

10 June 2022

Our Ref: SF22/1682  
Our Contact: Lisa Ho – 9562 1663

Matthew Short  
Urbanist Planning  
Ethos Urban  
173 Sussex Street  
SYDNEY NSW 2000

Dear Mr Short,

**Re: Scoping Proposal Advice – Potential Planning Proposal at 26 Tupia Street, Botany**

I refer to the meeting held on 11 May 2022, at the request of Ethos Urban (on behalf of Archicorp), to discuss a potential Planning Proposal at 26 Tupia Street, Botany.

Your Scoping Proposal explains that your client is seeking to amend the Bayside Local Environmental Plan 2021 (BLEP 2021) to facilitate a high-density residential development at 26 Tupia Street, Botany.

It is acknowledged that Council has considered a similar draft Planning Proposal for the site at the Council meeting on 13 October 2021.

At that meeting, Council resolved to not support the draft Planning Proposal, by way of the resolution included below:

*That the Draft Planning Proposal for 26 Tupia Street, Botany not be forwarded to the NSW Department of Planning, Industry and Environment for a Gateway Determination for the reasons outlined in the report, in particular:*

- 1. It is inconsistent with the objectives and detailed requirements of s.9.1 Directions including 3.1 Residential Zones, 2.3 Heritage conservation; and 4.3 Flood Prone Land.*
- 2. The Planning Proposal seeks substantially greater height and floor space in an area that has not been identified in the Bayside Local Housing Strategy for increased residential density and is not located with a centre identified in the Eastern City District Plan.*
- 3. The Planning Proposal would not promote orderly development of land as referred to in s1.3(c) of the Environmental Planning & Assessment Act 1979 by amending controls at this stage of the strategic planning process.*

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Staff have considered the Scoping Proposal, including consideration of any minor changes since Council's resolution on 13 October 2021. Council staff can confirm that Council's reasons for not supporting the draft Planning Proposal remain applicable to this Scoping Proposal. Apart from a minor reduction in FSR of 0.25:1, the Scoping Proposal is essentially seeking the same outcome as the draft Planning Proposal that Council resolved not to support on 13 October 2021. Council staff can also confirm the Scoping Proposal has not been amended to address the three key reasons for refusal.

The NSW Department of Planning and Environment (DPE) supported Council's application of the current zone and development standards for the site in August 2021, when the BLEP 2021 was notified. DPE clearly understood that the site had been deferred from the Botany Bay Local Environmental Plan 2013, and required the application of an equivalent zone and development standards to those that had applied under the Botany Local Environmental Plan 1995. Both Council and DPE considered the submissions you prepared on behalf of your client as part of that LEP-making process, and both Council and DPE declined to change the zoning and controls for the site from what had been exhibited.

In relation to the request to permit a Residential Flat Building (RFB) via an Additional Permitted Use on the site, Council resolved on 23 March 2022 to prepare a draft Planning Proposal to delete the two Additional Permitted Uses (APUs) 34 and 35 from Schedule 1 of the BLEP 2021. Relevant to your proposal, Item 35 relates to the use of certain land in the R3 Medium Density Residential zone for RFBs. This draft Planning Proposal is currently awaiting a Gateway Determination from the DPE, and was prepared in response to Council's Local Housing Strategy. One of the reasons for Council not supporting the draft Planning Proposal on 13 October 2021 was that the site was in an *"area that has not been identified in the Bayside Local Housing Strategy for increased residential density and is not located with a centre identified in the Eastern City District Plan."*

Council notified the proponent in a letter dated 19 October 2021 of Council's decision not to support the draft Planning Proposal. As discussed at the meeting on 11 May 2022, your client has the option for a Rezoning Review. Proceeding with a Rezoning Review enables a proponent to request an independent Planning Panel to evaluate whether a draft Planning Proposal should progress to Gateway determination.

We trust this information will be of assistance in relation to the Scoping Proposal. If you require further clarification, please do not hesitate to contact Lisa Ho, Senior Urban Planner on 02 9562 1683 or via email: [lisa.ho@bayside.nsw.gov.au](mailto:lisa.ho@bayside.nsw.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Clare Harley'.

Clare Harley  
**Manager Strategic Planning**