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Our Ref: PP6/22  
KP (CIS)

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ATTENTION: MATTHEW ROTHWELL

15 November 2022

Dear Mr Metcalfe

**REQUEST FOR A REZONING REVIEW (RR-2022-29)  
1-7 RANGERS ROAD AND 50 YEO STREET, NEUTRAL BAY**

I refer to your letter dated 28 October 2022, notifying Council of the lodgement of a request for a Rezoning Review in relation to the Planning Proposal at 1-7 Rangers Road and 50 Yeo Street, Neutral Bay.

The following comprises Council's response to your invitation to provide comment on the proposal.

**1. BACKGROUND**

**1.1 Military Road Corridor Planning Study (Rescinded)**

On 22 February 2021, Council resolved to adopt the *Neutral Bay Town Centre - Future Directions Report* (also known as the *Military Road Corridor Planning Study*). This Study envisaged increases in height on three (3) amalgamated sites within the precinct where new community facilities and public domain projects could be delivered. The subject site (1-7 Rangers Road) and adjacent site to the north (183-185 Military Road) was identified as a key site within the Study, referred to as "Site 3." The MRCPS outlined a suite of objectives and requirements for the redevelopment of "site 3."

On 24 January 2022, Council resolved to rescind the MRCPS amidst concerns on the height and scale of development proposed by the Study and further engage with the community and stakeholders to prepare "*a revised recommendation that has a better balance between development height and the provisions of additional public open space.*"

On 23 May 2022, Council endorsed a scoping framework as the basis for the revised planning study for the Neutral Bay Town Centre. The revised work is intended to be an extension rather than a completely new and independent planning study. The same objectives will be retained in the renewed study as they remain relevant, however, a new objective is to be included relating to *“targeted modest increases in height and density while maintaining and enhancing the village atmosphere of the centre.”* The revised work is now under way. It is estimated that the renewed Study will take in the order of 18 months to finalise.

## **1.2 Pre-lodgment Discussions**

In August 2021, a pre-lodgement meeting was held between Council officers and the proponent’s project team. The proponent advised Council staff that attempts to reach a commercial agreement with the adjacent landowners (183-185 Military Road) had been unsuccessful. A concept design was discussed for the redevelopment of 1-7 Rangers Road and 50 Yeo Street (which was not included as a key site in the MRCPS). Council staff raised concerns with the proposed building heights, public benefits and relationship with the adjacent site at 183-185 Military Road and reinforced that a major objective of the MRCPS is to deliver public benefits. It was stressed that a minimum 1,000m<sup>2</sup> public plaza, a community centre and appropriate building heights that maintained the village atmosphere would be required.

In October 2021, a second pre-lodgement meeting was held where a revised concept design incorporating 1-7 Rangers Road, 50 Yeo Street and 183-185 Military Road was discussed. Council again raised concerns about the proposed building heights, overshadowing, setbacks and articulation, access and the quality of the open space/plaza that was proposed.

In December 2021, a third pre-lodgement meeting was held to discuss a further revised design. Whilst the amended design addressed a number of Council’s previous concerns, it still proposed buildings heights that were clearly inconsistent with Council’s adopted Study.

At the back of these meetings, the proponent was in the process of further refining their plans and preparing a Planning Proposal for submission in early 2022 when Council resolved to rescind the MRCPS in January 2022.

On 2 May 2022, Council invited owners of various sites within the Neutral Bay Town Centre to present potential development concepts to Councillors. This briefing took place in June 2022.

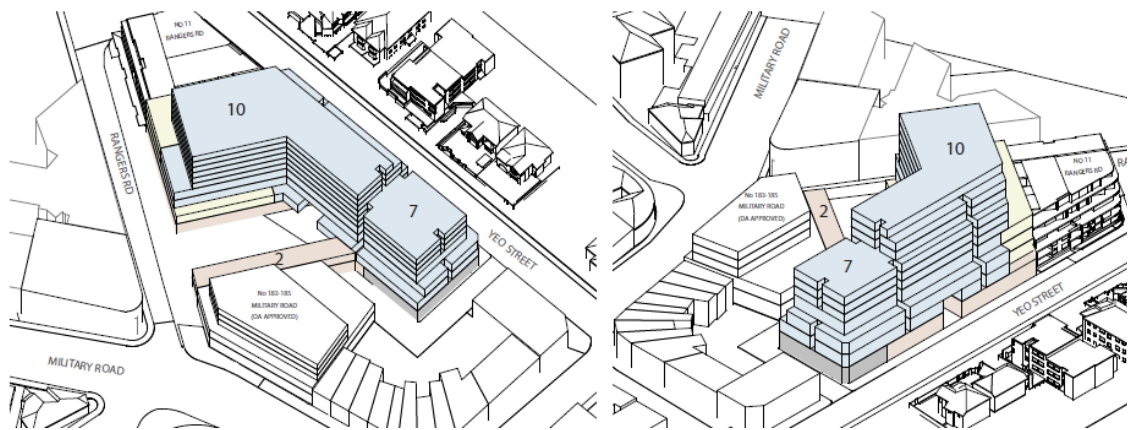
On 20 May 2022, the applicant lodged the subject Planning Proposal with Council, which excludes 183-185 Military Road and which continued to challenge the (rescinded) development framework outlined in the MRCPS.

## **2. PLANNING PROPOSAL ASSESSMENT**

The subject Planning Proposal (PP6/22) was lodged by Fabcot Pty Ltd (Woolworths) on 20 May 2022, and seeks to amend NSLEP 2013 as it applies to land at 1-7 Rangers Road and 50 Yeo Street, as follows:

- increase the maximum building height control from 16m to part 30m (at 50 Yeo Street) and part 40m (at 1-7 Rangers Road); and
- increase the minimum non-residential floor space ratio control from 0.5:1 to 1.7:1.

The intent of the proposal, as reflected in the accompanying indicative reference design, is to accommodate a part 2, 7 and 10 storey mixed-use development comprising a supermarket at a subterranean level, retail and commercial floor space within the podium and 91 apartments located above, and basement car park for 350 cars over 4 levels.



**FIGURE 1:** Proposes building massing diagrams (source: Applicant's Urban Design Report, p. 28)

The Planning Proposal is accompanied by a suite of suggested site-specific controls to be incorporated into NSDCP 2013. These relate to site layout, land use, public domain, heights, setbacks and podium treatment, building design, active frontages and parking, access and servicing.

The Planning Proposal is also accompanied by non-binding letter of offer to enter into a Voluntary Planning Agreement (VPA) with Council to deliver the following public benefits:

- the provision of 65 car parking spaces for public use, located within the basement of the future development;
- an 880 sqm public plaza and arcade-style pedestrian through-site link connecting Rangers Road to Yeo Street.

A detailed assessment of the Planning Proposal was undertaken in a report referred to the North Sydney Local Planning Panel (NSLPP) for its consideration on 14 September 2022. The NSLPP concurred with the recommendations outlined in the Council Officer's assessment report, which recommended the Planning Proposal not be supported to proceed to a Gateway Determination.

At its meeting on 10 October 2022, Council considered the detailed assessment report and NSLPP recommendation and resolved that the Planning Proposal not be supported to proceed to a Gateway Determination.

### 3. STRATEGIC MERIT

The proponent's strategic justification for the proposal is that it will deliver intensified land uses, including new housing and job opportunities, within an established centre at Neutral Bay in close proximity to public transport, and deliver on Council's intent for the site as outlined in the now rescinded MRCPS.

The North District Plan, however, expressly states that the delivery of housing is not the primary objective for local centres, specifically: *"housing should not compromise a centre's primary role to provide goods and services, and the opportunity for the centre's employment function to grow and change over time"* (page 49). Planning Priority N6 of the North District Plan outlines the principles for local centres, these include: *"provide a public realm and open space focus; provide, increase or improve local infrastructure and open space; and protect or expand retail and/or commercial floorspace"* (page 49).

As discussed previously, Council adopted the MRCPS in February 2021. Consistent with the North District plan, key objectives of this Study were to redress the ongoing decline in commercial floorspace occurring across the precinct and leverage much needed new, high-quality public open space and community facilities. It sought to achieve this by incentivizing site amalgamation through targeted increases in height. Whilst the MRCPS was rescinded, the previously established objectives will continue to drive the preparation of the renewed Study that is currently underway.

The preparation of a planning study for the Military Road Corridor, which includes the Neutral Bay and Cremorne local centres, is integrated into the North Sydney Local Strategic Planning Statement (LSPS). Key actions in the North Sydney LSPS include:

*Action L3.2 - Continue to prepare and implement place-based planning studies to ensure the delivery of growth and development is balanced and well-managed and has a strong focus on placemaking and community benefit. This includes: undertake/implement the Military Road Corridor Planning Study - Stages 1 and 2*

*Action L1.5 - Council will only support Planning Proposals that are consistent with Council's endorsed planning studies, that have identified growth being delivered in locations that support the role of centres and have critical infrastructure and services in place to support the North Sydney community*

These actions recognise the importance of strategic planning to guide growth and change, having regard to providing certainty on a comprehensive basis, deliver improved built form outcomes, function and accessibility for the centre as a whole. This is particularly important in an area like the Neutral Bay Town Centre, where there is significant and competing development pressures. These actions were put in place to prevent *"ad hoc"* planning proposals which can have a strong influence on how an area evolves, and there is a risk that if unplanned, can lead to unpredictable and disjointed development outcomes.

In the absence of a current endorsed planning study to coordinate and manage growth in the Neutral Bay Town Centre, the Planning Proposal is inconsistent with the North Sydney LSPS.

Any decision which significantly increases the development potential on a key site within the precinct ahead of the revised strategic review would be premature and undermine

the future strategic planning work for the Neutral Bay Town Centre that is currently underway.

Notwithstanding, the subject Planning Proposal is considered to be inconsistent with the objectives of Regional and North District Plan and does not represent a sound strategic planning outcome for the following reasons:

- The proposal will deliver public benefits (public plaza, through-site link) of compromised amenity;
- undermines the development potential of the immediately adjoining site to the north (183-185 Military Road) and the opportunity to leverage and co-locate a community centre within the precinct;
- will result in a net reduction in commercial floorspace across the site that is not justified by a strategic planning study for the locality; and
- will result in a built form outcome that is overly intense in a low-scale context with unacceptable impacts (overshadowing, visual, traffic) on the public and private domain.

This is discussed in further detail under site-specific merit.

#### ***Conclusion - Strategic Merit***

Based on the above, the Planning Proposal does not have strategic merit as it is contrary to the Regional Plan, North District Plan and LSPS and would significantly undermine the extensive place-based strategic planning work that is currently being undertaken by Council in the locality as foreshadowed by the North Sydney LSPS.

#### **4. SITE-SPECIFIC MERIT**

##### ***Building Height, Bulk and Scale***

The Planning Proposal seeks to increase the maximum building height from 16 m to part 40 m (at 1-7 Rangers Road) and 30m (at 50 Yeo Street) to accommodate a part ten-storey and part seven-storey building. The heights proposed will result in an overly intense built form in its context and an unacceptable level of overshadowing impacts to the public and private domain.

At ten-storeys, the proposal does not provide a human-scale frontage to the proposed public plaza or an appropriate transition in height and scale to the low-scale residential area immediately to the south of the site. This is magnified by the overall bulk of the proposed building envelope. The southern elevation presents as a largely unbroken building length of approximately 77 m. The height and continuous length of the building along Yeo Street results in an overly 'long and tall' barrier between the proposed public plaza and residential areas to the south. Additionally, the height of the podium as shown in the submitted architectural plans (20 m for four-storeys) fronting Rangers Road and Yeo Street will result in an oversized podium the equivalent of 5 storeys and does not respond appropriately to the prevailing or desired scale and village character of Neutral Bay or the human scale that is desired in this centre.

Whilst the site was identified as suitable for increased height under the now rescinded MRCPS, that Study envisaged height increases across a larger, amalgamated site (1-7 Rangers Road and 183-185 Military Road, of which the latter site has been excluded from this proposal. It also did not include 50 Yeo Street). As mentioned previously, the intent of the Study was to incentivise amalgamation through targeted increases in height to deliver much needed high quality public open space and community facilities.

The now rescinded MRCPS recommended a maximum building height of eight storeys along Rangers Road, six storeys along Yeo Street and twelve storeys on Military Road. The intent of the Study's staggered building heights and setbacks was to minimise overshadowing to the public plaza, provide an appropriate transition in height and scale and protect the existing village character of Neutral Bay and minimise overshadowing impacts to surrounding residential areas. The Study also envisaged the provision of a pedestrian link along the western boundary of 1-7 Rangers Road that was open-to-sky with additional setbacks to provide a visual break in the development fronting Yeo Street, maximise solar access and create a more permeable, 'village' scale.

The Planning Proposal will ultimately result in an excessively long, bulky and visually dominant built form in a lower scale context with significant overshadowing impacts to the public and private domain.

#### ***Non-Residential FSR***

The proponent's Economic Impact Assessment states a total 7,602 sqm of commercial floorspace is currently provided on the subject site. The Planning Proposal is requesting a minimum non-residential FSR of 1.7:1 (equivalent 7,152 sqm). This will likely result in a net loss of approximately 450 sqm of commercial floorspace (6% reduction) across the site compared to existing conditions.

Whilst this might appear to be a minor reduction, the proposal anticipates delivering a significantly lower proportion of commercial office space than that currently provided on site. The proponent's Economic Impact Assessment acknowledges that the proposal will result in a net loss of commercial office floorspace (-2,003 sqm) and net gain of retail floorspace (+1,661 sqm).

In context of the North District Plan and Council's objectives to redress the ongoing decline in commercial floorspace across the precinct, any decision that would facilitate a net loss of employment generating floorspace on a key site within the precinct would be premature and undermine the future strategic planning work for the Neutral Bay Town Centre and ability to achieve the objectives of higher-level policies relating to the site.

#### ***Overshadowing***

The heights proposed will result in a significant reduction in solar access to residential dwellings on the southern side of Yeo Street between 10.00 am to 3.00 pm in mid-winter. It is evident from the analysis submitted, that existing levels of solar access to the primary living areas, balconies and bedrooms of predominantly north facing dwellings on the southern side of Yeo Street will be significantly reduced and to some dwellings (57-59 Yeo Street) will be in shadow for the entire day as a result of the proposal. This is an unacceptable level of impact.

### ***Site Isolation***

The proposal includes a narrow, two-storey retail strip on the joint northern boundary, which will likely limit the development potential of the adjoining site to the north (183-185 Military Road). As mentioned previously, the adjacent site had been identified as suitable to accommodate some increased height and density under Council's MRCPS. By potentially undermining the future development potential of the site, the proposal undermines the ability to leverage community benefits and public domain improvements from any future potential growth on that site. It also prevents the consideration of a genuinely 'public,' high-amenity plaza and the potential for the adjacent site to provide a community facility fronting directly onto, and better activate, the public plaza. This is further discussed below.

### ***Public Domain and Community Facilities***

Delivering high quality public open space and community facilities is a key driver of Council's renewed strategy for the precinct. The MRCPS sought to incentivise site amalgamation through targeted height increases to facilitate the provision of community facilities, specifically a new 1,000 sqm public plaza, a through-site link that is open-to-sky and a community centre that fronts onto the plaza to create a meeting place. The amalgamation of 1-7 Rangers Road and 183-185 Military Road, or at least an in-principle agreement between the two landowners to coordinate their development aspirations, is critical to achieve a more contiguous design that delivers a genuinely 'public' plaza with good solar access and improved connectivity.

The proposed two-storey retail strip on the joint northern boundary results in a narrow and poorly connected public plaza with limited solar access. The proposed retail strip prevents the adjacent site to the north (183-185 Military Road) from providing the MRCPS recommended setbacks, which would open the plaza frontage to Military Road and widen the footpath to provide a legible visual connection from the Rangers Road-Military Road intersection to Yeo Street and maximise solar access to the public domain.

Instead, the proposed plaza is oriented perpendicular to Rangers Road away from the Military Road intersection, as the proposed two-storey retail strip pushes the plaza further east and providing a poor connection to the Military Road intersection. It also blocks any future potential connection between Military Lane and the new plaza and undermines the opportunity to potentially upgrade this connection and improve accessibility to the plaza.

### ***Transport and Traffic Implications***

The proposed number of car parking spaces and associated net traffic generation will have a significant impact on the efficiency and performance of the surrounding road network. A total 350 parking spaces are proposed (net increase of 250 spaces), which exceeds Council's maximum parking requirements which is further exacerbated by a proposal of a scale that is not contemplated on this site.

The submitted analysis indicates that the proposal will result in a 40% increase in net traffic generation during the PM peak hours, however this excludes the extra traffic loading associated with the proposed 65 'public spaces.' If applied, this will load the network over and above "operating near capacity" conditions.

Minimising the amount of on-site parking is important for this site and the Neutral Bay area generally, due to existing traffic conditions along Military Road and the site's proximity to high frequency public transport (bus) services. The proposed number of parking spaces and associated traffic generation will result in an unacceptable level of impact, contrary to the objectives of the *North Sydney Transport Strategy*.

#### ***Conclusion - site-specific merit***

The Planning Proposal does not reflect the urban design outcomes of the now rescinded MRCPS and will ultimately result in an excessively bulky and visually dominant built form in a lower scale context with significant impacts (overshadowing, visual, traffic generation) to the public and private domain. The proposal prevents the consideration of a genuinely 'public,' high-amenity and well-connected public plaza and community centre that fronts onto the plaza to create a meeting place.

### **5. Applicant's submitted documentation for Rezoning Review**

The Planning Proposal uploaded to the NSW Planning Portal on 6 May 2022 is the proposal submitted to Council for assessment.

The applicant's letter of request for a Rezoning Review (prepared by Ethos Urban dated 26 October 2022), includes details of a revised scheme accompanied by a set of amended architectural plans that did not form part of the documentation submitted to Council for assessment.

On 8 September 2022, following the publication of the NSLPP agenda and the Council officer's detailed assessment report on Council's website, Council received a letter from the proponent (dated 7 September 2022) to advise that:

*"it is willing to amend the proposal to reduce the height from the proposed 7-10 storey concept to a 6-8 storey concept that is directly in line with the massing espoused for the site under the previously endorsed Military Road Corridor Planning Study and Neutral Bay Future Directions Report."*

The proponent has also publicly announced that the number of storeys would be reduced in a revised scheme. Council, however, has not received an amended set of plans or an amended Planning Proposal and as such, can only consider the Planning Proposal as submitted. Council staff had reiterated to the applicant, both verbally and in writing prior to the lodgement of the proposal and throughout the assessment, its expectation that any proposal comply with the built form requirements of Council's Study. The consideration of an amended concept scheme at this stage of the process is objected to and would appear to contravene the DPE's 'LEP Making Guidelines.'

### **6. PPA Role**

Council resolved on 10 October 2022, not to support the progression of the Planning Proposal. In accordance with the DPE's 'LEP Making Guideline,' (September 2022), it is understood that should the Planning Proposal proceed to a gateway determination then the relevant Regional Planning Panel will act as the PPA in this matter.



**Conclusion**

For the reasons discussed in detail above, the Planning Proposal is not considered by to have strategic and site-specific merit and should not proceed to a Gateway Determination.

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

Yours sincerely

MARCELO OCCHIUZZI  
**MANAGER STRATEGIC PLANNING**

*This is a computer-generated letter - no signature required.*