

3 April 2019

Our Ref: 18-014

Larissa Ozog
Georges River Council
PO Box 205
HURSTVILLE BC NSW 1481
[REDACTED]

Dear Larissa,

RE: DRAFT CONDITIONS OF CONSENT - DA2018/0178 - 12-24 STANLEY STREET, KOGARAH

We are writing on behalf of the applicant, Kogarah 048 Service P/L, and wish to respond to Council's draft conditions of consent.

Kogarah 048 Service P/L advises that the draft conditions are generally acceptable but wishes to amend the conditions marked below.

PROPOSED CHANGES

2. Disabled access – The development must be designed and constructed to comply with: ~~AS 1428.1 – 1993 Design for Access and Mobility Part 1 and AS 1428 – 1993 Design for Access and Mobility Part 2 Enhanced and Additional Requirements – Buildings and Facilities~~ AS1428.1-2009 Design for Access and Mobility Part 1: General Requirements for access – New building work.

It is requested that the wording of this condition is amended. This condition refers to the wrong version of the standard.

3. Landscape Plan - The Landscape Plan shall be updated to provide the following features;

ii) The roof top terrace is to include an ~~small sand pit~~ artificial soft surface (2m by 2m) for use by small children.

It is requested that the wording of this condition is amended. Due to maintenance issues, it is requested that an artificial soft fall surface area is provided instead.

iii) ~~The landscaped area along the ground floor, western side of the building shall be accessible by members of the public and shall include a level pathway that will link up Stanley Lane to Stanley Street. This space is to include some seating and low level lighting.~~

It is requested that this condition is deleted. The Kogarah North DCP identifies the through-site pedestrian links within the Precinct. A through-site link is proposed from Stanley Lane to Victoria Street, with the preferred location through No 22 Victoria Street. The DCP stipulates that where a development site includes or is adjacent to No 22 Victoria Street, Council will require the identification of a through site pedestrian link as part of any Development Application.

The subject site does not include No 22 Victoria Street and during the assessment process, Council did not identify that a through-site link was required on the subject site. This was also not raised within Council's written request for further information dated 28 September 2018.

We note that No 22 Victoria Street forms part of a proposed development site comprising No 18-24 Victoria Street. Consistent with the DCP, the development application currently under assessment for that site incorporates a through site link. Any requirement by Council to include another through site link on No.12-24 Stanley Street would not be consistent with the DCP. As such, the requirement can be disallowed under Section 4.15(3A) of the Act. The objectives of the DCP in terms of providing a through site link are adequately met by the adjoining site specified in the DCP and therefore the proposed additional through site link on the subject site is unnecessary to satisfy that object and more onerous than required by the DCP.

Further, during the assessment process, the built form along the western extent of the site was requested to be offset from the western boundary and as a result, a small landscape setback zone was created to contribute to the character of the future through site link at the adjacent site. However, this landscape zone is considered to be inappropriate as a dedicated through-site link for the following reasons:

- The western façade of the building is a blank façade containing limited openings. Enabling a through-site link would result in safety and security issues for both residents and members of the public.
- A substation is purposively located in the south-western corner to meet fire requirements. The substation would impede any formalized pedestrian access along this extent.
- The levels differ between the subject site and the adjoining site at No 18-24 Victoria Street.

v) The terrace that adjoins the lifts on Level 10 shall include a 4m 600mm wide by 1m high planter box on the western side of the lifts to provide some additional screening and greenery.

It is requested that the wording of this condition is amended. It is requested that the width of the planter box is reduced to 600mm to reduce the impact on structure. The reduced width will still enable shrubs and vegetation to be planted and will provide additional screening and greenery.

~~vi) The balconies and terraces along all sides of the building on Level 4 (apart from the central bridge) shall include a 1m high and 1m wide fixed planter boxes at the edge of the balconies/terraces to improve the visual appearance of these spaces and create a green edge to the building at this level.~~

It is requested that this condition is deleted. The inclusion of planter boxes along the extent of Level 4 will reduce the size of the primary balconies to these units. This will result in a number of balconies being non-compliant with Objective 4E-1 of the Apartment Design Guide which stipulates minimum balcony areas and minimum depths. While planting could be incorporated on some of the larger balconies, the resultant façade of the building would appear inconsistent with planter boxes randomly located on different balconies along this level. Further, the inclusion of planter boxes will require structural changes to the façade and would potentially change the aesthetics of the building.

~~4. Public Domain Plan – A public domain plan is to be submitted to Council in accordance with the requirements of the Kogarah North Public Domain Strategy/Plan prepared by a Qualified Landscape Architect on behalf of Council.~~

~~The plan is to address the design criteria, including but not limited to:~~

- ~~• Street trees to be retained and new trees,~~
- ~~• Reconfiguration of street verges with geometries that provide better for trees,~~
- ~~• Expanded soil volumes in verges and linear parks for maximum root space,~~
- ~~• The utilization of permeable hard materials for water access to tree roots,~~
- ~~• Variation in seating opportunities~~
- ~~• Stormwater provision.~~
- ~~• Planting of additional street trees, the proposed species and location (new trees shall be established and have a minimum pot size of 100L).~~
- ~~• The extinguishing and removal of all existing driveway crossings.~~
- ~~• The plan is to include a levelled grassed area with street planting.~~
- ~~• The location of two new public pathways along Stanley Street and Stanley Lane including proposed gradients, finishes and materials.~~

~~The cost of the works will be borne by the Applicant and will need to be completed to Council's satisfaction prior to the issuing of the Occupation Certificate.~~

~~The plan must be approved by Councils Manager for Development and Building prior to the issue of a Construction Certificate.~~

It is requested that the wording of this condition is amended and reflects the preferred option detailed below.

There are three legal mechanisms through which public domain works may be conditioned, being (1) restoration of existing infrastructure (footpaths, roads, drainage etc) to pre-existing condition or an enhance condition where the proposed development itself generates a requirement for that enhancement – via Section 4.17(f) of the Act; (2) a monetary contribution or works in kind for streetscape improvements specifically identified in a Contributions Plan – via Section 7.11 or 7.12; or (3) if an offer to enter into a Voluntary Contributions Plan has been made – via Section 7.4.

In relation to option 1, whilst it is appropriate for the development to rectify any damage to public infrastructure resulting from its construction and to remove and replace existing driveway crossings with kerbing and guttering to a similar standard, the development itself does not generate demand for substantially enhanced public footpaths, guttering and landscaping.

In relation to option 2, Council's Section 94 Contribution Plan No. 8 – Kogarah Town Centre (S.94 Plan) stipulates the contributions required for streetscape, open space and public domain. The S.94 Plan identifies streetscape works which are required to facilitate residential and commercial development within the Kogarah Town Centre. These works are identified within the Public Domain Improvements Plan at Appendix B of the S.94 Plan. The Public Domain Improvement Plan does not state that any streetscape works are required to Stanley Street or Stanley Lane. It would be unreasonable and not justified for Kogarah 048 Service P/L to be required to pay a contribution towards streetscape improvements in other parts of the Precinct and also fully pay for improvements in Stanley Street and Stanley Lane without contributions from other landowners in the Precinct.

In relation to option 3, Kogarah 048 Service P/L did not offer to enter into a VPA since it was not considered necessary and Council did not indicate that it may be seeking Kogarah 048 Service P/L's contribution towards streetscape improvements outside those identified in the Contributions Plan.

In these circumstances, the applicant is willing to undertake public domain works under either of the following options:

- Pursuant to Section 4.17(f), reinstate the footpath and nature strip along Stanley Street including street trees only where the existing cross overs have been removed. The works will not include kerb and gutter and stormwater upgrades or the like; or
- Pursuant to Section 7.11, undertake the full extent of public domain works outlined in Condition 4 above as 'works-in-kind', fully offsetting the cost of these works against the monetary development contributions for streetscape, open space and public domain identified in Condition 36. It is proposed that these works are facilitated through a works-in-kind agreement between the applicant and Council.

5. Design – The following design changes shall be incorporated to improve the design and amenity of the development;

~~i) The hydrant booster, sprinkler system and any additional utilities that are required shall be sensitively located and preferably located along the rear off the laneway and screened from view.~~

It is requested that this condition is deleted. In relation to fire safety, fire brigade assemblies cannot be located fronting the laneway. Fire & Rescue NSW would not support this because the booster would not be within view of the main entrance into the building and because the laneway is not wide enough to accommodate a fire brigade pumping appliance. This has been confirmed by the applicant's Fire Safety Engineer, as well as the BCA Consultant.

ii) The roller door to the basement car parking levels shall be recessed a minimum of 6m from the rear laneway and shall be a ~~timber panelled~~ metal perforated door.

It is requested that the wording of this condition is amended. As advised by the applicant's mechanical engineer, the doorway construction will need to allow for air to pass through. The basement carpark entrance door will provide make-up supply air to the carpark ventilation system below. If the door is solid, this will prevent the ability to negatively pressurize the basement. A metal perforated door will provide adequate air supply and serve the basement carpark ventilation system.

~~iii) The first set of entry gates from Stanley Street and Stanley Lane shall be removed and the access up to the main lobby shall remain open and accessible for both occupants and visitors.~~

It is requested that this condition is deleted. As identified on the landscape plan, the entry gates comprise a 1m high powder coated steel gate which will enable residents and visitors to access the entry garden and entry lobby. The gates are not security accessed and act as designated point of entries for the building.

~~vi) Additional bicycle parking shall be incorporated along the eastern side of the development at the ground floor in front of the plant room in the form of a modern stainless steel bicycle hoop racks or the like.~~

It is requested that this condition is deleted. A fire booster valve fronts this area and sufficient clearance distance is required to ensure compliance with the relevant regulations. There is limited availability to provide additional bicycle parking at the ground floor level and it is noted that adequate bicycle parking consistent with Council's DCP is already provided on the site.

24. 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:

~~**(e) 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.**~~

It is requested that the wording of this condition is amended. Please refer to the response provided to Condition 4 which will determine the proposed wording of this condition.

93. Engineering - Vehicular Crossing & Frontage work – 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 1.50 metre wide x 80mm thick concrete path for the full length of the frontage of the site in Lawrence Street in accordance with Council's Specifications for footpaths.**~~

~~**(c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site Lawrence in accordance with Council's Specifications for kerb and guttering.**~~

It is requested that these paragraphs are deleted. It is presumed this condition is an error as Lawrence Street is not within the vicinity of the site.

Staging

The following conditions are written to be completed prior to the issue of **A** or **ANY Construction Certificate**. It is recommended that this be changed to the issue of **THE** or **THE RELEVANT Construction Certificate** because as it currently stands, the following conditions have to be fulfilled prior to the issue of the first Construction Certificate:

- DA Condition 4;
- DA Condition 15;
- DA Condition 16;
- DA Condition 22;
- DA Condition 30;
- DA Condition 32;
- DA Condition 34;
- DA Condition 38;
- DA Condition 64;
- DA Condition 65

The following conditions are written to be completed prior to the issue of **AN Occupation Certificate**. It is recommended that this be changed to the issue of **THE** or **THE RELEVANT Occupation Certificate** because as it currently stands, the following conditions have to be fulfilled prior to the issue of the first Occupation Certificate:

- DA Condition 108;
- DA Condition 112;
- DA Condition 115;

- DA Condition 122;
- DA Condition 128;
- DA Condition 130;
- DA Condition 131;

Demolition

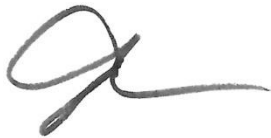
All references to demolition, including the description of works at the beginning of the consent are required to be removed as this task has already been undertaken as part of a Complying Development Certificate.

CONCLUSION

Kogarah 048 Service P/L is keen to meet with Council to discuss the above proposed changes to the draft conditions of consent. However, a meeting would need to take place before the scheduled development application determination meeting with the Sydney South Planning Panel on Tuesday 9 April. Can you please advise a suitable time to meet with Council to discuss the above before the determination meeting. If a meeting cannot be arranged, we will address the Panel and request these conditions are amended at the determination meeting.

Should you have any further queries please do not hesitate to contact Lotti Wilkinson (Senior Project Planner) on 02 8270 3500 or lottiw@cityplan.com.au.

Yours Sincerely,



David Ryan
Executive Director