

Supplementary report to the Sydney Central City Planning Panel

Panel reference: 2018SWC039

Development Application

DA number	SPP-18-00003	Date of lodgement	28 February 2018
Applicant	Yardhouse Pty Ltd		
Owner	Alexander Volfneuk and Elina Safro		
Proposed development	Demolition of the existing building and construction of an 8 storey shop top housing development comprising 7 ground level commercial tenancies, 131 residential apartments and 222 basement car parking spaces		
Street address	7 Luxford Road, Mount Druitt (Lot 2 DP 251863)		
Notification period	4 to 18 April 2018	Number of submissions	4

Assessment

Panel criteria Section 7, SEPP (State and Regional Development) 2011	<ul style="list-style-type: none"> Capital investment value (CIV) over \$30 million (DA has a CIV of \$39.3 million)
Relevant section 4.15(1)(a) matters	<ul style="list-style-type: none"> Environmental Planning and Assessment Act 1979 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development State Environmental Planning Policy No. 55 – Remediation of Land Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River Blacktown Local Environmental Plan 2015 Blacktown Development Control Plan 2015 State Environmental Planning Policy (State and Regional Development) 2011 Central City District Plan 2018
Original report date	5 July 2019
Panel meeting date and deferral	Considered at Panel meeting held on 25 July 2019. The Panel deferred determination of the application until the applicant provided a Site Contamination Phase 2 report.
This report date	26 September 2019
Report prepared by	Jared Spies
Recommendation	Approve, subject to the conditions listed in attachment 2.

Attachments

1. Phase 2 Site Contamination Report
2. Draft conditions of consent (amended)
3. Original report

Checklist

Summary of section 4.15 matters

Have recommendations in relation to relevant section 4.15 matters been summarised in the Executive summary of the Assessment report? Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments, where the consent authority must be satisfied about a particular matter, been listed and relevant recommendations summarised in the Executive Summary of the Assessment report? Yes

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the Assessment report? Not applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (section 7.24)? No

Conditions

Have draft conditions been provided to the applicant for comment? Yes

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1 Executive summary

- 1.1 This Supplementary Report is the second report on this proposal. This report considers additional information submitted by the applicant in response to the Panel's deferral of the Development Application on 25 July 2019.
- 1.2 The key issues that need to be considered by the Panel relate to the matters raised in its deferral and these are covered in Section 3 of this report.
- 1.3 Assessment of the additional documentation against the relevant planning framework and consideration of matters by our technical departments have not identified any issues of concern that cannot be dealt with by conditions of consent.
- 1.4 The application is therefore assessed as satisfactory when evaluated against section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended).
- 1.5 This report recommends that the Panel approve the application subject to the recommended conditions listed in attachment 2.

2 Previous Panel consideration of DA

- 2.1 The Sydney Central City Planning Panel met on 25 July 2019 to consider this Development Application and it made the following decision:

"The Panel is minded to approve the application but would defer determination to allow the Site Contamination Phase 2 report to be prepared. Upon receipt of the Council addendum report, the Panel will determine the matter electronically."
- 2.2 The Panel also requested that a condition of consent be added to ensure that future buyers of units be made aware that the existing McDonald's to the west of the site is a 24-hour operational food premises.
- 2.3 A copy of the original report is at attachment 3.

3 Assessment of the Panel's issues

3.1 Site Contamination Phase 2 Report

- 3.1.1 The applicant has now provided a Site Contamination Phase 2 Report which was prepared by an environmental engineering geologist from EI Australia (EI). The purpose of the report was to characterise soil and groundwater at the site and assess the suitability of the site for future residential land use. The primary objectives of the report were to:
 - investigate the degree of any potential contamination by means of intrusive sampling and laboratory analysis for relevant contaminants of concern
 - evaluate potential risks that the identified impacts may pose to human health and the environment
 - where site contamination is confirmed, make recommendations for the appropriate management of any contaminated soils and/or groundwater.
- 3.1.2 EI's scope of work included:
 - a review of relevant hydrogeological and soil landscape maps for the project area
 - a review of a previous contamination report for the site
 - detailed site walkover inspection
 - construction of test boreholes at 11 locations distributed in a triangular grid pattern across accessible areas of the site, complying with the minimum

sampling protocol recommended under Sampling Design Guidelines, NSW Environment Protection Authority, EPA 95/59, September 1995.

- installation of 3 groundwater monitoring wells to a maximum depth of 9 m, constructed to standard environmental protocols, to investigate potential groundwater contamination
- multiple level soil sampling within fill and natural soils at each of the test bores, as well as one round of groundwater sampling from the constructed groundwater monitoring wells
- laboratory analysis of selected soil and groundwater samples for the relevant analytical parameters, as determined during the investigation program
- data interpretation and recording.

3.1.3 The field observations and testing results were that:

- no visual evidence of gross contamination was observed in any of the drilled/examined soils
- no asbestos-containing materials fragments were observed in any of the drilled/examined soils
- no suspicious odour was detected in any of the examined soils
- all photo-ionisation detector readings were low, indicating a general absence of volatile organic compounds in the soils.

3.1.4 The report concludes that based on the findings of the investigations:

- no contaminants of potential concern were found to be elevated above the 'residential' criteria set out in the National Environment Protection Measure 2013 Guidelines in any soil or groundwater samples tested as part of this investigation
- although a data gap exists (quality of soils beneath the existing building and hazardous material in site structures), it is not considered to be a cause of environmental concern if appropriate management of soil and demolition materials during the redevelopment works follow the recommendations provided in the report
- the site is suitable for the proposed development provided the recommendations provided are implemented.

3.1.5 To ensure appropriate management of soil and demolition materials during the redevelopment works, EI recommends that:

- waste classification of all excavated material be in accordance with NSW EPA (2014) Waste Classification Guidelines for the off-site disposal of waste
- development of an unexpected finds protocol for implementation should any unforeseen contamination is identified during basement excavation and earthworks.

3.1.6 In addition, as there is potential for hazardous materials to be present within the existing building on the site, EI recommends:

- the completion of a Hazardous Materials Survey of existing structures prior to any demolition works required by the development
- completion of clearance inspections following the demolition of site structures and removal of demolition debris.

- 3.1.7 The report has been reviewed by our Environmental Health Officer who is satisfied with the further investigations undertaken subject to recommendations being added as conditions of consent 9numbered – 3.5.1, 4.3.1, 5.2.3, 10.1.1 and 14.1.3).

3.2 Proximity of site to 24 hour McDonalds's restaurant

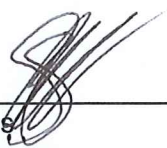
- 3.2.1 The Panel noticed at its site inspection the close proximity of the site to a 24-hour, 7-days a week operational McDonald's restaurant.
- 3.2.2 The Panel considered it appropriate to pre-warn purchasers of units of this future development, to enable them to make informed decisions about whether they want to live next door to this 24/7 use.
- 3.2.3 A condition (numbered – 15.17.2.2) has been included requesting a positive covenant that pre-warns purchasers of this nearby use on the title of the land.

4 Conclusion


- 4.1 The proposed development has been assessed against all relevant matters and is considered to be satisfactory. The likely impacts of the development have been satisfactorily addressed and the proposal is in the public interest. The site is considered suitable for the proposed development subject to conditions.
- 4.2 A condition has been included requesting a positive covenant that pre-warns purchasers of this nearby use on the title of the land.

5 Recommendation

- 1 Approve Development Application SPP-18-00003 for the reasons listed below and subject to the conditions listed in attachment 2.
 - a The Site Contamination Phase 2 report confirms that the soils and groundwater tested on site are not contaminated and that the site is suitable for the proposed development subject to the recommendations of the investigations being implemented. The proposal therefore satisfactorily addresses the requirements of *State Environmental Planning Policy No. 55 – Remediation of Land*.
 - b This shop top housing development is considered suitable for the site, being in a B4 Mixed Use Zone and is consistent with the objectives of the zone.
 - c The proposal will activate the Luxford Road street frontage and encourage a diversity of services and opportunities for employment in the area.
 - d The proposed building will revitalise the streetscape and key entry into the Mount Druitt CBD from Luxford Road by replacing the existing vacant, dilapidated and vandalised building on the site.
 - e The proposal will assist in delivering higher density housing options in the area by introducing a range of apartment dwellings. The shops proposed will be convenient in providing services directly to the increased population that will result from this development.
 - f The proposal is in the public interest.
- 2 Council officers notify the applicant and submitters of the Panel's decision.



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