

31 August 2017

Stephen Murray  
Executive Director, Regions  
Planning Services  
GPO Box 39  
SYDNEY NSW 2001

Dear Stephen,

**Re: Gateway Determination – Planning Proposal for 2-6 Pilgrim Avenue and 9-13 Albert Road, Strathfield (PGR\_2016\_STRAT\_001\_00)**

As you are aware, on 18 October 2016, the Sydney East Joint Regional Planning Panel considered the Planning Proposal for 2-6 Pilgrim Avenue and 11-13 Albert Road, Strathfield at the pre-Gateway review. The Panel recommended that the Planning Proposal proceed to Gateway subject to the following changes and additional information:

- The proposal be extended over the whole street block to include the adjoining service station;
- The whole street block have a permissible FSR of 5:1 and a height limit of 54m;
- A development control plan be prepared and exhibited with the draft LEP;
- A new traffic study be prepared which applies to the whole street block; and
- Land contamination and hydraulic studies be left to the development application stage.

Following the Panel's recommendation, the applicant (JBA Urban Planning Consultants), submitted a revised Planning Proposal to Council in May 2017 accompanied by:

- Revised architectural drawings and urban design report prepared by Kennedy Associates Architects;
- Site survey plan prepared by DJ Barrington & Associates;
- Revised traffic impact assessment prepared by McLaren Traffic Engineers; and
- JRPP recommendation report and proceed to Gateway letter.

As you are aware, in Council's letter dated 20 July 2017, Council accepted the role of responsible planning authority (RPA) for the Planning Proposal. Subsequently, the Department of Planning & Environment (DP&E) requested that Council forward the Planning Proposal for Gateway Determination with a cover letter advising of any further comments and Gateway conditions.

Accordingly, Council officers are forwarding the attached Planning Proposal for Gateway Determination. However, Council officers have reviewed the Planning Proposal and raise a number of concerns which are detailed below. Based on the concerns, Council does not support the Planning Proposal in its current form. If the DP&E issues a Gateway Determination, it is recommended that the Planning Proposal be deferred until the matters of concern are addressed.

### **Defer Planning Proposal – Strathfield Priority Precinct**

As you would be aware, on 1 June 2017, the DP&E announced Strathfield as a Priority Precinct which would encompass the subject site (i.e. within 800m of Strathfield Station). The DP&E will be working with Council, the community, and other stakeholders to plan for growth in this precinct.

Council is not in favour of site-specific planning proposals within the Strathfield Priority Precinct whilst a precinct wide planning proposal is being prepared for the following reasons:

- a) The opportunities and cumulative impacts of revised planning controls intensifying development are better considered and managed on a precinct wide basis, particularly given the site's location in proximity to the Canada Bay and Burwood LGAs. The Priority Precinct process will enable consideration of the subject Planning Proposal in context of the wider precinct, ensuring a consistent planning approach across the three (3) councils;
- b) Site-specific amendments to planning controls may pre-empt or be contrary to the desired outcomes of a precinct wide plan; and
- c) Site-specific planning proposals divert resources away from precinct planning, slowing the process and resulting in inequitable outcomes within the precinct.

Accordingly, it is recommended that the subject Planning Proposal and other site-specific planning proposals within the Strathfield Priority Precinct be deferred until precinct wide planning has been undertaken.

### **New Planning Proposal**

The Panel's recommendation to extend the Planning Proposal over the whole street block to include the adjoining service station at 9 Albert Road, Strathfield is noted. However, the inclusion of the service station almost doubles the size of the precinct. Accordingly, it is Council's position that the changes recommended by the Panel are of such significance that they warrant the submission of a new Planning Proposal. Council is also of the view that consent should be obtained from all landowners within a Planning Proposal that is not initiated by Council. Landowner consent would also facilitate access to properties to undertake any necessary studies whose recommendations will affect the development outcomes, such as contamination investigations for the existing service station forming part of the subject Planning Proposal.

There is no evidence provided to demonstrate that the landowner of 9 Albert Road has been consulted or is aware that another landowner is lodging a Planning Proposal for their land.

Moreover, it is likely that a masterplan for the precinct would be compromised by the uncertainties of rezoning land owned by individuals who are not seeking a rezoning.

If the service station owner does not wish to develop their site, land use conflicts may arise with the adjoining development so an assessment of the impact of the service station, such as fumes and the hours of operation, on a development at 2-6 Pilgrim Avenue and 11-13 Albert Road (i.e. Site 1) should be submitted with the Planning Proposal. Applying the same logic, at the development application stage, a single application should be lodged for the precinct to ensure a cohesive development where services, basements and driveway access can be shared.

As previously indicated, it is Council's position that consent should be obtained from all landowners within a rezoning proposal that is not Council initiated. Council has not identified the subject precinct as a priority rezoning area and therefore, has no intention of initiating a planning proposal for this precinct at this stage.

### **Excessive Densities**

It is recognised that the site has the potential to accommodate greater density and height. However, the Planning Proposal fails to justify why this particular site is suitable for such a significant uplift in height and floor area which is in direct contravention of the established hierarchy of the *Strathfield Local Environmental Plan 2012 (SLEP 2012)*.

The Planning Proposal attempts to justify the additional height and density by relying upon the proximity of the site to the Strathfield Town Centre and a draft concept plan for the future of the Town Centre which was prepared by Council a number of years ago.

The site is **not** located within the area that has been identified as the Strathfield Town Centre. Furthermore, the Planning Proposal places too much emphasis on the approaches taken in centres such as Chatswood, Burwood and Hornsby in their response to the interface between higher density town centres and their surrounding lower density residential areas. This approach is irrelevant to the specific characteristics of the subject site and the strategic context within which Strathfield is located.

Last year, Council engaged *David Lock & Associates (DLA)* to conduct a peer review of the originally submitted Planning Proposal and to provide advice regarding an appropriate FSR and height for the site. The original Planning Proposal recommended a maximum building height of 70 metres and FSR of 8.3:1.

DLA determined that contextually the proposed heights and densities were too high. DLA recommended a maximum building height of 14 storeys with shorter buildings of 8 and 11 storeys and an overall FSR of 4.5:1 based on the indicative layout scheme submitted by the proponent at the time. DLA also recommended:

- Higher densities be located adjacent to the railway line with heights stepping down towards the lower density residential areas;
- Development to a maximum height of 11 storeys should continue along Albert Road and wrap around the corner fronting Raw Square; and

- Development should provide a lower street wall to the west along Pilgrim Avenue with a 3 storey podium and a maximum of 8 storeys to respond to the lower density residential area, provide more articulation, soften the street wall edge, create a pedestrian scale at ground level and reduce overshadowing.

Council officers also recommend in accordance with the Panel's recommendation that a distribution of heights be provided across the site with the highest buildings closest to the station and lower heights adjoining the residential areas.

It is evident that the proposed controls are contrary to Council's testing and recommendations for the site and have had no merit assessment undertaken to support them. When recommending any increase in density and building height it is imperative that the resulting built form and scale is consistent with the context of the site and provides an appropriate scale proportionate with surrounding streets and buildings.

The applicant has not lodged a range of feasible options for the site for Council to consider. This is inadequate and does not allow Council to determine whether there are any other feasible options with a more desirable outcome.

The applicant should reconsider the heights and densities in light of DLA's review and Council's recommendations. In doing so, the applicant, through the Planning Proposal, must assess the urban design aspects and submit a range of urban design options (at least three) of varying heights, FSRs, and building envelopes that are tested, exhibit design excellence and are compliant with the Apartment Design Guide (ADG). The applicant should thoroughly assess each option and justify the preferred option.

It should be noted that none of these factors were taken into account at the pre-Gateway review where it was decided to essentially double the size of the land, the subject of the Planning Proposal.

### **Poor Amenity**

The high density built form and configuration of building envelopes proposed adversely impacts on the amenity of future occupants. The excessive density and configuration of buildings, many of which face each other internally, compromises the privacy and solar access of many of the apartments. Furthermore, the proposal reduces the amenity of existing surrounding developments with no consideration of building transitions and interfaces, particularly the developments to the west and southwest.

The proposal's compliance with the building separation, solar access and ventilation requirements of the ADG are questionable. The indicative development plans only show solar access and ventilation for the site at 2-6 Pilgrim Avenue and 11-13 Albert Road (i.e. Site 1) with no indication that the service station site (i.e. 9 Albert Road – Site 2) has been considered in the assessment or whether a development on Site 2 could comply. Furthermore, the shadow analysis plans are unclear and amended shadow diagrams should be provided.

As discussed above, a number of options should be tested to ensure an optimal outcome for the applicant's site and the service station site. The proposal should not unfairly restrict or compromise development of the service station site and a cohesive development should be masterplanned across the precinct.

### **Inadequate Commercial Development and Active Street Frontage**

The site's frontage to three (3) streets (i.e. Raw Square, Albert Road and Pilgrim Avenue) offers an opportunity to enhance the public domain by providing an active and continuous street frontage that promotes social activity and passive surveillance adjacent to the Strathfield Town Centre. The application proposes minimal commercial uses, occupying only the ground floor, in addition to building services which are adverse to the provision of an active street frontage. Since the site is zoned B4 Mixed Use and is on the periphery of the Town Centre, the most important commercial location in the Strathfield LGA, a more significant commercial component should be provided in accordance with Section 117 Direction – 1.1 Business and Industrial Zones.

### **Required Studies**

The Panel's recommendation that land contamination and hydraulic studies may be left to the development application stage is noted. However, the precinct, in particular the service station, is affected by flooding and is likely contaminated. Furthermore, the precinct is affected by noise from the adjacent rail corridor. Given these constraints on development, relevant studies should be submitted with the Planning Proposal as their recommendations will determine the site's potential to be redeveloped and the appropriate development outcomes, including FSR, heights and building envelopes. For example, the application proposes five (5) levels of basement parking which may not be feasible depending on the extent of flooding and contamination. Justification for each of the required studies is provided below.

- Detailed flood study – The Planning Proposal is inconsistent with Section 117 Direction – 4.3 Flood Prone Land. The subject site is significantly affected by the '1-in-100 flood event'. A flood study is required to determine the flood planning level, the impact of development on flooding, the site's developable area, and therefore, the Planning Proposal's consistency with the *Floodplain Development Manual 2005*.
- Detailed contamination assessment – The Planning Proposal acknowledges that the site is potentially contaminated from the adjoining service station with potential fuel leakage, corrosion of underground tanks, emission of particulate matter and migration of contaminants. Contamination from hydrocarbons and other heavy metals from its proximity to the railway station is also identified.
- Acid Sulfate Soils Study – The site is identified in the *SLEP 2012* as containing Class 5 acid sulfate soils. Given the excavation proposed for the basement parking, an Acid Sulfate Soils Study should be required in accordance with Clause 6.1 (Acid sulfate soils) of the *SLEP 2012*.
- Acoustic report – Given the site's proximity to a rail corridor, an acoustic report is necessary to ensure that adjacent development achieves appropriate acoustic

amenity that complies with the internal noise criteria specified in *SEPP (Infrastructure) 2007* and the *Development near Rail Corridors and Busy Roads – Interim Guideline* (Department of Planning, 2008). The acoustic report should determine the required setback and acoustic attenuation to ensure the amenity of future occupants.

- Detailed traffic impact assessment – In accordance with the Panel’s recommendation for a new traffic study to be prepared which applies to the whole street block, the applicant has submitted a revised traffic impact assessment. However, the traffic assessment fails to consider the cumulative potential traffic from surrounding sites if all the sites in and around the town centre were to be developed to the maximum height and floor area controls permissible under the *SLEP 2012*.

However, as discussed above, Strathfield has been identified as a Priority Precinct and it is likely that the planning controls for the surrounding area will be amended. Accordingly, it is recommended that the Planning Proposal be deferred until the completion of the Priority Precinct work to adequately determine the impact of the proposal in the context of the wider precinct.

### **Site Specific DCP**

In accordance with the Panel’s recommendations, the applicant should be required to submit site specific DCP controls and a revised masterplan for Council’s review prior to exhibiting it with the Planning Proposal. The site specific DCP should provide detailed planning and design principles that ensure a cohesive development that considers the context of the site, in particular its proximity to the Strathfield Town Centre, lower density residential development, and adjacent rail corridor.

### **Public Benefit – Voluntary Planning Agreement**

The Planning Proposal does not provide sufficient public benefit to support the significant uplift in density. The Planning Proposal states that:

*“The residential component will deliver valuable housing in a location close to transport, community facilities and jobs. The commercial ground floor areas will contribute to integrating the site with the surrounding town centre locality. In addition the development will result in the creation of jobs throughout the construction process and once operational. The development would also provide additional Section 94 contributions for services and infrastructure in the area.”*

At its meeting held on 1 August 2017, Council resolved to commence the preparation of a value sharing policy that will apply to any proposal which increases the development potential of a site above that which can be attained under *SLEP 2012*. As such, the applicant should discuss the preparation of a Voluntary Planning Agreement with Council officers which should be exhibited concurrently with the Planning Proposal. It is Council’s preference that the public benefit be provided on the applicant’s site (i.e. 2-6 Pilgrim Avenue or 11-13 Albert Road).

## Gateway Conditions

As discussed above, Council has a number of concerns with the Planning Proposal and does not support the Planning Proposal in its current form. However, if the DP&E issues a Gateway Determination, it is recommended that the following Gateway conditions be imposed:

1. The Planning Proposal is to be deferred until the Strathfield Priority Precinct work has been undertaken and planning controls have been established for the Precinct.
2. Prior to community consultation, the Planning Proposal is to be updated and amended to the satisfaction of Strathfield Council to include the following for the entire precinct (i.e. 2-6 Pilgrim Avenue and 9-13 Albert Road, Strathfield):
  - a) A detailed flood study to demonstrate the suitability of the site for redevelopment;
  - b) A Stage 1 and 2 contamination assessment for the whole site including the adjoining service station;
  - c) An acid sulfate soils study to demonstrate the suitability of the site for redevelopment;
  - d) An acoustic report assessing the suitability of the site for redevelopment including the impacts of the adjacent railway corridor;
  - e) A detailed traffic impact assessment that considers the cumulative potential traffic from surrounding sites if all the sites in and around the Strathfield Town Centre were to be developed to the maximum height and floor area controls permissible under the *Strathfield Local Environmental Plan 2012*;
  - f) An assessment of the impact of the service station, such as fumes and the hours of operation, on a development at 2-6 Pilgrim Avenue and 11-13 Albert Road;
  - g) A range of urban design options (at least three) of varying heights, FSRs, and building envelopes that are compliant with the Apartment Design Guide and justify the preferred option;
  - h) Site specific DCP controls and a masterplan to guide the future development of the site; and
  - i) A voluntary planning agreement providing an appropriate public benefit (such as publically accessible open space) on 2-6 Pilgrim Avenue and 11-13 Albert Road, Strathfield.
3. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
  - a) the planning proposal must be made publicly available for a minimum of **28 days**; and
  - b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).

4. Consultation is required with public authorities under section 56(2)(d) of the Act, including:

- Roads and Maritime Services; and
- Sydney Trains.

As discussed above, Council officers have a number of concerns with the Planning Proposal and cannot support it in its current form. However, should the DP&E issue a Gateway Determination, it is recommended that the above Gateway conditions be imposed on the Planning Proposal to ensure the matters of concern are addressed prior to community consultation.

Should you have any queries regarding any of the above matters, please contact Joanne Chan, Council's Strategic Planning Officer, on 9748 9615.

Yours faithfully



Silvio Falato  
Manager Planning & Development