

Panel Reference	PPSSSH-17
DA Number	DA2020/0056
LGA	Georges River Council
Proposed Development	Demolition works and construction of a two stage mixed use development including ground floor retail premises with commercial premises and a residential flat building (affordable rental housing) above.
Street Address	280-298 Railway Parade, Carlton
Applicant/Owner	Applicant: Willow Frank Consulting Pty Ltd Owner: Network Strata Services Pty Ltd and Netstrata Pty Ltd
Date of DA lodgement	17 February 2020
Number of Submissions	Two (2) Submissions
Recommendation	Approval subject to conditions.
Regional Development Criteria (Schedule 7)	Regionally significant development is defined in Schedule 7 of <i>State Environmental Planning Policy (State and Regional Development) 2011</i> . The proposed development is classified as "Regional" development as it has a Capital Investment Value (CIV) of over \$30 million. The CIV of the project is \$53,428,461 Incl. 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 2000 • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Affordable Rental Housing) 2009 • State Environmental Planning Policy No 55 – Remediation of Land • State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development • State Environmental Planning Policy (Building and Sustainability Index: 2004) • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 • Greater Metropolitan Regional Environmental Plan No 2—

	<p>Georges River Catchment</p> <ul style="list-style-type: none"> • Kogarah Local Environmental Plan 2012 • Draft State Environmental Planning Policy – Remediation of Land • Draft State Environmental Planning Policy – Environment • Draft Georges River Local Environmental Plan 2020 • Kogarah Development Control Plan 2013
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Statement of Environmental Effects • Clause 4.6 Variation Request (amended) – height of buildings • Registered survey • Architectural plans • Landscape Plan • Stormwater Plans • Traffic and Parking Assessment report • SEPP 65 Design Verification Statement • Remediation Action Plan
Report prepared by	<p>Kim Johnston</p> <p>Consultant Planner (KJ Planning)</p>
Report date	3 December 2020

<p>Summary of matters for consideration under Section 4.15</p> <p>Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?</p>	Yes
<p>Legislative clauses requiring consent authority satisfaction</p> <p>Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarised, in the Executive Summary of the assessment report?</p>	Yes
<p>Clause 4.6 Exceptions to development standards</p> <p>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?</p>	Yes – Clause 4.3 height of buildings

Special Infrastructure Contributions	
Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions	
Have draft conditions been provided to the applicant for comment?	No

Executive Summary

The Proposal

Council received a development application (DA2020/0056) seeking consent for demolition of existing structures and construction of a mixed use development comprising a five (5) storey commercial and retail building and a six (6) storey building containing affordable rental housing ('ARH') units above ground floor retail tenancies, basement car park and landscaping works in two (2) stages.

The proposal satisfies the definition of regionally significant development pursuant to Clause 2 of Schedule 7 of *State Environmental Planning Policy (State and Regional Development) 2011* as the proposal has a Capital Investment Value (CIV) of \$53,428,461 Incl. GST confirmed in a Detailed Cost Report. Since the CIV exceeds \$30 million for general development, the application is to be determined by the Sydney South Planning Panel ('the Panel').

The proposal is not staged development under *Environmental Planning and Assessment Act 1979* ('EP&A Act'), however, has been split into two 'stages' comprising the commercial/retail building as Stage 1 and the ARH units/retail building as Stage 2. The proposal is outlined in detail in this report.

All units within the Stage 2 ARH units/retail building are proposed as affordable rental units as defined in the *State Environmental Planning Policy Affordable Rental Housing) 2009* ('ARH SEPP') resulting in the proposal seeking a floor space bonus in accordance with Clause 13 of the ARH SEPP. For the purposes of calculating numerical compliance with the bonus FSR provisions for Stage 2, the site has been split into three (3) areas as outlined in this report. The proposal complies with the provisions of this bonus.

A briefing to the Panel was held on 10 June 2020, during which key issues were discussed including the ARH SEPP floor space bonus calculation and vehicle access from Buchanan Street. These issues have been resolved through the submission of amended plans and additional information.

Site and locality

The site is known as No 280 – 298 Railway Parade Carlton ('the site') and comprises an irregularly shaped site, has a gentle slope falling toward the south and comprises

a total site area of 3,513m². The site is located on a prominent corner within the Carlton town centre, opposite Carlton Railway Station.

Existing development on the site includes a part two/part three storey building containing a gym and offices (290-298 Railway Parade) as well as several detached former dwelling houses currently used for commercial purposes (280-286 Railway Parade). Car parking also exists centrally within the site which is accessed from Buchanan Street and Railway Parade, and a laneway to Jubilee Avenue.

Planning Controls

The following planning controls are applicable to the site and have been considered in this report:

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy No 55 – Remediation of Land
- State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development
- State Environmental Planning Policy (Building and Sustainability Index: 2004)
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- Greater Sydney Regional Environmental Plan No 2 – Georges River Catchment
- Kogarah Local Environmental Plan 2012
- Draft State Environmental Planning Policy – Remediation of Land
- Draft Environment State Environmental Planning Policy
- Draft Georges River Local Environmental Plan 2020
- Kogarah Development Control Plan 2013

The proposal generally complies with the provisions of these policies and a detailed assessment of the proposal against the provisions of these policies is provided in this report.

Kogarah LEP 2012 & Kogarah DCP 2013

The site is zoned B2 Local Centre and R3 Medium Density Residential pursuant to the provisions of the *Kogarah Local Environmental Plan 2012* ('KLEP 2012'). The proposal is for a mixed use development which is permissible with consent in the B2 Local Centre zone as *commercial premises*, *retail premises* and a *residential flat building*. The part of the site zoned R3 is proposed to comprise only landscaped open space.

The site has a height limit of 21 metres pursuant to Clause 4.3 of the KLEP 2012; however, the proposal seeks a variation of up to 4.4 metres for a proposed overall height of 25.4 metres to the top of the lift overrun of both of the proposed buildings on the site. There is no floor space proposed above the maximum height limit, with the variation containing open communal open space and associated structures. A Clause 4.6 variation request has been submitted with the application and is considered to be well founded.

The maximum floor space ratio (FSR) for the site is 2.5:1 (B2 land) and 2:1 (R3 land) in accordance with Clause 4.4(2) of the KLEP 2012. The land zoned R3 has been excluded from the site area for the purpose of calculating the floor space ratio. The proposal involves a total gross floor area of 8,972m², resulting in a total FSR of 2.71:1. The proposal complies with the maximum permissible FSR for the site taking into account this bonus FSR provision available under the ARH SEPP.

The proposal is also considered to be generally consistent with the applicable controls of the Kogarah DCP 2013. A detailed assessment of the proposal against the relevant controls is contained in this report. 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 DCP.

Submissions

The application was notified to owners and occupiers in the immediate locality in accordance with the provisions of the Kogarah DCP 2013. In response, two (2) submissions were received, which have been considered in this report. The issues are considered to be adequately addressed in the report and conditions.

Conclusion and Recommendation

Having regard to the matters for consideration in Section 4.15 of the *EP&A Act* and following a detailed assessment of the proposal, pursuant to Section 4.16(1)(a) of the *EP&A Act*, DA2020/0056 is recommended for approval subject to the conditions contained at **Schedule 1** of this report.

Full Report

Background

A brief history of the proposal is outlined below, starting with the pre-lodgement meeting and the actions of the consent authority and Panel throughout the assessment of this application.

Pre-lodgement application

The proposal was the subject of a Pre-lodgement Application (PRE2019/0019) to Council, with the design of the proposal being similar to the current application. The pre-lodgement advice issued by Council provided general comments on the following:

- Permissibility
- Height of buildings
- Floor space ratio
- Landscape and deep soil
- Communal open space
- Residential amenity
- Over shadowing
- Car parking
- Safety and security
- Waste management and utility services
- Adaptable housing

The application was also referred to Council's Design Review Panel ('DRP') and was considered at a DRP meeting on 13 June 2019. Further discussion is provided on the Panel's comments and the design response in the SEPP 65 and ADG assessment in this report. The application has satisfactorily addressed the comments provided by Council at the Pre DA stage.

The application was subsequently lodged with Council on 17 February 2020.

Sydney South Planning Panel

Following the lodgement of the application, the proposal was referred to the Panel at a briefing held on 10 June 2020. The following key issues were discussed and required further resolution:

- Floor space bonus calculation under the ARH SEPP; and
- Vehicle access from Buchanan Street and consent from council across council-owned property.

Following the briefing meeting and internal referral comments from council staff, the applicant was requested to submit additional information and amended plans in relation to the following aspects of the development in correspondence from Council dated 22 June 2020:

- Access from Buchanan Street and owners consent
- Egress to Jubilee Avenue
- Floor Space calculations
- Building height
- Compliance with the Apartment Design Guide
- Urban Design
- Drainage and stormwater
- Traffic and parking
- Waste management
- Site investigation report
- Shadow diagrams

In response, the applicant submitted the following amended proposal and additional information in correspondence dated 28 August 2020:

- Amended architectural plans addressing height and floor space matters, compliance with the ADG, waste management, traffic and parking matters;
- An updated Remediation Action Plan;
- Additional information in relation to stormwater and drainage;
- Updated shadow diagrams, BASIX Certificate and Landscape Plan; and
- Owners consent from Council for access across council-owned land from Buchanan Street.

This additional and amended information was accepted by Council pursuant to Section 55 of the *Environmental Planning and Assessment Regulation 2000* ('the Regulations') and is assessed as the proposal in this report.

Site and Locality

The Site

The site is legally described as Lot 1 in DP 1262370 and is known as No 280 – 298 Railway Parade Carlton ('the site'). At the time of lodgement of the application, the site consisted of 12 allotments (Lot 11-12 DP 627414, Lot 2-3 DP 734336, Lot 1 DP 731867, Lot 95 DP 1078103, Lot 1 DP 302500, Lot 88-91 DP 1753, Lot 1 DP 939964), however, the allotments were consolidated during the assessment of the application to form the current Lot 1. The site is located within the Carlton town centre and opposite Carlton Railway Station.

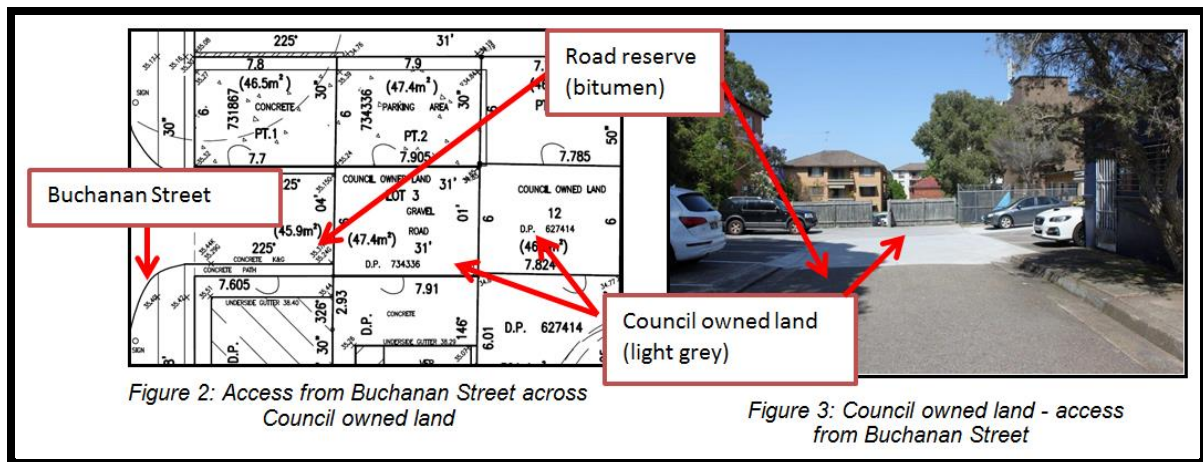
The site is irregularly shaped, has a gentle slope falling toward the south (rear) and comprises a total site area of 3,513m² (including the R3 zoned portion along the southern boundary. The existing site is illustrated in **Figure 1**.

The site comprises a corner allotment with the main street frontage to Railway Parade of approximately 78 metres along its northern boundary and a 31 metre long eastern boundary to Buchanan Street. This eastern boundary is not continuous as a 6 metre wide lot exists close to the southern boundary which provides vehicle access to the site.



Figure 1: Existing Site Plan (Source: Marchese partners, July 2020)

The majority of this land outside the site comprises two (2) small lots owned by Council and upon visual inspection is serving as road access to the site. The street end of this parcel is part of the road reserve of Buchanan Street; however, Lot 3 in DP 734336 and Lot 12 in DP 627414 are Council owned lots (**Figure 2** and **3**). Council has provided owners consent for the application and a land tenure arrangement is to be negotiated with Council's Property Division for the on-going use of this land for access. A condition is recommended in **Schedule 1**.



An overall boundary of approximately 86 metres exists along the southern extent of the site while the western boundary to Jubilee Avenue comprises 3 metres consisting of a driveway only. This 3 metre wide portion of the site also provides vehicle access as a right of way benefitting lots to the north which addresses Railway Parade and/or Jubilee Avenue (illustrated below in **Figure 4**).



Figure 2: Existing vehicle access via an access handle (right of way) to Jubilee Avenue from the site – proposed as an exit driveway only

Existing Development on the site

The existing development on the site comprises five (5) buildings including four (4) single-storey cottages at No 280 – No 288 Railway Parade and a three-storey (3) commercial building at No 290-298. All buildings used are used for commercial

The following structures currently occupy the site:

- The existing vehicle access directly to Railway Parade will only be retained for construction access for Stage 1 and will then be removed (refer to Figure 8).



280-298 Railway Parade Carlton



Figure 4: Existing development on the site - four former dwellings used for commercial purposes



Figure 5: Existing car parking in the central portion of the site

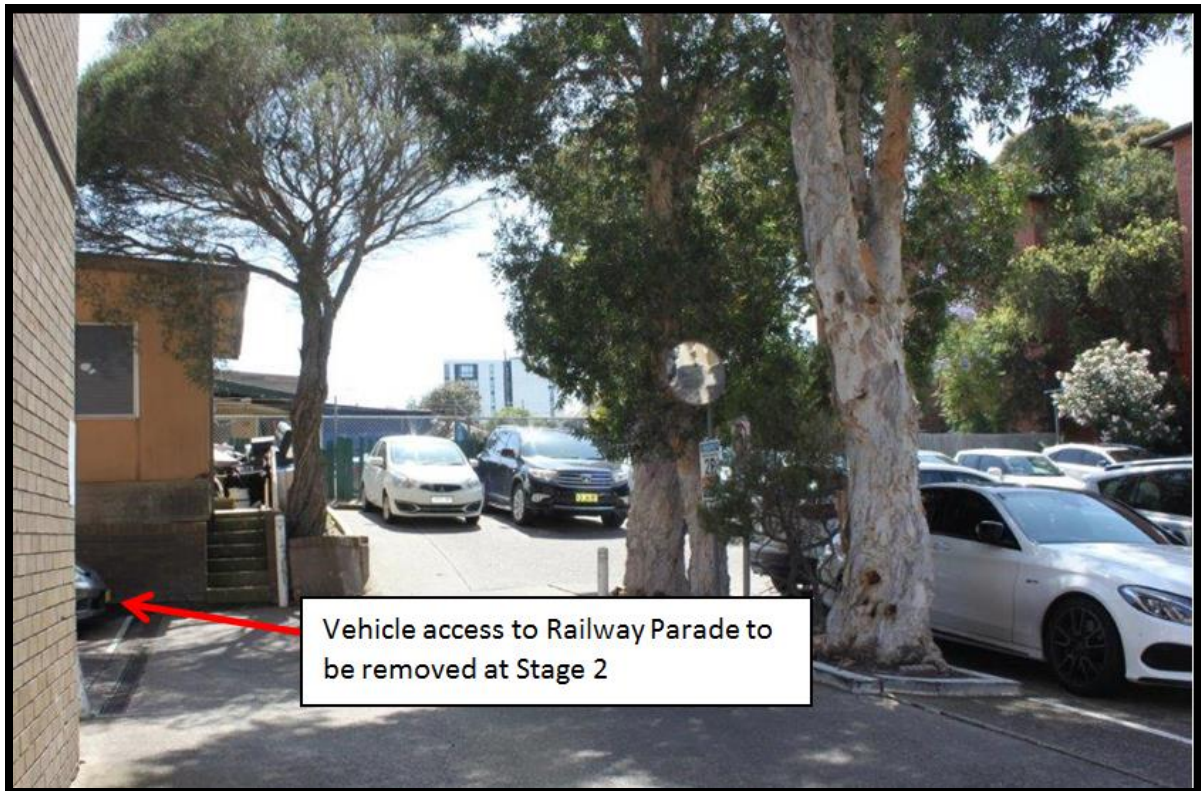


Figure 6: Existing trees within the car park proposed to be removed

Adjoining Development

The site is located within the Carlton town centre and within a mixed use area. To the north of the site, on the opposite side of Railway Parade, is a commuter car park for Carlton Railway Station (**Figure 9**).



Figure 7: Commuter car park to the north

Two storey shop top housing is located along the length of Railway Parade within the town centre, including immediately to the west of the site (**Figure 10**). Cafes and shops are located on Railway Parade and Jubilee Avenue, in close proximity to the station as well as the Royal Hotel Carlton, a local heritage item (**Figure 11**).



Figure 8: Adjoining development to the west at No 302-310 Railway Parade



Figure 9: Royal Hotel Carlton:

To the east is largely residential development, generally comprising three (3) to four (4) storey residential flat buildings as well as some single and two (2) storey

detached housing. This area on the eastern side of Buchanan Street is a mix of single storey residential development transitioning to multi-level residential flat buildings and mixed use development further towards Kogarah (**Figure 12**).



Figure 10: Looking east (corner Railway Parade and Buchanan Street) - Low density residential development

Adjoining development to the south-east, beyond the existing car park on the site, comprises three (3) storey residential flat buildings at No. 1 – 7 Buchanan Street (**Figure 13**). To the south, the adjoining development comprises two (2) and three (3) storey residential flat development at Nos. 14 and 16 Jubilee Avenue (**Figure 14**). No. 10 Jubilee Avenue adjoins the subject site to the south-west of the laneway and contains a shop top housing building (**Figure 15 and 16**).



Figure 11: No 1-7 Buchanan Street - car parking is located on the subject site



Figure 12: Adjoining development to the south – the rear of Nos 14 and 16 Jubilee Avenue



Figure 13: No 10 Jubilee Avenue to the south-west of the site adjoining the ROW

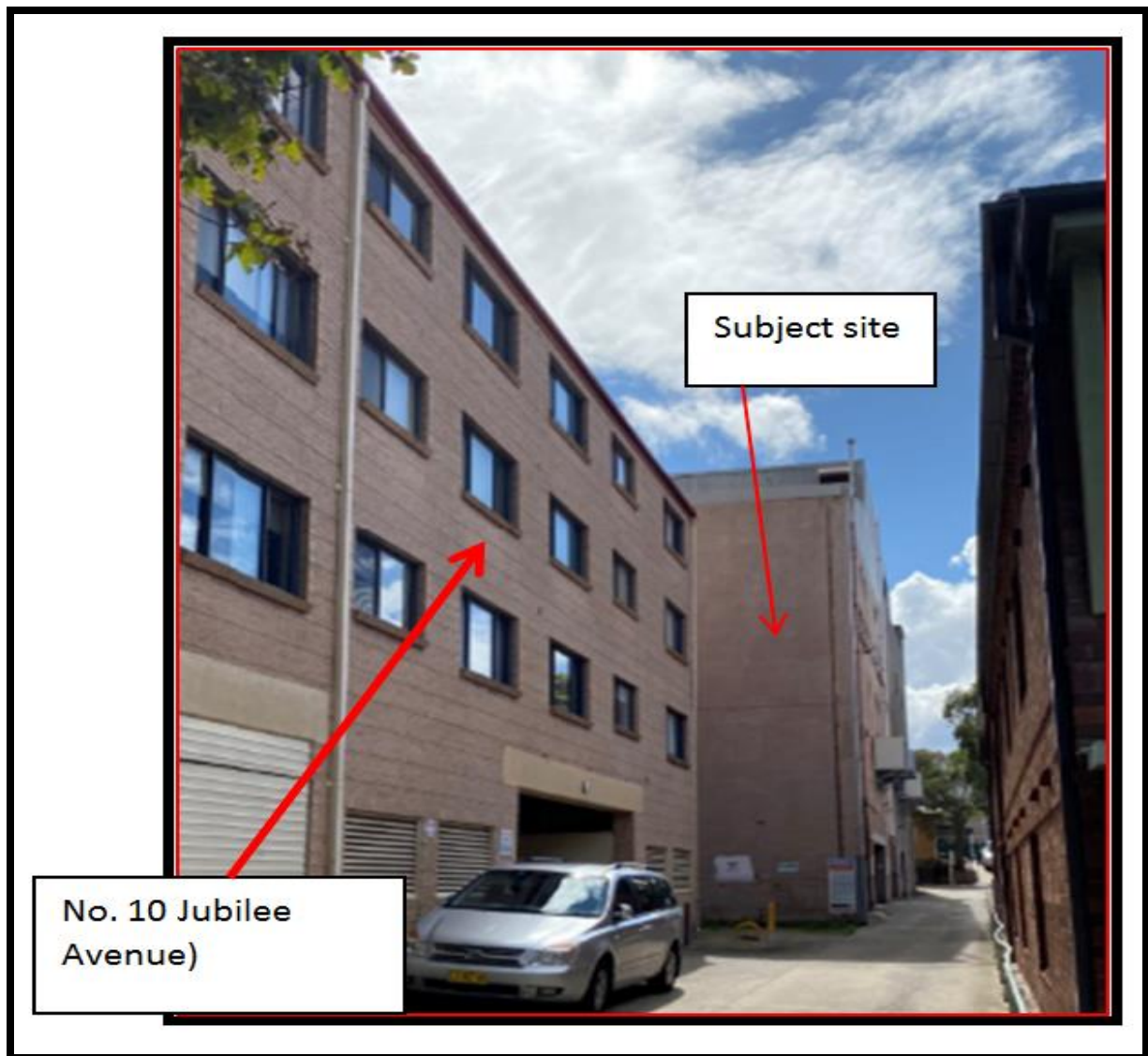


Figure 14: No 10 Jubilee Avenue showing the ROW leading to the site

Proposal

The proposal (as amended) includes the following:

- Demolition of existing structures on the site over two (2) separate stages, with stage 1 comprising demolition of the four (4) detached cottages and hardstand car parking area and stage 2 comprising demolition of the larger multi storey commercial (gym) building;
- Construction and excavation of four (4) levels of basement car parking and at-grade car parking providing a total of 207 car parking spaces;
- Construction of two (2) buildings comprising the following (to appear as one large building post construction):
 - Stage 1 (retail and commercial) building consisting of ground level retail tenancies totalling 350m² of GFA, four (4) upper levels of commercial floor space totalling 4,132m² of GFA and rooftop communal area; and

- Stage 2 (retail and affordable rental housing apartments) comprising ground level retail tenancies totalling 534m² of GFA, 50 affordable rental housing apartments consisting of 20 x 1 bed units and 30 x 2 bed units on the upper levels and rooftop communal open space for ARH units;
- Associated landscaping, stormwater, vehicle access and public domain works.

A detailed outline of the proposal is provided below.

Basement and Ground Level Car Parking

The proposal involves the construction of two (2) separate basements, under each respective building in Stage 1 and Stage 2 (refer to Figure 17). The total number of spaces, including at-grade car parking, is outlined in **Table 1** below.

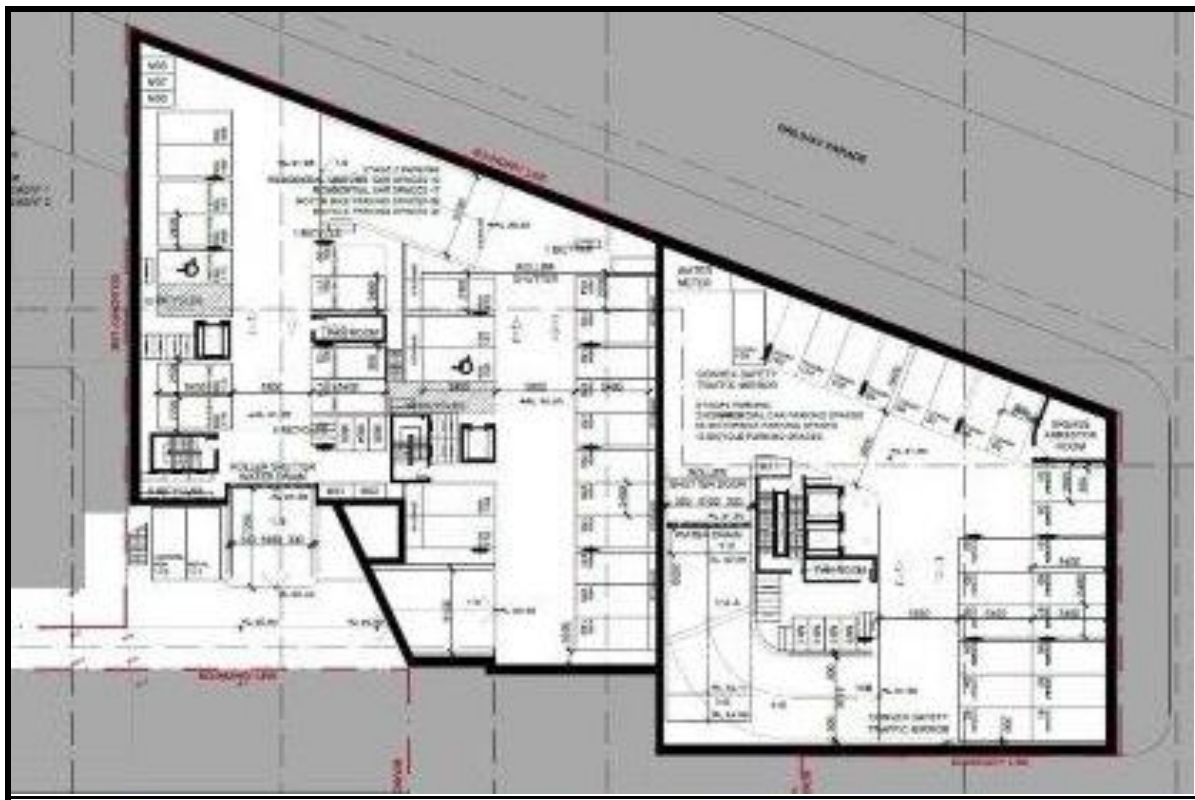


Figure 15: Proposed Basement Level B1 (Source: Marchese Partners, July 2020)

Table 1: Car Parking Provided in the Basement and Ground Level Parking

Table 2: Car Parking provided in the Proposal

BASEMENT LEVEL	CAR PARKING SPACES	MOTORBIKE SPACES	BICYCLE SPACES	OTHER
Basement 4 – Commercial (B4)	28 Commercial (incl 1 disabled)	4	21	Double lift & stair core
Basement 3 – Commercial (B3)	26 Commercial (incl 1 disabled)	4	9	Double lift & stair core, cold water pump room;

Basement 2 – Commercial (B2)	26 Commercial (incl 1 disabled)	4	9	Double lift & stair core
Basement 1 – Commercial (B1)	23 Commercial (incl 1 disabled)	5	13	Double lift & stair core, Fan room; Grease arrestor room; water meter;
Basement 2 Residential/ Retail (B2)	39 residential (including 2 accessible)	-	20	Residential storage cages above spaces; Fan room; 2 x lift & 2 x stair cores;
Basement 1 Residential/ Retail (B1)	17 residential (incl 1 accessible) 10 visitor incl 1 accessible	8	32	residential storage cages above spaces; Fan room; Two x lift & two x stair cores
Ground level	35 retail, 2 courier and 1 residential visitor			Loading dock
Total	207	25	104	

Staging of the Development

The proposal is to be constructed in two (2) distinct stages, however, is not ‘staged’ development for the purposes of the EP&A Act. Any consent issued will be for the entire project with no additional approvals required (apart from those relating to the use of the individual commercial and retail areas as well as any signage not satisfying the criteria for exempt or complying development – refer to **Schedule 1**).

The first stage, Stage 1, will comprise the demolition of the four (4) detached cottages used for commercial development along Railway Parade and the construction of the retail and commercial building. The vehicle access from Railway Parade will be retained for the construction of this Stage and then removed.

The second stage, Stage 2, will involve the demolition of the larger 2/3 storey commercial building currently used as gym followed by the construction of the retail and residential building containing affordable housing units.

The timing of these stages will allow the owner of the site, Netstrata, to operate within their existing premises on the site until the proposed Stage 1 commercial building is completed, which they will then occupy.

For the purposes of calculating numerical compliance with the relevant planning controls, particularly the ARH SEPP, the site area has been split into three areas and comprises the following (refer to **Figure 18**):

- Area 1 – Stage 1 – 1,792.8m²;
- Area 2 – Stage 2 – 1,515m²; and
- Area 3 – 205.3m²

It is noted that Area 3 is not included in any of the GFA/FSR or landscaping area calculations.

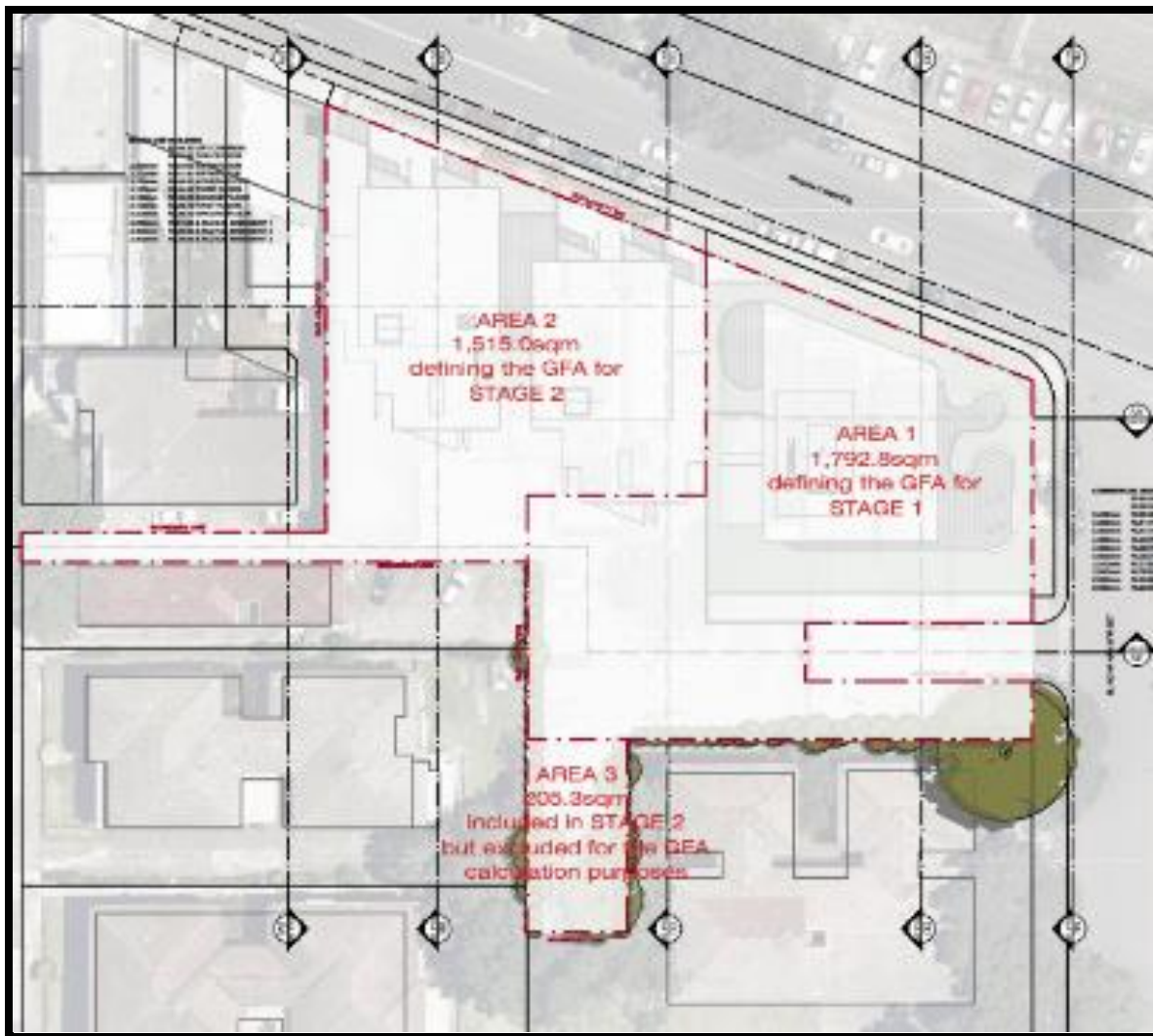


Figure 16: Area calculations for each proposed Stage (Source: Marchese Partners, July 2020)

Vehicle access

The proposal involves two (2) vehicle access points comprising the Buchanan Street driveway and the access handle/ROW to Jubilee Avenue. The Buchanan Street access way relies on access over two council-owned lots of land (Lot 3 in DP 734336 and Lot 12 in DP 627414). Council has provided owners consent to the Development Application and negotiations are on-going for the tenure of these two (2) lots.

In relation to the access handle driveway to Jubilee Avenue, this is for exit driveway only given the narrowness of this section of the site. The Traffic Report concluded that the driveway access complies with the Australian Standards and Council's requirements. Relevant conditions have been recommended to be imposed in **Schedule 1**.

Gross Floor Area

The gross floor area of the proposal has been calculated separately for each Stage as the ARH SEPP provides a bonus FSR of 0.5:1 subject to satisfaction of various criteria (considered in the statutory assessment below). As outlined in the assessment of the ARH SEPP and the Kogarah LEP 2012, the proposal complies with the maximum FSR development standard for the site (refer to **Table 3**). The FSR is considered in the KLEP 2012 assessment.

Table 3: FSR/GFA Calculations

STAGE	RETAIL	COMMERCIAL	ARH/ RESIDENTIAL	TOTAL BLDG. GFA	SITE AREA
1	350	4,132	0	4,482	1,792
2	538	0	3,952	4,490	1,515
Total	888	4,132	3,952	8,972	3,307

Stage 1 - Retail and Commercial Building

This building comprises six (6) storeys above the basement with the ground floor of this building comprises the following:

- Two x retail tenancies (153m² and 197m²);
- Office lobby;
- Service rooms and waste room;
- Four x WCs; and
- Double lift and stair core.

Levels 1 to 4 comprise the same footprint, each with 978m² of office/commercial space per floor and with a double lift/stair core and amenities on each level. Level 5 comprises a rooftop communal open space for the commercial building which consists of seating and passive open space as well as plant and service areas.

Stage 2 - Retail and Residential Building

This building comprises seven (7) storeys above the basement with the ground floor of this building comprises the following:

- Two x retail tenancies (247m² and 287m²);
- residential lobby with mailboxes; and
- Service rooms and 2 waste rooms.
- Two x lift and two x stair cores; and
- Open space landscaped area (R3 land).

Levels 1 to 5 comprise the same footprint with 4 x 1 bedroom units and 6 x 2 bedroom units on each level, including two accessible units on Levels 1 to 3, as well as waste chutes and bin store and two x lift and two x stair cores servicing each

level. All of the proposed apartments in the Stage 2 building are proposed as affordable rental units as defined in the ARH SEPP resulting in the proposal seeking a floor space bonus in accordance with Clause 13 of that policy. Relevant conditions are recommended to be imposed and are contained at **Schedule 1** of this report to ensure the ARH SEPP provisions are enforced for the development.

Level 6 of this Stage 2 building comprises a rooftop communal open space area, including a common room, BBQ facilities, amenities and passive outdoor areas.

The proposed residential apartments comprise a unit mix of 20 x 1 bedrooms (40%), and 30 x 2 bedrooms (60%). This is an appropriate mix for an affordable rental housing development.

The ground floor plan is illustrated in **Figure 19**, while a photomontage of the proposal is illustrated in **Figure 20**. The proposal is outlined on the architectural plans accompanying this report.

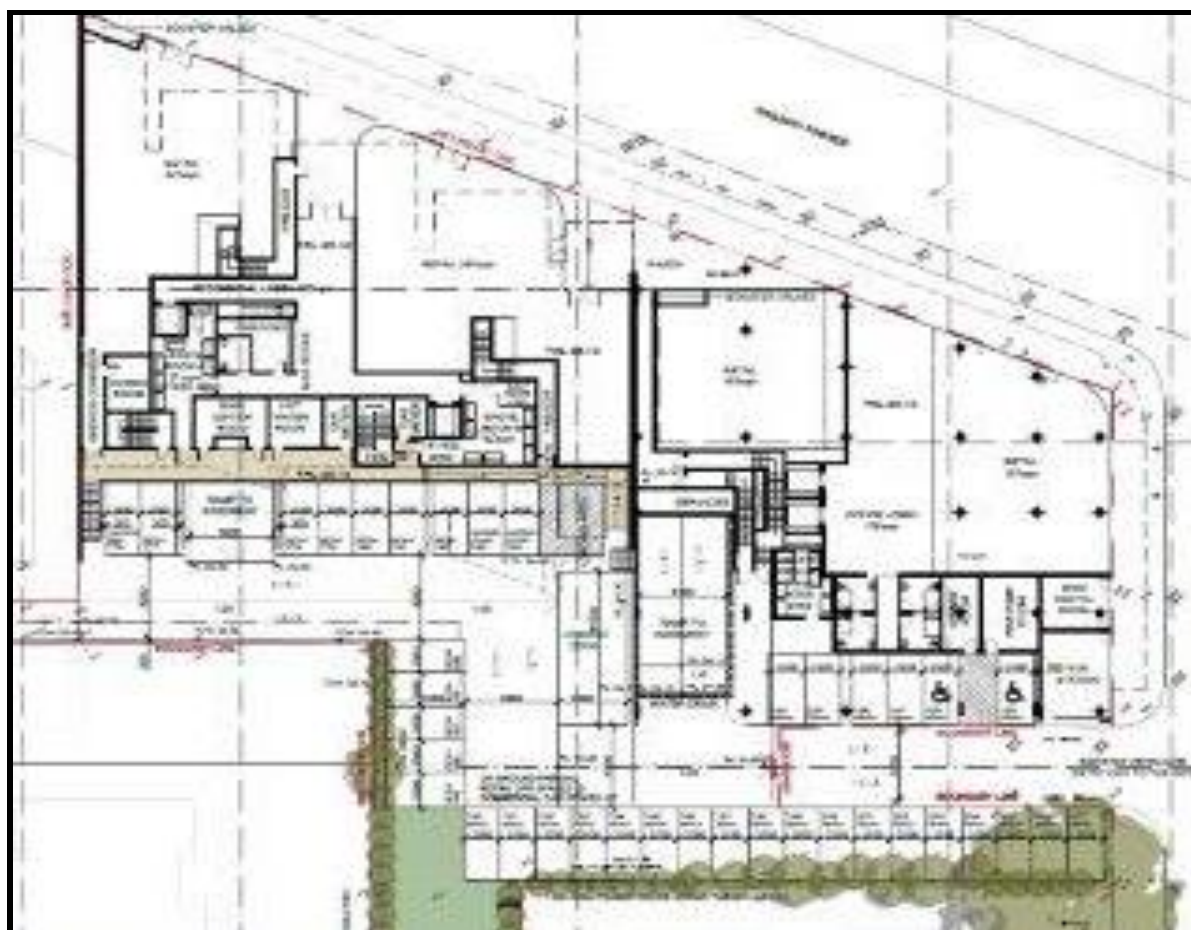


Figure 17: Proposed Ground Floor (Source: Marchese Partners, July 2020)



Figure 18: Photomontage of the proposal from Railway Parade (Source: Marchese Partners, July 2020)

Statutory framework

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

The proposal has been assessed and considered against the provisions of Section 4.15 of the 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

The consent authority is required to consider the objects pursuant to Section 1.3 of the EP&A Act when making decisions under the Act. The objects of the EP&A Act are assessed in **Table 4** and it is considered that the proposal complies with all objects.

Table 4: Consideration of the EP&A Act Object

OBJECTS OF THE EP&A ACT	PROPOSAL	COMPLY
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other	The proposal is urban infill development of affordable rental housing, retail and commercial space within a local town centre that is currently in transition from low to medium density housing and commercial uses. The provision of additional social housing and	Yes

<i>resources</i>	commercial floor space in the locality is desirable.	
<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 proposal has been designed having regard to the principles of ESD, particularly in relation to energy efficiency of the proposed apartments which comply with the of all BASIX commitments.	Yes
<i>(c) to promote the orderly and economic use and development of land</i>	The proposal 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 includes affordable housing in a well serviced and accessible location.	Yes
<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>	<p>The site is located within an urban area which almost entirely consists of impermeable surfaces and existing development. There are no known threatened species or other significant vegetation located on the site or other significant species mapped within the site or its immediate vicinity.</p> <p>The proposal retains several large gum trees in the small area of R3 land on the site along the southern boundary as well as providing enhanced landscaping within the street setbacks and rooftop communal areas.</p>	Yes
<i>(f) to promote the sustainable management of built and cultural heritage</i>	The site does not contain any local or state heritage items and is not located within a Heritage Conservation Area. The site however, is located in the vicinity of two (2) locally listed heritage items. A Heritage Impact Statement concluded that the proposal will have an acceptable impact on the heritage significance of the identified heritage items in the vicinity of the site.	Yes
<i>(g) to promote good design</i>	This report assesses the proposal's	Yes

<i>and amenity of the built environment</i>	design and amenity against State Environmental Planning Policy 65, the Apartment Design Guide Guidelines and Kogarah Development Control Plan 2013. The amended design is considered to satisfactorily address the key development and design controls.	
<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 as the CIV exceeds \$30 million and therefore the Sydney South Planning Panel is the consent authority. The proposal is considered to satisfactorily address the local planning issues.	Yes
<i>(j) to provide increased opportunity for community participation in environmental planning and assessment</i>	The application was notified to adjoining owners in accordance with the KDCP 2013. Two submissions were received and are discussed in this report.	Yes

Section 4.15 Assessment

(1) *Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

(a) *the provisions of:*

- (i) *any environmental planning instrument; and***
- (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and***
- (iii) *any development control plan, and***
- (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and***

the regulations (to the extent that they prescribe matters for the purposes of this paragraph),

that apply to the land to which the development application relates,

The following environmental planning instruments, proposed instruments and development control plans apply to the proposal:

- *State Environmental Planning Policy (State and Regional Development) 2011;*
- *State Environmental Planning Policy (Affordable Rental Housing) 2009;*
- *State Environmental Planning Policy No 55 – Remediation of Land;*
- *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development;*
- *State Environmental Planning Policy (Building and Sustainability Index: 2004);*
- *State Environmental Planning Policy (Infrastructure) 2007;*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;*
- *Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment*
- *Draft Georges River Local Environmental Plan 2020.*
- *Draft State Environmental Planning Policy – Remediation of Land;*
- *Draft Environment State Environmental Planning Policy;*
- *Kogarah Local Environmental Plan 2012;*
- *Kogarah Development Control Plan 2013; and*
- *Georges River Interim Policy Development Control Plan 2020.*

The provisions of these planning matters are considered below.

Environmental Planning Instruments (S4.15(1)(a)(i))

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

State Environmental Planning Policy (State and Regional Development) 2011 ('SRD SEPP') applies to the proposal as it identifies if development is regionally significant development, among other types of development. In this case, pursuant to Clause 20(1) of SRD SEPP, the proposal is a regionally significant development as it satisfies the criteria in Clause 2 of Schedule 7 of the SRD SEPP as it has a CIV of more than \$30 million. As such, the Sydney South Planning Panel is the consent authority for the application.

State Environmental Planning Policy (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 ('ARH SEPP') aims to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards (among other aims). The proposal includes fifty (50) residential apartments within the building in Stage 2, all of

which are proposed to be affordable under the definition/requirements of the ARH SEPP. Accordingly, this Policy applies to this proposal.

The proposal involves new in-fill affordable housing in Stage 2 and therefore Division 1 of Part 2 of the ARH SEPP applies to the proposal (Clauses 10-18). The remainder of the provisions of the SEPP are not relevant to the proposal (Part 3 applies only to those buildings that were low-rental residential buildings as at 28 January 2000).

The relevant controls of the ARH SEPP are considered below for the proposal.

In-fill affordable housing

Clause 10 - Development to which Division applies

This Division applies to development if it satisfies the following:

- (1) *This Division applies to development for the purposes of dual occupancies, multi dwelling housing or residential flat buildings if—*
 - (a) *the development concerned is permitted with consent under another environmental planning instrument, and*
 - (b) *the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, or an interim heritage order or on the State Heritage Register under the Heritage Act 1977.*

Comment: The site is zoned B2 where residential flat buildings are permissible and the site does not contain any heritage items.

- (2) *Despite subclause (1), this Division does not apply to development on land in the Sydney region unless all or part of the development is within an accessible area.*

Comment: Accessible area is defined in Clause 4 (Interpretation – general) as:

accessible area means land that is within—

- (a) *800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or*
- (b) *400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or*
- (c) *400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.*

The site is considered to be within an ‘accessible area’ in accordance with the SEPP provisions by virtue of subsection (a) of this definition as the site is located within 500 metres walking distance from Carlton railway station.

- (3) *Despite subclause (1), this Division does not apply to development on land that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use, or within a land use zone that is equivalent to any of those zones.*

Comment: The site is located in the Sydney region and accordingly, this subclause is not relevant.

Clause 13 - Floor space ratios

This clause applies to development if the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent (Cl 13(1)). The proposal involves 100% of the residential apartments to be affordable housing and accordingly, this clause applies to this application.

Clause 13(2) provides a bonus FSR provision contingent on the existing maximum FSR for the site and the percentage of the proposed units to be used as affordable housing. In this instance, the maximum FSR for the site pursuant to Clause 4.4(2) of the Kogarah LEP 2012 is 2.5:1. In this case, Clause 13(2)(a) is relevant which states:

- (a) *if the existing maximum floor space ratio is 2.5:1 or less—*
- (i) *0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is **50 per cent or higher**, or*
 - (ii) *Y:1—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent,*
where—
***AH** is the percentage of the gross floor area of the development that is used for affordable housing.*
***Y**= AH ÷ 100*

Since the proposal involves 100% of the proposed apartments to be for affordable housing, a bonus FSR of 0.5:1 is available. Accordingly, the total maximum FSR for the affordable housing proposal is 3:1 (2.5:1 + 0.5:1) pursuant to Clause 13(2)(a)(i) of the ARH SEPP.

The site area used for the purposes of calculating compliance in the table below is 1,515m², which is the area of the site for Stage 2 (Area 2 from Figure 18). The R3 zoned land has been excluded from the site area as it does not contain any development associated with the proposed Stage 2 building as well as Area 1 for Stage 1.

The proposed building containing the ARH has a total gross floor area (including the retail area) of 4,490m². Therefore the total FSR for the ARH building is 2.96:1 complying with Clause 13(2)(a)(i) of the ARH SEPP.

Clause 14 - Standards that cannot be used to refuse consent

Pursuant to Clause 14, a consent authority must not refuse consent to development on certain grounds if the proposal satisfies relevant criteria as set out in Clause 14. These matters are considered in **Table 5** below.

Table 5: Consideration of Clause 14 matters under the ARH SEPP

CONTROL	REQUIREMENT	PROPOSAL	COMPLY
Site Area (Cl 14(1)(b))	450m ²	<ul style="list-style-type: none"> Total site area - 3,513m² Stage 2 site: 1,515m² (excludes Stage 1 land & land in R3 zone). 	Yes
Landscaped Area (Cl 14(1)(c))	30% of the site area (455m ²)	<ul style="list-style-type: none"> 11.7% of the site for the ARH 22.4% of the total site. 	No
Deep Soil Zones (Cl 14(1)(d))	15% of the site area (258m ²)	<ul style="list-style-type: none"> 0% of the site area for the ARH 7.8% of the site area. 	No
Solar Access (Cl 14(1)(e))	70% of dwellings receive 3 hours of solar access between 9am and 3pm	80% (40 of 50 units) receive 2 hours or more of sunlight in midwinter between 9am and 3pm (in accordance with the ADG)	Yes
Parking (Cl 14(2)(a)(ii))	Min parking spaces: <ul style="list-style-type: none"> 0.5 space – 1 Bed (10 required); 1 space - 2 Beds (30 required) 1.5 spaces – 3+ Beds: Total required = 40 spaces	Stage 2 basement levels: 57 resident spaces and 10 visitor spaces	Yes
Dwelling Size (Cl 14(2)(b)(ii))	<ul style="list-style-type: none"> 1 Bed units - 50m² 2 bed units - 70m² 3 bed units = 95m² 	<ul style="list-style-type: none"> 1 bed - 50m² 2 beds - 79m² – 82m² 3 beds - NA 	Yes Yes NA

Pursuant to Clause 14(3), a consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2). In this instance, while the proposal does not comply with the landscaping requirements of the ARH SEPP, it is considered that such inconsistencies do not warrant refusal of the application on those matters.

Application of SEPP 65 (Clause 15 and 16)

Clause 15 requires the consent authority to take into consideration the provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* published by the Department of Infrastructure, Planning and Natural Resources in March 2004. However, this clause does not apply to the proposal as SEPP 65 applies and is considered in this report. Clause 16 notes that SEPP 65 continues to apply to development under this Policy. SEPP 65 is considered in this report.

Clause 16A Character of local area

Clause 16A of the ARH SEPP requires the consent authority to consider whether the design of the development is compatible with the character of the local area prior to granting consent to development. There are no formal guidelines against which to make this assessment, although there is recent case law and a planning principle which are instructive.

A planning principle has been established in relation to the compatibility of a proposal with surrounding development in *Project Venture Developments Pty Ltd v Pittwater Council* [2005] NSWLEC 191 at 22-31 ('Project Venture'). Gray, C in *Louden Pty Ltd v Canterbury-Bankstown Council* [2018] NSWLEC 1285 ('Louden') also considered this question of compatibility, although in this case, it was specifically in the context of Clause 16A of the ARH SEPP.

Roseth SC considered that *compatibility is different from sameness* and stated that it is '*generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve*'.

Roseth also noted that *compatibility between proposed and existing is not always desirable*, including where the planning controls envisage a change of character, in which case, compatibility with the future character is more appropriate than with the existing.

In this case, the site currently comprises single and two (2) storey development; notwithstanding that it is located within a local centre with a maximum height limit of 21 metres, or approximately 6 storeys (**Figure 21**). The streetscape in the vicinity of the site is, however, varied with largely two storey shop top housing along Railway Parade but with a mix of three, four and five storeys residential flat buildings in the R3 zoned land to the south along Buchanan Street and Jubilee Parade (**Figures 22-25**).

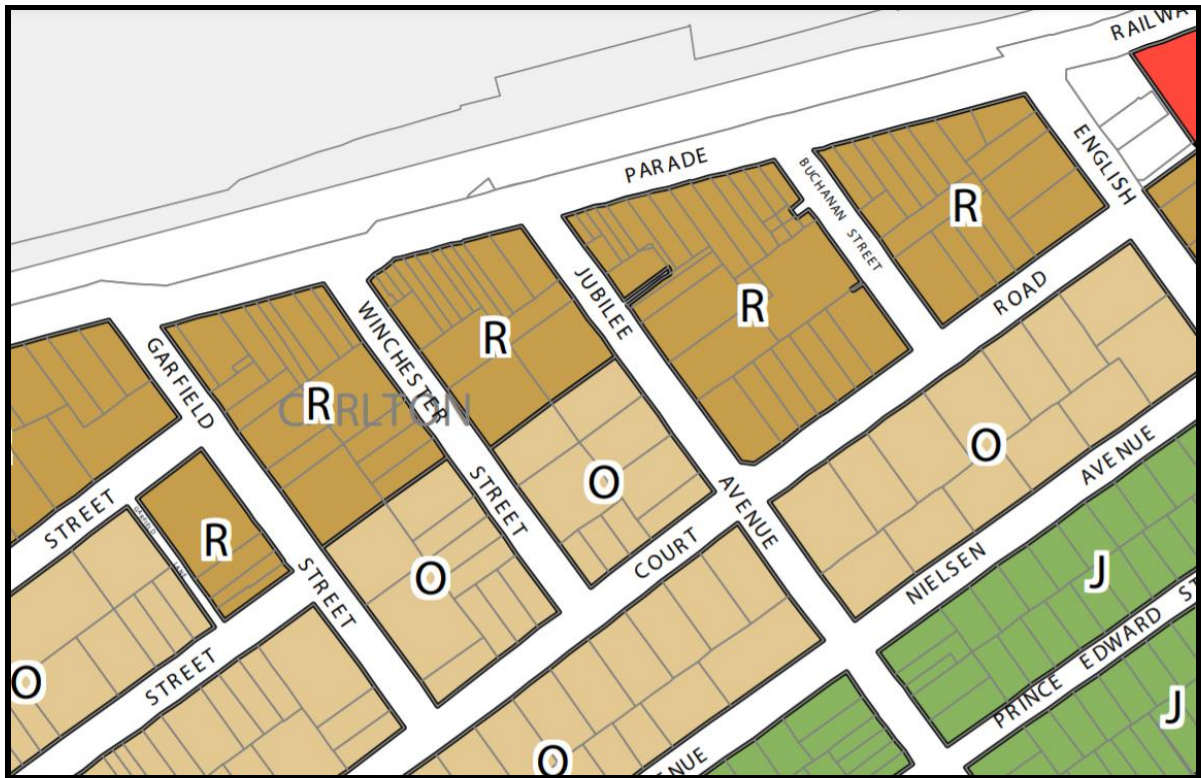


Figure 19: Height limit map - KLEP 2012 - (Source: NSW Legislation)

Accordingly, the locality is likely to undergo a transition from low density residential with some commercial development and retail to higher density mixed use developments commiserate with its local centre location and proximity to the railway station. This transition will occur in this 21 metre height limit zone which forms the block containing the site. In this instance, such a transition would satisfy *Project Venture* as being undesirable to match the existing character of the area.

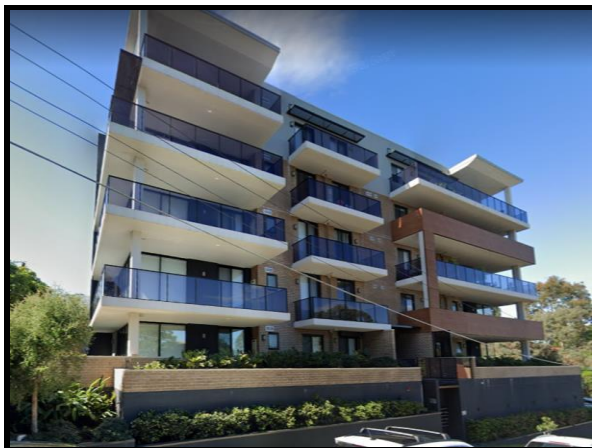


Figure 20: No 6 Buchanan Street

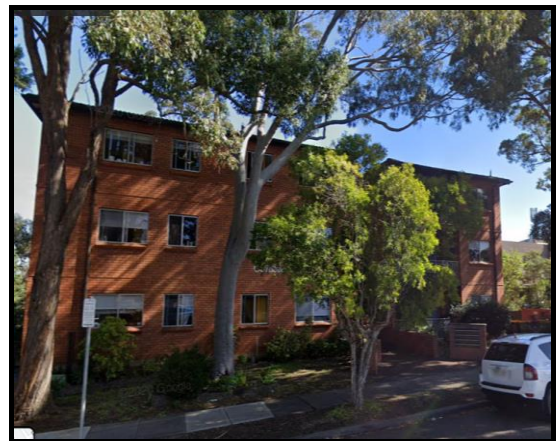


Figure 21: No 1-7 Buchanan Street



Figure 22: No 10, 16 and 20 Jubilee Avenue

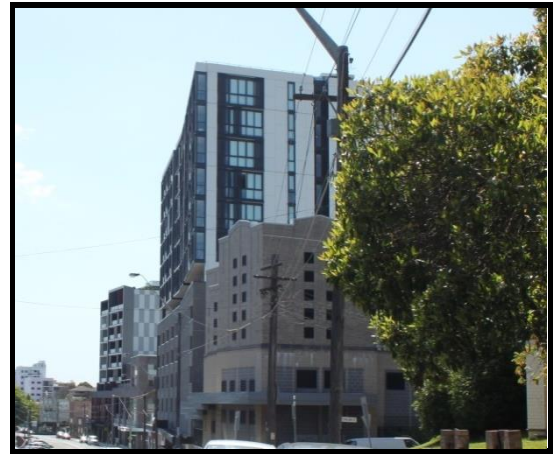


Figure 23: looking north-east towards Kogarah

Roseth SC in *Project Venture*, considered that for a new development to be visually compatible with its context, it should contain, or at least respond to, the essential elements that make up the character of the surrounding urban environment, with the most important contributor to urban character being the relationship of built form to surrounding space, a relationship that is created by building height, setbacks and landscaping. Gray, C in Loudon, also emphasised the need to consider all buildings of all typologies in any assessment of the local area character, concurring with Roseth in *Project Venture*.

Therefore in order to establish a local character in a mixed, diverse area such as is in the case in this application, the proposal should reasonably be compatible with other structures in the vicinity of all typologies and should consider such aspects as building forms, setbacks and scale.

In terms of height, Roseth SC stated that buildings do not have to be the same height to be compatible, further stating that where there are significant differences in height, it is easier to achieve compatibility when the change is *gradual rather than abrupt*. The extent to which height differences are acceptable depends also on the consistency of height in the existing streetscape.

In this case, there is variety in terms of height as outlined above and the change is gradual, increasing towards the main street and the railway station given the three (3) and four (4) storey buildings currently located in Buchanan Street and Jubilee Parade. This is entirely appropriate in a town centre location.

In terms of setbacks, the proposed front setback of the development is consistent with other development along Railway Parade which has zero front setbacks, while the rear setbacks are generous in scale, ensuring the proposal does not overwhelm adjoining development. In terms of landscaping, the proposal provides for street level landscaping as well as various planting throughout the site, consistent with the level of landscaping likely for a town centre setting.

The proposed development is considered to be consistent with the future character envisaged by the planning controls. The scale and form of the development is

consistent with the height and density controls applicable to the site. The development also satisfies the objectives of the B2 zone which include:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*

The proposal is well located and is located opposite Carlton railway station. The proposed built form is considered to be a desirable response for this site in terms of its scale and design intent and will be in keeping with the anticipated development outcome for the area.

The site comprises two street frontages, and the design of the building is such that its primary address is Railway Parade, with service areas and vehicular access provided at the rear of the building accessed from Buchanan Street. Railway Parade is activated with commercial tenancies at the ground floor with separate and defined residential and commercial lobbies.

The height and scale of the building is generally consistent with the planning controls and the proposal will activate the Carlton shopping village by providing an appropriate mix of commercial, retail and affordable residential development on the site. As such the proposal satisfies the objectives and intent of Clause 16A.

Affordable Housing Matters (Clause 17 & 18)

Clause 17(1) requires that a consent authority must not consent to development to which this Division applies unless conditions are imposed by the consent authority to the effect that—

- for 10 years from the date of the issue of the occupation certificate, all of the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing;
- all accommodation that is used for affordable housing will be managed by a registered community housing provider, and
- a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the *Conveyancing Act 1919*, that will ensure that the requirements of paragraph (a) are met.

Relevant conditions are recommended to be imposed to satisfy this requirement (refer to **Schedule 1**). Clause 18 states that land on which development has been carried out under this Division may be subdivided with the consent of the consent authority. Subdivision is not proposed in this application.

The proposal is consistent with the ARH SEPP.

State Environmental Planning Policy No. 55 – Contamination of Land

The provisions of *State Environmental Planning Policy 55 - Remediation of Land* ('SEPP 55') have been considered in the assessment of the development application. Clause 7 of SEPP 55 requires the consent authority to be satisfied that the site is or can be made suitable for its intended use at the time of determination of an application.

The application is accompanied by a Remediation Action Plan prepared by Greencap dated July 2020 as well as an Asbestos Management Plan also prepared by Greencap dated September 2019. Proposed remediation at the site will be classified as a Category 2 remediation (without consent) in accordance with Clause 14(a) of the Policy.

The site has been the subject of a Preliminary Site Investigation ('PSI') and a Detailed Site Investigation ('DSI') both also undertaken by Greencap dated December 2019. These investigations identified the presence of fill material at all borehole locations, with varying thicknesses up to 0.6 metres below ground level (refer **Figure 29**).

Fill material is inferred to extend across the entirety of the site (including both stages 1 and 2), with this fill material being observed to be thickest towards the eastern portions of the site. Indicative depths of fill are outlined in **Figure 26**. Natural soils beneath fill materials on the site were identified in the DSI to be free of contaminants of potential concern.

The DSI revealed that the potential for contamination stemmed from this impacted fill material on the site. While contamination has not been identified in the natural material at the site to date, asbestos containing material ('ACM') has been identified on the site at Borehole 3. This ACM is in the form of fibre cement sheeting fragments (non-friable) and Asbestos Fines/Fibrous Asbestos (AF/FA) (friable) in the form of loose fibre bundles. As the sampling methodology utilised during the investigation was limited in nature (borehole drilling), the full extent of asbestos contamination present in fill material could not be assessed.



Figure 24: Contamination Study and recommendations (Source: RAP, Greencap, 3 July 2020)

Following completion of waste classification assessment for the material which will occur following the proposed demolition to be undertaken in both stages (removal of concrete hardstand/building footprints across the site), fill materials will be “excavated & disposed” off-site to an appropriately licensed landfill (including the ACM). This is the preferred method of remediation, as the project has material surplus (to be disposed during bulk excavation regardless of contamination status) due to the proposed basement car park levels.

Excavation/removal works are to be undertaken under the supervision by a suitably qualified environmental consultant (as outlined in the RAP and AMP) to document/confirm the removal of all fill material to natural soils (approximately a maximum depth of 0.6 metres below ground level). Relevant conditions have been recommended regarding any unexpected finds during the excavation and construction phase.

The proposed RAP and consideration of SEP 55 is considered satisfactory subject to the recommended conditions of consent as outlined in **Schedule 1**. The proposal is considered to have satisfactorily considered SEPP 55 and the land contamination issue.

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

State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Building (‘SEPP 65’) aims to improve the design quality of residential apartment development in New South Wales. This Policy applies to the proposal pursuant to Clause 4, as the proposed building in Stage 2 satisfies the criteria for a

new residential flat building as it comprises at least 3 storeys and contains at least 4 or more dwellings. This Policy only applies to the Stage 2 (Retail & RFB) pursuant to Clause 4(2) of the Policy.

Clause 28(2) of SEPP 65 requires that the consent authority is to take into consideration the following matters in determining a development application for consent to carry out development to which this Policy 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 ('ADG').*

These matters are considered in further detail below.

Clause 30(1) of the SEPP states that a development application cannot be refused if it complies with the prescribed criteria for these matters as specified in the Apartment Design Guide for reasons relating to the following (as outlined in **Table 7**):

- Car parking – the proposal complies with the car parking requirements of the ADG;
- Minimum internal area for apartments – the proposal complies with the minimum internal apartment area requirements of the ADG; and
- Ceiling heights - the proposal complies with the minimum ceiling height requirements of the ADG.

The proposal generally satisfies these controls, as outlined below.

Clause 30(2) requires the consent authority to consider prior to granting consent whether the application has demonstrated that adequate regard has been given to the design quality principles, and the objectives specified in the Apartment Design Guide for the relevant design criteria. As outlined below, the proposal has adequately addressed these requirements and is found to be satisfactory.

Design Review Panel

The Design Review Panel ('DRP') reviewed the Pre-DA plans at its meeting on 13 June 2019. There have been changes made to the proposal since the DRP meeting, including the removal of Level 6 of the proposed residential building and the removal of the pedestrian through-site link. The initial proposal (Pre DA) is illustrated in **Figures 27** and **28**. The comments from the DRP meeting and the DA plans submitted in response are considered in **Table 6**.

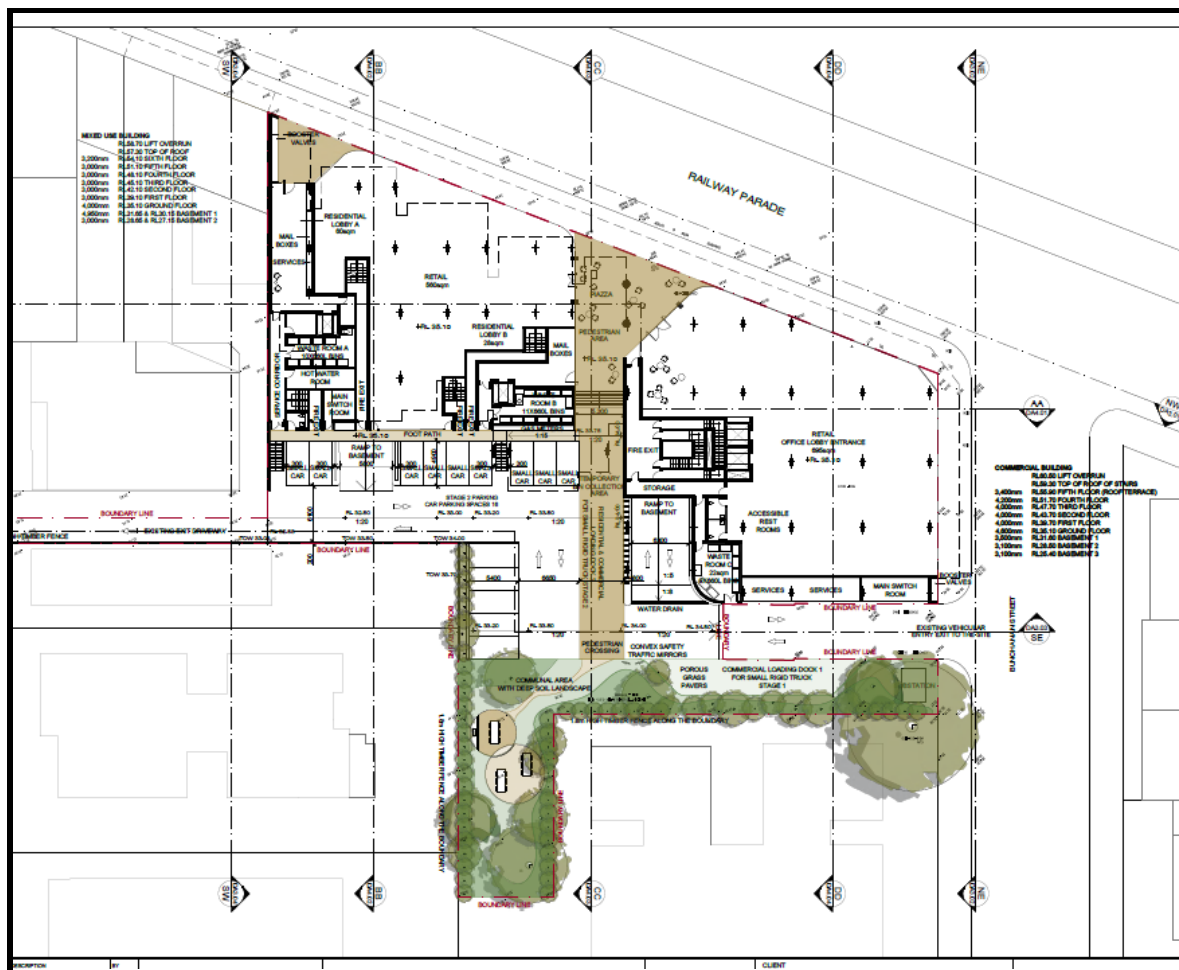


Figure 25: Previous proposal - Ground Floor (Source: Marchese Partners, May 2019)

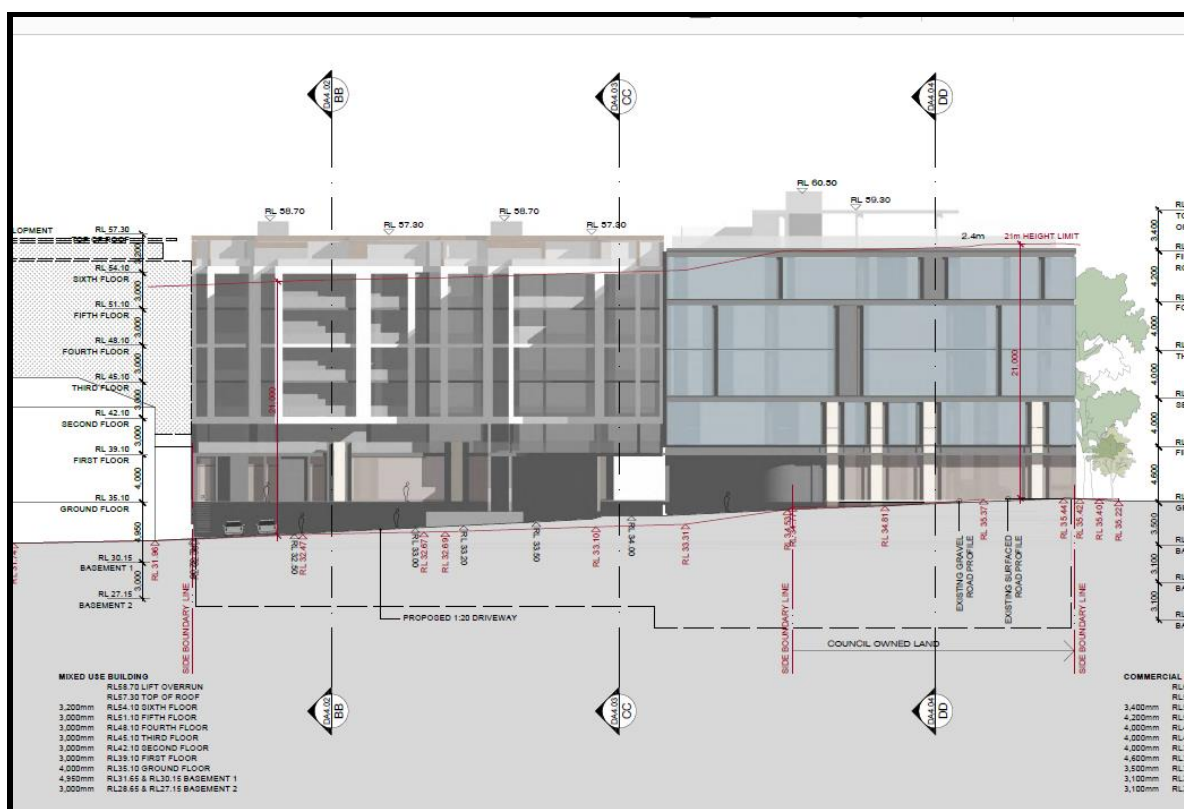


Figure 26: Previous Proposal - Southeast Elevation (Source: Marchese Partners, May 2019)

Table 6: Design Review Panel Comments (13 June 2019)

PRINCIPLE	DRP COMMENTS	DESIGN RESPONSE (INDEPENDENT PLANNER COMMENT)
<p>Context and Neighbourhood character</p> <p><i>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</i></p> <p><i>Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed</i></p>	<p>The site is somewhat complex in relation to both access and its configuration. It includes a narrow component providing vehicular egress only to Jubilee Avenue, and access for pedestrians only from Buchanan Street via a short Council owned road, to the south of which is a narrow strip of the site presently used for parking. There is also an area in the centre of the site to the south, flanked on both sides by low rise residential units and containing a cluster of large mature trees.</p> <p>To the south it adjoins a medium</p>	<p>The proposal is a suitable response to the site and its context. Vehicular access remains from Buchanan Street to both buildings and exit to Jubilee Avenue also remains.</p>

<p><i>buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</i></p> <p><i>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</i></p>	<p>density residential zone with existing mid-20th century unit buildings. One of the challenges is that the existing block of units fronting Jubilee Avenue and adjacent to the vehicle egress lane is built right to the common boundary, with what appear to be bedroom and bathroom windows along that façade, raising serious privacy and amenity issues.</p> <p>Carlton Railway Station is almost directly opposite the site on the opposite side of Railway Parade, giving immediate public transport for both future residents and office workers. Together with nearby retail shops and the Royal Hotel this is an excellent location for increased residential and commercial density. Although there is inevitably constant noise from the railway and road, its intensity is not such as to raise unacceptable amenity issues for residential development.</p> <p>Buchanan Street contains large, prominent street trees and trees with front setbacks. There is an opportunity to extend this landscape character along the development frontage.</p>	<p>The mixed commercial and residential uses of the site in the proposed built form is suitable in the context of the site and is consistent with the height and density controls applicable to the site through state and local policies.</p> <p>Proximity to transport and services results in this location being suited to higher density mixed use development, particularly for affordable housing units.</p> <p>Street tree planting is proposed along the Buchanan Street frontage of the site.</p>
<p>Built Form and Scale <i>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</i> <i>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions,</i></p>	<p>The basic built form and scale are appropriate in principle, as are the activities, with retail activating the street frontages, the commercial block on the eastern corner part of the site and residential units to the east. The proposed building height and density appear to be broadly consistent with LEP controls, although there are detailed issues to be resolved as</p>	<p>The built form and scale of the proposal has been retained in the DA and is considered appropriate for its town centre context.</p>

<p><i>building type, articulation and the manipulation of building elements.</i></p> <p><i>The appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</i></p>	<p>discussed below.</p> <p>The following concerns are raised.</p> <ul style="list-style-type: none"> • Vehicle access, ground level parking and open space to the south • High quality landscaping on the access road from Buchanan Street is supported as it would enhance the amenity of adjacent units and the new commercial office block. It is noted however that the current design is inadequate as it provides insufficient area due to the inclusion of the commercial loading dock and sub-station. • This should be redesigned with a generous continuous landscape verge, planted with large trees and free from services/loading zone. The sub-station should be located/integrated into the building footprint and clear of the large existing tree. • The narrow area in the centre of the site to the south could be an attractive open space, and is not suitable for any building development. It would be very desirable for it to be extended to the 	<p>Provided</p> <p>Landscaping is provided adjacent to the parking area off Buchanan Street and the loading dock area has been resolved to the satisfaction of Council's engineer.</p> <p>The verge is within a town centre and is propose to contain additional street tree planting, with a nil front setback to allow for pedestrian access along the frontage of the site being appropriate in this context. All services have been integrated into the rear of the building.</p> <p>The R3 zoned land will remain as passive landscaped area.</p>
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	<p>north to include the adjacent area indicated as parking for five (5) cars. After-hours security is a potential problem and it would appear necessary for at least the southern section to be secured after dark.</p> <ul style="list-style-type: none"> • Dedication of both the above open areas to Council is an option which should be closely considered. If not so dedicated a binding legal agreement will be needed to ensure public access in perpetuity. • Additional traffic generated by the development will further compromise the already poor amenity of the adjacent block of units fronting Jubilee Avenue. It would be highly desirable for this site to be included in the development and the present narrow access way widened and landscaped. • Pedestrian Access from Railway Parade to the south. The amenity of this route as proposed is questionable, given that it is covered, activated for only part of its length, and very exposed to winds from the south and west. The café/restaurant area fronting the street would have no access to 	<p>This portion of the site is landlocked and is not appropriate as public open space to be owned and managed by Council.</p> <p>Acquisition of that site was not explored by the applicant. Vehicles can enter and exit from Buchanan Street as well as the exit to Jubilee Ave and therefore traffic will be distributed through both site exits.</p> <p>There is no longer access through the building from Railway Parade to the south. The piazza is centrally located between the buildings fronting Railway Parade and</p>
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	<p>sunlight. Other options for its design should be explored, such as leaving it fully open to the sky, bringing the access to the residential lobby forward to the street frontage, covering only the 'Piazza' section, etc. It was suggested that a more attractive location for a plaza could be at the Railway Parade/Buchanan Street corner.</p> <p>Commercial Office Block</p> <ul style="list-style-type: none"> • The basic plan form, location of main entry, etc, are satisfactory, and inclusion of a large communal roof deck is attractive. This should have very substantial planting and 'greening' for both environmental and amenity reasons. Since it is apparent that the applicant is interested in creating an attractive and special work environment, another suggested option is to create small balcony indents with planting at each level to allow both 'break out' spaces and additional greening of the facades. • The height exceedance is considered acceptable, given that this is due primarily to the roof deck amenities which are setback from the frontages and should not have any adverse impacts. <p>Residential Block</p> <ul style="list-style-type: none"> • The stepped northern 	<p>serves as an entry feature to the building rather than a thoroughfare to the rear lane.</p> <p>A rooftop landscaped communal open space has been provided for the commercial tenants.</p> <p>The height exceedance is addressed in this report in the CI 4.6 and is supported.</p> <p>The facade of</p>
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	<p>façade and the interface with the commercial block is in principle interesting, concern is raised above regarding the central pedestrian link may impact on resolution and will need further consideration to resolve other issues raised above.</p> <ul style="list-style-type: none"> • Amenity would be acceptable, with good solar access and cross-ventilation. 'Snorkels' should be avoided and adjustments to unit layouts should be explored to reduce the deep recessed snorkels. • The kitchens to single bedroom units are not well located in hallways and have very limited bench space. • The circulation plan with two (2) lifts and very short internal corridors is acceptable, although it would still be desirable to provide for daylight access to the corridors. • There is an inadequate provision of communal open space. The landscape space at the rear of the lot adjacent to the rear lane would be 	<p>the RFB is stepped to the Railway Parade frontage which is consistent with the boundary configuration while there is no setback with the boundary with the retail and commercial building which is appropriate in this town centre location.</p> <p>The proposal meets the requirements of the ADG and snorkels have been removed.</p> <p>The internal layout of units has been satisfactorily resolved.</p> <p>There is adequate circulation and minimum units accessed via each lift and hall.</p> <p>A consolidated rooftop communal open space has been provided for residents with</p>
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	<p>hard to access and steep, limiting use for residents. The design should be modified to provide roof top communal open space. The small common terraces at Level 6 should be expanded to provide more space. Each could be provided with a small 'kitchenette' facility below the covered roof section. It must be demonstrated that solar access will be adequate.</p> <ul style="list-style-type: none"> The application relies upon provision of social housing in order to satisfy FSR controls. Council note raises detailed questions as to the basis for calculation, such as whether the full site or only that occupied for residential use should be included. The Panel defers to expert advice on this issue, but notes that a very good standard of amenity would be achieved in the units. The non-compliance in height appears to be generated by the FSR available due to the ARH bonus. The non-compliance in height could be supported only if FSR is not exceeded. 	<p>communal facilities included.</p> <p>The FSR has been assessed in this report and found to be compliant with the SEPP bonus provisions.</p>
<p>Density</p> <p><i>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</i></p> <p><i>Appropriate densities are consistent with the area's</i></p>	See comments above	<p>The proposal achieves compliance with the FSR development standard of the KEMP 2012 for the retail and commercial building (Stage</p>

<p><i>existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</i></p>		<p>1) and the bonus FSR provisions of the ARH SEPP for the Retail and RFB (Stage 2).</p>
<p>Sustainability <i>Good design combines positive environmental, social and economic outcomes.</i></p> <p><i>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</i></p>	<p>See comments above. Otherwise for consideration at the next stage.</p>	<p>The proposal is BASIX compliant and a high quality landscape design is proposed.</p>
<p>Landscape <i>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</i> <i>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to</i></p>	<p>This requires further development. The application needs to consider streetscape improvements including new works (street trees, paving, and lighting) as well as rear lane improvements, rear lane landscape space and roof top communal open space design.</p>	<p>The landscape design incorporates street tree and plaza planting, rooftop communal open space landscaping and improvement of the landscaped area being the R3 zoned land at the rear.</p> <p>The Consultant Arborist (engaged by Council) has</p>

<p><i>the local context, coordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</i></p> <p><i>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long-term management.</i></p>		<p>reviewed the proposal and is supportive of the landscape design.</p>
<p>Amenity</p> <p><i>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</i></p> <p><i>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</i></p>	<p>As discussed above amenity of residential units as proposed would be of good standard subject to further changes nominated above. Other broader issues are addressed above under 'Built Form'.</p> <p>The shadow diagrams indicate that solar access to the ground level open space in the southern finger of land and the upper terraces may be challenged. Additionally, the ground level communal open space is remote from the residential floors across a driveway, which may be a disincentive to its use. A larger communal open space at Level 6 with toilet facilities should be provided.</p>	<p>Communal open space for the RFB and ARH units has been provided on the rooftop and provides communal facilities including amenities. These areas receive significant solar access throughout the day during mid-winter.</p>
<p>Safety</p> <p><i>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</i></p>	<p>The security of the proposed common open space to the south is discussed above, and this must be addressed.</p> <p>The vehicle access drives and parking areas to the south would be overlooked from the proposed new residential building as well as the commercial block and some of the existing residential units. In combination with installation of</p>	<p>The open space areas at ground level have adequate surveillance from the units in Stage 2 as well as the car parking areas adjoining this open space.</p> <p>The entry areas</p>

<p><i>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</i></p>	<p>some discreet lighting of these spaces, security should be satisfactory.</p>	<p>to the building from Railway Parade are overlooked by the retail frontages which provide good casual surveillance.</p>
<p>Housing Diversity and Social Interaction</p> <p><i>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</i></p> <p><i>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</i></p>	<p>Provision of affordable housing in this location is strongly supported.</p> <p>The communal spaces as proposed are also supported subject to detailed issues being addressed, in particular the need for after-hours security to the southern open space.</p>	<p>A suitable mix of units is proposed and all are affordable rental housing.</p> <p>Communal open space is provided on Level 6 of the residential building. The at-grade landscaped area does not form part of the communal open space, rather is landscaped open space for use by residents and tenants of the development.</p>
<p>Aesthetics</p> <p><i>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</i></p>	<p>The preliminary design and architectural character as proposed would potentially result in a good outcome. The detailed issues raised above in relation to 'Built Form' need to be addressed.</p> <p>As discussed at the meeting the strongly contrasting 'black and</p>	<p>The proposal is a high quality design and will improve the streetscape and activate the locality.</p> <p>The materials and finishes</p>

<p><i>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</i></p>	<p>white' external materials and finishes indicated on the perspective views should be toned down and become less visually assertive and better related to the context as the design is developed.</p> <p>Consideration could be given to achieving a more integrated development that carries some common characteristic through the commercial and residential buildings, such as materials, horizontal elements, façade articulation.</p>	<p>have been suitably resolved and now incorporate a mix of textures and colours including timber look aluminum cladding and face brick detailing on the pillars at the ground floor. A mix of glazing and painted render form the basis of the material palate but there is sufficient variety to provide uniformity between the buildings and a breaking up of the facades of the proposed buildings.</p>
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Design Quality Principles

In relation to Clause 28(2)(b), a *Design Verification* has been submitted with the application prepared by Registered Architect Geoff Shaw (Nominated Architect No.9148) detailing compliance with the design quality principles and in satisfaction of Clause 50(1A) and (1AB) of the EP&A Act. The proposal is considered to be generally consistent with the design quality principles as outlined above in Table 6.

Apartment Design Guide

The ADG aims to achieve better design and planning for residential apartment development, by providing benchmarks for designing and assessing these developments. The relevant controls and principles of the ADG are considered in the context of the proposal in **Table 7**. There are some inconsistencies of the proposal with the ADG controls which are considered below as outlined in Table 7. These inconsistencies are supported and it is considered that variations should be accepted in this instance.

Note 1: Communal Open Space

There is a shortfall in the provided communal open space of 22.75m². The proposed communal open space is provided as a consolidated space on the roof which receives good solar access throughout the day in mid-winter and allows for direct, equitable access for all persons. Facilities including BBQ, toilets, seating and common rooms are provided. A nice outlook towards the city is also provided.

This minor numerical non-compliance of 22.75m² is supported as the space meets the objectives of the control and will provide a large consolidated space with good amenities. There is also ground level common open space available along the southern boundary of the site. While this area is not connected to the rooftop communal open space, it is still available for future residents to utilise. Furthermore, the site area of the R3 zoned land has not been included in the open space calculation notwithstanding that it forms part of the site.

It is considered that adequate communal open space with good solar access has been provided and in this way the proposal is satisfactory. A variation is supported in this instance.

Note 2: Visual Privacy for Level 6 COS

The proposal does not achieve the visual privacy controls in relation to the setback on the south-western boundary for the rooftop communal open space given this area is for a balcony. The proposed 4 metres setback to this side boundary does not achieve the required 9 metres.

Objective 3F-1 fort his design criteria in the ADG states:

Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.

In terms of privacy for the adjoining development along Railway Parade which addresses Jubilee Avenue, the proposed Level 6 communal open space area is setback from the edge of the building, ensuring that the use of this area on the outer edge of the building is not trafficable ensuring that overlooking into the adjoining property is minimised. Furthermore, the provision of planter boxes further ensures overlooking is minimised for adjoining properties.

It is considered that there will be minimal visual privacy concerns arising from the shortfall in the minimum required side setback for the level 6 communal open space and in this way the proposal is satisfactory. A variation is supported in this instance.

Note 3: Solar and Daylight Access (4A)

The proposal does not achieve Design Criteria (3) outlined in Part 4A which requires that a maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter. In this case, the proposal is required to have no more than 7.5 units receiving no direct sunlight, however, the proposal results in 8 of the proposed 50 units (16%) receiving no direct sunlight, which is 0.5 unit more than the maximum.

Objective 4A-1, the relevant objective for this control, states:

To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.

While this does not technically meet the control, it is considered that this is acceptable given the proposal has provided as many units as possible facing north and has minimised the amount of unit which face solely to the south. These units are quite large and include a window facing west as well as the main living areas facing south, allowing for some additional solar access. A variation is supported in this instance.

Note 4: Private Open Space and Balconies (4E)

The proposal does not comply with the design criteria (1) for the minimum depth of balconies for 2 bedroom units, which is required to be 2 metres (**Figure 29**). The units which do not comply with this control include A1.5, A2.5, A3.5, A4.5, A5.5, B1.5, B2.5, B3.5, B4.5 and B5.5.

The relevant objective for this control, Objective 4E-1, states:

Apartments provide appropriately sized private open space and balconies to enhance residential amenity.

While the proposed units do not strictly comply with the minimum width requirement, there is a sufficient area provided in terms of overall area (10sqm) for private outdoor open space for these units. It is considered that the proposal achieves the objectives and the variation should be supported.

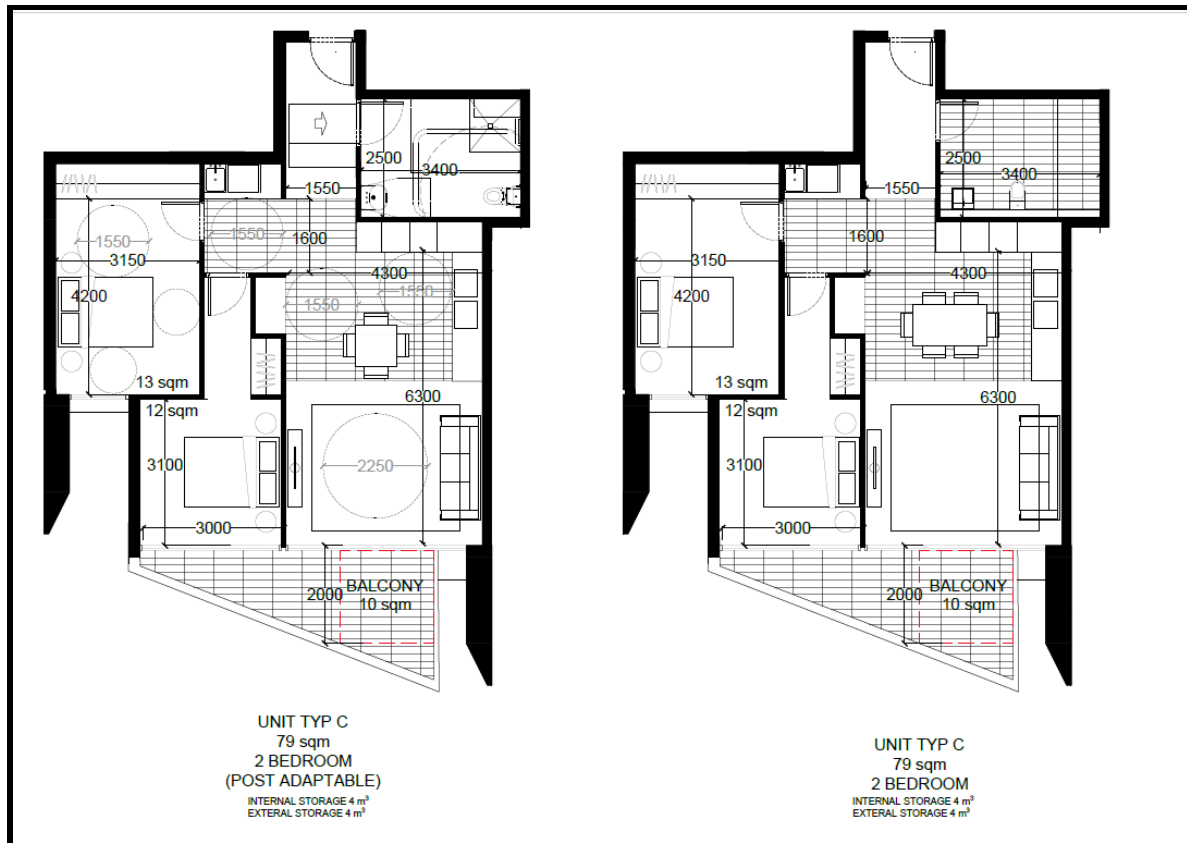


Figure 27: Balcony sizes for Unit Type C (Source: Marchese Partners, July 2020)

Table 7: Consideration of the ADG Requirements

ADG - DESIGN CRITERIA	PROPOSAL	COMPLIES
<u>Communal and Public Open Space (3D)</u>		
Communal open space has a minimum area equal to 25% of the site (378.75m²).	The proposal provides 356m² (23.5% of site of Stage 2 – 1,515m²) as communal open space on the rooftop.	No refer Note 1
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)	The communal open space is located on the roof and therefore receives good solar access throughout the day in mid-winter.	✓
Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions	Achieved.	✓
Located on a podium or roof if it can't be located on ground level	Located on the roof.	✓
<u>Deep Soil Zones (3E)</u>	Site area of Stage 2 is	✓

Deep soil zones are to meet the following minimum requirements:			$>1,500\text{m}^2 = 6\text{m}$ min dimensions													
Site Area	Minimum Dimension	Deep Soil Zone (% of site area)	Stage 2 (R3 & B2 zoned land) = $1,677.9\text{m}^2$ Min deep soil area of 7% = 117.45m^2													
650m^2 to $1,500\text{m}^2$	3m	7%	The portion of the site zoned R3 is provided entirely as deep soil and has an area of 162m^2 .													
Greater than 1500m^2	6m															
<u>Visual Privacy (3F)</u>			Proposed setbacks:													
Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:			<ul style="list-style-type: none">• South-western boundary (to Jubilee Ave) – nil setback with no windows or balconies (appropriate in town centre) with nil side setbacks to adjoining buildings to Level 5 then 4 metres at Level 6 (COS);	✓ Except setback for Level 6 COS refer to Note 2												
			<ul style="list-style-type: none">• Rear (South-eastern) boundary – more than 9 metres to adjoining Buchanan St;	✓												
			The proposed buildings on the site will essentially form one building upon completion with no windows or balconies facing towards the other portion of the building.	✓												
			No gallery circulation areas.	✓												
<table><tr><th>Building Height</th><th>Habitable Rooms and Balconies</th><th>Non-habitable rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>12m – 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table>			Building Height	Habitable Rooms and Balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	12m – 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m		
Building Height	Habitable Rooms and Balconies	Non-habitable rooms														
Up to 12m (4 storeys)	6m	3m														
12m – 25m (5-8 storeys)	9m	4.5m														
Over 25m (9+ storeys)	12m	6m														
Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see Figure 3F.2).																
Gallery access circulation should be treated as habitable spaces when measuring privacy separation distances between neighbouring properties.																
<u>Pedestrian Access and Entries (3G)</u>																
Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge			A residential lobby as well as a commercial lobby are located off Railway Parade as well as entries to a number of retail tenancies facing the street.	✓												
Building entries and pedestrian access connects to and addresses the public			Access to the building addresses the public domain along Railway	✓												

<p>domain</p> <p>The design of ground floors and underground car parks minimise level changes along pathways and entries</p> <p>Pedestrian links should be direct, have clear sight lines, be overlooked by habitable rooms or private open spaces of dwellings, be well lit and contain active uses, where appropriate</p>	<p>Parade.</p> <p>There are minimal level changes along the street frontages or upon entry to the building.</p> <p>Pedestrian access and entry areas are well overlooked by the retail areas and the piazza</p>	<p>✓</p> <p>✓</p>
<p><u>Vehicle Access (3H)</u></p> <p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes</p> <p>Car park entry and access should be located on secondary streets or lanes where available</p>	<p>Separate pedestrian and vehicle access is providing to the building from Railway Parade.</p> <p>Car park access is from Buchanan Street while an exit is also provided to Jubilee Avenue (both secondary streets). No vehicle entry or exit is proposed to Railway Parade.</p>	<p>✓</p>
<p><u>Bicycle and car parking (3J)</u></p> <p>For development in the following locations:</p> <ul style="list-style-type: none"> on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or on land zoned, and sites within 400 metres 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 Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less</p> <p>The car parking needs for a development must be provided off street</p>	<p>Required parking:</p> <p>0.6 spaces x 20 (1B) = 12 spaces</p> <p>0.9 spaces x 30 (2B) = 27 spaces</p> <p>Residential – 39 spaces</p> <p>Visitor 5/50 = 10 spaces</p> <p>Minimum Total = 49 spaces</p> <p>Provided</p> <p>56 resident spaces</p> <p>10 visitor spaces</p>	<p>✓</p>
<p><u>Solar Access and Daylight (4A)</u></p> <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 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local</p>	<p>40 of 50 units (80%) receive greater than 2 hours.</p>	<p>✓</p>

government areas. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter (max 7.5 units)	8 of 50 units (16%) receive no solar access	No Refer Note 3
<u>Natural Ventilation (4B)</u> At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths	30 of 50 units (60%) are naturally cross ventilated. All proposed apartments comply. 4 of 6 units on each level are dual aspect units.	✓ ✓ ✓
<u>Ceiling Height (4C)</u> Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <ul style="list-style-type: none"> Habitable Rooms – 2.7 metres Non-habitable rooms – 2.4 metres 	The minimum ceiling heights comprise: <ul style="list-style-type: none"> Ground floor retail – 3.4 metres Residential – 2.8 metres 	✓
<u>Apartment Layout (4D)</u> Apartments are required to have the following minimum internal areas: <ul style="list-style-type: none"> Studio - 35m² 1 Bedroom - 50m² 2 Bedroom - 70m² 3 Bedroom - 90m² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m ² each Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor	All apartments meet minimum internal sizes: <ul style="list-style-type: none"> 1 Bed – 50m² (Type A) 2 Beds – 79m² (Type C & D), 80m² (Type B & F) and 82m² (Type E), The 2 bed (Types B, D, E and F) units have a second bathroom and provide the additional 5m ² . There are no 4 bedroom units proposed. Each habitable room has a suitably sized window.	✓ ✓ ✓ ✓

<p>area of the room. Daylight and air may not be borrowed from other rooms</p> <p>Master bedrooms have a minimum area of 10m² & other bedrooms 9m² (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 apartments • 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>Habitable room depths are limited to a maximum of 2.5 x the ceiling height (6.75m).</p> <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p>	<p>The master bedroom is a minimum of 10m² and the second bedroom minimum of 9m².</p> <p>Each bedroom has a minimum dimension of 3 metres (refer to plans).</p> <p>Min width of living areas for the 1 and 2 bed units is 4 metres.</p> <p>All of the proposed units are a minimum width of 4 metres and do not comprise deep, narrow units.</p> <p>All rooms are compliant.</p> <p>All units are compliant.</p>	<p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>
<p><u>Private Open Space and Balconies (4E)</u></p> <p>All apartments are required to have primary balconies as follows:</p> <ul style="list-style-type: none"> • Studio - 4m² • 1 Bedroom - 8m² (Min depth 2m) • 2 Bedroom - 10m² (Min depth 2m) • 3 Bedroom - 12m² (Min depth 2.4m) 	<p>The proposal involves the following primary balcony sizes:-</p> <ul style="list-style-type: none"> • 1 bed units – <ul style="list-style-type: none"> ▪ Type A - >20m²; min depth 2m (complies) • 2 bed units – <ul style="list-style-type: none"> ▪ Type B – >20m²; min depth 2m (complies) ▪ Type C – Units A1.5 – 5.5 and B1.5 to B5.5 do not satisfy the minimum depth of 2m ▪ Type D – >20m²; min depth 2m 	<p>✓</p> <p>✓</p> <p>No Refer to Note 4</p>

<p>Minimum balcony depth 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 15m² and a minimum depth of 3m.</p>	<p>(complies)</p> <ul style="list-style-type: none"> ▪ Type E – >20m²; min depth 2m (complies) ▪ Type F – >20m²; min depth 2m (complies) <p>Noted.</p> <p>There are no ground level units.</p>	
<p><u>Common Circulation Space (4F)</u></p> <p>The maximum number of apartments off a circulation core on a single level is eight.</p> <p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40</p>	<p>There are two (2) lift cores in the building, with the maximum number of units off a single lift core comprising 5 units per floor.</p> <p>The building is less than 10 storeys.</p>	<p>✓</p> <p>N/A</p>
<p><u>Storage (4G)</u></p> <p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <ul style="list-style-type: none"> • Studio - 4m³ • 1 Bedroom - 6m³ • 2 Bedroom - 8m³ • 3 Bedroom - 10m³ <p>At least 50% of the required storage is to be located within the apartment.</p>	<p>The proposal involves the following storage areas:</p> <ul style="list-style-type: none"> • 1 bed units – <ul style="list-style-type: none"> ▪ Type A – internal - 3m³ and 3m³ external; • 2 bed units – <ul style="list-style-type: none"> ▪ Type B – internal – 4.5m³ and 3.5m³ external; ▪ Type C – internal – 4m³ and 4m³ external; ▪ Type D – internal – 4.5m³ and 3.5m³ external; ▪ Type E – internal – 4.5m³ and 3.5m³ external; ▪ Type F – internal – 4.5m³ and 3.5m³ external <p>All units comply with storage provided in the</p>	<p>✓</p>

	unit and in cages in the basement above parking spaces	
<p><u>Acoustic Privacy (4H)</u></p> <p>Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses</p> <p>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>An Acoustic report has been prepared for the application and concludes that subject to recommendations the proposal can comply with the relevant guidelines for noise from the railway and road. The proposed building (stage 2) is sufficiently setback from buildings to the rear to ensure there is minimal noise transmission. The proposal is located adjoining development along Railway Parade which is characteristic of development in a town centre.</p> <p>The apartment layouts allow for like areas to be grouped together with the noisy areas adjoining the stairwells being bathroom areas.</p> <p>Circulation areas such as corridors and stairs adjoin bathroom and kitchen areas, while bedrooms generally adjoin bedrooms.</p>	<p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>
<p><u>Noise Pollution (4J)</u></p> <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 	<p>An Acoustic report has been prepared for the application and concludes that subject to recommendations the proposal can comply with the relevant guidelines for noise from the railway and road.</p>	<p>✓</p>

for air pollution generated by traffic and industry		
<u>Apartment Mix (4K)</u>		
A range of apartment types and sizes is provided to cater for different household types now and into the future.	A range of unit sizes are provide comprising 1 and 2 bedroom units as well as some adaptable units (Levels 1 to 3). While there are no 3 bedroom units provided, the provision of 1 and 2 bedroom units as affordable housing is likely to suit future housing needs in the area.	✓
The apartment mix is distributed to suitable locations within the building.	There are a mix of 1 and 2 bedroom units evenly distributed throughout the building which is appropriate.	✓
<u>Facades (4M)</u>		
Building facades provide visual interest along the street while respecting the character of the local area	Visual interest is created in the facades by using a mix of materials and by varying the design between the proposed buildings.	✓
Design solutions for front building facades may include: <ul style="list-style-type: none"> • a composition of varied building elements • a defined base, middle and top of buildings • revealing and concealing certain elements • changes in texture, material, detail and colour to modify the prominence of elements 	A composition of building elements is provided as well as a defined base (street level retail), middle (residential floors) and a top (communal open space). The lift wells are revealed by changing the design of the building in this location while the varying materials between render, glazing and detailing assist in breaking up the façade into smaller portions.	✓
Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale.	The facades are well designed and assist in integrating the building into the streetscape.	✓
Building entries should be clearly defined	Building entries are well defined.	✓

<p><u>Roof Design (4N)</u></p> <p>Roof treatments are integrated into the building design and positively respond to the street</p> <p>Open space is provided on roof tops subject to acceptable visual and acoustic privacy, comfort levels, safety and security considerations</p> <p>Roof design incorporates sustainability features</p>	<p>The simple flat roof line is compatible with other similar flat roof buildings in the streetscape. The lift overrun is located in the central portion of the roof ensuing there is minimal visual impact on the area. centralised within the building.</p> <p>The proposed roof incorporates communal open space for residents of the building with a good level of solar access throughout the day in mid-winter. Perimeter planting ensures overlooking opportunities from the roof top to adjoining buildings is minimised.</p> <p>The proposed roof allows for additional landscaping opportunities on the site and complies with BASIX.</p>	<p>✓</p> <p>✓</p> <p>✓</p>
<p><u>Landscape Design (4O)</u></p> <p>Landscape design is viable and sustainable.</p> <p>Landscape design contributes to the streetscape and amenity</p>	<p>The proposed landscape design provides for additional street tree planting as well as rooftop planting for the communal open space areas. There is also a small area of deep soil landscaped open space towards the rear southern boundary. Combined, these areas contribute to a viable and sustainable landscape design.</p> <p>The landscape design is of a high quality and suitable for the town centre location of the site.</p>	<p>✓</p>
<p><u>Planting on Structures (4P)</u></p> <p>Appropriate soil profiles are provided Plant growth is optimised with appropriate</p>	<p>The proposal provides for landscaping on the rooftop</p>	<p>✓</p>

selection and maintenance Planting on structures contributes to the quality and amenity of communal and public open spaces	raised planters which are satisfactory and assist in the overall design of the proposal.	
<u>Universal Design (4Q)</u> Universal design – design of apartments allow for flexible housing, adaptable designs, accommodate a range of lifestyle needs. Benchmark of 20% liveable dwellings.	No liveable dwellings proposed but six units are nominated as adaptable.	✓
<u>Mixed Use (4S)</u> Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	Mixed use is proposed with retail active frontages on the ground floor which provides casual surveillance for the residential apartments and encourages pedestrian activity in the area.	✓
<u>Awnings and Signage (4T)</u> Awnings are well located and complement and integrate with the building design Awnings should be located over building entries for building address and public domain amenity	An awning is proposed at ground level over the retail frontages and entry areas.	✓
<u>Energy Efficiency (4U)</u> 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	The proposal has a good orientation to the north for the vast majority of the units and provides for good natural ventilation to all units. The proposal results in the development exceeding the BASIX target for energy efficiency.	✓
<u>Water Management and Conservation (4V)</u> Potable water use is minimised, stormwater is treated on site before being discharged, flood management systems are integrated into the site design.	Stormwater is to be managed through an on-site detention system, with the water discharging to Jubilee Ave. Council's Engineers have reviewed the plans and raised no objection, subject to conditions of consent.	✓
<u>Waste Management (4W)</u>		

Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents Domestic waste is minimised by providing safe and convenient source separation and recycling	Two adequately sized bin store rooms are proposed on the ground floor and waste chutes are provided on each floor.	✓
<u>Building Maintenance (4X)</u> Building design detail provides protection from weathering Systems and access enable ease of maintenance Material selection reduces ongoing maintenance costs	Suitable materials and finishes are proposed including face bricks, timber look aluminium cladding, rendered and painted masonry and glass in neutral colours.	✓

State Environmental Planning Policy – Building Sustainability Index BASIX– 2004

State Environmental Planning Policy – Building Sustainability Index BASIX– 2004 ('BASIX SEPP') applies to the proposal. The objectives of this Policy are to ensure that the performance of the development satisfies the requirements to achieve water and thermal comfort standards that will promote a more sustainable development.

The application is accompanied by BASIX Certificate No.1045272M_04 prepared by ADP Consulting dated 31 August 2020 committing to environmental sustainable measures. The Certificate demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP. The proposal is consistent with the BASIX SEPP subject to the recommended conditions of consent.

State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 ('the Infrastructure SEPP') aims to identify matters to be considered in the assessment of development adjacent to particular types of development. The relevant clauses of the Infrastructure SEPP to this proposal are considered below:

Clause 45 - Determination of development applications—other development

This Clause provides controls relating to development which is likely to affect an electricity transmission or distribution network. Clause 45(1)(a) requires written notice be given to the electricity supply authority for comment relating to potential safety risks of the proposal and take those comments into consideration for proposals which include excavation within 2 metres of a electricity distribution pole. An electricity distribution pole is located along Railway Parade, within 2 metres of the proposed excavation on the site.

Written notice was given to Ausgrid with a response received which stated that Ausgrid did not have any objections to the proposed development subject to conditions. These comments have been included as recommended conditions.

Clause 86 - Excavation in, above, below or adjacent to rail corridors

This Clause applies to development that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land within certain distance from a rail corridor. The site is located in close proximity to the railway line to the northwest. This Clause requires that the consent authority, before determining a development application for development to which this clause applies give written notice of the application to the rail authority for the rail corridor, and take into consideration as matters raised by the authority. Sydney trains provided comments on the proposal and, while no objections were raised, conditions were recommended to be imposed which requires a deferred commencement condition (refer to Schedule 1).

Clause 87 - Impact of rail noise or vibration on non-rail development

This Clause applies to any residential development on land adjacent to a rail corridor. The consent authority must take into consideration any relevant guidelines and ensure that it is satisfied that appropriate measures will be taken to ensure that certain LAeq levels are not exceeded. The Acoustic report considered these requirements and concluded that subject to the report's recommendations, the proposal was consistent with these guidelines. These requirements have been included as recommended conditions in Schedule 1.

Clause 104 – Traffic-generating development

Pursuant to Clause 104, certain development must be referred to the Roads and Maritime Services, now *Transport for NSW* ('TfNSW') for comment based on the type, capacity or location of the proposal. In this instance, the proposal meets these criteria (more than 200 car spaces with access to a road) and accordingly, a referral to the TfNSW is required. TfNSW did not have any objections to the proposed development subject to conditions which have been included as recommended conditions in Schedule 1.

The proposal is consistent with the Infrastructure SEPP.

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

The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.

The Vegetation SEPP applies to clearing of:

- a) 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
- b) 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).

The Vegetation SEPP repeals clause 5.9 and 5.9AA of the Standard Instrument - Principal Local Environmental Plan with regulation of the clearing of vegetation (including native vegetation) below the BOS threshold through any applicable DCP. The proposal does not require the removal of any significant trees from the site, and retains the existing vegetation on the parcel of land at the rear of the site (the R3 zoned land) as deep soil landscaped area for use by the residents of the proposed development.

The consultant Arborist (engaged by Council) has reviewed all the relevant documentation and plans and has concurred with the proposed landscaping outcome. Conditions are recommended to ensure protection of the existing trees onsite, on the adjoining site and ensure that the landscaping is implemented during construction in accordance with the proposed plans (refer to **Schedule 1**).

Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment

The *Greater Metropolitan Regional Environmental Plan No 2 — Georges River Catchment* ('Georges River REP') aims to maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment. The site is within the area affected by the Plan and generally applies to proposals which may have an adverse impact on the catchment.

The proposed use is generally in accordance with the aims of this Plan in that best practice water management techniques will be utilised which reduces potential water pollution from the site within the catchment. All stormwater from the development will be managed by the proposed stormwater system and will be treated in accordance with Council's Water Management Policy and would therefore satisfy the relevant provisions of the Plan. Stormwater is to be gravity fed to Jubilee Avenue and Council's Development Engineers have not raised any issues with the proposed method of stormwater disposal subject to the imposition of standard conditions which have been recommended to be imposed.

Clause 7 of the Policy requires that when a Council determines a development application that the planning principles of the Policy are to be applied. These planning principles contain both general (Clause 8) and specific (Clause 9) matters. The proposal is considered to be consistent with these principles as the proposal, including the disposal of stormwater, is considered to be consistent with the Council's requirements for the disposal of stormwater in the catchment.

Clause 11 of the Georges River REP includes a Planning control table which deals with development defined in that table. The proposal does not fall within the scope of the Planning Control Table. The proposal is considered to be consistent with this Policy.

Proposed Instruments (S4.15(1)(a)(ii))

Draft Georges River Local Environmental Plan 2020

The *Draft Georges River Local Environmental Plan 2020* ('Draft GRLEP 2020') has been prepared as the first in a four stage planning approach to implementing a comprehensive planning scheme for our LGA. The Draft GRLEP 2020 focuses on housing and harmonisation to ensure a single, consistent approach is applied to planning and development across the LGA. The draft GRLEP 2020 was publicly exhibited from 1 April to 15 May 2020.

In relation to this site the zoning, height and floor space ratio are unchanged. In this regard, the provisions have no determining weight as a result of proposed operation of Clause 1.8A of the Draft GRLEP 2020 which provides that the Plan is not applied to development applications which have been made before the commencement of the Plan. The proposal is not inconsistent with the draft GRLEP 2020.

Draft State Environmental Planning Policy – Remediation of Land

The draft *Remediation of Land SEPP* will replace SEPP 55 when gazetted and will include the following additional requirements:

- To require all remediation work that is to be carried out without development consent, to be reviewed and certified by a certified contaminated land consultant
- To categorise remediation work based on the scale, risk and complexity of the work
- To require environmental management plans relating to post-remediation management of sites or ongoing operation, maintenance and management of on-site remediation measures (such as a containment cell) to be provided to Council.

The proposed changes will deliver the following improvements:

- reduce the risks associated with remediation projects
- encourage proponents to better consider and plan remediation work
- better protect the community from unnecessary risks, disturbance and inconvenience
- ensure there is consistent regulation of contaminated land and facilitate enforcement of long-term environmental management plans.

The overarching objective of SEPP 55 is to promote the remediation of contaminated land to reduce the risk of potential harm to human health or the environment, which remains relevant and will be replicated in the new SEPP. Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern

approach to the management of contaminated land. In this way, the accompanying Contamination reports and Remediation Action Plan adequately addresses the requirements of both SEPP 55 and the Draft Remediation of Land SEPP. Relevant conditions are recommended to be imposed as outlined in the assessment under SEPP 55 in this Report (refer to schedule 1). The proposal is consistent with this draft instrument.

Draft Environment SEPP

A draft *State Environmental Planning Policy (Environment)* for the protection and management of the natural environment is proposed. The Draft Environment SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property and seeks to combine seven existing SEPPs into a simple, modern and accessible instrument. These environmental policies will be accessible in one location, and updated to reflect changes that have occurred since the creation of the original policies.

The site is affected by the Georges River REP, with the changes to this Policy being largely to remove some duplication between the Georges River REP and the Standard Instrument LEPs, Ministerial Directions and other SEPPs which now apply in the catchments. There are no draft provisions of this policy which would affect the proposal. Accordingly, the proposal is not inconsistent with this policy.

Local Environmental Plan

Kogarah Local Environmental Plan 2012

Zoning & Permissibility

The site is located across two zonings, with the majority of the site being located within the B2 – Local Centre zone with a small portion in the south-west of the site within the R3 – Medium Density Residential zone under the provisions of the *Kogarah Local Environmental Plan 2012* (“KLEP”). The zoning is illustrated in **Figure 30**.

Permissible uses in the B2 zone include *commercial premises, shop top housing and any other development not specified in item 2 or 4* (among other uses). *Residential flat buildings* are permissible in the B2 zone by virtue of *any other development not specified in item 2 or 4* as they are not permissible without consent (item 2) or prohibited (Item 4). Permissible uses in the R3 zone include residential flat buildings (among other uses).

The buildings proposed are located wholly within the B2 zone while only landscaped open space (deep soil zone) is located in the R3 zone.

Note—Business premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

office premises means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

Note— Office premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following—

- (a) (Repealed)
- (b) cellar door premises,
- (c) food and drink premises,
- (d) garden centres,
- (e) hardware and building supplies,
- (f) kiosks,
- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,
- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,
- (la) specialised retail premises,
- (m) timber yards,
- (n) vehicle sales or hire premises,

but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

Note— Retail premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

Note— Residential flat buildings are a type of **residential accommodation**—see the definition of that term in this Dictionary.

shop top housing means one or more dwellings located above ground floor retail premises or business premises.

Note— Shop top housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

In this way, the proposal is permissible on the site as:

- Stage 1 – retail and commercial building as *commercial premises*, which includes retail premises on the ground floor and office premises on the upper levels; and
- Stage 2 – retail and ARH units as *commercial premises* (retail) on the ground floor and a *residential flat building* on the upper levels.

The zone objectives include the following:

B2 – Local Centre:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*

R3 – Medium Density Residential:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal is considered to be consistent with these zone objectives given:

- The proposal will provide numerous retail spaces for a range of retail, business uses that will serve the local community
- The proposed commercial and retail spaces will encourage employment opportunities in this accessible location given the proximity of Carlton railway station;
- The proposal will allow for greater use of public transport and encourage walking and cycling by being located in close proximity to train and bus services as well as being located in an area well serviced by footpaths and other pedestrian facilities.
- The proposed ARH units will provide for the housing needs of the community within a medium density residential environment and will provide a variety of housing types comprising one and two bedroom apartments in an accessible area.

There are numerous standards and controls of KLEP 2012 which are relevant to the proposal, which are outlined in **Table 8**. The proposal is generally consistent with these controls, with the exception of the height of building development standard which is considered below.

Table 8: Consideration of Kogarah LEP 2012

Requirement			Proposal	Comply
Part 2: Permitted or prohibited development				
Additional permitted uses for particular land (CI 2.5)				
Development described/referred to in Schedule 1 may be carried out with development consent, or if the Schedule so provides—without development consent.			The site is not listed in Schedule 1.	N/A
Subdivision (CI 2.6)				
Land to which this Plan applies may be subdivided, but only with development consent.			Subdivision is not proposed.	N/A
Demolition requires development consent (CI 2.7)				
Demolition requires consent.			Demolition is proposed.	✓
Part 4: Principal development standards				
Minimum lot sizes for multi dwelling housing, residential flat buildings and seniors housing (CI4.1A)				
(2) Consent may be granted on a lot in a zone shown in Column 2 for a purpose shown in Column 1, if the area of the lot is equal to or greater than the area specified for that purpose in Column 3.			There is no development of this nature proposed in the R3 zoned portion of the site.	N/A
COLUMN 1	COLUMN 2	COLUMN 3		
Residential flat building	Zone R3 Medium Density Residential	1,000 square metres		
Height of buildings (CI 4.3)				
(1) The objectives of this clause are as follows— (a) to establish the maximum height for buildings, (b) to minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas, (c) to provide appropriate scale and intensity of development through height controls.			These objectives are considered below in the Clause 4.6 consideration.	✓

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map – 21 metres.	The maximum height of the ridge of the proposed development is 25.4 metres (Building 1) and 24.486 metres (Building 2).	No – refer to Note 1
Floor space ratio (CI 4.4)		
(1) The objectives of this clause are as follows— (a) <i>to ensure the intensity of development is compatible with the desired future character and zone objectives for the land,</i> (b) <i>to limit the bulk and scale of development.</i>	These objectives are met by the proposal given compliance with this Clause.	✓
(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map – B2 zone: 2.5:1 and R3 zone: 2:1.	FSR of 2.5:1 and 2.96:1 <ul style="list-style-type: none"> Stage 1 (Retail & Commercial) – 4,482m² (including 350m² of retail and ground floor) with site area of 1,792m² - FSR 2.5:1 Stage 2 (RFB and retail) – 4,490m² (including 701m² of retail and 3,952m² res/ARH) with site area – 1,515m² - FSR – 2.96:1 (bonus 0.5:1 under ARH SEPP) 	✓
Exceptions to development standards (CI 4.6)		
(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.	A CI 4.6 variation has been submitted for height, which is considered below.	Refer below
Part 5: Miscellaneous provisions		
Heritage conservation (CI 5.10(5))		
Before granting consent to any development, among other things, on land that is within the vicinity of a heritage item or heritage conservation area, a heritage management document may be required that assesses the extent to which the carrying out of the proposal would affect the heritage significance of that item or area concerned.	There are no heritage items located on the site and the site is not located within a Heritage conservation area. However, there are two (2) heritage items in close proximity to the site including: <ul style="list-style-type: none"> Item I28 – Carlton Railway Station, Railway Parade, Carlton; and Item I29 – Royal Hotel, 314 Railway Parade, 	✓

	<p>Carlton</p> <p>A Heritage Impact Statement accompanies the application which concluded that the proposal is acceptable from a heritage perspective as the established heritage significance of items in the vicinity of the subject site will be retained. Accordingly, there will be no adverse impact on any heritage items or values.</p>	
Part 6: Local Provisions		
Acid Sulphate Soils (CI 6.1)		
(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.	The site is not affected acid sulphate soils. An ASS Management Plan was provided which concluded that no further analysis of ASS was required.	✓
Earthworks (CI 6.2)		
<p>(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	<p>The proposal involves excavation for basement levels and accordingly this Clause requires consideration.</p> <p>A Geotechnical report has been prepared for the proposal to provide understanding of the ground conditions onsite as well as to provide advice and recommendations to assist the design of the foundations and retaining structures of the proposed development.</p> <p>The proposal will require excavation to a depth of about 9 to 11 metres below ground level. The report provides recommendations for detailed design and supervision which have been included in the recommended conditions of consent.</p>	✓
Airspace operations (CI 6.5)		

(2) The consent authority must not grant development consent to development that is a controlled activity within the meaning of Division 4 of Part 12 of the <i>Airports Act 1996</i> of the Commonwealth unless the applicant has obtained approval for the controlled activity under regulations made for the purposes of that Division.	A referral was sent to the SAC and there were no objections raised to the proposal.	✓
Development in areas subject to aircraft noise (CI 6.6)		
(3) Before determining a development application for development to which this clause applies, the consent authority— (a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and (b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000, and (c) must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000.	The site is located outside the 20 ANEF contour for aircraft noise.	✓

Note 1: Clause 4.6 Variation – Building Height

The Development Standard to be varied and extent of the variation

The development standard to be varied is Clause 4.3(2) of the KLEP 2012 which sets a maximum height of buildings for the site of 21 metres. The proposal involves an overall building height as defined in KLEP 2012 of 25.4 metres for building 1 (commercial and retail) in stage 1 and 24.486 metres for building 2 (residential and retail) in stage 2. The building height exceedance of the proposal is outlined in **Table 9** and illustrated in **Figure 31, 32 and 33**.

Table 9: Building Height of the Proposal

Building/Stage	Outdoor Terrace/Common Room Roof	Top of Lift overrun	Max Extent of Variation
Building 1 (Commercial & retail)	Common roof - 3.3m Overall height - 24.2m (RL 59.30)	Lift overrun - 4.6m Overall height - 25.4m (RL 60.50)	4.4m (20.9%)
Building 2 (residential & retail)	Common roof – 2.8m Overall height -	Lift overrun 3.4m Overall height -	16.6%

	24.14m	24.486m	
	RL 5730-57.90	(RL 59.20)	

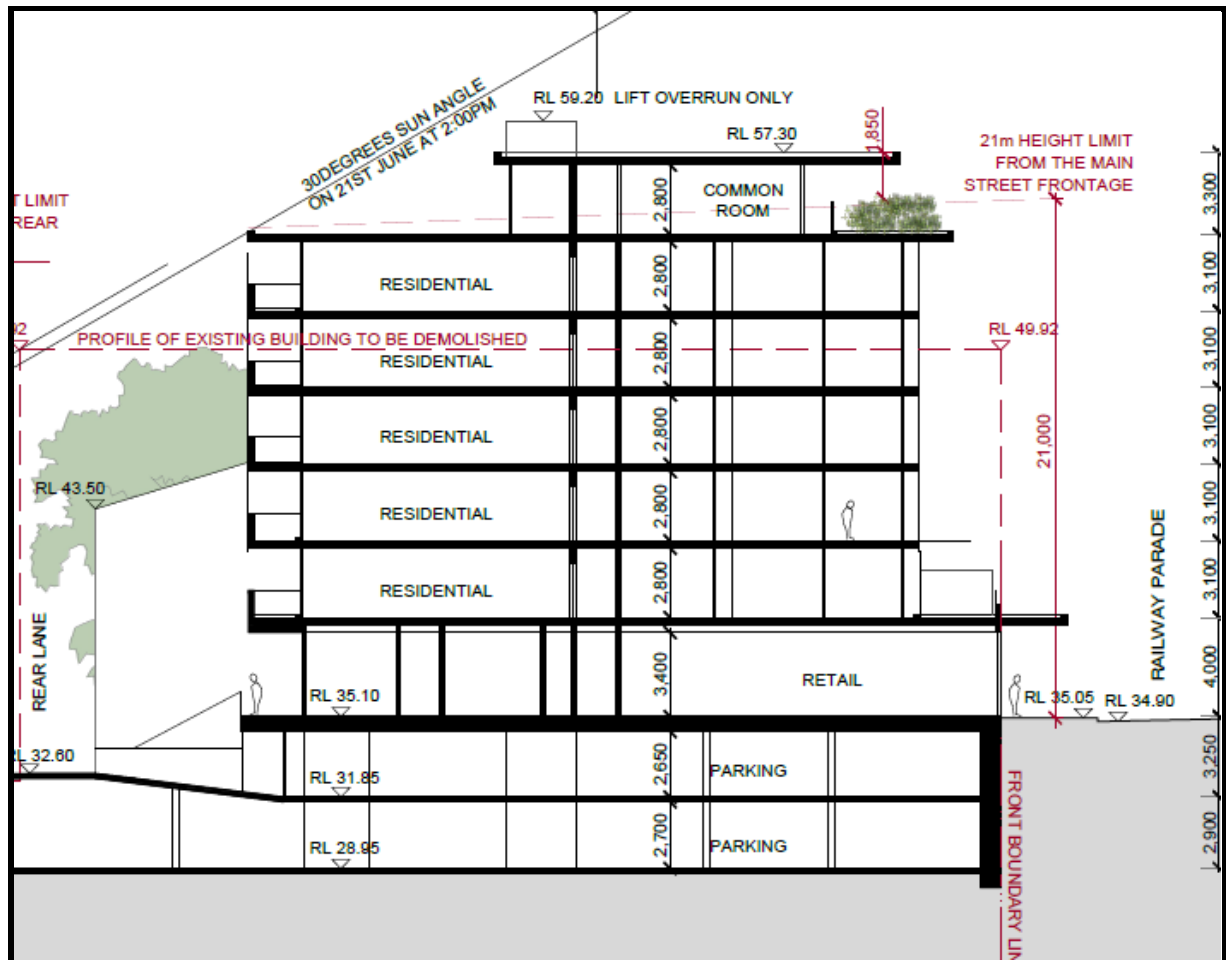


Figure 29: Proposed Development (Source: Marchese Partners, August, 2020)

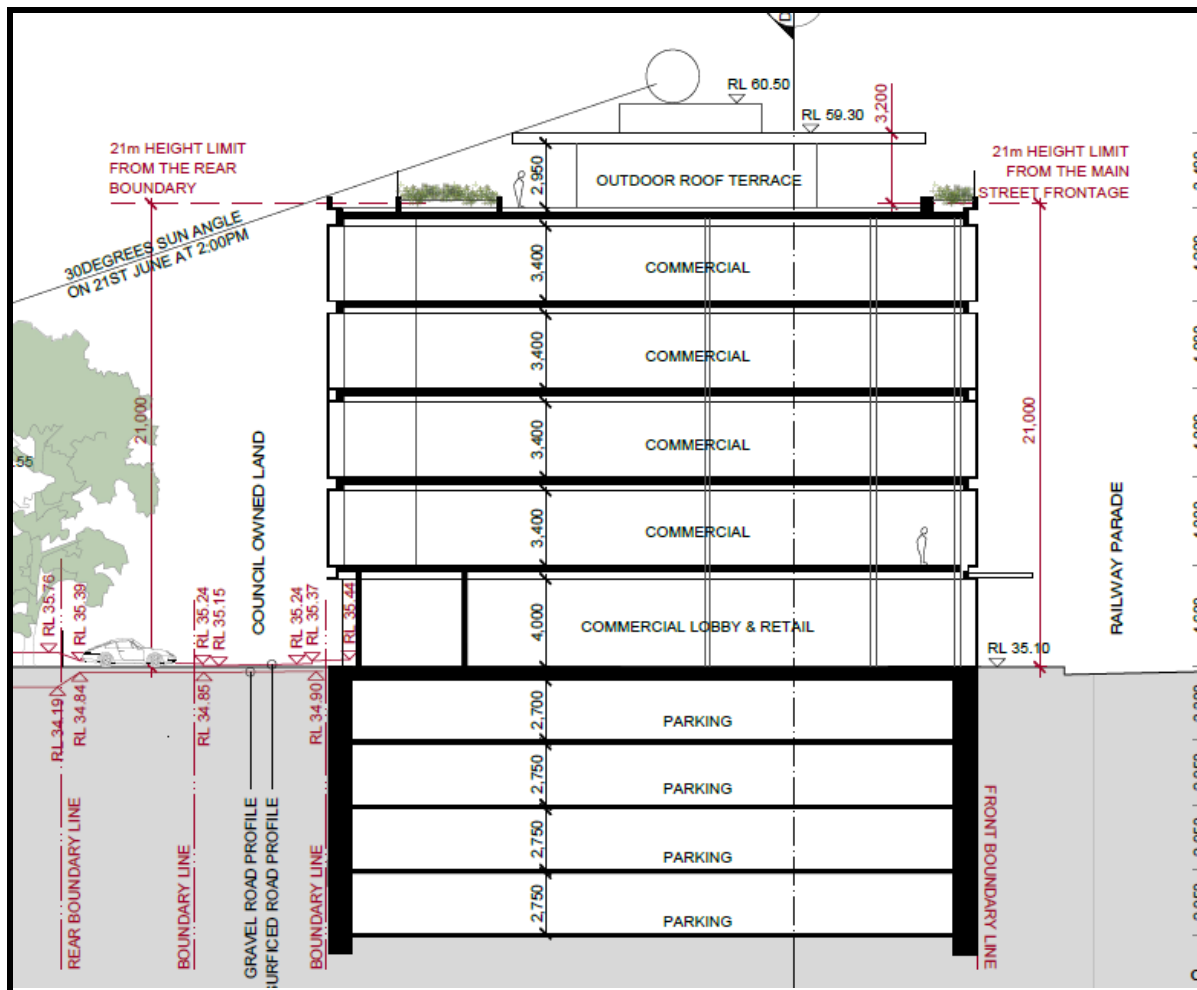


Figure 30: Proposed Development (Source: Marchese Partners, August, 2020)

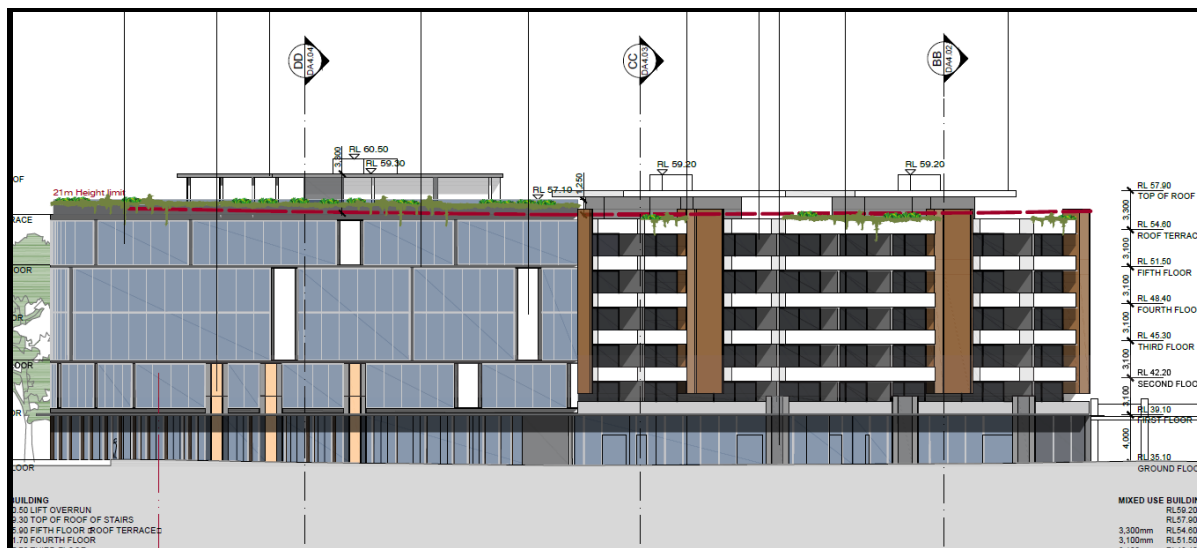


Figure 31: Proposed Development (Source: Marchese Partners, August, 2020)

The applicant states the following in relation to the height exceedance of the proposal:

Building 1

- Variation up to 4.4m or 20.9% for the lift overrun roof;
- Cross sections through the site demonstrate general compliance with the height limit at the Railway Parade with Buchanan Street intersection;
- Due to the site falling slightly to the west and south, minor height exceedance for the upper commercial floor along the rear lane frontage at the south-western corner; and
- The proposed rooftop recreation areas and lift access to that building also generally exceed the height limit.

Building 2

- Variation arises primarily through fall in site topography with general compliance with the height limit on the Railway Parade frontage and exceedance for the rooftop communal open space, common room and lift access of 2.185 metres or 10.4% variation.

The portion of the buildings which exceed the height standard are generally confined to the rooftop communal open space areas (common room roof and awning) and the lift overrun areas. There is a minor portion of the top floor of the proposed commercial building (Stage 1) which exceeds the height limit, however, there is no residential floor space above the 21 metre maximum height limit in Stage 2.

The extent of the rooftop areas that are in excess of the Height of Building standard is illustrated in **Figure 34**. An assessment of the proposed height against the survey plan levels was conducted to determine the accuracy of the Applicant's calculations, which were found to be generally accurate.

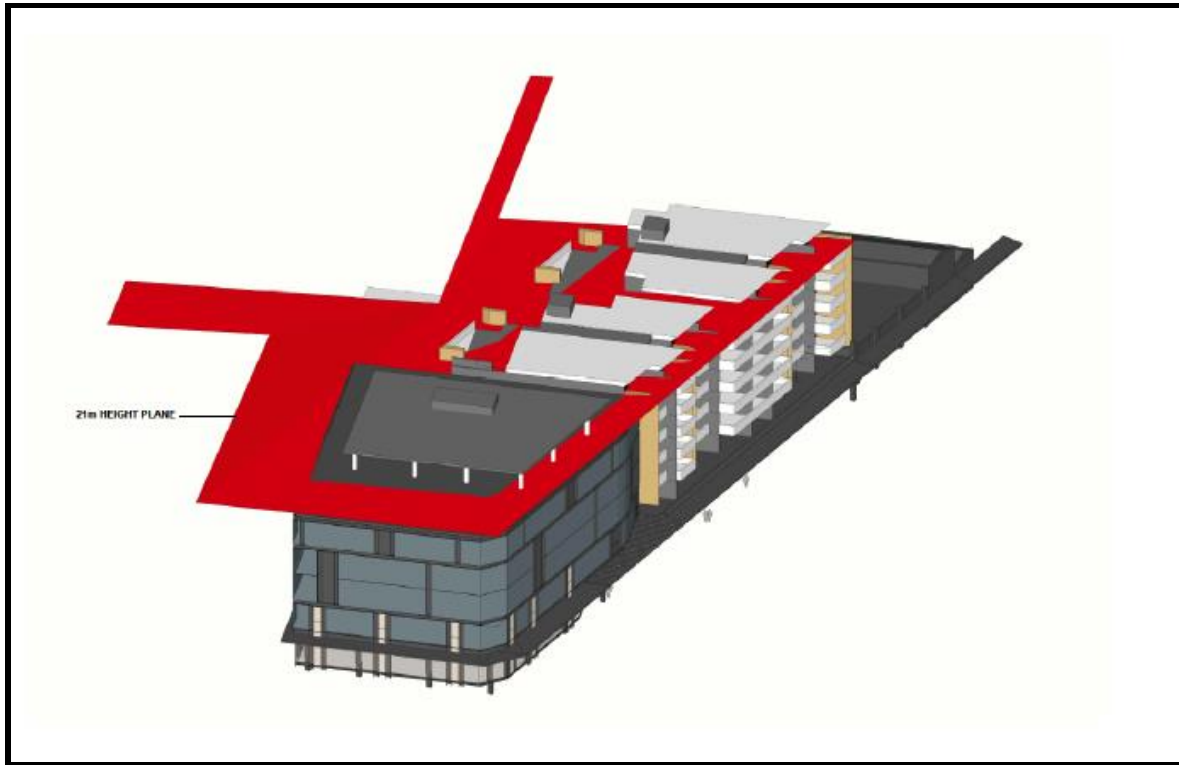


Figure 32: Building height plane exceedance (Source: Revised Clause 4.6 prepared by Rod Logan Planning, undated)

Variations to Development Standards

Variations to development standards can be considered by the consent authority pursuant to Clause 4.6 of the KLEP. The provisions of Clause 4.6 relevant to this proposal include the following:

- (1) *The objectives of this clause are as follows—*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless—*
 - (a) *the consent authority is satisfied that—*
 - (i) *the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Planning Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Planning Secretary must consider—*
 - (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) *the public benefit of maintaining the development standard, and*
 - (c) *any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*

The exceptions to this clause outlined in Clause 4.6(6) do not apply to this proposal while subclause (7) and (8) are not relevant to the proposal.

To support the non-compliance, the applicant has provided a request for a variation to Clause 4.3(2) of KLEP 2012 in accordance with Clause 4.6 of KLEP. The Clause 4.6 request for variation is assessed below.

Preconditions to be satisfied

Preston CJ, in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* ('Initial Action'), outlined the permissive power in Clause 4.6(2) to grant development consent for a development that contravenes the development standard is subject to conditions. These conditions are set out in Clause 4.6(4) which establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard.

The two preconditions include:

1. Tests to be satisfied pursuant to Cl 4.6(a) – this includes matters under Cl 4.6(3)(a) and (b) and whether the proposal is in the public interest (Cl 4.6(a)(ii); and
2. Tests to be satisfied pursuant to Cl 4.6(b) – concurrence of the Planning Secretary.

These matters are considered below for the proposed development having regard to the applicant's Clause 4.6 request.

First Precondition

The first precondition requires the satisfaction of two (2) tests pursuant to CI 4.6(4)(a) which includes:

- Clause 4.6(4)(a)(i) – whether the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), which requires the applicant to seek to justify the contravention by demonstrating:
 - that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (CI 4.6(3)(a)), and
 - that there are sufficient environmental planning grounds to justify contravening the development standard (CI 4.6(3)(b)); and
- Clause 4.6(4)(a)(ii) – whether 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.

These tests for the first precondition are considered below.

Compliance with the development standard is unreasonable or unnecessary in the circumstance of this case - Clause 4.6(3)(a)

There has been significant case law on this aspect of Clause 4.6 requests. Preston CJ, in *Initial Action*, reconfirmed the five common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary as outlined in *Wehbe v Pittwater Council (2007) NSWLEC 827* ('Wehbe'). The first and 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.

The rationale is that development standards are not ends in themselves but means of achieving ends, as outlined in *Wehbe*, with the 'ends' being environmental or planning objectives, with compliance with a development standard the usual means by which that is achieved. 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).

It is important to note that as outlined in *Initial Action*, an applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way. In this case, the applicant

considered the other methods outlined in Wehbe and concluded that these other ways of demonstrating that the development standard was unreasonable were not applicable grounds for justification in this instance. This assessment is accepted.

The applicant considers that the proposed development satisfies the first Wehbe test, in that the objectives of the standard are achieved notwithstanding noncompliance with the standards.

The objectives of the Height of Buildings development standard pursuant to Clause 4.3(1) of the KLEP 2012 include the following:

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

The applicant's justification in relation to the first Wehbe test is considered below.

Objective (a) to establish the maximum height for buildings,

Applicant's justification:

This objective is declaratory of its purpose with the underlying purpose to ensure that new development is designed so that the building height will appropriately respond to both the existing and future context in a controlled manner.

The recessive nature of the height breach, being composed of rooftop elements setback from the primary street front and rear edges of the building, will enable the proposed primary building form to visually integrate with the future scale of potential neighbouring buildings.

The proposed variations for recessive and minor built form elements have no significant consequence for the general appreciation of the scale or intensity of the development and are not considered to derogate from this objective of the height control.

Consultant Planner comment:

The justification for this objective states that the proposed height exceedance are located within the central portion of the proposed buildings and generally located away from the street edges and rear setbacks. Furthermore, the applicant asserts that the proposed variation comprises rooftop elements only and has no significant consequence for the general appreciation of the scale or intensity of the development.

It is agreed that the proposed height exceedance is generally located centrally within the building footprint, and away from the edges of the building such that the scale of the development is not overwhelming (in terms of the building height allowed by the current LEP controls) from the pedestrian aspect. The minor exceedance for a small

portion of the commercial floor for building 1 in the northern corner of the site is minor and it is unlikely to adversely affect the streetscape.

Importantly, it is considered that given the lack of any additional residential floor space in this height exceedance area, such a variation does not derogate from this objective. In these ways, it is considered that the proposed height exceedance is not contrary to this objective.

Objective (b) to minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas,

This objective comprises three separate issues to be considered, including overshadowing, visual impact and loss of privacy. Each of these issues is considered below.

Overshadowing

Applicant's justification:

The position of the building elements that primarily breach the height of building standard are recessed from the primary building façades. In terms of overshadowing impact Marchese Architects have prepared a comparative shadow analysis, illustrating the extent of additional overshadowing impact resulting from the height variation [shown as Figures 35 and 36].

Those diagrams are included in full under separate cover and extracts are shown below. Those diagrams demonstrate that any additional overshadowing resulting from the height non-compliance will generally fall upon the upper roof level of the proposed building itself, or upon the roof areas of adjoining sites, with no significant additional impact arising from the variation.



Figure 33: Shadow diagram - 10am mdi-winter (Source: Revised CI 4.6 Request)



Figure 34: Shadow diagram – 2pm mid-winter (Source: Revised CI 4.6 Request)

On balance, the extent of additional shadow cast by the proposed development over that of a height compliant development is not anticipated to result in any discernible increase to the extent of impact incurred to either the adjoining public domain nor adjoining properties than that anticipated by the establishment of the primary building controls for the land.

Consultant Planner comment:

The applicant considers that since the height breaches are recessed from the building facades that there will be minimal additional overshadowing cast as a result and that

such shadows will generally be cast over the roof of the proposed buildings or over the roof areas of adjoining buildings. Having considered the submitted diagrams (which have only been available within the CI 4.6 request document) and considering it logically, the additional shadows cast by the roof areas of the common open space and lift overruns are unlikely to cause any significant additional overshadowing to adjoining buildings.

The minor additional shadows are cast over the roof areas of buildings adjoining the site, however such buildings do not include any communal open space on the roof and accordingly, there will be no adverse impact arising from the minor additional overshadowing caused by the height breaches. The applicant's justification is supported in that there is unlikely to be significant impact to adjoining properties arising from overshadowing resulting from the height exceedance.

Visual Impact

Applicant's justification:

The visual impact of the non-compliant height elements are not considered significant because:

- *They are comprised of recessed uppermost roof levels whereby any breaching height elements are suitably integrated into the overall design of the building and are of a form and materiality that do not create any unwarranted visual impact;*
- *The planter boxes and balustrades have been appropriately recessed back from the building edges and therefore do not have a high degree of visibility as viewed from neighbouring properties or public domain.*
- *The landscaped treatments proposed to the roof of the building will serve to soften the visual presentation of the building.*

Having regard to the above, the elements in breach of the height are not considered to add significantly to perception of bulk and scale of the development compared to a height compliant building on this site.

Consultant Planner comment:

The applicant considers that there are minimal visual impacts arising from the proposed height breaches as these areas comprise only recessed uppermost roof levels with planter boxes and other features which ensure there is not a high degree of visibility for neighbouring properties.

As illustrated in **Figures 37** and **38**, the components of the proposal which exceed the height limit generally comprise rooftop awnings and terrace areas which are setback from the edges of the building resulting in minimal visual impacts. These structures are not highly visible or an intrusive element in the streetscape. Furthermore, the landscaping proposed along the edges will soften the impact of this area when viewed

from more distant locations. There is no habitable floor space contained within the height exceedance area, thereby reducing visual impacts.

The applicant's justification is supported in that there is unlikely to be significant impact to adjoining properties arising from adverse visual impacts resulting from the height exceedance.



Figure 35: Roof top area - Building 1 (Source: Marchese Partners, August 2020)

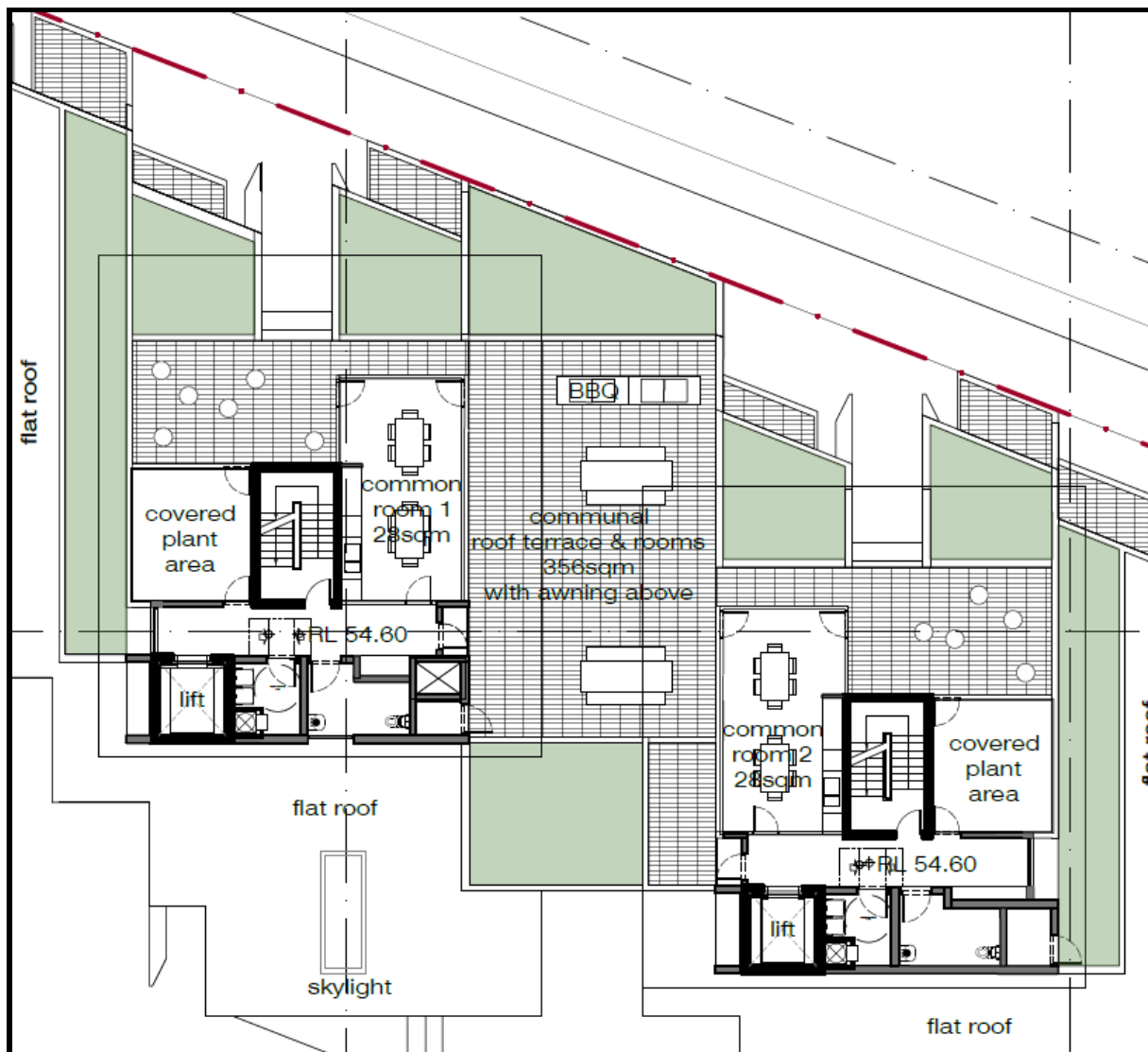


Figure 36: Roof top area - Building 2 (Source: Marchese Partners, August 2020) Loss of Privacy

Applicant's justification:

With regard to possible impacts on privacy it is noted that the trafficable areas of communal rooftop spaces and the recreational terrace on the commercial building have been appropriately oriented away from adjoining sensitive residential uses and are setback from the edges of the building with perimeter landscaping provided to prevent direct overlooking and mitigate visual impact.

The residential flat building component has also been sited in a manner whereby compliant levels of building separation in accord with the ADG requirements have been provided.

Consultant Planner comment:

The applicant's justification is that privacy loss will not occur for adjoining properties as the roof top areas which exceed the height limit are orientated away from other residential uses, are setback from the edges of the building with perimeter landscaping and are adequately separated. As illustrated in **Figures 38 and 39** above, the common roof top areas are adequately setback from site boundaries and from the edges of the building such that overlooking opportunities to adjoining residential development has been adequately minimised. The applicant's justification is supported in that there is unlikely to be significant impact to adjoining properties arising from privacy loss resulting from the height exceedance.

Summary Objective (b)

Applicant's justification:

In summary the non-compliance with the height standard does not contribute to an unreasonable overshadowing or visual impact or significant intensification of loss of privacy to adjoining properties. This is due to the setback and recessive nature of the building elements on the rooftop that service the communal open spaces and rooftop recreation terrace and that perimeter landscaping is also provided to prevent direct overlooking and mitigate visual impact. The objective is therefore considered to be satisfied despite the non-compliance.

Consultant Planner comment:

As outlined above, the applicant's justification that Objective (b) is supported and it is considered the proposed height breach is consistent with this objective.

Objective (c) to provide appropriate scale and intensity of development through height controls.

Applicant's justification:

The scale, form and intensity of the building presents a building envelope generally achievable under the primary Floor Space Ratio and Building Height controls of the LEP with the proposal presenting a built form generally consistent with that anticipated by the controls, namely a five (5) storey commercial or six (6) storey mixed development built form.

Importantly, the subject site is located on a highly distinguishable corner with landmark characteristics benefiting from its prominent position and twin streetscapes.

The area of the subject site proposed to be built upon is zoned B2 Local Centre, as is immediately adjoining land along Railway Parade, and is also adjoined by a high density residential zoning to the south and east with future development in those areas having

potential to achieve a comparable built form, in terms of building height, to that allowable on the subject site.

The objective is considered to be achieved by virtue of the primary usable floor areas of the proposed buildings being provided in building envelopes which conform to the height control, with the height exceedance generated by elements that do not contribute to the scale and intensity of the development, due to their recessive physical nature, or due to those elements being ancillary and subordinate facilities that are used in conjunction with the primary use and do not therefore intensify the use of the site perse.

The proposed development is considered to therefore achieve the objective as the scale and intensity are consistent with that permitted by the control and consistent within a future context of comparably scaled new development on adjacent lands.

Consultant Planner comment:

The applicant's argument is that the proposal generally complies with the FSR and height controls permitted under the KLEP 2012 and that the proposed height breaches are contained within a small area of the building which does not contribute to the scale and intensity of the development, and contain only ancillary and subordinate facilities which do not intensify the use of the site.

The proposal does generally comply with the FSR controls of the KLEP, albeit a bonus is provided due to the ARH SEPP while the building itself generally complies with the height development standard with the exception of the roof top communal open space. It is agreed that these proposed height breaches do not adversely impact on the amenity of adjoining properties (as outlined above for Objective (b)) and do not significantly contribute to the bulk and scale of the buildings. The recessive nature of the height exceedance, being limited to roof top structures and a minor component of the top commercial floor, result in minimal impact on scale and intensity of the development, thereby achieving consistent with this objective.

Summary – unreasonable or unnecessary

Applicant's Justification:

Specifically the design sensitively positions those areas of the building that project above the height of building standard to ensure that additional overshadowing is primarily cast upon the lower floor and roof elements of the proposed building itself. This siting therefore ensures no appreciable additional impact of overshadowing, visual impact or loss of privacy arising from the proposed building elements that exceed the standard and the objectives of the standard can be considered to be satisfied.

In view of the above, the requirement to strictly adhere to the development standard for Height of Building is considered to be unreasonable and unnecessary in this instance as

the proposed development achieves and is consistent with the relevantly applicable objectives of the standard.

Consultant Planner comment:

As outlined above, it is considered that the proposal, despite the height exceedance, satisfies the objectives of the height development standard pursuant to Clause 4.3(1) of the KLEP 2012. In this way, the proposal has demonstrated consistency with the first Webhe test, that the objectives of the standards are achieved notwithstanding non-compliance with the standards. It was clear from *Initial Action* that only one way was sufficient. Accordingly, the applicant has adequately demonstrated that compliance with development standard is unreasonable and unnecessary in the circumstances of this case.

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

The grounds relied on by the applicant in the written request under this part of Cl 4.6 must be “*environmental planning grounds*” by their nature, as outlined in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 (*‘Four2Five’*) and confirmed in *Initial Action*. While *environmental planning* is not defined in the EP&A Act, Preston CJ considered in *Initial Action* it would refer to grounds that relate to the subject matter, scope and purpose of the EP&A Act, including the objects in s 1.3 of the EPA Act.

The environmental planning grounds relied upon must be ‘sufficient’ in two respects, the first being that they must be sufficient to *justify* contravening the development standard with the focus being on the aspect or element of the development that contravenes the development standard and not on the development as a whole, and why that contravention is justified on environmental planning grounds. The second respect relates to whether the written request has *demonstrated* that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter.

The applicant’s justification is outlined below.

Applicant’s Justification:

The proposed development is supportable on environmental planning grounds for the following reasons:

- *A compliant building would lose valuable rooftop recreational facilities with no appreciable improvement to the perception of scale or intensity of the development nor improvement in the amenity of adjoining lands;*
- *The proposal (notwithstanding the LEP contravention) is consistent with the objectives of the development standard as provided in clause 4.3 of the KLEP 2012.*

- *Despite the lift overrun and roof structures exceeding the Height of Buildings principal development standard, the remainder of the building sits within the 21m height limit. As such, the overall bulk and scale of the building is considered to be acceptable in terms of its urban form and no additional floor space over that permitted by the applicable Floor Space Ratio (inclusive of that available under the ARH SEPP bonus provision) is generated by the proposed variations;*
- *The cross fall of the site from the Railway Parade frontage to the rear exacerbates the extent of the technical non-compliance with the Height of Building standard with no appreciable intensification of the perception of building bulk or scale. Notwithstanding, the proposed development has been designed to provide appropriate levels of building modulation and massing whereby the various portions of the building and relative setbacks from the viewing perspectives, particularly from the residential areas to the south, enable a visual appreciation of a built form that remains appropriate for the site and commensurate with both existing and envisaged development likely to occur on neighbouring undeveloped sites.*
- *When considering overshadowing, the extent of additional shadow cast by the proposed development in comparison to a 21m height compliant development is not unreasonable.*
- *Future redevelopment to the south west and north east of the site along Railway Parade would likely result in a finished building height not visually at odds with that proposed by this development. The additional height maintains a building of a scale and form that is appropriate for the location, accentuating the high profile corner location of the site, providing visual interest and a varied building profile. The additional height above the height limit will minimally accentuate the corner site presentation of the building, presenting a well-considered building of high architectural merit when viewed from Railway Parade and acting as a key site and identification of entry to the Carlton Centre.*
- *Strict compliance with the development standard would result in a failure to achieve an appropriate provision of affordable housing by the resultant need to reduce the residential flat building by a floor, in a highly appropriate location, consistent with the underlying objectives of the zoning of the land and the ARH SEPP bonus floor space provisions which is considered contrary to the orderly and economic use of the land.*

Consultant Planner comment:

In relation to the first aspect of sufficiency, the applicant relies on the minor areas of height exceedance, the fact that such areas contribute to the overall amenity of the building in terms of the provision of open space and the lack of any significant adverse amenity impacts on the adjoining properties. The sloping nature of the topography towards the southern portion of the site is also cited as reason as such topography exacerbates the height exceedance and the lack of any significant visual impacts as a result of the recessive nature of the height breaches within the rooftop areas. These

reasons are considered to focus just on the aspect of the proposal which contravenes the development standard, which is consistent with *Initial Action* and *Four2Five*.

The objects of the EP&A Act pursuant to Section 1.3 include several matters, however, for the purposes of this request, Objects (c), (d), (g) and (h) are considered to be relevant and include:

Object (c) to promote the orderly and economic use and development of land,
Object (d) to promote the delivery and maintenance of affordable housing,
Object (g) to promote good design and amenity of the built environment,
Object (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,

The proposed height exceedance allows for the orderly and economic use of land by allowing five (5) levels of residential development as well as four (4) levels of commercial floor space both above active retail frontages with an appropriate amount of common open space with good solar access (Object (c)). The provision of affordable housing with common open space is also provided (Object (d)), while the proposed height breach does not compromise the amenity of surrounding properties (Object (g)).

The proposal allows for lift access to all levels which ensures that there is equitable access as well as other building services which requires plant rooms on the roof top above the height limit, which achieves Object (h).

In this respect, the applicant's justification is supported and it is considered that the environmental planning grounds have been adequately demonstrated in this request. Accordingly, it is considered that Clause 4.6(3)(b) has been satisfied.

The proposal is in the public interest as it is consistent with the objectives of the standard and the zone objectives – Clause 4.6(4)(a)(ii)

The second opinion of satisfaction, in cl 4.6(4)(a)(ii), is that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out.

Applicant's Justification:

In Part 3 of this request, it was demonstrated that the proposal is consistent with the objectives of the development standard. The proposal, inclusive of the noncompliance, is also considered consistent with the objectives of the B2 Local Centre Zone and R3 Residential Zone.

The relevant objectives of the B2 zone and R3 zone are to:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*

And

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Despite the variation to the height of building development standard the proposal is considered to be of a type and nature that satisfies the objectives of the B2 Local Centre and R3 Medium Residential zone as:

- *The proposal provides a mixture of compatible commercial uses on the site with the independent ground floor retail premises also providing an opportunity for support uses to local residents, workers and visitors.*
- *The proposal facilitates the ongoing employment opportunity provided by Netstrata in an accessible location within the Carlton Centre.*
- *The proposal provides for the housing needs of the community by providing a large affordable housing component in a highly accessible and well serviced locality.*

Accordingly, granting consent to the proposed development is considered to be in the public interest. In accordance with the provisions of Clause 4.6(4) Council can therefore be satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

Consultant Planner comment:

This matter requires demonstration that the proposal is in the public interest as it is consistent with the objectives of both the development standard and the zone objectives.

Consistency with the objectives of the height development standard has already been adequately demonstrated above and so only the zone objectives need to be considered.

The proposal is considered to be generally consistent with the objectives of the B2 zone, despite the height breaches, given;

- The proposal provides for a range of retail and business uses that serve the needs of people who live in, work in and visit the local area by including numerous retail tenancies and four (4) levels of commercial floor space within Building 1;
- The proposal encourages employment opportunities in accessible locations, given the provision of over 4,000m² of commercial floor space on a site opposite Carlton Railway Station; and
- The proposal, being located opposite Carlton Railway Station and within a town centre maximises public transport patronage and encourages walking and cycling.

The proposal is also considered to satisfy the zone objectives of the R3 zone, although the proposed development is wholly located within the B2 zone. The proposal is also considered to be in the public interest as it provides affordable housing opportunities within an accessible town centre location.

The applicant's justification is supported and it is considered that the proposal is in the public interest as it is consistent with the objectives of the standard and the zone.

It is considered that the written request has adequately demonstrated both of the matters required for the first precondition.

Second Precondition - Clauses 4.6(4)(b) and (5) – Concurrence of the Secretary

The second precondition that must be satisfied before the consent authority can grant consent for development that contravenes a development standard is that the concurrence of the Secretary has been obtained pursuant to Clause 4.6(4)(b) of KLEP 2012.

Pursuant to Clause 64 of the *Environmental Planning and Assessment Regulation 2000*, the Secretary has granted assumed concurrence to various proposals as outlined in Planning Circular PS 20-002 issued on 5 May 2020 subject to conditions. The conditions relevant in this case are that the proposal is for *regionally significant development* and accordingly the Panel can assume the Secretary's concurrence for this application. Accordingly, this second precondition has been satisfied by the proposal.

In *Initial Action*, Preston CJ, considered that the Court should still consider the matters in cl 4.6(5) when exercising the power to grant development consent for development that contravenes a development standard.

The matters for which the Secretary is to take into consideration in deciding whether to grant of concurrence include:

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

- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*

These matters are considered below in the context of the applicant's written request.

Applicant's Justification

It is understood the concurrence of the Director-- General is not required to be sought in this circumstance as the matter is to be determined by the relevant regional planning panel; however the following points are made:

- a) The contravention of the Height of Building standard does not raise any matter of significance for State or regional environmental planning given the nature of the development proposal and the extent and nature of, and circumstances of, the variation to the standard that is proposed particularly as a significant contributor to the variation arises as a consequence of facilitating the additional bonus floor space available under the ARH SEPP; and*
- b) There is no public benefit in maintaining the development standard as it relates to the current proposal. To the contrary, there is significant public benefit in supporting the departure from the standard in the circumstances, given that insistence on compliance can only be achieved by further eroding the potential to achieve the ARH SEPP objective of encouraging affordable infill housing in well serviced and accessible locations.*

Consultant Planner comment:

It is agreed that there is no matter of state or regional significance which arises out of the proposed height exceedance. While the ARH SEPP allows for a bonus FSR within the building, the proposed height breach does not arise directly from that given there is no residential floor space above the maximum height limit. The provision of common open space and the need to provide building services and plant equipment on the roof on a site which slopes down from its primary frontage are the primary contributors to the height breach which when considered under the requirements of Clause 4.6 is considered acceptable.

In relation to whether there is a public benefit of maintaining the development standard, there is generally a public benefit arising from such compliance however, it is considered that a variation is warranted in this instance as outlined in this consideration of the Clause 4.6 request. The variation allows for a mixed use development in an accessible location with a good level of common open space and which allows for the provision of affordable housing.

It is considered that the written request has adequately demonstrated the matters required for the second precondition.

Accordingly, since the proposed Clause 4.6 request has adequately demonstrated compliance with both preconditions, the Clause 4.6 is recommended to be supported for the exceedance of the maximum height limit for the proposed development.

Development Control Plan (S4.15(1)(a)(iii))

Kogarah Development Control Plan 2013

The *Kogarah Development Control Plan 2013* ('KDCP 2013') applies to the site and aims to provide objectives and development controls that establish clear guidelines for development in the City of Kogarah. Several controls within the KDCP 2013 do not align and significantly conflict with the scale of development now permitted under the KLEP 12 (as amended on 26 May 2017), which now allows a higher density/scale of development. As a consequence, the proposed development contravenes a number of the controls including significant variations to the height and floor space ratio criterion.

The approach to support the development with significant variations to KDCP 2013 (but compliant with KLEP 2012) is consistent with recent judgements in the NSW Land and Environment Court, in particular, *Michael Murr v Georges River Council [2017] NSWLEC 1369*. It is also noted that in the hierarchy of planning controls, Development Control Plans cannot prescribe more onerous corresponding controls than those in a Local Environmental Plan.

The relevant sections of KDCP 2013 to the proposal include the following:

- Part B: General Controls
- Part C2: Residential (Part 1: RFBs) (considered of solar access only)
- Part D1: Development in the B1 Neighbourhood Centres & B2 Local Centre zones
- Part D2: Commercial Locality/Guides (Section 6 – Carlton North)

These relevant controls of the KDCP 2013 are considered below in the context of the proposal.

Part B: General Controls

• B1: Heritage & Heritage Conservation Areas

This Part supports Schedule 5 of KLEP 2012, providing detailed development controls for sites identified as heritage items or located within a Heritage Conservation Area ('HCA'). While the site does not contain any heritage items and is not located in a HCA, the site is located in the vicinity of two (2) local heritage items. A Heritage Impact Statement has been prepared which concluded that the

proposal will not adversely impact on the heritage values of these items. The proposal is considered to be consistent with this Part of the DCP.

- B2 - Tree Management & Green Web**

This Part applies to trees and other vegetation in the area. The site does not contain any remnant bushland but does contain several large trees. An Arborist's report has been provided which considered 13 trees in total comprising 8 trees within the site, 4 trees on a neighbouring property and 1 tree on the adjacent road reserve (**Figure 39**).

The report concluded that Trees 1, 6, 7, 8, 9, 10, 11 & 12 are to be retained and protected and Trees 2, 3, 4 & 5 recommended to be removed. The retained trees are located in the southern corner which comprises a deep soil zone. Relevant conditions have been recommended to be imposed on any consent to protect the retained trees. The proposal is considered to be consistent with this Section of the DCP.

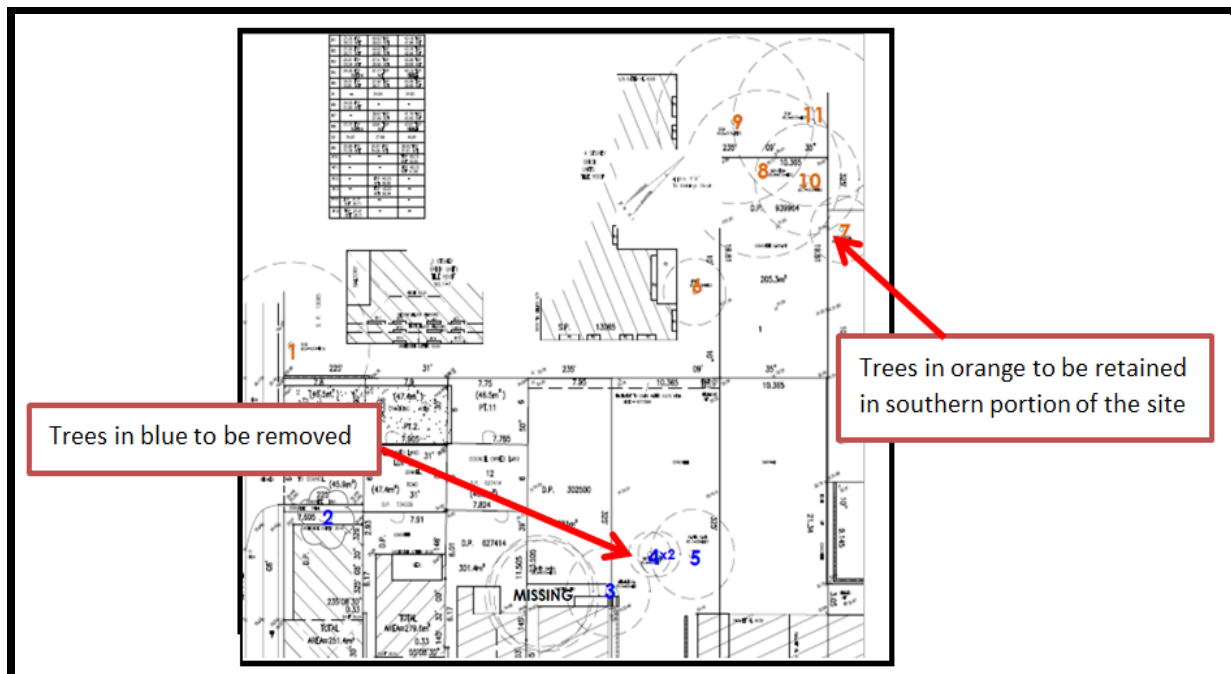


Figure 37: Tree Removal and Retention Plan (Source: Arborist's report, November 2019)

- B3 - Developments near Busy Roads and Rail Corridors**

The objective of this Part is to ensure an appropriate acoustic amenity can be achieved for development near transport corridors, particularly residential

development and other noise sensitive land uses. The site is located in close proximity to Carlton railway station and Railway Parade. An Acoustic and Vibration Report has been provided which concluded that the proposal is satisfactory subject to recommendations, which are recommended as conditions to be imposed on any consent.

- **B4 - Parking and Traffic**

This Part contains controls for car parking, bicycle parking, design and layout of car parking areas and loading requirements. The car parking requirements for the proposal are contained across a number of different planning policies as outlined in **Table 10**. A Traffic and Parking report has been provided which concluded the parking layout and vehicle access complies with the relevant Australian Standards.

The proposal complies with the various car parking requirements and the residential car parking has been separated from the commercial/retail parking spaces, with all retail spaces provided at-grade, in accordance with Council's requirements. Adequate loading and servicing arrangements have been provided which comprise two (2) courier spaces as well as a loading dock.

A temporary loading bay area is proposed in Stage 1 adjacent to the bin holding area, which will be capable of accommodating a 6.4m long SRV truck. Once Stage 2 is completed, the service area will be relocated to the area between the two buildings, adjoining the garbage room areas for both buildings. The SRV can enter and leave the site in a forward direction to Buchanan Street and can enter the loading dock.

Relevant conditions have been recommended to be imposed on any consent to ensure the car parking is provided in accordance with the plans. The proposal is considered to be consistent with this Section of the DCP.

Table 10: Car Parking Requirements for the Proposal

Component	Planning Control	Required Car Spaces	GFA/Beds	Spaces & Location Provided	Comply
Commercial (Stage 1)	KDCP 2013	1 space/40m ² (103.3 spaces)	4132m ²	103 (B1, B1, B3 & B4)	Yes
Retail (Stages 1 & 2)	KDCP 2013	1 space/25m ² (35.5 spaces)	888m ²	35 (ground level)	Yes
Loading	KDCP 2013	Retail – 2 bays	-	2 courier spaces + 1	Yes

		Commercial – 1 bay		loading dock	
Residential (Stage 2)	ARH SEPP (CI 14(2)(a)(ii))	0.5 spaces/1 bed 1 space/ 2 bed 40 spaces	1 Beds x 20 units 2 Beds x 30 units	56 (B3 & B4)	Yes
Residential Visitors (Stage 2)	SEPP 65/ADG (Part 3J)	1 space/5 units (10 spaces)	50 units	11 (B1 & ground level)	Yes
Total		188		207	Yes

• B5 - Waste Management & Minimisation

This Part provides guidelines and requirements for sustainable and efficient recycling and waste management practices during the demolition, construction and on-going operation of a development. A Waste Management Plan is required to be submitted, which has been provided. Council's Waste Section supports the plan for the construction aspects of the development however had concerns with the waste generation rates used to calculate the number of bins which would be required and whether there is space within the waste room for sufficient bins.

Commercial Waste (Stage 1)

Retail & Commercial Uses

There are no waste generation rates contained in KDCP 2013, however, a review of generation rates from other sources indicates an average of 5-10L/100m²/day for offices and the following rates are provided in the Hurstville DCP No 1:

- Commercial (4,132m²) – 10L/100m²/day (waste) and 15L/100m² floor area / day (recycling) = 2,892L/week of waste and 4,338L/week of recycling;
- Retail (>100sqm, non-food) (888m²) – 50L/100m²/day (waste) and 70L/100m² floor area / day (recycling) = 3,108m² (waste) and 4,351mL/week of recycling.

The total waste stream/week is approximately 6,000L/week of waste and 8,689L/week of recycling. The proposed waste room in Stage 1 comprises an area of 20m² and can accommodate 9 x 660L bins or 5,940m² of waste and recycling. Waste collection can occur weekly; however, an alternative location for a recycling storage is required, which has been recommended as condition to be imposed on any consent (Schedule 1). This is considered satisfactory.

Residential Waste (Stage 2)

The waste management system for the proposed residential units comprises the

following:

- Waste chute and recycling bins in a small room adjoining the lift on each residential level (as required by Clause 11 of Part B5);
- Waste Room A – comprising 27m² with 7 x 1100L bins;
- Waste Room B – comprising 32m² with 7 x 1100L bins and a 4m² bulk waste storage area; and
- Waste caretaker to enact and monitor day to day waste management operations to be engaged by building management.

Restricted access is to be provided to the waste chute area (for safety reasons) which is recommended as a condition to be imposed on any consent.

Waste Generation and Bin requirements

Council's Waste section considers that the residential component must provide 7 x 1100L bins for waste and 7 x 1100L bins for recycling (collected weekly) requiring 14 bins in total. The KDCP 2013 does not contain waste generation rates, however, the rate of 120L garbage space per week per unit and 80L recycling space per week per unit is provided in the Hurstville DCP No 1. This would require 5.45 bins for the proposal based on 50 units, so 6 bins would be required for each waste stream. Given 7 bins are provided in each waste room, sufficient bins have been provided across the two waste rooms.

In relation to the requirement for recycling facilities being provided on each floor, two x 240L recycling bins are provided in the waste room adjoining the lift on each floor. Based on the 80L recycling rate per unit per week, 11.4L of recycling is generated by each unit per day, resulting in approximately 57L of recycling being generated for each suite if units accessing a lift core per floor per day, which is easily accommodated in the recycling bins to be placed in each waste room on residential floors.

Council's Waste Officer also considered that green waste bins should also be required, despite the applicant indicating a private landscape contractor would be engaged to manage the green spaces and associated waste. The DCP does not require green waste bins for this development. Green waste bins should be provided if they can be accommodated on the site.

For residential developments that include six or more dwellings, the DCP (Section 2 of Part B5) requires that a dedicated caged area is provided within the waste room for the storage of discarded bulky items which are awaiting removal which is easily accessible to all residents. This area has been provided in Waste room B, however, double doors should be provided to this area which have not been provided. This will also assist in reducing the travel distance to the loading dock for bulky items. The design of the Waste Room B will require the installation of double doors on its eastern wall which has been recommended as condition to be imposed on any consent (refer to Schedule 1).

Waste Rooms

The DCP requires that waste storage facilities are easily accessible from units and appropriately located to facilitate the removal of waste to the Council collection point. These areas must also be visually and physically integrated into the design of the development, designed and located to avoid adverse impacts on the amenity of adjoining sites and easy to clean with access to a tap and correct drainage of waste water through a floor drain to the sewer. The proposed waste rooms are considered appropriate and in accordance with the controls.

Servicing

The applicant proposes that either Council or Private contractor will service the site for waste collection. Council's Waste section is concerned with the travel distance between the waste rooms and the loading dock. For Council to provide a 'Wheel In Wheel Out' ('WIWO') service, the waste room must be on the ground floor and be easily accessible by waste contractors, with the path of travel from the waste collection vehicle to the bin storage area no further than 15 metres. Given the proposed layout (**Figure 40**), the applicant will need to accept that the building manager will be responsible for presenting all approved waste and recycling receptacles for collection at the loading dock, and returning all bins to the waste rooms, as soon as practicable after they have been serviced.

The DCP also requires that door widths to waste rooms shall be a minimum of 1100mm and must be wide enough to accommodate the largest chosen bin size for that development, with a gap on either side of the bin of no less than 100mm. The design of the Waste Room A will require minor layout change to provide wider access to this room from the hallway leading to the loading dock. This requirement has been recommended as condition to be imposed on any consent in Schedule 1.

For waste collection to occur on site from the loading dock, the site must be capable of being serviced by a Medium Rigid Vehicle ('MRV'). The applicant has provided a turning template for an SRV demonstrating that it can utilise the loading dock and enter and leave the site via Buchanan Street in a forward direction. The applicant has also stated that an MRV can also manoeuvre and enter and exit the site in a forward direction. Evidence demonstrating this will be required at the Construction Certificate stage, and is included in the recommended conditions to be imposed on any consent in **Schedule 1**.

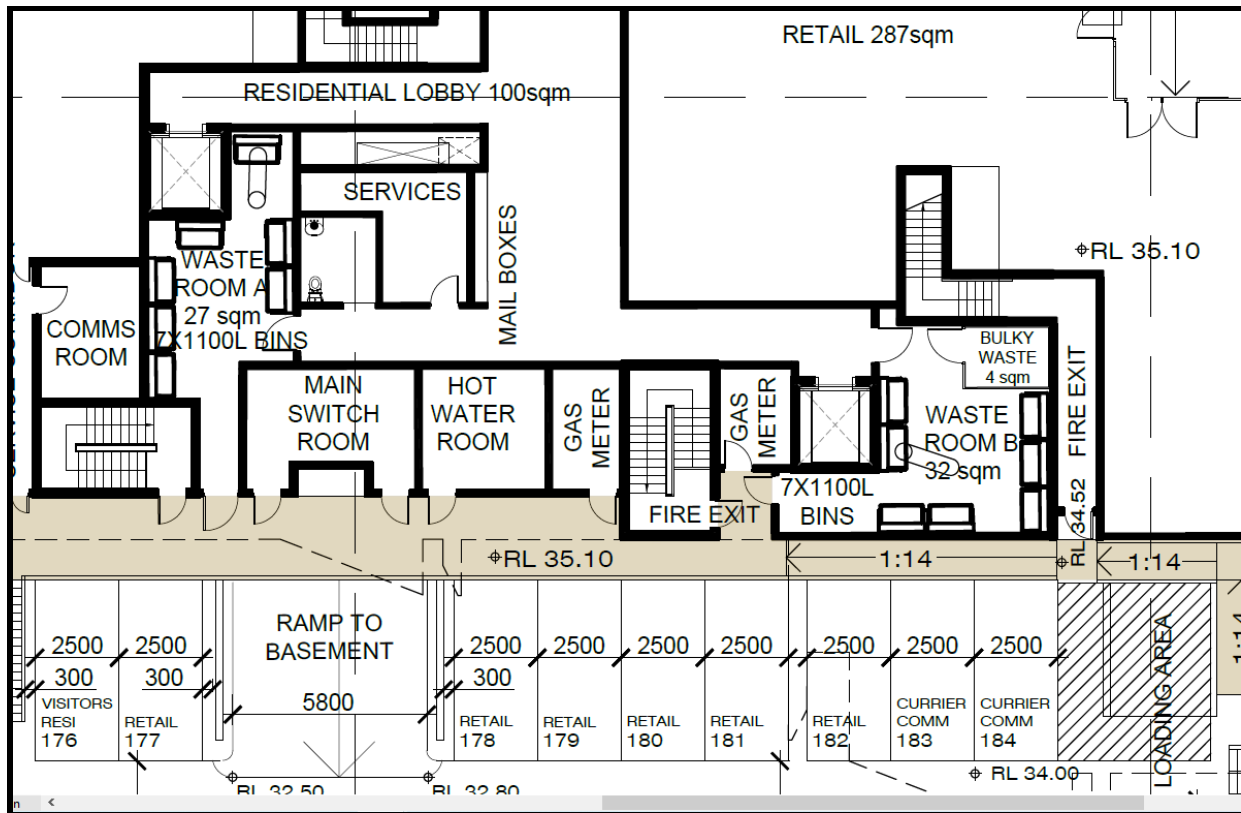


Figure 38: Proposed Waste Rooms A and B (Source: Marchese Partners, July, 2020)

- B6 - Water Management**

The objectives of this Part of the DCP include reducing flooding and drainage impacts within and downstream of sites, reduce pollutant loads exported to the waterways via the stormwater system and to conserve water and reduce mains water consumption. The proposal is accompanied by a stormwater concept plan which has been reviewed by Council's engineer. No objections were raised subject to relevant conditions which have been recommended to be imposed on any consent. The proposal is considered to be consistent with this Part of the DCP.

- B7 - Environmental Management**

The objectives of this Part of the DCP include applying principles and processes that contribute to ecologically sustainable development (ESD) and to reduce the impacts of development on the environment. Controls relating to orientation (building siting and design), energy efficiency in non-residential developments and water efficiency in non-residential development and controls relating to materials and building components are included.

In this regard, the proposal complies with the BASIX requirements and the buildings are appropriately orientated for good solar access.

An Energy Efficiency Report has been provided which contains a preliminary assessment of the proposal having regard to the minimum compliance for all non-residential zones in accordance with the Deemed-To-Satisfy (DTS) provisions of the NCC 2019 Section J Energy Efficiency and found to be satisfactory subject to detailed design. An alternative verification method is recommended for the next phase of the project to ensure that the intent of proposed architectural design will be met through a performance-based approach. Relevant conditions which have been recommended to be imposed on any consent in Schedule 1.

Part C2: Medium Density Housing – Kogarah DCP 2013 (Part 1: Residential Flat Buildings)

This Part of the DCP does not strictly apply to the proposal as these controls only apply to land zoned residential. However, the controls relating to solar access are considered in the context of the proposal.

Solar Access

Controls

- 1) *Shadow diagrams are to be submitted for the winter solstice (21 June) to demonstrate impacts at a minimum of 9am, midday and 3pm – these have been provided.*
- 2) *Shadow diagrams should include elevational diagrams identifying the habitable rooms and private open space areas of the adjoining dwellings, and view from the sun diagrams, identifying solar access compliance to the proposed development - these have been provided.*
- 3) *Shadow diagrams are required to show the impact of the proposal on the sunlight to the open space of neighbouring properties. Existing overshadowing by fences, roof overhangs and changes in level should also be reflected in the diagrams - these have been provided.*
- 4) *Where the neighbouring lower density residential zoned dwellings are affected by overshadowing from a development, at least 50% of the neighbouring existing primary private open space and windows to main living areas must receive a minimum of 3 hours sunlight between 9am–3pm on the winter solstice (21 June). Note: Achieving compliance with this control may be difficult on steeply sloping sites, east west facing allotments, irregular allotments or sites with open space to the south of the built form. In this instance, compliance with the control will be considered on its merit – this is considered further below.*

The buildings likely to be affected by overshadowing from the proposal include:

No 1-7 Buchannan Street - This building is overshadowing in the afternoon from around midday in mid-winter. This northern elevation of this adjoining building is in shadow in the afternoon however the majority of the living room windows and balconies face towards Buchannan Street and away from the subject site. Accordingly, it is considered that the proposed building does not adversely affect the solar access to this adjoining building receives adequate solar access. This building is located in the R3 zone.

No 10 Jubilee Avenue – The proposed will result in some overshadowing of this adjoining building to the west of the site during the morning in mid-winter. By 1pm, this shadow has largely moved away from No 10 such that 3 hours of sunlight is available to this adjoining building in the afternoon during mid-winter. This building is located in the B2 zone.

No 14 Jubilee Avenue – this adjoining building to the south-west of the site will be overshadowed in the morning during mid-winter as a result of the proposal. This shadow however is generally cast over the roof of this adjoining building. The windows which face the subject site from this building at No 10 are not overshadowed as a result of the proposal for the remainder of the day, however this building is in shadow as a result of the existing building on the subject site. This building is located in the R3 zone.

No 16 Jubilee Avenue – *this adjoining building is located to the south of the site and is located in the R3 zone.* This building is overshadowed by the proposal in the morning during mid-winter with this shadow having moved by midday. For the remainder of the day, there is some shadow cast over this adjoining building by existing development in the vicinity of the site. Therefore, the proposal does not adversely increase the overshadowing to this adjoining property.

The shadow diagrams submitted with the architectural plans demonstrate that the height non-compliance does not result in any significant additional shadow beyond a compliant built form.

- 5) *Where development adjoins public open space, the solar access amenity of the space will be considered on its merits* – the site does not adjoin public open space.

The resulting overshadowing by the proposal is consistent with the provisions of the KDCP 2013.

Part D: Development in the B1 and B2 zones

An assessment of the proposed development against the relevant controls in the KDCP 2013 is detailed in the compliance table in **Schedule 2**. This assessment concluded that the proposal is generally consistent with these controls.

Georges River Interim Policy Development Control Plan 2020

The *Georges River Interim Policy Development Control Plan 2020* was approved by Council on 24 June 2019 and is effective from 22 July 2019 ('the Interim Policy'). The aim of the Interim Policy is to address current inconsistencies in development controls arising from the amalgamation of Kogarah and Hurstville Councils. The Interim Policy is a public document used by Development Assessment planners in their assessment of residential Das and will ensure that assessment is consistent across the LGA.

The Interim Policy came into effect on 22 July 2019 and shall be considered in the assessment of all applications from this date. The proposal is not considered to be inconsistent with these provisions.

The provisions of this Interim Policy for the current proposal relate to residential flat buildings as follows:

- Site frontage – 20 metres (site complies)
- Height – the LEP controls relating to maximum height will prevail, over DCP controls relating to height in storeys (refer to LEP and CI 4.6 assessment);
- Private and communal open space and solar access – ADG (SEPP 65) controls prevail over the DCP (refer to the ADG assessment); and
- Parking – Metropolitan subregional centre rates apply (refer to the ADG assessment).

The proposal is consistent with the Interim Policy.

Planning Agreements (S4.15(1)(a)(iiia))

There are no planning agreements that pertain to this site.

The Regulations (S4.15(1)(a)(iv))

Clause 92 of the Regulations contains additional matters that the consent authority must consider, which include, in the case of a development application for the demolition of a building, the provisions of AS 2601. Relevant conditions have been recommended to be imposed on any consent issued for compliance with this Australian Standard in Schedule 1.

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

The consideration of impacts on the natural and built environments includes:

- Context and setting – The proposal is considered to be generally consistent with the context of the site, in that the proposed development is unlikely to result in adverse impacts to the built environment. The architectural design and the use of high

quality materials and finishes will create an interesting and vibrant built form. The development will create a positive contribution to the streetscape and will enhance the public domain;

- Access and traffic – The proposal has been considered having regard to access, car parking and traffic generation in the accompanying Traffic Report and by Council's engineers. The proposal is considered to be satisfactory in this regard.
- Public Domain – The proposal will not utilise any of the existing footpaths or public roads. The proposal will not impede pedestrian access in the area and will not impinge on any public areas. The proposal will enhance the public domain by providing additional activation of the public domain along Railway Parade and awnings for pedestrian comfort.
- Utilities – All utilities are available at the site.
- Heritage – The site does not contain any heritage items and is not located within a Heritage Conservation Area. Heritage items are located in the vicinity of the site, which have been considered in this assessment. There will be no adverse impacts on nearby heritage items as a result of the proposal.
- Natural environment – The proposed development is unlikely to result in adverse impacts to the natural environment as no significant trees are proposed for removal and additional landscaping is proposed on the R3 zoned land, within the entry plaza on Railway Parade, and on the rooftop communal open space areas. Relevant conditions have been recommended to be imposed to ensure there are minimal environmental impacts arising from the proposal (Schedule 1).
- Social and economic impact – The proposal will improve the social and economic environment of the locality through better utilisation of the site. The economic benefits of the proposal include additional employment opportunities, better activation of the town centre, and the provision of additional land for retail and commercial uses. Improved longer term viability and the sustainability of the commercial centre of Carlton and additional jobs in the construction phase of the development are further economic benefits of the proposed development. The proposal will also provide additional affordable housing accommodation in the area in an accessible location and will therefore have social benefits to the locality.
- Site design and internal design – The proposal is appropriately set out on the site to allow for manoeuvring of vehicles on and off the site and minimises adverse impacts on adjoining properties during the proposed works.
- Construction – Construction will be undertaken in accordance with the construction management plan and relevant conditions have been recommended be imposed on any consent in Schedule 1.

- Cumulative impacts – The proposal will not result in any adverse cumulative impacts as the proposal is for demolition.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

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

The site has no impediments that would preclude it from being suitable for the proposed development. The site is zoned to permit medium density residential and commercial development. Furthermore, the site is not known to be affected by any natural hazards or other site constraints that are likely to have a significant adverse impact on the proposal.

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

The application was notified to immediately adjoining properties for a 14 day from 11 March to 8 April 2020. Notification procedures were conducted in accordance with KDCP 2013. Two (2) submissions were received, which raised the following issues:

Issue: Sunlight and overshadowing of 10 Jubilee Avenue

Comment: Overshadowing of adjoining properties has been considered in this report and found to be satisfactory having regard to the applicable planning controls.

Issue: *Construction management and excavation – concerns raised regarding potential damage to adjoining properties arising from the proposed construction.*

Comment: The applicant has submitted a Construction Management Plan and Construction Traffic Management Plan with the DA. The Traffic Management Plan states all vehicles associated with construction will use the Railway Parade or Buchanan Street entries/exits. A standard condition of consent has been recommended for construction traffic management. The Geotechnical Report submitted with the DA has been reviewed by council's Environmental Health Officer and conditions of consent are recommended in this regard. Dilapidation reports will be required, with relevant conditions recommended to be imposed on any consent.

Issue: *Use of the laneway to Jubilee Avenue during and after construction – concerns were raised that this laneway was not intended to service large developments, but was only a access lane for rear of retail premises along Railway Parade.*

Comment: The Traffic Management Plan states all vehicles associated with construction will use the Railway Parade or Buchanan Street entries/exits. A recommended condition of consent for construction traffic management has been provided. After construction, vehicles of residents, staff and visitors to the development will be able to exit the property from either Buchanan Street or Jubilee Avenue. The laneway to Jubilee Avenue forms part of the subject site and the right of carriageway over that land will continue to be in effect allowing the beneficiaries to pass and repass through the ROW.

(e) the public interest.

The proposal generally satisfies the relevant planning controls and is generally consistent with the objects of the EP&A Act and accordingly is considered to be in the Public interest. The development will not significantly adversely affect the amenity of immediately adjoining properties and will not negatively affect the character and nature of the neighbourhood.

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

The proposal provides additional affordable housing accommodation in a well serviced location and in this way is consistent with the public interest.

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

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

Development Contributions

The proposed development requires payment of development contributions which have been levied accordingly as outlined in Table 11 (refer to Schedule 1).

Table 11: Applicable Contributions

Plan	Sub-total
Plan 1	7,362.50
Plan 5	505,150.00
Plan 9 - Books	7,952.70
Plan 9 - Library Infrastructure	11,154.20
Total Amount	531,619.40

REFERRALS

The application was referred to the following internal staff:

- Property
- Design Engineer
- Land information
- Consultant Arborist
- Drainage Engineer
- Development Engineer
- Traffic Engineer
- Environmental Health Officer
- Waste Officer
- Strategic and Urban Design

No objections were raised to the proposal and conditions of consent were provided, with the exception of the waste referral which will require several design changes to the waste rooms. Recommended conditions are included in Schedule 1.

External Referrals

The application was referred to the following external government agencies:

- WaterNSW (integrated referral)
- Ausgrid
- Sydney Trains
- Sydney Airport Corporation/CASA
- NSW Police
- Transport for NSW
- Sydney Water

No objections were raised to the proposal and conditions of consent were provided and are included in Schedule 1.

CONCLUSION

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

The application seeks approval for demolition works and construction of a two (2) stage mixed use development including ground floor retail premises with commercial premises and a residential flat building (affordable rental housing) above.

The proposed development application was lodged on the 17 February 2020 with a capital investment value of \$53,428,461 which classifies the development as Regionally significant. Therefore, the Sydney South Regional Planning Panel is the consent authority.

The proposal has been designed to satisfy the key provisions of the relevant planning controls including the State Environmental Planning Policy (Affordable Rental Housing), State Environmental Planning Policy 65 – Design Guide of Residential Apartment Development and the Apartment Design Guide and the Kogarah Local Environmental Plan 2012. While there are some areas of some non-compliance, it is considered that the proposed built form and design is satisfactory and a good planning outcome is achieved for the site and locality.

The development has been assessed against the requirements of the relevant planning instruments and development control plans and is generally consistent with those requirements. Following detailed assessment it is considered that Development Application No DA2020/0056 be approved subject to the conditions in Schedule 1.

DETERMINATION AND STATEMENT OF REASONS

The reasons for this recommendation are:

- The proposed development meets the objectives of the relevant environmental planning instruments and development control plans.
- The proposal has been designed to generally satisfy the key provisions of the Apartment Design Guide (ADG).
- The proposed design has been sensitively considered to be consistent with the anticipated, desired future character for development in this area.
- The proposal aims to provide a high-quality building that will establish a positive urban design, architectural and planning precedent in the area.

THAT pursuant to Section 4.16(1) of the *Environmental Planning and Assessment Act, 1979*, as amended, the South Sydney Planning Panel, grant development consent to Development Application DA2020/0056 for demolition works and construction of a two (2) stage mixed use development including ground floor retail premises with commercial premises and a residential flat building (affordable rental housing) above on Lot 1 in DP 1262370 and known as 280 - 298 Railway Parade, Carlton subject to the following conditions of consent:

SPECIFIC DEVELOPMENT CONDITIONS

SECTION A – DEFERRED COMMENCEMENT CONDITIONS

Deferred Commencement Conditions

A. **Deferred Commencement** - Pursuant to Section 4.16(3) of the *Environmental Planning and Assessment Act 1979*, this consent will not operate until the following requirements are satisfied:

- (a) This consent is not to operate until the Applicant satisfies the Council, within 12 months of the date of this consent, that it has obtained approval/certification from Sydney Trains as to the following matters and the approval/certification has been forwarded to the Council:

A1. The Applicant shall prepare and provide to Sydney Trains for approval/certification the following final version items in compliance with relevant ASA Standards

(<https://www.transport.nsw.gov.au/industry/asset-standards-authority>):

1. Geotechnical and Structural report/drawings that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducted on the site closest to the rail corridor.
2. Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.
3. Cross sectional drawings showing the rail corridor, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail corridor. All measurements are to be verified by a Registered Surveyor.
4. Detailed Survey Plan showing the relationship of the proposed development with respect to Sydney Trains easement and rail corridor land.
5. If required by Sydney Trains, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.
6. If required by Sydney Trains, a Monitoring Plan.

Any conditions issued as part of Sydney Trains approval/certification of the above documents will also form part of the consent conditions that the Applicant is required to comply with.

- (b) This consent is not to operate until the Applicant satisfies the Council, that adequate tenure over the Council owned lands at lot 3 DP 734336 and 12/627414 has been achieved for vehicle access to the development.

Documentary evidence as requested or the above information must be submitted within thirty six (36) months of the granting of this deferred commencement consent. Activation of this Consent cannot commence until written approval by Council is given advising Section A is satisfied.

Subject to Section A above being satisfied the development is to be carried out subject to the following conditions as referenced in Section B.

SECTION B – GENERAL DEVELOPMENT CONDITIONS

Development Details

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	REV	PREPARED BY
Data Sheet	DA0.02	28/08/2020	M	Marchese Partners
Site Context Plan	DA1.01	13/09/2019	B	Marchese Partners
Site Plan (existing)	DA1.02	14/10/2019	C	Marchese Partners
Site Plan & Land Allocation	DA1.03	21/07/2020	I	Marchese Partners
Site Analysis	DA1.04	18/08/2020	G	Marchese Partners
Streetscape	DA1.05	13/09/2019	E	Marchese Partners
Demolition Plan	DA1.06	4/11/2019	B	Marchese Partners
Local Character Analysis	DA1.07	13/09/2019	B	Marchese Partners
Local Character Applied to the Development	DA1.08	14/10/2019	C	Marchese Partners
Basement 4	DA2.22	17/07/2020	N	Marchese Partners
Basement 3	DA2.23	17/07/2020	N	Marchese Partners
Basement 2	DA2.24	17/07/2020	N	Marchese Partners

Basement 1	DA2.25	17/07/2020	O	Marchese Partners
Ground Floor Plan	DA2.26	17/07/2020	R	Marchese Partners
Level 01	DA2.27	18/08/2020	M	Marchese Partners
Level 02	DA2.28	18/08/2020	M	Marchese Partners
Level 03	DA2.29	18/08/2020	K	Marchese Partners
Level 04	DA2.30	18/08/2020	M	Marchese Partners
Level 05	DA2.31	18/08/2020	L	Marchese Partners
Communal Roof	DA2.32	18/08/2020	N	Marchese Partners
Roof Plan	DA2.33	17/07/2020	J	Marchese Partners
North-West Elevation	DA3.01	18/08/2020	L	Marchese Partners
North-East Elevation	DA3.02	18/08/2020	L	Marchese Partners
South-East Elevation	DA3.03	18/08/2020	L	Marchese Partners
South-West Elevation	DA3.04	18/08/2020	L	Marchese Partners
Section AA	DA4.01	18/08/2020	I	Marchese Partners
Section BB	DA4.02	18/08/2020	I	Marchese Partners
Section CC	DA4.03	18/08/2020	J	Marchese Partners
Section DD	DA4.04	18/08/2020	I	Marchese Partners
Section EE & FF to Entry Ramp	DA4.05	18/08/2020	D	Marchese Partners
GFA	DA5.01	12/07/2020	F	Marchese Partners
Solar Access	DA5.02	10/08/2020	F	Marchese Partners
Cross Over Ventilation	DA5.03	10/08/2020	F	Marchese Partners
Shadow Analysis 21 June 9am	DA5.04	18/08/2020	D	Marchese Partners
Shadow Analysis 21 June 10am	DA5.05	18/08/2020	D	Marchese Partners
Shadow Analysis 21 June 11am	DA5.06	18/08/2020	D	Marchese Partners

Shadow Analysis 21 June 12pm	DA5.07	18/08/2020	D	Marchese Partners
Shadow Analysis 21 June 1pm	DA5.08	18/08/2020	D	Marchese Partners
Shadow Analysis 21 June 2pm	DA5.09	18/08/2020	D	Marchese Partners
Shadow Analysis 21 June 3pm	DA5.10	18/08/2020	C	Marchese Partners
Shadow Cast Analysis 1- 7 Buchanan Street	DA5.18	18/08/2020	B	Marchese Partners
Shadow Cast Analysis 14 Jubilee Avenue	DA5.19	18/08/2020	B	Marchese Partners
Shadow Cast Analysis 16 Jubilee Avenue	DA5.20	18/08/2020	B	Marchese Partners
Shadow Cast Analysis 10 Jubilee Avenue	DA5.21	18/08/2020	A	Marchese Partners
Unit A	DA6.01	19/08/2020	D	Marchese Partners
Unit B	DA6.02	18/08/2020	D	Marchese Partners
Adaptable Unit C	DA6.03	18/08/2020	D	Marchese Partners
Unit D	DA6.04	18/08/2020	D	Marchese Partners
Unit E	DA6.05	18/08/2020	D	Marchese Partners
Unit F	DA6.06	18/08/2020	D	Marchese Partners
Material Board	DA7.01	18/08/2020	D	Marchese Partners
View 1	DA8.01	18/08/2020	E	Marchese Partners
View 2	DA8.02	18/08/2020	E	Marchese Partners
View 3	DA8.03	18/08/2020	D	Marchese Partners
Survey	204490-1	22/9/15		W. Buxton Pty Ltd
Stormwater Plan (Sheets 1-4)	7547, Dwg No SW.01, SW.02, SW.03 &	November 2019	P2	Birzulis Associates

	SW.04			
Landscape Plan and Landscape Development Application	-	August 2020	E	Arcadia Landscape Architecture
BASIX Certificate	1045272M_04	31/08/ 2020	-	ADP Consulting: Engineering
Statement of Environmental Effects	-	10/02/2020		Rod Logan Planning
Clause 4.6 Request (Revised)	-	-		Rod Logan Planning
Traffic and Parking Assessment Report	18516	28/08/2020	-	Varga Traffic Planning P/L
Construction Management Plan	1718N S001	4/12/2019	1	Willow Frank
Construction Management Traffic Plan	18516	6/12/209	-	Varga Traffic Planning P/L
BCA Design Compliance Report	MSA1889 – Rev02	18/11/2019	-	Matt Shuter & Associates
Fire Safety Report	17151-R1-V1	4/12/2019	1	Peter Gardner & Associates
DA Energy efficiency Report	SYD0824	18/11/2019	1	ADP Consulting: Engineering
Access Review - DA	-	19/11/2019	2	Morris Goding Access Consulting
Waste Management Plan	-	31/10/2019	2	MRA Consulting Group
Noise Impact Assessment	SYD824	18/11/2019	01	ADP Consulting: Engineering
Arboricultural Impact Assessment and Tree Management Plan	4723.1	19/11/2019	-	Redgum Horticultural
Acid Sulfate Soils Management Plan	C122978: EL Job: J164169	September 2019	1	Greencap

Asbestos Management Plan	C122978 : JG Job:J164169	September 2019		Greencap
Geotechnical Investigation Report	S18221802 – 01	23/11/2018	1	PTC Consulting Engineers
Remediation Action Plan	C122978 : JG Job: J164169	3/07/2020	4	Greencap
Heritage Impact Statement	-	November 2019	2	NBRS Architectural
SEPP 65 and ADG Table	-	13/1/2020	-	Marchese Partners
SEPP 65 Design Verification Statement		13/01/2020	P	Marchese Partners

2. **Fit-out of retail premises** - No approval is granted for the use or fit-out of the retail premises. Separate Development Consent for the use and fit-out is required prior to the occupation of the retail 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. **Public Domain Plans** - The Applicant is required to submit Public Domain Plans which are to consist of full civil engineering drawings to Australian Standards. Inclusive of new kerbing long sections, cross sections, driveway, drainage, paved footpath, landscape and tree pits, and in accordance with Councils "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 are to be made at Georges River Council Customer Service Centre.

5. **Exit driveway onto Jubilee Avenue** - The applicant will be required to reconstruct the adjoined driveway of number 10 Jubilee Avenue to a Heavy Duty driveway as per Council's specifications. The applicant will be required to give the residents of number 10 Jubilee avenue 4 weeks' notice prior to any works commencing. These works are to be included in the public domain plans.

6. **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 & ancillary works in the road reserve; and
- (k) Stormwater & ancillary to public infrastructure on private land
- (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.

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

- (a) Construct a full width (boundary to kerb) footpath area in paving material for the full length of the frontage of the site in Railway Parade in accordance with Council's Specifications applying at the time construction approval is sought.
- (b) Construct a 1.5m metre wide footpath for the full length of the frontage of the site in Buchanan Street in accordance with Council's Specifications applying at the time construction approval is sought.
- (c) The thickness and design of the driveway shall be in accordance with Council's Specifications applying at the time construction approval is sought.
- (d) 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.

- (e) 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 specification, applying at the time construction approval is sought.
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. **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 <<http://www.legislation.nsw.gov.au/>> 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](http://www.legislation.nsw.gov.au/) <<http://www.legislation.nsw.gov.au/>> and Section 138 of the [Roads Act 1993](http://www.legislation.nsw.gov.au/) <<http://www.legislation.nsw.gov.au/>>:

- (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; and
 - (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 at www.georgesriver.nsw.gov.au <<http://www.georgesriver.nsw.gov.au/>>) before the commencement of work; and
 - (d) 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.
10. **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 car park 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](http://www.legislation.nsw.gov.au/) <<http://www.legislation.nsw.gov.au/>> and the [Roads Act 1993](http://www.legislation.nsw.gov.au/)

<http://legislation.nsw.gov.au/> 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 for the amount of [\$50,000]. The guarantee will be released when the cables are stress released. In this regard it will be necessary for a certificate to be submitted to Council from a structural engineer at that time verifying that the cables have been stress released.
- (e) That in the event of any works taking place on Council's roadways/footways adjoining the property while the anchors are still stressed, all costs associated with overcoming the difficulties caused by the presence of the 'live' anchors will be borne by the applicant.

Requirements of Concurrence, Integrated & Other Government Authorities

11. Proximity to Existing Network Assets (Ausgrid)

(a) Overhead Powerlines

There are existing overhead electricity network assets in Railway Pde. Safework NSW Document - *Work Near Overhead Powerlines: Code of Practice*, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

The "as constructed" minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website, www.ausgrid.com.au

The proposed development may encroach the statutory clearances of nearby powerlines as per the requirements set out in AS7000 and Ausgrid Standard NS220. The developer is required to either:

- Engage an Accredited Service Provider Level 3 (ASP3) to confirm that the development does maintain the statutory clearances to the powerlines (this must include wind impacts). If the ASP3 determines that the proposed structure does encroach the statutory clearances, suitable arrangements must be made to ensure that the structure will not encroach the powerline statutory clearance

either by redesign of the encroaching structure or relocation of the powerlines away from the proposed structure.

- Make suitable arrangements to have powerlines relocated prior to the commencement of construction so that statutory clearances are not encroached.

Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost. It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site.

(b) Underground Cables

There are existing underground electricity network assets in Railway Pde, Buchanan St, Jubilee Ave. 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. 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.

Safework Australia - Excavation Code of Practice and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.

(c) Substation

There are existing electricity Ground substation assets within the proposed development site. The substation ventilation openings, including substation duct openings and louvered panels, must be separated from building air intake and exhaust openings, natural ventilation openings and boundaries of adjacent allotments, by separation distances which meet the requirements of all relevant authorities, building regulations, BCA and Australian Standards including AS 1668.2: The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings.

In addition to above, Ausgrid requires the substation ventilation openings, including duct openings and louvered panels, to be separated from building ventilation system air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres.

Exterior parts of buildings within 3 metres in any direction from substation ventilation openings, including duct openings and louvered panels, must have a fire rating level (FRL) of not less than 180/180/180 where the substation contains oil-filled equipment, or 120/120/120 where there is no oil filled equipment and be constructed of non-combustible material.

The development must comply with both the Reference Levels and the precautionary requirements of the ICNIRP Guidelines for Limiting Exposure to Time-varying Electric and Magnetic Fields (1 HZ - 100 kHz) (ICNIRP 2010).

For further details on fire segregation requirements refer to Ausgrid's Network Standard 113. Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid. For further details refer to Ausgrid's Network Standard 143.

12. **Electricity Supply** - An application is required to be made to Ausgrid for a network connection. This may require the network to be extended or its capacity augmented. Evidence of this application being lodged with Ausgrid is required to be provided to the Certifying Authority prior to the issue of a Construction Certificate. For further details, you are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services).
13. **Connection to the network will be required prior to the release of any Occupation Certificate** - Where works within the road reserve are to be carried out by the developer, a Road Opening Permit must be obtained from Council's Customer Service Centre before commencement of work.
14. **Electricity Supply to Development** - The electricity supply to the Development must be underground. All existing overhead power lines within or adjacent 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.
15. **Car Park Layout (TfNSW)** - 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. Parking Restrictions may be required to maintain the required sight distances at the driveway.
16. **Road Occupancy Licence (TfNSW)** - A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre (TMC) for any works that may impact on traffic flows on Railway Parade during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.
17. **Sydney Trains Requirements**
 - (a) The Applicant shall prepare an acoustic assessment demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads Interim Guidelines". The Applicant must incorporate in the development all the measures recommended in the report. A copy of the report is to be provided to the Principal Certifying

Authority and Council prior to the issuing of a Construction Certificate. The Principal Certifying Authority must ensure that the recommendations of the acoustic assessment are incorporated in the construction drawings and documentation prior to the issuing of the relevant Construction Certificate.

- (b) Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate. The Principal Certifying Authority must ensure that the recommendations of the electrolysis report are incorporated in the construction drawings and documentation prior to the issuing of the relevant Construction Certificate.
- (c) Prior to the issuing of a Construction Certificate the Applicant must submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. If required by Sydney Trains, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.
- (d) The applicant shall not at any stage block the corridor access gate on Railway Parade, shall not use the commuter car parking for construction vehicles, and should make provision for easy and ongoing 24/7 access by rail vehicles, plant and equipment to support maintenance and emergency activities.
- (e) The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of the rail operator. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- (f) If required by Sydney Trains, prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- (g) The Applicant must ensure that at all times they have a representative (which has been notified to Sydney Trains in writing), who: i. oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Trains; ii. acts as the authorised representative of the Applicant; and iii. is available (or has a delegate notified in writing to Sydney Trains that is available) on a 7 day a week basis to liaise with the representative of Sydney Trains, as notified to the Applicant.
- (h) Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Trains in relation to the carrying out of the development

works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Trains in relation to the works.

- (i) Where a condition of consent requires consultation with Sydney Trains, the Applicant shall forward all requests and/or documentation to the relevant Sydney Trains external party interface team. In this instance the relevant interface team is Illawarra Interface and they can be contacted via email on Illawarra_Interface@transport.nsw.gov.au <mailto:Illawarra_Interface@transport.nsw.gov.au>.
 - (j) Copies of any certificates, drawings, approvals/certification or documents endorsed by, given to or issued by Sydney Trains or RailCorp must be submitted to Council for its records prior to the issuing of the applicable Construction Certificate or Occupation Certificate.
 - (k) Any conditions issued as part of Sydney Trains approval/certification of any documentation for compliance with the Sydney Trains conditions of consent, those approval/certification conditions will also form part of the consent conditions that the Applicant is required to comply with.
18. **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.
19. **Sydney Water – Tap in TM (Sydney Water)** - The approved plans must be submitted to a Sydney Water Tap inTM to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at www.sydneywater.com.au then see 'Building', or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap inTM agent has appropriately stamped the plans prior to the issue of the Construction Certificate.
20. **Notice of Requirements for a Section 73 Certificate (Sydney Water)** - A Notice of Requirements of what will eventually be required when issuing a Section 73 Compliance Certificate under the [Sydney Water Act 1994](#) 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 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.

21. **Section 73 Compliance Certificate (Sydney Water)** - A Section 73 Compliance Certificate under the [Sydney Water Act 1994](#) must be submitted to the PCA prior to the issue of the Occupation/Subdivision Certificate.
22. **Sydney Airport Corporation – Max height to 60.5 metres AHD** - The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc. Should you wish to exceed this height a new application must be submitted.

Should the height of any temporary structure and/or equipment be greater than 45.72 metres AEGH, a new approval must be sought in accordance with the *Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161*.

Construction cranes may be required to operate at a height significantly higher than that of the proposed development and consequently, may not be approved under the *Airports (Protection of Airspace) Regulations*. Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct.

23. **NSW Police Recommendations** - Due to the nature of the development, identified crime risks and issues, we recommend the following:
 - (a) The development applicant provides a Closed-Circuit Television plan;
 - (b) The nominated affordable housing dwellings are to be managed by a registered community housing provider.

Prior to the Issue of a Construction Certificate

24. **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	\$165,405.00
Inspection Fee for Refund of Damage Deposit	\$371.00
DEVELOPMENT CONTRIBUTIONS	
Kogarah Section 94 Development Contributions Plan No.1 - Roads and Traffic Management - Residential	\$0
Kogarah Section 94 Development Contributions Plan No.1 - Roads and Traffic Management - Commercial	\$7,362.50
Kogarah Section 94 Development Contributions Plan No.5 - Open Space 2007	\$505,150.00
Kogarah Section 94 Development Contributions Plan No.9 - Kogarah Libraries - Buildings	\$11,154.20
Kogarah Section 94 Development Contributions Plan No.9 - Kogarah Libraries - Books	\$7,952.70
Total Contributions	\$531,619.40

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.

25. **Damage Deposit - Major Work** - 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: **\$165,405.00 (not inclusive of drainage works)**
- (b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: **\$371.00**
- (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.

26. **Site Management Plan - Major Development**

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

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

- (l) method used to provide construction noise and vibration management;
- (m) construction and demolition traffic management details.

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

27. Design Quality Excellence (Major Development)

- (a) In order to ensure the design quality excellence of the development is retained:
 - I. The design architect is to have direct involvement in the design documentation, contract documentation and construct stages of the project;
 - II. The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of the design issues throughout the life of the project;
 - III. Evidence of the design architect's commission is to be provided to the Council prior to release of the Construction Certificate.
- (b) The design architect of the project is not to be changed without prior notice and approval of the Council.

28. Safe Work Method Statement (SWMS) - A Safe Work Method Statement must be prepared and lodged with the PCA for the demolition and asbestos removal prior to issue of the Construction Certificate.

29. BASIX Commitments - All energy efficiency measures as detailed in the BASIX Certificate No. 1045272M_04 must be implemented on the plans lodged with the application for the Construction Certificate.

30. Required design changes - The following changes are required to be made and shown on the Construction Certificate plans:

Non-reflective Glass – Commercial Development

- (a) Provide non-reflective glass on the commercial building façade;

Waste Management

- (b) Waste Room A – changes to the layout of this room are to be undertaken to allow for the passage of 1100L bins in and out of this room and incorporate the shortest distance possible to the loading dock
- (c) Waste Room B – the installation of double doors on its eastern wall to be provided to allow for 1100L bins to be moved in and out of this room;

- (d) Restricted access to the garbage chute mechanism in the ground floor waste rooms is to be provided;
- (e) Commercial waste – evidence that adequate storage area is provided for the commercial and retail waste is to be provided, with an alternative location for a recycling storage provided if required;
- (f) Evidence required to be provided that a Medium Rigid Vehicle can enter and leave the site in a forward direction and can access to the loading sock on the site for waste collection.

Lighting

- (g) Lighting under the street awnings.

Public Art

- (h) 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 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.

31. **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.

32. **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.

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 PCA.

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.

33. **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.

34. **Stormwater System** - The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.
- (a) Prior to the issue of a Construction Certificate, for the proposed connection into Council's existing drainage pit in the road.
 - (b) All stormwater shall drain by gravity to Council's stormwater system in the street as indicated in the supported drainage plan Dwg No. (SW.02), Issue P2, 11/12/19 prepared by 'Birzulis Associates' engineering consultant.
 - (c) The PCA shall ensure that the approved drainage design levels are surveyed during construction by a registered surveyor.
 - (d) The PCA shall ensure that a drainage engineer shall supervise the construction of the OSD stormwater system on site and certify his supervision in writing and state his satisfaction of the constructed site stormwater system is built as intended in this consent.

- (e) Connection into the existing pit shall be to Council's asset and infrastructure engineering unit satisfaction.
 - (f) There is a low point on Railway Parade adjacent to the site. In case of the Railway Parade street drainage becoming blocked or reaching capacity, the site's stormwater system is to include design measures to protect the ground floor of the development by redirecting any stormwater that enters the site from Railway Parade. The Detailed Stormwater plan is to include these design measures.
 - (g) Stormwater Systems with Basement - The underground basement car park must pump to and all other stormwater must drain by gravity to the drainage system within the site via a silt trap pit . The design of the proposed drainage system must be prepared by a professional engineer who specialises in hydraulic engineering and be submitted for approval with the Construction Certificate application.
 - (h) Protection of basement from inundation of stormwater waters - The protection of the underground basement shall be protected from possible inundation by surface waters from the street. 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 submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.
- An on-site detention (OSD) facility designed by a professional engineer who specialises in Hydraulic Engineering is to be constructed with capacity as shown on the approved plan in this case.
- (a) Provide the OSD system with at least one access for future maintenance and show on plan.
 - (b) Provide the OSD system with sufficient ventilation and show on plan.
 - (c) The OSD tank shall be certified to be structurally adequate to carry the designated loads to the satisfaction of the PCA.
36. **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 3m wide pavement/kerb face to kerb face width, and a non-slip surface.

37. **Council Property Shoring** - Prior to the issue of the Construction Certificate, plans and specifications prepared by a professional engineer specialising in practising structural engineering 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.

38. **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.

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

- (a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks/stabilization works and any excavations.
- (b) Dilapidation Reports on the adjoining properties including, but not limited to (address) and (address) 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 PCA 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.
40. **Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns & other structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works. A copy shall be forwarded to Council where Council is not the PCA.
41. **Traffic Management - Compliance with AS2890** - All driveways, access ramps, vehicular crossings and car parking spaces shall be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities) and AS 2890.2 (for commercial vehicle facilities).
42. **Traffic and Parking**
- (a) Parking spaces shall be clearly designated (sign posted and marked on ground) and line marked prior to the issuing of an occupation Certificate.
 - (b) 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.
 - (c) 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.
 - (d) All allocated car parking spaces shall be freely available for the customers of the proposed development.
 - (e) 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 to AS2890.1:2004 section 2.4.5.3 need to be installed.
 - (f) 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.
 - (g) All vehicles shall enter and exit the premises in a forward direction.
 - (h) No deliveries to the premises shall be made direct from a public place or street inclusive of footpaths, nature strip, roadway and car parks.
 - (i) 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.

43. **Construction Traffic Management Plan** - A Construction Traffic Management Plan detailing:
- (a) construction vehicle routes;
 - (b) anticipated number of trucks per day;
 - (c) hours of construction;
 - (d) Access arrangements – no construction vehicles are to use the Jubilee Avenue access driveway; and
 - (e) Proposed traffic measures to minimise impacts of construction vehicles

must be submitted for the approval of Council's Engineers. Council's Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.

44. **Acoustic Requirements - Compliance with submitted Acoustic Report** - The Construction Certificate plans shall demonstrate compliance with the Acoustic Assessment submitted to Council, titled "*Noise Impact Assessment. 280-298 Railway Parade, Carlton. Project No. SYD0824*" prepared by ADP Consulting: Engineering dated 18 November 2019.

This means that a review of glazing design and mechanical plant must be undertaken to ensure that acoustic objectives will be met. Written verification from a suitably qualified acoustic consultant must be submitted to Council validating that the acoustic objectives contained within the aforementioned report will be met, must be submitted to Council for approval. The Construction Certificate will not be issued until Council approves this validation.

45. **Contaminated Land – Site Validation Report** - A Site Validation Report prepared by the certified Contaminated Land Consultant in accordance with the *State Environmental Planning Policy No. 55 – Remediation of Land* must be submitted to the Principle Certifying Authority and Council if Council is not the Principle Certifying Authority. Council must accept and acknowledge the receipt of the Site Validation Report prior to the issue of any Construction Certificate.

The Site Validation Report, for each stage of the development, must include:

- (a) A notice of completion of remediation works;
- (b) Details of site management requirements (if any)

- (c) A clear statement on the suitability of the proposed site use.

Council will require a Site Audit Statement prior to accepting the report where:

- the site requires an Environmental Monitoring Program,
- Council is not satisfied with the report provided, and/or
- Council believes the complexity of the contamination requires an independent review.

46. **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.
47. **Waste Storage - Residential and Mixed Use Developments** - The plans shall include details of the waste storage area. The waste storage area shall not be visible from the street. The waste storage area shall be located within the lot/building in accordance with the approved plans.

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

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

Residential Waste

Larger 1,100 litre mobile bins may be used as an alternative, but an equivalent amount of space will need to be provided. It is noted that the applicant intends to provide 7 x 1100 litre mobile bins for domestic waste and 7 x 1100 litre mobile bins for domestic recycling. These are considered to be adequate provided they are serviced in accordance with Council's current servicing requirements.

Commercial Waste

For the Commercial portion of the building appropriate waste and recycling containers and facilities will need to be provided for all specific end use businesses in accordance with the following waste generation rates:

- (a) Retail Trading - shops, to 100 square metres - 0.1-0.2 cubic metres per 100 square metres of floor area per day;
 - (b) Restaurants and Food Shops - 0.3-0.6 square metres per 100 meals, plus up to 0.15 cubic metres of beverage containers per 100 meals; and,
 - (c) Office - 0.01-0.03 cubic metres per 100 square metres of floor area per day.
48. **Landscape Plans** - All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by Arcadia Landscape Architecture,

Ref No Issue D and dated Nov 2019. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following -

- (a) An additional one (1) tree shall be planted within the “piazza” section fronting Railway Pde, be of Australian native Spp and be selected from Georges River Councils, Tree Management Plan, Appendix 1 - Tree Planting. The trees shall be a minimum 100 litre pot/ bag size and be able to reach a height at maturity of nine (9) metres.
 - (b) The proposed trees and plant species, pot/ bag size and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan. If plant species, pot/ bag size and quantities cannot be sourced, Council shall be contacted for alternatives;
 - (c) All sixteen (16) trees proposed upon the approved landscape plan and additional “piazza” tree shall comply with AS 2303 - 2018, *Tree Stock for Landscape use* and *NATSPEC Specifying Trees: a guide to assessment of tree quality (2003)*, and be planted and maintained in accordance with Councils standard specification;
 - (d) If the planted seventeen (17) trees and plants are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the seventeen (17) 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;
 - (e) The parking spaces proposed along the left hand side of the entry and exit from Buchanan St shall be permeable paving. The excavation and installation shall be under the guidance of an AQF 5 Arborist and signed off by the Arborist, for the protection of Tree 1.
 - (f) A certificate of compliance for the planting of all seventeen (17) trees and shrubs proposed for the site. An AQF 5 Horticulturist shall be engaged and in writing certify that all trees have been planted as per landscape plan and specifications and forwarded to the PCA - Principal Certifying Authority.
49. **Compliance with submitted Arborist Report** - The recommendations outlined in the Arborist’s Report titled *Arboricultural Impact Assessment*, prepared by Redgum Horticultural, dated 2019, Ref 4723.1 must be implemented throughout the relevant stages of construction. Details of tree protection measures to be implemented must be detailed and lodged with the Construction Certificate application for approval and shall be in accordance with *Section 4 - Australian Standard AS 4970-2009: Protection of trees on development sites*.

The tree/s to be retained and protected are listed in the table below.

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres) TPZ as per AS4970 - 2009 Fencing
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		distance from trunk
T1 - <i>Eucalyptus microcorys</i>	Front yard of 1-7 Buchanan St Carlton	7.2 metres radially out from its trunk
T6 - <i>Brachychiton acerifolius</i>	Rear yard of 1-7 Buchanan St Carlton	4.8 metres radially out from its trunk
T7 - <i>Jacaranda mimosifolia</i>	Back fence of 16 Jubilee Ave Carlton	4.8 metres radially out from its trunk
T8 - <i>Casuarina cunninghamiana</i>	Within subject site, rear south portion	9.6 metres radially out from its trunk
T9 - <i>Corymbia maculata</i>	Rear yard of 1-7 Buchanan St Carlton	9.6 metres radially out from its trunk
T10 - <i>Corymbia citriodora</i>	Within subject site, rear south portion	8.4 metres radially out from its trunk
T11 - <i>Eucalyptus microcorys</i>	Rear yard of 1-7 Buchanan St Carlton	8.4 metres radially out from its trunk
T12 - <i>Callistemon viminalis</i>	Councils street tree facing Buchanan St	3.6 metres radially out from its trunk without blocking the footpath
<i>Corymbia gummifera</i> (missed from report)	Back fence of 16 Jubilee Ave Carlton	5 metres radially out from its trunk

- (a) The client shall engage a qualified Arborist who holds an AQF Level 5 or above in Arboriculture and who is a current practicing and financial member of an Arboricultural Association or Affiliation.
- (b) A certificate of compliance letter for tree protection measures shall be completed and forwarded to the PCA - Principal Certifying Authority, at three (3) stages being before works, during works and once all building works have been completed, that tree protection measures have been installed and maintained during the building process.

Tree Protection Measures

- (c) The entire southern portion of land within the site and denoted as "4" deep soil planting upon the Ground floor landscape plan, shall be fenced off and isolated from any building works, preparation of any building products and storage of any materials, at the corner of the rear north western fence of 1-7 Buchanan St, backyard.
- (d) All trees on Council property, subject site and adjacent sites, to be retained shall be protected before and maintained during demolition, excavation and construction of the site.
- (e) Although trees may be on adjacent sites, the tree protection fencing must be placed on the nominated distances as per table above, out from the trees trunk, within the subject site to minimise impacts to neighbours trees and kept for the

entirety of the project.

- (f) The tree protection measures must be undertaken in accordance AS4970 - 2009 Protection of trees on development sites.
- (g) Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a qualified Arborist who holds an AQF Level 5 or above in Arboriculture and who is a current practicing and financial member of an Arboricultural Association or Affiliation.
- (h) The engaged AQF 5 Consulting Project Arborist must be present on-site during the stages of excavation, demolition and construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone of each tree.
- (i) In accordance with AS 4970-2009 *Protection of trees on development sites*, a protective fence consisting of 2.4 x 1.8 metres high, fully supported chainmesh fence shall be used. The distance of the fence from the base of each tree is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill should be placed within the protection area.
- (j) To preserve Tree 1 - *Eucalyptus microcorys* and its Tree Protection Zone, and protection from machinery, no work shall commence until the Tree Protection Zone has been protected with 100mm of organic mulch laid, timber sleepers at 200mm x 100mm laid over the top and secured with metal framing bands as per AS4970 -2009, clause 4.5.3 Ground protection.
- (k) The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly and regularly to minimise the effects of construction works.
- (l) No building products/ materials or services shall be installed within the TPZ of the tree/s unless approved by Council. This fence shall be kept in place during demolition, construction and also have a sign displaying 'Tree Protection Zone - DO NOT ENTER' attached to the fence and must also include the name and contact details of the Project Arborist.

Excavation works near tree to be retained - all trees to be retained

- (m) Excavations around the trees to be retained on site or the adjoining properties shall be supervised by the AQF 5 Project Arborist to ensure that the root system will not adversely be affected.
- (n) Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the AQF 5 Project arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.

- (o) Tree Protection Zones around the trees to be retained are not to have soil level changes, building product / materials stored or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.
- (p) Removal or pruning of any other tree (that would require consent of Council) on the site is not approved. All pruning must be undertaken by a minimum certificate Level 3, Licenced and insured Tree surgeon / Arborist in accordance with AS4373 -2007 Pruning of Amenity Trees and Amenity Tree Industry, Code of Practice (SafeWork NSW August 1998).

50. Tree Removal & Replacement

Tree removal - Permission is granted for the removal of the following trees:

Tree Species	Number of trees	Location
T2 - <i>Callistemon viminalis</i>	X1	Within site, fronting Buchanan st
T3 - <i>Melaleuca armillaris</i>	X1	Middle of site
T4 - <i>Melaleuca quinquenervia</i>	X2	Middle of site
T5 - <i>Melaleuca quinquenervia</i>	X1	Middle of site

General Tree Removal Requirements

- (a) All tree removal shall be carried out by a minimum certificate Level 3, Licenced and insured Tree Surgeon/Arborist to ensure that removal is undertaken in a safe manner and complies with the AS 4373-2007 - Pruning of Amenity Trees and Tree Works Industry Code of Practice (Work Cover NSW 1.8.98).
- (b) No trees are to be removed on the site or neighbouring properties without the prior written approval of Council.

Street tree planting by Council –

- (c) A total of Seven (7) street trees of species to be determined must be provided in the road reserves fronting the site on Buchanan (2) and Railway Pde (5).
- (d) Council shall be appointed to remove and plant all tree/s on public land. All costs associated with the removal of the tree/s and the planting of replacement trees shall be met by the applicant. Fees and charges outlined in the table below are subject to change and are set out in the current version of Council's 'Schedule of Fees and Charges', applicable at the time of payment.
- (e) The fees must be paid in accordance with the conditions of this consent. The fee payable is to ensure that the development makes adequate provision for the demand it generates for public amenities and public services within the area.

- (f) The fees payable 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 conditions set out in this consent.

Fee Type - Tree planting on public land	Number of trees	Amount per tree
Administration Fee, tree planting and maintenance	X7	\$452.00
Cost of tree removal		na
Cost of Stump Grinding		na

Summary	
Number of trees removed from site	X 5
Number of trees planted within the site as per landscape plan and forming part of these conditions	X 17
Number of trees the applicant shall pay for and Council to plant upon Councils street verges, Buchanan and Railway Pde	X 7

A copy of the Hurstville City Council's Tree Removal and Pruning Guidelines and Kogarah City Council, Street Tree Management Strategy and Masterplan, can be downloaded from Council's website www.georgesriver.nsw.gov.au.

51. **Allocation of street addresses** - In order to comply with AS/NZS 4819:2011 Rural and Urban Addressing & the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements, the street addresses for the subject development must be allocated as follows:

- (a) Basement Parking levels –
- Basement 4 Plan – B4
 - Basement 3 Plan – B3
 - Basement 2 Plan – B2
 - Basement 1 Plan – B1
- (b) Commercial building (Stage 1) – 280 Railway Parade, Carlton; comprising:
- Ground Floor retail (197m²) – Shop G01/280 Railway Parade, Carlton
 - Ground Floor retail (153m²) - Shop G02/280 Railway Parade, Carlton
 - Level 1 Commercial – Suite 101/280 Railway Parade, Carlton
 - Level 2 Commercial – Suite 201/280 Railway Parade, Carlton
 - Level 3 Commercial – Suite 301/280 Railway Parade, Carlton
 - Level 4 Commercial – Suite 401/280 Railway Parade, Carlton
- (c) Residential building (Stage 2) – 290 Railway Parade, Carlton
- Ground Floor retail (287m²) – Shop G03/290 Railway Parade, Carlton
 - Ground Floor retail (247m²) - Shop G04/290 Railway Parade, Carlton
 - Individual apartments addresses include:

Level	Unit No	Proposed street address
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1	B1.1	101/290 Railway Pde
1	B1.2	102/290 Railway Pde
1	B1.3	103/290 Railway Pde
1	B1.4	104/290 Railway Pde
1	B1.5	105/290 Railway Pde
1	A1.1	106/290 Railway Pde
1	A1.2	107/290 Railway Pde
1	A1.3	108/290 Railway Pde
1	A1.4	109/290 Railway Pde
1	A1.5	110/290 Railway Pde
2	B2.1	201/290 Railway Pde
2	B2.2	202/290 Railway Pde
2	B2.3	203/290 Railway Pde
2	B2.4	204/290 Railway Pde
2	B2.5	205/290 Railway Pde
2	A2.1	206/290 Railway Pde
2	A2.2	207/290 Railway Pde
2	A2.3	208/290 Railway Pde
2	A2.4	209/290 Railway Pde
2	A2.5	210/290 Railway Pde
3	B3.1	301/290 Railway Pde
3	B3.2	302/290 Railway Pde
3	B3.3	303/290 Railway Pde
3	B3.4	304/290 Railway Pde
3	B3.5	305/290 Railway Pde
3	A3.1	306/290 Railway Pde
3	A3.2	307/290 Railway Pde
3	A3.3	308/290 Railway Pde
3	A3.4	309/290 Railway Pde
3	A3.5	310/290 Railway Pde
4	B4.1	401/290 Railway Pde
4	B4.2	402/290 Railway Pde
4	B4.3	403/290 Railway Pde
4	B4.4	404/290 Railway Pde
4	B4.5	405/290 Railway Pde
4	A4.1	406/290 Railway Pde
4	A4.2	407/290 Railway Pde
4	A4.3	408/290 Railway Pde
4	A4.4	409/290 Railway Pde
4	A4.5	410/290 Railway Pde
5	B5.1	501/290 Railway Pde
5	B5.2	502/290 Railway Pde
5	B5.3	503/290 Railway Pde
5	B5.4	504/290 Railway Pde
5	B5.5	505/290 Railway Pde
5	A5.1	506/290 Railway Pde
5	A5.2	507/290 Railway Pde

5	A5.3	508/290 Railway Pde
5	A5.4	509/290 Railway Pde
5	A5.5	510/290 Railway Pde

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

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

52. **Site 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).
53. **Contaminated Land - Prior to Undertaking Remediation Works** - Written notice must be submitted to Council's Environmental Health Officer 30 days prior to the commencement of remediation works, in accordance with clause 16 of the *State Environmental Planning Policy No. 55 - Remediation of land*. This applies separately to both stages of development.
54. **Contaminated Land - Prior to commencement any work** - Prior to the commencement of any work (including demolition and excavation) the applicant must engage an appropriately qualified Land Contamination Consultant, certified under the consultant certification schemes recognised by the NSW EPA, to supervise and manage on site works and remediation in accordance with the:
 - (a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites - Guidelines for Consultants Reporting on Contaminated Sites';
 - (b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;
 - (c) State Environmental Planning 55 (SEPP55) - Remediation of Land; and
 - (d) The Remedial Action Plan titled "*Remediation Action Plan 280-298 Railway Parade, Carlton NSW 2218, J164169*" prepared by Greencap, dated July 2020.
55. **Dial before your dig** - The applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from "Dial Before You Dig" shall be forwarded to the Principal Certifying Authority (PCA) and Council for their records.
56. **Dilapidation Report on Public Land** - Prior to the commencement of works (including demolition and excavation), a dilapidation report must be prepared for the Council infrastructure adjoining the development site.

The report must include the following:

- (a) Photographs showing the existing condition of the road pavement fronting the site,
- (b) Photographs showing the existing condition of the kerb and gutter fronting the site,
- (c) Photographs showing the existing condition of the footpath pavement fronting the site,
- (d) Photographs showing the existing condition of any retaining walls within the footway or road, and
- (e) The full name and signature of the structural engineer.
- (f) The Dilapidation Report must be prepared by a qualified structural engineer. The report must be provided to the PCA and a copy provided to the Council.

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

57. **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.

58. **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.
59. **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 Pool Formwork - Before concreting of pool shell, detailing the location of the pool relative to the adjacent boundaries and its height relative to the datum shown on the approved plans.
 - (f) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
 - (g) 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.

60. **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

61. **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.
62. **Hours of construction for demolition and building work** - Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Saturday inclusive. No work or ancillary activity is permitted on Sundays, or Public Holidays. Note: A penalty infringement notice may be issued for any offence.
63. **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.
64. **Remediation Works** - All remediation work must be carried out in accordance with: -
- (a) *State Environmental Planning Policy No 55--Remediation of Land* (SEPP 55); and
 - (b) Guidelines made or approved by the EPA include the National Environment Protection (Assessment of Site Contamination) Measure 1999 (April 2013) (ASC NEPM), Guidelines for consultants reporting on Contaminated Sites and Guidelines for the NSW Site Auditor; and in accordance with the RAP titled "*Remediation Action Plan 280-298 Railway Parade, Carlton NSW 2218, J164169*" prepared by Greencap, dated July 2020; and
 - (c) In accordance with the Asbestos Management Plan and Remediation Plan prepared by Greencap.
65. **Unexpected finds** - Any new information that comes to light during excavation (after demolition of the onsite structures) which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately. It is mandatory that this information is reported to Council in order

to comply with Section 148 of the POEO Act 1997 and Section 60 of the CLM Act 1997.

66. **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.
67. **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.
68. **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 PCA and Council, where Council is not the Principal Certifying Authority.
69. **Development Engineering - 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.
70. **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.

Prior to the issue of the Occupation Certificate

71. **Restriction on use of land - Clause 17(1) SEPP (Affordable Rental Housing) - Infill Affordable Housing** - For ten (10) years from the date of the issue of the Occupation Certificate:
 - (a) All dwellings will be used for the purpose of affordable housing, and
 - (b) All accommodation that is used for affordable housing will be managed by a registered community housing provider.

A Restriction of Use of the Land is to be created using Section 88E of the [Conveyancing Act 1919](#) over the subject property. This Restriction shall ensure that the requirements of Clause 17(1) of [State Environmental Planning Policy \(Affordable Rental Housing\) 2009](#) are met and shall be worded as follows:

For a continuous period of ten (10) years from the date of issue of any occupation certificate (being an Interim or Final Occupation Certificate) the following Restrictions on the Use of the Land will apply:

- (i) All dwellings will be used for the purpose of affordable housing, and*
- (ii) All accommodation that is used for affordable housing will be managed by a registered community housing provider.*

This Restriction shall benefit Council and Council is to be nominated as the Authority to release, vary or modify this Restriction.

This Restriction on Use of Land shall be registered on the title of the land, prior to of the issue of any Occupation Certificate. Documentary evidence of the registration of this Restriction on title is to be supplied to the PCA with the application for any Occupation Certificate.

72. **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.
73. **Completion of Landscape Works** - All landscape works, fees payable for Councils seven (7) street trees and the planting of seventeen (17) trees within the site, must be completed before the issue of the Final Occupation Certificate and to the satisfaction of Councils Tree Management Officers. In accordance with approved landscape plans and specifications, drawn by Arcadia Landscape Architecture, Ref No Issue D and dated Nov 2019. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following -
 - (a) An additional one (1) tree shall be planted within the “piazza” section fronting Railway Pde, be of Australian native Spp and be selected from Georges River Councils, Tree Management Plan, Appendix 1 - Tree Planting. The trees shall be a minimum 100 litre pot/ bag size and be able to reach a height at maturity of nine (9) metres.
 - (b) The proposed trees and plant species, pot/ bag size and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan. If plant species, pot/ bag size and quantities cannot be sourced, Council shall be contacted for alternatives.
 - (c) All sixteen (16) trees proposed upon the approved landscape plan and additional “piazza”, one (1) tree shall comply with AS 2303 - 2018, Tree Stock for Landscape use and NATSPEC Specifying Trees: a guide to assessment of tree quality (2003), and be planted and maintained in accordance with Councils standard specification.

- (d) If the planted seventeen (17) trees and plants are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the seventeen (17) 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.
- (e) The parking spaces proposed along the left hand side(south side) of the entry and exit from Buchanan St shall be permeable paving in accordance with the Concrete and Masonry Association of Australia. The excavation and installation shall be under the guidance of an AQF 5 Arborist and signed off by the arborist, for the protection of Tree 1.
- (f) A certificate of compliance for the planting of all seventeen (17) trees and shrubs proposed for the site. An AQF 5 Horticulturist shall be engaged and in writing certify that all trees have been planted as per landscape plan and specifications and forwarded to the PCA - Principal Certifying Authority.

Tree Protection Measures

- (g) A final certificate of compliance letter, once all building and landscape works have been completed, from the engaged AQF 5 Consulting Arborist, that tree protection measures have been installed and maintained for the entirety of the project and report on the condition of the trees that as part of this Consent, were to be protected and retained.

Tree Replacement within subject site

- (h) The following replacement/ planted trees are to be planted prior to the issue of either an Occupation Certificate or Subdivision Certificate (whichever is first). All replacement trees must be replanted a minimum of 3m away from any driveway, building or structure.
- (i) A minimum of 17 x 100 litre size additional trees, which will attain a minimum mature height of nine (9) metres, shall be planted within the property. The trees are to conform to AS2303 - 2018, *Tree stock for landscape use*.
- (j) If the replacement 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. 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.
- (k) A copy of the Hurstville City Council's Tree Removal and Pruning Guidelines and Kogarah City Council, Street Tree Management Strategy, Masterplan, and Tree Management Policy 2019, can be downloaded from Council's website www.georgesriver.nsw.gov.au <<http://www.georgesriver.nsw.gov.au>> .

74. **Post Construction Dilapidation report – Private Land** - At the completion of the construction works, a suitably qualified person is to be engaged to prepare a post-

construction dilapidation report. This report is to ascertain whether the construction works associated with the subject development created any structural damage to the adjoining premises.

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

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

75. **Allocation of car parking spaces** - Car parking associated with the development is to be allocated as follows:
 - (a) Residential dwellings: [56 spaces]
 - (b) Residential visitors: [11 spaces]
 - (c) Retail: [35 spaces]
 - (d) Commercial: [103 spaces]
 - (e) Loading/Services: [2 courier spaces and a loading dock]
76. **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.
77. **SEPP 65 Design Verification Statement** - The PCA must not issue an Occupation Certificate to authorise a person to commence occupation of the residential flat development unless the PCA has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Part 2 of [State Environmental Planning Policy No 65—Design Quality of Residential Flat Development](#).
78. **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.*

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

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

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

- (a) The location of any detention basin/s with finished surface levels;
 - (b) Volume of storage available in any detention areas;
 - (c) The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes;
 - (d) The orifice size/s.
80. **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.
81. **Vehicular crossing & Frontage work - Major development** - The following road frontage works shall be constructed in accordance with 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) Construct a full width (boundary to kerb) footpath area in paving material for the full length of the frontage of the site in Railway Parade in accordance with Council's Specifications
 - (b) Construct a 1.5m metre wide footpath for the full length of the frontage of the site in Buchanan Street in accordance with Council's Specifications

- (c) Construct the driveway crossing in accordance with Council's specifications for vehicular crossings.
- (d) 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.
- (e) 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.

82. **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.

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

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

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

The dilapidation report must be prepared by a professional engineer specialising in structural engineering, and include:

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

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

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

Council's 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.

85. **Requirements prior to the issue of the Occupation Certificate** - The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:

- (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation

Certificate.

86. **Acoustic Certification** - Prior to the issue of any Occupation Certificate, a suitably qualified acoustic consultant shall certify 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 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.
87. **Acoustic Compliance** - Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the construction has incorporated the recommendations in the DA Acoustic Report titled Noise Impact Assessment, prepared by ADP Consulting and dated 18 November 2019.
88. **Notice to Council - Allocation of street addresses** - Prior to the issue of any Occupation Certificate, 'as-built' drawings detailing the installed and allocated street/unit address and numbering must be submitted to the satisfaction of Council.
89. **Electricity Supply** - Evidence shall be provided demonstrating that the development has been connected to the Ausgrid, if required.

Operational Conditions (On-Going)

90. **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).
91. **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.
92. **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.
93. **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.
94. **Loading & Unloading of vehicles** - All loading and unloading of vehicles in relation to the use of the premises shall take place wholly within a dedicated loading dock/area.

No deliveries to the premises shall be made direct from a public place or street inclusive of footpaths, nature strip, roadway and car parks.

95. **Entering & Exiting of vehicles** - All vehicles shall enter and exit the premises in a forward direction. The Jubilee Avenue driveway is for exiting vehicles only.

Prescribed Conditions

96. **BASIX Commitments (CI 97A)** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
97. **Building Code of Australia & Home Building Act 1989 (CI 98(1))** - This Clause 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.
98. **Erection of Signs (CI 98A)** - This Clause 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 PCA and the Principal Contractor.
99. **Home Building Act 1989 (CI 98B)** - This Clause requires that 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](#).
100. **Protection & support of adjoining premises (CI 98E)** - This Clause requires that 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.

Advice

101. **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.
102. **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.

103. **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.
104. **Access to NSW Legislations (Acts, Regulations and Planning Instruments)** - NSW legislation can be accessed free of charge at www.legislation.nsw.gov.au
105. **Energy Efficiency Provisions** - Should Council be appointed as the PCA, 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 PCA. Energy efficiency provisions relate only to new building work or the installation of new measure. Existing building fabric and measures may not be upgraded.
106. **Compliance with Access, Mobility and AS4299** - Adaptable Housing - Should the Council be appointment as the PCA, the Construction Certificate Application must be accompanied by detailed working plans and a report or a Certificate of Compliance from an Accredited Access Consultant certifying that the building design and access to the adaptable units complies with Council's DCP and AS 4299 Adaptable Housing.
107. **Site Audit Statement** - Council may require a site audit of the Detailed Site Investigation report, Remediation Action Plan, Environmental Management Plan and/or Validation Report. If requested, a Site Audit Statement (SAS) and a site audit summary report from an accredited site auditor under the *Contaminated Land Management Act 1997*, verifying the information contained in the report is to be submitted to Council.
108. **Certified Contaminated Land Consultant** - A certified Contaminated Land Consultant is a certified Environmental Practitioner (Site Contamination) (CENVP(SC)) or certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) Information relating to certified Contaminated Land Consultant or accredited site auditors can be found on the NSW EPA webpage: <https://www.epa.nsw.gov.au/your-environment/contaminated-land/site-auditor-scheme/accredited-site-auditors>
109. **Sydney Water Section 73 Certificates** - The Section 73 Certificate must be a separate certificate that relates specifically to this development consent. For example, if the development consent relates to the subdivision of the land, a Section 73 Certificate for the construction of the building that is subject to a different development consent will not suffice.
110. **Electricity Supply** - This development may need a connection to the Ausgrid network

which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services) for further details and information on lodging your application to connect to the network.

111. **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.

112. **Access for persons with disabilities** - Should the Council be appointed as the PCA, an Access report prepared by an Accredited Access Consultant may be required to be submitted with the Construction Certificate Application, detailing the existing level of compliance in the building with the above requirements, and to provide details of proposed upgrading work necessary to bring the building into conformity with the Premises Standards and the BCA. All recommendations of the accredited access consultant must be incorporated in the plans to be submitted with the Construction Certificate application.

113. **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.

114. **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.

115. **Council as PCA - Deemed to Satisfy Provisions of BCA** - Should the Council be appointed as the PCA 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. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.

116. 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. (eg. **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.

Schedule 2: Consideration of Part D1 of the Kogarah DCP 2013

Requirement	Proposal	Comply
Part D1: Development in the B1 Neighbourhood Centres & B2 Local Centre zones		
3.1 Streetscape		
(1) Infill development is to respect and maintain consistency with the established rhythm and scale of existing shopfronts.	The proposal is the first redevelopment which is seeking to implement the higher density controls outlined in the KLEP 2012 and accordingly the precinct is starting its transition to a higher density mixed use area. In this regard, the proposal is generally consistent with this desired future character. The proposed retail spaces at ground level along the Railway Parade frontage are a similar scale to existing development and in this way respect the established rhythm and scale of existing shopfronts. These retail spaces will assist in revitalising the town centre.	✓
(2) Parapets are to be utilised for the consistency of street frontage and screening of unsightly roof structures.	Given the increased height and density of the proposal, a parapet is not required in this design.	✓
(3) Facades are to be ordered and articulated to visually break up the building massing, for example through materials, colour and the design of openings. Large areas of glass curtain walling and blank walls are to be avoided.	The façade of the buildings are sufficiently articulated through the use of a variety of colours, materials and textures while changes in alignment and setbacks of the buildings also assist in articulating the façade. The various openings at street level also contribute to the articulation of the facades and the visual interest to the streetscape. Blank walls and glass walls are not proposed.	✓
(4) Enhance pedestrian amenity through the provision of continuous awnings for weather protection.	A continuous awning is proposed on both street frontages.	✓
(5) Promote safety and security by providing a	The proposal provides a high	✓

<p>high level of activation to the street, employing clear and direct lines of sight between the street and building entries, and using appropriate signage and lighting to enhance the amenity of the public domain.</p>	<p>level of street activation which promotes safety. Retail tenancies are proposed along the street elevation with residential and commercial lobby areas being incorporated into the frontage which are overlooked by the retail areas. A piazza is also proposed at ground level adjoining the retail uses along railway Parade which will further assist with casual surveillance and general street activation.</p>	
<p>(6) Site and design vehicular access (driveways, parking facilities, service access and garages) away from the main street frontage, from rear lanes or secondary streets.</p>	<p>Vehicular access is proposed from Buchanan Street to the rear of the buildings, with the loading dock and garbage rooms also located to the rear of the proposal and away from the main street frontage.</p>	✓
3.2 Shop-top housing		
<p>(1) The ground floor level of buildings shall maintain active retail/commercial uses facing the street.</p>	<p>Retail tenancies are proposed at ground level along the main street frontage.</p>	✓
<p>(2) Levels above ground can sustain mixed uses, including commercial, professional services, and residential, where appropriate.</p>	<p>Residential and commercial development is proposed on the upper levels.</p>	✓
<p>(3) Site and design non-residential and residential land uses in the same development in a manner that will not adversely affect the future operation of those land uses.</p>	<p>The proposed residential and commercial components of the proposal are sufficiently separated in different buildings while the car parking is also sufficiently separated. Residential car parking is provided in the basement under building/stage 2, while commercial car parking is provided in the basement under building/stage 1. Retail car parking is provided to the rear at ground level.</p>	✓
<p>(4) Residential uses are only be permitted subject to demonstration of satisfactory amenity for building occupants, particularly in relation to</p>	<p>The proposed residential apartments have been assessed in accordance with the ADG and found to be</p>	✓

impacts from noise, fumes and vibration on heavily trafficked streets.	satisfactory. Potential acoustic impacts have been considered in the acoustic report and found to be satisfactory subject to conditions to be imposed on any consent.	
3.3 Heritage & Significant Facades – Commercial Precincts		
(1) Respond to requirements for heritage items (Schedule 5 of KLEP 2012) or significant facades as identified in the Commercial Locality Controls.	The potential impact of the proposal on nearby heritage items has been considered in the Statement of heritage Impact and found to be satisfactory (refer to KLEP 2012 assessment).	✓
(2) For the redevelopment of heritage buildings identified in Schedule 5 of KLEP 2012, vertical additions are permitted with an upper level setback, where the parapet becomes the balustrade to the balcony of a new upper level storey.	There are no heritage items on the site.	N/A
3.4 Building Heights		
(1) Building heights are to be in accordance with the Locality Controls.	Refer to KLEP 2012 height assessment.	N/A
(2) Buildings are massed towards the street frontage and step down towards the rear, to be in keeping with the existing retail/commercial built form pattern and compatible with the scale and character of adjacent residential areas.	The proposal comprises building forms which are massed towards the Railway Pde and Buchanan Street frontages of the site, and are setback from the adjacent lower density residential development to the southeast and southwest.	✓
(3) Where allotment adjoins a low density residential area, buildings should be: (i) reduced in height in accordance with the locality controls; and (ii) setback from the adjoining property boundary.	The adjoining sites to the south and south east are zoned R3 – Medium Density Residential.	N/A
(4) The height of new development at the street boundary is to be no more than the prevailing height of the parapets of any adjacent and neighbouring heritage buildings.	Refer to KLEP 2012 height assessment.	N/A
(5) Floor to ceiling heights - min 3m (ground floor) for range of uses (retail, commercial, home offices).	Stage 1– 4m	✓
	Stage 2 building – 3.4-4m	✓
	Stage 1 building 3.4m	✓

<p>(6) Floor to ceiling should be a minimum of 2.7m at the upper storeys of the building, to allow for a range of uses, and to improve the environmental performance and amenity of the building</p>	<p>Stage 2 building 2.8m</p>	<p>✓</p>
<p>3.5 Setbacks</p>		
<p>(1) Buildings adjacent to public roads are generally to align with and be built to the street frontage to provide continuity in the streetscape and encourage active frontages to ground level.</p>	<p>The proposal has a nil front setback to both street frontages which provides continuity in the streetscape. There is minor articulation of this setback for the proposed piazza, which is a small triangular area which assists in the overall presentation of the building to the street and surveillance.</p>	<p>✓</p>
<p>(2) Street setbacks at ground level are permitted only: (i) Where the existing footpath is narrow and the provision of additional pedestrian space is desirable (ii) Where the established pattern is setback (for example where there are residential buildings within the locality) (iii) Where the setback enables or enhances visual appreciations of adjacent heritage items.</p>	<p>As outlined above, only the proposed piazza varies from this zero front setback, which is considered acceptable.</p>	<p>✓</p>
<p>(3) Side setbacks are generally not permitted in order to maintain the continuity of active frontages, unless specified in the locality controls.</p>	<p>Nil side setbacks are proposed along Railway Parade.</p>	<p>✓</p>
<p>(4) Where the locality abuts a residential zone and/or a residential allotment, the side setbacks are generally to be a minimum 3m, except where the locality character is established by the existing footprints and the allotment capacity of the locality would be unreasonably constrained. Refer to the Locality Controls of Part D2 for specific side setback requirements.</p>	<p>The adjoining sites to the south are zoned R3, and there are adequate setbacks provided to this adjoin residential development as outlined in the ADG. There are no specific locality controls.</p>	<p>✓</p>
<p>(5) Rear setbacks are determined by the context including the amenity of neighbouring residential uses and the amenity of any rear lanes. Refer to Locality Controls within Part D2 for specific rear setback requirements.</p>	<p>As outlined above.</p>	<p>✓</p>

<p>(6) Setbacks on corner blocks are to enable sufficient sightlines for traffic in accordance with the relevant Australian Standard.</p>	<p>There are sufficient sight lines on this corner.</p>	<p>✓</p>
<p>(7) Upper level street setbacks are required to any residential component above retail/ commercial uses together with building design and apartment layout that satisfactorily mitigates the impacts of noise, fumes and vibration on major roads.</p>	<p>The outside edge of the proposed apartments above the retail frontages comprise the proposed private open space and in this way a small buffer is provided to the road and rail noise and fumes. The Acoustic report concluded that subject to recommendations (to be imposed as conditions on any consent) the proposal was satisfactory in relation to noise and vibration.</p>	<p>✓</p>
<p>3.6 Building Design</p>		
<p>3.6.1 Building Facades</p>		
<p>(1) Where appropriate, integrate buildings into the streetscape by adopting a modular form, which reflects the underlying narrow shop width of older buildings. Use vertical elements, such as vertically proportioned windows, exposed party walls, vertical balustrades, attached fins to express this modulation and rhythm. Use horizontal elements such as roofs, parapets, balconies and balustrades to align the building with its neighbours.</p>	<p>The façade of the proposal uses a combination of vertical and horizontal elements which assist in breaking up the building and integrating it into the streetscape. While the proposal is a large building form than currently exists in the area, it is the first redevelopment on the block between Buchanan Street and Jubilee Avenue and adopts the height and density afforded to the site under the KLEP 2012.</p>	<p>✓</p>
<p>(2) Ensure that the facade clearly expresses a bottom, middle and top related to the overall proportion of the building.</p>	<p>The proposed façade incorporates a base, comprising the retails spaces, a middle which comprises the residential apartments and commercial spaces and a roof top which provides for communal open space. These elements are clearly expressed in the design of the building forms.</p>	<p>✓</p>
<p>(3) Incorporate design characteristics such as projecting fins, corbelling, balconies with variable materials and finishes, punctuated walls with visually recognisable patterns,</p>	<p>The façade is adequately modulated on the site through a variety of materials, finishes and design details that result in a</p>	<p>✓</p>

decorative features, rhythm and texture and a variable colour palate to achieve façade modulation and articulation.	visually interesting building that allows the different uses within to be identified from the street.	
(4) Avoid curtain walls, large expanses of glass and large expanses of concrete as these do not create well-articulated and harmonious façades.	The proposed commercial building in stage 1 includes a glazed façade however some panelling is also proposed as well as shopfronts at ground level. The residential and retail building in stage 2 provides visual relief as there are greater variety of colours and materials used.	✓
(5) Express important corners by giving visual prominence to parts of the façade, including changes in articulation, material or colour, roof expression or increased height (where identified in the Locality Controls in Part D2).	The proposed commercial building addresses the corner of Railway Parade and Buchanan Street with a retail tenancy wrapping around the corner and the upper levels having a curved element to reinforce the corner.	✓
(6) Provide a greater proportion of solid areas to void areas on all façades and incorporate non-reflective materials.	The proposed buildings incorporate more solid areas than void areas and generally non-reflective materials are proposed.	✓
(7) Use non-reflective glass or recess glass behind balconies to minimise reflectivity.	The use of non-reflective glass for the commercial façade has been recommended to be imposed as a condition on any consent.	✓
(8) Windows and openings are to be generally of a vertical character and located within vertical bays.	A suitable mix of horizontal and vertical openings and details are proposed.	✓
(9) Air-conditioning units/fans/vents/stacks/hoods etc are to be inconspicuously located so as not to be visible from the shopping street and any other major side street.	The main plant rooms are located behind the main front façade.	✓
3.6.2 Active Frontages		
(1) Provide direct visual connections between footpaths and shops.	Direct visual connections are provided between the proposed retail tenancies and the footpath.	✓
(2)		

(3) Wrap shop fronts around corners into side streets to increase the area of active frontage.	The corner retail tenancy in building 1 faces both Railway Parade and Buchanan Street.	✓
(4) Design building openings at the ground floor to be in keeping with the overall building and bay scale and proportions.	Suitable openings are proposed to the residential and commercial lobbies from the street.	✓
(5) For cafe/dining uses, provide openable window areas in association with seating overlooking the street, to create the effect of outdoor dining. Note: Applications for outdoor dining must comply with Council's Code for Commercial Use of Public Footways.	While the occupants and uses of the retail tenancies are unknown at this stage, the layout is amenable to such uses extending out onto the footpath for outdoor dining in the future. The piazza is also consistent with this control.	✓
(6) For commercial uses, avoid blank walls, dark or obscure glass to the street frontage.	Commercial uses are proposed above street level.	✓
(7) Incorporate continuous, independent and barrier free access to ground floor commercial entries, including effective signage, sufficient illumination, tactile ground surface indicators and pathways with limited cross-falls, sufficient width, comfortable seating and slip-resistant floor surfaces.	The Access Report submitted with the application concluded that accessibility requirements can be readily achieved in the site subject to detailed design.	✓
(8) Open grilles or see-through security screens are preferred to shutters, to optimise the openness of windows and any spill lighting of the footpath. Shutters, if provided, must be minimum 65% visually permeable.	Not proposed.	✓
(9) Pedestrian access to upper level uses is preferred from the side street or rear lane. If provided from the main street, openings for access are to be between 1.5m and 3m wide.	Pedestrian access is provided from Railway Parade to both buildings and each lobby is a minimum 3m wide.	✓
(10) Recessed shop frontages are not permitted except in the cases of heritage buildings where the recess is sympathetic to the building character.	A retail tenancy in building 1 is recessed and comprises the piazza. This is considered satisfactory as it partly arises out of the angled front boundary and also allows for activation of the street for outdoor dining and surveillance of entry areas to the building.	✓
3.6.3 Awnings		

(1) Awnings should retain any original awning features present that contribute to the desired locality character.	The proposed awning is suitable for the redevelopment of this block.	✓
(2) Provide under awning lighting to improve public safety.	This is not indicated on the plans and is recommended to be included as a condition of consent.	✓ (condition)
(3) Wrap awnings around the corners of the main commercial street onto side streets.	An awning is proposed which wraps around the Buchanan Street and Railway Parade frontage.	✓
(4) Design awnings in the high range 3.6m – 4m and no higher or lower than adjoining awnings.	The proposed awning is 4 metres high.	✓
(5) Provide awnings flat or near-flat in shape (not tilted upwards away from the facade), and opaque in finish.	A flat awning is proposed.	✓
3.6.4 Balconies		
(1) Each apartment is to have at least one primary balcony.	All the proposed units have a primary balcony.	✓
(2) Primary balconies are to have a minimum depth of 2.5m and a minimum size of 10m ² .	Refer to the ADG.	
(3) Design balconies that are recessed into the wall or enclosed with walls, columns or roofs to provide sufficient enclosure and visual firmness.	The proposed balconies are enclosed by solid walls or blade walls.	✓
(4) Design balustrades that allow for views into, and along the street.	Solid balustrades are proposed which allow for privacy and reduce visual clutter. Views into and along the street are still retained.	✓ on merit
(5) Employ juliet balconies and French windows to articulate facades with architectural detail and vertically proportioned windows.	The facades are sufficiently articulated with a variety of materials and design elements (refer to façade assessment above).	✓
(6) Locate balconies adjacent to main living areas to expand the living space of units, where possible.	Balconies adjoin the main living areas of the proposed apartments.	✓
(7) Balconies are to be designed to respond to	The proposed balcony design is suitable for the location. Solid	✓

the local context. In this regard, special attention should be paid to the design of balconies for buildings situated on busy roads and/or adjacent to railway lines. This may be achieved by: (i) layering and recessing balconies to increase noise buffering from busy roads and railway lines; (ii) grouping balcony openings; (iii) providing balconies with operable screens, windows, or operable walls/sliding doors with a balustrade; (iv) recessing balconies in response to acoustic and visual privacy issues; and (v) ensure the privacy of occupants, neighbours, and public is taken into account by careful design and balustrades with a balance of transparent and solid materials.	balustrades will improve acoustics as the site is located opposite the railway line.	
3.6.5 Materials & Finishes		
(1) Utilise high quality and durable materials and finishes.	The proposed colours and materials include face brick, rendered masonry, glass and aluminium panels.	✓
(2) Combine different materials and finishes to assist building articulation and modulation.	A variety of materials and finishes are proposed (refer above) which assist with building articulation and modulation.	✓
(3) Where the Locality includes a significant facade or streetscape, materials and finishes are to compliment the existing streetscape.	The selection of colours and materials are suitable for the streetscape.	✓
(4) Avoid large unarticulated expanses of any single material to facades.	There are no large expanses of the one colour or material, with the glass façade of the proposed commercial building is broken up with panelling and shopfronts at the ground level.	✓
3.6.6 Mobility and Access		
(1) New development and refurbishments are to comply with the requirements of the Building Code of Australia (BCA) and the Australian Standards.	The BCA/NCC and Access reports submitted with the DA indicates compliance will be achieved. Relevant conditions have been recommended to be imposed on any consent.	✓ Conditions
(2) All buildings with a residential component that have access to more than two storeys are required to have lift access.	Two (2) loft cores are proposed in each building.	✓
3.6.7 Public Art		

<p>(1) Development on sites over 1000m² should, where possible include the provision of high quality artwork within development in a publicly accessible location.</p> <p>(2) The artwork should be prepared having regard to links between the Locality and details of such artwork and the proposed location are to be submitted with the Development Application.</p>	<p>The redevelopment of the site will revitalise the Carlton town centre and activate the streetscape. The provision of public art is not considered necessary in this location, nor are there any specific locations on the site which would be suitable.</p>	<p>Not required</p>
<p>3.6.8 Roof forms and Parapets</p> <p>(1) Variation to the existing pattern of roof forms may only occur where the parapet line is not disrupted and where the new roof is not visible from the street below or adjacent public areas.</p> <p>(2) Minimise the bulk and mass of roofs and their potential for overshadowing.</p> <p>(3) Design roofs to generate a visually interesting skyline and minimise apparent bulk.</p> <p>(4) Conceal lift over runs and plant equipment within well designed roofs.</p> <p>(5) Roof fixtures (such as roof vents, chimneys, aerials, solar collectors, mobile phone transmitters, satellite dishes) are to be inconspicuously located so as not to be visible from the street (including side streets).</p> <p>(6) Television antennae are to be located within the roof space.</p>	<p>The proposal involves a flat roof with rooftop awnings which cannot be viewed from street level. The proposal is the first of the redeveloped site in the area and as such there is no existing pattern for roof design in the locality.</p> <p>The proposed roof is a flat, simple design which reduces overshadowing.</p> <p>The proposed flat roof with awnings provides an interesting skyline and reduces bulk by providing a top to the building without any added bulk or floor space.</p> <p>Lift overruns are incorporated into the rooftop structures.</p> <p>These fixtures are no readily visible from the street.</p> <p>Not readily visible from the street.</p>	<p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>
<p>3.6.9 Signage</p> <p>(1) Comply with the requirements of Part F1- Advertising and Signage</p>	<p>There is no signage proposed in this application.</p>	<p>N/A</p>
<p>3.7 Vehicular Access & Parking</p>		
<p>Car Parking</p> <p>(1) Car parking for the commercial /retail component of a development is to be provided in accordance with the requirements</p>	<p>.....</p>	<p>✓</p>

in Part B4.	Noted	✓
(2) Where parking requirements are not stated, reference should be made to the RTA's Guide to Traffic Generating Developments.	Refer to ADG and ARH SEPP assessments.	✓
(3) Unless specifically stated in the Locality Controls of Part D2, parking for the residential component within a mixed development is to be provided as follows	Refer to ADG and ARH SEPP assessments.	✓
(4) Council, in certain localities may consider a reduction and variation to the parking requirements for the retail/commercial component of a development (Refer to Part D2).	9 from 207 spaces (4.34%) are accessible spaces.	✓
(5) A minimum of 1% of the total number of car parking spaces within the development are to be designated "accessible" spaces for people with mobility impairments.	More than 100 spaces are proposed.	✓
(6) For developments with less than 100 car spaces, a minimum of one "accessible" space must be provided.	Accessible spaces included in relevant category (residential or commercial).	✓
(7) Designated "accessible" car spaces may be treated as resident car spaces in the calculation of the parking requirement.	The proposal complies with the relevant requirements for car parking under the ARH SEPP, ADG and the KDCP 2013.	✓
(8) The number of off street parking spaces may be reduced at Council's discretion if the applicant can demonstrate a reduced parking need arising from: (i) Some of the required parking being provided by the applicant in a local public parking area. This includes applications that fall within a Section 94 plan that requires a contribution to public parking provision. (ii) The development being within 200m of a train station. (iii) Where the development comprises mostly (greater than 75%) one bedroom units and/ or studio apartments. (iv) The anticipated residents being unlikely to have cars.	The Traffic report concluded the car parking areas comply with AS 2890.1.	✓
(9) Internal car park layouts, space dimensions, ramp grades, access driveways, internal circulation aisles and service vehicle areas		

shall be designed in accordance with the requirements set out in the relevant Australian Standards.		
(10) Parking areas should be physically separated from those vehicular spaces used by non-residential and residential development. Separate driveways should be provided for the use of residents and service/customer vehicles accessing non-residential development.	The residential and commercial spaces are adequately separated.	✓
(11) Basement car parking is to be located within the building footprint. Car parking areas may be designed as ground level parking provided that the design results in building frontages level with the street	The proposed basement levels are below the building with ground level car parking provided at the rear of the site with access from the side street.	✓
(12) Design parking to ensure pedestrian safety.	Separate vehicle access is provided to the site from the side street and away from the main pedestrian areas along Railway Parade.	✓
(13) Include natural ventilation to basement and semi basement car parking.	Some natural ventilation to the basement is provided however mechanical ventilation is provided given the depth of the basement and its location completely underground.	✓
(14) Integrate ventilation design into the façade of the building, or parking structure, treating it with appropriate features such as louvres, well designed grilles, planting or other landscaping elements.	Refer above.	✓
(15) Provide vehicle access to developments in accordance with the requirements of the Locality Controls of Part D2.	There are no vehicle access controls contained in Part D2.	✓
(16) Design driveways to minimise visual impact on the street and maximize pedestrian safety.	There is no vehicle access proposed from Railway Parade with such access from Buchanan Street which reduces visual impact and increase pedestrian safety as vehicle and pedestrian access are separated.	✓

(17) Ensure that all vehicles, including vehicles using loading bays can enter and leave the site in a forward direction.	All vehicles can enter and leave the site in a forward direction.	✓
(18) Avoid locating access ways to driveways adjacent to the doors or windows of habitable rooms.	There is no residential development proposed on the ground floor.	✓
(19) Design vehicular access in accordance with the current Australian Standard for 'off-street parking (Part 1) and off-street car parking for commercial vehicles (Part 2).	The Traffic report concluded the access complies with AS 2890.1.	✓
<p><i>Loading Bays</i></p> <p>(20) Loading bay facilities are to be provided at the rate of:</p> <ul style="list-style-type: none"> • Retail Floor area (500m² to 1500m²) – 2 bays required • Commercial Floor area (1000m² to 5000m²) – 1 bay required • Design of Loading Bay Facilities: <ul style="list-style-type: none"> - Minimum bay width – 3.5m - Minimum bay length for Bay 1 – 9.5m - Minimum bay length for Bay 2 – 6.5m <p><i>Temporary Access ways</i></p> <p>(21) Where temporary access is proposed it is envisaged that developments will either provide a temporary ramp from the road to their basement car parking area, or create a temporary access way to the laneway dedication at the rear of the property. This temporary access way can ultimately be converted into either retail/commercial floor space or car parking.</p> <p>(22) Temporary access ways will only be permitted in accordance with Part D2.</p> <p>(23) ...</p> <p>(24) ...</p>	<p>The following loading bay facilities are proposed:</p> <ul style="list-style-type: none"> • 2 courier spaces are provided (5.4m x 2.5m); and • 1 loading dock – 11.5m x 4.9m. <p>These facilities are considered adequate given the development is likely to be serviced primarily by light commercial vehicles such as vans, utilities and the like, up to and including 6.4m long SRV trucks. These vehicles can be accommodated in the loading dock.</p> <p>The existing vehicle access form Railway Parade will be retained to the site during construction of Sage 1 with that access being permanently removed at Stage 2.</p> <p>No relevant controls.</p>	<p>✓</p> <p>✓</p>

<p><i>Bicycle Parking</i></p> <p>(25) All developments, including mixed developments, must include adequate safe and secure bicycle parking.</p> <p>(26) Secure bicycle parking is to be provided at the following rates:</p> <p>(i) commercial developments (incl mixed development) - 1 space/5 car spaces</p> <p>(ii) residential component in mixed development - 1 space/3 dwellings, plus 1 space/10 dwellings (rounded up to next whole number).</p> <p>(iii) Bicycle parking facilities designed in accordance with relevant Australian Standard.</p>	<p>Bicycle parking is provided for all uses proposed.</p> <p>Commercial – 21 bike spaces required – 52 provided 17 spaces + 5 spaces = 22 bike spaces required, 52 spaces provided.</p> <p>Bike facilities are in accordance with the Australian Standard.</p>	<p>✓</p> <p>✓</p> <p>✓</p>
3.8 Dwelling Design – Apartment Mix & Dwelling Size		
<p>(1) Provide a mix of studios, 1, 2 and 3 or more bedroom apartments in varying layouts.</p> <p>(2) Dwellings within the residential component of a mixed development must have the minimum internal floor areas (IFA): • Studios - minimum IFA of 40m² • 1 bedroom unit - minimum IFA of 60m² • 2 bedroom unit - minimum IFA of 85m² • 3 bedroom unit - minimum IFA of 100m².</p> <p>(3) In all instances the first bedroom is to maintain an internal floor area of 15m² and the second bedroom is to maintain a minimum internal floor area of 12m².</p> <p>(4) Consider the design needs of those who work from home in the internal configuration of residential apartments.</p>	<p>A mix of one and two bedroom units is proposed with varying layouts, which is appropriate for an affordable housing development.</p> <p>Complies with the ADG requirements.</p> <p>Complies with the ADG requirements.</p> <p>The 2 bed units could utilise the second bedroom as a home office.</p>	<p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>
3.10 Storage		
<p>(1) All developments must provide a designated secure storage space (in addition to any areas set aside for off street parking) to a minimum floor area of 4m² for each dwelling or unit.</p> <p>(2) The storage space may be incorporated as part of the garage.</p>	<p>Complies with the ADG requirements.</p> <p>Complies with the ADG requirements.</p>	<p>✓</p> <p>✓</p>
3.11 Clothes Drying		

<p>(1) Wherever possible, provide dedicated external clothes drying areas for all apartments that will be utilised by the residents, while being screened from the public view.</p> <p>(2) Additional balconies (i.e. not main balconies) may be considered appropriate for this purpose, provided that they are screened from public areas</p>	<p>The proposed solid balustrades will assist in screening clothes drying areas from the public view.</p> <p>No additional balconies are proposed.</p>	<p>✓</p> <p>✓</p>
3.12 Amenity		
3.12.1 Visual and Acoustic Privacy		
<i>Visual Privacy</i>		
<p>(1) Design building separation for parallel ranges of buildings to at least the following standards for the residential component: f 12 metres between habitable rooms/the edge of their balconies f 9 metres between habitable rooms/the edge of their balconies and non-habitable rooms f 6 metres between non-habitable rooms.</p>	<p>Complies with the ADG requirements.</p>	<p>✓</p>
<p>(2) Offset facade openings from existing openings in adjacent development to minimise direct overlooking of rooms and private open spaces.</p>	<p>Façade openings are adequately offset and do not result in any significant overlooking given the orientation of the site away from adjoining boundaries and setbacks to adjoining properties.</p>	<p>✓</p>
<p>(3) For street wall buildings, design zero side setbacks to result in zero building separation, providing dual aspect commercial or residential uses with openings to the front (street) and the rear.</p>	<p>There are zero side setbacks which result in zero building separation. 50% of the units on each floor are dual aspect with 80% of the proposed units facing the street.</p>	<p>✓</p>
<p>(4) For ground floor retail/commercial uses, provide appropriate rear and side setbacks to adjacent residential uses, and design building layout to avoid overlooking of private spaces.</p>	<p>The proposed ground floor retail uses are orientated to the street and away from residential properties.</p>	<p>✓</p>
<p>(5) Utilise design elements to increase levels of privacy such as landscaping, screening, offset windows, recessed balconies, louvres, planter boxes, pergolas or shading devices.</p>	<p>Privacy is maintained for future occupants of the development due to blade walls, solid balustrades and planter boxes on the lower levels. Privacy is maintained for adjoining properties due to the adequate setbacks and orientation away from adjoining residential</p>	<p>✓</p>

	properties.	
(6) Development adjacent to the Railway Line or adjacent to road corridor with annual average daily traffic volume of more than 40,000 vehicles.	Sound attenuation will be incorporated in accordance with the acoustic report submitted with the DA (recommended to be imposed on any consent).	✓
<i>Acoustic Privacy – General</i>		
(7) Design and site buildings adjacent to noise generating land uses to minimise noise impacts, for example through building layout and location and size of openings.	Sound attenuation will be incorporated in accordance with the acoustic report submitted with the DA (recommended to be imposed on any consent).	✓
(8) Where appropriate locate individual buildings and groups of buildings to act as barriers to the noise.	Refer above	✓
(9) Utilise the site and building layout to maximise the potential for acoustic privacy by providing adequate building separation within the development and from neighbouring buildings	Refer above	✓
(10) Locate and design all noise generating equipment such as mechanical plant rooms, mechanical ventilation from car parks, driveway entry shutters, garbage collection areas or similar to protect the acoustic privacy of workers, residents and neighbours. The noise level generated by any equipment must not exceed an Laeq of 5dBA above background noise at the property boundary.	Refer above. The main plant areas are on the ground floor away from residential areas.	✓
(11) Development is to meet or exceed the sound insulation requirements between separating walls and floors of adjoining dwellings of the Building Code of Australia.	Refer above. Compliance with the BCA is a prescribed condition of consent.	✓
(12) With particular regard to timber flooring in the residential component of developments, appropriate insulation between floors is to achieve a minimum sound attenuation of (50Rw)	Refer above	✓
(13) Where development is proposed adjacent to the railway line or a classified road corridor	Refer above	✓

compliance with the requirements of the ISEPP.		
3.12.2 Safety and Security		
(1) Maximise passive surveillance by orienting buildings towards the street, such that building frontages and entries overlook and are clearly visible from the street and provide a sense of address and visual interest.	The proposal is orientated to the street and the residential and commercial entries are overlooked by the active retail frontage. The retail shopfronts provides visual interest in the site and provide a sense of address for the proposed building.	✓
(2) Avoid blank walls addressing streets and any public plazas or pocket parks.	There are no blank walls proposed.	✓
(3) Clearly design buildings and spaces, and the entries to buildings, to delineate public from private space to provide a clear sense of ownership, minimise ambiguity and discourage illegitimate use.	There is a clear distinction between public and private spaces and between the residential, commercial and retail areas.	✓
(4) Delineate public, semi public and private space through the use of barriers, such as low fences or landscaping, post boxes, lighting and signage.	Refer above	✓
(5) Avoid building recesses, alcoves or dense landscaping in places where concealment is possible.	The proposal has a zero front setback with the exception of the piazza which is overlooked from the retail areas and the residential and commercial entries.	✓
(6) Design and place facilities such as toilets and parents rooms to maximise opportunities for casual surveillance.	Provided	✓
(7) Place services such as Automatic Teller Machines (ATMs) and public telephones in highly visible locations and be accessible and well lit at night.	None proposed in this application.	✓
(8) Solid roller shutters are not permitted as security devices on shop fronts (windows and doors). Open grille security devices may be used on shop fronts if such devices are necessary but should be unobtrusive and	None proposed in this application.	✓

<p>sympathetic to the character of the building and the streetscape, with minimum transparency of 65% to provide light spill to the pavement and create a sense of openness to the street.</p>		
(9) Development applications for mixed developments containing more than 10 units are required to be referred to the NSW Police Service.	Police provided comments and raised no objections subject to conditions, which are recommended to be imposed on any consent.	✓
(10) Provide sufficient lighting of public areas, footpaths, and laneways in accordance with the relevant Australian Standard.	None proposed in this application.	✓
(11) Provide sufficient lighting of shopfronts and the area under awnings, in accordance with the relevant Australian Standard.	Under awning lighting is recommended to be imposed any consent.	✓
3.13 Open Space and Landscaping		
(1) Retain existing, and incorporate new indigenous trees, shrubs and ground cover where appropriate.	There are some trees to be retained in the southern portion of the site while additional landscaping opportunities are proposed including enhanced deep soil planting in the southern portion and podium planting.	✓
(2) Maximise deep soil zones to provide for substantial landscaping and mature trees.	A deep soil area is to be retained in the southern portion of the site, including the retention of several large trees.	✓
(3) Submit a landscape plan prepared by a qualified landscape architect.	A landscape plan has been provided with the application.	✓
(4) Where development is proposed adjacent to low density residential development, an appropriate landscape buffer is to be planted to provide separation and screening between the proposed development and the existing low density development (Refer to Locality Controls). These areas should be deep soil areas so as to allow for the planting of large/medium trees.	The site does not adjoin a low density residential zone. The deep soil area is to be retained in the southern portion of the sit which provides effective screening to the adjoining residential flat buildings to the south of the site.	✓