

**ELECTRONIC REPORT TO GEORGES RIVER LOCAL PLANNING PANEL
FOLLOWING DEFERRAL FROM MEETING OF PANEL ON 18 APRIL 2019**

LPP Report		Development Application No.	DA2017/0402
Site Address and Ward	1 Butler Road Hurstville Kogarah Bay Ward		
Proposed Development	Demolition of an existing commercial building, construction of a mixed use development comprising of one (1) ground floor retail tenancy and eleven (11) storeys of residential above containing twenty three (23) units, communal roof top open space and (3) three levels of basement car parking		
Owners	WH Project Management Pty Ltd		
Applicants	WH Project Management Pty Ltd C/- Nexus Project Delivery		
Planner/Architect	Planner: Devlin Planning, Architect: Allen Jack Cottier		
Date of Lodgement	9/11/2017		
Submissions	N/A – the amended proposal did not require re-notification		
Cost of Works	\$13,805,000		
Local Planning Panel Criteria	The application proposes an application that is subject to SEPP 65		
List of all relevant s4.15 matters	Environmental Planning and Assessment Act 1979; Environmental Planning and Assessment Regulation 2000; State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development; State Environmental Planning Policy No.55 – Remediation of Land; State Environmental Planning Policy – Infrastructure 2007; Draft Environment State Environmental Planning Policy; Draft Remediation of Land SEPP; Kogarah Local Environmental Plan 2012; Kogarah Development Control Plan 2013.		
List all documents submitted with this report for the Panel's consideration	Georges River Planning Local Panel Report 18 April 2019 Georges River Local Planning Panel Reason for Deferral 18 April 2019 Response Letter to Council Amended Architectural Plans Traffic Impact Assessment Car Hoist Quote and Specifications Access Design Certification Design Report: Car Parking		
Report prepared by	Senior Development Assessment Planner		
Recommendation	That the application be refused in accordance with the reasons contained within this report.		

Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of	Yes
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the assessment report?	
Legislative clauses requiring consent authority satisfaction 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?	Yes
Clause 4.6 Exceptions to development standards 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?	Yes – as per original assessment as the height of building is unchanged
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. The application is recommended for refusal, the reasons will be available when the report is published.

EXECUTIVE SUMMARY

This report has been prepared following the deferral of the subject development application (DA2017/0402) for demolition of an existing commercial building, construction of a mixed use development comprising of one (1) ground floor retail tenancy and eleven (11) storeys of residential above containing twenty three (23) units, communal roof top open space and (3) three levels of basement car parking accessed via a single car lift on land known as 1 Butler Road, Hurstville.

The DA was considered by the Georges River Local Planning Panel (LPP) on 18 April 2019. The Panel resolved to defer consideration of the DA to enable the applicant to submit amended plans to address various matters regarding traffic, parking and amenity issues.

The applicant has submitted amended plans and additional information in response to the Panel's deferral.

This report details the assessment of the revised proposal to address the deferral reasons by Council Officers and the results of an Independent Peer Review of the traffic matters by McLaren Traffic Engineering.

In summary, although the information submitted by the applicant responds to the deferral reasons, the information provided is not considered to adequately resolve the issues relating to the efficiency of the proposed car lift arrangements, the functionality of the space, and the provision of visitor parking spaces for the residential component of the building identified in the original report.

As documented in the original assessment report, the proposal seeks variations to the maximum height of building controls and has provided insufficient information in relation to contamination to satisfy the provisions of State Environmental Planning Policy 55.

REPORT IN FULL

A. BACKGROUND

At its meeting on 18 April 2018, the Local Planning Panel considered the subject DA and resolved the following:

Deferral

The Panel resolves to defer determination Development Application No. DA2017/0402 for the demolition of existing buildings and construction of a 12 storey mixed use development with 4 levels of basement car parking at 1 Butler Road, Hurstville, in order to invite the applicant to submit further information and details to address specific concerns held by the Panel. This information is outlined below and shall be provided to Council by 28 June 2019 and the matter shall be subsequently considered by the Panel constituted on 18 April 2019, and which may be by electronic means following an updated assessment report by Council staff. If the information is not submitted by 28 June 2019, the development application shall be determined by Panel as constituted on 18 April 2019 on the basis of the information currently submitted.

1. *The applicant consider the provision of a ramp down to a basement level which provides access to loading, disabled parking and a car lift to lower levels. If this cannot work, details to show why it cannot work.*
2. *Details on the minimum car parking required to meet RMS guidelines referred to in SEPP 65, differentiated between residents and visitors. If visitor parking is not provided, the applicant consider providing the minimum parking for residents given the access to public transport and services. This may entail the loss of a level, if applicable, and this in turn may reduce waiting times and queueing conflicts as well as reducing excavation. Depending on the parking numbers, this may also allow provision of an onsite basement loading space for a small vehicle.*
3. *Revised plans and a traffic assessment addressing:*
 - (a) *The impacts of the development in relation to emergency services, such as Police and Fire Brigade, given these operate 24 hours a day, 7 days a week. This is to include any impacts upon street parking from the driveway and required safety clearances and sight lines;*
4. *Provision of a waste and loading management plan to avoid conflicts between the bin holding area and waiting bay and queueing. Consideration should also be given to the location of waste loading, size of waste loading vehicles and likely frequency and hours of waste collection.*

5. *Consideration should be given to direct internal access between a loading bay and commercial premises.*
6. *Consideration of the wider public domain in addressing the matters above, if this better resolves issues (e.g. potential relocation or deletion of the existing street garden tree and seat). This will require consultation with Council staff and with the necessary Roads Act and Traffic Committee considerations.*
7. *Consideration to nominating the ground floor use as retail, as this will better activate the important street corner that the site occupies.*
8. *Consultation with the NSW Police St George Local Area Command and NSW Fire Brigade to understand their views of the proposal on operational and safety grounds.*

B. AMENDED PLANS

The applicant has provided amended plans and information in response to the reasons for deferral which seek the following changes:

<u>Basement Level 4:</u>	Deletion of Basement (resulting in the reduction from twenty-three (23) car spaces to eighteen (18) inclusive of one (1) loading bay).
<u>Basement Level 2:</u>	Bike storage added, revised storage.
<u>Basement Level 1:</u>	Revised adaptable space, relocation of bike parking and storage, retail loading.
<u>Ground Floor Plan:</u>	Retail added in tenancy, internal access door from retail to lobby, driveway narrowed, bin holding area relocated, removal of police car parking space to accommodate driveway.
<u>Level 1:</u>	Reallocation of adaptable units.
<u>Level 3:</u>	Reallocation of adaptable units minor changes.
<u>Levels 5-11:</u>	Corner adaptable units bedrooms and ensuite revised.

Aside from the revised architectural plans, the following documentation accompanies the amended proposal;

- A letter in response to the deferral prepared by Allen Jack Cottier.
- Traffic Impact Assessment prepared by Traffix.
- Car Hoist Quotation with specifications prepared by Southwell Lifts Hoists.
- Access Design Certification prepared by Morris Goding Access Consulting.
- Design Report: Car Parking prepared by Allen Jack Cottier.

The amended proposal does not seek to increase the height of building, reduce setbacks, increase floor space or amend the built form appearance.

The amended proposal accordingly adopts a built form similar to that of the previous design and does not generate a greater material impact. Accordingly, re-notification of the proposal was not required.

Assessment of provided additional information with regards the reasons for deferral

Deferral Reason No 1:

The applicant consider the provision of a ramp down to a basement level which provides access to loading, disabled parking and a car lift to lower levels. If this cannot work, details to show why it cannot work.

Applicant's response:

"A number of car parking options were studied by AJ+C Architects. Each Option clearly demonstrates there is insufficient site area for a ramped car parking solution. The site is simply not wide enough to perform a U turn at the bottom of the ramp. Cars would also need to reverse into/out of the car lift, presenting a safety issue. The option with the car hoist as per the DA submission is still regarded as the best option to proceed with. Refer to attached Design Report: Car parking as prepared by AJ+C Architects".

Council Comment:

The comments of the applicant are noted. It is accepted there are site limitations, however the impacts that result from the design presented to Council are considered unacceptable.

The applicant's response is accordingly presented for the Panel's consideration.

Deferral Reason No 2:

Details on the minimum car parking required to meet RMS guidelines referred to in SEPP 65, differentiated between residents and visitors. If visitor parking is not provided, the applicant consider providing the minimum parking for residents given the access to public transport and services. This may entail the loss of a level, if applicable, and this in turn may reduce waiting times and queueing conflicts as well as reducing excavation. Depending on the parking numbers, this may also allow provision of an onsite basement loading space for a small vehicle.

Applicant's response:

"The car parking rates are found in the updated Traffic Impact Assessment report. SEPP 65 permits the use of parking rates found in the RMS Services Guide to Traffic Generating Developments for such developments located within regional centres. The RMS Guide requires 23 parking spaces. A total of 24 spaces were proposed as part of the original DA submission over 4 basement levels. At the LPP meeting there was some discussion about the possibility of deleting a basement level as it may reduce the waiting/queueing time. This is idea also suggested in Item 2 above.

Due consideration has been given to reducing the number parking spaces by the fact the development is located extremely close to public transport and services. The revised architectural drawings show Level B4 has now been deleted, reducing the number of parking spaces on the site from 24 to 18.

With the reduction in car spaces from 24 to 18 the traffic engineer has determined the Australian Standards no longer requires a waiting bay at the access driveway. The architectural drawings have been amended accordingly.

The development will now be provided with 18 car spaces with 17 for residential use and 1 for retail unloading/loading. Due to the reduction in basement parking the architectural plans have been updated to reflect the new allocation of adaptable units. Previously the 1 Bedroom units were nominated to be adaptable. All adaptable units are now 2 Bedroom. Each adaptable unit will receive a car park.

An updated statement from Morris Goding Access Consultants is attached to confirm the adaptable units comply with the necessary Australian standards and codes.

For further information reference should be made to the attached updated Traffic Impact Assessment Report and updated architectural drawings”.

Council Comment:

Under the RMS Guide to Traffic Generating Development, the proposal is required to provide 5 off-street car parking spaces for the retail component, 3 off-street residential visitor car parking spaces, and 15 off-street car parking spaces for the residential unit (total 23 off-street car parking spaces).

The amended proposal has reduced the amount of off-street car parking provided, and accordingly, seventeen (17) residential car spaces and one (1) car parking space to be used by the retail both as a parking and as a loading/unloading space are now proposed.

Council's Traffic Engineer has reviewed the proposal and does not support the variation to parking put forward, or the size of the loading bay provided, as it is below the medium rigid vehicle standard required under the Kogarah Development Control Plan.

The engineer also notes that “the design of the parking does not promote safe and easy manoeuvrability within the parking levels”.

Independent Peer Review:

As a result of the differing professional engineer opinions, Council Officers engaged an independent consultant to undertake a Peer Review. The Peer review was undertaken by McLaren Traffic Engineering who provided the following comments on the proposal:

“The aim of Council's DCP is to encourage alternative modes of transports within the Hurstville Town Centre. Considering this, it is appropriate to provide parking for the residential component of the site in line with the RMS car parking rates due to the proximity of public transport, specifically Hurstville Train Station.

A Plan for Growing Sydney classifies Hurstville as a Strategic Centre; as such the applicable RMS parking rates are the CBD rates as outlined with the RMS Guide to Traffic Generating Developments. The Traffix report (applicant's report) also carries out an assessment against the appropriate RMS car parking rates for high density residential.

Considering the access to the proposed development is via the use of a car lift, providing retail visitor car parking spaces and residential visitor parking within the basement is undesirable.

Whilst the proposed development requires the provision of five (5) retail spaces, it is considered parking on-site for staff only for the retail component is appropriate considering the site context. The proposed development would benefit largely from pedestrian traffic and multipurpose trips to the area. An appropriate rate for staff parking within the town centres is 1 space per 60m² to 1 space per 80m². Considering this, the site should provide 2 to 3 staff parking spaces within the basement car park, with one of those spaces being capable of being used for deliveries by a B99 design vehicle.

The proposed development requires the provision of three (3) residential visitor spaces. The lack of provision for residential visitor spaces has not been adequately justified. The undesirability of having visitors within the basement because of the use of a car lift does not exempt the development from providing residential visitor parking for the proposed development. Further, visitor car parking is not just used by visitors to the residential portion of the development; it can be used by strata management staff, specifically cleaners and maintenance workers. These users would be familiar with the car lift operation if the staff regularly attended the site.

The proposed development does not consider disabled parking for the use of the commercial staff. Considering the above recommendations for two (2) staff spaces, if these spaces were located adjacent to each other, could operate informally as a disabled space."

The independent peer review concludes, with regards parking:

'The proposed development has not adequately justified the shortfall of residential visitor car parking spaces.'

'The reduction in retail visitor parking is supported, although additional staff parking spaces should be provided as part of the proposed development'.

Deferral Reason No 3:

Revised plans and a traffic assessment addressing:

- (a) The impacts of the development in relation to emergency services, such as Police and Fire Brigade, given these operate 24 hours a day, 7 days a week. This is to include any impacts upon street parking from the driveway and required safety clearances and sight lines;**

Applicant's response:

"Updated architectural drawings have been amended to show the existing parking for emergency services along Ormond Parade, and the Police space proposed to be removed. The attached updated Traffic Impact Assessment report concludes the proposed development does not anticipate any impact on the operation of Fire & Rescue NSW.

Fire and Rescue NSW confirmed to us by email on 12/6/19 that they have no objection to our development.

Comments from NSW Police are currently being sought to determine if there is any likely impact on their operational procedures of NSW Police due to the loss of one kerbside car space.

Assessment:

The applicant has provided written correspondence from The New South Wales Fire Brigade raising no objection to the proposal.

The applicant has provided written correspondence to the New South Wales Police Force Hurstville Local Area Command however no response was received. Council has also attempted contact on multiple occasions with no comments or feedback received.

The amended plans clearly examine the impact on the police and fire and rescue spaces which appears limited to the loss of one Police on-street car parking space, potentially 2 with the access requires widening.

It is noted that the existing building on the site wholly obscures sightlines with regards the Fire and Rescue access, given it is a one way street. The proposal provides a landscaped cut-out which will improve visibility.

(b) Further investigation regarding conflict between potential occupants using the car lift; the phasing time of the car lift; waiting times; conflict of vehicles when exiting and entering the site; potential queueing on Ormonde Parade and the inclusion of mechanical specifications of the car lift. Turning circles to show compliance with Australian Standards shall also be provided.

Applicant's response:

"Due to the deletion of Level B4 there has been a reduction in the number of parking spaces from 24 to 18 representing a 25% reduction. A review of the waiting times by the traffic engineer confirms the waiting bay is no longer required to satisfy Australian Standards.

The revised traffic analysis concludes for this development a total of 1 vehicle in the system (i.e. one in the lift) is all that is required in order to accommodate the 98th percentile queue, as required under Clause 3.5 of AS 2890.1 (2004). Hence the development does not require a waiting bay at the driveway entry. The waiting bay has been removed from the architectural drawings.

The proposed car hoist will be equal or similar to the hoist as proposed by Southwell Lifts / Hoists. A copy of the car hoist lift specifications is appended to the updated Traffic Impact Assessment report. The speed of the hoist is 150mm per second or 19 seconds per level. From GL to B3 the travel distance is 8.6m which equates to a travel time in the hoist of 57.3 seconds. Refer to Appendix C Queuing Analysis and Appendix D Mechanical Car Lift Specification of the updated Traffic Impact Assessment Report. Refer also to the attached Southwell quote which nominates the speed of the car hoist at 150mm per second”.

Assessment:

Council’s Traffic Engineer has reviewed the proposal and notes that there is no passing opportunity area in any of the basement levels, to allow for a car wanting to enter the lift to wait for a car exiting the lift.

The Traffic Engineer notes that none of the swept path diagrams provided demonstrate that two cars can pass each other at the entry point to the site or the car lift at any of the levels.

Further, it is noted that the review of the queuing calculation provided indicates that a waiting bay for 2 car lengths is required given the type of lift proposed.

Accordingly, Council’s Traffic Engineer does not support use of a car lift in this context, as the design is considered to have poor functionality and has potential to result in queuing onto Ormonde Parade and its associated footways.

Independent Peer Review:

The peer review of the applicant’s material by the external specialist provided the following comment with regards the lift queuing:

“Three (3) levels of basement car parking assuming the same traffic generation of each level would have an average car lift depth of 4.5m from the ground level. Based upon a cycle length of 120 seconds for a car lift to travel from Ground to Basement 1 and back to Ground Floor, the average service time of a lift (on average) to travel 4.5m below ground level and back would be 180 seconds.

The above conservative cycle time would take into consideration garage door opening, travel time of a vehicle to enter and exit the car lift etc. Based upon the above considerations and a peak traffic generation rate of 4 inbound vehicle trips, the 98th percentile queue would be one (1) space.

The Traffix Report assesses the car lift based upon an average cycle length of 120 seconds, with the result being no queue space is required. This result can be replicated based upon the cycle length of 120 seconds, although is not considered conservative enough (MTE has previously had advice from Southwell Lift Hoists which indicated that for most car hoists with a vertical travel of approx. 3m, it takes 2 minutes for the car lift to go from Ground to 1st level and back to ground floor, this advice is reproduced in Annexure C.

The proposed development shows a waiting bay, although has not demonstrated that the two-way passing can be achieved while a vehicle is waiting. Not providing a waiting bay with the ability of two-way passing may result in vehicles reversing back across the footpath. This is raised as a concern due to the site context being within a high pedestrian area.

The peer review concludes:

'The queuing assessment undertaken by McLaren Traffic Engineers (MTE) indicates that the development requires the provision of one (1) queue space.'

No provision for two-way passing has been provided at street level, which can result in vehicles reversing back over the boundary to allow a vehicle to exit the car lift.

The proposed vehicle access has not been adequately justified with respect to the site context and pedestrian safety. Further, the access does not comply with Figure 3.3 of AS2890.1:2004'

Deferral Reason No 4:

Provision of a waste and loading management plan to avoid conflicts between the bin holding area and waiting bay and queueing. Consideration should also be given to the location of waste loading, size of waste loading vehicles and likely frequency and hours of waste collection.

Applicant's response:

"The amended architectural drawings nominate the proposed waste bin collection point. According to the Georges River Council My Services web page and a phone conversation with the Waste Hotline on 20/5/19 residential waste for the development would be collected from the kerbside early on Wednesday mornings.

Retail waste collection would be arranged by the retail tenant to be collected by a private waste collection service. An agreement to collect the waste early in the morning would be entered into. Depending on the type of retail tenant retail waste would be collected at least once per week. The Building Manager for the development would be responsible for coordination of waste collection.

Refer to Appendix E Loading Management Plan of updated Traffic Impact Assessment Report as attached for further information"

Assessment:

The proposal was referred to Council' Co-ordinator of Environmental Sustainability for comment who raises no objections to the proposal.

Independent Peer Review:

'The proposal to have waste collection occur on-street would be similar to the existing site but it would occur at a higher frequency (this would still be a low frequency). The proposed development should demonstrate that whilst waste collection is occurring, vehicles can pass a waiting waste collection vehicle along Ormonde Parade or Butler Road. An alternative to waste collection on-street would be to allow a waste collection vehicle to reverse into the proposed crossover,

although this would have to be undertaken under the supervision of a traffic controller considering the location of the site is within close proximity to Hurstville Train Station. The site frontage along Ormonde Parade would have high pedestrian volumes across the site driveway; as such any waste collection for the proposed development should occur outside the peak operating period.

Deferral Reason No 5:

Consideration should be given to direct internal access between a loading bay and commercial premises.

Applicant's response:

"As was discussed at the LPP meeting it was agreed we could provide a door connecting the residential lobby with the retail back of house area to allow deliveries to be taken from the retail loading space to the retail tenancy via the lift. Refer to the attached updated architectural drawings"

Assessment:

The proposal has been amended to incorporate direct access from the rear of the retail tenancy to the service areas and the main lobby.

Deferral Reason No 6:

Consideration of the wider public domain in addressing the matters above, if this better resolves issues (e.g. potential relocation or deletion of the existing street garden tree and seat). This will require consultation with Council staff and with the necessary Roads Act and Traffic Committee considerations.

Council response:

It is noted that no response has been received from the NSW Police Force with regards the removal of the parking space on-street to facilitate the driveway.

The applicant, as part of their investigations made contact with Council's Public Domain Team who advised that in principle they had no objection to the removal of the street garden, tree, and seat in the event that this were to be examined, subject to an appropriate public domain arrangement being achieved.

However, as the NSW Police Force have not provided further comment despite repeated attempts from both Council and the applicant resolution of the public domain cannot be resolved at this time.

Deferral Reason No. 7:

Consideration to nominating the ground floor use as retail, as this will better activate the important street corner that the site occupies.

Applicant's response:

"The LPP were keen to see the street activated by having the GF tenancy used as a retail lot rather than as a commercial lot. The attached updated architectural drawings show the use of the Ground Floor tenancy as Retail".

Assessment:

The amended plans clearly note the ground floor tenancy as being retail. However, given the zoning there is potential for this to be revised through a future use change.

Deferral Reason No 8:

Consultation with the NSW Police St George Local Area Command and NSW Fire Brigade to understand their views of the proposal on operational and safety grounds.

Applicant's response:

"A copy of the architectural drawings of our proposed development have been forwarded to NSW Police and Fire & Rescue NSW to obtain their support for the proposed development. Once formal responses have been obtained from NSW Police and Fire & Rescue NSW, they will be forwarded to you"

Assessment:

The applicant is considered to have undertaken genuine attempts to contact the New South Wales Police Force in relation to the proposal; however, no response was received. Council has also attempted to Contact the New South Wales Police Force with no response received.

Documentation has been provided by the New South Wales Fire Brigade whom raised no concerns with the amended proposal.

C. OTHER CONTENTIONS

The other contentions remain as outlined in the original assessment report.

With regards to the provided Independent Peer Review, the following issues are also noted:

Pedestrian Safety and Access

"The safety of pedestrians along the frontage of the site (Ormonde Parade) is a concern, which needs to be addressed by the proposed development (including pedestrian counts). The following are relevant to note with respect to the design of the access driveway:

- *The access does not provide compliant sight lines out of the development (Figure 3.3 of AS2890.1:2004) but relies upon a reduced cross over at the boundary to indicate that the site does comply with Figure 3.3 of AS2890.1:2004.*
- *There is nothing restricting vehicles from exiting the site on the north-western most boundary (outside the vehicle crossover).*
- *It has not been demonstrated that two-way passing is possible at street level or around a vehicle waiting to enter the car lift while a vehicle is leaving the car lift.*

The issue of access and pedestrian impact will be included as an additional reason for refusal.

Bicycle Parking

The provision of residential bicycle spaces to be used within storage spaces is acceptable, although the proposed development should ensure the storage lockers are capable of being used for bicycle storage in accordance with AS2890.3:2015 design requirements for lockers.

The visitor bicycle spaces located on the ground floor are also required to comply with AS2890.3:2015. The envelopes shown on the plans do not comply with AS2890.3:2015 requirements.

The provision of one (1) bicycle space on-street may not be workable as it may block the existing pedestrian footpaths fronting the site. No indicative location is shown for the provision of one (1) on street bicycle space. It is accepted that the location of this bicycle space may not be directly along the site frontage such that an alternative location can provide this bicycle space.

The matters above need to be resolved in consultation with the design of the access and manoeuvring of vehicles, as a result this will be an additional reason for refusal.

D. NEIGHBOUR NOTIFICATION

The nature of the amendments comprise of primarily internal changes did not require re-notification under the provisions contained within the Kogarah Development Control Plan 2013.

E. CONCLUSION

The assessment undertaken, based on the amended proposal in response to the reasons for deferral by the Local Planning Panel, resulted in the revisions not resolving the concerns of traffic, parking arrangements, manoeuvrability, queuing and pedestrian safety. The application in its revised form cannot be supported.

The development 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, Development Control Plans and Australian Standards.

The application DA2017/0402 for demolition of existing commercial building, construction of mixed use development comprising of one (1) ground floor retail tenancy and twelve storeys of residential above with twenty three (23) units, three levels of basement car parking accommodating eighteen (18) spaces on land known as 1 Butler Road, Hurstville is recommended to be determined by way of refusal under the provisions of Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

- The proposed development does not provide sufficient on-site car parking to meet the needs of future occupants.
- Given the site context, the proposed development does not provide adequate, functional and safe vehicular access in its current form due to the lack a queuing bay and vehicular manoeuvrability to and within the site.
- The Clause 4.6 Exception to Development Standard to Clause 4.3 Height of Building is not supported as the proposal is recommended for refusal.
- The proposal is not supported by sufficient information to demonstrate the provision of adequate bicycle facilities design, pedestrian safety at the driveway cross-over, and vehicle manoeuvrability.
- The application has not demonstrated that the proposed use is suitable for the subject site having regard to the provisions contained of State Environmental Planning Policy No 55 - Remediation of Land.

Determination

- A. THAT the Georges River Local Planning Panel does not support the request for a 9.9% variation of the height control under Clause 4.6 of Kogarah LEP 2012. In relation to the height controls contained in Clause 4.3 of Kogarah LEP 2012.
- B. THAT Pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, as amended, the Georges River Local Planning Panel determine DA2017/0402 for demolition of existing commercial building, construction of mixed use development comprising of one (1) ground floor retail tenancy and twelve storeys of residential above with twenty three (23) units, three (3) levels of basement car parking accommodating eighteen (18) spaces on Lot 2 DP 547762 known as 1 Butler Road, Hurstville by way of refused for the following reasons:

- 1. Refusal Reason - Environmental Planning Instrument** - Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the relevant environmental planning instruments in terms of the following:

Kogarah Local Environmental Plan 2012

- a) The proposal does not satisfy Part 1, Clause 1.2 Aims of the Plan being:
 - To guide the orderly and sustainable development of Kogarah.
- b) The proposal exceeds the maximum building height.

- 2. Refusal Reason - Environmental Planning Instrument** - Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the relevant environmental planning instruments in terms of the following:

- (a) State Environmental Planning Policy No 55 - Remediation of Land
 - i. The proposal has not adequately satisfied the provisions contained within the SEPP whereby a Phase 2 Preliminary Intrusive Investigation has not been provided for Council's consideration.

(b) Draft Remediation of Land SEPP

- ii. The amended proposal is considered to be inconsistent with the draft SEPP as the provided information does not sufficiently demonstrate that the land can be made suitable for the use proposed.

3. Refusal Reason - Development Control Plan - Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the following sections of Kogarah Development Control Plan 2013:

- a) Section B4 – Parking and Traffic - The proposal does not comply with Section B4 Car Parking within the Kogarah Development Control Plan 2013.

4. Refusal Reason - Impacts on the Environment - Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is likely to have an adverse impact on the following aspects of the environment:

- a) The proposal is considered to result in adverse built environment, social and economic impacts due to the lack of the provision of onsite queuing, adequate turning areas, vehicular and pedestrian safety.

5. Refusal Reason - 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 for the following reasons:

- a) The proposal has not provided a queuing bay and adequate vehicular manoeuvrability.

6. Refusal Reason – Insufficient Information - Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, insufficient information has been submitted with regards to the following:

- (a) Bicycle facility design;
- (b) Pedestrian safety at the intersection between the footpath and driveway crossing.

7. Refusal Reason - Public interest - Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be in the public interest for the reasons listed above.