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Department of Planning and Environment

Attention: Director Industry, Key Sites and Social Projects

GPO Box 39

SYDNEY NSW 2001

Your Ref: MP 09_0187 MOD 3

Dear Sir/Madam,

MODIFICATION REQUEST – SECTION 75W MODIFICATION TO MIXED USE DEVELOPMENT AT 6-16 ATCHISON ST, ST LEONARDS (MO-09_0187 MOD 3)

I refer to your letter dated 2 June 2014 concerning the above matter. The proposed modifications have been reviewed by Council Planners and are not supported the reasons set out below.

Building Height and Form

The proposed additional building height to be increased from RL167.3m (82.5m) to RL 181.3m (94m) AHD is strongly opposed. The North Sydney LEP 2013 sets a maximum Building Height of 49m on the site. Council strongly opposed the approved building height and form at the time. The proposed modification is seeking to reinstate an additional 4 levels that were previously refused by the Planning and Assessment Commission as part of the original development consent. This additional height continues to be without merit and should not be supported. The approval as it stands is considered to have compromised the orderly development of land in St Leonards.

Further, the proposed 850sqm floor plate results in excessive bulk and scale, with inadequate building separation along all boundaries adversely impacting upon adjoining properties. A reduced tower footprint providing a more slender tower should be required having a maximum of 750sqm to achieve a more appropriate building form, greater ground level sunlight access and better protection of residential amenity and views.

The NSC Strategic Planning Division is currently undertaking a review of the planning controls for land immediately east of St Leonards station with the North Sydney LGA, which includes the subject site. The review is being funded by a grant under Planning & Environment's *Planning Reform Fund*. The objectives of the study are to:

- Develop economically viable built form controls to effectively manage commercial, mixed use and residential development;
- Identify public domain upgrades and community infrastructure that will make St Leonards a desirable place to live, work and visit, and
- Establish clear funding mechanisms and a process to amend our planning controls, where needed, to deliver the scheme.

The draft review is scheduled to be exhibited later this year. The undertaking of the comprehensive Review demonstrates Council commitment to ensuring a holistic and strategic approach is undertaken for the future development of St Leonards, ensuring that dwelling and commercial floorspace targets are achieved within an appropriate built form outcome.

Should this application be approved to further increase the building height, this will impact upon and undermine the future planning framework for the entire area. The strategic planning framework of an area should not be determined by applications on an ad hoc basis, and should not be at the expense of any future development potential of adjoining sites.

Non-residential Floor Space

NSLEP 2013 requires a minimum non-residential floor space be provided on the site of 3:1 for the subject site. The approved development provides a non-residential FSR of 2.5:1 which Council strongly opposed at the time. Development Approval for only 64 serviced apartments and ground floor retail is a missed opportunity to deliver jobs in St Leonards. Serviced apartments are low employment operators.

The modification application continues to propose a non-compliance, despite proposing 3,990 sqm of additional floor area. Should the Department be minded to grant approval to the modification application, the applicant should be required to provide a complying non-residential FSR of minimum 3:1.

Car parking

The North Sydney DCP 2013 (NSDCP) specifies that a development of this size should have a maximum of 183 car parking spaces. The proposed development provides 202 off-street parking spaces which exceeds Council's maximum rate by 21% and is considered to be unacceptable.

The parking rates in NSDCP 2013 are a deliberate policy decision of Council to restrict car parking and therefore car ownership and commuting by car in the busy CBD/ retail areas close to good public transport. The proposal should be required to provide a maximum of 183 car parking spaces to comply with Council's controls.

In addition, the modification proposes to provide an additional 34 car parking spaces within the approved 6 basement levels. Concern is raised that the basement has been already approved to accommodate this quantum of additional car parking that has not yet been approved.

Amenity

All proposed apartments fail to provide the minimum balcony size required by the Residential Flat Design Code pursuant to SEPP 65. It is recommended that the apartments be required to comply with minimum standards for balconies.

Public benefit

The application includes a Draft Public Benefit Offer (PBO) to North Sydney Council in relation to the application in recognition of the impact on the local services created by the additional GFA and resulting dwellings under the subject modification. The majority of St Leonards is lacking diversity and social infrastructure and it is agreed that the 12,000sqm of additional residential floorspace above our existing controls should not be supported without an appropriate public benefit.

Notwithstanding Council's objection to this application, approval should not be issued until the applicant provides a public benefit offer that is acceptable to Council. A resolution of Council is required to confirm that the proposed offer is considered to be reasonable and fair, and to determine what the contribution will fund. It is advised that the terms of the draft PBO must be considered by Council and it is anticipated that the matter will be reported to the Planning and Development Committee on 25 August 2014. The outcome of this meeting will be reported back to the Department following this meeting.

In addition, it is considered that the 4% of dwellings which are to be dedicated to Council as affordable housing should be calculated over the total residential GFA, and not be representative of the floor area originally approved.

Any draft Public Benefit Offer to be provided to North Sydney Council by way of Conditions of Consent for the additional GFA should be conditional on payment of the monetary contribution prior to the issue of a Construction Certificate, and not an Occupation Certificate as outlined in the proposed Draft PBO submitted with the application. The payment of similar contribution prior to the issue of a Construction Certificate is a consistent practice of Council.

Section 94 Contributions

Should the Department be minded to approve the modification, Section 94 Contributions must be imposed in addition to any Public Benefit Offer, for the proposed additional floor space in accordance with Council's Section 94 Development Contribution Plan. The terms of Condition B11 must be amended accordingly.

Levels and structures adjacent to eastern boundary

It is recommended that the applicant liaise with the adjoining property owner at No.20 Atchison Street to ensure that levels between the two proposed through site links from Atchison Street to Atchison Lane relate as far as possible. Structures on the eastern boundary should be minimised as far as possible.

Height comparison

The proposal fails to provide a clear understanding of the proposed height in relation to the local context. Tables comparing the proposal to other buildings combine data in storeys, RLs and metres which does not provide an accurate assessment of the proposed height against the local context, including The Forum. Similarly, the section diagrams are schematic at best.

Obstacle limitation surface of 156 AHD

It is requested that a copy of the advice received from the Civil Aviation Safety Authority be made available to Council.

Conclusion

The additional building height and form proposed by the 75W modification application are entirely unacceptable. Council would strongly urge the Department to refuse the modification application for reasons set out above. The Department is urged to support Council in its on-going commitment to ensuring a high quality built form outcome is achieved in St Leonards through the implementation of a holistic strategic planning review that is currently well advanced.

Yours faithfully

A handwritten signature in black ink, appearing to read 'S. Beattie', with a stylized flourish extending to the right.

Stephen Beattie
MANAGER DEVELOPMENT SERVICES