house development and construction of a residential flat building containing 3 basement levels and 10 - 11 levels of shop top housing. The ground and part first floor contained a corner shop and 6 serviced apartments. The remainder of the approved development comprises 55 apartments and roof top communal open space. A unit mix of 8 x 1 bedroom, 37 x 2 bedroom and 6 x 3 bedroom units were approved together with a total of 63 carparking spaces within the basement levels.

As a result of the change of ownership of the site, a review of the overall development was undertaken resulting in Modification 1. Modification 1 resolved a number of issues relating to construction identified together with opportunities to improve the overall residential amenity and enabled reconsideration of the application of monetary contributions imposed under Section 7.13 of the EP&A Act.

Statement of Environmental Effects

2-10 Palmerston St Kogarah

Modification 2 provided for the incorporation of amendments necessary to achieve compliance with the Building Code of Australia and other construction requirements generally within the approved building envelope. An increase in height of the building and internal amendments were approved. The apartment mix remained as approved in Modification 1 as:

- 7 x 1 bedroom
- 30 x 2 bedroom
- 14 x 3 bedroom
- 4 x serviced apartments
- 1 x retail (85m²).
- A total of 71 spaces

This Modification 3 relates to the wording of condition 82F regarding the allocation of parking to the residential units. No change to the overall parking is proposed which is compliant with the consent as granted and the RMS Guidelines.

The approval continues to relate to a mixed-use building containing a ground floor retail shop and 11 residential floors. The unit mix maintains the approved total 55 units being 4 x 1 bedroom plus study units, 35 x 2 bedroom units, 17 x 3 bedroom units of which 3 are penthouse style. Four of the residential units are approved serviced apartments, the approved development is for 51 residential units. The modified development has been prepared to meet the requirements of the ADG, SEPP 65 and Council's controls as applicable in consideration of a modification application under s. 4.56 of the EP&A Act.

1.2 Type of Application

This application is submitted to Georges River Council under Section 4.56 of the EP&A Act to modify Notice of Determination No DA9/2017/112/1 as modified under MOD2022/0025 to amend condition 82F as it relates to the allocation of residential parking. No amendments are sought to the built form of the development which remains as approved.

Neither the Parent DA, Modification 1, Modification 2 or the modifications proposed under this application constitute State or regionally significant development.

Statement of Environmental Effects
2-10 Palmerston St Kogarah

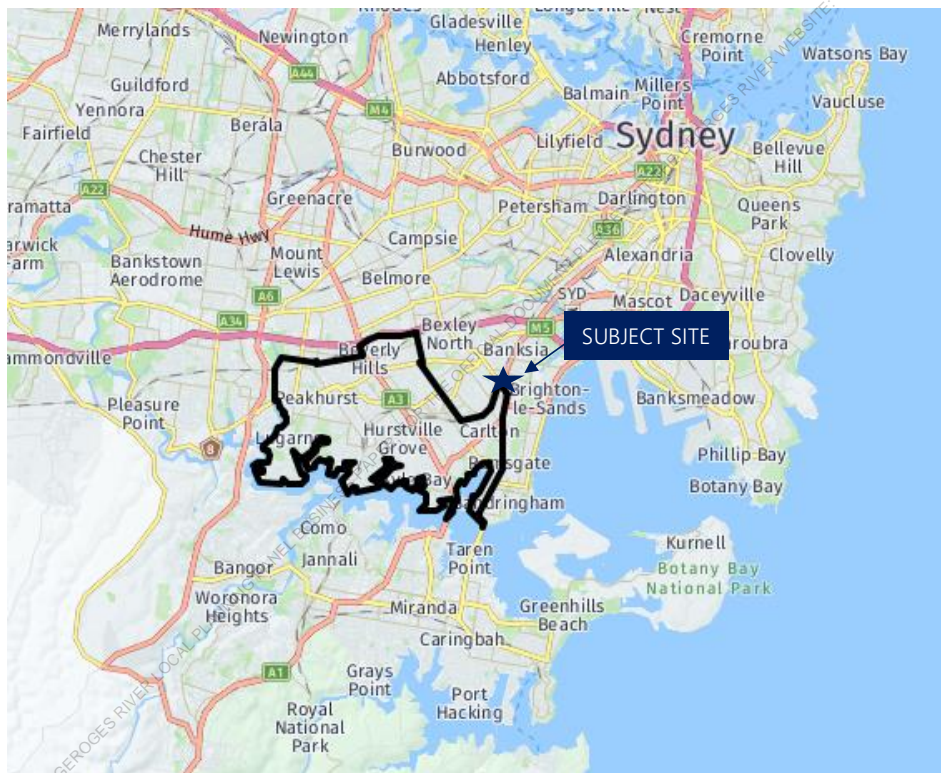


2 The Site and Locality

This section of the report describes the physical characteristics of the site, the adjoining development and character of the locality relevant to the preparation of a site analysis.

2.1 Site Location

The subject site is located within Georges River Local Government Area (**LGA**); within the southern area of the Sydney metropolitan area as illustrated in **Figure 1**. Kogarah is located approximately 14km south-west from the Sydney CBD



Source: Profile ID, 2019

Figure 1 Georges River Council LGA - Regional Context

2.2 Site Description

The subject site consists of Lots 51, 52 and 56, Section A in DP 1397 (2, 8 and 10 Palmerston St), Lot 1 in DP 908581 (4 Palmerston St) and Lot 1 in DP 908582 (6 Palmerston St); known as 2 - 10 Palmerston Street Kogarah. The site is a corner parcel which is nearly square in shape, with a north-western frontage to Railway Parade of approximately 37m, and a south-eastern frontage to Palmerston St of approximately 36m. The site has a total area of approximately 1,346m².

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At the time of consideration of the parent DA, the site was occupied by single storey low density residential dwellings, attached and detached, and ancillary structures (e.g. carport, shed). All buildings and structures within the development site have now been demolished.

The site is adjoined by existing residential flat buildings. The Kogarah Town Centre and railway station are located approximately 350m to the south-west of the site.

At the time of the assessment and determination of Parent DA and Modification 1, the subject site located within the Kogarah North Precinct, was zoned R4 High Density Residential, pursuant Kogarah Local Environmental Plan 2012 (**KLEP 2012**). The Georges River Local Environmental Plan 2021 (GRLEP) was published and applied at the time of the consideration of Modification 2. The zoning under both the previous and current Local Environmental Plans is R4 High Density Residential. Construction of the approved development has commenced on site. Refer to **Figures 2 - 4** for further details.



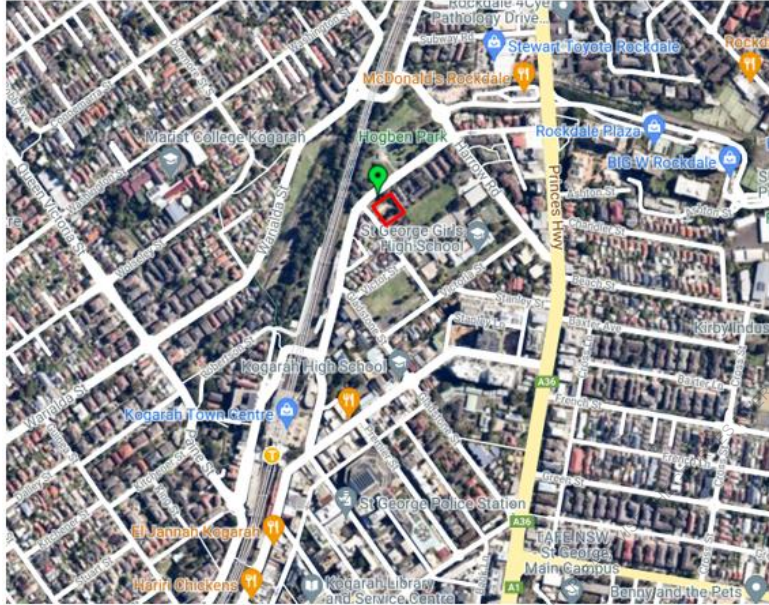
Source: Nearmaps May 2023

Figure 2 Aerial of Subject Site and Surrounding Locality

2.3 Surrounding Locality

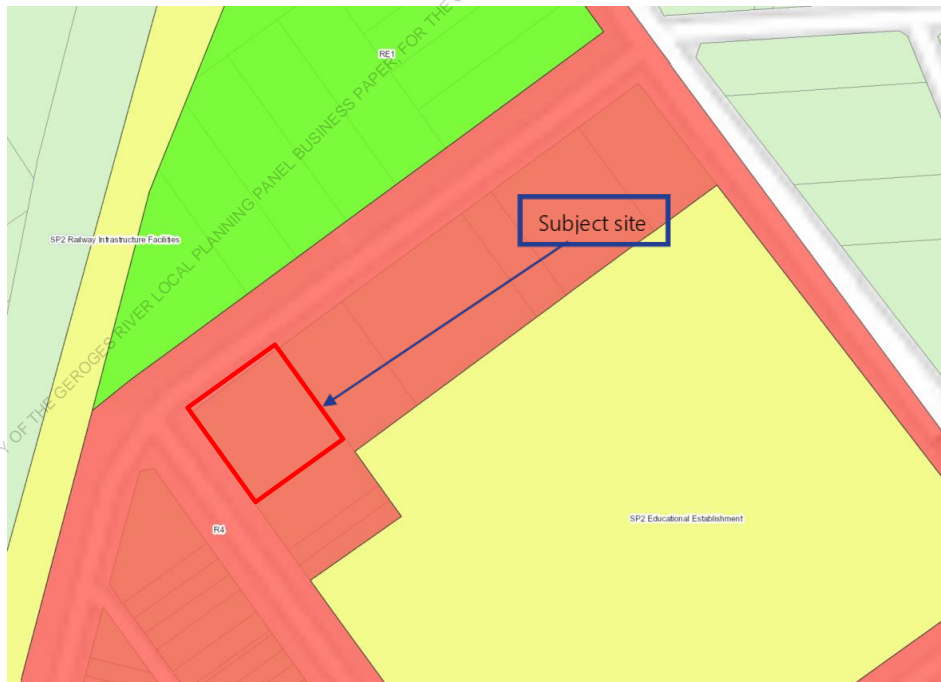
The Kogarah North Precinct is situated at the northern tip of the Georges River Local Government Area. The Precinct is bounded by the Illawarra and Eastern Suburbs rail line, Harrow Road, the Princes Highway, Bank Lane and Gladstone Street. An amendment to the Kogarah LEP 2012 was gazetted on 26 May 2017 to enable higher density residential uses across the Precinct.

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Source: Nearmaps October 2021

Figure 3 Aerial of Kogarah and Surrounding Locality



Source: GRLEP Digital Land Zoning Map

Figure 4 GRLEP 2022 Zoning of Surrounding Locality

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3 Proposed Modification

3.1 Approved Development Application

On 20 September 2018, the Court approved DA9/2017/112/1 as a deferred commencement consent, for the construction of a residential flat building comprising fifty one (51) residential dwellings and six (6) serviced apartments over three (3) levels of basement parking for sixty three (63) car parking spaces.

Modification 1 under s. 4.56 of the EP& A Act was lodged with the Land and Environment Court on 15 May 2019. Agreement was reached between the Applicant and the Council, and the consent was amended to provide for 55 units being 4 x 1 bedroom plus study units, 32 x 2 bedroom units, 15 x 3 bedroom units and 4 serviced apartments and associated basement carparking. Modification 1 provided for modification of the previously imposed deferred commencement condition which required the submission to Council of updated BASIX Certificate. Other modifications required to be incorporated into the proposal were provided enabling the deletion of those conditions. A condition requiring payment of a monetary contribution under s.7.13 of the EPA & A Act was deleted.

Modification 2 under s. 4.56 of the EP& A Act was lodged with Council on 29 January 2022 with Council and was approved by the Local Planning Panel on 16 June 2022. Modification 2 provided for amendments to the approved plans and some adjustment to conditions. A number of conditions were added to the consent specifically relating to engineering requirements. Condition 82F is a condition added at the determination of Modification 2.

3.2 Details of Proposed Modification

The description of the modified development is proposed to remain as approved and modified as the construction of a construction of a residential flat building, commercial unit and serviced apartments over basement parking. A total of 51 residential units are approved. The development maintains the approved unit mix and built form of Modification 2.

This modification application seeks:

- Amendment of Condition 82F.

Condition 82F reads as follows:

82F. Car Parking Allocation

Each residential unit must be allocated with at least one car space.

Each tandem/stacked carspace in Basement 3 shall be allocated to the same unit/strata title.

(CONDITION ADDED BY MOD2022/0025)

Condition 79 provides the allocation of parking spaces which is as follows

- (a) 54 resident car spaces.
- (b) 10 visitor car spaces including 1 car wash bay.
- (c) 2 commercial car spaces.
- (d) 4 serviced apartment car parking spaces.
- (e) 9 Motorcycle spaces.

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(f) 27 bicycle spaces

The wording of Conditions 82F cannot be complied with due to the number of carparking spaces and the design of the approved basement and the number of residential units approved. 51 residential units are approved and 8 spaces have been provided in as stacked spaces. Accordingly, the approved residential spaces can be allocated to a total of 50 units. It is proposed to amend the working of Condition 82F to achieve the desired outcome of the condition being the equitable allocation of carparking to residential units. Condition 82F was an additional condition imposed on Modification 2 by Council. The allocation of 1 carparking space to each unit is inconsistent with the RMS Guidelines which do not require 1 space for each one bedroom unit. The ability to vary the allocation of parking across the units equitably will enable different pricing of units and so affordability for future residents.

All architectural plans and other supporting reports as approved remain applicable to the approved development

3.2.1 DA9/2017/112/1 as modified Conditions

Table 1 below provides a summary of the modifications sought to Notice of Determination No. DA9/2017/112/1 as modified by Modification 1.

Table 1 Conditions for Review under Modification

Condition	Action	Reason
82F Car Parking Allocation	Modify	The number of approved apartments and carparking spaces prevents compliance with the requirement that each residential unit must be allocated with at least on space.

The specific modifications of Development Consent DA9/2017/112/1 as modified by MOD 2022/0025 are detailed below, the modifications shown as ~~strike through~~ for deletion and **bold** for insert and underline for remaining.

82F. Car Parking Allocation

~~Each of The two and three bedroom residential units~~ must be allocated with at least one car space. **One bedroom units are not to be allocated on title more than one car space and two and three bedroom units are not to be allocated on title more than two car spaces.**

Each tandem/stacked carspace in Basement 3 shall be allocated to the same unit/strata title. (CONDITION ADDED AMENDED BY MOD20223/0025XXXX)

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4 Strategic and Statutory Planning Framework

Section 4.56 (of the EP&A Act) contains the provisions that must be considered by a consent authority in determining an application to modify a Notice of Determination granted by the Court.

In addition to the EP&A Act, Division 12 of the Environmental Planning and Assessment Regulation 2021 (**EP&A Regulation**) contains matters that must be considered with an application to modify a consent.

The requirements under the EP&A Act and EP&A Regulation are addressed below

4.1 Environmental Planning and Assessment Act 1979

This application has been prepared and lodged pursuant section 4.56 of the EP&A Act.

Section 4.56 of the EP&A Act permits a Notice of Determination, granted by the Court, to be modified by consent authorities subject to the following matters being considered:

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

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

(b) it has notified the application in accordance with:

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

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

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

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

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

(1B) (Repealed)

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(1C) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.

(2) After determining an application for modification of a consent under this section, the consent authority must send a notice of its determination to each person who made a submission in respect of the application for modification.

(3) The regulations may make provision for or with respect to the following:

(a) the period after which a consent authority, that has not determined an application under this section, is taken to have determined the application by refusing consent,

(b) the effect of any such deemed determination on the power of a consent authority to determine any such application,

(c) the effect of a subsequent determination on the power of a consent authority on any appeal sought under this Act.

(4) (Repealed)

Table 2 Assessment relating to Section 4.56 of EP&A Act

Provision	Matter	Comment
Section 4.56(1)(a)	Substantially the same Development	<p>The consent authority must be 'satisfied' that the modified development will be 'substantially the same development' as authorised by the original development consent.</p> <p>The question of substantially the same development is a 'question of fact'. The finding of fact that a modified development is substantially the same as the original approved development requires a comparison between the development as approved and the development as proposed to be modified.</p> <p>The development to be modified remains a mixed-use commercial and residential development comprising a commercial / retail shop at ground floor and upper level residential dwellings with associated basement car parking. The proposed modifications to the approved development do not in any way alter a material or essential aspect of the approved development.</p> <p>No amendment to the approved built form of the development is proposed. Only Condition 82F of the consent as modified by MOD 2022/0025 is proposed to be amended in relation to the allocation of residential carparking.</p> <p>All modifications proposed are considered consistent and reasonable within lands zoned high density residential.</p> <p>The modification, as proposed, is substantially the same development as approved and can be determined pursuant section 4.56 of the EP&A Act.</p>
Section 4.56(1)(b)	Notification (Planning Policies)	The proposal may be notified in accordance with the EP&A Regulation and Council's DCP policy.

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Provision	Matter	Comment
Section 4.56(1)(c)	Notification (Submissions)	Council received submissions concerning the parent DA and Modifications 1 and 2. The re-notification is a matter of consideration for Council.
Section 4.56(1)(d)	Consideration of Submissions	The proposal may be notified in accordance with the EP&A Regulation and Council's DCP policy. The applicant requests the opportunity to discuss and address any submissions, if received.
Section 4.56(1A)	Consent Authority Considerations	The consent authority must take into consideration such of the matters referred to in section 4.15(1) of the EP&A Act as are of relevance to the development the subject of the application. The consent authority must also take into consideration any reasons given by the consent authority for the grant of the consent that is sought to be modified. These matters are discussed in detail under Section 5 of this SEE.
Section 4.56(1B)	Repealed	
Section 4.56(1C)	Modification of Development Consent	This application has been lodged with Georges River Council pursuant section 4.56 of the EP&A Act to modify Development Consent DA9/2017/112/1 as modified.
Section 4.56(2)	Notification of Outcome	Notification of any future determination is a procedural matter for Council.
Section 4.56 (3)(a)(b)(c)	The Regulations	Clause 122A of the EP&A Regulation makes provisions for section 4.56 application determination timeframes. The Proponent is aware of this procedural matter.
Section 4.56(4)	Repealed	

4.2 Environmental Planning & Assessment Regulation 2000

Clauses 115-119 of Division 12 of the EP&A Regulation details the requirements and information required to be submitted to a consent authority with an application to modify a development consent. The following table details compliance:

Table 3 Division 12 EP&A Regulation Assessment

Clause	Matter	Comment
Clause 115	1(a) Name and address of applicant	AVJennings SPV No 19 Pty Ltd ACN: 612 798 964 Address: Level 4 108 Power Street Hawthorn VIC 3122
	1(b) A description of the original development	Section 3 of this SEE includes details of the original development and the proposed modifications under this application.
	1(c) Address and formal particulars	Included in Section 2 of this SEE

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Clause	Matter	Comment
	1(d) A description of the proposed modification	Section 3 of this SEE includes details of the original development and the modifications proposed under this application.
	1(e) A statement that indicates the modification is intended to have some other effect	As noted under this SEE, this modification, intends seeks to amend condition 82F relating to the allocation of residential carparking within the development. No amendment of the built form is proposed.
	1(f) A description of the expected impacts of the modification	This SEE provides a detailed description, it is not anticipated that the modification will result in any likely impacts and concludes the modification should be supported.
	1(g) An undertaking that the development (as to be modified) will remain substantially the same	The use, bulk and scale of the development, remains as approved. The development remains substantially the same, as detailed in Table 2 above. This SEE in association demonstrates that the development will remain substantially the same.
	1(g1) Biodiversity	Not Applicable.
	1(h) Owners Consent	Owners consent for the making of this application is contained within the documents submitted on the Planning Portal.
	1(i) A statement whether the application is being made to the Court or to the consent authority	This application is made pursuant section 4.56 of the EP&A Act to the Georges River Council. .
	(2) Notification requirements of clause 49	The requirements of public notification pursuant Clause 49 do not apply to this application.
	(3) Residential Apartment Development - Design Verification	Smith& Tzannes Architects prepared a Design Verification Statement dated November 2020) addressing the relevant design principles and statutory requirements with Modification 2. No built form amendments are proposed. This modification does not diminish or detract from the design quality, or compromise the design intent, of the development for which the development consent as modified was granted.
	(3A) Qualified designer Statement	Smith& Tzannes Architects prepared a Design Verification Statement dated November 2021, submitted with Modification 2. No amendments are required. .
	(3B) Design Review Panel	Smith& Tzannes Architects prepared the approved Modification 1 and 2 Plans. This modification does not make any amendments to the approved built form and so Clause 115(3B) does not require the modification application to be referred to the design review panel.
	(4) BASIX certificate verified	The approved BASIX Certificate identified in Condition 1 of the Development Consent as modified remains an approved document.
	(5) State significant development referral requirements	The application is not State significant development.

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Clause	Matter	Comment
	(6) BASIX certificate requirements	This application is not made under section 4.55 (1A) or (2). Notwithstanding, a BASIX Certificate is identified in the existing Development Consent as modified.
	(7) BASIX certificate requirements	Refer to comments above.
	(8) Local Aboriginal Land Council	The land relating to this application is not owned by a Local Aboriginal Land Council.
	(9) Fee	The relevant fee paid following advice from Council via the Planning Portal.
	(10) the Court	Procedural matters are noted. This Application is submitted to Council.
Clause 117	Modification of Consent involving minimal environmental impacts	<p>The modification relates only to a condition of consent and will result in a minimal or nil environmental impact. Notwithstanding, this is a procedural matter for the consent authority to consider.</p> <p>The original development application was notified from 29 June 2017 to 13 July 2017. Modification 1 was notified on at least 2 occasions, the last being 10 February 2020 to 24 February 2020. Modification 2 was notified 17 February 2022 to 3 March 2022</p>
Clause 118	Applications under sections 4.55 (2) and 4.56 for modification of certain development consents	<p>This clause applies to an application made under section 4.55(2) or 4.56(1) to modify a development consent if the original development application for the consent was an application to carry out any of the following:</p> <ul style="list-style-type: none"> (a) designated development, (b) State significant development, (c) any other advertised development where the application was made to a consent authority other than a council. <p>The parent DA was not categorised as above and therefore no further consideration is required.</p>
Clause 119	Public participation—applications under sections 4.55 (2) and 4.56 for modification of other development consents	<p>Refer to comments under Clause 117 above. Notwithstanding, this is a procedural matter for the consent authority to consider.</p> <p>The original development application was notified from 29 June 2017 to 13 July 2017.</p> <p>No submissions were received in relation to Modification 2.</p>

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5 Matters of Consideration

In determining an application for the modification of a consent under section 4.56, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application, as well as take into consideration the reasons given by the consent authority for the granting of the consent that is sought to be modified.

The following sections summarise the key findings in the context of Section 4.15 (formerly Section 79C) of the Act, under which the application must be assessed by Council.

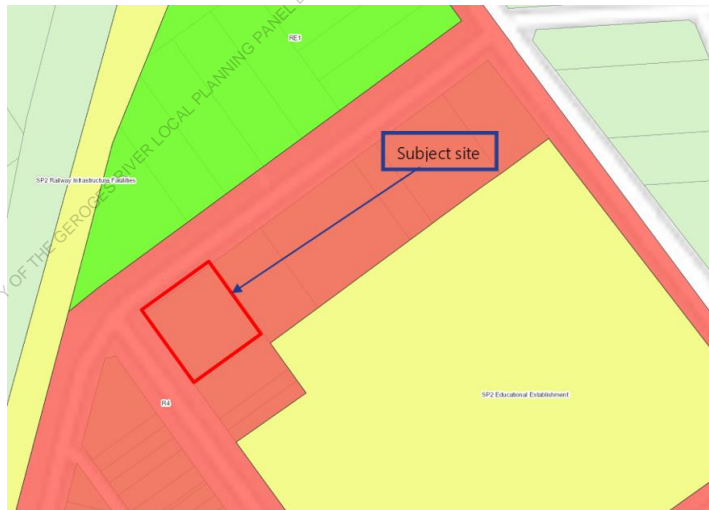
5.1.1 Environmental Planning Instruments - Section 4.15(1)(a)

This application has been prepared and lodged pursuant section 4.56 of the EP&A Act, seeking the consent of Council to modify Notice of Determination DA9/2017/112/1 as modified by MOD2019/0116 and MOD2022/0025. Section 4.56 of the EP&A Act is a 'free-standing provision' subject to its own stand-alone tests, meaning that a modification application may be approved notwithstanding the development would be in breach of an applicable development standard were it the subject of an original development application; section 4.56 authorises the development to be approved notwithstanding any breach of development standards.

The following discusses the planning controls in the Georges River Local Environmental Plan 2021 (**GRLEP 2021**) and Georges River Development Control Plan (**DCP**), relevant to the assessment of the Section 4.56 Application. The proposed development is not considered to trigger any new assessable considerations under any State Environmental Planning Policy (**SEPP**).

Georges River Local Environmental Plan 2021 (**GRLEP**)

The subject site is zoned R4 High Density Residential under GRLEP and is permissible with development consent..



Source: NSW Legislation GRLEP Digital Land Zoning Map

Figure 5 Land use zoning under Georges River LEP 2021

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The relevant objectives of this 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 scale and type of development remains consistent with that established as an acceptable planning outcome from the Court. The modifications included under this application comply with the zone objectives.

The subject site is identified on the maximum height of buildings, maximum FSR and is within proximity of heritage items identified under KLEP 2012. The FSR achieved under the modified scheme is not proposed to be amended and is consistent with the maximum FSR control under GRLEP. The maximum height of building standard of 33m was exceeded by the original development as approved and modified. This modification does not seek any amendments to the approved built form. Similarly, the impact of the proposed development upon nearby heritage items was addressed as part of the original development application assessment and subsequent approval. As is detailed within this SEE, the development is substantially the same as that approved.

The proposed modification of Condition 82F does not give rise to any new relevant matters for consideration.

The modification is considered compliant with the building, social and environmental objectives of GRLEP as well as being consistent with character and amenity expectations.

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The parent DA was not defined as 'Traffic Generating Development' pursuant Schedule 3 of the ISEPP. The modification, as proposed, does not trigger a statutory referral under this Policy to the RMS before determination.

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

The aims of SEPP 65 are to improve the quality of Residential Flat development. The Policy applies to the development. The Policy contains design quality principles that must be considered in the design.

Clause 29 of SEPP 65 applies to the determination of applications for development consent modifications, as this modification does not seek to vary the built form of the development from that approved and assessment against the requirements of Clause 29 is not necessary for the purposes of this assessment. For completeness, the following comments are made:

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Table 2 SEPP 65 Assessment

Provision	Comment
(1) This clause applies if a consent authority is required by clause 115 (3A) of the Environmental Planning and Assessment Regulation 2000 to refer an application for the modification of development consent (other than in relation to State significant development) to a relevant design review panel (if any) for advice as to whether the modifications diminish or detract from the design quality, or compromise the design intent, of the development for which the consent was granted.	This application does not require referral to Council's Design Review Panel as the same Architect has prepared the modification plans for this application as the approved development. To enable assessment of the application by Council, a Design Verification Statement for the proposed modification has been prepared. A review of the proposed modification against the ADG is not required as the development is substantially the same as that approved.
(2) In determining an application to which this clause applies, the consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration): (a) the advice (if any) obtained from the design review panel, and (b) the design quality of the development (as modified) when evaluated in accordance with the design quality principles, and (c) the Apartment Design Guide.	Not applicable
(3) However, if the relevant design review panel fails to inform the consent authority of its advice within 14 days after its first meeting to deal with the application concerned, the consent authority may determine the application without considering any such advice and a modification of consent so granted is not voidable on that ground.	Not applicable
(4) The 14-day period referred to in subclause (3) does not increase or otherwise affect the period within which an application for the modification of development consent is required to be determined by a consent authority.	Not applicable

Clause 30 of SEPP 65 contains standards that cannot be used as grounds to refuse development consent or modification of development consent. The modification does not seek to vary the built form of the approved development.

The modification as proposed complies with SEPP 65.

State Environmental Planning Policy – Building Sustainability Index: (BASIX) 2009

An amended BASIX Certificate was been prepared and submitted with Mod 2 to ensure continual compliance with this Policy. No modification of the built form of the approved development is proposed.

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**State Environmental Planning Policy No. 55 – Remediation of Land**

The matter was considered under the parent DA. No further consideration is required under this s.4.56 application.

5.1.2 Proposed Instruments - Section 4.15(1)(a)(ii)

There are no proposed environmental planning instruments applicable to the proposed modification.

5.1.3 Development Control Plan - Section 4.5(1)(a)(iii)**Georges River Development Control Plan 2021 (DCP 2022)**

The purpose of DCP 2022 is to guide development outcomes within Georges River LGA. The relevant matters for consideration under the DCP relevant to this application to modify the Determination are outlined below.

The approved development was determined under the applicable provisions of Kogarah Development Control Plan 2013 (DCP 2013). The prior Section E4 - Kogarah North Precinct contains controls for the precinct of DCP 2013 are now contained in Part 10.1 of DCP 2022, although it is noted that the original development application was submitted prior to the commencement of Section E4 under DCP 2013. As the modifications sought do not seek any amendments to the approved built form and the modified proposal is substantially the same as that approved a detailed assessment against DCP 2022 is not strictly necessary but is provided for completeness of the assessment.

Table 3 DCP 2022 Assessment

Provision	Comment
10.1.1 Existing Character	DCP 2022 identifies the changing character of the neighbourhood permitted by the applicable planning controls.
10.1.2 Land to which this part applies	The site is located within the diagram Figure 1 contained in DCP 2022 Part 10.1.
10.1.3 Development Contributions	<p>Council seeks the following development contributions:</p> <ul style="list-style-type: none"> • Section 94 Contributions. • Section 94A levies; and • Voluntary Planning Agreements. <p>Condition 11 of the consent imposes the requirement for the payment of monetary contributions, no change to the condition is sought.</p>
10.1.4. Kogarah North Urban Design Strategy	Emphasis on creating a built form that complies with the ADG and defines a four-storey street wall character as was approved and maintained in the proposed modifications.
10.1.5. Vision for Kogarah North Precinct	The approved and modified development is consistent with the vision for the precinct.
10.1.6. The Controls	This is a modification application seeking amendment to a condition of consent. No amendment to the built form from that approved is proposed.

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Provision	Comment
10.1.6.1 Siting and Consolidation of Development Sites	The site is an approved development site.
10.1.6.2. Heritage	Where located within the vicinity of heritage items, setbacks and building height are to have regard and respect the value of the heritage item and setting. The overall building envelope remains as that approved.
10.1.6.3. Street Frontage Height	The overall building envelope remains the same as that approved
10.1.6.4 Setbacks	The overall built form remains as approved.
10.1.6.5. Trees and Landscape	No additional trees are to be removed than those anticipated by the Development Consent. Additional deep soil planting is provided as a result of the modifications proposed.
10.1.6.6 Dedication of Land to Council	Not applicable
10.1.6.7 Creation of Pedestrian Links	Not applicable
10.1.6.8 Housing Choice	The unit mix remains as that approved under Mod 1. .
10.1.6.9 Addressing the Street and Public Domain	No amendments to the built form are proposed.
10.1.6.10 Impact of Development on the Road/ Pedestrian Network	No changes as a result of this modification
10.1.6.11 Acoustic impacts from Road and Rail.	An Acoustic Report has been approved.
10.1.6.12 Vehicular Access and Car Parking	Access to the site remains as approved. No change to the overall quantum of parking is proposed which is compliant with the RMS Traffic Guideline provisions which apply due to the operation of SEPP 65 and ADG.
10.1.6.13 Architectural Articulation – Façade, Roof and Wall Design and Private Open Space	No amendments to the built form are proposed.
10.1.6.14. Awnings	No amendments to the built form are proposed.
10.1.6.15 Active Street Frontages	A retail shop is maintained in keeping with that of the original and modified development consent.
10.1.6.16 Solar Access to Public Domain	No amendments to the built form are proposed.

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Provision	Comment
10.1.6.17 Safety and Security	No amendments to the built form are proposed.
10.1.6.18 Waste Minimisation	As Approved
10.1.6.19 Site Facilities	As Approved, a garbage chute is incorporated as approved for the convenience of residents.
10.1.6.20 Maintenance	No amendments to the built form are proposed.
10.1.6.21 Acoustic Privacy	No amendments to the built form are proposed.

The development is not considered to trigger any further assessment of matters that have not been previously assessed as part of the original DA and Modifications 1 and 2 as determined by the Land and Environment Court and Council. The conditions of consent are sufficient to ensure appropriate compliance with relevant requirements during construction and future use of the building.

5.1.4 Planning Agreements - Section 4.15(1)(a)(iii)

There is no applicable Planning Agreement related to the Development Consent which requires consideration in relation to this application.

5.1.5 Regulations - Section 4.15(1)(a)(iv)

Relevant provisions relating to the modification of development consents issued by the Court include Division 12 Clauses 115 - 118 of the *EP&A Regulation*. These are separately addressed above as part of this SEE.

5.1.6 Likely Impacts of the Development - Section 4.15 (1)(b)

This modification application provides for the development of a mixed-use building as anticipated by Development Consent DA9/2017/112/1 as modified by MOD2019/0116 and MOD2022/0025. The modification sought relates to the wording of Condition 82F and will not result in any impacts not considered in the assessment of the Parent DA and subsequent modification and addressed by the conditions of consent.

5.1.7 Suitability of the Site- Section 4.15 (1)(c)

Development Consent was granted for the development of a mixed use residential flat building. The site is located within the Kogarah North Precinct which has been the subject of a Planning Proposal and amendments to the then applicable KLEP 2012 to permit higher density residential development. GRLEP contains the same provisions as KLEP. The proposed modification seeks amendment to a condition relating to the allocation of parking within the building.

5.1.8 Submissions - Section 4.15 (1)(d)

The proposal will be notified in accordance with Council's policy with any submissions received during this process required to be considered under Section 4.15 of the Environmental Planning and Assessment Act 1979.

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The applicant requests the opportunity to discuss and address any submissions, if received.

5.1.9 Public Interest - Section 4.15 (1)(e)

The public interest is served by granting consent to this application, as the modifications proposed, will enable the allocation of parking in an equitable manner amongst future residents and the ultimate issue of an Occupation Certificate.

The redevelopment will provide a development which will continue to meet the objectives of GRLEP. There are no known matters in relation to the public interest relevant to the proposed amendment that have not been canvassed within this Statement.

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6 Conclusion

This application seeks to modify Notice of Determination No DA9/2017/112/1 as modified by MOD2019/0116, issued by the Land and Environment Court on 20 September 2018 and 1 July 2020 and MOD2022/0025 issued by Council on 16 June 2022, by modification of the condition 82F to enable the equitable allocation of parking within the building upon completion. This SEE summates that the modifications as proposed are substantially the same development as approved and modified by the Court and further modified by and therefore can be determined pursuant section 4.56 of the EP&A Act.

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7 Glossary

Abbreviation	
Council	Georges River City Council
DA	Development Application
DPE	NSW Department of Planning and Environment
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
GRLEP	Georges River Local Environmental Plan 2021
GRDCP	Georges River Development Control Plan 2022
GLN	GLN Planning Pty Ltd
KLEP 2012	Kogarah Local Environmental Plan 2012
KDCP	Kogarah Development Control Plan
Modification 1	MOD2019/0116
Modification 2	MOD2020/0025
Modification 3	Current Application submitted May 2023
LEC	Land and Environment Court
LGA	Local Government Area
SEE	Statement of Environmental Effects
SEPP	State Environmental Planning Policy

Statement of Environmental Effects
2-10 Palmerston St Kogarah



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17 November 2023

Our Ref: 11556 Additional Information Mod 3

General Manager

Georges River Council

Via email: mail@georgesriver.nsw.gov.au

Attention: Renee Arrowsmith

Dear Renee,

RE: Clarification re Mod 2023/0076

Property: 2-10 Palmerston Street Kogarah

Following on from our conversation yesterday, I wish to provide the following clarification of the modification application before Council. Upon review of the modified development consent issued June 2022, it was determined that Condition 82F as an additional condition would be difficult to comply with due to the stacked spaces proposed within the building. Upon a further review we have determined that there are in fact 55 residential spaces not 54 as indicated in Condition 79. It should be noted that our client provided 4 additional spaces from the 51 residential spaces required. The additional 4 spaces were included in the gross floor area and so floor space ratio calculations as parking in addition to the requirements of Council.

The proposed development comprises 51 residential units, 4 serviced apartments and retail shop. The serviced apartments have been assessed approved as commercial as opposed to residential development by the Land and Environment Court in the original appeal prior to the purchase of the site by my client. The serviced apartments are provided with 1 car parking space each, the retail shop has an allocation of 2 spaces. There are 10 visitor spaces of which one serves a dual purpose as the carwash bay.

Modification Sought

The modification before Council seeks to provide some flexibility in the allocation of parking within the building in the interests of housing affordability, meeting the needs of the future residents and acknowledgement that the site is located within 800m of a railway station. The wording of the conditions 79 and 82F when read in conjunction cannot be met as the 4 stacked spaces must be allocated to a 3 bedroom unit.

Carparking was calculated on the basis of the Metropolitan Sub-Regional Centres provisions of the RTA Guidelines. The provisions for High density residential flat buildings provides:

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RE: Clarification re Mod 2023/0076

5.4.3 High density residential flat buildings.

Definition.

A *high density residential flat building* refers to a building containing 20 or more dwellings. This does not include aged or disabled persons' housing. *High density residential flat buildings* are usually more than five levels, have basement level car parking and are located in close proximity to public transport services. The building may contain a component of commercial use.

Parking.

The recommended minimum number of off-street resident parking spaces is as follows:

Metropolitan Regional (CBD) Centres:

- 0.4 spaces per 1 bedroom unit.
- 0.7 spaces per 2 bedroom unit.
- 1.20 spaces per 3 bedroom unit.
- 1 space per 7 units (visitor parking).

Metropolitan Sub-Regional Centres:

- 0.6 spaces per 1 bedroom unit.
- 0.9 spaces per 2 bedroom unit.
- 1.40 spaces per 3 bedroom unit.
- 1 space per 5 units (visitor parking).

Metropolitan Regional Centres (Central Business District) provide high levels of local employment as well as access to rail and bus services and therefore may have less parking requirements.

The recommended minimum number of off-street visitor parking spaces is one space for every 5 to 7 dwellings. Councils may wish to reduce this requirement for buildings located in close proximity to public transport, or where short term unit leasing is expected.

Condition 79 refers to 54 residential spaces (in error) there are in fact 55. Note only 51 spaces are required and the additional 4 were included in the GFA calculations.

As we have 55 spaces, we can in fact allocate a space to each of the 51 units but are seeking flexibility in the allocation of parking to meet market needs. It is the intent that all resident parking will be allocated to units within the building or in the instance a purchaser does not have the need for parking, the space would be held as common property.

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Table 1 Parking as Approved

	Total Units	Carparking Required per unit	Carparking Total	Allocation under condition 82F
1 bed	7	0.6	4.2	7
2 bed	30	0.9	27	30
3 bed	14	1.4	19.6	14
Total	51		50.8 rounded to 51	51

The application of Condition 82F will have the effect of reallocating the demand for 6 spaces to the 1 and 2 bedroom units. This is contrary to the recognised demand for parking in the RTA Guidelines. We maintain that this is not a practical outcome to meet the demand for parking within the development could give rise to the situation where demand for parking for 3 bedroom units will be required to be found in on street parking whilst parking within the development could be underutilised for 1 and 2 bedroom units.

In addition, the allocation of parking as one space for every unit cannot be achieved where the one and two bedroom carparking rates are less than 1 space per unit. **Table 2** illustrates the shortfall in the event of a greater number of 1 bedroom units being provided (Table 2), in this example there would be a 5 space shortfall. In the example of **Table 3**, there would be a space shortfall.

Table 2 Example calculation with less 3 bedroom units

	Total Units	Carparking Required per unit	Carparking Total	Allocation under condition 82F
1 bed	14	0.6	8.4	14
2 bed	30	0.9	27	30
3 bed	7	1.4	9.8	7
Total	51		45.2 round to 46	51

Condition 82F notably requires a reallocation of those spaces to the benefit of the 1 and 2 bedroom units to the disadvantage of the 3 bedroom units.

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RE: Clarification re Mod 2023/0076

Table 3 Example calculation with less 3 and more 2 bedroom units

	Total Units	Carparking Required per unit	Carparking Total	Allocation under condition 82F
1 bed	7	0.6	4.2	14
2 bed	37	0.9	33.3	30
3 bed	7	1.4	9.8	7
Total	51		47.3 round to 48	51

As any parking in addition to the requirements of the RTA Guidelines is included within FSR calculations it cannot be intended that where lesser parking spaces than units were proposed that there would be additional parking provided. Is it inappropriate to require each unit be provided with a parking space as this increases overall costs to home buyers and the demand for parking within the street system may be increased.

You will note that the building has been provided with a greater number of 3 bedroom units with 27% of the overall residential units. This is in response to provide alternative housing choice that will meet the needs of the likely purchasers as opposed to historic patterns where 1 and 2 bedroom units dominate the available choice.

Conclusion

We request that Council consider the matters raised above noting that condition 82F was imposed on Modification 2 and cannot be imposed on all DA's. The proposed amendments to Condition 82F are consistent with the intent to ensure the equitable allocation of parking within the development for the use by future residents.

The stacked carparking spaces must be allocated to a single unit despite there being 55 spaces provided only 51 independently available spaces are available.

The amendment sought provides the opportunity to meet the carparking needs of future residents in both 2 and 3 bedroom units but not to the disbenefit of the 3 bedroom units in favour of 1 bedroom units. It is anticipated that the second spaces are more likely to be required by the 3 bedroom unit purchasers. The demand for parking will also be more appropriately accommodated within the site as opposed to the allocation of 1 space per unit.

In addition to the amendment of condition 82F as requested, the amendment of condition 79 to reflect the total number of residential spaces indicated on the approved plans to 55 should also be the subject of this modification application.

The modification application has now been with Council since late July and we would ask that if there are any further matters to be resolved or you require any further information you contact me directly on 9249 4103.

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Yours faithfully

GLN PLANNING PTY LTD

JILLIAN SNEYD
CONSULTANT TOWN PLANNER

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19 December 2023

Our Ref: 11556 Additional Information Mod 3

General Manager

Georges River Council

Via email: mail@georgesriver.nsw.gov.au

Attention: Renee Arrowsmith

Dear Renee,

RE: RFI re Mod 2023/0076

Property: 2-10 Palmerston Street Kogarah

Further to our letter clarifying the parking allocations within the approved building and the modifications sought and Council's RFI letter dated 30 November 2023 we provide the following additional information.

This letter seeks to provide justification as to the intent of the modification to condition 82F, with specific regard to the objectives and provisions of the car parking controls.

As detailed in our November letter clarifying the modification request, the demand for carparking is based on the RMS Guide for Traffic Generating Development (**GTTGD**). The GTTGD provisions apply in place of Georges River Development Control Plan 2021 (**GRDCP 2021**) by application of the provisions of State Environmental Planning Policy No 65 (**SEPP 65**) and the Apartment Design Guidelines (**ADG**).

As previously advised, upon review we have determined that there are in fact 55 residential spaces not 54 as indicated in Condition 79. It should be noted that 4 additional spaces were provided from the 51 residential spaces required. The additional 4 spaces were included in the gross floor area and so floor space ratio calculations as parking in addition to the requirements of Council.

The proposed development comprises 51 residential units, 4 serviced apartments and retail shop. The serviced apartments have been assessed approved as commercial and not residential development by the Land and Environment Court in the original appeal prior to the purchase of the site by my client. The serviced apartments are provided with 1 car parking space each, the retail shop has an allocation of 2 spaces. There are 10 visitor spaces of which one serves a dual purpose as the carwash bay.

Modification Sought

The modification before Council seeks to provide flexibility in the allocation of parking within the building in the interests of housing affordability, meeting the needs of the future residents and acknowledgement that the site is located within 800m of a railway station. The wording of the

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conditions 79 and 82F when read in conjunction cannot be met as the 4 stacked spaces must be allocated to the 3 bedroom units.

Carparking was calculated on the basis of the Metropolitan Sub-Regional Centres provisions of the RTA Guidelines. The provisions for High density residential flat buildings provides:

5.4.3 High density residential flat buildings.

Definition.

A *high density residential flat building* refers to a building containing 20 or more dwellings. This does not include aged or disabled persons' housing. *High density residential flat buildings* are usually more than five levels, have basement level car parking and are located in close proximity to public transport services. The building may contain a component of commercial use.

Parking.

The recommended minimum number of off-street resident parking spaces is as follows:

Metropolitan Regional (CBD) Centres:

- 0.4 spaces per 1 bedroom unit.
- 0.7 spaces per 2 bedroom unit.
- 1.20 spaces per 3 bedroom unit.
- 1 space per 7 units (visitor parking).

Metropolitan Sub-Regional Centres:

- 0.6 spaces per 1 bedroom unit.
- 0.9 spaces per 2 bedroom unit.
- 1.40 spaces per 3 bedroom unit.
- 1 space per 5 units (visitor parking).

Metropolitan Regional Centres (Central Business District) provide high levels of local employment as well as access to rail and bus services and therefore may have less parking requirements.

The recommended minimum number of off-street visitor parking spaces is one space for every 5 to 7 dwellings. Councils may wish to reduce this requirement for buildings located in close proximity to public transport, or where short term unit leasing is expected.

Condition 79 refers in error to 54 residential spaces there are in fact 55. Note only 51 spaces residential spaces are required on the basis of the application of the GTTG and the additional 4 spaces were included in the GFA calculations as surplus spaces. To that end, the additional four spaces should be capable of being applied to any unit within the development and not limited to a three bedroom unit, although it is considered most likely that future purchasers of three bedroom units are more likely to seek a second parking space.

We disagree with the calculations provided in Council's letter of 30 November 2023, as the calculations round up the car parking requirements for each unit type as opposed to the residential requirement collectively. Review of the Assessment Report of Modification 2 in June 2022 indicates that the residential parking requirement was for 51 spaces.

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As there are 55 spaces, a space to each of the 51 units but are seeking flexibility in the allocation of parking to both reflect the parking demands and meet market needs. It is the intent that all resident parking will be allocated to units within the building or in the instance a purchaser does not have the need for parking, the space would be held as common property.

Basis of Carparking requirements

The GTTGD provides a reference in Section 5.4.3 that "*The report Land Use Traffic Generation - Data and Analysis 14 - High Density Residential outlines the research undertaken regarding the traffic and parking characteristics of high density residential developments*"

The GTTGD do not contain objectives but rely on demand for parking as the basis of the requirements. To address Council's request for an assessment of the objectives of GRDCP Section 6.3.69 has been undertaken.

Objectives

(a) Provide sufficient and convenient on-site parking for residents, visitors and service vehicles.

Comment: Car parking in accordance with the requirements of the development have been approved and no modification of the number of spaces is proposed.

(b) Ensure streets, access ways and pedestrian ways provide safe and convenient access.

Comment: There is no change to the approved location of access, parking or driveways from that of the approved development.

(c) Ensure on-site parking is provided for people with a disability and is consistent with the design requirements of the National Construction Code of Australia and the relevant Australian Standards.

Comment: Accessible carparking and access is maintained as approved.

(d) Minimise the adverse impact of vehicles on the amenity of the development, streetscape and neighbourhood.

Comment: The allocation of parking based on the demand for parking as is provided for un GTTGD will ensure less on street parking being used by residents of the development. There is no change to the approved location of access, parking or driveways from that of the approved development.

(e) Ensure adequate provision of secure bicycle parking.

Comment: Bicycle parking is provided as approved no modification is sought.

(f) Ensure that basement car parking is appropriately designed for user safety and environmental sensitivity.

Comment: There is no change to the approved location of access, parking or driveways from that of the approved development.

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(g) Ensure that developments on Classified Roads minimise disruption to traffic flow.

Comment: The proposed modification of the condition will not have an impact on the traffic flow within the local area or classified roads.

Table 1 Parking as Approved

	Total Units	Carparking Required per unit	Carparking Total	Allocation under condition 82F
1 bed	7	0.6	4.2	7
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Total	51		50.8 rounded to 51	51

The application of Condition 82F will have the effect of reallocating the demand for 6 spaces to the 1 and 2 bedroom units. This is contrary to the recognised demand for parking in the RTA Guidelines. We maintain that this is not a practical outcome to meet the demand for parking within the development could give rise to the situation where demand for parking for 3 bedroom units will be required to be found in on street parking whilst parking within the development could be underutilised for 1 and 2 bedroom units.

In addition, the allocation of parking as one space for every unit cannot be achieved where the one and two bedroom carparking rates are less than 1 space per unit. **Table 2** illustrates the shortfall in the event of a greater number of 1 bedroom units being provided (Table 2), in this example there would be a 5 space shortfall. In the example of **Table 3**, there would be a space shortfall.

Table 2 Example calculation with less 3 bedroom units

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Condition 82F notably requires a reallocation of those spaces to the benefit of the 1 and 2 bedroom units to the disadvantage of the 3 bedroom units.

Table 3 Example calculation with less 3 and more 2 bedroom units

	Total Units	Carparking Required per unit	Carparking Total	Allocation under condition 82F
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As any parking in addition to the requirements of the RTA Guidelines is included within FSR calculations it cannot be intended that where lesser parking spaces than units were proposed that there would be additional parking provided. Is it inappropriate to require each unit be provided with a parking space as this increases overall costs to home buyers and the demand for parking within the street system may be increased. It is on this basis that the four spaces in addition to the 51 spaces provided should be capable of being allocated to either 2 or 3 bedroom units within the development dependant on demand.

You will note that the building has been provided with a greater number of 3 bedroom units with 27% of the overall residential units. This is in response to provide alternative housing choice that will meet the needs of the likely purchasers as opposed to historic patterns where 1 and 2 bedroom units dominate the available choice.

We consider appropriate that on the basis of the GTTGD requirements the allocation of parking should be at a minimum of Table 4 below.

Table 4 Allocation of parking - anticipated by modification

	Total Units	Carparking Required per unit	Carparking Minimum to Maximum Allocation
1 bed	7	0.6	4 - 7
2 bed	37	0.9	37-44
3 bed	7	1.4	7 - 14
Total	51		

The requested amendments to condition 82F will enable all 2 and 3 bedroom units to be allocated at a minimum 1 space and dependant on demand of future residents the 2 and 3 bedroom units will be allocated at minimum 1 space and the additional spaces allocated to either the 2 or 3 bedroom units.

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Conclusion

We request that Council consider the matters raised above noting that condition 82F was imposed on Modification 2 and cannot be imposed on all DA's. The proposed amendments to Condition 82F are consistent with the intent to ensure the equitable allocation of parking within the development for the use by future residents.

The stacked carparking spaces must be allocated to a single unit despite there being 55 spaces provided only 51 independently available spaces are available.

The amendment sought provides the opportunity to meet the carparking needs of future residents in both 2 and 3 bedroom units but not to the disbenefit of the 3 bedroom units in favour of 1 bedroom units. It is anticipated that the second spaces are more likely to be required by the 3 bedroom unit purchasers. The demand for parking will also be more appropriately accommodated within the site as opposed to the allocation of 1 space per unit.

In addition to the amendment of condition 82F as requested, the amendment of condition 79 to reflect the total number of residential spaces indicated on the approved plans to 55 should also be the subject of this modification application.

The modification application has now been with Council since late July 2023, and we would ask that if there are any further matters to be resolved or you require any further information you contact me directly on 9249 4103.

Yours faithfully

GLN PLANNING PTY LTD

**JILLIAN SNEYD
CONSULTANT TOWN PLANNER**