



SYDNEY CENTRAL CITY PLANNING PANEL Addendum Assessment Report

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| Panel Reference | 2018SWC012 |
| DA Number | DA/61/2018 |
| LGA | City of Parramatta Council |
| Proposed Development | 21 storey mixed use building comprising 2 – 3 storey podium containing 5 retail tenancies and 18 storeys of shop-top housing above containing 130 apartments (46 x 1 bed, 70 x 2 bed and 14 x 3 bed) over 4 storeys of basement car parking; public through-site link; and demolition of existing buildings. |
| Street Address | 48-54 Beecroft Road and 52-54 Rawson Street, EPPING NSW 2121 (Lot 2 DP 592094, Lot 1 DP 541808, Lot 1 DP 592094, Lot 2 DP 541808, Lot 4 DP 541960, Lot A DP 325036 and Lot 3 DP 541960) |
| Applicant | Mr. Sameh Ibrahim |
| Owner | DGS Epping Development Pty. Ltd. |
| Date of DA lodgement | 25 January 2018 |
| Number of Submissions | 48 (42 unique submitters) |
| Recommendation | Refusal |
| Regional Development Criteria | The development has a capital investment value of more than \$30 million. |
| List of all relevant s4.15(1)(a) matters | <ul style="list-style-type: none"> • Environmental Planning and Assessment (EP&A) Act 1979 • EP&A Regulation 2000 • SEPP (Building Sustainability Index: BASIX) (BASIX SEPP) 2004 • SEPP (Infrastructure) (ISEPP) 2007 • SEPP (State and Regional Development) 2011 • SEPP (Sydney Harbour Catchment) (SEPP Sydney Harbour) 2005 • SEPP No. 55 (Remediation) (SEPP 55) • SEPP No. 65 (Design Quality of Residential Apartment Development) (SEPP 65) & Apartment Design Guide (ADG) • Parramatta Local Environmental Plan (PLEP) 2011 • Parramatta Development Control Plan (PDCP) 2011 |
| List all documents submitted with this report for the Panel's consideration | <ul style="list-style-type: none"> • Attachment 1 – Original Council Assessment Report • Attachment 2 – Applicant Revised Submission (inc. Architectural Drawings) • Attachment 3 – Council Request for Additional Information • Attachment 4 – Applicant Legal Advice |
| Report prepared by | Alex McDougall |
| Report date | 24 July 2019 |

1. Introduction

1.1 Background of Consideration of Application

On 3 April 2019, Development Application 2018SWC012 was referred to the Sydney Central City Planning Panel (the Panel) with a recommendation for refusal. The full Council assessment report is available at Attachment 1. The Panel deferred a decision and requested additional information.

On 21 May 2019, the applicant submitted additional information responding to the deferral reasons.

On 17 June 2019, after review, Council officers found the revised application not to be acceptable and requested additional information from the applicant.

On 4 July 2019, the applicant's lawyer requested Council officers return the application to the Panel for their consideration of the additional information without any further assessment by Council officers.

On 9 July 2019, the applicant submitted an appeal against non-determination in the NSW Land and Environment Court. The City of Parramatta Council is the first respondent; the Panel is the second respondent. The first direction hearing is set down for 6 August 2019.

1.2 Sydney Central City Planning Panel Decision

The application was reported to the Panel with a recommendation of refusal on 3 April 2019. After hearing submissions from the applicant, residents and adjoining property owners, the Panel resolved to defer a decision on the application for the following reasons as stated in the Record of Deferral:

The Panel is not prepared to refuse or approve this application today without a further acceptable response from Transport for NSW (Sydney Metro) and has agreed to defer the determination of the matter until –

- *A satisfactory through site link is provided with a continuous accessible path of travel in accordance with AS1428.1 Clause 6;*
- *A further report on wind impacts to demonstrate that the proposal will satisfy a comfortable level of amenity and consideration being given to weather protection of the whole of the through site link;*
- *To alleviate traffic impacts, the Panel requires the applicant to liaise with council and revise the green travel plan and including additional car share spaces, redesign of the storage area and allocation of storage areas with the adjacent residential car parking space;*
- *Alignment drawings to demonstrate compliance with the Parramatta Public Domain Guidelines;*
- *The Panel will refer the recent Holding Redlich letters dated 7 March and 29 March 2019 to Council for comment and advice.*

When this information has been received, the Panel will hold another public determination meeting.

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

The decision to defer the matter was unanimous.

2. Applicant Response

In response to the deferral, the applicant submitted revised drawings outlining the following changes:

- Provision of a step-free public through-site link along the southern boundary of the site;
- Revised basement storage cage design to open on to adjacent car parking spaces;
- Addition of one car share parking space;
- Deletion of public lift between Rawson Street and Beecroft Road;
- Addition of residential lobby to upper ground floor plan;
- Minor revisions to commercial unit layout at upper ground level;
- Addition/relocation of proposed trees at ground plane in public domain;

The applicant also provided the following additional information supporting the application:

- Revised Wind Report;
- Revised Landscape Plans;
- Revised Green Travel Plan; and
- Revised Public Domain Alignment Drawings;

All of these documents are included at Attachment 2 for the consideration of the Panel.

3. Council Advice to Applicant

Upon receipt, Council officers undertook an assessment of the additional information and were not satisfied that it resolved all of Council officer or Panel concerns. As such a request for additional information was sent to the applicant (see Attachment 3).

4. Response to SCCPP Deferral Reasons

Council officer assessment of the additional information, in the context of the deferral reasons, is provided below.

4.1 Sydney Metro Concurrence

Clause 86(3) of State Environmental Planning Policy (Infrastructure) 2007 states the following (emphasis added):

*Subject to subclause (5), the consent authority must not grant **consent** to development to which this clause applies without the concurrence of the rail authority for the rail corridor to which the development application relates.*

Subclause 5 allows the consent authority to grant consent without concurrence if the referral authority does not respond within 21 days. The rail authority notice was sent on 3 May 2018. Sydney Metro refused to grant concurrence, instead requesting additional information, on 8 May 2018 (5 days). The applicant is engaging with Sydney Metro in an effort to resolve their concerns.

However, Council is yet to receive concurrence from Sydney Metro and as such the application cannot be approved in its current form.

4.2 Through Site Link

The applicant has submitted revised drawings that include a step-free through-site link along the southern boundary of the site.

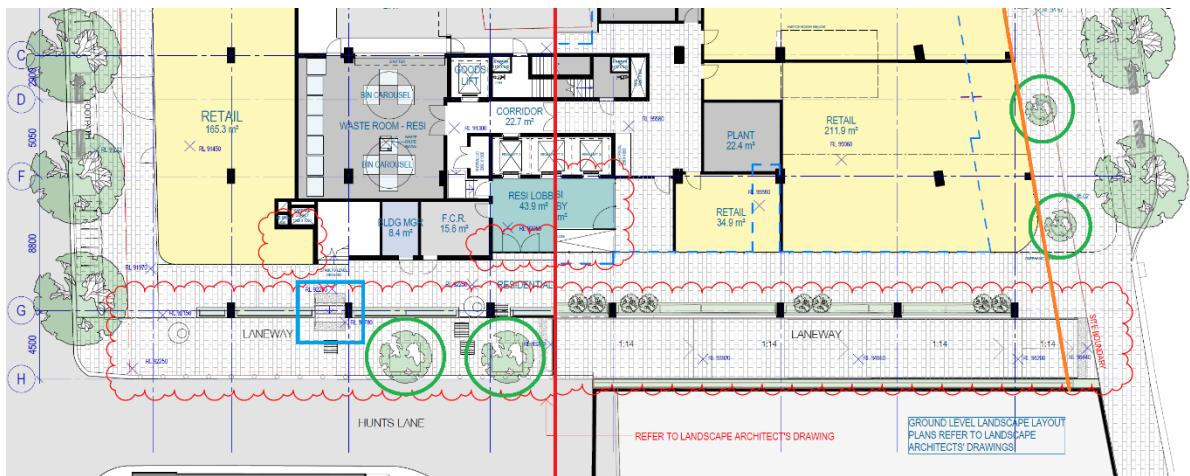


Figure 1. Revised proposed through-site link. Red line represents split plan between lower ground Rawson Street level (left) and upper ground Beecroft Road level (right).

The revised through-site link, though an improvement on the previous design which included stairs, is not considered to be acceptable for the following reasons:

- a) The Parramatta DCP requires a 1.5m setback to Beecroft Road for the purpose of widening the public footway to accommodate the increased foot traffic projected in the town centre. This setback is depicted by an orange line in Figure 1 above. The top of the pedestrian ramp extends to the boundary and as such would intrude into the 1.5m setback. A 1.5m setback is beneficial in this location and as such the design provision of the DCP should be adhered to in this case.
- b) The Parramatta DCP requires through-site links to be obstruction free. The proposal includes the following obstructions:
 - i. The ramp (and Beecroft Road footway) includes trees which block a clear path of travel and are not conducive to optimal pedestrian movement. This issue is depicted with green circles in Figure 1.
 - ii. A clear path of travel at the bottom of the pedestrian ramp (i.e. Rawson Street level) is unclear. The proposed stairs connecting the ramp to the retail/lobby level project into possible clear path of travel on the north side of pedestrian lane. This issue is depicted with a blue square in Figure 1.
 - iii. The wind report also recommends wind baffle screens be placed in the through-site link (see next section).

Council officers would also like additional section detail demonstrating,

- a) How the ramp would integrate with the Beecroft Road pavement, including how the ramp would be divided from the upper ground public domain, and
- b) Details at the interface of Hunts Lane kerb and the pedestrian lane. It is not clear if this interface is flush and accessible for the full length of Hunts lane.

As the through site link is of significant public benefit it is Council's preference to have these design matters resolved and/or clarified prior to determination. However, it is considered that this information could be required by way of condition were Panel minded to approve the application.

4.3 Wind Report

The applicant submitted a revised wind report to account for the revised through site link design. The report sets the following wind speed criteria for walking, which is supported by Council's independent wind consultant:

- Comfortable: <16m/s gusts
- Uncomfortable: 17-23m/s gusts
- Unsafe: >23m/s gusts

The revised wind modelling demonstrates that the proposal can achieve the desired 'comfortable' criteria. Council's wind consultant has verified this conclusion. However, the wind model includes significant tree/shrub planting and baffle screening within the public domain to achieve the desired wind speeds (see Figure 2 below).

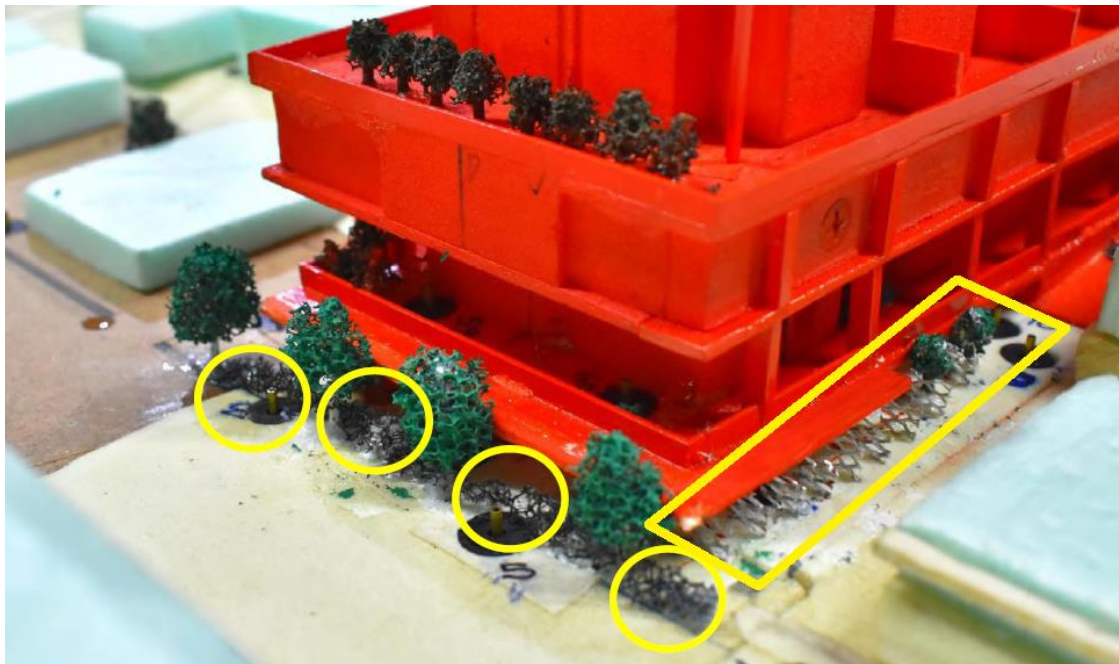


Figure 2. Extract from revised wind report showing wind tunnel model of proposed development including hedges along Rawson Street, trees in link and baffle screening in link.

The screening and hedges have not been detailed on the submitted architectural/landscaping drawings. The screening, perpendicular to pedestrian desire lines, along with the trees in the link, would have an unacceptable impact on pedestrian movement. As previously noted, the through site link and Council footways are to be impeded by nothing except the street tree planting anticipated by the Public Domain Guidelines.

While a condition could be included deleting the obstacles, the wind report demonstrates that resulting wind conditions would be uncomfortable at the two ends of the through-site link and along Rawson Street (gusts of up to 21m/s). Given the high foot traffic of these areas, it is considered that comfortable walking should be achieved without impeding pedestrian flows.

As such the proposal does not meet the Parramatta DCP desired future character of Epping Town Centre which seeks to ensure that, "*high rise development must not result in wind tunnelling impacting upon both the public domain and new and existing development*".

It is not considered appropriate to condition further wind modelling as significant changes may be required to the proposal to resolve the issue.

4.4 Traffic Impacts

Car Share

The revised proposal includes one additional car share space for a total of two. The SCCPP deferral recommended, “*additional car share **spaces***” (emphasis added).

Based on the car share rates recently approved elsewhere in Epping (see table below) it is considered that 4 spaces would constitute best practice¹.

| Reference | Address | Units | Car Share | Car Share Rate |
|--|----------------------|-------|-----------|----------------|
| DA/485/2016 | 44-48 Oxford Street | 178 | 5 | 1/35.6 units |
| DA/237/2017 | 24-36 Langston Place | 101 | 3 | 1/33.7 units |
| DA/468/2016/C | 12-22 Langston Place | 463 | 12 | 1/38.6 units |
| Average | | | | 1/36.0 units |
| Applying Average to 130 Units Proposed | | | | 3.6 spaces |

Other green travel plans in the area have also provided occupants with partly or fully subsidised memberships for the on-site car share vehicles for an initial period to encourage take-up.

Opal

Similar developments have provided an Opal card with \$100 credit to all initial residents and commercial staff as part of the Transport Access Guide to encourage trialling of public transport.

End-of-trip

Similar development have provided end-of-trip facilities to incentivise cycling for commercial staff.

Transport Access Guide

Similar developments have included car-pooling information boards and groups.

As such, it is considered that the Green Travel Plan does not constitute best practice and further options should be explored. See further discussion under Section 5 below.

4.5 Alignment Drawings

The latest public domain alignment drawings are generally satisfactory. However, a significant discrepancy appears on drawings C0507 – Rev. D. Section Chainage 40 shows footway surface grade as 2.5%. However, the calculated grade from property boundary to an offset distance of 3.718m is 8%. An 8% crossfall along the footpath would be a significant detriment to the safety and comfort of walking pedestrians, wheelchair users and pram users.

4.6 Holding Redlich Letters

The legal letters satisfied Council officers that Council’s owners consent was not required to lodge the application. As such, original draft reason for refusal 6 has been deleted.

¹ Car share spaces do not count towards the maximum number of car parking spaces allowable for residents/visitors.

4.7 Other Issues Raised by Council Officers

Residential Entry

With the introduction of the step-free through site link the residential entrance becomes a dead-end entrapment point. As this space is south facing and undercroft it will receive minimal light and will be less legible to visitors. It is recommended that this area be internalised, with the entry threshold moved closer to Rawson Street, to improve the safety of occupants and legibility for visitors. A condition could be included to resolve this issue.

Universal Access

The landings on the switch back ramp leading from the basement to the Rawson Street entry must provide a clear circulation width no less than 1540mm as shown in AS1428.1 Fig 25(C). A condition could be included to resolve this issue.

FSR

The Gross Floor Area calculation still does not appear to include the retail waste storage area at lower ground floor level (~28.0m²) or the storage area at first floor level (~15.7m²). Inclusion of this space in the floor space calculation would result in a breach of the FSR standard. However, this could be resolved by moving the waste storage area to the basement and using the first floor storage area only for plant. As stated previously, it is not recommended that the applicant's Clause 4.6 variation request be supported. If the Panel were minded to approve the application regardless, they could either choose to support the Clause 4.6 variation request or include a deferred commencement condition requiring the changes suggested above.

Drawings

A longitudinal section through the through-site link is considered to be necessary to demonstrate that the proposed parking spaces under the link have sufficient headroom. A condition could be included to resolve this issue.

Conclusion

For the reasons outlined in the original assessment report (see Attachment 1) and subject to the above analysis, it is considered that the proposal cannot be supported in its current form and as such refusal is recommended.

5. Applicant Legal Submission

Subsequent to receipt of Council's Request for Additional Information the applicant's lawyers submitted further instruction (see Attachment 4) that the proposal be returned to Panel for further consideration and that Council's outstanding concerns be resolved by way of conditions. A response of the letter's key points is provided below:

| Applicant Assertion | Council Officer Comment |
|---|---|
| The additional information request does not raise any significant issues. | The issues outlined in Section 4 are considered to remain reasons to refuse the application. |
| Council has requested information the Panel did not request. | The additional issues raised came about from the amendments made to the application. |
| The outstanding matters can be resolved by conditions. | As outlined above, only some of the outstanding matters could be dealt with by way of conditions. |

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| The Panel did not request that Council officers assess the additional information. | While the Panel deferral notice did not explicitly reference Council officer assessment, it is understood that such assessment is expected and standard practice. |
| Alignment drawing concerns can be resolved by way of condition. | It is not considered appropriate to condition resolution of alignment levels as the solution may require changes to the ground floor RLs, which would in turn affect the height of the building. |
| Obstructions in public domain only necessary if wind conditions need to be better than uncomfortable (i.e. outdoor dining). Windy conditions are acceptable for transient areas. | It is considered that public domain wind conditions should be comfortable for walking. |
| Future development near the site will improve the wind conditions. | Council's wind expert considers that additional buildings in the area are more likely to worsen wind conditions than improve them. |
| Other wind mitigation measures were tested but provided no real benefit. | It may be that fundamental changes to the design of the building are necessary to achieve the required wind speeds. |
| The residential entry at Rawson Street will have sufficient lighting to avoid safety concerns. Revising the proposal as recommended would result in an FSR breach. | As outlined above, it is considered that the entry should be moved closer to Rawson Street to eliminate the trap point and provide better address. The FSR breach would require a compensatory reduction in floor space elsewhere. |
| The Green Travel Plan requirements are not based on legislative requirements. | The DCP requires a Green Travel Plan but does not specify what such a plan should include. The Panel have consistently enforced a 'best practice' approach to green travel plans given the traffic problems identified in the Epping Traffic Study. |

6. Clause 4.6 Assessment (Revised)

The original assessment report found that the Clause 4.6 variation request to vary the height standard was generally satisfactory.

However, the clause requires that a development comply with the zoning objectives in order to approve a variation².

As outlined above concern is raised that the proposal, specifically the Green Travel Plan, does not achieve the zoning objective, *"to maximise public transport patronage and encourage walking and cycling"*.

However, if Panel is of a mind to accept the Green Travel Plan in its current form or amended by condition, and thus that the zone objectives are fulfilled, it follows that in the view of Council, they could be satisfied that the clause 4.6 variation request is acceptable.

7. Advertisement

The changes made in the amended application were not considered so significant as to warrant further formal advertisement.

² Clause 4.6(4)(a)(ii), *"Development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the proposed development will be in the public interest because it is consistent with the ... objectives for development within the zone in which the development is proposed to be carried out"*.

8. Conclusion

This report provides an assessment of the post-deferral revisions to the application. For the reasons outlined in this report, it is considered that the proposal does not yet satisfactorily meet the requirements of the applicable planning framework. As such, refusal is recommended. The draft reasons for refusal have been updated to remove reference to issues resolved by the revised drawings. Draft without prejudice condition of consent will be provided under separate cover. Council remains of the view that the outstanding matters are resolvable through further amendments and information.

9. Recommendation

- A. That, pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979, the Sydney Central City Planning Panel, as the consent authority, refuse consent to DA/61/2018 for a 21 storey mixed use building comprising 2 – 3 storey podium containing 5 retail tenancies and 18 storeys of shop-top housing above containing 130 apartments (46 x 1 bed, 70 x 2 bed and 14 x 3 bed) over 4 storeys of basement car parking; public through-site link; and demolition of existing buildings at 48-54 Beecroft Road and 52-54 Rawson Street, EPPING NSW 2121 for the following reasons:
1. The proposal is contrary to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* in that the proposal does not satisfy Clause 4.3 'Height of Buildings' of *Parramatta Local Environmental Plan 2011*. Specifically, the proposal would result in a breach of the height development standard and the applicant's written request pursuant to Clause 4.6 'Exceptions to development standards' of *Parramatta Local Environmental Plan 2011* cannot be supported as the zone objectives have not been met.
 2. The proposal is contrary to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* in that the proposal does not satisfy Clause 4.4 'Floor Space Ratio' of *Parramatta Local Environmental Plan 2011*. Specifically, the proposal would result in a breach of the floor space ratio development standard and the applicant's written request pursuant to Clause 4.6 'Exceptions to development standards' of *Parramatta Local Environmental Plan 2011* is not supported.
 3. The proposal is contrary to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* in that the proposal does not satisfy Clause 86 'Excavation in, above, below or adjacent to rail corridors' of State Environmental Planning Policy (Infrastructure) 2007. Specifically, the rail authority, Transport for NSW (Sydney Metro), has not provided their concurrence.
 4. The proposal is contrary to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* in that the proposal is inconsistent with the guidance in Section 4.15 'Epping Town Centre' of the *Parramatta Development Control Plan 2011*. Specifically, the proposal would:
 - a. Not achieve the desired future character and objectives of the area;
 - b. Not provide a public pedestrian through-site link clear of obstructions (i.e. landscaping, screening); and
 - c. Result in unacceptable wind impacts on the public domain.
 5. The proposal is contrary to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* in that the proposal is inconsistent with the guidance in Section 2.4 'Public Domain' of the *Parramatta*

Development Control Plan 2011. Specifically, the submitted alignment plans do not contain sufficient information to demonstrate compliance with the Parramatta Public Domain Guidelines.

6. The proposal is contrary to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, in that the proposal does not satisfy Clause 2.3 'Zone objectives and Land Use Table' of *Parramatta Local Environmental Plan 2011*, Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act, 1979* in that the proposal is inconsistent with the guidance in 3.6.1 'Sustainable Transport' of the Parramatta Development Control Plan 2011 and Sections 4.15(1)(b), (c) and (e) of the *Environmental Planning and Assessment Act 1979*. Specifically, the proposed Green Travel Plan would not sufficiently incentivise public transport, cycling and walking.
7. The proposal is contrary to the provisions of Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979* in that the proposal's non-compliances and inconsistencies with the provisions of adopted environmental planning instruments and a development control plan are not in the public interest and would set an undesirable precedent.