

## DETERMINATION AND STATEMENT OF REASONS

### SYDNEY SOUTH PLANNING PANEL

|                                 |   |
|---------------------------------|---|
| <b>DATE OF DETERMINATION</b>    | 18 October 2021   |
| <b>PANEL MEMBERS</b>            | Helen Lochhead (Chair), Susan Budd, Marcia Doheny   |
| <b>APOLOGIES</b>                | None  |
| <b>DECLARATIONS OF INTEREST</b> | <p>Con Hindi, Nick Katris have both voted on the Projects Planning Proposal and other matters relating to this Item and did not participate.</p> <p>Stuart McDonald declared a perceived conflict of interest due to SJB Architects being a sister company that had been involved in the assessment process and therefore did not participate.</p> <p>Heather Warton declared on-going conflict due to works performed for council and did not participate.</p> |

Papers circulated electronically on 1 October 2021.

#### MATTER DETERMINED

PPSSSH-57– Georges River – DA2021/0024 at 1-3 Wright Street and 108-124 Forest Road, Hurstville – Demolition works, and construction of a mixed-use development comprising retail and shop top housing.

#### 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.

#### Application to vary a development standard

Following consideration of an amended and updated written request from the applicant, made under cl 4.6 (3) of the Hurstville Local Environmental Plan 2012 (LEP), that has demonstrated that:

- compliance with cl. 4.3 (height standard) is unreasonable or unnecessary in the circumstances; and
- there are sufficient environmental planning grounds to justify contravening the development standard

the panel is satisfied that:

- the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- the development is in the public interest because it is consistent with the objectives of cl. 4.3 (height standard) of the LEP and the objectives for development in the B4 zone; and
- the concurrence of the Secretary has been assumed.

#### Development application

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 determined to uphold the Clause 4.6 variation to building height; as the height exceedance of the lift and stair overruns, and the plant enclosures causes no detrimental environmental impacts due to the design and location of these structures and determined to approve the application for the reasons outlined in the council assessment report.

## CONDITIONS

The development application was approved subject to the conditions in the council assessment report with the following new and/or amended conditions:

- **Updated Condition #4** – ASS Management Plan, Remediation Action Plan and Geotech Report have been added as reports considered in the assessment of the DA.
- **Added Conditions #68 and #69:**

**68. Acid Sulfate soil – conditions found during demolition or construction** - Any new information identified during demolition, excavation or construction which has the potential to alter previous conclusions about the presence of Potential Acid Sulfate Soils (PASS) or Actual Acid Sulfate Soils (AASS) across the Site, must be notified to the Principal Certifying Authority (and Council, if Council is not the principal certifying authority) immediately.

*All works must cease and a suitably and experienced qualified Environmental Consultant, certified under the consultant certification schemes recognised by the NSW EPA, is engaged to assess and provide documentation on the management of the PASS or AASS in accordance with any relevant NSW EPA adopted guidelines.*

*Works on site must not recommence until such time as Council has reviewed the documentation and has accepted the contamination management in writing to the applicant.*

**69. Certification of any acid sulfate soils prior to disposal** - Prior to the disposal of the excavated soil which may be found to be acid sulfate soil, testing to be carried out by a suitably qualified person to confirm that it has been treated to an acceptable pH level in accordance with the Waste Classification Guidelines (NSW EPA, 2014) and a copy of the certification report must be submitted to the Principal Certifying Authority (and Council, if Council is not the PCA)

*Acid sulfate soil must be disposed of at a waste facility licensed by the EPA to receive that type of waste.*

- **Updated Condition #89 (was 87)** – the condition has been reworded as follows:

**89. Stormwater drainage works – Works As Executed – OSD Systems and Rain Garden** - Prior to the issue of the Occupation Certificate, all completed storm water drainage works must be certified by the drainage design engineer from Kozarovski & Partners, shall be submitted 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 volumes as per CC approved plans as minimum for flow attenuation in accordance with the submitted calculations;
- (d) Pipe/Pits and Site Outlet invert levels and surface levels to Australian Height Datum thus complying with approved CC design plans;
- (e) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits;




- (f) *The Work-As-Executed plans are prepared on the copies of the approved drainage plans issued with the Construction Certificate and variations are marked in red ink;*
- (g) *The Work-As-Executed plans have been jointly prepared and signed by Kozarovski & Partners engaged professional engineer specialising in hydraulic engineering and a registered surveyor certifying the accuracy of dimensions, invert levels, surface levels, storage volume etc.*

*Council must advise in writing that they are satisfied with the Works-As-Executed prior to the issue of an Occupation Certificate.*

## CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered one written submission made during public exhibition.

The panel considers that concerns raised by the community have been adequately addressed in the assessment report .

| PANEL MEMBERS  |   |
|--|---|
| <br>Helen Lochhead (Chair) | <br>Susan Budd |
| <br>Marcia Doheny         |   |

| SCHEDULE 1 |   |   |
|------------|---|---|
| 1          | PANEL REF – LGA – DA NO.                              | PPSSSH-57– Georges River – DA2021/0024  |
| 2          | PROPOSED DEVELOPMENT                                  | Demolition works and construction of a mixed-use development comprising retail and shop top housing.  |
| 3          | STREET ADDRESS  | 1-3 Wright Street and 108-124 Forest Road, Hurstville   |
| 4          | APPLICANT/OWNER                                       | Applicant – Tony Polvere<br>Owner – Shanghai Lihua Hustville Pty Ltd  |
| 5          | TYPE OF REGIONAL DEVELOPMENT                          | General development over \$30 million   |
| 6          | RELEVANT MANDATORY CONSIDERATIONS                     | <ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Act 1979</li> <li>• Environmental Planning and Assessment Regulation 2000</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</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 Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</li> <li>• Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment</li> </ul> |
| 7          | MATERIAL CONSIDERED BY THE PANEL                      | <ul style="list-style-type: none"> <li>• Council assessment report: <b>30 September 2021</b></li> <li>• List any clause 4.6 variation requests – Clause 4.3 Height of buildings</li> <li>• Written submissions during public exhibition: 1</li> <li>• Total number of unique submissions received by way of objection: <b>1</b></li> </ul>  |
| 8          | MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL | <ul style="list-style-type: none"> <li>• Briefing: 29 April 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Helen Lochhead (Chair)</li> <li>○ <u>Council assessment staff</u>: Linley Love, Monica Wernej</li> <li>○ <u>DPIE</u>: Leanne Harris, Michelle Burns</li> </ul> </li> <li>• Site inspection: Panel members visited the site individually on different days due to Covid-19 precautions.</li> <li>• Final briefing to discuss council’s recommendation: 14 October 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Helen Lochhead (Chair), Susan Budd, Marcia Doheny</li> <li>○ <u>Council assessment staff</u>: Linley Love, Monica Wernej</li> <li>○ <u>DPIE</u>: Leanne Harris</li> </ul> </li> </ul>                                |
| 9          | COUNCIL RECOMMENDATION                                | Approval  |
| 10         | DRAFT CONDITIONS                                      | Attached to the council assessment report   |