Panel Reference	2018SSH039	
DA Number	DA2018/0178	
LGA	Georges River Council	
Proposed Development	Site amalgamation and the construction of a 11 storey residential flat building containing one hundred and sixteen (116) apartments, one hundred and sixteen (116) car parking spaces across three (3) levels of basement car parking including landscaping at ground level and communal open space at the roof level and infrastructure works at 12-24 Stanley Street Kogarah (as amended). <i>The original proposal was for an 11 storey building, comprising of 114 apartments across 4 levels of basement car parking catering for 175 car parking spaces.</i>	
Street Address	12-24 Stanley Street, Kogarah NSW 2217.	
Applicant/Owner	Applicant and Owner: Kogarah 048 Service Pty Ltd and ATF Kogarah 048 Trust	
Date of DA lodgement	8 May 2018	
Number of Submissions	Two (2) submissions received.	
Recommendation	Approval subject to the conditions.	
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 is classified as "Regional". The CIV of this development as outlined in the application is \$43,967,000.	
List of all relevant s79C(1)(a) matters	 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. State Environmental Planning Policy (Vegetation in Non- Rural Areas) 2017. State Environmental Planning Policy (State and Regional Development) 2011 Draft Environment State Environmental Planning Policy 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	 Statement of Environmental Effects. Registered survey. Architectural plans. Landscape Plan. Traffic Impact Assessment 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	Larissa Ozog Senior Development Assessment Officer
Report date	25 March 2019

Summary of matters for consideration under Section 4.15 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 summarised, 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 – height breach.
Special Infrastructure Contributions	
Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions	
Have draft conditions been provided to the applicant for comment?	No, standard conditions have been attached.
	The conditions will be available for the applicant to review once the agenda has been published. Applicant advised.

Executive Summary

Proposal

Council received a development application (DA2018/0178) seeking planning permission for site consolidation and the construction of a 11 storey residential flat building originally proposing a mix of one hundred and fourteen (114) apartments above four levels of basement car parking catering for one hundred and seventy-five (175) vehicles, landscaping and associated site works.

In response to issues raised by Council and GMU who assessed the proposal against SEPP 65 the proposal was amended to include a building containing one-hundred and sixteen (116) apartments with car parking for one- hundred and sixteen (116) vehicles across three (3) levels of basement parking including landscaping at the ground and rooftop level and associated infrastructure works at 12-24 Stanley Street, North Kogarah (the Site).

This assessment is based on the amended plans.

Site and locality

The subject site is a regular rectangular shaped allotment with a combined area of 2,452m² comprising the amalgamation of twelve (12) allotments commonly known as 12-24 Stanley Street Kogarah and formally known as Lots 55-66, Section B, DP 1397 occupying one street frontage and direct access to the laneway at the rear.

The site is located within the Kogarah North Precinct, an area which has recently been rezoned to encourage High Density Residential and mixed land uses due to the Site's accessibility and convenient location adjoining major amenities and services.

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. The proposal meets the definition of a "residential flat building". ". The application seeks an increase to the statutory height limit whereby the lift overrun and associated services on the roof exceed the maximum height.

The application has been accompanied by a Clause 4.6 - Exceptions to development standards request.

State Environmental Planning Policy

The proposal has been considered to be satisfactory in regards to the following policies which have been considered in respect to the application:

- 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.
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.
- State Environmental Planning Policy (State and Regional Development) 2011
- Draft Environment State Environmental Planning Policy.

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 site does not include any vegetation. The proposal is not inconsistent with the provisions of this Draft Instrument.

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

The proposal is considered to be an acceptable urban design and planning outcome for the Site and generally 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.

The building does not fully comply with the minimum front setback requirements pursuant to the KDCP at the upper levels. The design is considered acceptable and the non-compliance is discussed in greater detail later in this report.

Submissions

The application was notified to owners and occupiers in the immediate locality 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 later in this report.

The amended plans were not renotified in accordance with Section A, Part 2.5 of the Kogarah DCP as the changes proposed improved the layout and siting of the building and reduced the building footprint, height and envelope. The amendments are considered improvements to the original scheme. Section A, Part 2.5 of the Kogarah DCP allows for discretion when renotifying amended plans and only changes that are considered to have "*significant additional environmental impacts*" require re-notification.

Level of Determination

The proposal has a nominated cost of work of \$43,967,000. The development application is to be determined by the Sydney South Planning Panel due to the capital investment value (CIV) 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 has been confirmed and is outlined in the Registered Quantity Surveyors Detailed Cost Report accompanying this application.

Conclusion

Having regards to the matters for consideration Section 4.15 and Section 4.16(1)(a) of the Environmental Planning and Assessment Act and following a detailed assessment of the proposed application, DA2018/0178 is recommended for approval subject to conditions.

Full Report

Site and Locality

The subject site comprises of twelve (12) lots which are legally identified as follows;

12 Stanley Street – Lot 55 Section B DP 1397

14 Stanley Street – Lot 56 and Lot 57 Section B DP 1397

16 Stanley Street – Lot 58 and Lot 59 Section B DP 1397

18 Stanley Street – Lot 60 and Lot 61 Section B DP 1397

20 Stanley Street – Lot 62 and Lot 63 Section B DP 1397

22 Stanley Street – Lot 64 and Lot 65 Section B DP 1397

24 Stanley Street – Lot 66 Section B DP 1397

Originally, existing on site were seven (7) low scale residential dwelling-houses which have been demolished and the Site is currently cleared and vacant.

The site is regular and rectangular in shape with a combined frontage of 73.11m to Stanley Street along the north and Stanley Lane to the south, depth of 33.53m and a site area of 2452 square metres (m^2).

The Site is generally flat, but does have a gradual fall from the western side to the eastern side of the Site by some 2.4m. This is considered to be a gradual slope given the Sites length and area.



Figure 1: Site and Aerial view of the sites which are outlined in Red prior to the demolition of the properties

The site is not listed as a heritage item in the Kogarah Local Environmental Plan 2012 and the site is not located within a heritage conservation area.

The site is in close proximity to some locally significant heritage items being St George Girls High School (two-storey main building), to the west of the site on Victoria Street and terraces located at 14-16 Victoria Street.

The site and surrounding area forms part of the Kogarah North Precinct, which is approximately 14 kilometres (km) to the southwest of the Sydney Central Business District (CBD), and is characterised by a mix of uses including residential, commercial, medical and public use buildings ranging from single to 10 storey's in height. The immediate area is in the process of transition to higher density development.

Princes Highway is a three-lane in each direction State classified arterial roadway which forms the eastern boundary of Kogarah North Precinct. Stanley Street is located perpendicular to Princes Highway and provides access to the Kogarah Town Centre to the south-west of the site. Stanley Lane extends along the southern boundary of the site providing access to Regent Street to the south and Regent Lane to the east.

Pursuant to the endorsed Kogarah North Precinct Urban Design Strategy, the Kogarah North Precinct is envisaged to undergo significant urban renewal and therefore will have a mixed character transitioning from the traditional low density residential developments dominated by single to two storeys in height, to buildings up to 33m in height with a 4:1

FSR as set out in the Kogarah Local Environmental Plan 2012 (New City Plan) for the area. The amendment to the Kogarah LEP was gazetted on 26 May 2016.

Existing and proposed developments immediately surrounding the site include:

To the east

No.2-10 Stanley Street. This site comprises of eight (8) low scale residential allotments and is located on the corner of Stanley Street and Regent Lane. On 11 December 2018 the Sydney South Planning Panel (SSPP) approved DA2017/0483 which proposed the demolition of existing structures, site consolidation and the construction of a 10 storey residential flat building over four (4) levels of basement parking containing eighty-seven (87) residential units and 100 car-spaces, including landscaping and infrastructure works. A photomontage of the approved development is included below.



Figure 2: The northern elevation (front façade) of the approved development at 2-10 Stanley Street

• Further to the east No.13-19 Princes Highway contains a seven (7) storey shop top housing development with retail shops on the ground floor and vehicular access on Regent Lane.

To the west

• No.18-24a Victoria Street currently contains three (3) single storey dwelling houses and one (1) two storey dwelling house and is subject to a current

Development Application (DA2017/0597) seeking consent for a twelve (12) storey residential flat building above three levels of basement parking containing seventy six (76) residential units. The application is currently under assessment (DA2017/0597).

To the north

- Properties to the north of Stanley Street contain a combination of two-storey dwelling houses, two-storey dual occupancies, and one (1) single storey dwelling house.
- Further to the North West directly opposite the subject site, comprising of 11 Stanley Street and 28-36 Victoria Street which is part of a Development Application (DA2017/110) seeking development consent for the construction of an eleven (11) storey residential flat building above three (3) levels of basement parking containing 96 units. The Development Application was approved by the Land and Environment Court in January 2019.

To the south

- No.80-84 Regent Street is occupied by single storey dwellings and a Development Application (DA2018/0368) has been lodged which seeks Development Consent for a eleven (11) storey residential flat building above three and a half (3.5) levels of basement parking containing sixty one (61) residential units. This application is expected to be reported to the Georges River Local Planning Panel in April 2019.
- No.70-78 Regent Street was occupied by single and double storey dwellings and a Development Application (DA111/2017) which sought Consent for an eleven (11) storey residential flat building containing one hundred and four (104) residential units with basement parking for 123 car spaces was determined by means of approval by NSW Land and Environment Court (LEC). The front elevation of this approved building is shown at Figure 3 below.



Figure 3:The front elevation (as approved) of the development at No.70-78 Regent Street

 No.58-68 Regent Street is also occupied by a series of single storey dwellings and a Development Application (DA2017/0451) which sought Development Consent for a twelve (12) storey residential flat building above two (2) levels of basement parking. This application was refused by Sydney South Planning Panel on 16 August 2018.

Below is a map of the immediate locality referencing the applications lodged.



Figure 4: Massing and 3D Perspectives of entire block bound by Stanley St from the north, Regent St from the South and Regent Lane from the East (source: reproduced from the assessment report for 2-10 Stanley Street)



Figure 5: Site context map highlighting the subject site and its relationship within the North Kogarah Precinct (source: Scott Carver, 2018)

Proposal

The amended proposal seeks approval for the amalgamation of the existing sites and construction of an eleven (11) storey residential flat building comprising of one hundred and sixteen (116) apartments with three (3) levels of basement car parking accommodating one-hundred and sixteen (116) vehicles at the property known as 12-24 Stanley Street, Kogarah NSW 2217.

The originally proposed development comprised the demolition of existing structures, lot consolidation and the construction of a residential flat building containing one-hundred and fourteen (114) apartments with four (4) levels of basement car parking catering for one-hundred and seventy-five (175) car parking spaces, associated landscaping and site works.



Figure 6: Artist impression of the original development. (Scott Carver, 2018)

After the lodgement of the application two Complying Development Certificates were issued which approved of the demolition of all existing structures on site. In accordance with these approvals all buildings and ancillary structures have been demolished and the site is currently vacant.

Amended Plans were lodged on the 18 February 2019 which aimed to address the Design Review Panel comments, and the issues letter prepared by Council together with the feedback provided by the Sydney South Regional Planning Panel (from it meeting held in December). Since lodgement of the application the Applicant has attended a number of meetings with Council staff to review and consider outstanding design concerns.

In summary the amended plans make the following changes;

- Four (4) basement levels have been reduced and consolidated to three (3) basement levels.
- The number of off street car parking spaces has been reduced from 175 to 116.
- The number of apartments has been increased from 114 to 116 by simply reconfiguring the internal layout of the building and consolidating spaces.
- A large area of soft landscaping (311sqm) has been provided at the ground floor level along the western side of the site.
- The building footprint has been reduced to create more deep soil areas at the front and rear.
- The height of the building has been reduced by 500mm so that no habitable spaces exceed the height control.
- The architectural design and treatment of the podium and ground floor levels has been improved and a schedule of materials and colours has been updated to create a more "residential feel" to the building.

- The setbacks of the building have been increased along all sides.
- Corridors have been slightly widened.



Figure 7: 3D Montage of the amended scheme when viewed from Stanley Lane (rear elevation)

The subject site is located on the southern side of Stanley Street and occupies one direct Street frontage to Stanley Street from the North (front), with a secondary access at the rear being obtained from Stanley Lane.

The proposed building has been designed to be an integrated building but has relief in the form an open style central foyer which acts as a breezeway and bridge connecting the two main built forms at all levels. Rather than create one large building the design is focused on articulating and varying the built form, so there is visual interest and modulation which will reduce the visual bulk and scale. The design has moved away from the traditional rectangular built form and created angles and bays which break up the mass and add visual interest to the key elevations.

Access to the basement parking levels is located off Stanley Lane and a generous loading bay has been provided on the ground floor adjoining the car parking entrance along the eastern side of the site.

All Ground floor apartments have direct access to private courtyards along the Stanley Street frontage and courtyards off Stanley Lane in order to promote activation of this laneway.

The proposed 116 residential apartments comprise the following mix:

- 29 x 1 bedrooms (25%);
- 66 x 2 bedrooms (57%) and;
- 21 x 3 bedrooms (18%)

The communal open space is provided predominantly on the roof top area at level 10 and occupies 344m² and caters for passive recreational uses including seating areas, raised grassed areas, more private areas with timber decking, provision of BBQs and an open fire pit. To make this space attractive and appealing a variety of different textural finishes have been proposed. There is no provision for an accessible WC at this level and a condition has been included if consent is to be granted to include this element in the design of the development.

The main entry lobby is centrally located and is a well-designed generous space that is well landscaped and offers the potential for residents and visitors to wait and sit and enjoy this space for passive recreation.

The original development was modified to create a generous area of landscaping located along the western side of the site which comprises of an area of some 311sqm and is a deep soil zone.

Additional deep soil landscaping is provided within the front, and the basement has been setback 2m from the front boundary to facilitate greater permeability.

Accessibility measures contained within the proposed development includes:

- A total of thirteen (13) adaptable apartments are proposed which comprises of 9 x 1 bedroom apartments and 4 x 2 bedroom apartments
- A total of four (4) x accessible parking spaces have been provided.

Specifically, the proposed development will contain the following features at each level:

Basement (3):

- Forty-six (46) car parking spaces
- 49 individual storage spaces.
- Lift core.
- 14 bicycle parking spaces.
- Space for plant, egress and services.

Basement (2):

• Total of thirty-six (36) car parking spaces comprising of thirty-four (34) resident parking spaces and two (2) visitor spaces which are accessible.

- Fourteen (14) bicycle parking spaces are included
- Thirty-three (33) individual storage spaces are provided
- Plant rooms, egress and areas designated for water storage along the eastern side of this level.
- Lift core

Basement (1):

- Total of thirty-four (34) car parking spaces which comprise of nineteen (19) visitor spaces (Two (2) spaces are accessible) and fifteen (15) resident spaces.
- OSD Tank provided along the north-eastern corner.
- Fifteen (15) bicycle spaces.
- Seven (7) motorbike parking spaces.
- A centralised garbage room.
- Separate bulky goods waste room.
- Ten (10) individual storage spaces.
- Lift lobby and core.
- Space for plant, egress and services.

Ground Floor Plan:

- Large central entry lobby foyer with access to the lift core located on the eastern side of the building.
- Designated Loading Bay that also doubles up as a bin collection area located at the rear with access off Stanley Lane.
- Main vehicular entrance at the rear off Stanley Lane to the basement.
- Fourteen (14) apartments comprising of six (6) x 2 bedroom units, seven (7) x 1 bedroom units and One (1) x 3 bedroom unit. Unit G13 is designated to be adaptable.
- Unit G.13 is an adaptable apartment
- Three (3) bicycle parking spaces
- Deep soil, landscaped area along the western periphery of the building.
- Substation located in the rear south-western corner of the Site.

Level 1:

- Total of ten (10) apartments comprising of six (6) x 2 bedroom units, Two (2) x 3 bedroom units and Two (2) x 1 bedroom units. Unit 1.09 is designated as an adaptable apartment.
- Central bridge/breezeway and lift lobby.
- Bedrooms and amenity areas of the split level apartments (G01-G06).
- Non trafficable roof space above the loading area.

Level 2:

• Central bridge/breezeway and lift lobby.

• Total of fifteen (15) apartments comprising of seven (7) x 2 bedroom units, six (6) x 1 bedroom units and two (2) x 3 bedroom units. Apartment 2.14 is designated as an adaptable apartment.

Level 3:

- Central bridge/breezeway and lift lobby.
- Total of eleven (11) apartments comprising of two (2) x 3 bedroom units, seven (7) x 2 bedroom units and two (2) x 1 bedroom units. Apartment 3.10 is designated as an adaptable apartment.
- Bedroom levels to the split level apartments which have their main entrance off Level 2 (Apartments 2.02-2.05).

Level 4:

- Central bridge/breezeway and lift lobby
- Total of ten (10) apartments comprising of two (2) x 3 bedroom apartments, two (2) x 1 bedroom apartments, six (6) x 2 bedroom apartments.

Levels 5, 6, 7,8 and 9:

- Central bridge/breezeway and lift lobby
- Total of ten (10) apartments on each level comprising of two (2) x 3 bedroom units, two (2) x 1 bedroom units, six (6) x 2 bedroom units.
- Apartments 5.03, 5.05, 6.03, 6.05, 7.03, 7.05, 8.03, 8.05 and 9.03 are designated as adaptable apartments.

Level 10:

- Central bridge/breezeway and lift lobby
- Total of six (6) apartments comprising of two (2) x 3 bedroom units and four (4) x 2 bedroom units.
- Plant room for hot water system
- Communal area of open space on the roof top level along the eastern side of the building.

Level 11:

• Roof top level that includes plant room for mechanical equipment and services.



Figure 8: 3D Montage of the amended scheme (front façade) when viewed from Stanley Street from the north-western corner of the site.

Background

The subject development application was lodged with Council on 8 May 2018. Given the CIV of the proposal, the application was subsequently registered with Sydney South Planning Panel (SSPP).

A SSPP Briefing Meeting was held on 11 December 2018, during which following key issues had been discussed:

- North Kogarah DCP compliance.
- Internal amenity cross ventilation, solar access need to comply with ADG requirements.
- Street frontage/lack of a defined street entry.

- Breezeway and visual connectivity between the two buildings and the importance of the vertical garden element.
- Presentation and articulation of the buildings.
- Desirability of the two lift cores; concern regarding long corridors necessitated by a single lift core.
- Corridors need to be included in the FSR calculation.
- Excess car parking and inclusion in the FSR.

The aforementioned matters contained in GMU Review are discussed in details in Section 8 of this report.

The structures existing on site have been demolished in accordance with two Complying Development Certificates. CDC No.17/3258/01 issued on 2nd May 2018 for No.12 Stanley Street and CDC No.17/3258/02 issued on 15th June 2018 for the sites comprising 14-24 Stanley Street. Subsequent to these approvals the structures on site have been demolished and the site is currently vacant and is appropriately fenced.



Photo 1: Central part of the subject site when viewed from Stanley Street (front)



Photo 2: Immediately adjoining development to the east of the Site



Photo 3: Development located to the north, across the road on Stanley Street



Photo 4: Immediately adjoining development to the west, No.24 Victoria Street



Photo 5: View of site from Stanley Lane

Statutory framework

Environmental Planning and Assessment Act 1979 (EP&A) Act 1979

The proposal has been assessed and considered against the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act), the objects of the EP&A Act, and the principles of ecologically sustainable development as follows:

Objects of the EP&A Act

Consent authority is required to consider the objects in Section 1.3 of the EP&A Act when making decisions under the Act. Council has considered the object of the EP&A Act in the Table below and is satisfied that the proposal complies with all objects.

Objects of the EP&A Act	Proposal	Compliance
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources	The proposal results in the urban infill development of a residential flat building within Kogarah North Precinct providing additional housing in the locality.	Yes
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental, and social considerations in decision-making about environmental planning and assessment	The design considers the principles of ESD. The building has been designed to comply with all BASIX commitments. This is discussed in greater detail in the assessment section of the report.	Yes
(c) to promote the orderly and economic use and development of land	The development has been designed to satisfy the key planning controls for this site and the built form as proposed is considered to reflect the desired future character for development within the locality and precinct.	Yes
(d) to promote the delivery and maintenance of affordable housing	The proposal does not provide for any affordable rental housing but does provide a mix of housing types and styles (1, 2 and 3 bedroom apartments) and includes a total of 13 adaptable units.	Satisfactory
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their	The site is located within a residential area that is undergoing a process of change and transition to higher density development due to its location and accessibility to a range of	Yes

habitats	services and amenities.	
	The proposal is not considered to result in adverse impacts to any threatened and other species of native animals and plants, ecological communities and their habitats. There are none of these species mapped within the Site or its immediate vicinity.	
(f) to promote the sustainable management of built and cultural heritage	The Site is not a designated Heritage Item nor is it located within a Heritage Conservation Area.	Yes
	 The building is removed from the visual catchment of the adjoining, listed Heritage Items which comprise of the following; I112, St Georges Girls High School (15 Victoria Street) I111 Terraces "Beatrice" and "Lillyville" (14-16 Victoria Street) I110 "Hindmarsh" house and garden (2 Victoria Street) I96 St Pauls Anglican Church and Hall (53-57 Princes Highway) I96 	
(g) to promote good design and amenity of the built environment	This report assesses the proposal's design and amenity against SEPP 65, the ADG Guidelines and KDCP 2013.	Yes
	The amended design is considered to satisfactorily address the key development and design controls.	
(h) to promote the proper construction and maintenance of buildings, including the protection of	The proposal will achieve this object by complying with Council's recommended consent conditions relating to	Yes

the health and safety of their occupants	construction phase of the development.	
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State	The proposal is a regionally significant development and therefore the Sydney South Planning Panel is the consent authority.	Yes
(j) to provide increased opportunity for community participation in environmental planning and assessment	The submissions section of this report outlines Council's public exhibition of the proposal, including public submissions. The submission section also sets out details of Council's consideration of the key issues	Yes
	raised in public submissions.	

Ecologically Sustainable Development (ESD)

The Act adopts the definition of ESD found in the Protection of the Environment Administration Act 1991. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

(a) The precautionary principle

<u>Officer Comment</u>: The site has been zoned for this form of development (residential flat building) which is a permissible land use. The design of the building has been sensitively considered and it is unlikely that there will be any serious or irreversible environmental damage created.

(b) Inter-generational equity

<u>Officer Comment</u>: The proposal will not have adverse impacts on the environment for future generations.

(c) Conservation of biological diversity and ecological integrity

<u>Officer Comment</u>: The site is within an urbanised and established residential area which does not contain any significant flora or fauna. There are no threatened species or important vegetation at the site or within the immediate vicinity of the Site.

(d) Improved valuation, pricing and incentive mechanisms

<u>Officer Comment</u>: The proposal includes a number of energy, water initiatives waste reducing measures to reduce the ongoing cost, resource, and energy requirements of the development for the longer term.

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

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 Regional Environmental Plan No 2 Georges River Catchment.
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.
- State Environmental Planning Policy (State and Regional Development) 2011.
- Draft Environment State Environmental Planning Policy.
- Kogarah Local Environmental Plan 2012.

(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

(iii) any development control plan, and

The applicable Development Control Plans to the proposed development are:

- Kogarah Development Control Plan 2013.
- Kogarah North Development Control Plan 2013.
- Kogarah Section 94 Contribution Plan.

(iii) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and,

<u>Comment</u>: There are no planning agreements proposed.

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,

<u>Comment</u>: There are no further prescribed matters under the Regulations apart from compliance with the National Building Code of Australia (BCA) and meeting the Australian Standards for parts of the design.

(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,

<u>Comment</u>: The proposal is not considered to have any adverse impacts upon the natural and built environment. It has been considered in context with the future surrounding development essentially defining this specific locality as part of Kogarah North Urban Strategy adopted by Georges River Council.

Additionally, the proposal is considered to contribute positively to the social and economic outcomes that are sought to be achieved within this precinct.

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

<u>Comment</u>: The site has no impediments that would preclude it from being suitable for the proposed development. The site is zoned to permit a variety of residential developments.

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

<u>Comment</u>: The proposal has been notified and all submissions received have been considered in detail under the submissions and referral section of this report.

(e) the public interest.

<u>Comment</u>: The proposal satisfies the applicable EPI's and objects of the Act and accordingly is considered to be within the Public interest. The development will not adversely affect the amenity of immediately adjoining properties and will not negatively affect the character and nature of the neighbourhood.

Environmental Planning and Assessment Regulations 2000 (EP&A) Regs 2000

The proposed development satisfies the relevant matters for consideration for development under the Regulations.

Compliance and Assessment

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

The site is within the area affected by the Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment. The proposal, including the disposal of stormwater, is considered to be consistent with the Council's requirements for the disposal of stormwater in the catchment.

All stormwater from the proposed development will be managed by the proposed stormwater system and will be treated in accordance with Council's Water Management Policy and would therefore satisfy the relevant provisions of the Deemed State Environmental Planning Policy – Georges River Catchment. Stormwater is to be gravity fed to the street. Council's Development Engineers have not raised any issues with the proposed method of stormwater disposal.

State Environmental Planning Policy no. 55 – Contamination of Land (SEPP 55)

SEPP 55 applies to the land and Clause 7 stipulates that a consent authority must not consent to the carrying out of any development on land unless it has considered matters for consideration contained in Clause 7.

According to Council's records and a desktop review the site has been used for residential purposes only, as such, there is no reason to suspect the site may have been subjected to contamination.

Accordingly, it is considered that the site is suitable for the proposed development without the need for any further investigations.

It should also be noted that the application is accompanied by a Geotechnical report prepared by JK Geotechnics, dated April 2018. The purpose of this investigation was to obtain geotechnical information on the subsurface conditions at specific borehole locations. The findings found soils were silty sandy clay and sandy clay and in terms of the bedrock residual silty clays sandstone bedrock was encountered. The geotechnical findings didn't allude to any unnatural or unusual site conditions and investigations did not come across any potential contaminants.

The report did however suggest some additional measures to be adopted during or prior to construction to ensure stability and integrity at the site and to adjoining properties. A series of recommendations were made and if approval is granted a condition will ensure the recommendations of the report are implemented. Additional measures included the following;

- Monitoring of groundwater levels in Boreholes 1 to 3.
- Drilling of 3 additional cored boreholes in the western portion of the site.
- Dilapidation reports of adjoining movement sensitive structures prior to the commencement of construction.
- Review of structural drawings to confirm the intentions of this report have been successfully implemented in the design.
- Periodic or continuous vibration monitoring during percussive excavation.

- Proof loading of all anchors to confirm that their design loads are achieved.
- Inspection and/or testing of all footings by a geotechnical engineer to confirm that the design ABP's are achieved.
- Inspection of the excavation to review groundwater seepage and drainage.

State Environmental Planning Policy – Building Sustainability Index BASIX– 2004 (SEPP BASIX) 2004

An updated BASIX assessment was conducted by Windtech, dated March 2019 and is based on the amended scheme. The assessment considered the water usage (minimum usage compliance is 40%), thermal comfort (the development is measured using the BERS Pro Thermal Performance assessment tool) and Energy rating (minimum 25% compliance based on the efficiency of the fixed appliances used) of the development.

In conclusion the BASIX report confirms compliance with the minimum requirements.

State Environmental Planning Policy – Infrastructure 2007 (SEPP) Infrastructure 2007

Clause 101 relates to Development with frontage to a classified road and Clause 102 relates to the Impact of road noise or vibration on non-road development. The subject site is not located on a Classified Road so the provisions of Clause 101 are not applicable and referral to RMS is not required.

In respect to Clause 102, the site is close to the Princes Highway which is a Classified Road. On the RMS website there are two stations that have recorded traffic counts along Princes Highway. The station where Princes Highway connects with the King Georges Road at Blakehurst is a major intersection and has average daily traffic flows of 44,578 which is not considered to be reflective of the traffic conditions near the Site as this section of the Princes Highway is not as busy. The other station is located along Princes Highway near Banksia and the average daily traffic counts at this location are some 38,000 vehicles. On this basis it is more than likely traffic volumes along Princes Highway near the site will be over 20,000 vehicles per day. As such Clause 102 is applicable.

Clause 102 requires the consent authority to consider the likely impact of noise and vibration on residential accommodation and clause 102 (3) states *that "the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:*

(a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,

(b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time."

The site is located over 80m from the Princes Highway and given the construction of larger scale developments along the roadway and on the corner of Princes Highway and Stanley Street these also act as an additional buffer from noise.

An acoustic report was prepared by PKA Acoustic Consulting and is dated 26 April 2018 which assessed the proposal and implemented noise monitors along the eastern side of the Site. This results of the report state that "the acoustic survey show the site is not affected by high road traffic noise. This is due to a combination of distance from the Princes Highway and nearby multi-storey apartment complexes shielding line-of-sight to the highway. Acoustic mitigation measures will not be necessary and standard construction and glazing will be sufficient to meet the relevant indoor noise requirements".

The proposal was also assessed against the provisions of the Kogarah DCP which was recently updated to include an additional acoustic requirement for residential floors to achieve a 5 Star Rating. This amendment is similar to other Council's that are compensating for the widely recognised poor BCA floor impact standard that typically results in noise complaints from occupants located above hard flooring. A number of recommendations have been proposed as part of the acoustic report in respect to achieving a 5 star rating for the flooring finish, inclusion of a number of measures to mitigate noise impacts through construction and vibration methods and also through fixtures, fittings and proposed materials and construction finishes including walls etc.

A condition will require the implementation of the findings and recommendations of this report if approval is to be granted.

State Environmental Planning Policy – State and Regional Development 2011 (SRD SEPP)

The proposal is a regionally significant development pursuant to Clause 2 of Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP) as it is development that has a Capital Investment Value (CIV) of more than \$30 million in accordance with the SEPP. As such, the Sydney South Planning Panel is the consent authority for the subject development application.

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

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

The intent of this SEPP is "to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation".

In this instance, the development is consistent with the provisions of the SEPP and the site is free of any vegetation of any botanical significance.

State Environmental Planning Policy no. 65 – Design Quality of Residential Flat Buildings (SEPP 65)

SEPP 65 is applicable to the proposed development and the extent to which the proposal complies with the controls and principles in the State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide (ADG) is detailed and discussed in more detail below.

Clause	Standard	Proposal	Complies
3. Definitions	Complies with definition of "Residential Apartment Development" (RAD)	Complies with definition.	Yes
4. Application of Policy	Development involves the erection of a new RFB, substantial redevelopment or refurbishment of a RFB or conversion of an existing building into a RFB	Erection of a new residential flat building which satisfies the definition of the policy (11 storey's in height above 3 levels of basement parking)	Yes
5. Development Applications	Design verification statement provided by qualified designer Registered Architect Name and Registration No.	Design Verification Statement provided by Registered Architect Hon Diec (Nominated Architect No.9232).	Yes

Part 1 - Application of SEPP 65

Part 2 - Design Quality Principles under SEPP 65

Council engaged the services of an independent Urban Design and Architecture Consultancy, GM Urban Design & Architecture, (GMU) to carry out an assessment of the proposal against the provisions of Part 2 of SEPP 65 and the ADG.

GMU raised a series of concerns in regard to the initial design and its compliance with the Principles and Performance Requirements of the ADG. A summary of compliance against the nine Principles of the ADG is provided in the tables below. Council provided the Applicant with a letter outlining all the issues and non-compliances and requested that the issues raised by GMU be addressed as well as Council's initial concerns regarding the excess in the number of parking spaces and non-compliance with the setback controls in the KDCP for development in the North Kogarah precinct. The Applicant amended the plans to address the issues raised.

Principle	GMU Response	Officer Response
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Context and	The subject site is located	The issues raised have
Neighbourhood	within the R4 High-Density	been addressed by the
character	Residential zone. The existing development within the area	amended plans.
Good design responds	is predominantly	Originally the podium level
and contributes to its	characterised by lower scale	was to be constructed of
context. Context is the	dwellings (1-3 storeys) with	raw concrete finish and the
key natural and built	higher density RFB	proportions and design
features of an area, their	development of up to 10	was considered to be
relationship and the	storeys along Princes	"institutional". The
character they create	Highway. It is noted that this	Applicant has refined the
when combined. It also	residential neighbourhood is	streetscape presentation
includes social,	undergoing a transition to	of the podium to break up
economic, nealth and	higher density development	the bays and soften the
environmental	which is encouraged by the	appearance of the facade
conditions.	current planning controls.	to create a more
Responding to context	These are a number of sites in	"residential" feel and
involves identifying the	There are a number of sites in	appeal through the use of
desirable elements of an	close proximity to the site are	high quality materials and
area's existing or future	bigh-density residential	introduction of more
character. Well-designed	development of up to 13	randored finishes rather
buildings respond to and	storevs Nos 70-78 Regent	then oll row concrete
enhance the qualities	Street has a court-approved	
and identity of the area	DA for an RFB development.	Aluminimum privacy
including the adjacent		introduced as well as
sites, streetscape and	The DCP envisioned a holistic	include a variety of
neighbourhood.	approach to the precinct to	finishes to soften the built
Consideration of local	guide future developments to	form
	ensure a contextual fit and	
	design excellence. However,	The building has been
all sites, including sites in	the proposed development	broken up into two distinct
established areas, those	to the existing and desired	wings the western wing
	future context	has softer colours, vintage
identified for change.		white rendered finish with
	The proposed development	"African" brown trimmings
	attempts to reach its full	for screens and the
	density potential by exceeding	horizontal pieces below
	the maximum height without	some window panes also
	adequate setbacks to	brown.
	boundaries. It does not create	The eastern wing of the
	an appropriate human scale	huilding is also
	cnaracter for the	predominantly rendered
	neighbournood and to the	white with dark grou
	511661.	white with dark gley

	The proposed setbacks and separation distances do not deliver an appropriate built form relationship to the east and west interfaces of the subject site. The nil side setback will result in a continuous street wall along Stanley Street. This is not an appropriate outcome for a residential flat building. The proposed built form interface provides little opportunity for deep soil landscape which fails to contribute to the 'leafy character' of the neighbourhood. The proposed architectural appearance, materials and finishes are not yet achieving design excellence and fail to enhance the visual and streetscape character of the neighbourhood.	trimmings to break up the form as both parts of the building are different and although integrated will be read as two independent elements which will break up the bulk and scale of the development and add visual interest. The issue of context and streetscape has been addressed and the building will address the street and be a much more sympathetic to its immediate surrounds and the existing developments in the street.
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.	The proposal breaches the maximum height control by 2.1m. The additional height in combination with inadequate setbacks exacerbates the overshadowing impacts on the southern neighbours. The proposal intrudes into the airspace above the 4-storey street wall. The proposed nil setback to the east does not provide an appropriate interface to the low scale existing dwelling and encourages a continuous street wall. This is not a business zone, and landscape	Originally the height of the building encroached on the overall height limit with habitable areas located above the height control. The height has been revisited and the development now is compliant apart from ancillary structures on the roof (lift overrun and plant room) which are considered to be acceptable variations in this case and consistent with Council's application

The 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.	opportunities and setbacks should be provided to the side boundary. While this area will for an increase in density and scale, the form of taller towers needs to give sufficient spatial separation to achieve landscape character and manage the scale change to low-density dwellings. Such breaks also contribute to solar penetration to lands to the south.	of the height control in this precinct and in the LGA. The setbacks of the development have been modified to ensure that although there are encroachments these are minor and the built form is more consistent and generally compliant with the ADG provisions for separation distances.
	The proposed height, setback and separation need to be revisited to achieve a better scale and mitigate the overshadowing impacts to the surrounding context as discussed previously.	In respect to the treatment of the podium the KDCP encourages a nil setback where podiums connect so there is a consistent 4 storey scale to the street. In this case 2-10 Stanley Street was approved with a nil setback to the west and this development will now but up against this podium. Although different architectural treatment is proposed both buildings will connect and the built form will have a consistent flow along the street. The subject site has however setback the building from the western side which adjoins the proposed future site through link and has allowed for a generous area of landscaping which is a desirable outcome along this side of the site.
Density	The proposal achieves an	The proposal complies
Good design achieves a	FSR of 4.0:1 which complies	with the gross floor area

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.	with the current LEP control. However, to achieve this FSR, the proposal produces an overly dominant bulk with non-compliance with the height, setbacks and building depth. The proposed development creates poor interfaces to adjacent properties and the public domain as well as leading to adverse amenity issues for residents and neighbours. The proposal is considered an overdevelopment of the site.	that is permissible for the site. The amalgamation of seven sites is a desirable urban design outcome as the KDCP encourages site amalgamation and minimum site frontage of 60m. The overall intention is for larger scale residential or mixed use developments. The proposal is consistent with the built form outcomes that have recently been approved within the precinct.
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, coordinating water and	The proposal claims to provide a total deep soil zone of 157m2 on the ground level, which includes 2 small areas - 37m2 to the north-east corner and 120m2 to the south-west corner. The total area equates to approx. 6.4% of the total site area, which is less than the required minimum of 7% of the total site area by the ADG. Both small areas are of little utility. The north-east area is covered by permeable paving which doesn't allow a real opportunity for landscape planting. The exposed substation within the deep soil area facing Stanley Lane and a potential pedestrian link to the west creates a poor street interface. The proposed basement levels with nil setback to the street boundaries and the	The amount and degree of deep soil area has been significantly increased from the original scheme. The proposal provides for 13% of deep soil area which is well above the 7% minimum. The amended scheme provides a large area along the western side of the site which will have a significant public benefit as it can act as a temporary site through link as well as providing for an attractive area of soft landscaping for passive and active use. The proposed landscaping outcome has been very well considered and designed. The Landscape Plan aims to create

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.	boundaries severely limit the opportunity for deep soil planting as well as establishing an appropriate landscape buffer to adjacent buildings. It also contributes to a poor street interface to the desired leafy residential streetscape character. We suggest the council's landscape officer to review the plans and species of all proposed vegetation to ensure compliance with council's approved species list.	forested courtyard along the western side, a more formal and fluid lobby space that also allows for passive recreational uses (although this space is not included in the landscaped area calculation) and the private roof top communal open space that has been elegantly and attractively treated to create private spaces for entertainment and passive recreation.
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.	Solar access: Approximately 27% of the proposed units do not receive any direct sunlight in mid- winter, which exceeds the ADG requirement of maximum 15% by 12%. The overdevelopment of the bulk and scale results in adverse visual amenity and reduced solar access to neighbouring properties. It is questionable if some of the south-facing units are compliant with the solar access requirement. An enlarged view is required to demonstrate the solar compliance of these units. <i>Cross ventilation:</i> The building configuration creates 2 deep recesses in the façades to both Stanley Street and Stanley Lane. Habitable rooms rely on these	The corridor has been widened from 1.3m to 1.6m exclusive of the bridge element which is up to 4m wide. The orientation of the site creates south orientated apartments which fail to satisfy the minimum solar access requirements. As such more than 15% of the developments units receive no direct sunlight. The north facing apartments are able to achieve the minimum 70% of apartments receiving a minimum of 2hours of solar access during the day. The ADG does make note that there will be sites where full compliance with this control can not be
	2 insets for outlook and ventilation. The proposed proportions do not meet	this control can not be achieved as a resultant impact of the landform or

objective 4B-2 of the ADG as	orientation. A detailed
its proportions do not have a	discussion is provided
width to depth ratio of 2:1 or	further in the ADG
3:1. A further detailed cross	assessment which justifies
ventilation study is required to	that the non-compliance in
demonstrate that these corner	this case is accentable
units rely on the insets are	given the high quality of
adequately cross ventilated.	given the high quality of
	development and the high
Overshadowing impacts:	levels of amenity provided
Due to its northerly location,	through the use of
the proposal results in	materials and finishes and
overshadowing to the	provision of high-quality
southern neighbour. The	areas of open space.
current overshadowing	-
analysis provides no detailed	The design of the
analysis of impacts on the	development has been
adjacent elevations and is	altered to satisfy the cross-
based on outdated plans for	ventilation requirements.
the surrounding development.	la a high danaity
To assist Council in	environment it is an
understanding the actual	accepted and expected
shadow impacts resulted by	planning and design
the proposed development to	impact that overshadowing
adjacent properties, a further	will occur from the built
overshadowing study is	form. The proposal
required to demonstrate if the	complies with the height
proposal can maintain a	control with the building
minimum of 2 hours solar	parapet located below the
access in mid-winter time to	maximum height control
the existing and the future	and the 33m height limit
development application on	that has been established
the neighbouring sites.	by the KIEP was informed
	by the Urban Design Study
Internal amenity:	by the Orban Design Study
Issues identified with the	that anticipated that a
proposed internal layouts	higher density
include:	environment will result in
 The building entry is 	greater overshadowing.
located in the centre of	The quality and
the lot facing Stanley	functionality of spaces
Street and Stanley	coupled by the
Lane. The entry lobby	accessibility of the site and
is deeply recessed in	generous areas of open
the building façade	space will encourage the
the building façade	generous areas of open space will encourage the
which results in a poor	evolution of a vibrant
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sense of address.	environment of residential
The proposal only	and mixed uses.
provides 1 lift core servicing for 10-18 units per floor. Some of the units are up to 40m away from the lift core. A minimum of 2 lift cores should be provided including a stretcher lift as the building exceeds 25m height limit.	Disagree – the central, formal lobby and entry is a very defined and spacious area that clearly defines the entry and creates a sense of arrival and a sense of visual interest and breaks up the length, bulk and scale of the building. It is a positive
The circulation	design element.
corridors are very tight (approx. 1.3m) and do not offer an adequate amenity to residents for movement of furniture.	The lift core and the amount of apartments off the one lift core has been reduced. There is further
• Some of the ground- floor units located at the north-western corner sit well below	discussion later in this report why two lift cores could not be integrated into the design. This
the existing ground level of up to 1.643m. It	definitely was investigated by the Applicants.
outlook and amenity	Disagree – it is accepted
issue for residents. It is	that some ground floor
recommended to	apartments are sunken
provide a larger	below the ground level, at
setback with terraced	the lower part of the site
the distance outlook or	however the front private
units should not be	courtyards are well
below the natural	landscaped with planter
ground level.	boxes stepping down from
 Some units nave screened windows 	the street level. These
facing directly onto the	planter boxes will act as a
communal open space	pedestrianised street level
(the sky bridge). This leads to potential	The potential for
acoustic and privacy	overlooking into these
issues for the	spaces is minimised by the

	residents.	landscaped buffer at the
	 Some of the semi- enclosed studies have no windows which does not comply with the ADG. 	front and these courtyards will still receive ample and good solar access due to their northern orientation. This is also not a highly
	 Some of the balconies are deep which might limit the sunlight access to habitable rooms. It is recommended to have 1.8m screens to the balconies to the west to address overlooking issues 	pedestrianised street and not heavily trafficable so the concerns are not considered to be detrimental to the amenity of the units. Screens to windows and balconies have been
	 According to the BCA, the maximum distance from each unit to the fire egress is 6m. The proposed plan shows that some of the units 	northern and western side to prevent overlooking and provide some additional screening from the sun. The units have been
	are 10m away from the fire egress.	redesigned to address the BCA concerns and ensure
	 The garbage collection area with entry built to the side common 	that all units are compliant with fire egress requirements.
	boundary is a poor design outcome, which will generate amenity issues to neighbouring development.	The garbage collection area will be at the rear off the lane which is preferable and bins will be
	 The application needs to demonstrate the proposed internal layout and circulation are compliant with the BCA requirements. 	stored in the loading bay until the day of collection. This is an ideal location as they will be recessed from the laneway and will be hidden and screened.
	A	-
Sarety Good design optimises safety and security within the development and the	An easily perceived residential lift lobby can activate the streetscape and provide a greater perceived sense of pedestrian safety.	much but includes more greenery and landscaping to create a sense of arrival and make the entry formal,

public domain. It	The residential lobby in the	attractive and prominent. It
provides for quality public	proposal is located deeply	also acts as a space that
and private spaces that	inset into the built form with	allows people to sit.
are clearly defined and fit	no strong sense of arrival.	contemplate wait for
for the intended purpose.	This arrangement will result in	friends a meeting place
Opportunities to	a lack of passive surveillance.	and even a small area for
maximise passive		and even a small area for
surveillance of public and	The identified subterranean	passive recreation.
communal areas	units and high retaining wall	This is a large area which
promote safety.	fronting the streets will not	is obsilv visible from the
A positive relationship	provide desired casual	is easily visible from the
between public and	surveillance to the pedestrian	
private spaces is	domain	natural surveillance.
achieved through clearly		Through the provision of
defined secure access		good lighting this is not
points and well-lit and		considered an unsafe
visible areas that are		area.
easily maintained and		
appropriate to the		
location and nurnose		
Housing Diversity and	The scheme proposes:	The mix of apartments has
Social Interaction	The scheme proposes.	clightly altored from the
Social Interaction	29×1 bedrooms (25%).	slightly altered from the
Good design achieves a		onginal design but still
mix of apartment sizes,	66 x 2 bedrooms (57%) and;	maintains a mix of 1, 2 and
providing housing choice		3 bedroom apartments
for different	21 x 3 bedrooms (18%)	which is considered
demographics, living		acceptable and consistent
needs and household	There is no provision of studio	with the objectives and
budgets.	units within the development	intentions of the ADG in
Well designed apartment	units within the development.	respect to a mix of units.
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		
onnortunities for social		
Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social		

residents.		
Aesthetics Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and	The locality is characterised by sandstone and face bricks whereas the proposal excessively applies light and dark grey concrete to facades. It shows limited regard for the existing materiality.	The building form and resultant facades have been reconsidered from the original design and have been amended to create a more residential feel.
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.	The proposed north-facing façade with full clear glazing, glass balustrade and solid spandrel upstand on the lower levels contributes to a commercial/institutional building character.	The podium has been redesigned to include more balconies to create a sense of apartment living and the colours and materials have been amended to remove the predominantly concrete finish to reflect softer more neutral tones and rendered finishes of white and brown with a dark grey which is a common colour in modern developments. The reconsideration of the colour and finishes palette create a softer and more sympathetic feel to the existing and established residential neighbourhood and reflects ques taken from the brown brick and tile homes that are reflective of the area. The amended plans have adequately addressed this concern.

Consideration of Apartment Design Guide (ADG) under Clause 30 of SEPP 65

SEPP 65 requires assessment against the provisions of the Apartment Design Guide. Objectives, design criteria and design guidance in Parts 3 and 4 of the Apartment

Design Guide that are referred to in SEPP 65 will prevail over any inconsistent DCP control. Parts 3 and 4 set out objectives, design criteria and performance controls for the siting, design and amenity of residential apartment development.

Note: Certain design criteria referred to in SEPP 65 cannot be used as a reason to refuse a development application, if complied with.

Clause	Standard	Proposal	Complies
3D-1 Communal and public open space	 Communal open space has a minimum area equal to 25% of the site. Where it cannot be provided on ground level it should be provided on a podium or roof 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: provide communal spaces elsewhere such as a landscaped roof top terrace or a common room provide larger balconies or increased private 	The amended design has increased the amount of deep soil area and communal areas of open space. At ground floor level 311sqm of landscaped area is provided along the western side of the Site. At Level 10 there is a more formal, private, elevated area of communal open space which amounts to an area of 344sqm. In total the communal open space amounts to 655sqm and this equates to 27% of the Site. This calculation does not include the large entry foyer that has also been designed to allow for passive recreation. This space is designed for people to meet or congregate. If this area was considered the development would provide way more than the minimum requirement. Sunlight and solar access to all areas is compliant with the ADG requirement and the spaces will have over 3 hours of direct solar access.	Yes

	open space for		
	apartments		
	 apartments demonstrate good proximity to public open space and facilities and/or provide contributions to public open space 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)		
3E-1 Deep Soil Zones	 1. Deep soil zones are to meet the following minimum requirements: -Where the site is less than 650sqm = no minimum dimension -Where site area is between 650sqm and 	The proposal requires a minimum of 7% of the site comprising of deep soil area. This amounts to 172sqm, and the area requires a minimum 6m dimension. The design has been amended to create a large area of deep soil along the western side of the site with dimensions of 6m. This area amounts to 311sqm and 13%. In addition to this the basement has been setback 2m from the northern side of the site allowing for an	Yes
	1500 sqm and 1500 sqm = 3m	additional 2m deep soil area at the front of the site. In total this provides	

minimum dimension -Where the site is more than 1500sqm = 6m minimum dimension	for approximately an additional 76sqm of soft landscaped area where some mature trees can be planted to provide some greenery and enhance a human scale to the street frontage.	
Deep soil = 7% Achieving the design criteria may not be possible on some sites including where:		
 the location and building typology have limited or no 		
space for deep soil at ground level (eg central business district, constrained sites, high density areas, or in centres)		
• there is 100% site coverage or non-residential uses at ground floor level		
Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and		

	alternative forms of planting provided such as on structure.		
3F-1 Visual Privacy	 Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from 	Along the eastern side the 4 storey podium is built to the boundary, to connect with the immediately adjoining building (2-10 Stanley Street) which has been approved at a nil setback. From Level 4 to Level 10 the building is setback 6m. This does not comply for the Levels 5-8 which should be setback 9m and Level 10 should be setback 12m.	No (refer to detailed discussion below)
	buildings to the side and rear boundaries are as follows: -Up to 12m (4 storeys)	building, the building is generally setback 6m. There are small sections of the bedroom wall and blade walls to the balconies which encroach on the 6m setback. There are no windows that encroach on this setback.	
	Habitable rooms and balconies = 6m Non-habitable rooms = 3m -Up to 25m (5-8 storeys) Habitable rooms and balconies = 9m Non-habitable rooms = 4.5m -Over 25m (9+ storeys) Habitable rooms and balconies =	At the rear of the site the building is setback 6m (to the centreline of Stanley Lane) which is the calculation that has been applied to assessing separation distances and setbacks off secondary roadways and lanes. The upper levels have been setback 9m from the centreline and again Level 10 and 11 should be setback 12m however this has not been achieved as the building would then be stepped too many times and would create a ziggurat appearance which is discouraged. Again the building doesn't achieve the minimum 9m and 12m side setback requirement along the western side but given there is no potential for overlooking and the	No (refer to detailed discussion below)

to the west will be satisfactory. Further discussion regarding this point is included in more detail below. Setback and separation distances to the north (front) and south (rear) are dictated by the Kogarah Development Control Plan requirements.	
3J-1 1. For The development complies with the Yes	
Bicycle and car parkingdevelopmentin the following locations: - On sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area; - The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generatingrequirements of the Guide to Traffic Generating Developments in relation to car parking as the site is accessibility" requirements being located within 800m of Kogarah 	

whichever is less The car parking	following off street parking is required;
needs for a	29 units x 0.4 = 12 spaces
development must be provided	66 units x 0.7 = 46 spaces
off street	21 units x 1.2 = 25 spaces
	116/7 = 17 visitor spaces
	Total off street car parking required = 100 spaces
	Provided = 95 residential spaces, 17 visitor spaces and 4 accessible spaces.
	Total of 116 spaces
	This approach to the calculation of parking has been consistently applied to the recent applications i.e 2-10 Stanley Street and 70-78 Regent Street
	In terms of off street bicycle parking provisions are in accordance with the KDCP which requires 1 secure bicycle space per 3 units and 1 visitor space per 10 car spaces. On that basis a total of 39 bicycle spaces are required for residents and 10 visitor bicycle spaces are required to be provided.
	The proposal provides for a total of 40 residential bike parking spaces, and 10 visitor spaces.
	A total of 14 motorbike spaces are also provided.
	A Loading bay has been catered for as part of the development with direct access off the lane. This space can accommodate a light commercial vehicle and small trucks. Swept path diagrams have

		been submitted which confirm that service vehicles will be able to reverse off the laneway into the site. As such the area will satisfy the KDCP, SEPP 65 and Australian Standards in terms of access and manoeuvrability.	
4A-1 Solar and daylight access	 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 A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid- winter 	A total of 83 apartments receive a minimum of 2 hours of solar access between 9am and 3pm This amounts to 72% which is compliant. 31 apartments are sole, south facing apartments which amount to 28% of the development. Not all of these apartments will receive no sunlight or solar access as the western portion of the building has been angled and orientated to face south- east rather than directly south to capture some additional sunlight through buildings. Despite this, more than 15% of apartments will receive no solar access.	Partial non- complianc e
4B-3 Natural Ventilation	 At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at 	A total of 70 apartments (60%) of the development allows for cross- ventilation. The fact the built form is broken up into two distinct building elements creates more opportunity to design corner apartments which have dual aspect and orientation allowing for improved opportunities to maximise cross ventilation across the development. Maximum depth of apartments is	Yes

	 these levels allows adequate natural ventilation and cannot be fully enclosed 2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line 	between 10-12m	Yes
4C-1 Ceiling heights	1. Measured from finished floor level to finished ceiling level, minimum ceiling heights are: Habitable rooms = 2.7m Non-habitable rooms = 2.4m	The floor to floor heights are 3m which will achieve a minimum floor to ceiling height of 2.7m The architect has designed internal spaces to rely on LED recessed lights to some spaces as kitchens can allow for lower ceiling heights as these are not habitable spaces. This design means that the overall floor to floor height of 3m can be achieved and the internal floor to ceiling heights of 2.7m can also be accommodated.	Yes
4D-1 Apartment size and layout	 Apartments are required to have the following minimum internal areas: bedroom = 50sqm bedroom = 70sqm bedroom = 90sqm The minimum 	1 bedroom = 53-59sqm 2 bedroom = 75-76sqm 3 bedroom = over 100sqm	Yes

	internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each		
	2. Every habitable room must have a window in an external wall with	At least one window is provided to each room.	Yes
	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		
4D-2	1. Habitable room depths are limited to a maximum of	Within range.	Yes
	 2.5 x the ceiling height 2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window 	Open plan layouts less than 8m from window or balcony Depth of kitchens does not exceed 8m. Most kitchens are located within 2m – 4m of a balcony opening.	Yes
	1. Master bedrooms have a	Every master bedroom has a minimum area of 10sqm.	Yes

	 minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space) 2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space) 3. Living rooms or combined living/dining rooms have a minimum width of: -3.6m for studio and 1 bedroom 	Bedrooms are well proportioned and sized and have minimum dimensions of 3m.	
	- 4m for 2 and 3 bedroom apartments	The width of living/dining spaces which are combined have a minimum width of 5m in the 2 and 3 bedroom apartments.	
	4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	The width of the loft apartments are 3.6m which is slightly less than the 4m minimum however they have a length of 8m and the loft apartments are only 1 bedroom apartments which face north. The internal amenity is considered to be acceptable given these circumstances and the living conditions are contemporary and acceptable.	
4E-1 Private Open space and balconies	1. All apartments are required to have primary balconies as	All balcony areas are at or greater than the minimum specified and the minimum dimensions are observed for primary balconies as required.	Yes

follows:		
-1 bedroom = 8sqm/2m depth	All 1 bedroom apartments comply with the minimum 8sqm balcony size with some 1 bedroom apartments having 2 balconies. Depth – 2m	Yes No but
-2 bedroom = 10sqm/2m depth	All 2 bedroom apartments have balconies with minimum areas of 10sqm. Depth – 2m	acceptable given a minor non-
 -3+ bedroom = 12sqm/2.4m depth The minimum balcony depth to be counted as contributing to the balcony area is 1m 2. For apartments at ground level or on a podium or similar structure, a private open space is provided 	The 3 bedroom apartments have minimum balcony sizes of 12sqm apart from units 1.02, 2.07, 3.03 which have balconies with areas of 10sqm Depth – 2m. Reconfiguring these units to achieve a 12sqm minimum cannot be achieved without adversely affecting the overall symmetry of the building which relies on a series of consistent bays to give verticality to the form. The alternative is to remove a bedroom to increase the balcony size but then it would become a 2 bedroom apartment and would require a 10sqm balcony so that is counter-productive.	e
instead of a balcony. It must have a minimum area of 15sqm and a minimum depth of 3m	The ground floor apartments have large, private courtyards and balconies with minimum areas of 14sqm. The non-compliance in this instance is considered minor and will not adversely affect the functionality and useability of these spaces. Five courtyards with areas of 14sqm are dedicated to 1 bedroom apartments and there is only one corner 2 bedroom apartment (G.01) which has a front courtyard with an area of 14sqm.	

		These courtyards have been well designed and are orientated to the north so will have good amenity and solar access as well as be able to be utilised for passive recreation. External view from a typical ground floor terrace	
4F-1 Common circulation spaces	1. The maximum number of apartments off a circulation core on a single level is eight	The issue of having one lift core servicing the development has been a point of contention since the application was lodged. The Applicant has taken a lot of time to consider alternative options of splitting up the lifts and creating two lift cores, This is not viable given the basement configuration. As such the maximum number of apartments off the circulation core is 14 on the ground floor and level 2, 10 apartments on Levels 1 and 3, 4, 5 for and level 10, only have 6	No See discussion below
		5, 6 and level 10 only has 6 apartments with direct access off the lift core.At the lower podium levels the loft apartments reduce the need for access off every second floor. The	

		satisfactory and the amenity within the development has been enhanced by the connecting bridge which is an interesting feature and breaks up the bulk of the development and creates an interesting point of access to each level. It provides for natural ventilation and a larger space that opens up the main entry lobby at each level.	
		The width of the corridor has been enlarged in the amended design and most entries are offset so that they increase privacy and reduce general accessibility conflicts. The length of the corridor has also been reduced at the upper floor levels where the building's overall length has been reduced and larger sized units are located at the upper levels.	
4G-1 Storage	 In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: bedroom = 6m³ bedroom - 8m³ bedroom - 10m³ 	All units have storage areas that comply with the requirements with dedicated storage areas within the basement levels and provisions for additional storage cupboard within the apartment	Yes
4H Acoustic Privacy	Noisy areas within buildings including building entries and corridors should be located next to	The development has been sensitively designed to respect the siting of the building. The apartments have included design features such as blade walls and privacy screens to balconies to	

	or above each other and quieter areas next to or above quieter areas	remove any potential for noise transmission between units and adjoining buildings. The built form has been broken up into two buildings and the separation distances between the two buildings is up to 12m with limited openings in this area, most screened appropriately. Also the main foyer area at the ground floor and the bridge at the upper levels does not allow for any privacy impacts to be generated.	
4J Noise and Pollution	Design solutions to mitigate noise include: limiting the number and size of openings facing noise sources providing seals to prevent noise transfer through gaps using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens) using materials with mass and/or sound insulation or absorption properties e.g. solid balcony balustrades, external screens and soffits	As previously discussed in this report the Acoustic Assessment concluded that there are no adverse noise impacts from external noise sources as the site is about 80m from Princes Highway and the new developments along this roadway and adjacent assist in becoming a noise buffer and restricting the transmission of noise to the west. The acoustic report does request the implementation of construction measures which will reduce noise transmission between apartment and levels. This is conditioned accordingly.	Yes

4K Apartment Mix	A range of apartment types and sizes is provided to cater for different household types now and into the future	The development provides a variety and mix of apartment types and also varying styles with the introduction of loft apartments offering another form of housing. There is an appropriate mix and style of apartments.	Yes
4L Ground Floor Apartments	Direct street access should be provided to ground floor apartments Privacy and safety should be provided without obstructing casual surveillance.	There are a series of 8 apartments at the ground floor that have direct access off Stanley Street. Most of the apartments at the rear off Stanley Lane also have direct access from this secondary roadway which is a benefit and encourages greater activation and natural surveillance.	Yes
4M Facades	Facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale.	The façades of the building/s have been amended to create a more residential feel at the podium levels in particular. Originally the built form relied on a contemporary concrete finish and the materials have been modified to be softer and reflect a more residential feel rather than looking more institutional. The treatment of the façade is interesting and varied. The development relies on a number of architectural elements which enhance its visual appearance and break up the mass and form of the buildings. The building is defined by the podium (base) middle which is setback behind the lower levels and a top. The building is well composed with horizontal and vertical design elements.	Yes

4N Roof	Roof treatments are integrated into the building design and positively respond to the street. Opportunities to use roof space for residential accommodation and open space are maximised. Incorporates sustainability features.	The roof design is appropriate and integrated into the design of the development. Communal open space is provided on level 10 being the roof area of the eastern building. There is no use of the roof above Level 11 for the western building. The treatment is simple and is not considered to be a strong architectural feature which is appropriate given the built form has been designed to be highly varied and articulated.	Yes
40 Landscape Design	Landscape design is viable and sustainable, contributes to the streetscape and amenity	A detailed Landscape design has been prepared which compliments the natural and cultural features of the area and streetscape. The proposed landscaping includes fixed planter box elements as well as attractive ground floor vegetation. The amended design provided for deep soil landscaped area along the western side of the site. This area, although private in nature can assist with providing a through link as it is uncertain when the adjoining site at 18-24 Victoria Street will be redeveloped. A condition will require this area to include a path from the street to the lane which is able to be used by members of the public as well as residents of the development. The space is well landscaped and with the provision of some seating could become an attractive transitional space. The landscape design also focuses on the provision of an attractive and	Yes

		very functional area of communal open space at the roof level.	
4P Planting on structures	Planting on structures – appropriate soil profiles are provided, plant growth is optimised with appropriate selection and maintenance, contributes to the quality and amenity of communal and public open spaces	Landscaping of the site, which includes planting on structures has been designed by a qualified landscape architect with details provided on species, soil depth, growth heights and spacing etc. There are also plants and vegetation proposed along the bridge which will create a green wall. There are opportunities to create some additional landscaping on podium levels. It is required via conditions planter boxes are to be installed along the edges of balconies at Level 4 as these are substantial in size and some additional greenery will soften the appearance of this level. This is also suggested for the balconies facing the street and laneway at Level 4. The podium level at Level 4 on the eastern side hasn't been treated, it is requested that this become an attractive roof garden to create a green transition from the nil setback.	Yes
4Q Universal Design	Universal design – design of apartments allow for flexible housing, adaptable designs, accommodate a range of lifestyle needs	The various sizes and designed of apartments allows for use by differing lifestyles. The design of apartments is flexible and considered to be appropriate. There are thirteen (13) adaptable units proposed which adds to the flexibility of the design.	Yes
4R Adaptive	New additions to existing buildings are contemporary	Not applicable to this development	N/A

Reuse 4S Mixed Use	and complementary and enhance an area's identity and sense of place Mixed use developments are provided in appropriate locations, provide active street frontages,	The development comprises of a Residential flat building. Mixed use developments are not permissible in the zone.	N/A
	residential levels of the building are integrated within the development and safety and amenity is maximised for residents		
4T Awnings and signage	Awnings and signage – awnings are well located and compliment and integrate with the building design, signage responds to the context and desired streetscape character	No awnings or signage is proposed as parts of the building have recessed areas that provide overhangs and shade lower levels. No signage other than basic street numbering and the name of the building is proposed.	N/A
4U Energy Efficiency	Development incorporates passive environmental design, passive solar design to optimise heat	Development incorporates BASIX commitments in the design to provide appropriate energy efficiency features. An updated BASIX report was prepared and accompanies the	Yes

	storage in winter and reduce heat transfer in summer, natural ventilation minimises need for mechanical ventilation	amended application.	
4V Water management and conservation	Water management and conservation – potable water use is minimised, stormwater is treated on site before being discharged, flood management systems are integrated inti site design	Development incorporates appropriate stormwater measures and Council's Development Engineers are satisfied with the design. Rainwater tanks are included and space for water storage is also catered for in the basement.	Yes
4W Waste Management	Waste management – storage facilities are appropriately designed, domestic waste is minimised by convenient source separation and recycling	Waste facilities are provided in a central garbage room in Basement 1. This room caters for small scale residential bins and larger recycling bins of a commercial capacity due to the larger scale of the development. A platform is included adjacent to the loading bay where bins are raised and held there before being taken directly to the lane for collection.	Yes
4X Building maintenance	Building maintenance – building design provides protection form weathering, enables ease of maintenance, material selection	Design incorporates a mix of external finishes that require minimal maintenance.	Yes

reduces ongoing	
maintenance cost	
	1

Discussion on the ADG Non-compliances

1. Visual privacy

Part 3F of the Apartment Design Guide establishes minimum separation distances between buildings in order to minimise overlooking and preserve privacy. Objective 3F-1 states that "Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy".

To achieve this objective the ADG establishes minimum design criteria and minimum separation distances which are outlined below;

Building Height	Habitable Rooms and Balconies	Non-habitable Rooms
Up to 12m (4 storeys)	6m	3m
Up to 25m (5-8 storeys)	9m	4.5m
Over 25 (9+ storeys)	12m	6m

Figure 9: Extract from the Apartment Design Guide outlining the minimum expected separation distances between buildings

The proposal has been designed in part to comply with the minimum separation distances and where it fails to totally satisfy the minimum distances the building has been designed to maintain and achieve reasonable levels of external and internal visual privacy.

At the ground floor level up to Level 4, the building is to be constructed to the common boundary along the eastern side. This nil setback is consistent with the nil setback for the podium level that has been approved at No.2-10 Stanley Street (DA2017/0483). Connecting both buildings at the first four levels provides consistency in the overall design approach for future development in the North Kogarah precinct. This design intent is captured in the North Kogarah Development Control Plan and has been consistently applied for new developments.

The height of the four level podium at No.2-10 Stanley Street has been approved at RL29.00 (this excludes the balustrade at the fourth level so the overall height would be more like RL30.20). The proposed height of the four level podium at the subject site is RL29.250 which also excludes the balustrade at this level so again the total height of this level is in the order of RL30.45 so the inequity in the height between the two is some 250mm which is minimal and when viewed from street level will be indiscernible.

At the upper levels from Level 4 until Level 10 the building is setback 6m. The building is compliant at level 4 and Level 10 but following the ADG requirements Levels 5-9 should be setback 9m. In this case the 6m setback at all levels is considered satisfactory as the habitable areas above Level 4 include angled privacy screens and at Level 10 the communal open space provides a significant buffer and separation between the adjoining building (No.2-10 Stanley) and the habitable areas. Privacy has been maintained and impacts minimised. Complying with the 9m setback would create a ziggurat design and this is considered to be an adverse architectural outcome as the building could potentially become a wedding cake. For a large integrated development of this scale this isn't a desirable planning outcome.

Along the western side the Site adjoins 18-24 Victoria Street which is identified to include a site through link as part of their site in accordance with the North Kogarah DCP. The intention of this through link is to break up the bulk and mass of development, accentuate a human scale and provide a direct physical, pedestrian link from Stanley Street through to Stanley Lane. Originally the proposal did not provide any space or separation along this side. The Applicant was encouraged to provide more deep soil areas at the ground floor level and this part of the site (adjacent to a future through link) would be a more appropriate planning and urban design outcome. The amended plans have proposed an area of 311sqm of deep soil area at the ground floor along the western side. Although the Applicant has requested this area to be communal and only accessible to residents of the development, a condition will require this area to be level and a path be proposed so members of the community can use this as a site through link until a more permanent arrangement in the future is provided or approved for 18-24 Stanley Street.

Most of the building is setback 6m from the ground level to Level 4 apart from a slight encroachment at the front, this is caused by a blade wall and the reason for this to create definition to this corner. Compliance could be achieved by straightening up the building but that would create a harder street edge. From Levels 5-10 the building is setback 6m from the western boundary which fails to comply with the 9m minimum. This design is considered to be more appropriate and still fulfils the desired planning outcome and objective of preserving privacy and minimising overlooking. Window openings along the western side have been sensitively designed to include screening, are offset and designed to be longer more narrow and vertical in proportion which limits any adverse amenity outcomes.

The building itself is broken up into two independent built forms which intends on breaking up the mass and bulk of the development especially due to the length of the Site. The central bridge is the architectural element that connects the two buildings and provides visual interest and adds greenery and variety to the overall form. The buildings are separated by 10m at the greatest point which enhances the main entry to the building. The separation distance between the two buildings is appropriate and rooms and openings have been designed so as to not to directly overlook adjoining spaces.

The front and rear setbacks of the building are dictated by the provisions in the North Kogarah DCP. These parts of the development are discussed in greater detail later in this report.

Despite the non-compliance with the separation distances the building has been designed to respect the character and nature of approved and future development adjoining the site and the site planning and design of the building satisfies the intentions and objective of the control which is to minimise and preserve privacy.



Figure 10: 3D Montage of the entry foyer and lobby area of the proposed development (courtesy Scott Carver, 2018)

2. Common circulation spaces

Part F4 of the ADG outlines provisions relating to common circulation and spaces. The key performance control is that the maximum number of apartments sharing a circulation core is eight (8). The proposal fails to comply with this control. The objective

of the control is to "achieve good amenity and properly service the number of apartments".

The issue of the development having one lift core and the number of apartments servicing the lobby and corridor of between 10 to 14 apartments depending on the level, has been raised with the Applicant. It was suggested that since there are two buildings, two lift cores would be preferable and a more convenient arrangement for residents to access their apartments. The Applicant's took a lengthy amount of time in an attempt to resolve this issue, however, they stated that this could not be achieved for the following reasons;

- The arrangement of creating two lift cores could not be achieved without creating an additional basement level and reconfiguring car parking spaces, aisle widths etc.
- By splitting up the lift cores into two, there is essentially no need for the connecting bridge which not only is an attractive feature but provides a good level of amenity, natural ventilation and connectivity.
- The amended plans have widened the corridor to improve its overall amenity.

In this case if the proposed arrangement is considered satisfactory for the following reasons;

- Having the two lifts located together is convenient and easy to access. If they were broken up it could be confusing to visitors and if one lift requires servicing this could also be inconvenient.
- The bridge provides a high level of amenity to the entry and corridor space within the development at every level by providing natural ventilation and natural light to the corridor. It will also provide for a semi-open area to sit, reflect and wait for the lifts.
- The apartments have been designed so that all main doors are offset from adjoining apartments so there are no conflicts or privacy concerns between neighbours.
- At the levels where there are loft apartments there are a maximum of 10 apartments accessing the corridor. The apartments are broken up into two corridors so a maximum of 5 apartments access the eastern wing of the building whilst 9 apartments have access off the western wing of the building. Breaking up the corridor into two wings improves the amenity of the space.
- The corridor exceeds 12m in length however the provision of the bridge is an important and attractive feature that substantially improves the amenity of this internal area and breaks up the length of the corridor.

3. Private open space and balconies

Part 4E of the ADG relates to the provision of Private Open Space and balconies. The control stipulates that a 1 bedroom apartment requires a balcony with area 8sqm, 2

bedroom apartment with 10sqm balcony with minimum depth of 2m and a 3 bedroom with a balcony with a minimum of 12sqm in area with a minimum depth of 2.4m. Design guidance in the ADG states that communal open space needs to be increased where the number and size of balconies are reduced.

The balconies are designed to comply with the ADG provisions for all apartments apart from the following three bedroom apartments;

• Unit 1.02, 2.07, 3.03

These three units have three bedrooms and have a balcony with an area of 10sqm which is a shortfall of 2sqm in area. Given the design and symmetry of the building increasing the balcony size will affect the harmony of the podium and regularity and rhythm of the bays. It would also come at the cost of the internal amenity of the apartments.

Given that the provision of communal open space exceeds the minimum requirements and there are two very functional areas provided at ground floor and at the roof level the non-compliance in this case is minor as it is across three units which are north facing so they will obtain very good internal amenity and solar access and the smaller balconies will not adversely affect their useability and overall purpose.

All ground floor units have private courtyards with areas exceeding 15sqm, it is acknowledged some areas do not achieve the minimum 3m depth. Apartment G.10 has a courtyard off the laneway with an area of 13sqm and with a small Juliette balcony adjoining the bedrooms of 4sqm. The total area has been achieved and the spaces are useable and compliment the arrangement of the unit. The balcony spaces are also embellished by the soft landscaping around the perimeter of the apartment.

4. Solar Access

Part 4A of the Apartment Design Guide stipulates minimum requirements to achieve adequate solar and daylight access for apartments. The objective of the control is "to optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space".

The design criteria require that a minimum of 70% of apartments (living rooms and private open space) receive a minimum of 2 hours direct sunlight between 9am and 3pm in mid-winter. The proposal complies with this requirement.

The ADG also restricts the number of apartments that receive no direct solar access to a maximum of 15% of the development. Given the orientation of the site there are a substantial number of south facing apartments and therefore the development fails to satisfy this provision. Design guidance within the ADG in respect to this provision does allow for some flexibility in its application. The ADG states that "Achieving the design criteria may not be possible on some sites. This includes;

- Where greater residential amenity can be achieved along a busy road or rail line by orientating the living rooms away from the noise source,
- On south facing sloping sites.
- Where significant views are orientated away from the desired aspect for direct sunlight."

In this case the Site is not located along a busy roadway however the orientation of the site merely restricts compliance with the 15% of apartments that may receive no sunlight.

The nature of the site presents the following constraints:

- The site is 73.2M wide and 33.5M deep (approximately) and is an infill development alongside two development proposals of similar urban scale.
- The site is oriented North-South with its long axis facing North. This results in a larger number of South Facing Units than desired.

The total sole South Facing Units equals 31 which equates to 27% which exceeds the minimum of 15%.

The remaining 83 units receive the minimum of 2 hours sunlight during mid-winter in the early morning or late afternoon. This is achieved by carefully rotating the apartments as well as creating breaks within the built form. Two 2 apartments receive between 1 - 2 hours of solar access.

Whilst it is understood that the proposal has more than 15% of apartments not receiving sunlight between 9am - 3pm in mid winter, the scheme demonstrates a strong consideration in maximising building amenity to enhance the wellbeing of the future residents through the provision of high quality open plan spaces, with larger than average sized apartments which are considered to provide higher than anticipated internal amenity and design outcomes.

The key design objectives and solutions to address this issue are:

a) Built Form, Building Orientation and Façade Materiality:

The proposal seeks to offset the impacts to the South facing units, by maximising daylight and view corridors to the West through key design elements including:

- Rotating the building orientation;
- Breaking up and stepping the built form; and
- Providing larger glazed façade elements.
- b) Maximise building amenity and reinforce Sense of Community:
- Provide communal open spaces (sky bridges) on each level where residents can meet and interact; and

- Provision of generous communal open spaces at Ground Floor and a communal landscaped roof garden for residents and their visitors.
- c) Develop building character:
- Create an unconventional building typology, a unique building that will contribute to the future street character of Stanley Street and Stanley Lane.

Part 3B of the ADG refers to Orientation of the building and stipulates that "Designing the site layout to maximise northern orientation is an important consideration, but it must be balanced with responding to desired streetscape character..." The development achieves this objective and it is considered that the proposed non-compliance in respect to solar access has been adequately and appropriately addressed through the architectural design of the building.

1. Floor to ceiling heights

Part 4C of the ADG refers to ceiling heights and requires a minimum floor to ceiling height of 2.7m for habitable rooms. This is achieved by the development although the floor to floor height is proposed as 3.0m rather than 3.1m which seems to be the standard floor to floor height. The floor to floor height is not included as a design criteria within the ADG. Council has approved lower floor to floor heights of 3.05m where slabs are predicted to be about 350mm. In this case the concrete slab between levels could still be 300mm and lower parts of the floor to ceiling levels will be accommodated in non-habitable areas (i.e kitchens, bathrooms, corridors etc). The applicants have relied on a design where the lighting and some services and ducting are recessed and LED lighting is included. Figure 11 below shows how the 2.7m ceiling to floor height will be achieved.



Figure 11: Proposed internal layout of living spaces (courtesy Scott Carver, 2018)

The proposal aims to comply with the floor to ceiling heights and will satisfy the objective of "*achieving sufficient natural ventilation and daylight access*. The design of the apartments and associated spaces will be of a high quality.

Kogarah Local Environmental Plan 2012 (KLEP 2012)

An amendment to the Kogarah LEP 2012 was gazetted on 26 May 2017 which enabled a greater intensity of residential uses across the North Kogarah Precinct; giving effect to broader metropolitan-wide directions to support urban consolidation, particularly in locations close to jobs and public transport services. Sites within the precinct were rezoned to R4 and increased heights and FSR's were adopted in line with the overall strategic vision and direction for this area as depicted in the Greater Sydney Regional Plan (November 2017) and the South District Plan released in in November 2017 which earmarked this area for a greater intensity of redevelopment.

The provisions of the Kogarah Local Environmental Plan (KLEP) apply to the proposed development which complies with the relevant provisions as follows.

Clause		Standard	Proposal	Complies
2.3 –	Zone	R4 – High Density Residential	Consistent with	Yes

objectives and land use table		the zone objectives and land use table.	
4.3 – Height of Buildings	33m as identified on Height of Buildings Map	Approximately 35.7m maximum at RL 52.750 (to the plant room)	No (1)
4.4 – Floor Space Ratio	4.0:1 as identified on Floor Space Ratio Map (9,808m ²)	FSR = 4.0:1 (9,808m ²)	Yes
4.5 – Calculations of Floor space and Site area	X X 3 3 5 1 1 5 1 1 1 X X X X X X X X X X X X X	The proposal has been correctly calculated in accordance with the provisions of this clause.	Yes
4.6 – Exceptions to Development Standards		A CI 4.6 request has been submitted to justify the non- compliance with the height limit for the provisions of the lift over run and plant room.	Yes (refer to Cl 4.6 - assessment of this report)
5.10 – Heritage Conservation	STANLEY STREET	The site does not contain any heritage listed items. The closest heritage items are; I112, St Georges Girls	NA

		High School (15 Victoria Street)	
		I111 Terraces "Beatrice" and "Lillyville" (14-16 Victoria Street)	
		I110 "Hindmarsh" house and garden (2 Victoria Street)	
		I96 St Pauls Anglican Church and Hall (53-57 Princes Highway) I96	
		These sites are removed from the subject site and are not considered to be within the visual catchment of the Site	
6.1 – Acid Sulphate Soils	CTOR ST PARLEY STREET	The subject site does not contain any acid sulphate soils.	Yes
6.2 – Earthworks	Before granting development consent for earthworks the consent authority must consider: -Impact on drainage patterns and soil stability	The proposed earthworks are considered acceptable having regard to	Yes
	-The effect on likely future use or redevelopment of the land -The quality of the fill or the excavated	the provisions of this clause as the works are	

soil	not likely to	
-The effect on existing and likely	have a	
amenity of adjoining properties	detrimental	
-The source of fill material and the	impact on	
destination of excavated material	environmental	
- The likelihood of disturbing relics	functions and	
-The potential impacts on any	processes	
watercourse drinking water catchment	neiahbourina	
or environmentally sensitive area	uses cultural or	
or on the month of the second s	heritage items	
	or features of	
	the currounding	
	lond	
	lanu.	
	The amonded	
	nlong org on	
	improvement on	
	the original	
	une unginar	
	Schenie Which	
	suggested	
	cater for 4	
	basement	
	levels. This has	
	been reduced	
	and only 3	
	basement levels	
	are proposed	
	reducing the	
	amount and	
	extent of	
	earthworks	
	proposed.	
	The proposal is	
	accompanied by	
	a supporting	
	preliminary	
	Geotechnical	
	Investigation of	
	the site	
	Prepared by JK	
	Geotechnics	
	Australia and	
	dated 26 April	
	2018.	

6.3 – Flood Planning	N/A to the site	The site is not identified as Flood affected land.	Yes
6.5 – Airspace Operations	If the height of the building exceeds RL51.00 the proposal needs to be referred to Sydney Airports	The proposal has been referred to Sydney Airport for review and no objections were raised in this regard.	Yes

Clause 4.6 – Assessment

CI4.6 Exceptions to development standards

- (1) The objectives of this clause are as follows:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Applicant's Response

"The SEE prepared for this DA provides a holistic environmental planning assessment of the proposed development and concludes that subject to adopting a range of mitigation measures, there are sufficient environmental planning grounds to support the development. There is robust justification throughout the SEE and accompanying documentation to support the overall development and contend that the outcome is appropriate on environmental planning grounds.

In particular, and as demonstrated by the shadow diagrams at Appendix 4, the variation of the height standard results in no adverse impacts caused by additional overshadowing.

The breach of the height limit also does not cause any loss of privacy for neighbouring properties.

The environmental planning benefits that are facilitated by the variation of the height standard greatly outweigh the negligible environmental harm. These benefits relate to the achievement of a rooftop CoS area that has equitable access and is of high amenity. Should the CoS be located elsewhere (i.e. the ground level), the tangible benefits associated would be thwarted, and residents would be consequently provided with a CoS of lower amenity, that will likely be affected by privacy issues and reduced sunlight access.

Further to this, the provision of CoS on the rooftop is a direct response to the reduced floor plate caused by the 1200mm laneway dedication. The design of the development aims to contribute to the consistent street wall frontage on Stanley Street and to also address the Stanley Lane frontage as suggested in the vision for the KNPUDS. Accordingly, if the CoS were to be located on the ground floor, these design elements would be compromised.

The breach is also directly related to the sloping nature of the land, which slopes west to east. The building has responded to this environmental constraint by stepping of the built form from 11 storeys down to 10 storeys.

If it was not for the sloping topography, the dedication of land, or the planning benefit to locate the CoS on the roof for improved amenity (compared to ground level) the proposal would otherwise likely comply with the standard.

For the above reasons it is therefore considered that proposal results in a better environmental planning outcome and that strict compliance of the development standard would be unreasonable and unnecessary."

(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.

Response

The subject site has a maximum building height standard of 33m. The proposal has a maximum building height, as measured from ground level 'existing', of 35.75m (at RL 52.75AHD). Therefore, the proposal breaches the standard by 2.75m. Specifically, the portion of the building above the 33m height limit includes parts of the lift overrun (at Level 10) but predominantly the plant room (at Level 11).

It is important to note that the extent of the variation is related to the lift over-run of the building that provides equitable access to the roof-top communal open space on Level 10 of the building and the area dedicated for plant and equipment on Level 11. The lift overrun has a maximum height of RL51.450 whilst the plant room has a maximum height of RL52.750.

The exceedance in the height control of the lift overrun at Level 10 is about 900mm which amounts to a 3% variation whilst the plant room at Level 10 is about 2.75m above the height limit which amounts to an 8% variation. Given that the non-compliance is below 10% for both structures the breaches are considered minor and given their central location there will be no adverse amenity or visual impacts generated by these
ancillary structures. The area of encroachment onto the height control is shown in the 3D montages below.



Figure 12: 3D Montage of the 33m maximum height plane and the structures exceeding the height control (courtesy Scott Carver, 2018)

Clause 4.3 pertaining to Height is a development standard that is permitted to be altered or amended by Clause 4.6.

- (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

Applicant Response

Compliance with the Height of Buildings development standard is unreasonable or unnecessary in the circumstances of this case because, as explained in Table 1 (below), the objectives of the development standard are achieved, notwithstanding noncompliance with the standard

Objective	Discussion
(a) to establish the maximum height for buildings	The proposed height of the residential development is approximately 2.7m greater than the height standard. As discussed within the SEE, the proposed height is compatible within its context, and will not result in any adverse impacts to surrounding properties. The breach of the standard does not affect consistency with this objective. In fact, the breach of the standard allows for a building that achieves improved planning outcomes providing better amenity and presentation to the street and public domain.
	As detailed later in this variation request, and the SEE, the proposed height is compatible within its context, and will not result in any adverse impacts to surrounding properties. The breach of the standard does not affect consistency with this objective. In fact, the breach of the standard allows for a building that achieves an improved built form providing better amenity and presentation to the street and public domain.
(b) to minimise the impact of overshadowing, visual impact and loss of privacy on adjoining	Scott Carver has prepared detailed shadow diagrams for the proposal, which are provided at Appendix 4. The shadow diagrams illustrate the additional overshadowing impact caused by the variation of the height standard. Because the greatest breach occurs as a result of the lift overrun, which is located centrally within the building footprint, the additional overshadowing impact is relatively minor, as can be seen in Figure 3 below.
properties and open space areas	Further, as no habitable rooms are located within the height breach, there is no potential impact of overlooking to occur due to non- compliance. The plantings located within the rooftop CoS provide a visually pleasing and aesthetic improvement whilst minimising direct views to adjacent properties.
(c) to provide appropriate scale and intensity of development through height controls	Because of the location of the precinct relative to the Kogarah Rail Station and Kogarah Strategic Centre, Council has deliberately sought to create a high-density residential precinct. The breach of the height standard results in a built form outcome for the development that is consistent with the desired building envelope principles as established under the Kogarah North Precinct Urban Design Strategy (KNPUDS), the subsequent DCP amendments and the ADG. Accordingly, the breach of the standard directly achieves

Table 1: Compliance with the height standard is unreasonable and unnecessary

this objective.

Compliance with the Height of Buildings would lead to an inferior outcome in relation to this objective. As noted, the breach of the standard allows a built form that is consistent with the urban design principles established in the KNPUDS, and the subsequent amendments to the Kogarah DCP (specifically part E4 'Kogarah North Precinct'). This includes providing adequate setbacks to the street, side, and rear boundaries, as well as the provision of rooftop landscaping and communal open space. If the breach did not occur, the built form outcome would be compromised as it would otherwise result in a poorer streetscape presentation of the building as the additional floor space would be located at the lower levels, resulting in significantly less building articulation



Figure 13: Shadow Diagrams showing in "red" the impact of the structures that exceed the height control (courtesy Scott Carver, 2018)

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

Applicant's response

"The SEE prepared for this DA provides a holistic environmental planning assessment of the proposed development and concludes that subject to adopting a range of mitigation measures, there are sufficient environmental planning grounds to support the development. There is robust justification throughout the SEE and accompanying documentation to support the overall development and contend that the outcome is appropriate on environmental planning grounds.

In particular, and as demonstrated by the shadow diagrams at Appendix 4, the variation of the height standard results in no adverse impacts caused by additional overshadowing.

The breach of the height limit also does not cause any loss of privacy for neighbouring properties.

"The environmental planning benefits that are facilitated by the variation of the height standard greatly outweigh the negligible environmental harm. These benefits relate to the achievement of a rooftop CoS area that has equitable access and is of high amenity. Should the CoS be located elsewhere (i.e. the ground level), the tangible benefits associated would be thwarted, and residents would be consequently provided with a CoS of lower amenity, that will likely be affected by privacy issues and reduced sunlight access.

Further to this, the provision of CoS on the rooftop is a direct response to the reduced floor plate caused by the 1200mm laneway dedication. The design of the development aims to contribute to the consistent street wall frontage on Stanley Street and to also address the Stanley Lane frontage as suggested in the vision for the KNPUDS. Accordingly, if the CoS were to be located on the ground floor, these design elements would be compromised.

The breach is also directly related to the sloping nature of the land, which slopes west to east. The building has responded to this environmental constraint by stepping of the built form from 11 storeys down to 10 storeys.

If it was not for the sloping topography, the dedication of land, or the planning benefit to locate the CoS on the roof for improved amenity (compared to ground level) the proposal would otherwise likely comply with the standard.

For the above reasons it is therefore considered that proposal results in a better environmental planning outcome and that strict compliance of the development standard would be unreasonable and unnecessary."

(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

(b) the concurrence of the Director-General has been obtained.

Applicant's response

The proposal will be in the public interest because it is consistent with the objectives of the standard and the objectives of the zone. [cl. 4.6(4)(a)(ii)]

The proposal is also consistent with the objectives of the zone as explained in Table 2 (below).

Objective	Discussion
To provide for the housing needs of the community within a high density residential environment.	The proposal provides additional housing for the local area in the form of a high density residential flat building. The breach of the standard does not result in an inconsistency with this objective. In fact, the breach of the standard more appropriately achieves this objective by providing a high-density development in an appropriate location that will result in an appropriate built form as viewed from the public domain, as well as providing high levels of amenity to the residential units.
To provide a variety of housing types within a high density residential environment	The proposed development comprises one, two and three-bedroom units, addressing the local market demand. The breach of the standard does not result in an inconsistency with this objective.
To enable other land uses that provide facilities or services to meet the day to day needs of residents	The breach of the standard does not result in an inconsistency with this objective.

Table 2: Public Interest

(5) In deciding whether to grant concurrence, the Director-General must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

Applicant's Response

Contravention of the development standard does not raise any matter of significance for State or regional environmental planning. [cl. 4.6(5)(a)]

There is no identified outcome which would be prejudicial to planning matters of state or regional significance that would arise because of varying the development standard as proposed by this application.

(b) the public benefit of maintaining the development standard, and

Applicant's Response

There is no public benefit of maintaining the standard [cl. 4.6(5)(b)]

As discussed earlier, the proposed breach of the standard facilitates public benefits through a built form outcome that achieves the desired urban design principles established under the KNPUDS. The proposed provides generous setbacks and articulation, resulting in a building that will provide an improved relationship to the public domain.

The breach of the standard is minor and represents a lift over-run and plant room, which provides equitable access to rooftop landscaped areas and communal open space. The breach of the standard does not result in any adverse environmental impacts to the public domain or surrounding properties.

Accordingly, there is no public benefit' in maintaining strict compliance with the development standard given that there are no unreasonable impacts that will result from the variation to the Height of Buildings standard and hence there are minor public disadvantages.

We therefore conclude that the benefits of the proposal outweigh any disadvantage and as such the proposal will have an overall public benefit.

(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

Response

There are no relevant or additional matters required to be taken into consideration by the Director General before granting concurrence in relation to this Site/proposal.

- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:
 - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

<u>Response</u>

This clause is irrelevant to the proposal as the subject site is located within an R4 High Density Residential zone.

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

<u>Response</u>

The proposal does not involve subdivision at this stage, it is consolidating a series of sites. This provision is not applicable.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

<u>Response</u>

The Consent authority will keep record of the assessment against the provisions of Clause 4.6 in accordance with the requirement stipulated in Clause 4.6(7).

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

- (a) a development standard for complying development,
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
- (c) Clause 5.4.

<u>Response</u>

Clause 4.6(8) is not relevant to the subject development. Clause 5.4 lists controls related to Miscellaneous permissible uses. The subject development does not include any miscellaneous permissible uses. The proposal relates to the construction of a RFB which is a permissible use.



Figure 14: 3D Montage of the 33m maximum height plane and the structures exceeding the height control, front elevation (courtesy Scott Carver, 2018)

Assessment against the provisions of Clause 4.6 should also be considered using the "Five Part Test" established by the NSW Land and Environment Court (LEC).

Several Court cases dealing with applications to vary development standards has resulted in the Land and Environment Court setting out a five part test for consent authorities to consider when assessing an application to vary a standard to determine whether the objection to the development standards is well founded:

Test 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard:

Officer comment:

The objectives of the height standard are:

- (a) to establish the maximum height for buildings
- (b) to minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas
- (c) to provide appropriate scale and intensity of development through height controls

In this circumstance the breach of height as previously mentioned is limited to the lift over run and some minor associated outdoor structures for the provisions of the rooftop communal open space and plant.

The actual parapet of the building which is the most visible part of the building and the main part of the roof form complies and sits under the 33m height limit. Even at a height of 33m it is unlikely that at street level people will be looking up at the building but rather appreciating it from street level and would focus on the first 4 storeys, the podium level which represents a more human scale. Adjoining properties will also appreciate the lower levels of the building. The higher levels of the building will be appreciated from far away and possibly when travelling in a car approaching the Site. The parapet of the

building complies with the height and the areas of non-compliance which are the lift overrun and the plant room are centrally located within the building and these structures will not be visible from the street and even when travelling or viewing the site from a distance these structures will not be visible.

The visual privacy to the adjoining existing development as well as currently proposed residential flat buildings to the east, west and south is considered to have been preserved as the building involves the use of high parapet surrounding the parameters of the rooftop.

The rooftop communal open space is further setback from the edge of the building from all directions which would not enable any overlooking from a standing position at that height, considering the setbacks and the angle of the line of sight.

Similarly, in reference to the overshadowing impact, any shadow cast from the projection of the rooftop structures would be cast onto the development itself as the structures are located centrally within the rooftop footprint. The extent of the additional shadowing also remains negligible and the communal open space will still be in full compliance with the minimum required solar access as a result.

In addition, recently approved developments have been approved with similar encroachments, this development represents a scheme and design that is consistent with recently approved adjoining developments (i.e 2-10 Stanley Street).

As such the height breach is considered to be of an appropriate scale and intensity to the satisfaction of the above objectives as there is no overlooking, additional overshadowing and there is no adverse visual impact from the variation in this case.

Test 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary:

Officer comment:

The purpose of the standard though remains relevant and compliance is necessary.

The intent or underlying objective is to limit overshadowing and visual privacy impacts to an acceptable level within a High density setting.

This is considered to be of direct relevance had the breach in height been presented in the form of an additional residential level, however in this circumstance it is limited to the common roof top open space structures, plant and the lift over run which is centrally located within the floor plate of the building.

Test 3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable:

Officer comment:

To some degree the underlying object and purpose of the control would be defeated if compliance was required as the development would no longer be consistent in scale and form with recently approved developments in this precinct and the true potential of the site would not be realised as there would be a discrepancy between the floor space that can be achieved and the scale that can be realised through that. The height of the building would be reduced and would not relate to the form of No.2-10 Stanley Street or 74 Regent Street. One of the key objectives of the height control is to "to provide appropriate scale and intensity of development through height controls". This objective would not be satisfied if compliance with the control is strictly applied. The scale of the building would be at least one level lower and the gross floor area would be substantially under that permitted for the redevelopment of this Site. This would not result in an appropriate planning and urban design outcome is envisaged for this area.

The rooftop open space structures, plant and lift over run are common services required for any high-density development and strict compliance with the height standard would result in a loss of an entire residential floor to the development. This scenario is considered unreasonable and would not be consistent with the envisaged FSR for the subject site.

Test 4. The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable:

Officer comment:

Council has consistently issued previous consents that enable lift over runs and associated rooftop common space structures and plant rooms to exceed the height control to date. A recent court decision approved No.70-78 Regent Street Kogarah North, acknowledging that ancillary structures exceeding the height control are considered acceptable if located in a centralised position in the building and will not contribute to any adverse amenity impacts such as overlooking, overshadowing or affecting the visual appearance of the building. This decision has been considered in other applications and has been fairly and consistently applied. In this case there are no areas of habitable spaces that encroach on the height limit and the ancillary structures are centrally located and will not adversely affect the amenity of the building, adjoining residences or locality.

It is not considered that the minor breaches in the height control has abandoned this control as the building (to the uppermost parapet feature) complies with the height, with only the areas of common open space, lift and plant rooms exceeding the control. The breaches are considered minor and the development as a whole respects the intentions and objectives of the control. It is not considered that the variations have destroyed the applicability and intentions of the control.

Test 5. The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of

the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.

Officer comment:

In this regard, whilst strict compliance with the development standard is considered unreasonable, it is not considered however, to be inappropriate as the consistent breaches of the standard have been limited only to the associated services for the development as opposed to an entire residential levels beyond the height limit where compliance is warranted and remains appropriate for the existing and envisaged land use.

As such, strict compliance with the height standard in this circumstance is considered unreasonable and unnecessary. The development standard has been certainly varied numerously and consistently whether by Council, independent Panels and/or LEC for the purposes of communal open space structures, plant and lift over run provisions on the rooftops associated with high density land use developments.

Whilst the standard remains appropriate for the intended land use, a merit based assessment should be exercised consistently in this regard. This does not necessarily mean that the standard has been fully abandoned as it still limits breaches in height that involves provisions of GFA beyond the height limit whereby overshadowing and visual privacy would be compromised otherwise.

The variation to the height is not such that it will alter the intended urban design outcome for developments in the area and the desired future character of the area will when redeveloped still achieve consistency with the EPI's, KDCP and state policies that are applicable to this zone. The variation is considered minor and will not initiate a different form of development than is envisaged by the key planning controls (height, floor space, separation distances, setbacks, common area of open space, deep soil areas and provisions specified in the ADG to achieve appropriate internal amenity).

Kogarah Development Control Plan 2013 (KDCP 2013)

The Kogarah North Precinct sits to the north of Kogarah Town Centre, an area which has undergone a significant transformation over the last decade, to become a vibrant, liveable and working Town Centre. Kogarah is a highly concentrated business district, with two major hospitals (St George Public and St George Private Hospitals) and the second largest TAFE in New South Wales (NSW). The precinct is also very accessible as it adjoins the Kogarah Train Station and Town Centre.

The proposed development is subject to the provisions of the Kogarah Development Control Plan 2013 (DCP). Specifically, the relevant section of the DCP is Part B-General Controls and Part E4 – Kogarah North Precinct.

The following comments are made with respect to the proposal satisfying the relevant KDCP 2013 objectives and controls.

Part B- General Controls – KDCP

B2 – Tree Management and Green Web

There is no significant vegetation on the site. Due to the long length of the combined frontages there are couple of existing street trees that will be retained and protected. Currently there are several driveway crossings that exist and this precludes more street planting to occur. The development will not have any crossings off Stanley Street with direct and only vehicular access off the rear laneway which is the preferred and a more desirable planning and design outcome.

A condition will require the existing street trees to be retained and for new additional trees to be planted and all existing driveway crossings to be extinguished and replaced with grass and trees to Council's Asset Managers satisfaction. This will improve the public domain and create a consistent green street frontage.

The application is accompanied by a landscape plan prepared by a qualified landscape architect that proposes appropriate landscaping to the site and common open space areas within the rooftop communal open space areas and the ground floor areas. The amended plans have setback the basement 2m from the northern side to allow for greater deep soil areas at the front of the ground floor courtyards to allow for medium sized, mature trees to be planted which will soften the lower podium levels.

B4 – Parking and Traffic

B4	Relevant Requirements	Proposed	Complies
Parking	Residential	Based on the proposed	Yes, refer to
requirements	1 bedroom unit - 1 space/unit	apartment mix of:	ADG
		29 x 1 bedroom,	Assessment.
	2 bedroom unit - 1.5	66 x 2 bedroom,	
	spaces/unit	21 x 3 bedroom,	
	3 bedroom unit - 2	Based on the KDCP	
	spaces/unit	provisions the proposal	
		requires a total of 170	
	1 Visitor parking /5 units or	spaces for residential	
	part thereof, and	units and 58 spaces for	
		visitors. A total of 228	
	1 designated carwash bay	spaces are required.	
	which may be a visitor space		
		The site is located	
		within a highly	
		"accessible" location	
		(within 800m of	
		Kogarah Train Station)	

The extent to which the proposed development complies with the car parking provisions is outlined in the table below.

Bicycle parking	Residential 1/3 dwellings and 1/10 dwellings (visitor) Must be in accordance with AS2890.3 – 1993 (Parking facilities – Part 3 Bicycle Parking Facilities)	as such the proposal is subject to the RMS guide for Traffic generating development in accordance with SEPP 65, which has been calculated and considered in the assessment above (as part of the ADG assessment) and generates the need for a total of 99 off street car parking spaces, inclusive of visitor's spaces. The proposal exceeds this requirement. Councils DCP requires the development to cater for a car wash bay which can double up as a visitor space. A condition will require this to be catered for. Required – 38 bicycle spaces for the residential component and 12 to cater for visitors Total provided = 40 bicycle spaces for	Yes
	AS2890.3 – 1993 (Parking facilities – Part 3 Bicycle Parking Facilities)	Total provided = 40 bicycle spaces for residents and 10 for visitors.	
		Numerical compliance is achieved.	
Design and layout of car parking areas	 Internal car park shall be designed in accordance with the requirements set out in AS 2890.1 (2004) and AS 2890.2 (2002) for off street parking and 	The development complies with these requirements.	Yes

	commercial vehicles.		
	 Non-residential and 		
	residential development		
	parking areas should be		
	physically separated		
	 Basement car parking is 		
	to be located within the		
	building footprint		
	 Car parking areas may be 		
	designed as ground level		
	parking provided that the		
	design results in building		
	frontages level with the		
	street		
	 Design parking to ensure 		
	nedestrian safety		
	 Include natural ventilation 		
	to basement and semi		
	basement car parking		
	 Integrate ventilation 		
	design into the facade of		
	the building or parking		
	structure		
	 treating it with appropriate 		
	features such as louvres		
	well- designed grilles		
	planting or other		
	landscaning elements		
	 Ensure that all vehicles 		
	including vehicles using		
	loading bays can enter		
	and loave the		
	site in a forward direction		
	 Site in a forward direction. Avoid locating access 		
	- Avoiu localing access		
	adjacent to the deere or		
	windowe of hobitable		
Loading	Potail area botween 15ccm	The development	Voc
	and 500ccm 1 how	doesn't cater for a rotail	162
	anu bubsqiii — T bay	or commonsiel	
	Design of loading how		
	facilities to be 2 5m wide y	therefore technically a	
	0 Em long	loading boy is not	
	9.511 10119	required bewever due	
		to the scale of the	

development a Loading bay has been provided and is located off Stanley Lane adjacent to the entry of the carpark. The loading dock includes a space	
that allows for bins to be stored ready to be transported for collection off the laneway.	
The loading bay is well located and swept paths have been provided to show that turning into and out of the bay is acceptable and able to be catered for by a B55 truck.	

B5 – Waste Management and Minimisation

A Waste Management Plan has been submitted with the application which is acceptable. Council's Coordinator – Environmental Sustainability has examined the application and requested additional information that the applicant has addressed.

The proposal is accompanied by a Waste Management Report which was prepared by 'Elephants Foot' and dated February 2019. The report stipulates the arrangement of disposing of waste and the method of waste minimisation. The development has been designed to include a garbage room that is centrally located within the basement level and it is proposed to include a platform/lift to get the bins up to the loading area where they can be stored until they are ready to be placed out onto the laneway for collection. A small private contractor can come and dispose of the waste in a private arrangement once or twice a week. This is an ideal arrangement and removes the need to remove the bins from the street. This means that there will be no conflicts with parked vehicles etc and collection is from the rear.

The proposed arrangement has been assessed by Council's waste management services and it is considered the method is acceptable and compliant. If consent is granted it will be subject to conditions of consent requiring the provision of appropriate waste facilities for the ongoing use of the development.

B6 – Water Management

The development can drain to the street via gravity. Appropriate conditions of consent can be attached to any consent granted. There is a pump out system proposed for the basement levels and an OSD tank located at the front of the site recessed from the north-eastern side.

B7 – Environmental Management

This section primarily relates to the building materials used in the development and their sustainability qualities. The proposed material and finishes to the development are considered appropriate and do not indicate any particular adverse environmental issues. Most finishes have been selected to ensure minimal maintenance for the longevity of the building's life and seek to ensure sustainability where possible through the use of recycled materials, timber and the like. No cladding or panels are proposed so rendered elements will need some repainting.

Originally the proposed building included a predominantly raw concrete finish which requires minimal attention and maintenance however this finish was considered to be institutional and the building lacked a residential feel. As such this finish has been replaced with a rendered finish which is considered to soften the appearance of the built form and create a more sympathetic finish with the existing characteristics of existing dwellings and properties in the street and surrounds.

<u>Controls</u>	Relevant Requirements	Proposed	Complies
E4.1 Existing character	New development to be consistent and sympathetic with the existing character of development in the street and area.	The amended design has sought to soften the appearance of the building and create a more subtle and residential form. It is considered that the proposed development now is more sympathetic and respectful of the existing character of development in the street and locality. There are more deep soil areas	Yes

10.2 Part E4 – Kogarah North Precinct

		particularly at the street level.	
E4.2 – Land to which this part applies	Each application will be considered on the individual circumstances and merits of the case in terms of the achievement of the relevant objectives. The SEPP and the ADG prevail over Council's DCP.	The subject site is located within the Kogarah North precinct which this part applies to. The proposal has been considered against the provisions of the ADG and although there are some non- compliances these are considered to be minor and will not adversely affect the internal amenity and quality of the apartments proposed, nor will the development generate unacceptable amenity impacts on adjoining properties.	Yes
E4.3 – Development contributions	 Council seeks the following development contributions: Section 94 Contributions; Section 94A levies; and Voluntary Planning Agreements. 	Applicable Section 7.11 (former S94 Contributions) have been imposed as part of recommended conditions of consent. The seven (7)	res

		allotments have been credited and therefore S7.11 contributions have been calculated on the generation of 111 new apartments.	
E4.4 – The Kogarah North Urban Design Strategy	The Kogarah North Precinct Urban Design Strategy (KNPUDS) was endorsed by Council on 27 November 2017. Design Option 3 was endorsed by Council at its meeting held 1 May 2017. Design Option 3 places an emphasis on creating a built form that complies with the ADG and defines a four storey street wall character.	The proposal is consistent with the KNPUDS as adopted with emphasis on the 4 storey Street wall character. This control essentially promotes a 4 - storey podium element which creates a more human scale lower level of the building and this breaks up the scale and height of the building. It also creates greater articulation of the building.	Yes
E4.5 – Vision for the Kogarah North Precinct	 Provide a diverse mix of residential accommodation Retain and preserve the existing heritage item. 	The proposal offers an acceptable level of apartment mix that targets the housing needs within the area. There are no heritage listed	Yes

Street Frontage	 Address the street with four storey podium to ensure a comfortable human scale Address the Princes Highway, Railway Parade North and the Primary and Secondary Corners with active street frontages, awnings and street trees to increase pedestrian amenity On other streets, set buildings back to allow for improved public domain and deep soil planting. 	items on site or in the immediate vicinity. The proposal provides a street front, 4 storey podium and whilst this may have resulted in a nil eastern side setback to the adjoining development, the design has taken into account the adjoining development which has recently been approved with a nil boundary	Yes
	 Primary and Secondary Corners with active street frontages, awnings and street trees to increase pedestrian amenity On other streets, set buildings back to allow for improved public domain and deep soil planting. 	have resulted in a nil eastern side setback to the adjoining development, the design has taken into account the adjoining development which has recently been approved with a nil boundary setback so the buildings connect and avoid any inefficient tunnels, achieving consistency and connectivity between the built forms.	
Built Form	 Ensure a comfortable human scale, avoiding the appearance of deep and unbroken canyons and tempering the scale of the street-edge buildings 	The proposal has been amended since lodgement with an increased front setback from Stanley Street providing landscaping at grade podiums followed by ground floor	Yes

	courtyards which aim to encourage and maintain an appropriate Human scale. The proposal as amended is considered satisfactory from a SEPP65	
 Provision of good residential amenity in terms of privacy and built form by complying with the SEPP 65 Residential Flat Design Code built form recommendations regarding separation between buildings and setbacks from side and rear boundaries. Design high quality corner buildings at the major and secondary corners which encourage architectural diversity Except on Major and Secondary Corners, reinforce the four storey street wall height by setting back upper levels of buildings Introduce breaks in the building massing at upper levels to reduce the building's apparent scale Buildings should incorporate interesting roof forms and the visual intrusiveness of service elements such as service plants, electrical substations, lift over-runs and the like shall be minimised by integrating them into the building 	perspective. The building has been designed to respect the siting of adjoining properties and has been located to reduce any potential for overlooking. Where the building does not satisfy the minimum 6m and 9m separation distances any windows include angled louvres which direct the view and outlook to the street or laneway not to the east or west. The four storey podium element is setback 5m from Stanley Street, the building wall at Level 4 is	

	 Vehicular access to new development should be, where possible from existing and/or new service lanes, rather than streets 	staggered and setback between 7m to over 10m. At Level 5 and above the building is setback between 6m-8m. Vehicular access is off the secondary street, Stanley Lane at	
	 Façades must be articulated and employ materials and finishes to enhance and complement the character of the streetscape 	the rear. The built form is broken up into differing vertical bays and the use of different architectural elements and finishes creates a unique and interesting building.	
E4.6 – Submissions requirements for Development Applications	 A 3D dimensional Google Sketch-up model, including the existing built form of the immediately adjoining and neighbouring context of proposal; and Identifying Isolated sites Containing a number of detailed section of the façade at a scale of 1:20 	3 D Perspectives have been provided and the Site Analysis Plan and Location Plan show the location of the site, its context and its relationship with recently approved developments. The proposal does not result in	Yes

		the isolation of any Site.	
E4.7 – Siting and Consolidation of Development	 The siting of a building is to respond to the requirements of the Apartment Design Guide. 	The siting of the building generally responds to the ADG requirements.	Yes
sites	 The maximum floor space ratio (FSR) is set by clause 4.4 of Kogarah LEP 2012 and the FSR Map. 	The proposal has been designed to comply with the maximum FSR.	Yes
	 Sites must be have a minimum site frontage of 60m 	The subject site has a width to Stanley Street and Stanley Lane of 73.11m	
	 Development is not to result in the creation of an isolated site that could not be developed in compliance with the relevant planning controls, including the Kogarah LEP 2012, SEPP 65 and the ADG. 	The proposal does not isolate any sites in fact it is designed to create a more integrated and consistent built form and completes the development along the southern side of Stanley Street.	Yes
	 Development of land identified below is subject to an amalgamation requirement: 1. Nos 24B – 36 Victoria Street and No 11 Stanley Street, Kogarah 2. Nos 5 – 11 Palmerston Street, Kogarah 3. Nos 13 – 21 Palmerston Street, Kogarah 	The subject sites are not noted as part of the Sites that have been earmarked by the DCP for amalgamation.	NA

E4 8	4. 5.	Nos 16 – 22A Gladstone Street and No 2 Victoria Street, Kogarah Nos 70 – 84 Regent Street, Kogarah	The subject	Ves
E4.8 – Heritage		Kogarah The building height and setbacks must have regard to and respect the value of that heritage item and its setting the new development is to provide an appropriate transition in height and adequate curtilage and side setbacks from the heritage item. Existing heritage items are to be incorporated into development sites Development to the south of St Paul's Anglican Church and hall (I96) is to be setback a minimum of 15m from the boundary of the site. A Heritage Assessment is required to be lodged with a development application in accordance with Clause 5.10(5) of the Kogarah Local Environmental Plan 2012	The subject development is not within a Conservation Area or a designated item. The closest items are; I110- 2 Victoria Street House and garden known as "Hindmarsh" I111- 14-16 Victoria Street terrace house with garden known as "Lillyville" and "Beatrice" I112 – 15 Victoria Street – St Georges Girls High School (two storey main building) The setting and integrity of the items will not be altered by the proposal as the items are not within the direct	Yes
			visual catchment of the property. The other	

		specific controls relating to the setback of new development to existing heritage items is not applicable to this site.	
E4.9 – Building Heights	 Clause 4.3 of the Kogarah LEP 2012 indicates the maximum building height of 33 metres for the Precinct 	The proposal breaches the maximum height limit as specified by Cl4.3 KLEP 2012.	No (Refer to Cl4.6 assessme nt)
		The extent of departure is limited to the lift overrun on Level 10 and Plant room on Level 11 and minor associated communal open space structures.	
		A Clause 4.6 request has been submitted and appropriately assessed.	
	 The Kogarah North Precinct is affected by the Obstacle Limitation Surface. The maximum height of the inner horizontal surface is 51m AHD 	The proposal has been referred to Sydney Airport corporation and no objections were raised	Yes
	 Approval to operate construction equipment (i.e. cranes) shall be obtained prior to any commencement of construction, where the prescribed airspace is 	Subject to standard conditions of consent being imposed.	Yes

	affected.		
E4.10 – Street Frontage Height, and front and rear and side setbacks	 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. 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. 	The amended proposal has setback the basement level 2m from the street frontage allowing for some deep soil areas at the front and for some larger, mature trees to be planted within this space.	
	 Ground floor residential with a street frontage must incorporate landscaping 	The development includes a four storey podium section of the	
	 The primary area of outdoor private open space must not be located on the street frontage. 	building with the upper levels setback behind this podium. Residential units	
	 Blank walls are to be avoided fronting principal streets and the public domain. 	on the ground floor do have private courtvards at the	
	 Development must be designed so that it has a clearly definable entry and addresses the street. 	front. These are setback behind some soft landscaped areas and	
	 Side or rear boundary fencing is not permitted fronting the public domain except where appropriate landscaping is located in front of the fence. 	stepped down so there is some distinction between the private and public domain.	
		The development has catered for a	

		large and spacious foyer/entry area which is easily identifiable and is a significant urban design feature of this development.	
		No side fencing is proposed. At the rear off the laneway a small open palisade style fence would be permitted behind the planter boxes. The fencing will be low and open style to provide privacy but still allow and encourage activation of the laneway and also promote natural surveillance.	
Front Setback Controls - Sites with frontage to streets other than the Princes Highway and Railway Parade North	 Level 1 (Ground Floor) Minimum 5m setback from the property boundary. The first 2m of this 5m setback is to be at grade with the footpath and is to be seen as an extension to the public domain. The 2m strip is to provide a landscape edge to the public domain that can accommodate deep soil planting. 	The ground floor apartments are staggered in their design and the western section of the building is angled to be setback a minimum of 5m- 6m. Some blade walls extend beyond the setback but these are architectural	Yes

•	Any basement parking must	features and their	
	be located fully under the	encroachment by	
	building footprint – no	about 1m is	
	encroachment of the	considered minor	
	basement will be permitted	and could be	
	within the setback	conditioned to be	
_	Futuine to success the success	removed but	
-	Entries to ground floor	would adversely	
	along the street to assist with	affect the	
	along the street to assist with	architectural	
		intent and	
	The fencing height is to be no	integrity of the	
	greater than 1m and the style	building.	
	is to be open in format.		
	·	Along the eastern	
•	Where possible and	side the ground	
	depending on the slope of the	noor units are	
	land residential apartments	Selback belween	
	should be raised between 900		
	-1200mm to assist with	complies.	
	privacy while maintaining	Basement	Yes
	stroot	parking is located	
	311001	solely below	
		ground.	
		Entring to the	Voc
		around floor units	165
		baya baan	
		designed to	
		obtain accoss	
		from the street	
		A condition will	
		require fencing at	
		the street level to	
		have a maximum	
		height of 1m in	
		accordance with	
		the DCP.	
		The anartments	No (see
		are not raised	note 1
		ahove around	below)
		laval: they are in	,
		10vel, 11ey ale 11	

	fact slightly sunken which is a resultant effect of the land fall and topography.	
Level 2,3,4	At the lower	Dortiol
 Minimum 7m setback from the property boundary. 	podium levels Level 1-4 the	non-
 Minimum 7m setback from the property boundary. Balconies/ wintergardens may encroach up to 2m into the 7m setback. 	podium levels Level 1-4 the building wall has been setback a minimum of 7m, parts of the eastern section are setback 8m. The blade wall elements and balconies encroach on the 7m but in accordance with the DCP are setback 5m which complies. There is an encroachment of three bedrooms to individual units which do not comply as these elements, and should be setback 7m but are in fact setback only 5m.	non- complianc e see Note 2
	I hese encroachments	
	are minor and add to the visual	
	interest of the	
	not exacerbate	

	 Level 5 and above Minimum 8m setback from the property boundary. Balconies/ wintergardens must not encroach into the setback. 	the bulk and are considered to be satisfactory. The building is setback 8m for the majority of its frontage at the upper levels (Levels 5-11) however along the western side two units encroach on the setback and are setback 6m. The intention of this setback is to articulate this corner location.	Partial non- complaine c see Note 3
	Residential Residential Residential Residential Residential Residential Residential 0.9-1.2m 2m 2m 2m 2m 2m 2m 2m 2m 2m		
E4.11 – Trees and Landscape	 Contribute to streetscape character and the amenity of the public domain by using planting and landscape elements appropriate to the desired character of the streetscape and the scale of the development. 	The site is currently vacant and there are no trees on site. There are some existing street trees which are to be retained.	Yes
	 Encourage landscape treatments, both deep soil landscaping and planting on podiums, which provide privacy for residents. Contribute to water and stormwater efficiency by integrating landscape design 	Appropriate conditions have been included to ensure large, mature trees are planted within the deep soil zone along the	

	with water and stormwater management.	western side of the site.	
E4.12 – Dedication of Land to Council for Road/Lane Widening and Splays	 For all allotments with a boundary to Stanley Lane (both northern and southern sides of the Lane), a 1200mm strip of land is to be dedicated to Council to ensure appropriate access and egress from the laneway. 	The site is subject to a road widening provision of 1.2m to Stanley Lane. The proposal has incorporated this requirement.	Yes
W4.13 – Creation of through sites pedestrian links and additional open space	 Through Site Link #2 – Creation of pedestrian link from Stanley Lane to Victoria Street A public through site pedestrian link – minimum 3m wide - is to be provided which creates a pedestrian connection between Stanley Lane and Victoria Street. 	The proposed site through link No.2 dedication adjoins the subject site. The intention of the dedication is a connection between Victoria Street and Stanley Lane, the absorption of the link seems to be taken when No.24 Victoria Street is redeveloped. A pre-lodgement application (Pre2017/0035) for the adjoining site, 18-24 Victoria Street. This application includes a 3m wide dedication along the eastern side in accordance with the DCP. The design of the	Yes

	T1
dedication is	
considered poor	
as it's largely a	
hard paved area	
and includes a	
series of stairs	
from the lane	
which makes it	
inaccessible for	
people with a	
disability. It is	
uncertain	
whether this	
development will	
occur and is	
definitely not	
imminent so for	
the time being a	
condition will	
require the	
landscaped area	
nonocod along	
proposed along	
the western side	
of the site to form	
a landscaped	
access point and	
link from the	
street through to	
the lane.	
If the adjoining	
development is	
constructed and	
a formal	
pedestrian link is	
created the	
Applicant can	
seek removal of	
the condition and	
this area sould	
become a more	
tormal area of	
common open	

		space for the residents only. The provision of access through the development (western side) is of benefit to the public and wider community at this point in time and should be encouraged especially as it will not detrimentally affect the safety, security and overall functionality of this development.	
E4.14 – Housing choice	 (ii) An apartment mix is to be provided, taking into consideration: 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 (iii) Apartment configurations are to support diverse household types and stages of life including single person households, families, multi-generational families and group households. 	The proposal provides an acceptable level of apartment mix considering its accessible location.	Yes

E4.15 – Addressing the Street and Public Domain	•	The need for additional building services must be resolved at design stage (e.g. electricity kiosk/substation &	The original design orientated the electrical substation at the front of the site	Yes
		must be co-ordinated and integrated with the overall design of the development without compromising building or landscape design.	and it was requested that this structure be relocated so its visibility is	
	-	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	Amended plans have relocated the substation to the rear western bounday which is a more appropriate location.	
		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.	The development incorporates high quality finishes and includes a well-defined, large and spacious entry foyer with entries to ground floor units accessible from the street.	
<i>E4.16 – Impact of development on the Road/Pedestri an network</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.	The proposal is not considered to impose any detrimental impact upon the road and or pedestrian network as it provides more than the	Yes

		minimum required parking requirements. The development is residential in nature so there are no potential traffic conflicts with other developments.	
E4.17 – Development with frontage to the Princes Hwy and Adjacent to the Railway line	NA to the subject site	NA	NA
E4.18 – Vehicular access and Car parking	 Residential parking is to be provided in accordance with the Apartment Design Guidelines and SEPP 65. For commercial/retail development and other land uses parking is to be provided at the following rate: 1 space per 40m2 for any floor space at ground floor level. 1 space per 50m2 for all other floor space above ground floor level. 1% of all car parking spaces are to be designated "accessible" spaces for people with mobility impairments. For car parks between 10 to 99 spaces at least one "accessible" space must be 	The proposal complies with the provisions of the RMS Guide to Traffic Generating Development which in this case is the applicable controls relevant to the provision of car parking spaces onsite. In this regard, the proposal complies in full. There is no commercial/retail component to this development. In accordance with the DCP	Yes

	 provided. Bicycle storage is to be provided at the rate of: 1 secure bicycle storage facility per 2 residential units 	provisions a minimum of 1 car space is to be accessible. The development provides for 13 adaptable units with a total of 4 accessible spaces being provided. A total of 50 bicycle spaces are required to be provided.	
E4.19 – Architectural Articulation	 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. Articulation elements must be integral with the building design and should consider the whole building- with the building having distinct façade elements being the podium, centre and upper storey/roof. Changes of texture and colour should complement facade articulation. Provide solar protection elements as integral with the building design and massing. Façades must be articulated and employ materials and finishes to enhance and complement the character of 	The proposal is considered to be a well designed, high quality building that will have a positive contribution to the streetscape and precinct. It is an interesting, highly articulated building including a variety and diversity of materials and architectural features and elements that break up the bulk and scale of the built form.	Yes

the streetscape.						
 Reinforce a desired pattern characterised by simple, rectilinear building forms, a consistent street wall height, and a balance of horizontal elements (parapet, central area, below-awning area) and vertical elements (subdivision patterns, building bays). 						
 Retain the pedestrian scale and give continuity to the 'base' of the built form. 						
 Optimise environmental sustainability and minimise energy consumption through the placement and design of openings and shade systems. 						
 Design building facades to optimise environmental amenity through sun shading devices, privacy screens and noise barriers combined with useable outdoor areas. 						
 Avoid large expanses of blank walls or glass curtain walls. 						
 Conceal meter boxes, fire hydrant boosters, sprinkler valves and the like so that they are not visible from the street. 						
Roofs						
 Articulate roofs to provide a varied and interesting roofscape. 	The design of the roof is plain and					
 Design large projections, shade structures and pavilions to enhance the appearance of 	simple, given the more detailed and articulated					
	flat roofed buildings.	form of the front				
---------------	--	--------------------	-----	--	--	--
	 Roof fixtures are not permitted 	and rear facades.				
	where they are visible from	Due te the clane				
	the street. Fixtures include	Due to the slope				
	aerials, vents, chimneys, solar	of the land Level				
	collectors and mobile phone	TO Includes the				
	transmitters.	communal open				
	 Concear III over-runs and plant oquipmont including 	space and level				
	satellite dishes within well	IT is stepped up				
	designed roof forms.	and raised - this				
	 No development will be 	includes a lift				
	permitted within the roof void.					
	•The use of green roofs and	record from				
	green walls is encouraged	the parapet and				
	particularly where this forms					
	part of a communal open space	so as not to be				
	arrangement in a	visible				
	residential/mixed use visible.					
	Buildings greater than 9 The development					
	storev's are to incorporate	includes an area				
	green facades or landscaped	of communal				
	features (i.e. landscaped	open space at				
	communal areas located on	the roof top.				
	podiums and roofs					
E4.20 -	 Awnings are to be sized to 	This provision	N/A			
Awnings	adequately accommodate	relates to				
	street trees. In addition,	development that				
	ground floor street frontages	includes a				
	must be recessed into the	ground floor				
	building to provide an ample	commercial/retail				
	undercover passage without	component.				
	impacting street tree planting.					
	 Provide under awning lighting to ophoneo opfoty 					
F4 22 - Solar	to enhance salety.	The proposal	Yes			
200099	• (Maintain solar access to	nrovides	163			
400033	existing apartment buildings	adequate solar				
	and public open space	access in excess				
	shall be sited and designed to	of the specified 2				
	maximise direct sunlight to	hours to 72% of				
	north-facing living areas	the proposal				
	communal and private open					
	space areas.	The DCP				
space aleas.		provides specific				

	•	Living rooms and 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 Skylights and light wells must not be used as the primary source of daylight in habitable rooms 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	minimum controls to ensure key areas of open space and public facilities (i.e schools) obtain ample solar access throughout the day. No skylights are proposed. In terms of affectation to adjoining properties, the building has been designed to satisfy the minimum separation distances to the rear of 6m and 9m but does not satisfy the 12m minimum at the 10 th and 11 th level. This could be provided but would provide a further step in the building and create a ziggurate/weddin	
			ziggurate/weddin g cake style of built form which is undesirable.	
E4.23 – Safety and Security	•	The design of development is to incorporate Crime Prevention Through Environmental Design (CPTD) principles.	The design allows for natural surveillance and areas around the building will be secure whilst	Yes

	 Development is to be designed to incorporate and/or enhance opportunities for effective natural surveillance 	also promoting some open space and formal areas that are relaxed and unencumbered with fencing etc
E4.24 – Waste minimisation	 For buildings more than 3 storeys, provide a waste and recycling chute on each floor such that the total travel distance from any dwelling to a waste chute does not exceed 40m Where a waste and recycling chute system is used ,chute openings are to open only into a waste service compartment which must include containers for recyclables An additional room or caged area with a minimum volume of 8m³ is to be allocated and designated with signs for the storage of discarded bulky items locating chutes away from habitable rooms, and provide acoustic insulation to the waste service facilities It is preferable for waste trucks to enter the site in a forward direction 	A waste chute Yes has been accommodated within the building with a garbage/bin chute and a separate recycling bin. The Loading Bay accommodates the storage of bins and for their disposal. The site has 114 units, therefore if the site uses a dual chute with 240L MGBs under the chute for recycling, then 5.5x 240L MGBs will be required per day. This number of bins exceeds capacity of volume managing equipment for chute discharge into 240L MGBs currently on the market. If the site is able to use larger sizes bins

		for recycling, this would allow for the chute discharge room to be designed for a day or more capacity without manual intervention.	
E4.25 – Site Facilities	 Any electrical kiosk, fire booster assembly or similar utilities will be in a location that is visible from the main entrance of the development Fire booster assemblies are to be a minimum of 10m distance to an electrical kiosk, and housed within the external face of the building 	Appropriate site facilities have been essentially integrated in the design and placed along the Stanley Lane façade.	Yes and conditione d appropriat ely
E4.26 Maintenance	 Buildings must incorporate and integrate building maintenance systems into the design of the building form, roof and façade 	Maintenance systems have been integrated in the common circulation areas, basements levels and where applicable integrated into the design when fronting the street.	Yes
E4.27 Acoustic Privacy	 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 Where party walls are provided they must be carried to the underside of the roof An Acoustic Report is to be submitted at Development 	Spatial considerations have been observed and an acoustic report submitted.	Yes

Application	stage	&	post	
construction				

(1) Front setback

The KDCP provides controls for front setbacks to new developments depending on the Site's location. Front setback controls have been established depending on where your site is located;

- 1. Developments with frontage to the Princes Highway and Railway Parade North or,
- 2. Developments with frontage to streets other than the Princes Highway, Railway Parade North or,
- 3. Developments with frontage to streets other than the Princes Highway, Railway Parade North and with frontage to a major or secondary corner.

The proposal fits within the category of 2 and 3 above and has been generally assessed as a "*development with a frontage to streets other than Princes Highway, Railway parade North*". In accordance with this, the minimum front setback provision is 5m at the ground floor level with the first 2m from the street frontage being landscaped. The building complies with this provision with the building being angled along the western side and as such some walls are setback up to 6m. There is a small encroachment of blade walls 1m long, which are considered architectural elements that are important features in the design. The removal of these will adversely affect the architectural intent and integrity of the building. The small blade walls also provide some privacy between units.

For Levels 2, 3 and 4 the building is to be setback 7m with wintergardens and balconies being able to encroach this setback by up to 2m. Again the building is generally compliant with this control as the building wall is setback a minimum of 7m and again due to the angled elements along the western wing of the building parts are setback 8m. Balconies and associated blade walls encroach up to 2m (maximum) of this setback which is permissible however there are three bedrooms along each level that are setback 5m from the front but essentially should be setback 7m and do not comply. These habitable spaces could be removed and become balconies and resultant smaller units created however their design and location will not adversely affect the intent and purpose of the control nor are they large or visually dominant elements. The encroachment at these levels is considered acceptable for the following reasons;

- The bedrooms do not protrude forward of the 5m setback nor do they extend past the dominant front building line.
- The bedrooms are small scale elements that add visual interest and break up the bulk and form of the building.

- By removing the bedrooms and converting them to balconies creates a façade almost full of balconies which is visually unattractive and becomes a boring and standard design.
- The separation between the bedrooms and adjoining dwellings to the north is over 16m which is a very acceptable amount of physical separation.
- The bedrooms are secondary spaces not primary living spaces so it is unlikely that they will be intensively utilised so impacts such as noise and privacy are mitigated through the design.

It is for these reasons that the encroachment is considered to be minor and will not adversely affect the amenity of adjoining properties or the streetscape.

The DCP requires that the front setback at Level 5 and above be a minimum of 8m and no encroachments of balconies are permitted. At Level 5 to Level 11 the majority of the building is setback 8m in compliance with the control however two units along the western side encroach on the setback and are sited 6m from the front. The architect has designed the western wing of the building to address this corner as this part of the site connects with Victoria Street. Although not considered to be a prominent corner it is recognised in the DCP as a corner location. Figure 13 below highlights the secondary corner location of the subject site. The DCP is not specific that the corner is to be addressed and considered as part of this site or when No.24 Victoria Street is redeveloped.

Despite this, the architect in the design has acknowledged it is a corner even if secondary and has accentuated the western wing of the building and by defining this part of the building the setback is reduced to 6m. This complies with the provisions for redevelopments on primary and secondary corners where buildings are to be setback a minimum of 5m. The proposed 6m setback is consistent with this approach and will sit more comfortably with any future development to the west which will likely be setback 5m from the corner.



Figure 15: Sites which are categorised as primary or secondary corner allotments (courtesy: KDCP)

The other area of non-compliance with the KDCP is that the ground floor units and their courtyards are located below street level. This goes against the DCP provision which encourages these spaces to actually be elevated above the street level by 900mm-1.2m. The intention is to reduce the potential for overlooking. This control then contradicts the provision which encourages the basement not to protrude above ground level. Figure 14 below is an extract from the KDCP which shows diagrammatically the intent of the control. From a streetscape perspective this is considered to have a poor outcome as there is a larger wall to the street. If there was a 1.2m fence above a 1.2m raised courtyard then the overall height of the structure is 2.4m which is a tall structure and as a pedestrian this is an undesirable visual impact to the street and public domain.



Figure 16: Extract from the KDCP showing the intended and expected front boundary setbacks for new developments in the Kogarah North Precinct.

The proposal does create ground floor courtyards that are a little more sunken in their location and for ultimate privacy this isn't the most appropriate planning outcome but this is largely dictated by the gradual slope of the land. The courtyards are screened by planter boxes and the first 2m of the front setback is level with the street and will be appropriately landscaped with larger trees and shrubs. There are also planter boxes within the private open space that are stepped and screen the front of the courtyard and create an attractive private entry to each dwelling from the street. The proposal has been designed to create a more sympathetic transition and relationship between the street and the development at the ground floor. The presentation of the development has been sensitively considered and is considered to be an acceptable planning and urban design outcome.

(2) Adaptable and accessible housing

Part C2 of the KDCP outlines a series of controls for medium density housing. Most of the provisions within this section are superseded by SEPP 65 or Part E4:Kogarah North Precinct controls however Section 13 which relates to provisions for adaptable and accessible housing is applicable to this proposal.

In accordance with the DCP provisions for a development with greater than 50 units 6 adaptable units need to be provided plus an 10% of additional dwellings beyond 60 (rounded up to the nearest number). In this case 6 units are required plus an additional

6 units (5.6 rounded up) for the number of units exceeding 60. The proposal therefore needs to provide for a total of 11 adaptable dwellings. The proposal provides for a total of 13 apartments which exceeds the requirement. Entry from the street level is intended to be level and permit wheelchair access into the lobby and up to each level of the building. Similarly the proposal complies with the accessibility requirements at the basement level so that access to each level of the building can be achieved. Accessible spaces are provided which are located close to lifts and conditions will be imposed to ensure equitable access is provided from and around the development in accordance with Australian Standards.

Section 94 Contributions Plan

The proposed development requires payment of \$1,901,862.03 of Section 94 contributions based on the provisions of additional dwellings on the subject site. The contribution amount is based on the following:

Contribution Type	Contribution Amount
Roads and traffic management	NA
Open Space	NA
Streetscape, Open Space & Public Domain	\$1,786,600.42
Traffic Facilities	\$32,562.34
Community Facilities	\$31,849.43
Kogarah libraries – buildings component	\$29,684.74
Kogarah libraries – books component	\$21,165.10
Total Contributions:	\$1,901,862.03

IMPACTS

Natural Environment

The proposed development is unlikely to result in adverse impacts to the natural environment. The site contains no significant vegetation. There are a few street trees located on the nature strip at the front of the site and these will be retained, protected and enhanced by the removal of existing driveway crossings and provision of more planting and grass to create a consistent street, landscaped verge.

A landscape plan prepared by a qualified landscape architect has been prepared for the development which shows appropriate deep soil planting to the northern boundary and to the communal open space areas on the rooftop. The landscaping will improve the current site conditions.

The proposed excavation to the site is for the purposes of providing three basement levels for car parking and associated facilities. The excavation is consistent with that required for most new developments.

Built Environment

The proposed development is unlikely to result in adverse impacts to the built environment. In fact the architectural design, use of high quality materials and finishes will create an interesting and vibrant built form. The development will create a positive contribution to the streetscape and will enhance the public domain.

In addition, the proposed design as amended has been integrated with adjoining development to the east (2-10 Stanley Street) where a common boundary is shared and has preserved visual privacy to the east and south by providing appropriate screening and highlight translucent windows to those areas utilising the reduced building separation as per the ADG.

Social Impact

The proposed development will have no adverse social impact.

Economic Impact

The proposed development will have no adverse economic impact in fact it will benefit in the longer term the sustainability of the Kogarah Town Centre and will in the immediate term contribute to maintaining jobs in the construction industry as this is a large and integrated project that requires the co-ordination of many trades.

Suitability of the site

It is considered that the proposed development is of a scale and design that is suitable for the site. It is a permissible use in the zone.

Having regard to its size, shape, topography, vegetation and relationship to adjoining developments, the subject site does not contain any impediments that would preclude it or compromise its suitability for the intended land use as proposed.

SUBMISSIONS AND THE PUBLIC INTEREST

The original application was notified and advertised twice to immediately adjoining properties in accordance with Council's requirements and two (2) submissions were received in reply. The following issues were raised by the submitters.

• Request to de-list No.14-16 Victoria Street as heritage items

<u>Officer Comment</u> – This issue does not relate directly to the proposal. Since the precinct has been rezoned many properties have been bought by developers and sites consolidated to create a larger amalgamated development sites.

This resident is concerned that the heritage items along Victoria Street have adversely impacted on the redevelopment potential for their site and immediately adjoining neighbours. This issue needs to be considered separately by Council's Strategic Planning section that review the importance and status of existing items and earmark any new items to be listed. This process is ongoing and part of a review of the EPI's. Alternatively the owner of the item/s can submit an application to Council to consider the value and integrity of these local item/s.

• Devaluation of property values

<u>Officer Comment</u>: This is not a matter for considered under the Environmental Planning and Assessment Act 1979.

• Overshadowing concern

<u>Officer Comment:</u> The concern that is raised is in respect to the potential overshadowing of the development onto the immediately adjoining heritage items located at 14 and 16 Victoria Street. These two storey terrace houses are designated as "local" heritage items in accordance with Clause 5.10 of the KLEP.

In terms of overshadowing during mid-winter, the subject properties will be overshadowed between 9am until 12noon. After 12pm the development does not affect these items which are located to the west of the site and are removed by some 4 properties. The shadowing impacts comply with the minimum requirements whereby the property will receive a minimum of 3 hours of solar access during midwinter.

• Adverse impact on the streetscape and loss of character of the area

<u>Officer comment:</u> It is acknowledged and recognised that the existing, low scale residential character of this precinct will be altered by the redevelopment of this site and adjoining properties. This precinct due to its accessibility to the Kogarah Train Station and Town Centre has been earmarked for larger scale redevelopment and this will change the character of the area and streetscape. The desired future character of the Kogarah North precinct is intended to become a vibrant area with higher scaled developments. The transformation of this area is already occurring with many new taller buildings being constructed, some currently being constructed and others approved for redevelopment or currently under assessment.

The proposed development is consistent with the strategy and longer term vision for this area to be redeveloped.

• Potential damage from excavation and earthworks

<u>Council comment:</u> The application is accompanied by a Geotechnical report and this confirms that drilling and vibration will occur from the extent of earthworks and excavation. A condition will require all recommendations of the Geotechnical report to be implemented during construction and additional conditions will be required to ensure

that dilapidation reports are prepared which will ensure that the development is responsible for any damage but is constructed to avoid any detrimental effects onto adjoining buildings.

• Heritage items along Victoria Street will be adversely affected due to the scale and impact of the development.

<u>Officer comment:</u> The height of the building generally complies with the 33m height limit. The exceedance in the height control is considered minor and affects the lift overrun and plant room on the roof level. These protrusions above the height plane are considered to be minor and as they are centrally located will not be visible.

The existing heritage items are removed from the visual catchment of the site as they address Victoria Street whilst the development addresses Stanley Street. The scale and form of the development is much greater than the existing single and two storey scale of dwelling houses in the immediate vicinity of the site, however, through the planning controls established for this precinct the new development is anticipated to alter and transform this area in the longer term.

REFERRALS

Council Internal Referrals

Senior Building Officer (Major Projects)

Council's Senior Building Officer has raised no objection subject to conditions of consent being attached to any consent granted.

Development Engineer

Council's Development Engineer has raised no objection subject to conditions of consent being attached to any consent granted.

Traffic Engineer

Council's Traffic Engineer has examined the application and has raised no objection to the development in principle subject to conditions of consent requiring the car spaces to comply with the Australian Standards.

There was a concern raised regarding the manoeuvrability into and out of the Loading By of a medium rigid vehicle. The swept path diagrams that were produced to show compliance with turning circles relied on a MRV (medium rigid vehicle) required the kerb to be cut to accommodate the swept path. This was not considered to be desirable planning and design outcome and the Applicant reconsidered the design and was able to amend the design of the kerb so that the vehicle did not affect this element when exiting the site onto the laneway. This issue is now resolved by the amended plans submitted by the Applicant on 20 March 2019 showing compliance with no obstruction to the manoeuvring into and out of this area by an MRV.

Environmental Health Officer

Council's Environmental Health Officer has raised no objection subject to conditions of consent being attached to any consent granted.

Coordinator of Environment Sustainability and Waste

Council's Coordinator of Environment Sustainability and Waste has raised no objection subject to conditions of consent being attached to any consent granted.

Council's Landscape Management Officer

Council's Consultant Arborist has raised no objection subject to conditions of consent being attached to any consent granted.

External Referrals

Civil Aviation Safety Authority (CASA) - Sydney Airport

The Civil Aviation Safety Authority has raised no objection to the application subject to conditions of consent being attached to any consent granted.

CONCLUSION

The application has been assessed having regard to the Matter for Consideration under Clause 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans.

The application seeks approval for the consolidation of 7 allotments and construction of an 11 storey residential flat building development comprising 116 residential units, over 3 basement levels for 116 car parking spaces.

The proposed development application was lodged on the 8th May 2018 with a capital investment value of \$43,967,000 million which classifies it as a Regional Development. Therefore, the Sydney South Regional Planning Panel is the consent authority.

The subject site occupies 1 Street frontage and access to the rear laneway (Stanley Lane) with a total site area of 2,452 m².

The site is subject to the Kogarah North Precinct Urban Design Strategy which was adopted by Council and results in the site being Zoned R4 – for High density residential land use with an applicable FSR of 4:1 and maximum height control of 33m.

Accordingly, the area is experiencing an urban renewal transition from low to high density whereby Council is in receipt of numerous applications for higher densities some of which relate to adjoining sites simultaneously such as the subject application.

As such, the proposal has also been assessed in context of its surrounding and adjoining current proposals.

The proposal has been the subject of an independent design review commissioned by Council who engaged GMU Urban Design & Architecture. The proposed design has been amended throughout the course of the assessment with several changes made to date to respond to the issues presented.

The proposal seeks to depart from Clause 4.3 relevant to the height standard between 3%-8% breach (maximum 2.75m) under the provisions of Clause 4.6 on the basis of minimal environmental impacts and the limitation of the height breach to the lift over run and associated rooftop communal open space and provision of structures. The departure has been assessed utilising the five part test guided by previous judgments of the Land and Environment Court proceedings and is considered acceptable in this circumstance.

The proposal also presents minor variations to the provisions of the apartment design guide (ADG) and Kogarah North Development Control Plan relating to the minimum building separation, maximum number of units permitted with no direct solar access, floor to ceiling heights and front setback control.

The above variations have been addressed and appropriately justified on the basis of the site's constraints directly related to the dedication of land for lane widening, natural site's orientation and the subdivision pattern.

Notwithstanding, the development has been assessed against the requirements of the relevant planning instruments and development control plans and is consistent with those requirements except in the height of the development relating to the lift overrun and associated structures to the communal open space areas on the roof. The submissions received to the application have been addressed in the report and through amended plans. Following a detailed assessment it is considered that Development Application No DA2018/0178 should be approved subject to conditions.

DETERMINATION AND STATEMENT OF REASONS

The reasons for this recommendation are:

- The proposed development complies with the requirements of the relevant environmental planning instruments and development control plan except in the height of the development which is considered acceptable having regard to the justifications provided in the report above.
- The applicant has amended the proposal from that originally submitted to address issues raised by the Design Review Panel and Council officers to provide a better planning and design outcome for adjoining developments and for the locality.
- The proposal also presents minor variations to the provisions of the apartment design guide (ADG) and Kogarah North Development Control Plan relating to the minimum building separation and maximum number of units permitted with no direct solar access.

• The non-compliances are considered acceptable in this case as the proposed development is considered to be of a high quality and is a well-articulated and interesting building that will have a positive contribution to the streetscape.

THAT pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act, 1979, as amended, the Sydney South Planning Panel, grants development consent to Development Application DA2018/0178 for site consolidation and construction of an 11 storey Residential Flat Building development comprising 116 residential units, basement car parking and landscaping on Lots 55 to 66, Sec B, DP 1397, and known as 12-24 Stanley Street, Kogarah, subject to the following conditions of consent:

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
Cover Page	AD-DA000	19/02/19	К	Scott Carver
Location Plan	AD-DA001	19/02/19	E	Scott Carver
Demolition plan	AD-DA002	19/02/19	E	Scott Carver
Site Analysis Plan	AD-DA003	19/02/19	E	Scott Carver
Basement 3	AD-DA101	19/02/19	Т	Scott Carver
Basement 2	AD-DA102	19/02/19	V	Scott Carver
Basement 1	AD-DA103	19/02/19	Х	Scott Carver
Ground Floor Plan	AD-DA104	19/02/19	П	Scott Carver
Level 01	AD-DA105	19/02/19	Z	Scott Carver
Level 02	AD-DA106	19/02/19	Х	Scott Carver
Level 03	AD-DA107	19/02/19	X	Scott Carver
Level 04	AD-DA108	19/02/19	Y	Scott Carver

Level 05	AD-DA109	19/02/19	AA	Scott Carver
Level 06	AD-DA110	19/02/19	Q	Scott Carver
Level 07	AD-DA111	19/02/19	R	Scott Carver
Level 08	AD-DA112	19/02/19	Q	Scott Carver
Level 09	AD-DA113	19/02/19	Q	Scott Carver
Level 10	AD-DA114	19/02/19	DD	Scott Carver
Level 11	AD-DA115	19/02/19	М	Scott Carver
North Elevation	AD-DA201	19/02/19	Р	Scott Carver
South Elevation	AD-DA201	19/02/19	0	Scott Carver
East Elevation	AD-DA203	19/02/19	L	Scott Carver
West Elevation	AD-DA204	19/02/19	L	Scott Carver
Streetscape Elevation – Stanley Street	AD-DA205	19/02/19	E	Scott Carver
Streetscape Elevation – Stanley Lane	AD-DA206	19/02/19	E	Scott Carver
Long Section	AD-DA221	19/02/19	J	Scott Carver
Short Section	AD-DA222	19/02/19	J	Scott Carver
Skybridge sections	AD-DA225	19/02/19	Н	Scott Carver
Vehicular Entry Ramp	AD-DA251	19/02/19	E	Scott Carver
Sun Eye View ISO	AD-DA901	19/02/19	E	Scott Carver
Shadow Plan - midwinter	AD-DA902	19/02/19	D	Scott Carver
Shadow Plan - Summer	AD-DA903	19/02/19	D	Scott Carver
Pre and post adaptable layout – sheet 1	AD-DA920	19/02/19	E	Scott Carver
Pre and post adaptable layout – sheet 2	AD-DA921	19/02/19	E	Scott Carver
Pre and post adaptable layout – sheet 3	AD-DA922	19/02/19	С	Scott Carver
Ventilation Compliance – Sheet 1	AD-DA950	19/02/19	D	Scott Carver
Ventilation Compliance – Sheet 1	AD-DA951	19/02/19	D	Scott Carver
Solar Compliance –	AD-DA952	19/02/19	D	Scott Carver

Sheet 1				
Solar Compliance –	AD-DA953	19/02/19	D	Scott Carver
Sheet 2				
GFA Plans – Sheet 1	AD-DA954	19/3/2019	D	Scott Carver
GFA Plans – Sheet 2	AD-DA955	19/3/2019	D	Scott Carver
Landscape Plans	L-DA-2 to L-	May 2018		Turf
	DA-13	Feb 2019		
Stormwater Plans	PS107885			WSP
	C001,			
	PS107885			
	C010,			
	PS107885			
	C020,			
	PS107885			
	C025,			
	PS107885			
	C030,			
	PS107885			
	C040,			
	PS107885			
	C060,			
	PS107885			
	C070			
Survey Plan	A1	13/02/2018	A	SDG Land
				Development
				Solutions

PRIOR TO ISSUING THE CONSTRUCTION CERTIFICATE

- Disabled access The development must be designed and constructed to comply with: AS 1428.1 – 1993 Design for Access and Mobility Part 1 and AS 1428 – 1993 Design for Access and Mobility Part 2 Enhanced and Additional Requirements – Buildings and Facilities.
- 3. **Landscape Plan** The Landscape Plan shall be updated to provide the following features;
 - i) A small bathroom/WC shall be included on the roof terrace (Level 10). The bathroom shall adjoin the lift and staircase structure and to be located along the eastern side of this structure. The WC is to have maximum dimensions of 1.5m x 2m.
 - ii) The roof top terrace is to include a small sand pit (2m by 2m) for use by small children.
 - iii) The landscaped area along the ground floor, western side of the building shall be accessible by members of the public and shall include a level pathway that will link up Stanley Lane to Stanley Street. This space is to

include some seating and low level lighting.

- iv) The area of open space along the western side of the Site shall include a minimum of four (4) mature trees (minimum 100L pots) that are able to achieve a mature height of 12-15m. Details of the species and location of each tree shall be shown.
- v) The terrace that adjoins the lifts on Level 10 shall include a 1m wide by 1m high planter box on the western side of the lifts to provide some additional screening and greenery.
- vi) The balconies and terraces along all sides of the building on Level 4 (apart from the central bridge) shall include a 1m high and 1m wide fixed planter boxes at the edge of the balconies/terraces to improve the visual appearance of these spaces and create a green edge to the building at this level.

The Landscape Plan shall be to the satisfaction of the Manager of Development and Building.

4. **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 a Qualified Landscape Architect on behalf of Council.

The plan is to address the design criteria, including but not limited to:

- Street trees to be retained and new trees,
- 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
- Stormwater provision.
- Planting of additional street trees, the proposed species and location (new trees shall be established and have a minimum pot size of 100L).
- The extinguishing and removal of all existing driveway crossings.
- The plan is to include a levelled grassed area with street planting.
- The location of two new public pathways along Stanley Street and Stanley Lane including proposed gradients, finishes and materials.

The cost of the works will be borne by the Applicant and will need to be completed to Council's satisfaction prior to the issuing of the Occupation Certificate.

The plan must be approved by Councils Manager for Development and Building prior to the issue of a Construction Certificate.

- 5. **Design** The following design changes shall be incorporated to improve the design and amenity of the development;
 - i) The hydrant booster, sprinkler system and any additional utilities that are required shall be sensitively located and preferably located along the rear

off the laneway and screened from view.

- ii) The roller door to the basement car parking levels shall be recessed a minimum of 6m from the rear laneway and shall be a timber panelled door.
- iii) The first set of entry gates from Stanley Street and Stanley Lane shall be removed and the access up to the main lobby shall remain open and accessible for both occupants and visitors.
- iv) Fencing along Stanley Street frontage to the ground floor units shall have a maximum height of 1m and shall comprise of open style palisade fencing.
- v) Fencing along Stanley Lane frontage to the ground floor units shall have a maximum height of 1.2m and shall comprise of open style palisade fencing.
- vi) Additional bicycle parking shall be incorporated along the eastern side of the development at the ground floor in front of the plant room in the form of a modern stainless steel bicycle hoop racks or the like.
- vii) Highlight windows shall be included along the eastern side of the following units to improve solar access to these spaces without compromising the architectural expression of the building;
 - Bedrooms to Unit 1.07, 2.12, 3.08, 4.08, 5.08, 6.08, 7.08, 8.08, 9.08,10.04 (eastern side)
 - Small obscure window which is openable shall be included along the western side to the ensuites to units 1.06, 2.11 and 3.07 to provide some natural ventilation to these spaces.
- 6. **Roof top terrace** The A Plan of Management (POM) for the use of this space shall be prepared. The POM shall include the following (but not limited to these);
 - Hours of operation of this area (to be restricted to 7am to 10pm daily).
 - Instructions on how to keep the space clean after use, how and when to use the bbq's.
 - Maximum number of people using the space at one time (max 30 persons).
 - Noise is to be kept to a minimum.
 - Rules around using the space (this is a space for passive recreation)
 - Signs are to be included in the main foyer and near the entry to the space on Level 10 highlighting the rules of use.

The Plan of management is to be provided Council and shall be to the satisfaction of the Manager of Development and Building.

- 7. **Access** The recommendations of the Access Report prepared by MGAC and dated 30 April 2018 shall be implemented in the Construction Certificate Plans.
- 8. **Acoustic Report** The recommendations of the Acoustic Report prepared by PKA Acoustic Consultants and dated 26 April 2018 shall be included as part of the Construction Certificate Plans.

- 9. **BCA Report** The recommendations within the BCA Report prepared by Steve Watson Partners and dated April 2018 shall be incorporated within the Construction Certificate Plans.
- 10. **Waste Management Plan** The recommendations of the Operational Waste Management Plan prepared by Elephants Foot and dated February 2019 shall be included within the Construction Certificate Plans.
- 11. **Wind assessment** The recommendations of the Pedestrian Wind Environment Statement prepared by Windtech and dated 7 May 2018 shall be included as part of the Construction Certificate Plans.
- 12. **Solar impact** The recommendations of the Solar Light Reflectivity Analysis prepared by Windtech dated 7 May 2018 shall be implemented as part of the Construction Certificate plans.
- 13. **Traffic** The recommendations included within the Transport Impact Study prepared by Traffix and dated 15 February 2019 shall be included as part of the Construction Certificate Plans.
- 14. **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 either Council or a PCA. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or PCA will then issue a Fire Safety Schedule for the building.
- 15. **Stormwater** It is proposed to construct a pipe in the road, the pipe size shall be 375mm Diameter RCP and not 225mm:
 - Prior to the issue of a Construction Certificate, a longitudinal section of the new Ø375mm RCP pipe in the road showing surface levels, invert levels and services location shall be submitted to Council's Asset and Infrastructure Engineer for approval to his satisfaction and specifications.
 - A drainage engineer shall supervise the construction and certify his supervision and his satisfaction for the constructed stormwater system to be working in good conditions as approved.
- 16. **Stormwater System -** The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.

- (a) Prior to the issue of a Construction Certificate, a longitudinal section of the new Ø375mm RCP pipe in the road showing surface levels, invert levels and public utility services shall be submitted to Council's Asset and Infrastructure Engineer for his approval in writing and to his satisfaction ad specifications.
- (b) All stormwater shall drain by gravity to Council's existing drainage pit located in Stanley Street using a Ø375mm RCP pipe in accordance with the Australian Standard AS3500.3: 2015 to Council's satisfaction.
- (c) The PCA shall ensure that the approved drainage design levels are surveyed during construction by a registered surveyor.
- (d) The PCA shall ensure that a drainage engineer shall supervise the construction of the OSD stormwater system on site and certify his supervision in writing and state his satisfaction of the constructed site stormwater system is built as intended in this consent.
- (e) Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineer who specialises in Hydraulic Engineering in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.
- (f) The design and structural adequacy of the OSD tank system shall be certified by a practicing drainage engineer to the satisfaction of the PCA.

Design details and certifications shall be submitted for approval with the Construction Certificate application.

17. **Stormwater Systems with Basement** - The underground basement car park must pump to and all other stormwater must drain by gravity to:

i. the drainage system within the site via a silt trap pit.

The design of the proposed drainage system must be prepared by a professional engineer who specialises in hydraulic engineering and be submitted for approval with the Construction Certificate application.

- 18. **Protection of basement from inundation of stormwater waters** The protection of the underground basement shall be protected from possible inundation by surface waters from the street.
- 19. Evidence from a professional engineer who specialises in hydraulic engineering that this design requirement has been adhered to shall be submitted with the Construction Certificate application.
- 20. **Driveway Construction Plan Details** Detailed engineering plans for the driveway shall be submitted with the Construction Certificate application for approval that show:
 - (a) Longitudinal and cross sections, gradients, access onto the proposed lots, type

of construction materials designed in accordance with Council's Subdivision standards and AS/NZS2890.1-2004.

- (b) Suitable underground provision for the supply of all relevant services to the proposed lots (proposed position of pipes and conduits).
- (c) The full length of the driveway designed with a minimum 150mm thick reinforced concrete and minimum of 2.7m wide pavement/kerb face to kerb face width, and a non-slip surface.
- 21. **Council Property Shoring** Prior to the issue of the Construction Certificate, plans and specifications prepared by a professional engineer specialising in practising structural engineering must detail how Council's property shall 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, shall be included on the plans. Where the shoring cannot be removed, the plans must detail that the shoring will be cut to 150mm below footpath level and the gap between the shoring and any building shall be filled with a 5MPa lean concrete mix.

22. **Building** - Prior to the issue of a Construction Certificate the applicant may be required, under Clause 144 of 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.

SEPARATE APPROVALS UNDER OTHER LEGISLATION

23. 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

(I) 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 <u>www.georgesriver.nsw.gov.au</u>

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

24. 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 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.

- 25. **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.
- 26. **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.

- 27. **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.
- 28. **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

29. Sydney Water – Tap in TM

The approved plans must be submitted to a Sydney Water Tap inTM to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at www.sydneywater.com.au then see 'Building', or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap inTM agent has appropriately stamped the plans prior to the issue of the Construction Certificate.

- 30. 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.
- 31. 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.

- 32. **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.
- 33. **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.
- 34. **Requirements of Civil Aviation Safety Authority –** In accordance with regulation 14(1)(b) the following conditions are to be complied with;
 - i) The building **must not exceed** a maximum height of **RL53.27** metres AHD, inclusive of all loft overruns, vents, chimneys, aerials, antennas, lighting rods, any roof top garden plantings, exhaust flues etc.
 - ii) The Proponent must advise Airservices Australia at least 3 business days prior to the controlled activity commencing by emailing ifp@airservicesauatralia.com and quoting YSSY-CA-138.
 - iii) Separate approval must be sought under the Regulations for any equipment (i.e cranes) required to construct the building. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Regulations. Therefore it is advisable that approval to operate construction equipment (i.e cranes) be obtained prior to any commitment to construct.
 - iv) On completion of construction of the building, the Proponent must provide the airfield design manager with a written report from a certified surveyor on the finished height of the building.
- 35. **Traffic** The development shall comply with the following requirements;
 - The layout of the proposed car parking and loading areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS 2890.2-2002 for heavy vehicle usage.
 - All vehicles are to enter and exit the basement in a forward direction.
 - All vehicles are to be wholly contained on site before being required to stop.

• Bicycle parking associated with the subject development should be in accordance with AS 2890.3 (Bicycle Parking Facilities).

PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

36. **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 <u>www.georgesriver.nsw.gov.au</u>).

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	\$186,500.62			
Inspection Fee for Refund of Damage Deposit	\$155.00			
Security Deposit for Council's Stormwater	\$3000.00			
Extension Works				
Driveway and Restoration Works Design	\$371.00			
Inspection Fee (Multi-unit Development)				
DEVELOPMENT CONTRIBUTIONS				
Kogarah Section 94 Development Contributions	\$1,786,600.42			
Plan No.8 – Streetscape, Open Space and Public				
Domain				
Kogarah Section 94 Development Contributions	\$32,562.34			
Plan No.8 – Traffic Facilities				
Kogarah Section 94 Development Contributions	\$31,849.43			
Plan No.8 – Community Facilities				
Kogarah Section 94 Development Contributions	\$29,684.74			
Plan No.9 - Kogarah Libraries - Buildings				

Kogarah Section 94 Development Contributions	\$21,165.10
Plan No.9 - Kogarah Libraries - Books	
TOTAL for Section 7.11 contributions	\$1,901,862

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 <u>www.georgesriver.nsw.gov.au</u>.

- 37. **Trade Waste Agreements** A Trade Waste Agreement with Sydney Water may be required. Details of any work required to comply with the agreement must be detailed on the plans lodged with the Construction Certificate. If no trade waste agreement or grease trap is required, a letter from Sydney Water to this effect must be submitted with the application for the Construction Certificate.
- 38. **Electricity Supply** An application is required to be made to Ausgrid for a network connection. This may require the network to be extended or its capacity augmented. Evidence of this application being lodged with Ausgrid is required to be provided to the Certifying Authority prior to the issue of a Construction Certificate. For further details, you are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services).
- 39. 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.
- 40. 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.

41. **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.

- 42. **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.
- 43. **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.

44. **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: **\$186,500.62**

(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: **\$1,113.00**

(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.

45. 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.

- 46. **Stormwater System -** The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.
 - (a) All stormwater shall drain by gravity to Council's drainage line directly in front of the development site in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
 - (b) Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineer who specialises in Hydraulic Engineering in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (2005 or 2016) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.
 - (c) The underground basement car park must pump to and all other stormwater must drain by gravity to the OSD system.
 - (d) The construction of the building and driveway shall be designed to protect the underground basement from possible inundation by surface waters. The crest of the driveway shall be set least 150 mm above the top of the kerb levels.
 - (e) The sub soil drainage for the below ground structures including basement car parks shall be designed in accordance with the findings and recommendations in the geotechnical report. The geotechnical report should assess any possible impact of the proposed development upon existing ground water table and surrounding land and buildings. Should the results of the report indicate that the site is likely to experience issues associated with groundwater management, a fully-tanked dry basement with no sub soil drainage collection or disposal and an allowance made for any hydrostatic pressures.
- 47. **On Site Detention -** The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.

An on-site detention (OSD) facility designed by a professional engineer who specialises in Hydraulic Engineering must be designed, approved and installed.

The OSD facility shall be designed to meet all legislated safety requirements and childproof safety fencing around the facility must be provided where the OSD facility is open or above ground when the design peak storage depth is greater than 300mm. A durable metal plate or similar sign is to be placed at the OSD facility and must bear the words:

"BEWARE: This is an on-site detention basin/tank for rainwater which could overflow during heavy storms."

Full details shall accompany the application for the Construction Certificate.

48. **Stormwater** - Pump-Out System Design for Stormwater Disposal

The design of the pump-out system for storm water disposal will be permitted for drainage of basement areas only, and must be designed in accordance with the following criteria:

- (a) The pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm. The holding tank shall be capable of holding one hour's runoff from a one-hour duration storm of the 1 in 20 year storm;
- (b) The pump system shall be regularly maintained and serviced, every six (6) months; and
- (c) The drainage disposal shall be discharged to the OSD system.

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.

49. **Stormwater Drainage Plan Details -** Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineering specialising in hydraulic engineering shall be submitted with the Construction Certificate application.

These plans shall be prepared in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (2005 or 2016) and Council's Water Management Policy (Kogarah Council), August 2006.

- 50. **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 shall outline the required maintenance works, how and when these will be done and who will be carrying out these maintenance works.
- 51. **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.
- 52. Waste Disposal, storage and collection- Shall be in accordance with the provisions outlined in the Operational Waste Management Plan prepared by Elephants Foot and dated 14 February 2019. Collection of residential waste and recycled materials shall be scheduled twice a week and an a suitable arrangement shall be presented to the satisfaction of the Coordinator Environmental Sustainability and Waste prior to the issuing of the Construction Certificate.
- 53. **Waste Storage** The plans shall include details of the waste storage area. The waste storage area shall not be visible from the street. The waste storage area shall be located within the lot/building in accordance with the approved plans.

The waste storage area shall be large enough to accommodate the required number of bins for the development and located in an area to suitably facilitate servicing on waste collection day.

The path to the bin room is to be at least 1.0 metres wide and kept clear and unobstructed at all times.

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.
- 54. **Traffic Control Devices** The internal road network, pedestrian facilities and parking facilities (including visitor parking and employee parking) shall be designated and line marked in accordance with Australian Standard AS1742, Manual of Uniform Traffic Control Devices.

If an exit from car park utilises a pedestrian footpath, then a warning system such as flashing light and/or 'alarm sound' must be installed on the subject property to alert pedestrians of vehicles exiting the car park. The Alarm System must be designed and installed in accordance with AS2890.1 -2004.

- 55. **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 piered prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.
- 56. **Consolidation of Site** The site shall be consolidated into one allotment and by a Plan of Consolidation being prepared by a Registered Surveyor. This Plan shall be registered at the NSW Land and Property Information prior to the issue of a final occupation certificate.
- 57. 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.

- 58. 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.
- 59. **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;
- (I) 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.

- 60. **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. An *"As Constructed"* certificate, prepared by a tertiary qualified and experienced traffic engineer that fully addresses this condition. An *"As Constructed"* certificate, prepared by a tertiary qualified and experienced traffic engineer that fully addresses this condition. An *"As Constructed"* certificate, prepared by a tertiary qualified and experienced traffic engineer that fully addresses this condition.
- 61. **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.

62. **SEPP 65 Design Verification Statement** - A design verification statement, prepared by a qualified Architect from Scott Carver Architects, 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.

63. Design Quality Excellence (Major Development) -

- (a) In order to ensure the design quality excellence of the development is retained:
 - i. The design architect, Scott Carver is to have direct involvement in the design documentation, contract documentation and construct stages of the project;
 - ii. The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of the design issues throughout the life of the project;
 - iii. Evidence of the design architect's commission is to be provided to the Council prior to release of the Construction Certificate.
- (b) The design architect of the project is not to be changed without prior notice and approval of the Council.
- 64. **Allocation of street addresses** In order to comply with AS/NZS 4819:2011 Rural and Urban Addressing & the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements, the street addresses for the subject development must be allocated as advised by Georges River Council.

Details indicating compliance with this condition must be shown on the plans lodged with any Construction Certificate for approval.

- 65. **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.
- 66. **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.

67. 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.
- 68. **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.
- 69. **Driveway Construction Plan Details** Detailed engineering plans for the driveway will be submitted with the Construction Certificate application.
- 70. **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.

- 71. **BASIX Commitments** All energy efficiency measures as detailed in the updated BASIX Certificate prepared by WindTech No.WD979-03F01(REV2) dated 14 March 2019 must be implemented on the plans lodged with the application for the Construction Certificate.
- 72. **Registration Water-cooling and warm-water systems -** The applicant must register the regulated systems with Council and provide the PCA with evidence of registration pursuant to Clause 12 of the <u>Public Health Regulation 2012</u> (as amended prior to the issue of an Occupation Certificate).

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

73. **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 plans 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 Wok Cover July 2015).

- 74. **Geotechnical Report** The recommendations within the Geotechnical Report prepared by J and K and dated 26 April 2018 shall be implemented prior to and during construction.
- 75. **Development Engineering Driveway Construction Plan Details** Engineer's details shall be submitted with the Construction Certificate application regarding the proposed construction of the driveway.

These details shall show longitudinal and cross sections, gradients, swept paths, type of construction materials and shall be designed in accordance with AS/NZS2890.1-2004.

The driveway shall be designed with a surface that shall be non-slip.

76. **Development Engineering – Physical connection of Stormwater to site -** No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to Council's drainage network in Lawrence Road.

Stormwater drainage connection to Council's infrastructure shall be carried out to the satisfaction of the Council's engineering services unit.

- 77. **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.
- 78. **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

(e) The full name and signature of the structural engineer

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.

- 79. **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.

80. **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.

- 81. **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.
- 82. **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

- 83. 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.
- 84. **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.

- 85. **Physical connection of Stormwater to site** No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to Council's public drainage system.
- 86. **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*.
- 87. 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.
- 88. **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.
- 89. 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.
- 90. **General Tree Protection Measures –** the following measures are to be adhered to;
 - (a) All street trees to be retained shall be protected before and maintained during demolition, excavation and construction of the site.
 - (b) The tree protection measures must be in undertaken in accordance AS4970 -2009 Protection of trees on development sites.
 - (c) Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a **suitably qualified Arborist who holds an AQF Level 5 or above in Arboriculture and who**

is a current financial member of Arboriculture Australia – AA and or Institute of Australian Consulting Arboriculturists – IACA.

- (d) The Project Arborist must be present on-site during the stages of excavation, demolition and construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone of each tree.
- (e) Unless otherwise specified in AS 4970-2009 Protection of trees on development sites, a protective fence consisting of 2.4 x 1.8 metres high, fully supported chainmesh fence shall be used. The distance of the fence from the base of each tree is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill should be placed within the protection area.
- (f) The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly and regularly to minimise the effects of construction works.
- (g) No building products/ materials or services shall be installed within the TPZ of the tree/s unless approved by Council. This fence shall be kept in place during demolition, construction and also have a sign displaying 'Tree Protection Zone – DO NOT ENTER' attached to the fence and must also include the name and contact details of the Project Arborist.

Excavation works near tree to be retained – the following measures are to be adhered to;

- Excavations around the trees to be retained on site or the adjoining properties shall be supervised by the Project Arborist to ensure that the root system will not adversely be affected.
- Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the Project arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.
- (h) Tree Protection Zone around the trees to be retained are not to have soil level changes, building product / materials stored or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.

Details satisfying this condition shall be shown on the Construction Certificate plans.

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved. All pruning must be undertaken by a qualified Arborist in accordance with AS4373 -2007 *Pruning of Amenity Trees* and Amenity Tree Industry, Code of Practice (SafeWork NSW August 1998).

- 91. **Registered Surveyors Report During Development Work** A report must be submitted to the PCA 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 must 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 must indicate the reduced level of the main ridge.

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

92. **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.

93. Engineering - Vehicular Crossing & Frontage work – 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 1.50 metre wide x 80mm thick concrete path for the full length of the frontage of the site in Lawrence Street in accordance with Council's Specifications for footpaths.
- (b) Construct a 150mm thick concrete vehicular crossing reinforced with F82 fabric in accordance with Council's Specifications for vehicular crossings.
- (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site Lawrence in accordance with Council's Specifications for kerb and guttering.
- (d) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the beneficiary of this consent and in accordance with Council's *Specification for Vehicular Crossings and Associated Works*. The work shall be carried out by a private contractor, subject to Council approval.
- 94. **Hazardous Waste** Hazardous or intractable waste arising from the demolition or construction process shall be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority and with the provision of:
 - Work Health and Safety Act 2011 (NSW) (as amended);
 - Work Health and Safety Regulation 2011 (as amended);
 - Protection Of the Environment Operations Act 1997 (NSW) (as amended); and
 - Protection of the Environment Operations (Waste) Regulation 2014 (as amended)
- 95. 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, must 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 must remain in a prominent location on site up until the completion of all site and building works.
- 96. **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.
- 97. **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.

- 98. **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.
- 99. **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.
- 100. **Site contamination Additional information -** Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.
- 101. **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.

102. 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 that creates noise on or adjacent to the site shall 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.

Note: A penalty infringement notice may be issued for any offence.

103. **Building - Structural Certificate During Construction -** The proposed building must 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 must 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, must be submitted to the Principal Certifying Authority at each stage of Construction or prior issue of the Occupation Certificate.

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

- 104. **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.
- 105. 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.

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 if 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.

- 106. **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.
- 107. Development Engineering Conditions relating to future Strata Subdivision of Buildings - No approval is expressed or implied for the subdivision of the subject building(s). For any future Strata subdivision, a separate Development Application or Complying Development Certificate shall be approved by Council or an Accredited Certifier.

Prior to the issue of any Strata Certificate of the subject building(s) the following conditions shall be satisfied:

(a) Unit Numbering

Apartment type numbers shall be installed adjacent or to the front door of each unit.

The unit number shall coincide with the strata plan lot numbering.

(b) Car Parking Space Marking and Numbering

Each basement car space shall be line marked with paint and numbered in accordance with the strata plan lot numbering.

"Visitor Parking" signs shall be installed adjacent to any and all visitor car spaces prior to the issue of any Strata Certificate.

(c) Designation of Visitor Car Spaces on any Strata Plan Any Visitor car spaces shall be designated on the final strata plan as "Visitor Parking - Common Property".

(d) Allocation of Car Parking Spaces, Storage Areas and Common Property on any Strata Plan.

- i. All car parking spaces shall be created as a part lot of the individual strata's unit lot in any Strata Plan of the subject building.
- ii. All storage areas shall be created as a part lot of the individual strata's unit lot or a separate Utility Lot (if practical) in any Strata Plan of the subject building.
- iii. The minimum number of parking spaces required to be allocated as a part lot to each individual strata's unit lot shall be in accordance with the car parking requirements of Council's Development Control Plan and as required by the relative development consent for the building construction.
- iv. No parking spaces shall be created as an individual strata allotment on any Strata Plan of the subject building unless these spaces are surplus to the minimum number of parking spaces required.

If preferred the surplus car spaces shall be permitted to be created as separate Utility Lots, (instead as a part lot of the individual strata's unit lot), in accordance with section 39 of the Strata schemes (freehold development Act 1973.

The above requirements regarding car parking spaces and storage areas may only be varied with the conditions of a separate Development Application Approval for Strata Subdivision of the Building(s).

(e) On Site Detention Requirements

The location any on-site detention facility shall be shown on the strata plan and suitably denoted.

(f) Creation of Positive Covenant

A Positive Covenant shall be created over any on-site detention facility by an Instrument pursuant to Section 88B of the Conveyancing Act 1919, with the covenant including the following wording:

"It is the responsibility of the Owner's Corporation to keep the on-site detention facilities, together with any ancillary pumps, pipes, pits etc,

clean at all times and maintained in an efficient working condition. The on-site detention facilities shall not be modified in any way without the prior approval of Georges River Council."

Georges River Council is to be nominated as the Authority to release, vary or modify this Covenant.

108. 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).
- 109. **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.
- 110. **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.
- 111. **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].

112. **Stormwater** - Prior to the issue of an Occupation Certificate, the PCA must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards. A works-asexecuted drainage plan and certification must be forwarded to the PCA and Council, from a professional engineer specialising in hydraulic engineering.

This Plan and Certification shall 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 PCA.

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

- (a) The location of any detention basin/s with finished surface levels;
- (b) Volume of storage available in any detention areas;

(c) The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes;

- (d) The orifice size/s.
- 113. **Public works** The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:

(a) All the stormwater/drainage works shall 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) shall 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 shall be issued and submitted to the PCA 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 shall be submitted to the PCA prior to the issue of the Occupation Certificate.
(g) Construct a 1.2 metre wide footpath for the full length of the frontage of the site in Stanley Street and Stanley Lane as per the approved drainage plan and subject to the satisfaction of Council's Asset's engineer in accordance with Council's Specifications for footpaths.

114. **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.

- 115. **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.

116. **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 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.
- 117. 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.

- 118. 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.
- 119. **Waste room** The waste room will contain the following to minimise odours, deter vermin, protects 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:

- 120. Acoustic certification Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the construction has incorporated the recommendations in the DA Acoustic Report titled "Acoustic Report prepared by PKA Acoustic Consultants and dated 26 April 2018
- 121. **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.

- 122. **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.
- 123. Allocation of Car Parking Spaces A total of 116 car parking spaces, and a minimum of 40 bicycle parking spaces associated with the development is to be allocated as follows:
 - (a) 95 resident car spaces
 - (b) 17 visitor car spaces
 - (c) 4 accessible spaces
 - (d) 50 bicycle spaces
 - (e) Designated car wash bay

All spaces and the car wash bay shall be designated and signposted accordingly.

- 124. **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).
- 125. **Electricity Supply** Evidence will be provided demonstrating that the development has been connected to the Ausgrid, if required.
- 126. **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.
- 127. **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.
- 128. **Dilapidation Report on Public Land for Major Development Only** Upon completion of works, a follow up dilapidation report must be prepared for the items of Council infrastructure adjoining the development site including:

The dilapidation report must 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

- (d) Photographs showing the condition of retaining walls within the footway or road
- (e) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- (f) The full name and signature of the professional engineer.

The report must be provided to the PCA 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.

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

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

129. **Post Construction Dilapidation report - Private Land** - At the completion of the construction works, a suitably qualified person is to be engaged to prepare a post-construction dilapidation report. This report is to ascertain whether the construction works associated with the subject development created any structural damage to the following adjoining premises:

The report is to be prepared at the expense of the applicant and submitted to the PCA prior to the issue of the Occupation Certificate. In ascertaining whether adverse structural damaged has occurred to the adjoining premises, the PCA, must compare the post-construction dilapidation report with the pre-construction dilapidation report required by conditions in this consent.

Evidence confirming that a copy of the post-construction dilapidation report was delivered to the adjoining properties subject of the dilapidation report must be provided to the PCA prior to the issue of any Occupation Certificate.

- 130. Allocation of street addresses Prior to issue of an Occupation Certificate, All house numbering are to be allocated in accordance with AS/NZS 4819:2011 Rural and Urban Addressing & the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements. Council must be contacted in relation to all specific requirements for street numbering.
- 131. Certification Air handling systems (including water-cooling system, hotwater systems and warm-water systems) - Certification by a suitably qualified person engineer '2012 must be submitted to the PCA prior to the issue of any occupation certificate verifying that the air handling system has been installed in accordance with:
 - (a) Public Health Act 2010 (as amended)

(b) Public Health Regulation 2012 (as amended)

(c) AS/NZS 3666.1:2011 Air-handling and water systems of buildings -Microbial control -Design, installation and commissioning

ONGOING CONDITIONS

- 132. **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.*
- 133. **Roof top terrace** The A Plan of Management for the use of this space shall be adhered to for the perpetuity of the development. The Strata Manager shall ensure that the plan is provided to all residents and occupants of the development and a sign shall be installed next to the lifts on Level 10 to highlight the hours of use of the area (7am until 10pm daily) and any other operational restrictions i.e keeping the space clean, rules around using the bbq's.
- 134. **Final Acoustic Report Verification of Noise report** Within three months from the issue of an Occupation Certificate, an acoustic assessment is to be carried out by an appropriately qualified acoustic consultant, in accordance with the EPA's Industrial Noise Policy and submitted to Council for consideration. This report should include but not be limited to, details verifying that the noise control measures as recommended in the acoustic report.
- 135. 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.
- 136. **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.
- 137. 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.
- 138. **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.

139. **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.

140. **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.

141. **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).

142. 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.

- 143. **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.
- 144. **Disability Discrimination Act** The applicant is responsible to ensure compliance with this and other anti-discrimination legislation.
- 145. 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.

146. **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.

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 <u>summary</u> 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 <u>www.legislation.nsw.gov.au</u>.

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

- 147. Clause 97A BASIX Commitments This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
- 148. Clause 98 Building Code of Australia Requires all building work to be carried out in accordance with the Building Code of Australia.
- 149. **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.
- 150. 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.

151. **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.

- 152. **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.
- 153. **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.
- 154. **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.
- 155. **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.
- 156. **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.

<u>Advisory Note:</u> 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.

END CONDITIONS

NOTES/ADVICES

157. **Review of Determination** - Section 82A of the Environmental Planning and Assessment Act confers on an applicant who is dissatisfied with the determination of the application the right to lodge an application with Council for a review of such determination. Any such review must however be completed within 6 months from its determination. Should a review be contemplated sufficient time should be allowed for Council to undertake public notification and other processes involved in the review of the determination.

Note: review provisions do not apply to Complying Development, Designated Development, State Significant Development, Integrated Development or any application determined by the Sydney South Planning Panel or the Land & Environment Court.

- 158. **Appeal Rights -** Division 8 (Appeals and Related matters) Part 4 of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court of New South Wales.
- 159. Lapsing of Consent This consent will lapse unless the development is physically commenced within 5 years from the Date of Operation of this consent, in accordance with Section 95 of the Environmental Planning and Assessment Act 1979 as amended.
- 160. **Council as PCA Compliance with the BCA** Should the Council be appointed as the Principal Certifying Authority in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justifying the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.
- 161. Energy Efficiency Provisions Should Council be appointed as the Principal Certifying Authority, a report prepared and endorsed by an Energy Efficiency Engineer or other suitably qualified person must be submitted, detailing the measures that must be implemented in the building to comply with Section J of the BCA. The proposed measures and feature of the building that facilitate the efficient use of energy must be identified and detailed on the architectural plans. At completion of the building and before the issue of an Occupation Certificate, a certificate certifying that the building has been erected to comply with the energy efficiency provisions must be submitted to the Principal Certifying Authority.

- 162. **Compliance with Access, Mobility and AS4299** Adaptable Housing Should the Council be appointment as the PCA, the Construction Certificate Application must be accompanied by detailed working plans and a report or a Certificate of Compliance from an Accredited Access Consultant certifying that the building design and access to the adaptable units complies with Council's DCP and AS 4299 Adaptable Housing.
- 163. **Council as PCA Total Conformity with BCA** Should the Council be appointed as the Principal Certifying Authority, the Construction Certificate Application must be accompanied by the following details, with plans prepared and certified by an appropriately qualified person demonstrating compliance with the BCA:
 - Mechanical ventilation to bathroom, laundry and basement areas not afforded natural ventilation.
 - Provision of natural light to all habitable areas.
 - Fire-fighting services and equipment including hydrant and booster assembly systems, sprinkler and valve room systems, hose reels, portable fire extinguishers, smoke hazard management systems and sound & warning systems.
 - Emergency lighting and exit signs throughout, including terrace areas, lobby and basement areas.
 - Construction of all fire (smoke) doors including warning and operational signage to required exit and exit door areas.
 - Egress, travel distance and the discharge from an exit including the swing of exit doors.
 - The protection of openings including spandrel separation.
 - Fire compartmentation and fire wall separation details including all stairway, lift and service shaft areas.
 - Protection of openings including paths of travel from fire isolated exists
 - Re-entry facilities from fire isolated exit stairways.
 - Sound transmission and insulation details.
 - Window schedule is to include the protection of openable windows.
 - The location of sanitary facilities for employees in accordance with Table F2.1

In this regard, detailed construction plans and specifications that demonstrate compliance with the above requirements of the BCA must be submitted to the Principal Certifying Authority with the Construction Certificate Application. Should there be any non-compliance, an alternative method of fire protection and structural capacity must be submitted, with all supporting documents prepared by a suitably qualified person.

In the event that full compliance with the BCA cannot be achieved and the services of a fire engineer are obtained to determine an alternative method of

compliance with the BCA, such report must be submitted to and endorsed by the Principal Certifying Authority prior to issue of the Construction Certificate.

164. **Site Safety Fencing** - Site fencing must 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 must 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).

165. 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. More information about the scheme and the levy amount you are required to pay to consent satisfv condition can be found а of your at http://www.longservice.nsw.gov.au.

The required Long Service Levy payment can be direct to the Long Service Corporation via their web site <u>https://online.longservice.nsw.gov.au/bci/levy</u>. Payments can only be processed on-line for the full levy owing and where the value of work is between \$25,000 and \$6,000,000. Payments will be accepted for amounts up to \$21,000, using either MasterCard or Visa.

- 166. **Electricity Supply** This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services) for further details and information on lodging your application to connect to the network.
- 167. **Stratum Subdivisions** A Subdivision Certificate cannot be issued unless all relevant conditions of the development consent that are to be satisfied prior to the issue of the Subdivision Certificate have been complied with.
 - (a) Council will check the consent conditions on the relevant subdivision consent. Failure to submit the required information will delay endorsement of the plan of subdivision.
 - (b) Plans of subdivision, Administration Sheets, Section 88B Instruments and copies must not be folded.
 - (c) All Subdivision Plans, Deposited Plan Administration Sheets and Section 88B Instruments shall be submitted to Council enclosed in a protective cardboard tube (to prevent damage during transfer).

(d) Certification from the Registered Surveyor that all services (including but not limited to stormwater drainage, gas, electricity, telephone cable) as constructed or to be constructed are/will be contained within each lot or within the necessary easements to accommodate such services.

168. Strata Subdivision -

- (a) Council will check the consent conditions on the relevant Strata Subdivision consent. Failure to submit the required information will delay endorsement of the plan of subdivision.
- (b) Council will undertake the required inspections to satisfy the requirements of the <u>Strata Schemes Development Regulation 2016</u> to determine the Strata Certificate.
- (c) Strata Plans, Administration Sheets, 88B Instruments and copies must not be folded.
- 169. All Strata Plans, Strata Plan Administration Sheets and 88B Instruments shall be submitted to Council enclosed in a protective cardboard tube (to prevent damage during transfer).
- 170. **Disability Discrimination Act** This application has been assessed in accordance with the <u>Environmental Planning and Assessment Act 1979</u>. No guarantee is given that the proposal complies with the <u>Disability Discrimination</u> <u>Act 1992</u>. The applicant is responsible to ensure compliance with this and other anti-discrimination legislation. The <u>Disability Discrimination Act 1992</u> covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which refers to AS1428.1-Design for Access and Mobility.
- 171. **Development Engineering** Conditions relating to future Strata Subdivision of Buildings

No approval is expressed or implied for the subdivision of the subject building(s). For any future Strata subdivision, a separate Complying Development Certificate shall be approved by Council or an Accredited Certifier.

Prior to the issue of any Strata Certificate of the subject building(s) the following conditions shall be satisfied:

(a) Unit Numbering

Apartment type numbers shall be installed adjacent or to the front door of each unit.

The unit number shall coincide with the strata plan lot numbering.

(b) Car Parking Space Marking and Numbering

Each car space shall be line marked with paint and numbered in accordance with the strata plan lot numbering.

"Visitor Parking" signs shall be installed adjacent to any and all visitor car spaces prior to the issue of any Strata Certificate.

(c) Designation of Visitor Car Spaces on any Strata Plan

Any Visitor car spaces shall be designated on the final strata plan as "Visitor Parking - Common Property".

(d) Allocation of Car Parking Spaces, Storage Areas and Common Property on any Strata Plan

i. All car parking spaces shall be created as a part lot of the individual strata's unit lot in any Strata Plan of the subject building.

- ii. All storage areas shall be created as a part lot of the individual strata's unit lot or a separate Utility Lot (if practical) in any Strata Plan of the subject building.
- iii. The minimum number of parking spaces required to be allocated as a part lot to each individual strata's unit lot shall be in accordance with the car parking requirements of Council's Development Control Plan and as required by the relative development consent for the building construction.

iv. No parking spaces shall be created as an individual strata allotment on any Strata Plan of the subject building unless these spaces are surplus to the minimum number of parking spaces required.

If preferred the surplus car spaces shall be permitted to be created as separate Utility Lots, (instead as a part lot of the individual strata's unit lot), in accordance with section 39 of the Strata schemes (freehold development Act 1973).

The above requirements regarding car parking spaces and storage areas may only be varied with the conditions of a separate Development Application Approval for Strata Subdivision of the Building(s).

(e) On Site Detention Requirements

The location any on-site detention facility shall be shown on the strata plan and suitably denoted.

(f) Creation of Positive Covenant

A Positive Covenant shall be created over any on-site detention facility by an Instrument pursuant to Section 88B of the Conveyancing Act 1919, with the covenant including the following wording:

"It is the responsibility of the Owner's Corporation to keep the on-site detention facilities, together with any ancillary pumps, pipes, pits etc, clean at all times and maintained in an efficient working condition. The on-site detention facilities shall not be modified in any way without the prior approval of Georges River Council."

Georges River Council is to be nominated as the Authority to release, vary or modify this Covenant.

172. **Security deposit administration & compliance fee** - Under Section 97 (5) of 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 must 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.

173. **Noise** - Council will generally enforce noise related conditions in accordance with the *Noise* Guide *for Local Government* (<u>http://www.environment.nsw.gov.au/noise/nglg.htm</u>) and the *Industrial Noise Guidelines* (<u>http://www.environment.nsw.gov.au/noise/industrial.htm</u>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the <u>Protection of the Environment Operations Act 1997</u>.

Useful links relating to Noise:

- (a) Community Justice Centres—free mediation service provided by the NSW Government (<u>www.cjc.nsw.gov.au</u>).
- (b) Department of Environment and Conservation NSW, Noise Policy Section web page (<u>www.environment.nsw.gov.au/noise</u>).
- (c) New South Wales Government Legislation home page for access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2000 (www.legislation.nsw.gov.au).
- (d) Australian Acoustical Society—professional society of noise-related professionals (<u>www.acoustics.asn.au /index.php</u>).
- (f) Association of Australian Acoustical Consultants—professional society of noise related professionals (<u>www.aaac.org.au</u>).

- (f) Department of Gaming and Racing (<u>www.dgr.nsw.gov.au</u>).
- 174. Acoustic Engineer Contacts & Reference Material Further information including lists of Acoustic Engineers can be obtained from:
 - (a) Australian Acoustical Society—professional society of noise-related professionals (<u>www.acoustics.asn.au</u>)
 - (b) Association of Australian Acoustical Consultants—professional society of noise related professionals (<u>www.aaac.org.au</u>)
 - (c) NSW Industrial Noise Policy Office of Environment & Heritage (www.environment.nsw.gov.au)

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.

- 175. Stormwater & Ancillary Works Applications under Section 138 Roads Act and/or Section 68 Local Government Act 1993 - To apply for approval under Section 138 of the Roads Act 1993:
 - (a) Complete the Driveway Crossing on Council Road Reserve Application Form which can be downloaded from Georges River Council's Website at <u>www.georgesriver.nsw.gov.au</u>.
 - (b) In the Application Form, quote the Development Consent No. (eg. DA2017/0491) and reference this condition number (e.g. Condition 23)
 - (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with Vehicular Crossing applications.

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 shall 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.