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08 August 2016

Sandy Shule
Metropolitan Delivery
NSW Planning & Environment
GPO Box 39
SYDNEY NSW 2001

Dear Sandy,

PRE-GATEWAY REVIEW REQUEST 7-33 WATER STREET, STRATHFIELD SOUTH

We are writing on behalf of Westport Pty Ltd and RJ Green & Lloyd Pty Limited to request a Pre-Gateway Review of a Planning Proposal submitted to Strathfield Council on 22 April 2016. This letter provides the proponent's justification for why a review is warranted, in accordance with the Department's "*A Guide to Preparing Local Environmental Plans*", and is accompanied by:

- A completed Pre-Gateway Review application form and the relevant application fee of \$5,000.00 (**Attachment A**).
- A copy of the subject Planning Proposal prepared by Urbis, dated April 2016 (**Attachment B**), including the following supporting documentation:
 - Architectural Drawings prepared by Robertson + Marks Architects;
 - Design Report prepared by Robertson + Marks Architects;
 - ADG Compliance Table, prepared by Urbis;
 - Urban Design Study prepared by GMU Design;
 - Traffic and Transport Assessment prepared by GTA Consultants;
 - Flood Impact Study prepared by WMA Water;
 - Contamination Assessment prepared by Ramboll Environ;
 - Preliminary Arboricultural Assessment prepared by Tree Consulting by Jo;
 - Economic Assessment prepared by Hill PDA;
 - Acoustic Assessment prepared by Acoustic Logic;
 - Electromagnetic Radiation Report prepared by EMC Services; and

- A copy of Council's Planning Committee Meeting Agenda and Minutes dated 19 July 2016 (**Attachment C**).
- A copy of the Council's notice dated 13 July 2016, advising of the meeting to be held on of 19 July 2016 (**Attachment D**).
- A copy of the the proponent's correspondence to the Mayor of Strathfield dated 18 July 2016 (**Attachment E**).
- A copy of the Council's pre-lodgement correspondence dated 3 July 2015, and 10 September 2015 (**Attachment F**).

We note that Council did not issue any correspondence between the lodgement of the application on 22 April 2016 and its letter of 13 July 2016 advising of its officer's recommendation not to proceed to gateway.

1. BACKGROUND

On 8 February 2010, a planning proposal to rezone 7-33 Water Street (Lot 1 DP 603465, Lot 2 DP 603465, Lot 3 DP 217450, Lot 22 DP 402062, Lot 23 DP 29213, Lot 24 DP 29213) and 8-10 Dunlop Street (Lot 1 DP627152, Lot 1 DP 812668) Strathfield South from 'Industrial 4' to 'Residential 2b' received gateway refusal by the Department of Planning. The reasons for refusal provided by the Deputy Director General, Plan Making & Urban Renewal were:

- *The proposal is premature given the imminent completion of Council's economic and employment land use study. This study will inform Council in relation to the future of employment land throughout the LGA and the importance of retaining Category 1 employment lands to meet Council's employment targets*
- *In the event that the study shows that the rezoning of the subject land is appropriate, Council should consider extending the Planning Proposal to cover all of the industrially zoned land in the South Strathfield Water Street precinct to avoid future land use conflicts.*

The Strathfield Residential Land Use Study was adopted by Strathfield Council in November 2011. The subject planning proposal relates to the eastern portion of the Strathfield South Precinct, for which the following recommendations are made:

South Strathfield provides a high level of residential amenity. The low scale residential nature of the precinct is to be retained. It is expected that renewal of housing stock (knock-down, rebuilds) will continue to intensify in coming years. ***The Water / Dunlop Street industrial area*** is somewhat isolated from the bulk of Strathfield's industrial and employment lands and access to it is via residential streets. ***The conversion of this land for residential purposes is supported, subject to acceptable management of flooding and contamination issues.*** The current rezoning of land at Hill Street, Hillcrest Street and Coronation Parade for residential purposes is supported. Investigate permitting townhouses and / or low rise apartments of the remaining residential sites fronting Ford Park to take advantage of the interface with the open space.

Specific Recommendations and Additional Yield Estimate

*The Precinct was investigated for the potential to increase residential capacity. The investigations found that **the Precinct may be suitable for increased residential development in the long term and that further investigations should be undertaken to determine a suitable future built form and capacity**. At this stage, no increase (sic) the development potential of the Strathfield South Precinct is recommended as part of the Stage 1 Strathfield Comprehensive LEP.*
(our emphasis)

The Strathfield Economic Land Use and Employment Strategy was adopted by Strathfield Council in June 2012. Direction 6 of the Strategy is “Modernising development controls for local and economic advantage” and Action 6.1 is “Consider alternative planning controls for Water Street/Dunlop Street”. Specifically, the Spatial Strategy for Strathfield’s Industrial Areas and Town Centres contains six key directions, including:

More work is required to investigate alternative uses for the Water Street/Dunlop Street Precinct. Ideally, redevelopment of this precinct would involve land ‘pooling’ to expand the open space corridor adjacent to the river, while allowing for comprehensive redevelopment for medium density residential.
(our emphasis)

Figure 6 of the Strategy specifically recommends that the site be rezoned R3 Residential.

Representatives of the proponent met with Council on 19 June 2015 to recommence consultation in relation to the potential rezoning of the site in accordance with the above strategies. On 03 July 2015 Council wrote to Crown Group raising the following issues in relation to any such Planning Proposal:

1. *Resolution of contamination and flooding issues.*
2. *Applicant encouraged to consult with the landowners of adjoining industrial land and to develop a precinct-wide approach to land use planning to minimise any potential land use conflicts*
3. *Consider surrounding land uses and Council’s centres hierarchy in determining suitable densities and heights*
4. *Council is generally on track to achieve its 20-year housing target of 8,300 dwellings as per the draft Inner West Subregional Strategy.*
5. *Council encourages resolution of key rezoning issues prior to lodgement of any Development Application for the site*
6. *Any rezoning will be dependent upon a full Planning Proposal process.*
7. *Meetings to discuss further flooding and contamination investigations are encouraged.*



Following further consultation, Council again wrote to Crown Group on 10 September 2015, iterating or raising the following:

- *Flood planning issues (both overland and mainstream) need to be fully addressed before developing urban design principles and massing plans.*
- *An R3 Medium Density Residential zoning is envisaged by Council.*

Copies of both of Council's letters are included at **Attachment E**.

Following the receipt of the above correspondence the proponent assembled a consultant team, including Urbis, to prepare a planning proposal in accordance with the issues raised.

On 22 April 2016 the subject planning proposal was lodged with Strathfield Council. When lodging the application representatives of Urbis met briefly with Council planning staff and requested a meeting to discuss the proposal.

On 26 April and 2 May 2016 representatives of Urbis made follow up calls to see if a meeting time had been booked.

On 2 May Frankie Liang of Strathfield Council advised by email that:

"I clarify that the Pre-lodgement meeting should have occurred before the formal PP lodgement.

Since Urbis has already formally lodged the PP, Council will need to undertake the preliminary assessment based on your submitted information before we can discuss this matter further.

We will be in touch later".

On 13 July 2016 Silvio Felato of Strathfield Council wrote to the proponent advising that the matter would be considered at Council's meeting of 19 July 2016, where the following recommendation would be made:

RECOMMENDATION

1. That the Planning Proposal to rezone 7-33 Water Street, Strathfield South from IN1 General Industrial to R4 High Density Residential should not proceed to Gateway

Determination for the following reasons:

- *Lack of a comprehensive Flood Study to support the zoning change;*
 - *Lack of detail and consultation with external agencies regarding the proposed Voluntary Planning Agreement;*
 - *The proposed maximum height of 28m and maximum Floor Space Ratio of 1.85:1 are excessive considering context of the site; and*
 - *Potential land use conflict between the proposed R4 High Density Residential zoning and neighbouring IN1 General Industrial zoning.*
- 2. That the proponent be advised to amend the Planning Proposal in accordance with maximum height of 11m and maximum FSR up to 1.2:1 consistent with the established Strathfield Local Environmental Plan spatial hierarchy, subject to the submission of additional information to satisfy the flooding issues within the site and value capture matters.*

3. That the Department of Planning & Environment be notified accordingly.

On 18 July 2016 the proponent wrote to the Mayor of Strathfield Council expressing surprise at the recommendation, and concluding:

"The reasons outlined by the Officers to not proceed to gateway Determination appear to be largely technically focussed. With further Council engagement I am confident we can address these technical matters of concern, and reach a common alignment in the vision for these properties. Therefore I kindly reiterate our request to consider deferring the decision to adopt the Officer's Recommendation at the Council Meeting this Tuesday evening".

At the Council meeting on 19 July 2016 the undersigned addressed the meeting on behalf of the proponent, making the following key points:

- The proposal is consistent with Council's residential and employment strategies and proposes a built form and yield that is generally consistent with what had previously been supported for gateway determination by Council.
- The concerns raised are largely technical and the proponent would like the opportunity to address them with officers.
- The proponent's requests to meet with officers had been ignored, and the first time the applicant heard of Council's concerns was in the recommendation for refusal.

Councillor Helen McLucas accused the undersigned of lying, asserting that Council officers always consult extensively with applicants.

Council then resolved to accept the recommendation of the Council officer's report, refusing the application.

2. JUSTIFICATION OF THE PRE-GATEWAY REVIEW

This request for a pre-gateway review is justified by both the merit of the proposal, and the unreasonableness of Council's reasons for refusal, as detailed below.

2.1. SITE SPECIFIC PLANNING MERIT

The proposed rezoning is consistent with Council's Residential Land Use Strategy 2011 and Economic Land Use and Employment Strategy 2012. Specifically, the Residential Strategy states that:

South Strathfield provides a high level of residential amenity The Water / Dunlop Street industrial area is somewhat isolated from the bulk of Strathfield's industrial and employment lands and access to it is via residential streets. The conversion of this land for residential purposes is supported, subject to acceptable management of flooding and contamination issues

The subsequent Economic Land Use and Employment Strategy states that:

Redevelopment of this precinct (Water Street/Dunlop Street precinct) would involve land 'pooling' to expand the open space corridor adjacent to the river, while allowing for comprehensive redevelopment for medium density residential.

The subject Planning Proposal provides the further level of planning analysis necessary to progress these recommendations. Flooding and contamination investigations have been undertaken and suitable mitigation measures identified. The preliminary Public Benefit Offer involves significant upgrade of the Cook's River corridor and the indicative development concept expands the corridor into the site.

While the Economic Land Use and Employment Strategy envisaged an R3 zoning to facilitate medium density development, the indicative development concept demonstrates how the proposed R4 zoning and associated controls will facilitate an appropriate development of the site. Design testing of this concept has demonstrated that no unreasonable environmental effects will arise from the proposed development, while significant public benefits are facilitated.

While this proposal only relates to the land controlled by the applicants, the Urban Design Study by GMU Design also indicates how a similar concept could potentially be applied to the rest of the Water and Dunlop Streets Industrial Precinct, as envisaged in the Strathfield Economic Land Use and Employment Strategy and the Strathfield Residential Land Use Study.

2.2. RESPONSE TO COUNCIL'S REASONS FOR REFUSAL

Council's stated reasons for refusing the Planning Proposal are individually addressed below.

2.2.1. Lack of a comprehensive Flood Study to support the zoning change

Following the pre-DA consultation in mid 2015, the proponent engaged WMA Water to prepare a Flood Impact Study in accordance with the recommendations of Council's pre-DA letter. This study accompanied the submitted Planning Proposal.

The first time any concerns about the adequacy of this study were raised was in Council's recommendation of refusal.

The proponent's request for a deferral to consult with Council's engineers to address the concerns raised in the officer's report was denied.

2.2.2. Lack of detail and consultation with external agencies regarding the proposed Voluntary Planning Agreement

As detailed in the proponent's correspondence to the Mayor on 18 July 2016, and in the verbal statements made by the undersigned to the Council meeting on 19 July 2016, in our meeting with Sydney Water on 26 November 2015, representatives of Sydney Water expressed considerable interest in the proponents proposal to contribute to funding of the rehabilitation of the Cooks River foreshores.

2.2.3. The proposed maximum height of 28m and maximum Floor Space Ratio of 1.85:1 are excessive considering context of the site

The proposed height and FSR standards are the outcome of extensive architectural and urban design testing submitted with the planning proposal, and are not inconsistent with the heights and yield previously supported on the site by Council.

While the proposed height and FSR are greater than we understand Council officers envisaged in pre-lodgement consultation in mid-2015, the planning proposal provided extensive justification for these outcomes. The first time any concerns about the adequacy of 'this justification were raised was in Council's recommendation of refusal.

The proponent's request for a deferral to consult with Council's officers to address the concerns raised in the officer's report was denied.

2.2.4. Potential land use conflict between the proposed R4 High Density Residential zoning and neighbouring IN1 General Industrial zoning.

We understand that Council's concern in this regard relates to noise conflict between the proposed residential use and existing industrial uses on adjoining land within the precinct. An acoustic report accompanied the submitted Planning Proposal.

The first time any concerns about the adequacy of this study were raised was in Council's recommendation of refusal.

The proponent's request for a deferral to consult with Council's engineers to address the concerns raised in the officer's report was denied.

Furthermore, while the planning proposal only relates to the eastern part of the precinct controlled by the proponent, Council's strategies envisaged the whole precinct being rezoned for residential purposes and a design indicating how the proposed development concept could be extended across the rest of the precinct was submitted with the planning proposal.

3. STRATEGIC FOCUS TEST

The Pre-Gateway Review process is currently under review. The current tests of strategic merit are:

Is the proposal:

- *Consistent with a relevant local strategy endorsed by the Department.*
- *Consistent with the relevant regional strategy or Metropolitan Plan*
- *Otherwise able to demonstrate strategic merit, giving consideration to the relevant section 117 Directions applying to the site and other strategic considerations (e. g. Proximity to existing urban areas, public transport and infrastructure accessibility, providing jobs closer to home etc.)*

The proposed strategic merit tests are:

Is the proposal

- *Consistent with the relevant regional or subregional strategy. This would include all Regional Strategies (when in place) and A Plan for Growing Sydney;*
- *Consistent with a relevant local council strategy, endorsed by the Department;*
- *The contemporary nature of the relevant LEP, measured by the time elapsed since the community has been consulted on the zoning of the subject area (including, for example, as part of the introduction of standard instrument LEPs); and*
- *Demonstrable reason for the rezoning or change in planning controls to occur, based on changed circumstances since the LEP was made, such as:*
 - *new infrastructure;*
 - *a new or updated regional, subregional or local strategy to address an inconsistency between strategic planning and zoning and/or development standards; or*
 - *the public interest.*

In these regards, the proposed rezoning is specifically envisaged in the Strathfield Economic Land Use and Employment Strategy and the Strathfield Residential Land Use Study, which are in turn consistent with the Plan for Growing Sydney.

4. CONCLUSION

Having regard to the above, we do not believe that Council have provided adequate consideration of a genuine merit based proposal to provide additional housing, in accordance with the State Government's strategic objectives and its own adopted strategic plans. In summary:

- Council has previously supported a planning proposal for a very similar form of development to that currently proposed.
- While the Department refused gateway approval for that proposal, this was only because Council's economic and employment land use study was incomplete.
- Council's Residential Land Use Study and Economic Land Use and Employment Strategy have since been completed and both recommend that the site be rezoned for residential development, generally as proposed.
- Pre-DA meetings were held between the proponent and Council. All of the issues raised in the written minutes of these meetings were addressed in the submitted planning proposal.
- The stated reasons for refusal all relate to the detailed resolution of the Planning Proposal, not its fundamental proposition, and the applicant has never been afforded the opportunity to address these matters.
- The undersigned advised the Council meeting of 19 July 2016 of the numerous requests to meet with officers since lodgement of the Planning Proposal, and iterated the request to do so. Councillor Helen McLucas accused the undersigned of lying and Council resolved to refuse the application.



In view of the above, we ask that the Department undertake a pre-gateway review of the Planning Proposal.

If you have any questions please don't hesitate to contact me on 0411 957 292.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Ian Cady".

Ian Cady
Director

- A. Completed Pre-Gateway Review application form and the relevant application fee of \$5,000.00.
- B. Planning Proposal prepared by Urbis, dated February 2016.
- C. Council's Planning Committee Meeting Agenda and Minutes dated 19 July 2016.
- D. Council's notice dated 13 July 2016, advising of the meeting to be held on of 19 July 2016.
- E. Proponent's correspondence to the Mayor of Strathfield dated 18 July 2016.
- F. Council's pre-lodgement correspondence dated 3 July 2015, and 10 September 2015.