



14253
29 September 2016

Ms Caroline McNally
Secretary
Department of Planning and Infrastructure
Level 3
4-6 Bligh Street
SYDNEY NSW 2000

Dear Ms McNally

**PRE-GATEWAY REVIEW REQUEST
2-32 JUNCTION AVENUE, FOREST LODGE**

On behalf of Cicihour Pty Ltd (ABN 14 003 588 501), a wholly owned subsidiary of Fitzpatrick Investments Pty Ltd we are pleased to submit this Pre-Gateway Review Request for a Planning Proposal relating to land at 2-32 Junction Avenue, Forest Lodge (the site). Together with this letter please find attached:

- A signed Pre-Gateway Review Application Form;
- A cheque for the \$20,000 application fee made out to the Department of Planning and Environment (DP&E);
- A hard copy of the Planning Proposal Report and supporting documentation;
- A CD containing all the Planning Proposal documentation in electronic PDF form; and
- A copy of relevant key correspondence between the project team and Council since lodgement of the Planning Proposal (**Attachment A**).

1.0 PLANNING PROPOSAL

The Planning Proposal was originally lodged with the City of Sydney Council (the Council) on 10th March 2015. At the time it was lodged it sought a number of amendments to the Sydney Local Environmental Plan 2012 (SLEP 2012) as it relates to the site. Since lodging the Planning Proposal with Council it has been the subject of extensive negotiations which resulted in a number of amendments to the indicative scheme to respond to flooding and massing constraints. The changes made to the indicative scheme have in turn resulted in a minor variation to the proposed LEP Amendments, specifically relating to the proposed height control. Accordingly, as part of this Pre-Gateway Review we wish to advise that the Planning Proposal now seeks the following LEP Amendments:

- A change to the site's floor space ratio from 1:1 as currently applies to the site, to a new FSR of 1.75:1.
- A change to the site's maximum building height limit from a site wide 12m to a primary building height limit of 25m with a 12m maximum building height strip retained fronting Junction Street with a depth of 7m from the Junction Street front property boundary.

An updated copy of the proposed LEP Maps is attached to this letter.

2.0 THE SITE

The site is located at 2-32 Junction Street, Forest Lodge within the City of Sydney Local Government Area. It is located along the eastern side of the suburb boundary between Forest Lodge and Camperdown. Forest Lodge has historically been a mixture of industrial and residential uses developed since the late 1880s. Since this time a large portion of the area has been comprehensively redeveloped for medium to high-density residential purposes. The remainder of Forest Lodge generally consists of low density attached or semi-detached one and two storey dwellings. The site provides a strategic opportunity to transition between the interface of the two differing densities.

The site itself is located approximately 150m to the north of Parramatta Road, 500m to the north-west of University of Sydney and 2.5km west of Sydney's Central Business District as shown within **Figure 1**.

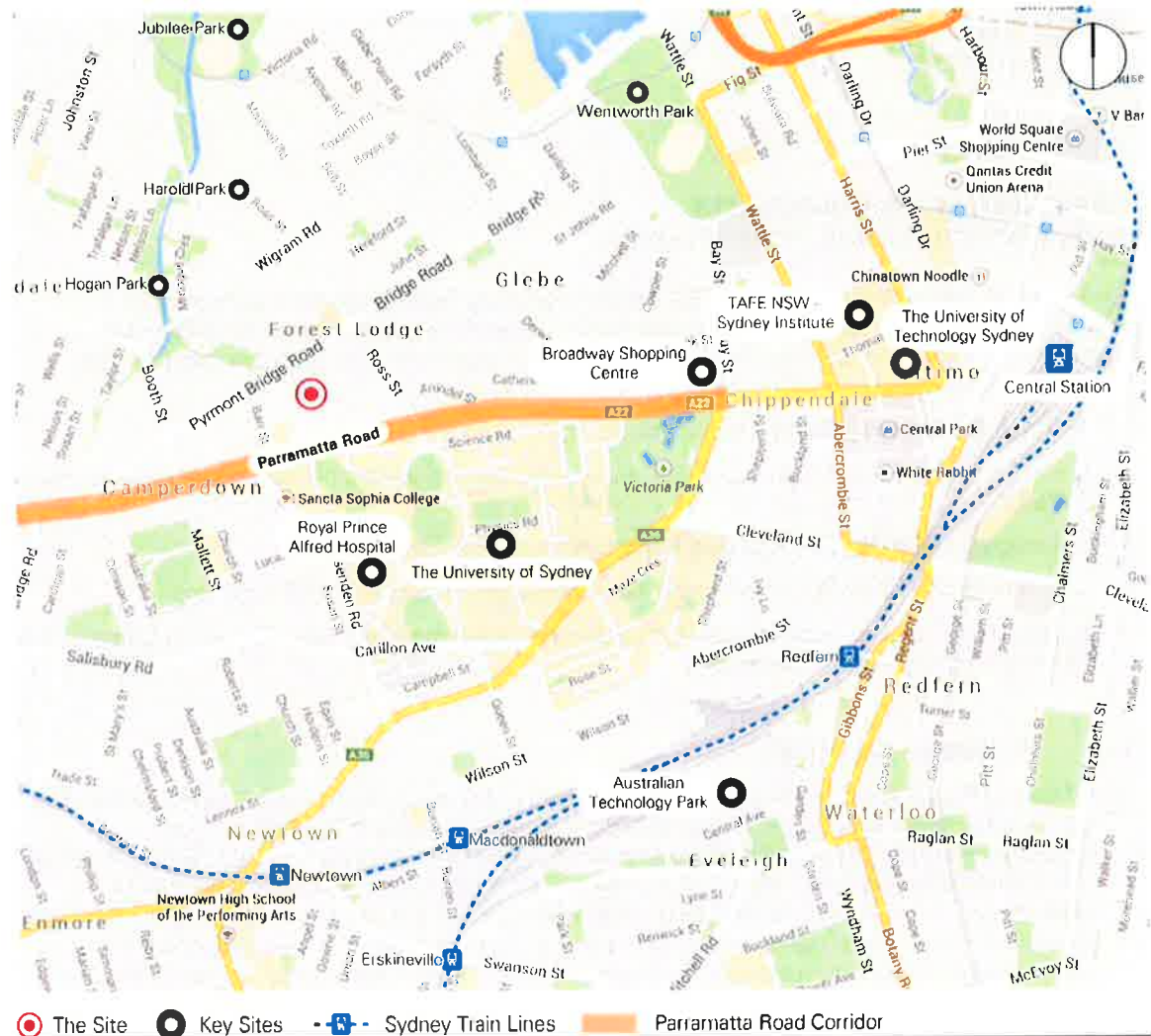


Figure 1 – Site Location and Context

Source: Google Maps & JBA, 2015

The site is irregular in shape and has a total area of approximately 4,824m². It has a primary frontage to Junction Street of approximately 97m and a variable depth of between 29m and 65m. The rear of the site fronts onto Larkin Street. The majority of the site is covered by asphalt and concrete paved areas that are accessed via dual gated driveway connection to Junction Street. Within the centre of the site and fronting Junction Street is a 2-3 storey commercial building. A detached single storey workshop is located to the south of the primary building. The commercial building and wider site is presently occupied by Fitzpatrick Investments, FDC Construction and Fitout together with BluePrint and Bishops Real Estate as smaller tenants, for the purposes of offices, parking and storage.



Figure 2 – Aerial photograph of the site (outlined in red)

Source: NearMaps, 2015

3.0 BACKGROUND

Lodgement of the Planning Proposal occurred in March 2015 following a number pre-lodgement meetings and discussions with the Council. The Planning Proposal was accompanied by a number of supporting documents and technical studies, in particular a Masterplan Study and Indicative Layout Options Report was submitted with the Planning Proposal that set out the urban design strategy and rationale behind the proposed Indicative Masterplan, including detailed site and contextual analysis, massing analysis, floor plans, sectional views, visual analysis, shadow analysis and a SEPP65 analysis.

Since lodging the Planning Proposal the project team have worked closely with Council officers to understand their issues and concerns, and have always sought to respond to these concerns with the preparation of additional material where necessary. As a result of these discussions a number of changes have been made to the Indicative Master Plan throughout the 18-month assessment process to date. The amendments made to the indicative scheme and the additional material submitted during this period is considered to demonstrate the site's ability to accommodate the quantum of development that would occur under the proposed LEP controls.

Discussions and negotiations with Council to date have focussed on a number of matters including but not limited to:

- The flooding constraints associated with the site and possible solutions;
- The proposed urban design solution for the site and demonstrating how it provides an outcome consistent with the proposed height and FSR controls;
- The ability of the indicative master plan design to provide an outcome that is consistent with SEPP65 and the Apartment Design Guide;
- The potential for the proposed controls to result in adverse amenity impacts on the surrounding area, in particular shadow impacts on existing apartment buildings adjacent to the subject site;

- The potential of the scheme to deliver a high quality design outcome for the site and the surrounding area; and
- The ability of the proposed redevelopment to deliver public benefits, including the possibility of an enlarged Larkin Street Park.

A chronology of key correspondence and events during the course of the assessment process to date is provided in **Table 1** below. A copy of key relevant correspondence, together with attachments, is provided at **Attachment A** for your information.

Table 1 – Planning Proposal History

Date	Document	Comment
Late 2014-early 2015	Pre-lodgement Meetings	The Proponent and Council met on a couple of occasions to discuss the site and the proposal prior to lodgement of the Planning Proposal documentation.
10 March 2015	Planning Proposal Application	Planning Proposal documentation formally submitted with City of Sydney Council.
15 April 2015	Council Information Request	Council issues a letter stating that prior correspondence has indicated that a FSR of 1.5:1 would be appropriate for the site, and requesting further information to demonstrate how the proposal complies with SEPP65, the RFDC and the SDCP 2012. A number of recommended amendments are also outlined in the letter.
4 June 2015	Proponent response package to Council Information Request.	Proponent submits a response to Council Information Request, including the provision of additional information as requested, including but not limited to a survey plan, additional shadow diagrams, sectional views demonstrating building separation, information on deep soil and area efficiency etc. This document also responds to Council's queries regarding public benefits, through site links, tree removal etc.
14 June 2015	Council email regarding key flooding considerations	Council officers send email outlining key advice from Council's flooding engineer. This email is issued prior to a future planned meeting to allow the proponent to carefully consider a possible flooding solution for the site, taking into consideration Council's requirements as set out in the Interim Floodplain Management Policy.
23 June 2015	Meeting with Council	Meeting held with Council's planning and engineering specialists to discuss flooding constraints associated with the site and to get a better understanding of what information Council require to assist them with their flooding assessment of the planning proposal.
25 August 2015	Proponent response to flooding matters.	Proponent submits a response to Council flooding concerns. The information pack includes a Flood Assessment from WMA Water, a response letter from JBA and updated architectural plans and sections by Bates Smart.
16 September 2015	Council email regarding shadow impacts	Council issue an email requesting further information regarding the potential overshadowing impacts of the proposal.
9 October 2015	Meeting with Council	Meeting held with Council to go over flooding response, discuss the need for further shadow analysis and have an initial discussion about the possibility of dedicating land to create an enlarged Larkin Street Park.
12 October 2015	Council email regarding flooding	Council officers send email confirming that the Council <i>'generally considers the revised flooding approach to be acceptable with some minor issues able to be addressed through a site specific DCP. Minor issues include the southern evacuation route and ensuring structural integrity if vehicles float during a flooding event.'</i> In the email Council also advises that <i>'Following strategic open space analysis undertaken this year by the City, an opportunity to address overshadowing of the park and ensure compliance with the DCP could be through dedication of a regular shaped parcel of land to enable the existing neighbouring park to be enlarged.'</i>

6 November 2015	Proponent response package regarding shadow impacts	Proponent submits further documentation to Council providing a detailed analysis of the overshadowing effects of the proposal on the surrounding properties in Larkin Street as well as Larkin Street Park.
25 November 2015	Council email regarding land dedication	Council officers send an email responding to the information response of 6 th November 2015, and providing advice regarding future dedication of land and Council's needs for a future park.
27 November 2015	Proponent response package regarding shadow impacts	Proponent submits further detailed analysis on overshadowing impacts in response to telephone discussions and email correspondence. In particular further information (e.g. scenario testing) is provided to Council regarding potential shadowing impacts on Larkin Street Park (both current design and under the scenario of an enlarged park).
3 December 2015	Initial Public Benefit Offer	Following discussions with Council an initial Public Benefit Offer is made by the Proponent. The initial offer includes a land dedication to increase the size of the Larkin Street Park and provide new through site links.
12 January 2016	Meeting with Council	A meeting is held between the Proponent and Council to discuss the Initial Public Benefit Offer. The feedback received is that the public benefit offer needs to be amended to include a contribution for embellishment works to the park. Council officers suggest that a cash contribution of \$1,000/m ² of park area is appropriate, which equates to a further cash contribution of circa \$1.5 million based on an overall park area of circa 1,500m ² .
25 February 2016	Updated Public Benefit Offer	Proponent submits a revised Public Benefit Offer to the Council that responds to the feedback received at the meeting in January 2016. The size of the land dedication also results in a park area that exceeds the Council's stated minimum requirement of 1,500m ² .
12 April 2016	Council Issues Letter	Following meetings and submission of additional information in late 2015 and early 2016, Council provide a formal response advising that they do not support the Planning Proposal in its current form and are still of the opinion that a FSR of 1.5:1 is appropriate for the site. Key issues identified include: • Overshadowing of apartments at 1-3 Larkin Street; • Overshadowing of apartments at 2A Short Street; • Building D impacts on Larkin Street Reserve; • Floor space in the existing commercial building; In addition to the above Council advise that they are not willing to accept the land dedication to increase the size of the Larkin Street Park on the basis that the area calculation to achieve the Council's minimum 1,500m² park size requirement, includes the through site links and will therefore result in an irregular shape to the park that is not useable. Council advised that as the central park area is only 1,350m² by their calculation as opposed to 1,500m² the Council is not prepared to accept the proposed dedication. This statement is made despite the fact that the dedication would increase the amount of public open space from 1,053m² to 1,505m² or 1,350m² excluding laneways, which represent a 30% to 50% increase in the size of the current public open space provision in the area.
13 May 2016	Meeting with Council	Meeting held with Council Officers to discuss Council's letter from April 2016 and agree actions and pathway moving forward.
17 May 2016	JBA Meeting Notes	Email sent to Council summarising JBA's notes from the meeting held on 13 May 2016.
19 May 2016	Council email regarding May meeting	Email sent from Council officers summarising their advice following the meeting held on May 2016.

20 July 2016	Proponent information response	Further information is submitted to Council in response to matters raised in the letter from April 2016 and in response to the matters discussed at the meeting in May 2016. This response includes an updated Planning Proposal Amendment report prepared by Bates Smart and written response on key matters within the covering email.
11 August 2016	Email correspondence	Follow up email correspondence with Council officers regarding progress of the assessment of the further response.
7 September 2016	Email correspondence	Notification to Council officers of intention to submit Pre-Gateway Review Request.
27 September 2016	Meeting with Council	A meeting is held between the Proponent and Council to discuss the Proponent Information Response from 20 July 2016. Despite providing the additional information that addresses overshadowing issues, Council advise that they still have concerns about 'potential' overshadowing. Council state that they are willing to propose the following: - a base FSR control of 1:1, this being consistent with the current FSR for the site. - a possible bonus FSR control of 0.5:1, which is tied to the dedication of land to increase the size of Larkin Street Park. - A possibly further bonus of 10% additional floor space pending the achievement of design excellence. Despite the extensive evidence provided by the proponent the Council has advised that they still have the view that the site is incapable of supporting development with an FSR of 1.75:1. In addition to this Council advised that they had formed the opinion that the existing building on the site had conservation value and is to be retained as part of any future development. This directly contravenes with the current policies in the Sydney Development Control Plan 2012, which specifically identifies the building as being a 'Detracting Building'. Section 3.3.9 of the Sydney DCP 2012 defines a detracting building as follows: <i>"Detracting buildings are buildings that are intrusive to a heritage conservation area because of inappropriate scale, bulk, setbacks, setting, design or materials. They do not represent a key period of significance and detract from the characters of a heritage conservation area."</i> In light of this it is unclear how Council can form the opinion that the building is of heritage value and worthy of retention.

As illustrated in **Table 1** the Planning Proposal has been the subject of a long history of negotiation and collaboration with Council officers with the express purpose of trying to achieve an outcome that responds to the site's opportunities and constraints, and which addresses the Council's issues and requirements.

Negotiations have now been ongoing for some 18 months since lodgement of the original package with Council in March 2015. We acknowledge that a number of these matters have had a bearing on the strategic merits of the proposal, for example the site specific flooding constraints; the site layout and building massing to demonstrate that the proposed height and FSR controls can be accommodated on the site; the overshadowing analysis to demonstrate that impacts on the surrounding properties can be effectively managed; and the discussions on public benefits.

As a result of these extensive discussions and negotiations we have now reached a point where the majority of these matters have been resolved, in particular we note that:

- A significant amount of detail has been provided re the site layout and built form, that together demonstrates the ability of the proposal to comply with SEPP65 and the Apartment Design Guide.

- The proposed solution to the site's flooding constraints has been accepted by Council, which involves a floating slab that allows for flood inundation and storage capacity, an open car park that allows water inundation, and a well-designed floor layout that supports clear and uninterrupted points of egress for both vehicles and pedestrians.
- Detailed analysis and documentation has been provided to Council that demonstrates that the Indicative Master Plan presented in the Planning Proposal will not result in unacceptable overshadowing impacts on the existing surrounding residential properties, or the Larkin Street Park.
- A public benefit offer was tabled to the Council in response to detailed discussions regarding what the Council would like to see occur in the area. Despite an offer to dedicate 450m² of land to increase the size of Larkin Street Park, plus \$1,505,000 for park embellishments, the Council had advised that they were not willing to accept such an offer on the basis that land dedication includes approximately 100m² of land that will be used for providing new through site pedestrian links. The Council's position on this has only just recently changed as of the 27th September 2016.

Given the extensive discussions, negotiations and work undertaken to date, we are of the firm opinion that sufficient information has been provided that clearly demonstrates the proposed LEP amendments have sufficient strategic merit to be progressed through to Gateway. Despite this we have unfortunately been unable to reach an agreement with Council in the 18 months since the planning proposal was originally submitted.

Based on our most recent discussions with Council, we understand that the key outstanding issue that appears to be concerns that the lower car park level of the proposal (as shown in the Indicative Master Plan) may have the potential to result in an unattractive interface with Larkin Street Park. As you will see in the information pack submitted to the Council on the 20 July 2016, further material has been prepared by Bates Smart to illustrate how this interface could be designed to ensure an appropriate outcome is achieved. We consider that this information should be sufficient to satisfy Council's concerns regarding this matter.

Despite the fact that this information has been provided to Council, we wish to highlight to DP&E that we don't consider that an issue such as the design interface between Larkin Street Park and any future built form on the site, should be a valid matter for consideration in determining the 'strategic merit' of the proposed LEP amendments. Indeed, this is something that is more appropriately addressed at the DA stage and should have no consequence on possible amendments to height and FSR controls. Similarly, the issue of Council willingness to accept the public benefit offer proposed by the Proponent is also not necessarily a key matter in determining the material 'strategic merit' of the proposed LEP amendments.

We wish to acknowledge that the Council has worked in close collaboration with the Proponent over the last 18 months, whilst this is the case we have unfortunately still been unable to reach a decision on whether the proposal should proceed to Gateway. Given the City of Sydney Council has been unable to make a decision within the allocated 90 day period (i.e. 90 days expired on 8 June 2015), Fitzpatrick Pty Ltd on behalf of Cicichour Pty Ltd therefore wish to formally request that the Planning Proposal be considered under the Pre-Gateway Review Process as per the Department of Planning and Environment's procedures for dealing with such matters, and documented within 'A Guide to Preparing Local Environmental Plans.'

I trust this information is sufficient to enable you to consider the Planning Proposal for Pre-Gateway determination. Should you have any queries about this matter or require any further particulars then please do not hesitate to contact me on (02) 9956 6962 or bcraig@jbaurban.com.au.

Yours faithfully



Benjamin Craig
Associate

