

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSSH-109
DA Number	DA2022/0039
LGA	Georges River Council
Proposed Development	Demolition of existing structures, remediation, and construction of a 10 storey mixed use development containing 106 residential apartments, 112 serviced apartments and ancillary hotel areas including conference rooms, pre function room, restaurant, commercial kitchen, gym and café, 1 x shop and 1 x neighbourhood shop above two (2) basement levels and tree removal.
Street Address	36 & 38 Gladstone Street and 59-69 Princes Highway, Kogarah Lots 7, 8, 11, 12 & 14 DP 5655 Lots 131 & 132 DP 602573 Lot 1 DP 732187
Applicant/Owner	Applicant- Alexander Dakhoul Owners – GC Property Investments Pty Ltd, Mr B Ziazaris & Mrs G Ziazaris, Mrs A Angeli, Mrs C Diakou, Ms T T Pham & Mr V L Nguyen, Mrs S R Dhar & Mr B C Dhar and Mr D L Morris & Ms L L Brooks.
Date of DA lodgement	29 January 2022
Total number of Submissions Number of Unique Objections	Notification 1: Three (3) submissions received. Notification 2: Five (5) submissions received. Notification 3: One (1) submission received. Total of nine (9) submissions
Recommendation	Approval subject to conditions
Regional Development Criteria Schedule 6 of the SEPP (Planning Systems) 2021	Regional Development is defined in Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 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 \$45,947,117 excluding GST.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979. • Environmental Planning and Assessment Regulation 2021. • Water Management Act 2000

	<ul style="list-style-type: none"> • State Environmental Planning Policy (Resilience and Hazards) 2021. • State Environmental Planning Policy (Transport and Infrastructure) 2021 • State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development • State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Building Sustainability Index: BASIX) • Georges River Local Environmental Plan 2021 • Georges River Development Control Plan 2021
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Statement of Environmental Effects. • Architectural plans • Clause 4.6 variation request for Building Height
Clause 4.6 requests	Clause 4.3 Building Height
Report prepared by	Michael Hornery Principal Planner
Report date	1 December 2022
Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	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 – Building exceeds Clause 4.3 Height of Building Standard
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.24)?	Not applicable

<i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	
<p>Conditions</p> <p>Have draft conditions been provided to the applicant for comment?</p> <p><i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i></p>	Yes

Executive Summary

Proposal

1. Council received a development application (DA2022/0039) seeking consent for demolition of existing structures, remediation, and construction of a 10 storey mixed use development containing 106 residential apartments, 112 serviced apartments and ancillary hotel areas including conference rooms, pre function room, restaurant, commercial kitchen, gym and café, 1 x shop and 1 x neighbourhood shop above two (2) basement levels of parking and tree removal. The application is integrated development under the Water Management Act 2000.
2. In response to the issues raised by Council and Council's Urban Designer along with the issues identified by the Sydney South Planning Panel (SSPP) during the briefing, have resulted in the proposal being amended.

This assessment is based on the amended plans.

Site and Locality

3. The subject development site is known as 36 & 38 Gladstone Street and 59 -69 Princes Highway, Kogarah.

The allotments and their legal description are noted below:

- 59 Princes Highway – Lot 14 DP 5655 – 448.9sqm by DP.
 - 61 Princes Highway – Lot 132 DP 602573 – 253.7sqm by DP.
 - 63 Princes Highway – Lot 131 DP 602573 – 249.4sqm by DP.
 - 65 Princes Highway – Lot 12 DP 5655 – 455.3sqm by DP.
 - 67 Princes Highway – Lot 11 DP 5655 – 373.1sqm by DP.
 - 69 Princes Highway – Lot 1 DP 732187 – 1074sqm by DP.
 - 36 Gladstone Street – Lot 7 DP 5655 – 366.7sqm by DP.
 - 38 Gladstone Street – Lot 8 DP 5655 – 360.4sqm by DP.
4. The development site is an irregular shaped allotment with a 94.85 metre frontage to Princes Highway and a 56.95 metre frontage to Gladstone Street. The development site has a total area of 3,581.5sqm by DP and

has a cross fall of approximately 4 metres from the north-west corner to south-east corner of the development site.

5. The site is currently occupied by single storey brick and tile dwellings on Nos 59, 65, 67-67A Princes Highway and 36 and 38 Gladstone Street, located on 61 and 63 Princes Highway are semi-detached brick dwellings with metal roofs with a service station currently located on 69 Princes Highway.
6. The subject site is bounded by Gladstone Street to the south and Princes Highway to the east. The site is located within the Kogarah North Precinct which adjoins the Kogarah Town Centre, it is located approximately 400m to the east of Kogarah Railway Station.

State Environmental Planning Policies

7. The proposal has been considered to be satisfactory in respect to the following policies which have been considered in respect to the application:
 - State Environmental Planning Policy (Planning Systems) 2021
 - State Environmental Planning Policy (Resilience and Hazards) 2021
 - 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 (Biodiversity and Conservation) 2021.
 - State Environmental Planning Policy (Transport and Infrastructure) 2021.

Zoning and GRLEP (2021) Compliance - LEP

8. The site is zoned R4 High Density Residential under the provisions of the Georges River Local Environmental Plan 2021. The proposal satisfies the R4 zone objectives. The proposed application is for a mixed-use development comprising a residential flat development, hotel, shop and neighbourhood shop which are all permitted land uses in the R4 High Density Residential zone under GRLEP 2021. The application seeks an increase to the statutory height limit being the lift over run, architectural roof feature and associated services exceed the maximum permitted height.
9. The application has been accompanied by a Clause 4.6 -exceptions to development standards request for variation to Clause 4.3 – Height of buildings development standard.

Georges River Development Control 2021

10. The provisions of Georges River Development Control Plan 2021 are applicable to the proposed development. 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 GRDCP.

Part 10 Precincts – Kogarah North Precinct.

In addition to the GRDCP, site specific controls have been developed for the Kogarah North Precinct development site. The proposal is considered to reasonably satisfy the objectives of the Kogarah North Precinct controls which results in an appropriate built form in relation to the applicable planning controls.

A detailed assessment of the proposal against these controls is provided later in this report.

11. In addition to the above policies and controls, the applicant has considered the issues identified by Council's assessing officers and the issues that arose during the Sydney South Planning Panel 'Kick Off Briefing' undertaken on 22 March 2022 and the 'Briefing' meeting held on 31 May 2022.

Submissions

12. The application was advertised for a period of fourteen (14) days between 17 February 2022 and 3 March 2022 in accordance with the Georges River Development Control Plan and the Georges River Council Community Engagement Strategy notification criterion. Three (3) submissions were received.
13. The application was re-advertised for a period of twenty- eight (28) days between 24 March 2022 and 21 April 2022 in accordance with the Georges River Development Control Plan and the Georges River Council Community Engagement Strategy notification criterion. Five (5) submissions were received.
14. Amended Plans were submitted, the application was re-advertised for a period of fourteen days between 8 September 2022 and 22 September 2022 in accordance with the Georges River Development Control Plan and the Georges River Council Community Engagement Strategy notification criterion. One (1) submission was received.
15. A total of Nine (9) submissions were received throughout the three (3) notification periods.

Level of Determination

16. The proposal has a CIV of \$45,974,117 (excluding GST). 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 mixed-use development pursuant to the definition of regional development contained within Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021. The CIV has been confirmed and is outlined in the Registered Quantity Surveyors Detailed Cost Report which accompanies the Development Application.

Conclusion

17. Having regard to the matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979 and following a detailed assessment, the proposed Development Application (DA2022/0039) is recommended for approval subject to the conditions referenced at the end of this report.

Report in Full Site and Locality

18. The subject development site is known as 36 & 38 Gladstone Street and 59 -69 Princes Highway, Kogarah.

The allotments and their legal description are noted below:

- 59 Princes Highway – Lot 14 DP 5655 – 448.9sqm by DP.
- 61 Princes Highway – Lot 132 DP 602573 – 253.7sqm by DP.
- 63 Princes Highway – Lot 131 DP 602573 – 249.4sqm by DP.
- 65 Princes Highway – Lot 12 DP 5655 – 455.3sqm by DP.
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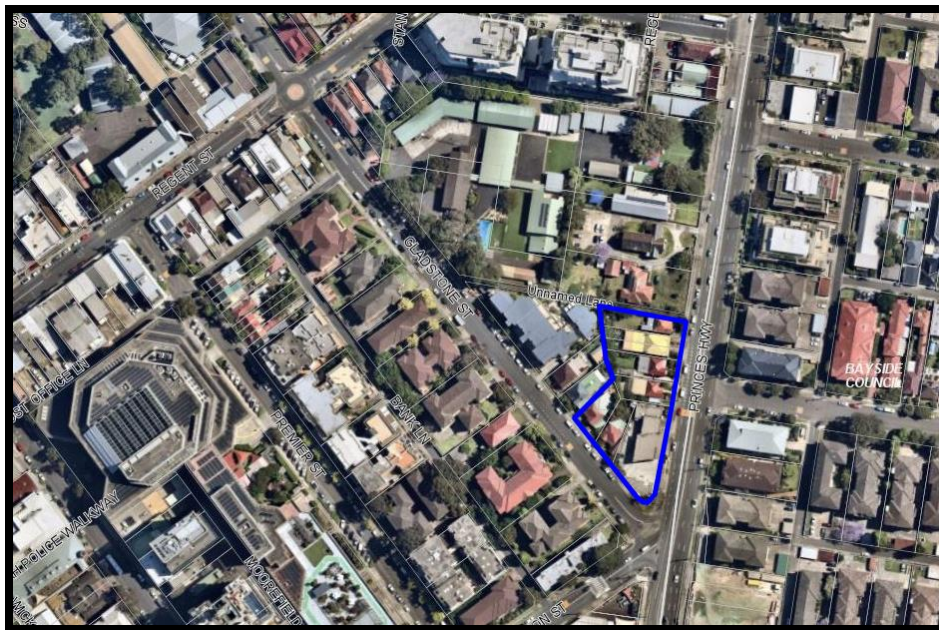


Figure 1: Aerial view of subject site outlined in blue (Source: Intramaps 2022)

19. It is an irregular shaped allotment with a 94.85 metre frontage to Princes Highway and a 56.95 metre frontage to Gladstone Street. The development site has a total area of 3,581.5 sqm by DP and has a cross fall of approximately 4 metres from the north-west corner to south-east corner of the development site.



Figure 2: Subject site as viewed from the corner of Gladstone Street and Princes Highway.

20. The site is currently occupied by single storey brick and tile dwellings on Nos 59, 65, 67-67A Princes Highway and 36 and 38 Gladstone Street, located on 61 and 63 Princes Highway are semi-detached brick dwellings with metal roofs with a service station currently located on 69 Princes Highway.



Figure 3: Nos 36 and 38 Gladstone Street, Kogarah.



Figure 4: Single storey dwellings located at 59-67 Princes Highway, Kogarah.

21. The subject site is bounded by Gladstone Street to the south and Princes Highway to the east. The site is located within the Kogarah North Precinct which adjoins the Kogarah Town Centre, it is located approximately 400m to the east of Kogarah Railway Station.
22. The site contains fifty two (52) trees which are proposed to be removed, however 28 of these are exempt species and a further 10 are very small shrubs just reaching 3 metres in height. For the remaining 14 trees being removed these are smaller and less significant species.
23. The request for removal has been supported by an Arboricultural report. This report has been reviewed by Council's Senior Landscape & Arboricultural Assessment Officer who raises no issues with the removal of these trees subject to replacement planting as conditioned and the completion of the landscape works referenced in the landscape plan.

Surrounding Development

24. The subject development site is being transformed from lower scale dwellings and service station to a high-density mixed-use development which is consistent with the up-zoning within the Kogarah North Precinct.
25. Immediately adjoining the site to the north is a public laneway which provides pedestrian access from the Princes Highway to Gladstone Street. Adjoining the laneway to the north at No 53-57 Princes Highway is St Pauls Anglican Church, which is listed as a local heritage item in GRLEP 2021. Further to the north along Princes Highway is a mixed use two storey building with a two-storey building located on the corner of Princes Highway and Regent Street known as 41-47 Princes Highway and 99 Regent Street.



Figure 5: No 53- 57 Princes Highway, Kogarah – St Pauls Anglican Church

26. To the north-west of the site across the pedestrian accessway is Kogarah Public School, which is accessed via Gladstone Street.

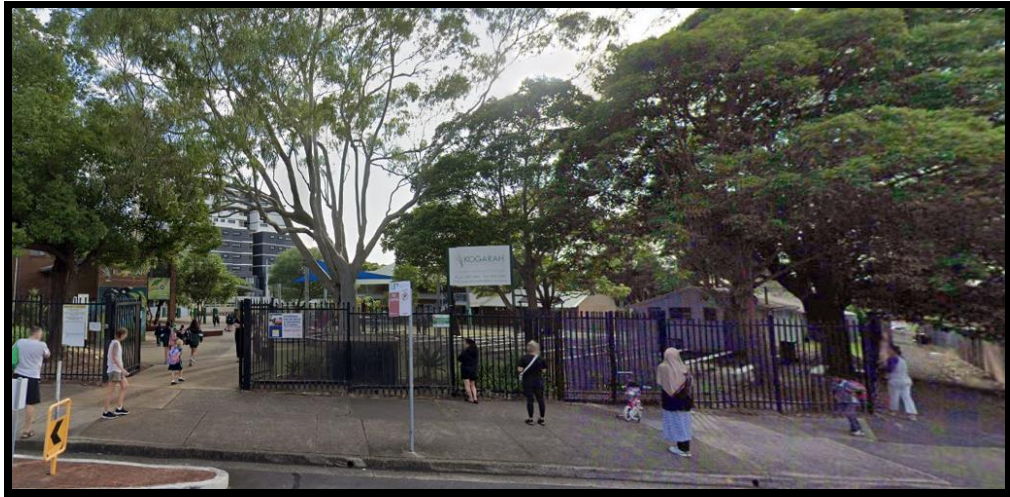


Figure 6: Kogarah Public School

27. To the south of the site across Gladstone Street is a carwash and multi storey mixed use development.



Figure 7: Car wash and High-Rise developments located to the south along Princes Highway.

28. Immediately to the west, are two single storey brick and tile dwellings located at Nos 32 and 34 Gladstone Street. Adjoining them is a 3 - 4 storey residential flat building which adjoins the pedestrian accessway extending from Gladstone Street to the Princes Highway.



Figure 8: Residential flat building located at 30 Gladstone Street, Kogarah – pedestrian pathway and Kogarah Public school to the left.

29. To the south-west across the road in Gladstone Street are a number of residential flat buildings ranging in heights from two (2) to four (4) storeys.



Figure 9: View of RFB's in Gladstone Street opposite the subject site.

30. The site is located in close proximity to Kogarah Town Centre, Kogarah Railway Station, St George Public and Private Hospitals, and various educational facilities, being Kogarah Public School to the north-west, Kogarah High School further to the north-west and St George Girls High School to the north-west. St George TAFE is located in close proximity to the south-east. The site is located approximately 1.5km from Rockdale Plaza.
31. The locality is identified in the GRDCP 2021 as being within the Kogarah North Precinct, and was subject to substantial uplifts in zoning, height and floor space under the Kogarah New City Plan gazetted on 26 May 2017. Accordingly, the Kogarah North Precinct is undergoing transition to higher densities, with a number of similar scale residential flat developments constructed, under construction or approved in the area since the rezoning.
32. The details of those developments are as follows:
 - 41 – 47 Princes Highway, Kogarah. 10 storey mixed use development with basement parking. Approved by the Land and Environment Court on 5 July 2018 by way of S34 Agreement.
 - 70 – 78 Regent Street, Kogarah. 10 storey residential flat building with basement car parking. Approved by the Land and Environment Court on 24 July 2018 following a contested hearing.
 - 2 – 10 Palmerston Street, Kogarah. 10 storey residential flat building with three levels of basement car parking. Approved by the Land and Environment Court on 20 September 2018 by way of S34 Agreement.
 - 11 Stanley Street and 28 – 36 Victoria Street, Kogarah. 9 storey residential flat building with three levels of basement parking approved by the Land and Environment Court on 23 October 2018 by way of S34 Agreement.
 - 2-10 Stanley Street Kogarah. 10 storey residential flat building with basement parking. Approved by the Sydney South Planning Panel on 11 December 2018.
 - 12-24 Stanley Street, Kogarah. 11 storey residential flat building with 4 levels of basement car parking. Approved by the Sydney South Planning Panel on 9 April 2019.

- 2-4 Gladstone Street and 10 Victor Street, Kogarah. 9 and 10 storey residential flat building with ground level retail space and basement car parking. Approved by the Land and Environment Court on 11 April 2019 following a contested hearing.
- 71-97 Regent Street, Kogarah. 10 storey residential flat building with 3 levels of basement car parking. Approved by the Land and Environment Court on 14 May 2019 by way of S34 Agreement.
- 80-84 Regent Street, Kogarah. 11 Storey residential flat building with basement car parking. Approved by the Georges River Council Local Planning Panel on 11 June 2019.
- 58-68 Regent Street, Kogarah. 11 storey residential flat building with basement car parking. Granted consent via S34 agreement on 11 September 2020.
- 44-52 Regent Street, Kogarah. 11 storey residential flat building with basement car parking. Granted consent via S34 agreement on 10 February 2021.
- 6-16 Victoria Street, Kogarah. 12 storey residential flat building with basement car parking. Granted consent via S34 agreement on 10 February 2021.
- 18-24A Victoria Street, Kogarah. 10 storey residential flat building with basement car parking. Granted consent via S34 agreement on 25 May 2021.

Description of Proposal

33. Development consent is sought for the demolition of existing structures, remediation, and construction of a 10 storey mixed use development containing 106 residential apartments, 112 serviced apartments and ancillary hotel areas including conference rooms, pre function room, restaurant, commercial kitchen, gym and café, 1 x shop and 1 x neighbourhood shop above two (2) basement levels of parking and tree removal. The application is integrated development under the Water Management Act 2000.

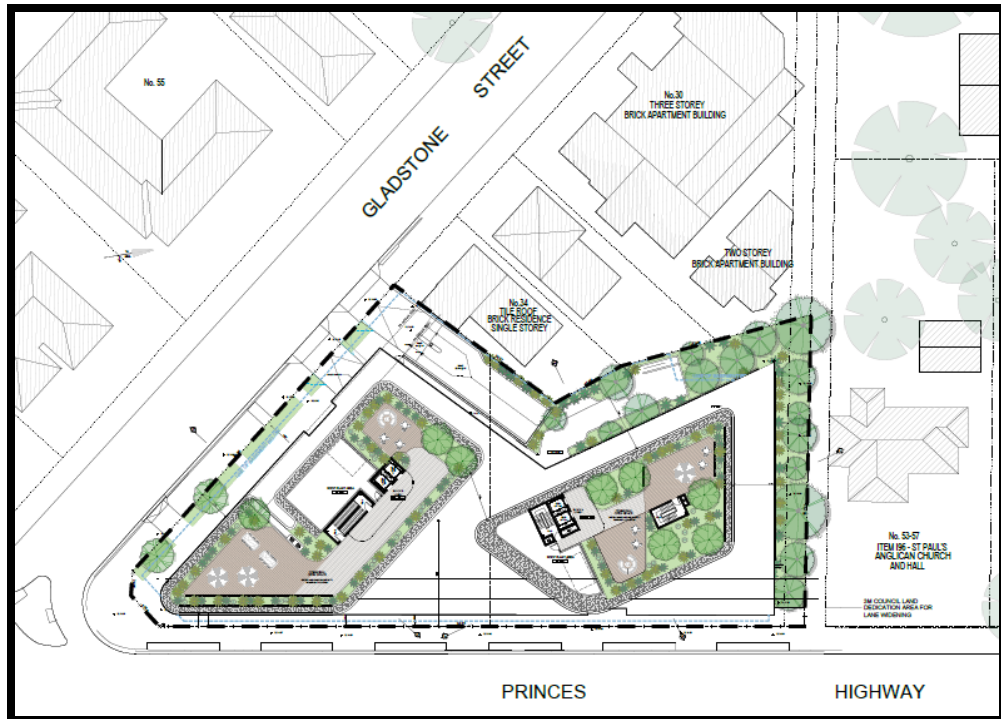


Figure 10: Site Plan

34. The development is identified as integrated development and requires approval under clause 91 of the Water Management Act 2000 due to the excavation encountering groundwater and requiring approval from WaterNSW. General terms of approval have been issued by WaterNSW.



Figure 11: Perspective of proposal as viewed from the intersection of Gladstone Street and The Princes Highway



Figure 12: Perspective of proposal as viewed from Princes Highway looking south



Figure 13: Perspective of proposal as viewed from Princes Highway



Figure 14: Perspective of proposal as viewed from Gladstone Street.

35. A detailed breakdown of the proposed development is as follows:

Basement Level 2

- 75 Residential car spaces including 9 accessible spaces.
- 30 residential bicycle spaces
- Block A and Block B lobbies.
- Fire Stairs and lift access.
- Lobby riser.
- Block A and Block B storage areas.

Basement Level 1

- 13 Residential car spaces including 2 accessible spaces.
- 16 Commercial parking spaces including 1 accessible space.
- 23 serviced apartment spaces including 1 accessible space.
- 21 visitors parking spaces including 1 accessible space and a combined visitors/car wash space.
- 23 residential bicycle spaces
- 4 commercial bicycle spaces
- 3 motorcycle spaces.
- Bin Tug space.
- Waste Equipment storage.
- Block A and B lobbies.
- Service apartment lobby
- Fire Stairs and lift access.
- Services hoist
- Plant rooms
- Waste Store room Residential Block A
- Waste Store room Residential Block A (Recycling)
- Waste Store room Residential Block B.
- Waste Store room Residential Block B (Recycling)

- Combined Commercial Waste and Recycling Bin room - Café and restaurant, Hotel conference and shops.
- Bulky waste rooms.
- Storage

Ground floor Plan

- Serviced apartments comprising the following:
 - o 9 x studio apartments.
 - o 2 x 1 bedroom apartment.
 - o 1 x 2 bedroom apartments.
- Neighbourhood shop.
- Shop.
- Residential Block A Lobby with mailboxes accessed via the Princes Highway.
- Residential Block B Lobby with mailboxes accessed via Gladstone Street.
- Hotel Lobby accessed via Gladstone Street.
- Residential communal open space.
- Loading dock with turntable and residential garbage holding area accessed from Gladstone Street.
- Separate vehicular access to basement carpark from Gladstone Street.
- Restaurant and café located on the corner of Gladstone Street and Princes Highway.
- Disabled platform lift to restaurant.
- Commercial Kitchen.
- Mechanical exhaust through commercial kitchen and conference kitchen.
- Pre function and conference rooms.
- Conference store and amenity.
- Gym.
- Fire Stairs and lift access.
- Hotel lobby off Gladstone Street.
- Admin room.
- Substation and substation office.
- Hotel waste room.
- Staff lunch room and staff male and female toilets.
- Housekeeping office.
- Services.
- Services hoist.
- Hotel linen and laundry.
- Conference kitchen.
- Comms room.
- Luggage room.
- Male and female toilets and accessible toilet.
- Fire hydrant and booster located on Gladstone Street frontage.

Level 1 Plan

- Serviced apartments comprising the following:
 - o 38 x studio apartments including 1 adaptable apartment.
 - o 10 x 1 bedroom apartments including 1 adaptable apartment.
 - o 2 x 2 bedroom apartments including 1 adaptable apartment.
- Fire Stairs and lift access.
- Hotel Back Of House (BOH).
- Hotel Plant.
- Services Hoist.
- Services.
- Laundry cleaner.
- Lobby riser.

Level 2 Plan

- Serviced apartments comprising the following:
 - o 38 x studio apartments including 1 adaptable apartment.
 - o 10 x 1 bedroom apartments including 1 adaptable apartment.
 - o 2 x 2 bedroom apartments including 1 adaptable apartment.
- Fire Stairs and lift access.
- Hotel Back Of House (BOH).
- Hotel Plant.
- Services Hoist.
- Services.
- Laundry cleaner.
- Lobby riser.
- Kitchen exhaust through to roof.

Level 03

- Block A Residential apartments comprising the following:
 - o 4 x 1 bedroom apartments.
 - o 3 x 2 bedroom apartments.
 - o 1 x 3 bedroom apartments.
- Block A Lobby.
- Block B Residential apartments comprising the following:
 - o 4 x 1 bedroom apartments.
 - o 2 x 2 bedroom apartments.
 - o 2 x 3 bedroom apartments.
- Block B Lobby.
- Fire Stairs and lift access.
- Services.
- Kitchen exhaust through to roof.

Level 04

- Block A Residential apartments comprising the following:
 - o 4 x 1 bedroom apartments.
 - o 3 x 2 bedroom apartments.
 - o 1 x 3 bedroom apartments.

- Block A Lobby.
- Block B Residential apartments comprising the following:
 - o 4 x 1 bedroom apartments.
 - o 2 x 2 bedroom apartments.
 - o 2 x 3 bedroom apartments.
- Block B Lobby.
- Fire Stairs and lift access.
- Services
- Kitchen exhaust through to roof.

Level 05

- Block A Residential apartments comprising the following:
 - o 4 x 1 bedroom apartments.
 - o 3 x 2 bedroom apartments.
 - o 1 x 3 bedroom apartments.
- Block A Lobby.
- Block B Residential apartments comprising the following:
 - o 4 x 1 bedroom apartments.
 - o 2 x 2 bedroom apartments.
 - o 2 x 3 bedroom apartments.
- Block B Lobby.
- Fire Stairs and lift access.
- Services.
- Kitchen exhaust through to roof.

Level 06

- Block A Residential apartments comprising the following:
 - o 4 x 1 bedroom apartments.
 - o 3 x 2 bedroom apartments.
 - o 1 x 3 bedroom apartments.
- Block A Lobby.
- Block B Residential apartments comprising the following:
 - o 4 x 1 bedroom apartments.
 - o 2 x 2 bedroom apartments.
 - o 2 x 3 bedroom apartments.
- Block B Lobby.
- Fire Stairs and lift access.
- Services.
- Kitchen exhaust through to roof.

Level 07

- Block A Residential apartments comprising the following:
 - o 4 x 1 bedroom apartments.
 - o 3 x 2 bedroom apartments.
 - o 1 x 3 bedroom apartments.
- Block A Lobby.
- Block B Residential apartments comprising the following:
 - o 4 x 1 bedroom apartments.
 - o 2 x 2 bedroom apartments.
 - o 2 x 3 bedroom apartments.

- Block B Lobby.
- Fire Stairs and lift access.
- Services.
- Kitchen exhaust through to roof.

Level 08

- Block A Residential apartments comprising the following:
 - o 3 x 1 bedroom apartments.
 - o 3 x 2 bedroom apartments.
- Block A Lobby
- Block B Residential apartments comprising the following:
 - o 3 x 1 bedroom apartments.
 - o 3 x 2 bedroom apartments.
 - o 1 x 3 bedroom apartments.
- Block B Lobby.
- Fire Stairs and lift access.
- Services.
- Kitchen exhaust through to roof.

Level 09

- Block A Residential apartments comprising the following:
 - o 3 x 1 bedroom apartments.
 - o 3 x 2 bedroom apartments.
- Block A Lobby.
- Block B Residential apartments comprising the following:
 - o 1 x studio apartment.
 - o 2 x 1 bedroom apartments.
 - o 3 x 2 bedroom apartments.
 - o 1 x 3 bedroom apartments.
- Block B Lobby.
- Fire Stairs and lift access.
- Services.
- Kitchen exhaust through to roof.

Level 10

- Building A Roof top area comprising the following:
 - o Lobby Area.
 - o Communal open space area including BBQ and seating.
 - o Fire stairs.
 - o Lift over runs.
 - o Plant area.
- Fire Stairs and lift access.
- Building B Roof top area comprising the following:
 - o Lobby Area.
 - o Communal open space including BBQ and seating.
 - o Fire stairs.
 - o Lift over runs.
 - o Plant Area.
 - o Kitchen exhaust.

Development Summary

36. A numerical summary of the proposed development is provided as follows:

Element	Proposal
Height	37.544m.
Levels	Ten (10) storeys
Apartments	106 Residential apartments comprised as follows: <ul style="list-style-type: none"> • 52 x 1 bedroom apartments (49.06%). • 37 x 2 bedroom apartments (34.9%). • 17 x 3 bedroom apartments (16.04%).
Hotel	112 serviced apartments comprised as follows: <ul style="list-style-type: none"> (a) 85 x studios. (b) 22 x 1 bedroom. (c) 5 x 2 bedroom.
Commercial	1 x neighbourhood shop. 1 x shop. 1 x restaurant. 1 x café.
Car parking spaces	148 car parking spaces comprising the following: <ul style="list-style-type: none"> (i) 88 Residential spaces (including 11 disabled spaces). (ii) 21 Residential visitor spaces (including a visitor car wash bay and a disabled visitor space). (iii) 23 serviced apartment spaces. (iv) 16 Commercial spaces (including a disabled space).
Bicycle parking spaces	57 bicycle spaces as follows: <ul style="list-style-type: none"> - 53 Residential bicycle spaces. - 4 commercial bicycle spaces.
Motorcycle spaces	3 spaces provided.
Common open space	Rooftop – 910.95sqm (25.4%) Ground floor – 494.6sqm (13.8%) Total = 1405.55sqm (39.2%)
Deep soil Area	283.20 sqm (7.9%)
Solar access for apartments	77/106 apartments (72.6%) receive a minimum of 2 hours of solar access during mid-winter
Cross ventilation for apartments	73.1% (68/93 apartments) on the first nine storeys

Background

37. A pre-lodgement (PRE2020/0131) meeting was held on 16 December 2020. The key issues identified in the meeting were as follows:
- Built form response to the surrounding context.
 - Urban Design.
 - Streetscape character.
 - Internal layout.
 - Safety and amenity.
 - Building entry and wayfinding.
 - Heritage.
 - Isolated Site.
 - Traffic.
 - Infrastructure.
 - Health.
 - Site services.
 - Communal Open Space.
 - Public Art requirements.
 - Through Site Link.
 - Waste Management.
 - Stormwater Management.
38. DA2022/0039 lodged with Council on 29 January 2022 seeking development consent for the demolition of existing structures, remediation, and construction of a 10 storey mixed use development containing 106 residential apartments, 112 serviced apartments and ancillary hotel areas including conference rooms, pre function room, restaurant, commercial kitchen, gym and café, 1 x shop and 1 x neighbourhood shop above two (2) basement levels and tree removal.
39. SSPP Kick Off Briefing undertaken on 22 March 2022, during which the following was discussed:
- R4 Residential compliant.
 - FSR compliant.
 - SEPP 65, ADG compliance – applicant to verify.
 - Clause 4.6 for building height.
 - Modulations of massing and bulk.
 - Potential for additional through site link from Princes Highway to Gladstone Street.
 - DCP setback compliance (setbacks min 8.5m, steps back at upper levels.
 - Setbacks to heritage item.
 - Deep soil requirements.
 - Remediation.

40. SSPP Briefing meeting was held on 31 May 2022, during which the following key issues were discussed:
- Urban Design
 - Site amalgamation, need for new offer in line with DCP requirements.
 - Setbacks – potential for increased setbacks from podium and a 3-4 storey podium required.
 - Street presentation - Commercial retail sits below street level. Need for level access to premises.
 - Bulk – Setbacks and further articulation would mitigate bulk and scale.
 - Basements extend to boundaries – potential for recessed basements to enable deep soil.
 - Need to balance communal open space, pedestrian pathway, landscape and deep soil requirements.
 - Pedestrian path (public thoroughfare) needs to be connected, universally accessible logical, and should meet CEPTD criteria to meet community needs and expectations. Confirmation of proposed legal arrangements for proposed pedestrian path.
 - Waste Management – Need for enclosed area. This may impact FSR.
 - Traffic and access – proximity of 2 driveways and pedestrian safety and driveway design needs further consideration.
 - School concerns about overlooking to be addressed – potential for screening.
 - Substation requirements – to be confirmed.
 - BCA report regarding Class 2 building to be provided to confirm fire engineering requirements.
 - Floor space and FSR to be confirmed by accredited surveyor.
41. A Request for further information was sent to the applicant on 2 June 2022 to address a number of issues as follows:
- Urban Design comments.
 - Floor Space clarification.
 - The pedestrian access path detailing.
 - Additional details and clarification of information.
 - Site amalgamation/isolation.
 - Public Art criterion.
 - Waste Management criterion.
 - Traffic and Access.
 - Drainage.
 - Access driveway to the development.
42. Based on the outcomes of the briefings and the request from Council for additional information, a number of issues were raised and have been considered by the applicant which resulted in the lodgement of amended plans and documentation.

43. The plans have been amended with the most recent set of amended plans received on 30 November 2022, incorporating the following changes in response to the concerns raised:
- A 1.2m reduction in the height of the architectural roof feature from RL 51.70 to RL 50.50 – it is noted that the montage does not reflect the 1.2m reduction.
 - Reduced basement footprint in north-west corner of site to accommodate deep soil.
 - Reconfiguration of unit mix.
 - Reconfiguration of basement levels.
 - Change to northern setbacks landscaping and upgrades to existing pedestrian pathway (to north).
 - Addition of substation at ground level.
 - Level of restaurant dropped to align entry with existing street RLs.
 - Provision of mechanical exhaust system for the restaurant and café showing the vertical discharge point through the building to the roof.
 - Addition of a lift to Block A servicing the serviced apartments.
 - Increase Level 2 RL 100mm to 3.1m floor to floor height.
 - Overall building height increased as a result of the increased floor to floor height, noting the architectural roof feature has been reduced by 1.2m.
 - Increased building setback to part of Gladstone Street frontage from Level 3 and above.
 - Amended roof plan with added accessible toilet to Block A and B and increased planting area.
 - Provision of a 10.5m wide turntable within the loading dock to accommodate waste vehicles.

Statutory Framework

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

44. 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

45. Consent authority is required to consider the objects in Section 1.3 of the EP&A Act when making decisions under the Act. Council Officers have considered the objects 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
<i>(a) to promote the social and economic welfare of the community and a better environment by the proper management,</i>	The proposal results in the urban infill development for a mixed-use development within the North Kogarah Precinct providing	Yes

<i>development and conservation of the State's natural and other resources</i>	additional housing, serviced apartments and commercial premises in the locality.	
<i>(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental, and social considerations in decision-making about environmental planning and assessment</i>	The design considers the principles of ESD. The building has been designed to comply with all BASIX commitments.	Yes
<i>(c) to promote the orderly and economic use and development of land</i>	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 for this precinct.	Yes
<i>(d) to promote the delivery and maintenance of affordable housing</i>	The proposal does not provide for any affordable rental housing but does provide a mix of housing types and styles (studio, 1, 2 and 3 bedroom apartments and includes adaptable units.	Satisfactory
<i>(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats</i>	The proposal is not considered to result in adverse impacts on any threatened or other species of native animals and plants, ecological communities and their habitats. There are no significant species mapped within the Site or its immediate vicinity.	Yes
<i>(f) to promote the sustainable management of built and cultural heritage</i>	The Site is not a Heritage Item nor is it located within a Heritage Conservation Area. Schedule 5 of the	Yes

	GRLEP identifies that item I192 being St Paul's Anglican Church and Hall located at 53-57 Princes Highway, Kogarah is a local heritage item and is located to the north of the development site separated by a pedestrian access pathway.	
<i>(g) to promote good design and amenity of the built environment</i>	<p>This report assesses the proposal's design and amenity against SEPP 65, the ADG Guidelines, GRLEP 2021 and GRDCP 2021.</p> <p>The amended design is considered to satisfactorily address the key development and design controls.</p>	Yes
<i>(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants</i>	The proposal will achieve this objective by complying with the recommended consent conditions relating to the construction phase of the development.	Yes
<i>(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State</i>	The proposal is a regionally significant development given the cost of works exceeds \$30 million dollars and therefore the Sydney South Planning Panel (SSPP) is the consent authority.	Yes
<i>(j) to provide increased opportunity for community participation in environmental planning and assessment</i>	<p>The submissions section of this report outlines Council's public exhibition of the proposal, including public submissions.</p> <p>The submission section also sets out details of Council's consideration</p>	Yes

	of the key issues raised in public submissions.	
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Ecologically Sustainable Development (ESD)

46. 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

Officer Comment: The site has been rezoned for this form of development, The proposed mixed-use development includes a number of uses including Residential flat buildings, Shop top housing, Hotel accommodation and commercial premises which are all permitted uses within the zone. The design of the buildings have been sensitively considered and it is unlikely that there will be any serious or irreversible environmental damage created.

(b) Inter-generational equity

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

(c) Conservation of biological diversity and ecological integrity

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

(d) Improved valuation, pricing and incentive mechanisms

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

Integrated Development

47. The development is identified as integrated development and requires approval under the Water Management Act 2000 due to the excavation encountering groundwater and requiring approval from WaterNSW. The application was referred to WaterNSW and general terms of approval have been issued and have been included as part of the recommended conditions of consent listed at the end of this report.

Compliance and Assessment

STATE ENVIRONMENTAL PLANNING INSTRUMENTS

48. Compliance with the relevant State Environmental Planning Policies (SEPP) is detailed below.

State Environmental Planning Policy	Compliance
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes
State Environmental Policy No 65 – Design Quality of Residential Flat Buildings (SEPP 65)	Yes
State Environmental Planning Policy – (Building Sustainability Index: BASIX) 2004	Yes
State Environmental Planning Policy (Planning Systems) 2021	Yes

State Environmental Planning Policy (Resilience and Hazards)2021

49. The Resilience and Hazards SEPP has replaced and repealed the following SEPPs:

- State Environmental Planning Policy (Coastal Management) 2018;
- State Environmental Planning Policy No 33—Hazardous and Offensive Development; and
- State Environmental Planning Policy No 55—Remediation of Land.

Chapter 4 Remediation of Land

50. Chapter 4 of the SEPP relating to remediation applies to the site.

51. Chapter 4 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment. Clause 4.6 requires contamination and remediation to be considered in determining a development application. The consent authority must not consent to the carrying out of development on land unless it has considered whether or not the land is contaminated
52. The application is accompanied by a Detailed (Stage II) Environmental Site Investigation report (including Groundwater assessment and Remedial Action Plan requirements) and a Remediation Action Plan prepared by Sanko Excavation Environmental & Civil Services Pty Ltd.
53. The Environmental Consultant's conclusion in relation to the Detailed Site Investigation report states that the site will be considered suitable for the intended use after remediation and validation of the service stations portion of the site as per the RAP, consistent with the National Environmental Protection Council (NEPC) National Environmental Protection (Assessment of Site Contamination) Measure (NEPM 2013) – Schedule B1, Table 1A(1), column B – High Density Residential and that the site objectives of this report are achieved.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

54. The Biodiversity and Conservation SEPP has replaced and repealed the following SEPPs:

- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;*
- *State Environmental Planning Policy (Koala Habitat Protection) 2020;*
- *State Environmental Planning Policy (Koala Habitat Protection) 2021;*
- *Murray Regional Environmental Plan No 2—Riverine Land;*
- *State Environmental Planning Policy No 19—Bushland in Urban Areas;*
- *State Environmental Planning Policy No 50—Canal Estate Development;*
- *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011;*
- *Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997);*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;*
- *Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment; and*
- *Willandra Lakes Regional Environmental Plan No 1—World Heritage Property.*

Chapter 2 Vegetation in non-rural areas

55. Chapter 2 of the SEPP relating to vegetation in non-rural areas applies to the site.

56. Chapter 2 regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.

57. Chapter 2 applies to the clearing of:

- Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and
- Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP).

58. The objectives of the Chapter are to protect the biodiversity values of trees and other vegetation in non-rural areas and preserve the amenity of non-rural areas through the preservation of trees and other vegetation. This policy is applicable pursuant to Clause 2.3 of the SEPP as the site

is within both Georges River Council and the R4 High Density Residential zone.

59. A total of 52 trees will be removed, however 28 of these are exempt species and a further 10 are very small shrubs just reaching 3 metres in height. For the remaining 14 trees being removed, these are smaller, less significant species and the proposed amended landscape plans include a total of 25 replacement trees. This is non-compliant with Council's 2:1 replacement policy, a further 5 trees must be planted to be compliant with Council's replacement policy. A condition of consent will be imposed requiring the planting of the additional trees.
60. The tree removal has been assessed by Council's Senior Landscape & Arboricultural Assessment Officer and has been supported subject to specific conditions of consent.

Chapter 6 Water Catchments

61. Chapter 6 of the SEPP relating to Water Catchments applies to the site.
62. All stormwater from the proposed development can be treated in accordance with Council's Water Management Policy and would satisfy the relevant provisions of Chapter 11. The application was reviewed by Council's Drainage Engineer who has requested amended drainage plans to address some minor matters. Subject to the amendments to the drainage plans, they would be supported by Council's development engineer subject to conditions.

It is noted that the changes effective 21 November 2022 have been considered in this assessment.

State Environmental Planning Policy (Transport and Infrastructure) 2021

63. The Transport and Infrastructure SEPP has replaced and repealed the following SEPP's:
 - a) *State Environmental Planning Policy (Infrastructure) 2007*;
 - b) *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*;
 - c) *State Environmental Planning Policy (Major Infrastructure Corridors) 2020*; and
 - d) *State Environmental Planning Policy (Three Ports) 2013*.

Chapter 2 Infrastructure

64. The application was referred to Ausgrid pursuant to clause 2.48 of the SEPP. No objection was received from Ausgrid.
65. Clause 2.119 relates to Development with frontage to a classified road and Clause 2.120 relates to the impact of road noise or vibration on non-road development and Clause 2.121 relates to traffic generating development.

66. The subject site is located on a classified road and the development is traffic generating so the provisions of Clause 2.119 and Clause 2.121 are applicable and a referral to Transport for NSW is required and was effected.

Clause 2.119 - Development with frontage to classified road

67. Clause 2.119 states the following:

- (2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*
- (a) *where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
 - (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The vehicular access to the site is only via Gladstone Street.

Clause 2.120 - Impact of road noise or vibration on non-road development

68. Clause 2.120 requires the consent authority to consider the likely impact of noise and vibration on residential accommodation. This applies to land located adjacent to a road with an annual average daily traffic volume of more than 20,000 vehicles. An acoustic report has been prepared by Rodney Stevens Acoustics which confirms that the noise criteria presented apply to windows being closed. This would apply to the Princes Highway and Gladstone Street frontages where noise levels are higher. The proposal therefore relies on mechanical ventilation. Where windows must be kept closed the adopted ventilation system must meet the requirements of the Building Code of Australia and Australian Standard AS1668 – The use of ventilation and air conditioning in buildings. The proposed development will be conditioned that the recommendations of the report will be implemented to ensure compliance with the SEPP requirements.
69. Where the building is affected and reliant upon mechanical ventilation, these rooms will need to comply with the relevant provisions of the NCC and the relevant Australian Standards.

Clause 2.121 - Traffic-generating development

70. Clause 2.121 of the SEPP (Transport and Infrastructure) requires that before granting consent to a development with a car park of more than 50 which connects to a classified road within 90 metres, Councils must refer the application to the Roads and Maritime Services (Transport for NSW) for comment and must consider the accessibility of the site, including:
- *The efficiency of movement of people to and from the site and the extent of multi-purpose trips, and*
 - *The potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
 - *Any potential traffic safety, road congestion or parking implications of the development.*
71. The application is accompanied by a Traffic Impact Assessment Report prepared by Traffix Traffic and Transport Planners which addresses the relevant traffic issues associated with the proposal. The proposal has been referred to Transport for NSW who have provided their concurrence subject to requirements and conditions as detailed within their letter.
72. The application was also internally referred to Council Traffic Section who are satisfied with the proposal subject to conditions.

State Environmental Planning Policy (Planning Systems) 2021

73. The proposal is a regionally significant development pursuant to Clause 2 of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 as it has a CIV of more than \$30 million in accordance with the SEPP.
74. In this case the Sydney South Planning Panel is the consent authority for the subject development application.

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

75. State Environmental Planning Policy No 65 – Design Quality of Residential Flat Buildings (State Environmental Planning Policy 65) was gazetted on 26 July 2002 and applies to the assessment of DAs for residential flat developments of three (3) or more storeys in height and containing at least four (4) dwellings. Amendment 3 to State Environmental Planning Policy 65 commenced on 17 July 2015 and implemented various changes including the introduction of the Apartment Design Guide (ADG) to replace the Residential Flat Design Code. Given the nature of the development proposed, State Environmental Planning Policy 65 applies.
76. Clause 28(2) of State Environmental Planning Policy 65 requires that the consent authority take into consideration the following as part of the determination of DAs to which State Environmental Planning Policy 65 applies:

- a) *the advice (if any) obtained from the design review panel, and*
- b) *the design quality of the development when evaluated in accordance with the design quality principles, and*
- c) *the Apartment Design Guide.*

77. The application has been reviewed having regard to the criterion and design principles as set out in the ADG.

78. The tables below provide a comprehensive assessment against the principles, objectives and controls of State Environmental Planning Policy No 65 and the ADG.

Table - application of State Environmental Planning Policy 65

Clause	Standard	Proposal	Complies
3. Definitions	<p>Complies with definition of “Residential Apartment Development” (RAD) Section 4 (1) (Application of Policy) of the State Environmental Planning Policy 65 states that the policy “<i>applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:</i></p> <ul style="list-style-type: none"> - <i>the development consists of any of the following:</i> <p>(a) <i>the erection of a new building,</i></p> <p>(b) <i>the substantial redevelopment or the substantial refurbishment of an existing building,</i></p>	<p>Complies with the definition.</p> <p>The proposal is for a 10 storey mixed use development with two (2) levels of basement parking.</p>	Yes

	<p>(c) <i>the conversion of an existing building, and</i></p> <ul style="list-style-type: none"> - <i>the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and</i> - <i>the building concerned contains at least 4 or more dwellings."</i> 		
4. Application of Policy	<p>Development involves the erection of a new RFB, substantial redevelopment or refurbishment of a RFB or conversion of an existing building into a RFB</p> <p>The definition of an RFB in the State Environmental Planning Policy includes mixed use developments.</p>	<p>The development proposes the construction of a new mixed-use development, which satisfies the definition of the policy.</p>	Yes
Clause 50 - Development Applications (E P & A Regulation 2000)	<p>Design verification statement provided by qualified designer.</p> <p>Registered Architect Name and Registration No.</p>	<p>A Design Verification Statement provided by Registered Architect Paul Buljevic (Nominated Architect No.7768) accompanies the application.</p>	Yes

79. A design verification statement has been provided by Paul Buljevic (Registration No 7768) of PBD Architects in accordance with Clause 29 of the *Environmental Planning and Assessment Regulation 2021*.
80. The application was referred to Council's Urban Designer for comment. For the purpose of this referral, Council's Urban Designer has provided 15 recommendations. The table below provides the Urban Designers recommendations with the applicant's response:

Urban Design Considerations

Urban Design Recommendations	Applicants Response
Recommendation 1: Amalgamation Amalgamation of the subject site with No. 32-34 Gladstone Street is recommended. This will enhance development potential and development options of No. 32-34 Gladstone Street and deliver a good urban design outcome not just for No. 32-34 Gladstone Street but also the proposal, which has significant urban design issues.	We do not consider the sites at 32 and 34 Gladstone Street to be isolated as a result of the proposal. The smaller site area may change the yield potential; however it does not limit the potential development on the site. Refer to the accompanying letter prepared by GYDE Consulting which addresses this comment.
Recommendations 2 and 6: Street presentation of retail and commercial premises It is recommended that the proposal should be amended to address the existing site topography. Retail and commercial uses along street frontages should be at the same level as the footpath to provide direct physical and visual connection between the public and private domain. The FFL of the restaurant and café should be compatible with the footpath level.	The ground floor has been amended to provide level access at key entry points. The level of the corner restaurant has been lowered to RL15.00 to match the level of the adjacent footpath. Refer to Street Entry Sections Drawing DA320 for further details. These sections demonstrate the proposed level entries and interface of the ground floor uses with the adjoining public domain.
Recommendations 3 and 12: Basements The design should be amended for the basements to be totally contained within the building footprint above. This may result in the design requiring an additional	The proposed basement is generally located under the building footprint above. In response to Council's comments, a section of the basement levels (north-west corner) has been deleted to

<p>basement floor to provide for the required parking demand. This will allow opportunity to provide deep soil planting within northern and western boundary setbacks and street trees along Princes Highway and Gladstone Street.</p>	<p>increase deep soil area at the ground level. Refer to Drawings DA080 and DA090 for further details.</p>
<p>Recommendation 4: Pedestrian circulation – Serviced apartments The design should be amended to incorporate two separate circulation cores for the serviced apartments similar to the residential cores. A separate lift can easily be accommodated with the residential circulation core within Block A to provide a more direct and short distance to all serviced apartments.</p>	<p>As shown on the updated drawings, an additional lift has been added for the serviced apartment levels within Block A.</p>
<p>Recommendation 5: Pedestrian access - Residential building entries The design should be amended such that the main residential building entries are clearly distinguishable and identifiable element in the streetscape. Block B lobby/entrance should be prioritised over vehicular access by setting back the loading/unloading entry behind the building façade and residential lobby. Block A should have unobstructed pedestrian access/circulation by deleting the two columns in front, which appear to be more for aesthetic reasons than structural. Use of colour, contrast, architectural details including a canopy at the entrance and landscape to enhance wayfinding and provide a building entry that is more obvious should be considered.</p>	<p>The proposed design uses different colours and materials to highlight where the residential entries are located along the street frontages. As well as the change in the awning above to further distinguish between the residential entries and other parts of the building. Refer to the Elevations for further details.</p>
<p>Recommendation 7: Driveway design</p>	<p>Traffic consultants have confirmed that the proposed arrangement is</p>

<p>A single driveway with the loading dock located away from the street frontage as designed at the PreDA stage is preferred as it maximised street activation and minimised voids and the visual impact of driveway on the streetscape.</p> <p>If shutters are desired for security, open grille shutters should be used that complement the architecture features and materials of the building and to minimise dominance on the streetscape.</p>	<p>acceptable and supports the two separate driveways which meet the relevant standards.</p>
<p>Recommendations 8 and 9: Setbacks</p> <p>The design should be amended to comply with the GRDCP 2021 setback requirements for major corners, where the corner of the building should be around 12m long along either street frontages. The design should be amended for the building to comply with the GRDCP 2021 requirements for street and upper level setbacks along both the Princes Highway and Gladstone Street.</p> <p>Note: Under Section 10.1.6 (4) Setback Controls, a variation to the setback requirements may be considered above the fourth storey for the following corners:</p> <ul style="list-style-type: none"> • Princes Highway and Gladstone Street eastern side • Princes Highway and Gladstone Street western side. <p>A nil setback above the fourth storey at major corners may be considered under GRDCP2021. This will be dependent upon the redesign submitted.</p>	<p>Following a discussion with Council, an increased upper-level setback to part of Gladstone Street is proposed to accentuate the major corner of the site and reduce the bulk of the building in that location. As shown on the floor plans for Level 4 up to the roof, the 5m setback to Gladstone Street has been maintained for 19.93m from the street corner. The building is then proposed to be setback an additional 3m (total 8m setback from site boundary) in response to Council's comments. This change reduces the overall bulk of the building when viewed from Gladstone Street as well as emphasising the Princes Highway and Gladstone Street corner.</p>
<p>Recommendations 10, 11 and 15: Building Design</p> <p>The proposed design should be amended for level 5 and levels above to comply with the ADG</p>	<p>The podium height along the northern boundary has been retained, noting that Council's Planner and the Planning Panel are supportive of a 3-4 storey podium.</p>

<p>requirements for building separation to the west and north. The design should be amended and angular planes, minimum horizontal separation distances and other building envelope controls should be applied to transition the building down to the lower scaled area. Podium height along the northern boundary should be reduced to two storeys with the tower above further setback. It is noted that Council's Planner and the Planning Panel are supportive of a 3-4 storey podium.</p> <p>The design should be amended to present a more appropriate built form to the streets. A podium and tower form is considered appropriate; however, the typology should be achieved in the true sense through massing /setbacks rather than change of materials as proposed, which is purely cosmetic. A building break on levels 5 – 8, similar to the proposed break on levels 9-10 should be considered.</p> <p>It is recommended that the architectural expression of the elevations and overall built form be amended to enhance the streetscape.</p> <p>The façade should contribute greatly to the aesthetic appeal of the building and the character of the area. The proposal should set a precedent on design excellence as required under GRLEP 2021 especially given the corner location.</p>	<p>The varied setback of the building which reaches a maximum of 15.54m on the Princes Highway frontage assists in breaking up the overall built form. Therefore, the building break has not been lowered down to Level 5 as it is not considered necessary given that the varied setbacks and architectural expression reduce the overall massing.</p>
<p>Recommendation 13: Ceiling heights</p> <p>Rather than varying ceiling heights for the ground floor to achieve single slabs on floors above ground, splitting the FFLs should be considered to break down the building mass and</p>	<p>The ceiling height at Level 2 has been increased to comply with the ADG requirement of 2.7m. A total floor to floor height of 3.4m is proposed at Level 2 to allow for the required structural transfer space before the residential units above.</p>

provide interest. The design should be amended to comply with the ADG ceiling heights for Level 2. The proposal should also comply with the maximum height permissible under GRLEP 2021.	
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In relation recommendation 14 where Councils Urban Designer recommended the retention of trees, Councils Senior Landscape and Arboricultural Assessment Officer provided the following comments:

“The site contains no significant vegetation worthy of retention. A total of 52 trees will be removed, however 28 of these are exempt species and a further 10 are very small shrubs just reaching 3 metres in height. For the remaining 14 trees being removed, these are smaller, less significant species and the proposed amended landscape plans include a total of 25 replacement trees including street trees along Gladstone Street.”

The applicant has provided suitable deep soil areas and provided appropriate landscaping.

The amended plans were referred back to Councils Urban Designer in October 2022 with further comments provided by Councils Urban Designer on 25 November 2022.

Whilst all of the recommendations were not strictly adopted the applicant has amended the plans with the explanation of what changes were made and how they have addressed the recommendations made.

As part of this process the following design elements were retained:

- Whilst the DCP prescribes a four storey wall height, the three storey podium was retained. This was considered acceptable at the previous briefing meetings with the Panel, as this is consistent with the built form of existing similar developments and also developments recently approved within the Kogarah North Precinct.

In addition, the following changes were made:

- A 1.2m reduction in the height of the architectural roof feature from RL 51.70 to RL 50.50. This architectural roof feature as amended provides an important architectural detail which contributes positively to the overall appearance of the development.
- Removal of the public pedestrian pathway through the subject site. The DCP does not require a public pedestrian pathway to be provided through the site and whilst the applicant had incorporated this path, the feasibility and functionality of the path, given it would terminate at the property boundary its incorporation was questionable. It was recommended that this area be reverted to deep soil and landscaped accordingly. The landscaping would also assist in softening the

northern part of the building. The applicant will also be required to upgrade the public laneway for the extent of the development site with paving and street lighting.

- Reduced basement footprint in the north-west corner of site to accommodate deep soil.
- The deep soil area has been increased and is compliant with the requirements of the ADG.
- Change to the northern setbacks landscaping and upgrades to the existing pedestrian pathway (to the north).
- A substation has now been provided and will be located on the Gladstone Street frontage to enable access for maintenance and service personnel.
- The level of the restaurant has been lowered to align the entry with the existing street RLs. This now enables street activation.
- A lift has now been provided to Block A for the serviced apartments.
- Increase Level 2 RL 100mm to 3.1m floor to floor height.
- Increased building setback to the western part of the Gladstone Street frontage from Level 3 above. This section has been setback a further 3m from 5m to 8m from the Gladstone Street boundary.
- Accessible toilets have now been provided to Block A and B with increased planting areas.
- The width of the loading dock has been increased to ensure that the 10.5m wide turntable can be provided within the loading dock to accommodate waste vehicles. Servicing of waste vehicles is a common problem with developments of this scale and this design change is integral to the functioning of the development to the satisfaction of Councils Waste Section.

81. Clause 28 of SEPP 65 requires the consent authority to take into consideration the provisions of the Apartment Design Code. The table below assesses the proposal against these provisions.

Table - Design considerations of Part 3 and Part 4 of the Apartment Design Guide (ADG)

Clause	Standard	Proposal	Complies
3D - Communal open space	1. 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	1405.55sqm (39.2%) (Includes 910.95sqm (25.4%) of communal rooftop open space).	Yes Numerically compliant.

	<ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> • provide communal spaces elsewhere such as a landscaped roof top terrace or a common room • provide larger balconies or increased private open space for apartments • demonstrate good proximity to public open space and facilities and/or provide contributions to public open space 		
	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)	Complies	Yes, all areas of communal open space on the ground floor and on the rooftop will achieve a minimum of 2 hours (or more) of solar access throughout the day in midwinter.

3E – Deep Soil zones	<p>1. Deep soil zones are to meet the following minimum requirements:</p> <p>Where the site has an area of between 650sqm – 1,500sqm = 3m min dimension >1500sqm – 6m min dimension</p> <p>Minimum deep soil area of 7% (250.71sqm)</p>	<p>283.2sqm (7.89%)</p>	<p>Yes</p> <p>The landscaping proposed provides good amenity for future uses of this space.</p>
3F- Visual Privacy	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved.</p> <p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <p>Up to 12m (4 storeys) Habitable - 6m Non-habitable – 3m</p> <p>Up to 25m (5-8 storeys) Habitable – 9m Non-habitable – 4.5m</p>	<p>Apartment privacy has been coordinated throughout the proposals to balance use, solar access and cross ventilation as well as communal open space.</p> <p>Setbacks and separation distances to the front of the site are dictated by the Georges River DCP, however, are discussed below:</p> <p>Along Gladstone Street, Block B provides a 5m – 8m setback to the boundary, taking into consideration the centreline of the road this setback is considered acceptable.</p>	<p>No, however considered acceptable see discussion below.</p>

		<p>Along Princes Highway Blocks A and B also adopt varying setbacks between 2m to balconies and POS areas up to the podium level. From Level 4, a 2m setback is provided for Block A and Block B with further setbacks to the boundary of up to 15.54m provided between the two blocks and also to the north-eastern part of Block A, taking into consideration the centreline of the road this setback is considered acceptable.</p>	
<p>Comment on Separation distances (3F Visual Privacy): The minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <p>Up to 12m (4 storeys) Habitable - 6m Non-habitable – 3m</p> <p>Up to 25m (5-8 storeys) Habitable – 9m Non-habitable – 4.5m</p> <p>Over 25m (9+ storeys) Habitable – 12m Non-habitable – 6m</p> <p>The side and rear setbacks of the proposed building are intended to provide a balanced approach to the setbacks identified in Objective 3F-1 of the Apartment Design Guide, as well as the need to avoid more than one step in the built form as the height increases which would result in a 'ziggurat' appearance.</p>			

Western boundary setback

From ground level to level 2, the serviced apartments accommodate these levels and although not subject to the ADG, provide setbacks of between 8-9m which would satisfy the 6m requirements under the ADG.

On level 3, the apartments are setback between 7.28m and 9m, consistent with the ADG requirement of 6m.

On levels 4-7 the south-western part of the building is setback 9m consistent with the ADG, with the north-western portion of the building setback between 7.28 and 8.7m. Whilst not numerically compliant the building has a blank wall with bedroom windows where the building is setback 7.28m from the boundary with the balconies encroaching the 9m with the external wall setback the required 9m.

On Levels 8 and 9 where the ADG requires that the building be setback 12m, the south-western part of the building is setback 11.7 and the north-western part of the building is setback between 10.28m and 11.63m.

The balconies for apartments 306, 406, 506, 706, 805 and 905 are orientated towards the north-west and are required to have privacy screens located along their western side to ensure privacy is maximised and amenity maintained.

Northern boundary setback

Accordingly, the proposal adopts the setbacks required for buildings up to 4 storeys of 6 metres with the exception of small balconies off the serviced apartments.

On level 3 the terrace to the apartments is setback the 6m with a planter box within the 6m setback to assist with maintaining amenity. The setbacks proposed for 4-8 storeys on the northern elevation are 9m (with point encroachments) to the external walls with balconies setback 8.45m. Where the building rises above 8 storeys, the setback is increased to 12m (with point encroachments) to the external wall with the balconies setback 10.97m.

The proposed setbacks and floor layouts achieve the objective of the separation distance to achieve reasonable levels of external and internal visual privacy both for the proposed development and adjacent sites.

It is also noted that in relation to providing a suitable separation from the heritage item, Councils Heritage Advisor has supported the proposed setbacks.

Comment on visual privacy and amenity between buildings on site:

The ADG requires that separation between buildings on the same site should combine required building separations depending upon the type of room as follows:

Non habitable to blank walls – 3m
 Habitable room to blank walls – 6m
 Habitable to Non-habitable – 9m
 Habitable to Habitable -12m

The separation distances proposed between Block A and Block B at Levels 8 and 9 is considered to be adequate and acceptable taking into consideration the use of vertical privacy louvres for the apartments in Block A and Block B which are located from between 5.95m and 11.36m. There is only a single apartment in Block A and two apartments in Block B which are within 12m.

3G – Pedestrian Access and entries	<p>Building entries and pedestrian access connects to and addresses the public domain</p> <p>Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge</p>	<p>Residential Block A has its own secure lobby off the Princes Highway and Residential Block B has its own separate lobby off Gladstone Street.</p> <p>The hotel entrance lobby is accessed from the hotel lobby off Gladstone Street.</p>	Yes
3H-Vehicle Access	<p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes</p>	<p>The vehicular access points are located off Gladstone Street.</p>	Yes

<p>3J-Bicycle and carparking</p>	<p>For development in the following locations:</p> <ul style="list-style-type: none"> On sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area; or On land zoned and sites within 400m of land zoned B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>The minimum car parking requirement for residents and visitors is set out in the Roads and Maritime Services Guide to Traffic Generating Developments (RMS), or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>In accordance with Section 5.4.3 (High Density Residential Flat Buildings) of the RMS Traffic Generating Guidelines. The</p>	<p>The site is located within 800m of Kogarah Railway Station as such the RMS provisions are applicable to this assessment.</p> <p>Proposal relies on the following car parking provisions.</p> <ul style="list-style-type: none"> 52 x 1 bedroom units = $0.6 \times 52 = 31.2$ spaces 37 x 2 bedroom units = $0.9 \times 37 = 33.3$ spaces 17 x 3 bedroom units = $1.4 \times 17 = 23.8$ spaces <p>Residential spaces required = 88.3 spaces</p> <p>Visitor = $106/5 = 21.2$ spaces</p> <p>Total = 109.5 spaces required</p> <p>The proposal requires a total of 110 off-street car parking spaces for residents and visitors</p> <p>Total of 109 car parking spaces are provided comprising twenty one (21) visitor spaces and eighty eight (88) resident spaces which include eleven (11)</p>	<p>The car parking arrangement and number of car spaces provided will comply with the ADG/RMS requirements as a condition will be imposed requiring an additional space be provided.</p> <p>The proposal will comply with the numerical requirements of the ADG given the accessible location of the site.</p>
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	<p>site is located within the “Metropolitan Regional (CBD) Centres” and the following provisions apply;</p> <p>0.6 spaces per 1 bedroom unit 0.9 spaces per 2 bedroom unit 1.4 spaces per 3 bedroom unit 1 space per 5 units (visitor parking)</p> <p>The provision of at least one loading dock for residential use is desirable, although a dock intended for commercial uses may be sufficient.</p>	<p>accessible spaces. A condition of development consent will be imposed requiring an additional car space be provided, the applicant has been advised of this criterion.</p> <p>The following parking has also been provided:</p> <ul style="list-style-type: none"> • 16 spaces for retail/commercial • 23 serviced apartment spaces including one (accessible space). <p>The off street car parking provisions will meet the requirements of RMS/ADG provisions.</p> <p>A loading dock has been provided and accessed via Gladstone Street.</p>	
4A- Solar and daylight access	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area</p>	<p>A minimum of 77/106 apartments (72.6%) receive a minimum of 2 hours of solar access during mid-winter.</p>	Complies

	A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm in midwinter		
4B- Natural Ventilation	<p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p> <p>The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths</p>	<p>A minimum of 68/93 (73.1%) of apartments in the first nine storeys have been designed to comply with minimum cross ventilation requirements. No apartment exceeds 18m in depth.</p> <p>The building has a mixture of dual aspect, cross through and corner apartments.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
4C-Ceiling Heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <p>Habitable rooms = 2.7m</p> <p>Non-habitable rooms = 2.4m</p>	<p>A minimum 3080mm floor to floor height has been provided to enable a minimum 2.7m ceiling height to be achieved to the residential component.</p>	Yes
	3.3m for ground floor and first floor in mixed use areas to promote flexibility of use	The ground floor provides a generous 5m floor to floor height however Level 1 has only provided a 3.1m floor to floor for the	No, however considered acceptable.

		serviced apartments.	
4D- Apartment size and layout	<p>Apartments are required to have the following minimum internal areas: Studio = 45sqm 1 bedroom = 50sqm 2 bedroom = 70sqm 3 bedroom = 90sqm The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each</p> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</p>	<p>The Studio apartment is 45sqm.</p> <p>One bedroom units have minimum areas of 50sqm -58sqm.</p> <p>Two bedroom units have minimum area of 77 - 84sqm.</p> <p>Three bedroom units have minimum internal areas of 95sqm - 110sqm.</p> <p>Every habitable room has window openings larger than 10% of the room area.</p>	Complies
4D-2 Apartment size and layout	<p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room</p>	<p>Satisfactory.</p> <p>With the minimum floor to ceiling heights complying with the 2.7m minimum, all habitable room depths satisfy the minimum requirements.</p>	Complies

	depth is 8m from a window	The apartments have open plan living/dining room layouts.	
	<p>Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space).</p> <p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> -3.6m for studio and 1 bedroom - 4m for 2 and 3 bedroom apartments <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>	<p>All master bedrooms have a minimum internal size of 10sqm.</p> <p>All bedrooms have minimum dimensions of 3m.</p> <p>All living rooms have minimum widths of 4m.</p> <p>Minimum 4m provided for cross-over or cross-through apartments proposed.</p>	Complies
4E- Private Open space and balconies	<p>All apartments are required to have primary balconies as follows:</p> <ul style="list-style-type: none"> -1 bedroom = 8sqm/2m depth -2 bedroom = 10sqm/2m depth 	<p>The proposed balconies and terraces for all apartments exceed the minimum sizes.</p> <p>Achieved.</p> <p>Achieved.</p>	<p>Complies</p> <p>Yes</p> <p>Yes</p>

	<p>-3+ bedroom = 12sqm/2.4m</p> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p> <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15sqm and a minimum depth of 3m</p>	<p>Achieved.</p> <p>Noted and applied in the calculation.</p> <p>No ground floor apartments proposed. The apartments on the podium level have private open spaces that exceed 15sqm and have a depth of 3m or a balcony consistent with ADG requirements.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
4F- Common circulation areas	The maximum number of apartments off a circulation core on a single level is eight	No more than eight (8) units are provided to any one core on a single level.	Complies
	For Buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	<p>Levels 3 – 7 which contain a total of 40 apartments are serviced by a single lift.</p> <p>Levels 8 – 9 which contain a total of 14 apartments are served by two lifts as one of these lifts services the serviced apartments below.</p>	Yes
4G- Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: 1 bedroom = 6m ³	Each unit is provided with sufficient storage space with at least 50% located in individual units. The remaining is located in a	Yes

	<p>2 bedroom – 8m³ 3 bedroom – 10m³</p> <p>At least 50% of storage is to be located within the apartment.</p>	<p>dedicated secure location within the residential areas of the basement.</p> <p>Storage spaces within apartments are located as part of a holistic design approach and integrated into the overall layout.</p>	
4H- Acoustic Privacy	<p>Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses. Window and door openings are generally orientated away from noise sources</p> <p>Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas</p> <p>Storage, circulation areas and non-habitable rooms should be located to buffer noise from external sources</p>	<p>Building separation, orientation and arrangements are designed to mitigate noise pollution with openings shielded through setbacks and other arrangements from noise sources. Recommendations have been provided to ensure separation between buildings comply. In addition, the building must comply with the specific requirements of the NCC – BCA.</p> <p>Internal layouts further work to mitigate noise.</p> <p>The application is accompanied by an acoustic report addressing potential noises issues on the site from the roadways, relating to traffic generation and</p>	Complies

		vehicle movements, noise from commercial usage and from mechanical plant.	
4J – Noise and Pollution	<p>To minimise impacts the following design solutions may be used:</p> <ul style="list-style-type: none"> • physical separation between buildings and the noise or pollution source • residential uses are located perpendicular to the noise source and where possible buffered by other uses • buildings should respond to both solar access and noise. Where solar access is away from the noise source, non-habitable rooms can provide a buffer • landscape design reduces the perception of noise and acts as a filter for air pollution generated by traffic and industry 	<p>Site layout and floor plan design seeks to minimise acoustic disruption on the enjoyment of the future residents/users of the development. The communal open space within the development is shielded from Princes Highway and Gladstone Street by the proposed building to create a calm space.</p> <p>The vehicle entry is located and designed to minimise further noise impacts, and the placement of non-residential uses aids in separating residents from noise sources.</p> <p>The design incorporate seals to prevent noise transfer through gaps, acoustic glazing, and other measures where necessary to attenuate noise impacts on apartments.</p>	Yes

4K – Apartment Mix	<p>A range of apartment types and sizes is provided to cater for different household types now and into the future</p> <p>The apartment mix is distributed to suitable locations within the building</p>	<p>The development offers a mix accommodation being a studio apartment and 1, 2 and 3 bedroom apartments.</p> <ul style="list-style-type: none"> - 52 x 1 bedroom apartments (49.06%) - 37 x 2 bedroom apartments (34.9%) - 17 x 3 bedroom apartments (16.04%) <p>The mix is acceptable and appropriate.</p>	Complies
4L – Ground Floor Apartments	<p>Street frontage activity is maximised where ground floor apartments are located.</p> <p>Design of ground floor apartments delivers amenity and safety for residents.</p>	<p>No ground floor apartments proposed. Serviced apartments are located on this level.</p>	N/A
4M - Facades	<p>Facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale.</p>	<p>The façade treatments as amended, and the overall aesthetic is now acceptably resolved and is consistent with the desired streetscape character. The 5m setback to the corner portion of the building has been retained however the building has been setback a further</p>	Yes

		3m to provide articulation and modulation to this elevation. This now results in this corner portion of the building being the focal point to the development.	
4N – roof design	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.	<p>The roof is a modern element that is generally consistent with new developments of this scale and form in the Kogarah North Precinct. It offers the ability to include separate communal areas on the roof for Block A and Block B which is a benefit for future occupants.</p> <p>The architectural roof feature on Block B completes the building and is a positive inclusion, noting it has been reduced by 1.2m from that shown on the montage.</p>	Complies
4O – 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. Planting is provided throughout the design. The range and type of	Yes

		species and planting is consistent with the requirements of the ADG and DCP requirements.	
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	<p>Deep soil and planting zones have been integrated into the design to ensure appropriate growing conditions, drainage and placement are facilitated as well as an attractive, welcoming and usable environment. The plant species selection is designed to suit the site conditions, ensure appropriate maintenance and growth as a holistic landscape design.</p> <p>Planted spaces are designed as part of the overall architectural approach, using planters and landscaped spaces in combination to achieve an integrated design.</p>	Yes
4Q – Universal Design	Universal design – design of apartments allow for flexible housing, adaptable designs, accommodate a	Satisfactory.	Complies

	range of lifestyle needs		
4R – Adaptive reuse	Adaptive reuse as apartment of existing buildings- new additions are contemporary and complementary, provide residential amenity while not precluding future adaptive reuse.	This is a new development.	N/A
4S Mixed Use	Mixed use development are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	<p>Located within the extended R4 High Density Residential zone of the Kogarah North Precinct which adjoins the Kogarah City Centre, the proposal provides a range of uses that support the adjoining strategic urban city centre.</p> <p>A range of public transport options, including bus and train, are located within 450m, as well as green open spaces.</p> <p>Within the development ground level uses such as a restaurant, café, neighbourhood shop and shop create active frontages, encourage movement and curiosity, and</p>	Yes

		contribute to the public domain.	
4U – Energy Efficiency.	Development incorporates passive environmental design, passive solar design to optimise heat storage in winter and reduce heat transfer in summer, natural ventilation minimises need for mechanical ventilation	A compliant BASIX Certificate accompanies the application.	Yes
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 into the site design	The development incorporates appropriate stormwater measures and Council's Development Engineers are satisfied with the design subject to conditions.	Yes
4W – Waste Management	Waste management – storage facilities are appropriately designed, domestic waste is minimised by convenient source separation and recycling	Designated waste storage areas are provided in the basement for building users, with recycling facilities included. A bulk waste area for residents is also provided within the basement. Appropriate loading areas are provided to facilitate collection within the loading dock.	Yes

4X – Building Maintenance	Building design provides protection from weathering Enables ease of maintenance, material selection reduces ongoing maintenance cost	The design incorporates a mix of external finishes that require minimal maintenance.	Yes
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Georges River Local Environmental Plan 2021 (GRLEP 2021)

82. The subject development site is zoned R4 High Density Residential under the GRLEP 2021 as shown in **figure15** below:

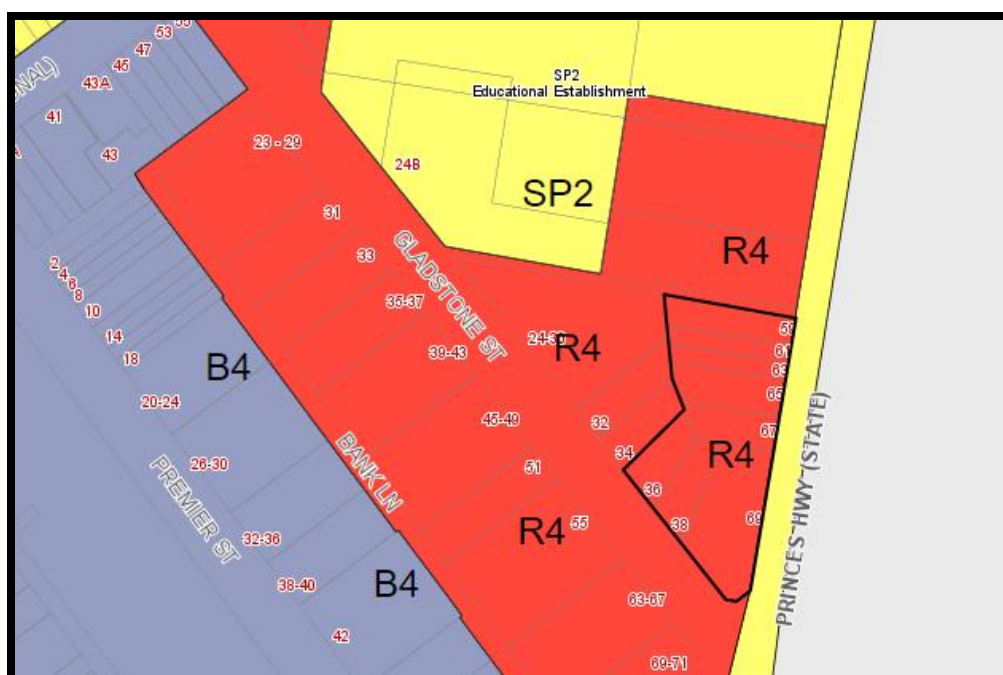


Figure 15: Zoning map (GRLEP 2021) - Subject site outlined in black

83. An assessment of the proposal against the relevant LEP clauses and development standards is as follows:

Clause	Standard	Proposal	Complies
Part 2: Permitted or Prohibited Development			
2.2 Zoning of Land to which Plan applies	R4 High Density Residential	The proposed application is for a mixed-use development comprising a residential flat development, hotel, shop and neighbourhood	Yes

		shop which are all permitted land uses in the R4 High Density Residential zone under GRLEP 2021.	
2.3 Zone objectives and Land use table	Objectives of zone to be satisfied	The proposal satisfies the objectives of the zone by providing a mixture of residential apartments, serviced apartments, and commercial premises which are consistent with the zone objectives and are suitable for the site and will not adversely impact neighbouring properties.	Yes
2.7 Demolition	Demolition requires development consent.	Consent for demolition of existing structures is sought.	Yes
Part 4: Principal Development Standards			
4.3 Height of Buildings	Maximum permitted height as per height of building map: 33m	37.544m Variation of 4.544m (13.8%)	No, see clause 4.6 submitted
Note: Clause 4.6 objection has been submitted requesting variation to the development standards for the maximum building height. The areas of non-compliance include the architectural roof feature, lift over run, awning, fire stairs and plant.			
4.4 Floor Space Ratio	Maximum permitted 4:1 (14,326sqm)	3.93:1 (14083.30sqm)	Yes
Note: Based on a site area of 3581.5sqm by DP.			
4.5 Calculations of	Floor space to be calculated	Floor space has been calculated in	Yes

Floor space and Site area	in accordance with Clause.	accordance with this clause.	
4.6 Exceptions to Development Standards	A Clause 4.6 variation request has been submitted in relation to the proposed building height.		
Part 5: Miscellaneous Provisions			
5.4 Controls relating to miscellaneous permissible uses	(7) Neighbourhood shops If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 100 square metres.	The neighbourhood shop is 40sqm.	Yes
5.10 Heritage Conservation	(1) Objectives The objectives of this clause are as follows— (a) to conserve the environmental heritage of the Georges River local government area, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (c) to conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.	The site is not a heritage item and is not within a heritage conservation area. Schedule 5 of the GRLEP identifies that item I192 being St Paul’s Anglican Church and Hall located at 53-57 Princes Highway, Kogarah is a local heritage item, which is located to the north of the development site separated by a pedestrian access path. The proposed development is not considered to have an	Yes

		adverse impact upon this heritage item.	
	<p>(5) Heritage assessment The consent authority may, before granting consent to any development—</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</p> <p>require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>	<p>A Heritage Impact Assessment Report has been submitted with the application.</p> <p>This has been reviewed by Councils Consultant Heritage Officer and they have advised that the proposed development is not considered to have an adverse impact upon the heritage item.</p>	Yes

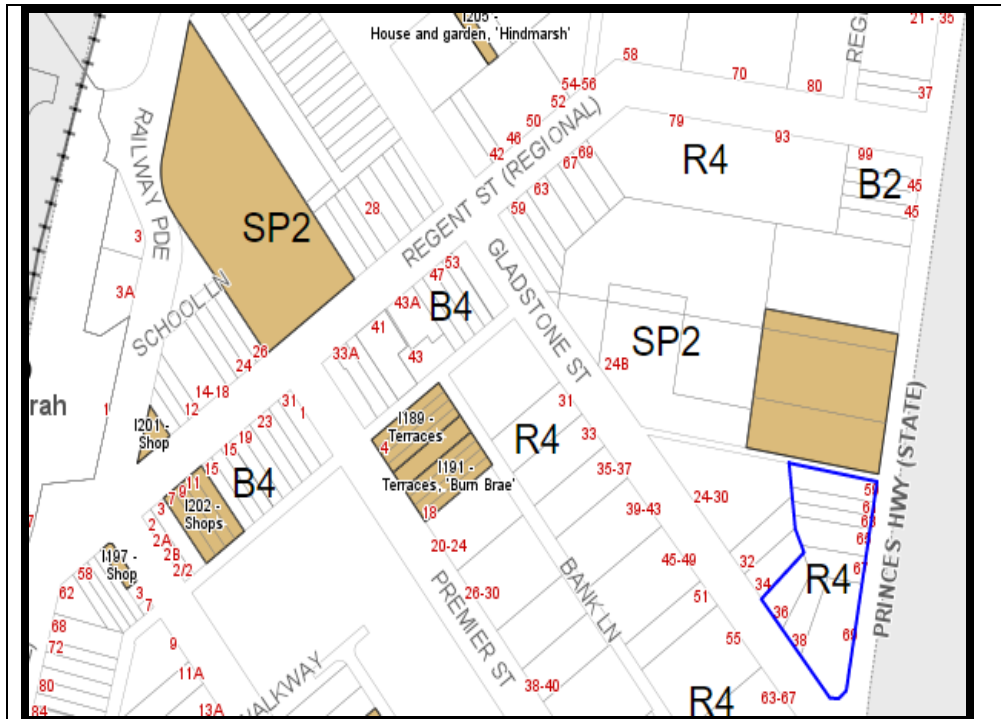


Figure 16: Map showing heritage items within the vicinity the subject site (site outlined in blue)

Part 6: Additional Local Provisions

6.1 Acid Sulfate Soils (ASS)	(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	The site is not identified as being affected by acid sulfate soils.	Yes
6.2 Earthworks	<p>(2) Development consent is required for earthworks unless—</p> <p>(a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or</p> <p>(b) the earthworks are ancillary to development that is permitted without consent</p>	<p>The proposal includes the provision of two (2) levels of basement car parking.</p> <p>This is a standard and acceptable amount of excavation and site works to accommodate a development of this scale and density.</p>	Yes

	under this Plan or to development for which development consent has been given.	The proposed earthworks are not considered to be unreasonable for the use sort.	
6.3 Stormwater Management	<p>(2) In deciding whether to grant development consent for development, the consent authority must be satisfied that the development—</p> <p>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</p> <p>(b) includes, if practicable, on-site stormwater detention or retention to minimise stormwater runoff volumes and reduce the development's reliance on mains water, groundwater or river water, and</p> <p>(c) avoids significant adverse impacts of stormwater runoff on adjoining properties, native bushland, receiving waters and the downstream stormwater system or, if the impact</p>	Stormwater drainage has been reviewed by Councils Drainage Engineer and is found to be satisfactory subject conditions.	Yes

	cannot be reasonably avoided, minimises and mitigates the impact, and (d) is designed to minimise the impact on public drainage systems.		
6.7 Airspace Operations	(2) Development consent must not be granted to development to which this clause applies unless— (a) the consent authority has consulted the relevant Commonwealth body, and (b) the relevant Commonwealth body advises the consent authority that— (i) the development will penetrate the Limitations or Operations Surface but it does not object to the development, or (ii) the development will not penetrate the Limitations or Operations Surface.	The application has been reviewed by the relevant authorities. The subject building will penetrate the Obstacle Limitations Surface (OLS). At a maximum height of 52.9m AHD the building will penetrate the (OLS) by 1.9m. Approval has been granted permitting a maximum height of RL 52.9m AHD.	Yes
6.9 Essential Services	Development consent must not be granted to development unless the consent authority is satisfied that any of the following		Yes

	<p>services that are essential for the development are available or that adequate arrangements have been made to make them available when required—</p> <p>(a) the supply of water, (b) the supply of electricity, (c) the supply of telecommunication s facilities,</p> <p>(d) the disposal and management of sewage,</p> <p>(e) stormwater drainage or on-site conservation,</p> <p>(f) suitable vehicular access.</p>	<p>Water and electricity supply is available to the site and can be extended to service this new development.</p> <p>Sewage disposal is available from the site.</p> <p>Stormwater disposal has been assessment by Council's Development Engineer and is supported subject to conditions.</p> <p>The development has vehicular access from Gladstone Street.</p>	
6.10 Design Excellence	(1) The objective of this clause is to deliver the highest standard of sustainable architecture and urban design.	Noted.	Yes

6.10 (3) (b)	<p>(3) (b) land in the following zones if the building concerned is 3 or more storeys or has a height of 12 metres or greater above ground level (existing), or both, not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking—</p> <p>(i) Zone R4 High Density Residential,</p> <p>(ii) Zone B1 Neighbourhood Centre,</p> <p>(iii) Zone B2 Local Centre,</p> <p>(iv) Zone B3 Commercial Core,</p> <p>(v) Zone B4 Mixed Use,</p> <p>(vi) Zone B6 Enterprise Corridor,</p> <p>(vii) Zone IN2 Light Industrial.</p>	The proposal is for a building greater than 3 storeys with a height greater than 12 metres.	Yes
6.10 (4)	(4) Development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits design excellence.	The plans have been amended and the proposal now satisfies this clause.	Yes
6.10 (5)	(5) In considering whether the development exhibits design	The architectural set of plans demonstrate	Yes

	<p>excellence, the consent authority must have regard to the following matters—</p> <p>(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,</p> <p>(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,</p> <p>(c) whether the development detrimentally impacts on view corridors,</p> <p>(d) how the development addresses the following matters—</p> <p>(i) the suitability of the land for development,</p> <p>(ii) existing and proposed uses and use mix,</p> <p>(iii) heritage issues and streetscape constraints,</p> <p>(iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation,</p>	<p>that a high standard of architectural design is proposed which incorporates modern and complementary materials and finishes.</p> <p>The appearance of the building will improve the quality and amenity of the public domain compared to what is currently on site. The proposal will result in widened footpaths and increased pedestrian activity along Gladstone Street and the Princes Highway.</p> <p>The proposed building is not expected to detrimentally impact on view corridors.</p> <p>The site is suitable for the proposed mixed-use building with all land uses permitted with</p>	
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	<p>setbacks, amenity and urban form,</p> <p>(v) bulk, massing and modulation of buildings,</p> <p>(vi) street frontage heights,</p> <p>(vii) environmental impacts such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,</p> <p>(viii) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of pedestrian networks,</p> <p>(ix) the impact on, and proposed improvements to, the public domain,</p> <p>(x) achieving appropriate interfaces at ground level between the building and the public domain,</p> <p>(xi) excellence and integration of landscape design,</p> <p>(xii) the provision of communal spaces and meeting places,</p> <p>(xiii) the provision of public art in the public domain,</p> <p>(xiv) the provision of on-site integrated waste</p>	<p>consent in the R4 Zone.</p> <p>Heritage has been addressed in detail as part of the DA submission and a Heritage Impact Statement was prepared by Weir Phillips. Councils Heritage Consultant supports the proposal on heritage grounds.</p> <p>The building has been designed with consideration of the future development of the adjoining sites along Gladstone Street. The separation distances, setbacks, podium height and mass of building have been assessed and will not result in any unreasonable impacts.</p> <p>The proposal will not result in any unreasonable impacts in</p>	
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	<p>and recycling infrastructure, (xv) the promotion of safety through the application of the principles of crime prevention through environmental design.</p>	<p>terms of overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity.</p> <p>The proposed rooftop and ground floor communal open space and deep soil areas comply with the minimum ADG requirements. Additional planting on structures will further enhance the presentation of the site.</p> <p>This response includes a Public Art Plan which nominates potential locations for future public art on site. The type of artwork and their proposed locations are supported by Councils Cultural Services Coordinator.</p> <p>The CPTED principles have been addressed and</p>	
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		subject to conditions supported by NSW Police.	
6.11 Environmental sustainability	(1) The objective of this clause is to ensure that the development to which this clause applies is consistent with principles of best practice environmentally sensitive design.	Noted and incorporated into the development.	Yes
	(2) This clause applies to development— (a) on land in the following zones— (i) Zone R4 High Density Residential, (ii) Zone B1 Neighbourhood Centre, (iii) Zone B2 Local Centre, (iv) Zone B3 Commercial Core, (v) Zone B4 Mixed Use, (vi) Zone B6 Enterprise Corridor, (vii) Zone IN2 Light Industrial, and (b) that involves— (i) the erection of a new building, or (ii) the change of use of an existing building, or (iii) alterations or additions to an existing building that, in the opinion of the consent authority, are significant.	The proposed development being a new building zoned R4 High Density Residential this clause applies to this development.	Yes

	<p>(3) Development consent must not be granted to development on land to which this clause applies if the building is 1,500 square metres in gross floor area or greater unless adequate consideration has been given to the following in the design of the building—</p> <p>(a) water demand reduction, including water efficiency, water recycling and minimisation of potable water usage,</p> <p>(b) energy demand reduction, including energy generation, use of renewable energy and reduced reliance on mains power,</p> <p>(c) indoor environmental quality, including daylight provision, glare control, cross ventilation and thermal comfort,</p> <p>(d) the minimisation of surfaces that absorb and retain heat and the use of surfaces that reflect heat where possible,</p> <p>(e) a reduction in new materials</p>	<p>The subject building exceeds 1500sqm so the clause applies to this development.</p> <p>The applicant has submitted a BASIX Certificate, Stormwater Drainage Plans and Section J Report which comply with their respective provisions. The design has incorporated environmentally sustainable measures or will incorporate them as part of the detailed design, where possible. Compliant deep soil and landscaped areas are proposed on site including roof gardens which will minimise heat absorption. Further, the proposal complies with the parking rates under the DCP and does not seek to</p>	Yes
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	consumption and use of sustainable materials, including recycled content in concrete, sustainable timber and PVC minimisation, (f) transport initiatives to reduce car dependence such as providing cycle facilities, car share and small vehicle parking spaces.	include excess parking given that the site is highly accessible by public transport. The inclusion of bicycle parking spaces will also encourage active transport options.	
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Clause 4.6 Exceptions to development standards

Detailed assessment of variation to Clause 4.3 Height of Buildings

84. Clause 4.3 of the Georges River Local Environmental Plan 2021 (GRLEP) relates to the maximum permitted building height for a site and refers to the Height of Buildings Map. The relevant map identifies the subject site as having a maximum height of 33m. Building Height is defined as:

“Building height (or height of building) means:

- In relation to the height of a building in metres – the vertical distance from ground level (existing) to the highest point of the building, or*
- In relation to the RL of a building the vertical distance from the Australian Height Datum to the highest point of the building*

Including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.”

The maximum height zones within the immediate area is shown below:



Figure 17: Map showing maximum heights under GRLEP 2021 for the site and surrounding sites

The location and extent of the non-compliance is provided in the images below:

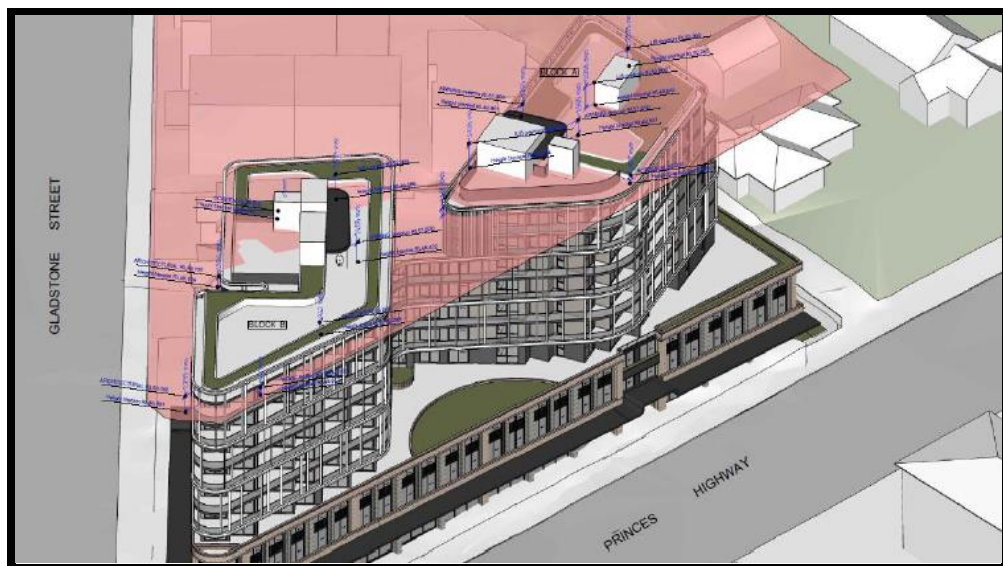


Figure 18: Height plan drawing which illustrates the components which are above the height control (Source: PBD Architects).

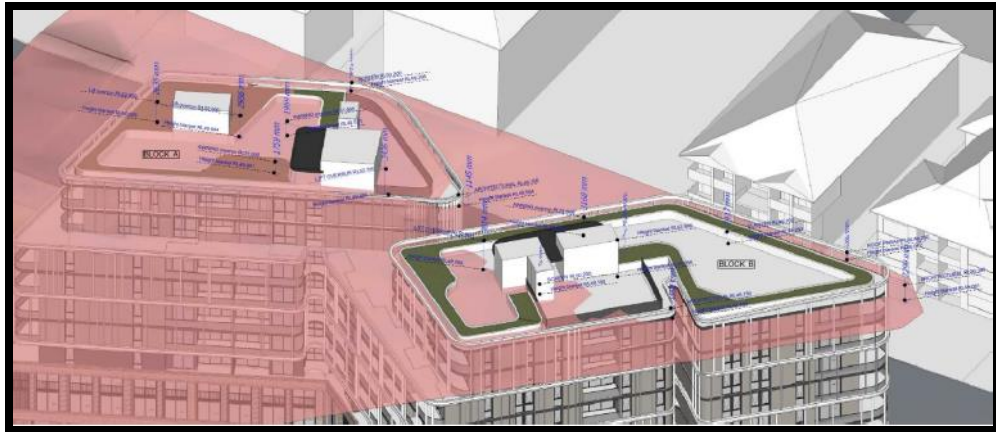


Figure 19: Height plan drawing which illustrates the components which are above the height control (Source: PBD Architects).

85. The proposed development seeks a variation to the development standard relating to height (Clause 4.3). The GRLEP identifies a maximum height control of 33m across this development site. The proposed development will exceed the height by 4.544m. The height breach relates to the architectural roof feature, lift over run, awning, planters and fire stairs having a maximum RL of 52.90m AHD, resulting in a 13.8% variation of the control.
86. Any variation to a statutory control can only be considered under Clause 4.6 – Exceptions to Development Standards of the GRLEP. An assessment of the proposed height against the survey plan levels was conducted to indicate the Applicant's calculations are generally accurate.
87. Clause 4.6(1) outlines the objectives of the standard which are to *"provide an appropriate degree of flexibility in applying certain development standards to particular development"* and *"to achieve better outcomes for and from development by allowing flexibility in particular circumstances"*.
88. Clause 4.6(3) states that:

"Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 (b) *that there are sufficient environmental planning grounds to justify contravening the development standard"*
89. To support the non-compliance, the applicant has provided a request for a variation to Clause 4.3 in accordance with Clause 4.6 of GRLEP 2021. The Clause 4.6 request for variation is assessed as follows:

Is the planning control in question a development standard?

90. The Height of Buildings control under Clause 4.3 of the Georges River Local Environment Plan 2021 is a development standard.

What are the underlying objectives of the development standard?

91. The objectives of the Height of Buildings development standard under Clause 4.3 of GRLEP 2021 are:
- (a) *to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*
 - (b) *to minimise the impact of overshadowing, visual impact, disruption of views and loss of privacy on adjoining properties and open space areas,*
 - (c) *to ensure an appropriate height transition between new buildings and—*
 - (i) *adjoining land uses, or*
 - (ii) *heritage items, heritage conservation areas or Aboriginal places of heritage significance.*

Compliance is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a))

92. There have been several Court cases that have established provisions to assist in the assessment of Clause 4.6 statements to ensure they are well founded and address the provisions of Clause 4.6.
93. In *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. This list is not exhaustive. It states, inter alia:

“An objection under State Environmental Planning Policy 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.”

94. The judgment goes on to state that:

“The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).”

95. Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation):
1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
 2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
 3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
 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;*
 5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone."*
96. The Clause 4.6 statement was prepared having regard to the recent court cases and their judgements.
97. Applicants comment: *"In this section it is demonstrated why compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by clause 4.6(3)(a) of the LEP. The Court has held that there are at least five different ways, and possibly more, through which an applicant might establish that compliance with a development standard is unreasonable or unnecessary. See Wehbe v Pittwater Council [2007] NSWLEC 827 (Wehbe).*

The five ways of establishing that compliance is unreasonable or unnecessary are:

1. *The objectives of the development standard are achieved notwithstanding non-compliance with the standard; (First Test)*
2. *The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary; (Second Test)*
3. *The objective would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable; (Third 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 the standard is unreasonable and unnecessary; (Fourth Test) and*
5. *The zoning of the land is unreasonable or inappropriate. (Fifth Test)*

It is sufficient to demonstrate only one of these ways to satisfy clause 4.6(3)(a) (Wehbe v Pittwater Council [2007] NSWLEC 827, Initial Action Pty Limited v Woollahra Municipal Council [2018] NSWLEC 118 at [22] and RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130 at [28]) and SJD DB2 Pty Ltd v Woollahra Municipal Council [2020] NSWLEC 1112 at [31].

Nonetheless, we have considered each of the ways as follows

4.1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard

The following table considers whether the objectives of the development standard are achieved notwithstanding the proposed variation (First test under Wehbe).

Objective	Discussion
4.3 Height of buildings	
<i>(1) The objectives of this clause are as follows—</i>	
<i>a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality</i>	<p><i>The existing character of the locality is a mix of low density, single storey residential dwellings and medium density residential flat buildings ranging from three to four storeys in height. However, the existing character has started to transition as a result of the LEP and DCP controls for Kogarah North which permit high density residential development with heights up to 12 storeys. Nearby developments that have been constructed in response to the current controls for the precinct include:</i></p> <ul style="list-style-type: none"> <i>○ 12 storey mixed use building at 79-87 Princes Highway, Kogarah which is located 100m south of the subject site.</i> <i>○ 7 storey shop top housing developments along Kensington Street which are located approximately 100m south east of the site.</i> <i>○ 10 storey residential flat building at 21-25 Princes Highway, Kogarah located 200m north of the site.</i> <i>○ 11 storey residential flat building at 12-24 Stanley Street, Kogarah which is located 250m north of the site.</i> <p><i>Similar scale developments have been approved along Regent Street and are currently being constructed or are nearing completion. These examples of nearby development demonstrate that although the existing character of the locality</i></p>

	<p><i>contains low to medium density residential development, the transition to higher density development has commenced which is altering the existing character. The developments identified above range from 7 to 12 storeys in height and are consistent with the bulk and scale proposed under this application, notwithstanding the proposed height variation.</i></p> <p><i>The desired future character of the area is envisaged through the relevant planning controls. "Compatibility" as established in Project Venture Developments Pty Ltd v Pittwater Council [2005] NSWLEC191 at 22-31, does not mean "sameness" but rather "capable of existing together in harmony." Further, with reference to (Woollahra Municipal Council v SJD DB2 Pty Ltd [2020] NSWLEC 115 p63). In that decision, Preston CJ commented that the desired future character of the neighbourhood or area exists before and informs the establishment of the maximum height and FSR for buildings, and the height and scale of developments, in the neighbourhood or area. This necessarily means that the desired future character of the neighbourhood or area can be evaluated by reference to matters other than only the provisions of LEP establishing the zoning, the permitted and prohibited development, and the development standards for permitted development in the zone.</i></p> <p><i>The site is located within the Kogarah North Precinct, the controls for which are outlined in the GRLEP and GRDCP. Pursuant to the GRDCP the vision for the Kogarah North Precinct is:</i></p> <p><i>Kogarah North offers high density living within an excellent public domain. Kogarah North will consist of residential and community uses in the form of apartment buildings that will deliver a diversity of heights but will maintain a human scale built form at street level creating a balance between increased housing opportunities, public and private amenity and an active and safe pedestrian environment. The built form will be complemented by generous public domain with a strong landscape character to create a verdant, attractive and high quality landscape for the amenity of residents, neighbours and visitors to Kogarah North.</i></p>
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	<p><i>A variety of apartments help to build a community made up of many kinds of households. Importantly, this enables people to pass through life's different stages while remaining within the neighbourhood. The convenience of having work, services, entertainment and the station nearby means people rarely need a car to meet their daily needs, or to access the rest of Sydney.</i></p> <p><i>The area's leafy streets, beautiful public and hidden parks, community facilities and visible heritage features make for an attractive, people-friendly environment. There are many pleasant places to stop awhile and chat to neighbours, providing the setting for a rich and varied community life.</i></p> <p><i>The portion of the building that exceeds the maximum building height will not increase the height, bulk or scale of the development beyond that envisaged under the LEP and DCP controls. A large portion of the structures located above the building height are positioned away from the building edge including the lift overruns, plant area, awning and planters. This reduces the visibility of these structures from the public domain. The part of the height breach that is more clearly visible from the public domain is the architectural roof feature that is located around the edge of the rooftop communal open space and increases in height at the corner of Princes Highway and Gladstone Street.</i></p> <p><i>It is noted that Clause 5.6 'Architectural Roof Features' has not been adopted under the GRLEP 2021. This structure is not solid but rather acts as a frame which accentuates the corner of the building and creates a continuous design element on the tower form. This part of the height breach has a positive visual impact by accentuating the corner of the site which is identified as a major corner in the GRDCP. Further, the architectural feature at the roof level will create visual interest and façade articulation to break the visual form of the building. Section 9 in Part 10 of the DCP includes the following control for the Kogarah North Precinct: '7. Street corners must be addressed by giving visual prominence to parts of the building façade, such as a change in building articulation, materials, colour, roof form or height.'</i></p>
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Further, Section 13 of Part 10 of the DCP identifies the following control which specifically relate to roofs:

'12. Design large projections, shade structures and pavilions to enhance the appearance of flat roofed buildings.'

The proposed architectural roof feature around the roof edge which increases at the corner of the site addresses both of the DCP controls identified above. Specifically, the structure will enhance the street corner at a major corner in the Kogarah North Precinct and also enhance the appearance of the proposed flat roof. Therefore, the proposed breach assists in achieving compliance with these DCP controls.

The proposed height breach is further accentuated at the Gladstone Street and Princes Highway corner due to the gradual slope of the site down from north to south. This can be seen in Figure 6 below which demonstrates that the height breach increases towards the south of the site.



Figure 6: East Elevation, maximum building height shown red (Source: PBD)

Notwithstanding the proposed variation to the building height, the proposal is consistent with the vision for the Kogarah North Precinct as identified in the GRDCP. The proposal seeks to provide a variety of high density residential apartments in a built form that is consistent with surrounding sites and the building controls for nearby sites that are yet to be redeveloped. The proposal incorporates public domain improvements including the widening of the footpaths and planting of new street trees. Therefore, the proposal is in keeping with the existing and desired future character of the locality.

<p><i>(b) to minimise the impact of overshadowing, visual impact, disruption of views and loss of privacy on adjoining properties and open space areas,</i></p>	<p>Overshadowing</p> <p><i>Shadow Diagrams have been prepared by PBD Architects and an extract of the 9am, midday and 3pm diagrams are provided below. The shadow diagrams show the shadow cast by the proposed building and differentiate between the shadows cast by the parts of the building that breach the height limit. Due to the orientation of the site, the properties to the east of the site (across Princes Highway) are only overshadowed by the proposed building from 2pm in mid-winter, ensuring these sites receive greater than 2 hours direct sunlight between 9am and 2pm in accordance with the Apartment Design Guide.</i></p> <p><i>The sites to the south west (across Gladstone Street) receive solar access from midday onwards in mid-winter as the proposed building only casts shadows on these sites between 9am and midday. From 11am in mid-winter no shadows are cast on the adjoining sites at 32 and 34 Gladstone Street by the proposed building. As shown on the diagrams, any additional overshadowing as a result of the height breach is minor. The proposed light weight frame-like structure around the edge of the building allows sunlight to pass through rather than a solid structure at the building edge.</i></p> <p><i>As discussed, the structures above the building height (towards the building edge) have been designed to allow sunlight to pass through and therefore minimise overshadowing impacts on adjoining sites and the public domain. The roof structures including the lift overruns and stairs have been centrally located to minimise potential shadow impacts. Overall, all surrounding sites will receive at least 3 hours solar access in mid-winter between 9am and 3pm, notwithstanding the proposed height variation.</i></p> <p>Visual Impact</p> <p><i>As discussed, a large portion of the structures located above the building height are positioned away from the building edge including the lift overruns, plant area, awning and planters. This reduces the visibility of these structures from the public domain. The part of the height breach that is more clearly visible from the public domain is the architectural roof feature that is located around the edge of the rooftop communal open space and</i></p>
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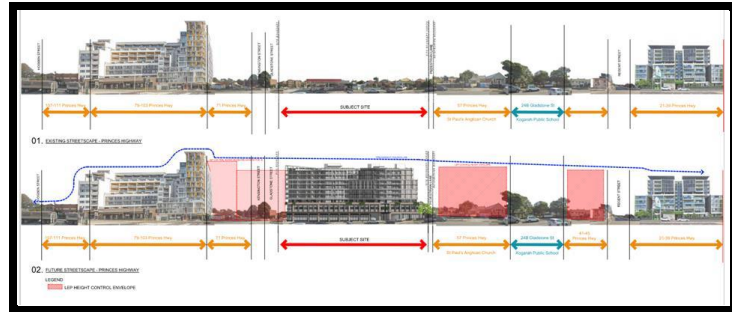
	<p><i>increases in height at the corner of Princes Highway and Gladstone Street. This part of the height breach is considered to have a positive visual impact by accentuating the corner of the site which is identified as a major corner in the GRDCP. Further, the architectural feature at the roof level will create visual interest and façade articulation to break the massing of the building. The proposed landscaping at the roof level will further minimise any potential visual impacts of the height breach from adjoining properties by screening parts of the roof structure.</i></p> <p>Views</p> <p><i>The elements of the building which vary the height limit will have little to no impact on the views from the adjoining buildings. The structures which vary the height standard are generally situated in the center of the proposed building and the structure around the building edge is not solid so views can be seen through it. At best, the structures above the building height may obstruct views of the skyline or other high-rise development nearby including the 12 storey mixed use building at 79-87 Princes Highway, Kogarah which is located 100m south of the subject site. As well as the 7 storey shop top housing developments along Kensington Street which are located approximately 100m south east of the site.</i></p> <p><i>The proposal has been designed to with consideration of views to the adjoining St Paul's Anglican Church heritage item. The proposed curved design and increased upper level setback towards the north of the site assists in maintaining the view corridor to the Church and Hall from points along Princes Highway.</i></p> <p>Privacy</p> <p><i>The proposed height variation relates to structures on the roof which are associated with the communal open space. This space has been designed to be setback from the building edge through the inclusion of planters around the perimeter of the communal open space. These planters will contain a range of trees, shrubs and accent plants that will assist in screening the communal space from nearby properties.</i></p>
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	<p><i>The proposed design and landscape scheme will ensure overlooking from the roof level is minimised, while also improving privacy for the future residents of the site. No habitable floor space is located above the maximum building height.</i></p> <p>Summary <i>In Ricola Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1047, it is noted that the Clause 4.6 Request relevant to the case provided no means by which an actual and measurable impact is minimised by the proposed development. “To demonstrate that the objectives are met notwithstanding the non-compliance, the request needs to put forward the means by which the proposed development will “minimise impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion”. This objective is similar to that discussed in Ricola Pty Ltd v Woollahra Municipal Council and as demonstrated above design measures have been implemented which clearly minimise potential impacts of the new development.</i></p> <p><i>To summarise, the steps taken to minimise potential impacts as a result of the proposed building include:</i></p> <ul style="list-style-type: none"> ○ <i>The structures exceeding the building height have been setback from the building edge where possible to minimise overshadowing, visual and view impacts. Further, the proposed light weight frame-like structure around the edge of the building has been designed to allow sunlight to pass through rather than a solid structure at the building edge.</i> ○ <i>The communal open space on the roof and associated landscaping has been positioned to minimise potential privacy impacts.</i>
<p><i>(c) to ensure an appropriate height transition between new buildings and—</i> <i>(i) adjoining land uses, or</i> <i>(ii) heritage items, heritage</i></p>	<p><i>The site is immediately surrounded by Gladstone Street, Princes Highway and to the north is residential dwellings and across the pedestrian walkway to the north of the site is St Paul’s Anglican Church and hall which is a local heritage item under the GRLEP 2021.</i></p> <p><i>It is important to note that this part of the Kogarah North Precinct is undergoing a significant and gradual transition from lower density dwellings to</i></p>

conservation areas or Aboriginal places of heritage significance.

high density residential uses in line with the zoning and building controls under the GRLEP 2021.

Therefore, consideration has been given to the future development of adjoining sites and how the proposal will relate to the future buildings. A Streetscape Analysis has been undertaken by PBD Architects and an extract is provided in the figure below.



The extract above shows the existing streetscape (top) and future streetscape (bottom) along Princes Highway. The red boxes indicate height compliant future redevelopment on nearby sites. The analysis shows that the proposal and any variation will sit comfortably in the future streetscape of Princes Highway transitioning from low density one to four storey developments to high density buildings up to 12 storeys high. A streetscape analysis has also been undertaken for Gladstone Street which reaches the same conclusion.

The proposed building height variation maintains an appropriate transition between the site and future buildings on adjoining properties. The proposed breach relates predominately to structures on the roof, many of which are setback from the building edge. Therefore, the bulk of the building is located below the maximum building height and consistent with the number of storeys anticipated on the site and adjacent sites. As the proposed structures above the maximum building height are minor, they still ensure there is an appropriate height transition between new buildings and adjoining land uses including future land uses.

In relation to the adjacent heritage item to the north, the proposal has been designed to protect and preserve the heritage significance of St Paul's Anglican Church. This is achieved through the proposed curved design which maintains a view corridor to the Church and Hall from Princes Highway. Further, the proposed stepping of the

	<p><i>building away from the north boundary creates a transition between the heritage item and the site. It is noted that the height variation towards the north of the site (adjacent to the heritage item) is limited as the site then slopes away towards the south. This minimises potential impacts on the heritage item as a result of the height breach. The figure below demonstrates that the extent of the height breach towards the north boundary (adjacent to the heritage item) only relates to the lift overrun which is setback 5.5m from the northern building edge.</i></p>
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As demonstrated in Table 1 above, the objectives of the Height of building development standard are achieved notwithstanding the proposed variation.

In accordance with the decision in Wehbe v Pittwater Council [2007] NSWLEC 827, Initial Action Pty Limited v Woollahra.

Municipal Council [2018] NSWLEC 118, Al Maha Pty Ltd v Huajun Investments Pty Ltd (2018) 233 LGERA 170; [2018] NSWCA 245 and RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130 and SJD DB2 Pty Ltd v Woollahra Municipal Council [2020] NSWLEC 1112 at [31], therefore, compliance with the Height of building development standard is demonstrated to be unreasonable or unnecessary and the requirements of clause 4.6(3)(a) have been met on this way alone.

For the sake of completeness, the other recognised ways are considered as follows.

4.2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

The underlying objectives or purpose is relevant to the development and therefore is not relied upon.

4.3. The objective would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable

The objective would not be defeated or thwarted if compliance was required. This reason is not relied upon.

4.4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unreasonable;

The standard has not been abandoned by Council actions in this case and so this reason is not relied upon.

4.5. The zoning of the land is unreasonable or inappropriate

The zoning of the land is reasonable and appropriate and is therefore not relied upon."

98. Officer's comment: In respect to Prestons CJ judgement the NSW Land and Environment Court has established the five part test (outlined above). In this case the development satisfies the five part test and is considered the variation to the height control requested is considered to be worthy of support in this individual instance.

- As previously discussed the objectives of the height standards are considered to be satisfied despite the non-compliance.
- The underlying objectives of the standard remains relevant and therefore compliance is necessary and warranted. The majority of the building sits within the height limit with the lift over run, fire stairs, architectural roof feature and ancillary operational structures exceeding the control. No habitable area or its associated roof element extends beyond the 33m height limit.
- In this case the underlying objective will not be defeated or thwarted by the approval of the building, as the building has been designed to generally comply with the height standard. The height control will not be abandoned or destroyed through this or any recent approvals for similar mixed used development.
- The R4 zoning is an appropriate zoning for the site and this parcel of land was subject to up scaling. The proposed scale of the development is consistent with the anticipated height for development within this zone and precinct.

99. The height control objectives articulate the ultimate function of establishing the height of buildings. The maximum height for buildings is identified on the height of buildings map. As previously described, the maximum height of the proposal is 37.544m. The proposal contravenes the standard, as a result the amount and degree of non-compliance and its resultant impact needs to be considered.

100. The proposed height of the development is considered to be in keeping with the desired future character of development within the precinct.

Clause 4.6(3)(b) are there sufficient environmental planning grounds to justify contravening the standard

101. Clause 4.6 (3)(b) states that *(b) there are sufficient environmental planning grounds to justify contravening the development standard.*

102. Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, it is considered that there is an absence of any

negative impacts of the proposed non-compliance on the environmental quality of the locality and amenity of adjoining properties.

103. *Applicants Comment: In Initial Action Pty Ltd v Woollahra Council [2018] NSWLEC 118, Preston CJ observed that in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development that contravenes the development standard, not on the development as a whole.*

In Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90, Pain J observed that it is within the discretion of the consent authority to consider whether the environmental planning grounds relied on are particular to the circumstances of the proposed development on the particular site.

104. *As discussed in Section 3, the elements of the development which contravene the Height of Building development standard relate to structures on the roof including the architectural roof feature, roof plant area, lift overrun, stairs and associated awning and planters and communal open space.*

105. *The environmental planning grounds to justify the departure of the Height of Building standard are as follows:*

- The height variation will provide quality, safe and equitable access to the rooftop communal open space for all residents of the development. The communal area is located above ground level which is considered suitable in the context of the area which is zoned for high density residential development. The provision of communal open space that achieves high levels of amenity and is accessible to all residents of the building is a better planning outcome that is compliance were to be achieved and the communal area be deleted or removed. The structures on the roof associated with the communal open space including the awnings and planters will improve amenity for residents while also minimising visual and acoustic impacts on adjoining sites by setting back the communal space from the building edge and incorporating landscape screening.*
- The proposed roof plant areas are setback greater than 2m from the building edge to minimise any visual impacts associated with the structures. The plant area will be screened by a 1.5m high aluminium batten screen to meet the relevant acoustic requirements and further minimise potential visual impacts. Similarly, the proposed stairs and lift overruns have been located centrally on the roof and do not contribute to distinguishable bulk or scale of the building.*
- Part of the variation in the southern part of the site occurs as a result of the slope of the land down from north to south. The existing levels drop by around 300mm in the southern corner of the site (Princes Hwy and Gladstone St corner) and this slight variation change in this location contributes to the height breach in the corner.*

- *As discussed in Section 4.1, the structures above the building height (towards the building edge) have been designed to allow sunlight to pass through and therefore minimise overshadowing impacts on adjoining sites and the public domain. Overall, all surrounding sites will receive at least 3 hours solar access in mid-winter between 9am and 3pm, notwithstanding the proposed height variation.*
- *No habitable floor space is proposed to be located above the maximum building height. As demonstrated in the figure below, the habitable floor space for the upper level is located entirely below the maximum 33m height plane. The location of the habitable floor space, below the maximum building height, is also demonstrated on the following section extract, with the maximum building height shown by the dashed red line*
- *There are no adverse environmental impacts as a result of the proposed height breach.*

106. *Further to the above, multiple applications to vary the height standard for other developments in the vicinity of the site for breaches of a similar nature have been approved. Whilst these DAs have been assessed on their own merits, various examples are as follows:*

1. *80 Regent Street, Kogarah (DA2018/0368) – the application breached the 33m height standard by 4.228m (12.78%) and related to a residential flat building. The justification for the variation in height was that it relates generally to the lift overrun and stairs providing access to the communal open space on the roof top. The height exceedance does not cause any additional overshadowing, visual impact or loss of privacy on adjoining properties and open space areas. This application related to a site with the same zoning and maximum height limit to the subject application.*
2. *7-11 Derby Street, Kogarah (DA2018/0137) – This application related to a mixed use building that varied the maximum building height by 6%. The justification for this variation was that the height non-compliance relates to communal open space on the roof level and the lift overruns.*
3. *58-68 Regent Street, Kogarah (DA2020/0022) – This application was for a residential flat building which varied the maximum building height by 5.46m (16.5%). The justification for this variation was that it related to the lift overrun and roof top communal open space.*
4. *44-52 Regent Street, Kogarah (DA2020/0132) – This application was for a residential flat building in the R4 zone that exceeded the maximum building height by 8.78%. The justification for the proposed variation was that it related to the lift overrun and fire stairs associated with the roof top communal open space.*

The approved DAs above demonstrate that similar height breaches have been approved within Kogarah containing similar justification to

that proposed under this application, thereby providing consistency in planning approach to the built form in the locality.

Clause 4.6(4)(a)(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

107. Clause 4.6(4) states that:

“Development consent must not be granted for development that contravenes a development standard unless:

- the consent authority is satisfied that:

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

(b) 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,”

108. Applicants comment: “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. This is required by clause 4.6(4)(a)(ii) of the LEP.

In section 4 it was demonstrated that the proposed development overall achieves the objectives of the development standard notwithstanding the variation of the development standard (see comments under "public interest" in Table 1).

109. *The table below considers whether the proposal is also consistent with the objectives of the zone.*

<i>Objectives of R4 Zone</i>	<i>Discussion</i>
<i>To provide for the housing needs of the community within a high density residential environment.</i>	<i>The proposed mixed use development will contribute towards the housing needs of the community by providing a building scale that is consistent with the high-density zoned residential area. Specifically, the proposal will result in 106 residential units on the site to meet the demand for housing in the transforming Kogarah North Precinct.</i>
<i>To provide a variety of housing types within a high density residential environment.</i>	<i>This application seeks consent for 106 residential apartments including: - 52 x 1 bedroom apartments, - 37 x 2 bedroom apartments; and - 17 x 3 bedroom apartments.</i>

	<i>The proposed apartment mix will provide a variety of dwelling types.</i>
<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	<i>The proposal includes a shop and neighbourhood shop on the ground floor of the building. These land uses will meet the day to day need of residents by providing retail and food and drink premises in close proximity to local residents.</i>
<i>To enable other land uses that contribute to the vibrancy of the neighbourhood while ensuring that business centres remain the focus for business and retail activity.</i>	<i>The site is not located in a business centre. Notwithstanding the proposed mix of uses including the ground floor neighbourhood shops, residential apartments and serviced apartments will activate the site by encouraging pedestrian activity. The serviced apartments and residential apartments will also assist in activating the site at all times of day. The proposal seeks to enhance and activate the sites street frontages as well as providing a widened footpath to improve the public domain</i>
<i>To encourage development that maximises public transport patronage and promotes walking and cycling.</i>	<i>The site is highly accessible by public transport being located in close proximity to train and bus services. Further the proposed improvements to the footpath and provision of bicycle spaces on site will encourage active transport options for residents, staff and visitors</i>

110. *As demonstrated in Table 2, the proposal is consistent with the objectives of the zone and in Section 4 it was demonstrated that the proposal is consistent with the objectives of the development standard. According to clause 4.6(4)(a)(ii), therefore, the proposal is in the public interest*
111. Officer's comment: The non-compliance has been designed to ensure all habitable areas are located within the permitted height and the only exceedance relates to the architectural roof feature, lift over run, awning, planters and fire stairs which are generally recessive in nature. The proposal generally satisfies the objectives of the development standard in the following ways:
112. The amenity impacts associated with the non-compliance have been considered. In terms of visual impact, the structures are generally centrally located which reduces their visual appearance from the immediately adjoining streetscapes. The lift over run and stairs are centrally located with the architectural roof feature providing screening

and also visual relief from the roof structures. It is considered that in this case the small-scale ancillary structures which will not be highly visible or an intrusive element given the scale and proportions of the building are considered acceptable. In respect to the more dominant elements like the lift overrun accessing the roof terrace at the rear, this will be a visible element when viewed from a distance. It will not be readily visible from immediately adjoining properties and streetscapes given that it is centrally located. There will be no significant adverse impacts in terms of overshadowing or overlooking to adjoining properties.

113. New developments of a similar nature have been approved within the Kogarah North Precinct including developments within Regent Street, Victoria Street, Stanley Street and the Princes Highway which has established a precedent for development in the street and immediate precinct. The proposed development is consistent with the pattern of development that is emerging in this precinct.

114. The proposed development is considered to satisfy the objectives of the building height development standard for the following reasons:

- (a) The development is consistent with the built form envisaged for the Kogarah North Precinct as described by Council's DCP.
- (b) Despite the variation, the bulk and scale of the development is compatible with the existing buildings that have been completed and under construction within the immediate vicinity.
- (c) When considered in the context of the development, the variation is minor and would not be readily discernible from street level.
- (d) The height variation will not result in any unreasonable adverse amenity impacts such as overshadowing on neighbouring properties or the public domain.
- (e) The variation to the height would not result in an unreasonable visual impact on neighbouring properties or the streetscape.

115. The R4 Mixed Use zone objectives require the development to:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To enable other land uses that contribute to the vibrancy of the neighbourhood while ensuring that business centres remain the focus for business and retail activity.*
- *To encourage development that maximises public transport patronage and promotes walking and cycling.*

116. The exceedance in the building height control generally satisfies the objectives of the zone for the following reasons:

- (i) The development will provide for a compatible mix of residential and commercial uses, and the proposed variations will not impede the attainment of this objective.
 - (ii) The development is providing for the housing needs with a mix of apartment choices and layouts within a high residential zone whilst also integrating commercial and retail development and serviced apartments.
 - (iii) The development is located within an accessible location with only a short walk to Kogarah Station and a number of bus stops within close proximity.
 - (iv) The development incorporates a diversity of apartment types (offering studio, 1, 2, and 3 bedroom apartments, including adaptable and liveable apartments).
 - (v) The development will provide residential development within close proximity to the Kogarah City Centre whilst also activating the street through the provision of non-residential uses at street level.
117. The area of non-compliance is considered not to be unreasonable and will not establish an undesirable precedent or undermine the objectives of the zone or height control. It will not have any adverse effect on the surrounding locality, which is consistent within the R4 location. The proposal promotes the economic use and development of the land consistent with zone and its purpose.
118. The public benefit of the variation is that it will appropriately facilitate the provision of a high density mixed use development on R4 zoned land and will provide for a range of housing stock. It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ clarified what items a Clause 4.6 needs to satisfy. Importantly, there does not need to be a "better" planning outcome resulting from the non-compliance.
119. The second matter was in cl 4.6(3)(b), where the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard has a better environmental planning outcome than a development that complies with the development standard.
120. The structures which breach the building height are ancillary containing lift over run, awning, fire stairs, plant equipment and the architectural roof feature. The lift over run, awning, plant equipment and fire stairs are all centrally located and have minimal visual impact. The architectural roof feature adds visual interest to the building and is considered a key feature to the aesthetic and appearance of the building.

121. In this case the proposal seeks to establish the preferred and appropriate design and built form outcome for this site with the building complying in large with the height standard. There will be no adverse amenity or visual impacts generated by the variation, the proposal satisfies the objectives of the zone and the development standard. In this case the justification to vary the height control is considered to be a reasonable and well-founded request.

Clause 4.6(4)(b) the concurrence of the Director-General has been obtained.

122. In accordance with clause 55 of the Environmental Planning and Assessment Regulation 2021, Council may assume the Secretary's concurrence for exceptions to development standards for applications made under clause 4.6 of the LEP. This was further confirmed by directions provided within Planning Circular PS 18-003 issued on 21 February 2018.

Whether contravention of the development standard raises any matter of significance for State or regional environmental planning (Clause 4.6(5)(a))

123. Contravention of the maximum height development standard proposed by this application does not raise any matter of significance for State or regional environmental planning.

Conclusion – Assessment of Clause 4.6 Request for Variation

124. Despite the non-compliance in terms of the height, the proposed variation is considered to be acceptable and satisfies the provisions of Clause 4.6.
125. The proposed variation satisfies the objectives of the height control as the non-compliant structures, being the architectural roof feature, lift overrun, stairs and plant will not be visually dominating. The additional height is considered to be consistent with other developments in the immediate locality and the scale of the development is sympathetic with the existing scale and form of existing adjoining developments.
126. It is considered that the Clause 4.6 Statement lodged with the application addresses all the information required pursuant to Clause 4.6 and the statement is considered to be well founded as there are sufficient environmental planning grounds to justify contravening the standard given that in this case the proposal satisfies the objectives of the zone and development standard (Clause 4.3, building height control).
127. For these reasons the Clause 4.6 Statement is considered to be well-founded and could be supported if the development as a whole was consistent with the assessment criterion and was of a form that could be supported.

Georges River Development Control Plan 2021 (GRDCP 2021)

128. The proposed development is subject to the provisions of Georges River Development Control Plan 2021 (GRDCP 2021).

The proposal needs to address and satisfy the relevant provisions of Part 3 General Planning Considerations, Part 4 General Land Use, Part 6.3 High Density Residential Controls and Part 10 Precincts (Kogarah North Precinct) as part of the GRDCP. These provisions are addressed in detail below.

Part 3: General Planning Considerations

Part 3 of GRDCP provides general planning considerations and is discussed in the table below:

Part 3 General Planning Considerations		
3.6 Contaminated Land		
1. Each development application is to include information sufficient to allow Council to meet its obligation to determine whether development should be restricted due to the presence of contamination.	A RAP has been submitted with the development application.	Yes
2. Proposals for the development of contaminated land or potentially contaminated land will need to determine: i. The extent to which land is contaminated (including both soil and groundwater contamination); ii. Whether the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out; iii. Whether the land requires remediation to make the land suitable for the intended use prior to that development being carried out; and iv. If the land has been previously investigated or remediated, development	A RAP has been submitted with the development application.	Yes

cannot be carried out until Council has considered the nature, distribution and levels of residues remaining on the land and Council has determined that the land is suitable for the intended use.		
3.10 Water Management		
Stormwater Management		
1. Development must comply with Council's Stormwater Management Policy 2020 which provides detail of drainage requirements for different development types. Consultation with Council is recommended.	The stormwater drainage plans have been reviewed by Council's Drainage Engineer and have been found to be satisfactory subject to conditions.	Yes.
3.11 Ecologically Sustainable Development		
Residential Buildings		
1. All BASIX affected development must comply with SEPP (Building Sustainability Index: BASIX) 2004.	The application is accompanied by a BASIX certificate which confirms compliance with the minimum requirements.	Yes
Non-Residential Buildings		
7. Development must comply with Clause 6.10 Design Excellence of Georges River LEP 2021.	Assessment has been undertaken under Clause 6.10. The amended plans now satisfy the requirements/objectives of Clause 6.10.	Yes
8. All development must comply with Section J Energy Efficiency of the BCA/NCC	Section J Report has been submitted with the application.	Yes
3.15 Public Domain		
3.15.2 Public Art		
1. Major developments (commercial, public administration, and retail development) and mixed-use developments with a capital investment value of \$5 million or more are to include an element of public art.	The applicant has submitted a Public Art Opportunities Plan prepared by PBD architects. The plan nominates potential locations for future public art on the site. Council's Coordinator Cultural Services has indicated the	Yes, by condition

	<p>proposed locations are acceptable in principle.</p> <p>A condition of consent will be imposed requiring approval to be provided by Council's Coordinator Cultural Services prior to the issue of a Construction Certificate.</p>	
2. A minimum of 1% of the total cost of the development is to be allocated to the public art budget.	A condition of consent will be imposed accordingly.	Yes, by condition
3. Details of the nature of the work, its approximate location and size are to accompany the development application	Approximate locations and type of art work has been provided and considered to be acceptable.	Yes
4. Developers should consult the Georges River Council Public Art Guidelines, to determine any requirements for including public art in new developments, and to review what constitutes public art	The applicant has submitted a Public Art Opportunities Plan prepared by PBD architects consistent with the developer guideline parameters.	Yes
<p>5. The application must include a Public Art Plan which addresses how the proposed public art meets the following Design Selection Criteria:</p> <ul style="list-style-type: none"> i. Standards of excellence and innovation. ii. Relevance and appropriateness of the work in relation to its site. iii. Its contribution to creating sense of place, and integration into the built form. iv. Where possible, participation of local artists, local groups, youth or indigenous groups. v. Consideration for public safety and the public's use 	<p>The applicant has submitted a Public Art Opportunities Plan prepared by PBD architects. The plan nominates potential locations for future public art on the site.</p> <p>A condition of consent will be imposed requiring approval be provided by Council's Coordinator Cultural Services prior to the issue of a Construction Certificate.</p>	Yes, by condition

of and access to the public space. vi. Consideration of maintenance and durability requirements of materials, including potential for vandalism and graffiti. vii. Where applicable, consistency with current planning, heritage and environmental policies and plans of management. viii. Evidence of appropriate Public Liability Insurance to cover construction and installation of work.		
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Part 4: General Land Use

Part 4 provides general land use controls. If there is a discrepancy between Section 10.1 and other parts of the DCP the controls in Section 10.1 will always prevail. The following table summarises the proposal against the relevant controls:

Part 4 General Land Use		
4.6 Tourist and Visitor Accommodation		
4.6.4 Serviced Apartments		
1. Serviced apartments are to be designed to provide a high level of amenity for guests as outlined below: i. Solar and daylight access – Living rooms and private open spaces of at least 70% of serviced apartments must receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter.	A review of the sun eye diagrams submitted indicate that at least 70% of the serviced apartments will receive a minimum of 2 hours direct sunlight in mid-winter.	Yes
ii. Natural ventilation – At least 60% of serviced apartments are to be naturally cross ventilated in the first nine (9) stories	9 (8%) of serviced apartments are cross ventilated.	No, see discussion below.

of the building. Serviced apartments at ten (10) storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate ventilation and cannot be fully enclosed.		
<p><u>Discussion on non-compliance with cross ventilation</u></p> <p>The serviced apartments are located on the ground floor, first floor and second floor of the building. Of the 112 serviced apartments only the 9 corner apartments are cross ventilated. The serviced apartments are not subject to the provisions of the ADG and will be subject to the ventilation requirements of the BCA. Whilst cross ventilation is desirable given the design and location of the serviced apartments, cross ventilation would be difficult to achieve and may compromise on other aspects of the building. It is not uncommon that the design of a serviced apartment does not facilitate cross ventilation.</p>		
iii. Floor to ceiling heights – Serviced apartments must have a minimum floor to ceiling height of 2.7m to habitable rooms and 2.4m to non-habitable rooms.	Floor to ceiling heights will achieve a minimum of 2.7m	Yes
2. Where a development proposes serviced apartments in conjunction with residential apartments, the units to be provided as serviced apartments must not be located on the same floor as permanent residents.	Serviced apartments are located on the ground floor, first floor and second floor. There are no residential apartments on these levels.	Yes
3. The maximum period of occupation of a serviced apartment is three (3) months.	Noted. Has been conditioned to comply.	Yes, by condition
4. Each bedroom is to accommodate a maximum of two (2) people.	Noted. Has been conditioned to comply.	Yes, by condition.
5. Sleeping rooms are to provide a minimum of 5.5m ² per occupant staying more than 28	Complies.	Yes

consecutive days; or 3.25m ² per occupant staying 28 consecutive days or less.		
6. Washing machine and clothes drying facilities are to be provided within the premises for the use of guests	Laundry and cleaners room provided on Level 1 and Level 2.	Yes
7. Provide adequate space and secure storage facilities for occupant's storage	Adequate space provided.	Yes
8. Development for serviced apartments is to provide a mix of apartment types	Studio, 1 bedroom and 2 bedroom apartments proposed.	Yes
9. Buildings must be orientated and designed to minimise potential impacts on surrounding residential amenity	Generally acceptable.	Yes
10. An application for serviced apartments must be accompanied by a Plan of Management which provides all details relevant to the operation of the premises. Further details are outlined in Council's Development Application Guide.	A Plan of Management (POM) has been provided.	Yes

Part 6.3 Residential Flat Buildings and residential components of shop top housing (High Density)

Part 6.3 provides specific planning controls for Residential Flat Buildings and residential components of shop top housing (High Density). If there is a discrepancy between Section 10.1 and other parts of the DCP the controls in Section 10.1 will always prevail. The following table summarises the proposal against the relevant controls:

Part 6 3 Residential Flat Buildings and residential components of shop top housing (High Density)		
6.3.13 Shops, Restaurants and Cafes, Small Bars in R4 Zones		
1. The maximum gross floor area of any single tenancy to be used as a shop, restaurant or	Neighbourhood shop 40sqm Shop 102.7sqm Café 55sqm Restaurant 119sqm	Yes Yes Yes Yes

café or small bar in the R4 High Density Residential zone is 120m ²		
2. The car parking required for a non-residential land use must be provided on-site in accordance with the requirements of this DCP	Parking has been provided in accordance with the requirements.	Yes
3. Any application for a non-residential use in the R4 High Density Residential zone must be supported by a Plan of Management detailing the hours of operation, waste removal and goods delivery methods. For details refer to the DA Guide	A Plan of Management (POM) has been provided for the serviced apartments.	Yes
4. The maximum hours of operation for non-residential uses in the R4 High Density Residential zone are 7.00am to 10.00pm seven days per week	The DCP Compliance Table provided by the applicant indicates that the proposed hours of operation sought will be 7am to 10pm seven days a week consistent with the DCP. A separate application will be required for the use of the non-residential spaces where the hours of operation will be considered.	Yes

Part 10 Precincts – Kogarah North Precinct

Part 10.1 provides specific planning controls for the Kogarah North Precinct. The following table summarises the proposal against the relevant controls:

Part 10 Precincts		
10.1 Kogarah North Precinct		
Required	Proposed	Complies
10.1.6 The Controls		
10.1.6 (1) – Siting and Consolidation of Development Sites		
1. Sites must be of a sufficient width to accommodate	The site has a frontage of 94.85 to Princes Highway	Yes

development. For development sites to optimise yield and public domain amenity, a minimum site frontage of 60m is required. Where sites do not have a minimum site frontage of 60m, the development would need to ensure the design outcomes/built form takes into account the proportions of the building – the podium width compared to the width of the tower and the appearance from the public domain.	and a 56.95 metre frontage to Gladstone Street.	
2. 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 Georges River LEP 2021, SEPP 65 and the ADG.	The applicant has provided plans showing potential for future development on the adjoining sites.	Yes
4. If an application proposes a redevelopment that does not comply with the amalgamation pattern identified in Table 1 above, or where the proposal would result in an isolated site with a minimum site frontage of less than 60m, the applicant must submit to Council with the Development Application justification to vary the	There are no amalgamation pattern requirements.	Yes

amalgamation pattern requirements.		
Council will require appropriate documentary evidence to demonstrate that a genuine and reasonable attempt has been made to purchase an isolated site based on a fair market value. At least two independent valuations (reports and valuations must be undertaken within 3 months of the date of the DA lodgement) are to be submitted as part of that evidence and these are to account for reasonable expenses likely to be incurred by the owner of the isolated site in the sale of the property. The documentation must include copies of correspondence between parties and any formal financial offers and responses to offers.	<p>Offers to purchase the properties were made in 2015, 2017, 2020 and 2021 following which the DA was finalised and lodged</p> <p>Multiple genuine and reasonable attempts have been made over a six-year period to purchase both properties based on fair market value, however, none of these attempts were successful.</p> <p>Valuation Reports are dated 2 September 2021 and the most recent letter of offers to the owners of the adjoining properties at 32 and 34 Gladstone Street were made in September 2022. Copies of the letters sent to No 32 and No 34 Gladstone Street were sent by registered post have been provided to Council confirming these were sent on 13 September 2022. No response to the offers has been received.</p>	Yes
<p><u>Discussion on isolation/amalgamation of adjoining sites.</u></p> <p>The application has provided the following comments to further support compliance with this requirement:</p> <p><i>"We do not consider the sites at 32 and 34 Gladstone Street to be isolated as a result of the proposal. The smaller site area may change the yield potential, however it does not limit the potential development on the site. We say this for the reasons outlined below:</i></p> <ul style="list-style-type: none"> <i>(a) Both sites are zoned R4 High Density Residential under the GRLEP</i> <i>(b) A series of various land uses are permitted with consent on the site under the R4 zone including dwellings, boarding houses, multi dwelling housing, residential flat buildings and shop top housing.</i> <i>(c) This demonstrates that development options are available on the site which will increase the yield compared to the two existing single detached dwellings.</i> 		

<p>(d) <i>A set of Architectural Plans accompanying the DA demonstrates how the amalgamated sites at 32 and 34 Gladstone Street can be developed in an orderly and economic fashion. The concept plans prepared by PBD Architects demonstrate that a 10 storey mixed use building constructed on the site that is consistent with the design criteria in the ADG. Specifically, compliance can be achieved with the solar access, cross ventilation and separation distances required. Refer to the schematic plans for 32 and 34 Gladstone Street for further details.</i></p> <p>(e) <i>Lower yield development options could also be pursued on the site including multi-dwelling housing. Both sites can achieve a development that is of an appropriate built form and with an acceptable level of amenity for future residents. Under the GRLEP 2012, minimum lot sizes for multi dwelling housing in the R4 Zone is 800sqm. The combined site area of 32 and 34 Gladstone Street is 818sqm meeting this minimum requirement."</i></p>		
<p>5. Where amalgamation of the isolated site is not possible, applicants will be required to demonstrate that an orderly and economic use and development of the separate sites can be achieved. In this regard, applicants will be required to submit with the DA a DA Concept Plan that provides the following:</p> <ul style="list-style-type: none"> • Details an envelope for the isolated site, indicating height, setbacks, resultant site coverage (building and basement), sufficient to understand the relationship between the application and the isolated site. • The likely impacts the developments will have on each other, such as solar access, visual and acoustic privacy and the impact 	<p>The applicant has submitted a DA concept plan with an indicative building envelope to demonstrate development potential on the adjoining properties at Nos 32 and 34 Gladstone Street.</p>	<p>Yes</p>

of development of the isolated site on the streetscape must also be addressed. • An assessment against the ADG with respect to the impact of the proposed development on the isolated site. Any proposed development of a neighbouring isolated site should be compliant with ADG provisions.		
10.1.6 (2) – Heritage		
(i) Where development is proposed within the vicinity of a heritage item identified in the Georges River LEP 2021, the building height and setbacks must have regard to and respect the value of that heritage item and its setting.	<p>The subject site is located to the south of a local heritage item being St Paul's Anglican Church and Hall (1192).</p> <p>The proposal has been designed to step down towards the north, where the heritage item is located.</p> <p>A Heritage Impact Statement was provided by Weir Phillips who concluded that the proposal will have an acceptable impact on the heritage item. This report has been reviewed by Councils Heritage Advisor who agreed that the proposed development will not adversely affect the heritage items.</p>	Yes
2. Where a development incorporates or is within the vicinity of a heritage item, the new development is to provide an appropriate transition in scale, height and adequate	See comments above	Yes

curtilage and side setbacks from the heritage item.		
3. 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.	<p>Although the subject building is not setback the minimum 15m, it is considered that there is sufficient physical and visual separation between the items and the subject development to ensure that the proposal will have no adverse impact on the heritage significance of the item.</p> <p>A Heritage Impact Statement was provided by Weir Phillips who concluded that the proposal will have an acceptable impact on the heritage item. This report has been reviewed by Councils Heritage Advisor who agreed that the proposed development will not adversely affect the heritage items.</p>	Yes
4. Side and rear setbacks to heritage buildings are to consider the need for an appropriate curtilage which is to be set by a heritage assessment.	A Heritage Impact Statement was provided by Weir Phillips who concluded that the proposal will have an acceptable impact on the heritage item. This report has been reviewed by Councils Heritage Advisor who agreed that the proposed development will not adversely affect the heritage items	Yes
5. Development to the south of Nos 53-57 Princes Highway, Kogarah (St Paul's Anglican Church and hall (I192) is to be setback a minimum of	A Heritage Impact Statement was provided by Weir Phillips who concluded that the proposed works will have an acceptable impact on the heritage significance of the Church and Hall, as	Yes

15m from the side boundary of the site Note: A Heritage Impact Assessment is required to be lodged with a development application in accordance with Clause 5.10(5) of Georges River Local Environmental Plan 2021.	one of Kogarah's earliest cultural buildings as it read on the Princes Highway being one of the earliest and main transport routes in the municipality. This report has been reviewed by Councils Heritage Advisor who agreed that the proposed development will not adversely affect the heritage items.	
10.1.6 (3) – Street Frontage Height		
1. 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. Exceptions to this podium height may be required where a site adjoins a low-scale heritage item.	The proposal provides a three storey street wall which is consistent with nearby developments whilst also taking into consideration the heritage item to the north.	No, however considered acceptable and consistent with other development within the Kogarah North Precinct.
3. Council will request a Wind Analysis Report be submitted with the Development Application	Wind analysis report provided.	Yes
4. The Kogarah North Precinct is affected by the Obstacle Limitation Surface and Clause 6.7 Airspace operations of Georges River LEP 2021. The maximum height of the inner horizontal surface is 51m AHD. • All applications within the Kogarah North Precinct must provide information on the maximum RLs in AHD at all levels across the site.	Application has been referred to the appropriate authority for approval. The subject building will penetrate the Obstacle Limitations Surface (OLS). At a maximum height of 52.9m AHD the building will penetrate the (OLS) by 1.9m. Approval has been granted permitting a maximum height of RL 52.9m AHD.	Yes

<ul style="list-style-type: none"> • All applications for development within the Precinct will be referred to Civil Aviation Safety Authority and Airservices Australia for assessment. Note: Developments must consider the operating heights of all construction cranes or machinery (short-term controlled activities) that may exceed the OLS height limits thereby penetrating the prescribed airspace. Approval to operate construction equipment (i.e. cranes) shall be obtained prior to any commencement of construction, where the prescribed airspace is affected. 		
10.1.6 (4) - Setbacks		
2. Setbacks are to include the planting of canopy trees, both small and large varieties.	The development includes the planting of canopy trees.	Yes
3. 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.	A small area of approximately 1400mm of deep soil has been provided to the Gladstone Street frontage. Basement extends to approximately 780mm from Princes Highway and 1400mm to Gladstone Street.	Yes
4. No ground floor apartments are to be below the adjacent footpath level.	N/A - No ground floor apartments off the adjacent footpath.	N/A

6. The primary area of outdoor private open space must not be located on the street frontage.	No open space area proposed on street frontage.	Yes
7. Blank walls are to be avoided from any location visible from the public domain	Blank walls have been avoided.	Yes
9. On sites with frontages to the Princes Highway, Harrow Road and Railway Parade North, the balconies on the lower levels may be wintergardens. The wintergarden will count as GFA for the purposes of the calculation of the FSR.	No winter gardens proposed.	Yes

Street Setback Controls

1. The setbacks of the building to the street are to be as shown in Figure 2:

- | | |
|------------------------------------|---|
| • Ground floor (street level): | 5m, with the first 2m to be at grade with the footpath to provide landscaped edge |
| • Up to 12 m (4 storeys): | 7m to the building – balconies/wintergarden may encroach up to 2m into the 7m setback |
| • Over 12m (5th storey and above): | 8m to the building or balcony |

Figure 20: Table - Front setbacks for sites

Proposed Setbacks

Levels	Setback	Complies
Gladstone Street		
Ground floor (street level)	5m	Yes
Up to 12m (4 storeys)	5m – 8m	No
Over 12m (5 th storey and above)	5m – 8m	No

Note: A variation of the above setbacks, may be considered for sites on Princes Highway and Gladstone Street eastern side and Princes Highway and Gladstone Street western side.

Discussion on variation to front setback on Gladstone Street

The plans have been amended resulting in the corner apartment being setback 5m for a length of 19.93m along the Gladstone Street frontage, with the remaining part of the building being setback 8m in accordance with the DCP. The two parts of the building are separated by an indentation to further articulate this facade (see below):

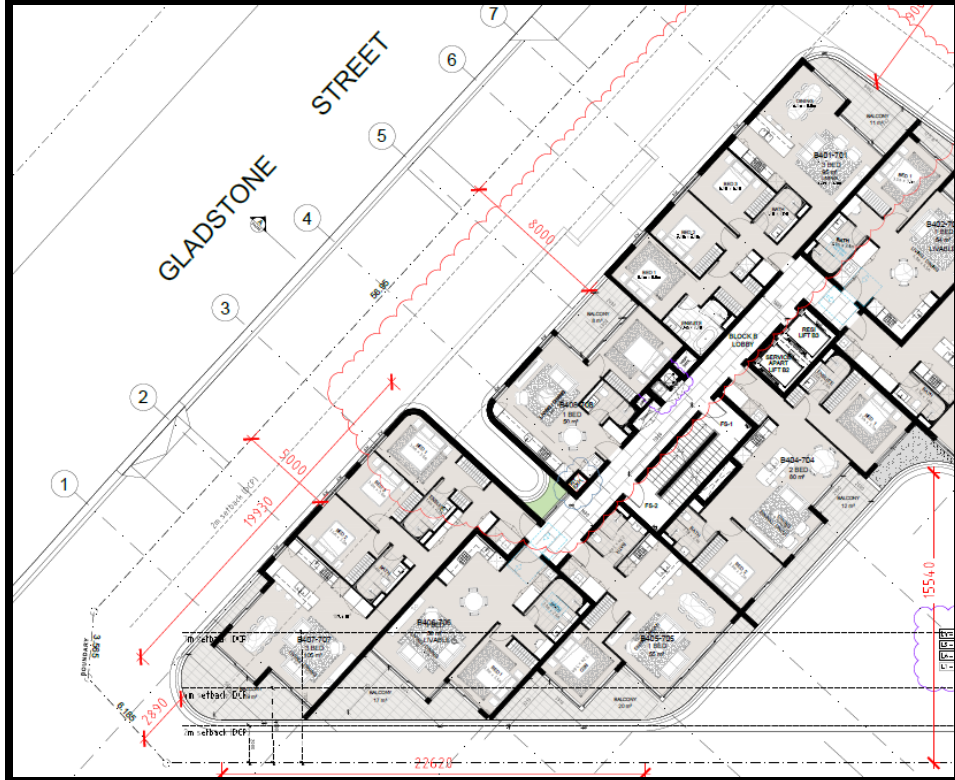


Figure 21: Plan showing the varied setbacks and indentation to Gladstone Street.

2. A variation to the setback may be considered for certain streets. For that part of the proposed building that has a boundary to the Princes Highway, Harrow Road or Railway Parade North, the setbacks are to be as shown in Figure 3.

- Ground floor (street level): 2m
- Up to 12 m (4 storeys): 4m to the glass-line.
Balconies may encroach 2m within the setback
- Over 12m (5th storey and above): 5m to any balcony.

For sites that have a splay corner or a boundary of less than 10m to the subject streets, the setbacks above do not apply and the setbacks in Control (1) apply. Further, the visibility of a building or part of a building from one of the subject street/s does not trigger this control; Control (1) will apply. The reduced setback control applies only to that part of the building that is parallel to the alignment of the subject street.

Figure 22: Table - Front setbacks for sites with frontage to Princes Highway

Proposed Setbacks

Levels	Setback	Complies
Princes Highway		
Ground floor (street level)	2m	Yes
Up to 12m (4 storeys)	2m to balconies	No
Over 12m (5 th storey and above)	2m to balconies	No

Discussion on variation to front setback to Princes Highway.

The proposal incorporates two blocks which are separated by a large area containing landscaping to soften the building and private open space on the podium level for units adjoining these areas (see below).

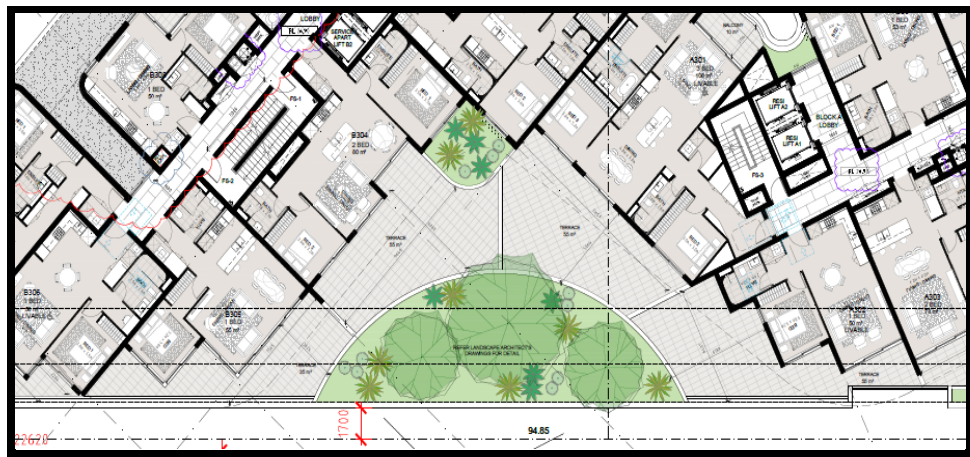


Figure 23: Plan showing the setbacks to Princes Highway from the podium level.

The area above the podium where the landscaping and private open space is located is open and provide suitable articulation and modulation between the towers.

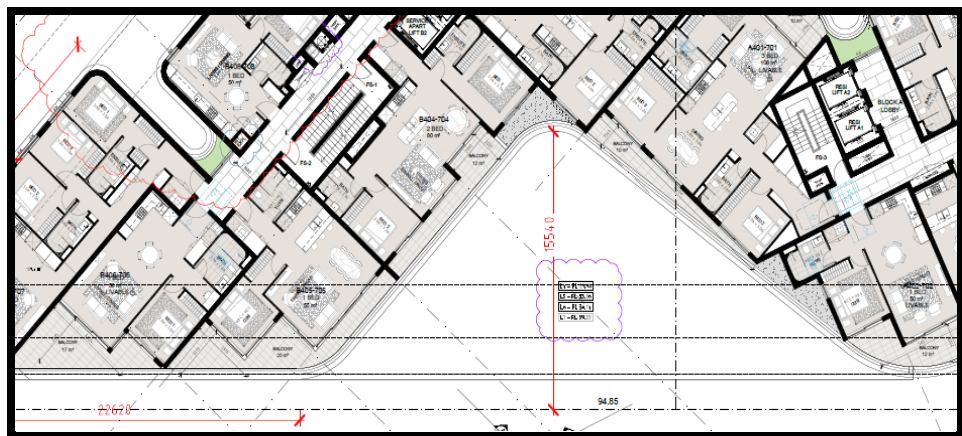


Figure 24: Plan showing the setbacks to the Princes Highway from the levels above the podium.

It is also noted that these setbacks may have a nil setback above the fourth storey.

<p>3. A variation of the above setbacks, may be considered for sites on the following corners (see Figure 4):</p> <ul style="list-style-type: none"> • Railway Parade North and Harrow Road • Victoria Street and Harrow Road • Harrow Road the Princes Highway • Princes Highway and Gladstone Street eastern side • Princes Highway and Gladstone Street western side. <p>These sites may have a nil setback above the fourth storey.</p>		
<p>Controls for Side and Rear Setbacks</p>		
<p>4. Side and rear setbacks:</p> <ul style="list-style-type: none"> a) Provides resident amenity, including landscaping and deep soil planting, protection of large established trees, privacy, solar access and ventilation; b) Responds to the local context and provides streetscape amenity, including providing adequate separation from existing and future development; and c) Does not prevent a neighbouring site from achieving its full development potential 	<p>The side and rear setbacks of the proposed building are intended to provide a balanced approach to the setbacks identified in Objective 3F-1 of the Apartment Design Guide, as well as the need to avoid more than one step in the built form as the height increases which would result in a 'ziggurat' appearance.</p> <p>Accordingly, the proposal adopts the setbacks required for buildings up to 4 storeys of 6 metres with the exception of small balconies off the serviced apartments. On level 3 the terrace to the apartments is setback the 6m with a planter box within the 6m setback to assist with maintaining amenity. The setbacks proposed for 4-8 storeys on the northern elevation are 9m (with point encroachments) to the external walls with balconies setback 8.45m. Where the building rises above 8 storeys, the setback is increased to 12m (with point encroachments) to the external wall with the balconies setback 10.97m.</p>	<p>Yes</p>

	<p>The proposed setbacks and floor layouts achieve the objective of the separation distance to achieve reasonable levels of external and internal visual privacy both for the proposed development and adjacent sites.</p> <p>It is also noted that in relation to providing a suitable separation from the heritage item, Councils Heritage Advisor has supported the setbacks.</p>	
<p>5. Council may consider a request for zero side boundary setbacks up to four storeys to sites fronting the Princes Highway to maximise yield. Council may consider the reduction of the side boundary setbacks on other sites within the Precinct, where the proposed development complies with the principles of solar access and cross ventilation in SEPP 65 and where it can be demonstrated that there would be no additional impacts on adjoining properties and trees are retained. Council will require the submission of a schematic design for the redevelopment of neighbouring sites so that Council can undertake an assessment of the impact of adjoining developments and</p>	<p>The relationship of the proposal with the retained heritage building to the north is appropriate as addressed in the Heritage Impact Statement provided with the DA and has been reviewed by Councils Heritage Advisor and found to be acceptable.</p>	<p>Yes</p>

compliance with the ADG.		
10.1.6 (5) Trees and Landscape		
1. All development is to be designed to eliminate the impact upon significant trees on site, street trees and trees on adjoining land including public open space and educational establishments. Existing mature trees in good health and condition, are to be retained through the appropriate siting of buildings, car parks, basements, pools, ancillary buildings, driveways and hard stand areas.	A series of new trees and plantings have been integrated into the landscape design and will include a series of compensatory trees around the periphery of the site. Council's Senior Landscape and Arboricultural Assessment Officer is satisfied with the Landscape Design and the proposal satisfies the DCP provisions.	Yes
2. Landscaped areas must be effectively distributed on the site to minimise the dominance of buildings, structures and paving when viewed from the street, public places and surrounding properties.	The landscaping proposed is considered appropriate subject to clarification on paved areas and walkways.	Yes
3. Additional street trees are to be incorporated into the overall design of the development in locations identified in Figure 5.	Street trees proposed as part of the development. These will be subject to the public domain plan approval required to be submitted to Council as a S138 application for approval prior to the issue of the Construction Certificate.	Yes
4. Common open space/courtyards are to be located, designed and landscaped to:	The development includes separate roof top communal open space areas for Block A and Block B which includes a	Yes.

<ul style="list-style-type: none"> • Enhance views from dwellings and create recreational opportunities. • Be the focal point for residents and incorporate public art and water features where appropriate. • Achieve good amenity in terms of solar access and natural air flow 	covered seating area with a BBQ and WC.	
5. Communal open space on roof tops is encouraged in locations where it does not adversely impact on the residential amenity of surrounding residents. A plan of management will be required for the use of large communal terraces that must be implemented through the Owners Corporation by-laws	Separate roof top communal open space areas have been provided to Block A and Block B. A condition of consent will be imposed restricting hours and use subject to a Plan of Management.	Yes
6. Deep soil zones are to be located within ground floor setbacks providing screening/interface to the street where large trees will benefit the maximum number of residents and are to be located where they will contribute to the public domain	The deep soil proposed within the ground floor setbacks is predominantly within the side and rear of the site. This is to ensure that the street is activated. There is landscaping proposed to the northern part of the site which will provide softening of the building.	Yes
7. Landscaping should give precedence to species with low water needs, include native plant species and select and position trees to maximise control of sun and winds	A landscaping plan provides species which are considered acceptable by Council's Senior Landscape & Arboriculture Assessment Officer.	Yes

8. Landscape design is to be integrated with water and stormwater management. On-site detention tanks must not be located within deep soil zones.	Generally acceptable.	Yes
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10.1.6 (7) Creation of Through Site Pedestrian Links and Additional Open Space

1. A public through site pedestrian link, in the form of the creation of a public ROW is to be provided as part of the development sites identified in Table 3 below. This public through site connection is to form part of the development but is to allow public access through the site	Not required for the subject site, only required for 57 Princes Highway (heritage site). See discussion on pedestrian link proposed.	Yes
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Through Site Link #3 – Widening of existing pedestrian link from Princes Highway to Gladstone Street	The existing pedestrian link from the Princes Highway through to Gladstone Street is to be widened on its northern side. Council will require upon redevelopment of No 57 Princes Highway and 24B Gladstone Street, the dedication of 3m for the widening of the existing pedestrian link.
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Table 3: Identification of Land Required for Through Site Links

Figure 25: Land required for through site links

Discussion on proposed pedestrian site link

Whilst the DCP does not require a public ROW through the subject site, the original plans showed a pedestrian path to be provided along the northern boundary adjoining the existing pedestrian path to the north. This was provided at the request of Council through a Pre DA meeting.

The location of this pedestrian site through link being a public pedestrian link will have an impact on the amount of deep soil, private communal open space and landscaping for the subject site and is not considered to be appropriate. Whilst this may increase the width of the public laneway to the extent of the boundaries of this site, it is unlikely given the existing adjoining development at 30 Gladstone Street that the extension of this laneway right through to Gladstone Street would be facilitated in the near future. A better outcome is to provide deep soil and landscaping to the subject site.

As part of the public domain works approval, the applicant will be undertaking upgrade works within the laneway including paving and street lighting to the satisfaction of Council's Assets and Infrastructure Section.		
4. The location of streets proposed to become pedestrianised or shared ways that connect to the proposed through site links/ are shown in Figures 6 and 6A.	Not required for the subject site.	N/A
 <p>Figure 26: Widening of pedestrian site through link</p>		
10.1.6 (8) – Housing Choice		
1. Developments that propose more than 10 apartments are to provide a mix of dwellings consistent with the following percentage mix: (a) Studio and 1 bed apartments – Minimum of 20% (b) 2 bed apartments – Maximum of 30% (c) 3+ bed apartments – Minimum of 15%	<p>52 x 1 bedroom apartments (49.06%)</p> <p>37 x 2 bedroom apartments (34.9)</p> <p>17 x 3 bedroom apartments (16.04%)</p>	No, however considered acceptable

2. Any variations to the apartment mix are to take 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	The proposal provides an acceptable apartment mix considering its accessible location.	Yes
3. Apartment configurations are to support diverse household types and stages of life including single person households, families, multi-generational families and group households.	The apartment mix is considered acceptable.	Yes
10.1.6 (9) – Addressing the Street and Public Domain		
1. Landscaping in the public domain is to enhance, complement and reinforce existing streetscape planting themes and patterns. Council will require street tree planting, landscaping and paving of the public footway, for locations including those shown on Figure 5 and this must be included in the Landscape Plan.	Additional street tree planting is to be provided as part of the public domain works.	Yes
4. Buildings must be sited to address the street and relate to neighbouring buildings. Developments on sites	The building has been sited to address both street frontages. The vehicular entry is from the Gladstone Street frontage.	Yes

with two or more frontages are to address both frontages.		
5. Buildings are to be designed to minimise the number of entries, visible internal uses at ground level, and include high quality finishes to enhance the public domain.	Separate lobby entries have been provided for the serviced apartments, hotel and residential Blocks A and B. This configuration is considered acceptable.	Yes
10.1.6 (10) Impact of Development on the Road/Pedestrian Network		
1. 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	A Traffic Impact Assessment Report was submitted with the application.	Yes
3. A TIS is to be submitted with the Development Application and is to address: (a) The accessibility of the site by a range of transport modes including car, public transport, walking and cycling; (b) The ability of the public transport network to service the site in the peak and Off-peak and weekend periods; (c) Mode share targets; (d) Means of minimising travel	Traffic Impact Statement submitted with the application and reviewed by Councils Traffic Engineer and deemed acceptable.	Yes

<p>demand by private car and maximising the share of travel by other modes including public transport, cycling, walking or car share;</p> <p>(e) Estimates of trip generation by the development and the impacts of trips generated by the development on the road network, including impacts on existing intersections and the level of service of these intersections and road network and other movement systems;</p> <p>(f) Means of accommodating and integrating trips generated by the development including necessary improvements to public transport services, pedestrian systems, bicycle routes, and the road network;</p> <p>(g) Means of mitigating adverse impacts of the development on movement systems;</p> <p>(h) Means of improving access to the site having regard to vehicular, pedestrian, cycle and public transport access;</p> <p>(i) Impacts on and means of improving pedestrian accessibility to public transport, shops,</p>		
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schools, open spaces, community centres and the like; (j) Impacts on and means of improving pedestrian safety; (k) Availability of on street parking and potential on street parking controls to discourage commuting and all day residential parking demand generated by the development.		
10.1.6 (11) - Acoustic Impacts from Road and Rail		
1. Applicants proposing development on busy roads or adjacent to the railway line are to refer to and comply with State Environment Planning Policy (Infrastructure) 2007 and the NSW Government's Development near Rail Corridors and Busy Roads – Interim Guidelines which includes design guidelines and requirements to manage the impacts from road and rail noise and vibration.	An acoustic report has been provided and reviewed by Councils Environmental Health Officer. Appropriate conditions have been imposed.	Yes
2. An Acoustic Assessment must be prepared with reference to NSW Government's Development near Rail Corridors and Busy Roads – Interim Guidelines	Acoustic report provided and reviewed by Councils Environmental Health Officer. Appropriate conditions have been imposed.	Yes
10.1.6 (12) – Vehicular Access and Car parking		
1. As the Precinct is within 800m of Kogarah Railway	The proposal complies with the provisions of the RMS Guide to Traffic Generating	Yes

<p>Station, the residential parking rate that applies is in accordance with the Objective 3J-1 of the Apartment Design Guide, which references the RMS Guide to Traffic Generating Development. The applicable rates are those for a Sub-regional Centre.</p>	<p>Development which in this case is the applicable controls relevant to the provision of car parking spaces onsite.</p>	
<p>2. In recognition that the Precinct was up-zoned based on its proximity to public transport, as an incentive to reduce the reliance on the private motor car, parking and access thereto in excess of the RMS requirement will be treated as GFA for the purposes of calculating the FSR of development. For the purposes of the definition of GFA in the Dictionary of Georges River LEP 2021, the “car parking to meet the requirements of the consent authority” referred to in clause (g) of the definition is car parking that is in compliance with the minimum parking rate. Car parking that exceeds the calculated minimum rate is car parking that exceeds the requirement of the consent authority</p>	<p>Noted. The amount of car parking complies with this requirement subject to a condition of consent of an addition space to be accommodated.</p>	<p>Yes</p>

3. For commercial/retail development and other land uses parking is to be provided at the following rate: • 1 space per 40m ² for any floor space at ground floor level • 1 space per 50m ² for all other floor space above ground floor level 631.5sqm of commercial space 16 spaces required	16 spaces provided.	Yes
4. 1% of all car parking spaces are to be designated "accessible" spaces for people with mobility impairments	11/148 accessible spaces provided 7.43%.	Yes
5. For car parks between 10 to 99 spaces at least one "accessible" space must be provided.	N/A 148 spaces provided however it is noted that accessible spaces have been provided.	N/A
6. Designated "accessible" car spaces are to be treated as resident car spaces in the calculation of the parking requirement	Noted.	Yes
Bicycle parking		
7. Bicycle storage is to be provided at the rate of: 1. 1 secure bicycle storage facility per 2 residential units 106 units proposed. 53 bicycle spaces required	53 bicycle spaces provided.	Yes
(a) 1 bike space per 10 car spaces for the first 200 spaces then 1 space per 20 car spaces thereafter,		

for commercial and retail land uses. 16 Commercial spaces 2 bicycle spaces required	4 commercial bicycle spaces provided on Basement Level 1	Yes
8. Bicycle parking and facilities should be designed in accordance with the relevant Australian Standards	Generally acceptable.	Yes
Vehicular Access and Driveways		
9. Parking is to be located below ground and access from laneways and side streets.	Basement parking provided and accessed from Gladstone Street.	Yes
10.1.6 (13) – Architectural Articulation – Façade, Roof wall design and balconies		
Facades and Articulation		
1. 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 and modulation have been incorporated into the design of the building. The amended plans have provided increased setbacks and reduced wall lengths to minimize perceived bulk.	Yes
2. 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.	The design of the proposal includes distinct façade elements between the 3 storey podium and the tower above. Each element has a differing architectural expression which serves to separate each component of the development.	Yes
5. Façades must be articulated and employ materials and finishes to enhance and complement the	The materials and finishes are considered acceptable.	Yes

character of the streetscape.		
6. 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)	These design elements have been incorporated into the building design.	Yes
7. Retain the pedestrian scale and give continuity to the 'base' of the built form.	The three storey podium with the upper levels setback assist in providing a pedestrian scale to the development.	Yes
9. Avoid large expanses of blank walls or glass curtain walls.	Large expanses of blank walls and glass curtains have been avoided in the design.	Yes
10. Conceal meter boxes, fire hydrant boosters, sprinkler valves and the like so that they are not visible from the street.	The hydrant booster, sprinkler valves and the like are located on the Gladstone Street frontage and have been incorporated into the design to soften their impact as much as possible.	Yes
Roofs		
14. Conceal lift over-runs and plant equipment, including satellite dishes, within well designed roof forms.	Lift over runs, fire stairs and plant equipment are centrally located to reduce their visual impact.	Yes
16. The use of green roofs and green walls is encouraged particularly where this forms part of a communal open space arrangement in a residential/mixed use development.	Landscaping is generally acceptable.	Yes

17. Buildings greater than 9 storeys are to incorporate green facades or landscaped features (i.e. landscaped communal areas located on podiums and roofs).	Roof top communal open space has been provided.	Yes
18. Roof top areas designed for use as recreation facilities are to have a high standard of finish and design. The design of exterior private open spaces such as roof top gardens must address visual and acoustic privacy, safety, and security and wind effects.	Roof top communal open space has been provided. Visual and acoustic privacy has been addressed through landscaping.	Yes
20. Landscaping documentation should include details illustrating water-proofing, soil containment, filter fabric, drainage outlets, subsoil drainage methods, irrigation, and external finishes to the retaining wall / planter box	Details provided with the landscaping plans.	Yes
Balconies		
23. Design building facades and apartment layout so that balconies are functional and responsive to environmental conditions.	Balconies are incorporated into the design and are functional.	Yes
24. Integrate balconies into the overall building form and to enhance the articulation of facades.	Balconies assist in providing articulation for the building.	Yes

25. Design balustrades which allow for views into, and along the street but avoid all glass and all brick balustrades	The development incorporates a mixture of glass and metal balustrades.	Yes
10.1.6 (14) – Awnings		
1. Awnings are to be sized to adequately accommodate street trees. In addition, ground floor street frontages must be recessed into the building to provide an ample undercover passage without impacting street tree planting	Awnings proposed are acceptable and still allow for street planting.	Yes
2. Provide under awning lighting to enhance safety	Can be provided.	Yes
10.1.6 (15) – Active Street Frontages along Princes Highway and Railway Parade North		
1. Development is to provide for activation of the ground floor for frontages with neighbourhood shops and home offices along the Princes Highway and Railway Parade North.	A shop, neighbourhood shop, conference room, gym, café and restaurant are provided on the ground floor along the Princes Highway frontage.	Yes
2. Ground floor apartments are not permitted on the Princes Highway and are discouraged along Railway Parade	No ground floor apartments are proposed on the Princes Highway frontage.	Yes
10.1.6 (16) - Solar Access to public domain		
1. Maintain solar access to public open space	Solar access diagrams demonstrate that the development will not unreasonably impact solar access to public open space, beyond that anticipated by the uplift in planning controls for the precinct.	Yes

2. New development shall maintain solar access to open space, including the open space (including the area currently used for car parking) bounded by Victoria Street, Gladstone Street, Victor Street and Palmerston Street. This open space is identified by Council as being a future Town Common, for shared use by the school and residents.	The building has been designed to maximise solar access to the proposed apartments and private open space areas.	Yes
10.1.6 (17) - Safety and Security		
1. The design of the development is to incorporate Crime Prevention Through Environmental Design (CPTD) principles	These elements have been incorporated into the proposal. Conditions will also be imposed.	Yes
2. Development is to be designed to incorporate and/or enhance opportunities for effective natural surveillance by providing clear sight lines between public and private places, installation of effective lighting, and the appropriate landscaping of public areas. Note: Further Information refer to NSW Police Service 2001, Safer by Design NSW Department of Urban Affairs and Planning 1979, Crime Prevention and the Assessment of Development Applications, Guidelines under Section 4.15 of the	Conditions have been provided by NSW Police and will be incorporated into any consent.	Yes

Environmental Planning and Assessment Act, 1979		
10.1.6 (18) - Waste Minimisation		
2. 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	The recycling chute is considered satisfactory.	Yes
3. Where a waste and recycling chute system is used: (a) chute openings are to open only into a waste service compartment or room for safety purposes; and (b) the waste service compartment or room on each floor must also include space for containers for the intermediate storage of recyclables.	Conditions of consent provided by Councils Waste Development Officer will be imposed.	Yes
5. An additional room or caged area with a minimum volume of 8m ³ is to be allocated and designated with signs for the storage of discarded bulky items and recyclable electronic goods	A 12sqm bulky waste room has been provided in Basement 1.	Yes
8. Basements are to be designed to allow for the on-site collection of waste. The body corporate must indemnify the Councils waste collection contractor in order for it to access the site. If it is elected to not design the basement with a clear	Provision has been made for waste to be collected from the ground floor loading dock. A secure bin holding area is provided within the loading dock. The loading dock has a turntable which also facilitates a waste vehicle to enter and exit in a forward direction.	Yes

height and space to allow for Council's waste and recycling trucks to wholly enter and manoeuvre in the basement, the applicant may nominate that the site is to be serviced by a private waste contractor.		
9. It is preferable for waste trucks to enter the site in a forward direction, but it is permitted for waste trucks to reverse onto a site, where design and site conditions make it safe to do so. It is never acceptable for a truck to reverse out of a site	Waste vehicles must enter and exit in a forward direction. This application will be conditioned accordingly. A turntable has been provided within the loading dock.	Yes
10.1.6 (19) – Site Facilities		
2. Mailboxes will be located indoors in accordance with Australia Post's requirements.	Mailboxes are located internally within the front lobby areas.	Yes
3. Adequate and appropriate unit numbering is to be provided. The name and address of the premises will be displayed in a position that is clearly visible from the street and / or service lane to assist identification and deliveries.	Will be acceptable and can be conditioned.	Yes
6. The existing above ground electricity and telecommunication cables within the road reserve and within the site will be replaced, at the applicant's expense, by underground cable	Has been conditioned.	Yes

and appropriate street light standards, in accordance with the Energy and Communication Provider's guidelines. The applicant will bear the cost of the new installation and the first 12 months of additional street light charges		
9. Any electrical kiosk, fire booster assembly or similar utilities will be in a location that is visible from the main entrance of the development, unable to be obstructed, and readily accessible to vehicles and service staff. Fire booster assemblies are to be a minimum of 10m distance to an electrical kiosk, and housed within the external face of the building structure or in a built enclosure with screen doors. The enclosure is to be integrated with the architectural design of the development and compliant with AS2419. Applicants are encouraged to provide landscaping that will not impede access to, and effective use of, the utilities to reduce the visual impact of the utilities on the streetscape and public domain	<p>The fire hydrant booster is located to the Gladstone Street frontage.</p> <p>The substation and fire booster are proposed to be located on the Gladstone Street frontage.</p>	Yes

10.1.6 (20) – Maintenance		
2. Buildings must incorporate and integrate building maintenance systems into the design of the building form, roof and façade.	Maintenance systems have been integrated into the common circulation areas, basement levels and where applicable integrated into the design when fronting the street.	Yes
4. Appropriate landscape elements and vegetation must be chosen along with suitable irrigation systems	The landscape plan incorporates these elements.	Yes
10.1.6 (21) – Acoustic Privacy		
1. The location of driveways, open space and recreation areas and ancillary facilities external to the dwelling must be carefully planned to ensure minimal noise impact on adjoining residential properties	The driveway is located in Gladstone Street and open spaces are carefully planned.	Yes
2. Bedrooms of one dwelling should not share walls with living rooms or garages of adjacent dwellings. Bedrooms of one dwelling may share walls with living rooms of adjacent dwellings provided appropriate acoustic measures are documented	Layouts are consistent with this requirement.	Yes
3. Where party walls are provided they must be carried to the underside of the roof	Noted.	Yes
4. All residential development except dwelling houses are to be insulated and to have an Impact Isolation between floors to achieve an Acoustical Star Rating of 5 in accordance	An Acoustic Report has been submitted and reviewed by Councils Environmental Health Officer and considered satisfactory.	Yes

with the standards prescribed by the Association of Australian Acoustical Consultants (AAAC). An Acoustic Report is to be submitted at Development Application stage and post construction stage to ensure that the above standards have been achieved		
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Impacts

Natural Environment

129. The proposed development is unlikely to result in adverse impacts on the natural environment. The site contains no significant vegetation worthy of retention. A total of 52 trees will be removed, however 28 of these are exempt species and a further 10 are very small shrubs just reaching 3 metres in height. For the remaining 14 trees being removed, these are smaller, less significant species and the proposed amended landscape plans include a total of 25 replacement trees including street trees along Gladstone Street.
130. Conditions of development consent have been provided including requirements to provide an additional five (5) trees amongst other specific landscaping requirements.
131. A Landscape Plan prepared by a qualified landscape architect has been prepared for the development. This plan shows appropriate deep soil planting and suitable landscaping to the communal open space on the rooftop and also within the courtyard communal open space area along the northern and western boundaries.
132. The proposed excavation of the site is for the purposes of providing two (2) levels of basement for car parking. The excavation is consistent with that required for most new developments of this density and scale.

Built Environment

133. The proposed redevelopment will provide for the urban renewal of a large, consolidated site within the Kogarah North Precinct that will contribute positively to the building stock within the area with a harmonious built form. The siting, scale, bulk, and massing of the development is generally consistent with that anticipated for the site and the planning controls for the site and represents an appropriately designed development which will contribute positively to the character of the area.

134. The building has introduced a highly modulated and articulated front façade treatment along the Princes Highway and Gladstone Street to create a development that will benefit the local and regional community.
135. The proposed development incorporates appropriate design elements to ameliorate potential amenity impacts to adjoining properties.

Social Environment

136. The proposed development is of a scale and form that is consistent with modern developments which is unlikely to result in adverse social impacts.

Economic Environment

137. The proposed development will have no adverse economic impact, it will benefit in the longer term the sustainability of the Kogarah North Precinct and will in the immediate term contribute to maintaining jobs in the construction industry.
138. The proposed development will provide temporary employment through the construction of the development. In addition, the proposal will restore and increase employment associated with the use of the site.

Suitability of the Site

139. 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, REFERRALS AND THE PUBLIC INTEREST

140. The application was advertised for a period of fourteen (14) days between 17 February 2022 and 3 March 2022 in accordance with the Georges River Development Control Plan and the Georges River Council Community Engagement Strategy notification criterion. Three (3) submissions were received.
141. The application was re-advertised for a period of twenty-eight (28) days between 24 March 2022 and 21 April 2022 in accordance with the Georges River Development Control Plan and the Georges River Council Community Engagement Strategy notification criterion. Five (5) submissions were received.
142. Amended Plans were submitted, the application was re-advertised for a period of fourteen days between 8 September 2022 and 22 September 2022 in accordance with the Georges River Development Control Plan and the Georges River Council Community Engagement Strategy notification criterion. One (1) submission was received.

143. A total of nine (9) submissions were received throughout the three (3) notification periods.

Note: Of the nine (9) submissions received:

- (b) Three (3) submissions were received from the same person or on behalf of the same person. A submission was received in all 3 notification periods.
- (c) Two (2) submissions were received from the same person on behalf of the same property. A submission was received in the first and second notification periods.
- (d) Two (2) submissions were received from the same organisation on behalf of the same property. A submission was received in the first and second notification periods.
- (e) Two (2) single submissions were received. Both these submissions were received in the second notification period.

The concerns raised are summarised below:

- *Traffic issues, increase congestion and conflicts generated.*

Comment: Increased traffic congestion around the development site and other connecting roads are raised as concerns by a resident within the Kogarah area. It is inevitable that the proposal will increase traffic volumes, in particular Gladstone Street, particularly during the peak hour traffic periods. However, given that the proposal complies with the maximum total permitted floor space across the site, such traffic generation is considered reasonable and consistent with what was envisaged when the precinct was up-zoned. Notwithstanding, the proposal is consistent with that anticipated for the site under the planning controls.

The development complies with the carparking required for the development enabling all those, living, working and accessing the uses in the future can be accommodated within the confines of the development.

- *The bulk and scale is out of scale with the existing streetscape and the proposal is an overdevelopment.*

Comment: The bulk and scale of the proposed development has been raised as a concern. This area has been up-zoned and permits a building of a height up to 33m and a FSR of 4:1. The bulk and scale of the building is consistent with the control for the R4 High Density Residential zoning, and the envelope and form envisaged by the up-zoning. 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 and denser buildings being constructed, some currently being constructed and others approved for redevelopment or currently under assessment.

- *Concern was raised that the ground floor premises would be used as a small bar*

Comment: The first use of the ground floor premises would be subject to an application and any use would be subject to approval.

- *Concern was raised that the proposed development will isolate the sites at 32 and 34 Gladstone Street*

Comment: The applicant has demonstrated through a series of plans that the subject sites can be developed and are therefore not isolated. Notwithstanding this, the applicant has made offers to purchase these properties on numerous occasions, the most recent only several months ago to no avail.

- *Odour from waste storage area.*

Comment: The bin holding area is an enclosed area and is only used for the temporary holding of bins for collection. The waste storage rooms for the development are located within enclosed rooms in the basement.

- *Remediation of site.*

Comment: Appropriate conditions of consent will be imposed requiring that the site be remediated in accordance with the remedial action plan.

- *Concern about overlooking into the nearby school from the development.*

Comment: The development site does not adjoin the school and is located to the south-east of the school providing some separation from the school. Serviced apartments are located on the lower levels of the building and diagrams provided by the applicant indicate that these serviced apartments will be obstructed by the proposed landscaping and other structures. In addition, privacy screens are to be provided to the western side of the balconies for the north-western corner apartments and also privacy vertical louvres have been provided to the Level 2 serviced apartments. This concern has been appropriately resolved.

- *Impact on school enrolment.*

Comment: This is not a matter for consideration under the assessment of this application.

- *Traffic management during demolition, construction and operation.*

Comment: Appropriate conditions of consent will be imposed requiring that a construction management plan be provided addressing these matters.

- *Noise and dust pollution.*

Comment: Appropriate conditions of consent will be imposed requiring that the building employ suitable noise and dust measures to minimise impacts upon neighbouring properties.

- *Overshadowing.*

Comment: The shadow diagrams submitted indicate that compliance with the minimum requirements will be achieved.

- *The proposal does not comply with the maximum Building Height permitted.*

Comment: The proposal although non-complaint with the maximum building height, the areas that are non-compliant relate to the lift over run, architectural roof feature, fire stairs and associated services used in conjunction with the rooftop communal open space. A clause 4.6 objection has been submitted in support of this variation and this has been supported for the reasons outlined in detail earlier in this report.

- *Impact on the heritage item at 53-57 Princes Highway.*

Comment: Council's Heritage Advisor has reviewed the proposal and is satisfied that the proposal will not have an adverse impact on the listed item.

Application Referrals

144. The application was referred to a number of external agencies and internal officers for comment as follows:

Council Referrals

Development Engineer

145. Council's Development Engineer has reviewed the proposal. Conditions of development consent have been imposed.

Traffic Engineer

146. The DA was referred to Council's Traffic Engineer. Council's Traffic Engineer has raised no objection to the proposal subject to suitable conditions of development consent.

Assets and Infrastructure

147. Council's Assets and Infrastructure Section reviewed the proposed development in relation to public domain works and raised no objection to the proposal subject to suitable conditions of development consent. The condition would require a public domain plan to be lodged and approved by Council's Assets and Infrastructure Division prior to the issue of the Construction Certificate. As part of these conditions the applicant is to discuss the layout for public domain works with Council's Assets and Infrastructure staff prior to preparing designs. This public domain plan will also include the area of the accessway to the north of the subject site that connects the Princes Highway to Gladstone Street.

Senior Landscape & Arboriculture Assessment Officer

148. Council's Senior Landscape & Arboriculture Assessment Officer has reviewed the landscape plan and arborist report submitted with the application. Appropriate conditions have been imposed.

Urban Designer

149. Council's Urban Designer has reviewed the proposal and provided detailed comments on the revised proposal. The concerns raised have been addressed via revised plans and the applicant has also made

comments as to why the request for further amendments cannot be accommodated.

Waste Development Officer

150. The application was referred to Council's Waste Development Officer for assessment and review. The Waste Development Officer has advised that the proposed arrangements for ongoing waste management are acceptable and have provided conditions of development consent.

Environmental Health Officer

151. Council's Environmental Health Officer has reviewed the Detailed Site investigation Report, the Remedial Action Plan and the Noise Impact Assessment Report and raised no objection to the proposal subject to conditions of consent.

Heritage Consultant

152. The application was referred to Council's Heritage Consultant as the subject site is within the vicinity of 'St Paul's Anglican Church and Hall', which is an item of heritage significance, listed on Schedule 5 of the *Georges River LEP 2021*.

Council's Heritage Consultant advised that overall, the proposed development is considered to have an acceptable impact on the adjoining heritage item. Conditions of consent were also recommended and have been included within the draft conditions.

External Referrals

Ausgrid

153. The application was referred to Ausgrid in accordance with Clause 2.48 of State Environmental Planning Policy (Transport and Infrastructure) 2021. Comments were received from Ausgrid on 4 March 2022 and they have raised no objection to the proposed development. No conditions were recommended.

Department of Infrastructure, Transport, Regional Development, Communications and the Arts, Flysafe, Sydney Airport, and CASA (Civil Aviation Safety Authority)

154. The application is supported subject to specific conditions relating to the height limitation for the building and any construction equipment (such as cranes). The building must not exceed a maximum height of 52.9 metres AHD, inclusive of all lift over runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues etc." The application does not exceed this criterion.

NSW Police

155. The proposal was referred to NSW Police for comment. No objection is raised subject to conditions provided.

Water NSW

156. The application is supported with general terms of approval issued. It is noted that a separate approval is required to be issued by WaterNSW prior to the release of the construction certificate.

TfNSW (RMS)

157. The application was referred to TfNSW (RMS) in accordance with Clause 2.118, 2.119 and 2.121 of State Environmental Planning Policy (Transport and Infrastructure) 2021. A formal response was provided, concurrence was obtained subject to the imposition of conditions if the application was to be supported. These conditions are contained within the recommended conditions at the end of this report.

Developer Contributions

158. The proposed development if approved would require the payment of developer contributions under Section 7.11 of the Environmental Planning and Assessment Act 1979 as the proposal is increasing the density of the locality. Conditions of development consent have been recommended should the application be supported.

Conclusion

159. The proposal seeks consent for demolition of existing structures, remediation, and construction of a 10 storey mixed use development containing 106 residential apartments, 112 serviced apartments and ancillary hotel areas including conference rooms, pre function room, restaurant, commercial kitchen, gym and café, 1 x shop and 1 x neighbourhood shop above two (2) basement levels and tree removal on Lot 1 DP 732187, Lots 131 and 132 DP 602573 and Lot 7, Lot 8, Lot 11, Lot 12 and Lot 14 DP 5655 and known as 36 & 38 Gladstone Street and 59 – 69 Princes Highway, Kogarah.
160. The development is identified as Integrated development under the Water Management Act 2000 due to the excavation encountering groundwater and requiring approval from WaterNSW. General terms of approval have been obtained from WaterNSW.
161. The proposal has been assessed in accordance with Section 4.15 (1) of the Environmental Planning and Assessment Act, 1979. As discussed throughout this report, the proposal is considered a form of development which is compatible with its surrounding environment. The proposal is not considered to exacerbate physical environmental impact to the adjoining and immediate locality. In addition, it is considered that the proposed is within character and is capable of existing harmoniously with its surroundings.
162. The proposal satisfies the key planning controls in the Georges River Local Environmental Plan apart from Clause 4.3 Height of Buildings development standard. A Clause 4.6 Statement has been submitted with the application justifying the variation in this case the variation is considered to be unreasonable and unnecessary in the circumstances of

this case and sufficient environmental planning grounds have been demonstrated to contravene the control in this instance.

163. The proposed development design satisfies the objectives of both the Building Height Development control and the zone objectives for the site and the Clause 4.6 Statement and is considered to be well founded and in the public interest as there will not be any direct or adverse environmental impacts generated by the variation sought. The proposal satisfies the objectives and requirements of Clause 4.3 of the Georges River Local Environmental Plan 2021.
164. Operationally, the proposal will not result in any unreasonable impacts on the amenity of adjoining properties subject to conditions of consent as recommended below.
165. The application is recommended for approval subject to conditions

DETERMINATION AND STATEMENT OF REASONS

166. Statement of Reasons

- The development proposed is permissible in the R4 zoned land.
- The proposed development is not considered to be incompatible with surrounding development and surrounding land uses.
- The proposed development complies with the requirements of the relevant environmental planning instruments except in the height of the development. Clause 4.6 exception has been submitted in support of the application which is considered to be acceptable having regard to the justification provided in the report above.
- The building will not unreasonably affect the amenity of any immediately adjoining properties in terms of unreasonable overlooking, privacy, overshadowing or view loss.
- The proposed development is well considered and sensitively designed so that it will not result in any unreasonable impact on the natural and built environment.
- The proposed development is not considered incompatible with the character of the locality and is capable of existing harmoniously with its surroundings.
- The proposed development is located within the Kogarah North Precinct and is consistent with the desired future character of the precinct by providing a high-density mixed use building to define the southern part of the precinct.

DETERMINATION

167. THAT the Sydney South Planning Panel, as the consent authority, support the request for variation under Clause 4.6 of Georges River Local Environmental Plan 2021, in relation to the Height of Buildings (Clause 4.3) as the variation sought is considered to be well founded and in the public interest as there will not be any direct or adverse environmental impacts generated by the variation sought.

168. THAT pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended) the Sydney South Planning Panel grants consent to DA2022/0039 for demolition of existing structures, remediation, and construction of a 10 storey mixed use development containing 106 residential apartments, 112 serviced apartments and ancillary hotel areas including conference rooms, pre function room, restaurant, commercial kitchen, gym and café, 1 x shop and 1 x neighbourhood shop above two (2) basement levels and tree removal, the application is integrated development under the Water Management Act 2000, on Lot 1 DP 732187, Lots 131 and 132 DP 602573 and Lot 7, Lot 8, Lot 11, Lot 12 and Lot 14 DP 5655 and known as 36 & 38 Gladstone Street and 59 – 69 Princes Highway, Kogarah, subject to the following conditions:

Conditions of consent

1. **Approved Plans** - The development must 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	DA-000	16.09.2022	C	PBD Architects
Area Schedule & Project summary	DA-001	30.11.2022	E	PBD Architects
Demolition Plan	DA-002	03.09.2021	A	PBD Architects
Nathers Certificate	DA-003	05.12.2022	B	PBD Architects
BASIX requirement	DA-004	05.12.2022	B	PBD Architects
BASIX requirement	DA-005	05.12.2022	B	PBD Architects
BASIX requirement	DA-006	05.12.2022	B	PBD Architects
Site Plan	DA-011	15.07.2022	B	PBD Architects
Site Analysis	DA-012	18.07.2022	B	PBD Architects
Basement 2 Plan	DA-080	18.07.2022	B	PBD Architects
Basement 1 Plan	DA-090	26.10.2022	C	PBD Architects

Ground Floor Plan	DA-100	18.11.2022	F	PBD Architects
Level 1 Plan	DA-101	18.11.2022	D	PBD Architects
Level 2 Plan	DA-102	18.11.2022	D	PBD Architects
Level 3 Plan	DA-103	18.11.2022	E	PBD Architects
Level 4-7 Plan	DA-104	18.11.2022	E	PBD Architects
Level 8	DA-108	18.11.2022	E	PBD Architects
Level 9	DA-109	18.11.2022	C	PBD Architects
Roof Plan	DA-109	18.11.2022	D	PBD Architects
East Elevation	DA-200	16.09.2022	C	PBD Architects
South Elevation	DA-201	16.09.2022	C	PBD Architects
North Elevation	DA-202	16.09.2022	C	PBD Architects
West Elevation	DA-203	16.09.2022	C	PBD Architects
North West Elevation	DA-204	05.12.2022	A	PBD Architects
Section A	DA-300	18.11.2022	D	PBD Architects
Section B	DA-301	16.09.2022	C	PBD Architects
Typical Floor to Floor section	DA-302	26.09.2022	A	PBD Architects
Ramp Section (1 of 2)	DA-310	03.09.2021	A	PBD Architects
Ramp Section (2 of 2)	DA-311	03.09.2021	A	PBD Architects
Street Entry Section	DA-320	18.07.2022	B	PBD Architects
Material Schedule	DA-400	18.07.2022	B	PBD Architects
Photomontage 01	DA-401	03.09.2021	A	PBD Architects
Photomontage 02	DA-402	03.09.2021	A	PBD Architects
Photomontage 03	DA-403	03.09.2021	A	PBD Architects
Photomontage 04	DA-404	25.07.2022	A	PBD Architects

Princes Highway				
Photomontage 04 Gladstone Street	DA-404	25.07.2022	A	PBD Architects
GFA Diagrams (sheet 1 of 2)	DA-500	10.11.2022	C	PBD Architects
GFA Diagrams (sheet 2 of 2)	DA-501	10.11.2022	E	PBD Architects
Privacy sightline to school playground	DA-512	18.07.2022	B	PBD Architects
Public Art opportunities	DA-515	05.10.2022	C	PBD Architects
Excavation Diagram	DA-530	05.12.2022	B	PBD Architects
Deep Soil Diagram	DA-560	30.11.2022	D	PBD Architects
Communal Open Space Diagram	DA-561	30.11.2022	D	PBD Architects
Storage Diagrams	DA-565	18.07.2022	B	PBD Architects
Storage Diagram	DA-566	18.07.2022	B	PBD Architects
Height Plane Diagram	DA-630	18.07.2022	B	PBD Architects
Height Plane Diagram (sheet 2 of 2)	DA-631	18.07.2022	B	PBD Architects
Height Plane Diagram to 2.7m	DA-632	16.09.2022	A	PBD Architects
Adaptable Unit – Type A	DA-700	18.07.2022	B	PBD Architects
Adaptable Unit – Type B	DA-701	18.07.2022	B	PBD Architects
Window Schedule East	DA-800	18.07.2022	B	PBD Architects
Window Schedule South	DA-802	18.07.2022	B	PBD Architects
Window Schedule West	DA-803	18.07.2022	B	PBD Architects
Window Schedule North	DA-804	18.07.2022	B	PBD Architects

Landscape Plan Site Plan and public domain plan	LPDA22-026 Sheet 1	18.8.2022	H	Conzept Landscape Architects
Landscape Plan Ground Floor	LPDA22-026 Sheet 2	18.8.2022	H	Conzept Landscape Architects
Landscape Plan Level 2	LPDA22-026 Sheet 3	18.8.2022	H	Conzept Landscape Architects
Landscape Plan Level 3	LPDA22-026 Sheet 4	18.8.2022	H	Conzept Landscape Architects
Landscape Plan Level 10	LPDA22-026 Sheet 5	18.8.2022	H	Conzept Landscape Architects
Public Domain Plan 1	LPDA22-026 Sheet 6	18.8.2022	H	Conzept Landscape Architects
Public Domain Plan – Laneway	LPDA22-026 Sheet 7	10.8.2022	A	Conzept Landscape Architects
Sections	LPDA22-026 Sheet 8	18.8.2022	H	Conzept Landscape Architects
Specifications & Details	LPDA22-026 Sheet 9	18.8.2022	H	Conzept Landscape Architects
Details	LPDA22-026 Sheet 10	18.8.2022	H	Conzept Landscape Architects

Note: Any variation to the development as approved must only be undertaken in accordance with any applicable Exempt, Complying Development or an Approved Development Consent as outlined under the Environmental Planning and Assessment Act 1979.

2. **Fit out of commercial premises** - No approval is granted for the use or fit-out of any of the commercial premises. Separate Development consent for the use and fit out of each commercial tenancy is required prior to the occupation of any commercial component of the development.
3. **Signage** - A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is 'exempt development' under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* or any other applicable environmental planning instrument.

Separate Approvals Required Under Other Legislation

4. **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) New footpath paving consisting of segmental paving to be constructed for the full frontages of the site along Gladstone Street and Princes Highway, paving extents to be included in the public domain plans and are to be approved by Council's Assets and Infrastructure Department prior to the issue of the construction certificate. Paving to be consistent with Council's Public Domain Streetscape Specification document.
 - (b) The thickness and design of the driveway shall be in accordance with Council's Specifications applying at the time construction approval is sought.
 - (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in accordance with Council's Specifications for kerb and guttering, applying at the time construction approval is sought.
 - (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 applicant. The work shall be carried out in accordance with Council's specifications, applying at the time construction approval is sought. Constructing a vehicular crossing and/or footpath requires separate approval under Section 138 of the Roads Act 1993, prior to the commencement of those works.
5. **Building - Hoarding Application** Prior to demolition of the buildings on the site, or the commencement of work above ground level, a separate application for the erection of an 'A class' (fence type) or a 'B class' (overhead type) hoarding or 'C type' scaffold, in accordance with the requirements of SafeWork NSW, must be erected along that portion of the footways/roadway where the building is within 3 metres of the street boundary. An application for this work under Section 68 of the Local Government Act 1993 and the Roads Act 1993 must be submitted for approval to Council.

The following information is to be submitted with a Hoarding Application under Section 68 of the Local Government Act 1993 and Section 138 of the Roads Act 1993:

- (a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location.

- (b) Hoarding plan and details that are certified by an appropriately qualified engineer; and
- (c) The payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges (available on our website) before the commencement of work; and
- (d) A Public Risk Insurance Policy with a minimum cover of \$20 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained a copy provided to Council. The Policy is to note Council as an interested party.
- (e) Any hoarding installation along the Princes Highway frontage as part of construction, will require the hoarding application to be referred to TfNSW under section 138 of the *Roads Act 1993*.

It should be noted that any hoarding along the Princes Highway frontage shall not restrict the visibility of existing road signage (such as 'School Zone' signs) on Princes Highway

6. **Below Ground anchors Information to be submitted with S68 Application under LGA 1993 and S138 Application under Roads Act 1993** - 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 must 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. The following details must be submitted.

- (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 in accordance with Council's fees and charges. 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.

7. **Section 138 Roads Act 1993 and Section 68 Local Government Act 1993** - Unless otherwise specified by a condition of this consent, this Development Consent does not give any approval to undertake works on public infrastructure.

Separate approval is required under Section 138 of the Roads Act 1993 and/or Section 68 of 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.

An application is required to be lodged and approved prior to the commencement of any of the following works or activities;

- (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 (e.g. Opening the road for the purpose of connections to utility providers);
- (j) Stormwater and ancillary works in the road reserve;
- (k) Stormwater and ancillary to public infrastructure on private land; and
- (l) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council’s roadways/footways.

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

The relevant Application Forms for these activities can be downloaded from Council’s website www.georgesriver.nsw.gov.au. For further information, please contact Council’s Customer Service Centre on (02) 9330 6400.

8. **Road Opening Permit** - A Road Opening Permit must 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.

9. **Road Occupancy Licence (Transport for NSW Condition)**- A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Princes Highway during demolition and construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

Requirements of Concurrence, Integrated & Other Government Authorities

10. **Transport for NSW** – The proposed development shall be carried out in accordance with the requirements as detailed in their concurrence letter Ref No SYD22/00143/01 dated 22 February 2022.
11. **Siting of Buildings and Structures – (Transport for NSW condition)**
- All buildings and structures, together with any improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth), along the Princes Highway boundary.
12. **No Stopping zone (Transport for NSW condition)** - A “No Stopping” zone shall be erected along the full length of the Princes Highway frontage of the site. All costs associated with the signage are to be at no cost to TfNSW.
13. **Road Traffic Noise requirements (Transport for NSW condition)** - The proposed development should be designed such that road traffic noise from Princes Highway is mitigated by durable materials in order to satisfy the requirements for habitable rooms under clause 2.120 (3) of *State Environmental Planning Policy (Transport and Infrastructure) 2021*.
14. **Detailed drainage design plans (Transport for NSW Condition)** - Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to development.sydney@transport.nsw.gov.au

A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.

15. **Design drawings for excavation (Transport for NSW Condition)** - The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2020/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by TfNSW. Please send all documentation to development.sydney@transport.nsw.gov.au.

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

16. **Approval from WaterNSW-** The GTA issued by WaterNSW does not constitute an approval under the Water Management Act 2000. The development consent holder must apply to WaterNSW for a Water Supply Work approval after consent has been issued by Council and before the commencement of any work or activity.

A completed application form must be submitted to WaterNSW together with any required plans, documents, application fee, and proof of Council's development consent.

Application forms are available from the WaterNSW website at: www.waternsw.com.au > Customer Services > Applications & Fees.

Notes

- (a) An extraction limit will be determined by the Department of Planning, Industry and Environment following a further hydrogeological assessment and included on the conditions applied to the authorisation for the dewatering activity.
 - (b) Detailed information required to permit the hydrogeological assessment to be carried out is to be provided by the applicant otherwise the issue of the authorisation will be subject to delay. The Minimum requirements for building site groundwater investigations and reporting (DPIE, 2021) identify what data needs to be collected and supplied.
 - (c) The authorisation will be issued for the purpose of temporary construction dewatering only and it does not constitute any form of approval for ongoing pumping of groundwater from basement levels after the building is issued an occupation certificate.
17. **WaterNSW General Terms of Approval-** The General Terms of Approval issued by WaterNSW do not constitute an approval under the Water Management Act 2000. The development consent holder must apply to WaterNSW for the relevant approval after development consent has been issued by Council and before the commencement of any work or activity.

Dewatering

- i. Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the

- construction phase of the development and not for any dewatering that is required once construction is completed.
- ii. Before any construction certificate is issued for any excavation under the development consent, the applicant must:
 1. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and
 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity Advisory Note:
 3. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity.
 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force
 - iii. A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes:
 1. This approval is not a water access licence.
 2. A water year commences on 1 July each year.
 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW.
 4. Note that certain water sources may be exempted from this requirement - see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.
 - iv. If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must:
 - (a) record water taken for which the exemption is claimed, and
 - (b) record the take of water not later than 24 hours after water is taken, and
 - (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and
 - (d) keep the record for a period of 5 years, and
 - (e) give the record to WaterNSW either via email to Customer.Helpdesk@waterNSW.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124
 - (i) not later than 28 days after the end of the water year (being 30 June) in which the water was taken, or
 - (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.

- v. All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
- vi. The design and construction of the building must prevent:
 - (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation;
 - (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and
 - (c) any elevated water table from rising to within 1.0 m below the natural ground surface.
- vii. Construction phase monitoring bore requirements GTA:
 - a) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW.
 - b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application.
 - c) The monitoring bores must be installed and maintained as required by the water supply work approval.
 - d) The monitoring bores must be protected from construction damage.
- viii. Construction Phase Monitoring programme and content:
 - a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW):
 - i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW.
 - ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater;
 - iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW;

- iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories.
- b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme).
- ix. (a) Prior to the issuing of the occupation certificate, and following the completion of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW.
(b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW):
1) All results from the Approved Monitoring Programme; and
2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website.
c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website www.waternsw.com.au/customer-service/water-licensing/dewatering.
- x. The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual.
- xi. Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- xii. This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.

- xiii. The following construction phase monitoring requirements apply (Works Approval):
 - a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW.
 - b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme).
 - c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report.
- 18. **Utility Arrangements** - Arrangements are to be made with utility authorities in respect to the services supplied by those authorities to the development. The owner shall 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
- 19. **Electricity Supply to development** - All existing overhead power lines within or at the immediate street frontage to the development site shall be relocated underground to Energy Australia standards and specifications. If not practicable to relocate the power line underground, arrangements shall be made with Energy Australia to place the conduit to carry those power lines underground so that they can be utilised at a later date by Energy Australia. In this regard all associated costs shall be borne by the applicant
- 20. **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.
- 21. **Sydney Water - Tap in™** - The approved plans must be submitted to a Sydney Water Tap in™ 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 in™ agent has appropriately stamped the plans prior to the issue of the Construction Certificate.
- 22. **Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements of what will eventually be required when issuing a Section 73 Compliance Certificate under the Sydney Water Act 1994 <http://legislation.nsw.gov.au/> must be obtained from Sydney Water

Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the 'Plumbing, building and developing' section of the web site www.sydneywater.com.au <http://www.sydneywater.com.au> then refer to 'Providers' under 'Developing' or telephone 13 20 92 for assistance.

Following application, a 'Notice of Requirements' will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, as it can take some time to build water/sewer pipes and this may impact on other services and building, driveway or landscape design.

The Notice of requirements must be submitted prior to the commencement of work. A Section 73 Compliance Certificate will be required at the completion of development in accordance with further conditions.

23. **Department of Infrastructure, Transport, Regional Development, Communications and the Arts** - In accordance with The Airports (Protection of Airspace) Regulations 1996, regulation 14(1) (b), by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts imposes the following conditions on any approval:

- The building **must not exceed** a maximum height of **52.9 metres AHD, including** all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any rooftop garden plantings, exhaust flues etc.
- Separate approval must be sought under the Regulations for any equipment (e.g. cranes, concrete pumps) required to construct the building. Construction cranes or concrete pumps 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 (e.g cranes, concrete pumps) be obtained prior to any commitment to construct.
- The proponent must advise Airservices Australia at least three business days prior to the controlled activity commencing by emailing ifp@airservicesaustralia.com and quoting YSSY-CA-589 P2.
- On completion of construction of the building, the proponent must provide SACL with a written report from a certified surveyor on the finished height of the building.
- A separate assessment and approval under the Regulations will be required for any further addition to the height of the building (including the installation of antennas) as it will increase the penetration of the OLS.

Breaches of approval conditions are subject to significant penalties under Sections 185 and 187 of the Act.

Prior to the Issue of a Construction Certificate

24. **Communal Open Space** - A Plan of Management (POM) for use of the rooftop open space for Block A and Block B must be submitted to and approved by the PC prior to the issue of any Construction Certificate, with a copy stamped as received by the PC provided to Council. The POM must outline the:

- hours of use of the rooftop communal open space which shall be restricted to between 8am to 10pm;
- maximum number of 50 users for Block A and 50 users for Block B at any one time;
- provisions that no amplified music to be played; and
- identify other measures to ensure that the amenity and safety of persons within the development and in nearby existing and future development is maintained.
- Location and type of signage to be installed in the building to notify residents and visitors in respect to the use of this space.
- The approved POM shall be incorporated into the Owners Corporation by-laws in any future Strata subdivision and a sign in the front entry of the building shall be included to ensure the use of this space is monitored and understood by all occupants.

The development must be carried out in accordance with this POM at all times.

25. **Public Domain Plans** – New kerbing is to be provided across the full frontage of the site in Gladstone Street and Princes Highway, all redundant crossings are to be removed and reinstated with Council's standard kerb and gutter.

New footpath paving consisting of segmental paving to be detailed in public domain plans which are to be submitted to Council for approval prior to the issue of a construction certificate. Paving area is to be consistent with Council specifications.

The applicant is required to submit Public Domain Plans which are to consist of full civil engineering drawings to Australian Standards. These plans are to be inclusive of new kerbing long sections, cross sections, driveway, drainage, paved footpath, landscape and tree pits and in accordance with Council's "Public Domain Streetscape Works Specification."

The Public Domain works shall be constructed in accordance with the approvals and specifications issued under the "Application for Driveway Crossing and Associated Works on Council Road Reserve" Roads Act 1993 Section 138 Approval issued by Council's Assets and Infrastructure Division. Applications to be made at the Georges River Council Customer Service Centre.

The Plan must be approved by Council's Assets and Infrastructure Division prior to issue of Construction Certificate. In this regard it is recommended the applicant liaise with Council's Assets and Infrastructure staff prior to preparing the public domain works design criterion.

A private contractor shall carry out the above work, at the expense of the applicant and in accordance with the approved Specifications for works.

The driveway and frontage works are to be completed before the issue of the Occupation Certificate.

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

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

Please contact Council prior to the payment of Section 7.11 Contributions to determine whether the amounts have been indexed from that indicated below in this consent and the form of payment that will be accepted by Council.

Council will only accept Bank Cheque or Electronic Funds Transfer (EFT) for transaction values of \$500,000 or over. Council must 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	\$187,624.80 (Calculation is based on \$1236 per metre of street frontage as follows: Princes Highway – 94.85m Gladstone Street – 56.95m)
Inspection Fee for Refund of Damage Deposit	\$742.00

DEVELOPMENT CONTRIBUTIONS	
Plan Administration	\$18,965.03
Community Centres	\$120,309.12
Early Learning Centres	\$35,550.57
Library Buildings	\$76,724.43
Library Resources	\$15,063.56
Recreational Facilities	\$122,116.32
Open Space Acquisition	\$694,213.78
Open Space Embellishment	\$477,397.57
Public Domain	\$80,314.34
Active Transport	\$13,664.35
Roads and Intersections	\$24,515.72
Function Centre	\$4,398.39
Food and Drink	\$18,197.00
Shops	\$6,624.28
Total 7.11 Contributions	\$1,708,054.46

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

The Section 7.11 contribution is imposed to ensure that the development makes adequate provision for the demand it generates for public amenities and public services within the area.

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 must be paid and receipted by Council prior to the release of the Construction Certificate.

Further Information

A copy of the *all current Development Contributions Plans* may be inspected or a copy purchased at Council's offices (Georges River Civic Centre, MacMahon Street, Hurstville and Kogarah Library and Service Centre, Kogarah Town Square, Belgrave Street, Kogarah) or viewed on Council's website www.georgesriver.nsw.gov.au.

27. **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: **\$187,624.80**
(Not inclusive of drainage works).

- (b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee (for two inspections) to enable assessment of any damage and repairs where required: **\$742.00**
- (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.

- 28. **Low reflectivity roof** - Roofing materials must be low glare and reflectivity. Details of finished external materials including colours and texture must be provided to the Certifying Authority.
- 29. **Acoustic requirements for timber flooring** - If timber flooring is installed within the development, then appropriate insulation between floors shall be implemented to exceed the minimum sound attenuation
- 30. **Wind Mitigation Report** - The recommendations in the Wind Assessment Report Project No 17113 prepared by CPP Pty Ltd Wind Engineering Consultants and dated 2 August 2022 shall be included as part of the Construction Certificate Plans.
- 31. **Driveway access/sight lines** - Driveway access to comply with figure 3.3-Minimum Sight Lines for Pedestrian Safety as per AS 2890.1:2004 of the Australian Standard for off-street car parking. Figure 3.3 specifies the minimum sight lines for pedestrian safety along a circulation driveway or domestic driveway.

Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distance requirements stipulated in the *Australian Standards AS2890.1*

In the instance of multi storey car park and to prevent vehicles from running over the edge of a raised platform or deck of a multi-story car park, barriers in accordance with AS2890.1:2004 section 2.4.5.3 need to be installed.

32. **SEPP 65 Design Verification Statement** - A design verification statement, prepared by a qualified designer, shall be submitted to the Certifying Authority 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 Apartment Development
33. **Pre-Construction Dilapidation Report - Private Land** - A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises including but not limited to:
- All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.
 - Affected properties along access laneway
 - Properties along Gladstone Street adjacent to the development site.

The report shall be prepared at the expense of the applicant and submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

A copy of the pre-construction dilapidation report is to be provided to the adjoining properties (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 PC.

Should the owners of properties (or their agents) refuse access to carry out inspections, after being given reasonable written notice, this shall 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.

34. **Stormwater System-** The submitted stormwater plans as described in the table below have been assessed as a concept plan only.

Description	Reference No.	Date	Revision	Prepared by
Cover Sheet	SW100	11.08.2022	C	SGC Consulting Engineers
Basement 2 Plan – sheet 1 of 2	SW200	11.08.2022	C	SGC Consulting Engineers
Basement 2 Plan - sheet 2 of 2	SW201	11.08.2022	C	SGC Consulting Engineers

Ground floor Plan sheet 1 of 2	SW202	11.08.2022	C	SGC Consulting Engineers
Ground floor Plan sheet 2 of 2	SW203	11.08.2022	C	SGC Consulting Engineers
Roof Plan sheet 1 of 2	SW204	11.08.2022	C	SGC Consulting Engineers
Roof Plan sheet 2 of 2	SW205	11.08.2022	C	SGC Consulting Engineers
Details sheet 1 of 2	SW300	11.08.2022	C	SGC Consulting Engineers
Details sheet 2 of 2	SW301	11.08.2022	C	SGC Consulting Engineers
Erosion and Sediment Control Plan	SW400	11.08.2022	C	SGC Consulting Engineers
Music Catchment plan and results	SW500	11.08.2022	C	SGC Consulting Engineers

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.

- i. All stormwater shall drain by gravity to the Council's kerb inlet pit located in Gladstone Street in accordance with the Australian Standard AS/NZS 3500.3: 2015 (as amended).
- ii. 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.
- iii. Details of all the drainage works within the public domain area must be submitted to Council's Assets and Infrastructure unit for approval.

Stormwater Systems with Basement

- iv. The underground basement car park must pump to and all other stormwater must drain by gravity to:
 - (a) the upper level OSD tank.

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.

Protection of basement from inundation of stormwater waters

- v. The construction of the building shall be designed to conform to the recommendations and conclusions of Geotechnical Site Assessment Report dated 24/11/2020 by Shanko in regard to the protection of the underground basement from possible inundation by surface waters.
 - vi. 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.
35. **On Site Detention-** The 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 onsite detention (OSD) facility designed by a professional engineer who specialises in Hydraulic engineering must be designed, approved and installed.

The required OSD storage requirements and permissible discharge are to be calculated in accordance with Table 3 of Council's Stormwater Management Policy.

Overflow from the OSD tank must directed to the street drainage system.

The OSD facility shall be designed to meet all legislated safety requirements and child proof 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.

36. **Detailed Stormwater Drainage Design** - The submitted stormwater plans has been assessed as a concept plan only. A detailed drainage design supported by a catchment area plan and drainage calculations (including a Hydraulic Grade Line Analysis) must be submitted with the Construction Certificate application.

37. **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 of 20.0 cubic meter 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) Any drainage disposal to the street gutter from a pump system must have a stilling sump provided at the property line, connected to the street gutter by a suitable gravity line.

Details and certification of compliance from a professional engineer specialising in civil engineering shall be provided for approval with the Construction Certificate application.

38. **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 (1987) and Council's Stormwater Management Policy.

39. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 1235269M-03 dated 18 August 2022 prepared by Certified Energy 1 must be implemented on the plans lodged with the application for the Construction Certificate.

40. **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.

41. **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.

42. **Stormwater Drainage Application** - This Development Consent does not give approval to undertake works on public infrastructure. A separate approval of a Stormwater Drainage Application is required under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993 to undertake:

- (i) Stormwater & ancillary works in the road reserve. This includes connections to council.
- (ii) Stormwater & ancillary to public infrastructure on private land

The Stormwater Drainage Application approval must be obtained and evidence of the approval provided to the Certifying Authority prior to the issue of the Construction Certificate.

The Application Form for this activity can be downloaded from Council's website www.georgesriver.nsw.gov.au. For further information, please contact Council's Customer Service Centre on (02) 9330 6400.

43. **Design Plans for kerb and gutter (Transport for NSW Condition)** - The redundant driveway on the Princes Highway boundary shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Princes Highway shall be in accordance with TfNSW requirements. Details of these requirements should be obtained by email [to developerworks.sydney@transport.nsw.gov.au](mailto:developerworks.sydney@transport.nsw.gov.au).

Detailed design plans of the proposed kerb and gutter are to be submitted to TfNSW for approval prior to the issue of a construction certificate and commencement of any road works. Please send all documentation to development.sydney@transport.nsw.gov.au.

A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved road design plans by TfNSW.

44. **Construction Pedestrian Traffic Management Plan (CPTMP) (Transport for NSW Condition)** - A Construction Pedestrian Traffic Management Plan (CPTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a construction certificate.
45. **Worksite traffic and pedestrian control** – Traffic and pedestrian control shall be in accordance with TfNSW *Traffic Control at Works Sites* – Technical Manual version 6.1.
46. **Driveway width** – The width of the loading dock and resident car park driveways shall not exceed 6m at the property boundary.
47. **Gutter Invert Levels – Gladstone Street** – There shall be no changes to the level of the Council's gutter invert on Gladstone Street without the prior and written approval from Officers in Council's Assets and Infrastructure Department.
48. **Construction vehicle and pedestrian plan of management** - Prior to the issuing of a Construction Certificate, a Construction Vehicle and Pedestrian Plan of Management (CVPPM) shall be submitted to Council for the approval of Council's Senior Traffic and Parking Assessment Officer. The CVPPM shall be prepared for the various stages of the development and include, but not be limited to, the following:
 - Details of the scope of works to be undertaken during the demolition, excavation, construction stages etc., and the duration of each.
 - Indicate the consent approved hours of work.
 - Identify the routes to be travelled within the Council area for trucks travelling to and from the site.
 - Identify other developments occurring concurrently in the area including those within the street and up to 500m from the site. The developer/builder shall liaise fortnightly with other identified developers/builders to minimize any cumulative traffic impacts.
 - Include a plan showing the location of any schools, preschools and long day care centres within 200m of the site.
 - Detail the number of and where construction worker vehicles will be parked during the various stages of the development.
 - Identify any proposed temporary road closures, temporary changes to traffic flow and loss of pedestrian or cyclist access likely to occur as a result of works being undertaken during the various work stages.
 - Detail the size (including dimensions), number and frequency of trucks movements to and from the site during the various stages of work.
 - Include copies of all required Traffic Control Plans (TCPs). All TCPs shall be prepared by RMS accredited persons.
 - Provide swept wheel path drawings for the different types of vehicles accessing the site. The swept wheel path drawings:

- Are required to confirm truck movements into and out of the site associated with the various stages of development will not damage public or private infrastructure/property.
- Are required to confirm truck movements into and out of the site can be carried out without a loss of on street vehicle parking spaces either in close proximity to or removed from the site.
- Shall be prepared by a suitably qualified and experienced traffic engineering consultant.
- Show the location and length of any proposed Works Zones including any adjustments required to Council's infrastructure, parking control signs etc. to implement the zones.
NOTE: Works Zones require the approval of the Georges River Council Traffic Committee prior to installation.
- Show the locations of where it is proposed to stand trucks remote from the site should they be unable on arrival to immediately enter the site or an approved Works Zone. Double parking, parking in NO STOPPING/NO STANDING zones or across neighboring property driveways is not permitted.

NOTE: A copy of the approved CVPPM must be kept at the site and made available to the Principal Certifying Authority or Council on request:

49. **Car parking layout (Transport for NSW Condition)** - The layout of the proposed car parking 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 2890.2-2018 for heavy vehicle usage.
50. **Bicycle parking (Transport for NSW Condition)** - Bicycle Parking should be provided in accordance with AS2890.3.
51. **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 PC. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or PC will then issue a Fire Safety Schedule for the building.
52. **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 shall be submitted with the Construction Certificate application.**

53. **Slip Resistance** - All pedestrian surfaces in areas such as foyers, public corridors, common areas, stairs and ramps as well as floor surfaces in all wet rooms including in any residential units must 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, must comply with AS/NZS4586:2013 - Slip Resistance Classifications of New Pedestrian Materials and must be detailed on the plans lodged with the application for the Construction Certificate.
54. **Access for Persons with a Disability** - Access and or sanitary facilities for persons with disabilities must be provided to the premises/building 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 for approval.

In regard to the above, pedestrian access throughout basement levels shall be highlighted and sign posted to safeguard access and egress.

In the event that full compliance cannot be achieved the services of an accredited access consultant is to be obtained to determine alternative methods of compliance, such a report must be submitted to and endorsed by the Principal Certifier prior to the issue the construction certificate.

55. **Acoustic Requirements**

Compliance with submitted Acoustic Report

The Construction Certificate plans shall demonstrate compliance with the Acoustic Report submitted and approved by Council, titled Traffic Noise Assessment prepared by Rodney Stevens Acoustics Pty Ltd dated 21 November 2021.

Acoustic Report - General Operation of Premises

The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 (as amended) and Regulations.

An Acoustic Report shall be prepared by a suitably qualified acoustic consultant demonstrating that the operation of the premises and plant equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background LA90, 15 min noise level, measured in the absence of the noise sources under consideration by more than 5dB. The source noise level shall be assessed as an LAeq, 15 min in accordance with the NSW Environment Protection Authority's NSW Industrial Noise Policy.

56. **Regulated system – Details and Fit out** - Details of the regulated system (cooling towers and warm water system) must be submitted to the PC for approval. Such details must demonstrate compliance with the following:

- (a) Public Health Act 2010 (as amended).
- (b) Public Health Regulation 2012 (as amended).
- (c) AS/NZS 3666.1:2002 Air-handling and water systems of buildings - Microbial Control-Design, installation and commissioning (as amended).

57. **Food Premises** - The following information shall be provided and shown on the Construction Certificate Plans:

- (a) Plans and Specifications

Details of the construction and fit out of food premises must be submitted to Council's Environmental Health Officer. The plans and specifications must demonstrate compliance with the:

- 1 Food Act 2003 (as amended)
- 2 Food Regulation 2015 (as amended)
- 3 Food Standards Code as published by Food Standards Australia
- 4 New Zealand and Australian Standard AS4674:2004 Design, Construction and fit out of food premises (as amended)
- 5 Sydney Water – trade Waste Section.

Council's Environmental Health Officers' must advise in writing that the plans and specification are considered satisfactory prior to the issue of any Construction Certificate.

58. **Mechanical ventilation system** – Details of the proposed mechanical ventilation systems to be installed to service the café, restaurant and conference room must be submitted to the PC for approval prior to the issue of a construction certificate.

59. **Crime Prevention**- In line with the recommendations of the NSW Police Force, the following are to accompany the Construction Certificate application:

- (a) The development is to install Closed-Circuit Television (CCTV) cameras within and around the development. A Closed-Circuit Television plan is to be prepared in that regard.
- (b) The system must record continuously at all times.
- (c) Recordings must be in a digital format and at a minimum of ten frames per second (10 fps).
- (d) Any recorded image must specify the time and date of the recorded image.
- (e) The systems cameras must cover the following areas
 - (i) All entry and exit points on the premises
 - (ii) The footpath immediately adjacent to the premises

- (iii) All publicly accessible areas (other than toilets) within the premises.
 - (iv) Throughout the underground car park to monitor activities around these areas
 - (f) Lighting which complies with the Australian Standard – lighting must be installed in and around the property to increase visibility during the hours of darkness.
 - (g) The mailboxes should be located in a secure or residents only area of the building. This will increase the visibility of the area and decrease the opportunity for mail theft which often results in Frauds and identity theft.
 - (h) The main entry/egress doors to the building must be fitted with an access control system like key, code or card operated system to restrict, control the movement of people and vehicles into and throughout the complex.
 - (i) An intercom system must be installed at entry/egress points to enable visitors to communicate with residents within the complex.
 - (j) Strict adherence to the provided 'Crime Risk Assessment Report'.
60. **Commonwealth Disability (Access to Premises) Standard** - The Commonwealth Disability (Access to Premises - Buildings) Standards 2010 (the Premises Standards) applies to all applications (i.e. 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.
61. **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 and Development Certifiers Regulation 2020 and the Design and Building Practitioners Act 2020 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/stabilization works and any excavations.
 - (b) Dilapidation Reports on the adjoining properties including, but not limited to 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 must be submitted to the PC 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) Measures to minimise vibration damage and loss of support to other buildings. Where possible any excavation into rock is to be carried

out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures. Where a hydraulic hammer is to be used within 30 metres of any building (other than a path or a fence) the report shall detail the maximum size of hammer to be used and provide all reasonable recommendations to manage impacts.

- (e) Sides of the excavation are to be pierced prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.

62. **Waste Room Design and Construction** - The construction certificate drawing shall show the waste room containing the following to minimise odours, deter vermin, protect surrounding areas, and make it a user-friendly and safe area:

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

63. **Waste Handling Systems** - All waste handling equipment and systems used in conjunction with the provision of waste and recycling services shall be manufactured, installed and maintained in accordance with any applicable regulatory requirements, relevant Australian Standards, and relevant manufacturer's specifications.

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

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

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

65. Required Design Changes – The following changes are required to be made and shown on the Construction Certificate plans to the satisfaction of the PC:

- a) 1.7m high privacy screens (as measured from the finished floor level of the balcony) are to be provided to the western side of the balconies associated with apartments 306, 406, 506, 606, 706, 805 and 905 to prevent overlooking to the adjoining properties to the west and north-west. The privacy screens are to be solid translucent, frosted or sandblasted glazing.
- b) The west facing windows in the living rooms of apartment 805 and apartment 905 are to have translucent or frosted glazing up to a height of 1.7m.
- c) Prior to the issue of a construction certificate, the basement shall be amended to include an additional residential car space. This will result in an increase of residential car spaces from 88 to 89 spaces.

66. Traffic Design Certificate- A detailed “design” certificate from an experienced and qualified traffic engineer with tertiary qualifications is to be submitted to and approved by the Principal Certifying Authority confirming the following:

- (a) The car parking layout and loading areas associated with the development (including, driveway grades, headroom clearance turn paths, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS2890.1:2004, AS2890.6:2009 and AS2890.2:2018.

- (b) Bicycle parking associated with the development is provided in accordance with AS2890.3 design requirements.
- (c) Driveway access complies with Figure 3.3 of AS2890.1:2004 minimum sight lines for pedestrian safety.
- (d) All vehicles shall enter and exit the premises in a forward direction.

67. Erosion & Sedimentation Control - Erosion and sediment controls must be provided to ensure:

- (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 must remain until works are completed and all exposed surfaces are landscaped/sealed.

68. 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 address for the subject development must be allocated as advised by Georges River Council.

Primary Address

36 Gladstone Street KOGARAH NSW 2217

Alternates Address

59 Princes Highway Street KOGARAH NSW 2217

Unit Addresses

Refer to the attached list of unit addresses for the subject development

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

69. Car Wash Bays - Plans and specifications of the car washing system which has been approved by Sydney Water must be submitted with the application for the Construction Certificate.

All car washing bays shall 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 (i.e. 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.

70. **Materials and Finishes** - Any proposed cladding to the building shall be constructed of fire resistant materials which comply with the requirements of the National Construction Code (NCC) 2019 Volume One (1) of the Building Code of Australia (BCA) or the relevant version of the BCA current at the time of the construction certificate (Noting NCC 2022 will take effect on 1 May 2023). Details of the proposed materials and finishes are to be detailed on the construction certificate drawings and shall be to the satisfaction of the PCA.
71. **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. These structural details are to include the structural design for the podium planters to ensure they are suitable to meet the depth and volume requirements of the ADG for tree planting, taking into consideration waterproofing, irrigation and drainage. The details are to be submitted to the Principal Certifier for approval prior to construction of the specified works.

A copy shall be forwarded to Council where Council is not the PC.

72. **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 shall be submitted to the Certifying Authority prior to the issue of any Construction Certificate.
73. **NBN Connection** - Prior to the issue of the Subdivision or Construction Certificate in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:
- (a) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has

- confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
- (b) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

(Note real estate development project has the meanings given in section 372Q of the Telecommunications Act).

74. **Landscape Plans – Amendment** – Plans submitted with the construction certificate must illustrate that the approved landscape plan has been amended to incorporate the following changes. Stormwater and Architectural plans must also be amended for consistency:
- Delete all planter boxes proposed within the public domain along the Princes Highway frontage.
 - WSUD Basins to be removed from plans and replaced with either in ground gardens or raised planter boxes with appropriate shrub and ground cover species. Planter boxes must be arranged to allow for wider pedestrian access and seamless circulation.
 - Remove green coloured recycled aggregate from the paved footway and replace with a stratavault system with Council's standard unit paving over. Tree surrounds are to be specified SFA Silva grate – Night Sky finish.
 - Delete the driveway shown along Gladstone Street closest to the corner of Princes Highway and replace with kerb, gutter and paving.
 - Delete proposed street trees from within the northern public laneway.
 - Delete the linear grated drain shown down the centre of the northern public laneway.
 - Stormwater pit and pipe arrangement to be resolved on the corner of Princes Highway and Gladstone Street so that the two pits are removed and replaced with one pit only.
 - All grates must be specified heelsafe and antislip. All grate material must be cast iron.
 - Drainage along the northern public laneway will need to be reviewed and resolved.
 - An additional 5 x trees that will attain a minimum height of 6 metres at maturity must be included on the landscape plans.
 - Detailed plans and specifications for podium planting must be included and demonstrate that the design meets the depth and volume requirements of the ADG and provides appropriately engineered waterproofing, irrigation and drainage.

The amended landscape plan must be lodged for approval by the PC prior to the issue of a construction certificate.

Prior to the Commencement of Work (Including Demolition & Excavation)

75. **Contamination** - Prior to the commencement of construction for above ground building works, the site must be remediated in accordance with the recommendations of the approved Remediation Action Plan (RAP) prepared by Remedial Action Plan prepared by Sanko dated 7 December 2021 and the Detailed Site Investigation Report (DSI) prepared by Sanko dated 7 December 2021.

- The applicant must engage an appropriately qualified and experienced supervising environmental consultant to supervise all aspects of site remediation and validation. The environmental consultant must supervise all aspects of the remediation and validation works in accordance with the approved Remediation Action Plan.
- Any reports relating to contamination must be prepared or reviewed and approved by an appropriately qualified and certified environmental consultant. The front cover of the report must include the details of the consultant's certification.
- Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination must be immediately notified to Council and the Principal Certifying Authority in writing.
- Any variations to the approved Remediation Action Plan must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant, and submitted to Council prior to the commencement of such work.

76. **Site Validation Report** - Prior to the commencement of construction for above ground building works, a Validation report shall be prepared in accordance with the requirements of the EPA (2020) Guidelines for Consultants Reporting on Contaminated Sites and the EPA (2017) Guidelines for the NSW Site Auditor Scheme and provided to Council and the PCA.

The Validation Report will confirm that the site has been remediated to a suitable standard and in accordance with the process stipulated in the Remedial Action Plan prepared by Sanko dated 7 December 2021 and that the site is suitable for the proposed use.

The Validation Report must be prepared or reviewed and approved by an appropriately qualified and certified environmental consultant. The front cover of the report must include the details of the consultant's certification

77. **Notice of Completion and monitoring Report** - After completion of all Remediation works and prior to the commencement of construction for above ground building works, a Notice of completion of remediation work must be submitted to Council in accordance with clause 4.14(2) of the

SEPP (Resilience and Hazards) 2021 and the Notice must address all requirements listed in Clause 4.15 of (Resilience and Hazards) 2021.

Where a full clean-up is not feasible, or on-site containment of contamination is proposed, the need for an ongoing monitoring program should be assessed. If a monitoring program is needed, it should detail the proposed monitoring strategy, parameters to be monitored, monitoring locations, frequency of monitoring, and reporting requirements.

78. **Dilapidation Report on Public Land – Major Development Only -** Prior to the commencement of works (including demolition and excavation), a dilapidation report must be prepared for the Council infrastructure adjoining the development site, including:
- (a) Foot paths, Kerb and gutter and roadways
 - (b) Stormwater drainage pits and pipes

The report must include the following:

- i. Photographs showing the existing condition of the road pavement fronting the site,
- ii. Photographs showing the existing condition of the kerb and gutter fronting the site,
- iii. Photographs showing the existing condition of the footpath pavement fronting the site,
- iv. Photographs showing the existing condition of any retaining walls within the footway or road, and
- v. Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- vi. The full name and signature of the structural engineer
- vii. The Dilapidation Report must be prepared by a qualified structural engineer. The report must be provided to the PC and a copy provided to the Council.

The Dilapidation Report must be prepared by a professional engineer. The report must be provided to the PC 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.

Note: Council will use this report to determine whether to refund the damage deposit after the completion of works.

79. **Salvage of materials and building elements -** Traditional building materials and architectural elements (such as windows, doors, internal and external joinery, masonry, tiles etc) are to be dismantled, salvaged and sold to an established dealer in second-hand heritage building materials. Documentation of the salvage methodology must be submitted for the approval of Council prior to the commencement of demolition.

80. **Photographic Archival Recording** - Prior to the commencement of any works, including the dismantling of fabric or demolition, a Photographic Archival Recording shall be undertaken of Nos.36 and 38 Gladstone Street and Nos.59, 61, 63, 65 and 67A Princes Highway, Kogarah, and submitted to the satisfaction of Council.

The Photographic Archival Recording shall be prepared in accordance with the guidelines "*Archival Recording of Heritage Items Using Film or Digital Capture*" published by the Heritage Council of NSW, insofar as the methodology and approach, excepting that it shall be produced in a digital format. A complete digital copy of the Photographic Archival Recording shall be submitted to Council and should contain:

- a) A brief report or introduction which explains the purposes of the Photographic Archival Recording and gives a brief description of the subject site, as well as details of the sequence in which images were taken. The report may also address the limitations of the photographic record and may make recommendations for future work;
- b) The report shall include all technical details including camera and lenses, image file size and format, technical metadata associated with the images, and colour information;
- c) A plan of the building and site marked up to indicate where the photographs were taken and the direction of the photograph;
- d) Catalogue sheets, photographic plan, supplementary maps;
- e) A complete set of digital image files saved as RAW / TIFF ('digital negatives') and JPEG files with associated metadata, and cross-referenced to catalogue sheets.

The Photographic Archival Recording shall be submitted to Council on a suitable portable electronic storage device (such as USB) or uploaded to a suitable file-sharing platform that is freely accessible. The digital version of the Photographic Archival Recording shall be arranged as a single parent folder containing the report, reference plans saved as individual PDF documents. All electronic image files shall be arranged by their file type and saved as individual files, grouped in separate sub-folders, as set out below:

- Photographic Archival Recording - [Property Address]
 - o Report and Reference Plans – [Property Address]
 - o Electronic Image Files – RAW / TIFF – [Property Address]
 - o Electronic Image Files – JPEG – [Property Address]

81. **Demolition & Asbestos** - The demolition work shall 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 shall be accompanied by a written statement by a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the

safety statement shall be submitted to the PCA prior to the commencement of works.

For demolition work which involves the removal of asbestos, the asbestos removal work must 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 unless specified in the Act and/or Regulation that a license is not required.

All demolition work including the removal of asbestos, shall be undertaken in accordance with the Demolition Code of Practice (NSW Work Cover July 2015).

Note: Copies of the Act, Regulation and Code of Practice can be downloaded free of charge from the SafeWork NSW website: www.SafeWork.nsw.gov.au.

82. **Demolition Notification Requirements** - The following notification requirements apply to this consent:
- (a) The developer /builder must 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.
83. **Before You Dig Australia** - The applicant shall contact "Before You Dig Australia" at <https://www.byda.com.au/> to obtain a Service Diagram prior to the issuing of the Construction Certificate. The reference number for the enquiry obtained from "Before You Dig Australia" shall be forwarded to the Principal Certifier (PC) and Council for their records

84. **Compliance with the Detailed Site Investigation-** Prior to the commencement of any work, other than demolition or excavation in association with the remediation of the site, a Site Audit Report and Site Audit Statement are to be submitted to Council. These documents must clearly state that the site is suitable for the proposed use.

Note: The Applicant must comply with Chapter 4 Remediation of Land clause 4.14 'Guidelines and notices: all remediation work' and clause 4.15 'Notice of completion of remediation work' under State Environmental Planning Policy (Resilience and Hazards) 2021.

Note: Words and expressions used in these conditions have the same meaning as in the Contaminated Land Management Act 1997.

85. **Demolition work involving asbestos removal** - Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the Work Health and Safety Regulation 2011.
86. **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.

During Construction

87. **Public Art** - A minimum of 1% of the total cost of the development is to be allocated to the public art budget. Developers must refer to the Public Art Policy and Georges River Council Public Art Guidelines, as outlined in Georges River Council Development Control Plans, to determine any requirements they may have for including public art in new developments, and to review what constitutes public art.

The developer shall liaise with Council's Coordinator of Cultural Services and scope the works for local artist/s to prepare an artwork in accordance with the suggested locations as shown on plan drawing no DA515 prepared by PBD Architects. The artwork will be at the Applicants expense and the final artwork selected shall be to the satisfaction of Council's Coordinator of Cultural Services.

This public artwork must be completed prior to the issue of the occupation certificate.

88. **Landscape Works** – All landscape works shall be carried out in accordance with the approved landscape plans and specifications. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following -

- (a) The applicant must engage a licensed and reputable nursery grower early within the build phase and order all trees and plant material early to ensure that all tree and plant material, pot/bag sizes and quantities are guaranteed at the time of the landscape and planting phase.
- (b) All trees proposed upon the approved landscape plan shall comply with AS 2303 – 2018, *Tree Stock for Landscape use* and *NATSPEC Specifying Trees: a guide to assessment of tree quality (2003)*.

89. **Tree Removal & Replacement – Site** - Permission is granted for the removal of all trees located within the development site in accordance with the approved Arboricultural Impact Assessment Report.

- All tree removal shall be carried out by a minimum AQF Level 3 Arborist with appropriate insurance. Tree removal are to be undertaken safely and in compliance with *AS 4373-2007 - Pruning of Amenity Trees* and *Tree Works Industry Code of Practice (Work Cover NSW 1.8.98)*.

90. **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 kerb inlet pit in Gladstone Street.

91. **Archaeology** – As required by the *National Parks and Wildlife Service Act 1974* and the *Heritage Act 1977*, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and Heritage NSW must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the *Heritage Act 1977* to obtain the necessary approvals/permits from Heritage NSW.

Note: The *National Parks and Wildlife Service Act 1974* and the *Heritage Act 1977* impose substantial penalty infringements and / or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

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

maintained in a state of good repair and condition throughout the course of construction.

93. **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 Section 138 of the Roads Act 1993 and/or under Section 68 of the Local Government Act 1993. Penalty infringement Notices may be issued for any offences and severe penalties apply.
94. **Road Opening Permit** - A Road Opening Permit must be obtained from Council for every opening of a public road reserve to access services including sewer, water mains, gas mains, connecting of stormwater to the kerb and telecommunication. This is for any work that involves excavation through or within a public road, kerb and gutter, and or the public footway between the road and the property boundary. The permit is to be lodged prior to the commencement of works. Additional approval is required from Roads and Maritime Services for works on a State Road.
95. **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
96. **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.

97. **Hazardous or Intractable Waste – Removal and Disposal-** 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:
 - (a) Work Health and Safety Act 2011 (NSW) (as amended);
 - (b) Work Health and Safety Regulation 2011 (as amended);
 - (c) Protection Of the Environment Operations Act 1997 (NSW) (as amended); and
 - (d) Protection of the Environment Operations (Waste) Regulation 2014 (as amended)
98. **Utility Arrangements (Transport for NSW Condition)** - The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above/approved work and as required by the various public utility authorities and/or their agents.
99. **Demolition and Construction Vehicles (Transport for NSW Condition)** – A construction zone will not be permitted on Princes Highway. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.
100. **Development Engineering - Public Utility and Telecommunication Assets** - The owner shall bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines and cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.
101. **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.
102. **Hours of construction for demolition and building work** – Unless authorised by Council.

- Building construction and delivery of material hours are restricted to: 7.00 am to 5.00 pm (inclusive) Monday to Saturday and no work on Sundays and Public Holidays.
- Demolition and excavation works are restricted to: 8.00 am to 5.00 pm (inclusive) Monday to Friday only. Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site.

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

103. **Ground levels and retaining walls** - The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved by Council.

104. **Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt.

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

105. **Damage within Road Reserve and Council Assets** - The owner shall 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.

106. **Public Utility and Telecommunication Assets** -The owner shall 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

Prior to the issue of the Occupation Certificate

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

108. **BASIX Compliance Certificate** - A Compliance Certificate must be provided to the PCA regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any

Occupation Certificate is issued.

109. **Site Validation Report and Notice of Completion and Monitoring Report** – Copies of the validation report as required by condition 76 and the notice of completion of remediation works as required by condition 77 is to be submitted with the first occupation certificate to the satisfaction of the PC.
110. **Payment of S7.11 and S7.12 Contributions** - Prior to the issue of any Occupation Certificate, written confirmation from Councils delegate that all outstanding s7.11 and s7.12 contributions have been paid, is to be obtained and provided to the satisfaction of the PC.
111. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the PC prior to the issue of the Occupation/Subdivision Certificate.
112. **Acoustic Certification** – Prior to the issue of any Occupation Certificate, a suitably qualified acoustic consultant shall certify that the use of the premises and the operation of the premises and plant equipment shall not give rise to a sound pressure level at any affected premises that exceeds the acoustic criteria established by the Acoustic Report required by a condition of this consent. The development shall at all times comply with these noise levels post occupation.
113. **Acoustic Compliance** – Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PC certifying that the construction has incorporated the recommendations in the Noise Assessment Report titled Traffic Noise Assessment Report prepared by Rodney Stevens Acoustics Pty Ltd dated 21 November 2021.
114. **Acoustic Compliance – General Operation of Premises-** The proposed use of the premises and the operation of all plant and equipment shall not give rise to an ‘offensive noise’ as defined in the Protection of the Environment Operations Act 1997 (as amended) and Regulations.

A suitably qualified person shall certify that the operation of the plant equipment shall not give rise to sound pressure level at any affected premises that exceeds the background LA90, 15 min noise level, measured in the absence of the noise sources under consideration by more than 5dB. The source noise level shall be assessed as an LAeq, 15 min in accordance with the NSW Environment Protection Authority’s “NSW industrial Noise Policy.

Certification must be submitted to the PC prior to the issue of any Occupation Certificate.

115. **Certification – Air handling systems (including water cooling system, hot water systems and warm water system)**- Certification by a suitably qualified person engineer '2012 must be submitted to the PC prior to the issue of any occupation certificate verifying that the air handling system has been installed in accordance with:
- 1 Public Health Act 2010 (as amended)
 - 2 Public Health Regulation 2012 (as amended)
 - 3 AS/NZS 3666.1:2011 *Air-handling and water systems of buildings -Microbial control -Design, installation and commissioning*
116. **Food Premises – Inspections & Registration** - Prior to the issue of any Occupation Certificate or occupation or use of any food premises:
- i. An inspection of the fit out of the Food Premises must be arranged with Council's Environmental Health Officer;
 - ii. A satisfactory final inspection must have been undertaken by Council's Environmental Health Officer; and
 - iii. The Food Premises must notify and register its business details with Georges River Council as required under section 100 of the Food Act 2003.
117. **Registration – Water cooling and warm water systems** - The applicant must register the regulated systems with Council and provide the PC with evidence of registration pursuant to Clause 12 of the Public Health Regulation 2012 (as amended prior to the issue of an Occupation Certificate).
118. **Restriction to User and Positive Covenant for On-Site Detention Facility** - A Restriction on Use of the Land and Positive Covenant shall 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 shall not make or permit or suffer the making of any alterations to any on-site stormwater management system which is, or shall be, constructed on the lot(s) burdened without the prior consent in writing of Georges River Council. The expression "on-site stormwater management system" shall include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to manage stormwater quantity or quality including the temporary detention or permanent retention of stormwater storages. Any on-site stormwater management system constructed on the lot(s) burdened is hereafter referred to as "the system".

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

Positive Covenants

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

2. *Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council shall 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 shall 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.*

119. **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.
120. **Requirements prior to the issue of the Occupation Certificate-** The following shall be completed and or submitted to the PC 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 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) 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 Registered Surveyor and certified by a practicing drainage engineer when all the site engineering works are complete shall be submitted to the PCA prior to the issue of the Occupation Certificate.
 - (g) The construction of the proposed kerb inlet pit connection shall be completed in accordance with the conditions and specifications of the Section 68 Activity Approval.
121. **Line marking of parking spaces** - Parking spaces shall be clearly designated (sign posted and marked on ground) and line marked prior to the issuing of an Occupation Certificate. Signage, pavement symbols and line marking shall comply with *Australian Standards, AS1742, Manual of Uniform Traffic Control Devices* and *NSW Road Transport (Safety and Traffic Management) Regulations 1999*.
122. **Major Development** - Internal driveways and parking spaces are to be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface. All car parking spaces are to be line marked in accordance with AS1742, 'Australian Standard Manual of Uniform Traffic Control Devices' and the relevant guidelines published by the RMS.
123. **SEPP 65 Design Verification Statement** - The PC must not issue any Occupation Certificate to authorise a person to commence occupation of the residential flat development unless the PC has received a design verification , 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 Apartment Development*.

124. Vehicular crossing & Frontage work – Major development- The following road frontage works shall be constructed in accordance with the specifications issued under the 'Application for Driveway Crossing and Associated Works on Council Road Reserve' approval issued by Council's Assets and Infrastructure Division:

- (a) New footpath paving consisting of segmental paving to be constructed for the full frontages of the site along Gladstone Street and Princes Highway, paving extents to be included in the public domain plans and are to be approved by Council's Assets and Infrastructure Department prior to the issue of the construction certificate. Paving to be consistent with Council's Public Domain Streetscape Specification document.
- (b) The thickness and design of the driveway shall be in accordance with Council's Specifications applying at the time construction approval is sought.
- (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontages of the site in accordance with Council's Specifications for kerb and guttering, applying at the time construction approval is sought.
- (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 applicant and in accordance with Council's specification for Driveway Crossings and Associated Works.

A private contractor shall carry out the above work, at the expense of the applicant and in accordance with Council's Specification for Driveway Crossings and Associated Works. The driveway and road frontage works are to be completed before the issue of the Occupation Certificate.

125. Traffic Certification- An "as built" certificate from an experienced and qualified traffic engineer with tertiary qualifications is to be submitted to and approved by the Principal Certifier confirming the following:

- (a) The car parking layout and loading areas associated with the development (including, driveway grades, headroom clearance turn paths, aisle widths, aisle lengths and parking bay dimensions) has been constructed in accordance with AS2890.1:2004, AS2890.6:2009 and AS2890.2:2018.
- (b) Bicycle parking associated with the development is provided in accordance with AS2890.3 design requirements.
- (c) Driveway access complies with Figure 3.3 of AS2890.1:2004 minimum sight lines for pedestrian safety.

- (d) All vehicles shall enter and exit the premises in a forward direction;
- (e) Parking spaces shall be clearly line marked prior to the issuing of an Occupation Certificate. Signage, pavement symbols and line marking shall comply with *Australian Standards, AS1742, Manual of Uniform Traffic Control Devices* where required.

126. **Bicycle Standing Facilities** - Facilities for the standing of visitor bicycles such as hoops, rings, posts or racks shall be provided within the boundaries of the site in the vicinity of the shops and restaurant/café. Details of the facilities shall be submitted to the Principal Certifying Authority for approval and installed prior to the issue of the Occupation Certificate.

127. **Bicycle Facilities and certification** - Facilities for the parking of bicycles shall comply with the requirements of *AS2890.3: 2015 Parking Facilities, Part 3: Bicycle parking*.

Prior to the issue of an Occupation Certificate, documentation from a suitably qualified and experienced Traffic Engineering consultant shall be submitted to the Principal Certifying Authority certifying the bicycle parking facilities have been constructed in accordance with the approved plans and the above Australian Standard.

128. **Driveway, ramp design and certification** - The design and construction of the footpath crossing/driveway and internal driveways and ramps shall comply with the requirements of *AS/NZS 2890.1:2004 Parking Facilities, Part 1- Off street car parking*.

Prior to the issue of an Occupation Certificate, documentation from a suitably qualified and experienced engineering consultant shall be submitted to the Principal Certifying Authority certifying the footpath crossing/driveway and internal driveways and ramps have been constructed in accordance with the approved plans and the above Australian Standard.

129. **Traffic facilities – residential car park ramp** - a speed hump and “STOP” sign shall be installed inside the site on the exit side of the car park access ramp to slow vehicles on approach to the footpath area. Details of the type, dimensions and location of the speed hump and sign shall be submitted to the Principal Certifying Authority for approval and installed prior to the issue of the Occupation Certificate.

130. **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.

131. **Completion of Major Works** - Prior to the issue of a Final Occupation Certificate, the following works must 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
- (f) Relocation/provision of street signs
- (g) New or replacement street trees;
- (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 must be turfed. The grass verge must 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 Assets and Infrastructure Section must 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.

132. Dilapidation Report on Public Land– Upon completion of works, a follow up dilapidation report must be prepared for the items of Council infrastructure adjoining the development site:

- (a) Footpaths, kerb and gutter
- (b) Drainage Infra-structure

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 PC 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 Assets and Infrastructure Division must advise in writing that the works have been completed to their satisfaction prior to the issue of an Occupation Certificate.

133. Allocation of car parking spaces – Car parking associated with the development is to be allocated as follows:

- (a) Residential dwellings: 89 car parking spaces (this includes the additional car space required to be provided under the design change condition)
- (b) Residential visitors: 21
- (c) Commercial/Retail: 16 car parking spaces
- (d) Serviced apartments: 23 car parking spaces.

134. 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.

135. Consolidation of Site with extra requirements - The site shall be consolidated into one allotment and a Plan of Consolidation prepared by a Registered Surveyor and submitted to Council with an application for a Subdivision Certificate.

This Plan shall create the following:

- (a) A Positive Covenant shall be created over the on-site detention facility using Section 88B of the Conveyancing Act 1919, with the covenant including the following wording:

It is the responsibility of the Lot Burdened 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.

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

The 88B instrument shall be submitted to Council for endorsement by Council's Authorised Officer (with a copy of the consolidation plan for Council records).

The Plan of Consolidation shall be registered at the NSW Land and Property Information prior to the issue of a final occupation certificate.

136. **Fire Safety Certificate before Occupation or Use** - In accordance with Clause 41 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, on completion of building works and prior to the issue of an Occupation Certificate, the owner must cause the issue of a Final Fire Safety Certificate in accordance with Clause 84 of the aforesaid Regulation. The Fire Safety Certificate must be in the form or to the effect of Clause 86 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.

137. **Slip Resistance** - At completion of work an in-situ (on-site) test, in wet and dry conditions, must be carried out on the pedestrian floor surfaces used in the foyers, public corridors/hallways, stairs and ramps as well as the floor surfaces in wet rooms in any commercial/retail/residential units to ascertain the actual slip resistance of such surfaces taking into consideration the effects of grout, the gradients of the surface and changes from one material to another. The in-situ test must be carried out in accordance with AS/NZS 4663:2002. Proof of compliance must be submitted with the application for the Occupation Certificate for approval.
138. **Electricity Supply** - Evidence shall be provided demonstrating that the development has been connected to Ausgrid (or relevant electricity provider).

139. **Allocation of street addresses** - All street addresses 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.

140. **Completion of Landscape Works** –

- (a) All landscape works, the planting of all tree and plant material in accordance with approved landscape plans and specifications. must be completed prior to the issue of a final occupation certificate for the site. A certificate of compliance for the planting of all trees and shrubs proposed for the site must be prepared by an AQF 5 Horticulturist, Landscape Designer or AQF Level 5 Arborist and submitted to the PC for approval prior to the issue of an occupation certificate for the site. Documentation to be made available to Council's Tree Compliance Officer on request

Operational Conditions (On-Going)

141. **Communal Open Space** – The use of the roof top communal open space area is to be in accordance with the approved Plan of Management (POM) at all times.

142. **Plan of Management for serviced apartments** - The Serviced apartments are to operate in accordance with the Plan of Management prepared by Construction Consultants (PM) Pty Ltd dated 22 July 2022.

143. **Serviced apartments** – The maximum period of occupation of a serviced apartment is three months and each bedroom is to accommodate a maximum of two (2) people.

144. **Crime Prevention**- In line with the recommendation of the NSW Police Force, the premise is to always operate as per the following:

- (a) The CCTV system must continuously record and operate at all times.
- (b) Recordings must be in a digital format and at a minimum of ten frames per second (10 fps).
- (c) Any recorded image must specify the time and date of the recorded image.
- (d) The systems cameras must cover the following areas
 - (i) All entry and exit points on the premises
 - (ii) The footpath immediately adjacent to the premises
 - (iii) All publicly accessible areas (other than toilets) within the premises.
 - (iv) Throughout the underground car park to monitor activities around these areas.

- (e) Lighting in and around the Site - Lighting devices must be in operation in and around the property to increase visibility during the hours of darkness. Lighting must comply with the relevant Australian Standard.

The premise is to always operate as per the Crime Risk Assessment and Security Management Plan.

- 145. **Noise Control** - The use of the premises must 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 (as amended).
- 146. **Food Premises – maintenance of food premises** - The food premises must be maintained in accordance with the Food Act 2003 (as amended), Food Regulation 2015 (as amended); the Food Standards Code as published by Food Standards Australia & New Zealand and Australian Standard AS 4674-2004: *Construction and fit out of food premises (as amended)*.
- 147. **Food premises – garbage odour** - A waste contractor shall be engaged to remove all waste from the garbage storage area on a regular basis so that no overflow of rubbish will occur. Practical measures are also to be taken to ensure that odour emission from the garbage storage area does not cause offensive odour as defined under the provision of the Protection of the Environment Operations Act, 1997 (as amended).
- 148. **Food Premises – Storage of waste – used cooking oil** - Used oil shall be contained in a leak proof container and stored in a covered and bunded area prior to off-site disposal. Copies of receipts for the disposal of used cooking oil shall be kept on-site and made available to Council Officers upon request.
- 149. **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 are effective in attenuating noise to an acceptable noise level and that the use is not calculated to give rise to 'offensive noise' as defined under the provision of the Protection of the Environment Operation Act 1997 (as amended).
- 150. **Operation of Air Handling Systems** - The occupier must operate air handling systems in compliance with Part 2 of the Public Health Regulation 2012 (as amended).

Where there is any change in the air handling system the occupier must register the changes in the regulated systems with Council.

Water cooling systems must be certified annually by a competent person as being an effective process of disinfection under the range of operating conditions that could ordinarily be expected.

151. **Lighting - General Nuisance** - Any lighting on the site shall 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.
152. **Activities and storage of goods outside buildings** - There shall 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.
153. **Maximum vehicle size** - No vehicle larger than 10.5m in length is to be permitted to access the development for the purpose of loading or unloading of goods and/or services.
154. **Deliveries** - No deliveries to the premises shall be made direct from a public place or street inclusive of footpaths, nature strip, roadway and car parks.
155. **Deliveries/Waste Removal** – No deliveries and/or waste removal to/from the site shall take place between 10pm and 6am, 7 days a week.
156. **Delivery of goods** – Loading and unloading of vehicles and delivery of goods to the building are to be carried out fully within the confines of the site and take place from the loading dock. The loading dock driveway area within the site shall not be used for the storage of goods or parking/standing of vehicles at any time other than for short periods of time when gaining access to and from the loading dock.
157. **Marking of parking spaces and certification** - Prior to the issue of an Occupation Certificate, all parking spaces shall be clearly designated and linemarked to comply with *AS1742, Manual of uniform Traffic Control Devices*.

Documentation from a suitably qualified and experienced Traffic Engineering consultant shall be submitted to the Principal Certifier certifying the carparking spaces have been marked in accordance with the approved plans and the above Australian Standard.

158. **Loading and unloading areas** - All loading and unloading of vehicles in relation to the use of the premises shall take place wholly within the dedicated loading/unloading areas, which is wholly within the site.
159. **Visitors Parking** - All allocated car parking spaces shall be freely available for the visitors of the proposed development.

160. **Vehicular entry/exit** – Vehicular entry/exit movements at both driveways shall be carried out in a forward direction at all times.
161. **Annual Fire Safety Statement** - The owner of the building premises must 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 must 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 92 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.
 - (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.

162. **Ongoing Tree Maintenance Works**

- (a) All newly planted trees must be maintained until they reach a height where they are protected by Councils Tree Management Controls. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilising, pest and disease control, replacement of dead or dying trees and other operations required to maintain healthy trees.
 - (b) If any trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species and pot/bag size. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size.
163. **Amenity of the neighbourhood** - The implementation of this development shall 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.
164. **Outdoor Lighting** - To avoid annoyance to the occupants of adjoining premises or glare to motorist on nearby roads, outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting.

165. **Waste Management Plan**– Waste Management provisions at the site will be delivered in accordance with the approved Waste Management Plan Rev B dated 1/11/2022 prepared by Loka Consulting Engineers Pty Ltd and as follows:

- The applicant must maintain records of licensed waste management disposal for up to 7 years as evidence of correct management of wastes from the development. Copies of all receipts for the disposal or processing of all such materials shall be submitted to the PCA and Council, where Council is not the Principal Certifying Authority.
- All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt
 - The applicant must maintain records of licensed waste management disposal for up to 7 years as evidence of correct management of wastes from the development.

166. **Waste Management - Responsibility of Strata Manager/Owners Corporation/Building Manager** – The Strata Manager/Owners Corporation/ Building Manager will be responsible for the following:

- a) Strata Manager/Owners Corporation/Building Manager will be responsible for collaborating with the Council to improve source separation and resource recovery of different types of recyclable material on the site. They will be required to make any reasonable adjustment as advised by the Council, which may include a range of actions, such as residents' education, adjustment of waste management set-up and practices, the addition or reduction of bins as well as other appropriate measures.
- b) Council can provide educational information in the form of bin stickers and/or bin storage area posters and signage. It will be the responsibility of the Body Corporate/Building Manager to install such signage to assist with the correct use of the Council waste collection service.
- c) The Developer or Strata Manager will be responsible for submitting a written request to Council to provide residential waste services after construction is completed and prior to the occupation. The request must contain the Development Approval Reference number, attached Residential Waste and Recycling Services Application Form and full Occupation Certificate. The provision of services is subject to the risk assessment that will be conducted after all documents are provided. The applicant must allow at least four weeks for the processing of the application and bin delivery. It will be the responsibility of the Developer/Strata Managers to manage and dispose of the waste generated on the property if residents move in before the bin delivery is completed. The size and number of bins provided by the Council may vary depending on the availability, collection arrangements and property set-up.

- d) The Owners Corporation shall 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 the Council.
- e) The Body Corporate/Building Manager shall be responsible for maintaining all bin and waste storage areas in a clean, safe, and hygienic manner. In the event bin or waste storage areas are not maintained in an appropriate manner, Council reserves the right to cancel services provided at the property requiring the Owners Corporation/Body Corporate/Site Manager to engage private waste collection services.
- f) All waste handling equipment and systems used in conjunction with the provision of waste and recycling services shall be manufactured, installed, and maintained in accordance with any applicable regulatory requirements, relevant Australian Standards, and relevant manufacturer's specifications.
- g) Receptacles for the management of any litter from communal areas must be contained in bins with lids. Bins enabling the source separation of general waste, commingled recycling and organics are to be provided in all common areas and will be the responsibility of the Body Corporate/Building Manager to rotate and empty as required. The bins must be secured to prevent the dispersal of litter by wind or animals.

167. Waste Management – Residential - Residential waste for the proposed commercial properties shall adhere to the following:

- (a) The applicant must maintain bin storage for 106 residential units at the following ratios at a minimum:
 - a. 120L general waste per unit per week – 6 x 1,100L (or equivalent) general waste bins serviced twice weekly,
 - b. 120L recycling per unit per week – 12 x 1100L (or equivalent) commingled recycling bins, serviced once weekly,
 - c. 12 x 240L organic waste bins, serviced once weekly.
- (b) The NSW State Government has recently mandated the implementation of separate Food Organics and Garden Organics (FOGO) collection services for all residential properties. It will be the responsibility of the Strata Manager/Owners Corporation to collaborate with Council starting from the Georges River FOGO rollout to facilitate source separation and resource recovery of FOGO-eligible waste and implementation of onsite collections services. This may require a range of actions, such as residents' education, adjustment of waste management set-up and practices, the addition of organics bins and/or, the reduction of general waste bins as well as other appropriate measures that will be advised by the Council.
- (c) The applicant must maintain the interim waste storage area on each occupied floor of the development, suitable for the storage of at least

2 days' worth of general waste, recycling and organics must be catered for. The applicant has proposed:

Dual chute system with a diverter technology for the collection of general waste and recycling, using either rotating or linear tracks at the discharge point allowing for:

i. The storage of organics bins on each occupied floor, calculated at the ratio of 2 days' worth of organics stored on each occupied floor.

Note 1: Chute systems must be cylindrical and free from bends or corners to prevent waste blockages. Management and cleanliness of the chutes and operation of all other equipment (bin tug, bin lift etc) is the responsibility of the Body Corporate/Building Manager. The chute discharge area and any other mechanical parts of waste management equipment must be secure and not accessible to the residents for safety reasons. If residents need to access bin rooms for any reason, those parts must be structurally screened, otherwise the bin rooms must be locked.

Note 2: The Building/Strata Manager or other on-site personnel is responsible for rotating bins from each occupied level when full each day at the expense to the residents/Strata. No loose or unbagged waste materials are to be transferred around the site through lift wells if not contained in a Mobile Garbage Bin.

- (d) The applicant must maintain provisions for equipment (such as bin tugs, and bin lifters) to assist with the manual labour associated with moving bins around the site to the collection location.
- (e) The management of wastes on private property and the movement of bins around the private property is the responsibility of the Body Corporate/Building Manager. Transport of bins and/or bulky waste between the sites is not to occur on public roadways or footpaths and must occur within the confines of private property.
- (f) The development must maintain 3m² of storage space adjacent to the bin storage area, drained to sewer with a water tap access that meets the BCA for use as a bin wash area
 - For the development of 106 residential units, the following storage space will be required for bulky waste:
 - a. Over 100 units: a minimum of 12m²

The bulky waste storage area must be secured, and only permitted to be used by the Body Corporate/Building Manager to prevent illegal dumping of waste. The management of access to the designated bulky waste storage area will be the responsibility of the Body Corporate/Building Manager. The total maximum travel distance from any residential dwelling entry to bulky waste storage must not exceed 30 meters and should be located close to lifts and/or stairwells. The access into the storage area must be double door width, and/or use roller doors where space is constrained. Any double-width doors must have a wide hinge to open flush with walls to restrict manoeuvrability of large or heavy bulky waste items.

- All bin and bulky waste storage areas are to be sufficiently dimensioned to allow for the easy movement of bins to and from the kerbside/interim storage area during collection and must have appropriately sized doors for the size of bins to be used. The path of travel for bulky bins and bulky waste must not exceed 5 meters and must be level, at an appropriate grade, well-lit and without stairs, in addition to being in accordance with the BCA. The designated bin and waste storage areas are required to be sized appropriately for the storage of the waste volumes generated at the site. All bin and waste storage areas are to be appropriately lit (sensor lighting recommended), drained to a sewer with a water outlet for bin washing/cleaning and not visible from the public domain unless secured behind a wall/roof.
- (g) Participation in and use of the on-property collection service is subject to site Risk Assessment and safe access by Council's waste collection contractor, determined both prior to the service commencing, and/or as required during ongoing waste collection services provided to the property. This service can be cancelled at Council's discretion in which circumstance the site may be required to arrange bin collection by a private contractor. It is the responsibility of the Site/Building Manager to maintain the waste storage areas as clean and tidy. In the event it is not, Council reserves the right to cancel the service.
- (h) The path of bin travel must be free from stairs, well-lit (sensor lighting recommended) at an appropriate grade for a ramp as per the Building Code of Australia and be a width appropriate for the movement of bins up to 1,100L in width in accordance with AS 4123.1—2008 Mobile Waste Containers.
- (i) Bins and bulky waste when serviced by Council's waste collection contractor will only be serviced from the temporary bin storage area adjacent to the truck turntable. It will be the responsibility of the Owners Corporation/Building/Strata Manager to ensure:
 - bins are presented in accordance with Council's requirements for using Residential/Commercial Waste Services.
 - bulky waste is presented in an ordered fashion and is in accordance with Council's requirements for using the bulky waste clean-up service.
- (j) The development will be constructed in a manner as per this approval, to facilitate on-property collection services, by ensuring the following:
 - a. Turntable access and operation facilitate the accessing of the site by a waste collection vehicle of the following dimensions: 10.5m in length, 2.5m in width and 3.9m in height, with rear bin loading.
 - b. Waste Loading zone access and operation facilitates the accessing of the site by a waste collection vehicle of the following dimensions: 10.5m in length, 2.5m in width and 3.9m in height, with rear bin loading.
 - c. A Council-contracted waste collection vehicle can stand on-site to enable servicing of both bins and bulky waste. Architectural

Plans must reflect the position of the vehicle while servicing the bins and the vehicle swept path diagrams for the manoeuvres inside the building. On-site collection must cater for the following waste rear loader vehicle specifications (larger than standard MRV):

- i. Length - 10.5 metres
 - ii. Width - 2.5 metres
 - iii. Travel height - 3.9 metres
 - iv. Operational height for loading – 3.9 metres
 - v. Vehicle tare weight – 13.1 tonnes
 - vi. Maximum payload - 10 tonnes
 - vii. Loaded vehicle mass estimate - 23 tonnes
 - viii. Turning circle - 25 metres
 - ix. Appropriate surface grades.
- (k) Once a site is operational, Council reserves the right to cancel the on-property collection service at any time, with notice provided in writing to the Strata/Building Manager as relevant. In the event of cancellation of the on-property service and/or in the event that Council is unable to provide collection services, the Strata/Building Manager will be responsible for arranging bin and bulky waste presentation at the kerbside or will be required to engage a private waste collection contractor, at a cost to the Strata and residents, to provide waste collection services.
- (l) All bins must be presented to the loading dock storage area ahead of on-site access by Council's waste collection vehicle. Collection times cannot be confirmed – therefore, bins must be presented up to 12 hours prior to the scheduled collection date. If bins are not available within the central bin storage area at the time of the visit by the waste collection vehicle, a missed service will not be provided, and the Building Manager will be required to engage a private waste collection contractor to provide ad-hoc or additional collection services.
- (m) Bins and bulky waste when serviced by Council's waste collection contractor will only be serviced from the ground-level loading dock with a truck turntable. All bins must be contained and stored within the designated bin storage areas.
- (n) The path of bin travel must be free from stairs, well-lit (sensor lighting recommended) at an appropriate grade for a ramp as per the Building Code of Australia and be a width appropriate for the movement of bins up to 1,100L in width in accordance with AS 4123.1—2008 Mobile Waste Containers.

168. Waste Management – Commercial – Commercial waste for the proposed commercial properties shall adhere to the following:

- a) All waste and recycling containers shall be stored in an approved waste storage area that is large enough to store the required number of bins for the number of units and intended uses of the site. The applicant must maintain 3m² of storage space adjacent to the

bin storage area drained to the sewer with a water tap access that meets the BCA for use as a bin wash area.

For the proposed commercial premises the onsite storage must maintain for the following bins, at a minimum:

- a. 1 x 120L and 1 x 660L and 9 x 1100L (or equivalent) general waste bins, serviced twice weekly.
- b. 1 x 120L and 2 x 660L and 6 x 1100L (or equivalent) commingled recycling bins, serviced twice weekly

All bins will be stored in the separate commercial waste room and must be supported by storage space for at least 2 days' worth of general waste and commingled recycling in each commercial tenancy. Any bulky waste generated from the commercial tenancies will be the responsibility of the commercial tenants/strata manager to remove immediately through private waste contractors, given there is no commercial bulky waste storage on site.

- Commercial tenants are prohibited from accessing residential bins and waste storage areas. The management of commercial waste across the site is the responsibility of the Owners Corporation/Body Corporate/Site Manager.
- Private waste collection services provided for commercial waste are restricted to a maximum of (twice weekly) between Monday – Friday and within the hours of 6 am – 10 pm. Private waste collection services are to occur entirely within the confines of private property with bins or waste originating from commercial tenants prohibited from being placed on Council land. Private waste collection services must occur in a source-separated manner with all wastes collected separately according to the following streams: general waste, commingled recycling, and organics at a minimum.
- All waste handling equipment and systems used in conjunction with the provision of waste and recycling services shall be manufactured, installed, and maintained in accordance with any applicable regulatory requirements, relevant Australian Standards, and relevant manufacturer's specifications.

Operational Requirements Under the Environmental Planning & Assessment Act 1979

169. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.

170. **Appointment of a PC** - The erection of a building must not commence until the applicant has:

- (a) appointed a PC for the building work; and
- (b) if relevant, advised the PC that the work will be undertaken as an Owner -Builder.

If the work is not going to be undertaken by an Owner - Builder, the

applicant must:

- (a) appoint a Principal Contractor to undertake the building work. If residential building work (within the meaning of the Home Building Act 1989) is to be undertaken, the Principal Contractor must be a holder of a contractor licence; and
- (b) notify the PC of the details of any such appointment; and
- (c) notify the Principal Contractor of any critical stage inspections or other inspections that are required to be carried out in respect of the building work.

An Information Pack is attached for your convenience should you wish to appoint Georges River Council as the PC for your development.

171. Notification Requirements of PC - No later than two days before the building work commences, the PC must notify:

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

172. Notice of Commencement - The applicant must give at least two days notice to the Council and the PC of their intention to commence the erection of a building.

A Notice of Commencement Form is attached for your convenience.

173. Critical Stage Inspections - The last critical stage inspection must be undertaken by the PC. 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 61 of the Environmental Planning and Assessment (Development Certification and Fire safety) Regulation 2021.

174. Notice to be given prior to critical stage inspections - The principal contractor for a building site, or the owner-builder, must notify the PC at least 48 hours before each required inspection needs to be carried out.

Where Georges River Council has been appointed as the PC, 48 hours notice in writing, or alternatively 24 hours notice by facsimile or telephone, must be given when specified work requiring inspection has been completed.

175. 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 or part.

Only the PC appointed for the building work can issue the Occupation Certificate.

Prescribed Conditions

176. **Clause 69 - Building Code of Australia & Insurance requirements under Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.
177. **Clause 70 - 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 PC and the Principal Contractor.
178. **Clause 71 – Notification of Home Building Act 1989** - If the development involves residential building work under the Home Building Act 1989, no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the Home Building Act 1989.
179. **Clause 74 – Shoring and adequacy of adjoining property** - 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.
180. **Clause 75 – Fulfilment of BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.

END CONDITIONS

NOTES/ADVICES

181. **Review of Determination** - Section 8.2 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.

182. **Appeal Rights** - Part 8 (Reviews and appeals) 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.
183. **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 4.53 of the Environmental Planning and Assessment Act 1979 as amended.
184. **Access to NSW Legislation (Acts, Regulations and Planning Instruments)** – NSW Legislation can be accessed free of charge at www.legislation.nsw.gov.au.
185. **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 satisfy a condition of your consent can be found 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 <https://online.longservice.nsw.gov.au/bci/levy>. 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.

186. **Compliance with Access, Mobility and AS4299** - Adaptable Housing - Should the Council be appointment as the PC, 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.
187. **Underground Cables**- Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Safework Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables. Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

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

Useful links relating to Noise:

- (a) Community Justice Centres - free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).
- (b) Department of Environment and Conservation NSW, Noise Policy Section web page (www.environment.nsw.gov.au/noise).
- (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 (www.acoustics.asn.au/index.php).
- (e) Association of Australian Acoustical Consultants - professional society of noise related professionals (www.aaac.org.au).
- (f) Department of Gaming and Racing - (www.dgr.nsw.gov.au).

189. **Food Premises** - Information on Australian Standards can be obtained from www.standards.com.au

Guidelines and Food Safety Standards may be obtained by contacting the Food Standards Australia New Zealand Authority at foodstandards.gov.au or the NSW Food Authority on 1300 552 406, email: or by visiting the website www.foodauthority.nsw.gov.au

Notification of Food Business under Section 100 of the Food Act 2003 requires the proprietor of a food business to give written notice, in the approved form, before conducting a food business. Penalties apply for failure to comply.

190. **Acoustic Engineer Contacts & Reference Material-** Further information including lists of Acoustic Engineers can be obtained from:

- Australian Acoustical Society—professional society of noise-related professionals (www.acoustics.asn.au)
- Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au)
- NSW Industrial Noise Policy – Office of Environment & Heritage (www.environment.nsw.gov.au)

191. **Disability Discrimination Act** - This application has been assessed in accordance with the Environmental Planning and Assessment Act 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992. The applicant is responsible to ensure compliance with this and other anti-discrimination legislation. The Disability Discrimination Act 1992 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.

192. **FR NSW comments** - Prior to the issue of a Construction Certificate the applicant may be required, under Clause 27 of the Environmental Planning & Assessment (Development Certification and Fire Safety) Regulation 2021 to seek written comment from FR NSW about any Fire Engineered Solution developed to meet the performance requirements for external combustible cladding.

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

193. **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.

194. **Council appointed as the PC** - Should the Council be appointed as the PC in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative fire 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.

In this regard, detailed construction plans and specifications that demonstrate compliance with the above requirements of the BCA, in which case, including in relation to the provision of egress and the protection of openings etc must be submitted with the Construction Certificate Application.

195. **Energy Efficiency Provisions** - Should Council be appointed as the PC, 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 PC.

Energy efficiency provisions relate only to new building work or the installation of new measure. Existing building fabric and measures may not be upgraded.

196. **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).

197. **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 and/or Section 68 Local Government Act 1993:

- (a) Complete the Stormwater Drainage Application Form which can be downloaded from Georges River Council's website at www.georgesriver.nsw.gov.au.
- (b) In the Application Form, quote the Development Consent No. (e.g. DA2018/0***) 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 stormwater applications.

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 stormwater 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.

UNIT ADDRESSES

36 Gladstone Street, KOGARAH NSW 2221

Unit numbers on DA Plans		Unit numbers and addresses allocated by Council				
Level	Unit No.	Unit No	Street No	Street Name	Suburb	COMPLETE ADDRESS
Basement	-	Basement Carpark (B2)				
Basement	-	Basement Carpark (B1)				
Ground	Hotel	G01	36	Gladstone Street	KOGARAH NSW 2221	G01/36 Gladstone Street, KOGARAH NSW 2221
Ground	Café	G02	36	Gladstone Street	KOGARAH NSW 2221	G02/36 Gladstone Street, KOGARAH NSW 2221
Ground	Restaurant	G03	36	Gladstone Street	KOGARAH NSW 2221	G03/36 Gladstone Street, KOGARAH NSW 2221
Ground	Neighbouring Shop	G11	59	Princess Highway	KOGARAH NSW 2221	G11/59 Princess Highway, KOGARAH NSW 2221
Ground	Shop	G12	59	Princess Highway	KOGARAH NSW 2221	G12/59 Princess Highway, KOGARAH NSW 2221
Level 1	101-150	Hotel Managed				
Level 2	201-250	Hotel Managed				
Level 3	B301	301	36	Gladstone Street	KOGARAH NSW 2221	301/36 Gladstone Street, KOGARAH NSW 2221
Level 3	B302	302	36	Gladstone Street	KOGARAH NSW 2221	302/36 Gladstone Street, KOGARAH NSW 2221
Level 3	B303	303	36	Gladstone Street	KOGARAH NSW 2221	303/36 Gladstone Street, KOGARAH NSW 2221
Level 3	B304	304	36	Gladstone Street	KOGARAH NSW 2221	304/36 Gladstone Street, KOGARAH NSW 2221
Level 3	B305	305	36	Gladstone Street	KOGARAH NSW 2221	305/36 Gladstone Street, KOGARAH NSW 2221
Level 3	B306	306	36	Gladstone Street	KOGARAH NSW 2221	306/36 Gladstone Street, KOGARAH NSW 2221
Level 3	B307	307	36	Gladstone Street	KOGARAH NSW 2221	307/36 Gladstone Street, KOGARAH NSW 2221
Level 3	B308	308	36	Gladstone Street	KOGARAH NSW 2221	308/36 Gladstone Street, KOGARAH NSW 2221
Level 3	A301	311	59	Princess Highway	KOGARAH NSW 2221	311/59 Princess Highway, KOGARAH NSW 2221
Level 3	A302	312	59	Princess Highway	KOGARAH NSW 2221	312/59 Princess Highway, KOGARAH NSW 2221
Level 3	A303	313	59	Princess Highway	KOGARAH NSW 2221	313/59 Princess Highway, KOGARAH NSW 2221
Level 3	A304	314	59	Princess Highway	KOGARAH NSW 2221	314/59 Princess Highway, KOGARAH NSW 2221
Level 3	A305	315	59	Princess Highway	KOGARAH NSW 2221	315/59 Princess Highway, KOGARAH NSW 2221
Level 3	A306	316	59	Princess Highway	KOGARAH NSW 2221	316/59 Princess Highway, KOGARAH NSW 2221
Level 3	A307	317	59	Princess Highway	KOGARAH NSW 2221	317/59 Princess Highway, KOGARAH NSW 2221
Level 3	A308	318	59	Princess Highway	KOGARAH NSW 2221	318/59 Princess Highway, KOGARAH NSW 2221
Level 4	B401	401	36	Gladstone Street	KOGARAH NSW 2221	401/36 Gladstone Street, KOGARAH NSW 2221
Level 4	B402	402	36	Gladstone Street	KOGARAH NSW 2221	402/36 Gladstone Street, KOGARAH NSW 2221
Level 4	B403	403	36	Gladstone Street	KOGARAH NSW 2221	403/36 Gladstone Street, KOGARAH NSW 2221
Level 4	B404	404	36	Gladstone Street	KOGARAH NSW 2221	404/36 Gladstone Street, KOGARAH NSW 2221
Level 4	B405	405	36	Gladstone Street	KOGARAH NSW 2221	405/36 Gladstone Street, KOGARAH NSW 2221
Level 4	B406	406	36	Gladstone Street	KOGARAH NSW 2221	406/36 Gladstone Street, KOGARAH NSW 2221
Level 4	B407	407	36	Gladstone Street	KOGARAH NSW 2221	407/36 Gladstone Street, KOGARAH NSW 2221
Level 4	B408	408	36	Gladstone Street	KOGARAH NSW 2221	408/36 Gladstone Street, KOGARAH NSW 2221
Level 4	A401	411	59	Princess Highway	KOGARAH NSW 2221	411/59 Princess Highway, KOGARAH NSW 2221
Level 4	A402	412	59	Princess Highway	KOGARAH NSW 2221	412/59 Princess Highway, KOGARAH NSW 2221
Level 4	A403	413	59	Princess Highway	KOGARAH NSW 2221	413/59 Princess Highway, KOGARAH NSW 2221
Level 4	A404	414	59	Princess Highway	KOGARAH NSW 2221	414/59 Princess Highway, KOGARAH NSW 2221
Level 4	A405	415	59	Princess Highway	KOGARAH NSW 2221	415/59 Princess Highway, KOGARAH NSW 2221
Level 4	A406	416	59	Princess Highway	KOGARAH NSW 2221	416/59 Princess Highway, KOGARAH NSW 2221
Level 4	A407	417	59	Princess Highway	KOGARAH NSW 2221	417/59 Princess Highway, KOGARAH NSW 2221
Level 4	A408	418	59	Princess Highway	KOGARAH NSW 2221	418/59 Princess Highway, KOGARAH NSW 2221
Level 5	B501	501	36	Gladstone Street	KOGARAH NSW 2221	501/36 Gladstone Street, KOGARAH NSW 2221
Level 5	B502	502	36	Gladstone Street	KOGARAH NSW 2221	502/36 Gladstone Street, KOGARAH NSW 2221
Level 5	B503	503	36	Gladstone Street	KOGARAH NSW 2221	503/36 Gladstone Street, KOGARAH NSW 2221
Level 5	B504	504	36	Gladstone Street	KOGARAH NSW 2221	504/36 Gladstone Street, KOGARAH NSW 2221
Level 5	B505	505	36	Gladstone Street	KOGARAH NSW 2221	505/36 Gladstone Street, KOGARAH NSW 2221
Level 5	B506	506	36	Gladstone Street	KOGARAH NSW 2221	506/36 Gladstone Street, KOGARAH NSW 2221

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