

4 July 2019

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By email

Dear Ms Concato

Sydney Central City Planning Panel - 2018SWC012 DA - DA/61/2018 - 48 - 54 Beecroft, 49 - 53 Beecroft Road and 52 - 54 Rawson Street, EPPING (Land)

1. We act for DGS Epping Development Pty Ltd, the owner of the Land, the subject of the abovementioned development application DA/61/2018 (**DA**).
2. We refer to the decision of the Sydney Central City Planning Panel (the **Panel**) to defer the determination of the DA on 3 April 2019 and Council's letter to the applicant dated 17 June 2019 by Alex McDougall.
3. We note that in its decision to defer the determination of the DA, the Panel determined that:

Reasons for 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.

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

4. This additional information was provided to Council on 21 May 2019.
5. We also understand that Council’s inhouse legal team agrees with our advices of 7 March 2019 and 29 March 2019.
6. Our client was therefore both surprised and disappointed to receive the **attached** correspondence from Council. This is particularly due to the fact that:
 - (a) The matters noted in the letter do not raise any significant issues with the information provided per se, including the design of the through site link which was the key issue to be resolved.
 - (b) Council requests a significant amount of detailed information and further information that was not, in fact, requested by the Panel. These are matters which would be dealt with via conditions of consent in the ordinary course. There are no matters raised which we consider raise any significant issues which would warrant any further delay in the final determination of the DA.
 - (c) It is clear that the Panel Determination required this information to be submitted and then a further meeting would be held by the Panel. This has been done. As far as we can see from the Panel Determination, there was no requirement for further Council detailed assessment, and for any matters raised from this assessment to be resolved “to Council officers’ satisfaction” before the DA could again be considered by the Panel.
7. Nonetheless, in response to the issues raised in that letter, we note that:

Matter raised	Response
Public domain	We note the comments in this regard. However, each of these are detailed design issues that are fully capable of being appropriately conditioned to be resolved. Suggested conditions are provided at Attachment A .
Wind	<p>We note that Council has requested that the through site link and public footways are to be impeded by nothing except street tree planting anticipated by the Public Domain Guidelines. In this regard, Council has referenced a figure extracted from the RWDI report.</p> <p>Firstly we note that this is a wind tunnel model (as required by Part 4.5.1 C.50 of the DCP) and not an architectural model. Therefore, the elements modelled are representative of porous screens or landscape elements. This is discussed in further detail below.</p> <p>Secondly, the key question is how “calm” conditions need to be, depending on the intended future use and purpose of the through site link.</p> <p>That is, if the Panel requires conditions to be suitable for outdoor dining, then ground plane treatment is required, as discussed below. Otherwise, if the through site link is intended to be a thoroughfare, then the landscaping treatment as proposed will be in accordance with the Public Domain Guidelines (together with the awning along Hunts Lane as indicated in the architectural drawings).</p>

	<p>With the currently proposed landscaping treatment, wind conditions would only be considered to be “windy” (more than 17 metres per second) on the corner of Rawson Street and Hunts Lane, with a wind speed of 18 metres per second. We note that this represents that highest expected “gust” speed, or worst case scenario. A wind speed that is considered to exceed safe parameters (which might cause less able bodied persons to lose their footing) is 23 metres per second. We also note that wind speed will improve as the expected future massing for the precinct as part of the masterplan will shield this wind effect on the southern aspect. If the Panel wishes to reduce the wind speed further in addition to the proposed landscape treatment, then an additional tree could be placed on the corner of Rawson Street and Hunts Lane, but that tree would interfere with the proposed canopy arrangement that the Panel wanted over the public through site link.</p> <p>Further testing has also been undertaken for treatments including canopy arrangement as well as mitigation measures at the ground plane. The depth of the awning indicated is such that further extension will provide no real beneficial wind mitigation effect as the wind flow is at the ground plane.</p> <p>Inclusion of treatments at the ground plane in the form of porous screens (as per the modelling) would provide a suitable mitigation of these wind impacts for outdoor dining. These treatments can also be in the form of landscaping elements which will have a similar mitigation effect. The testing supporting this conclusion utilises a wind tunnel model to correctly account for the wind flow effects at scale and is not an architectural model (as required by the DCP). These treatments enable standing and walking criteria to be provided.</p> <p>With the introduction of treatments at the ground plane as suggested above, and with the anticipated development of the surrounding areas in the future, the projected wind impacts will be acceptable for walking and standing activities.</p> <p>If the Panel requires an obstruction free thoroughfare as per Council’s suggestion, then the Panel should accept the proposed landscaping treatment which minimises wind aspect along the thoroughfare, with only the corner of Rawson Street and Hunts Lane exceeding the relevant criteria slightly. If seating is to be achieved within the through site link however, some treatment would be required as per the modelling.</p> <p>We therefore suggest that should outdoor dining or seating be proposed within this area in future, that appropriate ground plane treatment be required at that stage.</p> <p>In addition, as we have raised above, whatever solution is ultimately chosen, the expected future massing for the precinct as part of the masterplan will shield this wind effect on the southern aspect, with the result that wind conditions will improve.</p>
Residential entry	<p>This area will not be a “dark dead-end trap point” as expressed in Council’s letter. Indeed, it receives access to substantial natural light from the through site link (southern wall height only between 900mm-1270mm) and also from the void above the residential lobby that acts as a large lightwell. This area will also be part of a lighting strategy for the external and publicly accessible parts of the building ensuring that this area is sufficiently lit.</p>

	<p>Furthermore, this area is considered to have adequate levels of natural surveillance from passing foot traffic using the through site link and also from Rawson Street where pedestrians would have a direct line of sight into the residential entry. As such, it would be very difficult for a potential perpetrator to lie in wait or entrap a victim in this area without being easily identified and from a distance. Also, there is expected to be a sufficient level of activity and effective guardianship in this area, with it being the main entrance from Rawson Street to the 130 residential units of the building and also in close proximity to the 165m² retail tenancy fronting Rawson Street and the through site lane.</p> <p>We note however that, any safety or security concerns Council has could be easily resolved through appropriate conditions of consent. It is further noted that Council's recommendation to internalise this area would increase GFA and thus breach the 6:1 FSR development standard for little practical improvement in safety and security.</p>
<p>Green Travel Plan (GTP)</p>	<p>There do not appear to be any reasons or policy basis for the additional matters raised by Council in relation to the GTP (including under any applicable DCP), other than the fact that they have been included in other plans. Clearly provisions in a GTP for another development should not be the key reason as to why they need to be included here and regard must be had to the nature of the development itself.</p> <p>Furthermore, the issues raised by Council which would warrant amendment of the GTP are minor in nature and can be addressed at the construction or occupation certificate stage. There is no reason as to why these matters should in any way delay the assessment of this DA.</p> <p>In particular:</p> <ul style="list-style-type: none"> ▪ At the panel meeting, our recollection is that the Chair requested that <i>one</i> additional car share space was to be provided (although this was not necessarily specified in the Panel's report). As requested by the Chair, we have provided one additional car share space. We are not aware of any policy basis to require 4 spaces to be provided; ▪ End of trip facilities were discussed with the Panel at the last meeting. With no commercial tenancies, only retail and residential, end of trip facilities are not necessary for this development; ▪ As previously discussed with Council, our traffic consultants are unconvinced as to any behavioural change encouraged through an Opal card, as travel needs and mode are highly dependent on the final destination which, depending on non-car alternatives, will define the behaviours of residents. However, if necessary, this can be referenced in any final GTP, if necessary; ▪ Car-pooling information can be provided in any final GTP, if necessary. <p>We suggest that a final GTP be submitted prior to the issue of an occupation certificate of the building as is currently required in Council's DCP.</p>
<p>Alignment drawings</p>	<p>Revised drawings are attached.</p>

Universal access	This is noted and can be resolved in final detailed design drawings.
FSR	We are instructed that the 28sq/m of the retail waste storage was not counted as GFA. However, the storage area on the first floor has been deleted on the most recent plans submitted to Council. Therefore, the FSR is 5.99:1, being less than the applicable maximum 6:1 FSR development standard applicable to the site under Parramatta LEP 2011.
Drawings	Once again, this can be provided by a condition of consent at construction certificate stage (see Attachment A)

8. In relation to Sydney Metro, we appreciate that the Panel was not prepared to refuse or approve the DA without a further acceptable response from Transport for NSW (Sydney Metro). We are instructed that the applicant has been liaising with Sydney Metro directly and has provided Sydney Metro with all the information the applicant understands to be required, including a certificate from the applicant's structural engineers clearly stating that the final design after the DA is approved will ensure that none of the acceptable deflections by Sydney Metro will be exceeded.
9. As is clear from the above therefore, there are no significant issues outstanding and all of the minor design matters raised in Council's latest correspondence can be and would ordinarily be resolved at the detailed design stage. Accordingly, subject to shortly receiving the requisite confirmation from Sydney Metro, we see no reason as to why the Panel cannot consider the DA at its next meeting of July.
10. As you may be aware, our client has been seeking to work cooperatively with Council for more than 2 years and has addressed and responded to all of Council's issues in relation to this proposal. Most recently, this has included the provision of a stair free through site link. While our client would prefer that this matter be resolved by the Panel, our client may be forced to lodge an appeal in the Land and Environment Court against the deemed refusal of this DA.
11. Furthermore, despite a number of requests, we have not yet received Council's draft conditions for the DA. We would be grateful if you could arrange for these to be provided at your earliest convenience.
12. We have provided a copy of this letter to the Secretariat and requesting that the DA be considered by the Panel at the earliest opportunity.
13. Should you have any queries, please do not hesitate to contact Breellen Warry, Partner.

Yours sincerely



Holding Redlich