

MEMORANDUM

To: Sydney Western City Planning Panel
From: Kathryn Saunders, Senior Development Assessment Planner
Date: 26 May 2021

DA20/0167, Regional Panel Reference - PPSSWC-69

Subject: Construction of a Part 7, Part 46 Storey Mixed Used Development Containing 272 Residential Apartments and Serviced Apartments with 41 Keyed Rooms including 4 Storey Podium Containing Ground Floor Retail Premises and Car Parking, Office Premises and Upper Level Car Parking and including One Level of Basement Car Parking and Associated Landscape, Civil and Stormwater Works

This memorandum is provided in response to the matters raised within the Sydney Western City Planning Panel's (the Panel) Record of Deferral dated Monday, 26 April 2021, in relation to the above-mentioned development application.

List of Attachments:

Appendix A – Council's Assessment Report
Appendix B – Record of Deferral
Appendix C – Applicant's Response Letter with Attachments
Appendix D – Think Planners Letter dated 3 May 2021

At the public meeting held by teleconference on 26 April 2021, the Panel unanimously agreed to defer the determination of the matter for a short period of time to allow the Applicant to clarify with the benefit of the Council report and the discussion of the Panel's reasons, which are listed below:

- (a) Any additional information it proposes to supply;
- (b) Any amendments it proposes to make to the development application; and
- (c) Specifically, the nature of community infrastructure to be included in the proposed development under clause 8.7 of Penrith LEP.

The panel noted that it anticipates that with the benefit of that additional information it will determine electronically whether to allow for a further deferment, or alternatively whether the development application should thereupon be approved or refused.

A copy of Council's Assessment Report recommending Refusal is provided at **Appendix A**, and a copy of the Panel's Record of Deferral is included at **Appendix B**.

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In relation to (a) above, the Applicant has submitted a package of material which is provided at **Appendix C** for the Panel's consideration which comprises the following:

- Think Planners cover letter dated 17 May 2021;
- DKO Architects Draft Plan of Subdivision DA416;
- DKO Architects Revised Ground Floor Plan DA201;
- DKO Architects Building Separation Level 04 Plan DA144;
- DKO Architects Overshadowing Analysis DA412;
- Turf Design Studio Landscape Documents, dated May 2021, Issue A;
- McLaren Traffic Engineering Peer Review, dated 14 May 2021; and
- HillPDA Feasibility of Residential Apartments letter, dated 14 May 2021.

Council also received a letter dated 3 May 2021 prepared by Think Planners, which is provided at **Appendix D**.

In relation to (b) and (c) above and as detailed in the Think Planners cover letter dated 17 May 2021 at **Appendix C**, the following is proposed:

- In relation to community infrastructure, the applicant proposes to dedicate as public road, 319sqm of land along the site's western boundary and to embellish this area as pedestrian thoroughfare (refer to DKO Plan DA416).
- Amendments to the proposal as expressed in the applicant's response material comprise the following:
 - (i) An increased building setback of a further 5m to the western site boundary;
 - (ii) An increase in retail and commercial floor space at the ground level;
 - (iii) Decluttering of services and the creation of deeper retail spaces, with the site perimeter over 85% activated; and
 - (iv) The proposal to include a Right of Public Access over 960sqm of the ground floor area which is to be maintained by the Strata which contains gardens, outdoor furniture and safe and well-lit connectivity for pedestrians (refer DKO Plan DA416).

1. Council reply

(a) Clause 8.7 of PLEP and Community Infrastructure.

The Applicant's nominated *community infrastructure*, identified as being embellishment and dedication of a 319sqm portion of land adjacent to the western boundary of the site is not supported by Council and is unsatisfactory having regard to the objectives of Clause 8.7 and in relation to the nature and value of the community infrastructure to the City Centre.

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Council's traffic engineers confirm that a new north/south link road and the replacement of the existing High Street roundabout is required in conjunction with the re-development of the Precinct for the densities identified by the LEP and in accordance with the Precinct objectives described within the DCP.

There remains no certainty between both the subject development application (DA20/0167) and the adjoining Toga development application (DA20/0148) that a signalised intersection will be delivered in the location envisaged by the DCP and thus the portion of land to be provided by the Applicant as *community infrastructure* has little value to the City Centre.

It is further noted that the area of land proposed as *community infrastructure* conflicts with the location of the DCP road and thus its role as a pedestrian plaza or thoroughfare is likely to be temporary.

As a stand-alone area of pedestrian thoroughfare, the utility and function of this area to City Centre residents is not understood. There is no identified need for a pedestrian only thoroughfare or plaza in Council's plans or policies in this location.

Notwithstanding the above, the letter dated 3 May 2021 prepared by Think Planners (**Appendix D**) confirms that the applicant has withdrawn all previous offers of community infrastructure.

(b) Traffic

No amendment is made to the Applicant's proposal that all traffic generated by the development will utilise Union Lane, which is an existing two-way lane terminating in an unformed dead end at its western end.

With the exception of pedestrian upgrades along the site's frontages, there are no traffic upgrades proposed by the Applicant for Union Lane or in relation to its uncontrolled intersection with Worth Street.

Council disagrees with the following assertions in the McLaren peer review document:

- (i) That there will be no change in the level of service at any of the surrounding intersections as a result of the traffic generation of the site. Council understands that there are some existing Level of Service (LOS) failures along Worth Street at both bookends (signals). The contribution of even marginal traffic generation further exacerbates the poor LOS and as such no development traffic, other than potentially servicing vehicles, may utilise Union Lane until alternate relief valves are offered in this quadrant. The detailed SIDRA modelling output files from the proponent's own DA,

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confirm these poor LOS results for both intersection and individual leg performance;

- (ii) That the construction of the new north/south link road (as identified in Section E11 of the Penrith DCP) is not needed to achieve acceptable access to the development, and in turn that no changes are required to the existing roundabout; and
- (iii) That no road network upgrades are required to facilitate the development.

In addition, the McLaren peer review notes (at p. 7 of 8), that *'swept path testing of the entrance to Union Lane from Worth Street indicates that it is not possible for light vehicles to pass a heavy vehicle waiting to turn out of the laneway and vice-versa'*.

In resolution to this issue, a Plan of Management is suggested to be implemented which limits all servicing activities access Union Lane to avoid conflicts with typical peak periods.

Council does not agree that a Plan of Management can be imposed effectively or lawfully as a result of the development and in relation to access to a public road, and which services other sites. It is Council's position that any such plan of management could not be effectively implemented or managed. All service vehicles must be able to safely ingress and egress the site in a forward manner, and not conflict with any opposing vehicles.

Issues raised in Council's Assessment Report in relation to the following matters, remain unaddressed:

- Council's Assessment Report raises that the Penrith DCP (Part E11, 11.7.1.1 Precinct 1) specifically identifies that development of the Precinct should provide outcomes which include:
 - (i) The closure of John Tipping Grove between High Street and Union Road; a new public street providing direct connections between High Street and Union Road;
 - (ii) Replacement of the existing High Street roundabout with a signalised intersection at the junction of High Street and the new street; and
 - (iii) Potential extension of Union Lane to the west to provide access and additional street frontage;

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- (iv) Provide active frontage and land uses along the new street and High Street.

In relation to the above, with the exception of active frontages to High Street, the development does not satisfactorily contribute to the achievement of the above.

DKO Architects plan no. DA201 submitted in response to the Record of Deferral provides an overlay (in blue) of a signalised intersection design which has no approval and is not proposed by either applicant (Toga or Urban Apartments).

The overlay of the intersection provided with the McLaren peer review and on plan DA201, has not been endorsed by Council or TfNSW.

Council's traffic engineers advise that the re-development of the Precinct to the scale proposed requires the north/south road link and signalised intersection and as is identified in the DCP.

(c) Design matters

With regard to the design of the development and related matters detailed within the Panel's Reasons for Deferral, the following is noted:

- It is acknowledged that the Applicant has further elevated the design of the ground floor of the development, in particular within the site's eastern pedestrian laneway. Limited car parking and service areas are provided at ground floor.
- No basement plans are provided. It is not clear if one or two levels of basement are proposed.
- The drop off point along Union Lane and its connection to the eastern laneway is an improvement and will benefit users of the serviced apartments, providing a safe set down area for residential services such as taxis/uber, uber eats and other domestic short stay deliveries.
- The glazing to High Street and to the west need not be designed parallel with the site boundaries and the western corner glazing need not be square to the corner. More opportunities for public private spaces including art installation, could be investigated within entry lobby areas.
- The no. 3 retail tenancy could be provided with an opportunity to open up to the commercial lobby.
- The applicant has not demonstrated that Clause 8.7 is satisfied and as such, a FSR of 6:1 cannot be supported.

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The applicant has provided an amendment to the proposal and should the Panel be of a mind to further Defer the determination of the application, Council would seek additional time to liaise with its internal technical experts and the Applicant, noting that threshold issues surrounding traffic generation and community infrastructure remain unresolved by the submitted response material.

(d) Other matters

In relation to the Panel's comments at point 11 of the Reasons for Deferral, the applicant has not provided a response in relation to SEPP 55, although Council notes this is likely a matter which the Applicant could resolve.

In relation to the Panel's comments at point 12, the Applicant has not provided a response although these matters could likely be resolved through redesign of the onsite detention and in discussions with Council's technical traffic and waterways officers.

Recommendation

The additional information supplied should not be accepted to form part of the development application, as threshold issues of traffic generation and the satisfaction of Clause 8.7 of PLEP remain unresolved.

It is recommended that the Panel determine the application having regard to Council's attached Assessment Report and its recommendation.

Kathryn Saunders
Senior Development Assessment Planner