

ASSESSMENT REPORT

Panel Reference	PPSSSH-41
DA Number	DA2020/0405
LGA	Georges River Council
Proposed Development	<p>Demolition of the existing pool and ancillary structures, remediation of contaminated land, earthworks and associated landscaping works (including building a memorial wall) and use of the land for open space and recreation purposes.</p> <p>The development application is integrated development under section 60 of the Heritage Act 1977.</p>
Street Address	78 Carwar Avenue, Carss Park (Lot 511 in DP 752056, Lot 1 in DP 125981, Lot 376 in DP 1118749 and unreserved Crown land)
Applicant / Owner	SJB Planning / Georges River Council
Date of DA Lodgement	27 October 2020
Total Number of Submissions	126
Recommendation	Approval subject to conditions.
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Pursuant to Schedule 7, clause 3 of the <i>State Environmental Planning Policy (State and Regional Development) 2011</i> (SRD SEPP), the proposal is classified as Regionally significant development as the development is to be carried out by Council, the land is owned by Council and the works have a capital investment value (CIV) of more than \$5 million.
List of all relevant s4.15(1)(a) matters	Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment; State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP); State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55); State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017; State Environmental Planning Policy (Infrastructure) 2007; State Environmental Planning Policy (Coastal Management) 2018; Kogarah Local Environmental Plan 2012; Draft Georges River Local Environmental Plan 2020; Kogarah Development Control Plan 2013; Georges River Development Control Plan 2020 (Interim Policy).

Documents submitted with this report for the Panel's consideration	<p><u>Original DA submission 29 October 2020:</u></p> <p>Survey Plan, Demolition Plan, Tree Removal Plan, Phase 2 Detailed Site Investigation, Remediation Action Plan, Section B Site Audit, Geotechnical Report, Hazardous Materials Assessment Report, Arborist Report, Civil Engineering Drawings, Civil Engineering and Stormwater Management Report, Irrigation Tank Specification, Memorial Wall Concept Design, Landscape Plan, Accessibility Assessment, Heritage Impact Statement, Demolition Management Plan, Waste Management Plan, Traffic and Parking Impact Assessment, Construction Management Plan, Construction Traffic Management Plan, DA Cost Estimate Report, and Owner's Consent.</p> <p><u>RFI Response(s):</u></p> <p>RFI Response Letter, Amended Civil Engineering Drawings, Amended Remediation Action Plan, Groundwater and geotechnical Issues Memo, Tree Financial Offset Proposal, Draft Long Term Environmental Plan, Draft Construction Environmental Management Plan, Site Auditor Interim Advice, Traffic Memo, Updated Arborist Report and Updated Tree Management Plan.</p>
Clause 4.6 requests	Not applicable.
Summary of key submissions	<ul style="list-style-type: none"> - Cultural / social significance lost for community from closure of Carss Park Pool - Timing for demolition of removing the pool as no new aquatic centre has been planned for nor funding secured - Loss of historical significance as a War Memorial and inadequate heritage interpretation response - General concerns around contamination, demolition and remediation process - Concern about costs and suitability of the proposal
Report prepared by	Urbis Pty Ltd on behalf of Georges River Council
Report date	12 May 2021

EXECUTIVE SUMMARY

Proposal

1. The development application (DA2020/0405) seeks approval for the demolition of the existing pool and associated structures (**the Pool**), remediation of contaminated land, earthworks and associated landscaping works (including building a memorial wall) and use of the site for open space and recreation purposes. The application is integrated development under section 60 of the *Heritage Act 1977*. Specifically, the proposal includes:
 - Demolition of the existing pool complex and all associated structures and ancillary infrastructure (excluding the existing asphalt car park);
 - Removal of trees and vegetation;
 - Remediation of the site;
 - Earthworks to level the site;
 - Installation of a new replacement irrigation tank; and
 - Landscaping for use for open space purposes, including paths, seating, picnic shelters and memorial wall.
2. The proposal will also require temporary closure of the adjacent public car park.

Site and Locality

3. The site is known as the Kogarah War Memorial Pool, also referred to as the Carss Park Pool (**the Pool**). The site is located within the Carss Bush Park precinct (local heritage item I31) towards the south-eastern end of Carwar Avenue, Carss Park, on the western foreshore of Kogarah Bay.
4. The site is known as 78 Carwar Avenue, Carss Park and is legally described as Lot 511 in DP 752056, Lot 1 in DP 125981, Lot 376 in DP 1118749 and unreserved Crown land.
5. The consolidated site is irregular in shape which occupies an area of approximately 1.2ha (including the adjacent car park). The land generally slopes to the north east from RL 7m AHD at the south-western end to RL 2m AHD at the north-eastern end, towards Kogarah Bay.
6. The site is currently occupied by an Olympic sized swimming pool and toddlers pool (central portion), associated pool entrance, administration and change room facilities building, two irrigation water tanks, an asphalt car park (80 spaces), landscape areas and concrete walking paths. The facility was closed on 25 July 2019.
7. The land surrounding the Pool consists of sporting fields and recreation areas, including a new boardwalk recently constructed by Council.
8. The St George Men's shed is situated to the west adjacent to the carpark and the Carss Cottage State heritage item (I32) adjoins the site to the south.
9. To the west of the site is the remainder of the Carss Bush Park and to the east of the site is Kogarah Bay. Residential areas are situated further to the north, west and south-west of the site and Carss Bush Park.

Zoning and Permissibility

10. The site is zoned RE1 public recreation under the provisions of the Kogarah Local Environmental Plan 2012 (**KLEP 2012**). The proposal involves demolition, remediation, earthworks and landscaping works to accommodate the use of the site for passive recreation and open space purposes (“recreation area”) which is a permissible use in the RE1 zone with development consent.

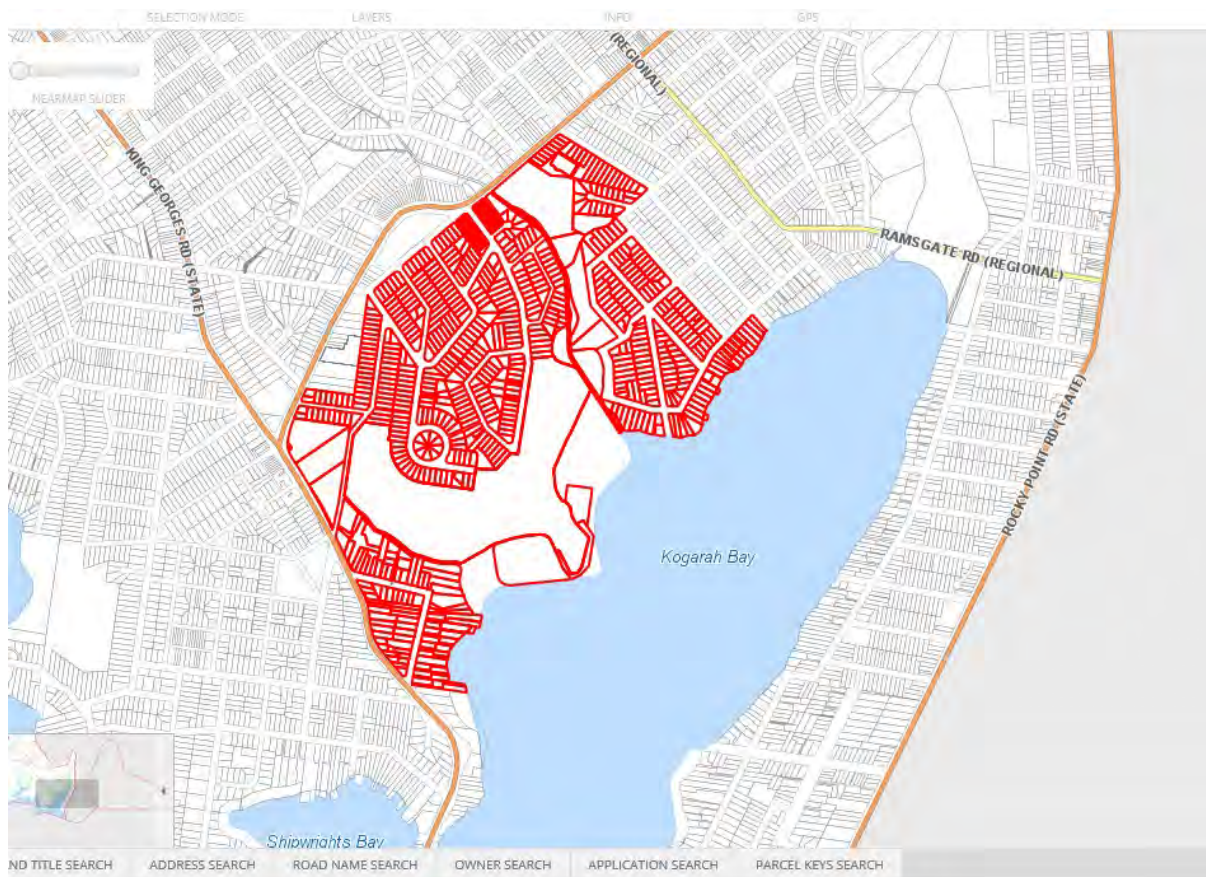
Planning Compliance

11. Whilst all environmental planning instruments and Council policies have been considered with respect to the proposal, the following have been identified as relevant:
 - Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment
 - State Environmental Planning Policy (Infrastructure) 2007;
 - State Environmental Planning Policy No.55 – Remediation of Land;
 - State Environmental Planning Policy (State and Regional Development) 2011;
 - State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;
 - State Environmental Planning Policy (Coastal Management) 2018;
 - Draft Environment SEPP;
 - Draft Remediation of Land SEPP;
 - Kogarah Local Environmental Plan 2012;
 - Draft Georges River Local Environmental Plan 2020;
 - Kogarah Development Control Plan 2013;
12. In addition to the above policies and controls, the proposal has considered the matters raised by the Sydney South Planning Panel in the briefing meeting held 17 December 2020 formed part of a request for further information (**RFI**) issued 3 February 2021.

Submissions

13. The DA was publicly notified to neighbours for a period of 28 days in accordance with the Kogarah Development Control Plan 2013 (**KDCP 2013**). The notification area comprised all residential properties up to Princess Highway situated to the north and west, Dover Park to the south, and Hamer Street and Souter Street to the east/north-east. A total of 126 submissions were received raising concerns which are summarised into key themes as follows:
 - Cultural / social significance lost for community from closure of Carss Park Pool
 - Timing for demolition of removing the pool as no new aquatic centre has been planned nor funding secured
 - Loss of historical significance as a War Memorial and inadequate heritage interpretation response
 - General concerns around contamination, demolition and remediation process
 - Costs and suitability of the proposal

Figure 1 Notification Map (properties notified highlighted in red)



Source: Georges River Council

Reason for Referral to the Regional Planning Panel

14. Pursuant to Schedule 7 of the *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP), the proposal is classified as Regionally significant development and has been referred to the Sydney South Planning Panel for determination as the site is predominantly owned by Georges River Council (Council) and the works have a capital investment value (CIV) greater than \$5 million.

Key Issues

15. A summary of key issues associated with the proposal includes:
 - **Contamination / Remediation** – implementation of an appropriate remediation method to ensure the site can be remediated and made suitable for the intended use as an open space and recreation area.
 - **Heritage / Social** – potential loss of cultural, historical and social significance through demolition of the Carss Park Pool. Consideration of the adjacent Carss Bush Park Cottage (State heritage item).
 - **Environmental** – minimising environmental damage caused by contaminated soil existent at the site and the pool leaking chlorinated water on the site, adjoining land and nearby waterways. In addition, appropriate consideration / management of potential groundwater seepage impacts on

nearby waterways and stormwater infrastructure, as well as potential impacts on soil quality from storms and other climatic impacts.

- **Civil & Geotechnical Engineering** – ensuring the proposed cut and fill is in line with the remediation process and adequate management of differential settlement.
- **Arboriculture & Landscaping** – appropriateness of the proposed recreational open space area and the suitability of the proposed replacement planting method/offset.
- **Construction** – ensuring the demolition and landscaping works are carried out appropriately so as to minimise inconvenience and potential safety impacts for the community.
- **Traffic Management** – appropriate provision of parking to support ongoing uses within the surrounds and mitigation of potential traffic and parking impacts during the works period.

Conclusion

16. The proposal has been assessed having regard to the matters for Consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*, the provisions of the relevant State Environmental Planning Policies, KLEP 2012 and KDCP 2013.
17. Following a detailed assessment, the development application (DA2020/0405) is recommended for approval subject to the conditions of consent listed at the end of this report.

REPORT IN FULL

Description of the Proposal

18. The development application (DA2020/0405) is seeking consent for the demolition of the existing pool and associated structures (**the Pool**), remediation of contaminated land, earthworks and associated landscape works (including building a memorial wall) and use of the land for open space and recreation purposes.
19. A detailed description of the proposal is as follows:
 - Demolition of the existing pool complex and all associated structures and ancillary infrastructure (excluding the existing asphalt car park) (refer **Figure 1**);
 - Removal of 58 trees and vegetation (mix of native and exotic species);
 - Remediation of the site to address land contamination and make the site suitable for the intended use, in accordance with the Remediation Action Plan (**RAP**) prepared by Douglas Partners;
 - Remediation strategy comprises a combination of removal and off-site disposal of all fill soil in the upper 2-3 metres which is excavated to meet the proposed design levels, and management of the remaining fill through implementation of a cap and contain strategy.
 - Earthworks to level the site involving removal (export) of approximately 7,560m³ of fill and importation of 5,123m³ of topsoil and clean fill;
 - Installation of a replacement irrigation tank in the southern portion of the site; and
 - Landscaping of the site to be used for open space purposes, including pedestrian footpaths, seating, picnic shelters and a future memorial wall, as well as replacement tree planting (27 trees) and turfing.
20. The proposed works includes temporary closure of the existing public car park for the duration of the works (approximately 3-4 months) and use of the Carss Bush Park Hill car park area.
21. The proposed demolition and landscaping works are illustrated in the **Figure 1**.
22. The proposal is integrated development under section 60 of the *Heritage Act 1977* and has been assessed by Heritage NSW.
23. The Pool has been permanently closed since July 2019 and the pools have been drained of water due to significant cracking evident at the northern end of the Olympic pool. Council closed and emptied the pools to prevent further detrimental effect to the local waterways.
24. Since the closure of the complex it has become a safety and security concern for Georges River Council (Council) associated with unsanctioned access to the site.
25. During a Council meeting which took place on 25 May 2020, Council resolved to undertake the immediate demolition of the Pool and remediate the site to eliminate the current safety risks to the community.

Demolition Plan

Kogarah War Memorial Pool
Carwar Ave, Carra Park

Key

Buildings to be demolished

LEGEND

1. SITE BOUNDARY	2. EXISTING ROAD	3. EXISTING DRAIN	4. EXISTING POWER LINE
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Description of the Site and Locality

26. The site is known as the Kogarah War Memorial Pool, also referred to as the Carss Park Pool (the Pool). The site is located within the Carss Bush Park precinct towards the south-eastern end of Carwar Avenue, Carss Park, on the western foreshore of Kogarah Bay.
27. The Cass Bush Park precinct has historical and social significance as a regionally important public open space serving a wider community catchment since the mid-1920s and as an early private estate. Carss Bush Park is listed under the KLEP 2012 as an item of Local heritage significance (I31 in KLEP 2012).
28. The site is identified as 78 Carwar Avenue, Carss Park and is legally described as follows:
 - Lot 511 in DP 752056,
 - Lot 1 in DP 125981,
 - Lot 376 in DP 1118749, and
 - Unreserved Crown land.
29. The consolidated site is irregular in shape and occupies an area of approximately 1.2ha (including the existing car park).
30. The land generally slopes to the north east from RL 7m AHD at the south-western end to RL 2m AHD at the north-eastern end towards Kogarah Bay. The site is located on reclaimed or partly reclaimed land.
31. The site is currently occupied by the following:
 - An Olympic sized swimming pool and toddlers pool in the central portion,
 - Pump shed located at the southern end of the site,
 - The associated pool entrance, administration and change room facilities building is situated to the west of the pool,
 - Two irrigation water tanks (approximately 8m in diameter) are at the northern end,
 - An asphalt car parking area (80 spaces) in the western portion, and
 - Landscape areas and concrete walking paths across the remainder of the site.
32. The land surrounding the Pool consists of sporting fields and recreation areas to the north, west and south-west, and a new boardwalk recently constructed by Council on the eastern edge adjacent to the Kogarah Bay foreshore.
33. To the west of the site is the remainder of the Carss Bush Park which comprises recreational facilities including a children's playground, the Carss Park Life Saving Club, St George Men's Shed, outdoor gym equipment, a café, bicycle and walking paths and associated parking areas.

Background to the Proposal

36. Following lodgement of development application (DA2020/0405) on 27 October 2020, a teleconference briefing meeting occurred between Council officers (and relevant representatives) and the Sydney South Planning Panel (**SSPP**) Secretariat and Panel members on 17 December 2020.
37. A number of key issues were discussed and addressed during the briefing meeting. Some matters required additional information to be prepared. These items and others identified following a preliminary assessment of the proposal resulted in the issuing of a request for further information (**RFI**) on 3 February 2021 and subsequent information requests.
38. The letter requested further information pertaining to groundwater and geotechnical issues, remediation matters, clarification of civil engineering and earthworks, environmental management, traffic and parking, tree removal and confirmation of site boundaries. The matters were considered by the applicant and a response to the RFI was submitted on 23 February 2021, as well as subsequent further information responses issued by the applicant.
39. A summary of the issues from the briefing meeting and the RFI, together with the response are outlined in the table below:

Table 1 Response to key RFI and SSPP Briefing Issues

Issue Identified in RFI / SSPP Briefing	Response
Site Contamination & an updated RAP	<p>The applicant submitted a revised RAP prepared by Douglas Partners (dated 19 February 2021). The revised RAP incorporates the erosion and protection measures referenced previously by Douglas Partners in their letter dated 13 October 2020. Updated Civil Engineering Drawings were prepared by Enspire Solutions incorporating the “cap” design specifications.</p> <p>In addition, the applicant re-engaged the Site Auditor who provided interim advice on the updated remediation documentation. The Site Auditor’s interim advice has confirmed the site can be made suitable for the proposed use of the site as a recreation area provided it is remediated in accordance with the updated RAP and subject to the compliance with their proposed conditions. One of the conditions relates to the preparation of a Construction Environmental Management Plan (CEMP) which must include a plan to screen for acid sulfate soils (ASS) during the works and contingency protocol in the event ASS are encountered. The applicant has prepared and submitted a draft CEMP in response to the RFI issued 3 February 2021. Relevant conditions will be</p>

	<p>included which reference this CEMP and the need for it to be updated and approved prior to works commencing.</p> <p>The RAP and associated documentation have been assessed by Council's independent environmental specialist which found the remediation strategy to be appropriate subject to the inclusion of relevant conditions in any consent granted. Overall, the site can be made suitable for the proposed land use if remediated in accordance with the revised RAP.</p>
<p>Management of Groundwater Levels (e.g. climatic impacts, tidal inundation etc) and Potential Seepage</p>	<p>The applicants geotechnical and environmental consultant Douglas Partners submitted additional information in response to the RFI.</p> <p>As requested, the erosion protection measures referenced in Douglas Partners letter (13 October 2020) have now been incorporated into the revised RAP and updated civil engineering design. The Site Auditor and Council's consulting environmental specialist have confirmed their satisfaction of the erosion protection measures.</p> <p>The applicant has confirmed groundwater levels at the site can be influenced by seasonal weather events (such as high precipitation), however, the resulting increase is only likely to be periodic. Potential impacts from tidal inundations associated with climate change and sea level rise are addressed by both the remediation approach through the installation of a compacted cap and surface covering (e.g. turf) and the erosion protection measures, whilst providing a balance of the earthworks to not adversely impact the health of existing trees that are to be retained on and adjacent to the site.</p> <p>With regards to groundwater seepage into the existing pool area, this can be managed, if encountered during works, through the implementation of site management practices including:</p> <ul style="list-style-type: none"> - Undertaking works in this area during low tide periods and not after rain events; - Pumping any ponding water to a holding tank for appropriate disposal; and - Use of geofabric and a well graded granular fill for backfilling any water softened fill (if encountered) at the base of the pool. <p>Overall, the issue of groundwater seepage into Kogarah Bay has been addressed. Any seepage that would occur would be via the groundwater table. Douglas Partners</p>

	<p>and the independent reviewer have confirmed that this would not change the existing seepage processes, albeit at a potentially higher RL AHD in the future (associated with potential sea level rise).</p> <p>The additional information was reviewed by Council's independent environmental specialist who confirmed the applicant had adequately responded to additional information requested and no further amendments to the design was required.</p>
Management of Differential Settlement	<p>The applicant has provided clarification on the potential differential settlement (upper bound) estimations. It is expected that the estimated differential settlements will be acceptable for the intended use of the site as a recreational open space given that this use is unlikely to be settlement sensitive.</p> <p>As such, the ground treatment methodology in the geotechnical investigation report prepared by Douglas Partners is considered to be an appropriate level of control for the intended use of the site.</p> <p>The additional information was reviewed by Council's independent environmental specialist who confirmed satisfaction with the additional information provided.</p>
Arboriculture (location of irrigation tank & tree removal / replacement)	<p><u>Irrigation Tank Location</u> Following the issue of the RFI and the meeting which took place with the applicant, Council and Council's consulting arborist on 16 February 2021, the applicant has relocated the irrigation pipework to sit outside the TPZ for Tree No. 32 but has maintained the location of the irrigation tank.</p> <p>The updated pipe work design has been incorporated into the amended Civil Engineering Plans prepared by Enspire Solutions. Council's consulting arborist has confirmed satisfaction with maintaining the current location of the irrigation tank noting that it enables retention of the trees within the surrounds and is located where the two existing brick storage sheds are located (which are to be removed).</p> <p><u>Tree Removal & Replacement Planting</u> Fifty eight trees are proposed to be removed, 39 trees are to be retained and 27 trees are proposed to be planted as part of the site landscaping works. In accordance with Council's Tree Management Policy, a replacement planting ratio of 2:1 applies. Noting the 27 trees proposed to be planted, there are 89 trees that need to be accounted for.</p>

	<p>The applicant proposes to pay an offset fee (or bond), for the remaining 89 trees, which would equate to a fee of \$430 per tree or \$38,270 (each being a 45 litre Australian native). The offset fee would be held by Council's DA Assessment Department to ensure the planting of 89 suitable replacement trees across the site and within the wider Carss Bush Park. This is proposed in lieu of planting the 89 trees only on the site which would diminish amenity for future site users and obstruct view corridors to Kogarah Bay, and compromise the primary purpose of the proposal which is to remove contaminated soil and remediate the site for open space recreational purposes.</p> <p>Council's consulting arborist has confirmed satisfaction with the proposed offset bond. It is understood that a new masterplan for Carss Bush Park is still being prepared and will include a new tree planting plan. Given the timeframe for completion of the masterplan is currently unknown, it is considered premature and not beneficial to impose the planting of 89 replacement trees on the site until such a time the masterplan is finalised. The arborist considers the proposed planting of 27 trees to be suitable in the context of the site as it provides amenity for future users and allows a large open space grassed space for the community to utilise.</p> <p>Further discussion is provided in the '<i>Impacts</i>' section of this report.</p>
<p>Traffic and Parking (particularly during temporary closure of existing carpark during proposed works)</p>	<p>The applicant has responded to the traffic related issues raised in the RFI letter.</p> <p>Council's independent traffic engineer has undertaken a peer review of the application (including additional information submitted) and determined that the proposal is not anticipated to have an adverse traffic impact on or significantly change existing parking conditions within the area following the completion of the works.</p> <p>The car parking required during the demolition and construction phase, when the existing car park is temporarily closed, can be adequately catered for on the weekdays and weekends. Parking can be accommodated through the opening of the Carss Bush Park Hill parking area during weekdays and the opening of the temporary car park located on the northern side of Carlton Crescent during weekends and public holidays.</p>

	<p>The use of the Carss Bush Park Hill parking area for overflow parking will need to be managed through the preparation of a plan of management (PoM) and implementation of a temporary signal control system during operating hours of the car park to manage and mitigate potential vehicle conflicts. This will ensure safe vehicle movement to and from the car park.</p>
Heritage Impacts & Social Value / Community Amenity Considerations	<p>A number of public submissions were received in relation to the perceived loss of social value of the pool to the community following its removal. The SSPP identified the need to consider appropriate recognition of the social significance of the pool and to address potential impacts on Carss Park Cottage Museum.</p> <p>The proposal is considered to provide a positive social outcome given it removes a dilapidated, unusable structure and replaces it with functional public open space for the community. The impact on the social significance of the pool complex is discussed further throughout this report in both the '<i>impacts</i>' and '<i>submissions</i>' sections.</p> <p>The applicant submitted a Heritage Impact Statement which assessed the potential heritage and cultural impacts of the proposed works. It is noted that a Memorial structure has been included as part of the proposed landscaping works.</p> <p>Council's independent Heritage consultant reviewed the application. It was determined that the proposal should be supported, provided the pool's social significance is appropriately interpreted. The proposal has a positive impact on the nearby Carss Park Cottage and surrounds (State heritage item) by allowing improved sight lines to and from. The social value of pool to the community will be further addressed through appropriate conditions of consent requiring the preparation and implementation of a Heritage Interpretation Plan (HIP).</p> <p>The HIP for the Pool is to include details on the history and significance of the pool and the land reclamation. The HIP will be required to include a component installed on the proposed 'memorial wall' and a flat, at-grade component installed in the turf of the open grassed area to reference the pre-1939 shoreline.</p>
Construction Impacts and Management	<p>The applicant submitted both a Demolition and Construction Management Plan as part of the original DA submission, as well as a draft Construction Environmental Management Plan (CEMP) in response to the RFI letter issued.</p>

	<p>The draft CEMP includes details such as the environmental objectives, commitments to environmental policy, environmental management controls, environmental performance monitoring and reporting, roles and responsibilities of all personnel, training and procedures for environmental risk assessments and evaluations.</p> <p>Inputs from Council's various consulting technical specialists have been received which will be incorporated into relevant conditions requiring updates, finalisation and implementation of the Demolition Management Plan and CEMP prior to the issue of any Construction Certificate.</p>
Legal Boundaries and Owner's Consent	The applicant has provided owner's consent for the proposed works within the unreserved Crown Lands.
Update of Park Plan of Management	Council's Manager of Strategic Planning has advised on the status of the Carss Bush Park/Todd Park updated Plan of Management (PoM) and masterplan. The existing PoM and masterplan are still current. The draft PoM and new masterplan have been deferred until such time that Council makes a decision on where the new aquatic centre is to be located.

Integrated Development

40. The proposal is integrated development under section 60 of the *Heritage Act 1977* and requires approval/support from Heritage NSW. The application was referred to Heritage NSW who raised no objection with the proposal as the demolition and remediation work is located beyond the State Heritage Register (SHR) curtilage of the Carss Cottage and Surrounds.

Compliance and Assessment

41. The development site has been assessed having regard to the Matters for Consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. This assessment of Section 4.15 is provided in the remainder of the report.

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

42. Compliance with the relevant SEPPs is summarised in the following table and discussed in further detail below it.

Table 2 Compliance with State Planning Policies

SEPP Title	Complies
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	Yes
State Environmental Planning Policy (State and Regional Development) 2011 (SEPP SRD)	Yes

State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55)	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes
State Environmental Planning Policy (Infrastructure) 2007	Yes
State Environmental Planning Policy (Coastal Management) 2018	Yes

Deemed State Environmental Planning Policy – Georges River Catchment

43. All stormwater from the works and the site can be treated in accordance with Council's Water Management Policy and will satisfy the relevant provisions of the Deemed *State Environmental Planning Policy – Georges River Catchment*. Conditions are proposed to facilitate compliance.
44. The applicant submitted a Civil Engineering and Stormwater Management Report prepared by Ensfire Solutions (update: rev D, dated 26.03.2021).
45. The stormwater strategy involves the reduction of impervious area and the reduction in site runoff by utilising additional overland sheet flow infiltration and discharge over landscaping and turf. This will provide treatment of stormwater such as sediments and nutrients.
46. The stormwater management strategy has been reviewed by Council's Engineering team who have advised no physical drainage works are required for the proposed development and have determined that the strategy is adequate from an engineering point of view.
47. The proposal also includes the remediation of contaminated soil across the site. A cap and contain method will be utilised as part of the remediation plan following removal of 7,560 cubic metres of fill material the site suitable for the intended use as a recreation area and to mitigate potential adverse environmental impacts of contaminated soils. In addition, as part of the remediation strategy, the applicant will manage potential groundwater level changes, groundwater seepage, differential settlement and will appropriately collect and dispose of groundwater during the works phase.
48. Council's consulting environmental specialist has reviewed the proposal, submitted plans, technical inputs and additional information submitted in response to the RFI, concluding that the proposal is acceptable with regards to potential environmental impacts on the surrounding catchment subject to the inclusion of conditions in any consent granted.
49. Overall, the proposal is consistent with the objectives of the Georges River Catchment SEPP as it will maintain and improve water quality and flows of the Georges River and its tributaries, and seeks to protect and enhance the environmental quality of the Catchment for the benefit of all users.

State Environmental Planning Policy (State and Regional Development) 2011

50. Pursuant to Schedule 7, clause 3 of the *State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)*, the proposal is classified as Regionally significant development as the development is to be carried out

by Council, the land is owned by Council and the works have a capital investment value (CIV) of more than \$5 million.

51. The Sydney South Planning Panel will be the consent authority determining the application.

State Environmental Planning Policy No 55 - Remediation of Land

52. State Environmental Planning Policy No 55 - Remediation of Land (**SEPP 55**) aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment.
53. Clause 7 of SEPP 55 provides that the consent authority must not consent to the carrying out of development on land unless it has considered whether or not the land is contaminated.
54. Clause 12 of SEPP 55 states that the *consent authority must not refuse development consent for a category 1 remediation work unless the authority is satisfied that there would be a more significant risk of harm to human health or some other aspect of the environment from the carrying out of the work than there would be from the use of the land concerned (in the absence of the work) for any purpose for which it may lawfully be used.*
55. A Geotechnical Investigation, Detailed Site Investigation (**DSI**) and Remediation Action Plan (**RAP**) prepared by Douglas Partners, as well as a Site Auditors Section B Assessment prepared by Envirocene, was submitted with the development application. In addition, following the issuing of the RFI, the applicant provided additional documentation including a revised RAP (dated 19 February 2021), correspondence clarifying groundwater and geotechnical issues and interim advice from the Site Auditor (dated 23 February 2021). These documents identify that the fill material across the site contains various soil contaminants and the site needs to be remediated in order to make it safe for the intended use and remove any ongoing environmental impacts within the site, adjoining land and surrounding waterways.
56. The suite of documents has been reviewed by Council's external environmental soil, water and geotechnical specialist, Earthwise Environmental Consultants (EEC).
57. The environmental specialist has indicated that the field investigations, sampling methodology, analysis of samples (soil, water and gas) and the chosen Tier 1 assessment criteria were suitable and generally in accordance with the NSW EPA consultant's guidelines for reports on contaminated sites. The reviewer has determined that the DSI has met its objectives and agrees that the site can be rendered suitable for public use provided remedial action is undertaken.
58. The reviewer agrees that a site-specific asbestos management plan be established, and a long-term environmental plan (**LTEMP**) be created. Furthermore, it is recommended that a (non-statutory) Section A2 Site Audit Statement (**SAS**) be prepared by an accredited NSW EPA Site Auditor

certifying that the site is suitable for the intended use subject to compliance with the LTEMP.

59. The RAP has also been reviewed. The remediation approach/strategy in the RAP (i.e. combination of complete off-site removal/disposal of fill material and cap and contain of remaining fill) has been identified as the most practical and feasible remediation option for the site.
60. Based on the information provided, the reviewer and Site Auditor are satisfied that the site can be made suitable for the proposed use provided it is remediated in accordance with the revised RAP prepared by Douglas Partners (dated 19 February 2021).
61. Overall, the proposed remediation of the site is deemed acceptable subject to the inclusion of appropriate conditions of consent, including the update, finalisation and implementation of a LTEMP and CEMP.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

62. State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.
63. The Vegetation SEPP applies to clearing of:
 - (a) *Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and*
 - (b) *Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP).*
64. Clause 7(1) of the Vegetation SEPP identifies that a person must not clear vegetation in any non-rural area of the State to which Part 3 applies without approval.
65. The objectives of the Vegetation SEPP are to protect the biodiversity values of trees and other vegetation in non-rural areas and preserve the amenity of non-rural areas through the preservation of trees and other vegetation. This policy is applicable pursuant to clause 5(1) of the Vegetation SEPP as the site is within the Georges River Council local government area (LGA).
66. There is a total of 97 trees across the site. The proposal seeks consent for the removal of 58 trees from the site and the retention of 39 trees on the site. The landscaping works involves the replacement planting of 27 trees, including feature canopy trees and perimeter trees, native shrubs, grasses and ground covers.

67. The development application was referred to Council's Consultant Arborist who has reviewed the proposal and also attended the site to understand the location and condition of all trees. In summary, the Arborist supported the proposed tree removal, retention and replacement:

"...the trees captured for retention is a good outcome. The trees for removal are either in poor condition and have a low significance and low ULE (Useful Life Expectancy). The location is also a large factor in the retention and or removal of trees as many are located upon embankments or at the 'toe' of an embankment that needs to be removed due to contamination.

The proposed landscape, although allocation of only twenty-seven (27) trees, provides a workable landscape that the community can enjoy and participate in. The tree planting numbers are a good opportunity to replant the site, to 'fill in' several areas whilst still allowing an open sunny area to enjoy the sunshine, kick a ball and be involved in the locality itself. As mentioned previously the monetary value placed on the remaining 89 trees is a good opportunity to have these trees utilized into the future, when the Masterplan for this site is developed. The monies allocated are to be placed in a tree planting offset fund."

68. As discussed throughout this report, in accordance with Council's Tree Management Policy a 2:1 replanting ratio applies to trees being removed. In the context of this proposal, there are 89 trees that need to be accounted for (based on the 58 being removed and 27 being replanted). A condition is proposed requiring payment of a monetary offset of \$430 per tree (45 litre Australian native) or \$38,270 total which will be held within a tree planting offset fund to be utilised for incorporation into future replanting within the Carss Bush Park reserve. The replanting works are to be completed within five year of the date of any consent issued to the satisfaction of Council's General Manager.
69. On this basis, the proposed tree removal, retention and replacement planting is considered acceptable, subject to the inclusion of conditions in any consent granted addressing the recommendations provided by Council's consulting Arborist.

State Environmental Planning Policy (Infrastructure) 2007

70. The aim of the *State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)* is to facilitate the effective delivery of infrastructure across the State. The Infrastructure SEPP also examines and ensures that the acoustic performance of buildings adjoining the rail corridor or busy arterial roads is acceptable and internal amenity within apartments is reasonable given the impacts of adjoining infrastructure.
71. Development application (DA2020/0405) was also referred to Ausgrid in accordance with clause 45 of the Infrastructure SEPP. No objection to the proposal was raised by Ausgrid and no conditions were recommended. Ausgrid did note some considerations which are outlined later in this report.
72. The provisions and requirements of the Infrastructure SEPP have been addressed and satisfied by the proposal.

State Environmental Planning Policy (Coastal Management) 2018

73. The State Environmental Planning Policy (Coastal Management) 2018 (**Coastal Management SEPP 2018**) aims to manage development in the coastal zone and protect environmental assets of the coast. It also establishes a framework for land use planning to guide decision-making in the coastal zone.
74. Under the Coastal Management SEPP, the site is located within a 'costal environment area' and 'coastal use area'. The site is not within or by a 'coastal wetlands and littoral rainforests area'. Current mapping does not indicate if the site is located within a 'costal vulnerability area'.
75. Clauses 13(1)(a) to (g) and (2)(a) to (c) outline considerations for land within a 'coastal environment area'. The following is noted with regards to clause 13:
- The proposed excavation and remediation works have been appropriately designed to mitigate potential disturbance to groundwater levels and seepage, as well as soil contaminants, to minimise potential impacts on the integrity and resilience of the biophysical, hydrological and ecological environment.
 - The proposed use as recreational public open space and landscaping works improve and capitalise on the coastal environment values without impacting upon natural coastal processes.
 - The proposed demolition and remediation of the site will improve water quality by removing chlorinated water leaks and containing/removing soil contaminants.
 - The proposed tree removal of native and exotic species is required for the remediation works and will be appropriately offset through replacement planting on-site and future planting in the wider Carss Bush Park.
 - The proposal will improve safe access to, and the provision of, passive open space opportunities along the foreshore of Kogarah Bay, including persons with a disability.
 - The site is on reclaimed land and there are no known Aboriginal cultural heritage places.
 - The site is not within a surf zone.
 - The proposal will be managed to avoid adverse impacts and will implement appropriate mitigation measures to minimise potential impacts where required.
76. Clauses 14 (a) and (b) outline considerations for land within a 'coastal use area'. The following is noted with regards to clause 14:
- The proposal will improve safe access to, and the provision of, passive open space opportunities along the foreshore of Kogarah Bay, including for persons with a disability.
 - The proposed use is for the purposes of providing recreational open space which improves views to the foreshore and will not result in any overshadowing or wind funnelling.

- Visual and scenic qualities will be improved through the demolition of the existing structures on-site as well as the proposed site levelling and landscaping works.
- The site is on reclaimed land and there are no known Aboriginal cultural heritage places.
- Cultural and built heritage considerations are discussed further throughout this report.

77. The provisions and requirements of coastal environment and use areas outlined in the Coastal Management SEPP have been addressed satisfactorily.

Draft State Environmental Planning Policies

Draft State Environmental Planning Policy (Environment) 2017

78. The draft State Environmental Planning Policy (Environment) 2017 (**draft Environment SEPP**) was exhibited from 31 October 2017 to 31 January 2018.

79. This draft Environment SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.

- Changes proposed include consolidating the following seven existing SEPPs:
- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 – Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

80. The proposal is not inconsistent with the provisions of this Draft Instrument.

Draft Remediation of Land State Environmental Planning Policy

81. The Department of Planning, Industry and Environment (**DPIE**) has announced a draft Remediation of Land State Environmental Planning Policy (**Draft Remediation of Land SEPP**), which will repeal and replace the current SEPP 55. The objectives seek to establish a State-wide approach and promote remediation of contaminated land to reduce potential risk of harm to human health and/or the environment.

82. The main changes proposed include the expansion of categories of remediation work which require development consent, a greater involvement of principal certifying authorities particularly in relation to remediation works that can be carried out without development consent, more comprehensive guidelines for

Councils and certifiers and the clarification of the information to be included on Section 10.7 Planning Certificates.

83. Whilst the proposed draft Remediation of Land SEPP retains the key operational framework of SEPP 55, it will adopt a more contemporary approach to the management of contaminated land. The proposal remains a category 1 remediation works (works requiring consent).
84. As previously discussed, the development application is supported by a Geotechnical Investigation and DSI, as well as a RAP (dated 19 February 2021) and advice from a Site Auditor. Council's independent environmental consultant has reviewed the suite of documents and determined they are appropriate, indicating the site can be suitably remediated for the intended purpose subject to implementation of the RAP and inclusion of relevant conditions of consent. The remediation of contaminated land will potentially reduce ongoing environmental impacts on adjoining land and surrounding waterways (such as Kogarah Bay) and reduce potential impacts to human health for the benefit of the community.

ENVIRONMENTAL PLANNING INSTRUMENTS

Kogarah Local Environmental Plan 2012

Zoning

85. The subject site is zoned RE1 Public Recreation under the provisions of the *Kogarah Local Environmental Plan 2012 (KLEP 2012)*. Refer to zoning map extract below. The proposed development and use of the site for passive open space is defined as a 'recreation area' which is permissible with consent in the RE1 zone.

Figure 4 Land Use Zoning Map (site outlined in red)



Source: KLEP 2012

86. The objectives of the RE1 Public Recreation zone are as follows:
- To enable land to be used for public open space or recreational purposes.
 - To provide a range of recreational settings and activities and compatible land uses.
 - To protect and enhance the natural environment for recreational purposes.
87. The proposal satisfies the objectives of the RE1 Public Recreation zone as:
- The proposed demolition, remediation and landscaping works will enable the site to be used for passive open space and recreational purposes.
 - The landscaping works will enhance passive open space along the foreshore and will include pedestrian footpath access, seating and picnic shelters, as well as turfing of the site and tree planting. The proposed use is compatible with the open space areas surrounding the site.
 - The works involve removing the Pool complex, removing contaminated fill materials and remediation works to make the site suitable for recreational

purposes. These works and the landscaping provisions will protect and enhance the natural environment.

88. The extent to which the proposal complies with the relevant standards of KELP 2012 is outlined in the table below.

Table 3 KELP 2012 Compliance Table

Clause	Standard	Proposed	Complies
2.2 Zone of Land to which Plan applies	The site is zoned RE1 Public Recreation	The future use of the site is defined as a 'recreation area' which is permissible with consent. Remediation as a category 1 activity is permissible under SEPP 55.	Yes
2.3 Zone Objectives and land use table	Objectives of the Zone	The proposal is consistent with the zone objectives as outlined above.	Yes
2.7 Demolition	Demolition of a building or work may be carried out with consent.	The proposal seeks consent for the demolition of the existing pool complex and all associated structures and ancillary infrastructure (excluding the existing asphalt car park).	Yes, subject to conditions
5.10 – Heritage Conservation	The objectives of this clause are; <i>(i) to conserve the environmental heritage of Kogarah,</i> <i>(ii) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.</i>	The site including the pool complex is located on land that is locally heritage listed, being the Carss Bush Park (I31). The site is also adjacent a State heritage item situated to the south, being the Carss Cottage (I32) and is listed on the State Heritage Register (SHR 00587). External heritage advisor Weir Phillips has reviewed the proposal and raises no concern, subject to the inclusion of conditions in any consent granted in relation to interpreting the pool's social significance to the community and the interpretation of the original shoreline (pre 1939).	Yes, subject to conditions

		Heritage NSW raised no objections with the proposal.	
6.1 Acid Sulphate Soils (ASS)	The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage	<p>The site is located on land classified as Class 2 and Class 5 ASS.</p> <p>The RAP prepared by Douglas Partners indicates the excavation and remediation is not expected to disturb the in-situ ASS material.</p> <p>Even if ASS are disturbed, the environmental consultants independent review outlined they do not expect this to generate any significant quantities of acid.</p> <p>A condition is recommended requiring further testing and treatment of potential ASS should they be discovered in excavated material.</p> <p>A further condition will be included requiring the preparation and implementation of an ASS management plan in the event ASS material is uncovered.</p>	Yes, subject to conditions
6.2 Earthworks	To ensure that earthworks do not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land	<p>The proposed earthworks will involve the removal (export) of approximately 7,560m³ of contaminated fill from the site and the importation of 5,123m³ of topsoil and clean fill onto the site.</p> <p>Council's consulting environmental specialist has reviewed the proposal and the Civil Engineering Plans and Report prepared by Enspire (including the RFI response), and have advised that there is no objection to the proposal subject to the inclusion of standard conditions in relation</p>	Yes, subject to conditions.

		to structural and site management components.	
6.4 Limited Development on foreshore area	To ensure that development in the foreshore area will not impact on natural processes or affect the significance and amenity of the area.	The site and proposed works are not located within the foreshore area or below the foreshore building line as shown on the foreshore building line map. Notwithstanding, the proposed works are intended to improve the natural processes and improve the amenity of the foreshore of Kogarah Bay.	N/A

Draft Georges River Local Environmental Plan 2020

89. In accordance with section 4.15(1)(a)(ii) of the EP&A Act any proposed instrument that is or has been the subject of public consultation is a relevant matter for consideration in the assessment of a development application. 77.
90. The Georges River Local Planning Panel at its meeting dated 26 June 2020 endorsed the Planning Proposal (as amended) for the Draft Georges River Local Environmental Plan 2020 (**draft LEP**) and recommended it be forwarded to DPIE for gazettal in accordance with Section 3.36 of the EP&A Act.
91. It is noted that the draft LEP is not a relevant consideration as a result of proposed operation of Clause *“1.8A Savings provisions relating to development applications”* of the Draft Plan which provides *“If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.”*

DEVELOPMENT CONTROL PLAN(S)

Kogarah Development Control Plan 2013

92. The KDCP 2013 supports the provisions of the KLEP 2012 by providing objectives and development controls to enhance the function, appearance and amenity of development, and to ensure that the Kogarah area is a vibrant community and desirable place to live, work and visit. The following compliance table is an assessment of the proposal against the general controls contained within Part B.

Table 4 KLEP 2012 Compliance Table

KDCP 2013 Compliance Table		
PART B – GENERAL CONTROLS		
Objectives / Control	Proposed	Complies
<i>B1 Heritage Items and Heritage Conservation Areas</i>		
This part of the KDCP requires new development to consider and respect the architectural character of a heritage item and complement and enhance their significance and setting, including the retention of landscape features where they contribute to the heritage significance of the item.	<p>Heritage impacts have been addressed in the Table 3 of this report with regards to clause 5.10 of the KLEP 2012. The applicant has submitted a Heritage Impact Statement (HIS) which assesses the proposal with regards to nearby local and State heritage items, including, Carss Bush Park (I31) and the Carss Cottage (I32).</p> <p>Council's consulting external heritage advisor Weir Phillips has reviewed the proposal and raises no concern with the development, subject to the inclusion of conditions pertaining to heritage interpretation. In addition, Heritage NSW has reviewed the proposal, stating approval from them is not required for the proposed works given there are no associated impacts.</p> <p>Refer to further discussion provided later in this report under the '<i>Impacts</i>' section.</p>	Yes, subject to conditions
<i>B2 Tree Management and Greenweb</i>		
This part of the KDCP seeks to protect existing trees which contribute to the visual amenity and environment. It specifies criteria governing the removal or pruning of trees and requires all works seeking to do so be in accordance with best practice tree management principles.	<p>The applicant has submitted an Arborist Report, Tree Removal Plan and Landscape Plan (outlining replacement planting). The proposal seeks approval to remove a total of 58 trees, retain 39 trees and plant a total of 27 replacement canopy trees and other vegetation.</p> <p>Council's consulting Arborist has reviewed the development application and is satisfied the proposal adheres to the KDCP subject to the inclusion of conditions.</p>	Yes, subject to conditions

	<p>It is noted that the applicant proposes to vary the 2:1 replacement planting ratio in Council's Tree Management Policy (section 4.3) through a combination of some replacement planting on-site, with the remainder likely to occur within the wider Carss Bush Park (via the associated payment of an offset fee / bond).</p> <p>Refer to further discussion provided later in this report in the 'Impacts' section.</p>	
B4 Parking and Traffic		
<p>This part of the KDCP aims to minimise traffic congestion, ensure adequate traffic safety / management and provide appropriate parking for users and visitors.</p>	<p>The applicant has submitted a Traffic and Parking Impact Assessment, and a Construction Traffic Management Plan.</p> <p>Council's consulting Traffic Engineers (McLaren Traffic) have reviewed the development application, supporting reports and provided comments. The application is considered acceptable from a traffic and parking perspective subject to inclusion of the recommended conditions of consent.</p> <p>Refer to further discussion provided later in this report in the 'Impacts' section.</p>	<p>Yes, subject to conditions</p>
<p>There are no specific car parking requirements for "open space" recreational facilities, only rates for squash/tennis courts and entertainment facilities.</p>	<p>Council's consulting traffic engineers have confirmed there is sufficient parking to support the proposed development both during construction and future operation.</p>	<p>Yes</p>
<p>Internal car park layouts, space dimensions, ramp grades, access driveways, internal circulation aisles and service vehicle areas shall be designed in accordance with the requirements set out in AS 2890.1 (2004) and AS 2890.2 (2002), where required.</p>	<p>The proposal does not include the construction of any vehicle parking or hardstand areas as part of the works.</p>	<p>N/A</p>

B5 – Waste Management and Minimisation		
<p>This part of the KDCP requires the submission of a Waste Management Plan (WMP) which outlines how reuse and recycling of material are to be maximised and waste disposal minimised during demolition and construction of development.</p>	<p>A Waste Management Plan (WMP) was prepared by MRA Consulting and submitted with the development application. The WMP was prepared with regard to the KDCP 2012 waste guideline requirements.</p> <p>The proposed demolition and remediation are not expected to result in a quantity of material that will exceed the capacity of existing waste disposal facilities. Primarily, waste will be stored on-site in several skip bins for collection. Demolished and excavated material includes potentially hazardous or contaminated material. This will be managed in accordance with the WMP, RAP and CEMP moving forward.</p> <p>Council's waste team have reviewed the DA and are satisfied that the proposal is suitable from a waste management perspective subject to the inclusion of relevant conditions, particularly those relating to the disposal of contaminated material excavated from the site.</p>	<p>Yes, subject to conditions</p>
B6 – Water Management		
<p>This section of the KDCP requires all developments to consider Council's Water Management Policy</p>	<p>The proposed method of stormwater management is considered consistent with Council's Water Management Policy as indicated by Council's engineering team. Relevant conditions will be included in any consent granted.</p>	<p>Yes</p>
B7 – Environmental Management		
<p>This section of the KDCP primarily seeks the application of ESD principles and reducing the impacts of development on the environment.</p>	<p>The proposed demolition of the pool and remediation of the site will result in an improved environmental outcome. It will improve water quality within Kogarah Bay with the cessation of chlorinated pool water entering the</p>	<p>Yes</p>

	<p>bay through cracks in the pool and contaminated fill material.</p> <p>Council's consulting environmental specialist has reviewed the DA and been engaged throughout the assessment process. They are satisfied the proposal has adequately considered environmental impacts and has been specifically designed to mitigate potentially adverse impacts and achieve a positive environmental outcome.</p>	
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Georges River Development Control Plan 2020 (Interim Policy)

93. Council at its Environment and Planning Committee Meeting of 11 June 2019 resolved to adopt the Georges River Interim Policy DCP.
94. The Interim Policy is a public policy that is to be used as a guide to set a consistent approach for the assessment of residential development within the LGA. It is a supplementary document, meaning that current DCP controls will prevail if they are considered best practice. The Interim Policy has no statutory recognition in the assessment of development applications under the EP&A Act.
95. There are no specific controls referenced in the Interim Policy with regards to public open space recreation areas.

DEVELOPER CONTRIBUTIONS

96. The applicant submitted a request seeking an exemption from a levy under the Georges River Council Section 94A Development Contributions Plan 2017 based on the grounds under section 4.7.2(h) which states "*development applications made for or on behalf of the Council for community infrastructure, such as but not limited to libraries, community facilities, child care facilities, recreational areas and facilities or car parks.*"
97. Council's Senior Development Contributions Planner approved the request stating "*the submission outlines that the development involves the demolition and remediation of contaminated land to enable the opening of this land as public open space, which is sufficient justification to satisfy 4.7.2 (i) in the plan and therefore qualify for an exemption.*"

LOCAL GOVERNMENT ACT 1993

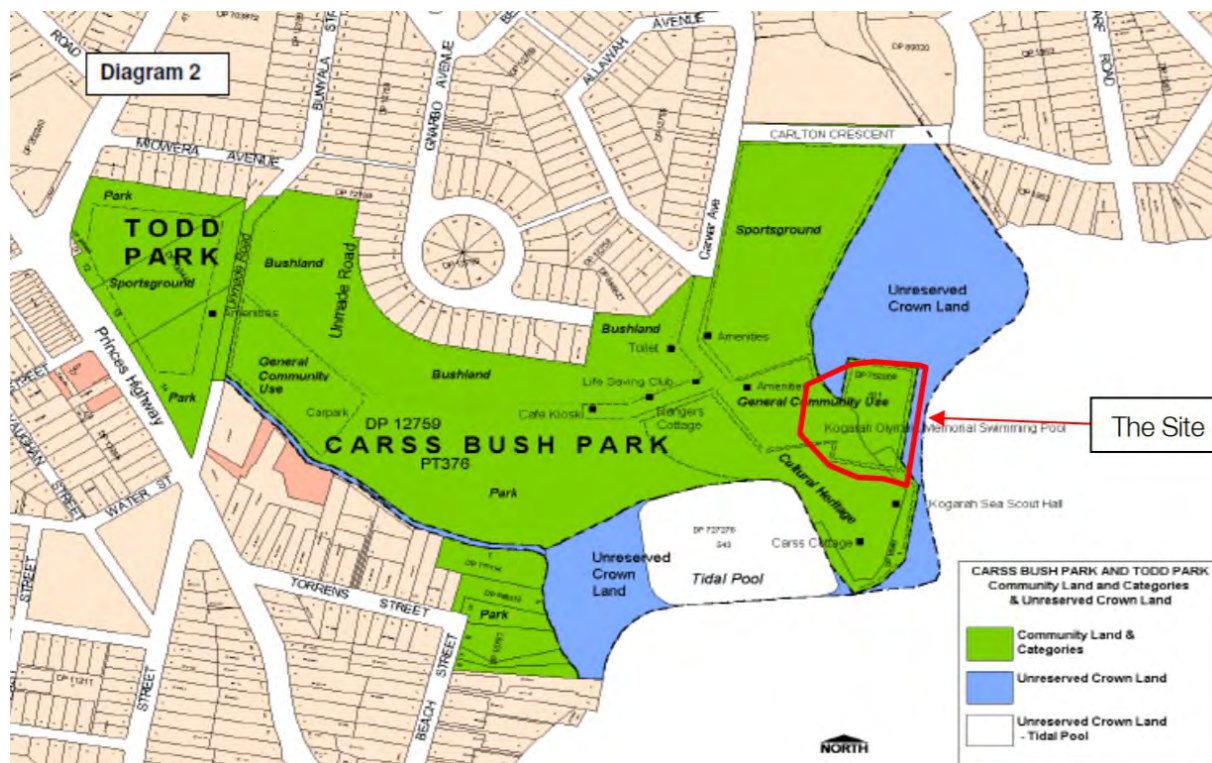
Carss Bush Park and Todd Park – Plan of Management 2004

98. The Carss Bush Park and Todd Park Plan of Management (**PoM**) 2004 was adopted by Council in December 2004. The PoM provides future direction and policy for the planning, management and development of the parks. The site

is located within the Carss Bush Park as illustrated in the figure below and subject to the PoM.

99. Various parts of the PoM are considered relevant to the proposal, including, 'whole of park strategies', 'general community use', 'crown land strategies', 'cultural significance', and 'land assessment'. These are addressed in the following paragraphs.

Figure 5 Carss Bush Park and Todd Park PoM 2004 (Extract) Illustrating Site



Source: Carss Bush Park and Todd Park PoM 2004

Section 3 – Whole of Park Strategies

100. Section 3.3 outlines the 'general management strategies' for the whole of the park (community and Crown Land). The following relevant strategies/objectives are noted:

- *maximise the use of public land for a public benefit in terms of providing appropriate recreational opportunities and experiences,*
- *retain and preserve public open space, improve asset management, avoid duplication of existing facilities and amenities, encourage the maximisation and use of existing assets,*
- *provide a quality standard for park furniture, fixtures, fittings, form, colour, texture and construction materials that aesthetically complements the parkland's environment and its surrounds,*
- *to improve and maintain the quality and amenity of the parkland and its resources,*
- *ensure ease in environmental negotiability to, in and around facilities for aged and persons with a disability,*

- *provide educational information on cultural and heritage resources as well as environmental issues,*
 - *retain the visual amenity of the parkland and its resources,*
 - *comply with occupational health and safety regulations,*
 - *conserve and protect significant cultural and heritage items within the parkland,*
 - *assess the health and safety risk of the site with regard to its proposed use,*
 - *assess if acid sulfate soils are present at the proposed site,*
 - *assess the stability of the site as well as the chemical composition of the landfill and groundwater and the presence of any toxic gases or materials,*
 - *facilitate the migration of wildlife,*
 - *create habitat for native fauna,*
 - *increase food sources for fauna,*
 - *provide green link corridors,*
 - *improve public safety and reduce potential hazardous risk,*
 - *avoid litigation,*
 - *ensure public safety and order,*
 - *assist in protecting public and private property assets.*
 - *manage or eliminate potential hazards and risk within the parkland,*
101. The proposal will provide recreational opportunities along the Kogarah Bay foreshore to maximise the use of public land for the community. The landscaping proposed includes planting of vegetation, turfing of the site, pedestrian footpaths, seating and picnic shelters to embellish the site offerings for the community in conjunction with surrounding open space.
102. The remediation strategy and long term environmental management of the site will mitigate adverse environmental impacts to improve and maintain the quality and amenity of the parkland from now into the future.
103. Overall, the proposal is considered to be generally in accordance with the above objectives associated with the whole of park strategies identified in the PoM.

Section 4 – General Community Use

104. Section 4.2 of the PoM outlines three strategies relevant to the Kogarah War Memorial Olympic Swimming Pool, including:
- *Permit the licensing and or the leasing of Kogarah War Memorial Olympic Swimming Pool as determined by Council.*
 - *Permit the facility to be used for sports, recreational, social activities and functions and for any complementary or ancillary activities as approved by Council.*
 - *Prior to a new lease being issued prepare a geotechnical and dilapidation reports for the Kogarah War Memorial Olympic Swimming Pool prepare a Recreation Facility Management, Marketing and Development Plan for the complex.*

105. With regards to the above, the applicant identifies that *“in accordance with the third of the above strategies, geotechnical and structural assessments of the complex were undertaken in 2011, 2016 and in 2019 and indicated ongoing settlement and movement of the main pool has been an issue since 1989. Consequently, and also due to the structural failure of the pool facility and the uncontrolled leakage of chlorinated water into Kogarah Bay in 2019, the pool complex was closed in July 2019.”*
106. It is acknowledged that the pool complex has been closed since July 2019 due to the significant cracking evident at the northern end of the Olympic pool (refer figure below) and to prevent further detrimental effect to the local waterways. The pool complex sits vacant and has become a safety and security concern for Council.

Figure 6 View of existing pool cracking at the northern end of the Olympic Pool



Source: SJB

107. As such, the proposed demolition, remediation and use of the site for passive open space and recreational purposes aligns with strategies for community use outlined in the PoM and will facilitate increase use of public land for recreational opportunities and experiences.

Section 9 – Cultural Significance

108. Section 9.1 of the PoM identifies that the core objective is *“to retain and enhance the cultural significance of the area (namely its aboriginal, aesthetic, archaeological, historical, technical or research or social significance) for past, present or future generations by the active use of conservation methods.”* A

small portion of the site extends into the 'cultural significance' area as outlined in Figure 4.

109. As outlined by Council's consulting heritage specialist, the proposal is not considered to have any detrimental impacts on the Carss Cottage State heritage listed item. This is reiterated by Heritage NSW. Further, the demolition of the pool complex is considered acceptable as there it is considered to be of low heritage significance (discussed further in the 'land assessment sub-section later).
110. Overall the proposal is consistent with the core objective in this section of the PoM and will result in improved views to and from Carss Cottage.

Section 10 – Crown Land Strategies

111. A portion of the proposed works including, tree removal, remediation, earthworks and landscaping, are situated within land identified as Unreserved Crown Land (refer Figure 4).
112. The applicant has stated that the proposal is consistent with the strategies and objectives for unreserved Crown Land identified in Section 10.8 of the PoM for the following reasons:
 - *The proposed works to ensure that the land is preserved for inter-generational equity;*
 - *The proposal will continue to retain the Unreserved Crown Land portion of the site as a landscaped setting and will not alter the use of the land;*
 - *The proposal maintains the existing recreation opportunities on the unreserved crown land being the existing pedestrian pathways through the parkland.*
113. Overall, the proposed works situated on Crown Land are generally consistent with the strategies and objectives outlined in the PoM. The proposal preserves the portion of unreserved Crown Land as a landscape setting and maintains opportunities for the site to be used for recreational purposes to be enjoyed by current and future generations. It is noted that the applicant has provided owner's consent correspondence from the relevant Crown Land manager.

Section 13 – Land Assessment

114. Section 13 of the PoM states *"the primary function for describing and assessing the land's assets and resources is to identify the principal attributes of the land within the various management zones, determine the condition of both the natural elements and man-made structures in the park as well as identify constraints."*
115. Section 13.7 (Table 23) of the PoM states that the Kogarah War Memorial Olympic Swimming Pool is of low heritage significance and 'generally out of character with its surrounds'.
116. Overall, the proposal is considered to be consistent with the PoM. Whilst the PoM does not specifically require the demolition and removal of the pool

complex, it acknowledges that there are geotechnical and structural issues with the complex, and states that it is of low heritage significance and out of character with the surrounds. The investigations undertaken prior to and as part of this proposal, have clearly identified the structural deficiencies of the complex and the existence of contaminated fill within the site. The proposed works are necessary to ensure there is no ongoing environmental impacts to the community and natural assets.

117. It is noted that Council is currently working through and updating the PoM and associated Landscape Masterplan to align with current aims and aspirations. It is understood that this work will be finalised when the location of a new aquatic centre is resolved.

Carss Bush Park Landscape Master Plan

118. The Carss Bush Park Landscape Master Plan 2011 (the Masterplan) aims to guide development, maintenance and management of Carss Park over a 20 year timeframe. The Masterplan is to be read in conjunction with the PoM and Landscape Heritage Study for Carss Bush Park 2002.
119. It is noted that the site is located outside the area to where the Masterplan applies. However, Section 2.3 of the Masterplan states *“the lease on the pool expires in 2012. There is also anecdotal evidence that the pool structure is deteriorating. Any major change to the pool or the land on which it and its supporting infrastructure sit, could affect the circulation patterns and the spatial qualities of the adjacent areas of the park.”*
120. Despite not applying to the site, it is considered that the proposed demolition and remediation of the site to make it suitable as an open space recreation area is generally consistent with the objectives of the Masterplan. The proposed remediation, earthworks and landscaping works will improve access to the foreshore along Kogarah Bay and provide an additional passive open space for the community that will integrate with the sporting fields situated to the north and the landscaped area to the south.
121. Conditions of consent are proposed requiring retention of trees, replanting of trees and payment of a bond for future planting in the broader PoM area. It is anticipated that these replacement trees will form part of the tree planting associated with the new masterplan.

IMPACTS

Natural Environment

Contamination and Remediation

122. Contamination and remediation matters have been addressed previously in relation to SEPP 55. The DSI undertaken by the applicant identifies the site contains various soil contaminants which require remediation to reduce potential human health and environmental harm. In summary, Council's consulting environmental consultant is satisfied with the proposed excavation, disposal, and cap and contain remediation strategy and considers the site can be made suitable for the proposed use provided it is remediated in accordance with the revised 'Remediation Action Plan' prepared by Douglas Partners (rev D, dated 19 February 2021).
123. In addition, the demolition and removal of the pool and the remediation of the site is required so that seepage of contaminants from the pool into the site, adjoining lands and surrounding waterways is addressed and to ensure that there are no further potentially adverse environmental impacts.
124. Council's environmental consultant has confirmed the applicant has provided sufficient information with regards to management of ground water levels, potential seepage and differential settlement. This has been addressed in the geotechnical investigations and RAP prepared by Douglas Partners. The Site Auditor is also satisfied with the geotechnical investigations and remediation strategy.
125. Appropriate conditions of consent are included to ensure the site is adequately remediated for the intended use as recreational public open space.

Arboriculture (tree removal/retention) and Landscaping

126. There is a total of 97 trees across the site. The proposal includes the removal of 58 trees, comprising a mix of exotic and native species, to enable the proposed earthworks and remediation of the site. The proposal also involves the retention of 39 trees and landscaping provisions including the planting of 27 replacement trees.

Figure 7 Tree Management Plan



Source: Moore Trees

127. The application was referred to Council's consulting arborist who reviewed the original DA submission package and additional information submitted in response to the RFI letter. The applicant responded to the matters raised by the arborist in the RFI letter by submitting a revised Tree Protection Plan, Arboricultural Impact Assessment and Civil Engineering Plans.
128. The revised Civil Engineering Plans relocated the proposed irrigation tank pipework outside of the Tree Protection Zone (TPZ) for Tree 32. The applicant also provided clarification on a proposed monetary bond to offset the replacement tree planting which could not be appropriately accommodated as part of the proposal. This is discussed in further detail below.
129. It is considered that the trees identified for retention is a good outcome. The planting plan allows for a grove/stand of *Cupaniopsis anacardioides* to be planted within the north eastern corner of the site, several large Figs through the middle to provide height and scale and a row of smaller Banksias of two varieties as lining the western portion of the open space and separating the carpark from the open space.
130. The trees proposed for removal are either in poor condition, have a low significance value or low useful life expectancy. The location is also a large factor in the retention and or removal of trees as many are located upon

embankments or at the 'toe' of an embankment that needs to be removed due to contamination within the soil.

131. Whilst Council's replacement planting policy requires replacement planting at a ratio of 2:1, this would require planting of 116 trees on site. It is proposed to plant 27 trees on site and a further 89 trees within the broader Carss Bush Park. It is considered that planting all of the 116 trees on the site would limit the practical use of the site for open space purposes by the community and obstruct views to Kogarah Bay and Carss Cottage State Heritage Item.
132. The future planting of the 89 trees is to be secured through the payment of an offset equating to the value of \$430 per tree (45 litre Australian native). This is considered a good outcome for replanting within the site, as well as the future planting of 89 trees as part of the future master planning work within the broader Carss Bush Park.

Civil Engineering and Stormwater Management

133. The development application was accompanied by a Civil Engineering and Stormwater Management Report prepared by Enspire Solutions. The stormwater strategy involves the reduction of impervious area within the site and the reduction of site runoff. The quality of stormwater will improve through infiltration and discharge through grass and landscaping which will capture and nutrients. The stormwater strategy was supported by Council's stormwater engineering team.
134. The Civil Engineering and Stormwater Management Report prepared by Enspire Solutions also outlined the proposed earthworks (cut and fill methodology). The associated exportation of contaminated soil, importation of clean fill and civil engineering design was supported by Council's consulting environmental specialist. Appropriate conditions of consent will be included to ensure stormwater management and bulk earthworks are managed and prevent runoff into Kogarah Bay. Conditions will be included on any consent issued to address structural matters. Prior to the issue of any Construction Certificates, plans and specifications must be prepared by a qualified structural engineer which detail how the construction of all reinforced concrete work, structural beams, columns and other structural and retaining elements required are satisfactory.

Built Environment

Heritage

135. The proposal includes the demolition of the Kogarah War Memorial Pool local heritage item including fencing and associated structures. The development application is supported by a Heritage Impact Statement (HIS) (October 2020) which has concluded that the proposed demolition and remediation of the site will have no adverse impact on the cultural significance of Carss Bush Park or the State heritage listed Carss Cottage.
136. The HIS identifies that the Pool was closed in July 2019 following completion of engineering and environmental assessments which deemed it structurally unsound and environmentally damaging. The HIS states that further studies,

including those undertaken by Council since 2017, have found that renovation and reopening the Pool is not feasible. The HIS also states the fabric of the structures and services are of poor condition and have reached the end of their design life.

137. Council's consulting heritage consultant Weir Phillips has reviewed the proposal and accompanying HIS. The findings of the HIS are supported and it was concluded that the Pool does not display any contributing architectural significance, detracts from the significance of Carss Cottage interrupting sight lines and compromising its landscaped foreshore setting and is in poor condition with multiple structural issues which render it unusable and uneconomic to repair.
138. Weir Phillips in assessing the heritage significance of the pool complex conclude that the demolition of the pool and associated structures would:
 - *re-open sight the historic lines between Carss Cottage and the northern sections of Carss Park and the foreshore walk;*
 - *remove visual clutter from the vicinity of Carss Cottage and improve the quality of its setting;*
 - *re-open historic sight lines between the site of the pool and Kogarah Bay and the foreshore walk; and*
 - *have positive impacts upon the significance of the relevant heritage items.*
139. In reaching this conclusion it was acknowledged that the Pool has some local social significance as a well-known and popular local community facility.
140. The heritage consultant supports the proposal provided the Pool's social significance is appropriately interpreted. To address this, conditions have been recommended that will be included on any consent issued requiring the preparation of a Heritage Interpretation Plan (HIP) and an archival photographic recording prior to works commencing. The HIP is to include details of how information on the history and significance of the Pool and the land reclamation will be provided for the public. The HIP must outline the interpretive elements and design of the proposed memorial wall, as well as the details of a flat, at-grade component installed in the turf which suitably references the pre-1939 shoreline.
141. The development application was referred to Heritage NSW who advised approval was not required for the proposed works given the site is located beyond the SHR curtilage of the Carss Cottage and Surrounds (SHR No. 00597).

Character, Setting and View Impacts

142. The proposal will not result in any adverse view impacts to surrounding properties or public domain areas. It is considered that the proposed demolition, earthworks and required vegetation removal will open-up and improve view corridors to Kogarah Bay from the foreshore and re-open historic sight lines to Carss Cottage situated to the south.

143. The proposed use of the site as recreational open space is compatible with the character and setting of landscaped open space situated to the south, the sports playing fields to the north, Kogarah Bay and foreshore walk to the east and the wider Carss Park to the west. Further, the proposed landscaping provisions including footpaths, seating, picnic shelters and turfing of the site integrates with the surrounding land uses contributing to the public open space offering of the precinct. The proposed vegetation planting will comprise appropriate native species selection in accordance with the Arborists recommendations to ensure they are in keeping with the existing landscape and foreshore character of the surrounding area.
144. The consulting Arborist notes planting includes a 'grove/stand' of *Cupaniopsis anarcardioides* within the north east corner of the site, several large Figs through the middle portion of the site to provide height and scale, and a row of smaller *Banksias* of two varieties which will line the western portion of the open space, separating the carpark from the open space.

Traffic and Parking

145. Council's consulting Traffic Engineers (McLaren Traffic Engineering) has undertaken a review of the proposal. The traffic and parking demand associated with the future use of the site for open space purposes is considered to be less than that which was generated by the Pool use and is not anticipated to have an adverse traffic impact or significantly change existing parking conditions within the surrounding area.
146. The construction parking impacts resulting from the partial closure of the existing car park can be adequately managed on the weekdays and weekends through the opening and utilisation of the Carss Bush Park Hill parking area. It is noted that the car park access is two-way, but only provides a single width accessway for approximately 60-70m in length before passing opportunities are provided, with no available sight lines between passing areas. To ensure the safe operation of the "overflow" car park when required and to manage potential vehicle conflicts, conditions have been recommended for the implementation of a temporary signal control system and preparation of a PoM to be implemented during the operating hours.

Social Impact

147. A number of submissions were received from the public with the regards to the social impact and loss of value to the community arising from the closure and demolition of the pool. This matter is addressed later in this report in the '*Submissions*' section. Whilst it is acknowledged there is a loss of social value to the community at this time, the Pool has been closed since July 2019 due to safety concerns and potential environmental harm through chlorinated water leaks into Kogarah Bay.
148. The proposed demolition of the Pool, remediation and landscaping of the site provides an open space recreation area for the local and wider community to enjoy. The landscaping provisions include pedestrian pathways for improved access, picnic shelters, seating and an open space turfed area which

integrates with the foreshore to Kogarah Bay and surrounding public open space opportunities including Carss Bush Park. Whilst of a different form and character to the Pool, the proposed landscaped open space will provide a new social benefit. Further, Council is investigating opportunities to develop an aquatic facility at another location.

Crime and Safety

149. The Pool is currently closed and has been drained due to the structural deficiencies and environmental damage. The demolition of the Pool and various dilapidated structures will remove the potential for antisocial behaviour and activities which could result in adverse safety impacts.
150. The design of the public open space area provides a high degree of passive surveillance opportunities. The removal of vegetation with low significance along the northern and eastern extents of the site improves sightlines to and from the foreshore area and across the site. The conversion of the space for public open space and recreational purposes will stimulate activation and encourage usage of the area. This activation will indirectly remove potential crime and safety concerns associated with the site as it currently stands.

Economic Impact

151. There is no apparent adverse economic impact that is likely to result within the locality due to demolition of the Pool and remediation of the site for open space purposes. The Pool has been closed and unusable since 2019. As such, the physical removal of the structure will not be to the detriment of the local economy.

Suitability of the site

152. The site is zoned RE1 Public Recreation under the KLEP 2012. The proposal involves demolition, remediation, earthworks and landscaping works to accommodate the use of the site for passive open space purposes ("recreation area") which is a permissible use in the zone with development consent.
153. The proposal satisfies the objectives of the RE1 Public Recreation zone. The landscaping works provide for passive open space along the foreshore of Kogarah Bay including pedestrian footpath access, seating and picnic shelters, as well as turfing of the site and tree planting. The site will integrate with the Carss Bush Park and other open space recreation opportunities surrounding the site.
154. As such, the proposal is compatible with the character and setting of the surrounding public open and wider Carss Bush Park.

The Public Interest

155. The proposal provides benefits to the community through the provision of passive open space for recreational opportunities.
156. The demolition of the pool removes a dilapidated structure that the public is currently unable to use. The removal of contaminated fill mitigates environmental harm to the surrounds and Kogarah Bay and reduces potential

adverse health impacts to the community accessing the site, enabling social and recreational opportunities to foster.

SUBMISSIONS

157. Development application (DA2020/0405) was publicly notified to neighbouring properties and the surrounding community for a period of 28 days in accordance with the KDCP 2013. At the time of writing this report (30 April 2021), a total of 126 submissions were received. The submissions comprise a mix of unique submissions and pro-forma, or a variation on a common template.
158. The issues and concerns outlined in the list below were raised throughout the public notification of the proposal. These matters have been considered in the assessment of the proposal and have been addressed in this report.
- Concern about decision to demolish pool prior to a decision on a new aquatic centre being made;
 - Concern about cost and waste of rate payer's money
 - Concern about loss of pool and of war memorial
 - Concern community has not been listened to in pool decision
 - Concern site can be remediated and made safe far more cheaply
 - Concern about impact of constructing a new pool on Todd Park
 - Concern pool partly funded by RSL and the demolition is not respectful of this
 - Concern about pool closure process
 - Question as to the extent of contaminants given no history of local illness
 - Concern inadequacy of plaque memorial for significance of pool
 - Concern proposed Todd park location for new pool inappropriate due to traffic
 - Concern demolition will remove value of community fund raising that got the car park built
 - Concern about the loss of local swimming amenities
 - Concern about DA tracker not working over a weekend during updates
 - Concern about lack of maintenance of pool
 - Concern about need to replace the closed pool
 - Concern about lack of adequate fencing to secure the site
 - Concern council misleading the public on contamination
 - Concern about loss of learn-to-swim, swimming carnival venue and the impact of the closure of the pool on mental health and social health of community.
159. Generally, based on the beforementioned submission matters, five key themes have been identified including the following:
- Cultural / social significance lost for community from closure of Carss Park Pool
 - Loss of historical significance as a War Memorial and inadequate heritage interpretation response
 - Timing for demolition of removing the pool as no new aquatic centre has been planned nor funding secured
 - General concerns around contamination, demolition and remediation processes

- Costs and suitability of the proposal

160. The key themes are addressed in the table below:

Key Theme / Submission Items	Response
<p><u>Cultural / social & amenity significance lost:</u></p> <ul style="list-style-type: none"> - Concern about loss of pool and of war memorial; - Concern about the loss of local swimming amenities; - Concern about loss of learn-to-swim, swimming carnival venue and the impact of the closure of the pool on mental health and social health of community. 	<p>The cultural / social value of the Pool and amenity it provides as a well-known local community facility is acknowledged.</p> <p>As outlined throughout this assessment report, advice received from specialist technical consultants and the documentation submitted by the applicant, demonstrate that differential settlement of the land on which the Pool was constructed has resulted in significant cracking in the pool structure with water escaping the pool and flowing into Kogarah Bay.</p> <p>The land on which the pool is located is reclaimed land and the fill material used contains a range of contaminants which can be harmful to humans and the environment. Closure and draining of the pool stopped the flow of chlorinated water into Kogarah Bay, however, removal of the contaminated material and capping of the site is necessary to remove potential for future impacts to human health.</p> <p>The proposal will deliver a landscaped open space area with pedestrian pathways, picnic shelters and seating for the local community and site visitors which integrates with the surrounds, including the Kogarah Bay foreshore.</p> <p>Council is currently investigating the potential location of a new aquatic centre and has deferred the finalisation of the new Carss Bush Park and Todd Park PoM and masterplan until such time the investigations have been completed.</p> <p>Whilst the pool historically provided a meaningful public benefit, the structural deficiencies identified in 2019 made it unsuitable for continued use.</p>

<p><u>Loss of historical significance and inadequate heritage interpretation:</u></p> <ul style="list-style-type: none"> - Concern about loss of pool and of war memorial; - Concern inadequacy of plaque memorial for significance of pool. 	<p>Council's consulting heritage consultant has reviewed the application and resolved to support the proposal subject to the inclusion of conditions requiring the preparation of a Heritage Interpretation Plan (HIP) and submission of Photographic Archival Records prior to the issue of a Construction Certificate.</p> <p>The heritage consultant has provided recommendations which require that the HIP includes details on how the history and significance of the Pool and the land reclamation will be provided for the public. Specifically, the HIP must outline the interpretive elements and design of the proposed memorial wall and to ensure it appropriately interprets the social significance of the Pool to the community. Further, the HIP must include details for the provision of a flat, at-grade component to be installed in the turf which suitably references the pre-1939 shoreline to provide an understand of the historic land reclamation of the site.</p>
<p><u>Timing for demolition / removal of pool:</u></p> <ul style="list-style-type: none"> - Concern about decision to demolish pool prior to a decision on a new aquatic centre being made; - Concern about impact of constructing a new pool on Todd Park; - Concern proposed Todd Park location for new pool inappropriate due to traffic; - Concern about need to replace the closed pool. 	<p>It is understood that the Council is currently investigating the potential location of a new aquatic centre for the community. There has been no decision to establish a new pool complex at Todd Park. The existing Carss Bush Park and Todd Park PoM and masterplan are still current and a new draft PoM and masterplan are being developed. The finalisation of these documents has been deferred until such time that Council makes a decision on where the new aquatic centre is to be located in order for it to be incorporated into the considerations of the PoM and masterplan if appropriate.</p> <p>Any future proposal for the aquatic centre will be subject to the preparation and submission of a development application that will need to address the matters for consideration under section 4.15(1) of the EP&A Act. This includes any environmental planning instrument, any development control plan, the likely</p>

	impacts of the development on the natural and built environments (including potential traffic related impacts), social and economic impacts on the locality, the suitability of the site for development, the public interest and any submissions received during the subsequent notification period.
<p><u>Contamination and remediation:</u></p> <ul style="list-style-type: none"> - Question as to the extent of contaminants given no history of local illness; - Concern council misleading the public on contamination. 	<p>The demolition of the pool and remediation of the site are driven by a requirement to make the site safe and remove any ongoing environmental impact within the site and adjoining land. As the pool complex is no longer fit for purpose, its removal and site rehabilitation should occur in parallel with the Council's efforts to locate a suitable site for a new aquatic complex.</p> <p>The applicant's environmental consultant has undertaken Geotechnical Investigations and a Phase 2 Detailed Site (Contamination) Investigation which accompany the development application.</p> <p>These investigations have confirmed the nature and extent of contamination at the site. Potential contaminants include heavy metals, total recoverable hydrocarbons (TRH), polycyclic aromatic hydrocarbons (PAH), benzene, toluene, ethylbenzene, xylene (BTEX), organochlorine pesticides (OCP), polychlorinated biphenyls (PCB), asbestos, nitrogen and hazardous gases, chlorine, asbestos and lead located within the fill material on site.</p> <p>These investigations have been reviewed by the EPA Accredited Site Auditor and Council's consulting environmental specialist. Hence, the application seeks to remediate site to render it suitable for use as a public open space and recreational area.</p> <p>There is no suggestion from this review that the 'Phase 2' investigations are misleading or inaccurate. Consequently, the Remediation Action Plan has been</p>

	found fit for purpose and appropriate to deliver the required site remediation.
<u>Costs and suitability:</u> <ul style="list-style-type: none"> - Concern about cost and waste of rate payer's money; - Concern site can be remediated and made safe far more cheaply. 	<p>The proposed works are required to remove the pool complex which is structurally unsound, to remove the and appropriately dispose of contaminated materials and to provide a community benefit in the form of landscaped open space.</p> <p>The application is accompanied by a Quantity Surveyors Cost Estimate Report which includes a Capital Investment Value (CIV) that has been prepared in accordance with clause 3 of the <i>Environmental Planning and Assessment Regulation 2000</i>.</p>
<u>Issues with process:</u> <ul style="list-style-type: none"> - Concern community has not been listened to in pool decision; - Concern about pool closure process; - Concern about lack of maintenance of pool. 	<p>Council commissioned various structural and building asset studies of the pool complex between 2011-2019 to understand the condition of the pool and associated structures. Further, Council has also undertaken strategic / master planning and feasibility studies to understand the demand and plan for the provision of replacement recreational and aquatic facilities.</p> <p>A key recommendation of the <i>Regional Aquatic Facility Site Suitability and Feasibility Study</i> completed by Otium Planning Group in 2019, was the consideration of a new site to deliver an aquatic centre that is better placed to serve an LGA wide catchment.</p> <p>Following advice received from the EPA in July 2019, Council made a decision to drain and close the complex to prevent further detrimental effect to the local waterways.</p> <p>It is noted that the development application for the demolition, remediation, earthworks and landscaping of the site, was publicly notified in accordance with the requirements of the KDCP 2013 and Council has been accepting submissions</p>

	<p>received up until the time of drafting this report.</p> <p>The differential settlement of the fill materials within the site caused the structural instability of the pool rather than a lack of maintenance. It is understood that Council will consult widely on any future proposals to develop an aquatic centre.</p>
<p><u>Other:</u></p> <ul style="list-style-type: none"> - Concern demolition will remove value of community fund raising that got the car park built; - Concern about DA tracker not working over a weekend during updates; - Concern about lack of adequate fencing to secure the site. 	<p>The following is noted with regards to the three additional matters raised:</p> <ul style="list-style-type: none"> • The carpark will be utilised during the construction phase as a staging and operations area. Following completion of the works it will be available for car parking for visitors to Carss Bush Park and the site. • While it is unfortunate that the DA tracker was not available for a two day period the Council accepted submissions following the formal notification period.

REFERRALS

161. The application was referred to a number of external agencies, Council's independent technical consultants, as well as some internal officers for comment on minor matters. These are summarised in the table below.

Referral	Comments
External Agency Referrals	
NSW Environment Protection Authority (EPA)	<p>The application was referred to the NSW EPA who advised the site is currently under assessment to determine whether regulation is warranted under the <i>Contaminated Land Management Act</i>.</p> <p>Some recommendations were provided including:</p> <ul style="list-style-type: none"> • Engaging an NSW EPA accredited site auditor throughout the duration of works; and • Preparation of a Section A1 or A2 Site Audit Statement accompanied by an Environmental Management Plan and submission of these documents to Council and the EPA.

	<p>The EPA has directed the assessment for the suitability of the land and any remediation in accordance with SEPP 55.</p> <p>An assessment of SEPP 55 has been provided earlier in this report and appropriate conditions of consent will be included on any consent issued.</p>
Ausgrid	<p>The application was referred to Ausgrid in accordance with clause 45 of <i>State Environmental Planning Policy (Infrastructure) 2007</i>. Ausgrid did not raise any objection to the proposal, however, reiterated that the design submission must comply with relevant Ausgrid Network Standards and SafeWork Codes of Practice for construction works near existing electrical assets.</p> <p>In addition, the “as constructed” minimum clearances to Ausgrid’s infrastructure must not be encroached by the proposal. This remains the responsibility of the developer and relevant contracts to verify and maintain these clearances onsite.</p> <p>Conditions will be included to cover these comments.</p>
Heritage NSW	<p>The application was referred to Heritage NSW who advised approval is not required for the proposed works. The site and proposed works are situated beyond the SHR curtilage of the Carss Cottage and surrounds, and while the proposal is within the vicinity, it was considered that the works would not impact on views or modify the landscape setting of the cottage and its surrounds.</p>
Independent Technical Consultants	
Environmental Consultant – Earthwise Environmental Consultants (Soil, Water, Geotechnical)	<p>The application is supported subject to the inclusion of specific conditions in line with the recommendations of the peer review (dated 09.02.21) and comments provided in the review of the applicants RFI response (dated 22.03.21).</p>
Traffic Engineer – McLaren Traffic Engineering	<p>The application is supported by Council’s independent traffic engineers subject to the inclusion of a specific condition requiring the implementation of a temporary signal control system during the operating hours of the Carss Bush Park Hill ‘overflow car park area’ to manage potential access conflicts.</p> <p>Standard traffic related conditions have been provided by Council’s Traffic Engineer department.</p>
Heritage Consultant – Weir Phillips	<p>The application is supported subject to the inclusion of conditions relating the preparation of a Heritage Interpretation Plan and an Archival Photographic</p>

	Recording/Documentation of the Pool prior to the issue of a Construction Certificate. Conditions have been provided.
Internal Officer Referrals	
Council's Consulting Arborist	The application is supported subject to the inclusion of specific conditions relating to tree removal, landscaping and replacement planting, and the payment of an offset for the required tree replacement planting. Conditions have been provided.
Development Engineer	The proposal was assessed by Council's Development Engineer who raised no objection to the proposal and recommended structural engineering, drainage / stormwater management and construction and site management conditions.
Waste Team	The proposal was assessed by Council's waste team who raised no objection subject to the inclusion of specific conditions relating to waste management and disposal (demolition, excavation, remediation, construction and ongoing during operation). Conditions have been provided.

CONCLUSION

162. The proposal seeks consent for the demolition of the Kogarah War Memorial Pool and associated structures located within Carss Bush Park, remediation of the site, earthworks and landscaping works for use of the site as a public recreational open space.
163. The proposal is identified as integrated development under section 60 of the *Heritage Act 1977*. The application has been assessed by Heritage NSW who indicated that the proposal does not require approval under the Act.
164. The proposal has been assessed in accordance with the matters for consideration listed in section 4.15(1) of the EP&A Act. As discussed throughout this report, the proposal is considered to be necessary works which removes dilapidated and structurally inadequate building elements. In addition, the removal and remediation of contaminated soil across the site will mitigate further environmental damage and address potentially adverse health impacts to the community.
165. The tree removal works and landscaping of the site will have positive impacts upon the significance and sight lines to the Carss Cottage (and surrounds) and provide a recreational open space for the community which is compatible with its surrounding environment. In addition, the proposal will improve public access and open-up sight lines to the foreshore of Kogarah Bay for the local community and site visitors.

166. The proposal has been assessed against the provisions of the relevant State Environmental Planning Policies, KLEP and KDCP. The proposal is permissible within the RE1 Public Recreation zone and consistent with the land use objectives. The proposal is also consistent with the relevant requirements of the KDCP.
167. Overall, the proposal will not result in any unacceptable environmental impacts on the natural and built environment, nor will it result in any unacceptable social and economic impacts on the locality.
168. The application is recommended for approval subject to conditions.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

169. The reasons for this recommendation are:
- The proposed development is a permissible form of development pursuant to clause 2.2 of the KLEP.
 - The proposed development complies with the requirements of the relevant environmental planning instruments and KDCP.
 - The proposed development is not inconsistent with any draft planning instruments which require consideration.
 - The proposal will not negatively impact upon the amenity of any surrounding sensitive land uses.
 - The proposed development is compatible with the character of the locality and will site harmoniously with its surroundings.
 - The proposal will remove a series of dilapidated structures which will reduce the potential for anti-social behaviour in the locality.
 - The proposal will facilitate the carrying out of necessary remediation works to remove existing risks from contamination and seepage in order to protect the surrounding lands, waterways, and water quality and remove the potential for adverse environmental and human health impacts.
 - The proposal will deliver a landscaped open space and recreational area for the community which integrates with the adjacent open space/recreational areas, Carss Bush Park and the foreshore of Kogarah Bay.

Determination

170. THAT pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act, 1979*, as amended, the Sydney South Planning Panel grants development consent to DA2020/0405 for demolition of the Kogarah War Memorial Pool and ancillary structures located within Carss Bush Park, remediation of the site, earthworks and site landscaping (including memorial wall) to enable the use of the site as a public open recreation space at Lot 511 in DP 752056, Lot 1 in DP 125981, Lot 376 in DP 1118749 and unreserved Crown land, subject to the following conditions of consent (over the page):

CONDITIONS OF CONSENT

Development Details

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

Description	Reference No.	Date	Revision	Prepared by
Cover Sheet and Drawing Schedule	200060-DA-C01.01	26 August 2020	6	Enspire solutions
General Arrangement Plan	200060-DA-C01.21	9 September 2020	2	Enspire solutions
Erosion and Sediment Control Plan	200060-DA-C0301	9 September 2020	3	Enspire solutions
Erosion and Sediment Control Plan Details	200060-DA-C0321	9 September 2020	1	Enspire solutions
Cut and Fill Plan	200060-DA-C04.01	26 August 2020	6	Enspire solutions
Remediation Plan	200060-DA-C04.10	9 September 2020	5	Enspire solutions
Site Works and Stormwater Management	200060-DA-C05.01	26 August 2020	6	Enspire Solutions
Remediation Plan Sections	20060-DA-C04.20	18 February 2021	2	Enspire Solutions
Site Sections	200060-DA-C09.01	26 August 2020	3	Enspire solutions
Demolition Plan	5104	10 August 2020	2	Map & Survey (marked up by SJB)
Tree Protection Plan	-	22 February 2021	-	Moore Trees
Landscape Concept 1/2 Kogarah War Memorial Pool Remediation 78	L-01/2-K25112	27 August 2020	-	Michael Siu Landscape Architects

Carwar Avenue Carss Park				
Landscape Concept 2/2 Kogarah War Memorial Pool Remediation 78 Carwar Avenue Carss Park	L-02/2- K25112	27 August 2020	-	Michael Siu Landscape Architects
Landscape Feature Wall – Carss Bush Park – Carss Park – Concept Design for Memorial Option A	U809	July 2019	-	Georges River Council
Irrigation Tank Specifications 1/2	GRC_CP_ 2006	28 August 2020	8	Water Wise Consulting
Tank Specifications 2/2 – 9.6 Diameter Tank	60056-37A	7 November 2019		Kneebone, Beretta & Hall
Parking and Traffic Impact Assessment	20.374r01 V04	March 2021		Traffix Traffic and Transport Planners
Traffic and Parking Response	20.374r03v 05	8 March 2021		Traffix Traffic and Transport Planners
Construction Traffic Management Plan	20.374r02v 04	March 2021		Traffix Traffic and Transport Planners
Civil Engineering and Stormwater Management Report	200060	26 March 2021	D	Enspire Solutions
Demolition Management Plan		15 September 2020	1	Willow Frank
Waste Management Plan		11 September 2020	1	MRA Consulting Group
Access Report	P000515	30 September 2020	2	Inclusive Places
Arboricultural Development Assessment Report		22 February 2021		Moore Trees

Kogarah War Memorial Pool				
Detailed Site (Contamination) Investigation	Project 99751.00	14 September 2020	0	Douglas Partners
Remediation Action Plan	Project 99751.00	19 February 2021	2	Douglas Partners
Geotechnical Investigation Report	Project 99751.00	14 September 2020	0	Douglas Partners
Statement of Heritage Impact	PM-20035	September 2020		Perumal Murphy Alessi
Hazardous Building Materials Assessment Report	Project 99751.02	August 2020	0	Douglas Partners

2. **Multiple Construction Certificates** – Nothing in this consent prevents the ability to issue multiple Construction Certificates for the stage of works to be undertaken as part of this consent.

Separate Approvals Required Under Other Legislation

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

Prior to the issue of a Construction Certificate

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

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

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$Nil – site does not adjoin a public road
Inspection Fee for Refund of Damage Deposit	\$371.00
Tree Removal Offset (details provided in Landscape Condition 17 in this consent)	\$38,270.00

General Fees

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

6. Site Auditor Engagement

Prior to the commencement of any works on site, and prior to the release of a Construction Certificate, a NSW EPA Accredited Site Auditor is to be engaged and retained throughout the duration of works to ensure that any work in relation to soil, groundwater, or ground gas contamination is appropriately managed and the site can be made suitable for the proposed use. Evidence of engagement of the EPA Accredited Site Auditor is to be provided to the

Principal Certifier prior to release of the Construction Certificate.

7. Temporary Car Park (Carlton Crescent)

Prior to the release of a Construction Certificate by the Principal Certifier and commencement of any works, separate approval is to be obtained for the provision of a temporary car parking area located to the north of Carlton Crescent and west of the existing stormwater canal. The temporary car parking area is to be available for use on weekends and public holidays during any works and designed generally in accordance with the plans prepared by Georges River Council titled Proposed Parking Layout Carlton Crescent Carss Park U917 Sheet 1 dated 26 February 2021 revision O. The temporary parking area must be designed and installed in accordance with relevant Australian Standards. Documentary evidence of this is to be provided to the satisfaction of the Principal Certifier.

8. Temporary Signal Control System (Carss Bush Park Hill)

Prior to the release of a Construction Certificate by the Principal Certifier and commencement of any work, a temporary signal control system must be installed for the duration of the works to control access to and from the Carss Bush Park Hill 'overflow car park area' which is accessed off Carwar Avenue south of the intersection between Carwar Avenue and Allawah Avenue via the single lane driveway. The temporary control system must be installed to the satisfaction of Council and in accordance with the applicable Australian Standards.

In addition, the Construction Traffic Management Plan prepared by Traffix referenced under Condition 1 of this consent (Reference 20.374r02v04, dated March 2021), must be updated to incorporate this temporary signal control system.

9. Site Management – Major Development - A Site Management Plan must be submitted with the application for a Construction Certificate to the satisfaction of the Principal Certifier, 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.

Prior to the commencement of any demolition, excavation or tree removal, details of the installation of the site management requirements are to be submitted to the Council for its information.

10. **Erosion & Sedimentation Control** - Erosion and sediment controls must be provided to ensure:
- (a) Compliance with the approved Erosion & Sediment Control Plan(s) prepared by Enspire Solutions (dated 9 September 2020) referenced under Condition 1
 - (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
 - (c) All clean water runoff is diverted around cleared or exposed areas
 - (d) Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways
 - (e) All erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works
 - (f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
 - (g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
 - (h) Compliance with [Managing Urban Stormwater - Soils and Construction \(Blue Book\) produced by Landcom 2004.](#)

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

11. **Council Property Shoring**

Prior to the issue of the Construction Certificate, plans and specifications prepared and certified by a professional engineer specialising in practising structural engineering to detail how Council's property outside of the construction area identified on the plans shall be supported in circumstances where such support is required.

12. Detailed Remediation Plan

The submitted remediation plan 200060-DA-C04.10 prepared by Enspire Solutions (dated 9 September 2020) is a concept plan only. A detail design plan set (including specifications) are to be prepared in consensus with the geotechnical consultant, the contamination specialist involved, the EPA Accredited Site Auditor and the person acting on this consent showing design levels (m AHD) with various layers of the works involved and submitted first to the EPA Accredited Site Auditor and then to Principal Certifier for approval. The final detailed design plan set is to reflect the requirements of and be consistent with the Remediation Action Plan (RAP) prepared by Douglas Partners (Rev. 2, dated 19 February 2021).

Note: "Work-As-Executed" plans and a construction report would be required to be submitted following completion of remediation works.

13. Site Drainage

A detailed site drainage plan is to be prepared showing design levels to demonstrate consideration of a satisfactory stormwater drainage system. The site drainage plan is to be submitted to the Principal Certifier for approval, with all stormwater run-off being conveyed from the site. The final detailed design plan set is to reflect the requirements of and be consistent with the Civil Engineering and Stormwater Management Report prepared by Enspire Solutions (Rev D, dated 26 March 2021).

14. Structural details

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

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

15. Landscape Plans – All landscape works shall be carried out in accordance with the approved Landscape Concept plans and specifications, drawn by Michael Siu, Landscape Architects, Ref No K25112, Dwg No – L01/2 – L02/2 and dated 27 Aug 2020. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following -

- a) In accordance with Georges River Tree Management Policy 2019, a 2:1 Policy, for the removal of fifty eight (58) trees, one hundred and sixteen trees (116) would normally be requested to be planted.
- b) The Landscape Concept Plan provided, demonstrates twenty Seven (27) trees, are to be planted. As the future Landscape Masterplan for the Carss Park Precinct has not been developed to date, the replacement offset trees, totalling eighty nine (89) have been allocated a monetary figure of \$430.00 per tree (45 litre Australian Native), to be held within a tree planting offset fund to be utilised for future tree planting within the Carss Bush Park/Todd

- Park reserve. All tree planting must be completed within five years of the date of this consent.
- c) The proposed Twenty Seven (27) trees and plant species, pot/ bag size and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan. If plant species, pot/ bag size and quantities cannot be sourced, Council shall be contacted for alternatives;
 - d) All twenty seven trees (27) proposed upon the approved landscape plan shall comply with AS 2303 – 2018, *Tree Stock for Landscape use* and *NATSPEC Specifying Trees: a guide to assessment of tree quality (2003)*, and be planted and maintained in accordance with Councils standard specification;
 - e) All trees and plant species must be contract grown with a reputable nursery grower, early within the remediation works, to ensure and guarantee all tree and plant species, numbers of and pot/ bag sizes are planted at the time of landscape works commencing.
 - f) If the planted trees and plants are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size;

16. Compliance with submitted Arborist Report.

The recommendations outlined in the Arborist's Report titled Arboricultural Development Assessment Report prepared by Moore Trees, dated 22nd February 2021 must be implemented throughout the relevant stages of site set up, demolition, excavation construction and landscaping. Details of tree protection measures to be implemented must be lodged with the Construction Certificate application for approval and shall be in accordance with Section 4 - Australian Standard AS 4970-2009: *Protection of trees on development sites*.

The trees to be retained and protected are listed in the table below and reflected upon the Tree Protection Plan by Moore Trees, dated 22/02/2020.

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres) TPZ as per AS4970 - 2009 Fencing distance from trunk
T1 – <i>Eucalyptus microcorys</i>	North west sector, close to pedestrian pathway	10.2m
T2 – <i>Eucalyptus microcorys</i>	North west sector, close to pedestrian pathway	6.6m
T3 – <i>Eucalyptus saligna</i>	North west sector, close	10.2m

	to pedestrian pathway	
T4 – <i>Eucalyptus saligna</i>	North west sector, close to pedestrian pathway	5m
T5 – <i>Eucalyptus tereticornis</i>	North west sector, close to pedestrian pathway	5m
All five (5) trees above must be protected in the one inclusive tree protection fencing zone		
T6 – <i>Casuarina cunninghamiana</i>	Fronting west portion of the site, Mens shed location	9m
T7 – <i>Eucalyptus botryoides</i>	West side of car park	2.2m
T8 – <i>Banksia integrifolia</i>	West side of car park	3.1m
T9 – <i>Eucalyptus robusta</i>	West side of car park	8.6m
All three (3) trees above (T7, 8, 9) must be protected in the one inclusive tree protection fencing zone.		
T10 – <i>Casuarina cunninghamiana</i>	West portion, entrance to the car park	5m
T11 – <i>Banksia integrifolia</i>	West portion, entrance to the car park	2.3m
The two (2) trees above must be protected in the one inclusive tree protection fencing zone.		
T12 – <i>Casuarina cunninghamiana</i>	South west portion of the site/ car park	7m
T13 – <i>Casuarina cunninghamiana</i>	South west portion of the site/ car park	2.3m
T17 – <i>Casuarina cunninghamiana</i>	South west portion of the site/ car park	3.6m
T18 – <i>Casuarina cunninghamiana</i>	South west portion of the site/ car park	2.3m

T19 - <i>Casuarina cunninghamiana</i>	South west portion of the site/ car park	3.1m
T20 - <i>Eucalyptus robusta</i>	South portion of the site	3.2m
T21 - <i>Eucalyptus robusta</i>	South portion of the site	3.8m
T95 - <i>Eucalyptus robusta</i>	South portion of the site	1.6m
T96 – <i>Araucaria heterophylla</i>	South portion of the site	1.5m
The nine (9) trees above must be protected in the one inclusive tree protection fencing zone.		
T22 – <i>Ficus rubiginosa</i>	South east corner of site	10.2m
T23 - <i>Ficus rubiginosa</i>	South east corner of site	10.2m
T24 – <i>Eucalyptus microcorys</i>	South east corner of site	10.8m
T25 – <i>Angophora costata</i>	South east corner of site	3.0m
T26 – <i>Allocasuarina torulosa</i>	South east corner of site	2.4m
T27 - <i>Eucalyptus microcorys</i>	South east corner of site	9.6m
T28 - <i>Allocasuarina torulosa</i>	South east corner of site	2.4m
T29 - <i>Allocasuarina torulosa</i>	South east corner of site	2.4m
T30 - <i>Allocasuarina torulosa</i>	South east corner of site	2.4m
T31 - <i>Allocasuarina torulosa</i>	South east corner of site	2.4m
The ten (10) trees above (T22 – 30) must be protected in the one inclusive tree protection fencing zone.		
T32 – <i>Eucalyptus microcorys</i>	Middle of site, south end	13.2m
T66 - <i>Eucalyptus microcorys</i>	North portion of site, pathway location	6.6m

T67 - <i>Eucalyptus microcorys</i>	North portion of site, pathway location	5.4m
T68 - <i>Eucalyptus microcorys</i>	North portion of site, pathway location	6.4m
T69 - <i>Eucalyptus microcorys</i>	North portion of site, pathway location	7.2m
T70 - <i>Eucalyptus microcorys</i>	North portion of site, pathway location	8.4m
T71 - <i>Eucalyptus saligna</i>	North portion of site, pathway location	8.4m
T72 - <i>Eucalyptus saligna</i>	North portion of site, pathway location	8.4m
T73 - <i>Eucalyptus saligna</i>	North portion of site, pathway location	9m
The eight (8) trees above (T66 – 73) must be protected in the one inclusive tree protection fencing zone.		

- a) A qualified Arborist who holds an AQF Level 5 or above in Arboriculture and who is a current practicing and financial member of an Australian Arboricultural Association or Affiliation, shall be engaged and present on site to confirm tree protection measures are in place and trees to be retained are protected. A letter of engagement to be forwarded to the nominated PCA.
- b) A certificate of compliance letter from the AQF 5 Arborist must be forwarded to the Principal Certifier, at a minimum three (3) stages being, before works, during works and once all remediation works have been completed, that tree protection measures have been installed and being maintained during the building process.

Tree Protection Measures

- c) The tree protection measures must be undertaken in accordance AS4970 - 2009 *Protection of trees on development sites*.
- d) The opening between trees 1 and 73 located at the northern portion of the site/ pathway and as shown upon the Tree Protection Plan by Moore Trees must be closed with the one long tree protection fencing encapsulating all the trees on the northern portion of the site, being trees 1, 2, 3, 4, 5, 66, 67, 68, 69, 70, 71, 72 and 73.

- e) For the purposes of Irrigation tank and piping infrastructure within any trees TPZ, The engaged AQF 5 Arborist must be in attendance to provide guidance and oversee excavation and installation of irrigation infrastructure.
- f) For the purposes of irrigation piping trenching, the piping must only be installed using boring methods within any trees TPZ and in general for the purposes of minimising contaminated land disturbance and under the guidance of the engaged AQF 5 Arborist.
- g) The engaged AQF 5 Consulting Project Arborist must be present on-site during the stages of site set up, excavation, demolition, capping and filling within any trees TPZ, when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone of each tree. These tree protection measures must be in accordance with Section 5. Tree Protection, Moore Trees Arborist Report, dated 22nd February, 2021.
- h) In accordance with AS 4970-2009 *Protection of trees on development sites*, a protective fence consisting of 2.4 x 1.8 metres high, fully supported chainmesh fence shall be used. The distance of the fence out from the base of each tree, or cluster of trees, is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill, except as required for the remediation and other works in this consent and as approved and overseen by the project Arborist, should be placed within the protection area.
- i) The tree protection fencing must be kept in place during demolition, excavation, capping and fill and also have a sign displaying 'Tree Protection Zone – DO NOT ENTER' attached to the fence and must also include the name and contact details of the Project Arborist.
- j) The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly and regularly to minimise the effects of construction works.
- k) No building products, preparation of building products, storage of materials, stockpiling, waste bins, site sheds or services shall be installed within the TPZ of the trees to be retained.

Excavation works near tree to be retained

- l) All excavations around the trees to be retained on site, for the purposes of removing contaminated soils, all machinery within the TPZ of trees, must only operate upon large spreader plates to distribute the machines load and for the protection of tree roots.
- m) Unless approved by the project Arborist to facilitate works identified in this consent, Tree Protection Zones around the trees to be retained are not to have soil level changes, building product / materials stored or services installed in this area.

17. Tree Removal and Replacement

a) Approval is granted for the removal of the following trees:

Tree Species	Number of trees	Location
T14, 15, 16 – <i>Robinia pseudoacacia</i> 'Frisia'	X3	Within site, front of building
T33, 34, 36, 37, 38, 40, 41, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 54, 55, 57, 59, 60, 61, 62, 63 – <i>Allocasuarina torulosa</i>	X25	Along the eastern portion of the site, outside fence
T35 – <i>Melaleuca bracteata</i>	X1	Eastern portion of the site
T39 – <i>Eucalyptus Spp</i>	X1	Eastern portion of the site
T42 – <i>Casuarina glauca</i>	X1	Eastern portion of the site
T53, 58, 64, 65 – <i>Melaleuca armillaris</i>	X4	Eastern portion of the site
T56 – <i>Banksia integrifolia</i>	X1	Eastern portion of the site
T74 – <i>Howea forsteriana</i>	X1	Middle of site
T75, 76 – <i>Dyopsis lutescens</i>	X2	Middle of site
T77 – <i>Ficus macrocarpa</i> var <i>Hillii</i>	X1	Corner fence, north east corner
T78, 80, 81, 83 – <i>Pittosporum undulatum</i>	X4	Within site, eastern embankment
T79, 82 – <i>Schefflera actinophylla</i>	X2	Within site, eastern embankment
T84, 85, 86 – <i>Syagrus romanizoffiana</i>	X3	Within site, eastern embankment
T87 – <i>Jacaranda mimosifolia</i>	X1	North west corner of the site
T94(2) - <i>Phoenix canariensis</i>	X1	South portion of the site, behind

		building
T97 – <i>Eucalyptus botryoides</i>	X1	South portion of the site, behind building
T88, 89, 90, 91, 92, 93 – <i>Washingtonia robusta</i>	X6	Within site, north west corner
Total of 58 trees to be removed only		
All shrubs, weeds and overgrown bushes denoted upon the Tree Protection Plan, shown in green, along the northern portion of the site are to be removed.		

General Tree Removal and Replacement Requirements

- b) All tree removal shall be carried out by a minimum certificate Level 3, Licenced and insured Tree Surgeon/Arborist to ensure that removal is undertaken in a safe manner and complies with the AS 4373-2007 - Pruning of Amenity Trees and Tree Works Industry Code of Practice (Work Cover NSW 1.8.98).
- c) A tree planting off-set for future tree provision in Carss Bush Park/Todd Park equivalent to \$430.00 per replacement tree (at a replacement ratio of 2:1) – a total of \$38,270.00 calculated as per the table below is to be paid prior to the release of any Construction Certificate by the Principal Certifier, with written evidence of this provided to the Principal Certifier. The tree replanting must be completed within five years of the date of this consent.

Summary	
Number of trees removed from site	X 58
As per Georges River Councils Tree Management Policy offset scheme (2:1 ratio)	X116
Total number of trees to be planted within the site as per Landscape Concept Plan	X27
Number of trees at a cost of \$430.00 per tree to be paid for by the applicant to be held within a tree planting offset fund to be utilised for future tree planting, once the Masterplans have been developed for the Carss Park precinct. Please contact Council for payment.	X89 (45 litre native trees)
Total cost to be paid to Councils Future tree offset fund, prior to any trees being removed and prior to obtaining a Construction Certificate	\$38,270.00

18. Heritage Interpretation Plan

- (a) An interpretation plan for the Kogarah War Memorial Pool which includes the history of the pool and the land reclamation is to be prepared. It is to comprise interpretive signage on the site and a flat, at-grade component installed in the turf of the open grassed area to reference the pre-1939 shoreline. The scheme must be submitted to and approved by Council's Heritage Advisor prior to a Construction Certificate being issued. The plan is to be prepared by a suitably qualified and experienced heritage practitioner or historian.
- (b) The interpretation plan must detail how information on the history and significance of the Kogarah War Memorial Pool and the land reclamation will be provided for the public.
- (c) The plan must specify the materials, contents and graphic design of the interpretation devices being proposed.
- (d) At the completion of the rehabilitation works, the Heritage Advisor is to certify that the approved interpretation plan has been implemented to the satisfaction of the Heritage Advisor.

19. Photographic Archival Documentation

Prior to a Construction Certificate being issued, an archival photographic recording of the Kogarah War Memorial Pool is to be prepared to Council's satisfaction. The recording is to be in digital form, prepared in accordance with the NSW Heritage Division of the Department of Environment and Heritage guidelines titled "Photographic Recording of Heritage Items using Film or Digital Capture". One copy of the record is to be submitted to Council to be lodged with Council's Archives (see <http://www.environment.nsw.gov.au/Heritage/publications>).

The archival documentation, and the number and type of selected enlarged photographs required will be determined by the significance and quality of the building or structure.

The form of recording is to be a photographic documentation of the site and its context, and the exteriors and interiors of the existing building(s) photographed, where appropriate, using a camera/lens capable of 'perspective correction'.

- (a) The digital form of the recording is to be as follows:
 - i. The Development Application number and the Condition of Consent number must be noted.
 - ii. Include a summary report detailing the project description, date and authorship of the photographic record, method of documentation and limitations of the photographic record.
 - iii. The electronic images are to be taken with a minimum 8

megapixel camera, saved as JPEG TIFF or PDF files with a size of approximately 4-6MB, and cross referenced to the digital catalogue sheets and base plans. Choose only images that are necessary to document the process, and avoid duplicate images.

- iv. Include written confirmation, issued with the authority of both the applicant and the photographer that Georges River Council is granted a perpetual non-exclusive licence to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

- (b) The report can be submitted on a USB, CD or DVD, in PDF/A format (created directly from the digital original), with a digital catalogue of images with the following data for each: DOS title, image subject/description and data photograph taken.

20. Construction Environmental Management Plan

A final Construction Environmental Management Plan (CEMP) is to be submitted to the satisfaction of the Certifying Authority prior to the release of any Construction Certificate. The plan is to be generally in accordance with the Construction Management Plan prepared by Willow Frank (revision 1 dated 15 September 2020) and the Draft Construction Environmental Management Plan prepared by Tom Heath (dated 8 February 2021). The CEMP must include reference to and be coordinated with the Waste Management Plan (WMP) prepared by MRA Consulting Group (revision 1 dated 11 September 2020).

The CEMP must include a plan to screen for Acid Sulphate Soils (ASS) and a contingency protocol should ASS be encountered during remediation. In the event ASS material is uncovered, an ASS Management Plan must be prepared and implemented.

Prior to Works Commencing

21. Notice to EPA Accredited Site Auditor

Five working days prior to the commencement of any works, the EPA Site Auditor is to be advised of the commencement date in writing with a copy provided to the Principal Certifier.

22. Demolition & Asbestos (PREC10.1)

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 Principal Certifier 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.

23. **Demolition Notification Requirements (PREC10.2)**

The following notification requirements apply to this consent:

- (a) The developer /builder must notify nearby residents across Carwar Avenue from the site five 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 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.

24. **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](#).

25. Dial before your dig

The applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from “Dial Before You Dig” shall be forwarded to the Principal Certifier and Council for their records.

26. 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) Carss Cottage;
- (b) The Georges River Men’s Shed;
- (c) Carwar Avenue and the Carss Park access road

The report must include the following:

- (a) *Photographs showing the existing condition of the identified buildings,*
- (b) *Photographs showing the existing condition of the road pavement fronting the site,*
- (c) *Photographs showing the existing condition of the kerb and gutter fronting the site,*
- (d) *Photographs showing the existing condition of the footpath pavement fronting the site,*
- (e) *Photographs showing the existing condition of any retaining walls within the footway or road, and*
- (f) *The full name and signature of the structural engineer.*
- (g) The Dilapidation Report must be prepared by a qualified structural engineer. The report must be provided to the Principal Certifier and a copy provided to the Council.

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

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

27. Tree protection measures

All tree protection measures outlined in this consent are to be implemented prior to any demolition, excavation, or construction work commencing.

28. Hazardous material survey

At least one week prior to demolition, the applicant must submit to the satisfaction of the Principal Certifier a hazardous materials survey of the site. Hazardous materials include (but are not limited to) asbestos materials, synthetic mineral fibre, roof dust, PCB materials and lead based paint. The report must be prepared by a suitably qualified and experienced environmental scientist and must include at least the following information:

- (a) The location of hazardous materials throughout the site;
- (b) A description of the hazardous material;
- (c) The form in which the hazardous material is found, eg AC sheeting, transformers, contaminated soil, roof dust;
- (d) An estimation (where possible) of the quantity of each particular hazardous material by volume, number, surface area or weight;
- (e) A brief description of the method for removal, handling, on-site storage and transportation of the hazardous materials, and where appropriate, reference to relevant legislation, standards and guidelines;
- (f) Identification of the disposal sites to which the hazardous materials will be taken.

During Construction

29. Hours of construction for demolition and building work

Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Saturday inclusive. No work or ancillary activity is permitted on Sundays, or Public Holidays.

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

30. Supervision of remediation works by geotechnical specialist

An experienced geotechnical engineer to approve all remediation works in compliance with agreed specifications and supervise following activities including certification following construction works to be provided to the Principal Certifier at the completion of each stage specified:

- a) Design level excavation of materials to be removed and be exported off site to an approved landfill facility;
- b) All types of capping layers and placement of various capping layers;
- c) During initial foundation inspections for approval of placement of capping layers;
- d) Immediately prior to placing any capping for all remediation works;

- e) Compaction trial of imported earthfill materials prior to placement of any fill and to approve and set the construction methodology;
- f) Placement of fill above the capping layers up to the design surface levels
- g) To witness special compaction of materials including the contaminated materials;
- h) An experienced construction supervisor is required to certify that all fill placement and capping works met the specified requirements and to provide this documentation to the Principal Certifier.

31. Weekend Overflow Car Park Area (Carss Bush Park Hill)

At all times during the works, the Carss Bush Park Hill 'overflow car park area' which is accessed off Carwar Avenue south of the intersection between Carwar Avenue and Allawah Avenue via the single lane driveway, are to be made available for public use.

The overflow carpark' is to be equipped with the approved temporary traffic signal system for the duration of works to appropriately manage safe access to and from the parking area.

32. Keeping of construction records

No changes are to be made to the design without the approval of the designer and a record of all design changes is to be kept. All proper records of construction are to be kept and a Construction Certificate and Construction Report is to be submitted. The Construction report requirements are to include:

- a) details of construction methodology;
- b) details of Quality Assurance system used (Process procedures, ITPs, checklists etc.);
- c) supplier supplied documentation of remediation works materials including imported fill;
- d) certificate of tests for incoming materials;
- e) thorough photographic evidence during various stages of construction with date and notes provided;
- f) design documentation and files as applicable;
- g) Determination of suitable foundation
- h) Compliance with compaction
- i) records of inspections and tests performed during the contract (including dates and inspector identification);
- j) records of process parameters;
- k) register of placement of all materials (lot register);
- l) records of any design changes or variation made during construction;
- m) non-conformance reports and disposition actions;
- n) corrective actions;
- o) "Work-As-Executed" plans of remedial works prepared by a registered surveyor;
- p) Upon completion of construction, the construction report include a certificate of statement from the geotechnical engineer that works have met the Design Intent and works specification.

In general, Construction Report key Table of Content items should include:

1. Introduction
2. Design Aspects
3. Construction Works
4. Summary
5. Appendices

All of the above documentation is to be maintained during works and provided to the Principal Certifier at the completion of all works.

33. 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.

34. Construction Environmental Management Plan

All works are to be carried out in accordance with the Construction Environmental Management Plan submitted and approved by the Principal Certifier at Construction Certificate stage.

35. Requirement to Notify about New Evidence

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, archaeological remains, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifier.

36. 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.

37. 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.

38. Remediation Works - All remediation work must be carried out in accordance with: -

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

- the EPA Guidelines made under the Contaminated Land Management Act 1997, and
- The appointed EPA accredited Site Auditor's Recommendations,

and in accordance with the approved Remedial Action Plan prepared by Douglas Partners (R.002.Rev2, dated 19 February 2021) and the following:

- (a) The site is to be prepared in accordance with the requirements of the remediation plan and all site management measures to be in place to minimise dust and odour and stormwater management and control.
- (b) As-built survey plans of any capped areas are to be prepared to document:
 - The final excavation depth;
 - The final contaminated fill level;
 - The final surface capping level.
- (c) Any excess soil designated for offsite disposal is to be first classified in accordance with EPA (2014) *Waste Classification Guidelines* and transported to a licensed facility.
- (d) Should unexpected finds be discovered during the course of the remediation program, or should any phase of the validation identify residual, high level contamination requiring additional remediation, then the procedures described under the Unexpected Finds Protocol (**Section 7.6**) and/or the Validation Plan (**Section 6.6**) will be implemented, until the remediation goals have been achieved and the site is deemed suitable for the intended land use with an EMP.

39. **Imported fill**

All fill imported onto the site shall be validated prior to it being transported to the site to ensure the imported fill is suitable for the proposed land use from a contamination perspective. Fill imported on to the site shall also be compatible with the existing soil characteristic for site drainage purposes.

All fill imported onto the site should be validated by either one or both of the following methods during remediation works:

- (a) Imported fill should be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or
- (b) Sampling and analysis of the fill material shall be conducted in accordance with NSW EPA (1995) Sampling Design Guidelines

Copies of the validation to be provided to Council's Manager of Development and Building in a consolidated format within four weeks of completion of the remediation works.

40. **Signage – Contamination**

A sign displaying the contact details of the remediation shall be displayed on the site adjacent to the site access. This sign shall be displayed throughout the duration of the remediation works.

41. **Discharge of Contaminated Groundwater**

Groundwater shall be analysed for pH and any contaminants of concern identified during the preliminary or detailed site investigation, prior to discharge to the stormwater system. The analytical results must comply with relevant NSW EPA water quality standards and Australian and New Zealand Guidelines for Fresh and Marine Water Quality 2000.

Other options for the disposal of groundwater include disposal to sewer with prior approval from Sydney Water or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility.

42. **Tree protection during works**

Tree protection measures outlined in this consent are to be maintained/applied at all times during works.

43. **Contaminated waste to licensed EPA landfill**

Any contamination material to be removed from the site shall be disposed of to an EPA licensed landfill.

Reason: To comply with the statutory requirements of the Protection of the Environment Operations Act 1997.

Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the Principal Certifier and Council, where Council is not the Principal Certifying Authority.

44. **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 Principal Certifier and Council, where Council is not the Principal Certifying Authority.

On completion of works

45. **Demolition** – Within four weeks of completion of the demolition works, the Principal Certifier is to confirm in writing to Council that the demolition works have been undertaken in accordance with the approved Demolition Plan(s).
46. **Validation Report** – Within four weeks of completion of remediation works, a copy of the Validation and Monitoring Report prepared by suitably qualified contaminated land consultant, approved by the EPA Accredited Site Auditor and shall be submitted to the satisfaction of the PCA.

The validation report shall be prepared in accordance with the EPA Guidelines, *Consultants Reporting on Contaminated Sites*, and shall certify the suitability of the site for the approved use following works and:

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

In conclusion the validation report is required to confirm:

- The absence of asbestos and lead across the surface of the site;
- The suitability of the installed physical barrier for any material encapsulated beneath; and
- The suitability of any material imported to site.

As a site nominated on the Contaminated Lands Register, the Validation Report must be reviewed by the appointed EPA Accredited Site Auditor who is to confirm in writing that the measures implemented and reported in the Validation Report are satisfactory with regards to the Contaminated Lands Management Act.

47. **Site Audit Statement**

Within four weeks of completion of remediation works, a Section A1 Site Audit Statement or a Section A2 Site Audit Statement accompanied by an Environmental Management Plan that certifies the site is suitable for the approved use is to be prepared by a NSW EPA Accredited Site Auditor, and submitted to the satisfaction of the Principal Certifier, with a copy provided to Council.

48. Long-Term Environmental Management Plan

A final Long-Term Environmental Management Plan (LTEMP), generally in accordance with the draft Long-Term Environmental Management Plan (dated 12 February 2021) prepared by Tom Heath, is to be prepared and submitted to the Principal Certifier for approval at the completion of the works, subject to the following amendments:

- (a) Incorporate the recommendations provided by Earthwise Environmental Consultants in their mark-up version of the draft LTEMP.
- (b) Include a requirement to maintain a cover of grass across the open area of the final site surface at all times.

A copy of the LTEMP is to be submitted to Council's Manager of Development and Building for information purposes.

49. Registration of covenant for maintenance

Within four weeks of completion of remediation works, a covenant shall be registered on the title of any lot on which the contained contaminated material is to be encased binding the owners and future owners to be responsible for ongoing maintenance and any future rehabilitation works required in terms of the encapsulated materials, including the discharge or prevention of discharge there from of any contaminants or for any works required by the NSW Environment Protection Authority.

50. Dilapidation Report (Pubic land)

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

- (a) Carss Cottage;
- (b) The Georges River Mens Shed; and
- (c) Carwar Avenue and the Carss Park access road adjacent to the site.

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

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

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

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

Council's 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.

51. Works-As-Executed Plan

Within four weeks of completion of works a Works-As-Executed Plan Civil Engineering Plan is to be prepared marked in red on the approved construction plans and certified by a Registered Surveyor documenting the completed works including stormwater infrastructure, finished ground levels and location of any completed structures.

A copy of the plan is to be submitted to Council's Manager of Development and Building.

52. Completion of Landscape Works

(a) All landscape works is to be completed as per the approved Landscape Plans dated 27 Aug 2020. Within four weeks of the completion of landscaping works, the Principal Certifier is to confirm in writing to Council that the landscaping works have been undertaken in accordance with the approved plans.

(b) Written evidence is to be provided that fees payable for Council's tree offset bond for a total of \$38,270.00, has been paid as required prior to the release of a Construction Certificate. The replanting associated with the offset bond must be completed within five years of the date of this consent. Evidence of the offset bond is to be submitted to Council's Manager of Development and Building.

(c) An AQF 5 Horticulturist shall be engaged for the planting of all twenty-seven (27) trees and shrubs proposed for the site. The Horticulturist must certify in writing that all trees have been planted as per the approved landscape plans and specifications and forwarded to the Principal Certifier, forming compliance.

Operational Conditions (Ongoing)

53. Long-Term Environmental Management Plan

The site is to be maintained in accordance with the Long-Term Environmental Management Plan submitted and approved under Condition 47.

54. Maintenance of Landscaping - All plants forming part of the landscaping must be maintained for a minimum of 24 months. Maintenance includes

watering, weeding, removal of rubbish from tree bases, fertilising, pest and disease control, replacement of dead or dying plants and other operations required to maintain healthy trees, plants and turfed areas.

55. Tree Protection Measures

All tree protection measures must be installed prior to any works commencing and maintained for the duration of all works.

56. Tree Replacement within subject site

- a) If the replacement trees are found to be faulty, damaged, dying or dead within 24 months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size.
- b) A copy of the Hurstville City Council's Tree Removal and Pruning Guidelines and Kogarah City Council, Street Tree Management Strategy, Masterplan, and Tree Management Policy 2019, can be downloaded from Council's website www.georgesriver.nsw.gov.au.

57. Maintenance and on-going protection of containment measures

The contamination containment measures approved under this consent are to be maintained at all times in accordance with the approved Remediation Action Plan and EPA Accredited Site Auditor requirements with no digging, excavation, or other disturbance to the protective measure being permitted without further approval.

58. Usage

With regards to the contamination of the subject site, the use of the land is to be restricted to that of a recreation area (as defined under the Kogarah Local Environmental Plan 2012) subject to the limitations identified in the Site Validation Report and any additional limitations identified by the EPA Accredited Site Auditor.

59. Environmental Monitoring Plan - At the completion of all site remediation and the submission of the validation report, the Environmental Monitoring Plan (EMP) shall be implemented to manage the contaminated materials capped on site. The EMP is to include:

- Details, location and nature of contaminated material.
- Guidance against the exposure of underlying contaminated material.
- Management measures for contaminated material if future access is required.

In addition, management measures will be detailed in the EMP and will mainly involve routine site inspections and inspections of the site after heavy rain.

The EMP will be registered on the certificate of title with NSW Land and Property Information.

Operational Requirements under the Environmental Planning and Assessment Act 1979

- 60. A Construction Certificate for any of the works approved by this consent must be issued prior to any work commencing.
- 61. Prior to any works approved by this consent commencing, a Principal Certifier must be appointed.
- 62. **Notice of Commencement** - The applicant must give at least two days notice to the Council and the PCA of their intention to commence any work.

A Notice of Commencement Form is attached for your convenience.

PRESCRIBED CONDITIONS

- 63. **Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifier and the Principal Contractor.
- 64. **Clause 98E – Protection & support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.
- 65. **Clause 98E – Site Excavation** - Excavation of the site is to extend only to that area required for 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.

Advices

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

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

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

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

These separate activity approvals must be obtained and evidence of the approval provided to the Principal Certifier prior to the issue of the commencement of works.

The relevant Application Forms for these activities can be downloaded from

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

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

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

68. **Appeal Rights** - Part 8 (Reviews and appeals) of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court of New South Wales.
69. **Lapsing of Consent** - This consent will lapse unless the development is physically commenced within 5 years from the Date of Operation of this consent, in accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979 as amended.
70. **Site Safety Fencing** - Site fencing must be erected in accordance with SafeWork Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained throughout any demolition and construction work.

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

71. **Long Service Levy** - The Long Service Corporation administers a scheme which provides a portable long service benefit for eligible workers in the building and construction industry in NSW. All benefits and requirements are determined by the Building and Construction Industry Long Service Payments Act 1986. More information about the scheme and the levy amount you are required to pay to satisfy a condition of your consent can be found at <http://www.longservice.nsw.gov.au>.

The required Long Service Levy payment can be direct to the Long Service Corporation via their web site <https://online.longservice.nsw.gov.au/bci/levy>. Payments can only be processed on-line for the full levy owing and where the

value of work is between \$25,000 and \$6,000,000. Payments will be accepted for amounts up to \$21,000, using either MasterCard or Visa.

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

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

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

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

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

- (a) Complete the 'Stormwater Drainage Application Form' which can be downloaded from Georges River Council's website at www.georgesriver.nsw.gov.au.
- (b) In the Application Form, quote the Development Consent No. (DA2020/0405) and reference this condition number (Condition 2)
- (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with stormwater applications.

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

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

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