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ATTENTION: BAILEY WILLIAMS

Our Ref: PP2/20
JP6 (CIS)

3 August 2021

Dear Brendan

**REQUEST FOR REZONING REVIEW -
1A LITTLE ALFRED STREET, NORTH SYDNEY**

I refer to your letter dated 14 July 2021, notifying Council of the lodgement of a request for a Rezoning Review in relation to the Planning Proposal for 1A Little Alfred Street, North Sydney.

The following comprises Council's response to your invitation to comment. This is to be read in addition to the detailed assessment report considered by Council on 22 February 2021, as provided previously.

1. Planning Proposal Assessment

The Planning Proposal was lodged with Council on 24 March 2020.

On 8 October 2020, Council received revised documentation from the applicant which included a reduction in the overall bulk and scale of the proposal and request for inclusion of new permissible use.

On 9 December 2020, the North Sydney Local Planning Panel (NSLPP) considered a Council Officer's assessment report and accompanying recommendations. The report recommended that the Planning Proposal not proceed to Gateway Determination.

It is noted that the Panel did not concur with Council's recommendation and provided the following advice:

The Panel members have undertaken independent site inspections prior to the meeting and have noted the submissions both oral and written. The Council Officer's Report is noted. The majority of the Panel considers that the Planning Proposal could only be supported in part. That is, subject to the additional use limited to 'serviced apartments' and the future built form on the western portion of the site only limited to a maximum of 12.5 m with a maximum of three storeys and a FSR of 0.9:1 confined to that portion of the site. This additional use is seen to complement the permissible uses in the RE2 zone.

Furthermore, a restriction would need to be placed on the title to ensure the site is to remain in single ownership with no future subdivision, either Torrens Title or Strata Title. This is to ensure that the tennis court is maintained and available to the public for the life of the development in conjunction with the permissible RE2 uses on the site.

Notwithstanding the Panel's advice, Council Officers are of the opinion that the proposal is not appropriate for the site for the reasons outlined in this submission. This is consistent with the Council officer's report to the Local Planning Panel.

Following the Panel meeting, on 4 February 2021, the applicant again submitted a further amended proposal to Council. The Planning Proposal as modified seeks to make the following amendments to the North Sydney Local Environmental Plan 2013 (NSLEP 2013):

- allow 'Serviced apartments' as an additional permissible use on the site (NB: 'Kiosk' and 'Recreation facility (indoor)' uses are already permissible on the site under the existing RE2 - Private Recreation zone). Should the Housing Diversity SEPP be finalised and gazetted, the proposed newly defined use of 'co-living' is also sought to be added to the permissible land uses;
- amend the Height of Buildings Map with a maximum height of 12.5 m on the western portion of the site; and
- amend the Floor Space Ratio Map with a maximum FSR of 0.9:1 on the western portion of the site.

The indicative concept scheme accompanying the Planning Proposal includes a three-storey building on the western portion of the site comprising:

- 11 x 1-2 bedroom apartments (at levels 1-2); and
- a 38 m² kiosk style café, a 62 m² health/wellness space that could be used for yoga, gym space or the like, and 55 m² of shared 'co-working' space, accommodation lobby and back of house, all at ground level.

The eastern portion of the site will be utilised as an outdoor garden and active recreation space used in conjunction with the "health/wellness" space. The eastern most tennis court is proposed to be retained and would remain available to the public for hire.

The Planning Proposal is accompanied by a draft Voluntary Planning Agreement (VPA) offer which proposes to provide;

- Ongoing maintenance and operation of one tennis court [existing] for a period of 15 years, which will remain open and accessible for use by the public via an online booking system. This commitment is to commence upon release of a Construction Certificate for a future mixed-use development at the site.
- A monetary contribution of \$400,000 to go towards upgrades of local recreational or public domain infrastructure, or towards a new park above Warringah Freeway.

At its meeting on 22 February 2021, Council resolved not to support the Planning Proposal proceeding to Gateway Determination, for the reasons outlined in the Council Officer's assessment report.

2. Strategic Merit

In considering of the broader context, the proposal is inconsistent with the strategic directions and objectives of the Regional and District Plans insofar it will result in the net loss of publicly accessible recreation infrastructure and result in the degradation of the existing urban tree canopy and public open space.

The retention of recreational area is of significant concern for Council, as identified in the North Sydney Recreational needs study undertaken in 2015. This is becoming increasingly important when considered in the context of a growing population and the recent demand for greater access to unenclosed recreation facilities and open space resulting from the COVID-19 pandemic. From Council's perspective, the land is currently zoned as recreation and its loss, however incremental it may seem, is substantial. This also needs to be considered in the context of anticipated population growth (both worker and resident).

Furthermore, the *North Sydney Local Strategic Planning Statement (LSPS)* and *Local Housing Strategy (LHS)* establishes Council's vision for housing in the North Sydney LGA over the next 20 years and is a mandated strategy which aligns with the housing objectives and targets set out in the North District Plan. The LHS demonstrates that the North Sydney LGA already has the capacity within its current controls and studies to exceed projected housing demand to 2036, without the need for increased residential densities elsewhere.

Any Planning Proposal seeking to vary planning controls to facilitate an increased scale and density of development within in an area not earmarked for additional development requires careful scrutiny. Given the current proposal is not supported by a larger scale strategic study and in fact is inconsistent with the directions and objectives of existing strategic studies, it is considered in this instance that the proposal does not demonstrate strategic merit and should be rejected on that basis.

3. Site-Specific Merit

The site is surrounded by low scale residential development and public open space, with a heritage conservation area located directly north of the site.

The proposal has a maximum height of 12.5 m proposed for the western half of the site, with the concept design showing a building of three storeys. It is noted that the concept scheme in parts exhibits an approximate height of 15 m which is above the proposed 12.5 m height limit being sought.

The proposal does little to respect the existing built form surrounding the site nor does it respond to the topography of the surrounding land which slopes in a general southerly direction. Whilst it is acknowledged that some of the buildings to the north are in contravention of the 8.5 m height limit, being upwards of 10 m in height, this does not provide adequate justification for the proposed significant exceedance beyond this height being up to 12.5 m. Further, it is noted that these buildings are historic, having been constructed well before current controls. It is considered that the proposal is of an inappropriate height and scale given its location adjacent to the Whaling Road conservation area and the R2 (Low Density) neighbouring sites and would be out of character with the immediate surroundings.

Resulting from the proposed built form, it is likely that the proposal will have adverse impacts on the amenity of surrounding residents and public area. The proposal will result in overshadowing on buildings to the south and east of the site and the public domain to the south-west of the site, a direct result of the minimal setback to the southern boundary. Additionally, the zero or minimal setback along the southwestern and southern boundaries will likely result in damage to the vegetation to the immediate south of the site, consisting of mature native vegetation located within the public domain. Even with measures put in place to minimise damage to roots, significant pruning (in the order of 40% in some instances) would be required for the building to be constructed in the location as proposed along with ongoing management given the proximity of the building to mature vegetation adjacent to and overhanging the site.

Furthermore, the current proposal is considered to be inconsistent with the objectives of the RE2 zone and with the objectives of the adjacent zones in that it will result in a loss of private recreational area and proposes to introduce serviced apartments which isn't reflective of the land use of the existing or surrounding properties and is out of context.

The proposal is significantly out of context with what has been envisioned by existing controls. When compared to the urban character of the surrounding area and the minimal setback to the rear (southern) boundary, it is considered that the proposal in its current form does not adequately respond to amenity impacts on surrounding properties and the public domain and as such is not supported.

In consideration of the points raised above, the Proposal does not demonstrate site-specific merit and should be rejected on that basis.

4. Rezoning Review Documentation

The Planning Proposal and accompanying documentation on the NSW Planning Portal is generally consistent with that submitted to Council. The only difference being that the applicant has submitted the following additional documents with the Rezoning Review request that did not form part of the original Planning Proposal documentation:

- Attachment D - 22 February Council Meeting Decision
- Attachment E - Local Planning Panel Recommendation 9 December
- Attachment F - Council Assessment Report 22 February

No objection is raised with respect to the inclusion of these three additional documents as they relate to NSLPP and Council's endorsed positions on the proposal.

5. Applicant's request for a Rezoning Review

The applicant's letter of request for a Rezoning Review, prepared by Ethos Urban and dated 20 April 2021, has also been reviewed. The information contained within the request is generally consistent with the details contained within the Planning Proposal and supporting documentation.

It is noted, however, that section 3.0 'The Planning Proposal' on page 5 of the letter indicates that the Planning Proposal seeks to (among other things) '*amend the Height of Buildings Map with a maximum height of 15 m on the western portion of the site*'. This is inconsistent with the proposal as lodged which is seeking a maximum height of 12.5 m.

It is assumed that reference to 15 m in section 3.0 is an error, given other sections in the letter refer to a height of 12.5 m.

6. Conclusion

For the reasons discussed in detail above, the Planning Proposal is not supported.

The intensity and type of uses proposed on the site is not envisaged by any existing strategic policy documents, nor has it been the subject of any site-specific planning study recommending changes to the site. The proposal, if supported, would establish a precedent for future non-compliances with established policies and strategies.

In particular, the proposal will result in a built form that is of an inappropriate height and scale, will result in the loss of private recreational area, is likely to impact upon the amenity of surrounding residents and is considered to be inconsistent with the objectives of the RE2 zone and with the objectives of the adjacent zones. As a site-specific planning proposal, the issues of compatibility and consistency with surrounding uses is paramount and as such in this instance the proposal is considered to be out of scale.

Whilst not the subject of formal exhibition, Council has received a total of seventy-five (75) submissions raising concerns over the proposal. This speaks to the public sentiment regarding the proposal.

For the reasons outlined in the Council officer's assessment report, the proposal does not demonstrate strategic or site-specific merit and should not be supported to proceed to a Gateway Determination.

Should you have any queries, please direct them to Jayden Perry of Council's Strategic Planning department on **9936 8100**.

Yours sincerely

MARCELO OCCHIUZZI
MANAGER - STRATEGIC PLANNING

Per:

This is a computer-generated letter - no signature required