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BB3 (CIS)

29 March 2021

Dear Sarkis,

**RE: Planning Proposal – 20 Berry Street, North Sydney
(DPIE Ref – PP-2021-2610)**

I refer to your Planning Proposal (PP) for 20 Berry Street, North Sydney which was submitted through the NSW Planning Portal on 17 March 2021.

The PP seeks to amend North Sydney Local Environmental Plan (NSLEP) 2013 as it applies to the subject site as follows:

- Amend the zoning of the site from *B4 Mixed Use* to *B3 Commercial Core*;
- Include a new “special area” on the south-eastern corner of 20 Berry Street of no less than 200 sqm in area and if desired by Council amend the maximum building height control for the site from RL145 to a maximum RL172 which would negate the need to use cl 6.3(3).

The application will be created in our systems and will be officially lodged once payment has been received AND any request for additional and/or revised documentation has been received as outlined in this letter.

ADDITIONAL OR REVISED DOCUMENTATION

Council has completed a preliminary assessment of the information contained within the PP and requests additional information and clarification prior to formally accepting the PP.

Intent of the Planning Proposal

The intent of the PP is not sufficiently clear, with conflicting information presented throughout the PP with respect to the specific proposed amendments sought to the planning controls within NSLEP 2013. In particular, it is unclear if the proposed change to the height of building controls forms part of the request or not.

A key intent of the PP as stated within Section 8 – *Objectives or intended outcomes* of the PP states:

- *Increase the height on the site, whilst minimising its impact to the Berry Street (West) Special Area.*

A specific request to amend the height of building controls is not sought within Section 9 - *Explanation of provisions* which states:

- ... and if desired by Council amend the maximum building height control for the site from RL145 to a maximum RL172 which would negate the need to use cl 6.3(3).

This comment is repeated in the *Executive summary* and *Conclusion* (Sections 1 and 14 of the PP respectively). Conversely, Council's application form, the DPIE's application form and Section 11 – *Mapping* of the PP clearly seek a change to the height control. In this respect, the PP needs to be amended to present a consistent message.

One of the desired outcomes of the PP is to enable the construction of a building to a maximum height of RL 172, which is 27m greater than the current height control. The PP incorrectly assumes that a building height of RL 172 can be approved through the application of clause 6.3(3) of NSLEP 2013, without the need for a variation under clause 4.6 to the height controls under clause 4.3 of NSLEP 2013.

However, clause 6.3(3) merely comprises an additional set of criteria (i.e. in addition to clause 4.6) to be considered when the building height controls are to be varied), with specific regard to development within the North Sydney Centre.

Council has a long-standing policy of not supporting significant variations to its development standards via clause 4.6 of its LEP. Instead, it is recommended that significant changes to development standards are achieved through the planning proposal process.

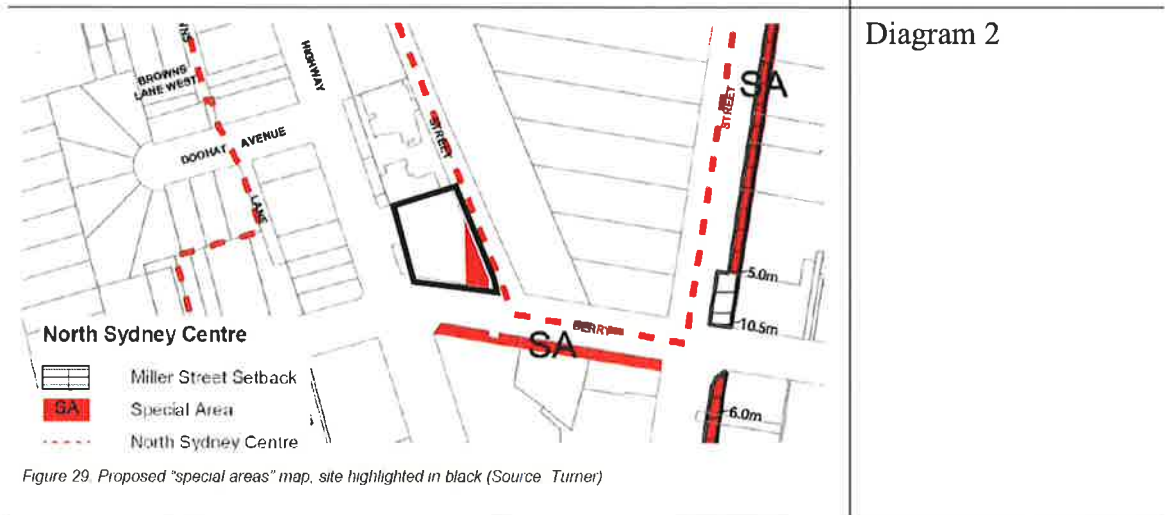
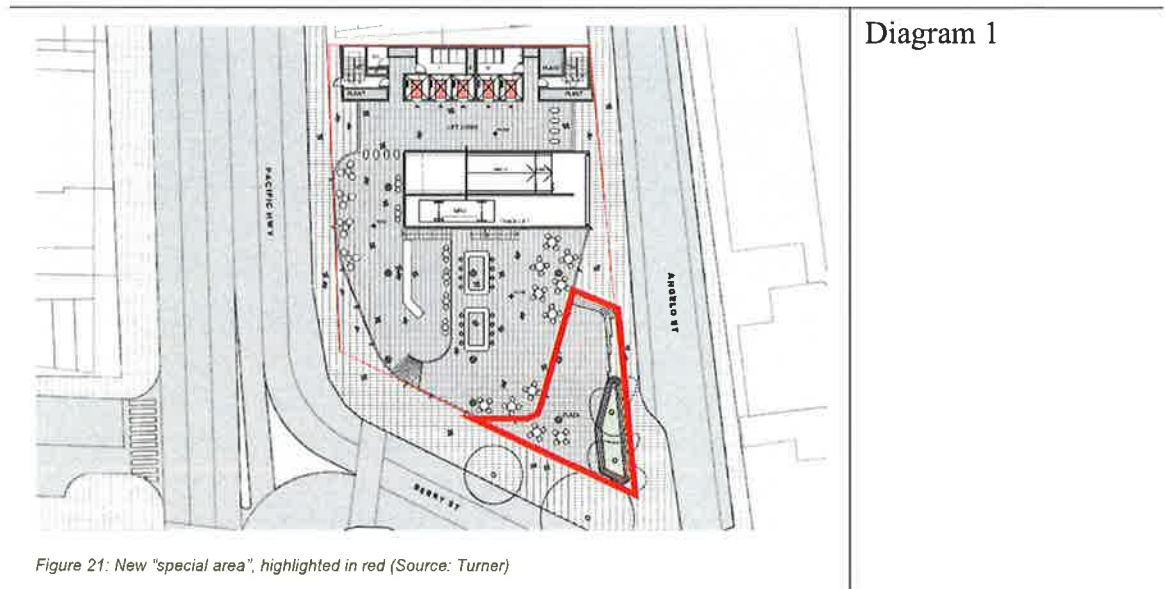
This approach has been adopted to ensure that the development standards under the LEP are not unreasonably undermined and lead to their abandonment through constant variation during the development application assessment process. It also provides increased certainty over what scale of development is anticipated on a site. Furthermore, it prevents the creation of precedents that often lead to outcomes contrary to endorsed Strategic planning policies, upon which the LEP is based. Pursuing a planning proposal process would also enable the wider community to consider the likely impacts of such a change.

Accordingly, due to the extent of variation being sought to the base height control, the PP must be amended to specifically include a change to the maximum building height control under clause 4.3 of NSLEP 2013 to reflect the desired outcome of the concept proposal.

Extent of Proposed Special Area

There is confusion as to what is proposed to constitute the extent of the proposed special area.

Figure 21 of the PP (refer to Diagram 1) indicates that the proposed Special Area is to wrap around the southern frontage to Berry Street, yet is shown as a smaller area on Figure 29 to the PP (refer to Diagram 2). These issues are replicated in the Urban Design Report prepared by Turner.



It is unclear as to what the numerical area of either of the identified special areas are. The PP merely states that an area of "more than 200sqm" will be provided.

The PP and Urban Design Report are to be amended to ensure a consistent extent of the Special Area and indicate what the numerical area is of the area to be identified as a Special Area.

Alternative options

Section 10.1.2 of the PP sets out whether the PP is the best means of achieving the objectives and intended outcomes of the proposal.

This section is insufficient and/or more detail is required to address:

- Why a development application could not be supported without the benefit of a PP;
- Why the zoning should be changed in comparison to retaining the B4 zoning; and
- Why the height limit should or should not be changed;

Greater Sydney Region Plan – A metropolis of three cities

Section 10.2.1 of the PP makes reference to addressing regional and district plans. However, the PP only provides an assessment against the North District Plan, albeit being incorrectly labelled in Table 6.

For the purposes of clarity and transparency, a separate assessment against the Greater Sydney Region Plan is to be provided.

North Sydney CBD Public Domain Strategy

In September 2020, Council endorsed the North Sydney CBD Public Domain Strategy. Given the proposal seeks to provide an area of extended public domain and potential impacts to the existing Special Area along Beery Street, the PP is to be revised to demonstrate its consistency with the desired outcomes of the North Sydney Public Domain Strategy, notably for Berry Street (pages 72-75).

State Environmental Planning Policies

Section 10.2.3 of the PP addresses the Ministerial Directions. However, the PP should be revised to remove all SEPPs and Deemed SEPPs that do not apply to the LGA to aid with clarity or revised to state why they do not apply, consistent with “A guide to preparing planning proposals”.

Ministerial Directions

Section 10.2.4 of the PP addresses the Ministerial Directions. However, the PP needs to be revised to address the following Directions which are applicable:

- 3.1 Residential Zones – explain why the proposal is inconsistent with this Direction associated with the site’s rezoning to B3 Commercial Core;
- 3.5 Development Near Regulated Airports and Defence Airfields – the proposal exceeds the Obstacle Limitation Surface and therefore the Direction is applicable;
- Revise to exclude those directions which have been revoked (i.e. 3.3, 5.1, 5.5-5.8, 7.1 and 7.2)

Aviation Report

The aviation report suggests that any future building on the site will not exceed RL 145 and therefore not exceed the Obstacle Limitation Surface (156 AHD). However, the concept proposal clearly indicates that a building of RL 172 is being sought over the site, which exceeds the Obstacle Limitation Surface by 16m. Accordingly, the Aviation Report requires revision to address this issue.

FEES

Based on the scope of changes to the planning controls under NSLEP 2013 as outlined in the PP, a fee of \$65,000 is payable to Council.

Payment methods include:

- **Credit card payment** - Please complete the attached credit card authorisation form and forward with this letter to customerservice@northsydney.nsw.gov.au Please note a 0.75% surcharge applies for credit card transactions. Please do not upload the credit card payment form onto the portal.
- **In person** - with our Customer Service team where Eftpos, cash, cheque and credit card accepted.
- **Cheque** – Posting a cheque to PO Box 12, North Sydney, NSW 2059 (Please advise us by return email if using this option due to postage times)


Please provide payment within 5 business days of the lodgement of the additional information requested in this letter through the Portal, otherwise your application may be returned. Once payment has been processed, we will email your receipt and Council's application number.

NEXT STEPS

Once the above matters have been satisfactorily addressed, Council will confirm acceptance of the lodgement of the Planning Proposal.

If you have any questions, please do not hesitate to contact Ben Boyd, Executive Strategic Planner or the undersigned on 9936-8100.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'EMMA BOOTH', with a long horizontal flourish extending to the right.

EMMA BOOTH
A/MANAGER STRATEGIC PLANNING