

## COUNCIL ASSESSMENT BRIEFING REPORT TO PANEL SYDNEY SOUTH PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSSSH-135– DA2023/0104 – PAN-296783
<b>PROPOSAL</b>	Construction of a 12 storey residential flat building containing 100 apartments with 3 levels of basement parking containing 104 car spaces, alterations and additions to the heritage dwelling and adaptive re-use as a cafe, landscaping, site works and lot consolidation.
<b>ADDRESS</b>	2-4 Victoria Street, Kogarah
<b>APPLICANT</b>	Mr George O'Donovan - The Hadd Group Pty Ltd
<b>OWNER</b>	Eddy Haddad
<b>DA LODGEMENT DATE</b>	13 June 2023
<b>APPLICATION TYPE</b>	Development Application
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Section 2.19(1) and Clause 2 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as: The development has a capital investment value of more than \$30 million.
<b>CIV</b>	\$30,120,000 (excluding GST) (excluding GST)
<b>CLAUSE 4.6 REQUESTS</b>	Yes - Height of Building Yes - Floor Space Ratio Zoning R4 High Density Residential
<b>LIST OF ALL RELEVANT PLANNING CONTROLS (S4.15(1)(A) OF EP&amp;A ACT)</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>• State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Developments</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• State Environmental Planning Policy (Planning Systems) 2021</li> <li>• Georges River Local Environmental Plan 2021</li> </ul>

	<ul style="list-style-type: none"> <li>Georges River Development Control Plan 2021</li> <li>Georges River Development Local Infrastructure Contributions Plan 2021 (Section 7.11 and Section 7.12)</li> </ul>
<b>AGENCY REFERRALS</b>	<ul style="list-style-type: none"> <li>Sydney Airport/ Air Services</li> <li>Ausgrid</li> </ul>
<b>TOTAL &amp; UNIQUE SUBMISSIONS</b>	<ul style="list-style-type: none"> <li>Total 3 and Unique 3</li> </ul>
<b>KEY ISSUES</b>	<ol style="list-style-type: none"> <li>Design Excellence – not achieved.</li> <li>BASIX Certificate – not provided.</li> <li>4.6 Exceptions to development standard for Building Height.</li> <li>4.6 Exceptions to development standard for Floor Space Ratio.</li> <li>Urban Design – principles not achieved.</li> <li>ADG requirements for public private interface, ground level dwellings below street level, setbacks and building separation, basement setbacks, vehicular access, pedestrian access/building entry, common circulation space, height transition to heritage item, building bulk and Scale/ Street front height, communal open space deep soil, solar access to units, over shadowing, natural cross ventilation, building services, architectural expression and building bulk.</li> <li>Setbacks to heritage item unsatisfactory.</li> <li>Deep Soil Zones unacceptable.</li> <li>Overshadowing – unreasonable impact.</li> <li>Basement within root zone of mature street tree</li> <li>Public Art Plan not provided.</li> <li>Basement Setbacks non-compliant.</li> <li>Landscape Treatment of Setbacks – unsatisfactory.</li> <li>Communal Open Space – needs work.</li> <li>Solar Access – poor outcome.</li> <li>Dwelling Mix.</li> <li>Wind Analysis Report not provided.</li> <li>Preliminary Site Investigation – not provided.</li> <li>Bulk and Scale – unacceptable.</li> <li>Lack of detail concerning proposed café use and functioning to demonstrate no unreasonable impacts.</li> <li>Likely impacts of that development.</li> <li>Suitability of the Site for the increase in density.</li> <li>Consistency with planning controls.</li> </ol>
<b>DOCUMENTS FOR CONSIDERATION</b>	All plans and documents accessible via Planning Portal.
<b>PREVIOUS BRIEFINGS</b>	6 September 2023
<b>ASSESSMENT STATUS</b>	Request for Further Information letter sent 31 October 2023, awaiting amended plans/information
<b>PREPARED BY</b>	Brendan Leo – Assessing Officer (Consultant Planner) Nicole Askew – Coordinator Development Assessment
<b>DATE OF REPORT</b>	31 October 2023

## 1. THE SITE AND LOCALITY

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### 1.1 The Site

- The development site comprises 2 allotments and is known as 2 and 4 Victoria Street Kogarah.
- The site is regular in shape and is situated on the eastern side of corner of Gladstone and Victoria Streets. The property frontage to Gladstone Street is approximately 19.23 metres in length, whilst the frontage to Victoria Street is approximately 41.4 metres in length.
- The total site has an area of approximately 1,838sqm and the existing buildings on the sites have since been demolished, the heritage item remains. There is no significant vegetation on the site.
- There is approximately a 2 metre fall from the west to east.
- The site is free from any significant site constraints other than the local heritage item.

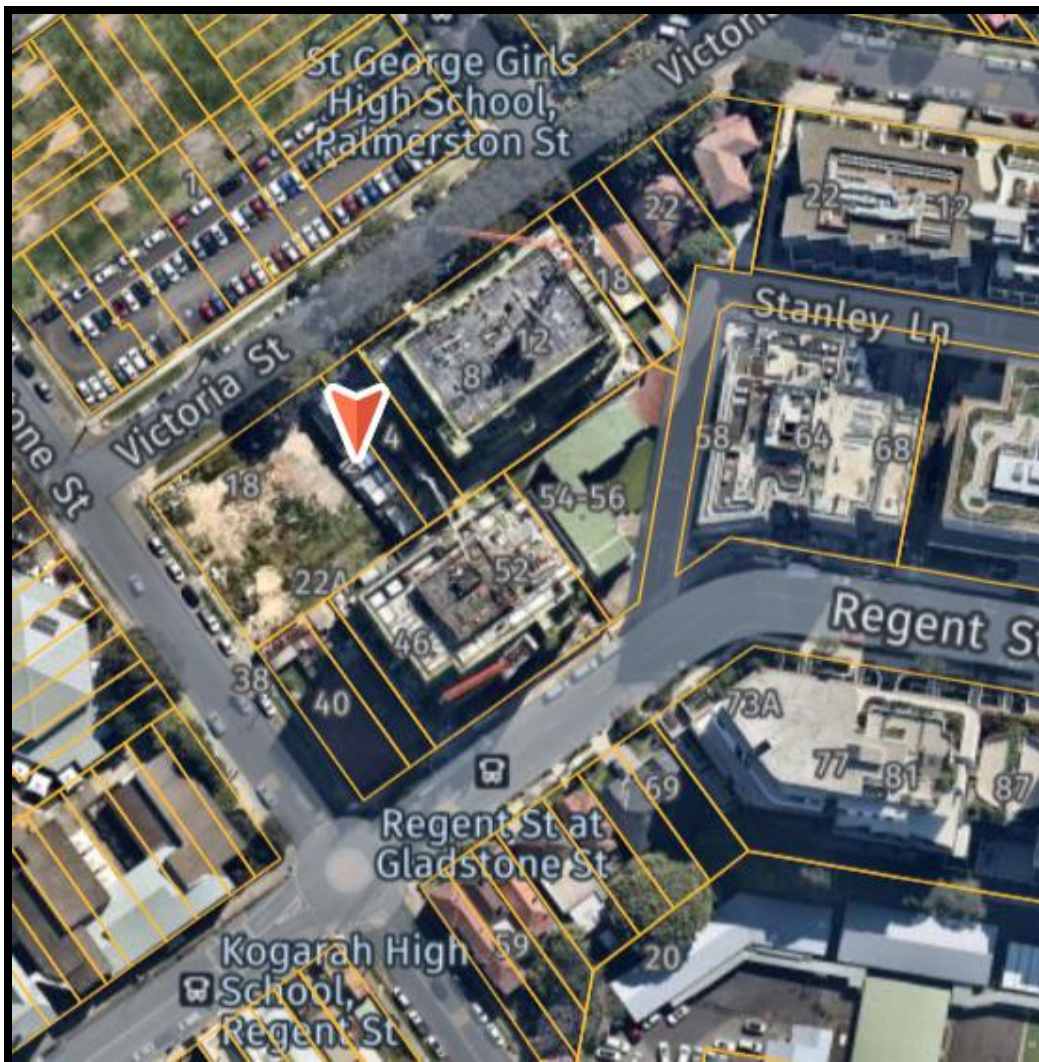


Figure 1 – Site Locality Plan (Nearmap 2023)





**Figure 2 - Subject Site (Nearmap 2023)**



**Figure 3 – Subject site from Gladstone Street**



**Figure 4 – Subject site from corner Victoria and Gladstone Streets.**



**Figure 5 – Subject site from Victoria Street showing heritage cottage and significant street tree.**

## 1.2 The Locality

- The suburb of Kogarah is within the Georges River local government area. Kogarah is located 15 kilometres south of the Sydney Central Business District.
- Kogarah contains a high concentration of medical facilities (including St George Private and St George Public Hospitals) and a mix of retail and commercial activities.
- Kogarah is a highly accessible centre with the Kogarah Railway Station located on the western side of the town centre and the Princes Highway forming the eastern boundary of the centre.
- The land to which the proposal relates is located within the Kogarah North Precinct as identified in Part 10.1 of the Georges River Development Control Plan 2021. The Kogarah North Precinct is located to the north of the Kogarah Town Centre.

The Kogarah North Precinct is situated at the northern tip of the Georges River local government area.

- The subject precinct is transitioning from an old single dwellings to a high-density shop top housing and residential flat building developments which is consistent with the up-zoning within the Kogarah North Precinct.

## 2. THE PROPOSAL AND BACKGROUND

### 2.1 The Proposal

The proposal seeks consent for the construction of a 12 storey residential flat building containing 100 apartments with 3 levels of basement parking containing 104 car spaces, alterations and additions to the heritage dwelling and adaptive re-use as a cafe, landscaping, site works and lot consolidation.

Specifically, the proposal involves:

- Adaptive re-use of a heritage listed cottage at 2 Victoria Street, including removal of the two storey element to the rear, with its future use being a café.
- Erection of a new 12 storey residential flat building containing 100 apartments above 3 basement levels containing 104 car spaces, bicycle parking, garbage room, storage and plant.
- The development comprises a 4 storey podium element with a building above.
- The building is built around the retention of the heritage cottage, with Level 4 of the development extending over the cottage in part and supported by columns.
- Communal Open space in the form of a rooftop terrace and at ground level on the northern side in a garden setting.
- Direct street access is provided from Victoria Street for all street facing ground floor units.
- Vehicular entry to the basement is provided from Gladstone Street.
- The key development data is provided in **Table 1**.

**Table 1: Key Development Data**

Control	Proposal
Site area	1838sqm
GFA	7,885sqm
FSR 4:1	4.29:1
Clause 4.6 Requests	Yes – Height of Buildings – 26.96% Yes – Floor Space Ratio – 7.25%
No of apartments	100
Max Height 33m	41.9m or 65.6m AHD
Communal Open Space	<ul style="list-style-type: none"> <li>• Ground: 113.82sqm</li> <li>• Roof: 520sqm</li> <li>• Total: 633.82sqm</li> </ul>
Car Parking spaces	104



Setbacks	Variable being a mix of complaint and non-compliant.
Apartment Mix	<ul style="list-style-type: none"> <li>• 1 x Studio apartment (1%)</li> <li>• 23 x 1 bedroom apartments (23%)</li> <li>• 73 x 2 bedroom apartments (73%)</li> <li>• 3 x 3 bedroom apartments (3%)</li> </ul>



**Figure 6 - Perspective looking west from intersection of Victoria and Gladstone Steets.**

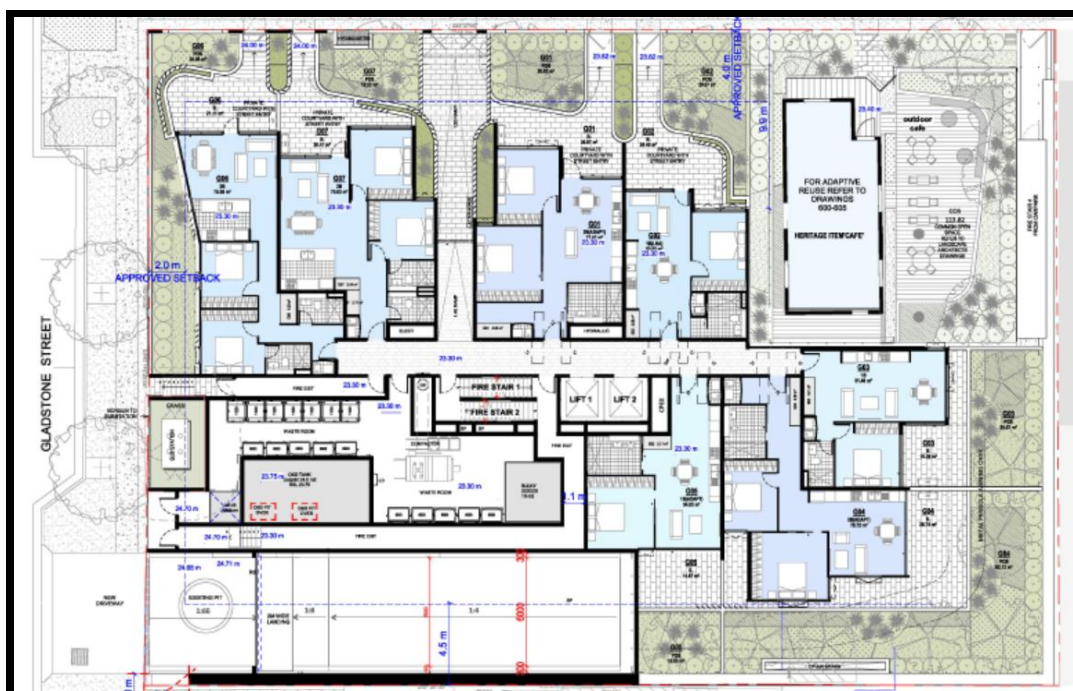
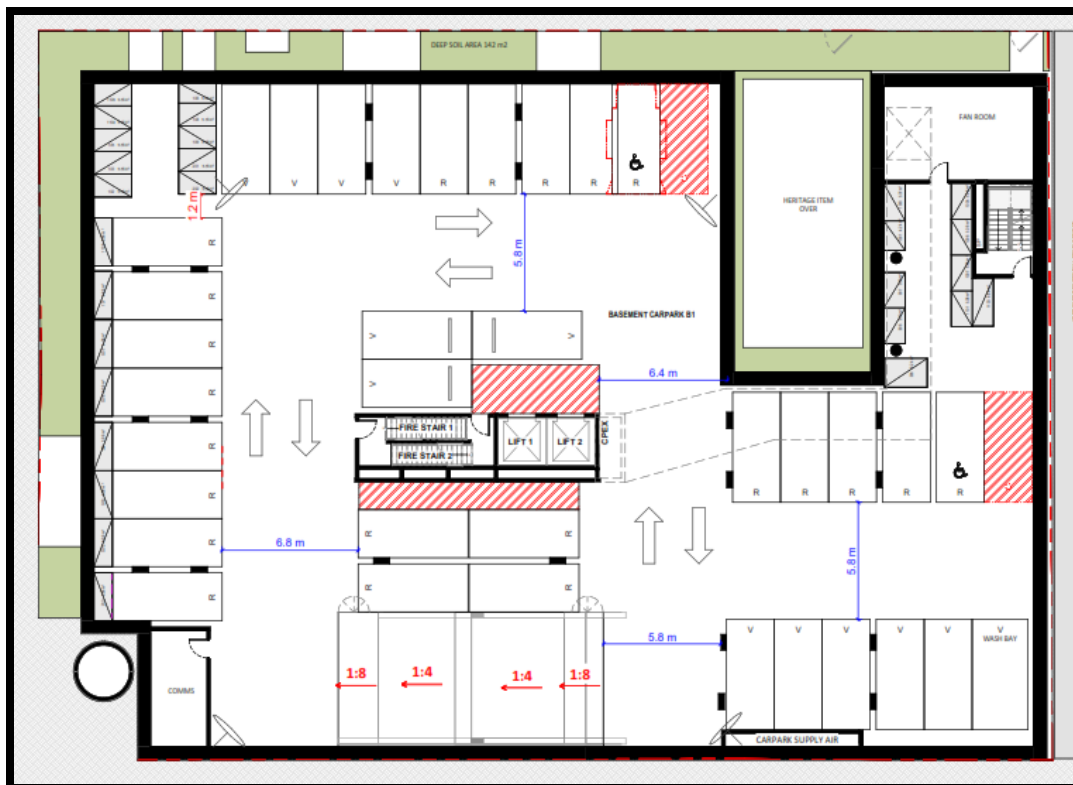


**Figure 7 – Northern Elevation showing the heritage item with RFB behind when viewed from Victoria Street. Also of note is the lack of building articulation.**



**Figure 8 – Eastern Elevation detail showing the heritage item with RFB behind and over hanging. Note the RFB sits proud of the heritage item on the Gladstone Street corner.**







**Figure 11 – Section Plan**

## 2.2 Background

The development application was lodged on **13 June 2023**. A chronology of the development application since lodgement is outlined in **Table 2**.

**Table 2: Chronology of the DA**

Date	Event
<b>29 June 2023</b>	Exhibition of the application.
<b>21 June 2023</b>	DA referred to external agencies. DA referred to Internal Specialist Officers.
<b>8 August 2023</b>	Panel Kick Off Briefing.
<b>6 September 2023</b>	Site Inspection.
<b>31 October 2023</b>	Request for Information from Council to applicant.
<b>6 November 2023</b>	Assessment Briefing.

## 2.3 Site History

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 from low density to higher densities, with a number of similar scale residential flat developments already constructed, under construction or approved in the area since the rezoning was affected. 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.
- 2 Victoria Street and 16-22A Gladstone Street, Kogarah 11 storey residential flat building consisting of 77 units with basement car parking and retention and conservation of the local heritage cottage. Granted consent via S34 agreement 15 May 2020. Existing Approval over part of subject site included a modest variation to building height of 1.65m or 5.0% to accommodate the lift overrun and plant. Approved building respected the curtilage of the heritage with greater articulation. Variation to the western and southern boundary setbacks were as result of a desire to retain and enhance the curtilage surrounding the heritage listed Victorian House see Figure 12 below.





Figure 12 – Perspective of Existing Approval

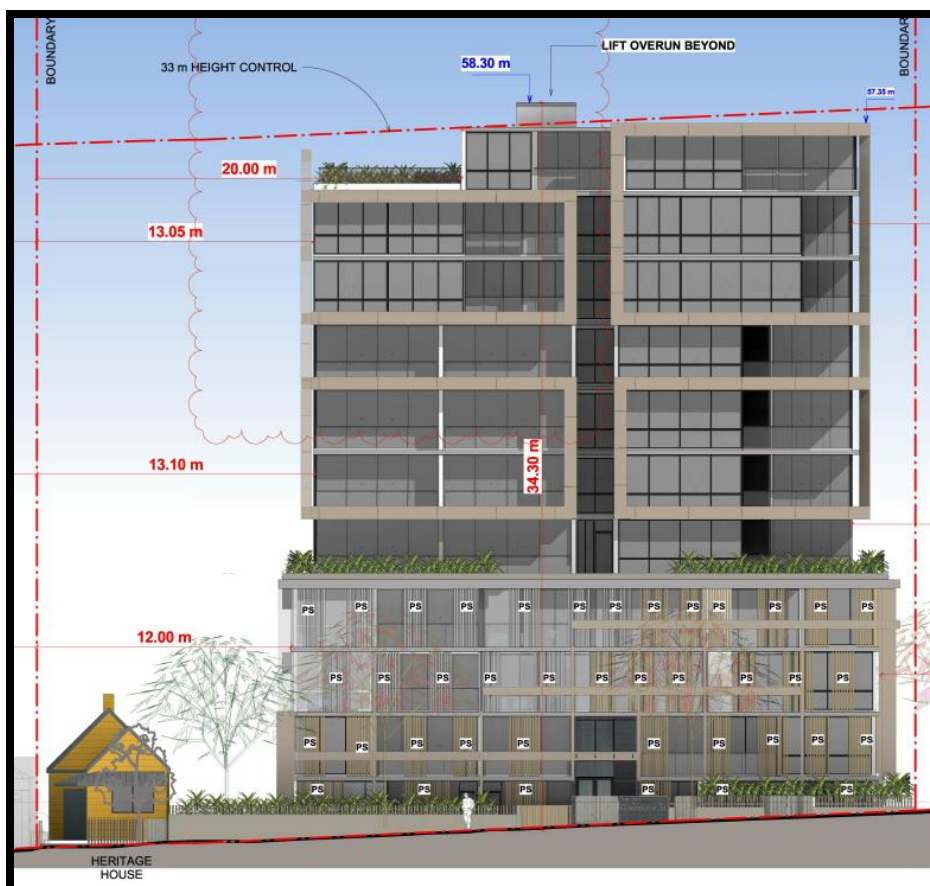


Figure 13 – showing spatial separation from Victoria Street elevation between RFB and heritage item approved under DA 2019/0319. Also of note is the building articulation.



Figure 14 – showing spatial separation in plan view between RFB and heritage cottage with variations to western and southern setbacks as approved.

- 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 83 units with basement car parking. Granted consent via S34 agreement on 10 February 2021. Adjoining property to the north-east. Also contains a local heritage cottage in the form of terrace houses. Approval included a variation to building height of 9.4m or 28.46% and to Floor Space ratio of 4.23:1 or 5.77%**
- 18-24A Victoria Street, Kogarah. 10 storey residential flat building with basement car parking. Granted consent via S34 agreement on 25 May 2021.
- 36 and 38 Gladstone Street and 59-69 Princes Highway. 10 storey residential flat building with basement parking approved by Sydney South Planning Panel (SSPP) on 15 December 2022.
- 99 Regent Street Kogarah, Land and Environment Court for additional height, court decision pending.
- 37 Princes Highway, Kogarah. 10 storey shop top housing development consisting of 37 residential apartments, two (2) retail premises above three (3) basement levels



of parking containing 33 car parking spaces plus tree removal. Refused by the Georges River Council Local Planning Panel on 20 July 2023. Review of Determination submitted 8 October 2023.

### 3. PLANNING CONTROLS

The site is located within the R4 zone pursuant to Clause 2.3 of the Georges River LEP 2021 (**Figure 12**). The proposal is permissible in the zone with consent. The proposal is consistent with the zone objectives.

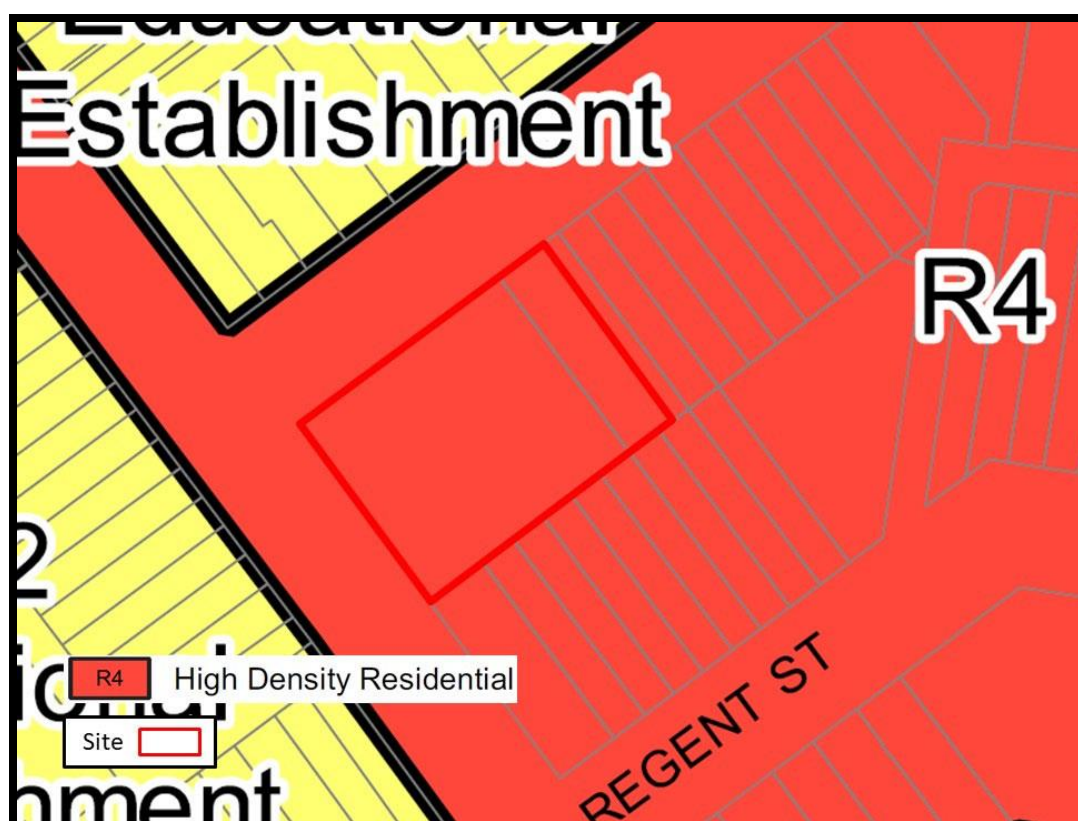


Figure 15 – Zoning Map GRLEP 2021

A summary of the key matters for consideration and non-compliances arising from the relevant EPIs are outlined in **Table 3**. The pre-conditions to the grant of consent have been considered and are outlined in bold.

**Table 3: Summary of Key Matters in the Relevant EPIs**

EPI	Matters for Consideration (Brief summary)	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	Chapter 2: Vegetation in non-rural areas Chapter 6: Water Catchments	Y
BASIX SEPP	No BASIX Certificate lodged with the DA.	N



State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development	<b>Clause 30(2)</b> - Design Quality Principles - The proposal is contrary to the design quality principles and the proposal is contrary to the ADG requirements for public private interface, ground level dwellings below street level, setbacks and building separation, basement setbacks, vehicular access, pedestrian access/building entry, common circulation space, height transition and bulk to heritage item (dwarfing the cottage), building bulk and scale/ street front height, communal open space deep soil, solar access to units, over shadowing, natural cross ventilation, building services, architectural expression and building bulk.	N
State Environmental Planning Policy (Planning Systems) 2021	<b>Chapter 2: State and Regional Development</b> <ul style="list-style-type: none"> <li>Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 2 of Schedule 6.</li> </ul>	Y
SEPP (Resilience & Hazards)	<b>Chapter 4: Remediation of Land</b> <ul style="list-style-type: none"> <li><b>Section 4.6</b> - Contamination and remediation report submitted does not include the whole site. An up-to-dated PSI is required to cover the whole of the land the subject of this application.</li> </ul>	N
Georges River Local Environmental Plan 2021	<ul style="list-style-type: none"> <li>Clause 2.3 – Permissibility and zone objectives</li> <li>Clause 6.10 – Design Excellence</li> <li>Clause 4.3 Height of Buildings</li> <li>Clause 4.4 Floor Space Ratio</li> <li>Clause 4.6 – Exceptions to Development Standards</li> </ul>	Y N N N N
Georges River Development Control Plan 2021	<ul style="list-style-type: none"> <li>Part 3.15.2 - Public Art Plan</li> <li>Part 6.3.3 – Side Boundary Setbacks</li> <li>Part 6.3.4 – Basement Setbacks</li> <li>Part 6.3.6 – Landscape Treatment of Setbacks</li> <li>Part 6.3.7 – Communal Open Space</li> <li>Part 6.3.8 – Solar Access</li> <li>Part 6.3.10 – Dwelling Mix</li> <li>Part 10.1.6 (3) – Wind Analysis Report</li> </ul>	N N N N N N N N N

	<ul style="list-style-type: none"> <li>• Part 10.1.6 (4) – Setbacks</li> <li>• Part 10.1.6 (5) – Trees and Landscape</li> <li>• Part 10.1.6 (8) – Housing Choice</li> <li>• Part 10.1.6 (18) – Waste Minimisation</li> </ul>	N N  N N
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## 4. REFERRALS AND SUBMISSIONS

### 4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in **Table 4**.

**Table 4: Concurrence and Referrals to agencies**

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
<b>Concurrence Requirements (s4.13 of EP&amp;A Act)</b>			
N/A	N/A	N/A	N/A
<b>Referral/Consultation Agencies</b>			
Ausgrid	SEPP (Transport and Infrastructure) 2021, S2.48	Conditions provided.	Y
Air Services Australia	GRLEP 2021	Additional information requested.	N
Sydney Airport Corporation	GRLEP 2021	Additional information requested.	N
<b>Integrated Development (S 4.46 of the EP&amp;A Act)</b>			
N/A	N/A	N/A	N/A

### 4.2 Council Specialist Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 5**.

**Table 5: Consideration of Council Referrals**

Officer	Comments	Resolved
Urban Design	Council's Urban Design Officer reviewed the proposal and found it to be unsatisfactory and	N

	requires amended and/or additional information to be provided. Refer to the Key Issues section.	
Development Engineer	Council's Development Engineering Officer reviewed the proposal and found it to be satisfactory, conditions of consent provided.	N
Traffic Engineer	Council's Traffic Engineering reviewed the proposal and found it to be satisfactory, conditions provided.	Y
Heritage	Council's Heritage Consultant reviewed the proposal and found it to be satisfactory, conditions provided.	Y
Environment and Health	Council's Environment and Health Officer reviewed the proposal and found it to be unsatisfactory and requires amended and/or additional information to be provided. Refer to the Key Issues section.	N
Waste	Council's Waste Officer reviewed the proposal and found it to be unsatisfactory and requires amended and/or additional information to be provided. Refer to the Key Issues section.	N
Public Domain/ Assets	Conditions provided.	Y
Landscape	Council's Landscape Officer reviewed the proposal and found it to be unsatisfactory and requires amended and/or additional information to be provided. Refer to the Key Issues section.	N
Land Information	Conditions provided.	Y

### 4.3 Community Consultation

The proposal was notified in accordance with the DCP and Council's Community Participation Plan from 29 June 2023 until 13 July 2023. A total of 3 unique submissions, comprising 3 objections and 0 submissions in favour of the proposal, were received.

The issues raised in these submissions included the following:

- Over Development – the bulk, scale, form and height are considered of concern.
- Over Shadowing – the additional height and bulk result in unreasonable overshadowing.
- Negative impact on heritage item – from an urban design perspective this is an issue.
- Excessive Height – the height of the development is of concern.
- Overlooking and Loss of Privacy – consideration needs to be given to the impact on development.
- Insufficient Public Open Space in Locality – this is not a matter than can be resolved via a site specific DA.



## **5. KEY ISSUES**

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The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

1. Design Excellence not considered to be achieved by the proposal.
2. BASIX Certificate – BASIX certificate has not accompanied the application.
3. 4.6 Exception to development standard for Building Height not considered supportable.
4. 4.6 Exception to development standard for Floor Space Ratio not considered supportable.
5. Urban Design principles not achieved by the proposal.
6. ADG requirements for public private interface, ground level dwellings below street level, setbacks and building separation, basement setbacks, vehicular access, pedestrian access/building entry, common circulation space, height transition to heritage item, building bulk and Scale/ Street front height, communal open space deep soil, solar access to units, over shadowing, natural cross ventilation, building services, architectural expression and building bulk not achieved.
7. Setbacks to heritage item considered unsupportable from an urban design perspective.
8. Deep Soil Zones are considered insufficient.
9. Overshadowing is unreasonable.
10. Basement within root zone of mature street tree.
11. Public Art Plan not provided and is required.
12. Basement Setbacks are on compliant and not supported.
13. Landscape Treatment of Setbacks considered unsatisfactory.
14. Communal Open Space needs further resolution.
15. Solar Access unacceptable.
16. Dwelling Mix.
17. Wind Analysis Report required and not provided.
18. Preliminary Site Investigation does not address the entire site and needs revision.
19. Bulk and Scale is considered excessive and not supported.
20. Lack of detail concerning proposed café with respect to its operation and amenity impacts on the subject and adjoining developments.
21. Suitability of the Site
22. Likely impacts of the development of adjoining allotments and the streetscape.
23. Consistency with planning controls.

## **24. RECOMMENDATION**

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Following a preliminary assessment of the development application in relation to the development controls, also have regard to the concerns raised in submissions from the community, Council Officers and Agencies, Council assessing officer considers a request for further information letter is required seeking resolution of the issues and lack of detail as briefly referenced in the key issues section of this briefing report.

The issues to be further addressed are detailed in Attachment A.

## **25. ATTACHMENTS**

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The following attachments are provided:

Panel Assessment Briefing Report – RFB & Adaptive re-use of heritage cottage - 6/11/2023  
2-4 Victoria St, Kogarah

- Attachment A: Requested Information

## **ATTACHMENT A**

### **Requested Information**

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#### **1. Urban Designer**

##### **a) Topography / Public Private Interface**

The subject site has a cross fall of approximately 2.6m. In spite of the existing slope, the entire ground floor and floors above have a single slab with no variation in the finished floor levels (FFL).

Unit G06 with (FFL at RL 23.30 is around 1.2m below the footpath level. The Living Room of Unit G04 is 0.9m above the existing natural ground. No attempt has been made to address the existing topography of the site.

The steps at the Victoria Street interface are inconsistent with ADG Objective 3C-2, which promotes minimising ramping for accessibility by building the entry location and setting ground floor levels relative to the footpath level. Objective 3G-2 also encourages the design of the ground floor to minimise level changes along pathways and the public domain. The ground floor FFL being below the existing footpath level is not supported.

The current development application (DA) has adopted the FFLs of the previous DA approved by the LEC (DA2019/0319). However, this is a new DA, consideration needs to be given the design holistically given the significant increase in the bulk and scale of the development and the resultant impacts on the streetscape (Refer Figures 1 and 2) and adjoining development. In this regard the approval in place cannot be used as a basis for this application.



The proposal needs to have regard to the existing site topography by splitting the FFLs and increasing the ground floor FFL to at least the footpath level to improve the relationship with the public domain and the removal of subterranean units.

b) Setbacks / Building Separation

The setbacks/ building separation approved by the LEC (DA2019 0319) relate to a much smaller building envelope with consideration to the heritage item and its curtilage. As a result, applying the same setbacks for a much larger building footprint is unreasonable and not supported given there is a significant impact on the heritage item given the extension of the built form over the heritage cottage.

DA2019/0319 was approved under the provisions of Kogarah LEP and DCP, which are now superseded by GRLEP and GRDCP 2021. The required and proposed setbacks are tabulated below, the setbacks proposed are not supportable.

		ADG Required Setback from the Boundary	Proposed Setback
<b>South-east (South)</b>		Between Habitable Rooms	
	Up to 4 storeys	6m	4.5m
	5-8 Storeys	9m	6.0m
	9 and above	12m	9.0m
<b>North-east (East)</b>			
	Up to 4 storeys	6m	Minimum 6.0m
	5-8 Storeys	9m	6.0m
	9 and above	12m	6.0m

The eastern façade is blank except for balconies at the street frontage and to the rear fitted with privacy screens.

Similarly, balconies on the southern façade have privacy screens to enhance visual privacy. The excessive use of privacy screens and walls around have enclosed the balconies to a large extent, making them undesirable spaces and adding to the building mass and bulk.

The Apartment Design Guide (ADG) has established that building separation not only ensures amenity between buildings is maintained but also contributes to the urban form of an area. One of the aims of building separation under Part 2F of the ADG is to:

- *ensure that new development is scaled to support the desired future character with appropriate massing and spaces between buildings*

The lack of appropriate building separation and setbacks has resulted in an excessive building bulk and a development that further deteriorates the urban form contrary to the vision established for Kogarah North Precinct.

The densification of the area, scale of the proposal and the emerging and existing context, the design should be amended to comply with the minimum required ADG building separation distances between habitable rooms.

c) Basement Car Park

Part 6.3.4 of GRDCP prescribes a minimum 3m setback for basements from all boundaries. However, under Section 4.2 for sites with greater than 1,500sqm in site area requires a minimum setback of 6m is required to accommodate deep soil areas.

The proposed 3 levels of basement are built to the southern and eastern boundaries. While a 2m setback is provided from the northern and western boundaries.

The proposal is required to be amended to provide a combination of 3m and 6m setbacks to the basements to provide for deep soil zones and basement setback requirements.

d) Vehicular Access

Vehicular access is proposed with 0m setback to the southern boundary accessed from Gladstone Street. The proposed level above ground has a setback of 4.5m from the southern boundary detaching the vehicular entry from the built form. The proposed vehicular access is visually disruptive in the streetscape and has adverse visual impacts. This is inconsistent with ADG Objective 3H-1, which requires vehicular access points to be designed and located to create high quality streetscapes.

The design should be amended integrating the vehicular access with the building's façade design, providing a minimum 6m setback to the southern boundary. This will provide opportunity for deep soil planting within the side setbacks enhancing the streetscape and providing occupant amenity of the future residents.



e) Pedestrian Access / Building Entry

The proposed pedestrian building entry and access lead directly to the fire stairs and service area access, given the location of the lifts. The proposal is inconsistent with Objective 3G-2 of the ADG, which requires building access areas including lift lobbies, stairwells and hallways to be clearly visible from the public domain. Individual building entries are between 0.65m below to 0.31m above the existing footpath level, which is inconsistent with ADG Objective 3G-2. This impedes accessibility.

The lifts should be located to be clearly visible from the public domain. In this regard, the fire stairs should be swapped with the lifts to resolve this matter. This will not only enhance the visual and physical pedestrian connection of the proposal with the public domain, but also the ease of wayfinding.

Relocating the waste room / bulky goods area to the basement should be considered to allow for the redesign of the circulation core, noting that compliance with the waste criterion needs to be considered in any redesign.

The proposal should be designed to address the existing topography to minimise the use of steps and ramps and level changes along pathways and entries.

f) Common Circulation Space

The proposal includes a 1.8m wide corridor / common circulation space (CCS) associated with two lifts to form the circulation core. For the first 4 storeys (including ground) the 27m long x 1.8m wide corridor provides access to 9 apartments on each storey and appears to have a window in the northern façade to the south of the Cottage – this is to be confirmed as the elevation does not include these window openings.

On the 5th storey and above, the double loaded corridor, which is 23m long provides access to 9 apartments on each storey and has no access to natural light and ventilation. This does not comply with ADG Objective 4F-1. The total number of apartments sharing a single lift is 40. The proposal has 100 apartments sharing 2 lifts. This is not consistent with the ADG objective.

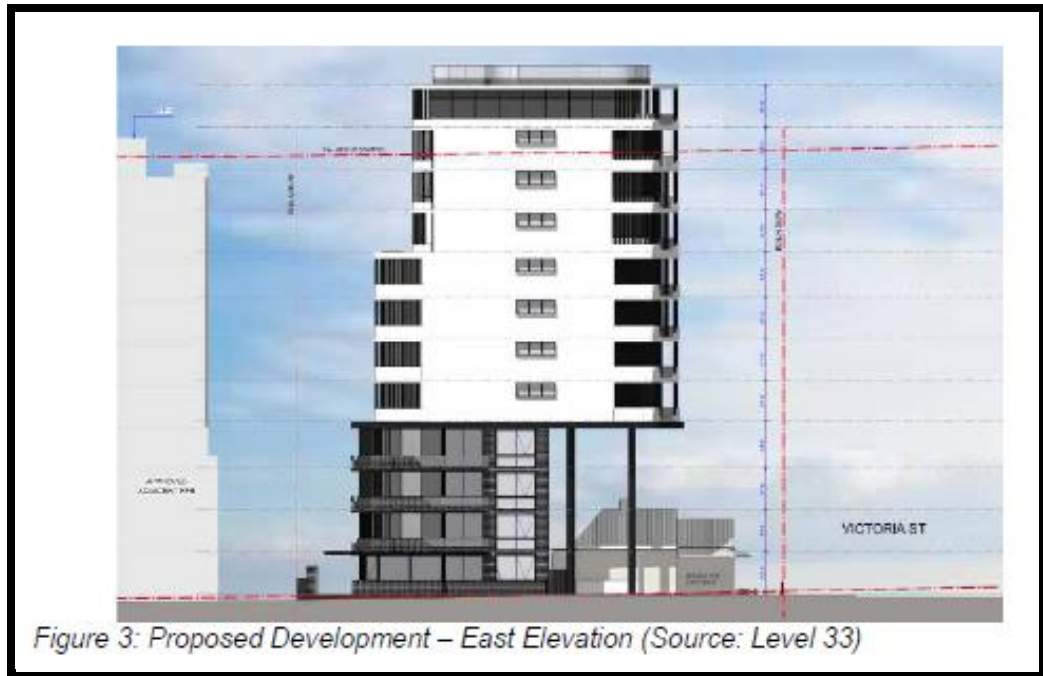
The proposed corridors do not provide articulation or opportunity for casual social interaction or incidental spaces for seating. The proposal does not comply with ADG Objective 4F-2.

The design should be amended to provide daylight and natural ventilation to all corridor / common circulation spaces. Although the corridor width may comply with the NCC/AS, a wider corridor is preferred to allow for comfortable movement. For the proposal to comply with Objective 4F-1, more than 2 lifts are required to service the proposed 100 apartments, especially given the solar access and natural ventilation non-compliance of the proposal.

The corridor / common circulation space should also be designed to provide incidental spaces for casual social interaction. Relocating the waste room / bulky good to the basement should be considered to allow for the redesign of the corridor/common circulation space on the ground level.

g) Height Transition and Heritage Item

The subject site contains a single storey cottage (2 Victoria Street) and is heritage listed due to its significance. The Cottage is proposed to be retained and potentially converted to a café with outdoor dining to the north-east (4 Victoria Street). The 5th storey and above of the proposed apartment building extends above/over the heritage item with this built form supported by two columns (Refer Figure 3).



The proposal was referred to Council's Heritage Consultant who offered support for the proposal heavily predicated on the fact that LEC has granted approval for a very similar scaled development sitting in the visual backdrop to the heritage item, which has set a precedent which will unquestionably visually alter the backdrop of the heritage item.

The development at No.44-52 Regent Street Kogarah, although sitting in the visual backdrop to the heritage item has a setback of 6m for the first 4 storeys and 9m for storeys above from the boundary. Overall, there is a separation of around 24m between the heritage item and the four storey podium of No.44-52 Regent Street providing a sense of visual depth to the heritage item, unlike the proposed which totally obliterates the heritage item.

On the other hand, No.6-16 Victoria Street, has attempted to preserve heritage by adopting the facadism approach. Although, facadism is not the best approach to conserve a heritage item, the approved and proposed approaches have significant differences, where the entire cottage at No. 2 Victoria Street is proposed to be retained and not just the façade. The outcome of No.6-16 Victoria Street is not considered a good urban design outcome.

The heritage advice sought at the Pre-DA, which was relayed to the applicant, was not predicated on the previous approvals in the vicinity. The heritage advice concluded that the proposal would completely overwhelm the scale of the item and fail to integrate it sympathetically and sensitively into the development as a whole.

Some of significant recommendations on design modifications included (Refer PRE2021/0096):

- *All elements above any part of the item should be deleted and the proposal confined to its alignment on the ground floor;*
- *The built form to the rear of the item (i.e. the full eastern third 'bay') should be substantially lowered in height so as not to overwhelm the scale of the item;*
- *The wall behind the item should be better articulated (without being overly busy) or concealed by generous landscaping in the form of dense planting of evergreen medium sized trees;*

As an urban design principle, the proposal should provide a transition in scale and height as required between different densities. An attempt has been made at the street frontage by staggering the building for the adjacent built form to be building behind the main façade of the Cottage. However, the setback to the rear and southwest of the Cottage are considered inadequate and combined with the built form above, the proposal results in totally eclipsing the built form of the Cottage and over densification of the streetscape.

The four storey vertical curtilage provided results in a disproportionate built form with the "building on stilts" not relating to the heritage Cottage's scale.

The design should be amended as follows:

- Built form above the Cottage should be deleted.
- If a built form to the south of the Cottage is desired, a 3 storey podium should be considered with a minimum 6m setback, with the built form above further setback.
- Similarly, a minimum 6m setback should be provided to the west of the Cottage with a three/four storey podium and the built form above further setback consistent with the existing approval.

#### h) Building Bulk and Scale / Street Frontage Height

The emerging and desired streetscape character includes a tower and podium typology with a four storey podium to provide human scale and the taller elements above the four storey podium setback as prescribed under Part 10.1.6 (3) of GRDCP. Exceptions to the podium height is also recommended on sites adjoining a low-scale heritage item.

In spite of the staggered Victoria Street setback/façade, given the lack of appropriate side and upper level setbacks, the proposal presents as a monolithic block with no variation in massing composition (Refer Figure 4). The proposed building typology is not consistent with the emerging streetscape and not compliant with the GRDCP requirements.



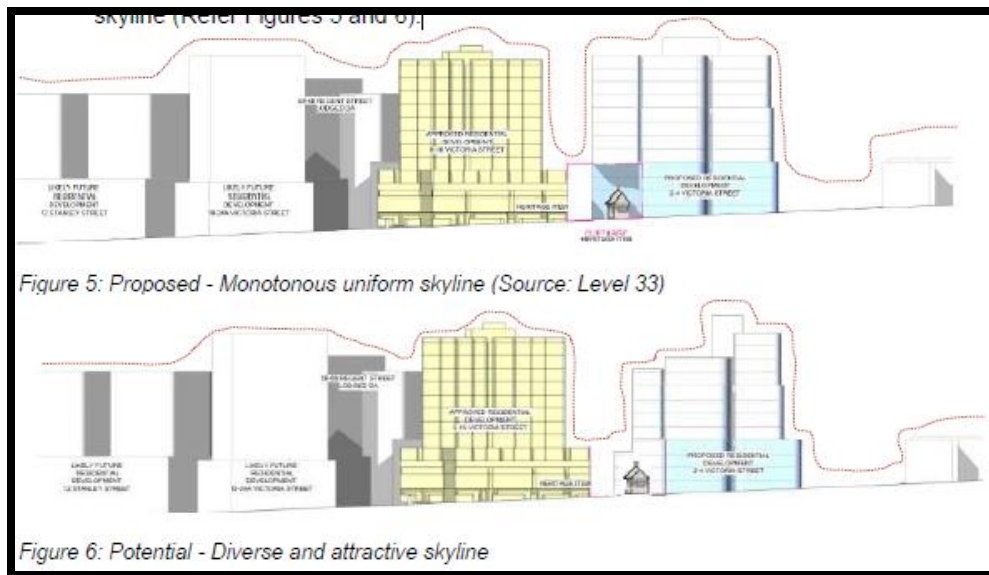
The proposed maximum building height of 41.6m (to lift overrun) exceeds the permissible building height of 33m by 8.6m. In addition, the proposed 4.29 :1 FSR exceeds the permissible 4 :1 FSR.

As discussed in the following sections, in addition to non-compliance with the maximum height of building FSR requirement, there are other design concerns which include building typology, street wall height, pedestrian and vehicular building entry, solar access, natural ventilation, building separation, deep soil area, overshadowing, lack of address to existing topography and height transition the existing heritage Cottage. The overall design outcome results in a built form, which exceeds the development capacity of the site in terms of bulk and scale.

The Statement of Environmental Effects (SEE) provided states that *the extent of the height variation is essentially one additional floor at the top of the building which actually results in the same number of storeys as the recently approved development on the immediately adjacent site to the east at 6-16 Victoria Street. Therefore, the height variation will actually facilitate a more cohesive streetscape outcome when compared with the previously approved building on the subject site.*

This is inaccurate as the proposed development in part has additional two storeys of habitable space plus a roof top communal open space and lift overrun. To have a cohesive streetscape does not require all buildings to have same height. Streetscape cohesion can easily be achieved by consistent landscaping, setbacks, architectural language etc. Variation in height can achieve a diverse and attractive skyline, which considers adjoining context rather than a monotonous uniform skyline (Refer Figures 5 and 6).





Although the built form above the 4th storey incorporates balconies, the facades predominantly maintain the building edge and does not provide any substantial massing variation except for the northern façade emphasising the box like bulky appearance. A significant eye level southern elevation is dominated by solid blank driveway wall. The proposed bulk and scale are considered excessive and not supported.

The design should be amended to comply with the maximum permitted height and FSR.

The design should also present a podium and tower typology with preferably a 3 storey podium around the existing heritage Cottage increasing to 4 storeys. The tower above should be setback minimum 3m to provide consistent architectural language and variation in the built form.

#### i) Communal Open Space

Objective 3D-1 of the ADG requires minimum 25% of the site area to be provided as communal open space (COS) with minimum 3m dimension. Minimum 50% of the COS is to receive direct sunlight for a minimum 2 hours between 9am to 3m on 21 June. The design guidance requires COS to be co-located with a deep soil area.

The recently adopted GRDCP prescribes that no more than 40% of the required COS to be located above ground. The GRDCP also prescribes a minimum 5m dimension for the COS.

The subject site (Site Area – 1,838sqm) requires a minimum 459.5sqm COS, while the proposed totals around 633.82sqm (34.5%). However, majority (75%) of the COS is proposed on the roof top / Level 12 (113.82sqm associated with the outdoor café on ground + 520sqm Roof top). This is not acceptable given the R4 zoning of the site and the lack of public open space in proximity.

The design should be amended and minimum 60% of the required COS should be provided at Ground Level. The COS should have a minimum dimension of 5m and be well integrated with the built form, directly accessible and not be a “left-over” space.

j) Deep Soil

Objective 3E-1 of the ADG requires minimum 7% of the site area to be provided as deep soil area with minimum dimensions of 6m for sites greater than 1,500sqm site area. For sites area greater than 1,500sqm, where possible, the ADG also recommends providing 15% of the site area as deep soil area.

The subject site (Site Area – 1,838sqm) requires a minimum 128.7sqm deep soil area. Based on the information provided, the proposal in total provides for a total of 142sqm deep soil area (Refer Drawing No.103, Issue A dated 8 January 2023). However, the deep soil provided does not comply with the minimum 6m dimensions required, as the basement extends to the southern and eastern boundaries and has a setback of 2m from the northern and western boundaries. This is not supported from an urban design or landscaping perspective.

The design of the basement should be amended to provide deep soil areas with minimum dimensions of 6m.

k) Solar Access

Objective 4A-1 of the ADG requires minimum 70% of the living rooms and private open spaces (POS) of apartments in a building to receive a minimum 2 hours direct sunlight between 9am and 3pm at mid winter. A maximum of 15% of apartments could receive no direct sunlight. The proposal includes a total of 100 apartments of which minimum 70 apartments and their POSs are required to comply with the ADG.

Additional and accurate information should be provided to ascertain compliance of the proposal with the solar access requirements. It is unlikely that the proposal will comply with the solar access requirements.

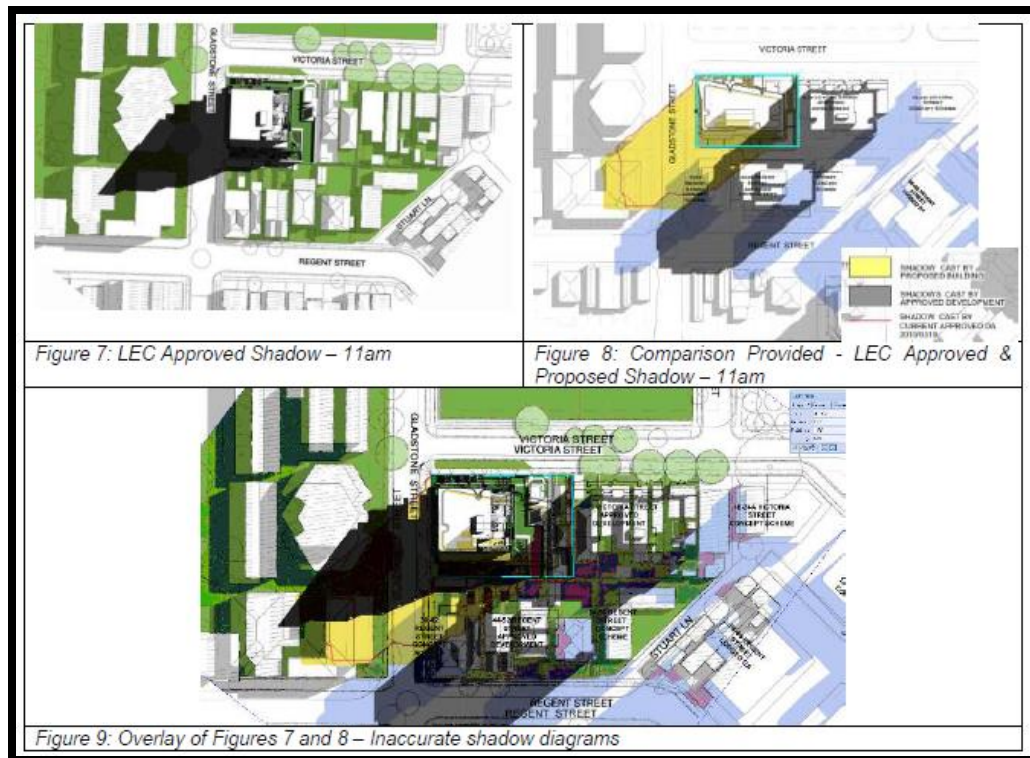
The following needs to be provided:

- Clarification on Drawing N0. 302 - Solar Compliance, Issue A dated 8 January 2023, which has apartments on Level 11B facing south as compliant.
- Given the depth and the existing heritage Cottage to the north, it is unlikely that Unit G.03, POS will receive the required direct solar access.
- Similarly, given the built form above the heritage Cottage, solar access to apartments 103, 203 and 303 and their POSs is a concern.
- Given the depth of the balconies in the northeast corner, solar access to apartments 404, 504, 604, 704, 804, 904 and 1004 is of concern.
- Detail solar analysis should be provided including elevational shadows and internal views taking the context into consideration.

l) Shadow Analysis

Shadow diagrams provided are incorrect. As an example, a comparison between the LEC approved development 11am shadow and the 11am comparison provided with the current application is provided below (Refer Figures 7 and 8). An overlay of the two is included to illustrate the actual increase in overshadowing (Refer Figure 9).

The shadow of the LEC approved development illustrated in the comparison provided (Refer Figure 8 - Red outline) has been significantly augmented and incorrect. The SEE provided states that *there is no significant difference in shadow within the context of the site which arises from the proposed variation which would warrant strict compliance in this instance*. However, this is incorrect. There is a significant difference in the extend of the shadow cast by the LEC approved development and the proposal with its excessive bulk and scale (Refer Figures 7, 8 and 9).



An accurate shadow comparison should be provided. The proposed bulk and scale should significantly be reduced to minimise the impact of overshadowing.

#### m) Natural Ventilation

Part 4B-3 of the ADG requires minimum 60% of apartments in the first nine storeys of a building to be naturally cross ventilated.

Drawing No.301- Cross Ventilation, Issue A dated 8 January 2023 provided is incorrect. Random arrows have been provided passing through solid walls to indicate air flow. The proposal has a doubly loaded corridor with no cross through or cross over apartments and limited dual aspect apartments limiting the opportunity of natural cross ventilation.

Based on Drawing No.301, apartment G01, G02, G05, G07, 101, 102, 109, 201, 202, 209, 301,302, 309, 401, 409, 501, 509, 601, 609, 701, 709, 801 and 809 are not considered naturally cross ventilated. In addition, apartment 107 relies on cross ventilation through a bathroom, which is not acceptable.

Accordingly, only 28 (35.89%) of the 78 apartments are naturally cross ventilated. This does not comply with Objective 4B-3 of the ADG.

The design needs to be amended to comply with the ADG requirements for cross ventilation. Drawing No.301 should be amended to illustrate the accurate information.

n) Building Services

Details including treatment of the fire hydrant booster, have not been provided on the Northern elevation. The width of the substation kiosk has been reduced from 5.3m (LEC approved) to 4.7m. Confirmation from the energy provider should be provided on the size of the kiosk as any increase will have an adverse impact on the streetscape.

A detailed design of the building services required to service the proposed building should be provided. The building services included should be integrated into the development and the façade design without compromising street activation and minimise the impact on the streetscape.

o) Architectural Expression

The proposed development is clearly rooted in the architecture and detailing of its contemporaries where the façades of developments constructed in recent years are dominated by mundane repetition of materials and façade treatment with little attention to detail or massing composition.

The proposed façades are a composition of repetitive building elements with clear glass and white render balcony balustrade emphasising horizontality and fixed black aluminium louvers in the background. In spite of the change in materiality, due to lack of address of topography, massing composition, appropriate setbacks and building separation; the proposed building has a box like appearance (Refer Figure 4).

The articulation in the form of the repetitive balconies do not provide depth in the massing due to the privacy screens and framing of the balconies. This adds to the building bulk as it does not read as projecting elements or variation in massing. The solid-to-void relationship, especially of the side elevations is not proportionate with significant proportion of the façade dominated by solid walls enhancing building bulk.

On the northern façade (Victoria Street frontage) the building entry is not clearly identifiable, the entries are not distinguishable. Additional details should be provided regarding the public / private interface treatment as it is likely that privacy screens will be provided for the POSs within the front setback, that will dominate the streetscape. This has the potential to present as a “dead” interface with the public domain and is undesirable. The roof form does not enhance the built form or the skyline.

The proposal should be amended for it to make a positive contribution to the public realm. All the above recommendations should be addressed for the building to deliver highest standard of sustainable architecture and urban design as prescribed under Clause 6.10 of GRLEP 2021.

The proposal should consider all building elevations and not just the street frontage. The design should incorporate thoughtful composition and detailing to minimise the perceived bulk and scale. Recessing and projecting massing and elements to break down the mass and avoid flat monotonous facades should be



considered. Using vertical emphasis to balance the overall size and horizontality should also be considered and break the monotonous and repetitious use of architectural detailing. Any blank walls should include changes in materials, patterns, colours or other design elements to provide some visual variation. The roof form should enhance the built form and the skyline.

One of Council's priorities under the LSPS is to improve architectural quality of developments. Hence, innovation is required in the design. Design solutions that integrate vertical gardens in the building façades must be explored to enhance visual appeal and address sustainability.

## **2. Environmental Health Officer**

- a) The Preliminary Site Investigation (PSI) prepared by ei australia dated 16 January 2019 and the Letter also prepared by ei australia dated 31 July 2019 reviewing the updated architectural plans covers the premises known as 2 Victoria Street and 16-22 Gladstone Street Kogarah but there is no mention or investigation conducted on the premises known as 4 Victoria Street Kogarah. An up-to-date PSI is required to cover the whole of land covered by this development proposal.
- b) No Acoustic Report was submitted with the Development Application. Concerns are raised regarding the operation of the café and the potential impact upon residents of dwellings on the subject site and in nearby premises. An Acoustic Report is required to assess the noise impact on dwellings in the locality in accordance with relevant NSW regulatory requirements.

## **3. Senior Landscape & Arboricultural Assessment Officer**

The proposal is not supported in its current form and the following issues are required to be addressed:

- a) The proposed basement extends to the eastern and southern boundary providing no deep soil zones. The basement also extends to within 2 metres of the north and western boundaries again not providing sufficient deep soil zones for a development of this size. The design of the proposed basement is excessive and does not provide adequate deep soil zones with a minimum dimension of 6 meters to support the planting of reasonable sized canopy trees. Drainage infrastructure is proposed to be installed within the front setback of Victoria Street further reducing the available deep soil zone.
- b) The proposed basement and public domain works will lead to a major encroachment within the required Tree Protection Zone of a mature Eucalyptus microcorys (Tallowwood) street tree growing in Victoria Street. An Arboricultural Impact Assessment prepared by a suitably qualified and experienced AQF Level 5 Arborist is required to be submitted. The report is to be prepared in accordance with Australian Standards AS4970/2009 and Georges River Tree Management Policy. The report is to examine the mature Eucalyptus microcorys (Tallowwood) street tree growing in Victoria Street and make recommendations ensure that the tree will remain healthy and viable into the future.

## **4. Waste Development Officer**

### **Waste Management Plan and Design Issues**

- a) The applicant has provided an incomplete Waste Management Plan (WMP). The following is required to be provided.
- The applicant must outline within an updated/new Waste Management Plan (WMP) the proposed methods for managing waste from the demolition and construction phase of the project. For construction and demolition stages of the development, the WMP must propose, at a minimum, all information outlined in Section 1 (Attachment 1) of the Georges River DCP 2021.*
- b) The applicant has not provided the travel path for the servicing of bins. There are also inconsistencies between the WMP and Architectural Plans regarding the size of the bins proposed to be used. The applicant is to provide the following additional information.
- The applicant must provide an updated WMP showing the path of travel from a common bin storage area to the designated collection point.*
  - The applicant should clarify the proposed bins sizes for the development and ensuring consistency between the WMP and the Architectural Plans.*
- c) The applicant has proposed private waste collection services. Council does not support the provision of private waste collection services only. Residents must not be limited to a private collection service and should be provided the opportunity to utilise Council's waste collection services. The Architectural Plans should be modified to allow the capacity for servicing by Council waste collection services. The following is required to accommodate servicing by Council's waste collection services.
- Architectural Plans should be amended to provide an impervious bin presentation area on Gladstone Street that would allow adequate bin storage prior to collection.*
  - Collection must be undertaken within a designated Waste Loading Zone and must be established in the off-street parking bays on Gladstone Street to minimise impact on local traffic. A Waste Loading zone must accommodate waste collection vehicle up to: 10.5m length, 2.5m width and 3.9m height, with rear bin loading. The use of a roll top kerbs to enable bins to be wheeled from the site to a waste collection vehicle for servicing must be indicated on the plans.*
- d) If you require Council waste collection services to provide a Wheel Out Wheel Back (WOWB) service, the following would be required.
- The bin storage area must be located on the ground floor and to be easily accessible by waste service contractors – within 15 metres of the kerbside and the path of travel must be a level and impervious surface (any keys/security codes provided for access to secure area if required). Waste collection contractors cannot travel into basement areas to retrieve bins for servicing.*

*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 on-going waste collection services provided to the property. The WOWB service can be cancelled at Council's discretion in which circumstance the site may be required to arrange bin presentation on the kerbside. 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 WOWB service.*

- *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.*
- e) The Architectural Plans show both doorways to the bin room are not wide enough to safely maneuver the 1100L and 660L bins proposed.
- *The doors to the bin room must have 1.5m clear opening as a minimum.*
- f) The WMP incorrectly references the requirements of Kogarah Development Control Plan 2013.
- *The applicant must update the WMP calculated waste generation rates to reflect the requirements of the Georges River DCP 2021 at a rate of 120L of recycled material per unit per week.*
- g) A diverter chute system is not consistent with best practise for development exceeding 10 storeys, as stated in the NSW Environment Protection Authority 'Better practice guide for resource recovery in residential developments'. The applicant must install a dual chute system to allow best practice waste management onsite.
- *The applicant must detail on revised Architectural Plans and corroborate these within a revised WMP showing a dual chute system for general waste and recycling waste, using either rotating or linear tracks at the chute discharge point.*
- h) The applicant has indicated food organics could be composed outside in an open space area. No allowance has been made for future introduction of an offsite food organic disposal service.
- *The NSW State Government has recently mandated the implementation of separate Food Organics and Garden Organics (FOGO) collection services for all residential properties. The applicant needs to clarify in the Waste Management Plan and Architectural Plans how waste management practices in the building can be adjusted to satisfy those requirements. 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. The Architectural Plans and WMP should be amended to reflect this mandatory requirement for FOGO collection services.*

- i) The Architectural Plans does not reflect the proposed use of 660L and 240L bins. It is Council preferred position that building of this scale utilise 660L or 1,110L bins for the yellow lid recycling bin service.
  - *The applicant must allow bin storage at the following ratios:*
    - i. *120L of recycling per unit per week – equivalent to: 10 x 660L commingled recycling bins per week, serviced twice weekly.*
- j) The applicant has not allowed for sufficient storage of bulky waste generated by residents. The architectural plans do not show doorway or entry point to enclosed area.
  - *The applicant must detail on revised Architectural Plans and corroborate these within a revised WMP showing sufficient storage of bulky waste generated by residents.*
  - *For a development of 100 residential units, the following storage space will be required for bulky waste:*
    - i. *Over 101 units: a minimum of 12m<sup>2</sup> + 2m<sup>2</sup> per 50 additional units above 150 units (or part thereof).*
  - *The bulky waste storage area must be secured/lockable, 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 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 so as 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 bin to be used. The path of travel for bins 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 a size appropriate 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 sewer with a water outlet for bin washing/cleaning and not visible from the public domain unless secured behind wall/roof.*



## Ongoing Operational Waste

### RESIDENTIAL

- k) The applicant has proposed a private waste collection contractor to service the property from the Gladstone Street. The Architectural Plans do not support kerb side collection as there is insufficient allowance for collection vehicle to safely access the property. For kerbside collection to occur, the following is required.
- *The applicant must update both the WMP and the Traffic Management plan to correspond to the proposed collection location and the following minimum requirements.*
  - *Collection must be undertaken within a designated Waste Loading Zone and must be established in the off-street parking bays on Gladstone Street to minimise impact on local traffic. A Waste Loading zone must accommodate waste collection vehicle up to: 10.5m length, 2.5m width and 3.9m height, with rear bin loading. The use of a rolling kerbsides to enable bins to be wheeled from the site to a waste collection vehicle for servicing must be indicated on the plans.*
  - *Private waste collection services provided for residential waste are restricted to a maximum of twice between Monday – Friday and within the hours of;*
    - i. *School days 6am to 8am, 9:30am to 2:30pm and 4pm to 10pm.*
    - ii. *Non-school day from 6am to 10pm.*
  - *Private waste collection services must remove bin from bin room at time of collection and not placed on Council land.*
  - *The Architectural Plans must show a hard surface along the travel path between bin storage location and bin collection which does not require the movement of bins on public roads.*
  - *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.*
  - *The management of wastes on private property and the movement of bins around 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.*
  - *The applicant must make provisions for equipment (such as bin tugs, bin lifters) to assist with the manual labour associated with moving Mobile Garbage Bins around the site to the collection location. Further, the use of technology such as tugs, trolleys or lifters should be considered when proposing movement of bulky waste materials from the required storage area to the collection location.*

It is Council's preferred position that the proposal be designed to allow Council to provide a waste collection service to future residents. The inclusion of a kerbside hardstand area suitable for the presentation of 660L or 1,100L bins prior to collection, the minimum requirements detailed above should be shown on the Architectural

Drawings and WMP to accommodate Council facilitated waste collection services and ensure it is taken into consideration in any redesigned form and Urban Design perspective.

The applicant must demonstrate how they will accommodate the implementation of separate Food Organics and Garden Organics (FOGO) collection services. The applicant needs to clarify in the Waste Management Plan and Architectural Plans how waste management practices in the building can be adjusted to satisfy the requirements detailed above.

## **5. Sydney Airport**

Sydney Airport requests Elevation Drawings be provided showing the maximum height of the building in AHD including any lift overruns and any other projecting structures etc.

## **6. Town Planning**

a) **State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004** - In accordance with the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, a BASIX Certificate is required to be submitted for the residential component of the proposed development. No BASIX certificate accompanied the application.

b) **Georges River Local Environmental Plan**

### **• 4.6 Variation to Height of Buildings (HOB)**

#### **Test 1 – the objectives of the standard are achieved notwithstanding the non-compliance.**

The primary argument for the variation request regarding building height standard is based on the "First Way." However, in this case, the request fails to sufficiently demonstrate consistency with the three HOB objectives, making it an unsupportable argument. Satisfying these objectives is reliant upon a number of unresolved matters related to the fundamental design of the building.

- i. The proposal has not demonstrated compatibility with the bulk and scale of the existing and desired character of the locality (see urban design comments concerning monolithic block, no variation in massing, lack of articulation, lack of a defined podium, lack of height transition, minimum setback to the heritage house, monotonous uniform skyline) – objective (a)
- ii. The proposal has not demonstrated an acceptable level of shadowing as the shadow diagrams provided incorrectly represent the shadow cast by Court approved DA2019/0319, the extent of overshadowing created by the proposed development is significantly greater as a result of the extra height and building bulk (see urban design comments concerning the inaccuracy in shadow diagrams presented) – objective (b)

The proposal has not demonstrated an acceptable level of visual impact in the locality (see urban design comments concerning monolithic block, no variation in massing, lack of articulation, lack of a defined podium, lack of height transition, minimum setback to the heritage house, monotonous uniform skyline, engulfing the heritage) – objective (b)

- iii. The proposal has not demonstrated an acceptable height transition to the heritage cottage in terms of height, setbacks and scale (see urban design comments concerning monolithic block, no variation in massing, lack of articulation, lack of a defined podium, minimum setback to the heritage house, over densification of the streetscape, building on stilts above and behind engulfs the heritage cottage eclipsing its built form) – objective (c).

As the proposal has not adequately demonstrated consistency with the above objectives there are insufficient environmental planning grounds to justify contravening the development standard and no conclusion can be drawn that the proposal is in the public interest, so the variation request is currently unfounded.

#### Test 4 – Abandonment of a Development Standard by Council's own actions

The argument presented it partially true in that Council has exercised a small degree of flexibility in the application of the standard by varying the height control to permit lift overruns and other plant and equipment above the 33m height limit. Council however has not been supportive of habitable floor space above the 33m height limit in the Kogarah North Precinct and the LGA. The current proposal seeks two levels of habitable rooms, communal open space and the lift over run.

The adjoining site at 6-16 Victoria Street was the first instance of habitable rooms being approved above the 33m height limit and that was approved following an appeal by the Land & Environment Court and was a negotiated outcome in response to the retention of the heritage terraces on the site. The argument presented that Council has abandoned this standard is false.

The proposed development presents as jarring and unsympathetic to its location and incompatible with its context. As the proposal has not adequately demonstrated consistency with the above objectives, fails to achieve a better outcome that would warrant a more flexible approach in the application of the development standard, there are insufficient environmental planning grounds to justify contravening the development standard and no conclusion can be drawn that the proposal is in the public interest, so the variation request is currently unfounded and without merit.

#### **• 4.6 Variation to Floor Space Ratio (FSR)**

##### Test 1 – the objectives of the standard are achieved notwithstanding the non-compliance.

The primary argument for the variation request regarding the floor space ratio standard is based on the "First Way." However, in this case, the request fails to sufficiently demonstrate consistency with the three FSR objectives, making it an unsupportable argument. Satisfying these objectives is reliant upon a number of unresolved matters related to the fundamental design of the building.

- i. The proposal has not demonstrated compatibility with the bulk and scale of the existing and desire character of the locality (see urban design comments concerning monolithic block, no variation in massing, lack of articulation, lack of a defined podium, lack of height transition, minimum setback to the heritage house, monotonous uniform skyline) – objective (a).
- ii. The proposal has not demonstrated an acceptable height transition to the heritage cottage in terms of height, setbacks and scale (see urban design comments concerning monolithic block, no variation in massing,

lack of articulation, lack of a defined podium, minimum setback to the heritage house, over densification of the streetscape, building on stilts above and behind engulfs the heritage cottage eclipsing its built form) – objective (b).

- iii. The proposal has not demonstrated an acceptable level of development density and intensity of land use taking into account the constraints of the heritage cottage. The density and intensity proposed undermines the visual qualities of the area, disrespecting the curtilage to the heritage cottage creating a negative visual impact in the locality (see urban design comments concerning monolithic block, no variation in massing, lack of articulation, lack of a defined podium, lack of height transition, minimum setback to the heritage house, monotonous uniform skyline, engulfing the heritage) – objective (c)

The proposed development presents as jarring and unsympathetic to its location and incompatible with its context. As the proposal has not adequately demonstrated consistency with the above objectives, fails to achieve a better outcome that would warrant a more flexible approach in the application of the development standard, there are insufficient environmental planning grounds to justify contravening the development standard and no conclusion can be drawn that the proposal is in the public interest, so the variation request is currently unfounded.

- **Design Excellence**

Clause 6.10 of the GRLEP relates to design excellence and provides that the consent authority must not consent to development greater than 3 storeys in the R4 High Density Residential zone unless it has considered that the development exhibits design excellence.

The proposed design has an unsympathetic relationship with the heritage cottage on site and presents as overly bulky monolithic design that lacks articulation that fails to offer a built form that responds to the constraints of the site. Given the numerous non-compliances and urban design issues discussed above the design fails to achieve the necessary design excellence required by the clause.

Accordingly, the consent authority cannot consent to a development that fails to exhibit design excellence and the proposal needs to be redesigned to be more compliant with a higher design standard.

c) **Proposed Café**

- In accordance with the requirements of GRDCP 6.3.13.3 Shop, Restaurants and Cafes, Small bars in R4 zones full details required of the proposed café use operations and fit out to assess the likely impact in the locality including a Plan of Management, detailing the hours of operation, waste storage, waste removal and goods delivery methods.
- Accurate and dimensioned plans of proposed café stating internal floor area, kitchen fit out, use of outdoor area and any outdoor seating.
- Council cannot assess the impacts of the adaptive reuse without full details being provided.



- d) **Statement of Environmental Effects** - The Statement of Environmental Effects (SEE) was found to be deficient and failed to address multiple planning policy controls as required by section 4.15 (1)(a)(i). including the following:

**Apartment Design Guide**

- i. 3D Communal Open Space
- ii. 3E Deep Soil Zones
- iii. 3F Visual Privacy
- iv. 3G Pedestrian access and entries
- v. 3H Vehicle access
- vi. 3J Bicycle and Carparking
- vii. 4A Solar and Daylight Access
- viii. 4B Natural Ventilation
- ix. 4C Ceiling Heights
- x. 4D Apartment Size and Layout
- xi. 4E Private Open Space and Balconies
- xii. 4F Common circulation areas
- xiii. 4G Storage
- xiv. 4H Acoustic Privacy
- xv. 4J Noise and Pollution
- xvi. 4K Apartment Mix
- xvii. 4L Ground Floor Apartments
- xviii. 4M Facades
- xix. 4N Roof design
- xx. 4O Landscape Design
- xxi. 4P Planting on Structures
- xxii. 4Q Universal Design
- xxiii. 4U Energy Efficiency
- xxiv. 4V Water management and conservation
- xxv. 4W Waste Management
- xxvi. 4X Building Maintenance

- e) **Georges River Development Control Plan (GRDCP)**

- i. Part 6 3 Residential Flat Buildings and residential components of shop top housing (High Density).

Please provided an update SEE addressing these requirements.

- f) **Wind Analysis Report** - In accordance with the requirements of GRDCP - Part 10.1.6 (3)– Kogarah North Precinct a Wind Analysis Report is required to be submitted.
- g) **Fencing Details** - details required of proposed fencing to both street frontages.
- h) **Updated Plan** - Plan 120 - East Elevation is inaccurate as it fails to show the Residential Flat Building behind the heritage house to the west. This detail is required to demonstrate the impact of the development on the heritage cottage.
- i) **Side Boundary Setback** – In accordance with the requirements of GRDCP Part 6.3.3 – Side Boundary Setbacks and Part 10.1.6 (4) – Setbacks, the southern and western boundary setbacks fail to comply. These setback needs to be increased to allow separation with the adjoining property and opportunities for deep soil panting.

- j) **Basement Setbacks** - In accordance with the requirements of GRDCP Part 6.3.4 basement setbacks need to be amended to comply to allow deep soil zones.
- k) **Deep Soil zones** – The deep soil zones on the whole are inadequate but are also further reduced by drainage structures, decking, paving and basement ventilation structures which cannot be included when calculating deep soil zones.
- l) **Public Art** – In accordance with the requirements of GRDCP - Part 3.15.2 a Public Art Plan is required to be submitted. The Plan shall be prepared in accordance with the Georges River Council Public Art Guidelines.
- m) **Other GRDCP controls:** - The proposal needs to be amended to comply with the below GRDCP controls:
  - Part 6.3.6 – Landscape Treatment of Setbacks
  - Part 6.3.7 – Communal Open Space
  - Part 6.3.8 – Solar Access
  - Part 6.3.10 – Dwelling Mix
  - Part 10.1.6 (5) – Trees and Landscape
  - Part 10.1.6 (8) – Housing Choice

## 7. **Likely impacts of that development 4.15(1)(b)** **Suitability of the Site 4.15(1)(c)**

During the Pre-DA meeting held on 9/12/2021 significant planning, urban design, and heritage issues were raised including excessive bulk and scale and the negative impact on the curtilage of the heritage cottage and on the streetscape, but these issues have not been resolved in the current application and remain significant issues.

The current proposal is reliant upon multiple variations to current planning policy and where arguments are presented in support of these variations the theme alternates between being consistent with the existing approval over the subject site and being consistent with the approval granted by the Land & Environment Court under Development Consent DA2020/0128 over the adjoining site Nos. 6-16 Victoria Street on the basis that the existing heritage item is being retained and adaptively re-used as a café.

The current DA is a new application, so the previous approval granted under the provisions of superseded planning policy Kogarah LEP and DCP is irrelevant especially given the significant change in the built form. The proposal also seeks to introduce additional building height and floor space ratio, resulting in excessive bulk and scale increases and lack of setbacks being provided, but the design presented has not demonstrated that it is suitable for the constraints of the site. The proposal fails to accord with the relevant planning controls and presents as being too intensive for the site so may be considered as over development in the circumstances that will cause a negative impact on the heritage cottage.