

**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 04 APRIL 2019**

LPP Report No	LPP011-19	Development Application No	DA2018/0368
Site Address & Ward Locality	80-84 Regent Street Kogarah Kogarah Bay Ward		
Proposed Development	Demolition of all structures on site and construction of an 11 storey residential flat building containing 64 units over three and a half basement levels of parking accommodating 69 vehicles		
Owners	80 Regent - Xiaoping Sang, 82 Regent - William Fang Xu and Li Hua Mao and 84 Regent - Regent Strett Property Pty Ltd		
Applicant	Regent Street Property Pty Ltd		
Planner/Architect	Planner - City Plan, Architects – PBD Architects.		
Date Of Lodgement	5/09/2018		
Submissions	1 submission received		
Cost of Works	\$17,775,250.00		
Local Planning Panel Criteria	The application is a residential flat building subject to State Environmental Planning Policy No 65		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy No 55 - Remediation of Land, State Environmental Planning Policy - (Infrastructure) 2007, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, State Environmental Planning Policy No.65 – Design Quality of Residential Flat Buildings, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment, Kogarah Local Environmental Plan, Kogarah Development Control Plan		
List all documents submitted with this report for the Panel's consideration	Architectural plans		
Report prepared by	Senior Development Assessment Planner		

Recommendation	That the application be approved in accordance with the conditions included in the report.
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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 the assessment report?	Yes
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	Yes

the assessment report?	
<p>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?</p>	Yes - Height of Buildings
<p>Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?</p>	Not Applicable
<p>Conditions Have draft conditions been provided to the applicant for comment?</p>	No, standard conditions have been attached and Applicant verbally advised of this. The conditions will be available to review when the agenda is published.

Site Plan



Site outlined in blue

Executive Summary

Proposal

1. Council received a development application (DA2018/0368) seeking planning permission for the demolition of all existing structures on site and construction of a 11 storey residential flat building over three and a half (3.5) levels of basement parking containing sixty one (61) residential units and sixty nine (69) car spaces at 80-84 Regent Street Kogarah (the site).
2. The proposal was lodged by Regent St Property Pty Ltd (the Applicant) on 5 September 2018.

Site and Locality

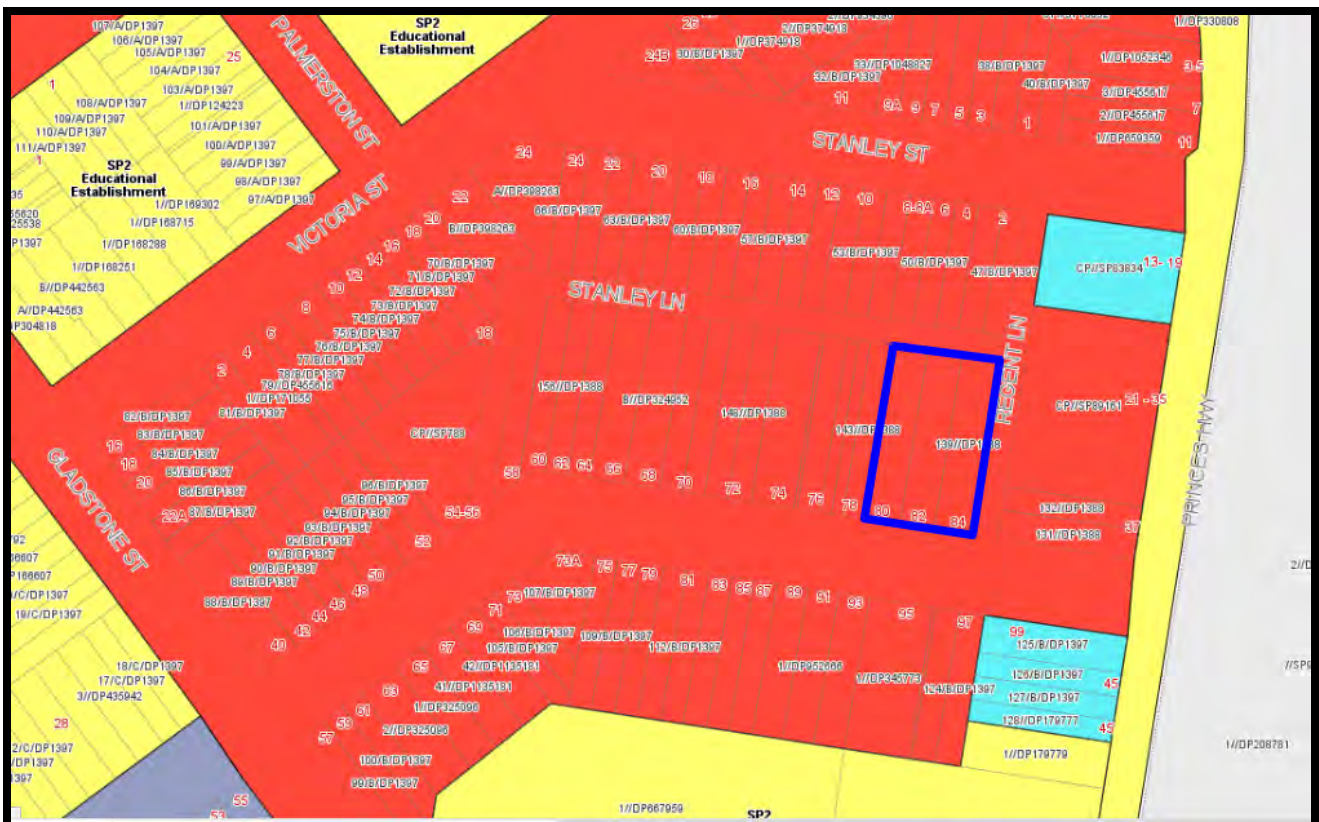
- 3. The subject site has a regular rectangular shaped allotment with a combined area of 1358.6sqm comprising the amalgamation of three (3) allotments commonly known as 80, 82 and 84 Regent Street Kogarah, collectively being a corner site occupying 3 street frontages. The site is located within the Kogarah North Precinct; an area which has recently been up zoned to High Density Residential land uses.
- 4. The site is located on the northern side of Regent Street and is bound by Regent Lane to the east, Stanley Lane to the north and Regent Street to the south with a combined frontage of 29.04m to Regent Street.

Adjoining the subject site to the west is an approved development comprising an 11 storey residential flat building containing 104 units. To the north across Stanley Lane is an approved development for 10 storey residential flat building containing 87 units and an existing 10 storey residential flat building to the east fronting Princess Highway.

- 5. The site is affected by a 1.2m wide lane widening provision taken from the Stanley Lane being the northern boundary and the Regent Lane eastern boundary.

Zoning and Permissibility

- 6. The site is zoned R4 High Density Residential under Kogarah Local Environmental Plan 2012 and the proposal is a permissible form of development with consent. The proposed development satisfies the relevant objectives contained within the KLEP 2012 and complies with the relevant requirements, however seeks a variation via Clause 4.6 to the 33m maximum Height Standard.



Zoning map – the site is outlined in blue.

- 7. The proposal departs from the maximum building height development standard in Kogarah Local Environmental Plan 2012 (KLEP 2012) by 4.3m (13%). The breach in height is limited to

the provision of the lift overrun and rooftop terrace facilities. The portion of the building in breach is limited to the centre of the roof footprint.

8. In this regard, a formal request under Clause 4.6 of the KLEP 2012 has been submitted; in support of the departure from the specified Height Standard of 33m. Particulars of the Clause 4.6 request sought are discussed in detail later in this report.

Submissions

9. The application was notified/advertised from 26 September 2018 to 11 October 2018 to 214 residents/owners in accordance with Council's requirements and one (1) submission was received in reply. Response to the issues raised in the submission received is discussed in detail under the "Submissions and Public Interest" section of this report.

Conclusion

10. Council has fully considered all relevant Matters for Consideration under 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.
11. The application has been referred to the Design Review Panel and was mostly commended on the design approach subject to minor amendments for further improvements. The proposed design was amended accordingly and a detailed assessment is discussed later in this report.
12. The proposal generally complies with the provisions of State Environmental Planning Policy No.65 (SEPP65), the Apartment Design Guide (ADG) and broadly with the provisions of the Kogarah North Precinct Development Control Plan 2013 (KDCP).
13. Some minor variations in the design remain unavoidable primarily due to the site location and the dedication of a 1.2m wide "L shaped strip" surrounding the northern and eastern boundaries of the site for road widening. The variations sought involve the minimum building separation. Details of the variations and the justifications are discussed under the assessment and compliance section of this report.
14. The proposal as amended satisfies the design intent for development within this zone and the development is considered to be appropriate for the site and is recommended for approval subject to conditions of consent.

Report in Full

Proposal

15. The proposed development seeks approval for the demolition of all existing structures onsite and construction of a 11 storey residential flat building containing sixty one (61) residential units over three and a half (3.5) levels of basement parking containing sixty nine (69) car spaces at 80-84 Regent Street Kogarah (the site).
16. The subject site consist of 3 separate allotments with an area of 1358.6sqm, located on the northern side of Regent Street and occupies three (3) street frontages being Regent Street from the south (front), Regent Lane from the east (side) and Stanley Lane from the north (rear).
17. The proposed development consists of one building with a single circulation core. Entrances and lobbies are accessible from the Regent Street frontage and vehicular access is via Stanley Lane's far north western corner of the site.

18. The proposed design is predominantly symmetrical in nature with curved edge elements to the southern and eastern facades for articulation and increased solar amenity.
19. All parking is provided onsite within the 3.5 levels basement containing 69 car spaces including 9 visitors' spaces, 7 accessible spaces and provisions for 28 bicycle racks.
20. All ground floor apartments have direct access to private courtyards from Regent Street, Regent Lane and the Stanley Lane frontages.
21. The proposed 61 residential apartments building comprise the following mix:
 - 18 x 1 bedroom (29.5%);
 - 36 x 2 bedroom (59%); and
 - 7 x 3 bedroom (11.5%).
22. Storage facilities are within the basement levels and internally within each apartment.
23. The communal open space (COS) equates to 26.8% of the site being 364sqm, provided predominantly on the roof top area of level 11 and occupies 228sqm with the remaining area located on the ground floor along the northern rear boundary facing Stanley Lane and along the front boundary facing Regent Street. The roof top COS contains seating areas, BBQ area and one accessible WC.
24. Accessibility measures contained within the proposed development includes:
 - Six (6) adaptable and six (6) Liveable apartments;
 - Seven (7) accessible car parking spaces, including 1 accessible visitor parking space; and
 - Two lifts servicing all levels of the development, with one being stretcher capable.
25. Deep soil landscaping is well spread around the perimeter of the site being all 3 street frontages. The development provides a total of 99sqm (7.2%) of deep soil.
26. Specifically, the proposed development will contain the following on each level:

Lowest Basement:

- Total of fifteen (15) resident parking spaces
- Eighteen (18) individual storage spaces
- Two (2) lift cores and two (2) fire stairs

Basement (3):

- Total of twenty four (24) resident parking spaces (including 1 accessible space)
- Seventeen (17) individual residents' storage spaces
- Two (2) lift cores and two (2) fire stairs

Basement (2):

- Total of twenty one (21) resident parking spaces (including 5 accessible spaces)
- Twenty (20) individual residents' storage spaces
- Twenty one (21) Bicycle spaces
- Two (2) lift cores and two (2) fire stairs

Basement (1):

- Total of nine (9) Parking spaces for visitors including one accessible car space and a car wash bay
- 7 Bicycle spaces
- WC

- Two (2) lift cores and two (2) fire stairs
- Garbage room and plant rooms

Ground Floor Plan:

- 6 x 2 bedroom apartments (all with access to ground floor courtyards)
- Entrance lobby via Regent Street
- Fire exit circulation hallway
- Stair shaft and 2 lift cores
- Plant and services rooms and cupboards
- Garbage chute room

Levels 1 to 3 are typical and each contains:

- 1 x 1 bedroom apartment
- 6 x 2 bedroom apartments

Levels 4:

- 1 x 1 bedroom apartment
- 3 x 2 bedroom apartments
- 1 x 3 bedroom apartment

Levels 5 to 9 are typical and each contains:

- 1 x 1 bedroom apartment
- 3 x 2 bedroom apartments
- 1 x 3 bedroom apartment

Level 10:

- 3 x 2 bedroom apartments
- 1 x 3 bedroom apartment

Level 11 - Roof terrace area:

- 228sqm of communal open space as a roof terrace
- BBQ area;
- An accessible toilet
- Roof top landscaping

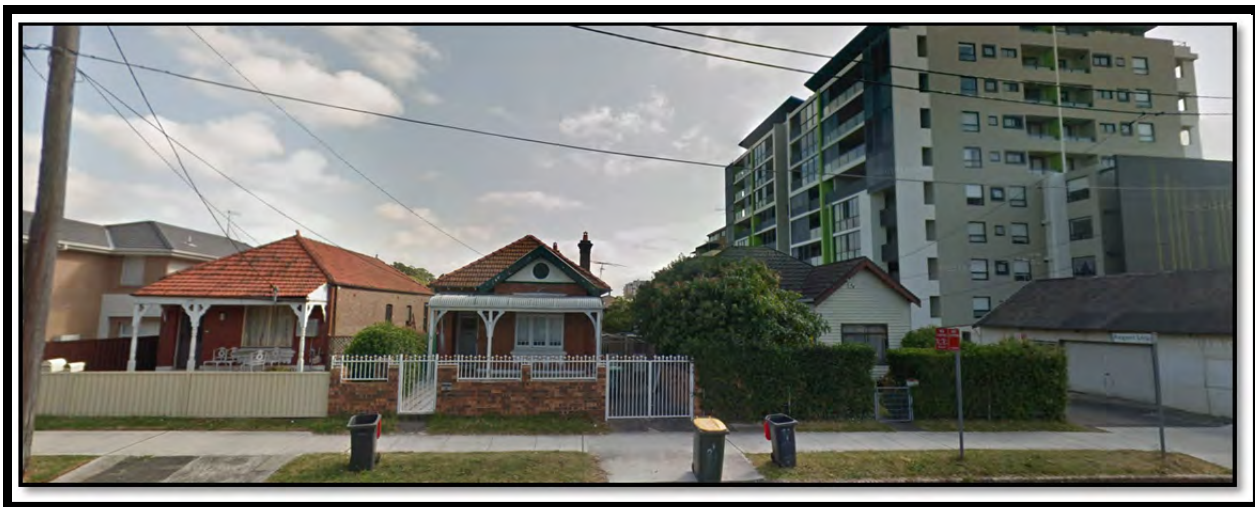


Photomontage 80-84 Regent Street Kogarah

The Site and Locality

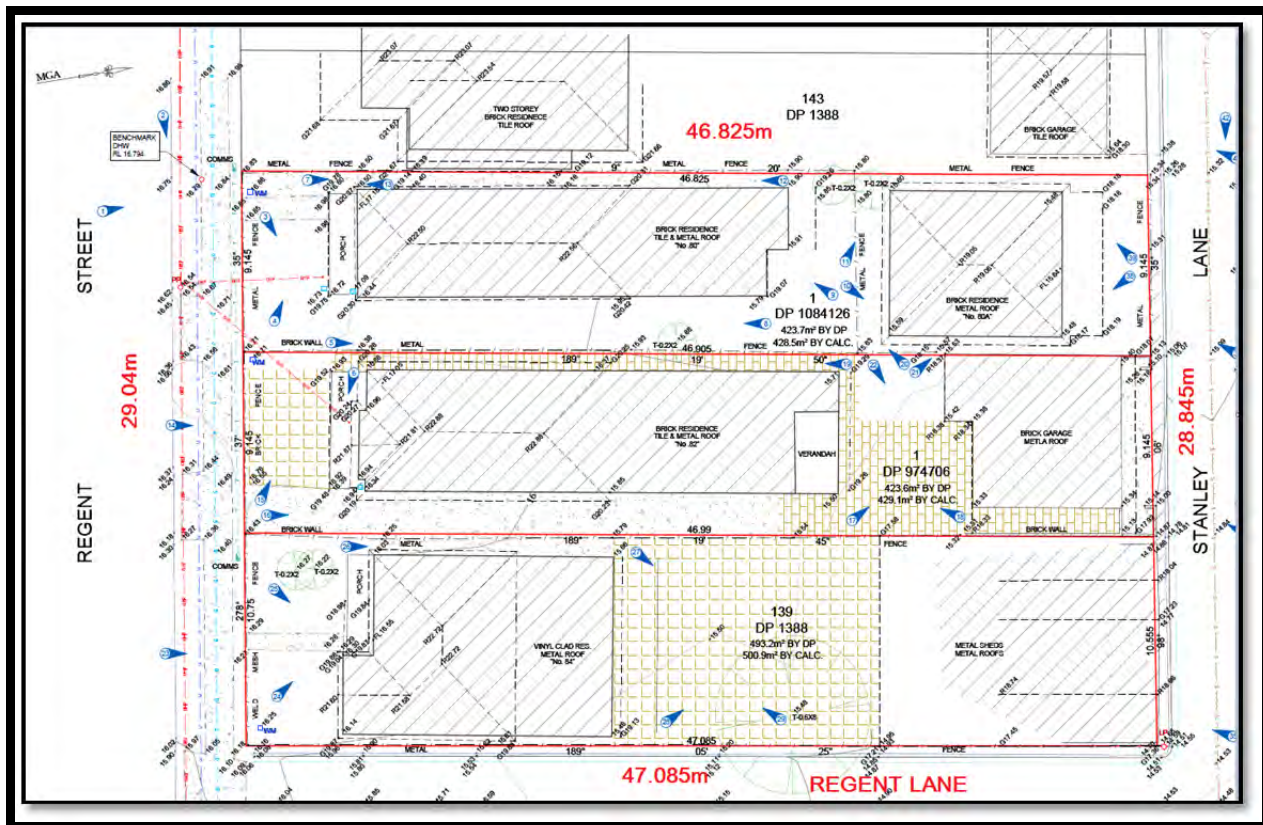
27. The subject site is located at 80-84 Regent Street, Kogarah and is situated within an area known as the Kogarah North Precinct.
28. The site currently comprises three allotments namely Lot 1 DP 1084126, Lot 1 DP 974706 and Lot 139 DP1388.
29. The amalgamated site forms a rectangular shape with a combined area of 1,358.6sqm occupying a corner position with 3 street frontages bound by Regent Street from the south, Regent Lane from the east and Stanley Lane from the north.
30. The dimensions of the site are 28.845m from the north (Stanley Lane), 47.085m from the east (Regent Lane), 29.04m from the south (Regent Street) and 46.825m from the west (neighbouring property)

31. The site slopes down towards the east (Regent Lane) in the order of approximately 700mm and from front to rear in the order of 1.5m
32. CBD Surveying has advised that upon detailed site survey by CBH Surveying & Engineering, it was quickly identified that the current DPs illustrated an inconsistency in land size when comparing actual surveyed land to the historic DPs. In consultation with CBH, they have noted that the marginal error in land size (18sqm) is a result of inaccurate DPs that will be updated at the time of land consolidation.
33. The site currently contains three (3) single storey homes, all fronting Regent Street, with rear access available from Stanley Lane (See Figure 3 and Figure 4 below). The land also accommodates various forms of ancillary structures and outbuildings associated with the dwellings. No 82 appears to have a secondary dwelling fronting the rear lane. The site is bound by a lane to the east - Regent Lane, which operates as a service lane and access to developments to the east of that lane.
34. Existing buildings on site are not listed as heritage items in the Kogarah Local Environmental Plan 2012, and the site is not located within a heritage conservation area. However, the site is in close proximity to a locally significant heritage item, being St George Girls High School (two storey main building) to the west of the site on Victoria Street , as well as no 2, 14 and 16 Victoria Street being items L111 and L110 respectively. Notwithstanding the items in question are not located within a viewing distance from the proposed development.



View

of site from Regent Street (source: Google Images)



Survey Plan and dimensions

35. The site and surrounding area forms part of the Kogarah North Precinct, which is approximately 14 km to the south west of Sydney central business district, and is characterised by a mix of uses including residential, commercial, and public use buildings ranging from single to 11 storeys in height. Princes Highway is a three lanes (each way) two way State classified road which forms the eastern boundary of Kogarah North Precinct. Regent Street is located perpendicular to Princes Highway to the south of the site and provides access to Kogarah Town Centre to the west of the site. Stanley Lane runs along the northern boundary of the site providing access to Regent Street to the west and Regent Lane to the east.

36. The endorsed Kogarah North Precinct Urban Design Strategy, Kogarah North Precinct is envisaged to undergo significant urban renewal and therefore will have a mixed character transitioning from the traditional low density residential developments dominated by single to two storeys in height to buildings up to 33m in height with a 4:1 FSR as set out in Kogarah Local Environmental Plan 2012.

37. Existing and Proposed Developments immediately surrounding the site include:

To the east across Regent Lane

- 13-19 Princes Highway contains a seven (7) storey shop top housing development with retail shops on the ground floor and vehicular access on Regent Lane.
- 21-35 Princes Highway contains a ten (10) storey residential flat building of 84 apartments and basement car parking with access on Regent Lane

To the west

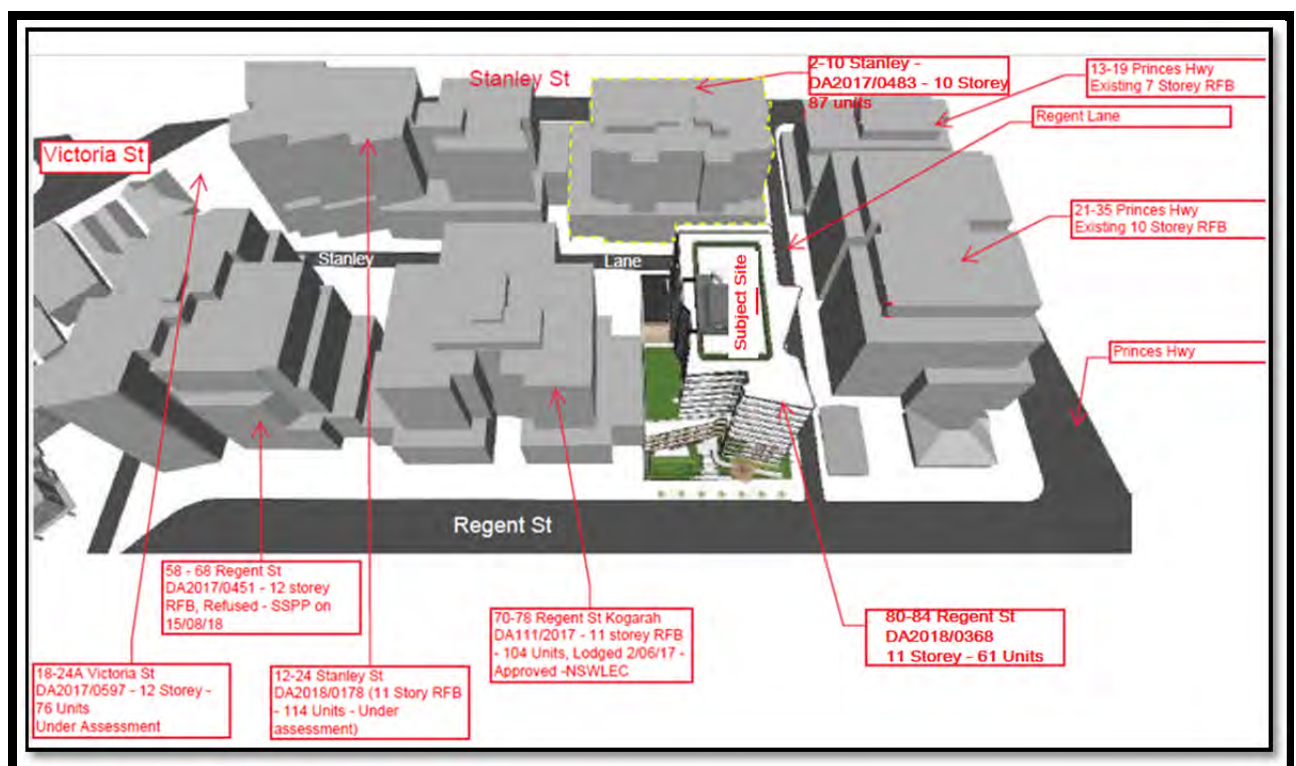
- 70-78 Regent Street was occupied by single to double storey dwellings. Development Application (DA111/2017) sought Consent for an eleven (11) storey residential flat building containing one hundred and four (104) residential units with basement parking for 123 car spaces; which was determined by means of approval subject to conditions by NSW Land and Environment Court (LEC) on 24th July 2018.

To the north across Stanley Lane

- 12-24 Stanley Street formerly containing four (4) single storey dwellings, and three (3) two-storey detached dwellings all fronting Stanley Street with rear access available to Stanley Lane, also accommodated various forms of ancillary structures and outbuildings associated with the dwellings, all of which have been demolished via Complying Development Certificates.

The site is also subject to a Development Application seeking development consent for an eleven (11) storey residential flat building comprising 116 residential units with basement car park which is currently under Council's assessment (DA2018/0178) and is being reported to the Sydney South Planning Panel in April 2019.

- 2-10 Stanley Street was approved by the Sydney South Planning Panel 11 December 2018 for a 10 Storey Residential Flat Building containing 87 apartments (DA2017/0483).



Massing and 3D Perspectives of entire block bound by Stanley St from the north, Regent St from the South and Regent Lane from the East (PBD Architects)

Background

38.

- 5 September 2018 Application lodged (DA2018/0368)
- 25 September 2018 Arborist requested additional information re schedule of plants
- 26 September 2018 Application notified until 11 October 2018 with one submission received in response.
- 2 October 2018 Sydney Airport request for additional clarification regarding height
- 8 October 2018 Additional information to Sydney Airport sent
- 18 October 2018 Revised landscape plans received
- 6 December 2018 Design Panel Review Panel minutes received
- 17 December 2018 Department of Infrastructure Regional Development and Cities response received inclusive of CASA and Air Services.
- 18 December 2018 Design Review Panel minutes sent to applicant
- 10 January 2019 GIS comments received

11 January 2019

Environmental Services comments received

Statutory framework**Environmental Planning and Assessment Act 1979 (EP&A) Act 1979**

39. 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

40. Consent authority is required to consider the objects in Section 1.3 of the EP&A Act when making decisions under the Act. Council has considered the object of the EP&A Act in the Table below and is satisfied that the proposal complies with all objects.

Objects of the EP&A Act	Proposal	Complies
(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	The proposal results in the urban infill development of a residential flat building within Kogarah North Precinct providing additional housing for the locality.	Yes
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental, and social considerations in decision-making about environmental planning and assessment	This report considers the proposals against the principles of ESD.	Yes
(c) to promote the orderly and economic use and development of land	A detailed merit assessment is provided in this report.	Yes
(d) to promote the delivery and maintenance of affordable housing	The proposal provides sixty one (61) apartments to the housing market. The proposal reflects a diverse apartment mix including 1, 2 and 3 bedroom apartments.	Yes
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats	The site is located within a highly urbanised area. The proposal is not considered to result in adverse impacts to threatened and other species of native animals and plants, ecological communities and their habitats.	Yes
(f) to promote the sustainable management of built and cultural heritage	The proposal is considered as having no detrimental impacts upon heritage items within the vicinity of the site.	Yes
(g) to promote good design and amenity of the built environment	This report assesses the proposal's design and amenity against SEPP 65, the ADG Guidelines and KDCP 2013.	Yes
(h) to promote the proper construction and	The proposal will achieve this object by complying with Council's recommended	Yes

maintenance of buildings, including the protection of the health and safety of their occupants	consent conditions relating to construction phase of the development.	
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State	The proposal is not classified as a regionally significant development and therefore the Local Planning Panel is the consent authority.	Yes
(j) to provide increased opportunity for community participation in environmental planning and assessment	The submissions section of this report outlines Council's public exhibition of the proposal, including public submissions. The submission section of this report also sets out details of Council's consideration of the key issues raised in public submissions.	Yes

Ecologically Sustainable Development

41. The Act adopts the definition of ESD found in the Protection of the Environment Administration Act 1991. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision making processes and that ESD can be achieved through the implementation of:

- (a) *the precautionary principle*
- (b) *inter-generational equity*
- (c) *conservation of biological diversity and ecological integrity*
- (d) *improved valuation, pricing and incentive mechanisms*

42. Council has assessed the proposed development in relation to the ESD principles and has made the following conclusions

- (a) Precautionary Principle – the site has been appropriately planned for the development and will not result in any serious or irreversible environmental damage.
- (b) Inter-Generational Equity – the proposal will not have adverse impacts on the environment for future generations.
- (c) Biodiversity Principle – the site is within a highly urbanised area and contains no significant flora or fauna.
- (d) Valuation Principle – the proposal includes a number of energy, water, and waste reducing measures to reduce the ongoing cost, resource, and energy requirements of the development.

Section 4.15(1) Matters for Consideration

(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, and***

43. The proposed development has been assessed against the provisions of the following applicable Environmental Planning Instruments (EPI's) relevant to this site and a detailed assessment is provided in this report. The applicable EPI's are:

Applicable EPI's

- Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment
- State Environmental Planning Policy No. 55 – Contamination of Land (SEPP 55)
- State Environmental Planning Policy – Building Sustainability Index BASIX– 2004 (SEPP BASIX) 2004
- State Environmental Planning Policy – Infrastructure 2007 (SEPP) Infrastructure 2007
- State Environmental Planning Policy – Vegetation in Non-Rural Areas 2017 (Vegetation SEPP)
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings (SEPP 65)
- Draft Environment State Environmental Planning Policy
- Kogarah Local Environmental Plan 2012 (KLEP 2012)

(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

(iii) any development control plan, and

44. The applicable Development Control Plans for the proposed development are:

- Kogarah North Precinct Urban Design Strategy (KNPUDS)
- Kogarah Development Control Plan 2013 (KDCP 2013)
- Kogarah Section 94 Plan
- Apartment Design Guidelines

(iiia) 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,

45. Comment: there is no planning agreements proposed.

(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,

46. Comment: There are no further prescribed matters under the Regulations apart from compliance with the National Building Code of Australia (BCA).

(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,

47. Comment: The proposal is not considered to have any adverse impacts upon the natural and built environment. It has been considered in context with the future surrounding development essentially defining this specific locality as part of Kogarah North Precinct Urban Design Strategy adopted by Georges River Council.

48. Additionally, the proposal is considered to contribute positively to the social and economic dimensions sought to be achieved within the precinct.

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

49. Comment: The site has no impediments that would preclude it from being suitable for the proposed development

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

50. Comment: The proposal has been notified and all submissions received are discussed in detail under the submissions and referral section of this report.

(e) the public interest.

51. Comment: The proposal satisfies the applicable EPI's and objects of the Act and accordingly is considered to be within the Public interest

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

52. The proposed development satisfies the relevant matters for consideration for development under the Regulations

Compliance and Assessment

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

53. The site is within the area affected by the Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment. The proposal, including the disposal of stormwater, is considered to be consistent with the Council's requirements for the disposal of stormwater in the catchment.

54. All stormwater from the proposed development will be managed by the proposed stormwater system and will be treated in accordance with Council's water management Policy and therefore satisfies the relevant provisions of the Deemed State Environmental Planning Policy – Georges River Catchment.

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

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.

56. According to Council's records, the site has been used for residential purposes only, as such, there is no reason to suspect the site may have been subjected to contamination.

57. Accordingly, it is considered that the site is suitable for the proposed development without the need for any site remediation.

58. Notwithstanding, the application is accompanied by a Preliminary Site Investigation which determines the subject site is suitable for the proposed residential use. A Preliminary Site Investigation was undertaken by Dirt Doctors Geotechnical Testing Services report numbered DDE-301_1 dated 28 August 2018, which concludes:

59. *“that the risk to human health and environment associated with soil and groundwater contamination is low in relation to the proposed development for the subject site”*. In this regard further analysis will be undertaken as the development progresses, if anything is identified in this process contingencies are nominated. A condition has been incorporated accordingly.

60. In addition a Geotechnical Assessment was also undertaken to establish the subsurface. The report also recommends that further detailed geotechnical subsurface investigation prior to final structural design is required to determine the site specific subsurface profile and geotechnical parameters for the design of footings.

61. As such, a condition of consent is included requiring further geotechnical investigations prior to the issue of a construction Certificate.

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

62. A BASIX Certificate No 953217M prepared by ESD Synergy dated 4 September 2018 has been issued for the proposed development. A revised BASIX was not required for the amended plans.

63. The BASIX Certificate indicates that the development will achieve the required score. In this regard a condition of consent has been imposed to ensure compliance is maintained with the specified measures of the certificate.

State Environmental Planning Policy – Infrastructure 2007 (SEPP) Infrastructure 2007

64. The proposed development is subject to Clause 101 and Clause 102 of the SEPP (Infrastructure) as the subject site is located near Princes Highway which is listed as a classified road.

65. Clause 101 requires that the development does not compromise vehicle movements on the classified road. Whilst Regent Street is not a classified road, the proposed development has vehicle access from Regent Lane which is near Princess Highway. Vehicular movements to and from Regent Lane does not compromise vehicle movements on Princes Highway.

66. The application was referred to Roads and Maritime Services (RMS) who has advised that no objection is raised to the development subject to conditions of consent being attached to any consent granted.

67. Clause 102 requires that residential developments located adjoining a road corridor or road that experiences high volumes of traffic to be considered in terms of potential noise and vibration from the road. The application is accompanied by an acoustic assessment of the potential impacts of road noise and vibration on the proposed development. An Acoustic Report titled DA Acoustic Assessment prepared by Renzo Tonin & Associates (reference no TK504-01F02 Rev 4, dated 04 September 2018).

68. The report concludes that the proposed development can meet the requirements of Clause 102 subject to the recommendations of the report being adopted in the design of the development.

69. As such, a condition of consent has been imposed to ensure that the development will be undertaken in accordance with the recommendation of the acoustic report.

State Environmental Planning Policy – Vegetation in Non-Rural Areas 2017 (Vegetation SEPP)

70. The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 replaces the repealed Clause 5.9 of KLEP 2012 (Preservation of Trees and Vegetation). The intent of this SEPP is consistent with the objectives of the repealed Standard where the primary aims/objectives are related to the protection of the biodiversity values of trees and other vegetation on site.

71. In this instance, the development is consistent with the provisions of the SEPP and the site is free of any vegetation of any botanical significance.
72. A landscape strategy is designed and submitted prepared by Site Image Landscape Architects Issue E dated 19 February 2019 (as amended)

State Environmental Planning Policy No 65 – Design Quality of Residential Flat Buildings (SEPP 65)

73. The extent to which the proposed development complies with the controls and principles in the State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide (ADG) is detailed and discussed in this report.

Part 1 - Application of SEPP 65

Clause	Standard	Proposal	Complies
3 - Definitions	Complies with definition of “Residential Apartment Development” (RAD)	The proposal complies with the definition.	Yes
4 - Application of Policy	Development involves the erection of a new RFB, substantial redevelopment or refurbishment of a RFB or conversion of an existing building into a RFB	The proposal is for the erection of a new residential flat building (11 storey over 3.5 basement levels)	Yes
5 – Development Applications	Design verification statement provided by qualified designer Registered Architect Name and Registration No.	Design Verification Statement provided by Registered Architect Mr. Paul Buljevic (Registration No 7768)	Yes

Part 2 - Design Quality Principles under SEPP 65 – Design Review Assessment

74. The proposal have been referred to the Design review panel for assessment against the provisions of SEPP 65 and the Panel concluded that the application satisfies the design qualities principles contained in the SEPP as follows.

Design Qualities	Design Review Panel Comments	Officer’s Comments
1 – Context and neighbourhood character Good design responds and contributes to its context (e.g. natural and built features of an area)	The Kogarah North precinct is in a state of transition. The subject site is in the R4 zone, one (1) block back from the Princes Highway. The SEPP 65 Design Statement by the architects shows that a considerable amount of thought has been put into understanding the site’s context. There is a large residential flat building on the Highway to the east and a single storey cottage at the corner of Regent Street and the highway, which appears to be an isolated site and is unlikely to develop to the	Proposed development has been designed to respond to its context and the surrounding future residential development.

	<p>limits of height and FSR applying to the locality. Single storey dwelling houses along Regent Street to the west will be redeveloped under the same development standards and controls (applications similar to this application have already been approved in this location).</p> <p>The streetscape in Stanley Lane on the north side of the site is dominated by garages and car parking structures. (these will be removed given that development similar to that proposed has been approved on the northern side of the lane).</p>	
<p>2 – Built form and scale Good design provides an appropriate scale in terms of the existing and desired future character and built form that suits the scale of the street and surrounding buildings</p>	<p>The built form is consistent with the separation distances of the ADG. A seven (7) storey tower is placed over a four (4) storey podium. The Panel recommends that the architectural treatment of the podium be differentiated more from the tower by elements that create a more solid appearance and use of different materials. The planning controls for future high rise development in this area include strongly expressed four (4) storey podium for all sites, in order to provide a more comfortable human scale in relation to the streets.</p> <p>The present design does not wrap the podium treatment around the eastern face strongly enough.</p> <p>The use of curved floor plates, indents and deep balconies provides a highly articulate built form, which contrasts favorably with the more common rectilinear bulky RFBs that have been built.</p> <p>The protruding angled corner of the bedrooms of Unit G(05) and above does not conform to the ADG building separation guidelines and would block winter solstice sunlight from the living area and the balconies. Further thought is needed for the design of this part of</p>	<p>The proposed development as amended provides an appropriate scale in relation to the relevant requirements relating to floor space ratio.</p> <p>In reference to the proposed height, this is discussed in detail under the C14.6 request of this report and the height breach is limited to the provisions of the lift overrun.</p> <p>In reference to the setbacks, a nil western boundary setback is considered satisfactory in this case for the first 4 levels as it responds to the approved design on the adjoining land.</p> <p>Further, building separation to adjoining existing buildings has been observed in the design.</p> <p>Generally the site has limited width and depth given the imposition of the 1.2m lane widening</p>

	the building.	provision and the imposition of a wrap-around podium in context of the future adjoining built form is considered to further constrain the proposed built form unnecessarily.
<p>3 - Density Good design has a density appropriate for a site and its context, in terms of projected population and can be sustained by existing and proposed infrastructure</p>	Complies	The proposed development complies with the floor space ratio requirements.
<p>4 – Sustainability Good design combines positive environmental, social and economic outcomes. Includes use of natural cross ventilation and sunlight, recycling and reuse of materials and waste, use of sustainable materials and deep soil zones</p>	<p>Solar access and natural cross ventilation would generally be consistent with the guidelines of the ADG in the present conditions. The architect's analysis indicates that solar access performance would be reduced by future development north of Stanley Lane.</p> <p>The architect's SEPP 65 Statement proposes a range of sustainability features including roof top solar panels, storm water storage and re-use for irrigation, and a centralised gas hot water system.</p> <p>Large trees should be included in the front and side setbacks to improve local microclimate and shade.</p>	<p>The proposed development provides appropriate outcomes for sustainability, through energy efficiency measures, landscape open space areas, cross ventilation and sunlight despite the site's constraints.</p> <p>Additional landscaping has been added to respond to the panel's recommendations. The proposed landscape strategy has been amended and submitted accordingly, prepared by Site Image Landscape Architects Issue E dated 19 February 2019 addressing this criterion.</p>
<p>5 - Landscape Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity, enhances the development's environmental performance, optimises useability, privacy and</p>	The landscape plan shows the ground floor setback areas utilised for gardens, except where the bedrooms of Unit G (05) and above, as well as the substation impinge on the setback. Redesign of frontage with relocation of the substation and modification of the building and stair access would allow a line of large scale trees to be provided along the length of Regent Lane.	Landscaping to the site will be in the form of a communal open space areas and a 2-3m wide deep soil zone to the majority of the site from north (rear) east (side) and south (front) setbacks which fronts Stanley Lane, Regent Lane and Regent Street respectively.

<p>opportunities for social interaction, equitable access, and practical management</p>	<p>Species selection mainly uses small to medium scale trees, an avenue of large trees such as gums should be provided adjacent to the Lane.</p> <p>Priority should be given to providing large trees (greater than 10m) on Regent Street, preferably with less paving at the entry path.</p> <p>Proposed use of climbers across the driveway is positive, details should be provided to show soil depth and structural design.</p> <p>Landscaping to the roof top communal open space requires further refinement to provide more opportunities for different users. Further refinement of the planting selection is required to ensure species are appropriate for conditions, particularly wind.</p> <p>Stanley Lane street frontage appears to include private gardens with direct access to ground floor units. This is positive and would activate the street. Levels should be provided to show how this could be achieved.</p> <p>The lightweight green roof is a positive element. This should be detailed in landscape drawings. Access is required to maintain the green roof.</p>	<p>Further landscape is proposed on level 4 roof top and level 11 roof top terraces.</p> <p>Privacy is preserved to occupants on level 11 from the proposed communal open space.</p> <p>Level 11 communal open space has equitable lift access by all occupants and provisions for an accessible WC and various seating arrangements</p> <p>Furthermore, the proposal has been amended to respond to the landscaping species and general layout and dimensions.</p>
<p>6 - Amenity Good design influences internal and external amenity for residents and neighbours</p>	<p>The site is challenged by its size and narrow north-south configuration. The floor plans have responded to these constraints to provide a high level of amenity. Taking into account the unsuitability of ground level landscaped space for communal use, the roof top communal open space, although less than 25% of the site area, is a valuable resource. Minor expansion of the area should be investigated to increase the useable area considering the benefit of the proposed planning to address privacy concerns.</p>	<p>The proposed development mitigates privacy impacts with the location of balconies away from the adjoining residential balconies.</p> <p>The proposal as amended has provided adequate landscaping screening for ground floor apartments without compromising solar access or natural surveillance.</p>

	It should also include a small fully enclosed space with kitchenette facilities, and the exposed terrace areas should be screened from winds.	
7 – Safety Good design optimises safety and security, both internal to the development and for the public domain	Generally satisfactory. Measures to address vulnerability of ground floor units and private open spaces close to the public domain should be considered.	The proposed development is consistent with crime prevention principles.
8 –Housing diversity and social interaction Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Includes different types of communal spaces for social interaction	Satisfactory.	The proposed development provides apartments with a variety of bedroom numbers and design layouts. Communal open space areas have been provided which will be accessible to all residents on level 11.
9 - Aesthetics Good design achieves a built form that has a balanced composition of elements, a variety of materials, colours and textures and responds to the future local context	Very satisfactory. The built form is sensitively sculpted by curvilinear plan forms and articulations. The materials palette is limited and consistent. Lining of balcony soffits is an attractive feature of the proposal.	The design of development and proposed external materials and finishes are appropriate. The proposed development results in a satisfactory architectural outcome.

Consideration of Apartment Design Guide (ADG) under Clause 30 of SEPP 65

75. SEPP 65 refers to some parts of the Apartment Design Guide that must be applied when assessing development applications. Objectives, design criteria and design guidance in Parts 3 and 4 of the Apartment Design Guide that are referred to in SEPP 65 will prevail over any inconsistent DCP control. Parts 3 and 4 set out objectives, design criteria and design guidance for the siting, design and amenity of residential apartment development.

76. Note: Certain design criteria referred to in SEPP 65 cannot be used as a reason to refuse a development application, if complied with.

Clause	Standard	Proposal	Complies
Objective 3D-1	1. Communal open space has a minimum area equal to 25% of the site. -Where it cannot be provided on ground level it should be provided on a podium or roof -Where developments are unable to achieve the design	364sqm (27%) communal open space, 228sqm of which is provided to the roof top level and the remaining is provided around the site. The communal open space area has good amenity in that it	Yes

	<p>criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:</p> <ul style="list-style-type: none"> • provide communal spaces elsewhere such as a landscaped roof top terrace or a common room • provide larger balconies or increased private open space for apartments • demonstrate good proximity to public open space and facilities and/or provide contributions to public open space <p>2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)</p>	<p>receives at least 3 hours sunlight during mid-winter and is a functional area with landscaping, BBQ facilities, an accessible WC and seating provided.</p> <p>More than 50% of the communal Open space receives the required sunlight as specified.</p>	
<p>Objective 3E-1</p>	<p>1. Deep soil zones are to meet the following minimum requirements:</p> <ul style="list-style-type: none"> -Where the site is less than 650sqm = no minimum dimension -Where site area is between 650sqm and 1500sqm = 3m minimum dimension -Where the site is more than 1500sqm = 6m minimum dimension <p>Deep soil = 7%</p> <p>Achieving the design criteria may not be possible on some sites including where:</p> <ul style="list-style-type: none"> • the location and building typology have limited or no space for deep soil at ground level (eg central business district, constrained sites, high density areas, or in centres) • there is 100% site coverage or non-residential uses at ground floor level 	<p>The site area is 1358.6sqm and the minimum deep soil area required is 95.102sqm.</p> <p>The proposed development provides 99sqm (7%) of the site with a minimum dimension of 3m, predominantly adjoining the northern, eastern and southern boundaries.</p> <p>An additional green roof area is provided on the level 4 podium and surrounding the parameters of the rooftop on level 11 (Not included in the 7% deep soil).</p>	<p>Yes</p>

	Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure.		
Objective 3F-1	<p>1. Separation between windows and balconies is provided to ensure visual privacy is achieved.</p> <p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <p>-Up to 12m (4 storeys) Habitable rooms and balconies = 6m Non-habitable rooms = 3m</p> <p>-Up to 25m (5-8 storeys) Habitable rooms and balconies = 9m Non-habitable rooms = 4.5m</p> <p>-Over 25m (9+ storeys) Habitable rooms and balconies = 12m Non-habitable rooms = 6m</p>	<p>The proposal seeks a variation to enable a nil western side boundary separation for the first 4 storeys (ground floor included).</p> <p>The eastern side adjoining Regent Lane has been setback by 6m measured from the centre of the laneway however it presents a small intrusion within the 6m separation due to a butterfly feature indentation in the building form, utilised for enhanced solar access and architectural articulation.</p> <p>Levels 4 – 9 have also maintained the proposed built form at a 6m separation from Regent Lane and 6.3 from the adjoining western development. The proposal has utilised the reduced setback option being a min 4.5m – 6m to blank walls and utilising frosted windows where applicable for better solar amenity and cross ventilation (Refer to Note (1) below)</p>	No (1)
Objective 3J-1	<p>1. For development in the following locations:</p> <p>- On sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area;</p> <p>- The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating</p>	<p>The development complies with the requirements of the RMS Guide to Traffic Generating Development in relation to car parking and other facilities, providing 69 car spaces and 40 Bicycle spaces.</p> <p>The proposal provides the following rates Sixty nine (69) residential spaces which include:</p>	Yes

	<p>Developments, or the car parking requirement prescribed by the relevant Council, whichever is less</p> <p>The car parking needs for a development must be provided off street</p> <p>In this case, the RMS requirements apply as follows:</p> <p>1 x bedroom = 0.6 spaces/unit 2 x bedroom = 0.9 spaces/unit 3 x bedroom = 1.4 spaces/unit 1 x Visitor/5 Units</p>	<ul style="list-style-type: none"> - Nine 9 residential accessible spaces - Eight 8 tandem residential spaces - Twelve 12 visitors spaces - One 1 accessible visitor space <p>18 x 1 bed = 11 36 x 2 bed = 33 7 x 3 bed = 10 Visitors = 14 68 Spaces required and 69 spaces proposed.</p>	
Objective 4A-1	<p>1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area</p> <p>3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p>	<p>Living room and private open spaces of 60.66% of units receive at least 2 hours of solar access. Or 67.2% if calculated from 8.45am as opposed to 9.00am with the use of skylights. This is a direct result of the approved adjoining and existing developments (Refer to Note (2) Below)</p> <p>Only 6.6% of units (4 Units) receive no direct sunlight</p>	<p>No (2)</p> <p>Yes</p>
Objective 4B-3	<p>1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed</p> <p>2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p>	<p>77% of units (44 Units) are appropriately cross ventilated.</p> <p>Maximum depth is approximately 12.5m</p>	<p>Yes</p> <p>Yes</p>
Objective 4C-1	<p>1. Measured from finished floor level to finished ceiling level, minimum ceiling heights are: Habitable rooms = 2.7m</p>	<p>Overall proposed height is 3.1m including 2.7m for all rooms plus 400mm for services</p>	<p>Yes</p>

	Non-habitable rooms = 2.4m		
Objective 4D-1	<p>1. Apartments are required to have the following minimum internal areas:</p> <p>1 bedroom = 50sqm 2 bedroom = 70sqm 3 bedroom = 90sqm</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each</p> <p>2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</p>	<p>1 bedroom = 50-57sqm 2 bedroom = 70-80sqm 3 bedroom = 106sqm</p> <p>Observed where applicable</p> <p>Window provided for each habitable room with appropriate glass area provided.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
Objective 4D-2	<p>1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height</p> <p>2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p>	<p>Within range.</p> <p>Open plan layouts less than 8m from a window.</p>	<p>Yes</p> <p>Yes</p>
	<p>1. Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space)</p> <p>2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p> <p>3. Living rooms or combined living/dining rooms have a minimum width of: -3.6m for studio and 1 bedroom -4m for 2 and 3 bedroom apartments</p> <p>4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment</p>	Development complies with the specified internal design numerical requirements.	Yes

	layouts		
Objective 4E-1	<p>1. All apartments are required to have primary balconies as follows:</p> <p>-1 bedroom = 8sqm/2m depth -2 bedroom = 10sqm/2m depth -3+ bedroom = 12sqm/2.4m depth</p> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p> <p>2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15sqm and a minimum depth of 3m</p>	<p>All balcony areas are at or greater than the minimums specified and minimum dimensions are observed for primary balconies as required.</p> <p>Contributing secondary balconies are at or greater than 1m in depth</p> <p>The ground floor units have courtyards of 15sqm to each with a minimum depth of 3m.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
Objective 4F-1	1. The maximum number of apartments off a circulation core on a single level is eight	Maximum 6 units off the circulation core.	Yes
Objective 4G-1	<p>1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <p>-1 bedroom = 6m³ -2 bedroom – 8m³ 3 bedroom – 10m³</p>	All units have storage areas that comply with the requirements by having a dedicated storage compartment within the basement levels and provisions for an additional storage cupboard within each apartment.	Yes
Objective 4M	Facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale.	The façade of the development is appropriate following the amendments of the design.	Yes
Objective 4N	Roof treatments are integrated into the building design and positively respond to the street. Opportunities to use roof space for residential accommodation and open space are maximised. Incorporates sustainability features.	The roof design is appropriate and integrated within the design of the development. The communal open space is predominantly provided on the roof top.	Yes
Objective 4O	Landscape design is viable and sustainable, contributes to the streetscape and amenity	Landscape design is considered appropriate and provides an attractive outlook to all facades being Stanley Lane from the rear, Regent Lane from the east and Regent Street from the south (front).	Yes

Objective 4P	Planting on structures – appropriate soil profiles are provided, plant growth is optimised with appropriate selection and maintenance, contributes to the quality and amenity of communal and public open spaces	Landscaping of the site which includes planting on structures has been design by qualified landscape architect with details provided on species and soil depth. Further treatments and roof top greenery has been implemented to the level 4 podium rooftop.	Yes
Objective 4Q	Universal design – design of apartments allow for flexible housing, adaptable designs, accommodate a range of lifestyle needs	Design of apartments allows for use by different lifestyles	Yes
Objective 4R	Adaptive reuse as apartment of existing buildings- new additions are contemporary and complementary, provide residential amenity while not precluding future adaptive reuse	The proposal is for a new development. The provision of this Clause is not applicable in this case.	N/A
Objective 4S	Mixed use developments are provided in appropriate locations, provide active street frontages, residential levels of the building are integrated within the development and safety and amenity is maximised for residents	The proposal is for a residential flat building development only and the provision of this Clause is not applicable in this case.	Yes
Objective 4T	Awnings and signage – awnings are well located and compliment and integrate with the building design, signage responds to the context and desired streetscape character	There is no Awning proposed as part of the proposal, however, the development is consistent with the streetscape and defines main entrances to the buildings and the corner position of Regent Street and Regent Lane.	Yes
Objective 4U	Development incorporates passive environmental design, passive solar design to optimise heat storage in winter and reduce heat transfer in summer, natural ventilation minimises need for mechanical ventilation	The development incorporates the energy efficiency (BASIX) commitments in the design and provides appropriate energy efficiency features.	Yes
Objective 4V	Water management and conservation – potable water use is minimised, stormwater is treated on site before being discharged, flood management systems are integrated into the site design	The development incorporates appropriate stormwater measures which have been reviewed by Council's development engineer and considered satisfactory.	Yes
Objective	Waste management – storage	Waste facilities are provided	Yes

4W	facilities are appropriately designed, domestic waste is minimised by convenient source separation and recycling	which are accessible to all residents. The proposed waste management plan has been reviewed by Council's Environmental Services Officer and considered satisfactory.	
Objective 4X	Building maintenance – building design provides protection from weathering, enables ease of maintenance, material selection reduces ongoing maintenance cost	The design incorporates a mix of external finishes that has been considered to require minimal maintenance.	Yes

(1) Minimum Building Separation

Western Side

77. The subject site is constrained by virtue of its corner position occupying 3 street frontages.
78. The site is bound by Regent Lane from the east, Stanley Lane from the north and Regent Street from the south.
79. The site is subject to a 1.2m wide lane widening provision in Stanley Lane. This dedication together with the other street setbacks results in a constrained development footprint resulting in the development needing to extend to the western boundary of the site.
80. Future adjoining development to the west consists of a Land and Environment Court approved residential flat building which approved a nil boundary setback adjoining the western boundary of the subject site.
81. In addition, the existing 10 storey residential flat building across Regent Lane east of the site also presents a breach in setback through all levels which further constrains the subject site from complying from the eastern side which forces the development further to the west as a result in order to maintain a functional footprint.
82. Further, the adjoining development to the west has a much wider frontage to Regent Street; incorporating the amalgamation of 70-78 Regent Street with the intention of constructing a residential flat building with a consistent 4 storey street wall and a nil eastern boundary setback.
83. As such, the proposal provides a nil western boundary setback in context with the adjoining future development as approved at 70-78 Regent Street and continues the coherence and systematic 4 storey street wall.
84. In context with the adjoining development, this has given the opportunity for both developments to work collectively to represent the envisaged Street wall to Regent Street in accordance with the Kogarah North Precinct Urban Design Strategy and KDCP 2013 Part E4 respectively.
85. In this regard the nil western boundary setback is considered acceptable on the merit of Streetscape and its consistency with the larger context along Regent Street given the constraints presented by having 3 street frontages.

Eastern and Northern Side

86. The applicable minimum building separation from the east is to be measured from the centre line of Regent Lane which in this case, given that Regent Lane and Stanley Lane are both 6m in width; the applicable separation would then be 3m from the properties eastern and northern boundaries.
87. The proposal has also dedicated 1.2m to widen Stanley Lane to the north and opted to utilise the reduced side building separation of 6m to non-habitable rooms for the first 4 levels along its eastern façade (side) towards Regent Lane.
88. Notwithstanding, the table below illustrates the overall building separation having regard to the approved development at 2-10 Stanley Street, 70-78 Regent Street and the existing development at 21-29 Princess Highway

	Required AGD Separation Criterion	Ground – L3	L4 – L8	L5-L9
East	12m – Ground to L3 Habitable to Habitable 3m to non-habitable.	13.88m Habitable to non-habitable from existing 10 storey RFB at 21-29 Princes Highway	15.17m from habitable to non-habitable from existing 10 storey RFB at 21- 29 Princes Highway	19.35m from unobstructed (roof) to Habitable from existing 10 storey RFB at 21- 29 Princes Highway
West	18m – L4 to L8 Habitable to Habitable 4.5m to non-habitable 24m – L5 to L9 Habitable to Habitable 6m to non-habitable	Nil	15.3m Non-Habitable to Habitable with screening on adjoining approved RFB at 70-78 Regent St and frosted glass on subject development	22.35 from Non-Habitable to Habitable on adjoining approved RFB at 70-78 Regent St and frosted glass on subject
North		12.8m habitable to habitable from approved RFB at 2-10 Stanley St	19.4m, Habitable to Non Habitable (fire stairs) from approved RFB at 2-10 Stanley St	21.12m Habitable to Non Habitable
South		NA	NA	NA

89. In this circumstance, this breach is considered justifiable as it satisfies the intent of the design guideline and preserves the visual privacy to the adjoining buildings across the laneways.
90. In applying strict compliance with the building separation guidelines on this particular site, given its constrained location occupying 3 street frontages, and in the context of its surrounding future and existing developments, would render any development unfeasible on the subject site.
- (2) Minimum of 70% of apartments in a building receive a minimum of 2 hours direct sunlight
91. The applicant explains that *“the building has maximised the access to sunlight for each unit and achieves an overall provision of 60.7% of all units that receive a minimum of 2hrs of direct solar access between 9am and 3pm mid-winter and with aid of a skylight and an additional 15minutes in the morning, ie from 8.45am to 3pm, this increases to 67.2% of all unit.*

92. *The site is a constrained isolated site, with a north-south orientation, three (3) street frontages and adjoining an approved multi-storey development to the west. Multi-storey developments also exist to the north and north-east of the site, adjoining the laneways.*
93. *Given the constraints, the building has been designed with façade articulation and specific location of windows to maximise direct sunlight where possible.*
94. *Due to the north and south orientation, only 6.6% of the units (i.e. 4/61) receive no direct sunlight. In this regard, daylight has been maximised by provision of secondary windows to bedrooms and other habitable rooms.*
95. *Further to the above, the majority of the useable communal open space is located on the roof of the development so that it maximises access to direct sun light throughout the day and provides a highly useable and comfortable space for the building occupants”*
96. The author of the report concurs with the applicant’s findings and the design approach in general and considers the breach to be directly related to the context of the site being isolated and having regards to the existing residential flat building to the east and future approved residential flat buildings to the north and west.
97. In addition, the Design Review Panel had commended this approach as follows:
“The site is challenged by its size and narrow north-south configuration. The floor plans have responded to these constraints to provide a high level of amenity. “
98. As such this breach is considered inevitable in nature and is therefore supported in this circumstance.

Kogarah Local Environmental Plan 2012 (KLEP 2012)

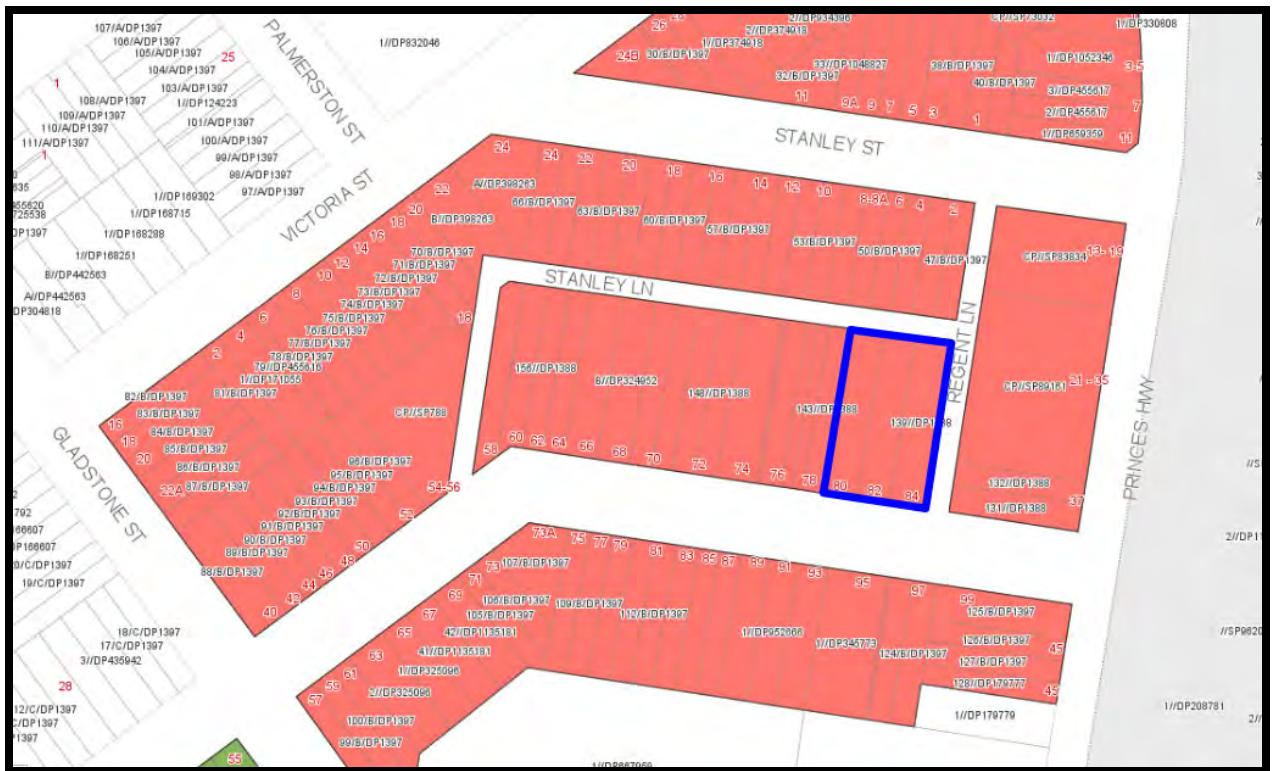
99. The provisions of the Kogarah Local Environmental Plan (KLEP) apply to the proposed development which complies with the relevant provisions as follows.

Clause Cl2.3 – Zone objectives and land use table - R4 – High Density Residential

100. The proposal is consistent with the zone objectives and land use table.

Clause 4.3 – Height of Buildings - 33m as identified on the Height of Buildings Map

101. The proposed height to the top of the lift overrun is 37.3m at the highest point. In this regard the proposal does not comply and a Clause 4.6 request has been submitted and discussed in detail later in this report.

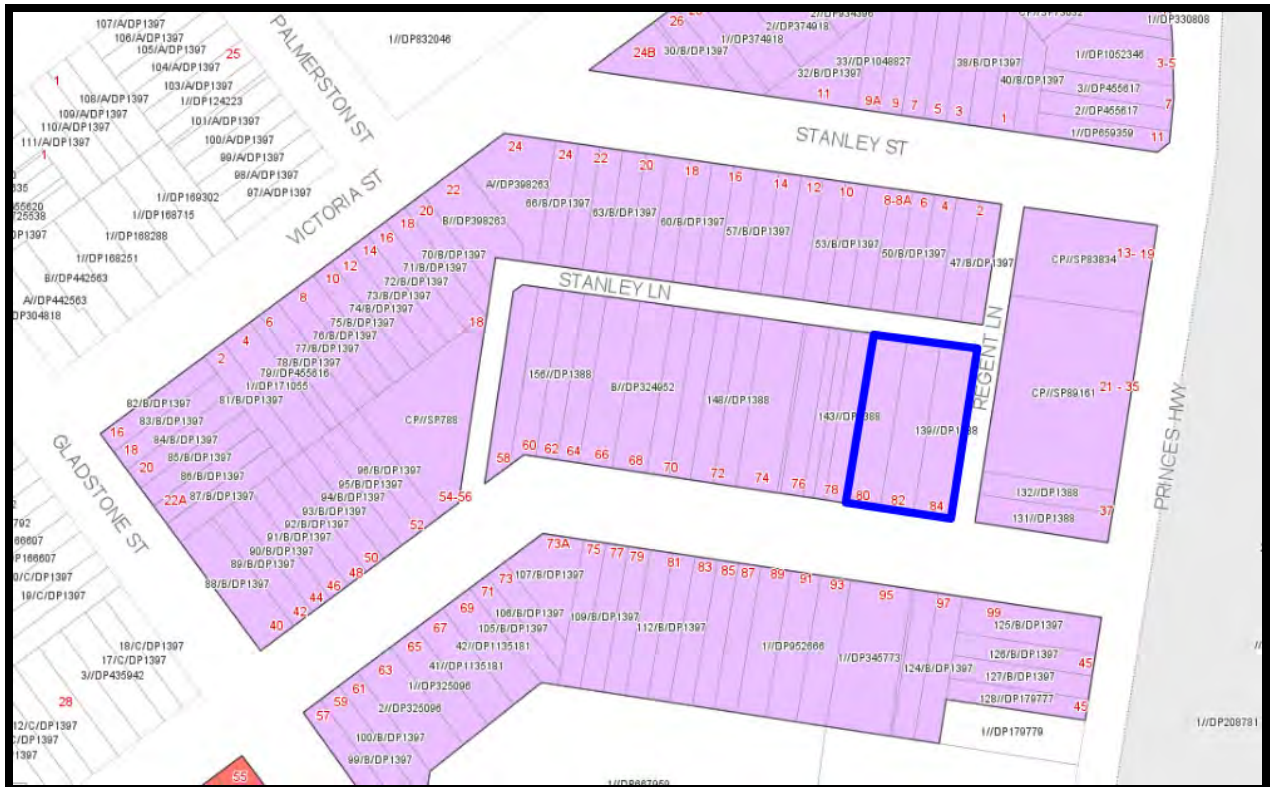


Height Map – site outlined in blue

102. The proposed FSR is 4.0:1 (5,431sqm) to the satisfaction of this Clause.

Clause 4.5 – Calculations of floor space and site area

103. The proposal has been correctly calculated in accordance with the provisions of this clause.



Floor space ratio map – the site is outlined in blue

Clause 4.6 – Exceptions to Development Standards

104. A Cl 4.6 request has been submitted accordingly to vary the height limit for the provisions of the lift over run and associated rooftop communal open space structures.

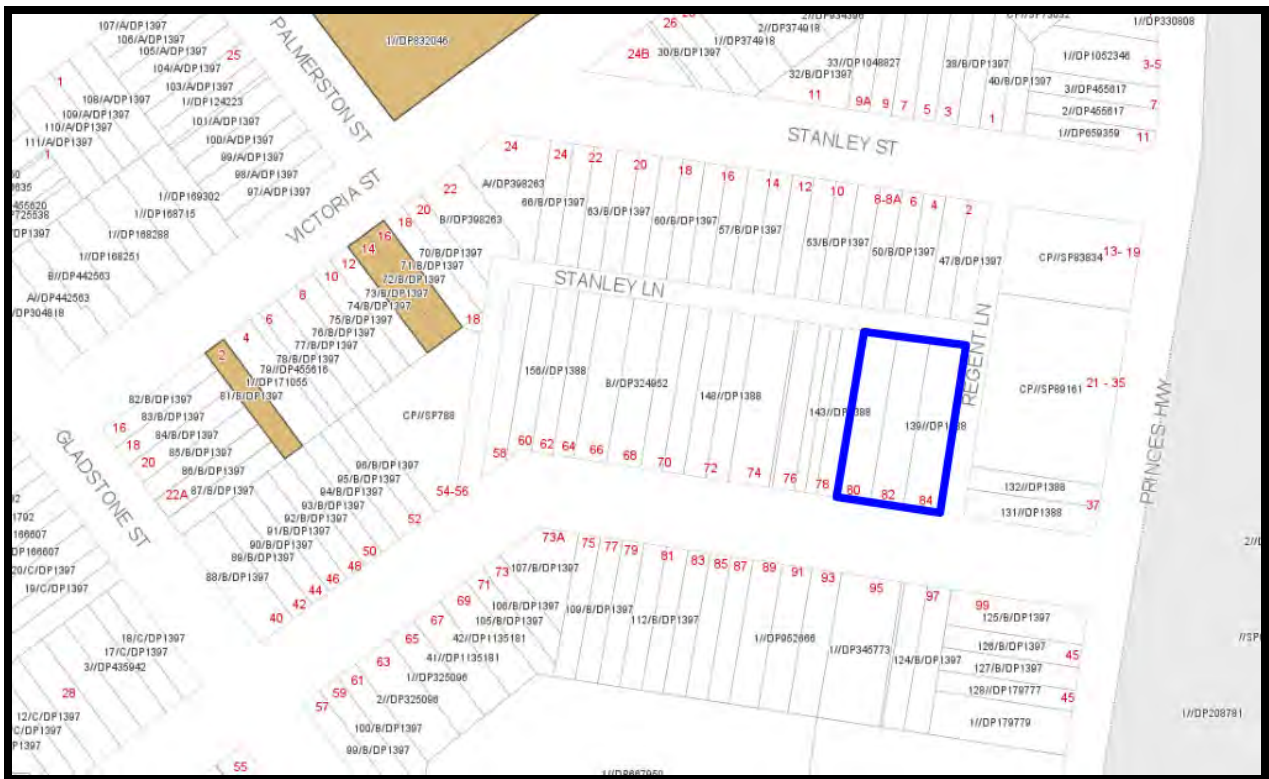
105. A detailed discussion of the request is included in later in this report.

Clause 5.6 – Architectural Roof Features

106. There is no representation made under this clause by the proposal

Clause 5.10 – Heritage Conservation

107. The site does not contain any heritage listed items or located within the vicinity of a heritage item.



Heritage Map – site outlined in blue

Clause 6.1 – Acid Sulphate Soils

108. The subject site does not contain any acid sulphate soils.

Clause 6.2 – Earthworks

109. Before granting development consent for earthworks the consent authority must consider:

- a) Impact on drainage patterns and soil stability;
- b) The effect on likely future use or redevelopment of the land;
- c) The quality of the fill or the excavated soil;
- d) The effect on existing and likely amenity of adjoining properties;
- e) The source of fill material and the destination of excavated material;
- f) The likelihood of disturbing relics; and
- g) The potential impacts on any watercourse, drinking water catchment or environmentally sensitive area.

110. The proposed earthworks are considered acceptable having regard to the provisions of this clause as the works are not likely to have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

111. The proposal is accompanied by a supporting preliminary Geotechnical Investigation of the site Prepared by Morow Geotechnics Pty Ltd (report number 1528_01, dated 16 August 2018

Clause 6.3 – Flood Planning

112. The site is not identified as a Flood affected land.

Clause 6.5 – Airspace Operations

113. The proposal has been referred to Sydney airport for review and no objections were raised in this regard subject to standard conditions of consent being imposed to a maximum height of 53.08m AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any rooftop garden plantings, exhaust flues etc.

Clause 4.6 – Assessment

Clause 4.6 Exceptions to development standards

(1) *The objectives of this clause are as follows:*

- a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Applicant's Response

114. *The objectives of Clause 4.6 are to provide an appropriate degree of flexibility in applying development standards to achieve better outcomes for, and from, development.*

115. *As the following request demonstrates, compliance with the standard would be unreasonable and unnecessary, and a better planning outcome would be achieved by exercising the flexibility afforded by Clause 4.6 in the particular circumstances of this application.*

116. *The development standard that this request seeks approval to vary is the Height of Buildings control in Clause 4.3 of the Kogarah Local Environmental Plan 2012.*

117. *The numeric value of the Height of Buildings development standard is 33m.*

118. *The site is a small isolated site, with three (3) street frontages which demands a high-quality public domain response. As a result, opportunity to provide high amenity to the communal open space is limited to the rooftop.*

119. *The development standard is not specifically excluded from the operation of Clause 4.6 of KLEP.*

120. *This request has been prepared having regard to the Department of Planning and Environment's Guidelines to Varying Development Standards (August 2011) and relevant decisions in the New South Wales Land and Environment Court and New South Wales Court of Appeal.*

121. *In Sections 3 and 4 of this request, we have explained how flexibility is justified in this case in terms of the matters explicitly required by clause 4.6 to be addressed in a written request from the applicant. In Sections 4, 5, 6 and 7 we address, where relevant and helpful, additional matters that the consent authority is required to be satisfied of when exercising either the discretion afforded by Clause 4.6 or the assumed concurrence of the Secretary.*

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed*

by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Applicant Response

122. *The site is located at 80 - 84 Regent Street, Kogarah, and is legally described as Lot 1 DP 1084126, Lot 1 DP 974706 and Lot 139 DP 1388. The site is a regular shaped allotment with a primary frontage to Regent Street to the south, Regent Lane to the east and Stanley Lane to the north. The total site area is 1,358.6sqm.*
123. *The site is situated in the Kogarah North Precinct, close to public transport by way of trains and buses. The area has been recently rezoned and is going through a transition from low-density dwellings to new multi-storey residential flat buildings. It is located within 75m of the Princes Highway which is a classified road and has a mixture of commercial/retail and residential uses. Properties to the south have a 39m height limit.*
124. *The subject site has a maximum building height standard of 33m. The proposal has a maximum building height, as measured from ground level 'existing', of 37.3m (at RL 53.27 AHD) as confirmed by PBD Architects. Therefore, the proposal breaches the standard by maximum 4.3m.*
125. *The extent of the variation is related to the lift over-run of the building, the lightweight structures for the communal open space, stairs to the communal open space and amenities for the communal open space area. These structures provide equitable access to the proposed communal open/covered terrace on the rooftop and are limited primarily to the centre of the building. The proposal will deliver an appropriate built form that is consistent with the desired future character as outlined in the Kogarah Local Environmental Plan and the Apartment Design Guide.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

Applicant Response

126. *Compliance with the development standard is unreasonable or unnecessary in the circumstances of this case. [cl. 4.6(3)(a)]*
127. *The NSW Land and Environment Court in Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC90, considered how this question may be answered and referred to the earlier Court decision in Wehbe v Pittwater Council [2007] NSW LEC 827. Under Wehbe, the most common way of demonstrating that compliance is unreasonable or unnecessary, was whether the objectives of the standard were still met despite the contravention of that standard.*
128. *The following discussion provides a response to the relevant "tests" of the 5-part Wehbe test, remembering only one (1) of the tests has to be achieved, not all five (5).*
129. *Compliance with the 33m maximum height is unreasonable or unnecessary in the circumstances of this case because, as explained below, the objectives of the development standard are achieved, notwithstanding non-compliance with the standard.*

Clause 4.3 Height of Buildings

The objectives of this clause are as follows:

(a) to establish the maximum height for buildings.

Applicant Response

130. *The subject site is located within R4 High Density Zone and residential flat buildings are permissible within the zone.*
131. *The breach (4.3m) occurs as a result of the lift overrun and stairs providing access to the communal open space on the roof top, as well as the lightweight structures of that enhance amenity of the communal open space. The habitable portion of the building itself, is within the 33m maximum height*
132. *The proposal has allowed for the lift shaft to have a height of 4.5m at worst case. This is the maximum height of the lift shaft and at construction stage it may be lower.*
133. *The design complies with this objective of the Height Standard as the habitable portion of the building is within the 33m height limit. Due to the constraints of the site, only the communal open space and structures associated with that space exceed the height control.*

(b) to minimise the impact of the overshadowing, visual impact and loss of privacy on adjoining properties and open space areas,

Applicant Response

134. *PBD Architects have prepared detailed shadow diagrams for the proposal which is provided at Appendix 4 of the SEE the overshadowing impact caused by the variation of the height standard is negligible due to the height breach being restricted to the centre of the site. Adjoining premises receive minimum 2hrs sunlight to their living areas.*
135. *The area of the building which encroaches the height is restricted to the lift overrun, stairs, and lightweight structures and amenities associated with the communal open space. The areas of non-compliance with the height will not have an adverse impact on solar access or overshadowing due to their location towards the centre of the site. (Refer to Appendix 4 of the SEE).*
136. *For the same reason, the structures that breach the height do not adversely impact on the visual quality of the building. They are centrally located so as to reduce any visibility from the street.*
137. *The variation of the height standard does not result in any additional overlooking of neighbouring properties. The communal area itself is setback a minimum 8.68m to the western common boundary, 12.91m - 13.13m to the northern rear lane boundary, 7.87m to the east lane boundary and 10.98m to the front Regent St boundary. The communal open space is generally set in 2.5m - 2.8m from the roof edge. The only exception being to the west for a length of 8.4m where it varies from 1.4m to 1.8m setback from the roof edge. This section provides a solid wall enclosing the stairs so has no visual/acoustic impact on neighbours. All doors are oriented "inwards" to the rooftop, with a solid wall facing towards the west to preserve visual and acoustic privacy.*
138. *The design complies with this objective of the Height Standard.*

(c) to provide appropriate scale and intensity of the development through height controls.

Applicant Response

139. *The portion of the building that exceeds the height does not alter the scale or intensity of the development. It is similar in size and height to what has recently been approved adjoining to the west.*
140. *The design is considered to be consistent with this objective and in accordance with the higher density residential precinct expected in this area due to the location relative to the Kogarah Rail Station and Kogarah Strategic Centre and as endorsed by the Kogarah North Precinct Urban Design Strategy*
141. *The portion of the building that exceeds the height does not add to the bulk and scale of the development and is concentrated to the centre of the building.*

(2) The height of building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

142. *The proposed height is compatible within its context and will not result in any adverse impacts to surrounding properties. The breach of the standard does not affect consistency with this objective.*
143. *The breach of the standard allows for a building that achieves an improved built form providing better amenity to the residents of the development and the adjoining neighbours.*
144. *The provision of communal open space on the roof has a variety of useable spaces; which achieves abundant solar access, is consistent with this objective and objective 3D-1 relating to Communal Open Space within the SEPP 65 provisions. It also results in less impact on adjoining residents by maintaining the communal area to the centre of the site and not near an adjoining boundary.*

3.2 The objective would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.

145. *Compliance with Clause 4.3 Height of Buildings development standard is also unreasonable or unnecessary in the circumstances of this case because it would thwart the objective (c) of the standard (Test 3 under Wehbe).*
146. *The breach of the standard allows a built form that is consistent with the urban design principles established in the Kogarah North Precinct Urban Design Study. This includes providing an adequate setback to the street, side, and rear boundaries; as well as the provision of rooftop landscaping and communal open space. If the breach did not occur; the built-form outcome would be compromised as it would otherwise result in a poorer streetscape presentation of the building, (given that there are three (3) street frontages), and poor amenity for the residents because the communal open space would need to be located on the ground floor (or a lower) level, with limited solar access and resulting in significantly less building articulation. This would detrimentally affect the scale and intensity of the development. The positive interface with the public domain would be reduced as the communal open space was made private.*

3.3 Development standard has been virtually abandoned or destroyed by the granting of consents departing from the standard in similar cases to this

147. *Compliance with the Clause 4.3 Height of Buildings development standard is also unreasonable or unnecessary in the circumstances of this case because the development standard has been abandoned for similar reasons in the immediate area and Local Government Area (Test 4 under Wehbe).*

148. *The proposed building immediately to the west, No. 70 - 78 Regent Street, has been approved with a breach above the maximum 33m height standard for the communal rooftop and associated structures relating to that rooftop, being lift overrun, stairs, amenities and lightweight shade structures. Additional examples where this variation to the height standard and development consent has been granted is provided below.*

Address	DA Number and Description	Height Control	Approved	Uplift	Area of non-compliance
70-78 Regent St, Kogarah, Next door to subject site	DA111/2017 [2018] NSWLEC 1370 Demolition of existing buildings, amalgamation of lots and construction of a residential flat building consisting of eleven levels. Regent Land Pty Ltd ATF Regent Land Unity Trust v	33m	37.9m to top of lift overrun (RL 54.65)	14.8%	Rooftop communal open space and lift overrun to service this space. Extract from the Court appeal: "The Council supports the height breaches required in order to provide additional quality
365 - 377 Rocky Point Rd,	DA227/2015 Alterations and additions to an approved mixed-use development. Primus DMS Pty Ltd v Georges River Council decision date 11 August 2017.	15m	Approx 18.7m	24.67%	Rooftop communal open space and lift overrun to service this space.
27-29 Andover Street, Carlton	DA2017/119 Residential Flat Building	15m	16.7m	7.5%	Lift overrun

4. There are sufficient environmental planning grounds to justify contravening the standard. [cl. 4.6(3)(b)]

149. *The SEE prepared for to support this DA provides a holistic environmental planning assessment of the proposed development and concludes that there are sufficient environmental planning grounds to support the development.*

150. *There is robust justification through the SEE and accompanying documentation to support the overall development and contend that the outcome is appropriate on environmental planning grounds.*

151. *Additional specific environmental grounds to justify the breach of the standard are summarised as follows:*

- a) *The breach of the standard allows for a development that is consistent with the desired future character of the area which is going through a transition from low density to high density. It is consistent in the transition of perceived heights for this area, as the permissible heights step from 39m to the south, to the 33m for the site and to the north,*
- b) *The proposal complies with the maximum permissible floor space ratio for the site.*
- c) *The additional height is not to achieve additional floor space, but rather to provide a better designed building which results in improved amenity for the residents of the development and those adjoining. It is a better allocation of floor space across the building envelope, to avoid a short/squat built-form. It allows for the provision of the four (4) storey podium, thus maintaining the human scale at the street,*
- d) *Compliance with the standard would be unreasonable or unnecessary, due to the existing controls being virtually abandoned or destroyed from previous consents being granted. The property to the west has been recently approved for a development similar in height and with lift overrun and communal open space exceeding the height control,*
- e) *The subject allotment is unique in configuration as it has three (3) street frontages and is a narrower isolated site. This design allows for a visually interesting building on a constrained site, that achieves high quality communal area for the occupants of the development and little impact on adjoining residents,*
- f) *The proposed height is compatible with the existing development in the immediate context of the site and with the emerging pattern of development in the locality. Where possible, the areas that exceed the development standard have been located in the centre of the building to reduce their visual appearance when viewed from the intervening public domain*
- g) *There will be no loss to any 'significant' views as a result of the breach of the standard,*
- h) *The shadow diagrams that form part of this Development Application indicate that the area of non-compliance with the height will not have an adverse impact on solar access or overshadowing,*
- i) *It is considered that the proposed non-compliances with the maximum height limit for the site do not result in any unreasonable impact and is appropriate for the orderly and economic use of the land, and*
- j) *The proposed development results in an improved urban design outcome and enhanced Apartment Design Guide compliance.*
- k) *The environmental planning benefits that are facilitated by the variation of the height standard relate to the achievement of the desired future character of the precinct as established in the Kogarah North Precinct Urban Design Study. It enables the provision of a generous street setback and the creation of a distinct four-storey podium to create human scale on the street. The variation also facilitates the provision of generous building articulation, by having the majority of the communal open space on the roof.*

5. The proposal will be in the public interest because it is consistent with the objectives of the standard and the objectives of the zone. [cl. 4.6(4)(a)(ii)]

152. *In section 3 of this request, it was demonstrated that the proposal is consistent with the objectives of the development standard. The proposal is also consistent with the objectives of the zone as explained in the table below:*

Objective	Discussion
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<i>Zone R4 High Density Objectives To provide for the housing needs of the community within a high-density residential environment</i>	<i>The breach of the standard does not result in an inconsistency with this objective. The proposal as a whole provides for a variety of unit sizes and layouts to meet the demand of the local market within close proximity to the Kogarah Town Centre and Railway station.</i>
<i>To provide a variety of housing types within a high-density residential environment</i>	<i>The proposed development comprises one, two and three-bedroom units, with differing layouts addressing the local market demand. The breach of the standard does not result in an inconsistency with this objective.</i>
<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents</i>	<i>The breach of the standard does not result in an inconsistency with this objective. The residential units are located within close proximity to the Kogarah Town Centre, Kogarah Railway Station and bus services.</i>

153. *As can be seen from Tables 1 and 3, the proposal is consistent with the objectives of the standard and the objectives of the zone; and is therefore considered to be in the public interest.*

6. *Contravention of the development standard does not raise any matter of significance for State or regional environmental planning. [cl. 4.6(5)(a)]*

154. *There is no identified outcome which would be prejudicial to planning matters of state or regional significance that would result as a consequence of varying the development standard as proposed by this application.*

7. *There is no public benefit of maintaining the standard [cl.4.6(5)(b)]*

155. *As discussed earlier, the proposed breach of the standard facilitates public benefits through a built form outcome that achieves the desired urban design principles established under the Kogarah North Precinct Urban Design Strategy. The proposal provides generous setbacks and articulation, resulting in a building that will provide an improved relationship.*



Extent of height breach (Source: PBD Architects)

Assessment of Clause 4.6 using the “Five Part Test” established by the NSW Land and Environment Court (L&EC)

156. Court cases dealing with applications to vary development standards resulted in the Land and Environment Court setting out a five part test for consent authorities to consider when assessing an application to vary a standard to determine whether the objection to the development standards is well founded:

Test 1 - the objectives of the standard are achieved notwithstanding non-compliance with the standard:

157. Officer’s comment: The objectives of the height standard are:

- (a) to establish the maximum height for buildings
- (b) to minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas
- (c) to provide appropriate scale and intensity of development through height controls

158. In this circumstance the breach of height as previously mentioned is limited to the lift over run and some minor associated outdoor structures for the provisions of the rooftop communal open space.

159. The visual privacy to the adjoining existing and approved future residential flat buildings to the east, west and south is considered to have been preserved as the building involves the use of high parapet surrounding the parameters of the rooftop.
160. The rooftop communal open space is further setback from the parameters of the development from all directions which would not enable any overlooking from a standing position at that height, considering the setbacks and the angle of the line of sight.
161. Similarly, in reference to the overshadowing impact, any shadow cast from the projection of the rooftop structures would be cast unto Regent Street as the structures are located centre of the rooftop footprint. The extent of the shadow also remains negligible and the communal open space will still be in full compliance with the minimum required solar access as a result.
162. As such the height breach is considered to be of an appropriate scale and intensity to the satisfaction of the above objectives.

Test 2 - the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary:

163. Officer's comment: The purpose of the standard though remains relevant and compliance is necessary.
164. The intent or underlying objective is to limit overshadowing and visual privacy impacts to an acceptable level within a High density setting. This is considered to be of direct relevance. Should the breach in height been presented in the form of an additional residential level, however in this circumstance it is limited to the common roof top open space structures and the lift over run.

Test 3 - the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable:

166. Officer's comment: The rooftop open space structures and lift over run provisions are common services required in any high density development and strict compliance with the height standard would result in a loss of an entire residential floor to the development. This scenario is considered unreasonable and would not be consistent with the envisaged FSR for the subject site.

Test 4 - the development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable:

167. Officer's comment: Council has consistently issued previous consents that enabled lifts over run provisions and associated rooftop common space area structures in the past and to date.
168. The Author of this report disagrees with the applicant's views that the height standard has been virtually abandoned and destroyed.
169. Whilst the standard has been varied previously, this action does not render the standard to have been fully abandoned or destroyed as such.
170. Previous departures were only limited to the provision of lift overruns and Communal Open space structures as envisaged within the Kogarah North Precinct Strategy.

171. In this this regard, it is worthy to note that Council have not permitted any height breaches with residential component within.
172. As such, strict compliance in this regard is considered unreasonable and unnecessary particularly as the Design Review Panel's recommendations for provisions of rooftop structures for communal open space continue to be consistently received.
- Test 5 - the compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.***
173. Officer's comment: In this regard, whilst strict compliance with the development standard is considered unreasonable, it is not considered however to be inappropriate, as the consistent breaches of the standard is limited only to the associated services for the development as opposed to an entire residential levels beyond the height limit where compliance is warranted and remains appropriate for the existing and envisaged land use.
174. In applying the above 5 step test, strict compliance with the height standard in this circumstance is considered unreasonable and unnecessary. The development standard has been certainly varied numerously and consistently whether by Council, independent Panels and/or LEC for the purposes of communal open space structures and lift over run provisions on the rooftops associated with high density land use developments.
175. Whilst the standard remains appropriate for the intended land use, a merit based assessment should be exercised consistently in this regard. This does not necessarily mean that the standard has been fully abandoned as it still limits breaches in height that involves provisions of GFA beyond the height limit whereby overshadowing and visual privacy would be otherwise compromised.

Kogarah Development Control Plan 2013 (KDCP 2013)

176. The proposed development is subject to the provisions of the Kogarah Development Control Plan 2013 (DCP). Specifically, the relevant section of the DCP is Part B- General Controls and Part E4 – Kogarah North Precinct.
177. The following comments are made with respect to the proposal satisfying the relevant KDCP 2013 objectives and controls.

Part B- General Controls – KDCP

B2 – Tree Management and Green Web

178. There is no significant vegetation on the site. The application is accompanied by a landscape plan prepared by a qualified landscape architect that proposes appropriate landscaping to the site and common open space areas within the rooftop communal open space areas and the ground floor areas.

B4 – Parking and Traffic

179. The extent to which the proposed development complies with the car parking provisions is outlined in the table below.

B4	Relevant Requirements	Proposed	Complies
Parking requirements	<u>Residential</u> 1 bedroom unit - 1 space/unit 2 bedroom unit - 1.5	Based on the proposed apartment mix of: 18 x 1 bed = 18 36 x 2 = 72	N/A, refer to ADG Assessment

	<p>paces/unit</p> <p>3 bedroom unit - 2 spaces/unit</p> <p>1 Visitor parking /5 units or part thereof, and</p> <p>1 designated carwash bay which may be a visitor space</p>	<p>7 x 3 bed = 21 Visitors 13 spaces</p> <p>The proposal requires a total of 124 spaces including 111 spaces for residential units and 13 spaces for visitors under the DCP.</p> <p>The proposal however, is subject to the RMS guide for Traffic generating development in accordance with SEPP - 68 required and 69 provided.</p>	
Bicycle parking	<p><u>Residential</u> 1/3 dwellings and 1/10 dwellings (visitor)</p> <p><u>Non-residential</u> 1/5 car spaces</p> <p>Must be in accordance with AS2890.3 – 1993 (Parking facilities – Part 3 Bicycle Parking Facilities)</p>	<p>Total provided = 40 bicycle spaces at the rate of 61 apartments it requires 21 residential and 7 visitors.</p>	Yes
Design and layout of car parking areas	<ul style="list-style-type: none"> ▪ Internal car park shall be designed in accordance with the requirements set out in AS 2890.1 (2004) and AS 2890.2 (2002) for off street parking and commercial vehicles. ▪ Non-residential and residential development parking areas should be physically separated ▪ Basement car parking is to be located within the building footprint. ▪ Car parking areas may be designed as ground level parking provided that the design results in building frontages level with the street 	<p>The development complies with these requirements.</p> <p>And provisions for natural and mechanical ventilation is included as condition of consent</p>	Yes

	<ul style="list-style-type: none"> ▪ Design parking to ensure pedestrian safety. ▪ Include natural ventilation to basement and semi basement car parking. ▪ Integrate ventilation design into the façade of the building, or parking structure, <ul style="list-style-type: none"> - treating it with appropriate features such as louvres, well-designed grilles, planting or other landscaping elements. ▪ Ensure that all vehicles, including vehicles using loading bays, can enter and leave the site in a forward direction. ▪ Avoid locating access ways to driveways adjacent to the doors or windows of habitable rooms. 		
Loading requirements	<p>Retail area between 15sqm and 500sqm – 1 bay</p> <p>Design of loading bay facilities to be 3.5m wide x 9.5m long</p>	There are no non-residential components within the development. The basement areas also include “bulky goods” areas that can temporarily accommodate items for delivery/storage.	NA

B5 – Waste Management and Minimisation

180. A Waste Management Plan has been submitted with the application which is acceptable. Council’s Coordinator – Environmental Sustainability has examined the application and requested additional information that the applicant has addressed. Any consent granted will be subject to conditions of consent requiring the provision of appropriate waste facilities for the ongoing use of the development.


B6 – Water Management

181. The development can drain to the street via gravity. Appropriate conditions of consent can be attached to any consent granted The basement surface water will be pumped to the Street.

B7 – Environmental Management

182. This section primarily relates to the building materials used in the development and their sustainability qualities. The proposed material and finishes to the development are considered appropriate and do not indicate any particular adverse environmental issues.

Part E4 – Kogarah North Precinct

Controls	Relevant Requirements	Proposed	Complies
E4.1 Existing character			Yes
E4.2 – Land to which this part applies	<p>Each application will be considered on the individual circumstances and merits of the case in terms of the achievement of the relevant objectives.</p> <p>The SEPP and the ADG prevail over Council’s DCP.</p> 	The subject site is located within the Kogarah North precinct which this part applies to.	Yes
E4.3 – Development contributions	<p>Council seeks the following development contributions:</p> <ul style="list-style-type: none"> ▪ Section 94 Contributions; ▪ Section 94A levies; and ▪ Voluntary Planning Agreements. 	Applicable Section 7.11 Contributions have been imposed as part of conditions of consent.	Yes
E4.4 – The Kogarah North Urban Design Strategy	<p>The Kogarah North Urban Design Strategy (KNUDS) was endorsed by Council on 27 November 2017.</p> <p>Design Option 3 was endorsed by Council at its meeting held 1 May 2017. Design Option 3 places an emphasis on creating a built form that complies with the ADG and defines a four storey street wall character.</p>	The proposal is consistent with the KNUDS as adopted with emphasis on the 4 storey Street wall character.	Noted
E4.5 – Vision for the Kogarah North Precinct	<ul style="list-style-type: none"> ▪ Provide a diverse mix of residential accommodation 	The proposal offers an acceptable level of apartment mix that targets the housing	Yes

	<ul style="list-style-type: none"> ▪ Retain and preserve the existing heritage item. 	<p>needs within the area.</p> <p>There are no heritage listed items onsite or in the immediate vicinity that are within a visible distance from the subject site.</p>	
Street Frontage	<ul style="list-style-type: none"> ▪ Address the street with four storey podium to ensure a comfortable human scale ▪ Address the Princes Highway, Railway Parade North and the primary and secondary corners with active street frontages, awnings and street trees to increase pedestrian amenity ▪ On other streets, set buildings back to allow for improved public domain and deep soil planting. 	<p>The proposal provides a street frontage comprising a 4 storey podium. Whilst this may have resulted in a nil western side setback to the adjoining development, the design has taken into account the adjoining proposed development also maintaining a nil boundary setback adjacent to this sites western boundary achieving the desired podium character from the street.</p> <p>The corner of Regent Lane and Regent Street is considered a secondary corner as listed in Kogarah North Urban Design Strategy and the subject site is subject to a 1.2m Lane widening nominated in the DCP provision but only limited to the Stanley Lane northern boundary.</p>	Yes
Built Form	<ul style="list-style-type: none"> ▪ Ensure a comfortable human scale, avoiding the appearance of deep and unbroken canyons and tempering the scale of the street-edge buildings ▪ Provision of good residential amenity in terms of privacy and built form by complying with the SEPP 65 Residential Flat Design Code built form 	<p>The proposal has been amended since lodgement with further articulation providing landscaping at grade to the podiums followed by ground floor courtyards maintaining a comfortable Human scale.</p> <p>The proposal as</p>	Yes

	<p>recommendations regarding separation between buildings and setbacks from side and rear boundaries.</p> <ul style="list-style-type: none"> ▪ Design high quality corner buildings at the major and secondary corners which encourage architectural diversity ▪ Except on major and secondary corners, reinforce the four storey street wall height by setting back upper levels of buildings ▪ Introduce breaks in the building massing at upper levels to reduce the building's apparent scale ▪ Buildings should incorporate interesting roof forms and the visual intrusiveness of service elements such as service plants, electrical substations, lift over-runs and the like shall be minimised by integrating them into the building ▪ Vehicular access to new development should be, where possible from existing and/or new service lanes, rather than streets ▪ Façades must be articulated and employ materials and finishes to enhance and complement the character of the streetscape 	<p>amended is considered satisfactory and consistent with the provisions of SEPP65.</p>	
<p>E4.6 – Submissions requirements for Development Applications</p>	<ul style="list-style-type: none"> ▪ A 3D dimensional Google Sketch-up model, including the existing built form of the immediately adjoining and neighbouring context of proposal; and Identifying Isolated sites ▪ Containing a number of detailed section of the façade at a scale of 1:20 	<p>3D perspectives have been provided and a massing diagram have been extracted that best illustrates the collective massing of all proposals within the immediate vicinity of the subject site. The proposal does not result in any site's isolation.</p>	<p>Yes</p>

<p>E4.7 – Siting and Consolidation of Development sites</p>	<ul style="list-style-type: none"> ▪ The siting of a building is to respond to the requirements of the Apartment Design Guide. ▪ The maximum floor space ratio (FSR) is set by clause 4.4 of Kogarah LEP 2012 and the FSR Map. ▪ Sites must be have a minimum site frontage of 60m ▪ Development is not to result in the creation of an isolated site that could not be developed in compliance with the relevant planning controls, including the Kogarah LEP 2012, SEPP 65 and the ADG. 	<p>The siting of the building responds to the ADG requirements.</p> <p>The proposal has maximum FSR of 5431 sqm being 3.4 sqm under the permissible FSR.</p> <p>The subject site measures 29.04m to Regent Street and 47.085m to Regent Lane.</p> <p>The proposal does not isolate any sites.</p>	<p>Yes</p> <p>Yes</p> <p>No (1)</p> <p>Yes</p>
	<p>Development of land identified below is subject to an amalgamation requirement:</p> <ol style="list-style-type: none"> 1. 24B–36 Victoria Street and 11 Stanley Street, Kogarah 2. 5–11 Palmerston Street, Kogarah 3. 13–21 Palmerston Street, Kogarah 4. 16–22A Gladstone Street and 2 Victoria Street, Kogarah 5. 70–84 Regent Street, Kogarah 	<p>In reference to point 5, 70-78 Regent Street have been amalgamated separately and have been the subject of a separate DA and approved.</p> <p>The subject site presents the remaining lots to the east which consist of 80-84 Regent Street</p>	<p>Yes</p>
<p>E4.8 – Heritage</p>	<ul style="list-style-type: none"> ▪ The building height and setbacks must have regard to and respect the value of that heritage item and its setting ▪ The new development is to provide an appropriate transition in height and adequate curtilage and side setbacks from the heritage item. ▪ Existing heritage items are to be incorporated into 	<p>The subject development is not within the immediate vicinity of heritage listed item or contains any heritage listed item.</p> <p>Heritage items located further to the west comprising No's, 2, 14 and 16 Victoria Street and Kogarah High School cannot be viewed from the subject site.</p>	<p>Yes</p>

	<p>development sites</p> <ul style="list-style-type: none"> ▪ Development to the south of St Paul’s Anglican Church and hall (196) is to be setback a minimum of 15m from the boundary of the site. ▪ A Heritage Assessment is required to be lodged with a development application in accordance with Clause 5.10(5) of the Kogarah Local Environmental Plan 2012 		
E4.9 – Building Heights	<ul style="list-style-type: none"> ▪ Clause 4.3 of the Kogarah LEP 2012 indicates the maximum building height of 33m for the Precinct ▪ The Kogarah North Precinct is affected by the obstacle limitation surface. The maximum height of the inner horizontal surface is 51m AHD ▪ Approval to operate construction equipment (ie cranes) shall be obtained prior to any commencement of construction, where the prescribed airspace is affected. 	<p>The proposal breaches the maximum height limit as specified by Cl4.3 KLEP 2012. The extent of departure is limited to the lift overrun provisions and minor associated communal open space structures. A Clause 4.6 request has been submitted and assessed under Sec 9.1 of this report.</p> <p>The proposal has been referred to the Sydney Airport corporation and no objections were raised subject to standard conditions of consent being imposed.</p>	<p>No (Refer to Cl4.6 section of this report)</p> <p>Yes</p>
E4.10 – Street Frontage Height, and front and rear and side setbacks		Refer to ADG and Cl 4.6 assessments of this report as it prevails.	No (Refer to Cl4.6 section of this report)
E4.11 – Trees and Landscape	<ul style="list-style-type: none"> ▪ Setbacks are to maximise the retention of existing trees ▪ Setbacks are to include 	The proposal complies with the provisions of this section.	Yes

	<p>the planting of canopy trees, both small and large</p> <ul style="list-style-type: none"> ▪ All property boundary front setbacks must be deep soil and landscaped and must not have any underground intrusions ▪ Development is to establish a four storey street wall height to provide human scale and set back taller elements above the four storey street wall height. ▪ One step in the built form as the height increases due to building separations is required. Additional steps should be careful not to cause a 'ziggurat' appearance. ▪ No ground floor apartments are to be below the adjacent footpath level. ▪ Ground floor residential with a street frontage must incorporate landscaping ▪ The primary area of outdoor private open space must not be located on the street frontage. ▪ Blank walls are to be avoided fronting principal streets and the public domain. ▪ Side or rear boundary fencing is not permitted fronting the public domain except where appropriate landscaping is located in front of the fence. 	<p>Further discussions are detailed in the assessment of SEPP65 and the ADG sections of this report.</p>	
<p>Developments with frontage to streets other than the Princes Highway, Railway Parade North and with frontage to a major or secondary corner</p>	<p><u>Level 1 (Ground Floor)</u></p> <ul style="list-style-type: none"> ▪ Minimum 2m setback from the property boundary. This 2m setback is to form an extension to the public domain to provide for an increased footpath and deep soil landscaping. ▪ Any basement parking must be located fully under the building 	<p>The proposal is setback by a minimum of 3m from the property boundary incorporated into the footpath and deep soil landscaped</p> <p>The basement level is wholly underground and fully under the building footprint with no</p>	

	<p>footprint, no encroachment of the basement will be permitted within the setback</p> <ul style="list-style-type: none"> ▪ Residential development is discouraged at the ground floor ▪ The fencing height is to be no greater than 1m and the style is to be open format ▪ Neighbourhood shops or home offices are encouraged <p><u>Level 2, 3, 4</u></p> <ul style="list-style-type: none"> ▪ Minimum 4m setback from the property boundary ▪ Balconies may encroach up to 2m into the 4m setback ▪ Balconies or the lower levels should be in the form of wintergardens to improve acoustic amenities <p><u>Level 5 and above</u></p> <ul style="list-style-type: none"> ▪ Minimum 5m setback from the property boundary ▪ Balconies must be set behind the 5m setback 	<p>encroachments</p> <p>In this circumstance, it is considered acceptable and was commended by the design review Panel as it helps activate the side lane (Regent Lane)</p> <p>Where applicable the fencing does not exceed 1m in height. There are no neighbourhood shops proposed</p> <p>5m setback is observed where the corner unit encroaches within observing the minimum 2m setback and addressing the corner</p> <p>5 m-8m setback is observed however balconies to the corner unit addressing corner of Regent Street and Regent Lane project within the setback maintaining a consistent design approach with the lower levels. This is considered reasonable and justified on the ground of architectural articulation. The corner treatments have also been commended by the Design Review Panel for articulation.</p>	
<p>E4.12 – Dedication of Land to Council for Road/Lane</p>		<p>The site is subject to a road widening provision of 1.2m along the northern boundary to</p>	<p>Yes</p>

Widening and Splays		Stanley Lane; this has been annotated on the plans.	
W4.13 – Creation of through sites pedestrian links and additional open space		The site is not subject to pre-planned pedestrian links as per Kogarah North Urban Design Strategy by virtue of its location occupying two (2) corners being corner Stanley Street and Regent Lane and the corner of Regent Lane and Regent Street.	Yes
E4.14 – Housing choice	<p>(ii) An apartment mix is to be provided, taking into consideration:</p> <p>a. the distance to public transport, employment and education centres</p> <p>b. the current market demands and projected future demographic trends</p> <p>c. the demand for social and affordable housing</p> <p>d. different cultural and socioeconomic groups</p> <p>(iii) Apartment configurations are to support diverse household types and stages of life including single person households, families, multi-generational families and group households.</p>	<p>The proposal provides an acceptable level of apartments mix considering its accessible location.</p> <p>The proposed apartment mix are: 18 x 1 bed (29.5 %); 36 x 2 bed (59%) and; 7 x 3 bed (11.5 %)</p>	Yes
E4.15 – Addressing the Street and Public Domain	<p>building services must be co-ordinated and integrated with the overall design</p> <p>Buildings must be sited to address the street or both Streets if it has two or more frontages</p>	Building services are considered to be well integrated within the design and the proposed building addresses all 3 frontages providing a satisfactory streetscape	Yes
E4.16 – Impact of development on the Road/Pedestrian network		Vehicular activities are limited to Stanley Lane which is accessed via Regent Lane and Regent Street, with a complying off street car parking provision within the basement. The proposal offers an attractive streetscape along	Yes

		Regent Street, Regent Lane and Stanley Lane alike.	
E4.17 – Development with frontage to the Princes Hwy and Adjacent to the Railway line	NA	NA	NA
E4.18 – Vehicular access and Car parking		<p>The proposal complies with the provisions of the RMS Guide for Traffic Generating Development which in this case is the applicable controls relevant to the provision of car parking spaces onsite.</p> <p>In this regard, the proposal complies in full. In addition, vehicular access to the basement has been limited to Stanley Lane from the north with minimal disturbance to traffic conditions of Regent Street and subsequently onto Princess Highway.</p>	Yes
E4.19 – Architectural Articulation	<ul style="list-style-type: none"> ▪ 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. ▪ Articulation elements must be integral with the building design and should consider the whole building- with the building having distinct façade elements being the podium, centre and upper storey/roof. ▪ Changes of texture and colour should complement facade articulation. ▪ Provide solar protection 	<p>The listed performance criteria's have been considered as part of SEPP 65 assessment and the ADG being the applicable controls in this regard.</p> <p>The proposal is considered acceptable when assessed against these controls and appropriate architectural articulations to all facades have been accordingly implemented.</p>	Yes

	<p>elements as integral with the building design and massing.</p> <ul style="list-style-type: none">▪ Façades must be articulated and employ materials and finishes to enhance and complement the character of the streetscape.▪ 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).▪ Retain the pedestrian scale and give continuity to the 'base' of the built form.▪ Optimise environmental sustainability and minimise energy consumption through the placement and design of openings and shade systems.▪ Design building facades to optimise environmental amenity through sun shading devices, privacy screens and noise barriers combined with useable outdoor areas.▪ Avoid large expanses of blank walls or glass curtain walls.▪ Conceal meter boxes, fire hydrant boosters, sprinkler valves and the like so that they are not visible from the street. <p>Roofs</p> <ul style="list-style-type: none">▪ Articulate roofs to provide a varied and interesting roofscape.▪ Design large projections, shade structures and pavilions to enhance the		
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	<p>appearance of flat roofed buildings.</p> <ul style="list-style-type: none"> ▪ Roof fixtures are not permitted where they are visible from the street. Fixtures include aerials, vents, chimneys, solar collectors and mobile phone transmitters. ▪ Conceal lift over-runs and plant equipment, including satellite dishes, within well designed roof forms. ▪ No development will be permitted within the roof void. ▪ The use of green roofs and green walls is encouraged particularly where this forms part of a communal open space arrangement in a residential/mixed use development. ▪ Buildings greater than 9 storeys are to incorporate green facades or landscaped features (i.e. landscaped communal areas located on podiums and roofs 		
E4.20 - Awnings	<ul style="list-style-type: none"> ▪ Awnings are to be sized to adequately accommodate street trees. In addition, ground floor street frontages must be recessed into the building to provide an ample undercover passage without impacting street tree planting. ▪ Provide under awning lighting to enhance safety. 	N/A	N/A
E4.21 – Active Street frontage along Princes Hwy and Railway Pde North	<ul style="list-style-type: none"> ▪ Development is to provide for activation of the ground floor for frontages with neighbourhood shops and home offices along the Princes Highway and Railway Parade North. ▪ Ground floor apartments are not permitted on the Princes Highway and are discouraged along 	N/A	N/A

E4.22 – Solar access	<p>Railway Parade.</p> <ul style="list-style-type: none"> ▪ Maintain solar access to existing apartment buildings and public open space ▪ New buildings and additions shall be sited and designed to maximise direct sunlight to north-facing living areas, communal and private open space areas. ▪ Living rooms and private open spaces for at least 70% of residential units in a development should receive a minimum of 2 hours direct sunlight between 9am and 3pm in midwinter ▪ Skylights and light wells must not be used as the primary source of daylight in habitable rooms ▪ Direct sunlight to north facing windows of habitable rooms and 10sqm of useable private open space areas of adjacent dwellings should not be reduced to less than 2 hours between 9.00am and 3.00pm on 21 June 	<p>The proposal provides adequate solar access However falls short of the 70% requirement, providing 67.2%. This has been assessed under the provisions of the ADG and found to be reasonable having regards to the adjoining approved developments to the north and west and the existing 10 storey residential flat building to the east.</p>	No
E4.23 – Safety and Security	<ul style="list-style-type: none"> ▪ The design of development is to incorporate Crime Prevention through Environmental Design (CPTD) principles. ▪ Development is to be designed to incorporate and/or enhance opportunities for effective natural surveillance 	<p>The proposal offers dual facing units on the ground floor and a common series of units fronting Stanley Lane from the rear.</p> <p>The front entrances are well defined and front courtyards provide natural surveillance to the street/lane.</p>	Yes
E4.24 – Waste minimisation	<ul style="list-style-type: none"> ▪ For buildings more than 3 storeys, provide a waste and recycling chute on each floor such that the total travel distance from any dwelling to a waste chute does not exceed 	<p>A garbage room with a chute has been provided for each level. The chute leads to a dedicated garbage room within the basement level which has provisions for holding</p>	Yes

	<p>40m</p> <ul style="list-style-type: none"> ▪ Where a waste and recycling chute system is used, chute openings are to open only into a waste service compartment which must include containers for recyclables ▪ An additional room or caged area with a minimum volume of 8m³ is to be allocated and designated with signs for the storage of discarded bulky items ▪ locating chutes away from habitable rooms, and provide acoustic insulation to the waste service facilities ▪ It is preferable for waste trucks to enter the site in a forward direction 	<p>areas (min 8m³) to cater for a minimum of 20 x 240l recycling bins, and 5 x 660 – 1100l general waste bins, in addition to a bin lifter.</p> <p>A truck loading bay next to the garbage room with direct access with 1350mm wide passages to enable bin manoeuvrability.</p>	
E4.25 – Site Facilities	<ul style="list-style-type: none"> ▪ Any electrical kiosk, fire booster assembly or similar utilities will be in a location that is visible from the main entrance of the development ▪ Fire booster assemblies are to be a minimum of 10m distance to an electrical kiosk, and housed within the external face of the building 	Appropriate site facilities have been essentially integrated in the design and placed along the Regent lane facade	Yes
E4.26 Maintenance	<ul style="list-style-type: none"> ▪ Buildings must incorporate and integrate building maintenance systems into the design of the building form, roof and façade 	Maintenance systems have been integrated in the common circulation areas, basements levels and where applicable integrated into the design when fronting the street.	Yes
E4.27 Acoustic Privacy	<ul style="list-style-type: none"> ▪ The location of driveways, open space and recreation areas and ancillary facilities external to the dwelling must be carefully planned to ensure minimal noise impact ▪ Where party walls are provided they must be carried to the underside of the roof 	Spatial consideration have been observed and acoustic report submitted, with suitable recommendations.	Yes

	<ul style="list-style-type: none"> ▪ An Acoustic Report is to be submitted at Development Application stage & post construction 		
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(1) Minimum site frontage of 60m

183. The subject site has a 29.04m frontage to Regent Street and involves the consolidation of 3 lots to achieve the proposed residential flat building development.
184. The adjoining proposed development to the west involves the consolidation of 5 lots extending from 70 Regent Street to 78 Regent Street whereby the subject site would be considered as the last remaining site on the corner of Regent Street and Regent Lane.
185. Collectively, apart from the built-up and already established development occupying the corner of Princess Highway and Regent Street, the subject development combined with the adjoining approved development to the west constitute the predominant Streetscape of Regent Street.
186. As such, the departure from this control is assessed in context of adjoining (approved) development west of the subject site (70-78 Regent Street) whereby both developments are proposing nil common boundary setbacks and there is no ability to purchase an additional allotment.
187. The intent of the 60m control is to provide the necessary breaks through the built form and avoid excessive and lengthy street walls with no relief/breaks and pedestrian linkages to the “grid like” existing subdivision pattern.
188. In this regard, KDCP CI 4.7 identifies the subject site to be amalgamated beginning from 70 to 84 Regent Street as one block.
189. Notwithstanding, it is noted that 70-78 Regent Street had already been approved as one site leaving 80-84 Regent Street essentially isolated.
190. In this circumstance, the proposal had created a proportionate integration with the adjoining approved envelope, providing overall coherent and systematic intervals along the Regent Street façade.
191. Having regard also to the lane widening provision imposed on the subject site from the rear, the remainder of the proposed development had integrated well with that of the adjoining development to its north (which also has been approved by the Sydney South Planning Panel).
192. Both developments in this circumstance are proposing nil boundary setbacks along their common boundary (western for this site) which creates the essential built form outcome that had been envisaged if the 60m lot width was complied with.
193. In conclusion, whilst this may present itself as a variation numerically, in this circumstance, it is considered acceptable as it provides a better built form outcome when viewed in context of the adjoining development.

Section 94 Contributions Plan

194. The proposed development requires payment of \$991,132.46 of Section 94 contributions based on the provisions of additional dwellings on the subject site. The contribution amount is based on the following:

DEVELOPMENT CONTRIBUTIONS

Plan No.	Description	Section 94 contributions assessed	No. of existing lots (credit)	Section 94 contributions payable
No. 8	Streetscape, Open Space & Public Domain	\$987,223.68	(\$56,454.84)	\$930,768.84
No. 8	Traffic Facilities	\$18,211.54	(\$931.98)	\$17,279.56
No. 8	Community Facilities	\$17,599.08	(\$1,006.38)	\$16,592.70
No. 9	Kogarah libraries - buildings component	\$16,402.93	(\$938.01)	\$15,464.92
No. 9	Kogarah libraries - books component	\$11,695.23	(\$668.79)	\$11,026.44
Total Section 94 Contributions Currently Payable				\$991,132.46

IMPACTS

Natural Environment

195. The proposed development is unlikely to result in adverse impacts to the natural environment. The site contains no significant vegetation. A landscape plan prepared by a qualified landscape architect has been prepared for the development which shows appropriate deep soil planting to the southern, northern and eastern boundaries within the ground floor communal open space areas. The rooftop and podium communal open space areas are considered well proportioned, functional and adequately landscaped.
196. The proposed excavation to the site is for the purposes of providing the basement parking levels and associated facilities. The nature of the excavation is consistent with the typical built form required for most new developments of this scale.

Built Environment

197. The proposed development is unlikely to result in adverse impacts to the built environment. The proposed development complies with the relevant requirements except for the height of the lift overrun and associated rooftop communal open space areas. This variation is discussed in the report and is supported as it is unlikely to result in any detrimental impacts to adjoining developments and the streetscape.
198. In addition, the proposed design as amended has been integrated with adjoining development to the west where a common boundary is shared and has preserved visual privacy the existing adjacent RFB building to the east and future development to the north which has been approved and taken into account during the design stage and this assessment.

Social Impact

199. The proposed development has no apparent adverse social impact.

Economic Impact

200. The proposed development has no apparent adverse economic impact.

Suitability of the site

201. It is considered that the proposed development is of a scale and design that is suitable for the site. Having regard to its size, shape, topography, vegetation and relationship to adjoining developments, the subject site does not contain any impediments that would preclude it from being suitable for the intended land use as proposed.

SUBMISSIONS AND THE PUBLIC INTEREST

202. The application was notified/advertised from the 26 September 2018 to 11 October 2018 to 214 residents/owners in accordance with Council's requirements and one (1) submission was received in reply.

Overshadowing

203. The solar shadow study is not a true reflection of the current development in the surrounding locality, ie land to the immediate north, south and west are all single dwelling housing, not high rises as shown in the solar shadow study drawing

204. Comment: The proposed shadow study has been prepared in context of the future approved surrounding developments as well as the existing adjoining developments. A full assessment of shadow impact has been undertaken in the main body of this report.

205. The proposed massing demonstrated within the shadow study reflects the existing 10 storey RFB from the east fronting Princes Highway, the recently approved 10 storey RFB from the north (2-10 Stanley Street subject of DA2017/0483) and the approved 10 storey RFB to the west (71-78 Regent Street subject of DA111/2017).

206. The existing dwellings currently apparent onsite and within the vicinity have been subject to redevelopments proposals.

Traffic

207. The Traffic study submitted failed to address the following potential impacts:

- a. impact on street parking;
- b. impact on traffic flow using Regent Street, Regent Lane and Stanley Lane;
- c. impact on traffic flow on Princes Highway;
- d. impact on local pedestrian/cyclist safety provided there are a number of schools nearby; more cars on road will have an impact on the safety of pedestrian and cyclist;
- e. potential traffic queuing at the Roundabout (Regent Street / Gladstone Street);
- f. window glazing issue on drivers and cyclist using Regent Street and Regent Lane;
- g. capacity of public transport to take additional train/bus commuter at peak hour;
- h. non-compliance with Kogarah DCP on the number of parking spaces

208. Comment: State Environmental Planning Policy SEPP (Infrastructure) 2007, Clause 102 requires the consideration of the noise impacts from busy roads whilst Clause 104 requires referral of the application to Roads and Maritime Services (RMS) as the site is within 90m of connection to a Classified Road, and requires parking for 50 or more vehicles.

209. In this regard, the application was accompanied by an Acoustic Report prepared by Renzo Tonin & Associates and a Traffic report prepared by TTM Consulting Pty Ltd upon submission for due consideration in light of Cl 102 and Cl104 of SEPP (Infrastructure) 2007 respectively.

210. The proposal has also been externally referred to the RMS and no objections were raised subject to standard conditions of consent being imposed.

211. The Acoustic study submitted has made various recommendations to ensure that the proposed development is constructed so as the proposed dwellings satisfy the specified criteria.

212. These recommendations include glazing treatment to specific building facades and sound isolation ratings for external walls, roof and ceiling; considering the noise impacts imposed on residential development from Princes Highway being a busy road with 40,000 annual average daily traffic volume.

213. The study concludes that appropriate controls can be incorporated into the building design to achieve a satisfactory accommodation environment consistent with the intended quality of the building and relevant standards.
214. In reference to the traffic congestion impact, this site is approximately 50m from Princes Highway. It provides 61 residential dwellings and has 69 onsite car spaces which is in excess of 50 parking spaces, thus requiring referral to the RMS in accordance with CI104 of SEPP (Infrastructure) 2007.
215. The application is supported by a Traffic and Parking Assessment Report prepared by TTM Consulting Pty Ltd which has taken an assessment of the potential traffic impacts that are likely to arise from the proposed development, and concludes that the proposed development results in traffic generation that is relatively minor and not of a level normally associated with unacceptable traffic implications in terms of road network capacity or traffic related environmental effect.
216. In reference to the proposed parking provision, Clause 30 of SEPP 65 requires the proposal to comply with the RMS parking rates requirements which in this case prevails over KDCP2013. The proposal complies numerically in full with the RMS parking rates.
217. In reference to impact on traffic flow using Regent Street, Regent Lane and Stanley Lane, the subject site amongst all adjoining sites essentially defining the entire block bound by Regent Lane from the east and Stanley Lane from the north.
218. Provision of a 1.2m wide dedication extending the full length of their respective boundaries to those laneways in order to facilitate the traffic flow.
219. In addition, vehicle access point is consolidated at the rear of the site with one entry from Stanley Lane. This provides simple and direct vehicular movements throughout the site and is separated from the pedestrian entry to the building.
220. In preparation of the 'New City Plan' amendment to the KLEP which resulted in the creation of a high-density residential precinct in Kogarah North, the precinct was strategically identified due to its accessibility and close proximity to the public transport network.
221. Similarly, the city is identified as a main hub for its access to numerous educational establishments, Child care centers and hospitals.

Social Impact

222. How will this development benefit the Kogarah community as a whole, particularly on a socio-economic point of view? A social impact assessment should be done to assess the demand and potential impact of additional population on the local infrastructure, services and open space
223. Comment: The provision of a social Impact Statement for a development of this scale is not required in this circumstance particularly as the site is within the Kogarah North precinct which was strategically identified as a Health and Education Precinct and a Strategic Centre within the South District 20 year Plan to manage growth and identify the priorities for this region.
224. The proposed development responds to the demand for high quality residential apartments. The proposal reflects current market demands in relation to typologies and living

patterns currently established in the local area. This is specifically valuable due to the precinct's proximity to transport, local employment, schools, restaurants and retail amenity.

225. In the long term, the proposed development will have a positive economic impact by increasing the local resident population, who will in turn frequent the local retail and commercial premises in the local centre.

REFERRALS

Council Referrals

Senior Building Officer (Major Projects)

226. Council's Senior Building Officer has raised no objection subject to conditions of consent being attached to any consent granted.

Development Engineer

227. Council's Development Engineer has raised no objection subject to conditions of consent being attached to any consent granted.

Traffic Engineer

228. Council's Traffic Engineer has examined the application and has raised no objection to the development subject to conditions of consent being attached to any consent granted requiring the car spaces to comply with the Australian Standards.

Environmental Health Officer

229. Council's Environmental Health Officer has raised no objection subject to conditions of consent being attached to any consent granted.

Coordinator Environment Sustainability and Waste

230. Council's Coordinator of Environment Sustainability and Waste has raised no objection subject to conditions of consent being attached to any consent granted.

Consultant Arborist

231. Council's Consultant Arborist has raised no objection subject to conditions of consent being attached to any consent granted.

External Referrals

Roads and Maritime Services (RMS)

232. The RMS has raised no objection to the application subject to conditions of consent being attached to any consent granted.

Civil Aviation Safety Authority (CASA) – Sydney Airport

233. The Civil Aviation Safety Authority has raised no objection to the application subject to conditions of consent being attached to any consent granted.

CONCLUSION

234. The application seeks approval for the demolition of existing structures, amalgamation of 3 lots and construction of an 11 storey residential flat building development comprising 61 residential units, over 3.5 basement levels for 69 car parking spaces.
235. The application has been assessed having regard to the Matters of Consideration under Clause 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.

236. The proposed development application was lodged on 5 September 2018 with a capital investment value of \$17,775,250.00. Therefore, the Local Planning Panel is the consent authority.
237. The subject site occupies 3 Street frontages with an area of 1358.6sqm on the corner of Regent Street and Regent Lane with a rear access to Stanley Lane.
238. The site is subject to the Kogarah North Precinct Urban design Strategy which was recently adopted, essentially resulting in the site being Zoned R4 – for High density residential land use with an applicable height of 33m and FSR of 4:1.
239. Accordingly, the area is experiencing an urban renewal transition from low to high density whereby Council is in receipt of numerous applications for higher densities some of which relate to adjoining sites simultaneously such as the subject application when viewed in context of the entire block defining North Kogarah.
240. The proposal has been reviewed and generally commended by the Design Review Panel whom recommended some minor adjustments to the design, all of which have been implemented as part of the amended plans.
241. The proposal seeks to depart from Clause 4.3 relevant to the height standard by a 13% breach (4.3 m) under the provisions of Clause 4.6 on the basis of minimal environmental impacts and the limitation of the height breach to the lift over run and provision of associated rooftop communal open space structures. The departure has been assessed utilising the five part test guided by previous judgments of the Land and Environment Court proceedings and is considered acceptable in this circumstance.
242. The proposal also presents minor variations to the provisions of the Apartment Design Guide (ADG) and Kogarah North Development Control Plan relating to the minimum building separation, minimum dimension of deep soil area, minimum solar access and the minimum site frontage for the development.
243. The above variations have been addressed and appropriately justified on the basis of site's constraint directly related to the dedication land for lane widening measuring 1.2 m in width and extending the full rear northern boundary and the full depth of the eastern side boundary.
244. In reference to the minimum 60m frontage variation to KDCP 2013 control, the proposal was considered to be satisfactory to the intent of the control when considered in context of the adjoining existing, proposed and approved developments.
245. The submission received to the application has been addressed in the report and the proposal is considered satisfactory. As such, following a detailed assessment it is considered that Development Application No DA2018/0368 should be approved subject to conditions.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

246. The reasons for this recommendation are:

- The proposed development complies with the requirements of the relevant environmental planning instruments and development control plan except in the height of the

development which is considered acceptable having regard to the justification provided in the report above.

- The applicant has amended the proposal from that originally submitted to address issues raised by the Design Review Panel and Council officers to provide a better outcome for adjoining developments and the design of the development.
- The proposal also presents minor variations to the provisions of the Apartment Design Guide (ADG) and Kogarah North Development Control Plan relating to the minimum building separation, minimum dimension of deep soil area, maximum number of units permitted with no direct solar access and the minimum site frontage for the development.
- The above variations have been addressed and appropriately justified on the basis of site's constraint directly related to the dedication of land for lane widening, natural site's orientation and subdivision pattern. In reference to the minimum 60m frontage variation to KDCP control, the proposal was considered satisfactory to the intent of the control when considered in context of the adjoining development currently under assessment and subject of its respective development application.

Determination

247. THAT Georges River Council supports the request for variation under Clause 4.6 of the Kogarah LEP 2012, in relation to the building height control.
248. THAT pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act, 1979, as amended, the Local Planning Panel, grants development consent to Development Application DA2018/0368 for, the demolition of all existing structures onsite and construction of a 11 storey residential flat building containing sixty one (61) residential units over three and a half (3.5) levels of basement parking containing sixty nine (69) car spaces on Lot 1 DP1084126, Lot 1 DP 97476 and Lot 139 DP1388 and known as 80 – 84 Regent Street, Kogarah, subject to the following conditions of consent:

SPECIFIC DEVELOPMENT CONDITIONS

Section A Development Details

1. **Approved Plans** - The development must be implemented in accordance with the approved plans and supporting documentation listed below which have been endorsed by Council's approved stamp, except where marked up on the plans and/or amended by conditions of this consent:

Description	Reference No.	Date	Revision	Prepared by
Cover Page	DA000	03/09/2018	A	PBD Architects
Project Summary	DA001	03/09/2018	A	PBD Architects
Site analysis	DA002	03/09/2018	A	PBD Architects
Demolition Plan	DA003	03/09/2018	A	PBD Architects
Basement 3.5 Level Floor Plan	DA100	03/09/2018	A	PBD Architects
Basement 3 Level Floor Plan	DA101	03/09/2018	A	PBD Architects
Basement 2 Level Floor Plan	DA102	03/09/2018	A	PBD Architects

Basement 1 Level Floor Plan	DA103	03/09/2018	A	PBD Architects
Ground Floor Plan	DA104	03/09/2018	B	PBD Architects
Level 1-3 Floor Plan	DA105	03/09/2018	A	PBD Architects
Level 4 Floor Plan	DA106	03/09/2018	A	PBD Architects
Level 5-9 Floor Plan	DA107	03/09/2018	A	PBD Architects
Level 10 Floor Plan	DA108	03/09/2018	A	PBD Architects
Level 11 Communal Open Space Floor Plan	DA109	03/09/2018	A	PBD Architects
Roof Plan	DA110	03/09/2018	A	PBD Architects
South Elevation Plan	DA201	03/09/2018	B	PBD Architects
East Elevation Plan	DA202	03/09/2018	B	PBD Architects
North Elevation Plan	DA203	03/09/2018	B	PBD Architects
West Elevation Plan	DA204	03/09/2018	B	PBD Architects
Section A Plan	DA300	03/09/2018	A	PBD Architects
Section B Plan	DA301	03/09/2018	A	PBD Architects
South Material Schedule	DA400	03/09/2018	A	PBD Architects
East Material Schedule	DA401	03/09/2018	A	PBD Architects
North Material Schedule	DA402	03/09/2018	A	PBD Architects
West Material Schedule	DA403	03/09/2018	A	PBD Architects
Photomontage	DA410	03/09/2018	A	PBD Architects
Apartment Mix Diagram	DA500	03/09/2018	A	PBD Architects
Landscape Plan – Cover Sheet	SS18-3898_000	18/10/2018	D	Site Image Landscape Architects
Landscape Plan – Ground Floor	SS18-3898_101	19/02/2019	E	Site Image Landscape Architects
Landscape Plan – Rooftop	SS18-3898_102	18/10/2018	D	Site Image Landscape Architects
Landscape Detail	SS18-3898_501	04/09/2018	C	Site Image Landscape Architects
Landscape specifications	SS18-3898_502	04/09/2018	C	Site Image Landscape Architects

Section B Separate Approvals Required Under Other Legislation

2. **Section 138 Roads Act 1993 and Section 68 Local Government Act 1993** - Unless otherwise specified by a condition of this consent, this Development Consent does not give any approval to undertake works on public infrastructure.

Separate approval is required under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993 for any of the following activities carried out in, on or over a public road (including the footpath) listed below.

An application is required to be lodged and approved prior to the commencement of any of the following works or activities;

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;
- (g) Constructing a vehicular crossing or footpath;
- (h) Establishing a “works zone”;
- (i) Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of connections to utility providers);
- (j) Stormwater & ancillary works in the road reserve; and
- (k) Stormwater & ancillary to public infrastructure on private land
- (l) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council’s roadways/footways.

These separate activity approvals must be obtained and evidence of the approval provided to the Certifying Authority prior to the issue of the Construction Certificate.

The relevant Application Forms for these activities can be downloaded from Council’s website www.georgesriver.nsw.gov.au. For further information, please contact Council’s Customer Service Centre on (02) 9330 6400.

3. **Vehicular Crossing - Major Development** - The following vehicular crossing and road frontage works will be required to facilitate access to and from the proposed development site:

- (a) Construct a metre wide footpath for the full length of the frontage of the site in accordance with Council’s Specifications applying at the time construction approval is sought.
- (b) The thickness and design of the driveway shall be in accordance with Council’s Specifications applying at the time construction approval is sought.
- (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in accordance with Council’s Specifications for kerb and guttering, applying at the time construction approval is sought.
- (d) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant. The work shall be carried out in accordance with Council’s specification, applying at the time construction approval is sought.

Constructing a vehicular crossing and/or footpath requires separate approval under Section 138 of the Roads Act 1993, prior to the commencement of those works.

4. **Road Opening Permit** - A Road Opening Permit must be obtained from Council, in the case of local or regional roads, or from the RMS, in the case of State roads, for every opening of a public road reserve to access services including sewer, stormwater drains,

water mains, gas mains, and telecommunications before the commencement of work in the road.

5. **Engineering - Vehicular Crossing - Minor Development** - Constructing a vehicular crossing and/or footpath requires a separate approval under Section 138 of the Roads Act 1993 prior to the issue of the Construction Certificate.

To apply for approval, complete the Driveway Crossing on Council Road Reserve Application Form which can be downloaded from Georges River Council's Website: www.georgesriver.nsw.gov.au.

Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Section P1 and P2, in Council's adopted Fees and Charges for the administrative and inspection charges associated with Vehicular Crossing applications.

Please note, that an approval for a new or modified vehicular crossing will contain the approved access and/or alignment levels which will be required to construct the crossing and/or footpath. Once approved, all work shall be carried out by a private contractor in accordance with Council's Specification for Vehicular Crossings and Associated Works prior to the issue of the Occupation Certificate.

6. **Engineering - Road Opening Permit** - A Road Opening Permit must be obtained from Council, in the case of local or regional roads, or from the Roads and Maritime Services, in the case of State roads, for every opening of a public road reserve to access services including sewer, stormwater drains, water mains, gas mains, and telecommunications before the commencement of work in the road.
7. **Building - Hoarding Application** - Prior to demolition of the buildings on the site or the commencement of work above ground level a separate application for the erection of an A class (fence type) or a B class hoarding or C type scaffold, in accordance with the requirements of Work Cover Authority of NSW, must be erected along that portion of the footway/road reserve, where the building is within 3.0 metres of the street boundary. An application for this work under Section 68 of the Local Government Act 1993 and the Roads Act 1993 must be submitted for approval to Council.

The following information is to be submitted with a Hoarding Application under s68 of the Local Government Act and s138 of the Roads Act 1993:

- (a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location; and
- (b) Hoarding plan and details that are certified by an appropriately qualified engineer; and
- (c) The payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges (available on our website) before the commencement of work; and
- (d) A Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the

proposed works, must be obtained a copy provided to Council. The Policy is to note Council as an interested party; and

- (e) The application must be endorsement by the Roads & Maritime Services (RMS) as the hoarding is located within 100m of an intersection with traffic lights. For assistance you should contact the DA unit at RMS and speak to Hans on 88492076. Or email hans.pilly.mootanah@rms.nsw.gov.au to obtain concurrence for the hoarding structure.

8. **Below ground anchors - Information to be submitted with S68 Application under LGA 1993 and S138 Application under Roads Act 1993** - In the event that the excavation associated with the basement carpark is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways, an application must be lodged with Council under Section 68 of the Local Government Act 1993 and the Roads Act 1993 for approval, prior to commencement of those works. The following details must be submitted.

- (a) That cable anchors will be stressed released when the building extends above ground level to the satisfaction of Council.
- (b) The applicant has indemnified Council from all public liability claims arising from the proposed works, and provide adequate insurance cover to the satisfaction of council.
- (c) Documentary evidence of such insurance cover to the value of \$20 million.
- (d) The applicant must register a non-terminating bank guarantee in favour of Council for the amount of. The guarantee will be released when the cables are stress released. In this regard it will be necessary for a certificate to be submitted to Council from a structural engineer at that time verifying that the cables have been stress released.
- (e) That in the event of any works taking place on Council's roadways/footways adjoining the property while the anchors are still stressed, all costs associated with overcoming the difficulties caused by the presence of the 'live' anchors will be borne by the applicant.

Section C Requirements of Concurrence, Integrated & Other Government Authorities

9. **Roads and Maritime Services (RMS) Conditions**

- a. The layout of the proposed car parking and loading areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004.
- b. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for determination prior to the issue of a construction certificate.
- c. All vehicles are to enter and exit the site in a forward direction.
- d. All works/regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.

10. **Department of Infrastructure, Regional Development and Cities** - In accordance with The Airports (Protection of Airspace) Regulations 1996, regulation 14(1)(b), by the

Department of Infrastructure, Regional Development and Cities imposes the following conditions on any approval:

- a) The building **must not exceed** a maximum height of **53.08m AHD**, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any rooftop garden plantings, exhaust flues etc.
 - b) The Proponent **must advise** Airservices Australia at least three business days prior to the controlled activity commencing by emailing cifp@airservicesaustralia.com and quoting YSSY-CA-136.
 - c) Separate approval **must be sought** under the Regulations for any construction equipment (i.e. cranes) required to construct the building.
 - d) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Regulations. Therefore, approval to operate construction equipment (i.e. cranes) must be obtained prior to any commitment to construct.
 - e) On completion of construction of the building, the applicant must provide Georges River Council and the airfield design manager with a written report from a certified surveyor on the finished height of the building.
 - f) **Breaches of approval conditions are subject to significant penalties** under Sections 185 and 187 of the Act.
11. **Sydney Water – Tap in TM** - The approved plans must be submitted to a Sydney Water Tap inTM to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at www.sydneywater.com.au then see 'Building', or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap inTM agent has appropriately stamped the plans prior to the issue of the Construction Certificate.
12. **Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements of what will eventually be required when issuing a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the 'Plumbing, building and developing' section of the web site www.sydneywater.com.au then refer to 'Providers' under 'Developing' or telephone 13 20 92 for assistance.
- Following application, a 'Notice of Requirements' will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, as it can take some time to build water/sewer pipes and this may impact on other services and building, driveway or landscape design.
- The Notice of requirements must be submitted prior to the commencement of work. A Section 73 Compliance Certificate will be required at the completion of development in accordance with further conditions.
13. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the PCA prior to the issue of the Occupation

Certificate.

Section D Prior to the Issue of a Construction Certificate

14. **Fees to be paid** - The fees listed in the table below must be paid in accordance with the conditions of this consent and Council's adopted Fees and Charges applicable at the time of payment (available at www.georgesriver.nsw.gov.au).

Payments must be made prior to the issue of the Construction Certificate or prior to the commencement of work (if there is no associated Construction Certificate).

Please contact council prior to the payment of S94 Contributions to determine whether the amounts have been indexed from that indicated below in this consent and the form of payment that will be accepted by Council.

Council will only accept Bank Cheque or Electronic Funds Transfer (EFT) for transaction values of \$500,000 or over. Council must be contacted prior to payment to determine correct total amount to be paid and bank account details (if applicable).

A summary of the fees to be paid are listed below:

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$129,742.92
Inspection Fee for Refund of Damage Deposit	\$371.00

DEVELOPMENT CONTRIBUTIONS				
Plan No.	Description	Section 94 contributions assessed	No. of existing lots (credit)	Section 94 contributions payable
No. 8	Streetscape, Open Space & Public Domain	\$987,223.68	(\$56,454.84)	\$930,768.84
No. 8	Traffic Facilities	\$18,211.54	(\$931.98)	\$17,279.56
No. 8	Community Facilities	\$17,599.08	(\$1,006.38)	\$16,592.70
No. 9	Kogarah libraries - buildings component	\$16,402.93	(\$938.01)	\$15,464.92
No. 9	Kogarah libraries - books component	\$11,695.23	(\$668.79)	\$11,026.44
Total Section 94 Contributions Currently Payable				\$991,132.46

General Fees

The fees and charges above are subject to change and are as set out in the version of Council's Schedule of Fees and Charges or as required by other Government Authorities, applicable at the time of payment.

Development Contributions

The Section 94 contribution is imposed to ensure that the development makes adequate provision for the demand it generates for public amenities and public services within the

area.

A Section 94A contribution has been levied on the subject development pursuant to the Georges River Council Section 94A Contributions Plan.

Indexation

The above contributions will be adjusted at the time of payment to reflect changes in the cost of delivering public amenities and public services, in accordance with the indices provided by the relevant Section 94 Development Contributions Plan.

Timing of Payment

The contribution must be paid and receipted by Council prior to the release of the Construction Certificate.

Further Information

A copy of the *all current Development Contributions Plans* may be inspected or a copy purchased at Council's offices (Georges River Civic Centre, MacMahon Street, Hurstville and Kogarah Library and Service Centre, Kogarah Town Square, Belgrave Street, Kogarah) or viewed on Council's website www.georgesriver.nsw.gov.au.

15. **Damage Deposit - Major Works** - In order to insure against damage to Council property the following is required:
- (a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development **\$129,742.92**
 - (b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required. **\$371.00**
 - (c) Submit to Council, before the commencement of work, a dilapidation report of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

At the completion of work Council will review the dilapidation report and the Works-As-Executed Drawings (if applicable) and inspect the public works.

The damage deposit will be refunded in full upon completion of work where no damage occurs and where Council is satisfied with the completion of works. Alternatively, the damage deposit will be forfeited or partly refunded based on the damage incurred.

16. **Site Management Plan** - A Site Management Plan must be submitted with the application for a Construction Certificate, and include the following:
- (a) location of protective site fencing;
 - (b) location of site storage areas/sheds/equipment;
 - (c) location of building materials for construction, e.g. stockpiles
 - (d) provisions for public safety;
 - (e) dust control measures;
 - (f) method used to provide site access location and materials used;
 - (g) details of methods of disposal of demolition materials;
 - (h) method used to provide protective measures for tree preservation;

- (i) provisions for temporary sanitary facilities;
- (j) location and size of waste containers/skip bins;
- (k) details of proposed sediment and erosion control measures;
- (l) method used to provide construction noise and vibration management;
- (m) construction and demolition traffic management details.

The site management measures are to be implemented prior to the commencement of any works including demolition and excavation. The site management measures are to be maintained throughout the works, to maintain reasonable levels of public health, safety and amenity. A copy of the Site Management Plan must be kept on site and is to be made available upon request.

17. **SEPP 65 Design Verification Statement** - A design verification statement, prepared by a qualified designer, shall be submitted to the Certifying Authority verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out under Schedule 1 of State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development.
18. **Design Quality Excellence (Major Development)** - In order to ensure the design quality excellence of the development is retained:
- i. The design architect is to have direct involvement in the design documentation, contract documentation and construct stages of the project;
 - ii. The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of the design issues throughout the life of the project;
 - iii. Evidence of the design architect's commission is to be provided to the Council prior to release of the Construction Certificate.

The design architect of the project is not to be changed without prior notice and approval of the Council.

19. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 953217M, dated 4 September 2018 must be implemented on the plans lodged with the application for the Construction Certificate.
20. **Required design changes** - The following changes are required to be made and shown on the Construction Certificate plans:

Referring to Concept Stormwater Design Plans dated 31 August 2018 and prepared by Geba Consulting, design changes are required and shown on the Construction Certificate plans and submitted to Council's for approval.

According to Hurstville DCP 1, Section 3.7.3, Part A for Development Requirements, development sites greater than 700m² in area must discharge stormwater into Council's stormwater system. A gully pit with 2400mm lintel is to be constructed at this location. If no pipe line exists, a new pipe line must be constructed to discharge stormwater. Please note that a drainage application under Section 68 of the Local Government Act 1993 and Section 138 of the Roads Act 1993 is required to get approval to connect to Council's drainage system.

The stormwater plans shall be revised and submitted with Section 138 application to Council's Asset Engineer satisfying the following.

- a. A new 375 mm diameter RCP drainage line shall be designed and constructed along Regent Lane from the site to the nearest kerb inlet pit. This is to ensure Council's requirements are met.
- b. The proposed drainage along Regent Lane shall be documented on a detailed features survey plan that describes all existing structures, utility services, vegetation and other relevant information.
- c. The inlet pits shall be cast-in-situ and conforming to Council's standard drainage pit details.
- d. The minimum distance from the lintel to the near end of the splay of the driveway at kerb line shall be at least 500mm.

A drainage system longitudinal section drawn at a scale of 1:100 or 1:200 horizontally and 1:10 or 1:20 vertically and showing crossing utility services, pipe size, class and type, pipe support type in accordance with AS 3725 or AS 2032 as appropriate, pipeline chainages, pipeline grade, hydraulic grade line and any other information necessary for the design and construction of the drainage system.

During rare flood events, Stanley Lane will be subject to street flooding. The crest level of the driveway to the basement car park shall be set at least 150 mm above the top of the kerb levels.

21. **Erosion & Sedimentation Control** - Erosion and sediment controls must be provided to ensure:

- (a) Compliance with the approved Erosion & Sediment Control Plan
- (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
- (c) All clean water run-off is diverted around cleared or exposed areas
- (d) Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways
- (e) All erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works
- (f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
- (g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
- (h) Compliance with Managing Urban Stormwater – Soils and Construction (Blue Book) produced by Landcom 2004.

These measures are to be implemented prior to the commencement of work (including demolition and excavation) and must remain until works are completed and all exposed surfaces are landscaped/sealed.

22. **Pre-Construction Dilapidation Report – Private Land** - A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises including but not limited to:

- (a) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.

- (b) A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises that shall be affected by the excavation as determined by the consulting engineer.

The report shall be prepared at the expense of the applicant and submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

A copy of the pre-construction dilapidation report is to be provided to the adjoining properties (subject of the dilapidation report), a minimum of 5 working days prior to the commencement of work. Evidence confirming that a copy of the pre-construction dilapidation report was delivered to the adjoining properties must be provided to the PCA.

Should the owners of properties (or their agents) refuse access to carry out inspections, after being given reasonable written notice, this shall be reported to Council to obtain Council's agreement to complete the report without access. Reasonable notice is a request for access in no sooner than 14 days between 8.00am-6.00pm.

23. **Stormwater System** - The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.

- (a) All stormwater shall drain by gravity to Council's drainage line directly in front of the development site in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
- (b) Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineer who specialises in Hydraulic Engineering in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (2005 or 2016) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.
- (c) The underground basement car park must pump to and all other stormwater must drain by gravity to the OSD system.
- (d) The construction of the building and driveway shall be designed to protect the underground basement from possible inundation by surface waters. The crest of the driveway shall be set least 150mm above the top of the kerb levels.
- (e) The sub soil drainage for the below ground structures including basement car parks shall be designed in accordance with the findings and recommendations in the geotechnical report. The geotechnical report should assess any possible impact of the proposed development upon existing ground water table and surrounding land and buildings. Should the results of the report indicate that the site is likely to experience issues associated with groundwater management, a fully-tanked dry basement with no sub soil drainage collection or disposal and an allowance made for any hydrostatic pressures.

24. **On Site Detention** - The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.

An on-site detention (OSD) facility designed by a professional engineer who specialises in Hydraulic Engineering must be designed, approved and installed.

The OSD facility shall be designed to meet all legislated safety requirements and childproof safety fencing around the facility must be provided where the OSD facility is open or above ground when the design peak storage depth is greater than 300mm. A durable metal plate or similar sign is to be placed at the OSD facility and must bear the words:

"BEWARE: This is an on-site detention basin/tank for rainwater which could overflow during heavy storms."

Full details shall accompany the application for the Construction Certificate.

25. **Pump-Out System Design for Stormwater Disposal** - The design of the pump-out system for storm water disposal will be permitted for drainage of basement areas only, and must be designed in accordance with the following criteria:

- (a) The pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm. The holding tank shall be capable of holding one hour's runoff from a one-hour duration storm of the 1 in 20 year storm;
- (b) The pump system shall be regularly maintained and serviced, every six (6) months; and
- (c) The drainage disposal shall be discharged to the OSD system.
Details and certification of compliance from a professional engineer specialising in civil engineering shall be provided for approval with the Construction Certificate application

26. **Stormwater Drainage Plan Details** - Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineering specialising in hydraulic engineering shall be submitted with the Construction Certificate application.

These plans shall be prepared in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (2005 or 2016) and Council's Water Management Policy (Kogarah Council), August 2006.

27. **Driveway Construction Plan Details** - Detailed engineering plans for the driveway shall be submitted with the Construction Certificate application for approval that show:

- (a) Longitudinal and cross sections, gradients, access onto the proposed lots, type of construction materials designed in accordance with Council's Subdivision standards and AS/NZS2890.1-2004.
- (b) Suitable underground provision for the supply of all relevant services to the proposed lots (proposed position of pipes and conduits).
- (c) The full length of the driveway designed with a minimum 150mm thick reinforced concrete and minimum of 2.7m wide pavement/kerb face to kerb face width, and a non-slip surface.

28. **Council Property Shoring** -Prior to the issue of the Construction Certificate, plans and specifications prepared by a professional engineer specialising in practising structural engineering must detail how Council's property shall be supported at all times.

Where any shoring is to be supporting, or located on Council's property, certified structural engineering drawings detailing; the extent of the encroachment, the type of shoring and the method of removal, shall be included on the plans. Where the shoring cannot be removed, the plans must detail that the shoring will be cut to 150mm below footpath level and the gap between the shoring and any building shall be filled with a 5MPa lean concrete mix.

29. **Fire Safety Measures** - Prior to the issue of a construction certificate a list of the essential fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a construction certificate, which is required to be submitted to either Council or a PCA. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or PCA will then issue a Fire Safety Schedule for the building.
30. **Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns and other structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works. A copy shall be forwarded to Council where Council is not the PCA.
31. **Access for Persons with a Disability** - Access for persons with disabilities must be provided throughout the site, including to all common rooms, lobby areas, commercial premises and sanitary facilities in accordance with the requirements of the Premises Standards, the Building Code of Australia and AS 1428.1. Details must be submitted with the Construction Certificate Application.

In regards to the above, pedestrian access throughout basement levels shall be highlighted/line marked and sign posted to safeguard egress.

32. **Geotechnical report** - Geotechnical Reports: The applicant must submit a Geotechnical Report, prepared by a suitably qualified Geotechnical Engineer who holds the relevant Certificate of accreditation as required under the Building Professionals Act 2005 in relation to dilapidation reports, all site works and construction. This is to be submitted **before the issue of the Construction Certificate** and is to include:
- (a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks/stabilization works and any excavations.
 - (b) Dilapidation Reports on the adjoining properties prior to any excavation of site works. The Dilapidation Report is to include assessments on, but not limited to, the dwellings at those addresses and any external paths, grounds etc. This must be submitted to the Certifying Authority and the adjoining residents as part of the application for the Construction Certificate. Adjoining residents are to be provided with the report five (5) working days prior to any works on the site.
 - (c) On-site guidance by a vibration specialist during the early part of excavation.
 - (d) Rock breaking techniques. Rock excavation is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures.
 - (e) Sides of the excavation are to be piersed prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and

neighbouring sites.

33. **Vibration Damage** - To minimise vibration damage and loss of support to the buildings in close proximity to the development, any excavation is to be carried out by means of a rock saw and if available, in accordance with the guidelines of the Geotechnical Engineer's report.

Alternatively where a hydraulic hammer is to be used within 30 metres of any building (other than a path or a fence) a report from a qualified geotechnical engineer detailing the maximum size of hammer to be used is to be obtained and the recommendations in that report implemented during work on the site. **The report shall be submitted with the Construction Certificate application.**

34. **Slip Resistance** All pedestrian surfaces in areas such as foyers, public corridors/hallways, stairs and ramps as well as floor surfaces in the wet rooms in any commercial/retail/residential units must have slip resistance classifications, as determined using test methods in either wet or dry conditions, appropriate to their gradient and exposure to wetting. The classifications of the new pedestrian surface materials, in wet or dry conditions, must comply with AS/NZS4586:2004 - Slip Resistance Classifications of New Pedestrian Materials and must be detailed on the plans lodged with the application for the Construction Certificate. **The report shall be submitted with the Construction Certificate application.**

35. **Advice from Fire and Rescue NSW** - Prior to the issue of a Construction Certificate the applicant may be required, under Clause 144 of the Environmental Planning & Assessment Regulation, 2000 to seek written comment from Fire and Rescue NSW about the location of water storage tanks, construction of hydrant/booster pump and valve rooms, and any Fire Engineered Solution developed to meet the performance requirements under the Category 2 Fire Safety Provisions.

The applicant is also advised to seek written advice from FR NSW on the location and construction of the proposed Fire Control Centre Facility and location and installation of the sites Fire Indicator Panels.

36. **Traffic Management - Compliance with AS2890** - All driveways, access ramps, vehicular crossings and car parking spaces shall be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities) and AS 2890.2 (for commercial vehicle facilities).

37. Parking spaces shall be clearly designated (sign posted and marked on ground) and line marked prior to the issuing of an Occupation Certificate. Signage, pavement symbols and line marking shall comply with Australian Standards, AS1742, Manual of Uniform Traffic Control Devices and NSW Road Transport (Safety and Traffic Management) Regulations 1999.

38. Driveway access to comply with figure 3.3-Minimum Sight Lines for Pedestrian Safety as per AS 2890.1:2004 of the Australian Standard for off-street car parking. Figure 3.3 specifies the minimum sight lines for pedestrian safety along a circulation driveway or domestic driveway.

39. All allocated car parking spaces shall be freely available for the customers of the proposed development.

40. Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distance requirements stipulated in the Australian Standards AS2890.1.
41. All vehicles shall enter and exit the premises in a forward direction.
42. No deliveries to the premises shall be made direct from a public place or street inclusive of footpaths, nature strip, roadway and car parks.
43. All loading and unloading of vehicles in relation to the use of the premises shall take place wholly within the dedicated loading/unloading areas, which is wholly within the site.
44. **Construction Traffic Management Plan** - A Construction Traffic Management Plan detailing:
- construction vehicle routes;
 - anticipated number of trucks per day;
 - hours of construction;
 - Access arrangements; and
 - Proposed traffic measures to minimise impacts of construction vehicles

must be submitted for the approval of Council's Engineers. Council's Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.

45. **Acoustic Requirements - Compliance with submitted Acoustic Report** - The Construction Certificate plans shall demonstrate compliance with the Acoustic Report submitted and approved by Council, titled "*Acoustic Assessment for development application* at No. 80-84 Regent Street, Kogarah. Reference No. TK504-01F02 (R4)", prepared by *Renzo Tonin & Associates* and dated 4th September 2018.
46. **Car Wash Bays** - Plans and specifications of the car washing system which has been approved by Sydney Water must be submitted with the application for the Construction Certificate.

All car washing bays shall be contained within a roofed and bunded car wash bay with pre-treatment approved by Sydney Water. The water from the car wash bay must be graded to a drainage point and connected to sewer.

If alternative water management and disposal options are proposed (i.e. where water is recycled, minimised or reused on the site), detailed plans and specifications of the water recycling system must be submitted with the application for the Construction Certificate for approval.

47. **Site Investigation Requirements - Detailed Site Investigation** - A detailed site contamination investigation of the deep soil zone only, proposed for onsite retention in the northern section of the development site, must be carried out by an appropriately qualified contamination consultant in accordance with the requirements of the relevant NSW EPA Guidelines approved under the Contaminated Land Management Act 1997 including the EPA Guidelines for Consultants Reporting on contaminated sites and shall certify the suitability of the site for the proposed development. If investigation finds that contamination makes the land unsuitable for the proposed development and remediation is required, a Remedial Action Plan (RAP) must be submitted to Council prior to Council making a

determination. Council reserves the right to require a site audit of the RAP.

Site contamination – Additional information

Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.

Remedial Action Plan (RAP)

The Remedial Action Plan (RAP) must be prepared by a suitably qualified consultant in accordance with NSW Department of Environment and Conservation (DEC) and NSW Environmental Protection Authority (EPA) Guidelines and shall document all the remedial works to be undertaken at the site and also contain an environmental management plan and occupational health and safety plan for the remedial works.

Remediation Works

All remediation work must be carried out in accordance with: -

- The Managing Land Contamination: Planning Guidelines SEPP 55 Remediation of Land; and
- The EPA Guidelines made under the Contaminated Land Management Act 1997.
- And in accordance with the proposed Remedial Action Plan.

Validation Report

After completion of all Remediation works, a copy of the Validation and Monitoring Report prepared by suitably qualified contaminated land consultant shall be submitted to Council. The Construction Certificate shall not be issued until Council approves this Report. The validation report shall be prepared in accordance with the Office Environment and Heritage Guidelines, *Consultants Reporting on Contaminated Sites*, and shall certify the suitability of the site for the proposed development.

- describe and document all works performed;
- include results of validation testing and monitoring;
- include validation results of any fill imported on to the site;
- show how the objectives of the Remedial Action Plan have been met;
- show how all agreed clean-up criteria and relevant regulations have been complied with; and
- include clear justification as to the suitability of the site for the proposed development and the potential for off-site migration of any residual contaminants.

48. **Waste Management Plan** - A Waste Management Plan incorporating all requirements in respect of the provision of waste storage facilities, removal of all materials from the site that are the result of site clearing, extraction, and, or demolition works and the designated Waste Management Facility shall be submitted to the Certifying Authority prior to the issue of any Construction Certificate.
49. **Waste Storage - Residential and Mixed Use Developments** - The plans shall include details of the waste storage area. The waste storage area shall not be visible from the street. The waste storage area shall be located within the lot/building in accordance with the approved plans.
- a) The waste storage area shall be large enough to accommodate the required number of bins for the development and located in an area to suitably facilitate servicing on waste collection day.

- b) The path to the bin room is to be at least 1.0 metres wide and kept clear and unobstructed at all times.

Residential Waste

- c) All bins must be taken to the kerbside by the caretaker as per the waste management plan.
- d) The development requires a minimum of 5 X1100L bins, for a development of this size Council would suggest 6, however material will be transferred from a 240L chute to the 1100L bins which should accommodate for the difference in number.
- e) Recycling 240L bins shall be rotated from the floors by caretakers and therefore residents should not be access the bin rom and the recycling bins can remain stacked
- f) Bins must be returned to the development by the caretaker immediately after collection
- g) The waste room will contain the following to minimise odours, deter vermin, protect surrounding areas, and make it a user-friendly and safe area:
- i. waste room floor to be sealed;
 - ii. waste room walls and floor surface is flat and even;
 - iii. all walls painted with light colour and washable paint;
 - iv. equipment electric outlets to be installed 1700mm above floor levels;
 - v. The bin storage rooms will be mechanically exhausted as required by AS 1668.2;
 - vi. light switch installed at height of 1.6m;
 - vii. waste rooms must be well lit (sensor lighting recommended);
 - viii. optional automatic odour and pest control system installed to eliminate all pest
 - ix. types and assist with odour reduction - this process generally takes place at
 - x. building handover - building management make the decision to install;
 - xi. all personnel doors are hinged and self-closing;
 - xii. waste collection area must hold all bins - bin movements should be with ease of access;
 - xiii. Conform to the Building Code of Australia, Australian Standards and local laws; and childproofing and public/operator safety shall be assessed and ensured.
 - xiv. Occupational Health and Safety issues such as slippery floors in waste rooms and the weight of the waste and recycling receptacles will need to be monitored.
 - xv. Cleaners will monitor the bin storage area and all spills will be attended to immediately by cleaners.

50. **Landscape Plans** - All landscape works shall be carried out in accordance with the approved landscape plans drawn by – Site Image Landscape Architects reference numbers – SS18-3898-000-502. The landscaping shall be maintained in accordance with the approved plans in perpetuity.

General Landscape Requirements

- a) The proposed tree and plant species, pot/ bag size and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan. If plant species, pot/ bag size and quantities cannot be sourced, Council shall be contacted for alternatives.
- b) All twenty six (26) trees proposed upon the approved landscape plan shall comply with NATSPEC Specifying Trees: a guide to assessment of tree quality (2003), and be planted and maintained in accordance with Councils standard specification

51. **Compliance with submitted Arborist Report** - The recommendations outlined in the Arborist's Report titled Arboricultural Impact Appraisal prepared by Naturally Trees Pty Ltd dated 9 August 2018, must be implemented throughout the relevant stages of construction. Details of tree protection measures to be implemented must be detailed and lodged with the Construction Certificate application for approval and shall be in accordance with Section 4 -

Australian Standard AS 4970-2009: Protection of trees on development sites.

52. Tree Removal & Replacement

Tree removal

Permission is granted for the removal of the following trees:

Tree Species	Number of trees	Location
T1 – <i>Plumeria rubra</i>	X1	Middle of site
T2 – <i>Mangifera indica</i>	X1	Street front within site
T3 – <i>Murraya paniculata</i>	X1	Street front within site
T4 – <i>Persea americana</i>	X1	Next to Regent lane
T5 – <i>Ceratopetalum gummiferum</i>	X1	Western fence line
T6 – <i>Plumeria rubra</i>	X1	Western fence line

General Tree Removal Requirements

- All tree removal shall be carried out by a certified Tree Surgeon/Arborist to ensure that removal is undertaken in a safe manner and complies with the AS 4373-2007 - Pruning of Amenity Trees and Tree Works Industry Code of Practice (Work Cover NSW 1.8.98).
- No trees are to be removed on the site or neighbouring properties without the prior written approval of Council.

Street Tree Removal / Replacement by Council

- Three (3) street trees of species *Cupaniopsis anacardioides* shall be provided in the road reserve fronting the site, Regent Street and in accordance with Kogarah Councils Street Tree Management Strategy and Masterplan.
- Council shall be appointed to remove all tree/s on public land. All costs associated with the removal of the tree/s and the planting of replacement trees shall be met by the applicant. Fees and charges outlined in the table below are subject to change and are set out in the current version of Council's 'Schedule of Fees and Charges', applicable at the time of payment.

Fee Type – Tree removal on public land	Amount
Administration Fee for Tree Removal	\$154.50
Replacement Tree Fee (per Tree)	\$185.40
Cost of tree removal	To be determined
Cost of Stump Grinding	To be determined

A copy of the Hurstville City Council's Tree Removal and Pruning Guidelines and Kogarah City Council, Street Tree Management Strategy and Masterplan, can be downloaded from Council's website www.georgesriver.nsw.gov.au.

53. **Allocation of street addresses** - In order to comply with AS/NZS 4819:2011 Rural and Urban Addressing & the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements, the street addresses for the subject development must be allocated as advised by Georges River Council.

Details indicating compliance with this condition must be shown on the plans lodged with any Construction Certificate for approval.

54. **Consolidation of Site** - The site shall be consolidated into one allotment and by a Plan of Consolidation being prepared by a Registered Surveyor. This Plan shall be registered at the

NSW Land and Property Information prior to the issue of a final occupation certificate.

Section E Prior to the Commencement of Work (Including Demolition & Excavation)

55. **Demolition & Asbestos** - The demolition work shall comply with the provisions of Australian Standard AS2601:2001 - Demolition of Structures, NSW Work Health & Safety Act 2011 and the NSW Work Health & Safety Regulation 2011. The work plans required by AS2601:2001 shall be accompanied by a written statement by a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement shall be submitted to the PCA prior to the commencement of works.

For demolition work which involves the removal of asbestos, the asbestos removal work must be carried out by a licensed asbestos removalist who is licensed to carry out the work in accordance with the NSW Work Health & Safety Act 2011 and the NSW Work Health & Safety Regulation 2011 unless specified in the Act and/or Regulation that a license is not required.

All demolition work including the removal of asbestos, shall be undertaken in accordance with the Demolition Code of Practice (NSW Work Cover July 2015)

Note: Copies of the Act, Regulation and Code of Practice can be downloaded free of charge from the SafeWork NSW website: www.SafeWork.nsw.gov.au.

56. **Demolition Notification Requirements** - The following notification requirements apply to this consent:
- (a) The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.
 - (b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.
 - (c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.
57. **Demolition work involving asbestos removal** - Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the Work Health and Safety Regulation 2011.
58. **Dial before your dig** - The applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Council's Engineers for their records.

59. **Dilapidation Report on Public Land - Major Development Only** - Prior to the commencement of works (including demolition and excavation), a dilapidation report must be prepared for the Council infrastructure adjoining the development site, including:

The report must include the following:

- (a) Photographs showing the existing condition of the road pavement fronting the site,
- (b) Photographs showing the existing condition of the kerb and gutter fronting the site,
- (c) Photographs showing the existing condition of the footpath pavement fronting the site,
- (d) Photographs showing the existing condition of any retaining walls within the footway or road, and
- (e) The full name and signature of the structural engineer.

The Dilapidation Report must be prepared by a professional engineer. The report must be provided to the PCA and a copy provided to the Council.

The report is to be supplied in electronic format in Word or PDF. Photographs are to be in colour, digital and date stamped.

Note: Council will use this report to determine whether to refund the damage deposit after the completion of works.

60. **Registered Surveyors Report - During Development Work** - A report must be submitted to the PCA at each of the following applicable stages of construction:

- (a) Set out before commencing excavation.
- (b) Floor slabs or foundation wall, before formwork or commencing brickwork.
- (c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
- (d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.
- (e) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
- (f) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

Work must not proceed beyond each stage until the PCA is satisfied that the height and location of the building is proceeding in accordance with the approved plans.

61. **Utility Arrangements** - Arrangements are to be made with utility authorities in respect to the services supplied by those authorities to the development. The cost associated with the provision or adjustment of services within the road and footway areas is to be at the applicant's expense.
62. **Structural Engineers Details - Supporting Council road/footway** - Prior to the commencement of work in connection with the excavation of the site associated with the basement car park, structural engineer's details relating to the method of supporting the excavation must be submitted.

Section F During Construction

63. **Site sign - Soil & Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.
64. **Hours of construction for demolition and building work** - Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Saturday inclusive. No work or ancillary activity is permitted on Sundays, or Public Holidays.

Note: A penalty infringement notice may be issued for any offence.

65. **Ground levels and retaining walls** - The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved by Council.
66. **Physical connection of stormwater to site** - No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to Council's public drainage system.
67. **Utility Services** - The applicant shall undertake and bear all costs associated with the liaison, approval and relocation of any utility services. All correspondence and approvals between the Applicant and utility authorities shall be provided to the Council in conjunction with engineering documentation for the stormwater drainage works.
68. **Drainage Works** - Construction inspections shall be required by Council's Asset Engineer for the Council stormwater drainage and connection works on public roads at the following hold points: -
- Upon excavation of trenches shown on the approved drainage drawings.
 - Upon installation of pipes and other drainage structures.
 - Upon backfilling of excavated areas and prior to the construction of the final pavement surface.

An inspection fee is applicable for each visit, and at least 24 hours' notice will be required for the inspections.

69. **Cost of work to be borne by the applicant** - The applicant shall bear the cost of all works associated with the construction of the development that occurs on Council property. Care must be taken to protect Council's roads, including the made footway, kerbs, etc., and, where plant and vehicles enter the site, the footway shall be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction shall be maintained in a state of good repair and condition throughout the course of construction.
70. **Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the Roads Act 1993 and/or under Section 68 of the Local Government Act 1993. Penalty infringement Notices may be issued for any offences and severe penalties apply.
71. **Building - Structural Certificate During Construction** - The proposed building must be constructed in accordance with details designed and certified by the practising qualified structural engineer. All structural works associated with the foundations, piers, footings and slabs for the proposed building must be inspected and structurally certified for compliance by an independent practising geotechnical and structural engineer. In addition a Compliance or Structural Certificate, to the effect that the building works have been carried in accordance with the structural design, must be submitted to the Principal Certifying Authority at each stage of Construction or prior issue of the Occupation Certificate.
72. **Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt.

Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the PCA and Council, where Council is not the Principal Certifying Authority.

73. **Excavation works near tree to be retained** - Excavation around the tree/s to be retained on site or the adjoining properties shall be supervised by the Project Arborist to ensure that the root system will not be adversely affected.

Where the Tree Protection Zone of trees on site or adjoining sites become compromised by any excavation works, the Project Arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.

Section G Prior to the issue of the Occupation Certificate

74. **BASIX Certificate** - All energy efficiency measures as detailed in the approved BASIX Certificate in the plans approved with the Development Consent, must be implemented before issue of any Occupation Certificate.
75. **BASIX Compliance Certificate** - A Compliance Certificate must be provided to the PCA regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any Occupation Certificate is issued.
76. **Completion of Landscape Works** - All landscape works must be completed before the

issue of the Final Occupation Certificate in accordance with approved landscape plans and specifications, drawn by Site Image Landscape Architects, reference numbers - SS18 – 3898 / 000 - 502. The landscaping shall be maintained in accordance with the approved plans in perpetuity.

General Landscape Requirements

- a) The proposed plant species, pot/ bag size and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan. If plant species, pot/ bag size and quantities cannot be sourced, Council shall be contacted for alternatives.
- b) All twenty six (26) proposed upon the approved landscape plan shall comply with NATSPEC Specifying Trees: a guide to assessment of tree quality (2003), and be planted and maintained in accordance with Councils standard specification.

77. **Post Construction Dilapidation report - Private Land** - At the completion of the construction works, a suitably qualified person is to be engaged to prepare a post-construction dilapidation report. This report is to ascertain whether the construction works associated with the subject development created any structural damage to the following adjoining premises 78 Regent Street Kogarah.

The report is to be prepared at the expense of the applicant and submitted to the PCA prior to the issue of the Occupation Certificate. In ascertaining whether adverse structural damaged has occurred to the adjoining premises, the PCA, must compare the post-construction dilapidation report with the pre-construction dilapidation report required by conditions in this consent.

Evidence confirming that a copy of the post-construction dilapidation report was delivered to the adjoining properties subject of the dilapidation report must be provided to the PCA prior to the issue of any Occupation Certificate.

78. **Allocation of car parking spaces** - Car parking associated with the development is to be allocated as follows:

- (a) Residential dwellings: 60 car spaces (including 6 residential accessible spaces).
- (b) Accessible car spaces: 1 accessible car space per adaptable dwelling
- (c) Residential visitors: 9 car spaces which shall remain as common property (including 1 accessible visitor space and 1 carwash bay).
- (d) Bicycle spaces: 21 spaces

79. **Major Development** - Internal driveways and parking spaces are to be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface. All car parking spaces are to be line marked in accordance with AS1742, 'Australian Standard Manual of Uniform Traffic Control Devices' and the relevant guidelines published by the RMS.

80. **SEPP 65 Design Verification Statement** - The PCA must not issue an Occupation Certificate to authorise a person to commence occupation of the residential flat development unless the PCA has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No

65Design Quality of Residential Flat Development.

81. **Restriction to User and Positive Covenant for On-Site Detention Facility** - A Restriction on Use of the Land and Positive Covenant shall be created and registered on the title of the property, which places the responsibility for the maintenance of the on-site stormwater management system on the owners of the land. The terms of the instrument are to be in accordance with Council's standard terms and restrictions which are as follows;

Restrictions on Use of Land

The registered proprietor shall not make or permit or suffer the making of any alterations to any on-site stormwater management system which is, or shall be, constructed on the lot(s) burdened without the prior consent in writing of Georges River Council. The expression "on-site stormwater management system" shall include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to manage stormwater quantity or quality including the temporary detention or permanent retention of stormwater storages. Any on-site stormwater management system constructed on the lot(s) burdened is hereafter referred to as "the system".

Name of Authority having the power to release, vary or modify the Restriction referred to is Georges River Council.

Positive Covenants

1. *The registered proprietor of the lot(s) hereby burdened will in respect of the system:*
 - a) *keep the system clean and free from silt, rubbish and debris*
 - b) *maintain and repair at the sole expense of the registered proprietors the whole of the system so that it functions in a safe and efficient manner*
 - c) *permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land for the compliance with the requirements of this covenant*
 - d) *comply with the terms of any written notice issued by the Council in respect of the requirements of this covenant within the time stated in the notice.*

2. *Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council shall have the following additional powers:*
 - a) *in the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above the Council or its authorised agents may enter the land with all necessary materials and equipment and carry out any work which the Council in its discretion considers reasonable to comply with the said notice referred to in part 1(d) above*

 - b) *the Council may recover from the registered proprietor in a Court of competent jurisdiction:*
 - i. *any expense reasonably incurred by it in exercising its powers under subparagraph (i) hereof. Such expense shall include reasonable wages for the Council's employees engaged in effecting the work referred to in (i) above, supervising and administering the said work together with costs, reasonably estimated by the Council, for the use of materials, machinery, tools and equipment in conjunction with the said work.*

 - ii. *legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to section 88F of the Act or providing any certificate required pursuant*

to section 88G of the Act or obtaining any injunction pursuant to section 88H of the Act. Name of Authority having the power to release vary or modify the Positive Covenant referred to is Georges River Council.

82. **Maintenance Schedule - On-site Stormwater Management** - A Maintenance Schedule for the proposed on-site stormwater management measures is to be prepared and submitted to Council. The Maintenance Schedule shall outline the required maintenance works, how and when these will be done and who will be carrying out these maintenance works.
83. **Works as Executed and Certification of Stormwater works** - Prior to the issue of an Occupation Certificate, the PCA must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards. A works-as-executed drainage plan and certification must be forwarded to the PCA and Council, from a professional engineer specialising in hydraulic engineering. This Plan and Certification shall confirm that the design and construction of the stormwater drainage system satisfies the conditions of development consent and the Construction Certificate stormwater design details approved by the PCA.
- The works-as-executed drainage plan must be prepared by a professional engineer specialising in hydraulic engineering in conjunction with a Registered Surveyor and must include the following details (as applicable):
- (a) The location of any detention basin/s with finished surface levels;
 - (b) Volume of storage available in any detention areas;
 - (c) The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes;
 - (d) The orifice size/s (if applicable);
84. The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:
- a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
 - b) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete shall be submitted to the PCA prior to the issue of the Occupation Certificate
85. **Vehicular crossing & Frontage work - Major development** - The following road frontage works shall be constructed in accordance with Council's Specification for Vehicular Crossings and Associated Works together with the Vehicular Crossing Approval issued by Council's Engineering Services Division:
- (a) Construct footpath for the full length of the frontage of the site in accordance with Council's Specifications for footpaths.
 - (b) Construct the vehicular crossing in accordance with Council's Specifications for vehicular crossings.
 - (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in accordance with Council's Specifications for kerb and guttering.
 - (d) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant and in accordance with Council's Specification for Vehicular Crossings

and Associated Works.

The above works shall be carried out at the expense of the applicant and in accordance with Council's Specification for Vehicular Crossings and Associated Works.

The driveway and road frontage works are to be completed before the issue of the Occupation Certificate.

86. **Completion of Major Works** - Prior to the issue of a Final Occupation Certificate, the following works must be completed at the applicant's expense to the satisfaction of Council's Engineering Services section:

- (a) Driveways and vehicular crossings within the road related area;
- (b) Removal of redundant driveways and vehicular crossings;
- (c) New footpaths within the road related area;
- (d) Relocation of any existing above ground utility services
- (e) Relocation/provision of street signs
- (f) New or replacement street trees;
- (g) New footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street.
- (h) New or reinstated kerb and guttering within the road related area; and
- (i) New or reinstated road surface pavement within the road.

Council's Engineering Services Section must advise in writing that the works have been completed to their satisfaction prior to the issue of the Occupation Certificate.

Note: The damage deposit paid to Council will not be released until the works have been completed to Council's satisfaction.

87. **Dilapidation Report on Public Land for Major Development Only** - Upon completion of works, a follow up dilapidation report must be prepared for the items of Council infrastructure adjoining the development site including:

The dilapidation report must be prepared by a professional engineer specialising in structural engineering, and include:

- (a) Photographs showing the condition of the road pavement fronting the site
- (b) Photographs showing the condition of the kerb and gutter fronting the site
- (c) Photographs showing the condition of the footway including footpath pavement fronting the site

The report must be provided to the PCA and a copy provided to the Council. The reports are to be supplied in electronic format in Word or PDF. Photographs are to be in colour, digital and date stamped.

NOTE: Council will use this report to determine whether or not to refund the damage deposit.

Council's Engineering Services Division must advise in writing that the works have been completed to their satisfaction prior to the issue of an Occupation Certificate.

88. **Stormwater drainage works - Works As Executed** - Prior to the issue of the Occupation Certificate, storm water drainage works are to be certified by a professional engineer specialising in hydraulic engineering, with Works-As-Executed drawings supplied to Council detailing:
- (a) Compliance with conditions of development consent relating to stormwater;
 - (b) The structural adequacy of the On-Site Detention system (OSD);
 - (c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations;
 - (d) Pipe invert levels and surface levels to Australian Height Datum;
89. **Fire Safety Certificate before Occupation or Use** - In accordance with Clause 153 of the Environmental Planning and Assessment Regulation 2000, on completion of building works and prior to the issue of an Occupation Certificate, the owner must cause the issue of a Final Fire Safety Certificate in accordance with Clause 170 of the aforesaid Regulation. The Fire Safety Certificate must be in the form or to the effect of Clause 174 of the Environmental Planning and Assessment Regulation, 2000. In addition, in relation to each essential fire or other safety measure implemented in the building or on the land on which the building is situated, such a Certificate is to state:
- (a) That the measure has been assessed by a person (chosen by the owner of the building) who is properly qualified to do so.
 - (b) That as at the date of the assessment the measure was found to be capable of functioning at a standard not less than that required by the attached Schedule.
- A copy of the certificate is to be given by the applicant to the Commissioner of Fire & Rescue NSW and a further copy is to be displayed in a frame and fixed to a wall inside the building's main entrance.
90. **Slip Resistance** - At completion of work an in-situ (on-site) test, in wet and dry conditions, must be carried out on the pedestrian floor surfaces used in the foyers, public corridors/hallways, stairs and ramps as well as the floor surfaces in wet rooms in any residential units to ascertain the actual slip resistance of such surfaces taking into consideration the effects of grout, the gradients of the surface and changes from one material to another. The in-situ test must be carried out in accordance with AS/NZS 4663:2002. Proof of compliance must be submitted with the application for the Occupation Certificate for approval.
91. **Building - Structural Certificates** - The proposed structure must be constructed in accordance with details designed and certified by the practising qualified structural engineer. In addition, Compliance or Structural Certificates, to the effect that the building works have been carried in accordance with the structural design, must be submitted to the Principal Certifying Authority prior issue of the Occupation Certificate.
92. **Acoustic Compliance** - Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the

construction has incorporated the recommendations in the DA Acoustic Report titled “the acoustic report for Regent St Property Pty Ltd (TK504-01F02) by Renzo Tonin & Associates dated 4 September 2018”.

93. **Electricity Supply** - Evidence shall be provided demonstrating that the development has been connected to the Ausgrid, if required.
94. **Allocation of street addresses** - Prior to issue of an Occupation Certificate, All house numbering are to be allocated in accordance with AS/NZS 4819:2011 Rural and Urban Addressing & the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements. Council must be contacted in relation to all specific requirements for street numbering.

Section H Operational Conditions (Ongoing)

95. **Noise Control** - The use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the Protection of the Environment Operations Act 1997 (as amended).
96. **Final Acoustic Report – Verification of Noise report** - Within three months from the issue of an Occupation Certificate, an acoustic assessment is to be carried out by an appropriately qualified acoustic consultant, in accordance with the EPA's Industrial Noise Policy and submitted to Council for consideration. This report should include but not be limited to, details verifying that the noise control measures as recommended in the acoustic report titled “**Acoustic Assessment for development application at No. 80-84 Regent Street, Kogarah. Reference No. TK504-01F02 (R4)**”, prepared by Renzo Tonin & Associates and dated 4th September 2018 are effective in attenuating noise to an acceptable noise level and that the use is not calculated to give rise to ‘offensive noise’ as defined under the provision of the Protection of the Environment Operation Act 1997 (as amended).
97. **Lighting – General Nuisance** - Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill or glare. Flashing, moving or intermittent lights or signs are prohibited.
98. **Amenity of the neighbourhood** - The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.
99. **Activities and storage of goods outside buildings** - There shall be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.
100. **Use of Fifth Floor Communal Open Space** - A Plan of Management (POM) for use of rooftop open space must be submitted to and approved by Council prior to the issue of any Construction Certificate. The POM must outline the:
- (i) hours of use of the fifth floor communal open space which shall be restricted from 8am to 10pm;
 - (ii) maximum number of users at any one time;

- (iii) provisions for no amplified music to be played; and
- (iv) identify other measures to ensure that the amenity of persons within the development and in nearby existing and future development is maintained.

The development must be carried out in accordance with this POM at all times.

101. **Annual Fire Safety Statement** - The owner of the building premises must ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given:
- (a) Within 12 months after the date on which the fire safety certificate was received.
 - (b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
 - (c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the Environmental Planning and Assessment Regulation 2000.
 - (d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.

Section I Operational Requirements Under the Environmental Planning & Assessment Act 1979

102. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited certifier.

An application form for a **Construction Certificate** is attached for your convenience.

103. **Appointment of a Principal Certifying Authority** - The erection of a building must not commence until the beneficiary of the development consent has:
- (a) appointed a Principal Certifying Authority (PCA) for the building work; and
 - (b) if relevant, advised the PCA that the work will be undertaken as an Owner-Builder.

If the work is not going to be undertaken by an Owner-Builder, then the beneficiary of the consent must:

- (a) appoint a Principal Contractor to undertake the building work. If residential building work (within the meaning of the Home Building Act 1989) is to be undertaken, the Principal Contractor must be a holder of a contractor licence; and
- (b) notify the PCA of the details of any such appointment; and
- (c) notify the Principal Contractor of any critical stage inspections or other inspections that are required to be carried out in respect of the building work.

An **Information Pack** is attached for your convenience should you wish to appoint Georges River Council as the Principal Certifying Authority for your development.

104. **Notification of Critical Stage Inspections** - No later than two (2) days before the building work commences, the PCA must notify:

- (a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
- (b) the beneficiary of the development consent of the critical stage inspections and other inspections that are to be carried out with respect to the building work.

105. **Notice of Commencement** - The beneficiary of the development consent must give at least two (2) days notice to the Council and the PCA of their intention to commence the erection of a building.

A **Notice of Commencement Form** is attached for your convenience.

106. **Critical Stage Inspections** - The last critical stage inspection must be undertaken by the Principal Certifying Authority. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the Environmental Planning and Assessment Regulation 2000.

107. **Notice to be given prior to critical stage inspections** - The principal contractor for a building site, or the owner-builder, must notify the principal certifying authority at least 48 hours before each required inspection needs to be carried out.

Where Georges River Council has been appointed PCA, forty eight (48) hours notice in writing, or alternatively twenty four (24) hours notice by facsimile or telephone, must be given to when specified work requiring inspection has been completed.

108. **Occupation Certificate** - A person must not commence occupation or use of the whole or any part of a new building unless an Occupation Certificate has been issued in relation to the building or part.

Only the Principal Certifying Authority appointed for the building work can issue the Occupation Certificate.

Section J Prescribed Conditions

109. **Clause 97A – BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.

110. **Clause 98 – Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.

111. **Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifying Authority and the Principal Contractor.

112. **Clause 98B – Home Building Act 1989** - If the development involves residential building work under the Home Building Act 1989, no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the Home Building Act 1989.

113. **Clause 98E – Protection & support of adjoining premises** - If the development involves

excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

END CONDITIONS

NOTES/ADVICES

114. **Review of Determination** - Section 82A of the Environmental Planning and Assessment Act confers on an applicant who is dissatisfied with the determination of the application the right to lodge an application with Council for a review of such determination. Any such review must however be completed within 6 months from its determination. Should a review be contemplated sufficient time should be allowed for Council to undertake public notification and other processes involved in the review of the determination.

Note: review provisions do not apply to Complying Development, Designated Development, State Significant Development, Integrated Development or any application determined by the Sydney South Planning Panel or the Land & Environment Court.

115. **Appeal Rights** - Division 8 (Appeals and Related matters) Part 4 of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court of New South Wales.
116. **Lapsing of Consent** - This consent will lapse unless the development is physically commenced within 5 years from the Date of Operation of this consent, in accordance with Section 95 of the Environmental Planning and Assessment Act 1979 as amended.
117. **Long Service Levy** - The Long Service Corporation administers a scheme which provides a portable long service benefit for eligible workers in the building and construction industry in NSW. All benefits and requirements are determined by the Building and Construction Industry Long Service Payments Act 1986. More information about the scheme and the levy amount you are required to pay to satisfy a condition of your consent can be found at <http://www.longservice.nsw.gov.au>.

The required Long Service Levy payment can be direct to the Long Service Corporation via their web site <https://online.longservice.nsw.gov.au/bci/levy>. Payments can only be processed on-line for the full levy owing and where the value of work is between \$25,000 and \$6,000,000. Payments will be accepted for amounts up to \$21,000, using either MasterCard or Visa.

118. **Council as PCA - Total Conformity with BCA** - Should the Council be appointed as the Principal Certifying Authority, the Construction Certificate Application must be accompanied by the following details, with plans prepared and certified by an appropriately qualified person demonstrating compliance with the BCA:
- Mechanical ventilation to bathroom, laundry and basement areas not afforded natural ventilation.
 - Provision of natural light to all habitable areas.
 - Fire-fighting services and equipment including hydrant and booster assembly systems, sprinkler and valve room systems, hose reels, portable fire extinguishers, smoke hazard management systems and sound & warning systems.

- Emergency lighting and exit signs throughout, including terrace areas, lobby and basement areas.
- Construction of all fire (smoke) doors including warning and operational signage to required exit and exit door areas.
- Egress, travel distance and the discharge from an exit including the swing of exit doors.
- The protection of openings including spandrel separation.
- Fire compartmentation and fire wall separation details including all stairway, lift and service shaft areas.
- Protection of openings including paths of travel from fire isolated exists
- Re-entry facilities from fire isolated exit stairways.
- Sound transmission and insulation details.
- Window schedule is to include the protection of openable windows.
- The location of sanitary facilities for employees in accordance with Table F2.1

In this regard, detailed construction plans and specifications that demonstrate compliance with the above requirements of the BCA must be submitted to the Principal Certifying Authority with the Construction Certificate Application. Should there be any non-compliance, an alternative method of fire protection and structural capacity must be submitted, with all supporting documents prepared by a suitably qualified person.

In the event that full compliance with the BCA cannot be achieved and the services of a fire engineer are obtained to determine an alternative method of compliance with the BCA, such report must be submitted to and endorsed by the Principal Certifying Authority prior to issue of the Construction Certificate.

119. **Principal Certifier** - Should the Council be appointed as the Principal Certifying Authority in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justifying the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.
120. **Energy Efficiency Provisions** - Should Council be appointed as the Principal Certifying Authority, a report prepared and endorsed by an Energy Efficiency Engineer or other suitably qualified person must be submitted, detailing the measures that must be implemented in the building to comply with Section J of the BCA. The proposed measures and feature of the building that facilitate the efficient use of energy must be identified and detailed on the architectural plans. At completion of the building and before the issue of an Occupation Certificate, a certificate certifying that the building has been erected to comply with the energy efficiency provisions must be submitted to the Principal Certifying Authority.
121. **Compliance with Access, Mobility and AS4299** - Adaptable Housing - Should the Council be appointment as the PCA, the Construction Certificate Application must be accompanied by detailed working plans and a report or a Certificate of Compliance from an Accredited Access Consultant certifying that the building design and access to the adaptable units complies with Council's DCP and AS 4299 Adaptable Housing.
122. **Site Safety Fencing** - Site fencing must be erected in accordance with SafeWork Guidelines, to exclude public access to the site throughout the demolition and/or

construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained throughout any demolition and construction work.

A demolition licence and/or a high risk work license may be required from SafeWork NSW (see www.SafeWork.nsw.gov.au).

123. **Sydney Water Section 73 Certificates** - The Section 73 Certificate must be a separate certificate that relates specifically to this development consent. For example, if the development consent relates to the subdivision of the land, a Section 73 Certificate for the construction of the building that is subject to a different development consent will not suffice.
124. **Electricity Supply** - This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services) for further details and information on lodging your application to connect to the network.
125. **Development Engineering** - Conditions relating to future Strata Subdivision of Buildings

No approval is expressed or implied for the subdivision of the subject building(s). For any future Strata subdivision, a separate Complying Development Certificate shall be approved by Council or an Accredited Certifier.

Prior to the issue of any Strata Certificate of the subject building(s) the following conditions shall be satisfied:

(a) Unit Numbering

Apartment type numbers shall be installed adjacent or to the front door of each unit.

The unit number shall coincide with the strata plan lot numbering.

(b) Car Parking Space Marking and Numbering

Each car space shall be line marked with paint and numbered in accordance with the strata plan lot numbering.

"Visitor Parking" signs shall be installed adjacent to any and all visitor car spaces prior to the issue of any Strata Certificate.

(c) Designation of Visitor Car Spaces on any Strata Plan

Any Visitor car spaces shall be designated on the final strata plan as "Visitor Parking - Common Property".

(d) Allocation of Car Parking Spaces, Storage Areas and Common Property on any Strata Plan

i. All car parking spaces shall be created as a part lot of the individual strata's unit lot in any Strata Plan of the subject building.

ii. All storage areas shall be created as a part lot of the individual strata's unit lot or a separate Utility Lot (if practical) in any Strata Plan of the subject building.

iii. The minimum number of parking spaces required to be allocated as a part lot to each individual strata's unit lot shall be in accordance with the car parking requirements of Council's Development Control Plan and as required by the relative development consent for the building construction.

iv. No parking spaces shall be created as an individual strata allotment on any Strata Plan of the subject building unless these spaces are surplus to the minimum number of parking spaces required.

If preferred the surplus car spaces shall be permitted to be created as separate Utility Lots, (instead as a part lot of the individual strata's unit lot), in accordance with section 39 of the Strata schemes (freehold development Act 1973).

The above requirements regarding car parking spaces and storage areas may only be varied with the conditions of a separate Development Application Approval for Strata Subdivision of the Building(s).

(e) On Site Detention Requirements

The location any on-site detention facility shall be shown on the strata plan and suitably denoted.

(f) Creation of Positive Covenant

A Positive Covenant shall be created over any on-site detention facility by an Instrument pursuant to Section 88B of the Conveyancing Act 1919, with the covenant including the following wording:

"It is the responsibility of the Owner's Corporation to keep the on-site detention facilities, together with any ancillary pumps, pipes, pits etc, clean at all times and maintained in an efficient working condition. The on-site detention facilities shall not be modified in any way without the prior approval of Georges River Council."

Georges River Council is to be nominated as the Authority to release, vary or modify this Covenant.

126. **Security deposit administration & compliance fee** - Under Section 97 (5) of the Local Government Act 1993, a security deposit (or part) if repaid to the person who provided it is to be repaid with any interest accrued on the deposit (or part) as a consequence of its investment. Council must cover administration and other costs incurred in the investment of these monies. The current charge is \$50.00 plus 2% of the bond amount per annum.

The interest rate applied to bonds is set at Council's business banking facility rate as at 1 July each year. Council will accept a bank guarantee in lieu of a deposit.

All interest earned on security deposits will be used to offset the Security Deposit Administration and Compliance fee. Where interest earned on a deposit is not sufficient to meet the fee, it will be accepted in full satisfaction of the fee.

127. **Stormwater & Ancillary Works - Applications under Section 138 Roads Act and/or Section 68 Local Government Act 1993** - To apply for approval under Section 138 of the Roads Act 1993:

(a) Complete the Driveway Crossing on Council Road Reserve Application Form which can be downloaded from Georges River Council's Website at www.georgesriver.nsw.gov.au.

- (b) In the Application Form, quote the Development Consent No. (eg. 2012/DA) and reference this condition number (e.g. Condition 23)
- (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with Vehicular Crossing applications.

An approval for a new or modified vehicular crossing will contain the approved access and/or alignment levels which will be required to construct the crossing and/or footpath. Once approved, all work shall be carried out by a private contractor in accordance with Council's specifications prior to the issue of an Occupation Certificate.

The developer must meet all costs of the extension, relocation or reconstruction of any part of Council's drainage system (including design drawings and easements) required to carry out the approved development.

The preparation of all engineering drawings (site layout plans, cross sections, longitudinal sections, elevation views together with a hydraulic grade analysis) and specifications for the new storm water drainage system to be arranged by the applicant. The design plans must be lodged and approved by Council prior to the issue of a Construction Certificate.

NOTE: A minimum of four weeks should be allowed for assessment.

128. **Noise** - Council will generally enforce noise related conditions in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nqlg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the [Protection of the Environment Operations Act 1997](#).

Useful links relating to Noise:

- (a) Community Justice Centres—free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).
- (b) Department of Environment and Conservation NSW, Noise Policy Section web page (www.environment.nsw.gov.au/noise).
- (c) New South Wales Government Legislation home page for access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2000 (www.legislation.nsw.gov.au).
- (d) Australian Acoustical Society—professional society of noise-related professionals (www.acoustics.asn.au/index.php).
- (b) Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au).
- (f) Department of Gaming and Racing - (www.dgr.nsw.gov.au).

129. **Acoustic Engineer Contacts & Reference Material** - Further information including lists of Acoustic Engineers can be obtained from:
- (a) Australian Acoustical Society—professional society of noise-related professionals (www.acoustics.asn.au)
 - (b) Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au)
 - (c) NSW Industrial Noise Policy – Office of Environment & Heritage (www.environment.nsw.gov.au)

These conditions comprise the operational and statutory conditions which must be satisfied under the Environmental Planning and Assessment Act 1979 and the Environmental Planning & Assessment Regulation 2000. Please refer to the full details of the Act and Regulations as in force, at www.legislation.nsw.gov.au. It is the responsibility of the beneficiary of this consent to determine which operational and statutory conditions apply.

130. **Stratum Subdivisions** - A Subdivision Certificate cannot be issued unless all relevant conditions of the development consent that are to be satisfied prior to the issue of the Subdivision Certificate have been complied with.
- (a) Council will check the consent conditions on the relevant subdivision consent. Failure to submit the required information will delay endorsement of the plan of subdivision.
 - (b) Plans of subdivision, Administration Sheets, Section 88B Instruments and copies must not be folded.
 - (c) All Subdivision Plans, Deposited Plan Administration Sheets and Section 88B Instruments shall be submitted to Council enclosed in a protective cardboard tube (to prevent damage during transfer).
 - (d) Certification from the Registered Surveyor that all services (including but not limited to stormwater drainage, gas, electricity, telephone cable) as constructed or to be constructed are/will be contained within each lot or within the necessary easements to accommodate such services.
131. **Strata Subdivision** - Council will check the consent conditions on the relevant Strata Subdivision consent. Failure to submit the required information will delay endorsement of the plan of subdivision.

Council will undertake the required inspections to satisfy the requirements of the [Strata Schemes Development Regulation 2016](#) to determine the Strata Certificate.

Strata Plans, Administration Sheets, 88B Instruments and copies must not be folded.

132. All Strata Plans, Strata Plan Administration Sheets and 88B Instruments shall be submitted to Council enclosed in a protective cardboard tube (to prevent damage during transfer).
133. **Disability Discrimination Act** – This application has been assessed in accordance with the [Environmental Planning and Assessment Act 1979](#). No guarantee is given that the proposal complies with the [Disability Discrimination Act 1992](#). The applicant is responsible to ensure compliance with this and other anti-discrimination legislation. The [Disability Discrimination Act 1992](#) covers disabilities not catered for in the minimum standards called

up in the Building Code of Australia which refers to AS1428.1-Design for Access and Mobility.

ATTACHMENTS

- Attachment 1 South Elevation - 80-84 Regent St Kogarah
- Attachment 2 West Elevation - 80-84 Regent St Kogarah
- Attachment 3 North Elevation - 80-84 Regent St Kogarah
- Attachment 4 East Elevation - 80-84 Regent St Kogarah
- Attachment 5 Roof plan - 80-84 Regent St Kogarah