



Our Ref: CHS:AK:200037

12 January 2022

PRIVATE AND CONFIDENTIAL

Ken Gouldthorp
General Manager
North Sydney Council
PO Box 12
North Sydney NSW 2059

By email: council@northsydney.nsw.gov.au

Dear Mr Gouldthorp,

**Re: Planning Proposal - 153-157 Walker Street, North Sydney (DPIE REF-PP-2021-2695) -
Correspondence with owners of 157 Walker Street**

1. As you are aware, we act for the Owners Corporation of SP 50411 (the **Owners**) in relation to the abovementioned planning proposal.
2. We refer to:
 - a. the North Sydney Council (the **Council**) Report of 21 September 2021 (the **Report**);
 - b. the North Sydney Local Planning Panel (the **Panel**) meeting held on 29 September 2021 (the **Meeting**); and
 - c. the minutes from the Meeting (the **Minutes**).
3. We note the Report states at page 20:

'the applicant has provided no evidence regarding negotiations to try and amalgamate the two sites to deliver a new building.'
4. We further note the Report states at page 53:

'Also of note, the applicant had provided no [evidence] that they sought formal negotiations to amalgamate with the owners of 157 Walker Street, which is [contrary] to what the owners of 157 Wlaker (sic) Street have stated.'
5. We also note that at the Meeting, the Owners representatives offered to provide evidence to Council to demonstrate the history of correspondence and communications between 153 and 157 Walker Streets.
6. We write to you to provide this evidence.

Evidence of communications

7. We provide to Council the following correspondence evidencing correspondence between 153 and 157 Walker Street with respect to:

- a. site isolation issues; and
- b. the Planning Proposal.

8. The correspondence is available on Dropbox at the following link:

<https://www.dropbox.com/sh/4rcyka14hqt5ltl/AAAeLFIDIQdTev13CpjKJqvka?dl=0>

9. The Dropbox folder includes:

- a. **letter dated 19 August 2020** from 157 Walker Street to 153 Walker Street regarding an initial expression of interest in 153 Walker Street. This letter refers to a meeting which occurred between 153 and 157 Walker Street on 23 June 2020.
- b. **letter dated 2 October 2020** from 153 Walker Street to 157 Walker Street. This letter:
 - i. clarifies a number of matters raised in the letter dated 157 Walker Street; and
 - ii. informs the owners of 157 Walker Street that the owners of 153 Walker Street are working on a planning proposal.
- c. **email dated 9 November 2020** from Mr Nathan Michael of 157 Walker Street to 153 Walker Street, whereby Mr Nathan Michael seeks clarification in relation to the planning proposal and notes in his opinion that *"the current value on the strata units will be as a commercial use as the assets highest and best use is "as is" "*
- d. **letter dated 12 November 2020** from 153 Walker Street to 157 Walker Street. This letter answers the questions raised by Mr Nathan Michael in his email dated 9 November 2020
- e. **letter dated 30 November 2020** from 157 Walker Street to 153 Walker Street regarding a further expression of interest in 153 Walker Street.
- f. **email dated 30 November 2020** from Mr Nathan Michael of 157 Walker Street to 153 Walker Street, whereby Mr Nathan Michael provides his opinion that the *"highest and best use is "as is" "* and that he *"has the option of submitting an application as a standalone site or potentially acquiring 161-165 Walker"*.
- g. **letter dated 15 December 2020** from 153 Walker Street to 157 Walker Street. This letter responds to matters raised in:
 - i. the email dated 30 November 2020 from Mr Nathan Michael; and
 - ii. a meeting between Mr Nathan Michael and Mr Paul Etherington (one of the owners of 153 Walker Street).

In particular, this letter:


- iii. addresses other options regarding the development of 157 Walker Street which were raised by Mr Nathan Michael;

- iv. provides further details in relation to the planning proposal and encloses a pre-planning application report in relation to the planning proposal; and
 - v. addresses a number of sales and other commercial matters in relation to properties on Walker Street.
- h. **email dated 16 December 2020** from Mr Nathan Michael of 157 Walker Street to 153 Walker Street, whereby Mr Nathan Michael provides his opinion in relation to various matters, and invites 153 Walker Street to *"come back to [157 Walker Street] with a dollar value"* with respect to the acquisition price.
- i. **letter dated 21 December 2020** from 153 Walker Street to 157 Walker Street requesting additional time to respond in light of the holiday period.
- j. **letter dated 29 January 2021** from 153 Walker Street to 157 Walker Street. In this letter:
- i. legal advice is provided for the benefit of 157 Walker Street in relation to site isolation issues;
 - ii. confirms that 153 Walker Street will obtain a valuation.
- k. **email dated 2 February 2021** from Mr Nathan Michael of 157 Walker Street to 153 Walker Street, whereby Mr Nathan Michael says he is *"aware of the legal framework for isolation"* and suggests two other sites which are isolated and, in his view, comparable to 153 Walker Street.
- l. **letter dated 5 February 2021** from 153 Walker Street to 157 Walker Street which encloses further legal advice that confirms the examples provided by Mr Nathan Michael are sites which do not meet the legal requirements for isolated sites.
- m. **email dated 9 February 2021** from 157 Walker Street to 153 Walker Street which provides some comments in relation to the planning proposal and specifically states that 157 Walker Street are *"happy to look at a counter offer on a price for the as is value with a mechanism for any GFA that is achieved over the legal height"*.
- n. **letter dated 22 February 2021** from 153 Walker Street to 157 Walker Street in relation to the uplift in site value expected from the Planning Proposal and the proposed valuation report.
- o. **email dated 26 February 2021** from Mr Nathan Michael of 157 Walker Street to 153 Walker Street where he says he is *"incentivised to acquire assets"*.
- p. **letter dated 12 March 2021** from 153 Walker Street to 157 Walker Street. In this letter 153 Walker Street:
- i. provided an update on the status of the valuation; and
 - ii. provides that it is the view of 153 Walker Street that a change in controls is very unlikely to impact on the tax structure of their fund in circumstances where the proposal provides additional opportunities to 157 Walker Street.
- q. **letter dated 15 April 2021** from 153 Walker Street to 157 Walker Street which enclosed the materials lodged with North Sydney Council with respect to the Planning Proposal.

- r. **letter dated 16 April 2021** from 153 Walker Street to 157 Walker Street which enclosed a proposed media release to be made in relation to the Planning Proposal.
- s. **letter dated 28 May 2021** from 153 Walker Street to 157 Walker Street which enclosed the valuation report prepared by Colliers dated 1 June 2021.
- t. **Letter dated 15 July 2021** from 153 Walker Street to 157 Walker Street which enclosed the lodged Planning Proposal materials as accepted by North Sydney Council. The letter also informed 157 Walker Street in relation to the proposed increase in permissible gross floor area, and that an updated valuation report would be provided to reflect this.
- u. **letter dated 17 August 2021** from 153 Walker Street to 157 Walker Street which enclosed the updated valuation report prepared by Colliers dated 1 August 2021.
- v. **letter dated 12 October 2021** from 153 Walker Street to 157 Walker Street seeking to further discuss 157 Walker Street's issues with the planning proposal. No response has been received to this letter to date.

10. Please contact the writer if you have any questions about this letter, or require further information.

Yours faithfully,



2022

Alyce Kliese
Partner
for **SHAW REYNOLDS LAWYERS**

Byron Knight
Solicitor

Mobile: 0400 438 072
Email: alyce.kliese@shawreynolds.com.au

Mobile: 0437 228 887
Email: byron.knight@shawreynolds.com.au