

25 July 2018

Sophie Lord  
Consents Planner  
Wellington City Council  
101 Wakefield Street  
**Wellington**

**BY COURIER**

Dear Sophie

**57-59 KINGSFORD SMITH STREET/SR387233**

1. I refer to my email of 23 January 2018 requesting on behalf of KSS Properties Limited that Council suspend processing application SR387233. I refer also to your letter dated 30 January 2018 requesting further information under Section 92(1) of the Act.
2. The purposes of this letter are to:
  - (a) provide further information incorporating refinements to the proposal;
  - (b) respond specifically to the items requested under s 92(1); and
  - (c) request that processing of the application recommence.

**Refinements**

3. Enclosed with this letter are two hard copy sets of drawings and two discs containing soft copies of the same, which incorporate a number of refinements to the proposal.
4. The refinements are summarised in a cover letter prepared by Mr Stonyer (also enclosed).
5. The applicant considers all of the refinements are within the scope of the original application, given that they do not increase the scale or intensity of the proposed activity, they mitigate effects of the proposal, they do not add consenting requirements over and above those raised by the original application, and it is implausible that there would have been other submitters if the refined version had been notified. Indeed, one of the major refinements is a reduction in the overall height of the proposed building that would bring it within the discretionary height provisions of the District Plan. As the building height was formerly the only aspect of the proposal that was non-complying, this refinement will change the overall status of the proposal to discretionary under the District Plan.

STOUT STREET CHAMBERS

Level 6, Huddart Parker Building, 1 Post Office Square  
PO Box 117, Wellington 6140

6. The refinements also include changes to the interior of the building, and I specifically draw to your attention that the configuration of the residential activities is altered. Previously the application incorporated 51 apartments, of which 15 included a 'dual key' unit. The refined proposal has reduced the number of apartments to 28, of which only 10 include 'dual key' units, and the applicant now proposes to restrict usage of those dual key units to prevent standalone occupation for any period greater than 2 weeks. The balance of the space within the building, originally proposed for apartments, is now proposed to be short-stay visitor accommodation (53 units, and up to 57 beds).
7. The residential use of the building therefore remains fundamentally the same, but has been reconfigured to decrease the scale of permanent residential activity, and correspondingly increase the scale of short-term residential activity, and with fewer potential occupants in total. The intention behind these changes is to respond to concerns about occupants' sensitivity to noise, and to ensure the types of occupation within the building are well-matched to the quality of the amenities available.
8. A further refinement to which I draw your attention is that the ground floor and basement have been refined to increase the number of car parks from 59 to 64, which means all requisite parking will be contained within the site. A related refinement is that the basement stud height has been increased, which will allow space for potential future use of car stackers. Use of car stackers is not presently proposed, but the opportunity (and any related consent requirements) may be explored in the future.
9. The applicant has also taken this opportunity to make refinements to the exterior design as described in Mr Stonyer's letter, and as depicted in the set of drawings.
10. Please note the reduction in the overall building height has been achieved by marginally reducing the height of each floor. The applicant has carefully assessed this to ensure a high standard of internal residential space is maintained, and is satisfied that this will be achieved. The clearance height for vehicles using the service dock remains at 3m, as was shown in the original plans. The applicant is aware this does not meet the Plan standards, and maintains that the site will be serviced by smaller vehicles that can be easily accommodated within this design.

### **Section 92 request**

11. For ease of reference the elements of your s 92 request are replicated below, followed by responses:

*Further clarification regarding the height of the building in its context is required. This includes elevations clearly indicating the project in the context of surrounding buildings (at an identified scale). Elevations should be shown of Kingsford Smith Street, from Lyall Parade, from Tirangi Road, and from the Lyall Bay Beach, and any other locations that will assist in understanding the height of the building within the surrounding environment.*

- (a) As described above, the height of the building is now reduced, and is within the Plan's allowances for discretionary activities in the Business 1 Area. This alters the

nature of the assessment to be made, particularly in respect of the appropriateness of the overall height.

- (b) The attached plans provide additional clarification as requested. The plans include elevations depicting the proposal in the context of surrounding buildings and depicting the permitted and discretionary height limits within that context. Elevations have been provided from Kingsford Smith Street, Lyall Bay and Tirangi Road.

*A preliminary site investigation report which assesses the contamination of the land. The Council's contamination expert has identified that a contaminated land assessment is required to be provided, undertaken in accordance with the current Ministry for the Environment Guidelines and in accordance with the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011. This is required due to a HAIL activity having been undertaken on site (namely a motor vehicle workshop – F4 on HAIL).*

- (c) A preliminary site investigation will be provided, and is currently being completed. I expect to be in a position to provide this shortly.

*An assessment of the level of noise expected in the outdoor areas of the development, specifically in the internal courtyard.*

- (d) I enclose an assessment prepared by Malcolm Hunt Associates. It was completed prior to the design refinements, but the applicant maintains that the analysis and conclusions are equally applicable to the refined design.

*Information on potential adverse effects of natural hazards. Specifically sand inundation, sea level rise, coastal erosion, and tsunami.*

- (e) The report by Coffey Ltd in Appendix 6 of the AEE and section 5.5.2 addresses natural hazards.

- (f) Sand inundation can be appropriately addressed in the detailed design of the ground level of the building. You will see the design includes a concrete wall along this boundary, and access to the adjacent area will be easier now that the ground floor façade is set back from the southern boundary.

- (g) Any adverse impact of sea level rise and coastal erosion on the proposed site and building is remote because of the existing coastal protection along Lyall Bay and the wide width of Lyall Bay Parade which is a Principal Road in the District Plan's road hierarchy and can therefore be expected to be maintained in place by the Council (particularly as it also accommodates reticulated services). The building is a low risk one in terms of tsunami because the residential units and the internal courtyard are well elevated. Ground level activity is limited to commercial/business/retail activity and car parking and basement car parking.

*Confirmation of the shading impacts of the proposal. In particular:*

- (a) Confirmation of what size and shape of building (including the floor area) was used to create the green '16m baseline study shadow' shown on the shading effect diagram by Reve Architecture – i.e., is it the proposed building, but at 16m or is it a permitted building at 16m (i.e., complying with the bulk standard as well). If it does not reflect a permitted 16m building, then new diagrams are requested to reflect this.
  - (b) Provision of a range of shading effect diagrams so the impacts across the year are clear (i.e. 6 weeks either side of winter solstice, spring equinox, autumn equinox and summer solstice).
  - (c) Clarification of whether the topography has been allowed for in the shading diagrams provided.
  - (d) Clarification of why the shading shown from the south west corner is offset (i.e. see 12pm and 4pm in particular).
  - (e) Updated shading diagrams should be provided which show the whole of the shadow, as in some cases the shadow is not visible (i.e. see 9am and 4pm in particular).
- (h) The refined set of plans incorporates all of the requested information in relation to shading impacts to the extent that it remains relevant to the refined proposal. As you will see, the shading study has compared the proposal against a possible alternative development comprising a building on each of the two underlying titles, with a 500m<sup>2</sup> footprint and an overall height of 16 metres. I can also confirm that the topography has been allowed for in these shading diagrams.
- Clarification of whether Lobby 2 can be relocated, and what the nature of this entry is (i.e. how frequently is it intended to be used for what purpose), as Council has previously indicated that no access would be allowed over the adjacent Recreation Reserve (under the Reserves Act 1977).*
- (i) Lobby 2 cannot be relocated, but the issues of apparent concern — namely, possible use of the Reserve land for access — are addressed by the introduction of a new accessible pedestrian promenade within the site adjacent to the southern boundary.

#### **Recommended processing**

12. The applicant requests that Council recommence processing this application on the basis of the refinements and further information described above and enclosed with this letter.
13. Should you have any queries in relation to any aspect of the matter, please let me know.

Yours sincerely



**Morgan Slyfield**  
Barrister

direct 04 915 9277  
mobile 021 915 927  
email morgan.slyfield@stoutstreet.co.nz