

**DETERMINATION AND STATEMENT OF REASONS**  
SYDNEY SOUTH PLANNING PANEL

<b>DATE OF DETERMINATION</b>	Tuesday 9 April 2019
<b>PANEL MEMBERS</b>	Bruce McDonald (Chair), Nicole Gurrán, Stuart McDonald, Con Hindi, Nick Katris
<b>APOLOGIES</b>	Helen Lochhead
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held at Georges River Council, cnr Dora St and MacMahon St, Hurstville on 9 April 2019, opened at 1.45pm and closed at 3.45pm.

**MATTER DETERMINED**

2018SSH039 – Georges River – DA2018/0178 - 12-24 Stanley Street Kogarah (as described in Schedule 1)

**PANEL CONSIDERATION AND DECISION**

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

**REASONS FOR THE DECISION**

The Panel notes and concurs with the reasons for approval provided in the Council offers assessment of this proposal. The Panel further considers;

1. The proposed development will add to the supply and choice of housing within the Georges River local government area and the Sydney South District in a location with ready access to the services and amenities offered within Kogarah Metropolitan Centre and the metropolitan transport services available from Kogarah Rail station.
2. The Panel has considered the Applicants request to vary the development standard contained in CL 4.3 of Kogarah LEP 2012 relating to maximum building height and considers that compliance with the standard is unreasonable and unnecessary in the circumstances of this case as the variation will facilitate lift access to roof top communal open space, not generate unacceptable impacts on nearby existing or planned premises, is of minor perception in the planned locality and remains consistent with the objectives of the standard and the R4 High Density Residential zone.
3. The proposed development adequately satisfies the relevant State Environmental Planning Policies including SEPP 55 (Remediation of Land) SEPP 65 -Design Quality of Residential Apartment Development and its associated Apartment Design Guide, SEPP (Infrastructure) 2007 SEPP (Vegetation in Non- Rural Areas) and State Regional Environmental Plan No2- Georges River Catchment. Further it is noted that agreement and applicable conditions have been received from the Civil Aviation Safety Authority.

In regard to SEPP65 and the Apartment Design Guide the Panel having considered the Council assessment considers that the departures are acceptable. In particular it is noted that a 4-storey

podium with no setback from the eastern boundary is proposed and that this is consistent with the Kogarah North Urban Design Strategy of presenting a 4-storey street wall to Stanley St, and that such arrangement coordinates with the development proposal approved on the adjoining allotment.

4. The proposal adequately satisfies the requirements and provisions of Kogarah LEP 2012 and Kogarah Development Control Plan 2012.
5. The proposed development subject to the conditions imposed will have no unacceptable adverse impacts on the natural or built environments including the amenity of existing or proposed nearby residential premises, the operation of the local road system or the significance of heritage items in the locality.
6. The proposed development is considered to be of acceptable form, scale and presentation which is consistent with that planned for the Kogarah North Precinct and appropriate to this planned dense urban residential precinct.

In consideration of conclusions 1-6 above the Panel considers the proposed development is a suitable use of the site and approval of the proposal is in the public interest.

### CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report and subsequent memo dated (8 April 2019) with the following amendments.

- Amended condition 2) to be included within the Prior to Construction Certificate, to read as follows:

*Disabled access – The development must be designed and constructed to comply with: AS 1428.1 – 2009 Design for Access and Mobility Part 1: General Requirements for access – New building work.*

- Amended condition 3 ii) to be included within the Prior to Construction Certificate, to read as follows:

*The roof top terrace is to include an artificial surface (2m by 2m) for use by small children.*

- Amended condition 3 iii) to be included within the Prior to Construction Certificate, to read as follows:

*The landscaped area along the ground floor, western side of the building shall remain open and unobstructed by any fencing, substantive planting or structures (apart from the electrical substation) to allow for an unobstructed public thoroughfare between Stanley Street and Stanley Lane. The area shall be designed to allow for level access.*

- Amended condition 3 v) to be included within the Prior to Construction Certificate, to read as follows:

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

- Amended condition 4 to be included within the Prior to Construction Certificate, to read as follows:

*Streetscape works – An updated Plan is to be provided which shows the streetscape works*

*that are to be implemented as a result of this development and how these works are to be designed and constructed. The following details are to be shown on the plan;*

- i) New footpaths along Stanley Street and Stanley Lane (along the full length of the Site) and associated gutter crossings and any other associated works if these will be affected by the development (i.e stormwater/drainage and associated pipes/services)*
- ii) Removal of all existing driveway cross-overs and reinstatement of the kerb and gutter.*
- iii) Provision of street planting and grassed areas where cross-overs have been removed and the type of species to be planted in accordance with Council's requirements.*

*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 is to be provided to the satisfaction of the Manager of Building and Development prior to the issuing of the Occupation Certificate.*

- Amended condition 5 i) to be included within the Prior to Construction Certificate, to read as follows:

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

- Amended condition 23 e) to be included within the Separate Approvals Under Other Legislation, to read as follows:

*Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontages of the site (along Stanley Street and Stanley Lane) in accordance with Council's Specifications for kerb and guttering, applying at the time construction approval is sought.*

- Amended condition 104 to be included within the Prior to Occupation Certificate, to read as follows:

*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 Development Application or 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 basement 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).*

- New condition 165) to be included within the Notes/Advice to be read as follows:

*Above ground power lines – Where practicable, all existing overhead power lines within or adjacent to the development site shall be relocated underground to Energy Australia standards and specifications. If not practicable to relocate the power lines underground, arrangements shall be made with Energy Australia to place the conduit to carry those power lines underground so that they can be utilised at a later date by Energy Australia. In this regard all associated costs shall be borne by the applicant.*

- Deletion of condition 73 as per Council's recommendation in memo received 8 April 2019.
- Remove all references to "demolition" given all structures on the site have already been demolished.

### **CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The Panel notes that issues of concern included:

- Request to de-list No.14-16 Victoria Street as heritage items
- Devaluation of property values
- Overshadowing concern
- Potential damage from excavation and earthworks
- Heritage items along Victoria Street will be adversely affected due to the scale and impact of the development.

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting.

PANEL MEMBERS

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Bruce McDonald (Chair)

A black ink signature, likely of Nicole Gurrán, written in a cursive style.

Nicole Gurrán

A black ink signature, likely of Stuart McDonald, written in a cursive style.

Stuart McDonald

A black ink signature, likely of Con Hindi, written in a cursive style.

Con Hindi

A blue ink signature, likely of Nick Katris, written in a cursive style.

Nick Katris

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018SSH039 – Georges River - DA2018/0178
2	PROPOSED DEVELOPMENT	Site consolidation and the construction of an 11 storey Residential Flat building containing 116 apartments across three (3) levels of basement car parking catering for 116 vehicles, associated landscaping on the ground and roof top level and associated site works
3	STREET ADDRESS	12-24 Stanley Street Kogarah
4	APPLICANT/OWNER	Kogarah 048 Service Pty Ltd atf Kogarah 048 Trust
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ Environmental Planning and Assessment Act 1979.</li> <li>○ State Environmental Planning Policy No 55 – Remediation of Land.</li> <li>○ State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development.</li> <li>○ State Environmental Planning Policy (Building and Sustainability Index: 2004).</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007.</li> <li>○ State Regional Environmental Plan No 2 – Georges River Catchment.</li> <li>○ State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.</li> <li>○ Draft Environment State Environmental Planning Policy</li> <li>○ Kogarah Local Environmental Plan 2012.</li> <li>○ Kogarah Section 94 Contribution Plan.</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Kogarah Development Control Plan 2012</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Clause 144, Clause 153, Clause 174, Clause 181, Division 8A, Clause 162A</li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Council assessment report: 21 March 2019</li> <li>• Written submissions during public exhibition: 3</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ In support – Nil</li> <li>○ In objection – Nil</li> <li>○ Council assessment officer – Larissa Ozog, Nicole Askew</li> <li>○ On behalf of the applicant – David Ryan, Simon Blount, Hon Diec</li> </ul> </li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Site inspection and briefing: 11 December 2018</li> <li>• Final briefing to discuss council's recommendation, 9 April 2019 at 1.15pm. Attendees:</li> </ul>

		<ul style="list-style-type: none"><li>○ <u>Panel members</u>: Bruce McDonald (Chair), Nicole Gurran, Stuart McDonald, Con Hindi, Nick Katris</li><li>○ <u>Council assessment staff</u>: Larissa Ozog; Nicole Askew</li></ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report