

JRPP No.	2013SYE103
DA No.	276/2013
PROPOSED DEVELOPMENT	Demolition of existing buildings, construction of a seniors living housing development consisting of three (3) buildings (6-12 storeys) containing 137 independent and assisted living units and a residential care facility with 80 beds, basement carpark and subdivision
APPLICANT:	Trustees of Roman Catholic Church
REPORT AUTHOR	Ben Latta, Senior Planner, Kogarah City Council

Assessment Report and Recommendation

Date: 24/02/2014

Development Application No.: 276/2013

Address: 143 - 155 Princes Highway and 38-48 Chapel Street, KOGARAH

Applicant: Trustees of Roman Catholic Church

Owner: Roman Catholic Church

Proposal: Demolition of existing buildings, construction of a seniors living housing development consisting of three (3) buildings (6-12 storeys) containing 137 independent and assisted living units and a residential care facility with 80 beds, basement carpark and subdivision

Estimated Cost of Construction: \$68,116,455.00

Officer's Recommendation:

Development Approval

That Council as the Consent Authority pursuant to Section 80(1)(a) Environmental Planning and Assessment Act 1979, grant consent to Development Application No 276/2013 for demolition of existing buildings, construction of a seniors living housing development consisting of three (3) buildings (6-12 storeys) containing 137 independent and assisted living units and a residential care facility with 80 beds, basement carpark and subdivision at No 143- 155 Princes Highway and 38-48 Chapel Street KOGARAH subject to conditions.

Report Summary

Proposal

Council is in receipt of an application for the demolition of existing buildings, construction of a seniors living housing development consisting of three (3) buildings (6-12 storeys) containing 137 independent and assisted living units and a residential care facility with 80 beds, basement carpark and subdivision on the subject site.

Site and Locality

The subject site is a regular shaped parcel of land located at the southern end of St Patrick's School and Church. It consists of eight (8) allotments having a total site area of 13096 square metres, with the site of the proposed seniors living development (excluding the church and school) having an area of 5404 square metres post-subdivision. The site has street frontages to Chapel St, Princes Lane and Princes Highway. The land falls gently towards the Princes Highway and a number of trees and disused building exist on the site.

The site is located at the southern edge of the Kogarah Town Centre and is within the St George Hospital Precinct. To the north and west of the site are St Patrick's School and Church, St George Public Hospital and St George Private Hospital. To the south are 3 – 5 storey residential flat buildings and to the east on the opposite side of the Princes Highway is Moorefield Girls High School.

Zoning and KLEP 2012 Compliance

The land is zoned SP 2 – Infrastructure – Educational Establishment and 'seniors housing' is a prohibited form of development.

The proposal is a permitted form of development under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, subject to a Site Compatibility Certificate being issued by the Minister. A Site Compatibility Certificate has been issued by the Minister, thereby making the proposal a permissible form of development with consent.

Applicable State Policies

The following State policies are relevant to the proposed development and have been considered in the assessment of the subject application:

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No 55 – Remediation of Land
- State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development

- Deemed State Environmental Planning Policy – Georges River Catchment

Kogarah Development Control Plan 2013 (KDCP 2013)

The proposed development satisfies the relevant provisions of Part E – Kogarah Town Centre in KDCP 2013.

Submissions

The application was placed on neighbour notification and an advertisement placed in the local 'Leader' newspaper in accordance with the requirements for regionally significant development.

Ninety-seven (97) submissions, including seventy-one (71) letters of support for the application were received.

Twenty-six (26) letters object to the proposal, raising the following concerns:

- Traffic and parking impacts
- Overshadowing
- Scale and height out of context with area
- Lack of need for development in area
- View loss
- Privacy
- General amenity
- Artificial lighting impacts
- Devaluation of property and compensation to residents
- Construction impacts (noise, trucks, disruption, damage to property, asbestos)
- Reduced natural ventilation
- Safe evacuation of seniors in a fire
- Reduced TV reception
- Moral issues
- Question of use of development

Conclusion

Having regard to the Heads of Consideration under Section 79C (1) of the Environmental Planning and Assessment Act 1979 and following a detailed assessment of the proposal Development Application No. 276/2013 should be approved subject to conditions.

Report in Full

Proposal

Council is in receipt of an application for the demolition of existing buildings, construction of a seniors living housing development consisting of three (3) buildings (6-12 storeys) containing 137 independent and assisted living units and a residential care facility with 80 beds, basement carpark and subdivision on the subject site.

The subject Development Application has a “capital investment value” (CIV) of \$68,116,455.00 and is referred to the Joint Regional Planning Panel as the determining authority under the provisions of Schedule 4A of the Environmental Planning and Assessment Act 1979 for general development with a CIV of more than \$20 million.

Specifically, the proposed development involves the following:

- Demolition of existing buildings on site and removal of a number of trees.
- Seniors living development containing 137 independent living units and a residential care facility containing 80 aged care beds on the southern part of the site (the former Bethany College). The development is divided into an ‘L’ shaped building comprising two 5-6 storey wings (described as buildings 2 and 3) incorporating independent seniors living and a 12-storey building (described as building 1) that incorporates a mix of aged care facility and independent seniors living.
- Construction of at-grade car parking and vehicular access off Chapel Street to the site, including upgraded and additional car parking to the south and eastern side of St Patrick’s Primary School.
- Separate vehicular access for service vehicles off Princes Lane.
- Basement car parking over two (2) levels for the proposed seniors living and aged care development.
- Community uses within the lower levels of the development including common lounge, dining, café, hairdresser, administration and reception, chapel and ‘mens shed’.
- Common open space areas including courtyard, landscaping etc.
- Common ‘sky lounge’ room and deck on the 11th floor.
- Stormwater and infrastructure upgrades.
- Consolidation of existing eight (8) allotments and subdivision of the site into two allotments, being the seniors living village (5404.3 square metres) and the Church and School (7691.7 square metres). The subdivision line runs across the main driveway along an east-west axis, with reciprocal rights of way being proposed.

The Site and Locality

The site is located at the southern end of Kogarah Town Centre, which has been identified in the *Metropolitan Plan for Sydney 2036* as a Specialised Precinct as a hub for medical, educational and financial.

The subject site is an irregular shaped parcel of land located at the southern end of St Patrick’s School and Church. It consists of eight (8) allotments having a total site area of 13,096 square metres, with the site of the proposed seniors living development (excluding the church and school) having an area of 5,404 square metres, post subdivision. The site has street frontages to Chapel St, Princes Lane and Princes Highway. The land falls gently towards the Princes Highway and a number of trees and disused building exist on the site.

The site is the former Bethany College and currently accommodates a number of disused brick buildings. Part of the site subject to the proposed car parking and driveway works is the currently operating St Patrick’s Church Presbytery and St Patrick’s Catholic Primary School.

The site is located at the southern edge of the Kogarah Town Centre and is within the St George Hospital Precinct. To the north and west of the site are St Patrick's School and Church, St George Public Hospital and St George Private Hospital. To the south are 3 – 5 storey residential flat buildings and to the east on the opposite side of the Princes Highway is Moorefield Girls High School.

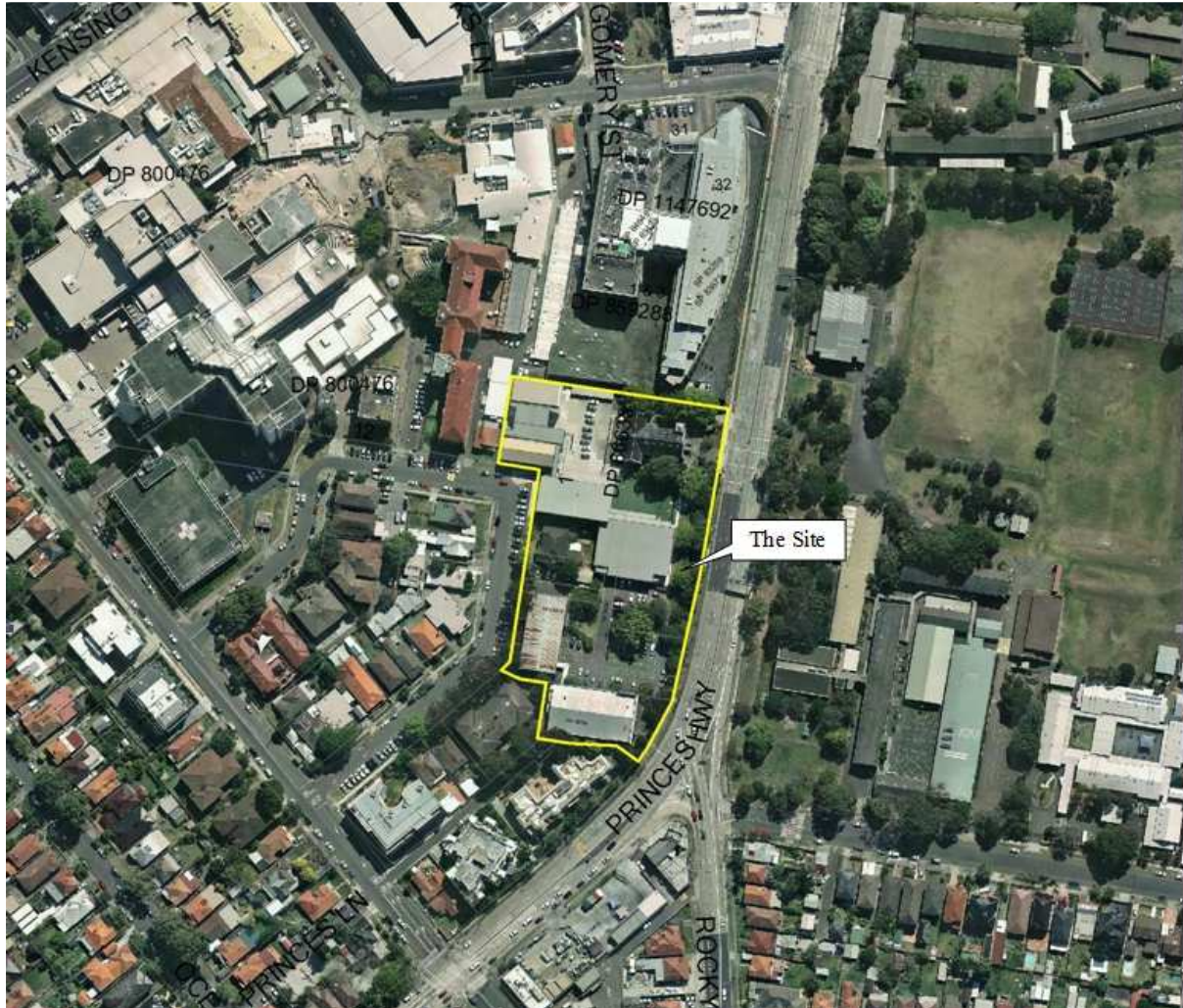


Fig.1 – Aerial Photo of the site

Background

On 23 December 2010 Council granted deferred commencement development consent to a development proposal determined by the JRPP for subdivision of land into three (3) lots, construction of a new building for radiation and oncology facility and associated signage and upgrade and use of existing building for health service facility upon the subject site. The development consent lapses in 2015 and has not been commenced.

In June 2013 a Development Advisory Service (DAS) pre-development meeting was held with the project team and Council staff and the St George Design Review Panel. The proposal was similar in form and type to the subject application. The Panel was generally supportive of the nature and scale of the development.

On 29 November 2013 the Development Application subject of this report was lodged with Council.

From 5 December to 19 December 2013 the Development Application was placed on neighbour notification and an advertisement placed in the local 'Leader' newspaper.

On 22 January 2014 a briefing meeting was held with the Joint Regional Planning Panel.

In February 2014 amended plans were sought from the applicant in order to address a number of issues with unit amenity, trees and landscaping, pedestrian access and parking.

On 7 February 2014 amended plans were submitted to Council to address the above issues. These plans are relied upon for assessment in this report.

Section 79C Assessment

The following is an assessment of the application with regard to Section 79C (1) of the Environmental Planning and Assessment Act 1979.

(i) Matters for consideration – general

In determining an application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provision of:

(i) any environmental planning instrument,

Kogarah Local Environmental Plan 2012 (KLEP 2012)

Part 2 – Permitted or Prohibited Development

Clause 2.1 – Land Use Zones

The land is zoned SP 2 – Infrastructure – Educational Establishment and 'seniors housing' is a prohibited form of development.

The proposal is a permitted form of development under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, subject to a Site Compatibility Certificate being issued by the Minister. A Site Compatibility Certificate has been issued by the Minister, thereby making the proposal a permissible form of development with consent.

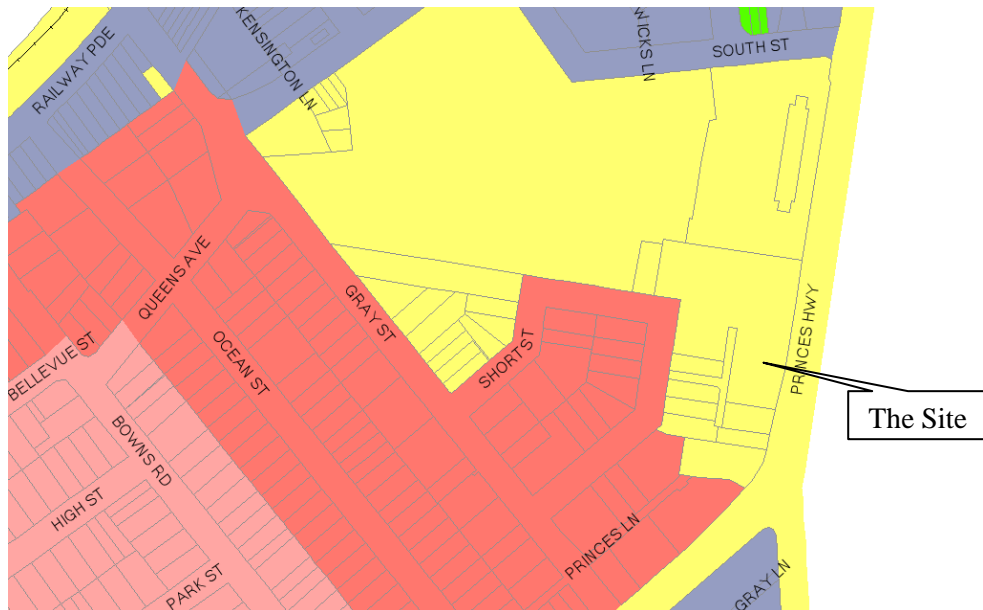


Fig.2 – Zoning Map

Part 4 – Principal Development Standards

Clause 4.6 – Exceptions to development standards

(1) *The objectives of this clause are as follows:*

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Clause 41 of the Seniors Living SEPP requires developments that contain hostels and self-contained dwellings to comply with the standards contained in Schedule 3 of the SEPP. Clause 41 exempts a social housing provider from the need to satisfy Clauses 2, 7, 8, 9, 11, 12, 13 and 15-20 of Schedule 3. The proposal seeks a variation to Clause 5 – Private Car Accommodation, Clause 8 – Bedroom and Clause 9 – Bathroom in Schedule 3 of the SEPP.

The applicant has submitted a written submission that seeks to justify the contravention of Clauses, 5, 8 and 9 of Schedule 3 of the SEPP, which is attached to this report.

Clause 5 - Private Car Accommodation

If car parking (not being car parking for employees) is provided:

- (a) *car parking spaces must comply with the requirements for parking for persons with a disability set out in AS 2890, and*

- (b) 5% of the total number of car parking spaces (or at least one space if there are fewer than 20 spaces) must be designed to enable the width of the spaces to be increased to 3.8 metres, and*
- (c) any garage must have a power-operated door, or there must be a power point and an area for motor or control rods to enable a power-operated door to be installed at a later date.*

The proposal seeks a variation to (a) and (b) above by providing the following:

- Generally provide wider resident car spaces at 2600mm wide rather than 2400mm;
- Provide 10% as extra wide spaces – 3800mm wide;
- Provide 10% in accordance with AS 2890.6;
- In addition to the above there is an additional 18 spaces compliant with AS 1890.6 when using adjacent walkways and aisles as the shared space and an additional 11 x 3,800mm wide spaces;
- Additional parking above the minimum required; and
- Allocated parking for both residents and visitors. Management can change the allocation as needed.

Clause 8 – Bedroom

At least one bedroom within each dwelling must have:

- (a) an area sufficient to accommodate a wardrobe and a bed sized as follows:*
 - (i) in the case of a dwelling in a hostel—a single-size bed,*
 - (ii) in the case of a self-contained dwelling—a queen-size bed, and*
- (b) a clear area for the bed of at least:*
 - (i) 1,200 millimetres wide at the foot of the bed, and*
 - (ii) 1,000 millimetres wide beside the bed between it and the wall, wardrobe or any other obstruction, and*
- (c) 2 double general power outlets on the wall where the head of the bed is likely to be, and*
- (d) at least one general power outlet on the wall opposite the wall where the head of the bed is likely to be, and*
- (e) a telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet, and*
- (f) wiring to allow a potential illumination level of at least 300 lux.*

The proposal seeks minor variations to four (4) units out of 137 in the development to the above detail design requirements. These are detailed in the applicants written request for variation.

Clause 9 – Bathroom

- (1) At least one bathroom within a dwelling must be on the ground (or main) floor and have the following facilities arranged within an area that provides for circulation space for sanitary facilities in accordance with AS 1428.1:*
 - (a) a slip-resistant floor surface,*
 - (b) a washbasin with plumbing that would allow, either immediately or in the future, clearances that comply with AS 1428.1,*
 - (c) a shower that complies with AS 1428.1, except that the following must be accommodated either immediately or in the future:*
 - (i) a grab rail,*

- (ii) portable shower head,
- (iii) folding seat,
- (d) a wall cabinet that is sufficiently illuminated to be able to read the labels of items stored in it,
- (e) a double general power outlet beside the mirror.
- (2) Subclause (1) (c) does not prevent the installation of a shower screen that can easily be removed to facilitate future accessibility.

The proposal seeks minor variations to four (4) units out of 137 in the development to the above detail design requirements. These are detailed in the applicant's written request for variation.

The proposed variations are considered acceptable for the reasons given by the applicant. The proposal satisfies the provisions of Clause 4.6 of KLEP 2012.

Part 5 – Miscellaneous Provisions

Clause 5.9 – Preservation of Trees or Vegetation

The proposed development involves the removal of forty-three (43) trees and vegetation subject to the provisions of this clause.

Accordingly, the application was referred to Council's Parks and Recreation Coordinator, who made the following comments with respect to trees and the submitted Arborist report:

Comments on the Arboricultural Impact Assessment Report prepared by REDGUM HORTICULTURAL – Arboriculture and Horticulture Consultants on 24th January 2013 for 143 and 155 Princes Highway, Kogarah.

All trees are numbered in accordance with the above report.

The site has 51 trees which are located at 143 Princes Highway and neighbouring properties. To build the proposed building footprint and develop the site as outlined in the plans a proposed 43 trees would have to be removed. The majority of the trees range in good to fair condition as stated in the report. These trees could not be retained due to the proposed building footprint and setbacks required in Australian Standard 4970- Protection of trees on development sites.

The proposed landscape plan looks at replacing the trees and allows for adequate growing areas and conditions for the future trees to grow. The building and landscaping allows for a green urban environment a number of years after being planted.

There are a few points regarding proposed removal of some trees and the submitted Arborist Report:

- *Council agrees with the proposed removal of trees 41, 42, 43 which are three Eucalyptus salignas located in Chapel Street Kogarah. These trees are to be removed due to unbalanced / suppressed canopies due to growing and*

surrounding built environment. It would be better to replace these trees with more appropriate species in similar location.

- *Additional street tree planting in accordance with Councils Street Tree Management Strategy and Master Plan could be incorporated into the Chapel Street entrance.*
- *The proposed removal of trees 27 and 28 needs written consent from the owners of the trees. The applicant needs to obtain this consent for Council to inspect and make a determination.*

More information and changes required to the Arborist Report:

- *The Arborist Report has tree 46 and 47 numbered wrong compared to the Appendix E- Site Plan A- Survey of Subject Trees. These trees are also proposed to be removed in the report. Can the Arborist look at retaining these trees as they are not affecting the proposed building footprint.*
- *The Arborist Report also proposes the removal of tree 39 which it does not affect the proposed building footprint. Can this tree also be retained?*
- *More information is required on the proposed removal of the Camphour laurels located on site at 143 Princes Highway Kogarah. They are required to be added to site survey and point 5.0 TREE ASSESSMENT – 5.1 – Assessment of stand of Trees. Part 5.4 of the Report does not justify the trees removal.*

In response to the above comments, the applicant submitted a revised Arborist report (Redgum, dated 5 February 2014) that addresses the changes sought above.

It is recommended that a condition be imposed to required the street trees recommended above to be included in a revised landscape plan.

Council's Parks and Recreation Coordinator reviewed the amended Arborist report and comments and found the proposal acceptable subject to conditions to retain tree 49 – Camphor Laurel and to install porous paving around its drip line, as well as standard conditions relating to the protection of the trees identified in the following schedule.

There was an inconsistency between trees 46 and 47 in the two tree schedules in the Redgum Arborist report. Tree No.46 is an *Archontophoenix palm* on the Presbytery site near the proposed driveway and Tree No.47 is a *Jacaranda*, neither are affected by driveway works. The Arborist report was amended again on 18th February 2014 to correct the inconsistency.

It is recommended that tree No.28 on the neighbouring property is to be removed from the schedule as no consent is given in for removal of a neighbouring tree. Separate consent from the owners is required in order for this to occur.

The applicants have advised that tree 27 can be retained. It is therefore recommended that this tree be deleted from the removal schedule.

The following trees have been nominated for retention:

Tree No	Location of Tree
44,40 49	143 Princes Highway
29 (x5), 45, 46, 47	Chapel Street, Presbytery front yard, neighbouring properties

The following trees have been permitted for removal:

Tree No	Location
1,2,3,4,5,6,7,8,9,10,11,12,13,14,15, 16,17,18,19,20,21,22,23,24,25,26, 30,31,32,33,34,35,36,37,38,39,41, 42,43, E1(x4)	143 Princes Highway
27,28	Neighbouring properties- written consent is required form the owners of these trees before approval is granted by Council

The finalised schedule of trees to be retained and permitted for removal is as follows:

Retention	
Tree No	Location of Tree
44,40 49	143 Princes Highway
29 (x5), 45, 46, 47	Chapel Street, Presbytery front yard, neighbouring properties

Removal	
Tree No	Location
1,2,3,4,5,6,7,8,9,10,11,12,13,14,15, 16,17,18,19,20,21,22,23,24,25,26, 30,31,32,33,34,35,36,37,38,39,41, 42,43, E1(x4)	143 Princes Highway

In addition, consideration has been given to the provisions of Section B2 – Tree Management and Greenweb of KDCP 2013 and the proposed development satisfies the relevant controls for tree and greenweb management.

Clause 5.10 – Heritage Conservation

The northernmost part of the subject site contains the heritage listed item known as St Patricks Church located to the north of the site on the Princes Highway, which is listed in Schedule 5 of KLEP 2012.

The application was referred to Council’s Heritage Consultant who made the following comments:

I generally concur with the statement of heritage impact that the proposed development would have little impact on the setting or current appreciation (views) of heritage items in the vicinity including St Patrick's Church, 3 Chapel Street and 50 Gray Street, Kogarah.

There is a significant distance and a number of school buildings located between the proposed development and the Church which act as a buffer.

The other heritage items noted above are adapted houses which have already had their setting compromised by late twentieth and early twenty-first century apartment and hospital development.

There are no recommendations from a heritage point of view considered necessary for inclusion in any conditions Council may impose. It is hoped some of the income generated from this development will be directed towards conservation of the Church building.

In consideration of the above comments, the proposed development satisfies the provisions of Clause 5.10 of KLEP 2012.

Part 6 – Additional Local Provisions

Clause 6.1 – Acid Sulfate Soils

The subject site is not shown as being affected by acid sulfate soils as identified on the Acid Sulfate Soil Map.

Clause 6.2 – Earthworks

The proposed earthworks are considered acceptable having regard to the provisions of this clause as the works are not likely to have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

Clause 6.3 – Flood Planning

The subject site has not been identified as a flood planning area on the Flood Planning Maps.

In addition, consideration has been given to the provisions of Section B6 – Water Management of KDCP 2013 and the proposed development satisfies the relevant controls related to flooding and drainage.

Clause 6.5 – Airspace Operations

The application was referred to Sydney Airports Corporation due to its height being in excess of 15.24m above existing ground level, which is a penetration of the RL 51m inner horizontal Obstacle Limitation Surface applying to the area. Sydney Airports Corporation and CASA have given their approval for the proposed height of the buildings.

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

A BASIX Certificate has been issued for the proposed development and the commitments required by the BASIX Certificate have been satisfied.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The proposed integrated seniors living and residential aged care development is subject to the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. The following comments are made with respect to the proposal's compliance with the relevant clauses of the SEPP.

Seniors Housing

*In this Policy, **seniors housing** is residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability consisting of:*

- (a) a residential care facility, or*
- (b) a hostel, or*
- (c) a group of self-contained dwellings, or*
- (d) a combination of these,*

but does not include a hospital.

The proposal incorporates a combination of (a) and (c) in the above definition, which are individually defined as:

*A **residential care facility** is residential accommodation for seniors or people with a disability that includes:*

- (a) meals and cleaning services, and*
- (b) personal care or nursing care, or both, and*
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,*

not being a dwelling, hostel, hospital or psychiatric facility.

Note. *The Aged Care Act 1997 of the Commonwealth requires residential care facilities to which that Act applies to meet certain requirements.*

*A **self-contained dwelling** is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.*

Site compatibility certificates required for certain development applications

Clause 24 of the Seniors Living SEPP requires that:

- (1) This clause applies to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing (other than dual occupancy) if:*

- (a) the development is proposed to be carried out on any of the following land to which this Policy applies:*
 - (i) land that adjoins land zoned primarily for urban purposes,*
 - (ii) land that is within a zone that is identified as “special uses” under another environmental planning instrument (other than land on which development for the purposes of hospitals is permitted),*
 - (iii) land that is used for the purposes of an existing registered club, or*
 - (b) the development application involves buildings having a floor space ratio that would require the consent authority to grant consent under clause 45.*
- (2) A consent authority must not consent to a development application to which this clause applies unless the consent authority is satisfied that the Director-General has certified in a current site compatibility certificate that, in the Director-General’s opinion:*
- (a) the site of the proposed development is suitable for more intensive development, and*
 - (b) development for the purposes of seniors housing of the kind proposed in the development application is compatible with the surrounding environment having regard to (at least) the criteria specified in clause 25 (5) (b).*

A Site Compatibility Certificate has been issued by the Minister, thereby making the proposal a permissible form of development with consent. The Site Compatibility Certificate is issued with 80 beds in the RAC and up to 142 independent living units (ILUs). The proposal is for 80 beds and 137 ILUs, which is less intense than the Certificate authorises.

The proposed development satisfies the provisions of Clause 24 of the Seniors Living SEPP.

Clause 29 of the Seniors Living SEPP requires the consent authority to, in determining a development application to which this clause applies, take into consideration the criteria referred to in clause 25 (5) (b) (i), (iii) and (v), which are:

- (b) ... of the opinion that the proposed development is compatible with the surrounding land uses having regard to (at least) the following criteria:*
 - (i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,*
 - (iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,*
 - (v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development,*

The proposed development satisfies the above criteria and is considered compatible for the site given its relationship to adjoining land uses, proximity to infrastructure and services and the scale of the proposal in its general context.

Location and Access to Services

Clause 26 of the Seniors Living SEPP requires the satisfaction of the following criteria with respect to location and access to services:

- (1) *A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to:*
- (a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and*
 - (b) community services and recreation facilities, and*
 - (c) the practice of a general medical practitioner.*
- (2) *Access complies with this clause if:*
- (a) the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development that is a distance accessible by means of a suitable access pathway and the overall average gradient for the pathway is no more than 1:14, although the following gradients along the pathway are also acceptable:*
 - (i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,*
 - (ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,*
 - (iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time, or*
 - (b) in the case of a proposed development on land in a local government area within the Sydney Statistical Division—there is a public transport service available to the residents who will occupy the proposed development:*
 - (i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and*
 - (ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and*
 - (iii) that is available both to and from the proposed development at least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive),*

and the gradient along the pathway from the site to the public transport services (and from the public transport services to the facilities and services referred to in subclause (1)) complies with subclause (3), or
- (3) *For the purposes of subclause (2) (b) and (c), the overall average gradient along a pathway from the site of the proposed development to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) is to be no more than 1:14, although the following gradients along the pathway are also acceptable:*
- (i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,*

- (ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,*
- (iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time.*
- (4) For the purposes of subclause (2):*
 - (a) a **suitable access pathway** is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like, and*
 - (b) distances that are specified for the purposes of that subclause are to be measured by reference to the length of any such pathway.*
- (5) In this clause:*

The proposal satisfies the above site requirements.

Water and sewer

Clause 28 of the Seniors Living SEPP requires the satisfaction of the following criteria

- (1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.*
- (2) If the water and sewerage services referred to in subclause (1) will be provided by a person other than the consent authority, the consent authority must consider the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure. In locations where reticulated services cannot be made available, the consent authority must satisfy all relevant regulators that the provision of water and sewerage infrastructure, including environmental and operational considerations, are satisfactory for the proposed development.*

The application is accompanied by a detailed infrastructure report, which covers the proposal's infrastructure requirements for connection to sewer, water and electricity (including need for substation) includes a Feasibility Letter from Sydney Water (dated 9 January 2013), confirming the availability of water and sewerage connections to the site. However a Section 73 Certificate will still need to be obtained and the approved plans will need to be submitted to Sydney Water for final approval.

Design of Infill Self Care Housing

Clause 31 of the Seniors Living SEPP requires that for development for the purpose of infill self-care housing, a consent authority must take into consideration the provisions of the Department of Infrastructure Planning and Natural Resources *Seniors Living Policy: Urban Design Guideline for Infill Development*, March 2004.

The proposed development satisfies the relevant provisions of the Seniors Living Policy, with respect to context, site planning and design, streetscape, impacts on neighbours and internal site amenity, as discussed throughout this report.

Design of Residential Development

Clause 32 of the Seniors Living SEPP requires that a consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2.

The following comments are raised with regard to the proposal satisfying the provisions of Division 2 (clauses 33-39) of the SEPP:

Neighbourhood amenity and streetscape

Clause 33 of the Seniors Living SEPP states that the proposed development should:

- (a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and*

The Kogarah Town Centre has undergone significant transition to higher density living in recent years and is likely to experience a greater scale of development emerging as forecasted by Kogarah City Council's Housing Strategy Background Paper (April 2013). The following principle is set out in the Housing Strategy Background Paper, relating to the future scale of development in the Kogarah Town Centre:

- To review the existing planning controls for the study area (areas surrounding the Kogarah Town Centre and within the walkable catchment), allowing for greater heights (8-12 storeys) and densities and ensuring controls are economically viable.*

In January 2013, the St George Hospital submitted to Council a draft masterplan outlining the future development for the Campus. Stage I involves the new Emergency Department on Gray Street and the new sub-acute aged mental health unit, both currently under construction. Other relevant features of the draft masterplan are:-

- A doubling of the total gross floor area of the hospital;
- Building heights in excess of RL 69 AHD (equivalent to the existing clinical services building);
- Tower blocks above podiums on Gray Street and Kensington Street; and
- Redevelopment of the land around Short and Chapel Street

The proposal is consistent with the future development scale and form of the immediate context. Further, the proposal adopts a sensitive transitional scale, maintaining a 6 storey wall height with landscape buffer to Princes Highway, with the 12-storey tower building set well back from the street. In Chapel Street, the tower building is prominent, though set back from the street and is in context with the nearby hospital precinct and recently constructed 5-6 storey development on the corner of Gray Street and Princes Highway to the south of the site.

- (b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and*

As already discussed in this report, the proposal satisfies the heritage provisions contained within KLEP 2012.

(c) maintain reasonable neighbourhood amenity and appropriate residential character by:

- (i) providing building setbacks to reduce bulk and overshadowing, and*
- (ii) using building form and siting that relates to the site's land form, and*
- (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and*
- (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and*

The proposal is not situated within a residential context, being surrounded by medium to large scale institutional development (school and hospitals), though it does transition to a multi-unit residential area to the south comprising 3-6 storey residential flat development. In context, the proposal provides acceptable amenity through stepping the building to maintain solar access to southern neighbours, high modulation and large landscaped areas.

The extract from the applicant's Masterplan and Design Excellence Strategy illustrates the proposal in the Princes Highway context:

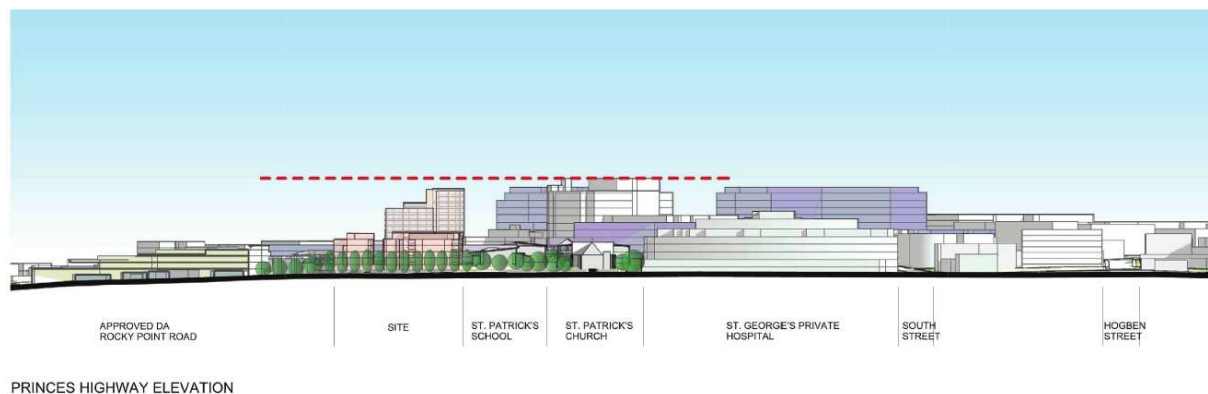


Fig.3 – Princes Highway Context Elevation

(d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line.

The proposed development adopts an average setback of 6m to the Princes Highway frontage (varying 4-8m). The proposal is consistent in setback with the residential flat development to the south of the site, though is substantially forward of the setback of the school hall and St Patricks Church to the north. Overall the setbacks are varied, as the St George Private Hospital building north of the church is street aligned. The large landscape setting and building form confers a reasonable setback of the proposal to the school and church and is considered acceptable.

The proposal adopts a front setback varying 5.5 – 8m to Chapel Street, which is consistent with adjoining and nearby development in the streetscape.

(e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.

The proposed development includes an extensive landscape scheme that plants out both frontages with significant trees. The application was referred to Council's Landscape Architect who made the following comments with respect to the landscape plan:

- *Request applicant to provide details to Council of new brick boundary retaining wall prior issue of construction certificate*
- *New proposed retaining wall as shown in EAST (Princes Highway) Elevation to match existing brick walls (outside St Patrick's Church) to Heritage Architects details*
- *Porous paving to be used in parking bay within existing drip line of Camphor laurel – tree School / parish car park.*
- *Site Arborist / Engineer to provide details to Council of porous paving prior to issue of construction certificate*
- *Overshadowing in courtyard of development, especially in winter.*

Comments on indicative plant schedule:

- *The applicant should look at a different tree species for the proposed Eucalyptus salignas in Chapel Street Frontage.*
- *For such a large scale development, the applicant should look at increasing the pot size of the proposed trees on site especially along the Princes Highway and Chapel Street frontages. This would have a better impact when the proposed landscape works are completed.*

The comments made with respect to overshadowing of the courtyard is unfounded. The applicant submitted detailed solar analysis that demonstrates adequate solar access. Buildings are sited south, east and west of the courtyard, and is open to the north. It is recommended that the above recommendations with respect to planting, be implemented by imposing suitable conditions of consent.

(f) retain, wherever reasonable, major existing trees, and

The proposed development satisfies the above requirement. Tree retention and removal is discussed in more detail under Clause 5.10 of KLEP 2012 in this report.

(g) be designed so that no building is constructed in a riparian zone.

Not applicable.

Visual and acoustic privacy

Clause 33 states that the proposed development *should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:*

- (a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and*

- (b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.*

Note. The Australian and New Zealand Standard entitled AS/NZS 2107–2000, *Acoustics—Recommended design sound levels and reverberation times for building interiors* and the Australian Standard entitled AS 3671—1989, *Acoustics—Road traffic noise intrusion—Building siting and construction*, published by Standards Australia, should be referred to in establishing acceptable noise levels.

The proposed development satisfies the above requirements by using suitable construction methods, separating and offsetting of windows and balconies and using screening (both architectural and landscaping) where appropriate.

Solar access and design for climate

The proposed development should:

- (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and*
(b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation, solar heating and lighting by locating the windows of living and dining areas in a northerly direction.

The application is accompanied by a detailed report on Solar Access, Natural Ventilation and Overshadowing, prepared by Steve King (dated 25 November 2013). The report makes the following conclusions regarding the proposal's performance against solar access, natural ventilation and overshadowing to adjoining properties:

Solar access to apartments

The development achieves 39 (28.5%) out of 138 ILU apartments with minimum 3 hours of effective sun access to living areas on June 21, and a further 38 (27.7%) apartments that have more than 2 hours during that time. Six additional east facing apartments (4.4%) benefit from earlier effective sun. A further 22 (16.1%) of the apartments are designed to receive extended hours of sun to bedrooms reflecting the elderly demographic of the occupants.

The overall number of apartments that may therefore be deemed to comply with the performance objective of the RFDC for solar access amenity is 105 out of 137, being 76.6%. The RFDC recommends a minimum of 70%.

The Applicant is not seeking to rely on the non-discretionary development standard relating to solar access in SEPP (Housing for Seniors or People with a Disability) 2004. The present proposal instead provides a considered level of solar access amenity that can be fairly characterised as superior.

Given this is a managed seniors living facility, assessment of overall amenity should also properly take account of the communal living areas of the building, such as dining room, recreation areas and 'break-out' spaces dispersed appropriately in the complex, which between them give residents access to sunny interiors throughout the day. In the same context, the holistic amenity of the proposed development also provides for purpose designed common open space. Unlike most closely built up urban sites to which the RFDC primarily addresses its amenity criteria, on this site there will be ample opportunity for residents to enjoy access to sheltered and sunlit areas of the common landscaped areas at any time of the day.

In my considered opinion, the proposal complies with and exceeds the performance objectives for solar access amenity.

Natural ventilation amenity

Simple cross ventilation compliance targets and meets the RFDC minimum recommendation of 60% of apartments. The proposed development complies with the relevant controls with respect to natural ventilation.

In addition, the majority of the remaining apartments are explicitly designed with appropriate characteristics to achieve enhanced single sided ventilation, in response to unobstructed summer cooling breezes. If I took into account only those elevated apartments facing north and north-east across open ground — which in my considered opinion are likely to have ventilation performance equivalent to some apartments with cross ventilation — the proposed development could be said to achieve 77.4% of apartments with natural ventilation compliance.

Overshadowing

The development occasions some discrete additional overshadowing of four apartments in the RFB at 50-54 Chapel St. I identify the loss of sun is in the morning to one bedroom of each apartment, and the kitchen of one upper storey apartment. I note that the two north-western apartments have living areas and one bedroom with unaffected solar access in the afternoons to those areas. The corresponding living areas of the south-east oriented units are also unaffected by overshadowing from the proposed development, but do not receive winter sun because of their orientation.

The source of the earliest sun at present is a small gap between the existing 'Bethany Buildings' on the subject site, while the later morning sun is shining over the top of the same buildings. These small opportunities for winter sun are effectively impossible to retain if development of the subject site exceeds in height or footprint that of the existing buildings.

In my considered opinion, any DCP control of overshadowing is not intended to prevent the quantum of overshadowing predicted, if it has the effect to sterilise the orderly development of the subject site.

The above conclusions are concurred with. The proposal provides a reasonable response with respect to overshadowing, natural ventilation and solar access to units. On balance, the increased overshadowing to the residential units to the south is not substantial to warrant refusal of the application, or require amendment to the point of effective sterilisation of the site.

Stormwater

The proposed development should:

- (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and*
- (b) include, where practical, on-site stormwater detention or re-use for second quality water uses.*

The application is accompanied by a stormwater management plan, which has been referred to Council's Catchment and Waterways Coordinator, who raised no objection to the proposal subject to the imposition of suitable conditions.

The proposal provides 20% of the village site area as deep soil landscaping, which is high given its town centre context.

Crime prevention

The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:

- (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and
- (b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and
- (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.

The application was referred to Kogarah Local Area Command for a Crime Prevention Through Environmental Design (CPTED) assessment on 17 December 2013. No response has been received to date.

The proposal has high consideration for the prevention of crime through the design and management of the development as evidenced in the submitted Preliminary CPTED report (November 2013) prepared by Mecone.

Accessibility

The proposed development should:

- (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and*
- (b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.*

The site is within 100m to the nearest bus stop and less than 500m to Kogarah train station. The proposal is in close walking distance to all banking, health and shopping services located within Kogarah Town Centre.

Waste management

The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.

The proposed development satisfies the above requirement.

Development standards—minimum sizes and building height

Clause 40 of the Seniors Living SEPP sets out development standards whereby a consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.

(1) General

A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.

(2) Site size

The size of the site must be at least 1,000 square metres.

(3) Site frontage

The site frontage must be at least 20 metres wide measured at the building line.

(4) Height in zones where residential flat buildings are not permitted

If the development is proposed in a residential zone where residential flat buildings are not permitted:

(a) the height of all buildings in the proposed development must be 8 metres or less, and

Note. Development consent for development for the purposes of seniors housing cannot be refused on the ground of the height of the housing if all of the proposed buildings are 8 metres or less in height. See clauses 48 (a), 49 (a) and 50 (a).

(b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and

Note. The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.

(c) a building located in the rear 25% area of the site must not exceed 1 storey in height.

The proposed development is not within a residential zone, therefore the provisions of Clause 40(4) is not applicable.

(5) Development applications to which clause does not apply

Subclauses (2), (3) and (4) (c) do not apply to a development application made by any of the following:

(a) the Department of Housing,

(b) any other social housing provider.

Clause 3 of the Seniors Living SEPP defines a **social housing provider** as any of the following:

(a) the New South Wales Land and Housing Corporation,

(b) the Department of Housing,

(c) a community housing organisation registered with the Office of Community Housing of the Department of Housing,

(d) the Aboriginal Housing Office,

(e) a registered Aboriginal housing organisation within the meaning of the Aboriginal Housing Act 1998,

- (f) the Department of Ageing, Disability and Home Care,*
- (g) a local government authority that provides affordable housing,*
- (h) a not-for-profit organisation that is a direct provider of rental housing to tenants.*

The proposal is on behalf of the Roman Catholic Church, which fits (h) above as the Church provides affordable rental housing to tenants and therefore the provisions of Clause 40 (2), (3) and (4) are not applicable. The applicant has submitted documentation to support their status as a social housing provider.

Standards for Hostels and Self-Contained Dwellings

Clause 41 of the Seniors Living SEPP requires the relevant provisions of Schedule 3 to be complied with. The proposal complies with the relevant provisions of Schedule 3 with the exception of Cl.5 – Private Car accommodation, for which the applicant has lodged a variation to the standard under Cl.4.6 of KLEP which has been discussed in this report and found acceptable.

Standards that cannot be used to refuse development consent

A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a self-contained dwelling (including in-fill self-care housing and serviced self-care housing) or residential care facilities on any of the following grounds:

Building height

For both residential care facilities and self contained dwellings, a consent authority must not refuse consent to a development on the basis of height if the height is less than 8m. The proposal is up to 42m high, which is considered acceptable in the context of the site for the development type proposed as already discussed in this report.

Density and scale

A consent authority must not refuse consent to a development on the basis of density if it has a floor space ratio of 0.5:1 for self contained dwellings and 1:1 residential care facility. The proposed development has an FSR of 1.69 (22,119m²) for the entire campus (inclusive of the village development site, school and church) or 3.09:1 (16,724m²) for the village site, which is the subject site, post-subdivision.

The proposed density is similar to the floor space ratios applicable to the Kogarah Town Centre, which are up to 3.5:1. As discussed in this report, the proposal adopts a transitional scale with the highest point of the residential 12-storey tower being lower than the ‘twin-peak’ form of the Kogarah Town Centre (comprising the public hospital and St George Bank).

The proposal provides a density that provides good amenity for residents and does not significantly compromise the amenity of residents in adjoining properties.

Landscaping and private open space

Clause 48(c) of the SEPP requires that landscaping be provided at a rate of 25m² per bed in a residential care facility.

The proposal provides 1814m² of landscaped area or 22.6m² per bed, which does not comply with the above requirement.

The SEPP defines landscaped area as:

landscaped area means that part of the site area that is not occupied by any building and includes so much of that part as is used or to be used for rainwater tanks, swimming pools or open-air recreation facilities, but does not include so much of that part as is used or to be used for driveways or parking areas.

The applicant has submitted a supplementary statement that includes a CAD calculation showing 2043m² landscaped area or 25.5m². The applicant has included the 3 x balconies to the residential care facility as included. Excluding the balconies 1935m² is provided.

However, the balconies are part of the building and not open air as they are covered by the balcony. Irrespective, the balconies are 'open air' and are accessible for use by residents of the facility and are therefore considered acceptable for inclusion.

Further, the applicant's planning consultant (Mecone, 24/02/14) relies upon Nanevski V Rockdale City Council (2010) NSWLEC 1220, within which Tuor C was satisfied that a rooftop open space area in a residential care facility proposal was included in the amount of open space as it provides users with a usable area with appropriate amenity for residents. Accordingly, the interpretation is accepted and the proposal is considered to comply with the 25m² landscaping requirement per bed for a residential care facility.

Clause 50 (c) and (d) require the following landscaping and deep soil zone provision for self contained dwellings:

(c) landscaped area: if:

- (i) in the case of a development application made by a social housing provider—a minimum 35 square metres of landscaped area per dwelling is provided, or*
- (ii) in any other case—a minimum of 30% of the area of the site is to be landscaped,*

The proposal complies with the above requirement, providing 33% (1814m²) of the village site as landscaped area or 1935m² (35%) as calculated by the applicant.

As a social housing provider the proposal is required to provide 35m² landscaped area per dwelling or 4795m². The proposed development does not comply with this requirement.

The applicant has provided a request for variation under Clause 4.6 of KLEP 2012. The reasons for variation are discussed in the variation as attached to this report and are acceptable.

(d) Deep soil zones: if, in relation to that part of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed, there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than

*15% of the area of the site (the **deep soil zone**). Two-thirds of the deep soil zone should preferably be located at the rear of the site and each area forming part of the zone should have a minimum dimension of 3 metres,*

The proposed development provides 20% of the site (village and works area) as deep soil landscaping, complying with the above requirement and providing high quality planting in a well landscaped scheme.

(e) solar access: if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,

As discussed, the report prepared by Steve King (Nov. 2013) gives the following breakdown of solar access to the independent living units:

The development achieves 39 (28.5%) out of 138 ILU apartments with minimum 3 hours of effective sun access to living areas on June 21, and a further 38 (27.7%) apartments that have more than 2 hours during that time. Six additional east facing apartments (4.4%) benefit from earlier effective sun. A further 22 (16.1%) of the apartments are designed to receive extended hours of sun to bedrooms reflecting the elderly demographic of the occupants.

The overall number of apartments that may therefore be deemed to comply with the performance objective of the RFDC for solar access amenity is 105 out of 137, being 76.6%. The RFDC recommends a minimum of 70%.

Whilst technically non-compliant with the SEPP standard, the proposal is considered to provide a sufficient level of solar access to units within the proposed development on merit.

(f) private open space for in-fill self-care housing if:

(i) in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor, and

(ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area,

Note. *The open space needs to be accessible only by a continuous accessible path of travel (within the meaning of AS 1428.1) if the dwelling itself is an accessible one. See Division 4 of Part 4.*

The proposal is not subject to the above requirements as it is not classified as ‘infill self care housing’ under Clause 13 of the SEPP.

Irrespective of the above, consideration has been given to the provision of private open space areas to the independent living units (ILUs). The self-contained units within the proposed development provide a private open space area (terrace or balcony) to 134 out of 137 units, with the three (3) units comprising Units 2.01, 2.06 and 3.01 having no private open space area. These units are on the ground floor level and face Princes Highway.

Ground floor units (excluding those without a balcony) have terraces ranging from 6.8m² (to unit 2.05) up to 15.6m². Terraces have minimum dimensions of 2m up to 3m. Upper floor units have balconies ranging from 8m² (min 2m dimension) to 24m².

On merit the level of private open space provision is of a high standard, in landscaped settings on the ground floor and with high quality outlooks and views in some instances on the upper floors. All units are complemented by easy access to a high quality common green area at ground level and 'sky lounge' common room on the upper level of building 1.

Parking

The proposed development is required to provide parking at the following rates:

For self-contained dwellings:

- (i) 0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider, or
- (ii) 1 car space for each 5 dwellings where the development application is made by, or is made by a person jointly with, a social housing provider.

For a residential care facility

- One (1) space per 10 beds (8 spaces)
- 0.5 space per employee (20 spaces)
- One (1) ambulance space per development

Based on the above rates of provisions in the SEPP, the aged care development requires a total of fifty-seven (57) spaces broken down as follows:

- Twenty-eight (28) spaces for self-contained units (1 per 5 units)
- Eight (8) spaces for residents in the residential care facility
- Twenty (20) staff spaces in the residential care facility
- One (1) ambulance space

The proposal provides 65 spaces plus 1 wash bay in the upper basement and 87 spaces within the lower basement to provide 152 spaces, which is a surplus of 95 spaces. Additionally, one (1) ambulance space at ground level off Princes Lane and thirty-two (32) spaces provided at ground level for the existing school and presbytery. The proposal provides parking on the basis of the applicant's market research and demand. The surplus parking is considered beneficial in a locality with limited on-street parking.

Development Control Table
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

Performance Criteria	Design Solution	Proposed
Other Requirements, Cl.40		
Site Area	1000 m ²	5403m ²
Min Frontage	20m	79m to Chapel Street 140m to Princes Highway
Self Contained Dwellings Cl.50 <i>Standards that cannot be used as grounds to refuse consent.</i>		
Building Height	8m	20-42m
Density	0.5:1 (2509m ²)	3.09:1 (16,724m ²)
Landscaped Area	30%	33%
Parking Resident spaces	28	122
Residential Care Facility, Cl.48 <i>Standards that cannot be used as grounds to refuse consent.</i>		
Building Height	8m NA	NA
Density	1:1 (5018.3m ²)	NA
Landscaped Area	25m ² /bed. (2000m ²)	22.6m ² /bed (1814m ²)
Parking Resident/visitor Employee Ambulance TOTAL	1 / 10 beds (8) 0.5 / employee (20) 1 / development 29	10 spaces 20 spaces 1 space 31

State Environmental Planning Policy (Infrastructure) 2007

Clause 101 of SEPP (Infrastructure) 2007 relates to development with frontage to a classified road. Under the Roads and Maritime Services (RMS) Classification, the Princes Highway is classified as State Road (May 2009).

In accordance with the requirements of Clause 101(2) of the SEPP, Council must not grant consent to development that has frontage to a classified road unless it is satisfied that the following has been considered:

SEPP Requirements	Council Officer's Comment
(a) <i>where practicable, vehicular access to the land is provided by a road other than a classified road, and</i>	Although the proposed development has frontage to the Princes Highway, vehicular access is proposed from the rear of the property, via Chapel Street, and via Princes Lane for service vehicles.
(b) <i>the safety, efficiency and ongoing operation of the</i>	Vehicular access to the development and loading/unloading associated with the

<p><i>classified road will not be adversely affected by the development as a result of:</i></p> <p><i>(i) the design of vehicular access to the land, or</i></p> <p><i>(ii) the emission of smoke or dust from the development, or</i></p> <p><i>(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and</i></p>	<p>commercial component of the development is proposed via Chapel Street.</p> <p>The separation of service vehicular access from the car and pedestrian shared access off Chapel Street is beneficial in terms of safety and reduces the impact off one frontage.</p> <p>The Assessment of Traffic and Parking Implications prepared by Parking and Transport Consultants (dated Nov. 2013) and Council's Traffic Engineer, have had regard to the requirements of clause 101(2)(b) of the ISEPP and found the proposal acceptable.</p>
<p><i>(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 adjacent traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.</i></p>	<p>The proposed development has been designed to ameliorate potential traffic noise impacts and vehicle emissions through the design of the building.</p>

Clause 102 of SEPP (Infrastructure) 2007 relates to the impact of road noise and vibration on non-road development, including buildings used for hospitals. As the proposed development is for residential use, it is considered that the provisions of Clause 102 apply.

- (3) If the development is for the purposes of a building for residential use, 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 building—35 dB(A) at any time between 10 pm and 7 am,*
 - (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

The application is accompanied by a Road Noise Assessment for the proposal, prepared by Noise and Sound Services (dated November 2013) that proposes construction materials to attenuate noise from Princes Highway and concludes that:

No exceedences of the internal noise or vibration levels are predicted. This is providing that the recommendation details shown in Section 6 (of the consultant report)... are fully complied with. Mechanical ventilation or air conditioning is required.

The application and Road Noise Assessment Report was referred to Council's Environmental Health Officer who raised no objection to the proposal subject to the imposition of suitable conditions, including the requirement to implement the attenuation measures given in the Noise and Sound Services Report dated November 2013.

The proposal satisfies the provisions of Clause 102 of the ISEPP.

Clause 104 and Schedule 3 (Traffic generating development to be referred to the RMS) of SEPP (Infrastructure) 2007, relates to traffic generating developments and aims to ensure that RMS is made aware of, and given the opportunity to make representations in respect of, developments that may have an impact due to their traffic generation. At 132 seniors living apartments and a residential care facility containing 80 beds, the proposed development is a development identified in Schedule 3, and as such the application requires referral to the RMS.

The RMS in their response dated 21 January 2014, raise no objection to the proposed development, subject to a number of comments and conditions, which are attached to this report.

The proposal satisfies the provisions of Clause 104 of the ISEPP.

State Environmental Planning Policy No 55 – Remediation of Land

The aims of SEPP No 55 are to ensure that a change of land use will not increase the risk to health particularly in circumstances where a more sensitive land use is proposed.

The submitted plans identify that major excavation will occur throughout the site, however it is unlikely that the site is contaminated as it has been used as a high school since the early 1950s. Prior to this it was the St George Leagues Club and prior to that the use has been residential.

In any case, the application is accompanied by Preliminary Site Assessment prepared by Environmental Earth Sciences, dated October 2012 that concludes that.... *In summary the risk of soil or ground water contamination on site posed by previous and current site uses is considered low. Additional intrusive investigation on site is not considered necessary.*

The application was referred to Council's Environmental Health Officer who has raised no objections to the proposed development with respect to site contamination.

The proposal satisfies the provisions of SEPP No.55.

State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development (SEPP No 65)

The proposed development contains independent seniors living units, is three storeys or more, and is therefore subject to the provisions of SEPP No 65, which aims to improve the quality of residential flat design in NSW.

The application was referred to the St George Design Review Panel for consideration at their meeting of 16/12/2013. The following comments were provided with respect to the design quality principles set out in the Policy. In their comments, the panel refers to the previous plans considered in June 2013 and gives comment on the current proposal's response to previously raised issues.

Context

The Panel endorses the rationale for the height on the site and the mix between residential and institutional uses.

The matters previously raised by the panel included:

- *The share way dimensions particularly the landscape and additional planting with the parking bays.*
- *The adequate protection of large scale existing trees particularly the significant gum trees on Chapel Street.*
- *The basement level car park in the southern corner protruding one storey out of the ground.*
- *The set back of the units facing east on the Highway was previously insufficient.*

Response

- *The share way has not been significantly improved mainly because of the need to provide parish and school car parking on grade, which limits the capacity for appropriate footpath space and tree planting. The survey indicates that there are approximately 19-20 existing spaces currently on grade, whilst the proposal provides 34 on grade parking spaces*
- *The gum trees on Chapel Street have not been adequately protected.*
- *Basement level car park has been replaced by poorly orientated units with low amenity.*
- *The set back appears to have been slightly improved.*

Scale

Acceptable.

Built Form

The panel Previously supported the built form strategy but notes that additional units have been included. Refer to comments on amenity below.

Previously the Panel requested increased setback to the Princes Highway for buildings 2 and 3 to provide an appropriate interface, mediate the levels and improve amenity. The Panel notes that the parish car park adjacent to the Princes Highway presents to the street as a built element over 4m high with a minimal setback.

The Panel recommends that the parking be redesigned and the landscape buffer increased along this zone. This is likely to result in decreased parking numbers.

Density

The Panel questions whether the slight increase in density has reduced the potential to resolve some of the other issues. See Context.

Resource, Energy and Water Efficiency

Subject to BASIX and NatHERS compliance.

Landscape

The panel notes receipt of the landscape plans previously requested and they are of a high quality. However the panel also acknowledges that the landscape operates within the constraints of the wider development. Items that should be addressed are:

- *Chapel Street landscape setback zone and the retention of the blue gum trees. The panel acknowledge the construction/staging issues of the development that requires the removal of 3 established gum trees. This landscape zone should be retained as deep soil and proposed outdoor terrace removed and the egress stair relocated to another location. The proposed paving and driveway egress in this zone should be designed as permeable and the Arborist should provide confirmation that the proposed driveway will be acceptable for the tree's retention and long term health.*
- *The share way is compromised by the large number of on grade car parking spaces. Alternative solutions should be developed to re-allocate this parking to within the proposed development. Alternatively these car parking spaces should be removed altogether. Of particular concern is the narrow footpath and proposed turning bay on the eastern boundary of the school parish car park and this should be re-designed to allow more generous and safe pedestrian access. (refer to Built Form comments).*

Amenity

The Panel notes that the ground floor unit layouts have been improved however a number of other amenity concerns have arisen in the re-design.

- *Units LG.3 and LG.4 are south facing and adjacent to the truck access and have poor amenity and should be removed, redesigned or reoriented.*
- *Unit 3.1.9 has been added to infill between the eastern and southern blocks. This unit compromises the privacy and bedroom amenity in the adjacent units 2.1.1 and 3.1.8. This unit should be significantly re-designed or deleted.*
- *The building depth for the western building is quite deep and results in a number of apartments with inboard bedrooms and no windows. These units could be replanned to delete these rooms.*

Safety and Security

It is noted that the applicants discussed the high demand for vehicular access and parking for the school and the church. The panel is concerned that pedestrian safety is significantly compromised, particularly on the north eastern boundary in the share way and the proposed footpath connect to the church. This section of the car park from the substation north should be re-planned to remove parallel car parking adjacent to the school (spaces 33 and 34).

The Panel is concerned about the significant level change which is over 3m in height on this interface which would require an additional 1m solid wall making a 4m high wall interface to the Princes Highway. More detail should be provided and it is recommended that this area is

re-planned to reduce car parking and reorient to increase the landscape buffer. Refer to comments under Built Form).

Social Dimensions and Housing Affordability

Acceptable.

Aesthetics

Acceptable.

Generally

The Panel supports the application subject to the changes described above. The application satisfies the design quality principles contained in SEPP 65.

Officer Comment

With respect to the Panel's comments under Context, the shareway entry to the development has been revised to enhance paving differentiation for clear identification. This can be further reinforced by way of conditions being imposed relating to paving and signage.

The Panel's concerns with the trees along the Chapel Street frontage have been considered and reviewed by Council's Coordinator Parks and Recreation, who concurs with the applicant in the removal of the central trees in the row and protection of the outer two trees as discussed in detail earlier in this report. Overall the proposal provides a positive contribution to the streetscape and context. No further amendment is necessary.

With respect to the Panel's comments on the lower level units, these units have been subject to redesign and this issue is further discussed under Amenity.

The Panel's comments with regard to the height of the car park podium above the Princes Highway frontage has been reviewed and discussed with the applicant. Amended plans have been submitted that increase the setback behind the substation to reorganise the proposed tree planting. Generally, the presentation has been maintained as originally proposed. The proposed level change is buffered by a significant landscape batter with large scale plantings that comprise both trees and understorey plantings, which will effectively screen the view of the podium from the Highway and not significantly impact the streetscape. The large scale landscaping scheme is of a high quality that enhances the built form of the proposal.

Density has been assessed and found acceptable. The proposal provides good amenity, scale and relationships to other development to warrant the proposed density.

The Panel's comments on Landscaping are effectively a detailed duplication of issues already discussed under context and built form. The proposal has been assessed by Council and found acceptable subject to minor amendments relating to species that can be effected via the imposition of suitable conditions.

With respect to the Panel's comments on Amenity, the plans have been amended by the applicant to improve the units mentioned by the Panel. Unit 3.1.9 (also relates to the units

directly above on levels 2 and 3) have been reconfigured to improve privacy and separation between them and 2.1.1 (and corresponding units on levels 2 and 3).

Units LG.3 and LG.4 have been reconfigured rather than deleted. Whilst south-facing and not ideally located, two (2) out of 137 units are, on balance, a good outcome and provides housing choice and affordable options. There is a broad range of units in terms of size, configuration and location within the development. The 'inboard' rooms mentioned by the Panel on upper level units are 'utility rooms', which, whilst conveying low amenity if used for living or bedrooms, they are not. The applicants have advised that their market research for seniors apartments require utility rooms for storage 'at hand' (ie not at the back of the basement) and for other sedentary activities such as hobbies, storage, sewing etc). Given the nature of the proposal, the proposed utility rooms are acceptable.

The Panel's safety concerns with the footpath linking the proposal with the church along the school site have been addressed. The amended plans reconfigure parking to provide a wider footway and an accessible ramp to the church.

Overall the proposed development addresses key issues raised by the Design Review Panel, particularly with respect to amenity and pedestrian access/safety.

Deemed State Environmental Planning Policy – Georges River Catchment

All stormwater from the proposed development can be treated in accordance with Council's Water Management Policy and would satisfy the relevant provisions of the Deemed State Environmental Planning Policy – Georges River Catchment

(ii) *any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and*

No draft environmental planning instruments are applicable to the proposed development.

(iii) *any development control plan,*

Kogarah Development Control Plan 2013 (KDCP 2013)

The proposed development is subject to the provisions of the Kogarah Development Control Plan 2013 (KDCP2013), in particular, Part E – Kogarah Town Centre. The following comments are made with respect to the proposal satisfying the objectives and controls contained within the DCP.

The Hospital Precinct

The site is located within the Hospital Precinct of Kogarah Town Centre, which identifies the following for built form along Princes Highway

- *Retain the existing monumental character of the St George Private Hospital and the Roman Catholic Church.*

The proposal satisfies the above requirement.

No desired outcomes for the Chapel Street frontage of the site is specified, though on merit, it is considered that the proposed development provides a significant improvement through the built and landscaped response to the site.

Building Height

There are no controls applicable to the site with respect to building height.

The proposal has been considered on merit and the 5-12 storey form of the three main building elements are an acceptable solution within the context for the following reasons:

- The proposed development adopts a form in anticipation of development of a scale that is suggested for the Princes Highway and Kogarah Town Centre in the Kogarah Council Housing Strategy Background Paper.
- The proposal is consistent with and respectful of the scale of the existing St George Hospital as well as the future expansion of the hospital precinct.
- The proposal respects the “Twin peak form” of the Kogarah Town Centre as shown in Fig.3 – Princes Highway Context elevation on p.18 in this report.
- Solar access maintained to adjoining properties without an unreasonable increase in impact, by stepping the building massing down to the south.
- Massing is broken into three building elements on a podium, to comprise a landscaped setback from Princes Highway, maximum 6-storey wall height presented to Princes Highway, localised height in the 12-storey tower element to the north-western corner of the site. Height and scale is further broken up with high levels of separation from other developments.
- The proposal observes a respectful setback from the heritage listed St Patricks Church, using existing buildings and additional landscaping as a buffer.

Density

No controls apply to the site with respect to density. The proposed development adopts a suitable density for the site given its height, setbacks, form, articulation, provision of open space and unit amenity.

Building Alignment

A minimum 3m setback is required for new development fronting both Princes Highway and Chapel Street on the site.

The proposal adopts street setbacks of 5.65m to Chapel Street and 4-8m along the Princes Highway, complying with the above requirement.

Vehicular access, Parking and Circulation

The proposed development is subject to the parking requirements contained in the Seniors Living SEPP as already discussed in this report.

The application was referred to Council’s Traffic Engineer, who made a number of comments with respect to the proposal’s compliance with relevant Australian/NZ Standards relevant requirements in KDCP 2013 and safety considerations, which are summarised below:

- Functionality/operation questions regarding the shared zone, boom gate and loss of two on-street parking spaces for the porte-cochere exit driveway.
- Enclosed parking space widths to comply with AS/NZS 2890.1:2004 - *Off Street Car Parking, Section 5.4.*
- *Widening of footpaths adjacent to driveways and parking spaces required*
- Turning Bay located adjacent parking space 32 shall be redesigned as the area is insufficient to allow a B85 vehicle as defined in AS/NZS 2890.1:2004 - *Off Street Car Parking* to satisfactorily turn around at the end of the aisle. This area shall be appropriately signposted to prevent people parking in this area.
- Aisle width design to comply with AS/NZS 2890.1:2004 - *Off Street Car Parking, Section 2.4.4(b) (iii).*
- *Bollards to be installed to shared zones*
- *Columns shown in parking spaces to be relocated*

Council's Traffic Engineer also provided the following comments with respect to the submitted "*Traffic and Parking Report*" prepared by Parking and Traffic Consultants, dated November 2013:

- *The development proposes 80 residential car beds and 137 senior independent living units. As a requirement of the SEPP, the aged care development requires a minimum 56 car parking spaces on-site. The proposal has included 153 spaces within the basement carparking area and is 97 spaces in excess of the requirement.*
- *On page 10 of the report it advises that the traffic surveys were undertaken at 7am - 9am and 4pm - 6pm during a typical weekday to capture the peak activity which were established as 7.30am - 8.30am and 4.30pm - 5.30pm. However, due to the school being located on Chapel Street, the peak hour and busiest times along this street network is more around 2.45pm - 3:30pm when school pick up occurs, with traffic extending back into Gray Street and this has not been included in the survey.*
- *During construction, the drop off / pick up zone for the school will be retained as detailed in the report on page 21.*

The plans have been amended and supplemented by the applicant's Traffic Consultant, addressing the above issues. Council's Traffic Engineer has reviewed the plans and report and raises no objection to the proposal on traffic and parking grounds subject to standard conditions being imposed and the following specific conditions:

- *Prior to the issue of any construction certificate, any demolition or earthworks on the site, the applicant shall submit to Council for approval a Construction Management Plan detailing the following:*
 - *The route and number of trucks conveying materials to and from the site.*
 - *Location of loading and unloading areas for trucks with times outside of school drop off / pick up.*
 - *Parking areas for tradesmen and other construction vehicles.*
 - *Traffic Control Plans by an RMS accredited person.*
 - *Demonstration that residential access to nearby properties is maintained during demolition and construction works.*

- *The carparking spaces shall be linemarked and numbered in accordance with AS/NZS 2890.1:2004 - Off Street Car Parking, Section 4.4.1.*
- *The pavement arrows in the carpark areas shall be in accordance with AS/NZS 2890.1:2004 - Off Street Car Parking, Section 4.4.3.*
- *A Dilapidation Report to cover Council's assets on Chapel Street, Princes Lane and the Princes Highway shall be submitted to Council prior to any demolition or earthworks on the site.*
- *The installation of a "Works Zone" on Chapel Street will require the approval from the Kogarah Local Traffic Committee. As a result, the applicant shall provide a formal request to Council's Traffic Section with the duration and exact location of the required "Construction Zone" at least 6 weeks prior to its required installation date.*

Views and View Sharing

There are no significant views affected by the proposed development as surrounding residential developments are similar in scale to the existing buildings on the site.

There is an objection that raises view loss as an issue, which is discussed in the Submissions section of this report.

Section 94 Contributions

The proposal has been levied \$1,830,426.84 in Section 94 contributions under the provisions of Section 94 Contributions Plan No.8 – Kogarah Town Centre. This is based on the provision of 137 independent living units (60 x 1-bedroom and 77 x 2-bedroom units).

The residential care facility has been exempted from the payment of Section 94 contributions as the type of residents of the residential care facility have limited mobility, high care requirements and provision of full facilities on site (including open space and library facilities), reduce the nexus and limit the potential demand for open space and other facilities provided under Council's Section 94 plans.

The applicant has demonstrated that they are a 'social housing provider', however, they have not demonstrated that the proposed development, which is to be subdivided from the Church and school site, will be owned and managed by the Roman Catholic Church or as a social housing development. It is therefore recommended that the above contribution be levied.

- (iv) any matters prescribed by the regulations, that apply to the land to which the development application relates,*

Not applicable.

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*

The proposed development is of a scale and character that is in keeping with other dwellings being constructed in the locality. Accordingly, the proposal is not considered to have a significant impact on the natural and built environment of the locality.

(c) *the suitability of the site for the development,*

It is considered that the proposed development is 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.

The application is supported by a Site Compatibility Certificate issued by the Minister for Planning and Infrastructure.

(d) *any submissions made in accordance with this Act or the regulations,*

In accordance with the provisions of Section A2 – Public Notification of KDCP 2013 the application was placed on neighbour notification for a period of fourteen (14) days. Adjoining property owners were notified in writing of the proposal and invited to comment. Ninety-seven (97) submissions were received.

Seventy-one (71) submissions are in support of the application. Twenty-six (26) letters object to the proposal, including one (1) petition (listing 8 names), raising the following concerns:

Traffic and parking impacts

Comment

Concern has been raised from eighteen (18) of the objectors, raising traffic and parking impacts as an issue resulting from the proposed development.

One of the objectors (from 56 Chapel Street) states that vehicular access should be made off Princes Highway with a ramp access made via the school. This is not possible as RMS will not grant consent to a new opening at this point. RMS have granted consent to the development as proposed.

The submitted "*Traffic and Parking Report*" prepared by Parking and Traffic Consultants, dated November 2013, has been prepared in consideration of the proposal's potential traffic and parking impacts on the surrounding road network and concludes the following:

On balance the parking and traffic proposal are entirely suitable for the locality and will be sufficient to meet the future needs and pressures of the area.

The proposed development provides over two and a half times the required parking on site and also substantially increases parking for the school and church, thereby reducing parking pressures in the area. The above report and Council's Traffic Engineer have also concluded that the traffic impacts are within acceptable limits and not considered to warrant refusal or modification.

Overshadowing

Comment

Concern has been raised from fourteen (14) of the objectors, raising overshadowing impacts as an issue resulting from the proposed development. The objectors are predominantly located in the residential units to the south of the site.

Detailed overshadowing analysis has been undertaken for the site in consideration of the affected units. As already discussed in this report the proposal is acceptable and no further modification or refusal of the application is warranted.

Scale and height is out of context with area

Comment

Eight (8) submissions have been received that raise issue with the height and scale of the development and its contextual incompatibility with the area.

This issue has been discussed in detail throughout this report and the proposal has been found acceptable in terms of height, scale, density and character.

One of the objectors also raises the potential impact of the 12-storey building being higher than surrounding buildings as a potential hazard for the St George rescue helicopter, which has flight paths in the vicinity of the site.

The application is accompanied by a Helicopter Flight Path Assessment Report, prepared by Avipro (March 2013), who is the aviation consultant for St George Ambulance, which is responsible for the flight paths. The assessment adequately demonstrates that the proposal does not affect helicopter flight paths. The application was also referred to St George Ambulance, though no response has been received to date. The proposal adequately addresses the issue of height with respect to helicopter flight path safety.

Lack of need for development in area

Comment

One (1) of the objectors states that there is a lack of need in the area for this type of development in the area.

The applicant, with detailed market research and demographic data has demonstrated a strong need for seniors living development in Kogarah, particularly so well located in terms of access to services and transport.

The issue is unsubstantiated and unreasonable.

View loss

Comment

One (1) of the objectors owns a medical consulting room in St George Private Hospital and raises view loss as an issue.

The objector's room is in the eastern wing of the hospital, due north of the site. The views are almost entirely due east of the objector's suite, with the views of Botany Bay and Sydney skyline being highest in value. Any view south would be of significantly lower value. In any case the 12 storey building within the development is west of the southern view line from the Hospital and therefore not affected.

The proposal is considered to satisfy the four planning principles for view loss contained in *Tenacity Consulting P/L v Warringah* 2004 (NSW LEC 140). The issue is unsubstantiated and unreasonable.

Privacy

Comment

The objectors from No.50-54 Gray Street are concerned over the potential for units within the southern block within the development overlooking their units.

The eastern elevation of Building 3 (the southern building) includes units with balconies facing west, towards No.50-54 Chapel Street. However, at over 12m of separation with extensive screening planting, privacy is maintained within acceptable limits and satisfying the building separation guidelines contained in the Residential Flat Design Code.

Objectors are also concerned with south-facing windows facing their property, which are from the 12-storey tower block. Only the residential care facility levels will potentially overlook No.50-54 Chapel Street as levels 5 and above have sight lines over the roof of the objector's building. Windows from the residential care facility have been designed to face either Chapel Street or be offset to face into the subject site, behind the rear boundary of No.50-54 Chapel Street. Further, extensive tree and screening planting is proposed to all boundaries.

The proposal as designed adequately addresses privacy issues.

General amenity

Comment

The objectors from 50-54 Chapel Street raise general amenity concerns, stating the proposal "would significantly affect our existing way of life, and comfort in our homes". The objector from unit 7 / 50-54 Chapel Street requests that 'a non-technical, ie participatory Social Impact Assessment (SIA) and Economic Impact Assessment (EIA) be conducted on the proposed development and involve all relevant stakeholders, especially all affected neighbouring properties".

The proposal has been assessed in this report with regard to all matters for consideration under Section 79(C) of the Environmental Planning and Assessment Act 1979 and found to be acceptable, on balance, having regard to the need for this type of development and the potential impacts to neighbouring properties. There is no legislative requirement for the above mentioned EIA and SIA to be undertaken.

Artificial lighting impacts

Comment

A number of residents in 50-54 Chapel Street are concerned about the installation of artificial lighting in the development and its potential impact on adjoining properties.

No detail on lighting forms part of this application. It is recommended that a condition be imposed to require lighting within the development to be installed in accordance with

Australian Standard AS 4282 – 1997: Control of the Obtrusive Effects of Outdoor Lighting so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. This is considered to adequately address the issue.

Devaluation of property and compensation to residents

Comment

A number of objectors from 50-54 Chapel Street and 56 Chapel Street raise concern that the proposal if constructed, will devalue their properties. One raises the issue of financial compensation, proposing that a law be required to compensate affected owners by financial compensation or buyout. No mechanism is in place for this to occur. The objection is unreasonable.

Construction impacts (noise, trucks, disruption, damage to property, asbestos)

Comment

Objectors from Chapel Street and Gray Street are concerned over the construction impacts of the proposal, including noise, trucks, disruption, damage to property and asbestos removal. The objectors raise both issue with safety and with disruption to their amenity.

The application was accompanied by a construction and traffic management plan.

It is recommended that suitable conditions be imposed to require submission of a detailed traffic management plan, detailed construction management plan, controlling the times for demolition and construction, noise etc and covering the removal of asbestos.

Reduced natural ventilation

Comment

The objectors from 50-54 Chapel Street are concerned that the proposed development will reduce their access to natural ventilation.

The proposal provides large setbacks and breaks up massing which permits the flow of natural ventilation. The issue is unsubstantiated.

Safe evacuation of seniors in a fire

Comment

One of the objectors from 50-54 Chapel Street raises concern with the proposed development being designed adequately for the safe evacuation of senior residents in case of a fire.

The proposal has been designed to satisfy the relevant provisions of the Building Code of Australia and the applicant is supported by a report by a Building Consultant and has been referred to Council's Compliance Coordinator and found satisfactory.

Reduced TV reception

Comment

The objector from 56 Chapel Street is concerned that the proposed development will result in reduced TV reception.

The issue is unsubstantiated and not reasonable to warrant refusal of the application.

Moral issues

Comment

The objector from unit 5/10-12 Short Street makes the point that the Roman Catholic Church has been involved in a Royal Commission into child sex abuse and that the Church “*should be made to demolish the whole site, place a forest of trees and have each tree named after every known and unknown child that was sexually abused.*”

There is no legal framework or precedent to compel the applicant to implement the above. The issue is unreasonable.

Question of Use of Development

Comment

The objector from No.52-56 Gray Street state that “*the 12 level building proposed is a residential building, not part of the aged care facilitated buildings, and will not be for aged care use at all. It is very unnecessary to have a residential building of such a height.*” The objector goes on to say the proposal is ‘fraudulent’.

The issue is unsubstantiated and unreasonable. The proposed 12-level building within the development accommodates a residential care facility as well as self contained apartments, clearly nominates its use and is not fraudulent.

Mediation/Public Meeting

Telephone discussions were held with a number of the objectors from Chapel Street and Short Street during the notification and assessment process.

No meetings were held with Council Officers and objectors. The issues remain generally unresolved.

(e) *the public interest.*

The proposed development is of a scale and character that does not conflict with the public interest.

Conclusion

The application has been assessed having regard to the Heads of Consideration under Section 79C of the Environmental Planning and Assessment Act 1979, the provisions of KLEP 2012 and KDCP 2013.

Following detailed assessment it is considered that Development Application No 276/2013 should be approved subject to conditions.