

ETHOS URBAN

5 October 2018

17060

Carolyn McNally
Secretary
GPO Box 39

Dear Carolyn McNally

**Rezoning Review Request
8 Princess Street, Brighton-Le-Sands**

On behalf of our client, Lumex Property Group, we hereby seek a Rezoning Review in relation to a Planning Proposal lodged with Bayside Council (Council) for the site located at 8 Princess Street, Brighton-Le-Sands. The Planning Proposal seeks to amend the Rockdale Local Environmental Plan 2011 (LEP) to rezone the site from SP3 Tourist to B4 Mixed Use in order to accommodate residential uses on the ground floor of an existing residential building.

The Rezoning Review request is submitted on the basis that Council resolved not to support the Planning Proposal.

Please find attached to this letter:

- A completed Rezoning Review Application Form;
- A cheque for \$20,000, being the relevant application fee;
- A copy of the Planning Proposal including the Planning Proposal Report and accompanying supporting documents;
- A copy of Council's reports to the Bayside Local Planning Panel of 26 June and 28 August 2018;
- A copy of Council's report to the Bayside Council Meeting of 8 August and 12 September 2018.
- A copy of Council correspondence relating to the Planning Proposal.

The Rezoning Review process was initiated by the Department of Planning and Environment with the following objectives:

- To provide a mechanism for applicants to have Council rezoning decisions reviewed;
- To ensure decisions on planning proposals that are well located, planned, and assist housing and job supply can be independently reviewed; and
- To increase transparency and provide greater certainty in plan making.

This request is consistent with all these objectives, specifically we note that:

- a) The planning proposal has been considered by Council and was refused progression to Gateway despite Council Officer recommendations and the recommendation of the Bayside Planning Panel to progress the Planning Proposal for a Gateway Determination. The rezoning review process will therefore provide an appropriate pathway for a recommendation to be made on whether the proposal has sufficient merit to proceed to Gateway.
- b) The planning proposal documentation submitted to Council and discussed further in this letter, clearly demonstrates that the site has strategic merit particularly with respect to providing additional housing supply within close proximity to Brighton-Le-Sands Town Centre, public transport connections, schools and recreation facilities. Further, we consider the underlying SP3 Tourist Zone of the site to be abandoned as it

does not reflect the current and recently approved development of the land for predominately residential purposes.

- c) The resolution of Council failed to acknowledge the strategic merit of the Planning Proposal in that the site does not have the locational attributes to support commercial uses on the ground floor of the existing building.

In light of the above we respectfully request that the Planning Proposal be forwarded to the Sydney East Planning Panel for a Rezoning Review.

1.0 Background

The Planning Proposal is based on a comprehensive history dating back to 2007 and the locational attributes of the site which provide for the underlying merits of this Planning Proposal.

In 1988, development consent (DA175/87) was granted by Council for the construction of a 15-storey hotel – the Novotel Hotel Brighton Le Sands – at the Grand Parade, Brighton Le Sands. Thakral Holdings Limited is the current owner of the Novotel Hotel.

Recently in 2007, Thakral Holdings Limited purchased the vacant site, being the subject site of this Planning Proposal (8 Princess Street, Brighton Le Sands) to the immediate west adjoining the Novotel.

Between early 2008 and early 2011, a series of meetings were held at Rockdale City Council to discuss a possible extension of the existing Novotel hotel onto the subject site. During this time, discussions were also held with the Department of Planning & Infrastructure (the Department) and Council regarding the proposed lodgement of a Part 3A Concept Plan for the refurbishment of the existing hotel and its extension onto the subject site. In January 2009, the proposed hotel expansion project was declared to be a project to which Part 3A of the EP&A Act applies, and the then Minister for Planning authorised the preparation of a Concept Plan.

As part of the comprehensive LEP process, the site was re-zoned from Residential 2(c) under the preceding Rockdale LEP 2000 to SP3 Tourist under the Rockdale LEP 2011, which would appear to be in response to the declaration of the Part 3A Concept Plan.

In June 2011, Thakral advised the Council that a hotel expansion onto the subject site would not be pursued for a range of commercial and strategic reasons outside the control of Thakral Holdings. Accordingly, Thakral Holdings pursued a 'shop top housing' development of the site and lodged a Development Application on 20 April 2012. During the course of the DA assessment, the current landowner, Lumex Property Group acquired the site.

The existing development at the site, being a shop top housing building, was approved by (the former) Rockdale City Council on 12 December 2012 as part of DA-2012/325. A shop top housing building was proposed under DA-2012/325 as a result of the prohibition of residential flat buildings within the SP3 Tourist zone which applies to the site.

DA-2012/325 provided consent for the construction and use of a 9-storey mixed-use development comprising three (3) commercial ground floor tenancies, 67 residential units and basement parking for 71 vehicles. The building was completed and occupied in September 2015.

2.0 The Planning Proposal

The Planning Proposal was lodged with Bayside Council on 17 April 2018 and sought to amend the zoning of land at 8 Princess Street, Brighton-Le-Sands (legally known as SP 92060) from SP3 Tourist to B4 Mixed Use in the Land Zoning Map of the Rockdale LEP 2011.

It is noted that no amendments are sought to the existing height of building or floor space ratio development standards.



Figure 1 Existing Zoning Map

Source: Rockdale LEP 2011



Figure 2 Proposed Zoning Map

Source: Ethos Urban

3.0 Rationale for the Planning Proposal

Since completion of the building in September 2015, the applicant has actively marketed the commercial tenancies through a national commercial real estate agent, Cushman and Wakefield and thereafter engaged Colliers and LJ Hooker to extend the campaign. The comprehensive marketing campaign involved online listings on website real commercial, print media listings in the Sydney Morning Herald and the St George and Sutherland Shire Leader and real estate signage boards on the site. Since the completion of the building 2.5 years ago, no reasonable offers were made despite rent reductions over the campaign period and works to make the tenancies more attractive for food-based retailing.

Given the long-term vacancy of the tenancies, Essential Economics were engaged to undertake a market appraisal of the ground floor tenancies to determine its future financial viability. The report found that the subject site has below-average attributes for the operation of successful ground-floor retailing. The below average rating is based on the lack of significant pedestrian traffic passing the site given that it is removed from the primary retail strip of Bay Street and The Grande Parade. The site also lacks visibility from established retail areas within the centre and has no attractors that would generate patron activity to the site. The report therefore concludes that the tenancies have a low desirability for retail tenants.

In light of the extensive marketing campaign and the advice received from Essential Economics, this planning proposal is necessary to facilitate the conversion of the commercial tenancies to residential uses, commensurate with the use of the existing building and consistent with the approved residential flat building currently under construction to the immediate west. Furthermore, the SP3 Tourist zoning of the site is considered to be all but abandoned given the current development of the site.

All reasonable efforts have been exhausted to secure the occupation of these tenancies for commercial purposes over an extensive campaign period. The applicant can no longer afford to have the commercial tenancies vacant for a prolong period. Therefore it is considered necessary to allow for an alternative use which will contribute to the streetscape and will be commensurate with the adjoining B4 Mixed Use and R4 High Density Residential zoning of the locality.

4.0 Bayside Council Resolution

The original Planning Proposal was submitted to Bayside Council (Council) on 17 April 2018. The Planning Proposal was reported to the Bayside Planning Panel on 26 June 2018 with a Council Officer recommendation to progress the Planning Proposal for Gateway Determination. The Panel resolved to support the recommendation of Council staff. Accordingly, the Planning Proposal was then reported to a meeting of Council on 8 August 2018 with a Council Officer recommendation to progress the Planning Proposal for a Gateway Determination. Council resolved to report the Planning Proposal back to the Bayside Planning Panel given that the report did not outline the variations to development standards granted under DA-2012/325.

Subsequently, a further report was prepared to the Bayside Planning Panel on 28 August 2018 with a Council Officer recommendation to progress the Planning Proposal for Gateway Determination. The Panel resolved to adopt the recommendation of Council Staff. Accordingly, the Planning Proposal was reported back to a meeting of Council on 12 September 2018 again with a Council Officer recommendation to progress the Planning Proposal for Gateway Determination. Council unanimously resolved to not support the Planning Proposal.

In this respect, the Planning Proposal Report clearly demonstrates the merit of the Planning Proposal commensurate with the findings of the Council Officer Reports and recommendations of the Bayside Planning Panel. Given Council did not support the Planning Proposal despite the recommendation of Council staff and the Bayside Planning Panel, we respectfully request that the Sydney East Planning Panel consider the strategic merit of the proposal.

Additionally, as the Sydney East Planning Panel comprises representatives that are elected Councillors who unanimously resolved to not support the Planning Proposal, we respectfully request that alternate members be appointed to consider this matter in order to mitigate any perceived conflict of interest or bias. This is consistent with the Rezoning Reviews Report prepared by the Department of Planning and Environment and dated August 2016. An extract from Page 10 is provided below:

Councillor representatives who participated in the initial council determination of a planning proposal request should not be able to participate as Planning Panel representatives for a Rezoning Review request that relates to the same matter. This will remove any risk of any apprehension of bias by those councillors and / or the Planning Panel.

5.0 Conclusion

In summary, the proposal has strategic merit and accordingly justifies a rezoning review. As Council has determined not to support the planning proposal, it is respectfully requested that the proposal to be considered under the Rezoning Review process.

I trust this information is what you require at this stage to progress this request, however should you have any queries about this matter or require any further information, please do not hesitate to contact me on 9409 4954.

Yours sincerely,



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