

17 March 2017

Mr Tom Nanevski
Nanevski Developments Pty Ltd
34 Plimsoll Street
SANS SOUCI NSW 2219

Dear Mr Nanevski

Planning Proposal – No 73 Vista Street, Sans Souci

Reference is made to the Planning Proposal submitted on 9 March 2017 for Nos 73 Vista Street (Lot 1, DP320605; Lot 1, DP1115986; Lot 489, DP752056; Lot 392, DP752056; Lot 1, DP181450), Sans Souci seeking consideration of a rezoning of the property from W2 – Recreational Waterways to R2 – Low Density Residential.

The Planning Proposal also seeks the following amendments to Kogarah LEP 2012:

- Amending the foreshore building line (FBL) to realign from the new boundary line of the R2 – Low Density Residential zone, at a depth of 7.6m
- Amend Schedule 1 to include a provision that allows for additional height and FSR where the development is for the purposes of Seniors Housing

Council has undertaken a preliminary assessment of the Planning Proposal application against Council's key strategic planning documents and the New City Plan and it is considered that the planning proposal in its current form cannot be supported as the proposed height and FSR zone is incompatible with the surrounding development and the intent and objectives of the R2 – Low Density Residential zone in the New City Plan.

It should also be noted that No 75 Vista Street, Sans Souci (Lot 1, DP181450) is in the ownership of Georges River Council and should not form part of the Planning Proposal or the subject site for the purposes for the calculation of FSR. Any future Planning Proposal should be amended to not include the Council owned site.

Council has also undertaken an assessment of the Planning Proposal in accordance with the requirements of the Strategic Merit Test as outlined in the NSW Department of Planning's *Rezoning Reviews* (August 2016) and came into force on 1 September 2016.

Based on the Merit Test, the following comments are provided:

Strategic Merit Test Criteria	Council Comment
<p>Is the proposal:</p> <p>1. 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;</p>	<p>Although the proposal supports the principles of improving housing diversity and delivering on the South District's five year housing supply target, as well as encouraging Seniors Housing in waterfront areas (identified in the former Kogarah Council's Housing Strategy), it is considered that the proposed height and density on the site is inconsistent with the former Kogarah Council's endorsed Housing Strategy and amendment to Kogarah LEP 2012 (New City Plan).</p> <p>There has been inadequate justification provided with respect to the proposed height and FSR, which is considered to be out of context with the surrounding low density residential area, and will have a significant impact on the existing views of the surrounding existing dwellings. Also no contextual/visual analysis has been provided from the Georges River with respect to the proposed height/bulk and scale of the development, as viewed from the water</p>
<p>or</p> <p>2. Consistent with a relevant local council strategy that has been endorsed by the Department;</p>	<p>It is inconsistent with the provisions of the New City Plan, which has proposed to retain a height and FSR consistent with the surrounding low density residential development. The draft plan is currently with the DPE for finalisation.</p>
<p>or</p> <p>3. Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls</p>	<p>No significant investment in infrastructure is proposed in the locality and there are no changing demographic trends in the area.</p>

Council has also sought preliminary advice from the NSW Department of Planning &

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HURSTVILLE CIVIC CENTRE
MacMahon and Dora Streets, Hurstville

KOGARAH CIVIC CENTRE
2 Belgrave Street, Kogarah

Postal address: PO Box 205, Hurstville NSW 1481

Contact: 9330 6400 | mail@georgesriver.nsw.gov.au | www.georgesriver.nsw.gov.au



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Environment with respect to the use of Schedule 1 – Additional Permitted Uses to identify the height and FSR on the proposed site. The Department, in this regard has advised the following:

“.....prescriptive Schedule 1 Amendments, such as the one proposed, are not generally encouraged by the Department as it is not the intended purpose of the mechanism. There is also potential that such an amendment would not be supported at a legal drafting stage. A preferred approach to such an amendment would be to lodge a spot rezoning planning proposal to change all the planning controls.”

Council considers that the proposal, particularly with respect to the height fronting Vista Street should be reviewed to be consistent with the height of buildings in the R2 – Low Density Residential zone.

Due to the fall of the site to the water, there may be some opportunity to increased height to the rear of the site however an indicative visual impact of any proposed changes to the height along the foreshore would need to be presented as part of any Planning Proposal. Currently, the Planning Proposal does not provide a visual assessment of the proposed development from the waterway.

Council considers that there are two (2) options available with respect to the consideration of the Planning Proposal:

Option 1 – Assessment and Consideration by Council

Council will undertake an assessment of the Planning Proposal and documentation submitted in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*, and *Environmental Planning and Assessment Regulation 2000* and any relevant policy documents prepared by the NSW Department of Planning & Environment.

A report will be prepared and forwarded to Council's Independent Planning & Assessment Panel (IHAP) for consideration and Council for a resolution. It should be noted however, that for the reasons outlined above, Council's Strategic Planning staff are unlikely to support the Planning Proposal in its current form.

You are advised that should a report be prepared and presented to IHAP/Council, regardless of the outcome, 80% of the fees paid to date will be retained by Council (\$16,000) to cover the assessment and administration of the Planning Proposal by Council's Strategic Planning staff.

Option 2 – Withdrawal of the Planning Proposal

Alternatively, you may wish to withdraw the Planning Proposal. It is considered that the following components of the Planning Proposal could be supported by Council:

- Rezoning Lot 392, DP752056 and part of Lot 489, DP752056 from W2 – Recreational Waterways to R2 – Low Density Residential, with an amendment to

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the area that is currently identified as the wet dock – this should be retained as W2 – Recreational Waterway; and

- Amending the foreshore building line (FBL) to realign from the new boundary line of the R2 – Low Density Residential zone, at a depth of 7.6m

If the Planning Proposal is withdrawn, Council will refund the majority of the fees already paid. A \$1000 fee will be applicable to cover Council's administrative costs.

Community Benefit

In addition, the proposed rezoning is seeking a significant uplift.

The *Georges River Council Policy on Voluntary Planning Agreements (VPA) Policy* was adopted on 1 August 2016 and sets out Council's objectives in relation to the use of planning agreements including:

- *to provide an enhanced and more flexible development contributions system;*
- *to supplement or replace, as appropriate the application of s94 or s94A..;*
- *to ensure that the framework for planning agreements is consistent, efficient, fair and accountable;*
- *facilitate the provision of public facilities and services.."*

The Policy has been consistently applied to planning proposals and development applications alike since its adoption. Clause 5.3 of the Policy states that where either a planning proposal is proposed, or development consent is sought, which will result in an exceedance of development standards, resulting in an inherent increase in value of the land or development, the concept of land value capture may be used to assess the appropriate contribution. This concept may be applied in addition to other considerations in relation to the level of the contributions.

Clause 5.13 of the Policy states through a formula, that Council capture fifty percent (50%) of the increase in the residual land value resulting from the planning uplift sought for a site via the Planning Proposal.

The Planning Proposal provides for a significant uplift in the value of the land and the applicant has had no discussions with Council around the provision of community benefit and the negotiation of a VPA.

You are requested to advise Council in writing as to how you wish to proceed within 14 days of the date of this letter. Should Council not receive a response by Monday 3 April 2017, Council will assume that you wish to allow Council to proceed with the assessment and preparation of a report to the IHAP/Council.

Please do not hesitate to contact Council's Coordinator Strategic Planning, Rita Vella on 0439 894 493 should you wish to discuss this matter or require any additional information.

Yours faithfully



Cathy McMahon

Manager – Strategic Planning