

Panel Reference	2017SSH035
DA Number	DA2017/0451
LGA	Georges River Council
Proposed Development	Demolition of existing and construction of a twelve (12) storey residential flat building comprising of ninety-six (96) residential units and three (3) levels of basement parking, including landscaping and infrastructure works.
Street Address	58-68 Regent Street, Kogarah NSW 2217.
Applicant/Owner	Regent Street Developments PL (applicant) Owners: No. 58 Regent Street: S Wang. No. 60 Regent Street: A Walsh. No. 62 Regent Street: M Hanley. No. 64 Regent Street : J Rohan. No. 66 Regent Street: M and K Khuv. No. 68 Regent Street: Y Xu and Y Yu.
Date of DA lodgement	5 October 2017.
Number of Submissions	To (2) submissions received.
Recommendation	Approval subject to deferred commencement.
Regional Development Criteria (Schedule 7)	Regional development is defined in Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011. Development with a capital investment value (CIV) over \$30 million. The CIV of this application as outlined in Registered Quantity Surveyors Detailed Cost Report is \$31,131,115.
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979. • Environmental Planning and Assessment Regulation 2000. • State Environmental Planning Policy No 55 – Remediation of Land. • State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development. • State Environmental Planning Policy (Building and Sustainability Index: 2004). • State Environmental Planning Policy (Infrastructure) 2007. • State Regional Environmental Plan No 2 – Georges River Catchment. • Kogarah Local Environmental Plan 2012. • Kogarah Development Control Plan. • Kogarah Section 94 Contribution Plan.
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Statement of Environmental Effects. • Registered survey. • Architectural plans. • Landscape Plan.

	<ul style="list-style-type: none"> • Traffic Impact Assessment report. • Geotechnical report. • Contamination report. • Stormwater Details and Plans • Clause 4.6 Exception to Development Standard – Height. • SEPP 65 Design Verification Statement. • SEPP 65 Assessment Criteria.
Report prepared by	Mark Raymundo Senior Development Assessment Officer
Report date	1 August 2018.

Summary of S4.15 matters

Have all recommendations in relation to relevant S4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes.**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes, variation to height of building.**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **Not Applicable.**

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **No, at the time the report was being prepared.**

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

Executive Summary

Proposal

The application seeks development consent for the demolition of existing and construction of a twelve (12) storey residential flat building comprising of ninety-six (96) residential units and three (3) levels of basement parking, landscaping and infrastructure works on land known as 58 - 68 Regent Street, Kogarah NSW 2217.

It is noted that the applicant has agreed to a deferred commencement condition to comply with the height of building of 33m as referenced in the Kogarah LEP. This results in the reduction of levels 11 and 12 which include eight (8) units in total. An assessment has been undertaken of a development form that is compliance with the height control, resulting in a built form of ten (10) storeys comprising eighty-eight (88) units in total.

Site and locality

The subject site is legally described as Lots 155, 156, 157 and 158 in DP1388 and Lot A and B in DP324952 and is known as 58 – 68 Regent Street, Kogarah NSW.

The lots create an allotment that is irregular in shape with a total area of 2,043m².

The subject site and immediate context is undergoing an urban transformation from low density residential to high density residential under recently adopted planning controls 'Kogarah City Plan' gazetted on 26 May 2017 and is known as Kogarah North Precinct.

Zoning and KLEP (2012) Compliance - LEP

The site is identified as R4 High Density Residential pursuant to the provisions of the Kogarah Local Environmental Plan 2012. Residential flat buildings are a permissible use within the zone, with the proposal meeting the definition of a "residential flat building". The application when lodged sought to increase the height of the building supported by a Clause 4.6 - Exceptions to development standards. During the assessment it was advised Council would be seeking to have the development modified to meet the height control. During mediation with the applicant, it was agreed the application would be recommended to the panel with a deferred commencement condition for the development to be lowered to be compliant with the KLEP 2012 height limit of 33m.

State Environmental Planning Policy

The proposal has been considered to be satisfactory in regards to:

- State Environmental Planning Policy No 55 – Remediation of Land;
- State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development;
- State Environmental Planning Policy (Building and Sustainability Index: 2004);
- State Environmental Planning Policy (Infrastructure) 2007;

- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017; and
- State Regional Environmental Plan No 2 – Georges River Catchment.

Draft Environment SEPP

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.

Changes proposed include consolidating the following seven existing SEPPs:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 – Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

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

Kogarah Development Control Plan 2012 (KDCP 2012 – Amendment No 1)

The proposal reasonably satisfies the applicable provisions contained within the Kogarah Development Control Plan.

Section E4 - Kogarah North Precinct

The proposal is considered to reasonably satisfy the objectives of the Kogarah North Precinct, which results in an appropriate built form in relation to the applicable planning controls subject to the deferred commencement condition to comply with the 33m LEP height control. It is noted that the application was lodged prior to the commencement of Section E4 – Kogarah North Precinct DCP.

Submissions

The application was notified and renotified to forty-six (46) owners and occupiers in accordance with the provisions of the Kogarah Development Control Plan. In response, two (2) submissions were received. The relevant concerns have been addressed in detail further within this report.

Level of Determination

The proposal seeks a cost of work of \$31,131,115.00. The development application is to be determined by the South Sydney Planning Panel due to the capital investment value exceeding \$30 million for a residential development pursuant to the definition of regional development contained within Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011

The CIV of this application as outlined in Registered Quantity Surveyors Detailed Cost Report is \$31,131,115.

Conclusion

Having regards to the Heads of Consideration under Section 4.15 of the Environmental Planning and Assessment Act and following a detailed assessment of the proposed application DA2017/0451 is recommended for approval by way of a deferred commencement determination requiring the development to be modified to comply with the 33m LEP height limit, together with standard and special conditions to be complied with once the deferred commencement condition has been satisfied.

Full Report

Proposal

The application seeks development consent for the demolition of existing and construction of a twelve (12) storey residential flat building comprising of ninety-six (96) units and three (3) levels of basement parking, landscaping and infrastructure works on land known as 58 - 68 Regent Street, Kogarah NSW 2217.

In detail, the amended proposal subject to deferred commencement (resulting in the deletion of level 11- 12 residential units), the application has been assessed based on the 33m height, and the deletion of the building form above this height limit, namely:

- Demolition of six (6) dwellings and ancillary structures;
- Level 1 (ground): 3 x 1 bed and 8 x 2 bed;
- Levels 2 - 4: 9 x 1 bed and 24 x 2 bed;
- Levels 5 - 8: 4 x 1 bed, 20 x 2 bed and 3 x 3 bed;
- Levels 9 – 11: 10 x 2 bed, 3 x 2 bed;
- 3 levels of basement comprising 115 residential car parking spaces and 14 visitor spaces, including 10 accessible spaces;
- Associated landscaping;
- Drainage works; and
- Driveway access from Stanley Lane to the north.

For the purposes of assessment, the proposed composition is described as follows;

Unit breakdown:

Residential Unit Breakdown	No. proposed
1 bedroom	16
2 bedroom	62

3 bedroom	10
Total	88

* Note: Level 11 comprised 5 x 2 bedroom units and 1 x 1 bedroom with Level 12 containing 2 x 2 bedroom units which have been conditioned to be deleted from the plans to comply with the LEP height control of 33m.

Car parking breakdown:

Residential Unit Breakdown	No. proposed
1 bedroom	16
2 bedroom	77
3 bedroom	22
Visitor spaces	14
Total	129 (including 10 accessible spaces)
Bicycle spaces	42

*Note: Whilst the proposal has been reduced by 8 residential units, the proposed car parking does not exceed the minimum required car parking spaces under the Kogarah DCP.



Fig 1. Montage viewed from Regent Street and Stanley Lane looking from a north-east aspect
(Source: PBD Architects, 2017)



Fig 2. Montage viewed from Stanley Lane looking from a north-west aspect (Source: PDB Architects, 2017)

The above montages were prepared and lodged with the original application. It is acknowledged there have been amended plans and accompanying consultant reports lodged throughout the assessment; however the elements of the development remain consistent with the montages above.

Site and Locality

The subject site is legally described as Lots 155, 156, 157 and 158 in DP 1388 and Lot A and B in DP 324952 known as 58 – 68 Regent Street, Kogarah NSW.

The allotment is an irregular shaped allotment and is dimensioned as follows from the survey:

Regent Street - 46.53m;

Western Boundary - 52.715m (Stanley Lane);

Rear Boundary - 44.255m (fronting Stanley Lane and the splay); and

Eastern boundary - 46.33m.

Total area - 2,043m².

The site contains a fall of approximately 3.15m from the south-west corner to the north-west corner.

The subject site is zoned R4 High Density Residential under the Kogarah Local Environmental Plan 2012.

The site is not affected by flooding, acid sulphate soils or heritage.

Six (6) dwellings of varying architectural style and designs front Regent Street with garages fronting the rear of Stanley Lane.

The surrounding area comprises dwelling houses of varying architectural styles and designs. Number 14 and 16 Victoria Street (Lots 72 and 74 Section B, DP 1397) are local heritage items being 'Terraces and garden' known as "Beatrice" and "Lillyville".

The immediate surrounding area is zoned R4 Height Density Residential with a maximum floor space ratio of 4:1 and a 33m height control of building under the Kogarah Local Environmental Plan 2012.

Kogarah Public School is located further to the south, St George Girls High School is located further to the north and Kogarah High School is located further to the west.

Kogarah Railway Station is located approximately 354m to the south-west.

It is noted that the area is undergoing transitional change with several high rise residential flat buildings currently under assessment, with one determination at 70-78 Regent Street being approved by the Land and Environment Court on 24 July 2018 at the time of the preparation of this report.

Address	Application Number	Status
18-24A Victoria Street Kogarah	DA2017/0597	Under Assessment
71-79 Regent Street Kogarah	DA2017/0438	Under Assessment
11 Stanley Street and 28-36 Victoria Street Kogarah	110/2017	Under Assessment
71-79 Regent Street Kogarah	DA2017/0438	Under Assessment
70-78 Regent Street Kogarah	111/2017	Approved by Land and Environment Court subject to amended plans. It is noted that as part of the judgement, lift overruns and communal areas were the only elements accepted to encroach the height of building limit of 33m. Units located above the height limit are to be deleted. A 10 storey built form was approved with a 6m setback for 4 storeys to the western side boundary (shared with the eastern boundary of the subject site).



Fig. 3 Aerial extract of subject site and surrounding area (Source: Statement of Environmental Effects, Planning Ingenuity 2017)

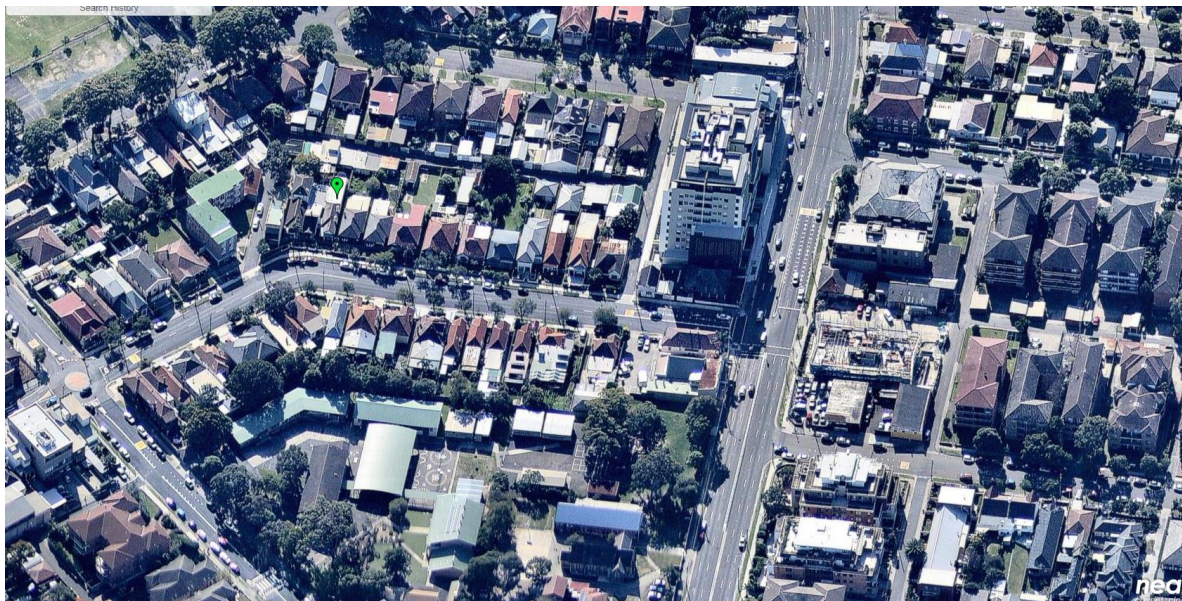


Fig. 4 Aerial perspective of the subject site and surrounding area (Source: Nearmap, 2018)

Background

The following relevant development chronology is detailed as per below;

3 October 2017	Application lodged
16 – 30 October 2017	Notification
6 December 2017	Amended basement plans

1 November 2017	External referral sent to Sydney Airport Corporation
17 November 2017	External urban design review referral
22 November 2017	South Sydney Planning Panel Briefing which included the discussion of the following issues; setbacks and future interface with the adjoining development site to the east, non-complaint solar access to units, non-compliance – building height, additional mass – corner of Regent Street and Stanley Lane, Public domain improvements and associated land dedication, stormwater disposal and LEP height and FSR.
6 December 2017	Amended information
14 December 2017	Urban Design Review comments received
7 February 2018	Request for additional information for design changes and additional information
17 May 2018	Revised additional information which included design changes and revised consultant reports
20 June – 4 July 2018	Re-notification period
28 May 2018	Applicant's acceptance of a deferred commencement to comply with Height
10 July 2018	Meeting with applicant
24 July 2018	Land and Environment Court Judgement on adjoining property 70-78 Regent Street Kogarah

Section 4.15 Assessment

(1) Matters for consideration—general In determining a development 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 provisions of:
(i) any environmental planning instrument, and

The proposal has been considered under the relevant statutory provisions as per below.

- Environmental Planning and Assessment Act 1979.
- Environmental Planning and Assessment Regulation 2000.
- State Environmental Planning Policy No 55 – Remediation of Land.
- State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development.
- State Environmental Planning Policy (Building and Sustainability Index: 2004).
- State Environmental Planning Policy (Infrastructure) 2007.

- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.
- State Regional Environmental Plan No 2 – Georges River Catchment.
- Kogarah Local Environmental Plan 2012.
- Kogarah Development Control Plan.
- Kogarah North Development Control Plan.
- Kogarah Section 94 Contribution Plan.

Environmental Planning and Assessment Act 1979

The proposal has been considered in accordance with the relevant Statutory Provisions within the Act.

Environmental Planning and Assessment Regulation 2000

The application has been considered in accordance with the applicable consideration within the Regulation.

Kogarah Local Environmental Plan 2012

The proposal has been considered in relation to the applicable clauses as per below. The subject site is located on map tile_006 within the KLEP 2012.

Clause	Control	Proposed	Compliance
Clause 1.2 Aims of Plan	Objectives of the Plan to be satisfied	Proposal reasonably satisfies objectives of the Plan subject to a deferred commencement condition to reduce the height of building to comply with the 33m LEP height limit.	Yes
Clause 2.1 Land Use Zones Map tile: LZN_006	R4 High Density Residential. Residential flat building requires development consent	A residential flat building is a listed permissible use, which is the basis of the application.	Yes
Clause 2.3 Zone objectives and Land Use Table	Objectives of zone to be satisfied	The proposal adequately satisfies the R4 High Density Residential Zone objectives.	Yes
Clause 4.3 Floor Space Ratio Map tile: FSR_006	X = 4:1	4:1 originally proposed (3.62:1 resulting from the deletion of Levels 11 and 12 to satisfy the 33m LEP height control).	Yes
Clause 4.4 Height of Buildings Map tile:	U = 33m	38m (RL58.25) originally proposed, however the applicant has agreed to a deferred commencement	Yes – subject to deferred commencement for lowering

HOB_006		<p>condition to comply with the 33m height of building control of the LEP.</p> <p>A maximum RL of 49.65 is conditioned to achieve this.</p>	of height of building
Clause 4.6 – Exception to Development Standard	Clause 4.6 Exception to Development Standard to be provided for consideration	Clause 4.6 Exception to Development Standard provided to vary Clause 4.4 Height of Buildings.	No - (1) The clause 4.6 request has been considered as part of the assessment, however, the applicant has agreed to a deferred commencement condition to comply with the 33m LEP height of building control.
Clause 5.10 – Heritage Conservation Map tile: HER_006	Objectives and considerations of clause to be satisfied	The subject site is not identified as heritage item within any Local or State Register. No. 14 – 16 Victoria Street located to the north-west are the closest local heritage items within the immediate vicinity.	Yes (2) refer to discussion
Clause 6.1 – Acid Sulfate Soils Map tile: ASS_006	Objectives of clause to be satisfied	Not affected by acid sulfate soils	Yes
Clause 6.2 Earthworks	Objectives to be satisfied in relation to clause	The proposal seeks excavation and earthworks to accommodate three levels of basement. The extent of works is considered to be consistent with that of other approved residential flat buildings approved within the locality.	Yes
Clause 6.3 – Flood Planning Map tile:	Objectives of clause to be satisfied	The subject site is not identified as being affected by flooding.	Yes

FLD_006			
Clause 6.5 – Airspace Operations	Objectives of clause to be satisfied	A referral was note required to be sent to the Sydney Airport Corporation.	Yes

Clause 4.6 Exception to Development Standard

A Clause 4.6 Exception to Development Standard prepared by Planning Ingenuity seeks a variation to Clause 4.3 Height of Building of the Kogarah Local Environmental Plan 2012.

(1) Clause 4. 6 Exception to Development Standard – Clause 4.3 Height of Building

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

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

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

Comment: A Clause 4.6 Exception to Development Standard for a breach in height seeking 38.1 (+5.1m) at the south-west corner which exceeds the prescribed height of 33m contained in the LEP. A Clause 4.3 Height of Building has been lodged for Council's consideration. Clause 4.3 is not a clause excluded under Clause 5.4 Controls relating to miscellaneous uses under the KLEP 2012. The applicant has demonstrated the extent of the variation within the following architectural extracts below;



Fig. 5 Extract of south (front) elevation demonstrating the extent of the variation to height

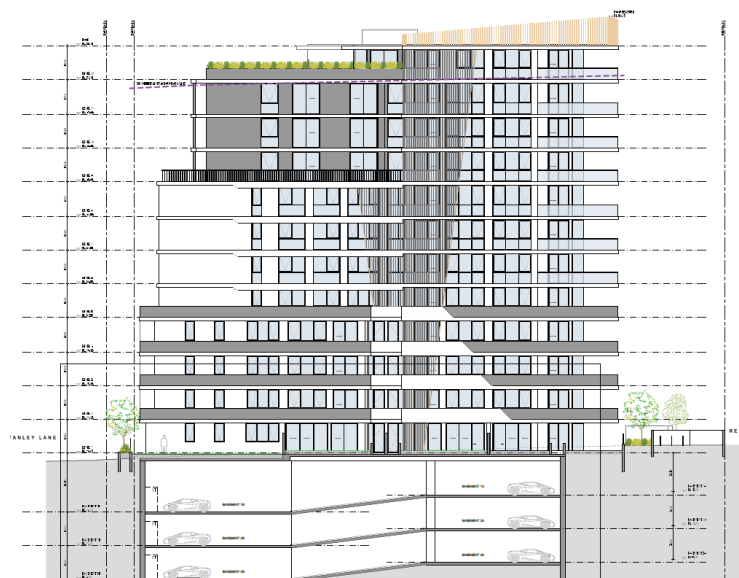


Fig. 6 Extract of west (side) elevation demonstrating the extent of the variation to height

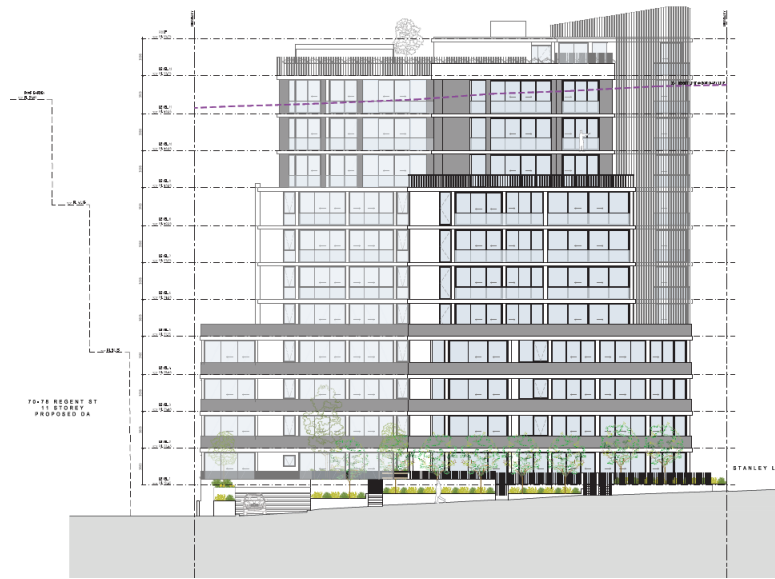


Fig. 7 Extract of North (rear) elevation demonstrating the extent of the variation to height

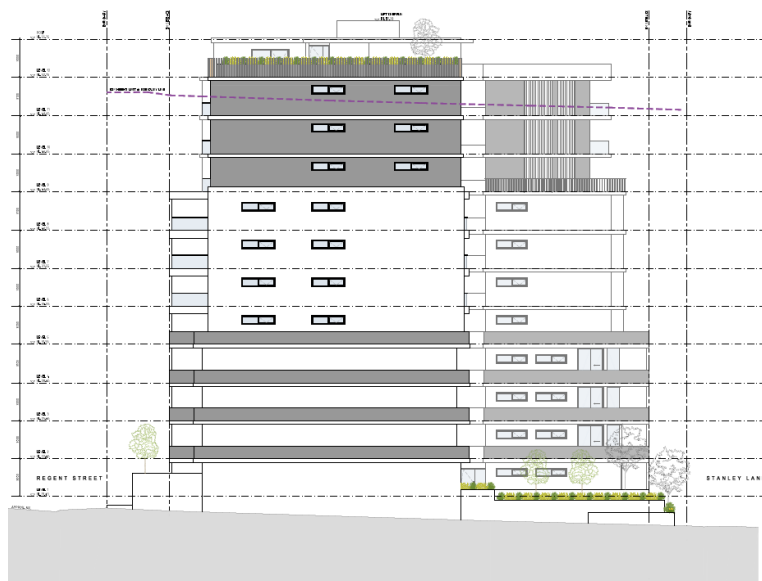


Fig. 8 Extract of North (rear) elevation demonstrating the extent of the variation to height

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment: The applicant has provided the following justification in support of the extent of the variation. The applicants Statement of Environment of Environmental Effects Clause 4.6 Exception to Development Standard, forms an attachment to this report. Key extracts are as follows;

“Building mass has been concentrated at the south-western corner of the development site and the benefits of this arrangement are two-fold.

Firstly, concentrating building mass at the corner of the site is an appropriate urban design response in this highly visible location in that this arrangement gives prominence to the corner which is situated on a bend in Regent Street and is therefore the terminus of the view corridor along Regent Street in a northeast and northwest direction.

Secondly, the proposed massing arrangement will mitigate impacts associated with overshadowing and overlooking which would otherwise be more severe if development density were arranged in an alternative fashion to comply with building height.

As development density is concentrated in the south-eastern corner of the site, shadow cast by the development falls primarily towards the street, reducing the extent of shadow cast towards adjoining land zoned for residential purposes to the south-east. Solar access to proposed communal open space and apartments is also optimised as a result of this arrangement.

Furthermore, the proposed massing arrangement results in a greater number of apartments oriented to street frontages, reducing the number of apartments oriented to the eastern (side) property boundary, thus limiting cross views and mitigating potential privacy impacts”

The proposal results in excessive massing which was not envisaged by the controls when developed forming the desired future character of the Kogarah North Precinct.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and

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

Comment: The applicant has provided justification for the extent of the variation. As the proposal seeks residential units above the 33m LEP height limit, this results in an undesirable present.

It is noted that under the recent Judgement of Regent Land P/L ATF Regent Land Trust v Georges River Council adjoining at 70 - 78 Regent Street, Kogarah, supported the breach in height for the rooftop communal open space and access lift and required the deletion of units above the height limit. It is considered that the proposed variation is not considered to be within the public interest given that the objectives of the zone have been not reasonably satisfied.

(b) the concurrence of the Secretary has been obtained

Comment: The applicant's Clause 4.6 Exception for Development Standard relating to Clause 4.3 - Height of Building is not supported as the extent of the variation is not in the public interest as it is inconsistent with the objectives of the particular standard and objectives of the zone.

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

(c) clause 5.4

Comment: Previously addressed within report.

The Clause 4.6 Exception to Development Standard Clause 4.3 Height of Building is not supported and is considered not to be well founded and is inconsistent with the intent of the Development Standard objective and zone objectives, resulting in adverse impacts. For the above reasons, the proposed variation to the height of building is not supported.

On 28 May 2018, the applicant provided written correspondence to Council agreeing to the imposition of a deferred commencement condition to delete floor space to comply with the KLEP 2012 height of building limit control of 33m.

(2) Clause 5.10 – Heritage Conservation

As previously discussed within this report, Nos. 14 and 16 Victoria Street (Lots 72 and 74 Section B, DP 1397) form local heritage items known as 'Terraces and garden' and called "Beatrice" and "Lillyville" within Schedule 5 Environmental Heritage of the LEP. The proposal development is not considered to adversely impact these heritage terraces given the spatial separation of the subject site and the width of Stanley Lane.

It is noted that No. 14 - 16 Victoria Street Kogarah also share the same zoning, floor space and height attributes to that of the subject site. In this regard, appropriate consideration has been applied in relation to the local heritage items.

State Environmental Planning Policy No 55 – Remediation of Land

Council's records indicate that the subject site has been historically used for residential purposes. The current use is for a residential purpose. The immediate

surrounding area comprises generally of residential uses and it is considered unlikely that the site is contaminated. In this regard, the proposal is considered to be suitable for the subject site in accordance with the considerations of the SEPP.

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

A design verification statement accompanies the proposal prepared by Registered Architect. The proposal has been considered against the relevant considerations of the SEPP as per below;

Clause	Control	Proposed	Compliance
CL. 30	Standards that cannot be used as grounds to refuse development consent or modification of development consent	The application has been considered against the applicable provisions.	Yes
CL. 30(1)	(a) 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,	Proposed car parking complies with the RMS requirements.	Yes
	(b) if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,	The internal floor area complies with the minimum units sizes: 1 bedroom – 50m ² 2 bedroom – 70m ² and 3 bedroom – 90m ²	Yes
	(c) if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design	Ceiling heights comply within minimum standard namely: 2.7m for habitable and 2.4m for non-habitable.	Yes

	Guide.		
CL 30	<p>(2) Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to:</p> <p>the design quality principles, and the objectives specified in the Apartment Design Guide for the relevant design criteria.</p>	The proposal has been considered against the design quality principles and objectives of the Apartment Design Guide, see detailed discussion below.	Yes

Schedule 1 Design Quality Principles

The proposal has been considered in consideration with the design principles as follows;

Principle 1: Context and neighbourhood character

“Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.

Responding to context involves identifying the desirable elements of an area’s existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.

Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change”

Urban Design Review comments:

“The landscaped street edge to Stanley Lane is supported. The landscaped zone at street level should be adjusted to incorporate a 1m footpath within the site boundary, as an extension of the existing footpath, with a 1m landscaped zone at street level. Consider increasing the building setback to 5m.

The substation along Regent Street is not supported. This should be located within the building or along Stanley Lane. The boosters and service cupboards along Regent Street are not supported. These should be relocated in the laneway or integrated into the building’s architecture”

Applicant's response:

"A 1.2m wide footpath zone is provided on the northern edge of the site to Stanley Lane for future dedication to Council;

□ The DCP only specifies a setback requirement to streets, not to laneways. Notwithstanding, the proposed setback to Stanley Lane is appropriate to define the edge of the lane and will be complemented by a landscape edge to create good levels of amenity for users of the lane. The proposed balconies are largely set into the building, which together with habitable apartment room windows will create passive surveillance opportunities of the laneway, whilst achieving building articulation. The proposal is considered to be a reasonable urban design response to the larger setbacks anticipated for non-highway street frontages and tighter urban environment that is typical for laneway frontages.

- The substation has been relocated to Stanley Lane near to the proposed driveway;*
- The hydrant booster has been relocated to the eastern end of the Regent Street frontage of the site, adjacent to the proposed booster location on the neighbouring property (also indicated on the plans). The hydrant booster will be surrounded by landscaping and will not be a prominent feature in the streetscape;*
- Fire separation is dealt with in the attached BCA report prepared by BCA Consultants, Building Control Group. Privacy separation between the fire exit and the adjacent apartment (104) is achieved by landscaping, keeping in mind that the fire exit will seldom be used.*

Assessment Comments: The amendments are considered an improvement on the original design and reasonably satisfies this design quality principle.

Principle 2: Built form and scale

"Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook"

Urban Design Review comments:

"The front setbacks and landscape treatment at ground level along Regent Street are supported. The zero setback above the 4th storey at the corner of Regent Street and Stanley Lane is supported. However the setbacks along Stanley Lane does not comply with the ADG – 6m, 9m and 12m from the centre of the laneway. The applicant needs to demonstrate that this will achieve minimal impact on the future

development of the neighbouring site at 54-56 Regent Street. In relation to apartment stacks 03 and 04 on Levels 5 – 8, consider providing an 8m setback from the boundary above the 4th storey to the upper levels along Regent Street of the building to be consistent with the Urban Design Strategy. We understand this is trying to be achieved through the differentiation of materials but don't believe this reduces the bulk and built form sufficiently. Alternatively consider removing the zero setback balconies to apartment stack 03 to achieve better articulation of a four storey street wall. The rear setbacks to Stanley Lane and the side setbacks to the eastern boundary do not comply with the ADG. The applicant should demonstrate that this will achieve minimal impact to the future development or proposed designs of the neighbouring sites on Stanley Lane. The roof top design and integration into the architecture is supported. Provide further details on all roof plant and sizes and how these will be screened and integrated into the design. Building Height exceeds 33m. No height plane is shown on the elevations or within the Clause 4.6 Variation Statement”

Applicant's response:

- The setbacks to the portion of Stanley Lane to the west of the subject site have been maintained for the lower 4 levels (3m) and is acceptable from a visual privacy perspective given the width of the laneway (6m) and likely setback of any future development to the west (which would reasonably also be 3m, as proposed on the subject site) – creating 12m total separation consistent with the ADG. Except for the apartments that form the corner element to Regent Street and Stanley Lane, the setbacks above the 4th storey have been increased to meet or exceed ADG compliance and the previously proposed balconies deleted to achieve high levels of reciprocal privacy. These apartments also have their primary orientation to the north;

The setbacks to the portion of Stanley Lane to the west of the subject site have been maintained for the lower 4 levels (3m) and is acceptable from a visual privacy perspective given the width of the laneway (6m) and likely setback of any future development to the west (which would reasonably also be 3m, as proposed on the subject site) – creating 12m total separation consistent with the ADG. Except for the apartments that form the corner element to Regent Street and Stanley Lane, the setbacks above the 4th storey have been increased to meet or exceed ADG compliance and the previously proposed balconies deleted to achieve high levels of reciprocal privacy. These apartments also have their primary orientation to the north;

- The setbacks to the portion of Stanley Lane to the north of the subject site is maintained at 3.2m, which (as outlined above) will create minimum 12m separation to a future building to the north with the 6m lane width and probable minimum 3m setback of a future building to the north. Above the 4th storey, the ADG requires an additional 3m setback, which is achieved to the building face within the proposed development, however, a portion of the north facing balconies sit within the 6m setback zone. The extent of encroachment would not have any material impact on privacy as the difference in visual privacy impacts between a unit occupant standing at the 5m setback line or 6m setback line would be immeasurable – further, the encroaching building part relates to only a

small number of apartments with the remaining north facing apartments substantially exceeding the ADG separation requirements. The proposal achieves an appropriate allocation of density on the site, including a large portion of the north-eastern part of the site that is free from any habitable floor area. For these reasons, the proposal is considered to resolve future privacy relationship in an effective manner consistent with the intent of the ADG;

Setback to Regent Street to the eastern portion of the upper levels has been increased (in part) to create a larger area of building that is compliant with the 8m setback requirement to successfully transition to a future development to the east;

The proposed setbacks to the eastern boundary (adjacent to Nos. 70-78 Regent Street) are consistent with the DCP, being a zero setback to create a 4 storey street wall with increased setbacks above. Above the 4th storey, the eastern portion of the building adjacent to Nos. 70-78 is treated as a non-habitable zone with commensurate setbacks provided consistent with the non-habitable room requirements of the ADG. The proposal is for a development form on the site that is closely aligned with the urban design outcomes intended by Council and the DCP, which is in stark contrast to the development proposed on Nos. 70-78 which has essentially ignored the previous draft urban design guidelines and current DCP provisions for the Kogarah North Precinct. For these reasons, the proposed development should be given favourable consideration, in our view;

- *The pedestrian entry from Regent Street has been substantially increased in size to create improved pedestrian entry environment;*

The proposed height variation is clearly indicated on the amended plans DA301 and DA302. The extent of variation proposed is accurately reflected in the Clause 4.6 variation that was originally lodged with the DA;

Assessment Comments: The amendments undertaken and the justification provided are considered to reasonably satisfy the design quality principle subject to a deferred commencement condition to reduce the height of the building to comply with the KLEP 2012 height of 33m.

It is noted that the urban design advice and applicants comments were prior to the judgement of 70-78 Regent Street Kogarah. The proposed setbacks are considered to respond to the subject site and immediate context despite the numerical ADG departures relating to setbacks. The proposal adopts recesses and a mixture of architectural cues which result in an appropriate built form.

Principle 3: Density

“Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.

Appropriate densities are consistent with the area’s existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.”

Urban Design Review comments:

“The common lobby areas on levels 2-11 are not included in the GFA calculations. We do not support this interpretation; these are internal areas and should be included in the GFA calculations. This interpretation increases the bulk and scale of the development, refer to Built Form and Scale above. A Clause 4.6 variation report will be required for the exceedance in the FSR”

The pedestrian access to Stanley Lane and the ground floor apartments is supported. The apartment floor levels below street level along Regent Street and Stanley Lane should be reconsidered, particularly Unit 106. The entry ramp down from Regent Street to the foyer is a concern for future flooding to the site. Raising the ground floor level would eliminate the above two issues”.

Applicant's response:

“The proposal has been reduced to achieve compliance with the maximum permitted FSR of 4:1. This has been achieved by reducing internal apartment areas and increasing balcony size and/or setbacks to the street frontages. It is noted that the west facing balconies proposed for levels 9 and above for units 906, 1006 and 1106 have been deleted to increase separation to Stanley Lane and any future development to the west. Small portions of the common corridors are excluded from GFA calculations as they are akin to a balcony with shallow depth and 1m height balustrade – this is evident on the amended GFA plans provided;

- *The layout of unit 106 has been altered to create an in-set for the front door entry point;*

Ground level has been raised by 300mm to create better relationship of the ground floor units with the surface level of Regent Street and Stanley Lane. This additional height has been catered for within the development by altering the floor to floor height of some levels from 3.05m to 3m. The 3m floor to floor height is only proposed for the levels/units that do not require a transfer slab and where the non-habitable rooms (bathrooms etc.) are vertically stacked to locate services, which in turn will maintain a 2.7m ceiling height in the habitable parts of the units. Council may also choose to impose a suitable consent condition to ensure that the required 2.7m ceiling height is achieved in all habitable areas of the units as part of the construction process”

Assessment Comments: The amended proposal as assessed is below the maximum FSR of 4:1. The raising of the levels results in a reasonable and improved interface to the public domain and does not result in any unreasonable impact to future occupants in relation to amenity.

Principle 4: Sustainability

“Good design combines positive environmental, social and economic outcomes.

Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation,

heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation”

Urban Design Review comments: No comment provided.

Principle 5: Landscape

“Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Good landscape design enhances the development’s environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.

Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours’ amenity and provides for practical establishment and long term management”

Urban Design Review comments:

“Landscaped courtyards to the ground floor apartments are supported. The roof top communal open space is supported. 50% of the roof area should be soft landscaping. The landscape plan should clearly demonstrate the delineation of private and public open space at roof level”

Applicant’s response:

“Amended landscape plans are provided which clearly define the private and public real”;

Assessment Comments: The proposed landscaping is considered to be acceptable.

Principle 6: Amenity

“Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well-being.

Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.”

Urban Design Review comments:

“The assessment of solar access assumes extended hours to 3:30pm. Applicant to confirm number of apartments that achieve sun between 9am-3pm. Include floor

plans indicating which apartments achieve solar access. Provide solar access report referred to in the SEPP 65 Statement.

Cross ventilation appears not comply with the ADG. Cross ventilation diagrams have not been provided nor has this been addressed in the SEPP 65 Statement or any alternative solution been provided. Further details should be provided to show how this proposal will comply with SEPP65.

Apartments 107 and 106 need to demonstrate means of achieving privacy whilst not impacting the levels of daylight into these apartments.

The ground floor communal open space looks directly into Apartment 101. Further details should be provided on how privacy and solar access into this apartment will be achieved.

The entry arrangement to the building requires further consideration. There is no ground floor lobby. The width of the building entry is also not sufficient for the size and number of apartments in the building. The front door of Apartment 106 is also directly in front of the building entry doors. These factors provide poor amenity and a more generous building entry should be provided.

Fire egress from the fire stairs adjacent the core on ground level egress past apartment openings. Provide further detail on how fire separation will be achieved without impacting the amenity to the apartments”

Applicant's response:

“The amended plans include solar eye diagrams and a table summarising solar access to the units – 77% of the units will achieve a minimum of 2 hours solar access to living rooms and private open space. Improved solar access has been achieved as a result of the deleted west facing balconies fronting Stanley Lane;

- Privacy to units 106 and 107 is achieve with the amended design through modified balcony design and landscaping proposed to the western site edge;*
- Privacy between the ground floor common area and unit 101 has been resolved with the introduction of a planter box and hedge planting to the northern side of the unit's private open space;*

Assessment Comments: The proposal does not comply with cross ventilation under the ADG however the merits of the proposal as a whole are supported. Minor amendments have been made to improve privacy impacts to Units 101, 106 and 107 which are considered to be satisfactory.

Principle 7: Safety

“Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.

Urban Design Review comments: No comment provided.

Assessment Comments: The proposal is considered to reasonably satisfy the Crime Prevention Through Environmental Design. The proposal seeks appropriate residential presentation frontages to Regent Street, Stanley Lane (W) and Stanley Lane (R).

Principle 8: Housing diversity and social interaction

Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.

Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.

Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents”

Urban Design Review comments: No comment provided.

Assessment Comments: The proposal provides a varied composition of 1 bedroom, 2 bedroom and 3 bedroom units of varying configurations and aspects.

Principle 9: Aesthetics

“Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.

The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape”

Urban Design Review comments: The proposed material schedule is supported.

Assessment Comments: Acceptable.

Apartment Design Guide (ADG)

The proposal has been considered in relation to the following applicable controls as follows;

Clause 28 – Consideration of Apartment Design Guide

The following table is an assessment against the design criteria of the ‘Apartment Design Guide’ (ADG) as required by SEPP 65.

Clause	Standard	Proposal	Complies
Objective 3D-1	<p>1. Communal open space has a minimum area equal to 25% of the site.</p> <p>-Where it cannot be provided on ground level it should be provided on a podium or roof</p> <p>-Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:</p> <ul style="list-style-type: none"> • provide communal spaces elsewhere such as a landscaped roof top terrace or a common room • provide larger balconies or increased private open space for apartments • demonstrate good proximity to public open space and facilities and/or provide contributions to public open space 	<p>50% communal space provided on level 12 being the roof top and on ground level.</p> <p>The deferred commencement requirement includes the provision of communal open space to meet requirements of the ADG given level 1 and 12 is proposed to be removed to meet the 33m height control of the LEP.</p>	Yes
	<p>2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter)</p>	<p>More than 50% solar access is envisaged to be achieved to rooftop communal space following the lowering the height of the building to 33m as required by deferred commencement condition.</p>	Yes
Objective 3E-1	<p>1. Deep soil zones are to meet the following minimum requirements: site area = 2,043m²</p> <p>Deep soil = 7% (141.21sqm at this site)</p>	<p>7% provided.</p>	Yes
Objective 3F-1	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved.</p>	<p>Adequate spatial separation and privacy is achieved through appropriate orientation, siting and treatment of windows.</p>	Yes

	<p>Front setback align with adjoining developments</p> <p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <p>Up to 12m (4 storeys) Habitable rooms and balconies = 6m Non-habitable rooms = 3m</p> <p>Up to 25m (5-8 storeys) Habitable rooms and balconies = 9m Non-habitable rooms = 4.5m</p> <p>9 storeys and above (over 25m storeys) Habitable rooms and balconies = 12m Between habitable and non-habitable rooms = 9m Non-habitable rooms = 6m</p>	<p>Regent Street (S): Generally 5m average front setback which is compatible with the adjoining development recently approved at 70 - 78 Regent Street Kogarah.</p> <p>Stanley Lane (W): 3m Stanley Lane (N): 3.33m Adjoining residential (E): Nil</p> <p>Stanley Lane (W): 3m Stanley Lane (N): 4.5m Adjoining residential (E): 6.3m</p> <p>Stanley Lane (W): 5m Stanley Lane (N): 3m Adjoining residential (E): 4.71m</p>	<p>No (1) - refer to discussion below</p>
Objective 3J-1	<p>1. For development in the following locations:</p> <ul style="list-style-type: none"> on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or <p>The car parking needs for a development must be provided off street.</p>	<p>354m away from Kogarah Railway Station entrance. 114 car spaces proposed in accordance with the Kogarah Development Plan which is within the basement.</p>	<p>Yes</p>

Objective 4A-1	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area	66 of the 88 units (following the development being reduced in height) = 75%	Yes
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	20 of the 88 units = 22.72%	No (2) refer to discussion below
Objective 4B-3	1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.	Level 1: 4 of 11 Level 2: 4 of 11 Level 3: 4 of 11 Level 4: 4 of 11 Level 5: 5 of 8 Level 6: 5 of 8 Level 7: 5 of 8 Level 8: 5 of 8 Level 9: 5 of 6 Total = 41/82 (50%) Level 10: 5/6	No (3) refer to discussion below
	2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	18m proposed.	Yes
Objective 4C-1	1. Measured from finished floor level to finished ceiling level, minimum ceiling heights are: Habitable rooms = 2.7m Non-habitable rooms = 2.4m	Levels 1 through to 12: 2.7m 2.7m	Yes Yes
Objective 4D-1	1. Apartments are required to have the following minimum internal areas: 1 bedroom = 50 m ² 2 bedroom = 70 m ² 3 bedroom = 90 m ²	1 bed: 51- 56m ² 2 bed: 75-79 m ² 3 bed: 95 -115 m ²	Yes Yes Yes
	The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum	Each 2 bed and 3 bed unit includes 2 bathrooms.	Yes

	internal area by 5sqm each		
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	All habitable rooms have external windows with a minimum glass area of at least 10% of the room.	Yes
Objective 4D-2	1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height	Habitable room depths meet the requirement.	Yes
	2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Some units along the northern and western elevations are deeper than 8m however the majority of units are less than 8m in depth from a window which is considered to reasonable given the proposed built form.	Yes
Objective 4D-3	1. Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space)	Master bedrooms exceed 10m ² .	Yes
	2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	Remaining bedrooms exceed 9 m ² .	Yes
	3. Living rooms or combined living/dining rooms have a minimum width of:		
	- 3.6m for studio and 1 bedroom	3.8m minimum.	Yes
	- 4m for 2 and 3 bedroom apartments	4m minimum.	Yes
	4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	Cross over apartments are at least 4m in width (Units 103, 203, 303 and 403) located along the eastern side boundary.	Yes
Objective 4E-1	1. All apartments are required to have primary balconies as follows:		
	1 bedroom = 8sqm/2m depth	Exceed 8 m ² and 2m in	Yes

	2 bedroom = 10sqm/2m depth	depth. Exceed 10 m ² and 2m in depth	Yes
	3+ bedroom = 12sqm/2.4m	Exceeds 12 m ² and 2m in depth.	Yes
	The minimum balcony depth to be counted as contributing to the balcony area is 1m	Balconies exceeding 1m in depth have been calculated in the balcony area.	Yes
	2. For apartments at ground level or on a podium or similar structure, a private open space area is provided instead of a balcony. It must have a minimum area of 15sqm and a minimum depth of 3m.	Balconies provided 1 bed: 8 - 18 m ² 2 bed: 15 - 29 m ²	Yes
Objective 4F-1	1. The maximum number of apartments off a circulation core on a single level is eight (Where the design criteria is not achieved, no more than 12 apartments should be provided off a circulation core on a single level)	Levels 1 (ground) through to level 4 - 11 units Levels 5 through to 8 - 8 units Levels 9 through to 11 - 6 units. Level 12 - 2 units. A maximum of 11 units are proposed for levels 1-4.	No (4) refer to discussion below Yes
Objective 4G-1	1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: 1 bedroom = 6m ³ 2 bedroom = 8m ³ 3 bedroom = 10m ³ At least 50% of the required storage is to be located in the apartments.	>6m ³ . >6m ³ . >10 m ³ . At least 50% of storage located within each apartment the remainder is located within the basement levels.	Yes Yes

(1) Side setback

Objective 4F-1 prescribes a side and rear setback which are proportionate to reduce privacy impacts.

The proposal seeks variation to the Stanley Lane along the western side setback and along the Stanley Lane rear setback. The proposal also seeks a nil boundary setback to the eastern side boundary which is considered to be compatible with the built form approved at 70 - 78 Regent Street Kogarah. The extent of the variations have been previously discussed within the report under Design Principle Built Form and Scale. The resultant built form as a whole results in a reasonable built form which does not result in any adverse impacts and appropriately responds with the approved sitting of 70 - 78 Regent Street Kogarah.

(2) Solar access

Objective 4A-1 prescribes that Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area. Due to the deletion of level 11 and 12 the proposal results in 20 of 88 units (22%) receiving less than 2 hours solar access during the Winter Solstice. Despite the variation, the proposed built form is considered to provide reasonable levels of amenity for future occupants given the building massing which is to be lowered in accordance with the deferred commencement condition.

(3) Cross ventilation

Objective 4B-31 prescribes that at least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Council's assessment identifies that 41 of the 88 units are cross ventilated. Whilst the cross-ventilation target is not achieved, the proposed massing is considered to be appropriate in achieving a good design outcome on planning merit.

(4) Maximum number of units access from core

Clause 1. The maximum number of apartments off a circulation core on a single level is eight. Where the design criterion is not achieved, no more than 12 apartments should be provided off a circulation core on a single level. Levels 1 through to 4 contain 11 units on each floor which satisfies the design criteria of this clause.

Irrespective of the above numerical variations, Planning Circular PS 17-001 dated 29 June 2017 *"Using the Apartment Design Guide"* states that *"Apart of the non-discretionary development standards in SPP 65, the ADG is not intended and should not be applied as a set of strict development standards"*. Whilst variations are sought regarding controls contained within the ADG, the extent of the variations are not considered to be unreasonable.

The amended proposal is considered to reasonably satisfy the Design Quality Principles and Apartment Design Guide. In this regard, appropriate consideration has been applied to the SEPP.

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

A valid BASIX Certificate (Cert No. 853795M dated 26 September 2017 prepared by Farah Shabest) has been provided with the lodgement of the Development Application. However given the application is being reduced via a deferred commencement condition to meet the 33m height control, the condition will also be seeking BASIX certificates to align with the revised plans which adequately satisfy the provisions of the SEPP.

State Environmental Planning Policy (Infrastructure) 2007

Pursuant to provisions of Clause 45 Determination of development applications – other development in relation to service utilities. A condition is imposed to ensure that Ausgrid requirements are adequately satisfied prior to issue of the Construction Certificate.

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

The proposal seeks the removal of trees and shrubs within the subject site. Two street trees are located in front of Nos. 66 and 68 Regent Street within the Council reserve fronting Regent Street. The proposal seeks to provide a mixture of appropriate trees which address the Regent and Stanley Lane frontages. Further details in relation to landscaping are conditioned to be provided at the Construction Certificate stage. In this regard, appropriate consideration has been applied to the SEPP.

State Regional Environmental Plan No 2 – Georges River Catchment

The proposal seeks to drain to Council's existing infrastructure subject to infrastructure improvements imposed as part of the conditions of consent. In this regard, appropriate consideration has been given. A condition has been imposed to ensure that adequate infrastructure is provided to service the development in addition to an advisory note in relation to infrastructure adjoining 70-78 Regent Street Kogarah.

(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

The Draft Environment State Environmental Planning Policy

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.

Changes proposed include consolidating the following seven existing SEPPs:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 – Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

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

(iii) any development control plan

Kogarah Development Control Plan (Amendment No 1)

The proposal has been considered in relation to the key provisions of the Kogarah Development Control Plan as follows.

Section	Control	Proposed	Compliance
Section A2 – Notification	Application to be notified in accordance with Council's controls	The application was notified and renotified in accordance with the provisions of this subsection.	Yes
Section B1 – Heritage Items and Heritage Conservation Areas	Heritage considerations	The subject site is not listed as a heritage item. The closest heritage items are located at 14 and 16 Victoria Street to the north-west. This has been previously addressed and considered earlier within this report.	Yes
B4 – Parking and Traffic	Car parking rates: (Based on 88 units)	The proposal has provided car parking and bicycle parking which complies with the RMS and Councils requirements: Rates - 1 bed = 0.4 spaces, 2 bed = 0.7 spaces, 3 bed = 1.2 spaces, 1 visitor space per 7 units.	Yes

	<p>1 bedroom unit = 1 space x 16 units (16 required)</p> <p>2 bedroom unit = 1.5 spaces x 62 units (93 required)</p> <p>3 bedroom unit = 2 spaces per unit x 10 units (20 required)</p> <p>1 visitor space /5 units or part thereof, and 1 designated car wash bay which may also be a visitor space (20 required)</p> <p>10% of car spaces are accessible.</p> <p>Total = 129</p> <p>Bicycle</p> <p>Residential 1 per 3 units Visitor 1 per 10 units</p> <p>= 38</p>	<p>16 provided</p> <p>77 provided</p> <p>22 provided</p> <p>14</p> <p>10% provided as accessible.</p> <p>129</p> <p>42</p>	<p>Yes</p> <p>Yes – as the total overall number of car parking spaces comply with the RMS car parking rates</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
B5 – Waste Management and Minimisation	Waste management and minimisation to be in accordance with Council's requirements	A waste management plan and additional conditions in relation to waste storage room form part of conditions of consent.	Yes
B6 – Water Management	Water management and disposal to be in accordance with	The proposal is supported by Council's Development Engineer	Yes

	Council's requirements	and Infrastructure departments.	
B7 – Environmental Management	Orientation, building, sitting and design, energy efficiency, materials	The proposal adopts a built form which is considered to be appropriate for the subject site, with energy efficiency targets being met thorough BASIX (to be provided with the plans that satisfy the deferred commencement condition). The proposal adopts contemporary architectural cues and finishes.	Yes

E4 – Kogarah North Precinct

The proposal has been considered in relation to the key provisions of the development control plan as follows.

Clause	Control	Proposed	Compliance
Section 8: Heritage	<p>(i) Where development is proposed within the vicinity of a heritage item identified in the Kogarah LEP 2012, the building height and setbacks must have regard to and respect the value of that heritage item and its setting.</p> <p>(ii) Where a development incorporates or is within the vicinity of a heritage item, the new development is to provide an appropriate transition in height and</p>	<p>The proposed height is subject to a deferred commencement condition to comply with Height of Building being 33m as referenced in the LEP. The proposal seeks appropriate setbacks as not to detract from the Heritage item at No 14 and 16 Victoria Street Kogarah.</p> <p>The proposal adopts an appropriate transition to adjoining development with respect to height and curtilage.</p>	Yes

	adequate curtilage and side setbacks from the heritage item.		
Section 9: Building Heights	<p>(i) The maximum building height provisions are contained in Clause 4.3 of the Kogarah LEP 2012 which indicates the maximum building height of 33 metres for the Precinct.</p> <p>(ii) Taller buildings must consider the shape, location and height of buildings to satisfy wind measurements for public safety and comfort at ground level. In addition, open terraces and balconies must not be detrimentally affected by wind.</p> <p>(iii) The Kogarah North Precinct is affected by the Obstacle Limitation Surface. The maximum height of the inner horizontal surface is 51m AHD. All applications within the Kogarah North Precinct must provide information on the maximum RLs in AHD at all levels across the site.</p> <p>All applications for development within the Precinct will be referred to Civil Aviation Safety Authority and Airservices Australia for assessment. Developments must consider the operating</p>	<p>Maximum 33m as required by the deferred commencement condition.</p> <p>Appropriate massing and built form</p> <p>RL 58.25 (reduction of height to comply with the 33m height limit results in a reduced overall height of 5.1m). A referral was sent to the Civil Aviation Safety Authority for comment. In response, no comments were received.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

	<p>heights of all construction cranes or machinery (short-term controlled activities) that may exceed the OLS height limits thereby penetrating the prescribed airspace. Consideration should be given to the timing and location for the proposed controlled activity on site for referral to Civil Aviation Safety Authority and Airservices Australia.</p> <p>(iv) Approval to operate construction equipment (i.e. cranes) shall be obtained prior to any commencement of construction, where the prescribed airspace is affected.</p>	<p>Conditioned as part of construction certificate</p>	<p>Yes</p>
<p>Section 10: Street Frontage Height, and Front, Rear and Side Setbacks</p>	<p>(i) Setbacks are to maximise the retention of existing trees and their root systems (including those on adjoining properties and in the street).</p> <p>(ii) Setbacks are to include the planting of canopy trees, both small and large varieties. Developments are not to rely solely on street trees to ameliorate buildings.</p> <p>(iii) All property boundary front setbacks must be deep soil and landscaped and must not have any underground intrusions such as underground car parking or on site detention.</p>	<p>No trees are proposed to be retained. However appropriate planting is to be incorporated within the design.</p> <p>Landscaping within the setback interfaces to Regent Street and Stanley Lane frontages.</p> <p>Front setbacks incorporate deep soil landscaping. The deep soil proposed satisfies the AGD requirements.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

	(iv) Development is to establish a four storey street wall height to provide human scale and set back taller elements above the four storey street wall height.	Levels 1 to 4 provide a podium which are of a human scale. Remaining levels are stepped back from the street.	Yes
	(v) One step in the built form as the height increases due to building separations is required. Additional steps should be careful not to cause a 'ziggurat' appearance.	Levels above level 5 are stepped back.	Yes
	(vi) No ground floor apartments are to be below the adjacent footpath level.	No ground floor units are located below footpath level.	Yes
	(vii) Ground floor residential with a street frontage must incorporate landscaping, ideally as part of the common area/setback, with such landscaping to provide for privacy as well as for a consistent, attractive and well maintained landscape frontage. The private terraces should also contain some landscaping.	Landscaping incorporated.	Yes
	(viii) The primary area of outdoor private open space must not be located on the street frontage.	Primary areas located behind front building line	Yes
	(ix) Blank walls are to be avoided fronting	No blank walls presenting to the	Yes

	<p>principal streets and the public domain.</p> <p>(x) Development must be designed so that it has a clearly definable entry and addresses the street.</p> <p>(xi) Side or rear boundary fencing is not permitted fronting the public domain except where appropriate landscaping is located in front of the fence.</p>	<p>public domain.</p> <p>Development has been designed in relation to appropriate massing.</p> <p>Open style fencing proposed which appropriately address the street interface.</p>	<p>Yes</p> <p>Yes</p>
Section 11: Trees and Landscape	<p>(i) All development is to be designed to eliminate the impact upon significant trees on site, street trees and trees on adjoining land including public open space and educational establishments. Existing mature trees in good health and condition, are to be retained through the appropriate siting of buildings, car parks, basements, pools, ancillary buildings, driveways and hard stand areas.</p> <p>(ii) Landscaped areas must be effectively distributed on the site to minimise the dominance of buildings, structures and paving when viewed from the street, public places and surrounding properties.</p>	<p>No significant trees on site.</p> <p>Appropriate tree planning proposed.</p>	<p>Yes</p> <p>Yes</p>

	<p>(iii) Where appropriate, additional street trees are to be incorporated into the overall design of the development – refer to Figure 8).</p>	See discussion above.	Yes
	<p>(iv) Common open space/courtyards are to be located, designed and landscaped to:</p> <ul style="list-style-type: none"> ▪ enhance views from dwellings and create recreational opportunities; ▪ be the focal point for residents and incorporate public art and water features where appropriate, and ▪ achieve good amenity in terms of solar access and natural air flow. 	Common open space appropriately located within the north-east corner of the ground floor of the site and within the roof top communal terrace.	Yes
	<p>(v) Additional communal open space on roof tops is encouraged in locations where it does not adversely impact on the residential amenity of surrounding residents.</p>	The proposal seeks two communal spaces, one being located on the ground floor and the other on the roof top which does not adversely affect adjoining properties.	Yes
	<p>(vi) Deep soil zones are to be of dimensions that achieve their function as planting space for large trees.</p>	Adequate dimensions provided within the front and rear setbacks.	Yes
	<p>(vii) Where possible, deep soil zones are to be located within key communal outdoor space areas or elsewhere where large trees will benefit the maximum number of</p>	Deep soil located within key communal outdoor areas.	Yes

	<p>residents or contribute to the public domain.</p> <p>(viii) Landscaping should give precedence to species with low water needs, include native plant species and select and position trees to maximise control of sun and winds</p> <p>(ix) Landscape design is to be integrated with water and stormwater management.</p>	<p>Native species provided.</p> <p>Integrated with water and stormwater management.</p>	<p>Yes</p> <p>Yes</p>
Section 12: Dedication of Land to Council for Road/Lane Widening and Splays	<p>(i) Approval for development listed in Table 4 below will be subject to the dedication of land (for road/lane widening) without cost to Council. The area of the land to be dedicated will be taken into account in calculating the permitted density of development.</p> <p>(ii) No permanent structure may be built above or below this area of land.</p> <p>(iii) All building setbacks are to be measured from the relocated boundary and the laneway dedication is to be clearly identified on the plans lodged with the Development Application.</p>	<p>1.2m land dedication from Stanley Lane has been conditioned.</p> <p>No structures proposed.</p> <p>Measured from relocated boundary.</p>	<p>Yes</p> <p>Yes</p> <p>No – however the setback is considered to be acceptable given the immediate context.</p>
Section 14: Housing Choice	(i) All residential development (or residential component within a mixed development must	The proposal incorporates an apartment mix of 1 bed, 2 bed and 3 bed unit	Yes

	<p>provide a mix of studio, one bedroom, two bedroom and three bedroom apartments of a range of sizes and layouts so as to meet the needs of residents and accommodate a range of household types.</p> <p>(ii) An apartment mix is to be provided, taking into consideration:</p> <ul style="list-style-type: none"> a. the distance to public transport, employment and education centres b. the current market demands and projected future demographic trends c. the demand for social and affordable housing d. different cultural and socioeconomic groups <p>(iii) Apartment configurations are to support diverse household types and stages of life including single person households, families, multi-generational families and group households.</p>	<p>configurations.</p> <p>Acceptable apartment mix.</p> <p>Variation in layouts and orientations provided.</p>	<p>Yes</p> <p>Yes</p>
Section 15: Addressing the Street and Public Domain	<p>(i) Landscaping in the public domain is to enhance, complement and reinforce existing streetscape planting themes and patterns. Council may require street tree planting, landscaping and paving of the public footway, this must be included in the Landscape Plan.</p>	<p>Adequate landscaping provided.</p>	<p>Yes</p>

	(ii) Development is to be consistent with the Street Tree Management Strategy and Master Plan.	Consistent with the management strategy and master plan.	Yes
	(iii) The need for additional building services must be resolved at design stage (e.g. electricity kiosk/substation & fire services facilities) and must be co-ordinated and integrated with the overall design of the development without compromising building or landscape design.	Substation will need to be provided.	Yes
	(iv) Buildings must be sited to address the street and relate to neighbouring buildings. Developments on sites with two or more frontages are to address both frontages. Buildings that are oriented contrary to the established development pattern are intrusive and are not permitted	Development appropriately sited	Yes
	(v) Buildings are to be designed to maximise the number of entries, visible internal uses at ground level, and include high quality finishes to enhance the public domain.	Entries proposed along all three street frontages at ground level	Yes
	(vi) Development that exposes the blank side of an adjoining building or has a party wall to the public domain is to be designed with a	No blank walls presenting to the public domain. Furthermore an additional condition has	Yes

	<p>visually interesting treatment of high quality design applied to that wall.</p> <p>(vii) Street corners must be addressed by giving visual prominence to parts of the building façade, such as a change in building articulation, materials, colour, roof form or height.</p> <p>(viii) Reduce visual intrusion and enhance amenity by integrating undergrounding of services and infrastructure in new development (Refer to Section 25 of this Part).</p> <p>Note: A public domain plan is required to be submitted with the Development Application detailing the upgrading works to the public domain area fronting the site boundaries.</p>	<p>been imposed for a green wall along levels 1-4 on the eastern side elevation.</p> <p>Appropriate detailing and massing</p> <p>Minimal visual intrusion</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>Section 16: Impact of Development on the Road/Pedestrian Network</p>	<p>(i) A Transport Impact Study (TIS) is required to address the potential impact of the development on surrounding movement systems where the proposed development is for 25 or more dwellings; or in the opinion of the consent authority, likely to generate significant traffic impacts.</p> <p>(ii) A Transport Impact Study (TIS) is a</p>	<p>Traffic impact study provided for consideration. Supported subject to conditions of consent.</p> <p>As above, with considerations</p>	<p>Yes</p>

	technical investigation into the transport and safety issues that might arise from a development, and may form part of a Traffic Report. The TIS includes the transport impacts on the surrounding transport network generated by a development and how those impacts are to be managed.	appropriately addressed.	
Section 18: Vehicular Access and Car Parking	(i) Residential parking is to be provided in accordance with the Apartment Design Guidelines and SEPP 65. Requirements of subsection to be satisfied	Car parking and bicycle parking has been provided in accordance with the RMS requirements. Requirements of subsection in relation to amenity, parking and vehicular access have been satisfied.	Yes
Section 19: Architectural Articulation – façade, roof and wall design and private open space	<i>Facades & articulation</i> (i) Large areas of flat facade are to be avoided. Facades should be articulated into separate sections, using steps in the facade, expressed entries, panels, bay windows, balconies, pergolas and other architectural elements. Design elements to be incorporated within the design.	Appropriate design elements incorporated within the design.	Yes
Section 22: Solar Access	(iv) Maintain solar access to existing apartment buildings and public open space (vi) Living rooms and	No impact on public open space. Compliant levels	Yes

	<p>private open spaces for at least 70% of residential units in a development should receive a minimum of 2 hours direct sunlight between 9am and 3pm in midwinter.</p>	of solar access achieved.	Yes
	<p>(vii) New development is to be designed to ensure direct daylight access to communal open space between March and September and provide appropriate shading in summer.</p>	Good levels of solar access	Yes
	<p>(ix) Skylights and light wells must not be used as the primary source of daylight in habitable rooms.</p>	Not proposed	Yes
	<p><i>For neighbouring dwellings:</i> (x) Direct sunlight to north facing windows of habitable rooms and 10m² of useable private open space areas of adjacent dwellings should not be reduced to less than 2 hours between 9.00am and 3.00pm on 21 June.</p>	Reasonable levels of solar access achieved.	Yes
	<p>(xi) Consideration will be given to reduced solar access where the proposed dwelling is generally compliant with all development standards and controls, and the extent of impact is the result of orientation, site constraints, and or existing built forms.</p>	As above.	Yes

Section 23: Safety and Security	<p>(i) The design of development is to incorporate Crime Prevention Through Environmental Design (CPTD) principles.</p> <p>(ii) Development is to be designed to incorporate and/or enhance opportunities for effective natural surveillance by providing clear sight lines between public and private places, installation of effective lighting, and the appropriate landscaping of public areas.</p>	<p>Crime prevention through environmental design principles incorporated within design.</p> <p>The design of the proposal is considered to be appropriate which allows for sight lines to and from the site. The proposal does not result in any adverse concealment opportunities.</p>	Yes
Section 24: Waste Management	<p>(i) A space is to be provided inside each dwelling for separate storage of at least one day's volume of general waste, recyclables and compostable materials.</p>	<p>Waste management objectives satisfied.</p>	Yes
Section 25: Site Facilities	<p>(i) Development must not be carried out on the land until arrangements satisfactory to Sydney Water have been made for the provision to the land of water and sewerage services.</p> <p>(ii) Mailboxes will be located indoors in accordance with Australia Post's requirements.</p> <p>(iii) Adequate and appropriate unit numbering is to be provided. The name</p>	<p>To be provided as part of the construction certificate plans and documents.</p> <p>To be provided as part of construction certificate plans and documents.</p> <p>To be provided as part of construction</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

	<p>and address of the premises will be displayed in a position that is clearly visible from the street and / or service lane to assist identification and deliveries.</p>	certificate plans and documents.	
	<p>(vi) The existing above ground electricity and telecommunication cables within the road reserve and within the site will be replaced, at the applicant's expense, by underground cable and appropriate street light standards, in accordance with the Energy and Communication Provider's guidelines. The applicant will bear the cost of the new installation and the first 12 months of additional street light charges.</p>	Conditions imposed.	Yes
	<p>(vii) Roller type security shutters on windows and doors are not suitable.</p>	Not proposed	Yes
	<p>(viii) Where security devices are required they will be integrated into the overall design.</p>	Not proposed	Yes
	<p>(ix) Any electrical kiosk, fire booster assembly or similar utilities will be in a location that is visible from the main entrance of the development, unable to be obstructed, and readily accessible to vehicles and service staff. Fire booster assemblies are</p>	Provided on site	Yes

	<p>to be a minimum of 10m distance to an electrical kiosk, and housed within the external face of the building structure or in a built enclosure with screen doors. The enclosure is to be integrated with the architectural design of the development and compliant with AS2419. Applicants are encouraged to provide landscaping that will not impede access to, and effective use of, the utilities to reduce the visual impact of the utilities on the streetscape and public domain.</p>		
Section 26: Maintenance	<p>(i) Windows are to be designed to enable cleaning from inside the building, where possible.</p> <p>(ii) Buildings must incorporate and integrate building maintenance systems into the design of the building form, roof and facade.</p> <p>(iii) Materials must be durable and can be easily cleaned and are graffiti resistant.</p> <p>(iv) Appropriate landscape elements and vegetation must be chosen along with suitable irrigation systems.</p>	<p>Can be managed</p> <p>Considered acceptable.</p> <p>Contemporary materials proposed.</p> <p>Appropriate landscape elements incorporated into the design.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

	(v) A maintenance schedule of works is to be included in all landscape plans to be lodged with any development application to ensure landscape works will be maintained at all times to Council's satisfaction.	Can be managed as part of ongoing use criterion.	Yes
Section 27: Acoustic Privacy	(i) The location of driveways, open space and recreation areas and ancillary facilities external to the dwelling must be carefully planned to ensure minimal noise impact on adjoining residential properties.	Appropriate location of driveways, open space and recreation areas has been nominated.	Yes
	(ii) Bedrooms of one dwelling should not share walls with living rooms or garages of adjacent dwellings. Bedrooms of one dwelling may share walls with living rooms of adjacent dwellings provided appropriate acoustic measures are documented.	Appropriate acoustic treatment will be considered as part of the construction certificate assessment and documentation.	Yes
	(iii) Where party walls are provided they must be carried to the underside of the roof.	Considered as part of the construction certificate assessment and documentation.	Yes
	(iv) All residential development except dwelling houses are to be insulated and to have an Impact Isolation between floors to achieve an Acoustical Star Rating of 5 in accordance with	Considered as part of the construction certificate assessment and documentation.	Yes

	the standards prescribed by the Association of Australian Acoustical Consultants (AAAC). An Acoustic Report is to be submitted at Development Application stage & post construction stage to ensure that the above standards have been achieved.		
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It is noted that under Section 4.15 Evaluation;

(3A) Development control plans If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

(a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and

(b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and

(c) may consider those provisions only in connection with the assessment of that development application.

In this subsection, standards include performance criteria.

Whilst it is acknowledged that the proposal does not strictly comply with the numerical requirements of the DCP. The extent of the variations are not unreasonable and still result in a contextually appropriate built form subject to the reduction of the height of building to comply through a deferred commencement condition. Given the above, the proposal reasonably satisfies the objectives of this subsection.

(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

Natural Environment

The proposed development is not considered to result in any adverse material impacts to the natural environment. The proposal seeks the removal of trees on site which are considered not to be significant arboricultural value. The proposal seeks to provide tree planting along the frontage of Regent Street, Stanley Lane and within

the north-west communal open space on the ground floor. Tree planting is also proposed on the roof top terrace to appropriately embellish the site.

Built Environment

The proposed built form is considered to be appropriate for the subject site and immediate context. The proposal complies for the most part with the exception of height of building which is to comply subject to a deferred commencement condition. The overall built form is considered to be a high quality design for the Kogarah North Precinct.

Social Impact

The proposed development is considered to not result in any adverse social impacts. A residential flat building is a permissible use within the zone. The reduction of height of the building results in a reasonable built form for the site.

Economic Impact

Given the existing and proposed use comprises of residential uses. The proposal is unlikely to result in any material adverse economic impact.

(c) the suitability of the site for the development

Suitability of the Site

Subject to the reduction of the height of building through a deferred commencement condition. The resultant proposal is considered to be suitable for the subject site for the reasons contained within this report.

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

SUBMISSIONS AND THE PUBLIC INTEREST

The application was notified and renotified to forty-six (46) owners and occupiers in accordance with the provisions of the Kogarah Development Control Plan. In response, two (2) submissions were received. The relevant concerns have been addressed in detail further within this report.

Delisting of heritage item at No. 14-16 Victoria Street, Kogarah

The submission did not particularly object to the design of the proposal however made comment about consideration to the delisting of the local heritage items located at No 14-16 Victoria Street, Kogarah.

Comment: The comments are not specifically objecting to the particulars of this proposal. The matter of delisting of a heritage item is a matter for consideration by Council's Strategic Planning department.

Owners consent

Comment: Concerns were raised regarding incorrect owners consent being provided for the purposes of lodgement. Correct owners consent was provided by the applicant at a later stage during the assessment process.

The proposal is considered to be in the public interest for the reasons contained within this report.

(e) *the public interest*

Kogarah Section 94 Contribution Plan

A Section 94 Contribution of \$879,367.38 has been applied as a condition of the development consent. It is noted that a credit has been applied to the six (6) existing dwellings on site.

Referrals

Internal

Infrastructure

Council's Infrastructure Section supports the proposal subject to conditions of consent.

Health

Council's Environmental Health Officer has made reference to the following requirements in relation to the minimisation of noise impacts.

“Mechanical Services Design Certification

An air-handling system, which does not form part of a smoke hazard management system, must be installed in accordance with Clause E2.2 of BCA 2016, and AS/NZS 1668.1.

The building must be mechanically ventilated in accordance with Clause F4.5 of BCA 2016 and AS1668.2-2012.

Every storey of the car park must be mechanically ventilated in accordance with the Clause F4.11 of BCA 2016 and S1669.2012 as applicable.

The air-conditioning and ventilations systems must be designed and installed in accordance with Part J5 of BCA 2016.”

Comment: The above requirements are imposed as a condition of consent prior to the issue of the construction certificate.

Traffic

Council's Traffic Engineer has raised the following concerns;

- *Clarification needed for internal traffic circulation regarding access ramps. Section 7.2 ‘Vehicle Access’ of the Traffic Report states that the driveway will ‘generally operate as one way’. In the event that two-way traffic does occur, an internal traffic management system will need to be provided.*
- *Driveway access width of 6.0m, based on a ‘Category 2’ is compliant as stated in the report; however the plans show driveway width of 5.5m. Plans need to reflect the report.*

Comment: In relation to the above concerns, a two-way traffic management system is to be in place and the driveway access width increased to 6.0m. These requirements are to be incorporated within the design changes / details provided prior to the issue of the construction certificate.

Waste

Council's Co-ordinator of waste services has raised concerns;

"The SEE states that the garbage will be collected by a private contractor. This does not take into account that the residents will have to pay a waste availability charge.

The Waste management Plan states that the truck will enter the premises I believe that a 6m truck will have difficulty driving into and out of the site.

The bin room is not big enough to accommodate the required bins. The unit will require 24 garbage bins to be collected 2 x per week and 24 X recycling bins per week. The plans do not clearly show the ingress and egress into the building.

The waste room will contain the following to minimise odours, deter vermin, protect surrounding areas, and make it a user-friendly and safe area:

- *waste room floor to be sealed;*
- *waste room walls and floor surface is flat and even;*
- *all walls painted with light colour and washable paint;*
- *equipment electric outlets to be installed 1700mm above floor levels;*
- *The bin storage rooms will be mechanically exhausted as required by AS 1668.2;*
- *light switch installed at height of 1.6m;*
- *waste rooms must be well lit (sensor lighting recommended);*
- *optional automatic odour and pest control system installed to eliminate all pest types and assist with odour reduction - this process generally takes place at building handover - building management make the decision to install;*
- *all personnel doors are hinged and self-closing;*
- *waste collection area must hold all bins - bin movements should be with ease of access;*
- *conform to the Building Code of Australia, Australian Standards and local laws; and childproofing and public/operator safety shall be assessed and ensured.*
- *Occupational Health and Safety issues such as slippery floors in waste rooms and the weight of the waste and recycling receptacles will need to be monitored.*
- *Cleaners will monitor the bin storage area and all spills will be attended to immediately by cleaners.*

Comment: The above concerns are conditioned to be addressed through design changes prior to issue of the Construction Certificate.

External

Sydney Airport Corporation

A referral was sent to Sydney Airport Corporation 1 November 2017. In response, no comments were received. It is noted that the applicant will be determined including a deferred commencement condition to comply with the maximum height of building being 33m. Given that the maximum height of 33m is sought which aligns with the adopted KLEP Height of building. A condition of consent is imposed to ensure adequate concurrence prior to issue of the Construction Certificate.

Conclusion

The proposal forms a permissible use subject to development consent and complies with the key development standards of floor space ratio and height agreed to with the applicant which is subject to deferred commencement condition to comply with the 33m height control. The proposal seeks variations to the Apartment Design Guide contained within State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development and Kogarah Development Control Plan – E4 Kogarah North Precinct. The proposed variations are considered to be appropriately justified and reasonable. Two (2) submissions were considered as part of the assessment however did not contain matters that were of relevant to the application as discussed earlier within this report. The proposal does not result in any unreasonable natural, environment, social and economic impacts. The proposal is considered to be suitable for the site subject to additional conditions relating to:

- Reduction of height to be 33m;
- Relocation and redesign of waste storage area;
- Traffic;
- Drainage and engineering; and
- The incorporation of a green wall along the eastern side of the development.

Recommendation

Having regards to the Heads of Consideration under Section 4.15 of the Environmental Planning and Assessment Act and following a detailed assessment of the proposed application DA2017/0451 for Demolition of existing and construction of a ten (10) storey residential flat building comprising of eighty-eight (88) residential units and three (3) levels of basement parking including landscaping works and infrastructure provision be approved subject to a deferred commencement condition to lower the building to 33m to satisfy the Kogarah Local Environmental Plan criterion.

DEFERRED COMMENCEMENT CONDITION

Pursuant to the provisions of section 80(3) of the Environmental Planning and Assessment Act, 1979 the development application is granted a Deferred Commencement Consent subject to the following:

Deferred Commencement

BASIX Certificates Submission to Council of updated BASIX Certificates that reflect the approved plans contained in Condition 1 below.

DCC1 Height of Building The maximum height of building must not exceed RL49.65 (33m height control).

DCC2 Roof Top Plan Communal open space must be provided on the upper most level. The overall proposal must achieve solar access to 25% of the communal open space.

DCC3 Amended eastern side Elevation A green wall must be incorporated within the design along the eastern side elevation adjoining levels 1 through to 4 (Units 103, 203, 303 and 403).

DCC4 Basement levels Basement levels and plant rooms are to be clear of the 1.2m footpath to be dedicated to Council.

GENERAL CONDITIONS

These conditions have been imposed to ensure that the development is carried out in accordance with the approved plans and to ensure that the appropriate fees and bonds are paid in relation to the development.

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

Description	Reference No.	Date	Revision	Prepared by
Demolition Plan	DA002	26.09.2017	A	PBD Architects
Basement Level 3	DA100	03.05.2018	C	PBD Architects
Basement Level 2	DA101	03.05.2018	C	PBD Architects
Basement Level 1	DA102	03.05.2018	C	PBD Architects
Level 1 (Ground)	DA103	04.04.2018	C	PBD Architects
Level 2	DA104	04.04.2018	C	PBD Architects
Level 3	DA105	04.04.2018	C	PBD Architects
Level 4	DA106	04.04.2018	C	PBD Architects
Level 5	DA107	04.04.2018	C	PBD Architects

Level 6	DA108	04.04.2018	C	PBD Architects
Level 7	DA109	04.04.2018	C	PBD Architects
Level 8	DA110	04.04.2018	C	PBD Architects
Level 9	DA111	04.04.2018	C	PBD Architects
Level 10	DA112	04.04.2018	C	PBD Architects
South Elevation	DA201	04.04.2018	C	PBD Architects
West Elevation	DA202	04.04.2018	D	PBD Architects
North Elevation	DA203	04.04.2018	B	PBD Architects
East Elevation	DA204	04.04.2018	B	PBD Architects
Section 01	DA301	04.04.2018	C	PBD Architects
Section 02	DA302	04.04.2018	C	PBD Architects
Material Schedule	D401	26.09.2017	A	PBD Architects
Material Schedule	DA402	26.09.2017	A	PBD Architects
Access Compliance Report	-	-	-	Building Control Group
Geotechnical Report	P1309_01	5 Dec 2017	1	Morrow Geotechnics
Preliminary Assessment Report	DDE-219_1	26-04-18		Dirt Doctors
Landscape Plans	SS17-3609	05.04.2018	D	Site Image Landscape Architects
	SS17-3609	05.04.2018	E	
	SS17-3609	28.09.2017	C	
	SS17-3609	28.09.2017	C	
Traffic Impact Assessment	CKC 58REG01	5 th December 2017	-	Caldwell and Kent Consulting

Waste Management Plan	-	August 2017	-	Austwide Consulting
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SEPARATE APPROVALS UNDER OTHER LEGISLATION

2. **Section 138 Roads Act 1993 and Section 68 Local Government Act**
 Unless otherwise specified by a condition of this consent, this Development Consent does not give any approval to undertake works on public infrastructure. If separate activity approvals are required under other legislation, these approvals will be obtained and evidence of the approval(s) provided to the Certifier prior to the issue of the Construction Certificate.

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

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;
- (g) Constructing a vehicular crossing or footpath;
- (h) Establishing a “works zone”;
- (i) Digging up or disturbing the surface of a public road (eg Opening the road for the purpose of connections to utility providers);
- (j) Stormwater and ancillary works in the road reserve;
- (k) Stormwater and ancillary to public infrastructure on private land; and
- (l) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council’s roadways/footways.

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

The relevant Application Forms for these activities can be downloaded from Council’s website www.georgesriver.nsw.gov.au

For further information, please contact Council's Customer Service Centre on (02) 9330 6400.

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

(a) Construct a footpath for the full length of the frontage(s) of the site in accordance with Council's Specifications applying at the time construction approval is sought.

(b) All associated road pavement restorations.

(c) Installation of turf as required across all street frontages.

(d) The thickness and design of the driveway will be in accordance with Council's Specifications applying at the time construction approval is sought.

(e) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in accordance with Council's Specifications for kerb and guttering, applying at the time construction approval is sought.

(f) Any existing vehicular crossing and/or laybacks which are redundant will be removed. The kerb and gutter, any other footpath and turf areas will be restored at the expense of the applicant. The work will be carried out in accordance with Council's specification, applying at the time construction approval is sought.

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

4. **Structural Engineer's Details - Supporting excavations and adjoining land** - Prior to the commencement of work in connection with the excavation of the site associated with the basement car park, structural engineer's details relating to the method of supporting the excavation will be submitted.

5. **Building - Hoarding Application** - Prior to demolition of the buildings on the site or the commencement of work above ground level a separate application for the erection of an A class (fence type) or a B class hoarding or C type scaffold, in accordance with the requirements of Work Cover Authority of NSW, will be erected along that portion of the footway/road reserve, where the building is within 3 metres of the street boundary.

An application for this work (Hoarding Application) under Section 68 of the *Local Government Act 1993* and the *Roads Act 1993* will be submitted for approval to Council.

6. **Road Opening Permit** - A Road Opening Permit will be obtained from Council, in the case of local or regional roads, or from the RMS, in the case of

State roads, for every opening of a public road reserve to access services including sewer, stormwater drains, water mains, gas mains, and telecommunications before the commencement of work in the road.

7. **Below ground anchors** - In the event that the excavation associated with the basement carpark is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways, an application will be lodged with Council under Section 68 of the *Local Government Act 1993* and the *Roads Act 1993* for approval, prior to commencement of those works.

(a) That cable anchors will be stressed released when the building extends above ground level to the satisfaction of Council.

(b) The applicant has indemnified Council from all public liability claims arising from the proposed works, and provide adequate insurance cover to the satisfaction of council.

(c) Documentary evidence of such insurance cover to the value of \$20 million.

(d) The applicant must register a non-terminating bank guarantee in favour of Council for the amount of.

The guarantee will be released when the cables are stress released. In this regard it will be necessary for a certificate to be submitted to Council from a structural engineer at that time verifying that the cables have been stress released.

(e) That in the event of any works taking place on Council's roadways/footways adjoining the property while the anchors are still stressed, all costs associated with overcoming the difficulties caused by the presence of the 'live' anchors will be borne by the applicant.

REQUIREMENTS OF OTHER GOVERNMENT AGENCIES

8. **Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements for a Section 73 Compliance Certificate under the *Sydney Water Act 1994* that relates specifically to this development consent must be obtained from Sydney Water Corporation. Application will be made through an authorised Water Servicing Co-ordinator. The Notice of Requirements will be submitted prior to the commencement of work.
9. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the *Sydney Water Act 1994* that relates specifically to this development consent must be submitted to the Principal Certifier prior to the issue of the Occupation/Subdivision Certificate.
10. **Electricity Supply** - An application will be made to Ausgrid for a network

connection. This may require the network to be extended or its capacity augmented. Evidence of this application to Ausgrid will be provided to the Certifier prior to the issue of a Construction Certificate.

11. **Structural Certificate** - The proposed building will be constructed in accordance with details designed and certified by a practising qualified structural engineer. All structural works associated with the foundations, piers, footings and slabs for the proposed building will be inspected and structurally certified for compliance by an independent practising geotechnical and structural engineer. In addition a Compliance or Structural Certificate, to the effect that the building works have been carried out in accordance with the structural design, will be submitted to the Principal Certifier at each stage of construction and prior to the issue of the Occupation Certificate.
12. **Requirements of Civil Aviation Safety Authority** – Approval must be obtained from the Civil Aviation Safety Authority prior to the issue of the Construction Certificate.

PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

13. **Fees to be paid** - The fees listed in the table below will be paid in accordance with the conditions of this consent and Council's adopted Fees and Charges applicable at the time of payment (available at www.georgesriver.nsw.gov.au).

Payments will be made prior to the issue of the Construction Certificate or prior to the commencement of work (if there is no associated Construction Certificate).

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$179,405.4
Inspection Fee for Refund of Damage Deposit	\$150.00
Security Deposit for Council's Stormwater Extension Works	\$68,000.00
Driveway and Restoration Works Design	\$970.00

Inspection Fee (Multi-unit Development)	
DEVELOPMENT CONTRIBUTIONS	
Kogarah Section 94 Development Contributions Plan No.1 - Roads and Traffic Management - Residential	\$48,397.54
Kogarah Section 94 Development Contributions Plan No.5 - Open Space 2007	\$795,604.72
Kogarah Section 94 Development Contributions Plan No.9 - Kogarah Libraries - Buildings	\$20,645.12
Kogarah Section 94 Development Contributions Plan No.9 - Kogarah Libraries - Books	\$14,720.00
TOTAL for Section 7.11 contributions	\$879,367.38

General Fees

The fees and charges above are subject to change and are as set out in the version of Council's Schedule of Fees and Charges or as required by other Government Authorities, applicable at the time of payment.

Development Contributions

Indexation

The above contributions will be adjusted at the time of payment to reflect changes in the cost of delivering public amenities and public services, in accordance with the indices provided by the relevant Section 94 Development Contributions Plan.

Timing of Payment

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

Further Information

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

14. **Service Utilities - Land Subdivision Only** - Arrangements will be made to the satisfaction of all Service Utility Authorities in respect to the services supplied by those authorities to the development. All services to any future dwellings erected on the site will be underground.
15. **Erosion & Sedimentation Control** - Erosion and sediment controls must be in place prior to commencement of any work on the site. These measures include:
 - (a) Compliance with the approved Erosion & Sediment Control Plan
 - (b) Removal or disturbance of vegetation and top soil is confined to within 3m

of the approved building area (no trees to be removed without approval)

(c) All clean water runoff is diverted around cleared or exposed areas

(d) Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways

(e) All erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works

(f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway

(g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar

(h) Compliance with Managing Urban Stormwater - Soils and Construction (Blue Book) produced by Landcom 2004.

These measures are to be implemented prior to the commencement of work (including demolition and excavation) and will remain until works are completed and all exposed surfaces are landscaped/sealed.

16. **Pre-Construction Dilapidation Report - Private Land** - A professional engineer specialising in structural or geotechnical engineering will prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.

The report will be prepared at the expense of the applicant and submitted to the satisfaction of the Certifier prior to the issue of the Construction Certificate.

A copy of the pre-construction dilapidation report is to be provided to the properties that are the subject of the dilapidation report a minimum of 5 working days prior to the commencement of work. Evidence confirming that a copy of the pre-construction dilapidation report was delivered to the adjoining properties must be provided to the Certifier prior to the commencement of any work on the site.

Should the owners of properties (or their agents) refuse access to carry out inspections, after being given reasonable written notice, this will be reported to Council to obtain Council's agreement to complete the report without access. Reasonable notice is a request for access in no sooner than 14 days between 8.00am-6.00pm.

17. **Fire Safety Measures** - Prior to the issue of a construction certificate a list of the essential fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a construction certificate, which is required to be submitted to the Certifier. Such a list must also specify the minimum standard

of performance for each essential fire safety measure included in the list. The Certifier will then issue a Fire Safety Schedule for the building.

18. **Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns and other structural members. The details are to be submitted to the Principal Certifier for approval prior to construction of the specified works.

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

19. **Damage Deposit - Major Works** - In order to insure against damage to Council property the following is required:

(a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development and to ensure the construction of the civil works to be complete at the applicant's expense: **\$68,000.00**

(b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: **\$150.00**

(c) Submit to Council, before the commencement of work, a dilapidation report of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

At the completion of work Council will review the dilapidation report and the Works-As-Executed Drawings (if applicable) and inspect the public works.

The damage deposit will be refunded in full upon completion of work where no damage occurs and where Council is satisfied with the completion of works. Alternatively, the damage deposit will be forfeited or partly refunded based on the damage incurred.

20. **Access for Persons with Disabilities** - Access for persons with disabilities will be provided throughout the site, including to all common rooms, lobby areas and sanitary facilities in accordance with the requirements of the Premises Standards, the Building Code of Australia and AS 1428.1. Details must be submitted with the Construction Certificate Application. Pedestrian access throughout basement levels will be highlighted/line marked and sign posted to safeguard egress.

21. **Required design changes** - The following changes and details are required to be made and shown on the Construction Certificate plan

1. Health requirements
Mechanical Services Design Certification

- An air-handling system, which does not form part of a smoke hazard management system, must be installed in accordance with Clause E2.2 of BCA 2016, and AS/NZS 1668.1
- The building must be mechanically ventilated in accordance with Clause F4.5 of BCA 2016 and AS1668.2-2012.
- Every storey of the car park must be mechanically ventilated in accordance with the Clause F4.11 of BCA 2016 and S1669.2012 as applicable.
- The air-conditioning and ventilations systems must be designed and installed in accordance with Part J5 of BCA 2016

2. Traffic

- In the event that two-way traffic does occur, further internal traffic management system details are to be provided.
- Driveway access width to be widened to 6.0m.

3 Waste requirements

- Garbage trucks must demonstrate adequate vehicular manoeuvrability in accordance with the Australian Standards entering and exiting the site.
- The bin room is to be increased to accommodate bins. The unit will require 24 garbage bins to be collected 2 x per week and 24 X recycling bins per week. The plans are to clearly show complaint ingress and egress into the building.

22. **Commonwealth Disability (Access to Premises) Standard** - The *Commonwealth Disability (Access to Premises - Buildings) Standards 2010* (the Premises Standards) applies to all applications (including a Construction Certificate). This requires any new building, part of a building and the affected part of the existing building to comply with the Premises Standards, the Building Code of Australia and AS 1428.

23. **Geotechnical Report** - The applicant must submit a Geotechnical Report, prepared by a professional engineer specialising in geotechnical engineering who holds the relevant Certificate of accreditation as required under the *Building Professionals Act 2005* in relation to dilapidation reports, all site works and construction. This is to be submitted before the issue of the Construction Certificate and is to include:

- (a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks/stabilisation works and any excavations.
- (b) Dilapidation Reports on the adjoining properties prior to any excavation of site works. The Dilapidation Report is to include assessments on, but not limited to, the dwellings at those addresses and any external paths, grounds etc. This will be submitted to the Certifying Authority and the adjoining residents as part of the application for the Construction Certificate. Adjoining residents are to be provided with

the report five (5) working days prior to any works on the site.

- (c) On-site guidance by a vibration specialist during the early part of excavation.
- (d) Rock breaking techniques. Rock excavation is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures.
- (e) Sides of the excavation are to be pierced prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.

24. Vibration Damage - To minimise vibration damage and loss of support to the buildings in close proximity to the development, any excavation is to be carried out by means of a rock saw and if available, in accordance with the guidelines of the Geotechnical Engineer's report.

Alternatively where a hydraulic hammer is to be used within 30 metres of any building (other than a path or a fence) a report from a qualified geotechnical engineer detailing the maximum size of hammer to be used is to be obtained and the recommendations in that report implemented during work on the site. The report must be submitted with the Construction Certificate application.

25. Slip Resistance - All pedestrian surfaces in areas such as foyers, public corridors/hallways, stairs and ramps as well as floor surfaces in the wet rooms in any commercial/retail/residential units will have slip resistance classifications, as determined using test methods in either wet or dry conditions, appropriate to their gradient and exposure to wetting. The classifications of the new pedestrian surface materials, in wet or dry conditions, will comply with AS/NZS4586:2004 - Slip Resistance Classifications of New Pedestrian Materials and will be detailed on the plans lodged with the application for the Construction Certificate.

26. Advice from FR NSW - Prior to the issue of a Construction Certificate the applicant may be required, under the *Environmental Planning & Assessment Regulation, 2000* to seek written comment from FR NSW about the location of water storage tanks, construction of hydrant/booster pump and valve rooms, and any Fire Engineered Solution developed to meet the performance requirements under the Category 2 Fire Safety Provisions.

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

27. Site Management Plan - Major Development

A Site Management Plan must be submitted with the application for a Construction Certificate, and include the following:

- (a) location of protective site fencing;
- (b) location of site storage areas/sheds/equipment;
- (c) location of building materials for construction, e.g. stockpiles
- (d) provisions for public safety;
- (e) dust control measures;
- (f) method used to provide site access location and materials used;
- (g) details of methods of disposal of demolition materials;
- (h) method used to provide protective measures for tree preservation;
- (i) provisions for temporary sanitary facilities;
- (j) location and size of waste containers/skip bins;
- (k) details of proposed sediment and erosion control measures;
- (l) method used to provide construction noise and vibration management;
- (m) construction and demolition traffic management details.

The site management measures are to be implemented prior to the commencement of any works including demolition and excavation. The site management measures are to be maintained throughout the works, to maintain reasonable levels of public health, safety and amenity. A copy of the Site Management Plan will be kept on site and is to be made available upon request.

28. **Traffic Management - Compliance with AS2890** - All driveways, access ramps, vehicular crossings and car parking spaces will be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1-2004 (for car / motorbike parking facilities), AS 2890.2-2002 (for commercial vehicle facilities), AS 2890.6-2009 (Off-street parking for people with disabilities) and AS 2890.3-2015 (bicycles). A *“Detailed Design”* certificate, prepared by a tertiary qualified and experienced traffic engineer that fully addresses this condition, will be submitted to the Principal Certifier with the Construction Certificate Application. An *“As Constructed”* certificate, prepared by a tertiary qualified and experienced traffic engineer that fully addresses this condition, must be submitted to the Principal Certifier with the Occupation Certificate Application.

29. **Construction Traffic Management Plan** - A Construction Traffic Management Plan detailing:

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

30. **SEPP 65 Design Verification Statement** - A design verification statement, prepared by a qualified designer, must be submitted to the Certifier verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out under Schedule 1 of State Environmental Planning Policy No 65 -Design Quality of Residential Flat Development.
31. **Waste Management Plan** - A Waste Management Plan incorporating all requirements in respect of the provision of waste storage facilities, removal of all materials from the site that are the result of site clearing, extraction, and, or demolition works and the designated Waste Management Facility must be submitted to the Certifier prior to the issue of any Construction Certificate.
32. **Car Wash Bays** – Plans and specifications of the car washing system approved by Sydney Water must be submitted with the application for the Construction Certificate.
- All car washing bays will be contained within a roofed and bunded car wash bay with pre-treatment approved by Sydney Water. The water from the car wash bay must be graded to a drainage point and connected to sewer.
- If alternative water management and disposal options are proposed (ie where water is recycled, minimised or reused on the site), detailed plans and specifications of the water recycling system must be submitted with the application for the Construction Certificate for approval.
33. **Design Quality Excellence (Major Development)** - In order to ensure the design quality excellence of the development is retained:
- (a) The design architect is to have direct involvement in the design documentation, contract documentation and construct stages of the project;
 - (b) Evidence of the design architect's commission is to be provided to the Council prior to the issue of the Construction Certificate.
34. **Landscape Plans** - All landscape works will be carried out in accordance with the approved landscape plans. The landscaping will be maintained in accordance with the approved plans in perpetuity. This includes
35. **Driveway Construction Plan Details** - Detailed engineering plans for the driveway will be submitted with the Construction Certificate application.
36. **Stormwater Plan** - The submitted stormwater plans Drawing Nos. 4953 C010 and 4953 C010 Revisions P2 by Xavier Knight Consulting Engineers Pty Ltd dated 30th November 2017 have been assessed and approved as concept plans only. No detailed assessment of the design has been undertaken. A Detailed Stormwater Plan and supporting information of the proposed on-site stormwater management system is to be submitted. The required details in this

Plan and the relevant checklist are presented in the document 'Water Management Policy. Kogarah Council. August 2006'

The design parameters and the general concept of the proposed on-site stormwater management system are to be the same as documented in the approved Concept Stormwater Plan for the proposed development. Any conceptual variations to the stormwater design will require written approval from Council and will require to be justified and supported by appropriate details, calculations and information to allow for proper assessment.

The Detailed Stormwater Plan is to address the following issue(s):

- a) An oil/silt separator sized to the catchment area must be specified on the Detailed Stormwater Plan and located downstream of the proposed basement car parks and prior to discharge to Councils stormwater system.
- b) A suitably qualified engineer is to certify that appropriate design measures have been taken to ensure that the basement levels are protected from flooding in the case of the On-site Detention system malfunctioning or reaching capacity.
- c) A safe overflow is to be provided from the On-site Detention tank to the street gutter in case of the orifice becoming blocked or the storage reaching capacity.

The Detailed Stormwater Plan is to be certified by a professional engineer specialising in hydraulic engineering. A Statement, that the stormwater system has been designed in accordance with the document 'Water Management Policy. Kogarah Council. August 2006' and satisfies the provisions and objectives of that policy along with the requirements stated above must be included with the Stormwater Detailed Plan.

- A 63.6m³ On-Site Detention system with a Maximum Site Discharge of 35.4 Litres per Second is to be provided in accordance with the Stormwater Concept Plan and associated Design Assessment Report. The overflow is to be directed to the site drainage system.
- The Council Stormwater system extension works as indicated on Drawing Nos. 4953 C050 and 4953 C051 Revision P1 dated 30th November 2017 has been assessed as and approved as concept plans only. A separate approval will need to be obtained through a Stormwater Drainage Application as required under Section 138 of the Roads Act and Section 68 of the Local Government Act 1993. This application will include submission to Council of a detailed design for approval. This plan would need to be amended and include further details including but not limited to addressing the following:
 - a) The design is to be amended for the stormwater extension to be realigned to be on the northern side of Stanley Lane and the eastern side of Regent Lane with connection to the existing street

drainage system at the south eastern corner of the intersection of Stanley Street and Regent Lane.

- b) The design is to be amended to allow for a minimum of 450mm cover over the pipe for its full extent within the Council road ways. If it is shown that this is not feasible in some locations Council may consider a minimum cover of 300mm with the pipe to be fully concrete encased.
 - c) The longitudinal section is to be amended to allow for the amended pipe alignments as specified above and to clearly detail the location of all services mains and connections in the vicinity of the works and indicate all adjustments required to be made to existing underground services.
 - d) All pits and pipe trench details within the road reserve would need to be submitted to Council's specifications.
 - e) The detail and extent of all required restorations associated with the works.
- A security deposit of \$68,000 shall be lodged with Council for the extension of the Council stormwater system in Regent Lane and Stanley Lane and all associated restorations.

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

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

38. BASIX Commitments - All energy efficiency measures as detailed in the BASIX Certificate must be implemented on the plans lodged with the application for the Construction Certificate.

39. Tree Removal & Replacement - Tree removal - Permission is granted for the removal of all trees on site.

40. Public Domain Plan. A public domain plan is to be submitted to Council in accordance with the requirements of the Kogarah North Public Domain Strategy/Plan prepared by Atlas Urban on behalf of Council. The plan is to address the design criteria, including but not limited to:

- Street trees located in islands behind the kerb,
- Reconfiguration of street verges with geometries that provide better for trees,
- Expanded soil volumes in verges and linear parks for maximum root space,

- The utilization of permeable hard materials for water access to tree roots,
- Variation in seating opportunities
- Bike racks by school interface, and
- Stormwater provision.

The plan must be approved by Council prior to the issue of a Construction Certificate.

PRIOR TO THE COMMENCEMENT OF WORK (INCLUDING DEMOLITION AND EXCAVATION)

41. **Demolition & Asbestos** - The demolition work will comply with the provisions of Australian Standard AS2601:2001 - Demolition of Structures, NSW Work Health & Safety Act 2011 and the NSW Work Health & Safety Regulation 2011. The work plans required by AS2601:2001 will be accompanied by a written statement by a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement will be submitted to the Certifier prior to the commencement of works.

For demolition work which involves the removal of asbestos, the asbestos removal work will be carried out by a licensed asbestos removalist who is licensed to carry out the work in accordance with the *NSW Work Health & Safety Act 2011* and the *NSW Work Health & Safety Regulation 2011* and the *Demolition Code of Practice (NSW Work Cover July 2015)*.

42. **Dial before your dig** - The applicant will contact "Dial Before You Dig on 1100" to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from "Dial Before You Dig" will be forwarded to Council's Engineers for their records.

43. **Dilapidation Report on Public Land - Major Development Only** - Prior to the commencement of works (including demolition and excavation), a dilapidation report will be prepared for the Council infrastructure adjoining the development site, including:

(a) Photographs showing the existing condition of the road pavement fronting the site,

(b) Photographs showing the existing condition of the kerb and gutter fronting the site,

(c) Photographs showing the existing condition of the footpath pavement fronting the site,

(d) Photographs showing the existing condition of any retaining walls within the footway or road, and

(g) The Dilapidation Report will be prepared by a qualified structural engineer. The report will be provided to the Certifier and a copy provided to the Council.

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

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

44. Registered Surveyor's Report - During Development Work - A report will be submitted to the Certifier at each of the following applicable stages of construction:

(a) Set out before commencing excavation.

(b) Floor slabs or foundation wall, before formwork or commencing brickwork.

(c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.

(d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey will be provided at each subsequent storey.

(e) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.

(f) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey will indicate the reduced level of the main ridge.

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

45. Utility Arrangements - Arrangements are to be made with utility authorities in respect to the services supplied by those authorities to the development. The cost associated with the provision or adjustment of services within the road and footway areas is to be at the applicant's expense.

46. Structural Engineer's Details - Supporting Council road/footway - Prior to the commencement of work in connection with the excavation of the site associated with the basement carpark, structural engineer's details relating to the method of supporting Council's roadways/footways will be submitted to the satisfaction of Council.

47. Demolition Notification Requirements - The following notification requirements apply to this consent:

(a) The developer /builder will notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.

(b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.

(c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.

DURING WORK

48. Site Sign - Soil & Erosion Control Measures - Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in conjunction with this consent, will be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign will remain in a prominent location on site up until the completion of all site and building works.

49. Cost of work to be borne by the applicant - The applicant will bear the cost of all works associated with the construction of the development that occurs on Council property. Care will be taken to protect Council's roads, including the made footway, kerbs, etc., and, where plant and vehicles enter the site, the footway will be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction must be maintained in a state of good repair and condition throughout the course of construction.

50. Obstruction of Road or Footpath - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under the *Roads Act 1993* and/or the *Local Government Act 1993*.

51. Hours of Construction for Demolition and Building Work - Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery must not be performed, or permitted to be performed, except

between the hours of 7.00 am to 5.00 pm, Monday to Saturday inclusive. No work or ancillary activity is permitted on Sundays, or Public Holidays.

52. Hazardous or Intractable Waste – Removal and Disposal. Hazardous or intractable waste arising from the demolition or construction process must be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority and all applicable legislation.

53. Structural Certificate During Construction - The proposed building will be constructed in accordance with details designed and certified by the practising qualified structural engineer. All structural works associated with the foundations, piers, footings and slabs for the proposed building will be inspected and structurally certified for compliance by an independent practising geotechnical and structural engineer. In addition a Compliance or Structural Certificate, to the effect that the building works have been carried in accordance with the structural design, will be submitted to the Principal Certifier at each stage of Construction or prior issue of the Occupation Certificate.

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

55. Stormwater to Kerb - Any stormwater connections to the kerb and gutter are to be in accordance with Council's '*Specification for Construction by Private Contractors*'.

All roof water and surface water from paved or concreted areas are to be disposed of in accordance with the Stormwater Plan by means of a sealed pipeline constructed in accordance with AS/NZS 3500.3:2015. The line will pass through a silt arrestor pit.

56. Redundant Driveway - All existing vehicular crossings adjacent to the subject premises that have become redundant will be removed and the footway and kerb and gutter reinstated at the developer/applicant's expense.

57. Damage within Road Reserve & Council Assets - The owner will bear the cost of restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site. This may include works by Public Utility Authorities in the course of providing services to the site.

58. Public Utility & Telecommunication Assets - The owner will bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines & cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.

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

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

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

61. **SEPP 65 Design Verification Statement** - The Principal Certifier will not issue an Occupation Certificate to authorise a person to commence occupation of the residential flat development unless the he/she has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No 65 Design Quality of Residential Flat Development.
62. **Restriction to User and Positive Covenant for On-Site Detention Facility**

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

Restrictions on Use of Land

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

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

Positive Covenants

1. The registered proprietor of the lot(s) hereby burdened will in respect of the system:

- a) keep the system clean and free from silt, rubbish and debris*
- b) maintain and repair at the sole expense of the registered proprietors the whole of the system so that it functions in a safe and efficient manner*
- c) permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land for the compliance with the requirements of this covenant*
- d) comply with the terms of any written notice issued by the Council in respect of the requirements of this covenant within the time stated in the notice.*

2. Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council will have the following additional powers:

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

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

64. Works as Executed and Certification of Stormwater works. Prior to the issue of an Occupation Certificate, the Principal Certifier will ensure that the

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

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

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

- (a) The location of any detention basin/s with finished surface levels;
- (b) Finished site contours at 0.2 metre intervals (if applicable);
- (c) Volume of storage available in any detention areas;
- (d) The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes;
- (e) The orifice size/s (if applicable);
- (f) Details of any infiltration/absorption systems; and (if applicable);
- (g) Details of any pumping systems installed (including wet well volumes) (if applicable).

65. Consolidation of Site - The site will be consolidated into one allotment and by a Plan of Consolidation being prepared by a Registered Surveyor. This Plan will be registered at the NSW Land and Property Information prior to the issue of a final occupation certificate.

66. Requirements prior to the issue of the Occupation Certificate - The following will be completed and or submitted to the Principal Certifier prior to the issue of the Occupation Certificate:

- (a) All the stormwater/drainage works will be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- (b) The internal driveway construction works, together with the provision for all services (conduits and pipes laid) will be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- (c) Construct any new vehicle crossings required.
- (d) Replace all redundant vehicle crossing laybacks with kerb and

guttering, and replace redundant concrete with turf.

- (e) A Section 73 (Sydney Water) Compliance Certificate for the Subdivision will be issued and submitted to the Principal Certifier prior to the issue of the Occupation Certificate.
- (f) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete will be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

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

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

Council's Engineering Services Section will advise in writing that the works have been completed to their satisfaction prior to the issue of the Occupation Certificate. [Note: The damage deposit paid to Council will not be released until the works have been completed to Council's satisfaction].

68. Dilapidation Report on Public Land for Major Development Only - Upon completion of works, a follow up dilapidation report will be prepared for the items of Council infrastructure adjoining the development site including:

The dilapidation report will be prepared by a professional engineer

specialising in structural engineering, and include:

- (a) Photographs showing the condition of the road pavement fronting the site
- (b) Photographs showing the condition of the kerb and gutter fronting the site
- (c) Photographs showing the condition of the footway including footpath pavement fronting the site, and
- (d) The full name and signature of the professional engineer.

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

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

Council's Engineering Services Division will advise in writing that the works have been completed to their satisfaction prior to the issue of an Occupation Certificate.

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

- (a) Compliance with conditions of development consent relating to stormwater;
- (b) The structural adequacy of the On-Site Detention system (OSD);
- (c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations;
- (d) Pipe invert levels and surface levels to Australian Height Datum;
- (e) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

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

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

70. Dilapidation Report –

A Dilapidation Report will be required prior to the release of the Security Deposit to ensure the new asset has not failed during the works on site. The dilapidation report is to include CCTV footage of the full extent of the newly constructed Council stormwater assets within the Council road reserves in Regent Lane, Stanley Lane and Stanley Street. The footage is to include the inspection and notation of all visible defects and joints along the asset. The report is to be carried out upon completion of all construction works. The Security Bond may be released upon all of the following being met.

- the issue of the occupation certificate,
- the completion of the final inspection for the stormwater pipe replacement.
- written approval from Council's Drainage section of the dilapidation report.

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

(a) That the measure has been assessed by a person (chosen by the owner of the building) who is properly qualified to do so.

(b) That as at the date of the assessment the measure was found to be capable of functioning at a standard not less than that required by the attached Schedule.

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

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

73. Waste room The waste room will contain the following to minimise odours, deter vermin, protect surrounding areas, and make it a user-friendly and safe area:

- waste room floor to be sealed;
- waste room walls and floor surface is flat and even;
- all walls painted with light colour and washable paint;
- equipment electric outlets to be installed 1700mm above floor levels;

- The bin storage rooms will be mechanically exhausted as required by AS 1668.2;
- light switch installed at height of 1.6m;
- waste rooms must be well lit (sensor lighting recommended);
- optional automatic odour and pest control system installed to eliminate all pest
- types and assist with odour reduction - this process generally takes place at
- building handover - building management make the decision to install;
- all personnel doors are hinged and self-closing;
- waste collection area must hold all bins - bin movements should be with ease of access;
- conform to the Building Code of Australia, Australian Standards and local laws; and childproofing and public/operator safety shall be assessed and ensured.
- Occupational Health and Safety issues such as slippery floors in waste rooms and the weight of the waste and recycling receptacles will need to be monitored.

Cleaners will monitor the bin storage area and all spills will be attended to immediately by cleaners:

74. **BASIX Certificate** - All energy efficiency measures as detailed in the approved BASIX Certificate in the plans approved with the Development Consent, will be implemented before issue of any Occupation Certificate.

75. **BASIX Compliance Certificate** - A Compliance Certificate will be provided to the Principal Certifier regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any Occupation Certificate is issued.

76. **Notice to Council - Allocation of street addresses** - Prior to the issue of any Occupation Certificate, 'as-built' drawings detailing the installed and allocated street/unit address and numbering will be submitted to the satisfaction of Council.

77. **Allocation of Car Parking Spaces** – A total of 129 car parking spaces, 1 car wash bay, a minimum of 42 bicycle parking spaces associated with the development is to be allocated as follows:

- (a) 115 resident car spaces
- (b) 14 visitor car spaces
- (c) 42 bicycle spaces

78. **Vehicular Access** A vehicular access (entry and exit) must be provided from Stanley Lane. To that end, the applicant must submit a formal application to Council for its approval for the following interim Traffic Management Measures (TMMs).

78. **Electricity Supply** - Evidence will be provided demonstrating that the

development has been connected to the Ausgrid, if required.

79. **Public Domain Plan – Compliance.** The works in the approved Public Domain Plan lodged in accordance with the requirements of the Kogarah North Public Domain Strategy/Plan prepared by Atlas Urban on behalf of Council are to be completed prior to issue of the occupation certificate.
80. **Dedication of Land.** The submission of documentary evidence of the formal dedication of land to a width of 1.2m for the purpose of road widening of Stanley Lane. The road widening is to ensure appropriate access and egress from the laneway to the subject site. Appropriate documentary evidence is to be submitted to the Principal Certifier and Council (if Council is not the Principal Certifier).

ONGOING CONDITIONS

81. **Noise Control** - The use of the premises will not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the *Protection of the Environment Operations Act 1997*.
82. **Lighting - General Nuisance** - Any lighting on the site will be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill or glare. Flashing, moving or intermittent lights or signs are prohibited.
83. **Amenity of the Neighbourhood** - The implementation of this development will not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.
84. **Activities and Storage of Goods Outside Buildings** - There will be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.
85. **Maintenance of Landscaping** - All trees and plants forming part of the landscaping will be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilising, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas.
86. **Annual Fire Safety Statement** - The owner of the building premises will ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement will be given:

(a) Within 12 months after the date on which the fire safety certificate was

received.

(b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.

(c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the *Environmental Planning and Assessment Regulation 2000*.

(d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.

- 87. Responsibility of Owners Corporation** - The Owners Corporation will be responsible for presenting all approved waste and recycling receptacles for collection, and returning all receptacles to the Main Waste Collection Room, as soon as practicable after they have been serviced.

The Owners Corporation will also be responsible for maintaining all equipment, systems, facilities and storage areas used in conjunction with the provision of waste management services in accordance with all applicable regulatory requirements, relevant health and environmental standards, and to the satisfaction of Council.

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

A demolition licence and/or a high risk work license may be required from SafeWork NSW (see www.SafeWork.nsw.gov.au).

- 89. Long Service Levy** - The Long Service Corporation administers a scheme which provides a portable long service benefit for eligible workers in the building and construction industry in NSW. All benefits and requirements are determined by the *Building and Construction Industry Long Service Payments Act 1986*.

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

- 90. Electricity Supply** - This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. The applicant is advised to contact Ausgrid for further details and information on lodging your application to connect to the network.

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

92. **Security deposit administration & compliance fee** - Under the *Local Government Act 1993*, a security deposit (or part) if repaid to the person who provided it is to be repaid with any interest accrued on the deposit (or part) as a consequence of its investment.

Council will cover administration and other costs incurred in the investment of these monies. The current charge is \$50.00 plus 2% of the bond amount per annum.

The interest rate applied to bonds is set at Council's business banking facility rate as at 1 July each year. Council will accept a bank guarantee in lieu of a deposit.

All interest earned on security deposits will be used to offset the Security Deposit Administration and Compliance fee. Where interest earned on a deposit is not sufficient to meet the fee, it will be accepted in full satisfaction of the fee.

93. **Stormwater & Ancillary Works** - Applications under Section 138 Roads Act and/or Section 68 Local Government Act 1993 – The applicant must obtain all necessary approvals. An approval for a new or modified vehicular crossing will contain the approved access and/or alignment levels which will be required to construct the crossing and/or footpath. Once approved, all work will be carried out by a private contractor in accordance with Council's specifications prior to the issue of an Occupation Certificate.

The developer must meet all costs of the extension, relocation or reconstruction of any part of Council's drainage system (including design drawings and easements) required to carry out the approved development.

The preparation of all engineering drawings (site layout plans, cross sections, longitudinal sections, elevation views together with a hydraulic grade analysis) and specifications for the new storm water drainage system to be arranged by the applicant. The design plans must be lodged and approved by Council prior to the issue of a Construction Certificate.

NOTE: A minimum of four weeks should be allowed for assessment.

Schedule C – Prescribed Conditions

Prescribed conditions are those which are mandated under Division 8A of the *Environmental Planning and Assessment Regulation 2000* and given weight by Section 80A (11) of the *Environmental Planning and Assessment Act 1979*.

Detailed below is a **summary** of all the prescribed conditions which apply to development in New South Wales. Please refer to the full details of the prescribed conditions as in force, at www.legislation.nsw.gov.au.

It is the responsibility of the beneficiary of this consent to determine which prescribed conditions apply.

Clause 97A – BASIX Commitments - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.

Clause 98 – Building Code of Australia - Requires all building work to be carried out in accordance with the Building Code of Australia.

Clause 98A – Erection of Signs - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifier and the Principal Contractor.

Clause 98E – Protection & support of adjoining premises - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

Operational & Statutory Conditions

These conditions comprise the operational and statutory conditions which must be satisfied under the Environmental Planning and Assessment Act 1979 and the Environmental Planning & Assessment Regulation 2000. Please refer to the full details of the Act and Regulations as in force, at www.legislation.nsw.gov.au. It is the responsibility of the beneficiary of this consent to determine which operational and statutory conditions apply.

Requirement for a Construction Certificate - The erection of a building must not commence until a Construction Certificate has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited Certifier.

Appointment of a Principal Certifier - The erection of a building must not commence until the beneficiary of the development consent has appointed a Certifier for the building work.

Notification of Critical Stage Inspections - No later than two (2) days before the building work commences, the Principal Certifier must notify:

- (a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
- (b) the beneficiary of the development consent of the critical stage inspections and other inspections that are to be carried out with respect to the building work.

Notice of Commencement - The beneficiary of the development consent must give at least two (2) days notice to the Council and the Principal Certifier of their intention to commence the erection of a building.

Critical Stage Inspections - The last critical stage inspection must be undertaken by the Principal Certifier. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the Environmental Planning and Assessment Regulation 2000.

Occupation Certificate - A person must not commence occupation or use of the whole or any part of a new building unless an Occupation Certificate has been issued in relation to the building. Only the Principal Certifier appointed for the building work can issue the Occupation Certificate.

Advisory Note: There is a development proposal for 70 - 78 Regent Street that also requires the extension of the existing Council drainage system along Stanley Lane and Regent Lane. If both developments are to proceed the applicant will be required to liaise with the applicant for this proposal with regards to lodgement of the required Stormwater Drainage Application(s), the detailed design(s) and the construction works. Council will not become involved in any negotiations with regards to responsibilities and costs associated with these works. Note that the extension to the drainage system will become Council's assets upon completion and that Council may approve the connection of other properties / developments stormwater discharge to the system.