

Panel Reference	PPSSSH-6
DA Number	DA2019/0232
LGA	Georges River Council
Proposed Development	Demolition of existing structures, remediation of the site, construction of an eight (8) storey mixed use building comprising of one (1) commercial tenancy at ground level, seven (7) levels of boarding rooms totalling forty-nine (49) double rooms and one (1) manager's room over four (4) levels of basement parking accessed via a vehicle lift from Blake Street.
Street Address	248 Railway Parade, Kogarah.
Applicant/Owner	Applicant: Moderinn Pty Ltd Owner: Mr Tim Toscas and Mrs Dianne Toscas
Date of DA lodgement	14 June 2019
Number of Submissions	Sixty (60) submissions one (1) with one hundred and fifty-three (153) signatures received in total.
Recommendation	Refusal
Regional Development Criteria (Schedule 7)	Regionally significant development is defined in Schedule 7 (5) Private Infrastructure and Community Facilities over \$5 Million b) affordable housing within State Environmental Planning Policy (State and Regional Development) 2011. The cost of works of the project is \$8,253,821. The 'Capital Investment Value' (CIV) as defined within Environmental Planning and Assessment Regulation 2000 (The Regulation) is \$7,653,534.
List of all relevant s4.15C(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 No 55 – Remediation of Land. • State Environmental Planning Policy (Affordable Rental Housing) 2009. • State Environmental Planning Policy (Building and

	<p>Sustainability Index: 2004).</p> <ul style="list-style-type: none"> • 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 State Environmental Planning Policy – Environment. • Draft State Environmental Planning Policy – Remediation of Land. • Kogarah Local Environmental Plan 2012. • Kogarah Development Control Plan 2013.
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Registered Survey • Statement of Environmental Effects • Architectural Plans • Landscape Plan • Stormwater Details and Plans • Traffic Impact Assessment Report • Preliminary Investigation Report • Applicant justification and additional information
Report prepared by	<p>Mark Raymundo</p> <p>Senior Development Assessment Planner</p>
Report date	22 January 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</p>	

standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	No
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, as the application is recommended for refusal – the refusal reasons can be viewed when the report is published.

Executive Summary

Proposal

Council is in receipt of a development application (DA2019/0232) which seeks consent for the demolition of existing structures, remediation of the site, construction of an eight (8) storey mixed use building comprising of one (1) commercial tenancy at ground level, seven (7) levels of boarding rooms totalling forty-nine (49) double rooms, one (1) manager's room over four (4) levels of basement parking accessed via a vehicle lift from Blake Street on land known as 248 Railway Parade, Kogarah.

In total, the proposal accommodates a total of twenty-seven (27) car spaces (including four accessible spaces), (10) ten motorcycle and ten (10) bicycle spaces.

A preliminary assessment was undertaken and the applicant was advised the application was not supported in its current form by Council Officers. The applicant as a result was provided with an opportunity to withdraw the development application on 21 October 2019.

The applicant requested Council proceed with the processing of the development application, and has been made aware the Assessing Officer would be recommending refusal of the proposal to the Sydney South Planning Panel (SSPP). As a result no further amendments were requested.

On 10 January 2020, the applicant provided an amended concept stormwater plan, traffic study, revised architectural plans relating to car parking and justification which has been included in the assessment of this application.



Figure 1 Photomontage of the proposed development when viewed from Railway Parade, Kogarah – the development is outlined in red (Source: Moderinn, 2018).

Site and locality

The subject site is legally described as Lot 48 in DP2013 and is known as 248 Railway Parade, Kogarah. The site forms a rectangular shaped corner allotment dimensioned and described as follows; 11.35m along the north primary frontage to Railway Parade, 35.2m along the eastern secondary frontage to Blake Street, 11.27m along the southern rear boundary and 38.02m along the western side boundary. The site contains a site area of 411sqm. The site slopes from the front north-western corner RL 29.24 to the rear north-eastern corner RL 29.83 with a level change of 590mm.

A sewer main traverses the site toward the rear portion of the site. A single storey masonry building with a pitched roof currently occupies the site. Vehicular access is via Blake Street. The site is currently an automotive repair business trading as “Toscas Automotive”.

The site is zoned B4 - Mixed Use under the Kogarah Local Environmental Plan 2012 (KLEP 2012). Commercial and boarding houses are permissible land uses within the zone.



Figure 2 Aerial photo showing the site (248 Railway Parade, Kogarah) outlined in red (Source: GRC Intramaps, 2020).

The surrounding area comprises generally of mixed use developments. A shop top housing development at 250-258 Railway Parade, Kogarah known as “Veridian” adjoins the site directly to the west and south. This building contains the Kogarah RSL with a podium level and two (2) residential towers above, communal open space on the podium level and roof top communal open space. This is referred to in the report as the “Kogarah RSL site”. A four (4) storey shop top housing development is located on the opposite side of Blake Street to the east. In a greater context, 2 – 3 storey residential flat buildings are located also to the east along Blake Street. Wesley Hospital is located to the south and an electrical substation to the west on the corner of Railway Parade and English Street.

The Illawarra Railway line is located to the north of the site. Carlton Railway Station is approximately 411m to the west; Kogarah Railway Station is located 671sqm to the east. An underpass which connects Railway Parade to Railway Street is opposite, however accessed west of the site.

State Environmental Planning Policies (SEPP's)

The proposal has been considered having regard to the following policies:

- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (State and Regional Development) 2011.
- State Environmental Planning Policy No 55 – Remediation of Land.
- State Environmental Planning Policy (Building and Sustainability Index: 2004).
- State Environmental Planning Policy (Infrastructure) 2007.
- State Regional Environmental Plan No 2 – Georges River Catchment.
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.
- Draft State Environmental Planning Policy – Remediation of Land.
- Draft Environment State Environmental Planning Policy.

Zoning and Kogarah LEP 2012 (KLEP) Compliance

The site is zoned B4 - Mixed Use pursuant to the provisions of the Kogarah Local Environmental Plan 2012.

The proposal meets the definition of “*commercial premises*” which means “(a) *business premises*, (b) *office premises* and (c) *retail premises*” and “*shop top housing*” which means “*one or more dwellings located above ground floor retail premises or business premises*”.

a “*boarding house*” is defined as “*boarding house means a building that—*
 (a) *is wholly or partly let in lodgings, and*
 (b) *provides lodgers with a principal place of residence for 3 months or more, and*
 (c) *may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and*
 (d) *has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,*
but does not include backpackers’ accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment”.

A boarding house is a permissible use within the zone.

The site has a permitted building height limit of 39m in accordance with the provisions of Clause 4.3 of the KLEP 2012. The proposal seeks a maximum height of 27.7m to the top of the lift overrun at (RL57.50).

The permitted floor space ratio (FSR) for the site is 4:1 under Clause 4.4 of the KLEP 2012. It is acknowledged the application has been lodged under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 in which the application benefits from additional floor space. The proposal seeks a floor space of 4.78:1 under the additional floor space provisions as referenced under Clause 29(c)(ii)

(Standard that cannot be used to refuse consent) under State Environmental Planning Policy (Affordable Rental Housing) 2009.

Kogarah Development Control Plan 2013

The provisions of Part B - General Controls and Part - E1 Kogarah Town Centre are the key applicable controls associated with the proposed development. A detailed assessment of the proposal against these controls is addressed within this report.

The proposal is considered to be an unacceptable urban design and planning outcome for the site as it has deficiencies relating to car parking and manoeuvring, vehicular and pedestrian safety, amenity and drainage.

Submissions

The application was notified and renotified and advertised in accordance with the provisions of the Kogarah Development Control Plan. In response, sixty (60) submissions including one (1) submission containing hundred and fifty-three (153) signatures were received.

Level of Determination

A revised CIV was provided, based on the original proposal, which excluded the commercial component as detailed within the Registered Quantity Surveyors Detailed Cost Report accompanying the Development Application. The proposal has a CIV of \$7,653,534 for the affordable housing component which is above the threshold of \$5 million triggering the regionally significant development is defined in Schedule 7 (5) Private Infrastructure and Community Facilities over \$5 Million, b) affordable housing within State Environmental Planning Policy (State and Regional Development) 2011. Therefore the consent authority is the Sydney South Planning Panel (SSPP).

Conclusion

Having regards to the matters for consideration Section 4.15 and Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 and following a detailed assessment of the proposed application, DA2019/0232 for the demolition of existing structures, remediation of the site, construction of an eight (8) storey mixed use building comprising of one (1) commercial tenancy at ground level, seven (7) levels of boarding rooms totalling forty-nine (49) double rooms, one (1) manager's room over four (4) levels of basement parking accessed via a vehicle lift from Blake Street on land known as 248 Railway Parade, Kogarah is recommended for refusal for the reasons contained within this assessment report which include; streetscape, character, traffic, stormwater, remediation, amenity impacts and insufficient and inconsistent information.

Full Report

Site and Locality

The subject site is legally described as Lot 48 in DP2013 and is known as 248 Railway Parade, Kogarah. The site forms a rectangular shaped corner allotment dimensioned and described as follows; 11.34m along the north primary frontage to Railway Parade, 35.2m along the eastern secondary frontage to Blake Street, 11.27m along the southern rear boundary and 38.02m along the western side boundary. The site contains a site area of 411sqm. The site slopes from the front north-western corner RL 29.24 to the rear north-eastern corner RL 29.83 with a level change of 590mm.

A sewer main traverses the site toward the rear portion of the site. A single storey masonry building with a pitched roof currently occupies the site. Vehicular access is via Blake Street. The site is currently an automotive repair business trading as “Toscas Automotive”.

Refer to the survey plan at **Figure 3** below which shows the siting and location of the existing structures on the development site.

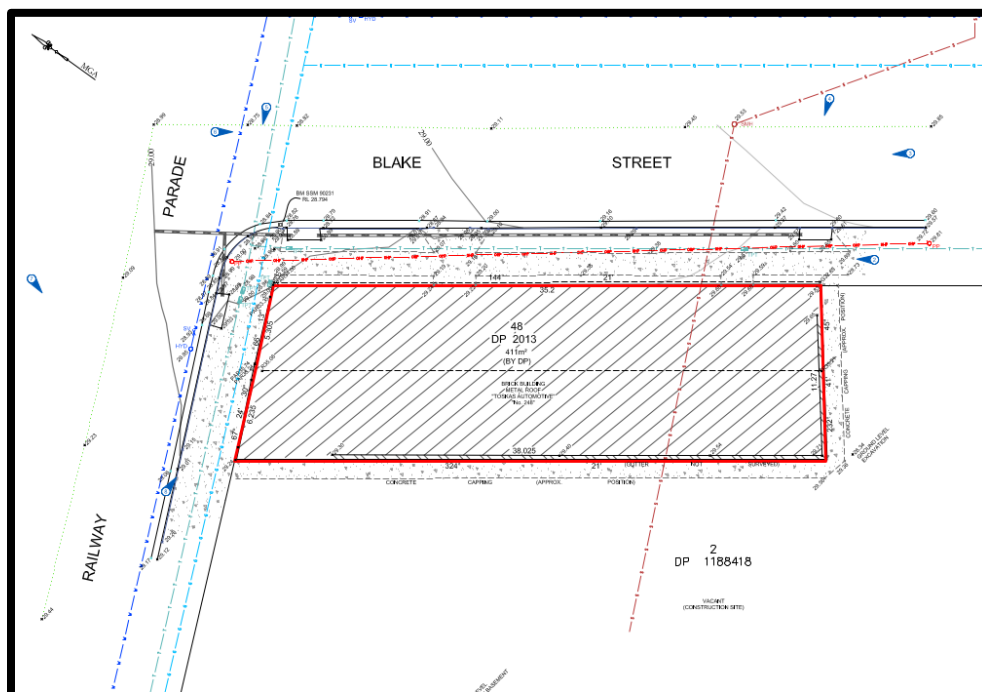


Figure 3: Extract from the Survey Plan of the subject (248 Railway Parade, Kogarah) (Source: Chase Burke and Harvey, 2018).

The site is zoned B4 - Mixed Use under the Kogarah Local Environmental Plan 2012. Shop top housing, commercial and boarding houses form a permissible use within the zone



Figure 4 Photograph of primary frontage of subject site (248 Railway Parade, Kogarah) viewed from the intersection of Railway Parade and Blake Street, Kogarah (Source: GRC, 2020).



Figure 5 Photograph of primary frontage of subject site (248 Railway Parade, Kogarah) viewed from Railway Parade, Kogarah (Source: GRC, 2020).



Figure 6 Photograph of subject site (248 Railway Parade, Kogarah) viewed secondary frontage from Blake Street, Kogarah (Source: GRC, 2019).

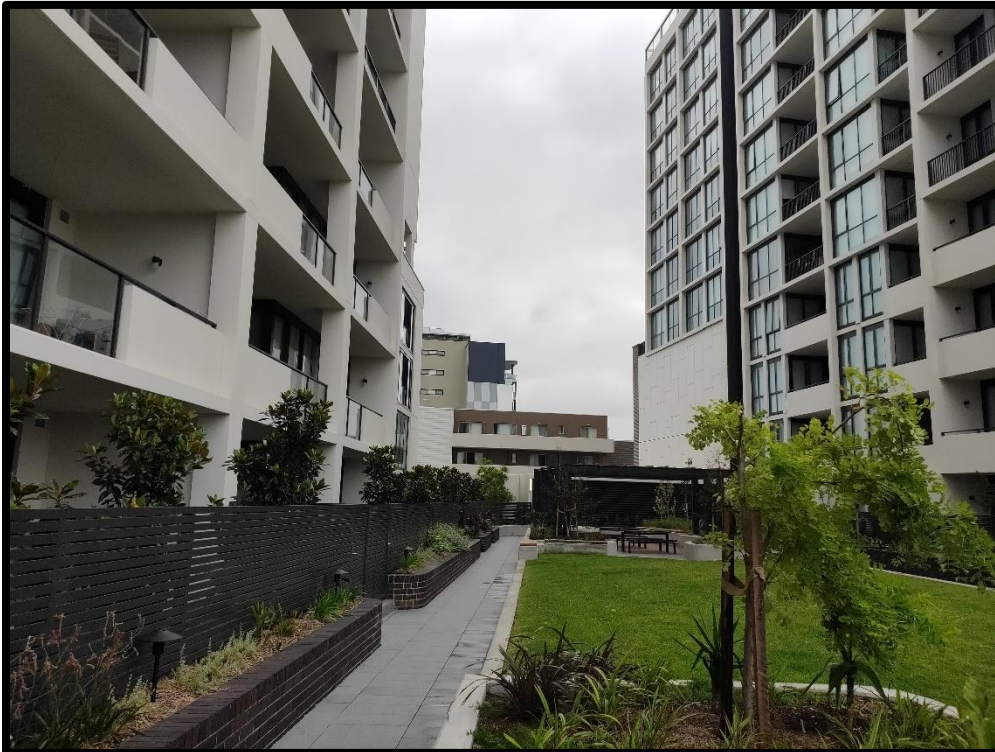


Figure 7 Photograph with an western aspect of subject site (248 Railway Parade, Kogarah) viewed from level 1 podium level Kogarah RSL site (Source: GRC, 2020).



Figure 8 Photograph of Railway Parade, Kogarah opposite the site to the north (source: GRC, 2020).



Figure 9 Photograph viewed from the Rooftop of the Viridian, Kogarah of the subject site (248 Railway Parade, Kogarah) (Source: GRC, 2020).



Figure 10 Photograph of Blake Street, Kogarah looking north. Subject site located to left (Source: GRC, 2019).



Figure 11 Photograph of Kogarah RSL site 5 Blake Street and adjoining Wesley Hospital (Source: GRC, 2020).



Figure 12 Photograph of nearby residential flat buildings to the south-east (Source: GRC, 2020).

The surrounding area comprises generally of mixed use developments. A shop top housing development at 250-258 Railway Parade, Kogarah known as “Veridian” adjoins the site directly to the west and south. This building contains the Kogarah RSL with a podium level and two (2) residential towers above with communal open space on the podium level and roof top communal open space. This is referred to in the report as the “Kogarah RSL site”. A four (4) storey shop top housing development is located on the opposite side of Blake Street to the east. In a greater context, 2 – 3 storey residential flat buildings are located also to the east along Blake Street. Wesley Hospital is located to the south and an electrical substation to the west on the corner of Railway Parade and English Street.

The Illawarra Railway line is located to the north of the site. Carlton Railway Station is approximately 411m to the west; Kogarah Railway Station is located 671sqm to the east. An underpass which connects Railway Parade to Railway Street is opposite, however accessed west of the site.

Proposal

The proposal seeks development consent for the demolition of existing structures, remediation of the site, construction of an eight (8) storey mixed use building comprising one (1) commercial tenancy at ground level, seven (7) levels of boarding rooms totalling forty-nine (49) double rooms, one (1) manager's room over four (4) levels of basement parking accessed via a vehicle lift from Blake Street on land known as 248 Railway Parade, Kogarah.

The proposal sought minor internal amendments from the original application. The amended plans did not require re-notification as the extent of the changes were internal and did not result in any change in any external appearance, reduction of setbacks or increase in height. This amendment did not result in a greater impact than the original proposal.

In summary, the assessed proposal comprises of the following;

- Demolition of the existing building,
- Remediation of the site,
- One (1) 80sqm ground floor retail tenancy with a unisex accessible sanitary facility;
- Forty-nine (49) double lodger suites all with ensuites, kitchens and balconies levels 1-7;
- One (1) double lodger manager's suite (one (1) employee proposed) with ensuite, kitchen and balcony located on level 5;
- Twenty-seven (27) car spaces which includes four (4) accessible car spaces; twenty-five (25) car spaces are to service the boarding house and boarding manager and two (2) car parking spaces to service the retail tenancy.
- One (1) loading bay;
- Ten (10) motorcycle spaces;
- Ten (10) bicycle spaces
- One (1) vehicle lift which provides access to and from ground level to basement levels 1 – 4;
- Landscaping works;
- Driveway crossing and engineering works.

Further details of the proposal are as follows;

Basement level 4

- Three (3) car parking spaces, one (1) being an accessible space),
- Ten (10) bicycle spaces,
- Turning bay,
- Storage,
- Vehicle lift,

- Lift, lobby and access stairs, and
- Service areas.

Basement level 3:

- Eight (8) car parking spaces (one (1) being an accessible space),
- Four (4) motorcycle spaces,
- Services,
- Vehicle lift,
- Lift, lobby and access stairs, and
- Service areas.

Basement level 2:

- Eight (8) car parking spaces (one (1) being an accessible space),
- Three (3) motorcycle spaces
- Services,
- Vehicle lift,
- Lift, lobby and access stairs, and
- Service areas.

Basement level 1:

- Eight (8) car parking spaces (one (1) being an accessible space)
- Three (3) motorcycle spaces,
- Services,
- Vehicle lift,
- Lift, lobby and access stairs, and
- Service areas.

Ground Floor:

- One (1) 80sqm commercial retail tenancy with a unisex accessible sanitary facility,
- Residential main lobby,
- Lift and lobby,
- Wrap around entry forecourt along the Railway Parade frontage and half the Blake Street frontage,
- Landscaping, drainage works and driveway crossing to Blake Street
- Two (2) temporary car waiting bays,
- One(1) car lift and loading dock,
- Bin room and

- Two (2) street trees along Blake Street and one (1) street tree along Railway Parade

Levels 1 - 4:

- Nine (9) x 2 boarder lodging rooms all with ensuites, kitchens and balconies (of which one (1) room on each level is nominated as an accessible room),
- Central lobby,
- Lift,
- Access stairs.

Level 5:

- Three (3) x 2 boarder lodging rooms all with ensuites, kitchens and balconies (of which one (1) room on each level is nominated as an accessible room),
- Common room and communal open space,
- One (1) manager's suite with ensuite, kitchen and terrace,
- Central lobby, lift and access stairs.
- Green wall along southern rear wall.

Levels 6 and 7

- Five (5) x 2 boarder lodging rooms all with ensuites, kitchens and balconies (of which one (1) room on each level is nominated as an accessible room),
- Central lobby,
- Lift,
- Access stairs.

Background

Date	Event
21 December 2015	<p>97/2015 (2015SYE078) – Development consent granted to adjoining property at 250-258 Railway Parade, Kogarah (Former Kogarah RSL site) for demolition of existing structures and construction of a mixed use development incorporating an RSL club, training facilities, residential flat building and basement parking. This application was approved by the Joint Regional Planning Panel (JRPP).</p> <p>In noting the determination of this application;</p> <ul style="list-style-type: none"> • Valuation offers were made to consolidate the subject site (248 Railway Parade, Kogarah) into the proposed scheme however were not accepted by No. 248 Railway Parade, Kogarah.

	<ul style="list-style-type: none"> • A concept indicative diagram was provided to demonstrate development potential on this adjoining property was provided and considered.
13 April 2018	PRE2018/0009 – A pre development application was held for a hotel comprising of 58 rooms over 11 storeys with one level of basement with turntable, car lift and car stacker for 20 vehicles – not supported by Council
7 December 2018	<p>PRE2018/0046 – A pre development application was held for an eight (8) Storey boarding house comprising 50 rooms and a basement, lift and shuttle car parking arrangement for 25 car parking spaces – not supported by Council</p> <p>The design of this proposal adopts similar elements to the current application.</p> <p>The pre-lodgement application proposal was not supported by Council. It is noted that several issues raised within the pre-lodgement meeting have not been adequately resolved as part of this development application which include;</p> <ul style="list-style-type: none"> - Lack of continuous awning along Blake Street, Façade; - No laundry, clothes drying and internal storage areas; - Significant overshadowing impacts to communal open space to the Viridian - Levels 5-7 should not obstruct the Kogarah RSL building to the north-west. the Blake Street, Façade; - No laundry, clothes drying and internal storage areas; <p>The above matters are addressed in further detail within the assessment report.</p>
14 June 2019	DA2019/0232 – Demolition of existing structures, remediation of the site, construction of an eight (8) storey mixed use building comprising of one (1) commercial tenancy at ground level, seven (7) levels of boarding rooms totalling forty-nine (49) double rooms and one (1) manager's room over four (4) levels of basement parking accessed via a vehicle lift from Blake Street.
10 – 26 July 2019	Notification Period.
6 August 2018	Site inspection undertaken.
4 – 20 September 2019	Re-notification and advertisement of application which made reference to Sydney South Planning Panel (SSPP) as determination body.
21 October 2019	Applicant advised that application is not supported and advised to

	withdraw application. The applicant was also advised that a revised Quantity Surveyors Report would be required which exclude the commercial component of the proposal.
7 November 2019	Revised Quantity Surveyors Report provided.
28 November 2019	Revised Quantity Surveyors Report submitted to Sydney South Planning Panel (SSPP)
10 January 2020	Second site inspection undertaken.
11 January 2020	<p>Applicant submitted additional information including; planning justification, revised shadow diagrams, basement parking, drainage plans and traffic report.</p> <p>The extent of the design changes primarily related to a new basement level 4, reconfiguration of car parking, provision of two (2) on site temporary car waiting bay, relocation of bicycle storage.</p>

Statutory Framework

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

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

Objects of the EP&A Act

Consent authority is required to consider the objects in Section 1.3 of the EP&A Act when making decisions under the Act. The proposal has been considered in accordance with the Objects as per below;

Objects of the EP&A Act	Proposal	Compliance
<i>(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources</i>	The proposed development type is not considered to be inconsistent with this clause. However the development form proposed does not satisfy the objectives of this clause as currently proposed.	No
<i>(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental, and social considerations in decision-making about</i>	The design considers the principles of ESD. The proposal satisfies BASIX commitments.	Yes

<i>environmental planning and assessment</i>		
<i>(c) to promote the orderly and economic use and development of land</i>	<p>The design of the proposal is not considered an orderly and economical use and development built form outcome of the land due to the poor amenity for future residents on site in regards to; car parking, pedestrian and vehicular safety, view loss, outlook and streetscape.</p> <p>The development in its current form also results in an unacceptable impact on the adjoining development.</p>	No (1)
<i>(d) to promote the delivery and maintenance of affordable housing.</i>	The proposal comprises an affordable rental housing component comprising forty-nine (49) boarding rooms. (a manager's room has also been provided for as require by the provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009.	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>	The proposal does not seek the removal of any trees and is unlikely to result in any known ecological impact.	Yes
<i>(f) to promote the sustainable management of built and cultural heritage</i>	The Site is not a Heritage Item nor is it located within a Heritage Conservation Area.	Yes
<i>(g) to promote good design and amenity of the built environment</i>	The proposal in its current form is considered to result in a poor built form outcome which does not sufficiently respond to the context and constraints of the site.	No (2)

<i>(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants</i>	If the application was to be supported, appropriate construction requirements could be conditioned.	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 under the SEPP given the cost of works exceeds \$5 million dollars associated with affordable housing; the consent authority is the Sydney South Planning Panel (SSPP).	Yes
<i>(j) to provide increased opportunity for community participation in environmental planning and assessment</i>	The application was notified and to surrounding owners and occupiers, in response a total of sixty (60) submissions with one (1) submission containing one hundred and fifty-three (153) signatures were received.	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*

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- State Environmental Planning Policy (State and Regional Development) 2011;
- State Environmental Planning Policy No 55 – Remediation of Land;
- State Environmental Planning Policy (Affordable Rental Housing) 2009;
- 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 State Environmental Planning Policy – Remediation of Land;
- Draft Environment State Environmental Planning Policy;
- Kogarah Local Environmental Plan 2012;
- Kogarah Development Control Plan 2013.

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

The proposal is a regionally significant development pursuant to Clause 5 of Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP) that has a Capital Investment Value (CIV) of more than \$5 million in accordance with the SRD SEPP. The proposal nominates a CIV of \$7,653,514 which has been prepared by a registered quantity surveyor QPC and C. As such, the Sydney South Planning Panel is the consent authority for the development application.

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

The site is within the area affected by the Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment.

The proposed disposal of stormwater has been assessed by Council's Development Engineer and is considered to be inconsistent with the Council's requirements for the disposal of stormwater in the catchment. There is inadequate and insufficient information in relation to details of inlet and outlet pipes, levels, cross sections through the OSD system and the absence of a web calculator for Council to undertake an assessment of potential impacts of the development.

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

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

The application is accompanied by a Preliminary Environmental Site Assessment prepared by Broadcrest Consulting Pty Ltd dated January 2019. The report recommends the following;

- Existing workshop building to be inspected by licensed builder inspectors for hazardous materials (HAZMAT) prior to any demolition work.*
- All removal / demolition works must comply with the requirements of SafeWork NSW and those provided within the HAZMAT report.*

- c) *If hazardous materials are confirmed, SafeWork NSW Licenced Contractors are to be commissioned to safely remove and dispose of them as necessary at a suitably licenced waste disposal facility. A Clearance Certificate must be provided.*
- d) *The residual surface should be scraped by licenced contractors till there are no remaining foreign materials (bricks, builder's rubble, etc).*
- e) *Scraped soil materials should be classified using the NSW EPA Waste Classification System and removed from site by licenced contractors.*
- f) *Residual soil surface should be assessed by a suitably qualified and experienced Environmental Scientist (or equivalent) for the applicable contaminants of concern by way of a Phase 2 Detailed ESA. The Phase 2 Detailed ESA should also assess the depth and if deemed necessary, the quality of ground water.*
- g) *If additional remediation information is deemed necessary, A Remediation Action Plans will need to be prepared for the site".*

Given the above recommendations by the applicant's submitted consultant report it is considered that to ensure certainty that the site is suitable for such purpose a Phase 2 detailed site investigation which may also trigger the need for a remedial action plan is required prior to consent being granted. No Phase 2 detailed site investigation has been submitted for Council's consideration; in this regard the proposal has not reasonably satisfied the requirements of the SEPP.

State Environmental Planning Policy (Affordable Rental Housing) 2009

The proposal has been considered in accordance with the following applicable provisions as per below;

Clause	Standard	Proposal	Complies
26 Land to which Division applies	This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones (g) Zone B4 Mixed Use	The site is zoned B4 Mixed Use pursuant to the provisions contained within the Kogarah Local Environmental Plan 2012.	Yes
27 Development to which Division applies	(1) This Division applies to development, on land to which this Division applies, for the purposes of boarding houses.	The proposal meets the definition of a "boarding house" under the Standard Instrument.	Yes
28 Development	Development to which this	Development	Yes

may be carried out with consent	Division applies may be carried out with consent.	consent sought under Part 4 of the Act.	
29 Standards that cannot be used to refuse consent	(1) A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:		
	(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or	<i>A “boarding house” is a subcategory of “residential accommodation”</i>	Yes
	(b) if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land, or		N/A
	(c) if the development is on land within a zone in which residential flat buildings are permitted and the land 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—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:		N/A
	(ii) 20% of the existing maximum floor space ratio, if	The proposal seeks to utilise	Yes

	the existing maximum floor space ratio is greater than 2.5:1.	the additional 20% floor space bonus as the KLEP 2012 prescribes a maximum floor space of 4.1:1. Under this clause the maximum floor space permissible is 4.8:1. The proposal seeks a floor space of 4.78:1 which complies.	
(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:	(a) building height if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,	The maximum building height which applies to the site is 39m. The proposal seeks a maximum building height of 27.7m to the top of the lift overrun.	Yes
	(b) landscaped area if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,	The site is zoned B4 Mixed Use, there is no setbacks at street level to facilitate landscaping. Notwithstanding, the proposal seeks to provide three (3) street trees within the Council reserve. Council's consulting arborist supports the proposal subject to the planting of a total of four (4) street trees.	Yes

	<p>(c) solar access</p> <p>where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,</p>	<p>The communal living room receives more than 3 hours solar access between 9am – 3pm given the north-facing orientation and spatial separation provided by Blake Street and Railway Parade to surrounding built forms.</p>	Yes
	<p>(d) private open space if at least the following private open space areas are provided (other than the front setback area):</p> <p>(i) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers,</p> <p>(ii) if accommodation is provided on site for a boarding house manager—one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation,</p>	<p>67sqm of common open space is provided on level 5 (RL 67.7) adjacent to Railway Parade.</p> <p>Boarding house manager room (room No.37) is located on level 5. This contains a dual aspect terrace with an area of 38sqm which wraps around this unit (south and east aspects). This exceeds the criteria for minimum area and dimension.</p>	<p>Yes</p> <p>Yes</p>
	(e) parking		

	<p>if:</p> <p>(iia) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and</p> <p>= 24.5 car spaces required based on 49 boarding rooms</p> <p>(iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,</p> <p>= 1 space required per employee</p>	<p>A total of twenty-four (24) car parking spaces are provided to service the boarding rooms which are located on basement levels 1-4. The proposal is deficient by one (1) car space.</p> <p>The Managers suite (No.37) nominated on level 5 details a double bed, two seats and desks.</p> <p>On this basis one (1) car parking space is required which has been provided as the plan of management makes reference of a “<i>an on-site manager</i>” meaning singular.</p> <p>It is noted that two (2) car spaces are provided to service the commercial tenancy.</p>	<p>No (3)</p> <p>Yes</p>
	<p>(f) accommodation size if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen</p>	<p>All boarding rooms which can accommodate two (2) persons range in size from</p>	<p>Yes</p>

	or bathroom facilities) of at least: (ii) 16 square metres in any other case (2 boarders)	17sqm – 25sqm.	
	(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room	Each boarding room including the manager's suite includes a private kitchen and bathroom.	Yes
30 Standards for boarding houses	(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following: (a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,	The proposal comprises forty-nine (49) boarding rooms and one (1) manager's suite. One (1) communal living room of 33sqm is provided on level 5.	Yes
	(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres,	No boarding rooms exceed 25sqm in accordance with this clause which excludes private bathrooms and kitchen facilities.	Yes
	(c) no boarding room will be occupied by more than 2 adult lodgers,	A maximum of 2 boarders per room as indicated on the plans and within the submitted plan of	Yes

	(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,	management. Each boarding room is self-contained with kitchen facilities.	Yes
	(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,	The proposal provides forty-nine (49) boarding rooms with 2 lodgers in each room. This totals ninety-eight (98) lodgers excluding the boarding house manager.	Yes
	(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,	The site is zoned B4 Mixed Use pursuant to the Kogarah Local Environmental Plan 2012.	Yes
	(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	The proposal comprises of forty-nine (49) boarding rooms. Ten (10) motorcycle spaces have been provided on Basement Levels 1-3. Ten (10) bicycle spaces are located on	Yes

		basement level 4.	
30A Character of local area	A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.	The proposal seeks a built form which is not considered to be compatible with the character of the local area.	No (4), refer to detailed discussion below.

(4) Clause 30A – Character of local area

The applicant has provided justification in relation to the local character contained within the applicant's submitted statement of environmental effects and additional information received on 10 January 2020.

Clause 30A states that Council cannot grant consent to a boarding house unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

Case law has held that the test in Clause 30A is “one of compatibility not sameness” (Gow v Warringah Council [2013] NSWLEC 1093 (15 March 2013)). Compatibility is widely accepted to mean “capable of existing together in harmony” (Project Venture Developments Pty Ltd v Pittwater Council [2005] NSWLEC 191).

It has also been held that in assessing ‘compatibility’ both the existing and future character of the local area needs to be taken into account (Sales Search Pty Ltd v The Hills Shire Council [2013] NSWLEC 1052 (2 April 2013) and Revelop Projects Pty Ltd v Parramatta City Council [2013] NSWLEC 1029).

Relationship to the Existing and Future Character of the Local Area

In Revelop Projects Pty Ltd v Parramatta City Council [2013] NSW LEC 1029, Commissioner Morris concluded that the ‘local area’ includes both sides of the street and the ‘visual catchment’ as the minimum area to be considered in determining compatibility.

The ‘local area’ in this case is taken to include both sides of Railway Parade and Blake Street and the immediate surrounding streets. Within this local area, development is primarily characterised by the ‘Kogarah RSL site’ which comprises of a podium level with eleven (11) storeys of residential units above. The opposite side of Blake Street comprises of a four (4) storey mixed use development. Three (3) storey residential flat buildings are located further to the east along Blake Street.

In Project Venture Developments v Pittwater Council [2005] NSWLEC 191 the Land and Environment Court specifically set out a relevant planning principle. Consideration has

therefore been given to the two key questions identified in the Land and Environment Court Planning Principles:

(a) Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

Comment: It is acknowledged this development typology is permissible in this zone, and the transition of this location from lower and medium densities is being increased in the form of larger built forms is evident within the visual catchment.

The proposal has been designed in a scale and form with an attempt for this development to integrate with the adjoining built form existing on the RSL site so as to reinforce the corner element along Railway Parade and Blake Street. The location and form being the balconies and a similar 'bayed' form horizontally and verticality does assist in the integration of the development with the adjoining built form.

However given the development form of the RSL site being close to the boundaries, this proposal in its current form is considered to adversely impacts the residential forms of the development on the RSL site above level 4.

It is acknowledged this site is permitted with the benefit of similar scale, height and density as the adjoining RSL site. View loss and outlook is unlikely to be unaffected to that of the existing condition, however the development in its current form does result in amenity impacts that need resolution in particular along the western and southern elevations

It is noted that prior to determination of (2015SYE078) at 250-258 Railway Parade, Kogarah negotiations had taken place between both parties with respect to acquiring the subject site.

An extract of the assessment report stated the following;

"Between July and October 2015 the applicant and Council had a number of meetings and discussions relating to the potential acquisition of the corner site at No.248 Railway Parade and ensuring suitable design amendments that reduce density to an acceptable level whilst ensuring adequate building separation to its neighbours.

Negotiations for acquisition with the neighbouring property failed to reach agreement on a purchase price"

and;

“Amalgamation

The site is identified as part of an amalgamation with the corner property at 248 Railway Parade.

Extensive negotiations have been undertaken between the applicant and the owners of No. 248 Railway Parade with valuations being submitted. Council commissioned an independent valuation as there was no agreement reached between the applicant and No.248 Railway Parade.

The final offer by the applicant was in excess of the higher value in the range given in the independent valuation and was based on a total development FSR of 4.5:1”.

It is noted that reasonable attempts were sought prior to determination of the above application. The subject site at 248 Railway Parade is currently isolated.

View loss assessment

Concerns were raised in relation to levels 5 - 7 of the proposed development and the adverse impacts on the City skyline and water views of Botany Bay. Several submissions were received from multiple residences from the Kogarah RSL site in particular from Building A. A site inspection was undertaken on 10 January 2020 from units 507 and 807 which directly adjoins the site to the south. Whilst multiple submissions raised concerns regarding view loss, the most likely impacted units were inspected. Due to smokey bushfire conditions during Council’s site inspection, views to the city skyline and Botany Bay were not clearly visible. Photographs from submitters have been used in the assessment report as they are considered representative of the outlook experienced during the site inspection. The viewing angles align with that undertaken during Council’s site inspection which has been taken from a standing position on the balconies.



Figure 15 Standing position view from Balcony Unit 507 (Building A) northern aspect towards city (Source: submitter, 2019).



Figure 16 Standing position view from Balcony of Unit 507 (Building A) eastern aspect towards Botany Bay (Source: submitter, 2019).

In considering view loss, the following considerations have been undertaken in accordance with View Sharing principal established by Tenacity Consulting v Waringah [2004] NSWLEC 140 whereby;

Para

“26 The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured”.

Comment: The ‘Veridian’ is located approximately 13km from the Centre of the City i.e. in this report Centre Point Tower is the reference point. Distant city views are obtained due north. Distant views to Botany Bay are located to the east which is approximately 2.6km away. Further water views and partial interface views of Kurnell and La Perouse are approximately 9.5km to the east. The views to the City are described as full views whereas the view to Botany Bay is described as a partial view due to canopy trees and buildings in the foreground.

Para

“27 The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic”.

Comment: The views in question are taken from the adjoining property within the Kogarah RSL site from level 5 and above. The views are from both standing and sitting positions. These contain viewing aspects to the north and east. These views are located along a side boundary which adjoins the subject site. The proposal seeks an external wall with a nil boundary setback along the western side elevation which contains recesses tapering towards the northern front elevation and rear southern elevation of the site.

This site has the benefit of the same height control as the development on the RSL site. Whilst the development in its current form is unacceptable given the setbacks to the boundary, a revised design may result in view impacts and the loss of solar access given the lot orientation. It is unlikely the RSL site will retain its current outlook and solar access with a revised design given the views are across a side boundary.

Para

“28 The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating”.

Comment: Currently views can be obtained from both sitting and standing viewing positions. This proposal results in a severe to devastating impact from level 5 and above. This is generated by the siting of built form and setbacks of levels 5 – 7 along the western side boundary.

The development in its current form is considered to result in amenity impacts with respect to the distances of the built form to the boundary given the location of the built form on the RSL site. It is acknowledged that this development will result in considerable solar access, outlook and view impacts. However, it needs to be acknowledged a revised development on the subject site is necessary it may not result in the retention of the solar access, outlook and views presently obtained from the development currently existing on the RSL site.

Para

“29 The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable”.

Comment: Whilst it is acknowledged that the proposal complies with height and floor space permitted for this development type, however the proposed design in its current form, given the relationship of the subject development on the RSL site does result in the need for a revised to address amenity impacts. However it needs to be acknowledged that a revised design on the subject site may not result in the complete retention of the current levels of solar access, outlook and views from the development on the RSL site as any development above level 4 will result in view loss.

Floor space ratio

It is noted this site is isolated, as a result achieving the maximum floor space under the KLEP 2012 being 4:1 may be difficult to achieve. Further, the floor space control is considered to be a maximum not a development right as acknowledged in the decision of Regent Land Pty Ltd ATF Regent Land Unit Trust v Georges River Council [2018] NSWLEC 1370 where Commissioner Smithson stated:

Para

98. *However, the FSR standard sets a maximum permissible FSR not one as of right nor necessarily desirable in all instances given requirements to minimise adverse impacts for future occupants and neighbours and, of specific relevance to this site, subject to a DCP requirement to amalgamate sites to optimise yield. As the site could not be amalgamated, the onus is on the applicant to demonstrate why even the maximum permissible height and FSR are justified on the site"*

The proposal seeks to use the bonus floor space available to a boarding house development via the provisions of SEPP (ARH) 2009. Whilst the site benefits from a height control of 39m, the floor space of 4:1 permitted on an allotment of 411sqm would result in a development lower than that proposed. The use of the bonus FSR has result in this floor space being in the form of additional levels given the sites relative constrained nature of the site being its area and dimensions. This additional floor space has resulted in additional verticality which does not appropriately address the residential interface to the south and west.

Height

The proposal is below the maximum permitted height of 39m, having a height of 27.7m.

The constrained nature of the subject site and it being isolated, the permitted floor space (including the bonus) does not enable the maximum permitted height to be achieved.

The constrained nature of the site given its width, depth and having an area of 411sqm results in the attainment of the floor space in a vertical form. The location and design of the development on the RSL site is impacted by any development form greater than the 4 storey podium. It is noted this development results in amenity impacts on the development within the RSL site and needs to be redesigned. It is acknowledged that a revised design may not result in the retention of the solar access, outlook and views presently available.

Solar access

The proposal results in a poor outlook and interface to the adjoining western units which is generated by levels 5 – 7 as the proposal seeks an upper element comprising of a

15.33m wall with a nil boundary setback. These levels result in a poor design outcome for adjoining occupants within the RSL site. The design is not considered to be an appropriate response to the immediate surrounding area. Whilst it is acknowledged that solar access impacts may be unavoidable due to the orientation of the site and height controls however increased side setbacks may result in a reduction of impacts. A redesign is considered necessary in this regard.

The proposed development type being a boarding house in a shop top housing form is characteristic of the locality, however the built form and its impact on the adjoining development is considered to result in an unacceptable impact.

The proposed development would cause adverse physical impacts upon surrounding residential development at the Kogarah RSL. The following concerns are raised:

- The development in its current form presents unreasonable visual bulk and scale impacts to the neighbouring properties along the southern elevation which results in view loss. It is also noted that an increase in setbacks could result in the possible reduction of the extent such impacts in relation to solar access and outlook. A view loss assessment has been undertaken within this report based on the current form as per below;
- The design of the proposed development in its current form above level 4, in relation to setbacks and siting is not considered to be appropriate and is inconsistent with the streetscape character when viewed from both Railway Parade and Blake Street as development has a podium up to level 4 and setback upper levels. It is noted that this is ordinarily to satisfy the Apartment Design Guide setbacks for a development subject to SEPP 65. A boarding house is exempt from the provisions of SEPP.
- The proposal in its current form results in adverse amenity impacts due to poor spatial separation, siting and massing above level 4. Resulting in poor outlook, solar access and view loss impacts which detrimentally affects units adjoining to the west. It is noted that these impacts regarding the above are unavoidable due to the orientation of the site however could be potentially reduced by a skilful design.

(b) Is the proposal's appearance in harmony with the buildings around it and the character of the street?

Comment: The block is characterised by the existing built form of the Kogarah RSL site which includes a 5 storey podium element with residential units above. The subject site is located to the eastern side of the site. The proposal seeks to adopt a masonry lower element and tones which are generally compatible with the visual catchment, however elements associated with levels 5 - 7 do not contextually relate to the adjoining properties due to its siting, setbacks and massing as there is

no building relief above the podium level. In this regard, the proposal in its current form will adversely disrupt on the built form in the streetscape along Railway Parade and Blake Street.

The proposal, in particular levels 5 - 7 results in a built form in its current form which is not harmonious with the adjoining development. Due to the orientation of the site and height of building control which prescribes a maximum height of building of 39m, the elements above result in adverse impacts regarding view loss, outlook and solar access however such impact could be potentially reduced with a skilful design.

Assessing 'compatibility' required both the existing and future character of the local area to be taken into account (*Sales Search Pty Ltd v The Hills Shire Council* [2013] NSWLEC 1052 and *Revelop Projects Pty Ltd v Parramatta City Council* [2013] NSWLEC 1029). It is acknowledged that there are sites within the immediate streetscape that are yet to reach their development potential to the east and south. However, given the proposed development has been designed in contrast to what may be considered an acceptable siting, setback and massing from neighbouring development to the west and south, the design and streetscape presentation of future development on adjoining sites is unlikely to resemble that of the design of the proposed development.

Given the above, it is considered that the proposal satisfies the character test however results in a built form which provides poor occupant amenity and an unresolved interface to adjoining residential development to the east and south.

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

The objectives of this Policy ensure that the performance of the development satisfies the requirements to achieve water and thermal comfort standards that will promote a more sustainable development.

A valid BASIX (Building Sustainability Index) certificate No. 1009898M was prepared on 16 May 2019 and assessed the proposal against the provisions of BASIX and found the proposal to be compliant. The BASIX commitments are shown on the architectural plans. The amended proposal did not require an amended BASIX Certificate given that no external changes were sought. In this regard, the requirements of the SEPP have been fulfilled.

State Environmental Planning Policy (Infrastructure) 2007

The site is located more than 25m away from Sydney Trains Infrastructure. The proposal has been considered in accordance with the applicable provisions of the SEPP. The proposal was referred to Ausgrid (Clause 45 – Determination of development applications – other development) and Sydney Trains with twenty-one (21)

days to respond. In response, no comments were received upon finalisation of this assessment report. An acoustic report has been prepared by Broadcrest Consulting Pty Ltd which has been assessed by Council's Environmental Health Officer in accordance with (Clause 87 - Impact of rail noise or vibration on non-rail development and) which satisfies the requirements under Clause 102).

Given the above, appropriate considerations within this SEPP have been satisfied.

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.

There are no existing trees on site or within the Council's reserves along Railway Parade and Blake Street, Kogarah.

The proposal seeks landscaping works as identified within the submitted Landscape Plan prepared by Zenith Landscape Designs dated 16 April 2018. Within the scheme the proposal seeks the following:

- 2 x Tristaniopsis Laurina 'Liscious' (TL) with a maturity height of 6m located on the Council reserve on Blake Street;
- 1 x Cupaniopsis anacardioides (CA) with a maturity height of 6m located on the Council reserve on Railway Parade;
- Terrace planting ranging in maturity height from 150mm – 2.0m for common open space, suite No. 40 balcony, managers suite No.37, green wall and along northern elevation adjacent to common room.

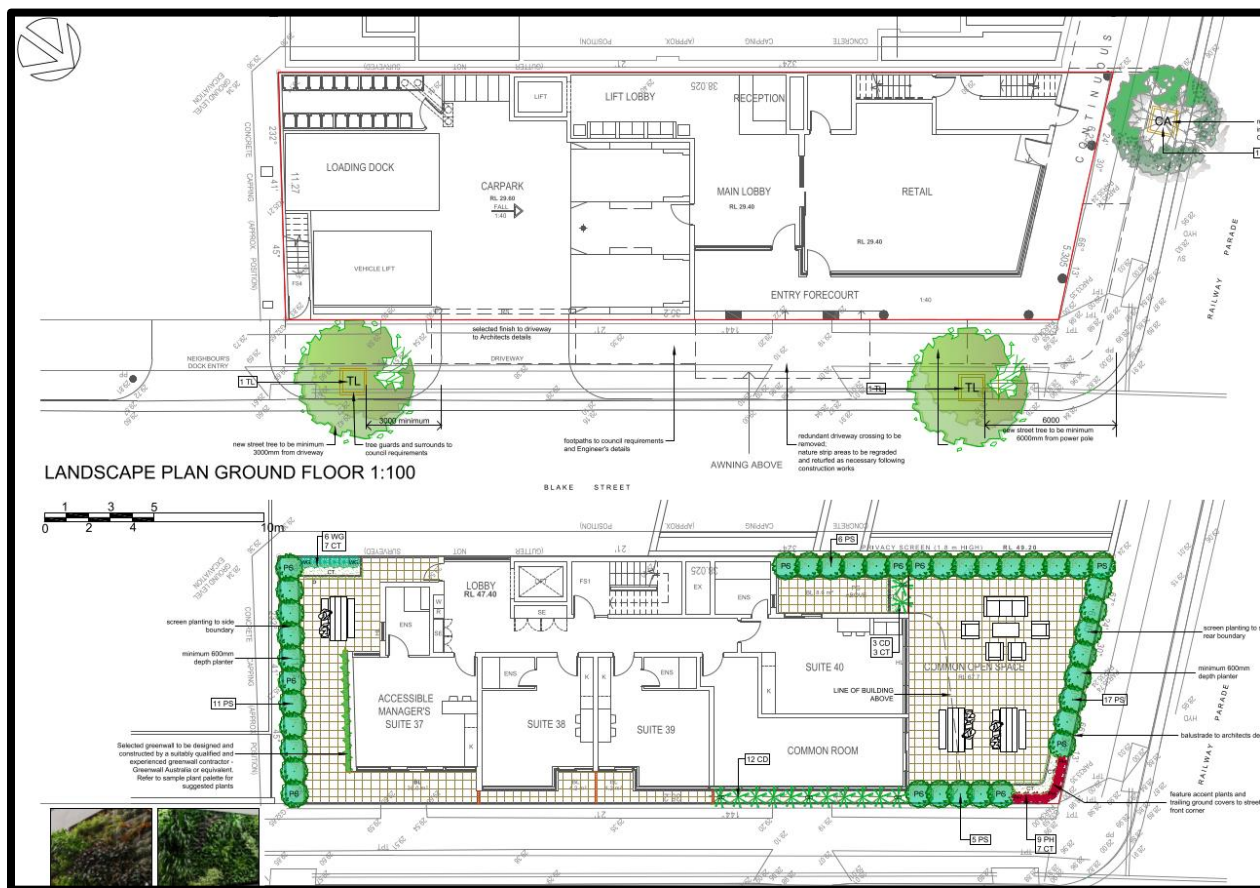


Figure 13 Landscape Plan (Source: Zenith: Landscape Designs).

Council's consulting arborist supports the proposal subject to suitable tree replacement planting. In this regard, the proposal adequately satisfies the provisions of the SEPP.

Draft State Environmental Planning Policies

Draft State Environmental Planning Policy – Remediation of Land

The Department of Planning and Environment ('DPE') has announced a Draft Remediation of Land SEPP ('**Draft SEPP**') which will repeal and replace the current State Environmental Planning Policy No 55—Remediation of Land ('**SEPP 55**').

The main changes proposed include the expansion of categories of remediation work which requires development consent, a greater involvement of principal certifying authorities particularly in relation to remediation works that can be carried out without development consent, more comprehensive guidelines for Councils and certifiers and the clarification of the contamination information to be included on Section 149 Planning Certificates.

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.

The subject site has been historically used and is currently used as an automotive repair. Similarly addressed earlier in this report under SEPP No. 55 – Remediation of Land. The application is accompanied by a Preliminary Environmental Site Assessment dated January 2019. It is considered that a Phase 2 Intrusive site investigation and possible Remediation Action Plan is required for further consideration. In this regard, the proposal is not considered to adequately satisfy the intention of the draft SEPP.

Draft Environment SEPP

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

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

Changes proposed include consolidating the following seven existing SEPPs:

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

Council's Landscape Officer has reviewed all the relevant documentation and plans and has concurred with the proposed landscaping on level 5 and street tree planting.

Local Environmental Plan

Kogarah Local Environmental Plan 2012

Zoning

The subject site is zoned B4 - Mixed Use under the provisions of the Kogarah Local Environmental Plan (KLEP) 2012.

The zone objectives are listed per below;

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

- To encourage development that contributes to economic growth and employment opportunities.
- To encourage development that contributes to an active, vibrant and sustainable town centre.
- To provide opportunities for residential development, where appropriate.

The proposed development is inconsistent with the objectives of the B4 zone as follows:

- The proposal is not considered to result in a suitable layout and functionality to service future residential and commercial occupants in relation to car parking and amenity.
- The proposal provides for residential development in the form of a boarding house however the design and sitting does not appropriately relate to the immediate context which results in adverse, view loss solar access outlook and built form impacts.
- The proposal is not considered to result in a compatible land use with the adjoining development.

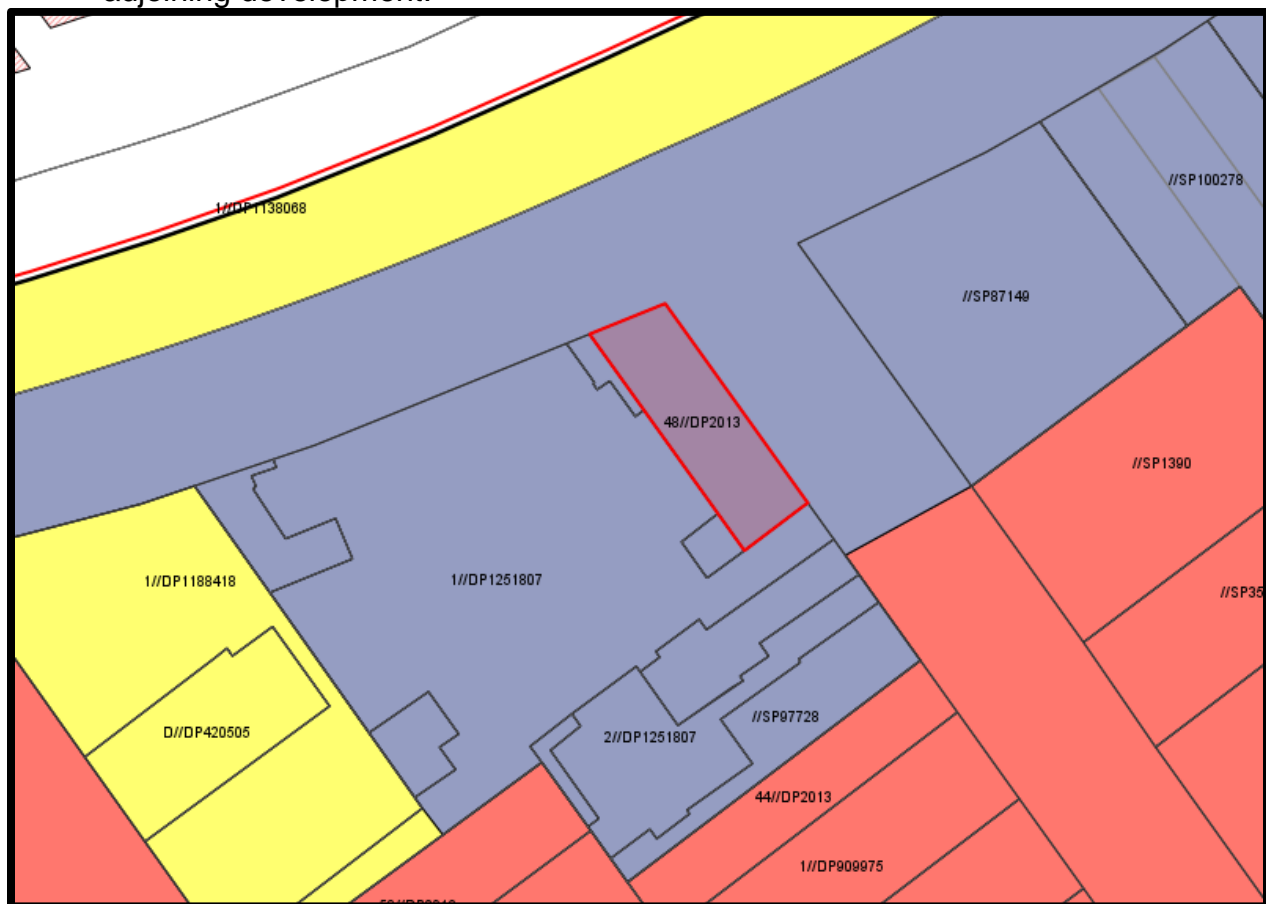


Figure 14 Zoning map extract from KLEP 2012 (site edged red) (Source: GRC Intramaps, 2020).

The extent to which the proposal complies with the relevant standards of the KLEP 2012 is outlined in the table below.

Table 2: KLEP 2012 Compliance Table

Clause	Standard	Proposal	Complies
2.2 Zoning of Land to which Plan applies	B4 Mixed Use Zone	The shop top housing development in the form of a ground floor commercial tenancy and upper level boarding house is permissible with consent.	Yes
2.3 Zone objectives and Land use table	<p>“.” “commercial and boarding house” forms a permissible use.</p> <p>Objectives of zone to be satisfied</p>	<p>However the proposal is not considered to satisfy the objectives of the zone as previously discussed within this report.</p>	<p>Yes</p> <p>No (5) refer to discussion below.</p>
2.7 Demolition	Demolition requires development consent.	Consent for demolition of existing structure sought.	Yes
4.3 Height of Buildings	“Maximum permitted height of 39m	27.7m RL37.50 (lift overrun)	Yes
4.4 Floor Space Ratio	<p>“M maximum FSR of 4:1 Site area: 411sqm</p> <p>Maximum of 1,644sqm of Gross Floor Area permitted (FSR bonus of 0.8 permitted under SEPP (Affordable Rental Housing) 2009</p>	4.78:1	Yes, given that additional floor space permitted under SEPP (ARH) 2009.
4.5 Calculations of	Floor space to be calculated in accordance with Clause.	Floor space calculated in	Yes

Floor space and Site area		accordance with clause.	
4.6 Exceptions to Development Standards	Not applicable.	N/A	N/A
5.10 Heritage Conservation	Not identified as a heritage item and not located within a Heritage Conservation Area.	Satisfactory - no local heritage items or conservation areas are within the vicinity of the Site.	Yes
6.1 Acid Sulfate Soils (ASS)	The site is not affected by acid sulfate soils.	N/A	N/A
6.2 Earthworks	Development consent sought for excavation requires development consent. Considerations to apply include impact on drainage patterns, fill, effect on land and fill, impact to waterways.	A geotechnical report was submitted as part of this development application. The original proposal sought excavation to accommodate three (3) levels of basement. An amended geotechnical report has not been provided in support of the amended proposal which seeks four (4) levels of basement.	No (6)
6.5 Airspace Operations	Development Consent must not be granted to controlled activity within Division 4 Part 12 of the Airports Act 1996.	Referrals sent. No objections raised by CASA. No comments received from Sydney Airports.	Yes
6.6 Development in Areas subject to	Acoustic considerations to be satisfied.	An acoustic report was	Yes

aircraft noise		submitted with the application which is supported by Council's Environmental Health Officer.	
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(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**

N/A

(iii) **any development control plan, and**

The applicable Development Control Plan relating to the proposed development is the:

Kogarah Development Control Plan 2013

A detailed assessment of the development against the relevant sections of KDCP 2013 have been considered as per below;

Section B1 Heritage Items and Heritage Conservation Areas

The subject site is or properties within the immediate vicinity are not affected by an interim heritage order, or listed on a Local or State Heritage Register. In this regard, considerations within this subsection have been reasonably satisfied.

Section B2 – Tree Management and Green Web Tree Management

There are no trees located on the site or within the Council street reserves. Council's consulting arborist supports the proposal subject to an increase in street planting and change in species types for the elevated courtyards and planters on level 5. In this regard, the proposal satisfies the intent of this subsection and could be conditioned if the application was to be supported.

Section B3 – Developments near busy roads and corridors

The proposal has been supported by an acoustic report which satisfies the requirements under SEPP (Infrastructure) 2007. In this regard, the proposal adequately satisfies the intent of this subsection and could be conditioned for the design elements to be incorporated into the development if the proposal was to be supported.

Section B4 – Parking

The proposal is deficient one (1) on site car space under SEPP (ARH) 2009. The proposal complies motorcycle and bicycle requirements under SEPP (ARH) 2009, which prevails over Council's DCP controls. However, it is noted that the proposal has not provided adequate on site vehicle parking, swept paths, sight lines and vehicular movement. This also impacts the location and manoeuvrability to and from the vehicle lift. In this regard, the proposal has not satisfied the intent of this subsection.

Section B5 – Waste Management

The proposal has provided waste storage on site which is considered to be acceptable. Council's Coordinator of Environment Sustainability and Waste raised no objection to the proposal. Conditions would be imposed if the application was to be supported.

Section B7 – Environmental Management

The proposal is not considered to be inconsistent with the provisions contained within this subsection.

Kogarah Town Centre

The increase in floor space and height of development within Kogarah Local Environmental Plan 2012 (amendment), certain built form controls relating to height, floor space and lower streetscape massing prescribed in Part E: Town Centres within the KDCP 2013 do not correlate with the uplift. Given this, a merit based assessment has been undertaken under the applicable controls.


Table 3: Part E: Town Centres Kogarah Development Control Plan 2013 Compliance Table

Clause	Standard	Proposal	Complies
2.9 Railway Parade Local Precinct Character Streetscapes: South Precinct	Land Uses		
2.9.2 Desired Future Character Principles	(a) Increase the diversity of uses to include residential uses.	The proposal incorporates a residential "boarding house component".	Yes
	(b) Provide for commercial uses such as small offices and	One (1) retail commercial tenancy of 80sqm is proposed fronting Railway Parade and extending around into Blake Street.	Yes

	<p>specialist retail on the ground floor fronting Railway Parade.</p> <p>(c) Encourage the continuation of the RSL use and the provision of community related uses within the block between Blake Street and English Street.</p>	<p>The subject allotment is an isolated site. In the determination of the DA2015/97 at 250-258 Railway Parade, Kogarah offers were made to acquire the subject site prior to determination. These efforts were unsuccessful.</p>	N/A
Street Frontage	<p>(d) Address Railway Parade with active street frontages, awnings and street trees to increase pedestrian amenity.</p> <p>(e) Set buildings back from Railway Parade to allow for widened footpath areas and improved public domain.</p>	<p>The proposal activates Railway Parade with the provision of a commercial tenancy fronting Railway Parade and extending around into Blake Street, this includes an awning and street planting.</p> <p>The ground floor of the proposal along Railway Parade aligns with the adjoining building being the Kogarah RSL.</p>	<p>Yes</p> <p>Yes</p>
Built Form	<p>(f) Reinforce the two-storey street wall height by setting back upper levels of the buildings.</p>	<p>Due to the uplift following the KLEP 2012 amendment, the two storey control is not considered relevant. However the podium level proposed aligns with the adjoining Kogarah RSL which has a podium of 5 storeys. This is considered to be acceptable.</p>	Yes

	<p>(g) Introduce breaks in the building massing at upper levels to reduce the buildings' apparent scale.</p> <p>(h) Establish a consistent 'build to' line along a 2m front setback on Railway Parade to create a consistent edge to the street.</p> <p>(i) Emphasise the block between Blake Street and English Street with taller buildings that create a landmark entry to the Kogarah Centre.</p>	<p>The proposal seeks recessed levels 5 - 7 however these elements are not considered to be appropriate sited, setback and adopts massing which does not provide an appropriate design interface to the adjoining Kogarah RSL.</p> <p>The proposal provides a 2m front building line setback along Railway Parade.</p> <p>The proposed design does not appropriately address this block given the design which is poorly integrated with the Kogarah RSL regarding levels 5 and above.</p>	<p>No (7)</p> <p>Yes</p> <p>No (8)</p>
Pedestrian Movement	(l) Enhance the pedestrian amenity of Railway Parade with awnings, street tree planting and upgraded footpaths.	The proposal provides awnings, street tree plantings and upgraded footpaths.	Yes
3.4 Building Heights	(1) Maximum building heights are shown in Figure 1 – Building Heights Plan.	The proposal does not exceed the 39m Height of building control as prescribed within the KLEP 2012. The proposal seeks a maximum height of 27.7m which complies.	Yes
3.4.2 Roof Top Development	(1) Roof top developments are permitted in some circumstances. Roof top developments are	Similarly addressed in relation to building height regarding the KLEP 2012. However the proposal results in an adverse impact	Yes

	only permitted on 18.0m high buildings or in the case of a fully commercial building on 21.6m buildings and on those sites nominated in Figure 3.0 – Building Heights Plan by “R”.	regarding the proposed communal open space on level 5 which directly adjoins Level 5 Terraces of the Kogarah RSL. The two are proposed to be separated by a 1.8m high privacy screen and landscape planting on site. The design and siting and spatial separation of the communal open space to the adjoining terraces of the Kogarah RSL is considered to be inadequate.	
	(2) For those sites where roof top development is permitted, the following maximum height requirements apply (inclusive of any roof top development):	Roof top development permitted.	Yes
	(3) Roof top development, with the exception of attics, will setback habitable space 2.5m (from external walls) from the street and rear facades.	The proposal has a nil setback extending to 3m from the western side boundary on level 5 and above. This is considered to result in a poor interface and design outcome with respect to the adjoining western residential interface acoustically, potential for overlooking and solar access.	Yes
	(4) Council will only permit roof top development where it is satisfied that a sufficient attempt has been made to create interesting and diverse roof forms.	Given the immediate context of the Kogarah RSL the levels proposed above level 5 are not considered to be acceptable in terms of sitting and design.	Yes

	(5) Roof top development includes attics, penthouses and mansard style developments.	The proposal does not seek these elements as part of this proposal.	N/A
	(6) Where a mixed development is proposed, the roof top development may be two storeys measuring a maximum 8.1m from floor level to the highest point on the roof.	The permitted height control is now within the KLEP 2012.	N/A
3.4.5 Building Height and Articulation	(1) Where buildings are greater than four storeys, strong articulation should be provided in the form of a setback at the 5th and 6th storey, a strongly marked balcony cornice line (projection) and modulation in roof form.	The proposal is eight storeys in height. The proposed podium element aligns with the Kogarah RSL which is 5 storey's in height.	No (9)
3.5 Building Density	<p>(1) The maximum floor space ratios for the Kogarah Centre are specified in the Floor Space Ratio Plan (Figure 4 below).</p>  <p>Note: no prescribed floor space indicated within figure.</p>	No prescribed floor space within diagram however the proposal complies with the KLEP 2012. Additional floor space is sought under the provisions of State Environmental Planning Policy (ARH) 2009.	Yes
3.6 Building	(2) Buildings require	The proposal is not	Yes

Alignment	highly articulated facades with many projections such as stepped facades, entry porches, bay windows and balconies to provide vertical subdivisions and visual interest in the streetscape.	considered to be appropriately designed to address setbacks and amenity impacts to adjoining built form to the west and south.	
3.7 Building Depth	(1) New buildings are to provide operable windows to all living and working environments.	The proposal incorporates streetscape outlook to the north being Railway Parade and the east being Blake Street.	Yes
	(2) Articulate buildings using courtyards, atria and the like to achieve substantial day lighting, cross ventilation and/or stack ventilation.	The proposal uses balconies as recesses to provide lighting and ventilation along the street facades.	Yes
3.8 Floor to Ceiling Heights	(1) Floor to ceiling heights should be a minimum of 3m at ground floor level, to allow for a range of uses including retail, commercial offices and home offices.	The plans show 3.1m for residential and 5.6m for the commercial level.	Yes
	(2) Floor to ceiling heights should be a minimum of 2.7m at upper storeys of buildings, to all habitable rooms to allow for a range of uses, and to improve the environmental performance and amenity of the building.	The proposal has not indicated a floor to ceiling height on the plans however a floor to floor height of 3.1m is proposed between levels 1 – 7.	Yes
3.9.1 Car parking	(4) For commercial/retail development and other land uses parking is to	In total, the proposal provides twenty-seven (27) car spaces. Two (2) car spaces have been provided	Yes

	<p>be provided at the following rate:</p> <p>(i) 1 space per 40sqm for any floor space at ground floor level.</p>	<p>for the commercial tenancy. It is noted that allocated commercial car parking spaces have not been nominated on the plans The plans should be amended to nominate spaces for commercial use.</p>	
	<p>(5) 1% of all car parking spaces are to be designated “accessible” spaces for people with mobility impairments, with a minimum of 1 space for facilities such as medical suites.</p>	<p>The proposal provides 4/27 accessible spaces which equates to 14.8% accessible spaces. It is noted that twenty-eight (28) car parking spaces are required to service the proposal. The proposal is deficient by one (1) on site car space.</p>	Yes
	<p>(6) For car parks between 10 to 99 spaces at least one “accessible” space must be provided.</p>	<p>Four (4) accessible spaces provided on basement levels 1-4.</p>	Yes
	<p>(7) Designated “accessible” car spaces are to be treated as resident car spaces in the calculation of the parking requirement.</p>	<p>Accessible spaces align with the number of accessible boarding rooms.</p>	Yes
3.9.2 Bicycle Parking	<p>(1) Bicycle storage is to be provided at the rate of:</p> <p>(i) 1 secure bicycle storage facility per 2 residential units</p> <p>(ii) 1 bike space per 10 car spaces for the first 200 spaces then 1 space per 20 car spaces thereafter, for commercial and retail land uses.</p>	<p>The proposal has provided bicycle storage under SEPP (ARH) 2009 which overrides Council’s DCP. Ten (10) bicycle spaces are proposed which complies.</p>	Yes
	<p>(2) Bicycle parking and facilities should be designed in</p>	<p>Bicycle spaces provided in accordance with Australian Standards. Bicycle spaces</p>	Yes

	accordance with the relevant Australian Standards.	are provided on basement level 4.	
	(3) Showers and lockers should be incorporated into developments for bicycle users.	No showers or lockers have been provided however this is considered to be acceptable given that each boarding room contains showers and storage.	No (10)
3.9.3 Loading Bay Facilities	(1) Loading bay facilities are to be provided at the following rates: Retail <ul style="list-style-type: none"> • floor area 15sqm to 500sqm - 1 bay required 	One (1) loading bay provided on the ground floor to service the single 80sqm commercial tenancy.	Yes
	(2) Loading bay facilities are to be designed as follows <ul style="list-style-type: none"> • minimum bay width - 3.5 metres • minimum bay length for Bay 1 - 9.5 metres 	Loading bay does not meet minimum dimensions for a bay length of 9.5m.	No (11)
3.9.4 Specific Requirements for the Railway Parade South Precinct	All residential parking must be provided on site. Where a commercial development is proposed, all the parking should be provided on site. Where there is a deficit with respect to the provision of commercial parking on site, the residual may be provided by the way of contribution under the section 94 plan.	The proposal results in a shortfall of one (1) car parking space associated with the boarding rooms.	No (12)
4. Urban Design 4.1 Address and Active Street Frontages	(1) Buildings on the street frontage are to provide pedestrian amenity in the form of active street frontages,	The proposal provides a street frontage to Railway Parade and part of Blake Street where there are pedestrian entry points to	Yes

	building entrances and awnings.	the development.	
	(2) Buildings setback from the street frontage, are to address the street with major facades, entrances, stairs, low fences, substantial planting and other streetscapes.	The proposal addresses both street frontages.	Yes
	(3) In predominantly residential areas, strengthen the interaction between the public and private domain by providing multiple entrances for large developments, locate shops where they will be most visible and minimise the vehicular entrance width.	The proposal provides a residential lobby from Blake Street, with the commercial tenancy having access from both the Blake Street and Railway Parade frontages.	Yes
4.2 Corners	(1) Buildings are to be sited on the street frontages at corners, addressing the corner.	The proposal is generally proposed to be built boundary to boundary up to level 4 however levels 5 - 7 are centrally sited and do not appropriately reinforce the street corner of Railway Parade and Blake Street due to the absence of the built form in this location	No (13)
	(2) The street intersection is to be addressed with splays, curves, building entries and other special architectural elements.	Similar to the above, the proposal is adequate from the ground floor through to level 4, however elements above this level are not considered to appropriately address the corner due to the lack of siting and massing proposed which is absent in emphasising this	Yes

		element .	
	(3) Architectural corner elements may be slightly higher than the rest of the building. They must not exceed 4.0m above the average street wall height. The floor space they contain will be part of the total gross floor area of the building.	Whilst this control relates to elements above the building height under the previous DCP controls, the intention of this control is to reinforce the street corner of which the siting and whereby design of the elements above level 4 have achieved reinforcement of the corner	Yes
4.3 Architectural articulation	(1) Large areas of flat facade are to be avoided. Facades should be articulated into separate sections, using steps in the facade, expressed entries, panels, bay windows, balconies, pergolas and other architectural elements.	The proposal provides two (2) blank walls on either side of the basement roller door access along Blake Street. Whilst the proposal seeks a face brick wall, this results in a poor inactive street interface.	Yes
	(2) Articulation elements must be integral with the building design and should consider the whole building - not just the street facade.	The proposed upper elements above level 4 are not considered to be well integrated into the overall design due to poor siting, setbacks and massing.	Yes
	(3) Changes of texture and colour should complement facade articulation.	The proposal nominates a mixture of contemporary finishes and tones.	Yes
	(4) Appropriate security (if required) can be provided through security grilles on the inside of the shop windows that are retractable to create an open shopfront/window	No grilles proposed.	Yes

	display area. Roller shutter doors facing onto the street are not permitted.		
	(5) Provide solar protection elements as integral with the building design and massing.	Eaves and awnings are integrated into the design.	Yes
4.4 Façade Composition	(1) Provide a balance of horizontal and vertical facade elements to relate to adjacent facades in the streetscape. Avoid simple facade designs containing only horizontal or vertical elements.	The proposal incorporates horizontal and vertical elements however, elements above level 4 are not considered to be well integrated into the remainder of the design due to siting, setbacks and massing which provides a poor interface to the adjoining residential development.	Yes
	(2) Subdivide long facades with columns, windows and other vertical elements to provide a vertical emphasis.	Vertical elements incorporated within the design.	Yes
	(3) Provide substantial cornices, balconies and other horizontal elements to subdivide the facade into a base, middle and top.	Recesses, and balconies provided on each level.	Yes
4.5 private open space and balconies	(1) Every apartment is to have at least one balcony directly accessible from the main living area, of minimum size 10sqm.	Each boarding room provides a balcony with areas between 3.3 sqm – 13.2sqm for additional amenity. A balcony is however not required for boarding rooms as per SEPP (ARH) 2009 which is the higher order instrument, thereby the development is compliant in this regard.	No (14)
	(2) The minimum dimension in any	Dimensions less than 2.5m in dimension. A balcony is	No (15)

	direction is to be 2.5m.	however not required for boarding rooms as per SEPP (ARH) 2009 which is the higher order instrument, thereby the development is compliant in this regard.	
	(3) There is no minimum size for a bedroom balcony (e.g.: Juliet balconies).	Each boarding room balcony functions similar to that of a bedroom balcony with a minimum dimension area ranging from 3.3sqm – 13.3sqm.	Yes
	(4) Design balconies which are recessed into the wall or enclosed with walls, columns or roofs to provide sufficient enclosure and visual firmness.	Balconies are recessed into the elevations and are generally roofed.	Yes
	(5) Design balustrades which allow for views into, and along the street but, avoid all-glass and all-brick balustrades.	Balconies allow for outlook onto the street frontages of which form translucent glazed balconies	Yes
	(7) Include sunscreens, pergolas, shutters, operable walls to control sunlight, wind and harsh environmental effects.	Pergolas are proposed for suite 40 on level 5. Reasonable levels of protection provided for other units.	Yes
4.6 Awnings	(1) Step awnings and other weather protection devices in relation to street level changes and building entrances.	Entries to the residential lobby and commercial tenancy are provided with weather protection.	Yes
	(2) Avoid steeply pitched awnings which break the general alignment of awnings in	Flat awning proposed which aligns with the Kogarah RSL development.	Yes

	the street.		
	(3) Provide architectural detail in the form of: (i) Posts (ii) exposed structures and joints (iii) fascia motifs, patterns	The proposal provides columns along Railway Parade and Blake Street.	Yes
	(4) Provide under-awning lighting to enhance safety.	Lighting can be accommodated below awnings.	Yes
4.7 Roof Designs	(1) Articulate roofs to provide a varied and interesting roofscape.	Flat roofing proposed.	Yes
	(2) Design large projections, shade structures and pavilions to enhance the appearance of flat roofed buildings.	Flat roof proposed.	Yes
	(3) Conceal lift over-runs and plant equipment (incl. satellite dishes) within well designed roof forms.	Lift overrun integrated into the building.	Yes
	(4) Design steep pitched roofs with strong roof forms. Roofs should be integral part of the design of the building.	Flat roofing proposed.	Yes
	(5) Penthouses are encouraged in residential developments, to create interesting skylines using set back upper storeys, special fenestration and roof decks.	No penthouses proposed.	Yes
4.8 Visual and	(1) Buildings are to be	Western elevation windows	No (16)

Acoustic Privacy	sited so that walls containing windows to habitable rooms are a minimum of 6m from a side or rear boundary. This will ensure a minimum distance of 12m is achieved between windows of habitable rooms.	on levels 5 - 7 are located 3m from the site boundary.	
	<p>(2) Separation for balconies and terraces is to be a minimum 8m balcony to another balcony, or 7m balcony to a window of a non-habitable room. (This assumes that only habitable rooms will have balconies).</p> <p>(3) Overlooking should be minimised by:</p> <p>(i) building on the perimeter of the block and building to the side boundaries of sites, with blank walls, to avoid overlooking;</p> <p>(ii) locating habitable rooms within buildings away from privacy sensitive areas.</p>	<p>The proposal seeks a nil boundary setback on level 5 for a portion of suite 40.</p> <p>Landscaping and privacy screens proposed between the subject site and Kogarah RSL site.</p> <p>Habitable rooms are generally offset from privacy sensitive areas.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
	<p>(4) Screen views from windows and balconies by:</p> <p>(i) using screens in front of windows and balconies to cut out</p>	<p>Highlight windows are proposed along western side elevation.</p>	<p>Yes</p>

	<p>direct views;</p> <p>(ii) offsetting windows opposite each other in neighbouring walls;</p> <p>(iii) using horizontal and vertical projecting screens above, below and to the side of windows, to reduce overlooking;</p>	<p>The proposal provides offsets and blank walls to address the adjoining residential units along the western and southern elevations.</p> <p>The proposal does not propose to utilise these measures.</p>	<p>Yes</p> <p>Yes</p>
	<p>(5) Development is to meet or exceed the sound insulation requirements for separating walls and floors of adjoining dwellings of the Building Code of Australia.</p>	<p>Development is to meet BCA requirements. If the application as to be supported this would be a condition of consent.</p>	<p>Yes</p>
	<p>(6) With particular regard to timber flooring in residential developments, appropriate insulation between floors is to achieve minimum sound attenuation of (50Rw).</p>	<p>This would be a matter for consideration at the Construction Certificate stage.</p>	<p>Yes</p>
	<p>(7) Submit an acoustic report demonstrating the method and acoustic rating achieved for the development with the Development Application. Issues to address include, but are not limited to, party</p>	<p>An acoustic report was submitted for consideration with the application. This is supported by Council's Environmental Health Officer and the recommendations of the report would be conditioned to be included in the development if the</p>	<p>Yes</p>

	walls, storeys, different uses and traffic noise.	application was to be supported.	
	(8) Site buildings and design internal layouts of rooms, courtyards, terraces, to minimise acoustic problems. The use of openings, screens and blade walls can reduce acoustic problems.	The proposed siting and layout of the proposal is not considered to be appropriate in relation to the interface with the adjoining Kogarah RSL site, especially on level 5.	No (17)
	(10) Blank walls are not desirable however blank walls may be built on the property boundary in certain circumstances. They should be articulated, patterned or contain appropriate public art.	The proposal in its current form includes a blank wall along the western side boundary for levels 5 - 7. This results in a poor outlook and potential view loss impacts for units on the Kogarah RSL site. Whilst it is acknowledged that the proposal complies with floor space and height and that view loss is considered to be unavoidable. It is noted that increase setbacks and resign of the upper levels may reduce the extent of impact generated.	No (18)
	(11) For development adjacent to the railway line or with frontage to a classified road, the requirements of the ISEPP apply. Developments are to be designed to take into account the requirements of the ISEPP and any other applicable policies or guidelines.	An acoustic report was submitted with the development application. ISEPP requirements have been satisfied and supported by Council's Environmental Health Officer. If the application was to be supported the recommendations of the report would be conditioned.	Yes

4.9 Landscape and Deep Soil Planting	(1) Deep soil landscaping areas are to be provided where possible within the side boundary setback area and to the front and rear setback areas, where more than one building is located on the site, landscaping and deep soil planting should be provided to assist in privacy screening.	No deep soil planting proposed. Landscape planting provided within level 5 for landscape privacy screening.	N/A
	(2) Landscaping should be of native species and should include species that are drought resistant and require minimal watering once established, or plants that match the rainfall and drainage conditions.	The proposal seeks a range of native species of which are supported by Council's consulting arborist subject to some alternative planting species.	Yes
	(3) Limit turf to usable outdoor spaces.	Not proposed.	N/A
4.0 Location of Car Parking Areas	(1) Car parking should be provided below ground.	Car parking located below ground however there are 2 waiting bays on the ground level together with a loading bay.	No (19)
	(3) Like other buildings, above ground car parks should fit within and complement the existing streetscape.	The parking configuration is not considered to appropriately fit within the existing streetscape and results in two blank walls along Blake Street to accommodate the vehicle lift and waiting bays.	No (20)
	(4) Carpark entrances should:		

	<ul style="list-style-type: none"> • be shared with adjoining properties where possible; • incorporate other facade elements such as overhanging balconies or side planter boxes in the composition of the façade; • contain doors with a minimum recess into the wall of 300mm; • contain doors of a minimum width to allow the passage of vehicles. 	The proposal seeks a car parking entrance from Blake street. The car park entrance is 5.8m in width which allows two vehicles to pass simultaneously.	Yes
4.11 Safety and Security	(1) Orient 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 both Railway Parade and Blake Street.	Yes
	(2) Avoid blank walls addressing streets and any other public spaces.	The proposal seeks two (2) blank walls along Blake Street. Behind these walls is the vehicle lift and waiting bay.	No (21)
	(3) Clearly design buildings and spaces, and the entries to buildings, delineate public, semi public and private space through the use of symbolic or actual barriers, such as low fences or landscaping, post boxes, lighting and signage.	The proposal delineates public, semi private and private spaces through the entry forecourt.	Yes

	(4) Avoid building recess, alcoves or dense landscaping in places where concealment is possible.	The proposal results in a recess at the entry forecourt in front of the main lobby which concealment is possible due to the sitting of ground floor car park.	No (22)
	(5) Design and place lighting to ensure visibility of streets, public places and entrances while not intruding on the amenity of residents.	Lighting maybe reasonably incorporated within the design. If the application was supportable this could be achieved by conditions.	Yes
	(6) Where developments have a car park or access laneway to a car park, provide windows, lighting or secondary access doors that address the car park.	No secondary access doors are provided to the car park at ground level.	No (23)
	(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 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.	No solid roller shutters proposed.	Yes
4.13 Housing Choice and Ancillary Requirements	(1) To achieve a mix of living styles, sizes and layouts, all residential development (or residential component	Whilst the proposal comprises of a boarding house and not a residential flat building, the proposal provides a mixture of	Yes

	within a mixed development must provide a mix of one bedroom, two bedroom and three bedroom apartments.	boarding room layouts, orientation and sizes which adds to the variety of housing stock.	
	(3) External clothes drying facilities are encouraged. These should be provided in the form of a screened balcony or terrace area.	No external outdoor clothes drying facilities provided. No screening provided on either balcony or terrace areas	No (24)
	(4) 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 4sqm for each dwelling or unit. The storage space could be incorporated as part of the garage.	No storage provided in accordance with the clause as a boarding room is defined as a “dwelling” within the Standard Instrument.	No (25)
5. Specific Precinct Requirements (5.6 Railway Parade South)			
5.1.7 Performance Criteria and Design Solutions	Land Use (1) Encourage mixed-use developments with active uses at the ground floor (commercial, specialist retail, community facilities), commercial at the first floor and residential above.	The proposal comprises of a commercial tenancy and a boarding house	Yes

	<p>(2) Commercial uses only are permitted on the ground floor of buildings fronting Railway Parade and in the building return to side streets.</p> <p>(2) Residential uses at the ground floor on Railway Parade or in the building return to side streets are not permitted.</p> <p>(4) Residential uses are permitted at the ground floor of side streets in the residue of the study area where there is a minimum 3m setback.</p> <p>(5) Promote the expansion and development of community facilities.</p>	<p>One commercial tenancy proposed along Railway Parade which also presents to Blake Street.</p> <p>No residential uses proposed on ground floor fronting Railway Parade.</p> <p>All boarding rooms are located on the first floor and above with the exception of the residential lobby which is accessed from Blake Street.</p> <p>The proposal does not seek consent for a community facility.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>
Building Heights	<p>(6) Establish a two (2) storey street wall height that relates to the scale of the traditional strip retail buildings in the retail precinct of Railway Parade, with the third and fourth storey set back from the Railway Parade frontage.</p> <p>(7) Provide an appropriate transition to existing lower scale residential development adjacent</p>	<p>The uplift of the KLEP 2012 results in this clause no longer being relevant however; the proposed podium built form aligns with the adjacent Kogarah RSL.</p> <p>Similar to the above, the proposal adopts a lower podium built form which aligns with the Kogarah RSL</p>	<p>No (26)</p> <p>No (27)</p>

	on side streets and to the rear by permitting a maximum building height of three (3) storeys.		
Floor to Ceiling Heights	(9) Allow for a range of uses including retail, commercial and home offices, at ground level.	The proposal seeks commercial/retail use on the ground floor.	Yes
	(10) Increase the sense of space in apartments and provide well proportioned rooms.	The proposed boarding rooms meet the minimum size requirements under SEPP (ARH) 2009.	Yes
	(11) Promote the penetration of day lighting into interior spaces.	Reasonable levels of solar penetration achieved for the development.	Yes
	(12) At ground level, floor to ceiling heights should be not less than 3m and not greater than 4m.	To match Kogarah RSL which exceeds 4m in height. The ground floor is 5.6m	Yes
	(13) At upper levels, floor to ceiling heights should be not less than 2.7m and not greater than 3m to all habitable rooms.	Floor to floor height at 3.1m for levels 1 - 7, therefore a floor to ceiling height of 2.7m could be reasonably achieved taking into account slab thickness and services.	Yes
Building Setbacks	(14) Create a consistent street edge to Railway Parade by aligning all new development to the same front building line, with the exception of heritage items and	Consistent street edge provided on levels 1 - 4 with the exception of levels 5 - 7 which to not appropriately address the corner of Railway Parade and Blake Street.	No (28)

	<p>the significant façade.</p> <p>(15) Provide a 2m front building line setback to visually extend and enhance the public domain and building setting.</p> <p>(16) Provide a 3m setback on side streets to enable landscaping in front gardens consistent with residential character.</p> <p>(17) Provide a minimum 3m setback from rear boundaries to protect the amenity of neighbouring residential uses.</p>	<p>2m front setback provided from Railway parade</p> <p>No residential proposed on ground floor.</p> <p>Nil boundary setback to the southern rear boundary.</p>	<p>Yes</p> <p>Yes</p> <p>No (28)</p>
Densities	<p>(18) Provide appropriate densities for development whose bulk and scale is consistent with the desired future character of the precinct.</p> <p>(20) Facilitate appropriate development through encouraging amalgamation of lots to achieve the floor space ratios.</p> <p>(21) Where sites are not amalgamated as per the preferred amalgamation pattern (refer to Figure 2) the maximum allowable FSR is reduced by 0.5:1.</p>	<p>As previously discussed within this report, levels 5 – 7 are not considered to be contextually appropriate given the siting, setback and massing to the immediate residential interface to the west and south.</p> <p>The site is an isolated site. The amalgamation pattern has not been followed in this location.</p>	<p>No (29)</p> <p>Yes</p>

Façade Composition	(22) Break down the scale of large buildings.	The proposal is not considered to be contextually appropriate for the subject site as discussed earlier within this report.	No (30)
	(23) Reinforce a desired pattern characterised by simple, rectilinear building forms, a consistent street wall height, and a balance of horizontal elements (parapet, central area, below-awning area) and vertical elements (subdivision patterns, building bays).	The proposal above level 4 seeks a recessed built form which does not provide an adequate balance to the streetscape and adjoining built forms due to siting, setbacks and massing proposed to the adjoining RSL site.	No (31)
	(24) Create harmonious, well balanced facades that reflect building uses and activities.	As above.	No (32)
	(25) Retain the pedestrian scale and give continuity to the 'base' of the built form.	As above.	No (33)
	(26) Optimise environmental sustainability and minimise energy consumption through the placement and design of openings and shade systems.	The proposal seeks the utilisation of openings and shading devices.	Yes

	<p>(27) On Railway Parade, the building mass should be broken up both vertically and horizontally, for example with building bays, openings and entries.</p>	<p>The proposal in its current form incorporates reasonable building mass below level 4, levels 5 - 7 are not considered appropriate given the poor relationship to adjoining residential due to siting, setbacks and massing.</p>	No (34)
	<p>(28) Strongly model the facades using recessed balconies, projecting bay windows, deeply recessed windows and projecting panels.</p>	<p>The proposal incorporates balcony recesses.</p>	Yes
	<p>(29) Design building facades to optimise environmental amenity through sun shading devices, privacy screens and noise barriers combined with useable outdoor areas.</p>	<p>The proposal incorporates eaves and recesses.</p>	Yes
	<p>(30) Avoid large expanses of blank walls or glass curtain walls.</p>	<p>Two (2) blank walls proposed along Blake Street</p>	No (35)
	<p>(31) Conceal meter boxes, fire hydrant boosters, sprinkler valves and the like so that they are not visible from the street.</p>	<p>No location for meters or services indicated on the plans.</p>	No (36)
Awnings and Verandahs	<p>(32) Enhance pedestrian amenity by providing shade and weather protection.</p>	<p>The proposal provides a wrap around awning from Railway Parade to halfway along the Blake Street</p>	Yes (37)

	(33) Contribute to a sense of safety and security in the public domain	frontage. The proposal provides an outlook to the public domain.	Yes
	(34) Provide awnings along Railway Parade, projecting beyond the front setback over the public footpath where possible.	Continuous awning provided to Railway Parade and returns along Blake Street.	Yes
	(35) Step awnings and other weather protection devices in relation to street level changes and building entrances, and to achieve an appropriate transition to the awnings of any heritage facades.	Proposed awning provides continuation of the awning from the Kogarah RSL site.	Yes
	(36) Design awnings in the range of 3.6 - 4m and no higher or lower by 600mm than adjoining awnings.	The awning has been designed to align with that of the Kogarah RSL which exceeds 4m in height.	No (38)
	(37) Provide awnings flat or near-flat in shape, with traditional fascia and profile.	Awning design is flat.	Yes
	(38) Provide under awning lighting to enhance safety.	Under awning lighting can be provided. If the proposal was to be supported a condition could be imposed.	Yes
Built Form	(39) Break down the bulk and scale of buildings fronting	The proposal incorporates a lower podium element with levels 5 - 7 above. The	No (39)

	<p>Railway Parade South by introducing breaks in the building massing.</p> <p>(40) Optimise residential amenity for new development and existing neighbours through building orientation, setbacks and apartment design.</p> <p>(42) Design building depths to optimise natural ventilation and daylight, solar penetration, and visual and acoustic amenity, and to enable buildings to be adapted to different uses over time.</p>	<p>upper levels are not considered to provide an appropriate interface to the adjoining residential to the west and south</p> <p>The proposed levels 5 - 7 result in a diminished outlook and view loss to residential units adjoining to the west due to the orientation of the site. It is noted that a more skilful design could potentially reduce such impacts.</p> <p>The proposal provides acceptable levels of amenity to future residential occupants of the building.</p>	<p>No (40)</p> <p>Yes</p>
Commercial and Retail Frontages	<p>(51) Enable active street frontages.</p> <p>(52) Ensure buildings are of high visual quality, by providing shopfronts and openings that relate in scale and proportion to the overall building massing and height.</p> <p>(55) Design building fronts and entries to be</p>	<p>The proposal provides an active street frontage to Railway Parade and along Blake Street where the commercial component and the residential entry to the development.</p> <p>The proposal provides a shopfront which is considered to be reasonable.</p> <p>Shop front entry is accessed from Railway</p>	<p>No (41)</p> <p>Yes</p> <p>Yes</p>

Roofs	readily apparent from the street and to convey a sense of address.	Parade and Blake Street.	
	(56) Recess entries to commercial uses a minimum 450mm from the main façade of the building.	The commercial tenancy is recessed into the façade with a pedestrian pathway in front.	Yes
	(57) Roller shutters are not permitted on the exterior of the building.	No roller shutters proposed.	Yes
	(58) Security screens, grilles and bars are to provide a minimum 60% transparency.	No security devices proposed.	Yes
	(59) Shop fronts must be provided with windows that have a sill a minimum of 600mm above finished ground level.	The proposal provides windows in accordance with this clause.	Yes
	(60) Ensure that new development contributes positively to the streetscape.	The proposal seeks a flat roof which is not considered to positively contribute to the streetscape.	No (43)
	(62) Ensure that roof fixtures for new development do not detract from appreciation of significant features of existing heritage buildings.	No details of exhaust or plant machinery have been indicated on the plans however the site is not within the visual catchment of any heritage buildings.	Yes
	(63) Design upper level residential storeys to create interesting roof lines and interesting silhouettes.	The upper levels being levels 5 - 7 are not appropriately well designed resulting in an incompatible built form particularly to the	No (44)

	<p>Penthouses are encouraged, using set back upper levels with special fenestration, balconies and pergolas and roof terraces.</p> <p>(64) Roof fixtures are not permitted where they are visible from the street. Fixtures include aerials, vents, chimneys, solar collectors and mobile phone transmitters.</p> <p>(65) Conceal lift over-runs and plant equipment, including satellite dishes, within well designed roof forms.</p> <p>(67) No development will be permitted within the roof void.</p>	<p>adjoining residential to the west and south.</p> <p>No details provided.</p> <p>No details of plant machinery shown on plans. The lift overrun is shown.</p> <p>No roof void proposed.</p>	<p>No (45)</p> <p>Yes</p> <p>Yes</p>
Parking	<p>(68) Encourage the use of public transport, to reduce reliance on private cars for transportation.</p> <p>(69) Provide adequate facilities for parking for building users and residents.</p> <p>(70) Minimise the environmental and visual impacts of parking and driveways by integrating them with the building design.</p>	<p>The proposal is deficient one (1) car space to service the boarding rooms</p> <p>Car parking provided on site is not in accordance with the applicable controls.</p> <p>The carpark is not considered to be reasonably integrated into the remainder of the proposal as the proposal seeks two (2) blank walls on ground level on either side of the garage door.</p>	<p>No (46)</p> <p>No (47)</p> <p>No (48)</p>

	(71) Minimise the potential for vehicle/pedestrian conflict.	The proposal has not provided adequate sight lines at the garage door interface and the Road Reserve.	Yes
	(72) Provide bicycle access and bicycle parking facilities which are consistent with the requirements of Part 3.9.2.	The proposal has provided bicycle car parking in accordance with SEPP (ARH) 2009. 10 spaces in basement 4.	Yes
	(73) Where possible, parking is to be located below ground.	All car parking spaces are located below ground with the exception of vehicular access lift, loading bay and two waiting bays.	Yes
	(74) Car parking may project above ground level where car park ventilation and ground floor privacy are adequate and must be screened with landscaping	The proposal seeks waiting bays and a loading bay on the ground level which is on the Blake Street alignment with a mesh style roller door to provide ventilation.	Yes
	(75) Car parking may not project above ground on Railway Parade.	No car parking above ground level fronting Railway Parade.	Yes
	(76) Parking is to be provided in accordance with the requirements the DCP	Car parking has not been provided in accordance with sight lines, aisle width and loading bay size under the Australian Standards.	No (49)
Vehicular Access and Driveways	(77) Driveways from Railway Parade are discouraged. Access to car parking is to be from secondary streets or right of ways/access ways.	Two-way driveway access proposed from Blake Street.	Yes

	<p>(78) Where vehicular access is proposed from Railway Parade, this must be a temporary vehicular access.</p> <p>(79) Crossings are to be positioned so that on-street parking and landscaping on the site are maximised and removal or damage to existing street trees is avoided.</p> <p>(80) Front entrances and front porches to residential buildings should take advantage of the 1m change of level, with well-designed front steps, handrails, balustrades and ramps.</p>	<p>Not proposed to Railway Parade.</p> <p>The proposed vehicular crossing does not result in the removal of any street trees as none exist within the Council reserves.</p> <p>The proposal incorporates a ramped entry into the residential lobby which is accessed from Blake Street.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
Traffic Movement	<p>(83) Provide vehicular access to parking and service areas from side streets or rear lanes where possible. Where rear laneway access cannot be achieved in the short term, temporary vehicular access may be provided from Railway Parade but should be consolidated and minimised.</p> <p>(84) Provide easements for 'rights of access' to sites that could be isolated. These easements are to take the form of</p>	<p>The proposal provides vehicular access from Blake Street which forms a secondary frontage to the site.</p> <p>The applicant has sought a right of carriageway from the Kogarah RSL however it was not granted.</p>	<p>Yes</p> <p>Yes</p>

	<p>laneways of minimum width 6m to accommodate vehicle passing.</p> <p>(85) Provide an appropriate level of parking facilities, both public and private, within new developments.</p>	<p>The proposal is deficient one (1) car space on and has not provided adequate vehicular and pedestrian safety.</p>	No (51)
Private Open Space and Balconies	<p>(88) Provide a high standard of outdoor living to residential apartments.</p>	<p>The proposal provides a separate balcony for each boarding room and terrace for the manager's suite.</p>	Yes
	<p>(89) Design building facades and apartment layout so that balconies are functional and responsive to environmental conditions.</p>	<p>The balconies are generally orientated towards the north and west.</p>	Yes
	<p>(90) Integrate balconies into the overall building form and to enhance the articulation of facades.</p>	<p>Balconies are recessed into the building façade.</p>	Yes
	<p>(91) Balconies on the floor above ground level should appear as recessed spaces behind 'holes' in the façade, with solid balustrades provided, to strengthen the consistent two (2) storey street edge.</p>	<p>Balconies are proposed to be recessed into the elevations or the proposal. It is noted that a two (2) storey street edge is not considered to be consistent with the uplift of the KLEP 2012 whereby the proposal complies with the Georges River Interim Policy DCP 2020</p>	Yes
	<p>(92) Balustrades above the 1st floor (Level 3 and above) can be a</p>	<p>Balconies above the ground floor comprise of translucent glass.</p>	Yes

	<p>combination of solid and transparent materials.</p> <p>(93) Create an active interface between the public and private domain, to encourage casual overlooking and surveillance of the street.</p> <p>(94) Provide opportunities for external clothes drying facilities.</p> <p>(95) Design balconies fronting Railway Parade which are recessed into the façade or enclosed with walls, columns or roofs, to provide sufficient enclosure to protect the amenity of their users.</p> <p>(96) Rooftop terraces are permitted where they are the primary open space areas associated with a rooftop development (for example a penthouse apartment). Where proposed, they must have direct access to a living area and be level with that living area.</p>	<p>The proposal has an outlook to Railway Parade and Blake Street and the adjoining podium level communal open space of 254 Railway Parade.</p> <p>The proposal has provided balconies for each boarding room which could potentially be used for drying of clothes but not details have been shown in relation to drying facilities.</p> <p>Balconies fronting Railway Parade are recessed into the main façade and are roofed.</p> <p>The proposal seeks a communal open terrace fronting Railway Parade being the northern elevation with the manager's terrace orientated to the south and part eastern aspect. Direct access is provided for each.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
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Public Domain, Landscaping and Communal Open Space	(97) Integrate new development with the surrounding environment by extending paving treatments into the required 2m front setback.	The proposal incorporates a front setback of 2m to Railway Parade.	Yes
	(98) Select tree and plant species appropriate to soil and microclimate, in particular local indigenous or Australian native plant species.	Council's Consulting arborist supports the proposal subject to four (4) street tree plantings.	Yes
	(99) Where appropriate, incorporate deep soil areas within the development to accommodate large trees and provide for stormwater infiltration.	Given that the site is zoned B4 Mixed Use, no deep soil planting has been proposed.	N/A
	(100) Design podium areas to sustain planting for communal open spaces.	Level 5 contains landscaping of the communal open space area. This is supported by Council's consulting arborist subject to appropriate alternative landscape planting.	Yes
Services Infrastructure and Stormwater Management	(101) Reduce visual intrusion and enhance amenity by integrating undergrounding of services and infrastructure in new development.	Services are to be located below ground. It is noted that the proposal has not indicated the provision of a substation or firefighting equipment.	Yes

	(102) Provide adequate drainage, services and facilities to new development.	Inadequate drainage details provided and services to accommodate the proposal in its current form.	No (51)
Block 4 – Block bounded by Blake Street, Railway Parade and English Street, including the Kogarah RSL Site	Controls for this precinct have been deferred from Consideration.	The proposal is not considered to appropriately respond to the site and immediate context as addressed within this report.	A merit based assessment has been undertaken as detailed within this report.

Georges River Interim Policy Development Control Plan 2020

Council has implemented the Georges River Interim Policy DCP. The aim of the Interim Policy is to address current inconsistencies in development controls. The Interim Policy will give certainty to the community that Development Applications are being assessed on a more consistent basis. 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.

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

Comment: there are no planning agreements that pertain to this site.

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

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

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

Natural Environment

The application has proposed in sufficient and inadequate information in relation to stormwater disposal. Therefore proposal does not result in appropriate stormwater

management and disposal which results in adverse impacts to Council's infrastructure and Georges River Catchment.

Built Environment

The proposed development is of a design which is not contextually appropriate for the site and is not harmonious with the immediate context. The proposal in its current form results in adverse privacy, amenity, solar access, view loss impacts to adjoining properties to the west and south. The proposal in its current form is considered not to satisfy the Local Character Test within SEPP (ARH) 2009 for the reasons contained within this report.

Social Impact

The proposed design results in adverse social impacts in relation to traffic, pedestrian and safety issues in relation to the car parking layout which diminishes the amenity for future occupants.

Economic Impact

The proposed development will have no adverse economic impacts given the residential and commercial nature of the use.

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

Comment: The proposal is not considered suitable for the subject site as it results in poor functionality for future occupants and unacceptable adverse amenity impacts to adjoining residential properties.

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

Comment: The application was notified and renotified to owners and occupiers in the immediate locality in accordance with the provisions of the Kogarah Development Control Plan. In response, sixty (60) submissions and one submission containing one hundred and fifty-three (153) signatures were received.

(e) the public interest.

Comment: The development will adversely affect the amenity of immediately adjoining properties and will negatively affect the character of the locality.

Having regard to its size, shape, topography, vegetation and relationship to adjoining developments, the proposal is not considered to result in an appropriate built form.

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

The proposed development has been considered under the relevant matters for consideration for development under the Regulations.

Development Contributions

As the proposal is not supported and is recommended for refusal, development contributions have not been calculated. If the proposal was to be supported contributions would be levied.

SUBMISSIONS AND THE PUBLIC INTEREST

The application was notified and renotified and advertised (between 10 – 26 July 2019 and 4 – 20 September 2019) to owners and occupiers in the immediate locality in accordance with the provisions of the Kogarah Development Control Plan. Submissions received after notification prior to finalisation of this report were also considered. In response, sixty (60) submissions and one submission which included one hundred and fifty-three (153) signatures were received which raised the following concerns:

Issue: No phase 2 detailed site investigation provided for consideration.

Comment: No Phase 2 detailed site investigation has been submitted for consideration. This is required for consideration prior to determination. In this regard, the proposal has not satisfied State Environmental Planning Policy No. 55 – Remediation of Land.

Issue: Traffic, vehicular and pedestrian safety and impact on local road network

Comment: Concerns were raised in relation to impacts of the proposed development in relation to local traffic and vehicular safety. It is noted that Council's Traffic Engineer has reviewed the proposal and has raised deficiencies in relation to queuing storage and swept paths given the proposal relies upon a vehicle lift to access basement levels 1 - 4.

The proposal has not provided clear sight lines to and from the ground floor car park to Blake Street. This results in adverse impacts to vehicular and pedestrian movements. It is also noted that the creation of sightlines would result in a significant reconfiguration within car parking and access due to the narrow allotment width and aisle widths required for suitable access.

Issue: Built form should be limited to the height to match Kogarah RSL site podium.

Comment: Concerns were raised that the proposal should align with the Kogarah RSL site and should not exceed the height given the indicative scheme considered as part of DA2015/97 site address. As the subject site is isolated, it is acknowledged the full development potential afforded to the site may not be able to be achieved. However it is noted that the development has a height and FSR consistent with the RSL site. It is considered the development form proposed as part of this application results in a development outcome that adversely and materially impacts adjoining allotments.

Issue: View loss to City skyline and water views of Botany Bay.

Comment: Concerns were raised regarding view loss. A view loss assessment has been undertaken within the Local Character section of this report.

The proposal complies with the maximum height of building and floor space being 39m and 4.8:1 under State Environmental Planning Policy (Affordable Rental Housing) 2009. A compliant KLEP 4:1 floor space would likely result in a reduction of volume.

It is noted however that the siting of the proposal in particular levels 5 and above result in poor amenity between properties and provide no view corridors to Botany Bay and the City. Whilst it is acknowledged that retention of existing views maybe difficult to retain due to the sites orientation.

The proposal in its current form is considered to adequately satisfy the character test however the design of the proposal in its current form results in an adverse view loss impact to these adjoining properties which could be potentially reduced by a more skilful design as such, an resolved design may allow for partial views to be retained.

Issue: Proposal does not meet character test in relation to built form and surrounding context, site should be redeveloped for an alternative use such as a residential flat building or other use.

Comment: As previously discussed within this report, the proposal is not supported as it is considered that the proposal in its current form does not satisfy the Local Character Test.

Issue: Inaccurate and outdated survey

Comment: The submitted survey does not make reference to the current existing built form of the adjoining Kogarah RSL site. Therefore it is considered that insufficient and inadequate information has been provided to allow Council to undertake an accurate assessment in regards to solar access impacts and siting of adjoining built forms. It is acknowledged if this was the only concern with the application the application would have been requested this information to assist in the assessment. This will be a requirement with any future application.

Issue: Previous site isolation of subject site, offers previously made to acquire subject site but rejected by owner.

Comment: Noted, this cannot be revisited at this time.

Issue: Non-compliance with Council's controls, excessive amenity provided.

Comment: Concerns were raised that the proposal results in non-compliances with Council's controls. As discussed within this assessment report, the proposal results in various non-compliances to the applicable controls in relation to car parking, built form and amenity. Concerns were raised with excessive amenity being provided on site such

as the size of communal open space, manager's terrace, balconies and occupant amenity above SEPP (ARH) 2009. A merit based assessment has been undertaken on areas of non-compliance of which concludes that the proposal overall is unsatisfactory.

Issue: Increase in side setback in particular the western side boundary.

Comment: Concerns were raised that levels 5 - 7 should increase the side western boundary on these levels. The nil and proposed side setbacks result in adverse outlook, solar access and privacy issues.

Issue: Non-compliance with Apartment Design Guide (ADG) State Environmental Planning Policy No 65. Design Quality of Residential Apartment Development

Comment: The (ADG) and SEPP 65 do not apply to this site as boarding houses are exempt from these controls.

Issue: Impact of solar access impacting neighbouring units, courtyards and balconies, diminished daylight, poor outlook.

Comment: The proposed upper levels being 5 - 7 result in adverse solar access impacts to the adjoining units and ground floor podium communal open space, this also results in poor outlook of that of a blank three (3) storey wall at points.

Issue: Impact of excavation and construction, fire safety in relation to adversely impacting adjoining property.

Comment: These matters would be controlled a part of the construction and completion phase of the development.

Issue: Increase in boarding houses within area, given recent approvals in Kogarah. Development is not part of the desired 'family character' of the area. Proposal will result in slums of the future.

Comment: A boarding house is a permissible land use within the B4 Mixed Use Zone with development consent.

Issue: Concerns were raised regarding poor quality construction

Comment: Standard conditions of consent would apply to development in relation to compliance with the Australian Standards and National Construction Code.

Issue: Concerns were raised in relation to noise, traffic impacts from construction

Comment: Standard conditions of consent would apply to hours of construction and traffic management plans would generally apply to development of this nature if approved.

Issue: Amenity impacts from noise and smoking of boarders

Comment: Concerns were raised in relation to amenity impacts generated by potential residents. The proposal has been accompanied by a plan of management which takes into considerations relating to noise and behaviour which would usually form a condition of on-going consent. However, the application is not supported for other reasons contained within this report.

Issue: Noise impacts from plant machinery

Comment: Concerns were raised from plant machinery. Whilst no specific details of plant machinery have been provided, standard conditions of consent would apply to such development to minimise adverse impacts to adjoining properties. However, the application is not supported for other reasons contained within this report.

Issue: Increase in crime, impact and increase in anti-social behaviour

Comment: A boarding house is a permissible land use within the B4 Mixed Use zone. A plan of management would monitor and manage anti-social behaviour; however the application is not supported for other reasons contained within this report. Whilst the application is for affordable rental housing in the form of a boarding house, no material evidence has been provided to support that such an increase in anti-social behaviour will arise from this development.

Issue: Devaluation of property value, proposal forms a boarding house which does not match high-end development of Kogarah RSL site, lack of rental demand.

Comment: Property values are not a 'Matter for Consideration' under the Environmental Planning and Assessment Act 1979.

Issue: Existing car parking within area is poor, limited infrastructure existing.

Comment: Concerns were raised with the existing car parking situation being limited and that there was insufficient infrastructure to cope with the increased population demand. The development is assessed to ensure that the development is designed to include the required carparking. The application if approved would be referred to the servicing authorities prior to the commencement of work to ensure that the services can be extended to service the development.

Issue: Lack of general information, inaccurate shadow diagrams, insufficient information regarding details regarding green wall on level 5.

Comment: The proposal has provided insufficient, inconsistent and inadequate information as addressed within this report. In regard to the green wall, Council's Consulting arborist has reviewed the landscaping elements of the proposal and has raised no objection.

Issue: Proposal will result in non-payment of Section 7.11 Contributions, savings on GST and Land Tax.

Comment: The proposal is subject to Section 7.11 Contributions as per Council's adopted Contributions Plan if the development was to be supported.

Issue: Concerns were raised that the within the applicant's Statement of Environmental Effects that the proposal was targeting key workers/low income earners, front line worker, students, older persons and students and was not targeted for transitional housing were false and would attract an undesirable demographic.

Comment: The proposal is for affordable rental housing, persons who meet the criteria for this housing type could be eligible for this housing. It is noted that acceptance of lodgers is up to the discretion of management of the premise. The lodgers sign a lease arrangement not dissimilar to any rental property.

REFERRALS

Council Internal Referrals

Development Engineer

Council's Development Engineer reviewed the application and has commented that there is inadequate and insufficient information in relation to details of inlet and outlet pipes, levels, cross sections through the OSD design and the absence of a web calculator for Council to undertake an assessment of potential impacts.

Traffic Engineer

Council's Traffic Engineer has reviewed the application and has provided the following comments on the deficiencies of the proposal:

- Insufficient vehicle onsite parking for queuing in support of car lift which results in adverse queuing on Blake Street,
- Inadequate vehicular manoeuvrability,
- Inadequate swept path diagrams provided.

Coordinator of Environment Sustainability and Waste

Council's Coordinator of Environment Sustainability and Waste raised no concerns with the proposal.

Senior Building Officer (Major Projects)

Council's Senior Building Officer has reviewed the proposal and has raised the concern that inadequate fire egress has been provided in relation to the ground floor car park due to insufficient travel distance

Planner's comment: The proposal has also provided inconsistent information whereby the fire access stairs on the ground floor do not connect to the first floor above. This has implications to the floor layout, location of the bathroom within the ground floor retail tenancy and services.

Strategic Planner Urban Designer

Council's Strategic Planner has reviewed the proposal in its current form and has raised concerns regarding the proposed built form, outlook and overshadowing impacts generated by the proposal.

Planner's comment: It is acknowledged that the site is below the maximum height and floor space permitted under SEPP (ARH) 2009 however the proposal in its current form is not considered to propose an appropriate design solution to minimising impacts to adjoining western and southern residential properties.

Environmental Health Officer

Council's Environmental Health Officer has commented that in the event that contamination is identified that a Remediation Action Plan is to be prepared. An acoustic report was submitted with the application which was considered to be satisfactory.

Planner's comment: A detailed Site Investigation must be provided for consideration prior to determination to satisfy the requirements of SEPP No. 55 Remediation of Land.

Consulting Arborist

Council's consulting arborist has reviewed the proposal which is supported subject to conditions of consent if the application as to be supported.

External Referrals

Ausgrid

The application was referred to Ausgrid on 20 June 2019 in accordance with the provisions of Clause 45 of the Infrastructure SEPP. In response, no comments were received upon finalisation of this assessment report.

Sydney Trains

The application was referred to Sydney Trains on 20 June 2019. In response, no comments were received upon finalisation of this assessment report.

Department of Infrastructure Regional Development and Cities

The application was referred to Department of Infrastructure Regional Development and Cities on 20 June 2019. In response, comments were received which raised no concerns subject to consultation with Sydney Airport who were also notified of the proposal.

Sydney Airport

The application was referred to Sydney Airport on 3 September 2019. In response, no comments were received upon finalisation of this assessment report.

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 Plan and Development Control Plans.

The application seeks demolition, remediation of the site, construction of an eight (8) storey mixed use building comprising of one (1) commercial tenancy at ground level, seven (7) levels consisting of forty-nine (49) boarding rooms, one (1) manager's accommodation and four (4) levels of basement parking with vehicle lift on land known as 248 Railway Parade, Kogarah.

The proposed development application was lodged on the 14 June 2019 with a Capital Investment Value (CIV) of \$7,653,514 which classifies the development as regionally significant. Therefore, the Sydney South Regional Planning Panel (SSPP) is the consent authority.

The proposal in its current form results in a poor design outcome which is not considered to be an appropriate response to the site and immediate surrounds. Given the above, the proposal requires a significant redesign to improve amenity and functionality. These matters would result in the need for the submission of a new development application.

The development has been assessed against the requirements of the relevant planning instruments and development control plans and is inconsistent with those requirements. Following a detailed assessment it is considered that Development Application No DA2019/0232 be refused for the reasons referenced below.

DETERMINATION AND STATEMENT OF REASONS

- The reasons for this recommendation are:
- The proposal does not satisfy Clause 29 (2)(ii)(e) of State Environmental Planning Policy (Affordable Rental Housing) 2009. The proposal result in insufficient car parking on site which results in diminished amenity for future occupants and a greater demand on street car parking.
- The application has not provided a stage 2 detailed site investigation to satisfy the requirements under State Environmental Planning Policy No. 55 – Remediation of Land.
- The application has provided inadequate, inaccurate and inconsistent information.

- The proposed development has provided inadequate parking manoeuvrability, onsite vehicle parking for queuing and inadequate sight lines which affect pedestrian and vehicular safety when entering and exiting the carpark.
- The proposal has not provided appropriate stormwater disposal.

Determination

THAT pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act, 1979, as amended, the South Sydney Planning Panel, refuse development consent to Development Application DA2019/0232 demolition of existing structures, remediation of site, construction of an eight (8) storey mixed use building comprising of one (1) commercial tenancy at ground level, seven (7) levels of boarding rooms totalling forty-nine (49) double rooms and one (1) manager's room over four (4) levels of basement parking accessed via a vehicle lift from Blake Street on Lot 48 in DP2013 and known as 248 Railway Parade, Kogarah for the following reasons;

1. The proposal is unsatisfactory having regard to Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 as the proposal does not satisfy Clause 29 (2)(ii)(e) of State Environmental Planning Policy (Affordable Rental Housing) 2009 in that the development does not provided sufficient car parking to accommodate the number of boarding rooms.
2. The proposal is unsatisfactory having regard to Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 as the proposal has not provided a Stage 2 Intrusive Investigation and therefore does not satisfy State Environmental Planning Policy No. 55 Remediation of Land.
3. The proposal is unsatisfactory having regard to Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 as the proposal does not provide adequate stormwater disposal therefore not satisfying Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment.
4. The proposal does not satisfy the following zone objectives as per Clause 2.3 – Zone Objectives and Land Use Table (B4 Mixed Use) of Kogarah Local Environmental Plan 2012:
 - *To provide a mixture of compatible land uses.*
 - *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
 - *To encourage development that contributes to economic growth and employment opportunities.*
 - *To encourage development that contributes to an active, vibrant and sustainable town centre.*
 - *To provide opportunities for residential development, where appropriate.*

Whereby the proposed built form results in adverse visual massing which is not considered to be contextually appropriate given established built form in the immediate vicinity. The design results in poor amenity, outlook, privacy and solar access impacts upon adjoining residential properties to the west and south.

5. The proposal is unsatisfactory having regard to Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 in regards to Draft State Environmental Planning Policy – Environment.
6. The proposal is unsatisfactory having regard to Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 in regards to Draft State Environmental Planning Policy – Remediation of Land.
7. The proposal is unsatisfactory having regard to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposal fails to comply with the Kogarah Development Control Plan 2013 in respect to amenity and built form controls.
8. The proposal is unsatisfactory having regard to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 as the development will cause adverse impacts upon the natural environment with respect to the impact regarding the disposal of stormwater.
9. The proposal is unsatisfactory having regard to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 as the development will cause adverse impacts upon the built environment with respect to the impact upon the streetscape, view loss and amenity to adjoining properties.
10. The proposed development is unsatisfactory having regard to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 in that the site is not suitable for the development in its present form.
11. Approval of the development would not be in the public interest and contrary to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.
12. The proposal has provided inadequate and inconsistent information.