

16 January 2024  
2200718

Ms Kiersten Fishburn  
Secretary  
NSW Department of Planning and Environment  
4 Parramatta Square  
Parramatta NSW 2150

Dear Kiersten,

## 26 Tupia Street, Botany Planning Proposal PP-2023-1068 – Request for Rezoning Review

On behalf of Archicorp (the Proponent), we request a Rezoning Review for Planning Proposal 2023-1068 for 26 Tupia Street, Botany (the site), which was submitted to Bayside Council (Council) on 19 May 2023.

The Proposal intends to facilitate the future replacement of contextually inappropriate and redundant industrial units with well-designed four-storey residential flat buildings (RFBs) capable of accommodating approximately 109 apartments. It seeks the following amendments to the *Bayside Local Environmental Plan 2021* (Bayside LEP 2021):

- Increase the site's maximum permissible building height from 10m to RL 18.30m (effectively 14.27m to 16.61m above ground level).
- Increase the site's maximum permissible floor space ratio from 0.85:1 to 1.15:1.
- Amend Schedule 1 Additional Permitted Uses to allow development for the purposes of residential flat buildings on the site.

The Proponent submitted an initial Planning Proposal in early 2021 to increase the site's maximum building height to 15m and FSR to 1.35:1 and amend Schedule 1 'Additional Permitted Uses' so that the site could accommodate **five**-storey RFBs. The Bayside Local Planning Panel (BLPP) resolved not to support that Planning Proposal for Gateway Determination based on the recommendation of the Council officer's Assessment Report. The BLPP reasoned that the Planning Proposal had not provided sufficient justification for the increases in uplift or satisfactorily addressed ministerial directions relating to flooding. Notwithstanding, the BLPP acknowledged the site's R3 medium density zoning and unique location, which is conducive to accommodating high-density development with limited external impacts. In their meeting minutes, the BLPP stated:

*"It recognised that the site is unique in that it is surrounded by public open space, and a higher density may be achievable with limited external impacts." (Bayside Local Planning Panel, 2021)*

In response, the Proponent submitted the subject Planning Proposal (2023-1068), which was revised to address the Council's and the BLPP's concerns. Notably, key changes adopted as part of this Planning Proposal, include:

- Reducing the envisioned scale of RFBs at the site from five to four storeys (deleting 49 units from the scheme).
- Identifying the site's probable maximum flood level (PMF) and proposing a maximum building height that enables future finished floor levels above the PMF.
- Developing a comprehensive Flood Emergency Response Plan to address flood risk.

Despite these revisions, Bayside Council resolved not to support the Planning Proposal at its meeting on 22 November 2023 based on the Council officer's Assessment Report and BLPP's recommendation. The Council's primary reasons for its decision mirrored the BLPP's reasons not to support the 2021 Planning Proposal, citing a perceived lack of strategic justification for the development uplift and concerns regarding flood risk.

Council also noted that three specific investigation areas are being explored to facilitate additional housing in Bayside. However, we note that there is no firm timeline for the Council to complete these strategic investigations, and a strategic planning investigation does not imply that there will be changes to planning controls in those areas to increase housing supply.

In our view, the revised Planning Proposal comprehensively addresses the Council's concerns, with the Proposal demonstrating substantial strategic and site-specific merit to justify development uplift for the following reasons.

- The Bayside Local Housing Strategy forecasts that the LGA requires 26,021 dwellings by 2036 based on the LGA's anticipated population growth. It also identified that existing planning controls coupled with development constructed between July 2016 and August 2019 have the capacity to deliver only 24,721 dwellings by 2036, representing a shortfall of 1,466 dwellings (p. 27).
- The Greater Sydney Urban Development Program Dashboard's statistics further highlight the forecast shortfall of dwelling supply in the LGA in the LGA. It shows that the number of building completions (536) in Bayside over 12 months to March 2023 is 68.8% below the previous 5-year average (refer to **Figure 1**). At this rate, Bayside will fall substantially short of its housing target of 7720 new homes between 2021 and 2036 (or 1,544 homes per year).

#### Latest 12 months - year to March 2023

(from available data)

Completions 

**536**

▼ 68.8% below previous 5 years' average

Approvals 

**414**

▼ 66.4% below previous 5 years' average

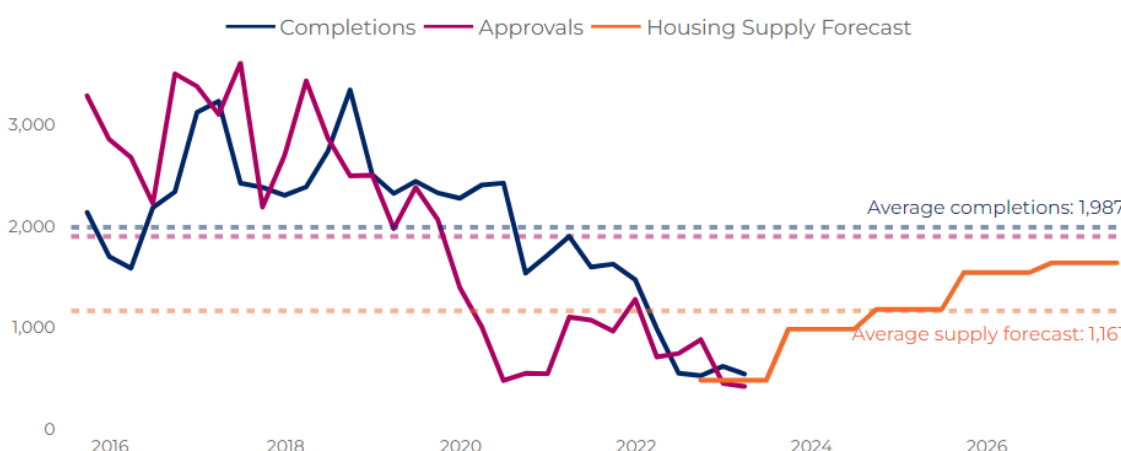
#### 5 year housing supply forecast (2022-2023 – 2026-2027)

Medium Growth Scenario 

**5,805**

▼ 40.4% below previous 5 years' completions

#### Rolling annual activity and forecast



**Figure 1 Bayside LGA Housing Supply (year to March 2023)**

Source: Greater Sydney Urban Development Program Dashboard, 22 September 2023

- Bayside's housing shortfall exist within the context of Sydney's broader housing crisis and the NSW Government's aspirational target to deliver 377,000 new homes over five years from 1 July 2024 under the National Accord targets.<sup>1</sup> Currently, Sydney's five-year forecast for new housing in the city (around 119,400 to 138,550 new homes) is significantly less than the previous five years of supply (171,500 new homes)<sup>2</sup>. In response, the NSW Government has identified increasing new housing supply in the suitable locations as a key priority.<sup>3</sup>
- Therefore, there is a strategic need to plan for new opportunities to deliver additional housing supply within Bayside. The Bayside Local Strategic Planning Statement (LSPS) and Local Housing Strategy include site criteria to plan growth for new three to four-storey apartments to help address the gap between currently zoned and needed

<sup>1</sup> Australian Government, 2022, National Housing Accord 2022, <https://ministers.treasury.gov.au/sites/ministers.treasury.gov.au/files/2022-10/national-housing-accord-2022.pdf>

<sup>2</sup> NSW Government, 2023, Forecast Insights, <https://www.planning.nsw.gov.au/research-and-demography/sydney-housing-supply-forecast/forecast-insights>, accessed on 8 November 2023

<sup>3</sup> NSW Government, 2023, Housing Growth, <https://www.planning.nsw.gov.au/about-us/our-work/housing-growth>, access on 8 November 2023

housing (p. 40 of the Housing Strategy & p. 56 of the LSPS). The site aligns with these criteria, thus demonstrating site-specific merit, for the following reasons:

- Is a redundant industrial site
- Has a valuation for medium density development.
- Is within 230m (5 minute walk) of the Botany Road bus corridor, which provides bus services that connect commuters to Redfern Station, Port Botany, Mascot (train station) and Matraville. Botany Road also contains services, shops and restaurants within walking distance of the site.
- Is within 800m walking distance of land zoned E1 local centre and MUI mixed use to the site's north that contain an IGA express, shops, restaurants, cafes, a pub, a pharmacy and a gym.
- Is immediately adjacent to a large public open space (Sir Joseph Banks Park).
- Is appropriately shaped and sized (approximately 8,000 sqm) to accommodate a high quality medium-density development that complies with the Apartment Design Guide (ADG)
- The site features generous landscaped areas and setbacks and is well screened by established perimeter trees
- Is surrounded by park on 3 sides and a water easement on the fourth side (site's north). Beyond is a 4-storey walk up RFB
- Is situated approximately 20m from the nearest sensitive residential use.
- Is consistent with the character of nearby four-storey RFBs to the site's north.
- Is an unfragmented, 8000sqm site, owned by a single entity.
- A planning proposal for redevelopment of the subject site for medium density is the only way to resolve the harmonising effect of BLEP 2021 which effectively removed RFBs from the R3 zoning table applying to the site.

Furthermore, the Planning Proposal comprehensively addresses flood risk through a two-fold strategy:

- **Finished Floor Levels** - Incorporating finished floor levels above the PMF event to ensure all occupants will be above the PMF and outside potential interactions with hazardous floodwaters.
- **Shelter-in-Place Strategy** - Implementing a shelter-in-place emergency management strategy and delivering a platform set above the PMF level along the site's northeast or northwest boundary to provide safe emergency egress if required during a flood event. The intent is that in the event of an emergency, Hayden Place (which has low flood affectation with depths of less than 200 mm and broadly less than 150 mm in a PMF event), which is accessible on foot from the site, can be used as a vehicular egress point for emergency service vehicles.

Disappointingly, the Proponent did not receive an opportunity to work with the Council to address their concerns despite demonstrating a willingness through their revisions in the current Planning Proposal. The Council's concerns with the current Planning Proposal were first raised in the Council officer's Assessment Report to the BLPP, and the Proponent's only opportunity to respond was through the LPP process once Council officers had their recommendation.

The Council's approach is regrettable, particularly in light of the NSW Government's key priority for increasing new housing supply and the Minister for Planning and Public Spaces correspondence to all Council Mayors on 8 August 2023 outlining the shared responsibility to address the housing crises. That letter states: *"The immediate need is for us to make sure the planning system presents no impediment to dwelling approvals and construction in appropriate locations"*.

Accordingly, the Proponent seeks a Rezoning Review, as the Council has notified the Proponent in writing that it does not support the Proposal. This letter is accompanied by a Rezoning Review Report that provides further details regarding the Planning Proposal, its background, and its consistency with the strategic merit and site-specific merit tests.

Should you have any queries regarding this matter or require any further clarification, please do not hesitate to contact the undersigned.

Yours sincerely,



**David Attwood**

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