

AGENDA - LPP

Meeting:	Georges River Local Planning Panel (LPP)
Date:	Tuesday, 17 December 2019
Time:	4.00pm
Venue:	Council Chambers, Civic Centre, Hurstville
Panel Members:	Paul Vergotis (Chairperson) John Brockhoff (Expert Panel Member) Michael Leavey (Expert Panel Member) Annette Ruhotas (Community Representative)

1. On Site Inspections - 1.00pm –3.30pm

- a) 23 Bay Road Oatley
- b) Ramsgate Villiage - 193-201 Rocky Point Road, 66-68 Ramsgate Road and 2-6 Targo Road Ramsgate
- c) 261 Princes Highway Carlton
- d) 1-3 English Street Carlton
- e) 296 Forest Road Hurstville

Break - 3.30pm

2. Public Meeting – Consideration of Items 4.00pm–6.00pm

Public Meeting Session Closed - 6.00pm

(Break – Light Supper served to Panel Members)

3. Reports and LPP Deliberations in Closed Session - 6.30pm

- LPP061-19 296 Forest Road Hurstville (Central Plaza) - MOD2019/0191**
(Report by Consultant Planner)
- LPP062-19 261 Princes Highway Carlton - DA2018/0059**
(Report by Consultant Planner)
- LPP063-19 1-3 English Street Kogarah - DA2018/0358**
(Report by Senior Development Assessment Officer)
- LPP064-19 Lot 23, 23 Bay Road Oatley - MOD2019/0097**
(Report by Independent Assessment)
- LPP065-19 Ramsgate Village Planning Proposal - 193– 201 Rocky Point Road,
66-68 Ramsgate Road and 2-6 Targo Road, Ramsgate - PP2019/0001**
(Report by Independent Assessment)

4. Confirmation of Minutes

**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF TUESDAY, 17 DECEMBER 2019**

LPP061-19

LPP Report No	LPP061-19	Development Application No	MOD2019/0191
Site Address & Ward Locality	296 Forest Road Hurstville (Central Plaza) Hurstville Ward		
Proposed Development	Modification Application - Erection of 4000mm wide by 2000mm deep LED Display Screen mounted on a 5200mm wide by 5000mm high stand with associated speakers and support columns		
Owners	Georges River Council		
Applicant	Georges River Council		
Planner/Architect	Unilumin Group Co Ltd		
Date Of Lodgement	23/10/2019		
Submissions	One (1)		
Cost of Works	N/A		
Local Planning Panel Criteria	Georges River Council is the Owner and Applicant of the application		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy Infrastructure 2007, State Environmental Planning Policy No.64 – Advertising Signage, Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment Hurstville Local Environmental Plan 2012 Hurstville Development Control plan No.2 (Amendment No.9)		
List all documents submitted with this report for the Panel's consideration	LED Screen Elevation Plan Steel support structure plan LED Screen Plan General Arrangement Site Plan		
Report prepared by	Consultant Planner		

Recommendation	That the application be approved in accordance with the conditions included in the report.
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Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable

Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	No - the applicant can review the conditions when the report is published.

Site Plan



Site outlined in red

Executive Summary

Proposal

- The proposal seeks to erect a LED Display Screen measuring 4000mm wide by 2000mm deep on a 5200mm wide by 5000mm high stand together with speakers and their support columns. The LED Display screen is proposed to be a feature facility within the Hurstville Central Plaza (Plaza) and will enable community events, feature events and the like to be televised and or displayed for the general public. This is a compatible form of ancillary development within the Plaza having regard to the proposed activities previously referred to within the:
 - Central Plaza Plan of Management 2016, prepared by JMD Design; and
 - Independent Hearing and Assessment Panel (IHAP) report of 18 May 2017 for approval of DA2017/0049 for the creation of the Plaza.

Site and Locality

- The site is within the Hurstville Town Centre, approximately 20m from the Hurstville rail station, diagonally opposite the main pedestrian entrance to the rail station from Forest

Road. The site has an area of approximately 1385sqm, is rectangular in shape and has dimensions of approximately 26m wide x 60m long. The northern end of the site terminates at an existing pedestrian ramp that provides access into the Westfield Shopping Centre. This ramp is located within the road reserve of Crofts Avenue.

Zoning and Permissibility

3. The site is zoned B3 Commercial Core under Hurstville Local Environmental Plan 2012 and the proposed development is assessed as an ancillary activity to the primary use being a “Recreational Area”, known as Central Plaza, this use is permissible in the zone.

Submissions

4. One (1) submission was received which raised a question with regard to the use of the LED digital screen for public entertainment purposes. The submitter was unable to be contacted as phone calls were made and emails sent with no further response being received. It is noted that the documentation accompanying the application clearly identified that the LED screen would be used for community notices and for special events, which may include public entertainment.

Conclusion

5. The application has been assessed having regard to the Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans. The proposed LED digital screen, speakers and their supporting structures are considered to be ancillary to the permitted use and the relevant assessment provisions. As a result the application is recommended for approval subject to conditions.

Report in Full

Proposal

DESCRIPTION OF THE PROPOSAL

6. The modification application (MOD2019/0191) is submitted under the provisions of Section 4.55 (1A) and Section 4.15 Environmental Planning and Assessment Act 1979 seeking amendments to the approved plans as outlined below:
 - Installation of a 4m long by 2m high LED display screen with side speakers on supporting steel framework that elevates the LED screen 5m above ground level. The proposed LED screen is to be located in the front section of the existing landscaped garden bed at the southern end of Hurstville Central Plaza as depicted in Figure 1 below.
 - Installation of four (4) Bose articulated array speakers (100W output) 2 to be fixed adjacent to the proposed LED display screen and two (2) within the Plaza. These speakers are proposed only to be used during special and cultural events with the screen to be mute the remainder of the time.
 - The primary use of the LED display screen and speakers is as a community notice board, community entertainment and for special event and cultural events on a less frequent nature. In this regard it is proposed to be operated on a 24/7 loop for community and Georges River Council information and events updates.

DESCRIPTION OF THE SITE AND LOCALITY

7. The subject site is 296 Forest Road Hurstville being Lot 16 DP4799 and is located between Forest Road to the south, Crofts Avenue to the north and Diment Way to the

west. The site to the east, 282 Forest Road is currently a construction site which benefits from an approval for a multi-storey commercial and retail building.

8. The site is within the Hurstville Town Centre, approximately 20m from the Hurstville railway station, diagonally opposite the main pedestrian entrance to the rail station from Forest Road.
9. The site has an area of approximately 1385sqm, is rectangular in shape and has dimensions of approximately 26m wide x 60m long. The northern end of the site terminates at an existing pedestrian ramp that provides access into the Westfield Shopping Centre. This ramp is located within the road reserve of Crofts Avenue.
10. As can be seen in the photos below the Plaza is mostly complete with intricate paving throughout, seating areas, landscaped areas and lighting, all combining to create an outdoor area that can be utilised by the community both for general outdoor recreational use as well as for staged events and cultural celebrations.

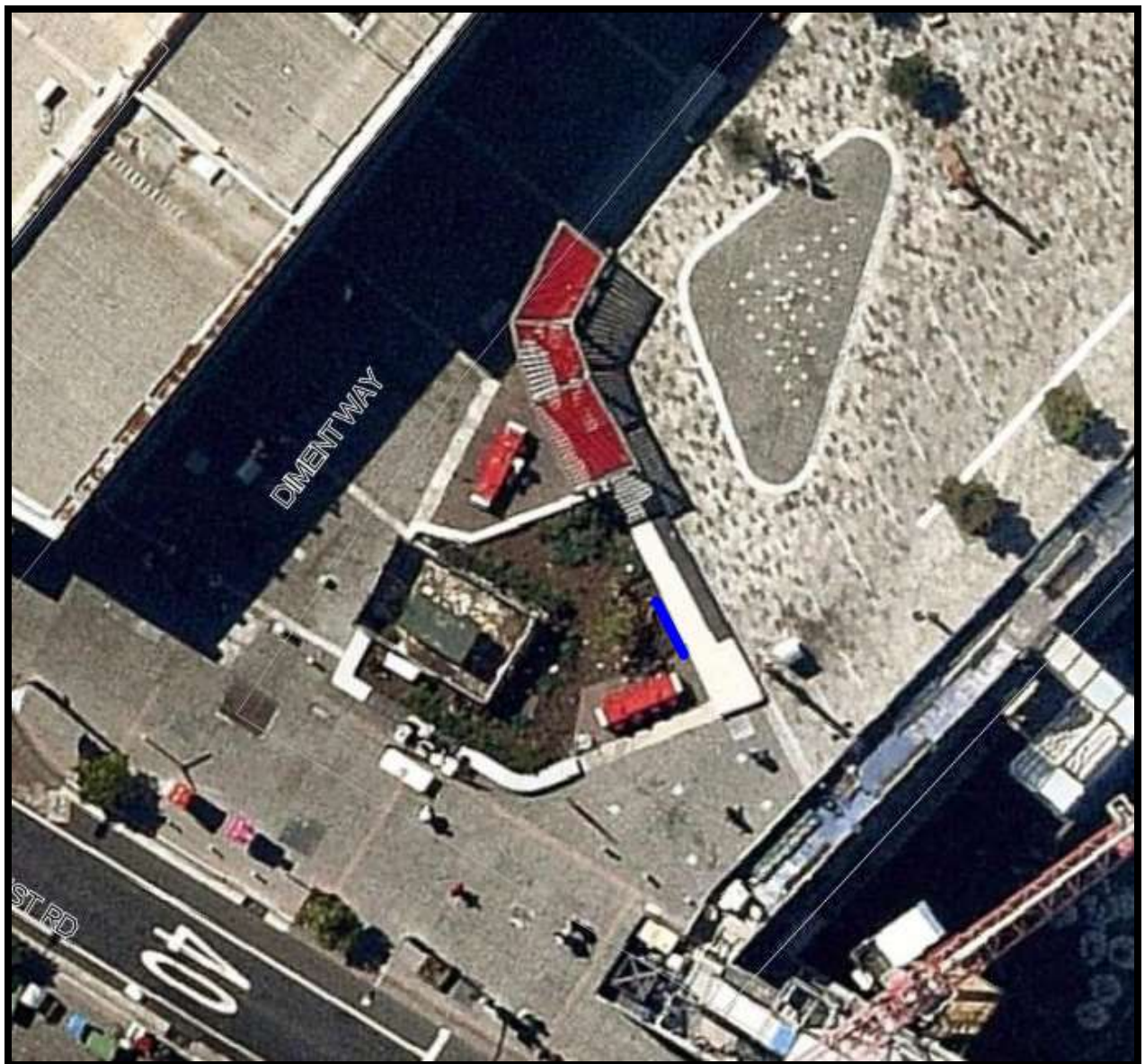


Figure 1: Proposed location of the LED display screen in the front section of the existing landscaped area highlighted in blue



Figure 2: Onsite photo of “Hurstville Plaza” looking south towards Forest Road where the screen is to be installed



Figure 3: Mock-up of proposed LED display screen in Central Plaza (Source: Applicant Document)



Figure 4: View looking south to landscaped area where the LED display screen is proposed to be positioned



Figure 5: View from back of landscaped area looking north across "Hurstville Central Plaza" where the screen is to be installed

COMPLIANCE AND ASSESSMENT

11. The development has been inspected and assessed under the relevant Section 4.15 "Matters for Consideration" of the Environmental Planning and Assessment Act 1979.

ENVIRONMENTAL PLANNING INSTRUMENTS

Section 4.55 (1A) Modification under Environmental Planning & Assessment Act, 1979

12. The proposal has been considered against the relevant statutory provisions as a matter of minimal environmental impact as follows;

(1A) Modifications involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the proposed modification is of minimal environmental impact, and

13. Comment: The proposed LED display screen, speakers and support structures are considered to be of minimal environmental impact having regard to the following:

- The structures have a small physical footprint within the Hurstville Central Plaza and will not unreasonably impact the public use of the Plaza;
- The primary use of the LED display screen is to provide a 24/7 community event displays which would not involve elevated volumes;
- The LED display screen is proposed to be used to broadcast major social, sporting or community events, which will be audible, these are estimated to be minimal events in number annually.

14. Suitable conditions of consent, dealing with volume controls and frequency of events broadcast, will ensure that the LED display screen and speakers do not unreasonably impact the amenity of the public domain or significantly impact nearby premises.

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

15. Comment: The proposed installation of the LED digital screen and speakers does not change the intent of the original DA (DA2017/0049), which was to create a public plaza in accordance with the Council endorsed (Hurstville Central Plaza) Plan of Management (PoM) prepared by JMD Design, 2016. It is noted that the proposed LED digital screen and speakers are considered to compliment the use being part of the same approved development considering:

- PoM identified activities in the Plaza to include Community Notices but does not specify how this would be achieved, thus Display Screens/Speakers, or any other form of fixed or portable notice board structure, would be an effective and appropriate method to publicise community events.
- The Independent Hearing and Assessment Panel (IHAP) report of 18 May 2017 which granted consent for the creation of Central Plaza noted as follows:
 - The Plaza would include erection of a Council signage/notice board; and
 - Identified that a location adjacent to the Westfield ramp would be suitable for a LED screen structure for screening of movies, community notices/events, sporting events and the like.
- The proposed installation of the LED digital display screen and speakers will compliment and strengthen the objectives of the Hurstville Plaza PoM, specifically the recreational use of the Plaza for staging of events and cultural celebrations (one of the key permitted uses under the Plaza PoM).

- The original electrical plan layout for the Plaza provided suitable outlets in the positions identified for the Screen and speakers, pre-empting future electrical requirements within the Plaza.
 - There is no identifiable adverse impact on general amenity, privacy or overshadowing by the proposal on the adjoining commercial and retail premises.
16. Suitable conditions of consent can be imposed to ensure that the LED screen and speakers do not adversely impact the amenity of the future public domain or nearby premises, including:
- i. Inclusion of a remote cut-out switch should the noise generated create unacceptable amenity concerns for future residents within the proximity of the Plaza;
 - ii. Requirement that a bi-annual acoustic report be prepared, and submitted for Council consideration and action on any appropriate recommendations, which carries out an analysis of noise generation on six (6) occasions annually, inclusive of at least three (3) amplified events, from monitoring points at each end of the Plaza, being Forest Road and Crofts Avenue. This procedure should continue for six (6) years from the date of approval to provide a broad analysis of the facilities operational impacts.
 - iii. Operation of amplified broadcasts from the LED screen/speakers will be terminated by 10:00pm daily, except where major events are programmed to occur, including festivals (eg Chinese New Year), sporting events (eg Olympic Events) or musical presentations (eg Mardi Gras) or the like, that have been notified to the general public through the LED Screen/Speaker system for a minimum of 14 days prior to the event occurring to ensure the general public are fully informed.
- (c) *it has notified the application in accordance with:*
- (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
17. Comment: In accordance with the provisions of Councils Public Notification process, the application was placed on neighbour notification for 14 days and one (1) submission was received. The submission was in the form of an enquiry as to the purpose of the display screen whether it was for entertainment purposes. The person who made the submission was contacted by telephone and email but has not responded to these enquiries.

Section 4.15 Assessment

18. An assessment of the application with regard to the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 is provided as follows.
- (a)(i) any environmental planning instrument,**
19. Hurstville Local Environmental Plan 2012 applies to the site. The relevant provisions of this local environmental plan are addressed as follows.

Hurstville Local Environmental Plan 2012

20. The subject site is subject to the Hurstville Local Environmental Plan 2012

Part 2 – Permitted or Prohibited Development

Clause 2.1 – Land Use Zones

21. The subject site is zoned B3 Commercial Core and the approved use as a “recreation area” is a permissible form of development with Council’s consent, the screen and speakers are considered ancillary to this approved use.

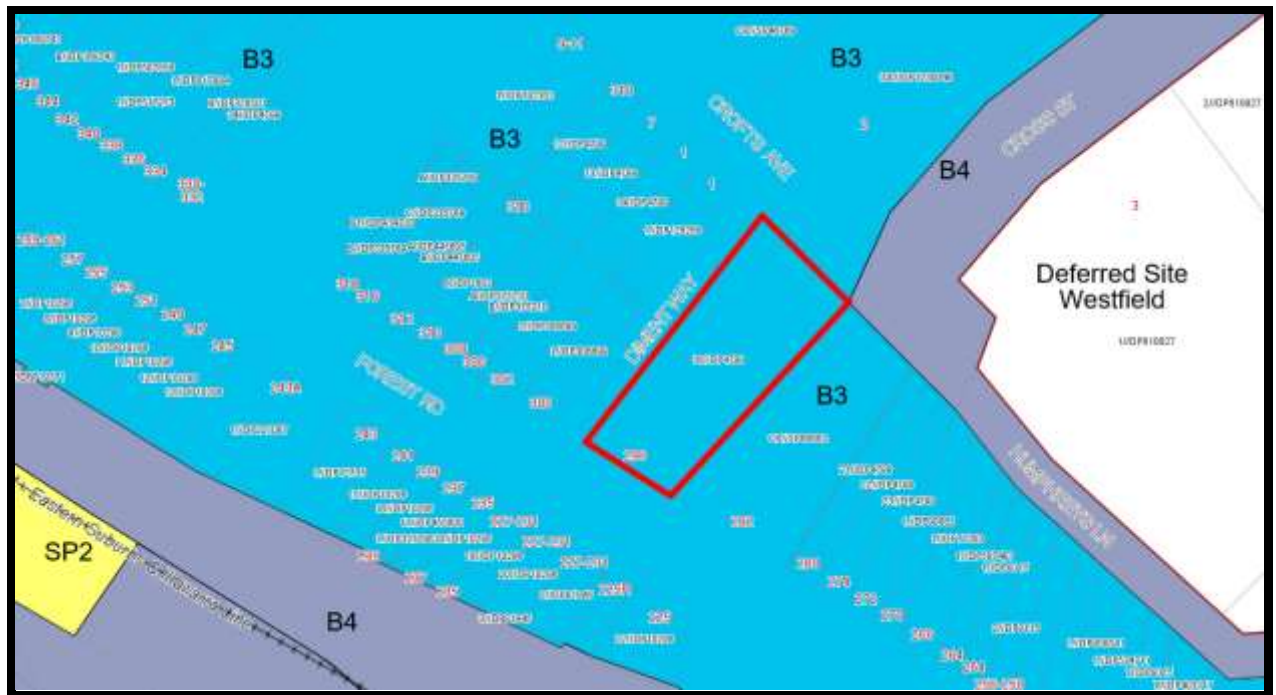


Figure 6 – Zoning map with the site outlined in red

22. The proposed installation of the LED digital screen and speakers will strengthen the recreational use of Hurstville plaza for staging of events and cultural celebrations
23. Accordingly the proposed development satisfies the objectives of the zone.

Clause	Standard	Assessment Under HLEP 2012
Part 2 – Permitted or Prohibited Development	<p>B3 Commercial Core</p> <p><i>“recreation area means a place used for outdoor recreation that is normally open to the public, and includes:</i></p> <p><i>(a) a children’s playground, or</i></p> <p><i>(b) an area used for community sporting activities, or</i></p> <p><i>(c) a public park, reserve or garden or the like, and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).”</i></p>	<p>It is considered that the proposed development is an ancillary use within a recreation area, being the “Hurstville Central Plaza” under the Hurstville LEP2012</p> <p>In the B3 zone, recreation areas are permissible with consent and the subject LED screen and speakers proposed are ancillary to the recreational use.</p>
	Objectives of the Zone	It is considered that the proposed development satisfies the objectives of the zone as the

		public plaza will create a community land use to serve the needs of the Hurstville Town Centre.
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	Noting these are structure, however they do not exceed 5m in height.
4.4 – Floor Space Ratio	0.6:1 as identified on Floor Space Ratio Map	N/A
4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with Cl.4.5	N/A
5.9 – Preservation of trees or vegetation	Consent is required for pruning or removal of specified vegetation	N/A
5.9AA – Trees or vegetation not prescribed by Development Control Plan	Any tree or vegetation to be removed that is not specified in DCP No.1	N/A
6.4 – Foreshore Scenic Protection Area	Council cannot grant consent to the carrying out of development on land within a Foreshore Scenic Protection Area unless consideration has been made to relevant provisions.	N/A
6.7 – Essential Services	<p>The following services that are essential for the development shall be available or that adequate arrangements must be made available when required:</p> <ul style="list-style-type: none"> * Supply of water, electricity and disposal and management of sewerage * Stormwater drainage or on-site conservation * Suitable vehicular access 	<p>All essential services are available and suitable for the demands of the proposed development.</p> <p>The plaza will be pedestrian only with provision for Council service vehicles (cleaning as required) and emergency vehicles. Secure bicycle parking hoops are provided.</p>

State Environmental Planning Policy No 64 – Advertising Signage (SEPP 64)

24. The proposed information signage has been reviewed with regard to the provisions of SEPP 64. It is considered that the signage will not change the existing character or advertising theme of the area and is therefore consistent with the aims of SEPP 64.

Schedule 1 Assessment Criteria	Proposal	Complies
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1. Character of the area <ul style="list-style-type: none"> Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? Is the proposal consistent with a particular theme for outdoor advertising in the area or locality? 	<p>Proposed LED screen and speakers are located in the Hurstville CBD, within Hurstville Plaza which is an area for outdoor entertainment and recreation.</p>	<p>Yes</p>
2. Special areas <ul style="list-style-type: none"> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas? 	<p>No environmentally sensitive areas are affected by the proposed LED screen and speakers. Further conditions of consent will ensure that noise and illumination will not adversely impact any nearby areas.</p>	<p>Yes</p>
3. Views and vistas <ul style="list-style-type: none"> Does the proposal obscure or compromise important views? Does the proposal dominate the skyline and reduce the quality of vistas? Does the proposal respect the viewing rights of other advertisers? 	<p>No important views are affected by the proposal.</p> <p>5m high screen is located such that it does not affect the skyline or vistas.</p> <p>No impacts on any other signage in this locality.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
4. Streetscape, setting or landscape <ul style="list-style-type: none"> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? Does the proposal contribute to the visual interest of the streetscape, setting or landscape? Does the proposal reduce clutter by rationalising and simplifying existing advertising? 	<p>The proposed LED screen is an appropriate size given its intended use and its location in the front of the existing landscaped area at the southern end of Hurstville Plaza.</p> <p>The screen will add to the visual interest of this outdoor recreational and entertainment venue.</p> <p>Not applicable</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

<ul style="list-style-type: none"> Does the proposal screen unsightliness 	The proposed LED screen is a neat and attractive structure that is not unsightly.	Yes
<ul style="list-style-type: none"> Does the proposal protrude above buildings, structures or tree canopies in the area or locality? 	The LED screen is lower than all adjacent buildings in the area and is also lower than the numerous light poles within the Plaza.	Yes
<ul style="list-style-type: none"> Does the proposal require ongoing vegetation management? 	Existing landscaped garden bed requires maintenance but this is independent of the LED screen.	Yes
5. Site and building <ul style="list-style-type: none"> Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? 	The proposed LED screen is an appropriate size given its intended use and its location in the front of the existing landscaped area at the southern end of Hurstville Plaza.	Yes
<ul style="list-style-type: none"> Does the proposal respect important features of the site or building, or both? 	The screen has been designed and proportioned to suit its purpose and the site conditions of the Plaza in which it is situated.	Yes
<ul style="list-style-type: none"> Does the proposal show innovation and imagination in its relationship to the site or building, or both? 	Yes this modern LED screen is an innovative way of providing information to the public.	Yes
6. Associated devices and logos with advertisements and advertising structures <ul style="list-style-type: none"> Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed? 	The screen is at a height that keeps it safe from the public and the public safe from it being elevated 5m at its highest point and 3m at its lowest point. The site is well lit and located within the front of a landscaped area so is not a hazard to pedestrians.	Yes
7. Illumination <ul style="list-style-type: none"> Would illumination result in unacceptable glare? 	The illumination level of the proposed LED screen is approximately 14 to 18k lumens.	Yes
<ul style="list-style-type: none"> Would illumination affect safety for pedestrians, vehicles or aircraft? 	The 12 light poles in the Plaza give out 11.6k lumens each. Accordingly the LED screen is not considered to provide an unnecessary degree of illumination.	Yes
<ul style="list-style-type: none"> Would illumination detract from the amenity of any residence or other form of accommodation? 	Further, it will be conditioned that : 1. the illumination level must be adjustable so that if illumination	

<ul style="list-style-type: none"> Can the intensity of the illumination be adjusted, if necessary? Is the illumination subject to a curfew? 	<p>levels cause a public nuisance then the level of illumination can be reduced.</p> <p>2. a curfew can be made by a condition of consent if a public nuisance is caused.</p>	
<p>8. Safety</p> <ul style="list-style-type: none"> Would the proposal reduce the safety for any public road? 	<p>No, the screen faces away from Forest Road and is at the opposite of the plaza to Crofts Avenue, being some 55m away and unlikely to be affected as a pedestrian ramp to Westfield runs between the Plaza and Crofts Avenue.</p>	Yes
<ul style="list-style-type: none"> Would the proposal reduce the safety for pedestrians or bicyclists? 	<p>Proposed LED screen is elevated 3m above ground level so it does not affect pedestrian or bicycle safety.</p>	Yes
<ul style="list-style-type: none"> Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas? 	<p>Proposed LED screen is elevated 3m above ground level so does not reduce sightlines for pedestrians</p>	Yes

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

25. The site is within the area affected by the Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment. The proposal does not generate any additional stormwater, therefore remaining consistent with Council's requirements for the disposal of stormwater in the catchment.

State Environmental Planning Policy (Infrastructure) 2007

26. Not applicable.

State Environmental Planning Policy No 55 (Remediation of Land)

27. The proposal involves minor excavation works, excavated holes to accommodate support poles, in a location that has recently been redeveloped for public use. As part of the development application to create Central Plaza, DA2015/0176, a Hazardous Building Materials Survey, dated 23 December 2014 and prepared by HIBBS & Associates Pty Ltd, was considered as part of the approval of the demolition of the existing building on the land. It is unlikely that any contamination issue would now eventuate from the proposed minor excavation works.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

Draft Remediation of Land SEPP

28. The Department of Planning and Environment has announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No 55—Remediation of Land.

29. The main changes proposed include the expansion of categories of remediation work which requires development consent, a greater involvement of principal certifying authorities particularly in relation to remediation works that can be carried out without development consent, more comprehensive guidelines for Councils and certifiers and the clarification of the contamination information to be included on Section 149 Planning Certificates.
30. Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land.
31. Given the recent development of this location to create the Central Plaza it is not considered the excavation for the footings is considered acceptable and it is not unlikely that contamination will be experienced.

Draft Environment SEPP

32. The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018.
33. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.
 - Changes proposed include consolidating the following seven existing SEPPs:
 - State Environmental Planning Policy No. 19 – Bushland in Urban Areas
 - State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
 - State Environmental Planning Policy No. 50 – Canal Estate Development
 - Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
 - Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
 - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
 - Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

The proposal is generally consistent with the provisions of this Draft Instrument.

Any other matters prescribed by the regulations

34. The Regulations prescribe the following matters for consideration for development in the Hurstville Council area:

DEVELOPMENT CONTROL PLANS

Hurstville Development Control Plan No 2 Amendment No 9

35. The relevant Development Control Plan (DCP) is the Hurstville DCP No 2 Amendment No 9, relating to the Hurstville town centre “*Retail Core*”, which came into effect on 28 February 2019.
36. The DCP calls up key principles of the Hurstville City Centre Concept Masterplan 2004 which included the creation of a new sequence of linked public spaces comprising arcades, public squares and pocket parks that capitalise on topography.
37. Part 4.5.2 of the DCP states the desired future character is for, “*New development will build on its highly active pedestrian environment, and multiple narrow retail frontages, interlinked with laneways and arcades*”. Activating the ground level is recognised as important and within the public domain the use of widened footpaths for passive activities (outdoor dining, retailing, seating, landscaping) should generate a vibrant and lively

environment. The proposed modification to accommodate a LED Digital Screen and associated speakers within the Hurstville Central Plaza reacts positively to the public area policies by enhancing and increasing the use of the Plaza and attracting people to this public space.

Part 6.1 of Hurstville DCP No 2 Public Domain

38. Part 6.1 Public Domain of the DCP states that:

“The public domain comprises the public space in the City Centre, the public face and setting for buildings and structures. It is the parts of the City Centre not privately owned. The streets, squares and parks that form the public domain provide community activity and recreation space. The goal of public domain design is to create an integrated space that is legible, comfortable, safe and engaging, which encourages pedestrian use and increases the amount and quality of public leisure spaces.

Clause 6.1.5.3 – Advertising Opportunities from New Technologies.....Controls.....

(b) Signage involving animation, video screens and other forms of movement are generally inappropriate, where they are likely to adversely impact on residential areas or pedestrians amenity or safety, or are likely to distract motorists.”

39. The proposed LED Screen and Speaker concept is considered to be consistent with the goals and intent of Part 6.1 as stated above, especially as the advertising/broadcasting of special events and cultural events help attract and entertain the public within the Hurstville Central Plaza and do not result in unreasonable or adverse amenity concerns on residential properties.

Variations or Non-Compliances

40. The proposed LED screen and speakers are considered to comply with the requirements of Hurstville DCP No 2; accordingly there are no variations or non-compliances.

IMPACTS

Natural Environment

41. There are no natural environment issues associated with the proposed LED screen and speakers.

Built Environment/ Urban Design

42. The proposed LED screen and speakers will enhance the built environment of the town centre by attracting the public to this area and providing entertainment during special events and cultural events, as well as providing the general public with information at other times.

43. The locality accommodates development that is commercial/retail in nature with the nearest residential apartments being over 100 metres from the LED screen position. On this basis late night operation of the LED screen would not currently result in any significant amenity impacts. It is noted, however, that shop top housing is a permissible form of housing within the B3 Commercial Core Zoning and therefore opportunity exists for residential development to occur in the future in this locality and due regard needs to be given to the amenity that would be available to that future residential component.

44. On this basis it is considered appropriate to impose the following conditions on the amplified operation of the LED screen during evenings that would ensure reasonable evening/late night amenity can be maintained in the locality:

- a) Inclusion of a remote cut-out switch should the noise generated create unacceptable amenity concerns for future residents within the proximity of the Plaza;
- b) Requirement that a bi-annual acoustic report be prepared, and submitted for Council consideration and action on any appropriate recommendations, which carries out an analysis of noise generation on six (6) occasions annually, inclusive of at least three (3) amplified events, from monitoring points at each end of the Plaza, being Forest Road and Crofts Avenue. This procedure should continue for six (6) years from the date of approval to provide a broad analysis of the facility operational impacts.
- c) Operation of amplified broadcasts from the LED screen/speakers will be terminated by 10:00pm daily, except where major events are programmed to occur, including festivals (eg Chinese New Year), sporting events (eg Olympic Events) or musical presentations (eg Mardi Gras) or the like, that have been notified to the general public through the LED Screen/Speaker system for a minimum of 14 days prior to the event occurring to ensure the general public are fully informed.

Social Impact

45. It is anticipated that the proposed development will have a positive social impact upon the broader Hurstville community by providing a facility to broadcast public information and significant events as well as enhancing the use of this area for special and cultural events.
46. It is relevant to consider the potential for Third Party Advertisements occurring as part of the LED Digital Screen operation. Generally the screening of special events may include unintended commercial advertising as part of these events over which Council would have no control should the event be appropriate for broadcast. Third Party Advertising use of the LED Digital Screen, whether for local or wider community advertisers, is not unreasonable where due consideration is given to:
 - manner/nature of advertising, ie intrusive flashing signage may not be suitable;
 - content of the advertisement, ie suitable language and attire should be encouraged;
 - suitability of the advertiser, ie alcohol or gaming industry may not be appropriate;
 - community notices remaining the predominant advertisement use of the facility.

Economic Impact

47. It is anticipated that the proposed development will have a positive economic impact upon the broader Hurstville Centre by enhancing the operation of the public domain and helping to make the centre a more attractive, desirable destination and overall enhancing the value of adjoining development. Potential also exists for community economic benefits through increased revenue from the measured sale of third party advertising space, as referred to above at paragraph 46, to appropriate advertisers whilst not being to the detriment of community notice advertising.

Suitability of the Site

48. The site is suitable for the proposed development as it is an extension of the Hurstville Central Plaza as an area for community notices, community functions, entertainment, outdoor recreational activities and as a community meeting place.

REFERRALS, SUBMISSIONS AND THE PUBLIC INTEREST

Public Submissions

49. The proposal was notified between 29 October 2019 to 12 November 2019. The day after the exhibition period one (1) submission was received. The submission did not raise

objection to the application but rather questioned whether the proposal would be for entertainment purposes. Officers of Council attempted to respond to the inquiry by both telephone and email but have been unable to directly contact the submitter. It is considered that the description of the development in the application clearly illustrates that the LED Digital Screen would be utilised for both community and general notices and broadcasting of events, which by their nature could be an entertainment event in some instances.

50. It is concluded that no issues have been raised that would preclude the work proceeding or give rise to the need for any significant amendments to the plans as submitted.

Council Referrals

51. The Development Application was reviewed by relevant technical officers of Council and no issues have been raised that would preclude the work proceeding or give rise to the need for any significant amendments to the plans as submitted.
52. A series of conditions of consent have been put forward that cover the range of interests from the various Council departments that cover both the construction phase and the ongoing management of the space (noise and lighting).

CONCLUSION

53. The application has been assessed having regard to Section 4.55(1A) and Section 4.15 of the Environmental Planning and Assessment Act 1979, and the provisions of the Hurstville Local Environmental Plan (LEP) and the Hurstville Development Control Plan (DCP).
54. The proposal has been considered on its merits and is considered to be acceptable for the reasons outlined within this report. The proposal is reasonable given that the objectives of the controls have been reasonably satisfied.
55. Following a detailed assessment contained within this report, it is considered that MOD2019/0191 should be approved subject to the modified conditions of consent which will ensure protection of late evening amenity on residential apartments in the locality.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

56. The erection of the LED Digital Screen, Speakers and support structures within the Hurstville Central Plaza is recommended for approval having regard to:

- The proposed use was considered to be an appropriate use within the Plaza during assessment of the original approval to create the Plaza, DA2017/0049;
- The proposed use is a suitable facility to promote community advertisements, special events and public use of the Plaza;
- The proposed use is considered to be an acceptable extension of the original approved Plaza development;
- The proposed use is unlikely to result in any significant adverse amenity impacts for the locality;
- Suitable noise and light controls can be implemented and managed to ensure that the public amenity is not significantly impacted;
- The proposal is considered to be a minor modification to the approved Plaza development which remains substantially the same development.

57. That the Georges River Local Planning Panel, as the consent authority, pursuant to Section 4.55 (1A) of the Environmental Planning and Assessment Act, 1979, grant approval to the requested modifications for the installation of an LED Digital Screen, Speakers and support structures (MOD2019/0191) to Development Consent DA 2017/0049 dated 27 June 2017 for construction of a public plaza including landscaping, paving, seating and public amenities at 296 Forest Road (and Diment Way), Hurstville, submitted on 23 October 2019 subject to the development consent being modified as follows:

1. Condition 1 to be modified as follows:

- 1. Approved Plans of Consent** - The development must be implemented in accordance with the approved plans, specifications and details listed below and any supporting information submitted with the Development Application except as amended by any conditions attached to the Development Consent:

Architectural plans – Submitted with Mod 2019/019, including:

Reference No.	Date	Description	Revision	Prepared by
Dwg L2000	09/12/18	General Arrangement Plan	J	Group GSA Pty Ltd
N/A	Undated	LED Screen Specifications and Elevations	N/A	N/A
N/A	Undated	Loudspeaker Noise Impact Diagram	N/A	N/A

(This condition is amended as part of MOD2019/0191 (DA2017/0049))

23. **Health - Lighting - General Nuisance** - Any lighting on the site shall be designed so as not to cause a nuisance to other premises 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.

(This condition is amended as part of MOD2019/0191 (DA2017/0049))

2. Conditions to be deleted:

Nil

3. Insert the following additional conditions to be numbered in the consent as follows:

General Conditions

- 1C **Modified Consent-** Modification Application MOD2019/0191 approval only relates to works for the erection of the proposed LED screen and frame, the four (4) speakers and the use of the LED screen and speakers.

Requirements of other Government Agencies

- 6A **Ausgrid-**The proposed LED screen and speakers must comply with relevant Ausgrid Network Standards and Safework NSW Codes of Practice for construction works near existing electrical assets. The “as constructed” minimum clearances to Ausgrids 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.

Prior to issue of Construction Certificate

- 9A **Engineers Certification-**The steel frame and LED screen shall be constructed in accordance with details submitted by a suitably qualified structural Engineer and the structure shall be certified by this Engineer as structurally adequate (i.e. complies with AS/NZS 1170 Parts 1, 2, & 3.)

Prior to issue of Occupation Certificate

- 20A **Health - LED Screen Lighting** Prior to the issue of any Occupation Certificate, a suitably qualified consultant shall certify that the lighting from the use of the LED screen shall comply with AS/NZS 4282:2019: *Control of the obstructive effects of outdoor lighting*. The development shall at all times comply with these standards.

Ongoing Conditions

- 23A **Health - LED Screen-** The use of the LED screen shall not cause a nuisance or annoy the occupants of nearby premises, nor cause a nuisance to motorists on nearby roads. In this regard the use of the LED screen must comply with AS/NZS 4282:2019 – *Control of the obtrusive effects of outdoor lighting*
- 23B **Health - LED Screen Hours of operation** - Hours of operation are approved as follows:
- a) The core hours of operation of the amplified speaker system shall be limited to 8am to 10pm daily, apart from those days of operation for special events. Special events may include, festivals (e.g. Chinese New Year), sporting events (e.g. Olympic Events), musical presentations (e.g. Mardi Gras) or the like,
 - b) The core hours of operation of the LED Screen shall be 24 hours daily. Should screen brightness become an identifiable issue for local amenity then suitable restrictions are to be placed on screen lumen levels from 10pm to 8am daily, through the use of an automatic dimmer switch or by remote control via the operator.

- c) Notwithstanding (a) and (b) above, the manner and hours of operation of the LED screen and speakers may be modified to accommodate the special events that may periodically occur and where the modification has been suitably notified for a period of fourteen (14) days on the LED screen display.
- d) Council will review the operation of the facilities on the bi-annual anniversary of the original consent or as part of any modification request referred to in (c) above, and will consider, among other things:
 - i. any acoustic assessment undertaken in accordance with the conditions of consent for this modification application;
 - ii. the performance of the operator of the Plaza facilities in relation to the compliance with the development consent conditions;
 - iii. any substantiated complaints received; and
 - iv. any views expressed during public consultation or from other stakeholders including the Police.
- e) Following a review, Council may allow the use to continue to operate for the hours specified in (a) and (b) above, require the use to revert to the core hours of operation specified in (a) and (b) above or otherwise modify the condition as considered appropriate.
- f) The purpose of the reviewable condition is to allow ongoing assessment of the hours of operation in relation to neighbourhood amenity, public safety and operational performance and allow management to demonstrate successful practices in relation to the above.

23C Health - Noise Control - The use of the LED screen and associated speakers 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).

23D Health - Acoustic Certification - Prior to the commencement of the use, a suitably qualified acoustic consultant shall certify that, subject to any appropriate amelioration measures being undertaken, the operation of the LED screen and associated speakers shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 (as amended) and Regulations.

23E Health - Periodic Acoustic Report - Verification of Noise report – On a bi-annual basis for a minimum period of six (6) years from the date of commencement of operation, an acoustic assessment is to be carried out by an appropriately qualified acoustic consultant, in accordance with the EPA's Noise Policy for Industry and submitted to Council for consideration. This report should include but not be limited to:

- i. an analysis of noise generation on six (6) occasions annually, inclusive of at least three (3) amplified events (if at least three events are held annually), carried out from monitoring points at each end of the Plaza, being Forest Road and Croft Avenue.
- ii. details verifying that the noise control measures can be implemented which are effective in attenuating noise to an acceptable noise level; and
- iii. that the use is not calculated to give rise to 'offensive noise' as defined under the provision of the Protection of the Environment Operation Act 1997 (as amended).

Consolidated Conditions of Consent DA2017/0049

Schedule A – Conditions of Consent

GENERAL CONDITIONS

These conditions have been imposed to ensure that the development is carried out in accordance with the approved plans and to ensure that the appropriate fees and bonds are paid in relation to the development.

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:

Reference No.	Date	Description	Revision	Prepared by
DA_C2.01	16/02/17	Locality Plan	1	Northrop
DA_C3.01	06/03/17	Site work and Stormwater Management Plan	2	Northrop
160861 1001	17/02/17	Landscape Plan	B	Group GSA Pty Ltd
L144M_SK 02-01	17/02/17	Lighting category intent	B	N/A
L144M_SK 02-02	17/02/17	Lighting design intent	B	N/A
L144M_SK 02-03	17/02/17	Lighting intent legend	B	N/A
L144M_SK 02-04	17/02/17	Propose electrical equipment	B	N/A
Dwg L2000	09/12/18	General Arrangement Plan	J	Group GSA Pty Ltd
N/A	Undated	LED Screen Specifications and Elevations	N/A	N/A
N/A	Undated	Loudspeaker Noise Impact Diagram	N/A	N/A

(This condition is amended as part of MOD2019/0191 (DA2017/0049))

- 1A. The inground fixings and table settings adjacent to the north western boundary near 300 Forest Road are to be deleted.
- 1B. The substation is to be placed underground if permitted by Ausgrid.
- 1C. **Modified Consent** - Modification Application MOD2019/0191 approval only relates to works for the erection of the proposed LED screen and frame, the four (4) speakers and the use of the LED screen and speakers.

(This condition is added as part of MOD2019/0191 (DA2017/0049))

2. **Fees to be paid to Council** - 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.

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 94 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.

Form of payment for transactions \$500,000 or over - 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) Fees to be paid:

Fee types, bonds and contributions

Fee Type
Long Service Levy (to Long Service Corporation)

3. **Long Service Levy** - Submit evidence of payment of the Building and Construction Industry Long Service Leave Levy to the Principal Certifying Authority. Note this amount is based on the cost quoted in the Development Application, and same may increase with any variation to estimated cost which arises with the Construction Certificate application. To find out the amount payable go to www.lspc.nsw.gov.au or call 131441. **Evidence of the payment of this levy must be submitted with the Construction Certificate application.**

SEPARATE APPROVALS UNDER OTHER LEGISLATION

These conditions have been imposed to ensure that the applicant is aware of any separate approvals required under other legislation, for example: approvals required under the Local Government Act 1993 or the Roads Act 1993.

4. **Engineering - Section 138 Roads Act 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.

A separate approval is required to be lodged and approved 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):

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;
- (g) Constructing a vehicular crossing or footpath;
- (h) Establishing a "works zone";
- (i) Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of connections to utility providers);
- (j) Stormwater and ancillary works in the road reserve; and
- (k) Stormwater and ancillary to public infrastructure on private land
- (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 Georges River Council's website at: www.georgesriver.nsw.gov.au

For further information, please contact Council's Customer Service Centre on (02) 9330 6400.

5. **Building - Hoarding Application** - Prior to demolition of the buildings on the site or the commencement of work above ground level a separate application for the erection of an A class (fence type) or a B class (overhead type) hoarding or C type scaffold, in accordance with the requirements of Work Cover Authority of NSW, must be erected along that portion of the footways/roadway where the building is within 3.0 metres of the street boundary. An application for this work under Section 68 of the Local Government Act 1993 and the Roads Act 1993 must be submitted for approval to Council.

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

- (a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location; and
- (b) Hoarding plan and details that are certified by an appropriately qualified engineer; and
- (c) The payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges (available on our website) before the commencement of work; and

A Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained a copy provided to Council. The Policy is to note Council as an interested party.

REQUIREMENTS OF OTHER GOVERNMENT AGENCIES

These conditions have been imposed by other NSW Government agencies either through their role as referral bodies, concurrence authorities or by issuing General Terms of Approval under the Integrated provisions of the Environmental Planning and Assessment Act 1979.

6. **Sydney Water - Trade Waste Agreements** - A Trade Waste Agreement with Sydney Water may be required. Details of any work required to comply with the agreement must be detailed on the plans lodged with the Construction Certificate. If no trade waste agreement or grease trap is required, a letter from Sydney Water to this effect must be submitted with the application for the **Construction Certificate**.
- 6A **Ausgrid**-The proposed LED screen and speakers must comply with relevant Ausgrid Network Standards and Safework NSW Codes of Practice for construction works near existing electrical assets. The "as constructed" minimum clearances to Ausgrids 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.

(This condition is added as part of MOD2019/0191 (DA2017/0049))

7A. **Ausgrid - Substation or Kiosk** - Ausgrid shall be consulted to determine the relocation of the substation from Diment Way and this is to be addressed as follows:

- (a) written confirmation of Ausgrid's requirements is to be submitted **prior to the issue of the Construction Certificate**; and
- (b) Ausgrid's requirements are to be met before the issue of the Occupation Certificate.

PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

These conditions either require modification to the development proposal or further investigation/information prior to the issue of the Construction Certificate to ensure that there is no adverse impact.

7. **Building - Vibration Damage** - To minimise vibration damage and loss of support to the buildings in close proximity to the development, any excavation is to be carried out by means of a rock saw and if available, in accordance with the guidelines of the Geotechnical Engineer's report.

Alternatively where a hydraulic hammer is to be used within 30 metres of any building (other than a path or a fence) a report from a qualified geotechnical engineer detailing the maximum size of hammer to be used is to be obtained and the recommendations in that report implemented during work on the site. **The report shall be submitted with the Construction Certificate application.**

8. **Development Assessment - Construction Site Management Plan - Major Development** - A Site Management Plan must be submitted with the application for the Construction Certificate, and must include the following measures:

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

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

9. **Building - Structural details** - Structural plans, specifications and design statement prepared and endorsed by a suitably qualified practising structural engineer who holds the applicable Certificate of Accreditation as required under the Building Professionals Act 2005 shall be submitted along with the Construction Certificate application to the Certifying Authority for any of the following, as required by the building design:
- (a) piers
 - (b) footings
 - (c) slabs
 - (d) columns
 - (e) structural steel
 - (f) reinforced building elements
 - (g) swimming pool design
 - (h) retaining walls
 - (i) stabilizing works
 - (j) structural framework
- 9A **Engineers Certification** - The steel frame and LED screen shall be constructed in accordance with details submitted by a suitably qualified structural Engineer and the structure shall be certified by this Engineer as structurally adequate (ie complies with AS/NZS 1170 Parts 1, 2, and 3).
- (This condition is added as part of MOD2019/0191 (DA2017/0049))**
10. **Stormwater** - Detailed hydraulic plans indicating pipe diameters, pit sizes, invert and outlet levels of the proposed pits and pipes and hydraulic grade line analysis for the proposed pipe works shall be provided with the Construction Certificate documents.
11. **Development Assessment - Landscape Plan** - A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted prior to the issue of the Construction Certificate. The plan must include:
- (i) Location of existing and proposed structures on the site including existing trees (if applicable);
 - (ii) Details of earthworks including mounding and retaining walls and planter boxes (if applicable);
 - (iii) Location, numbers and type of plant species;
 - (iv) Details of planting procedure and maintenance;
 - (v) Details of drainage and watering systems.
 - (vi) Undergrounding of the substation if permitted by Ausgrid
12. **Building - Access for Persons with a Disability** - Access and sanitary facilities for persons with disabilities must be provided to the premises/building in accordance with the requirements of the Premises Standards, the Building Code of Australia, and AS 1428.1. Details must be submitted with the Construction Certificate application.
13. **Building - Compliance with Access, Mobility and Disability Discrimination Act** - The Construction Certificate application must be accompanied by detailed working plans and a report or a Certificate of Compliance from an Accredited Access Consultant certifying that the design and access through the plaza complies with relevant Australian Standards for Access and the *Disability Discrimination Act 1992*.

PRIOR TO THE COMMENCEMENT OF WORK (INCLUDING DEMOLITION AND EXCAVATION)

These conditions have been imposed to ensure that all pre-commencement matters are dealt with and finalised prior to the commencement of work.

14. **Building regulation - Site sign - Soil and Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), the durable site sign issued by Georges River 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.
15. **Development Assessment - Demolition and Asbestos** - The demolition work shall comply with the provisions of Australian Standard AS2601:2011 - Demolition of Structures, NSW Work Health and Safety Act 2011 and the NSW Work Health and Safety Regulation 2011. The work plans required by AS2601-2001 shall be accompanied by a written statement by a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement shall be submitted to the Principal Certifying Authority prior to the commencement of works.

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

The asbestos removal work shall also be undertaken in accordance with the How to Safely Remove Asbestos: Code of Practice published by Work Cover NSW.

Copies of the Act, Regulation and Code of Practice can be downloaded free of charge from the Work Cover NSW website: www.workcover.nsw.gov.au

16. **Development Assessment - Demolition Notification Requirements** - The following notification requirements apply to this consent:
 - a) The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.
 - b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Georges River Council advising of the demolition date, details of the WorkCover licensed asbestos demolisher and the list of residents advised of the demolition.
 - c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to

be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.

17. **Development Assessment - Demolition work involving asbestos removal** - Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the Work Health and Safety Regulation 2011.
18. **Engineering - 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 Council’s Engineers for their records.

DURING WORK

These conditions have been imposed to ensure that there is minimal impact on the adjoining development and surrounding locality during the construction phase of the development.

19. **Building - Structural Engineer’s Certification during construction** - The proposed building must be constructed in accordance with details designed and certified by the practising qualified structural engineer. All structural works associated with the foundations, piers, footings and slabs for the proposed building must be inspected and structurally certified for compliance by an independent practising geotechnical and structural engineer. In addition a Compliance or Structural Certificate, to the effect that the building works have been carried in accordance with the structural design, must be submitted to the Principal Certifying Authority at each stage of construction or prior issue of the Occupation Certificate.

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

These conditions have been imposed to ensure that all works have been completed in accordance with the Development Consent prior to the issue of the Occupation Certificate.

20. **Health - Noise from Mechanical plant and equipment** - Noise from the operation of mechanical, equipment, ancillary fittings, machinery, mechanical ventilation system and/or refrigeration systems must not give rise to offensive noise as defined under the Protection of the Environment Operations Act 1997 (as amended) and will comply with the noise intrusion criteria as defined under the NSW Industrial Noise Policy published by the Environment Protection Authority.

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

- 20A. **Health - LED Screen Lighting** - Prior to the issue of any Occupation Certificate, a suitably qualified consultant shall certify that the lighting from the use of the LED screen shall comply with AS/NZS 4282:2019: Control of the obstructive effects of outdoor lighting. The development shall at all times comply with these standards.

(This condition is added as part of MOD2019/0191 (DA2017/0049))

21. **Building** - The proposed structure(s) must be constructed in accordance with details

designed and certified by the practising qualified structural engineer. In addition, Compliance or Structural Certificates, to the effect that the building works have been carried in accordance with the structural design, must be submitted to the Principal Certifying Authority prior issue of the Occupation Certificate.

22. **Development Assessment - Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate.

ONGOING CONDITIONS

These conditions have been imposed to ensure that the use or operation of the development does not adversely impact on the amenity of the neighbourhood or environment.

23. **Health - Lighting - General Nuisance** - Any lighting on the site shall be designed so as not to cause a nuisance to other premises 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.

(This condition is amended as part of MOD2019/0191 (DA2017/0049))

- 23A. **Health - LED Screen** - The use of the LED screen shall not cause a nuisance or annoy the occupants of nearby premises, nor cause a nuisance to motorists on nearby roads. In this regard the use of the LED screen must comply with AS/NZS 4282:2019 – Control of the obtrusive effects of outdoor lighting

(This condition is added as part of MOD2019/0191 (DA2017/0049))

- 23B. **Health - LED Screen Hours of operation** - Hours of operation are approved as follows:
- The core hours of operation of the amplified speaker system shall be limited to 8am to 10pm daily, apart from those days of operation for special events. Special events may include, festivals (eg Chinese New Year), sporting events (eg Olympic Events), musical presentations (eg Mardi Gras) or the like,
 - The core hours of operation of the LED Screen shall be 24 hours daily. Should screen brightness become an identifiable issue for local amenity then suitable restrictions are to be placed on screen lumen levels from 10pm to 8am daily, through the use of an automatic dimmer switch or by remote control via the operator.
 - Notwithstanding (a) and (b) above, the manner and hours of operation of the LED screen and speakers may be modified to accommodate the special events that may periodically occur and where the modification has been suitably notified for a period of fourteen (14) days on the LED screen display.
 - Council will review the operation of the facilities on the bi-annual anniversary of the original consent or as part of any modification request referred to in (c) above, and will consider, among other things:
 - any acoustic assessment undertaken in accordance with the conditions of consent for this modification application;
 - the performance of the operator of the Plaza facilities in relation to the compliance with the development consent conditions;
 - any substantiated complaints received; and
 - any views expressed during public consultation or from other stakeholders including the Police.
 - Following a review, Council may allow the use to continue to operate for the hours specified in (a) and (b) above, require the use to revert to the core hours of operation specified in (a) and (b) above or otherwise modify the condition as considered appropriate.

- f) The purpose of the reviewable condition is to allow ongoing assessment of the hours of operation in relation to neighbourhood amenity, public safety and operational performance and allow management to demonstrate successful practices in relation to the above

(This condition is added as part of MOD2019/0191 (DA2017/0049))

- 23C. **Health - Noise Control** - The use of the LED screen and associated speakers 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).

(This condition is added as part of MOD2019/0191 (DA2017/0049))

- 23D. **Health - Acoustic Certification** - Prior to the commencement of the use, a suitably qualified acoustic consultant shall certify that, subject to any appropriate amelioration measures being undertaken, the operation of the LED screen and associated speakers shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 (as amended) and Regulations.

(This condition is added as part of MOD2019/0191 (DA2017/0049))

- 23E. **Health - Periodic Acoustic Report - Verification of Noise report** – On a bi-annual basis for a minimum period of six (6) years from the date of commencement of operation, an acoustic assessment is to be carried out by an appropriately qualified acoustic consultant, in accordance with the EPA's Noise Policy for Industry and submitted to Council for consideration. This report should include but not be limited to:

- i. an analysis of noise generation on six (6) occasions annually, inclusive of at least three (3) amplified events (if at least three events are held annually), carried out from monitoring points at each end of the Plaza, being Forest Road and Croft Avenue.
- ii. details verifying that the noise control measures can be implemented which are effective in attenuating noise to an acceptable noise level; and
- iii. that the use is not calculated to give rise to 'offensive noise' as defined under the provision of the Protection of the Environment Operation Act 1997 (as amended).

(This condition is added as part of MOD2019/0191 (DA2017/0049))

24. **Health - 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.

No vegetation, article, building material, waste or the like shall be ignited or burnt whatsoever or in association with the work on site.

ADVICE

This advice has been included to provide additional information and where available direct the applicant to additional sources of information based on the development type.

Not applicable

Schedule B – Prescribed Conditions

Prescribed conditions are those which are mandated under Division 8A of the *Environmental Planning and Assessment Regulation 2000* and given weight by Section 80A (11) of the *Environmental Planning and Assessment Act 1979*.

Detailed below is a **summary** of all the prescribed conditions which apply to development in New South Wales. Please refer to the full details of the prescribed conditions as in force, at www.legislation.nsw.gov.au.

It is the responsibility of the beneficiary of this consent to determine which prescribed conditions apply.

25. **Clause 98 – Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.
26. **Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifying Authority and the Principal Contractor.
27. **Clause 98B – Home Building Act 1989** - If the development involves residential building work under the Home Building Act 1989, no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the Home Building Act 1989.
28. **Clause 98E – Protection & support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

Schedule C – Operational & Statutory Conditions

These conditions comprise the operational and statutory conditions which must be satisfied under the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning & Assessment Regulation 2000*. Please refer to the full details of the Act and Regulations as in force, at www.legislation.nsw.gov.au.

It is the responsibility of the beneficiary of this consent to determine which operational and statutory conditions apply.

29. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited certifier.

An application form for a **Construction Certificate** is attached for your convenience.

30. **Appointment of a Principal Certifying Authority** - The erection of a building must not

commence until the beneficiary of the development consent has:

- (a) appointed a Principal Certifying Authority (PCA) for the building work; and
- (b) if relevant, advised the PCA that the work will be undertaken as an Owner-Builder.

If the work is not going to be undertaken by an Owner-Builder, then the beneficiary of the consent must:

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

An **Information Pack** is attached for your convenience should you wish to appoint Georges River Council as the Principal Certifying Authority for your development.

31. **Notification of Critical Stage Inspections** - No later than two (2) days before the building work commences, the PCA must notify:

- (a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
- (b) the beneficiary of the development consent of the critical stage inspections and other inspections that are to be carried out with respect to the building work.

32. **Notice of Commencement** - The beneficiary of the development consent must give at least two (2) days notice to the Council and the PCA of their intention to commence the erection of a building.

A **Notice of Commencement Form** is attached for your convenience.

33. **Critical Stage Inspections** - The last critical stage inspection must be undertaken by the Principal Certifying Authority. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the Environmental Planning and Assessment Regulation 2000.

34. **Notice to be given prior to critical stage inspections** - The principal contractor for a building site, or the owner-builder, must notify the principal certifying authority at least 48 hours before each required inspection needs to be carried out.

Where Georges River Council has been appointed PCA, forty eight (48) hours notice in writing, or alternatively twenty four (24) hours notice by facsimile or telephone, must be given to when specified work requiring inspection has been completed.

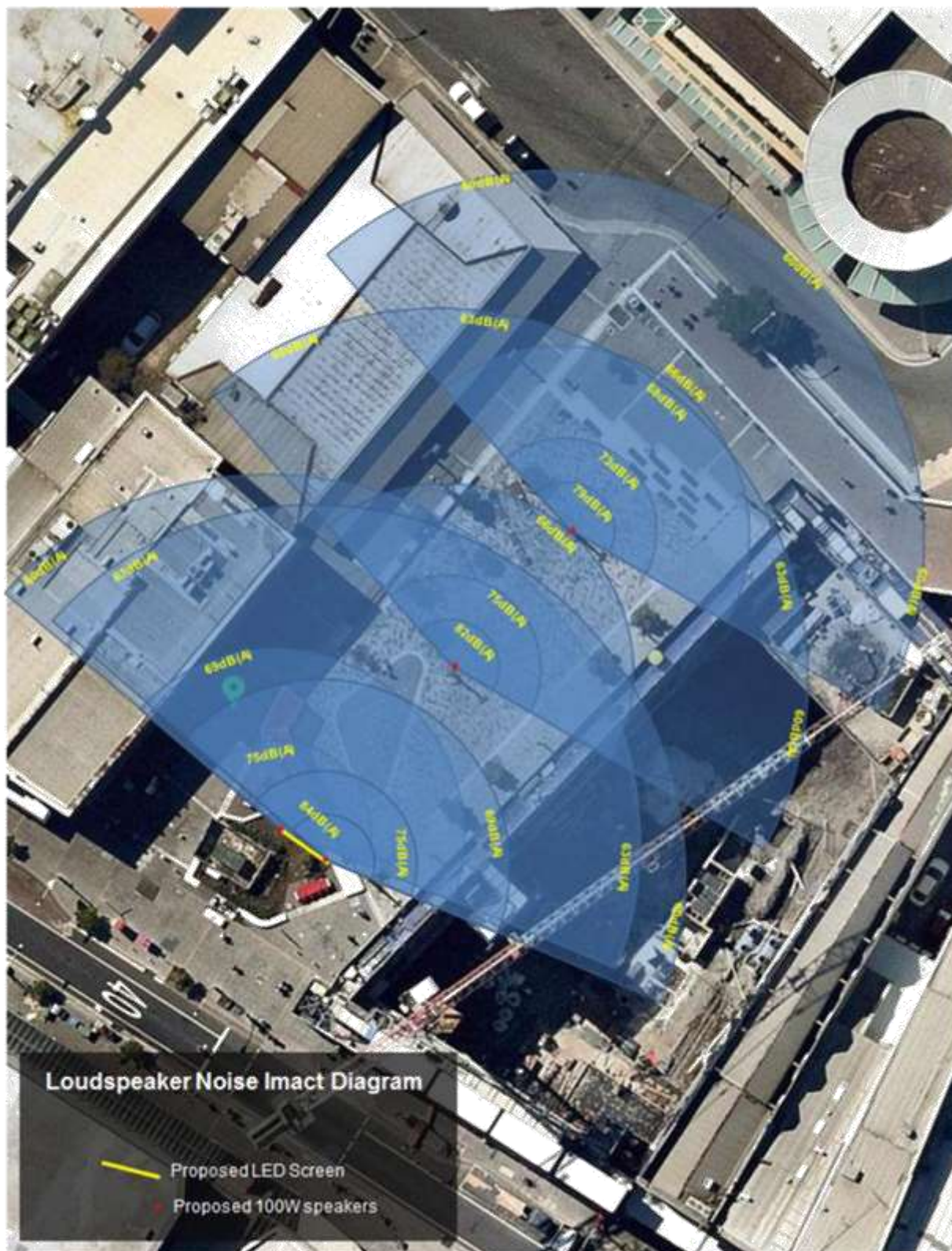
35. **Occupation Certificate** - A person must not commence occupation or use of the whole or any part of a new building unless an Occupation Certificate has been issued in relation to the building or part.

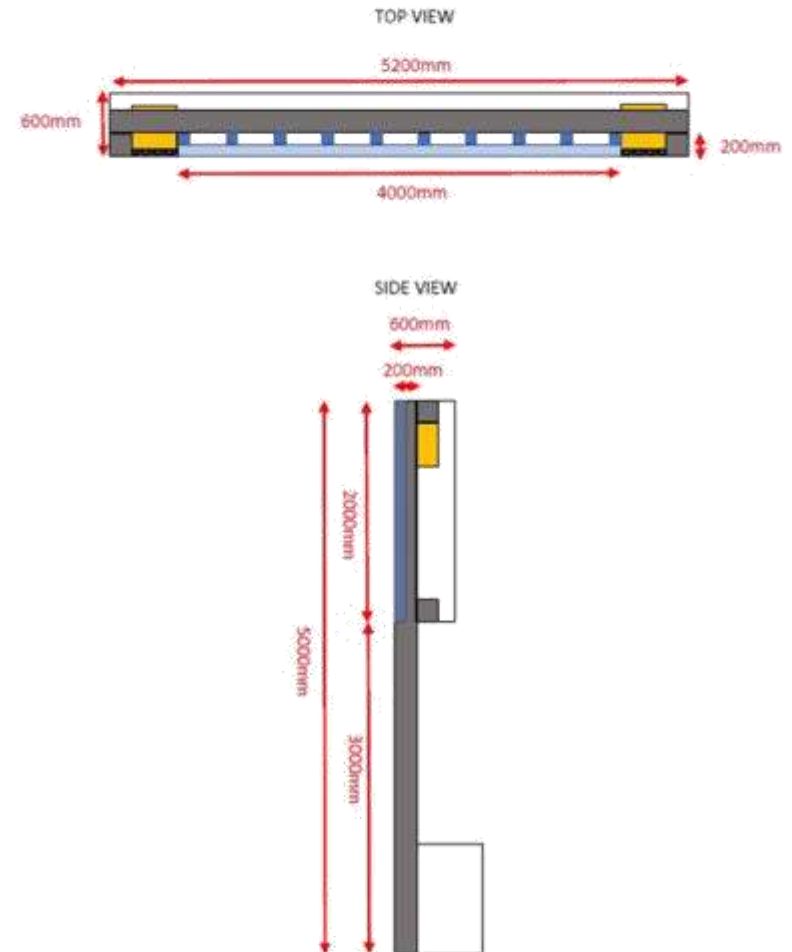
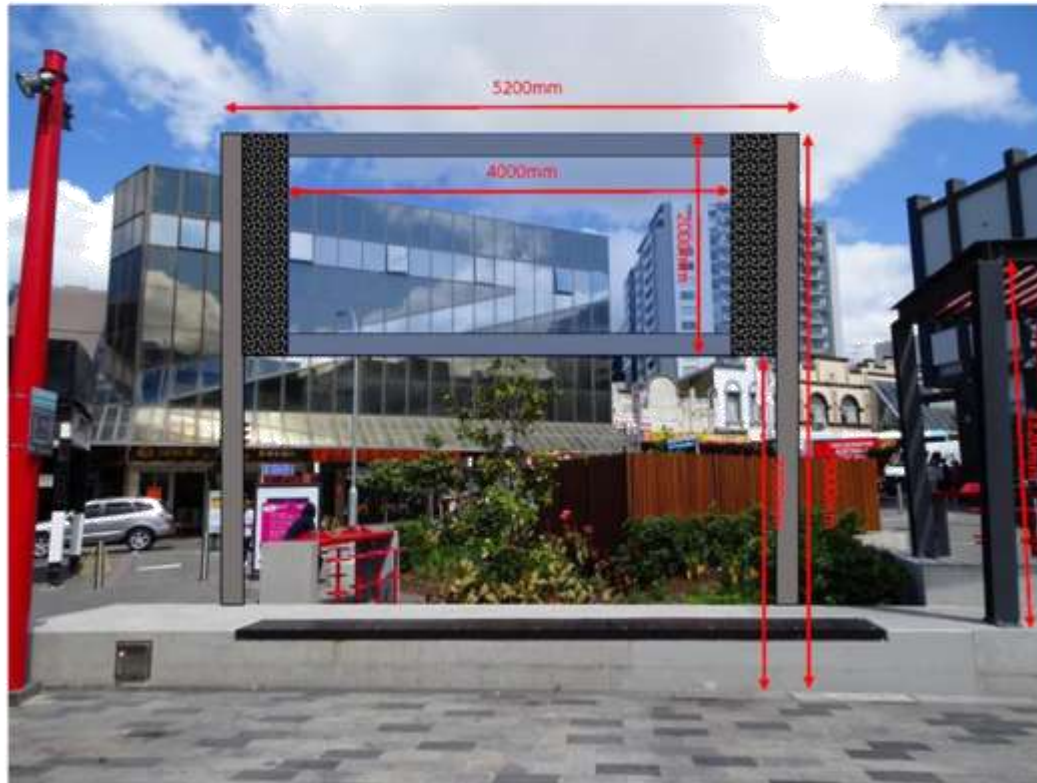
Only the Principal Certifying Authority appointed for the building work can issue the Occupation Certificate.

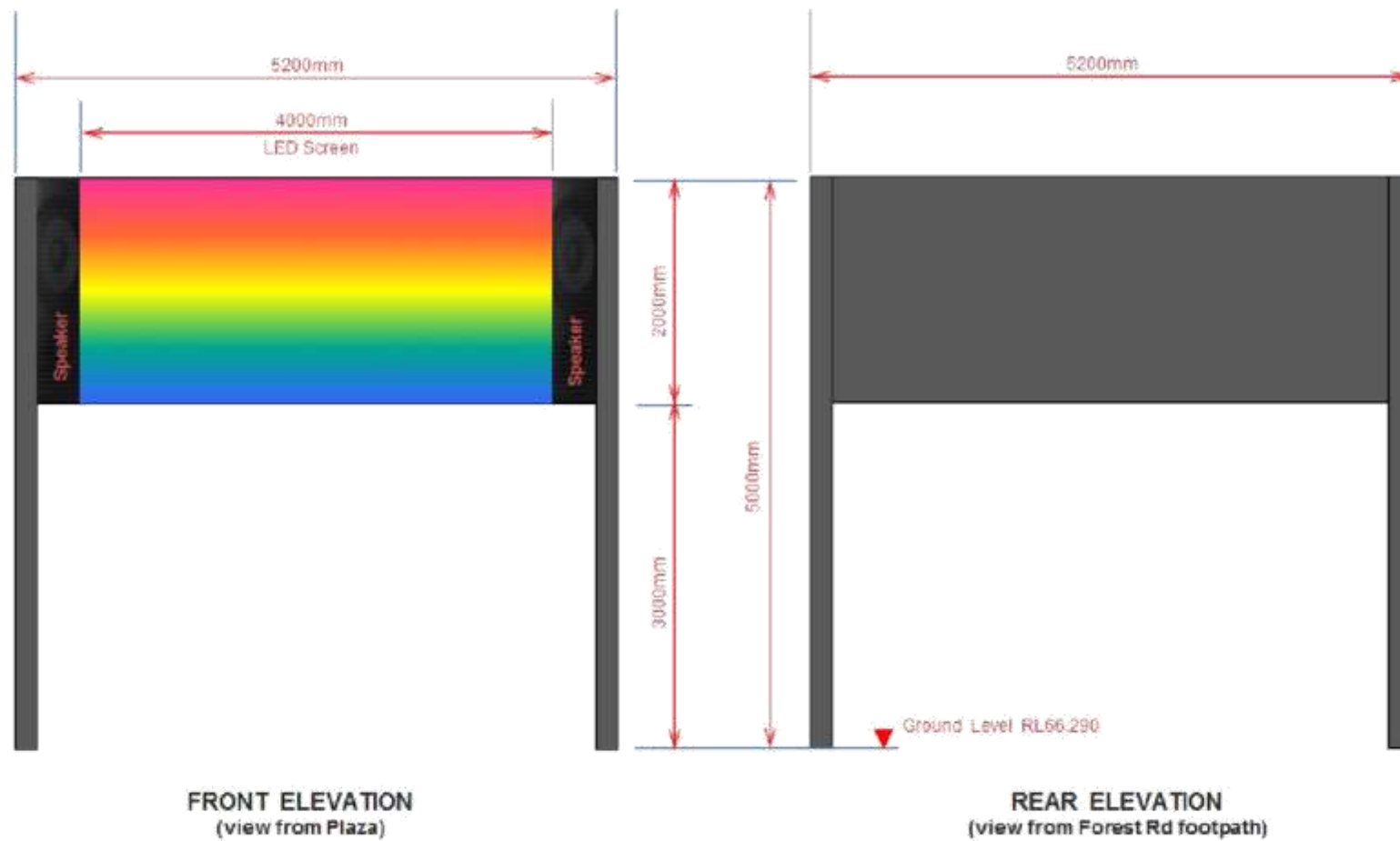
An **Occupation Certificate** Application Form is attached for your convenience.

ATTACHMENTS

Attachment [↓](#) 1 Final Plans - 296 Forest Rd Hurstville







REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF TUESDAY, 17 DECEMBER 2019

LPP062-19

LPP Report No	LPP062-19	Development Application No	DA2018/0059
Site Address & Ward Locality	261 Princes Highway Carlton Kogarah Bay Ward		
Proposed Development	Demolition of existing building, lot consolidation, tree removal and construction of a new five (5) storey shop top housing development including two (2) levels of basement parking		
Owners	Kirshu Pty Ltd		
Applicant	MHN Design Union		
Planner/Architect	MHN Design Union		
Date Of Lodgement	22/02/2018		
Submissions	Two (2)		
Cost of Works	\$15,471,770.00		
Local Planning Panel Criteria	SEPP 65 Application under Ministers Direction of 23 February 2018		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, State Environmental Planning Policy (Building Sustainability Index: BASIX)2004, Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment, State Environmental Planning Policy No.55 – Remediation of Land, Draft State Environmental Planning Policy, Draft State Environmental Planning Policy – Remediation of Land, Kogarah Local Environmental Plan 2012, Kogarah Development Control Plan 2013		
List all documents submitted with this report for the Panel's consideration	Architectural Plans, Statement of Environmental Effects, Cardno Flood Report, Hydraulic Report Traffic Assessment Report, Acoustic Report, BASIX		
Report prepared by	Consultant Planner		

Recommendation	That the application be refused in accordance with the reasons stated in the report.
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Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards	

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	Not Applicable Recommendation is for Refusal and the refusal reasons are available at the time the report is published.

Site Plan

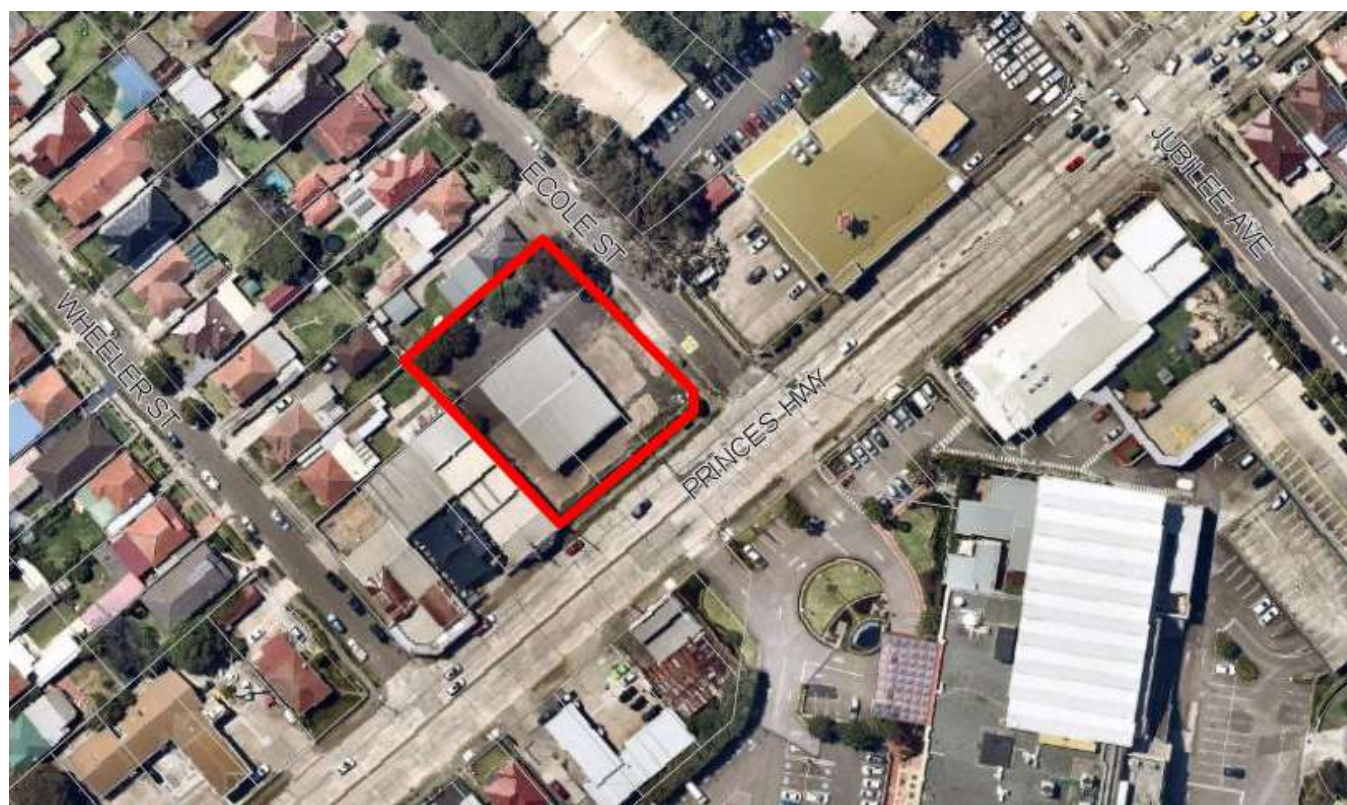


Figure 1: Aerial Photograph of the subject site and locality outlined in red

Executive Summary

Proposal

- The development application (DA) seeks consent for the demolition of existing structures, lot consolidation, tree removal and the construction of a five (5) storey shop top housing development comprising thirty six (36) units (13 x 1 bedroom, 21 x 2 bedroom and 2 x 3 bedroom units), one level of commercial/restaurant/café floor space, and two (2) levels of basement car parking for a total of ninety-seven (97) car parking spaces, new landscaping and associated site works. Two (2) business/retail tenancies totalling 1,289sqm, with dual access points off Ecole Street and Princes Highway, are to be located on the ground floor with vehicular access and a loading bay proposed from Ecole Street. Communal open space is provided on the podium level above the retail tenancy.



Figure 2: Photomontage of the proposed development as viewed from the Princes Highway frontage and the corner of Ecole Street (Source: MHN Union Architects).

Site and Locality

2. The subject site is legally identified as Lots 33 - 36 in DP 13023, with a street address of 261-265 Princes Highway, Carlton. The site is located on the corner of Princes Highway and Ecole Street, Carlton.
3. The subject site is located within 900m of Carlton Railway Station and approximately 1.5km to the south west of the Kogarah Town Centre.
4. The site is located on the Princes H with a frontage of approximately 39.90m to Princes Highway, a secondary frontage of 47.945m to Ecole Street with a splay to the corner of Ecole Street and Princes Highway of 2.145m. The site is currently occupied by a single storey; brick and iron roofed building previously used as a timber centre and has been a petrol station in the past. A majority of the site is hardstand area and access to the site is via Ecole Street.
5. The site is generally square in shape with a total area of 2,066sqm and a slope of approximately 1.0m from the northern corner to the western corner and a gentle grade along the eastern boundary to the Princes Highway frontage. Vehicular and pedestrian access to the site is via Ecole Street.
6. Across the Princes Highway from the site at 124 Princes Highway is the St Georges Leagues Club and associated child care centre, with the Beverley Park Golf Club further to the south east. To the east of the subject site across Ecole Street is the Carlton South Public School and 253 Princes Highway which currently has an application with Council for shop top housing which is presently under appeal. On the western side of Jubilee Avenue is 71-73 Jubilee Avenue which is the subject of a shop top housing development, this application is being reported to the Georges River Local Planning Panel on 12 December 2019. On the opposite side of Jubilee Avenue is Jubilee Oval and Kogarah

Park. To the north and west of the site, in Ecole and Wheeler Streets, are various forms of low scale residential development.

7. Council amended its planning controls on 26 May 2017 via Kogarah Local Environmental Plan 2012 Amendment No.2, and introduced a new zoning, B6 Enterprise Corridor applying to the land fronting the Princes Highway between Westbourne Street and Jubilee Avenue, and half of the block between Francis Street and Westbourne Street. The new zoning provides a height and floor space uplift to allotments within this area to permit a higher density of development.

Zoning and Permissibility

8. The site is zoned 'B6 Enterprise Corridor' under the Kogarah Local Environmental Plan 2012 (KLEP). The development is defined as 'shop top housing' under KLEP, which is a permissible land use with consent in this zone, subject to compliance with a 65% maximum residential component under Clause 6.9.

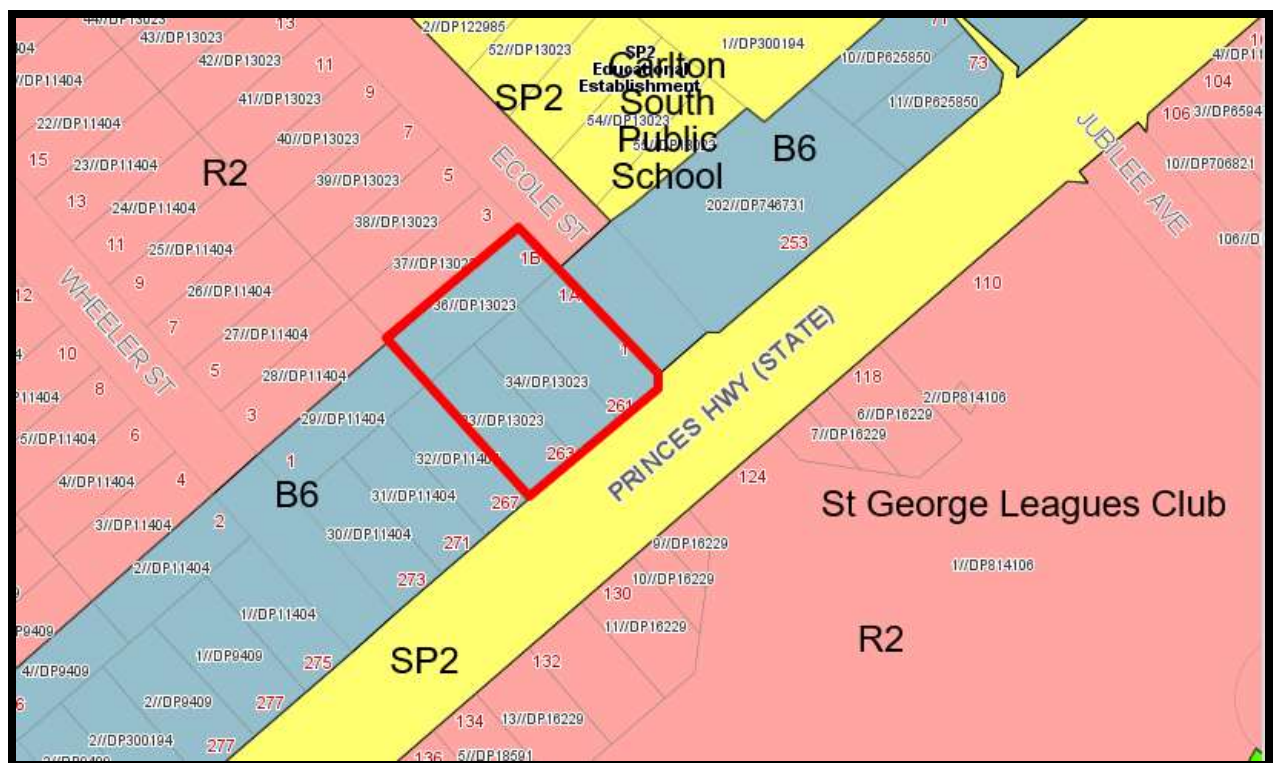


Figure 3 - zoning of the subject site and surrounding allotments

Submissions

9. The development application was publicly exhibited in accordance with the provisions of the Kogarah Development Control Plan 2013. Two (2) submissions were received.
10. Amendments to the application received during the course of its assessment were not required to be publicly notified in accordance with the development control plan, as they related primarily to drainage works and did not result in significant additional environmental impacts.

Reason for referral to the Local Planning Panel

11. This development application is referred to the Local Planning Panel for consideration and determination as it comprises development to which State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development applies as required by the Ministerial Direction of 23 February 2018.

Planning and Design Issues

12. The proposal's bulk, scale and form is generally considered an appropriate design response to the site when considered against the Design Quality Principles of State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development by the Design Review Panel. It is noted that a minor non-compliance for side boundary setbacks (being 259mm or 4.3% variation) to the western boundary with 3 Ecole Street occurs as a 6m minimum setback is required due to habitable rooms facing this boundary.
13. The proposal also fails to comply with the additional local provision for Development in Zone B6 contained within Clause 6.9 of KLEP 2012. This clause requires that the proposed development must not contain more than 65% of the gross floor area for shop top housing and a land use other than shop top housing have a minimum of 500sqm in gross floor area. The proposal provides 67.9% of its gross floor area as shop top housing and only 1289sqm (32.1%) of its gross floor area as business/retail floor space. The 65% requirement under Clause 6.9 is considered to be a development standard by definition and thus if it cannot be achieved the development should be supported by a Clause 4.6 variation to justify the non-compliance. In this instance a Clause 4.6 submission has not been lodged and the proposal is considered to be a prohibited development as it does not comply with the standard. Failure to meet the minimum *alternative use* floor space is contrary to the intent of the zoning and will create an undesirable and inappropriate precedent in this recently up-zoned locality.
14. The B6 Enterprise Corridor zone was introduced to encourage appropriate businesses and offer a range of employment opportunities. The intent of the new B6 zone was to renew the enterprise corridor and activate the street frontage through commercial/retail space, whilst also permitting a percentage of residential floor area above. The design is inconsistent with the desired future character of this precinct being the B6 Enterprise Corridor zone, as the development has not been designed to cater for a range of employment uses, including business, office, retail and light industrial uses.
15. The subject land is identified as being subject to the 1 in 100 year flood inundation and inadequate reports/documentation has been submitted to adequately address this concern, see Figure 4 below.



Figure 4: Flooding Map and 1 in 100 year flow path (Source Intramaps).

Blue – Flood Planning Area

Blue hatched – 1 in 100 year flood extent

16. The subject land is within the 1 in 100 year flow path extending from Carlton Station down to Beverley Park, and the proposed building footprint will more than double the size of the existing commercial building footprint currently constructed within the flow path. It is evident that the larger structure will result in higher and broader flows and will adversely impact the amenity of neighbouring land.
17. A public submission has raised concern with the orientation of the balconies/windows towards Carlton Public School. It is noted that the subject land is separated from the school by Ecole Street and thus acceptable separation is achieved, whilst it is also noted that the potential for overlooking is limited to the school carpark and back of the assembly hall only. Concern was also raised at the timing of demolition and construction periods, which should have suitable safety and remediation measures in place and preferably be programmed for during school holiday periods. Other amenity concerns raised related to traffic and whether the proposal will comply with recently adopted development standards.
18. The location of the loading bay at ground level adjacent to the entry ramp and residential entry points is not considered appropriate. The proposed loading bay will rely on a turntable service to ensure medium rigid vehicles can enter and leave the site in a forward direction. Vehicular and pedestrian safety is a concern given the site is located fronting a main road and is diagonally opposite the Carlton South Public School. The multiple vehicle and pedestrian openings along Ecole Street is likely to lead to confusion and potential conflicts in this location. The multiple pedestrian access points along Princes Highway are not considered well designed and result in confusion see Figure 5 below.

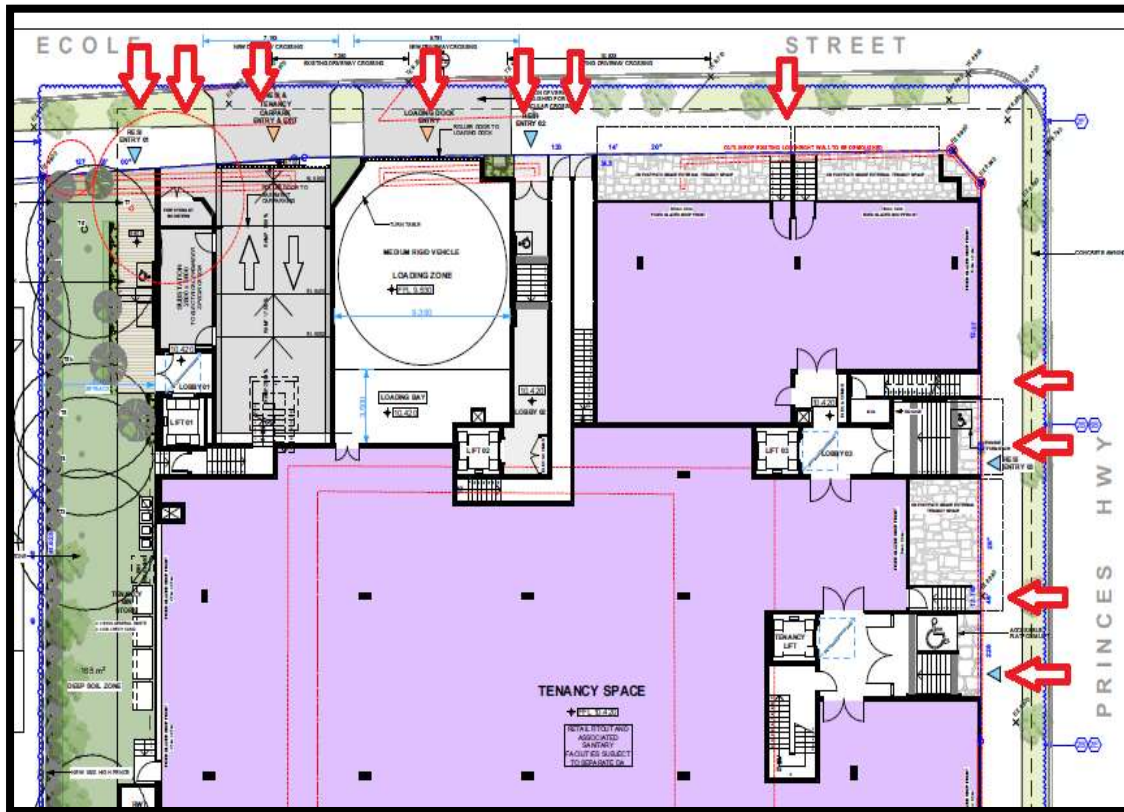


Figure 5: Ground Plan extract – multiple street entries (Source MHNUnion Architects).

Conclusion

19. The application has been assessed having regard to the Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plan and Development Control Plans. Given the non-compliance with the side boundary setbacks under the Apartment Design Guidelines, the minimum *alternative use* area requirements for the B6 zone, design concerns with the flooding management, pedestrian and vehicular concerns with access/egress, overlooking concerns from the balconies/windows, the proposed development is considered to result in an unacceptable planning outcome.
20. As a result the application is recommended for refusal.

Report in Full

DESCRIPTION OF THE PROPOSAL

21. The development proposed is for the demolition of existing structures, lot consolidation, tree removal and the construction of a five (5) storey shop top housing development containing, thirty six (36) residential units, and one level of business/retail floor space above two (2) levels of basement car parking. In an attempt to resolve the drainage issues various sets of plans were lodged for consideration.
22. The most recent set of amended plans included a series of design changes which identified the need for the introduction of stormwater culverts to be inserted below the ground floor level, within the basement carpark, to drain flood water through to the Princes Highway drainage system in order to retain the current flow path of the overland flow across the site.
23. Details of the proposed design and layout of the development are as follows:

Basement 2 Plan

- 57 Residential car parking spaces (which includes 1 x car wash bay, 1 x accessible space and 7 of these spaces are for visitors).
- Sixteen (16) bicycle parking spaces (12 resident and 4 visitor).
- Three (3) lift and lobby areas.
- Thirty six (36) Storage areas.
- Two (2) fire egress stairs.

Basement 1 Plan

- 40 Car parking spaces comprising two (2) accessible spaces.
- Eight (8) commercial bicycle parking spaces.
- One (1) lift and lobby area (Only lift 3 services this level).
- Two (2) fire egress stairs.
- Three (3) garbage rooms.
- Switch, communication and plant rooms.
- Two (2) culverts for stormwater transfer.

Ground Floor Plan

- 1,272sqm of commercial/retail floor space with no sanitary facilities.
- Lift and lobby areas for the tenancies.
- Fire stair access to residential levels.
- Three (3) residential lift and lobby areas.
- Six (6) fire egress stairs.
- Loading bay with truck turntable, vehicular and pedestrian access off Ecole Street.
- Substation room and fire hydrant boosters fronting Ecole Street.
- Service entry for commercial tenancies from the loading bay area.
- Deep soil zone (165sqm) located in the north western portion of the subject site.
- Pedestrian pathways and tenancy bin storage adjacent to deep soil area.
- Two (2) pedestrian commercial entries off Princes Highway, with lift accessible access and two accesses off Ecole Street.
- Basement driveway access.

Level 1 Floor Plan

- 4 x 1 bedroom apartments (one of which has a private courtyard).
- 6 x 2 bedroom apartments (all of which have private courtyards).
- Three (3) Lift lobby areas and four (4) fire stairs.
- Communal area comprising 528sqm with communal toilet.

Level 2 Floor Plan

- 4 x 1 bedroom apartments.
- 6 x 2 bedroom apartments.
- Three (3) Lift lobby areas and four (4) fire stairs.
- Suspended walkway to connect two building elements and provide level access to lifts for Units 2.09 and 2.10.

Level 3 Floor Plan

- 4 x 1 bedroom apartments.
- 6 x 2 bedroom apartments.
- Three (3) Lift lobby areas and four (4) fire stairs.
- Suspended walkway to connect two building elements and provide level access to lifts for Units 3.09 and 3.10.

Level 4 Floor Plan

- 1 x 1 bedroom apartment.
- 3 x 2 bedroom apartments.
- 2 x 3 bedroom apartments.
- Two (2) Lift lobby areas and three (3) fire stairs.

DESCRIPTION OF THE SITE AND LOCALITY

24. The subject site is legally identified as Lots 33 to 36 in DP 13023, and has a street address of 261 Princes Highway, Carlton. The site is located on the corner of Princes Highway and Ecole Street Carlton.
25. The subject site is located within 900m of Carlton Railway Station and approximately 1.5km to the south west of the Kogarah Town Centre.
26. The site is a rectangular parcel of land and has north eastern frontage of 50.08m to Ecole Street, a secondary south eastern frontage of 41.295m to Princes Highway with a splay to the corner of Ecole Street and Princes Highway of 2.145m. The site is currently occupied by a single storey commercial building previously used as a timber centre and has been a petrol station in the past with a majority of the site a hardstand area. Vehicular and pedestrian access to the site is via Ecole Street.
27. The site has a total area of 2,066.5sqm. The land has a slope of approximately 1.0m from the rear to the front along the Ecole Street frontage and is relatively flat along the Princes Highway frontage.
28. Immediately to the east of the development site is 253 Princes Highway which accommodates an existing commercial/retail building with an at grade car park accessed via Ecole Street.
29. A development application was lodged on this site for a six (6) storey shop top housing development (DA2019/0116) which is currently under appeal with the Land and Environment Court.
30. Immediately further to the east of the site at 71-73 Jubilee Avenue has an application with Council for a shop top housing development, this is being reported to Georges River Local Planning Panel on 12 December 2019. The site currently accommodates a vehicle hire facility, whilst further to the north east is Carlton South Public School.



Figure 6: Princes Highway photograph of development site (Source SEE, GSA Planning).



Figure 7: Ecole Street photograph of development site (Source SEE, GSA Planning).

31. Across the Princes Highway from the site at 124 Princes Highway is the St Georges Leagues Club and associated child care centre, with the Beverley Park Golf Club further to the south east. To the north east of the subject site across Jubilee Avenue is Jubilee

Oval and to the north east is Kogarah Park. To the west of the site are commercial premises along Princes Highway and residential housing in Ecole and Wheeler Streets.

32. The site is suitably serviced for stormwater purposes, see Figure 8 below. As illustrated at Figure 4 above, the site is impacted by overland flow affectation and management of inundation is required. It should be noted that Figure 8 indicatively identifies the Sydney Water service (Sewer) which extends across the southern portion of Lot 33, which is considered to be impacted by the development and may require relocation as part of any development of the subject land.

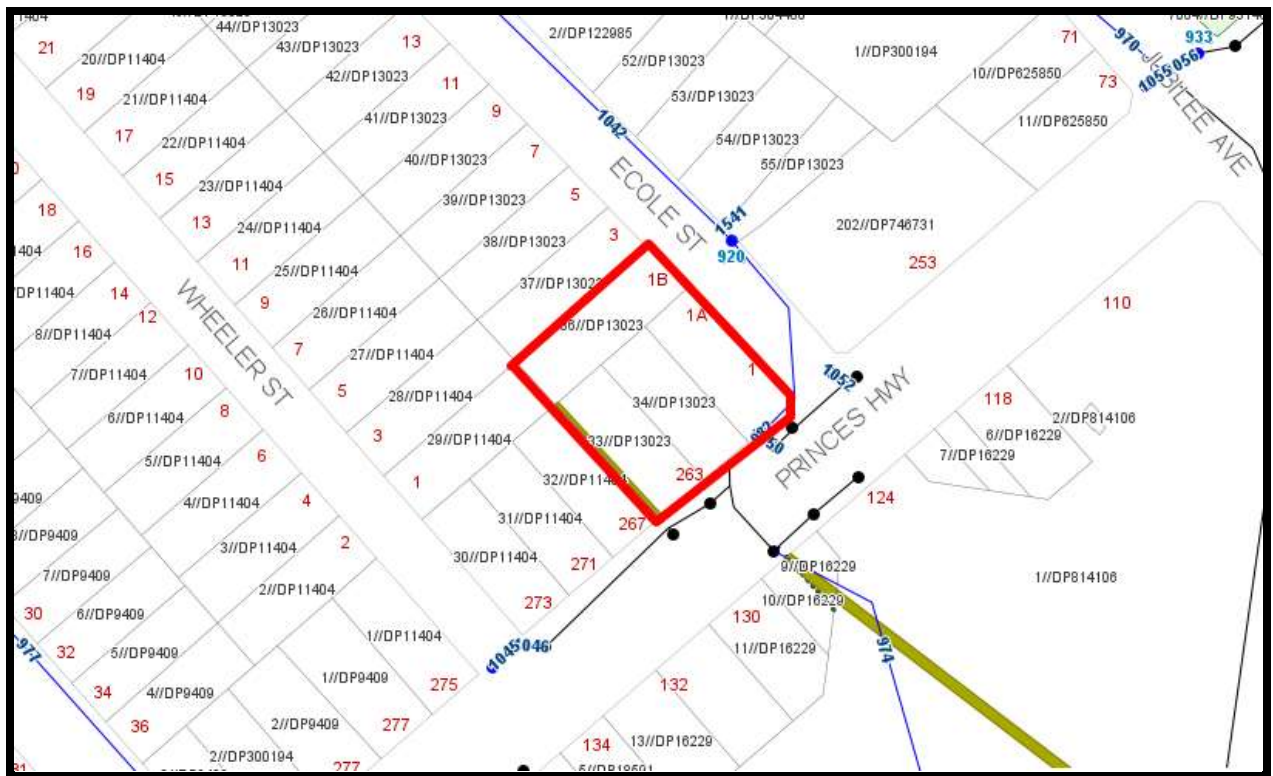


Figure 8: Development Services impacting locality (Source Intramaps).

Olive green – indicative location of Sydney Water infrastructure

Blue and Black lines and symbols – stormwater pit and pipes

Planning Assessment

33. The subject site has been inspected and the development has been assessed under the relevant Section 4.15, Matters for Consideration of the Environmental Planning and Assessment Act 1979.

Environmental Planning Instruments

State Environmental Planning Policies

34. Compliance with relevant State Environmental Planning Policies is summarised in the table as follows and discussed in more detail thereafter.

State Environmental Planning Policy	Complies
State Environmental Planning Policy No 55 - Remediation of Land	Yes
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes
State Environmental Planning Policy – Infrastructure	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	No, refer to discussion

	further within report.
State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development	Yes

LPP062-19

State Environmental Planning Policy No 55 - Remediation of Land

35. SEPP 55 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment.
36. Clause 7 requires contamination and remediation to be considered in determining a development application. The consent authority must not consent to the carrying out of development on land unless it has considered whether or not the land is contaminated.
37. As part of the sale of this land in 2015 by the previous landowner, Ausgrid, a Detailed Site Investigation Report, dated July 2015 was prepared by Prensa and was submitted with the application, which concludes:

“The analytical results for soil and groundwater detected in samples analysed as part of this investigation indicated that there were no exceedances above adopted investigation levels, screening levels or groundwater assessment criteria that are considered significant.....

Based on the review of historical information, the field observations, and the analytical results from the soil and groundwater sampling, while the former site uses indicated a potential source of contamination, the risk of the site being significantly contaminated is considered to be low.....

It is recommended that the USTs identified on site are removed, and a validation assessment undertaken by a suitably qualified environmental consultant, to assess the risk posed by the presence of residual contamination associated with the USTs and to evaluate whether the site is suitable for a high density residential or commercial/industrial land use.”

Additionally, the application relies on an assessment under AS4976-2008 “*The removal and disposal of underground petroleum storage tanks*” prepared by Prensa. There is an Underground Petroleum Storage System Validation Report, dated July 2015, which concluded as follows:

“Based on the findings of the DSI and this UPSS Validation assessment completed by Prensa in October-December 2014 and February-March 2015, respectively, we have identified no reason with regard to potential for contamination that the site would not be suitable for the proposed high density residential use or ongoing commercial/industrial land use.....

With respect to the lead contamination in soil remaining in situ at the site, the site is currently not suitable for low density residential land use. In the unlikely event that the site may be redeveloped for a low density residential land use, the isolated soil displaying evidence of elevated lead concentrations will require management to reduce the potential risk to human health.”

38. Based on the information provided, it is evident that the site remains contaminated with lead trapped between two concrete slabs that will need to be removed and/or remediated as part of any approval which requires excavation on site exposing the contamination.
39. In conclusion, should approval be granted, a Remedial Action Plan (RAP) will be required to address the contamination removal. Given the density applicable to this site, it is likely that basement car parking will be proposed resulting in excavation which will result in the removal of the contaminated material and remediation of the site. Should contaminants not covered by the RAP be experienced during the development of the site, the development will need to cease and a remedial action plan being developed. Appropriate conditions would be imposed if the development was to be supported requiring remediation of the land to occur.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

40. The State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 aims to ensure consistency in the implementation of a scheme to encourage sustainable residential development throughout New South Wales (also referred to as the 'BASIX scheme').
41. A BASIX certificate accompanies the DA verifying that the relevant water, energy and thermal comfort targets have been met by the proposal. Conditions of consent have been included in the recommendation to ensure the commitments required under the BASIX certificate will be satisfied by the proposed development.

State Environmental Planning Policy (Infrastructure) 2007

42. The aim of the Infrastructure SEPP is to facilitate the effective delivery of infrastructure across the State. The Policy also examines and ensures that the acoustic performance of buildings adjoining a rail corridor or busy arterial road is acceptable and internal amenity within units is reasonable given the impacts of adjoining infrastructure development
43. The DA was referred to Ausgrid on 17 September 2019 in accordance with Clause 45 of State Environmental Planning Policy (Infrastructure) 2007. At the time of writing this report, no response had been received. The DA may be determined in the event that no response has been received from Ausgrid within twenty one (21) days, ie 8 October 2019.
44. Clauses 101 (Development with a frontage to a classified road), 102 (Impact of road noise or vibration on non-road development) and 103 (Excavation in or immediately adjacent to corridors) of the SEPP, are relevant to this DA on the basis that the proposal involves the construction of residential accommodation on land adjacent to the road corridor of Princes Highway (having an annual average daily traffic volume exceeding 20,000 vehicles) and is likely to be adversely affected by road noise and/or vibration.
45. The application was referred to Roads and Maritime Services (RMS) for comment as the Princes Highway is an arterial road under their jurisdiction and RMS concurrence is required in accordance with Clause 101 of the Infrastructure SEPP. The proposal was forwarded to the RMS for concurrence on 17 September 2019. RMS provided a formal response on 16 October 2019 and raised no objection to the proposed development subject to the imposition of standard conditions, in particular the following:

“Detailed design plans and hydraulic calculations of any changes to the Roads and Maritime’s stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.”

If approval was to be granted, and suitable stormwater management measures development for implementation, the recommended conditions would be included as part of the consent.

46. Clause 102 of the SEPP is relevant and states:

“(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.”*

47. An Acoustic Assessment Report was submitted with the application prepared by Renzo Tonin and Associates, dated 20 March 2018. The report addresses road traffic noise impact from Princes Highway and adjoining roads, and mechanical plant noise. The Draft Guidelines (*Development near Rail Corridors and Busy Roads – Interim Guideline*) include noise levels to be achieved for habitable areas (living and dining spaces, excluding kitchens, garages, hallways etc) of 40dB(A) at anytime.

48. If the development approval was to be granted a condition on the consent would be necessary to ensure the recommendations of the acoustic report are implemented during the construction of the building and appropriately certified to be consistent with the recommendations of the acoustic report after installation and prior to occupation.

49. The provisions and requirements of the Infrastructure SEPP have been addressed and satisfied by the proposal.

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

50. The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ('Vegetation SEPP') regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.

51. The Vegetation SEPP applies to clearing of:

- a. Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the *Local Land Services Amendment Act 2016*; and
- b. Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the Council's Development Control Plan (DCP).

52. The Vegetation SEPP repeals clauses 5.9 and 5.9AA of the Standard Instrument - Principal Local Environmental Plan, with the regulation of the clearing of vegetation (including native vegetation) below the BOS threshold being through any applicable DCP.

- a. No issues arise in terms of the provisions of the Vegetation SEPP, as there is no significant vegetation on the site or within the footpath area of Ecole Street or Princes Highway immediately fronting the site.

53. The proposal seeks the removal of two (2) trees, T7 and T8 (Yellow Gum White Ironbarks) which are both located adjacent to the Ecole Street boundary. T8 is considered to be in poor health and should be removed whilst T7 is a healthy eucalypt which is adjacent to the building footprint and will be adversely impacted by the development.
54. T7 is considered able to be retained in a modified design, if the proposal had regard to the tree position. A more considered design would enable the retention of this tree and provide some bulk softening of the building façade at this northeast corner of the site which adjoins low density residential development. Should the application be approved then conditions could be imposed where the two (2) trees to be removed be replaced by four (4) trees within the deep soil western landscaped area.

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

55. The State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65) aims to improve the design quality of residential apartment development in New South Wales.
56. The proposed development meets the pre-requisites for the application of the SEPP 65 in that it constitutes development for the purpose of ‘shop top housing’ in a proposed building of more than three (3) storeys and having more than four (4) dwellings. Therefore, it must be assessed against the provisions of SEPP 65 and the Apartment Design Guide (ADG).
57. A design verification statement dated 15 February 2018 has been provided by Brian Meyerson Registered Architect (Registration No. 4907) in accordance with Clause 50 of the Environmental Planning and Assessment Regulation 2000.
58. The DA has been reviewed by the Design Review Panel (DRP) and their comments are further detailed in the DRP discussions below.

Design Review Panel

59. The initial plans that accompanied the application were referred to the Design Review Panel (DRP) on 5 April 2018. The application was previously reviewed at Pre DA Stage (PreDA2017/0028) and the comments in relation to that submission are reiterated in the Table below in italics, with comments in relation to the current application following. The Panel was generally supportive of the form and character of the design.
60. Contextually this property and a number of other properties between Westbourne Street and Jubilee Avenue fronting the Princes Highway have been rezoned to B6 Enterprise Corridor to allow for developments that permit a floor space of 2:1 and a maximum height of 21m. The introduction of the B6 zone aims to ensure that bulky goods retail is grouped at a highly accessible location close to the major centre, whilst also permitting a mix of uses such as business, office and light industry. Residential development is also permissible however, the main objective of the zone is to encourage the redevelopment for commercial development there the floor space associated with residential has been restricted. The subject proposal needs to increase the amount of commercial space and reduce the amount of residential floor space to be consistent with the intent of the zoning.

61. The design quality principles of SEPP 65 are addressed as follows, in the context of the DRP comments. Commentary in response has been provided by the Assessment Officer where necessary.

SEPP 65 – Design Quality of Residential Flat Buildings	DRP Comment	General comment
<p>Context and Neighbouring Character</p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>DA DRP comments</p> <p>The site is located on the Princes Highway on a corner allotment and adjacent to Ecole Street. The site is zoned B6 Enterprise Corridor under the KLEP and to the rear of the site is a single storey house in an R2 zone. There are existing trees on the north western rear boundary adjacent to the house. In this precinct the existing development along the Highway is likely to see the zoning potential taken up. Princes Highway is an arterial road and the subject site is exposed to constant high level noise. Ecole Street is a quiet residential street with minimal traffic.</p> <p>Pre DA DRP comments</p> <p>The site also adjoins low density residential areas especially to the north west. Therefore this interface needs to be provided with deep soil zone and existing trees must be retained and supplemented.</p> <p>The site has been reasonably well described however the transitioning zone and the high levels of traffic noise have not been sufficiently prioritised in the current proposal.</p>	<p>The proposal has been amended after advice received from the Pre-DA and DRP. The building design has been altered from a U-shape to an L-shape building form and relocated the landscaped area from the south west boundary to the north west, providing a landscape buffer to the neighbouring low density housing.</p> <p>The modified plans have resulted in an increase in the residential floor space and a reduction in the commercial floor space from 1,782sqm with a residential component of 1,145sqm), to 1,289sqm of commercial with a residential component of 2723sqm, resulting in only 32.1% retail or commercial component.</p> <p>The design has been prepared with only limited regard to the flooding impacts affecting to the site. Due regard to flood and overland flow</p>

		treatment in the design was required and this has been consistently raised as an ongoing concern to address the management of the potential for flooding on site.
<p>Built Form and Scale</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p>Basic plan form and massing is well considered and largely deals with the issues relating to road noise, residential amenity, and north east orientation. The communal open space at first floor level is generous in size, and easy to access. It is positive that an over 5m setback on the rear/side boundary has been provided to retain the existing trees and provide a buffer to the R2 zone.</p> <p>The following detailed issues should be addressed:</p> <ul style="list-style-type: none"> • Resolution of the internal floor levels with the street frontages and public domain is problematic. The internal floor level is in some instances 1.6m above the footpath. The architect advised this is due to Council's flood level requirements, however the Panel is concerned this may be excessive and significantly compromises the street frontage. It is recommended this be reviewed in further detail. • The streetscape amenity on the Princes Highway is poor. Consider a setback of the ground floor frontage to allow for an awning within the subject site and sufficient space for the access stairs/wheelchair lifts. This would further allow for tree planting along the length of 	<p>The proposal complies with the permitted FSR development standard under KLEP2012.</p> <p>The proposals bulk and scale is an appropriate response to the site up-zoning.</p> <p>Concerns remain with design aspects of the proposal relating to floor levels, street presentation, multiple entry points, substation location and access level, and internal layout arrangements.</p>

the Princes Highway frontage in the verge providing improved amenity for the units in the development.

- Location of the substation in the deep soil zone appears to not meet the usual access requirements of electricity supply authorities and should be located closer to Ecole Street and clear of deep soil zone.
- Provide adequate screening to ensure satisfactory acoustic conditions along open corridors and the courtyard space between the two (2) blocks facing Princes Highway.
- Provide sun protection for retail frontages along both Princes Highway and Ecole Street. The narrow awning on its own would be inadequate.
- Access from the commercial parking basement and the commercial tenancy space has not yet been resolved. The location of the lift and a stair needs to be considered taking into consideration potential for future subdivision of the tenancy space. The following matters should be taken into account - the accessibility risks of having one (1) lift and the needs of people with shopping trolleys, prams and strollers, as well as non-ambulant persons.

Pre DA DRP comments

The layout comprises a U shape form with two (2) open galleries to the south of each wing. The circulation is awkward and does not provide universal access to the central courtyard or through site visual

	<p>links. Notably all of the setbacks are insufficiently sized which is liable to create issues at DA stage.</p> <p>It is recommended that the built form is amended to include the following:</p> <ul style="list-style-type: none"> • Extend the highway facing wing to create a zero setback at its southern end • Create a large garden facing the southern boundary • Widen the Ecole Street wing to incorporate some double loaded circulation and cross through units • Provide a deep soil zone 6m wide to the north west boundary • Relocate the driveway to allow for the deep soil zone (building to bridge over it) • Provide clear visual corridors into the communal open space; it is better for lobbies to have clear views to the garden • It appears to make more sense to have both residential entries from Ecole Street, a residential street; and allow all commercial access from Princes Highway. 	
<p>Density Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p>DRP DA Comments Complaint and acceptable. However if minor exceedance is required to incorporate horizontal circulation spaces and enclosures for acoustic reasons, this is not an issue to the Panel given the generally high quality of the application.</p> <p>Pre DA DRP comments Acceptable provided built form and acoustic and air quality issues are resolved.</p>	<p>The proposal complies with the maximum FSR for the site. Note: Although compliant with the FSR control, the proposal fails to meet the minimum commercial/retail floor space component of the FSR (which equates to 35% of the 2:1 floor space).</p>
<p>Sustainability Good design combines positive</p>	<p>DRP DA Comments Satisfactory subject to BASIX</p>	<p>The proposal is BASIX compliant.</p>

<p>environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p>Pre DA DRP comments Alternative methods of ventilating the Highway facing units will be required in this case. Deep soil must meet ADG requirements and the existing trees on the north west boundary must be kept. The DA proposal must include a well-considered raft of sustainability measures including the use of solar panels, water collection and re-use and other means to reduce energy use. Consider the use of kill switches for all units.</p>	
<p>Landscape Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p>DRP DA Comments The following is recommended:</p> <ul style="list-style-type: none"> • Further review of the communal courtyard - this should consider a smaller series of spaces alongside the larger space. This is to allow for capacity for a number of residents to share the space for a range of activities. • Provision of additional facilities such as toilet (adjacent to or replacing the services duct at the western end of the building), children's play areas, bbq, additional seating. • Planting the narrow paved zone between Units 1.08 and 1.09 - this would provide additional buffer to the Princes Highway and provide privacy from overlooking from the bridge • Provide additional tree planting on the rear boundary to supplement the existing trees • Move the substation – refer comments above under 'Built Form' • Provide street tree planting on the Princes Highway – refer comments above under 	<p>Landscaping is provided at ground level and within the Level 1 Podium communal open space area.</p> <p>In response to the DRP comments the applicant modified the proposal to introduce a communal toilet at the Podium level and introduced a landscape buffer between the residential building forms, between Units 1.08 and 1.09 at the Podium level to provide additional screening.</p>

	<p>‘Built Form’</p> <p><i>Pre DA DRP comments</i> See notes above about deep soil zone and the retention of existing trees. The Panel recommends a landscape architect be consulted early in the design process to resolve site layout issues. All communal spaces must be universally accessible and clearly visible from all lobbies. The Panel encouraged the use of green screen planting to the façade along Princes Highway. The Panel also encouraged the use of roof terraces for communal open space. Notably the basement car park fills the site. This is unacceptable as deep soil to meet ADG requirements is essential on this site. Set downs and provision for soil depth to ADG standards are required for all communal open spaces proposed.</p>	
<p>Amenity Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p><i>DRP DA Comments</i> Generally of very good standard, particularly in terms of solar access and ventilation. A minor refinement would be to reconfigure the south eastern fire stair to provide a wider opening to the southern unit’s main bedrooms minimising the snorkel arrangement presently proposed.</p> <p>The long narrow corridors at the ground floor providing access to residential lobbies 2 and 3 are spatially poor and claustrophobic. Some serious and creative thought should be given to making the access experience for residents pleasant and inviting.</p> <p>The Panel was concerned that the adaptation process for the</p>	<p>The modified plans continue to have minor design issues for the residential amenity, including the continued snorkel effect off the master bedrooms for Units 1.10, 2.10 and 3.10, continuation with long individual access corridors to the residential lobbies and the small street front presentations for access to the lobbies</p> <p>Apart from Units 1.10, 2.10 and 3.10, all units will provide a high level of internal and external amenity and the</p>

	<p>adaptable units would involve too many structural and plumbing changes and recommend that the plan of these units should be as close to the post adaptation layout as possible. The Panel also recommended that there should be more diversity in the adaptable units with thought being given to concentrating them at the Level 1 with immediate access to the communal area.</p> <p>Pre DA DRP comments See notes above regarding impacts of traffic noise and air quality as currently proposed. The units in themselves are well designed, however some of them do not have well resolved entries and their layouts adversely impact the building circulation and through visual links. The units appear not to be provided with sufficient storage.</p> <p>See notes above regarding insufficiently sized setbacks between the habitable spaces and boundaries generally.</p> <p>The driveway location requiring the removal of existing trees is not acceptable.</p> <p>Residential lobbies should be more generous.</p> <p>It is recommended that the commercial space is resolved to work with the residential layout, rather than vice versa.</p>	<p>development complies overall with the ADG controls for solar access, cross ventilation, unit sizes and private open space areas.</p>
<p>Safety Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for</p>	<p>DRP DA Comments See comments above regarding to retail floor level and access to lobbies.</p> <p>Pre DA DRP comments The large loading dock needs</p>	<p>Concerns remain with the separation, and in some instances isolation of, the residential lobby entries, particularly that</p>

<p>the intended purpose.</p> <p>Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p>to be secured to avoid security issues. Gates to the communal area need to be provided from adjacent podium level residential courtyards.</p>	<p>adjacent to the substation/basement car park entry. A design with a more consolidated entry connecting the three lobby lifts would be more acceptable and provide a safer more defined and prominent entry.</p>
<p>Housing Diversity and Social Interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p>DRP DA Comments See comments above regarding to retail floor level and access to lobbies.</p> <p>Pre DA DRP comments A good mix of units has been proposed. However the layout requires substantial review as noted above.</p>	<p>The plans incorporate a combination of 1, 2 and 3 bedroom units.</p> <p>A suitable unit mix is proposed with a variety of unit layouts.</p>
<p>Aesthetics</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure.</p> <p>Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well designed apartment development responds to the existing or future local context,</p>	<p>DRP DA Comments Satisfactory – high quality.</p> <p>Pre DA DRP Comments The sheet of reference examples includes a number of interesting architectural solutions that could work very well for a unit in this context. However the building language as proposed is undeveloped to achieve these aims.</p>	<p>The schedule of colours, materials and finishes are suitable in the locality.</p>

particularly desirable elements and repetitions of the streetscape.

Apartment Design Guide

62. Clause 28 of SEPP 65 requires the consent authority to take into consideration the provisions of the Apartment Design Guide. An assessment of the proposed development against the relevant design criteria of the Apartment Design Guide (ADG) is detailed in the compliance table as follows.

Section	Design Criteria	Proposed	Comply
3D - Communal and public open space	<p>Communal open space has a minimum area equal to 25% of the site (2066 x 0.25 = 516.6sqm)</p> <p>Where it cannot be provided on ground level it should be provided on a podium or roof</p> <p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)</p>	<p>The primary area of communal open space is provided on the podium level and has an area of 582sqm (28%).</p> <p>2 hours of sunlight is achieved to at least 50% of the Podium Level communal open space area, which is the principle area of communal open space for the development.</p> <p>The deep soil area in the western portion of the site is also available for use.</p>	Yes
3E – Deep soil zones	<p>Deep soil zones are required at a sliding scale in this clause.</p> <p>For a site area of >1500sqm, the deep soil zone requirement is 7% with minimum 6m dimensions.</p>	<p>Deep soil area is 160sqm (7.7%) and 5.691m in width and extends across the western boundary of the site and complies.</p> <p>The ADG recommends that on larger sites, >1500sqm, larger areas of deep soil should be provided.</p>	Yes - It is noted however, that the site is square in shape and offers an opportunity for greater deep soil to be provided.
3F – Visual privacy	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved.</p> <p>Minimum required separation distances from buildings to the side and rear boundaries are as follows: <u>Up to 12m (4 storeys)</u></p>	<p>Ground to Level 4: South - Nil (blank wall) West – 5.471m</p>	No - The proposal has a 5.741m setback to

	<p>Habitable - 6m Non-habitable – 3m</p> <p><u>Up to 25m (5-8 storeys)</u> Habitable – 9m Non-habitable – 4.5m</p>		<p>the adjoining west residential boundary and does not achieve the 6m standard</p> <p>Yes</p>
3G – Pedestrian Access and Entries	<p>Building entries and pedestrian access connects to and addresses the public domain</p> <p>Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge</p>	<p>The proposal provides for multiple residential entries to Princes Highway and Ecole Street. These entries remain narrow and uninviting and could be designed to provide a common highly legible entry point.</p>	<p>No - As this situation could be addressed to provide a safer more pronounced and defined entry point.</p>
3H – Vehicle Access	<p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes</p>	<p>The main driveway access point has been located from the secondary street frontage in Ecole Street. A loading bay is also proposed at ground level with separate driveway access from Ecole Street, relying on as turntable for manoeuvrability.</p>	<p>No - The location of the driveway is the most appropriate location for the subject site given it is away from the corner. The congested design around the driveway, loading bay, fire booster, substation and residential lobby facilities is not an ideal outcome.</p>

3J – Bicycle and car parking	<p>For development of this nature the following standards would apply:</p> <p>Commercial 1 space per 40m² Bulky Good 1 space per 40m² 1.0 car space per 1 Bed Unit 1.5 car space per 2 Bed Unit 2.0 car space per 3 Bed Unit 1.0 visitor car space per 5 Units</p> <p>The car parking needs for a development must be provided off street</p>	<p>Given the site is over 800m from Carlton Railway Station the required residential parking is calculated in accordance with the KDCP guidelines.</p> <ul style="list-style-type: none"> • 1 bed units 1.0 x 13 = 13.0 spaces • 2 bed units 1.5 x 21 = 31.5 spaces • 3 bed units 2.0 x 2 = 4.0 spaces • 1 Visitor space per 5 units = 7.2 spaces <p>Totalling 55.7 spaces with 57 provided.</p> <p>Commercial/Bulky Goods requires: 1,289/40 = 32.2 spaces</p> <p>Proposal has 40 spaces</p> <p>A visitor space doubles as a carwash bay on basement level 2.</p> <p>Twelve (12) bicycle spaces have been provided for the residents and four (4) for visitors.</p> <p>Eight (8) bicycle spaces have been provided for the commercial.</p>	<p>Yes.</p>
4A – Solar and daylight access	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas</p>	<p>Application contends 100% (36 units) compliance achieved for a minimum of 2 hours sunlight in midwinter.</p> <p>It appears questionable as to whether Units 1.09, 2.09 and 3.09 will achieve the 2 hour standard; however, even with these units excluded the proposal would achieve</p>	<p>Yes</p>

	A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter	compliance with 33 units (92%) N/A	N/A
4B – Natural ventilation	<p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	72% (26 units) are cross ventilated.	Yes
4C – Ceiling heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <ul style="list-style-type: none"> • Habitable rooms 2.7m • Non-habitable rooms 2.4m • For 2 storey apartments: 2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area • Attic spaces: 1.8m at edge of room with a 30 degree minimum ceiling slope • If located in mixed use areas - 3.3m for ground and first floor to promote future flexibility of use <p>These minimums do not preclude higher ceilings if desired.</p>	<p>All of the proposed units have ceiling heights of 2.7m.</p> <p>The commercial component includes floor to ceiling at ground of 4100mm and first floor residential has 2800mm. The proposal does not comply with the ADG flexibility requirement, although this could be achieved conditionally, if required, as the building is comfortably under the height control.</p>	No - The desire for flexibility in use over the first two floor levels is not supported by the proposed design. The desirability for this flexibility is inherent in the B6 zoning of the land and should be required.

4D – Apartment size and layout	<p>Apartments are required to have the following minimum internal areas:</p> <p>Studio – 35sqm 1 bedroom – 50sqm 2 bedroom – 70sqm 3 bedroom – 90sqm</p>	<p>All apartments meet minimum internal size requirements. N/A 56sqm 75sqm 95sqm</p>	Yes
	<p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each</p>	Calculated accordingly.	Yes
	<p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12sqm each.</p>	N/A	N/A
	<p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p>	Provided and within the prescribed range.	Yes
	<p>Habitable room depths are limited to a maximum of 2.5m x the ceiling height.</p>	All within the prescribed range.	Yes
	<p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p>	All within the prescribed range.	Yes
	<p>Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space)</p>	All master bedrooms comply.	Yes
	<p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p>	All bedrooms comply.	Yes
	<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 	All living rooms comply.	Yes
	<p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment</p>	All of the proposed units are in excess of 4m in width internally.	Yes

	layouts.		
4E – Private open space and balconies	<p>All apartments are required to have primary balconies as follows:</p> <ul style="list-style-type: none"> • Studio apartments require 4sqm with no min depth • 1 bedroom apartments require 8sqm with min depth 2m • 2 bedroom apartments require 10sqm with min depth 2m • 3+ bedroom apartments require 12sqm with minimum 2.4m depth <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p> <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15sqm and a minimum depth of 3m.</p>	<p>All balconies achieve the minimum area and depth requirements associated with the unit type.</p> <p>Calculated accordingly.</p> <p>Units Fronting Ecole Street have courtyards of 13sqm – 14sqm and 2-3m width, however, they also have 8sqm balconies and are considered to achieve the intent of the standard.</p>	<p>Yes</p> <p>Yes</p> <p>Although 15sqm and 3m in width is not achieved, the resident amenity is satisfied.</p>
4F – Common circulation and spaces	The maximum number of apartments off a circulation core on a single level is eight.	A maximum of 3 units at each level for each lift.	Yes
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	N/A	N/A
4G - Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <ul style="list-style-type: none"> • Studio apartments 4m³ • 1 bed apartments 6m³ • 2 bed apartments 8m³ • 3+ bed apartments 10m³ <p>At least 50% of the required storage is to be located within</p>	<p>All units have compliant total storage volumes as per the ADG for each unit type.</p> <p>N/A 7m³ 9m³ 10m³</p> <p>At least 50% of the required storage is located within the</p>	<p>Yes</p> <p>Yes</p>

	the apartment.	apartment.	
4H – Acoustic Privacy	<p>Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses.</p> <p>Window and door openings are generally orientated away from noise sources</p> <p>Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas</p> <p>Storage, circulation areas and non-habitable rooms should be located to buffer noise from external sources</p>	<p>An assessment in respect to the acoustic compliance of the scheme has been discussed in detail above. If the application was to be supported conditions would be imposed to achieve the noise criterion set by RMS for internal amenity.</p>	Yes
4J – Noise and Pollution	<p>To minimise impacts the following design solutions may be used:</p> <ul style="list-style-type: none"> • physical separation between buildings and the noise or pollution source • residential uses are located perpendicular to the noise source and where possible buffered by other uses • buildings should respond to both solar access and noise. Where solar access is away from the noise source, non-habitable rooms can provide a buffer • landscape design reduces the perception of noise and acts as a filter for air pollution generated by traffic and industry 	<p>The design solution within the ADG which seeks to minimise noise and acoustic impacts have been considered through the design and layout of apartments. If the application was to be supported than a condition for compliance with the acoustic criterion would be imposed.</p>	Yes
4K- Apartment Mix	<p>A range of unit types and sizes is provided to cater for different household types now and into the future</p> <p>The unit mix is distributed to suitable locations within the building</p>	<p>The development offers a mix of 1, 2 and 3 bedroom units in the following manner;</p> <p>13 x 1 bedroom units = 36%</p> <p>21 x 2 bedroom units = 58%</p> <p>2 x 3 bedroom = 6%</p>	Yes
4L – Ground	Street frontage activity is	No ground floor units	N/A

floor apartments	<p>maximised where ground floor units are located.</p> <p>Design of ground floor units delivers amenity and safety for residents</p>	proposed.	
4M- Facades	<p>Facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale.</p>	<p>The building façade provides articulation along the street frontages at an appropriate scale. Due to the flood affected nature of the site, the ground level is elevated 1600mm above the ground level along the Princes Highway frontage. It is noted that the access arrangement to the residential lobbies is disjointed, convoluted and sporadic along the frontages.</p>	<p>No - The design provides for reasonable articulation but does not adequately respond to lobby entry needs leading to a complex and busy and note well defined streetscape.</p>
4N- Roof Design	<p>Roof treatments are integrated into the building design and positively respond to the street. Opportunities to use roof space for residential accommodation and open space are maximised. Incorporates sustainability features.</p>	<p>The roof design is a standard flat roof form.</p>	Yes
4O – Landscape Design	<p>Landscape design is viable and sustainable, contributes to the streetscape and amenity</p>	<p>Suitable landscaping has been proposed which complies with minimum requirements.</p>	Yes
4P – Planting on structures	<p>Planting on structures – appropriate soil profiles are provided, plant growth is optimised with appropriate selection and maintenance, contributes to the quality and amenity of communal and public open spaces</p>	<p>Suitable landscaping is proposed as part of formal Landscape Plan.</p>	Yes
4Q – Universal Design	<p>Universal design – design of units allow for flexible housing, adaptable designs, accommodate a range of lifestyle needs</p>	<p>Satisfactory, adaptable units proposed for Units 1.04, 2.04, 3.04, 4.04, 1.07, 2.07 and 3.07.</p>	Yes

4R – Adaptive reuse	Adaptive reuse as unit of existing buildings- new additions are contemporary and complementary, provide residential amenity while not precluding future adaptive reuse.	N/A as the development is new.	N/A
4S Mixed Use	<p>Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement</p> <p>Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents.</p>	<p>The proposal provides an active street frontage and a practical connection between the development and the public domain considering the flood level clearance requirements. This does, however, result in a high street front commercial/retail entry which physically disconnects the development from pedestrians at street level.</p> <p>The residential units are located from the first floor level and above and have been integrated into the development. The unit entry foyer locations and sizes remain matters of concern for safety and amenity reasons, being narrow, isolated and not well designed.</p>	<p>No</p> <p>No</p>
4U – Energy Efficiency.	Development incorporates passive environmental design, passive solar design to optimise heat storage in winter and reduce heat transfer in summer, natural ventilation minimises need for mechanical ventilation	Appropriate building orientation and a compliant BASIX certificate has been provided.	Yes
4V – Water management and conservation	Water management and conservation – potable water use is minimised, stormwater is treated on site before being discharged, flood	The stormwater drainage plans have been assessed and remain an issue for Council's Drainage	No

	management systems are integrated into the site design	Engineers as they do not adequately respond to the existing flooding and overland flow issues and remains unsatisfactory.	
4W – Waste Management	Waste management – storage facilities are appropriately designed, domestic waste is minimised by convenient source separation and recycling	The residential bin stores are appropriately located within basement level 1. The commercial bin stores are located adjacent to the deep soil area and in proximity to the flooding culverts and area considered inappropriately located and treated.	Yes No, if the proposal is approved would require relocation.
4X – Building Maintenance	Building design provides protection from weathering Enables ease of maintenance, material selection reduces ongoing maintenance cost	Satisfactory.	Yes

Draft Environmental Planning Instruments

Draft Environment SEPP

63. The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018.
64. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.
- Changes proposed include consolidating the following seven existing SEPPs:
 - State Environmental Planning Policy No. 19 – Bushland in Urban Areas
 - State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
 - State Environmental Planning Policy No. 50 – Canal Estate Development
 - Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
 - Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
 - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
 - Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.
65. The proposal is generally consistent with the provisions of this Draft Instrument.

Draft Remediation of Land SEPP

66. The Department of Planning and Environment has announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No 55—Remediation of Land.
67. The main changes proposed include the expansion of categories of remediation work which requires development consent, a greater involvement of principal certifying authorities particularly in relation to remediation works that can be carried out without development consent, more comprehensive guidelines for Councils and certifiers and the clarification of the contamination information to be included on Section 149 Planning Certificates.
68. Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land.
69. As part of the sale of this land in 2015 by the previous landowner, Ausgrid, a Detailed Site Investigation Report, dated July 2015 was prepared by Prensa and was submitted with the application, which concludes:

“The analytical results for soil and groundwater detected in samples analysed as part of this investigation indicated that there were no exceedances above adopted investigation levels, screening levels or groundwater assessment criteria that are considered significant.....

Based on the review of historical information, the field observations, and the analytical results from the soil and groundwater sampling, while the former site uses indicated a potential source of contamination, the risk of the site being significantly contaminated is considered to be low.....

It is recommended that the USTs identified on site are removed, and a validation assessment undertaken by a suitably qualified environmental consultant, to assess the risk posed by the presence of residual contamination associated with the USTs and to evaluate whether the site is suitable for a high density residential or commercial/industrial land use.

Additionally, the application relies on the findings of the Underground Petroleum Storage System Validation Report, dated July 2015 prepared by Prensa, which concluded as follows:

“Based on the findings of the DSI and this UPSS Validation assessment completed by Prensa in October-December 2014 and February-March 2015, respectively, we have identified no reason with regard to potential for contamination that the site would not be suitable for the proposed high density residential use or ongoing commercial/industrial land use.....

With respect to the lead contamination in soil remaining in situ at the site, the site is currently not suitable for low density residential land use. In the unlikely event that the site may be redeveloped for a low density residential land use, the isolated soil displaying evidence of elevated lead concentrations will require management to reduce the potential risk to human health.”

70. Based on the information provided, it is evident that the site remains contaminated with lead trapped between two concrete slabs that will need to be removed and/or

rehabilitated as part of any possible approval which requires excavation on site exposing the contamination.

71. In conclusion, should approval be granted and excavation takes place, unexpected contamination maybe found during demolition, excavation and construction. Appropriate conditions would be required for the work to cease, investigations to be undertaken and an details of the remediation of the land to occur to be submitted to Council.

Kogarah Local Environmental Plan 2012

Zoning and Permissibility

72. The subject site is zoned Zone B6 Enterprise Corridor under the provisions of the Kogarah Local Environmental Plan 2012 (KLEP 2012). See figure 3 above.
73. The proposed development contains residential accommodation and a commercial component which are collectively defined as 'shop top housing' and is permissible in the zone.
74. The objectives for development in the B6 Enterprise Corridor zone are as follows:
- *To promote businesses along the main roads and to encourage a mix of compatible uses.*
 - *To provide a range of employment uses (including business, office, retail and light industrial uses).*
 - *To maintain the economic strength of centres by limiting retailing activity.*
 - *To provide for residential uses, but only as part of a mixed use development*
75. The proposed development is considered inconsistent with the economic basis of the above objectives. The proposal provides commercial activities at ground level in two tenancies with a floor space area equivalent to only 32.1% of the proposed floor space, and inadequate floor to ceiling height at the first floor to accommodate possible conversion to commercial if required in the future. The proposal fails to provide sufficient commercial space to maintain opportunities for business and retail development suitable to high exposure locations.
76. The introduction of the new land use zone B6 – Enterprise Corridor Zone in 2017 was intended to ensure that bulky goods retail, business, office, retail and light industry was appropriately located and encouraged in this precinct. Failure to meet the minimum commercial floor space defeats the intent of the zoning and the amendments to the KLEP2012 in that regard. This will set an undesirable precedent which undermines the objectives of the recently up-zoned area.
77. The requirement for commercial floor space with an active street frontage is part of the strategic planning outcome sought by the B6 rezoning. Residential apartments are permissible as shop top housing style of development within the zone albeit with a restricted component; however, the main objective of the zone is to encourage the renewal of commercial/bulky goods retailing development. The amount of residential floor space permitted in this zone is a maximum of 65% of the gross floor area and in this instance the proposal seeks 67.9%.
78. Considering the objective of the B6 zone is to provide a range of employment uses including business, office, retail, bulky goods and light industrial, failure to provide a

suitable loading bay would be inconsistent with the zone objectives in that these uses would not be viable without an adequate loading bay facility. The proposal seeks to use a turntable to enable a small rigid truck (9.3m in length) to access/egress the site in a forward motion, this is considered to be constraint for tenants both in the size of vehicles and accessibility, particularly for a bulky goods operation, as is proposed.

79. An assessment of the proposed development against the relevant provisions of Kogarah LEP 2012 is detailed in the compliance table below:

Clause	Objectives/Provisions	Comment	Complies
2.2 Zone	B6 Enterprise Corridor	The proposal is defined as 'shop top housing' development which is a permissible land use in the zone. If the required retail/commercial floor space cannot be achieved then the development would be prohibited by default.	No - Currently the development does not achieve the 35% commercial floor space required.
2.3 Objectives	Objectives of the zone To promote businesses along main roads and to encourage a mix of compatible uses. To provide a range of employment uses (including business, office, retail and light industrial uses). To maintain the economic strength of centres by limiting retailing activity. To provide for residential uses, but only as part of a mixed use development.	Only 32.1% of the development is proposed to be commercial in two tenancies. 67.9% of the development is residential, exceeding the 65% permitted. The percentage of floor space provided for commercial and residential uses is not consistent with the zone objectives or Clause 6.9 of KLEP2012 in that it does not permit a range of employment uses due to the restricted area of the commercial tenancy. The focus on the zoning is to promote renewal of the up-zoned B6 sites along the Princes Highway through renewal of commercial development permitting a residential use but only as a shop top housing development with a restricted floor area.	No

		The design and configuration of the building does not cater for a suitably located loading bay, carpark driveway, residential lobbies and service access that will cater for a safe and effective commercial component of the development. Given the zoning is focused on providing a range of employment uses, the lack of a suitably located and sized loading bay does not meet the objectives of the zone to service the needs of the commercial component of the development.	
4.3 - Height of buildings	The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. In this case, the relevant map limits the height of buildings on the subject site to 21m.	The proposal has a building height of up to 19.4m (to the top of the lift overrun) or 18.8m (RL 27.62 to the top of the Parapet).	Yes.
4.4 - Floor space ratio	The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. In this case, the relevant map limits the floor space ratio for buildings on the subject site to 2:1.	The proposal has a floor space ratio of 1.94:1.	Yes
4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with CI 4.5	Calculated accordingly.	Yes
4.6 Exceptions to Development Standards	The objectives of this clause are as follows: - <i>to provide an appropriate degree of</i>	Nil.	N/A

	<i>flexibility in applying certain development standards to particular development, (b) - to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</i>		
5.10 - Heritage conservation	<p>The objectives of this clause are as follows:</p> <ul style="list-style-type: none"> (a) to conserve the environmental heritage of Kogarah, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (c) to conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance. 	<p>The subject site is not identified as a heritage item or located within a heritage conservation area, nor is it immediately adjoining a heritage item or heritage conservation area. It is not a recognised archaeological sites or an identified site of aboriginal significance. The site is in proximity of a heritage item of local significance known as Kogarah Park/Jubilee Oval (including Reserve, War Memorial and Oval).</p>	Yes
6.1 - Acid sulfate soils	<p>The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.</p>	<p>The subject site is not identified on the Acid Sulfate Soils Map as being affected by any particular class of acid sulfate soils.</p>	N/A
6.2 - Earthworks	<p>The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p>	<p>The proposed development includes excavation and associated earthworks to accommodate two levels of basement car parking. The basement carpark essentially extends the full length and width of the site apart from being setback from the western boundary to accommodate the deep soil zone and the TPZ for</p>	Yes

		the healthy trees located along that boundary. This setback is identified by the Applicant as sufficient to provide an adequate TPZ for the retention of six (6) existing trees on the adjoining site.	
6.3 - Flood planning	<p>The objectives of this clause are as follows:</p> <ul style="list-style-type: none"> (a) to minimise the flood risk to life and property associated with the use of land, (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change, (c) to avoid significant adverse impacts on flood behaviour and the environment. 	<p>The subject land is classified as flood affected in the Beverley Park Overland Flow Risk Management Study and Plan 2007. The identified 1 in 100 ARI flooding level is identified as RL 9.9m (AHD) and recommended finished floor level is 10.4m (AHD). A Flood Assessment was submitted with the application. However, this has been assessed as inadequate, see discussion in Stormwater Engineers comments, as the building is located within the primary flow channel and will result in higher levels of flooding on neighbouring lands.</p>	<p>No. The development has been assessed as unsatisfactory with respect to flood levels and treatment of overland flow.</p>
6.5 - Airspace operations	The objective of this clause is to protect airspace around airports	The proposed development will not penetrate the prescribed airspace for Sydney Airport and will not require a 'controlled activity' within the meaning of Division 4 of Part 12 of the Airports Act 1996.	Yes
6.9 – Development in Zone B6	The objective of this clause is to provide viability of development and to maintain opportunities for business and retail development that is suited to high exposure locations.		No - A Clause 4.6 variation has not been provided.

	<p>No more than 65% of the gross floor area of the building will be used for shop top housing or tourist and visitor accommodation.</p> <p>Consent must not be granted for a land use other than shop top housing or tourist and visitor accommodation with a gross floor area of less than 500sqm.</p>	<p>The residential component of the shop top housing development is 2,723sqm (67.9%)</p> <p>The area of commercial uses (other land use) is proposed to be 1,289sqm (32.1%).</p>	
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80. The proposed development fails to adequately respond to:
- The intent and objectives of the B6 Zone Objectives,
 - Flooding impacts assessment and amelioration measures; and
 - Commercial operation expectations under Clause 6.9 of the KLEP;
81. On this basis the proposal is recommended for refusal due to its non-compliance with the objectives and standards under KLEP2012, and the lack of a Clause 4.6 Submission to support the variation of the development standard under Clause 6.9 – Development in Zone B6.

Development Control Plans

Kogarah Development Control Plan 2013

82. The provisions of Kogarah Development Control Plan 2013 (KDCP 2013) are relevant to the proposed development. Several controls within the KDCP 2013 are inconsistent with the scale of development now permitted under the KLEP 2012 (as amended on 26 May 2017).
83. It is also noted that in the hierarchy of planning controls, Development Control Plans cannot prescribe more onerous corresponding controls than those in a Local Environmental Plan.
84. An assessment of the proposed development against the relevant controls in the KDCP 2013 is detailed in the compliance table below.

Part B General Controls			
Part	Objectives/Controls	Comments	Complies
B1 - Heritage Items and Heritage Conservation Areas	<p>The objectives of this part are to:</p> <ul style="list-style-type: none"> • Ensure development protects and enhances the environmental and cultural heritage of Kogarah; • Ensure proposed 	<p>The subject site is not a heritage item and is not located in a heritage conservation area. It does not adjoin a heritage item however there is a heritage item located in proximity of the site, being Kogarah Park</p>	Yes

	<p>development is sympathetic to heritage items and Heritage Conservation Areas;</p> <ul style="list-style-type: none"> • Provide guidance on appropriate design, siting, bulk, materials, landscaping and streetscape character. 	<p>and Jubilee Oval. The proposed development will not have an adverse impact upon these heritage items.</p>	
B2 - Tree Management and Green Web	<p>The objectives of this part include the following:</p> <ul style="list-style-type: none"> • Ensure the protection of existing trees which contribute to the visual amenity and environment of the City of Kogarah; • Protect trees within and adjacent to development sites; • Maximise healthy tree canopy coverage across the City of Kogarah. 	<p>The applicant has provided an Arborist Report, dated 29 January 2018, prepared by ELKE, which concludes two Yellow Gum White Ironbark trees should be removed due to poor condition or likely impacts from the proposed development. Seven (7) trees are to be retained and have been provided with adequate TPZ's and are to be accompanied by 4 replacement trees should the application be approved.</p>	<p>No - Concern is raised at removal of T7 being a healthy tree that could be retained where a suitable redesign of the building footprint is pursued.</p>
B3 - Developments near Busy Roads and Rail Corridors	<p>The objectives of this part are to:</p> <ul style="list-style-type: none"> • Ensure an appropriate acoustic amenity can be achieved for development near transport corridors, particularly residential development and other noise sensitive land uses; • Provide additional acoustic design or mitigation measures that may be necessary; • Development fronting a busy road or a rail corridor should be designed 	<p>An acoustic report was prepared and is deemed satisfactory subject to noise mitigation measures been implemented. This has been discussed in detail above. Should the application be approved suitable conditions would need to be imposed to ensure compliance with the report recommendation for internal amenity.</p>	<p>Yes</p>

	and sited to minimise noise impacts.		
B4 - Parking and Traffic	<p>The objectives of this part are to:</p> <ul style="list-style-type: none"> Minimise traffic congestion and ensure adequate traffic safety and management; Ensure an adequate environmental quality of parking areas (including both safety and amenity); Provide adequate car parking for building users and visitors, depending on building use and proximity to public transport. 	<p>The site is over 800m from Carlton Railway Station and hence the required residential parking is calculated in accordance with the KDCP guidelines. Concerns are raised relating to the truck access for the site and Ecole Street which will necessitate trucks to traverse the two lanes to enable access/egress to and from the loading bay via Ecole Street.</p>	<p>Yes the proposal complies with car parking provision requirements.</p> <p>No</p> <p>Referenced in the ADG traffic and access assessment earlier in this report.</p>
Residential Parking	<p>The site is located over 800m from Carlton Railway Station and is located outside the strategic centre. The KDCP2013 car parking rates apply.</p> <ul style="list-style-type: none"> 13 x 1 bedroom units x 1.0 = 13.0 required 21 x 2 bedroom units x 1.5 = 31.5 required 2 x 3 bedroom unit x 2.0 = 4.0 required Visitors 36 units (1 per 5) = 7.2 required <p>Total of 55.7 spaces required</p> <p>57 spaces have been provided</p>	<p>The plans have been designed to accommodate 57 car spaces within Basement Level 2 to facilitate the residential needs of the development.</p>	Yes
Car wash bay	1 bay, which can also function as a visitor space	1 car wash bay has been provided on Basement Level 2 within a visitor space.	Yes

Bicycle parking	<u>Residential</u> 1 space per 3 dwellings (12 spaces) + 1 space per 10 dwellings for visitors (3.6 spaces) = 15.6 spaces required <u>Commercial</u> 1 space per 5 car parking spaces = 40 spaces required Total required = 8 spaces	12 resident and 4 visitor bicycle parking spaces are provided within basement 2. 8 Commercial bicycle parking spaces proposed within Basement Level 1.	Yes
Commercial and Bulky Goods parking	1 space per 40sqm gross floor area (offices/bulky goods)	Based on the commercial floor area of 1,289sqm – 33 spaces are required. 40 spaces provided.	Yes
Loading requirements	<u>Retail</u> Floor area 15sqm to 500sqm – 1 bay required Floor area >500sqm to 1500sqm – 2 bays required <u>Commercial</u> Floor Area 1000sqm – 2000sqm - 1 bay required Floor area > 500sqm to 10000sqm – 2 bays required <u>Design of loading bay</u> Minimum bay width - 3.5m Minimum bay length – 9.5m	The subject proposal has 1,289sqm of commercial/bulky good floor space requiring a single loading bay. The loading bay measures 9.5m x 9.85m and has been provided at ground level adjacent to the basement driveway.	Yes
B5 - Waste Management and Minimisation	The objectives of this part are to: <ul style="list-style-type: none"> Encourage best practice in waste management that minimises waste generation, facilitates waste separation and maximises reuse and recycling; Ensure quality design of waste management 	A Waste Management Plan (WMP) was submitted with the application and was referred to Council's Waste Officer. The residential bin storage area is located within basement level 1. The commercial bin	No The required residential bins have been provided. Commercial

	<p>facilities that complement the building design and minimise noise, odour and visual impacts on adjacent uses and the public domain;</p> <ul style="list-style-type: none"> • Ensure suitable and efficient waste storage, recycling and collection in all development. 	<p>storage is proposed to be located adjacent to the deep soil landscaping and the stormwater culvert inlets on the western elevation. This arrangement is considered unsatisfactory due to its proximity to the landscaped area/deep soil zone and neighbouring the property.</p> <p>There is no dedicated area adjoining the bin room or within the development that can be used for storing bulky goods.</p>	<p>bin storage area is unsatisfactory</p> <p>No bulky storage area provided.</p>
B6 - Water Management	<p>The objectives of this part are to:</p> <ul style="list-style-type: none"> • Reduce flooding and drainage impacts within and downstream of the development site; • Reduce pollutant loads exported to the waterways via the stormwater system; • Conserve water and reduce mains water consumption. 	<p>The development has been assessed as having design concerns in order to manage existing overland flood flows that impact the site. These impacts include the necessity to raise the floor level some 1.6m above street level, and also general management and redirecting of flows to the proposed culverts.</p> <p>The proposed method of stormwater management has been assessed by Council's Development Engineer and is unsatisfactory and requiring further review.</p>	No
B7- Environment Management	<p>The objectives of this part are to:</p> <ul style="list-style-type: none"> • Apply principles and processes that contribute to ecologically sustainable development; • Reduce the impacts of development on the environment; 	<p>A BASIX certificate has been submitted with the application verifying that the relevant water, energy and thermal comfort targets have been met by the proposal.</p> <p>Should the application be approved, conditions of</p>	Yes

	<ul style="list-style-type: none"> • Increase the resilience of development to the effects of climate change; • Ensure that greenhouse gas emissions will be reduced; • Reduce the use of potable water; • Ensure that development can adapt to climate change. 	consent will be included to ensure the commitments required under the BASIX certificate will be satisfied by the proposed development.	
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Interim Policy – Georges River Development Control Plan 2020

85. Council at its Environment and Planning Committee Meeting dated 24 June 2019 resolved to adopt the Georges River Interim Policy DCP.
86. The Interim Policy is a public policy that is to be used as a guide to set a consistent approach for the assessment of residential development within the LGA. It is a supplementary document, meaning that current DCP controls will prevail if they are considered best practice. The Interim Policy has no statutory recognition in the assessment of DAs pursuant to the Environmental Planning and Assessment Act, 1979 (EP&A Act).
87. An assessment of the proposal has been carried out against the provisions of the Interim Policy as set out in the following table.

Interim Policy – Georges River DCP 2020

Standard	Proposed	Complies
Site Frontage		
20m	47.935m to Ecole Street and 39.90m to Princes Highway with splayed corner of 2.145m.	Yes
Building Height		
The relevant LEP controls relating to building height will prevail over DCP controls that relate to height in storeys	The proposal is fully compliant with the KLEP 2012 height limit.	Yes
Private Open Space		
The ADG requirements prevail over the DCP controls for private open space	The proposal is compliant with the ADG's private open space requirements. Refer to "4E – Private Open Space and Balconies" within the ADG Compliance Table above.	Yes, As discussed at 4E above.
Communal Open Space		
The ADG requirements prevail over the DCP	The proposal complies with the requirements of the Apartment Design	Yes

controls for COS	Guide with respect to Communal Open Space. Refer to “3D – Communal Open Space” within the ADG Compliance Table above.	
Parking		
<p>In accordance with 'A Plan for Growing Sydney' (Department of Planning and Environment):</p> <ul style="list-style-type: none"> If located in a strategic centre (ie Kogarah CBD and Hurstville CBD) and within 800m of a Railway, the “Metropolitan Regional Centre (CBD)” rates apply. If located within 800m of a railway and outside the strategic centres the “Metropolitan Subregional Centre” rates apply. If located outside of 800m of a Railway, the relevant DCP applies. 	<p>The site is located >800m of Carlton Railway Station and is located outside the strategic centre. As such the KDCP2013 rates apply.</p> <ul style="list-style-type: none"> 13 x 1 bedroom units x 1.0 = 13.0 required 21 x 2 bedroom units x 1.5 = 31.5 required 2 x 3 bedroom unit x 2.0 = 4.0 required Visitors 36 units (1 per 5) = 7.2 required <p>Total of 55.7 spaces required</p> <p>57 spaces have been provided.</p>	Yes
Solar Access		
The ADG requirements prevail over the DCP controls for solar access	The proposal is considered to be compliant with the Apartment Design Guide (ADG) Solar Access requirements as detailed within the ADG Compliance Table above. Refer to “4A – Solar and Daylight Access” within the ADG Compliance Table.	Yes

Developer Contributions

88. The proposed development, if approved, would require the payment of developer contributions under Section 7.11 of the Environmental Planning and Assessment Act 1979 as the proposal is increasing the density of the locality by the construction of 36 new apartments. If the development was to be approved a condition outlining the required contributions would be imposed.

IMPACTS

Natural Environment

89. The extent of excavation for the proposed development will adversely affect the natural environment as the proposal in its current form will result in impacts on T7 “Yellow Gum White Ironbark”, being a healthy tree on the site which will be removed solely to accommodate the development footprint. Preferably the extent of excavation should be reduced in this area and the provision of an increased setback to the basement to ensure

the longevity, integrity and visual amenity of the existing mature tree on site and within the residential allotment adjoining.

Built Environment

90. The proposed development is consistent with the height and floor space planning controls contained in KLEP 2012. Under Clause 6.9 – Development in Zone B6, a restriction of 65% on the amount of residential floor space associated with Shop Top Housing in the B6 Enterprise Corridor zone applies. This restriction is considered to be a prohibition; the application does not comply with the 65% standard. As noted at Paragraph 13 of this Report, a Clause 4.6 variation to the standard has not been lodged in support of the application and thus the proposal is a prohibited form of development.
91. The built form is considered acceptable and appropriate for the site, noting the elevated ground level results from the flood impacts of the site. The design attempts to achieve a scale, bulk and height that is consistent with the desired character of the streetscape and surrounds for the new B6 Enterprise Corridor objectives and zoning, however, the site flooding constraint results in a commercial/retail component which will be disconnected from street level pedestrian usage.

Social Impact

92. The proposed development, in principle, will cater for a cross-section of the community and could assist with providing for additional housing in the area. The construction of this shop top housing development, with the floor space allocations as proposed, would be inconsistent with the B6 zoning of the land.

Economic Impact

93. The proposal does not satisfy the objectives of the B6 zone which focuses on the ability of the Enterprise Corridor zone to encourage appropriate businesses and offer a range of employment opportunities. The proposal fails to provide the minimum floor space for the commercial component and this will adversely affect the future economic viability of the zone. The overall commercial space is restricted and limited on its function and use given the lack of floor space assigned to the commercial component, whilst the residential floor space component exceeds the calculated outcomes.

Suitability of the site

94. The site is zoned B6 – Enterprise Corridor. The proposal is a permissible form of development in this zone. The site is suitable for the construction of a shop top housing development in an area that has been “up-zoned” for this purpose. Although the site is suitable for this form of development, the overall design and amenity of the development is not considered to be acceptable given the proposal is a prohibited development as it fails to meet the intent and objectives of the zoning through a balance of commercial and residential floor space, including not exceeding 65% residential component, and the variation has not been supported by a Clause 4.6 statement and an appropriate design response to the flood prone nature of this land has not been achieved.

SUBMISSIONS AND THE PUBLIC INTEREST

95. The application was neighbour notified in accordance with Kogarah DCP 2013 for a period of 14 days. Two (2) submissions were received from neighbouring property owners. The concerns raised are summarised below.
 - *Does the bulk and scale conform with the current planning controls*
96. Comment: Objector raised concern that the development should comply with the applicable development controls relating to this form of development. As noted above the proposal

complies with height and FSR standards but does not comply with the 65% residential restriction applicable under Clause 6.9 of KLEP2012. On this basis the objection is valid as the application will not achieve the standard under Clause 6.9 and would result in a development form that is not consistent with the intent/objectives for the B6 Zone. In order to achieve the standard an option may be to convert some residential apartments to commercial use at the Podium level, however to be effective this would require an increase in floor to ceiling heights which raises the building overall height and further increases the developments overall bulk.

- *Loss of privacy and overlooking of Carlton Public School.*

97. Comment: Concern has been raised by the Principal at Carlton South Public School that the proposed northern aspect facing balconies/windows have the potential to overlook the school. It is noted that the subject land is separated from the school by Ecole Street and thus acceptable separation is achieved, whilst it is also noted that the potential for overlooking is limited to the school carpark and back of the assembly hall only.

- *Construction Impacts for Carlton Public School.*

98. Comment: The Principal has raised concerns with on-going noise, vibration, heavy vehicles and dust impacts that may eventuate during demolition and construction phases of the development and their likely impacts on amenity of the school operations and pupils in attendance. It is recommended that the developer be encouraged to undertake noisy works during school holiday periods and that suitable notifications be provided to the school prior to such works being undertaken, which would be imposed as conditions of consent during construction should the application be supported.

- *Traffic issues, increased congestion and conflicts generated.*

99. Comment: Increased traffic congestion along the Ecole Street are raised as concerns having regard to the narrowing of Ecole Street and existing traffic congestion generated by school users. The applicants Traffic Assessment Report indicates that the Princes Highway/Ecole Street intersection currently operates at an "A" Service Level and this will not alter if this proposal was constructed and that traffic can be adequately catered for within the network. It is noted that for trucks to service the site they will need to traverse two (2) traffic lanes to facilitate manoeuvrability into and out of the site within Ecole Street and entering and leaving the Princes Highway. This arrangement, coupled with slowing in a fast moving lane, may result in traffic congestion and potential accident impacts.

100. The issues raised are considered to be relevant amenity matters of relevance for a development of this nature, having regard to the potential higher yielding development capabilities of neighbouring lands adjacent to low density residentially zoned lands. Hence, any design proposals for B6 zoned land should have due regard to the amenity impacts on the low density housing adjacent, with regards to traffic, servicing, building bulk/scale and proposed land use operations of the site.

REFERRALS

Council Referrals

Development Engineer

101. The application was referred to Council's Engineers for comments. Council's Drainage Engineer has advised the following:

"The site is generally affected by mainstream overland flooding in the 1:100 year ARI event. The proposed development of the site comprises a multi-storey development with a basement parking area. Access to the basement parking is via a driveway from

Ecole Street. The proposed development footprint obstructs the existing overland flow path and is likely to increase the risk of flooding to upstream and adjacent properties. It is noted that the proposal as indicated it would block the flood path through the site. Council's policy for flood affected properties prohibits any proposed works that will increase the quantity of flow through an adjoining property, concentrate or redirect flow or otherwise aggravate stormwater overland flow characteristics on adjoining properties. It is not suitable to redirect the flood flow path on to the adjoining roadways. In this case, the rear of the site is inundated by flooding up to 0.70 m deep in the 1:100 year ARI event and 1.30m deep in the PMF event for the pre-development scenario. The adopted flood levels for 1:100 year ARI event is RL9.90 m AHD and RL10.35 m AHD in the PMF events.

*.....
The proposed design in its current form is not supported and it is not considered to be compatible with the flood hazard of the land, and it will significantly adversely affect the flood behaviour in pushing the flood flow onto the adjoining properties and adjoining roadways. It is required for the flood flow to run freely through the site by providing a void between the existing ground level and the proposed finish floor level (FFL) (1:100 year ARI flood level plus 0.5m freeboard). Open fencing can be used around the building perimeter.*

.....prior to any approval of the development:

- The proposed design shall be amended to show that the area below the building finish floor and the existing ground levels must remain unobstructed at all times and not enclosed allowing the free flow of floodwaters. It is required to keep the void clear of obstructions to allow the free flow of surface waters to and from this area.*
- The existing natural ground levels of the site shall not be raised or lowered or retaining walls constructed.*
- The engineering submission shall include a section through the proposal showing the void underneath the proposed finish floor, the existing surface levels and the 1:100 year ARI flood level.*
- Provide in the engineering submission a section through the driveway profile including its crest.*
- It is required to estimate and show on plan, the depth of the flow during a frequent flood event 1:10 year ARI event and its impact on the pedestrian movement around the building.*
- All electrical services (such as power points and switches) must be located above the 1:100 year ARI flood level. In this case, a reference is made to the proposed turntable electrical connections to be addressed.*
- An adequate access for pedestrians shall be provided to an area of refuge above the PMF level either on site or off site.*
- The openings to perimeter walls at subfloor level is to be maximised to minimise the impact of the proposal on the loss of flood storage and alterations to the flood behaviour.*
- All boundary fencing within the floodway is to be pool type fencing.*
- Any planting to be low density.*
- The report shall proposed adequate flood warning systems, signage and exits shall be available to allow safe and orderly evacuation without increased reliance upon the SES services.*
- No filling is permitted within the floodway."*

102. The current proposal is not supported by Council's Development Engineer and any future design submission for the site should provide all the above detail, as requested by

Council's Development Engineer. It is also noted that some inconsistencies/errors appear to be evident in the Applicants flood management documentation, including:

- Calculations provided with the Applicants stormwater system proposal indicates an impervious area of 62.5% of the site when in reality the impervious area exceeds 90% (only 160sqm is deep soil landscaping);
- At the Pre-DA meeting of 2017 Applicant was advised that Council Policy does not support any increase of stormwater overland flow onto neighbouring or public road systems, yet the modelling indicates increases in flow heights in some instances;
- Substation appears to be at direct road level off the access driveway which would place the facility in jeopardy of being inundated;
- Location of Tenancy Bins appear to be in front of the proposed flood culverts and would impede the flows directed to the proposed culvert;
- Design of the Flood culverts appears to provide for free fall exit from under the building slab onto the footpath off Princes Highway. No approval letter from RMS has been submitted in support of the action, as normal practice is that such systems should be connected to the existing road system.

103. The proposal in its current form and based on the current information provided is not supported by Council's Stormwater Engineer. At this time no conditions of consent have been provided to support a decision to approve the proposal.

Traffic Engineer

104. The application was referred to Council's Traffic Engineer for comment. Comments received 2 November 2018. A series of issues were raised by the Traffic Engineer including;

- *Provision for 7 residential visitor spaces have been provided, however 8 is required. (36 units at 1 visitor space per 5 units = 7.2, this needs to be rounded up and not down).*
- *Sight triangles for pedestrian safety have **not** been provided for the loading dock. To be provided in accordance with Fig 3.3 of AS2890.1.*
- *Shared spaces to be indicated and bollards installed in accordance with Fig 2.2 of AS2890.6.*
- *Should the accessible spaces be standalone spaces without a shared zone they must have 3.8m x 5.4m dimensions.*
- *Residential / Visitor spaces to be line marked / delineated.*
- *How is it proposed to separate the commercial and residential parking, i.e. what stops retail customers finding residential visitor parking and parking in those spots, and vice versa.*
- *A B99 vehicle swept path is to be provided showing that simultaneous bi-directional travel is possible with the dimensions of the access ramps.*
- *It should also be conditioned that no loading/unloading should take place during school pick up and drop off periods as the submitted swept path shows high potential conflict at the intersection of Ecole Street and Princes Highway.*

105. Amended drawings have been provided which now provide:

- 8 visitor spaces, including one combined car wash bay in Basement 2.
- Residential and visitor spaces have been delineated; and
- Truck swept paths have been provided for access to the site and to/from Princes Highway. These paths illustrate the need to traverse two traffic lanes to adequately manoeuvre into and out of Ecole Street and the site.

106. The remainder of the issues raised, some of which could be addressed conditionally if the application was to be support, remain unresolved.
107. Certification was provided by the Applicant's consultant Terraffix Engineers confirming that the car parking area and driveway is generally compliant with AS2890 and Council's DCP. It also undertook a traffic assessment for the site which found that the intersection of Princes Highway and Ecole Street operates at an "A" Level of Service and would continue to do so after a development is constructed and operating.
108. General operational issues identified with the proposed car park layout/loading bay arrangement also include:
- Access drive/ramp is only approximately 5400mm in width for two way flow with side wall boundary restrictions.
 - Accessible car parking bays rely on a shared space arrangement and this is impeded by the location of a supporting structural column. An alternative space is recommended which does not have structural impediments.
 - Site vehicular access should be restricted to being via the Princes Highway only to ensure trucks do not enter/exit the location from the north of Ecole Street.
 - The proposed loading bay facility relies on Tenancy restricting service vehicles to trucks of 8.8m length and no details have been provided how this would be enforced/policed.

Environmental Health Officer

109. Council's Environmental Health Officer has raised no objection and if approval is granted this should be subject to standard conditions of consent.

Building Surveyor

110. Council's Building Surveyor Officer has raised no objection and if approval is granted this should be subject to standard conditions of consent.

Waste Services

111. The application was referred to Council's Waste Officer for comment. No objection was raised in respect to the proposed waste arrangements subject to the imposition of standard conditions if approval was to be granted and that the commercial tenancy bins should be in the basement rather than located at ground level along the western elevation.

External Referrals

Sydney Airports

112. This application was not referred as the proposed development will not penetrate prescribed airspace for Sydney Airport and does not constitute the need for a 'controlled activity' within the meaning of Division 4 of Part 12 of the Airports Act 1996.

Ausgrid

113. The application was referred to Ausgrid for comment on 17 September 2018 in accordance with Clause 45 of the Infrastructure SEPP. To date no response has been provided and given the timeframe concurrence can be assumed.

Roads and Maritime Services

114. The application was referred to RMS in accordance with Clause 101 and 102 of State Environmental Planning Policy (Infrastructure) 2007. A formal response was provided and concurrence was obtained subject to the imposition of conditions if the application

was to be supported. The RMS response noted that any stormwater design/hydraulic modifications to the existing system, in this instance the proposal includes diverted flows discharged to the street, would need to be submitted to and approved by the RMS.

Department of Education

115. The NSW Department of Education has provided comments on the proposal due to the site proximity to Carlton South Public School on the eastern side of Ecole Street. Concerns raised are similar in nature to the issues raised by the Principal of the school as detailed earlier in this report. These issues relate to the construction noise/vibrations and potential for overlooking. It is noted that the subject land is separated from the school by Ecole Street and thus acceptable separation is achieved, whilst it is also noted that the potential for overlooking is limited to the school car park and back of the assembly hall only. The Department's concerns relating to overlooking are acknowledged, however, in reality the potential for valid amenity concerns are minor in this instance.

CONCLUSION

116. The application has been assessed having regard to the Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans having due regard to the proposal, the following concerns with the application involve:

- non-compliance with the minimum commercial area requirements for the B6 zone results in the proposal being a prohibited form of development.
- flooding and overland flow management issues,
- pedestrian and vehicular concerns with the loading bay location,
- building form and access design issues,
- construction traffic, noise, dust, vibration concerns for Carlton South Public School; and
- adverse impact upon trees on the subject site.

117. As a result of the above the proposed development is considered to be an unacceptable planning outcome for this site.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

118. The reasons for this recommendation are:

- The proposal exceeds the maximum shop top housing component of 65% of the total site floor area. The residential component of the proposed development is 2723sqm being 67.9% of the overall gross floor area being a variation of 4.5% of the permitted floor area as referenced by clause 6.9(3) of Kogarah Local Environmental Plan 2012. Hence, the proposal is inconsistent with a development standard, unsupported by a Clause 4.6 variation submission, and thus a prohibited form of development.
- The proposal is deficient in the amount of commercial floor space required under the provisions of Clause 6.9 of Kogarah Local Environmental Plan 2012. This would create an undesirable precedent in the area and approval of the development in its current form is not in the public interest.
- The B6 Enterprise Corridor along Princes Highway at Carlton is undergoing transition to shop top housing with new controls allowing for a greater density and scale. However, the proposal fails to respond to the desired future character for

development by not providing the minimum required commercial floor space which is the primary objective of the B6 – Enterprise Corridor zoning.

- The subject land is identified as being flood prone and located within the 1 in 100 year ARI flow path from Carlton Station to Beverley Park. The flood mitigation and overland flow path management proposed are considered to be inadequate and are likely to result in adverse impacts on neighbouring properties and the public road services;
- The proposed stormwater drainage concept is designed to drain by culverts from the rear of the site to the Princes Highway via basement culverts and appears to discharge onto the footpath. Any modification to the drainage associated with the Princes Highway requires concurrence of the Roads and Maritime Services and the application is not supported by documentation of concurrence;
- The proposed building design and siting, in particular the extent of excavation associated with the basement carpark, will adversely affect the TPZ of the Yellow Gum White Ironbark Tree (T7) on the subject site and its longevity, hydrology and integrity will be severely impacted. The design and positioning of the proposed development is considered to be unacceptable due to its likely impact on T7;
- The proposal does not comply with the standards and intent of the Apartment Design Guidelines provisions particularly with regard to, Clause 3F – Visual Privacy (requiring 6m boundary setbacks for habitable rooms), Clause 4C – Ceiling Heights (recommends first 2 levels at 3.3m for flexibility of use), Clause 4V – Water Management (relating to provision of suitable stormwater services);
- The building design, particularly with regard to the Ecole Street frontage, has a poor design presentation which is dominated by multiple pedestrian and vehicular openings likely to result in general confusion for the public and potentially lead to confrontations or accidents;

119. In consideration of the aforementioned reasons, the proposed development is recommended for refusal.

Determination

120. THAT pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979 (as amended) the Georges River Local Planning Panel refuse development consent to Development Application DA2018/0059 for demolition of the existing structures on site, lot consolidation, tree removal and the construction of a five (5) storey shop top housing development comprising of thirty six (36) residential units, one level of commercial floor space and two (2) levels of basement car parking for ninety seven (97) vehicles and associated site works at Lot 33, 34, 35 and 36 of DP13023 and known as 261-265 Princes Highway, Carlton, for the following reasons:

1. **Environmental Planning Instrument** - Pursuant to Section 4.15 (1)(a)(i) of the [Environmental Planning and Assessment Act 1979](#), the proposed development does not comply with the relevant environmental planning instruments in terms of the following:
 - (a) the provisions of Kogarah Local Environmental Plan 2012 as follows:
 - i. the aims and objectives for the B6 Enterprise Corridor under Land Use Table and Zone Objectives;
 - ii. the objectives of Clause 6.3 Flood Planning as the documentation on flood and overland flow management is inadequate and many modifications may require building design modifications;
 - iii. the provisions of Clause 6.9 Development in Zone B6 relating to the maximum shop top housing floor space on a site. The proposed development

does not limit residential component to 65% of floor space and this non-compliance is not supported by a Clause 4.6 submission, the proposal is a prohibited form of development;

- (b) the requirements of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 as the proposal has not adequately addressed the retention of trees on the land;
- (c) the design quality principles under Clause 28 relating to the Apartment Design Guide and Schedule 1 of the State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development, particularly having regard to habitable room separation setbacks, the flooding constraints affecting the land, commercial density, land use flexibility and the façade design fronting Ecole Street.

2. **Development Control Plan** - Pursuant to Section 4.15 (1)(a)(iii) of the [Environmental Planning and Assessment Act 1979](#), the proposed development does not comply with the following sections of Kogarah Development Control Plan 2013:

- (a) Part B2 Tree Management and Greenweb as the proposal does not adequately justify removal of T7 tree which could be retained in an appropriate design;
- (b) Part B4 Parking and Traffic relating to the suitable design for service vehicle access to the site, safe manoeuvring and façade design;
- (c) Part B5 Waste Management and Minimisation as it relates to the appropriate location of commercial bins;
- (d) Part B6 Water Management with regard to the adequacy of documentation relied upon for the design dealing with flooding and overland flow management.

3. **Impacts on the Environment** - Pursuant to Section 4.15 (1)(b) of the [Environmental Planning and Assessment Act 1979](#), the proposed development is likely to have an adverse impact on the following aspects of the environment:

- (a) Create amenity impacts for neighbouring lands and public roads through likely redirection of volume and velocity of overland flows during flood times and storm events;
- (b) The submitted flood design plan provides for channelising the storm/flood events into two culverts and discharging to the Princes Highway which requires Roads and Maritime Services (RMS) concurrence and is generally contrary to standard RMS design procedures;
- (c) Inadequate details have been provided on how water would be redirected to the proposed culverts proposed under the flood report, including any reshaping of the land to create swales or the like;
- (d) Unreasonably reduce the existing trees on site where inadequate justification is provided and a more appropriate design may safely retain the tree;
- (e) Building design provides for multiple entry in condensed location which may result in public confusion and result in likely confrontations;
- (f) Service vehicle access to Ecole Street and the development site generally will result in potential vehicle conflict due to turning path requirements for large rigid trucks requiring the use of two traffic lanes;
- (g) The proposal is likely, if approved, to result in a precedent for developments that inappropriately design buildings within flood paths and do not adequately address the commercial expectations for the B6 zone;

(h) Overlooking issues for a public school have been raised and require due consideration.

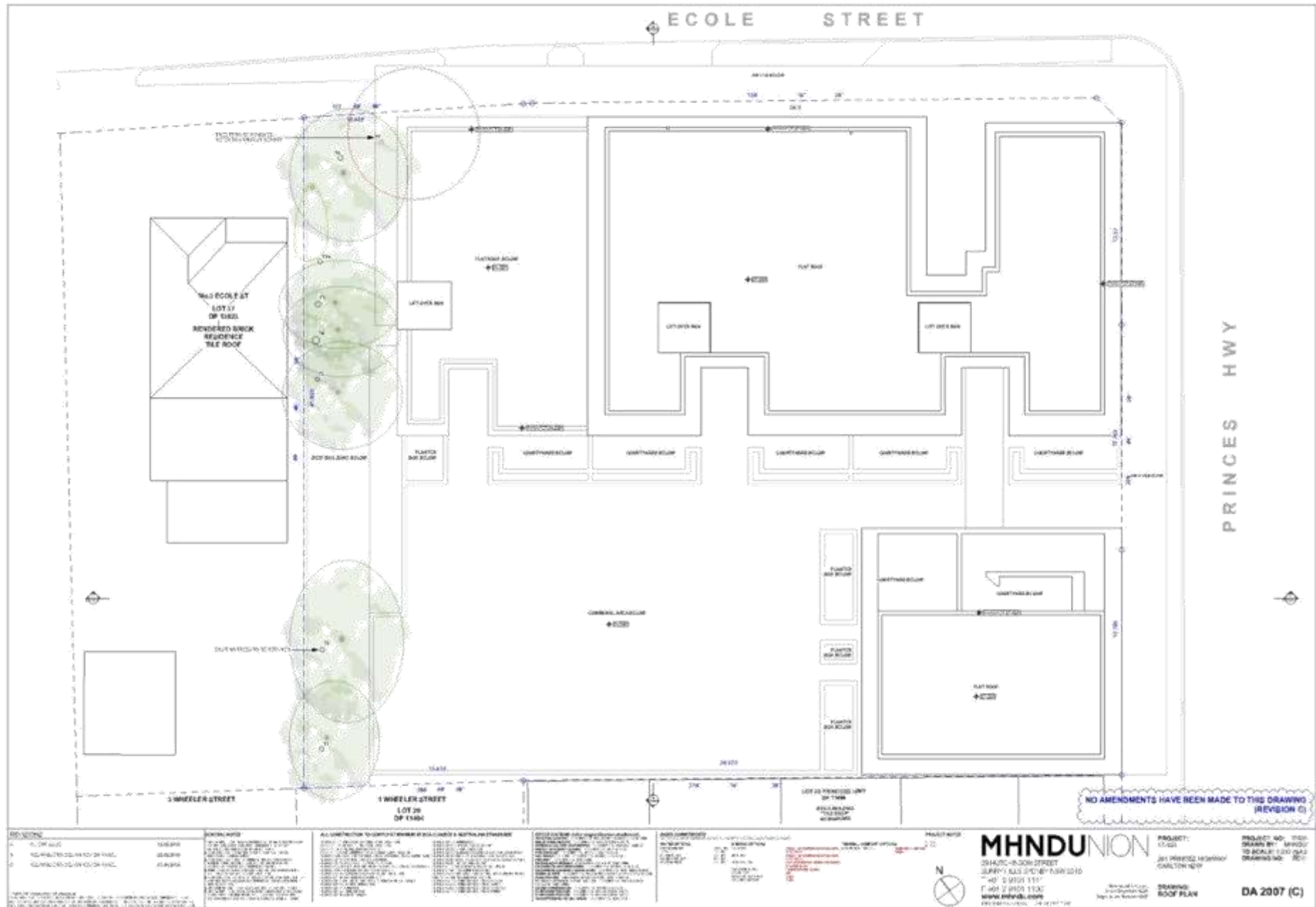
4. **Suitability of Site** - Pursuant to Section 4.15 (1)(c) of the [Environmental Planning and Assessment Act 1979](#), the site is not considered suitable for the proposed development for the following reasons:

- (a) The submitted development design is considered to be inappropriate for the subject land considering the flood management submissions are inadequate and requiring modification and hence the building design is likely to be modified accordingly;
- (b) Ecole Street is a limited vehicle catchment local road and the management of public and service vehicles entering/exiting this location would require suitable management controls to be implemented to ensure vehicles do not approach the development from the northern approaches of Ecole Street which are constricted in nature.

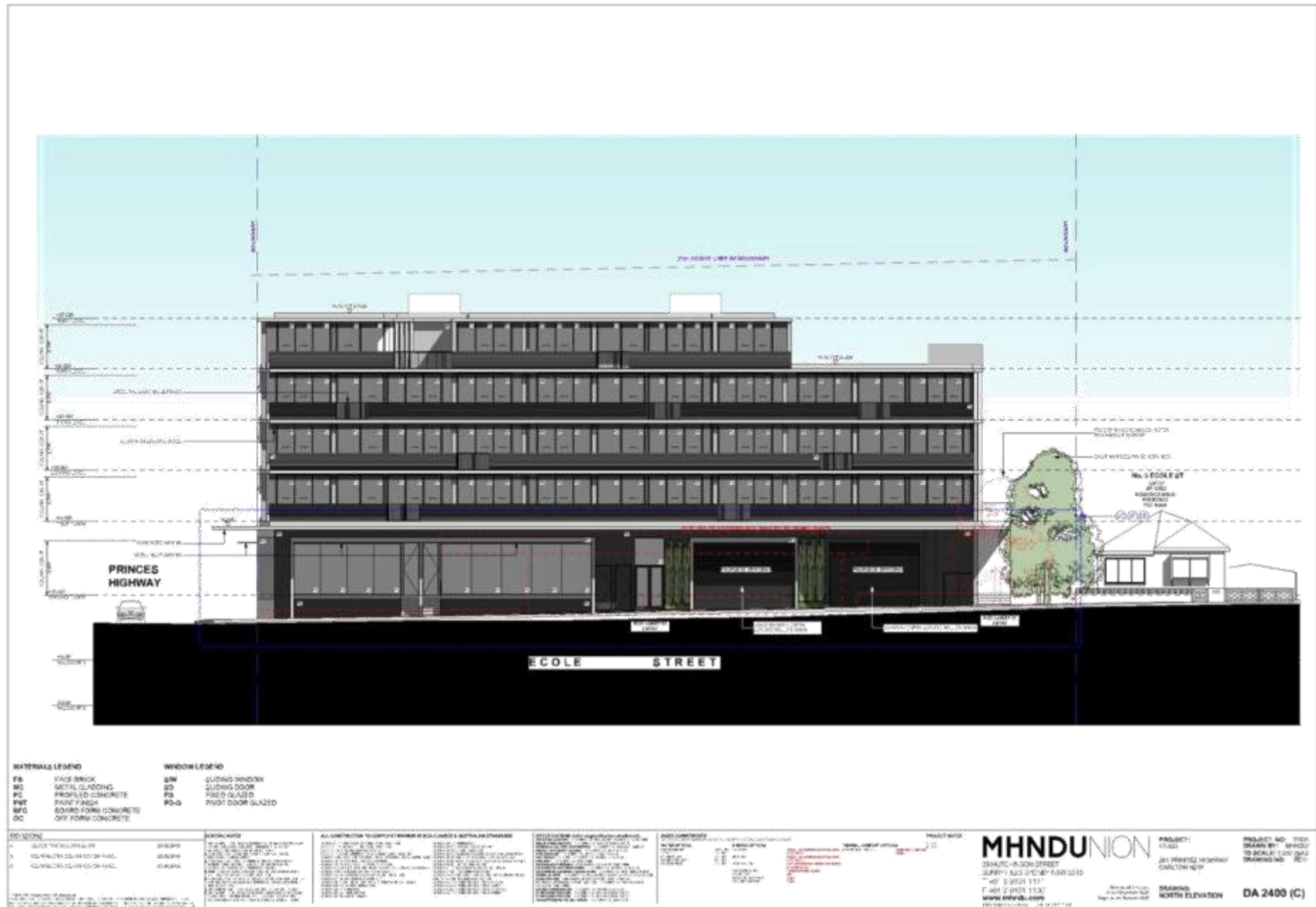
5. **Public interest** - Pursuant to Section 4.15 (1)(e) of the [Environmental Planning and Assessment Act 1979](#), the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.

ATTACHMENTS

- Attachment [↓](#) 1 Site Plan - 261 Princes Highway Carlton
- Attachment [↓](#) 2 Aerial Photograph - 261 Princes Highway Carlton
- Attachment [↓](#) 3 Elevations - 261 Princes Highway Carlton











MATERIALS LEGEND

FB FACE BRICK
MC METAL CLADDING
PC POLISHED CONCRETE
PNT PAINT FINISH
SPC BOARD FORM CONCRETE
DC OFF FORM CONCRETE

WINDOW LEGEND

GW GLAZING WINDOW
GD GLAZING DOOR
FG GLASS GLAZED
PD-G PIVOT DOOR GLAZED

REVISIONS

NO.	DESCRIPTION	DATE
1.	ISSUED FOR PERMIT	01/01/20
2.	ISSUED FOR PERMIT	01/01/20
3.	ISSUED FOR PERMIT	01/01/20
4.	ISSUED FOR PERMIT	01/01/20

NOTES

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CURRENT BUILDING CODE OF AUSTRALIA (BCA) AND ALL APPLICABLE STANDARDS.

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MHNDUNION

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PROJECT NO: 17-002

201 PRINCES HIGHWAY

CARLTON NSW

DRAWING NO: DA 2402 (D)

DRAWING: WEST ELEVATION



MATERIALS LEGEND

FB FACE BRICK
MC METAL CLADDING
PC POLISHED CONCRETE
PNT PAINT FINISH
SFC BOARD FORM CONCRETE
DC OFF FORM CONCRETE

WINDOW LEGEND

GW GLAZING WINDOW
GD GLAZING DOOR
FG GLASS GLAZED
PD-G PIVOT DOOR GLAZED

REVISIONS

1. 2019/12/19
2. 2019/12/19
3. 2019/12/19

NOTES

1. 2019/12/19
2. 2019/12/19
3. 2019/12/19

ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SPECIFIED

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3. 2019/12/19

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PROJECT: 17-002
201 PRINCES HIGHWAY
CARLTON NSW

PROJECT NO: 17-002
DRAWN BY: MHND
TO SCALE: 1:200 (SAC)
DRAWING NO: 2403

DRAWING: WEST ELEVATION
DA 2403 (D)

**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF TUESDAY, 17 DECEMBER 2019**

LPP063-19

LPP Report No	LPP063-19	Development Application No	DA2018/0358
Site Address & Ward Locality	1-3 English Street Kogarah Kogarah Bay Ward		
Proposed Development	Demolition, tree removal, lot consolidation and construction of a seven storey residential flat building comprising 23 units over basement parking under the State Environmental Planning Policy (Affordable Rental Housing) 2009		
Owners	21st Century Insulation		
Applicant	Barrelle Guirguis Architects		
Planner/Architect	Planner – Planning Ingenuity. Architect – Barrelle Guirguis Architects		
Date Of Lodgement	31/08/2018		
Submissions	Three (3) individual submissions		
Cost of Works	\$7,843,561.00		
Local Planning Panel Criteria	The application relates to development to which the State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development Applies and the proposal exceeds the height control development standard by more than 10%.		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Affordable Rental Housing) 2009, State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment, State Environmental Planning Policy No.55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, Draft State Environmental Planning Policy, Draft State Environmental Planning Policy – Remediation of Land, Kogarah Local Environmental Plan 2012, Kogarah Development Control Plan 2013 Draft Amendment to Part C2 – Medium Density Development of Kogarah DCP 2013		
List all documents submitted with this report for the Panel's consideration	Architectural Plans Statement of Environmental Effects – Planning Ingenuity Acoustic Report – Day Design Pty Ltd Traffic & Parking Report – Hemanote Consultants Pty Ltd		
Report prepared by	Senior Development Assessment Officer		

Recommendation	That the application be refused in accordance with the reasons stated in the report.
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Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the	Yes
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assessment report?	
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes - Clause 4.3 Height of Buildings
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	No as the application is being recommended for refusal and the refusal reasons can be viewed when the report is published

Site Plan



Site identified in blue

Executive Summary

Proposal

1. This development application (DA) seeks consent for the demolition of existing structures across two (2) sites, lot consolidation and the construction of a seven (7) storey residential flat building (RFB) comprising of a total of twenty three (23) apartments including two (2) levels of basement car parking catering for a total of 31 car parking spaces.
2. The proposed development has been proposed under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009; the proposal includes five (5) units (21.7%) of the development to be dedicated as affordable rental housing for a 10 year period. If a development application is for a development that is for affordable housing with a CIV of \$5 million, the consent authority is the Sydney South Planning Panel (SSPP). As the proposed percentage of affordable housing is only 21.7%, the consent authority is the Georges River Local Planning Panel (LPP).
3. The proposal has two (2) basement car parking levels with thirty one (31) residential car parking spaces and five (5) residential visitor spaces. Vehicle access is provided via a two-way driveway from English Street along the eastern boundary.
4. A Pre Development Application Discussion (PDA) meeting was held on 30 November 2017, the following issues were raised:
 - *The subject site is an undersized lot and fails to comply with the minimum lot size contained within Clause 4.1A of Kogarah LEP 2012. The applicant advised that the application would be submitted under the provisions of the Affordable Rental Housing SEPP to overcome the deficient site area.*
 - *Non-compliance with height control.*
 - *Evidence must be provided to demonstrate compliance with the Affordable Rental Housing SEPP.*
 - *Site amalgamation - Map 8 – Carlton requires that amalgamation of 1-3 English Street and 268 Railway Parade is required for redevelopment.*
 - *Design considerations – street access should be provided to ground floor apartments. The proposed setback distances of 3m to 4.5m to the southern boundary are considered to be insufficient.*
 - *The excavation for the basement is in close proximity to the boundary and could adversely affect the trees on adjoining sites. An arborist report should be provided.*
 - *Limited planting opportunities due to the footprint of the basement.*
 - *A stronger architectural corner element at English Street and Railway Parade should be provided.*
 - *General amenity of unit layouts an configuration.*

Although some of these matters were addressed in the plans lodged as part of the development application, a number of the above issues remain unresolved.

5. The proposed development exceeds the height control. The non-compliance includes habitable space, the lift overrun, fire stairs and the roof top terrace. A Clause 4.6 Statement has been submitted for the variation to the height development standard which has been assessed in detail later in this report and is not supported.
6. Communal open space is provided both at ground level to the southern side and on the rooftop (Level 6) located adjacent to unit 23.

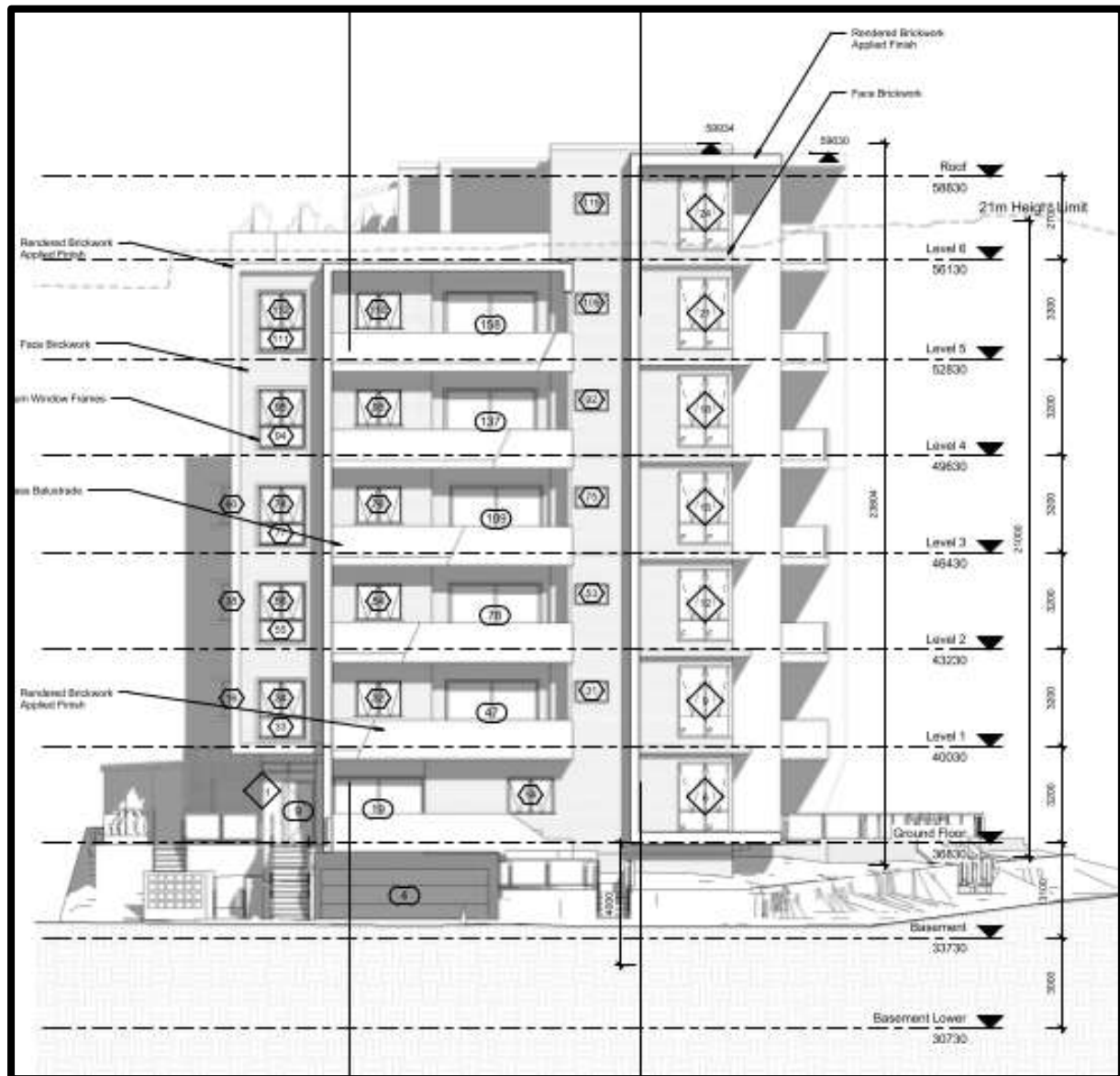


Figure 1: Eastern Street elevation of the proposal (Source Courtesy Barelle Guirguis architects, 2018)

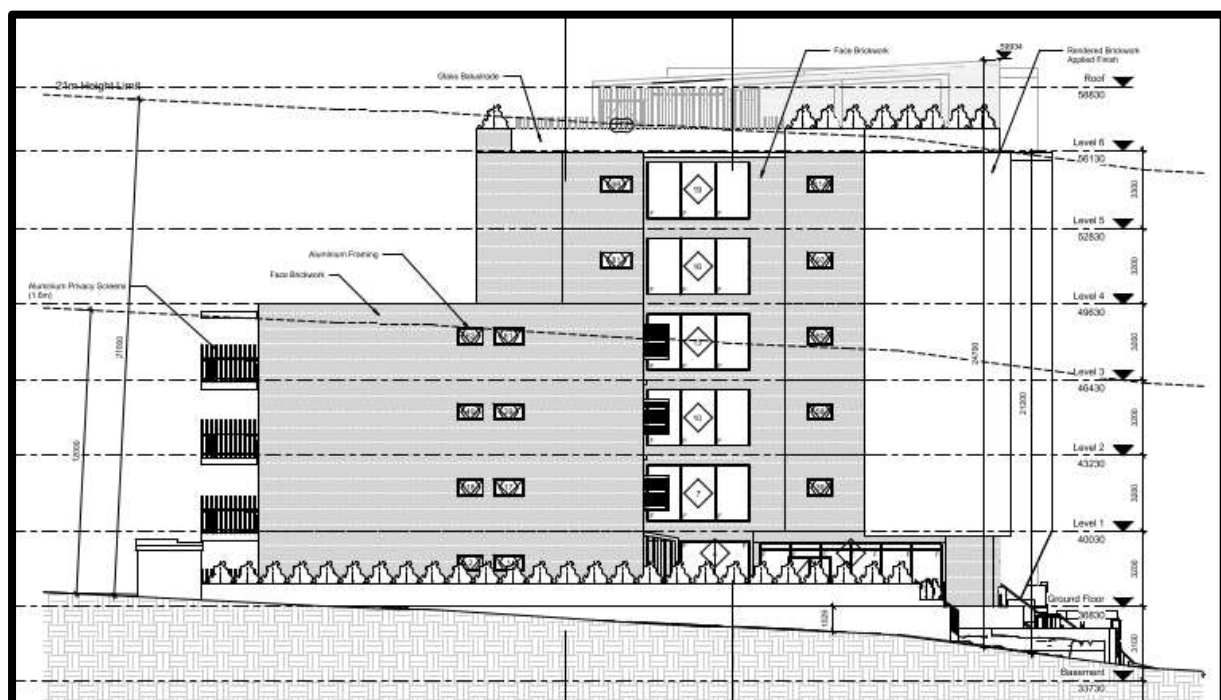


Figure 2: Southern elevation of the proposal (Source Courtesy Barelle Guirguis architects, 2018)**Site and Locality**

7. The development site is located on the western side of English Street. The site is legally identified as Lot A DP 374363 (1 English Street) and Lot 67 DP 1753 (3 English Street) and has a street address of 1 and 3 English Street, Kogarah.
8. The development site is an irregular shaped allotment located off English Street with a frontage of 22m to English Street, and a secondary frontage of 28.575m to Railway Parade. The total combined site area is 991.1sqm. The land falls from west to east towards English Street and from Railway Parade to the south.
9. Presently situated on the development site at 1 English Street is a residential building containing three (3) units and associated outbuildings with vehicular access from Railway Parade, whilst at 3 English Street is a single storey residential building which appears to be used as 3 separate occupancies with ancillary structures.
10. This block located between English Street and Buchanan Street is zoned R3 Medium Density Residential and the block to the west is zoned B2 Local Centre and B4 Mixed Use to the east on the other side of the substation which is zoned SP2. The site is within an area that has been up-zoned in the Floor Space Ratio (FSR) to 2:1 and a maximum height to 21m.
11. On the opposite side of Railway Parade to the north is Carlton Railway Station. Kogarah Shopping centre, which is zoned B4, is located to the east of the site. Opposite the subject site in English Street on the opposite corner of Railway Parade and English Street is an electrical substation.

Zoning and Permissibility

12. The subject site is zoned R3 Medium Density Residential under the provisions of Kogarah Local Environmental Plan 2012 (KLEP 2012). The proposal involves the construction of a residential flat building which is a permissible use in the zone with development consent.

Submissions

13. The DA was publicly notified to neighbours for a period of fourteen (14) days in accordance with the Kogarah Development Control Plan 2013 (KDCP 2013). A total of three (3) submissions were received raising concerns with parking and traffic congestion, overshadowing, concerns regarding the height, scale and bulk of the scheme, streetscape character, waste management and overlooking issues. These issues are discussed in greater detail in the body of this report.

Reason for Referral to the Local Planning Panel

14. This application is referred to the Georges River Local Planning Panel for determination as the proposal relates to a Residential Flat Building and the provisions of the State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development apply and the proposal exceeds the height control by more than 10%.

Planning and Design Issues

15. The proposal exceeds the 21m height control permitted by the Kogarah Local Environmental Plan 2012 (LEP). This variation includes habitable floor space (Unit 23), along with the lift overrun, fire stairs and ancillary structures associated with the roof top communal open space located adjacent to Unit 23. The applicant has submitted a Clause

4.6 Statement for this variation to the height control. Council has expressed concern and has not recommended support of any variation to the height control which includes habitable floor space. The Panel has been supportive of this approach. Ancillary structures supporting the communal open space would be considered.

16. The issues raised by the DRP have not been resolved and include the following:
 - *Inadequate setbacks to all common boundaries resulting in separation distances between properties substantially below the ADG recommendations.*
 - *Street setbacks inconsistent with adjacent properties.*
 - *Bulk and scale inappropriate for its context.*
 - *Proximity of vehicular and pedestrian access inappropriate.*
 - *Poor configuration of basement carpark with southern and western boundaries directly adjacent to adjoining properties.*
 - *Adverse impact upon trees on adjacent properties.*
 - *Rooftop unit should be deleted.*
 - *Landscaping has not been adequately considered in the design.*
17. Council's Consultant Arborist has advised that the extent of excavation for the basement will have an adverse impact upon the health of the trees located on the adjoining properties. In particular the tree located on the western property (268 Railway Parade), given the extent of excavation along the western boundary.
18. The subject site is part of an amalgamation pattern identified in KDCP 2013 requiring the amalgamation of 1 and 3 English Street and 268 Railway Parade. The proposed inability to amalgamate all sites will result in an irregular shaped allotment and will isolate 268 Railway Parade. Should the site be acquired this would then enable the development to reach its full development potential whilst also providing a more appropriate building design with appropriate setbacks that will respond to the context within the immediate locality.
19. The proposal fails to satisfy the Apartment Design Guide (ADG) building separation "design criteria" with non-compliances on all levels with the exception of level 6 (Unit 23). The lack of separation along both side boundaries will create adverse amenity impacts, to adjoining properties and the lack of compliant separation distances in this case will not satisfy the objectives of the ADG which aims to achieve to an "equitable" distribution of separation between properties. Some encroachment is permissible subject to no overlooking being generated and if encroachments occur other sensitive design elements need to be employed including variations to the facades through improved articulation, clever placement of window openings, smart materials and finishes and the use of landscaping to soften and green spaces. The proposed design falls short of achieving the intentions and purpose of the ADG, as the proposed setbacks are considered to be insufficient and the building will be an extremely large, imposing mass and form. These are detailed within the ADG Compliance Table within this report

Conclusion

20. The application has been assessed having regard to the Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans. The proposed height, setbacks, siting, design scale, form and bulk of the building is considered to be an unsuitable planning and urban design response for the site. As a result the application is recommended for refusal.

Report in Full**Description of the Proposal**

21. The DA seeks consent for the demolition of existing structures across two (2) sites, lot consolidation and the construction of a seven (7) storey residential flat building (RFB) comprising of a total of twenty three (23) apartments including two (2) levels of basement car parking catering for a total of 31 car parking spaces (refer to figure 3).



Figure 3: Artist's 3D rendition of the proposal (Source Barelle Guirguis Architects, 2018)

22. Further details of the proposal are as follows;

Lower Basement Plan

- Sixteen (16) residential car parking spaces (including one accessible space with shared zone).
- Lift and fire stairs.
- Six (6) secure storage areas.
- Services room.

Basement Plan

- Fifteen (15) car parking spaces comprising of the following:

- Five (5) visitors car parking spaces.
- Ten (10) residential car parking spaces (car spaces 12 and 13 and spaces 14 and 15 are in the form of stacked spaces).
- Two (2) secure storage lockers.
- Eight (8) residential bicycle parking spaces.
- Lift and fire stairs.
- Services.
- Garbage Room.

Ground Floor Plan

- Four (4) residential apartments on the ground floor as follows:
 - 2 x 1 bedroom apartments (one is an affordable/adaptable unit and the other is an affordable/liveable unit).
 - 2 x 3 bedroom apartments (both are affordable units)
- Dual lane vehicular access from English Street located to the eastern side of the site.
- Access ramp with platform lift to front entry.
- One (1) lift lobby and fire stairs.
- Landscaped front setback with communal residential access gate.
- Three (3) visitors bicycle parking spaces.

First Floor Plan

- Four (4) residential apartments on first floor as follows:
 - 1 x 1 bedroom apartments (which is an affordable unit)
 - 1 x 2 bedroom apartments.
 - 2 x 3 bedroom apartment (one is an affordable unit and the other is a liveable unit).
 - One (1) lift lobby and fire stairs.

Second Floor Plan

- Four (4) residential apartments on second floor as follows:
 - 1 x 1 bedroom apartments (which is an adaptable unit)
 - 1 x 2 bedroom apartments.
 - 2 x 3 bedroom apartment (one of which is a liveable unit).
 - One (1) lift lobby and fire stairs.

Third Floor Plan

- Four (4) residential apartments on third floor as follows:
 - 1 x 1 bedroom apartments (which is a liveable unit)
 - 1 x 2 bedroom apartments.
 - 2 x 3 bedroom apartment (one of which is a liveable unit).
 - One (1) lift lobby and fire stairs.

Fourth Floor Plan

- Four (4) residential apartments on fourth floor as follows:
 - 1 x 1 bedroom apartments.
 - 1 x 2 bedroom apartments.
 - 1 x 3 bedroom apartment.
 - One (1) lift lobby and fire stairs.

Fifth Floor Plan

- Four (4) residential apartments on fifth floor as follows:

- 1 x 1 bedroom apartments.
- 1 x 2 bedroom apartments.
- 1 x 3 bedroom apartment.
- One (1) lift lobby and fire stairs.

Sixth Floor Plan

- 1 x 3 bedroom apartment.
- One (1) lift lobby and fire stairs.
- Communal roof top open space area comprising of the following:
 - Approximately 178sqm of communal open space area.
 - Multiple seating and outdoor eating areas both covered and uncovered.
 - BBQ facilities.
 - Planter boxes provided to the southern and western side of the roof top terrace infilled with a 1.5m high privacy screen.
 - The apartment is setback between 11m and 15m from the southern boundary.
 - 1.5m high privacy screens and planter boxes surrounding perimeter of roof top communal open space at the roofs edge.

DESCRIPTION OF THE SITE AND LOCALITY

23. The development site is located on the western side of English Street. The site is legally identified as Lot A DP 374363 (1 English Street) and Lot 67 DP 1753 (3 English Street) and has a street address of 1 and 3 English Street, Kogarah.
24. The development site is an irregular shaped allotment located off English Street with a frontage of 22m to English Street, and a secondary frontage of 28.575m to Railway Parade. The total site area is 991.1sqm. The land falls from west to east towards English Street and from Railway Parade to the south.
25. Presently situated on the development site at 1 English Street is a residential building containing three (3) units and associated outbuildings with vehicular access from Railway Parade, whilst at 3 English Street is a single storey residential building which appears to be used as 3 separate occupancies with ancillary structures.



Figure 4: 1 English Street, Kogarah (as viewed from Railway Parade)



Figure 5: 3 English Street, Kogarah (as viewed from Railway Parade)



Figure 6: 1 and 3 English Street as viewed from English Street

26. Immediately adjoining the site to the south is 5–7 English Street, Kogarah is a 4 storey residential flat building (RFB) with similar scale RFB's located further to the west to Neilsen Avenue, Kogarah where at this point the zoning changes to R2 Low Density Residential containing residential dwelling houses largely low scale in form and character.



Figure 7: 5-7 English Street, Kogarah



Figure 8: 9-11 English Street, Kogarah

27. This block located between English Street and Buchanan Street is zoned R3 Medium Density Residential and the block to the west is zoned B2 Local Centre and B4 Mixed Use to the east on the other side of the substation which is zoned SP2. The site is within an area that has been up-zoned in the Floor Space Ratio (FSR) to 2:1 and a maximum height to 21m.
28. On the opposite side of Railway Parade to the north is Carlton Railway Station. Kogarah Shopping centre, which is zoned B4 is located to the east of the site. Opposite the subject site in English Street on the opposite corner of Railway Parade and English Street is an electrical substation.



Figure 9: Substation located on Railway Parade and English Street

29. Properties immediately to the west of the site are generally undeveloped and contain single and two storey detached dwelling houses.



Figure 10: 268 Railway Parade, Kogarah



Figure 11: Photos of the adjoining properties to the west of the subject site

30. The immediate precinct is undergoing a process of transition and transformation to larger scale medium density residential developments and larger scale mixed use developments along Railway Parade.

State Environmental Planning Policies (SEPPs)

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

Table 1: Compliance with State Planning Policies

SEPP Title	Complies
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	Yes
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes
State Environmental Planning Policy No 55 - Remediation of Land	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes
State Environmental Planning Policy (Infrastructure) 2007	Yes
State Environmental Planning Policy (Affordable Rental Housing) 2009	No - partial non-compliance
State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development	No - partial non-compliance

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

32. The primary relevant aims and objectives of this plan are:

- *to maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment,*
- *to protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an ecologically sustainable manner,*
- *to ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries,*
- *to establish a consistent and coordinated approach to environmental planning and assessment for land along the Georges River and its tributaries and to promote integrated catchment management policies and programs in the planning and management of the Catchment*

33. The DA includes a concept stormwater design prepared by Pavel Kozarovski of Kozarovski and Partners. The application was referred to Council's Engineering Services for comment. There were concerns raised in respect to the stormwater and drainage arrangement. The following comments were made;

"Insufficient information is provided in the Stormwater Drainage Plans. Also, the plans are not clear. The Stormwater Drainage Plans shall be amended addressing the following items and submitted to Council for assessment.

- a) *OSD volume was determined using an impervious area of 52.5%. However, the Landscape Plan (Ground Floor) shows a high percentage of impervious areas. The stormwater consultant is to revisit the Stormwater Management Report calculations and revise the OSD tank details accordingly.*
- b) *The council does not support the site drainage connection to the street kerb and gutter. Considering a large site area of 991 square metres, all stormwater shall drain by gravity to the existing kerb inlet pit located at the corner of English Street and Railway Avenue. OSD tank shall be designed with a sump at the outlet pipe location. OSD tank section should show all inlet pipes including the levels and access grate dimensions.*
- c) *Pump well pit volume and pump rate calculation details shall be shown on the plan."*

34. These concerns remain unresolved. The location of the OSD tank within the area of communal open space is considered to be a poor planning and urban design outcome. The location of the OSD will reduce the floor to ceiling height of the garbage area. There are no sections or details clarifying the impact of the OSD.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

35. BASIX Certificate No. 925890M dated 12 June 2018 has been issued for the proposal and demonstrates that it meets the provisions and minimum requirements of BASIX in terms of water, thermal comfort and Energy efficiency. The architectural plans include the commitments that are required to be shown at DA stage. The proposal satisfies the requirements of the BASIX SEPP.

State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55)

36. SEPP 55 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment.
37. Clause 7 requires contamination and remediation to be considered in determining a DA. The consent authority must not consent to the carrying out of development on land unless it has considered whether or not the land is contaminated.
38. A review of the site history indicates that the site has been used for residential purposes since at least 1943. Residential usage is not typically associated with activities that would result in the contamination of land.
39. A Preliminary Site Investigation (PSI) Report No E18015KOG-R01F dated 17 August 2018 prepared by geo-environmental engineering was submitted with the application, which concludes:

“The review of the sites history revealed no evidence of significant contaminating activities associated with the site and there was no other evidence of contamination identified by the site inspection. With this in mind, and taking into account the extent of the proposed development, which includes excavation for a basement which will occupy the majority of the site, further investigation, in the form of a Stage 2 Detailed Site Investigation, is not considered to be warranted.”

40. Based on the information provided, a Detailed Site Investigation (DSI) Report was not required.
41. The report concludes that the site is suitable for the proposal and the continued residential use of the land. This conclusion is supported by Council's Environmental Health Section who recommended should the development be approved appropriate conditions of consent relating to any contamination findings during demolition, excavation or construction, and that a Clearance Certificate be obtained prior to the issue of an Occupation Certificate.

State Environmental Planning Policy (Infrastructure) 2007

42. The aim of the Infrastructure SEPP is to facilitate the effective delivery of infrastructure across the State. The Infrastructure SEPP also examines and ensures that the acoustic performance of buildings adjoining the rail corridor or busy arterial roads is acceptable and internal amenity within apartments is reasonable given the impacts of adjoining infrastructure.
43. Clause 87 of the SEPP “Impact of rail noise or vibration on non-rail development”, is relevant to this DA on the basis that the proposal involves the construction of residential accommodation on land that is generally adjacent to the rail corridor and is likely to be adversely affected by rail noise or vibration. As a result, the following provisions of Clause 87 of the SEPP are relevant:

(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

(a) in any bedroom in the residential accommodation — 35 dB(A) at any time between 10 pm and 7 am,

(b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway) — 40 dB(A) at any time.

44. An Acoustic Report (Rail Noise and Vibration Assessment) Noise Assessment) was submitted with the DA, dated 20 August 2018 and prepared by Day Design Pty Ltd. The report addresses the provisions of the Policy with respect to achieving acoustic compliance. The report suggests a series of construction methods and materials (eg 5mm – 6.5mm glass in all living areas and bedrooms, with full perimeter acoustic seals).
45. The DA was also referred to Ausgrid on 25 October 2019 in accordance with Clause 45 of State Environmental Planning Policy (Infrastructure) 2007. At the time of writing this report no response had been received. (6 December 2019).
46. The DA was referred to Sydney Trains in accordance with the provisions of Clause 85 and Clause 86 of the Infrastructure SEPP. To date no response has been received. Should the proposal be recommended for approval, concurrence from Sydney Trains will be required.
47. The provisions and requirements of the Infrastructure SEPP have been addressed subject to concurrence from Sydney Trains this is satisfied.

Draft Remediation of Land SEPP

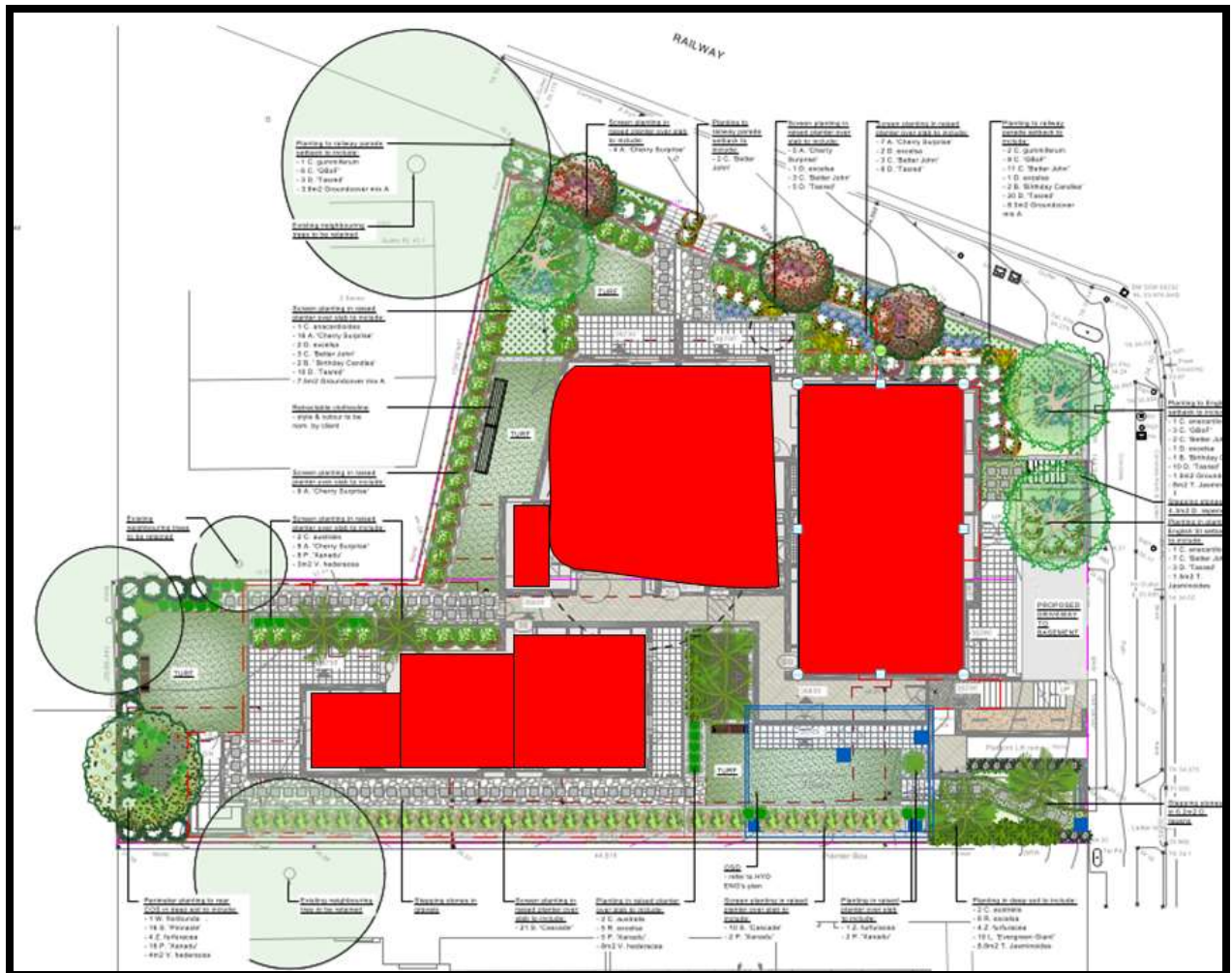
48. The Department of Planning and Environment has announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No 55—Remediation of Land.
49. The main changes proposed include the expansion of categories of remediation work which requires development consent, a greater involvement of principal certifying authorities particularly in relation to remediation works that can be carried out without development consent, more comprehensive guidelines for Councils and certifiers and the clarification of the contamination information to be included on Section 149 Planning Certificates.
50. Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land. The Draft SEPP will not alter or affect the findings in relation to contamination at the site.
51. A Preliminary Site Investigation (PSI) Report No E18015KOG-R01F dated 17 August 2018 prepared by geo-environmental engineering was submitted with the application, which concludes:

“The review of the sites history revealed no evidence of significant contaminating activities associated with the site and there was no other evidence of contamination identified by the site inspection. With this in mind, and taking into account the extent of the proposed development, which includes excavation for a basement which will occupy the majority of the site, further investigation, in the form of a Stage 2 Detailed Site Investigation, is not considered to be warranted.”
52. Based on the information provided, a Detailed Site Investigation (DSI) Report was not required.
53. The report concludes that there is no evidence of significant contaminating activities associated with the site and a Stage 2 Detailed Site Investigation is not considered

warranted. This conclusion is supported by Council's Environmental Health Section who has undertaken an assessment of the Preliminary Site Investigation (PSI) Report and raises no objection to the proposal.

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

54. The Vegetation SEPP aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.
55. The Vegetation SEPP applies to clearing of:
- (a) Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and*
 - (b) Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP).*
56. The Vegetation SEPP repeals clauses 5.9 and 5.9AA of the Standard Instrument - Principal Local Environmental Plan with regulation of the clearing of vegetation (including native vegetation) below the BOS threshold through any applicable DCP.
57. Councils Consultant Arborist has reviewed the proposed tree removal and raised concern with the location and proximity of the basement to the southern and western boundaries. The trees on the adjoining sites are located adjacent to the southern and western boundaries. The tree on the western side has a TPZ of 10.8m with the trees on the southern side having TPZs of 4.8m and 5.4m. To ensure the retention of the trees on the adjoining sites, the basement needs to be setback minimum of 5 – 6m from the boundary.
58. There is an inadequate amount of deep soil landscaped area to the periphery of the site as the basement parking levels extend to the site boundaries. The Landscape Plan shows large trees along the front (Railway Parade frontage) where the setback is only 1.5m which is too narrow to accommodate for the planting of larger trees. There is also a large tree shown along the northern side above the basement which cannot be achieved. There is no potential for greenery and larger screen planting along the boundaries of the site due to the extent of the basement area.



63. The aim of this Policy is;

- *“to provide a consistent planning regime for the provision of affordable rental housing,*
- *to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,*
- *to facilitate the retention and mitigate the loss of existing affordable rental housing,*
- *to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,”*

64. The proposed development incorporates an affordable housing component and dedicates a total of five (5) apartments as “affordable”, therefore this Policy applies to the development.

65. Part 2 Division 1 of the ARHSEPP relates to “infill affordable housing” and states as follows;

- “(1) This Division applies to development for the purposes of dual occupancies, multi-unit housing or residential flat buildings if:*
- (a) The development concerned is permitted with consent under another environmental planning instrument, and*
 - (b) the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, or an interim heritage order or on the State Heritage Register under the Heritage Act 1977.*
- (2) Despite subclause (1), this Division does not apply to development on land in the Sydney region unless all or part of the development is within an accessible area”*

66. The proposed residential flat building is a permissible land use within the R3 Medium Density zone pursuant to Kogarah Local Environmental Plan 2012 (KLEP).

Clause 4 – Accessibility

67. Clause 4 of the SEPP requires the site to be “accessible” which means the property needs to satisfy the following provisions;

- (a) 800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or*
- (b) 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or*
- (c) 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.*

68. The proposal satisfies subsection (a) above as the site is located within 800m walking distance to the Carlton Railway Station. The site is some 250m from the station (refer to Figure 13 below) which satisfies the SEPP “accessibility” requirements.



Figure 13: Distance from the subject site to Carlton Railway Station (courtesy Nearmaps)

69. The provisions of Division 1 (In-fill affordable housing) are relevant to this development. The development is not technically relying on a floor space bonus as the proposal (inclusive of the affordable housing units) complies with the FSR of 2:1 as stipulated in Clause 4.4 of the Kogarah Local Environmental Plan 2012 (KLEP), however the provisions of Clause 13 (floor space ratio) is applicable as 20% of the Gross Floor Area (GFA) of the development is taken up by affordable housing.

Clause 13 – Floor Space ratios

70. Clause 13 of the ARHSEPP is applicable if *“the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent.”*

In this case five (5) units within the development have been designated as affordable (Units No.1, 2, 3, 4 and 8). The GFA for each unit is provided below;

GFA Unit No.1 (3 bedroom) = 102sqm
 GFA Unit No.2 (1 bedroom) = 52sqm
 GFA Unit No.3 (1 bedroom) = 55sqm
 GFA Unit No.4 (3 bedroom) = 90sqm
 GFA Unit No.8 (3 bedroom) = 95sqm
 Total GFA = 394sqm

71. The Applicant has provided Gross Floor Area (GFA) diagrams with the application however these calculations have excluded some areas which need to be included being the circulation spaces (corridors and the garbage bin storage area which is located partially above ground). Recalculations to include these areas, the total GFA of the development is 1976sqm which amounts to a total FSR of 1.99:1.
72. The affordable floor space component comprising of 394sqm makes up 20% of the total GFA of the development. This translates to a bonus FSR of 0.2:1 in accordance with the ARHSEPP provisions and the maximum FSR permissible for the site is 2.2:1. The proposal complies with this control as the proposed FSR is 1.99:1.

Clause 14 – Standards that cannot refuse consent

73. Clause 14 of the ARHSEPP outlines development standards that cannot be used to refuse consent. Assessment against these provisions is considered in the table below.

Table 2: Compliance Table (Clause 14, ARH SEPP)

Control	Numerical Requirement	Proposed Development	Complies
Site Area	450sqm	991.1sqm	Yes
Landscaped	30% of the site area	436sqm (Ground Floor)	Yes

Area		44% of the site	
Deep Soil Zones	15% of the site area	149sqm (15%)	Yes
	Min dimension of 3m	The area calculated has a min dimension of 3m.	Yes
	Two-thirds of the area located at the rear	40% (60sqm) of the deep soil area is located at the rear	Yes
Solar Access	70% of dwellings receive 3 hours of solar access between 9am and 3pm	This control is more onerous than the ADG solar access requirement which requires a minimum of 70% of apartments receiving a minimum of 2 hours of solar access during midwinter. A total of nineteen (19) apartments receive a minimum of 3 hours of direct solar access in mid-winter. This amounts to 82% which is compliant.	Yes
Parking	<p>The following provisions apply; at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms</p> <p>1 bedroom units 7 x 0.5 spaces = 3.5 spaces 2 bedroom units 5 x 1 spaces = 5 spaces 3 bedroom units 11 x 1.5 spaces = 16.5 spaces Total required = 25 spaces 31 spaces proposed</p>	<p>The proposal complies with the numerical parking requirements of the ARH SEPP.</p> <p>Required – 25</p> <p>Proposed - 31</p>	Yes
Dwelling Size	Minimum GFA requirements for each apartment	The development provides for the following;	

	1 bedroom apartments = 50sqm	52sqm – 55sqm	Yes
	2 bedroom apartments = 70sqm	80sqm	Yes
	3 bedroom apartments = 95sqm	90sqm – 102sqm	No – see comments below
<p><u>Non-compliance with dwelling size</u></p> <p>Unit 4 which is a three bedroom apartment is located in the four storey along the south western side of the building has an internal area of 90sqm (as depicted on the area ground floor plan DA119 Rev A) which is short of the minimum 95sqm as stipulated by the ARHSEPP. The area of the apartment in general is not compromised by its size and the deficiency of 5sqm will not impact the functionality of the internal spaces. The internal layout of the unit and the other three bedroom units within this section of the building are not well planned with a bedroom punctuating the balcony area adjoining the living space. This is a poor layout as the living space only has a small opening to access the balcony. The issue of internal amenity and layout is detailed in the SEPP 65 assessment of the proposal. In terms of the overall size of the apartment it is not considered to be unreasonable and the deficiency in overall area is considered to be minor.</p>			

74. In accordance with Clause 14 of the ARHSEPP, the development cannot be refused if the development satisfies the provisions within Clause 14. In this case the development satisfies these provisions.
75. Clause 16 of the ARHSEPP requires the assessment of the proposal against the provisions of SEPP 65 in respect to the design quality of the proposed RFB. A detailed assessment against the provisions of SEPP 65 is provided later in this report.

Clause 16A – Character Assessment

76. Under clause 16A of the State Environmental Planning Policy (Affordable Rental Housing) 2009, a consent authority must *“take into consideration whether the design of the development is compatible with the character of the local area”*. As there are no specific guidelines developed to inform how to apply this compatibility test a number of court cases have provided some guidance as to how to assess the “character” of a local area and what to consider to ensure an affordable housing development is suitable.
77. In considering compatibility with neighbouring character, in *Sterling Projects v The Hills Shire Council* [2011] the Commissioner said that *“Character is not limited to a consideration of streetscape but includes the wider context of the site, in particular the characteristics of the properties which adjoin the site”*.
78. In the recent decision of *Louden Pty Ltd v Canterbury-Bankstown Council* [2018] clause 16A played a prominent role in Commissioner Gray’s judgement. Commissioner Gray stated that all buildings of all typologies must be incorporated into the assessment of the local area character. This assessment concurs with Commissioner Roseth SC who in *Project Venture Developments v Pittwater Council* [2005] stated that *“Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.”*

79. Further to this point of creating a harmonious streetscape, the proposed building is very modern in its appearance and will sit awkwardly in the streetscape given the existing character of development is quite consistent in form, scale and design. The local character comprises of a mix of buildings from different eras and therefore the architectural character is different, however there are many similar features and architectural elements that create a sense of consistency.
80. In order to establish a local character in a mixed, diverse area the plans should reasonably match other structures in the vicinity and should consider such aspects as building forms, setbacks and scale.
81. Firstly, the immediate context of the site could be defined as the sites bounded by English Street, Railway Parade, Buchanan Street and Hampton Court. Properties within this block are residential in nature. Properties within the block are zoned R3 Medium Density so the character is predominantly residential in nature. Buildings are varied in scale and form with single storey detached Federation style cottages set among two storey residential flat buildings and larger scaled three-four storey walk-ups. There is obvious disparity between the scale and form of buildings within the block but there are consistent architectural characteristics which create a generally coherent character. All buildings include traditional low pitched, tiled roof forms. This is a consistent feature of all properties. Most properties are constructed of traditional face brickwork and this is a very obvious and consistent finish.
82. There are a few rendered buildings but these are low in scale (two storey) so they are not visually dominating. The relatively modern electrical substation building to the south (across the road) has picked up on these elements and finishes. It is constructed of face brickwork of different tones which aims to sit more comfortably within the residential streetscape. The modern screening and cladding that is integrated into the design breaks up the form and introduces new, contemporary elements. Other features and qualities within the streetscape are consistent front setbacks and softly landscaped areas of open space at the front of properties and face brick fences and front retaining walls.
83. Within the broader precinct development typologies are varied and mixed given the change in zoning. Immediately to the east is the electrical substation which is zoned Special uses (SP2) which permits associated Infrastructure uses and then further to the east are mixed uses located within the B4 Mixed use zone which permits a height of up to 39m and FSR of 4:1. This is a very different landscape. Immediately to the west are mixed use developments within the B2 Local Business zone however these are still largely low scale traditional shop top housing developments which aim to service residents and railway station patrons. The block in question within the R3 zone is considered a transitional zone that sits between both commercial zones and encourages medium density residential developments.
84. The proposed development will be located on a prominent corner and will be a very visually dominating development. The scale and form of the development will not sit comfortably within the streetscape and will not establish a coherent or harmonious relationship with existing adjoining developments.
85. The architectural treatment, design and proposed materials and finishes create disharmony and will isolate this building from its immediate surroundings. The large expanses of light, white and grey rendered finishes, blade walls, glazed elements and aluminium louvres are all very contemporary features which are not consistent with

existing developments. The proposed colour palette and tones proposed are inconsistent with the existing earthy tones of developments within the adjoining streetscapes.

86. It is for these reasons that the design is not considered to be consistent or in keeping with the existing character of development within the streetscape and as such the proposal does not satisfy the character test of Clause 16A of the ARHSEPP.

Clause 17 – Affordable Housing for ten (10) years

87. If the application is approved then standard conditions will need to be imposed which will ensure that the apartments are managed by a community housing provider and will need to be maintained as “affordable” for a ten (10) year period.

Part 3 Retention of existing affordable rental housing

88. Part 3 (Retention of existing affordable rental housing) needs to be considered given there exist on site three (3) apartments which fall within the definition of “low-cost” accommodation. The Applicant has submitted rental returns for the three (3) properties for the past 24 month which confirms that the apartments fall within the low cost rental housing category. At 3 English Street the property contains three (3) apartments consisting of the following:

- 2 x 2 bedroom apartments
- 1 x 1 bedroom apartment

89. The Applicant has argued that the removal of these apartments is compensated by the provision of two (2) additional affordable apartments within the development and there is technically no loss generated by the removal of the existing low-cost rental units. Numerically, the provision of five (5) affordable apartments is a net overall benefit by providing two (2) additional affordable apartments however the removal of the 2 x 2 bedroom apartments is not compensated by the provision of the same type of apartments (like for like). The proposal will provide for two (2) x 1 bedroom apartments which will adequately compensate for the loss of the existing one (1) bedroom apartment.
90. The provision of three (3) x 3 bedroom apartments is a benefit however it is not directly compensating for the loss of the two (2) x 2 bedroom apartments and it is uncertain whether there is similar comparable accommodation in the market to compensate for the loss.
91. Council's records indicate that 1 English Street, whilst being residential in form contains three apartments (with three letterboxes) however no details of the form and type of accommodation has been furnished. It is however highly likely that these apartments are also “low cost affordable” accommodation and if this is the case, Part 3 of the ARH SEPP has not been satisfied as there could cumulatively be a loss of one (1) apartment in the market.
92. In addition to the potential loss of rental accommodation created by the development Part 3 of the Policy specifically requires an assessment of the loss of existing low cost rental accommodation and if there is a loss whether the market has comparable accommodation to compensate for this loss. It aims at retaining this type of accommodation or ensuring that occupants that will be displaced have the ability to rent a similar type of accommodation within a 5km radius of the site. In this case, the provision of 3 x 3 bedroom apartments does not directly compensate for the loss of the 2 x 2 bedroom apartments as the displaced occupants may not require or afford this

accommodation as it is larger accommodation and most likely more expensive than the existing 2 bedroom apartments. So the assessment to ensure that the market place has similar comparable accommodation to compensate the loss has not occurred.

If approval is recommended this issue could be rectified in the following manner;

1. The amount of low cost accommodation in the development is reconfigured to include 2 x 2 bedroom apartments so there is a like for like exchange and no net loss of 2 bedroom apartments occurs on the basis that the GFA of the affordable component remains at 20%. Or;
 2. A monetary contribution is applied in accordance with the Policy to compensate for the loss of this form and type of accommodation.
93. This issue could be resolved by the provision of a deferred commencement condition if Option No 1 (above) is adopted or a standard condition imposed (if Option No 2 is preferred) which include the provision of a monetary contribution to the State Government in accordance with the Policy prior to the issuing of an Occupation Certificate for the development.
94. In addition to the points above if additional information comes to light to suggest that the accommodation at 1 English Street fits within the affordable category the loss of one (1) apartment can be accommodated by dedicating an “additional” comparable apartment as an affordable apartment and/or provide a monetary contribution to compensate for this loss. The Applicant has not detailed the loss of affordable rental accommodation accurately and in accordance with the provisions of Part 3 of the ARHSEPP.
95. The consideration and implementation of one or both options above would resolve the issue subject to the provision of some additional information in preserving and retaining low cost accommodation and Part 3 of the ARHSEPP will then be satisfied.

State Environmental Planning Policy No 65 — Design Quality of Residential Apartment Development

96. State Environmental Planning Policy No.65 – Design Quality of Residential Flat Buildings (SEPP 65) was gazetted on 26 July 2002 and applies to the assessment of DAs for RFBs of three or more storeys in height (excluding car parking levels) and containing at least four dwellings. Amendment 3 to SEPP 65 commenced on 17 July 2015 and implemented various changes including the introduction of the Apartment Design Guide (ADG) to replace the Residential Flat Design Code. Given the nature of the development proposed, SEPP 65 applies.
97. The proposal involves the erection of a new 7 storey RFB (excluding basement car parking) containing 23 apartments and is therefore affected by the SEPP.
98. In determining DAs to which SEPP 65 relates, Clause 28(2) of the SEPP requires that the consent authority take into consideration:
- a) *the advice (if any) obtained from the design review panel, and*
 - b) *the design quality of the development when evaluated in accordance with the design quality principles, and*
 - c) *the Apartment Design Guide.*

99. The proposal was considered by the Georges River Design Review Panel (DRP) on 11 April 2019. The Panel assessed the merits of the development against each of the nine (9) Design Quality Principles and the provisions of the Apartment Design Guide (ADG). The DRP's comments are included and addressed within the table below, along with further comment from Council's Planner.
100. The Panels comments are summarised and addressed in table 4 below. *"The recommendation from the meeting was that the design cannot be supported in its present form and should be amended to resolve the issues raised above for reconsideration by the Panel."*

Table 3: Application of SEPP 65

Clause	Standard	Proposal	Complies
3 - Definitions	Complies with definition of "Residential Apartment Development" (RAD)	<p>Complies with definition</p> <p>Section 4 (1) (Application of Policy) of the SEPP 65 states that the policy <i>"applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:</i></p> <p><i>(a) the development consists of any of the following:</i></p> <p><i>(i) the erection of a new building,</i></p> <p><i>(ii) the substantial redevelopment or the substantial refurbishment of an existing building,</i></p> <p><i>(iii) the conversion of an existing building, and</i></p> <p><i>(b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above</i></p>	Yes

		<i>ground level (existing) that provide for car parking), and</i> <i>the building concerned contains at least 4 or more dwellings.”</i>	
4 - Application of Policy	Development involves the erection of a new RFB, substantial redevelopment or refurbishment of a RFB or conversion of an existing building into a RFB. The definition of an RFB in the SEPP includes mixed use developments.	The erection of an RFB satisfies the SEPP's definition of this residential land use. Refer to definition and explanation above in relation to the applicability of the Policy.	Yes
50 E P & A Regulation - Development Applications	Design verification statement provided by qualified designer Registered Architect Name and Registration No.	Design Verification Statement provided by Registered Architect: Rasem Guirguis (Registration No.6129)	Yes

Table 4: Part 2 Design Quality Principles under the SEPP

SEPP 65 – Design Quality of Residential Flat Buildings	DRP Comment	Planners comment
Context and Neighbouring Character Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local	The site is located in a medium density residential area with one (1) and two (2) storey dwelling houses to the west and two (2) and three (3) storey residential flat buildings to the south. To the south there are two (2) x four (4) storey residential flat buildings at 5 and 9 English Street. To the south west of the site there is a two (2) storey dwelling house at 268 Railway Parade, which very desirably should be amalgamated with the subject site to provide a more rectangular development site. This property fronts Railway Parade and its rear yard adjoins the western corner of the subject site. The site is located at the	The scale, form and design of the building is considered to be out of character with the context of the immediate locality and not in keeping with nature and form of adjoining residential properties. The materiality of the building is not sympathetic with existing developments. Council's KDCP requires site amalgamation with 268 Railway Parade. Although the Applicant maintains they have attempted to purchase this site, the attempts made to purchase this

<p>context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>interface between the Mixed Use Zone across English Street to the east and a large area to the south and west which has been rezoned for Medium Density Residential with a FSR control of 2:1 and height of 21m. This is a prominent corner, located on the curved section of the road and visible from the adjacent rail line and entrance and exit from the town centre.</p> <p>The application proposes 23 units and 20% of these (five (5) units) are to be dedicated as Affordable Rental Housing. It seeks to utilise the bonus FSR provisions available because of these five (5) units.</p>	<p>adjoining property are not considered to be satisfactory and as a result this site will be isolated and the best planning and design outcome in the longer term for this site is unlikely to be achieved. The desire future character expected from the uplift will not be achieved.</p>
<p>Built Form and Scale Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p>The application proposes a seven (7) storey unit block with a four (4) storey wing to the south. It raises a range of serious concerns:</p> <ul style="list-style-type: none"> • Raised ground level, approximately 2.5m above street level. This creates numerous stairs, ramps, blank walls, visible basement car park and poor streetscape interface. • The height exceeds the LEP control by one (1) floor level which cannot be supported. • Inadequate setbacks on both street frontages, this includes balconies. The taller block intrudes substantially on the DCP setback control requirements and is inconsistent with adjacent properties. • Inadequate setback on all common boundaries including the south and west. This results in separation distances between the existing 	<p>The height of the building exceeds the 21m height limit with habitable areas exceeding the control. The scale and built form will establish an undesirable precedent in the area.</p> <p>The applicant has submitted a Clause 4.6 Statement to support the height non-compliance, this has been assessed in greater detail later in this report however the height non-compliance will not satisfy the height control and zone objectives and as such the Clause 4.6 Statement is not considered to be well founded.</p> <p>The mass and form of the development is overbearing and will be a visually dominating</p>

	<p>residential adjacent properties substantially below ADG recommendations.</p> <ul style="list-style-type: none"> • The combination of all these factors creates an unnecessarily bulky mass that makes the building inappropriate for its context. • English Street to the south has many mature and attractive street trees. This character should be enhanced and reinforced by complementary planting on this prominent corner site, but the design appears not to recognise the importance of this issue or to provide adequate setbacks to allow for such planting. • The proximity of the vehicular and pedestrian entry points are inappropriate. • The location of the main entrance leads to an unattractive and circuitous route to the main elevator. • A redesign moving the pedestrian entry north or to Railway Parade frontage would be advantageous, possibly along with the moving of the vehicular access to the south towards the boundary. • Provision of only a single lift to a development of this height and scale is highly problematic given that it will inevitably be out of service for substantial periods during its lifetime. • Poor configuration of basement car park with southern and western boundaries directly adjacent to adjoining properties. There are large 	<p>element in the streetscape given the prime corner location.</p> <p>The building is also artificially elevated above the street and ground floor level which further accentuates its height and visual bulk.</p>
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	<p>established trees on these adjacent properties that would be impacted and this has not been considered in the design.</p> <p>It is considered that the development needs to be completely re-planned to address these issues.</p>	
<p>Density Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	Appears to comply.	Generally compliant and satisfactory.
<p>Sustainability Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	No comment at this stage.	A compliant BASIX certificate has been submitted with the application however further environmental sustainable measures could be implemented to further improve the performance of the building by integrating solar panels, skylights and rain water tanks etc.
<p>Landscape Good design recognises that together landscape and</p>	Landscape has not been adequately considered in the design. The proposal includes	There is an inadequate amount of deep soil landscaped area

<p>buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p>a series of awkward communal open spaces on raised ground floor podiums that would pose privacy issues for units. Furthermore the number of stairs, lifts and corridors reduces space for landscape and planting. The proposed ground floor level, 2.5m above street level, would require retaining walls, stairs, ramps, etc, that would create a very poor landscape interface to the street.</p> <p>The proposed rooftop communal open space is potentially in conflict with the rooftop unit. The rooftop communal open space should be retained and rooftop unit be deleted.</p> <p>See also comments above regarding character of street.</p>	<p>especially around the periphery of the site as the basement parking levels extend to the boundaries of the site.</p> <p>The Landscape Plan shows large trees along the frontage (Railway Parade frontage) where the setback is only 1.5m which is too narrow to support the planting of larger trees. There is also a large tree shown along the northern side above the basement which cannot be achieved. There is no potential for greenery and larger screen planting along the boundaries of the site due to the large basement area.</p>
<p>Amenity Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well-being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of</p>	<p>The amenity would generally be of acceptable standard and compliant with ADG recommendations.</p> <p>The following issues should be addressed:</p> <ul style="list-style-type: none"> • Improved amenity to balconies to provide screening from wind, and ensure adequate privacy. • Excessive exposure to northern and western sunlight to the corner bedrooms. <p>In view of comments above under 'Built Form', the floor plans will need to be totally</p>	<p>Some apartments have poor internal amenity.</p>

mobility.	reconsidered.	
<p>Safety Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p>The convoluted entry would be extremely unsafe.</p>	<p>Access to ground floor areas of open space is awkward and paths of travel are poorly defined and articulated. This adversely affects the useability and functionality of spaces.</p>
<p>Housing Diversity and Social Interaction Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p>Appropriate mix for the evolving context.</p>	<p>The mix of unit types and sizes is considered to be generally satisfactory.</p>
<p>Aesthetics Good design achieves a built form that has good proportions and a balanced</p>	<p>Requires further consideration in relation to the comments above in relation to 'Built Form', 'Amenity', etc.</p>	<p>As previously mentioned the design of the building is considered to reflect</p>

<p>composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p>poorly in respect to the surrounding developments and will not be in keeping with the established residential neighbourhood character. The materiality of the development is inconsistent and unsympathetic to the locality.</p>
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101. In conclusion the Panel stated that *“the design cannot be supported in its present form and should be amended to resolve the issues raised above for reconsideration by the Panel.”*
102. No amended plans have been received by Council since the date of that meeting so the assessment is based on the original plans that were submitted with the application.
103. Clause 28 of SEPP 65 requires the consent authority to take into consideration the provisions of the Apartment Design Code. The table below assesses the proposal against these provisions.

Table 5: Design considerations of Part 3 and Part 4 of the Apartment Design Guide (ADG)

Clause	Standard	Proposal	Complies
3D - Communal open space	<p>1. Communal open space has a minimum area equal to 25% of the site.</p> <p>-Where it cannot be provided on ground level it should be provided on a podium or roof</p> <p>-Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:</p> <ul style="list-style-type: none"> • provide communal spaces elsewhere such as a 	<p>Roof Terrace = 176sqm</p> <p>Ground Floor = 75sqm</p> <p>Total = 25.3%</p>	<p>Yes</p> <p>Numerically compliant.</p> <p>The ground floor areas of communal open space could be increased however the design has segregated areas and there is a more appropriate area for the communal open space (ie the deep soil area along the western side which amounts to 60sqm is hard to access so too is the other large space which has an area of 113sqm).</p>

	<p>landscaped roof top terrace or a common room</p> <ul style="list-style-type: none"> • provide larger balconies or increased private open space for apartments • demonstrate good proximity to public open space and facilities and/or provide contributions to public open space <p>2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)</p>		<p>The design could be improved to create meaningful and useable areas of communal open space on the ground floor. This could be achieved if access arrangements to these spaces were consolidated and the built form was reconfigured to create clearly defined and well designed external landscaped areas for communal use.</p> <p>Yes all areas of communal open space on the ground floor and on the rooftop will achieve a minimum of 3 hours of solar access throughout the day in midwinter.</p>
3E – Deep Soil zones	<p>1. Deep soil zones are to meet the following minimum requirements:</p> <p>Where the site has an area of between 650sqm – 1,500sqm = 3m min dimension</p> <p>Min deep soil area of 7% (69sqm)</p>	<p>Ground Floor 60sqm + 26sqm + 63sqm = 149sqm</p> <p>Provided 15%</p>	<p>There are three (3) distinct areas of deep soil as part of the development. The area at the front of the site is not included in the calculation as the space does not have a minimum dimension of 3m. The amount of deep soil area provided is compliant.</p> <p>Increased deep soil areas along the boundaries of the site would be beneficial to be development to landscaping and green areas would significantly improve the visual</p>

			appearance of the development and provide additional screening and a green edge together with improved amenity from the adjoining allotments.
3F- Visual Privacy	Separation between windows and balconies is provided to ensure visual privacy is achieved.	<u>South</u> 3m – 4.5m Central section setback 9.9m	No
		<u>East</u> 3m-5m	No
	Minimum required separation distances from buildings to the side and rear boundaries are as follows:	<u>West</u> 3m-4.5 (north western side)	No
	Up to 12m (4 storeys) Habitable - 6m Non-habitable – 3m	6m (south eastern side)	Yes
	Up to 25m (5-8 storeys) Habitable – 9m Non-habitable – 4.5m		See discussion below regarding non-compliance with separation distances

Separation Distances (3F Visual Privacy)

The building fails to comply with the minimum separation distances in accordance with the provisions of Part 3F of the Apartment Design Guide (ADG) for most part of the Building. Part 3F of the ADG relates to “*visual privacy*” and establishes minimum or reasonable side setbacks for developments which allows for adequate separation distances between buildings and therefore maintain privacy between properties.

The objective of the control is to provide “*Adequate building separation distances which are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy*”. Along the southern side of the site the main building is setback 5.5m on the ground floor then staggered at the upper levels with varying setbacks of 4.5m (to Bedroom 2), 6m (to bathrooms) and over 9m to the central lobby/corridor space.

The lower scaled four storey wing is setback 3m and should be setback 6m. The building wall has been designed in a way to limit the potential for any overlooking by including privacy screens to balconies and highlight windows provided to secondary spaces (laundry and bathroom). The proposed 3m side setback is considered to be insufficient as the bulk of the building will be visually dominating when viewed from the

adjoining property. In addition, there is no potential for any substantial screen planting along this boundary or landscaping that could soften the visual appearance of the built form. The proposed main building being setback 4.5m-6m at every level falls short of the 6m minimum requirement to Level 4 and Level 5 and 6 requires a 9m setback. The development fails to comply along this side with the minimum separation distances and although there will be no overlooking generated the design creates a visually bulky structure that lacks articulation and variation that would break up and modulate the mass and form if minimum setbacks cannot be achieved. The visual bulk, scale and dominance of the building along this side is unacceptable and will adversely affect the visual amenity and outlook to the north of the adjoining neighbour at 5 English Street. The pre-lodgement assessment raised this issue and in the advice provided stated that *“concern is raised with the 3m (ground floor to Level 3) and 4.5m (Level 4 and 5) building separation proposed to the southern boundary. These setback distances are considered to be insufficient, causing unreasonable amenity impacts for the adjoining residential flat building”*.

Along the eastern side, facing English Street the building wall is setback 5m with the balconies and blade walls setback 3m. This façade is important as it addresses the street however the balcony elements protrude beyond the established front building alignment and sit forward of the front balconies to 5 English Street. This is an undesirable outcome given the building alignment along this side of the street is relatively consistent and this development should respect this and the balconies should be setback 5m to maintain this consistent form. Although the encroachment on the 6m separation distances again does not create any adverse amenity impacts given that the electrical substation is located across the road, the lack of a larger setback along this side adversely affects the continuity of built forms and pattern of existing RFB's.

Along the western side of the site again the deficiency of any substantial deep soil areas along the boundary severely limits the development in creating landscaped areas along the edges of the site and assisting in softening and screening the lower levels of the building. The 3m-4.5m side setback along the north western side is deficient and at Levels 5 and 6, a 9m setback is required. The reduced setbacks are a result of the limited site area to cater for the density and compliant setbacks could be achieved if the adjoining site 268 Railway Parade was amalgamated in accordance with the provisions of Kogarah Development Control Plan 2013.

The lack of separation along both side boundaries will create adverse amenity impacts, to adjoining properties and the lack of compliant separation distances in this case will not satisfy the objectives of the ADG which aim to achieve to an “equitable” distribution of separation between properties. The ADG seeks to create minimum separation distances of some 12m between properties (best case). Some encroachment are permissible subject to no overlooking being generated and if encroachments occur other sensitive design elements need to be employed including variations to the facades through improved articulation, clever placement of window openings, smart materials and finishes and the use of landscaping to soften and green spaces. The proposed design falls short of achieving the intentions and purpose of the ADG as the proposed setbacks are considered to be insufficient and the building will be a large, imposing mass and form.

3G – Pedestrian Access and entries	Building entries and pedestrian access connects to and addresses the public domain	The main entry is off English Street and includes a ramp for disabled access.	Yes – Entry off English Street. Despite general compliance the DRP
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	Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge		<p>and Council's Urban Designer raised concern with the design of the lobby which is long, convoluted and not an easily defined or recognisable area.</p> <p>The lobby should be visually prominent to assist in wayfinding and to distinguish between public and private domain. Long footpaths and tight corners must be avoided.</p> <p>The proposed entry and lobby is convoluted and is hidden behind the blade wall and is not considered to be an appropriate design solution for a main entry.</p>
3H-Vehicle Access	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	The vehicular access point is located centrally off English Street and has a width of 6.1m with a splay along the northern side to improve sight lines for vehicles exiting the site.	<p>The vehicle access point is generally compliant however its location compromises the layout of the ground floor courtyard area adjoining Unit 1.</p> <p>The driveway should be located further to the south in a similar location to where the existing driveway to 3 English Street is located. This will create a larger amount of deep soil area along the north east of the site.</p> <p>The driveway prominence should be reduced. Its</p>

			central location accentuates its visibility which is undesirable for this element. A central, formal and attractive pedestrian access point would be a better design solution along English Street.
3J-Bicycle and car parking	<p>For development in the following locations:</p> <ul style="list-style-type: none"> - On sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area; or - On land zoned and sites within 400m of land zoned B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>The minimum car parking requirement for residents and visitors is set out in the Roads and Maritime Services Guide to Traffic Generating Developments (RMS), or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>In accordance with Section 5.4.3 (High Density Residential Flat Buildings) of</p>	<p>The site is located within 800m of Carlton Railway station as such the RMS provisions are applicable to this assessment. The site also adjoins the B4 zone and is within 400m walking distance.</p> <p>Proposal relies on the following car parking provisions;</p> <p>7 x 1 bedroom units = 0.6 x 7 = 4.2 spaces 5 x 2 bedroom units = 0.9 x 5 = 4.5 spaces 11 x 3 bedroom = 1.4 x 11 = 15.4 spaces Residential spaces required = 24 spaces</p> <p>Visitor = 23/5 = 5 spaces</p> <p>Total = 29 spaces</p> <p>The proposal requires a total of 29 off street car parking spaces for residents and visitors</p> <p>Total of 31 car parking spaces are provided which are broken down into five (5) visitor spaces and twenty six (26) resident spaces which include two (2) accessible spaces.</p> <p>No designated Car Wash Bay nominated.</p>	<p>The car parking arrangement and number of car spaces provided complies with the ADG/RMS requirements.</p> <p>The proposal complies with the numerical requirements of the ADG given the accessible location of the site; however Council's Traffic Engineer has raised concerns regarding the width of the internal driveway access ramp. The design has catered for the provision of internal traffic signals which aim to avoid vehicular conflicts. The internal ramp has a width of 6.2m which is non-compliant with AS2890. A condition could be included to ensure compliance is achieved.</p> <p>There are some layout issues with car parking spaces. Car space 29 is awkwardly located and could pose</p>

	<p>the RMS Traffic Generating Guidelines. The site is located within the “Metropolitan Sub-Regional Centres” and the following provisions apply;</p> <p>0.6 spaces per 1 bedroom unit 0.9 spaces per 2 bedroom unit 1.4 spaces per 3 bedroom unit 1 space per 5 units (visitor parking)</p> <p>The provision of at least one loading dock for residential use is desirable, although a dock intended for commercial uses may be sufficient.</p>	<p>The off street car parking provision exceeds the requirements of RMS/ADG provisions.</p>	<p>issues for vehicles accessing the ramp as this space could impede on the turning circle and swept paths. Also there is a structural column along the north eastern side of the lower basement which will obstruct access to the ramp. The accessible space No.11 is also awkwardly positioned and it would be complex to exit the vehicle and access the lift.</p> <p>It is unlikely that Tandem spaces No.14 and 15 are workable as the structural column next to these spaces will severely restrict and obstruct the ability to access these spaces.</p> <p>The bicycle parking spaces adjoining the lift on the basement level will be hard to access if the accessible space is occupied.</p> <p>Although there is no designated car wash bay if approval is recommended a visitor car space can double up as a car wash bay and this could be conditioned to comply.</p> <p>The car parking layout requires redesign and there are spaces where</p>
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			access is difficult and compromised simply by the location and layout.
4A- Solar and daylight access	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm in midwinter</p>	All units 100% receive a minimum of 2 hours of solar access during mid-winter due to the orientation of the apartments.	Complies
4B- Natural Ventilation	<p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p> <p>The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths</p>	<p>A total of eighteen (18) apartments have been designed to comply with minimum cross ventilation requirements which amounts to 78% of the development.</p> <p>No apartment exceeds 18m in depth.</p> <p>Every apartment has a dual aspect.</p>	<p>Yes – complies</p> <p>Yes</p> <p>Yes</p>
4C-Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: Habitable rooms = 2.7m	Floor to floor heights vary from 3m-3.1m (basements) to 3.2m and 3.3m at all other levels. This leaves 600mm for a slab which is acceptable and the floor to ceiling	Yes

	<p>Non-habitable rooms = 2.4m</p> <p>3.3m for ground floor and first floor in mixed use areas to promote flexibility of use.</p>	<p>height of 2.7m will be achieved.</p> <p>The Sections show the slabs and suspended ceilings which show that when these elements are taken into account the floor to ceiling heights still achieve 2.7m.</p>	
4D-Apartment size and layout	<p>Apartments are required to have the following minimum internal areas:</p> <p>1 bedroom = 50sqm 2 bedroom = 70sqm 3 bedroom = 90sqm</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each</p> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</p>	<p>One bedroom units have minimum areas of 52sqm-55sqm.</p> <p>Two bedroom units have minimum area of 80sqm.</p> <p>Three bedroom units have minimum internal areas of 90sqm-102sqm</p> <p>Every habitable room has window openings larger than 10% of the room area.</p>	Complies
4D-2 Apartment size and layout	<p>Habitable room depths are limited to a maximum of 2.5m x the ceiling height</p> <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p>	<p>Satisfactory</p> <p>With the minimum floor to ceiling heights complying with the 2.7m minimum, all habitable room depths satisfy the minimum requirements.</p> <p>The apartments have open plan living/dining room layouts.</p>	Complies

	<p>Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space).</p> <p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p> <p>Living rooms or combined living/dining rooms have a minimum width of: -3.6m for studio and 1 bedroom - 4m for 2 and 3 bedroom apartments The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>	<p>All master bedrooms have a minimum internal size of 10sqm.</p> <p>All bedrooms have minimum dimensions of 3m.</p> <p>All living rooms have minimum widths of 4m.</p> <p>There are no cross-over or cross-through apartments proposed.</p>	Complies
4E- Private Open space and balconies	<p>All apartments are required to have primary balconies as follows:</p> <p>-1 bedroom = 8sqm/2m depth -2 bedroom = 10sqm/2m depth -3+ bedroom = 12sqm/2.4m</p> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p> <p>For apartments at ground level or on a</p>	<p>The proposed balconies and terraces which are proposed for all apartments exceed the minimum sizes.</p> <p>1 bedroom units 9sqm – 27sqm (width minimum 2m) 2 bedroom units 18sqm (width minimum 2m) 3 bedroom units 13sqm – 20sqm (width minimum 2.4m)</p> <p>Noted</p> <p>Unit 4 has access to a ground floor courtyard</p>	<p>Complies</p> <p>Yes</p> <p>Yes</p>

	podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15sqm and a minimum depth of 3m	with an area exceeding 20sqm. Unit 3 has a courtyard at the front to Railway Parade with a total area of 27sqm. Unit 2 adjoins Unit 3 and has a courtyard with an area of 21sqm. Unit 1 has a balcony at the front with a minimum area of 17sqm.	
4F- Common circulation areas	The maximum number of apartments off a circulation core on a single level is eight	Maximum of 4 units have access to the lobby at every level of the building up to Level 4 and Levels 4 and 5 has 3 units off the main lobby area. Level 6 only has 1 unit.	Complies
4G- Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: 1 bedroom = 6m ³ 2 bedroom – 8m ³ 3 bedroom – 10m ³ At least 50% of storage is to be located within the apartment.	Each apartment has dedicated internal storage spaces within each unit. Storage spaces vary from 3.8 m ³ to 7.8 m ³ . There are cages designated in the basement levels however there are only six (6) spaces. From this several units will fall short of complying with the minimum requirements.	No – some units do not have the minimum required storage space
4H- Acoustic Privacy	Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses. Window and door openings are generally orientated away from noise sources Noisy areas within buildings including building entries and corridors should be located next to or above each other	The application is accompanied by a Rail Noise and Vibration Assessment prepared by Day Design and dated 20 August 2018. This acoustic assessment has considered the impacts of rail noise from the T4 Eastern Suburbs and Illawarra Line which adjoins the site to the north. The report measured Train Vibration levels in accordance with Section 3.6.3 of the <i>“Development Near Rail Corridor and Busy Roads – Interim</i>	Complies

	<p>and quieter areas next to or above quieter areas</p> <p>Storage, circulation areas and non-habitable rooms should be located to buffer noise from external sources</p>	<p><i>Guidelines</i>". A Logger was placed at the front (corner) of No.1 English Street which monitored noise levels throughout the day.</p> <p>Given the proximity of the rail line and the noise generated from the trains, a number of acoustic measures and construction techniques are recommended to be adopted to reduce noise impacts. The report assumes that bedrooms are carpeted and the report suggested a number of other construction measures to be implemented to improve the acoustic performance of the building including certain construction materials for external walls, ceiling and the roof systems, glazing and also ensuring openings are well sealed etc. If these construction measures are implemented then the development should be compliant with the minimum acoustic requirements.</p>	
4J – Noise and Pollution	<p>To minimise impacts the following design solutions may be used:</p> <ul style="list-style-type: none"> • physical separation between buildings and the noise or pollution source • residential uses are located perpendicular to the noise source and where possible buffered by other uses 	<p>The development can comply with the provisions of 4J of the ADG should the application be approval. If the development was setback further from the side boundaries the acoustic outcome would be improved.</p>	Yes

	<ul style="list-style-type: none"> • buildings should respond to both solar access and noise. Where solar access is away from the noise source, non-habitable rooms can provide a buffer • landscape design reduces the perception of noise and acts as a filter for air pollution generated by traffic and industry 		
4K – Apartment Mix	<p>A range of apartment types and sizes is provided to cater for different household types now and into the future</p> <p>The apartment mix is distributed to suitable locations within the building</p>	<p>The development offers a mix of 1, 2 and 3 bedroom apartments.</p> <p>7 x 1 bedroom apartments (30%)</p> <p>5 x 2 bedroom apartments (22%)</p> <p>11 x 3 bedroom apartments (48%)</p> <p>The mix is considered to be appropriate.</p>	Complies
4L – Ground Floor Apartments	<p>Street frontage activity is maximised where ground floor apartments are located.</p> <p>Design of ground floor apartments delivers amenity and safety for residents.</p>	<p>The ground floor apartments and their balconies/courtyards are raised above the ground level but they are able to be accessed from the street. It would be a more appropriate outcome if the ground floor apartments can be accessed directly from the street level at grade.</p>	Complies
4M - Facades	<p>Facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale.</p>	<p>The façade treatments and overall aesthetic that is proposed is inconsistent with the character of development in the street. The use of partially solid balustrades to balconies, solid blade walls, aluminium louvres, rendered elements and</p>	No – the contemporary design does not incorporate any materiality of the R3 zone and is considered unsympathetic

		the white/grey colour palette is not sympathetic with existing developments in the R3 zone.	
4N – roof design	Roof treatments are integrated into the building design and positively respond to the street. Opportunities to use roof space for residential accommodation and open space are maximised. Incorporates sustainability features.	Although the flat roof form is not reflective of the character of rooves of existing adjoining buildings, the flat roof is a modern element that is generally consistent with new developments. It does offer the ability to include a communal area on the roof which is a benefit for future occupants.	Complies
4O – Landscape Design	Landscape design is viable and sustainable, contributes to the streetscape and amenity	The proposed landscape design is considered to be insufficient and limits the full potential of providing substantial areas of deep soil and meaningful and attractive areas of landscaping around the periphery of the site. The lack of deep soil areas around the edges of the site does not allow for any large trees or plants to be integrated to assist in softening the lower levels of the development or assist in screening and creating a green buffer around the boundaries of the site. The landscape plan shows 3 x Christmas Bush trees to be planted along the front of the site adjacent to Railway Parade however these are to be located within the deep soil area which has a min width of 1.5m and it is unlikely they can reach their mature height of 8m. It is also impossible for the	No insufficient landscaping and planting

		<p>proposed large Tuckeroo located along the north western side to exist in this location as it will be planted above the basement. There are also a number of existing mature trees on immediately adjoining sites which will be affected by the proposal especially since the basement is located immediately to the western boundary. The location of entries, ramps, driveway access and other such elements limits the full potential of the English Street frontage to be landscaped and planted with mature trees and plants. The lack of an arborist report is also of concern as there is no evidence to suggest that the proposed excavation in association with the basement will not adversely affect the integrity of the existing trees on adjoining properties despite the intention for their retention.</p>	
4P- Planting on Structures	<p>Planting on structures – appropriate soil profiles are provided, plant growth is optimised with appropriate selection and maintenance, contributes to the quality and amenity of communal and public open spaces</p>	<p>There are planter boxes proposed around the periphery of the site at the ground floor level where the excavation extends to the common boundary. There are also some planter boxes at the front and on the roof terrace.</p>	<p>The use and integration of planter boxes is considered to be satisfactory however additional planter boxes and the arrangement of spaces could be better planned if the site included more deep soil areas. Planter boxes should be secondary, complimentary elements to the overall design of the</p>

			development however the landscape design relies on these elements.
4Q – Universal Design	Universal design – design of apartments allow for flexible housing, adaptable designs, accommodate a range of lifestyle needs	Satisfactory	Complies
4R – Adaptive reuse	Adaptive reuse as apartment of existing buildings- new additions are contemporary and complementary, provide residential amenity while not precluding future adaptive reuse.	This is a new development.	N/A
4U – Energy Efficiency.	Development incorporates passive environmental design, passive solar design to optimise heat storage in winter and reduce heat transfer in summer, natural ventilation minimises need for mechanical ventilation	A compliant BASIX Certificate accompanies the application.	Yes – could be improved with the provision of solar panels on the roof and also designated ground floor rainwater tanks which look to be included as part of the BASIX certificate but not referenced on the plan.
4V – Water management and conservation	Water management and conservation – potable water use is minimised, stormwater is treated on site before being discharged, flood management systems are integrated into the site design	The proposed stormwater/drainage design has been referred to Council's Engineering Services section, raising concerns with proposed stormwater/drainage design and have required that all stormwater shall drain by gravity to the existing kerb inlet pit located at the corner of English Street and Railway Parade.	No – unsatisfactory and unresolved
4W – Waste	Waste management	The waste management	Yes - satisfactory

Management	<p>– storage facilities are appropriately designed, domestic waste is minimised by convenient source separation and recycling</p>	<p>arrangement involves the provision of a garbage room in the basement which caters for fifty (50) bins including recycling and green bins.</p> <p>Bins will need to be taken to the street level via the driveway.</p> <p>The application was referred to Council's Waste Management Officer. The waste storage area adequately caters for the waste requirements of Council.</p>	
4X – Building Maintenance	<p>Building design provides protection from weathering Enables ease of maintenance, material selection reduces ongoing maintenance cost</p>	<p>As previously mentioned, the proposed external materials, colours and finishes are considered to be unsympathetic</p>	<p>Yes - in general the proposed materials and finishes will be low maintenance however the proposed raw concrete finish is a contemporary aesthetic which is not representative of current and new developments making this development more visually dominate. This is a design consideration rather than a longer term maintenance.</p>

Environmental Planning Instruments

Kogarah Local Environmental Plan 2012 (KLEP 2012)

Zoning

104. The subject site is zoned Zone R3 Medium Density Residential under the provisions of the Kogarah Local Environmental Plan 2012 (KLEP2012). Refer to zoning map below. The proposed development is defined as a Residential Flat Building which is a permissible land use in the zone.

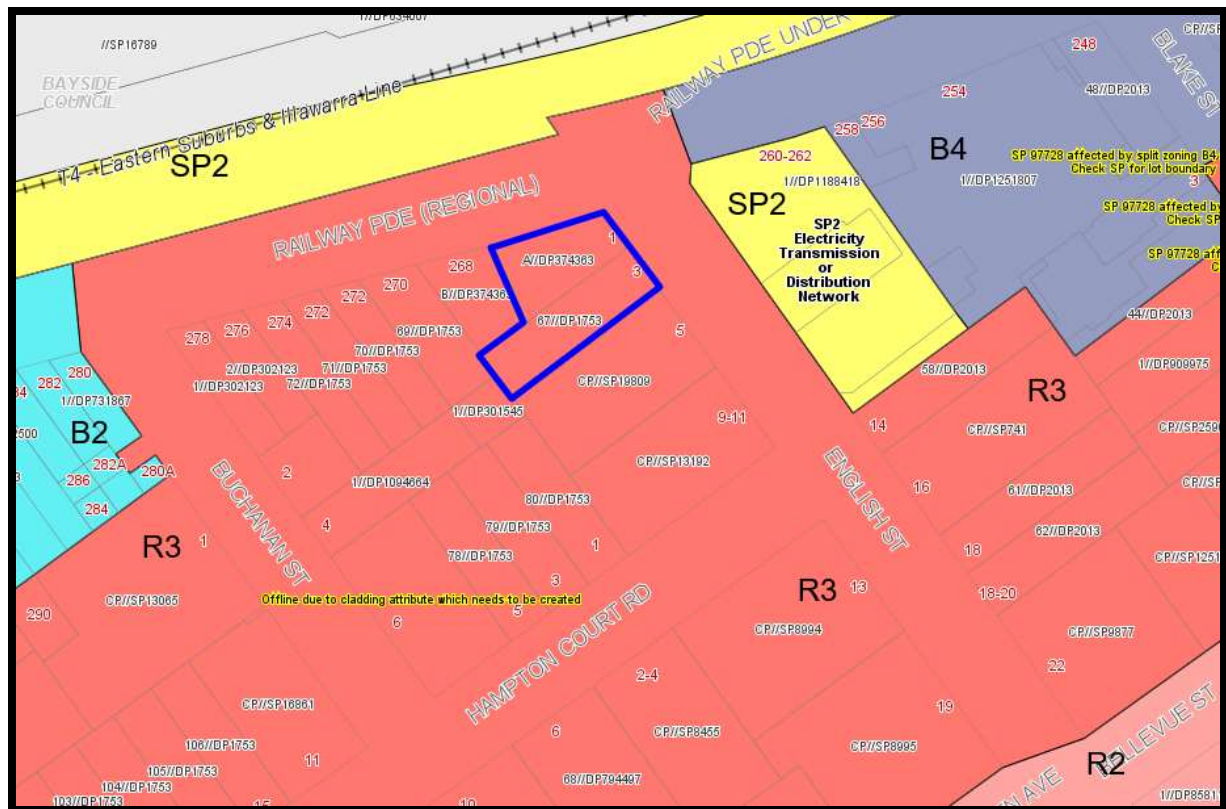


Figure 14: Zoning map extract from the KLEP 2012

105. The objectives of the zone are as follows:
- To provide for the housing needs of the community within a medium density residential environment.
 - To provide a variety of housing types within a medium density residential environment.
 - To enable other land uses that provide facilities or services to meet the day to day needs of residents.⁴
106. The proposal satisfies the objectives of the R3 Zone as it will provide for a variety of residential apartments in a medium density residential environment.
107. The extent to which the proposal complies with the relevant standards of Kogarah Local Environmental Plan 2012 (KLEP2012) is outlined in Table 6 below.

Table 6: KLEP2012 Compliance Table

Clause	Standard	Proposed	Complies
2.2 Zone	R3 Medium Density Residential	The proposal is defined as a Residential Flat Building (RFB) which is a permissible use within the zone.	Yes
2.3 Objectives	Objectives of the Zone	Consistent with zone objectives.	Yes
4.1A Minimum lot sizes for Residential Flat Buildings	Clause 4.1A requires a minimum site area of 1,000sqm for the purpose of RFB's in the R3 zone.	The total Site area is 991.1sqm.	No

4.3 – Height of Buildings	21m as identified on Height of Buildings Map	The building exceeds the 21m height limit. The non-compliance includes habitable space, the lift overrun, fire stairs and communal roof space exceeding the height control. A Clause 4.6 Statement has been submitted and is addressed in detail later in this report.	No
4.4 – Floor Space Ratio	2:1 as identified on Floor Space Ratio Map	1.99:1	Yes
4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with Cl.4.5	The gross floor area (GFA) calculation nominated by the applicant was considered to be inaccurate as it did not include the common foyers. The inclusion of the common areas not previously calculated; still result in a compliant FSR.	Yes
4.6 – Exceptions to Development Standards	The objectives of this clause are as follows: - <i>to provide an appropriate degree of flexibility in applying certain development standards to particular development,</i> - <i>to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</i>	The proposal exceeds the height control pursuant to Clause 4.3 of the KLEP and therefore a Clause 4.6 Statement has been submitted to justify the non-compliance with the control. The variation to the height standard includes habitable space in the form of a unit along with ancillary services (lifts and stairs) associated with the communal roof top terrace. The Clause 4.6 Statement has been provided to justify the variation and the non-compliance is not considered to be reasonable and is not supported. A detailed discussion in regards to this issue is provided in the “Exception to Development Standards” section.	The Clause 4.6 Statement for the variation to the height control is not supported in this circumstance.
5.10 – Heritage Conservation	The objectives of this clause are; (i) to conserve the environmental heritage of Kogarah, (ii) to conserve the heritage	The proposal does not adjoin any heritage items nominated under KLEP 2012 and is not within a Conservation Area.	Yes

	significance of heritage items and heritage conservation areas, including associated fabric, settings and views.		
6.1 Acid Sulphate Soils (ASS)	The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage	The site is not affected by Acid sulfate Soils under KLEP 2012.	N/A
6.2 Earthworks	To ensure that earthworks do not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land	The proposed development includes excavation and associated earthworks to accommodate two (2) levels of basement car parking.	Yes subject to conditions.
6.5 Airspace Operations	The consent authority must not grant development consent to development that is a controlled activity within the meaning of Division 4 of Part 12 of the <i>Airports Act 1996</i> of the Commonwealth unless the applicant has obtained approval for the controlled activity under regulations made for the purposes of that Division.	The height of the proposed development is below the Obstacle Limitation Surface (OLS).	N/A

Exception to Development Standards

Detailed assessment of variation to Clause 4.3 Height of Buildings

108. Clause 4.3 (2) of the Kogarah Local Environmental Plan 2012 (KLEP 2012) relates to maximum permitted building height for a site and refers to the Height of Buildings Map.

The relevant map identifies the subject site as having a maximum height of 21m. Building Height is defined as:

“Building height (or height of building) means:

- (a) In relation to the height of a building in metres – the vertical distance from ground level (existing) to the highest point of the building, or*
- (b) In relation to the RL of a building the vertical distance from the Australian Height Datum to the highest point of the building*

Including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.”

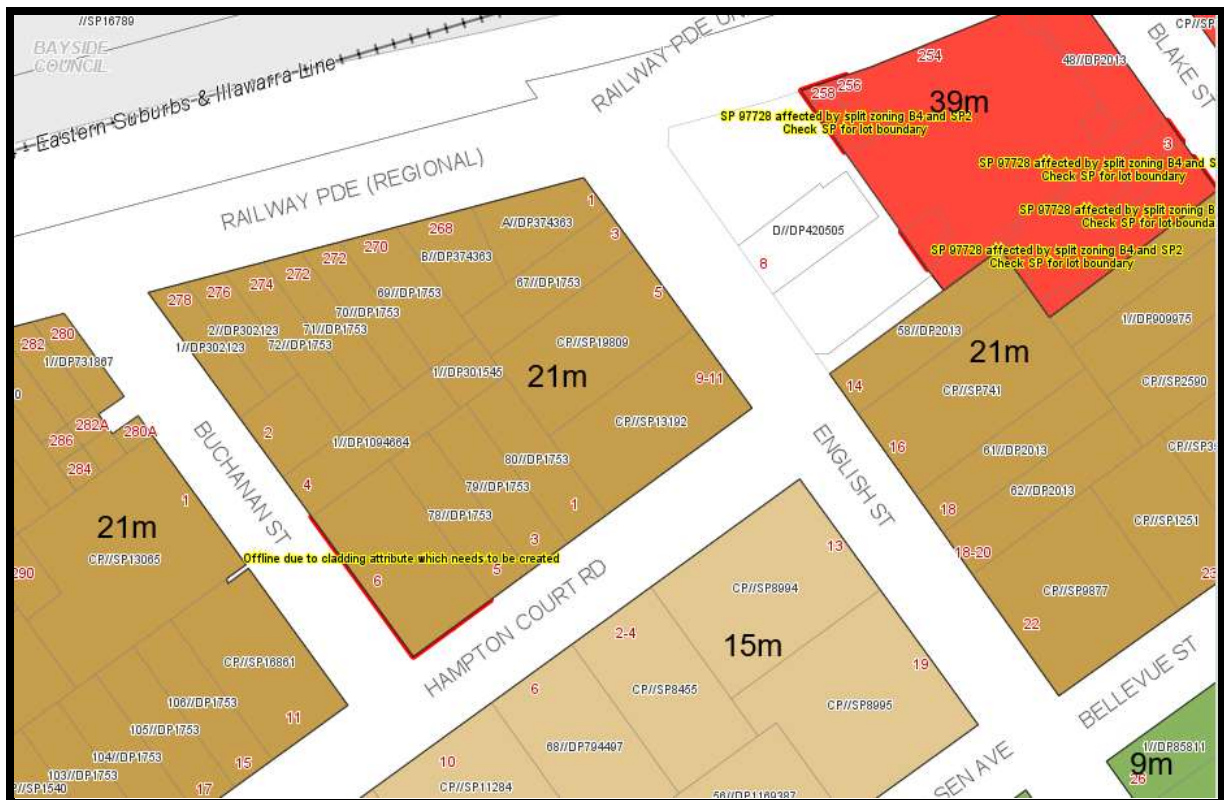


Figure 15: Extract from the KLEP (Height Map_006) designated as “R” which notes a 21m height limit

109. The development proposes a part seven storey, part six and part four storey building which seeks a variation to the development standard relating to height (Clause 4.3). The LEP identifies a maximum height of 21m for the site (refer to Figure 15 above). The proposed development will exceed the height by approximately 3.042m which comprises of part of the ceiling and habitable space of Unit 23, the lift overrun, fire stairs and the pergola feature located on the new roof terrace. Essentially it is that part of the seventh storey of the building which is located on the corner of Railway Parade and English Street which exceeds the control. This breach is a 14% variation above the control. Any variation to the height can only be considered under Clause 4.6 – Exceptions to Development Standards of the KLEP.
110. Council’s calculation in relation to the variation is slightly different. The survey plan shows the existing ground floor RL at 35.63 which is the closest point to the corner of the building. The uppermost (seven storey) point of the building along the corner is RL59.934. The difference between the two is 3.3m (15%). Irrespective of the slight difference in calculation the variation is just over 3m which includes habitable floor space. The extent of the variation is shown in the sectional plan below (Figure 16)

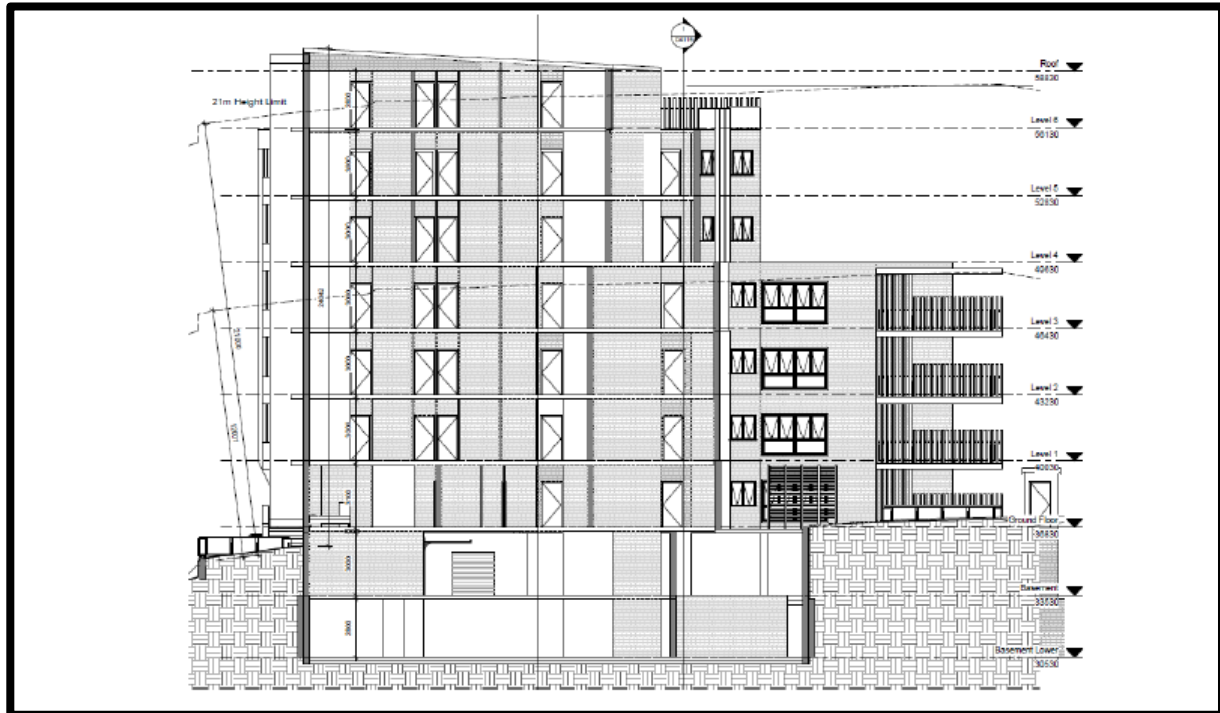


Figure 16: Section showing the height exceedance (courtesy Planning Ingenuity)

111. Clause 4.6(1) outlines the objectives of the standard which are to “provide an appropriate degree of flexibility in applying certain development standards to particular development” and “to achieve better outcomes for and from development by allowing flexibility in particular circumstances”.
112. Clause 4.6(3) states that:

“Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- *that there are sufficient environmental planning grounds to justify contravening the development standard”*

113. To support the non-compliance, the applicant has provided a request for a variation to Clause 4.3 in accordance with Clause 4.6 of KLEP 2012. The Clause 4.6 request for variation is assessed as follows:

Is the planning control in question a development standard?

114. The “Height of Buildings” control under Clause 4.3 of the KLEP 2012 is a development standard.

What are the underlying objectives of the development standard?

115. The objectives of Height of Buildings standard under Clause 4.3 of KLEP 2012 are:

- (a) *to establish the maximum height for buildings,*

- (b) to minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas,*
- (c) to provide appropriate scale and intensity of development through height controls.*

116. In order to address the requirements of Subclause 4.6(4)(a)(ii), the objectives of Clause 4.3 are addressed in turn below.

1(a) To establish the maximum height for buildings

117. Applicants Comments: *"The maximum height has been established at 21m for the site. However, the proposed building height is a site specific response to the natural gradient of the site (as it falls to English Street) and the proposal will be contextually appropriate for the site. For these reasons the proposed height meets Objective (a)."*
118. Officer's comment: Objective (a) is aimed at establishing a maximum height for buildings so that within a given zone there is consistency in the scale and built form of a building. The exceedance in the height is located on the corner of the building at the most visually prominent part of the site. The building is located on a prominent corner and any additional height will be more obvious and visible when looking at the site from the north, east and west.
119. The non-compliance comprises largely of habitable area. The Panel has on previous occasions permitted the exceedance in the height control of ancillary structures such as lift overruns, pergolas and areas of communal open space as these are generally not adding to the bulk of the building and do not comprise of habitable space. The fact that the site is naturally elevated above the roadway does not provide an adequate justification to allow for additional height. The elevated nature of the building accentuates the height, bulk and scale of the development and creates structures and elements that are overbearing and visually dominating such as the ramps and stairs up to the entry.

1(b) To minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas

120. Applicants Comment: *"The height non-compliance is limited to the uppermost unit of the building on the northern elevation. The variation does not result in any more shadowing cast by the proposal when considered against a compliant scheme (refer to shadow diagrams submitted with the application that indicate the shadow cast by a compliant built form overlayed with the shadow cast by the proposed built form). The southern side of the building is compliant with the height limit. The additional height is provided to the northern side of the building and the departure from the standard will not result in any overshadowing to adjoining properties or public open spaces beyond the shadow that would be otherwise cast by a compliant building in this location.*

All windows and the private open space balcony of Unit 23 are oriented to the street frontages and so the non-compliance does not result in any privacy impacts. The communal open space area on the rooftop is provided with screen planting in planter boxes and privacy screens along the western and southern edges to protect the privacy of residents and neighbours.

The visual impact of the building is suitable in the desired future character of the locality, being residential flat buildings, and is in keeping with more recent modern construction in the area, such as on the corner of Buchanan Street and Hampton Court Roads, and to the north east along Railway Parade. The design of the building ensures functional internal layouts and adopts a contemporary appearance with the street front façades containing interesting and articulated presentation through the use of balcony design and

architectural elements. The building is consistent with the street setbacks of the adjoining developments as per the DCP resulting in a building which reinforces the streetscape and domestic character of the area.

For these reasons the proposed height meets Objective (b)."

121. Officer's Comment: Objective (b) relates to the amenity impacts that may be generated by the exceedance. In this case the amount and degree of overshadowing that is created by the variation, its visual impact and privacy impact need to be considered.
122. In terms of overshadowing, the Applicant has not highlighted the additional area of shadowing created by the non-compliance however it seems that the seven storey element and the variation extends beyond the impact that would be created by a compliant form on this corner, the non-compliance creates additional overshadowing so it cannot be said that there is a "minimisation" in the impact of overshadowing as required by the objective.
123. In terms of visual impact the additional 3m of height on the corner (translating to almost a whole storey) will be highly visible in this prominent corner location. The visual bulk of the development is increased. In terms of satisfying objective (b) it cannot be said that the proposal is "minimising" the visual impact as it is accentuating the height, bulk, scale and visual impact of the development simply given its highly visible location. The additional level is not hidden, obscured or recessed by any other elements or adjoining developments and it will establish a new precedent for future development in the area. Sometimes increasing heights on landmark corner sites are a good or desirable urban design outcome however this corner is not considered a landmark corner as it is located within a R3 precinct and landmark corner sites are more appropriate in commercial zones to define these commercial centres or entries to them.
124. There are no similar residential flat buildings that have been constructed of this scale and form in the immediate locality.
125. In terms of privacy, the top floor apartment Unit 23 has been sited so that it overlooks Railway Parade to the north and the Electrical substation across the road on English Street so in terms of overlooking the area of variation should not affect any immediately adjoining residential property in terms of overlooking, although again the proposal is not "minimising" overlooking it is just not adversely affecting any adjoining property.

1(c) To provide appropriate scale and intensity of development through height controls

126. Applicants comment: *"The non-compliance of the height at the English Street frontage does not offend the objective of providing an appropriate scale and intensity of development at the site. The proposal is in keeping with the desired built form for the site and area to the west and south-west in accordance with the DCP controls. The built form, bulk and scale is appropriate for the site and the proposed non-compliance with height will have no adverse impacts on the streetscape or achieving the desired character of the locality.*

The proposal complies with the maximum FSR for the site. The distribution of the height on the site meets the intent of the standard and results in positive streetscape outcomes given the location of the proposed non-compliance along the English Street frontage. The stepped nature of the built form across the site and towards the rear ensures an

appropriate transition between the site and adjoin land which is yet to be developed as per the applicable DCP and LEP controls.

For these reasons the proposed height meets Objective (c)."

127. Officer's comment: This objective aims to create a consistent scale and form for development in the area and within this zone. The height control of 21m generally caters for a six storey building and it is considered that this is the scale that is anticipated for this site. The additional height creates an additional level to the building which is a highly dominating and visually prominent element.
128. Given that the height anticipates a six storey scale, the development at seven storeys at the most visible and prominent part of the site will establish an undesirable precedent and will be visually bulky.
129. In conclusion, the increase in the height does not satisfy the objectives of the height standard and the non-compliance will establish an undesirable precedent in the immediate locality.

Compliance is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a))

130. In *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. This list is not exhaustive. It states, inter alia:

"An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard."

131. The judgement goes on to state that:

"The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)."

Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation [our underline]):

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone."

132. Officer's comment: In respect to Prestons CJ judgement the NSW Land and Environment Court has established the five part test (outlined above). In this case the development fails to satisfy the five part test for the following reasons;

- (a) As previously discussed the objectives of the standard are not considered to be satisfied.
- (b) The underlying objective of the standard remains relevant and therefore compliance is necessary and warranted.
- (c) Also in this case the underlying objective has not been defeated or thwarted as there are no other recent examples of developments in the immediate locality that have been approved and exceed the control for anything other than structures to support the roof top communal open space. This further justifies that within the immediate vicinity of the site there have to date been no variations to the height control for residential forms and as such the control has not been abandoned or destroyed.
- (d) The R3 zone is an appropriate zoning for the site and this parcel of land which acts as a transition between the immediately adjoining B2 and B4 commercial zones.

Clause 4.6(3)(b) are there sufficient environmental planning grounds to justify contravening the standard

133. Applicant's comments: *"Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, it is considered that there is an absence of significant impacts of the proposed non-compliance on the amenity of future building occupants, on area character and on neighbouring properties.*

The non-compliance will have no adverse impacts on adjoining properties with regard to visual impacts or overshadowing, and to require strict compliance would mean removing parts of the building without resulting in a real planning benefit to neighbourhood character or amenity. In addition, the proposed building is below the maximum FSR permissible under the LEP.

On "planning grounds" and in order to satisfy that the proposal meets objective 1(b) of clause 4.6 in that allowing flexibility in the particular circumstances of this development will achieve "a better outcome for and from development", the site is unique given its shape and topography. The height is massed towards the street corner to ensure a positive streetscape outcome at each frontage and compliance with the height limit at the south-eastern boundary where the site adjoins existing residential development. This provides a suitable transition to the north-west to the adjoining properties likely to undergo a similar transition to higher density development in the future.

The proposed height encroachment will enable the orderly and economic redevelopment of the subject site in accordance with the intentions of the Environmental Planning and Assessment Act, 1979. There is no planning purpose to be served by limiting the height strictly to the maximum height allowable given the absence of amenity related impacts.

There will be no additional shadow, no obstruction of views and no opportunities for overlooking resulting from the sections of the building exceeding the height control. Moreover, there would be direct planning benefit created by the proposal through the creation of five affordable rental housing units.

To require strict compliance would therefore result in an unreasonable burden on the development with no demonstrable built form or amenity benefits. As such the proposal results in a high quality residential development which is suited to the site and its context.”

134. It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome achieved. However to address the issue of whether the development is in the public interest the variation needs to satisfy the objectives of development standard and objectives of the zone. The Clause 4.6 Statement doesn't assess the non-compliance against the objectives of the zone.
135. The R3 Medium Density Residential zone objectives require the development to;
 - *To provide for the housing needs of the community within a medium density residential environment.*
 - *To provide a variety of housing types within a medium density residential environment.*
 - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
136. Officer's Comment: The proposed development satisfies the objectives of the zone by providing a mix and variety of medium density housing options and includes some affordable rental housing which is a beneficial social outcome, although the form, type and mix of housing can be maintained with a compliant development.

(d) the concurrence of the Director-General has been obtained.

137. In accordance with clause 64 of the Environmental Planning and Assessment Regulation 2000, Council may assume the Secretary's concurrence for exceptions to development standards for applications made under clause 4.6 of the LEP. This was further confirmed by directions provided within Planning Circular PS 18-003 issued on 21 February 2018.

Whether contravention of the development standard raises any matter of significance for State or regional environmental planning (Clause 4.6(5)(a))

138. Contravention of the maximum height development standard proposed by this application does not raise any matter of significance for State or regional environmental planning.

Conclusion – Assessment of Clause 4.6 Request for Variation

139. Despite the non-compliance in terms of the height, the proposed variation is considered to be unacceptable and does not satisfy the provisions of Clause 4.6. The encroachment and variation affects habitable area and which adds visual bulk and an unreasonable amount of additional height to the building.
140. The proposed development does not satisfies the objectives of the height control as it will be a visually dominating and bulky structure in this prominent corner location. The proposed design response is not considered to be in the public interest and does not minimise impacts as stipulated by the objectives of the height control. The additional height is considered to establish and undesirable urban design and planning precedent in

the immediate locality and the scale of the development will not be sympathetic with the existing scale and form of existing adjoining developments.

141. For these reasons the Clause 4.6 Statement is not considered to be well-founded and cannot be supported in this case.

Development Control Plans

KOGARAH DEVELOPMENT CONTROL PLAN NO 2013 (KDCP)

142. Apart from satisfying some of the provisions of the ADG and SEPP 65 the controls within the KDCP are applicable. Part B, General Controls, Part C2 Medium Density, controls in Appendix 4 relating to residential development in the R3 zone are required to be considered in the design of the proposal.
143. Table 7 below summarises the compliance of the scheme in relation to these controls.

Table 7: KDCP2013 Compliance Table

KDCP 2013 Compliance Table		
PART B – GENERAL CONTROLS		
Required	Proposed	Complies
<i>B2 Tree Management and Greenweb</i>		
Compliance with provisions of Clause 5.9 Preservation of Trees or Vegetation of KLEP 2012 must be achieved.	There are a number of existing mature trees on immediately adjoining sites which will be affected by the proposal especially since the basement is located immediately to the western boundary. The lack of an arborist report is also of concern as there is no evidence to suggest that the proposed excavation in association with the basement will not adversely affect the integrity of the existing trees on adjoining properties despite the intention for their retention.	No
<i>B3 – Development near busy roads and rail corridors</i>		
Acoustic assessment for noise sensitive development may be required if located in the vicinity of a rail corridor or busy roads	Subject site is adjacent to Railway Parade and located within 25m of a rail corridor. An Acoustic report was prepared by Day Design Pty Ltd and assessed the development against the provisions of Clause 87 of the Infrastructure SEPP. The acoustic report provided a series of recommendations in the form of implementing construction techniques and materials that will assist in ameliorating acoustic impacts on the internal areas of the building. A detailed discussion regarding the acoustic compliance	Yes

	<p>was conducted earlier in this report.</p> <p><u>Note:</u> Should the proposal be approved, appropriate conditions will be imposed to ensure the constructed building complies with the recommendations of the Acoustic Report.</p>	
<i>B4 Parking and Traffic</i>		
<p>The site is located within 270m of Carlton Railway Station and is located outside the Strategic Centre. As such the “Metropolitan Subregional Centre” rates apply.</p> <p><u>Residential parking:</u> 7 x 1br units @ 0.6 space per unit = 4.2 spaces required 5 x 2 br units @ 0.9 spaces per unit = 4.5 spaces required. 11 x 3 bedroom units @ 1.4 spaces per unit = 15.4 spaces required Visitors 23 units (1 per 5) = 4.6 required Total required resident parking = 29 spaces</p>	<p>Given this development is within an accessible area under SEPP 65 and the ADG, the requirements of the RMS Guide for Traffic Generating Development outlines the assessment criterion.</p> <p>31 residential parking spaces provided. Lower Basement has a total of 16 spaces Basement has a total of 15 spaces.</p>	Yes
<p><u>Car wash bay:</u> 1 bay, which can also function as a visitor space</p>	No car wash bay has been (1 shared car wash/visitor bay could be provided).	No - Could be conditioned to provide a visitors/car wash bay
<p><u>Bicycle Parking:</u> 1 space per 3 dwellings = 8</p>	8 residential bicycle parking spaces are provided in Basement	Yes - however cannot be accessed when a vehicle is parked in car space 11.
<p><u>Bicycle parking - Visitors</u> 1 space per 10 dwellings for visitors = 3 spaces</p>	3 visitor bicycle parking spaces are provided between the front entry stairs and ramp in English Street.	Yes - however the location of the visitors bicycle spaces in the front entry is not desirable.
Car park access and layout to comply with relevant Australian Standards	Clarification from Councils Traffic Engineer is required regarding the circulation of the ramp will be required. From the submitted swept path diagram the ramp	No

	<p>shows that only one way can be achieved on parts of the ramp given its width, therefore it will be required that traffic is controlled on the 'Basement' level wanting to go down to 'Lower Basement' level. Unless they are able to adjust the circular section of the ramp and show that two-way circulation can be achieved</p> <p>Access to spaces 12, 13, 14 and 15 appear to be obstructed via structural columns and will need to be addressed.</p>	
B5 – Waste Management and Minimisation		
<p>Submit Waste Management Plan (WMP) Provide a dedicated caged area within the bin room for the storage of discarded bulky items.</p>	<p>WMP was prepared by Barelle Guirguis Architects Pty Ltd. The development includes a garbage room on the basement plan level.</p> <p>The garbage room is suitably sized to cater for the garbage bins as required. Bins will be collected from the street.</p> <p>The waste disposal area and arrangement is considered to be satisfactory and in accordance with Council's requirements.</p>	Yes
B6 – Water Management		
<p>All developments require consideration of Council's Water Management Policy</p>	<p>The proposed stormwater/drainage design has been referred to Council's Engineering Services section concerns were raised regarding the proposed stormwater/drainage design, it has been required that all stormwater shall drain by gravity to the existing kerb inlet pit located at the corner of English Street and Railway Avenue.</p>	<p>No - Amended plans will need to be provided to address the concerns of Council's Engineer.</p>
B7 – Environmental Management		
<p>Building to be designed to improve solar efficiency and are to use sustainable building materials and techniques</p>	<p>Design, materials, siting and orientation generally optimise solar efficiency, with a high proportion of north-facing window openings. Glazing is minimised on the southern and western elevations. The development is BASIX-compliant.</p>	Yes

PART C2 – MEDIUM DENSITY HOUSING**1. Site isolation and amalgamation for medium density development**

Adjoining sites not to be left isolated.
Site amalgamation requirements apply for specific sites.

The proposal will result in the site at 268 Railway Parade being isolated as the amalgamation pattern required for an RFB development site within this block will not be achieved.

No

Site amalgamation requirements apply for specific sites.

There is a site amalgamation requirement for 268 Railway Parade and 1 and 3 English Street Kogarah.

No

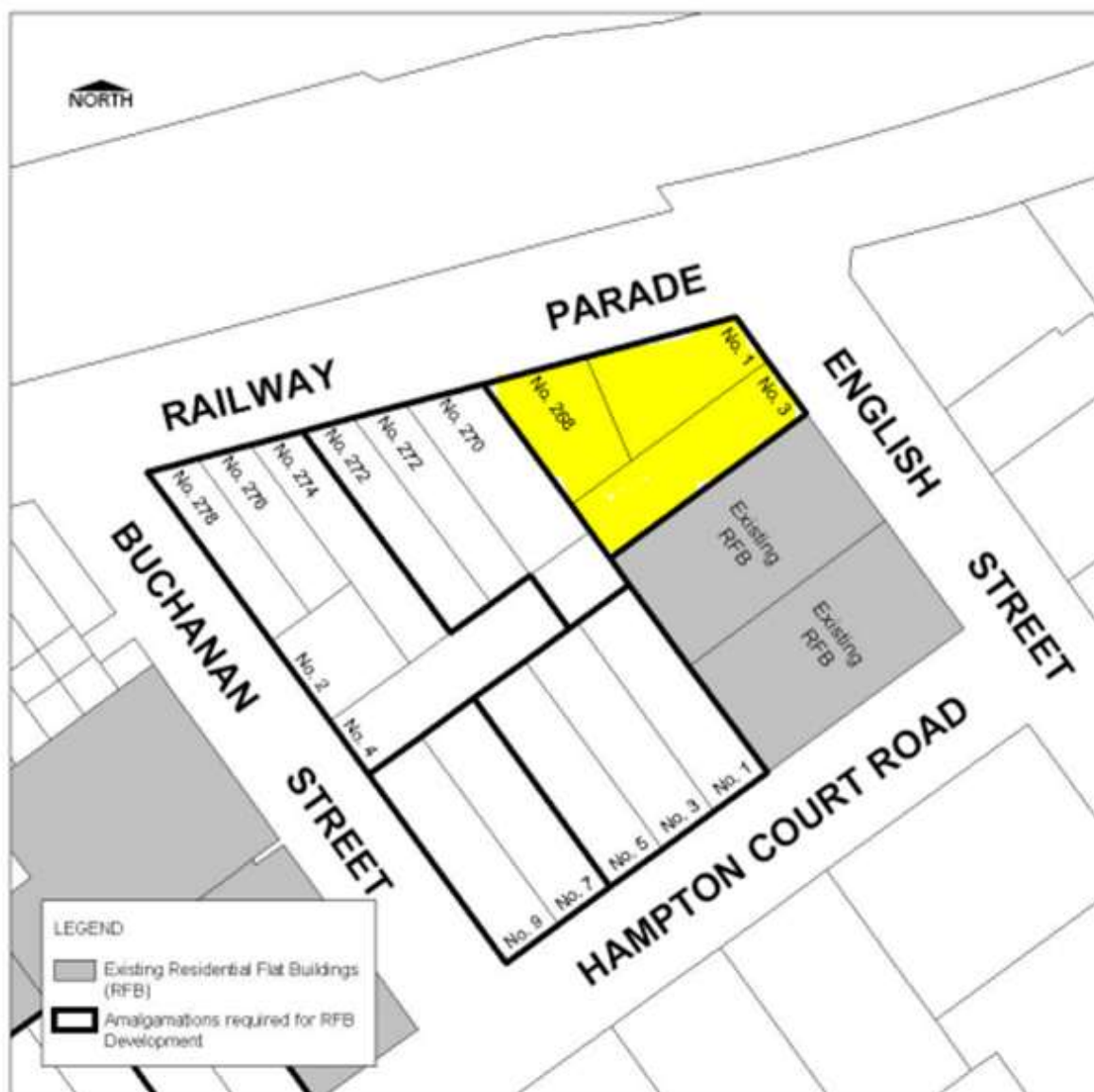
2. Specific precinct controls – residential flat buildings

Specific precinct controls apply to various sites and locations

The site is not located in a specific precinct nominated in the DCP.

N/A

Map 8: Carlton



Amalgamation site: 268 Railway Parade and 1-3 English Street, Carlton.

Map 8 above is the site amalgamation pattern

The highlighted section above shows the sites to be

No - The proposed development will

required for RFB development in Carlton.	amalgamated for residential flat building development.	isolate 268 Railway Parade.
4. Medium site and density requirements		
20m minimum frontage for residential flat building	22m to English Street.	Yes
1.1sqm of site area per square metre of dwelling NOTE: The above DCP control is over-ridden by KLEP 2012 minimum lot size requirement which is 1000sqm.	Site Area = 991.1sqm which does not comply with the LEP requirement. This has been discussed in detail above under KLEP 2012. The development has been proposed under the ARHSEPP, the lots size satisfies the SEPP.	No
5. Height and building envelope requirements		
4-storey RFBs have a “H1” height control of 12m; and a “H2” height control of 14m. (method for calculating these heights are discussed in detail in KDCP 2013)	No, the development has a maximum height of 24.042m with an apartment and some ancillary structures on the roof exceeding this height. The KDCP has not been updated to reflect the LEP changes in 2017.	No – see comment below
<u>Comment on Building Height</u> There is incongruence between the KLEP 2012 and the KDCP 2013 building height limits, and the KLEP 2012 heights prevail. The proposal is not compliant with the maximum LEP height. The variation is not acceptable pursuant to Clause 4.6 of KLEP 2012. Refer to KLEP 2012 discussion on building height and the Clause 4.6 assessment.		
6. Building setbacks		
Front setbacks: Maximum 75% of width of building to be setback minimum 5m, remainder 25% being setback minimum 7m	Front setback from English Street ranges from 3m front courtyards and balconies and 5m to the wall.	No - The external wall of the building is setback 5m, however the balconies and ground floor courtyard is located 3m from the front boundary.
Side/rear setbacks: 3m + one quarter of the amount that the wall height exceeds 3m. [3m + (¼ x 12m)] = 6m required.	Ground floor – 3m Levels 1-3 – 3m Upper levels are setback 3m. Note: SEPP 65/ADG prevails over the DCP provisions for a residential flat building.	No – The proposal fails to comply with the side and rear setback requirements within the KDCP as these have been prepared with the expectation of a two storey development on the subject sites. The provisions

		have not been updated to align with the height and FSR changes that have occurred as part of the LEP uplift. With respect to side setbacks the development fails to satisfy the SEPP 65 separation distances and requires increased setbacks particularly at the upper levels. SEPP 65/ADG prevails over the DCP provisions for a residential flat building.
7. Site coverage		
Maximum 45% (445.95sqm)	Site coverage amounts to 41% (407sqm)	Yes
8. Open space		
Courtyards for ground floor units must be 35sqm with min. 3m dimension. Otherwise all dwellings must have a balcony 12sqm with min. 3m dimension. (This control superseded by ADG Requirements)	Ground floor units have varying sized courtyards being 1, 2 & 3 bedroom apartments. They are between 9sqm and 27sqm with widths between 2 and 2.4m. They are however in accordance with the provisions of SEPP 65/ADG. Again the provisions of SEPP 65 override the DCP provisions.	No but generally the ground floor courtyards meet the SEPP65/ADG private open space requirements.
Common open space – 30sqm per dwelling with min. overall area of 75sqm and min. dimension of 5m. i.e. 30sqm x 23 units = 690sqm (This control is superseded by ADG Requirements)	Total area of open space that is provided is 251sqm as follows: Rooftop: 176sqm Ground level: 75sqm Total = 251sqm This is some 439sqm short of the requirement. The DCP provision is more onerous than the SEPP65/ADG provisions. The SEPP65/ADG provisions prevail.	No but SEPP 65 compliant.
Maximum 55% impervious area amounting to 545.05sqm	Impervious area is 555.1sqm or 56%	No. however the development provides for more than the required amount of deep

		soil area and communal open space in accordance with SEPP 65/ADG which prevails.
9. Vehicular access, parking and circulation		
Car parking to be provided in accordance with Part B4	Development complies with the KDCP numerical parking requirements.	Yes
<u>Residential parking:</u> 7 x 1 bedroom units x 0.6 = 4.2 required 5 x 2 bedroom units x 0.9 = 4.5 required 11 x 3 bedroom unit x 1.4 = 15.4 required Visitors 23 units (1 per 5) = 4.6 Total required resident parking = 29 spaces	Given this development is within an accessible area the requirements of the RMS Guide for Traffic Generating Development are triggered by SEPP 65 and the Apartment Design Guide. 31 residential car parking spaces proposed, the development is compliant. A total of 29 spaces are required (which include the visitor car spaces). Lower Basement has 16 spaces and Basement has a total of 15 spaces.	Yes
<u>Car wash bay:</u> All residential flat buildings to provide car wash bay, which can also function as a visitor space	There is no designated car wash bay however the KDCP allows for a visitor space to double as a car wash bay.	No - could be conditioned should the application be approved.
<u>Bicycle Parking:</u> 1 space per 3 dwellings = 8	8 residential bicycle parking spaces are provided in Basement	Yes - however they cannot be accessed when a vehicle is parked in car space 11.
<u>Bicycle parking - visitors</u> 1 space per 10 dwellings for visitors = 3 spaces	3 visitor bicycle parking spaces are provided between the front entry stairs and ramp in English Street.	Yes - however the location of the visitors bicycle spaces in the front entry is not desirable.
Garages to be accessed from rear lane where available	Access to the basement is off English Street, no rear lane access available.	N/A
11. Solar access		
Where the neighbouring properties are affected by overshadowing, at least 50% of the neighbouring existing primary private	The development affects the properties to the south. The north western facing balconies and windows of the RFB at No 5-7 English Street are unaffected at	No

open space or windows to main living areas must receive a minimum of 3 hours sunlight between 9am–3pm on the winter solstice (21 June)	9am, with the shadow being cast over the rear yard of the property at 268 Railway Parade. At 12 noon the balconies of the units of 5–7 English Street suffer overshadowing from the building. The north east facing balconies and windows retain the existing amount of sunlight. At 3pm the shadow is cast over the building at 5–7 English. Whilst it is expected that any increase in height from the existing site buildings will result in overshadowing, it is anticipated that this could be reduced or minimised through a more compliant building (height and setbacks) that is designed with emphasis on minimising overshadowing to the southern property.	
12. Views and view sharing		
Provide for reasonable sharing of views	The location does not have significant views. The proposal will not adversely affect or impact on any existing views or outlook from adjoining properties.	Yes
13. Adaptable and accessible housing		
The minimum number of adaptable units designed in accordance with AS4299 - 1995 Adaptable Housing must be incorporated into the above developments: (i) 3-10 units – 1 adaptable unit (ii) 11-20 units – 2 adaptable units (ii) 21-30 units – 3 adaptable units 23 units proposed – Three (3) adaptable units required	Twenty Three (23) units are proposed which requires that three (3) adaptable units are provided. Three (3) adaptable units are proposed.	Yes

Interim Policy – Georges River Development Control Plan 2020

144. Council at its Environment and Planning Committee Meeting dated 11 June 2019 resolved to adopt the Georges River Interim Policy DCP.
145. The Interim Policy is a public policy that is to be used as a guide to set a consistent approach for the assessment of residential development within the LGA. It is a supplementary document, meaning that current DCP controls will prevail if they are considered best practice. The Interim Policy has no statutory recognition in the

assessment of DAs pursuant to the Environmental Planning and Assessment Act, 1979 (EP&A Act).

146. An assessment of the proposal has been carried out against the provisions of the Interim Policy as set out in the following table.

Table 8: Interim Policy Compliance Table

Interim Policy – Georges River DCP 2020		
Standard	Proposed	Complies
Site Frontage		
20m	22m to English Street	Yes
Building Height		
The relevant LEP controls relating to building height will prevail over DCP controls that relate to height in storeys	The proposal exceeds the height control but is supported by the provision of a Clause 4.6 Statement. This statement is not considered to be well founded and has been discussed in detail earlier in this report.	No
Private Open Space		
The ADG requirements prevail over the DCP controls for private open space	The proposal is fully compliant with the ADG's private open space requirements. Refer to "4E – Private Open Space and Balconies" within the ADG Compliance Table above.	Yes
Communal Open Space		
The ADG requirements prevail over the DCP controls for COS	The proposal is considered to comply with the requirements of the ADG with respect to COS. Refer to "3D – Communal Open Space" within the ADG Compliance Table above.	Yes
Parking		
In accordance with 'A Plan for Growing Sydney' (Department of Planning and Environment): <ul style="list-style-type: none"> If located in a strategic centre (i.e. Kogarah CBD and Hurstville CBD) and within 800m of a Railway, the "Metropolitan Regional Centre (CBD)" rates apply. If located within 800m of a railway and outside the strategic centres the "Metropolitan Subregional Centre" rates apply. 	The site is located within 800m of Carlton Railway Station. The proposal exceeds the Metropolitan Subregional Centre parking rates. See below.	Yes

<ul style="list-style-type: none"> If located outside of 800m of a Railway, the relevant DCP applies. 		
Residential parking: 7 x 1 bedroom units x 0.6 = 4.2 required 5 x 2 bedroom units x 0.9 = 4.5 required 11 x 3 bedroom unit x 1.4 = 15.4 required Visitors 23 units (1 per 5) = 4.6 Total required resident parking = 29 spaces	Given this development is within an accessible area the requirements of the RMS Guide for Traffic Generating Development are triggered by SEPP 65 and the Apartment Design Guide. A total of 29 spaces are required (which include the visitor car spaces). The development provides for 31 spaces in total which satisfies Council's requirement. Lower Basement level has 16 spaces and Basement level has a total of 15 spaces.	Yes
Bicycle Parking: 1 space per 3 dwellings = 8	8 residential bicycle parking spaces are provided in Basement	Yes
1 space per 10 dwellings for visitors = 3 spaces	3 visitor bicycle parking spaces are provided between the front entry stairs and ramp in English Street.	Yes, however the location is not desirable.
Solar Access		
The ADG requirements prevail over the DCP controls for solar access	The proposal is acceptable on merit with the ADG Solar Access requirements as detailed within the ADG Compliance Table above. Refer to "4A – Solar and Daylight Access" within the ADG Compliance Table.	Yes

Draft Amendment to Part C2 – Medium Density Development of Kogarah DCP 2013

147. Arising from the significant increase in development activity as a result of the New City Plan (Amendment No 2) to the Kogarah Local Environmental Plan gazetted in May 2017 which permitted greater density (2.5:1 and 2:1) and height (21m), Council immediately proceeded to prepare an amendment to Part C of the Kogarah Development Control Plan
148. Council on 25 November 2019 adopted a report which will result in an amendment to Part C2 – Medium Density Housing in Kogarah DCP 2013. This amendment will be on public exhibition from 20 January 2020. As such this draft amendment is now a statutory planning document it must be considered in any assessment.

Table 9: Draft Amendment to Part C2 - Medium Density Development of Kogarah DCP 2013 Compliance Table

Draft Amendment to Part C2- Medium Density Development of Kogarah DCP 2013		
Part 1 Residential Flat Buildings		
Required	Proposed	Complies
1. Minimum site requirements		
1000sqm minimum lot size	991.1sqm	No
24m minimum frontage	22m	No

2. Site isolation and amalgamation		
Adjoining sites not to be left isolated.	The proposal will result in the site at 268 Railway Parade being isolated in the proposed amalgamation pattern required for RFB development within this block not being achieved.	No
Site amalgamation requirements apply for specific sites.	There is a site amalgamation requirement for 268 Railway Parade and 1 and 3 English Street	No
3. Building Setbacks		
<u>Front setbacks</u> Up to four (4) storeys – 5m Above four (4) storeys – 8m Ground floor private open space may encroach up to 2m into the 5m front setback leaving a min 3m of landscaped area to the street.	Front setback from English Street ranges from 2.6m to 5m with the building continuing this reduced setback through to the upper levels.	No - The setback is not considered to be acceptable and increased setbacks should be provided in line with the controls as the height of the building increases. This is inconsistent with the future and desired street setbacks.
<u>Front Setback</u> Ground floor private open space may encroach up to 2m into the 5m front setback leaving a min 3m of landscaped area to the street.	Private open space/balcony. Courtyard encroaches 2m in 5m setback	Yes
Private open space and balconies must comply with Part 4E of the ADG.	Complies	Yes
Side boundary setbacks Up to four (4) storeys – 6m Ground floor private open space may encroach up to 3m into the side and rear setbacks leaving a min 3m landscaped buffer	Ground floor – 3m Levels 1-3 – 3m Upper levels are setback 3m. Note: SEPP 65/ADG prevails over the DCP provisions for a residential flat building.	No – the proposal fails to comply with the side and rear setback requirements within the KDCP as these have been prepared with the expectation of a development with less height. The provisions have not been

		updated to align with the height and FSR changes that have occurred as part of the LEP uplift. With respect to side setbacks the development generally fails to satisfy the SEPP 65 separation distances and requires increased setbacks particularly at the upper levels. SEPP 65/ADG prevails over the DCP provisions for a residential flat building.
Above four (4) storeys – 9m	4.5m– 6m setback provided to the southern side boundary.	No
Rear boundary setbacks Up to four (4) storeys – 6m Ground floor	3m - 6m	No
Up to four (4) storeys – 6m Levels 1-3	3m - 6m	No
Above four (4) storeys – 9m	3m - 6m	No
Private open space and balconies must comply with Part 4E of the ADG.	Complies	Yes
4. Basement Setbacks		
3m from site boundaries South West North East	Nil Nil – 3m 1.5m 5m	No No No Yes
Basement setback areas are to be deep soil areas as defined in the ADG	The basement setback areas provided are deep soil.	Yes
Driveways and crossings are to be located a minimum of 1.5m from a side boundary	Western side - 7.54m Eastern Side – 8.8m	Yes Yes
5. Façade Treatment and Street Corners		
Building facades to be clearly articulated with high	Unsatisfactory	No

quality materials and finishes.		
Modulation and articulation in the building form to be explored.	Unsatisfactory	No
Large areas of blank, minimally or poorly articulated walls are not acceptable. Façade treatments such as wall cladding and green walls should be considered as alternatives.	Unsatisfactory	No
Clear glazing balustrades to be avoided where they are visible from the public domain.	Unsatisfactory	No
6. Landscaped area and Private Open Space		
A minimum 10% of the site is to be landscaped area that is not impeded by buildings or structures above or below ground level with a minimum dimension of 2m on two axes.	Deep Soil zone provided is 15%. Again the provisions of SEPP 65 override the DCP provisions.	Yes - However SEPP65/ADG provisions prevail.
Private open space to be adjacent to and visible from the main living area/dining rooms and be accessible	Provided	Yes
Private open space and balconies must comply with Part 4E of the ADG	Complies	Yes
7. Common Open space		
Common Open Space to be a minimum of 25% of the site area with a minimum dimension of 5m.	Total area of open space that is provided is 251sqm (25.3%) as follows: Rooftop: 176sqm Ground level: 75sqm Total = 251sqm	Yes
A maximum of 50% of common open space may be provided above ground level.	Roof top communal open space is 176sqm, which is more than 50% of the total common open space	No - but considered acceptable, the DCP provision is more onerous than the SEPP65/ADG provisions. The SEPP65/ADG provisions prevail.
At least 50% of the required common open space area is	Complies	Yes

to receive 2 hours of direct sunlight between 9am and 3pm on 21 June.		
A minimum of 50% of the total area of common open space provided at ground level is to comprise unpaved landscape area.	Complies	Yes
The useable and trafficable area of any rooftop common open space is to be setback a minimum of 2.5m from the edge of the roof of the floor below with landscape planters to prevent overlooking.	Nil setback from the edge of roof. The proposal has incorporated planter boxes and 1.5m high privacy screening to minimise overlooking.	No
Roof top open space areas should include equitable access.	Equitable access through a lift has been provided. No accessible toilet has been provided on the roof top communal space.	Yes - although an accessible toilet should also be provided.
Ancillary structures such as lift overruns and staircases should be centralised to reduce their visual dominance.	Fire stairs and lift over runs are centrally located.	Yes
8. Solar Access		
Where the neighbouring properties are affected by overshadowing, at least 50% of the neighbouring existing primary private open space or windows to main living areas must receive a minimum of 3 hours sunlight between 9am–3pm on the winter solstice (21 June)	<p>The development affects the properties to the south. The north western facing balconies and windows of the RFB at 5-7 English Street are unaffected at 9am, with the shadow being cast over the rear yard of the property at 268 Railway Parade.</p> <p>At 12 noon the balconies of the units of 5–7 English Street suffer overshadowing from the building. The north east facing balconies and windows retain the existing amount of sunlight.</p> <p>At 3pm the shadow is cast over the building at 5–7 English.</p> <p>Whilst it is expected that any increase in height from the existing site buildings will result in overshadowing, it is anticipated that this could be reduced or minimised through a more compliant building that is designed with emphasis on minimising overshadowing to the southern property.</p>	No

9. Vehicular access, parking and circulation		
Car parking to be provided in accordance with Part B4 unless objective 3J-1 of the ADG applies.	Development complies with the KDCP numerical parking requirements.	Yes
<u>Residential parking:</u> 7 x 1 bedroom units x 0.6 = 4.2 required 5 x 2 bedroom units x 0.9 = 4.5 required 11 x 3 bedroom unit x 1.4 = 15.4 required Visitors 23 units (1 per 5) = 4.6 Total required resident parking = 29 spaces	Given this development is within an accessible area the requirements of the RMS Guide for Traffic Generating Development are triggered by SEPP 65 and the Apartment Design Guide. A total of 29 spaces are required (which include the visitor car spaces) The development provides for 31 spaces in total which satisfies Council's requirement. Lower Basement level has 16 spaces and Basement level has a total of 15 spaces.	Yes
<u>Bicycle Parking:</u> 1 space per 3 dwellings = 8	8 residential bicycle parking spaces are provided in Basement	Yes
1 space per 10 dwellings for visitors = 3 spaces	3 visitor bicycle parking spaces are provided between the front entry stairs and ramp in English Street.	Yes - however location is not desirable.
Car parking layout and vehicular access complies with AS2890.1-2004	Swept paths need to be provided to confirm that circulation of the ramp will meet AS2890. From the submitted swept path diagram the ramp shows that only one way can be achieved on parts of the ramp due to its width. Confirmation that a vehicle can access car parking spaces 12, 13, 14 and 15.	No
All residential flat buildings to provide car wash bay	No car wash bay has been proposed. The KDCP allows for a visitor space to double as a car wash bay.	No - however could be conditioned.
10. Views and view sharing		
Provide for reasonable sharing of views	The location does not have significant views. The development generally complies with height requirements and is reasonable in terms of view sharing.	Yes
11. Dwelling Mix		
Dwellings that propose more than 20 dwellings are to provide a mix of dwellings as follows: Studio apartments -15% max	The proposal includes the following unit mix: 7 x 1 bedroom apartments = 30% 5 x 2 bedroom apartments = 22% 11 x 3 bedroom apartments = 48%	No - The proposal provides a mix of 1, 2 & 3 bedroom apartments. It

1 bed apartments - 30% max 2 bed apartments – 40% min 3 bed apartments – 15% min		however exceeds the maximum amount of 3 bedroom apartments.
12. Adaptable and accessible housing		
3-10 units – 1 adaptable 11-20 units – 2 adaptable 21-30 units – 3 adaptable 23 units proposed – 3 adaptable units required Every adaptable unit needs to have an accessible car space.	Twenty Three (23) units are proposed which requires that three (3) adaptable units are provided. Three (3) adaptable units are proposed Provision has not been made for accessible parking for each adaptable unit.	Yes Yes No

DEVELOPER CONTRIBUTIONS

149. The proposed development if approved would require the payment of developer contributions under Section 7.11 of the Environmental Planning and Assessment Act 1979 as the proposal is increasing the density of the locality by the construction of 23 new apartments. If the development consent was to be approved a condition outlining the required contributions will be imposed.

IMPACTS

Natural Environment

150. The extent of excavation for the proposed development will adversely affect the natural environment as the proposal in its current form will affect the health of the tree located on the adjoining site at 268 Railway Parade, Kogarah. The extent of excavation will need to be reduced in this area and the provision of an increased setback to the basement is required to ensure the longevity, integrity and visual amenity of the existing mature trees will be able to be retained as the building footprint substantially affects the TPZ of trees on adjoining properties.

Built Environment

151. The proposal represents a poor planning outcome for the site with respect to its bulk, scale and density, façade articulation and expression and is an inappropriate response to the context of the site.

152. The built form is inconsistent with the future and desired streetscape character and fails to provide an effective transition between adjoining developments. The lack of articulation to the building façade, non-compliant height and setbacks along with the extent of excavation of the basement to the boundary is an inappropriate response to the site.

Social Impact

153. No adverse social impacts have been identified as part of the assessment. The proposed development, in principle, will cater for a cross-section of the community and will assist with providing for additional housing in the area. The construction of residential apartments on the site is consistent with the residential zoning of the land. The proposal includes the provision of five (5) affordable housing apartments consistent with the aims of the SEPP.

Economic Impact

154. There is no apparent adverse economic impact that is likely to result within the locality due to the construction of additional apartments. The construction of these apartments was to be reasonably expected as a result of the New City Plan's gazettal. The impact of new development on nearby property values is not a matter for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979. It is likely there will be a small positive economic impact as a result of the construction of the development.

Suitability of the site

155. The site is zoned R3 – Medium Density Residential. The proposal is a permissible form of development in this zone. This immediate precinct is going through a process of change and transition through the increase in FSR and height. Although the site is suitable for this form of development the overall design and amenity of the development is not considered to be acceptable.

SUBMISSIONS AND THE PUBLIC INTEREST

156. The application was neighbour notified in accordance with Kogarah DCP 2013 for a period of fourteen (14) days between 12 December 2018 until 13 February 2019 and three (3) submissions were received as a result. In summary the following issues and concerns were raised;

- ***Non-compliance with the height limit***

157. Officer Comment: The overall height of the development exceeds the maximum height and includes habitable space along with the ancillary rooftop structures including the lift overrun, staircase and WC.

158. Council/Panel has allowed for exceedances in the height control for ancillary rooftop structures. The Clause 4.6 assessment has resulted in the variation not being supported.

- ***Out of character with the existing locality and existing smaller scale adjoining developments and future of development***

159. Officer Comment: Although it is recognised that this development will be taller than the existing residential developments to the south which are four (4) storeys RFB's and the west which are single dwelling houses fronting Railway Parade, the zoning within this area does permit a building of up to 21m with an FSR of 2:1.

160. There have been a number of design and amenity issues associated with the development identified throughout the various meetings including but not limited to boundary setbacks, amalgamation of sites, height of building and lack of deep soil that are all contributing the building that is inconsistent with the desired and future streetscape. It is expected that any future proposal will be more sympathetic to adjoining sites and the streetscape through increased setbacks, reduced height and provision of more deep soil zones.

161. The increase in height and FSR of this precinct did not include a transition between existing lower scale development and the new 21m height control. Draft amendment to Part C2 of Kogarah DCP 2013 was endorsed by Council on 25 November 2019. This amendment will be on public exhibition from 20 January 2020. The proposed development has been assessed against these draft controls and as mentioned within the report is not consistent with the intent and objectives of the ADG and the new draft controls.

- ***Overshadowing created to properties to the south***

162. Officer Comment: This issue has been addressed in detail earlier in this report. The development affects the properties to the south. The north western facing balconies and windows of the RFB at 5-7 English Street are unaffected at 9am, with the shadow being cast over the rear yard of the property at 268 Railway Parade. At 12 noon the balconies of the units of 5–7 English Street suffer overshadowing from the building. The north east facing balconies and windows retain the existing amount of sunlight. At 3pm the shadow is cast over the building at 5–7 English. Whilst it is expected that any increase in height on the existing site will result in overshadowing. It is anticipated that this could be reduced or minimised through a more compliant building that is designed with emphasis on minimising overshadowing to the southern property.

- ***Increased traffic generation from the cumulative impact of larger scale developments***

163. Officer Comment: The application was accompanied by a Traffic assessment report prepared by Hemanote Consultants Pty Ltd Traffic Engineering & Design Consultants. Traffic generation caused by the development has been considered in accordance with the provisions of RMS Guide to Traffic Generating Developments, Section 3 – Land Use Traffic Generation and based the calculations on a high density residential flat development. This issue was discussed in greater detail earlier in this report. It is recognised the development will generate some additional pressure on the local road network, however the impact is not considered to be adverse or detrimental to warrant the refusal of the application.

- ***Adverse impact on street parking***

164. Officer Comment: There will be an increase in the demand for on-street parking however this is public parking and is available for the community at large. The proposal complies with the number of required car parking, which provides five (5) visitor spaces.

- ***Waste Management***

165. Officer Comment: Concern is raised how the waste will be managed. Council's Waste Officer has advised that the waste will be kerbside collection and no objection is raised to the provisions made within the basement for storage of bins.

REFERRALS

Council Referrals

Development Engineer

166. The application was referred to Council's Development Engineers for comment. There were concerns raised in respect to the stormwater and drainage arrangement. The following comments were made;

"Insufficient information is provided in the Stormwater Drainage Plans.. Also, the plans are not clear. The Stormwater Drainage Plans shall be amended addressing the following items and submitted to Council for assessment.

a) OSD volume was determined using an impervious area of 52.5%. However, the Landscape Plan (Ground Floor) shows a high percentage of impervious areas. The stormwater consultant is to revisit the Stormwater Management Report calculations and revise the OSD tank details accordingly.

b) The council does not support the site drainage connection to the street kerb and gutter. Considering a large site area of 991 square metres, all stormwater shall drain by gravity to the existing kerb inlet pit located at the corner of English Street and Railway

Avenue. OSD tank shall be designed with a sump at the outlet pipe location. OSD tank section should show all inlet pipes including the levels and access grate dimensions.

c) Pump well pit volume and pump rate calculation details shall be shown on the plan.”

167. These concerns remain unresolved. The location of the OSD tank within the area of communal open space is considered to be a poor planning and urban design outcome. It seems that the location of the OSD will reduce the floor to ceiling height of the garbage area.

Urban Designer

168. The application was referred to Council's Urban Designer for comment. Similar concerns to the DRP were raised and included the following:

“The rigid, rectangular form of the proposal and the flat, sombre grey colour palette present a visually callous and intrusive urban design outcome. The rigid corner should be ameliorated through the incorporation of natural materials and curvilinear forms (e.g. rounded corners). It is also recommended that the development adopt a warm/neutral colour palette instead of grey.

The use of render/painted concrete should be minimised on facades visible from the public domain (i.e the blank wall on the southern elevation). The development should not rely on the use of colour to create visual interest.

The lobby should be visually prominent to assist in wayfinding and to distinguish between the public and private domains. Long footpaths and tight corners must be avoided as CPTED measures.

The proposal presents a potential conflict between pedestrian traffic and vehicle access due to the location of the residential lobby entrance at the eastern corner of the site.”

Traffic Engineer

169. The application was referred to Council's Traffic Engineer for comment. The following comments were received:

“Clarification is required regarding the circulation of the ramp will be required. From the submitted swept path diagram the ramp shows that only one way can be achieved on parts of the ramp, therefore it will be required that traffic is controlled on the ‘Basement’ level wanting to go down to ‘Lower Basement’ level. Unless they are able to adjust the circular section of the ramp and show that two-way circulation can be achieved.”

Environmental Health Officer

170. Council's Environmental Health Officer has raised no objection subject to conditions of consent being attached if approval is granted.

Arborist

171. Council's Arborist has raised concerns with the extent of excavation and the lack of planting proposed for the subject development. Comments were as follows:

“There are several trees upon the site and several trees on adjoining properties. My concern is that the basement plan, DA102, Rev B, shows the basement walls are very close if not on the boundary on the southern side and also on the western side boundary.

Unfortunately, the trees on adjacent sites are on the south and western sides, with a tree protection zone for a tree on the west side being 10.8 metres radially from its trunk and two trees on the south adjoining property having tree protection zones of 5.4 and 4.8 metres radially from their trunks.

I believe for the retention of trees on adjoining sites, the basements need to come in to approximately 5 to 6 metres, thereabouts.

In regards to the landscape plan, there is approximately seven (7) trees proposed and I would like to see a minimum ten (10) trees, native and all a minimum 75 litre pot/ bag size planted."

The above concerns of the various specialists remains unresolved.

Waste Services

172. The application was referred to Council's Waste Officer for comment. No objection was raised in respect to the proposed waste arrangement subject to the imposition of standard conditions.

External Referrals

Ausgrid

173. The application was referred to Ausgrid in accordance with Clause 45 of State Environmental Planning Policy (Infrastructure) 2007. At the time of writing, no response has been received.

Sydney Airport

174. The application was referred to Sydney Airport. A formal response was provided and concurrence was obtained.

Sydney Trains

175. The application was referred to Sydney Trains in accordance with Clause 85 and 86 of State Environmental Planning Policy (Infrastructure) 2007. To date (6 December 2019) no formal concurrence has been received. Should approval be granted concurrence from Sydney Trains will be required prior to consent being issued.

CONCLUSION

176. The proposal has been assessed using the matters for consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal is considered to be an unreasonable intensification of the site and the proposed additional height, setbacks to boundaries is considered to be an unacceptable planning and design outcome for this site and will affect the character of development in the street and immediate locality. The inability to acquire the adjoining site at 268 Railway, Kogarah reduces the development potential for the site and results in a number of design and amenity issues.
177. The proposal has been assessed against the provisions of the Kogarah Local Environmental Plan 2012 and Kogarah Development Control Plan 2013. The proposal satisfies the key planning controls in the Kogarah Local Environmental Plan apart from exceeding the height limit. A Clause 4.6 Statement has been submitted with the application in support of this variation.

178. The proposed development fails to satisfy the objectives of the height control standards and in this case the Clause 4.6 Statement is not considered to be well founded and fails to satisfy the provision and requirements of Clause 4.6 of the KLEP.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

179. The reasons for this recommendation are:

- This part of Kogarah is undergoing transition to medium density residential flat buildings with new controls allowing for a greater density and scale. However, the proposal fails to respond to both the existing context of the streetscape and the desired future character for development.
- The proposed development fails to satisfy the objectives of Clause 4.3 (Height of Buildings) control within the KLEP, the exceedance in the height of the building will adversely affect the future and desired character of the streetscape and will be inconsistent with development that has been approved within this precinct.
- The proposed development is part of an amalgamation pattern which includes 1 and 3 English Street and 268 Railway Parade, Kogarah. The inability to acquire 268 Railway Parade will isolate this site. This also impacts on the development site to achieve compliance with setbacks and to provide a design that will suitably respond to the immediate locality.
- In this case the Clause 4.6 Statement is not considered to be well founded and the non-compliance with the height control is unreasonable in the circumstances of the case.
- The proposal is unsympathetic with the established residential streetscape character in the street and the immediate locality and is inconsistent with the provisions of Clause 16A of the State Environmental Planning Policy (Affordable Rental Housing) 2009.
- The application fails to adequately detail and address the provisions of Clause 50 of the State Environmental Planning Policy (Affordable Rental Housing) 2009 and will not provide for an adequate amount and type of “comparable” affordable rental housing.
- The proposed development presents an excessive bulk and scale with limited consideration for deep soil/buffer landscaping addressing the site edges. It does not provide a sympathetic response to the predominant (existing as well as evolving) footprint scale or the desired landscape character of the surrounding context.
- The lack of deep soil landscaping and the reduced side setbacks as well as other amenity, layout and design concerns indicates that the proposal is an overdevelopment of the site.
- The proposal with reduced setbacks and encroachment into the upper level setback zones presents an overbearing mass when viewed from the neighbouring properties located immediately to the south and west. The bulk and scale of the building will also be highly visible and dominating when viewed from English Street and Railway Parade.
- The proposal provides a visually dominant interface between the residential dwellings to the south and west of the site.
- The proposed basement car park severely limits the opportunity for a large consolidated deep soil area on site and limits the ability to achieve an appropriate landscape buffer to adjacent residential buildings and the public domain.
- The proposed stormwater and drainage plan and arrangement has not been updated to reflect Council's engineering concerns.

- The layout of the basement car park and associated car parking spaces are convoluted and car spaces No.12, 13, 14 and 15 are difficult to access and unlikely they satisfy the provisions of AS2890.1.
- The proposed building design and siting, in particular the extent of excavation associated with the basement carpark will adversely affect the TPZ of the tree located on the adjoining site (268 Railway Parade) and its longevity, hydrology and integrity will be severely impacted. More than a 10% encroachment on the TPZ is anticipated which is considered to be unacceptable.
- The proposal is considered to establish an undesirable precedent in the area and will not be in the public interest.
- In consideration of the aforementioned reasons, the proposed development is recommended for refusal.

Determination

180. THAT pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act, 1979 (as amended) the Georges River Local Planning Panel, refuse development consent to Development Application DA2018/0358 for demolition, tree removal, site consolidation and construction of a seven (7) storey Residential Flat Building development comprising twenty three (23) residential units with two (2) levels of basement car parking for thirty one (31) vehicles and associated landscaping and site works under the provisions of the State Environmental Planning Policy (Affordable Rental Housing Policy) 2009 on Lot A DP 374363 and Lot 67 DP 1753 known as 1 and 3 English Street, Kogarah for the following reasons:

1. The proposed development fails to satisfy the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the development fails to satisfy the control and objectives of Clause 4.3 (Height of Buildings) of the KLEP 2012 as the additional height and scale of the building will adversely affect the character of development in the streetscape.
2. The proposed development fails to satisfy the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposed Clause 4.6 variations in respect to the height control is not considered to be well founded in this case as the design of the development fails to satisfy the objectives of the planning controls therefore failing to satisfy the provisions of Clause 4.6
3. The proposed development fails to satisfy the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, in that the proposal fails to satisfy Part 2, Division 1, Clause 16A (Character of local area) of the State Environmental Planning Policy (Affordable Rental Housing) 2009 as the proposed development is unsympathetic with the established residential character in the street and immediate locality and will create an undesirable precedent for future development.
4. The proposed development fails to satisfy the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, in that the proposal fails to satisfy Part 3, (Retention of existing affordable rental housing), Clause 50 of the State Environmental Planning Policy (Affordable Rental Housing) 2009 as the application fails to adequately detail and address the provisions of Clause 50 of the ARH SEPP and will not provide for an adequate amount and type of “comparable” affordable rental housing.
5. The proposed development fails to satisfy the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the additional height of the

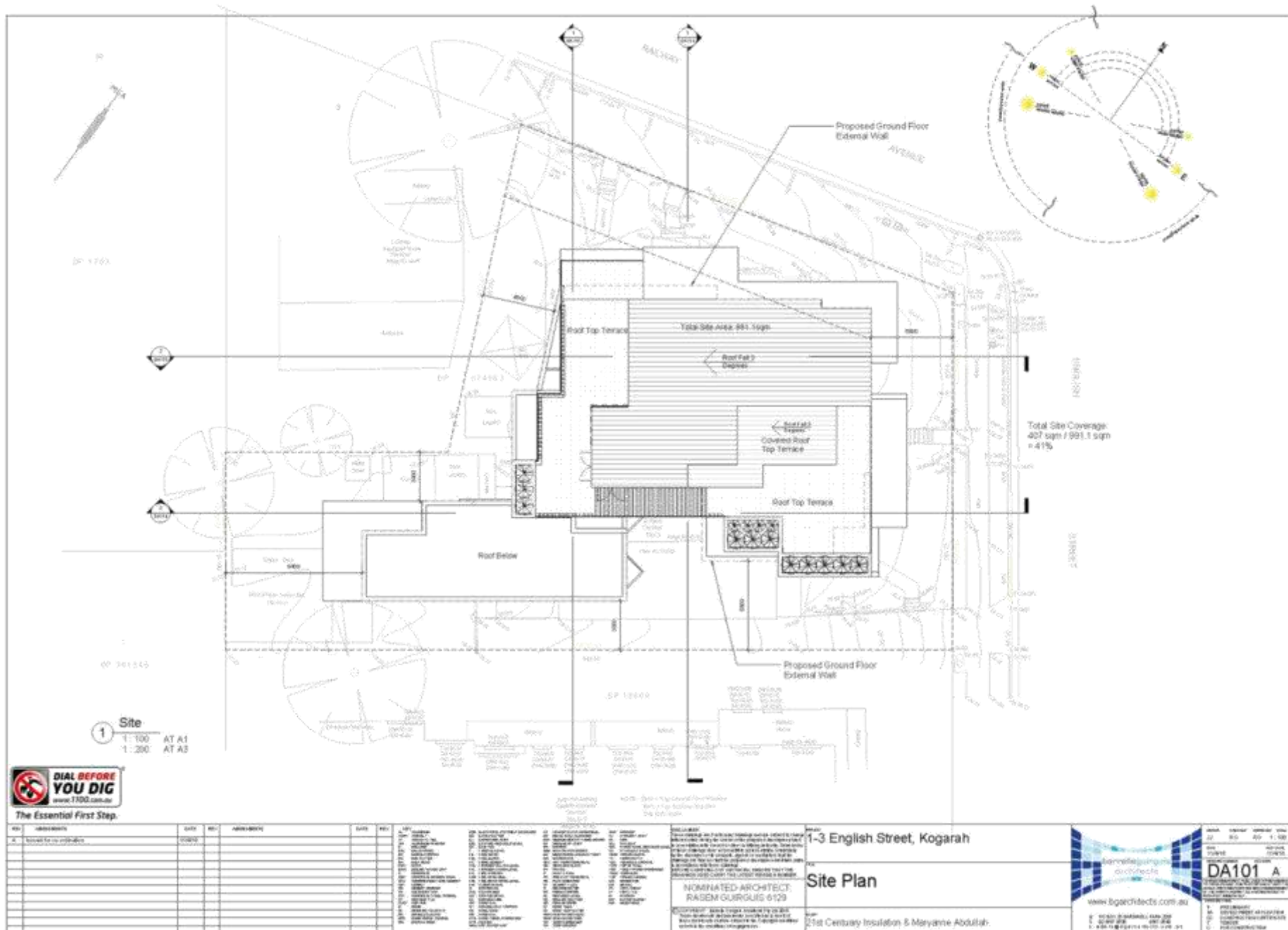
building does not represent the desired future character for development in the street and precinct and will adversely affect the nature of existing development in the precinct.

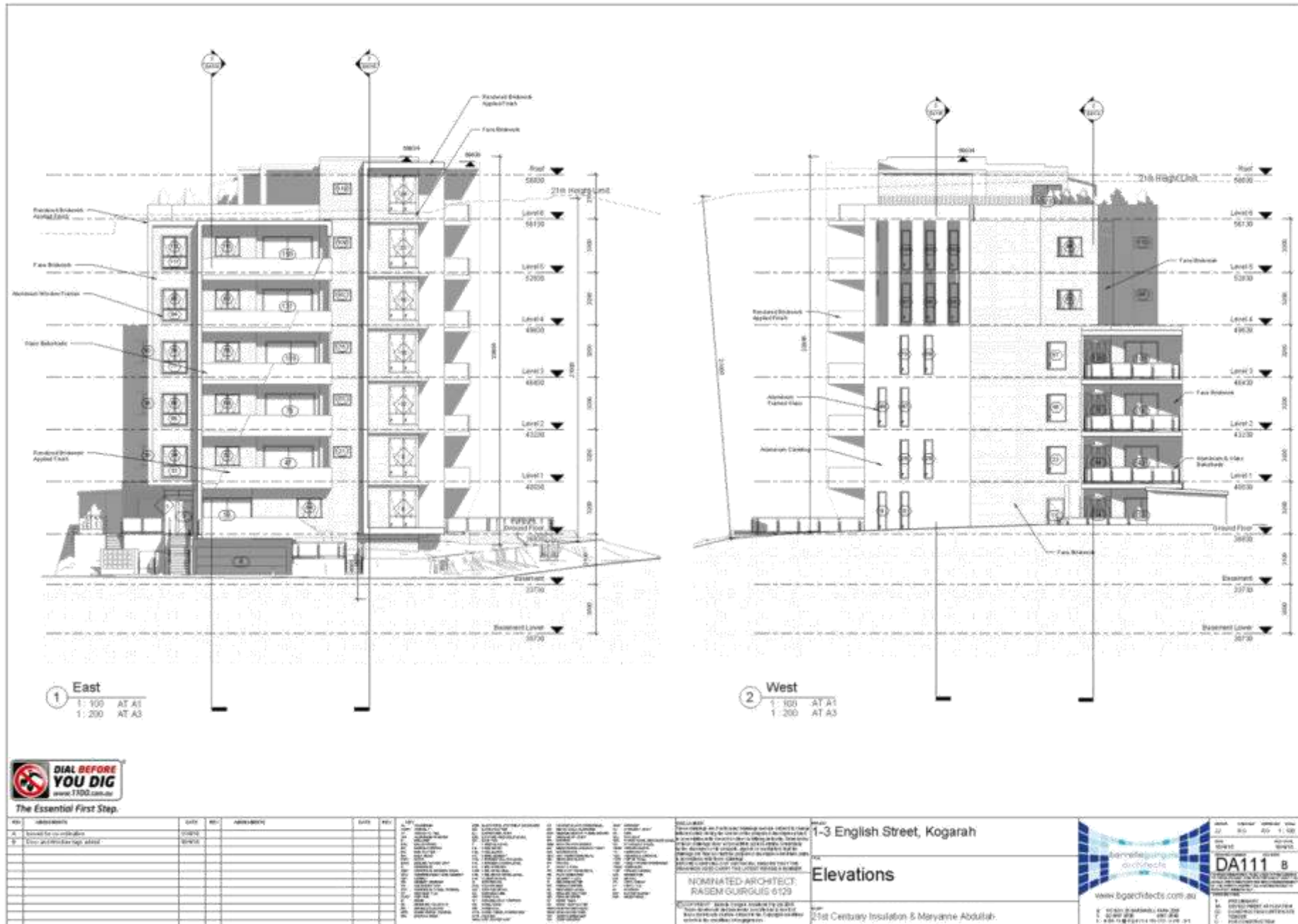
6. The proposed development fails to satisfy the provisions of Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979 in that the proposed basement car parking arrangement and design fails to satisfy the provisions of Part B4 (Parking and Traffic) of the Kogarah Development Control Plan in that manoeuvrability and access to car parking spaces No's 12, 13, 14 and 15 is difficult and fails to comply with AS2890.1. No swept path diagrams have been provided to ensure access to these spaces can be achieved.
7. The proposed development fails to satisfy the provisions of Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979 in that the proposed development fails to satisfy the requirements of KDCP 2013 in that the proposed development does not follow the amalgamation pattern as required by Part C2 of KDCP 2013 resulting in a development that has adverse impacts upon the adjoining properties and the streetscape.
8. The proposed development fails to satisfy the provisions of Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, in that the proposal does not satisfy the provisions of Part B2 of the Kogarah Development Control Plan as the proposed building design and siting, in particular the extent of excavation for the basement car park will adversely affect the Tree Protection Zone and canopy spread of the tree to the west located on 268 Railway Parade and its longevity, hydrology and integrity will be severely impacted and no arborist report has been provided to support the proposal.
9. The proposed development fails to satisfy the provisions of Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, in that the proposal does not satisfy the provisions of Part C2 Section 11 of the Kogarah Development Control Plan as at least 50% of the neighbouring properties primary private open space or windows to main living areas will not receive a minimum of 3 hours sunlight between 9am-3pm in mid-winter.
10. The proposed development fails to satisfy the provisions of Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, in that the proposed development fails to meet Design Quality Principle No 6 (Amenity) of SEPP 65 in respect to the proposed built form, siting, design and setbacks for the building. The building height and reduced setbacks create a visually dominating built form with a poor interface between the properties to the south and west of the site. The bulk, scale and proposed mass of the building will create a poor planning and urban design response for this site.
11. The proposed development fails to satisfy the provisions of Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, in that the proposed development fails to satisfy the Apartment Design Guide (ADG) building separation "design criteria" non-compliances on the ground floor and levels 1 – 5. The lack of separation along both side boundaries will create adverse amenity impacts, to adjoining properties and the lack of compliant separation distances in this case will not satisfy the objectives of the ADG which aim to achieve to an "equitable" distribution of separation between properties. The proposed design falls short of achieving the intentions and purpose of the ADG as the proposed setbacks are considered to be insufficient and the building will be an extremely large, imposing mass and form.

12. The proposed development fails to satisfy the provisions of Section 4.15 (1)(e) of the Environmental Planning and Assessment Act 1979 in that the proposed development in its current form will through its scale, bulk and mass of the building is considered to be an overdevelopment of the site and will establish an undesirable precedent in the area and will not be in the public interest.
13. The proposed development fails to satisfy the provisions of Section 4.15 (1)(e) of the Environmental Planning and Assessment Act 1979 in that the proposed built form and the additional scale of the building will be out of character with existing and recently approved developments and does not reflect the desired future character for development in the street. The transition and interface of the building to the lower scale residential developments to the west and south of the site is considered to be unacceptable and unsympathetic with the form of these neighbouring properties.

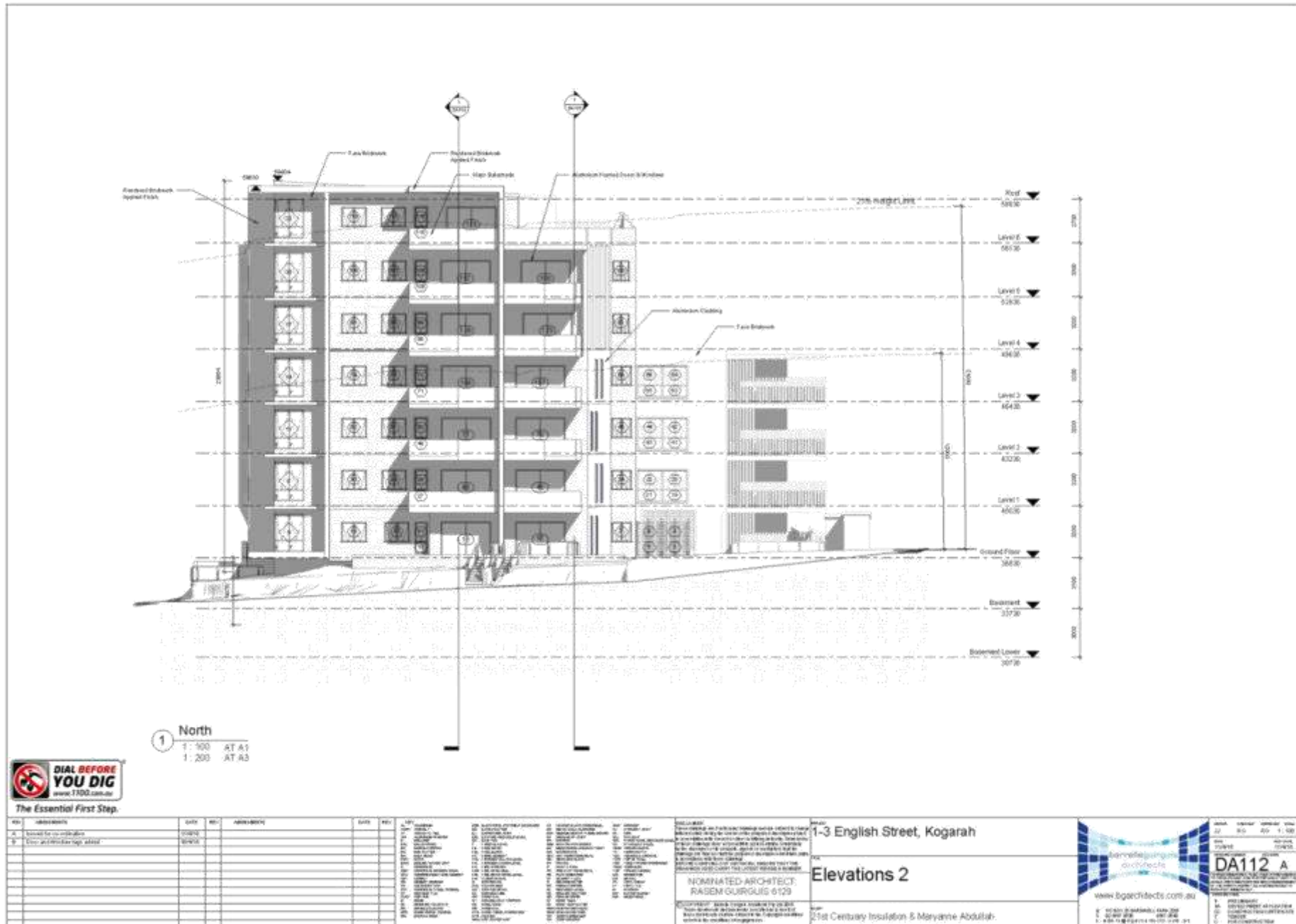
ATTACHMENTS

- Attachment [↓](#) 1 Site Plan - 1-3 English St Kogarah
Attachment [↓](#) 2 East and West Elevations - 1-3 English St Kogarah
Attachment [↓](#) 3 South Elevation - 1-3 English St Kogarah
Attachment [↓](#) 4 North Elevation - 1-3 English St Kogarah









**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF TUESDAY, 17 DECEMBER 2019**

LPP064-19

LPP Report No	LPP064-19	Development Application No	MOD2019/0097
Site Address & Ward Locality	Lot 23, 23 Bay Road Oatley Peakhurst Ward		
Proposed Development	Modification of consent number DA2017/0198 – Modification involves a new driveway, an additional room on the top level, amended floor to floor height within the approved building height, amend roof layout and replace external materials		
Owners	M and Z Moussa		
Applicant	M Moussa		
Planner/Architect	Planner – DA Plus Planner Architect – Ghazi Al Ali		
Date Of Lodgement	12/06/2019		
Submissions	Nil		
Cost of Works	Nil		
Local Planning Panel Criteria	The application is seeking a Section 4.55(2) modification of an application approved by the Panel.		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment, State Environmental Planning Policy No.55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, Draft Environmental State Environmental Planning Policy, Draft State Environmental Planning Policy – Remediation of Land, Kogarah Local Environmental Plan 2012, Kogarah Development Control Plan 2013		
List all documents submitted with this report for the Panel's consideration	Architectural Plans		
Report prepared by	Independent Assessment		

Recommendation	That the application be approved in accordance with the conditions included in the report.
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Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards	

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	Yes - the amended conditions will be available when the report is published

Site Plan



The subject site is highlighted in blue



The Lot the subject of the new crossing and driveway access is highlighted in blue.

Executive Summary Proposal

1. The modification application (DA) seeks to amend the consent granted for the demolition of all existing structures on site and the construction of two (2)/three (3) storey dwelling house and associated site works. This application is seeking to add an additional room to level 2, reworking of the floor plates on each level, amended materials and finishes, the removal of Tree 36, relocation of a Council stormwater pit amend the access arrangements, installation of a new driveway including the removal of a rock outcrop and level changes in the public domain together with amending associated conditions of consent relating to the dwelling being constructed on Lot 23.

Site and Locality

2. The site is legally identified as Lot 23 Section 10 DP 3230 and commonly known at 23 Bay Road, Oatley. The site is a rectangular shaped allotment having a width / frontage to Bay Road of 12.19m and depth of 40.235m, yielding a total site area of 490.5sqm. With respect to topography a cross-fall from the rear boundary towards the front boundary / street frontage of approximately 6m is noted.
3. The site contains significant vegetation which is also located forward in the Council verge and is also identified as being Bushfire Prone Land. In respect to surrounding development, to the north, on the opposite side of Bay Road is Lime Kiln Bay Reserve. Dwellings houses adjoin the east, south and west boundaries of the site.
4. Construction activity associated with the original consent (DA2017/0198), approved on 24 October 2018 is occurring on site as demonstrated in figures 2 and 3 below.

Zoning and Permissibility

5. The subject site is zoned R2 Low Density Residential under the provisions of the Hurstville Local Environmental Plan 2012 (HLEP2012). The proposal involves alterations and additions to an approved dwelling house, which is permissible with consent in the zone.



Figure 1: Zoning Map with the site outlined in blue

Submissions

6. The DA was notified to adjoining properties in accordance with the Hurstville Development Control Plan 2013 (DCP2013) for a statutory notification period of 14 days. No submissions were received.

Conclusion

7. The application has been assessed having regard to the Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans. The proposed built form relating to an additional room to level 2, reworking of the floor plates on each level, amended materials and finishes, the removal of Tree 36, relocation of a Council stormwater pit amend the access arrangements, installation of a new driveway including the removal of a rock outcrop and level changes in the public domain together with amending associated conditions of consent is recommended for approval subject to amended and additional conditions of consent.

Report in Full

DESCRIPTION OF THE PROPOSAL

8. The modification application (MOD2019/0097) is submitted under the provisions of Section 4.55(2) and Section 4.15 Environmental Planning and Assessment Act 1979 seek amendments to the approved plans as outlined below:

- Provision of a driveway and direct vehicular access from the Bay Road frontage of Lot 23 in lieu of the approved scheme that incorporated a common driveway / right of way access over the adjoining site to the east (Lot 22);
- Alterations to the internal floor plan and external openings as follows:
Garage Level - Removal of bathroom, provision of a groceries lift to ground floor kitchen and reconfiguration of internal stair access;
Ground Floor - Size of living and dining room reduced, fireplace removed and floor to ceiling height increased by 200mm to 3.2m. Two (2) window openings are also incorporated to the east and west side elevations of the living room;
Level 01 - Enlargement of WIR to Master bed and relocation Bed 2 built in robe;
Level 02 - Front external wall relocated forward by 3.7m to create additional bedroom and separate study to align with adjoining dwelling (Lot 22). Lounge replaced with laundry and 200mm reduction in floor to ceiling height to 2.8m. Openings to the front and rear elevation are amended and originally approved forward balcony subsequently reduced in size.
- Materials and finishes are amended with feature elements to external wall elevations, being cladding replaced with cement render with horizontal scoring and western cedar clad replaced with Cemintel Territory (Woodlands Teak Cladding). A light grey coloured metal garage door is also to be utilised.
- Design changes require the relocation of a stormwater pit, removal of one (1) street tree (T36) and saw cutting to a large rock outcrop within the road reserve and level changes to the public domain.

DESCRIPTION OF THE SITE AND LOCALITY

9. The site is legally identified as Lot 23 Section 10 DP 3230 and commonly known at 23 Bay Road, Oatley. The site is a rectangular shaped allotment having a width / frontage to Bay Road of 12.19m and depth of 40.235m, yielding a total site area of 490.5sqm. With respect to topography a cross-fall from the rear boundary towards the front boundary / street frontage of approximately 6m is noted.
10. The site contains significant vegetation which is also located forward in the Council verge and is also identified as being Bushfire Prone Land. In respect to surrounding development, to the north, on the opposite side of Bay Road is Lime Kiln Bay Reserve. Dwellings houses adjoin the east, south and west boundaries of the site.
11. Construction activity associated with the original consent (DA2017/0198), approved on 24 October 2018 is occurring on site as demonstrated in figures 2 and 3 below.



Figure 2: Street frontage of the site



Figure 3: Construction activity on site

Background

12. On 24 October 2018 the Georges River Local Planning Panel granted development consent for the demolition of the existing development on site and the construction of two (2) three (3) storey dwelling houses and associated site works.
13. The approval saw a common driveway access to service both dwellings (Lot 22 and Lot 23) with easements for access, this application seeks to remove the common driveway and provide individual access points.

COMPLIANCE AND ASSESSMENT

14. The development has been inspected and assessed under the Section 4.55(2) 'Matters for Consideration' of the Environmental Planning and Assessment Act 1979.

ENVIRONMENTAL PLANNING INSTRUMENTS

Section 4.55(2) Modification under Environmental Planning & Assessment Act, 1979

15. The proposal has been considered against relevant statutory provisions of Section 4.55(2) as follows;

(2) **Other Modifications**

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
16. Comment: Applications under section 4.55 of the Act cannot be granted if the modified development is not substantially the same as that which consent was originally granted. In this regard, the modification should not be so substantial as to cause the application to lose its original identity.
17. The application relates primarily to reconfiguration of the driveway access with minor amendments to approved floor plans and external openings. The building envelope remains largely consistent with that approved and thus in essence the proposal is considered to remain 'substantially the same' with modifications not resulting in it losing its original identity.
- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
18. Comment: The application was referred to the NSW Rural Fire Service (RFS) in accordance with requirements of Part 4.14 of the Environmental Planning and Assessment Act 1979. The RFS provided correspondence dated 26 August 2019 and raised no objection to the proposed development subject to the imposition of amended conditions (incorporated within recommendation of this report).
- (c) *it has notified the application in accordance with:*
- (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*
19. Comment: In accordance with the provisions of Councils Public Notification process, the application was placed on neighbour notification for 14 days between 24 June 2019 and 8 July 2019. During this time no submissions were received by Council.

State Environmental Planning Policies

20. Compliance with the relevant state environmental planning policies is summarised in the table, and discussed in more detail below.

Table 1: State Environmental Planning Policy

State Environmental Planning Policy	Complies
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	Yes
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes
State Environmental Planning Policy No 55 - Remediation of Land	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes
State Environmental Planning Policy (Infrastructure) 2007	Yes

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

21. The main aims and objectives of this plan are (not limited to);

- *to maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment;*
- *to protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an ecologically sustainable manner;*
- *to ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries; and*
- *to establish a consistent and coordinated approach to environmental planning and assessment for land along the Georges River and its tributaries and to promote integrated catchment management policies and programs in the planning and management of the Catchment.*

The proposed system and method of stormwater disposal to the newly relocated kerb inlet pit within Bay Road.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

22. A BASIX Certificate has been issued for the proposed development. The BASIX Certificate No.832120S_03 is dated 27 May 2019 and the proposal meets the minimum provisions and requirements of BASIX in terms of water, thermal comfort and Energy efficiency. The conditions of consent will be amended to reflect the revised BASIX certificate.

State Environmental Planning Policy No 55 - Remediation of Land

23. SEPP 55 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment.

24. Clause 7 requires contamination and remediation to be considered in determining a development application. The consent authority must not consent to the carrying out of development on land unless it has considered whether or not the land is contaminated.
25. The site has been used for residential purposes, it is considered the possibility for contamination referred to in SEPP 55 being located on site is minimal as a result the development is considered to meet with criterion of SEPP55.

State Environmental Planning Policy (Infrastructure) 2007

26. The aim of the Policy is to facilitate the effective delivery of infrastructure across the State. The Policy also examines and ensures that the acoustic performance of buildings adjoining the rail corridor or busy arterial roads is acceptable and internal amenity within apartments is reasonable given the impacts of adjoining infrastructure.
27. This being a residential street the application does not trigger the need for any conditions relating to this SEPP.

Draft Remediation of Land SEPP

28. The Department of Planning and Environment has announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No 55 — Remediation of Land.
29. The main changes proposed to this SEPP include the expansion of categories of remediation work which requires development consent, a greater involvement of principal certifying authorities particularly in relation to remediation works that can be carried out without development consent, more comprehensive guidelines for Councils and certifiers and the clarification of the contamination information to be included on Section 149 Planning Certificates.
30. Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land. The Draft SEPP will not alter or affect the findings in respect to low probability of contamination on the site.

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

31. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
32. The Vegetation SEPP applies to clearing of:
 - (a) *Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and*
 - (b) *Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP).*
33. The Vegetation SEPP repeals clause 5.9 and 5.9AA of the Standard Instrument - Principal Local Environmental Plan with regulation of the clearing of vegetation (including native vegetation) below the BOS threshold through any applicable DCP.

34. The proposed development involves the removal of T36. The proposed tree to be removed is considered to be significant tree species. Council's Landscape Officer has reviewed the application and has recommended that the tree remain.
35. The design of the development to provide a driveway to access to Lot 23, T36 cannot be retained. The scheme has been reviewed to ascertain if a redesign would result in the retention of this tree. Given the site constraints a redesign cannot be achieved.
36. Whilst it is desirable to retain the tree it is not possible in this design, the remaining trees within the vicinity of the proposed driveway will be retained and protected during construction in accordance with the imposed conditions of consent.
37. The application is therefore considered acceptable with the loss of T36 and condition for replanting.

Draft Environment SEPP

38. The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.
39. Changes proposed include consolidating the following seven existing SEPPs:
 - State Environmental Planning Policy No 19 – Bushland in Urban Areas
 - State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
 - State Environmental Planning Policy No 50 – Canal Estate Development
 - Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
 - Sydney Regional Environmental Plan No 20 – Hawkesbury-Nepean River (No 2-1997)
 - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
 - Willandra Lakes Regional Environmental Plan No 1 – World Heritage Property.

The proposal is consistent with the provisions of this Draft Instrument.

Any Other Matters Prescribed By The Regulations

40. The Regulations prescribe the following matters for consideration for development in the Hurstville Council area:

Planning for Bushfire Protection 2006

41. A bushfire risk assessment accompanied the subject application. Referral was provided to the NSW Rural Fire Service who raised no objections subject to amended conditions (incorporated within recommendation of this report).

Section 4.15 Assessment

An assessment of the application with regard to the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 is provided as follows.

(a)(i) any environmental planning instrument,

Environmental Planning Instruments

Hurstville Local Environmental Plan 2012 (HLEP)

Zoning

42. The subject site is zoned R2 Low Density Residential under the provisions of the Hurstville Local Environmental Plan 2012 (HLEP). Refer to zoning map (Figure 1) above. The proposed development is alterations and additions to an approved dwelling house which is a permissible land use in the zone and satisfy the objectives referenced below:
- *To provide for the housing needs of the community within a low density residential environment.*
 - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
 - *To encourage development of sites for a range of housing types, where such development does not compromise the amenity of the surrounding area, or the natural or cultural heritage of the area.*
 - *To ensure that a high level of residential amenity is achieved and maintained.*
 - *To encourage greater visual amenity through maintaining and enhancing landscaping as a major element in the residential environment.*
 - *To provide for a range of home business activities where such activities are not likely to adversely affect the surrounding residential amenity.*
43. The extent to which the proposal complies with the relevant standards of HLEP 2012 is outlined in the table below.

Table 2: Hurstville Local Environmental Plan 2012

Clause	Standard	Proposed	Complies
4.3 - Height of Buildings	9m as identified on Height of Buildings Map	Maximum approved building height (7.34m) is not altered.	Yes
4.4 - Floor Space Ratio	0.6:1 as identified on Floor Space Ratio Map	0.48:1	Yes
6.1 - Acid sulfate soils	Works within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5m Australian Height Datum and by which the watertable is likely to be lowered below 1m Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.	Site is located within 500m of adjacent class 2 and 5 land. As concluded in the original assessment report the extent of excavation dictates that an acid sulfate soils assessment is not necessary. The modified proposal remains consistent with this conclusion.	Yes
6.4 - Foreshore Scenic Protection Area	Subclause (3) provides that development consent must not be granted to development on land to which this clause applies unless the consent authority has	Site is within the Foreshore Scenic Protection Area.	Yes

	<p>considered how the development would-</p> <p><i>(a) affect the natural environment, including topography, rock formations, canopy vegetation or other significant vegetation, and</i></p> <p><i>(b) affect the visual environment, including the views to and from the Georges River, foreshore reserves, residential areas and public places, and</i></p> <p><i>(c) affect the environmental heritage of Hurstville, and</i></p> <p><i>(d) contribute to the scenic qualities of the residential areas and the Georges River by maintaining the dominance of landscape over built form.</i></p>	<p>Modified development seeks to remove one tree and approximately 1.5m of an existing rock outcrop to provide vehicular access to the site access. Noting the heavily vegetated context of the site and surrounds, removal of the subject tree is not unreasonable to facilitate the intended access. The component of rock to be removed represents only a minor component of its formation and will not compromise its significance or contribution to the area.</p> <p>Modified development will not compromise the visual environment, noting that an appropriate building envelope and form is retained as well as a landscaped setting.</p> <p>The site is not in the immediate vicinity of any heritage items or conservation areas.</p> <p>The modified development retains a building envelope consistent to that approved and subsequently maintains an appropriate scenic quality.</p>	
6.5 - Gross floor areas of dwellings in residential zones	Site Area ≤ 630sqm FSR 0.55 (GFA 269.5sqm)	FSR 0.48:1 (234.57sqm)	Yes
6.7 - Essential Services	The following services that are essential for the	Essential services available to the development. Proposed modifications	Yes

	<p>development shall be available or that adequate arrangements must be made available when required:</p> <ul style="list-style-type: none"> * Supply of water, electricity and disposal and management of sewerage * Stormwater drainage or on-site conservation * Suitable vehicular access 	<p>seek to provide more effective vehicular access with a direct access point / driveway from Bay Road in lieu of the approved Right of Way configuration over Lot 22.</p> <p>The existing services available to the site can be extended to service this development.</p>	
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Development Control Plans

Hurstville Development Control Plan No 1 - LGA Wide

44. The proposal has been assessed against requirements of Section 4.4 of Council's Development Control Plan No 1 - LGA Wide as shown below. Non-compliant aspects of the proposal are discussed at the end of the table.

Section 4.4			
Control	Standard	Proposed	Complies
PC1 Neighbourhood Character	Development is sited and designed to respect existing neighbourhood and streetscape character.	The dwelling retains an appropriate siting and design.	Yes
PC2 Building Height	Maximum building height is in accordance with the LEP.	The modified proposal complies with 9m height control of HLEP 2012 (8.6m).	Yes
	Maximum ceiling height is 7.2m above the existing ground level vertically below that point.	Upper level addition results in a corresponding wall height of 6m (east) and 6.7m (west).	Yes
	Maximum height to the top of the parapet is 7.8m above existing ground level vertically below.	Maximum parapet height is not altered from that approved. The changes in levels of the building did not result in the need for the parapet height to be altered.	Yes
	For steep or sloping	Development appropriately	Yes

	sites, the building is sited and designed to be staggered or stepped into the natural slope of the land.	stepped to reflect the natural topography of the site.	
PC3 Setbacks	<u>Front Setback</u> Minimum setback from the primary street boundary is: 4.5m to main building face 5.5m to front wall of the garage OR Within 20% of the average setback of dwellings on adjoining lots	9m (as approved)	Yes
	<u>Side Setbacks</u> 900mm (ground floor) FSPA	Min 1.76m (east) as approved.	Yes
	1.5m (first floor) FSPA	Min 2m (west) as approved	Yes
	<u>Rear Setback</u> 6m	10.252m (as approved)	Yes
PC4 Facades	The dwelling house has a front door or window to a habitable room facing the primary street frontage.	Windows to habitable rooms and balconies are retained to the primary street frontage.	Yes
	The dwelling house incorporates design elements.	Suitable design elements and architectural quality retained.	Yes
	Garage doors not wider than 6m	5.8m	Yes
PC5 Views	Development is sited and designed to facilitate view sharing	The development as modified is not foreseen to result in any adverse view loss impacts.	Yes
PC6 Solar access	Development allows for at least 3 hours of sunlight on the windows of main living areas and adjoining principal	The solar access remains largely unchanged result in in excess of 3 hours being provided.	Yes

	private open space of adjacent dwellings between 9.00am and 3.00pm on 21 June		
PC7 Visual privacy	<p>Windows of proposed dwelling must be offset from neighbouring windows by 1m, especially windows of high-use rooms.</p> <p>Windows for primary living rooms must be designed so that they maintain privacy of adjoining site's principal private open space.</p>	<p>Two windows are introduced to the side elevations of the ground floor living room and both provided with 1.5m sill heights which mitigates overlooking.</p> <p>Complies</p>	<p>Yes</p> <p>Yes</p>
PC8 Noise	Noise generators such as plant and machinery including air conditioning units and pool pumps are located away from windows or other openings of habitable rooms and are screened to reduce noise or acoustically enclosed.	Standard conditions of consent relating to noise retained.	Yes
PC9 Vehicle access, parking and manoeuvring	<p>Min. 2 spaces for 3 bed or more</p> <p>Enclosed or roofed car accommodation, including garages and carports, are located at least 1m behind the main setback.</p> <p>Driveway gradients must be constructed in accordance with Australian Standard 2890.1(2004).</p>	<p>2 spaces provided</p> <p>Garage alignment remains consistent with that approved.</p> <p>Design appears to be capable of achieving compliance (conditions are imposed).</p>	<p>Yes</p> <p>Acceptable</p> <p>Yes</p>
PC10 Landscaped Areas (min. width 2m)	25% of the Site Area (122sqm in this case) FSPA	41.8% 41.78sqm	Yes Yes

Private Open Space	15sqm of landscaped area to be provided in the front yard Principal Private Open Space Min. dimension of 4m minimum area of 30sqm and directly accessible from a living area	Consistent with approved.	Acceptable
PC12 Basements	Basements do not protrude more than 1m above existing ground level at any point.	Basement footprint and elevation is not altered.	Yes
	Only one driveway access is permitted.	A single driveway access from Bay Road is proposed in lieu of approved right of way over Lot 22.	Yes
	Internal Floor to Ceiling min. 2.1m, max. 2.4m	Consistent with approved.	Acceptable
	> 1.5m excavation requires Geotechnical Report	Extent of excavation remains consistent with that approved, noting also that a Geotech report was referenced. The addition excavation proposed is to facilitate the driveway access to meet with the garage as constructed.	Acceptable
PC14 Balconies & Terraces	Direct access from a habitable room (at same floor level)	Complies	Yes
	Overlooking impacts can be minimized with use of privacy screens between 1.5m-1.8m.	Balconies to the front elevation of the dwelling are retained and do not necessitate screening. It is noted that modifications to the upper level (02) reduce the size of this balcony.	Yes
	Terraces must not be visible from the street	As concluded within the initial assessment report the terraces provide a modulated building, adding	Acceptable

		architectural merit and takes advantage of the outlook available from the subject site.	
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DEVELOPER CONTRIBUTIONS

45. The applicant has detailed the amendments proposed do not result in the change in the cost of works as the development is currently under construction and will be built into the construction. As a result there is no change to the levied contributions.

IMPACTS

Natural Environment

46. In respect to vehicular access, the approved development requires an easement to be granted for a right of access way over Lot 22. The Applicant has identified that the driveway is convoluted, requires additional vehicle manoeuvring and poses a safety risk to the future residents of Lots 22 and 23 due to lack of sight lines. Upon review of approved plans this conclusion is considered accurate, noting particularly that if the garage of the subject site were occupied, subsequent vehicles would be required to reverse back out, and across Lot 22.
47. The proposed modification subsequently seeks to introduce direct vehicular access to the site from Bay Road frontage. The proposed driveway requires removal of one street tree which is a mature Blackbutt (*Eucalyptus pilularis*) identified as T36.

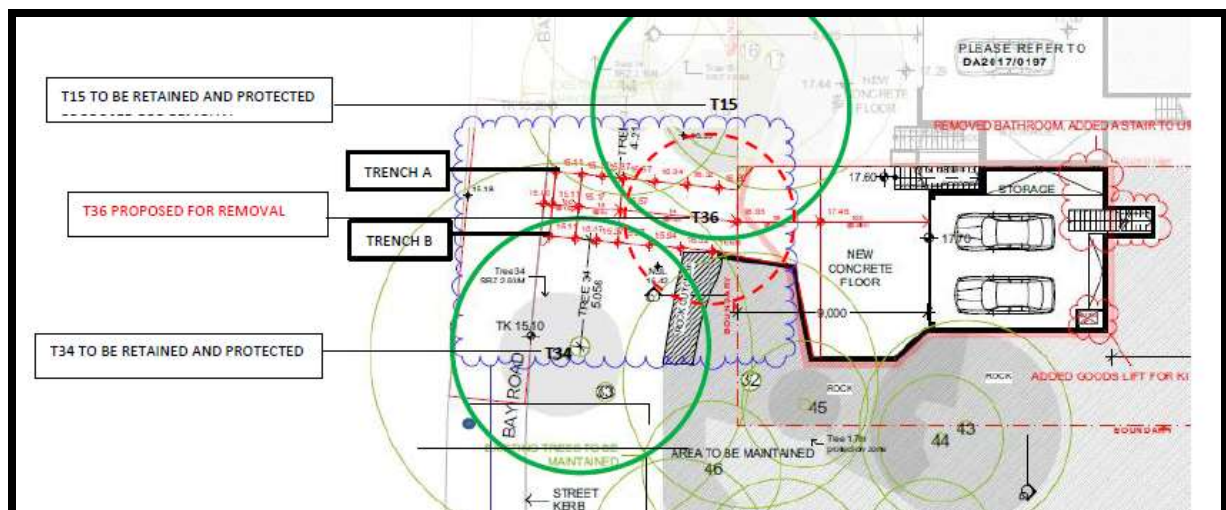


Figure 4: Tree / Trench Location Plan (Source: Root Mapping Investigation Report - NSW Tree Services)

48. A Root Mapping Investigation prepared by NSW Tree Services has been submitted to identify the impact of the proposed driveway. Council's Arborist has reviewed the report and identified that T36 is of good condition and thus does not support removal with TPZ incursions to T15 and T34 also noted.
49. From a planning perspective, direct vehicular access to the site is considered to be both warranted and reasonable in this instance and whilst removal of the subject tree is not desirable it is accepted. The heavily vegetated site context is noted, and thus despite removal, a landscaped setting is retained, noting also Condition 49 of the consent which required plantation of three advanced native species capable of reaching a mature height of 9m. With respect to abovementioned incursions to T15 and T34, tree protection measures identified in Part 6 of the Root Mapping Investigation which relate to

construction and post development care are noted and have been referenced within the recommendation of this report.

50. Lastly, a component of the rock outcrop within the street verge forward of the site requires removal to facilitate the required driveway width. As the component of rock to be removed / saw cut is limited to approximately 1.5m, representing a small component of its overall formation and contained to the narrower eastern extremity, its significance and subsequent contribution to the area will not be unduly compromised.

Built Environment

51. The proposed development as modified would not result in any adverse impacts upon the built environment, noting reasons discussed throughout this report.

Social and Economic Impact

52. The proposed development would not result in any adverse social and/or economic impacts within the locality.

Suitability of the site

53. Having regard to the assessment contained within this report, the site is considered to remain suitable for the intended development.

SUBMISSIONS AND THE PUBLIC INTEREST

54. In accordance with the provisions of Council's Public Notification process, the application was placed on neighbour notification for 14 days between 24 June 2019 and 8 July 2019. During this time no submissions were received by Council.

REFERRALS

Council Referrals

Development Engineer

55. The application was referred to Council's Development Engineer. No objections were raised subject to the provision of conditions which are incorporated.

Traffic Engineer

56. The application was referred to Council's Traffic Engineer for comment. No concerns were raised with the design

Consultant Arborist

57. The application was referred to Council's Consultant Arborist for review. In principle objection was raised to the removal of tree 36 that is located within the Council verge with the TPZ incursions to T15 and T34 also noted. Further discussion has been provided within this report with respect to the tree removal.

Assets and Infrastructure Engineer

58. The application was referred to Council's Assets and Infrastructure Engineer. No objection was raised subject to the provision of conditions which related to gradient detail of the proposed driveway, stormwater pit relocation and the proposed retaining walls within the road reserve (incorporated within recommendation of this report).

External Referrals

Rural Fire Service (RFS)

59. The application was referred to the NSW Rural Fire Service (RFS) in accordance with requirements of Part 4.14 of the Environmental Planning and Assessment Act 1979. The

RFS raised provided correspondence dated 26 August 2019 and raised no concerns to the proposed development subject to the imposition of conditions. Those conditions have been incorporated into the recommendation.

Ausgrid

60. The application was referred to Ausgrid on 19 June 2019, not response has been received at the time of writing this report (9 December 2019), concurrence can therefore be assumed.

CONCLUSION

The application has been assessed having regard to Section 4.55(2) and Section 4.15 of the Environmental Planning and Assessment Act 1979, and provisions of Hurstville Local Environmental Plan 2012 and Development Control Plan.

The proposal has been considered on its merits and is considered to be acceptable for the reasons outlined within this report. The proposal is reasonable given that the objectives of the controls have been reasonably satisfied.

61. Following detailed assessment contained within this report, it is considered that MOD2019/0097 should be approved subject to modified conditions of consent.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

62. The reasons for this recommendation are:
- The proposed development complies with the requirements of the relevant environmental planning instruments and development control plan;
 - The proposal has been designed to generally satisfy the key provisions of the control relating to the environmental amenity and landscape setting design even though T36 is recommenced for removal.
 - The proposed modifications to the approved plans are moderate in nature; however they do not result in any unreasonable impact on the natural and built environment.
 - The proposal aims to provide a high-quality dwelling that is consistent with the character of the locality.

Determination

63. That the Georges River Council Local Planning Panel, as the consent authority, pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act, 1979, grant approval to the requested modifications (MOD2019/0097) seeking to add an additional room to level 2, reworking of the floor plates on each level, amended materials and finishes, the removal of Tree 36, relocation of a Council stormwater pit amend the access arrangements, installation of a new driveway including the removal of a rock outcrop and level changes in the public domain together with amending associated conditions of consent to Development Consent DA2017/0198 dated 24 October 2018 for demolition of existing and construction of a two/three storey dwelling at Lot 23 Section 10 DP 3230 and known as 23 Bay Road, Oatley, subject to the consent being modified as follows:

1. **Conditions to be modified are as follows:**
Conditions 1, 10, 20, 22, 23, 33, 34, 35, 36, 38, 44, 46, 49, 51 and 52.
2. **Conditions to be deleted are as follows:**
Conditions 5, 6 and 7.
3. **Conditions added are as follows:**
Conditions 17A and 23A.

Schedule A – Site Specific Conditions

Section A 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 Plan	A1110	20/12/17 04.03.19	B D	Ghazi Al Ali Architects
Street Level	A1201	03/07/18 04.02.19 04.11.10	G D E	Ghazi Al Ali Architects
Ground & Level 01	A1202	03/07/18 04.02.19 04.11.19	G D E	Ghazi Al Ali Architects
Level 02 & Roof	A1203	03/07/18 04.02.19 04.11.19	C D E	Ghazi Al Ali Architects
Elevations	A1301	03/07/18 04.02.19 04.11.19	G D E	Ghazi Al Ali Architects
Elevations	A1302	03/07/18 04.02.19 04.11.19	G D E	Ghazi Al Ali Architects
Sections	A1401	03/07/18 04.02.19 04.11.19	G D E	Ghazi Al Ali Architects
Material Schedule	A2201	03/07/18 04.02.19 04.03.19	G D D	Ghazi Al Ali Architects
Material Schedule	A2202	03/07/18 04.02.19 04.03.19	C D D	Ghazi Al Ali Architects
Landscape Plans	LPDA 17 – 355/1 LPDA 17 – 355/2 LPDA 1/ - 355/3	27/3/18	B	Conzept
Stormwater Concept	SW200, SW201, SW202, SW203, SW300 and SW400 20170131 SW101 issue C SW200 issue C SW201 issue C SW202 issue C SW203 issue C SW204 issue C SW300 issue C	22/6/17 15.11.19	A C	SGC SGC Consulting Engineers

	SW400 issue C			
Root Mapping Report	RMR-GAA(O)-U11/19	14.11.19		NSW Tree Services Pty Ltd
Public Domain Works	20170131 Cover page C201 revision 02 C301 revision 02	03.12.19		SGC Consulting Engineers

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(This condition is amended as part of MOD2019/0097 (MOD2019/0096) (DA2017/0198))

Section B Separate Approvals Required Under Other Legislation

4. **Section 138 Roads Act 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.

A separate approval is required to be lodged and approved 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):

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;
- (g) Constructing a vehicular crossing or footpath;
- (h) Establishing a “works zone”;
- (i) Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of connections to utility providers);
- (j) Stormwater and ancillary works in the road reserve; and
- (k) Stormwater and ancillary to public infrastructure on private land

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 Georges River Council’s website at: www.georgesriver.nsw.gov.au

For further information, please contact Council’s Customer Service Centre on (02) 9330 6400.

5. **Engineering - Road Opening Permit** - A Road Opening Permit must be obtained from Council, in the case of local or regional roads, or from the Roads and Maritime Services, 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.

Section C Requirements of Concurrence, Integrated & Other Government Authorities

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

Section D Prior to the Issue of a Construction Certificate

7. ~~**Easement and Right of Way**—An easement to drain water 1m wide and a Right of Way minimum 3.5m wide burdening Lot 22 in favour of Lot 23 shall be created and registered with LPI NSW.~~

~~Written documents and evidence of the creation of the registered easement and Right of Way shall be submitted to Council before the issue of a Construction Certificate.~~

~~(This condition is deleted as part of MOD2019/0097 (MOD2019/0096) (DA2017/0198))~~

8. ~~**Easement for Services**—An easement for services minimum 1m wide burdening Lot 22 in favour of Lot 23 shall be created and registered with LPI NSW.~~

~~Written documents and evidence of the creation of the registered easement and Right of Way shall be submitted to Council before the issue of a Construction Certificate.~~

~~(This condition is deleted as part of MOD2019/0097 (MOD2019/0096) (DA2017/0198))~~

9. ~~**Amended Stormwater Plan**—An amended detailed stormwater plan showing an inter allotment drainage easement burdening Lot 22 in favour of Lot 23 in order to drain Lot 23 via gravity to the street shall be submitted to Council before the issue of a Construction Certificate.~~

~~(This condition is deleted as part of MOD2019/0097 (MOD2019/0096) (DA2017/0198))~~

10. **Section 4.14 Bushfire Risk Assessment Certificate** - All bushfire measures as recommended in the Bushfire Hazard Assessment, prepare by Barry Eadie Consulting Pty Ltd dated 18 April 2019 version A, except where amended by the conditions of this consent ~~Bushfire Risk Assessment Report No.171096B, prepared by Building Code & Bushfire Hazard Solutions Pty Limited and dated 7 February 2018, and in the Bushfire Risk Assessment Certificate approved by Building Code & Bushfire Hazard Solutions (Certification No. BPAD9400)~~, must be implemented and the details of bushfire safety measures must be submitted with the Construction Certificate application.

(This condition is amended as part of MOD2019/0096 (DA2017/0198))

11. **Bushfire Attack Level** - The proposed development is to fully comply with all requirements applicable to a Bush Fire Attack Level (BAL) of FZ 40 (Northern, Eastern and Western Elevations) and 29 (Southern Elevation). With regard to the construction

requirements both Addendum: Appendix 3 Planning for Bush Fire Protection 2006, and AS3959 -2009 Construction of Buildings in Bush Fire prone areas shall be referenced. Full details of proposed method of compliance are to be submitted with the Construction Certificate application.

- a. At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within Section 4.1.3 and Appendix 5 of 'Planning for Bushfire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
- b. Water, electricity and gas are to comply with Section 4.1.3 of 'Planning for Bushfire Protection 2006'.
- c. New construction, other than the southern elevation, shall comply with Section 3 and 8 (BAL40) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bushfire Protection 2006'.
- d. New construction, to the southern elevation, shall comply with Section 3 and 7 and (BAL29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bushfire Protection 2006'.
- e. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bushfire Protection 2006'.

(This condition is amended as part of MOD2019/0096 (DA2017/0198))

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

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

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$1,900.00
Inspection Fee for Refund of Damage Deposit	\$155.00
Street Tree Removal – Replacement Street Tree Fee	\$452.00
DEVELOPMENT CONTRIBUTIONS	
Georges River Council Section 94A Development Contributions Plan 2017	\$7,491.57

A Tree Preservation and Protection Bond shall be implemented as per Georges River Councils Assets & Infrastructure Tree Management 1.11.

- Minimum Fee per tree > 5m in height (per application) \$633.50

The tree/s with a Tree Preservation and Protection Bond are listed in the table below.

Tree Species	Location of Tree / Tree No.	Tree Preservation and Protection Bond
<i>Eucalyptus pilularis</i>	Council street tree /T33	\$633.50
<i>Eucalyptus pilularis</i>	Council street tree /T34	\$633.50
<i>Angophora sp</i>	Council street tree /T35	\$633.50
<i>Eucalyptus pilularis</i>	Council street tree /T36	\$633.50
Total		\$2,534.00

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.

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.

(This condition is amended as part of MOD2019/0097 (MOD2019/0096) (DA2017/0198))

13. **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.
14. **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.

15. **Pre-Construction Dilapidation Report - Private Land** - A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises including but not limited to:

- (a) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.

The report shall be prepared at the expense of the applicant and submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

A copy of the pre-construction dilapidation report is to be provided to the adjoining properties (subject of the dilapidation report), a minimum of 5 working days prior to the commencement of work. Evidence confirming that a copy of the pre-construction dilapidation report was delivered to the adjoining properties must be provided to the PCA. Should the owners of properties (or their agents) refuse access to carry out inspections, after being given reasonable written notice, this shall be reported to Council to obtain Council's agreement to complete the report without access. Reasonable notice is a request for access in no sooner than 14 days between 8.00am-6.00pm.

16. **Damage Deposit - Minor 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: **\$1,900.00**

- (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 photographic record 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 inspect the public works, and the damage deposit will be refunded in full upon completion of work where no damage occurs. Otherwise the amount will be either forfeited or partly refunded according to the amount of damage.

17. **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.

- 17A. **Driveway Crossing - Minor Development** - Constructing a driveway crossing and/or footpath requires a separate approval under Section 138 of the [Roads Act 1993](#) prior to the commencement of those works.

To apply for approval, complete the 'Application for Driveway Crossing and Associated Works on Council Road Reserve issued under Section 138 Roads Act' which can be downloaded from Georges River Council's website at www.georgesriver.nsw.gov.au. Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Section P1 and P2, in Council's adopted Fees and Charges for the administrative and inspection charges associated with driveway crossing applications.

An approval for a new or modified vehicular crossing will contain the approved access and/or alignment levels which will be required to construct the crossing and/or footpath. Once approved, all work shall be carried out in accordance with Council's specifications applicable at the time, prior to the issue of an Occupation Certificate.

The design boundary level is to be received from Council prior to construction of the internal driveway.

- a) **Driveway Detail** - The applicant is to submit as part of the application the profile (longitudinal section) demonstrating/reinforcing the access clearance by the B85 Design Vehicle (85% percentile vehicle in accordance with AS2890.1:2004).

This profile (scale 1:20) is to show levels and grades from road centreline to the 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 (1.95m from property Boundary), back of path (0.45m away from property boundary) and boundary. Additional profiles are to be provided on either side of driveway when longitudinal grade of road exceeds 8%. Profiles provided are to also include the natural surface of the land as well as the proposed design including cut and fill dimensions.

All turf areas adjacent to the driveway works are to be re-graded topsoiled and turfed to Council specifications and to suit design levels, the applicant is to show the extents of the nature strip re-grading either side of the driveway, the grade is not to exceed 16.5%.

The profile will cross check the driveway levels and grades meet the garage levels of the dwelling. The driveway is to be designed so as not to increase stormwater runoff from the street entering the property.

All nearby services within the public domain are to be accurately located on the plans. It is to be noted that the cost of any service relocation is to be borne by the applicant. Should the work to the public domain result in any impacts on the trees to be protected beyond those assessed as part of the Development Application the Arborist is to be consulted and Council's Consultant Arborist advised.

- b) **Stormwater Pit Relocation** - The applicant is to provide detailed stormwater plans which show the stormwater pit and lintel to be relocated at least 0.3m(MIN) outside

the wings of the driveway. The plan is to show all relevant pipes and chambers that may be affected by the pit reconstruction and driveway construction; all costs associated with these works are to be borne by the applicant and are subject to approval from Council's drainage engineers. Approval for the relocation of the stormwater pit must be obtained prior to the issue of the construction certificate.

- c) **Vehicular crossing - Minor development** - The vehicular crossing 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.

- d) **Proposed Retaining Walls on Council's Road Reserve:** Prior to Council's approval the applicants will be required to submit a structural design for any retaining walls to be located within Council's Road reserve.

The provision of retaining walls maybe restricted due to the presence of utility services, street trees, driveways, and kerb and path alignment. Approval is subject to the following requirements,

- Plan and sections 1:20 to be lodged showing construction method and constraints to works.
- Structural design to be provided and certified by a practicing structural engineer.
- Materials for construction to be indicated on plan
- All nearby services are to be accurately located on plans
- Hand railing to be provided in accordance with Building Code of Australia.
- Certification must be provided from a practising structural engineer that the walls comply with Australian Standards, and are structurally adequate.
- The design proposed must take into account pedestrian movements along the frontage of property and site distance requirements exiting the property.
- The design is to comply with **AS2890.1:2004 3.2.4. 'Sight distance at access driveway exits'**
- The design will be assessed by council and additional conditions **may** be provided.
- Upon completion of approved works, the property owner will be required to furnish proof of Certifications from a practising structural engineer that the walls comply with Australian Standards, and the new works are structurally adequate.
- Any retaining walls greater than 1.0 m in height will require a 1.0m high fence.
- The Owner must enter into a **positive covenant** with Council so that any liability arising from the structure on Council land will be their legal responsibility. Draft terms of Positive covenant for encroaching structures are below;

Council requires a positive covenant to be prepared and registered at the property owners expense on the title of the property that complies with the following terms:

TERMS OF POSITIVE COVENANT FOR THE ENCROACHMENT STRUCTURES ON COUNCIL'S ROAD RESERVE OR PROPERTY UNDER THE CARE AND CONTROL OF COUNCIL.

- a) *The registered proprietor shall, at their expense, cause the appropriate document reflecting the covenant to be registered with either: The General Registry of Deeds, or, NSW Lands and Property Information (using the correct & prescribed Form). If the latter, then Land Title Dealing Forms can be found at; http://rgdirections.lpi.nsw.gov.au/land_title_dealing_forms#P*
- b) *The registered proprietor shall, in respect to the encroaching structures including stairs, fencing, paving and associated retaining structures erected in Council's road reserve (the burdened land):*
 - (i) *Ensure that the encroaching structures are maintained to avoid injuries and ensure its structural stability is maintained;*
 - (ii) *Not make alteration or additions to the encroaching structures or parts thereof without the written consent of the Council;*
 - (iii) *Accept full responsibility for the maintenance, repair and restoration of the encroaching structures;*
 - (iv) *Replace, repair, alter and renew the whole or part of the encroaching structures, within the time and manner specified by a written notice issued by the Council.*
 - (v) *Carry out the matter referred to in paragraphs (i) to (iv) at the registered proprietor's expense.*
- c) *The registered proprietor indemnifies the Council and must at all times maintain and provide to the Council, evidence of public liability insurance (including liability for such indemnity) in the name of the registered proprietor and noting the Council's interest for twenty million dollars (\$20m) for any one claim or such other amount as reasonably required by Council from time to time against any action, claim or demand that may arise from the construction or use of the encroaching structures.*
- d) *In the event of the registered proprietor failing to comply with the terms of any written Notice served in respect to the matters in Clause (a), the Council or its authorised agents may enter with all necessary equipment and carry out any works required to ensure the safe operation of the encroaching structures and recover from the registered proprietor the costs of carrying out of the works, and if necessary, recover any amount due by legal proceedings (including any legal costs and fees) and entry of a Covenant charge on the land under Section 88f of the Conveyancing Act 1919.*
- e) *The Council is solely empowered to release, vary or modify the Positive Covenant.*
- f) *In this Covenant, "the Council" means Georges River Council.*

(This condition is added as part of MOD2019/0097 (MOD2019/0096) (DA2017/0198))

18. **Geotechnical report** - Geotechnical Reports: The applicant must submit a Geotechnical Report, prepared by a professional engineer specialising in geotechnical engineering who holds the relevant Certificate of accreditation as required under the Building Professionals Act 2005 in relation to dilapidation reports, all site works and construction. This is to be submitted before the issue of the Construction Certificate and is to include:
 - (a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks/stabilization works and any excavations.
 - (b) Dilapidation Reports on the adjoining properties including, but not limited to (address) and (address) prior to any excavation of site works. The Dilapidation Report is to include assessments on, but not limited to, the dwellings at those addresses and any external paths, grounds etc. This must be submitted to the PCA and the adjoining residents as part of the application for the Construction Certificate. Adjoining residents are to be provided with the report five (5) working days prior to any works on the site.
 - (c) On-site guidance by a vibration specialist during the early part of excavation.
 - (d) Measures to minimise vibration damage and loss of support to other buildings. Where possible any excavation into rock is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures.
 - (e) Sides of the excavation are to be pierced prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.
19. **Site Management Plan** - A Site Management Plan detailing all weather access control points, sedimentation controls, fencing, builder's site sheds office, amenities, materials storage and unloading arrangements must be submitted with the application for the Construction Certificate.
20. **Traffic Management - Compliance with AS2890** - All driveways, access ramps, vehicular crossings and car parking spaces shall be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities) and AS 2890.2 (for commercial vehicle facilities).
21. **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.
22. **Compliance with submitted Arborist Report** - The recommendations outlined in the Arborist's Report titled *Arboricultural Impact Assessment* (Report Reference: AIA - GAA (L23) 07/18) prepared by *NSW Tree Services Pty Ltd* dated 03 July 2018, must be implemented throughout the relevant stages of construction. Details of tree protection measures to be implemented must be detailed 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 tree/s to be protected are listed in the table below.

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres)
<i>Cupressus sempervirens</i>	Rear of property /T25	6.6m
<i>Cupressus sempervirens</i>	Rear of property /T26	3.6m
<i>Eucalyptus pilularis</i>	Front of property /T32	2.4m
<i>Eucalyptus pilularis</i>	Council street tree /T33	2.4m
<i>Eucalyptus pilularis</i>	Council street tree /T34	7.8m
<i>Angophora sp</i>	Council street tree /T35	2.0m
<i>Eucalyptus pilularis</i>	Council street tree /T36	7.44m
<i>Prunus sp</i>	Neighbouring tree /T37 (21 Bay Road)	2.0m
<i>Prunus sp</i>	Neighbouring tree /T38 (21 Bay Road)	2.16m
<i>Schefflera sp</i>	Neighbouring tree /T39 (Rear neighbouring tree in Lot 14 Park Avenue)	2.0m
<i>Syagrus romanzoffiana</i>	Neighbouring tree /T40 (Rear neighbouring tree in Lot 14 Park Avenue)	4.0m
<i>Eucalyptus pilularis</i>	Neighbouring tree /T43 (21 Bay Road – Tree partly owned by 23 Bay Road)	6.96m
<i>Eucalyptus pilularis</i>	Neighbouring tree /T44 (located on 21 Bay Road)	2.76m
<i>Eucalyptus pilularis</i>	Retain tree /T45	2.4m
<i>Eucalyptus pilularis</i>	Retain tree /T46 (Fronting 21 Bay Road)	8.4m

(This condition is amended as part of MOD2019/0097 (MOD2019/0096) (DA2017/0198))

23. **Landscape Plans** - All landscape works shall be carried out in accordance with the approved landscape plans. The landscaping shall be maintained in accordance with the approved plans in perpetuity.
- 23A. **Drainage Pipes** – The drainage from the development site associated with Lot 23 is to discharge into the relocated kerb inlet pit within Bay Road.

(This condition is added as part of MOD2019/0097 (MOD2019/0096) (DA2017/0198))

24. **Tree Removal & Replacement - Tree removal** - Permission is granted for the removal of the following trees:

Tree species	Number of trees	Location
<i>Eucalyptus pilularis</i>	T27	Front of property
<i>Eucalyptus pilularis</i>	T28	Front of property
<i>Jacaranda mimosifolia</i>	T29	Within the site
<i>Eucalyptus pilularis</i>	T30	Front of property
<i>Eucalyptus pilularis</i>	T31	Front of property

Eucalyptus pilularis**Council street tree T36****7.44m****General Tree Removal Requirements**

(a) All tree removal shall be carried out by a certified Tree Surgeon/Arborist to ensure that removal is undertaken in a safe manner and complies with the AS 4373-2007 - Pruning of Amenity Trees and Tree Works Industry Code of Practice (Work Cover NSW 1.8.98).

(b) No trees are to be removed on the site or neighbouring properties without the prior written approval of Council.

(This condition is amended as part of MOD2019/0097 (MOD2019/0096) (DA2017/0198))

25. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. ~~832120S~~ and 832114S_02 dated 8 March 2019 prepared by Sustainable Thermal Solutions and 832114S_03 dated 8 March 2019 prepared by Sustainable Thermal Solutions must be implemented on the plans lodged with the application for the Construction Certificate.

(This condition is amended as part of MOD2019/0097 (MOD2019/0096) (DA2017/0198))

Section G Prior to the Commencement of Work (Including Demolition & Excavation)

26. **Asset Protection Zones** - At the commencement of building works, and in perpetuity, the entire property shall be managed as an Inner Protection Area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
27. **Water and Utilities** - Water, electricity and gas are to comply with the requirements of section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
28. **Demolition & Asbestos** - The demolition work shall comply with the provisions of Australian Standard AS2601:2001 - Demolition of Structures, NSW Work Health & Safety Act 2011 and the NSW Work Health & Safety Regulation 2011. The work plans required by AS2601:2001 shall be accompanied by a written statement by a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement shall be submitted to the PCA prior to the commencement of works.

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

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

Note: Copies of the Act, Regulation and Code of Practice can be downloaded free of charge from the SafeWork NSW website: www.SafeWork.nsw.gov.au.

29. **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 Council’s Engineers for their records.
30. **Demolition Notification Requirements** - The following notification requirements apply to this consent:
- (a) The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.
 - (b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.
 - (c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words “DANGER ASBESTOS REMOVAL IN PROGRESS” measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.
31. **Demolition work involving asbestos removal** - Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the Work Health and Safety Regulation 2011.
32. **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.

33. **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.
34. **Retention of Trees** -
- a) The project Arborist be on site BEFORE any works have commenced to identify and TAG the trees for RETENTION and to oversee tree protection fencing in accordance with AS 4970 – 2009, Protection of trees on development sites and the arborist reports prepared by Sam Allouche, from NSW Tree Services Pty Ltd. The project Arborist to certify that these measures have been implemented.
 - b) The project arborist to be on site and to identify the trees for REMOVAL and whilst the trees for removal are being removed.
 - c) Tree protection fencing shall be installed as one (1) continuous fencing installation as to isolate all areas and tree protection zones, under the guidance of the project Arborist, who prepared the Arborist Reports.
 - d) All tree protection fencing zones shall be mulched at 75 – 100mm of matured organic leaf mulch and watered periodically.

Section E During Construction

35. **Rock Outcrop** - The rock outcrop at the front of the site outside the property boundary must be preserved and retained at all times **except for partial removal of the rock outcrop to facilitate the new driveway access to Lot 23 as outlined in the approved Public Domain Plans and conditions of consent relating to the public domain within this consent.**

(This condition is amended as part of MOD2019/0097 (MOD2019/0096) (DA2017/0198))

36. **Physical connection of Stormwater to site** - No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to **Council's relocated inlet pit within Bay Road.**

(This condition is amended as part of MOD2019/0097 (MOD2019/0096) (DA2017/0198))

37. **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.

38. **Design and Construction** - The northern, eastern and western elevations including the roof shall comply with Sections 3 and 9- 8 (BAL FZ 40) of Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14

updated) 'National Standard Steel Framed Construction in Bushfire Areas - 2014' as appropriate. Except for window frames, there shall be no flaming and no exposed timber.

The southern elevation shall comply with Sections 3 and 8.7 (BAL 40/29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas - 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.

(This condition is amended as part of MOD2019/0097 (MOD2019/0096) (DA2017/0198))

39. **Landscaping** - Landscaping to the site is to comply with the principles of Appendix 5 of "Planning for Bush Fire Protection 2006".
40. **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.
41. **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.
42. **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.

43. **Tree Removal on Private Land** - The trees identified as 'to be removed' on the approved plans or by conditions of this consent shall be removed in accordance with AS4373 -2007 and the Amenity Tree Industry Code of Practice (SafeWork NSW, August 1998).
44. **Excavation works near tree to be retained** - Excavation around the tree/s to be retained on site or the adjoining properties shall be supervised by the Project Arborist to ensure that the root system will not be adversely affected.

Where the Tree Protection Zone of trees on site or adjoining sites become compromised by any excavation works, the Project Arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.

45. **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.

Section F Prior to the issue of the Occupation Certificate

46. **Requirements prior to the issue of the Occupation Certificate** - 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 **including the kerb inlet pit and the retaining walls** shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
 - (b) **Driveway must be constructed as per approved plan and to the satisfaction of Council.**
 - (c) **A works-as-executed plan of the new kerb inlet pit and certification must be forwarded to the PCA and Council, from a professional engineer specialising in hydraulic engineering.**
 - (d) **Council must advise in writing that they are satisfied with the Works-As-Executed plan prior to the issue of an Occupation Certificate.**
 - (e) **Certification from a practising structural engineer stating the construction of the retaining wall is structurally adequate and complies with AS 4678:2002.**

(This condition is amended as part of MOD2019/0097 (MOD2019/0096) (DA2017/0198))

47. **BASIX Certificate** - All energy efficiency measures as detailed in the approved BASIX Certificate in the plans approved with the Development Consent, must be implemented before issue of any Occupation Certificate.
48. **BASIX Compliance Certificate** - A Compliance Certificate must be provided to the PCA regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any Occupation Certificate is issued.
49. **Driveways and parking spaces - Minor Development** - Internal driveways and parking spaces are to be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface.
50. **Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate.
51. **Plantation of Trees** - A minimum of five (5) x 75 litre Australian native trees that are able to reach a maturity of at least nine (9) metres shall be planted within both - LOT 22 AND LOT 23, total of six (6) trees, upon the site and be implemented, forming part of the proposed landscape plans prepared by Conzept Landscape Architects, before Occupation Certificate

(This condition is amended as part of MOD2019/0097 (MOD2019/0096) (DA2017/0198))

Section H Operational Conditions (Ongoing)

52. **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 1998 (as amended).
53. **Maintenance of Landscaping** - All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas.

Section I Operational Requirements Under the Environmental Planning & Assessment Act 1979

54. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited certifier.

The works associated with MOD2019/0097 will require the issue of a Construction Certificate.

An application form for a **Construction Certificate** is attached for your convenience.

(This condition is amended as part of MOD2019/0097 (MOD2019/0096) (DA2017/0198))

55. **Appointment of a Principal Certifying Authority** - The erection of a building must not commence until the beneficiary of the development consent has:

- (a) appointed a Principal Certifying Authority (PCA) for the building work; and
- (b) if relevant, advised the PCA that the work will be undertaken as an Owner-Builder.

If the work is not going to be undertaken by an Owner-Builder, then the beneficiary of the consent must:

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

56. **Notification of Critical Stage Inspections** - No later than two (2) days before the building work commences, the PCA must notify:

- (a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
- (b) the beneficiary of the development consent of the critical stage inspections and other inspections that are to be carried out with respect to the building work.

57. **Notice of Commencement** - The beneficiary of the development consent must give at least two (2) days notice to the Council and the PCA of their intention to commence the erection of a building.

58. **Critical Stage Inspections** - The last critical stage inspection must be undertaken by the Principal Certifying Authority. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the Environmental Planning and Assessment Regulation 2000.
59. **Notice to be given prior to critical stage inspections** - The principal contractor for a building site, or the owner-builder, must notify the principal certifying authority at least 48 hours before each required inspection needs to be carried out.

Where Georges River Council has been appointed PCA, forty eight (48) hours notice in writing, or alternatively twenty four (24) hours notice by facsimile or telephone, must be given to when specified work requiring inspection has been completed.

60. **Occupation Certificate** - A person must not commence occupation or use of the whole or any part of a new building unless an Occupation Certificate has been issued in relation to the building or part.

Only the Principal Certifying Authority appointed for the building work can issue the Occupation Certificate.

Section J Prescribed Conditions

61. **Clause 97A – BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
62. **Clause 98 – Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.
63. **Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifying Authority and the Principal Contractor.
64. **Clause 98B – Home Building Act 1989** - If the development involves residential building work under the Home Building Act 1989, no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the Home Building Act 1989.
65. **Clause 98E – Protection & support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

END CONDITIONS

NOTES/ADVICES

66. **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.

67. **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.
68. **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.
69. **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/nglg.htm>) and the Industrial Noise Guidelines (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish 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).
- (b) Department of Environment and Conservation NSW, Noise Policy Section web page (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).
- (d) Australian Acoustical Society - professional society of noise-related professionals (www.acoustics.asn.au/index.php).
- (e) Association of Australian Acoustical Consultants - professional society of noise related professionals (www.aaac.org.au).
- (f) Department of Gaming and Racing - (www.dgr.nsw.gov.au).

70. **Disability Discrimination Act** - This application has been assessed in accordance with the Environmental Planning and Assessment Act 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992. The applicant is responsible to ensure compliance with this and other anti-discrimination legislation. The Disability Discrimination Act 1992 covers disabilities not catered for in the minimum

standards called up in the Building Code of Australia which refers to AS1428.1-Design for Access and Mobility.

71. **Site Safety Fencing** - Site fencing must be erected in accordance with SafeWork Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained throughout any demolition and construction work.

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

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

The required Long Service Levy payment can be direct to the Long Service Corporation via their web site <https://online.longservice.nsw.gov.au/bci/levy>. Payments can only be processed on-line for the full levy owing and where the value of work is between \$25,000 and \$6,000,000. Payments will be accepted for amounts up to \$21,000, using either MasterCard or Visa.

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

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

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

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

74. **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:

(a) Complete the Driveway Crossing on Council Road Reserve Application Form which can be downloaded from Georges River Council's Website at www.georgesriver.nsw.gov.au.

(b) In the Application Form, quote the Development Consent No. (eg. 2012/DA****) 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 Vehicular Crossing applications.

An approval for a new or modified vehicular crossing will contain the approved access and/or alignment levels which will be required to construct the crossing and/or footpath. Once approved, all work shall be carried out by a private contractor in accordance with Council's specifications prior to the issue of an Occupation Certificate.

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

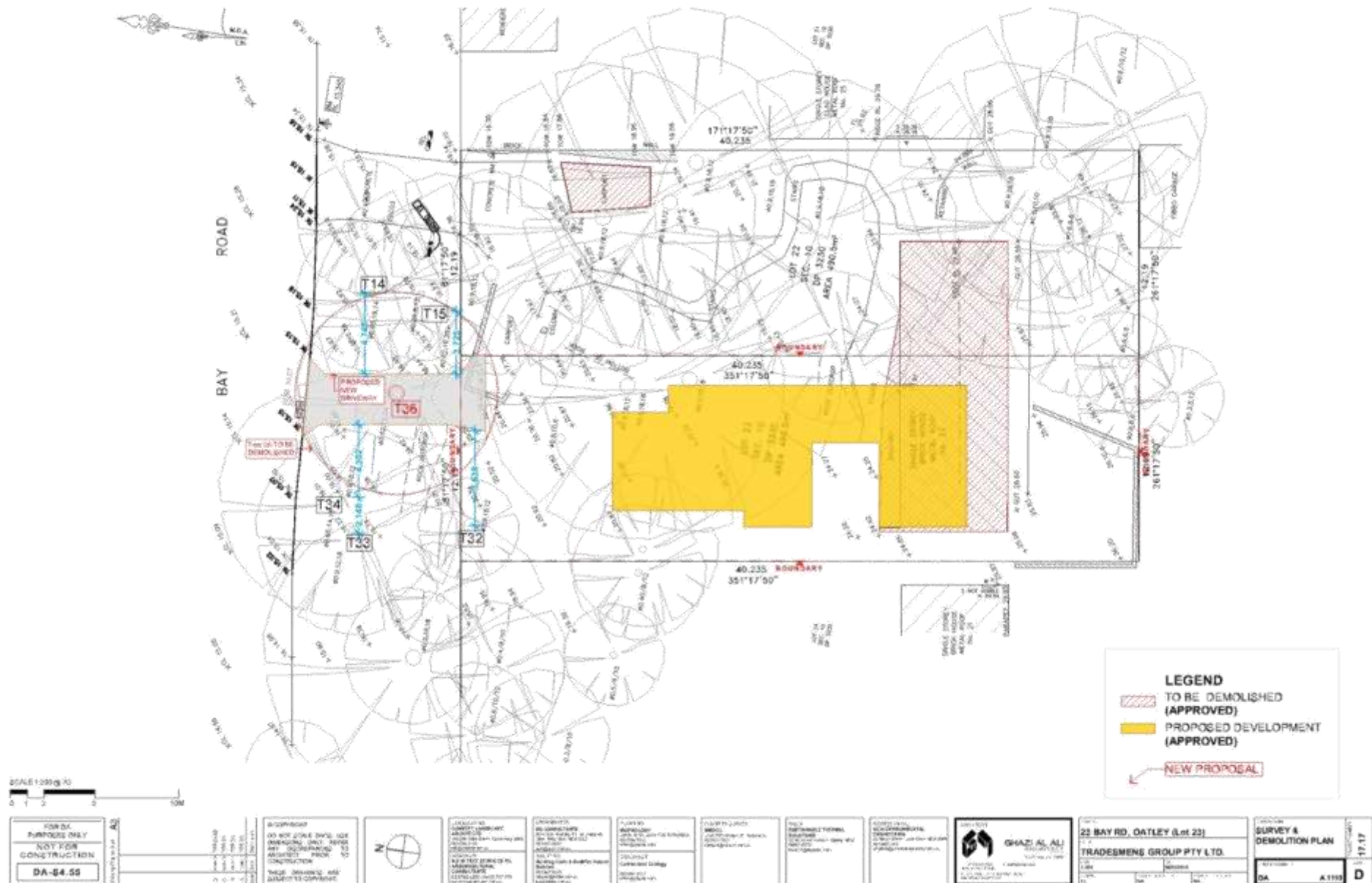
The preparation of all engineering drawings (site layout plans, cross sections, longitudinal sections, elevation views together with a hydraulic grade analysis) and specifications for the new storm water drainage system to be arranged by the applicant. The design plans must be lodged and approved by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

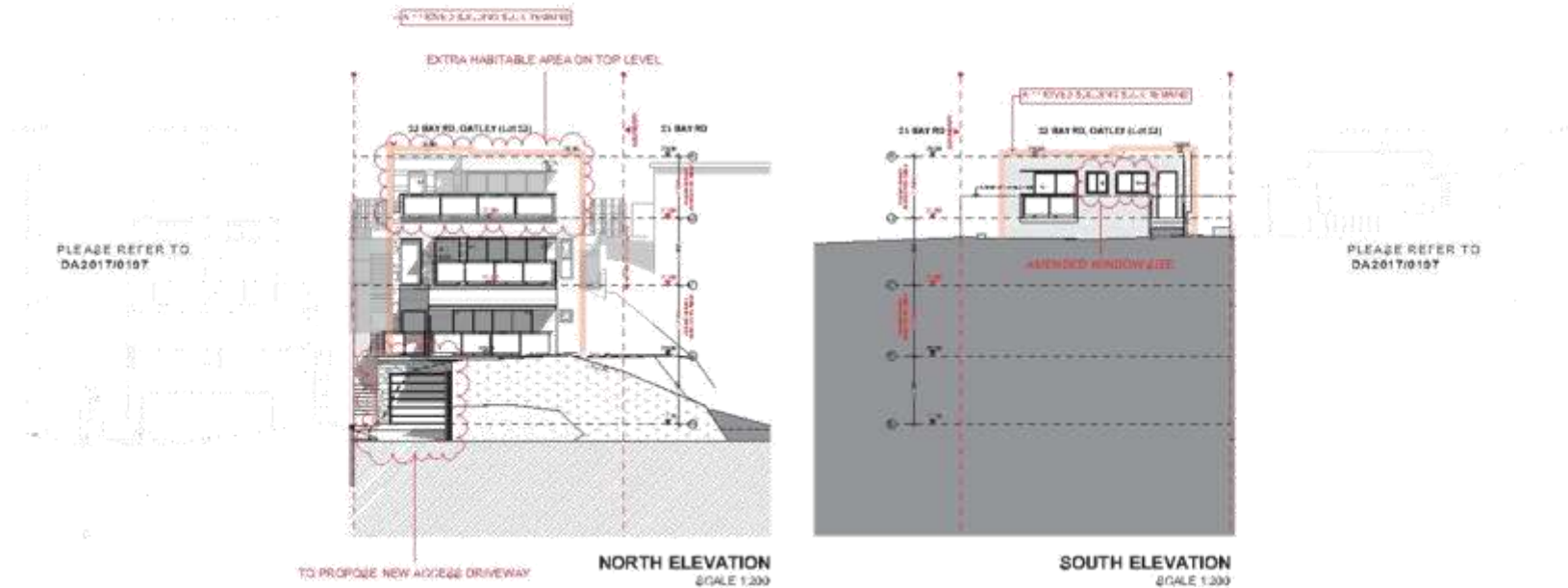
NOTE: A minimum of four weeks should be allowed for assessment.

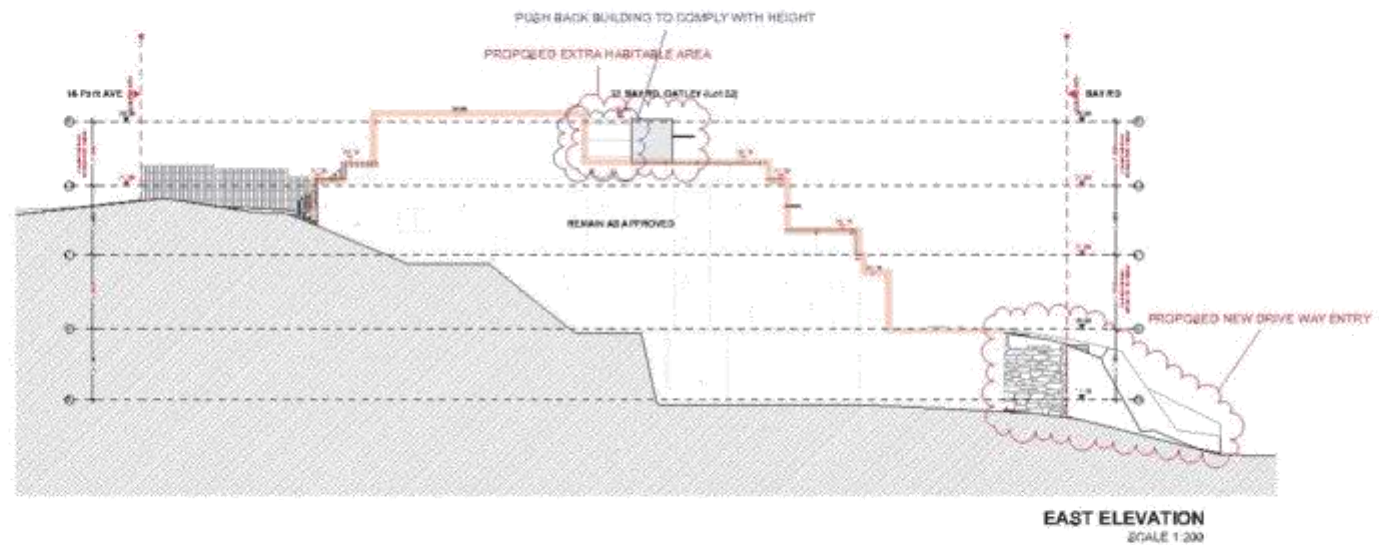
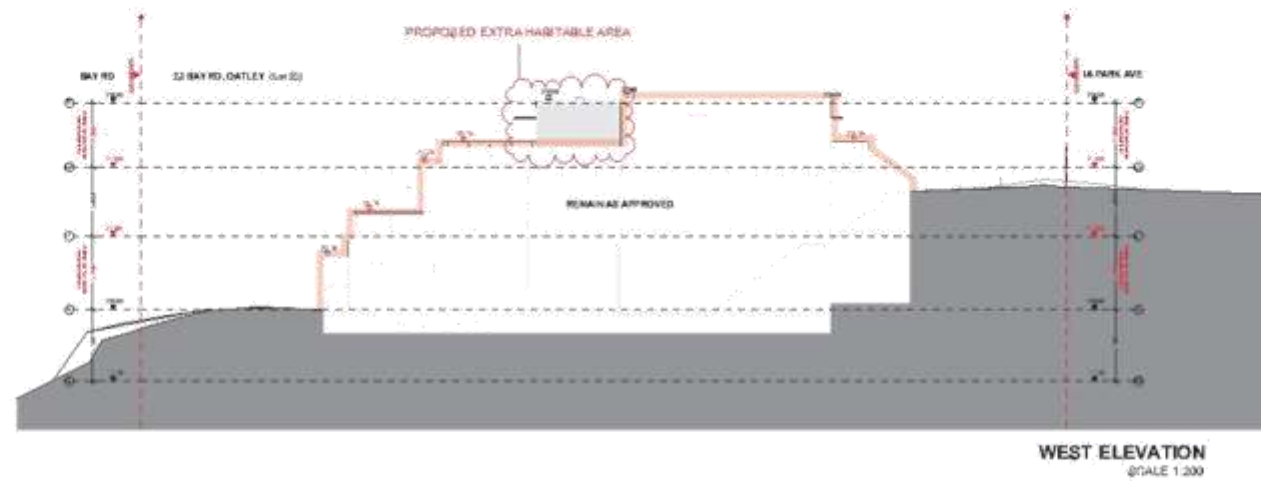
ATTACHMENTS

Attachment [↓](#)1 Site Plan - Lot 23 - 23 Bay Road Oatley

Attachment [↓](#)2 Elevations Lot 23 - 23 Bay Road Oatley







NO 24 "UTENSIL" NO 100 GONG 1 AUG 1988 DA-84.55	2.5 1.5 1.0 0.5 0.0 0.5 1.0 1.5 2.0 2.5 3.0 3.5 4.0 4.5 5.0 5.5 6.0 6.5 7.0 7.5 8.0 8.5 9.0 9.5 10.0 10.5 11.0 11.5 12.0 12.5 13.0 13.5 14.0 14.5 15.0 15.5 16.0 16.5 17.0 17.5 18.0 18.5 19.0 19.5 20.0 20.5 21.0 21.5 22.0 22.5 23.0 23.5 24.0 24.5 25.0 25.5 26.0 26.5 27.0 27.5 28.0 28.5 29.0 29.5 30.0 30.5 31.0 31.5 32.0 32.5 33.0 33.5 34.0 34.5 35.0 35.5 36.0 36.5 37.0 37.5 38.0 38.5 39.0 39.5 40.0 40.5 41.0 41.5 42.0 42.5 43.0 43.5 44.0 44.5 45.0 45.5 46.0 46.5 47.0 47.5 48.0 48.5 49.0 49.5 50.0 50.5 51.0 51.5 52.0 52.5 53.0 53.5 54.0 54.5 55.0 55.5 56.0 56.5 57.0 57.5 58.0 58.5 59.0 59.5 60.0 60.5 61.0 61.5 62.0 62.5 63.0 63.5 64.0 64.5 65.0 65.5 66.0 66.5 67.0 67.5 68.0 68.5 69.0 69.5 70.0 70.5 71.0 71.5 72.0 72.5 73.0 73.5 74.0 74.5 75.0 75.5 76.0 76.5 77.0 77.5 78.0 78.5 79.0 79.5 80.0 80.5 81.0 81.5 82.0 82.5 83.0 83.5 84.0 84.5 85.0 85.5 86.0 86.5 87.0 87.5 88.0 88.5 89.0 89.5 90.0 90.5 91.0 91.5 92.0 92.5 93.0 93.5 94.0 94.5 95.0 95.5 96.0 96.5 97.0 97.5 98.0 98.5 99.0 99.5 100.0 100.5 101.0 101.5 102.0 102.5 103.0 103.5 104.0 104.5 105.0 105.5 106.0 106.5 107.0 107.5 108.0 108.5 109.0 109.5 110.0 110.5 111.0 111.5 112.0 112.5 113.0 113.5 114.0 114.5 115.0 115.5 116.0 116.5 117.0 117.5 118.0 118.5 119.0 119.5 120.0 120.5 121.0 121.5 122.0 122.5 123.0 123.5 124.0 124.5 125.0 125.5 126.0 126.5 127.0 127.5 128.0 128.5 129.0 129.5 130.0 130.5 131.0 131.5 132.0 132.5 133.0 133.5 134.0 134.5 135.0 135.5 136.0 136.5 137.0 137.5 138.0 138.5 139.0 139.5 140.0 140.5 141.0 141.5 142.0 142.5 143.0 143.5 144.0 144.5 145.0 145.5 146.0 146.5 147.0 147.5 148.0 148.5 149.0 149.5 150.0 150.5 151.0 151.5 152.0 152.5 153.0 153.5 154.0 154.5 155.0 155.5 156.0 156.5 157.0 157.5 158.0 158.5 159.0 159.5 160.0 160.5 161.0 161.5 162.0 162.5 163.0 163.5 164.0 164.5 165.0 165.5 166.0 166.5 167.0 167.5 168.0 168.5 169.0 169.5 170.0 170.5 171.0 171.5 172.0 172.5 173.0 173.5 174.0 174.5 175.0 175.5 176.0 176.5 177.0 177.5 178.0 178.5 179.0 179.5 180.0 180.5 181.0 181.5 182.0 182.5 183.0 183.5 184.0 184.5 185.0 185.5 186.0 186.5 187.0 187.5 188.0 188.5 189.0 189.5 190.0 190.5 191.0 191.5 192.0 192.5 193.0 193.5 194.0 194.5 195.0 195.5 196.0 196.5 197.0 197.5 198.0 198.5 199.0 199.5 200.0 200.5 201.0 201.5 202.0 202.5 203.0 203.5 204.0 204.5 205.0 205.5 206.0 206.5 207.0 207.5 208.0 208.5 209.0 209.5 210.0 210
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PROPOSED EXTRA HABITABLE AREA BY RETAINING EXTERNAL WALL

BAY RD

16 FARM AVE

HILL SLOPE

REMAIN AS APPROVED

100% CONCRETE

[illegible]

**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF TUESDAY, 17 DECEMBER 2019**

LPP065-19

LPP Report No	LPP065-19	Development Application No	PP2019/0001
Site Address & Ward Locality	Ramsgate Village Planning Proposal - 193– 201 Rocky Point Road, 66-68 Ramsgate Road and 2-6 Targo Road, Ramsgate Kogarah Bay Ward		
Proposed Development	<p>The Planning Proposal requests that Council initiate an amendment to the Kogarah Local Environmental Plan 2012 summarised as follows;</p> <ul style="list-style-type: none"> • Rezone the site from B2 Local Centre and R3 Medium Density, to B2 Local Centre across the entire site; • Increase maximum height controls across the site from 15m and 21m to 16m, 25m, 29m, 31m and 35m; and • Increase the maximum FSR of the site from 2.5:1 and 1.5:1 to 3.2:1. 		
Owners	Capital Hill Group		
Applicant	Ethos Urban		
Planner/Architect	Ethos Urban		
Date Of Lodgement	17/01/2019		
Submissions	N/A		
Cost of Works	N/A		
Local Planning Panel Criteria	Direction from the Minister for Planning under Section 9.1 of the Environmental Planning and Assessment Act 1979 and the Charter of the Georges River Council Local Planning Panel 2018 both specify that the Planning Proposal is to be referred to the Local Planning Panel before it is forwarded for Gateway Determination (approval).		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	N/A		
List all documents submitted with this report for the Panel's consideration	Refer to list below		
Report prepared by	Independent Assessment		

Recommendation	<p>That the Georges River Local Planning Panel recommend to Council the Planning Proposal not progress to the Department of Planning, Infrastructure and Environment for a Gateway Determination, for the reasons summarised below:</p> <ol style="list-style-type: none"> 1. It lacks strategic merit where: <ol style="list-style-type: none"> i. It is inconsistent with Objectives: 2, 10, and 14 of the Greater Sydney Region Plan and respective corresponding Planning Priorities: S1 and E1, S5 and E5 and S12 and E10 of the South District Plan and Eastern City District Plan, which seek to align and integrate growth
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with infrastructure;

- ii. It is inconsistent with the objectives and detailed requirements of s.9.1 Ministerial Directions pursuant to the *Environmental Planning & Assessment Act 1979*, including 3.1 Residential Zones and 3.4 Integrating land use and transport;
- iii. It is inconsistent with the priorities contained within the Georges River draft Local Strategic Planning Statement, including P1 which seeks to connect people with efficient transport and P2 which seeks to provide roads free of congestion;
- iv. It is inconsistent with the strategic directions and key actions contained within the draft Commercial Centres Strategy, which seeks to retain existing height and FSR development standards for Ramsgate Village;

2. It lacks site specific merit where:

- i. The bulk and scale of the concept development is vastly out of context with the surrounding locality;
- ii. The Ramsgate local centre does not currently have, nor is likely to have in the next ten years, the level of road or rail infrastructure required to support a development such as that proposed;
- iii. The proposed development would result in increased pressure on the surrounding road network and public transport (bus) services and infrastructure, due to the development of 197 new dwellings and subsequent increase in population;
- iv. The redevelopment of the site would result in the isolation of the two heritage sites; the residential flat building 'Roma' at 70 Ramsgate Road (I145) and shops at 211-219 Rocky Point Road (I146), which are not included in the total site area the subject of this Planning Proposal; and
- v. The proposed development would result in significant adverse impacts on the adjoining residential properties, including overshadowing and visual impacts.

3. Investigations for increased density as part of a more holistic and place-based planning approach for Ramsgate Village should inform future Local Environmental Plan reviews, as recommended in the draft Commercial Centres Strategy. This will ensure that redevelopment of the site is consistent with the strategic planning principles envisioned for Ramsgate.

4. As the Planning Proposal seeks to amend LEP controls that are less than five years old and does not meet the strategic merit test, pursuant to the Department of Planning, Industry and Environment's A guide to preparing planning proposals, there is a presumption against a Rezoning Review request.

Attachments	Attachment 1: Planning Proposal Attachment 2: Urban Design Report Attachment 3: Survey Plan Attachment 4: Landscape Concept Plan Attachment 5: Heritage Impact Statement Attachment 6: Traffic Impact Assessment Attachment 7: Social and Economic Benefits Analysis Attachment 8: Urban Design Peer Review Attachment 9: Voluntary Planning Agreement Offer
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Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Not Applicable
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	Not Applicable

Site Plan



Executive Summary

Proposal

1. This report provides an assessment of an amended Planning Proposal (PP2019/0001) submitted to Georges River Council (Council) on 3 September 2019.
2. The Planning Proposal requests that Council initiate an amendment to the *Kogarah Local Environmental Plan 2012* (KLEP 2012) summarised as follows;
 - Amend the KLEP 2012 Land Zoning Map to rezone the Site from B2 Local Centre and R3 Medium Density, to B2 Local Centre across the entire Site;
 - Amend the KLEP 2012 Height of Buildings Map to increase maximum height controls across the Site from 15m and 21m to 16m, 25m, 29m, 31m and 35m; and
 - Amend the KLEP 2012 Maximum Floor Space Ratio (FSR) Map to increase the maximum FSR from 2.5:1 and 1.5:1 to 3.2:1.
3. The Planning Proposal seeks to amend the KLEP 2012 (summarised above), to allow for a mixed-use development to be known as 'Ramsgate Village', comprising a village square, lower ground and ground floor retail premises (including a supermarket), commercial floor space and residential buildings above ranging from six storeys to ten storeys (15m – 35m).
4. The Development Concept seeks to deliver 197 residential apartments, 6,847sqm Gross Floor Area (GFA) of retail and commercial space, within a total of 22,627sqm of GFA and 561 underground car parking spaces.

5. Council received a letter of offer to enter into a planning agreement, dated 17 January 2019, in conjunction with the Planning Proposal (see Attachment 9). The offer provides for a range of additional public benefits including a community facility space, public square, public wi-fi access, through site link/laneway, public domain improvements and landscaping, contribution for traffic improvements and assistance to local sporting clubs.
6. The Planning Proposal is not supported by a draft site-specific Development Control Plan.

Site and Locality

7. The Planning Proposal relates to land located at 193-201 Rocky Point Road, 66-68 Ramsgate Road and 2-6 Targo Road, Ramsgate (the Site), located within the Georges River Local Government Area (LGA). **Figure 1** earlier in the report provides an aerial photo of the Site.
8. The Site has a total area of 7,116sqm and has street frontages of:
 - 65m to Rocky Point Road
 - 90m to Targo Road
 - 30m to Ramsgate Road.
9. The Site comprises a total of 16 individual land parcels which are sought to be amalgamated to facilitate the proposed development.
10. The Site is located on the eastern edge of the LGA, being located to the west of Rocky Point Road. Some areas located to the east of Rocky Point Road are included in the Bayside LGA.
11. Ramsgate Centre itself is not located on a train line. Carlton station is the closest train station to the Site, approximately 2km to the north west. Kogarah station is also located to the north west, approximately 2.3km from the Site. There are bus stops located adjacent to the Site on both Ramsgate Road and Rocky Point Road, which service the following routes:
 - 476: Rockdale to Dolls Point (loop service)
 - 477: Miranda to Rockdale; and
 - 947: Kogarah to Hurstville via Dolls Point
12. The subject site currently accommodates the following development:
 - Fronting Rocky Point Road - mixed-use developments which range from two to four storeys with retail uses fronting Rocky Point Road at ground floor level and combination of residential and commercial uses above;
 - Fronting Targo Road - carpark servicing the mixed-use development fronting Rocky Point Road and five detached dwellings between one and two storeys in height; and
 - Fronting Ramsgate Road - two single storey detached dwellings.

Zoning and Permissibility

13. The Site is currently zoned B2 Local Centre and R3 Medium Density Residential pursuant to the KLEP 2012.
14. Ramsgate Centre was subject to uplift during Council's amendment to the KLEP 2012, which was gazetted on 26 May 2017. This resulted in significant uplifts to associated density development standards reflected in the current LEP.

15. Considering the recent gazettal of the current zoning for the Site, the proposed increased density controls are premature.
16. Any Planning Proposal which seeks to amend LEP controls that are less than five years old and does not meet the strategic merit test, pursuant to the Department of Planning, Industry and Environment's *A guide to preparing planning proposals*, there is a presumption against a Rezoning Review request.
17. The draft Georges River Commercial Centres Strategy makes recommendations for the proposed KLEP 2020. Specific recommendations in regards to the controls for Ramsgate include:
 - Retain existing B2 Local Centre zoning
 - Retain existing height and FSR development standards
 - Implement a minimum non-residential FSR requirement in the centre of 0.3:1
 - Enable the permissibility of self-storage units to complement the everyday retail functions of existing stores
 - Review and incorporate active street frontage provisions into the Georges River Development Control Plan 2020 (GRDCP 2020) to enhance the centre's connectivity and vibrancy.
18. Accordingly, no immediate alterations envisioned proposed to the planning controls for the Site under Council's draft Commercial Centres Strategy.

Assessment of Strategic Merit

19. The Planning Proposal lacks strategic merit where:
 - i. It provides a high density development and subsequent increased population with no access to adequate public transport infrastructure. This contravenes Objectives 2, 10 and 14 of the Greater Sydney Region Plan and corresponding Planning Priorities S1, S5, and S12 of the South District Plan and E1, E5 and E10 of the Eastern City District Plans respectively.
 - ii. It is inconsistent with the following Priorities of the Georges River draft Local Strategic Planning Statement:
 - P1 - We have a range of frequent, efficient transport options to connect people, goods, services, business and educational facilities; and
 - P2 - Roads, footpaths and cycleways are safe, accessible and free of congestion.
 - iii. It is inconsistent with the strategic directions and key actions contained within the draft Commercial Centres Strategy, which seeks to retain existing height and FSR development standards for Ramsgate Centre. The expansion of the B2 zones under the draft Commercial Centres Strategy has yet to be investigated and the proposal's expansion of B2 zone in Ramsgate Centre is considered premature; and
 - iv. It is inconsistent with the objectives and detailed requirements of Section 9.1 Ministerial Directions pursuant to the Environmental Planning & Assessment Act 1979, including:
 - 3.1 Residential zones –where it seeks to provide a significant uplift in residential development with inadequate access to existing or proposed infrastructure; and
 - 3.4 Integrating land use and transport - where the proposed residential density sought does not align with suitable provision of public transport and thus will

result in further congestion to the surrounding road network which is already at capacity.

Assessment of Site Specific Merit

20. The Planning Proposal lacks site specific merit where:

- i. The proposed concept development and controls are considered to be excessive and out of context with the surrounding locality, where it seeks to increase the maximum building height from a maximum of 21m to a maximum of 35m (equivalent to ten storeys) and density increases from 1.5:1 and 2.5:1 to 3.2:1. This is at odds with the surrounding highest permissible building height of 21m and tallest building in the vicinity of six storeys and the surrounding lower scale built form;
- ii. The Planning Proposal provides no adequate justification for this significant height increase compared to the surrounding locality, nor is there justification for the proposed overall density of development proposed by an adopted Regional, District or Local Strategy;
- iii. The Ramsgate local centre does not currently have, nor is likely to have in the next ten years, the level of road or rail infrastructure required to support a development such as that proposed;
- iv. The proposed development would result in increased pressure on the surrounding road network and public transport (bus) services and infrastructure, due to the development of 197 new dwellings and subsequent increase in population;
- v. The redevelopment of the site would result in the isolation of the two heritage sites; the residential flat building 'Roma' at 70 Ramsgate Road (I145) and shops at 211-219 Rocky Point Road (I146), which are not included in the total site area the subject of this Planning Proposal; and
- vi. The proposed development would result in significant adverse impacts on the adjoining residential properties, including overshadowing and visual impacts.

21. The applicant's responses to the issues raised regarding the planning proposal are contained later within this report.

Recommendations

22. That the Georges River Local Planning Panel recommend to Council the Planning Proposal not progress to the Department of Planning, Infrastructure and Environment for a Gateway Determination, for the reasons summarised below.

23. It lacks strategic merit where:

- i. It is inconsistent with Objectives: 2, 10, and 14 of the Greater Sydney Region Plan and respective corresponding Planning Priorities: S1 and E1, S5 and E5 and S12 and E10 of the South District Plan and Eastern City District Plan, which seek to align and integrate growth with infrastructure.
- ii. It is inconsistent with the objectives and detailed requirements of s.9.1 Ministerial Directions pursuant to the *Environmental Planning & Assessment Act 1979*, including 3.1 Residential Zones and 3.4 Integrating land use and transport.

- iii. It is inconsistent with the priorities contained within the Georges River draft Local Strategic Planning Statement, including P1 which seeks to connect people with efficient transport and P2 which seeks to provide roads free of congestion.
- iv. It is inconsistent with the strategic directions and key actions contained within the draft Commercial Centres Strategy, which seeks to retain existing height and FSR development standards for Ramsgate Centre.

24. It lacks site specific merit where:

- i. The bulk and scale of the concept development is vastly out of context with the surrounding locality;
- ii. The Ramsgate local centre does not currently have, nor is likely to have in the next ten years, the level of road or rail infrastructure required to support a development such as that proposed;
- iii. The proposed development would result in increased pressure on the surrounding road network and public transport (bus) services and infrastructure, due to the development of 197 new dwellings and subsequent increase in population;
- iv. The redevelopment of the site would result in the isolation of the two heritage sites; the residential flat building 'Roma' at 70 Ramsgate Road (I145) and shops at 211-219 Rocky Point Road (I146), which are not included in the total site area the subject of this Planning Proposal; and
- v. The proposed development would result in significant adverse impacts on the adjoining residential properties, including overshadowing and visual impacts.

25. Investigations for increased density as part of a more holistic and place-based planning approach for Ramsgate Centre should inform future Local Environmental Plan reviews, as recommended in the draft Commercial Centres Strategy. This will ensure that redevelopment of the site is consistent with the strategic planning principles envisioned for Ramsgate.

26. As the Planning Proposal seeks to amend LEP controls that are less than five years old and does not meet the strategic merit test, pursuant to the Department of Planning, Industry and Environment's A guide to preparing planning proposals, there is a presumption against a Rezoning Review request.

Report in Full

1. BACKGROUND

27. The Planning Proposal has been developed around a number of revisions to a Masterplan for the Site.

28. The history of the Planning Proposal is summarised in **Table 1** below:

Table 1 – History of the Planning Proposal

Date	Milestone
December 2015	Original Planning Proposal was lodged by Design and Build Group

	with the former Kogarah City Council
16 February 2016	The St George Design Review Panel (DRP) considered the original Planning Proposal
June 2016	Revised sketch plans, Economic Feasibility Report and Urban Design Report were submitted to Council in response to the DRP
21 March 2018	A new preliminary design concept with additional sites sought to be amalgamated was submitted to Georges River Council by Ethos Urban at a pre-lodgement meeting
9 May 2018	Council sent a letter to the applicant outlining a range of issues (including excessive height and scale) and inadequate information
June 2018	An updated concept proposal was submitted
11 July 2018	Revision 3 of the concept proposal was submitted
2 August 2018	Design Review Panel meeting was held to consider the amended Planning Proposal
18 January 2019	A revised Planning Proposal was lodged with Council
14 March 2019	The original Planning Proposal (submitted in December 2015) was withdrawn
3 May 2019	External assessment recommended that the Planning Proposal be withdrawn
20 May 2019	Director of Environment and Planning and council officers met with the applicant to discuss the issues raised in the review of the PP
31 May 2019	Amended concept plans were received addressing the issues raised in the meeting
13 June 2019	Amended concept plans were presented to the Councillor briefing (by Council officers) for feedback. There was no support for the amended scheme lodged 31 May 2019. The Councillors requested a more compliant scheme with the current controls that addressing Site isolation (includes Nos. 203 and 215/219 Rocky Point Road).
24 June 2019	Meeting with applicant to discuss Councillor feedback. Applicant advised to formally submit the amended PP for consideration and assessment if they wish to proceed to rezoning review process.
3 September 2019	Amended Planning Proposal submitted to Council
3 October 2019	External assessment of amended Planning Proposal undertaken and letter requesting the Planning Proposal be withdrawn issued to the applicant.
31 October 2019	Meeting held with the applicant to discuss the assessment of the Planning Proposal.

2. SITE DESCRIPTION

2.1 Overview of the site

29. The Planning Proposal relates to the Site located at 193-201 Rocky Point Road, 66-68 Ramsgate Road and 2-6 Targo Road, Ramsgate, located within the Georges River Local Government Area (LGA). The Site has a total area of 7,116m² and has street frontages of:
- 65m to Rocky Point Road
 - 90m to Targo Road
 - 30m to Ramsgate Road.

30. The Site at 193-201 Rocky Point Road, 66-68 Ramsgate Road and 2-6 Targo Road, is located on the eastern edge of the LGA, being located to the west of Rocky Point Road. Some areas located to the east of Rocky Point Road are included in the Bayside LGA.
31. The Site is generally flat, with a slight decline running west to east, and is irregular in shape as it does not include the properties located at 203-219 Rocky Point Road, as shown in **Figure 2** below.
32. The Site comprises a total of 16 lots which are sought to be amalgamated to facilitate the proposed development. Their legal description, address and ownership are shown in **Table 2 and Figure 2**.

Table 2 Existing lots and ownership

Address	Lot and DP	Ownership
193 Rocky Point Road	Lot 8 DP 653883 Lot A DP 311887 Lot B DP 311887	Capital Hill Group Pty Ltd
197 Rocky Point Road	SP 83814 Lot 301 DP 1142822	Various options to purchase granted to Capital Hill Group Pty Ltd
199 Rocky Point Road	SP 77494	Various options to purchase granted to Capital Hill Group Pty Ltd
201 Rocky Point Road	Lot 3 DP 213885	Currently registering acquisition to Capital Hill Group Pty Ltd
66 Ramsgate Road	Lot B DP 371250	Capital Hill Group Pty Ltd
68 Ramsgate Road	Lot 12 DP 455810 Lot 13 DP 455810 Lot 14 DP 455810	Capital Hill Group Pty Ltd
2 Targo Road	Lot 1 DP 133817 Lot 2 DP 133817 Lot 1 DP 970852	Capital Hill Group Pty Ltd
4 Targo Road	Lot B DP 347589	Capital Hill Group Pty Ltd
6 Targo Road	Lot A DP 347589	G & J Paffas with option to purchase granted to Capital Hill Group Pty Ltd

Figure 2 Land Parcels pertaining to the Site

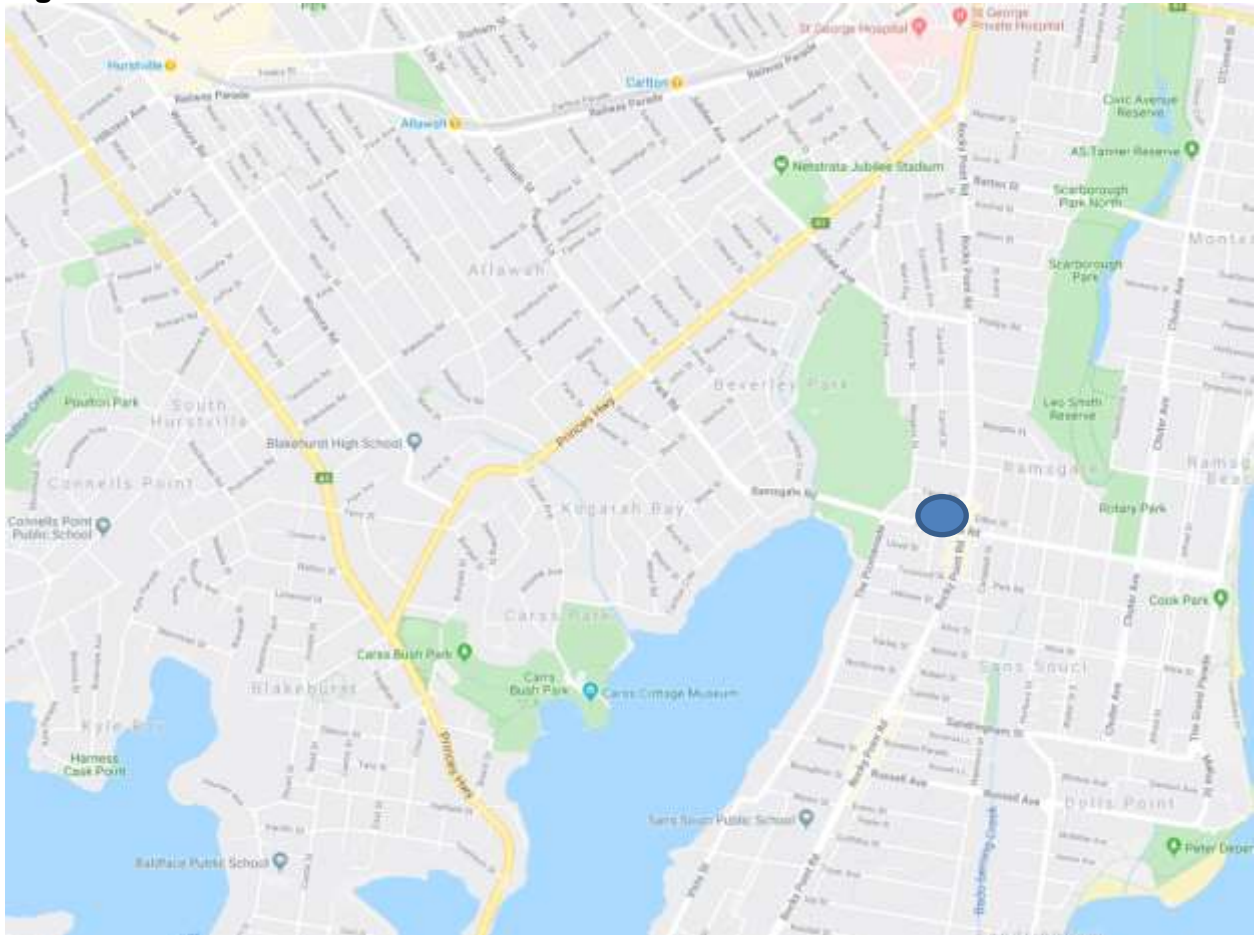


Source: Sixmaps

33. Rocky Point Road, in the centre of Ramsgate, is a State road and the primary thoroughfare through the suburb connecting the Princes Highway to the north through to Sutherland Shire, via the Captain Cook Bridge in the south. Development along Rocky Point Road generally varies from 2-6 storeys and consists of ground floor retail, with residential above.
34. Ramsgate is not located on the train line. Carlton station is the closest station to the Site, approximately 2km to the north west. Kogarah station is approximately 2.3km to the north west. There are bus stops located adjacent to the Site on both Ramsgate Road and Rocky Point Road, which service the following routes:
 - 476: Rockdale to Dolls Point (loop service)
 - 477: Miranda to Rockdale; and
 - 947: Kogarah to Hurstville via Dolls Point
35. The site is currently occupied by mixed use developments which range from two to four storeys with retail uses fronting Rocky Point Road at ground floor level and combination of residential and commercial uses above.
36. Development on the Site fronting Targo Road is characterised by a carpark servicing the mixed-use development fronting Rocky Point Road, and five detached dwellings between one and two storeys in height.

37. Development on the Site fronting Ramsgate Road consists of two single storey detached dwellings.
38. **Figure 3** illustrates the Site in context.

Figure 3 The Site in context



Source: Googlemaps

2.2 Surrounding Development

39. Surrounding development includes:
- A six-storey mixed use development to the north, between the corner of Targo Road and Rocky Point Road and Ramsgate Community Church (refer to **Figure 4**). This development is currently the largest in Ramsgate, with the predominant building form being one-two storeys. Development along Rocky Point Road previously only extended to four storeys.
 - A single to four storey retail and residential developments to the east of the Site along Rocky Point Road, with one to two storey detached residential dwellings located to the rear (refer to **Figures 4 - 5**).
 - Properties which comprise the remainder of the block to the corner of Rocky Point Road and Ramsgate Road to the south, including heritage items at 211-219 Rocky Point Road (**Figure 7**) and 70 Ramsgate Road (**Figure 8**). These properties comprise two storey retail developments and a two-storey residential unit block respectively.
 - A pub known as the 'Intersection Tavern', with an at-grade car park and standalone TAB and post office (refer to **Figure 9**) is located on the block further to the south on Ramsgate Road. Retail developments continue along the length of Rocky Point

Road, with detached one to two storey residential dwellings to the rear (refer to **Figure 10**).

- A number of one-two storey, semi-detached and detached residential dwellings to the west of the Site. The Beverley Park Golf Club is 300m to the west, beyond the residential dwellings. Examples of these residential dwellings are shown in **Figure 11** below.

40. It should be noted that in terms of future development within Ramsgate, at present there are no planning proposals lodged with the Department of Planning, Industry and Environment (DPIE), nor are there any large-scale Development Applications (DAs) lodged with Council at the time of reporting.

Figure 4 Development at the corner of Targo Road and Rocky Point Road



Source: Google maps

Figure 5 Existing single and three storey development opposite the Site (view from intersection with Targo Road)



Source: Google maps

Figure 6 Existing single and three storey development opposite the Site (view from intersection with Ramsgate Road)



Source: Google maps

Figure 7 Heritage items along Rocky Point Road



Source: Google maps

Figure 8 70 Ramsgate Road



Source: Google maps

Figure 9 The Intersection Tavern



Source: Google maps

Figure 10 Continued development down Rocky Point Road



Source: Google maps

Figure 11 Typical 1-2 storey residential development along Targo Road



Source: Google maps

3. PLANNING STRATEGIES, POLICIES AND CONTROLS

3.1 Existing Planning Controls

41. The subject Site is currently zoned B2 Local Centre and R3 Medium Density Residential and has height controls of 15m and 21m and FSR controls of 2.5:1 and 1.5:1. **Figure 12** under Part 4.2 of the report demonstrates the existing and proposed controls under the KLEP 2012.
42. The Site is located adjacent to heritage items 145 (residential flat building 'Roma' at 70 Ramsgate Road' and 146 (shops at 211-219 Rocky Point Road), as listed in Schedule 5 of the KLEP 2012.

4. PLANNING PROPOSAL REQUEST

4.1 Background

43. The subject Planning Proposal follows the lodgement of previous versions which were submitted in July 2016 and January 2019 respectively. Details of these previous Planning Proposals is provided below.
44. A Planning Proposal was originally submitted to Council in March 2018. Council undertook a preliminary assessment of the design concept for the Site against Council's key strategic planning documents. A letter was sent to the applicant on 9 May 2018 outlining fundamental concerns, which were summarised as follows:
 - Excessive height and scale;
 - Need for amalgamation of Sites;
 - Addressing traffic and Pedestrian Access;
 - Inadequate consideration of heritage; and
 - Achieving the Centres Study.
45. Council recommended that the Planning Proposal be withdrawn until the completion of the Commercial Centres Strategy. Notwithstanding, in June 2018, the applicant updated the concept proposal and requested that the Planning Proposal be referred to the Design Review Panel (DRP).





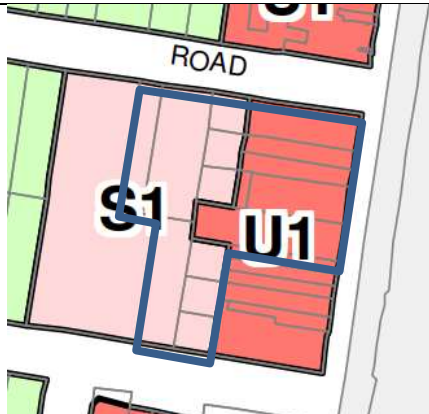

46. The DRP reviewed the proposal in August 2018, and expressed concerns regarding the following:
- Context and Neighbourhood Character;
 - Built Form and Scale;
 - Density;
 - Sustainability;
 - Landscape;
 - Amenity;
 - Safety;
 - Housing Diversity and Social Interaction; and
 - Aesthetics.
47. In January 2019, a revised Planning Proposal was lodged with Council and in March 2019, the original Planning Proposal (submitted in December 2015) was withdrawn.
48. Elton Consulting undertook the external assessment of the Planning Proposal lodged in January 2019 and recommended that the Planning Proposal should be withdrawn, due to a lack of strategic merit, as well as its excessive bulk and scale being vastly out of context with the surrounding locality.
49. A revised Planning Proposal was submitted on 3rd September 2019 and is the subject of this assessment report.
50. The history of the Planning Proposal is summarised in **Table 1** above.

4.2 Summary of Planning Proposal

51. The amended Planning Proposal requests that Council initiate an amendment to the KLEP 2012 as follows:
- Rezone the part of the Site which is currently zoned R3 Medium Residential to B2 Local Centre so that the B2 zoning covers the entirety of the Site;
 - Amend the FSR from 1.5:1 and 2.5:1 to 3.2:1 (2.5:1 above ground level); and
 - Amend the height from 15m and 21m to a range of heights; 16m, 25m, 29m, 31m and 35m.
52. A comparison of existing and proposed zoning and relevant controls under the KLEP 2012 is provided in **Figure 12** below:

Figure 12 Comparison of existing and proposed controls under the KLEP 2012

KLEP 2012 provision	Existing	Proposed
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KLEP 2012 provision	Existing	Proposed
Zone	 <p>B2 Local Centre</p> <ul style="list-style-type: none"> 193 – 201 Rocky Point Road <p>R3 Medium Density</p> <ul style="list-style-type: none"> 66 – 68 Ramsgate Road 2 – 6 Targo Road 	 <p>B2 Local Centre</p> <ul style="list-style-type: none"> Entire site
Maximum building height	 <p>21m</p> <ul style="list-style-type: none"> 193 – 201 Rocky Point Road <p>15m</p> <ul style="list-style-type: none"> 66 – 68 Ramsgate Road 2 – 6 Targo Road 	 <p>Building heights are proposed to range from 16m – 35m:</p> <ul style="list-style-type: none"> 16m 25m 29m 31m 35m
Floor Space Ratio	 <p>S1</p> <p>U1</p>	 <p>0.55:1</p> <p>1.5:1</p> <p>3.2:1</p> <p>2.5:1</p>

KLEP 2012 provision	Existing	Proposed
	2.5: 1 <ul style="list-style-type: none"> 193 – 201 Rocky Point Road 1.5:1 <ul style="list-style-type: none"> 66 – 68 Ramsgate Road 2 – 6 Targo Road 	3.2: 1 <ul style="list-style-type: none"> Entire site

5. ASSESSMENT OF THE PLANNING PROPOSAL

53. The Department of Planning, Infrastructure and Environment's A Guide to Preparing Planning Proposals - issued under s3.33 (3) of the Environmental Planning and Assessment Act 1979 provides guidance and information on the process for preparing and assessing Planning Proposals. The assessment of the submitted Planning Proposal has been undertaken in accordance with the latest version of this Guide (dated August 2016).

5.1 Strategic Planning Context

Greater Sydney Region Plan (A Metropolis of Three Cities) and the South and Eastern City District Plans

54. The Greater Sydney Region Plan was finalised and released by the Greater Sydney Commission in March 2018 and establishes the aspirations for the region over the next 40 years. The Region Plan is framed around 10 directions relating to infrastructure and collaboration, liveability, productivity and sustainability.
55. The Eastern and South District Plans are 20-year plans to manage growth in the context of economic, social and environmental matters to achieve the 40-year vision for greater Sydney. They contain planning priorities and actions for implementing the Region Plan at a district level, and are the bridge between regional and local planning.
56. The Site and the nearest strategic centre and Health and Education Precinct of Kogarah are located in the South District, while Ramsgate, which has been identified as a local centre, is located in the Eastern City District. Accordingly, consistency with the South District Plan has been assessed, whilst also taking into account the objectives of the Eastern City District Plan.
57. The proponent has provided an assessment against the Region and District Plans and states that the Planning Proposal is capable of delivering on the majority of the Planning Priorities. It is noted, however, that the Planning Proposal is not consistent with a number of the Planning Priorities. These inconsistencies are summarised and discussed below in **Table 3** below.

Table 3 Assessment of Proposal against South District Plan

Directions and objectives	District Planning Priority	Proponents Comments	Assessment
Infrastructure and collaboration			
A city supported by infrastructure			
Objective 2: Infrastructure aligns with	S1 and E1: Planning for a city	The Site is located on an identified corridor for a 'Train Link/Mass Transit	Inconsistent The proposed development would result in significant population

forecast growth – growth infrastructure compact.	supported by infrastructure	<p>Visionary', 'Road Investigation 0-10 years' and 'Road Visionary'. The planning proposal allows for future forecast growth on the Site, which aligns with the proposed future infrastructure in the vicinity to align with this objective.</p>	<p>growth (197 new dwellings) and increased patronage, in an area without a railway station, placing pressure on the existing road network through increased traffic volumes and limited public transport services (bus connections). Further, the cumulative impact on traffic and infrastructure of development activity (and potential development resulting under existing controls) within the area and adjoining Bayside LGA should be considered. The Planning Proposal has been supported by a Traffic and Parking Impact Assessment Report (27 August 2019), which states that the development will generate 673 vehicles per hour (vph) and 735vph during the Thursday evening and Saturday peak periods respectively. With no identified plans for increased public transport services or significant road upgrades, the development would result in adverse impacts in terms of traffic congestion. Similarly, the Traffic and Parking Impact Assessment Report indicates that the intersections of Rocky Point Road and Ramsgate Road and Rocky Point Road and Targo Road are currently affected by southbound queue on Rocky Point Road. The intersection of Rocky Point Road with Targo Road would be required to be upgraded to traffic signals to facilitate the right turn movements into and out of Targo Road. It is considered that significant infrastructure upgrades would be required to support this growth, and until the aforementioned train link/road upgrades are confirmed, the proposal is considered to be unjustified. The Planning Proposal also contends that that the Site is located close to the 'Train</p>
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			<p>Link/Mass Transit Visionary', 'Road Investigation 0-10 years' and 'Road Visionary' corridors. However as stated, these infrastructure plans are all visionary at this stage. No significant infrastructure upgrades within Ramsgate have been committed to.</p> <p>As these infrastructure upgrades are only 'visionary' at present, the Planning Proposal has not adequately demonstrated how the proposed development could be supported should these upgrades not take place.</p>
Liveability			
A city for people			
Objective 6: Services and infrastructure meet communities' changing needs	S3 and E3: Providing services and social infrastructure to meet people's changing needs	The planning proposal includes significant public benefits and infrastructure to meet the changing needs of the community, including a large new public space, community facilities and the provision of other services not yet provided in Ramsgate including a full line supermarket.	<p>To be determined</p> <p>An offer to enter into a planning agreement has been provided which includes provision for the following:</p> <ul style="list-style-type: none"> » Community facility » Public Square » Public wifi » Through Site link/laneway » Public domain improvements and landscaping » Public art » Funds for traffic improvements » Assistance with local sporting clubs <p>However, no assistance has been provided in terms of funding for upgrades to schools or public transport. Consultation with the Department of Education (DoE) would need to be undertaken in order to determine whether contributions to an education establishment would be required, as it is understood that a school could not be accommodated on the Site.</p> <p>Similarly, consultation with Transport for NSW (TfNSW) would be required in order to determine the level of public transport upgrades which would need to occur as a result of the proposed development.</p>

Objective 7: Communities are healthy, resilient and socially connected	S4 and E4: Fostering healthy, creative, culturally rich and socially connected communities	The planning proposal will allow for infrastructure and services to increase the health, resilience and social connection of the local community. It envisages a new public 'heart' of Ramsgate which will allow for social interaction and public events including markets. The indicative development proposal includes medical suites to support the local health needs of the community.	Consistent The proposed development would increase activity and social interaction through the provision of a new town square and public open space. A mixed-use neighbourhood close to centres and public transport would improve the opportunity for people to walk and cycle to local shops and services. This will increase the healthy habits of residents while also decreasing traffic congestion around Ramsgate local centre.
Housing the city			
Objective 10: Greater Housing Supply	S5 and E5: Providing housing supply, choice and affordability, with access to jobs, services and public transport	The indicative development scheme includes 197 residential apartments to meet the housing targets of the LGA under the District Plans.	Inconsistent The draft Planning Proposal plans to provide 197 residential units comprising 1, 2 and 3 bedroom apartments to meet the need of the Georges River 0-5 year housing targets in the South District. Georges River has a target of 4,800 new dwellings by 2021. Although housing is required, the Georges River LGA is currently not under significant housing pressure. The proposed development would result in significant population growth (197 new dwellings) and increased patronage, in an area without a railway station, placing pressure on the existing road network through increased traffic volumes and limited public transport services (bus connections). A development of this density is more appropriately located around major transport corridors such as train stations.
Objective 11: Housing is more diverse and affordable		The indicative development scheme includes provision for a range of 1, 2 and 3 bed apartments to increase	Inconsistent Across Greater Sydney, both home renters and purchasers face housing affordability challenges as Greater Sydney

		<p>the housing diversity in the local area. A greater supply of housing types will assist in making housing more affordable in the local area.</p> <p>Being co-located with other retail and medical facilities also allows the local areas aging demographic the ability to more easily “age in place” and reduce strain on local health infrastructure.</p>	<p>has been measured as being one of the least affordable housing markets globally and is the least affordable Australian city. A range of housing choices, including affordable rental housing reduces the need for people to go into social housing and also supports a pathway for people to move out of social housing.</p> <p>The Plan recommends Affordable Rental Housing Targets as a mechanism to deliver an additional supply of affordable housing for very low to low-income households in Greater Sydney.</p> <p>The Planning Proposal aims to provide a diverse range of apartments from 1 to 3 bedrooms. However, no provision has been made for affordable rental housing. It is considered that approximately 5–10% of new residential floor space should be allocated to affordable housing.</p>
A city of great places			
Objective 12: Great places that bring people together	S6 and E6: Creating and renewing great places and local centres, and respecting the District's heritage.	Key improvements to the public domain envisaged under this proposal include a major public space, with significant landscaping elements as shown in the Landscape Concept Plan at Appendix C. It is envisaged that this space will bring people together through community events such as markets and everyday use and activation.	<p>Consistent</p> <p>It is expected that the proposed redevelopment of the Site would include a high-quality public domain and communal open spaces for the proposed residents.</p> <p>The proposed development would be walkable and would accommodate formal and informal opportunities to develop and maintain social connections, through the establishment of the central square.</p>
Objective 13: Environmental heritage is identified, conserved and enhanced		Whilst there are no heritage items on the subject Site, the impact of the planning proposal on adjacent heritage items has been assessed in the Statement of Heritage Impact at Appendix D,	<p>Consistent</p> <p>The Site is located adjacent to two locally listed heritage items; the residential flat building ‘Roma’ at 70 Ramsgate Road and shops at 211-219 Rocky Point Road. A Heritage Impact Statement has been prepared, which states that the proposed development would</p>

		and further assessed in Section 8.7. The assessment concludes that the planning proposal will have an acceptable impact on the heritage significance of the heritage items in the vicinity.	<p>have acceptable or positive heritage impacts on the adjacent heritage items.</p> <p>Council's internal heritage review has provided comment that the Planning Proposal will alter the visual context and backdrop of the two heritage items, however the appreciation of the character and relationships between the heritage items can still be appropriately managed and retained and the conceptual building envelopes introduce improved transitions in scale to pull the future building heights away from the heritage items.</p> <p>While detailed building designs have not been developed as part of the Planning Proposal, the merits of any future development will be considered as part of future Development Applications.</p>
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Productivity

A well-connected city

Objective 14: A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities	S12 and E10: Delivering integrated land use and transport planning and a 30-minute city	The planning proposal intends to enable a mixed-use development which will allow residents direct access to retail uses that support everyday living. Notwithstanding the existing bus services available on the Site, the Site is located on an identified corridor for a 'Train Link/Mass Transit Visionary', 'Road Investigation 0-10 years' and 'Road Visionary' which will further increase the ability of the Site to meet this objective.	<p>Inconsistent</p> <p>A number of major committed and potential transit corridors that will improve connectivity in the Eastern, Central and Western cities are identified in Future Transport 2056. The infrastructure initiatives related to the Site include:</p> <ul style="list-style-type: none"> • Greater Sydney committed initiatives (0-10 years) - F6 Extension – Stage 1 West Connex to President Avenue, Kogarah • Greater Sydney initiatives for investigation (0-10 years) - The F6 extensions, Kogarah to Loftus • Greater Sydney initiatives for investigation (10-20 years) - Parramatta to Kogarah Mass Transit/Train Link <p>The F6 extension is the only infrastructure upgrade which has been committed to and would impact the Site in the next ten</p>
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			<p>years.</p> <p>The proposed development is based on the 'visionary' investigations. There is no certainty that these investigations will result in actual works. The increase in population as a result of the proposed development would put increased pressure on the existing road network and bus services. Improvement would be required to be considered as part of this proposal.</p>
Jobs and skills for the city			
Objective 22: Investment and business activity in centres	<p>S11: Supporting growth of targeted industry sectors</p> <p>E11: Growing investment, business opportunities and jobs in strategic centres</p>	<p>The location of the 'Ramsgate' local centre under the Eastern District Plan is between the existing Ramsgate Beach and Ramsgate Centre. The merits of accommodating investment and business activity in Ramsgate Centre are articulated in Section 6.1.2. On this basis in addition to the Site-specific merits of the proposal, further investment and business activity in Ramsgate will be enabled by this application which will meet this objective.</p>	<p>Consistent</p> <p>Ramsgate has been identified as a local centre. Local centres are important for access to day-to-day goods and services. These centres create a strong sense of place within the local community. Local centres are collections of shops and health, civic or commercial services. Larger local centres, such as those anchored by a supermarket, can form the focus of a neighbourhood. Supermarket-based centres also provide local employment, accounting for close to 18% of all Greater Sydney's jobs. This is the view for Ramsgate under the proposed development. There is a need to consider whether the supermarket should be a neighbourhood supermarket to respond to the hierarchy of the centre. The Plan states that increasing the level of residential development within walking distance of centres with a supermarket is a desirable liveability outcome.</p>
Sustainability			
A city in its landscape			
Objective 30: Urban tree canopy cover is increased	<p>S15 and E17: Increasing urban tree canopy</p>	<p>As demonstrated by the Landscape Concept Plan at Appendix C, an increase in the tree canopy on Site is</p>	<p>Consistent</p> <p>The proposed development includes the delivery of new landscaped public open space, which would improve the</p>

	cover and delivering Green Grid connections	proposed to meet this objective.	connectivity of the area and increase the urban tree canopy.
Objective 31: Public open space is accessible, protected and enhanced	S16 and E18: Delivering high quality open space	A significant new public space of a scale not currently existing in Ramsgate is proposed under this Planning Proposal. It connects to all adjacent streets, with surrounding buildings oriented to ensure maximum amenity.	Consistent The proposed development would provide a new village square and area of public open space and associated street landscaping. The public open space would be easily accessible from Targo Road and Rocky Point Road with a through Site link from Ramsgate Road.
Objective 32: The Green Grid links parks, open spaces, bushland and walking and cycling paths		The Site is nearby to parts of the Green Grid corridor identified in the District Plans five blocks to the east. The development ultimately enabled by this Planning Proposal will greatly benefit from access to these linked spaces.	Consistent The Greater Sydney Green Grid connects communities to the landscape. The Site is located in close proximity to Green Grid connections.

5.2 Council's Local Strategic Plans

58. Consideration of the Planning Proposal in relation to Council's Local Strategic Plans is provided below:

Georges River LSPS 2040 - Draft Local Strategic Planning Statement April 2019

59. The draft Local Strategic Planning Statement (LSPS) 2040 outlines the 20-year vision for land use planning in the LGA. Underpinned by the five interrelated themes, the draft LSPS 2040 will assist in implementing actions in the Regional and District Plans, and Council's own priorities in its Community Strategic Plan:

- Access and movement
- Infrastructure and community
- Housing and neighbourhoods
- Economy and centres
- Environment and open space

60. The draft LSPS for Georges River was placed on exhibition until 7 August 2019.

61. An assessment of the Planning Proposal against the draft LSPS Planning Priorities is provided in **Table 4** as follows:

Table 4 – Draft LSPS Planning Priorities

Planning Priority	Consistency
Access and movement	
P1 We have a range of frequent, efficient transport options to connect people, goods, services, business and educational facilities	Inconsistent The proposed development would result in significant population growth (197 new dwellings) and increased patronage, not close to a railway station, placing

Planning Priority	Consistency
	<p>pressure on the existing road network through increased traffic volumes and limited public transport services (bus connections).</p> <p>The Planning Proposal contends that that the Site is located close to the 'Train Link/Mass Transit Visionary', 'Road Investigation 0-10 years' and 'Road Visionary' corridors. However as stated, these infrastructure plans are all visionary at this stage. No infrastructure upgrades within Ramsgate have been committed to. As these infrastructure upgrades are only 'visionary' at present, the Planning Proposal hasn't adequately demonstrated how the proposed development could be supported should these upgrades not take place. Further, the cumulative impact on traffic and infrastructure of development activity (and potential development resulting under existing controls) within the area and adjoining Bayside LGA should be considered.</p>
P2 Everyone can navigate and experience the LGA is safety	<p>Consistent</p> <p>The proposed development would increase activity and social interaction through the provision of a new town square and public open space.</p> <p>A mixed-use neighbourhood close to centres and public transport would improve the opportunity for people to walk and cycle to local shops and services. This will increase the healthy habits of residents while also decreasing traffic congestion around Ramsgate local centre.</p>
P3 Roads, footpaths and cycleways are safe, accessible and free of congestion	<p>Inconsistent</p> <p>The Planning Proposal has been supported by a Traffic and Parking Impact Assessment Report (27 August 2019), which states that the development will generate 673 vehicles per hour (vph) and 735vph during the Thursday evening and Saturday peak periods respectively.</p> <p>With no identified plans for increased public transport services or road upgrades, the development would result in significant adverse impacts in terms of traffic congestion.</p> <p>Similarly, the Traffic report indicates that the intersections of Rocky Point Road and Ramsgate Road and Rocky Point Road and Targo Road are currently affected by southbound queue on Rocky Point Road. The intersection of Rocky Point Road with Targo Road would be required to be upgraded to traffic signals to facilitate the right turn movements into and out of Targo Road.</p> <p>It is considered that significant infrastructure upgrades would be required to support this growth, and until the aforementioned train link/road upgrades are confirmed, the proposal is considered to be unjustified.</p>

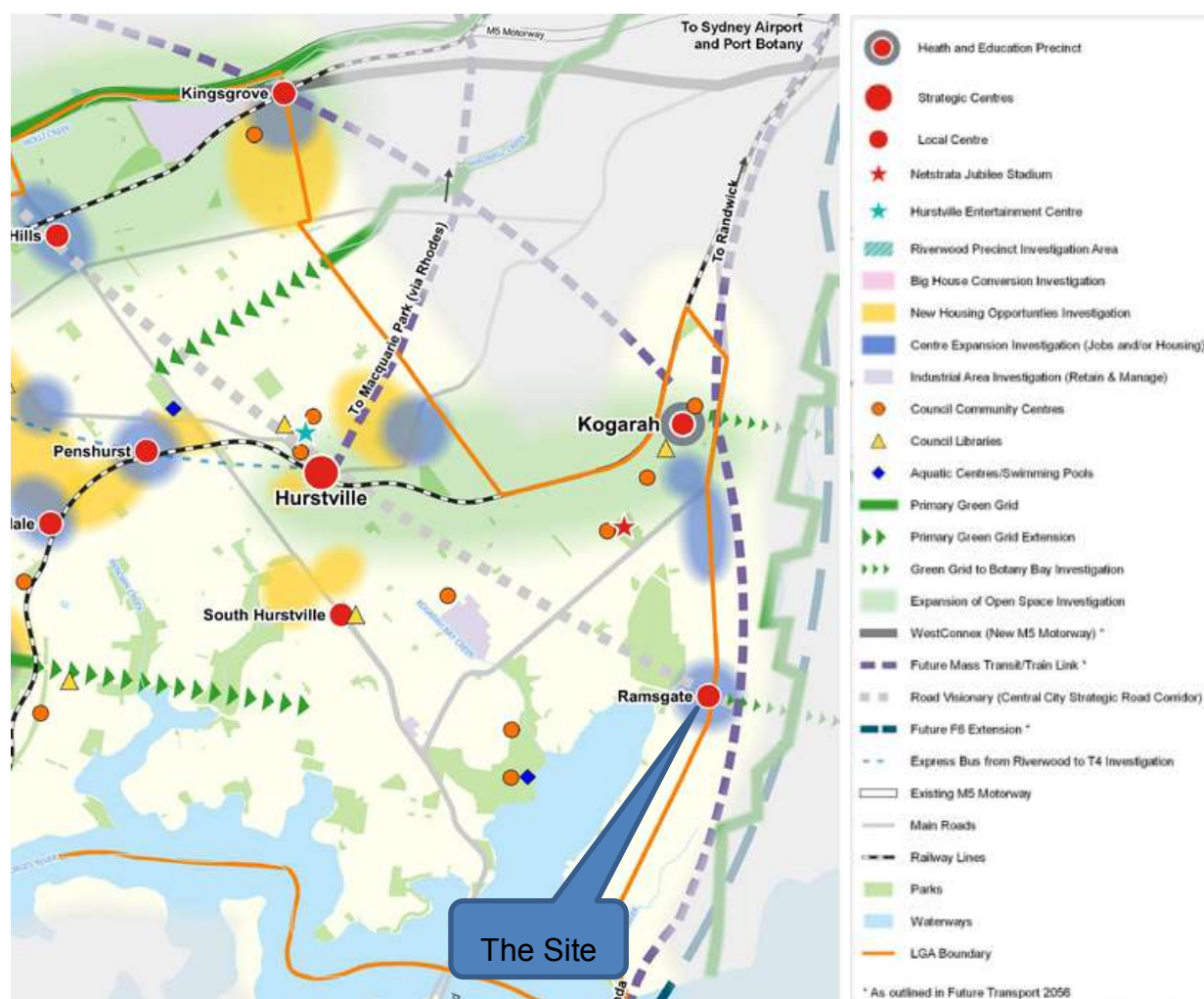
Planning Priority	Consistency
Infrastructure and Community	
P4 Collaboration supports innovation and delivers infrastructure, services and facilities	<p>Consistent</p> <p>An offer to enter into a planning agreement has also been provided which includes provision for the following:</p> <ul style="list-style-type: none"> • Community facility • Public Square • Public wifi • Public domain improvements and landscaping • Assistance with local sporting clubs <p>However, no assistance has been provided in terms of funding for upgrades to schools or public transport. Consultation with the DoE would need to be undertaken in order to determine whether contributions to an education establishment would be required, as it is understood that a school could not be accommodated on the Site.</p> <p>Similarly, consultation with TfNSW would be required in order to determine the level of public transport upgrades which would need to occur as a result of the proposed development.</p> <p>The cumulative impact of additional development activity (and potential development resulting under existing controls) within the area and adjoining Bayside LGA would apply additional pressure on infrastructure and services including schools.</p>
P5 The community is involved in planning our future	N/A
P6 Everyone has access to efficient digital connectivity	<p>Consistent</p> <p>Public wifi is proposed.</p>
Housing and neighbourhoods	
P7 Residential suburbs will be protected and retained unless identified as areas of change or investigation	<p>Consistent</p> <p>The Site will contain residential apartments within a mixed-use development.</p>
P8 Place based development, quality building design and public art deliver liveable places	<p>Yet to be determined</p> <p>The built form of the proposed development</p> <p>The development will result in the provision of a public art programme for the Ramsgate Centre which will brief, select and commission a variety of public art installations within the centre.</p>
P9 A mix of well-designed housing for all life stages caters for a range of needs and incomes	<p>Consistent</p> <p>The draft Planning Proposal plans to provide 197 residential units comprising 1, 2 and 3 bedroom apartments to meet the need of the Georges River 0-5 year housing targets in the South District. Georges River has a target of 4,800 new dwellings by 2021. Although housing is required, the Georges River LGA is currently not under significant housing pressure.</p>
P10 Homes are supported by safe,	Consistent

Planning Priority	Consistency
accessible, green, clean, creative and diverse facilities, services and spaces	The proposed development would provide a new village square and area of public open space and associated street landscaping. The public open space would be easily accessible from Targo Road and Rocky Point Road with a through Site link from Ramsgate Road.
P11 Aboriginal and other heritage is protected and promoted.	<p>Inconsistent</p> <p>The Site is located adjacent to two locally listed heritage items; the residential flat building 'Roma' at 70 Ramsgate Road and shops at 211-219 Rocky Point Road. A Heritage Impact Statement has been prepared, which states that the proposed development would have acceptable or positive heritage impacts on the adjacent heritage items.</p> <p>Council's internal heritage review has provided comment that the Planning Proposal will alter the visual context and backdrop of the two heritage items, however the appreciation of the character and relationships between the heritage items can still be appropriately managed and retained and the conceptual building envelopes introduce improved transitions in scale to pull the future building heights away from the heritage items.</p> <p>While detailed building designs have not been developed as part of the Planning Proposal, the merits of any future development will be considered as part of future Development Applications.</p>
Economy and Centres	
P12 Land is appropriately zoned for ongoing employment growth	<p>Consistent</p> <p>Ramsgate has been identified as a local centre. Local centres are important for access to day-to-day goods and services. These centres create a strong sense of place within the local community. Local centres are collections of shops and health, civic or commercial services.</p> <p>Larger local centres, such as those anchored by a supermarket, can form the focus of a neighbourhood. Supermarket-based centres also provide local employment, accounting for close to 18% of all Greater Sydney's jobs. This is the view for Ramsgate under the proposed development.</p> <p>There is a need to consider whether the supermarket should be a neighbourhood supermarket to respond to the hierarchy of the centre.</p> <p>The Plan states that increasing the level of residential development within walking distance of centres with a supermarket is a desirable liveability outcome.</p>
P13 Planning, collaboration and investment delivers employment growth and attractive, lively and productive centres	
P14 Hurstville, Beverley Hills and Kogarah are supported to grow safe night-time entertainment, dining and other recreational opportunities	

Planning Priority	Consistency
P15 All centres are supported for long-term viability	Consistent Refer above.
Environment and Open Space	
P16 Our waterways are healthy and publicly accessible	Consistent The proposed development would provide a new village square and area of public open space and associated street landscaping. The public open space would be easily accessible from Targo Road and Rocky Point Road with a through Site link from Ramsgate Road. The proposed development includes the delivery of new landscaped public open space, which would improve the connectivity of the area and increase the urban tree canopy.
P17 Tree canopy, bushland, landscaped settings and biodiversity are protected, enhanced and promoted	
P18 Environmentally friendly development is applied to all new development	
P19 Everyone has access to quality, clean useable, passive and active open and green spaces and recreation places	
P20 Development is managed to appropriately respond to hazards and risks.	

62. The LSPS states that Georges River has 48 local and neighbourhood centres of different sizes, character and function. Ramsgate is an identified neighbourhood centre as shown in **Figure 13** below. It has also been identified as part of 'Centre Expansion Investigation (Jobs and/or housing)' and 'Future Centres Growth Investigation LEP 2025' and beyond.
63. It is noted that the Site has not been identified as a 'Future Housing Investigation LEP 2025 & Beyond' area.
64. As shown in **Figure 13**, A 'Future Mass Transit/Train Link is identified to the east of the Site. A Road Visionary (Central City Strategic Road Corridor) is identified as travelling through the Site east to west.

Figure 13 Structure Plan



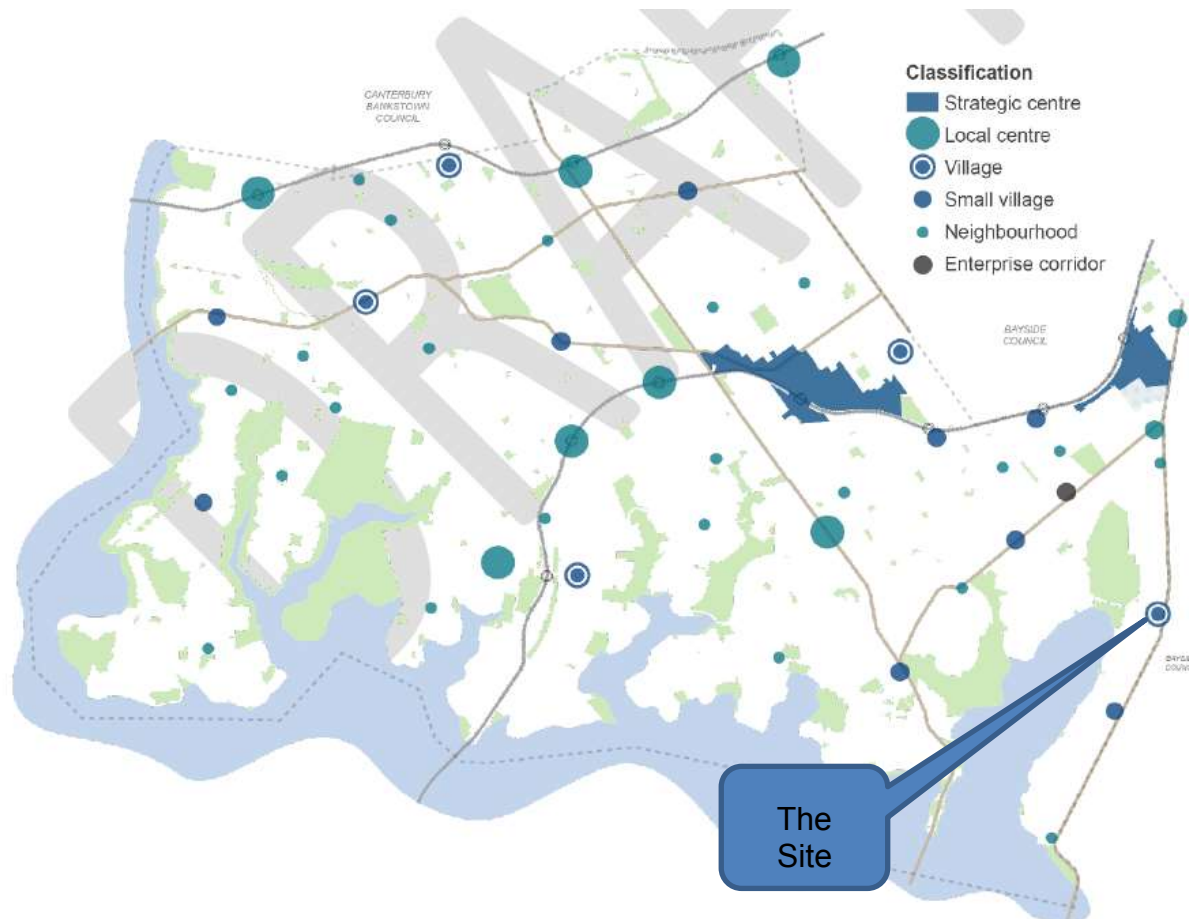
Source: GRC Draft LSPS

Georges River Draft Commercial Centres Strategy

65. The draft Commercial Centres Strategy for Georges River has been prepared to inform the incremental approach to strategic planning throughout the LGA.
66. Part 1 Centres Analysis was put on exhibition from 26 June 2019 to 7 August 2019.
67. Part 1 conducts a stocktake of 48 commercial centres in the Georges River LGA and develops an existing centres hierarchy. This has been completed with the aim of preparing a planning framework that effectively governs the future development of these centres to support their ongoing viability and the growth of local businesses and jobs in line with the draft LSPS 2040 vision.
68. The primary purpose of Part 1 is to inform the preparation of the LEP 2020 and its accompanying DCP. Part 2 of the Strategy is currently being prepared.
69. A new land use planning framework is being prepared through a harmonised Georges River LEP and developed as follows, in accordance with the actions nominated by the draft LSPS 2040:
 - LEP 2020 (Harmonisation and Housing) will be based on the current and emerging evidence base and community engagement outcomes. The focus of this LEP will be on delivery of housing targets, housing choice and harmonising the existing planning instruments.

- LEP 2022 (Jobs and Activation) will require further detailed studies and investigations to focus on the ongoing viability, competitiveness and activation for centres
 - LEP 2025 and beyond will be informed by the above LEPs and future strategic planning work to respond to longer-term housing and jobs forecasts and community values.
70. The Georges River Draft Commercial Centres Strategy has identified Ramsgate as a 'Village', as shown in **Figure 14**, which 'supports a local resident and worker population with 3,000 to 5,000m² of retail floor space and typically includes a small supermarket or convenience store'. The classifications of local centres, villages, small villages and neighbourhood centres are comprised of a combination of B1 Neighbourhood Centre and B2 Local Centre zoned land.
71. The strategy states that there are opportunities to review the existing centres hierarchy based on the recommendations of the Study. Place-based analysis is required in Part 2 of this Strategy to inform LEP 2022 and beyond. No rezoning or changes to the built form controls will occur until this work is complete.
72. The strategy makes land use recommendations to be implemented in LEP 2020. It also recommends minimum non-residential FSR required to meet 2036 demand. For villages, this is 0.67:1. It proposes that the minimum non-residential FSR for the proposed LEP 2020 for villages should be retained as 0.3:1.
73. LEP 2020, 2022 and 2025 recommendations are as follows:
- a. LEP 2020 recommendation:
 - i. Retain existing B2 Local Centre zoning
 - ii. Retain existing height and FSR development standards
 - iii. Implement a minimum non-residential FSR requirement in the centre of 0.3:1
 - iv. Enable the permissibility of self-storage units to complement the everyday retail functions of existing stores
 - v. Review and incorporate active street frontage provisions into DCP 2020 to enhance the centre's connectivity and vibrancy
 - b. LEP 2022 recommendation:
 - i. Review the minimum non-residential FSR requirement in centres with the aim of providing sufficient non-residential floor space to meet the 2036 demand
 - ii. Conduct place-based analysis to activate centres and ensure its ongoing viability – including investigating the existing height and FSR development standards, infrastructure provisions and public domain outcomes
 - c. LEP 2025 and beyond recommendation:
 - i. Conduct further investigation to determine the suitability of the possible promotion to "local centre" classification in the centres hierarchy
 - ii. Introduce design excellence mechanisms to facilitate good design
 - iii. Review development standards as required
 - iv. Investigate expansion of the centre's boundary to meet the demand for additional employment floor space.

Figure 14 Existing Centres Hierarchy



Source: Draft LSPS

Other Local Strategies

74. Consideration of the Planning Proposal in relation to Council's Local Strategic Plans is provided in **Table 5** and **Table 6** below:

Table 5. Compliance with Council's local strategies and/or local strategic plans

Plan/Strategy	Summary	Compliance
Georges River Community Strategic Plan 2018-2028 (2018)	<p>The Community Strategic Plan (CSP) sits above Council's planning framework and sets out the strategic direction for Council's Delivery Program and Operations Plans and include the following key themes:</p> <ul style="list-style-type: none"> • A protected environment and green open spaces • Quality, well planned development • Active and accessible places and spaces • A diverse and productive economy 	<p>Inconsistent</p> <p>The Site at Ramsgate is not located in a strategic centre, nor is it connected to substantial transport links and has not been identified for economic development under the plan. Accordingly, it is considered that the proposed density of the development is not adequately justified.</p>
Georges River Council Economic Development Strategy 2018-	<p>This Strategy takes a place-based approach to local economic development. It acknowledges that competing for economic success in a modern economy requires 'creating</p>	<p>Inconsistent</p> <p>The Strategy states that Ramsgate-Beverley Park has the potential to develop into a key centre. However, this is not</p>

2022 (2018)	<p>places where workers, entrepreneurs and businesses want to locate, invest and expand'.</p> <p>The strategy defines key centres as places with high levels of employment and employment opportunity, or places expected to experience significant population growth. These key centres are:</p> <ul style="list-style-type: none"> » Kogarah » Hurstville » Kingsgrove » Peakhurst » Riverwood <p>However, two emerging centres; Beverley Hills and Ramsgate-Beverley Park, have the potential, if encouraged and managed well, to develop into key centres providing additional employment and lifestyle opportunities.</p>	<p>expected to occur within the immediate future. Therefore, the scale of development proposed at present, is considered to be unjustified.</p>
Kogarah Employment Lands and Economic Development Strategy (2013)	<p>The aim of the Kogarah Employment Lands and Economic Development Strategy (KELEDS) was to assist with the creation of the new standard LEP for Kogarah and to provide recommendations for revised planning controls to be included in KLEP 2013. At the time of the Strategy, it was found that there was an undersupply of supermarket and grocery floor space of around 7,500m² included recommendations for supermarkets.</p>	<p>Consistent</p> <p>The inclusion of a full-line Coles supermarket within the proposed development needs to take into consideration the hierarchy of the centre. The scale of the proposed development has been based on the inclusion of a full-scale supermarket. It is considered that inclusion of a smaller scale supermarket should be considered so not to detract from Kogarah and other centres higher on the retail hierarchy.</p>
Kogarah Council Housing Strategy 2031 (2014)	<p>The Kogarah 2031 Housing Strategy is Council's commitment to managing housing supply over the next 20 years.</p>	<p>Inconsistent</p> <p>Refer to Table 6 below.</p>

Table 6 Consistency with Kogarah Council Housing Strategy 2031

Key objectives	Assessment
1. Housing across the City of Kogarah designed so that it provides choice, is affordable and is suited to the needs of our community.	<p>Inconsistent</p> <p>The planning proposal provides for a range of housing options, in the form of 1, 2 and 3 bedroom apartments. These smaller housing options will assist in catering for the needs of the older population. However, no provision of affordable housing is made, although it is noted that increasing the supply assists with affordability issues.</p>
2. Local centres within the City of	Consistent

Key objectives	Assessment
Kogarah are distinctive and vibrant, providing opportunities for small businesses to flourish throughout the city.	The proposed development would increase the population within the local centre of Ramsgate, bringing more customers and new businesses. The addition of a new mixed-use development would contribute to the revitalisation of Ramsgate centre.
3. Kogarah City residents can get to where they need to go in a way that is accessible, safe and efficient.	Inconsistent The Site is located in an area serviced by public transport connections. However, the scale of the development proposed would require upgrades to these existing connections, which is not proposed. The most accessible areas are those where there are commercial centres, railway lines and main roads. Ramsgate is not a commercial centre and does not have a railway.
4. Development in Kogarah maintains and enhances the character and amenity of our neighbourhoods, town centres and local centres.	Inconsistent The proposed development is of a scale and density far greater than any surrounding development, and proposes to exceed the height controls of the Kogarah strategic centre. The development does not respond to the context of the existing neighbourhood.
5. Comply with State Government requirements for housing targets throughout the Sydney Metropolitan Area.	Consistent The proposed development would provide for an additional 197 dwellings within the Kogarah LGA.

5.3 Other plans and strategies

75. An assessment of other relevant plans and strategies is provided in **Table 7** below.

Table 7 Assessment against other relevant Plans and Strategies

Plan/Strategy	Summary	Compliance
Future Transport Strategy 2056 - Greater Sydney Services and Infrastructure Plan	The transport vision for Greater Sydney has been developed to support the GSC's vision for Greater Sydney as a metropolis of three cities, where people have access to jobs and services within 30 minutes by public transport. The NSW Government has identified policy, service and infrastructure initiatives to support the customer outcomes and deliver the future networks. Initiatives have been prioritised on the basis of delivering on existing commitments, addressing network constraints and supporting growth.	Inconsistent All current initiatives are focused on improving connections to Kogarah, approximately 2km from the subject Site. Given this distance from the strategic centre and associated transport links, and considering the lack of associated infrastructure improvements to and within Ramsgate, the scale of the proposed development is unjustified.
KLEP 2012	The subject Site is currently: » zoned R3 Medium Density	Inconsistent The Planning Proposal for Ramsgate has

Plan/Strategy	Summary	Compliance
	<p>Residential and B2 Local Centre</p> <ul style="list-style-type: none"> » has a height limit of 15m and 21m » has an FSR of 1.5:1 and 2.5:1 » is located adjacent to the following heritage items: <ul style="list-style-type: none"> > 145: Residential Flat Building 'Roma' at 70 Ramsgate Road > 146: Shops at 211-219 Rocky Point Road 	<p>been prepared to justify a rezoning of the R3 part of the Site to B2, an increase in height to 16m, 25m, 29m, 31m and 35m and an increase in FSR to 3.2:1.</p> <p>The proposed maximum height control for the Site, of 35m is only 4m below the current 39m maximum height control within Kogarah, a nominated strategic centre under the District Plans. The proposed FSR of 3.2:1 is also not far behind the maximum FSRs in Kogarah of 4:1 and 4.5:1.</p> <p>There is little to no justification as to why a local centre with minimal transport links, should have such substantial height controls. The scale of the proposed development is out of keeping with the level of development currently envisaged for Ramsgate. The local centre does not currently have, nor is likely to have in the next ten years, the level of road or rail infrastructure required to support such a development.</p> <p>It should also be noted that the current FSR and height controls for the Site have only recently been gazetted in 2017 (under KLEP 2012 Amendment No.2). The new planning controls were prepared having regard to the new City Plan, hence the Site already has development controls slightly out of keeping with those for local centres. Similarly, LEP 2020 recommendations are as follows:</p> <ul style="list-style-type: none"> > Retain existing B2 Local Centre zoning > Retain existing height and FSR development standards > Implement a minimum non-residential FSR requirement in the centre of 0.3:1 <p>Consequently, the proposed amendments to the KLEP 2012 controls so soon after previous amendments is considered inappropriate.</p> <p>The DPIE's '<i>A Guide to Preparing Planning Proposals</i>' states that there will be a presumption against a Rezoning Review request that seeks to amend LEP controls that are less than 5 years old unless the proposal can clearly justify that it meets the strategic merit test, which this</p>

Plan/Strategy	Summary	Compliance
		<p>proposal does not.</p> <p>In addition, the proposed development does not encompass the heritage items located at 70 Ramsgate Road and 211-219 Rocky Point Road. The proposed development would result in adverse impacts to these heritage items.</p>
<p>Draft Greener Places: Establishing an urban Green Infrastructure policy for NSW (2017)</p>	<p>Greener Places is a draft Green Infrastructure Policy released by the Government Architect NSW in October 2017. Greener Places is structured around four key principles of Green Infrastructure.</p>	<p>Consistent</p> <p>The proposal is generally consistent with the four principles and objectives of the policy summarised as follows;</p> <ul style="list-style-type: none"> » implements increased tree cover at ground level, with the indicative scheme also including many roof gardens at different levels throughout the Site. » accessible from all surrounding streets to enhance pedestrian and cyclist permeability in and around the Site. » a range of green spaces are provided throughout the Site, including landscaped areas at ground level and roof gardens at different levels throughout the Site, which offer different spaces for different times, audiences and purposes.
<p>Better placed: An integrated design policy for the built environment of NSW (2017)</p>	<p>Better Place is a strategic document to guide the future of urban environmental planning such that it works towards the creation of better designed places throughout NSW.</p>	<p>Inconsistent</p> <p>The planning proposal has responded to the objectives of the policy summarised as follows;</p> <p>Ramsgate Village has been strongly influenced by its context, ensuring that various constraints and opportunities provided by the Site's surroundings are adequately responded to in the proposed planning controls. Ways in which the planning proposal does this include:</p> <ul style="list-style-type: none"> » transitioning appropriately to neighbouring residential areas and heritage items; » orienting the public space to ensure maximum solar access and amenity; and » respecting neighbouring items of environmental heritage. <p>Notwithstanding, it is considered that the design of Ramsgate Village development is vastly out of context with surrounding development and does not provide a gentle transition from smaller to larger scale development. The tallest building in Ramsgate is currently 6 storeys. The proposed development seeks a maximum</p>

Plan/Strategy	Summary	Compliance
		height of 10 storeys.
NSW Planning guidelines for Walking and Cycling 2004	These guidelines aim to assist land-use planners and related professionals to improve consideration of walking and cycling in their work.	Consistent It is noted that the vision for Ramsgate: <ul style="list-style-type: none"> » will provide for increased quality and quantity of public realm through the provision of a car-free public plaza encouraging pedestrian activity » will capitalise on existing bus public transport availability and be well-positioned for long-term visionary mass transit projects » all car parking will be provided underground, reducing any conflict with pedestrians or cyclists at street level.

5.4 State and Regional Statutory Framework

76. The Planning Proposal has been assessed against the below relevant State Environmental Planning Policies (SEPPs).

Table 8 Draft Planning Proposal consistency with the relevant State Environmental Planning Policies

Description	Assessment
SEPP No. 32 Urban Consolidation (Redevelopment of Urban Land)	
This Policy aims to promote the orderly and economic use and development of land by enabling urban land which is no longer required for the purpose for which it is currently zoned or used to be redeveloped for multi-unit housing and related development. The policy also seeks to implement a policy of urban consolidation which will promote the social and economic welfare of the State and a better environment by enabling: <ul style="list-style-type: none"> (i) the location of housing in areas where there are existing public infrastructure, transport and community facilities, and increased opportunities for people to live in a locality which is close to employment, leisure and other opportunities, and (ii) the reduction in the rate at which land is released for development on the fringe of existing urban areas. 	Inconsistent The Planning Proposal seeks to provide high density development in an area where there is inadequate public transport infrastructure. The Planning Proposal does not align with any infrastructure upgrades which are realisable within the next ten years.
SEPP No. 55 — Remediation of Land	
This policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.	Consistent The Site is currently used for retail and residential land uses and therefore is unlikely to be contaminated.
SEPP No. 65 — Design Quality of Residential Apartment Development	
SEPP No 65 — Design Quality of Residential Apartment Development (SEPP 65) Raises the design quality of residential apartment development across the state through the application of a series of design principles and an accompanying guideline Apartment Design Guideline (ADG) which are required to be considered as part of the	To be determined An Urban Design Report was submitted with the Draft Planning Proposal which demonstrates that the principles of SEPP 65 have

Description	Assessment
assessment process for residential flat buildings.	<p>been considered in the preparation of the Master Plan.</p> <p>The peer review of the Urban Design Report by Architectus indicated that the majority of the aspects of the development would be able to comply with the requirements of the ADG.</p> <p>Detailed compliance with SEPP 65 and the ADG would be required at the DA stage.</p>
SEPP (Building Sustainability Index: BASIX) 2004	
<p>Operates in conjunction with provision of the EP&A Regulation to encourage sustainable residential development (BASIX scheme).</p> <p>The SEPP ensures consistency in the implementation of BASIX throughout the State by overriding competing provisions in other environmental planning instruments and development control plans, which would otherwise add to, subtract from or modify any obligations arising under the BASIX scheme.</p>	<p>N/A</p> <p>Detailed compliance with SEPP (BASIX) would be a matter of consideration as part of a future DA.</p>
SEPP (Infrastructure) 2007	
<p>This policy aims to facilitate the effective delivery of infrastructure across the State along with providing for consultation with relevant public authorities during the assessment process. The SEPP supports greater flexibility in the location of infrastructure and service facilities along with improved regulatory certainty and efficiency.</p> <p>In particular, the SEPP requires specific consideration of the following clause given the location of the Site adjacent to the T2 East-Hills Train line and services;</p> <ul style="list-style-type: none"> • Development adjacent to rail corridors (Clause 85) • Excavation in, above, below or adjacent to rail corridors (Clause 86) • Impact of rail noise or vibration on non-rail development (Clause 87) • Development adjacent to pipeline corridors (Clause 66C). 	<p>Inconsistent</p> <p>The Planning Proposal does not align with any future infrastructure upgrades which are realisable within the next ten years.</p> <p>However, it should be noted that an offer to enter into a planning agreement includes \$29.5 million as part of the Planning Proposal. This offer includes approximately \$1 million towards traffic improvements.</p> <p>Traffic improvements would involve the creation of controlled intersections at the Ramsgate and Rocky Point Road intersections with Targo Road.</p> <p>In addition, any new DA will be required to pay s 7.11 contributions.</p>
SEPP (Affordable Rental Housing) 2009	
Provides a consistent planning regime for the provision of affordable rental housing and aims to facilitate the effective delivery of new affordable rental housing through incentives.	<p>Inconsistent</p> <p>No provision has been made for affordable housing.</p>

Description	Assessment
SEPP (vegetation in non-rural areas) 2017	
The aims of the Policy are: to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.	Consistent There are currently no significant trees on the Site.

5.5 S9.1 Ministerial Directions

77. Ministerial Directions under Section 9.1 (formerly S117) of the EP&A Act set out a range of matters to be considered when preparing an amendment to a Local Environmental Plan.
78. The Planning Proposal is inconsistent with the following Ministerial Directions:
- 3.1 Residential zones – the Planning Proposal is inconsistent with this direction where it seeks to provide a significant uplift in residential development with inadequate access to existing or proposed infrastructure.
 - 3.4 Integrating land use and transport – the Planning Proposal does not give effect to the objectives of this direction where the proposed residential density sought does not align with suitable provision of public transport and thus will result in further congestion to the surrounding road network which is already at capacity.

6. URBAN DESIGN ASSESSMENT

79. The preliminary design concept was presented to Council officers at a meeting on 21 March 2018, seeking a 1-19 storey mixed use development including the following:
- Three levels of basement car parking
 - Supermarket floor space of 4,350sqm
 - Retail floor space of 1,555sqm
 - Commercial floor space of 935sqm
 - 287 residential apartments
80. The preliminary assessment raised the issues identified below in **Table 9**. Comments have been provided as to whether the current Planning Proposal has addressed these issues.
81. Furthermore, an assessment of the proposed design has been undertaken against the relevant controls within the Kogarah Development Control Plan 2013 – Chapter E3 Ramsgate Centre (2013).

Table 9 Urban design assessment

Council Issue	Comment	Have Council's issues been addressed in the current proposal?
Height and scale	Consideration of the Site's strategic location must be made when assessing the preliminary proposal. Although the proposal supports the principles of the Greater Sydney Region Plan and the South District Plan in providing local employment and housing in local centres particularly supermarket-based	No It is agreed that the subject site has the potential to play a role for the local area. However, the proposed height and scale of the proposed development remains excessive and significantly out of context with any existing or proposed surrounding development, with the largest

	<p>centres, the subject Site is not identified as a local centre in these plans. Ramsgate Local Centre as identified in the Eastern City District Plan is located close to Ramsgate Beach, within the Bayside Council LGA.</p> <p>However, it is considered that the subject Site has the potential to play a role for the local area and there is opportunity to provide a focal point for the neighbourhood with more local housing and access to goods and services.</p> <p>The proposed height and scale of the development is excessive and is incompatible with and not justified in the context of the surrounding development particularly compared to the overall building height and scale of recent new mixed use development in both the Georges River Council LGA and the opposite side of Rocky Point Road (Bayside Council).</p> <p>The KLEP 2012 sets maximum building heights between 15m-21m for the Site. Through the extensive review and consultation of the recent KLEP 2012 (Amendment No. 2 i.e. New City Plan), Council envisioned lower height limits to the rear of development Sites along Rocky Point Road (western side of subject Site) so as to provide an appropriate transition to the adjoining low and medium density residential development. The proposed height and scale of the development will adversely impact on the amenity of the surrounding dwellings and does not provide adequate transition. Building separation distances must also comply with the Department of Planning and Environment's Apartment Design Guide, with compliance demonstrated through the submission of cross section diagrams.</p>	<p>development in Ramsgate currently standing at six storeys.</p> <p>The proposed development, at its highest, would reach up to 35m. This height is beyond any development proposed either in Ramsgate, or the strategic centre of Kogarah, and is considerably higher than the existing maximum height control for the Site (21m).</p> <p>It is not considered that a development of this scale is suitable for Ramsgate town centre, being identified only as a local centre in the relevant strategic documents, and lacking any form of transport interchange or services, beyond a limited bus network.</p> <p>The proposed heights at the rear of the development of between 1-6 storeys (Building B) and 1-8 storeys (Building C) would result in considerable adverse impacts to the low scale two storey residential developments adjoining.</p> <p>Accordingly, it is not considered that the concerns raised by Council, or the original assessment have been addressed.</p>
Amalgamation	<p>It is recommended that the remaining adjoining Sites on the corner of Rocky Point Road and Ramsgate Road (203 -219 Rocky Point Road,</p>	<p>No</p> <p>Council recommended that reasonable attempts be made to acquire 203-1219 Rocky Point Road,</p>

	<p>Ramsgate) be acquired and integrated into the development to avoid their isolation. This would achieve a greater planning outcome with better access and utilisation of the Site. It would also ensure that development adjacent to the heritage item is undertaken in a manner that is sympathetic to the character, scale, form and siting of the item. Written documentation providing evidence that reasonable attempts have been made to acquire the remaining adjoining Sites into the redevelopment and documentation of the negotiations between the owners of the properties is to be submitted to Council for review. This is to include copies of correspondence between parties and any formal financial offers and responses to offers.</p>	<p>however this has not been achieved. The property at 211-219 Rocky Point Road is a heritage item and contended by the applicant to have 'limited development potential'. However, it is noted that Site is subject to a 21m height limit and a 2.5:1 FSR control, offering some development potential. Consequently, it is considered that the heritage item may be able to be incorporated into the proposed development, which would result in a far better development outcome than isolated lots. It is also noted that written documentation providing evidence that reasonable attempts have been made to acquire the aforementioned Sites, has not been provided.</p>
Traffic and pedestrian access	<p>The preliminary proposal does not include the provision of a new rear laneway connecting Targo Road and Ramsgate Road. New rear lane access is a requirement of Part E3 Ramsgate Centre under the Kogarah DCP 2013 when lots are amalgamated. The DCP specifies that there is potential for a new rear lane to be introduced to buffer existing low scale residential development from higher, denser mixed use developments. The lane would also facilitate easy movement onto Rocky Point Road and discourage movement back onto residential side streets. There is potential for the lane to be made a shareway for pedestrian/vehicle access with retail uses fronting the laneway. The DCP envisions that the laneways connecting Rocky Point Road to the rear streets are wide enough to accommodate a pedestrian/shopping refuge from the noise of Rocky Point Road which links to the residential street network. Street activation along Rocky Point Road also has the potential to be improved. Retail and shop entrances to the Site from Rocky Point Road</p>	<p>No</p> <p>The development proposes a through Site link/laneway to Rocky Point Road and Ramsgate Road in the eastern and southern connections of the proposed square, connecting Targo Road and Ramsgate Road. It is considered that the streetscape along Rocky Point Road would be able to be adequately activated as a result of the proposed development. A Traffic Report has been prepared by The Transport Planning Partnership, which states that the development will generate 673 vph and 735 vph for the Thursday evening and Saturday peak periods respectively. As outlined above, it is considered that significant infrastructure upgrades would be required to support this growth. A detailed Traffic Management Plan for the loading dock has not been submitted.</p>

	<p>will encourage activation of the main street frontage.</p> <p>A detailed Traffic Report must be prepared by a qualified traffic consultant to assess all of the proposed traffic movements including the service delivery vehicles. Nearby intersections and access points on Targo Road and Ramsgate Road will also be required to be assessed. The assessment of a similar sized development and recommendations are to form part of the submission.</p> <p>A separate detailed Traffic Management Plan is to be submitted for the loading dock proposed from Ramsgate Road. As a minimum it is to include size of vehicles, their route to and from the Site, number of deliveries and staging of deliveries.</p>	
Heritage	<p>The subject Site adjoins two heritage items at 70 Ramsgate Road and 211-219 Rocky Point Road. The heritage items have not been acquired and it is difficult to ensure adequate transition between the two-storey heritage building at 211-219 Rocky Point Road and adjoining development along Rocky Point Road. There is no guarantee the isolated Site will be developed to provide a transition between the subject Site and the heritage item. It is recommended that the remaining adjoining Sites on the corner of Rocky Point Road and Ramsgate Road be acquired and integrated into the development to ensure appropriate transition to the heritage items. The form of future development adjacent to 211-219 Rocky Point Road should continue to reflect traditional shops along this section of Rocky Point Road with parapets, shopfronts and street awnings.</p> <p>The proposed six storey development adjacent to the heritage item at 70 Ramsgate Road is inappropriate, does not respond to the existing one and two storey residential development in this</p>	<p>No</p> <p>The Planning Proposal states that the property at 211-219 Rocky Point Road has 'limited development potential'. It has consequently not been acquired. Written documentation providing evidence that reasonable attempts have been made to acquire the aforementioned Sites, has not been provided.</p> <p>In terms of the development at 70 Ramsgate Road, a Heritage Impact Statement has been prepared, which states that the proposed development would have acceptable or positive heritage impacts on the adjacent heritage items.</p> <p>The proposed 1-6 storey development adjacent to the heritage item at 70 Ramsgate Road has not been reduced in height to be similar to that of the heritage item, nor has it been altered to be a standalone building.</p> <p>However, the proposed building envelopes, present a better relationship in scale to the two heritage items than the previous scheme. The proposed envelopes will envisage future buildings that are much taller than the heritage items, it</p>

	<p>section of Ramsgate Road, and will have an adverse impact on the setting of the heritage item. The form of new development adjacent to 70 Ramsgate Road should ideally be perceived as a stand-alone building with its size and volume being similar to the heritage item.</p> <p>To preserve views and visual appreciation of 70 Ramsgate Road, development adjacent to the heritage item should be set back a minimum 3 metres from the front boundary. The height of development along Ramsgate Road should ideally not exceed the height of the ridge of the heritage item. This should limit development fronting Ramsgate Road to two stories for the full depth of the adjacent heritage item.</p>	<p>is acknowledged that the primary elevation of the heritage items is oriented to address Rocky Point Road and Ramsgate Road and the future development would not obscure the primary views to the two heritage items.</p> <p>While the visual context of the two heritage items will be altered, the appreciation of the character and relationships between the heritage items can still be appropriately managed and retained.</p>
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82. The DRP assessed the proposal at the panel meeting held on 2 August 2018. The details of the assessment are outlined in **Table 10** below. The Planning Proposal has been reassessed against the below provisions of SEPP 65 in order to determine whether Council's issues have been adequately addressed.

Table 10 Proposal assessed against DRP comments

Panel issue – SEPP 65 Design Quality of Residential Flat Buildings	DRP Comments	Have the DRP's comments been addressed in the current proposal?
<p>Context and Neighbourhood Character Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent Sites, streetscape and</p>	<p>The following comments in the 2016 report of the Panel remain relevant. "This is a Planning Proposal for rezoning land and major increase in height and density well beyond existing and those proposed in the New City Plan. The Site has 3 frontages to Targo Road, Rocky Point Road and Ramsgate Road. Rocky Point Road represents the major interface with the local retail centre whereas Ramsgate Road is much more road oriented. Targo Road predominately services a residential area. There are 2 substantial street trees on Targo Road. The Site adjoins a medium</p>	<p>No Limited amendments have been made to what was previously proposed and what the new Planning Proposal proposes in terms of density controls. The alterations include:</p> <ul style="list-style-type: none"> • No amendment has been made to the proposed zoning of B2 Local Centre across the entire Site. • Proposed FSR has been reduced from 3.8:1 to 3.4:1 to 3.2:1 • Proposed height has been reduced from a range of 15m-51m to a range of 15m-46m, to a range of 16m-35m. <p>Although changes have</p>

<p>neighbourhood. Consideration of local context is important for all Sites, including Sites in established areas, those undergoing change or identified for change.</p>	<p>density townhouse development to the west which is zoned under the new City Plan R3 (15m height limit) and unlikely to be redeveloped in the foreseeable future. It is important that any development on the subject Site does not have unacceptable impacts on the adjoining existing residential zone.</p> <p>To the south of the Site a number of low scale retail and mixed use developments front Rocky Point Road and Ramsgate Road. These may develop at some stage in the future. There is a heritage listed building adjacent to the Site at 211-219 Rocky Point Road which also has frontage to Ramsgate Road. This is only 2 storeys in height and is unlikely to change.</p> <p>Along Rocky Point Road on the east side there are a number of recently completed new residential mixed use development only 4 storeys in height, and on the Targo Road / Rocky Point Road corner a very new development of 6 storeys height which was approved on the basis of the New City Plan. This establishes a new benchmark in relation to height and density on Rocky Point Road.”</p> <p>The current zoning for the Site has recently been gazetted. The Council informed the Panel that the subject Site is identified as being within a local centre in the Eastern District Plan; however, this does not infer that height and density need to be substantially increased.</p> <p>Council also advises that it is unable to find a reference to a new train link in the Future Transport Strategy 2056, as</p>	<p>been made, the density controls proposed would still result in a density well beyond that existing or proposed for the area. The DRPs original comments stated that it was important that the proposed development did not have unacceptable impacts on the adjoining residential zone. However, given the proposed scale of the scheme, significant adverse impacts on the 2 storey residential properties to the rear of the Site would be unavoidable.</p> <p>It is agreed that considering the recent gazettal of the current zoning for the Site, the proposed increased density controls are premature.</p> <p>The proposed development is located in proximity to an investigation corridor, no transport upgrades in close proximity to the Site have been committed to. Consequently, this is not considered to be an adequate justification of the proposed density.</p>
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	<p>shown on the applicant's "Ramsgate Town Centre in Focus Plan". The proponent argues that high density is required to support this unidentified transport imperative, although the current density controls are already relatively high for a local centre.</p> <p>Therefore, the Panel cannot agree with the proponent that the Site warrants such an increase in density and height as proposed. Nor does the proposal appear to build on the character of the existing retail strip and its current planning regime.</p>	
<p>Built Form and Scale</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a Site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p>The Panel were not convinced that the proposed space could legitimately be termed "a village square" for the following reasons:</p> <ul style="list-style-type: none"> • The square doesn't integrate with its existing retail strip and residential surrounds. • The 15 storey tower overwhelms the square. • The depth and width of the square and built form would create poor amenity for residents and the public (noise, privacy, wind etc). • The square layout reads as an entrance to a supermarket and other retail/commercial tenancies and not as a viable lively space in public ownership. <p>The Panel were also concerned that the Site is almost entirely built out and there are larger buildings distributed over the Site which impose heavily on adjacent lower scale buildings, including heritage items. Furthermore, the proposed change to the</p>	<p>No</p> <p>The revised Planning Proposal proposes the following:</p> <ul style="list-style-type: none"> • Amend the zoning map so that the entire Site is B2 Local centre • Amend the FSR map to increase the FSR from 1.5:1 and 2.5:1 to 3.2:1 • Amend the height of buildings map to increase the maximum building height from the existing controls of 15m and 21m to a range of heights from 16-35m <p>It is proposed to include a village square, ground floor retail including a subterranean supermarket, space for community facilities including child care centre, four levels of basement accommodating the supermarket and underground parking and 197 residential apartments. It is considered that the design of the village square would be able to integrate with surrounding development in terms of the</p>

zoning would further reduce opportunities to provide deep soil which is a critical factor in providing large trees within the Site and acting as a buffer to adjacent lower density residential areas.

The Panel indicated that a high rise building on this Site is not justified. There appears to be no logic in the applicant's claim that there needs to be a "marker in the centre of Ramsgate". If a supermarket is the best outcome for the Site it could include an entirely different built form outcome.

This could include an amenable and activated cross Site link, substantial trees and public space, completely within the current height and density controls.

retail area of Ramsgate town. However, the size of the square remains substantial and could easily be reduced. The village square has been separated from the residential development to the rear of the Site.

The proposed maximum height of the development has been reduced from 46m to 35m, but remains overwhelming and excessive in height.

The depth and width of the square may result in adverse impacts in terms of noise and privacy, however the level of this impact and potential measures that could be taken to mitigate these adverse impacts would need to be determined at the DA stage.

The Site remains almost entirely built out, with large buildings imposing heavily on adjacent two storey residential developments. The heritage items have not been incorporated into the overall design, but have instead been left as isolated Sites due to their limited development potential.

The sheer size and scale of the proposed development is not justified on this Site, given the lack of existing or proposed infrastructure to support it, the lack on identification of the Site as a strategic centre within the District Plans, no immediate alterations proposed to the planning controls for the Site under Council's Commercial Centres Strategy and considering that the area was subject to uplift during Councils amendment to the KLEP 2012 in 2017.

<p>Density Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the Site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p>The density proposed is not supported.</p>	<p>No Although the proposed density has been reduced, the current strategic plans for the area do not provide any justification for the increase in density, particularly as the planning controls were amended in 2017. The proposed density is 4 storeys over the largest existing development within Ramsgate and is therefore not consistent with its surrounds. Considering that Ramsgate has not been identified as a strategic centre, intended for significant growth in terms of infrastructure upgrades and employment, the volume of additional housing proposed may not be justified in the locality.</p>
<p>Sustainability Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p>Refer comments above in Built Form related to deep soil.</p>	<p>Yes It is considered that good sustainable design outcomes would be able to be achieved on Site in terms of natural cross ventilation and sunlight for the proposed apartments. Additional sustainable design initiatives would be able to be implemented at the DA stage. No In terms of deep soil, the proposed supermarket and basement car park occupy all of the available footprint, no deep soil zone is provided. Therefore, this issue has not been addressed.</p>
<p>Landscape Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive</p>	<p>Refer comments above under Built Form.</p>	<p>Yes It is considered that the landscape concept creates an activated and interesting public open space with positive amenity for those</p>

<p>developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>		<p>using the space. However, the bulk and scale of the proposed development surrounding the space is not supported. The details of proposed landscape design should be provided at the DA stage to support a development of an acceptable scale.</p>
<p>Amenity</p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p>The Panel is concerned that the current proposal will impact negatively on the amenity of the surrounding neighbourhood including lower scale residential buildings, shopfront and streetscape. The high rise tower as proposed is lengthy and intrusive on surrounding context.</p>	<p>No</p> <p>The proposed development, even with the proposed 11m height reduction from the previous scheme, could result in a development up to 10 storeys in height, which is four storeys over the height of the tallest development in Ramsgate. There are a number of 2 storey residential developments at the rear of the Site, all of which would experience significant adverse impacts in terms of amenity (visual and acoustic privacy, solar access) as a result of the proposed scheme.</p> <p>The provision of the communal open space areas for residents of Ramsgate is not an offset for these impacts.</p>

<p>Safety Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p>The Panel is concerned that the cross Site link is narrow, liable to be inactive during the evening and does not provide sufficient pedestrian amenity to function as an active and secure lane. The 6m width includes 3m not on the subject Site and a requirement for vehicular traffic.</p>	<p>Yes The cross Site link from Targo Road to Ramsgate Road is 6.6m and the pedestrian through Site link to Rocky Point Road is 4m. It is considered that CPTED arrangements could be successfully implemented to ensure pedestrian safety and security both in the laneways and the public spaces.</p>
<p>Housing Diversity and Social Interaction Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p>It is expected that this Site will include high quality public domain and communal open space for the proposed residents.</p>	<p>Yes It is considered that the proposed development has a good design in theory, and would provide a mix of apartment sizes and housing choice. Although there should be some provision made for the inclusion of affordable housing.</p>
<p>Aesthetics Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. The visual appearance of a well designed apartment</p>	<p>The many perspectives provided of the Planning Proposal demonstrate to the Panel that the proposal is too dense and high and would have an adverse impact on the existing context.</p>	<p>No It is considered that the development would be able to achieve a good built form, if the development was at a reduced scale. The development does not have good proportions. It remains too dense and too high and consequently would have an adverse</p>

development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.		impact on surrounding developments.
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7. SITE SPECIFIC MERIT ASSESSMENT

83. If there is no strategic framework in place, or the proposal is inconsistent with the strategic planning framework, an assessment of the proposal against the Site-Specific Merit tests in accordance with the assessment criteria of the “*A Guide to Preparing Local Environmental Plans*” should be undertaken.

7.1 Natural Environment

84. The Site is already developed and located within the Ramsgate town centre, hence the Site does not contain any significant environmental values.

7.2 Development surrounding the Site

85. The proposed mixed-use development in its location along Rocky Point Road, would be in keeping with surrounding retail and commercial development and would assist in activating the Site and rejuvenating Ramsgate Town Centre. However, the bulk and scale of the development is vastly out of context with its surroundings.
86. The tallest building in Ramsgate at present stands at six storeys. The subject Site currently has height limits of 15m and 21m, which could result in a seven storey development fronting Rocky Point Road. A development which complies with the existing height controls, whilst being the largest development in Ramsgate, would still be in keeping with the surrounding development and likely future development.
87. The proposed development, reaching a maximum of ten storeys, would be out of context with the current or future vision for the Site, creating a dominating development within the centre of Ramsgate.

7.3 Services and Infrastructure

88. The proposed development would result in significant population growth (197 new dwellings) and increased traffic movement, placing pressure on the existing road network through increased traffic volumes and limited public transport services (bus connections).
89. The Planning Proposal has been supported by a Traffic and Parking Impact Assessment Report which states that the development will generate 673 vph and 735 vph for the Thursday evening and Saturday peak periods respectively. With no identified plans for increased public transport services or road upgrades, the development would result in significant adverse impacts in terms of traffic congestion.
90. The Traffic report indicates that the intersections of Rocky Point Road and Ramsgate Road and Rocky Point Road and Targo Road are currently operating either ‘satisfactory’ or ‘near capacity’ during Thursday and Saturday peak hours. As a result of the proposed development these intersections would operate at ‘near capacity’ or ‘unsatisfactory with excessive queuing levels’.
91. There are currently no plans to upgrade this road infrastructure, and although the planning agreement offer includes funds (\$1 million) for traffic improvements, such as the creation of controlled intersections at the Ramsgate and Rocky Point Road intersections

with Targo Road, it is considered that further substantial upgrade works would be required in order to accommodate the increased traffic volumes which would result from the proposed development.

92. As Ramsgate is a designated local centre, it has not been focused on in terms of improvement in transport connections. Kogarah is the closest strategic centre to the Site and has therefore been the focus of new and improved transport connections.
93. The extent of public transport which services the Site comprises a bus network, with stops along both Ramsgate Road and Rocky Point Road.
94. There is currently no train station within Ramsgate, nor is there one proposed.
95. No public transport upgrades are proposed as part of the planning proposal. Considering the vast pressure, the proposed development is likely to place on existing bus services, this is something that will need to be taken into account. It is considered that consultation with TfNSW would be required in order to determine the level of public transport upgrades which would need to occur as a result of the proposed development.
96. The proposed development would create some social infrastructure with an offer to enter into a planning agreement including provision for the following:
 - a. Community facility
 - b. Public Square
 - c. Public wifi
 - d. Public domain improvements and landscaping
 - e. Assistance with local sporting clubs
97. Consultation with the Department of Education (DoE) would need to be undertaken in order to determine whether contributions to an education establishment would be required, as it is understood that a school could not be accommodated on the Site.

8. INTERNAL REFERRALS

8.1 Traffic

98. The Traffic section supports the report that was presented to Council by ttp in support of the Planning Proposal. The report was robust in addressing what is needed at the planning proposal stage in that it utilised fair and accurate Traffic generation rates and in doing so they modelled the affected intersections with three different scenarios:
 - Existing Conditions;
 - Future Base Case Traffic Conditions – this is based on background future growth without the traffic generation from the planning proposal; and
 - Future Development Case Traffic Conditions – this is based on background future growth and the traffic generation from the planning proposal.
99. The study was technical and fair in reporting that the affected intersection would fail in the third scenarios (being the Future Development Case Traffic Conditions), if the affected intersections were not upgraded to address deficiency.
100. The report recommended the following mitigating measures under which the intersection would operate at an acceptable level of service if the planning proposal was to go ahead. These measures are as follows:
 - Targo Road intersection with Rocky Point Road would require to be signalised. In addition, the removal of kerbside parking along Rocky Point Road;

- The new signalised Rocky Point Road and Targo Road intersection would operate with a three-phase traffic signal sequence with a leading right turn from Rocky Point Road southbound into Targo Road. The existing mid-block pedestrian crossing in Rocky Point Road located north of Targo Road is to be removed as signalised crossings would be provided on all legs at the new Targo Road signalised intersection; and
- Ramsgate Road intersection with Targo Road intersection would need to be signalised so that a right turn movement from Ramsgate Road into Targo Road could be catered for. The proposed traffic signals would also operate with a three-phase traffic signal sequence. In addition, one of the eastbound departure lane on Ramsgate Road is proposed to be converted into an approach right turn lane.

101. The Traffic Section welcomes these upgrades as they would improve traffic in the subject area. However, before Council can commit to the Planning Proposal, Capital Hill Group will have to demonstrate and prove to Council that The Roads and Maritime Services (RMS) would agree and approve the above-mentioned mitigating measures at the intersections of Targo Road, Rocky Point Road and Ramsgate Road.
102. Signalising the above-mentioned intersections will have to be approved by RMS as it forms part of their SCAT system and will become their infrastructure to control and manage, If RMS do not approve these proposed changes then the planning proposal could not be supported.
103. Furthermore, in addition to RMS's approval, the developers will need to submit feasibility study demonstrating total costs of the upgrades to the subject intersections including any services relocation that might be needed to allow the installation of the traffic light poles and associated structures. The feasibility study with all necessary RMS approvals, concept designs, underground details of footings and similar structures will need to be presented to Council's Design section for review and approval.
104. All costs associated with the upgrade of the intersections will need to be borne by the developers Capital Hill Group.
105. For the Proposed Vehicle Access Arrangements, being:
 - Vehicular access to the basement car park off Targo Road and Ramsgate Road;
 - The car park access on Ramsgate Road would be configured to permit only left-in movement from Ramsgate Road, while the access on Targo Road would permit all traffic movements; and
 - A second access is proposed on Ramsgate Road to service the loading dock. This access is proposed to provide left-in and left-out movements only.
106. The Traffic section accepts the proposed arrangement however swept path diagrams of their largest vehicle that would access the Site would need to be submitted to demonstrate that trucks can access and leave the Site in a safe manner and in a forward direction.
107. In conclusion the traffic section supports the Planning Proposal only if the mitigating measures at the affected intersections are carried out at no cost to Council.

8.2 Stormwater/Overland Flow

108. The Site will need to incorporate On-Site Stormwater Detention in accordance with Council's Stormwater Management Policy.

109. The Site will need to incorporate Water Sensitive Urban Design principles and meet Stormwater Quality targets as specified in Council's Stormwater Management Policy.
110. The Site would be affected by some overland flow in heavy storm events from a small catchment area to the west of the Site.
111. An overland flow path assessment would need to be undertaken to determine the effect of this overland flow path upon the proposal and to include design requirements that allow the overland flow for all storms up to the 100-year ARI event to travel safely through the Site. It will need to be shown that all buildings including their basements are protected from these overland flows, and that any overland flows within areas subject to pedestrian and vehicle movements are maintained at safe and low hazard levels.
112. It will also need to be proven that the proposal will not increase, concentrate or aggravate any flooding conditions within other properties or the adjacent roadways. This will include that existing flow paths from the neighbouring property at 8 Targo Road to the west of the Site are maintained.
113. The overland flow path assessment will need to provide evidence that overland flow would not enter the proposed driveway accesses at Targo Road and Ramsgate Road in storms up to the 100 year ARI event.
114. There is a Council stormwater pipe in the vicinity of the north east corner of the Site. Although unlikely this pipe may encroach partially into the Site. This would need to be determined prior to a development consent as an encroachment may impact upon the basement.

8.3 Voluntary Planning Agreement

115. Council received a letter of offer to enter into a Planning Agreement dated 17 January 2019, in conjunction with the Planning Proposal (see Attachment 9). The offer provides for a range of additional public benefits including a community facility space, public square, public wi-fi access, through Site link/laneway, public domain improvements and landscaping, contribution for traffic improvements and assistance to local sporting clubs.
116. As the Planning Proposal is not supported and is recommended for refusal, an assessment of the offer and proposed public benefits under Council's Policy on Planning Agreements 2016 has not be undertaken. Only when the Planning Proposal is supported in principle would an assessment of the planning agreement offer be undertaken.

8.4 Heritage

117. This Planning Proposal has previously been referred for heritage review and comment in April 2019, which identified two main issues that were recommended to be resolved prior to the Planning Proposal proceeding. These include:
 - Consideration of the potential heritage significance of the building at 201-205 Rocky Point Road for its important contribution to the historical significance of the development of the Ramsgate shopping precinct of the early 20th century and the direct associational significance to the two listed items of local heritage significance having been built by the Pittorino Brothers;
 -

The need to accommodate a greater transition in the scale of the proposed building envelopes to ensure future built forms do not adversely impact on the visual setting and occupant amenity of the heritage items.

118. The Planning Proposal has since been revised and while the overall quantum of the proposal remains the same, the indicative building envelopes have been revised to incorporate minor changes in the building heights, through introducing greater transition in the scale of future buildings and to improve their relationship to the two heritage items. The Planning Proposal incorporates the building at 201-205 Rocky Point Road and as per the previous comments, this building has potential heritage significance for its associations with the Pittorino Brothers who were responsible for the construction of the two buildings presently identified as items of heritage significance. The building at 201-205 Rocky Point Road features the name of Pittorino Brothers in the parapet façade and is the only building in the group to provide any tangible evidence that directly associates the buildings to the Brothers. Indeed the building has been cosmetically modified and those changes have diminished the design integrity of the building. It remains however, substantially intact and reinforces the low-scale commercial built form character of the streetscape and attributed to the Inter-War period, whereby contributing to and reinforcing the setting of the two heritage items adjacent. It is recommended that the Planning Proposal incorporate design / development controls to retain the façade of the building at 201-205 Rocky Point Road and its incorporation into any future development.
119. It is acknowledged that this Planning Proposal seeks to set in place conceptual building envelopes and the merits of any specific development proposal will be considered as part of future Development Applications. Still, it is necessary to consider whether the envisaged future development resulting from the conceptual building envelopes will have a harmonious relationship to the two heritage items on the site and therefore have an acceptable heritage impact.
120. Specifically, the Planning Proposal as revised, introduces improvements to the transition in scale of the multi-storey buildings through varying setbacks to create a lower podium level, yet still retains the overall volume of the built form as a backdrop to the heritage items. The revised building envelopes however, present a better relationship in scale to the two heritage items and while the proposed envelopes will envisage future buildings that are much taller than the heritage items, it is acknowledged that the primary elevation of the heritage items is oriented to address Rocky Point Road and Ramsgate Road and the future development would not obscure the primary views to the two heritage items. While the visual context of the two heritage items will be altered, the appreciation of the character and relationships between the heritage items can still be appropriately managed and retained.
121. The proposed buildings are centered around a public square which will 'pull the (future) buildings apart' and allow for a sense of building separation and solar amenity to the residential occupants of the building known as 'Roma'. A series of shadow diagrams have been provided showing the overshadowing to the heritage items from the conceptual building envelopes, which although results in overshadowing to the heritage items, still affords a reasonable amount of solar amenity to the occupants of the residential building (Roma). The impact of overshadowing and visual privacy and the merits of any future built forms will be considered in more detail once detailed building designs have been developed as part of future Development Applications. However, based on the 'worst case scenario', the amended building envelopes provide for reasonable solar amenity.

122. The Planning Proposal will alter the visual context and backdrop of the two heritage items, however the appreciation of the character and relationships between the heritage items can still be appropriately managed and retained and the conceptual building envelopes introduce improved transitions in scale to pull the future building heights away from the heritage items. While detailed building designs have not been developed as part of the Planning Proposal, the merits of any future development will be considered as part of future Development Applications. However, the Planning Proposal will set in place a planning regime that envisages the redevelopment of the site with a built form that can be reasonably accommodated in the backdrop to the heritage items.
123. As outlined above, it is recommended that the Planning Proposal incorporate design / development controls to retain the façade of the building at 201-205 Rocky Point Road and its incorporation into any future development.

9. PROPONENT'S RESPONSE

124. The proponent has provided a response below to the issues raised in the preliminary assessment of the amended Ramsgate Village Planning Proposal which was submitted to Georges River Council on 3 September 2019. This letter provides a response to the key matters raised, particularly with regard to the strategic and site-specific merit of the Planning Proposal.

Strategic merit

125. **District Plan consistency:** The Planning Proposal is consistent with the applicable District Plan (South District Plan and East District Plan) for the reasons set out comprehensively in Section 6.1.2 of the Planning Proposal report (Attachment 1) prepared by Ethos Urban and dated 3 September 2019.
- The proponent's traffic analysis has determined that the construction of 197 dwellings on the site can be accommodated within the traffic network.
 - The development of the site under the existing controls would yield approximately 157 dwellings, with the Planning Proposal effectively only seeking an additional 40 dwellings (the majority of additional floor space would be attributed to the supermarket).
 - The existing capacity of all developable sites in the Ramsgate Local Centre (and their redevelopment) would result in well excess of an additional 197 dwellings.
126. The proponent does not agree with the simple conclusion that the proposal is inconsistent with the District Plan because 197 additional dwellings cannot be accommodated based on the provision of existing or future infrastructure. This is because:
- The proponent's traffic analysis has determined that the construction of 197 dwellings on the site can be accommodated within the traffic network.
 - The development of the site under the existing controls would yield approximately 157 dwellings, with the Planning Proposal effectively only seeking an additional 40 dwellings (the majority of additional floor space would be attributed to the supermarket).
 - The existing capacity of all developable sites in the Ramsgate Local Centre (and their redevelopment) would result in well excess of an additional 197 dwellings.
127. **Draft LSPS consistency:** The Planning Proposal is consistent with the Draft Georges River LSPS, for the reasons set out comprehensively in Section 6.1.3 of the Planning Proposal report (Attachment 1) prepared by Ethos Urban and dated 3 September 2019.

128. The proponent does not agree that the Planning Proposal is inconsistent with Planning Priorities P1 and P3 of the Draft LSPS, as these planning priorities are transport related (contained within the 'Access and Movement' chapter of the Draft LSPS). These planning priorities provide Council a framework in the LSPS to advocate to the State Government for the construction of more transport infrastructure in the LGA. Planning Priority P1, which advocates for the LGA to "have a range of frequent, efficient transport options", is not relevant or applicable to the Planning Proposal, which seeks to facilitate the delivery of a public plaza, a supermarket and some additional dwelling capacity to offset the costs of these assets.
129. More relevantly, the Draft LSPS identifies that 14,000 dwellings will be required in the LGA through to 2036 to house the growing population of Georges River, however foreshadows a 2,000 dwelling shortfall in the capacity of existing controls (noting that the capacity under existing controls is approximately 12,000 dwellings). Accordingly, the Planning Proposal will contribute to this shortfall in capacity through a minor increase in dwelling capacity on the subject site.
130. **Draft Commercial Centres Strategy consistency:** The Planning Proposal is consistent with the draft Centres Strategy as the proposed retail component is generally consistent with the scale of Ramsgate and its position within the retail hierarchy. Whilst the retail proposed under the indicative concept scheme represents growth greater than anticipated under the Strategy, this is considered acceptable given Ramsgate is envisaged to have a greater share of future retail under the Strategy, and the fact that the proposed employment is commensurate with providing a new focal point for Ramsgate, centred around an activated public square.
131. The proponent does not believe there is sufficient justification to substantiate putting the Planning Proposal on hold for any reason. The Planning Proposal seeks to amend the controls to deliver a rational supermarket floor plate (the current zoning boundary prohibits this); noting that the amount of supermarket floor space proposed can already be delivered under the existing planning controls, therefore raising no centres hierarchy concerns. The opportunity presented by the Planning Proposal is the amalgamated, large consolidated parcel of land in single ownership, capable of providing a critical mass of retail, commercial and retail uses and the financial means to deliver a public plaza and undergrounded supermarket (unlocked by a modest amount of additional floor space which would make the outcome feasible).
132. **Consistency with DPIE Planning Proposal Guide:** The DPIE's A Guide to preparing Planning Proposals states that "there will be a presumption against a Rezoning Review request that seeks to amend LEP controls that are less than 5 years old, **unless the proposal can clearly justify that it meets the Strategic Merit Test**" (emphasis bold). For the reasons set out in the Planning Proposal reported dated 3 September 2019 and this letter response, the proposal achieves the strategic merit test, principally because it will give effect to the relevant district plan.
133. Importantly, it is also noted that at the time of the gazettal of the current controls, the site was not amalgamated to form the significant opportunity which it currently presents, nor was there a proposal for a public plaza or full line supermarket.

Site Specific Merit

134. **Built form:** The Planning Proposal report (Attachment 1) in Section 8.1 and its supporting studies sets out a comprehensive analysis of the built form and demonstrates its

appropriateness in the context of Ramsgate. The assessment finds that the impacts on and transition to neighbouring properties are acceptable, and that the proposal will not appear out of context, forming a focal point and ‘anchor’ for the town centre.

135. Given the additional height and relatively modest increase in floor space proposed are primarily a function of feasibly delivering and creating sufficient space on the site for a substantial public plaza, underground supermarket and parking, it is considered that the site specific merits of the proposal from a built form perspective are highly evident and outweigh any perceived impact.
136. **Traffic / infrastructure:** Section 8.8 of the Planning Proposal report and its accompanying Traffic Impact Assessment Report confirm that the traffic and parking impacts of a future proposal constructed in accordance with the development standards sought would be satisfactory subject to the future signalisation of the intersections at Rocky Point Road with Targo Road. In this respect, the proposal has site specific merit as the services and infrastructure that are or will be available can meet the demands arising from a proposal built to the proposed controls.
137. **Heritage:** Section 8.7 of the Planning Proposal Report and its accompanying Heritage Impact Statement confirm that the indicative development concept enabled by the Planning Proposal will have an acceptable impact on the heritage items in the vicinity. This conclusion is made on the basis that:
 - o the massing of the buildings has been carefully considered and is designed to step up away from the heritage items to diminish the dominance of the buildings over the corner heritage buildings;
 - all existing views to and from the heritage items in the vicinity will be retained and conserved; and
 - the planning proposal is consistent with the heritage objectives of the KLEP 2012 and the KDCP 2013.
138. In conclusion, the proponent’s view is that all concerns raised have either been addressed already in detail through the comprehensive design work undertaken and in responding on numerous occasions, or, commentary relating to the proposal’s shortcomings in relation to strategic and site specific merit are not substantiated.
139. The combination of a new full line supermarket, new public square and new public car park would deliver a significant public benefit for Ramsgate and will preserve its importance as a local centre and catalyse the wider centre’s future renewal. These initiatives are only possible with significant additional cost, principally as inclusion of the public square requires the undergrounding of the supermarket and associated car parking, all of which translates to a substantial and costly excavation and works programme. Such significant costs are unable to be supported by a fully compliant development scheme. It is simply not financially viable to provide this much public benefit without some trade off in additional floor space and height, albeit accepting that the majority of additional floor space is to be provided below ground.

10. SUMMARY OF ASSESSMENT/CONCLUSION

140. An assessment of the above-mentioned Planning Proposal has been undertaken against the relevant key strategic planning framework, in order to ascertain the strategic and site-specific planning merit.
141. Fundamentally, the sheer size and scale of the proposed development is not justified on this Site, given the context, lack of existing or proposed infrastructure to support it, the lack of identification of the Site as a strategic centre within the Region and District Plans, no

immediate changes proposed to the planning controls for the Site under Council's Commercial Centres Strategy

142. The Ramsgate local centre does not currently have, nor is likely to have in the next ten years, the level of road or rail infrastructure required to support a development such as that proposed.
143. The proposed development would inevitably result in significant population growth (197 new dwellings) and increased traffic movement, placing pressure on the existing road network through increased traffic volumes and limited public transport services (bus connections).
144. Given that the planning controls for the Site were gazetted in 2017 and that the Commercial Centres Strategy recommends that no changes be made to the planning controls for the Site as part of the LEP 2020 review, it is considered that the proposed increased density controls and expansion of the B2 zone are premature.
145. Although a number of positive changes have been made since the Planning Proposal was originally lodged, the controls proposed would still result in a density well beyond that which is existing or proposed for the area.

11. RECOMMENDATIONS

146. That the Georges River Local Planning Panel recommend to Council the Planning Proposal not progress to the Department of Planning, Infrastructure and Environment for a Gateway Determination, for the reasons summarised below:
147. It lacks strategic merit where:
 - i. It is inconsistent with Objectives: 2, 10, and 14 of the Greater Sydney Region Plan and respective corresponding Planning Priorities: S1 and E1, S5 and E5 and S12 and E10 of the South District Plan and Eastern City District Plan, which seek to align and integrate growth with infrastructure;
 - ii. It is inconsistent with the objectives and detailed requirements of s.9.1 Ministerial Directions pursuant to the *Environmental Planning & Assessment Act 1979*, including 3.1 Residential Zones and 3.4 Integrating land use and transport;
 - iii. It is inconsistent with the priorities contained within the Georges River draft Local Strategic Planning Statement, including P1 which seeks to connect people with efficient transport and P2 which seeks to provide roads free of congestion; and
 - iv. It is inconsistent with the strategic directions and key actions contained within the draft Commercial Centres Strategy, which seeks to retain existing height and FSR development standards for Ramsgate Centre.
148. It lacks site specific merit where:
 - i. The bulk and scale of the concept development is vastly out of context with the surrounding locality;
 - ii. The Ramsgate local centre does not currently have, nor is likely to have in the next ten years, the level of road or rail infrastructure required to support a development such as that proposed;
 - iii. The redevelopment of the site would result in the isolation of the two heritage sites; the residential flat building 'Roma' at 70 Ramsgate Road (I145) and shops at 211-219 Rocky Point Road (I146), which are not included in the total site area the subject of this Planning Proposal; and

- iv. The proposed development would result in significant adverse impacts on the adjoining residential properties, including overshadowing and visual impacts.

149. Investigations for increased density as part of a more holistic and place-based planning approach for Ramsgate Village should inform future Local Environmental Plan reviews, as recommended in the draft Commercial Centres Strategy. This will ensure that redevelopment of the site is consistent with the strategic planning principles envisioned for Ramsgate.
150. As the Planning Proposal seeks to amend LEP controls that are less than five years old and does not meet the strategic merit test, pursuant to the Department of Planning, Industry and Environment's A guide to preparing planning proposals, there is a presumption against a Rezoning Review request.

12. CONSULTATION

151. Should the Planning Proposal proceed through Gateway, the Draft Planning Proposal will be subject to community consultation in accordance with Section 3.34(2)(c) of the Environmental Planning and Assessment Act 1979. The specific requirements for community consultation will be listed in the Gateway determination, including any governmental agencies that are to be consulted in relation to the Planning Proposal.

13. NEXT STEPS

152. The Planning Proposal will be considered at a future Georges River Council Environment and Planning Committee meeting, including the LPP recommendations. The minutes of the Environment and Planning Committee meeting will subsequently be considered at a future Georges River Council Meeting.
153. If the Planning Proposal is endorsed by Council it will be forwarded to the delegate of the Greater Sydney Commission for a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979*.

File Reference

PP2019/0001

Attachments - available on Council's Planning Proposal webpage

- Attachment 1: Planning Proposal
- Attachment 2: Urban Design Report
- Attachment 3: Survey Plan
- Attachment 4: Landscape Concept Plan
- Attachment 5: Heritage Impact Statement
- Attachment 6: Traffic Impact Assessment
- Attachment 7: Social and Economic Benefits Analysis
- Attachment 8: Urban Design Peer Review
- Attachment 9: Public Benefit Offer