

DETERMINATION AND STATEMENT OF REASONS

SYDNEY SOUTH PLANNING PANEL

DATE OF DETERMINATION	31 May 2021
PANEL MEMBERS	Helen Lochhead (Chair), Stephen Gow, Sue Francis
APOLOGIES	None
DECLARATIONS OF INTEREST	<p>Heather Warton – I am currently working on Class 1 Land and Environment Court appeals for Georges River Council. I work with the Legal Section, not the planning section and am an independent expert witness. I have not worked on any matter that has been dealt with by the current Panel. As my role, acting for the Council and being on the Panel, is a perceived conflict of interest, I have not participated in Georges River Panel matters at all.</p> <p>Stuart McDonald – I have a conflict. The firm for which I work was engaged by the Council to prepare the DA for the Council.</p> <p>Con Hindi –</p> <p>Nick Katris –</p>

Public meeting held by teleconference on Thursday, 27 May 2021, opened at 12pm and closed at 1:15pm

MATTER DETERMINED

PPSSSH-41 – GEORGES RIVER – DA2020/0405 at 78 Carwar Avenue, Carss Park (Lot 511 in DP 752056, Lot 1 in DP 125981, Lot 376 in DP 1118749 and unreserved Crown land) – 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. The development application is integrated development under section 60 of the Heritage Act 1977. (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* and the Kogarah LEP (KLEP).

The decision was unanimous.

REASONS FOR THE DECISION

The Panel is aware of the cultural and social aspects of the site and has heard from the community in this respect. The Panel is also aware of the safety, contamination and insurance risks to the community should the works not occur.

After due consideration, the Panel determined to approve the application for the reasons outlined below and in the council assessment report.

The reasons for this recommendation are:

- Having regard to cl. 7 of SEPP No. 55 the Panel has considered the findings of a detailed site investigation and a remediation action plan and is satisfied that the land will be suitable for the proposed recreation use following the completion of the proposed remediation.
- To ensure public safety the land needs to be remediated and to remediate the land the Panel is obliged to approve the development application having regard to cl.12 of SEPP No.55 - Remediation of Land.
- 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 Kogarah DCP.
- 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, risky and unsafe 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.

The Panel notes that the Council has resolved to undertake a further feasibility and to not proceed with the demolition of the pool. However, the Panel also noted that the Council has not chosen to withdraw this DA. Should the Council decide not to proceed with the DA there is nothing in this determination that would preclude Council from doing so or to develop the site at a future date for an agreed and appropriate use.

CONDITIONS

The development application was approved subject to the conditions in the council assessment report with the following amendments to ensure that certain works required can and are undertaken prior to commencement rather than construction certification

Proposed changes to conditions 5 to 20 and 39 (condition 15 relocated to become 27(a)) are as follows, with one additional condition:

Prior to works commencing and 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 commencement of work.

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, , 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 Council's Manager Development and Building and to the Principal Certifier prior to release of the Construction Certificate.

7. Temporary Car Park (Carlton Crescent)

Prior to the commencement of any works, separate approval is to be obtained from Council 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 Council's Manager Development and Building.

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

Prior to the 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's Manager Development and Building 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 to Council's Manager Development and Building and then to Principal Certifier prior to the release of any construction certificate, and include the following:

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

The site management measures are to be implemented prior to the commencement of any works including demolition, excavation and tree removal. 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 Manager Development and Building for 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 and prior to any structural works commencing, 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 detailed 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 Council's Manager Development and Building. 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).

A copy of the final Remediation Plan is to be submitted to the Principal Certifier.

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 Council's Manager Development and Building 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. **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 submitted to Council's Manager Development and Building prior to any works commencing and lodged with the Construction Certificate application for approval and shall be in accordance with Section 4 - Australian Standard AS 4970-2009: *Protection of trees on development sites*.

The 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 to pedestrian pathway	10.2m
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, Men's 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 Council's

Manager Development and Building and to the nominated Principal Certifier.

- b) A certificate of compliance letter from the AQF 5 Arborist must be forwarded the Council's Manager Development and Building and 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 in 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.

16. 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 commencement of any work or removal of any tree, 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. The off set is to be paid to the Council and advised to the Council's Manager Development and Building.

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

17. 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 any works commencing on site. 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.

18. **Photographic Archival Documentation**

Prior to any works commencing on site, 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.

19. **Construction Environmental Management Plan**

A final Construction Environmental Management Plan (CEMP) is to be submitted to the satisfaction of Council's Manager Development and Building. 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.

Renumber condition 15 as 27(a):

- 27(a) **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;

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.

- 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.

All fill imported onto the site should be validated by either one or both of the following methods during remediation works: For any topsoil obtained from a soil supplier, tax invoice receipts should be kept to verify that the soil was sourced from a licensed soil manufacturer and it should meet Australian Standard AS4419:2018 'Soils for landscaping and garden use', further, any imported VENM soil material should meet the soil parameters outline in the Roads and Maritime Services (RMS) Quality Assurance (QA) Specification R178 for Vegetation.

In relation to Ausgrid requirements, the insertion of the following condition:

- *All works undertaken on site shall comply with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets.*


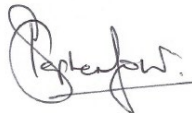

Note: The "as constructed" minimum clearances to Ausgrid's infrastructure must not be encroached by the building development. It also remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite. Ausgrid's Network Standards can be sourced from Ausgrid's website, www.ausgrid.com.au

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Cultural / social significance closure of Carss Park Pool and loss to the community
- 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

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and appropriate conditions to address these where appropriate.

PANEL MEMBERS	
 Helen Lochhead (Chair)	 Stephen Gow
 Sue Francis	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSSH-41 – GEORGES RIVER – DA2020/0405
2	PROPOSED DEVELOPMENT	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. The development application is integrated development under section 60 of the Heritage Act 1977.
3	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)
4	APPLICANT/OWNER	Applicant: SJB Planning Owner: Georges River Council
5	TYPE OF REGIONAL DEVELOPMENT	CIV > \$5M - Council interest
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> 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); Coastal zone management plan: <ul style="list-style-type: none"> State Environmental Planning Policy (Coastal Management) 2018; State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017; State Environmental Planning Policy (Infrastructure) 2007; Kogarah Local Environmental Plan 2012; Draft environmental planning instruments: <ul style="list-style-type: none"> Draft Georges River Local Environmental Plan 2020; Development control plans: <ul style="list-style-type: none"> Kogarah Development Control Plan 2013; Georges River Development Control Plan 2020 (Interim Policy) Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 12 May 2021 Written submissions during public exhibition: 126 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Dennis Alexander, Elise Borg on behalf of Save the Kogarah War Memorial Pool, Robert Byrne, Eugene Perchorowicz, Robert Jones, Robert Jones on behalf of the Kogarah Bay Progress Association, Gail Jones on behalf of Michelle Ford-Eriksson, Ilknur Bayari Council assessment officer – Clare Brown, Jack Kerstens, Brett Enman, Phillip North, Craig Kenworthy, Craig McLaren

		<ul style="list-style-type: none"> ○ On behalf of the applicant – • Total number of unique submissions received by way of objection: 87
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: Thursday, 17 December 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Helen Lochhead (Chair), Stephen Gow ○ <u>Council assessment staff</u>: Liam Frayne, Gail Connolly • Final briefing to discuss council's recommendation: Thursday, 27 May 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Helen Lochhead (Chair), Stephen Gow, Sue Francis ○ <u>Council assessment staff</u>: Liam Frayne ○ <u>Applicant representatives</u>: Michael Baker
9	COUNCIL RECOMMENDATION	Approved subject to conditions
10	DRAFT CONDITIONS	Attached to the council assessment report