

Panel Reference	2017SSH001
DA Number	262/2016
LGA	Georges River Council
Proposed Development	Demolition of existing buildings and the construction of a mixed use development comprising of three (3) basement levels, ground floor commercial and twelve (12) residential apartment levels containing 112 apartments
Street Address	2-10 Woniora Road, Hurstville
Applicant/Owner	Applicant: Steve Wu, SWA Group Owner : Dr Paul Hamilton Hughes & Mrs Lorraine Barbara Hughes
Date of DA lodgement	28 November 2016
Number of Submissions	Twenty (20) submissions received
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	General development over \$20 million (CIV \$31,026,000)
List of all relevant s79C(1)(a) matters	• State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No 55 - Remediation of Land • State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No 65- Design Quality of Residential Flat Development • Kogarah Local Environmental Plan 2012 • Kogarah Development Control Plan 2013
List all documents submitted with this report for the Panel's consideration	Amended Architectural Plans Acoustic Assessment SEPP 65 Architectural Design and Verification Statement Heritage Impact Statement Traffic Impact Statement Stormwater Plans Amended Landscape plans
Report prepared by	Bernard Moroz Senior Planner
Report date	25 October 2017
Summary of s79C matters	Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? Yes
Legislative clauses requiring consent authority satisfaction	Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

	Yes
Clause 4.6 Exceptions to development standards	If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? Not applicable
Special Infrastructure Contributions	Does the DA require Special Infrastructure Contributions conditions (S94EF)? Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions Not Applicable
Conditions	Have draft conditions been provided to the applicant for comment? Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report Yes

Report Summary

Proposal

Council is in receipt of an application for the demolition of existing buildings and the construction of a mixed use development comprising of three (3) basement levels, ground floor commercial and twelve (12) residential apartment levels containing 112 apartments on the subject site.

Site and Locality

The site is a triangular shaped parcel of land located on the north-eastern side of Woniora Road where the north-eastern boundary abuts the Illawarra railway line. The site has an area of 2,185m² and presents a moderate fall from east to west.

The site generally falls between the two Rosebank Crescent intersections located to the south-west of the site which is an area consisting of low density residential dwellings. The Obrien's Heritage Conservation Area is located within the vicinity of the site and so are a number of Heritage Items as listed in Schedule 5 of Hurstville LEP. To the south-east, the site adjoins the old Australian Tax Office at 12-22 Woniora Road. The old Australian Tax Office is currently under construction as per the JRPP approval for a mixed use development on the site.

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

Twenty (20) 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
- Heritage Impacts
- Impact on Infrastructure
- Garbage Collection

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. 262/2016 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 of three (3) basement levels, ground floor commercial and twelve (12) residential apartment levels containing 112 apartments on the subject site.

The Site and Locality

The site is a triangular shaped parcel of land located on the north-eastern side of Woniora Road where the north-eastern boundary abuts the Illawarra railway line. The site has an area of 2,185m² and presents a moderate fall from east to west. There are two buildings in existence on the subject site, one formerly identified as the 'Legacy Building' at 2-6 Woniora Road; and 8-10 Woniora Road, which is occupied by the Vision Eye Institute.

The site generally falls between the two Rosebank Crescent intersections located to the south-west of the site which is an area consisting of low density residential dwellings. The subject site is located in proximity to a Heritage Conservation Area (HCA) identified under Part 2 Schedule 5 (Obrien's Heritage Conservation Area) and is also located in proximity to a number of local heritage items in the former Hurstville LGA on the northern side of the Illawarra Railway Line. The old Australian Tax Office is currently under construction as per the JRPP approval for a mixed use development on the site.



Figure 1- Site Aerial

Background

On 28 November 2016 this Development Application was lodged with Council. The application was neighbour notified from 16 January to 9 February 2017 where twenty (20) submissions were received. The application was also advertised in the local newspaper (The Leader) on 18 January 2017.

On 9 February 2017 the application was reviewed by the St George Design Review Panel. The application was generally supported by the Design Review Panel subject to a number of plan amendments being made.

On 11 April 2017 the applicant was sent a letter advising of a number concerns with the application. These concerns included those raised by the St George Design Review Panel. The following issues were to be addressed:

- Design issues raised by the St George Design Review Panel – particularly with respect to built form and scale, landscaping and other minor design issues.
- Waste management and design
- Tree removal and retention
- Parking/Driveways issues

On 5 June 2017 plan amendments inclusive of supplementary information were lodged with Council. These plans were again forwarded to the Design Review Panel for their comment.

A number of concerns were still raised by the Panel in relation to landscaping and the design of the building entries. The design was again amended and the Panel undertook its final review of the proposal on 18 August 2017 where the only remaining issue was related to the building entry points off the rear of the site adjacent to the rail line.

On 7 September 2017, a final set of architectural plans and detail were submitted that addressed both Council's and the DRP comments. This report has been prepared giving consideration to the plans and details received on this date.

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 objections 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.

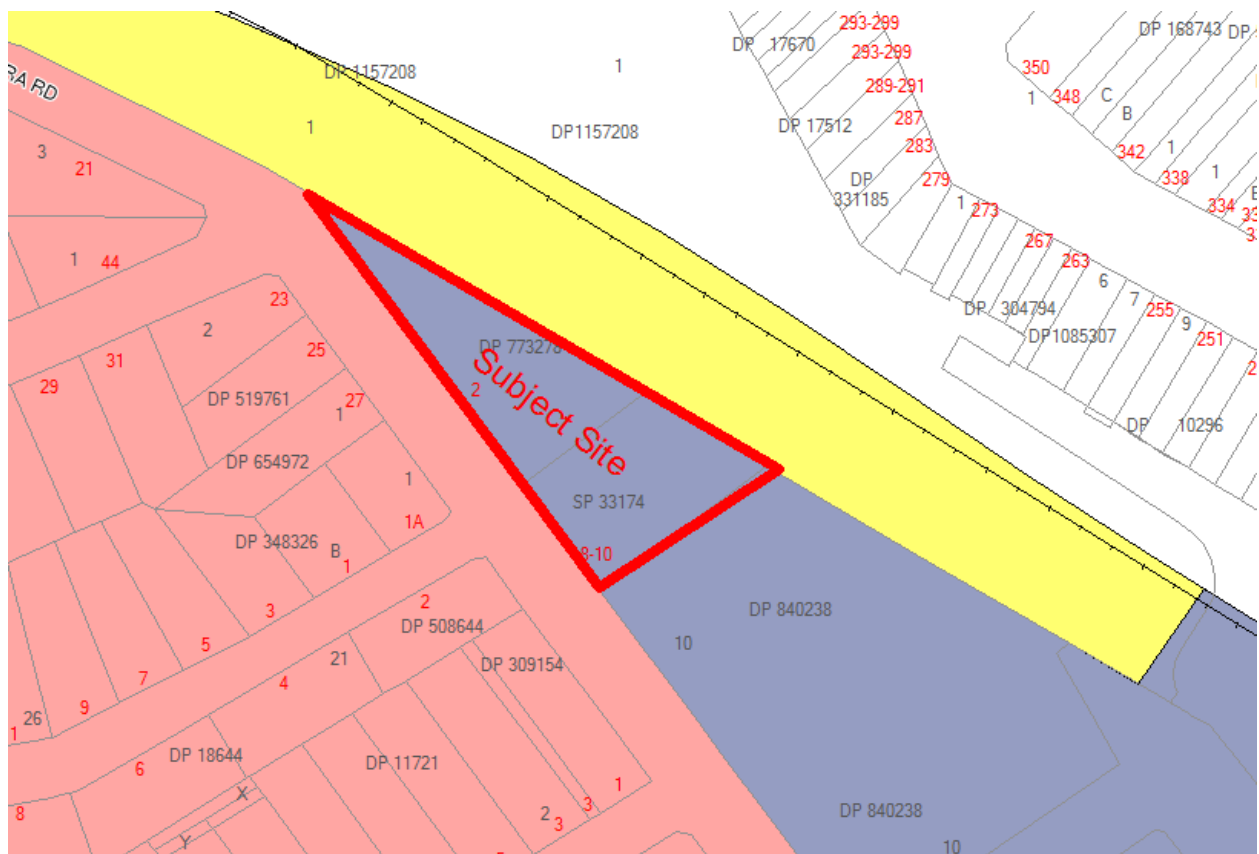


Figure 2- Zoning Map

Part 4- Principal Development Standards

In accordance with Clause 1.8A (Savings provisions related to development applications) of the KLEP 2012, If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if the Plan had not commenced. In this case, this development application was submitted before the commencement of KLEP 2012 as amended. The development standards assigned to this site are not applicable to this application and as a result, a Clause 4.6 Exception to the Height Non-Compliance is not required. However, compliance with the related standards are discussed below in order to provide discussion into how the development is consistent with the provisions.

It should also be noted that KLEP 2012 prior to amendment did not specify any development standards for the site that would control the buildings bulk.

Clause 4.3-Height of Buildings

The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map which in this case is 39m. The proposal results in an overall height that exceeds the allowable by a maximum 1.928m as can be evidenced in Figure 3 below. The non-compliance is in the location of the roof services and lift overrun which itself will have no significant bearing on either the visual scale or massing of the development nor will it result in any adverse increase to the shadow cast by the development.

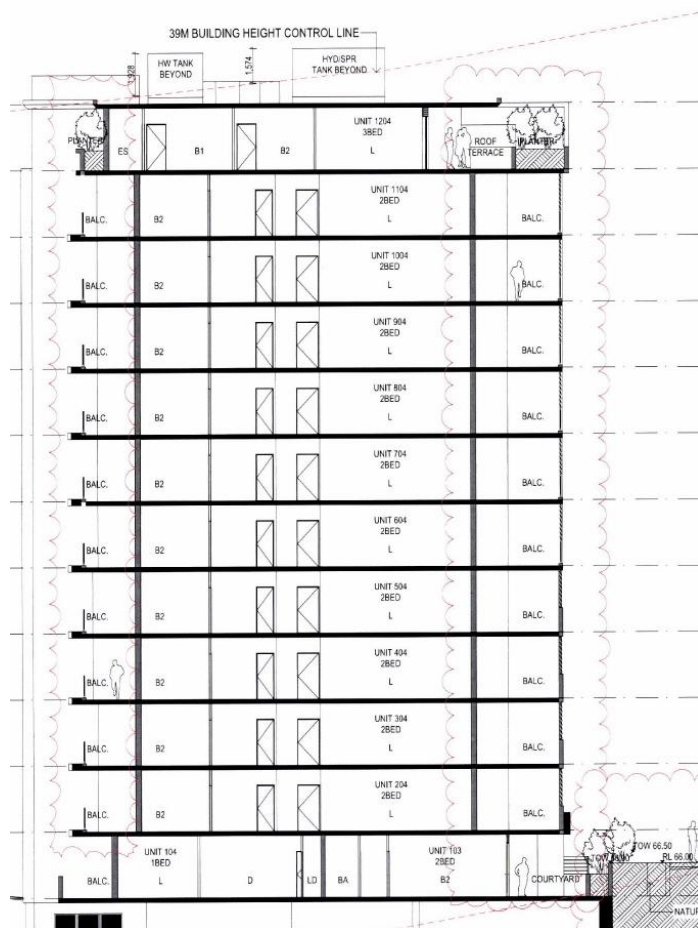


Figure 3- Height-Non-Compliance

Clause 4.4- Floor Space Ratio

The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#) which in this case is 4.5:1. The development results in an FSR of 4.48:1 complying with this standard.

Part 5 – Miscellaneous Provisions

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 located in proximity to 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.

This application is accompanied by a Heritage Impact Assessment (prepared by City Plan Services, dated November 2016). The architectural details along with the Heritage Impact Statement were forwarded to Council's Heritage Advisor for comment. These are as follows:

- 1) *The CPH letter does not change my view that the proposed multi-storey development would have an adverse impact on the character of the O'Briens Estate Heritage Conservation Area, particularly properties in Woniora Road and O'Briens Road.*
- 2) *The cumulative effect of the adjacent multi-storey development now under construction together with the overshadowing, increased noise and traffic and visual impacts of this proposed development combined will inevitably diminish the livability of dwellings along the northeast edge of the HCA.*
- 3) *It is probable that over time the properties along Woniora Road and O'Briens Road will become undesirable as family homes, and will be adapted to offices, rental properties or boarding houses etc. These uses are not characteristic of the reasons O'Briens HCA was established – as "The Dress Circle Estate".*

Council's Heritage Advisor concluded with:

"Adverse heritage impacts associated with this development alone are in my opinion not strong in Council potentially refusing this development. The stress on the amenity of dwellings on the northeast edge of the O'Briens Estate HCA associated with heavy traffic along Woniora Road, Illawarra Railway noise and visual impacts and late 20th commercial development on the former Hurstville Council side of Woniora Road has been occurring for some time. The proposed development will assist in the continued decline of this section of the O'Briens Estate HCA".

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 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 in the buildings design and the interface it will have with the HCA. The proposal has been designed to include well-modulated and articulated facades while the balconies and fenestration will assist in reducing the buildings visual prominence when viewed from the HCA. Adverse overshadowing has been minimised to the HCA. The majority of overshadowing resulting from this proposal will affect properties outside of the HCA. The properties located along Rosebank Crescent located directly across from the subject site are not within the Heritage Conservation Area.

The proposal 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 concurrence to the proposal subject to the imposition of a number of conditions.

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 102m 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 who granted concurrence (dated 25 October 2017) with respect to the works adjacent the rail corridor. Consent conditions will be imposed as outlined in the concurrence letter and will form part of any development approval.

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 Acoustic Logic dated 9 November 2016). 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 (Vegetation in Non-Rural Areas) 2017

The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 replaces the repealed Clause 5.9 of KLEP 2012 (Preservation of Trees and Vegetation). The intent of this

SEPP is consistent with the objectives of the repealed Standard where the primary aims/objectives are related to the protection of the biodiversity values of trees and other vegetation on the site. In this instance, the proposal was referred to Council's Tree Management Officer who raised no objection to the removal of a number of trees on the site subject to replacement planting. Relevant consent conditions will be imposed.

In addition, the proposal was referred to Sydney Trains as the proposed development is adjacent to a rail corridor where a number of significant trees are also located. Permission was granted for the removal of two trees, being T65 and T66 as identified in the Arborist report by Treehaven Environments, subject to the imposition of relevant conditions.

State Environmental Planning Policy No 55 – Remediation of Land

SEPP 55 applies to the land and pursuant to Section 79C is a relevant consideration.

Based on the detailed history of the site as contained in the Heritage Impact Statement, the originally vacant sites were occupied by houses and later the current commercial buildings. There were no historic uses that would trigger further site investigations. Further, the proposal entails the excavation of the basement over most of the site, a commercial occupancy over the basement car park and residential uses occurring above these levels.

The provisions of SEPP No 55 are considered to be satisfied.

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 as amended was referred to the St George Design Review Panel for consideration at their meeting of 9th February 2017. Further informal comments were made by the DRP on 6 July and 18 August 2017. The following comments were provided with respect to the design quality principles set out in the Policy.

Context and Neighbourhood Character

The site is close to Hurstville commercial centre and within easy walking distance of the rail station. It falls steeply to the south and west, and at its western end is narrow and acutely

angled. There are significant design challenges in relation to the adjoining and nearby properties on all sides.

- To the north the Illawarra Railway line immediately adjoins the site, resulting in train noise which will impact future residential apartments. There is a public walkway immediately adjoining this boundary, which extends to the east through the adjoining property and on to the town centre. This will be a valuable amenity for residents and must be maintained – the proposal is for it to be in Council ownership by way of strata title, with the basement of the proposed new building extending below the pathway.
There is a major stand of mature eucalypts and other species on the railway land flanking most of the length of the pathway which provides substantial screening and will considerably enhance the amenity of apartments facing in this direction.
- To the west the narrow section of the site contains a substation which is largely underground – and dense foliage – and is not suitable for building.
- To the south across Woniora Road is a low-density zone mainly containing single dwellings, with a conservation area within part of this area. Development of the height and density permissible on the subject site will inevitably have some adverse impacts on this zone in relation to visual bulk and overshadowing.
- To the east on the adjoining site formerly occupied by ATO lower office buildings, a development of similar height and density has been approved, with construction now under way. The Panel was provided with a copy of the approved plans.

Applicant Response:

Noted

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.

Plan amendments were made and subsequent Arborist report provided that ensured the retention of the majority of mature eucalypts and other species within the rail corridor. Additionally, the public walkway which extends to the east through the adjoining property and on to the town centre is being demolished and reinstated. This walkway will remain in public ownership and will continue to provide an alternate access route to the Town Centre for both future residents and the community.

Built Form and Scale

The application seeks approval for a development which takes advantage of provisions of the Kogarah New City Plan (Amendment No.2) which will permit substantial increases beyond the present controls, -in particular an FSR of 4.5:1, and height of 39 metres. The proposal conforms in principle with these controls with the exception of a partial exceedance of the height limit by over 2 meters.

The basic plan-form and articulation of the proposed building are well-considered and acceptable. The provision of 2 elevators to each core, natural light and outlook to lift lobbies, and the limitation of the number of units to 5 at each level served by each core, are commendable features. The building form should satisfactorily complement the approved development on the adjoining site. The following matters are of concern:-

On the Woniora Road frontage it is important that the street-level urban environment complements and is consistent with the development as approved and now under construction on the adjoining site to the east. As proposed, the street setback in combination with projecting awnings and other elements is inadequate to accommodate street trees which should be in the setback area, not on the public footpath. The setback will need to be increased and Council consulted to ensure that consistency is achieved between these two large developments - particularly in relation to street trees, paving and furniture. The current setback immediately adjacent this proposal is 4.82m from the property boundary and should be matched. Awnings should be used sparingly to allow tree canopy. Basement level 1 projects into this zone and should be setback to provide soil depth to match footpath levels without need for raised planters.

- The provision of landscape area at ground level adjacent to Woniora Rd would offer very little amenity and is not supported. This should be removed and space allocated to the north facing level 1 communal courtyard (Refer comments below).
- At level 1, the large private courtyards indicated for Units 101 to 105 should be considerably reduced in area to allow for a much larger communal open space adjoining the public pathway. This could then become an attractive communal space with seating and planting, and could be discretely screened from the pathway. The basement should be reduced and layout modified to provide deep soil in this location, and providing capacity for large feature trees in this location.
- The extension of the basement under the public walkway has potential impacts on established tree planting along the rail corridor. These trees and additional supplementary trees are critical to the amenity of the site and must be protected. Arborist advice should be sought and designated Tree protection zones should be shown on drawings and the basement redesigned to suit. Structures should not be placed in these zones. The triangular basement plans are inefficient with opportunities to step the plan and increase deep soil zones.
- There should be direct access from both Level 1 lift lobbies to the public pathway and the above communal space, which will allow all residents and visitors to access the building from the pathway. The pathway is also a far more pleasant pedestrian route to the town centre and transport, than via Woniora Road which is steep, noisy and exposed to the south.
- There would be considerable overshadowing of the low-density residential dwellings to the south. Any overshadowing impacts *beyond* those which would be caused by a development complying with the draft LEP height controls cannot be supported. Council officers also questioned the accuracy of the submitted shadow diagrams in relation to whether these had taken into account the slope of the land. This issue

should be checked, but in any case any part of the building exceeding the draft statutory controls which causes additional winter overshadowing on the residential sites should be redesigned.

Applicants Response

The building from its centre will be stepped back gradually from 3m to 5.49m setback to match the balcony of the adjoining 12-22 Woniara Road. This increased setback will accommodate a line of deep soil for a stand of trees in front of the retail/commercial space so that the base/planting areas of the trees are made to match the footpath level. The shoring line of the basement will be adjusted accordingly. There will be a recessed planter in front of retail/commercial space 2 giving a soil depth of 1m for the trees and made to match the footpath level within the 3m setback.

The awning in front of the retail/commercial space 1 will be brought back to the 3m setback and the awning in front of the retail/commercial space 2 will be removed to allow for the tree canopy of the proposed stand of Blueberry Ash trees along the Woniara Frontage. The north-western escape stair will be turned around to exit on the side footpath so not to intrude in the 3m setback, and the blade wall in the plans will be removed as it is not needed at ground level. The landscaped area at ground floor adjacent to Woniara and the retail/commercial space 2 adds to the amenity of the retail space and is directly below the balcony of the units above. Since it is within the domain of the development we recommend that it stay within the development and not part of the northern communal area.

The Level 1 courtyards of Units 102, 103, & 104 are to be reduced to accommodate a larger communal landscaped area adjacent to 12-22 Woniara Road and the railway line. There is provision for deep soil as per the line of the basement.

Fencing and landscaping design will promote passive surveillance. The attached arborist report has indicated that the trees and their root systems in question will not be harmed by the basement.

Additional changes were made in response to the DRP comments which were submitted with Council on 5 September 2017. These changes included:

Basement 1,2 & 3

- Half of the piled retaining wall along Woniara Road has been stepped back to allow for deep soil provision for significant ground floor level street trees.
- Lift core for Block A moved back to allow for stepped back facade treatment in the building above as a transition to the old ATO site further to the east.

Ground Floor

- Planting area for the Trees planted along Woniara Road to be the same level as the footpath utilizing either the deep soil provided by the amended piling profile or a recessed planter. No raised planters.
- Trees specified along Woniara Road to be Blueberry Ash tall, long and thin

species that will soften the bulk and scale of the building.

- Lift core for Block A moved back to allow for stepped back facade treatment in the building as to transition to the old ATO site further to the east.
- Bench/waiting space allowed for in both Lift Lobbies.
- Commercial Space 01 increased in depth to 3m setback line.
- Bike storage originally on northern boundary removed to be filled in with soil for planting above. Bike parking now relocated on various basement levels
- Fire stair in western corner next to communal open space reconfigured to exit within the site onto the open landscaped area.

Level 1

- Block A & B lobbies re-planned to allow access to new communal area on the northern boundary with access to northern foot path.
- Unit 101, 102, 103, 104, 106, & 107 re-planned to accommodate change for access to northern boundary communal area.
- Northern Boundary communal area significantly enlarged and made private with fence and increased seating amenity. Opportunities for a pleasant extensively landscaped area provided.
- Significant soil depth provided for the planting of replacement trees (removed and replaced T65 & T66) to be planted in the Northern Boundary communal area.
- Lift core for Block A moved back to allow for stepped back facade treatment in the building as a transition to the old ATO site further to the east.
- Screens added to south western balcony elevations for anti -throw as required by Sydney Trains, and for sun and wind mitigation.

Level 2-10

- Lift core for Block A moved back to allow for stepped back facade treatment in the building above as a transition to the old ATO site further to the east.
- Screens added to South western balcony elevations for anti -throw as required by Sydney Trains, and for sun and wind mitigation.

Level 11

- Lift core for Block A moved back to allow for stepped back facade treatment in the building as a transition to the old ATO site further to the east.

- Communal area to be provided with bi-fold glass doors to allow enclosure of BBQ area for shelter from the wind if needed.
- Screens added to south- western balcony elevations for anti-throw as required by Sydney Trains, sun and wind mitigation.

Officer Comment

The amendments made have suitably addressed the comments raised by the DRP. The applicant has also submitted updated shadowing information that clearly depict the extent of shadow being cast by the development. The 9am, 12pm, 2pm and 3pm shadows cast on June 21 are depicted in Figures 4 to 7 below. As can be evidenced, by 12pm the development will only impact four (4) dwellings only two of which are located within the HCA. By 2pm, no shadow is cast over the low density dwellings located on the opposite side of Woniora road.

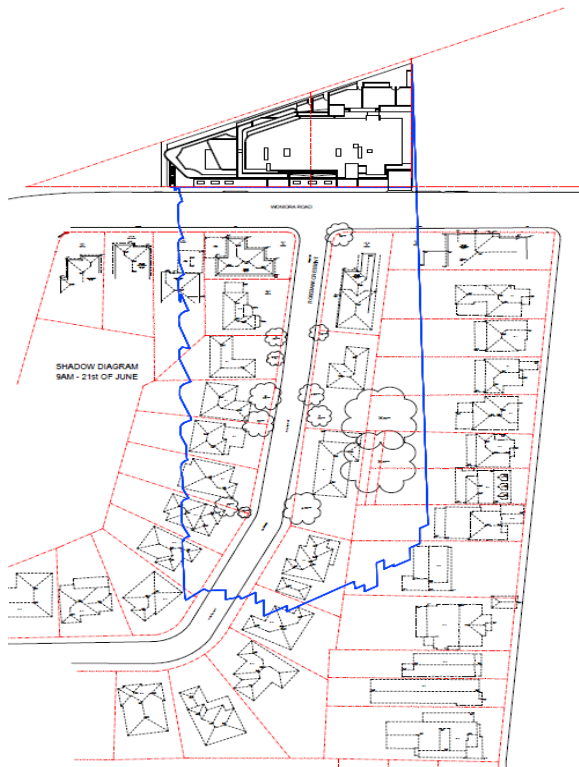


Figure 4- 9am shadow 21 June

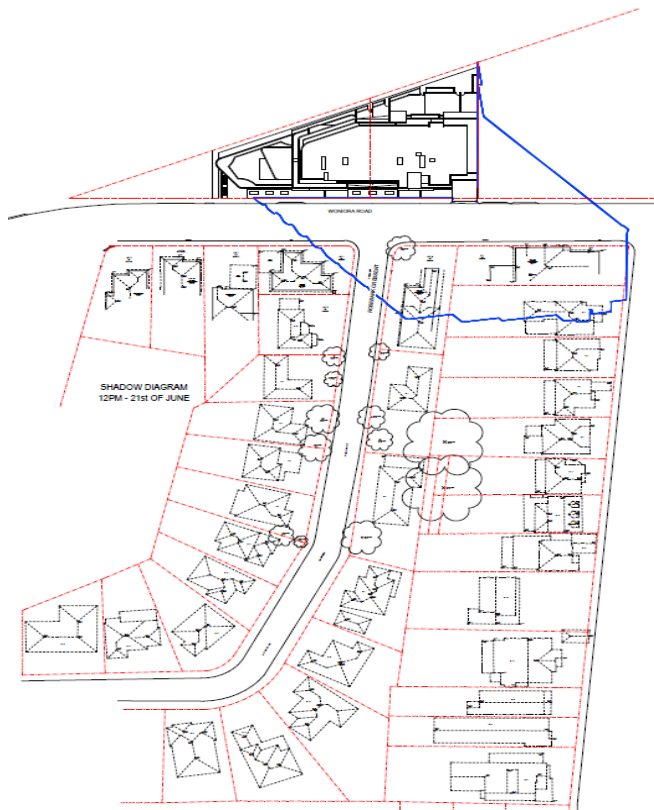


Figure 5- 12pm shadow 21 June

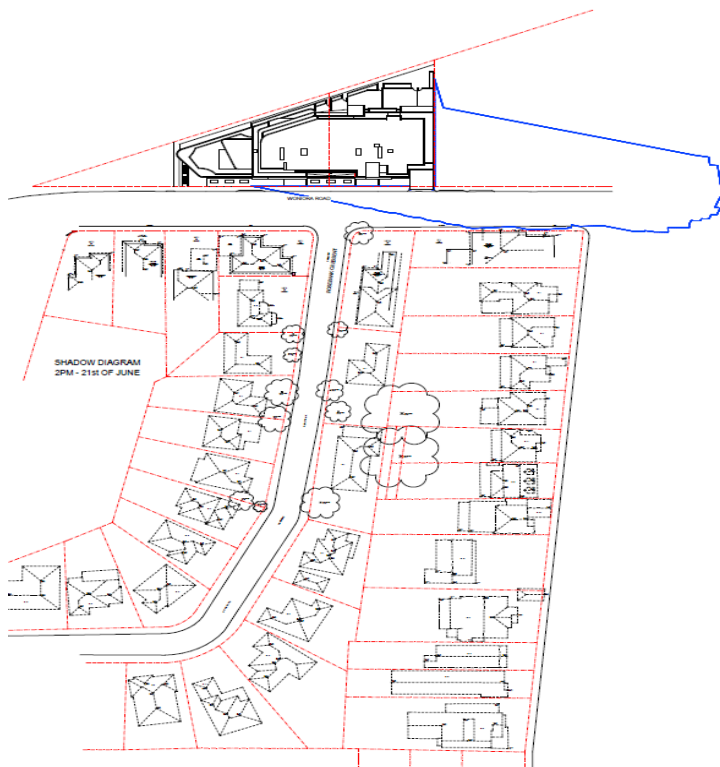


Figure 6- 2pm shadow 21 June

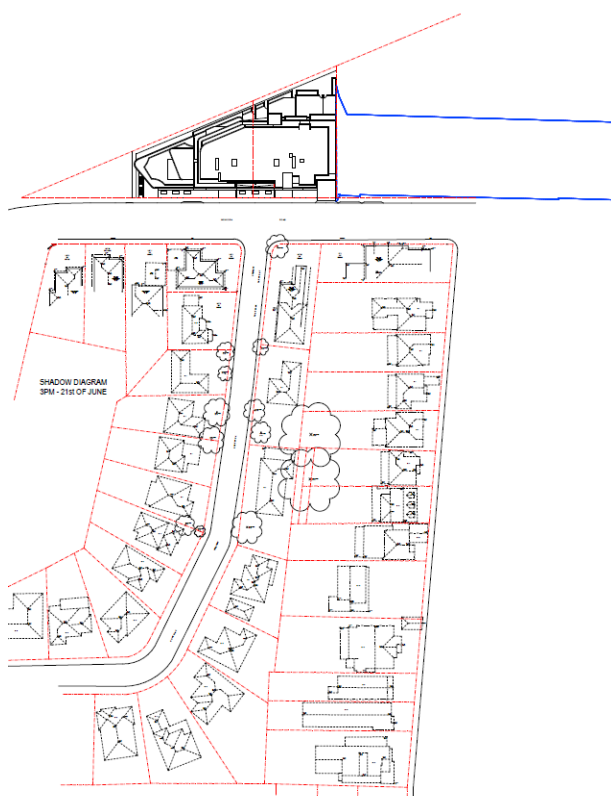


Figure 7- 3pm shadow 21 June

Density

Some minor change to total floor area is likely to result from resolution of the issues raised above.

Officer Comment

The proposal complies with the density control for the site of 4.5:1.

Sustainability

Subject to BASIX. The design is generally acceptable but further attention should be given to detailed issues as it is refined. For example on the north elevation the living rooms are well screened by balconies, but there is no solar protection for the bedroom windows which should have projecting screens.

Applicants Comment

Please refer to Basix report for glazing provisions to mitigate solar gain into the northern bedrooms.

Officer Comment

The proposal meets the BASIX and Section J requirements.

Landscape

As noted above some modifications to the building configuration are critical to achieving an effective landscape for the development. These include

- reconfiguring ground level frontage /basement on Woniora Rd,
- reconfiguring basement along rail corridor to protect existing significant trees,
- modification to level I lobby access and expansion of communal open space with associated basement modifications
- re planning basement levels to maximize deep soil in key locations

The submitted landscape design by Michael Siu Landscape Architects will require further development to address:-

- Woniora Road frontage to address issues raised above under 'Built form and Scale'. This should be planted with tall narrow trees in front setback to mitigate the scale of the development. Soil depth should be provided by setdown in level I basement car park and not through raised planters.
- The enlarged communal space in the north-east corner of the site at level I and reduction of private courtyards. This should include substantial tree planting, additional seating and amenities, appropriate landscape buffer to adjacent apartments. It is recommended that part of the ground floor/basement which extends below this proposed space be reduced in size to allow for planting above, requiring some relocation of bike spaces.
- Further exploration of triangular open space to the west. The approach to retain as a landscape space is supported by the panel, as its highly visible location would contribute to neighbourhood character. There is insufficient detail shown on landscape drawings regarding existing tree species or proposed levels (new walls, turf areas etc). There appears to be extensive new walls along boundaries that would significantly impact on adjacent rail corridor trees. This area should be re-planned to remove excessive walls and protect rail corridor trees. Consideration should be given to treating this area primarily as a planted zone, with a reduction in flat turf zones, and an emphasis on protecting and providing new trees.

Adequate protection of rail corridor tree plantings. These trees contribute significantly to amenity. It is recommended that arboricultural information be sought and tree protection zones established for all trees within the adjacent railway zone and within the triangular space on the western boundary. This information should be shown on all drawings (architectural, engineering, landscape).

Applicant's Response:

Please refer to attached amended landscape plan and proposed design amendments addressing key concerns.

Officer Comment

The amended plans are considered to adequately address the Panels' issues with the previous landscape scheme. The supplementary amendments were also partially detailed under the built form and scale provisions earlier in this report.

Amenity

The following detailed matters are of concern:-

- The 'Commercial 01' space appears unduly shallow for it to be commercially attractive.
- The two Lift lobbies are very small – desirably there should at least be space for a small seat in each
- Whilst the communal roof terrace would be a very attractive amenity, there should also be a small enclosed space useable in all weathers, containing basic kitchenette facilities and giving access to the toilet (as already proposed).
- The projecting balconies at the south-east corner, particularly at higher levels would also be very exposed, and should be provided with adjustable screens to deal with this issue.
- Some apartments could be better planned to increase living space and reduce long corridors and excessive circulation.
- Room dimensions should comply with the ADG.

Applicant Response

- The Commercial 01 space will be deepened but the sides reduced to accommodate seating areas in the ground floor lift lobbies.
- The roof terrace will have a enclosable glass area around the toilet and kitchenette facilities, that can be opened up with bifold sliding doors.
- Screens will be included on the South West corner balconies.
- We have endeavoured to optimise apartment layouts and have complied with ADG room dimensions.

Officer Comment:

The proposal has been amended to satisfy the above concerns.

Safety

Acceptable. Safety would be improved by encouraging more use of the rear walkway by residents. Re planning access for level 1 lifts to provide new paths from this walkway will improve use.

Applicant Response

With the increased access from the lift lobby and the enlarged size of the south eastern corner communal space we foresee that the railway side pathway activation will be enhanced and contribute to passive surveillance and safety.

Officer Comment

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

Housing Diversity and Social Interaction

Acceptable, but social interaction would be enhanced by the provision of an enclosed space on the communal roof terrace.

Applicants Response

An enclosed glassed area is provided to the Level 11 Communal Terrace Area while bifold doors enclose both the kitchenette and WC Area.

Officer Comment

Acceptable

Aesthetics

Satisfactory.

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 proposal was submitted in the time when the Planning Proposal for the New City Plan to amend Kogarah LEP 2012 was still not formalised and was only considered as a Draft. Since this time, KLEP 2012 (Amendment 2) has been gazetted. The zoning of the site remained; however, a height limit of 39m and a Floor Space Ratio of 4.5:1 were introduced. As discussed earlier in this report, If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.

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

The proposal is not inconsistent with the objectives and provisions of KLEP 2012.

(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.

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 (112 units) 1 bed – 24 2 bed – 84 3 bed – 4	Res. 112 x 1.25 = 140 Visitor 112/5 = 23 Total = 163	24 x 0.4 = 9.6 84 x 0.7 = 58.8 4 x 1.2 = 4.8 Visitor 112/7 = 16 Total = 73.2	129-Residential (including 12 Adaptable) 16- visitor 145 spaces
Commercial/Retail (187m ²)	Commercial – 1/60m ² = 2.7 OR Retail – 1/30m ² = 5.5	Com. – 1/40m ² = 4 Retail - 6.1/100m ² = 9.7	4
Total	166/169	77/83	149

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 proposed development and inclusive of the Traffic and Parking Assessment were forwarded to Council's Traffic Engineers for comment. No objection was received to the proposal subject to the imposition of a number of standard conditions.

Waste Removal and Loading

The proposed development provides for garbage collection off the loading area accessed off Woniora Road. The following bin numbers/services are proposed to be provided:

Waste and Recycling Bin Sizes and Collection Frequency

All waste material bins will be stored in 19 x 240 litre red lidded bins, and will be serviced three (3) times per week.

All recycling material will be stored in 19 x 240 litre red lidded bins, and will be serviced two (2) times per week.

The use of the 240litre bins and the frequency of servicing will ensure that any adverse impacts resulting from the presentation of bins on the kerbside will be minimised.

Waste and Recycling Bin Presentation

All waste and recycling bins will be presented for servicing by a representative of the Owners Corporation. The bins will be presented to the Woniora Road kerbside directly in front of the Waste Storage Area, and will be returned to the storage area, as soon as practicable after collection.

Bins under the Waste Chute

A chute system for the reception of waste material only, will be incorporated into the building design. Two separate chutes will be provided, one for each core of the building. As 1100-litre mobile bins will no longer be used for the storage and disposal of waste, as required by Council, 240-litre bins will be used instead. In order to maintain a sufficient quantity of bins under the chute, a 2 x bin splitter system will be installed at the base of the chute, which will discharge waste into 2 separate 240-litre bins, located under each outlet point.

The application was referred to Council's Waste and Sustainability Coordinator who raised no objection to the proposal subject to the imposition of standard conditions.

Section 94 Contributions

The proposed development requires payment of \$1,680,662.41 in Section 94 contributions based on the provisions of the Section 94 Contributions Plans for Precinct Six.

The contribution amount is based on the provision of 24 x 1-bedroom, 84 x 2-bedroom units and 4 x 3 bedroom units.

(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 from 16 January to 9 February 2017 where twenty (20) submissions were received. The application was also advertised in the local newspaper (The Leader) on 18 January 2017

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 located residents well separated from the proposal. These residents are located down O'Briens Road, Greenbank Street and Rosebank Crescent resulting in negligible direct overlooking. Woniora Road is 15m wide and the majority of the development is setback 3m from the street boundary. Separation is at a minimum 18m from the nearest adjoining properties located at 23-27 Woniora Road.

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 low density residential neighbourhood across Woniora Road some of which are located in the HCA are concerned that the proposal will overshadow their properties.

Predominant overshadowing of the residential dwellings across Woniora Road is in midwinter (worst case scenario) at 9am on June 21. By midday, the shadowing impacts is greatly reduced and only impacts four (4) dwellings being 1A Rosebank Crescent, 2 Rosebank Crescent and 1 and 3 O'Briens Road. The shadow diagrams are provided earlier in this report.

The proposal does not diminish solar access to affected properties significantly enough to warrant refusal or further modification of the application.

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 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.

As detailed in the Traffic Report prepared by Mott Macdonald, the proposed change in site usage will generate 60% less vehicle trips than the existing situation while the site is well connected to the strategic road network and is accessible by car without the need to travel through the city centre. Council's Traffic engineers raised no objection to this statement.

Additionally, the development provides parking in excess of that required under the RMS requirements as detailed in the body of this report.

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 high quality usable open space, common rooms and passive recreation areas consistent with the area required by the Apartment Design Guide.

8. Voluntary Planning Agreement

Comment

A number of objectors raised concern with the height non-compliance and the requirement to provide a VPA as a way of offsetting the non-compliance.

As discussed in the body of this report, only a minor height non-compliance is presented that is predominately to the service equipment on the roof of the development. A VPA is not required. This objection is unsubstantiated.

9. Impact on the Heritage Conservation Area

Comment

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

The issue has already been discussed. Further modification or refusal of the application on Heritage grounds is unwarranted.

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

Comment

Concern was raised by a number of objectors 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 raise concern 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.

11. Incompatibility with the streetscape

Comment

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

The proposal will provide a consistent scale, form and setback along Woniara Road that is reflective of the recent approval at 12-22 Woniara Road. 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.

12. Lack of Consultation with Community and Availability of Information

Comment

A number of objections raised concern with the lack of consultation with local residents, the extent of the neighbour notification and the availability of information provided. As can be evidenced below, Council undertook a broad notification covering a significant area.



Figure 8- Notification Map

Section A2 of KDCP 2013 does not specify a minimum radius or distance, and the extent of notification is at the discretion of Council. The application was notified and advertised in accordance with Council policy.

13. Waste Management

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.

All bins will be removed from respective bin rooms, and presented to the kerbside for collection, by a representative of the Owners Corporation at a prearranged time in consultation with Council. The Owners Corporation will be responsible for returning all bins back to their storage areas, as soon as practicable after they have been serviced.

(e) the public interest.

The proposed development is of a scale and character that does not conflict with 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. No response was received from the Police so concurrence is assumed.

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 262/2016 should be approved subject to conditions of deferred commencement consent.

Mr B Moroz
Senior Planner