

ELECTRONIC DETERMINATION OF THE GEORGES RIVER LOCAL PLANNING PANEL
13 JULY 2020
SCHEDULE 2, PART 5, ITEM 26 OF THE ENVIRONMENTAL PLANNING AND
ASSESSMENT ACT 1979 (NSW)

Panel Constituted by: Sue Francis (Chair), John Brockhoff (Expert), Michael Leavey (Expert) and Annette Ruhotas (Community Representative)

Development Application: DA2018/0059

Proposal: Demolition of existing building and construction of five storey shop top housing development with basement carparking

Premises: Lots 33-36, DP13023
261-265 Princes Highway, Carlton

Determination: The Panel as constituted, have indicated a desire to provide further time to have this matter resolved, consistent with the deferral on 7 May 2020. However, it seems that whilst there has been a meeting between Council Officers and the applicant (13 May 2020) as requested by the Panel's deferral on 7 May 2020, no resolution has been provided to the satisfaction of Council's stormwater engineers. Whilst it is noted that a request has been received from the applicant to provide this information by 14 August 2020, the Panel is cognisant that this will require yet another assessment and report to the Panel, likely sometime in September 2020. This was not the intention of the Panel's deferral to have the matter protracted by several months.

Therefore, pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 (NSW) conditional development consent is **refused** to Development Application DA2018/0059 for demolition of existing building and construction of five storey shop top housing development at Lots 33-36, DP13023 and known as 261-265 Princes Highway, Carlton, for the reasons set out in the *'Electronic Report to Georges River Local Planning Panel'* as published on 6 July 2020 and as outlined below.

In so doing, the Panel is aware that the applicant has a Right of Review of this and any determination under s8.2 of the Act (subject to appropriate timelines being met); this may be a desirable option that the applicant may take if they can address the stormwater issues raised by Council.

Date of Determination: 13 July 2020

Voting: Unanimous by Panel as constituted

Note: As at 7.00pm on 13 July 2020, I, Sue Francis as the Chair of this constituted Panel, have not heard from Expert Panel Member, John Brockhoff. I have however, heard from other members being Expert Panel Member, Michael Leavey and Community Representative, Annette Ruhotas. As a majority of Panel members are in agreement, the matter is able to proceed to determination as detailed in this LPP resolution.

Reasons for Refusal:

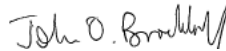
1. **Environmental Planning Instrument** – Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the relevant environmental planning instrument in terms of the following:
 - (a) The provisions of Kogarah Local Environmental Plan 2012 as follows:
 - i. The objectives of Clause 6.3 Flood Planning as the documentation on flood and overland flow management is inadequate and many modifications may require building design modifications;
 - (b) The design quality principles under Clause 28 relating to the Apartment Design Guide and Schedule 1 of the State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development, the flooding constraints affecting the land and the façade design fronting Ecole Street.
2. **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) Part B4 Parking and Traffic relating to the suitable design for service vehicle access to the site, safe manoeuvring and façade design as the turntable sits below the flood level. As a result the driveway gradients and footpath levels are affected.
 - (b) Part B6 Water Management with regard to the inadequacy of documentation relied upon for the design dealing with flooding and overland flow management.
3. **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) Create amenity impacts for neighbouring lands and public roads through the likely redirection of volume and velocity of overland flows during flood times and storm events;
 - (b) The submitted flood design plan provides for channelising the storm/flood events into two culverts and discharging to the Princes Highway which requires Roads and Maritime Services (RMS) concurrence and is generally contrary to standard RMS design procedures;
 - (c) Inadequate details have been provided on how water would be redirected to the proposed culverts proposed under the flood report, including any reshaping of the land to create swales or the like;
 - (d) Service vehicle access to Ecole Street and the development site generally will result in potential vehicle conflict due to turning path requirements for large rigid trucks requiring the use of two traffic lanes especially given the vicinity of the site to the school;
 - (e) The proposal is likely, if approved, to result in a precedent for developments that inappropriately design buildings within flood paths for the B6 zone;

- (f) Overlooking issues for a public school have been raised and require due consideration.
4. **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 submitted development design is considered to be inappropriate for the subject land considering the flood management submissions are inadequate and requiring modification and hence the building design is likely to be modified accordingly;
 - (b) Ecole Street is a limited vehicle catchment local road and the management of public and service vehicles entering/exiting this location would require suitable management controls to be implemented to ensure vehicles do not approach the development from the northern approaches of Ecole Street which are constricted in nature.
5. **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 and is likely to set an undesirable precedent.

Confirmed: Sue Francis (Chair), John Brockhoff (Expert), Michael Leavey (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).



Sue Francis
Chairperson



John Brockhoff
Expert Panel
Member



Michael Leavey
Expert Panel
Member



Annette Ruhotas
Community
Representative

END.