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Joint Regional Planning Panel
Panel Secretariat
23-33 Bridge Street
Sydney, NSW 2000
Attention: Ms Angela Kenna

Dear Panel Members,

Re: Development Application proposal for 150 Pacific Highway, North Sydney

Council officers have prepared a report to the panel for the above development application that recommends refusal. The grounds of the refusal are numerous but the main points of contention centre on the height of the development, the amenity offered to serviced apartments in the lower level of the building, the requirement for a podium form to the tower and the provision of a through site link from Berry Street to Doohat Lane. To support these reasons for refusal the planner cites comments received from the Design Review Panel in Council.

I am concerned that the report does not provide a balanced view of the merits of the development or adequately present the strong justification for design decisions in the development. Further it also gives significant weight to the draft LEP height requirements over the gazetted LEP which is in fact the correct height control.

Therefore the following points are raised in relation to the issues within the planners report:

1. Design Review Panel Minutes and views:

Detailed consideration of the two panel sets of minutes shows a significant change of direction in the opinions expressed. When the first sketches were presented to the panel they raised a number of issues including:

- The extent of commercial floor area,
- Communal spaces for residents within each floor,
- Amenity of lower units and change to non residential floor space
- Height of the tower acceptable only if the non residential floor space is not reduced to 0.5:1
- Amalgamation issues
- Through site link stair design
- Share carparking and turning circles for trucks and garbage collection.
- Shadow impacts to Don Bank.
- Acknowledged there is a reasonable case for exceedance of the height controls up to RL 145.

The drawings and sketches presented to the panel early in the design process are included at Appendix A of this letter. Issues that were not raised in relation to those sketches but are now levelled against the Development Application by the same panel are:

- Site is not a gateway site (although this approach was evident and justified by the earlier sketches and at that time was considered acceptable as no issue was raised and the RL 145 suggested)
- Proximity of the site to the residential zone although in the earlier report the panel stated that the building was setback from the residential zone to the north.
- Requirement for a podium (the earlier sketches justified the lack of a podium and the proposal did not include one and no issue was raised at that time)
- Loss of the through site link (which has been proposed again via sketches submitted by the applicant)
- Separate entry to the serviced apartments (which has been proposed via sketches by the applicant)
- Amenity to the serviced apartments in relation to the light well requiring an increase in its dimensions to 6m by 6m.
- Size and shape of balconies to corner units yet the earlier panel meeting had included extended discussions of the issue of amenity for lower units due to traffic noise and consensus had been reached that deletion of the

balconies, narrow balconies or Juliette balconies may be a reasonable solution in such a location as full balconies were unlikely to be used.

- The aesthetics of the proposal.

Whilst some elements of the proposal have been further developed since the pre-DA sketches the proposal in its essence has not changed substantially. It still has:

- Same internal configuration with communal spaces for residents within each floor,
- Access to the loading area from Doohat Lane
- Access to the underground car park from Berry Street
- Height of RL150 to the roof of top most floor
- No adverse shadow impacts to the Don Bank Museum or any other public or heritage areas
- In addition, the latest amended sketches provided by the applicant also indicate through site pedestrian link

Therefore it is not clear why the panel seem to have so substantially changed their view other than in relation to the issue of the pedestrian link perhaps.

2. Application of SEPP 65 to serviced apartments

The report requires the serviced apartment component of the DA to comply with the requirements of SEPP 65 in terms of balcony depths etc. SEPP 65 does not include serviced apartments. It was written to provide design guidance for permanent residential apartments as these are units in which people live their lives. The Council seeks to apply a State SEPP to a development use for which it was not intended through its LEP. I do not see how a draft LEP can override the SEPP itself and require its application to a use that is not stipulated in the SEPP. In my opinion SEPP 65 does not apply to the serviced apartment component and in this case certainly should not do so.

The design of the serviced apartments in this building is targeted at business, short stay lets. The occupants are likely to be business people here for meetings in North Sydney or for conferences. Given the location it is highly unlikely that families or couples would seek to rent these apartments for long family stays or holidays. Business persons are likely to use the units at night and are unlikely to seek to sit out on balconies during their stay. The amenity issues of this location mean that Juliette balconies are a much better solution in this situation which allows the space within the unit to be maximised rather than a balcony space that is so compromised by noise that it would not be used.

Therefore the separation distances and balcony areas and sizes under the Residential Flat Design Code are not applicable to this part of the building and should not be applied as a test for this development. In any event the sketches provided by the architects have increased the balcony size to meet the requirements of the RFDC. Therefore this issue has been addressed and should be considered by the Panel.

3. The applicable height standard

The composite shadow diagram adopted in the DCP remains as a consistent strategy. It is this 'bell' curve that sets the curve within which buildings must be contained. The proposal is well within this curve and fully compliant. The draft LEP RLs are uncertain and have not been ruled as imminent. It is not appropriate that these draft controls should be able to limit the development opportunity on this site when it sits well under the current height control and implements the objective of a stepped form providing transition from the approved height of the new tower diagonally opposite the site and the residential area to the north.

It is also relevant to note that the application has been reviewed by two well known and respected urban design firms – GMU and Architectus and that both firms have confirmed that they consider the proposal is justified in achieving the height proposed based on the location and context of the site.

The panel in its first meeting noted that a height of RL 145 could be supported subject to the extent of commercial area. Refusal of the application based on height when the only discord with the panel was a height of some 5m is not justified. The additional 5m extent will be hardly discernible given the overall height of the tower and will not create adverse impacts. The additional height allows the tower to respond to its prominent location appropriately.

The Council report also appears to ignore the fact that this building is on axis with the view along Berry Street and is a prominent site. It does justify a strong built form and the panel raised no concern regarding its role as a prominent axis in the first panel meeting.

4. Amenity to the serviced apartments and light wells

The architects have provided additional sketches in response to the Council report. These sketches more fully explain the amendments proposed to address the concerns in relation to the through site link, serviced apartment amenity etc and also now delete the serviced apartment units (level 3, unit 313; level 4, unit 414; level 5, unit 514) that look into the lightwell. This has been returned to a communal sitting area or lobby space for these floors.

The report gives no acknowledgment of the fact that the proposal does not create any overshadowing to the Don Bank area, complies with solar access requirements for adjoining properties and does not create adverse privacy impacts. It is south of the residential precinct in the part of North Sydney that is very much still the business district.

5. The pedestrian connection to the laneway

The earlier scheme proposed to retain a pedestrian connection to Doohat Lane. The laneway was deleted for two reasons. The first reason is that accommodating the car radius for entry into the site was found to compromise the link. The second reason was based on the character and amenity of the lane and low level of usage by pedestrians. This is private land and not a public lane at the site. The buildings to the north along the lane all present either blank walls or car parking and loading access to the lane as do recent Council approvals for these sites. No other DA appears to have been asked to activate or improve the laneway. It is very much a service access lane.

Maintaining a pedestrian link to it could potentially create some real safety issues as pedestrians will use the link and then have to deal with the vehicle movements of the various sites including the subject site. Sightlines along the laneway are not ideal due to the topographic change and there could be perceived safety concerns for pedestrians using the lane. In such circumstances it can be better to actually discourage use by pedestrians particularly given the laneway at this point does not link to a major destination.

However as part of the sketch submission the applicant has offered to reinstate a pedestrian link and more developed drawings (DA015-DA037 rev B) of how this can be provided are attached at Appendix B of this letter.

6. The requirement for a podium base to the building

The report places great weight on the requirement for a podium to the building and quotes various clauses requiring it. Yet the report ignores other clauses in the DCP which encourage greater built form emphasis to intersections and corners.

Section 6 – Mixed Use development in North Sydney, Chapter 3 – Quality Built Form - Junction and termination of streets:

d. Building form and design reinforces the junction and termination of streets (not including laneways).

i. Emphasise the built form at the corner of the street block and at the termination of a street.

The proposal is at an important northern junction on the main street in North Sydney (Pacific Highway) and presents a built form at the corner of a street block with the termination from Berry Street. However the proposed design and the amended drawings attached in Appendix B show additional insets and change in facade treatment to provided alternative relation to the adjacent buildings.

The purpose of the podium is usually to create a more human scale to the street, relate to the heights of adjacent buildings or heritage item and assist with wind. The proposal achieves all of these objectives in the proposed sketches through inseting the building at the desired podium height (a design solution used in the City of Sydney and as I understand it in other designs in North Sydney). This inset relates to the height of adjoining buildings and approvals. Wind amelioration is provided by the awning to the footpath which is also an accepted solution in other centres.

7. Community room

The proposal already provides at the request of the design review panel communal meeting areas within the lobbies of many of the residential floors. This is more generous than most proposals provide and should be considered to more than satisfy the requirements for community space.

8. Aesthetics

In my experience aesthetics is very much a personal response. Whilst one person may love a design solution it may jar with others. I do not consider that the aesthetics of the proposal should be a reason for refusal. It is a strong design resolution but this does not make it unacceptable.

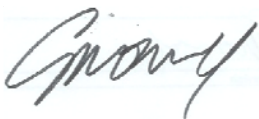
9. Amalgamation

The applicant has demonstrated that a series of attempts have been made to purchase the property on 154 Pacific Highway, as this was one of the concerns of the Design Excellence Panel. The applicant demonstrated that the attempts were unsuccessful and couldn't reach the agreement to purchase the site and amalgamate with the development.

However the applicant also provided a study that demonstrates clearly that the site can redevelop by itself and form a continuation of the Pacific Highway streetscape. This study was presented to the Panel and is also attached to this letter as an Appendix C.

Should you have any queries regarding this letter please do not hesitate to contact the author on 02 9460 6088.

Yours Sincerely,



Ms Gabrielle Morrish

Managing Director
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