
AGENDA - LPP

Meeting:	Georges River Local Planning Panel (LPP)
Date:	Thursday, 3 June 2021
Time:	4.00pm
Venue:	Council Chambers, Civic Centre, Hurstville
Panel Members:	Paul Vergotis (Chairperson) Juliet Grant (Expert Panel Member) Michael Leavey (Expert Panel Member) George Vardas (Community Representative) Sue Francis (Alternate Chairperson for Item LPP025-21)

1. On Site Inspections

- a) 143-149 Boundary Road and 689-691 Forest Road Peakhurst
- b) 51 Laycock Road Penshurst
- c) 7 Rickard Road South Hurstville
- d) 47 Kyle Parade Kyle Bay
- e) 591-611 Princes Highway Blakehurst
- f) 2-24 Princes Highway Kogarah

2. Opening

3. Consideration of Items and Verbal Submissions

4. LPP Deliberations in Closed Session

LPP020-21	7 Rickard Road South Hurstville – DA2020/0358 (Report by Independent Assessment)
LPP021-21	47 Kyle Parade Kyle Bay – DA2020/0362 (Report by Senior Development Assessment Planner)
LPP022-21	51 Laycock Road Penshurst – DA2021/0003 (Report by Development Assessment Planner)
LPP023-21	2-24 Princes Highway Kogarah – DA2019/0337 (Report by Senior Development Assessment Planner)
LPP024-21	143-149 Boundary Road and 689-691 Forest Road Peakhurst - Planning Proposal – PP2019/0003 (Report by Strategic Planner)
LPP025-21	591-611 Princes Highway Blakehurst – REV2020/0032 (Report by Independent Assessment)

5. Confirmation of Minutes**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 03 JUNE 2021**

LPP020-21

LPP Report No	LPP020-21	Development Application No	DA2020/0358
Site Address & Ward Locality	7 Rickard Road South Hurstville Blakehurst Ward		
Proposed Development	Change of use from a dwelling house to a place of public worship with associated works		
Owners	H M Australia Holdings Pty Ltd		
Applicant	H M Australia Holdings Pty Ltd		
Planner/Architect	Planner: Planning Ingenuity		
Date Of Lodgement	16/09/2020		
Submissions	Fifty six (56) submissions		
Cost of Works	\$80,000.00		
Local Planning Panel Criteria	The number of unique submissions exceeds 10 in accordance with the Ministerial Direction.		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Infrastructure); Kogarah Local Environmental Plan 2013, Kogarah Development Control Plan 2013, Draft Georges River Local Environmental Plan 2020, Draft Georges River Development Control Plan 2020		
List all documents submitted with this report for the Panel's consideration	Architectural Plans, Statement of Environmental Effects		
Report prepared by	Independent Assessment		

Recommendation	THAT the application be refused in accordance with the reasons included in this 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	Not Applicable

<p>standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?</p>	
<p>Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?</p>	<p>Not applicable</p>
<p>Conditions Have draft conditions been provided to the applicant for comment?</p>	<p>No, as the application is recommended for refusal. The refusal reasons can be reviewed when the application is published.</p>

Site Plan

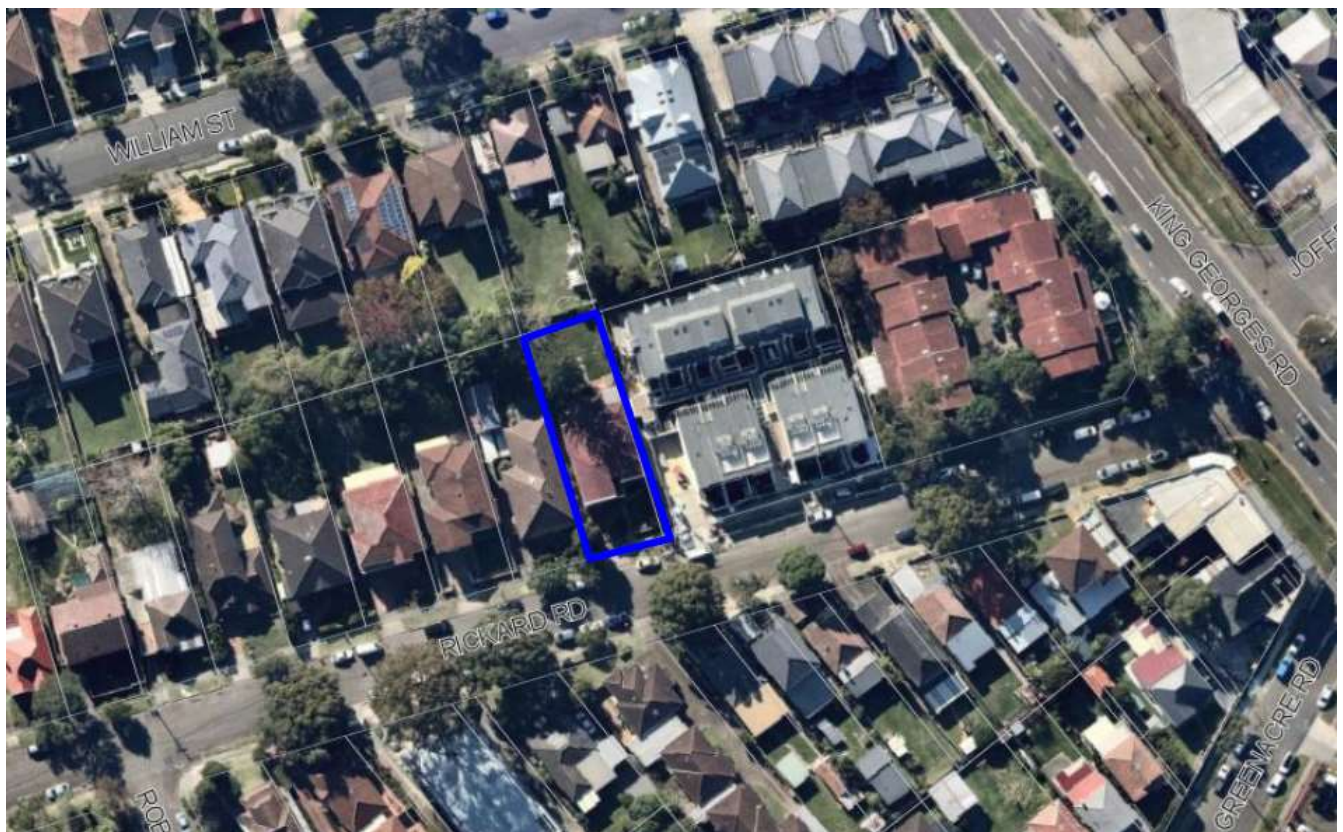


Figure 1: Aerial Photograph of subject site outlined in blue, 7 Rickard Road, South Hurstville and surrounding area. (Source: GRC, 2020).

EXECUTIVE SUMMARY

1. Council is in receipt of a development application seeking a change of use from a dwelling house to a place of public worship with associated works on land at 7 Rickard Road, South Hurstville.
2. In detail, the proposal is described as follows:
 - Internal works to meet the requirements of the BCA and Accessibility standards.
 - Change of use to a Place of Public Worship with the following layout:
 - o Basement floor – three (3) areas of storage.

- Ground floor – double garage, entry porch, accessible bedroom, laundry, accessible bathroom, dining room, kitchen, resting area/sunroom, meditation area and worship room.
 - First floor – meditations room with ensuite and storage area, bathroom, sutra/script study and transcribe room and four (4) bedrooms.
 - Activities on the site include meditation, script writing and learning. The site will also provide accommodation for a maximum of nine (9) Venerable (Reverends or Monks) visiting the site and staying for short or long term periods.
 - The maximum capacity proposed for the premises is twenty (20) people (Venerable and Devotees)
 - Visiting hours are proposed between 8am and 6pm, 7 days a week.
 - Parking on the site is proposed to use the existing garage (double) and at-grade driveway with a total of four (4) x car spaces provided in a stacked arrangement.
3. The site is zoned R2 Low Density Residential pursuant to the Kogarah Local Environmental Plan 2012. A *place of public worship* is permitted with consent in the zone. The proposal predominantly meets the definition of a place of public worship; however the accommodation component is considered to be a Boarding House which is also permitted in the zone.
4. The site is zoned R2 Low Density Residential pursuant to the Draft Georges River Local Environmental Plan 2020, with *place of public worship* prohibited in the R2 zone under the Draft Plan, however a *boarding house* remains a permissible form of development.
5. Whilst consideration is given to the provisions of the Draft Georges River LEP 2020, the provisions have no determining weight as a result of proposed operation of Clause “1.8A Savings provisions relating to development applications” which provides “*If a development application has been made before commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced*”.
6. The proposal does not satisfy Section 1.3 Objects of the Act of the Environmental Planning and Assessment Act 1979 whereby the proposal does not satisfy objective (c) which is *to promote the orderly and economic use and development of land*, in this instance, the proposal seeks a maximum capacity of twenty (20) x patrons including up to nine (9) x Venerable (Reverends or Monks) who are proposed to be provided accommodation – short or long term stay on the site. The proposal fails to provide accommodation of a size and configuration suitable for the nine (9) Venerable proposed and also provides deficient carparking in both number and configuration. A total of four (4) car spaces in a stacked arrangement is considered insufficient and not functional for the proposed purpose. As such the traffic and parking generated by the proposed use is considered to be unacceptable due to its anticipated impacts upon on-street parking availability and the surrounding street network.
7. The proposal fails to meet the objectives and provisions of Part B4 – Parking and Traffic contained within the Kogarah DCP 2013. The parking rate applied to *places of public worship* pursuant to Part B4.1 of the DCP requires 7.9 (8) x car spaces to be provided based on the floor space of the proposed worship room. It is noted the proposal fails to consider other areas allocated for worship within the building which collectively would require sixteen (16) spaces. This parking demand is not met with only four (4) on-site parking spaces proposed to be provided on the site, in an unsatisfactory stacked

arrangement. Where the accommodation component is assessed against the boarding house provisions in the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP), two (2) further spaces would be required taking the total to eighteen (18) x spaces. The proposal fails to meet the objectives of Part B4 of the DCP which are:

- a) *Minimise traffic congestion and ensure adequate traffic safety and management;*
- b) *Ensure an adequate environmental quality of parking areas (including both safety and amenity);*
- c) *Provide adequate car parking for building users and visitors, depending on building use and proximity to public transport.*

8. The proposed development includes both a *place of public worship* and a residential component (short or long-term accommodation) and the combined nature of the proposed uses will result in adverse impacts upon on-street parking availability. In addition, the proposal does not demonstrate satisfactory accommodation conditions for the proposed lodgers. In this regard it fails to meet any of the requirements for a boarding house set out in the ARHSEPP as follows:
 - a) The room configurations with four bedrooms of sizes 1 x 14sqm and 3 x 16 – 17sqm are sufficient to accommodate a maximum of seven (7) lodgers only.
 - b) No rooms are permitted to accommodate three (3) lodgers.
 - c) No car parking, bicycle parking or motor bike parking has been provided specific to the lodgers.
 - d) No private open space has been specifically allocated to the lodgers.
 - e) The proposed configuration of stacked parking in the front setback will result in a landscape area that will be incompatible with the streetscape.
9. Further, the proposal fails to give adequate information to assess the likelihood of acoustic impacts, given that the submitted acoustic report and Statement of Environmental Effects (SEE) refers loosely to teaching and learning activity noise, and worship activity noise, and states a predicted average noise level for praying/chanting. No details are submitted around other noise sources such as bells, gongs, amplified prayers and/or music which are understood to be aspects of Buddhist rituals/prayer. The submitted acoustic report is based on a total of eighteen (18) patrons on the site, which is inconsistent with the maximum proposed (twenty (20) patrons).
10. Notwithstanding Draft Georges River Local Environmental Plan 2020 (DLEP2020) nominates this use as a prohibition, a review of the proposal has also been undertaken having regard to the Draft Georges River Development Control Plan 2020 (Draft DCP). The proposal does not meet the provisions relating to places of public worship with respect to site requirements. Section 34.3, Control 4.3.1 of the Draft DCP requires a minimum allotment size of 800sqm and lot width of 20m for new places of public worship. The site area of 696.8sqm and lot width of 15.24m is insufficient with respect to these provisions. Further, the proposal does not comply with Section 34.3, Control 4.3.6 of the Draft DCP which requires vehicles to be able to enter and exit the site in a forward direction.
11. As detailed further within this report, whilst it is noted that this section of the DCP is a draft and does not technically apply to the proposal, these controls are largely a result of Council's previously adopted *Draft Planning Control & Guidelines for Places of Public Worship* adopted by Council on 1 May 2017. The intent of this Draft Guideline was for it to be included as part of the Georges River DCP. Therefore, it is considered that the

Guideline forms part of the assessment of the application and as such; the relevant controls of the Draft Georges River DCP have been included in this assessment.

12. The proposal was re-notified as a result of objections received from neighbouring properties which claimed they had not been notified of the proposal during Council's Notification Process. All issues raised within the objections from both notification periods have been considered in the assessment of this application.

Site and Locality

13. The subject site is legally described as Lot 91 in DP 6862 and is known as 7 Rickard Road, South Hurstville.
14. The site has a frontage to Rickard Road of 15.24m, a maximum depth of 45.72m and a total site area of 696.8sqm. The site has a slight fall from the front boundary to the rear of approximately 2m across a length of 45.72m.
15. The site currently contains a two-storey dwelling house with attached double garage.

Zoning and Permissibility

16. The subject site is zoned R2 Low Density Residential under the provisions of the Kogarah Local Environmental Plan 2012. The proposal is for a change of use to a *Place of Public Worship* which is a permissible use in the zone with development consent. As detailed previously, *Places of Public Worship* are a prohibited land use in the R2 Low Density Residential zone pursuant to the Draft Georges River LEP 2020. It is noted that the Draft LEP contains a savings provision and as such does not apply to the proposal.
17. The accommodation aspect of the proposal does not fit into the definition of *Place of Public Worship*. A boarding house is the closest definition that conforms with the proposed use:

boarding house means a building that—

- (a) is wholly or partly let in lodgings, and
- (b) provides lodgers with a principal place of **residence for 3 months or more**, and
- (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
- (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers, but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

Note - Boarding houses are a type of **residential accommodation**—see the definition of that term in this Dictionary.

18. It is noted that the proposal does not identify whether the short term accommodation is longer than three (3) months but has been assumed resulting in this element of the development being permissible in the zone.
19. The proposed accommodation component does not meet the definition of any other residential land uses which are permitted in the zone, namely:

dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

dual occupancy means a dual occupancy (attached) or a dual occupancy (detached).

group home (transitional) or transitional group home means a dwelling—

- (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and
- (b) that is used to provide temporary accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people, but does not include development to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.

Note - Transitional group homes are a type of **group home**—see the definition of that term in this Dictionary.

Submissions

20. The DA was publicly notified/exhibited to neighbouring properties between 30 September and 16 October 2020 in accordance with the provisions of the Kogarah Development Control Plan 2013.
21. The proposal was re-notified/exhibited between 21 October and 18 November 2020 as a result of objections received from neighbouring properties that raised concern that the original notification letters were not received by the intended properties.
22. In response, across both notifications/exhibition periods a total of fifty six (56) submissions were received raising concerns regarding traffic congestion, parking, acoustic amenity, zoning, residential area impacts, hours of operation, economic impacts, social impacts, safety issues, not in the public interest and the use is operating. The issues raised within the submissions have been considered and addressed accordingly in further detail within this assessment report.

Reason for Referral to the Local Planning Panel

23. The application for a *Place of Public Worship* is required to be determined by the Georges River Local Planning Panel according to Council delegations. Further, the application received greater than ten (10) unique submissions from the neighbour notification/exhibition periods and therefore is required to be determined by the Georges River Local Planning Panel via Ministerial Directions.

Conclusion

24. 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.
25. The proposal being a *Place of Public Worship* and a *Boarding House* comprise permissible land uses in the zone with consent, however, the proposal fails to meet the objects of the Environmental Planning and Assessment Act 1979, objectives of the Affordable Rental Housing State Environmental Planning Policy or the objectives of the Kogarah Local Environmental Plan 2012, and objectives and provisions contained in the Kogarah Development Control Plan 2012.

REPORT IN FULL

Description of the Proposal

26. Council is in receipt of a development application seeking a change of use from a dwelling house to a *place of public worship* with associated works on land at 7 Rickard Road, South Hurstville.
27. In detail, the proposal seeks conversion of the existing dwelling on the subject site for use as a Buddhist *place of public worship*. It is noted that the submitted SEE seeks 'continued use of the site' as a place of worship, with objections raised during the notification/exhibition period that the proposed use has operated on the site without development consent.
28. The proposal also seeks internal works to meet accessibility requirements. The ground floor of the existing building is largely retained with minor internal works central to the ground floor to create a meditation area (area – 5sqm), new laundry room, and convert an existing bathroom to an accessible toilet. Further, the ground floor level will retain the existing double garage, worship room (area – 36sqm), kitchen, dining area, accessible bedroom, and sunroom. No works are proposed at the first-floor level. The existing first floor level is to contain a meditation room (area – 22.5sqm), Sutra/Script Study and Transcribe Room (area – 16sqm), three (3) bedrooms (areas – 14sqm – 17sqm), and two (2) bathrooms.
29. The proposed activities on the site include meditation, script writing and learning. The site will also provide accommodation for a maximum of nine (9) Venerable (Reverends or Monks) visiting the site and staying for short and/or long-term periods. The maximum capacity proposed for the premise is twenty (20) people (Venerable and Devotees). Operating hours are proposed between 8am and 6pm, 7 days a week. Parking on the site is proposed to use the existing garage and at-grade driveway and some of the landscaped area within the front setback with a total of four (4) car spaces, including an accessible space provided in a stacked arrangement. Permeable pavers are proposed within the front setback to provide for the additional parking proposed.
30. No works are proposed to the external elements of the existing building or rear yard. The ground floor worship room and accessible bedroom have windows orientated towards side boundaries. The first floor front bedroom, meditation room, and script study room each have access to balconies orientated towards the street and rear yard.

Description of the Site and Locality

31. The subject site is legally described as Lot 91 in DP 6862 and is known as 7 Rickard Road, South Hurstville
32. The site has a frontage to Rickard Road of 15.24m, a maximum depth of 45.72m and a total site area of 696.8sqm. The site has a slight fall from the front boundary to the rear of approximately 2m across a length of 45.72m.
33. The site currently contains a two storey dwelling house with attached double garage.
34. The streetscape is characterised by a mix of 1-2 storey dwelling houses and multi-dwelling housing developments. The adjoining property to the west of the subject site – 9 Rickard Road contains a single storey dwelling. The site to the east 1- 5 Rickard Road is in the later stages of construction of a town house complex with multiple dwellings and basement garaging. The site is located at a zone boundary with R3 Medium Density zoned land to the north, east, and south of the subject site.



Figure 2: Photograph of front of subject site 7 Rickard Road, South Hurstville (Source: GRC, 2020).



Figure 3: Photograph of prayer room within subject site, 7 Rickard Road, South Hurstville (Source: GRC, 2020).



Figure 4: Aerial Photograph of subject site outlined in red, 7 Rickard Road, South Hurstville and surrounding area. (Source: GRC, 2020).

Zoning and Permissibility

35. The subject site is zoned R2 Low Density Residential under the provisions of the Kogarah Local Environmental Plan 2012. The proposal is for a change of use to a *Place of Public Worship* and a *boarding house* which are permissible uses in the zone with development consent. It is noted that the site is zoned R2 Low Density Residential pursuant to the Draft Georges River Local Environmental Plan 2020, with a *place of public worship* prohibited in the R2 zone under the Draft Plan, the *boarding house* remains permissible with consent.
36. Whilst consideration is given to the provisions of the Draft Georges River LEP 2020, the provisions have no determining weight as a result of proposed operation of Clause “1.8A Savings provisions relating to development applications” which provides “*If a development application has been made before commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced*”.

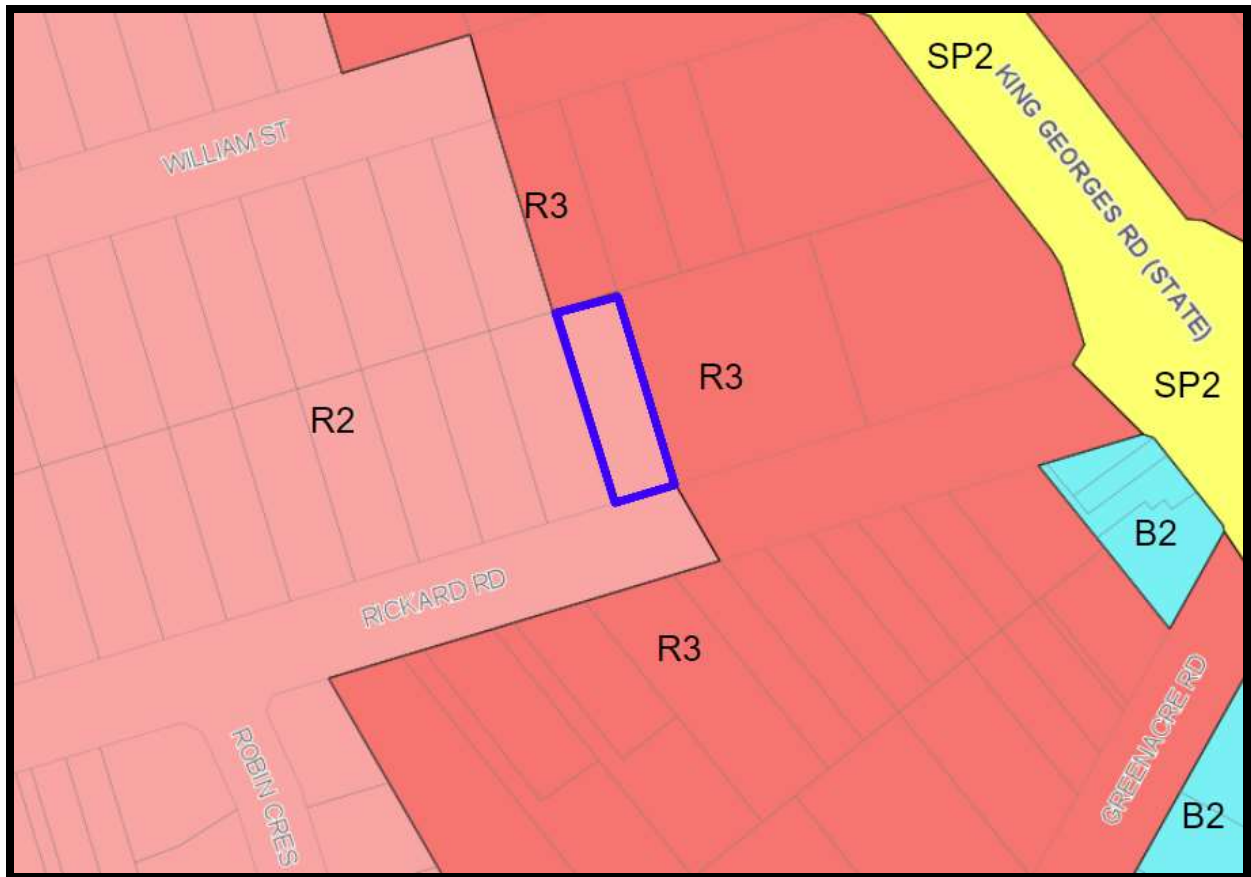


Figure 5: Extract of zoning map of Kogarah Local Environmental Plan 2012 – site outlined in blue (Source: Kogarah LEP 2012).

State Environmental Planning Policies (SEPPs)

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

Table 1: SEPP Considerations

SEPP Title	Complies
State Environmental Planning Policy No 55 – Remediation of Land	Yes
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 (Vegetation in Non-Rural Areas 2017)	Yes
State Environmental Planning Policy (Infrastructure) 2007	Yes
State Environmental Planning Policy (Affordable Rental Housing) 2009	No

State Environmental Planning Policy No 55 - Remediation of Land

38. 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.

39. 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.

40. The site has a history of residential uses, is currently occupied by a dwelling house and as such, site contamination is not suspected. In this regard, no further assessment is warranted with regard to site contamination.

Deemed State Environmental Planning Policy – Georges River Catchment

41. The stormwater from the proposed development can be treated in accordance with Council's Water Management Policy and can drain to the street satisfying the relevant provisions of the Deemed State Environmental Planning Policy – Georges River Catchment. It is noted that the proposal seeks to drain to the front of the site to Council's kerb and gutter. The proposed stormwater disposal has been reviewed by Council's Development Engineer. This aspect of the proposal is acceptable.

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

42. The proposal does not involve any substantial alterations which would trigger the requirements of Statement Environmental Planning Policy BASIX.
43. Consideration has been given to the residential component of the proposal. If the rooms in a *boarding house* are capable of being used as a separate domicile, therefore meeting the definition of a 'dwelling', a BASIX certificate for the development will be required. The layout of the floor plan is not considered to result in the boarding rooms being considered '*dwellings*' or capable of being '*dwellings*', in this regard no BASIX certificate is required for this development. In this regard, the requirements of the SEPP have been reasonably satisfied.

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

44. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
45. 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).
46. 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.
47. The proposed development does not involve the removal of any significant trees or vegetation. In this regard, the provisions of this SEPP are considered to be met.

State Environmental Planning Policy (Infrastructure) 2007

48. The aim of the Infrastructure SEPP is to facilitate the effective delivery of infrastructure across the State. The DA was referred to Ausgrid in accordance with Clause 45(2) of State Environmental Planning Policy (Infrastructure) 2007. In response, Ausgrid advised that there are no impacts to Ausgrid assets.
49. In this regard, the provisions and requirements of the Infrastructure SEPP have been adequately satisfied.

State Environmental Planning Policy (Affordable Rental Housing) 2009

50. As detailed previously, the proposal includes a residential component (short and long-term accommodation). The accommodation aspect of the proposal does not fit into the definition of Place of Public Worship. A boarding house is the closest definition that conforms to the proposed use for accommodation, and it is noted that the proposal does not identify whether the short-term accommodation is longer than three months.
51. As a guide, the relevant provisions of the ARHSEPP have been considered to assist in the assessment of the lodging/accommodation components of the proposal. These provisions are addressed in the table below:

Table 2: State Environmental Planning Policy (Affordable Rental Housing) 2009

Clause	Standard	Proposed	Complies
29 – Standards that cannot be used to refuse consent			
Council cannot refuse a development application for a boarding house under the ARHSEPP 2009 on any of the following grounds:			
Landscaped Area	(b) if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located	The proposed configuration of stacked parking in the front setback will result in a landscape area that will be incompatible with the residential streetscape.	No
Parking	(iia) 0.5 spaces per boarding room (14 boarding rooms) x 0.5 = 7 spaces required. (iii) Not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site	Four bedrooms = two (2) car spaces required. The proposal does not dedicate the proposed car spaces to the proposed accommodation components. As discussed further within this report, the proposal does not comply with the parking rate for <i>places of public worship</i> in combination with the parking demand generated by the use of bedrooms for 9 x Venerable.	No
Accommodation Size	Each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least: (i) 12sqm in the case of a boarding room intended to be used by a single lodger,	The proposal seeks to accommodate up to 9 x Venerable. Bedroom sizes: - 1 x 14sqm - 3 x 16 – 17sqm The proposal is insufficient and can only accommodate a maximum of 7 lodgers.	No

	or (ii) 16sqm in any other case		
Bicycle and motor cycle spaces	(h) At least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms (4/5 = 0.8).	No bicycle or motorcycle parking proposed.	No

LPP020-21

Environmental Planning Instruments

Kogarah Local Environmental Plan 2012 (KLEP 2012)

Zoning

52. The subject site is zoned R2 Low Density Residential under the provisions of the Kogarah Local Environmental Plan 2012. The proposal is for a change of use to a *Place of Public Worship* and a *Boarding House* are permissible uses in the zone with development consent.
53. The objectives of the R2 Low Density Residential zone are:
- *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.*
54. It is considered that the proposal fails to consider the objectives of the R2 low density zone as the site is considered too small to cater for the combined residential and place of public worship uses and therefore results in activities and impacts that are antipathetic to the zone objectives.
55. The extent to which the proposal complies with the relevant standards of Kogarah Local Environmental Plan 2012 (KLEP2012) is outlined in the table below.

Table 3: Kogarah Local Environmental Plan 2013

KLEP 2013 Clause	Standard	Proposed	Complies
2.2 Zone	R2 Low Density Residential	The proposal meets the definition of a Place of Public Worship and Boarding House which are permissible uses within the zone.	Yes
2.3 Objectives	Objectives of the Zone - <i>To provide for the housing needs of the community within a low density residential environment.</i> - <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	The objectives of the R2 Low Density Residential zone are not met by the proposal. The proposed residential component of the proposal is inadequate to accommodate the proposed 9 x Venerable for short and long-term accommodation.	No

		The proposed parking arrangement within the front setback will result in a development that is not characteristic of the low density residential environment. The potential acoustic impacts that may result from the proposal are considered inappropriate for a low density residential zone.	
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	No change to building height.	N/A
4.4 – Floor Space Ratio	0.55:1 as identified on Floor Space Ratio Map	No change to FSR.	N/A
4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with Cl.4.5	The FSR and site area has been calculated according to the criterion of this clause.	N/A
5.10 – Heritage Conservation	The objectives of this clause are; (i) to conserve the environmental heritage of Kogarah, (ii) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.	The proposal does not directly adjoin or is located within the immediate vicinity of any environmental heritage item nominated under KLEP 2012.	N/A
6.1 Acid Sulphate Soils	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	No earthworks are proposed.	N/A

56. Consideration is given to the provisions of Draft Georges River Local Environmental Plan 2020 in the assessment this application. The site is zoned R2 Low Density Residential pursuant to the Draft Georges River Local Environmental Plan 2020, with *places of public worship* prohibited in the R2 zone under the Draft Plan. A *boarding house* remains permissible under this draft plan.
57. In this regard, the provisions of the Draft LEP have no determining weight as a result of proposed operation of Clause “1.8A Savings provisions relating to development applications” of the Draft Plan which provides “If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.”

Draft Environment SEPP

58. 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, and urban bushland.
59. 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
60. The proposal is not inconsistent with the provisions of this Draft Instrument.

Draft Remediation of Land SEPP

61. 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.
62. 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.
63. 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.
64. The site has a history of residential uses and as such, site contamination is not suspected. In this regard, no further assessment is warranted with regard to site contamination as no earthworks are proposed.
65. The proposal is not inconsistent with the provisions of this Draft Instrument.

Development Control Plan**Kogarah Development Control Plan 2013 (KDCP 2013)**

66. The proposal has been considered in accordance with the relevant chapters of the KDCP2013 below.

PART B4 – PARKING AND TRAFFIC

67. The proposal has been assessed against the key requirements of Part B4 of the DCP as provided below.

Table 4: Kogarah Development Control Plan Part B4 Parking and Traffic

1. Parking Requirements	Standard	Proposed	Complies
Places of Public Worship	1 space / 5 seats or 1 space / 5sqm of public seating, whichever is greater	Maximum 20 persons on site at any one time (9 residents and 11 visitors) 79.5sqm worship room (15.9 spaces) 4 car spaces on the site (2 within the existing garage and 2 at grade)	No
Boarding Houses	ARHSEPP: (iia) 0.5 spaces per boarding room (14 boarding rooms) x 0.5 = 7 spaces required. (iii) Not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site	Four bedrooms = two (2) car spaces required. The proposal does not dedicate any car spaces to the proposed short and/or long term residents. As discussed further within this report, the proposal does not comply with the parking rate for <i>places of public worship</i> in combination with the parking demand generated by the use of bedrooms for 9 Venerable.	No

68. The application fails to provide sufficient parking on the subject site, noting a total of 7.2 spaces are required to accommodate the worship room with an area of 36sqm. Whilst only this area was utilised to assess the parking demand generated by the proposed use, it is noted that the other worship areas within the development have areas of:

- Ground Floor Meditation Area – 5sqm
- First Floor Suite/Script Study and Transcribe Room – 16sqm, and
- First Floor Meditation Room – 22.5sqm

69. It is considered that the total area of spaces associated with worship within the development is 79.5sqm, which requires a total of 15.9 (16) x car spaces pursuant to the parking requirements of the DCP.
70. Further to the above, the traffic report submitted with the application does not consider the separate residential and visitor components of the proposed use, noting the proposal seeks a maximum of 20 patrons on the site made up of 11 visitors and 9 Venerable (Reverends or Monks) visiting the site and staying for short and/or long term periods. It is considered that the traffic generated by the combination of these patron components will result in unacceptable on-street parking impacts upon the surrounding street network.
71. While the proposal is supported by traffic management techniques including encouragement of visitors to travel by foot, mini bus, or public transport, compliance with this would be difficult to ensure and the impracticalities of utilising the existing driveway garage would more than likely result in cars parked on the street. Whilst the use of the site for a 4+ bedroom dwelling house may likely result in three (3) or four (4) cars owned by the residents. The visitor component of the proposal is likely to place additional strain on the site's ability to support the concurrent uses and could not be compared to a dwelling of any size.
72. The above issues form part of the reasons for refusal of the application.

Draft Georges River Development Control Plan 2020 (Draft GRDCP 2020)

73. The Georges River Local Planning Panel at its meeting on 17 September 2020 considered a report on the Draft Georges River DCP 2020, as delegate of the Georges River Council, and resolved to place the plan on public exhibition, and insert amendments including a Savings Clause that states:
74. *"If an application has been made before the commencement of the DCP in relation to land to which the DCP applies, and the application has not been finally determined before that commencement, the application must be determined as if the DCP had not commenced. All applications received after the commencement date of an amendment to the DCP are subject to the DCP as amended."*
75. The Local Planning Panel has resolved for the Draft Georges River DCP to be in effect following the gazettal of the Draft Georges River LEP.
76. Given the draft DCP is yet to be formally adopted the provisions of the Draft DCP have no determining weight in the assessment and determination of this DA. Notwithstanding this, an assessment of the proposal against the relevant provisions of the Draft DCP is provided in the following sections.
77. It is noted that Council's Draft Policy for the Assessment of Places of Public Worship 2016 has been appropriated for the Draft Place of Public Worship controls contained in the Draft DCP. As such, the proposal has been assessed against the key requirements of the Draft Georges River DCP, which includes existing provisions contained within Council's Draft Assessment Policy for place of worship land uses.

Draft DCP Section 3.13 – Parking Access and Transport

78. The proposal has been assessed against the key requirements of Section 3.13 of the Draft DCP as provided below.

Table 5: Draft Georges River DCP Section 3.13 Parking Access and Transport

Parking Requirements	Standard	Proposed	Complies
Places of Public Worship	<p>1 space per 10 seats or 1 space per 10sqm GFA (whichever is greater)</p> <p>Note: Some places of public worship operate with no seating arrangement and as such the use of the word “seat” relates to patronage level (e.g. prayer mats)</p> <p>Transport and Parking Assessment Study required</p>	<p>Maximum 20 patrons on site at any one time (9 residents and 11 visitors)</p> <p>36sqm worship room 43.5sqm (other worship / prayer / transcript rooms) Total = 79.5sqm 4 car spaces on the site (2 within existing garage & 2 at-grade)</p>	No

LPP020-21

Draft DCP Section 4.3 – Places of Public Worship (Note: Provisions previously contained in Council’s Draft Guidelines Places of Worship)

79. The proposal has been assessed against the key requirements of Section 4.3 of the Draft DCP as provided in Table 6 below.
80. In summary, whilst it is noted that this section of the DCP is a draft and does not technically apply to the proposal, these controls are largely a result of Council’s previously adopted *Draft Planning Control & Guidelines for Places of Public Worship* adopted by Council on 1 May 2017. The intent of this Draft Guideline was for it to be included as part of the Georges River DCP. Therefore, it is considered that the Guideline forms part of the assessment of the application and as such; the relevant controls of the Draft Georges River DCP have been included in this assessment.

Table 6: Draft Georges River DCP Section 4.3 Places of Public Worship

Places of Public Worship	Standards	Proposed	Complies
4.3.1 Location and Site Requirements	<p><u>Locational Requirements</u></p> <p>1. Places of public worship must be located on sites of sufficient size to accommodate all proposed buildings, parking areas, outdoor areas etc.</p> <p>2. The proposed development must maintain the general amenity of the area.</p> <p>3. The proposed development must</p>	<p>No change to existing building.</p> <p>Proposal will result in adverse traffic and parking impacts</p> <p>Encouragement of visitors to travel by foot, mini bus, or</p>	<p>N/A</p> <p>No</p> <p>No</p>

	<p>optimise the use of surrounding and potential infrastructure, with a particular emphasis on public transport.</p> <p>4. Large scale places of public worship should be located a minimum of 250m away from any other existing or approved large-scale place of public worship.</p> <p>5. Places of public worship must not be located on lots with a frontage to a road with a carriageway width less than 10m.</p> <p>6. Places of public worship must not be located on lots where access is via a cul-de-sac.</p> <p><u>Site Requirements</u></p> <p>7. The minimum allotment size for a new place of public worship is 800sqm.</p> <p>8. The minimum allotment width for a new place of public worship is 20m (measured at the front building line) and 15m for a corner allotment</p>	<p>public transport would be difficult to ensure and the impracticalities of utilising the existing driveway / garage would more than likely result in cars being used to travel to the site and cars parked on the street.</p> <p>The proposal is not considered a large scale place of public worship.</p> <p>N/A</p> <p>Achieved</p> <p>696.8sqm</p> <p>15.24m</p>	<p>N/A</p> <p>N/A</p> <p>Yes</p> <p>No</p> <p>No</p>
<p>4.3.6 Traffic, Access and Parking</p>	<p><u>Traffic Management</u></p> <p>1. Development must not result in a street in the vicinity of the development site exceeding the environmental capacity maximum. If the environmental capacity maximum is already exceeded, the development must</p>	<p>The submitted Traffic Assessment forming part of the Application has not completed an accurate assessment of the existing traffic volumes surrounding the site, corresponding to the peak operation of the subject site.</p> <p>The external peer review prepared by <i>McLaren Traffic</i></p>	<p>No</p>

	<p>maintain the existing level of absolute delay of that street.</p> <p>2. Development must not result in a street intersection in the vicinity of the development site to have a level of service (LOS) below Level B. If the existing level of service is below Level B, the development must maintain the existing level of absolute delay of that street intersection.</p> <p>3. Worship services shall not commence until thirty minutes have elapsed following the completion of any preceding service. This requirement may be imposed as a condition of development consent.</p> <p>4. All vehicles must be able to enter and leave the site in a forward direction.</p> <p>5. A clear distinction must be made between vehicle traffic and pedestrian movements, both on site and off site. Measures should be implemented to separate these two movements and reduce potential conflict through design and management practices.</p> <p><u>Car Parking</u></p> <p>6. The car park, manoeuvring areas and the set-down and pick-up areas must be located separately behind the front building line.</p> <p>7. On-site car and bicycle</p>	<p><i>Engineering</i> on behalf of Council confirms that the inconsistencies between the submitted Plan of Management and Traffic Report do not clearly outline the operations of the site.</p> <p>In addition, the remaining issues raised with the submitted Traffic Assessment form part of the reasons for refusal, noting the peer review confirms the proposal will result in <i>“undesirable overflow on-street car parking impacts during visitations”</i>.</p> <p>The proposal does not include details of services.</p> <p>No</p> <p>No – Pedestrian & vehicular conflicts within the front setback due to an angled car space above pavers and an accessible space.</p> <p>No</p> <p>No</p>	<p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p>
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	parking is to be provided in accordance with the requirements in Section 3.13 - Parking Access and Transport of this DCP and must be provided either at-grade or as basement parking.		
4.3.7 Amenity Impacts	<p><u>Noise</u></p> <p>1. The location and design of places of public worship must consider the projection of noise from various activities to avoid any adverse impacts on the residential amenity of adjoining land.</p> <p>2. The design of the proposed place of public worship should minimise the projection of noise from the various activities anticipated to occur within the site. Adjoining and nearby residents should not be exposed to unreasonable levels of noise arising from the proposed use.</p> <p>3. The noise impact statement must measure the noise readings over a 15 minute period and must provide details of all modelling assumptions including: source noise data, noise monitoring positions, receiver heights and locations, prevailing meteorological conditions during the monitoring, confirmation of the methodology adopted and modelling input and data.</p>	<p>The proposed use of the existing dwelling as a place of worship is considered to result in acoustic impacts beyond that envisioned for the zone noting the proposal utilises an existing dwelling and not a purpose-built facility whereby acoustic impacts could be managed through design.</p> <p>The submitted SEE refers to daily rituals and chanting once in the morning and afternoon by Venerable and occasionally day time chanting and worship by devotees. It is considered that the proposed patron capacity of 20 patrons will result in unreasonable acoustic impacts upon the adjoining properties.</p> <p>The submitted acoustic report incorrectly refers to the Hurstville LEP and DCP with respect to noise emission requirements. The activity noise emissions are based on a total of 18 patrons praying/chanting or teaching/learning within the premises and does not reflect the maximum patrons proposed on the site being 20 patrons.</p> <p>The acoustic report does not take into consideration any bells or gongs that are understood to be part of the religious rituals of Buddhists.</p>	<p>No</p> <p>No</p> <p>No</p>

	<p>4. The maximum height for any noise attenuation walls and fences along the side and rear property boundary is 2m.</p> <p>5. Noise from all plant and equipment (including air conditioning and mechanical ventilation) or any other continuous noise source must comply with the EPA Industrial Noise Policy.</p> <p><u>Visual privacy</u></p> <p>6. The location of windows, doors or balconies within a place of public worship must be located to avoid overlooking the private open space of adjoining residential uses.</p> <p>7. Landscaping must be used to reduce the impact of overlooking where it</p>	<p>The recommendations of the submitted acoustic report include assumptions of external glazing and construction, noting these works are not reflected on the architectural plans.</p> <p>No walls are proposed.</p> <p>Plant equipment has not been located on the plans, nor has it been assessed by the acoustic study. The report states that this can be dealt with at CC stage. This is unsatisfactory.</p> <p>The use of the existing dwelling for a place of worship does not allow for purpose-built design to mitigate the visual/overlooking impacts of the proposal. Notwithstanding, the main worship room is located on the ground floor with two windows facing east towards the western façade of the townhouse development. There is little opportunity for overlooking from the first floor as the script study room has windows orientated to the north directly over the subject site and not towards neighbours. Only one first floor bedroom has a window facing east which could be conditioned to have translucent glass below 1.5m height; however the application is not supported for other reasons.</p> <p>N/A</p>	<p>N/A</p> <p>No</p> <p>No.</p> <p>N/A</p>
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	cannot be avoided.		
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Impacts

Natural Environment

81. The proposal will not impact upon the natural environment noting no tree removal or significant building works are proposed. It is noted that there is removal of vegetation within the front setback is required to facilitate the additional carparking and the shared zone for the accessible space. The accommodation of this vehicle accommodation results in the landscape presentation to the street being inconsistent with the residential form.

Built Environment

82. The proposal will not have any impacts upon adjoining properties or the broader locality with respect to built form or bulk and scale noting the works proposed are internal to the building or for permeable pavers.
83. The proposed car parking arrangement within the front setback will compromise the landscaping within the front setback, and result in an adverse visual impact upon the street.
84. The anticipated parking impacts of the proposal and potential acoustic impacts are considered to be unacceptable for the subject site.

Social Impact

85. The proposal is likely to result in adverse pedestrian and vehicle conflicts resulting in social impacts for occupiers, visitors and persons around the site given the nature of the proposal. The proposal does not adequately cater for up to nine (9) residents on site. The potential acoustics impacts are considered to disrupt the ability for the residents of the precinct to enjoy the quiet amenity of their own homes.

Economic Impact

86. There is no apparent adverse economic impact given the nature of the proposal. Whilst submissions included concern with respect to decreases in property values as a result of the proposal, this objection does not form part of the considerations of the EP&A Act 1979.

Suitability of the site

87. The site is zoned R2 - Low Density Residential under the Kogarah Local Environmental Plan 2012. A *Place of Public Worship* and a *Boarding House* are permissible forms of development in this zone however the proposal fails to meet the aims of the LEP and the provisions of the Kogarah Development Control Plan. The proposal is likely to result in unacceptable parking impacts upon the street. The submitted documentation does not accurately address the parking and acoustic impacts of the proposal as detailed previously and it is anticipated that the proposed use is likely to result in acoustic impacts upon the adjoining properties. Further, the proposed residential accommodation component of the proposal is insufficient to accommodate the maximum of 9 Venerable on the site for short and/or long-term accommodation. For these reasons, and others discussed throughout this report, the application is not supported and is recommended for refusal.

Submissions and the Public Interest

88. The DA was publicly notified/exhibited to neighbouring properties between 30 September and 16 October 2020 in accordance with the provisions of the Kogarah Development

Control Plan 2013. The proposal was re-notified between 21 October and 18 November 2020 as a result of concerns raised that not all adjoining property owners had been notified during the first notification/exhibition period. In response, fifty six (56) submissions were received from both the notification/exhibition periods. All concerns raised within the submissions have been considered. The key issues raised within the submissions have been addressed below.

Traffic and Congestion Impacts

89. Comment: Concerns raised with respect to traffic and congestion impacts have been noted as part of this assessment. It is noted that the peer review prepared on behalf of Council by *McLaren Traffic Engineers* raises concern with the lack of detail submitted as part of the application with respect to traffic generation and operating details of the proposal. The application is deficient in this regard.

On-street Parking Impacts

90. Comment: As detailed throughout this report, the proposal is likely to result in on-street parking impacts as a result of parking non-compliances and the number of patrons proposed. This impact forms part of the reasons for refusal.

Safety (Vehicle / pedestrian conflict)

91. Comment: Concern was raised with respect to safety impacts as a result of increased traffic within the locality. It is considered that the proposed parking arrangement within the front setback of the site is likely to result in vehicle/pedestrian conflict for patrons entering the site by foot and persons using the pedestrian footpath on the road. Further, vehicles will be unable to exit and enter the site in a forward direction. As such, the proposed pedestrian and vehicular entry on the site is considered unacceptable and forms part of the reasons for refusal.

Exceeding development capacity of the local area, noting recent medium density development and local school

92. Comment: Objections noted. Whilst the proposal is for a permissible land use within the zone, the cumulative use of the site as both a place of worship and residential accommodation (short or long-term stay) will contribute to an over intensification of activities on the site that will be incompatible with the R2 Low Density Residential zone.

Economic Impacts (Devaluation of neighbouring properties)

93. Comment: Submissions included concern with respect to decreases in property values as a result of the proposal; this objection does not form part of the considerations of the Environmental Planning and Assessment Act 1979.

Difficult to enforce proposed capacity, parking and use of premises

94. Comment: Objections raised concerning difficulty of enforcing maximum capacity have been noted as part of this assessment.

Proposal has been operating on the site without consent

95. Comment: Objection was raised that the subject site has been used for a place of worship without development consent. Council's Compliance Unit has been notified of this objection. A site inspection confirmed the space has been fitted out as a place of public worship, see photos above.

Noise/Acoustic Impacts

96. Comment: Further, the proposal fails to give adequate information to assess the likelihood of acoustic impacts, given that the submitted acoustic report and SEE refers

loosely to teaching and learning activities noise, and worship activities noise, and states a predicted average noise level for praying / chanting. No details are submitted around other noise sources such as bells, gongs, amplified prayers and or music which are understood to be aspects of Buddhist rituals / prayer. The submitted acoustic report is based on a total of 18 x patrons on the site, which is inconsistent with the maximum proposed being 20 patrons.

Proposal inappropriate for a residential area (refer to Council's Draft Guidelines for Places of Public Worship)

97. Comment: The proposal has been assessed in accordance with the applicable planning controls and with regard to Council's *Draft Guidelines & Policy for Places of Public Worship 2017*, with these provisions forming part of the Draft Georges River DCP. The proposal does not meet the minimum site dimensions for a place of public worship with respect to the Draft DCP and guidelines. It is also noted that the accommodation component of the proposal does not meet the requirements of a boarding house with respect to parking and room sufficiency, nor can it be defined as any other permissible residential use.

Public Interest

98. Comment: The proposal is not considered to be in the public interest for the reasons contained within this report. The proposed use contravenes the relevant planning instruments, the site is not suitable to accommodate the proposal and the cumulative impacts of the proposed use and associated activities including residential accommodation are likely to adversely affect the amenity of adjoining properties and the surrounding locality.

Referrals

Council Referrals

Traffic Engineer

99. An independent traffic engineering assessment was undertaken.

Consultant Traffic Engineer – Peer Review

100. The application was externally referred for peer review of the proposal and submitted Traffic and Parking Impact Assessment prepared by *ML Traffic Engineers*. The peer review raises concern with the reliance of the proposal upon on-street parking with no detailed parking surveys during the proposed hours of operation provided as part of the application.
101. Further, the peer review states that as the proposal includes both residents (9) and visitors (11) to the Place of Public Worship being a total of twenty (20) patrons, the separate components of the patrons should be assessed separately based on the nature of the proposal which includes boarding/residents as part of the maximum patrons.

102. In summary, the peer review states the following:

The findings of the peer review are detailed within Section 1 of this report and indicated that the ML Report is substandard for the following reasons:

- *Has not completed an accurate assessment of the existing traffic volumes surrounding the site, corresponding to the peak operation of the subject site. This is a direct result of the inconsistencies between the Plan of Management and Traffic Report which do not clearly outline the operations of the site:*

- *Notwithstanding this, the capacity of the site for up to 20 patrons (11 to 15 external visitors), is unlikely to cause significant traffic impact to the surrounding road network, such that traffic modelling may not be required.*
- *Requires greater detail into the proposed operations of the subject site to determine the peak operation of the site and corresponding parking requirements of the subject site:*
 - *The report does not adopt the correct car parking requirements for the subject site;*
 - *Any shortfall in car parking should be accommodated by parking surveys and a detailed assessment of the developments parking impact upon on street car parking.*
 - *Fails to detail the anticipated number of visitors to the site per day;*
 - *Fails to detail how the operation of proposed car parking will work considering the tandem arrangements and if any of the residents residing on-site will require the use of their vehicle during services;*
 - *Does not undertake any assessment against Council's bicycle requirements;*
 - *Does not undertake an assessment for disabled car parking.*
- *Has not undertaken a compliance assessment of the proposed car parking and access arrangements with respect to relevant Australian Standards, including the provision of car parking and bicycle parking.*
- *The requirement of visitors accessing the site by invitation only is a good way to ensure the patronage of the site does not exceed the proposed operating capacity of 20 patrons.*

103. As detailed, information regarding this impact is not provided within the ML Report, the traffic report is deemed to be inadequate in order to identify the likely parking demand and external traffic impact of the proposed development.

Environmental Health Officer

104. Council's Environmental Health Section has assessed the proposed subject development in accordance with the Protection of the Environment Operations Act 1997. The assessment also includes the review of:
- Statement of Environmental Effects prepared by Planning Ingenuity dated 1 September 2020.
 - DA Acoustic Assessment (Place of Worship) – 7 Rickard Road South Hurstville – Prepared by Acoustic Logic – dated 13 August 2020
105. The health section proposed a number of acoustic related conditions should the proposal receive approval.
106. As discussed elsewhere in this report, the full planning assessment has found the proposal deficient in its consideration of noise sources (gongs, bells and amplified music) and only loosely addresses teaching and learning activity noise related to the proposal. In addition, the acoustic report is based on 18 patrons on site which is inconsistent with the maximum 20 proposed. Overall, it is considered that the existing dwelling may not be adequately designed to manage noise and that the proposed use may result in acoustic impacts beyond that envisioned for the low density residential zone. Therefore, in the absence of a correct and comprehensive acoustic assessment, the proposal cannot be supported, and conditions of consent are not appropriate in this instance.

External Referrals

Ausgrid

107. The application was referred to Ausgrid in accordance with Clause 45(2) of State Environmental Planning Policy (Infrastructure) 2007. In response, Ausgrid advised there are no issues with the proposal subject to a minimum clearance distances from Ausgrid's Infrastructure.

Conclusion

108. The proposal has been assessed in accordance with Section 4.15 of the Environmental Planning and Assessment Act, 1979. As discussed within this assessment report, the proposal fails to meet the minimum parking provisions of the Kogarah DCP 2013, and is inconsistent with the Place of Public Worship provisions of the Draft Georges River DCP2020, noting these controls formed part of Council's previous Draft Guidelines & Policy for Places of Public Worship 2017.
109. The proposal will result in an adverse impact upon on-street parking availability, acoustic impacts upon the adjoining residential properties, and pedestrian/vehicular safety conflicts due to the proposed parking and vehicular access within the front setback. The proposal will result in adverse amenity impacts upon surrounding properties. As such, the proposed development is not considered to be suitable for the site and the immediate context.
110. The application is recommended for refusal for the reasons outlined below.

Determination and Statement of Reasons

Statement of Reasons

111. The reasons for this recommendation are:

- The proposal does not satisfy Section 1.3 Objects of the Act of the Environmental Planning and Assessment Act 1979, namely:
 - (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental, and social considerations in decision-making about environmental planning and assessment,*
 - (c) to promote the orderly and economic use and development of land,*
 - (g) to promote good design and amenity of the built environment.*
- The proposed number of car parking being four (4) spaces in a stacked arrangement are deficient in both numbers (should be 16) and arrangement as vehicles are unable to enter and leave in a forward arrangement and require the two (2) uses to coordinate parking which would be inconvenient and would likely result in cars parked on the street.
- Parking within the front setback is unsatisfactory and will have an adverse visual impact and will likely result in pedestrian/vehicle conflicts at the front boundary.
- The cumulative parking & traffic impacts of the *place of public worship* and residential components being a *boarding house* with a total of 20 patrons on site will have an adverse impact upon on-street parking availability.
- The proposed residential component cannot adequately accommodate the proposed maximum of 9 Venerable staying on the site.

- The proposed development will likely result in an adverse acoustic impact upon adjoining properties noting insufficient/inconsistent information has been provided with respect to the acoustic impacts of the proposal.
- The proposal has not adequately presented or considered the potential acoustic impacts of the development which may have unacceptable adverse impacts on the surrounding environment.
- In consideration of the aforementioned reasons, the proposed development is not a suitable and desired use of the site and its approval is not in the public interest.

Determination

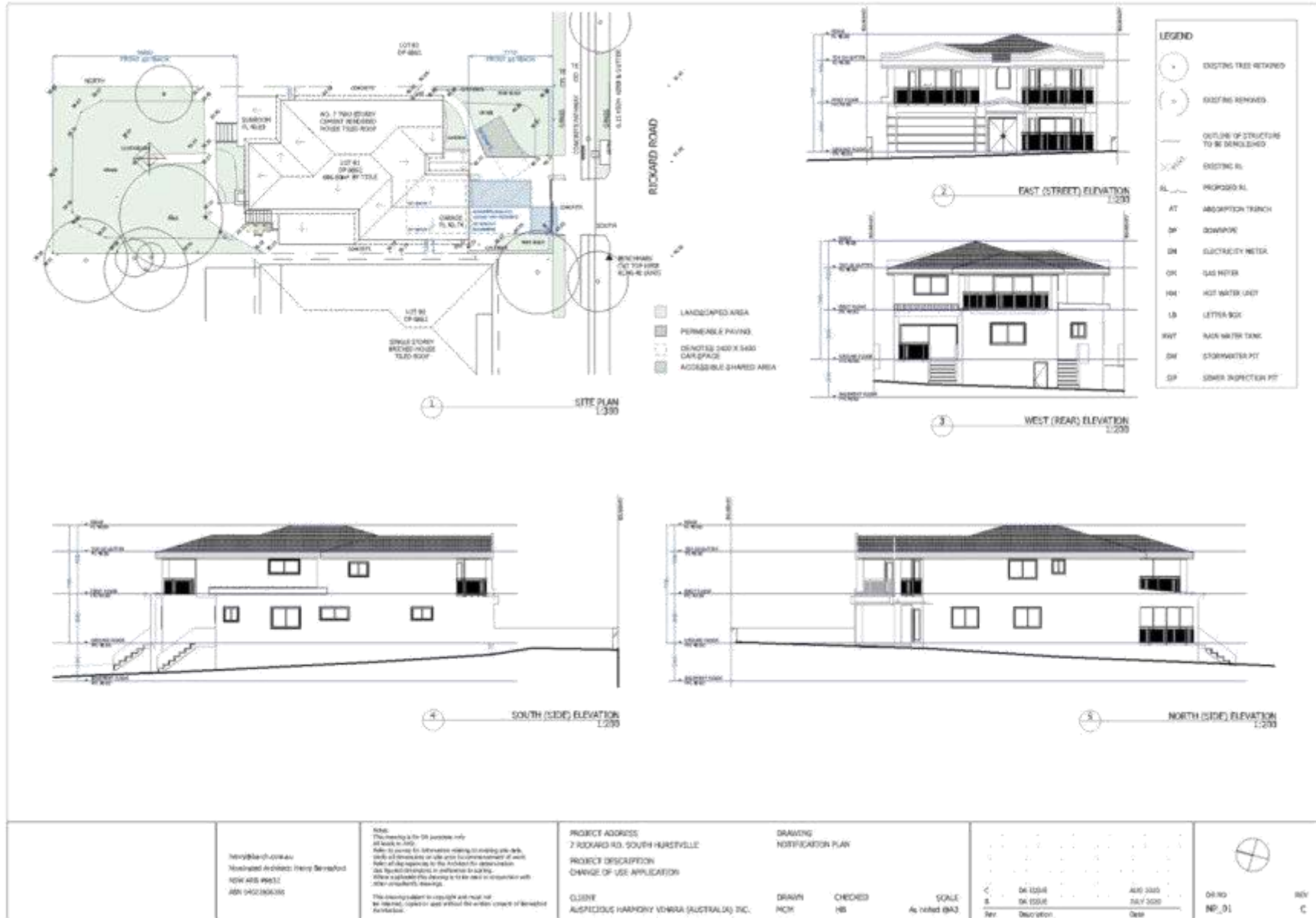
112. THAT pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act, 1979, the Georges River Local Planning Panel refuse Development Application DA2020/0358 for a change of use from a dwelling house to a place of public worship with associated works for a maximum of 20 patrons on Lot 91 in DP 6862 and is known as 7 Rickard Road, South Hurstville for the following reasons:

1. The proposed development does not satisfy the following Objects of the Act:
 - (b) *to facilitate ecologically sustainable development by integrating relevant economic, environmental, and social considerations in decision-making about environmental planning and assessment,*
 - (c) *to promote the orderly and economic use and development of land,*
 - (g) *to promote good design and amenity of the built environment*
2. **Environmental Planning Instrument** – Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the objectives of the R2 Low Density Residential zone of the Kogarah Local Environmental Plan 2012.
 - (a) The proposal fails to satisfy The Aims of the Plan, including:
 - (a) *to guide the orderly and sustainable development of Kogarah,*
3. **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 objectives and provisions of Part B4 – Parking and Traffic contained within the Kogarah Development Control Plan 2012.
4. **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 built environment:
 - (a) The cumulative parking & traffic impacts of the *place of public worship* and residential components being a *boarding house* with a total of twenty (20) patrons on site will have an adverse impact upon on-street parking availability.
 - (b) The proposed residential component cannot adequately accommodate the proposed maximum nine (9) Venerable staying on the site. The parking arrangement within the front setback will have an adverse visual impact and will likely result in pedestrian/vehicle conflicts at the front boundary.

- (c) The proposed development will likely result in an adverse acoustic impact upon adjoining properties noting insufficient/inconsistent information has been provided with respect to the acoustic impacts of the proposal.
5. **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 as:
- (a) The proposal is likely to result in unacceptable parking impacts upon the street and broader locality.
 - (b) Appropriate vehicular access and parking and pedestrian access to and from the site has not been demonstrated.
 - (c) The existing accommodation does not meet the minimum requirements of the Affordable Rental Housing State Environmental Planning Policy to support nine (9) venerable as proposed.
 - (d) It is anticipated that the proposed use is likely to result in acoustic impacts upon the adjoining properties.
6. **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 for the reasons contained within this report. The proposed use contravenes the relevant planning instruments and development controls, is not suitable for the subject site, and the cumulative impacts of the proposed use and associated activities including residential accommodation are likely to adversely affect the adjoining properties and surrounding locality.

ATTACHMENTS

Attachment [↓1](#)  Elevations and Site Plan - 7 Rickard Road South Hurstville



<p>new@harsh.com.au Notated Architects: Henry Shephard NSW AHS 49632 ABN 1452386390</p>	<p><small>Notes: This drawing is for DA purposes only and does not constitute a contract. It is to be used for information only and is not to be used for any other purpose. All dimensions are in millimetres unless otherwise stated. All work is to be done in accordance with the relevant Australian Standards. This drawing is the property of Notated Architects and must not be copied, reproduced or used without the written consent of Notated Architects.</small></p>	<p>PROJECT ADDRESS 7 RICKARD RD, SOUTH HURSTVILLE</p> <p>PROJECT DESCRIPTION CHANGE OF USE APPLICATION</p> <p>CLIENT AUSPICIOUS HARMONY VENDOR (AUSTRALIA) PTY. LTD.</p>	<p>DRAWING NOTIFICATION PLAN</p> <p>DRAWN HCM</p> <p>CHECKED HB</p> <p>SCALE As indicated (NAT)</p>	<table border="1"> <thead> <tr> <th>Rev</th> <th>Description</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td>C</td> <td>DA ISSUE</td> <td>2020 07 03</td> </tr> <tr> <td>B</td> <td>DA ISSUE</td> <td>2020 07 03</td> </tr> </tbody> </table>	Rev	Description	Date	C	DA ISSUE	2020 07 03	B	DA ISSUE	2020 07 03	<p>OR NO NP_01</p> <p>REV C</p>
Rev	Description	Date												
C	DA ISSUE	2020 07 03												
B	DA ISSUE	2020 07 03												

**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 03 JUNE 2021**

LPP021-21

LPP Report No	LPP021-21	Development Application No	DA2020/0362
Site Address & Ward Locality	47 Kyle Parade Kyle Bay Blakehurst Ward		
Proposed Development	Alterations and first floor additions to a dwelling house, conversion of garage to a secondary dwelling, construction of a garage and front fence		
Owners	Mr and Mrs Tiricovski		
Applicant	Mr N Tiricovski		
Planner/Architect	Mitz Design		
Date Of Lodgement	17/09/2020		
Submissions	Round 1: Three / Round 2: Two		
Cost of Works	\$450,000.00		
Local Planning Panel Criteria	Pursuant to the General Manager's Delegation, the Manager of Building and Development considers it to be in the public interest for the application to be determined by the Local Planning Panel.		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	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, Draft Georges River Local Environmental Plan 2020.		
List all documents submitted with this report for the Panel's consideration	Architectural plans, Stormwater Plan, Survey Plan, Statement of Environmental Effects, Submissions		
Report prepared by	Senior Development Assessment Planner		

Recommendation	That the application be refused in accordance with the reasons stated in this 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	Yes

recommendations summarised, in the Executive Summary of the assessment report?	
<p>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?</p>	<p>Variations to height and FSR are proposed however written requests have not been submitted with the application</p>
<p>Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?</p>	<p>Not Applicable</p>
<p>Conditions Have draft conditions been provided to the applicant for comment?</p>	<p>No, the application is recommended for refusal</p>

Site Plan



Executive Summary Proposal

1. Development consent is sought for alterations and additions to a dwelling house, conversion of a garage to a secondary dwelling and new front fence.

Site and Locality

2. The lot is an irregular shape and has a site area of 738sqm and a frontage of 16.96m to Kyle Parade. The site slopes from the street to the rear boundary with a fall of approximately 6m.
3. Currently occupying the site is a dual occupancy. The lower ground floor is approved as a second dwelling (DA106/92). Should the application be approved, this consent will be required to be surrendered.

4. The rear yard contains an in-ground swimming pool. There is no vegetation in the rear yard.
5. In the wider context, the subject site is located in an established R2 Low Density Residential Area containing a mixture of traditional and contemporary dwelling houses and dual occupancies. Just north of the neighbouring site is a small set of local shops containing two cafes a hairdresser and a florist shop.
6. Immediately adjoining the site are two storey dwelling houses to the north, south and east.

Zoning and Permissibility

7. The site is zoned R2 - Low Density Residential under the provisions of Kogarah Local Environmental Plan 2012 (KLEP 2012). Dwelling houses and ancillary development are permitted with consent.

Submissions

8. The original plans lodged with the DA received three submissions. The amended plans submitted during the assessment process received two submissions.

Conclusion

9. An assessment has been undertaken in accordance with the applicable assessment criterion as outlined in this report and the proposal is not considered worthy of support for a number of reasons.
10. Based upon the information provided to date, it is assessed that the proposal will have an adverse and unreasonable environmental impact in the following regard:
 - Variations are proposed to the height and FSR development standards of the KLEP 2012, and floor space standard of the SEPP (Affordable Rental Housing) 2009 – written variation requests have not been submitted with the application;
 - Insufficient information to allow proper assessment of the height of the proposal or changes to the natural landform in the rear yard, including the site survey plan and details provided on the architectural drawings;
 - The proposal will have an adverse visual privacy impact on adjacent residential properties with views from additional balconies facing the rear of the property;
 - Unacceptable bulk and visual impact on adjoining properties as a result of the proposed parking arrangement, non-compliant side setbacks, height and FSR;
 - The amended stormwater fails to demonstrate adequate drainage of the development to the street gutter.
11. As a result of the concerns, deficiencies and inadequacies of the proposal the application is recommended for refusal.
12. Having regard to the matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979 and following a detailed assessment, the proposed Development Application (DA2019/0347) is recommended for refusal for the reasons contained within this report.

Report in Full PROPOSAL

13. Council is in receipt of an application seeking development consent for alterations and additions to a dwelling house, conversion of an existing garage into a secondary dwelling and a new front fence. A detailed description of the proposal is as follows:

Lower Ground Floor:

- Addition to the front of the existing garage and conversion to a secondary dwelling;
- “Surrender” of the secondary dwelling approval and closure of the access from the rumpus room to the subfloor area currently approved for use as a secondary dwelling; and
- Construction of a semi-basement car parking area beneath the proposed garage and carport, to be access via a hydraulic lift within the proposed garage.

Ground Floor:

- Internal alterations to the existing dwelling house; and
- Construction of a double garage and double carport.

First Floor:

- Additions to the front of the existing floor to provide three additional bedrooms, bathrooms and a study.

14. The proposed site plan is provided in the figure below.

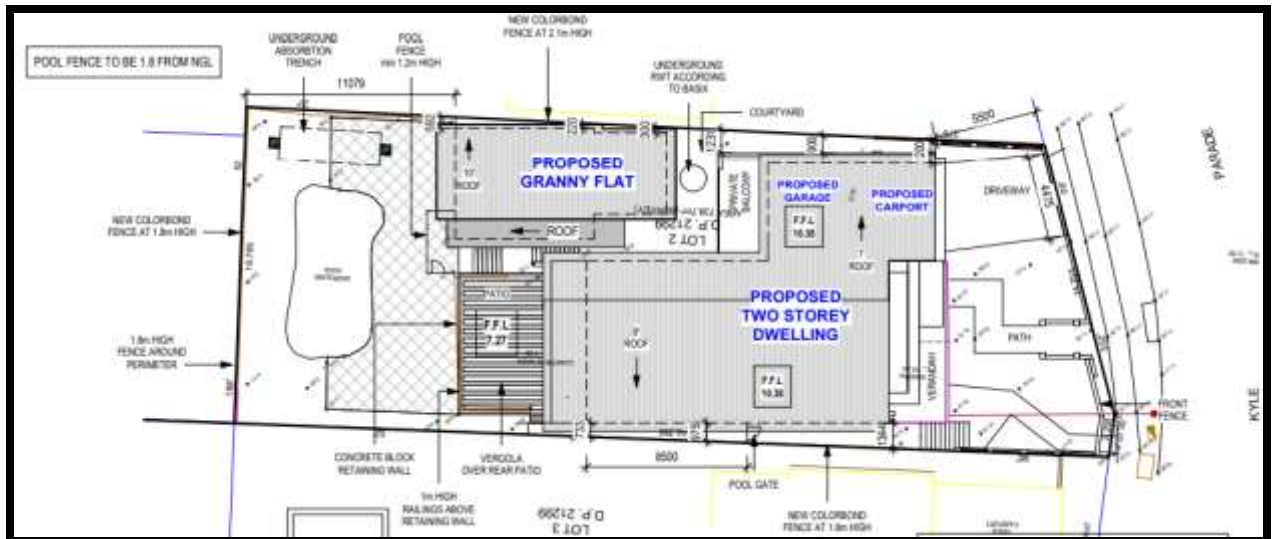


Figure 2: Proposed site plan

15. There is a current Building Identification Certificate (BIC) under assessment for unauthorised works on the site. The works include:
- a retaining wall at rear of house,
 - brick pier support to middle of rear veranda,
 - absorption tank,
 - privacy wall to side of dwelling at rear veranda, and
 - concrete around the in-ground pool

16. Finalisation of the BIC will depend on the decision of the Panel in relation to this application as the items above are included in the proposal that this application seeks approval for.

THE SITE AND LOCALITY

17. The site is identified as Lot 2 in DP 21299 known as 47 Kyle Parade, Kyle Bay.
18. The lot is an irregular shape and has a site area of 738sqm and a frontage of 16.96m to Kyle Parade. The site slopes from the street to the rear boundary with a fall of approximately 6m.
19. Currently occupying the site is a dual occupancy. The lower ground floor is approved as a second dwelling (DA106/92). Should the application be approved, this consent will be required to be surrendered.
20. The rear yard contains an in-ground swimming pool. There is no vegetation in the rear yard.
21. In the wider context, the subject site is located in an established R2 Low Density Residential Area containing a mixture of traditional and contemporary dwelling houses and dual occupancies. Just north of the neighbouring site is a small set of local shops containing two cafes a hairdresser and a florist shop.
22. Immediately adjoining the site are two storey dwelling houses to the north, south and east.

BACKGROUND

23. This application was lodged on 17 September 2020. Amended plans were requested of the applicant on 3 December 2020 to address the following non-compliances and design issues listed in the table below.
24. The applicant submitted amended plans on 5 February 2021.
25. A comment is provided against each issue providing detail on how the amended plans addressed each request.

Issue	Request	Comment on amendments made
Building Height	<p>The proposal exceeds the development standard height of 9m as referenced in the Kogarah Local Environmental Plan 2012.</p> <p>All proposed works must be amended to show compliance with the permitted height of 9m.</p> <p>In accordance with the Kogarah DCP 2013 any proposed work must not exceed 7.2m to the underside of the upper ceiling, and 7.8m to the top of the parapet, and the maximum number of levels is two.</p>	<p>A new roof is proposed in the amended plans which increases the height and area of non-compliance with the height standard. A 4.6 variation request was not submitted.</p> <p>New work maximum: 8.28m to ceiling 9.7m to ridge</p>

	<p>The plans as submitted are three levels in some parts and are not supported.</p>	<p>The semi-basement car parking results in the southern elevation of the dwelling having three levels. Car parking was requested to be provided at grade and was not – see comments later in the table in relation to car parking.</p>
<p>Floor Space Ratio/Gross Floor Area</p>	<p>The application exceeds the maximum floor space ratio for the site of 0.55:1 as referenced in the Kogarah Local Environmental Plan 2012.</p> <p>State Environmental Planning Policy (Affordable Rental Housing) 2009 clause 20 (3) (a) details <i>A consent authority must not consent to development to which this Division applies unless— (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument.</i></p> <p>The application is to be amended to show compliance with the maximum floor space ratio of 0.55:1.</p> <p>A plan showing the areas included as floor space must accompany the amended plans.</p> <p>Refer also to design change requirements below.</p>	<p>The stated maximum FSR is incorrect. The letter should have stated the maximum FSR as 383.9sqm pursuant to Clause 4.4A of KLEP 2012.</p> <p>The amended proposal has a gross floor area of 426sqm and exceeds the maximum permitted by the LEP.</p> <p>The applicant has failed to include the patio area on the lower ground floor (45sqm) which should have been included in the GFA as it is enclosed on three sides with walls and is roofed.</p> <p>Not provided.</p>
<p>Building Setbacks</p>	<p>The development fails to comply with the setback controls of the Kogarah Development Control Plan 2013. All new work must comply in full with the relevant setback controls.</p> <p>The amended plans must show all site boundaries on every floor plan and the proposed setbacks to each.</p>	<p>New work that does not comply with setbacks:</p> <p>Secondary dwelling (addition to existing garage): Proposed 270mm (0.63m breach/70% variation) First floor addition: Min. 0.9m</p> <p>The amended plans fail to show the site boundaries on all floor plans.</p>
<p>Depth of</p>	<p>The existing garage/proposed</p>	<p>No new work extends beyond the</p>

Upper Level	<p>secondary dwelling extends beyond the maximum permissible 60% of the depth of the allotment in accordance with Section 1.2.1(7) within Chapter C1 of KDCP2013. No new work is permitted to extend past 60% the depth of the lot, and so the proposed balcony to the secondary dwelling must be deleted.</p> <p>Blank walls exceed 10m in length which does not comply with Section 1.2.1(5) within Chapter C1 of KDCP2013. The plans must be amended to comply with this control.</p>	<p>rear of the existing dwelling and garage.</p> <p>The balcony has been deleted from the proposed secondary dwelling.</p> <p>The first floor addition results in a wall having a length of 15.5m.</p>
Parking	<p>The elevated height of the garage adds to the unacceptable bulk and scale of the proposal. Parking for two cars is to be provided at grade.</p>	<p>The parking has not been provided at grade, rather the four car garage has been changed to a double and double carport in front, with hydraulic lifts in the garage to access a semi-basement parking area below.</p> <p>The semi-basement car parking results in the southern elevation of the dwelling having three levels.</p>
Front Fence	<p>The front fence exceeds the 1.4m height limit referenced in the Kogarah Development Control Plan 2013. The proposed portico must be deleted and the fencing amended to comply with the DCP controls.</p>	<p>The front fence has been reduced to a maximum 1.4m in height.</p>
Deep Soil Landscape Area	<p>The proposed development does not comply with Council's deep soil landscaped area control contained within KDCP 2013.</p> <p>In accordance with the development control, the required landscaped area for the site is 15% of the site area. The plans must be amended to demonstrate compliance with this control and a plan showing the areas nominated as deep soil is to be submitted.</p>	<p>20% of the site is shown on the amended plans as deep soil landscaping. It noted though that the areas proposed as landscaping in the side passages are currently concrete and would require replacement with grass or garden to comply as shown on the plans.</p>
Design Changes	<p>In addition to the matters raised above, the following changes must be included in the amended design:</p>	

	<p>The outdoor entertainment area on the lower ground floor plan is fully enclosed and contributes to floor space as well as increasing the height and bulk of the proposal. It must be deleted.</p> <p>The covered and substantially enclosed outdoor terrace adjacent to the rumpus room on the lower ground floor plan contributes to floor space and must be included in the gross floor area calculations.</p> <p>The plans do not show a floor plan of the subfloor area discernible from the rear. This area appears to be capable of accommodating habitable floor space and a floor plan of this area needs to be included in the revised submission.</p>	<p>This area has been deleted and replaced with semi-basement parking and parking for up to 6 cars.</p> <p>The 45sqm patio area on the lower ground floor is enclosed on three sides and roofed and has not been included in the GFA for the dwelling which results in the FSR being exceeded.</p> <p>Provided.</p>
Swimming Pool Fencing	The plans are to show the location of the swimming pool fence which is compliant with the swimming pool legislation.	<p>The amended plans show a pool fence that complies with the legislation, however the balustrade to the patio area will need to be 1.2m high to comply. Additionally, the site boundary fences do not comply with the legislation.</p> <p>This could be made a condition of consent should the application be approved.</p>
Section plan/levels	Please provide a section plan of the rear yard showing the previous levels with the pavers that surrounded the pool and the current levels between the pool and side and rear boundaries.	This information was not provided.
BASIX Certificate	An amended BASIX Certificate is required to be submitted that reflects the design changes listed in this letter. All commitments indicated on the BASIX certificate <u>must</u> be included on the submitted plans.	An amended BASIX certificate was not provided. The BASIX commitments shown on the plans relate to the original design and certificate.
Shadow Diagrams	Amended shadow diagrams are to be submitted reflecting the design changes listed in this letter.	Provided.
Detailed Stormwater	The application has not been accompanied by a stormwater	An amended stormwater plan was submitted which required

Concept Plan	<p>drainage plan in accordance with Council's water management policy.</p> <p>All roof water is to drain to the street. The hardstand areas in the rear yard may drain to an absorption trench in the rear yard.</p> <p>In this regard a drainage plan will need to be prepared in accordance with Council's criterion which can be found by the following link:</p> <p>https://www.georgesriver.nsw.gov.au/Development/Building-and-Construction/Stormwater-management</p>	<p>additional changes, which were requested on 8/3/21 and submitted on 26/4/21.</p> <p>Council's engineer has reviewed the amended plan and advised the design fails to demonstrate adequate drainage of the development to the street gutter.</p>
Plan Details	<p>The amended plans must:</p> <ul style="list-style-type: none"> - Show all site boundaries on each plan and the proposed setbacks to each boundary. - Be at a scale of 1:100. - Include 3D perspectives. - A section plan through the proposed development (east to west) including the maximum height lines to demonstrate compliance of any proposed work with the LEP and DCP height limits. - Updated and correct Site Calculations on the site plan. 	<ul style="list-style-type: none"> - Not provided on all plans. - Provided. - Not provided. - Not provided. - Provided.

Compliance and Assessment

26. The development has been assessed having regard to Matters for Consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979.

STATE ENVIRONMENTAL PLANNING INSTRUMENTS

27. Compliance with the relevant State Environmental Planning Policies (SEPP) is detailed below.

STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009

28. State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) applies to secondary dwellings within the Georges River Local Government Area in zones R2, R3 and R4.
29. SEPP ARH applies to the State and the extent of any inconsistency between it and any Local Environment Plan (Cl. 8) and as such, the prescribed zones stipulated under Clause 22 overrides Clause 5.4 of the Kogarah LEP 2012 as outlined in Clause 8 of the SEPP ARH.

30. An assessment is undertaken in accordance with Division 2 of Part 2 of SEPP ARH.

SEPP Provision Requirement	Proposal	Complies
<p>19 Definition</p> <p>Development for the purposes of a secondary dwelling includes the following:</p> <ul style="list-style-type: none"> a. The erection of, or alterations or additions to, a secondary dwelling, b. Alterations or additions to a principal dwelling for the purposes of a secondary dwelling. <p>Note: The standard instrument defines secondary dwelling as follows:</p> <p>secondary dwelling means a self-contained dwelling that:</p> <ul style="list-style-type: none"> a. is established in conjunction with another dwelling (the principal dwelling), and b. is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and c. Is located within, or is attached to, or is separate from, the principal dwelling. 	<p>-</p> <p>The existing garage of the principal dwelling is to be increased in size and converted to a secondary dwelling.</p> <p>The proposed secondary dwelling will be constructed in conjunction with the existing dwelling house.</p> <p>The proposed secondary dwelling is located on the same lot of land as the principal dwelling.</p> <p>The proposed secondary dwelling is separate (detached) from the principal dwelling.</p>	<p>-</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>20 Land to which Division applies</p> <p>This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but only if development for the purposes of a dwelling house is permissible on the land:</p> <p>(a) Zone R2 Low Density</p>	<p>The subject site is zoned R2 - Low Density Residential.</p>	<p>Yes</p>

LPP021-21

Residential,		
<p>22 Development may be carried out with consent</p>		
<p>1. Development to which this Division applies may be carried out with consent.</p>	<p>This division permits a secondary dwelling development on the subject allotment.</p>	<p>Yes</p>
<p>2. A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.</p>	<p>The development is limited to only one secondary dwelling. The development will not result in there being any dwellings other than the principal dwelling and the secondary dwelling.</p>	<p>Yes</p>
<p>3. A consent authority must not consent to development to which this Division applies unless:</p>		
<p>a. the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and</p>	<p>The permitted Floor Space Ratio (FSR) according to the KLEP 2012 is 0.53:1. The proposed FSR is 0.596:1.</p>	<p>No – a written 4.6 request to vary the standard has not been submitted.</p>
<p>b. The total floor area of the secondary dwelling is no more than 60sqm or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.</p>	<p>The total floor area is 53sqm, which is below the maximum permitted.</p>	<p>Yes</p>
<p>4. A consent authority must not refuse consent to development to which this Division applies on either of the following grounds:</p>		
<p>a. site area if:</p> <p>i. the secondary</p>	<p>The secondary dwelling is</p>	<p>Yes</p>

<p>dwelling is located within, or is attached to, the principal dwelling, or</p> <p>ii. the site area is at least 450sqm,</p> <p>b. parking if no additional parking is to be provided on the site.</p>	<p>detached from the principle dwelling.</p> <p>The site area is 738sqm.</p> <p>No additional parking is proposed.</p>	<p>Yes</p> <p>Yes</p>
<p>24 No subdivision</p> <p>A consent authority must not consent to a development application that would result in any subdivision of a lot on which development for the purposes of a secondary dwelling has been carried out under this Division.</p>		
<p>Total floor area is not a defined term; in this regard the assessment has been undertaken using the definition of gross floor area under the KLEP 2012 in order to establish the development does not exceed the residential floor space ratio applicable to the site.</p>		

31. Based on the State Environmental Planning Policy (Affordable Rental Housing) 2009 provisions, all relevant provisions have been considered and it has been determined that the proposal fails to satisfy Clause 22(3)(a) as the total floor area of the principal and secondary dwellings exceeds the maximum FSR permitted on the site and no 4.6 request has been provided. This forms one of the reasons for refusal of the application.

STATE ENVIRONMENTAL PLANNING POLICY NO 55 – REMEDIATION OF LAND

32. 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. 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.

33. A review of the site history indicates that the site has been used for residential purposes for extended periods of time, and such uses and/or development are not typically associated with activities that would result in the contamination of the site. The proposed works do not include any change to the use of the land that would result in any concerns with respect to contamination. There is no indication of previous uses that would cause contamination. In this regard there is no indication that the land is contaminated.

STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

34. The trigger for BASIX Certification is when the estimated cost of works for residential development (new dwelling(s)/alterations and additions) is equal to or above \$50,000. BASIX Certification is also triggered when proposing a swimming pool with a volume of 40,000 litres.

The changes made to the original design triggered the need for an amended BASIX Certificate, which was not submitted with the amended plans. The minimum requirements of SEPP (Building Sustainability Index: BASIX) 2004 are not met.

STATE ENVIRONMENTAL PLANNING POLICY (VEGETATION IN NON-RURAL AREAS) 2017

35. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
36. 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).
37. The objectives of the SEPP are to protect the biodiversity values of trees and other vegetation in non-rural areas and preserve the amenity of non-rural areas through the preservation of trees and other vegetation. This policy is applicable pursuant to Clause 5(1) of the SEPP as the site is within both Georges River Council and the R2 Low Density Residential zone.
38. Pursuant to Clause 8(1) of the SEPP, clearing does not require authority under the policy as it is a type of clearing that is authorised under Section 60O of the Local Land Services Act 2013 (specifically, that associated with a development consent issued under Part 4 of the Environmental Planning and Assessment Act 1979).
39. No trees are proposed for removal.

GREATER METROPOLITAN REGIONAL ENVIRONMENTAL PLAN NO 2 — GEORGES RIVER CATCHMENT

40. The main aims and objectives of this plan include but are not limited to the following:
 - *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,

41. The proposed stormwater drainage system has been assessed by Council's Development Engineer and has been found to be unsatisfactory. The amended stormwater fails to demonstrate adequate drainage of the development to the street gutter and this forms one of the reasons for refusal of the application.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

Draft Environmental SEPP

42. 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. 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.

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

Draft Remediation of Land SEPP

44. The Draft Remediation of Land SEPP was exhibited from 31 January 2018 to 13 April 2018. The proposed remediation of land SEPP will:

- *Provide a state-wide planning framework for the remediation of land;*
- *Maintain the objectives and reinforce those aspects of the existing framework that have worked well;*
- *Require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land;*
- *Clearly list the remediation works that require development consent;*
- *Introduce certification and operational requirements for remediation works that can be undertaken without development consent.*

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

Draft Design and Place SEPP

46. The Draft Design and Place SEPP will repeal and replace SEPP No 65 – Design Quality of Residential Apartment Development and SEPP (Building Sustainability Index: BASIX) 2004. The explanation of intended effect of the draft SEPP was publicly exhibited in February/March 2021. Following submissions of the EIE the draft SEPP will be on public exhibition in late 2021.

Draft Georges River Local Environmental Plan 2020

- 47. The Local Planning Panel considered the report on the outcomes of the Public Exhibition and Finalisation of Georges River Local Environmental Plan 2020 (DLEP2020) on 25 and 26 June 2020. In relation to this development site the zoning, height and floor space ratio are unchanged.
- 48. Consideration is given to the provisions of Draft Georges River Local Environmental Plan 2020 in the assessment this application.
- 49. In this regard, the provisions have no determining weight as a result of proposed operation of Clause “1.8A Savings provisions relating to development applications” of the Draft Plan which provides “If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.”

KOGARAH LOCAL ENVIRONMENTAL PLAN 2012

- 50. The proposal is subject to the Kogarah LEP 2012. The site is zoned R2 Low Density Residential.

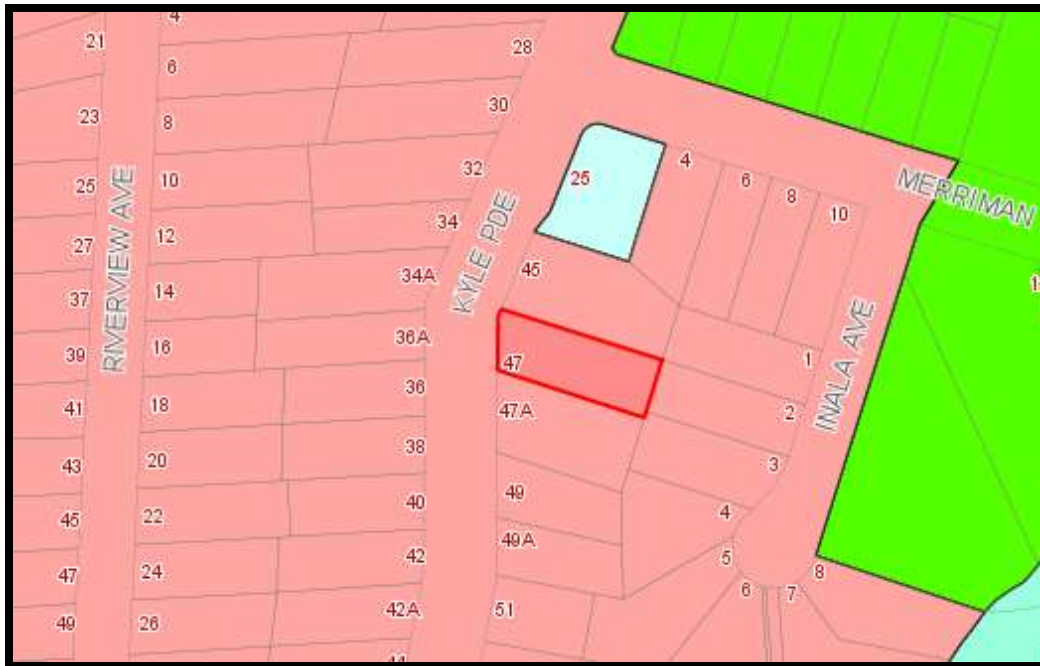


Figure 5: Land Zoning Map as per KLEP 2012 (subject site outlined in red)

- 51. The extent to which the proposed development complies with the Kogarah Local Environmental Plan 2012 (KLEP 2012) is detailed and discussed in the table below.

Clause	Standard	Proposed	Complies
Part 1 – Preliminary			
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	The development is not considered to be consistent with the aims of the plan.	No, refer to comments below

Discussion on Aims of the Plan

- 52. The particular aims of the Kogarah Local Environmental Plan 2012 in relation to Clause 1.2 (2) are as listed below:

- To guide the orderly and sustainable development of Kogarah,
- To encourage a diversity of housing choice suited to meet the needs of the current and future residents of Kogarah,
- To promote economic development and facilitate the continued growth of commercial, medical-related and industrial employment-generating opportunities,
- To protect and enhance Kogarah's natural environment, foreshores and waterways,
- To provide high quality open space and a range of recreational areas and facilities suited to meet the needs of the residents of Kogarah and its visitors,
- To conserve Kogarah's environmental heritage.

53. The development is not considered to be consistent with the aims of the Kogarah Local Environmental Plan 2012, as the proposal has not been designed to satisfy the criteria relating to the orderly and sustainable development given the insufficient drainage of the development and the height and density breaches. The proposal is not considered to be well suited to meet the needs of the current and future residents of the locality.

Clause	Standard	Proposed	Complies
1.4 - Definitions	<p>Dwelling House means:</p> <p><i>a building containing only one dwelling.</i></p> <p>Secondary dwelling means:</p> <p><i>a self-contained dwelling that—</i></p> <p><i>(a) is established in conjunction with another dwelling (the principal dwelling), and</i></p> <p><i>(b) is on the same lot of land as the principal dwelling, and</i></p> <p><i>(c) is located within, or is attached to, or is separate from, the principal dwelling.</i></p>	The proposed development is consistent with the definitions.	Yes
Part 2 - Permitted or prohibited development			
2.3 - Zone objectives and Land Use Table	<p>Meets objectives of R2-Low Density Residential Zone.</p> <p>Development must be permissible with consent</p>	<p>The proposal fails to meet all objectives.</p> <p>The proposal is permissible with development consent.</p>	<p>No, refer to comments below.</p> <p>Yes</p>

Discussion on zone objectives

54. The objectives of the R2 Low Density Residential Zone as identified in KLEP 2012 are as listed 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.*
55. The proposed development presents unreasonable visual bulk and scale compromising the amenity of the surrounding area and as such fails to meet the first objective of the zone.

Part 4 - Principal Development Standards			
Clause	Standard	Proposed	Complies
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	<p>Maximum 10.5m.</p> <p>The existing roof slightly exceeds the 9m limit at the rear of the first floor and the original plans submitted with the DA proposed a flat roof.</p> <p>The amended proposal includes a new skillion roof which further increases the height non-compliance.</p> <p>A 4.6 variation request was not submitted with the application.</p>	<p>No.</p> <p>The applicant has not provided a Cl.4.6 variation request.</p> <p>This forms one of the reasons for refusal of the application.</p>

Discussion on height

56. Following a review of the plans submitted with the application, the applicant was requested to provide amended plans to ensure that no part of the proposed additions breached the maximum building height of 9m for the site.
57. The amended plans demonstrate that part of the new roof encroaches the 9m height limit. No variation request was submitted in support of the breach. This forms part of the reasons for refusal.

4.4 – Floor Space Ratio	0.6:1 as identified on Floor Space Ratio Map	Despite clause 4.4 (2), the floor space ratio for residential accommodation on	Refer to Clause 4.4A
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		land in Zone R2 Low Density Residential, Clause 4.4A applies.	
4.4A – Exceptions to floor space ratio for residential accommodation in Zone R2	<p>2) Despite clause 4.4 (2), the floor space ratio for residential accommodation on land in Zone R2 Low Density Residential is not to exceed the maximum floor space ratio specified in the table to this subclause.</p> <p><i>less than 800 square metres but not less than 650 square metres</i></p> <p>$[(\text{lot area} - 650) \times 0.3 + 357.5] \div \text{lot area}:1$</p> <p>Site area: 738sqm</p> <p>0.52:1 or 383sqm</p>	<p>The proposed development has a total FSR of 440sqm or 0.596:1.</p> <p>45sqm exceedance or a 11.7% variation.</p>	<p>No. The applicant has not provided a Cl.4.6 variation request.</p> <p>This forms one of the reasons for refusal of the application.</p>

LPP021-21

Discussion on Floor Space Ratio

58. The applicant was advised that the patio on the lower ground floor at the rear of the dwelling was to be included as gross floor area as it is roofed and enclosed on three sides with walls greater than 1.4m in height.
59. The applicant has failed to include this area in the GFA calculations and as such the proposal exceeds the maximum FSR for the site by 57sqm. No variation request was submitted with the amended plans and this forms one of the reasons for refusal of the application.

4.6 – Exceptions to development standards	In accordance with Clause 4.6 (1) through to and including (8)	The proposal varies the maximum height and FSR for the site however a 4.6 variation request was not submitted.	No
Part 5 - Miscellaneous Provisions			
5.4 - Controls relating to miscellaneous permissible uses	(9) Secondary dwellings on land other than land in a rural zone If development for the purposes of a secondary dwelling is permitted under this	The proposed secondary dwelling has a floor area of 53sqm.	Yes

	<p>Plan on land other than land in a rural zone, the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—</p> <p>(a) 60 square metres, (b) 13% of the total floor area of the principal dwelling.</p>		
<p>Part 6 - Additional Local Provisions</p>			
<p>6.1 – Acid sulfate soils</p>	<p>(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.</p> <p>Class 5: Works within 100 metres of adjacent Class 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 2, 3 or 4 land.</p>	<p>Subject site is located in a Class 5 Acid Sulfate Soils Area.</p> <p>Although land is within 100m of adjacent class 2 area, the land is not below 5m AHD therefore an Acid Sulfate management Plan is not required.</p>	<p>Yes</p>
<p>6.2 – Earthworks</p>	<p>(2) Development consent is required for earthworks unless—</p> <p>(a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or</p> <p>(b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development</p>	<p>The proposed earthworks are ancillary to the proposed development and are acceptable for this form of development.</p>	<p>Yes</p>

	consent has been given.		
6.3 – Flood planning	(2) This clause applies to— (a) land identified as “Flood planning area” on the Flood Planning Map, and (b) other land at or below the flood planning level.	The proposed development is not located in a mapped flood prone area.	Yes

LPP021-21

DEVELOPMENT CONTROL PLANS

60. The proposed development is subject to the provisions of the Interim Policy - Georges River Development Control Plan 2020 and the Kogarah Development Control Plan 2013. The following comments are made with respect to the proposal considering the objectives and controls contained within both DCPs.

Kogarah DCP 2013

C1- Low Density Housing

Control	Standard	Proposed	Complies
1.2 Building Scale and Height			
1.2.1 Floor space Requirements	(5) Blank walls and flat facades should be avoided. Walls longer than 10m should be articulated by a minimum 300mm projection or indentation in the façade.	The proposed development is sufficiently articulated albeit the bulk exceeds that envisaged in this zone.	Yes
	(6) The overall building should present a building mass that is in proportion with the allotment size, provides opportunities for modulation and articulation of the building and does not detract from the satisfaction of any other applicable design principle.	The proposed building mass is not considered to be suitable for the allotment size as the proposal exceeds the floor space ratio and height development standard. A Clause 4.6 variation the development standards has not been submitted with the DA.	No
	(7) Where proposed development includes a two (2) residential level element, then the second level should	The existing dwelling and garage (above subfloor area) exceeds the 60% lot depth line of the site. No part of	Yes

	not extend beyond 60% of the depth of the allotment measured from the street boundary. Where side boundaries are of varying length, the second level is limited to a line across the block between the points on both boundaries.	the proposal extends beyond the existing rear of the dwelling or garage.	
1.2.2 Building Heights	(1) The maximum building height must comply with the requirements specified in table below: Dwelling Type Single dwelling; Maximum Height 7.2m to the underside of the upper ceiling; 7.8m to the top of the parapet;	8.28m to ceiling 9.7m to ridge	No No
1.2.3 Rhythm of the Built Elements in the Streetscape	(1) The primary building façade should not exceed 40% of the overall width of the total frontage. (2) The secondary building façade should be set back a minimum of 1.5 metres from the primary building façade. (3) Where the dominant built form in the streetscape provides for a pitched hip or gable ended presentation to the street, the new buildings and/or additions should reflect that roof form.	The primary façade does not exceed 40% the width of the frontage. The proposed secondary building façade is setback 1.5m from the primary. The streetscape is characterised by a mix of pitched and parapet roofs. The proposed development incorporates a parapet design which is acceptable.	Yes Yes Yes
1.2.4 Building Setbacks	1.2.4.2 Front Setbacks (1) Where the setback of an adjacent building	The proposal is setback a minimum	Yes

	<p>is greater than 5m, an appropriate setback may be achieved by ensuring development is set back:</p> <p>(i) the same distance as one or the other of the adjoining buildings, provided the difference between the setbacks of the two adjoining buildings is less than or equal to 2.0m (Figure 9); or</p> <p>1.2.4.3 Side & Rear Setbacks</p> <p>(1) The side and rear boundary setbacks should comply with the table below.</p> <p>Rear Setback Buildings are to have a minimum rear setback of 15% of the average site length, or 6m, whichever is greater.</p> <p>Side Setbacks For buildings having a wall height of 3.5m or less, the minimum side boundary setback is 900mm.</p> <p>For buildings having a wall height of greater than 3.5m, the minimum side boundary setback is 1200mm.</p>	<p>5.5m from the front boundary.</p> <p>15% equates to 6.3m to 6.7m. Development is setback 10m</p> <p><u>Northern side setback</u> Lower Ground: new work is 0.24m Ground floor: 900mm to 1.2m First floor: 1.2m to 1.6m</p> <p><u>Southern side setback</u> Lower ground: no change Ground floor: no change First floor: 900mm to 1.34m (aligns with existing)</p>	<p>Yes</p> <p>No</p> <p>Yes</p> <p>Yes</p> <p>-</p> <p>-</p> <p>No</p>
1.2.5 Fenestration and External	(1) New buildings and alterations and additions should	The proposed development is considered to be	Yes

<p>Materials</p>	<p>present a primary building façade and roofing that is constructed of materials, and within a colour range, that is complementary to the dominant character of buildings in the streetscape.</p> <p>(2) Garage doors should not dominate the street front elevation (Figure 16).</p> <p>(3) The roof should be similar to the angle of pitch, materials and colour of roofs in the streetscape (Figure 14).</p> <p>(4) The colours of garages, window frames, and balustrading on main facades and elevations are to be integrated with the external design of the building.</p> <p>(5) Glazing shall be limited to a maximum 35% of the total area of the overall street front façade. This includes both primary and secondary façade bays (Figure 15).</p> <p>(6) Where garaging is in the front façade it should be limited to a maximum of two garage bays, with separate garage door openings of a maximum width of 3m.</p>	<p>consistent with the existing dwelling design.</p> <p>The proposed development includes one garage door approximately 6m.</p> <p>The immediate vicinity demonstrates both pitched and parapet roofs, the proposal is consistent with the streetscape.</p> <p>The external facades of the proposed development are considered appropriate for the locality.</p> <p>The proposed front façade does not exceed the maximum 35% glazing.</p> <p>One 6m garage door proposed.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>1.2.6 Street Edge</p>	<p>(1) New developments should provide front fencing that complements fencing</p>	<p>The proposed development provides sufficient front fencing to complement the</p>	<p>Yes</p>

	<p>within the streetscape.</p> <p>(2) Fencing is to be consistent with the requirements of Section 4.2.</p> <p>(3) Existing vegetation in the front building line setback or on the street verge that contributes to the character of the streetscape should be preserved.</p> <p>(4) The driveway location should not result in the removal of any street trees or removal of substantial trees on the site.</p>	<p>streetscape.</p> <p>Fencing is consistent with the Section 4.2 requirements.</p> <p>No tree removal proposed.</p> <p>Existing to remain.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
1.3 Open Space			
<p>1.3 Open Space</p>	<p>(1) 15% of the site area must be deep soil landscaped area.</p> <p>(2) Private open space should be adjacent to and visible from the main living and/or dining rooms and be accessible from those areas.</p> <p>(3) Development should take advantage of opportunities to provide north facing private open space to achieve comfortable year round use.</p> <p>(4) Where soil and drainage conditions are suitable, unpaved or unsealed landscaped areas should be maximised and designed to facilitate on site infiltration of</p>	<p>20%</p> <p>The proposed development includes a satisfactory area for private open space.</p> <p>The proposed private open space is appropriately located.</p> <p>Adequate deep soil areas are provided.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

	stormwater. (5) Existing significant trees and vegetation must be incorporated into proposed landscape treatment.	No trees are proposed for removal.	Yes
1.4 Vehicular access, parking and circulation			
	(1) Car parking is to be provided in accordance with the requirements in Section B4. (4) Crossings are to be positioned so that on-street parking and landscaping on the site are maximised, and removal or damage to existing street trees is avoided. (5) Garaging should be setback behind the primary façade. (6) The maximum driveway width between the street boundary and the primary building façade is 4m.	2 x garage spaces 2 x carport spaces 2 x 'basement' spaces Existing to remain. The garage is setback behind the primary façade. Existing to remain.	Yes – however refer to discussion Yes Yes Yes

Discussion on car parking arrangement

61. The plans submitted with the development application proposed a garage design to accommodate four (4) cars (two (2) x tandem spaces) elevated above natural ground with an enclosed 'outdoor entertainment area' beneath. The applicant was requested to delete the entertainment area and provide parking at grade.
62. The amended plans now propose a double carport in front of a double garage located above a semi-basement parking area for two cars which is accessed by hydraulic lifts.
63. The clearance height of the semi-basement parking level is 1.6m, thus elevating the garage above natural ground level.
64. This arrangement is not supported as it adds bulk to the dwelling, results in three levels when viewed from the neighbouring property and is excessive for a single residential dwelling (noting additional parking is not required for a secondary dwelling).
65. The bulk and scale of the proposal forms one of the reasons for refusal of the application.

Control	Standard	Proposed	Complies
<p>1.5.1 Visual Privacy</p>	<p>(1) Windows from active rooms are to be offset between adjacent dwellings so as to avoid direct overlooking onto neighbouring windows.</p>	<p>New active room windows are limited to the proposed secondary dwelling rear-facing windows, which are setback 10m from the rear boundary.</p>	<p>Yes</p>
	<p>(2) Where terraces and balconies are proposed and are elevated more than 1.5m above ground level (finished) and are located behind the street front façade, they are restricted to a maximum width of 2.5m and must be setback a minimum 3m from any adjoining property boundary.</p>	<p>A first floor balcony is proposed adjacent to one of the proposed bedrooms. This balcony is not supported as it adds to the already large expanse of balconies on the rear elevation of the dwelling, fails to meet the width and setback controls and will have overlooking impacts on the private open space of the property to the south.</p>	<p>No</p>
	<p>(3) The area of balconies or terraces greater than 1.5m above ground level is limited to a cumulative total of 40m² per dwelling.</p>	<p>93sqm in total (including bedroom balcony not supported due to privacy impacts on neighbouring private open space).</p>	<p>No</p>
	<p>(5) For active rooms or balconies on an upper level, the design should incorporate placement of room windows or screening devices to only allow oblique views to adjoining properties (Figures 18 and 19).</p>	<p>Lower ground floor patio – a privacy screen was requested but not provided in the amended plans. Given its elevation above ground a privacy screen could be conditioned if the application were to be supported.</p>	<p>No</p>
<p>1.6 Solar Access</p>			
	<p>(1) At least 50% of the primary private open space of the proposed development should</p>	<p>The proposed private open space will receive the minimum 4 hours sunlight between</p>	<p>Yes</p>

	<p>have access to a minimum of four hours of sunlight between 9am–3pm on 21 June.</p> <p>(3) 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 21 June (Figure 21).</p>	<p>9am–3pm on 21 June.</p> <p>The proposed development affects the immediate neighbour to the south, however this property receives a minimum of 3 hours sunlight between 9am–3pm to at least 50% of the existing primary private open space on 21st June.</p>	<p>Yes</p>
1.7 Views and view sharing			
	<p>(1) Development shall provide for the reasonable sharing of views. Note: Assessment of applications will refer to the Planning Principle established by the Land and Environment Court in Tenacity Consulting vs Warringah Council (2004) NSWLEC140</p>	<p>The proposed development is not expected to impact any adjoining properties or public space access to view corridors.</p>	<p>Yes</p>
4.2 Fences and Walls			
4.2.1 Front Fences	<p>(1) In cases where an applicant can demonstrate the need for a front fence higher than 1.4m, the maximum height of the fence must not exceed 1.8m.</p> <p>(2) Fences over 1.4m must be setback 1.2m from the street alignment, except where Council considers a lesser distance is warranted due to the siting of the existing residence, levels or width of the</p>	<p>Maximum 1.4m.</p> <p>NA – Maximum 1.4m</p>	<p>Yes</p> <p>Yes</p>

	allotment or exceptional circumstances of the site.		
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Interim Policy Georges River Development Control Plan 2020

66. The proposed development is subject to the provisions of the Interim Policy Georges River DCP 2020. The aim of an Interim Policy is to set a consistent approach for the assessment of residential development within the Georges River Local Government Area, until such a time as a comprehensive DCP is prepared and implemented. Comments are made with respect to the proposal satisfying the objectives and controls contained within the DCP.

LPP021-21

Section	Interim Policy Control	Proposal	Complies
Building Setback (Front)	<input type="checkbox"/> Minimum setback from the primary street boundary is:		
	a) 4.5m to the main building face	6m	Yes
	b) 5.5m to the front wall of garage, carport roof or onsite parking space	5.5m	Yes
	Or		
	a) Within 20% of the average setback of dwellings on adjoining lots	NA	NA
Building Setback (Rear)	<input type="checkbox"/> Buildings are to have a minimum rear setback of 15% of the average site length, or 6m, whichever is greater	10m	Yes
	<input type="checkbox"/> Where the existing pattern of development displays an established rear setback, development should recognise and respond to site features and cross views of neighbouring properties	Consistent	Yes
Building Setback (Side)	<input type="checkbox"/> The minimum side setback outside the FSPA is 900mm (ground floor) and 1.2m (first floor)	North: 900mm to 1.34m for first floor addition	No
	<input type="checkbox"/> The minimum side setback inside the FSPA is 900mm (ground floor) and 1.5m (first floor) with a minimum of 5.5m in front of any proposed new garage.	South: 270mm to secondary dwelling; 900mm proposed carport Proposed setback to secondary dwelling is not supported as it will have adverse visual	No

		impacts on the southern neighbour in terms of bulk and scale on the boundary.	
Landscaped area	<input type="checkbox"/> Where located outside the FSPA, a minimum of 20% of site area is landscaped open space	20%	Yes
	<input type="checkbox"/> Where located inside the FSPA, a minimum of 25% of the site area is landscaped open space	NA	NA
	<input type="checkbox"/> The minimum dimension of landscaped open space is 2m, designed in a useable configuration	Complies	Yes
	<input type="checkbox"/> A minimum of 15m ² of the landscaped open space is provided between the front setback and the street boundary in the form of a front yard	67sqm	Yes
Private Open Space	<input type="checkbox"/> An area of Principal Private Open Space is to be provided which:		
	a) has a minimum area of 30m ²	181sqm	Yes
	b) has a minimum dimension of 5m, designed in a useable configuration	20m x 8m	Yes
	c) is located at ground level and behind the front wall of the dwelling	Complies	Yes
	d) is directly accessible from a main living area	Complies	Yes
Basement/ Land Modification	Basements are permitted where Council's height controls are not exceeded, and it is demonstrated that there will be no adverse environmental impacts (e.g. affectation of watercourses and geological structure).	A semi-basement car parking area is proposed beneath the proposed garage and carport. The site has a gradient of 14.3%.	No
	<input type="checkbox"/> Basements for low grade sites (ie < 12.5% Grade front	The applicant was requested to provide	

	<p>to rear):</p> <p>a) Basements on land where the average grade is less than 12.5% are permitted only where they are not considered a storey (see definition below) and the overall development presents as 2 storeys to the street.</p> <p>b) A basement is not considered a storey if it is:</p> <p>situated partly below the finished ground and the underside of the ceiling is not more than 1m above the natural ground at the external wall for a maximum of 12m in length, with the exception of the façade in which the garage door is located.</p>	<p>parking at grade in the letter from Council of 3 December 2020. The amended plans did not change the location of the garage, rather amended the design from a four car garage to a double garage, attached double carport and basement level car parking accessed via hydraulic lifts.</p> <p>This design will have adverse visual impacts for the southern neighbour in terms of bulk and scale</p>	
<p>Solar Access</p>	<p>Development allows for at least 3 hours of sunlight on the windows of main living areas and adjoining principal private open space of adjacent dwellings between 9.00 am and 3.00 pm on 22 June.</p> <p>Note 1: Development applications for development two storeys and over are to be supported by shadow diagrams demonstrating compliance with this design solution.</p> <p>Note 2: Exemptions will be considered for developments that comply with all other requirements but are located on sites with an east-west orientation</p>	<p>Insufficient information has been provided by the applicant to determine the overshadowing impacts of the additions to the dwelling house compared to the shadow cast by the existing dwelling.</p> <p>However it appears that the private open space area of the southern neighbour will receive three hours solar access in the morning during midwinter.</p>	<p>Yes</p>

LPP021-21

Georges River Development Control Plan 2020

67. The Georges River Development control Plan was made by the Georges River Local Planning Panel on 24 March 2021.

68. This does not come into effect until the Georges River Local Environmental Plan is gazetted.

IMPACTS

Natural Environment

69. The proposed works will not directly impact the natural environment with the built form but will indirectly impact the environment through excavation works and drainage management.

Built Environment

70. The built form of the proposed development is of a bulk and scale that is inconsistent with contemporary development in the locality. The development presents unreasonable visual bulk impacts to the neighbouring properties along southern (side) and eastern (rear) site boundaries.
71. The proposal will result in a floor area of 440sqm, approximately 45sqm above the permissible floor space, resulting in an FSR of 0.596:1 and a non-compliance of 11.3%. A Clause 4.6 variation was not submitted in support of the non-compliance.
72. Parts of the proposed additions to the dwelling exceed the maximum 9m height limit for the site, further adding to the unacceptable bulk and scale of the dwelling when viewed from the rear. A Clause 4.6 variation was not submitted in support of the non-compliance.
73. During the assessment of the application the proposed stormwater drainage system was found to be unsatisfactory and unable to be supported by Council's Development Engineer. The applicant was advised the submitted plan was not in accordance with Council's water management policy and was given clear direction as to how the site was to be drained (i.e. all roof water to drain to the street and the hardstand areas in the rear yard may drain to an absorption trench in the rear yard).
74. Council's engineer has reviewed the amended plan and advised the design fails to demonstrate adequate drainage of the development to the street gutter.

Social Impact

75. The assessment demonstrates that the proposal in its current form will have an adverse impact on the character of the locality and the amenity of neighbouring residential properties. The environmental impacts on the social environment are considered to be unreasonable and the application is not supported.

Economic Impact

76. The proposal is not considered to result in unreasonable material economic impact.

Suitability of the Site

77. The site is zoned R2 – Low Density Residential. Whilst the proposal is a permissible form of development in this zone, it is considered that the proposal will have an adverse impact on the adjoining properties in its current form. The proposal is considered to constitute an overdevelopment of the site and ultimately the site is unsuitable for the development.

SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST

78. The application (original and amended) was advertised and adjoining residents were notified by letter and given fourteen (14) days in which to view the plans and submit any comments on the proposal. Three submissions were received during the neighbour

notification period in Round One and two in Round Two. The issues raised in the submissions are as follows.

Issue	Comment
Existing dual occupancy on the site	Should this application be approved, a condition of consent will be imposed for the surrender of the current dual occupancy consent.
Breach of Ceiling and Parapet Heights	Parts of the existing dwelling do not comply with these controls. The new work as part of this proposal does not comply with these controls and this forms one of the reasons for refusal recommended in this report.
60% Site Depth for 2nd Storey	The existing dwelling and garage exceed the 60% lot depth line for the site. No new work is proposed beyond the existing dwelling/garage.
Side Setbacks Non-compliant	Parts of the proposed new work do not comply with the required side setbacks. This forms one of the reasons for refusal of the application.
Excessive bulk and scale driven by breach of heights and insufficient setbacks	For a number of reasons, including height, bulk, scale and the absence of required written 4.6 requests to vary the standards, the proposal is recommended for refusal.
Loss of Aural and Visual Privacy driven by insufficient setbacks and elevated decks	The cumulative impact of the additional balconies on the visual privacy of neighbours forms one of the reasons for refusal.
Insufficient Deep Soil Landscaping – No Landscaping Proposed	The proposal complies with the minimum landscaped area for the site.
Overshadowing	The extent of overshadowing on the neighbouring property is compliant with the DCP control. The proposed additions do not result in the private open space and living areas of adjacent dwellings receiving less than 3 hours sunlight during mid winter.
Stormwater Disposal	Council's engineer has reviewed the amended stormwater plan and advised the design fails to demonstrate adequate drainage of the development to the street gutter. This forms one of the reasons for refusal of the application.
Out of character with the streetscape	The presentation to the street of the proposal is considered a suitable response to the streetscape and has not been raised as a concern in the assessment of the application.
Privacy impacts from secondary dwelling	The balcony at the rear of the proposed secondary dwelling was removed in the amended plans and the setback of the rear wall/windows of the secondary dwelling is compliant with the required rear setback pursuant to the DCP.
Impact on view from southern neighbour when reversing up their driveway to the street	The proposed carport is setback the required 5.5m from the front boundary. Council's engineer has not raised sight lines from the southern adjoining property driveway as an issue of concern.

Unauthorised works	<p>The unauthorised works are the subject of a building certificate application and are also included in the proposed plans forming part of this DA.</p> <p>Should this DA be refused, the outcome of the unauthorised works will be determined by the building certificate application.</p> <p>Should this DA be approved, approval for the unauthorised works is granted under the consent.</p>
Retaining wall on rear boundary	Council's Compliance Unit has issued a stop work order in relation to the retaining wall and backfill in the rear yard, concreting of the area surrounding the pool and the removal of landscaped areas in the rear yard.
Raised levels of rear yard and boundary fencing	This DA does not propose a retaining wall along the rear boundary and fails to provide details on the ground level surrounding the pool.
Illegal tree removal	The property owners will need to respond to the stop work order separately as the issues raised by Council's Compliance Unit are not addressed in this application.
Non-compliance with FSR	The proposal does not comply with the maximum FSR for the site and this forms one of the reasons for refusal recommended in this report.

Council Referrals

Development Engineer

79. Council's engineer has reviewed the amended plan and advised the design fails to demonstrate adequate drainage of the development to the street gutter. This forms one of the reasons for refusal of the application.

External Referrals

Ausgrid

80. The application was referred to Ausgrid as per Clause 45(2) of the State Environmental Planning Policy (Infrastructure) 2007. No objection was raised by Ausgrid to the proposal.

Contributions

81. The development is subject to Section 7.12 (former Section 94A Contribution) contribution as the proposed cost of works exceed \$100,000.00. In accordance with Council's Section 94A Contributions Plan 2017, Section 7.12 – Fixed Development Consent Levies are applicable to dwelling house developments. A condition of consent requiring payment of the contribution will be imposed should the application be supported.

CONCLUSION

82. Development consent is sought for alterations and additions to the existing dwelling house and conversion of the garage into a secondary dwelling.

83. The application fails to demonstrate compliance with State Environmental Planning Policy (BASIX) 2004 and State Environmental Planning Policy (Affordable Rental Housing) 2009.
84. The proposal fails to provide a Clause 4.6 submission to justify the necessity for the variation of the Kogarah LEP 2012 requirement for Floor Space Ratio or Height of Building standards.
85. The proposal also fails to satisfy the R2 Low Density zone objectives and a number of DCP controls. The proposed development is not considered to be suitable for the site or its locality and is likely to set an undesirable precedent.
86. It is considered that the proposed development is not of a scale and design that is suitable for the site having regard to its size and shape, its topography, vegetation and relationship to adjoining developments.

DETERMINATION AND STATEMENT OF REASONS

87. Statement of Reasons

- The proposed development is not considered to be an appropriate scale and form for the site and the character of the locality.
- The proposal fails to justify departures from the height and FSR standards.
- The proposed development will have unacceptable adverse impacts on the natural and built environments.
- The proposed development will result in unacceptable adverse impacts on the amenity of adjoining residents and the locality and is likely to set an undesirable precedent.
- In consideration of the aforementioned reasons, the proposed development is not a suitable and planned use of the site and its approval is not in the public interest.


Determination

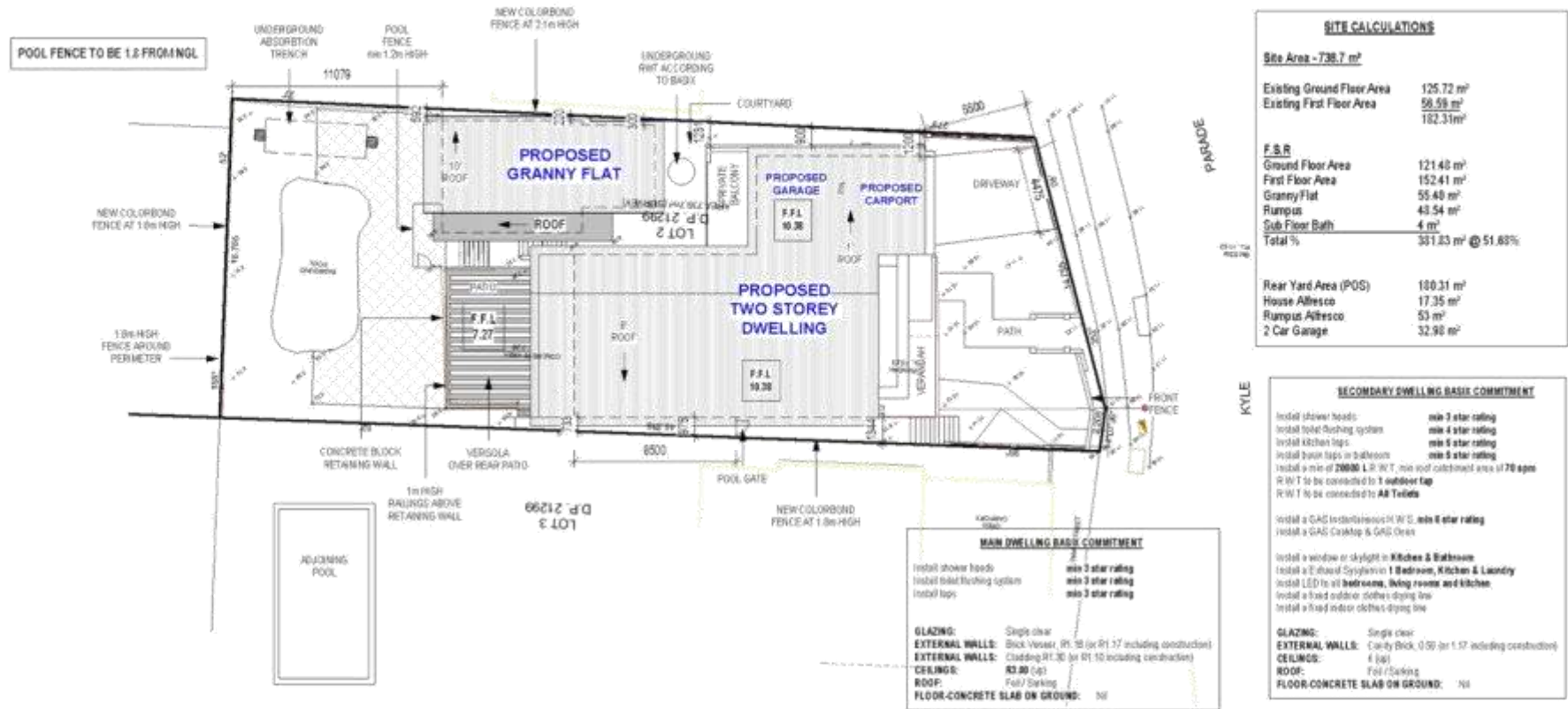
88. THAT pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 (as amended) Georges River Local Planning Panel refuses DA2020/0362 for alterations and additions to a dwelling house, conversion of an existing garage into a secondary dwelling and a new front fence at Lot 2, DP 21299 and known as 47 Kyle Parade, Kyle Bay, for the following reasons:

1. Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the application fails to satisfy Clause 22(3)(a) of State Environmental Planning Policy (Affordable Rental Housing) 2009 as the total floor area of the principal and secondary dwellings exceeds the maximum FSR permitted on the site. No written 4.6 requests to vary the standards have been submitted.
2. Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the application does not include a BASIX Certificate reflecting the current proposal and therefore fails to satisfy State Environmental Planning Policy (BASIX) 2004.
3. Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the following sections of Kogarah Local Environmental Plan 2012:
 - a. Clause 1.2 – Aims of the Plan;

- b. Clause 2.3 – Zone Objectives (R2 Low Density Residential);
 - c. Clause 4.3 – Exceptions to height of building for residential accommodation in Zone R2, having regard to the extent of variation sought;
 - d. Clause 4.4A – Exceptions to floor space ratio for residential accommodation in Zone R2, having regard to the extent of variation sought;
 - e. Clause 4.6 – Exceptions to development standards – no request to vary the height of building or floor space standards were submitted.
4. 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. Control 1.2.1 Floor Space Requirements (6);
 - b. Control 1.2.2 Building Heights;
 - c. Control 1.2.4 Building Setbacks; and
 - d. Control 1.5.1 Visual Privacy.
 5. The proposal is unsatisfactory having regard to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 as the development will cause adverse impacts upon the following aspects of the environment:
 - a. Built Environment: An adverse impact would result from the proposed development on the amenity of adjoining premises relating to building bulk, scale and form, and overlooking and impacts upon adjoining neighbours. In addition, the proposed stormwater system fails to adequately drain the development to the street gutter.
 - b. Social Impacts: An adverse impact would result from the proposed development on the amenity of the locality and adjoining neighbours and general expectations for a dwelling house in a low density residential area.
 6. The proposed development is unsatisfactory having regard to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 the proposed development is not considered to be suitable for the site or its locality and is likely to set an undesirable precedent.
 7. Approval of the development would not be in the public interest and contrary to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.

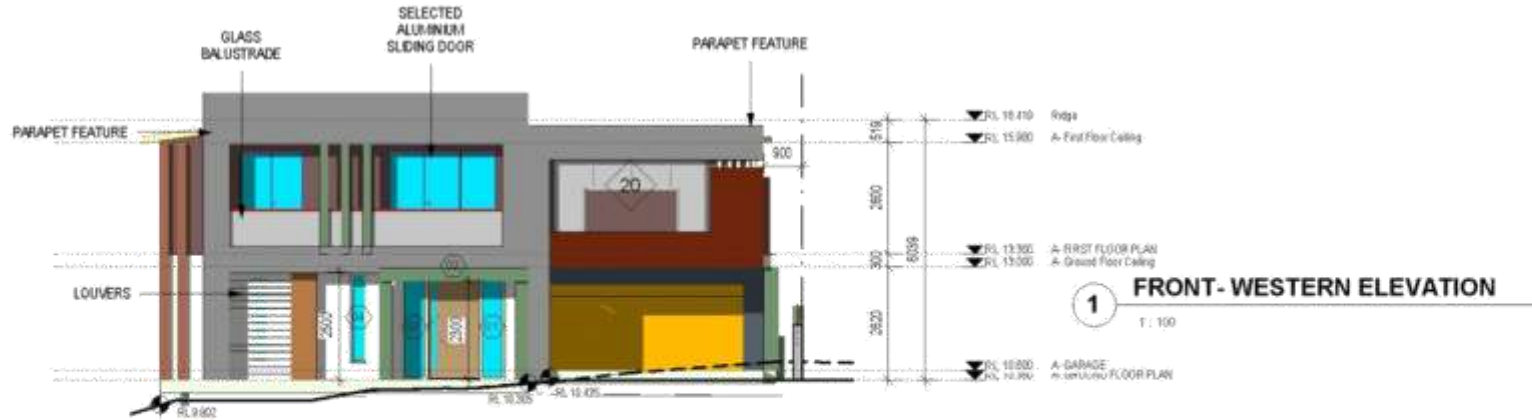
ATTACHMENTS

Attachment [↓](#)1  Site Plan and Elevations - 47 Kyle Pde Kyle Bay

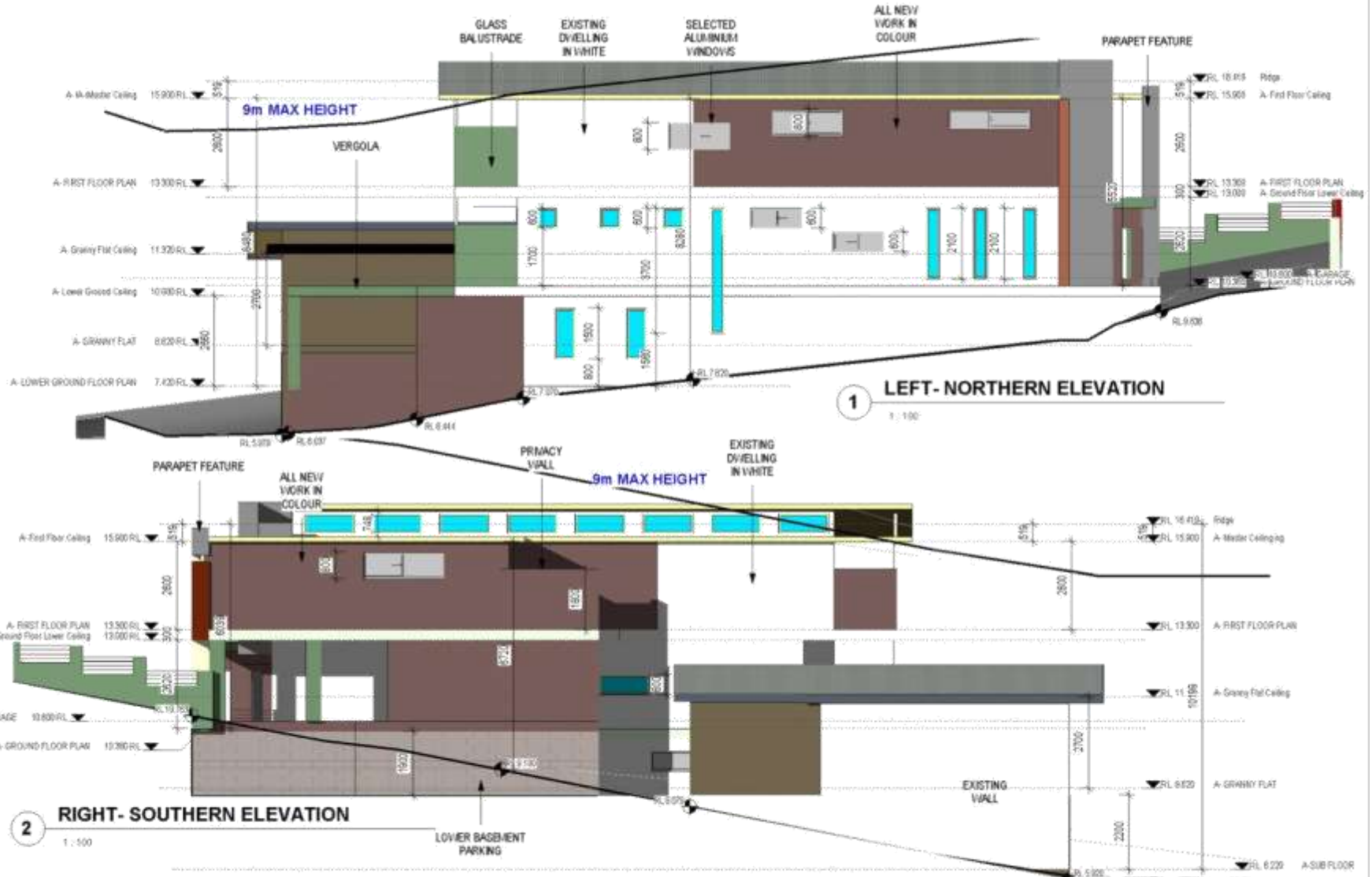


1 X- SITE PLAN
 1:200

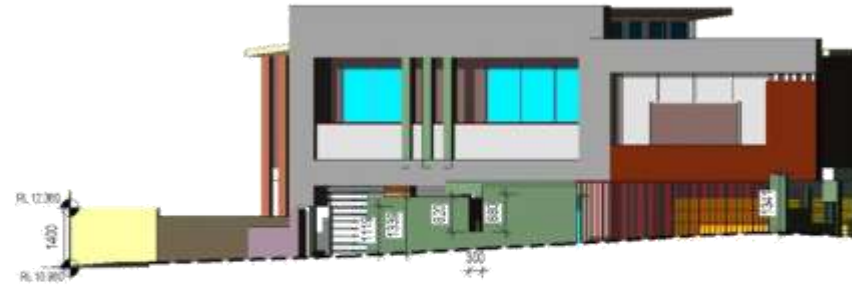
MITZ DESIGN MOBILE: 0412 341 007	NOTE: Do not take drawings, use without permission. All drawings are to be confirmed in the plan for development of any nature. © Copyright: This plan is issued to signoff and retains the property of Mitz Design. This plan should not be used, copied, altered, reproduced, disseminated or published, in whole or part, without the prior written consent of Mitz Design.	REVISION: <table border="1"> <thead> <tr> <th>REV</th> <th>DESCRIPTION</th> <th>DATE</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	REV	DESCRIPTION	DATE										NOTES: 	CLIENT: MR & MRS TRICOMSKI	SHEET NAME: SITE PLAN	PROJECT NO.: 20193
			REV	DESCRIPTION	DATE													
REL ADDRESS: 47 KYLE PARADE, KYLE BAY	DRAWN BY: R D	CHEK BY: M P	DATE: 23-01-2021	DRAWING NO.: 02														



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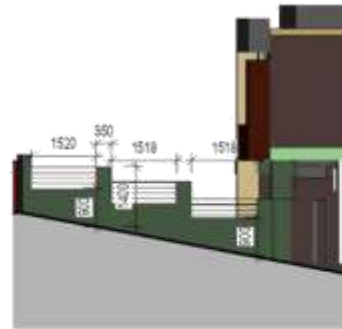
MITZ DESIGN MOBILE: 0412 341 007	NOTE: Do not take drawings, use scaled measurements. All dimensions are to be confirmed on site for construction of any works. © Copyright: This plan is issued to signifier and retains the property of Mitz Design. This plan shall not be used, copied, altered, reproduced, disseminated or published, in whole or part, without the prior written consent of Mitz Design.	REVISION: <table border="1"> <thead> <tr> <th>REV</th> <th>DESCRIPTION</th> <th>DATE</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	REV	DESCRIPTION	DATE										NOTES: NONE	CLIENT: MR S.MRS TRICOMSKI REL ADDRESS: 47 KYLE PARADE, KYLE BAY COUNCIL: Council	SHEET NAME: ELEVATIONS DRAWN BY: R.D. SCALE: 1:100	CHK/CRK: M.P. DATE: 23-01-2021	PROJECT NO: 20193
			REV	DESCRIPTION	DATE														
DRAWING NO: 11																			



1 FENCE - FRONT
1 : 100



2 FENCE - LEFT
1 : 100



3 FENCE - RIGHT
1 : 100

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		REV	DESCRIPTION		DATE	PROJECT ADDRESS: 47 KYLE PARADE, KYLE BAY		DRAWN BY: R D		CHECKED BY: M P
					CONTRACTOR: Council	SCALE: 1 : 100	DATE: 23-01-2021			

**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 03 JUNE 2021**

LPP022-21

LPP Report No	LPP022-21	Development Application No	DA2021/0003
Site Address & Ward Locality	51 Laycock Road Penshurst Blakehurst Ward		
Proposed Development	Conversion of an existing bedroom to a robe, ensuite and bathroom. These works involve internal demolition works to a heritage item which lists the dwelling and gardens.		
Owners	Currently Tang So Property Holdings Pty Ltd Time of lodgement - Kerrie Kemp and John Sivewright		
Applicant	Kerrie Kemp and Patrick Tang		
Planner/Architect	Innovate Architects		
Date Of Lodgement	13/01/2021		
Submissions	Nil		
Cost of Works	\$42,300.00		
Local Planning Panel Criteria	Application involves demolition works to a heritage item		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy No 55 - Remediation Of Land; State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004; State Environmental Planning Policy (Infrastructure) 2007; State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017; Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment; Draft Environment State Environmental Planning Policy; Draft Remediation of Land SEPP; Draft Georges River Local Environmental Plan 2020; Kogarah Local Environmental Plan 2012; Kogarah Development Control Plan 2013		
List all documents submitted with this report for the Panel's consideration	Architectural plans, Heritage Referral, Heritage Impact Statement, Statement of Environmental Effects.		
Report prepared by	Development Assessment Planner		

Recommendation	That the application be approved in accordance with the conditions included in the report.
-----------------------	--

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	Yes

the assessment report?	
<p>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?</p>	Not Applicable
<p>Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?</p>	Not Applicable
<p>Conditions Have draft conditions been provided to the applicant for comment?</p>	No, the conditions can be reviewed when the report is published.

Site Plan

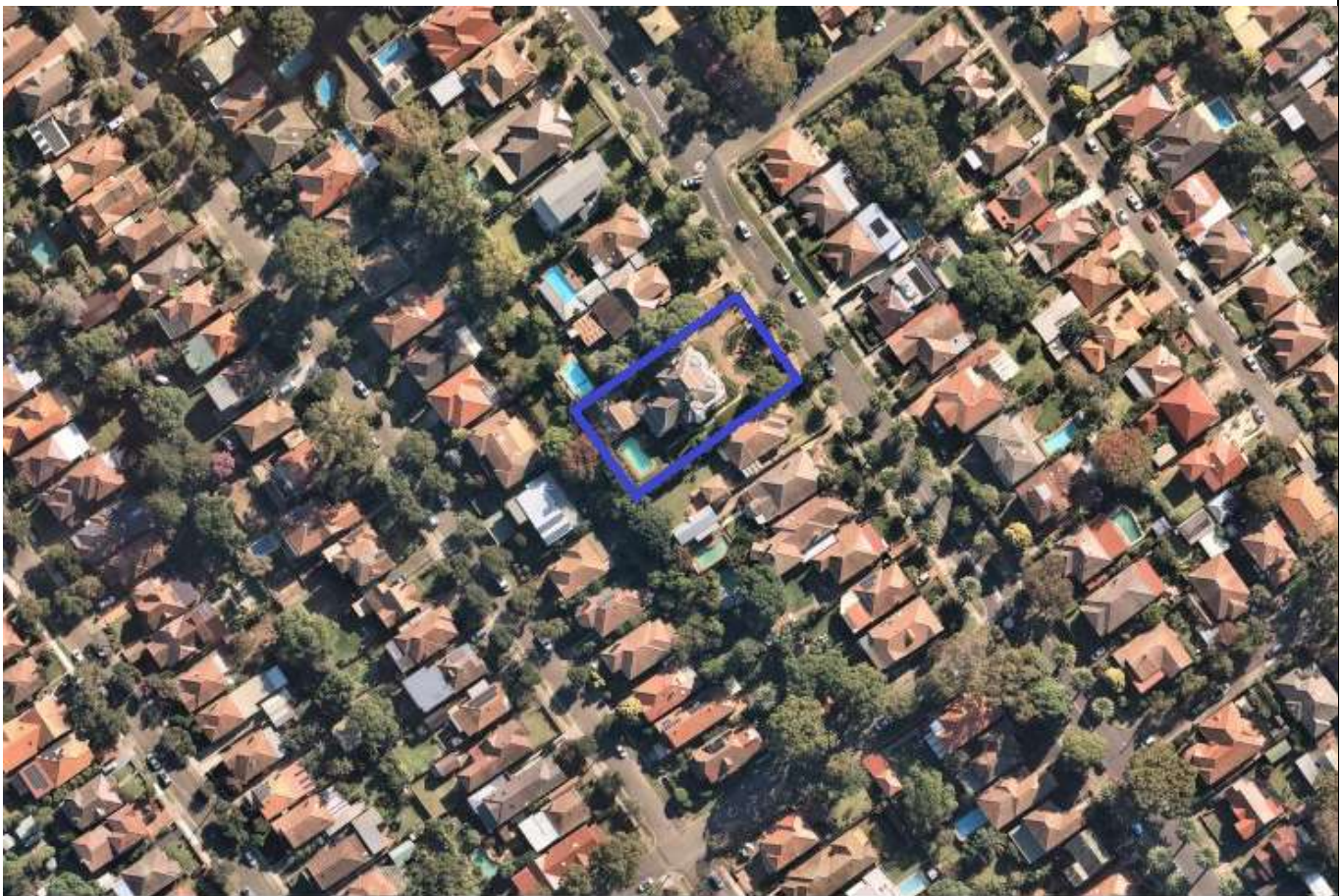


Figure 1 - The subject allotment is outlined in blue.

Executive Summary

Proposal

1. The application seeks approval to convert an existing bedroom to a robe, ensuite and bathroom. These works involve internal demolition works to a heritage item which lists the dwelling and gardens at 51 Laycock Road, Penshurst.

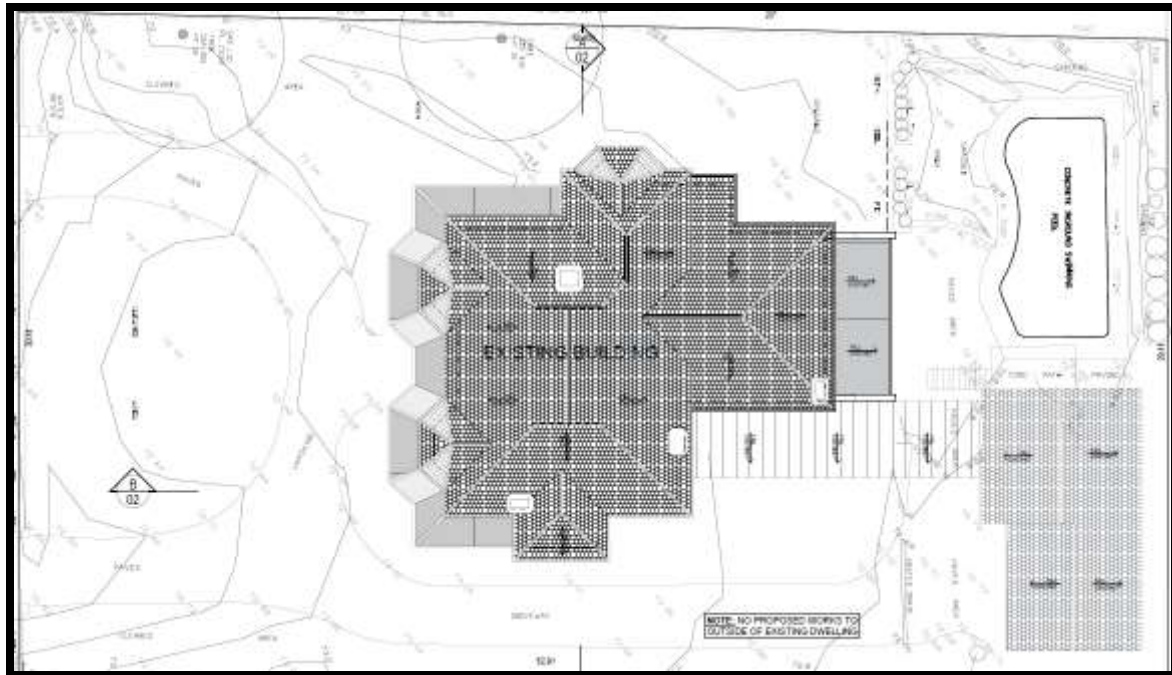


Figure 2 – Site plan of subject site

Site and Locality

2. The subject site is located on the south western side of Laycock Road between Railway Parade to the north west and Hillcrest Avenue to the south east. The allotment is predominantly regular in shape with a frontage of 30.41m, a 52.935m south eastern side boundary, a 52.93m north western side boundary and a 29.11m rear boundary with a total site area of approximately 1,574sqm.
3. The subject site contains a two storey dwelling house listed as a heritage item under Schedule 5 of the Kogarah Local Environmental Plan 2012 (KLEP). The heritage item is known as “House and Garden, Kintail” and identified as Item Number 140.
4. The allotment is located within an established residential area of Penshurst (under the former Kogarah Local Government Area) and is surrounded by both single and two storey dwellings. The proposal is classified as a ‘*contributory item*’ in of the heritage conservation area in the *Penshurst Heritage Conservation Area*. In addition, the allotment is also surrounded by the following heritage items:
 - Laycock Road street trees - (item No. 138) located along Laycock Road;
 - Stables, Kintail - (item No. 141) located at 57 Laycock Road;
 - Penshurst Reservoirs and pumping station - (item No. 139) located to the North of the subject site. Please refer to figure 3 below.
 - House – (item No. 142) located at 72 Pacific Avenue.

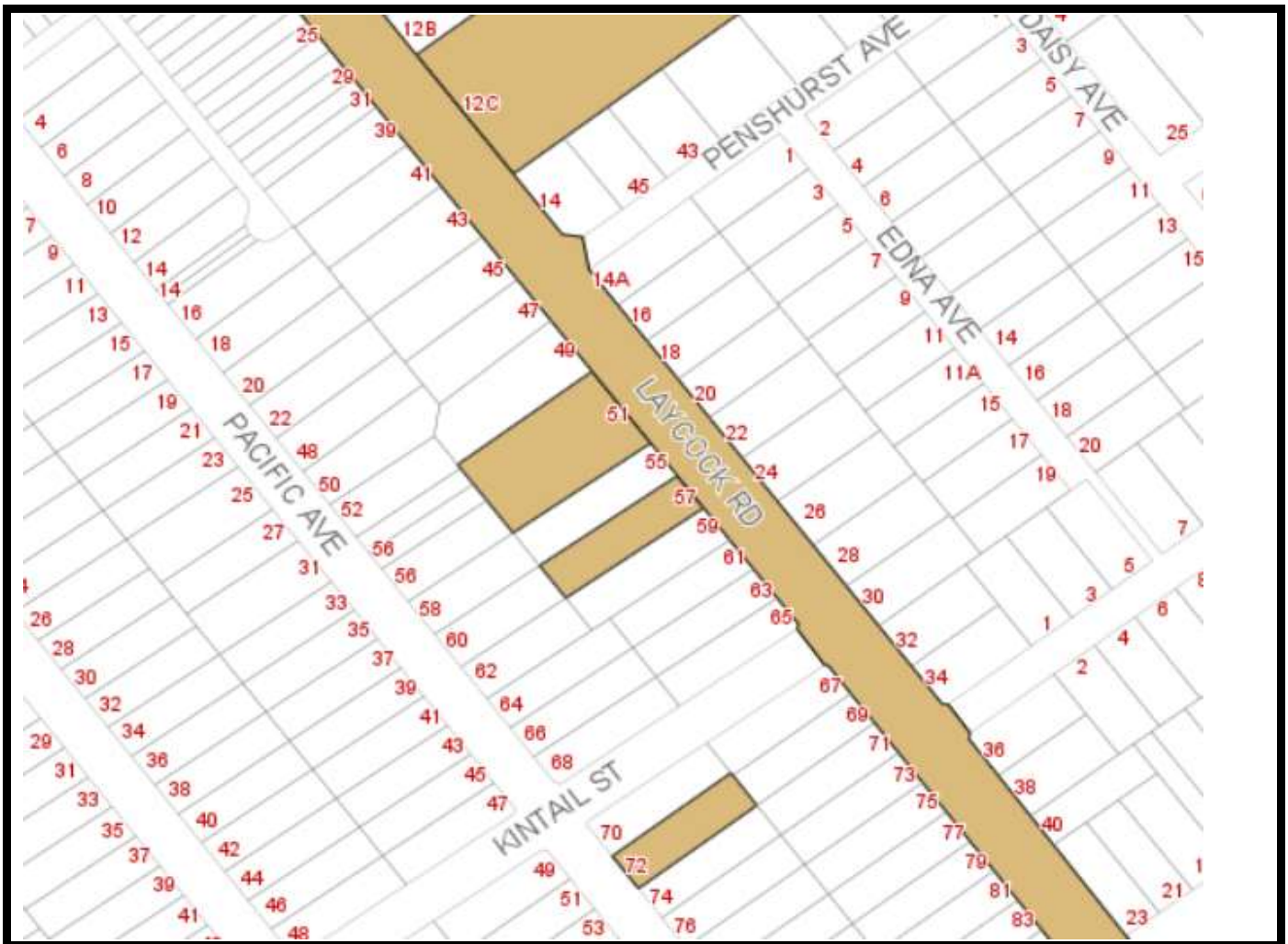


Figure 3 - Council's Heritage Map identifying the Local Heritage Items.

Zoning and Permissibility

- The subject site is zoned R2 - Low Density Residential under the provisions of the Kogarah Local Environmental Plan 2012 (KLEP). The proposed changes result in the conversion of a bedroom to a bathroom, ensuite and robe is consistent with the permissible use being a 'dwelling house' as per the KLEP 2012.

Submissions

- The proposal was placed on public notification/exhibition from 3 February 2021 to 3 March 2021. During the notification/exhibition period no submissions were received.

Conclusion

- The proposed development complies with the planning controls and objectives of KLEP 2012 and the proposal does not seek any variations to the provisions of the Kogarah Development Control Plan (KDCP 2013).
- Council's Heritage Advisor has reviewed the application and has raised no concerns with the proposal subject to conditions.
- Following a detailed assessment of the application, this proposal is recommended for approval subject to the conditions referenced at the end of this report.

Report in Full

Proposal

10. Council is in receipt of a development application (DA2021/0003) seeking consent for alterations and additions to an existing heritage listed dwelling house. The proposal is seeking consent for the following works:
 - Change of use of a bedroom on the first floor of the dwelling to an ensuite, robe and bathroom,
 - The addition of a new door through to the bedroom from the new ensuite,
 - Demolition of a small part of the wall for mechanical ventilation (rear of dwelling),
 - Battening and lining of western wall to provide a cavity for services,
 - Addition of waste pipes between the floor joists,
 - Addition of plasterboard partition walls,
 - Removal of some skirting boards,
 - Tiling floor and walls, and new paintwork on the walls elsewhere,
 - Addition of a false ceiling,
 - Retention of the existing fireplace and hearth,
 - Retention of existing window and associated joinery.
11. No other parts of the house or the garden are proposed to be altered as a part of the application.

The Site and Locality

12. The subject site is legally identified as Lot 2 in Deposited Plan 16253, which is commonly known as 51 Laycock Road, Penshurst. The allotment is regular in shape and has a site area of 1,574sqm. The slope of the allotment has a natural fall of 1.3m from the north eastern frontage to the south west being the rear.
13. The site currently accommodates a two storey heritage listed dwelling house. The heritage listed dwelling house is identified under Schedule 5 (Environmental Heritage) of the KLEP (2012) as “House and Garden, Kintail” and identified as Item Number 140. The subject site is also classified as a ‘*contributory item*’ within the ‘*Penshurst Heritage Conservation Area*’.
14. The allotment is surrounded by residential uses containing a mix of one (1) and two (2) storey dwelling houses and is located approximately 280m from a railway corridor and Penshurst Station.
15. The allotment is also surrounded by the following Heritage Items:
 - ‘Laycock Road street trees’ (item No. 138) located along Laycock Road;
 - ‘Stables, Kintail’ (item No. 141) located at 57 Laycock Road;
 - ‘Penshurst Reservoirs and pumping station’ (item No. 139) located to the North-west of the subject site as identified in figure 3.
 - ‘House’ – (item No. 142) located at 72 Pacific Avenue.

Background

16. On 2 August 2016 Council issued a tree removal permit in accordance with Council’s Tree Management Strategy and Clause 5.9 of Kogarah LEP 2012 (now repealed) which allowed the owners to remove several trees on site which were undesirable species and poorly located.
17. A stop work order was issued on 6 July 2018, as works had commencement without development approval. As such a Development Application, DA2019/0020 was lodged and approved on 18 April 2019 via the Georges River Local Planning Panel to complete

the works. A Building Information Certificate application (149D2019/0013) was issued by Council on the 9 May 2019 to address the work already been carried out.

Planning Assessment

18. The site has been inspected and the proposed development has been assessed under the relevant section 4.15 (1) "Evaluation" of the Environmental Planning and Assessment Act 1979.

Environmental Planning Instruments

State Environmental Planning Policies

Greater Sydney Metropolitan Regional Environmental Plan No 2 – Georges River Catchment (Deemed SEPP)

19. There are no changes to the existing method of stormwater disposal as the works are internal.

State Environmental Planning Policy No 55 – Remediation of Land

20. Council records indicate that the subject site has been historically used for residential purposes and is unlikely to be contaminated. The proposed works do not involve any foundation works. The site adjoins residential uses therefore contamination from adjoining uses is also unlikely.

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

21. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
22. In this instance the Vegetation SEPP does not apply to the subject development as there is no change to vegetation.

Draft Environmental Planning Instruments

23. 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. 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;
24. The proposal is not inconsistent with the provisions of this Draft Instrument.

Local Environmental Plan

25. The extent to which the proposal complies with the relevant standards of Kogarah Local Environmental Plan 2012 (KLEP, 2012) is outlined in the table below.

Table 1: Kogarah Local Environmental Plan 2012 Compliance Table

Applicable LEP Clause	Standards	Proposal	Complies
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	The height of the dwelling will not be altered as a result of this proposal.	N/A
4.4 – Floor Space Ratio	0.6:1 as identified on Floor Space Ratio Map	Despite clause 4.4 (2), the floor space ratio for residential accommodation on land in Zone R2 Low Density Residential, Clause 4.4A applies.	Refer to Clause 4.4A
4.4A – Exceptions to floor space ratio for residential accommodation in Zone R2	<p>2) Despite clause 4.4 (2), the floor space ratio for residential accommodation on land in Zone R2 Low Density Residential is not to exceed the maximum floor space ratio specified in the table to this subclause.</p> <p>Site area</p> <ul style="list-style-type: none"> • Maximum floor space ratio less than 650 square metres 0.55:1 • less than 800 square metres but not less than 650 square metres $[(\text{lot area} - 650) \times 0.3 + 357.5] \div \text{lot area}:1$ • less than 1,000 square metres but not less than 800 square metres $[(\text{lot area} - 800) \times 0.2 + 402.5] \div \text{lot area}:1$ • less than 1,500 square metres but not less than 1,000 square metres $[(\text{lot area} - 1,000) \times 0.15 + 442.5] \div \text{lot area}:1$ • not less than 1,500 square metres $[(\text{lot area} - 1,500) \times 0.1 + 517.5] \div \text{lot area}:1$ 	The proposed development will occupy existing floor space within the dwelling and there will be no change to the gross floor area of the proposal.	N/A
Heritage	(2) Requirement for	The proposed	Yes

<p>Conservation (Clause 5.10)</p>	<p>consent Development consent is required for any of the following:</p> <p>(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):</p> <p>(i) a heritage item, (ii) an Aboriginal object, (iii) a building, work, relic or tree within a heritage conservation area,</p> <p>(b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,</p> <p>(c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,</p> <p>(d) Disturbing or excavating an Aboriginal place of heritage significance,</p> <p>(4) Effect of proposed development on heritage significance The consent authority must, before granting</p>	<p>development is seeking approval for minor demolition works (internal) and construction on the first floor of the dwelling. The changes to the heritage item have been referred to Councils Heritage Advisor; the application is supported subject to conditions.</p> <p>An assessment has concluded the proposed development to have a negligible impact on the heritage item “Kintail”.</p>	<p>Yes</p>
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	<p>consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).</p> <p>(5) Heritage assessment The consent authority may, before granting consent to any development:</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</p> <p>require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p> <p>(6) Heritage conservation management plans The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed</p>	<p>The proposed development is seeking to convert a bedroom to provide a bathroom, ensuite and robe will not have an unreasonable impact on the street elevation or heritage impacts.</p> <p>A Heritage Impact Statement has been prepared by GBA Heritage that concluded the proposal will have an “acceptable heritage impact”. The proponents have submitted a Heritage Impact Statement which addresses the likely impacts of the proposed development on the heritage significance of the site.</p> <p>This has been reviewed by Council’s Heritage Advisor and is considered to be acceptable subject to the imposition of conditions.</p> <p>The application has been reviewed by Councils Heritage Advisor and has not required the applicant to submit a heritage</p>	<p>Yes</p> <p>Yes</p>
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	to it, the submission of a heritage conservation management plan before granting consent under this clause.	conservation management plan	
Earthworks (Clause 6.2)	<p>(2) Development consent is required for earthworks unless:</p> <p>(a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or</p> <p>(b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.</p>	No earthworks are proposed as apart of this application.	N/A

LPP022-21

Development Control Plans

Kogarah Development Control Plan 2013

26. The proposed development is subject to the provisions of the Kogarah Development Control Plan 2013 (KDCP 2013). The following comments in the table below are made with respect to the proposal satisfying the key objectives and controls contained within the KDCP 2013.

Table 2: KDCP 2013 Part B1 – Heritage Items and Heritage Conservation areas

Applicable DCP Clause	Standards	Proposal	Complies
General Controls (Clause 1.1)	(1) The relevant requirements of Clause 5.10 of KLEP 2012 are to be addressed for any development relating to a heritage item.	Refer to Table 1	Yes
	(2) Where a heritage management document and/or heritage conservation management plan is required to be submitted to Council, this is to be prepared by an appropriately qualified	The Heritage Impact Statement provided has been prepared by GBA Heritage.	Yes

	professional.		
Heritage Conservation Areas (Clause 2)	(1) Any development in the Heritage Conservation Areas is to address and respond to the requirements of the relevant Heritage Conservation Area Guidelines contained in Appendix 1.	Character (Clause 8.1 of Appendix 1) The proposed alterations will not detract from the character of the original building.	Yes
	(2) New development must demonstrate how it respects the heritage values of the Heritage Conservation Area (as detailed in the Heritage Conservation Area guidelines).	The alterations to the floor plan will have a minimal impact on the heritage value of the conservation area as a majority of the work is internal to the dwelling. There will be a false ceiling so that there is minimal damage to the pressed tin roof with the fireplace and window retained.	Yes
	(3) Council may require the submission of a heritage management document that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the Heritage Conservation Area [Clause 10(5) of KLEP 2012].	The proponents have provided a Heritage Impact Statement prepared by GBA Heritage which details how the development will have a minimal impact on the heritage significance of the item.	Yes

KDC
P
2013

LPP022-21

Part C – Low Density Residential

27. There are no additional clauses that apply to this development as the proposal is largely internal to the dwelling and will not result in any additional openings.

Heritage Significance

28. The existing dwelling house is identified as a “*heritage item*” of local significance in Part 1 of Schedule 5 in KLEP 2012. In addition, other heritage items such as the “Laycock Road street trees” located along Laycock Road, “Stables, Kintail” (item No. 141) located at 57 Laycock Road and ‘Penshurst Reservoirs and pumping station’ (item No. 139) located to the North of the subject site.

29. The proposal involves:

- Change of use of a bedroom on the first floor of the dwelling to an ensuite, robe and bathroom,
 - The addition of a new door through to the bedroom from the new ensuite,
 - Demolition of a small part of the wall for mechanical ventilation (rear of dwelling),
 - Battening and lining of western wall to provide a cavity for services,
 - Addition of waste pipes between the floor joists,
 - Addition of plasterboard partition walls,
 - Removal of some skirting boards,
 - Tiling floor and walls, and new paintwork on the walls elsewhere,
 - Addition of a false ceiling,
 - Retention of the existing fireplace and hearth,
 - Retention of existing features including pressed tin roof and fireplace.
30. The applicants have submitted the following information addressing the significance and impact of the heritage item below, the statement indicates that:

“Kintail is historically significant as it represents grand substantial residential development on the top of the hill overlooking the bay. The building acts as a landmark at the apex of Laycock Road. The Victorian filligree mansion is rare within the locality and in the regional. This mansion has been fully restored including the grounds and outbuildings. This is a large, well preserved and well restored Victorian mansion with excellent details, on a dominant site with panoramic views. It is well complemented by the drive, gates and street trees.”

31. Officer Comment: The application has been reviewed by Council’s Heritage Advisor who has supported the application subject to conditions. Councils heritage advisor stated that:

“the overall quantum and form of the heritage item will be maintained, similarly, the landscaped garden setting will be retained in its current form” and “the proposed alterations and additions have on the whole, been designed to minimise the extent of material affectation”

IMPACTS

Natural Environment

32. The proposal is not seeking the removal of any trees or changes to the landscaping on site. Therefore the proposal is not considered to affect the natural environment.

Built Environment

33. The proposal will not have any major impacts on the built environment. The proposed works will retain some of the existing heritage features of the room and a majority of the house will not be altered.
34. In particular, as detailed throughout this report, the proposal is considered to be acceptable in terms of the impacts on the Heritage Item as a whole being the dwelling and gardens and has been supported by Council’s Heritage Advisor subject to conditions.

Social and Economic Impact

35. The proposed development will not result in any adverse social and/or economic impacts on the locality. The proposal will not affect the visual amenity of the site thus, having a minimal social or economic impact for residents in the heritage conservation area.

Suitability of the site

36. It is considered that the proposed development being internal to the dwelling is considered to be acceptable subject to conditions of consent.

SUBMISSIONS AND THE PUBLIC INTEREST

37. The proposal was publicly notified/exhibited in the Leader from 3 February 2021 to 3 March 2021 during which time no submissions were received.

Council Referrals**Heritage Advisor**

38. The Applicants have submitted a Heritage Impact Statement alongside a Statement of Environmental Effects clarifying the works proposed. These documents together with the submitted architectural plans were reviewed by Council's Heritage Consultant and the works are considered to be appropriate and the application is considered satisfactory and supportable subject to conditions.

Development Contributions

39. Under the provisions of the Georges River Council Section 94A Contributions Plan 2017 the development is not subject to a Section 7.12 (former Section 94A Contribution) contribution as the proposed costs of works registered with Council do not exceed \$100,000.00. No contributions have been levied.

CONCLUSION

40. This application has been assessed having regard to the matters for consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, the provisions of the applicable State Environmental Planning Policies, Local Environmental Plan 2012 and Kogarah Development Control Plan 2013.

Following a detailed assessment it is considered that on planning grounds DA2021/0003 is worthy of approval subject to conditions.

DETERMINATION AND STATEMENT OF REASONS**41. Statement of Reasons**

- The proposed development complies with the requirements of the relevant environmental planning instruments and development control plan.
- The proposed development satisfies the Heritage criteria of the site and is considered not to undermine the heritage significance of the dwelling.
- The proposed development is considered to be appropriate for the site and the character of the locality. Subject to the implementation of the recommended conditions, the development will have no unacceptable adverse impacts upon the natural or built environment.
- In consideration of the aforementioned reasons, the proposed development is a suitable and planned use of the site and its approval is in the public interest.

Determination

42. Pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979 (as amended), the Georges River Local Planning Panel grant development consent to Development Application No. DA2021/0003 for alterations and additions to a local heritage listed dwelling at Lot 2 in Deposited Plan 16253, at 51 Laycock Road, Penshurst, subject to the conditions below:

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
Existing and Proposed Floor Plans	01	April 2021	B	Innovate Architects
Interior Section and Bathroom Details	02	December 2020	A	Innovate Architects
Site and Roof Plan	03	December 2020	A	Innovate Architects
Bathroom Water and Power Reticulation	04	May 2021	B	Innovate Architects
Bathroom Water and Power	05	May 2021	A	Innovate Architects

Separate Approvals Required Under Other Legislation

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

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

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

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

- (j) Stormwater and ancillary works in the road reserve;
- (k) Stormwater and ancillary to public infrastructure on private land; and
- (l) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways.

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

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

Requirements of Concurrence, Integrated & Other Government Authorities

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

Prior to the Issue of a Construction Certificate

4. **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).

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

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

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

Fee Type	Fee
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

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.

5. **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.

6. **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.
7. **Consistent with Approval** – Prior to the issue of the Construction Certificate a suitably qualified Heritage Consultant shall certify that the works are consistent with the approved plans and documents.
8. **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.

9. **Heritage - Building works to comply with BCA - Heritage Buildings** - Any building works required to ensure compliance with the BCA or new building standards not specified in the submitted/approved plan must not damage existing fabric and building features.

If such upgrading works will potentially impact on existing fabric and features, details of the works must be submitted and approved by Council's Heritage Advisor prior to issue of a Construction Certificate.

Photographic Archival Recording

Prior to the commencement of any works, including the dismantling of fabric or demolition, a simplified Photographic Archival Recording shall be undertaken of the interior and exterior of the dwelling (limited to the areas affected by the approved works) and submitted to the satisfaction of Council.

The Photographic Archival Recording shall be prepared and produced in a digital format and shall contain:

- a) A brief report or introduction which explains the purposes of the Photographic Archival Recording and gives a brief description of the subject site, as well as details of the sequence in which images were taken;
- b) A plan of the building and site marked up to indicate where the photographs were taken and the direction of the photograph;
- c) A complete set of digital image files saved as JPEG or TIFF files with associated metadata, and cross-referenced to catalogue sheets.

The Photographic Archival Recording shall be submitted to Council on a suitable portable electronic storage device (such as USB), or uploaded to a suitable file-sharing platform that is freely accessible. The digital version of the Photographic Archival Recording shall be arranged as a single parent folder containing the report, reference plans saved as individual PDF documents. All electronic image files shall be arranged by their file type and saved as individual files, grouped in separate sub-folders, as set out below:

- Photographic Archival Recording - [Property Address]
 - o Report and Reference Plans - [Property Address]
 - o Electronic Image Files - JPEG - [Property Address]

10. **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.

11. **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.

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

12. **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.

13. **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](#).
14. **Dial before your dig** - The applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from “Dial Before You Dig” shall be forwarded to the Principal Certifying Authority (PCA) and Council for their records.
15. **Registered Surveyors Report - During Development Work** - A report must be submitted to the PCA at each of the following applicable stages of construction:
- Set out before commencing excavation.
 - Floor slabs or foundation wall, before formwork or commencing brickwork.
 - 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.
 - 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 Pool Formwork - Before concreting of pool shell, detailing the location of the pool relative to the adjacent boundaries and its height relative to the datum shown on the approved plans.
- f) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
- g) 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.

During Construction

- 16. **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.
- 17. **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.

- 18. **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.
- 19. **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.
- 20. **Heritage - Conservation works to be overseen by Heritage Consultant** - A Heritage Consultant experienced in conserving buildings of significance is to be commissioned to

work with the consultant team throughout the design development, contract documentation and construction stages of the project. The Heritage Consultant is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The Heritage Consultant is to be provided with full access to the site and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project.

Evidence and details of the above commission on the above terms are to be provided to Council's Heritage Advisor prior to commencement of work on site. The heritage consultant must sign off the completed project and submit a final report to Council's Heritage Advisor specifying how the heritage conditions are satisfied prior to the issue of an Occupation Certificate or the commencement of the use, whichever is earlier.

General Heritage

- (a) The works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing heritage item.
 - (b) The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction.
 - (c) All conservation and adaptation works are to be in accordance with the Articles of the Australia ICOMOS Burra Charter (2013).
 - (d) New services are to be surface mounted rather than chased-in to existing walls to minimise impact on significant heritage fabric.
 - (e) Appropriately qualified tradespersons (as appropriate) are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works.
 - (f) Penetrations to walls for services, including anchoring and fixing points, shall be limited to the mortar joints only.
21. **Uncovering of concealed architectural features or detailing** - Should any concealed architectural features or detailing, not previously noted in the DA documentation, be discovered during demolition or building works, all works are to immediately cease immediately and the architectural features or detailing to be photographically recorded and Council advised immediately.
22. **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.

Operational Conditions (Ongoing)

23. **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.

Operational Requirements Under the Environmental Planning & Assessment Act 1979

24. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
25. **Appointment of a PCA** - The erection of a building must not commence until the applicant has:

- (a) appointed a 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, the applicant 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 PCA for your development.

26. **Notification Requirements of PCA** - No later than two 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 applicant of the critical stage inspections and other inspections that are to be carried out with respect to the building work.
27. **Notice of Commencement** - The applicant must give at least two 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.

28. **Critical Stage Inspections** - The last critical stage inspection must be undertaken by the PCA. 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](#).
29. **Notice to be given prior to critical stage inspections** - The principal contractor for a building site, or the owner-builder, must notify the PCA at least 48 hours before each required inspection needs to be carried out.

Where Georges River Council has been appointed as the PCA, 48 hours notice in writing, or alternatively 24 hours notice by facsimile or telephone, must be given when specified work requiring inspection has been completed.

30. **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 PCA appointed for the building work can issue the Occupation Certificate.

An Occupation Certificate Application Form is attached for your convenience.

Prescribed Conditions

31. **Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
32. **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.
33. **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 PCA and the Principal Contractor.
34. **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](#).
35. **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.
36. **Clause 98E - Site Excavation** - Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site.

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided and adequate provision shall be made for drainage.

37. **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.

Advice

38. **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.

39. **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.
40. **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.
41. **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.

42. **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.

43. **Council as PCA - Deemed to Satisfy Provisions of BCA** - Should the Council be appointed as the PCA in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an

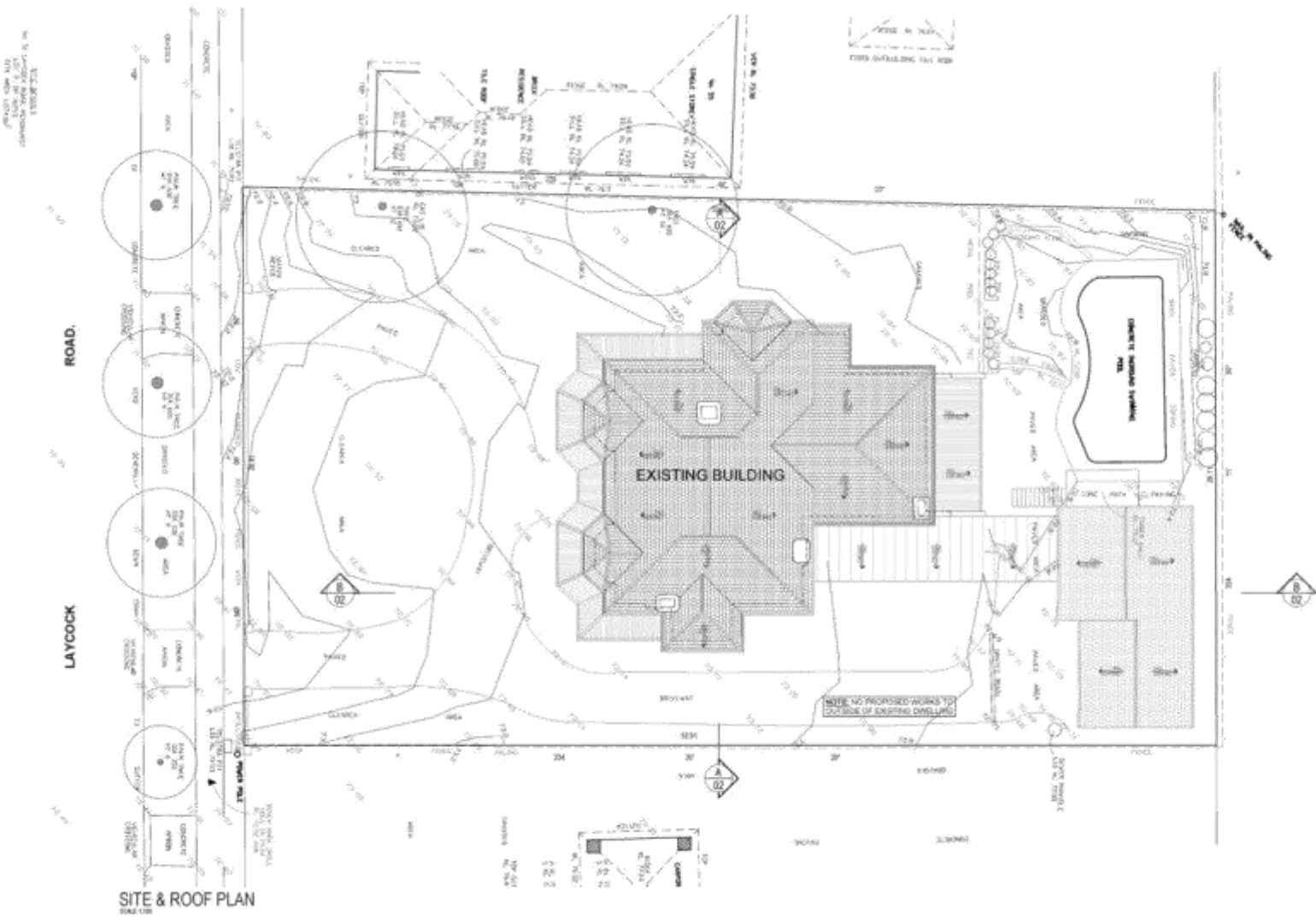
alternative fire solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justify the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.

44. **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).

ATTACHMENTS

Attachment [↓](#)1  Site and Roof Plan - 51 Laycock Rd Penshurst



<p>NOTES:</p> <ol style="list-style-type: none"> 1. ALL WORK TO BE COMPLETED IN ACCORDANCE WITH THE CURRENT BUILDING REGULATIONS AND ALL APPLICABLE STANDARDS. 2. ALL WORK TO BE COMPLETED IN ACCORDANCE WITH THE CURRENT BUILDING REGULATIONS AND ALL APPLICABLE STANDARDS. 3. ALL WORK TO BE COMPLETED IN ACCORDANCE WITH THE CURRENT BUILDING REGULATIONS AND ALL APPLICABLE STANDARDS. 	<p>GENERAL NOTES:</p> <ol style="list-style-type: none"> 1. ALL WORK TO BE COMPLETED IN ACCORDANCE WITH THE CURRENT BUILDING REGULATIONS AND ALL APPLICABLE STANDARDS. 2. ALL WORK TO BE COMPLETED IN ACCORDANCE WITH THE CURRENT BUILDING REGULATIONS AND ALL APPLICABLE STANDARDS. 3. ALL WORK TO BE COMPLETED IN ACCORDANCE WITH THE CURRENT BUILDING REGULATIONS AND ALL APPLICABLE STANDARDS. 	<p>REVISIONS:</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DESCRIPTION</th> <th>DATE</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	NO.	DESCRIPTION	DATE											<p>KEMP</p> <p>INTERIOR ALTERATIONS TO EXISTING HERITAGE DWELLING</p>	<p>51 LAYCOCK ROAD, PENSURST 2222</p> <p>SITE & ROOF PLAN</p>	<p>Innovate</p> <p>ARCHITECTS</p> <p>2709</p>	<table border="1"> <tr> <td>PROJECT NO.</td> <td>2709</td> </tr> <tr> <td>DATE</td> <td>03</td> </tr> <tr> <td>SCALE</td> <td>A</td> </tr> <tr> <td>PROJECT NAME</td> <td>51 LAYCOCK ROAD, PENSURST</td> </tr> </table>	PROJECT NO.	2709	DATE	03	SCALE	A	PROJECT NAME	51 LAYCOCK ROAD, PENSURST
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**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 03 JUNE 2021**

LPP023-21

LPP Report No	LPP023-21	Development Application No	DA2019/0337
Site Address & Ward Locality	2-24 Princes Highway Kogarah Kogarah Bay Ward		
Proposed Development	Demolition of existing structures and the construction of a six (6) storey mixed use development comprising of serviced apartments (56 dual key apartments), conference centre, associated amenities, three ground floor retail tenancies, basement car parking for 130 vehicles, landscaping and site works		
Owners	Landmark Element Pty Ltd		
Applicant	Landmark Element Pty Ltd		
Planner/Architect	SWA Group Architects and Rod Logan Planning		
Date Of Lodgement	7/08/2019		
Submissions	Nil		
Cost of Works	\$18,507,500.00		
Local Planning Panel Criteria	The subject site is an important gateway location.		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy – (Infrastructure) 2007, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2007, Draft Environment State Environmental Planning Policy, Draft Remediation State Environmental Planning Policy, Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment, State Environmental Planning Policy No 55 – Remediation of Land, Kogarah Local Environmental Plan 2012, Kogarah Development Control Plan and Draft Georges River Local Environmental Plan 2020.		
List all documents submitted with this report for the Panel’s consideration	Amended Architectural Plans, Clause 4.6 Statement Traffic Assessment Report Detailed Site Investigation and Remediation Action Plan		
Report prepared by	Senior Development Assessment Planner		

Recommendation	That the application be granted deferred commencement approval 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	Yes

the assessment report?	
<p>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?</p>	<p>Not Applicable Yes – Clause 4.4 Floor Space Ratio control</p>
<p>Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?</p>	<p>Not Applicable</p>
<p>Conditions Have draft conditions been provided to the applicant for comment?</p>	<p>Yes – the applicant has reviewed the conditions</p>

Site Plan



Site Plan: Subject site is outlined in red (hatched).

Executive Summary

Proposal

1. The development application (DA2019/0337) was lodged with Council on 7 August 2019 with amended plans received on 25 September 2020. The original proposal sought development consent for the demolition of all structures on site and the construction of a part three (3) storey, part seven (7) storey mixed use development comprising of two (2) commercial/retail tenancies on the ground floor, conference facilities, main lobby, central courtyard including fifty six (56) 'dual key', one (1) and two (2) bedroom serviced apartments comprising of a total of one hundred and twelve (112) apartments, basement car parking for one hundred and thirty (130) vehicles, landscaping and associated site preparation works at 8-10 Princes Highway (also known as 2-24 Princes Highway) Kogarah.

2. Given the nature of the primary land use that is proposed (serviced apartments) it does not fall within the requirements of SEPP 65 and can be determined under delegation as the statutory non-compliance with the floor space ratio is less than a 10% variation to the control. No public submissions have been received by Council in respect to the proposed development which was notified on two (2) occasions.
3. Given the site's strategic and gateway location, scale of development proposed it was determined that Georges River Local Planning Panel determine the application. This was a direction from management.
4. A photomontage of the originally proposed building as viewed from Princes Highway is provided at Figure 1 below.



Figure 1: 3D Photomontage of the originally proposed design when viewed from the Princes Highway (courtesy: SWA Group, 2019)

Key Issues

Traffic, access and parking

5. In accordance with Clause 102 of the State Environmental Planning Policy (Infrastructure) the application was referred to Transport for New South Wales (TfNSW), the former Roads and Maritime Services (RMS) since the development fronts the Princes Highway, an arterial roadway concurrence from TfNSW is required. On 20 October 2020, TfNSW provided formal comments and did not issue concurrence subject to the following issues being addressed in more detail;
 - *Whilst TfNSW supports access via Gray Lane, it is concerned about the issue of safety and network efficiency along this laneway. The Authority would like to ensure two-way traffic movement can be accommodated.*
 - *The proposal will generate additional pedestrian movements and pedestrian safety is of concern. An assessment of pedestrian movements needs to be undertaken.*
 - *The proponent is required to extend the median strip along Rocky Point Road which will restrict any right turns into the laneway.*
6. The Applicant provided the additional information on 27 January 2021 and this information was referred back to TfNSW for comment. TfNSW formally responded on 11 March 2021 and provided concurrence subject to the imposition of a series of specific conditions if

approval is granted. TfNSW would like the Applicant (at their cost) to upgrade the existing signalised traffic crossing at the intersection of Princes Highway and Rocky Point Road to become a signalised pedestrian crossing. This will improve pedestrian safety. Although these conditions are referred to as “deferred” they are to be satisfied prior to the issuing of the Construction Certificate. TfNSW also included a series of standard conditions.

7. In addition to concerns raised by TfNSW, Council’s Traffic Engineers also raised a series of concerns regarding access arrangements and the design of the basement car park. The following issues were highlighted in their referral response;
 - *In regards to the Loading Bay and requirements pursuant to AS2890.2:2018 and under that new update the standard requires a 4.5m minimum vertical clearance for Medium Rigid Vehicles, not 3.5m as stipulated in the Traffic report.*
 - *The location of the development’s vehicular access and loading and unloading facilities on Gray Lane, will most likely result in the loss of all the parking along Gray Lane. The Traffic Impact study did not address this issue or how will the development compensate for the loss of public parking.*
 - *Swept path diagrams are required to ensure that manoeuvrability within the development is compliant with the Australian Standards.*
8. The Applicant provided updated information in response to Council’s concerns regarding swept path diagrams, loading bay heights and parking along Gray lane at the rear. It was confirmed by Council’s Traffic Engineers upon a more detailed examination that there are supposed to be “no parking” signs located along Gray Lane to allow for two-way traffic movements. Unfortunately, some of these signs have been removed and currently vehicles parking along the laneway are doing so illegally. Council will need to reinstate these signs so that there is no parking along the laneway and two-way access can be maintained. The additional information lodged has now satisfied Council’s Traffic Engineer.
9. The development requires concurrence from Water NSW as it falls within Section 90 of the Water Management Act since the proposed basement could reach ground water and will need to be pumped out during construction which may require an activity approval. The Applicant modified the Geotechnical report to include the proposed method of tanking the basement as opposed to draining it. On this basis Water NSW was satisfied with this arrangement and issued General Terms of Agreement (GTA’s) which form part of the development consent.

Architectural treatment and urban design

10. Whilst the proposal is not subject to the provisions of State Environmental Planning Policy No.65 - Design Quality of Residential Apartment Development (SEPP65), the application was referred to the Georges River Design Review Panel (DRP) for their design consideration and comments on 10 October 2019. The Panel was generally satisfied with the proposed built form and scale however the Panel suggested some changes that could be integrated into the design including:
 - *The application does not show any evidence of serious consideration of the potential forms of development on this adjacent land. Although the building height and massing will not cause any serious impacts on the south western site and the ambulance station it seems long term and ADG compliant separation would be possible should this site redeveloped in the future.*
 - *The commercial spaces, substation and fire stair along Princes Highway should be set back the same as the rest of the ground floor to enable continuous planting of a more appropriate scale along the highway frontage of the building (evergreen canopy trees reaching 12-13m at maturity along the whole frontage). The Panel also notes that this*

setback would be required to eliminate the problem of commercial/retail doors opening across the footpath. The structure above associated with the communal open space should also move back to the same alignment.

- *To facilitate tree planting on the Highway frontage of the residential section the projections at Ground, 1 and 2 levels need to be removed. However the different façade treatment creating a strong base should be retained, to provide continuity with the façade of the commercial section to the south west.*
 - *In a large development of this scale it would be highly desirable to include sustainability measures including rainwater recycling, solar collectors, greening of roof tops, etc.*
 - *Because of the extreme noise and pollution from the Highway and Rocky Point Road, it will be very difficult to achieve natural cross ventilation to the serviced apartments. However all possible measures should be explored to deal with noise issues and avoid necessity for 24hr air conditioning of the units. Winter garden treatments to balcony areas would be appropriate and should not be included in FSR calculations where used.*
 - *A 6m wide space is proposed on the south western end of the site. Tree species selected are an appropriate size however this space is of very limited utility for the occupants of the development being inaccessible and remote.*
 - *Natural light should be provided to the lobbies on each level immediately adjacent to the pair of lifts.*
 - *The basement layout design needs to be amended so that the split levels all have easy access to the lifts.*
11. The DRP suggested changes to the layout, arrangement and design of the development however maintained that the overall aesthetics, amenity, built form and scale is considered acceptable and reasonable subject to the changes suggested above. Refer to Figure 1 and Figure 2 below which show the elevations of the originally proposed scheme.



Figure 2: 3D Photomontage of the originally proposed design when viewed from the southern side, Rocky Point Road (courtesy: SWA Group, 2019)

12. Despite the DRP's comments, Council raised serious concerns with the overall massing, built form, articulation of the building, its design and overall site planning. On 8 November 2019, a detailed letter was sent to the Applicant raising the following concerns;
- Site Isolation – The proposed development is isolating No.26 Princes Highway. It was requested that the Applicant consider purchasing this site and consolidating this site as part of the proposal to create a more integrated development.

- Architectural Design, scale and built form – The proportions and scale of the building are inappropriate for the site with seven (7) storey elements tapering down to a three (3) storey scale along the western side will not sit comfortably with the intended four (4) to five (5) storey scale of development further along the Princes Highway frontage to the west.

The bulk, scale and massing of the building was considered inappropriate and poorly resolved creating a highly dominating built form when viewed from the south (Rocky Point Road) and the Princes Highway frontage. The Applicant was advised that the site planning and form needs to be reconsidered with the removal of projecting elements and the introduction of more recessive features. The visual appearance of the building needs to be broken up with bays with the colour palette to be amended to create a softer residential feel and appearance. The original design was considered dominating, solid and heavy.

- Communal open space – The originally proposed area of open space is poorly located and adjoins the proposed substation and has limited and disjointed relationship to the development.
- Desired future character – The proposal does not satisfy the KDCP provisions in relation to the urban design outcome for development within the southern precinct and the objectives and controls set out in Section 5.7.1 of the KDCP
- Parking and access – Council's Traffic Engineers raised a series of concerns relating to the access and parking arrangement proposed off Gray Lane.

13. The Applicant considered the written advice and the concerns raised by Council and in response engaged GMU Urban Design Consultants to review the site planning, built form and urban design outcome for this landmark site. An Urban Design Study was initially developed and Council held several meetings with the Applicant, Architect and Urban Design Consultants and several design options were investigated and scoped. The preferred design outcome was a curvilinear built form with two buildings (known as Building A and Building B) separated by an upper-level bridge connecting the two and the provision of a ground floor courtyard which assists in breaking up the building and activating the ground floor area. Formal amended plans were submitted to Council on 25 September 2020. Figures 3 and 4 below show the amended design in a three-dimensional form.



Figure 3: 3D Photomontage of the amended design when viewed from the Princes Highway frontage (courtesy: SWA Group, 2020)



Figure 4: 3D Photomontage of the amended design when viewed from the southern side, Rocky Point Road (courtesy: SWA Group, 2020)

14. The amended design is considered to be high quality and exceptional architectural response to this difficult but very important and visible, key site which acts as a gateway to the Georges River LGA. The amended plans are considered to be a significant improvement to the overall design of this property.

Planning non-compliances

15. The proposed development is within the overall height control and generally satisfies the development controls, however given the large integrated nature of the development there is a discrepancy in the height and floor space across the development site. An anticipated future built form envelope is established by the height, setbacks, landscaping controls and the like. In this case, the anticipated building envelope anticipates a larger amount of floor space than the FSR control of 2:1 permits as stipulated in the Kogarah Local Environmental Plan 2012 (KLEP).

16. The proposed development in its amended form satisfies the anticipated urban design response and the scale and form of the development is consistent with the desired future character for this precinct. In this case to achieve the intended built form outcome the maximum FSR was originally exceeded by just over 4%. The original GFA calculations excluded a series of elements including some lobby and corridor space that should have been included in accordance with the GFA definition within the KLEP. The Applicant was requested to reconsider the GFA calculations and also update the Clause 4.6 Statement which will need to reflect the changes in the FSR. The Applicant modified the proposal and removed apartment No.B207 and recalculated the FSR and provided an updated Clause 4.6 Statement. The non-compliance with the GFA now amounts to 4.4%.
17. The Applicant has lodged an updated Clause 4.6 Statement which has been assessed in detail later in this report and is considered to be well founded and considering the architectural merit of the proposal the bulk and scale of the development is warranted in this case and the articulated form reduces the visual bulk and the proposal satisfies the objectives of the floor space ratio development standard and the zone objectives. In this unique case the variation is considered to be acceptable and can be supported.
18. Section E of the KDCP establishes a series of specific controls for precincts located within the Kogarah Town Centre. The subject site falls into the Southern Retail Precinct of the Kogarah Development Control Plan (KDCP) and subsection 5.7 of the KDCP is relevant to this area. Figure 5 below shows the area and properties covering the Southern Precinct and subsection 5.7.2 include a series of development controls that are relevant to the redevelopment of this area. Assessment of the proposal against these controls is provided later in this report.
19. The proposal fails to satisfy some development provisions of the KDCP however these are outdated controls that have been superceded by the updated standards in the Kogarah Local Environmental Plan 2012 (KLEP) for example, the KDCP stipulates the maximum number of storeys of four (4) and a façade height of 12m is encouraged by the DCP. The KLEP statutory height control is 21m which overrides the DCP controls. In addition, the DCP stipulates that the preferred land uses are supermarkets, specialty retail outlets, business and commercial premises and although residential uses are permitted in the zone they are discouraged. Although serviced apartments are a form of residential development they offer a short term accommodation option which is not prevalent in this locality and given the site's close proximity to the Hospital this form of development is in demand and considered to be an acceptable land use for this site. The development also provides for a diversity of land uses by integrating some retail floor space.



Figure 5: The Southern Retail Precinct (refer to subsection 5.7 of the KDCP) in Part E of the Kogarah Town Centre

20. In terms of isolating the adjoining property, 26 Princes Highway, the redevelopment of the subject site will not prohibit its redevelopment potential given that the owner of this site also owns 60B Gray Street at the rear. The Applicant has prepared an Independent valuation of the property and made an offer to the owner which was rejected. The evidence provided to Council satisfies the provisions established by *Karavellas v Sutherland Shire Council [2004] NSWLEC 251*. The Applicant has also provided some potential built form modelling to indicate that a five (5) storey building can be accommodated at No.26 Princes Highway with the inclusion of basement car parking which is a built form which will be consistent with future developments to the west.
21. Despite the non-compliances, the proposed development is considered to be generally compliant with the anticipated built form, bulk and scale of development envisaged along this roadway within this precinct.

Zoning and Permissibility

22. The principal local environmental planning instrument applying to the subject site is Kogarah Local Environmental Plan 2012 (KLEP), which came into force in February 2013. Amendment No. 2 – (New City Plan) came into force in May 2017 and introduced a range of new height and floor space ratio standards for the site and surrounding area. The LEP provides the local environmental planning provisions for land in the former Kogarah LGA in accordance with the relevant standard environmental planning instrument, as required under (the former) Section 33A of the Environmental Planning and Assessment Act 1979. The height control for the site was increased to 21m with a Floor Space Ratio of 2:1. These modified statutory standards have not been reflected back into the KDCP which anticipates lower heights.
23. The gazettal of the Georges River LEP 2020 is imminent and the adoption of the Georges River DCP 2020 was endorsed by the Georges River LPP on 4 March 2021. Once the LEP is gazetted the DCP will become effective, the planning controls across the site will be consolidated and there should be no discrepancies between controls.

24. The subject site is zoned B4 Mixed Use under the provisions of the Kogarah Local Environmental Plan 2012 (KLEP2012). The proposal is a mixed-use development and specifically including serviced apartments which is a form of “Tourist and Visitor accommodation” and commercial/retail premises. Both land uses are permissible with consent in the zone and the proposal in its current form satisfies the zone objectives.
25. A full and detailed assessment and consideration of the proposal against the key KLEP statutory planning provisions is provided later in this report.

Submissions

26. The DA was notified to adjoining properties on two (2) occasions in accordance with the Kogarah Development Control Plan 2013 (DCP2013) for a statutory notification period of 14 days. No submissions were received in response to both notification periods.

Conclusion

27. 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 despite its non-compliance with a series of local planning controls is considered to achieve the desired planning, streetscape and urban design outcome that is envisaged for this precinct. The development will create a positive contribution to the streetscape and immediate locality through its high-quality design.

DESCRIPTION OF THE PROPOSAL

28. The amended application seeks consent for the construction of a six storey mixed use development comprising of three (3) retail/commercial tenancies on the ground floor, a total of fifty-six (56) twin or dual key serviced apartments (total of 112 apartments), and one two levels of basement car parking for a total of 130 vehicles and associated facilities including a conference room, business centre and associated staff and visitor amenities, landscaping and communal facilities including pool and roof top terrace area on Level 3 and loading dock and drop off/pick up bay.
29. Further details of the proposal are as follows;

Basement Level 2 Plan

A total of sixty eight (68) car parking spaces broken in the following configuration:

- Four (4) spaces dedicated to the conference facility on site.
- Two sets of fire isolated fire stairs
- Two sets of lifts servicing each building (Building A and Building B)

Basement Level 1 Plan

A total of sixty two (62) car parking spaces in the following configuration:

- Seven (7) retail car parking spaces
- Eight (8) accessible spaces
- Two (2) retail car parking spaces
- Forty seven (47) car spaces for the serviced apartment component
- Two sets of lifts
- Two sets of fire isolated stair access

Ground Floor Plan

Building A

- Main lobby, staff room, reception area and associated amenities
- Conference room and business centre
- Main entry and access from Gray Lane and from the Central courtyard
- Landscaped central courtyard space
- Loading Bay and main vehicular access through to the basement from the rear Gray lane.
- Substation, plant room and associated services located off Rocky Point Road.

Building B

- Three (3) retail tenancies with GFA's of 126sqm, 75sqm and 62sqm for each tenancy in Building B.
- Main entry off the central courtyard
- Lift lobby and associated amenities
- Fire isolated staircases

Level 1 Plan

Building A

- Apartments A101, A102, A103, A104, A105, A107 (dual key apartments comprising of 1 x studio and 1 x 1 bedroom apartment)
- Unit A106 (dual key apartment comprising of 1 x 1 bedroom and 1 x 1 bedroom)
- Central lift lobby area
- Access to one set of fire isolated stairs

Building B

- Apartments B101, B102, B103, B104, B105, B106 (dual key apartments comprising of 1 x studio and 1 x 1 bedroom apartment)
- Central lift lobby area
- Access to two sets of fire isolated stairs

Level 2 Plan

Building A

- Apartments A201, A202, A203, A204, A205, A206, A207 (dual key apartments comprising of 1 x studio and 1 x 1 bedroom apartment)
- Central lift lobby area
- One set of fire isolated staircase

Building B

- Apartments B201, B202, B203, B204, B205, B206, B207 (dual key apartments comprising of 1 x studio and 1 x 1 bedroom apartment)
- Two sets of fire isolated stairs
- Main lift lobby

Level 3 Plan

Building A

- Apartments A301, A302, A303, A304, A305, A306 (dual key apartments comprising of 1 x studio and 1 x 1 bedroom apartment)
- Set of fire isolated stairs
- Main lift lobby
- Pedestrian bridge and access connecting Building A to Building B including a swimming pool and associated deck.

Building B

- Gym and associated amenities

- Apartments B301, B302, B303 (dual key apartments comprising of 1 x studio and 1 x 1 bedroom apartment)
- Lift lobby
- Fire isolated staircase

Level 4 and 5 Plan

Building A

- Apartments A401, A402, A403, A404, A405 and A406 (dual key apartments comprising 1 x studio and 1 x 1 bedroom apartment)
- Apartments A501, A502, A503, A504, A504, A505, A506 (dual key apartments comprising 1 x studio and 1 x 1 bedroom apartment)
- Fire isolated staircase
- Lift lobby

Building B

- Apartments B401, B402, B403, B404 (dual key apartments comprising 1 x studio and 1 x 1 bedroom apartment)
- Apartments B501, B502, B503, B504 (dual key apartments comprising 1 x studio and 1 x 1 bedroom apartment)
- Main lift lobby
- One set of fire isolated stairs

DESCRIPTION OF THE SITE AND LOCALITY

30. The subject site comprises of one (1) consistent allotment legally known as Lot 1 DP 1108502 and has a total site area of 2,579sqm. The subject site is located on a prominent corner where the Princes Highway intersects with Rocky Point Road (southern side). The site currently includes a series of older detached commercial/industrial buildings including a car sales business and car wash facility and café. The site is largely paved and includes a number of driveway access points along Princes Highway.
31. The site has a slight cross fall from the east to west by some 600mm and a significant fall from the front (north) to the rear (south). Figure 6 below is an extract of the site survey.
32. Immediately to the south (rear) of the site is a newly constructed purpose-built Ambulance NSW building, to the west and south west is the former RMS office buildings currently occupied by the Al-Jaafaria Islamic Centre and includes a large, open, at grade car parking area at the rear. To the north are a series of larger scale medium density residential flat buildings which abut the St George Hospital precinct and to the north-east is Moorefield Girls High School. To the east are low scale detached residential houses situated along Rocky Point Road.
33. Figure 7 below shows the site within the context of the locality.

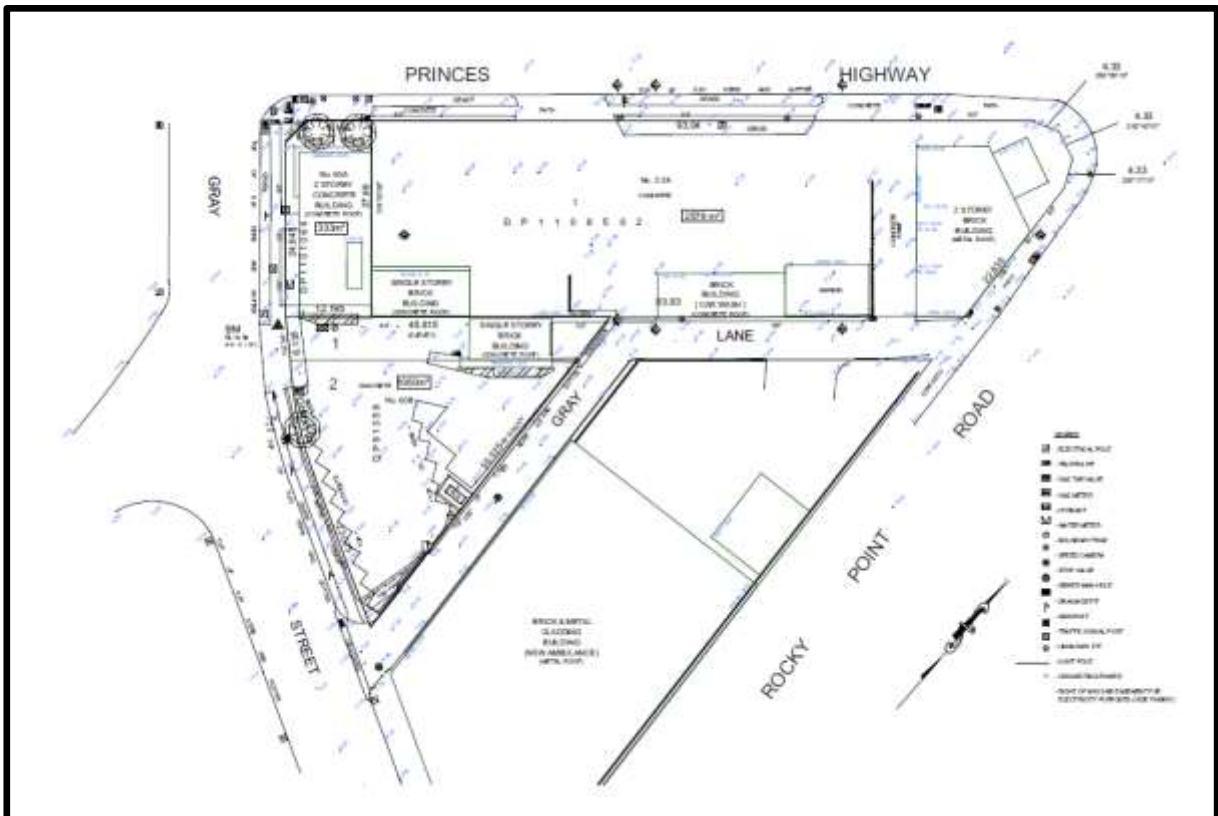


Figure 6: The survey plan of the site (courtesy: SWA Group)



Figure 7: The subject site within the local context (courtesy: Rod Logan Planning, 2020)



Photo 1: Existing view of the subject site when travelling along Princes Highway to the south



Photo 2: The subject site within view (to the right) when travelling to the north along Princes Highway



Photo 3: The subject site when viewed along the corner of Rocky Point Road and the Princes Highway

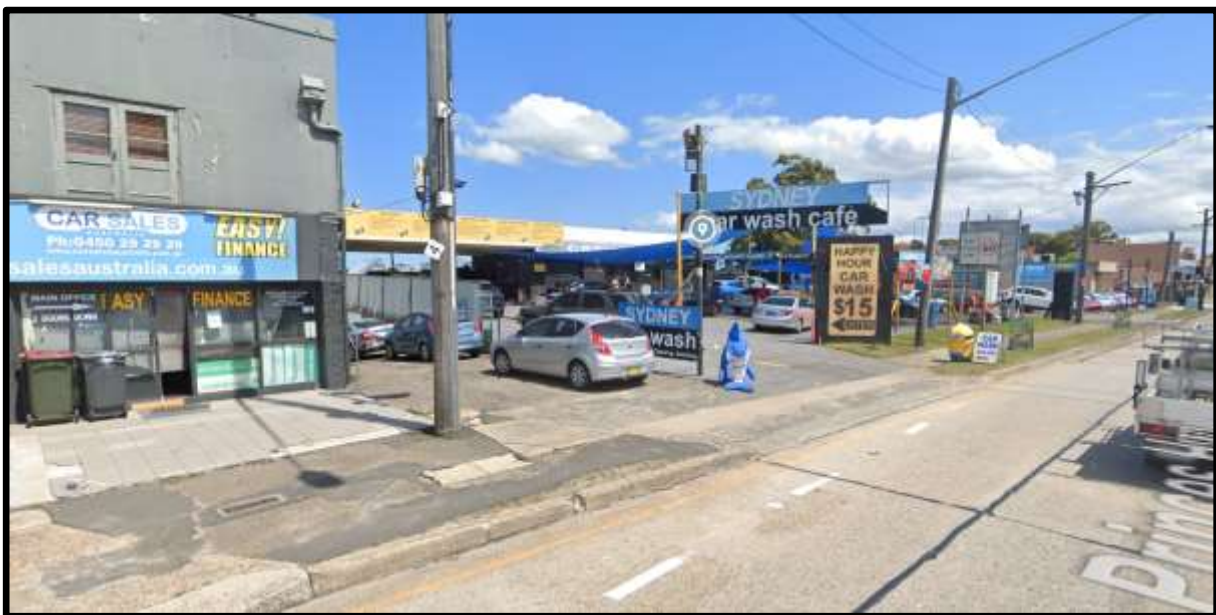


Photo 4: the front of the subject site when viewed from Princes Highway



Photo 5: The rear of the site when viewed from Gray Lane



Photo 6: Development to the north across the road along Princes Highway

LPP023-21

34. The site is very conveniently located and accessible with close proximity to the Kogarah Town Centre, the Railway Station, services such as the St George Hospital and other land uses such as Moorefield Girls High School and James Cooke Boys Technology High School and within close proximity to a number of other commercial land uses.

State Environmental Planning Policies

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

Table 1: Summary of SEPPs and general compliance

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	N/A
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 No 65 — Design Quality of Residential Apartment Development	N/A

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

36. 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,*
 - *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.*
37. The proposed drainage system and method of stormwater disposal relies on a series of pits and a gravity fed system which disposes of stormwater across the site down to the rear through Gray Lane and out to a pit located at Gray Street being the lowest point. Council's Development Engineers have reviewed the proposal and do not raise any concerns in relation to the proposed system subject to the imposition of conditions if consent is to be issued.
38. The stormwater arrangement is generally consistent and in accordance with Council's Water Management Policy and satisfied the relevant provisions of the Deemed State Environmental Planning Policy – Georges River Catchment.
39. The proposal is not considered to have an adverse impact on the waterway and the Georges River catchment. The proposal aims to protect the existing water quality and use and functionality of the wider catchment.

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

40. This SEPP is not applicable to this form of development as it relates generally to residential accommodation. A BASIX affected building "*is any building that contains one or more dwellings ,but does not include a hotel or motel*". Given that the development falls within the category of "tourist and visitor accommodation" it is not considered to be a BASIX affected building and the SEPP does not apply in this case.
41. Despite not requiring a BASIX certificate one was prepared for the development and justifies compliance No.1000477M.

State Environmental Planning Policy No 55 - Remediation of Land

42. 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.
43. 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.
44. A Preliminary Site Investigation (PSI) was prepared by Martens Consulting in 2019. The key findings of the PSI are outlined below;

"The site appeared to have been cleared of vegetation with structures observed in the northern portion in 1930. These structures were demolished between 1930 and 1943 with structures constructed in 1943. A possible service station was constructed in the central portion of site between 1953 and 1961, and subsequently demolished between 1975 and 1986. Current structures were constructed in the southern portion of the site between 1975

and 1986. The site became used as a carwash between 2004 and 2010, and was expanded between 2010 to 2014.

Observations during site walkover included:

- The site contained of two car sale yards (owned by Car Sales Australia) and one car wash (Sydney Car Wash).
- One brick shed used by Sydney Car Wash in the central portion of the site. The shed housed cleaning products and carwash equipment.
- One concrete structure to the north and one brick shed to the south of the site used by Car Sales Australia.
- The remainder of the site was paved and used for car parking.
- One potential fill point and three groundwater monuments were noted to the northern portion of the site.
- The Sydney Car Wash had an onsite water treatment system including an oil and water separator.”

45. As a result of the PSI findings it was considered a Detailed Site Investigation (DSI) be prepared which includes soil and ground water sampling and analysis of the Contaminants of potential concern (COPC). A DSI was undertaken in May 2019. This involved the excavation of 11 boreholes (refer to Figure 8 below), surface and sub-surface soil investigations and groundwater collection via the installation of a monitoring well.



Figure 8: Extract from the DSI showing the borehole locations within the investigation area (courtesy: Martens, 2019)

46. The results of the DSI found that there were no traces of asbestos however there were some hotspots where traces of cadmium, copper, zinc and nickel were found which exceeded the adopted levels and hydrocarbon contamination was spotted which will require remediation. Ground water was also considered to be an area of concern. The DSI recommended that a Remediation Action Plan be prepared given the levels of contamination that have been found across the site.

47. A RAP was prepared by Martens Consultants and dated August 2019. The RAP includes an updated Conceptual Site Model which summarises the potential contaminants and their treatment. Figure 9 below outlines the receptors and the proposed management measures to be adopted to remediate and treat these areas.

Receptors	Risk	Proposed Management
Construction workers	Soil	CEMP to be prepared by the contractor prior to commencement of works.
	Groundwater	CEMP to be prepared by the contractor prior to commencement of works.
Site occupants	Soil	Contaminated soil to be remediated and validated to confirm site is suitable for site occupants.
	Groundwater	Basement level to be tanked so site occupants do not have long-term exposure or contact to groundwater.
Offsite receptors	Groundwater	Contaminated soil to be remediated, removing potential groundwater contamination source.
	Surface waters	Groundwater discharge to be managed in accordance with NEPM (2013) and POEO Act (1997).

Figure 9: Extract from the RAP outlining the receptors and their management (courtesy: Martens, 2019)

48. The RAP noted that Ecological screening is not required in this case as the top 2m of soil on the site is to be removed and where any remaining soils are to be retained to support planting on site, these areas will need to be assessed against ecological investigation levels.
49. In respect to potential ground water contamination the RAP states *“As no onsite use of groundwater is proposed, elevated heavy metal levels are unlikely to impact on future users of the site. The absence of elevated heavy metals in soils indicates that heavy metal concentrations in groundwater are not likely to have been derived from site soil contamination. Therefore it is concluded that remediation of groundwater contamination is not required and only management of any discharged groundwater is required”*.
50. A number of soil remediation options were considered i.e treating of contaminated material onsite (known as a technique called landfarming) or offsite with the preferred option being onsite treatment, excavation, waste classification and offsite disposal with any contaminated soil identified and sent to landfill or the appropriate authority. The later is a more preferred, efficient and cost effective option.
51. The RAP includes 6 stages of management and associated works to clean the site from Stage 1 – Notification through to Stage 6 – Site Validation. The RAP was referred to Council’s Environmental Health Officer who was satisfied with the report and suggested methods of remediation. A number of conditions have been imposed to ensure all the recommendations of the RAP are implemented if consent is issued.
52. By implementing the RAP the site will be made good for the intended use and there will be no contaminated matter left. In this regard, the proposal will satisfy the provisions and requirements of SEPP 55.

Integrated Development

53. The Remediation Action Plan (RAP) identified that the amount and degree of excavation will be likely to hit ground water and will require a referral to Water NSW in accordance with Section 90(2) of the Water Management Act where it triggers the need for an activity approval.
54. The application was referred to this authority and an additional information request was issued on 30 April 2021 seeking additional information regarding the method of extracting the ground water. A tanked basement was the preferred option however if a drained basement was proposed then a series of Department of Planning, Industry and Environment (DPIE) requirements would need to be satisfied.
55. The Applicant amended and updated the Geotechnical report to reflect a tanked basement extraction method and Water NSW granted their concurrence based on this updated information and on 6 May 2021 provided concurrence and issued GTA's which form part of the consent.

State Environmental Planning Policy (Infrastructure) 2007

56. The aim of this 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 busy arterial roads is acceptable and internal amenity within apartments is reasonable given the impacts of adjoining infrastructure.
57. Clause 102 (Development fronting a classified road) is relevant as the proposal adjoins the Princes Highway, a designated arterial road. A Classified Road is defined as a roadway that carries a daily annual traffic volume of 40,000 vehicles. The Princes Highway satisfies this requirement. Clause 101 states that;

“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 10.00 pm and 7.00 am,*
 - (b) *anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.”*
58. The development is not technically “residential” in nature and this Clause is therefore not applicable however it is important that even short term accommodation in the form of the serviced apartments is designed and implemented, the apartments are high quality and amenity outcomes are satisfactory.
59. The application was accompanied by an Acoustic report prepared by Sebastian Giglio and dated March 2019 which was later updated and dated August 2020 to reflect the amended design plans. The findings of the report were based on the results from the Noise Logger which was located on the corner of Princes Highway and Rocky Point Road and was installed between 21 February to 1 March 2019. The key noise impact is traffic noise and the Princes Highway (north) and Rocky Point Road (east) street frontages will be the most impacted.
60. In respect to traffic noise impacts the assessment also considers the measures required to satisfy the provisions within the *Development Near Rail Corridors and Busy Roads – Interim Guidelines 2008*. These standards are aligned with the noise requirements in the Infrastructure SEPP. The standard provisions state that if internal noise levels exceed the

noise requirements by more than 10db with windows open these spaces need to be mechanically ventilated which will allow noise levels to be achieved with windows and openings closed. So indoor noise levels should not exceed 45dB in any bedroom between 10pm and 7am and 50dB elsewhere in the building. The assessment was also conducted against the EPA's Noise Policy for Industry (NPI) Guidelines.

61. In summary, if windows are closed to bedrooms they are to achieve a max 35dB, living rooms achieve a max 40dB and if windows are opened to bedrooms a max 45dB is to be achieved and living spaces a max 50dB.
62. The acoustic assessment suggested a number of construction measures and mechanisms to be adopted to reduce noise impacts including specific glazing to windows and any openings, a concrete roof slab, external walls should incorporate brick veneer with insulation batts and alternative ventilation is also proposed and also suggests particular hebel external cladding specifications. The report does not insist on double glazing although this would be a preferable option given the location and that the spaces are habitable. The report also assumes the internal spaces are carpeted apart from the non-habitable areas (kitchens/bathrooms). When windows are required to be kept closed to meet indoor acoustic goals, then alternative ventilation must be provided by way of ducted air-conditioning or the installation of an aeropack which is an acoustic rated ventilator and/or a Silence Air passive acoustic ventilator which relies on exhaust fans within the apartment being interlocked with Silence Air vents. The acoustic report states that whichever option is implemented, "*a mechanical engineer should certify that the ventilation requirements have been met*". The development caters for a space at the roof level of 1m in height to cater for any mechanical ventilation or ducting that may be installed.
63. In respect to the treatment of the commercial components of the development (shops and conference facility), these spaces need to comply with Australian Standard AS/NZS 2107:2016. The report suggests a series of glazing requirements and external walls will need to be an insulated brick-veneer wall.
64. Given that the swimming pool and deck will be used for passive and active recreational purposes, a solid noise barrier is required around the pool. The acoustic assessment recommends that a solid fence or barrier be installed around the full perimeter of the site and the material may be transparent, translucent, opaque or a combination of materials. A condition will require this element to be detailed in the construction certificate plans to ensure appropriate architectural quality and integrity is maintained.
65. In conclusion the report states "*All facades will be affected by traffic noise, as well as the pool deck area. Sound-rated windows have been recommended for all apartments and for commercial areas. Rooms must have mechanical fresh air ventilation. The pool deck must have a solid noise barrier all the way around. This can be transparent or partially transparent. Noise goals have been set for design purposes for noise emission from mechanical plant and equipment. It is concluded that the project can comply with established acoustic criteria for both noise emission as well as noise impacts on the development itself.*"
66. Appropriate conditions have been included if consent is to be issued which ensure the findings and recommendations of the acoustic report are adhered to.

Draft Remediation of Land SEPP

67. 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.
68. 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.
69. 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 contamination at the Site as outlined earlier.

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

70. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
71. 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).*
72. 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.
73. The subject site is currently vacant and fully concreted and does not include any plants, trees or vegetation. The development will therefore not remove any significant or important vegetation.

Draft Environment SEPP

74. 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.
75. 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.
76. The proposal is consistent with the provisions of this Draft Instrument.

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

77. 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 residential flat developments of three or more storeys in height 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.
78. The proposed development does not fall within the requirements of SEPP 65 as the development relates to visitor and tourist accommodation not residential accommodation. Given the prominence of the site, the original proposal was referred to the Design Review Panel (DRP) for general design advice.
79. The DRP conducted a site inspection and assessed the proposal against the Design Principles of SEPP 65. Formal DRP advice was provided on 10 October 2019. Table 2 below provides a comprehensive assessment that was provided against the design principles of SEPP 65.

Table 2: Part 2 Design Quality Principles under the SEPP

SEPP 65 – Design Quality of Residential Flat Buildings	DRP Comment	Council Officers comment
<p>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 context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>The site is in a prominent location at a bend in the Princes Highway where it joins Rocky Point Road. Both roads generate constant heavy traffic and noise. There has been very limited re-development along the south side of the highway to date, as opposed to the north side where there have been recent multi storey buildings. Immediately to the south of the site facing Rocky Point Road and Grey Street is a large ambulance station occupying the entire block, with a bland industrial appearance. To the south west of the site is a building used by Al Jaafari Islamic Centre. On a piece of land 12.195m wide this site is contiguous with a larger triangular area bordered by Grey Street and Grey Lane. The application does not show any evidence of serious consideration of the potential forms of development on this adjacent land. Although the</p>	<p>Comments noted. The Applicant has approached the owner of 60B Grey Street to purchase this property however they have rejected the offer that was made in accordance with an independent land valuation for this property.</p>

	<p>building height and massing will not cause any serious impacts on the south western site and the ambulance station it seems long term and ADG compliant separation would be possible should this site redeveloped in the future.</p> <p>There is a large Eucalypt tree on the Grey Street frontage of the large triangular parcel of land and a single storey small structure hard against south east corner of the subject site.</p> <p>There is different zoning further to the south where the existing development consists predominately of low scale residential.</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. 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. 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 commercial spaces, substation and fire stair along Princes Highway should be set back the same as the rest of the ground floor to enable continuous planting of a more appropriate scale along the highway frontage of the building (evergreen canopy trees reaching 12-13m at maturity along the whole frontage). The Panel also notes that this setback would be required to eliminate the problem of commercial/retail doors opening across the footpath. The structure above associated with the communal open space should also move back to the same alignment.</p> <p>To facilitate tree planting on the Highway frontage of the residential section the projections at Ground, 1 and 2 levels need to be removed. However the different façade treatment creating a strong base should be retained, to provide continuity with the façade of the commercial</p>	<p>It is appreciated that street planting along the highway would improve the streetscape amenity of this development however this is an arterial road and TfNSW do not favour the provision of larger trees and vegetation as these can obstruct sight lines and also affect larger vehicles or trucks that utilise this roadway. Council’s Public Domain Officer also is against any form of vegetation along this busy roadway as it is difficult for Council to manage. Well paved front spaces are more practical along busy roads. Appropriate conditions will be included.</p>

	<p>section to the south west.</p> <p>See comments below regarding the open space area at the south west end of the site.</p>	<p>The amended and updated design has created a central courtyard space on the ground floor which creates an attractive green space, breaks up the bulk and scale of the development and compensates for the lack of street planting. A strong podium element has been retained in the amended design with the upper levels recessed behind this element.</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>	<p>Subject to confirmation, density complies with the 2:1 FSR for the zoning.</p>	<p>The GFA exceeds the 2:1 FSR control. A Clause 4.6 Statement has been submitted which justifies the non-compliance.</p> <p>The issue of floor space is discussed in greater detail later in this report.</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>There is no evidence of any provisions which go beyond the basic compliance with planning and Construction Certificate controls. In a large development of this scale it would be highly desirable to include sustainability measures including rainwater recycling, solar collectors, greening of roof tops, etc.</p> <p>Because of the extreme noise and pollution from the Highway and Rocky Point Road, it will be very difficult to achieve natural cross ventilation to the serviced apartments. However all possible measures should be</p>	<p>The updated proposal includes a space for the provision of solar panels on the roof space.</p> <p>In this instance there is no need to green the roof space, given the use of the buildings, their location and the fact the amended design caters for an attractive and functional area of open space at the ground level and on</p>

	<p>explored to deal with noise issues and avoid necessity for 24hr air conditioning of the units. Winter garden treatments to balcony areas would be appropriate and should not be included in FSR calculations where used.</p>	<p>level 3 the roof is able to remain non-trafficable.</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>Refer to comments under ‘Built Form and Scale’ for landscaping on the street frontages. The tree species proposed along the south east boundary and Gray Lane are inappropriate (Crepe Myrtles). Much larger evergreen species should be planted in a more informal arrangement along the entire length, for example Eucalypts which will grow to a height of 4-5 storeys.</p> <p>A 6m wide space is proposed on the south western end of the site. Tree species selected are an appropriate size however this space is of very limited utility for the occupants of the development being inaccessible and remote. Measures should be taken in the management of the property to ensure it does not become neglected and derelict.</p> <p>The Panel suggests that this could be integrated with an adjacent Highway fronting coffee shop with outdoor seating space. This space is beneficial in providing some spatial relief to the adjacent site and allowing some flexibility in its development. Note that this would require the repositioning of fire stair and plantroom/substation.</p>	<p>The original proposal included some planting along the rear lane (Gray Lane). The scheme has been modified and Gray Lane will function to allow for secondary points of entry and access to parking, waste management services, back of house, cleaning and laundry services and caters for deliveries and drop off and pick up of customers and visitors. The amended design includes a central courtyard that extends across the site and</p>
<p>Amenity Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity</p>	<p>See comments above concerning road noise and natural cross ventilation.</p> <p>Natural light should be provided</p>	<p>Noise and acoustic impacts have been addressed in detail given the location of the site.</p>

<p>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>to the lobbies on each level immediately adjacent to the pair of lifts.</p> <p>Consideration should be given to providing informal coffee and other facilities in the reception conference area to encourage social interaction.</p>	<p>The amended design provides for two lift lobbies both having glazed panels which will allow for solar access and natural light to penetrate into the lobby space.</p> <p>It is very likely that coffee facilities and the like will be included in the reception area to improve the amenity of the development.</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.</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>The Panel suggests that the 1 in 14 ramp to a loading bay be checked for compliance with the relevant standards.</p> <p>The landscaped open space at the south west end of the development would be a potential security hazard unless activated as suggested above, and/or managed with security lighting, etc.</p> <p>Because the car parks are split level there is no direct access to the residential lifts from the upper half level. The persons using disabled car spaces would have to cross the base of the vehicle ramp to get to the lifts. The layout should be redesigned to address both of these concerns.</p>	<p>The amended design includes a ramp from the rear which is now a 1:20 gradient for Building A and a 1:14 access ramp for Building B from the rear into the building. The application is accompanied by an Access report which confirms compliance with the general provisions for accessibility across the site.</p> <p>The basement parking levels remain split level in their design and arrangement however there are two sets of stairs providing access to the two lift lobby areas. The layout and parking arrangement is improved by the amended plans creating a more systematic and better organised</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>Given that the residential units are serviced apartments for short term occupation associated with the nearby local medical facilities, the unit layouts are considered to be acceptable.</p> <p>The proposed swimming pool and recreation facilities would appear to offer potentially an excellent amenity for residents.</p>	<p>parking area.</p> <p>The amended design has improved the layout and functionality of the development and offers better amenity for the unit design.</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.</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>Acceptable, but see recommendations above under 'Built Form'.</p>	<p>The original design was considered to be acceptable however Council had issues with the articulation and modulation of the built form. The amended design has substantially improved the aesthetics and visual appearance of the development given its prominent corner location.</p>

LPP023-21

80. In conclusion, the Design Review Panel supported the proposal “in principle” subject to the changes they suggested being made. Despite the Panel’s general endorsement of the original scheme Council Officers maintained that the design resolution and built form outcome is poor and needs to be refined and simplified. The aesthetics were not considered to be acceptable. The Applicant engaged GMU Consultants who conducted an urban design assessment and totally redesigned the scheme to create two alternative urban design options for the site. The preferred option includes the current scheme which comprises of two buildings which are interconnected by a bridge and a central courtyard on the ground floor. The overall design is a substantial improvement to the original scheme.

Zoning

81. The subject site is zoned Zone B4 Mixed Use zone under the provisions of the Kogarah Local Environmental Plan 2012 (KLEP2012). Refer to the zoning map at Figure 10 below. The proposed development is a mixed-use development defined as “shop top housing” which is a permissible land use in the zone.
82. The proposed development satisfies the objectives of the zone which are as follows:
- To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.
 - To allow residential development that contributes to the social vitality of the neighbourhood centre and does not detract from the business function of the zone.

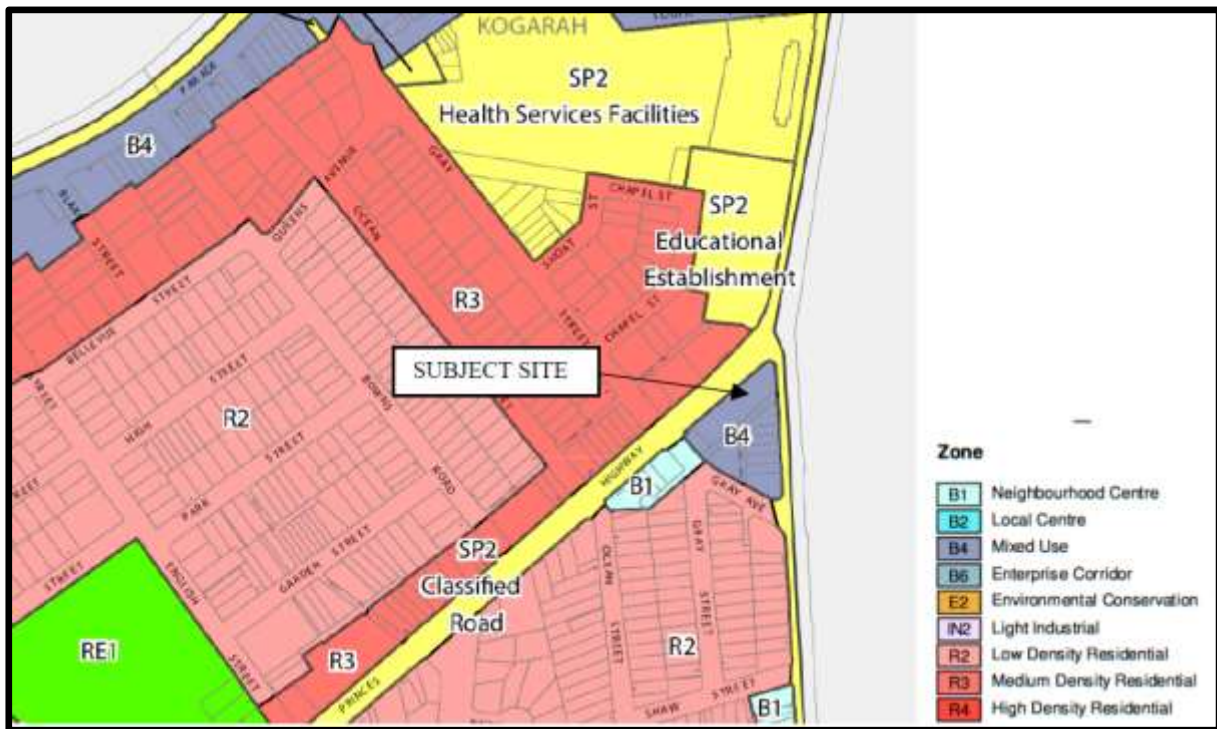


Figure 10: Extract from the zoning map as included in the KLEP 2012.

83. The extent to which the proposal complies with the relevant standards of Kogarah Local Environmental Plan 2012 (KLEP2012) is outlined in the table below.

Table 3: KLEP2012 Compliance Table

Clause	Standard	Proposed	Complies
2.2 Zone	B4 Mixed Use zone	<p>The proposal is a mixed use development that includes “serviced apartments” and “commercial/retail premises”. All land uses are permissible in the zone.</p> <p>Serviced apartments are categorised as “tourist and visitor” accommodation which involves accommodation that is provided on a temporary and short-term basis. The conference centre is ancillary</p>	Yes

		to the use.	
2.3 Objectives	Objectives of the Zone	Consistent with zone objectives by providing a mixed-use development including a variety of permissible land uses.	Yes
4.3 – Height of Buildings	21m height limit as identified on Height of Buildings Map	The building complies with the maximum height limit of 21m.	Yes – this issue is addressed in more detail below.
4.4 – Floor Space Ratio	2:1 as identified on Floor Space Ratio Map	<p>The maximum FSR permitted for this site is 2:1. The proposal exceeds this control and achieves a total FSR of 2.087:1.</p> <p>The variation to this control is 4.4% which amounts to an additional 224sqm of floor space. This is considered to be a small non-compliance and given the high-quality architectural design and resolution of the built form, prominent corner location and disparity in the height and FSR control across the site the additional GFA is justified in this case. This issue is discussed in more detail below.</p>	No see further discussion below in GFA explanation.
4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with Cl.4.5	<p>The GFA calculations provided by the Applicant have been verified and amendments needed to occur to enable calculations to be accurate.</p> <p>Updated plans show that all areas have been calculated in accordance with the GFA definition.</p>	<p>Yes, calculations have been reviewed and are considered to be accurate.</p> <p>A more detailed assessment of this issue is discussed below</p>
Clause 4.6 – Exception to development standards	The objective of this clause is to “ <i>provide an appropriate degree of flexibility in applying certain development standards to particular development</i> ” and	<p>The building exceeds the FSR by 4.4% which amounts to a total additional gross floor area of 224sqm.</p> <p>A Clause 4.6 Statement has been submitted with the application to justify the degree of variation. This is discussed in greater detail</p>	Clause 4.6 Statement submitted which is considered to be well founded in this case and the non-compliance is minor and considered

	<i>“to achieve better outcomes for and from development by allowing flexibility in particular circumstances”.</i>	later in this report.	acceptable given the circumstances of the case.
5.10 – Heritage Conservation	The objectives of this clause are; (i) to conserve the environmental heritage of Kogarah, (ii) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.	The site is not a Heritage Item or within a Conservation area. The closest item is Item I98 which is the St Patricks Catholic Church located at 143 Princes Highway. The site is within close proximity to the Kogarah South Heritage Conservation Area (identified as Conservation Area C3 on the KLEP heritage map_006). This area is significant because it contains a series of single storey Federation style cottages many homes are still intact and retain original and traditional architectural features and elements of the original lower scale residential character of this area. The proposed development is physically separated from the Conservation area and Item of significance and will not adversely affect the integrity or importance of the area and items and is not within the visual catchment of these properties.	Yes
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 any ASS.	N/A
6.2 Earthworks	To ensure that earthworks do not have a detrimental	The proposal includes the provision of two levels of basement car parking.	Yes

	<p>impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land</p>	<p>This is a standard amount of excavation/earthworks for a development of this scale and nature.</p> <p>The proposed earthworks are not considered to be unreasonable.</p>	
6.3 Flood Planning	<p>The objectives of this clause are as follows— to minimise the flood risk to life and property associated with the use of land, 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, to avoid significant adverse impacts on flood behaviour and the environment.</p>	<p>The site is not classified as Flood Prone Land.</p>	Yes
6.5 Airspace Operations	<p>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.</p>	<p>The height of the proposed development is above the Obstacle Limitation Surface (OLS) level of 15.24m.</p> <p>The application was referred to Sydney Airports for their formal concurrence.</p> <p>Sydney Airports reviewed the proposal and on 22 October 2020 raised no objections to the proposed works. Standard conditions are included that require the Applicant to obtain approval for a Crane Operation at the site (if required).</p>	Yes

Height

84. The original design of the building exceeded the 21m height limit by between 1.2m to 234mm along the north-east corner, the most prominent section of the site. At this point, the building was seven (7) storeys in height and then tapered down to three (3) storeys along the western side. A Clause 4.6 Statement accompanied the application and justified that the non-compliance is minor and concentrated along the corner of the site which is able to cater for some additional height given its landmark location.
85. Council was not supportive of the original design and the amended scheme has created a much more integrated, cohesive and harmonious built form across the site. The amended design is now compliant with the height control however the Applicant has requested a variation to the floor space as the height and floor space controls are not commensurate across the site. There is an imbalance in these controls. Given the compliant height and the substantive separation distances some additional floor space is warranted in this case.
86. The development has been reduced in scale from the seven storeys down to six storeys however the floor to floor height of the ground floor has been increased to create a more prominent entry and access.
87. The maximum height applicable for this site is 21m. The roof of both of the amended buildings (A and B) achieves three overall heights;
- Top of roof – RL35.20
 - Top of parapet – RL36.35
 - Top of lift overrun – RL36.10
88. The intention of the design is to have a slightly higher parapet feature around part of the building's which will provide a clearly defined roof form, accentuate the circular form of the building, offer some greater architectural variation to the elevation and intends on screening the lift overrun feature.
89. The Applicant has conducted some 3D modelling (refer to Figure 11 below) of the building and its height showing the 21m height control plane. These plans include existing relative levels (that have been taken off the survey plan) and indicate that no part of the roof exceeds the 21m height plane. These plans and relative spot levels have been reviewed and do seem accurate.

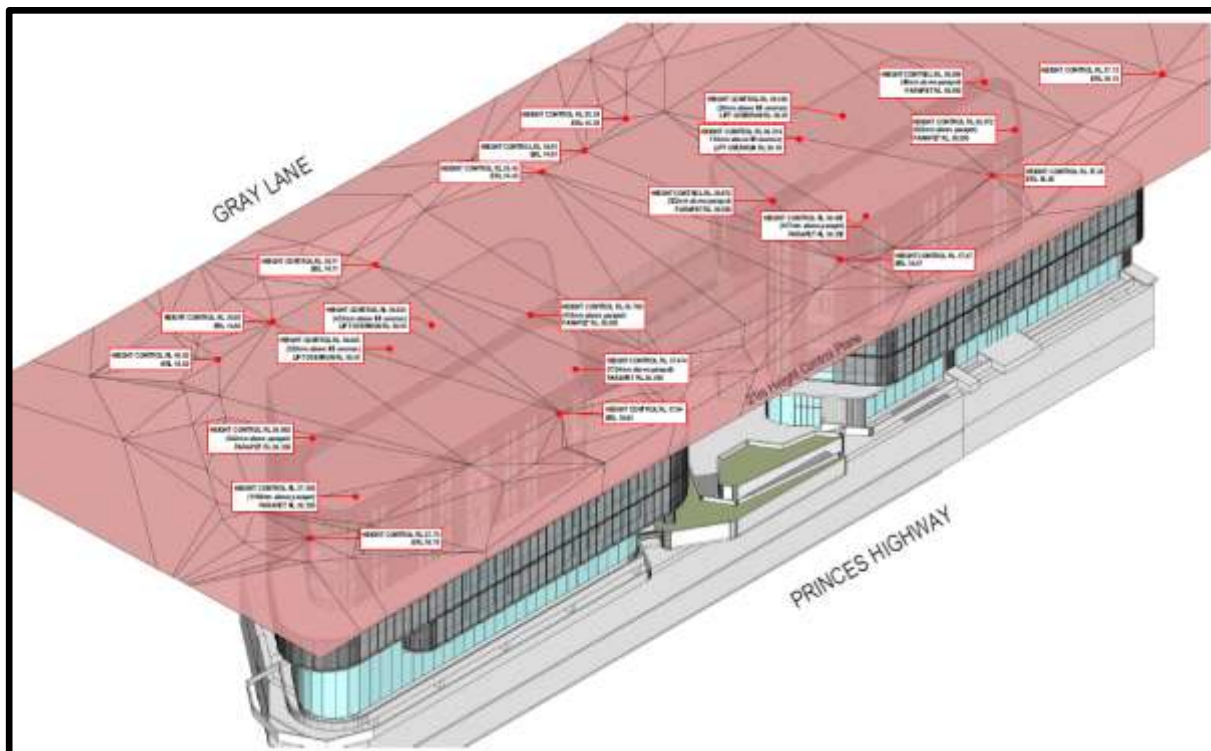


Figure 11: 3D Modelling views of the 21m Height plane (courtesy: SWA group 2020)

90. The design of the development includes a base, podium level comprising of three (3) levels with the serviced apartments located above in a recessed configuration. This reduces the bulk and scale of the development and creates an interesting modulated and articulated built form. Both buildings have been designed so that the parapet feature is located along the Princes Highway and this element will sit below the 21m height limit but will also allow for over 1m of space for any future mechanical servicing, ducting, photovoltaic panels etc.
91. The siting, layout and design of the building ensures it is within the 21m statutory height limit.

Gross Floor Area calculation

92. Originally the development complied with the floor space ratio despite the height non-compliance. An FSR of 1.97:1 was achieved which was a total GFA of 5,078sqm. The GFA calculations excluded a series of areas which should have been included so it is questionable that this original proposal complied with the control. No detailed assessment was conducted in respect to this issue given the Applicant agreed to amend the design.
93. The Applicant appointed GMU urban design consultants to assist in providing alternative design options for the site. Both options exceeded the GFA in order to provide a balanced built form across the site.
94. The amended scheme originally exceeded the FSR by some 4%, however after assessing the GFA diagrams there were areas that were excluded that should have been included, for example ground floor corridors, parts of the bridge that were enclosed by louvres on Level 2 which increased the GFA. Council requested that the variation be reduced and so the Applicant decided to remove Apartment B207 which was to be located along the bridge on Level 2 which reduces the floor space a further 73sqm and slight reconfiguration of internal spaces. The reduction in the GFA has resulted in the loss of the bridge element.

The updated GFA calculations are now accurate and exclude services, lifts, stairs and a fire stair at the ground Floor Building A.

95. The reduction in the floor space creates a non-compliance of 4.4% is a better planning outcome and a detailed discussion of the variation is discussed in more detail below. The removal of the bridge on Level 2 will reduce the bulk of the development but I don't believe it is a good planning or design outcome. The bridge connection creates a unified link between the two buildings and integrates the development. Removing the lower-level connection and only having the link at Level 3 is considered too high to create a meaningful relationship when viewed from the ground floor level. It is suggested by way of a deferred commencement that the Level 2 bridge be reinstated but become a traditional open style pedestrian bridge.
96. The 3D montages show that along the northern elevation at Level 1 and 2, the balconies include full height perforated screens. These screens are transparent in that they are not solid and aim to create architectural variety to the façade, visual interest and provide some additional acoustic and visual screening. They are not considered to add to the GFA as they do not enclose the balconies and are not "walls" as per the GFA definition. Despite this, it is recommended that they are opened up a little more to provide more solar access into the balconies and units. A deferred commencement condition will allow a number of alternative design options to be explored i.e sliding screens, removal of sections to open up this façade and/or create geometric cut-outs.

Clause 4.6 Exceptions to development standards

Detailed assessment of variation to Clause 4.4 Floor Space

97. The proposed development seeks a variation to the development standard relating to floor space (Clause 4.4 of the KLEP). The LEP identifies a maximum floor space ratio (FSR) of 2:1 for this site (see Figure 12). The gross floor area (GFA) is calculated in accordance with the definition in the KLEP which states;

Gross floor area means "the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

(a) the area of a mezzanine, and

(b) habitable rooms in a basement or an attic, and

(c) any shop, auditorium, cinema, and the like, in a basement or attic,

but excludes—

(d) any area for common vertical circulation, such as lifts and stairs, and

(e) any basement—

(i) storage, and

(ii) vehicular access, loading areas, garbage and services, and

(f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and

(g) car parking to meet any requirements of the consent authority (including access to that car parking), and

(h) any space used for the loading or unloading of goods (including access to it), and

(i) terraces and balconies with outer walls less than 1.4 metres high, and

(j) voids above a floor at the level of a storey or storey above.

98. Having regard to the above definition, the application has been modified a number of times to ensure all areas within the building that are classified as GFA have been included. Originally the variation was some 4% although this did not include a number of areas and

corridors that were enclosed and formed part of the calculation. Council requested that the Applicant amend the plans and reduce the variation.

99. The plans have been amended to remove serviced apartment No. B207 which was located on Level 2 and reconfigure some spaces slightly. The removal of this apartment creates a reduction in 73sqm of floor space and this creates a total gross floor area of 5,383sqm which amounts to a total FSR of 2.087:1.
100. On this basis, the proposed development will exceed the GFA by 225sqm. This is a 4.4% variation to the control. Any variation to the FSR/GFA can only be considered under Clause 4.6 – Exceptions to Development Standards of the KLEP.
101. 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”.



Figure 12: Floor space ratio of the subject site

102. 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”*

103. To support the non-compliance, the applicant has provided an updated request for a variation to Clause 4.4 prepared by Rod Logan Planning and dated February 2021. The Clause 4.6 statement has been prepared in accordance with Clause 4.6 of KLEP 2012.

The request has been prepared having regard to the latest authority on Clause 4.6, contained in the following guideline judgements:

- Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46
- Wehbe v Pittwater Council [2007] NSWLEC 827
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 ('Four2Five No 1')
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 ('Four2Five No 2')
- Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 ('Four2Five No 3')

104. The Applicants submission states that in preparing the statement "*Consideration has been given to the following matters within this assessment:*

- *Varying development standards: A Guide, prepared by the Department of Planning and Infrastructure dated August 2011.*

- *Relevant planning principles and judgments issued by the Land and Environment Court. The Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 court judgment is the most relevant of recent case law.*

Chief Justice Preston of the Land and Environment Court confirmed (in the above judgment the consent authority must, primarily, be satisfied the applicant's written request adequately addresses the 'unreasonable or unnecessary' and 'sufficient environmental planning grounds' tests:

"that the applicant's written request ... has adequately addressed the matters required to be demonstrated by cl 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case ... and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard ..."

On the 'Five Part Test' the following were established under Wehbe v Pittwater Council [2007] NSWLEC 827:

"The five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way..."

That, in establishing 'sufficient environmental planning grounds', the focus must be on the contravention and not the development as a whole:

"The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole"

105. The Clause 4.6 request for variation is assessed in detail below.

Is the planning control in question a development standard?

106. The Floor Space Ratio control pursuant to Clause 4.4 of the KLEP 2012 is a development standard.

What are the underlying objectives of the development standard?

107. The objectives of Floor Space Ratio standard under Clause 4.4 of KLEP 2012 are:

- (a) to ensure the intensity of development is compatible with the desired future character and zone objectives for the land,
 (b) to limit the bulk and scale of development

What is the context of the variation?

108. Applicant's comments: *"The application proposes a gross floor area of 5383m² representing a proposed Floor space ratio for the development of 2.087:1 which is a variation to the development standard by 225m². The calculation of gross floor area has been made in accordance with Clause 4.5 of the LEP. This additional gross floor area can be expressed as a proposed variation of 4.4% to the development standard. It is well established in case law that the extent of the numerical variation does not form part of the test required to be exercised under Clause 4.6. Decisions in respect of Micaul Holdings P/L v Randwick City Council (55% exceedance of height and 20% exceedance of FSR) and Moskovich v Waverley Council (65% exceedance of FSR) support this."*
109. Council's comments: Numerically, the variation is considered minor given the large, integrated nature of the development across this consolidated site. In this case, a concession of this nature is considered satisfactory given the design excellence of the building and the fact that the development standards across the site are incongruent, meaning, to achieve the desired built form outcome which has a consistent and compliant height of 21m (across the site) and satisfies the setback controls in this B4 zone, the floor space ratio cannot be satisfied unless the height is substantially reduced. In other words, to satisfy the floor space a much lower scaled building would be developed across this site. A lower and longer building is considered a poor planning and urban design outcome given the context of the site and its prime corner location. Obviously, generous separation distances are important however too much physical separation can reduce connectivity and integration.
110. Currently, the building is designed to accommodate large unbuilt upon areas and includes large side setbacks at the upper levels and generous areas of separation. This is an appropriate and clever urban design and planning outcome, which is able to capture some additional floor space without looking too dense and bulky. The breaks in the built form reduce the mass and visual bulk of the building and break up its length. The proposal creates a harmonious and coherent looking building. Without some additional floor space the development will fail to create an appropriate infill development given that immediately to the north are located 6-7 storey RFB's that are consistent in their form and scale.

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

111. Applicant's comments: *"In dealing with the "unreasonable and unnecessary" Preston CJ identifies and validates the 5 options available to an applicant in Wehbe v Pittwater Council which can be adopted in dealing with the unreasonable and unnecessary test under Cl.4.6(3)(a). In Wehbe, Preston CJ of the Land and Environment Court provided relevant assistance by identifying five ways in which it could be shown that a variation to a development standard was unreasonable or unnecessary. However, in that case (and subsequently in Initial Action) he confirmed that these five ways are not exhaustive; they are merely the most commonly invoked ways. Further, an applicant does not need to establish all of the ways."*
112. The five methods outlined in Wehbe are:
1. The objectives of the standard are achieved notwithstanding non-compliance with the standard (**First Method**).

2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (**Second Method**).*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (**Third Method**).*
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 (**Fourth Method**).*
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 would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (**Fifth Method**).*

113. *The development will now be assessed against each of these five ways in turn. It should be noted that it is sufficient to demonstrate compliance is unnecessary or unreasonable on one ground only and it is not necessary to demonstrate that all grounds for consideration are satisfied. In this instance, the First Method is of particular assistance in establishing that compliance with a development standard is unreasonable or unnecessary.*

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard

114. *The objectives of the floor space ratio principal development standard are as follows:*

- (a) *to ensure the intensity of development is compatible with the desired future character and zone objectives for the land.*
- (b) *to limit the bulk and scale of development.*

115. *Of relevance in considering satisfaction of the objectives of the standard is the satisfaction of the particular B4 Zone Objectives which are stated as follows:*

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To encourage development that contributes to economic growth and employment opportunities.*
- *To encourage development that contributes to an active, vibrant and sustainable town centre.*
- *To provide opportunities for residential development, where appropriate.*

116. *The proposed development achieves the objectives of the standard notwithstanding noncompliance with the floorspace ratio control because:*

- *the variation does not detract from the objectives of the control in that the development maintains a general built form and intensity of development consistent with the primary development standard and desired future character for this high-profile location and supports the objectives of the zone in that:*
 - i) *the proposed use is a mixture of compatible land uses;*
 - ii) *the serviced apartments and associated conference facilities are well placed to provide easy walking access to the Kogarah Town Centre and associated medical uses and public transport;*
 - iii) *the proposed serviced apartments, conference facilities and commercial spaces will contribute to local economic growth and underpin and augment the strategic services provided by the Kogarah Town Centre the proposed building bulk and scale is*

indiscernible from a compliant scheme due to the highly responsive and articulated built form;

- iv) *The proposed building complies with the statutory height limit and presents a built form generally consistent with that anticipated despite the minor variation to the floorspace standard.*

117. *The accompanying Urban Design Report by GM Urban Design and Architecture also clearly demonstrates that the proposed additional floor area is necessary to ensure a built form massing in two distinct building forms with an elevated bridging element used to breakdown the visual scale and provide a functional integration of the building. The building separation also allows for creation of the publicly accessible plaza and ground floor through site link whilst also allowing sufficient building mass to define the street edge and mark this highly visible and prominent location.*

118. *The non-compliance with the standard therefore does not impair the capacity of the development to meet all of the objectives of the standard despite that non compliance. More generally the variation also does not establish an unusual precedent in the locality that would undermine the applicability of the development standard to other development of comparable sites located within the local context due to the very minor nature and extent of the variation that this particular development proposes.*

119. *In view of the above, the requirement to strictly adhere to the development standard for floorspace ratio is considered to be unreasonable and unnecessary in this instance as the proposed development achieves and is consistent with the objectives of the standard.*

2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is not necessary.

120. *The purpose of the standard is considered to be relevant to the development and on that basis this way is not applicable ground for justification of the variation.*

3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.

121. *The underlying purpose of the standard is to ensure building form and scale are consistent with the desired future character and intensity of development of land. The underlying object of purpose of the standard would not be defeated or thwarted if compliance was required and on that basis this way is not applicable ground for justification of the variation.*

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.

122. *Council has not generally abandoned this development standard and on that basis this way is not applicable ground for justification of the variation.*

5. Compliance with the development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.

123. *The current use and character of the land is generally for commercial purposes with the current strategic direction for the precinct, the current zoning of the land and applicable development controls anticipating an intensification of the use of the site for commercial activity and employment generating uses. This site is suitable for such intensification, the zoning and primary development controls are relevant and redevelopment can be readily facilitated and on that basis this way is not applicable ground for justification of the variation.*

124. *As noted in Wehbe, the rationale behind this way of showing that compliance with a development standard is unreasonable or unnecessary: '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).'*
125. *As previously noted it is only necessary to demonstrate one way in which compliance is unnecessary or unreasonable. In view of the above, the requirement to strictly adhere to the development standard for floor space ratio is considered to be unreasonable and unnecessary in this instance as the proposed development achieves and is consistent with the objectives of the standard.*
126. Council's comments: In order to assess the reasonableness of the proposal, the Applicant has considered whether the development satisfies the objectives of the development standard and objectives of the zone. The objectives of the standard seek to reduce the intensity of development to ensure it is compatible with the desired future character and zone objectives and to limit the bulk and scale of development. As previously stated, this is a key landmark site and design excellence is of critical importance as this site marks one of the gateway locations to Kogarah. The current design has considered the sites importance, size and prominence. It has created a very attractive built form that includes curved elements which wrap around the corner and continues along Rocky Point Road to the south-east and Princes Highway to the west. The built form is broken up by a formal central courtyard space which provides a direct pedestrian link to the rear laneway but also enhances the main entry to both buildings. The elevations are broken up by the differing colour palette and materials and finishes but is integrated by the bridge element which unites the two buildings. The mass and form is well balanced and coherent and will create an attractive response to this key site. The objectives of the FSR standard despite a small non-compliance have been sensitively achieved through the design.
127. The scale and intensity of the proposal is consistent with adjoining developments ie to the north are medium density contemporary RFB developments achieving a seven (7) storey scale.
128. The building is located in the B4 zone and will comprise of commercial/retail tenancies on the ground floor, conference facilities and serviced apartments which are all permissible uses which will not compete but compliment the Kogarah Town Centre. They will provide additional services and facilities that will benefit and grow this health precinct due to the site's close proximity to the Hospital. Whilst the site is located on the periphery of the Town Centre it will create connectivity and enhance the vibrance of the area.
129. In respect to Prestons CJ judgement the NSW Land and Environment Court and in accordance with a recent decision (Initial Action Pty Ltd v Woollahra Council [2018] NSWLEC 118), the NSW Land and Environment Court has established a "five-part test" for consent authorities to consider when assessing a DA proposing a clause 4.6 request for variation. The Applicant has justified above that the development satisfies the purpose and intention of the five-part test. It is considered that the proposal satisfies the five-part test for the following reasons;
- the proposed scale and massing of the building is consistent with the desired future character of the locality;

- the non-compliance relates to a relatively small amount of additional floor space in the order of 225sqm which dispersed across this large site is considered a minor numeric non-compliance.
- Compliance with the FSR in this case will create an adhoc built form that is not anticipated by the development standards and zone objectives.
- the area of non-compliance will not result in any adverse impacts on the adjoining land uses with respect to overshadowing, loss of privacy, inappropriate scale, view loss.
- The proposed development will have a positive contribution to the streetscape and immediate surrounds.

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

130. Applicant's comments: *"It is considered that there are sufficient environmental planning grounds to justify contravening the requirement of Cl 4.4 regarding the maximum floorspace ratio standard in this particular instance on the basis that: -*

- *Despite the variation the overall bulk and scale of the building is considered to be acceptable in terms of its urban form and is appropriate for the location, accentuating the high-profile corner location of the site, providing visual interest and a varied building profile, and*
- *Despite the increased floorspace ratio the proposed development will not have an unreasonable impact on adjoining sites in terms of additional overshadowing, loss of solar access or impact on views.*
- *The site is located within close proximity to local shopping and services and the proposed development is of a form and scale that is appropriate for the locality and is sustainable given its proximity to public transport and the facilities and services available in the Kogarah Town Centre.*
- *Strict compliance with the development standard would result in a failure to achieve an appropriate built form for the site, as demonstrated in the analysis provided by GM Urban Design and Architecture. It would also undermine the functionality and efficiency of the building and detract from the commercial viability of a land use that is consistent with the underlying objectives of the zoning of the land and the nomination of the site within the applicable DCP as a gateway location, which is considered contrary to the orderly and economic use of the land.*

131. Council's comments: Based on the discussion above, it is considered that there are sufficient environmental planning grounds to justify contravening the development standard. Key environmental planning grounds to support the variation include:

- Despite the development exceeding the floor space ratio development standard, the building complies with the 21m height limit and is consistent in scale with adjoining developments. As such, the overall bulk and scale of the building is considered to be acceptable in terms of its scale and built form and the relationship of the building to the street and adjoining development.
- The development is removing a current land use which is non-conforming, outdated and unattractive and replacing it with a series of permissible land uses. It will improve the site with the introduction of landscaping and softening the appearance of the development when viewed from all immediate streetscapes. The proposal is environmentally sustainable and will produce a visually attractive development.
- There are no adverse amenity impacts created by the development ie no view loss, detrimental overshadowing or overlooking to any immediate residential property.

132. These are all positive environmental and planning outcomes.

Will the development be in the public interest despite the non-compliance?

133. Applicant's comments: Clause 4.6(4)(a)(ii) of KLEP 2012 states that: 'Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i)

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.'

134. As stated elsewhere in this submission the development is considered to satisfy the objectives of the development standard that are proposed to be varied. Despite the minor variation to the floorspace ratio standard the proposal is considered to be of a type and nature that satisfies the objectives of the zone as:

- The proposal provides a mixture of compatible commercial uses on the site with the independent ground floor commercial premises providing an opportunity for support uses to the serviced apartments. The proposal provides a suitable land use for this peripheral commercial site, providing support accommodation for transient users of other centre businesses including, principally, the hospital precinct.

- The proposal provides a facility that will assist and support the primary health and educative role of the Kogarah Centre.

- The proposal will contribute to the ongoing sustainable growth of these primary businesses in the Kogarah Centre.

- Although the primary use of the site is residential in nature it is not a classified residential use. The transient nature of the residential use is considered appropriate for this site.

135. Accordingly, granting consent to the proposed development is considered to be in the public interest.

136. Council's comment: The proposed development will be in the public interest because it is consistent with the objectives of the floor space standard and the objectives for development within the zone. The development will not compromise the importance of the Kogarah Town Centre but will cater for some additional commercial/retail floor space for the locality and will provide serviced apartments which are not a common or prevalent use in the area (but a desirable one) and they will assist with providing support to this health precinct.

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.

Non-compliance does not hinder the attainment of the Objects of the Environmental Planning and Assessment Act 1979

138. The Wehbe decision identifies that in assessing a variation to a development standard, consideration must be given to Objects (a)(i) and (a)(ii) in Section 5 of the Environmental Planning and Assessment Act 1979. These are:

(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities,

towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,

- (ii) the promotion and co-ordination of the orderly and economic use and development of land.

139. It is not considered that the proposed variation to the floor space ratio standard will contravene either of these Objects. The proper management of the existing urban environment in order to achieve better social, environmental and community outcomes, as well as the orderly and economic use and development of land, will be realised through the provision of a high-quality development in a location with good access to public transport options and in proximity to shops, services and recreational facilities and educational establishments.

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

140. Contravention of the maximum floor space ratio development standard proposed by this application does not raise any matter of significance for State or regional environmental planning.

Any other matters required to be taken into consideration by the Director-General before granting concurrence

141. Despite exceeding the statutory maximum floor space ratio, the proposed redevelopment of the site will facilitate the orderly and economic redevelopment of the site for the purposes of a mixed-use development that will positively contribute to the achievement of the objectives of Kogarah Local Environmental Plan 2012.

Conclusion – Assessment of Clause 4.6 Request for Variation

142. Despite the non-compliance in terms of the floor space (and gross floor area), the proposal is considered acceptable and satisfies the provisions of Clause 4.6. The additional 4.4% of floor space (some 225sqm of GFA) is considered minor and will not create any adverse environmental or amenity impacts. The proposed development satisfies the objectives of the floor space control and the zone objectives and is therefore considered to be in the public interest.

143. It is considered that the Clause 4.6 Statement lodged with the application addresses all the information required pursuant to Clause 4.6 and the statement is considered to be well founded as there are sufficient environmental planning grounds to justify contravening the standard in this particular case.

Draft Georges River Local Environmental Plan 2020

144. Consideration is given to the provisions of Draft Georges River Local Environmental Plan 2020 in the assessment this application as this is a consolidated LEP harmonising both the former Kogarah and Hurstville LEP's. The Draft LEP is currently at the Department of Industry, Planning and Environment (DPIE) awaiting gazettal which is imminent.

145. In this regard, the provisions have no determining weight as a result of proposed operation of Clause "1.8A Savings provisions relating to development applications" of the Draft Plan which provides "If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced."

146. The Draft LEP does not recommend any changes to the current development standards, zoning and permissible uses across this Site.

DEVELOPMENT CONTROL PLANS

Kogarah Development Control Plan 2013 (KDCP)

147. The proposal needs to address and satisfy the provisions of Part B – General Controls and Part E – Kogarah Town Centre controls as part of the KDCP.
148. The subject site is located within the Kogarah Town Centre. The Town Centre has been divided into ten (10) individual precincts as shown in the map below (refer to Figure 13). The subject site forms part of the Southern Retail Precinct (section 2.10) as shown in the map below.
149. The intention of the controls within the KDCP seek to encourage the redevelopment of the site to accommodate an integrated retail/commercial development, with ancillary uses that support and complement the Kogarah Town Centre. These controls should be read in conjunction with other requirements of Part E1 of the DCP. Where these provisions are inconsistent with those provisions contained in the main body of the DCP, these provisions apply. Table 4 below considers all the controls applicable to this site.
150. Many of the provisions and controls within the DCP have been superceded by the updated KLEP controls. There is an incongruence between the KLEP 2012 and the KDCP 2013 provisions, and the KLEP 2012 development standards prevail. The provisions of the DCP have not been updated to align with the height and FSR changes that have occurred as part of the LEP uplift for this site.

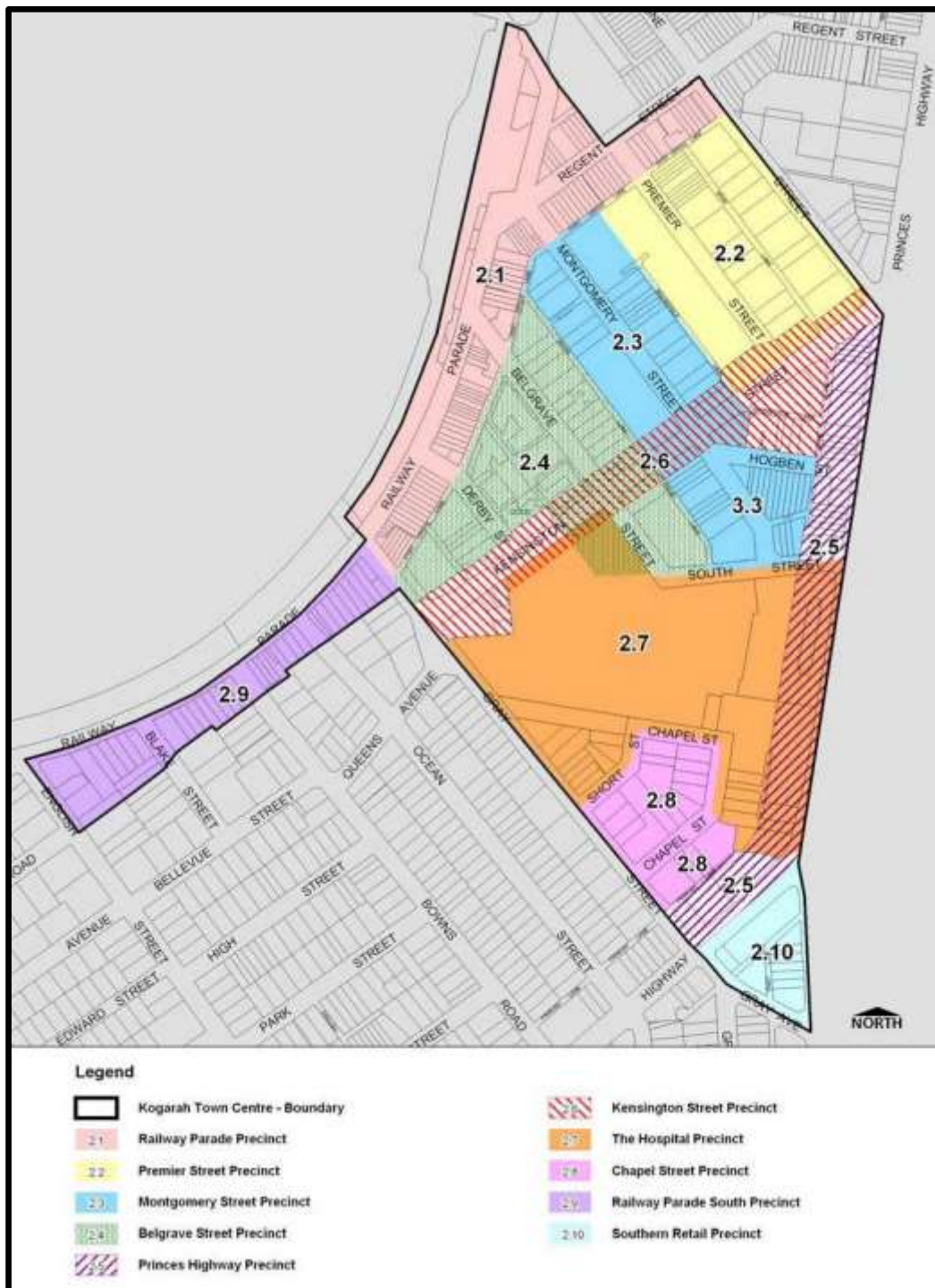


Figure 13: Map of the ten precincts within the Kogarah Town Centre (courtesy: Kogarah DCP)

151. These provisions are addressed in more detail below.

Table 4: Compliance with KDCP provisions

Part B General Controls			
Control	Standard	Proposed	Complies
B1 Heritage Items and Heritage Conservation Areas	Ensure development protects and enhances the environmental and cultural heritage of Kogarah	In respect to the heritage provisions (Part B1) of the KDCP, the site is located within the vicinity of Heritage Item – 193-195 Princes Highway	Yes

		<p>which is listed as item (I99). This item is an old original Federation style cottage. The site is also within proximity to the South Kogarah Conservation Area which is bounded by Bowns Street and Ocean Street to the north west of the site. This area comprises of a series of original Federation style homes exemplifying the original development and residential expansion of Kogarah.</p> <p>The site is not within the visual catchment of these areas and will not affect the integrity and significance of the item and the conservation area.</p>	
B2 – Tree Preservation and Green Web	<p>Development approval is required to ringbark, remove, cut down or destroy any tree that has a height greater than 3.5m or branch spread exceeding 3m in diameter.</p> <p>This locality is within the habitat reinforcement corridor area of the Green Web. In this regard, the provisions of Part B2 Section 2 apply.</p>	<p>There are no trees existing on site so the proposed landscaping will improve the visual qualities of the site and includes some greenery and landscaping to soften and break up the bulk of the building by including landscaping elements at ground floor level around the periphery of the site and also within the central courtyard area.</p> <p>The site is not located within a Green Web habitat.</p>	<p>Yes</p> <p>N/A</p>
B3 – Developments near busy roads and rail corridors	Acoustic assessments for noise sensitive developments as	This part of the KDCCP is relevant as the development is located	Yes

	<p>defined in clause 102 of the Infrastructure SEPP may be required if located in the vicinity of busy, arterial roads.</p>	<p>on a busy arterial roadway and the site is a noisy corner location. The planning control in respect to this section of the DCP states that <i>“Acoustic assessments for noise sensitive developments as defined in clauses 87 and 102 of the Infrastructure SEPP may be required if located in the vicinity of a rail corridor or busy roads”</i>. The issue of noise and potential acoustic impacts have been discussed earlier in this report and the proposal has been designed to comply with Clause 102 of the Infrastructure SEPP.</p> <p>The design of the development has considered the main noise source being the highway and Rocky Point Road and has recessed the spaces and has designed the living spaces to face east or west away from the direct noise source. Bedrooms are located to face the highway but these will be mechanically ventilated and therefore will comply with the acoustic requirements. Given the land use is classified as tourist and visitor accommodation as it will be serviced apartments which will cater for short term accommodation, the requirements for acoustic treatment are not as stringent as the requirements for residential</p>	<p>Yes satisfactory</p>
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		<p>accommodation.</p> <p>The acoustic assessment which accompanies the application suggests implementing a series of measures that will improve the acoustic performance of the development and the public spaces ie swimming pool and communal area of open space. A condition will require compliance is achieved through the construction process.</p>	
<p>B4 – Parking and Traffic</p>	<p>Hotel/Motel accommodation requires one (1) space per unit plus one space per 2 employees. A total of seven (7) employees is proposed at reception and front of house.</p> <p>1 space per 25sqm of retail floor space</p> <p>1 space per 40sqm of gross floor area for commercial uses</p>	<p>The development proposes 55 dual key apartments which results in a total of 110 apartments across the site which generates the need for 110 car parking spaces. The development will be able to cater for those spaces as a total of 130 car parking spaces are provided. A condition will require that one space will be dedicated to every serviced apartment within the complex.</p> <p>The no. of staff generates the need for a further 4 car parking spaces for staff.</p> <p>A total of 263sqm of retail space is to be provided which generates the need for 11 car parking spaces which have been catered for.</p> <p>The conference space has a total floor area of 135sqm which generates the need for four (4)</p>	<p>Yes</p>

	<p>1 Loading Bay per retail space that has a floor area of between 15sqm-500sqm</p> <p>A minimum of 1% of the total number of car parking spaces within the development are to be designated “accessible” spaces for people with mobility impairments.</p> <p>Bicycle parking 1 space per 3 dwellings plus 1 space per 10 for visitors</p>	<p>spaces. There is no actual parking requirements specified for this use however it does state that if a function centre is proposed RMS guidelines should be considered. A conference centre would be similar to a commercial use and as such commercial rates are used in this case.</p> <p>In total 129 spaces are required and 130 spaces are provided which complies with the requirements. All spaces will be specifically marked and allocated to particular uses as per conditions if consent is issued.</p> <p>One (1) Loading Bay is provided</p> <p>A minimum of 2 accessible spaces are required although 8 accessible spaces are provided for.</p> <p>The requirement for bicycle parking is based on the amount of residential dwellings being provided. The serviced apartments is unlikely to attract people arriving by bicycle and people are more likely to drive or arrive by Uber/taxi. The provision of 3 bicycle spaces is</p>	
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	Internal car park layouts, space dimensions, ramp grades, access driveways, internal circulation aisles and service vehicle areas shall be designed in accordance with the requirements set out in AS 2890.1 (2004) and AS 2890.2 (2002) for off street parking and commercial vehicles.	considered satisfactory given that some staff may be locals and could come by bike. A condition will require a minimum of two (2) motor bike spaces to be catered for within the development also. Council's Traffic Engineer is satisfied with the layout, design and arrangement of the car parking and access to this area.	
B5 – Waste Management	Submit a Waste Management Plan (WMP).	The application was accompanied by a WMP which was assessed by Council's Coordinator of Environmental Sustainability. No objection was raised in respect to the design of the garbage and waste disposal area and arrangement subject to standard conditions. It is intended the garbage bins will be collected from Gray Lane.	Yes
B6 – Water Management	Detention storage is to be provided that is equal to or greater than the specified Site Storage Requirements (SSR). Rainwater tank installed to meet BASIX water conservation	The subject site is not located within flood prone land and is not mapped to be affected by overland flow. The development is not subject to the requirements of BASIX and a rainwater tank	Yes N/A

	<p>requirements will be given credit for SSR purpose.</p> <p>Drainage easements servicing stormwater pipes and/or overland runoff from catchments upstream of the development site are to be managed according with Council's guidelines.</p> <p>Discharge of stormwater runoff from a development site is to be undertaken in accordance with the design practice note, Site Drainage and Flood Management regarding direct discharge to kerb, discharge to a Council owned stormwater conduit, discharge to natural areas, discharge through private property and discharge within the development site.</p>	<p>within the development site will not assist with its functionality as there are no large areas of deep soil and all the proposed planter boxes are raised and can be easily watered and the plant species to be selected are largely water tolerant ie succulents.</p> <p>No easement is required as the stormwater drainage arrangement is designed so that water will be captured by gravity to the rear laneway.</p> <p>The application was referred to Council's Stormwater Engineers who assessed the proposed stormwater and drainage arrangement and are generally satisfied with the layout as the development intends on draining to the rear (south) to Gray Lane. Standard conditions in relation to stormwater and drainage are included if approval is granted.</p>	<p>Satisfactory subject to the imposition of conditions.</p>
B7 – Environmental Management	<p>Orient the building, as far as possible, so that the longest side is on the east-west axis.</p> <p>The main facades of a building should be orientated towards the north, preferably within a range of 30</p>	<p>The northern façade faces Princes Highway so although this is a perfect orientation for solar access, it will be facing the key noise source (the highway) so most living spaces have been orientated away from this side although still maintain window</p>	<p>Yes</p>

	<p>degrees east and 20 degrees west of true north.</p> <p>Maximise the number of windows on the northern face of the building.</p> <p>The use of dark coloured roofing is discouraged unless solar cells are integrated into the roof.</p> <p>Minimise glazing on the southern and western sides of the building.</p>	<p>openings along this façade to maximise natural light into these spaces.</p> <p>Window openings along the northern side are sensitively treated and considered given the busy nature of the roadway.</p> <p>The colour palette selected includes darker hues for central podium levels and lighter translucent glazing at the base with darker tones for the upper levels. The colours selected are considered satisfactory.</p> <p>Glazing is minimised along the western side as the building wall is at a nil setback for the first three (3) levels along this side. Windows and balconies are included along the southern elevation which isn't as exposed to noise sources and there is a good level of separation between the development and residential properties further to the south. Glazing is important along this side, despite DCP provisions as maximising solar access into internal spaces is a key objective.</p>	
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Part E1 – Kogarah Town Centre

Local Precinct Character Statement

<p>Southern Retail Precinct</p>		<p>The subject site is located within the southern retail precinct</p>	<p>Yes</p>
<p>Existing character</p>	<p>The key characteristics of this precinct are;</p> <ul style="list-style-type: none"> - It slopes from the north east to south west down to the lane. - Properties are largely single to two storeys in scale. 	<p>The existing character remain largely unchanged</p>	<p>Yes</p>
<p>Future desired character principles</p>	<p><i>Land uses</i></p> <ul style="list-style-type: none"> - Recognise the strategic location of the precinct - Provide a mix of uses which promote employment opportunities - Residential development is discouraged - Include retail/commercial uses potentially integrate a supermarket. <p><i>Street frontages</i></p> <ul style="list-style-type: none"> - Activate street frontages - New development should activate both street frontages - Public domain designed in accordance with Council specifications 	<p>The development satisfies the land use objectives for future development and is not integrating any residential development. It will support the town centre and in particular the health precinct by providing short term accommodation in the area. Retail uses are integrated at the ground level.</p> <p>Both Princes Highway and the rear lane are activated through the design. This is assisted by the creation of a central/formal courtyard area that connects both roadways and provides a link and point of activation by pedestrian movements</p>	<p>Yes</p> <p>Yes</p>

	<p><i>Built form</i></p> <ul style="list-style-type: none"> - Emphasise corners - Heights limited to 4 storeys - Upper levels stepped back - Articulate the built form - Vehicular access from Gray Avenue and a basement/s are encouraged <p><i>Pedestrian movement</i></p> <ul style="list-style-type: none"> - Designed to provide a safe and secure environment for customers, visitors and staff. 	<p>around the site.</p> <p>Designed to satisfy all the future built form objectives, the corner is accentuated through a circular form, upper levels recessed, basement parking included with all vehicular access off the rear laneway. The development is 6 storeys in scale as the KLEP has been updated to reflect increased heights. The development complies with the 21m height limit.</p> <p>Adequately addressed. Entries are well visible and easily accessible. There are also several entry points and with the inclusion of good lighting and reduction of any walls etc the spaces around the development will be safe and encourage movement and activity.</p>	<p>Generally satisfactory</p> <p>Yes</p>
<p>Built Form</p>	<p>The subject site is not identified as a key landmark site within the Kogarah Town Centre.</p>	<p>Although not stipulated as a key site within the Town Centre, this is largely due to the fact it is located on the outskirts/periphery of the centre.</p> <p>Nonetheless, it is considered a landmark site when travelling westward along the Princes Highway and northward along Rocky Point Road. A very sensitive design has been proposed and a series of urban</p>	<p>Yes</p>

		<p>design solutions have been explored the proposed option being the best planning and design solution for this unique corner location.</p> <p>The design is considered to be skilful and will create a built form that should establish a positive contribution to the streetscape and precinct.</p>	
Heritage Items	Schedule 5 of Kogarah LEP 2012 lists heritage items which are protected. Council should be consulted early in the development process for sites that involve heritage items or are in the vicinity of a heritage item.	This issue has been addressed in detail earlier in this report. The proposal will not affect the importance and integrity of any items or areas of conservation significance.	Yes
Consolidation of sites	<p>In considering an application for redevelopment of a site, Council will consider the impact of the proposed development on adjoining allotments of land that will be left as isolated sites and the impact on their future development capacity.</p> <p>A minimum street frontage of 18m is required for buildings taller than 3 storeys to provide a minimum workable building footprint, allowing for adequate car parking and the required setbacks.</p> <p>In this regard, where a site is proposed to be isolated by a proposed development then the applicant must submit to Council, with the development application, the following information:</p> <ul style="list-style-type: none"> - Correspondence indicating that 	<p>The proposal will potentially be isolating 60A Gray Avenue (also known as 26 Princes Highway). This is a former government building (previously occupied by RMS/RTA offices). The Applicants have approached this property owner in an attempt to purchase the site however they have refused all offers.</p> <p>The adjoining owners also own 60B Gray Avenue which comprises of two lots and combined this is a large, consolidated allotment if all three sites are combined so although 60A may seem to be isolated it could in the future be amalgamated with 60B</p>	Yes addressed and considered satisfactory

	<p>negotiations between the owners of the properties commenced prior to the lodgement of the development application.</p> <ul style="list-style-type: none"> - Where no satisfactory result is achieved from the negotiations, the development application should include documentation to demonstrate that reasonable attempts have been made to incorporate the adjoining site/s into the redevelopment and documentation of the negotiations between the owners of the properties 	<p>to create a large consolidated development.</p> <p>The Applicant has submitted an independent Valuation report to Council and provided documentation to confirm legitimate attempts to acquire the site have occurred. In addition a schematic plan for the potential redevelopment of this site can occur in isolation to this development. A massing diagram and section has been provided to show that a basement level can be accommodated with access off Gray Avenue and a total of eight (8) apartments with ground level retail can be accommodated at the site despite the frontage to Princes Highway being 9.1m (not including the corner splay) but the frontage to Gray Avenue is 24m. So although this is a relatively small site (335sqm) it still could accommodate a 5 storey development and if it was consolidated with 60B Gray Avenue there would be an even better planning solution achieved across a larger site.</p> <p>The proposed massing plan is shown in Figure 15 below.</p>	
Building heights	This section of the DCP	The corner element is	Yes

	<p>doesn't include any maximum height for the site. It concentrates heights in the Town Centre.</p> <p>It requests that corner elements should be accentuated.</p> <p>Corner elements may exceed the height controls by up to 4m above the average street wall height.</p> <p>Fifth and sixth storey should be setback and recessed.</p>	<p>accentuated however the height at the corner complies with the 21m maximum height limit.</p> <p>The development includes a three storey podium with the 3rd, 4th, 5th and 6th levels are setback and recessed further from the street to create visual interest and improve articulation.</p>	
Building Density	<p>Floor space within the centre has been allocated to a series of properties within the Town Centre. This site has not been highlighted so the 2:1 FSR designated as part of the KLEP is relevant.</p>	<p>The development exceeds the maximum FSR of 2:1 but the exceedance in this case is considered satisfactory and has been addressed in detail earlier in this report and is accompanied by a Clause 4.6 Statement which justifies the non-compliance and is considered to be well founded.</p>	Yes acceptable
Building alignment	<p>Buildings require highly articulated facades with many projections such as stepped facades, entry porches, bay windows and balconies to provide vertical subdivisions and visual interest in the streetscape.</p>	<p>The DCP does not specify exactly the amount or degree of alignment (street setback) for this site. Along Princes Highway the ground floor is setback just over 2m from the boundary where this area will be taken up by landscaping. The podium levels (1 and 2) are setback 1m and the upper levels (3,4 and 5)</p> <p>At the lane, the building should be</p>	Yes

		<p>setback 3m from the footpath. Building A is setback about 4m which caters for some drop off spaces for taxis or the like.</p> <p>Building B is setback 6m from the rear boundary. The design caters for people arriving or leaving the site at the rear and they are able to walk directly to Rocky Point Road or up to the Princes Highway.</p>	
Laneway dedication	<p>There are a series of sites within the Town Centre where laneway dedications are anticipated, these are largely at North Kogarah or within the Town Centre. This property is not affected by the dedication.</p>	No laneway dedication required in this case.	Yes
Building depth	<p>New buildings are to provide operable windows to all living and working environments.</p> <p>Articulate buildings using courtyards, atria and the like to achieve substantial day lighting, cross ventilation and/or stack ventilation.</p> <p>For commercial development the maximum depth of commercial office floors with windows on one side should be 10m.</p> <p>The maximum depth of commercial office floors with windows on two opposite sides should be 20m.</p> <p>The range of maximum building depth for residential buildings in order to allow natural light and cross ventilation should be 10m – 15m. This includes</p>	<p>All living spaces and bedrooms include window openings.</p> <p>The provision of a generous central courtyard improves articulation and also allows for better separation distances allowing for optimal natural ventilation and solar access to be obtained.</p> <p>The retail spaces have depths of between 7m-8m.</p> <p>The conference centre has a depth of some 9m-10m.</p> <p>The building depth at level 1 and 2 is about 21m but this has been designed to create a</p>	

	sheltered balconies(which is a balcony with a roof over it),sunrooms and the like.	more solid, dominant podium feature the recessed building above has a depth of approximately 16m for Building B and about 19m for Building A which is considered to be the larger more dominant building that addresses the corner.	
Floor to ceiling heights	<p>Floor to ceiling heights should be a minimum of 3m at ground floor level, to allow for a range of uses including retail, commercial offices and home offices.</p> <p>Floor to ceiling heights should be a minimum of 2.7m at upper storeys of buildings, to all habitable rooms to allow for a range of uses, and to improve the environmental performance and amenity of the building.</p> <p>Where the development is fully commercial, floor to floor heights at upper storeys must be a minimum 3.6m to facilitate flexibility in uses and provide useable commercial floor plates.</p> <p>Where the development is fully commercial, the maximum overall height of the building (inclusive of slabs between the floors) is not to exceed the maximum height controls.</p>	<p>The ground floor heights exceed 3m and have floor to ceiling height of 4m is provided for the ground floor level.</p> <p>The floor to ceiling level for the serviced apartments will be approximately 2.6m which is slightly less than the 2.7m but considered acceptable given that this is not a residential development.</p> <p>This is not fully commercial however the ground floor heights proposed at 4m which allows for flexibility in the future.</p> <p>Not proposed to be fully commercial.</p>	Yes
Parking rates	<p>For commercial/retail development and other land uses parking is to be provided at the following rate:</p> <p>(i) 1 space per 40m² for any floor</p>	<p>This issue is discussed in greater detail later in this report.</p> <p>The development provides more than 1% of the total amount</p>	Yes - satisfactory

	<p>space at ground floor level.</p> <p>(ii) 1 space per 50m² for all other floor space above ground floor level.</p> <p>1% of all car parking spaces are to be designated “accessible” spaces for people with mobility impairments, with a minimum of 1 space for facilities such as medical suites.</p> <p>For car parks between 10 to 99 spaces at least one “accessible” space must be provided.</p>	<p>of car parking spaces as accessible. Eight (8) accessible spaces are dedicated for the development which exceeds Council’s requirements.</p>	
<p>Urban Design</p>	<p>This category stipulates a series of controls relating to design, siting, articulation, façade composition, private open space, landscaping, awnings and amenity issues.</p> <p>The key controls are;</p> <ul style="list-style-type: none"> - Corners – street intersection to be addressed as splays, curves and special architectural elements - Flat facades to be avoided, changes in texture and colour encouraged. - Provide horizontal and vertical elements to subdivide the façade 	<p>Corner is a curved articulated element that accentuates this prominent location.</p> <p>The facades are modulated and varied with differing colours, finishes and materials to enhance the visual appearance and break up the bulk and dominance of the development.</p> <p>The design intent is to create a long extended podium structure of varying materials and for the upper levels to be curved and</p>	

	<ul style="list-style-type: none"> - Every apartment is to have at least one balcony directly accessible from the main living area, of minimum size 10m². - The minimum dimension in any direction is to be 2.5m. - There is no minimum size for a bedroom balcony (eg: Juliet balconies). - Step awnings to reflect street level changes - Roof design – articulate roofs and conceal lift over-runs - Visual privacy – buildings are to be setback 6m from a 	<p>articulated and recessed.</p> <p>Almost every serviced apartment has a well-appointed and sized balcony apart from some of the studio units which are small and this is considered satisfactory. The quality and size of the space is suitable for the intended short term stay. These minimum balcony provisions are more a-tuned to a residential development to ensure these spaces are well designed for the future and offer residents high quality spaces and good amenity.</p> <p>An awning feature has been provided which extends beyond the ground floor level. It does not extend beyond the front or rear boundary as this site is not located within the town centre. The awning plan within the DCP does not designate this site to require an awning. The proposed design is considered satisfactory.</p> <p>The roof design includes a raised parapet feature along part of the roof to screen mechanical ventilation and the lift overrun.</p> <p>Building B is located on the boundary for the first three levels</p>	
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	<p>side or rear boundary to ensure appropriate separation is achieved.</p> <ul style="list-style-type: none"> - Balcony separation is 7-8m, screen windows and balconies, offset windows etc - Safety – avoid building recesses and improve safety through lighting and natural surveillance - Signage – signs should enhance the character of the building and not detract from the architectural style of the building. - Housing choice is encouraged and should include ancillary services such as drying facilities etc. 	<p>(podium) but the upper levels are setback over 6m from the western side boundary and at the rear the two buildings are setback between 4-6m but the laneway will increase separation distances and given the uses that adjoining the site and the generous setbacks and physical separation overlooking will be minimised.</p> <p>The uses within the development have been well designed and sited to create a safe and well managed development and immediate environment. It has encouraged greater activation through light, transparent glazed ground floor spaces and a central courtyard with clearly defined points of entry and these will be well lit spaces.</p> <p>No signage is proposed as part of this application</p> <p>These provisions relate to residential developments. N/A for this use.</p>	
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5.7 Southern Retail Precinct – specific precinct controls



Figure 14: Aerial photo and boundary of the “Southern Retail Precinct” as shown in the KDCP.

<p>Building Heights</p>	<p>The maximum number of storeys is 4.</p> <p>The maximum facade height is 12m</p>	<p>The development comprises of two buildings which achieve a six (6) storey scale.</p> <p>The development includes a three (3) storey podium element along Princes Highway which achieves an overall height of 10m which complies with the 12m maximum.</p>	<p>No but the provisions of the KLEP override the DCP provisions. The KLEP recently provided some uplift to this site and these changes have not been reflected within the DCP.</p> <p>Yes</p>
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	<p>Floor to ceiling heights should be a minimum of 4m at ground level.</p>	<p>Minimum floor to ceiling heights of the ground floor level retail tenancies and conference facility is 4m. To achieve this height the floor level is slightly excavated below the existing ground level, however at the worst point (eastern side) this corner ground floor element is accentuated by the provision of additional height in the form of a void in this space.</p>	<p>Yes</p>
	<p>The maximum overall building height (excluding roofs and any projections such as plant, lift shafts, blades or the like) is 15m.</p>	<p>The building exceeds the 15m DCP height control which has been overridden by the LEP development standard of 21m. The building complies with the statutory height limit of 21m.</p>	<p>No but LEP height standard overrides the DCP control and the proposal satisfies the 21m height control.</p>
	<p>The design of the roof and any projections such as plant, lift shafts, blades or the like should minimise view loss from existing buildings on the western side of the Princes Highway.</p>	<p>The RFB's located to the west of the site may have some district views. The height limit on this side of the road is the same as the subject site, a 21m height limit applies.</p>	<p>Yes</p>
	<p>A view analysis is to be submitted with any Development Application indicating the position of the proposal on its site, the location of adjoining buildings and the degree of view loss, if any, resulting from the proposal, particularly where the</p>	<p>A detailed view analysis is not considered applicable given that the proposed development satisfies the statutory height control and provides very generous setbacks to</p>	<p>Satisfactor y – any view loss is not considered to be detrimental</p>

	<p>building exceeds a maximum overall height of 15m.</p>	<p>the sides boundaries and also provides for a central courtyard area where view lines can be maintained or opened up.</p>	
<p>Preferred Land Uses</p>	<p>Supermarket, specialty retail outlets, business premises, commercial premises.</p> <p>Although residential uses are permitted in the zone, they are not encouraged in this location. In this regard, any proposed residential development is to be limited to a maximum of 100m² in total and must be designed to operate independently of any retail/ commercial development including parking and vehicular and pedestrian entries.</p>	<p>The development includes mixed uses with retail tenancies on the ground floor.</p> <p>No residential uses are proposed as part of the development but rather a series of serviced apartments which are defined as hotel and tourist accommodation. This is considered a desirable use and the Applicant maintains there is a shortage of this type of accommodation in the immediate area especially as it is within close proximity to the Hospital and associated health precinct.</p>	<p>Yes</p>
<p>Building Density</p>	<p>The maximum floor space ratio is 2:1, however Council may permit a floor space bonus of up to 1:1 (maximum floor space of up to 3:1) where the applicant prepares a Voluntary Planning Agreement with Council that would provide, at a minimum, the following community benefits:</p> <ul style="list-style-type: none"> (i) Provision of a minimum of 300m² of floor area to be dedicated to Kogarah Council for community purposes; (ii) Provision of a 	<p>The DCP allows for some increased floor space across the site subject to some form of public benefit being offered in return. Although the development is seeking some additional floor space it is less than a 10% and is largely due to the incongruence between the height and floor space control. In order to satisfy the height across the site a 2:1 FSR is too modest and fails to allow the</p>	<p>Yes</p>

	<p>monetary contribution of \$1,500,000 to be used towards further upgrade of streetscape and public domain within the Kogarah Town Centre; and</p> <p>(iii) Upgrade of the streetscape immediately adjacent to the development site.</p>	<p>development to reach is maximum potential (within the permitted controls).</p> <p>The controls in the DCP although permitting greater FSR have not been taken up or considered as part of this proposal.</p>	
Building setbacks	<p>The ground, first and second floor setback is 0m.</p> <p>The third (uppermost floor) = 2m minimum from building facade articulated by greater setbacks at points along the uppermost building line where it fronts any of the thoroughfares defining the site. This 2m setback may be varied with respect to architectural features and entries at corner locations, subject to Council approval.</p>	<p>The first and second floor along Princes Highway are setback 1m. Although not a nil setback 1m is acceptable and this element will act as an awning feature over the ground floor which is recessed and setback about 3m. This design means that all structures are within the boundaries of the site, having an awning over the public footpath in this location will be more dominating and there is no need given this site is on the periphery of the town centre and it takes up the majority of the block.</p> <p>Level 3 and above is setback 3m (Building B) and 4m (Building A). A greater setback for the upper levels will recess these elements further from the street which will soften their appearance and reduce the visual</p>	Yes considered acceptable

		<p>bulk.</p> <p>The proposed setbacks are considered to be acceptable and provide a suitable design response for this site and its immediate surrounds.</p>	
<p>Building Articulation</p>	<p>On Princes Highway and Rocky Point Road, visually break up the building mass both vertically and horizontally with building bays, openings and entries, for example. Strongly model the facades using projecting and recessed windows, projecting panels and louvres. The street facing façade is to be designed to create smaller building elements, particularly along the Princes Highway and Rocky Point Road frontage.</p> <p>Solid blank facades, highly visible ventilation grilles and large expanses of blank walls or glass curtain glass walls must be avoided on the front or street facing sides of the building. They must be treated with windows, entrances, canopies, cornices, and by articulating the facade and/or landscaping/water features. (15) Any street facing façade with a length of more than 15m shall be treated with the following:</p> <p>(i) Projecting or recessed elements in the form of asymmetric bays, that break up the façade of the building to create</p>	<p>The building is well articulated and the form has been designed so as to break up the mass and bulk. This site is difficult in its site planning as it is an extremely long site with a frontage of 93m to Princes Highway. The proposal has been designed to break up the built form by creating two buildings interconnected with a bridging element. The generous eastern and western side setbacks and the central courtyard/formal entrance substantially breaks up the mass and visual length and dominance of the building.</p> <p>The corner has been sensitively designed to create a circular shaped corner element which wraps around the Princes Highway and Rocky Point Road frontage. The ground floor conference room facility includes a tall</p>	

	<p>the illusion of smaller buildings;</p> <p>(ii) Changes in the roof or wall plane;</p> <p>(iii) Varying rooflines;</p> <p>(iv) Changes in materials, textures, finishes and colours; and</p> <p>(v) Reinforcement of the street alignments.</p>	<p>glazed feature which softens the appearance of the lower level and is an appropriate design feature for the corner.</p> <p>The upper levels are recessed and include varying balcony shapes and sizes. The levels above the podium have been designed to be circular in form to reflect the key design intent for development at this key corner location.</p>	
Corner Treatments	<p>Express the corner of the Princes Highway and Rocky Point Road with a special feature that provides an architectural statement to the building.</p> <p>Use of distinctive massing and changes in roof form may be used to mark the intersection as a landmark. The incorporation of other architectural features such as porches, canopies, and display windows at the corner may assist in expressing the corner.</p> <p>The southern portion of the building should also be reinforced as an approach from the south.</p>	<p>As previously mentioned and described the conference room which amounts to an area of over 100sqm is designed to</p> <p>The corner has been accentuated by circular features and the varying materials and finishes differentiate the levels of the building (base, middle and top) with the base reflective of glazing and softer transparent materials to reflect the retail/commercial nature of uses with more solid and darker taller elements being differentiated by powder coated steel cladding and aluminium cladding in varying colours.</p>	
Entry Treatments	The preferred main	The main pedestrian	

	<p>pedestrian entry point is the corner of the Princes Highway and Rocky Point Road. The entrance to the building must be made visible and prominent by using large entry doors, voluminous entry areas, protruding, or recessed entrances and be of exceptional design quality.</p> <p>Awnings need to be differentiated to highlight entry points.</p>	<p>entry is via the central formal courtyard entry space off Princes Highway. This is a large, formal entry which also caters for entry from Gray Lane as buses, taxis and vehicles will all access the site from the rear.</p> <p>Access to the main reception is provided from the front (north) and rear (southern) side.</p> <p>Entries to the retail tenancies is located off the Princes Highway.</p> <p>The ground floor uses are recessed and setback some 2-3m from the roadway with the upper levels acting as an awning and this is setback 1m from the boundary providing an awning and protecting the front of these spaces.</p>	
Traffic, Parking and Servicing	<p>Vehicular access to the development is to be provided from Gray Avenue.</p> <p>On-site car parking is to be provided in accordance with the following requirements: Retail/Supermarket premises = 1 space / 25m² of gross floor area.</p> <p>Office/commercial premises = 1 space / 40 m² of gross floor area</p>	<p>Vehicular access is provided off Gray Lane from the rear which is the preferred method of access to the site.</p> <p>There are three (3) retail tenancies which have a total GFA of 263sqm. This requires the provision of 11 car parking spaces.</p> <p>Retail space 1 requires 5 spaces</p>	<p>Yes</p> <p>Yes</p>

	<p>Cycle and motorcycle spaces shall be provided in accordance with the general requirements in this DCP.</p> <p>1% of all car parking spaces are to be designated accessible spaces for people with mobility impairments.</p>	<p>Retail space 2 generates 3 spaces Retail space 3 generates 3 spaces.</p> <p>The development caters for ten (10) standard spaces and one (1) accessible space designated to the retail components which is compliant.</p> <p>The conference space can be considered to be office space as the DCP does not include a parking rate for this use. In this case, the conference facility will generate the need for 4 car parking spaces and 4 spaces are designated for this use which is satisfactory.</p> <p>The development provides for 3 bike storage spaces on Basement 1 level. No motorbike parking is provided. This could be catered for in Basement 2 next to space 30. A condition will require a minimum of 2 motor bike spaces to be catered for within the development site.</p> <p>A total of 130 spaces are catered for and this generates a need for a minimum of two (2) accessible spaces. The development provides for eight (8) accessible spaces</p>	<p>Partial non-compliance with motorbike requirements, bicycle parking is satisfactory .</p> <p>Yes</p>
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	<p>Off street parking is to be provided underground for any new development.</p> <p>No part of the basement is to be elevated above ground floor level fronting the Princes Highway. Any part basements above ground level along Rocky Point Road and Gray Avenue may be accepted on the basis they are well articulated and incorporated into the overall façade design. Where the basement is elevated above ground floor level, it is to be treated appropriately so as to allow natural light and ventilation and to not detract from the overall design of the development.</p> <p>Loading bay facilities are to be provided to satisfy the needs of the development. A detailed Traffic Report is to be submitted as part of any Development Application.</p>	<p>which complies with Council’s requirement.</p> <p>Two basement levels are catered for.</p> <p>No part of the basements are elevated above the existing ground level. The basement parking levels are designed to be split level to ensure these step down the site to the rear and there are no protruding structures.</p> <p>A designated Loading Bay has been designed at the rear of the site which will cater for all deliveries to and from the site and can cater for buses as well.</p> <p>Traffic assessment has been provided and has been considered as part of this assessment.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes – addressed in more detail below</p>
<p>Plant facilities</p>	<p>To minimise the massing and visual impact of the development, plant rooms/ devices, where possible, should be located in the basement or integrated into the building design, or where located on the roof, any plant should be well setback from all frontages.</p>	<p>The lift overrun and any associated plant and equipment which is proposed on the roof will be appropriately screened by the parapet feature. The development allows for an area of 1.6m in height to cater for any additional</p>	<p>Yes satisfactory</p>

	Any structures placed at a height greater than 15m above existing ground level shall be located so as to minimise any impacts on significant view corridors available to surrounding residents.	features ie mechanical plant. This means that the top of the parapet is at RL36.35 with the lift overrun at RL36.1. Mechanical plant and equipment will be catered for at the front of the site (Princes Highway) where the building is below the overall height and there is capacity for these features to be located. Any plant and equipment will not exceed the parapet height of RL36.35 and this allows for the equipment to have a height of 1.2m. A condition will require the roof plant not to exceed RL36.35.	
Shopping Trolley Management Plan	A Shopping Trolley Management Plan is to be submitted with any Development Application. The Shopping Trolley Management Plan is to outline in detail how shopping trolleys will be managed on the site.	A shopping centre is not proposed as part of this development as such this control is not applicable.	N/A

LPP023-21

Amalgamation and site isolation

152. Site consolidation is encouraged but if site isolation occurs due to the development, the Applicant must satisfy Council that the isolated site may be redeveloped in the future. The KDCP requires the applicant to conduct the following;

153. *“where a site is proposed to be isolated by a proposed development then the applicant must submit to Council, with the development application, the following information:*

- *Correspondence indicating that negotiations between the owners of the properties commenced prior to the lodgement of the development application.*
- *Where no satisfactory result is achieved from the negotiations, the development application should include documentation to demonstrate that reasonable attempts have been made to incorporate the adjoining site/s into the redevelopment and documentation of the negotiations between the owners of the properties”*

154. The owner of the subject site has made reasonable attempts to purchase the adjoining property, 26 Princes Highway which will be isolated to some degree. It can still be

amalgamated with 60B Gray Street to the rear and if consolidated with this site a large and integrated development could be achieved.

155. It can be said that the Applicant has fulfilled the obligations of the DCP in making reasonable attempts to purchase 26 Princes Highway. Since the neighbour was not prepared to accept the offer the Applicant has also provided Council with a generic, schematic design for a potential future development that could be accommodated at the site (refer to Figure 15 below) if it is developed in isolation.
156. Although the minimum frontage of the site, 26 Princes Highway is less than the 18m required given it is a corner site, the frontage to Gray Street exceeds 18m. The Applicant has demonstrated that a small generally compliant infill development can be achieved at the site which will fulfil the requirements of the KDCP. Despite the subject site being redeveloped, the adjoining site still has the ability to be amalgamated in the future with 60B Gray Street.



Figure 15: Schematic 3D Model of a potential redevelopment design for the adjoining property at 26 Princes Highway.

Parking

157. The land uses within the development have been calculated in accordance with the provisions of the KDCP and is outlined in Table 4 above.
158. The following is a break-up of the on-site parking requirements that are generated by the development;
- 110 car parking spaces for the serviced apartments
 - 11 retail car parking space (broken up in the following manner, Retail tenancy 1 requires 5 spaces, Retail tenancy 2 requires 3 spaces and Retail tenancy 3 requires 3 spaces.
 - 4 conference spaces
 - 4 staff parking spaces
159. On this basis a total of 129 spaces are required and 130 proposed which satisfies the requirements.
160. The KDCP includes provisions for most of the uses proposed however there are no specific details on how to calculate parking generated by the conference facility. It is similar to a

commercial use so parking has been determined on that basis, however the KDCP states that if a function centre is proposed RMS provisions should be considered. RMS Traffic generating guidelines outline provisions for a series of uses however are not totally clear on conference centres. There are requirements proposed within the Motel's category which provide some guidance on calculating parking for function/conference centres and states;

161. *"The following parking options apply to situations where the restaurant and / or function room operates entirely independently of the motel:*
- *15 spaces per 100sqm gross floor area of restaurant / function room facility, or.*
 - *1 space per 3 seats, whichever is the greater.*

The total parking provision for motels with restaurants / function rooms may be reduced if it can be demonstrated that the peak parking demand of each facility will not coincide. Factors such as the time of usage, and possible future usage, must be taken into consideration when meeting parking requirements."

162. Based on the RMS guidelines the conference centre would generate the need for 19 spaces which is a substantial amount. The intention of this Conference centre is different to a traditional function centre attached to a restaurant which aims to cater for larger functions i.e birthdays and weddings. The proposed conference centre isn't designed for this purpose as there is no restaurant proposed. Its use is intended to provide talks and conferences and that if food is required would be ordered in. The purpose is for a more professional purpose and unlikely to be utilised on weekends and for social functions. Calculating the demand generated by the conference centre by utilising the commercial use car parking provisions seems more reasonable than the RMS provisions.
163. The other site planning issue relates to the drop off and pick up area which is located at the rear of the site. The intention of this area is to cater for three (3) car parking spaces to act as a drop off and pick up area. The problem with the design is that the two (2) spaces closest to the east will exit the site at a very close section where Gray Lane intersects with Rocky Point Road. It is proposed that at least one space (closest to Rocky Point Road) be deleted and this area replaced with a planter box along the boundary to the lane which will still allow for pedestrian movement through to Rocky Point Road but will remove the eastern most car parking space. The loading bay when not in use can also become a drop off zone.

Amenity, solar access and landscaping

164. The design and internal amenity of all the apartments is well considered and they offer good amenity whether occupied as smaller apartments or as one larger apartment.
165. The building's primary façade faces north and as such the southern façade will experience overshadowing by the built form. The main affected properties are the ambulance headquarters (largely in the afternoon) and 60B Gray Street at the rear (from midday through to the late afternoon). A large proportion of the rear site comprises of an open, at grade car park. The immediately adjoining properties to the south are commercial in nature and therefore the degree of overshadowing is considered acceptable given these are not residential properties. There is some overshadowing to residential properties along Rocky Point Road to the east but this is after 3pm at midwinter and therefore the amount of overshadowing is compliant and these properties are not affected between 9am until 3pm. The separation of the building and the street mitigates the degree as well.

166. There are no minimum requirements for landscaped area, communal open space or minimum amounts of deep soil landscaping for this site. The design includes a well landscaped central courtyard space which includes raised planter boxes which will green the space and assist with way finding. There is also some deep soil areas around the perimeter of the development along the northern and eastern side at the ground floor level. As the ground floor is recessed there are plants and shrubs proposed in front of these spaces. In addition there is a communal area of open space located on the third floor as part of the bridge connection which includes a pool and associated passive landscaped areas for people to enjoy.
167. The landscape design plans prepared by site Image have been well considered and will substantially improve the visual appearance of the development when viewed from the Princes Highway, Rocky Point Road and the rear laneway.

Interim Policy – Georges River Development Control Plan 2020

168. Council at its Environment and Planning Committee Meeting dated 24 June 2019 resolved to adopt the Georges River Interim Policy Development Control Plan which became effective on 22 July 2019.
169. 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 Development Control Plan 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).
170. The Policy focuses on streamlining and consolidating a series of controls relating to dual occupancy, multi-dwelling housing and residential flat building development, the proposed development does not fit into any of these categories as it is a mixed-use development so in this case the interim provisions are not applicable.

DEVELOPER CONTRIBUTIONS

171. The proposed development is mixed use and includes a retail component. The serviced apartment component does not fall under the “*residential accommodation*” definition as it falls within the “*tourist and visitor accommodation*” category in the KLEP. Therefore residential levies cannot be applied to the development.
172. Given that the proposal is not residential Section 7.12 (former Section 94A) contributions are applicable. The Georges River Section 94A Contributions Plan 2017 is applicable for development other than residential. The levy that is applicable is a 1% fee on a development value of greater than \$200,000. The cost of works (which was accompanied by a Detailed Cost summary) is estimated at \$18,507,500. On this basis the monetary contribution is \$185,075.
173. The proposed development Monetary contributions are required under Section 7.12 of the Environmental Planning and Assessment Act 1979, with respect to the proposed development. These contributions have been calculated appropriately and a suitable condition of consent has been included.
174. If in the future the developer seeks to convert the serviced apartments to residential units, an appropriate levy in accordance with Section 7.11 will be imposed and this would require formal development consent and the easement and restriction on title (ensuring the units are serviced in their use) being removed.

IMPACTS

Natural Environment

175. The proposed development is unlikely to result in adverse impacts on the natural environment as the proposal does not seek the removal of any existing trees or vegetation. The proposed development will improve the visual qualities of this precinct and the immediate streetscape.

Built Environment

176. The proposed development is considered to be a well-designed, high quality building that will create a positive and attractive urban design outcome for this site. The proposed built form and its scale and bulk are considered to be commensurate with the anticipated and desired planning and design outcome for the site and will sit comfortably within the context of the locality. It will establish a positive planning outcome and will improve the visual appearance of the site and streetscape.

Social Impact

177. No adverse social impacts have been identified as part of the assessment.

Economic Impact

178. It is foreseen that there will be a positive economic impact as a result of the construction of the development and its success could encourage further investment in redevelopment projects in the locality. It will open up employment opportunities and through the construction of this project engage a series of building trades.

Suitability of the site

179. The site is zoned B4 Mixed Use zone. The proposal is a permissible form of development in this zone comprising of retail uses with a serviced apartment component including ancillary uses such as offices, reception area and a conference facility.

180. The development site is a large, integrated site which is ripe for redevelopment. The proposed scale and the form of the buildings that are proposed is considered to be acceptable given the site considerations, context and nature of adjoining developments.

SUBMISSIONS AND THE PUBLIC INTEREST

181. The application was neighbour notified in accordance with Kogarah DCP 2013 for a period of 14 days. No submissions were received.

182. The development is considered to be in the public interest as the proposal aims to redevelop and improve the environmental qualities of the site and provide for an attractive and well-defined development that will enhance and positively contribute to the area and streetscape.

REFERRALS

Council Referrals

Development Engineer

183. The application was referred to Council's Engineers for comment. No objection was raised in respect to the design of the proposed stormwater/drainage proposal subject to the imposition of standard conditions.

Traffic Engineer

184. The application was referred to Council's Traffic Engineer for comment. In the first instance Council's Traffic Engineer raised the following concerns in their response dated 29 October 2019;

- *In regards to the loading bay, AS2890.2 has been updated to AS2890.2:2018 and under that new update the standard requires a 4.5m minimum vertical clearance for Medium Rigid Vehicles, not 3.5m as stipulated by the developer's Traffic report.*
- *In light of the above can the applicant be requested to please resubmit the swept path diagram in accordance with AS2890.2:2018 requirements.*
- *The location of the development's vehicular access and loading and unloading facilities on Gray Lane, will most likely result in the loss of all the parking along Gray Lane.*
- *The Traffic Impact study did not address this issue or how will the development compensate for the loss of public parking. If this is an unavoidable loss of parking I will need to take it to the Local Traffic Committee to obtain approval. The applicant will need to submit a swept path diagram of the maximum allowable vehicle being an MRV at its start of the journey entering Grays Lane and request application of installing No Stopping restriction along the laneway which I will need to prepare a report to the Traffic Advisory Committee for.*

185. A meeting was held with the Applicant and Council's Traffic Engineer to discuss Council's and TfNSW concerns. Amended plans and details were submitted on 27 January 2021 which was forwarded to Council's Traffic Engineer for comment. On 27 January 2021 Council's Traffic Engineer provided formal advice to state that no objection is raised in respect to the proposed changes subject to the north-eastern wall adjacent to the loading dock and along the entry will need to be amended and splayed. This has been shown in the updated plans and details but will also be conditioned.

186. One of the key concerns raised was that cars are currently parked along the laneway and this would adversely affect vehicular movements along this roadway with two vehicles not being able to pass each other. The lane looks to have signage that has been removed and it is unclear whether these signs restricted parking or prohibited it. Council's traffic engineer looked into this matter and has provided the following advice;

- *There used to be "No Parking" signs located on the eastern side of Gray Lane adjacent to the site. Due to the narrowness of the lane and it functioning as two-way, vehicles cannot park on either side as it restricts vehicle movements. During the demolition works, these signs were removed and have yet to be reinstated. When the construction fence is removed Council will be reinstalling the missing signs and as a result vehicles will not be able to park in the lane at the rear of the station.*
- *Gray Street and Rocky Point Road adjacent the site are currently signposted as "No Stopping" zones and cannot be modified to allow parking in these streets.*
- *Therefore, there are no locations available on the street adjacent to the new station where vehicles will be legally able to park.*
- *There are unrestricted, "2 Hour" and "4 Hour" parking spaces as well as numerous Bus Stops and Kogarah Train Station within a short distance of the new station that employees can utilise.*

187. The traffic and access arrangements are now considered to be adequately addressed through conditions and the design. Council will need to reinstate the signs along the laneway to restrict all parking along the lane.

Environmental Health Officer

188. Council's Environmental Health Officer has raised no objection subject to the implementation of conditions if approval is recommended. Specific conditions are included.

External Referrals

Transport for New South Wales (TfNSW)

189. The application was referred to TfNSW (former Road and Maritime Services) in accordance with Clause 102 of State Environmental Planning Policy (Infrastructure) 2007.

190. RMS provided a formal response on 20 October 2020 and raised the following concerns with the scheme;

- *Whilst TfNSW supports access via Gray Lane, however is concerned regarding the potential safety and network efficiency issues of Grays Lane with the two-way traffic flow (which includes heavy vehicles) movement along the laneway. This could potentially impact the safety and operation of the adjoining classified network (Rocky Point Road).*
- *TfNSW request that the access arrangement is assessed ensuring that two-way movements can be accommodated with the proposed largest vehicle size, with a queueing assessment undertaken. Consideration may need to be given to widen Rocky Point Road intersection to accommodate heavy vehicles servicing the site.*
- *In addition to the above, TfNSW will require the proponent to extend the existing median island on Rocky Point Road to restrict right turns into the laneway. This should be reflected in the plans and amended traffic assessment.*
- *The proposed development will generate additional pedestrian movements in the area. Pedestrian safety is to be considered in the vicinity. In this regard, the proponent should undertake an assessment of the pedestrian facilities in the area including the surrounding intersection to ensure that they meet the demands of the development.*

191. The Applicant provided additional information on 27 January 2021 in respect to swept path diagrams along the rear laneway showing that a medium rigid vehicle can pass a car along the rear lane. It also shows that two cars can pass when entering and leaving the basement subject to the slight relocation of the wall along the northern side of the ramp. This will be conditioned as part of the consent.

192. Furthermore, on 11 March 2021 TfNSW provided concurrence to the application subject to the Developer paying and upgrading the existing signalised intersection between Rocky Point Road and Princes Highway to become a "push button" signalised pedestrian crossing. Given that the development includes a retail component it may attract more pedestrian movements and given that there are a series of schools and educational establishments to the south, pedestrian safety is paramount and this initiative should improve safety for residents and students.

193. Conditions relating to the design and construction of this additional public facility are included and will need to be satisfied prior to the issuing of the Construction Certificate. TfNSW has also included some standard conditions in relation to road works as the site adjoins an arterial road. Once condition states that all works are to be located within the site boundaries and it seems that the raised planter boxes adjoining the Princes Highway may be slightly converging onto the public footpath, external to the site boundary. This is considered to be minor and can be rectified by the detailed plans submitted with the Construction Certificate.
194. The Applicant has reviewed the TfNSW conditions and at this stage does not raise any objections although they were concerned with the costing.

Ausgrid

195. The application was referred to Ausgrid in accordance with Clause 45 of the Infrastructure SEPP. Ausgrid provided a formal standard response which requires the Developer to consider the location of overhead powerlines and not to interfere with underground cables whilst construction is occurring. A standard condition is included that requires Ausgrid approval in the form of a Section 73 Certificate which needs to be issued prior to the Construction Certificate is issued.

Sydney Airports

196. The application was referred to Sydney Airports in accordance with Clause 6.5 of the KLEP. On 23 August 2019 Sydney Airports provided a formal response and raised no objection to the proposed development as the height of the prescribed airspace at this location is 51m AHD and the development is well below this.
197. The referral makes note that the applicant will require separate approval for the use of a crane. Standard conditions are included to ensure that the Applicant is aware of the Sydney Airport requirements.

NSW Police

198. In accordance with Section 4.15 of the EP and A Act, NSW Police have reviewed the proposal and has considered any potential crime risks. The following recommendations are made;
- Installation of CCTV cameras within and around the development.
 - Improved lighting around the footpaths and car park areas within the development.
 - Landscaping that promotes natural surveillance of common areas.
 - Underground car park that does not have hidden areas or dark spots
 - The mailbox must be located on the property to reduce excuse making opportunities by offenders.
 - The number of each level must be prominently displayed adjacent to the elevators and fire stairs to assist users of the property identify locations particularly in emergency situations.
 - Signage needs to be provided at fire exits to assist occupants to identify exits in emergency situations.
199. In addition to these requirements and recommendations, NSW Police have requested that a Crime Risk Assessment report and Crime Prevention Through Environmental Design report be prepared and a Closed-Circuit Television plan be provided. These reports are requested to be prepared prior to the issuing of an Occupation Certificate and are conditioned if consent is to be granted.

200. Subject to the consideration and implementation of the above matters the development is acceptable.

Water NSW

201. The application was referred to Water NSW as concurrence is required in accordance with Section 90 of the Water Management Act. GTA's were provided on 6 May 2021 which form part of this consent and concurrence was formally issued.

CONCLUSION

202. 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 acceptable planning and urban design outcome for this site and will not adversely affect the amenity of adjoining properties. It will have a positive contribution to the character of development in the street and immediate locality.

203. The proposal has been assessed against the provisions of the KLEP 2012 and KDCP 2013 and the proposal satisfies the key planning controls apart from a variation proposed to the floor space control. An amended Clause 4.6 Statement has been submitted in relation to a minor variation control being sought. In this case the non-compliance is considered to be minor and the statement and justification for the variation is considered to be well founded and reasonable given the circumstances.

204. The proposed development satisfies the objectives of both the height, floor space control standards and is consistent with the zone objectives of the KLEP.

205. Following detailed assessment contained within this report, it is recommended that DA2019/0337 be approved subject to a series of conditions being imposed if consent is to be granted.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

206. The reasons for this recommendation are:

- The proposed development generally complies with the requirements of the relevant environmental planning instruments and development control plan.
- The proposed development is well considered and sensitively designed so that it will not result in any unreasonable impact on the natural and built environment.
- The proposed land uses are permissible in the zone and satisfy the zone objectives.
- The building will not adversely affect the amenity of any immediately adjoining properties in terms of unreasonable overlooking, overshadowing or view loss.
- The proposal aims to provide a high-quality, contemporary mixed use development in an accessible location in accordance with the planning and design requirements for development of this nature in this precinct.

Determination

- A. THAT the Georges River Local Planning Panel, as the consent authority, support the request for variation pursuant to Clause 4.6 of Kogarah Local Environmental Plan 2012, in relation to the Floor Space Ratio (Clause 4.4) control as the variation is considered to be well founded and in the public interest.
- B. THAT, the Georges River Local Planning Panel as the consent authority, pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979 (as amended) grants deferred commencement consent to Development Application

DA2019/0337 for the construction of a six (6) storey mixed use development comprising of three (3) ground floor retail tenancies, a total of fifty six (56) dual key serviced apartments, ancillary uses including a conference facility and reception area including two basement car parking levels catering for a total of one-hundred and thirty (130) car parking spaces at Lot 1, DP 1108502, and known as 8-10 Princes Highway (or 2-24 Princes Highway), Kogarah subject to the following conditions:

The Development Application described above has been determined by the granting of a Deferred Commencement Consent subject to the conditions specified in this notice.

This Development Application is a Deferred Commencement Consent under Section 4.16(3) of the Environmental Planning and Assessment Act 1979. Strict compliance is required with **all conditions appearing in Schedule 1** within **thirty-six (36) months from the Determination Date of this consent**. Upon confirmation in writing from Georges River Council that the Schedule 1 Conditions have been satisfied, the consent shall commence to operate as a Development Consent for a period of five (5) years from the **Determination Date of this consent**.

Schedule 1

Deferred Commencement Conditions

A. **Deferred Commencement – Separate development approval** - Pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, this consent will not operate until such time as the following requirements are satisfied:

(1) **Design changes** – Detailed architectural plans, drawn to scale, A3 size, coloured and prepared by a Qualified Architect are to be submitted to show the following details;

- (i) The external perforated screens proposed to the balconies of serviced apartments located within Building A and B along the northern and southern side at the first and second floor level to apartments B101, B102, B103 B104, B105, B106, A104, A105, A106, A107 and B201, B202, B203, B204, B205, B206 and A204, A205, A206, A207 shall be better detailed.
- (ii) A detailed design of the privacy screens shall be submitted and alternative designs considered to open up some balconies and reduce the extent of the screening. This can be achieved in the following manner;
 - The balconies along the northern side on levels 1 and 2 shall have glass balustrades and include one or two fixed or sliding full height perforated screens situated on the outside of the balcony to ensure parts of the balcony are exposed and open or;
 - The perforated screens are retained and fixed but include large geometric cut outs (as shown on the schedule of materials and finishes (mood board)) that are off-set and staggered to add interest to this part of the façade and open up the balconies. Where there are open sections within the screens these shall include a glass balustrade behind the screen.
or
 - Provide a more detailed design of the screens and their intended visual appearance, operation and functioning as proposed as part of the application with the intention of the design for any screens providing greater transparency than shown on the elevations.

The detailed plan/s shall include the proposed materials, colours and finishes of the screens.

- (iii) The proposed fixed perforated screens located above the conference centre around the upper level void shall be maintained as this feature adds to the architectural integrity of the building along this prominent corner.
- (iv) Apartment B207 on Level 2 shall be deleted and the bridge element redesigned. The bridge along this level shall become an open breezeway allowing for pedestrian connectivity between the two buildings. The bridge may need to cater for the underside of the pool (which is located above on Level 3 above) and any associated plant and equipment. This shall be sensitively designed.
- (v) The bridge shall not include any louvres or be enclosed along either side (apart from the acoustic screening required around the periphery of the pool, plant and equipment) and include a standard solid balustrade. A detailed elevational design of this feature shall be submitted to Council.
- (vi) The rear drop-off zone shall be redesigned so that the easterly most car parking space designated as “drop off” shall be deleted. Diagrams showing vehicles entering and exiting this zone from the lane shall be provided.

Documentary evidence as requested or the above information must be submitted within **thirty-six (36) months** of the granting of this deferred commencement consent. Activation of this Consent cannot commence until written approval by Council is given advising Section A is satisfied.

Subject to Schedule 1 above being satisfied the development is to be carried out subject to the following conditions as referenced in Schedule 2.

Schedule 2 **DEVELOPMENT DETAILS**

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

Description	Reference No.	Date	Revision	Prepared by
Cover Page	DA-00	16/9/2020	B	SWA Group Architects
Site Analysis	DA-02	16/9/2020	A	SWA Group Architects
Site Contextual Plan	DA-03	16/9/2020	A	SWA Group Architects
Mood Board	DA-04	18/9/2020	A	SWA Group Architects
View Analysis	DA-05	16/9/2020	A	SWA Group Architects
Artists Impression A	DA-06	16/9/2020	B	SWA Group Architects
Artists Impression B	DA-07	16/9/2020	B	SWA Group Architects

Basement 1 and 2 Floor Plan	DA-11	17/9/2020	A	SWA Group Architects
Ground Level and Level 1 Floor Plans	DA-12	16/9/2020	B	SWA Group Architects
Level 2 and Level 3 Floor Plans	DA-13	16/9/2020	A	SWA Group Architects
Level 4-5 and Roof Plan	DA-14	16/9/2020	A	SWA Group Architects
Elevations	DA-21	16/9/2020	A	SWA Group Architects
North Elevation	DA-22	16/9/2020	A	SWA Group Architects
South Elevation	DA-23	16/9/2020	A	SWA Group Architects
East and West Elevations	DA-24	16/9/2020	A	SWA Group Architects
Section A	DA-31	16/9/2020	A	SWA Group Architects
Section B	DA-32	16/9/2020	A	SWA Group Architects
Section C	DA-33	16/9/2020	A	SWA Group Architects
Section D	DA-34	16/9/2020	A	SWA Group Architects
Section 1_A	DA-35	16/9/2020	A	SWA Group Architects
Section 1_B	DA-36	16/9/2020	A	SWA Group Architects
GFA Calculations	DA-51	16/9/2020	A	SWA Group Architects
3D Height Control studies	DA-52	16/9/2020	A	SWA Group Architects
Stormwater plans	PS01-E100, PS01_E101, PS01-E102, PS01-E200, PS01-E400	22/09/2020	C	Martens and Associates
Landscape Plans Job No.SS19-4061	000	4/09/2020	D	Site Image
Landscape Plans Job No.SS19-4061	001	16/09/2020	E	Site Image
Landscape Plans Job No.SS19-4061	101	16/09/2020	E	Site Image
Landscape Plans Job No.SS19-4061	102	4/09/2020	D	Site Image
Landscape Plans Job No.SS19-4061	103	27/7/2020	C	Site Image
Landscape Plans Job No.SS19-4061	501	27/7/2020	C	Site Image
Landscape Plans Job No.SS19-4061	502	27/7/2020	C	Site Image

Survey Plan	DA-08	11/9/2020	A	Site Image
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SEPARATE APPROVALS REQUIRED BY OTHER LEGISLATION

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

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

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

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;
- (g) Constructing a vehicular crossing or footpath;
- (h) Establishing a “works zone”;
- (i) Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of connections to utility providers);
- (j) Stormwater & ancillary works in the road reserve; and
- (k) Stormwater & 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 Council’s website www.georgesriver.nsw.gov.au. For further information, please contact Council’s Customer Service Centre on (02) 9330 6222.

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

REQUIREMENTS OF CONCURRENCE, INTEGRATED & OTHER GOVERNMENT AUTHORITIES

4. **Transport for New South Wales** – The following requirements need to be satisfied;

Deferred commencement conditions (to be satisfied prior to the issuing of the Construction Certificate):

- i) Access on Rocky Point Road is restricted to left-in, left-out via the extension of the existing raised concrete median. As such, the design and construction of the raised

concrete median on Rocky Point Road shall be in accordance with TfNSW requirements. Details of these requirements should be obtained by email to developerworks.sydney@transport.nsw.gov.au.

Detailed design plans of the proposed raised concrete median are to be submitted to TfNSW for approval prior to the issue of a construction certificate and commencement of any road works. Please send all documentation to development.sydney@transport.nsw.gov.au.

A plan checking fee and lodgment of a performance bond is required from the applicant prior to the release of the approved road design plans by TfNSW.

- ii) The existing Traffic Control Signals (TCS) site at the intersection of Princes Highway / Rocky Point Road shall be upgraded to meet TfNSW requirements, which will include a pedestrian crossing facility in the design. The TCS plans shall be drawn by a suitably qualified person and endorsed by a suitably qualified practitioner.

The submitted design, including SIDRA traffic modelling, shall be in accordance with Austroads Guide to Road Design in association with relevant TfNSW supplements (available on www.rms.nsw.gov.au). The certified copies of the TCS design and civil design plans shall be submitted to TfNSW for consideration and approval prior to the release of a construction certificate and commencement of road works. Please send all documentation to development.sydney@transport.nsw.gov.au.

TfNSW fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.

The developer will be required to enter into a Works Authorisation Deed (WAD) for the abovementioned works.

- iii) Any new building or structures, together with any improvements integral to the future use of the site are wholly within the freehold property unlimited in height or depth along both the Princes Highway and Rocky Point Road Boundaries.

To comply with the above, the proposed raised garden bed and retaining walls, as shown on the Landscape Plan (page 3 in plan 20200925 - Amended- Landscape Plan_2-24 Princes Highway Kogarah CNR- 12830) are not considered to be standard landscaping, but rather a permanent raised structure that encroaches upon the Princes Highway road reserve. Revised plans shall be submitted to TfNSW prior to the issuing of a construction certificate, demonstrating that no structures are within the road reserve. Please send to development.sydney@transport.nsw.gov.au.

TfNSW Standard Conditions

- iv) The redundant driveways on Princes Highway shall be replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Princes Highway shall be in accordance with TfNSW requirements. Details of these requirements should be obtained by email to DeveloperWorks.Sydney@transport.nsw.gov.au

Detailed design plans of the proposed kerb and gutter are to be submitted to TfNSW for approval prior to the issue of a construction certificate and commencement of any road works. Please send all documentation to development.sydney@transport.nsw.gov.au.

A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved road design plans by TfNSW.

- v) All vehicles are to enter and exit the site in a forward direction.
- vi) All vehicles are to be wholly contained on site before being required to stop.
- vii) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2020/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by TfNSW. Please send all documentation to development.sydney@transport.nsw.gov.au.

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

- viii) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to development.sydney@transport.nsw.gov.au

A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.

- ix) The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004, AS2890.6-2009 and AS 2890.2 – 2018 for heavy vehicle usage. Parking Restrictions may be required to maintain the required sight distances at the driveway.
- x) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Princes Highway and Rocky Point Road.
- xi) A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Princes Highway and Rocky Point Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>

Should you have any further inquiries in relation to this matter, please do not hesitate to contact Hans Pilly Mootanah, Land Use Planner, on telephone 8849 2076 or by email at development.sydney@transport.nsw.gov.au.

5. **Ausgrid** - The following requirements need to be satisfied in the construction of the development;
- a) **Overhead Powerlines** - Safe work NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding. The “as constructed” minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website, www.ausgrid.com.au It remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite. Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost. It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected to be entering and leaving the site.
 - b) **Underground Cables** - Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Safework Australia – Excavation Code of Practice, and Ausgrid’s Network Standard NS156 outlines the minimum requirements for working around Ausgrid’s underground cables. Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.
6. **Water NSW** – Water NSW has issued a series of General Terms of Agreement (GTA’s) on 6 May 2021 which form part of this approval. The GTA’s are attached at Appendix A to this consent.
- The attached GTAs issued by WaterNSW do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to WaterNSW for a Water Supply Work approval **after consent** has been issued by Council **and before** the commencement of any work or activity.
7. **Water NSW** – If plans or documents are amended and these amendments significantly change the proposed development or result in additional works or activities that relate to any excavation which interferes with an aquifer. WaterNSW will ascertain from the notification if the amended plans require review of the GTA. This requirement applies even if the amendment is part of Council’s proposed consent conditions and do not appear in the original documentation.
8. **Sydney Airport** - A Crane application may need to be applied for if the construction requires the utilisation of a Crane. Approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct.

The Applicant is to obtain the relevant approval from Sydney Airport prior to the issuing of a Construction Certificate.

9. **Sydney Water – Tap in TM** - The approved plans must be submitted to a Sydney Water Tap inTM 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 inTM agent has appropriately stamped the plans prior to the issue of the Construction Certificate.
10. **Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements of what will eventually be required when issuing a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the 'Plumbing, building and developing' section of the web site www.sydneywater.com.au then refer to 'Providers' under 'Developing' or telephone 13 20 92 for assistance.

Following application, a 'Notice of Requirements' will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, as it can take some time to build water/sewer pipes and this may impact on other services and building, driveway or landscape design.

The Notice of requirements must be submitted prior to the commencement of work. A Section 73 Compliance Certificate will be required at the completion of development in accordance with further conditions.

11. **Electricity Supply** - An application is required to be made to Ausgrid for a network connection. This may require the network to be extended or its capacity augmented. Evidence of this application being lodged with Ausgrid is required to be provided to the Certifying Authority prior to the issue of a Construction Certificate. For further details, you are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services).
12. **Electricity Supply to Development** – All existing overhead power lines within or adjacent to the development site shall be relocated underground to Energy Australia standards and specifications. If not practicable to relocate the power line underground, arrangements shall be made with Energy Australia to place the conduit to carry those power lines underground so that they can be utilised at a later date by Energy Australia. In this regard all associated costs shall be borne by the applicant.
13. **NSW Police** – The following requirements will need to be implemented as part of the design and construction of the development;
 - a) Installation of CCTV cameras within and around the development.
 - b) Improved lighting around the footpaths and car park areas within the development.
 - c) Landscaping that promotes natural surveillance of common areas.
 - d) Ensure the underground car park does not have hidden areas or dark spots
 - e) The mailboxes must be located on the property to reduce excuse making opportunities by offenders.

- f) The number of each level must be prominently displayed adjacent to the elevators and fire stairs to assist users of the property identify locations particularly in emergency situations.
- g) Signage shall be provided at fire exits to assist occupants to identify exits in emergency situations.

Compliance shall be shown prior to issuing the Construction Certificate.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

14. **Fees to be paid** - The fees listed in the table below will 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 will 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 will 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 (footpaths and roadworks) 93.04m to Prince Highway - \$114,997.44 45.8m for Gray Lane - \$56,608.80	\$171,606.24 (calculation based on \$1,236.00 per metre of street frontage)
Inspection Fee for Refund of Damage Deposit (minimum of two (2) inspections at \$371 per inspection)	\$742.00
DEVELOPMENT CONTRIBUTIONS	
Kogarah Section 94A Development Contributions Plan	\$185,075.00
Total S94 Contribution	\$185,075.00

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.

Indexation

The above contributions will be adjusted at the time of payment to reflect changes in the cost of delivering public amenities and public services, in accordance with the indices

provided by the relevant Section 94 Development Contributions Plan.

Timing of Payment

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

Further Information

A copy of all current Development Contributions Plans may be inspected at Council's offices or viewed on Council's website www.georgesriver.nsw.gov.au.

15. **Public Domain works plan** – Prior to issuing the Construction Certificate, a Public Domain Works Plan is to be prepared which shall provide details on how the public domain will be treated and landscaped. The following details are to be provided;
- a) New kerbing to be provided across the full frontage of the site along Princes Highway, Rocky Point Road and Gray Lane. All redundant crossings are to be removed and reinstated with Council's standard kerb and gutter.
 - b) New footpath paving consisting of segmental paving to be detailed in public domain plans which are to be submitted to Council for approval prior to Construction Certificate.
 - c) The Applicant is required to submit Public Domain Plans which are to consist of full civil engineering drawings to Australian Standards. Inclusive of new kerbing long sections, cross sections, driveway, drainage, paved footpath, landscape and tree pits, and in accordance with Councils "Public Domain Streetscape Works Specification".
 - d) The public domain works shall be constructed in accordance with the approvals and specifications issued under the "Application for Driveway Crossing and Associated Works on Council Road Reserve" Roads Act 1993 Section 138 Approval issued by Council's Assets and Infrastructure Division. Applications to be made at Georges River Council Customer Service Centre.
 - e) Given the site's location it may be required to remove any public grass verges along the Princes Highway and Rocky Point Road and replace with paving to a design specification that is to the satisfaction of Council's Asset and Infrastructure Division.

The Public Domain Plan must be approved by Council's Assets and Infrastructure Division prior to issue of Construction Certificate. **In this regard it is required to discuss the layout for public domain works with Councils Assets and Infrastructure staff prior to preparing designs.**

A separate application approval is required under section 68 Local Government Act 1993 for any modifications to Council's drainage network.

A private contractor shall carry out the above work, at the expense of the applicant and in accordance with the approved Specifications for works.

The driveway and road frontage (Public Domain) works are to be completed before the issue of the Occupation Certificate.

16. **Building services** - Prior to the issue of a Construction Certificate the applicant may be required, under Clause 144 of the Environmental Planning & Assessment Regulation,

2000 to seek written comment from Fire and Rescue (FR) NSW about the location of water storage tanks, construction of hydrant/booster pump and valve rooms, and any Fire Engineered Solution developed to meet the performance requirements under the Category 2 Fire Safety Provisions.

The applicant is also advised to seek written advice from FR NSW on the location and construction of the proposed Fire Control Centre Facility and location and installation of the sites Fire Indicator / mimic Panels.

17. **Fit out of retail premises** – Separate development approval may be required for the first use and fit out of the retail tenancies.
18. **Allocation of street addresses** – In order to comply with AS/NZS 4819:2011 Rural and Urban Addressing, the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements, the street address for the subject development is allocated as follows:

Primary Address

- 8 Princes Highway, Kogarah.

Unit Addresses

- The proposed unit numbers are provided as Appendix B to this consent.

Details indicating compliance with this condition must be shown on the plans lodged with any Construction Certificate for approval.

Additional comments

Please note that the allocated unit addresses may be different to what was noted on the plan.

If there are modifications or changes to the number of units during the DA process, please advise the GIS team before the final approval.

Details indicating compliance with this condition must be shown on the plans lodged with and Construction Certificate for approval.

19. **Strata title** – Converting the apartments to strata title is not permitted.
20. **NBN Connection** - Prior to the issue of the Subdivision or Construction Certificate in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:
 - (i) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
 - (ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

(Note real estate development project has the meanings given in section 372Q of the Telecommunications Act).

21. **Damage Deposit - Major Works** - In order to insure against damage to Council property the following is required:
- (a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$171,606.24**
 - (b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee (for two inspections) to enable assessment of any damage and repairs where required: **\$742.00**.
 - (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.

22. **Design changes** - The following changes are required to be made and shown on the **Construction Certificate** plans:
- (a) The wall along the entry ramp down to the basement from the ground floor adjacent to the loading bay shall be redesigned in accordance with the diagrams prepared by Terraffic Pty Ltd.
 - (b) Bollards shall be installed at the rear of the loading bay (western side) before it meets up with the entry to the access ramp to ensure there is a free and safe path of travel for people accessing the ramp which is located at the rear of Building B.
 - (c) All design changes that were satisfied as part of the deferred commencement conditions shall be included as part of the Construction Certificate.
 - (d) Two (2) motorbike parking spaces shall be designated in the basement.

Amended plans detailing compliance with the above specifications shall be submitted to Council and shall be to the satisfaction of Council's delegate.

23. **Use of the area of open space, swimming pool and gym** - A Plan of Management (POM) for use of Level 3 communal area of open space and gym must be submitted for approval of Council's delegate prior to the issuing of the Construction Certificate. The POM must outline the following:
- (i) The hours of use of the communal area and swimming pool shall be restricted from 7am until 10pm;
 - (ii) maximum number of users at any one time shall be fifteen (15) persons at any one time is recommended) given the size of the space;
 - (iii) The POM shall outline provisions and rules to maximise the safety (fire safety and

general safety) for users of this area.

- (iv) No amplified music is to be played;
- (v) Identify other measures to ensure that the amenity and safety of persons within the development and in nearby existing and future development is maintained.
- (vi) The hours of operation of the gym shall be restricted to 6am to 10pm.
- (vii) Rules shall be established around using the gymnasium including training with a towel is compulsory, keeping spaces and equipment clean, COVID safe, training and using the equipment in the correct manner, children under 18 years of age are not permitted to use the gym etc.
- (vi) Location and type of signage to be installed in the building to notify residents and visitors in respect to the use of these spaces.
- (vii) The POM shall be included as part of the Terms and Conditions of leasing any apartment.

The POM shall be prepared and shall be to the satisfaction of the Certifying Authority and in accordance with the provisions of this condition.

24. **Plan of Management for the Serviced apartments and Conference Centre** – A Plan of Management shall be prepared which specifies the terms and conditions of using the apartments. The POM is not limited to the following but should outline;

- The Booking process and rates
- Payment details and refunds
- Operational requirements (key collection, arrival/departure etc)
- Guest responsibilities
- Management and cleaning

The plan shall be to the satisfaction of Council and shall be prepared prior to the issuing of the Construction Certificate.

25. **Parking and Layout** – The development shall comply with the following requirements;

- Parking spaces shall be clearly designated (sign posted and marked on ground) and line marked prior to the issuing of an Occupation Certificate. Signage, pavement symbols and line marking shall comply with Australian Standards, AS1742, Manual of Uniform Traffic Control Devices and NSW Road Transport (Safety and Traffic Management) Regulations 1999.
- Driveway access to comply with figure 3.3-Minimum Sight Lines for Pedestrian Safety as per AS 2890.1:2004 of the Australian Standard for off-street car parking. Figure 3.3 specifies the minimum sight lines for pedestrian safety along a circulation driveway or domestic driveway.
- Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distance requirements stipulated in the Australian Standards AS2890.1.
- The maximum size of truck/service vehicle using the proposed development shall be restricted to Medium Rigid Vehicle.

- All vehicles shall enter and exit the premises in a forward direction.
 - No deliveries to the premises shall be made direct from a public place or street inclusive of footpaths, nature strip, roadway and car parks.
 - All loading and unloading of vehicles in relation to the use of the premises shall take place wholly within the dedicated loading/unloading areas, which is wholly within the site.
26. **Parking and layout** - The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004, AS2890.6-2009 and AS 2890.2 – 2002 for heavy vehicle usage. Parking Restrictions may be required to maintain the required sight distances at the driveway.
27. **Access** - Sight distances from the proposed vehicular crossings to vehicles on Gray Lane are to be in accordance with the Austroads Guide to Road Design: Part 4A: Unsignalised and Signalised Intersections (Section 3 – Sight Distance) and AS 2890. Vegetation and proposed landscaping/fencing must not hinder sight lines to and from the vehicular crossings to motorists, pedestrians and cyclists.
28. **Manoeuvrability** - The swept path of the longest vehicle (including garbage trucks, building maintenance vehicles and removalists) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
29. **Parking and access** - A “No Stopping” zone should be implemented along the Gray Lane frontage of the property.
30. **Materials and finishes** - The proposed materials and finishes selected shall be non-reflective and shall be of the highest quality minimising the need for regular maintenance.
31. **Construction materials** - Any proposed cladding shall be constructed of fire-resistant materials which comply with the requirements of the National Construction Code (NCC) 2019 Volume (1) One Building Code of Australia (BCA). Details of the proposed materials and finishes shall be to the satisfaction of the Principal Certifier.
32. **Mechanical ventilation** – Any proposed mechanical ventilation system will need to satisfy Council’s requirements and those stipulated by the National Construction Code and AS1668.2-2002. Details of the proposed Mechanical Ventilation system shall be provided to the Certifier and shall be sensitively located to minimise visual appearance of these ancillary structures and in a way to minimise any noise or visual impacts from adjoining properties.
33. **Location of mechanical ventilation** – if any mechanical ventilation is to be located on the roof it shall not exceed a maximum height of RL36.35.
34. **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.
35. **Fire Safety Measures** - Prior to the issue of a Construction Certificate a list of the

essential fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a construction certificate, which is required to be submitted to either Council or a PCA. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or PCA will then issue a Fire Safety Schedule for the building.

36. **Construction Traffic Management Plan** - A Construction Traffic Management Plan detailing:
- (a) construction vehicle routes;
 - (b) anticipated number of trucks per day;
 - (c) hours of construction activity;
 - (d) Access arrangements; and
 - (e) Proposed traffic measures to minimise impacts of construction vehicles must be submitted for the approval of Council's Engineers. Council's Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.

The Construction Traffic Management Plan may require approval from Roads and Maritime Services.

37. **Geotechnical report** - 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 26 Princes Highway (also known as 60A Gray Avenue) and 60B Gray Avenue prior to any excavation of site works shall occur. 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. Where a hydraulic hammer is to be used within 30 metres of any building (other than a path or a fence) the report shall detail the maximum size of hammer to be used and provide all reasonable recommendations to manage impacts.
 - (e) Sides of the excavation are to be piersed prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.

38. **Waste Storage (Mixed-Use Developments)** – The following provisions in relation to waste disposal and collection shall be adhered to;

- i) The waste storage area shall not be visible from the street. The waste storage area shall be located within the lot/building in accordance with the approved plans.
 - ii) The waste storage area shall be large enough to accommodate the required number of bins for the development and located in an area to suitably facilitate servicing on waste collection day.
 - iii) The path to the bin room is to be at least 1.0 metres wide and kept clear and unobstructed at all times.
 - iv) All waste collections shall occur from the loading bay on the ground floor.
 - v) It will be the responsibility of a site manager to manage the movement of bins around the site and the transfer of waste from each unit, on each floor, to the central bin storage area as per the WMP.
 - vi) A double door access for each relevant bin room should be enabled to allow the movement of 1100L bins. Further, the applicant must consider the path of bin travel between the bins rooms and ensure that 1100L bins will fit for the length of the bin path of travel.
 - vii) Waste collection will need to be managed by a private waste collection service. Waste collection services will be provided from the onsite access and no bins will be presented in the laneway or on a kerbside prior to collection. Waste collection vehicle will access the site from the Loading Bay, with bins removed and returned from Bin Room 2 by the waste contractor. Council-contracted waste collection vehicle will be unable to stand on-site to enable servicing.
39. **Waste room design** - The waste room will contain the following to minimise odours, deter vermin, protect surrounding areas, and make it a user-friendly and safe area:
- waste room floor to be sealed;
 - waste room walls and floor surface is flat and even;
 - all walls painted with light colour and washable paint;
 - equipment electric outlets to be installed 1700mm above floor levels;
 - The bin storage rooms will be mechanically exhausted as required by AS 1668.2;
 - light switch installed at height of 1.6m;
 - waste rooms must be well lit (sensor lighting recommended);
 - optional automatic odour and pest control system installed to eliminate all pest types and assist with odour reduction - this process generally takes place at building handover - building management make the decision to install;
 - all personnel doors are hinged and self-closing;
 - waste collection area must hold all bins - bin movements should be with ease of access;
 - Conform to the Building Code of Australia, Australian Standards and local laws; and childproofing and public/operator safety shall be assessed and ensured.
 - Occupational Health and Safety issues such as slippery floors in waste rooms and the weight of the waste and recycling receptacles will need to be monitored.
 - Cleaners will monitor the bin storage area and all spills will be attended to immediately by cleaners.

This information shall be reflected on construction drawings submitted to the certifying

authority.

40. **Dial before your dig** – The applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from “Dial Before You Dig” shall be forwarded to the Principal Certifying Authority (PCA) and Council for their records.
41. **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 Certifier for approval prior to construction of the specified works.

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

42. **Access for Persons with Disabilities** - Access for persons with disabilities must be provided to and within the site, including to all foyer areas, basement carpark, courtyard, communal areas including the sanitary and kitchen facilities and allocated balconies 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.

In regards to the above, pedestrian access throughout basement levels shall be highlighted/line marked and sign posted to safeguard egress.

In the event that full compliance cannot be achieved the services of an accredited access consultant is to be obtained to determine alternative methods of compliance, such a report must be submitted to and endorsed by the Principal Certifying Authority prior to issue of the Construction Certificate.

43. **Commonwealth Disability (Access to Premises) Standard** - The Commonwealth Disability (Access to Premises - Buildings) Standards 2010 (the Premises Standards) applies to all applications (including a Construction Certificate). This requires any new building, part of a building and the affected part of the existing building to comply with the Premises Standards, the Building Code of Australia and AS 1428.
44. **Access** - The recommendations of the Access Report prepared by Newland Wood and dated 10 September 2020 shall be implemented in the Construction Certificate Plans and Documents.
45. **BCA Assessment** - The recommendations in the Assessment of BCA Report prepared by Newland Wood and dated 20 March 2019 shall be incorporated within the Construction Certificate Plans and relevant documents.
46. **Contamination** - The recommendations of the Remediation Action Plan and the Detailed Site Investigation prepared by Martens Consulting Engineers and dated August 2019 shall be implemented prior to construction and during excavation and the construction process.
47. **Traffic** – The recommendations included within the Traffic and Parking Assessment Report prepared by Terrafic Pty Ltd and dated 17 September 2020 shall be incorporated into the Construction Certificate Plans and related documents.
48. **Geotechnical** – The recommendations included within the updated Geotechnical report prepared by Martens Consulting Engineers and dated April 2019 shall be incorporated into

the Construction Certificate Plans and Documents.

49. **Waste Management** - The recommendations included within the Waste Management Plan prepared by Dickens Solutions dated August 2020 shall be included as part of the Construction Certificate Plans and associated documents.
50. **Noise** – The recommendations included in the Acoustic Report prepared by Sebastian Giglio Acoustic Consultant and dated 28 August 2020 shall be included as part of the Construction Certificate Plans and associated documents.
51. **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 must be submitted with the Construction Certificate application.

52. **Slip Resistance** - All pedestrian surfaces in areas such as foyers, public corridors/hallways, stairs and ramps as well as floor surfaces in the wet rooms in any commercial/retail/residential units will have slip resistance classifications, as determined using test methods in either wet or dry conditions, appropriate to their gradient and exposure to wetting. The classifications of the new pedestrian surface materials, in wet or dry conditions, will comply with AS/NZS4586:2004 - Slip Resistance Classifications of New Pedestrian Materials and will be detailed on the plans lodged with the application for the Construction Certificate.
53. **Advice from Fire and Rescue (FR) NSW** - Prior to the issue of a Construction Certificate the applicant may be required, under Clause 144 of the Environmental Planning & Assessment Regulation, 2000 to seek written comment from FR NSW about the location of hydrant facilities and any Fire Engineered Solution developed to meet the performance requirements under the Category 2 Fire Safety Provisions.
54. **Site Management Plan** - A Site Management Plan must be submitted with the application for a Construction Certificate, and include the following:
 - (a) location of protective site fencing;
 - (b) location of site storage areas/sheds/equipment, not within the curtilage of the heritage item;
 - (c) location of building materials for construction, e.g. stockpiles not within the curtilage of the heritage item
 - (d) provisions for public safety;
 - (e) dust control measures;
 - (f) method used to provide site access location and materials used;
 - (g) details of methods of disposal of any materials off site;
 - (h) method used to provide protective measures for tree preservation;
 - (i) provisions for temporary sanitary facilities;
 - (j) location and size of waste containers/skip bins, not within the curtilage of the heritage item;

- (k) details of proposed sediment and erosion control measures;
- (l) method used to provide construction noise and vibration management;
- (m) traffic management details during construction.

The site management measures are to be implemented prior to the commencement of construction works. 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 will be kept on site and is to be made available upon request.

55. **Driveway Construction Plan Details** - Engineering plans for the driveway shall be submitted with the Construction Certificate application for approval that show:
- (a) Longitudinal and cross sections, gradients, access onto the proposed lots, type of construction materials designed in accordance with Council's Subdivision standards and AS/NZS2890.1-2004.
 - (b) Suitable underground provision for the supply of all relevant services to the proposed lots (proposed position of pipes and conduits).
 - (c) The full length of the driveway designed with a minimum 150mm thick reinforced concrete and minimum of 2.7m wide pavement/kerb face to kerb face width, and a non-slip surface.
56. **Car Wash Bay** – A designated car wash bay shall be included as part of the development.
57. **Car Wash Bays** – Plans and specifications of the car washing system approved by Sydney Water must be submitted with the application for the Construction Certificate. One visitor space shall be designated as a Car wash bay and this space shall be conveniently located in order to serve this purpose.

All car washing bays will be contained within a roofed and bunded car wash bay with pre-treatment approved by Sydney Water. The water from the car wash bay must be graded to a drainage point and connected to sewer.

If alternative water management and disposal options are proposed (ie where water is recycled, minimised or reused on the site), detailed plans and specifications of the water recycling system must be submitted with the application for the Construction Certificate for approval by Council's Environmental Health Officers.

58. **Council Property Shoring** - Prior to the issue of the Construction Certificate, plans and specifications prepared by a professional engineer specialising in practising structural engineering will detail how Council's property will be supported at all times.

Where any shoring is to be supporting, or located on Council's property, certified structural engineering drawings detailing; the extent of the encroachment, the type of shoring and the method of removal, will be included on the plans. Where the shoring cannot be removed, the plans will detail that the shoring will be cut to 150mm below footpath level and the gap between the shoring and any building will be filled with a 5MPa lean concrete mix.

59. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No.1000477M and dated 2 April 2019 must be implemented on the plans lodged with the application for the Construction Certificate.
60. **Acoustic requirements for timber flooring** - If timber flooring is installed within the

development, then appropriate insulation between floors shall be implemented to exceed the minimum sound attenuation.

61. **Acoustic attenuation for apartments adjoining lift core** – Where bedrooms:
- (a) Within apartments that adjoin the internal lift core; appropriate noise attenuation measures are to be applied to prevent transmission of noise in accordance with the Building Code of Australia (BCA)
62. **Landscape Plans** - All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by Isthmus Landscape Design, Ref No SS19-4061, Dwg No. 000 D, 001 E, 101 E, 102 D, 103 C, 501 C, 502 C and dated 20/07/2020. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following -
- a) Any trees proposed upon the approved landscape plan shall comply with AS 2303 – 2018, *Tree Stock for Landscape use* and *NATSPEC Specifying Trees: a guide to assessment of tree quality (2003)*, and be planted and maintained in accordance with Councils standard specification.
 - b) All trees proposed upon the approved landscape plan shall comply with NATSPEC *Specifying Trees: a guide to assessment of tree quality (2003)*, and be planted and maintained in accordance with Councils standard specification, and AS 2303 – 2015/18
 - c) If the trees and plants are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size.
 - d) The Outline Landscape Specification shall be completed and form part of landscape works for their entirety.
 - e) A certificate of compliance for the planting of all six (6) trees and shrubs proposed for the site. An AQF 5 Horticulturist shall be engaged and in writing certify that all trees have been planted as per landscape plan and specifications and forwarded to the PCA – Principal Certifying Authority.
63. **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.

64. **Stormwater System** – The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate. The following issues shall be addressed;
- (a) Prior to the issue of a Construction Certificate, a longitudinal section of the new proposed Ø375mm RCP pipe in the road showing surface levels, invert levels and public utility services shall be submitted to Council's drainage engineer in the 'Infrastructure and Asset Engineering' unit for his approval in writing and to his satisfaction and specifications for the proposed drainage pipe in the road.
 - (b) All stormwater shall drain by gravity to Council's existing drainage pit located in the street using a Ø375mm RCP pipe in accordance with the Australian Standard AS3500.3: 2015 to Council's satisfaction.
 - (c) Prior to the issue of the Construction Certificate, a registered surveyor shall survey the surface and invert levels of the existing kerb inlet pit in Gray Street and incorporate the invert level in the proposed stormwater design.
 - (d) Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineer who specialises in Hydraulic Engineering in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.
 - (e) The design and structural adequacy of the OSD tank system shall be certified by a practicing drainage engineer to the satisfaction of the PCA.

Design details and certifications shall be submitted for approval with the Construction Certificate application.

65. **Stormwater Systems with Basement** - The underground basement car park must pump to and all other stormwater must drain by gravity to:
- i. the drainage system within the site via a silt trap pit .

The design of the proposed drainage system must be prepared by a professional engineer who specialises in hydraulic engineering and be submitted for approval with the Construction Certificate application.

66. **Protection of basement from inundation of stormwater waters** – The following measures will need to be implemented;
- (a) The protection of the underground basement shall be protected from possible inundation by surface waters from the street.

Evidence from a professional engineer who specialises in hydraulic engineering that this design requirement has been adhered to shall be submitted with the Construction Certificate application.

67. **On Site Detention** – The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.

An on-site detention (OSD) facility designed by a professional engineer who specialises in Hydraulic Engineering must be designed, approved and installed. The design must comply with the results of the generated stormwater management report regarding the OSD storage volume and the stormwater permissible site discharge.

- (a) Provide at least one grated access and sufficient ventilation to the OSD tank.
- (b) Provide at least two sealed access for future maintenance.
- (c) The PCA shall ensure that a drainage engineer shall supervise the construction of the OSD stormwater system and certify his supervision in writing and state his satisfaction of the constructed stormwater system on site that it is built as intended in this consent.

Refer to Flow Controls in Council's Draft/Adopted Stormwater Drainage Policy.

The OSD facility shall be designed to meet all legislated safety requirements and childproof safety fencing around the facility must be provided where the OSD facility is open or above ground when the design peak storage depth is greater than 300mm. A durable metal plate or similar sign is to be placed at the OSD facility and must bear the words:

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

Full details shall accompany the application for the Construction Certificate.

68. **Pump-Out System Design for Stormwater Disposal** – The design of the pump-out system for storm water disposal will be permitted for drainage of basement areas only, and must be designed in accordance with the following criteria:

- (a) The pump stormwater pit shown in the Civil Engineering Plan prepared by WSP is acceptable to Council. The pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm. The holding tank shall be capable of holding one hour's runoff from a one-hour duration storm of the 1 in 100 year storm.
- (b) The pump system shall be regularly maintained and serviced, every six (6) months; and
- (c) The drainage disposal shall be discharged to the OSD system. Details and certification of compliance from a professional engineer specialising in civil engineering shall be provided for approval with the Construction Certificate application.

PRIOR TO COMMENCEMENT OF WORKS

69. **Vehicular Crossing – Major Development** - The following vehicular crossing and road frontage works will be required to facilitate access to and from the proposed development site:

- (a) Construct a 1.2m wide footpath for the full length of the frontage of the site along the Princes Highway and Gray Street in accordance with Council's Specifications applying at the time construction approval is sought.
- (b) The thickness and design of the driveway shall be in accordance with Council's Specifications applying at the time construction approval is sought.

- (c) 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. The work shall be carried out in accordance with Council's specification, applying at the time construction approval is sought.

Constructing a vehicular crossing and/or footpath requires separate approval under Section 138 of the Roads Act 1993, prior to the commencement of those works.

70. **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 hoarding or C type scaffold, in accordance with the requirements of Work Cover Authority of NSW, must be erected along that portion of the footway/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.
71. **Below ground anchors - Information to be submitted with S68 Application under LGA 1993 and S138 Application under Roads Act 1993** - In the event that the excavation associated with the basement carpark is to be supported by the use of below ground (cable) anchors that are constructed under Council or RMS roadways/footways, an application must be lodged with Council or RMS under Section 68 of the *Local Government Act 1993* and the *Roads Act 1993* for approval, prior to commencement of those works.

The following details must be submitted:

- (i) That cable anchors will be stress released when the building extends above ground level to the satisfaction of Council;
 - (ii) The applicant has indemnified council from all public liability claims arising from the proposed works, and provide adequate insurance cover to the satisfaction of Council.
 - (iii) Documentary evidence of such insurance cover to the value of \$20 million;
 - (iv) The applicant must register a non-terminating bank guarantee in favour of Council. An amount will be determined when the application is lodged;
 - (v) The guarantee will be released when the cables are stress released. In this regard it will be necessary for a certificate to be submitted to Council from a structural engineer at that time verifying that the cables have been stress released.
 - (vi) In the event of any works taking place on Council's roadways/footways adjoining the property while the anchors are still stressed, all costs associated with overcoming the difficulties caused by the presence of the 'live' anchors will be borne by the applicant.
72. **Erosion & Sedimentation Control** - Erosion and sediment controls must be in place prior to commencement of any work on the site. These measures include:
- (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 excavation and construction 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 excavation) and will remain until works are completed and all exposed surfaces are landscaped/sealed.

73. **Site Management** - The site management measures are to be implemented prior to the commencement of construction works. 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 will be kept on site and is to be made available upon request.
74. **Site Safety Fencing** - Site fencing will be erected in accordance with SafeWork Guidelines, to exclude public access to the site throughout the construction work, except in the case of alterations to an occupied dwelling. The fencing will be erected before the commencement of any work and maintained throughout all construction work. A high risk work license may be required from SafeWork NSW (see www.SafeWork.nsw.gov.au).
75. **Dilapidation Report on Public Land** – Prior to the commencement of works (including excavation), a dilapidation report must be prepared for the Council infrastructure adjoining the development site.

The report must include the following:

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

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

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

Note: Council will use this report to determine whether to refund the damage deposit after the completion of works.

76. **Registered Surveyor's Report - During Development Work** - A report will be submitted to the Certifier 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 will 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 will indicate the reduced level of the main ridge.

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

- 77. **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.
- 78. **Structural Engineer's Details - Supporting Council road/footway** - Prior to the commencement of work in connection with the excavation of the site associated with the basement carpark, structural engineer's details relating to the method of supporting Council's roadways/footways and the Heritage Item on site will be submitted to the satisfaction of Council.
- 79. **Notification Requirements** - The following notification requirements apply to this consent:
 - (a) The developer/builder will notify adjoining residents five (5) working days prior to excavation. Such notification is to be a clearly written note giving the date works will commence, contact details of the developer/builder 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 site.
 - (b) Five (5) working days prior to excavation, the developer/builder is to provide written notification to Council advising of the commencement date, and details of the list of residents advised of the works.
- 80. **Notice of Commencement** - The beneficiary of the development consent must give at least two (2) days' notice to the Council and the Principal Certifier of their intention to commence the erection of a building.
- 81. **Notification of Critical Stage Inspections** - No later than two (2) days before the building work commences, the Principal Certifier 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.
- 82. **Structural Engineer's Details - Supporting excavations and adjoining land** - Prior to the commencement of work in connection with the excavation of the site associated with the basement car park, structural engineer's details relating to the method of supporting

the excavation will be submitted.

DURING CONSTRUCTION

83. **Hazardous or Intractable Waste – Removal and Disposal** - Hazardous or intractable waste arising from the excavation or construction process shall be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority and with the provision of:
- Work Health and Safety Act 2011 (NSW) (as amended);
 - Work Health and Safety Regulation 2011 (as amended);
 - Protection Of the Environment Operations Act 1997 (NSW) (as amended); and
 - Protection of the Environment Operations (Waste) Regulation 2014 (as amended)
84. **Site Contamination – Additional Information** - Any new information that comes to light during construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.
85. **Critical Stage Inspections** - The last critical stage inspection must be undertaken by the Principal Certifier. 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.
86. **Site sign** - A clearly legible *Site Management Sign* is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
- a) The builder's name, builder's telephone contact number both during work hours and after hours.
 - b) That no works are to be carried out in Council's Road Reserve without prior application and approval of a Road Opening Permit from Council.
 - c) That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
 - d) That no skip bins or materials are to be stored on Council's Road Reserve.
 - e) That the contact number for Council for permits is 9970 1111.
87. **Soil & Erosion Control Measures** - Prior to the commencement of works (including excavation), a durable site sign, issued by Council in conjunction with this consent, will 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 will remain in a prominent location on site up until the completion of all site and building works.
88. **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.

89. **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.
90. **Hours of Construction 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 must 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.
91. **Hazardous or Intractable Waste – Removal and Disposal** – Hazardous or intractable waste arising from the excavation or construction process must be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority and all applicable legislation.
92. **Structural Certificate During Construction** – The proposed building must be constructed in accordance with details designed and certified by the practising qualified structural engineer and endorsed by the Geotechnical 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; will be submitted to the Principal Certifying Authority at each stage of Construction.
93. **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 public drainage system.
94. **Stormwater to Kerb** - Any stormwater connections to the kerb and gutter are to be in accordance with Council's '*Specification for Construction by Private Contractors*'.

All roof water and surface water from paved or concreted areas are to be disposed of in accordance with the Stormwater Plan by means of a sealed pipeline constructed in accordance with AS/NZS 3500.3:2015. The line will pass through a silt arrestor pit.
95. **Redundant Driveway** - All existing vehicular crossings adjacent to the subject premises that have become redundant will be removed and the footway and kerb and gutter reinstated at the developer/applicant's expense.
96. **Damage within Road Reserve & Council Assets** - The owner will bear the cost of restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site. This may include works by Public Utility Authorities in the course of providing services to the site.
97. **Public Utility & Telecommunication Assets** - The owner will bear the cost of any

relocation or modification required to any Public Utility Authority assets including telecommunication lines & cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.

98. **Works Zone** - The installation of a "Works Zone" for the site will require the approval from the Traffic Advisory Committee and/or RMS. As a result, the applicant will provide a formal request to Council's Traffic Section with the duration and exact location of the required "Works Zone" at least 6 weeks prior to its required installation date. All costs associated with the installation of a "Works Zone" will be at the applicant's expense.
99. **Waste Management Facility** - All materials removed from the site as a result of site clearing, site preparation and, or excavation will be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like will be ignited or burnt.

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

100. **Site Safety Fencing** - Site fencing will be erected in accordance with SafeWork Guidelines, to exclude public access to the site throughout the excavation and construction work, except in the case of alterations to an occupied dwelling. The fencing will be erected before the commencement of any work and maintained throughout any building work.

PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE

101. **Site contamination – Additional information-** Any new information that comes to light during excavation (after demolition of the onsite structures and the conclusion of the detailed site investigation) which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.
102. **Remediation Works** - All remediation work must be carried out in accordance with: -
- the Managing Land Contamination: Planning Guidelines SEPP 55 Remediation of Land; and,
 - the EPA Guidelines made under the Contaminated Land Management Act 1997;
- and in accordance with the proposed Remedial Action Plan.
103. **Validation Report** - After completion of all Remediation works, a copy of the Validation and Monitoring Report prepared by suitably qualified contaminated land consultant shall be submitted to Council. The Construction Certificate shall not be issued until Council approves this Report. The validation report shall be prepared in accordance with the Office Environment and Heritage Guidelines, *Consultants Reporting on Contaminated Sites*, and shall certify the suitability of the site for the proposed development.
- describe and document all works performed;
 - include results of validation testing and monitoring;
 - include validation results of any fill imported on to the site;
 - show how the objectives of the Remedial Action Plan have been met;
 - show how all agreed clean-up criteria and relevant regulations have been complied with; and

- include clear justification as to the suitability of the site for the proposed development and the potential for off-site migration of any residual contaminants.

104. **Acoustic Compliance** - Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the construction has incorporated the recommendations in the DA Acoustic Report titled “2-24 Princes Hwy, Kogarah – Development Application Acoustic Report Ref:2974/D07” prepared by Sebastian Giglio, Acoustic Consultant.
105. **Serviced apartments** – A restriction on title will be placed to ensure all apartments are utilised and operate as serviced apartments and the restriction shall be worded in the following manner;

Restriction on use of land – Serviced Apartments

A Restriction of Use of the Land is to be created using Section 88E of the [Conveyancing Act 1919](#) over the subject property on which this development is to be carried out. This Restriction shall ensure that the apartments will function and operate as serviced apartments and the restriction shall be worded as follows (or similar):

Every apartment designed and constructed in accordance with the approved development consent DA2019/0337 and located at Lot 1 DP1108502 shall be utilised and operated as serviced apartments which are defined as;

“a building (or part of a building) providing self-contained, short term (maximum of 3 months duration at any one time) accommodation to tourists or visitors on a commercial basis, and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner’s or manager’s agent”.

This Restriction shall benefit Council and Council is to be nominated as the Authority to release, vary or modify this Restriction.

This Restriction on Use of Land shall be registered on the title of the land, prior to the issue of any Occupation Certificate for the development (Interim or Final Occupation Certificate).

Documentary evidence of the registration of this Restriction on title is to be supplied to the PCA prior to the issue of any Occupation Certificate.

106. **Section 73 Compliance Certificate** – A Section 73 Compliance Certificate under the [Sydney Water Act 1994](#) must be submitted to the Certifier prior to the issue of the Occupation Certificate.
107. **NSW Police requirements** - NSW Police have requested that a Crime Risk Assessment report and Crime Prevention Through Environmental Design report be prepared and a Closed Circuit Television plan be provided. These reports are required to be prepared prior to the issuing of an Occupation Certificate and shall be sent to NSW Police and Council for their records.
108. **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.
109. **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.

110. **Post Construction Dilapidation report (Private Land)** - At the completion of the construction works, a suitably qualified person is to be engaged to prepare a post-construction dilapidation report. This report is to ascertain whether the construction works associated with the subject development created any structural damage to the following adjoining premises:

- (a) All adjoining properties identified in the dilapidation condition prior to Construction Certificate

The report is to be prepared at the expense of the applicant and submitted to the PCA prior to the issue of the Occupation Certificate. In ascertaining whether adverse structural damage has occurred to the adjoining premises, the PCA, must compare the post-construction dilapidation report with the pre-construction dilapidation report required by conditions in this consent.

Evidence confirming that a copy of the post-construction dilapidation report was delivered to the adjoining properties subject of the dilapidation report must be provided to the PCA prior to the issue of any Occupation Certificate.

111. **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. Only the Principal Certifier appointed for the building work can issue the Occupation Certificate.

112. **Requirements prior to the issue of the Occupation Certificate** - The following will be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:

- (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- (b) The internal driveway construction works, together with the provision for all services (conduits and pipes laid) shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- (c) Construction of all new vehicle crossings.
- (d) Replace all redundant vehicle crossing laybacks with kerb and guttering, and replace redundant concrete with turf.
- (f) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete shall be submitted to the PCA prior to the issue of the Occupation Certificate.

113. **Completion of Landscape Works** - All landscape works must be completed **before** the issue of the Final Occupation Certificate. In accordance with approved landscape plans and specifications, as noted in Condition No.1

114. **Vehicular Crossing and Frontage Work – Major development** – The following road frontage works shall be constructed in accordance with Council's Specification for Vehicular Crossings and Associated Works together with the Vehicular Crossing Approval issued by Council's Engineering Services Division:

- (a) Construct footpath for the full length of the frontage of the site in accordance with Council's Specifications for footpaths.
- (b) Construct the vehicular crossing in accordance with Council's Specifications for vehicular crossings.
- (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in accordance with Council's Specifications for kerb and guttering.
- (d) 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.

The above works shall be carried out at the expense of the applicant and in accordance with Council's Specification for Vehicular Crossings and Associated Works.

The driveway and road frontage works are to be completed before the issue of the Occupation Certificate.

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

Restrictions on Use of Land

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

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

Positive Covenants

1. *The registered proprietor of the lot(s) hereby burdened will in respect of the system:*
 - (a) *keep the system clean and free from silt, rubbish and debris*
 - (b) *maintain and repair at the sole expense of the registered proprietors the whole of the system so that it functions in a safe and efficient manner*
 - (c) *permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land for the compliance with the requirements of this covenant*
 - (d) *comply with the terms of any written notice issued by the Council in respect of the requirements of this covenant within the time stated in the notice.*
2. *Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council shall have the following additional powers:*

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

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

117. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

118. **Completion of Major Works** - Prior to the issue of the Occupation Certificate, the following works will be completed at the applicant's expense to the satisfaction of Council's Engineering Services section:

- (a) Stormwater pipes, pits and connections to public stormwater systems within the road related area;
- (b) Driveways and vehicular crossings within the road related area;
- (c) Removal of redundant driveways and vehicular crossings;
- (d) New footpaths within the road related area;
- (e) Relocation of existing power/light pole where required;
- (f) Relocation/provision of street signs where required;
- (g) New or replacement street trees where required;
- (h) New footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development will be turfed. The grass verge will be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street.
- (i) New or reinstated kerb and guttering within the road related area; and
- (j) New or reinstated road surface pavement within the road.

Council's Engineering Services Section will advise in writing that the works have been completed to their satisfaction prior to the issue of the Occupation Certificate. [Note: The

damage deposit paid to Council will not be released until the works have been completed to Council's satisfaction].

119. **Stormwater Drainage Works - Works As Executed** - Prior to the issue of the Occupation Certificate, storm water drainage works are to be certified by a professional engineer specialising in hydraulic engineering, with Works-As-Executed drawings supplied to Council detailing:

- (a) Compliance with conditions of development consent relating to stormwater;
- (b) The structural adequacy of the On-Site Detention system (OSD);
- (c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations;
- (d) Pipe invert levels and surface levels to Australian Height Datum;

A Works As Executed plan of Council's Stormwater system extension as constructed including all levels will be submitted and approved by Council.

Council's Engineering Services section will advise in writing that they are satisfied with the Works-As-Executed prior to the issue of an Occupation Certificate.

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

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

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

OPERATIONAL CONDITIONS (ONGOING)

121. **Intensity of car park lighting** – Prior to occupation, the intensity of lighting at the entrance to the basement carpark is to be designed to allow for progressive adjustment of light.

122. **Hours of operation (Conference Facility)** – The hours of operation for the Conference facility are restricted to 8am to 10pm daily.

123. **Hours of operation (Gym)** – The hours of operation for the Conference facility are restricted to 6am to 10pm daily.

124. **Hours of Operation (rooftop area of open space)** – The hours of use of the rooftop area of open space are restricted to 7am to 10pm daily. Operation and use of this space shall

be in accordance with the approved Plan of Management.

125. **Loading Bay operations** – The Loading Bay shall be utilised for the following way;

- The Loading Bay shall be utilised for deliveries to the site with deliveries restricted between the hours of 7am to 5pm Monday to Saturday and 9am to 5pm Sundays and Public Holidays.
- The Loading Bay shall be appropriately line marked and a sign included to restrict the hours of its usage.
- When no deliveries are occurring the space shall be free.
- A “no parking” sign shall be erected restricting the use of this space for access for deliveries and larger buses only.
- The maximum time to use the Loading area is 30minutes. The intent is for short term pick up and drop off of people or deliveries.

126. **Removal and collection** – Bins are to be taken to the kerbside for collection and garbage bins and recycling bins are to be collected on a weekly basis. They are to be collected from the kerbside and removed from the kerbside as soon as possible after collection.

127. **Acoustic Compliance – General Operation of Premises** - The proposed use of the premises and the operation of all plant and equipment shall not give rise to an ‘offensive noise’ as defined in the [Protection of the Environment Operations Act 1997](#) (as amended) and [Regulations](#).

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

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

128. **Development Engineering - Conditions relating to future Strata Subdivision of Buildings** - No approval is expressed or implied for the subdivision of the subject building(s). For any future Strata subdivision, a separate Development Application or Complying Development Certificate shall be approved by Council or an Accredited Certifier.

Prior to the issue of any Strata Certificate of the subject building(s) the following conditions shall be satisfied:

(a) **Unit Numbering**

Apartment type numbers shall be installed adjacent or to the front door of each unit. The unit number shall coincide with the strata plan lot numbering.

(b) **Car Parking Space Marking and Numbering**

Each basement car space shall be line marked with paint and numbered in accordance with the strata plan lot numbering. “Visitor Parking” signs shall be installed adjacent to any and all visitor car spaces prior to the issue of any Strata Certificate.

(c) **Designation of Visitor Car Spaces on any Strata Plan**

Any Visitor car spaces shall be designated on the final strata plan as "Visitor Parking - Common Property".

(d) **Allocation of Car Parking Spaces, Storage Areas and Common Property on any Strata Plan.**

- i. All car parking spaces shall be created as a part lot of the individual strata's unit lot in any Strata Plan of the subject building.
- ii. All storage areas shall be created as a part lot of the individual strata's unit lot or a separate Utility Lot (if practical) in any Strata Plan of the subject building.
- iii. The minimum number of parking spaces required to be allocated as a part lot to each individual strata's unit lot shall be in accordance with the car parking requirements of Council's Development Control Plan and as required by the relative development consent for the building construction.
- iv. No parking spaces shall be created as an individual strata allotment on any Strata Plan of the subject building unless these spaces are surplus to the minimum number of parking spaces required.

If preferred the surplus car spaces shall be permitted to be created as separate Utility Lots, (instead as a part lot of the individual strata's unit lot), in accordance with section 39 of the Strata schemes (freehold development Act 1973).

The above requirements regarding car parking spaces and storage areas may only be varied with the conditions of a separate Development Application Approval for Strata Subdivision of the Building(s).

(e) **On Site Detention Requirements** - The location any on-site detention facility shall be shown on the strata plan and suitably denoted.

(f) **Creation of Positive Covenant – Detention Basin**

A Positive Covenant shall be created over any on-site detention facility by an Instrument pursuant to Section 88B of the Conveyancing Act 1919, with the covenant including the following wording:

"It is the responsibility of the Owner's Corporation to keep the on-site detention facilities, together with any ancillary pumps, pipes, pits etc, clean at all times and maintained in an efficient working condition. The on-site detention facilities shall not be modified in any way without the prior approval of Georges River Council."

Georges River Council is to be nominated as the Authority to release, vary or modify this Covenant.

129. **Acoustic Certification** - Prior to the issue of any Occupation Certificate, a suitably qualified acoustic consultant will certify that the operation of the premises and plant equipment will not give rise to a sound pressure level at any affected premises that exceeds the relevant acoustic criteria. The development will at all times comply with these noise levels post occupation.

130. **BASIX Certificate** - All energy efficiency measures as detailed in the approved BASIX Certificate in the plans approved with the Development Consent will be implemented before issue of any Occupation Certificate. A Compliance Certificate will be provided to the Principal Certifier regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any Occupation Certificate is issued.

131. **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*.

Payment of the required Long Service Levy payment must be made and proof of payment provided to the Principal Certifier prior to the issue of an Occupation Certificate.

132. **Allocation of Car Parking Spaces** – A total of one-hundred and thirty (130) car parking spaces, associated with the development are to be allocated as follows, sign posted and/or linemarked accordingly:

- 110 spaces dedicated to the serviced apartments (every apartment is to be allocated one space)
- Five (5) staff car parking spaces with one designated as a car wash bay.
- Eleven (11) retail spaces with Retail tenancy 1 having 5 spaces, Retail tenancy 2 having 2 spaces and Retail tenancy 3 having 3 spaces.
- Four (4) car parking spaces designated to the Conference centre facility.

133. **Electricity Supply** - Evidence will be provided demonstrating that the development has been connected to the electricity network.

134. **Structural Certificates** - The proposed structure will be constructed in accordance with details designed and certified by the practising qualified structural and geotechnical engineer. In addition, Compliance or Structural Certificates, to the effect that the building works have been carried in accordance with the structural design; will be submitted to the Principal Certifier prior issue of the Occupation Certificate.

135. **Stormwater & Ancillary Works** - Applications under Section 138 of the *Roads Act* and/or Section 68 *Local Government Act 1993*, the applicant must obtain all necessary approvals. 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 will 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 if applicable) 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.

136. **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.

137. **Works as Executed and Certification of Stormwater Works** – Prior to the issue of an

Occupation Certificate, the PCA must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards. A works-as-executed drainage plan and certification must be forwarded to the PCA and Council, from a professional engineer specialising in hydraulic engineering.

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

The works-as-executed drainage plan must be prepared by a professional engineer specialising in hydraulic engineering in conjunction with a Registered Surveyor and must include the following details:

- (a) The location of any detention basin/s with finished surface levels;
- (b) Volume of storage available in any detention areas;
- (c) The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes;
- (d) The orifice size/s

138. **Dilapidation Report on Public Land for Major Development Only** – Upon completion of works, a follow up dilapidation report must be prepared for the items of Council infrastructure adjoining the development site.

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

- (a) Photographs showing the condition of the road pavement fronting the site
- (b) Photographs showing the condition of the kerb and gutter fronting the site
- (c) Photographs showing the condition of the footway including footpath pavement fronting the site Photographs showing the condition of retaining walls within the footway or road
- (d) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- (e) The full name and signature of the professional engineer.

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

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

Council's Assets and Infrastructure Division must advise in writing that the works have been completed to their satisfaction prior to the issue of an Occupation Certificate.

139. **Stormwater drainage works - Works As Executed** – Prior to the issue of the Occupation Certificate, storm water drainage works are to be certified by a professional engineer specialising in hydraulic engineering, with Works-As-Executed drawings supplied to Council detailing:

- a. Compliance with conditions of development consent relating to stormwater;
- b. The structural adequacy of the On-Site Detention system (OSD);

- c. That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations; and
- d. Pipe inverts levels and surface levels to Australian Height Datum.

140. **Lighting** - Any outdoor/security lighting must be located, designed, oriented and shielded in a manner that does not cause disturbance to surrounding premises and/or passing vehicular traffic. This requirement also applies to external lighting within the rooftop communal open space area.

Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill or glare.

Flashing, moving or intermittent lights or signs are prohibited.

141. **Activities and Storage of Goods Outside Buildings** - There will be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.

142. **Boundary fencing** - Any new boundary fencing erected along the side and rear boundaries shall not exceed a height of 1.8m unless specified by any other conditions.

143. **Disability Discrimination Act** – The applicant is responsible to ensure compliance with this and other anti-discrimination legislation.

144. **Electrical connection** - Any new electrical and telecommunication connections to the site are to be carried out using underground cabling.

145. **Finishes** - Any materials or surfaces addressing the public domain on the ground and first floor (where accessible by members of the public) shall utilise graffiti-resistant materials.

146. **Safety** - All communal entrances for the building will be capable of being secured. Entry doors are to be self-closing and signs are to be displayed requesting that building occupants not wedge doors open.

147. **Security** - If any security screens/grilles are installed, they are to be openable from within the building.

148. **Building identification** - Numbering that presents to public areas (ie the adjoining road reserve) are to be at least 7cm high and are to be situated 1-1.5m above ground level on the street frontage. The numbering is to be constructed from durable materials and shall not be obscured by vegetation.

149. **Noise Control** - The use of the premises will 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*.

150. **Amenity of the Neighbourhood** - The implementation of this development will 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.

151. **Maintenance of Landscaping** - All trees and plants forming part of the landscaping will be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilising, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas.

The maintenance of the landscaping shall be undertaken in perpetuity. Should any plants or trees die, then they shall be replaced with the same species (i.e. like for like).

152. **Annual Fire Safety Statement** - The owner of the building premises will ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement will be given:

- (a) Within 12 months after the date on which the fire safety certificate was received.
- (b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
- (c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the *Environmental Planning and Assessment Regulation 2000*.
- (d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.

153. **Responsibility of Owners Corporation** - The Owners Corporation will be responsible for presenting all approved waste and recycling receptacles for collection, and returning all receptacles to the waste collection room, as soon as practicable after they have been serviced.

The Owners Corporation will also be responsible for maintaining all equipment, systems, facilities and storage areas used in conjunction with the provision of waste management services in accordance with all applicable regulatory requirements, relevant health and environmental standards, and to the satisfaction of Council.

154. **Management of Waste Facilities** – The ongoing management of onsite waste facilities shall be undertaken in accordance with the following requirements:

- (a) Occupational Health and Safety issues such as slippery floors in waste rooms and the weight of the waste and recycling receptacles will need to be monitored.
- (b) Any cleaners will monitor the bin storage area and all spills will be attended to immediately by cleaners.

155. **Waste** - The ongoing operation of recycling and waste management services is to be undertaken in accordance with the Waste Management Plan.

156. **Air conditioning** - Any external plant/air-conditioning system must not exceed a noise level of 5dBA above the background noise level when measured at the boundaries of the property. Any proposed air conditioning systems or mechanical ventilation shall be appropriately screened from view and not located so that it can be seen from the street.

157. **Graffiti** - Any graffiti on the site is to be removed within forty eight (48) hours.

OPERATIONAL REQUIREMENTS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

158. **Requirement for a Construction Certificate** - The erection of a building must not

commence until a Construction Certificate has been issued.

Should Council be appointed as the Principal Certifying Authority, the Construction Certificate Application must be accompanied by details, with plans prepared and certified by an appropriately qualified person demonstrating compliance with the BCA.

In this regard, detailed construction plans and specifications that demonstrate compliance with the above requirements of the BCA, must be submitted to the Principal Certifying Authority with the Construction Certificate Application.

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

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

159. **Appointment of a PCA** - The erection of a building must not commence until the applicant has:

- (a) appointed a 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, the applicant must:

- (c) 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
- (d) notify the PCA of the details of any such appointment; and
- (e) 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 PCA for your development.

160. **Notification Requirements of Principal Certifier** - No later than two days before the building work commences, the Principal Certifier must notify:

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

161. **Notice of Commencement** - The applicant must give at least two days notice to the Council and the Principal Certifier of their intention to commence the erection of a building.

162. **Critical Stage Inspections** - The last critical stage inspection must be undertaken by the Principal Certifier. 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.

163. **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 Certifier appointed for the building work can issue the Occupation Certificate.

PRESCRIBED CONDITIONS

164. **Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
165. **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.
166. **Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifier and the Principal Contractor.
167. **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.
168. **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.
169. **Clause 98E - Site Excavation** - Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site.

All excavations and backfilling associated with the erection of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

If the soil conditions require it, retaining walls associated with the erection of a building or other approved methods of preventing movement of the soil shall be provided and adequate provision shall be made for drainage.

END CONDITIONS

NOTES/ADVICES

170. **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.

171. **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.
172. **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.
173. **Access to NSW Legislations (Acts, Regulations and Planning Instruments)** - NSW legislation can be accessed free of charge at www.legislation.nsw.gov.au
174. **Principal Certifier** - Should the Council be appointed as the Principal Certifier in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justifying the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.
175. **Energy Efficiency Provisions - Energy Efficiency Provisions** - Should Council be appointed as the Principal Certifier, a report prepared and endorsed by an Energy Efficiency Engineer or other suitably qualified person must be submitted, detailing the measures that must be implemented in the building to comply with Section J of the BCA. The proposed measures and feature of the building that facilitate the efficient use of energy must be identified and detailed on the architectural plans. At completion of the building and before the issue of an Occupation Certificate, a certificate certifying that the building has been erected to comply with the energy efficiency provisions must be submitted to the Principal Certifier.
176. **Compliance with Access, Mobility and AS4299** - Adaptable Housing - Should the Council be appointment as the PCA, 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 building design and access to the adaptable units complies with Council's DCP and AS 4299 Adaptable Housing.
177. **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/nlglg.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).

178. **Acoustical Engineer Contacts & Reference Material** - Further information including lists of Acoustic Engineers can be obtained from:

- (a) Australian Acoustical Society - professional society of noise-related professionals (www.acoustics.asn.au)
- (b) Association of Australian Acoustical Consultants - professional society of noise related professionals (www.aaac.org.au)
- (c) NSW Industrial Noise Policy - Office of Environment & Heritage (www.environment.nsw.gov.au)

179. **Strata Subdivisions**

- (a) Council will check the consent conditions on the relevant Strata Subdivision consent. Failure to submit the required information will delay endorsement of the plan of subdivision.
- (b) Council will undertake the required inspections to satisfy the requirements of the Strata Schemes Development Regulation 2016 to determine the Strata Certificate.
- (c) Strata Plans, Administration Sheets, 88B Instruments and copies must not be folded.
- (d) All Strata Plans, Strata Plan Administration Sheets and 88B Instruments shall be submitted to Council enclosed in a protective cardboard tube (to prevent damage during transfer).

180. **Underground Storage Tanks removal** - You are reminded that if underground storage tanks and associated pipework are uncovered during excavation you have a duty to notify the Georges River Council as the ARA of the removal and decommissioning as per Clause 23(1)(a) of the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019, which states:

23 Notice and report of system being decommissioned

- (1) If a storage system is to be decommissioned, the person responsible for the storage system must notify the relevant local authority of the decommissioning—
- (a) in the case of urgent and unforeseen decommissioning—as soon as reasonably practicable after the decision to decommission the system is made, or
 - (b) in any other case—no later than 30 days before the system is decommissioned or removed.

Maximum penalty—100 penalty units (in the case of an individual) and 200 penalty units (in the case of a corporation).

SafeWork NSW (13 10 50) are to be contacted separately to obtain any additional requirements for the removal of underground storage tanks.

181. **Sydney Water Section 73 Certificates** - The Section 73 Certificate must be a separate certificate that relates specifically to this development consent. For example, if the development consent relates to the subdivision of the land, a Section 73 Certificate for the construction of the building that is subject to a different development consent will not suffice.
182. **Electricity Supply** - This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services) for further details and information on lodging your application to connect to the network.
183. **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.
184. **Council as PCA - Total Conformity with BCA - Accompanying Information** - Should the Council be appointed as the Principal Certifier, the Construction Certificate Application must be accompanied by the following details, with plans prepared and certified by an appropriately qualified person demonstrating compliance with the BCA:
- a) Mechanical ventilation to bathroom, laundry and basement areas not afforded natural ventilation.
 - b) Fire-fighting services and equipment including hydrant systems and booster assembly location, sprinkler and valve room systems, hose reels, portable fire extinguishers, smoke hazard management systems, sound and warning systems.
 - c) Emergency lighting and exit signs throughout, including communal open space areas, lobby/foyer and basement areas.
 - d) Construction of all fire doors including warning and operational signage to required exit and exit door areas.
 - e) Egress travel distances to exits and the discharge from fire isolated exits including the swing of exit doors.
 - f) The spandrel protection of openings in external walls
 - g) The protection of paths of travel from a fire isolated exit when passing within 6m of an opening within the external wall of the building.

- h) Fire compartmentation and fire wall separation details including all stairway, lift and service shaft areas.
- i) The location and construction of an electricity substation, including the location and smoke separation of electrical distribution boards.
- j) Sound transmission and insulation details.
- k) Window schedule is to include the protection of openable windows.

In this regard, detailed construction plans and specifications that demonstrate compliance with the above requirements of the BCA must be submitted to the Principal Certifier with the Construction Certificate Application. Should there be any non-compliance, an alternative method of fire protection and structural capacity must be submitted, with all supporting documents prepared by a suitably qualified person.

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

185. **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.

186. **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.

187. **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).

188. **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:

- (i) 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
- (ii) In the Application Form, quote the Development Consent No. (eg. DA2018/0580)
- (iii) 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 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.

189. **Council as PCA - Compliance with the BCA** - Should the Council be appointed as the Principal Certifying Authority in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justify the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.

190. **Energy Efficiency Provisions** - Should Council be appointed as the Principal Certifying Authority, a report prepared and endorsed by an Energy Efficiency Engineer or other suitably qualified person must be submitted, detailing the measures that must be implemented in the building to comply with Section J of the BCA. The proposed measures and feature of the building that facilitate the efficient use of energy must be identified and detailed on the architectural plans. At completion of the building and before the issue of an Occupation Certificate, a certificate certifying that the building has been erected to comply with the energy efficiency provisions must be submitted to the Principal Certifying Authority.

191. **Compliance with Access, Mobility and AS4299 - Adaptable Housing** - Should the Council be appointment as the PCA, 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 building design and access to the adaptable units complies with Council’s DCP and AS 4299 Adaptable Housing.

APPENDIX A – Water NSW GTA’s

LPP023-21

(a)	Reference Number:	(b)	IDAS1136161	(c)
(d)	Issue date of GTA:	(e)	06 May 2021	(f)
(g)	Type of Approval:	(h)	Water Supply Work	(i)
(j)	Description:	(k)	80mm submersible pump	(l)
(m)	Location of work/activity:	(n)	8-10 PRINCES HIGHWAY KOGARAH 2217	(o)
(p)	DA Number:	(q)	DA2019/0337	(r)
(s)	LGA:	(t)	Georges River Council - Hurstville City	(u)
(v)	Water Sharing Plan Area:	(w)	Greater Metropolitan Region Groundwater Sources 2011	(x)

(y) **The GTA issued by WaterNSW do not constitute an approval under the *Water Management Act 2000*.** The development consent holder must apply to WaterNSW for the relevant approval **after development consent** has been issued by Council **and before** the commencement of any work or activity. (z)

(aa)	Condition Number	(bb)	Details	(cc)
(dd)		(ee)		(gg)
		(ff)	Dewatering	
(hh)	GT0115-00001	(ii)	Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.	(jj)
(kk)	GT0116-00001	(ll)	Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity Advisory Note: 3. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.	(mr)
(nn)	GT0117-00001	(oo)	A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement - see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.	(pp)

- (qq) GT0118-00001 (rr) If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@waternsw.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of (ss) the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.
- (tt) GT0119-00001 (uu) All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
- (vv) GT0120-00001 (ww) The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0 m below the natural ground surface.
- (xx) GT0121-00001 (yy) Construction phase monitoring bore requirements GTA: a) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application. c) The monitoring bores must be installed and maintained as required by the water supply work approval. d) The monitoring bores must be protected from construction damage.
- (zz) GT0122-00001 (aaa) Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme) of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website www.waternsw.com.au/customer-service/water-

licensing/dewatering

(bbb) GT0150-00001	(ccc) The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual
(ddd) GT0151-00001	(eee) Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
(fff) GT0152-00001	(ggg) This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in (hhh) condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.

SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by WaterNSW for integrated development associated with DA2019/0337 as provided by Council:

- Martens Consulting Engineers (2019), Desktop Geotechnical Assessment: Multi Storey Commercial and Residential Development – 2- 24 Princes Highway, Kogarah, NSW, ref: P1907029JR02V01.
- Rod Logan Planning (2020), 2-24 Princes Highway, Kogarah Demolition of existing structures and construction of a proposed mixed use development including Commercial Premises and Serviced Apartments.
- Martens Consulting Engineers (2019), Detailed Site Investigation: 2 - 24 Princes Highway, Kogarah, NSW, ref: P1907029JR03V01.

APPENDIX B - Unit Numbers

Unit addresses for 8 Princes HWY KOGARAH NSW 2217						
Unit numbers on DA Plans		Unit numbers and addresses allocated by Council				
Level	Unit No.	Unit No	Street No	Street Name	Suburb	COMPLETE ADDRESS
Basement 2		Basement Carpark - B2				
Basement 1		Basement Carpark - B1				
Ground Level Plan	Commercial 1	Shop 2	8	Princes Highway	KOGARAH NSW 2217	Shop 2/8 Princes Highway, KOGARAH NSW 2217
Ground Level Plan	Commercial 2	Shop 1	8	Princes Highway	KOGARAH NSW 2217	Shop 1/8 Princes Highway, KOGARAH NSW 2217
Level 1 Plan	Room 101	101	8	Princes Highway	KOGARAH NSW 2217	101/8 Princes Highway, KOGARAH NSW 2217
Level 1 Plan	Room 102	102	8	Princes Highway	KOGARAH NSW 2217	102/8 Princes Highway, KOGARAH NSW 2217
Level 1 Plan	Room 103	103	8	Princes Highway	KOGARAH NSW 2217	103/8 Princes Highway, KOGARAH NSW 2217
Level 1 Plan	Room 104	104	8	Princes Highway	KOGARAH NSW 2217	104/8 Princes Highway, KOGARAH NSW 2217
Level 1 Plan	Room 105	105	8	Princes Highway	KOGARAH NSW 2217	105/8 Princes Highway, KOGARAH NSW 2217
Level 1 Plan	Room 106	106	8	Princes Highway	KOGARAH NSW 2217	106/8 Princes Highway, KOGARAH NSW 2217
Level 1 Plan	Room 107	107	8	Princes Highway	KOGARAH NSW 2217	107/8 Princes Highway, KOGARAH NSW 2217
Level 1 Plan	Room 108	108	8	Princes Highway	KOGARAH NSW 2217	108/8 Princes Highway, KOGARAH NSW 2217
Level 2 Plan	Room 201	201	8	Princes Highway	KOGARAH NSW 2217	201/8 Princes Highway, KOGARAH NSW 2217
Level 2 Plan	Room 202	202	8	Princes Highway	KOGARAH NSW 2217	202/8 Princes Highway, KOGARAH NSW 2217
Level 2 Plan	Room 203	203	8	Princes Highway	KOGARAH NSW 2217	203/8 Princes Highway, KOGARAH NSW 2217
Level 2 Plan	Room 204	204	8	Princes Highway	KOGARAH NSW 2217	204/8 Princes Highway, KOGARAH NSW 2217
Level 2 Plan	Room 205	205	8	Princes Highway	KOGARAH NSW 2217	205/8 Princes Highway, KOGARAH NSW 2217
Level 2 Plan	Room 206	206	8	Princes Highway	KOGARAH NSW 2217	206/8 Princes Highway, KOGARAH NSW 2217
Level 2 Plan	Room 207	207	8	Princes Highway	KOGARAH NSW 2217	207/8 Princes Highway, KOGARAH NSW 2217
Level 2 Plan	Room 208	208	8	Princes Highway	KOGARAH NSW 2217	208/8 Princes Highway, KOGARAH NSW 2217
Level 3 Plan	Room 301	301	8	Princes Highway	KOGARAH NSW 2217	301/8 Princes Highway, KOGARAH NSW 2217
Level 3 Plan	Room 302	302	8	Princes Highway	KOGARAH NSW 2217	302/8 Princes Highway, KOGARAH NSW 2217
Level 3 Plan	Room 303	303	8	Princes Highway	KOGARAH NSW 2217	303/8 Princes Highway, KOGARAH NSW 2217
Level 3 Plan	Room 304	304	8	Princes Highway	KOGARAH NSW 2217	304/8 Princes Highway, KOGARAH NSW 2217
Level 3 Plan	Room 305	305	8	Princes Highway	KOGARAH NSW 2217	305/8 Princes Highway, KOGARAH NSW 2217
Level 3 Plan	Room 306	306	8	Princes Highway	KOGARAH NSW 2217	306/8 Princes Highway, KOGARAH NSW 2217
Level 3 Plan	Room 307	307	8	Princes Highway	KOGARAH NSW 2217	307/8 Princes Highway, KOGARAH NSW 2217
Level 3 Plan	Room 308	308	8	Princes Highway	KOGARAH NSW 2217	308/8 Princes Highway, KOGARAH NSW 2217
Level 4 Plan	Room 401	401	8	Princes Highway	KOGARAH NSW 2217	401/8 Princes Highway, KOGARAH NSW 2217
Level 4 Plan	Room 402	402	8	Princes Highway	KOGARAH NSW 2217	402/8 Princes Highway, KOGARAH NSW 2217
Level 4 Plan	Room 403	403	8	Princes Highway	KOGARAH NSW 2217	403/8 Princes Highway, KOGARAH NSW 2217
Level 4 Plan	Room 404	404	8	Princes Highway	KOGARAH NSW 2217	404/8 Princes Highway, KOGARAH NSW 2217
Level 4 Plan	Room 405	405	8	Princes Highway	KOGARAH NSW 2217	405/8 Princes Highway, KOGARAH NSW 2217
Level 4 Plan	Room 406	406	8	Princes Highway	KOGARAH NSW 2217	406/8 Princes Highway, KOGARAH NSW 2217
Level 4 Plan	Room 407	407	8	Princes Highway	KOGARAH NSW 2217	407/8 Princes Highway, KOGARAH NSW 2217
Level 4 Plan	Room 408	408	8	Princes Highway	KOGARAH NSW 2217	408/8 Princes Highway, KOGARAH NSW 2217
Level 5 Plan	Room 501	501	8	Princes Highway	KOGARAH NSW 2217	501/8 Princes Highway, KOGARAH NSW 2217
Level 5 Plan	Room 502	502	8	Princes Highway	KOGARAH NSW 2217	502/8 Princes Highway, KOGARAH NSW 2217
Level 5 Plan	Room 503	503	8	Princes Highway	KOGARAH NSW 2217	503/8 Princes Highway, KOGARAH NSW 2217
Level 5 Plan	Room 504	504	8	Princes Highway	KOGARAH NSW 2217	504/8 Princes Highway, KOGARAH NSW 2217
Level 5 Plan	Room 505	505	8	Princes Highway	KOGARAH NSW 2217	505/8 Princes Highway, KOGARAH NSW 2217
Level 5 Plan	Room 506	506	8	Princes Highway	KOGARAH NSW 2217	506/8 Princes Highway, KOGARAH NSW 2217
Level 5 Plan	Room 507	507	8	Princes Highway	KOGARAH NSW 2217	507/8 Princes Highway, KOGARAH NSW 2217
Level 5 Plan	Room 508	508	8	Princes Highway	KOGARAH NSW 2217	508/8 Princes Highway, KOGARAH NSW 2217
Level 6 Plan	Room 601	601	8	Princes Highway	KOGARAH NSW 2217	601/8 Princes Highway, KOGARAH NSW 2217
Level 6 Plan	Room 602	602	8	Princes Highway	KOGARAH NSW 2217	602/8 Princes Highway, KOGARAH NSW 2217
Level 6 Plan	Room 603	603	8	Princes Highway	KOGARAH NSW 2217	603/8 Princes Highway, KOGARAH NSW 2217
Level 6 Plan	Room 604	604	8	Princes Highway	KOGARAH NSW 2217	604/8 Princes Highway, KOGARAH NSW 2217
Level 6 Plan	Room 605	605	8	Princes Highway	KOGARAH NSW 2217	605/8 Princes Highway, KOGARAH NSW 2217
Level 6 Plan	Room 606	606	8	Princes Highway	KOGARAH NSW 2217	606/8 Princes Highway, KOGARAH NSW 2217
Level 6 Plan	Room 607	607	8	Princes Highway	KOGARAH NSW 2217	607/8 Princes Highway, KOGARAH NSW 2217
Level 6 Plan	Room 608	608	8	Princes Highway	KOGARAH NSW 2217	608/8 Princes Highway, KOGARAH NSW 2217

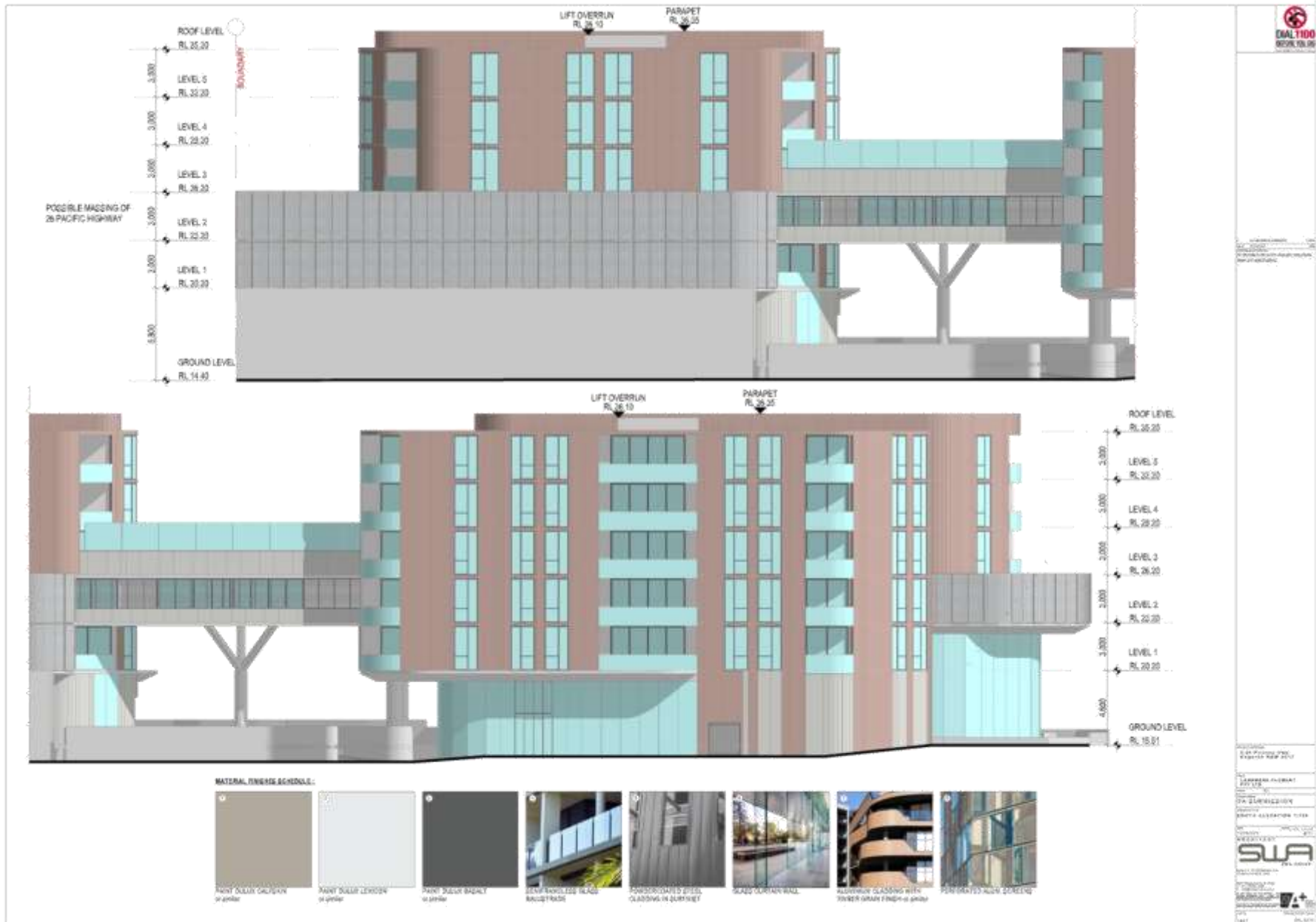
LPP023-21

ATTACHMENTS

Attachment [↓1](#)  NORTH ELEVATION - 2-24 Princes Highway Kogarah

Attachment [↓2](#)  SOUTH ELEVATION - 2-24 Princes Highway Kogarah





**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 03 JUNE 2021**

LPP024-21

LPP Report No	LPP024-21	Development Application No	PP2019/0003
Site Address & Ward Locality	143-149 Boundary Road and 689-691 Forest Road Peakhurst - Planning Proposal Peakhurst Ward		
Proposed Development	<p>Planning Proposal to amend the Hurstville Local Environmental Plan (LEP) 2012 (or Georges River LEP 2021, if gazetted) to:</p> <ul style="list-style-type: none"> •Amend the Land Zoning (LZN) Map to rezone the Site from R2 – Low Density Residential to B1 – Neighbourhood Centre •Amend the Height of Buildings (HOB) Map to increase the height from 9m to part 12m and part 15m •Amend the Floor Space Ratio (FSR) Map to increase the maximum FSR from 0.6:1 to part 1.5:1 and part 1.7:1 •Amend the Minimum Lot Size (LSZ) Map to no minimum lot size 		
Owners	John Rider and School of Arts Trustees		
Applicant	Knight Frank Town Planning		
Planner/Architect	Knight Frank Town Planning		
Date Of Lodgement	1/08/2019		
Submissions	N/A		
Cost of Works	N/A		
Local Planning Panel Criteria	Direction from the Minister for Planning and Open Spaces under Section 9.1 of the Environmental Planning and Assessment Act 1979 (EP&A Act) and the Charter of the Georges River Council Local Planning Panel (LPP) 2018 which both specify that the Planning Proposal is to be referred to the LPP 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	<p>Attachment 1 - Planning Proposal Report Attachment 2 - Urban Design Report Attachment 3 - Economic Impact Assessment Attachment 4 - Traffic Impact Assessment NOTE: Refer to the Planning Proposals page on Council's website for all Attachments https://www.georgesriver.nsw.gov.au/Development/Planning-Controls/Planning-Proposals/Planning-proposals-Mortdale-ward-en/Planning-proposal-for-143,-145-149-Boundary-Rd-689-Forest-Rd,-Peakhurst</p>		
Report prepared by	Strategic Planner		

Recommendation	That the Georges River Local Planning Panel recommends that Council endorse the forwarding of Planning Proposal PP2019/0003 to the NSW Department of Planning, Industry and Environment (DPIE) to request a Gateway Determination under Section 3.33 of the EP&A Act 1979 for an amendment to the Hurstville Local Environmental Plan (LEP) 2012 (or Georges
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River LEP 2021, if gazetted),

- Rezoning from R2 – Low Density Residential to B1 – Neighbourhood Centre;
- Increasing the maximum building height from 9m to part 12m and part 15m;
- Increasing the maximum FSR from 0.6:1 to part 1.5:1 and part 1.7:1; and
- Removing the minimum lot size requirement consistent with the proposed commercial zoning.

That the LPP recommends to Council that the Planning Proposal be forwarded to the Minister for Planning and Public Places for a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979*.

That the Georges River LPP recommends to Council that a site-specific amendment to the current Development Control Plan be prepared to reflect site specific provisions for any future development of the site.

Site Plan



Executive Summary

1. Knight Frank Town Planning submitted a Planning Proposal request (PP2019/0003) on 1 August 2019 that seeks to amend the *Hurstville Local Environmental Plan 2012* (HLEP 2012) in relation to 143, 145, 147 and 149 Boundary Road, 689 and 691 Forest Road, Peakhurst (the 'subject site').
2. The Planning Proposal request, initially submitted in August 2019, has been revised and updated in relation to the inclusion of the School of Arts site (691 Forest Road, Peakhurst), reduction of built form and scale; and additional economic analysis.
3. The School of Arts have been advised in writing of the Planning Proposal and will be consulted further during the consultation phase.
4. The amended Planning Proposal (refer to **Attachment 1**) seeks an amendment to the *HLEP 2012* (or if gazetted the *Georges River LEP 2021 (GRLEP 2021)*) for the extension of the Peakhurst Neighbourhood Centre on the corner of Boundary Road and Forest Road, Peakhurst.

5. The proposed amendments to the *HLEP 2012* in relation to the subject site are outlined below:
 - Amend the Land Zoning (LZN) Map to rezone the subject site from R2 – Low Density Residential to B1 – Neighbourhood Centre
 - Amend the Height of Buildings (HOB) Map to increase the height from 9m to part 12m and part 15m
 - Amend the Floor Space Ratio (FSR) Map to increase the maximum FSR from 0.6:1 to part 1.5:1 and part 1.7:1
 - Amend the Minimum Lot Size (LSZ) Map to no minimum lot size
6. The Planning Proposal aims to extend the Peakhurst Neighbourhood Centre eastward to the corner of Boundary Road and Forest Road and incorporate the School of Arts site into the B1 -Neighbourhood Centre zone.
7. A concept design proposal has been prepared by Conybeare Morrison to illustrate the likely development outcomes consistent with the proposed amended controls.
8. The key features of the concept design proposal comprise:
 - A mixed use development including ground level retail/commercial uses with shop top housing up to four storeys along the Boundary Road frontage.
 - Car parking in basement levels
 - A neighbourhood plaza on the Forest Road frontage,
 - Communal Open Space at podium level for residents
 - Upper levels to be developed for residential apartments, with an indicative yield of 22 dwellings based on a mix of studios, 1-bed, 2-bed and 3-bed housing development.
 - Retention of the School of Arts original brick front building, and potential for an expanded community facility or mixed community/commercial development that would complement the existing School of Arts building.
9. The Planning Proposal is accompanied by an offer to enter into a Voluntary Planning Agreement (VPA) relating to all lots except 691 Forest Road, Peakhurst. Council has held discussions with the applicant in relation to public benefits to address the additional demand generated by the development. The applicant has agreed to contribute towards the provision of a shared pathway connection between the development, Peakhurst Park and the Riverwood commercial centre as well as a new 24/7 library service technology at Penshurst Library. An updated VPA offer will be provided to address these benefits and will be reported to Council in conjunction with the Planning Proposal.
10. This report recommends that the Local Planning Panel (LPP) support the Planning Proposal to amend the *HLEP 2012* or (the *GRLEP 2021*) for the site by:
 - Rezoning from R2 – Low Density Residential to B1 – Neighbourhood Centre,
 - Increasing the maximum building height from 9m to part 12m and part 15m,
 - increasing the maximum FSR from 0.6:1 to part 1.5:1 and part 1.7:1
 - Removing the minimum lot size requirement consistent with the proposed commercial zoning.

11. The report recommends that the Planning Proposal be forwarded to the Minister for Planning and Public Places for a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979*.
12. This report also recommends that an amendment to the *Hurstville Development Control Plan No. 1* (“HDCP No.1”) or the Georges River DCP if effective be prepared, to run concurrently with an amendment to the Hurstville LEP 2012 (if Gateway approval is given by the Department of Planning, Industry and Environment), to reflect site specific provisions for any future development of the site including the provision of public access, built form, boundary setbacks, deep soil areas, tree retention, vehicular access and any other relevant issues. This DCP is to be prepared at the proponent’s cost.

Report in Full

Introduction

13. Knight Frank Town Planning submitted a Planning Proposal request (PP2019/0003) on 1 August 2019 that seeks to amend the *Hurstville Local Environmental Plan 2012* (HLEP 2012) in relation to 143, 145, 147 and 149 Boundary Road, 689 and 691 Forest Road, Peakhurst.
14. **Table 4** of this report provides a chronology of the events leading up to this report on the revised Planning Proposal.
15. The revised Planning Proposal seeks to amend the HLEP 2012 or GRLEP 2021 by:
 - Amending the Land Zoning (LZN) Map to rezone the Site to B1 – Neighbourhood Centre
 - Amending the Height of Buildings (HOB) Map to increase the height to part 12m and part 15m
 - Amending the Floor Space Ratio (FSR) Map to increase the maximum FSR to part 1.5:1 and part 1.7:1
 - Amending the Minimum Lot Size (LSZ) Map to no minimum lot size
16. The Planning Proposal is accompanied by an offer to enter into a Voluntary Planning Agreement.

SITE DESCRIPTION

Overview of the Site

17. The land subject to the Planning Proposal consists of six adjoining lots, located in the Georges River Local Government Area (LGA). The land comprises the ‘School of Arts site’, occupied by the Peakhurst School of Arts building, and residential land which currently contains three single storey residential buildings.
18. The subject land is regular (rectangular) in shape, with a wide splay on the corner of Boundary and Forest Roads. It consists of two distinct parcels of ownership. The two sites are referred to as the School of Arts site and the Corner site, with a total land area of 2,998sqm.
19. The legal description, address, and area of the six lots are shown in **Figure 1** and **Table 1**.



Figure 1 – Land parcels of the site

Table 1 – Address, legal description and site area

Address	Lot and DP	Area
Corner Site		
143 Boundary Road	Lot D DP 389507	152sqm
145 Boundary Road	Lot 12 DP 575452	155sqm
147 Boundary Road	Lot 11 DP 572452	467sqm
149 Boundary Road	Lot A DP 389507	443sqm
689 Forest Road	Lot 1 DP 11501	766sqm
School of Arts Site		
691 Forest Road	Lot 1 DP 932423	1,015sqm

20. The land is immediately adjacent to the Peakhurst Neighbourhood Centre, located to the west of the site along Forest Road and the Peakhurst Industrial Precinct to the south. The land is otherwise bounded by two main roads, Boundary Road and Forest Road, to the north and east and a light industrial zone to the south along Boundary Road.
21. The land is currently occupied by the Peakhurst School of Arts building and three single storey dwellings. Two residential lots are vacant.
22. **Figure 2** illustrates the site in context



Figure 2 – Site in context

23. The surrounding area provides a mix of uses and typologies of commercial/retail, light industrial and residential development. Refer to **Table 2** and **Figures 3 to 14**.

Table 2 – Surrounding development

Aspect	Surrounding Development
North	<ul style="list-style-type: none"> Commercial development (business and retail) – including furniture store, café/takeaways, dental, hairdressers, and other small business and retail uses. Church (Place of Public Worship) (Figure 3 to 6)
West	<ul style="list-style-type: none"> Commercial development (business and retail) – including hardware (Mitre 10), supermarket (IGA) cake shop, liquor store and short-stay accommodation (Peakhurst inn) Indoor recreation uses (Figures 7 to 9)
South	<ul style="list-style-type: none"> Light industrial and building supply uses – including tools and parts supplies, service/repair centres, home furnishings and imaging/printer services. (Figures 10 and 11)
East	<ul style="list-style-type: none"> Religious Centre (Place of Public Worship) Aged care facility Low density residential development (3 dwelling houses) (Figures 12 to 14)



Figure 3 – Commercial development 802-820 Forest Road, Peakhurst (North)



Figure 4 – Commercial development 802-820 Forest Road, Peakhurst (North)



Figure 5 – Church 800 Forest Road, Peakhurst (North)



Figure 6 – Commercial development 792-796 Forest Road, Peakhurst (North)



Figure 7 – Commercial development 695-697 Forest Road, Peakhurst (West)



Figure 8 – Commercial development 705 Forest Road, Peakhurst (West)



Figure 9 – Commercial development 707 Forest Road, Peakhurst (West)



Figure 10 – Commercial development 141 Boundary Road, Peakhurst (South)



Figure 11 – View from 133 Boundary Road, Peakhurst (South)



Figure 12 – Place of Worship 687 Forest Road, Peakhurst (East)



Figure 13 – Dwellings 182-184 Boundary Road, Peakhurst (East)



Figure 14 – Place of Worship 168 Boundary Road, Peakhurst (East)

PLANNING STRATEGIES, POLICIES AND CONTROLS

Existing Planning Controls

24. The site is currently zoned R2 – Low Density Residential under the *HLEP 2012* (refer to **Figure 15** below).

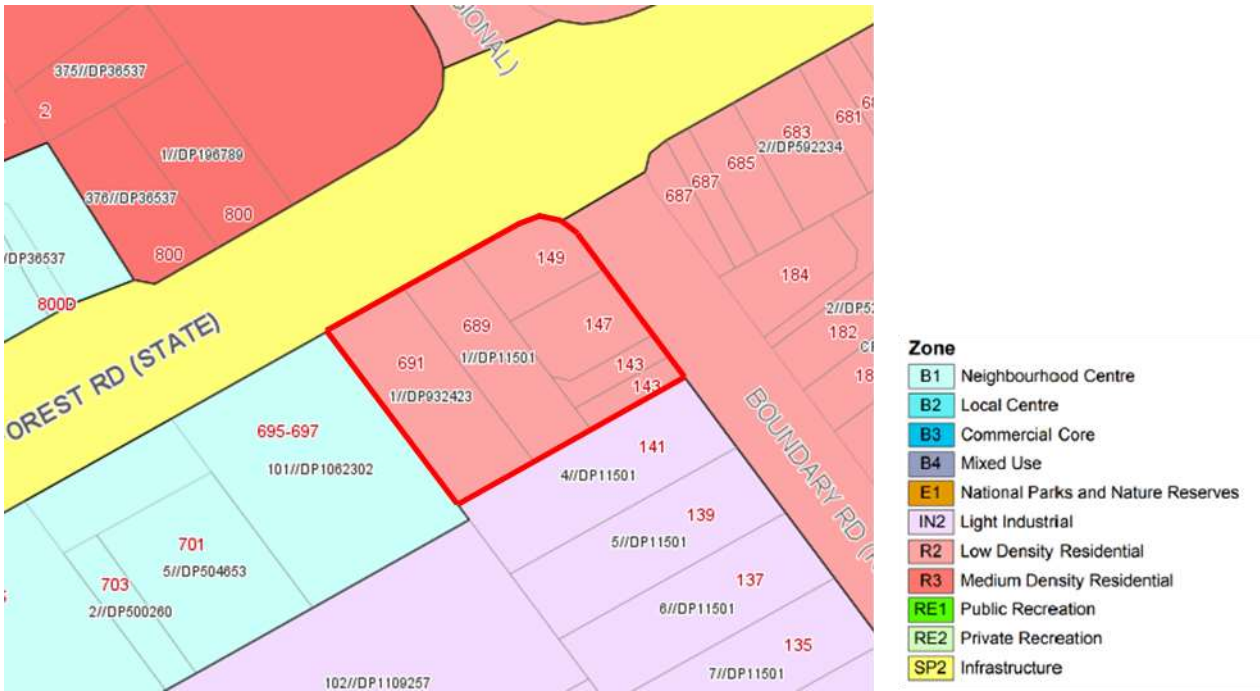


Figure 15 - Zoning

25. The site has a maximum building height of 9m under the *HLEP 2012* (refer to **Figure 16** below).

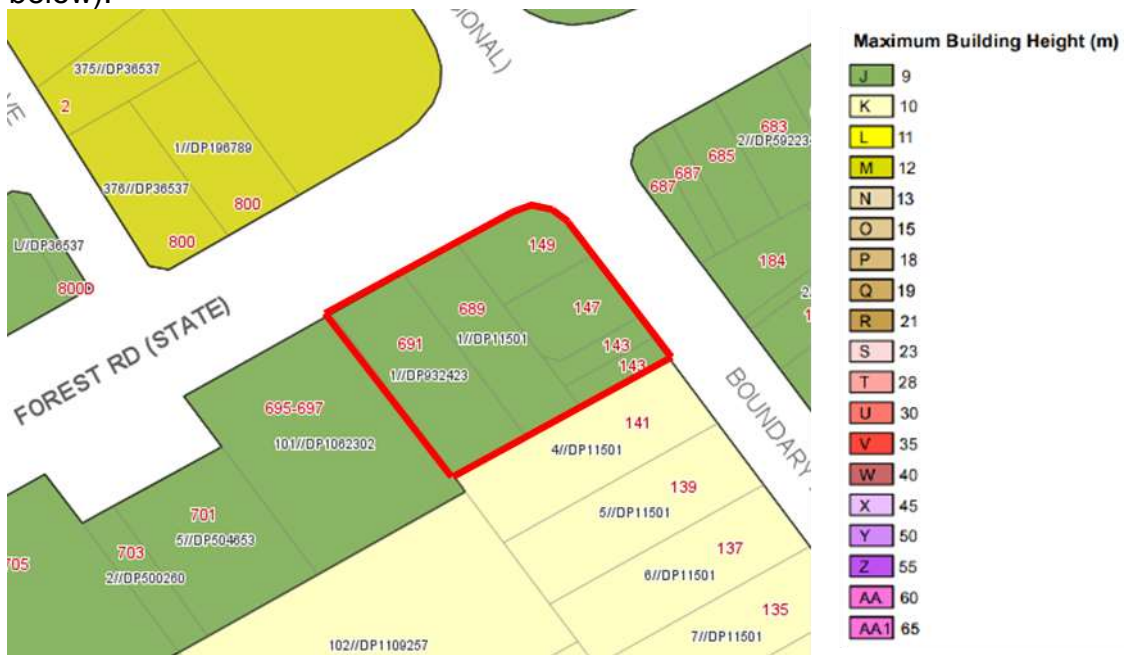


Figure 16 – Height of Buildings

26. The site has a maximum floor space ratio of 0.6:1 under the *HLEP 2012* (refer to **Figure 17** below).

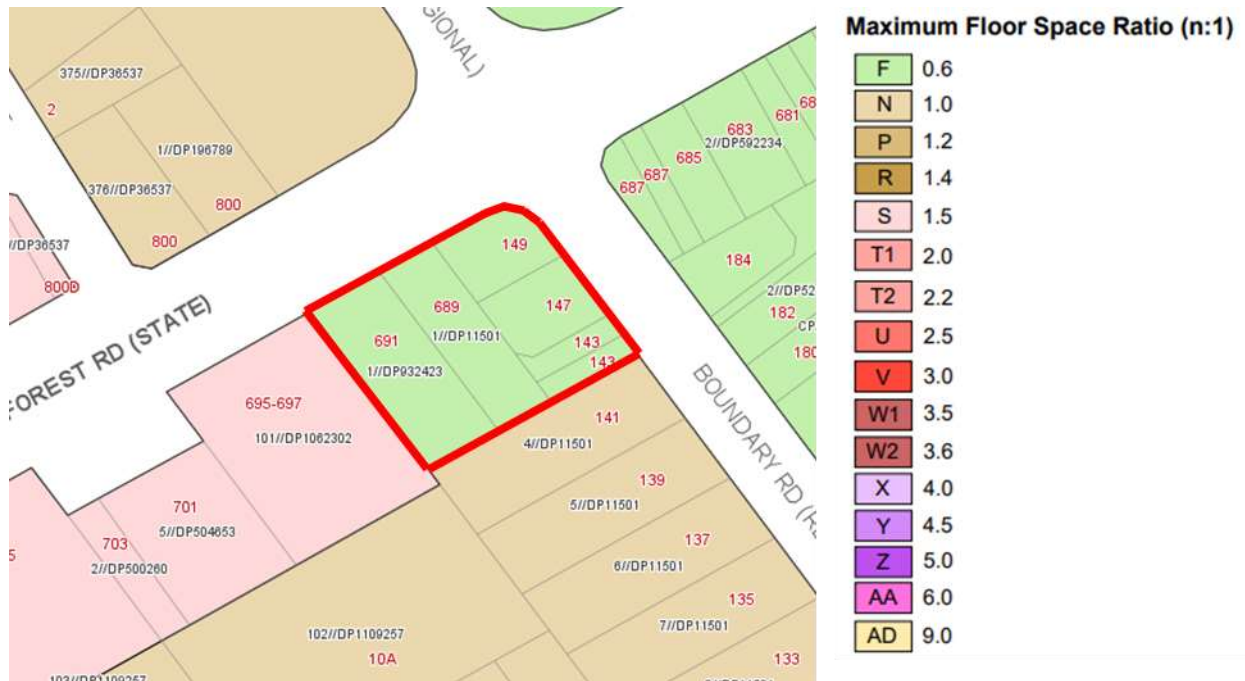


Figure 17 – Floor Space Ratio

27. The site has a minimum lot size of 450 sqm under the HLEP 2012 (refer to **Figure 18** below).

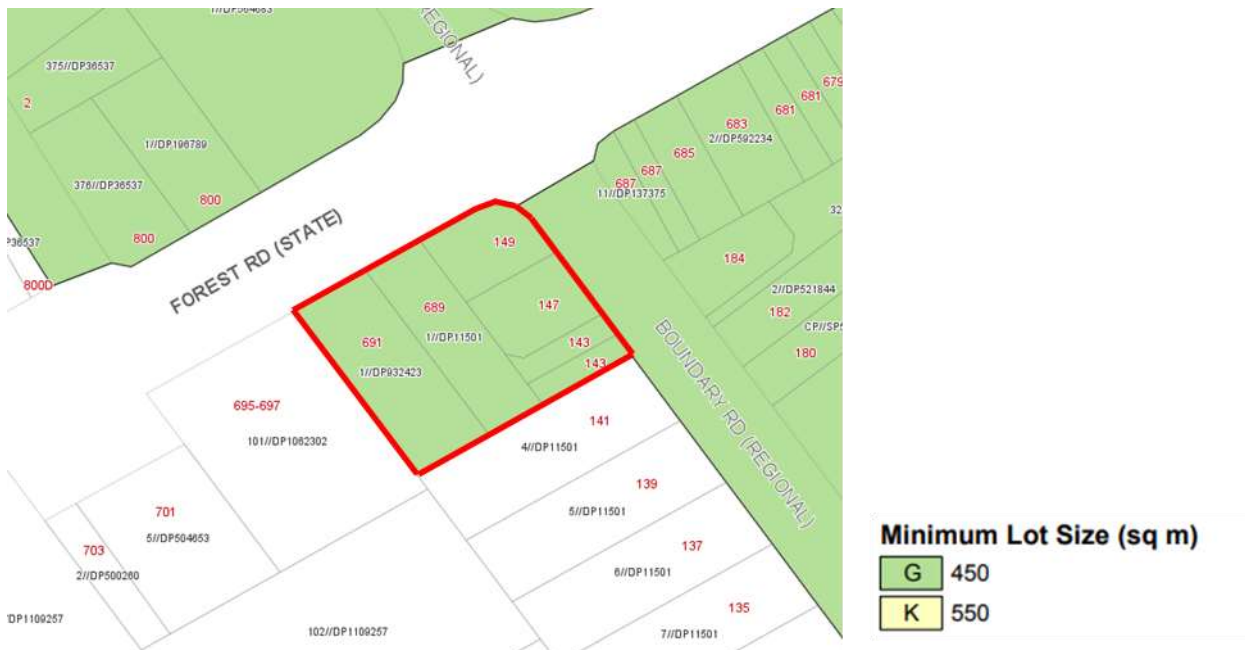


Figure 18 – Minimum Lot Size

28. The site does not contain any heritage item or heritage conservation area. There is a heritage item to the north of Forest Road (Church). (Refer to **Figure 19** below).



Figure 19 – Heritage

29. The draft Georges River LEP 2021 (GRLEP 2021) has been referred to the Department of Planning, Infrastructure and Environment for notification on 30 June 2020. The zoning, height and FSR for the Site under the HLEP 2012, draft GRLEP 2020 and the Planning Proposal are shown in **Table 3**.

Table 3 – Comparison of Hurstville LEP 2021, draft GRLEP 2020 controls and Planning Proposal controls

Properties	Planning Controls	Hurstville LEP 2012	Draft Georges River LEP 2020	Planning Proposal Request
Corner Site: • 143 Boundary Road • 145 Boundary Road • 147 Boundary Road • 149 Boundary Road • 689 Forest Road	Zoning	R2 Low Density Residential	R2 Low Density Residential	B1 – Neighbourhood Centre
	Building Height	9m	9m	12m & 15m
	Floor Space Ratio	0.6:1	0.55:1*	1.7:1
	Minimum Lot Size	450m ²	450m ²	No min Lot Size
School of Arts Site: 691 Forest Road	Zoning	R2 Low Density Residential	R2 Low Density Residential	B1 – Neighbourhood Centre
	Building Height	9m	9m	12m
	Floor Space Ratio	0.6:1	0.55:1*	1.5:1
	Minimum Lot Size	450m ²	450m ²	No min Lot Size

*Minimum non-residential FSR 0.3:1

APPLICANT’S PLANNING PROPOSAL REQUEST

Background

30. A Planning Proposal request (PP2019/0003) for 143, 145, 147 & 149 Boundary Road, 689 and 691 Forest Road, Peakhurst was lodged in August 2019 and was amended on one occasion.
31. **Table 4** below provides a summary of the key events and amendments received leading up to the revised Planning Proposal which is the subject of this report.

Table 4 – History of Planning Proposal request




Date	Action
07 September 2018	Pre-Planning Proposal lodged with Council.
19 September 2018	Meeting with applicant and Council Staff to discuss the draft Planning Proposal. A preliminary concept scheme was presented, featuring: <ul style="list-style-type: none"> • B1 – Neighbourhood Centre • 1.5:1 FSR • 12m Height
23 October 2018	Council provided advice on Pre-Planning Proposal: <ul style="list-style-type: none"> • Include 691 Forest Road, School of Arts Site • Preparation of Georges River Commercial Centres Strategy and Local Planning Statement
6 December 2018	Applicant submitted Positioning Paper recommending Council consider the following: <ul style="list-style-type: none"> • B1 – Neighbourhood Centre • 18m Building Height • 1.7:1 FSR • Recognise the potential public benefit that could result from an upgraded School of Arts and community facility
June 2019	Applicant lodged submission to LSPS
1 August 2019	Applicant lodged a Planning Proposal request with Council
5 September 2019	Council provided advice on additional information submitted and options available: <ol style="list-style-type: none"> 1. Defer the Planning Proposal request until the Potential Centres Growth LEP 2022 – Jobs and Activation has been prepared. 2. Withdraw the Planning Proposal request and a partial refund will be provided. 3. No change to the Planning Proposal request – Council will not support the Planning Proposal in its current form.
11 September 2019	Council adopted criteria when considering the expansion of commercial centres
14 February 2020	Revised Planning Proposal request submitted which is the subject of this report.

Summary of Planning Proposal

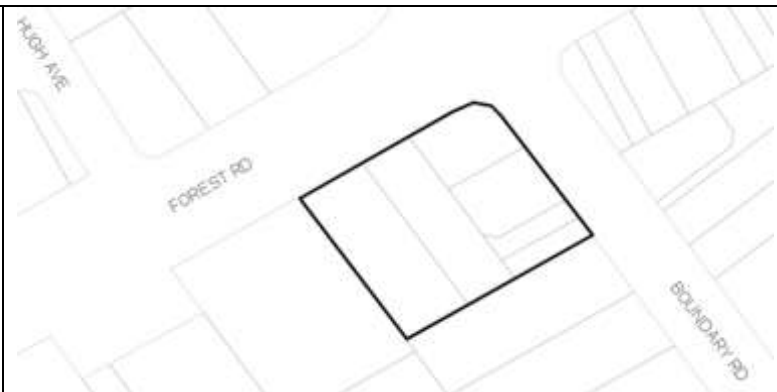
32. Knight Frank Town Planning submitted a Planning Proposal request (PP2019/0003) on 1 August 2019 that seeks to amend the HLEP 2012 (or if gazetted the GRLEP 2021) in relation to 143, 145, 147 and 149 Boundary Road, 689 and 691 Forest Road, Peakhurst.

33. A revised Planning Proposal request was submitted 14 February 2020 and included the following amended documents which form the basis of the Planning Proposal being considered in this report:
- i. Planning Proposal Report (refer to **Attachment 1**)
 - ii. Urban Design Report (refer to **Attachment 2**)
 - iii. Economic Impact Assessment (refer to **Attachment 3**)
 - iv. Traffic Impact Assessment (refer to **Attachment 4**)
34. The Planning Proposal seeks to amend the *HLEP 2012* as demonstrated in **Table 5**:

Table 5 – Proposed amendments to HLEP 2012

Amendment	Map
Amend the Land Zoning (LZN) Map to rezone the Site to B1 – Neighbourhood Centre.	
Amend the Maximum Building Height (HOB) Map to increase the height to part 12m and part 15m.	
Amend the Floor Space Ratio (FSR) Map to increase the maximum FSR to part 1.5:1 and part 1.7:1.	

Amend the Minimum Lot Size (LSZ) to no minimum lot size.



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35. A Site-Specific Development Control Plan (DCP) will be prepared to provide certainty that the built form outcome reflects urban design considerations for any future development of the site including the provision of public access, built form, boundary setbacks, deep soil areas, tree retention, vehicular access and any other relevant issues. The DCP is to be prepared at the proponent's cost.
36. The Design Concept prepared by Conybeare Morrison illustrates the likely development outcomes consistent with the proposed amended controls. The key features of the concept design comprise:
- A mixed use development is proposed including ground level retail/commercial uses with shop top housing up to four storeys along the Boundary Road frontage.
 - Car parking in basement levels
 - A neighbourhood plaza on the Forest Road frontage,
 - Communal Open Space at podium level for residents
 - Upper levels to be developed for residential apartments, with an indicative yield of 22 dwellings based on a mix of studios, 1-bed, 2-bed and 3-bed housing development.
 - Retention of the School of Arts original brick front building, and the construction of a new community facility up to 3 storeys including underground parking at the rear of the site.
37. **Figures 20 to 24** illustrate the concept design of the Planning Proposal.

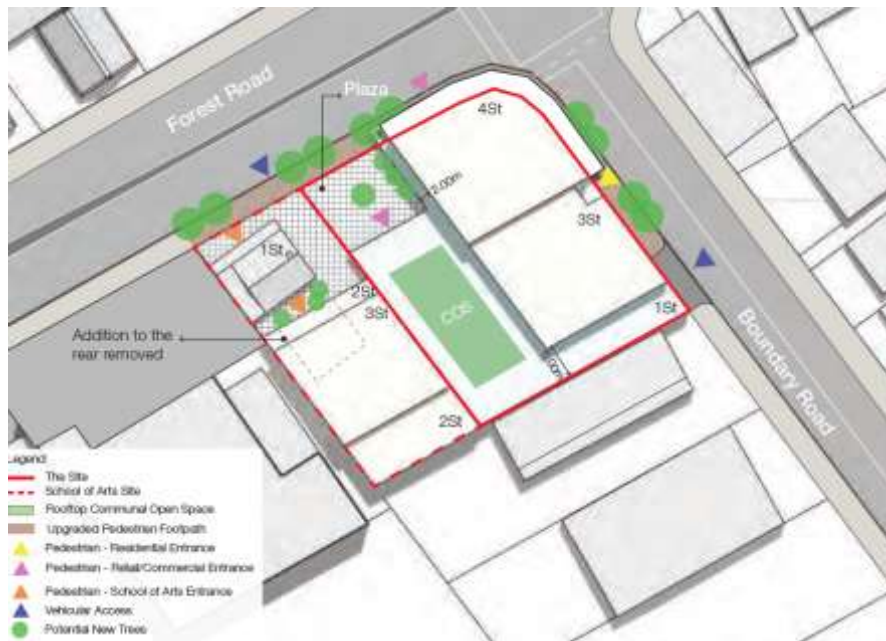


Figure 20 – Design Concept



Figure 21 – Looking south west



Figure 22 – Looking south



Figure 23 – Looking south east



Figure 24 – Looking north west

ASSESSMENT OF THE PLANNING PROPOSAL

Strategic Planning Context

38. Consideration of the Planning Proposal request in relation to the *Greater Sydney Region Plan (A Metropolis of Three Cities)* and the *South District Plan* is provided below:

Greater Sydney Region Plan - A Metropolis of Three Cities

39. 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.
40. The applicant has provided their assessment of the Planning Proposal against the relevant Objectives of the Region Plan as below and is acceptable to Council:
41. **Direction** - A city supported by infrastructure
Objective 1: Infrastructure supports the three cities
42. The site is in an accessible location with good public transport access (bus) and adjacent to an existing local centre. An increased density at this location is consistent with supporting centres within a walkable distance to public transport. The planning proposal will improve the services and housing activity of the Peakhurst 'neighbourhood centre', delivering a 30 minute city.
43. **Direction** – A collaborative city
Objective 5: Benefits of growth realised by collaboration
44. The proponent of the planning proposal aims to collaborate with Council on the future planning of the area to deliver community benefits required for this area such as increased public open space, local services, jobs and housing.
45. **Direction** – A city for people
Objective 6: Services and infrastructure meet communities' changing needs
Objective 7: Communities are healthy, resilient and socially connected
Objective 8: Greater Sydney's communities are culturally rich with diverse neighbourhoods
Objective 9: Greater Sydney celebrates the arts and supports creative industries and innovation
46. The Planning Proposal will provide an increase of floor space available for providing services and uses to meet community needs.
47. The planning proposal will result in improvements to social infrastructure by providing a new public plaza that will encourage social interactions and connections and provide an improved local character. Ground floor non-residential uses will support street activation and engagement with the public realm.
48. The planning proposal will increase walkable access to a local centre by facilitating an increase of jobs and housing in proximity to the centre. This will promote a healthy and connected community.
49. The inclusion of the School of Arts site, provides the opportunity for the owner of this landholding to deliver an improved community facility. This would encourage a creative and connected community and greater social opportunities.
50. In summary, a moderate expansion of the Peakhurst neighbourhood centre will support the local community and workers through an expansion of uses and new services that are lacking in the area.
51. **Direction** – Housing the city
Objective 10: Greater housing supply
Objective 11: Housing is more diverse and affordable

52. A rezoning of the subject site will enable an increase of housing supply in a strategic location adjoining existing services. The planning proposal will enable approximately 22 residential units (depending on the final mix of unit types which would be subject to development approval). The scheme as proposed estimates the following unit mix:
- Studio: 1 unit
 - 1 Bedroom: 8 units
 - 2 Bedroom: 11 units
 - 3 Bedroom: 2 units
53. The site, within walking distance to an existing centre and public transport, is suitable for providing an increased density of residential development.
54. The proposal would provide for an increase in services by enabling additional retail or business units.
55. The initial offer to enter into a Voluntary Planning Agreement (VPA) aims to provide affordable housing as well as other public benefits. However, Council is unable to accept affordable housing at this time as Council does not have an approved Affordable Housing Scheme and a Local Environmental Plan that allows acceptance and management of affordable housing. As outlined in the section on the VPA further in this report, alternative public benefits have been identified to address the additional demand generated by the development.
56. **Direction** – A city of great places
Objective 12: Great places that bring people together
57. The planning proposal will deliver a ‘great place’ and improvements to the local centre, through an improved public domain, increased access to public open space, expansion of community facilities and improved amenity for employees and the local community. Located on the corner of Peakhurst and Boundary Roads, this strategic location of the site provides an opportunity to create an improved gateway to the neighbourhood centre, creating a sense of arrival.
58. **Direction** – A well-connected city
Objective 14: A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities
59. The planning proposal will provide potential for approximately 28 jobs and 36 indirect full time equivalent (FTE) jobs during operation as a result of the proposal. During construction 45 jobs and 130 additional indirect job opportunities will be provided for as a result of the planning proposal. (See Economic Assessment, **Attachment 3**). In addition, it will provide for approximately 22 residential units within a walkable distance of new and existing local communities, services and public transport infrastructure. This is consistent with delivering a 30-minute city.
60. **Direction** – Jobs and skills for the city
Objective 22: Investment and business activity in centres
61. The Region Plan supports the expansion of supermarket-based local centres, and states that:

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 per cent of all Greater Sydney's jobs.

While local centres are diverse and vary in size (as measured by floor space), they play an important role in providing access to goods and services close to where people live. Increasing the level of residential development within walking distance of centres with a supermarket is a desirable liveability outcome.

Enhancing the accessibility, connectivity and amenity of walking and cycling paths in and around centres is required to improve walkability. Improving road and footpath environments within centres enhances the centre's function as a destination and contributes to the vitality and viability of the centre (refer to Objective 12). Enhanced walkability can also be achieved through provision of a fine grain urban form with a diversity of commercial spaces and public places, and co-location of services and infrastructure.

62. The subject site is in the vicinity of the Peakhurst neighbourhood centre, which provides a range of services including supermarket (IGA) and small business and retail uses. It is noted that the centre is lacking in health services such as a medical centre and pharmacy.
63. Providing increased housing and services at this location is entirely consistent with the role of a local centre. A mix of land uses through the co-location of residential with local centre services such as a medical centre and pharmacy is consistent with Objective 14 and promotes a walkable centre.
64. As detailed in the Economic Assessment (**Attachment 3**), the planning proposal would support local businesses and complement and extend the facilities available within the centre, helping to consolidate the role of the centre.
65. **Direction** – A city in its landscape
Objective 30: Urban tree canopy cover is increased
Objective 31: Public open space is accessible, protected and enhanced
66. Improvements to the public domain and open space are proposed through street tree planting, an upgraded pedestrian pavement, and a new public plaza.
67. **Direction** – An efficient city
Objective 33: A low-carbon city contributes to net-zero emissions by 2050 and mitigates climate change
68. The proposed development will be designed to provide a built form that responds to sustainability measures.
69. The proposal will increase housing and jobs in a location served by public transport and within a walkable distance to a neighbourhood centre, minimising the need for private vehicles and encouraging green travel options.

South District Plan

70. The South District Plan was finalised and released by the Greater Sydney Commission in March 2018. The District Plan is a guide for implementing the Region Plan at the district level and proposes a 20-year vision by setting out aspirations and proposals for the South District.

71. The Planning Proposal is considered to be consistent with the following Planning Priorities of the South District Plan as detailed in **Table 6**:

Table 6 – Consistency of the planning proposal with South District Plan

Directions	Planning Priorities relevant to the Planning Proposal
A city supported by Infrastructure	Planning Priority S1 - Planning for a city supported by infrastructure
A collaborative city	Planning Priority S2 - Working through collaboration
A city for people	Planning Priority S3 - Providing services and social infrastructure to meet people's changing needs Planning Priority S4 - Fostering healthy, creative, culturally rich and socially connected communities
Housing the city	Planning Priority S5 - Providing housing supply, choice and affordability with access to jobs, services and public transport
A city of great places	Planning Priority S6 - Creating and renewing great places and local centres, and respecting the District's heritage
Jobs and Skills for the city	Planning Priority S9 - Growing investment, business opportunities and jobs in strategic centres Planning Priority S10 - Retaining and managing industrial and urban services land
A well connected city	Planning Priority S12 - Delivering integrated land use and transport planning and a 30-minute city
A city in its landscape	Planning Priority S15 - Increasing urban tree canopy cover and delivering Green Grid connections Planning Priority S16 - Delivering high quality open space

72. Peakhurst is identified as a Local Centre in the South District Plan and is consistent with the role of a Local Centre, aiming to provide an increase of employment floor space for providing of goods and services, as well as additional housing to enable more people to live in walking distance of the local centre.
73. The *South District Plan* acknowledges the need for additional housing close to local centres and the need for centres to grow and evolve over time. The planning proposal is consistent with the following principles with regard to place-based planning for creating and renewing great local centres outlined in the *South District Plan*:
- *provide public realm and open space focus*
 - *deliver transit-oriented development and co-locate facilities and social infrastructure*
 - *provide, increase or improve local infrastructure and open space*
 - *improve walking, cycling and public transport connections, including through the Greater Sydney Green Grid*
 - *protect or expand retail and/or commercial floor space*
 - *protect and expand employment opportunities*
 - *integrate and support arts and creative enterprise and expression*
 - *support the night-time economy*
 - *augment or provide community facilities and services, arts and cultural facilities*
 - *conserve and interpret heritage values*
 - *increase residential development in, or within a walkable distance of, the centre*
 - *provide parking that is adaptable to future uses and takes account of access to public transport, walking and cycling connections.*

Council's Local Strategic Plans

74. Consideration of the planning proposal request in relation to Council's local strategic plans are provided below.

Georges River Local Strategic Planning Statement

75. The 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 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

76. The LSPS states that Georges River has 48 local and neighbourhood centres of different sizes, character and function. Peakhurst is an identified Village as shown in **Figure 25** below. It has also been identified as part of 'Centre Expansion Investigation (Jobs and/or housing)'.

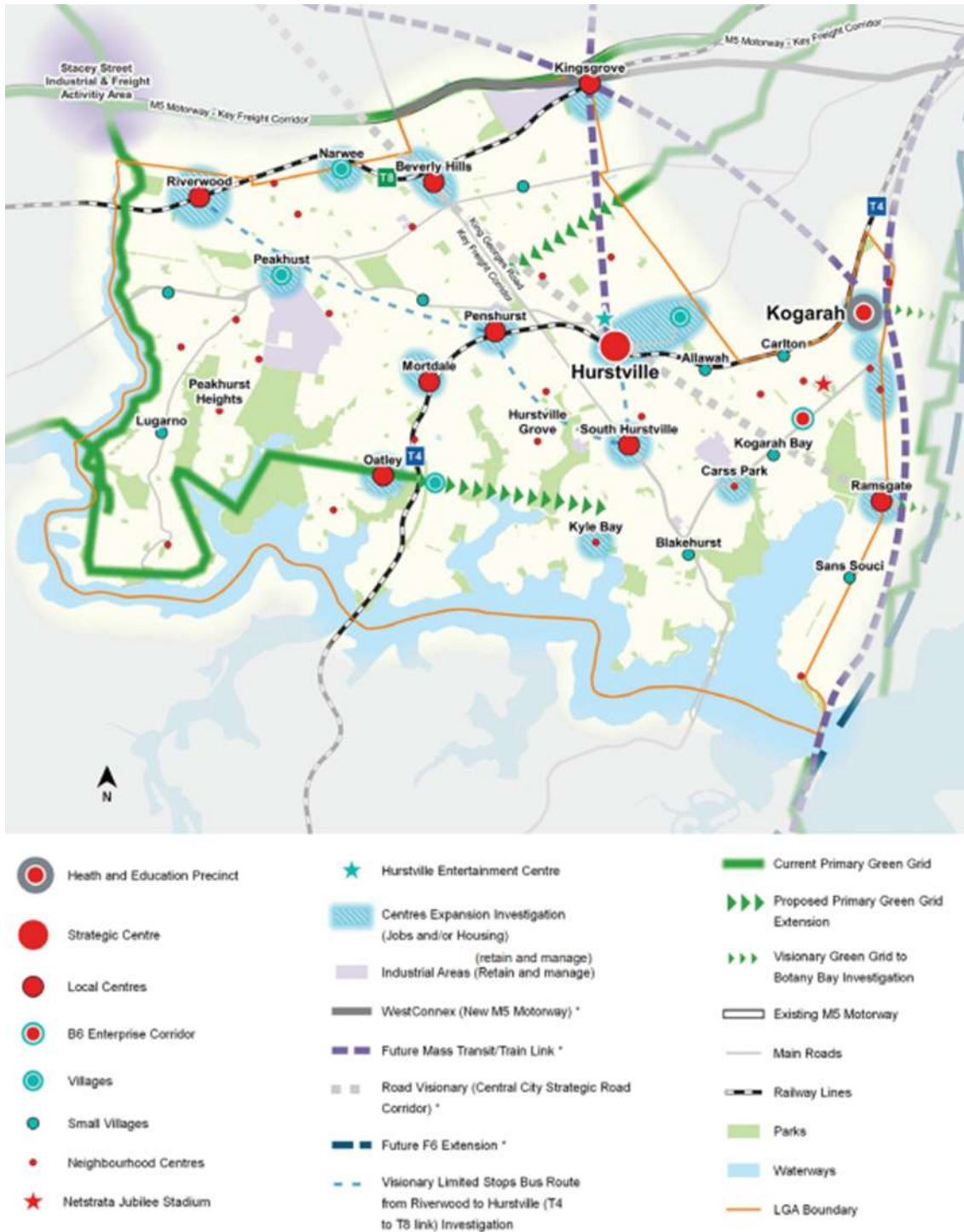


Figure 25 – Economy and Centres Structure Plan

77. The planning proposal to extend the Peakhurst B1 Neighbourhood Centre zone is aligned with the planning priority *P12 Land is appropriately zoned for ongoing employment growth* of the LSPS. It is proposing approximately 1,500sqm additional employment floor space, an estimated 30 additional local jobs and additional housing types and sizes, within a Centre that has been identified for expansion.

Georges River Commercial Centres Strategy

78. The *Georges River Commercial Centres Strategy* (CCS Part 1) is being developed in two stages; Part 1 and Part 2. Part 1 informed the preparation of draft *Georges River LEP 2021* and Part 2 will look at the roles and functions of all 48 commercial centres. It will

provide centre-specific objectives, building controls and guidelines, and explores the potential expansion of appropriate centres.

79. The primary purpose of Part 1 was to inform the preparation of GRLEP 2021 and its accompanying development control plan. It conducted a stocktake of all 48 commercial centres in the Georges River LGA through a holistic approach with the intention of harmonising the existing planning frameworks that govern the future development of these centres
80. Part 1 also looked at the inconsistencies and deficiencies of the current planning framework. It sought to harmonise the permissible land uses and introduce land uses that promote employment in response to the emerging economic trends and drivers, and investigate the appropriate mix required between employment and residential floor space in mixed use developments.
81. In the *CCS Part 1*, Peakhurst is identified as a Village as shown in **Figure 26** and is zoned B1 – Neighbourhood Centre under the *HLEP 2012* and the *Draft GRELP 2021*. The B1 – Neighbourhood Centre zones supports a local resident and worker population and is considered suitable for a greater share of increase in employment floorspace. Active street frontage provisions are proposed to be included into the DCP to enhance the centres connectivity and vibrancy.

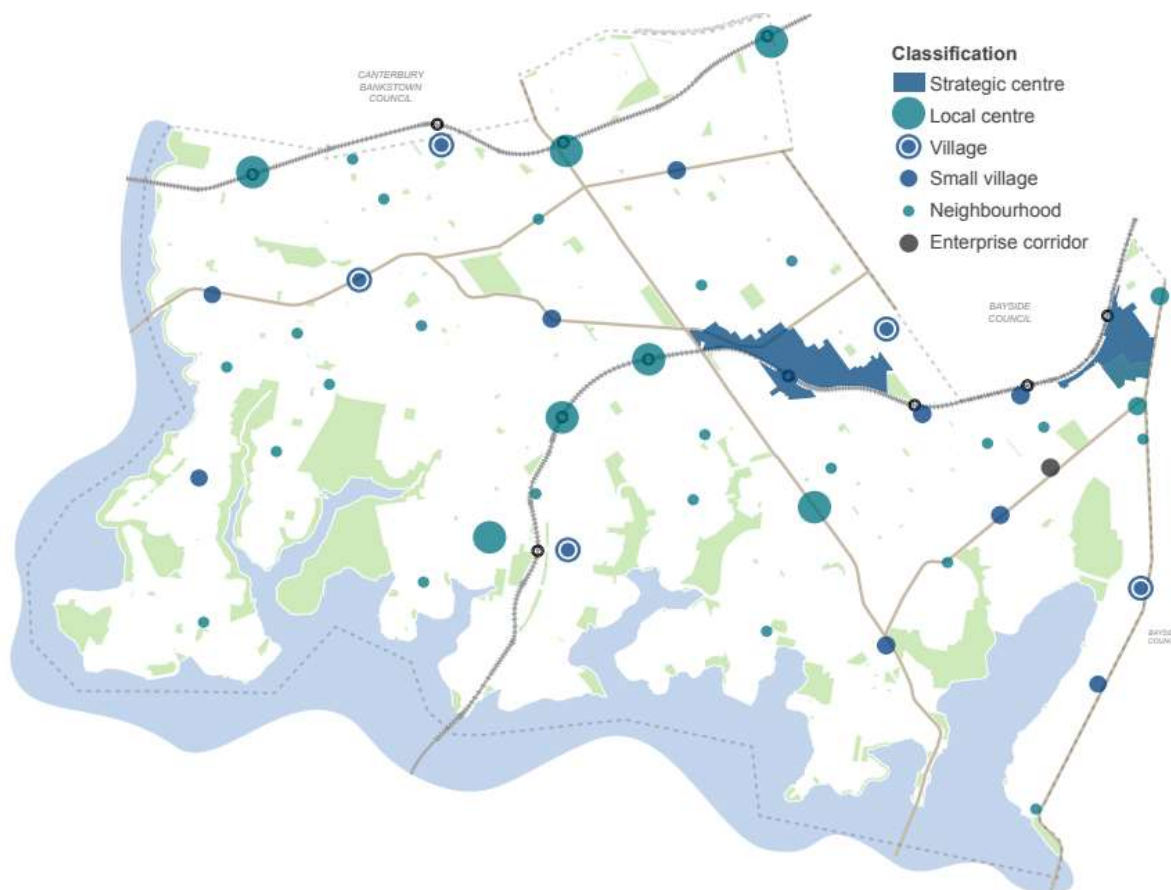


Figure 26- Existing Centres Hierarchy

82. The strategy recommends minimum non-residential FSRs required to meet 2036 demand. The draft GRLEP 2021 proposes a minimum non-residential FSR of 0.3:1 for the Peakhurst Village, in line with the recommendation of CCS – Part 1.

83. Until the Commercial Centres Strategy Part 2 has been prepared, Council has developed a guideline in the interim to ensure that any applicant-initiated Planning Proposal requests are supported by evidence findings, strategic and site-specific merit and great urban design outcomes. Expansion of the nominated centres may be considered if the subject site meets specific rezoning criteria.
84. The criteria for considering expansions of centres are provided below in **Table 7**, along with the applicant's assessment and Councils comments.

Table 7 – Rezoning Criteria

Criteria for Considering Expansion of Centres	Councils Assessment
Not an ad hoc out-of-centre rezoning	The Planning Proposal seeks to extend an existing centre to a logical end at Boundary Road.
<p>Is immediately adjacent and within the same street block of an existing centre with the following categorisation in the retail hierarchy of centres:</p> <ul style="list-style-type: none"> • Strategic centre • Local centre • Village • Small village 	The Planning Proposal will be an extension to the existing Peakhurst Neighbourhood centre on Forest Road, Peakhurst. The site is immediately adjacent to and within the same street block of the Peakhurst Neighbourhood Centre.
Meeting an economic demand for additional employment floor space that cannot be provided within the existing centre	<p>The CCS Part 1 and the draft GRLEP 2020 specify a minimum non-residential FSR of 0.3:1 The planning proposal provides 1,455m² non-residential floorspace which is more than 0.3:1.</p> <p>There is unmet demand in the LGA's small centres which was identified by Hill PDA strategic Economic Study and the Centres Strategy identifies a need for additional non-residential floorspace in Peakhurst</p> <p>There is little capacity within the existing B1 zoned land for additional floor space and the proponent's Economic Assessment confirms that the proposal would meet the demands of current and future local population growth within the catchment with little or no impact on other centres</p> <p>The current B1 zoned land within the centre is 1 ha in area, compared with Narwee and Hurstville East Village Centres, that are 1.7 ha each.</p>
Addressing a demonstrated shortfall / retail gap, particularly in the local food and grocery network that cannot be located within the existing centre	The Planning Proposal would provide for an estimated additional retail/commercial floorspace of 1,455m ² .

Criteria for Considering Expansion of Centres	Councils Assessment
assessment against the criteria.	The proponent’s Economic Assessment identified a gap in medical centre services. There is no pharmacy in the existing centre and limited restaurant / café selection (currently only 3). There is also no food specialty retail – bakery, deli, butcher, etc. and there is limited office space – no real estate, financial, ATM
Does not negatively impact the economic viability and performance of the existing centre	The LSPS identifies Peakhurst Neighbourhood Centre as a Potential centre for growth. The extension of existing centre would encourage a wider range of uses to be accommodated. A greater diversity of uses improves overall viability of the centre.
Delivers a greater net community benefit compared to the existing use on the subject site	The planning proposal proposes to: <ul style="list-style-type: none"> • Provide additional retail and commercial space, and will provide customers with local services and employment in Peakhurst Centre • Increase the capacity for community facility expansion and flexibility for greater use of School of Arts site
<p>Presents a significant opportunity to provide much-needed, community-oriented benefits including but not limited to:</p> <ul style="list-style-type: none"> • At-grade public gathering spaces • Multi-use and flexible community facilities • Through-site links • Public view corridors and vistas • Public car parking • Improved traffic and road network conditions • Facilitates arts and creative industries • offers the opportunity to provide better linkages between fragmented parcels of employment uses within the existing centre • Offers the opportunity for an innovative adaptive re-use of an historic building <p>or</p> <ul style="list-style-type: none"> • creates a built form that presents an appropriate transition and interface between the existing centre boundary and the surrounding heritage fabric 	<p>The Planning Proposal provides a publicly accessible plaza on Forest Road. This will introduce tree planting and street furniture, which is recognised as a significant improvement to the quality of the Centre’s public domain. The proposal provides the following much needed public benefits in this location:</p> <ol style="list-style-type: none"> 1. Open public gathering space that could be further extended across the front of the School of Arts site 2. Improvement of 90m of roadside and footpath space around key intersections, including removal of 3 driveway cross overs 3. Café and food premises which support and compliment the increased use of the adjacent School of Arts facility for arts and creative activities 4. Built form with corner emphasis and definition of the centre, and open curtilage area improving the visibility of the School of Arts building <p>The roadside/footpath improvements need a thorough analysis in light of the proposed TfNSW works at the intersection of Forest and Boundary Road. Refer to the discussion on Traffic and Transport in this report.</p>
Enables a significantly improved	Significant improvement to the current situation

Criteria for Considering Expansion of Centres	Councils Assessment
transition and integration between the existing centre's development potential at the centre boundary and adjoining lower density areas	involving a small low density residential pocket bound by the centre and light industrial area, by a rational extension of the centre to Boundary Road.
Enhances the existing centre's identity in line with the desired future character	Proposed renewal will enhance the centre's identity and corner emphasis will define the centre.
Demonstrates that there is no potential for a precedent to be set	Involves a small isolated low density residential pocket and a logical end at Boundary Road.
Provides strategic merit in expanding the existing centre that aligns with the policy direction of Commercial Centre Part 1 Strategy and the Greater Sydney Region Plan and South District Plan	<p>The subject site is within a 5 minute walk of a local centre, that is served by number of bus routes. The proposal provides additional housing and employment opportunities within a 5 minute walk of the centre.</p> <p>It is consistent with the South District Plan which identify Peakhurst as a 'Local Centre' that should <i>'provide essential access to day to day goods and services' and provide 'additional residential development within a 5-minute (400m) walk'</i>.</p>
Satisfies the strategic merit test and site specific merit test in accordance with NSW DPE Planning Circular PS 16-004.	<p>The Planning Proposal satisfies both the strategic and site specific merit test, as it is consistent with the direction provided in the Strategic Planning documents.</p> <p>The Planning Proposal would provide an opportunity for new types of businesses to be established within the Peakhurst centre, complementing the existing retail and business mix.</p> <p>The proposal provides additional residential dwellings in an accessible location which is in close proximity to public transport and other amenities and services.</p>

LPP024-21

State and Regional Statutory Framework

85. The Planning Proposal is consistent with the following relevant State Environmental Planning Policies (SEPPs)

State Environmental Planning Proposal No. 55 – Remediation of Land

86. SEPP 55 aims to promote the remediation of contaminated land for the purpose of reducing risk and harm to human health or any other aspects of the environment.

87. The Planning Proposal does not contain provisions that will contradict or hinder the application of this SEPP. The applicant has advised that the site's historical use was for residential purposes and the proposed use will comprise of retail / commercial with residential uses above.

88. A desktop assessment was completed and based on readily available information it has not revealed any indications of potentially contaminating activities that have been carried out on the land.

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

89. The proposed development will be subject to the provisions of SEPP 65, which aims to improve the quality of residential apartment design in NSW.

State Environmental Planning Policy (BASIX) 2004

90. This SEPP will be addressed at the Development Application phase

S9.1 Ministerial Directions

91. Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979 set out a range of matters to be considered when preparing an amendment to a Local Environmental Plan.
92. The Planning Proposal is consistent with all relevant Ministerial Directions as provided by in **Table 8** below:

Table 8 – Ministerial Directions

S9.1 Direction	Assessment
1.1 Business and Industrial Zones	<p>The planning proposal gives effect to the objectives of this direction and will provide an increase in employment space and services in an extension of an established neighbourhood centre. This will support the viability of the centre by providing investment and an increase of uses that will attract additional people to the centre.</p> <p>The proposal adequately provides for non-residential FSR on the lower levels, with residential above.</p>
3.1 Residential Zones	<p>While it is not proposed to rezone the site to a residential zoning, the planning proposal will enable a greater provision of housing in an existing urban area.</p> <p>Through the provision of B1 Neighbourhood centre zoning, the Planning Proposal encourages a variety and choice of housing types to provide for existing and future housing needs, above lower level of retail and commercial uses.</p>
3.4 Integrating Land Use and Transport	<p>The planning proposal will provide a higher density of jobs in close proximity to services and public transport.</p> <p>Bus stops will provide access to multiple regular services every 30 minutes and higher frequency 20 minute peak services.</p>

S9.1 Direction	Assessment
	<p>The subject land is adjacent to the existing Peakhurst Village Neighbourhood Centre zone and is proposed to be an extension of this centre that will consolidate its role, including a higher density of residential development within a walkable catchment.</p> <p>The Planning proposal will enable retail and residential development in close proximity to services and public transport.</p>
7.1 Greater Sydney Region Plan – A Metropolis of three Cities	The Planning Proposal is consistent with the relevant Directions and Objectives of Greater Sydney Region Plan as demonstrated in this report.

Site Specific Assessment

Urban Design Analysis

93. The subject site is located at the corner of Forest Road and Boundary Road and forms a link between the Peakhurst (Forest Road) Centre and the Peakhurst Industrial Precinct.
94. The existing context is characterised by low-scale developments of one to two storeys. This is attributed to the existing maximum building height of 9m applied to the adjoining B1- Neighbourhood Centre and R2 Low Density Residential zoned areas and 10m height for the IN2 Light Industrial zone.
95. However, the draft Georges River LEP 2021 seeks to increase the maximum building height in the adjoining IN2 Light Industrial zone to a combination of 12m and 16m. Accordingly, it is reasonable to forecast a shift in the general character and scale of developments in the local context.
96. The subject site occupies a visually prominent position at the corner of Forest Road and Boundary Road and benefits from exposure to high volumes of passing trade. The proposed four storey built form appropriately anchors the corner to delineate the new boundary of the Centre and reinforces its legibility.
97. A stepping envelope is adopted by the proposed design in response to the sloping topography of Boundary Road (refer **Figure 27** below). A gradual transition is provided from the existing low-scale character to the proposed higher density corner development.

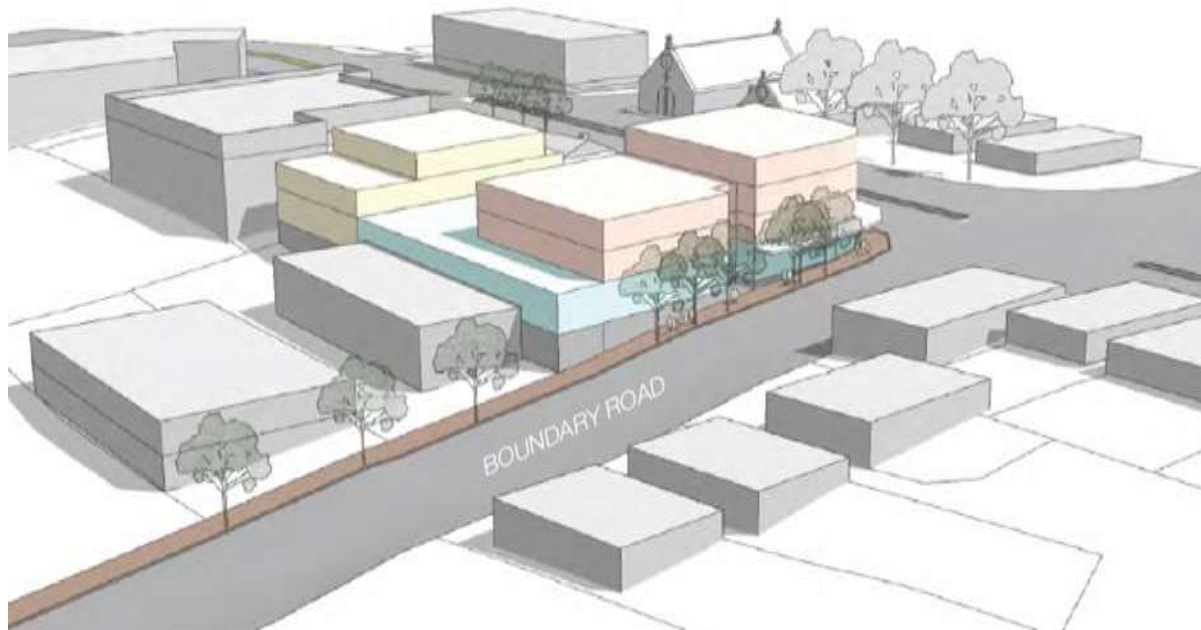


Figure 27 – Proposed development

98. To complement the built form of the existing School of Arts cottage, a modest built form of two to three storeys is proposed at its rear. The proposal's building envelope is compatible with the existing two storey built form of the Centre.
99. The shadows cast from the proposed envelopes will have no impact on the solar access of existing residential dwellings located on Boundary Road and fall mainly on the Industrial Precinct to the south of the subject site.
100. In light of the above, the proposed building heights of 12m on the School of Arts site and 15m at the corner of Forest and Boundary Roads demonstrate an appropriate built form response to its urban context.
101. The proposed density is also considered to be suitable as the increased FSR of part 1.5:1 and part 1.7:1 is consistent with the 1.5:1 FSR applied to the adjoining B1-Neighbourhood Centre.
102. Despite the existing presence of retail premises within the Centre, the poor pedestrian amenity along Forest Road has led to the reliance on vehicles for access and an absence of pedestrian activity.
103. The Planning Proposal provides an opportunity for an active streetscape to be created through the provision of a publicly accessible plaza on Forest Road.
104. The proposal to introduce tree planting and street furniture through the new plaza is recognised as a significant improvement to the quality of the Centre's public domain. The potential for the plaza to attract additional foot traffic and retain passing trade will greatly improve the Centre's vibrancy and viability.

Economic Analysis

105. The Economic Impact Assessment ("EIA", refer **Attachment 3**) submitted by the applicant includes an estimate of non-residential floor space of 1,445 m² and 130 jobs on the subject site.

106. The Planning Proposal will provide approx. 1,445m² of non-residential floor space which meets the required 0.3:1 FSR to comply with the Draft GRLEP 2021.
107. The proposal will provide a range of positive economic benefits for the local area as follows:
- The proposed development would provide an opportunity for new types of businesses to be established within the Peakhurst centre, complementing the existing retail and business mix and consolidating its role as a Village centre within the centres hierarchy.
 - Retail effects on other businesses within the centre are likely to be positive as a result of additional customer visitation. The increase in retail floorspace would have little or no effect on the role or performance of other centres in the region.
 - Importantly, the inclusion of a medical centre would fill a gap in the provision of such services, especially having regard to the advantageous position within an employment precinct and on a major travel route.

Traffic and Transport

108. The concept scheme demonstrates one vehicle access point for the proposal located at the southern end of the Site on Boundary Road. All car parking and services will be located within the ground floor and basement levels.
109. The Traffic Impact Assessment report prepared by Ason Group accompanying the Planning Proposal, dated August 2019 (refer to **Attachment 4**) outlines the following key conclusions:
- The subject site is located in close proximity of a number of bus routes, which will encourage new residents to use alternative transport modes (other than private vehicles) to travel to and from the proposed developments.
 - The traffic generation of the proposed development represent an increase of less than 1% in traffic at the signalised intersection of Forest Road / Boundary Road when compared to the future 2036 base line scenario.
 - SIDRA analysis of the Forest Road / Boundary Road signalised intersection indicates that the additional trips generated by the proposed development would result in moderate increases to Degree of Saturation (DoS) and Average Vehicle Delay (AVD) of the intersection. However, the Level of Service remains unchanged.
 - Regarding the proposed access, it is expected that the Planning Proposal will rationalise all existing 5 access crossovers on Forest Road and Boundary Road into a single access crossover to be located at the southern end of Boundary Road. This location represents the furthest allowable distance from the existing signalised intersection.
 - Detailed design of the access and car parking layouts will be subject to a detailed assessment at the development application stage.

Transport for NSW Proposal

110. In September/ October 2020, Transport for NSW (TfNSW) have proposed intersection improvements on Forest Road, Bonds Road and Boundary Road, Peakhurst. The proposed changes aim to improve intersection efficiency, safety and reduce the likelihood of the right turning vehicles impeding the movement of through traffic.
111. The proposal includes:

- installing new dedicated right turn lanes on Boundary Road and Bonds Road approaching Forest Road
 - upgrading left turn on Forest Road into Bonds Road to improve visibility
 - relocating Bus Stop ID 2210234 on Bonds Road by 10 metres to improve visibility
 - removing 2 parking spaces on Boundary Road to allow sufficient lane length for traffic merging into one lane
 - adjusting utilities, street lighting, drainage, signage and road marking
 - adjusting driveways and footpaths.
112. No private land will be required to be obtained to complete the proposed intersection improvements on Forest Road, Bonds Road and Boundary Road, Peakhurst.
113. The timing for the finalisation of the TfNSW works is 2021-2022.
114. The proposed works will affect the vehicular access/egress of the proposed development. Vehicular access to the subject site from Boundary Road will be restricted to 'left in and left out'.
115. The Planning Proposal was lodged prior to the release of the TfNSW proposal and was referred to TfNSW for comment. No advice has been received and will be referred again to TfNSW as a condition of Gateway.

VOLUNTARY PLANNING AGREEMENT

116. An offer to enter into a Voluntary Planning Agreement (VPA) has been submitted in conjunction with the Planning Proposal. The VPA offer relates to all lots except 691 Forest Road, Peakhurst (School of Arts site) and offered a range of public benefits.
117. Council has undertaken an assessment of the offer in accordance with Council's Policy on Planning Agreements and the Department's new Practice Note on Planning Agreements (February 2021).
118. Discussions have been held with the applicant in relation to the public benefits that would address the additional demand generated by the development. The applicant has agreed to contribute towards the provision of a shared pathway connection between the development, Peakhurst Park and the Riverwood commercial centre as well as new 24/7 library service technology at Penshurst Library. An updated VPA offer will be provided to address these benefits.
119. The updated VPA offer will be reported to the Environment and Planning Committee and Council in conjunction with the Planning Proposal.

SUMMARY OF ASSESSMENT / CONCLUSION

120. In summary, the Planning Proposal seeks to amend the HLEP 2012 or GRLEP 2021 in relation to 143, 145, 147 and 149 Boundary Road, 689 and 691 Forest Road, Peakhurst by:
- Amending the Land Zoning (LZN) Map to rezone the Site to B1 – Neighbourhood Centre
 - Amending the Height of Buildings (HOB) Map to increase the height to part 12m and part 15m
 - Amending the Floor Space Ratio (FSR) Map to increase the maximum FSR to part 1.5:1 and part 1.7:1

- Amending the Minimum Lot Size (LSZ) Map to no minimum lot size

121. It is recommended that the LPP support the Planning Proposal for the following reasons:

- a) The Planning Proposal demonstrates an appropriate urban design response to its context. The proposed four storeys built form appropriately anchors the corner to delineate the new boundary of the Centre and reinforces its legibility;
- b) The proposed building envelope demonstrates an appropriate urban design outcome through the appropriate transition to adjacent developments. The proposed building heights of 12m on the School of Arts site and 15m at the corner of Forest and Boundary Roads demonstrate an appropriate built form response to its urban context;
- c) The proposed density is considered to be consistent with the existing B1 Neighbourhood Centre adjacent to the development;
- d) The proposal is a rational extension of the existing B1 Neighbourhood Centre to Boundary Road and the subject site occupies a visually prominent position at the corner of Forest Road and Boundary Road and benefits from exposure to high volumes of passing trade;
- e) The Planning Proposal provides an opportunity for an active streetscape to be created through the provision of a publicly accessible plaza on Forest Road. The proposal to introduce tree planting and street furniture is recognised as a significant improvement to the quality of the Centre's public domain. The potential for the plaza to attract additional foot traffic and retain passing trade will greatly improve the Centre's vibrancy and viability; and
- f) The proposal provides additional residential dwellings in an accessible location which is in close proximity to public transport and other amenities and services.

COMMUNITY CONSULTATION

122. Should the Planning Proposal be supported, it will be forwarded to the delegate of the Minister for Planning and Public Places, requesting a Gateway Determination in accordance with S3.34 of the *Environmental Planning and Assessment Act, 1979*.
123. If a Gateway Determination (Approval) is issued, and subject to its conditions, it is anticipated that the Planning Proposal will be exhibited for a period of 28 days in accordance with the provisions of the *Environmental Planning and Assessment Act, 1979 and Regulation, 2000* and any requirements of the Gateway Determination.
124. Exhibition material, including explanatory information, land to which the Planning Proposal applies, description of the objectives and intended outcomes, copy of the Planning Proposal and relevant maps will be available for viewing during the exhibition period on Council's website and hard copies available at Council offices and libraries.
125. Notification of the public exhibition will be through:
- Newspaper advertisement in The Leader
 - Exhibition notice on Council's 'Your Say' page
 - Notices in Council offices and libraries
 - Letters to State and Commonwealth Government agencies identified in the Gateway Determination (if required)
 - Letters to adjoining landowners (in accordance with Council's Notification Procedures)

126. The anticipated project timeline for completion of the Planning Proposal is shown below:

Task	Anticipated Timeframe
Report to Georges River LPP on Planning Proposal	3 June 2021 (this report)
Report to Environment and Planning Committee on Planning Proposal	12 July 2021
Report to Council on Planning Proposal	26 July 2021
Anticipated commencement date (date of Gateway Determination)	August 2021
Timeframe for government agency consultation	October/November 2021
Exhibition of the Planning Proposal	October/November 2021
Reporting to Council on community consultation and finalisation	December 2021
Submission to the Department to finalise the LEP	February 2022
Anticipated date for notification	April/May 2022

127. It is noted that the project timeline will be assessed by the DPIE and may be amended by the Gateway Determination.

NEXT STEPS

128. The Planning Proposal will be considered at a future Georges River Council Environment and Planning Committee meeting for consideration, including the LPP recommendations. The minutes of the Environment and Planning Committee meeting will subsequently be considered at a future Georges River Council meeting (“the relevant planning authority”). If the Planning Proposal is endorsed by Council, it will be forwarded to the delegate of the Minister of Planning and Public Spaces for a Gateway Determination under Section 3.34 of the Environmental Planning and Assessment Act 1979.
129. If Council resolves not to support the Planning Proposal, the applicant has the opportunity to request a pre-Gateway Review by the NSW Planning Panels under the delegation of the Greater Sydney Commission. An applicant has 40 days from the date of notification of Council’s decision to request a review.

**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 03 JUNE 2021**

LPP025-21

LPP Report No	LPP025-21	Development Application No	REV2020/0032
Site Address & Ward Locality	591-611 Princes Highway Blakehurst Blakehurst Ward		
Proposed Development	Review of Determination for DA2020/0065 for Construction of a digital advertising structure		
Owners	Georges River Council		
Applicant	QMS Media Pty Ltd		
Planner/Architect	Mecone Planning		
Date Of Lodgement	15/01/2021		
Submissions	No submissions		
Cost of Works	\$295,863.00		
Local Planning Panel Criteria	The subject site is Council owned land and the application is for a Section 8.3 Review of a previous Panel decision		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Vegetation in Non-Rural Areas 2017), 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, Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment, State Environmental Planning Policy No 64 – Advertising and Signage, Kogarah Local Environmental Plan 2012, Draft Local Environmental Plan 2020, Kogarah Development Control Plan 2013		
List all documents submitted with this report for the Panel's consideration	Statement of Environmental Effects, Signage Plans, Lighting Impact Assessment, Traffic and Road Safety Assessment Report		
Report prepared by	Independent Assessment		

Recommendation	That the application be refused in accordance with the reasons included in this 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	

<p>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?</p>	<p>Not Applicable</p>
<p>Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?</p>	<p>Not Applicable</p>
<p>Conditions Have draft conditions been provided to the applicant for comment?</p>	<p>No – the application is again recommended for refusal. The refusal reasons can be viewed when the report is published</p>

Site Plan



Figure 1: Aerial photo of the site (source: Georges River Council)

Executive Summary

Proposal

1. This Section 8.3 Review seeks a review of a previous Local Planning Panel decision to refuse development consent for the installation of a digital advertising sign within a car park that is owned by Georges River Council. A report recommending refusal of the associated development application was considered at the Georges River Local Planning Meeting on 5 November 2020. At this meeting, the panel resolved to refuse the application on eight grounds.
2. The applicant has not altered the size or location of the proposed signage as part of this review.

3. The signs structural support is located centrally along the northern boundary of the site. The sign is splayed to take visual advantage of the intersection of King Georges Road and Princes Highway.
4. The sign is supported by a single monopole with an overall height of 8.45m. The LED advertising display board has dimensions of 12.44m x 3.29m (40.93sqm). The sign consists of a digital (LED) screen which will display a series of static images on the screen for no less than 10 seconds being the dwell time before changing to a new static image.

Site and Locality

5. The site consists of Lot 1 and 2 in DP 1108360 and Lot 3 and 4 in DP15830 and is otherwise known as 591-611 Princes Highway, Blakehurst. The site is located on the south western side of the Princes Highway at the intersection of King Georges Road and has three (3) frontages being Princes Highway, Stuart Street and Stuart Lane. The lot is irregular in shape having dimensions of 15.15m to the Princes Highway with 3.905m splay on the corner of Princes Highway and Stuart Street, a depth of 33.785m (north combined), 36.575m (south), splay corner of 2.16m on Stuart Street and Stuart Lane, and boundary of 24.38m to Stuart Lane and a site of 824sqm.
6. The corner is subject to road widening; however this affectation does not impact this allotment.
7. The site is owned by Georges River Council and utilised as a carpark, providing at grade parking accessed from Stuart Lane. No built form is present on site with limited vegetation concentrated to the Princes Highway frontage.
8. Surrounding development consists of a restaurant to the north on the opposite side of Stuart Street. Crystal Car Wash (including a digital sign) exists diagonally opposite the site on the corner of Princes Highway and King Georges Road. Todd Park is located on the opposing side of the Princes Highway to the north and east. Commercial development adjoins the southern boundary with detached dwelling houses to the west fronting Stuart Street.

Zoning and Permissibility

9. The subject site is zoned B2 Local Centre under the provisions of Kogarah Local Environmental Plan 2012 (KLEP 2012). The proposal involves the installation of a digital advertising sign which is not listed as a prohibited use in the zone. As a result the development is permissible with consent.

Submissions

10. In accordance with the requirements of Kogarah DCP 2013, the review was publicly notified between 11 February and 25 February 2021. No submissions were received.

Reason for Referral to the Local Planning Panel

11. This application is referred to the Georges River Local Planning Panel for determination as the subject site is owned by Georges River Council.

Conclusion

12. The application has been assessed having regard to Section 4.15(1) of the Environmental Planning & Assessment Act 1979, and provisions of State Environmental Planning Policy No. 64 - Advertising and Signage (SEPP64), Kogarah Local Environmental Plan 2012 (KLEP) and Kogarah Development Control Plan 2013 (KDCP).

13. The proposal fails to meet the requirements of the State Environmental Planning Policy No. 64 – Advertising and Signage in relation to the objectives of the policy and the impacts on the visual catchment of the locality.
14. The proposal also fails to meet the controls in the Kogarah Development Control Plan 2013 in relation to size, height and location of the sign, the impacts on the visual catchment and dominance of the sign within the skyline having regard to the residential development to the south-west of the site.
15. The application is recommended for refusal subject to the reasons referenced at the end of this report.

Report in Full

Proposal

16. This development application (DA) seeks consent for the installation of a digital advertising sign within a carpark that is owned by Georges River Council.
17. The signs structural support is located centrally along the northern boundary of the site. The sign is splayed to take visual advantage of the intersection of King Georges Road and Princes Highway. See figure 1 below.
18. The sign is supported by a single monopole with an overall height of 8.45m. The LED advertising display board has dimensions of 12.44m x 3.29m (40.93sqm). The sign consists of a digital (LED) screen which will display a series of static images on the screen for no less than 10 seconds being the dwell time before changing to a new static image.

The Site and Locality

19. The site consists of Lot 1 and 2 in DP 1108360 and Lot 3 and 4 in DP15830 and is otherwise known as 591-611 Princes Highway, Blakehurst. The site is located on the south western side of the Princes Highway at the intersection of King Georges Road and has three (3) frontages being Princes Highway, Stuart Street and Stuart Lane. The lot is irregular in shape having dimensions of 15.15m to the Princes Highway with 3.905m splay on the corner of Princes Highway and Stuart Street, a depth of 33.785m (north combined), 36.575m (south), splay corner of 2.16m on Stuart Street and Stuart Lane, and boundary of 24.38m to Stuart Lane and a site of 824sqm.
20. The site is owned by Georges River Council and utilised as a carpark, providing at grade parking accessed from Stuart Lane. No built form is present on site with limited vegetation concentrated to the Princes Highway frontage.



Figure 2: Subject site as viewed from Stuart Street

21. Surrounding development consists of a restaurant to the north on the opposite side of Stuart Street. Crystal Car Wash (including a digital sign) exists diagonally opposite the site on the corner of Princes Highway and King Georges Road (see Figure 3). Todd Park is located on the opposing side of the Princes Highway to the north and east (see Figure 4). Commercial development adjoins the southern boundary with detached dwelling houses to the west fronting Stuart Street (see Figure 5).



Figure 3: Development to the north east of the site



Figure 4: Todd Park to the east of the site



Figure 5: Stuart Street as viewed to the west

Background

22. On 10 December 2001, the former Kogarah Council approved Development Application 466/01 for the construction of a free-standing advertising sign on the site.
23. The sign was subsequently constructed and operated for several years providing a static display. It is noted that the consent was time limited in accordance with SEPP 64 with the sign removed from the site at the end of 2019. Figure 6 overleaf shows a photo of the previous sign.



Figure 6: The previous sign on the site (now removed) (Source: Google Maps)

24. A report recommending refusal of the parent development application was published in the business paper for the Georges River Local Planning Panel on 20 August 2020. The minutes of this meeting indicate that This application was withdrawn from the agenda prior to the meeting commencing.
25. A report recommending approval of the parent development application was considered at the Georges River Local Planning panel on 5 November 2020. At this meeting, the panel unanimously resolved to refuse the development application.

Section 8.3 of the Environmental Planning and Assessment Act 1979

26. Under Section 8.3 of the Environmental Planning and Assessment Act 1979, an application may request a consent authority to review a determination of the development application, other than for designated development or Crown Development.
27. Planning legislation indicates that a review:
 - Determined by a planning panel must be referred back to the Local Planning Panel for determination.;
 - May include amendments that ensure that the development is substantially the same; and
 - Must be lodged and determined within 12 months of the notification of the original refusal. (noting that the Covid 19 Legislation Amendment *Emergency Measures - Attorney General Act 2020* changes the period from 6 months to 12 months)
28. In accordance with the above:
 - The parent development application was not designated or a crown development;
 - Will be again determined by the Georges River Local Planning Panel;
 - The application is unmodified from the determined application; and
 - As the parent development application was determined on 5 November 2021 the review is required to be finalised by 5 November 2021.

State Environmental Planning Policies (SEPPs)

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

SEPP Title	Complies
State Environmental Planning Policy (Infrastructure) 2007	Yes
State Environmental Planning Policy No. 64 Advertising and Signage	No
State Environmental Planning Policy No 55 - Remediation of Land	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	Yes

LPP025-21

State Environmental Planning Policy (Infrastructure) 2007

30. The objectives of this clause are:
- (a) *to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
 - (b) *to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*
- (1) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*
- (a) *where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
 - (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*
31. The subject site is located on Princes Highway, which is a classified road (State Road).
32. The installation of the proposed sign is considered to satisfy the objectives as it does not compromise the effective and ongoing operation and function of the road which is a classified road or contribute to traffic noise and vehicle emissions.
33. Vehicular access to the site is not altered and remains via Stuart Lane to the rear. The safety, efficiency and ongoing operation will not be impacted. The development is of a type that is not disruptive to traffic noise or vehicle emissions given its location.
34. Transport for NSW has raised no objections subject to specific conditions being imposed should the application be supported.

State Environmental Planning Policy No. 64 - Advertising and Signage (SEPP 64)

35. SEPP 64 applies to the state and commenced on 16 March 2001. The policy aims to ensure that signage is compatible with the desired amenity and visual character of an

area. The SEPP applies to the whole State and particularly as per clause 6, to all signage that:

- (a) *can be displayed with or without development consent under another environmental planning instrument that applies to the signage, and*
- (b) *is visible from any public place or public reserve.*

36. Clause 3 - Aims, objectives etc of SEPP 64 are as follows:

- (a) *to ensure that signage (including advertising):*
 - (i) *is compatible with desired amenity and visual character of an area, and*
 - (ii) *provides effective communication in suitable locations, and*
 - (iii) *is of high-quality design and finish, and*
- (b) *to regulate signage (but not content) under Part 4 of the Act, and*
- (c) *to provide time-limited consents for the display of certain advertisements, and*
- (d) *to regulate the display of advertisements in transport corridors, and*
- (e) *to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.*

37. The proposed digital sign is considered incompatible with the desired amenity and visual character of the immediate locality, particularly the residential development to the south west of the site. The site is located on a prominent intersection and directly adjoins low density residential development to the south west characterised by single storey dwellings on the southern side of Stuart Street. The proposed sign will visually dominate the landscape and visual catchment on the south western side of the Princes Highway in this location given it is to be installed in an open air at grade car park that has no impediments in the airspace, therefore promoting its dominance. The rear of the sign structure that will be viewed from Stuart Street is also aesthetically displeasing.

38. The proposal is not considered to meet objective (a)(i) of the SEPP64.

39. Part 3 of the SEPP64 applies to Advertisements. Subclause 13 outlines the Matters for consideration, which states:

- (1) *A consent authority (other than in a case to which subclause (2) applies) must not grant consent to an application to display an advertisement to which this Policy applies unless the advertisement or the advertising structure, as the case requires:*
 - (a) *is consistent with objectives of this Policy as set out in clause 3(1)(a), and*
 - (b) *has been assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and*
 - (c) *satisfies any other relevant requirements of this Policy.*
- (2) *If the Minister for Planning is the consent authority or clause 18 or 24 applies to the case, the consent authority must not grant consent to an application to display an advertisement to which this Policy applies unless the advertisement or the advertising structure, as the case requires:*
 - (a) *is consistent with objectives of this Policy as set out in clause 3(1)(a), and*
 - (b) *has been assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and in the Guidelines and the consent authority is satisfied that the proposal is acceptable in terms of:*
 - (i) *design, and*
 - (ii) *road safety, and*
 - (iii) *the public benefits to be provided in connection with the display of the advertisement, and*
 - (c) *satisfies any other relevant requirements of this Policy.*

(3) *In addition, if clause 18 or 24 applies to the case, the consent authority must not grant consent unless arrangements that are consistent with the Guidelines have been entered into for the provision of the public benefits to be provided in connection with the display of the advertisement.*

40. The applicant advised in respect of public benefit that:

- *As part of our Agreement, Council will have a minimum allocation of 10% of screen time to be used for public benefit.*
- *QMS currently operates a maximum of 10 advertising slots per screen and would allocate 1 slot to Georges River Council to use for promoting local events and community initiatives.*

41. The above is considered to satisfy the public interest requirements and if approval was recommended a condition of consent could reinforce this.

Schedule 1 Assessment Criteria

42. An assessment of the proposal against Schedule 1 of SEPP64 is provided in Table 1.

Criteria	Proposed	Complies
<p>Table 1: Schedule 1 of SEPP 64</p> <p>1 Character of the area</p> <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? 	<p>No. The site is zoned B2 - Local Centre by Kogarah LEP with the LEP permitting buildings with a height of 21m and a FSR of 2.5:1. The desired future character of this B2 zoned is considered to be expressed by the primary planning controls of height and FSR as well as the zone objectives that state:</p> <ul style="list-style-type: none"> • <i>To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.</i> • <i>To encourage employment opportunities in accessible locations.</i> • <i>To maximise public transport patronage and encourage walking and cycling</i> 	<p>No</p>

<ul style="list-style-type: none"> • Is the proposal consistent with a particular theme for outdoor advertising in the area or locality? 	<p>The placement of a large free standing advertising sign in the carpark will not provide any retail, business, entertainment or community uses on the site, will provide very limited ongoing employment opportunities on the site and does not assist with maximising public transport usage or increased walking or cycling.</p> <p>The planning controls lead to the highest and best use of the site likely being a six storey building containing a mix of retail, commercial and residential land uses. This proposed sign will not assist in achieving the desired future character of the area.</p> <p>No. There is no theme for outdoor advertising in the locality, Chapter F1 – Advertising and Signage of the Kogarah DCP 2013 states signs of this size, height, location and nature are not considered appropriate.</p> <p>The digital sign is considered out of character in the locality and will have an adverse impact on the amenity of the locality in terms of its domination of the visual character which will dominate the surrounding streetscape on this B2 zoned site.</p> <p>The applicants SEE notes that there is an advertising sign located on the Crystal Carwash site located at 1010 King Georges Road, Blakehurst that is within the visual catchment of the site. The visual impact of this existing sign is reduced by it being compatible with the 2</p>	<p>No</p>
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	storey building and shade sails on the site on the site and is also provided within a more visually pleasing backdrop being the trees immediately adjoining the sign on the adjoining property.	
<p>2 Special areas</p> <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>The site is not located in a special area. However, it is diagonally opposite Todd Park which is a listed Heritage Item. The sign will not unduly impact on the curtilage of this item</p>	Yes
<p>3 Views and vistas</p> <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? 	<p>No.</p> <p>Yes. The digital sign will dominate the skyline. The quality of the visual catchment will be degraded by the digital sign and set an undesirable precedent in the locality.</p> <p>The rear of the sign that will be visible from nearby low density residential properties and Stuart Street and Stuart Lane is aesthetically displeasing and reduces the quality of vistas from low density properties in Stuart Street.</p>	<p>N/A</p> <p>No</p>
<ul style="list-style-type: none"> Does the proposal respect the viewing rights of other advertisers? 	<p>Not applicable as there are no other signs on the site.</p>	N/A
<p>4 Streetscape, setting or landscape</p> <ul style="list-style-type: none"> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? 	<p>No. When viewed from the Princes Highway approaching the intersection with King Georges Road (looking south), the sign will appear as a stark element in the streetscape protruding above the limited vegetation along the Princes Highway frontage of the site and above the single storey dwellings to the</p>	No

<ul style="list-style-type: none"> • 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? • Does the proposal screen unsightliness? • Does the proposal protrude above buildings, structures or tree canopies in the area or locality? • Does the proposal require ongoing vegetation management? 	<p>south west of the site on Stuart Street. When viewed from Stuart Street and Stuart Lane, the proposal will be more visually dominant.</p> <p>The signage structure and sign appears as a stark element in the streetscape. The sign has no visual interest and does not hide existing built elements on the site or integrate with an existing structure on the site.</p> <p>The proposal will adversely impact the visual character of the locality. The digital sign is visually intrusive, unsightly and will dominate the visual catchment in this location.</p> <p>There is currently no signage on the site.</p> <p>No. The signage requires its own structure and does not screen or add visual interest to any structures on the site.</p> <p>Yes. The sign protrudes above the treeline of the vegetation on the site on the Princes Highway and above the single storey dwellings south east of the site on Stuart Street.</p> <p>The proposal is unlikely to require on going vegetation management.</p>	<p>No</p> <p>N/A</p> <p>No</p> <p>No</p> <p>No</p> <p>Yes</p>
<p>5 Site and building</p> <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? 	<p>No. When viewed from the Princes Highway approaching the intersection with King Georges Road (looking south), the sign will protrude above the single storey dwellings to the south west of the site on Stuart Street and the tree line of the vegetation on the site fronting Princes Highway. The site is an open</p>	<p>No</p>

<ul style="list-style-type: none"> • Does the proposal respect important features of the site or building, or both? • Does the proposal show innovation and imagination in its relationship to the site or building, or both? 	<p>form carpark and will dominate the locality as it will be seen from multiple directions on Princes Highway and King Georges Road and from within Stuart Street.</p> <p>There are no important features on the site.</p> <p>No. The proposed sign does not show innovation or imagination but is a stark utilitarian structure provided to facilitate an advertising sign.</p>	<p>N/A</p> <p>No</p>
<p>6 Associated devices and logos with advertisements and advertising structures</p> <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? 	<p>No. The digital sign is supported by a monopole and does not require external lighting or platforms to change signage.</p>	<p>No</p>
<p>7 Illumination</p> <ul style="list-style-type: none"> • Would illumination result in unacceptable glare? • Would illumination affect safety for pedestrians, vehicles or aircraft? • Would illumination detract from the amenity of any residence or other form of accommodation? • Can the intensity of the illumination be adjusted, if necessary? • Is the illumination subject to a curfew? 	<p>If the application were to be approved, conditions of consent could be imposed to control illumination levels and curfews for operation of the sign.</p>	<p>By condition</p>
<p>8 Safety</p> <ul style="list-style-type: none"> • Would the proposal reduce the safety for any public road? • Would the proposal reduce the safety for pedestrians or bicyclists? • Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public 	<p>The RMS has reviewed the Traffic and Road Safety Assessment Report submitted with the application and did not raise any concern with the proposal. Given this and subject to recommended conditions of consent from Transport NSW this issue is appropriately addressed.</p>	<p>Yes</p>

areas?		
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43. As discussed above and further in this report, the proposed digital sign is not supported as the sign is a dynamic and changeable digital sign which is inconsistent with the aims and objectives and the Schedule 1 Assessment Criteria of SEPP 64. It will dominate the visual character and quality of the catchment, is of a nature and scale that is out of context for the locality, is not compatible with the desired amenity and visual character of the area.

Clause 14 - Duration of consents

44. Clause 14 states:
- (1) *A consent granted under this Part ceases to be in force:*
 - (a) *on the expiration of 15 years after the date on which the consent becomes effective and operates in accordance with section 83 of the Act, or*
 - (b) *if a lesser period is specified by the consent authority, on the expiration of the lesser period.*
45. Any consent granted would be limited to a maximum period of 15 years if an approval consent was to be granted.

Clause 17 - Advertisements with display area greater than 20 square metres or higher than 8 metres above ground

46. Clause 17 states:
- (1) *This clause applies to an advertisement:*
 - (a) *that has a display area greater than 20 square metres, or*
 - (b) *that is higher than 8 metres above the ground.*
 - (2) *The display of an advertisement to which this clause applies is advertised development for the purposes of the Act.*
 - (3) *The consent authority must not grant consent to an application to display an advertisement to which this clause applies unless:*
 - (a) *the applicant has provided the consent authority with an impact statement that addresses the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and*
 - (b) *the application has been advertised in accordance with section 79A (taken from SEPP so old reference to the Act) of the Act, and*
 - (c) *the consent authority gave a copy of the application to RMS at the same time as the application was advertised in accordance with section 79A of the Act if the application is an application for the display of an advertisement to which clause 18 applies.*
47. The display area of the sign is 40sqm and reaches a height of 8.45m.
48. The parent development application was referred to RMS (now Transport for NSW), with no objections raised subject to conditions being imposed on any consent issued. As no changes were made to the proposal this review was not referred back to RMS. If the proposal was to be recommended for approval these conditions would be required to be imposed.
49. As outlined previously in the report the proposal is not considered to satisfactorily address the merit considerations within schedule one and is recommended for refusal.

Clause 18 - Advertisements greater than 20 square metres and within 250 metres of, and visible from, a classified road

50. Clause 18 states:

- (1) *This clause applies to the display of an advertisement to which clause 17 applies, that is within 250 metres of a classified road any part of which is visible from the classified road.*
- (2) *The consent authority must not grant development consent to the display of an advertisement to which this clause applies without the concurrence of RMS.*
- (3) *In deciding whether or not concurrence should be granted, RMS must take into consideration:
 - (a) *the impact of the display of the advertisement on traffic safety, and*
 - (b) *the Guidelines.**
- (4) *If RMS has not informed the consent authority within 21 days after the copy of the application is given to it under clause 17 (3) (c) (ii) that it has granted, or has declined to grant, its concurrence, RMS is taken to have granted its concurrence.*
- (5) *Nothing in this clause affects clause 16.*
- (6) *This clause does not apply when the Minister for Planning is the consent authority.*

51. This clause applies as the sign is located within 250m of the Princes Highway which is a classified road. The parent application was referred to RMS (now Transport for NSW) for concurrence. No objections were raised subject to relevant requirements being imposed via a condition on any consent issued.

Clause 20 - Location of certain names and logos

52. Clause 20 states:

- (1) *The name or logo of the person who owns or leases an advertisement or advertising structure may appear only within the advertising display area.*
- (2) *If the advertising display area has no border or surrounds, any such name or logo is to be located:
 - (a) *within the advertisement, or*
 - (b) *within a strip below the advertisement that extends for the full width of the advertisement.**
- (3) *The area of any such name or logo must not be greater than 0.25 square metres.*
- (4) *The area of any such strip is to be included in calculating the size of the advertising display area.*

53. The logo 'QMS' is proposed in the lower left corner of the structure, beneath the LED panel and equates to 0.25m²sqm and complies with this numerical control.

Clause 23 – Freestanding advertisements

54. Clause 23 states:

- (1) *The consent authority may grant consent to the display of a freestanding advertisement only if the advertising structure on which the advertisement is displayed does not protrude above the dominant skyline, including any buildings, structures or tree canopies, when viewed from ground level within a visual catchment of 1 kilometre.*

55. Development within the visual catchment is comprised of Todd Park to the east and generally of single and two storey built form with a recently constructed six storey shop top housing development to the south. Given this the signage will not protrude above the dominant skyline in the immediate vicinity of the site.

56. However When viewed from the Princes Highway approaching the intersection with King Georges Road (looking south), the sign will protrude above the single storey dwellings to the south west of the site on Stuart Street and the tree line of the vegetation on the site fronting Princes Highway.



Figure 7: The proposed sign is located in the same position as the previous sign, and is 440mm higher than the previous sign (now removed).

Transport Corridor Outdoor Advertising and Signage Guidelines 2017

57. The Transport Corridor Outdoor Advertising and Signage Guidelines 2017 applies to the proposed digital signage. An assessment against the digital sign criteria of the Guidelines is provided in the following table.

Transport Corridor Outdoor Advertising and Signage Guidelines 2017		
Criteria (applies to signs greater than or equal to 20sqm)	Proposal	Complies
a. Each advertisement must be displayed in a completely static manner, without any motion, for the approved dwell time as per criterion (d) below.	If the application were to be approved, conditions of consent could be imposed.	Yes
b. Message sequencing designed to make a driver anticipate the next message is prohibited across images presented on a single sign and across a series of signs.	If the application were to be approved, conditions of consent could be imposed.	Yes
c. The image must not be capable of being mistaken: <ul style="list-style-type: none"> i. for a prescribed traffic control device because it has, for example, red, amber or green circles, octagons, crosses or triangles or shapes or patterns that may result in the advertisement being mistaken for a prescribed traffic control device 	If the application were to be approved, conditions of consent could be imposed.	Yes

ii. as text providing driving instructions to drivers.		
d. Dwell times for image display must not be less than: i. 10 seconds for areas where the speed limit is below 80 km/h ii. 25 seconds for areas where the speed limit is 80km/h and over.	If the application were to be approved, conditions of consent could be imposed as the speed limit is below 80kms per hour.	Yes
e. The transition time between messages must be no longer than 0.1 seconds, and in the event of image failure, the default image must be a black screen.	If the application were to be approved, conditions of consent could be imposed.	Yes
f. Luminance levels must comply with the requirements in Section 3 below.	If the application were to be approved, conditions of consent could be imposed.	Yes
g. The images displayed on the sign must not otherwise unreasonably dazzle or distract drivers without limitation to their colouring or contain flickering or flashing content.	If the application were to be approved, conditions of consent could be imposed.	Yes
h. The amount of text and information supplied on a sign should be kept to a minimum (e.g., no more than a driver can read at a short glance). Any sign that is within 250m of a classified road and is visible from a school zone must be switched to a fixed display during school zone hours.	If the application were to be approved, conditions of consent could be imposed. The sign is located on a State Road and visible from the school zone on Princes Highway when travelling towards the intersection with King Georges Road.	Yes Could be conditioned if the application was to be supported.
j. Each sign proposal must be assessed on a case-by-case basis including replacement of an existing fixed, scrolling or tri-vision sign with a digital sign, and in the instance of a sign being visible from each direction; both directions for each location must be assessed on their own merits.	Noted.	Yes
k. At any time, including where the speed limit in the area of the sign is changed, if detrimental effect is identified on road safety post installation of a	If the application were to be approved, conditions of consent could be imposed.	Yes

<p>digital sign, RMS reserves the right to re-assess the site using an independent RMS-accredited road safety auditor. Any safety issues identified by the auditor and options for rectifying the issues are to be discussed between RMS and the sign owner and operator.</p>		
<p>l. Sign spacing should limit drivers' view to a single sign at any given time with a distance of no less than 150m between signs in any one corridor. Exemptions for low speed, high pedestrian zones or CBD zones will be assessed by RMS as part of their concurrence role.</p>	<p>If the application were to be approved, conditions of consent could be imposed.</p>	<p>Yes</p>
<p>m. Signs greater than or equal to 20sqm must obtain RMS concurrence and must ensure the following minimum vertical clearances;</p> <ul style="list-style-type: none"> i. 2.5m from lowest point of the sign above the road surface if located outside the clear zone ii. 5.5m from lowest point of the sign above the road surface if located within the clear zone (including shoulders and traffic lanes) or the deflection zone of a safety barrier if a safety barrier is installed. <p>If attached to road infrastructure (such as an overpass), the sign must be located so that no portion of the advertising sign is lower than the minimum vertical clearance under the overpass or supporting structure at the corresponding location.</p>	<p>The RMS has provided concurrence.</p>	<p>Yes</p>
<p>n. An electronic log of a sign's operational activity must be maintained by the operator for the duration of the development consent and be available to the consent authority and/or RMS to allow a review of the sign's activity in case of a complaint.</p>	<p>If the application were to be approved, conditions of consent could be imposed.</p>	<p>Yes</p>
<p>o. A road safety check which</p>	<p>If the application were to be</p>	<p>Yes</p>

<p>focuses on the effects of the placement and operation of all signs over 20sqm must be carried out in accordance with Part 3 of the RMS Guidelines for Road Safety Audit Practices after a 12 month period of operation but within 18 months of the signs installation. The road safety check must be carried out by an independent RMS-accredited road safety auditor who did not contribute to the original application documentation. A copy of the report is to be provided to RMS and any safety concerns identified by the auditor relating to the operation or installation of the sign must be rectified by the applicant. In cases where the applicant is the RMS, the report is to be provided to the Department of Planning and Environment as well.</p>	<p>approved, conditions of consent could be imposed.</p>	
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LPP025-21

58. Section 4 of the guidelines outlines how proposals for certain outdoor advertisements along railway corridors, classified roads and on bridges must meet a public benefit test to ensure that the advertising will result in a positive gain or benefit for the community.
59. The level of public benefit for a given SEPP 64 advertisement is to be negotiated and agreed upon between the consent authority and the applicant.
60. The public benefit can be provided as a monetary contribution or as an 'in-kind' contribution. Both monetary and in-kind contributions must be linked to improvements in local community services and facilities including benefits such as:
 - *improved traffic safety (road, rail, bicycle and pedestrian)*
 - *improved public transport services*
 - *improved public amenity within, or adjacent to, the transport corridor*
 - *support school safety infrastructure and programs*
 - *other appropriate community benefits such as free advertising time to promote a service, tourism in the locality, community information, or emergency messages*
61. The Applicant has advised that the public benefit offer of the proposed sign is:
 - *As part of our Agreement, Council will have a minimum allocation of 10% of screen time to be used for public benefit.*
 - *QMS currently operates a maximum of 10 advertising slots per screen and would allocate 1 slot to Georges River Council to use for promoting local events and community initiatives.*
62. This offer satisfies the public benefit test and if approval was recommended conditions could be imposed to achieve this.

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

63. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
64. The Vegetation SEPP applies to clearing of:
- 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
 - 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).
65. The objectives of the SEPP are to protect the biodiversity values of trees and other vegetation in non-rural areas and preserve the amenity of non-rural areas through the preservation of trees and other vegetation. This policy is applicable pursuant to Clause 5(1) of the SEPP as the site is within the Georges River Council.
66. Pursuant to Clause 8(1) of the SEPP, clearing does not require authority under the policy as it is a type of clearing that is authorised under Section 60O of the Local Land Services Act 2013 (specifically, that associated with a development consent issued under Part 4 of the Environmental Planning and Assessment Act 1979).
67. No vegetation or trees will require removal as part of this proposal. With respect to existing vegetation Council's Tree Officer has provided conditions to ensure retention and protection during construction activities on site should the application be approved.

Deemed State Environmental Planning Policy – Georges River Catchment

68. Due to the nature of the proposal, stormwater management does not form part of the proposed development as a monopole supports the advertising structure. The application does not alter stormwater runoff from the site.

State Environmental Planning Policy No 55 - Remediation of Land

69. 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.
70. 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.
71. The proposal is for the installation of a digital sign supported by a monopole, where foundation works are only to facilitate the footings of the pole. In this regard, no further assessment is warranted with regard to site contamination.

Draft State Environmental Planning Policies (SEPPs)**Draft Environment SEPP**

72. 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.
73. 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

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

Draft Remediation of Land SEPP

75. 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.
76. 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.
77. 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.
78. The proposal is for the installation of a digital sign supported by a monopole, where foundation works are only to facilitate the footings of the pole. In this regard, no further assessment is warranted with regard to site contamination.

Local Environmental Plan

79. The site is subject to the Kogarah Local Environmental Plan 2012 (KLEP 2012).

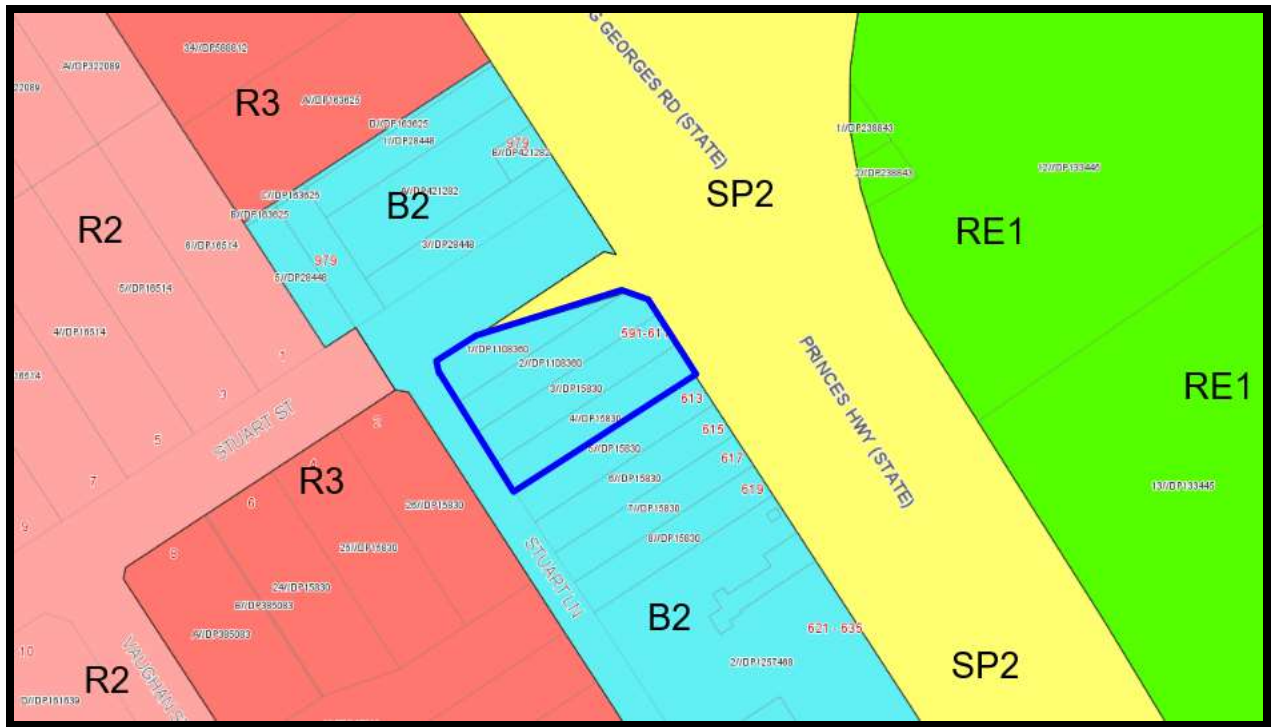


Figure 8: Zoning map with the site outlined in blue

80. The site is zoned B2 ‘Local Centre’ under the KLEP 2012. The development is defined as an ‘advertising structure’ is permissible with consent.
81. The objectives of the B2 Local Centre zone are as follows:
 - To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
 - To encourage employment opportunities in accessible locations.
 - To maximise public transport patronage and encourage walking and cycling.
82. The extent to which the proposal complies with the relevant standards of Kogarah Local Environmental Plan 2012 (KLEP2012) is outlined in the table below.

Clause	Requirement	Proposed	Complies
4.3 Height of Buildings	21m	Maximum 8.45m	Yes
4.4 Floor Space Ratio	2.5:1	No additional FSR	Yes
6.1 Acid Sulfate Soils	The site is mapped as Class 5 Acid Sulfate Soil	Noting levels of the site and limited excavation for the footings supporting the monopole, the proposed development is considered acceptable testing is not warranted.	Yes
6.2 Earthworks	Objective of this clause is to ensure that earthworks for which development	Associated earthworks are deemed to be minor in nature and limited	Yes

	<p>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>to the structural foundation of the signs monopole and is therefore considered acceptable.</p>	
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LPP025-21

Draft Georges River Local Environmental Plan 2020

83. In this regard, the provisions have no determining weight as a result of proposed operation of Clause “1.8A Savings provisions relating to development applications” of the Draft Plan which provides “If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.”

Development Control Plan

Kogarah Development Control Plan 2013

84. The proposed development is subject to provisions of the Kogarah Development Control Plan 2013 (KDCP 2013). The following comments are made with respect to the proposal satisfying the objectives and controls contained within the DCP.

Control	Complies
Part F1 Advertising and Signage	
1.4 Advertising signs that are prohibited.	
<p>(1) The following types of advertising signs are prohibited in Kogarah local government area:</p> <ul style="list-style-type: none"> (i) Advertising signs over 45sqm (ii) Advertising signs within navigable waters (except a sign on a vessel that is ancillary to the dominant purpose of the vessel). (iii) Advertising signs on land zoned Residential (but not including a mixed use zone or similar zone), Open Space or Waterways, or in a heritage area, natural or other conservation area or scenic protection area are prohibited, except for advertising signs identified as ‘Exempt Development’ by the Kogarah Local Environmental Plan 2012. <p>(2) The following forms of advertising are not considered appropriate in</p>	<p>Yes. Proposed area is 40.93sqm N/A</p> <p>Site is zoned B2 Local Centre.</p>

<p>Kogarah City:</p> <p>(i) Signs with an area greater than 20sqm or higher than 8m above the ground, including billboards;</p> <p>(ii) Signs higher than 8m above the ground; or with a display area greater than 20sqm; and the advertising sign is within 250m of, and any part of the sign is visible from, a classified road;</p> <p>(3) Corporate colours, logos and other graphics are acceptable elements of signs only where they achieve a very high degree of compatibility with the architecture, materials, finishes and colours of the building and the streetscape. In many cases, the corporate colours, logo and other graphics will need to be modified to achieve this compatibility</p>	<p>No - Sign has an area of 40.93sqm and height of 8.39m - 8.45m.</p> <p>No - Maximum height is 8.45m, 40.93sqm in area and located adjacent to a classified road.</p> <p>No - A small associated corporate logo is proposed below the sign however it exceeds the size permitted under SEPP64.</p>
<p>2.2 General Requirements</p>	
<p><u>Billboard sign</u> Only permissible in Business and Industrial Zones. Note: SEPP 64 should be consulted for additional requirements for the following types of advertising:</p> <ul style="list-style-type: none"> • Sign extends higher than 8m above the ground; • The display area of the sign is greater than 20sqm; • The sign is within 250m of, and any part of the sign is visible from, a classified road, and either of the above applies. <p><u>Illuminated sign</u> Must include suitable screening to avoid nuisance and light spillage to adjoining properties and potential danger to drivers or pedestrians.</p>	<p>Yes - Site located in a B2 Local Centre zone with provisions of SEPP 64 considered.</p> <p>If the application were to be approved the sign would be condition to meet this criterion.</p>
<p>3.1 All Advertising Signs</p>	
<p>(1) Advertising must relate to the use of the premises and products sold on the premises.</p> <p>(2) Signage must be sympathetic to, and</p>	<p>N/A - The proposed development is defined as a billboard sign as per the DCP definition which permits general advertising not necessarily related to the place or premises on which it is located. This sign is proposed in an on grade carpark where there is no use.</p> <p>N/A - Sign is freestanding, supported</p>

<p>integrated with, the architecture and structure of supporting building and not be the dominant visual element on a building.</p>	<p>by a monopole.</p> <p>N/A - Sign is freestanding, supported by a monopole.</p>
<p>(3) Proposed advertising sign must be compatible with the streetscape, setting or landscape, and not dominating in terms of scale, proportion and form.</p>	<p>No – the proposed digital sign will be visually intrusive and dominate the setting and is a scale that is not compatible with the immediate locality.</p>
<p>(4) Lettering, materials and colours must complement the existing building or place.</p>	<p>No - the materials and colors do not complement the existing place.</p>
<p>(5) Signage must not project above any parapet or eave.</p>	<p>N/A - Sign is freestanding, supported by a monopole.</p>
<p>(6) Signage must not be located where it will adversely impact views or vistas or cause significant overshadowing.</p>	<p>Yes. The sign will not adversely impact identified views or vista and will not cause significant overshadowing.</p>
<p>(7) The main facades of buildings between the first floor and parapet must be uncluttered and generally free of signage.</p>	<p>N/A – The sign is freestanding supported by a monopole.</p>
<p>(10) All advertising and signage must be displayed in English but may also include a translation in another language. Any translated message must be accurate and complete, and using wording and/or numbering that is not larger than English message.</p>	<p>If the application was to be supported conditions in this regard would be imposed.</p>
<p>(11) Signs must be attractive and professionally sign written.</p>	<p>Yes, the signage element is attractive and would be professionally written</p>
<p>(12) Changes in content or message of advertising sign are allowed without the approval of Council provided that:</p>	<p>Noted</p>
<p>(i) the structure to which the advertising sign is attached has been approved by Council;</p>	<p>Noted</p>
<p>(ii) the size and dimensions of the sign remain as approved, or are reduced;</p>	<p>Noted</p>
<p>(iii) there is no change to the intensity of, or hours of illumination;</p>	<p>Noted</p>
<p>(iv) moving or flashing messages or</p>	<p>The sign would have some movable</p>

<p>(v) symbols are not proposed; and the message is not likely to cause distraction to motorists; or</p> <p>(vi) the proposed sign meets exempt development requirements.</p> <p>(vii) The name or logo of the person who owns or leases an advertisement or advertising structure must not be greater than 0.25sqm and may appear only within the advertising display area.</p>	<p>components for change of digital messages and this has been supported by Transport for NSW. Noted</p> <p>Yes - The logo 'QMS' is proposed in the lower left corner of the structure, beneath the LED panel and equates to 0.25sqm. Refer to SEPP 64 discussions</p>
<p>(13) Where a business or organisation offers a product or service, the name of the business or organisation should have greater dominance over the product or service advertisement.</p>	<p>N/A</p>
<p>(14) The wording and content of the advertising sign must not:</p> <p>(i) offend nearby sensitive land uses (e.g. places of worship, schools, child care centres);</p> <p>(ii) contain undesirable discriminatory advertising messages as specified in the Anti-Discrimination Act 1977;</p> <p>(iii) encourage unlawful purchase or excessive consumption of alcohol; or promote anti-social behaviour.</p>	<p>This would be included as a condition of consent requiring the logo to be reduced in size to a maximum 0.25sqm.</p> <p>Yes – condition could be imposed on any approval consent.</p>
<p>(15) Council discourages signs that are prone to deterioration and may request removal of redundant, unsafe, unsightly or objectionable signage.</p>	<p>Yes - Sign is considered of robust materiality.</p>
<p>(16) Council discourages signage on common boundaries where maintenance difficulties could occur and may require provision for maintenance of signage.</p>	<p>N/A - Sign contained within the site and readily accessible for maintenance purposes.</p>

<p>3.2 General Commercial Advertising</p>	
<p>The exceptional circumstances where such signs are permissible shall be assessed against the following criteria:</p> <p>(1) Whether the sign directly supports the</p>	<p>N/A – The proposed development</p>

<p>commercial viability of a significant building tenant or use in or near the building supporting the sign.</p> <p>(2) Whether the sign is advertising a civic / community event involving the Kogarah area.</p> <p>(3) The number of existing signs on the site and in its vicinity, the consistency of those signs with the provisions of this section and whether the cumulative impact contributes to visual clutter.</p> <p>(4) Development consent is required for any colour scheme, lighting scheme or external change to the appearance of a building that constitutes advertising (such as painting of a building to the corporate</p>	<p>relates to construction of an advertising structure and not an existing commercial use of the site. The content of the sign is unknown at this time.</p> <p>No – unknown at this time.</p> <p>There are currently no signs on the site.</p> <p>N/A – The sign is freestanding supported by a monopole.</p>
<p>3.4 Traffic and Pedestrian Safety</p>	
<p>(1) Proposed advertising, whether illuminated or not, must not adversely impact safety of pedestrians, cyclists or motorists on any public road</p> <p>(2) Advertising signs must be securely fastened to the structure or building to which they are attached, and must comply with all relevant Australian Standards and Building Code of Australia requirements.</p> <p>(3) Freestanding signboards must be located and designed so that they do not pose any safety risk to pedestrians or motorists.</p> <p>(4) Advertising signs must not be liable to interpretation as an official traffic sign, be confused with instructions given by traffic signals or other devices, or obscure the view of traffic signals, signs or road hazards.</p> <p>(5) Signs facing roads with high traffic volumes, traffic lights or major intersections may be referred to Roads and Maritime Services (RMS)</p>	<p>Yes – Transport for NSW raises no concerns on these grounds.</p> <p>N/A – The signage is freestanding and supported by a monopole.</p> <p>Yes – Transport for NSW raises no concerns on these grounds.</p> <p>Yes – condition would be imposed on any consent.</p> <p>Yes - Application was referred to TfNSW with concurrence and conditions provided.</p>

for comment.	
3.5 Illumination and Electrical Wiring	
(1) Excessive or special illumination schemes expressly designed for the purpose of promoting the business, activity or produce, both on and within sites and buildings, including windows and doorways, are prohibited.	N/A - Proposed development relates to an advertising structure with general content and not an associated business or activity.
(2) Illuminated signs are not to detract from the architecture of supporting building during daylight.	Yes - Sign is freestanding with no existing built form present on site.
(3) Electrical wiring to illuminated signs or spotlights is to be concealed.	Yes - All wiring concealed within the proposed structure.
(4) The ability to adjust the light intensity of illuminated signs is to be installed where Council considers necessary.	Yes – condition would be imposed on any consent.
(5) Council may impose a curfew on sign illumination, or restrict illumination to hours of operation for late night trading premises, to preserve local amenity and ensure that the illuminated sign will not unreasonably impact adjoining residential areas.	Noted - condition would be imposed on any consent to address these matters if the application as to be supported.
(6) Up lighting of signs is prohibited. Any external lighting of signs is to be downward pointing, focused directly on the sign and is to prevent or minimise the escape of light beyond the sign.	Yes – The proposed sign is an LED sign with no up lighting required or proposed.

LPP025-21

Developer Contributions

85. If approved, the proposed development requires payment of developer contributions under Section 7.12 of the Environmental Planning and Assessment Act 1979.

IMPACTS

86. The proposal does not respond to the context of the site or the character of the locality, and will therefore have adverse impacts on the built environment. It will visually dominate the intersection and skyline, is of a nature and scale that is out of context with the locality. In addition to not complying with the relevant planning controls, the size and scale of the proposed digital sign is unacceptable on its merits.

Suitability of the site

87. It is considered that the proposed development is unsuitable for the site as it is not compatible with the scale, character and amenity of the surrounding development and the locality, and the proposed signage will be visually intrusive and dominate the skyline of the locality.

SUBMISSIONS AND THE PUBLIC INTEREST

88. The application was neighbour notified in accordance with Kogarah DCP 2013. No submissions were received.
89. The proposed development is of a scale and nature that is considered unacceptable on its merits and not in the public interest for the reasons discussed in this report. The digital sign will have an adverse impact on the character of the area, the visual amenity of the locality, potentially the safety of motorists, cyclists and pedestrians using the intersection, and will be a dominating and visually intrusive element on the skyline and intersection.

REFERRALS

Internal Referrals

Environmental Health

90. The application was referred to Council's Environmental Health Officer. No objection was raised subject to the provision of conditions if consent is granted which related primarily to lighting compliance and amenity.

Traffic Engineer

91. The application was referred to Council's Traffic Engineer. No objections were raised noting that the sign is to be installed in the same location as the previous which has been removed and ensures that there is no loss of parking spaces.

Tree Management Officer

92. The application was referred to Council's Tree Management Officer for review. No objection was raised, conditions were recommended if consent is granted to ensure retention and protection of existing trees on site during construction activities.

External Referrals

Transport for NSW (TfNSW)

93. The subject site is located adjacent to the Princes Highway, which is a classified road, and pursuant to Clause 18 of SEPP No. 64 - Advertising and Signage, the application was referred to TfNSW.
94. Concurrence was subsequently provided by TfNSW as well as conditions of consent in a letter dated 2 April 2020.

Ausgrid

95. Ausgrid reviewed the application and raised no objections and no conditions were recommended.

CONCLUSION

96. The proposal has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act, 1979. As discussed throughout this report the proposal fails to meet a number of standards in State Environmental Planning Policy No. 64 – Advertising and Signage and controls for signage in Kogarah Development Control Plan 2013.
97. The proposed development is not considered to be suitable for the site or its locality and is likely to set an undesirable precedent.
98. The application is recommended for refusal for the reasons outlined below.

DETERMINATION AND STATEMENT OF REASONSStatement of Reasons

99. The reasons for this recommendation are:

- The proposal is not compatible with the desired amenity and visual character of the area and is therefore not consistent with the objectives of SEPP 64 as set out in 3(1)(a)(i).
- The application does not satisfy the requirements of clause 13(3) of SEPP 64 as it does not clearly outline the public benefits of the proposed advertisement.
- The quality of the visual catchment will be unacceptably degraded by the digital sign and the proposal will contribute to visual clutter and is an undesirable precedent in the locality.
- When viewed from the Princes Highway approaching the intersection with King Georges Road (looking south), the sign will be unacceptably visually dominant and protrude above the single storey dwellings to the south west of the site on Stuart Street and the tree line of the vegetation on the sites fronting Princes Highway.
- The proposal will adversely impact the visual character of the locality. The digital sign is visually intrusive, unsightly and will dominate the visual catchment in this location.
- The proposed sign does not relate to the site or the locality and is inconsistent with the zone objective contained in Kogarah LEP 2012.
- The proposal is not consistent with the character and amenity of Blakehurst as a local centre. The LSPS priority for local centres is for them to be supported to evolve for long term viability.
- The scale, proportion and form of the proposed sign is not appropriate for the streetscape or setting
- The proposal is inconsistent with the requirements of Kogarah Development Control Plan 2013 as the signage exceeds 20m² in area and is greater than 8m in height,
- The proposed development will have unacceptable adverse impacts on the built environment.
- The proposed sign will visually dominate the intersection and skyline, is of a nature and scale that is out of context for the locality.
- The size and scale of the proposed digital sign is unacceptable on its merits.
- Having regards to the above reasons, the proposed development is not a suitable use of the site and its approval is not in the public interest.
-

Determination

100. THAT pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act, 1979, the Georges River Local Planning Panel refuse Development Application DA2020/0065 for the installation of a digital advertising sign on Lot 1 and 2 in DP

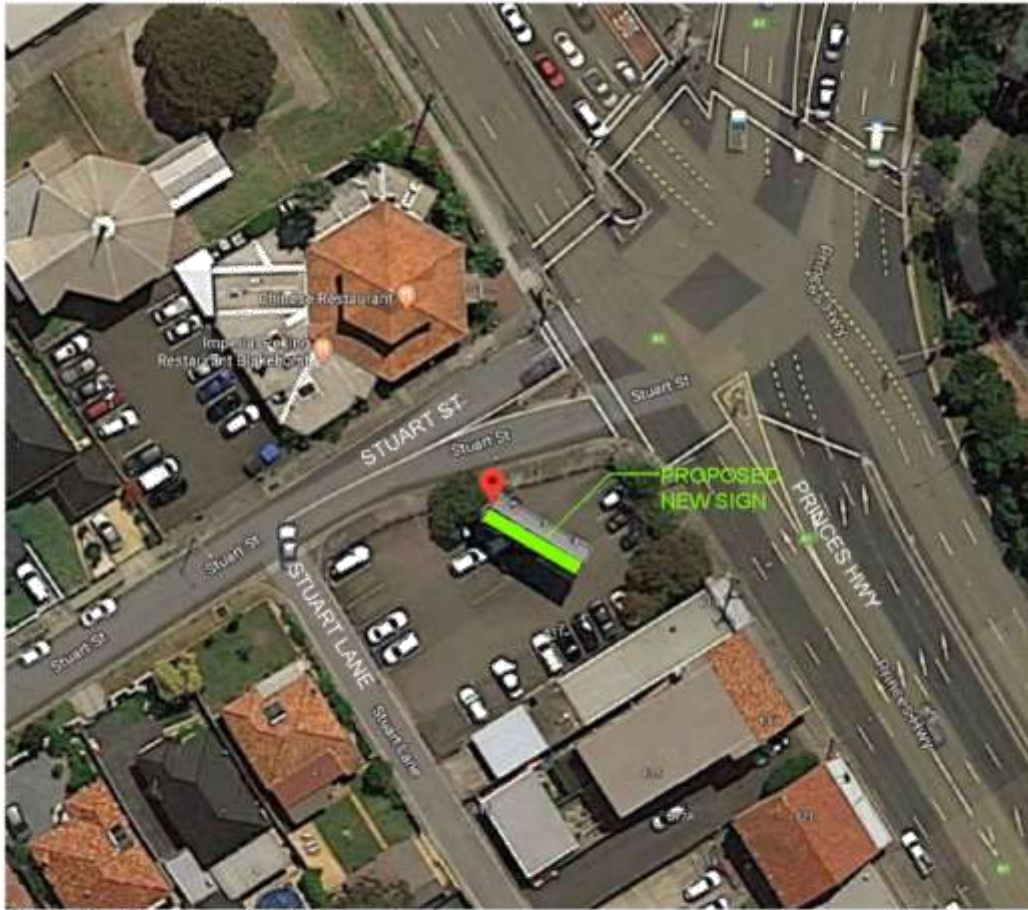
1108360 and Lot 3 and 4 in DP15830 and known as 591-611 Princes Highway, Blakehurst, for the following reasons:

1. **Environmental Planning Instrument - State Environmental Planning Policy 64** - Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with objectives (a)(i) of State Environmental Planning Policy No. 64 – Advertising and Signage as the proposed digital sign is not compatible with the desired amenity and visual character of the area.
2. **Environmental Planning Instrument - State Environmental Planning Policy 64** - Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with Schedule 1 of State Environmental Planning Policy No. 64 – Advertising and Signage as the digital sign will dominate the skyline and other forms of signage in the locality. The quality of the visual catchment will be degraded by the digital sign and set an undesirable precedent in the locality.
3. **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 objectives of Chapter F1 – Advertising and Signage in Kogarah Development Control Plan 2013, specifically:
 - (a) The proposal is not compatible with the scale, character and amenity of the subject site or the surrounding development and the locality.
 - (b) The proposed signage will dominate the visual character of its location.
 - (c) The proposed signage is not appropriate for the streetscape or setting of the location and will dominate the locality in terms of scale and proportion.
 - (d) The proposed signage will be a dominant visual element in the locality.
4. **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 built environment as the proposal does not respond to the context of the site or the character of the locality, and will therefore have adverse impacts on the built environment. It will visually dominate the intersection and skyline, is of a nature and scale that is out of context for the locality. In addition to not complying with the relevant planning controls, the size and scale of the proposed digital sign is unacceptable on its merits.
5. **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 as the proposal is not compatible with the scale, character and amenity of the subject site or the surrounding development and the locality, and the proposed signage will dominate the visual character of its location.
6. **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 within the locality.

7. **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.

ATTACHMENTS

Attachment [↓](#)1  Site plans and elevations - 591-611 Princes Hwy Blakehurst



 AERIAL PHOTO



 EXISTING PHOTO



 ALTERED PHOTO



REV	DATE	DESCRIPTION



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1045	18/11/18	N.T.S.	43	1822	01



