

17 December 2020

Director, Key Sites Assessments
Planning and Assessment
Department of Planning, Industry & Environment
Locked Bay 5022
Parramatta NSW 2124

RE: Objection to SSD-8892218, Lot 500 DP 1264241, Building R4B

On behalf of the owners of Stamford on Kent (SP61643) we wish to lodge an objection to **SSD-8892218**. The proposal will have a significant adverse impact on our clients' property in terms of amenity impacts. The additional floor area is a floor area grab which is at the direct expense of our clients' residential amenity.

Our clients' site is under continual development pressure from adjoining and adjacent sites which collectively reduce outlook, access to sunlight and overall sense of openness. The adjacent site to the east recently obtained approval for non-compliant Apartment Design Guideline (ADG) setbacks. The approval now provides for zero setback with a blank wall that severely compromises outlook from the Stamford on Kent. The additional height of the subject proposal degrades existing residential amenity. When the Stamford was converted to residential it had to setback from the side boundaries yet adjoining sites are now permitted to provide zero blank walls. The continual degradation of amenity is seriously concerning as surrounding properties push the limits of the planning controls. The subject proposal is the similar.

1.0 Overview of Proposed Development

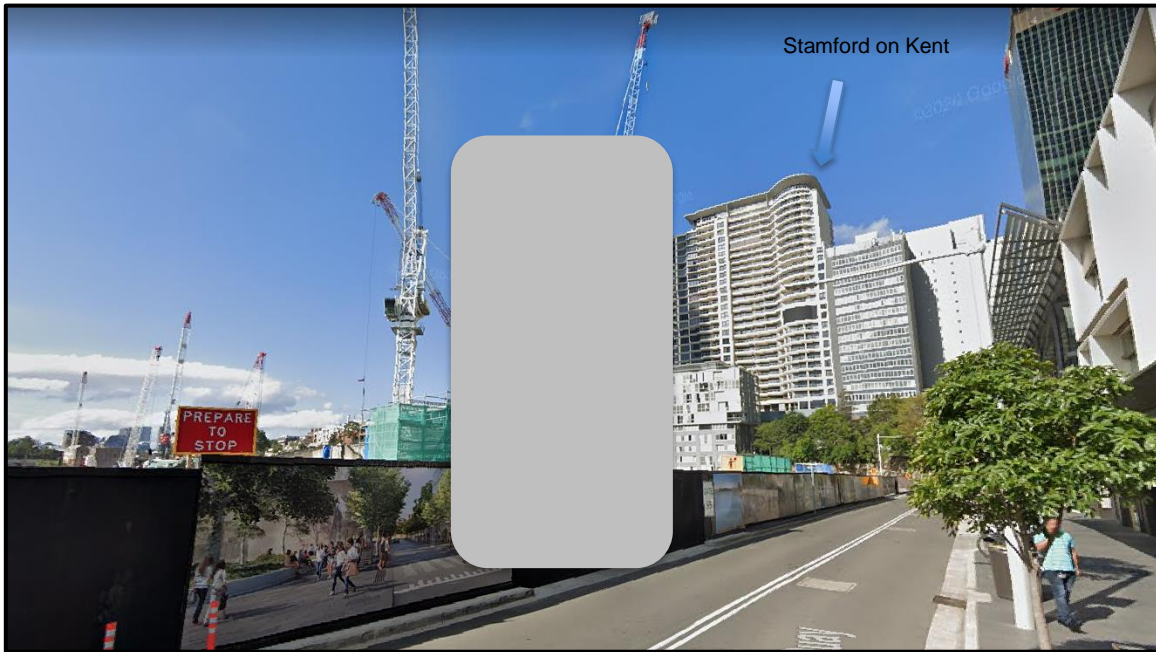
- 1.1 This 'amending' SSD DA seeks consent for eight additional storeys with 5,650sqm of GFA and containing 32 additional apartments, and an allocation of 7 additional car parking spaces to Residential Building R4B. The additional 8 storey is a significant increase and needs to be scrutinized by the Department.
- 1.2 More specifically, this SSD DA proposes to amend Residential Building R4B, through:
 - increase in the overall building height from RL208.23 up to RL235 (an additional 8 levels)
 - increase overall number of apartments from 290 to 322
 - revised dwelling mix and apartment relocations within the building envelope; and
 - changes to the number of car spaces from 324 to 331.
- 1.3 The DA is on public exhibition until 17 December 2020. Building RB 4 is shown in Fig A below:



Fig A: Figure shows location of R4B

2.0 Objection to SSD DA

- 2.1 Our clients object to the additional 8 storeys due to the negative impacts created by the building upon the existing residential amenity. The residential amenity includes views and outlook; direct and reflected natural light; and sense of openness provided to the Stamford on Kent residential units.
- 2.2 The additional height is not justified by the proposal. The history of the development of the Hickson Park was based on Master Planning at a Strategic Precinct level. The approval of Building R4B is a reactive modification seeking higher yield from of the site. The EIS states that there are no social or economic impacts as a consequence of the proposed amendments to the original building. This is strongly disputed by the property owners of Stamford on Kent. The original base building already obstructs water views and outlook to the west and north-west of Kent Street (see Appendix A typical floor layout of Stamford on Kent units looking west).
- 2.3 The current proposal adds additional impact on top of what is considered to be reasonable. The driver for the additional levels is not based on some significant urban design improvement and is a response driven by greater yield at the expense of surrounding property owners amenity. Due consideration must be given to the fact that the Stamford on Kent is residential apartment floor space (i.e. not commercial floor space) and therefore the impacts are elevated. Typically when heights are increased to this extent over what was seen to be a maximum it is necessary to provide a strong urban design rationale backed by limited burden to neighboring land holders.



- 2.4 The EIS states (page 69, section 7.1) that the proposal is justified for a number of reasons, including that there are '*no adverse environmental impacts that cannot be appropriately managed by the mitigation measures set out in the EIS*'. This is reiterated in the conclusion of the EIS.
- 2.5 Further, the EIS states that the proposal is in the public interest as the broader master plan for the Barangaroo South Precinct is in the public interest (section 5.22, page 66) and the amendment will '*strengthen the realisation of the strategic potential of the precinct and fulfil the intended vision of the approved Concept Plan (Mod 10)*'.
- 2.6 These statements do not provide adequate justification for the 8 levels proposed by the SSD DA. The EIS does not take into account the cumulative impact of the repeated changes and modifications to the original masterplans and how these incremental changes affect individual buildings like the Stamford on Kent. The cumulative impacts need to be assessed so the consent authority has the complete picture. Numerous residential apartments can be found in the existing precinct to the east of Barangaroo South precinct. The cumulative impacts should not be underestimated and need to be assessed as part of the EIS. The EIS should provide an assessment of all approved heights and then demonstrate the impact of the 8 additional levels. This type of assessment will demonstrate the true impact of the proposal long terms on the Stamford on Kent.
- 2.7 An approval of eight (8) additional levels sets a dangerous precedent for other sites in the precinct. There is no public improvement or benefit resulting from the 8 additional levels which is concerning because the original masterplan provided public benefit based on the burden of the additional built form/floor area. Had the masterplan contemplated an additional 8 storeys on this site (and potentially others) then greater public space would have been required because of the significant

density increases. As stated the increased density and burden on public space could be quite significant in the medium to long term.

- 2.8 We note that the public space dedicated as part of the overall masterplan is not just for residents and is to be shared with the general public.
- 2.9 The fact that the site forms part of a masterplan precinct is not justification for the additional eight (8) levels. In fact it can be argued that within master planned sites there is a greater impost to comply with the predetermined controls because the controls were developed specifically for the site as opposed to blanket controls across the whole LGA. The heights and extent of dedicated public space formed part of a detailed assessment of the original master plan. There is no opportunity to add public space as part of this DA. The only consequence of this application is greater demand for public space and greater impacts upon adjoining private land holdings. Greater impact and increased competition for public space is not in the public interest. On this basis alone the application should be refused.
- 2.10 The subject building has already been amended and this is a further modification – “to respond to market forces and societal trends” should not be justified based on incremental creep of development. This is not a justification for additional height, bulk, scale, numbers of apartments. When dealing with Clause 4.6 variations the Court has ruled that justification that would equally apply to all land of the same zoning is not a sufficient environmental planning ground. The applicant has proffered a universal reason which is not sufficient to justify such a significant increase in height and floor space. In this instance the consent authority should adopt a ‘clause 4.6 like’ assessment methodology because of the height and GFA increase. Hypothetically if a clause 4.6 methodology was applied then the application would certainly fail.
- 2.11 The EIS acknowledges that the modifications do not disbenefit the original proposal and it provides no substantial argument for the need of the additional apartments in terms of the social benefits. It is argued that the additional 32 units is minor in terms of the public interest as the small resultant population increase has minimal impact on the public domain, public transport, retail and business uses in the immediate area. The apartments are aimed towards high socio-economic purchasers with no public benefit to the broader public.
- 2.12 The applicant may point to the increase in the number of key worker units as a public benefit pursuant to the Barangaroo Housing Strategy (BHS). However, it should be noted that of the additional 32 units, only an additional 2 units or 6.25% are to be Key Worker units and these are not located within Building R4B, rather they are to be located in Building R5 (EIS, page 26). There is limited public benefit and no benefit at all to the property owners whose residential amenity is negatively impacted by the additional 32 units over 8 storeys.

- 2.13 The EIS dismisses the social and economic impacts towards the owners and occupants of the Stamford on Kent. The visual analysis does not assess the visual and residential amenity impact from Kent Street, between the Stamford on Kent building and the site of Building R4B. Views down Gas Lane are misleading as they focus to the west towards the Crown Casino building, not taking into consideration the views looking west that are south of Gas Lane (Appendix L, Viewpoint 6 Gas Lane).
- 2.14 The Stamford contains up to four (4) apartments on each level (26 levels) that face towards Building R4B and even closer to the site of Building R5. With the additional eight (8) storeys, each level will be further hemmed in by the height, bulk and scale of the development. The existing upper levels have some degree of openness to the sky which is significantly reduced by a further 27m of building height. Reduced privacy occurs as a result of the additional apartments which will face towards Kent Street. The loss of sky coupled with the additional public space burden and privacy loss is not a suitable planning outcome particularly when the justification is based on a need to “respond to market forces and societal trends”.
- 2.15 If consent was granted to the 27m increase to Building R4B then it would follow that a future SSD DA would seek to increase the height of the third tower (Building R5). The decision to approve or refuse this application is quite critical in the evolution of the precinct and the long term performance of the public domain areas. The masterplan did not contemplate the height and density proposed under the subject SSD DA and therefore public space, services and facilities have been determined on the original masterplan densities.
- 2.16 We note that Building R5 has an approved upper level of RL107mAHD (per SSD 6966, dated 3/10/2019). If the universal baseline argument of the need to ‘respond to market forces and societal trends’ then there is nothing to prevent a similar argument being repeated on other sites in the precinct. If approval is granted (we say it should not be) then we will see an obvious and unnecessary loss of residential amenity and greater burden on public open space designed for much lesser population densities.

3.0 Summary

- 3.1 We respectfully submit that the proposal should be refused due to the following:
- The EIS does not provide sufficient justification to warrant the additional residential apartments over 8 levels to Building R4B.
 - The justification based on a need ‘to respond to market forces and societal trends’ is not sufficient to warrant the increase in density and height, bulk and scale
 - An approval of this scheme will adversely impact existing property owners within the Stamford on Kent building due to loss of outlook; reduced privacy; and reduced residential amenity
 - The cumulative increase in density will unnecessarily burden public open space designed to service the approved master plan densities.

- The cumulative impacts are not sufficiently addressed to support approval of the SSD DA.
- The EIS dismisses the adverse impacts of the additional height and intensification of use and improperly draws upon the broader strategic planning merit to justify the proposal.
- The public benefit in this case is not sufficiently established to warrant approval. The EIS acknowledges that there are no specific additional benefits of the proposal. The population increase is dismissed in the EIS as minor as the numbers are absorbed easily the functionality of the larger precinct landuses – retail, businesses, transport and recreation. If this is the case, then the application does not establish any need for the additional units and the impacts of the additions should be more highly rated in terms of the disbenefits to existing property owners and residents of the area.

Given the above we request that the application be refused. If amended plans are submitted then our clients should be given the opportunity to review the plans and make comment.

All correspondence in relation to this matter is to be issued to the Body Corporate of the Stamford on Kent and not to this office.

Should you wish to discuss any aspect of this submission please call the undersigned on 0405449150.



Andrew Martin *MPIA*
Planning Consultant

Appendix A

Floor layout of typical level of Stamford on Kent building

