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5 March 2012

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

Dear Ms. Kenna

STRAND ESTATES PTY LTD
144-150 PACIFIC HIGHWAY NORTH SYDNEY
2011SYE119 - DEVELOPMENT APPLICATION 467/11

We refer to the above matter and to Council's report to the Joint Regional Planning Panel in respect of development application 467/2011 recommending refusal.

In preparing this response to that report we have had regard to the following documentation:

1. Amended Architectural Sketch Plans prepared by Nettleton Tribe dated 2 March 2012;
2. Letter from Gabrielle Morrish of GM Urban Design and Architecture dated 2 March 2012;
3. Letter from the Proponent David Walker dated 5 March 2012;
4. Letter from Ross Fleming of Boston Blyth Fleming Town Planners.
5. Letter from Graham Brooks & Associates dated 5 March 2012.

We endorse the comments contained within those submissions and briefly provide the following further observations upon salient matters raised in Council's report.

SITE AMALGAMATION

The report from Council makes much of a perceived isolation of 154 Pacific Highway.

This is simply not the case.

The Proponent has demonstrated consistently how 154 Pacific Highway can be redeveloped independently of the subject site without constraining the development potential of that site.

The proponent has made all efforts to acquire control of that property without success. Evidence to that effect has been provided to the Council.

5 March 2012
Page 2

There is no requirement in any of Council's planning controls that the subject site and 154 Pacific Highway be amalgamated.

To refuse the subject application upon that basis would be ill-founded and an error of law.

HEIGHT

We have advised the Proponent in respect of the subject site as to an appropriate height for in excess of five years.

Council and the Joint Regional Panel have before it expert reports from Gabrielle Morrish and Michael Harrison that assess the site as being a focal site which is appropriately developable to a height of RL 150 plus plant room.

Despite this Council continues to attempt to apply draft planning instruments which can be regarded as neither imminent or certain in lieu of the current applicable controls which, if strictly applied, support a height of RL 150 plus plant room.

It is also noted that Council's own Design Excellence Panel supported a height of RL145.

With the greatest of respect what is in contest here is an additional 5 metres or 1.5 floors beyond an RL of 145. In the overall context of the site this additional height will be imperceptible.

All of the recommendations by all of the consultants have been for a height considerably greater than that recommended by the Council in the report before the Panel of RL130. In fact, this height is even lower than that recommended by Council Officers when the draft LEP was under consideration by Council at which time Council Officers supported a height recommendation of RL135.

It must be said that this site sits in North Sydney CBD with a lot of other contextually tall buildings and is located on one of its most prominent corner sites. That fact alone justifies the proposed height.

Council readily advances that it seeks appropriate and sustainable development but ignores the recommendations of its own officers, the Design Excellence Panel, two leading urban designers (one of whom was instrumental in the drafting of SEPP 65) and almost every corner building in the North Sydney CBD which has a height in excess of that proposed by this application.

The Proponent strongly urges the Panel to give decisive guidance as to the appropriate height for this site and acknowledge that a height below RL145 will under sell the site in its context and all but ensure that this building is never redeveloped.

We urge the Panel not to let that occur.

5 March 2012
Page 3

PODIUM

The amended plans now before the panel incorporate a podium being a full two storey recess from levels 4 to 6 on both the Berry Street and Pacific Highway elevations. This achieves reinforcement of the corner of the building at its northern junction and an appropriate relationship to adjacent buildings.

The podium treatment now proposed is response to the Council assessment report that acknowledges the inconsistent application of the podium control in the North Sydney Centre and that 'a full 5m setback may not be necessary' to achieve what is asserted as being a necessity that the building respond to recent consents to the north and west of the subject proposal.

In our view, the proposal by the incorporation of the recess at levels 4-6 achieves this transition and the objectives of the podium control.

AMENDED PLANS

The Proponent has prepared amended sketch plans which have reconciled a number of the Council's fundamental concerns with the proposal. In summary the amended plans achieve the following:

- i. Introduction of a site through link from Doohat Lane to Berry Street , a feature which provides a significant public benefit;
- ii. A 2 storey architectural recess to levels 4-6 on both Berry Street and Pacific Highway;
- iii. Addresses the amenity concerns in relation to the balcony depths to apartments;
- iv. Deletes those serviced apartments that looked into light wells now converted to common space;
- v. Introduction of additional communal meeting rooms/common areas leading to a decrease in overall apartment numbers;
- vi. Separate access to serviced apartments from Berry Street via the site through link.

The enclosed plans are directly responsive to the Council's and the Design Excellence Panel's comments and are capable of being resolved into a fully working set of architectural drawings which would leave no uncertainty as to the proposal for which consent has been granted.

The plans before the Panel demonstrate that the proposal does not create any overshadowing to Don Bank Museum, complies with solar access requirements to adjoining properties and does not create any adverse privacy impacts.

We fully endorse the amended plans for the Panel's consideration.

5 March 2012
Page 4

THE WAY FORWARD

In the Proponent's submission the subject application is capable of being approved as shown in the plans prepared by Nettleton Tribe and in that respect the Applicant advances the following as a means to the grant of the consent;

1. Deferred commencement condition

The Proponent advances the below deferred commencement condition as a means by which the proposal can be approved subject to final resolve of the enclosed sketch plans.

The condition satisfies the provisions of section 95 of the Environmental Planning and Assessment Regulation 2000 and is certain as to those amendments required such as to leave no uncertainty in the final resolve of the approval.

'DC1:

The Consent given does not operate until Council is of the view that the following conditions have been satisfied:

The submission to Council, and the approval by Council of fully resolved architectural plans consistent with the sketch plans numbered DA015_B to DA037_B and SK300, SK 301 and SK302 dated 2 March 2012, prepared by Nettleton Tribe Architects dated 2 March 2012.

Those plans referred to above are to incorporate the following design amendments:

- i. *The proposal not to exceed RL156 (top of plant)*
- ii. *All apartments are to incorporate balconies of a minimum depth of 2m;*
- iii. *A site through link between Doohat Lane and Berry Street is to be incorporated into the final architectural plans;*
- iv. *A 2 storey recess is to be incorporated from levels 4 to 6 on both Berry*
- v. *Street and Pacific Highway elevations as shown on sketch plan SK 301 and SK302;*
- vi. *The proposal is to be amended to incorporate separate access to all northern residential serviced apartment floors. Access is to be via Berry Street.*
- vii. *Unit 313, 414 and 514 are to be deleted and converted to common space within the building;*
- viii. *The common areas on L3-L11 inclusive are to be increased in size as shown in the sketch plans;*
- ix. *The outdoor communal garden area on level 12 is to be increased in size as*
- x. *Shown on the sketch plans.*

The plans documenting the above amendments are to be submitted to Council within 60 days of the date of the grant of this consent.

5 March 2012
Page 5

When Council is satisfied that Conditions DC1(i) to (viii) hereof is/are satisfied, an operating consent under s81(1)(a) of the Environmental Planning and Assessment Act 1979 will be issued, the conditions of which are appended hereto.

2. Resolution

The Panel in lieu of imposing a deferred commencement condition is also capable of approving the subject application by passing a resolution for the receipt of amended plans. This is a mechanism of approval endorsed by the Sydney East Regional Panel. In particular, in the panels determination of DA67/11 pertaining to 50-52 McLaren Street, North Sydney. Such a resolution would be in the following terms:

1. *The Panel resolves to accept the amended plans prepared by Nettleton Tribe plan numbers DA015_B to DA037_B and SK300, SK 301 and SK302 dated 2 March 2012 ,and*
2. *Resolves to approve the application subject to the following amendments being made to the proposal;*
 - a) *The proposal not to exceed RL156 (top of plant)*
 - b) *All apartments are to incorporate balconies of a minimum depth of 2m;*
 - c) *A site through link between Doohat Lane and Berry Street is to be incorporated into the final architectural plans;*
 - d) *A 2 storey recess is to be incorporated from levels 4 to 6 on both Berry Street and Pacific Highway elevations as shown on sketch plan SK 301 and Sk302;*
 - e) *The proposal is to be amended to incorporate separate access to all northern residential serviced apartment floors. Access is to be via Berry Street;*
 - f) *Unit 313, 414 and 514 are to be deleted and converted to common space within the building;*
 - g) *The common areas on L3-L11 inclusive are to be increased in size as shown in the sketch plans;*
 - h) *The outdoor communal garden area on level 12 is to be increased in size as shown on the sketch plans.*

CONCLUSION

The subject site is located at a prominent junction in North Sydney and is capable under Council's existing controls (and they are the only controls the application can be assessed against) of redevelopment without impact to RL 150 (top of plant RL156) to diminish this redevelopment potential based upon some ad-hoc approach to height and to ignore all of the expert opinion on an appropriate scale will only serve to undermine North Sydney's strategic planning goals in the long term.

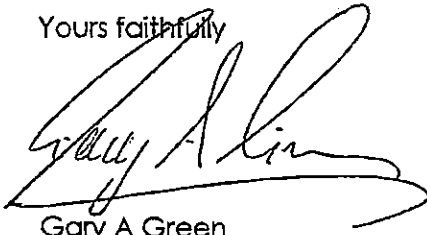
The amended plans address all of Council's built form controls and lead to no unacceptable impacts.

5 March 2012
Page 6

In all of the above circumstances we ask the panel to take the opportunity to give clear guidance for the redevelopment of this 'gateway' site and approve the application by way of either of the methods advanced.

Should you have any queries in relation to the above, please do not hesitate to contact the writer.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Gary A Green', with a large, sweeping flourish extending from the end of the signature.

Gary A Green
Partner