

**ELECTRONIC DETERMINATION OF THE
GEORGES RIVER LOCAL PLANNING PANEL
27 SEPTEMBER 2019
SCHEDULE 2, PART 5, ITEM 26 OF THE ENVIRONMENTAL PLANNING AND
ASSESSMENT ACT 1979 (NSW)**

Panel Constituted by: Paul Vergotis (Chairperson), John Brockhoff (Expert), Jason Perica (Expert) and Annette Ruhotas (Community Representative)

Development Application No: DA2017/0402

Proposed Development: The demolition of an existing commercial building and the erection of a mixed use development comprising one (1) ground floor tenancy and eleven (11) storeys of residential accommodation containing twenty three (23) dwellings, roof top communal open space and basement carparking.

Premises: Lot 2, DP547762 (No. 1) Butler Road, Hurstville.

Determination

Refusal

Pursuant to s 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979* (NSW) conditional development consent is **refused** to Development Application No. DA2017/0402 for the demolition of an existing commercial building and the erection of a mixed use development comprising one (1) ground floor tenancy and eleven (11) storeys of residential accommodation containing twenty three (23) dwellings, roof top communal open space and basement car parking at Lot 2, DP547762 No. 1 Butler Road, Hurstville for the reasons set out in the *'Electronic Report to Georges River Local Planning Panel Following Deferral from Meeting of Panel on 18 April 2019'* as published on the Council's website.

Date of Determination: 27 September 2019

Voting: 3 to 1 - Vergotis/Brockhoff/Ruhotas (for Refusal); Perica (for Approval)

Statement of Reasons by Majority

This Development Application (**DA**) was initially considered by the Panel at its meeting on 18 April 2019 at which time the DA was deferred pending the submission of further information (and assessment) by the applicant which had to address a number of concerns which included matters about the vehicular access, manoeuvring of vehicles, basement parking access and the use of a car lift, internal loading bay access, the type of use in the ground floor tenancy and consultation with

the adjoining NSW Police local command because the driveway of the proposed building effectively eliminated some on-street car parking which the Police used for emergency situations.

The additional material provided by the applicant, which has now been presented back to the Panel through a supplementary evaluation report (**supplementary report**) does not adequately address the Panel's initial concerns as the matters contained in the decision to defer the application still remain largely unresolved. This is evident from the supplementary report provided by the Council's assessment officer whom has also sought independent advice from a traffic consultant to peer review the additional information provided by the applicant.

In principle the majority of the Panel acknowledge that the overall architectural appearance and presentation of the building is acceptable however, the functionality of the building's basement car parking area and loading dock are fundamentally flawed having regard to vehicular access and manoeuvrability. In addition, the peer review also arrives at the conclusion that the applicant's revised traffic assessment fails to adequately demonstrate the reasons to reduce the number of on-site residential car parking spaces. The independent peer review also highlights the potential for the car lift use to create a queuing problem in Ormonde Parade. Further, the waste collection aspect of the development has not been properly addressed by the applicant to justify an approval.

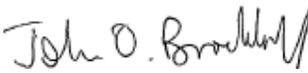
Accordingly, it is the majority view of the Panel that because the applicant has not adequately addressed the concerns giving rise to the DA being deferred on 19 April 2019, the application should now be refused for the reasons set out the supplementary assessment report.

Against the reasons to refuse the DA was Jason Perica (Expert). Mr Perica's reasoning to support the DA is set out as follows:

1. It is recognised that the site is constrained, in terms of size, configuration/shape and location/accessibility. The proposed development includes some shortcomings and compromised outcomes, particularly in terms of access, servicing, disabled parking and queuing. However, while there are some compromised outcomes, on balance the overall environmental impacts and benefits of the proposal warrant its support.
2. The issues raised within the independent peer review of traffic and parking impacts are not fatal, and could be addressed by redesign and/or conditions of consent (such as a deferred commencement). There also appears to be some informal queuing outside the site that may not hinder pedestrian or vehicular access, for the likely short and sporadic periods of potential queuing conflict, at times that are unlikely to coincide with peak pedestrian movements.
3. It is not unusual for a central site in a metropolitan regional centre to have some access constraints.

4. The applicant's written request to contravene the height exceedance satisfactorily addresses the requisite matters in Clause 4.6(3) of KLEP 2012. The proposal is considered to be consistent with the objectives of the height standard being breached and the objectives of the zone, and is in the public interest.
5. There is a reasonable basis to form an opinion that the provisions of SEPP 55 (Remediation of Land) are able to be met, based on the findings and conclusions of the submitted ESA (subject to conditions).
6. The provision parking is appropriate having regard to the site's location.
7. The design is of a high quality, and performs satisfactorily against the provisions of SEPP 65 (Design Quality of Residential Apartment Development), and the associated Apartment Design Guide.
8. The building will enhance the streetscape, and role of the centre in which it is placed, and will be a significant improvement compared to the existing situation
9. Issues raised in submissions do not warrant refusal of the application.
10. The environmental impacts of the proposal are appropriately managed or mitigated by the design, or able to be managed and mitigated through conditions of consent.

Confirmed: Paul Vergotis (Chairperson), John Brockhoff (Expert), Jason Perica (Expert) and Annette Ruhotas (Community Representative) as the constituted Georges River Local Planning Panel pursuant to Part 4 of the *Environmental Planning and Assessment Act 1979* (NSW).

 <p>Paul Vergotis Chairperson</p>	 <p>John Brockhoff Expert Panel Member</p>
 <p>Jason Perica Expert Panel Member</p>	 <p>Annette Ruhotas Community Representative</p>