

# **STRAND ESTATES**

Strand Estates Pty Ltd  
Property Consultants  
Development Managers  
A.C.N. 003 723 831  
144-148 Pacific Highway  
North Sydney 2060  
**Telephone (02) 9954 1533**  
Fax (02) 9969 4129

5 March 2012

Joint Regional Planning Panels  
Panel Secretariat  
23-33 Bridge Street  
SYDNEY, NSW 2000

For the attention of Ms Angela Kenna

Dear Sirs,

**RE: 2011SYE119 – NORTH SYDNEY – 467/11 – 144-150 PACIFIC HIGHWAY, NORTH SYDNEY – COMMENTS ON JRPP ASSESSMENT REPORT**

We have had an opportunity to peruse the Assessment Report and Recommendations in respect of the above matter.

The comments below are an attempt to inject balance and equity into the assessment of this proposal and we would be grateful if this correspondence could be brought to the attention of the Panel.

1. DESCRIPTION OF LOCALITY

Mention is made that approval was granted in respect of 12-16 Berry Street for a development with a height at roof level of RL108.85. The previously approved scheme prepared by Scott Carver was at a height of RL111.97 at roof level. The top of the plant room was at RL114.87. DA467/11 is consistent with these levels.

2. TRAFFIC

The above report and that to North Sydney Council expresses concerns in relation to the design of the ramp. The design of the ramp has been endorsed by a well respected and established firm of traffic engineers, Traffix, and complies with appropriate Australian Standards. Their report formed part of the Development Application documentation and confirmed the site access satisfies the requirements of AS 2890.1 (2004), the internal design meets or exceeds the minimum requirements of AS 2890.1 (2004) and 2890.2 and all internal ramp gradients and transitions satisfy the requirements of AS 2890.1 (2004).

3. HERITAGE

The development concept has been endorsed by Graham Brooks & Partners and the amendments suggested by Council's heritage planner are unwarranted. The proposed development is a significant distance from the

heritage property at 1 Doohat Avenue. The JRPP approved developments at 12-16 Berry Street and 156-158 Pacific Highway have a far more significant impact on 1 Doohat Avenue. We will be providing under separate cover further commentary from Graham Brooks & Partners and a plan illustrating the context of 1 Doohat Avenue relative to this proposal and the JRPP approved developments at 12-16 Berry Street and 156-158 Pacific Highway.

4. PRE-DA MEETING

The report makes no reference to the pre-DA meeting held on 17 August 2011. That meeting raised no objection to the design concept, including building to both street alignments without the need for a podium or setbacks.

5. DESIGN EXCELLENCE PANEL MEETING MINUTES

The report includes the Minutes of the Meetings of 8 June and 13 December 2011. This highlights the inconsistency of the Panel's assessment of the proposal. The design concept considered at the meeting of 8 June was largely consistent with the application before the JRPP. There was no objection to the design of the building, the size and shape of balconies and no insistence on the provision of a podium and setbacks. The Design Excellence Panel provided qualified support for exceeding the height controls but considered the proposal should be no higher than the north-eastern corner of the intersection, RL145. The DEP advised it could not support the increased height if the non-residential space was reduced to 0.5:1. This has been addressed in this application.

6. COMMENTARY ON THE REPORT BY MICHAEL HARRISON OF ARCHITECTUS

(a) Building height

*'The building approved at 177-199 Pacific Highway was a Part 3A approval that was in breach of a number of LEP controls. A compliant building would have been half the height. The commercial building should not be used as a precedent for approval of a building in a different zone located much closer to low scale residential.'*

The site at 177-199 Pacific Highway has a Pacific Highway frontage of 69.07m. Under the provisions of the DLEP, 50% of this frontage was limited to a height of RL83. The balance of the site had the benefit of a height of RL190. It is inaccurate to state the building would have been half the height. Its bulk would certainly have been less than has been approved.

Much play is made of the fact that the Norberry Terrace site has a different zoning and is more remote from adjoining residential areas. Both sites form

part of the North Sydney Centre and the Part 3A approved development cannot be ignored. It has altered the urban context of this corner.

(b) Podium

*'It is incorrect to say that recent developments do not have a podium. All recent consents along the Highway (approved by the JRPP) have all had a podium including 177-199 Pacific Highway.'*

The ground and first floors of 177-199 Pacific Highway are built to the street alignment. Levels 2-7 have a 5m setback to Pacific Highway. Levels 8 and 9 have a partial 5m setback to Pacific Highway and levels 10-30 are built to the street alignment.

*'100 Pacific Highway was approved prior to the controls coming into force.'*

I am not sure that this is correct. LEP 2001 was gazetted on 1 June 2001 and the purchase of 100 Pacific Highway was settled in December 2000. Construction did not start until 2004.

*'The applicant claims that the height is appropriate as it complies with current controls. This is not accurate, the proposal does not provide for setbacks above a podium.'*

The report consistently fails to acknowledge the reports prepared by GMU Urban Design and Architecture and Architectus. The letter of 25 January 2012 from GMU states, 'in our opinion the 5m setback in the NS DCP is not needed on this site particularly given the Council controls which advocate that 'buildings are to reinforce the junction and termination of streets (other than lane ways) by emphasising the corner of the street block and termination of the street.'

*'This is evident in the Council's modelling in determining appropriate height controls under Draft LEP 2009 (based on current controls in the LEP and DCP). The modelling demonstrated that a compliant height would be RL135 including a plant room (about 6m high).'*

The DLEP proposes to limit the height of any development on the site to RL125. We have never seen Council's modelling and it has been consistently represented the height limits in the DLEP reflect those permitted under the LEP. The above statement renders that claim invalid.

*'The development of 177-199 Pacific Highway included a four-storey podium with varying setbacks from the street and setbacks of 5m from the Highway and in excess of 5m setback from Berry Street.'*

This is not accurate. See the comments above. The site is irregular in shape and this results in the setbacks to Berry Street ranging from 2-14 m.

(C) COMMUNAL SPACE

*'It is noted that internal communal space is only provided to the serviced apartments and not the residential apartments. This needs to be addressed.'*

The drawings have not been accurately interpreted. Internal communal space is provided on levels 6, 7, 9 and 11 and totals 181m<sup>2</sup>.

(d) Balcony Size, Shape and Amenity

*'Balconies on the lower levels and on the highway need to have some form of acoustic screening (sliding louvres) which requires regular shape.'*

This ignores the conclusions of the Renzo Tonin & Associates Acoustic Report which provides a specification outlining the basis upon which acoustic screening can be avoided.

*'It is noted that every second balcony on the corner encroaches the display corner boundary which is unacceptable.'*

This is not correct. The splay measures 2.44m x 2.44m and is on title. There is a provision on title that prevents the splay being built over below a height of 3m above footpath level. The proposal complies with this restriction.

7. Building Height Plane

The report maintains it is necessary for a SEPP1 objection to be lodged in respect of the Building Height Plane. This seems unnecessary particularly in the light of the Land and Environment Court decision which found that the Building Height Plane control does not apply within the North Sydney Centre.

8. Communal Space

The report maintains that no communal space is provided for residents other than a small roof terrace. This is incorrect. See comments in Point 6(c) above.

9. Setback to Doohat Lane

The report maintains that there is no setback to Doohat Lane. This is incorrect. The total frontage to Doohat Lane is approximately 26.2m. There is no construction on the northern extremity of the property at 18 Berry Street other than the sub-stations at ground level. Level 2, which is at ground floor level for the lane, is built to the street alignment. The balconies on level 3 are

also built to the alignment of the lane. Levels 4-12 are set back 3m from the alignment of the Lane.

10. North Sydney LEP 2001

*'The applicant needs to identify what part of the commercial space proposed is to be used as a part of the hotel as its facility.'*

The drawings have not been interpreted correctly. They are clearly annotated to show that the serviced apartments extend to levels 3-5.

11. North Sydney Centre Objectives

*'(o) to protect the amenity of residential zones and existing open space within and nearby the North Sydney Centre - the proposal will have limited impact on amenity of the residential area adjoining to the North.'*

This statement is accurate but is in conflict with others in the report that portray the impact on the adjoining residential area as being significant.

12. Clause 28D - Building Height and Massing Objectives

*'There are a number of windows on the southern elevation of No 154 close to the common boundary that will be affected/blocked by the proposal. There needs to be some response to some of the windows (mainly residential upper floors to the front) involving creation of small light wells.'*

The impact of the development on the southern elevation of 154 is no greater than that of the JRPP approved development proposed at 156-158 Pacific Highway. There is no reason as to why we should be obligated to provide protection to the windows on the southern elevation when none is afforded to those on the north. We are not solely responsible for the isolation of 154. The developer of 156-158 could also have attempted to consolidate the property.

We have provided to Council evidence of our attempts to acquire 154 Pacific Highway. We have also provided an indicative design illustrating as to how the property might be developed in the future whilst complying with the requirements of SEPP 65. The requirement to protect the windows is inappropriate.

13. Clause 29 - Building Height

*'The height is not compatible with the adjoining residential areas.'*

The figures in Point 20 below illustrate the relationship between existing and approved developments and the adjoining residential areas. The relationship

between the height of the proposed development and the adjoining residential area is consistent with that of other existing and approved buildings.

*'The site that adjoins is 2 floors higher than the development directly adjoining to the west that was recently considered to be a compatible height..... The height of the building over No. 18 Berry Street should be no higher than the roof height of number 12-16 Berry Street (not the plant room).'*

As mentioned above, the original consent in respect of 12-16 Berry Street was based on a roof height of RL111.97. The current design is based on level 12 being at RL113.55 which is compatible with the original consent. In any event, the higher level of level 12 is consistent with the concept of buildings stepping down towards the edge of the CBD.

*'Commissioner Bly found that an appropriate height for development towards the edge of the centre near low scale residential would be around RL 130.'*

Commissioner Bly's decision was in respect of the Castle Constructions' development at 136-140 Walker Street. This is a very different location, significantly dissimilar urban context and topography than the precinct on the corner of Pacific Highway and Berry Street. I question whether Commissioner Bly's decision can be interpreted as applying to the North Sydney Centre as a whole. In his decision, Commissioner Bly also concluded *'... it is not necessary for the built form of the North Sydney centre to complement, in the sense of being directly responsive to the nearby low scale residential development.'* He went on to say *'... the site need not be treated as an area of transition between multi-storey buildings and small-scale buildings beyond the boundaries of the North Sydney Centre.'*

*'The apartments having living areas/balconies facing the northern boundary at levels 8, 10, 13, 14 and 15 are totally unacceptable.'*

This is an extraordinary statement. If they are totally unacceptable, at the very least some justification or reason should be provided. This impacts on 6 units on each of levels 8 and 10 and 3 units on each of the levels 13, 14 and 15, a total of 21 units.

*'If the site to the North cannot be consolidated with the subject site, then some measures should be considered to retain the current windows to at least the residential apartments.'*

As noted above, the proposed development has the same impact on the southern elevation of 154 Pacific Highway as the JRPP approved concept at 156-158 Pacific Highway has on the northern elevation of the building. There is no reason or justification for penalising us to the extent of having to accommodate the windows of 154.

*'The applicant seeks to rely on a commercial site diagonally opposite that is within the commercial core of the CBD. The height on that site was approved by the Minister under Part 3A and the proposal was inconsistent with a number of controls that would prohibit the height approved. Accordingly the site should not be used as a justification for further breach of the controls.'*

As noted above, the absolute height of the approved building is 5m above the height suggested in the DLEP. The approved development is significantly bulkier as the tower height of RL195 covers a substantially larger footprint than contemplated by the DLEP. We cannot be expected to simply ignore what has been approved directly opposite. Both properties are located within North Sydney Centre and the approved development at 177-199 Pacific Highway has a significant impact on the corner and the context of the site.

14. Clause 30 - Building Height Plane

See comments in Point 7 above.

15. Draft North Sydney Local Environmental Plan 2009

*'However at this stage little weight can be given to the plan since the final adoption of the plan is neither imminent or certain.'*

One can be forgiven for thinking that the assessment report has been written with an eye solely on the provisions of the DLEP.

16. SEPP65 - Design Quality of Residential Flat Development

(a) *'Principle 2-scale*

*The site is located adjacent to a low scale residential area. A 9 storey building adjacent to the residential zone is appropriate subject to adequate separation distances being provided, an additional 8 storeys towards the street corner would be appropriate. The proposal is 2 and 6 storeys higher and therefore unacceptable.'*

The figures below demonstrate there are numerous examples within the North Sydney Centre that are consistent with the proposed interface between this development and the adjoining residential area.

(b) *'Principle 9 - social dimensions*

*There are no internal communal areas for the apartments only a small communal Garden'.*

This is incorrect – see Point 6(c) above.

17. North Sydney Centre Planning Area/Central Business District

*'The building will retain the existing zero setbacks to front and side boundaries but fails to be set back 1.5 m from the lane.'*

See comments in Point 9 above. The setback into the lane is significantly greater.

18. Submitters' Concerns

*'Will block windows to apartment that serves kitchen and dining room. Amalgamation of the site is preferred but if this cannot be achieved, the applicant should try and minimise the impacts on the neighbour by creating a small light well to the windows.'*

Given the approval in respect of 156-158 Pacific Highway, support for this statement is inappropriate. Please see comments above.

*'Excavation of car park on southern boundary, geotechnical investigation required. Should amalgamation not occur and should the JRPP favour this or a further application, it may be wise to issue only a deferred commencement consent because the geotechnical information is incomplete.'*

The geotechnical report accompanying the application was a desktop study which is all that is required at DA stage. Given the fact that the existing site is wholly covered by buildings, it is not possible or practical to undertake detailed geotechnical investigations. The site is no different to many throughout Sydney where detailed investigations are only capable of being concluded once existing structures are demolished.

*Proposal will cover windows and windows would need to be removed costing \$100,000. No offer of compensation for windows or concessions by developer. The applicant could provide a setback of say 1m opposite the windows to create a small light well and the windows will not need to be bricked up. Some concession should be provided if the adjoining site is isolated.*

The comments above are relevant.

19. CONCLUSION

*'Little regard is given to the fact that the site is on the edge of the centre adjoining large-scale residential development.'*



See the figures below.

20. Building Height Examples

(a) 136 – 142 Walker Street - (Source: DA Plans)

Ground level: RL 60.0  
Top of roof: RL 128.00  
Top of plant room: RL 133.50  
Height of building: 63.5m

Residential zone opposite:-

Ground level: RL 57  
Top of building: RL 65 (68.5m lower than top of plant room 136-142 Walker Street)

(b) 40 Mount Street - (Source: DA Plans)

Ground level: RL 69.9  
Top of roof: RL 148.55  
Top of building: RL 152.0  
Height of building: 82.1m

Residential zone in Oak Street (Source – Existing Building Heights Plan – NSC):-

Ground level: RL 79.52  
Top of building: RL 83.47 (68.53m lower than 40 Mount Street)

(c) 8 - 20 Napier Street - (Source – Existing Building Heights Plan – NSC)

Ground level: RL 75  
Top of building: RL 151  
Height of building: 76m

Residential zone in Oak Street:-

Ground level: RL 79.52  
Top of building: RL 83.47 (67.53m lower than 8 – 20 Napier Street)

(d) 100 Pacific Highway - (Source – Existing Building Heights Plan – NSC)

Ground level: RL 68  
Top of building: RL 155  
Height of building: 87m

Residential zone in Oak Street:-

Ground level: RL 79.52  
Top of building: RL 83.47 (71.53m lower than 100 Pacific Highway)

(e) 150 Pacific Highway - (Source: DA Plans)

Ground level: RL 73 (Pacific Highway/Berry Street)  
Top of roof: RL 150  
Top of plant room: RL 156  
Height of building: 83m


Residential zone in Dooat Avenue – (Source – Survey by Whelans Insites):

Ground level: RL 80.39  
Top of building: RL 91.05 (65.95m lower than 150 Pacific Highway)

Under separate cover, we will be providing further commentary from GMU Urban Design & Architecture and Graham Brooks & Partners. We will also be providing refined sketches prepared by Nettleton Tribe.

Please do not hesitate to contact me should you have any queries.

Yours faithfully,



DAVID WALKER