



Ph: (02) 9986 3362 Fax: (02) 9986 3364

Suite 1, 9 Narabang Way, Belrose 2089

PO Box 716 Turramurra 2074

Email: james@jameslovell.com.au

Web: www.jameslovell.com.au

21 March 2022

The General Manager
Ku-ring-gai Council
Locked Bag 1006
GORDON NSW 2072
Attention: Luke Donovan

Dear Luke,

DEVELOPMENT APPLICATION No. 0145/2015
2 – 8 PYMBLE AVENUE, PYMBLE

Introduction

I write on behalf of the Application in relation to the abovementioned matter in response to your correspondence dated 28 February 2022.

The subject site formally comprises Strata Plan 97280, and is commonly known as No's 2 – 8 Pymble Avenue, Pymble.

The site is currently occupied by a multi-storey residential complex accommodating 93 residential apartments and one (1) non-residential tenancy. The approved non-residential tenancy (identified as Lot 94) has a floor area of 100m², and occupies a portion of the ground floor level at the corner of Pymble Avenue and Everton Street.

As you are aware, the Application seeks to amend the approved development pursuant to Section 4.56 of the *Environmental Planning and Assessment Act 1979*. The proposed amendment seeks to change the use of the non-residential tenancy from a "neighbourhood shop" to a rental management office.

I note that you have raised a number of concerns in relation to the proposed development in terms of the specific purpose of the proposed rental management office, the consistency with the zone objectives, and the status of the Application for a Building Information Certificate (BIC).

In the preparation of this response, the Applicant has sought input and advice from its solicitor (Mr Aaron Gadiel of *Mills Oakley*) and economic assessment consultant (Ms. Princess Ventura of *Urbis*). Further, the Applicant has also sought input from the occupant in relation to the operational aspects of the proposed use.

Nature of the Rental Management Office

In response to your request for additional details, I can advise (using the same numbering) as follows:

1. It is anticipated the rental management office will receive approximately 50 – 100 rental and/or sales enquiries per week.
2. It is anticipated that approximately 5 – 6 staff will be required to respond to the enquiries.
3. It is anticipated that the initial enquiries may occasionally lead to further enquiries in relation to the availability of properties if they cannot be accommodated within the existing building.
4. The Application relates to the prospective, and not retrospective, use of the subject tenancy. That is, if the Application is approved, it will not act retrospectively, but rather will authorise the prospective use of the tenancy as a rental management office.
5. As per Item 4 above.

Further, the Applicant has obtained legal advice in relation to the nature and permissibility of the proposed (ie. prospective) use. The advice concludes that the proposed use is permissible in the zone with the consent of Council.

The legal advice also notes that to address any remaining concerns regarding the permissibility of the proposed use, the Council may wish to impose a Condition of Consent limiting the rental management office to servicing the subject site only. An example of a possible Condition is as follows:

The rental management office is only to service the rent and sales of the residential apartments within the building(s) on the site, accommodate the building manager and strata manager for the building(s) and host any meetings of the Body Corporate.

The Applicant would embrace a Condition of Consent to that effect.

Zone Objectives

The site is zoned R4 – High Density Residential pursuant to the Ku-ring-gai Local Environmental Plan (LEP) 2015. Clause 2.3 requires the consent authority to have regard to the objectives for development in a zone when determining a DA [emphasis added].

The objectives of the zone are expressed as follows:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for high density residential housing close to public transport, services and employment opportunities.*

Firstly, there is no requirement that the proposed development be consistent with the zone objectives, the relevant test is that a consent authority must merely have regard to the zone objectives when determining an Application.

The legal advice obtained by the Applicant notes that the proposed rental management office will support the achievement of the objectives relating to residential development by providing support and proper management of the residential apartments within the complex, in an area that is close to public transport and other services.

Further, the rental management office will also accommodate the building manager and strata manager for the building and provide a space for the meetings of the Body Corporate to be held. These are services that the residents of the buildings will need on a day to day basis.

Finally, the Applicant has obtained an Economic Assessment in relation to the proposed change of use to a rental management office. The Assessment concludes that:

- there is sufficient retail provision in superior locations around the site to cater for the day to day needs of the residents;
- there is a sufficient pipeline of future non-residential floorspace to offset any loss of retail floorspace from this change of use; and
- there are several key retail success factors that the site lack, which may affect the viability of a retail tenant in this location.

In the circumstances, it is reasonable to conclude the proposed development is consistent with, or not antipathetic to, the objectives of the zone.

Building Information Certificate

The Applicant is finalising the material required to accompany the Application for a BIC, and the Application will be lodged as soon as possible. Alternatively, the Applicant would accept a Condition of Consent requiring the internal fit-out works to be compliant with the Building Code of Australia prior to the issue of an Occupation Certificate.

Conclusion

I trust this submission is satisfactory for your purposes, and should you require any further information or clarification please do not hesitate to contact the writer.

Yours Sincerely,



James Lovell
Director
James Lovell and Associates Pty Ltd