

**ELECTRONIC DETERMINATION OF THE  
GEORGES RIVER LOCAL PLANNING PANEL  
23 FEBRUARY 2022  
SCHEDULE 2, PART 5, ITEM 26 OF THE ENVIRONMENTAL PLANNING AND  
ASSESSMENT ACT 1979 (NSW)**

**Panel constituted by:** Sue Francis (Chair), John Brockhoff (Expert) and Michael Leavey (Expert)

**Development application:** DA2021/0078

**Proposal:** Alterations and additions to an industrial building and use of the premises as a self-storage facility

**Premises:** Lot A DP 335941, 165 Penshurst Street Beverly Hills

**Determination**

Approval

Georges River Local Planning Panel has reviewed the written Clause 4.6 variation sought in respect of the Height of Building (Clause 4.3) development standard. As the proposal is a change of use of an existing building which breaches the height standard with no additional height being sought there are sufficient environmental planning grounds to justify the variation. The proposal is also in the public interest as it satisfies the objectives of the standard and the zone.

Pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended) the Georges River Local Planning Panel approve DA2021/0078 for alterations and additions to an industrial building and use of the premises as a self-storage facility at 165 Penshurst Street Beverly Hills, subject to:

The conditions below circulated to the Georges River Local Planning Panel following the meeting of 23 February 2022:

**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
Demolition Drawing	DA-00	Sept 2020	E	Graeme Scott Architect

Floor and Site Plan	DA-01	Sept 2020	E	Graeme Scott Architect
Elevations and Sections	DA-02	Sept 2020	E	Graeme Scott Architect
Mezzanine Floor Plan	DA-03	Sept 2020	E	Graeme Scott Architect
Unit Floor Areas	DA-04	Sept 2020	E	Graeme Scott Architect
Part Survey with Roof Height Levels	DA-05	Sept 2020	D	Graeme Scott Architect
Schedule of Materials and Colours	Colour	Sept 2020	E	Graeme Scott Architect
Car Parking Plan of Management				Terraffic Pty Ltd

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

### Separate Approvals Required Under Other Legislation

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

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

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

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work

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

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

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

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

#### **Requirements of Concurrence, Integrated & Other Government Authorities**

5. **Electricity Supply** - An application is required to be made to Ausgrid for a network connection. This may require the network to be extended or its capacity augmented. Evidence of this application being lodged with Ausgrid is required to be provided to the Certifying Authority prior to the issue of a Construction Certificate. For further details, you are advised to contact Ausgrid on 13 13 65 or [www.ausgrid.com.au](http://www.ausgrid.com.au) (Business and Commercial Services).

6. **Sydney Water - Tap in™** - The approved plans must be submitted to a Sydney Water Tap in™ to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then see 'Building', or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap in™ agent has appropriately stamped the plans prior to the issue of the Construction Certificate.
7. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the [Sydney Water Act 1994 <http://legislation.nsw.gov.au/>](http://legislation.nsw.gov.au/) must be submitted to the PCA prior to the issue of the Occupation/Subdivision Certificate.

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

#### **Prior to the Issue of a Construction Certificate**

8. **Required design changes** – Prior to any Construction Certificate, the following changes are to be made to the plans titled **“Stormwater Drainage Plans”, Drawing No. 201162 Nine Sheets D01 to D09, Issue B**, dated 28/01/2022, prepared by NB Consulting Engineers, and the additional information required in this condition, is to be submitted to the satisfaction of the Principal Certifier prior to any Construction Certificate:
  - a) Submit details, for the pipe within the easement, of its existing serviceability and structural condition, based on the use of a CCTV investigation provided by an industry reputed company.
  - b) Should the pipe be found to not be fit for purpose, the applicant is to provide details of an alternative design to meet the requirement of the Georges River Stormwater Policy (April 2021).

*Note: The applicant must obtain separate Development Consent for all drainage works to be carried out within the inter allotment easement to drain developed runoff if the existing easement pipe is found to be inadequate to cater for the development and the existing pipe is to be replaced. The written consent of each of the owners of the property/ies burdened by the easement will be required for each development application to carry out the drainage works on the burdened lot/s.*

- c) Provide proof of capacity of the existing pipe by providing a detailed longitudinal section of the existing drainage pipe within the easement, showing surveyed surface levels, invert levels, grade, and any public utility services. The survey shall be submitted with engineering calculations, prepared by a consulting drainage engineer, demonstrating adequate capacity of the pipe to cater for 30 litres/sec OSD tank developed runoff (with supporting hydraulic grade line analysis).
- d) Provide a certificate from the drainage design engineer stating that the drainage pipe capacity and its performance (based on registered surveyor surveyed pipe detail information utilised in the design) within the rear inter allotment easement provides adequate capacity and will function properly and shall be able to drain and cater for developed design runoff from the subject property with OSD to improve the drainage regime without any additional adverse and nuisance impact to all neighbouring properties burdened by the easement.
- e) Submit a survey plan prepared by a registered surveyor showing the existing pipe location and alignment, size(s), cover from ground surface, depth and its extent within the easement outside the property boundary leading to its connection to downstream public drainage systems via interconnecting drainage pits.

*Please note that the current pipe alignment shown on Sheet D08 of Drawing No. 201162 is inconsistent with the alignment of the easement as shown on the Deposited Plan 732309.*

- f) Submit OSD calculations demonstrating that at least 80% of total site area is drained to the OSD tank. A maximum of 20% of the remaining site area may bypass the tank, including OSD emergency overflow, and all is discharged to a legal point of discharge.
- g) Increase the short term stormwater storage volume on site (OSD/rainwater tank) by 25% from that shown on the approved concept plans to reduce the peak tank discharge rate.
- h) Site drainage plans are to clearly include existing ground levels, finished ground levels and drainage systems with detailed dimensions, surface and invert levels.
- i) All grated drains shall have at least 300mm dimensions and are to drain to a legal point of discharge.
- j) A 450mm x 450mm grated boundary pit is to discharge to a legal point of discharge.

*Note: Drawing No. 201162 shows the discharge point located on privately owned land (Land & Housing Corporation). The consent of the landowner is required to discharge onto private land.*

9. **Low reflectivity roof** - Roofing materials must be low glare and reflectivity. Details of finished external materials including colours and texture must be provided to the Certifying Authority.
10. **Fire Safety Measures** - Prior to the issue of a construction certificate a list of the essential fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a construction certificate, which is required to be submitted to either Council or the PCA. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or PCA will then issue a Fire Safety Schedule for the building.
11. **Damage Deposit - Major Works** - In order to insure against damage to Council property the following is required:
  - a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$31,900.00**
  - b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: \$155.00
  - c) Submit to Council, before the commencement of work, a dilapidation report of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

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

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

12. **Access for Persons with a Disability** - Access to and throughout the premises and to sanitary facilities, for persons with disabilities must be provided in accordance with the requirements of the Premises Standards, the Building Code of Australia, AS 1428.1 and the Disability Access report from Lindsay Perry (LP\_19196) dated 12 August 2019. Details must be submitted with the Construction Certificate Application.
13. **Waste Storage Containers - Commercial/Industrial** - Appropriate waste and recycling containers and facilities will need to be provided for all specific end use businesses in accordance with the following waste generation rates:

#### **Commercial Waste**

- a) Office - 0.01-0.03 cubic metres per 100 square metres of floor area per day.

- b) Recycling Facilities - appropriate recycling facilities to be provided.

### **Industrial Waste**

- c) General Waste Facilities - 0.1-0.2 cubic metres per 100 square metres of floor area per day;
- d) Industrial Waste - that is solid waste derived from the manufacture or repair of equipment - specialised containers appropriate for the nature of waste derived from the manufacture or repair of equipment; and,
- e) Recycling Facilities - appropriate recycling facilities to be provided.

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

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

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

- 14. 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](http://www.georgesriver.nsw.gov.au)).

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

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

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

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

Fee Type	Fee
<b>GENERAL FEES</b>	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See <a href="https://portal.longservice.nsw.gov.au/bci/levy/">https://portal.longservice.nsw.gov.au/bci/levy/</a>	
Builders Damage Deposit	\$31,900.00
<b>DEVELOPMENT CONTRIBUTIONS</b>	
Georges River Council Section 94A Contributions	\$9,300.00

### 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.

### Development Contributions

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

#### Timing of Payment

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

#### Further Information

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

- 15. Erosion & Sedimentation Control** - Erosion and sediment controls must be provided to ensure:
- (a) Compliance with the approved Erosion & Sediment Control Plan
  - (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
  - (c) All clean water runoff is diverted around cleared or exposed areas
  - (d) Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways
  - (e) All erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works



- (f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
- (g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
- (h) Compliance with [Managing Urban Stormwater - Soils and Construction \(Blue Book\) produced by Landcom 2004](#).

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

## 16. Vehicular Access Grades

The applicant must submit a profile (longitudinal section) demonstrating access clearance by the B85 Design Vehicle (85% percentile vehicle in accordance with AS2890.1 2004) for the entry.

- a) This profile (scale 1:20) is to show levels and grades from road centreline to the proposed internal garage floor level including but not limited to levels of, road centreline, changes of grade on road surface, lip of gutter, invert of gutter, back of vehicular crossing(gutter layback), front of path, back of path and boundary. The profiles provided are to also include the natural surface of the land as well as the proposed design including cut and fill dimensions.
- b) Additional profiles are to be provided on either side of driveway when longitudinal grade of road exceeds 8%.

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

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

- (a) All stormwater shall be drained in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
- (b) Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineer who specialises in Hydraulic Engineering in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.

18. **On-site Stormwater Detention (OSD)** - The submitted plans titled "**Stormwater Drainage Plans**", **Drawing No. 201162 Nine Sheets D01 to D09, Issue B**, dated 28/01/2022, prepared by NB Consulting Engineers, have been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate in accordance with condition 8 of this consent.
- a) An OSD facility designed by a professional engineer who specialises in Hydraulic engineering must be designed, approved and installed.
  - b) The required OSD storage requirements and permissible discharge are to be calculated in accordance with Table 3 of Council's Stormwater Management Policy.
  - c) The OSD volume is to be provided to the development in accordance with condition 8 of this consent and Council's Stormwater Management Policy. On this site it is required to design the gutters and pipes to the OSD to cater for the 100year ARI event.
  - d) OSD Tank structural design details prepared and certified by a consulting Structural Engineer (with current NER certification from Engineers Australia) to construct all reinforced concrete structural slabs, walls, beams, columns and other structural members. The details are to be submitted to the Principal Certifying Authority for approval.
  - e) The OSD facility shall be designed to meet all legislated safety requirements. A durable metal plate or similar sign is to be placed at the OSD facility and must bear the words:

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

Full details shall accompany the application for the Construction Certificate.

19. **Waste Management Plan** - A Waste Management Plan incorporating all requirements in respect of the provision of waste storage facilities, removal of all materials from the site that are the result of site clearing, extraction, and, or demolition works and the designated Waste Management Facility shall be submitted to the Certifying Authority prior to the issue of any Construction Certificate.
20. **Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns and other structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works.

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

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

21. **Dial before your dig** - The applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from “Dial Before You Dig” shall be forwarded to the Principal Certifying Authority (PCA) and Council for their records.
  
22. **Registered Surveyors Report - During Development Work** - A report must be submitted to the PCA at each of the following applicable stages of construction:
  - a) Set out before commencing excavation.
  - b) Floor slabs or foundation wall, before formwork or commencing brickwork.
  - c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
  - d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.
  - e) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
  - f) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

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

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

## **During Construction**

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

25. **Development Engineering - Public Utility and Telecommunication Assets** - The owner shall bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines and cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.
26. **Contamination - Unexpected Finds** - Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier and all works on site must cease immediately.
27. **Site sign - Soil & Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.
28. **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.

29. **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.
30. **Cost of work to be borne by the applicant** - The applicant shall bear the cost of all works associated with the construction of the development that occurs on Council property. Care must be taken to protect Council's roads, including the made footway, kerbs, etc., and, where plant and vehicles enter the site, the footway shall be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction shall be maintained in a state of good repair and condition throughout the course of construction.
31. **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.

32. **Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt. Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the PCA and Council, where Council is not the Principal Certifying Authority.
33. **Asbestos Clearance Certificate**- An asbestos clearance certificate is to be prepared by a suitably qualified asbestos removalist and be provided to the satisfaction of the PCA after all existing buildings and structures have been demolished.
34. **Site Excavation and Soil Removal**- Any soil removed from the site is to be classified in accordance with Waste Classification Guidelines, Part 1: Classifying Waste NSW EPA (2014). Documentary evidence of the soil classification of the removed soil is to be prepared by a suitability qualified contamination lands specialist and be provided to the satisfaction of the PCA.

#### **Prior to the issue of the Occupation Certificate**

35. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the PCA prior to the issue of the Occupation/Subdivision Certificate.
36. **Acoustic Certification** - Prior to the issue of any Occupation Certificate, a suitably qualified acoustic consultant shall certify that the operation of the premises and plant equipment shall not give rise to a sound pressure level at any affected premises that exceeds the acoustic criteria established by the Acoustic Report required by a condition of this consent. The development shall at all times comply with these noise levels post occupation.
37. **Vehicular crossing - Minor development** - The vehicular crossing and/or footpath works shall be constructed by a private contractor at the expense of the applicant, in accordance with the specifications contained in the 'Application for Driveway Crossing and Associated Works on Council Road Reserve' approval issued by Council's Assets and Infrastructure Division and in accordance with Council's Specification for Vehicular Crossings and Associated Works and the issued.

Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant and in accordance with Council's Specification for Vehicular Crossings and Associated Works.

No stencilled or coloured concrete may be used outside the boundary of the property.

The work must be completed before the issue of an Occupation Certificate.

**38. Verification of Approved Levels** - For flood affected properties, a registered surveyor shall verify the levels of the design overland runoff path and rear underfloor areas throughout the development and finished floor levels to AHD (5.95m AHD) and according to the approved plans.

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

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

Restrictions on Use of Land

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

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

### **Positive Covenants**

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

2. *Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council shall have the following additional powers:*
  - a) *in the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above the Council or its authorised agents may enter the land with all necessary materials and equipment and carry out any work which the Council in its discretion considers reasonable to comply with the said notice referred to in part 1(d) above*
  - b) *the Council may recover from the registered proprietor in a Court of competent jurisdiction:*
    - i. *any expense reasonably incurred by it in exercising its powers under subparagraph (i) hereof. Such expense shall include reasonable wages for the Council's employees engaged in effecting the work referred to in (i) above, supervising and administering the said work together with costs, reasonably estimated by the Council, for the use of materials, machinery, tools and equipment in conjunction with the said work.*
    - ii. *legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to section 88F of the Act or providing any certificate required pursuant to section 88G of the Act or obtaining any injunction pursuant to section 88H of the Act. Name of Authority having the power to release vary or modify the Positive Covenant referred to is Georges River Council.*

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

**41. Stormwater drainage works – Works As Executed – OSD Tank** - Prior to the issue of an Occupation Certificate, the PCA must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards. A works-as-executed drainage plan and works completed certification must be forwarded to the PCA and Council's Development and Building Department, from a professional civil engineer specialising in hydraulic engineering.

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

- (a) Compliance with conditions of development consent relating to stormwater;
- (b) The structural adequacy certification of the On-Site Detention system (OSD) from the structural engineer who provided design adequacy certificate earlier during CC stage;

- (c) Drainage design engineer to provide certificate that the OSD works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations;
- (d) Pipe invert levels and surface levels to Australian Height Datum;
- (e) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.
- (f) The Work-As-Executed plans are prepared on the copies of the approved drainage plans issued with the Construction Certificate and variations are marked in red ink;
- (g) The works-as-executed drainage plans must be prepared jointly and duly signed by a professional civil engineer specialising in hydraulic engineering and a Registered Surveyor certifying the accuracy of dimensions, invert levels, surface levels, storage volume etc;

Council must be advised in writing that they are satisfied with the Works-As-Executed prior to the issue of an Occupation Certificate.

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

The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:

- (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- (b) Work as Executed Plans prepared and jointly duly signed by a Chartered Professional Engineer and a Registered Surveyor when all the site engineering works are complete shall be submitted to the PCA prior to the issue of the Occupation Certificate.

**43. Requirements prior to the issue of the Occupation Certificate - Driveways Works**

The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:

- (a) Construction of new vehicle crossings as required by this consent.
- (b) Replacement of all redundant vehicle crossing laybacks with kerb and guttering, and replacement of redundant concrete with turf.



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

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

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

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

**46. Acoustic Compliance - General Operation of Premises** - The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 <<http://www.legislation.nsw.gov.au/>> (as amended) and Regulations <<http://www.legislation.nsw.gov.au/>>.

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

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

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

## Operational Conditions (On-Going)

48. **Noise Control** - The use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the [Protection of the Environment Operations Act 1997](#) (as amended).
49. **Hours of operation** - The approved hours of operation shall be restricted to the following:
- 7.00am – 4.00pm Monday to Friday  
7.00am – 12.00pm Saturday  
Closed on Sunday
50. **Lighting - General Nuisance** - Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill or glare.
- Flashing, moving or intermittent lights or signs are prohibited.
51. **Amenity of the neighbourhood** - The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.
52. **Annual Fire Safety Statement** - The owner of the building premises must ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given:
- (a) Within 12 months after the date on which the fire safety certificate was received.
  - (b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
  - (c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the [Environmental Planning and Assessment Regulation 2000](#).
  - (d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.

**END CONDITIONS**

## NOTES/ADVICES

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

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

2. **Appeal Rights** - Part 8 (Reviews and appeals) of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court of New South Wales.
3. **Lapsing of Consent** - This consent will lapse unless the development is physically commenced within 5 years from the Date of Operation of this consent, in accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979 as amended.
4. **Council as PCA - Compliance with the BCA** - Should the Council be appointed as the PCA, the Construction Certificate Application must be accompanied by the following details, with plans prepared and certified by an appropriately qualified person demonstrating compliance with the BCA:
  - a) Access and Egress provisions including travel distances and the operation and swing of final exit doors.
  - b) Installation of alert signage for the operation of exits doors and lifts
  - c) Fire safety services and equipment including portable fire extinguishers, exit signs and emergency lighting.
  - d) Hydraulic services including fire hydrants, fire hose reels and any fire safety measure used in conjunction with the protection of opening.
  - e) Window schedule is to include the protection of openable windows.

In this regard, detailed construction plans and specifications that demonstrate compliance with the above requirements of the BCA and the BCA Logic report (111002-BCA-r2) dated 14 August 2019 must be submitted to the Certifying Authority with the Construction Certificate Application.

Should there be any non-compliance, an alternative method of fire protection and structural capacity must be submitted, with all supporting documents prepared by a suitably qualified person.

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

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

Useful links relating to Noise:

- (a) Community Justice Centres - free mediation service provided by the NSW Government ([www.cjc.nsw.gov.au](http://www.cjc.nsw.gov.au)).
  - (b) Department of Environment and Conservation NSW, Noise Policy Section web page ([www.environment.nsw.gov.au/noise](http://www.environment.nsw.gov.au/noise)).
  - (c) New South Wales Government Legislation home page for access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2000 ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)).
  - (d) Australian Acoustical Society - professional society of noise-related professionals ([www.acoustics.asn.au/index.php](http://www.acoustics.asn.au/index.php)).
  - (e) Association of Australian Acoustical Consultants - professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au)).
  - (f) Department of Gaming and Racing - ([www.dgr.nsw.gov.au](http://www.dgr.nsw.gov.au)).
6. **Acoustical Engineer Contacts & Reference Material** - Further information including lists of Acoustic Engineers can be obtained from:
- (a) Australian Acoustical Society - professional society of noise-related professionals ([www.acoustics.asn.au](http://www.acoustics.asn.au))
  - (b) Association of Australian Acoustical Consultants - professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au))
  - (c) NSW Industrial Noise Policy - Office of Environment & Heritage ([www.environment.nsw.gov.au](http://www.environment.nsw.gov.au))
7. **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](http://www.georgesriver.nsw.gov.au).
- (b) In the Application Form, quote the Development Consent No. (eg. DA2018/0\*\*\*) and reference this condition number (e.g. Condition 23)
- (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with stormwater applications.

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

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

### **Statement of Reasons**

The reasons for this recommendation are:

- The Panel deferred consideration of the matter at its meeting of 15 July 2021 and 19 November 2021 to address the issue of stormwater. In the intervening period the applicant has provided expert information and the Panel heard from the applicant and their expert at the meeting of 23 February 2022.
- The Panel accepted that the matter of stormwater could be addressed with appropriate operational conditions which were prepared by Council's stormwater engineer and reviewed by the applicant. Whilst the applicant sought to amend certain conditions the Panel determined to maintain the conditions as recommended by Council
- The proposed development seeks a change of use of the existing industrial premises. The height of the existing building exceeds that of the relevant height standard and a cl 4.6 variation has been sought to maintain that variation. There are sufficient environmental justifications to allow that variation.
- The proposed development retains the scale and form on the site.
- In consideration of the aforementioned reasons, the proposed development is a suitable and acceptable, subject to conditions,

**Date of Determination:** 21 March 2022

**Voting:** Unanimous

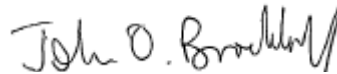
**Confirmed:** Sue Francis (Chair), John Brockhoff (Expert) and Michael Leavey (Expert) as the constituted Georges River Local Planning Panel pursuant to Part 4 of the Environmental Planning and Assessment Act 1979 (NSW).

**Dated:** 21 March 2022



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Sue Francis  
**Chairperson**



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John Brockhoff  
**Expert Panel Member**




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Michael Leavey  
**Expert Panel Member**

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**Declaration of Interest  
Georges River Council  
Local Planning Panel**

Panel Member Name:	Sue Francis
Meeting Date:	23 February 2022
Item Numbers:	<ul style="list-style-type: none"> <li>• 165 Penshurst Street Beverly Hills</li> </ul>
In relation to the matters on this agenda, I declare that I have:	<input checked="" type="checkbox"/> No known conflict of interest
In relation to item number I have an actual <sup>1</sup> conflict of interest	<input type="checkbox"/> Conflict Details
In relation to item number I have a potential <sup>2</sup> conflict of interest	<input type="checkbox"/> Conflict Details
In relation to item number I have a reasonably perceived <sup>3</sup> conflict of interest	<input type="checkbox"/> Conflict Details
Name of Panel Member	Sue Francis
Signature:	
<p>Key of Terms:</p> <p><sup>1</sup> An 'actual' conflict of interests is where there is a direct conflict between a member's duties and responsibilities and their private interests or other duties.</p> <p><sup>2</sup> A 'potential' conflict of interests is where a panel member has a private interest or other duty that could conflict with their duties as a panel member in the future.</p> <p><sup>3</sup> A 'reasonably perceived' conflict of interests is where a person could reasonably perceive that a panel member's private interests or other duties are likely to improperly influence the performance of their duties as a panel member, whether or not this is in fact the case.</p>	




**Declaration of Interest  
Georges River Council  
Local Planning Panel**

Panel Member Name:	John Brockhoff
Meeting Date:	23 February 2022
Item Numbers:	<ul style="list-style-type: none"> <li>• 165 Penshurst Street Beverly Hills</li> </ul>
In relation to the matters on this agenda, I declare that I have:	<input checked="" type="checkbox"/> No known conflict of interest
In relation to item number I have an actual <sup>1</sup> conflict of interest	<input type="checkbox"/> Conflict Details
In relation to item number I have a potential <sup>2</sup> conflict of interest	<input type="checkbox"/> Conflict Details
In relation to item number I have a reasonably perceived <sup>3</sup> conflict of interest	<input type="checkbox"/> Conflict Details
Name of Panel Member	John Brockhoff
Signature:	
<p>Key of Terms:</p> <p><sup>1</sup> An 'actual' conflict of interests is where there is a direct conflict between a member's duties and responsibilities and their private interests or other duties.</p> <p><sup>2</sup> A 'potential' conflict of interests is where a panel member has a private interest or other duty that could conflict with their duties as a panel member in the future.</p> <p><sup>3</sup> A 'reasonably perceived' conflict of interests is where a person could reasonably perceive that a panel member's private interests or other duties are likely to improperly influence the performance of their duties as a panel member, whether or not this is in fact the case.</p>	





**Declaration of Interest  
Georges River Council  
Local Planning Panel**

Panel Member Name:	Michael Leavey
Meeting Date:	23 February 2022
Item Numbers:	<ul style="list-style-type: none"> <li>• 165 Penshurst Street Beverly Hills</li> </ul>
In relation to the matters on this agenda, I declare that I have:	<input checked="" type="checkbox"/> No known conflict of interest
In relation to item number I have an actual <sup>1</sup> conflict of interest	<input type="checkbox"/> Conflict Details
In relation to item number I have a potential <sup>2</sup> conflict of interest	<input type="checkbox"/> Conflict Details
In relation to item number I have a reasonably perceived <sup>3</sup> conflict of interest	<input type="checkbox"/> Conflict Details
Name of Panel Member	Michael Leavey
Signature:	
<p>Key of Terms:</p> <p><sup>1</sup> An 'actual' conflict of interests is where there is a direct conflict between a member's duties and responsibilities and their private interests or other duties.</p> <p><sup>2</sup> A 'potential' conflict of interests is where a panel member has a private interest or other duty that could conflict with their duties as a panel member in the future.</p> <p><sup>3</sup> A 'reasonably perceived' conflict of interests is where a person could reasonably perceive that a panel member's private interests or other duties are likely to improperly influence the performance of their duties as a panel member, whether or not this is in fact the case.</p>	