

JRPP No.	2015SYE129
DA No.	191/2015
PROPOSED DEVELOPMENT	Construction of a mixed use development comprising two buildings of 18 and 11 stories containing a community space, two commercial tenancies and 384 residential units over a six level basement carpark which incorporates 79 public car spaces and stratum subdivision
APPLICANT:	Combined Projects (Hurstville)
REPORT AUTHOR	Ben Latta, Senior Planner, Kogarah City Council

Date: 10 February 2016

Development Application No.: 191/2015

Address: 12-22 Woniora Road HURSTVILLE

Applicant: **Combined Projects (Hurstville)**

Owner: Combined Projects Kogarah Pty Ltd

Estimated Cost of Construction: \$118,000,000.00

Objections: Fifty-seven (57) submissions received.

Officer's Recommendation:

Deferred Commencement Approval

That Council as the Consent Authority pursuant to Section 80(3) Environmental Planning & Assessment Act 1979, grant a deferred commencement consent to Development Application No 191/2015 for construction of a mixed use development comprising two buildings of 18 and 11 stories containing a community space, two commercial tenancies and 384 residential units over a six level basement carpark which incorporates 79 public car spaces and stratum subdivision at Nos. 12- 22 Woniora Road HURSTVILLE subject to conditions.

Report Summary

Proposal

Council is in receipt of an application for the construction of a mixed use development comprising two buildings of 18 and 11 stories containing a community space, two commercial tenancies and 384 residential units over a six level basement carpark which incorporates 79 public car spaces on the subject site.

Site and Locality

The site is located on the north-eastern corner of Woniara Road and Greenbank Street. The site is irregular in shape and has an area of 5564 square metres with a substantial fall to the north-west.

The site forms part of the western boundary of the Hurstville Town Centre CBD and across Woniara Road is the O'Brien's Estate Heritage Conservation Area, comprising predominantly one and two storey brick dwellings with tile roofs. On the corner of Greenbank Street is a two (2) storey residential complex known as Colin McFadyen Retirement Village on 47 Woniara Road. To the east on the rail line and Ormonde Parade is the Hurstville Super Centre and train station. Development in Ormonde Parade and Butler Road is 6-9 storeys in scale. 'Empress Towers' on the corner of Woniara Road and Railway Parade is 16 storeys in scale.

Zoning and KLEP 2012 Compliance

The site is zoned B4 - Mixed Use under KLEP 2012 and the proposal is a permissible form of development with Council's consent. The proposed development satisfies all relevant clauses contained within KLEP 2012.

Kogarah Development Control Plan 2013 (KDCP 2013)

The proposed development is not contrary to the relevant controls specified in Part E2 – Hurstville Town Centre in Kogarah Development Control Plan 2013.

Submissions

Fifty-seven (57) submissions were received raising the following concerns:

- Privacy /overlooking
- Overshadowing
- Property values decreased
- Height and Scale and development for context and planning controls
- Traffic and Parking Impacts
- Impact on emergency services (due to traffic impacts)
- Impact on TV and Phone Reception
- Inadequate parks / open space facilities for residents
- Washing and other items on glass balconies

- Trust in the developer
- Corruption and integrity
- Voluntary Planning Agreement
- Retain or refit the current ATO Building for other uses
- Zoning and status of the Heritage Conservation Area should be changed
- Impact on the Heritage Conservation Area
- Impact on Flight Paths /Airspace Operations
- Demolition and construction impacts
- Impact on Infrastructure from Population Increase (Water/Sewer/Public Transport/Schools)
- Noise from occupants and machinery on amenity of neighbours
- Flooding and drainage concerns
- Incompatibility with the streetscape
- Insufficient Landscaped Area
- Visual impact
- Provision of Affordable Rental Housing on site
- Inconsistency with the New City Plan
- Lack of consultation with the community / Availability of information
- Creation of second-class citizens/ Pedestrian movement
- Lack of sustainability in the design of the proposal (energy and water)
- Waste management / garbage bins on street
- Wind Tunnel Effect
- Light pollution from building at night

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. 191/2015 should be approved subject to conditions.

Report in Full

Proposal

Council is in receipt of an application for the construction of a mixed use development comprising two buildings of 18 and 11 stories containing a community space, two commercial tenancies and 384 residential units over a six level basement carpark which incorporates 79 public car spaces on the subject site.

Specifically:

- Two (2) commercial tenancies, with a total floor area of 187m², and a community facility, with a floor area of 200m², at the ground floor level fronting Greenbank Street;
- a public car park, accommodating 79 car spaces designed to serve the Hurstville Town Centre and the proposed community facility, and a car park containing 9 cars designed to serve the commercial tenancies in the complex in 2 basement levels accessed via Greenbank Street;

- A total of 384 apartments, comprising 1 x Studio, 125 x 1-bedroom and 258 x 2-bedroom units; and
- 420 off-street car parking spaces in 4 levels accessed via Woniora Road designed for use by the residents of the apartments and their visitors.

It is also proposed to stratum subdivide the land into 3 lots which are to contain:

- Lot 1 - the 79 space public car park and the community facility to be established at the Greenbank Street level of the complex;
- Lot 2 - the 2 commercial tenancies at the Greenbank Street level of the complex and the 9 car parking spaces associated with them; and
- Lot 3 - the residential component of the complex and the car park associated with it.

A Voluntary Planning Agreement is proposed for the development lodged concurrently with the application that involves:

- the payment of a monetary contribution to Council of \$12,500/residential unit approved in the development consent;
- the dedication of a strip of land, with an area of approximately 223m², along the site's Greenbank Street frontage to Council, free of cost, for road widening purposes and construction of the road widening in Greenbank Street at no cost to Council; and
- the transfer of the stratum lot containing the 79 public car parking spaces and a community facility, with an area of 200m² at the complex's Greenbank Street level, to Council in fee simple.

The Site and Locality

The site is located on the north-eastern corner of Woniora Road and Greenbank Street. The Illawarra Railway Line abuts the site's eastern boundary and the Hurstville Railway Station is located some 200m to the south-east.

The site is irregular in shape and has an area of 5564 square metres with a substantial fall to the north-west.

The site contains a six (6) storey commercial office building that has been occupied by the Australian Taxation Office. The building includes approximately 14000m² of floor space, 3 levels of basement car parking and a public car park, accommodating 79 vehicles, accessed from Greenbank Street, which is leased to Council by the land's owner.

The land is affected by a right of footway some 3m wide, limited in stratum, adjacent to the site's eastern common boundary with the Railway Line. The right of footway provides access from the Railway Station to the rear of the development on the adjoining property to the north, namely 8-10 Woniora Road.

The site forms part of the western boundary of the Hurstville Town Centre CBD and across Woniora Road is the O'Brien's Estate Heritage Conservation Area, comprising predominantly of one and two storey brick dwellings with tile roofs. On the corner of Greenbank Street is a two (2) storey residential complex known as Colin McFadyen Retirement Village on 47 Woniora Road. To the east on the rail line and Ormonde Parade is the Hurstville Super Centre and train station. Development in Ormonde Parade and Butler Road is 6-9 storeys in scale. 'Empress Towers' on the corner of Woniora Road and Railway Parade is 16 storeys in scale.



Background

On 7 May 2015 a Development Advisory Service and Design Review Panel application (No.6/15) was lodged with Council for a preliminary proposal involving a 12-storey mixed development containing 381 residential apartments, community facility, retail tenancies and basement carparking. The proposal was prepared with a view to entering into a Voluntary Planning Agreement (VPA) with Council.

The St George Design Review Panel and the Council raised a number of concerns with the preliminary proposal including the scale, massing, density, design of common open space and parking design. The issue with scale and massing of the proposal related predominantly to the interface with the Heritage Conservation Area opposite Woniara Road. The Panel recommended that, if the density of 5.5:1 was to be supported, then additional building height may be more appropriate, relocating floor space away from Woniara Road and toward the north-eastern corner of the site (near the rail line and closer to the CBD core).

On 18 September 2015 the Development Application subject of this report was lodged with Council.

On 24 September 2015 the applicant was sent a “Stop the Clock” letter, advising that the following deficiencies were to be addressed with the application:

- Shadow diagrams are inadequate in their quality to properly assess the application.
- Submit solar access plans to show which units on each level receive adequate solar access in accordance with the Apartment Design Guide.
- Submit cross-ventilation plans to show which units on each level receive adequate cross-ventilation in accordance with the Apartment Design Guide.
- Submit detailed floor space ratio calculation schedules for each level and hatched plans.
- Submit a detailed schedule of open space (private and common).
- Stormwater issues

- Additional discussion/justification required as to how the proposal arrived at the part 18 storey scale as opposed to the 12-storey scale considered at DAS stage.

From 1 October to 30 October 2015 the application and the VPA were advertised and neighbour notified concurrently.

On 8 October 2015 the supplementary information requested above was lodged with Council.

On 5 November 2015 the application was referred to the St George Design Review Panel.

On 3 December 2015 amended plans were submitted to Council in response to a number of further issues raised by Council and the Design Review Panel.

From 10 December to 24 December 2015 the amended plans were placed on neighbour notification.

At its meeting of 14 December 2015 Council resolved:

That the General Manager be granted delegated authority to execute the proposed Voluntary Planning Agreement (VPA) as exhibited, whereby that Agreement shall only come into effect should Development Application No. 191/2015 for No.'s 12 – 22 Woniora Road, Hurstville be granted development consent by the Sydney East Joint Regional Planning Panel (JRPP).

On 15 December 2015 the application was referred back to the Design Review Panel for further comment.

On 21 December 2015 the applicant submitted further amended plans.

On 18 January 2016 further amended plans were submitted to Council that addressed a number of drafting errors and inconsistencies in the plans. Those plans are relied on for this assessment.

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.

(1) *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)

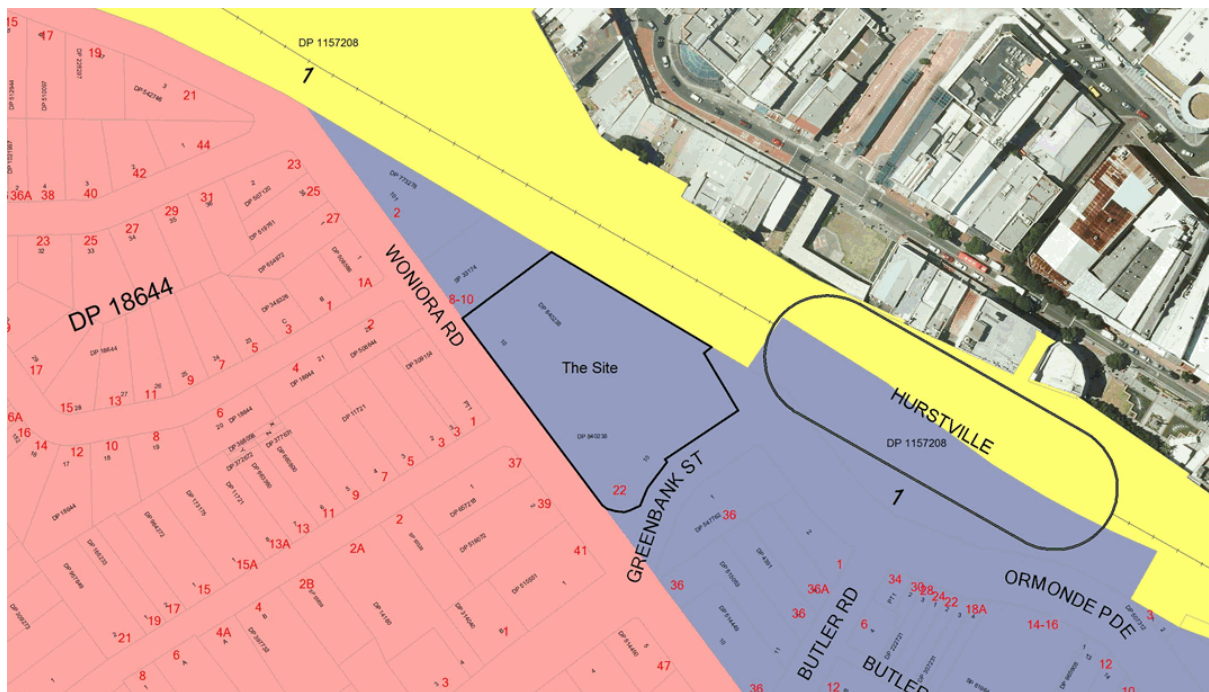
Part 2 – Permitted or Prohibited Development

Clause 2.1 – Land Use Zones

The subject site is zoned B4 - Mixed Use and the proposal is a permissible form of development with Council's consent. The objectives of the zone are:-

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

The proposed development satisfies all of the objectives of the zone.



Part 5 – Miscellaneous Provisions

Clause 5.9 – Preservation of Trees or Vegetation

The proposed development involves the removal a number of trees and vegetation on the site (and a stand of trees adjacent the site in the eastern corner of Greenbank Street) subject to the provisions of this clause, including twelve stands of trees that each contain 5 to 18 small trees.

The application is accompanied by an Arboriculture Impact Assessment (prepared by The Ents Tree Consultancy, dated 31 July 2015), that provides an assessment of all trees on the site and surrounds.

The application was referred to Council's Parks and Recreation Coordinator who raised a number of issues with the removal of the stand of trees outside the site in the Greenbank Street road reserve. Other issues were raised with respect to existing trees on the site and whether some could be retained.

The stand of trees in the Greenbank Street reserve (to the eastern corner of the site) is to be removed and the entire road reserve to be rebuilt and new landscape scheme implemented.

For a development of this scale an entirely new urban design scheme is proposed for the site and integrated with the streetscape improvements proposed for the road reserve.

The original scheme proposed street trees along the Woniora Road frontage, which was found unsuitable in that location. The landscape plan has been amended to incorporate more trees and landscaping within the site along Woniora Road that provides the landscape edge.

The landscape plan has been amended to reflect issues raised by the Design Review Panel.

The proposal satisfies the provisions of Clause 5.9 of KLEP 2012.

Consideration has been given to the provisions of Section B2 – Tree Management & Greenweb of KDCP 2013 and the proposed development satisfies relevant controls.

Clause 5.10 – Heritage Conservation

The subject site is not listed as a heritage item in Schedule 5, is not within a Heritage Conservation Area, nor are there any heritage items located nearby.

The site is across Woniora Road from the O'Brien's Estate Heritage Conservation Area, which is characterised by a high proportion of substantial one and two-storey well designed dwellings, predominantly of the Inter-War period. The Conservation Area is notable for the variety of architectural styles, which include Californian and late Federation style bungalows, and examples of Inter-War Functionalist, Arts and Crafts, Spanish Mission and Tudor Revival style houses, some set in generous gardens.

The application is accompanied by a Heritage Impact Assessment (prepared by NBRIS + Partners, dated 3/9/15). The main points are summarised below:

- *No material changes will occur to the adjacent HCA as the proposed development is separated by Woniora Road. The site has experienced a number of phases of development since the 1950s/1960s changing from residential to commercial development. This has taken development pressure away from the conservation area and allowed retention of the character of the area. Meanwhile, this has allowed denser development of the eastern side of Woniora Road in close proximity to the railway corridor and the Hurstville commercial zone.*

- *The proposal has direct interface with only four properties in the HCA (ie from O'Brien's Road to Greenbank Street). The proposal does not affect the viewing of the HCA or properties within the HCA from the surrounding area.*
- *Care should be taken to minimise overshadowing by the proposed development in the conservation area. Consideration was given to reducing the height of Building C on the corner of Woniora Road and Greenbank Street.*

The O'Briens Estate HCA is very close to the Hurstville commercial core and train station, with a need to consolidate higher densities in this area, resulting in less opportunity to scale down development gradually to the edge. The subject site presents a unique opportunity as a large, stand-alone development site which will include public facilities, parking and urban design works

There are no requirements in the HCA Guidelines in KDCP 2013 for redevelopment of land in the Hurstville CBD across from the HCA. However, regard has been had to the design of the proposal as an edge to the CBD and it's interface with the HCA. The proposal has been amended to provide greater setbacks from the Woniora Road boundary, incorporation of landscaping and stepping down in scale to the corner building, which all provide a better relationship and transition to the HCA, reducing overshadowing, whilst maintaining a strong edge to the Hurstville CBD. This is discussed in more detail later in this report with regard to the comments made by the St George Design Review Panel.

The proposal as amended provides a suitable edge to the Hurstville commercial core and transition to the HCA and is considered to satisfy 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.

The proposed earthworks involve an increased basement depth to the existing basement car park on the site. Substantial geotechnical and engineering considerations are of prominence due to the constraints of building within an existing basement and adjacent to the rail line. The application is accompanied by structural drawings and supporting engineering reports and satisfies all necessary requirements. Sydney Trains have given their approval for the demolition work approved under (DA 192/15) and to the subject proposal.

The proposal satisfies the provisions of Clause 6.2 of KLEP 2012.

Clause 6.3 – Flood Planning

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

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 site lies within the specified area defined in the schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of buildings to 15.24m without prior approval by the Civil Aviation Safety Authority and is therefore subject to the provisions of this clause.

The height of the building is a maximum of 133.05m AHD. The height of the prescribed airspace at this location is 144m AHD. Therefore the proposed development will not penetrate the Limitation or Operations Surface for both Sydney and Bankstown Airports.

The application was referred to Sydney Airports Corporation who raised no objection to the proposal subject to suitable conditions being imposed requiring cranes or additional structures requiring separate approval.

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 (Infrastructure) 2007

The proposed development is adjacent to a rail corridor, involves excavation immediately adjacent to a rail corridor and is classified as a traffic generating development and is therefore subject to Clauses 85, 86, 87 and 104 of the ISEPP 2007.

Clause 85 of the ISEPP 2007 applies to development on land that is in or immediately adjacent to a rail corridor, if the development:

- (a) is likely to have an adverse effect on rail safety, or
- (b) involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, or
- (c) involves the use of a crane in air space above any rail corridor.

Clause 86 of the ISEPP 2007 applies to development (other than development to which clause 88 applies) that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land:

- (a) within or above a rail corridor, or
- (b) within 25m (measured horizontally) of a rail corridor, or
- (c) within 25m (measured horizontally) of the ground directly above an underground rail corridor.

Accordingly, the application was referred to Sydney Trains (Railcorp) who required a number of issues to be addressed prior to consent being granted with respect to the works adjacent the rail corridor. The applicant submitted additional information and Sydney Trains granted concurrence subject to a deferred commencement consent, requiring a number of conditions to be satisfied prior to activation of the consent and prior to the issue of the construction certificate.

Clause 87 of the ISEPP 2007 requires any building for residential use adjacent to the rail corridor to satisfy the following:

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 10.00 pm and 7.00 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 an Acoustic Impact Assessment (prepared by Acoustic Noise & Vibration Solutions P/L, dated September 2015). The application was referred to Council's Environmental Health Officer who raised no objection to the proposal subject to the imposition of suitable conditions.

The proposed development satisfies the provisions of the Infrastructure SEPP 2007.

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

The proposed development is subject to the provisions of SEPP No 65, which aims to improve the quality of residential flat design in NSW.

The application has been accompanied by a design verification from a qualified designer that verifies that:

- a) He or she designed or directed the design of the modification, and*
- b) The modifications achieve the design quality principles as set out in Part 2 of SEPP No 65, and*
- c) The modifications do not diminish or detract from the design quality, or compromise the design intent of the approved development.*

The application was referred at DAS stage on 7 May 2015 which comprised a 12 storey proposal, with a density of 5.5:1. The Development Application was referred to the Panel on 5 November 2015 and the amended plans referred back to the Panel on 15 December 2015. The Panel's comments below include the original comments made, with the response comment to the amended plans considered at their meeting of 15 December 2015.

The application as amended was referred to the St George Design Review Panel for consideration at their meeting of 15th December 2015. The following comments were provided with respect to the design quality principles set out in the Policy:

The Panel prefaced their comments with the following introductory statement:

This is the third time the panel has considered the subject application and the applicants' have responded constructively to the comments made previously. The applicant is facing a major challenge with an FSR substantially in excess of the (draft) LEP controls in order to achieve by way of a VPA agreement, public car parking, Council community facilities, and other street works desired by Council. This has posed difficulties in achieving a development that will not have significant adverse impacts on the adjoining and nearby development as well as providing residential units which satisfy the requirements of SEPP 65. The constraints of the site mean that the additional density can only be achieved by increasing building heights above the LEP standard. This is not opposed by the Panel provided that any consequential amenity impacts are within acceptable limits.

Context and Neighbourhood Character

The design for its development must respond to a complex range of issues:-

- *Immediate adjacency to the railway line on the north east.*
- *A private pedestrian right of way along the rail edge.*
- *Frontage to Woniora Street with its steep level change, constant road noise, no stopping zone.*
- *Level change of approximately five (5) metres across the site with a steeply graded frontage to Woniora Street*
- *The existing building includes a Council carpark lease that is to be dedicated with redevelopment.*
- *The future adjacent built form including the police station and other commercial development which is of lower density than that applying to the site*
- *Council has negotiated an increased FSR and height of part of the VPA agreement, which provides for the developer to include a range of community benefits, monetary contribution, community space, street scape widening, and dedication for parking of 79 spaces.*

Whilst the revised design has addressed some of these issues, the Panel is particularly concerned that the additional height proposed along Woniora Road will create adverse physical and visual impacts on the low scale conservation precinct to the south.

Panel Comment from 15 December 2015 meeting:

The height has been reduced along a portion of Woniora Road (Building A and B), -close to that of the existing tax office building, and complying with the LEP control. Building C has been reduced from 18 levels down to 14 levels at the junction of Woniora Road and Greenbank Street.

This is discussed further under Built Form and Scale.

Applicant Response:

Hurstville is a Strategic Centre under the NSW Government's recently released Plan for Growing Sydney. Located on the Illawarra Railway Line, Hurstville is a major transport, employment and commercial hub within the St George area. The site is adjacent to the railway station and is well placed to fulfil the targets of the urban renewal corridor – as identified in the Plan.

The scale of the development is in reflective of Hurstville's significance as a centre and is consistent with the desired future character of this precinct.

The amended proposal involves the relocation of apartments from the south-west corner of Building C to the north-east corner of Building D which results in the lowering of Building C on the corner of Greenbank Street and Woniora Road from 18 to 15 storeys with increased setbacks being provided to the apartments on the 15th floor.

Officer Comment

The site is a large redevelopment site for the Hurstville CBD, presenting a rare opportunity to provide necessary apartments in the CBD to meet housing strategy targets in close proximity to services, shops and public transport.

The proposal is characteristic of the broader context where buildings of up to 18 storeys on the Hurstville LGA side of the railway line are emerging and permissible under their LEP.

The stepping back of the built form provides an appropriate scale for the immediate context and a higher element toward the railway line that is not impactful on the immediate surrounds while providing an appropriate skyline profile for the future scale of Hurstville.

Built Form and Scale

The relatively high density of 5.5:1 generates the need to accommodate very large building forms on the site. The architect tabled three (3) massing options at the meeting and explained that following this study he had presented Option One (1) for consideration. The panel was not convinced that this was an acceptable proposal;

- *The 12 storey north eastern wing along the rail line would cause substantial overshadowing of the courtyard space and result in over-dominant building forms within the courtyard.*
- *The design choices related to building floor levels, servicing and access points and street frontage have resulted in an extremely compromised ground level common open space that is split into multiple levels and filled with ramps, stairs and high walls.*
- *The Woniora Road frontage, with no setback, is compromised by blank walls and service areas, car park access and offers no pedestrian amenity. The two (2) entrances to the residential units are uninviting. The single residential apartment at ground level is extremely poor.*
- *There is no deep soil provided. This is unacceptable for a lot of this scale.*

The Panel recommended an alternative building form, which the architect agreed could potentially result in a more satisfactory outcome. It proposes:-

- *Removal of the north eastern wing of the building to create an L shaped form. (which was removed)*

- *Redistribution of accommodation into a north eastern corner by raising the height of the block.*

The above clearly recommends that any additional height could be in the north eastern corner.

The application as proposed has a considerably higher building (18 storeys) extending for the full length of Greenbank Street and extending around the corner into Woniora Road.

This has major adverse impacts and is unacceptable for the following reasons:

- *Substantial additional overshadowing of the HCA*
- *Overwhelming visual bulk.*
- *Poor amenity in Greenbank Street.*
- *Reduced street amenity in Greenbank Street, due to the sheer 18 storey height of the building as well as greatly reduced setback compared to the existing buildings.*
- *Setback reducing to zero at the curved corner which compounds all of the above issues.*
- *Transition in the building form along Woniora Road to mediate between the existing houses and the proposed new development. Height and shadow studies and visual impact studies from the Heritage Conservation Area are needed to determine the best built form outcome.*

There has been insufficient consideration of the context generally. The building form as proposed is now some two (2) stories higher, and approximately five metres closer to Woniora Road than the existing building, resulting in significant additional adverse impacts.

While some shadow studies have been presented they have not influenced the height or transition of the proposed built form previously requested by the panel.

Height and overshadowing is still a significant issue.

- *Provision of an approximately five (5) metre landscape setback on Woniora Road with deep soil.*
- *Reconfiguration of garbage servicing to contain it within the L shaped building form.*
- *The common open space at higher level approximately RL 64 and resolving the Woniora Road frontage to address this change.*

These have been addressed however the proposed landscape deep soil setback to Woniora Road is poorly resolved and offers minimal public domain benefits or landscape amenity, further impacting on the neighbourhood.

- *Provision of the main pedestrian access to the Woniora Road units directly from Greenbank Street.*

This has not been provided and there appears to be obvious options to provide this. Furthermore access from the Greenbank Street building to the communal open space appears not to be possible without leaving the site.

- *The re-planning of the Greenbank Street ground floor layout to provide a publicly accessible route connecting to the public domain walk way to the north east through to*

Woniora Road. This should clearly designate the public and private space and include access to Council car park and the Council community facility. Relocate the garbage turning area and car park access to provide more active use to the north east corner closer to the town centre and public access way.

The partial solution proposed is inadequate and creates potential safety and security issues. It is recommended that the proposed public access be removed and the public carpark lift relocated to a street facing position.

- *The separation between the two building forms facing Woniora Road is unsatisfactory for buildings of this scale, and greater separation should be provided to resolve both spatial and privacy issues*

This issue will be substantially resolved if the corner of the Greenbank Street building is setback five metres from site boundary on Woniora Road.

The main challenges are as follows:

- *The interface with the conservation area to the south which is primarily detached residential dwellings and units.*
- *See comments above.*
- *Relationship to the pedestrian right of way to the north.*
- *Satisfactory.*
- *Creation of comfortable pedestrian scale along both street frontages.*

The current design creates an extremely poor pedestrian scale along both street frontages. The inconsistent setback treatment along the streets (five metres on Woniora Road, less than two metres at the junction of Greenbank Street on street level) creates confusing, extremely poor public domain. This condition coupled with the proposed heights and the dramatic level changes from the street results in a very poor street scape condition. This could be resolved by:

- *Continuous setback of five metres from the site boundary along Woniora Road.*
- *Redesigning service facilities to provide expanded landscape zone with tree planting (similar to the existing condition).*
- *Extension of a consistent Greenbank street building alignment to the corner.*
- *A substantial reduction of height on this corner (to match the Woniora Road building) as recommended above.*
- *Carefully considered public domain proposal that incorporates tree planting within the site boundary.*
- *The existing topography which exacerbates the visual scale of the development.*

There is still limited site context shown. Sections should be included illustrating the revised proposal that extend into the conservation area to the south and across the railway to Hurstville Town Centre showing existing and potential future building envelopes and land form, so as to gauge contextual relationships and impacts.

The design in principle has responded to these challenges, by substantial articulation of the building forms, but there remains significant concern about the height of the buildings fronting Woniora Road and the potential impact on the conservation zone.

Significant concerns about the height remain as noted above.

Panel Comment from 15 December 2015 meeting:

The majority of the previous recommendations have been followed, however, there are some issues that remain of concern, including:

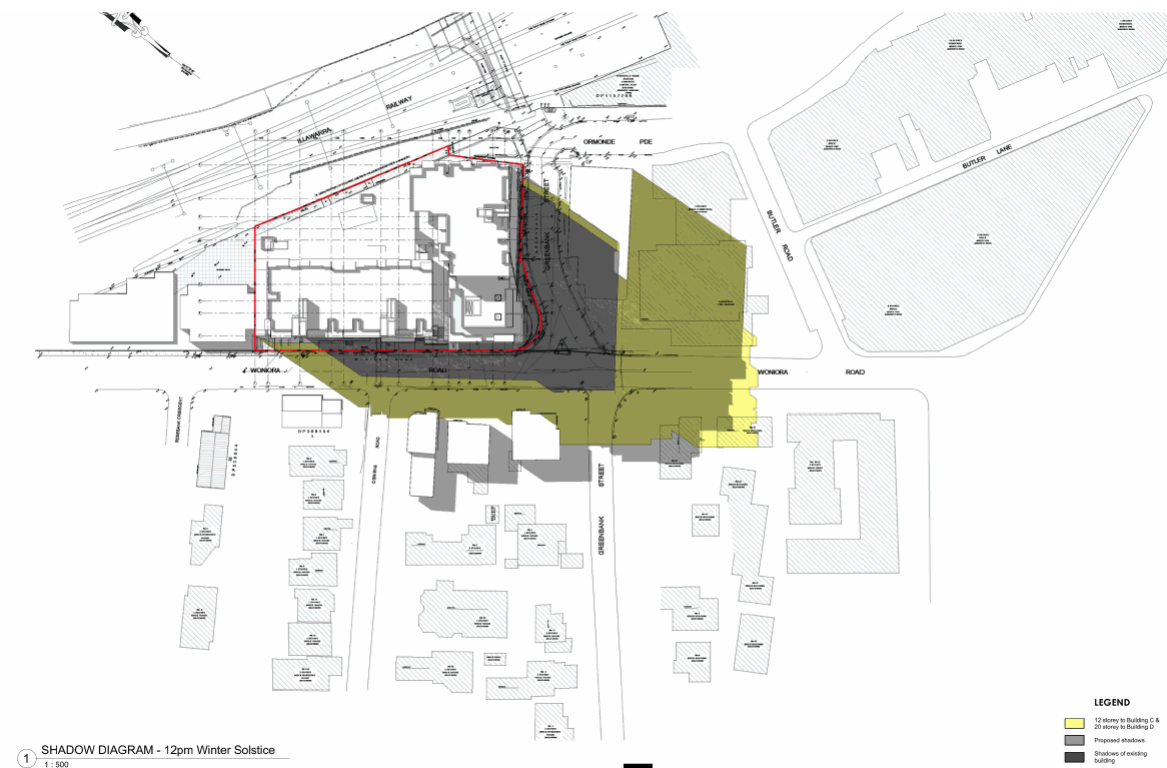
Visual Bulk & Scale of the corner (Building C)

This remains higher than desirable in relation to visual bulk and overshadowing impacts:-

- The Panel suggests that the proponent examine the potential for relocating (say) the top two (2) floors from the Woniora Road corner to the north, from Building C to the northern part of Building D, and assess whether this will reduce the extent of shadows cast on the residential dwellings across Woniora Road.*
- Building C overhang to ground floor landscaping and streetscape proposals. This should be pulled back to ensure adequate space for tree canopy growth.*
- The adverse impact of overshadowing could be marginally further reduced by detailed attention to the design of parapets and other elements at the roof-top.*
- The proposal does not fully exploit the ADG recommendations for car parking provisions, close to public transport. If this was adopted, there may be opportunity for increased deep soil provision through reduction in car parking numbers. This could improve the streetscape interface for building A to Woniora Road.*

Officer Comment

The applicant has submitted additional information demonstrating that relocation of two floors from the corner to create a 20 storey element (shown yellow on the diagrams below) on the northeastern corner will result in more overshadowing as the higher element will cast a shadow past the corner element. The dark grey shadow is the existing building and the light grey shadow is the proposal. The diagrams show overshadowing at 9am and noon at the winter solstice. By 1pm the shadow is only cast across the CBD Core, east of Woniora Road.



Building C has been amended to correct the overhang and provide for canopy growth as recommended.

Parking has been maintained. The applicant has cut part of the corner of the basement off at the southern corner to provide better deep soil planting. The Panel's recommendation is flawed as it does not factor in the building above the car park nor does it account for the

existing basement that cannot be 'filled in'. Pushing the building further back from Woniora Road will result in amenity impacts within the development, resulting in a "T" rather than "L" shape between the two buildings and compromise common open space in the north of the site. The streetscape interface as amended is considered satisfactory.

The recommended minor reduction to the height of parapets has been investigated and shown to produce negligible reductions to overshadowing.

Density

Based on the design presented, the 5.5:1 density appears excessive given the constraints of the site and the building forms proposed. If the alternative form suggested by the Panel is adopted it may be that a satisfactory outcome could result at this density, but it remains to be demonstrated.

The draft floor space ratio and height controls do not appear to have been tested against setback, building separation, deep soil planting, communal open space provision and parking.

The design presented demonstrates clearly that the proposed density is excessive and cannot be acceptably accommodated within the site context.

There is presently no density control on the site, although the draft KLEP 2012 (Amendment No.2) proposes a density of 4.5:1, which is very high for a site of this nature. It is appreciated that Council is in the process of negotiating a VPA with the applicant which would provide for public benefits including public carparking, dedication of land along Greenbank Street, and community space. Although it appears certain that the density as proposed will have to be reduced in order to achieve an acceptable outcome, in view of the current high profit margins on residential units it may well be that such benefits could still be negotiated with necessary reduction in density.

Critically assessment of the application must be based on merit, irrespective of the draft LEP controls.

Officer Comment

The Panel made no further comments in their 15 December 2015 Meeting to the above.

The proposal as amended demonstrates that a density of 5.5:1 is acceptable on its merits. The proposed stepping down of Buildings C from D and A and B from C demonstrate a suitable edge to the Hurstville CBD that resolves the scale and massing from the proposed density in an appropriate way and in accordance with their recommendations above under Built Form and Scale.

The amended plans remove four storeys from the corner of Greenbank and Woniora Roads, with a fourteen storey edge.

The 3D perspectives below illustrates the proposal in its immediate context when approaching the site from the south-east and the approach from the northeast. The outline of the existing ATO building is shown as a comparison.



Sustainability

A site of this scale should provide substantial resource and energy efficiency measures including:

- *WSUD measures*
- *Deep soil zones for tree planting*
- *Provision of renewable energy source.*
- *Optimum passive solar design*

These have not been significantly addressed and should be included; well considered sustainability measures should be fully integrated as a priority.

15 December 2015

This point again is emphasized given the very large scale of development.

Officer Comment

The proposal meets the BASIX and Section J requirements.

Deep soil zones have been incorporated as with additional landscaping in rooftop open space areas.

Landscape

The tabled design (option 1 as discussed under Built Form) included a landscape plan. As noted, the designs configuration of building floor levels, servicing and access points and street frontage have resulted in an extremely compromised ground level common open space that is split into multiple levels and filled with ramps, stairs and high walls. Walls over 3 m high are proposed between terraces and walkway zones. The proposed northern wing of the building overshadows the communal open space, and the proposed ground level private terrace zones have poor privacy.

The communal open landscape space at ground level should be re designed;

- as a single consolidated space, that is clearly linked to common circulation zones and reduces the requirement for stairs, ramps and large retaining walls*
- with useable communal facilities*
- with an appropriate landscape interface to provide privacy for ground level terraces*
- with appropriate soil depth to allow for adequate scale of planting*
- Planting to provide adequate interface COS and public pathways and access routes*

The open space has been redesigned and the following modifications are recommended:

- Reduction of paved areas and increase of planting beds to improved privacy and amenity between ground floor apartments and communal open space gathering areas.*
- Full description of playground elements to be included. This should cater for a range of ages, from toddlers to school aged children.*
- Relocation of carpark exhaust riser out of deep soil zone.*
- Provision of large trees (greater than 15m height at maturity) within deep soil zones.*
- Location of seating, BBQ facilities and details on proposed harbour.*

Additional common open space should be provided on roof top spaces.

For a development of this scale (with approximately 384 apartments and potentially in excess of 700 residents) the ground level communal open space provision is inadequate. Roof top landscape communal open spaces should be provided on both buildings to service the

resident's needs, incorporating a range of facilities such as seating, BBQ facilities, gathering spaces and planting. These should be setback to protect privacy for neighbours and avoid any additional overshadowing impacts.

It would be desirable to provide such communal amenities for the group of residents served by each of the four lift cores.

Sun shade diagrams should be provided indicating solar access to common and private open space. Existing trees on adjoining lots, and adjacent to the development should be clearly annotated on all drawings, including existing trees to be removed.

This has not been provided and should be shown on all architectural, engineering and landscape drawings. Tree protection zones as nominated by a qualified arborist should be clearly shown on drawings and adhered to.

A landscape deep soil setback on the Woniora Street can provide large scale trees greater than 15 m height at maturity to provide a landscape frontage that mitigates the building scale from the adjoining conservation areas to the south. Consideration should be given to retaining existing tree planting on the corner of Woniora Street and Greenbank Street.

An inadequate landscape treatment has been provided, and this does not address the points raised above. While deep soil zone has been proposed for Woniora Road frontage, (5m wide to 2.5m wide). This is primarily paved areas with not tree planting and minimal shrub planting. This built form and landscape proposed would impact negatively the neighbourhood. The existing tree planting reduced the visual scale of the existing building from surrounding areas. This landscape approach should be adopted in this application, with provision of generously landscaped zone, and incorporating the same number of trees, at a minimum as existing.

Tree planting should be provided along the Greenbank Street frontage, within the site boundary. Council has noted that street tree planting may not be viable in this location; therefore the landscape design should incorporate new tree planting within the site boundary and note within the street reserve.

Insufficient information is shown on all drawings in relation to the existing street levels and the proposed development.

Comments from 15 December 2015 meeting:

Additional communal open spaces have been provided on roof tops of Buildings A, B and D. It is recommended that communal open space also be provided on Building C, set back from Woniora Road frontage to ensure that overlooking and privacy of nearby residents will not be compromised.

The communal open space at ground level has been redesigned and is an improvement from the previous layout and it is recommended that a few changes be undertaken:

- Reconfiguration of the car park exhaust to align with the walkway and be narrower to maximize planting zones.*
- Seating be provided in the BBQ area and arbor details be provided. Detailed elevations should be provided for all landscape areas and arbors (at ground level and in rooftop communal spaces).*
- Substation should be carefully designed and integrated into the built form.*

- *The lift access from building C should be incorporated into the building footprint and not projecting into communal open space. Refer to comments in Amenity.*

The proposed palm tree planting is not supported and should be replaced with gums as currently proposed.

Applicant's Response:

Planting has been increased between the ground floor apartments and communal open space gathering areas.

The installation of children's multi-play equipment has been shown/noted on the landscape drawings.

The amendments incorporated into the development have resolved many of the issues raised. The raising of the communal courtyard has minimised level changes and reduced the height of the wall along the railway boundary.

The setting back of the building along Woniora Road and introduction of the deep soil zone has minimised the impact to the residences across the road. It has also improved the amenity of these apartments by creating a buffer from the busy street.

The partial deletion of the wing fronting the railway boundary has not decreased the courtyard size and allowed for more landscaping.

The proposed development provides 1244sqm of communal open spaces at the rear of the development and also provides an additional 1036sqm on the rooftop of building A,B and D. The location of the communal open space and its orientation results in the space receiving adequate sunlight between 9.00am and 3.00pm as required.

The communal open space areas are easily accessible and provide BBQ areas, seating, lawn areas and landscaping that enables all residents the opportunity to enjoy the space. A landscape deep soil setback on Woniora Street has been provided to allow for large scale trees.

Building separation has been improved by the direction of the building along the railway boundary.

Multi-play children's equipment has been indicated on the landscape drawings.

Officer Comment

The amended plans are considered to adequately address the Panels' issues with the previous landscape scheme. Further, the provision of 2280m² of communal open space comprises 40.9% of the site area, which is well in excess of the minimum recommended proportion of 25% specified in the Apartment Design Guide.

Amenity

Amenity in relation to the external spaces, in particular the courtyard, building separation, and Woniora Road frontage is not acceptable, but could be satisfactory if an L-shaped plan is adopted.

The courtyard is now satisfactory in principle due to the deletion of the northern wing. Also see notes above.

The panel is very concerned about the street scape generally and the interface of the built form with the footpath-especially at the corner of Woniora Road where it is not clearly shown. It does not appear that this interface has been considered or resolved. For example the retaining wall on the corner appears on the perspective but not on the plans and most of the trees depicted are not physically possible given the building overhang.

The substation on Woniora Road provides very poor streetscape amenity. It should be incorporated into the built form.

The streetscape has improved on Woniora Road, however the substation is still of concern and should be addressed as above. The visualization does not accurately represent the Woniora Road and Greenbank Street corner and there appears to be inconsistencies in the drawings: it would be helpful to revise these to represent the revised scheme.

The amenity of the residential units generally should be acceptable as proposed. The grouping of units around twin-elevator cores, with daylight to corridors should in principle result in good standard of amenity, which should be enhanced in the L-shaped plan now proposed. Potentially the orientation of units in a taller block would result in better solar access, outlook etc, and corridors would be reduced in length. As discussed at the meeting however, the amenity of several of the units at ground level is unacceptable as proposed.

Generally the amenity of the units remains of a good standard. Four issues are of concern:

- *The inadequate separation distances between units on the internal corner at every level where the two (2) building interface with resultant acoustic and visual privacy issues.*
- *Separation distance between two (2) buildings resulting in the bedrooms in the Greenbank Street block having poor amenity. Re-orientation of the bedroom windows could potentially resolve this concern.*

This has not been addressed.

- *Roof over the loading bay should be designed to provide accessible terraces and/or rooftop planting.*

This roof zone should incorporate landscape to provide outlook for adjacent units.

- *Adequate provision of communal open space. This should be provided on roof tops as well as ground level as noted above under 'Landscape'.*

Communal open spaces are provided to serve buildings A, B and D and these would potentially be excellent amenities. A similar communal open space should be provided on

Building C well set back from the perimeter and adequately screened to ensure that there will be no privacy impacts on nearby residential areas.

See note above regarding the lack of ground level access between the Greenbank building and communal open space.

A lift has been provided and it is very desirable that a stair be incorporated to provide easy access to the open space and northern entries to buildings A and B.

The children's play area has no play equipment. Further information is required.

This has been provided.

The "snorkel" bedrooms in Buildings A and B could be significantly improved by providing small bays containing seating or desks and minimizing the depth of the "snorkels".

The amenity and the usability of balconies should be carefully considered as the design is developed to ensure adequate privacy, protection from high winds etc., by provision of further solid balustrading and adjustable screens.

Applicant Response

The amendments incorporated into the development have resolved many of the issues raised.

The raising of the communal courtyard has minimised level changes and reduced the height of the wall along the railway boundary.

The setting back of the building along Woniora Road and introduction of the deep soil zone has minimised the impact to the residences across the road. It has also improved the amenity of these apartments by creating a buffer from the busy street.

The partial deletion of the wing fronting the railway boundary has not decreased the courtyard size and allowed for more landscaping.

The proposed development provides 1244sqm of communal open spaces at the rear of the development and also provides an additional 1036sqm on the rooftop of building A,B and D. The location of the communal open space and its orientation results in the space receiving adequate sunlight between 9.00am and 3.00pm as required.

The communal open space areas are easily accessible and provides BBQ areas, seating, lawn areas and landscaping that enables all residents the opportunity to enjoy the space. A landscape deep soil setback on Woniora Street has been provided to allow for large scale trees.

Building separation has been improved by the direction of the building along the railway boundary.

Multi-play children's equipment has been indicated on the landscape drawings.

Officer Comment:

The proposal has been amended to satisfy the above concerns.

Safety

The current building circulation proposals create very unsafe environments. See note above regarding the removal of public access to the communal open space, and to the relocation of the internal carpark lift to the street.

The narrow footpath proposed could lead to safety issues especially around this busy corner.

Care should be taken to eliminate deeply recessed entries into residential lobbies, which would pose serious security hazards.

Security gates should be provided to the main Greenbank Street entry and Woniora Road entry.

Applicant Response

The proposed development ensures adequate safety and security within the development by:

- Minimising concealment areas.
- Grouping the commercial and visitor carparking together and separating these spaces from the residents parking.
- Residents will provide casual surveillance of the streets and public plaza improving the overall level of personal safety and security of the neighbourhood.
- The public carpark has direct access from the street without having to access communal open space areas.

Building entries and access ways are clearly identifiable elements of the proposal and provide residents with a direct connection to streets and public areas.

Officer Comment

The above comments are concurred with. The proposal is satisfactory.

Housing Diversity and Social Interaction

The larger courtyard should be developed to simplify its form, reduce the complex level changes, and ensure better winter sunlight. It is of sufficient size to include a variety of amenities serving the community of residents, -which is likely to be of the order of 700 people of all ages, -such as toddler's play area, shade structures etc. In addition it is important to provide a communal space serving residents in each of the blocks, such as a small enclosed room with facilities at roof level served by each elevator core.

The communal courtyard open space alone is insufficient for a development of this scale. See notes above.

This has been substantially improved.

Aesthetics

The general approach demonstrated in the indicative elevation drawings is supported, including the suggested detailed variations and articulation in building forms, materials and finishes.

The blank ground level façade treatment on the prominent corner of Woniora Street and Greenbank Street is poor and should be revised in the re-planning of the development.

See notes above regarding built form and the apparently over-scaled presentation of the building to both street frontage. Modification of the built form should be undertaken so as to achieve the following:

- *a height of the corner consistent with the Woniora Road elevation and restricting taller elements (maximum 18 storeys) to the north east corner in the area labelled building D.*
- *consistent built form alignment and setbacks along Woniora Road with tree planting.*
- *A more generous public domain setback along Greenbank Street which allows for substantial tree planting.*

There is potential to develop an interesting built form expression along Woniora Road using vertical reference to the twin lift shafts complemented by the repetitive balcony spandrels - developed as a recognized expression of entry. Ideally this would inform how the Greenbank Street building is developed as well. The resolution of the roof top and building silhouette is very important as these will be viewed from a distance.

Visualization that accurately represents the proposal should be provided from the surrounding neighborhood (from the north, south, east and west) to show how the building relates to the broader context.

The panel reiterates that appropriate visualization from several locations (as specified above). These do not need to be fully rendered visualization but should indicate the proposal in the context of potential future built form envelopes for surrounding developments. This should include the wider urban context including Hurstville.

The architectural character, materials and finishes as now proposed are generally satisfactory

Panel Recommendation from 15 December Meeting

- *The Panel supports the application subject to the changes described above to the satisfaction of Council. In particular it is important to demonstrate whether or not relocation of top floors of Building C could reduce overshadowing impacts as well as visual bulk of this corner component. The application satisfies the design quality principles contained in SEPP 65.*

Applicant response

The development has been amended. The introduction of more horizontal elements and stepping of the buildings is more sympathetic to the existing residential buildings on the southern side of Woniora Road.

Officer Comment

The application as amended is satisfactory and is considered to meet the provisions of SEPP 65 and is supported.

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*

A Planning Proposal for the New City Plan to amend Kogarah LEP 2012 was placed on exhibition from Monday 30 March 2015 until Friday 29 May 2015.

The New City Plan includes changes to zoning and the introduction of development standards in parts of the City to deliver a range of new housing options.

The B4 – Mixed Use zone is to remain.

Specifically, the New City Plan proposes to incorporate a height limit of 39m and a Floor Space Ratio of 4.5:1.

As there are no controls applying to the site with respect to height and floor space ratio (FSR), the draft standards are given some weight in considering the desired scale of development on the site.

The proposal does not comply with the height and FSR controls. Further discussion is provided below:

Height

The proposed development adopts a maximum height of 62.85m to the topmost parapet of Building D (18 storey component) with the lift overrun at a maximum overall height of 63.5m above ground level (existing).

The building steps down at the corner (Building C) to a maximum height of 56m.

Buildings A and B, which face Woniora Road, have a maximum height of 33m – 38.5m, which is consistent with the proposed height provisions.

The elements of Buildings C and D that extend above the proposed height limit are acceptable for the site and its context for the following reasons:

- There are numerous examples of buildings of a comparable height in Hurstville Centre, both within Kogarah LGA and Hurstville LGA. Examples include the 16 storey Empress Gardens at Nos.588-600 Railway Parade (220m from the site), the 20 storey East Quarter development (Hurstville LGA) and 16 Storey building under construction on Treacy Street (Hurstville LGA).
- Hurstville LEP specifies a number of sites within the same viewing area and skyline that have height limits of up to 60m directly across the rail line from the site.

- The proposal steps down in a manner that reduces overshadowing impact to the residences in the Heritage Conservation Area to within acceptable levels when considering the existing building on the site and the draft height limit.
- The higher component of the building at the eastern corner is not only removed from the principal viewing corridor of Woniara Road but is a small proportion of the overall site and building footprint.

Floor Space Ratio

The proposal incorporates an FSR of 5.5:1 (30,541m²), which is well in excess of the FSR control proposed for the site under the New City Plan of 4.5:1..

The proposed FSR is acceptable as it provides a scale that is generally compatible with the context and provides good amenity as per the provisions of the Apartment Design Guide and SEPP 65 principles.

The proposed density facilitates development feasibility for the provision of works, contributions and facilities under the VPA for the site without significant impact on the built environment, in a location appropriate for a high density building in the Hurstville CBD.

There are no other draft planning instruments that are applicable to this site.

The proposal is not inconsistent with the objectives and provisions of the New City Plan.

(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, the provisions of Part E2 – Hurstville Town Centre apply.

The site is within Block 32 of Part E2 of KDCP 2013.

However, there are no specific controls for height, density or setbacks on which to rely, as Part E2 of KDCP 2013 assumes full development potential being realised with the existing ATO building.

Traffic and Parking

The rate for commercial uses is 1 space / 60m² and for retail is 1 space / 30m²

The rate for residential development is 1.25 spaces for each dwelling, plus one visitor space for each 5 dwellings.

The requirements for car parking have been considered under the provisions of Part 3J of the Apartment Design Guide, as SEPP 65 specifies that an application cannot be refused *if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide.*

As the site is within 400m of a B4 – Mixed Use, the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments or the carparking requirement prescribed by the relevant council, whichever is less. The following table sets out parking provision against both the provisions of part E2 of KDCP 2013 and the RMS Guide (Traffic and Parking Assessment prepared by Barker Ryan Stewart, dated September 2015):

	KDCP 2013 – Part E2	RMS Guide	Proposal
Residential (384 units) 1 bed – 114 2 bed – 253 3 bed – 17	Res. 384 x 1.25 = 480 Visitor 384/5 = 76.8 Total = 556.8	114 x 0.4 = 45.6 253 x 0.7 = 177.1 17 x 1.2 = 20.4 Visitor 384/7 = 54.9 Total = 298	420 (including 40 accessible)
200m ² Council Area	- 1 space/60m ² = 3.4	1 space/40m ² = 5	79 spaces in public car park dedication (including 2 accessible)
Commercial/Retail (187m ²)	Commercial – 1/60m ² = 3.2 OR Retail – 1/30m ² = 6.2	Com. – 1/40m ² = 4.7 Retail - 6.1/100m ² = 11.4	9
Total	564/567	308/315	508

The proposal provides less parking than required by the provisions of KDCP 2013 but is in excess of that required by the RMS Guide to Traffic Generating Developments. Given the proposal's close proximity to Hurstville train station and location within the Hurstville CBD, the proposal provides a high provision of parking.

The application was referred to Council's Traffic Engineer who made the following comments:

- *The proposal includes 384 residential apartments, a Council community space (200m² GFA), two commercial/retail units (187m² GFA total), a Residential carpark (420 spaces) and a Council/commercial carpark (88 spaces).*
- *Traffic counts on Woniara Road and Greenbank Street were conducted on Thursday 30 July 2015 from 7.30am to 9.30am and from 4pm – 6pm. This indicated that Woniara Road currently rates at Level of Service D and Greenbank Street was at Level of Service C. The morning peak occurred at 8am – 9am and the afternoon peak was 5pm – 6pm.*
- *In accordance with the requirements of the Kogarah DCP, the development requires:*
 - 557 residential spaces
 - 4 Council commercial spaces
 - 4 Commercial spaces or 7 Retail spaces
 - TOTAL – 564 or 567 spaces

- *In accordance with the requirements of the RMS Guidelines, the development requires:*
 - *298 residential spaces*
 - *5 Council commercial spaces*
 - *5 Commercial spaces or 12 Retail spaces*
 - *TOTAL – 308 or 315 spaces*
- *The development proposes:*
 - *420 residential spaces (this includes 19 visitor spaces)*
 - *79 Council commercial spaces*
 - *9 Commercial / Retail spaces*
 - *TOTAL – 508 spaces*
- *As a result there is a parking **surplus** of 122 spaces from the RMS requirements. Whilst there is a shortfall in proposed visitor spaces, these can be accommodated in Council's carpark and due to the close proximity of the site to public transport, this is appropriate. The other option would be to allocate some of the surplus residential spaces to Visitor use.*
- *In accordance with the RMS guidelines, the existing ATO commercial building is capable of generating 285 vehicle trip movements per hour in the peak periods based on the GFA. The proposed development of residential and commercial use will generate 120 vehicle trip movements per hour in the peak periods. As a result of the development, there will be a **reduction of 165 (285 – 120) vehicle trips in the peak hour periods** for the site.*

Council's Traffic Engineer also raised a number of concerns with the design of the carparks as originally lodged. The amended plans address these issues and the proposal is acceptable subject to the imposition of suitable conditions.

With respect to Traffic impacts the following comments have been made by Council's Traffic Engineer:

- *The traffic generation for the existing development in accordance with RMS's Guide "Guide to Traffic Generating Developments" is 285 peak hour vehicle trips.*
- *The traffic generation for the proposed development in accordance with RMS's Guide "Guide to Traffic Generating Developments" for the residential component is 92.2 peak hour vehicle trips, for the commercial council area is 4 peak hour vehicle trips and for the retail area is 23 peak hour vehicle trips. This is a total of 120 peak hour vehicle trips, this is decrease of 165 peak hour vehicle trips from the existing development.*
- *SIDRA modelling was undertaken at the following intersections for both the AM and PM peaks for both pre and post development traffic generation rates, and for 10 year Gosford CBD growth at 2% per annum, to show the impact of the generated traffic;*
 - *Woniora Road and site access*
 - *Woniora Road and Greenbank Street*
 - *Woniora Road and Butler Road*

- *Railway Parade and Ormonde Parade*
- *For assessment purposes a Level of Service D as outlines in RMS's Guide "Guide to Traffic Generating Developments – Table 4.2" was considered satisfactory.*
- *Each intersection was modelled for the following scenarios;*
 - *Existing Traffic Generation*
 - *Existing Traffic Generation + Development Generated Traffic*
 - *Existing Traffic Generation + Development Generated Traffic + 10 year growth*
- *Woniora and Site Access;*
 - *The proposed development modelling demonstrated that there is no adverse impact to this section of Woniora Road aside from the level of service in the am peak with 10 year growth, where the level of service is projected to still be satisfactory. There is a slight increase in level of service in the am peak.*
- *Woniora Road and Greenbank Street;*
 - *The proposed development impacts improve during the am peak period with no adverse effects including 10 year growth. Modelling the pm peak periods demonstrate that there is no adverse effects to this intersection aside from the right turn into Greenbank Street which represents an increase of average delay of only 2 seconds. The 10 year growth projection showed marginal decreases in level of service.*
- *Woniora Road and Butler Road;*
 - *It is considered that the traffic generated by the development, including 10 year growth projections, would not have an adverse impact on this intersection. The level of service on Butler Road during the pm peak however shows a decrease in the level of service.*
- *Railway Parade and Ormonde Parade;*
 - *It is considered that the traffic generated by the development, including 10 year growth projections, would not have an adverse impact on this intersection. The level of service across all scenarios do not decrease.*
- *As part of the proposed development, a 223m² portion of land adjacent to Greenbank Street is to be dedicated to Council for road widening.*

The proposed development as amended satisfies Council's requirements for traffic and parking and is supported.

Waste Removal and Loading

The proposed development provides for garbage collection off the loading area accessed off the eastern end of Greenbank Street.

The application was referred to Council's Waste and Sustainability Coordinator who made the following comments:

The total number of bins for the proposed development (384 units) will require the following number of bins:

- *Garbage = 14x 1100L garbage bins*
- *Recycling = 43x 240L recycling bins*

The garbage and recycling bins will be collected three times per week.

There are four bin storage areas allocated and I have the following comments:

Building A = 75 units

3x 1100L garbage bins and 8x 240L recycling bins will be required.

The bin room is large enough to store the bins.

Building B = 71 units

3x 1100L garbage bins and 8x 240L recycling bins will be required.

The bin room is large enough to store the bins.

Building C = 85 units

3x 1100L garbage bins and 10x 240L recycling bins will be required.

The bin room is large enough to store the bins.

Building D = 153 units

5x 1100L garbage bins and 17x 240L recycling bins will be required.

The bin room is NOT large enough to store the bins and will need to be modified.

Bin Collection

The bins will need to be presented on Greenbank Street for collection.

Due to the number of bins required for this large development, the frequency of collection and limited amount of area available on Greenbank Street a 'No Standing/No Stopping' area will be required on collection days.

Access from the allocated bin storage area should meet the incline standards of AS/NZS 2890.2:2002 "Off Street Commercial Vehicle Facilities" in order for the bins to be transported from the bin storage area to kerbside for collection.

Commercial Garbage bins

The allocated bin room/s for Commercial bins is suitable and adequate for the number of bins required.

The waste contractors have subsequently agreed to empty the bins onsite.

The garbage truck (rear loader) requires a height of 3.9M and the recycling truck (side loader) requires a height of 5.5 Meters to enter and exit the loading area.

On the plans a height of 4.5M is stated, the height of the loading area will need to be modified to accommodate the 5.5 Meters.

If the applicant does not alter the loading bay to a 5.5m clearance height, the alternative is that the garbage is collected from the loading area and the recycling bins are presented on Greenbank Street.

The applicant advised that the building will have a private waste contractor to enable trucks to access the site to collect bins and the building management will move the bins from collection areas to the holding area.

The plans were not amended to increase the height of the loading bay collection area as this would have implications in raising the height of Building D in the development. The applicant has provided the following response from their Waste Management Consultant (Elephants Foot, Feb.2016):

Kogarah City Council are only able to service 240L recycling bins, which means that they will only have side loading waste collection vehicles.

If all side loading vehicles, including private contractor vehicles, require a clearance height of 5.5m, a solution to this problem is to decant these 240L recycling bins into larger 660/1100L bins and have a private contractor collect it with a rear loading vehicle

However, as decanting full bins is considered a safety hazard, the development will have to employ the use of a bin lifter (see attached).

This solution will require the development to have an extra 14 x 1100L MGBs for twice weekly collections.

The bin holding room will no longer need to hold the 240L bins as they should be returned to their waste compartments once emptied into the larger bins.

We may be able to reduce the number of 240L bins in total if you choose to go through with this solution, as well as the 1100L bins if you want to reduce the number of bins by increasing the collection frequencies.

The above response provides a satisfactory solution. The use of a private waste contractor avoids the need to place bins along Greenbank Street, resulting in better pedestrian amenity.

It is recommended that a condition of consent be imposed that requires all units and retail tenancies to be provided with both recycling and general waste management and removal by private contractor and that all collection is on site in the loading bay and bins are not to be present to the kerb.

The proposed development satisfies Council's relevant Waste Management Requirements.

Section 94 Contributions

The application is not subject to payment of Section 94 contributions. Instead the VPA agrees to the payment of \$12,500 per residential apartment (\$4.8 million in total), in addition to the other material public benefits under the VPA as discussed in this report.

- (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.

- (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 application was placed on neighbour notification for a period of thirty (30) days. Adjoining and nearby property owners were notified in writing of the proposal and invited to comment. An advertisement was placed in the Local Newspaper for the VPA and DA.

During the first neighbour notification period, eighty-three (83) submissions were received. This includes multiple submissions. Submissions were received from seventy (70) individuals, groups and local Members of Parliament.

The amended plans were renotified for a period of fourteen days during which time fifty-seven (57) submissions were received.

The submissions raise the following concerns:

1. Privacy

Comment

Residents in the O'Brien's Estate HCA object to all the units in the proposed development overlooking their properties across Woniora Road.

A number of the objections are raised by residents over 100m away and down O'Briens Road, resulting in negligible direct overlooking. Woniora Road is 15m wide and the majority of the development is setback over 5m from the street boundary. Separation is at a minimum 20m from the nearest adjoining property and the furthest objector raising overlooking concerns is over 230m from the site (12 O'Brien's Road).

The objections are not considered unreasonable. The properties immediately affected in close proximity to Woniora Road have been subject to overlooking from commercial development of the site for some time.

2. Overshadowing

Comment

A number of objectors from the HCA are concerned that the proposal will overshadow their properties.

Predominant overshadowing of the HCA in midwinter (worst case scenario) is at 9am on June 21. By midday most of the overshadowing is to the south of the HCA and over the front yards of a number of properties (37-47 Woniora Road) only with no impact on the HCA. The shadow diagrams are provided earlier in this report.

The proposal does not diminish solar access to affected properties significantly and maintain at least 3 hours on June 21.

Refusal or further modification of the application is unwarranted.

3. Decreased Property Values

Comment

A number of objectors are concerned that the proposal will result in decreased value to their property.

This is not a planning issue. The issue is unsubstantiated.

4. Height and scale in context of area and planning controls

Comment

A number of objectors regard the proposal to be excessive in height and scale for the context of the area and the current and proposed controls for the site.

This issue has already been discussed in this report. The proposal as amended is considered to be acceptable in height, setback and scale in the context of the Hurstville CBD and its potential impact on surrounding development.

Further amendment or refusal of the application is not warranted on this basis.

5. Traffic and parking impacts

Comment

The objectors raise concern with the traffic and parking impacts of the proposal on the surrounding road network, potential increased on-street parking in surrounding streets and increase in traffic in an already high traffic area.

A number of objectors disagree with the submitted Traffic Report (Barker Ryan Stewart dated September 2015), stating that using the potential occupancy of the existing ATO building against the proposal is incorrect as the existing ATO building is unoccupied.

Use of the existing ATO building as occupied is considered a fair assumption as any company or group could take up tenancy in the building without a DA and use the existing carpark to capacity. As referred to in the submitted Traffic Report the existing building

generates more traffic than the proposed development. Further traffic analysis and intersection analysis has been undertaken and reviewed by Council's Traffic Engineer and found acceptable. With regard to on street parking it is noted that a resident parking scheme applies in the precinct and there is therefore no anticipated change to the current on street parking demand.

The issue is already discussed in more detail in this report and the proposal is found acceptable subject to the imposition of conditions.

6. Impact on TV and phone reception

Comment

A number of residents are concerned that the proposed development and its additional height to the existing building will block phone and television reception.

There is no substantiation to the issue as the level of impact cannot be ascertained until built. Should there be an impact then the Australian Communications and Media Authority may prescribe installation of an amplifier on the building (or elsewhere).

7. Inadequate parks/open space for residents

Comment

A number of objections raise concern that the proposal provides inadequate open space for residents and there is inadequate public open space such as parks in the vicinity of the site for the numbers of residents proposed in the development.

The proposal provides ample common open space for residents. The proposal is within walking distance to local parks and playgrounds such as on Hillcrest Avenue. The proposal provides high quality usable open space with play facilities, common rooms and passive recreation areas in excess of the minimum area required by the Apartment Design Guide.

The objection is unreasonable and unsubstantiated.

8. Washing and other items on glass balconies

Comment

A number of objectors raise issue with the high proportion of glass balustrading on the Woniora Rd façade of the proposal, leading to a high visibility of washing and other items on balconies from the public domain, and diminishing the visual quality of the façade.

Both the original proposal and amended proposal maintain a mix of solid and glass balustrading to the Woniora Road façade, however, the amended proposal has responded to this concern with the incorporation of more screen elements including fixed 45 degree louvers to part of balconies and incorporation of sliding louver screens to other parts of balconies.

It is not reasonable to request solid balustrades to every balcony and screens as this is likely to create a much heavier façade presentation, potentially more bulk and a different aesthetic.

The proposal as amended is considered to adequately address the issue.

9. Trust in developer

Comment

One objector was approached to put a deposit on a unit prior to lodgement of the DA, thereby raising issues of trust with the developer.

The application must be assessed against Section 79C of the EP&A Act 1979 and the issue cannot be considered as part of the assessment.

10. Corruption and integrity

Comment

The objectors from No.12 O'Brien's Estate question the independence of Joint Regional Planning Panels. The objectors question whether they are "put together by Government to provide a smoke screen of independence".

The objectors seek assurance from the Council that *"the Government will give unbiased and due consideration whilst it has a state government plan that is geared toward boosting high density housing in Sydney and when Councils stand to gain an income from its development boosting its coffers."*

Council is bound to assess the application according to the statutory processes in place as set by the State Government. The objector's enquiry would be more appropriately aimed at their State Member of Parliament or the Department of Planning and Infrastructure.

11. Voluntary Planning Agreement

Comment

A number of objectors raise concern with the VPA accompanying the application and question the benefits of the works and facilities dedicated as part of the agreed terms.

This includes the benefit to the community of the dedicated strip of land along Greenbank and provision of angled parking and the community room within the development.

One of the submissions makes recommendations for the VPA, stating that "the site is ideal for a VPA" and goes on to recommend that a bus interchange be provided at the front in Greenbank Street. The submission also recommends retaining and retrofitting the existing building.

The terms of the VPA have already been adopted by Council and are considered to provide acceptable and desired public benefits.

Other objectors have questioned as to how Council could consider the VPA without the New City Plan being adopted.

Council can consider a VPA on any proposed development and does not require the New City Plan to be gazetted.

Separate assessment, reporting and responses to the objections to the VPA have been undertaken prior to adoption of the VPA by Council at its meeting of 14/12/2015.

12. Building should be retained and retrofitted for other uses

Comment

A number of objectors regard the demolition of the existing building to be environmentally unsound and a “travesty” to demolish “the best building on the Kogarah Council side of Hurstville”.

It is agreed that the building is intact and in good condition and could be retrofitted. However, Council cannot refuse an application for redevelopment of the site on this basis. Council cannot force an owner or developer to use an existing building by way of refusing any Development Application on the land but must assess any DA on its merits.

13. Zoning and Status of Heritage Conservation Area

Comment

A number of objectors from the O’Brien’s Estate HCA regard the proposal as further diminishing the significance of the HCA and that the R2 zoning and categorization of O’Brien’s Estate as a HCA should be reviewed and changed to a higher density by the Council. This will afford the residents of O’Brien’s Estate to sell their properties at a higher value or redevelop.

It was explained to a number of the residents that the rezoning and heritage process cannot be considered under a DA but if submissions were made under the New City Plan exhibition process then the matter would be considered, or under any other planning proposal.

14. Impact on the Heritage Conservation Area

Comment

A number of objectors from the O’Brien’s Estate HCA regard the proposal as highly impactful on the HCA in terms of overshadowing, visual impact and privacy.

The issue has already been discussed and the proposal has been amended to reduce impacts to the HCA in a satisfactory manner.

Further modification or refusal of the application is unwarranted.

15. Impact on Flight Paths / Airspace Operations

Comment

A number of submissions raise concerns that the proposed height will be a hazard to flight paths.

The application has been referred to Sydney Airports Corporation who have raised no objection.

16. Demolition and construction impacts

Comment

A number of objectors raise concern that there will be numerous impacts resulting from demolition and construction works to facilitate the proposal, including:

- Noise and dust
- Traffic impacts from trucks entering and leaving the site and in the surrounding road network
- Geotechnical issue such as vibration and cracking of surrounding and nearby properties.

The demolition application has been approved by Council and includes conditions to manage demolition works, truck movements separately etc.

To address potential construction impacts, it is recommended that conditions be imposed on the subject application to require:

- o Geotechnical report
- o Dilapidation report
- o Construction management plan including routes of all trucks to and from the site.

17. Impact on Infrastructure from Population Increase (water/sewer/transport/schools)

Comment

One of the objectors, is concerned that the proposal will result in an increased population and consequent impact on infrastructure such as water, sewer, public transport and schools.

The application was referred to Sydney Water's Urban Growth Department who did not respond. The application was also referred to RMS, who raised no objection to the proposal.

The proposal is not considered to create a population but to house an already growing population in close proximity to services and transport which is more sustainable and less impactful on existing infrastructure.

The objection is unreasonable.

18. Noise from occupants and machinery

Comment

A number of objectors raise concern that the proposal will result in noise impacts on their properties in the HCA from residents of the development and machinery.

Suitable conditions are recommended to ensure plant and other mechanical equipment does not result in offensive noise. Noise from occupants of the building is not expected to be excessive above the ambient noise level of the busy Hurstville Town Centre.

19. Flooding and drainage concerns

Comment

An objector from Neirbo Avenue is concerned that the area is affected by flooding.

The proposal has been considered in accordance with the provisions of the Poulton Park Flood Risk Management Plan. The site is not flood affected.

The objector also raised concerns that the local stormwater and sewer will not cope with the increased development. The proposal has been referred to Sydney Water and Council's Catchment and Waterways Department and found acceptable.

20. Incompatibility with the streetscape

Comment

A number of objections raise issue with the proposal's compatibility with the streetscape.

There is no consistent scale, form or setback along the street and the site is in a transitional position at the edge of the Town Centre and across from the O'Brien's Estate HCA.

21. Insufficient Landscape Area

Comment

A number of objectors regard the proposal as deficient in the provision of landscaping and common open space for its occupants.

As already discussed in this report the proposal provides well in excess of the recommended common open space areas under the Apartment Design Guide and provides an ample deep soil perimeter planting, including trees to the Woniora Road frontage.

The proposal as amended addresses this issue.

22. Visual Impact

Comment

A number of objectors raise concern that the proposal will result in visual impacts as viewed from the O'Brien's Estate HCA and concerned that it will be visually imposing.

The proposal is generally consistent in scale with the proposed height limits along the Woniora Road elevation and the additional height steps back to the western corner.

Whilst the proposal provides a strong juxtaposition with the scale of the HCA, this is to be anticipated with an edge to a regional centre that is across from a HCA so close to the CBD core. The existing building and any proposed 12 storey building under the New City Plan results in a similar scale disparity. The additional two floors to the edge of the corner of Greenback Street is not in of itself a significant visual impact and relates only to the most southeastern edge of the HCA.

23. Affordable rental housing

Comment

A number of objections suggest that affordable housing should be incorporated into the development.

There is no legislation or Council policies in force to require the provision of affordable housing. There is no existing residential use on the site that would otherwise require State Environmental Planning Policy No.10 to be considered.

24. Inconsistency with New City Plan

Comment

A number of concerns have been raised with the proposal's variation to height and FSR controls nominated in the New City Plan (draft KLEP 2012 Amendment).

This issue has already been discussed and the proposal is found acceptable.

25. Lack of Consultation with Community and Availability of Information

Comment

A number of objections raise concern with the lack of consultation with local residents, the extent of the neighbour notification and the availability of information provided.

Council notified 13 properties on the northwestern side and 8 on the southeastern side of O'Brien's Road from the corner of Woniora Road (up to and including No.8 O'Brien's Road). Section A2 of KDCP 2013 does not specify a minimum radius or distance, and the extent of notification is at the discretion of Council.

A sign was placed on the site to advise that a Development Application had been lodged and on notification.

One of the other objections raises concern that the amended plans were only renotified for fourteen days, rather than the thirty days of the original application.

The original application was placed on notification for thirty days as the application was advertised and notified concurrently with the Voluntary Planning Agreement. The amended plans were notified as amended plans only and did not affect the VPA.

A number of objectors state that there was difficulty in accessing the Heritage Impact Statement submitted with the application. The report was at Council's Customer Service Centre in the DA package on notification for the entire month of notification and advertising.

The application was notified and advertised in accordance with Council policy.

26. Creation of Second Class Citizens by impeding Pedestrian Movement

Comment

One of the objectors cites a number of examples in Hurstville where public ramps, pedestrian crossings and footpaths will impede the movement of pedestrians that use prams, mobility scooters and walking aids.

It is not clear in the submission how the proposed development creates these issues. The proposal does not reduce pedestrian amenity and maintains footpaths and improves them under the terms of the VPA.

The issue is unsubstantiated and unreasonable.

27. Lack of Sustainability in the Design

Comment

For the residential component of the building the proposal is subject to the provisions of BASIX, the State Government's Water and Energy Efficiency requirements that all new residential development must satisfy. Measures include onsite water reuse on landscaped areas and energy efficiency measures.

For the commercial component of the building the proposal includes a Section J Assessment under the BCA which specifies energy efficiency standards

The proposal meets the legislative requirements for sustainability.

28. Waste Management (bins on street)

Comment

A number of submissions raise concern over the potential for large numbers of bins being presented to the street for collected and object to the odour and visual impacts of the bins.

This issue has been addressed by provision of a loading bay inside the site and accessed off Greenbank Street. The development will have all waste collected by a private contractor who will access the loading bay to collect all the bins, avoiding the need for presentation to the kerb and addressing this issue.

29. Wind Tunnel Effect of proposal

Comment

A number of objectors raise concern that the height of the proposed development will result in wind tunnel effects in the area.

The applicant has submitted a Pedestrian Wind Environment Statement (prepared by *Windtech*, dated 8/9/15) that presents an analysis on the likely impact of the proposed design on the local wind environment to the critical areas within and around the subject development.

The report concludes that subject to a number of recommendations to include louver screening on balconies (for wind attenuation of occupants of units) and densely foliating trees on the street frontages around the building, it is not expected that the proposed development

will cause any adverse effect to the wind conditions on local surrounding streets and other outdoor areas around the site.

The recommended measures have been incorporated into the proposal. Further modification or refusal of the application is not warranted on this basis.

30. Light pollution of building at night

Comment

An objection from Neirbo Avenue is concerned that all of the units with their lights on at night will result in excessive light spillage from the development and impact the amenity of the area.

Light pollution is not considered substantial. The issue is unreasonable and unsubstantiated.

Mediation/Public Meeting

A number of telephone conversations have been held with objectors throughout the assessment process.

No onsite mediation has been undertaken.

The issues are unresolved.

(e) *the public interest.*

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

Further, the proposed development facilitates the provision of a number of public benefits that include:

- the dedication of a strip of land, with an area of approximately 223m², along the site's Greenbank Street frontage to Council, free of cost, for road widening purposes and construction of the road widening in Greenbank Street at no cost to Council; and
- the transfer of the stratum lot containing the 79 public car parking spaces and a community facility, with an area of 200m² at the complex's Greenbank Street level, to Council for community use at no cost.

The provision the above facilities is needed in the area to improve drop off and pick up of commuters away from bus services, better provision of parking for police and emergency services and provision of a community space for use by community groups in a town centre context.

The proposal is considered to provide a mixed development with public facilities in the Hurstville CBD close to transport, shops and services and is in the public interest.

Police

The application was referred to St George Local Area Command (NSW Police) in accordance with Council's protocol with NSW Police for a Crime Prevention Through Environmental

Design Assessment. The Police have made a number of recommendations which will be incorporated into the development consent conditions.

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 191/2015 should be approved subject to conditions of deferred commencement consent.

Mr B J Latta
Senior Planner (Operational)

Rod Logan
Director of Planning & Environmental Services