

30th January 2018

Sydney Region East, Planning Services
NSW Department of Planning & Environment
GPO Box 39
Sydney NSW 2001

Attention: Amanda Harvey – Director Sydney Region East

Dear Ms Harvey,

**Rezoning Review Cover Letter
Planning Proposal PP0003/17
Schedule 1 Amendment – Seniors Housing
Pittwater Local Environmental Plan 2014
2 and 4 Nooal Street and 66 Bardo Road, Newport**

This cover letter accompanies a Rezoning Review request pertaining to the subject Planning Proposal and is to be read in conjunction with the review submission prepared by Boston Blyth Fleming Town Planners dated 29th January 2018. The subject Planning Proposal was submitted to Northern Beaches Council on the 4th September 2017 seeking to amend Schedule 1 of Pittwater Local Environmental Plan 2014 (PLEP 2014) to permit seniors housing on the consolidated development site as an additional permitted use.

We were advised by Northern Beaches Council by correspondence dated 7th December 2017 that the Planning Proposal was not supported for various reasons as detailed within that document. The accompanying submission dated 29th January 2018 responds to the issues raised and demonstrates that the proposal satisfies the strategic merit test and has site specific merit, in accordance with Step 2 in the Department of Planning and Environment's *A Guide to Preparing Local Environmental Plans*. Further to the strategic justification provided within the accompanying Planning Proposal and review submission documentation, an assessment against the Step 2 criteria is as follows.

Strategic Merit Test

Is the proposal consistent with the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment.

The revised Draft North District Plan (November 2017) is the applicable Draft District Plan (the Draft Plan). The North District Snapshot contained on page 12 of the Draft Plan indicates *that there will be a 54% increase in the number of people aged 65 years and older in the next 20 years i.e 171,400 up from 116,300*. Section 3 “Liveability” states:

Liveability is about people’s quality of life. Maintaining and improving liveability means housing, infrastructure and services that meet people’s needs; and the provision of a range of housing types in the right locations with measures to improve affordability. This enables people to stay in their neighbourhoods and communities as they transition through life.

Planning Priority N5 “Providing housing supply, choice and affordability, with access to jobs and services” states that in relation to housing diversity and choice:

New housing must be in the right places to meet locational demand, and also respond to demand for different housing types, tenure, price points, preferred locations and design.

Housing supply must be coordinated with local infrastructure to create liveable, walkable and cycle friendly neighbourhoods with shops, services and public transport. This means that some areas are not appropriate for additional housing due to natural or amenity constraints, or lack of access to services and public transport.

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Research into housing preferences in Greater Sydney has shown that people generally prefer to remain within their local area, with 82 per cent of residents moving into a new home within 15 kilometres of their former residence

Page 36 of The Draft Plan identifies medium density local infill development as a means of providing greater housing variety whilst maintaining the local appeal and amenity of an area. The considerations pertaining to such infill development are identified as:

- transitional areas between urban renewal precincts and existing neighbourhoods – Not applicable
- residential land around local centres where links for walking and cycling help promote a healthy lifestyle – Satisfied
- areas with good proximity to regional transport where more intense urban renewal is not suitable due to challenging topography or other characteristics – Not applicable
- lower density parts of Suburban Greater Sydney undergoing replacement of older housing stock – Satisfied

We have formed the considered opinion that the Planning Proposal will provide a housing typology designed specifically to meet the needs of seniors of people with a disability on a site ideally located within 400 metres walking distance, by an accessible path of travel, of a bus stop providing regular north and south bound bus services and 800 metres walking distance to both the Newport Village Local Centre and Kallinya Street Neighbour Centres. This outcome will not only enable seniors and people with a disability to stay in the neighbourhood/ age in place but also reduce the pressure/ demand created by seniors for other forms of housing in the area thus effectively increasing the supply of housing for other demographics.

We note that the adoption of the E4 Environmental Living zone by PLEP 2014 had the effect of down zoning a substantial number of properties in the previous Pittwater Council LGA resulting in a significant loss of properties to which SEPP HSPD would have potentially applied. Whilst it is acknowledged that environmental constraints such as topography, vegetation/ biodiversity, bushfire and accessibility would have precluded a significant quantum of properties from being developed pursuant to the SEPP, a number of properties, in particular the subject sites, are not constrained in such a manner.

The inclusion of seniors housing as an additional permissible use will meet a clear and increasing demand for seniors housing on the Northern Beaches on a site ideally suited to such form of housing given the sites unique built form context and relatively unconstrained environmental characteristics compared to the balance of E4 Environmental Living zoned land (PLEP 2014). Such unique circumstances, together with the site-specific PLEP 2014 Schedule 1 Additional Permissible Use LEP amendment proposed, will ensure that no unacceptable/ unreasonable precedent is created through adoption of the Planning Proposal as outlined.

The context of the site is far from low density in character with development within the sites visual catchment characterised by multi-storey detached dwelling houses, multi-storey residential flat development, marina development and associated club facilities and parking areas as depicted in the aerial photograph at Figure 1 over page and the photograph looking from the site towards Crystal Bay at Figure 2. Accordingly, the built form context/ visual catchment in which the site is located is far from low density in character. The concept plans depict a complimentary and compatible building form which will not be perceived as inappropriate or jarring in its context.

Whilst there is no FSR standard applicable to development on the land the proposal does comply with the SEPP HSPD FSR threshold of 0.5:1, notwithstanding its inapplicability, being reflective of the floor space reasonably anticipated in a low density residential zone.



Figure 1 – Aerial location/ context photograph



Figure 2 – View from site towards Crystal Bay

The Planning Proposal will prevent the loss of housing for seniors and people with a disability on land ideally suited to such use and in doing so address an identified current and increasing future need/ demand for such housing on the Northern Beaches enabling residents to age in place consistent with Liveability Planning Priority N5.

Planning Priority N6 relates to “Creating and renewing great places and local centres, and respecting the District’s heritage” and to that extent we see no nexus between the Planning Proposal and these provisions noting that the site satisfies the accessibility provisions of SEPP(HSPD) as they relate to proximity to regular bus services by way of accessible path of travel.

The Planning Proposal will not compromise the function of the Newport Local Centre or have any adverse heritage consequences and to that extent is not inconsistent with Liveability Planning Priority N6.

In relation to Planning Priority 17 – Protecting and enhancing scenic and cultural landscapes, we note that the Planning Proposal does not seek development consent for the concept development proposed. That said, concept plans have been prepared to demonstrate the type of built form outcome anticipated for the site with such plans depicting a fully compliant building form having regard to the provisions of SEPP (HSPD), Pittwater LEP and P21 DCP.

The height, form, FSR and footprint of the concept development are entirely consistent with that anticipated across the 3 sites with the building appropriately modulated and articulated to achieve a complimentary and compatible building fit. As previously indicated, the built form context/ visual catchment in which the site is located is far from low density in character. The concept plans depict a complimentary and compatible building form which will not be perceived as inappropriate or jarring in its context. The foreshore in this location is not natural with mean high water mark (MHW) established by a sea wall protecting the previously reclaimed foreshore land.

Further, the concept plans do not require the removal of any significant trees or vegetation with the ability to significantly enhanced the landscape quality of the site as demonstrated on the concept plans prepared in support of the proposal. The accompanying arboreal advice confirms that no trees with a significance value greater than low were identified on any of the three sites with the majority exempt under the Tree Preservation Order. If necessary, the sites could be developed without any protected tree loss. As can be seen in the site photograph at Figure 3 over page, the site does not contain any significant trees with the development providing an opportunity to significantly enhance site/ foreshore landscaping.

Accordingly, we have formed the considered opinion that the proposal is consistent with Sustainability Priority N17 and N19 with the adoption of seniors housing as an additional permissible use on the site facilitating the protection and enhancement of scenic and cultural landscapes.



Figure 3 – View from Crystal Bay towards subject site

Accordingly, we have formed the considered opinion that the proposal is consistent with the provisions of the revised Draft North District Plan (November 2017) as applicable to the subject application.

Is the proposal consistent with a relevant local strategy that has been endorsed by the Department.

Comment: Pittwater Local Planning Strategy (2011) has not been endorsed by the Department of Planning and therefore has no statutory standing.

Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognized by existing planning controls.

The Planning Proposal seeks to address the down zoning of the land created by the gazettal of PLEP 2014 and reinstate seniors housing as a permissible form of development on the land.

The adoption of seniors housing as an additional permissible use will meet a clear and increasing demand for seniors housing on the Northern Beaches on a site suited to such form of housing given the sites unique built form context and relatively unconstrained environmental characteristics compared to the balance of E4 Environmental Living zoned land (PLEP 2014).

By way of background we note that in 2013 Draft Pittwater Local Environmental Plan 2013 was formerly exhibited with both State and Local Governments making it clear that the transition to the Standard Template LEP would involve a translation of permissible uses from the old to the new format. The underpinning intent of such translation was to preserve the range of permissible uses as they related to individual sites.

At no time during the exhibition and community engagement process were the owners of the properties, the subject of this Planning Proposal, advised that the development potential of their land, as it relates to seniors housing, would be lost as a consequence of the inclusion of the E4 Environmental Living zone under the broad land use heading of “Environmental Protection Zones” at clause 2.1 of PLEP 2014. Such description excludes the E4 Environmental Living zone from the operation of SEPP HSPD pursuant to Schedule 1 of that policy which prohibits seniors housing on land described in another environmental planning instrument as “environmental protection” or any like description.

Despite the advice of Council staff and the Valuer General’s Office as contained within the Pittwater Council Community Engagement Outcomes Report (an extract of which is at Attachment 4 of the Planning Proposal) that the title of the zone would not have a significant impact on the permissible land uses on the site, or associated land value, such advice was clearly incorrect. The prohibition on seniors housing in the E4 Environmental Living zone pursuant to SEPP HSPD appears to be an unintended consequence.

In this regard, the Planning Proposal responds to such unintended change in circumstance as it relates to the permissibility of seniors housing on the subject land.

Accordingly, we have formed the considered opinion that the proposal satisfies the Strategic Merit Test given its consistency with the Revised Draft North District Plan (November 2017) in its response to the unintended down zoning of the land which removed seniors housing as a permissible use.

The Planning Proposal will prevent the loss of housing for seniors and people with a disability on land ideally suited to such use and in doing so address an identified current and increasing future need/ demand for such housing on the Northern Beaches enabling residents to age in place.

Site Specific Merit Test

The Natural Environment (including known significant environmental values, resources or hazards)

Having regard to the environmental criteria used to establish the land to which the E4 Environmental Living zone would apply the only criteria applicable to the subject properties is the fact that they are partly located within 50 metres of the foreshore. In this regard:

- The sites are not identified on Council’s geotechnical hazard map;
- The sites are not identified on Council’s biodiversity map;
- The sites are not steeply sloping with an average slope of 7%;
- The sites do not contain any significant trees, vegetation or land forms;
- The sites do not contain any items of heritage significance;
- The sites do not extend to the Crystal Bay seawall with level public access available along the foreshore;

- The sites have only ever been used for residential purposes and accordingly site contamination is extremely unlikely and matter to be addressed at Development Application stage.
- The sites are not discernible as viewed from the main body of Pittwater waterway.

As previously indicated the geometry of Crystal Bay, which has been significantly altered from its natural state through land reclamation, and its narrow entrance which is visually and physically obstructed by the Princes Street and Royal Prince Alfred Yacht Club mariners ensures that Crystal Bay is not readily discernible as viewed from the main body of Pittwater Waterway. The development site is totally obstructed from view until within the easternmost portion of the bay.

Such circumstances erode the aesthetic value of foreshore land fronting Crystal Bay compared to other foreshore land surrounding Pittwater Waterway. The aerial photograph at Figure 1 clearly depicts the land reclamation upon which the properties located on the western side of Bardo Road are located with the relatively flat nature of the land and absence of any significant established canopy tree cover reinforcing such circumstance.

We note that the western portion of the site is affected by estuarine inundation being the only environmental constraint identified for the site. That said, such constraint would not preclude the application of SEPP HSPD to the land by virtue of the SEPP HSPD Schedule 1 “Environmentally sensitive land” considerations. The accompanying Estuarine Risk Management Report, dated 28 December 2017, prepared by Horton Coastal Engineering confirms that:

The site is only potentially affected in a minor manner by coastal inundation, and can be designed to be at an acceptably low risk of coastal inundation.

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Conclusions

At 2-4 Nooal Street and 66 Bardo Road Newport, seniors living apartments are proposed. If the recommendations in Section 6 are followed, the risks of the proposed development being adversely affected by estuarine processes would be suitably mitigated.

The proposed development complies with the coastal engineering requirements of Section B3.8 of the Pittwater 21 DCP, Clause 5.5 of Pittwater Local Environmental Plan 2014, and Clause 8 of State Environmental Planning Policy No 71 – Coastal Protection (SEPP71).

The accompanying concept plans account for the identified estuarine hazard with the proposal responsive to site topography, its foreshore location and its built form context. The site-specific design response is detailed with the Planning Proposal Report.

The existing uses, approved uses and likely future uses of land in the vicinity of the proposal.

The subject properties are zoned E4 Environmental Living having previously been zoned 2(a) (Residential “A”) pursuant to Pittwater Local Environmental Plan 1993 (PLEP 1993). Seniors housing was permissible in the 2(a) zone pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD).

The properties located on the eastern side of Nooal Street, directly opposite the subject sites, are zoned R2 Low Density Residential with the land occupied by Royal Prince Alfred Yacht Club and Princes Marina zoned RE2 Private Recreation and IN4 Working waterfront respectively.

The subject sites are within an established urban area the context of which is far from low density in character. Development within the sites visual catchment is characterised by multi-storey detached dwelling houses, multi-storey residential flat development, marina development and associated club facilities and parking areas. The residential flat development benefits from existing use rights.

The concept plans nominate a highly articulated and modulated building form which has been broken into a series of pavilions and which step down the site in response to the topography. The proposal does not require the removal of any significant trees or landscape features and strikes a balance between excavation and building height. The proposed floor levels will ensure that the development will be safe from hazards with generous areas of landscaped open space ensuring the ability to provide appropriately for plantings to soften and screen the building form and ensure that it sites within a landscaped setting.

The use of earthy and natural materials will ensure that the building blends into the vegetated escarpment which forms a backdrop to the site.

Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191 we have formed the considered opinion that most observers would not find the height, form or massing of the development achieved through implementation of the accompanying concept plans offensive, jarring or unsympathetic in a streetscape or foreshore development context nor having regard to the visibility of the site form Pittwater Waterway or built form characteristics of development within the sites visual catchment.

Accordingly, it can be reasonably concluded that the proposal is contextually appropriate and compatible with its surroundings when viewed from Crystal Bay, foreshore areas, public domain and surrounding residential properties.

The services and infrastructure that are or will be available to meet demands arising from proposal and any future financial arrangements for infrastructure provision.

Future development will be appropriately serviced by existing infrastructure. The sites are located within 400 metres walking distance, by an accessible path of travel, of a bus stop providing regular north and south bound bus services and 800 metres walking distance to both the Newport Village Local Centre and Kallinya Street Neighbour Centres. The development site satisfies the clause 26 and 38 location and access to facilities and accessibility requirements of SEPP HSPD.

The traffic generation as a result of the proposal will be suitably accommodated by the existing road network with any additional public transport demand accommodated by the new Northern Beaches B-Line bus service.

Conclusion

The Planning Proposal will reinstate seniors housing as a permissible land use on the land and in doing so rectify the unintended down zoning of the land as a consequence of the making of Pittwater LEP 2014. The planning proposal demonstrates that the sites are unique in their built form context and that unlike the vast majority of other E4 Environmental Living zoned land to which Pittwater LEP 2014 applies, are generally unconstrained and suitable for seniors housing as proposed.

In this regard, we have formed the considered opinion that the proposal does, in fact, satisfy the Strategic Merit Test and site-specific merit tests, succeeds on merit and accordingly is appropriate for gateway determination. The planning proposal will prevent the loss of housing for seniors and people with a disability on land ideally suited to such use and in doing so address an identified current and future need/ demand for such housing on the Northern Beaches enable residents to age in place.

It is therefore recommended that the Planning Proposal is endorsed by the Planning Panel and that the necessary steps are pursued to enable it to proceed to Gateway Determination under Section 56 of the EP&A Act.

Yours sincerely,

Boston Blyth Fleming Pty Limited



Greg Boston

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Director