

# Georges River Environmental Alliance



e: [go\\_river@hotmail.com](mailto:go_river@hotmail.com)

fb: Georges River Environmental Alliance

*The Georges River Environmental Alliance, established in 1992, acts to protect and promote healthy terrestrial and aquatic ecosystems, river water quality, liveability and environmental sustainability throughout the whole of the Georges River catchment.*

**Attention: The General Manager, Georges River Council.**

**Objection to: DA2021/0181 80 Boronia Pde, Lugarno (Glenlee)**

**Contents;**

**S.1 Contextual Statement.**

**S. 2 The case for a DA Refusal: negative impacts maximised not minimized.**

**S. 3 Further Non-compliances to LEP standards; Foreshores and Stormwater Management.**

**S.4 Failures to meet the mandated state policy instruments.**

## **S.1 Contextual Statement**

### **The local scene**

The Georges River Environmental Alliance, (GREA) wishes to emphasise the immense breadth and depth of public opposition to this DA which will brutally transform a much known and loved culturally and ecologically significant site. At the time of the preparation of this submission, there were 1627 signatories to a NSW Parliamentary petition, (as of 9/6/21) seeking it to be saved.

Whilst this point is not the basis for an objection, it does indicate how this proposal is highly contested and **not generally seen as in the public interest.**

Community opposition has been reflected by media reports, with the St George Leader featuring a story on 26/5/21, a story on ABC 702 breakfast radio on 14/6/21 and extensive social media interest as well. The community has mounted strong arguments against this development, justifying a refusal of this DA 2012/0181, and also has called on governments to seek ways to make it a publicly accessible foreshore and bushland public park.

<https://www.theleader.com.au/story/7263392/residents-environmentalists-call-on-nsw-government-to-save-historic-glenlee/>

Something that this assessment process should consider is that the **Georges River Council LGA falls short in its allocation of public open space by 6.4 ha**

(<https://ethosurban.com/projects/single/georges-river-foreshore-strategy-georges-river-council>, p. 79). Every opportunity to gain some hectares, particularly in sensitive, scenic and

ambient locations should be seized. **No off-setting** through improvements in any other established park is an adequate compensation. No is it an excuse that this part of the LGA, the Peakhurst Ward, has a disproportionate part of the total open space of the whole LGA already. In the other highly developed wards such opportunities do not exist, and people for example, from the Hurstville Ward where open space is deficient, can and do visit and enjoy parks, like Oatley and Gannons Park. Further, the potential exists to connect the Glenlee estate via a continuous recreational and conservation corridor through the adjoining Heinrich Reserve, to Gannons Park and beyond.

### **Subdivision Assessment comparisons with other LGAs**

The GREA, is a stakeholder group taking an interest in a wide range of issues across the whole of the Georges River catchment which consists of at least 8 LGAs. Our recent experience with subdivision proposals spread across this bio-region, has led us to a view that, even though modest in total size, this DA 2021/0181 proposal is **outstandingly deficient in terms of meeting legislative controls, mandated policy instruments and community expectations for what will be its environmental and social outcomes.**

By way of illustration: Subdivisions occurring in South-west Sydney on greenfield sites incorporate the creation of open space. For example, the much larger scale Fig Tree Hill Estate- Stage 1 near Campbelltown sets aside 20 ha of parkland and 30 ha of bushland in order to gain approval for 1700 new dwellings. <https://communities.lendlease.com/new-south-wales/figtree-hill/-/media/communities/au/figtree-hill/documents/environmental-documents/mount-gilead-koala-plan-of-management.pdf?>

Of course, the Glenlee DA is small-scale, but by applying the same ratio of open space to dwellings, the 31-lot development should create approximately .88ha of open space. This is perfectly reasonable given also the presence of flood prone, foreshore and environmentally sensitive land, (to be illustrated later in this submission) arguably makes much of the Glenlee site not 'urban capable.' It is **totally unacceptable there is no open space provision** within the footprint of this DA 2021/0181.

By way of further illustration, Appendix One of this submission provides a comparative table, of this DA with another small scale 'unacceptable' subdivision application in the Sutherland Shire. Whilst both are worthy of refusal, it demonstrates just how excessively bad, the Lugano subdivision is. It also reveals how the **level of supporting documentation for the Glenlee proposal is exceptionally deficient and misleading** by way of comparison, and this further justifies a refusal on those grounds.

## **S. 2 The case for a DA Refusal: negative impacts maximised not minimized**

Whilst GREA recognises that the zoning is R2-low density residential, our objection is based on the presence of so many constraints across the site that make much of it not fit for development, essentially not urban capable, and this will be substantiated through an analysis of the Applicants Statement of Environmental Effects (SoEE) and other documentation.

- This DA tries to deny the relevance of the Georges River LEP 2020, by invoking the 1.8A savings provision. (page 19) However this is not justified. The Land and Environment Court, *found in De Angelis v Wingecarrabee Shire Council (2016)* that a draft LEP must be considered.

[https://www.lindsaytaylorlawyers.com.au/in\\_focus/lep-savings-clauses/](https://www.lindsaytaylorlawyers.com.au/in_focus/lep-savings-clauses/)

Further, recent Development Approvals in the Georges River LGA, within close proximity of the Georges River, as this one is, and even when of far lesser scale and impact, demonstrate quite clearly in both the council officer assessment reports and in the determinations, that the draft LEP 2020 provisions have been applied. (For example, 9 Marine Drive, DA 2020/0241).
- 25 of the 31 lots proposed are **below 700sqm in area** (SoEE p.6). The applicant's justification is wholly reliant on a standard from the Hurstville LEP 2012. It does not, but should, consider and give weight to the draft Georges River Council draft LEP 2020 (GRLEP 2020) that was due for finalisation by November 2020. The draft GRLEP 2020 determined the **minimum block size** within this zone was to be 700sqm, and this is the standard that should be applied.
- The proposal for 31 lots of such a small size shows no consideration **for the unique set of constraints on this site**, and therefore should be refused. In terms of **biodiversity**, the western portion of the site is Smooth barked Apple-Blackbutt -Red Bloodwood open forest that provides foraging and nesting habitat for endangered species. Whilst the SoEE admits the presence of 3 **endangered fauna species** (p8), further examination of the NSW Fauna Bionet Mapping records also note the presence of additional threatened fauna species dependant on the bushland and estuarine habitats in situ, or on adjoining land ,including Powerful owls, Grey headed flying foxes, Eastern curlews, Sea eagles and Ospreys. (This is not admitted by the applicant, and a fuller account of Biodiversity values has been documents by other objectors including Ecologist, Deb Andrew, and local naturalist, Megan Argent). The applicant acknowledges the high biodiversity values of "some" of the site, as measured by the criteria of the Biodiversity Conservation Regulations, yet ignores this as a constraint, and flags the only remedy of **Offsetting**, under the Biodiversity Offsets Scheme. (SoEE, p.8) However, the beginning point of the hierarchy of controls is to avoid, and the last resort is to off-set. It is unacceptable that this DA makes no attempt to avoid, any of the values or delineate any of the site as so significant, for it to be set aside and 'saved' from development, or impacts, upon it.

It is disturbing that the SoEE makes the inaccurate claim that **"it is unlikely that any Aboriginal cultural heritage items or places will be impacted."** (SoEE., p.15). It has been common local knowledge that there is a large Aboriginal midden on the site, and the creek line has 2 items carved into the rocky creek ledges, that have been recorded on the Aboriginal Heritage Information Management System, (AHIMS) administered by Heritage NSW. (see Appendix 2 of this document) There is also academic and peer reviewed research that documents the first known and documented culture contact between the Bidjigal clan and a party led by Lt Phillip Gidley King in 1788 at this Lugarno Peninsula and along this shoreline of Boggywell

Ck. (Robert Hayworth, 'The Several 'Discoveries' of Sydney's Georges River: Precursors to the Tom Thumb Expedition', *Journal of Australian Colonial History*, Vol. 14, 2012, pp. 171-190).

It is an appalling failure of due diligence on the part of the Applicant that there has been no survey nor study of any kind of the Archaeological and Indigenous Cultural Significance of this site, nor any attempt to consult with the traditional land owners, (the Bidjigal clan) other Aboriginal residents or the Metropolitan Local Area land Council. The professional standard that has not been met, is set out in the 'Due Diligence Code of Practise for the Protection of Aboriginal Objects in NSW (Heritage NSW).

The site is **flood prone** (admitted by SoEE ., p. 22.) with the mid- section of the block currently behaving as a gigantic soft grassy 'sponge', for the surface overflow from the rather charming partially natural and otherwise stone lined meandering drainage channels. This area both allows the slowing and absorption and filtering of the stormwater from the surrounding sub-catchments and will be entirely lost should this DA be approved. The failings of the **pit and pipe stormwater management approach** proposed, in dealing with both the current stormwater load, and the massive additional volumes from the new 31 lot subdivision, will be further dealt with in a subsequent section.

The eastern edge of the site is the sensitive riparian and foreshore area to Boggywell Ck, which is really an embayment of the Georges River. The unacceptable impacts of this development on the Coastal Environment Area, subject to extra protective controls (SEPP, Coastal Management), will be dealt with subsequently. The whole site sits with a zone that has been classified and mapped by the NSW DPIE as of High Ecological Value (see Appendix 3 of this submission) and this has not been taken into account.

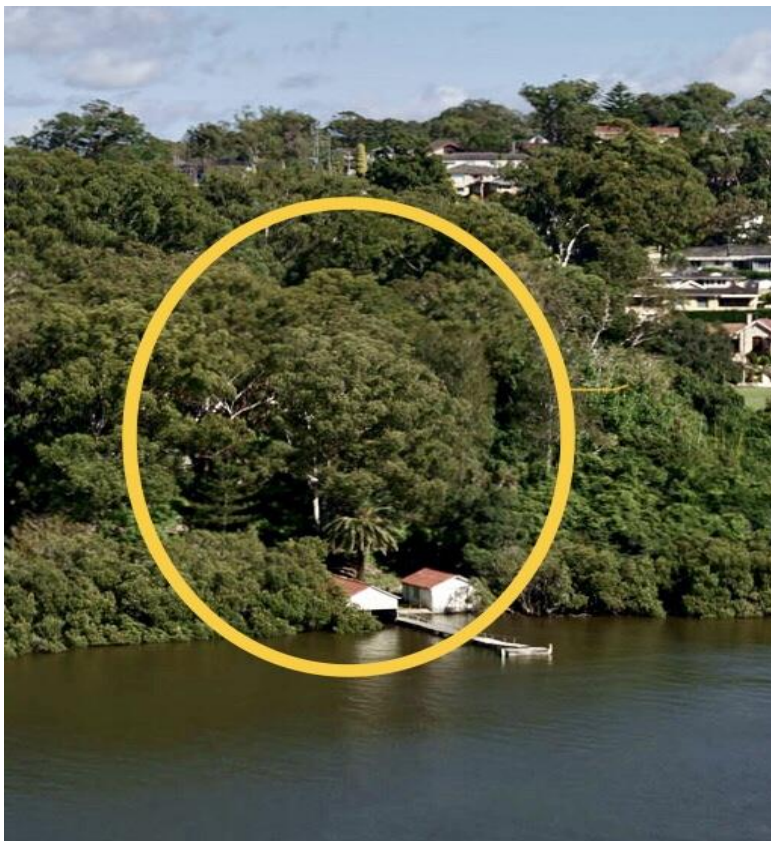
- The access arrangements and configuration of the subdivision is around an extension of Boronia Pde through a reserve, zoned 'Public Recreation 1'. (SoEE., pp. 5-6) This road requires owners' consent, and the 'owner' is Georges River Council, and this DA does not seek that, but is reliant on some other 'approval' from Council. GREA expects council will deny such a forthcoming request for the road easement, and not approve this current application DA 2012/0181 either. It is not in the public interest to surrender any recreational land, particularly to enable such a huge loss of potential public amenity and conservation values as is proposed for this DA 2021/0181.

### **S. 3 Further Non-compliance to LEP standards; Foreshores and Stormwater Management.**

With respect to **Foreshore Controls** the SoEE makes the false claim that "under the draft LEP the entire site ...is...falling within the Foreshore Scenic Protection Area, (FSPA) whereas currently (presumably referring to the Hurstville LEP 2012) only the lower part of the site adjoining the waterfront is identified as such". (SoEE., p.18)

The truth is the FSPA extent, within this whole Lugarno precinct, has remained unchanged. The Hurstville LEP 2012 (Clause 6.4) defines the FSPA as covering this entire site subject to this DA, and the draft LEP 2020 re-iterates this (Clause 6.7). Council has recently decreed the 700sqm minimum to address the objectives of the FSPA, which were, and are still, to avoid disturbance to natural features, notably native vegetation across the whole site. **Remember 25 of the 31 lots will not reach this standard.** The most likely consequence is the almost total removal of the tree canopy is inevitable should this application be approved: here is the evidence; The SoEE notes the presence of more than 200 trees on the site (p10), and admits 48 trees will be immediately removed as a result of road and verge provisions, and claims 178 trees will be retained within the allotments. (p. 11) However, an examination of the Plans and Civil Engineering Drawings, (JN, Responsive Engineering, submitted as part of this DA) and comparing the “Indicative Building Envelope Plan- Sheet 1 &2” to any of the other plans that show the current location of remnant trees, reveals it will be almost impossible to maintain any of these trees, given the pattern and size of the built footprints. So, tree numbers could effectively be reduced from more than 200 to only the 27 street trees, mere saplings of a single species that will remain small and not provide cooling shade, foraging or nesting habitats for any of the fauna that is dependent on the current diverse and tall forest. (See Taylor Bremner; Landscape Plan, part of the DA.) With respect to the building envelopes on the foreshore blocks, they are so constrained that they encourage future applications for environmentally damaging variations to the foreshore building line.

This photo below (Source; David Mercer) shows the view to be protected of Glenlee from the river and also Websters Lookout, Oatley Park, encircled by yellow, and suggests what is to be lost in terms of canopy cover. The maintenance of the scenic leafy foreshore cover is a key object of the Foreshore Scenic Protection Zone.



## With respect to Stormwater Management

Whilst the Applicants SoEE., (p.19) acknowledges that the draft GRLEP 2020 has a Stormwater Management Clause (6.7) that is designed to maximise on-site infiltration and on-site detention, it in contradiction presents a Stormwater Management model that provides nothing in this regard.

The Applicant's SoEE fails to acknowledge that the Hurstville LEP 2012, has a special Clause 6.2 for Riparian Land and Water Courses, that is designed to protect these from damaging development. Within that clause the consent authority is urged to consider the following:

(c) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

And whether

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact

GREA therefore urges Council to reject this DA as it does not plan to implement any Stormwater Management measures that will avoid significant adverse environmental impacts, and we provide a discussion and evidence of this position below.

The set of annotated photographs below are of a subdivision occurring at Lucas Heights. (The Ridgeway) Whilst larger in area, its model of stormwater management reveals the principles and standards that should be applied to the environmentally sensitive Glenlee site (DA 2021-0181) and yet are completely absent.



Before the subdivision meets the sensitive River riparian zone, an infiltration channel of pebbles and a rain garden is in place. It is effectively a buffer zone. *The Glenlee proposal does not provide such protection to the sensitive zones adjacent.*



Road runoff is channelled into vegetated 'filter' strips for natural management of both volume and quality rather than transported into pits and pipes. *The Glenlee proposal lacks this treatment.*



The road-side nature strips or verges are maximised in width, being 3 metres of turf and biodiversity gardens allowing for the planting of large canopy trees, or the retention of existing trees, up to the footpath, and another 1m width of absorbing turf before the property boundary. *The Glenlee proposal has very narrow verges of less than 2m widths.*

Georges River Council is well aware of the need for such approaches and in fact model these also in their own recent projects, notably in Gannons Park. So Council must require this of the sub-division developer, with the measures to be within the footprint of the development, so as to not to lead to the degrading of the sensitive receiving environment which are community assets, like the adjoining wetlands in Heinrich Reserve and the waterways of Boggywell Ck/Georges River. Whilst public amenity loss is unacceptable, there can even be a cost shifting whereby public authorities and ratepayers can be financially burdened by the need for remediation, caused by a developer who gets away with maximizing profit yield at public expense, with a stingy, ruthless and environmentally destructive development.

The inadequacy of the proposed pit and pipe network stormwater design for the Glenlee DA 2021/0181 is further illustrated by the letter that supposedly is a professional endorsement for it, but really condemns it.

Robert Mahony (JN Responsive Engineering, included in a Statement on Flood Impact and Mitigation, with the DA). It admits the site is flood affected, and only says in support of the drainage model that the pit and pipe structures will be effectively “sized” to capture the overland flows. Presumably this one- dimensional approach does not consider nor provide on-site detention, the necessary infiltration through soft surface treatments, to both filter and reduce polluted surface flows. It simply relies upon an acceptance of increased volumes and velocities of flows, and increase pollutant loads from the subdivision, that will be very efficiently transported to the discharge end point., and effectively dumped into the downstream receiving environment.

It goes on to say

“The captured flows” will be discharged into the “existing point of discharge” with “no adverse effects on the surrounding dwellings.”

This assessment completely ignores the increased velocities and volumes of flows, and their worsened quality, will be dumped directly via the discharge outlet on a natural creekline, forward of the Foreshore building line, at or close to the location of the Aboriginal objects. The outlet structure is pointed directly towards the adjoining Heinrich Reserve. So as well as undermining the integrity of the natural ecosystem of creek and an Aboriginal site, and the George’s River which is 50 metres downstream, it will adversely affect the Coastal Swamp Oak Forest within Heinrich Reserve, which is classified as an endangered ecological community in NSW <http://www.environment.gov.au/cgi-bin/sprat/public/publicshowcommunity.pl?id=142> .

The estuarine wetlands and the sensitive intertidal mangroves and salt marshes, known to be present immediately adjacent to the north and downstream, are mapped in the Coastal Environment Zone Map of the Coastal Management SEPP, 2018. [https://webmap.environment.nsw.gov.au/PlanningHtml5Viewer/?viewer=SEPP\\_CoastalManagement](https://webmap.environment.nsw.gov.au/PlanningHtml5Viewer/?viewer=SEPP_CoastalManagement)



#### S.4 Failures to meet the mandated state policy instruments

GREA believes that there are various non-compliances and urges Council officers to examine the proposal very forensically for these, and we request the right to comment further, at the time this process proceeds to the LPP stage. At a glance just a few areas of concern are indicated below:

- The topography of the whole site slopes towards the sensitive Coastal Environment Area and Coastal Use area, as defined on-site by the Coastal Management 2018 SEPP mapping. The applicant simply trivialises and denies impacts, by claiming that no work will occur in this section of the site, whilst enabling the future development of it. (SoEE, pp.16-17) Of immediate concern, is the downstream degrading and cumulative impacts of earthworks, tree removal and the very unsatisfactory stormwater management regime proposed upon the waterways, the Aboriginal sites and the rare vegetation community and public reserve adjoining. This DA application does not comply with the SEPP and therefore should not be approved.
- **Does not address nor reflect the Greater Sydney Commissions objectives in terms of Sustainability**, particular runs counter to **Objective 25** which recognises the need to protect foreshores, enable public access to the foreshore.  
<https://www.greater.sydney/metropolis-of-three-cities/sustainability/city-its-landscape/coast-and-waterways-are-protected-and>
- In terms of **tree canopy cover and mitigating heat island effects**, The Greater Sydney Commission sets a standard of canopy cover for 43%. It is entirely unacceptable that the tree removal on this large site of 200 canopy trees, with a dense urban form in situ, that provides no scope of a 'like-for-like' replacement, will lead to a 'heat island' effect of more than 2.5 ha in area. It will be an unsightly and unsustainable scar on the Georges River foreshores, that does not meet the objectives of the FSPA, but also any tree removal or site degradation that has downstream or cumulative impacts on the Coastal Environment Area, contravenes the Objectives of the NSW SEPP Coastal Management, 2018.

Yours faithfully

(Dr) Sharyn Cullis  
PhD *Science and Technology Studies*\_UNSW  
Secretary, Georges River Environmental Alliance  
c/-14 Marine Dve Oatley, m. 0421 714 391.  
15/6/21.

See Appendices attached.

### Appendix One:

A Table that compares 2 unacceptable subdivision applications within southern Sydney that both deserve refusal, is provided below. The first is a proposal for the subdivision of 1.5229ha of koala habitat (22 Bundanoon Rd, Woronora Heights, DA21/0336 in the Sutherland Shire.) and the second of course, 80 Boronia Pd Lugano, DA 2021/0181 in Georges River LGA.

The point is the 80 Boronia DA is just so much worse than the other, in terms of not meeting statutory obligations and community expectations with respect to cultural and/or environmental standards.

Detail	22 Bundanoon	80 Boronia
Size/scope of subdivision	1.559ha subdivision into 5 large lots at these dimensions to maximise the retention of natural features eg trees= 1 at 4,797sqm, 3426, 2366, 1416 and 1341 respectively.	2.543ha subdivision into 31 residential lots, that will require the removal of at least 200 trees initially and then an unknown extra given the proposed lot size of 21 lots below 700 sqm, many only around 550 sqm, is incompatible with canopy tree retention.
Site sensitivity limiting urban capability	Koala habitat	Site known to have nesting, perching or foraging habitat for <b>12</b> endangered species.
Archaeological investigations	A report submitted part of DA application-meets Due Diligence Code of Practise for the Protection of Aboriginal Objects in NSW (Heritage NSW)	Despite the existence of 3 Objects see AHIMS Register, Heritage NSW) No Archaeological Report prepared, so fails to meet NSW gov't Due Diligence code.
Flora and fauna Investigations	Onsite surveys included 2 seasons Spring and Summer. Extensive bibliography and references both NSW Bionet Fauna Atlas (DPIE EES, NSW) and Vege Mapping (OEH) 2016 Methods included both diurnal and nocturnal observations, echolocation, spotlighting, acoustic song metering, call playbacks and indirect evidence	In adequate survey effort  Failure to acknowledge the species present
Stormwater Plans	Explicit design that defines the location of on-site detention for each of the lots. Large lot size to maximize infiltration.	No specification of how and where on-site detention on any private lots will occur. A pipe and street pit configuration that does not meet the standards of Water

		<p>Sensitive Urban Design, insufficient soft infiltration zones, with small lot sizes and no rain gardens or detention basins on public property within the subdivision. Instead direct discharge into a fragile natural creekline, where the concentration of Aboriginal objects will be impacted, along with the adjacent EEC and estuarine environment and main channel of the Georges River</p>
--	--	---

## Appendix 2



# AHIMS Web Services (AWS)

## Extensive search - Site list report

SiteID SiteName Datum Zone

Your Ref/PO Number : Glenlee Arch assess 4

---

Easting

Northing

Context

Site Status

SiteFeatures

SiteTypes

Client Service ID : 594600

Reports

45-6-1712 Boggywell Creek; AGD 56 319940 6237720 Open site Valid Shell : -, Artefact : - Midden Contact Recorders Warren Bluff Permits
45-6-1713 Matthei Jetty AGD 56 319990 6237500 Open site Valid Shell : -, Artefact : - Midden Contact Recorders Warren Bluff Permits
45-6-3907 Glenlee hatchet grinding grooves GDA 56 320050 6237721 Open site Valid Grinding Groove : - Contact Recorders DPIE - Armidale,Ms.Linda Henderson Permits
45-6-3908 Glenlee rock bowl GDA 56 320047 6237707 Open site Valid Water Hole : - Contact Recorders DPIE - Armidale,Ms.Linda Henderson Permits
45-6-3909 Glenlee midden 2 GDA 56 320037 6237681 Open site Valid Non-Human Bone and Organic Material
Contact Recorders DPIE - Armidale,Ms.Linda Henderson
Permits
:-

---

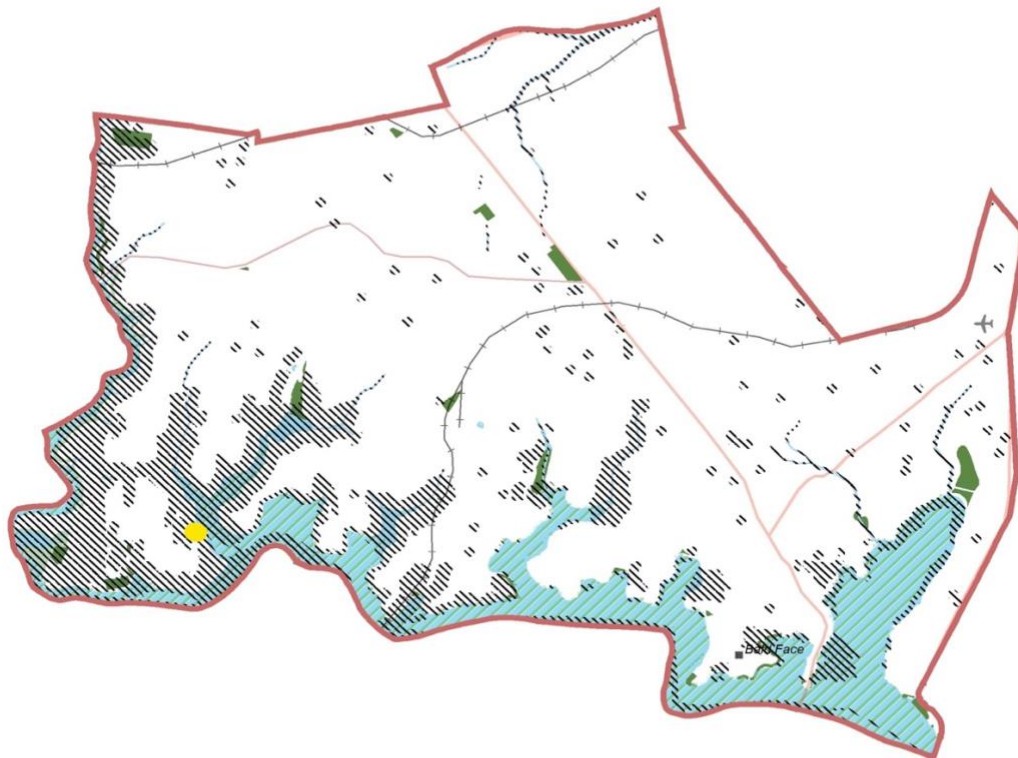
Report generated by AHIMS Web Service on 28/05/2021 for Megan Argent for the following area at Lot : 1, DP:DP10359 with a Buffer of 200 meters. Additional Info : for information purposes. Number of Aboriginal sites and Aboriginal objects found is 5 This information is not guaranteed to be free from error omission. Office of Environment and Heritage (NSW) and its employees disclaim liability for any act done or omission made on the information and consequences of such acts or omission.

### Appendix 3

Note: Glenlee site in yellow.

## GEORGES RIVER LOCAL GOVERNMENT AREA

High Ecological Value  
Water and Wetland Dependent Ecosystems



Coordinate System: GDA 1994 MGA Zone 56  
Projection: Transverse Mercator  
Datum: GDA 1994  
False Easting: 500,000.0000  
False Northing: 10,000,000.0000  
Central Meridian: 153.0000  
Scale Factor: 0.9996  
Latitude Of Origin: 0.0000  
Units: Meter  
Date: 8/07/2019

<https://www.environment.nsw.gov.au/support/copyright-and-disclaimer>



#### Locality



- |               |          |                  |              |               |
|---------------|----------|------------------|--------------|---------------|
| GEORGES_RIVER | Locality | Railways 1:250k  | NSW Wetlands | Crown Reserve |
| HEV Coverage  | Airports | Dual Carriageway | Water        | NPWS Estate   |
|               |          | Principal Road   |              |               |
|               |          | Secondary Road   |              |               |