



18 May 2015

Our Ref: HEM:DOD:PIE001/4001
Your Ref: 2014SYE122DA

Dr John Roseth
Chair
Joint Regional Planning Panel Sydney East
23-33 Bridge Street
SYDNEY NSW 2000

By Email:
lisa.foley@planning.nsw.gov.au

Dear Dr Roseth

Development Application No. 2014/1066, Hurstville City Council
Property: 23-31 Treacy Street, Hurstville

We refer to the above matter which is to be considered by the Sydney East Joint Regional Planning Panel (**Panel**) on 20 May 2015.

We act for the applicant, Piety THP Capital Pty Limited (**Piety**).

Our client's development application is for the construction of 16 storey mixed use building at 21-35 Treacy Street, which comprises Stage 1 of a development comprising 3 stages, of a concept plan approval granted by the Planning Assessment Commission on 1 July 2011 to MP10_0101 (**Concept Plan Approval**).

Hurstville Council's Assessment Report recommends that the development application be approved as a deferred commencement development consent, subject to conditions.

Our client understands that on 6 May 2015, the Councillors of Hurstville City Council resolved to put a submission to the Panel that the properties on either side of our client's property, being the land comprised in Stages 2 and 3 be included as part of our client's development application. Our client does not own or control the land in Stages 2 and 3.

There are both legal and planning issues as to why Stages 2 and 3 should not be included as part of our client's development application. They are as follows:

1. It is for an applicant not the consent authority to determine "*the land to which the development application relates*": *North Sydney Council v Ligon 302 Pty Limited* (1996) 185 CLR 470.
2. Our client's development application is consistent with the Concept Plan Approval, as amended.

The approved concept plan comprises 3 stages with our client's application comprising Stage 1. Stage 1 comprises a site area of just over 3,000m², with the whole of the concept plan approval site comprising a site area of approximately 4,200m². Stage 2 comprises the site to the west (33-35 Treacy Street) and Stage 3 comprises the site to the east (21 Treacy Street).

The Director-General's Environmental Assessment Report dated September 2012 relating to the Section 75W application for the proposal to amend the Concept Plan Approval to permit staging of the concept plan stated:

"It is the intent of the staging of the development that each stage can be considered as separate development applications" (Section 5.4, page 8).

3. Council's planning officers have recommended conditions of consent that would protect future access to Stages 2 and 3 following the development of Stage 1 – see recommended conditions 21, 67 and 85 of the recommended conditions of consent.
4. Our client wishes to proceed with the intent of the Concept Plan Approval.

For these reasons, we submit that the Panel cannot and should not adopt the Council's submission.

Ms Macfarlane will be attending the Panel meeting on 20 May 2015 and can address the issues referred to in this letter if required by the Panel.

Yours faithfully



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Consultant

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Yours faithfully



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Cc: The General Manager
Hurstville City Council