

Wednesday 23 September 2015

David Furlong  
Chair  
Sydney East JRPP

Via Lisa Foley: lisa.foley@planning.nsw.gov.au

Dear Mr Furlong,

**2014SYE113 – N0322/14; Proposed Re-development of Aged care facility, 2-4 Jenkins St, Mona Vale**

There are a number of important issues that we would like to bring to the attention of the JRPP in its consideration of this matter (scheduled for next Tuesday 29 September). We kindly request that this letter be considered as part of your deliberations.

In summary, these matters are:

- The history of Council's consideration of this matter
- The submission of amended plans (dated 7/9/2015) that were issued to Council on Monday 7<sup>th</sup> September 2015 and which have not considered as part of the Assessment Report tabled with the JRPP for its upcoming meeting.

These most recently submitted plans, together with any accompanying Clause 4.6 variation are relied upon by the applicant.

## 1 History

The assessment 'history' of a DA is not normally a matter the JRPP is concerned with, however in this case, historical events have placed our client in a compromised position in relation to the ability to adequately respond to Council's concerns, and have a potentially acceptable solution tabled with the JRPP for its determination.

A brief summary of this matter is as follows;

- DA originally lodged with Council in September 2014
- DA exhibited in October 2014 (Exhibition No1) and 8 objections received.
- Initial concerns raised by Council's Assessment Officer and Senior Officers in its initial assessment of the matter in November 2014
- Applicant provided draft scheme in mid-December 2014 (ahead of formal re-submission of amended plans) to seek comments from Council's Officer as to acceptability.
- Council Officer advised the amendments satisfactorily meet initial concerns, and hence amended plans were re-lodged in April 2015.

- DA re-notified- in early May 2015 (Exhibition No 2) 3 objections received (this involved the original objections of Exhibition No1 being re-lodged to Council without any change, notwithstanding design changes being made)
- Meeting with Council Officer on 14<sup>th</sup> May 2015. The acceptability of the scheme was re-confirmed at this meeting.
- Council's Assessment Officer's (favourable) report was provided to Council's internal DAP, which was held on the 30<sup>th</sup> July (DAP Meeting No.1). In this meeting, the DAP raised comments with various aspects of the proposal, primarily relating to character of building within the area, bulk and scale, and compliance with Clause 26 of SEPP Seniors (ie 400m access to bus stop). The DAP ordered a 're-assessment' of the proposal by another Assessment Officer.
- Despite numerous requests by the Applicant for this second assessment report to be finalised as soon as possible to determine whether any further amendments could be made to address Council's concerns, the second assessment report was issued to the Applicant on Friday 4<sup>th</sup> September. The recommendation of this second Assessment Report was for refusal.
- On Monday 7<sup>th</sup> September (ie 3 days after it was known of the precise concerns of the Council's second Assessment report), amended plans were lodged with the Council with a specific request that they be considered as part of the next DAP meeting. These amended plans included a Clause 4.6 variation to Clause 26 of SEPP Seniors (ie 400m access to bus stop).
- The DAP considered the second assessment on 14<sup>th</sup> September 2015 (DAP meeting No 2). At that meeting, (despite numerous previous requests by the Applicant in the lead-up to the meeting for the amended plans lodged on Monday 7<sup>th</sup> September to be considered), these amended plans were NOT considered, and the DAP considered the same plans that were tabled to them at DAP Meeting No.1. At this meeting, they endorsed the reasons for refusal which now form part of the JRPP's pack of information. At this DAP meeting, it was also identified that the proposal was 'integrated development' (requiring the referral to the RMS for its 'general terms of approval' under the Roads Act for a proposed stair linking the site to the Pittwater Road frontage). This was the first time in 12 months that this issue had been raised with the Applicant.
- At DAP Meeting No.2, Council Director of Planning (who sat on the DAP) outlined that as part of the lead-up to the JRPP meeting, these amended plans (included the Clause 4.6 variation) should be assessed in order to be able to respond to any questions put to the Council's Officers at the JRPP meeting. In DAP Meeting No.2, the Applicant encouraged for this assessment to occur as it was re-iterated, they were trying to work with Council on this matter in seeking a favourable outcome as part of the upcoming JRPP meeting.
- A review of the posted information on the JRPP website in recent days has revealed that no assessment (in fact no reference at all) has been made to the amended plans lodged by the Applicant. Further, there are no suggested conditions accompanying the Report.

The applicant is now concerned and disappointed that there is limited ability for the JRPP to properly consider these amended plans. This concern is compounded by the fact that the Applicant has been cooperative in this process and has sought to respond to Council's issues during the process.

## 2 Amended Information Relied Upon

The amended plans upon which the Applicant is relying upon in this matter are dated Monday 7<sup>th</sup> September 2015 and were lodged with Council on the same day. They include a Clause 4.6 variation in relation to Clause 26 of SEPP Seniors (ie 400m access to bus stop).

## 2.1 CLAUSE 4.6 VARIATION TO CLAUSE 26

We do not wish to expand upon the contents of the Clause 4.6 variation- except to say;

- That the provision of a private transport service for site residents to amenities currently operates as part of the existing nursing home on site and was always contemplated as part of the proposal (it was referenced in the Statement of Environmental Effects).
- The 'formalisation' of this private transport service as a commitment as part of the Clause 4.6 variation offers a more superior access solution for site residents than would otherwise be available if the site were within 400m of a bus-stop- as it provides an immediate transport option 'at their front door'. The private bus transport service provides a safer, more direct and more appropriate mode of transport to the required services and facilities identified in Clause 26.
- Evidence and experience shows that nursing home residents do not walk to bus stops to get access to services (the profile of residents within these homes is much different to the more able-bodied residents of retirement villages). The Clause 4.6 variation includes information from Opal Aged Care on this issue.

Given the Applicant's reliance on a private transport solution and also the profile of residents on the site, the pathway and stair shown on the plans linking to Pittwater Road is not required. It is something that would provide some convenience for staff and visitors associated with the proposed facility, but is not required from a legislative view-point and hence can be deleted from the scheme.

Given the possible need for referral of the matter to the RMS (and the possible procedural difficulty that the JRPP would face in granting an approval if such a referral was required), the Applicant wishes to delete reference to this pathway and stairs from the scheme and is willing to accept a condition of consent to this affect. This course of action would remove the need for any referral and provide clarity for the JRPP to grant approval, if it were minded to do so.

## 2.2 AMENDED PLANS

The amended plans squarely address all of the salient issues raised in Council's second Assessment Report. In summary:

- The upper floor setback of the building has significantly increased from 10m to 17.7m to Pittwater Road boundary. This reduces the height of the development, together it's bulk and scale (and hence it improves its relationship within the surrounding context).
- Further to the above, building modulation and articulation has been increased, including:
  - Parapets removed
  - Roof simplified
  - Façade articulation and modulation of eastern and southern elevation modified to reduce bulk and scale
- The height non-compliance is limited in location and extent to the north-eastern portion of the building facing Pittwater Road. The pushing back of the upper floor by an additional 7.7m has significantly reduced this non-compliance. Drawing DA2000 demonstrates how this modification has improved compliance with height control, particularly from Jenkins Street where the noncompliant section at the north eastern corner is visible as a 'shadow'.

- The deletion of the front portion of the top floor has had a positive impact on the perceived bulk and scale of the development from both Jenkins St and Pittwater Road. Further, modifications to the balconies and façade articulation have increased modulation and reduced the impact of the building from the surrounding area.
- The deletion of the front portion of the top floor further improves the horizon view from the adjoining properties at No 8 Jenkins Street and No 55 Elimatta Road.
- The FSR of the development is now 1.09:1 – thereby meeting Clause 48's 'cannot be used to refuse' standard of 1.1:1. The recent modifications have reduced the development GFA by 969sqm.
- The proposed development is both consistent with surrounding setbacks, and compliant with DCP setback controls for Pittwater Road (10m) and Jenkins Street (5m). The northern and eastern setbacks are far greater than the minimum requirement.
- Additional landscaping has been added to the Pittwater Rd and Jenkins St frontages.
- Paved areas within the Pittwater Road frontage have been reduced.

### 3 Request

We kindly request that this letter and the amended information that was submitted on Monday 7<sup>th</sup> September be considered by the JRPP in its deliberations on this matter. If you have any questions, please call me on 8233-9949.

Yours sincerely



Peter Strudwick

Director

CC: Pittwater Council