

**ELECTRONIC REPORT TO THE GEORGES RIVER LOCAL PLANNING PANEL FOLLOWING DEFERRAL FROM MEETING OF PANEL ON 1 SEPTEMBER 2021**

<b>LPP Report No</b>		<b>Development Application No</b>	<b>DA2021/0294</b>
<b>Site Address &amp; Ward Locality</b>	87 Woniora Road, Hurstville Hurstville Ward		
<b>Proposed Development</b>	Demolition works and construction of a boarding house		
<b>Owners</b>	Astron Properties Pty Ltd		
<b>Applicant</b>	Astron Properties Pty Ltd		
<b>Planner/Architect</b>	Cracknell & Lonergan		
<b>Date Of Lodgement</b>	10/08/2021		
<b>Submissions</b>	Two submissions on amended plans		
<b>Cost of Works</b>	\$9,130,000.00		
<b>Local Planning Panel Criteria</b>	The application is for the construction of a boarding house		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Affordable Rental Housing) 2009, State Environmental Planning Policy (Transport and Infrastructure) 2021, Kogarah Local Environmental Plan 2012, Kogarah Development Control Plan 2013, Georges River Local Environmental Plan 2021.		
<b>List all documents submitted with this report for the Panel's consideration</b>	Amended architectural plans, Applicant's covering letter, Submission, LPP report from the meeting of 1/9/22, LPP Minutes of the meeting of 1/9/22.		
<b>Report prepared by</b>	Principal Planner		
<b>Recommendation</b>	That the application be refused for the reasons in this report.		
<b>Summary of matters for consideration under Section 4.15</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>		
<b>Legislative clauses requiring consent authority satisfaction</b> 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?	<b>Yes</b>		
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>Yes - Clause 4.3 Height of buildings</b>		

<p><b>Special Infrastructure Contributions</b></p> <p>Does the DA require Special Infrastructure Contributions conditions (under s7.24)?</p>	<p><b>Not Applicable</b></p>
<p><b>Conditions</b></p> <p>Have draft conditions been provided to the applicant for comment?</p>	<p><b>No, the application is recommended for refusal</b></p>

**Site Plan**



**Executive Summary**

1. This report has been prepared following the deferral of the subject application (DA2021/0294) by the Local Planning Panel (the Panel) at its meeting on 1 September 2022.
2. The Development Application the subject of the deferral proposes demolition works and construction of a boarding house on land known as 87 Woniora Road, Hurstville.
3. The application was considered by the Panel on 1 September 2022. The Panel resolved to defer consideration of the application to allow the applicant to submit amended plans as follows:
  1. *Increase the south-eastern side boundary setback by an additional 1.5m to achieve a minimum setback of 4.5m. The internal layout to be amended accordingly.*

2. *Increase the deep soil planting on the south-eastern side boundary setback. The applicant to consider handing the vehicular driveway from the south-east boundary to the north-western boundary to assist in the provision of increased deep soil landscaping on the south-east boundary and the private open space of the caretaker's unit.*
  3. *The introduction of privacy screens/mechanisms to the balconies on both the south-eastern and north-western elevations.*
4. On 28 September 2022 the applicant submitted amended architectural plans and a covering letter in response to the Panel minutes. The amendments to the plans include:

<b>Level</b>	<b>Amendments (as described by the applicant)</b>
Basement	<ul style="list-style-type: none"> <li>• Revised parking layout along south-east portion of site to align with adjusted upstairs layout.</li> <li>• Reorganization of bicycle and motorcycle parking to suit.</li> <li>• Relocation of plant / mechanical services room to north-west corner of basement to suit.</li> </ul>
Ground	<ul style="list-style-type: none"> <li>• Reconfigured entry way by deletion of Caretaker Unit on ground floor (moved to first floor) to improve privacy of caretaker unit.</li> <li>• Reconfigure lobby common lobby area to provide for passive surveillance of street and improved relationship for access and egress from building, including enlarged outdoor covered area, reorganized fire stair exit and additional entry bicycle parking.</li> <li>• New supporting columns to south-east boundary with openings (unenclosed) to support first floor planter box. (Previously a retaining wall).</li> </ul>
First Floor	<ul style="list-style-type: none"> <li>• North-West Elevation               <ol style="list-style-type: none"> <li>i. Provide planter boxes running along Rooms 111 / 112 / 113 / 114 / 115 to provide improved privacy screening from neighbouring school.</li> <li>ii. Provide privacy screening at balcony edge (retractable venetian screens) to improve privacy to adjoining school.</li> </ol> </li> <li>• South-West (Rear) Elevation               <ol style="list-style-type: none"> <li>i. Adjusted balcony location and deep soil planter areas in line with adjusted form of building arising from increased side boundary setbacks.</li> <li>ii. No Change to the extent of setback from rear building line (Approx. 6 metres).</li> </ol> </li> <li>• South-East Elevation               <ol style="list-style-type: none"> <li>i. Increase setback to a minimum of 4.5 metres as recommended.</li> </ol> </li> </ul>

<b>Level</b>	<b>Amendments (as described by the applicant)</b>
	<ul style="list-style-type: none"> <li>ii. Deletion of balconies to Units 104 / 105 / 106 / 107 to improve setback and privacy to neighbouring church.</li> <li>iii. Alternative window articulation to reduce window openings in a 'staggered' style such that openings do not align with existing openings of the church, to improve privacy and reduce opportunities for overlooking.</li> <li>iv. Introduce a large planterbox (covering the driveway on the ground floor) to improve planting on site and to reduce overlooking to neighbouring church.</li> <li>• North-East (Front) Elevation <ul style="list-style-type: none"> <li>i. Minor adjustment to room layouts and balcony depth to accommodate increased room sizes (in lieu of reduced room sizes for south-east units).</li> </ul> </li> <li>• Reassignment of Unit 110 as the Caretaker Unit. (Reduce overall proposed number of rooms by 1).</li> </ul>
Second Floor	<ul style="list-style-type: none"> <li>• Amendments are generally identical to amendments made on Level 1, with the exception being to Unit 208 and 210, which have deleted balconies in favour of slight increase in unit size to accommodate two person rooms (in lieu of reduced room sizes on the south-east elevation).</li> </ul>
Third Floor	<ul style="list-style-type: none"> <li>• Amendments generally identical to amendments on Level 1 and 2, but Unit 308 and 310 are to be provided with balconies to maintain articulation of rooms and depth on the rear elevation.</li> </ul>
Fourth Floor	<ul style="list-style-type: none"> <li>• Adjusted south-east elevation to provide a planter box for full length of corridor, providing appropriate privacy screening and improved setback up to 6.0 metres along corridor from the boundary.</li> <li>• Adjusted common room articulation in line with setbacks and associated design changes from other floors.</li> </ul>
Side Elevations	<ul style="list-style-type: none"> <li>• North-West (Parallel to School) Elevation <ul style="list-style-type: none"> <li>i. Introduce privacy screening in the form of horizontally expressed retractable venetian blinds along all room openings as noted to improve privacy between proposal and school.</li> <li>ii. Introduced planter box on first floor units to provide appropriate degree of privacy and visual separation from school</li> </ul> </li> <li>• South-East (Parallel to Church) Elevation <ul style="list-style-type: none"> <li>i. Dotted outline of neighbouring church and window openings are shown as a dot-dash outline.</li> </ul> </li> </ul>

Level	Amendments (as described by the applicant)
	<ul style="list-style-type: none"> <li data-bbox="549 197 1460 338">ii. Deletion of balconies and a new 'staggered' window opening articulation is provided, with windows deliberately stacked to avoid existing neighbouring window opening locations, reducing issues around privacy and overlooking.</li> <li data-bbox="549 376 1460 450">iii. Introduce a planter box on Level 4, along elevation to reduce privacy and overlooking.</li> </ul>
Areas/Rooms	<ul style="list-style-type: none"> <li data-bbox="512 495 1460 600">• The mix of rooms are altered as a result of the design changes implemented in relation to the Local Planning Panel's recommendations.</li> <li data-bbox="512 638 1460 824">• The number of two-person rooms is reduced, and the number of single-person rooms are increased. There are now 23 two-person rooms and 30 single-person rooms, inclusive of the caretaker residence. There are therefore a total of 53 rooms proposed in the development (previously 54 rooms).</li> <li data-bbox="512 862 1460 967">• The FSR of the proposed development is adjusted down slightly to 1.56:1 (previously 1.6:1) as a result of the increased side setbacks.</li> </ul>
Materiality	<ul style="list-style-type: none"> <li data-bbox="512 1014 1460 1088">• Two materiality changes are made in line with the design changes implemented.</li> <li data-bbox="512 1126 1460 1312">• Firstly, a vertically expressed cement panel system is proposed for the building as the primary façade finish, to provide opportunities for the 'staggered' window arrangement proposed on the south-east elevation. This replaces wall areas previously proposed to be simply rendered and painted.</li> <li data-bbox="512 1350 1460 1491">• A second new material being the external venetians (metal) are proposed for the north-west elevation to provide for necessary operability (maintaining solar access) whilst also providing improved privacy separation to the adjoining school.</li> </ul>

5. The amended scheme compares specifically to the Panel deferral as follows:

<b>LPP Meeting Minute</b>	<b>Applicant's Submission</b>
<p>1. <i>Increase the south-eastern side boundary setback by an additional 1.5m to achieve a minimum setback of 4.5m. The internal layout to be amended accordingly.</i></p>	<p>The south-eastern side setback has been increased to 4.5m.</p> <p>The balconies of Rooms 104-107 (and corresponding units on Level 2 and 3) have been deleted and internal layouts amended.</p>
<p><b>Comment</b></p> <p><b>This design amendment has been met.</b></p>	
<p>2. <i>Increase the deep soil planting on the south-eastern side boundary setback. The applicant to consider handing the vehicular driveway from the south-east boundary to the north-western boundary to assist in the provision of increased deep soil landscaping on the south-east boundary and the private open space of the caretaker's unit.</i></p>	<p>No additional deep soil has been provided on the south-eastern side boundary.</p> <p>The driveway remains on the south-eastern side boundary.</p> <p>The caretaker's unit has been relocated from the ground floor to Room 110 on the first floor.</p>
<p><b>Comment</b></p> <p><b>This design amendment has not been met in full.</b></p> <p><b>The caretaker's unit has been relocated to the first floor and the entry lobby made larger.</b></p> <p><b>The driveway remains as proposed in the original plans and no additional deep soil has been provided on the south-eastern boundary.</b></p> <p><b>The applicant has proposed a podium planter bed on the first floor adjacent to Rooms 104 to 107 on the south-eastern boundary "to reduce privacy and overlooking".</b></p> <p><b>The applicant did not submit an amended Landscape Plan in support of this change.</b></p> <p><b>This design amendment remains unresolved.</b></p>	
<p>3. <i>The introduction of privacy screens/mechanisms to the balconies on both the south-eastern and north-western elevations.</i></p>	<p><u>South-eastern elevation:</u></p> <p>All side-facing balconies have been deleted; planter box provided along corridor on Level 4.</p> <p><u>North-western elevation:</u></p> <p>Level 1 – planter boxes proposed and privacy screens proposed to side-facing balconies (retractable venetian screens).</p>

LPP Meeting Minute	Applicant's Submission
	<p>Level 2 – planter boxes proposed and privacy screens proposed to side-facing balconies (retractable venetian screens); balconies of 208 and 210 deleted.</p> <p>Level 3 – planter boxes proposed and privacy screens proposed to side-facing balconies (retractable venetian screens).</p> <p>Level 4 – no privacy measures implemented.</p>
<p><b>Comment</b></p> <p>The applicant has deleted all balconies on the south-eastern elevation with the exception of the Level 4 balcony which provides access to the planter box along the length of the elevation.</p> <p>With regard to the north-western elevation, planter boxes are proposed in front of the balconies and retractable privacy screens are proposed to all balconies. It is unclear how the screens operate, what they are constructed of and the extent to which they will provide privacy.</p> <p>The amended plans do not resolve the issue of close and direct views to adjoining properties as a result of the siting of the building relative to the side boundaries.</p> <p><b>This design amendment remains unresolved.</b></p>	

6. An assessment of the submitted information has been undertaken by Council staff and is discussed within this report. It is noted that the applicant has not amended the scheme as requested by the Panel, but rather has sought an alternative approach to the issues raised. The application is recommended for refusal for the reasons discussed in this report and provided at the end of this report, noting that the amendments are not considered sufficient to address the Panel's requested design changes.
7. In addition, insufficient information has been provided, including an amended Landscape Plan, to support the proposed changes in the architectural plans.

## Report in Full Background

8. At its meeting of 1 September 2022, the Georges River Local Planning Panel considered the subject application and resolved the following:

### Deferral

*Pursuant to Section 2.20 (8) of the Environmental Planning and Assessment Act 1979 (EPAA), Development Application No. DA2021/0294 for demolition works and construction of a boarding house on Lot 1 in DP 1608 known as 87 Woniora Road, Hurstville, is deferred for the application to be amended with the following design amendments detailed below. These amendments shall be submitted to the Council within 28 days of this decision.*

1. *Increase the south-eastern side boundary setback by an additional 1.5m to achieve a minimum setback of 4.5m. The internal layout to be amended accordingly.*

2. *Increase the deep soil planting on the south-eastern side boundary setback. The applicant to consider handing the vehicular driveway from the south-east boundary to the north-western boundary to assist in the provision of increased deep soil landscaping on the south-east boundary and the private open space of the caretaker's unit.*
3. *The introduction of privacy screens/mechanisms to the balconies on both the south-eastern and north-western elevations.*

*The matter to be returned for consideration by this Panel as constituted on 1 September 2022.*

### Amended Plans

9. On 28 September 2022 the applicant submitted amended architectural plans and a covering letter in response to the Panel's deferral. The table below provides an assessment of the requirement of the Panel as per the minutes of the meeting and the information submitted by the applicant.

<b>LPP Meeting Minute</b>	<b>Applicant's Submission</b>
4. <i>Increase the south-eastern side boundary setback by an additional 1.5m to achieve a minimum setback of 4.5m. The internal layout to be amended accordingly.</i>	The south-eastern side setback has been increased to 4.5m.  The balconies of Rooms 104-107 (and corresponding units on Level 2 and 3) have been deleted and internal layouts amended.
<p><b>Comment</b></p> <p><b>This design amendment has been met.</b></p>	
5. <i>Increase the deep soil planting on the south-eastern side boundary setback. The applicant to consider handing the vehicular driveway from the south-east boundary to the north-western boundary to assist in the provision of increased deep soil landscaping on the south-east boundary and the private open space of the caretaker's unit.</i>	No additional deep soil has been provided on the south-eastern side boundary.  The driveway remains on the south-eastern side boundary.  The caretaker's unit has been relocated from the ground floor to Room 110 on the first floor.
<p><b>Comment</b></p> <p><b>This design amendment has not been met in full.</b></p> <p><b>The caretaker's unit has been relocated to the first floor and the entry lobby made larger.</b></p> <p><b>The driveway remains as proposed in the original plans and no additional deep soil has been provided on the south-eastern boundary.</b></p> <p><b>The applicant has proposed a podium planter bed on the first floor adjacent to Rooms 104 to 107 on the south-eastern boundary "to reduce privacy and overlooking".</b></p>	



LPP Meeting Minute	Applicant's Submission
<p><b>The applicant did not submit an amended Landscape Plan in support of this change.</b></p>	
<p><b>This design amendment remains unresolved.</b></p>	
<p>6. <i>The introduction of privacy screens/mechanisms to the balconies on both the south-eastern and north-western elevations.</i></p>	<p><u>South-eastern elevation:</u></p> <p>All side-facing balconies have been deleted; planter box provided along corridor on Level 4.</p> <p><u>North-western elevation:</u></p> <p>Level 1 – planter boxes proposed and privacy screens proposed to side-facing balconies (retractable venetian screens).</p> <p>Level 2 – planter boxes proposed and privacy screens proposed to side-facing balconies (retractable venetian screens); balconies of 208 and 210 deleted.</p> <p>Level 3 – planter boxes proposed and privacy screens proposed to side-facing balconies (retractable venetian screens).</p> <p>Level 4 – no privacy measures implemented.</p>
<p><b>Comment</b></p>	
<p><b>The applicant has deleted all balconies on the south-eastern elevation with the exception of the Level 4 balcony which provides access to the planter box along the length of the elevation.</b></p>	
<p><b>With regard to the north-western elevation, planter boxes are proposed in front of the balconies and retractable privacy screens are proposed to all balconies. It is unclear how the screens operate, what they are constructed of and the extent to which they will provide privacy.</b></p>	
<p><b>The amended plans do not resolve the issue of close and direct views to adjoining properties as a result of the siting of the building relative to the side boundaries.</b></p>	
<p><b>This design amendment remains unresolved.</b></p>	

10. The submission by the applicant in response to the design change requests of the Panel in their deferral does not achieve the objective of mitigating overlooking to the adjacent properties to the south-east or north-west.
11. An amended Landscape Plan has not been submitted indicating the proposed vegetation within the raised planter box on Level 1, and the section plan in the amended architectural plans indicates the depth of the planter to be around 1m, however the plans do not include any dimensions or specifications. It is unknown what species of vegetation can be accommodated in the planter and whether it will serve to suitably screen the building and reduce the potential for overlooking.

12. The applicant has deleted all balconies on the south-eastern elevation with the exception of the Level 4 balcony which provides access to the planter box along the length of the elevation. The applicant describes the amended window arrangement as staggered to further reduce overlooking. This change however results in a single narrow window opening for each room on the south-eastern side of the building and a poor internal amenity for future occupants.
13. With regard to the north-western elevation, planter boxes are proposed in front of the balconies and retractable privacy screens are proposed to all balconies. It is unclear how the screens operate, what they are constructed of and the extent to which they will provide privacy. It can be said however that they will not achieve any level of privacy when it will be up to the occupant of each unit to have the screens in operation.
14. The design changes proposed in the amended plans do not meet the intent of the requests of the Panel to reduce the privacy impacts on neighbouring properties.
15. The applicant was advised by email on 26 October 2022 that the amendments did not address the deferral reasons of the Panel in full. The applicant did not request time to provide further amended plans and advised they would address the Panel again at the meeting and provide a formal response at that time.

### Submissions and the Public Interest

16. The amended plans were neighbour notified in accordance with Council's notification policy between 6/10/2022 to 20/10/2022. Two submissions were received as a result of the notification period. In summary the following issues and concerns were raised.

Submission	Comment
School privacy – the bulk of the building has not been reduced and privacy of the school's quiet area will be impacted	<p>Council has assessed the privacy treatment on the north-western elevation as part of the amended plans. It is unclear how the proposed retractable screens operate, what they are constructed of and the extent to which they will provide privacy.</p> <p>Council considers that they will not achieve any level of privacy when it will be up to the occupant of each unit to have the screens in operation, and does not overcome the fundamental issue of the close and direct nature of the views obtained.</p> <p>This design amendment of the Panel remains unresolved in Council's opinion.</p>
Social Impact – no Social Impact Assessment provided	Council is satisfied that the documentation submitted with the application is sufficient for a proper assessment of the proposal.
Construction Management – if approved, conditions should be imposed to prohibit construction vehicles from entering and exiting the site during school drop off and pick up periods	A condition restricting construction in this manner is considered unreasonable. If approved, all construction vehicles will be required to adhere to traffic signage on Woniora Road, which, between Gallipoli Street and Maher Street, in "No Stopping" and the standard hours of construction and building work being 7.00am to 5.00pm, Monday to Saturday.
DA Documentation – gaps in documents submitted with the DA	Council is satisfied that the documentation submitted with the application is sufficient for a proper assessment of the proposal.

<b>Submission</b>	<b>Comment</b>
Inadequate parking provided	The number of parking spaces proposed complies with the required number of parking spaces of the State policy for boarding houses.
Adverse impacts on traffic	Council's Traffic Engineer has reviewed the proposal and does not consider the development will have an adverse impact in traffic on the local roads.
Loss of privacy	The privacy impacts of the proposal on land to the south-east of the site forms one of the reasons for refusal of the application.  The setback provided to the residential property to the north is adequate and is not considered to pose a privacy impact.
Loss of sunlight	The proposal will not reduce the amount of sunlight to neighbouring residential properties to below the required levels.
Noise pollution	A development of this size is not considered to generate unreasonable noise levels.
Increased trolleys and dumped waste on the street	The proposal contains a bulky waste store room and the Building Manager will be responsible for leaving waste on the kerb for Council collection. Council is unable to manage trolley collection.

### **Conclusion**

17. The additional information submitted by the applicant in response to the reasons for deferral by the Georges River Local Planning Panel has been addressed in this report.
18. The assessment of the information concludes that the proposal fails to address the concerns of the Panel with regard to privacy impacts on adjoining properties and provision of additional deep soil and the proposal is again recommended for refusal.
19. Although the site is well located and appropriately zoned for a boarding house development, the proposal is not considered to be an appropriate response to the land and surrounding context.
20. The proposal fails to provide suitable levels of privacy, setbacks to boundaries for excavation and building separation, is out of character for the locality and results in the isolation of the adjacent property to the south-east and also fails to provide appropriate future amenity for occupants.

### **Determination and Statement of Reasons**

21. The application has been assessed having regard to the Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans.
22. As a result, the application is recommended for refusal.

### Statement of Reasons

23. The reasons for this recommendation are:

- The proposal is an inappropriate response to the existing and desired future character for development in this area.
- It has not been demonstrated in this application that negotiation was undertaken to acquire the adjacent site at No. 89 Woniora Road, Hurstville.
- In order to accommodate orderly development, the proposed development will require substantial modification to accommodate an appropriate outcome on the adjoining site.

### Determination

24. THAT pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act, 1979, as amended, the Georges River Local Planning Panel, refuses development consent to Development Application DA2021/0294 for demolition works and construction of a boarding house on Lot 1 in DP 1608 known as 87 Woniora Road, Hurstville, for the following reasons:

1. **State Environmental Planning Policy (Affordable Rental Housing) 2009** - Pursuant to Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979, the proposed development will result in poor internal amenity for residents as a result of the lack of building separation to the adjoining land to the south-east.
2. **Development Control Plan** - Pursuant to Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with Kogarah Development Control Plan 2013 with regard to site isolation.
3. **Impacts on the Built Environment** - Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development will:
  - a. Result in adverse amenity for future residents of the development as a result of the staggered window arrangement and small size of proposed windows on the south-eastern elevation; and
  - b. Not provide sufficient separation or privacy measures for future residential development to the south-east; and
  - c. Have adverse amenity impacts for the students of the adjacent school as a result of the lack of privacy measures proposed on the north-western elevation required due to the setback of the building relative to the boundary.
4. **Impacts on the Natural Environment** - Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed basement setbacks are inappropriate and are not sufficient to enable deep soil planting around the building, and not at all on the south-eastern boundary.
5. **Insufficient information** – Pursuant to Section 4.15(b) of the Environmental Planning and Assessment Act 1979, an amended Landscape Plan has not been submitted to support the amended plans submitted to address the Local Planning Panel's reasons for deferral.
6. **Suitability of Site** - Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the site is not considered suitable for the proposed development as it is inconsistent with the existing and desired future character of the locality.