

<b>JRPP No.</b>	<b>2015SYE129</b>
<b>DA No.</b>	191/2015
<b>Report</b>	<b>Supplementary Report on amended plans in response to JRPP Deferral of DA 191/2015</b>
<b>PROPOSED DEVELOPMENT</b>	Construction of a mixed use development comprising two buildings of 16 and 11 stories containing a community space, two commercial tenancies and 369 residential units over a six level basement carpark which incorporates 79 public car spaces
<b>APPLICANT:</b>	Combined Projects (Hurstville)
<b>REPORT AUTHOR</b>	Ben Latta, Senior Planner, Kogarah City Council

### **Supplementary Report**

**Date:** 16 March 2016

**Development Application No.:** 191/2015

**Address:** 12-22 Woniara Road HURSTVILLE

**Applicant:** **Combined Projects (Hurstville)**

**Owner:** Combined Projects Kogarah Pty Ltd

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

#### **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 16 and 11 stories containing a community space, two commercial tenancies and 369 residential units over a six level basement carpark which incorporates 79 public car spaces and stratum subdivision at Nos. 12- 22 Woniara Road HURSTVILLE subject to conditions.

## Proposal

Council is in receipt of amended plans that have been prepared in response to the Joint Regional Planning Panel's Deferral Decision at their meeting of 25 February 2016, where it was resolved that:

*“(The Panel) cannot accept the recommendation to approve the application, principally because the proposal at its current FSR of 5.5:1 and 18 storeys has an unacceptable visual impact on the nearby O’Brien Estate Heritage Conservation Area.*

*The Panel is aware that currently there are no FSR and height controls applying to the site. Given their unfortunate absence, the most appropriate course is to rely on the draft controls, which have been exhibited and can therefore be taken into account. The draft controls are 4.5:1 FSR and 39m maximum building height.*

*The Panel therefore defers the determination of the application to allow the applicant to submit amended drawings that reduce the FSR to be closer to the draft control of 4.5:1. The Panel accepts that a taller tower than 39m is acceptable but considers that the impact of a 63m high building is unacceptable.”*

As amended, the proposal involves construction of a mixed use development comprising two buildings of 16 and 11 stories containing a community space, two commercial tenancies and 369 residential units over a six level basement carpark which incorporates 79 public car spaces.

Specifically, the proposal incorporates the following works

- Two (2) commercial tenancies, with a total floor area of **165m<sup>2</sup>** (reduced from 187m<sup>2</sup>), and a community facility, with a floor area of 200m<sup>2</sup>, 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 **369 apartments** (reduced from 384), comprising **1 x Studio, 92 x 1-bedroom, 26 x 1-bedroom + media and 250 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 223m<sup>2</sup>, 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 200m<sup>2</sup> at the complex's Greenbank Street level, to Council in fee simple.

The amendments to the proposed development are as follows:

#### Building A and B

- Building Depth reduced by 900mm.
- Units reduced in size where possible (refer to unit schedule)
- Height of building maintained

#### Building C AND D

- Buildings lowered by 2 floors to a maximum of 16 levels at Building D (53m in height to lift overrun)
- Building C is 12 storeys (41-42m)
- Building D roof top area has been deleted, hence lowering overall building height by 9m
- The northern side of building D has been extended.
- Common open space on rooftop deleted to reduce overall height of building

#### Overall

- The number of units has been reduced to 369 apartments.
- The amended FSR is 4.79:1 (GFA of 26,671m<sup>2</sup>)

### **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 14000m<sup>2</sup> 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.

## **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 proposal as amended does not affect the removal or retention of trees on the site, street or adjoining properties.

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.

During assessment of the original proposal, the primary potential impact on the HCA by the proposal was overshadowing. The Heritage Impact Assessment (prepared by NBRIS + Partners, dated 3/9/15) stated the following;

*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 proposed further reduction of the building's height in the amended plans, particularly at the corner of Greenbank Street and Woniora Road, reduce its visual impact, overshadowing impact and provides a better transition in scale from the Hurstville CBD to the O'Brien's Estate HCA.

The proposal as amended satisfies the provisions of Clause 5.10 of KLEP 2012.

### **Part 6 – Additional Local Provisions**

#### Clause 6.1 – Acid Sulfate Soils

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

#### Clause 6.2 – Earthworks

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

The amended plans do not affect the basement levels of the proposal to that previously considered by the JRPP.

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.

The amended proposal does not increase hard surfaces on the site. These are very minor increases in deep soil provision along Woniora Road due to the reduced depth of Buildings A and B. No amendment is considered necessary to the submitted Stormwater Plan, and it is recommended that a condition be imposed to require the Stormwater Plan being amended to be consistent with the amended architectural plans prior to issue of a construction certificate.

#### 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 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 at the previous height of 133.05m AHD subject to suitable conditions being imposed requiring cranes or additional structures requiring separate approval.

The maximum height is reduced in the amended plans to 123.55m AHD and therefore is not required to be referred back to Sydney Airports Corporation.

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

A BASIX Certificate has been issued for the proposed development as amended 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.

The amended plans do not require referral back to Sydney Trains and it is recommended that the deferred commencement conditions and other conditions set by Sydney Trains in their concurrence letter dated 11 February 2016 be imposed.

The proposal is not required to be referred back to Roads and Maritime Services who raised no objection to the original proposal. The amended plans reduce the number of units and size of commercial tenancies, with no reduction to parking. The anticipated traffic and parking impacts are reduced by the amended proposal.

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 amended plans do not affect the recommendations of the Acoustic Consultant report and the conditions as recommended originally still apply to the proposal as amended.

The proposal as amended satisfies the relevant 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 proposal as amended is accompanied by a Design Verification Statement prepared by the registered design architect that verifies that the design as amended has been prepared in accordance with the design principles of State Environmental Planning Policy No.65.

### **Context and Neighbourhood Character**

#### **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.*

### **Built Form and Scale**

Under the principle of Built Form and Scale, the Design Review Panel, at their meeting of 15 December 2015 made the following comment:

*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.*

The amended plans are considered to address the above issues, with the exception of the last dot point on car parking provision which was not found reasonable or necessary to reduce. The proposed development reduces the building height both overall, and particularly to Building C on the corner, resulting in a 12 storey scale along Woniora Road. Overshadowing of the Heritage Conservation area is further reduced.

### **Density**

Under the principle of Density, the Design Review Panel made no further comment at their meeting of 15 December 2015 to previous comments made on the proposal's density which stated the following:

*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.*

The proposed density of 4.79:1 as amended is considered to address the above issues.

### **Sustainability**

The amended plans do not make any amendment to sustainability and the proposal satisfies the BASIX and Section J requirements.

The amended plans provide the following for solar access and cross-ventilation to units which comply with the provisions of the ADG:



- Solar access (greater than 2 hours) provided to 257 units which equates to 70%.
- Cross ventilation provided to 281 units which equates to 76%.

### **Landscape**

The amended plans involve deletion of the communal open space on building D, which reduces the total communal open space by 418sq.m to 1862sq.m. This equates to 33% of the site area being 8% over the ADG requirement. The breakdown of the areas are as follows:

- Podium - 1244sq.m
- Building A&B- 618sq.m
- Total- 1862sq.m

The proposal as amended maintains quality common open space to the requirements of the ADG and does not compromise landscaping to the perimeter of the site.

### **Amenity**

No further amendments were required to satisfy unit amenity requirements of the Design Review Panel or ADG from those previously considered by the JRPP.

The amended plans maintain good amenity whilst reducing FSR. All units are in excess of the minimum internal area requirements of 50m<sup>2</sup> for one-bedroom apartments and 70m<sup>2</sup> for two-bedroom apartments. Units have been shrunk slightly (by 3-5m<sup>2</sup> each) to obtain FSR reductions but maintain ADG standards to all units. External areas (balconies) to each unit are maintained or enlarged slightly and maintain minimum dimensional and area standards.

As already stated:

- Solar access (greater than 2 hours) provided to 257 units is which equates to 70%.
- Cross ventilation provided to 281 units is which equates to 76%.

The proposal as amended satisfies the principle for amenity in SEPP 65.

### **Safety**

No further comment required. The proposal as amended does not affect matters considered during the original report as no significant changes to basement or ground levels, particularly in entry points or common areas) are proposed in the amended plans.

### **Housing Diversity and Social Interaction**

No further comment required. The proposal as amended does not affect matters considered during the original report.

### **Aesthetics**

The aesthetics of the building is consistent with that previously considered by the Panel.

### 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***

The New City Plan to amend Kogarah LEP 2012 was placed on exhibition from Monday 30 March 2015 until Friday 29 May 2015.

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 JRPP in its decision of 25 February 2016 stated that:

*(The Panel) cannot accept the recommendation to approve the application, principally because the proposal at its current FSR of 5.5:1 and 18 storeys has an unacceptable visual impact on the nearby O'Brien Estate Heritage Conservation Area.*

*The Panel is aware that currently there are no FSR and height controls applying to the site. Given their unfortunate absence, the most appropriate course is to rely on the draft controls, which have been exhibited and can therefore be taken into account. The draft controls are 4.5:1 FSR and 39m maximum building height.*

*The Panel therefore defers the determination of the application to allow the applicant to submit amended drawings that reduce the FSR to be closer to the draft control of 4.5:1. The Panel Accepts that a taller tower than 39m is acceptable but considers that the impact of a 63m high building is unacceptable."*

### Height

As reported on and submitted to the JRPP, the proposal had 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 stepped down at the corner (Building C) to a maximum height of 56m.

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

The amended plans maintain the height of Buildings A and B at 33-38.5m, but set the building an additional 500mm back from the Woniora Road boundary.

Buildings C and D have been amended to reduce the height by two (2) storeys with the same general form. The rooftop common open space areas and lift access thereto have also been deleted to reduce the height of the building.

As amended, Building C on the corner is reduced to 12 storeys at the corner, with a setback thirteenth storey. The height of Building D as amended is a maximum of 43.35m high or a reduction of 12.65m from that previously considered. The wall height as seen from the O'Brien's Estate HCA is 41-42m

As amended, Building D is reduced to 16 storeys with a maximum height of 53m to the top of the lift overrun (54m total maximum height at the internal parapet (before transitioning down in scale to Building C). The amended height results in a reduction of 10.5m.

The proposal as amended provides a suitable scale that is generally consistent as read from the HCA and street level with the 39m height limit proposed by the New City Plan. The 53-54m high tower is a substantial reduction to the scale and not intrusive in the skyline. The reasons why the proposal is supported given in the original assessment report are included below:

- 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 Woniora Road but is a small proportion of the overall site and building footprint.

Given the above and the site's location, with only a relatively small part of the site accommodating a 16 storey building that is well removed from the lower density areas of Hurstville, the site is considered appropriate to support an encroachment beyond the draft height limit of 39m.

#### Floor Space Ratio

The previously considered proposal incorporated an FSR of 5.5:1 (30,541m<sup>2</sup>), which was in excess of the FSR control proposed for the site under the New City Plan of 4.5:1..

The proposed development as amended incorporates an FSR of 4.79:1 (26,671m<sup>2</sup>), which is a reduction of 3,870m<sup>2</sup>.

It is considered that the reductions directly address the reasons for deferral by the JRPP by reducing overall height, height of the corner building C and “slimming down” of the depth of Buildings A and B. Some of the FSR has been relocated to the rear northern wing which does not impact adjoining or nearby properties. Consequently the proposal as amended is satisfactory and considered to address the reasons for the deferral decision given at the JRPP meeting of 25 February 2016.

The proposed FSR is acceptable as it provides a scale that is compatible with the context and provides good amenity as per the provisions of the Apartment Design Guide and SEPP 65 principles. The density in the amended scheme is located with regard to reducing impacts on O’Brien’s Estate HCA across Woniora Road and transitions in scale across the site.

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.

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

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

**(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 amended proposal does not reduce parking and reduces the number of units and the size of commercial tenancies, resulting in a higher provision of parking per unit. The previous proposal already considered by the JRPP was found acceptable.

As amended, the proposed apartment breakdown is as follows:

1 x Studio, 92 x 1-bedroom, 26 x 1-bedroom + media and 250 x 2-bedroom units

The proposal provides 508 spaces in total including the 79 public spaces in the carpark to be dedicated to Council. Four hundred and twenty (420) spaces are for residential units and nine (9) spaces are provided for the commercial tenancies.

Part E2 of KDCP 2013 requires 461.25 residential spaces, 73.8 visitor spaces and 2.75 commercial or 5.5 retail spaces.

The RMS Guide to Traffic Generating Developments requires

- 1 bedroom  $0.4 \times 119 = 47.6$  spaces
- 2 bedroom  $0.7 \times 250 = 175$  spaces
- Visitor  $369 / 7 = 52.7$  spaces.
- Total = 275.3 spaces.

The provision of parking is close to satisfying the provisions of Part E2 of KDCP 2013 and well in excess of the minimum requirements of the RMS Guide, which can be relied upon due to the B4 zoning of the site and close proximity to the railway station.

Consequently, the 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.*

#### Waste Removal and Loading

Provision for waste management is unaltered as a result of the amended plans. The reduced number of units will result in a reduced number of bins which can be accommodated in the bin storage areas identified on the plans.

#### **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 in addition to the other material public benefits under the VPA as discussed in this report.

The proposed development reduces the number of residential units from 384 to 369. Consequently, the total monetary contribution will be reduced to \$4,612,000 (from \$4,800,000 under the previous scheme).

- (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 the original 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.

During the second neighbour notification period of period of fourteen days, fifty-seven (57) submissions were received.

The amended plans prepared in response to the JRPP's deferral decision were not formally renotified as the amendments result in reduced impact to surrounding properties which is in accordance with the provisions of Section A2 of KDCP 2013. However, due to the number of objections originally submitted and the nature of the proposal, Council formally advised those that made a submission during previous notification periods of the amended plans and the supplementary report submitted to the JRPP in response to the deferral.

The amended plans address a number of the issues raised by the objectors due to lower scale and consequently less intense use of the site.

**(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 223m<sup>2</sup>, 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 200m<sup>2</sup> at the complex's Greenbank Street level, to Council for community use at no cost.
- A monetary contribution to Council for use on public facilities.

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.

The amended plans are considered to represent an appropriate design response to the Joint Regional Planning Panel's decision to defer their determination, reduce the visual impact of the proposal on the Heritage Conservation Area and *"to allow the applicant to submit amended drawings that reduce the FSR to be closer to the draft control of 4.5:1. The Panel accepts that a taller tower than 39m is acceptable but considers that the impact of a 63m high building is unacceptable."*

Following detailed assessment it is considered that Development Application No 191/2015 should be approved subject to conditions of deferred commencement consent.