



## Land and Environment Court New South Wales

Case Name: **GTB Hurstville Pty Ltd v Georges River Council**

Medium Neutral Citation: **[2024] NSWLEC 1210**

Hearing Date(s): **Conciliation conference 22 March 2023**

Date of Orders: **23 April 2024**

Date of Decision: **23 April 2024**

Jurisdiction: **Class 1**

Before: **Dickson C**

Decision: **The Court orders that:**  
**(1) The appeal is upheld.**  
**(2) Development consent is granted to**  
**DA/2022/0061 for the demolition of the existing**  
**structures and construction of a 6-18 storey**  
**mixed use development across 5 buildings**  
**containing 349 residential apartments, retail**  
**and office floor space above 3 basement levels**  
**containing 453 parking spaces and tree**  
**removal at 9 Gloucester Road, Hurstville**  
**subject to conditions annexed here to and**  
**marked Annexure A.**  
**(3) The Applicant is to pay the Respondent's costs**  
**"thrown away" as a result of the amendment of**  
**the development application pursuant to**  
**section 8.15(3) of the *Environmental Planning***  
**and *Assessment Act 1979*, in the amount of**  
**\$35,000, which is to be paid within 28 days of**  
**orders being made approving the application.**

Catchwords: **DEVELOPMENT APPLICATION – new mixed use**  
**development across five new buildings – amended**  
**plans – agreement between the parties – orders**  
**made.**

Legislation Cited: ***Airports Act 1996*, s 183**  
***Environmental Planning and Assessment Act 1979*, ss**  
**4.5, 4.15, 8.7, 8.15**  
***Land and Environment Court Act 1979*, s 34**

Airports (Protection of Airspace) Regulations 1996,  
 reg 7  
 Environmental Planning and Assessment Amendment  
 (Residential Apartment Development) Regulation  
 2015  
 Environmental Planning and Assessment Regulation  
 2000, Sch 1, cl 4.9, 50  
 Environmental Planning and Assessment Regulation  
 2021, Sch 6, s 3  
 Georges River Local Environmental Plan 2021, cl 2.7,  
 4.3, 4.4, 4.6, 6.2, 6.3, 6.7, 6.8, 6.9, 6.10, 6.11, 6.13,  
 Sch 1, cl 14  
 State Environmental Planning Policy – Building  
 Sustainability Index: BASIX 2004, ss 6, 8  
 State Environmental Planning Policy (Biodiversity and  
 Conservation) 2021, Chs 2, 6, 11, Pt 11.2, ss 11.6  
 11.7  
 State Environmental Planning Policy (Housing) 2021,  
 Sch 7A, Ch 4  
 State Environmental Planning Policy (Infrastructure)  
 2007, ss 2.210, 2.122, 2.48  
 State Environmental Planning Policy (Planning  
 Systems) 2021, Sch 6, Ch 2, s 2.19  
 State Environmental Planning Policy (Resilience and  
 Hazards) 2021, cl 4.6  
 State Environmental Planning Policy (State and  
 Regional Development) 2011  
 State Environmental Planning Policy (Sustainable  
 Buildings) 2022, s 4.2  
 State Environmental Planning Policy (Transport and  
 Infrastructure) 2021, ss 2.98, 119  
 State Environmental Planning Policy (Vegetation in  
 Non-Rural Areas) 2017  
 State Environmental Planning Policy Amendment  
 (Housing) 2023  
 State Environmental Planning Policy Amendment  
 (Water Catchments) 2022, Ch 6, s 6.65  
 State Environmental Planning Policy No.55 -  
 Remediation of Land  
 State Environmental Planning Policy No.65 – Design  
 Quality of Residential Apartment Development

**Texts Cited:**

Building Code of Australia  
 Hurstville Development Control Plan No 2 2021  
 NSW Department of Planning and Environment,  
 Planning Circular PS 21-018: Development near rail  
 corridors and busy roads – interim guideline,  
 December 2021  
 NSW Planning and Environment, Apartment Design

Guide, July 2015

Category: Principal judgment

Parties: GTB Hurstville Pty Ltd (Applicant)  
Georges River Council (Respondent)

Representation: Counsel:  
K Marginson (Solicitor) (Applicant)  
S Wilson (Solicitor) (Respondent)

Solicitors:  
Mills Oakley (Applicant)  
HWL Ebsworth (Respondent)

File Number(s): 2023/00189807

Publication Restriction: Nil

## JUDGMENT

- 1 **COMMISSIONER:** This is an appeal pursuant to the provisions of s 8.7(1) of the *Environmental Planning and Assessment Act 1979* (the EPA Act) against the deemed refusal of Development Application DA/2022/0061. The development application, as amended, seeks consent for the demolition of the existing structures and construction of a 6-18 storey mixed use development across 5 buildings containing 349 residential apartments, retail and office floor space above 3 basement levels containing 453 parking spaces and tree removal at 9 Gloucester Road, Hurstville (Lot 30 DP 785238).
- 2 The Court arranged a conciliation conference under s 34 of the *Land and Environment Court Act 1979* (LEC Act) between the parties, which was held on 1 December 2023. The conciliation conference was adjourned to allow ongoing discussions between the parties, but the conciliation was ultimately terminated on 14 February 2024. The parties have continued without prejudice discussions and have reached an agreement as to the resolution of the contentions in the proceedings. The parties' agreement is for the grant of consent to the application, as amended, subject to conditions. The parties advised the Court of their agreement, and the proceedings were listed for a further conciliation conference on 22 March 2024. I presided over the further conciliation conference.
- 3 As the presiding Commissioner, I am satisfied that the decision is one that the Court can make in the proper exercise of its function (this being the test applied by s 34(3) of the LEC Act). I am satisfied for the reasons that follow.

### *Environmental Planning and Assessment Regulation 2000*

- 4 The development application was lodged on 24 February 2022. Pursuant to Sch 6, s 3 of the Environmental Planning and Assessment Regulation 2021, the former Environmental Planning and Assessment Regulation 2000 (EPA Regulation) continues to apply. The development application was lodged with the consent of the owner of the land per cl 4.9 of the EPA Regulation.

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

- 5 The development application was lodged on 24 February 2022 under the State Environmental Planning Policy No.55 - Remediation of Land (SEPP 55). On 1 March 2022, SEPP 55 was repealed, and its provisions were transferred to the State Environmental Planning Policy (Resilience and Hazards) 2021 (SEPP RH). Pursuant to clause 4.6 of the SEPP RH, a consent authority must not grant consent to a development unless it has considered whether the Site is contaminated, and if the land is contaminated, is satisfied that the Site is suitable in its contaminated site (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. The site has been used for many years for residential and commercial purposes.
- 6 The development application is accompanied by a Preliminary Site Investigation (PSI) which revealed potential sources of contamination and concluded that there was a low to medium risk of contamination. The PSI also concludes that detailed site investigation and hazardous building materials survey take place.
- 7 A Detailed Site Investigation (DSI) was prepared and submitted with the development application. The DSI concluded that the site could be made suitable for the proposed use following remediation and recommended the preparation of a Remediation Action Plan, an Asbestos Management Plan and a hazardous materials survey to be undertaken on the existing buildings prior to demolition.
- 8 A Remediation Action Plan (RAP) concludes that the site will be rendered suitable for the proposed use subject to implementation of the RAP.
- 9 The annexed conditions of consent include conditions requiring compliance with the RAP, the completion of a hazardous materials survey and compliance with Australian Standards in relation to demolition work involving asbestos. On this basis I can be satisfied that contamination has been adequately considered and the site can be made suitable for the proposed use in accordance with cl 4.6 of SEPP RH.

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

- 10 The development application is for residential apartment development, shop top housing or mixed-use development with a residential component. The development application was lodged under State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development (SEPP 65). On 14 December 2023, SEPP 65 was repealed by the State Environmental Planning Policy Amendment (Housing) 2023. New provisions relating to the design of residential apartment development has been enacted in new Ch 4 of the State Environmental Planning Policy (Housing) 2021 (SEPP Housing). I note the repeal of SEPP 65 is not saved by the provision at Sch 7A(2) of the SEPP Housing, as the repeal was given effect by State Environmental Planning Policy Amendment (Housing) 2023, that does not contain a savings provision in the form that it appears in Sch 7A of the SEPP Housing.
- 11 Notwithstanding, cl 50(1A) of the EPA Regulation requires, if a development application that relates to a residential apartment development is made on or after the commencement of the Environmental Planning and Assessment Amendment (Residential Apartment Development) Regulation 2015, that the application must be accompanied by a statement by a qualified designer. Further, at cl 50(1AB) the EPA Regulation provides that the statement by the qualified designer must, among other things, provide an explanation that verifies how the development addresses how the design quality principles are achieved and demonstrates, in terms of the Apartment Design Guide, how the objectives in Parts 3 and 4 of that guide have been achieved (see cl 50(1AB)(b)(i) and (ii)).
- 12 I am satisfied that the statement provided by Mr Stephen Cox (Reg No. 6391) dated 6 February 2024 is in a complying form and adequately demonstrates that the development is largely consistent with the design quality principles, and achieves the objectives and design criteria of the Apartment Design Guide.

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

13 The development application was lodged under the State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP). On 1 March 2022, the Infrastructure SEPP was repealed, and its provisions were transferred to Ch 2 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 (SEPP TI). The following sections of SEPP TI apply:

- (1) Section 2.98 – Excavation in, above, below or adjacent to rail corridors.
  - (a) The proposed development is adjacent to the railway line which is across Forest Road from the site. The development application seeks consent for excavation and construction for three levels of basement parking. The development application includes a geotechnical investigation which concludes that the site is suitable for the proposed development.
  - (b) Pursuant to s 2.98(2) of SEPP TI, the consent authority is required to give written notice of the application to the rail authority for the rail corridor. Secondly the consent authority must take into consideration any response received within 21 days, and any guidelines issued by the Planning Secretary. In compliance with this section, written notice of the proposed development has been provided to TfNSW (Sydney Trains) and conditions of consent have been imposed in accordance with their response dated 20 December 2022. Further, a copy of relevant documents within the Amended Application were provided by the Respondent to TfNSW (Sydney Trains) on 19 February 2024 and no further response has been received.
- (2) Section 2.119 – Development with frontage to a classified road.
  - (a) Pursuant to s 119(2) of SEPP TI the consent authority must not grant consent to development on land fronting the classified road unless it is satisfied that:

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and
  - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—
    - (i) the design of the vehicular access to the land, or
    - (ii) the emission of smoke or dust from the development, or
    - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
  - (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.
- (b) The development application proposes vehicular access off Gloucester Road. Further, the development application includes traffic modelling and information that the parties agree, and I accept, demonstrates the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development.
- (c) Further, the development application was referred to Transport for NSW (RMS) who are satisfied with the traffic modelling and information prepared by the Applicant. The requirements of Transport for NSW (RMS) are incorporated in the annexed conditions of consent.
- (d) I have formed the opinion of satisfaction required by s 2.119 for the reasons that follow:
  - (i) Vehicular access to the development is located on Gloucester Road and so from other than the classified road.
  - (ii) The Traffic Impact Assessment and other supporting documents prepared by JMT Consulting confirm that the



safety, efficiency and ongoing operation of the classified road will not be adversely affected by the vehicular access proposed off Gloucester Road.

- (iii) The Acoustic Assessment prepared by Acoustic Logic concludes that the potential traffic noise from the classified road can be ameliorated and that the internal noise limits prescribed in s 2.120(3) of the Infrastructure SEPP can be achieved, subject to recommendations in the report being adopted. Compliance with the Acoustic Assessment forms part of the annexed conditions.

(3) Section 2.120 – Impact of road noise or vibration on non-road development.

- (a) Section 2.120 applies to the development application as it is residential accommodation.
- (b) Pursuant to s 2.120(2), the consent authority must take into consideration the document 'Development near rail corridors and busy roads: interim guideline' (the guideline) prepared by the NSW Department of Planning and Environment: Planning Circular PS 21-018.
- (c) Further, s 2.120(3) applies and mandates that the consent authority must not grant consent unless the stated acoustic criteria are met.
- (d) In determining the development application, I have reviewed the submitted acoustic assessment which includes an assessment against the guideline and assesses the acoustic compliance of the development against the requirement at s 2.120(3) of SEPP TI. The assessment concludes that by adopting the recommended construction requirements and mandating the

inclusion of mechanical ventilation the proposed development will meet the required criteria.

- (e) The parties agree, and I accept I can be satisfied that the proposed development complies with s 2.120 as the proposed development is consistent with the guideline, and that appropriate acoustic amenity will be achieved for the proposed development.

(4) Section 2.122 – Traffic generating development

- (a) As the proposed development provides parking for greater than 200 motor vehicles and has greater than 2,000 square metres for shops s 2.122 applies. As required by subcll (2) and (4), the development application was referred to TfNSW during the assessment period and conditions of consent have been imposed in accordance with their response dated 28 March 2022. In determining the development application, I have taken into consideration the response from TfNSW and the accessibility of the site.

(5) Section 2.48 – Determination of development applications -other development

- (a) The development application was referred to Ausgrid pursuant to s 2.48(2) of SEPP Infrastructure. The conditions requested by Ausgrid are incorporated into the annexed conditions of consent.

*State Environmental Planning Policy (Planning Systems) 2021*

- 14 The development application was lodged under the provisions of State Environmental Planning Policy (State and Regional Development) 2011 (State and Regional development SEPP). On 1 March 2022, the State and Regional Development SEPP was repealed, and its provisions were transferred to

Chapter 2 of the State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP).

- 15 The development application has a capital investment value in excess of \$30 million and accordingly is declared to be 'Regionally significant development' pursuant to Sch 6 and s 2.19 of the Planning Systems SEPP.
- 16 Pursuant to s 4.5(b) of the EPA Act the consent authority is the Sydney South Planning Panel (SSPP).
- 17 The Respondent in this matter is, pursuant to s 8.15(4) of the EPA, subject to the control and direction of the consent authority for the development application, being the SSPP. The SSPP have instructed the Respondent to enter into the agreement.

*State Environmental Planning Policy – Building Sustainability Index: BASIX 2004*

- 18 Section 6 of the State Environmental Planning Policy – Building Sustainability Index: BASIX 2004 (SEPP BASIX) applies as the development is 'BASIX affected development'. On 1 October 2023, the State Environmental Planning Policy (Sustainable Buildings) 2022 (Sustainable Buildings SEPP) came into force and repealed the BASIX SEPP. The development application is not captured by the savings and transitional provisions set out in s 4.2(1) and as such is not subject to the provisions of the Sustainable Buildings SEPP.
- 19 The Applicant has provided an amended BASIX Certificate number 1252504M\_02 prepared by Greenview Consulting Pty Ltd dated 5 March 2024 for the amended development application, satisfying the requirement in Sch 1 of the EPA Regulation.

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

- 20 The Development Application was lodged under the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP). The Vegetation SEPP was repealed, and provisions were transferred into

Ch 2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (SEPP BC) which commenced on 1 March 2022.

- 21 Chapter 2 of SEPP BC details provisions regarding the preservation and management of vegetation in non-rural areas. As detailed at [1], the development application seeks consent for tree removal. The extent of tree removal and the feasibility of tree retention is addressed in an Arboricultural Impact Assessment Report prepared by Sturt Noble Arboriculture dated 4 December 2023. Further, the development application includes Landscape plans that correlate with the amended architectural plans.
- 22 The parties agree, and I accept, that the trees on the site do not comprise Koala Habitat Vegetation and removal will not trigger the biodiversity offset scheme. Accordingly, the removal of the trees is consistent with SEPP BC having regard to the tree species, integrity, level of significance and replacement planting as proposed in the landscape plans.
- 23 The Site is located within the Georges River Catchment and therefore former Ch 11 of the SEPP BC applies. Chapter 11 Georges Rivers Catchment of SEPP BC was previously known as Greater Metropolitan Regional Plan No. 2 - Georges River Catchment. On 21 October 2022, Ch 11 was repealed and consolidated into new Ch 6 by the State Environmental Planning Policy Amendment (Water Catchments) 2022 (SEPP WC). Section 6.65 of the new Ch 6 provides savings and transitional provision. Applying those provisions, the provisions of former Ch 11 of SEPP BC apply to the development application as it was lodged prior to the commencement of SEPP WC.
- 24 In determining the development application, I have taken into consideration the planning principles listed in Pt 11.2 and the matters set out in ss 11.6 and 11.7. Those matters include the likely effect of the proposed development on adjacent or downstream local government areas, the cumulative impact of the proposed development on the Georges River or its tributaries. The parties agree, and I accept, that none warrant the refusal of the development application.

## *Georges River Local Environmental Plan 2021*

25 The site is located within the MU1 Mixed use zone pursuant to the Georges River Local Environmental Plan 2021 (LEP 2021). The proposed uses are permitted with consent in the zone. In determining the development application, I have considered the objectives of the zone which are:

- To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.
- To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- To integrate suitable business, office, residential, retail and other development in accessible locations to maximise public transport patronage and encourage walking and cycling.
- To allow residential development that contributes to the vitality of the centre and provides housing that meets the needs of the community.
- To encourage the provision of community facilities and public infrastructure so that all residents have reasonable access to a range of facilities and services.

26 Demolition is permitted with consent pursuant to cl 2.7 of LEP 2021.

27 Clause 4.3 'Maximum Height' refers to the height of buildings where maximum building height is shown on the Height of Buildings Map. The site is subject to a series of maximum height limits of 23, 30, 40, 55 and 60m.

(1) The development application includes a variation to the applicable maximum height standard. The variations to these standards are summarised as follows:

Building	Height Control	Max Height proposed
A	60m	- screening 63.1m - lift overrun 64.85m
B	55m	- parapet 58.47m

		- screen 58.4m - lift overrun 62m
C	40m	- plant/screening 42.64m - parapet 42.23m - lift overrun 46m
D	30m	- shade structure 32.065m - parapet 33.315m - lift overrun 33.98m
E	23m	- parapet 26.73m - lift overrun 27.423m

(2) The Applicant has prepared a written request seeking to vary the maximum height development standard. I have read the written request prepared Sutherland & Associates Planning and in accordance with cl 4.6 of LEP 2021, I am satisfied that:

- (i) The written request demonstrates that compliance with the development standard is unreasonable and unnecessary on the basis that the objectives of the height control are met, notwithstanding the numeric variation (cl 4.6(3)(a) of LEP 2021: *Wehbe v Pittwater Council* (2007) 156 LGERA 446; NSWLEC 827. I am satisfied that the development is consistent with the achievement of the objectives of the height standard for the reasons detailed in the written request.
- (ii) The written request adequately establishes sufficient environmental planning grounds that justify the breach of the standards (cl 4.6(3)(b) of LEP 2021). In particular, I am satisfied that the height variation arises in part from the site topography, the provision of floor to ceiling heights for the commercial component in accordance with requirements of the Building Code of Australia and fire regulations, and the provision of accessible roof top access.

- (iii) For the reasons outlined in the written request, I am satisfied that the proposed development is in the public interest because it is consistent with the objectives of cl 4.3 of LEP 2021 and the objectives of the MU1 Mixed Use zone.
- (iv) Pursuant to cl 4.6(5) of LEP 2021, I am satisfied the proposal is not considered to raise any matter of significance for State or regional development.
- (v) I find that the states of satisfaction required by cl 4.6 of LEP 2021 have been reached and there is therefore power to grant development consent to the proposed development, notwithstanding the breaches of the height controls.

28 Applying cl 4.4 'Floor space ratio', a maximum floor space ratio (FSR) of 4:1 is permitted on the site. By reference to the architectural plans, I can be satisfied that the proposed development is compliant with the FSR control.

29 Clause 6.2 'Earthworks' applies as the proposed development seeks consent for earthworks encompassing cut and fill across the site. As required, I have considered the matters listed at cl 6.2(3) of LEP 2021 as follows:

- (1) Clause 6.2(3)(a) – with reference to the Stormwater Plan prepared by BG & E dated 14 December 2023 I accept that the proposed development will not cause disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development.
- (2) Clause 6.2(3)(b) - with reference to the Geotechnical Report prepared by Douglas Partners, I accept that the proposed earthworks will facilitate the efficient use of the site with basement car parking and facilitate future residential uses on the site.

- (3) Clause 6.2(3)(c) – I accept the proposed fill to be excavated will be dealt with as required by the RAP.
- (4) Clause 6.2(3)(d) – I accept the agreement of the parties that the proposed development is not expected to result in an adverse impact on the amenity or structural integrity of adjoining properties.
- (5) Clause 6.2(3)(e) & (f) - excavated material will be disposed of at an appropriate off site facility and in accordance with the requirements of the RAP.
- (6) Clause 6.2(3)(g) - the site is not identified as a heritage item and has previously been a development. I accept therefore the likelihood of relics on the site is considered to be low.
- (7) Clause 6.2(3)(h) – I accept, on the basis of the Statement of Environmental Effects (SEE), the site is not significant in terms of its contribution to habitat nor is it environmentally sensitive.
- (8) Clause 6.2(3)(i) – I accept the agreed submission of the parties that the development application incorporates reasonable measures to avoid, minimise or mitigate the impacts of the development.

30 Pursuant to cl 6.3 'Stormwater Management' the consent authority must be satisfied of the matters listed at sub cl (2). They are:

- (a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and
- (b) includes, if practicable, on-site stormwater detention or retention to minimise stormwater runoff volumes and reduce the development's reliance on mains water, groundwater or river water, and
- (c) avoids significant adverse impacts of stormwater runoff on adjoining properties, native bushland, receiving waters and the downstream stormwater system or, if the impact cannot be reasonably avoided, minimises and mitigates the impact, and
- (d) is designed to minimise the impact on public drainage systems



- 31 By reference to the technical reports which form part of the development application, including stormwater management plans, the SEE and the landscape plans, I find that the proposed development the matters at cl 6.3(2) of LEP 2021 are satisfied.
- 32 Pursuant to cl 6.7 'Airspace Operations', consent must not be granted to development where the clause applies unless consultation has occurred with the relevant Commonwealth body. The development application includes an Aeronautical Impact Assessment prepared by Landrum and Brown which confirms the proposed development does not infringe on the Obstacle Limitation Surface and Procedures for Air Navigation Services. Following referral, no objections were received to the development from Sydney Airport Corporation subject to conditions. Specifically, the imposition of a condition of consent requiring the submission of an application for future crane operation pursuant to s 183 of the *Airports Act 1996* and reg 7 of the Airports (Protection of Airspace) Regulations 1996 prior to any construction at the site. I find that the proposed development satisfies cl 6.7 of LEP 2021.
- 33 Clause 6.8 'Development in areas subject to aircraft noise' requires the consent authority to firstly consider whether proposed development will be affected by aircraft noise and secondly whether the nominated indoor design sound levels will be met. On the first matter, I note that the proposed development is not shown as an ANEF contour on the Noise Exposure Forecast Contour Map. On the second issue, I am satisfied the indoor design levels have been considered in the Acoustic Assessment prepared by Acoustic Logic which forms part of the development application.
- 34 Clause 6.9 'Essential services' provides that development consent must not be granted to a development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

(a) the supply of water,

- (b) the supply of electricity,
- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable vehicular access.

35 The parties agree, and I accept, adequate arrangements have been made to make available the services that are essential to the development, noting the site survey nominates their existing locations. I am satisfied the essential services requirements under cl 6.9 of LEP 2021 are met.

36 Clause 6.10 'Design Excellence' applies to the development as it involves the erection of a building greater than three storeys on land zoned MU1 Mixed Use. Pursuant to subcl (4) of the provision, consent must not be granted unless the consent authority is satisfied the development exhibits design excellence. Further, subcl (5) contains matters the consent authority must have regard to in determining whether the development exhibits design excellence. Those matters are:

- (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,
- (b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,
- (c) whether the development detrimentally impacts on view corridors,
- (d) how the development addresses the following matters—
  - (i) the suitability of the land for development,
  - (ii) existing and proposed uses and use mix,
  - (iii) heritage issues and streetscape constraints,
  - (iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,
  - (v) bulk, massing and modulation of buildings,
  - (vi) street frontage heights,

(vii) environmental impacts such as 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.

37 The development application includes a Design Report prepared by the project architects that documents a detailed site analysis, the key design insights of the proposal, the requirements of SEPP 65 and the design principles as well as the matters listed at cl 6.10(5) of LEP 2021. Further, the development application includes an assessment of the proposed development against the provisions of Hurstville Development Control Plan No 2 (DCP 2021). In forming an opinion that the proposed development exhibits design excellence, I have considered those matters at cl 6.10(5) of LEP 2021, assisted by these documents and the architectural and landscape plans.

38 The Court's opinion is summarised as follows:

(1) A high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved by the arrangement of what is described as a village of buildings in a landscape setting. The location of the towers on the site maximises access to sunlight and cross ventilation for the proposed residential apartments. The massing of the buildings is responsive to the context

of the site with taller buildings fronting Forrest Road, and lower towers on Gloucester Road. The materials chosen are high quality (eg face brick, decorative blockwork) and durable in finish.

- (2) The form and external appearance of the development will improve the quality and amenity of the public domain given the use of quality external finishes and the provision of a commercial promenade fronting Forrest Road. The bulk, massing and modulation of the proposal responds to the built form character anticipated by the development controls in LEP 2021.
- (3) Additionally, portions of the front setback are dedicated to soft landscaping, and the extent of deep soil and planter boxes contribute to the amenity of the public domain.
- (4) I accept the analysis in the SEE that concludes that the proposal has been designed having regard to the principles for minimising crime risk and will provide reasonable natural surveillance internally and to surrounding streets.
- (5) I accept the agreement of the parties who submit that there are no significant view corridors that are detrimentally impacted by the proposal.
- (6) The matters listed at subcl (5)(d) of LEP 2021 have been analysed and documented in the SEE, the Design Report, the landscape plans which detail comprehensive design for the landscaping of the site and all public domain areas surrounding the Site, and the architectural plans. Having reviewed these documents, I can be satisfied that the development positively addresses the listed matters.

39 Clause 6.11 'Environmental Sustainability' applies to the development as it involves the erection of a building on land zoned MU1 Mixed Use. Subclause (3) applies as the proposed buildings have a gross floor area

greater than 1500 m<sup>2</sup>. Pursuant to subcl (3) development consent must not be granted unless the following matters have been considered in the design of the building:

- (a) water demand reduction, including water efficiency, water recycling and minimisation of potable water usage,
- (b) energy demand reduction, including energy generation, use of renewable energy and reduced reliance on mains power,
- (c) indoor environmental quality, including daylight provision, glare control, cross ventilation and thermal comfort,
- (d) the minimisation of surfaces that absorb and retain heat and the use of surfaces that reflect heat where possible,
- (e) a reduction in new materials consumption and use of sustainable materials, including recycled content in concrete, sustainable timber and PVC minimisation,
- (f) transport initiatives to reduce car dependence such as providing cycle facilities, car share and small vehicle parking spaces.

40 Applying s 8 of SEPP BASIX, cl 6.11 of LEP 2021, as a competing provisions of an environmental planning instrument, has no effect to the extent to which it aims to:

- (a) to reduce consumption of mains-supplied potable water, or reduce emissions of greenhouse gases, in the use of a building to which this Policy applies or in the use of the land on which such a building is situated, or
- (b) to improve the thermal performance of a building to which this Policy applies.

41 As noted at [19] the development application is accompanied by a BASIX certificate. Further, as detailed in the SEE I can be satisfied the matters at subcl (3) have been considered in the design of the development as:

- the provision of solar access and natural ventilation to the proposed apartment exceed the benchmarks in the Apartment Design Guide;
- The considerations involved in the choice of materials for the development is detailed in the Design Report; and

- The site is located within close proximity of the major centre of Hurstville and its rail station meaning that future residents have access to shopping, transport and services within walking distance reducing car dependence.

- 42 Clause 6.13 of LEP 2021 applies to development in the MU1 Mixed Use zone. It provides that development consent must not be granted for development on land to which the clause applies unless the consent authority is satisfied that the development will not cause part of the ground floor of a building that is facing a street to be used for residential, tourist or visitor accommodation.
- 43 The operation of cl 6.13 is modified by subcl (5A) and cl 14 of Sch 1 to LEP 2021. The effect of both provisions is that cl 6.13 does not apply to a portion of the site, that being the part of the lot identified as 'Area A' on the Additional Permitted Uses Map to LEP 2021. The parties agree, and I accept, that no residential accommodation is proposed at the ground floor of buildings A, B and C. Further, Buildings D and E are located in the part of the site where the operation of the provision is excluded.

#### *Other matters*

- 44 DCP 2021 applies to the site. The statement of environmental effects (SEE) details the compliance of the proposed development with DCP 2021. In determining the development application, I have considered the provisions of both development control plans: s 4.15(1) of the EPA Act. I accept the agreement of the parties that none warrant the refusal of the application.
- 45 The development application was advertised and notified to surrounding properties from 17 March to 31 March 2022. Three submissions were received. I am satisfied that the submissions received have been considered in the determination of the development application by either amendment to the application or in the imposition of conditions of consent: s 4.15(1)(d) of the EPA Act.

- 46 Comment was sought on the development application from NSW Police in relation to safer by design principles. The conditions recommended by the NSW Police are incorporated into the annexed conditions of consent.

## Conclusion

- 47 As the parties' decision is a decision that the Court could have made in the proper exercise of its functions, I am required under s 34(3) of the LEC Act to dispose of the proceedings in accordance with the parties' decision.
- 48 In making the orders to give effect to the agreement between the parties, I was not required to, and have not, made any merit assessment of the issues that were originally in dispute between the parties.
- 49 The Court notes that:
- (1) The Respondent has approved, pursuant to cl 55 of the EPA Regulation, the Applicant amending the Development Application No DA/2022/0061 and the supporting documents, the subject of these proceedings, to rely on the documents and further information specified below:

Amended Architectural Plans				
Plan name	Drawing ref	Revision	Date	Prepared by
Title Sheet	DA-001-001	H	21 February 2024	Turner Studio
Siteworks Site Plan	DA-001-010	G	21 February 2024	Turner Studio
Siteworks Site Analysis	DA-010-011	F	21 February 2024	Turner Studio
Siteworks Site Analysis Transport	DA-010-012	F	21 February 2024	Turner Studio
Siteworks Excavation Plan	DA-010-013	F	21 February 2024	Turner Studio
Notification Plan	DA-050-005	G	21 February	Turner Studio

			2024	
Notification Plan Elevation	DA-050-006	G	21 February 2024	Turner Studio
Notification Plan Elevation	DA-050-007	G	21 February 2024	Turner Studio
Notification Plan Elevation	DA-050-008	G	21 February 2024	Turner Studio
GA Plans Basement 03	DA-110-005	ZD	21 February 2024	Turner Studio
GA Plans Basement 02	DA-110-006	ZD	21 February 2024	Turner Studio
GA Plans Basement 01	DA-110-007	ZF	21 February 2024	Turner Studio
GA Plans Ground Level	DA-110-008	ZG	21 February 2024	Turner Studio
GA Plans Level 01	DA-110-010	ZE	21 February 2024	Turner Studio
GA Plans Level 02	DA-110-020	ZB	21 February 2024	Turner Studio
GA Plans Level 03	DA-110-030	ZA	21 February 2024	Turner Studio
GA Plans Level 04	DA-110-040	ZA	21 February 2024	Turner Studio
GA Plans Level 05	DA-110-050	ZA	21 February 2024	Turner Studio
GA Plans Level 06	DA-110-060	ZB	21 February 2024	Turner Studio
GA Plans Level 07	DA-110-070	ZA	21 February 2024	Turner Studio
GA Plans Level 08	DA-110-080	ZB	21 February 2024	Turner Studio
GA Plans Level 09	DA-110-090	ZA	21 February 2024	Turner Studio
GA Plans Level 10	DA-110-100	ZA	21 February 2024	Turner Studio



GA Plans Level 11	DA-110-110	ZB	21 February 2024	Turner Studio
GA Plans Level 12	DA-110-120	ZA	21 February 2024	Turner Studio
GA Plans Level 13	DA-110-130	ZA	21 February 2024	Turner Studio
GA Plans Level 14	DA-110-140	ZA	21 February 2024	Turner Studio
GA Plans Level 15	DA-110-150	ZA	21 February 2024	Turner Studio
GA Plans Level 16	DA-110-160	ZA	21 February 2024	Turner Studio
GA Plans Level 17	DA-110-170	ZB	21 February 2024	Turner Studio
GA Plans Level 18	DA-110-180	ZA	21 February 2024	Turner Studio
GA Plans Level 19	DA-110-190	ZB	21 February 2024	Turner Studio
GA Plans Roof Level	DA-110-200	ZB	21 February 2024	Turner Studio
GA Elevations North East Elevation	DA-210-101	P	21 February 2024	Turner Studio
GA Elevations North West Elevation	DA-210-201	O	21 February 2024	Turner Studio
GA Elevations South West Elevation	DA-210-301	Q	21 February 2024	Turner Studio
GA Elevations North East and North West Elevation	DA-210-401	P	21 February 2024	Turner Studio
GA Elevations South East and South West Elevation	DA-210-501	O	21 February 2024	Turner Studio
GA Elevations East Elevations	DA-210-601	O	21 February 2024	Turner Studio
GA Elevations South and South East Elevation	DA-210-701	O	21 February 2024	Turner Studio
GA Detail North East Elevation	DA-210-901	E	21 February 2024	Turner Studio
GA Sections Section AA	DA-310-010	T	21 February 2024	Turner Studio
GA Sections Section BB	DA-310-201	T	21 February 2024	Turner Studio
GA Sections Section CC	DA-310-301	T	21 February 2024	Turner Studio
Tree Retention	DA-710-001	I	21 February 2024	Turner Studio

Control Diagram Proposed Height of Building	DA-715-001	M	21 February 2024	Turner Studio
Control Diagram Proposed Height of Building Detail	DA-715-002	M	21 February 2024	Turner Studio
Control Diagram Proposed Height of Building Plan	DA-715-003	M	21 February 2024	Turner Studio
Control Diagram Proposed Height of Building Baseline Terrain	DA-715-004	E	21 February 2024	Turner Studio
Amenity Diagram (ADG) Ground Floor to Level 03	DA-720-001	I	21 February 2024	Turner Studio
Amenity Diagram (ADG) Level 04 to Level 07	DA-720-002	I	21 February 2024	Turner Studio
Amenity Diagram (ADG) Level 08 to Level 11	DA-720-003	I	21 February 2024	Turner Studio
Amenity Diagram (ADG) Level 12 to Level 15	DA-720-004	I	21 February 2024	Turner Studio
Amenity Diagram (ADG) Level 16 to Level 18	DA-720-005	I	21 February 2024	Turner Studio
Deep Soil and Communal Space (ADG) Communal Open Space	DA-730-001	I	21 February 2024	Turner Studio
Deep Soil and Communal Space (ADG) Communal Open Solar Access	DA-730-002	I	21 February 2024	Turner Studio
GFA Diagrams Ground Floor to Level 03	DA-770-001	J	21 February 2024	Turner Studio
GFA Diagrams Level 04 to Level 07	DA-770-002	J	21 February 2024	Turner Studio
GFA Diagrams Level 08 to Level 11	DA-770-003	J	21 February 2024	Turner Studio
GFA Diagrams Level 12 to Level 15	DA-770-004	J	21 February 2024	Turner Studio
GFA Diagrams Level 16 to Level 18	DA-770-005	J	21 February 2024	Turner Studio
Sun Eye Diagrams 9AM - 12PM	DA-970-003	H	21 February 2024	Turner Studio

Sun Eye Diagram 1PM – 3PM	DA-970-004	FH	21 February 2024	Turner Studio
Shadow Diagrams June 21 <sup>st</sup> 9AM – 10AM	DA-795-001	M	21 February 2024	Turner Studio
Shadow Diagrams June 21 <sup>st</sup> 11AM – 12PM	DA-795-002	M	21 February 2024	Turner Studio
Shadow Diagrams June 21 <sup>st</sup> 1PM – 2PM	DA-795-003	M	21 February 2024	Turner Studio
Shadow Diagrams June 21 <sup>st</sup> 3PM	DA-795-004	M	21 February 2024	Turner Studio
Adaptable Plan Layouts Sheet 01	DA-810-001	K	21 February 2024	Turner Studio
Adaptable Plan Layouts Sheet 02	DA-810-002	K	21 February 2024	Turner Studio
Adaptable Plan Layouts Sheet 03	DA-810-003	J	21 February 2024	Turner Studio
Adaptable Plan Layouts Sheet 04	DA-810-004	K	21 February 2024	Turner Studio
Adaptable Plan Layouts Sheet 05	DA-810-005	J	21 February 2024	Turner Studio
Adaptable Plan Layouts Sheet 06	DA-810-006	K	21 February 2024	Turner Studio
Supplementary sections Loading Dock	DA-820-001	E	21 February 2024	Turner Studio
Supplementary sections Carpark Entry Ramp	DA-820-002	F	21 February 2024	Turner Studio
Supplementary sections Interface to pedestrian access	DA-820-003	E	21 February 2024	Turner Studio
Council Response Shopfront activation	DA-830-001	E	21 February 2024	Turner Studio
Council Response Shopfront activation	DA-830-002	E	21 February 2024	Turner Studio
Council Response Lobbies	DA-830-003	G	21 February 2024	Turner Studio
Materials & Finishes Board Sheet 1	DA-890-001	F	21 February 2024	Turner Studio
Materials & Finishes Board Sheet 2	DA-890-002	F	21 February 2024	Turner Studio
3D Views Forest Rd CGI	DA-910-001	F	21 February 2024	Turner Studio
3D Views Forest Rd CGI	DA-910-002	F	21 February 2024	Turner Studio
3D Views Gloucester	DA-910-003	F	21 February	Turner Studio

Rd CGI			2024	
3D Views Gloucester Rd CGI	DA-910-004	F	21 February 2024	Turner Studio
920 External Views 3D External Views	DA-920-001	H	21 February 2024	Turner Studio
920 External Views 3D External Views	DA-920-002	H	21 February 2024	Turner Studio
920 External Views 3D External Views	DA-920-003	E	21 February 2024	Turner Studio
<b>Amended Landscape Plans</b>				
<b>Plan name</b>	<b>Drawing ref</b>	<b>Revision</b>	<b>Date</b>	<b>Prepared by</b>
3.1 Vegetation Management Plan	DA 16	G	6 February 2024	RPS Group
3.2 Master Plan	DA 17	G	6 February 2024	RPS
3.3 Ground Floor Plan	DA 18	G	6 February 2024	RPS
3.4 Ground Floor Programming	DA 19	G	6 February 2024	RPS
3.5 Roof Levels	DA 20	G	6 February 2024	RPS
3.6 Roof Level Programming	DA 21	G	6 February 2024	RPS
3.7 Canopy Tree Plan	DA 22	G	6 February 2024	RPS
3.8 Ground Movement Plan	DA 23	G	6 February 2024	RPS
3.9 Tree Plan – Ground	DA 24	G	6 February 2024	RPS
3.10 Tree Plan – Podium	DA 25	G	6 February 2024	RPS
3.11 Soil Plan – Ground	DA 26	G	6 February 2024	RPS
3.12 Soil Plan – Podium	DA 27	G	6 February 2024	RPS
3.13 Elevation – Forest Road	DA 28	G	6 February 2024	RPS
3.14 Elevation – Gloucester Road	DA 29	G	6 February 2024	RPS
3.15 Street Interface Sections	DA 30	G	6 February 2024	RPS
3.16 OSD & Building D Sections	DA 31	G	6 February 2024	RPS
3.17 Podium Section 1	DA 32	G	6 February 2024	RPS
3.18 Podium and	DA 33	G	6 February	RPS

OSD Section 2			2024	
3.19 Podium Section 3	DA 34	G	6 February 2024	RPS
4.1 Planting Palette	DA 35	G	6 February 2024	RPS
4.2 Planting Schedule	DA 36	G	6 February 2024	RPS
4.3 Typical Details	DA 37	G	6 February 2024	RPS
4.3 Typical Details	DA 38	G	6 February 2024	RPS
4.4 Maintenance Guidelines	DA 39	G	6 February 2024	RPS
Appendix – Drawing Set	DA 40	G	6 February 2024	RPS
Appendix – Drawing Set	DA 41	G	6 February 2024	RPS
Appendix – Drawing Set	DA 42	G	6 February 2024	RPS
Appendix – Drawing Set	DA 43	G	6 February 2024	RPS
Appendix – Drawing Set	DA 44	G	6 February 2024	RPS
Appendix – Drawing Set	DA 45	G	6 February 2024	RPS
Appendix – Drawing Set	DA 46	G	6 February 2024	RPS
Appendix – Drawing Set	DA 47	G	6 February 2024	RPS
Appendix – Drawing Set	DA 48	G	6 February 2024	RPS
Appendix – Drawing Set	DA 49	G	6 February 2024	RPS
<b>Amended Stormwater Plans</b>				
<b>Plan name</b>	<b>Drawing ref</b>	<b>Revision</b>	<b>Date</b>	<b>Prepared by</b>
Cover Sheet, Locality and Drawing Index	C-0000	C	14 December 2023	BG&E
General Notes	C-0001	C	14 December 2023	BG&E
Siteworks and Drainage Plan Ground Floor Level	C-0200	G	14 December 2023	BG&E
Siteworks and Drainage Plan Basement 1 Level	C-0210	C	14 December 2023	BG&E
Driveway Sections	C-0270	D	14 December 2023	BG&E

Drainage Catchment Plan	C-0300	C	14 December 2023	BG&E
Drainage Details	C-0340	C	14 December 2023	BG&E
OSD Section	C-0350	C	14 December 2023	BG&E
OSD Section and Details	C-0351	D	14 December 2023	BG&E
Erosion and Sediment Control Plan	C-0700	C	14 December 2023	BG&E
Erosion and Sediment Control Details	C-0710	C	14 December 2023	BG&E
BASIX Plans				
BASIX Stamped Plans			5 March 2024	Greenview Consulting Pty Ltd
<b>Reports</b>				
<b>Report name</b>	<b>Ref</b>	<b>Revision</b>	<b>Date</b>	<b>Prepared by</b>
Amended Clause 4.6 – Building Height Development Standard	3460-8106-4234	v. 1-	February 2024	Sutherland & Associates
Amended Arboricultural Impact Assessment Report	ARB-2133-001	F	4 December 2023	Sturt Noble Arboriculture
Responses to Traffic & Parking Contentions	-	-	18 December 2023	JMT Consulting
Amended Operational Waste Management Plan	3589	H	27 October 2023	Elephant's Foot Recycling Solutions
Amended Design Report prepared by Turner Studio	14048	Development Application Submission	6 February 2024	Turner Studio
Amended DCP table prepared by Sutherland & Associates Planning			February 2024	Sutherland & Associates
Amended BASIX Certificate	1252504M_02		5 March 2024	Greenview Consulting Pty Ltd
NatHERS Certificate			5 March 2024	Greenview Consulting Pty Ltd
NatHERS Thermal Performance Specification			5 March 2024	Greenview Consulting Pty Ltd

50 The Court orders that:

- (1) The appeal is upheld.
- (2) Development consent is granted to DA/2022/0061 for the demolition of the existing structures and construction of a 6-18 storey mixed used development across 5 buildings containing 349 residential apartments, retail and office floor space above 3 basement levels containing 453 parking spaces and tree removal at 9 Gloucester Road, Hurstville subject to conditions annexed here to and marked Annexure A.
- (3) The Applicant is to pay the Respondent's costs "thrown away" as a result of the amendment of the development application pursuant to section 8.15(3) of the *Environmental Planning and Assessment Act 1979*, in the amount of \$35,000, which is to be paid within 28 days of orders being made approving the application.

I certify that this and the preceding 27 pages are a true copy of my reasons for judgment.



.....

**D Dickson**

**Commissioner of the Court**

\*\*\*\*\*





## Annexure A

### DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

<b>Development Application No:</b>	DA2022/0061 *
<b>Development:</b>	Demolition of existing structures, remediation and construction of a 6-18 storey mixed use development across 5 buildings containing 349 residential apartments, retail and office floor space above three (3) basement levels containing 453 parking spaces and tree removal.
<b>Site:</b>	9 Gloucester Road Hurstville,  legally described as Lot 30 in DP785238

The above development application has been determined by the granting of consent subject to the conditions specified in this consent.

<b>Date of determination:</b>	23 April 2024
<b>Date from which consent takes effect:</b>	Date of determination

#### TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the "applicant" means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the "site", means the land known as Lot 30 of DP785238 being 9 Gloucester Road Hurstville, NSW 2220 (**Site**).

The conditions of consent are as follows:

### REASONS FOR DECISION

The above development is approved, subject to the imposition of conditions, for the following reasons:

1. Whilst the proposal as originally submitted to the Court was not suitable for approval for the reasons articulated in Council's Statement of Facts and Contentions dated 7 July 2023, discussions between the parties have resulted in amendments to the proposed development, as reflected in the amended plans the subject of the s 34 Agreement between Council and the Applicant.
2. The changes made to the proposed development, as reflected in a comparison between the plans originally lodged with the class 1 appeal and the amended plans and documents the subject of the s 34 Agreement, have resulted in a proposal that has resolved Council's contentions and is now suitable for approval, subject to the following conditions.
3. The development, as amended via discussions between the parties as referred to above, is now generally consistent with the relevant requirements of the Hurstville Development Control Plan No 2 (Amendment No. 12) 2021, Georges River Local Environmental Plan 2021 and the Apartment Design Guide.
4. The development as amended via discussions between the parties as referred to above, and in particular the removal of the common open space areas and associated structures from the roof space of Building A and Building B, now includes a height variation which is justified on environmental planning grounds and is now an appropriate response to the streetscape and topography and will not result in any significant impact on the environment or the amenity of nearby residents.
5. The development, as amended via discussions between the parties as referred to above, is now of a scale and design that is suitable for the location and is compatible with the desired future character of the locality.
6. The issues raised by objectors have been considered and where appropriate, addressed via amendments to plans or additional information (via discussions between the parties as referred to above).

### **GENERAL CONDITIONS**

#### **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
<b>Amended architectural plans</b>				
GA Plans Basement 03	14048 DA-110-005	21 February 2024	ZD	Turner Studio

GA Plans Basement 02	14048 DA-110-006	21 February 2024	ZD	Turner Studio
GA Plans Basement 01	14048 DA-110-007	21 February 2024	ZF	Turner Studio
GA Plans Ground Level	14048 DA-110-008	21 February 2024	ZG	Turner Studio
GA Plans Level 01	14048 DA-110-010	21 February 2024	ZE	Turner Studio
GA Plans Level 02	14048 DA-110-020	21 February 2024	ZB	Turner Studio
GA Plans Level 03	14048 DA-110-030	21 February 2024	ZA	Turner Studio
GA Plans Level 04	14048 DA-110-040	21 February 2024	ZA	Turner Studio
GA Plans Level 05	14048 DA-110-050	21 February 2024	ZA	Turner Studio
GA Plans Level 06	14048 DA-110-060	21 February 2024	ZB	Turner Studio
GA Plans Level 07	14048 DA-110-070	21 February 2024	ZA	Turner Studio
GA Plans Level 08	14048 DA-110-080	21 February 2024	ZB	Turner Studio
GA Plans Level 09	14048 DA-110-090	21 February 2024	ZA	Turner Studio

GA Plans Level 10	14048 DA-110-100	21 February 2024	ZA	Turner Studio
GA Plans Level 11	14048 DA-110-110	21 February 2024	ZB	Turner Studio
GA Plans Level 12	14048 DA-110-120	21 February 2024	ZA	Turner Studio
GA Plans Level 13	14048 DA-110-130	21 February 2024	ZA	Turner Studio

GA Plans Level 14	14048 DA-110-140	21 February 2024	ZA	Turner Studio
GA Plans Level 15	14048 DA-110-150	21 February 2024	ZA	Turner Studio
GA Plans Level 16	14048 DA-110-160	21 February 2024	ZA	Turner Studio
GA Plans Level 17	14048 DA-110-170	21 February 2024	ZB	Turner Studio
GA Plans Level 18	14048 DA-110-180	21 February 2024 4	ZA	Turner Studio
GA Plans Level 19	14048 DA-110-190	21 February 2024	ZB	Turner Studio
GA Plans Roof Level	14048 DA-110-200	21 February 2024	ZB	Turner Studio

GA Elevations North East Elevation	14048 DA-210-101	21 February 2024	P	Turner Studio
GA Elevations North West Elevation	14048 DA-210-201	21 February 2024	O	Turner Studio
GA Elevations South West Elevation	14048 DA-210-301	21 February 2024	Q	Turner Studio
GA Elevations North East and North West Elevation	14048 DA-210-401	21 February 2024	P	Turner Studio
GA Elevations South East and South West	14048 DA-210-501	21 February 2024	O	Turner Studio

Elevation				
GA Elevations East Elevation	14048 DA-210-601	21 February 2024	O	Turner Studio
GA Elevations South and South East Elevations	14048 DA-210-701	21 February 2024	O	Turner Studio
GA Elevations Detail North East Elevation	14048 DA-210-901	21 February 2024	E	Turner Studio
GA Sections Section AA	14048 DA-310-101	21 February 2024	T	Turner Studio
GA Sections Section BB	14048 DA-310-201	21 February 2024	T	Turner Studio
GA Sections Section CC	14048 DA-310-301	21 February 2024	T	Turner Studio

Tree Retention	14048 DA-710-001	21 February 2024	I	Turner Studio
Supplementary Sections Carpark Entry Ramp	14048 DA-820-002	21 February 2024	F	Turner Studio
Lobbies	14048 DA-830-003	21 February 2024	G	Turner Studio
Materials and Finishes Board – Sheet 1	14048 DA-890-001	21 February 2024	F	Turner Studio
Materials Finishes Board – Sheet 2	14048 DA-890-002	21 February 2024	F	Turner Studio
Materials Finishes Board – 3D Views	14048 DA-910-001	21 February 2024	F	Turner Studio
Materials Finishes	14048	21 February	F	Turner Studio
Board – 3D Views	DA-910-002	2024		
Materials Finishes Board – 3D Views	14048 DA-910-003	21 February 2024	F	Turner Studio
Materials Finishes Board – 3D Views	14048 DA-910-004	21 February 2024	F	Turner Studio
<b>Amended landscape plans</b>				
3.1 Vegetation Management Plan	DA 16	6 February 2024	G	RPS
3.2 Master Plan	DA 17	6 February 2024	G	RPS
3.3 Ground Floor Plan	DA 18	6 February 2024	G	RPS

3.4 Ground Floor Programming	DA 19	6 February 2024	G	RPS
3.5 Roof Levels	DA 20	6 February 2024	G	RPS
3.6 Roof Level Programming	DA 21	6 February 2024	G	RPS
3.7 Canopy Tree Plan	DA 22	6 February 2024	G	RPS
3.8 Ground Floor Movement Plan	DA 23	6 February 2024	G	RPS
3.9 Tree Plan - Ground	DA 24	6 February 2024	G	RPS
3.10 Tree Plan - Podium	DA 25	6 February 2024	G	RPS
3.11 Soil Plan - Ground	DA 26	6 February 2024	G	RPS
3.12 Soil Plan - Podium	DA 27	6 February 2024	G	RPS
3.13 Elevation – Forest Road	DA 28	6 February 2024	G	RPS
3.14 Elevation – Gloucester Road	DA 29	6 February 2024	G	RPS
3.15 Street Interface Sections	DA 30	6 February 2024	G	RPS
3.16 OSD Section	DA 31	6 February 2024	G	RPS
3.17 Podium Section 1	DA 32	6 February 2024	G	RPS
3.18 Podium Section 2	DA 33	6 February 2024	G	RPS

3.19 Podium Section 3	DA 34	6 February 2024	G	RPS
4.1 Planting Palette	DA 35	6 February 2024	G	RPS
4.2 Planting Schedule	DA 36	6 February 2024	G	RPS
4.3 Typical Details	DA 37	6 February 2024	G	RPS
4.3 Typical Details	DA 38	6 February 2024	G	RPS
4.4 Maintenance Guidelines	DA 39	6 February 2024	G	RPS
Appendix – Drawing Set	DA 41	6 February 2024	G	RPS
Appendix – Drawing Set	DA 42	6 February 2024	s	RPS
Appendix – Drawing Set	DA 43	6 February 2024	G	RPS
Appendix – Drawing Set	DA 44	6 February 2024	G	RPS
Appendix – Drawing Set	DA 45	6 February 2024	G	RPS
Appendix – Drawing Set	DA 46	6 February 2024	G	RPS
Appendix – Drawing Set	DA 47	6 February 2024	G	RPS
Appendix – Drawing Set	DA 48	6 February 2024	G	RPS



Appendix – Drawing	DA 49	6 February 2024	G	RPS
Tree 38 Retention Plan	01	15 February 2024	01	RPS
Tree 38 Retention Section	02	15 February 2024	01	RPS
<b>Amended Stormwater Plans</b>				
Siteworks and Drainage Plan Ground Floor Level	C-0200	14 December 2023	G	BG&E
Siteworks and Drainage Plan Basement 1 Level	C-0210	14 December 2023	C	BG&E
Driveway Sections	C-0270	14 December 2023	D	BG&E
Drainage Catchment Plan	C-0300	14 December 2023	C	BG&E
Drainage Details	C-0340	14 December 2023	C	BG&E
OSD Section	C-0350	14 December 2023	C	BG&E
OSD Section and Details	C-0351	14 December 2023	D	BG&E
Erosion and Sediment Control Plan	C-0700	14 December 2023	C	BG&E
Erosion and Sediment Control Details	C-0710	14 December 2023	C	BG&E
<b>BASIX Plans</b>				
BASIX Stamped Plans		5 March 2024		Greenview Consulting Pty Ltd

<b>Reports</b>				
Arboricultural Impact Assessment Report – pages 1 - 32	ARB-2133-001 Job No. - 2133	4 December 2023	F	Sturt Noble Arboriculture
Operational Waste Management Plan – 55 pages	3589	27 October 2023	H	Elephants Foot
BASIX Certificate	1252504M_02	5 March 2024	-	Greenview Consulting Pty Ltd
NatHERS Certificate		5 March 2024		Greenview Consulting Pty Ltd
NatHERS Thermal Performance Specification		5 March 2024		Greenview Consulting Pty Ltd
Geotechnical Report	84516.01	18 November 2014	0	Douglas Partners
Preliminary Site Investigation	84516.00	20 October 2014	0	Douglas Partners
Detailed Stage 2 Site Investigation	E34293 Prpt	7 October 2022	-	JK Environments Pty Ltd
Remediation Action Plan	E34293Prpt2-RAP	25 October 2022		JK Environments Pty Ltd
Stormwater Management Report	DOCUMENT NO / 2r.186-RPT-Cr0001	3 December 2021	A	BG & E
Flood Statement	Project No:521186	20 December 2021	-	BG & E

Acoustic Assessment	2021 0930.1 / 2207 A/ R0 / RF	22 July 2021	0	Acoustic Logic
BCA Compliance Statement-		9 December 2021	0	Blackett Maguire + Goldsmith
Access Report		8 December 2021		Morris Goding Access Consulting
Public Art Strategy		26 November 2021	1	Turner Studio

**Documents Relied Upon for Determination**

Description	Reference No.	Date	Revision	Prepared by
<b>Plans</b>				

Spot Level Survey	6332 – sheet 1 of 1	9 August 2023	A	SDG Pty Ltd
Survey	6332	26 August 2014	A	SDG Pty Ltd

**Reports**

GFA Plans Ground Floor to Level 03	14048 DA-770-001	21 February 2024	J	Turner Studio
GFA Plans Level 04 to Level 07	14048 DA-770-002	21 February 2024	J	Turner Studio
GFA Plans Level 08 to Level 11	14048 DA-770-003	21 February 2024	J	Turner Studio

GFA Plans Level 12 to Level 15	14048 DA-770-004	21 February 2024	J	Turner Studio
GFA Plans Level 16 to Level 18	14048 DA-770-005	21 February 2024	H	Turner Studio
Control Diagram Proposed Height of Buildings	14048 DA-715-001	21 February 2024	M	Turner Studio
Control Diagram Proposed Height of Buildings Detail	14048 DA-715-002	21 February 2024	M	Turner Studio
Control Diagram Proposed Height of Buildings Plan	14048 DA-715-003	21 February 2024	M	Turner Studio
Control	14048	21 February	E	Turner Studio

Diagram Proposed Height of Buildings Baseline Terrain	DA-715-004	2024		
Shadow Diagrams Shadow Diagrams June 21 9am – 10am	14048 DA-795-001	21 February 2024	M	Turner Studio

Shadow Diagrams  Shadow Diagrams June 21 11am – 12pm	14048 DA-795-002	21 February 2024	M	Turner Studio
Shadow Diagrams  Shadow Diagrams June 21 1pm – 2pm	14048 DA-795-003	21 February 2024	M	Turner Studio
Shadow Diagrams  Shadow Diagrams June 21 3pm	14048 DA-795-004	21 February 2024	M	Turner Studio
920 External Views  3D External Views	14048 DA920-001	21 February 2024	H	Turner Studio
920 External Views  3D External Views	14048 DA920-002	21 February 2024	H	Turner Studio
920 External	14048	21 February 2024	E	Turner Studio
Views  3D External Views	DA920-003			
Clause 4.6 – Building Height Development Standard	3460-8106-4234	February 2024	v. 1	Sutherland and Associates Planning

Traffic and Parking Statement	-	18 December 2023	-	JMT Consulting
Crime Risk Assessment	3802119GloucesterRd-CRA-RevB	24 November 2021	B	Lote Consulting Pty Ltd – Fire Safety/Security
Pedestrian Wind Environment Report	wc22s03F02(REV2)-WS REPORT	27 October 2021	2	Windtech
Aeronautical Impact Assessment		18 November 2021	B	Landrum and Brown Worldwide Australia Pty Ltd
Design Report	14048	6 February 2024	Development Application Submission	Turner Studio

2. **Fit-out of retail premises**

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

3. **Signage**

A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is 'exempt development' under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or any other applicable environmental planning instrument.

**SEPARATE APPROVALS REQUIRED UNDER OTHER LEGISLATION**

4. **Below ground anchors** - Information to be submitted with S68 Application under LGA 1993 and 5138 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/RMS under Section 68 of the Local Government Act 1993 and the Roads Act 1993 for approval, **prior to commencement of those works**. The following details must be submitted.

- (a) That cable anchors will be stressed released when the building extends above ground level to the satisfaction of Council.

- (b) The applicant has indemnified Council from all public liability claims arising from the proposed works and provide adequate insurance cover to the satisfaction of Council.
- (c) Documentary evidence of such insurance cover to the value of \$20 million.
- (d) The applicant must register a non-terminating bank guarantee in favour of Council for the amount of \$50,000.
- (e) 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.
- (f) 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.

#### 5. **Building – Hoarding Application**

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

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

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

- (a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location; 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](http://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.

**6. 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;
- (k) Stormwater & ancillary to public infrastructure on private land; and
- (l) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways.

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

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

**7. 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) New footpath paving consisting of segmental paving to be constructed for the full frontages of the site, paving extents to be included in the public domain plans and are to be approved by Council's assets and infrastructure department prior to the issue of the construction certificate. Paving to be consistent with Council's Public Domain Streetscape Specification document.



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

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

If any modifications to Council's drainage network is required, a separate application and approval is required under Section 68 of the Local Government Act.

#### **8. Road Opening Permit**

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

### **REQUIREMENTS OF CONCURRENCE, INTEGRATED & OTHER GOVERNMENT AUTHORITIES INTEGRATED DEVELOPMENT General Terms of Approval**

The development shall be carried out in accordance with the requirements of the General Terms of Approval (GTA) outlined below.

#### **9. TRANSPORT For NSW - ROADS AND MARITIME SERVICES**

- 9.1 All buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited height or depth) along the Forest Road boundary.
- 9.2 The kerb ramps on the Gloucester Road approaches to the Forest Road signalised intersection shall be upgraded to comply with current standards. Details of these requirements should be obtained by email to [developerworks.sydney@transport.nsw.gov.au](mailto:developerworks.sydney@transport.nsw.gov.au).

Detailed design plans of the proposed works are to be submitted to TfNSW for approval prior to the issue of a construction certificate and commencement of any road works. Please send all documentation to [development.sydney@transport.nsw.gov.au](mailto:development.sydney@transport.nsw.gov.au).

A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved road design plans by TfNSW.

The developer is required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. TfNSW fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.

The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2020/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by TfNSW. Please send all documentation to [development.sydney@transport.nsw.gov.au](mailto:development.sydney@transport.nsw.gov.au).

- 9.3 If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

Any public utility adjustment/relocation works on the state road network will require detailed civil design plans for road opening /underboring to be submitted to TfNSW for review and acceptance prior to the commencement of any works.

The developer must also obtain necessary approvals from the various public utility authorities and/or their agents. Please send all documentation to [development.sydney@transport.nsw.gov.au](mailto:development.sydney@transport.nsw.gov.au)

Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system on Forest Road are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to [development.sydney@transport.nsw.gov.au](mailto:development.sydney@transport.nsw.gov.au) .

A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.

- 9.4 A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Forest Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>

## 10. SYDNEY TRAINS

Transport for NSW (Sydney Trains) advises that the proposed development has been assessed in accordance with the relevant Transport for NSW Assets Standard Authority standards and Sydney Trains requirements. To ensure that the proposed development is undertaken in a safe manner the following conditions have been imposed:

- 10.1 The Applicant shall prepare an acoustic assessment demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines". The Applicant must incorporate in the development all the measures recommended in the report. A copy of the report is to be provided to the Certifying Authority and Council

prior to the issuing of a Construction Certificate. The Certifying Authority must ensure that the recommendations of the acoustic assessment are incorporated in the construction drawings and documentation prior to the issuing of the relevant Construction Certificate.

- 10.2 Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents.

The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Certifying Authority with the application for a Construction Certificate. The Certifying Authority must ensure that the recommendations of the electrolysis report are incorporated in the construction drawings and documentation prior to the issuing of the relevant Construction Certificate.

- 10.3 The Applicant shall provide a Geotechnical Engineering report to Sydney Trains for review by Sydney Trains' Geotechnical section prior to the commencement of works. The report shall demonstrate that the development has no negative impact on the rail corridor or the integrity of the infrastructure through its loading and ground deformation and shall contain structural design details/analysis for review by Sydney Trains. The report shall include the potential impact of demolition and excavation, and demolition- and excavation-induced vibration in rail facilities, and loadings imposed on Sydney Trains Facilities by the development.

- 10.4 Prior to the issuing of a Construction Certificate the Applicant must submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains' requirements. If required by Sydney Trains, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Trains' requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.

- 10.5 The Applicant must ensure that all drainage from the development is adequately disposed of and managed and not allowed to be discharged into the rail corridor unless prior written approval has been obtained from Sydney Trains.

- 10.6 No scaffolding is to be used facing the rail corridor unless prior written approval has been obtained from Sydney Trains. To obtain approval the Applicant will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor. Unless agreed to by Sydney Trains in writing, scaffolding shall not be erected without isolation and protection panels.

- 10.7 Sydney Trains advises there are 33 kV and 11 kV High Voltage Aerial Transmission Line in near to the proposed works. All works within 6 metres of the nearest transmission line conductor must comply with:

- (a) ISSC 20 – Guideline for the Management of Activities within Electricity Easements and Close to Electricity Infrastructure.
- (b) The Safe Approach Distances (SADs) in the Sydney Trains Document titled "SMS-06-GD-0268 – Working Around Electrical Equipment".

(c) "WorkCover Code of Practice – Work near Overhead Power Lines (The Code)"

In addition, all Landscaping shall be in accordance with the Sydney Trains High Voltage Powerline Tree Management Plan.

- 10.8 Sydney Trains or Transport for NSW (TfNSW), and persons authorised by those entities for the purpose of this condition, must be permitted to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being constructed and maintained in accordance with the approved plans and the requirements of this consent, on giving reasonable notice to the principal contractor for the development or the owner or occupier of the part of the site to which access is sought.
- 10.9 The Applicant must ensure that at all times they have a representative (which has been notified to Sydney Trains in writing), who:
- (a) oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Trains;
  - (b) acts as the authorised representative of the Applicant; and
  - (c) is available (or has a delegate notified in writing to Sydney Trains that is available) on a 7 day a week basis to liaise with the representative of Sydney Trains, as notified to the Applicant.
- 10.10 Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Trains in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Trains in relation to the works.
- 10.11 Where a condition of consent requires consultation with Sydney Trains, the Applicant shall forward all requests and/or documentation to the relevant Sydney Trains External Interface Management team. In this instance the relevant interface team is Illawarra, and they can be contacted via email on [Illawarra\\_Interface@transport.nsw.gov.au](mailto:Illawarra_Interface@transport.nsw.gov.au).
- 10.12 Copies of any certificates, drawings, approvals/certification, or documents endorsed by, give to, or issued by Sydney Trains or TAHE (Transport Asset Holding Entity) must be submitted to Council for its records prior to the issuing of the applicable Construction Certificate/ Occupation Certificate.

## 11. SYDNEY AIRPORTS CORPORATION

The applicant must liaise with Sydney Airports. It is noted that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct. Should the height of any temporary structure and/or equipment be greater than 128m AHD, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161. This height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.

Construction cranes may be required to operate at a height significantly higher than that of the proposed development and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. Sydney Airport advises that approval to

operate construction equipment (i.e. cranes) should be obtained **prior to any commitment to construct.**

## **SYDNEY WATER**

### **12. 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.

#### **Sydney Water – Tap inTM**

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

### **13. Notice of Requirements for a Section 73 Certificate**

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

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

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

## **AUSGRID**

### **14. Proximity to Existing Network Assets**

#### **14.1 Overhead Powerlines**

There are existing overhead electricity network assets in Forest Road.

Safework 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](http://www.ausgrid.com.au).

Based on the design of the development provided, it is expected that the “as constructed” minimum clearances will not be encroached by the building development. However, 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.

#### **14.2 Underground Cables**

There are existing underground electricity network assets in Forest Road, Gloucester Road and within the proposed development.

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

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

Safework Australia – Excavation Code of Practice, and Ausgrid’s Network Standard NS156 outlines the minimum requirements for working around Ausgrid’s underground cables.

#### **14.3 Substation**

There are existing electricity substation assets within the proposed development.

There are Two existing kiosk style electricity substation that may be impacted by the proposed construction.

Subsidence and vibration must minimised at the substation site. The use of ground anchors under a substation is generally not permitted due to the presence of

underground cabling and earthing conductors which may be more than 10m deep. A further area of exclusion may be required in some circumstances.

The substation ventilation openings, including substation duct openings and louvered panels, must be separated from building air intake and exhaust openings, natural ventilation openings and boundaries of adjacent allotments, by separation distances which meet the requirements of all relevant authorities, building regulations, BCA and Australian Standards including AS 1668.2: The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings.

In addition to above, Ausgrid requires the substation ventilation openings, including duct openings and louvered panels, to be separated from building ventilation system air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres.

Any portion of a building other than a BCA class 10a structure constructed from noncombustible materials, which is not sheltered by a non-ignitable blast-resisting barrier and is within 3 metres in any direction from the housing of a kiosk substation, is required to have a Fire Resistance Level (FRL) of not less than 120/120/120.

Openable or fixed windows or glass blockwork or similar, irrespective of their fire rating, are not permitted within 3 metres in any direction from the housing of a kiosk substation, unless they are sheltered by a nonignitable blast resisting barrier.

The development must comply with both the Reference Levels and the precautionary requirements of the ICNIRP Guidelines for Limiting Exposure to Time-varying Electric and Magnetic Fields (1 HZ – 100 kHz) (ICNIRP 2010).

For further details on fire segregation requirements refer to Ausgrid's Network Standard 141.

Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid.

For further details refer to Ausgrid's Network Standard 143.

#### **14.4 Electricity Supply**

An application is required to be made to Ausgrid for a network connection. 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](http://www.ausgrid.com.au) (Business and Commercial Services).

Connection to the network will be required prior to the release of any Occupation Certificate.

Where works within the road reserve are to be carried out by the developer, a Road Opening Permit must be obtained from Council.

**NSW POLICE FORCE**

15. The NSW Police Force impose the following conditions to address identified crime risks posed by this development.

**Installation of CCTV****15.1 Installation of CCTV cameras within and around the development**

- (a) the system must record continuously at all times.
- (b) recordings must be in a digital format and at a minimum of ten frames per second (10 fps).
- (c) any recorded image must specify the time and date of the recorded image.
- (d) the systems cameras must cover the following areas.
  - (i) All entry and exit points on the premises.
  - (ii) The footpath immediately adjacent to the premises.
  - (iii) All publicly accessible areas (other than toilets) within the premises.
  - (iv) Throughout the underground car park to monitor activities around these areas.

All recordings made by the CCTV system to be kept for at least 30 days.

- (e) Lighting which complies with the Australian Standard – lighting must be installed in and around the property to increase visibility during the hours of darkness.
- (f) The mailboxes should be located in a secure or residents only area of the building. This will increase the visibility of the area and decrease the opportunity for mail theft which often results in Frauds and Identity theft.
- (g) The main entry/egress doors to the buildings must be fitted with an access control system like key, code or card operated system to restrict, control the movement of people and vehicles into and throughout the complex.
- (h) An intercom system must be installed at entry/egress points to enable visitors to communicate with residents within the complex.
- (i) Prior to the issue of a construction Certificate the Applicant is to provide the following two (2) documents to the Certifying Authority, Council and the NSW Police Force:
  - (i) A Closed-Circuit Television Plan.
  - (ii) Crime Risk Assessment Report.

**PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

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



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

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

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

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

FEE TYPE	FEE
<b>GENERAL FEES</b>	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment. See <a href="https://portal.longservice.nsw.gov.au/bci/levy/">https://portal.longservice.nsw.gov.au/bci/levy/</a>	
Builders Damage Deposit - \$1236.00 x 375.155m	\$463,691.58
Inspection Fee for Refund of Damage Deposit	\$1,484.00
<b>7.11 Contributions</b>	
<b>Development Contributions</b>	
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. Based on the unit mix of:	
<ul style="list-style-type: none"> <li>• 74 x 1 bed units</li> <li>• 217 x 2 bed units</li> <li>• 58 x 3 bed units</li> </ul>	
The following contributions are payable pursuant to the Georges River Council Local Infrastructure Contributions Plan 2021:	
Plan administration	\$75,084.01
Community Centres	\$476,154.65
Early Learning Centres	\$140,700.10
Library Buildings	\$303,657.84
Library Resources	\$59,618.69

Recreational Facilities	\$483,308.81
Open Space Acquisition	\$2,747,994.87
Open Space Embellishment	\$1,889,743.14
Public domain	\$317,954.34
Active Transport	\$54,100.12
Roads and Intersections	\$97,061.97
Total	<b>\$6,645,378.54</b>

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.

#### Indexation

The above contributions will be adjusted at the time of payment to reflect changes in the cost of delivering public amenities and public services, in accordance with the indices provided by the relevant Section 7.11 Development Contributions Plan.

#### Timing of Payment

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

#### Further Information

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

### 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: **\$463,691.58**
- (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: **\$1,484.00**
- (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 WorksAs-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. Site Management Plan - Major Development**

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

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

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

**19. Waste Management**

Waste management provisions at the site will be delivered in accordance with the approved Waste Management Plan (WMP).

**20. Waste Management Contractors**

The applicant must provide details of the proposed contractors used for managing demolition/construction wastes to Council prior to the issue of a Construction Certificate. The applicant must maintain records of licensed waste management

disposal for up to 7 years as evidence of correct management of wastes from the development. 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.

**21. Waste Removal**

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.

**22. Site specific Tree Protection Plan**

A site specific Tree Protection Plan must be provided, demonstrating all trees being retained upon Councils street verge and neighbouring properties. The Plan must be shown as A3, coloured and be in accordance with AS4970, Sections 4 and 5 and Section 4.0 - Mitigation Measures, of the Arboricultural Impact Assessment by Sturt Noble and be submitted to the PCA and Council, for approval.

**23. BASIX Commitments**

All energy efficiency measures as detailed in the BASIX Certificate No.1252504M\_02 dated 2 December 2021 prepared by Greenview Consulting Pty Ltd must be implemented on the plans lodged with the application for the Construction Certificate.

**24. Public Art Plan**

A detailed Public Art Plan is to be prepared having regard to the Public Art Strategy approved at Condition 1 and submitted to Council to in accordance with the "Public Art Guidelines for Developers".

**25. Required design changes**

The following changes are required to be made and shown on the Construction Certificate plans:

Amendments made in red on approved plans	All changes made in red on the approved plans shall be updated and shown on the Construction Certificate plans.
------------------------------------------	-----------------------------------------------------------------------------------------------------------------

Traffic and Parking	<p>Linemarking at the internal intersection between Ramp 1 (ramp to Basement 2) and the visitor car parking on Basement 1 is to be provided in accordance with Drawing No. 2294_01 dated 18 December 2023 within the Report Prepared by JMT Consulting dated 18 December 2023.</p> <p>A Convex Mirror is to be located to assist with visibility out of the visitor car parking area to vehicles along the ramp.</p>
Retention of Tree 38	<p>The approved architectural and landscape plans are to be amended as required to be consistent with the Tree 38 Retention Plan and Tree 38 Retention Section listed at Condition 1.</p>

**26. Low reflectivity roof**

The applicant's reflectivity consultant must provide detail of low glare and reflectivity roofing materials to be utilised. Details of finished external materials including colours and texture must be provided to the Certifying Authority and must be consistent with the detail provided by the applicant's reflectivity of low glare and reflectivity roofing materials.

**27. 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 run-off 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.

**28. 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, at a minimum all allotments that share a boundary with 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.

**29. Stormwater System**

The submitted stormwater plan has been assessed. 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 and shall be consistent with the following requirements:

- (a) All stormwater shall drain by gravity to the proposed kerb inlet pit located in front of the property in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
- (b) Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineer who specialises in Hydraulic Engineering in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (2016) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.
- (c) The underground basement car park must pump to and all other stormwater must drain by gravity to the OSD system.
- (d) The crest of the driveway shall be set least 150 mm above the top of the kerb levels.
- (e) The sub soil drainage for the below ground structures including basement car parks shall be designed in accordance with the findings and recommendations in the geotechnical report. The geotechnical report should assess any possible impact of the proposed development upon existing ground water table and surrounding land and buildings. Should the results of the report indicate that

the site is likely to experience issues associated with groundwater management, a fully-tanked dry basement with no sub soil drainage collection or disposal and an allowance made for any hydrostatic pressures.

- (f) Stormwater drainage plans shall be consistent with the approved landscape plans at Condition 1 and must, in accordance with Sections A, B and C of Drawing DA30 Revision G of the landscape plans prepared by RPS, show all stormwater piping adjacent to basement walling and away from deep soil areas.

**30. Stormwater Systems with Basement**

The underground basement car park must pump all stormwater and seepage groundwater to a nominated basement tank and must pump out to the OSD tank.

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

**31. Protection of basement from inundation of stormwater waters**

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

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

**32. Pump-Out System Design for Stormwater Disposal**

The design of the pump-out system for all storm water disposal will be permitted for drainage of basement areas only, and must be designed in accordance with the following criteria:

- (a) The pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm. The holding tank shall be capable of holding one hour's runoff from a one-hour duration storm of the 1 in 20 year storm;
- (b) The pump system shall be regularly maintained and serviced, every six (6) months; and
- (c) The drainage disposal from a pump system must connected to the OSD tank.

**33. Vehicular Access Grades**

While reconfiguring, realigning and proposing any vehicular access, the applicant must submit a profile (longitudinal section) demonstrating access clearance by the B85 Design Vehicle (85% percentile vehicle in accordance with AS2890.1 2004) for the entry.



This profile (scale 1:20) is to show levels and grades from road centreline to the proposed internal garage floor level including but not limited to levels of, road centreline, changes of grade on road surface, lip of gutter, invert of gutter, back of vehicular crossing (gutter layback), front of path, back of path and boundary. The profiles provided are to also include the natural surface of the land as well as the proposed design including cut and fill dimensions.

Additional profiles are to be provided on either side of driveway when longitudinal grade of road exceeds 8%.

The profile will be used to assess suitability of proposed internal driveway levels and does not represent final footpath or road levels. The levels on Council's road related area including boundary level will be verified following the submission of an "Application for Driveway Crossing and Associated Works on Council Road Reserve" issued under Section 138 Roads Act.

#### 34. **On Site Stormwater Detention**

The submitted Concept Stormwater and OSD Plan prepared by BG&E (Sydney Office) with reference to the plans in Condition 1 as amended by this Consent, including any design change conditions, as follows:

- (a) The above drainage plans have been assessed as a concept plans only. Final detailed plans of the drainage system, prepared by a consulting stormwater drainage engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.
- (b) An OSD facility designed by a professional engineer who specialises in Hydraulic engineering must be designed, approved and installed.
- (c) The required OSD storage requirements and permissible discharge are to be calculated in accordance with Table 3 of Council's Stormwater Management Policy.
- (d) A minimum 250.0 cubic metre OSD volume is to be provided in accordance with the Stormwater Concept Plan and Council's Stormwater Management Policy.
- (e) With exception of Rainwater Tank footprint, all other sealed access must be replaced by 900x900 square grates in order to allow for Tank's cross ventilation & tank's readily inspection with convenience from the top of the tank. The OSD facility shall be designed to meet all legislated safety requirements. A durable metal plate or similar sign is to be placed at the OSD facility and must bear the words:
- (f) "BEWARE: This is an on-site detention basin/tank for rainwater which could overflow during heavy storms."
- (g) Full details shall accompany the application for the Construction Certificate.



**35. Public Domain Plans**

New kerbing to be provided across the full frontage of the site in Forest Road, and Gloucester Road, all redundant crossings are to be removed and reinstated with Council's standard kerb and gutter.

New footpath paving consisting of segmental paving to be detailed in public domain plans which are to be submitted to Council for approval prior to Construction Certificate paving area is to be consistent with Council specifications.

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

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

A separate application approval is required under section 68 Local Government Act 1993 for any modifications to Council's drainage network.

A private contractor shall carry out the above work, at the expense of the applicant and in accordance with the approved Specifications for works.

The driveway and road frontage (Public Domain) **works are to be completed before the issue of the Occupation Certificate.**

**36. Driveway Construction Plan Details**

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

- (a) Longitudinal and cross sections, gradients, access onto the proposed lots, type of construction materials designed in accordance with Council's Subdivision standards and AS/NZS2890.1:2004.
- (b) Suitable underground provision for the supply of all relevant services to the proposed lots (proposed position of pipes and conduits).
- (c) A longitudinal driveway sections are to be prepared by a qualified civil/traffic engineer and be submitted for to and approved by the Certifying Authority. These profiles are to be at 1:100 scale along both edges of the proposed driveway, starting from the centreline of the frontage street carriageway to the proposed basement floor level.
- (d) The civil/traffic engineer shall provide specific written certification on the plans that:
  - (i) Vehicular access can be obtained using grades of 25% (1 in 4) maximum as permitted by AS2890.1:2004;

- (ii) Vehicular access can be obtained using grades of 15.4% maximum permitted by AS2890.2:2018; and
- (iii) All changes in grade (transitions) comply with relevant Australian Standard, namely 2890.1 (2004) or AS2890.2:2018.

**37. Electricity Supply to the Development**

The electricity supply to the Development must be underground.

**38. NBN Connection**

Prior to the issue of the Construction Certificate in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- (a) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
- (b) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

**Note:** *real estate development project* has the meanings given in section 3720 of the Telecommunications Act.

**39. Council Property Shoring**

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

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

**40. 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 CA. Such list must also specify the minimum standard of performance for each essential

fire safety measure included in the list. The Council or CA will then issue a Fire Safety Schedule for the building.

**41. Structural details**

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

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

**42. Hazardous Material Survey**

Remediation approved as part of this Development Consent shall be carried out in accordance with Remedial Action Plan and a Hazardous Materials Survey prepared by a suitably qualified consultant in accordance with the NSW Office of Environment and Heritage Guidelines for Consultants Reporting on Contaminated Sites.

A site audit statement must be carried out by a site auditor prior to the commencement of remediation works.

**43. Contamination Site Assessment**

Prior to Council or an accredited certifier issuing a construction certificate, and following demolition of the existing buildings on site, a detailed site investigation and remedial action plan with an intrusive geotechnical investigation of the untested land revealed by the demolition of existing buildings on site be undertaken and submitted to the Principal Certifier having regard to potential sources of contamination in the form of a targeted detailed site investigation (DSI) and a hazardous building materials survey (HBM survey) as set out in Douglas Partners Preliminary site investigation report 84516.00 Document 1 dated October 2014.

The report shall be undertaken/completed by a suitably qualified person in accordance with the relevant guidelines approved by the Office of Environment and Heritage (OEH) and in accordance with the requirements of the Contaminated Land Management Act 1997.

The further report shall satisfy the PCA that the untested land revealed by the demolition of the existing buildings on site is suitable for the proposed use.

**44. Contaminated Land – Site Validation Report**

A Site Validation Report, prepared by a Contaminated Land Consultant (certified under the consultant certification schemes recognised by the NSW EPA), in accordance with the State Environmental Planning Policy (Resilience and Hazards) 2021 (as amended), must be submitted to the satisfaction of the Certifying Authority.

The Site Validation Report must include:

(a) A notice of completion of remediation works, (b)

Details of site management requirements (if any), and

(c) A clear statement on the suitability of the proposed site use.

The Site Validation Report must be incorporated into the Construction Certificate documentation.

**45. Contaminated Land - Environmental Monitoring Program**

An Environmental Management Plan, prepared by a Contaminated Land Consultant (certified under the consultant certification schemes recognised by the NSW EPA), must be submitted to the satisfaction of the Certifying Authority.

The Environmental Management Plan must be incorporated into the Construction Certificate documentation.

**46. Contaminated Land – Site Audit Statement**

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

The SAS must demonstrate that the Detailed Site Investigation (DSI) and Remedial Action Plan (RAP), required to be prepared, has been completed in accordance with the NSW guidelines and that the land can be made suitable for the proposed use by the implementation of any specified Remedial Action Plan (RAP). This must be provided to Council and the accredited certifier prior to the issue of any construction certificate.

The SAS must be incorporated into the Construction Certificate documentation.

**47. Acoustic Report Compliance**

The Construction Certificate plans must demonstrate compliance with the Acoustic Report submitted and approved by Council as referenced in this consent.

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

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

**48. Commercial Use – Trade Waste Agreement**

The applicant must obtain a Trade Waste Agreement with Sydney Water prior to the issue of the Construction Certificate. The Trade Waste Agreement must be incorporated into the Construction Certificate documentation.

**49. Residential - Car Wash Systems and Bays**

Plans and specifications of any car washing bays and systems must be submitted with the application for the Construction Certificate to the satisfaction of the Certifying Authority demonstrating that:

- (a) All car washing bays are contained within a roofed and bunded area.
- (b) The used water from the car wash bays is graded to a drainage point and connected to the sewer, with pre-treatment approved by Sydney Water, or where an 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 are submitted.

**50. Access for Persons with a Disability**

Access to and within the development including all services and publicly accessible sanitary facilities for persons with disabilities must be provided to the premises/building in accordance with the requirements of the Premises Standards, the Building Code of Australia, and AS 1428.1. Details must be submitted with the Construction Certificate Application for approval.

**51. 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.

**52. 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 including, but not limited to (address) and (address) prior to any excavation of site works. The

Dilapidation Report is to include assessments on, but not limited to, the dwellings at those addresses and any external paths, grounds etc. This must be submitted to the PCA and the adjoining residents as part of the application for the Construction Certificate. Adjoining residents are to be provided with the report five (5) working days prior to any works on the site.

- (c) On-site guidance by a vibration specialist during the early part of excavation.
- (d) Measures to minimise vibration damage and loss of support to other buildings. Where possible any excavation into rock is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures. Where a hydraulic hammer is to be used within 30 metres of any building (other than a path or a fence) the report shall detail the maximum size of hammer to be used and provide all reasonable recommendations to manage impacts.
- (e) Sides of the excavation are to be pierced prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.

**53. Traffic Management – Compliance with AS28901, AS2890.3:2015 AS2890.2 and AS2890.6**

All driveways, access ramps, sight lines, pedestrian sight lines, vehicular crossings, bicycle spaces 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), AS 2890.2 (for commercial vehicle facilities), AS2890.3:2015 and AS2890.6:2022 (Disabled Parking). A design certification is required prior to the construction certificate and as-built certification is required, prior to the occupation certificate, from a qualified consulting traffic engineer outlining that traffic management systems design complies with AS2890 series and approved by the PCA.

**54. 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) Traffic Control Plans (Traffic Guidance Scheme)
- (e) Access arrangements; and
- (f) 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.

**55. 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.

**56. 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.

The applicant must allow for bin storage according to the approved WMP, at the following ratios:

**Residential Waste**

- (a) 120L general waste per unit per week, serviced twice per week.
- (b) 120L recycling per unit per week, serviced twice per week.
- (c) 25L organic waste per unit per week, serviced once per week.

56.2 The applicant must provide revised site plans indicating the bin holding room is capable of holding all bins proposed to be managed at the site for collection purposes. Individual bins must be shown on plans to this effect.

56.3 The NSW State Government has recently mandated the implementation of separate Food Organics and Garden Organics (FOGO) collection services for all residential properties. It will be the responsibility of the Building Manager and Owners to collaborate with the Council waste collection contractors as required regarding a FOGO rollout to facilitate source separation and resource recovery of FOGO-eligible waste and implementation of onsite collections services. This may require a range of actions, such as residents' education, adjustment of waste management set-up and practices, the addition of organics bins and/or, the reduction of general waste bins as well as other appropriate measures that will be advised by the Council and/or private waste contractors.

56.4 The applicant must provide details of any waste management infrastructure or equipment on site plans.

56.5 The Strata and/or building manager will be responsible for the management of residential bins. Residential bin and bulky waste storage areas will be secure.



- 56.6 Access into the bin and bulky waste storage areas must be double door width (a minimum of 1.5 metres) and/or use roller doors where space is constrained. This width is required for the entire path of the bin and bulky waste travel to the waste collection point.
- 56.7 All bin and waste storage areas are to be appropriately lit (sensor lighting recommended), drained to sewer with a water outlet for bin washing/cleaning and not visible from the public domain unless secured behind wall/roof.
- 56.8 The Building Manager/Body Corporate will be responsible for overseeing the rotation of the bins as required to prevent spills across each residential level and between bins rooms where relevant.
- 56.9 The bulky waste storage area must be secured under lock and key (or similar), and only permitted to be accessed by the Building Manager to prevent illegal dumping of waste. The management of access to the designated bulky waste storage area will be the responsibility of the Building Manager on behalf of the Property Owner(s). The total maximum travel distance from any residential dwelling entry to bulky waste storage must not exceed 30 meters and should be located close
- 56.10 Receptacles for the management of any litter from communal areas must be contained in bins with lids. Bins enabling the source separation of: general waste, commingled recycling and organics are to be provided in all common areas and will be the responsibility of the Body Corporate/Building Manager to rotate and empty as required. The bins must be secured so as to prevent the dispersal of litter by wind or animals.
- 56.11 All bin and bulky waste storage areas are to be sufficiently dimensioned to allow for the easy movement of bins to and from the interim storage area during collection, and must have appropriately sized doors for the size of bin to be used. The path of travel for bins must be level, at an appropriate grade, well-lit and without stairs, in addition to being in accordance with the BCA. The designated bin and waste storage areas are required to be a size appropriate for the storage of the waste volumes generated at the site. All bin and waste storage areas are to be appropriately lit (sensor lighting recommended), drained to sewer with a water outlet for bin washing/cleaning and not visible from the public domain unless secured behind wall/roof.
- 56.12 All waste will be collected from the designated loading area located in Basement Level 1. The bin holding room must be designed to accommodate the maximum number of bins required to be serviced at any one time, based on waste generation rates and bins identified in the approved WMP.
- 56.13 The path of travel for bulky bins and bulky waste must not exceed 5 meters and must be level, at an appropriate grade, well-lit and without stairs, in addition to being in accordance with the BCA. All bin and waste storage areas are to be appropriately lit (sensor lighting recommended), drained to a sewer with a water outlet for bin washing/cleaning and not visible from the public domain unless secured behind a wall/roof.
- 56.14 Participation in and use of the on-property collection service is subject to site Risk Assessment and safe access by Council's waste collection contractor, determined both prior to the service commencing, and/or as required during on-going waste collection services provided to the property. The onsite collection service can be



cancelled at Council's discretion in which circumstance the site may be required to arrange bin presentation on the kerbside. It is the responsibility of the Site/Building Manager to maintain the waste storage areas as clean and tidy. In the event it is not, Council reserves the right to cancel the onsite collection service.

- 56.15 Bulky waste shall be stored in dedicated bulky waste storage rooms identified on approved site plans. Prior to collection, bulky waste shall be transferred by bin tug or trailer to the main bin holding area adjacent to the loading dock no more than 12 hours before scheduled bulky waste collection. Bulky waste collections shall not be scheduled on days where collection of bins would regularly occur.
- 56.16 The path of bin travel must be free from stairs, well-lit (sensor lighting recommended) at an appropriate grade for a ramp as per the Building Code of Australia and be a width appropriate for the movement of bins up to 1,100L in width in accordance with AS 4123.1—2008 Mobile Waste Containers.
- 56.17 The Owners Corporation/building management shall be responsible for presenting all approved bin receptacles in the interim bin storage area on the ground floor for WOWB collection and return all receptacles to the basement waste storage areas following completion of scheduled collections.
- 56.18 The Owners Corporation/building manager shall also be responsible for maintaining all equipment, systems, facilities and storage areas used in conjunction with the provision of waste management services in accordance with all applicable regulatory requirements, relevant health and environmental standards, and to the satisfaction of Council.
- 56.19 All bin and waste storage areas are to be maintained in clean, safe and hygienic manner. In the event bin or waste storage areas are not maintained in an appropriate manner, Council reserves the right to cancel services provided at the property (only if using WOWB or on-property services) requiring the Owners Corporation/Body Corporate/Site Manager to engage private waste collection services.
- 56.20 All waste handling equipment and systems used in conjunction with the provision of waste and recycling services shall be manufactured, installed and maintained in accordance with any applicable regulatory requirements, relevant Australian Standards, and relevant manufacturer's specifications.
- 56.21 The development must allow 3m<sup>2</sup> of storage space adjacent to the bin storage area, drained to sewer with a water tap access that meets the BCA for use as a bin wash area.
- 56.22 Receptacles for the management of any litter from communal areas must be contained in bins with lids. Bins enabling the source separation of general waste, commingled recycling and organics are to be provided in all common areas and will be the responsibility of the Building Manager on behalf of the Property Owner to rotate and empty as required. The bins must be secured to prevent the dispersal of litter by wind or animals.

It is noted that the applicant intends to provide 23 x 1100 litre mobile bins for domestic waste and 29 x 1100 litre mobile bins for domestic recycling. These are considered to be adequate provided they are serviced in accordance with Council's current servicing requirements.

**Commercial Waste**

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

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

**57. Waste Storage Containers – Commercial/Industrial**

Appropriate waste and recycling containers and facilities will need to be provided for all specific end use businesses in accordance with the following waste generation rates:

**Commercial Waste**

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

All waste and recycling containers shall be stored in an approved waste storage area that is large enough to store the required number of bins for the number of units and intended uses of the building.

Bins shall be stored in an area of the building that can be adequately serviced by waste collection vehicles. If the waste storage area is located in a part of the building that cannot be easily accessed by service providers, it will be the responsibility of the Owners Corporation to present the bins for collection to the kerb-side.

Details of the waste storage area must be illustrated on the plans submitted with the application for the Construction Certificate for approval.

**58. Landscape Plan**

A detailed landscape plan, drawn to scale, in colour, by a qualified landscape architect or landscape designer, must be submitted prior to the issue of the Construction Certificate. The plan must include and/or demonstrate that:

- (a) All trees proposed must be of minimum 75 litre pot/bag sized shown and planted at the time of the landscape and planting phase;
- (b) All quantities, pot/bag sizes and mature heights/spread of trees, shrubs and all plant material, must be shown within a legible plant schedule;
- (c) All landscape design changes required as a result of conditions of this consent have been implemented on plan;

- (d) A notation is included on the plan to the effect that all trees, shrubs and groundcovers must be contract grown early within the build phase, by a reputable and licenced nursery grower to ensure Genus, Species, quantities and pot/bag sizes are guaranteed at the time of the installation at landscape phase. The Landscape Architect must provide receipt evidence to the Principal Certifying Authority, early within the build phase to ensure compliance;
- (e) All on-podium garden bed soils must be hand consolidated (tamped down) at every 200mm level/increment to ensure air pockets have been removed and to ensure sinking of soils are minimised over time;
- (f) Location of existing and proposed structures, services and existing trees;
- (g) Details of earthworks including mounding and retaining walls and planter boxes;
- (h) Location of proposed plants and a plant schedule showing the plant symbol, botanical name/ common name; quantity; pot size/; and mature height x width;
- (i) Details of planting procedure and maintenance period for a minimum of twelve (12) months;
- (j) Landscape specifications;
- (k) Details of drainage and fully automated watering systems to Australian Standards;
- (l) Details of garden edging and turf; and
- (m) Any required fencing, retaining walls and other structures not shown on other approved architectural and engineering plans.

**59. Tree Removal/Pruning prohibited**

This consent does not approve the removal or pruning (branches or roots) of any trees on Council's public footway, public reserves or on neighbouring properties, without Council's consent, except where shown for removal on the approved plans in condition 1.

**60. Compliance with submitted Arborist Report**

The recommendations outlined in the Arborist's Report titled Arboricultural Impact Assessment prepared by Sturt Noble Arboriculture dated 04/12/23 must be implemented throughout the relevant stages of Site set up, demolition, excavation and construction. Details of tree protection measures and a Site-specific Tree Protection Plan, must be provided, detailed and lodged with the Construction Certificate application for approval and shall be in accordance with Sections 4 and 5 - *Australian Standard AS 4970-2009: Protection of trees on development sites*.

**61. Tree Protection and Retention**

The following trees shall be retained and protected:

Tree No & Species	Location	Tree Protection Measures
T20, 21, 22, 23, 26, 27, 28, 29, 34, 35 & 37 (11x)–	Councils' street verge	Trunk and branch padding as
<i>Platanus X hybrida</i>	fronting Gloucester	per AS4970 – Section 4.5.2
T38 – <i>Cupressus sempervirens</i>	15 Gloucester Rd, boundary fence	Tree protection fencing, 4m out from trunk, within site.

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

**62. Tree Protection Measures**

- (a) All trees to be retained shall be protected and maintained prior to any works, during demolition, excavation and construction of the site.
- (b) The tree protection measures must be undertaken in accordance with Sections 4 and 5, AS4970 -2009 Protection of trees on development sites.
- (c) 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) and who is a current practicing and financial member of an Australian Arboricultural Association or Affiliation.
- (d) The TPZ ground environment for Tree 38 upon the adjacent site, must not be altered, changed or lowered. This is to ensure the ongoing viability of Tree 38.
- (e) The AQF 5 Arborist must be present on-site during the stages of Demolition, excavations and construction, when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone and to oversee and implement the tree protection measures as required.
- (f) Tree protection padding to trunk and branching, must be in accordance with AS4970, Section 4.5.2, to all Councils Street trees, fronting Gloucester St. Street hoarding and overhead infrastructure, for pedestrian walkway safety, must not conflict with any tree's root system or canopy, and installation must be guided by the AQF 5 Project Arborist.
- (g) No services shall be installed within the TPZ of the trees unless approved by Council. This tree protection padding, shall be kept in place during excavations, demolition, construction and also have a sign displaying 'Tree Protection Zone' attached to the padding and must also include the name and contact details of the Project Arborist.
- (h) Specific Hold Points must be implemented, prior, during and after all works have been completed and in accordance with the below;

Hold Points	Action Required by AQF Level 5 Project Arborist
a) Site set up	Site meeting with builder to discuss and confirm understanding and installation of tree protection measures required.
b) Prior to commencement of demolition, excavation and construction works.	Supervise and certify installation of tree protection measures. Tree protection measures are to be installed as per Section 4 in its entirety, of the approved Arboricultural Impact Assessment Report and an approved Site Specific Tree Protection Plan.
37 Works within the TPZ areas of trees to be retained. - Pruning required to Councils Street trees	Supervise, direct and photograph all approved works and pruning within the TPZ of trees to be retained.
38 Once per month during demolition, excavations, construction	Inspect, photograph and report on tree health and condition, maintenance of tree protection measures and remedial tree works as required.
39 Prior to issue of Occupation Certificate	Final inspection of trees to be retained and provision of a follow up report with photographs(dated), detailing activities during demolition, excavation and construction including any damage to the trees and any remedial work required to ensure the ongoing health and structural stability of Councils street trees. Any recommendations for remedial work will be required to be approved by Council's Tree Compliance Officer and actioned prior to the issue of an Occupation Certificate for the development.

**63. Excavation works near tree to be retained**

- (a) Excavations within the TPZ of Councils street trees shall be supervised by the Project Arborist to ensure that the root system and canopies, will not adversely be affected.
- (b) Where the Tree Protection Zone (TPZ) of trees on Councils street verge 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 shall be submitted to Council prior to any further demolition or construction works taking place.

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

**64. Tree pruning**

Approval is given for the following works to be undertaken to trees on the site:

Tree No & Species	Location	Pruning required
T20, 21, 22, 23, 26, 27, 28, 29, 34, 35 & 37 (11x)– <i>Platanus X hybrida</i>	Councils' street verge fronting Gloucester	Pruning to only minor order branching, West Aspect only.
Any pruning required, must be guided by the AQF 5 Project Arborist and in accordance with AS4373 – 2007, <i>Pruning of amenity trees</i> , Section 7, Clause 7.2.4.		

All pruning must be undertaken by a qualified Arborist in accordance with AS4373 2007 Pruning of Amenity Trees and Amenity Tree Industry, Code of Practice (SafeWork NSW August 1998).

**65. Tree Removal & Replacement**

All trees within the allotment boundaries of the subject development site are permitted to be removed. All street trees and trees within adjoining allotments are to be protected as part of this process in accordance with the conditions of this consent.

**66. General Tree Removal Requirements**

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).

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.

**67. Allocation of street addresses**

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







Page 49 of 76

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

**This Development Consent does not give approval to undertake works on public infrastructure.**

(a) Stormwater and ancillary works in the road reserve. This includes new pits/pipes and associated connections to Council's drainage systems.

The Stormwater Drainage Application approval must be obtained and evidence of the approval provided to the Certifying Authority prior to the issue of the Construction Certificate.

Page 50 of 76

**PRIOR TO THE COMMENCEMENT OF WORK (INCLUDING DEMOLITION & EXCAVATION)****69. Contaminated Land - Prior to Undertaking Remediation Works**

Written notice must be submitted to Council's Environmental Health Officer 30 days prior to the commencement of remediation works, in accordance with the State Environmental Planning Policy (Resilience and Hazards) 2021.

**70. Contaminated Land – Prior to Commencement of any Work**

Prior to the commencement of any work (including demolition and excavation), the applicant must engage an appropriately qualified Land Contamination Consultant (certified under the consultant certification schemes recognised by the NSW EPA), to supervise and manage on-site works and remediation in accordance with the:

- (a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites',
- (b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997,
- (c) State Environmental Planning Policy (Resilience and Hazards) 2021, and
- (d) The Remedial Action Plan as referenced in this consent.

Evidence of the engagement must be submitted to the Certifying Authority. If Council is not the Certifying Authority, a copy is to be provided to Council.

**71. Contaminated Land – Dewatering of Site – Water Access Licence**

Prior to the dewatering of groundwater on the site, an appropriate Water Access Licence, from the Water NSW is to be obtained with evidence of this to be provided to the Certifying Authority.

Dewatering carried out on site must comply with the:

- (a) *Protection of the Environment Operations Act 1997 (NSW)* (as amended) and
- (b) *Protection of the Environment Operations (Clean Air) Regulation 2010 (NSW)* (as amended).

**72. Demolition & Asbestos**

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



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

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

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

### 73. **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.

### 74. **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.

### 75. **Dial before you dig**

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

**76. Dilapidation Report on Public Land**

Prior to the commencement of works (including demolition and excavation), a dilapidation report must be prepared for the Council infrastructure adjoining the development site, including:

- (a) All footpaths, roadway, vegetation, infrastructure etc within Forest Road and Gloucester Road Hurstville.
- (b) The report must include the following:
- (c) Photographs showing the existing condition of the road pavement fronting the site,
- (d) Photographs showing the existing condition of the kerb and gutter fronting the site,
- (e) Photographs showing the existing condition of the footpath pavement fronting the site,
- (f) Photographs showing the existing condition of any retaining walls within the footway or road, and
- (g) The full name and signature of the structural engineer.

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

**77. 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.

#### **78. Utility Arrangements**

Arrangements are to be made with utility authorities in respect to the services supplied by those authorities to the development. The cost associated with the provision or adjustment of services within the road and footway areas is to be at the applicants expense.

#### **79. Site Audit Report and Site Audit Statement**

Prior to the commencement of any work, other than demolition or excavation in association with the remediation of the site, a Site Audit Report and Site Audit Statement are to be submitted to Council. These documents must clearly state that the site is suitable for the proposed use.

**Note:** The Applicant must comply with clauses 17 'Guidelines and notices: all remediation work' and clause 18 'Notice of completion of remediation work' under State Environmental Planning Policy (Resilience and Hazards) 2021

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

#### **80. 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.

### **DURING CONSTRUCTION**

#### **81. Access to footpaths and public transport**

At all times during demolition and construction access to all footpaths surrounding the development and to the bus stops around the perimeter of the development are to be available at all times.

**82. 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 that is the subject of this consent to Council's street drainage system.

**83. Utility Services**

The applicant shall undertake and bear all costs associated with the liaison, approval and relocation of any utility services. All correspondence and approvals between the Applicant and utility authorities shall be provided to the Council in conjunction with engineering documentation for the stormwater drainage works.

**84. Drainage Works**

Construction inspections shall be required by Council's Asset Engineer for the Council stormwater drainage works at the following hold points:

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

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

**85. Contaminated Land – Unexpected Contaminants Found During Demolition or Construction**

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

All works must cease and a qualified Land Contamination Consultant (certified under the consultant certification schemes recognised by the NSW EPA), must be engaged to assess and provide a Remedial Action Plan on the management of the contamination in accordance with any relevant NSW EPA adopted guidelines.

Works on site must not recommence until such time as the contaminants are managed in accordance with:

- (a) the Remedial Action Plan, and
- (b) a Validation Report and or Environmental Management Plan is obtained, and
- (c) both Remedial Action Plan and Validation Report are provided to the Certifying Authority. If the Council is not the Certifying Authority, then a copy of the Remedial Action Plan and the Validation Report is to be provided to Council.

**86. Contaminated Land - Remediation Works**

All remediation work must be carried out in accordance with:

- (a) State Environmental Planning Policy (Resilience and Hazards) 2021.
- (b) Guidelines made or approved by the NSW EPA including the:
  - (i) National Environment Protection (Assessment of Site Contamination) Measure 1999 (April 2013) (ASC NEPM) (as amended),
  - (ii) Guidelines for consultants reporting on Contaminated Sites, and
  - (iii) Contaminated Land Management - Guidelines for the NSW Site Auditor Scheme.
- (c) The approved Remediation Action Plan referenced in this consent

**87. Dewatering – Water Quality Requirements**

Prior to the discharge of any water from the site into Council's stormwater drainage system (through the process of dewatering), a report is to be provided to the satisfaction of the Council's Environmental Health Officer who must provide written approval to the Certifying Authority prior to works commencing.

The report shall include:

- (a) Testing results from a NATA accredited laboratory that the water discharged meets all relevant default guideline values (DGVs) under the Australian & New Zealand Guidelines (ANZG) for Fresh & Marine Water Quality.
- (b) Certification from a suitably qualified person indicating the water meets the above guidelines and is acceptable to be released into Council's stormwater system.
- (c) Where the water does not meet the above guidelines, details of treatment measures to ensure that the water is suitable for discharge to the Council's stormwater must be provided in the report and must be implemented during dewatering procedures.

**88. Site Maintenance**

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

- (a) There must be no burning of any material.
- (b) All putrescible waste must be removed daily.
- (c) All grass and vegetation must be maintained so the grass and vegetation (excluding trees) does not exceed a height of 100 mm above ground level.



- (d) Any accumulated or ponded water must be removed within 5 days (weather permits). The removal of any water must comply with the Protection of the Environment Operations Act 1997 (NSW) so as to not cause a pollution incident.
- (e) Fencing must be provided and installed within the boundary of the premises. Fencing must be maintained so to eliminate access to the public.
- (f) All Activity associated with the development including storage or depositing of any goods or maintenance of any machinery and equipment must be conducted within the premises.

**89. 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.

**90. 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 or otherwise enclosing public road reserve; (refer: work zone application);
- (b) Placing or storing waste containers or skip bins; (refer Application To Place Waste Skip Bin On Roadway)
- (c) Erecting a structure or carrying out work (refer: Temporary Structures Application, Roads Act Application)
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like; (refer: Road Lane and Footpath Closure Application)
- (e) Pumping concrete from a public road; (refer Road Lane and Footpath Closure Application)
- (f) Pumping water from the site into the public road; (refer: Roads Act application)
- (g) Constructing a vehicular crossing or footpath; (refer: Application for Driveway Crossing & Associated Works)
- (h) Establishing a "works zone"; (refer Works Zone Application)
- (i) Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of utility connections to stormwater kerb outlet connection); (refer: Road Opening Permit Application)

- (j) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways. (refer: Temporary Structures Application).

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

**91. 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 deepsectioned 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.

**92. 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.

**93. Road Opening Permit**

A Road Opening Permit must be obtained from Council for every opening of a public road reserve to access services including sewer, water mains, gas mains, connecting of stormwater to the kerb and telecommunication. This is for any work that involves excavation through or within a public road, kerb and gutter, and or the public footway between the road and the property boundary. The permit is to be lodged prior to the commencement of works. Additional approval is required from Roads and Maritime Services for works on a State Road.

**94. 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.

**95. Arborist Site visits**

Once a month, the AQF 5 Project Arborist and in accordance with the Hold Points table within this Consent at Condition 63, must, inspect, photograph (dated) and report on tree health, condition, maintenance of tree protection measures and remedial tree works as required, and form part of the final Arboricultural Report required, prior to obtaining an OC.

**96. Excavation works near trees to be retained**

Excavations within the TPZ of Council's street trees shall be supervised by the Project Arborist to ensure that the root system and canopies, 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.

**97. 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.

**98. Public Utility and Telecommunication Assets**

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

**PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE****99. Contaminated Land – Site Validation Report**

A Site Validation Report, prepared by a Contaminated Land Consultant (certified under the consultant certification schemes recognised by the NSW EPA), in accordance with the State Environmental Planning Policy (Resilience and Hazards) 2021, must be submitted to the satisfaction of the Certifying Authority prior to issuing the Construction Certificate. If Council is not the Certifying Authority, a copy of the Validation Report is to be submitted to the Council.

The Site Validation Report must include:

(a) A notice of completion of remediation works, (b)

Details of site management requirements (if any), and

(c) A clear statement on the suitability of the proposed site.

**100. Contaminated Land – Site Validation Report (for contaminants found during demolition or construction)**

Where any contaminants are found during demolition or construction that requires the management of contamination, a Site Validation Report prepared by a certified Contaminated Land Consultant in accordance with the State Environmental Planning Policy (Resilience and Hazards) 2021, must be submitted to the satisfaction of the Certifying Authority. If the Council is not the Certifying Authority, a copy of the Site Validation Report must be provided to the Council prior to the issue of any Occupation Certificate.

**101. Acoustic Certification**

Prior to the issue of any Occupation Certificate, or use of the premises, a report prepared by a suitably qualified acoustic consultant or engineer must be submitted to the Certifying Authority, certifying that the construction has incorporated the recommendations in the Acoustic Report as referenced in Condition 1 of this consent.

**102. 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.

**103. 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.

**104. Completion of Landscape Works**

All landscape works must be completed before the issue of the Final Occupation Certificate.

All landscape works shall be carried out and completed, in accordance with the approved landscape plans at Condition 1, subject to the following:

- (a) The applicant must have engaged a licensed and reputable nursery grower early within the build phase and ordered all trees and plant material early, to ensure that all tree and plant material, pot/bag sizes and quantities are guaranteed at the time of the landscape and planting phase.
- (b) The Engaged Landscape Architect must sign off to the PCA, that all plant material has been ordered in accordance with Condition 105(a) above.

- (c) All trees proposed upon the approved landscape plan shall comply with AS 2303 – 2018, Tree Stock for Landscape use and NATSPEC Specifying Trees: a guide to assessment of tree quality (2003).
- (d) A certificate of compliance for the planting of all trees and shrubs, quantities and pot/bag sizes, proposed for the site must be prepared by a qualified AQF 5 Horticulturist, AQF 5 Landscape Designer or Landscape Architect and forwarded to the PCA for approval prior to the issue of an occupation certificate.
- (e) The Engaged Landscape Architect must sign off to the PCA that the landscaping has been completed in accordance with the approved Landscape Plans and this Consent.

**105. 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 for each of the properties assessed in accordance with condition 28. This report is to ascertain whether the construction works associated with the subject development created any structural damage to the adjoining premises.

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

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

**106. Allocation of car parking spaces**

The minimum Car parking associated with the development is to be allocated as follows:

- (a) Residential dwellings: 334
- (b) Residential visitors: 48
- (c) Retail: 42 Car Share: 3
- (d) Commercial: 25
- (e) Car wash bay: 1
- (f) 20 Commercial / Retail Bicycle Spaces; and
- (g) 117 Residential Bicycle Spaces

**107. 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.

**108. Restriction to User and Positive Covenant for On-Site Detention Facility**

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

**Restrictions on Use of Land**

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

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

**109. 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.*

#### 110. **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 (such as OSD tank, Rainwater Tank and Water Quality Devices). 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.

#### 111. **Works as Executed and Certification of Stormwater works**

Prior to the issue of an Occupation Certificate, the CA 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 CA 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 CA.

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); and
- (g) Details of any pumping systems installed (including wet well volumes) (if applicable).

**112. Section 73 Compliance Certificate**

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

**113. Requirements prior to the issue of the Occupation Certificate - Stormwater and Onsite Detention Works**

The following shall be completed and or submitted to the CA 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 including a certificate from consulting stormwater drainage engineer submitted to Council prior to the issue of the Occupation Certificate.
- (b) Work as Executed Plans jointly prepared and duly signed by a Chartered Consulting Stormwater Drainage Engineer and Registered Surveyor when all the site engineering works are complete shall be submitted to the PCA and the Council (for Council's final approval of WAE plans) prior to the issue of the Occupation Certificate.

**114. Vehicular crossing & Frontage work**

The following road frontage works shall be constructed in accordance with the specifications issued under the 'Application for Driveway Crossing and Associated Works on Council Road Reserve' approval issued by Council's Assets and Infrastructure Division.

- (a) New footpath paving consisting of segmental paving to be constructed the full frontages of the site, paving extents to be included in the public domain plans and are to be approved by Council's assets and infrastructure department prior to the issue of the construction certificate. Paving to be consistent with Council's Public Domain Streetscape Specification document.
- (b) Construct the driveway 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 Driveway Crossings and
- (e) A private contractor shall carry out the above work, at the expense of the applicant and in accordance with Council's Specification for Driveway Crossings and Associated Works.

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

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

Council's Assets and Infrastructure Section must advise in writing that the works have been completed to their satisfaction prior to the issue of the Occupation Certificate.

Note: The damage deposit paid to Council will not be released until the works have been completed to Council's satisfaction.

#### 116. **Traffic Control Devices**

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

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

**117. Post Construction Dilapidation Report on Public Land**

Upon completion of works, a follow up dilapidation report must be prepared for the items of Council infrastructure adjoining the development site:

- (a) All footpaths, roadway, vegetation, infrastructure etc within Forest Road and Gloucester Road Hurstville.

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

- (b) Photographs showing the condition of the road pavement fronting the site
- (c) Photographs showing the condition of the kerb and gutter fronting the site
- (d) Photographs showing the condition of the footway including footpath pavement fronting the site.

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

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

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

**118. Stormwater drainage works – Works As Executed – Underground Tank**

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 WorksAs-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) and the structural certification from qualified consulting structural engineer involved the design of OSD tank structures;
- (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.

- (f) The Work-As-Executed plans are prepared on the copies of the approved drainage plans issued with the Construction Certificate and variations are marked in red ink;
- (g) The Work-As-Executed plans have been jointly prepared and duly signed by registered surveyor and consulting OSD design engineer certifying the accuracy of dimensions, invert levels, surface levels, storage volume etc
- (h) 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 Principal Certifier.

Council must be advised in writing that they are satisfied with the Works-As-Executed plans (with copies of plans & certifications to Council for record) prior to the issue of an Occupation Certificate.

**119. Fire Safety Certificate before Occupation or Use**

In accordance with Clause 83 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, on completion of building works and prior to the issue of an Occupation Certificate, the owner must cause the issue of a Final Fire Safety Certificate in accordance with Clause 86 of the aforesaid Regulation. The Fire Safety Certificate must be in the form and contain the regulated information to the effect of Clause 84 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation, 2021. In addition, in relation to each essential fire or other safety measure implemented in the building or on the land on which the building is situated, such a Certificate is to state:

A copy of the certificate is to be given by the applicant to the Commissioner of Fire & Rescue NSW in accordance with Clause 85 of this Regulation and a further copy is to be displayed in a frame and fixed to a wall inside the building's main entrance.

**120. Slip Resistance**

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

**121. Maximum number of seating**

A sign must be displayed in a prominent position in the building stating that the maximum number of seating for persons that are permitted in the commercial and common areas of the building inclusive of outdoor seating areas shall not exceed the number of persons set out in the Part D1.13 Building code of Australia.

**122. Acoustic Certification**

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

**123. Acoustic Compliance**

Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the construction has incorporated the recommendations in the DA Acoustic Report titled DA Acoustic Assessment prepared by Acoustic Logic and dated 22 July 2021.

**124. 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.

**125. Noise from roof top mechanical plant and equipment**

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

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

**126. 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)

*AS/NZS 3666.1:2011 Air-handling and water systems of buildings -Microbial control Design, installation and commissioning.*

**127. Electricity Supply**

Evidence shall be provided demonstrating the development has been connected to the Ausgrid network.

**128. Subdivision Approval**

This Consent does not grant approval for any subdivision of the Site. A separate approval is required for subdivision.

**OPERATIONAL CONDITIONS (ON-GOING)**

**129. 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.

- (a) If any trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting, then they must be replaced with the same species and pot/bag size.
- (b) If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size.
- (c) Mature trees shall be inspected for health and structural integrity by an AQF Level 5 Arborist, 12-month post completion of works. A certificate of compliance and/or report with recommendations for remedial work will be required to be approved by Council's Tree Compliance Officer.

**130. Operation of car share spaces**

The use and operation of the car share spaces must be managed by the owner or contracted by the owner to a car share operator to the satisfaction of Council and achieve the following:

- (a) Three spaces are to be reserved for carshare operation with no charge to the carshare operator to use them.
- (b) These spaces must be available to all members of the carshare scheme 24/7 and should be well-lit with safe pedestrian access
- (c) These spaces must be contracted to an operator (a Carshare Service Provided that has been approved by the Responsible Authority) with evidence of agreement submitted to Council prior to issuing of the construction certificate
- (d) The agreement must ensure appropriate insurance and vehicle maintenance is in place including public liability.
- (e) The carshare operation must be in place within 10 weeks of the issue of the Occupation Certificate.
- (f) The carshare operator must report utilisation of the spaces to Council quarterly.
- (g) Council may audit the operation of at any time, and if breach is discovered, Council may issue a defect notice (or monthly fine until rectified).
- (h) The car share spaces must be accommodated in the titling and management of the development, including covenants, building or strata management statement, by laws and other instruments before the issue of an Occupation Certificate.

**131. No Structures on Street-Facing Roof Plane or Awning**

No solar hot water heater storage tanks, solar panels, ventilators, air conditioning units, satellite dishes and antennae or the like are to be placed on roof planes, parapets or street awnings of the building which are visible from a public street.

**132. 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).

**133. Hours of operation - limitation of roof top communal open space**

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

Monday- Sunday - 7.00am to 11.00pm.

**134. Use of Rooftop open space**

A Plan of Management (POM) for use of rooftop open space must be submitted for approval of Council. The POM must outline the:

- (a) hours of use of the rooftop communal open space shall be restricted from 7.00am until 11.00pm seven days a week.



- (b) provisions for no amplified music to be played.
- (c) Ensure access to all communal open areas (i.e. roof top and ground levels) are available to all residents.
- (d) and identify other measures to ensure that the amenity of persons within the development and in nearby existing and future development is maintained.

The approved POM shall be incorporated into the Owners Corporation by-laws in any future Strata subdivision and a sign in the front entry of the building shall be included to ensure the use of this space is monitored and understood by all occupants.

**135. Acoustic mitigation infrastructure – Maintenance**

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

**136. Final Acoustic Report – Verification of Noise report**

Within three months from the date of issue of an Occupation Certificate, an acoustic assessment must be carried out by an appropriately qualified acoustic consultant, in accordance with the NSW Environment Protection Authority's "Noise Policy for Industry (2017)" and must be 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 approved acoustic report referenced in this consent have been achieved and if not, provide further works required to achieve the required outcome/s.

The rectification works must be completed prior to the use recommencing.

**137. 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.

**138. Residential - Car Wash Systems and Bays– Maintenance**

The car washing systems and car wash bays must be maintained at all times to ensure performance is not diminished and remains compliant with the following:

- (a) All car washing bays are contained within a roofed and bunded. The water from the car wash bay must be graded to a drainage point and connected to the sewer.

(b) *Protection of the Environment Operations Act 1997* (as amended), and

(c) *Protection of the Environment Operations (General) Regulation 2021*.

**139. 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.

**140. 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.

**141. Residential – Domestic Air conditioner**

The air conditioners and associated equipment must be located so that the noise emitted does not exceed 5dB(A) above the background level measured at the closest neighbouring boundary. In the case where this cannot be achieved, a ventilated and sound-proofed enclosure must enclose the air conditioners to achieve the required noise levels.

The air conditioners when used must be operated such that they do not emit noise that can be heard within a habitable room in any other residential premises

(regardless of whether any door or window to that room is open): (a) before 8 am or after 10 pm on any Sunday or public holiday, or

(b) before 7 am or after 10 pm on any other day.

**142. Amenity of the neighbourhood**

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

**143. 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.

**144. Maximum Vehicle Size**



**Medium Rigid Vehicle**

The maximum size of truck using the proposed development shall be limited to Medium Rigid Vehicle as denoted in AS2890.2-2002: Parking Facilities – Off-street commercial vehicle facilities.

**145. Annual Fire Safety Statement**

The owner of the building premises must ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given:

- (a) Within 12 months after the date on which the fire safety certificate was received.
- (b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
- (c) An annual fire safety statement is to be given in or to the effect of Clause 88 of the *Environmental Planning and Assessment (Development and Fire Safety) Regulation 2021*.

A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.

**146. Responsibility of Owners Corporation**

The Owners Corporation shall 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 shall also be responsible for maintaining all equipment, systems, facilities and storage areas used in conjunction with the provision of waste management services in accordance with all applicable regulatory requirements, relevant health and environmental standards, and to the satisfaction of Council.

**Operational requirements under the Environmental Planning & Assessment Act 1979****147. 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.

**148. 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:

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

**149. 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.

**150. 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.

**151. 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*.

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.

**152. 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**

**153. Clause 44 - BASIX Commitments**

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

**154. 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.

**155. 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.

**156. 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*.

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.

**157. 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 OF CONDITIONS**