



Our reference: DA20/0858

Contact: Stephen Kerr and Olivia Page (Consultant Planner)

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9 December 2022

Mr Justin Doyle

The Chair – Sydney Western City Planning Panel

C/ - Secretariate - Sydney Western City Planning Panel

Sent by email: [george.dojas@planning.nsw.gov.au](mailto:george.dojas@planning.nsw.gov.au)

Dear Mr Doyle,

**PPSSWC-124 – 20/0858: 99a Henry Street, Penrith (Soper Place Carpark)**

**Proposed Development:** Construction of a part nine storey and part five storey mixed use building comprising a public car park with 686 spaces, four storeys of office premises with a ground floor lobby and associated car parking, a multi-purpose community space on part of the ground floor, a public park on level 5, subdivision of a residual lot and associated demolition, tree removal, public domain and road works.

**INTRODUCTION AND MATTERS FOR DEFERRAL**

This letter is a memorandum which seeks to provide the Sydney Western City Planning Panel (SWCPP) with an update on DA20/0858. The original assessment report dated 25 October 2022 recommended deferral subject to resolving the below list of matters. The SWCPP was briefed on 2 November 2022. Following receipt of the Record of Deferral, Council issued the applicant subsequent correspondence reconfirming the exact particulars required to address the matters for deferral. This correspondence was issued via email on 14 November 2022 and encompasses the reasons for deferral outlined by the SWCPP in the Record of Deferral:

- *Cover letter, which in detail, addresses each of the items for deferral in the Assessment Report, SWCPP Record of Deferral and this email (the latter is all encompassing for ease).*
- *Amended demolition plan (DA03 rev C) which captures all demolition work required to accommodate the proposed development, including Lot 11 DP854412 (Penrith Community Health Centre).*
- *Noting the DA no longer proposes subdivision, if the applicant is happy with the suggested interim approach by the SWCPP, prepare, and submit a detailed landscape plan for the northern development lot (residue land).*



*Drawing Northern Lot Landscape concept dated 19 July 2022, submitted with the August 2022 package, is incomplete.*

- *An applicant response as to how the endorsed scheme by the Competitor Jury is “substantially the same” as that which was the winner of the design competition. Suggest including photomontages to point to the changes and how in the context of these, the development, remains substantially the same.*
- *Formal owners consent for the proposed works on Lot 11 DP854412 (Penrith Community Health Centre).*
- *Additional contamination testing as described in the Assessment Report to determine whether the parent lot is contaminated and if any work is required to make the land suitable having regard to Section 4.6 of the RHSEPP. This includes a Detailed Site Investigation (DSI) for the untested area on the parent lot south of BH21 on the northern development lot (residue land). If the DSI requires a Remediation Action Plan, a RAP, which outlines how the site can be made suitable for the land use.*
- *An updated Services Management Plan and Transport Assessment which:*
  - *Confirms with the servicing arrangement for the properties on the southern side of Soper Place, resolving the current conflict with loading bays 2 and 3. Provide updated swept path analysis and text response.*
  - *Please explain why swept path AG1491-22-v6 issued to Council on 02/11/22 depicts a reverse movement into the existing loading bay of 87- 89 Henry Street, rather than entry forward and exit in reverse.*
  - *Confirm Penrith Community Health Centre consent to the servicing arrangement comprising 6.4 metre small ridge vehicle and their nominated service provider will use the proposed roundabout to do so.*
  - *Attach the updated swept paths provided on 02/11/22 which confirm how the following two items are resolved:*
    - *Demonstrate how the 9.7 metre truck, not being perpendicular on the exit swept path as it leaves the subject site, will mitigate safety concern for sight distance to pedestrians.*
    - *Swept paths to show the vehicle once it has continued further down Soper Place toward Woodriff Street and straightened its wheel. Clarify the speed at which the swept path is modelled, noting modelling swept path by turning wheels on the spot is not acceptable).*
- *An updated Waste Management Plan which reflects any amended servicing and waste collection associated with the DA.*



## AMENDED DA SUBMISSION BY THE APPLICANT

On 25 November 2022, the applicant submitted their amended DA which comprised the following documentation:

- Cover Letter prepared by Ethos Urban dated 25 November 2022
- Consolidated Detailed Site Investigation prepared by JBS&G dated 25 November 2022
- Consolidated Remediation Action Plan prepared by JBS&G dated 25 November 2022
- Northern Development Lot Landscape Plan prepared by Penrith City Council dated 24 November 2022
- Owners Consent Letter from Nepean Blue Mountains Local Health District dated 7 November 2022
- Design Excellence Letter prepared by Durbach Block and Jagers dated 23 November 2022
- Amended Site Analysis Plan (drawing DA02) prepared by Durbach Block and Jagers dated 23 November 2022
- Amended Services Management Plan prepared by Ason Group dated 24 November 2022
- Amended Waste Management Plan prepared by Enstruct dated 22 November 2022

## ONGOING ASSESSMENT

The following table provides a high-level assessment of the amended DA addressing the matters for deferral.

Table 1: Assessment against items for deferral

| ITEM   | COUNCIL ASSESSMENT   |
|--|--|
| <b>Cover letter</b>                            | Satisfactory, noting the below.  |
| <b>Amended demolition plan</b>                 | Drawing DA02 does not capture the demolition works required on the northern development lot to facilitate the (now) proposed landscape works.<br><br>Council has requested drawing DA02 be amended to capture all demolition works in the Urgent RFI Letter dated 7 December 2022. |
| <b>Subdivision of northern development lot</b> | The applicant has removed the subdivision of the northern development lot.   |
| <b>Interim landscaping for</b>                 | A satisfactory landscape plan depicting the proposed landscaping on the northern development lot has been submitted.   |



| ITEM  | COUNCIL ASSESSMENT   |
|---|--|
| <b>northern development lot</b>                   |  |
| <b>Design excellence</b>                          | <p>Durbach Block Jaggers has prepared a letter (dated 23 November 2022) which details how the endorsed scheme by the Competition Jury is “substantially the same” as that which was the winner of the design competition.</p> <p>Council's Supplementary Assessment Report will assess this in further detail.</p>   |
| <b>Formal owners consent from Lot 11 DP854412</b> | Formal owners consent has been provided by Nepean Blue Mountains Local Health District, the owners of Penrith Community Health Centre, being Lot 11 DP854412.  |
| <b>Additional contamination testing</b>           | <p>Council's Environmental Health Officer has reviewed the Consolidated Detailed Site Investigation (DSI) and Consolidated Remediation Action Plan (RAP) dated 25 November 2022.</p> <p>The DSI and RAP reference the northern development lot being maintained as an on-grade carpark, when in fact it is proposed as landscaped area, in accordance with the Northern Development Lot Landscape Plan dated 24 November 2022.</p> <p>Council in their Urgent RFI to the applicant dated 7 December 2022, stated that the DSI and RAP must be amended and resubmitted to accurately reflect the proposed use of the northern development lot and, commentary and recommendations are to ensure the site can be made suitable for the actual land uses now proposed.</p> <p>In addition, the applicant has been requested to ensure that the DSI and RAP confirm whether there will be any implications associated with the proposed northern development lot landscaping being installed on the existing and broken up asphalt surface from a land contamination perspective. As required, recommendations and mitigation measures are to be included to ensure compliance with <i>State Environmental Planning Policy (Resilience and Hazards)</i> 2021 and other relevant policies and guidelines.</p> |
| <b>Amended Services Management Plan</b>           | <p><b><i>Servicing arrangement for properties on southern side of Soper Place</i></b></p> <p>The assessment of the amended application continues to raise no concern with the use of loading zone 1 for the purposes of waste collection and servicing and loading.</p> <p>However, the applicant has amended the Services Management Plan (SMP) with the intended use of loading zones 2 and 3 for servicing, loading and waste collection for the properties on the southern side of Soper Place, with relevant signposting.</p> <p>Council's Traffic Engineer and Consultant Planner has reviewed this amended arrangement and deem it not acceptable given the vehicular conflicts and greater frequency associated with servicing/loading compared to solely waste collection.</p> <p>Subject to providing evidence of engagement and agreement from the affected properties on the southern side of Soper Place, Council's Traffic Engineer has formed a view that loading bays 2 and 3 could be supported for waste collection only, with regulatory signage (i.e. no parking except by waste collection</p>  |



| ITEM | COUNCIL ASSESSMENT   |
|------|--|
|      | <p>vehicle). Servicing and loading are to occur on-site each respective site, as it can be accommodated as documented in the original Council assessment report dated 25 October 2022.</p> <p>The applicant has been requested to provide evidence to Council that these affected properties agree to the above (supportable) arrangement for loading bay 2 and 3. Should evidence not be provided, re-notification to the affected landowners will occur.</p> <p>In summary, this results in two outcomes:</p> <ul style="list-style-type: none"> <li>• The applicant is to provide an amended Services Management Plan which: <ul style="list-style-type: none"> <li>○ Confirms loading zone 2 and 3 will only be used for waste collection;</li> <li>○ Delete the statement in Section 2.4 SMP which notes that Council's Waste Management Team will <i>"engage with the owner/occupiers of the Properties of Concern, with a view to continue providing waste management services to services the Properties of Concern"</i>. This is not the responsibility of Council's Waste Management Team.</li> <li>○ Agreement from the affected properties for this arrangement.</li> </ul> </li> </ul> <p><u>or</u></p> <ul style="list-style-type: none"> <li>• The proposal is not supportable given the inadequate width of Soper Place.</li> </ul> <p><b>Waste collection for Penrith Community Health Centre</b></p> <p>While Owners Consent has been provided for the works on Penrith Community Health Centre (PCHC). Council's Waste Officer understands the waste servicing for PCHC post development of Soper Place Carpark may not be able to be accommodated with the current contractor.</p> <p>It is unclear from the SMP whether an agreement with a contractor has been secured to utilise the indented bay on Woodriff Street and wheel bins to/from the holding area.</p> <p><b>Swept paths</b></p> <p>The applicant has:</p> <ul style="list-style-type: none"> <li>• Provided amended swept paths and confirmed the exit swept path has been modelled at 5km/h with no turn from stop. Council's Traffic Engineer raised no concern with this matter in their referral response.</li> <li>• Provided amended swept paths which depicts how the 9.7 metre truck, not being perpendicular on exit swept path as it leaves the subject site, mitigates safety concern for sight distance to pedestrians. Council's Traffic Engineer did not raise any concern with this in their referral response.</li> </ul> |



| ITEM                                 | COUNCIL ASSESSMENT   |
|--------------------------------------|--|
|                                      | These items were raised with the applicant in the Urgent RFI Letter dated 7 December 2022 and Email RFI dated 8 December 2022.   |
| <b>Amended Waste Management Plan</b> | The applicant has provided an Amended Waste Management. However, reference is to be made to the comments earlier in this table regarding the waste, servicing and loading for the properties on the southern side of Soper Place, which are proposed to utilise loading zones 2 and 3, and PCHC. |

## CONCLUSION

As outlined in Table 1, Council issued an Urgent RFI to the applicant on 7 December 2022 and subsequent Email RFI on 8 December 2022 which raised urgent matters relating to contamination, traffic management, waste servicing and the demolition plan. The applicant was advised they have until 5.00pm Wednesday 14 December 2022 to provide the information as the DA in its current form cannot be supported. Should the timeframe be unable to be achieved, the applicant has been requested to withdraw the DA, or the Development Application will be reported back to the SWCPP for determination with a recommendation for refusal.

Should you wish to discuss the contents of this letter, please do not hesitate to contact the Consultant Planners, Stephen Kerr (Executive Director) or Olivia Page (Associate) on (02) 9068 3500 or [stephenk@gyde.com.au](mailto:stephenk@gyde.com.au) or [oliviap@gyde.com.au](mailto:oliviap@gyde.com.au).

Yours Sincerely,

**Olivia Page**

CONSULTANT TOWN PLANNER