

Our Ref: m240413

12 June 2025

Department of Planning, Housing and Infrastructure
4 Parramatta Square, 12 Darcy Street
Locked Bag 5022
PARRAMATA NSW 2124

Attention: Mr Timothy Coorey

Dear Timothy,

**GATEWAY DETERMINATION REVIEW
PLANNING PROPOSAL APPLICATION FOR 2 MARSHALL AVENUE, ST LEONARDS**

We act on behalf of the Applicant in relation to the planning proposal for the land known as No.2 Marshall Avenue, St Leonards. This letter responds to your email dated 4 June 2025 to our client. As you know, the application for rezoning has been lodged via the NSW Planning Portal with application reference number PP PP-2025-201 - RR-2025-8.

It is to be noted that the Planning Proposal report dated 26 November 2024, prepared by Planning Ingenuity, provides an in-depth analysis of both Strategic and Site-Specific Merit in Section 6.3 of the Report.

The applicant's position, as set out in that report, has not changed following Council's resolution to refuse the planning proposal request. It is for that reason we seek gateway determination review.

EXECUTIVE SUMMARY

The proposal has strategic merit for high density residential development as discussed in Section 6.3 of the planning proposal and is summarised below.

Strategic Merit

- Aligns with the Greater Sydney Region Plan and North District Plan;
- Supports increased residential density by increasing housing in accessible, well-located areas;
- Provides public benefits through publicly accessible open space and enhances liveability through mixed-use development;
- Creates greater use of the site by unlocking the development potential in line with applicable housing targets;
- Responds to the Lane Cove LSPS, Local Housing Strategy and St Leonards and Crows Nest 2036 Plans; and,
- Cognisant of the *St Leonards and Crows Nest 2036 Plan* and the more recent *Crows Nest Rezoning Proposal for TOD Accelerated Precincts*.

Site Specific Merit

- The site is within a highly accessible location;
- The site can accommodate an increase in density without any significant environment impacts;
- The site contains minimal environmental constraints;
- The proposed uplift is compatible with surrounding context;
- The proposal will supports housing supply and diversity; and,
- The subject site does not require any major upgrade to accommodate the proposal



PLANNING INGENUITY

Suite 210, 531-533 Kingsway
Miranda NSW 2228
P 02 9531 2555

Suite 6, 65-67 Burelli St
Wollongong NSW 2500
P 02 4254 5319



LOCAL PLANNING PANEL MINUTES

With reference to the Local Planning Panel Minutes dated 25 March 2025, a response to the reasons for refusal are addressed below.

A. Does not Pass the Strategic Merit Test

We disagree. The planning proposal has dealt with the Strategic Merit in great detail in the Planning Proposal, specifically Section 6.3.2.4 of the Report. Our position is summarised above.

C. Does not pass the Site-specific Merit Test

We disagree. The planning proposal has dealt with the Site-specific Merit in greater detail in the Planning Proposal, specifically Section 6.3.2.5 of the Report. Our position is summarised above.

D. Does not comply with Council's intended plans for the site

We disagree. This reason would appear to underlie the refusal of the Planning Proposal. That is, an intent that our client may be minded to (or compelled to) divest the land for an open space purpose. We note that the subject site is not currently earmarked for acquisition nor did Council resolve amend its LEP to do so. Accordingly, the site remains zoned for the proposed purpose, that is residential development. Area 1 and 2 of the Precinct were anticipated to provide 1,300m² of new public open space in accordance with the St Leonards South DCP. DA79/2022 includes Condition FA.14 which requires 1,300m² of embellished public open space to be dedicated to Council. The proposal includes new public open space **in addition to** the 1,300m² anticipated by the St Leonards South LEP amendments. Accordingly, the open space which has been delivered in the precinct is as envisaged by the planning controls and our client's site is not required for this purpose.

The subject site is located within the low and mid-rise ('LMR') housing area which benefits from an uplift in FSR and height. The LMR provisions enable increased density, which of course is warranted given the site is located within an accessible location. In Council's original report the LMR provisions were not included or discussed. Accordingly, the panel were not properly advised on the LMR provisions and the current development potential on the site. Given a different comparison to be made between existing allowable development and the Planning Proposal, the Panel may have reached a different conclusion regarding the planning proposal.

CONCLUSION

The applicant is requesting a gateway review as we do not agree with the resolution made by Council. The decision in part is based on a false premise that Council may acquire the land for open space despite no efforts to do so, and also was made in the absence of proper assessment of the current development potential pursuant to the LMR provisions.

The Applicant continues to discuss the matter with Council staff in an attempt to reach resolution on a mutually acceptable built form, that also addresses waste and parking issues. We expect that the applicant and Council may be in a position to discuss a potential alternative to the Planning Proposal which was refused at the initial Panel briefing. We look forward to that opportunity.

Yours Faithfully,
Planning Ingenuity Pty Ltd



Jeff Mead
Managing Director