

Appendix B

Correspondence between Council and Urbis dated 6 November 2014

In reply please quote: 12/04667

Contact: Kevin Kuo on 9725 0850

6 November 2014

Norelle Jones
Senior Consultant
Urbis
Tower 2 Level 23 Darling Park
201 Sussex Street
SYDNEY NSW 2000

Dear Norelle,

1183-1187 THE HORSLEY DRIVE, WETHERILL PARK – PROPOSED PLANNING PROPOSAL FOR ADDITIONAL PERMITTED USE

I refer to the Pre-Lodgement Planning Proposal meeting at Council's Administration Centre on 24 October 2014 for 1183-1187 The Horsley Drive, Wetherill Park seeking to formalise the existing business premises and shops at the subject site namely units 1-7 on the ground floor located on the western wing of the old Greenway Plaza (meeting minutes attached).

As discussed at the meeting, the site is currently zoned B5 Business Development pursuant to the Fairfield LEP 2013. The B5 Business Development zone permits a wide range of land uses such as light industrial activity, bulky goods, hardware and building supplies, and ancillary uses such as industrial retail outlets which must be associated with an existing industrial activity and meet relevant floor space requirements.

However, as you are aware part of the site currently benefits from existing use rights for the purpose of shops and business premises.

Under the previous Fairfield Local Environmental Plan 1994, Clause 25G applied to the site. This clause sought to *"facilitate a mix of land uses on the land, including bulky goods salesrooms or showrooms, light industry, refreshment rooms, warehouses, business premises and shops, but excluding supermarkets"*. In particular, the clause allowed shops and business premises within units 1-7 on the ground floor and business premises within units 1-6 of the mezzanine level.

However, during the preparation of current Fairfield LEP 2013, Council received advice from the Department of Planning and Environment (DPE) advising that a straight transfer of the Clause 25G provisions would not be supported under the Standard Instrument due to highly prescriptive nature of these provisions. Accordingly, the DPE advised that should Council wish to permit these business or retail uses that Council would need to zone the site accordingly. Given the wide range of uses permitted under other business zones applying to town centres in the City (including supermarkets), the intention of the clause to sustain use of the site as an industrial service centre and not a Town/Local Centre. As a result, Council resolved not to apply a town centre zoning with retail/business uses on the site to instead rely on existing use rights.

Council officers acknowledge that this situation has meant that development applications are required to be lodged each time there is a proposed change to these uses, including new tenants and minor alterations and additions as the SEPP (Exempt and Complying Development) does not apply. However, at the time, the DPE did not provide Council with alternative LEP provisions that deal with the above issues, which led to the current reliance on existing use rights provisions.

Accordingly, should you wish to lodge a Planning Proposal seeking to formalise the existing business premises and shops consistent with the previous Clause 25G the following key issues will need to be addressed in addition to other Planning Proposal requirements:

- **Prohibition of supermarkets** – Clause 25G of the previous LEP permitted shops and business premises within specific units on the subject site however the clause specifically prohibits supermarkets. Any planning proposal will need to demonstrate that supermarkets will continue to be prohibited on the subject site (despite permitting Shops) and the proposed LEP amendment will need to reflect this accordingly. Should the DPE maintain its previous position to zone the site to a business zone, it will be highly unlikely that Council officers will be able to support the planning proposal due to reasons mentioned above.
- **Mapping** – Clause 25G of the previous LEP identified specific units for which the additional permitted uses applied. Consideration will need to be given as to how this will be incorporated into the current Fairfield LEP 2013 e.g. mapping only the portion of the building that the amendment applies to on the Key sites map. It would be advisable to liaise further with the Regional (Parramatta) Office of the DPE to determine the best way to approach for dealing with this prior to lodging the planning proposal. Council officers will not support identifying the whole site for the purposes of enabling additional permitted uses of shops and business premises.
- **Retail and Business Premises Floor Space Issues** – It is noted that the intention of Clause 25G was to restrict retail and business premises within specific units rather than encourage their expansion. Accordingly, given that a floor plan cannot form part of the LEP, consideration of how the proposal can control the existing quantum of floor space designated towards shops and business premises within the framework of the LEP template, needs to be addressed as part of the planning proposal. As outlined in the point above, an accompanying map could identify only the portion of the building that the amendment applies to on the Key sites map in addition to the other controls restricting the floor space designated to shops and business premises.
- **Economic Impact Assessment** – Council officers acknowledge that the proposal seeks to reinstate the provisions that previously applied under the Fairfield LEP 1994 and does not seek to increase or develop additional retail/business floor area. Furthermore, the uses you are seeking to formalise are existing and have been operating in accordance with previous planning provisions. Given the above, it is not considered that Council will require a comprehensive economic impact assessment for the proposal however, comments and analysis will still be required as part of the planning proposal in order to address the potential economic impacts of the proposal on surrounding Town Centres.

- **Traffic** – It is considered appropriate that the planning proposal provides further details that the reintroduction of additional permitted uses will not have adverse impacts on the existing traffic and car parking arrangements.
- **Floor Plans** – It is requested that current floor plans including floor space also be provided as part of the planning proposal. The plans should also clearly identify the location of businesses subject of the planning proposal.

NEXT STEPS

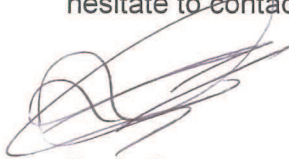
As discussed previously, the Council meeting scheduled in December 2014 has been moved to the beginning of the month which means that Council officers will not be able to assess and report the matter to Council until February 2015 at the earliest (no meetings in January 2015).

In addition, please find attached the most recent Department of Planning & Environment “*A guide to preparing planning proposals*”. The Planning Proposal should be prepared in accordance with this guide.

The application fee according to Council’s 2014-15 Fees and Charges for submitting a planning proposal is \$11,000 and you are advised that payment of the fee and submission of the planning proposal and associated documentation will not guarantee approval of the proposed LEP amendment.

Furthermore, the above advice constitutes Council officer’s preliminary comments only and a comprehensive assessment of the Planning Proposal (when it is submitted) may reveal further issues that also need to be addressed including further studies/report required to be undertaken and/or paid for by the applicant.

If you have any further questions in relation to the issues raised above, please do not hesitate to contact myself or Chris Shinn on 9725 0804.



Kevin Kuo

COORDINATOR STRATEGIC LAND USE PLANNING

