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Mr Steven Murray
Executive Director Regions
Planning Services
Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

MO4(CIS)

4 September 2018

Dear Mr Murray,

**RE: PLANNING PROPOSAL PP_2018_NORTH_001_00 - 41
 MCLAREN STREET, NORTH SYDNEY**

I refer to your letter dated 23 August 2018, attaching the Department's Gateway Determination of Planning Proposal PP_2018_NORTH_001_00 relating to 41 McLaren Street, North Sydney.

Whilst Council understands that the Gateway Determination (GD) follows positive consideration of the Planning Proposal by the Sydney North Planning Panel, it remains, nonetheless, disappointed with the Department's decision to progress this matter. In the current climate of increased emphasis by the Greater Sydney Commission for Sydney's growth to be led by strategic led planning, Council is surprised that a site specific proposal has been supported in the context of Council having endorsed two comprehensively considered and holistic Masterplan outcomes for the entire precinct which the Department is well aware of. The Ward Street Masterplan was considered and endorsed by Council at its meeting on 25 June 2018 and has been placed on public exhibition between 7 August and 8 October 2018.

An initial review of the Department's Gateway Determination Report highlights a number of issues that are discussed below.

Council's Review of Gateway Determination Report

Firstly, whilst the applicant's submission is widely quoted and referenced, Council's comprehensive assessment report which was considered by Council at its meeting on 25 February 2018, has not been referenced and there is no evidence that it has been taken into account when preparing the Department's report. This is despite the Department having being provided with a copy of this report and its resolution. This omission is also contrary to the Department's normal procedure to address Council's position on the matter when preparing Gateway Determination Reports.

Given that the Ward Street Masterplan was adopted by Council at its meeting of 25 June 2018, it would have been prudent to review the Planning Proposal in this context more holistically and comprehensively prior to the issue of the GD. The revised Masterplan was available for about two months prior to the issue of the GD by the Department.

Of particular concern, is the apparent reference to an updated alternative masterplan (Architectus 2018) which Council has not sighted. It is likely, however, that this represents a typographical error in the labelling of the “visionary” masterplan (p.12). If this is not the case, it is only reasonable, that a significant change should be able to be reviewed by Council.

Further to this, clarification is sought as to whether the visionary masterplan is to be exhibited. On page 10, it states that is to be exhibited (in accordance with the Planning Panel’s recommendations) and conversely on page 17, it says it’s not to be exhibited. The Planning Proposal needs to be revised to provide an assessment against both options outlined under the revised draft WSMP and include these in the exhibition.

The Planning Proposal acknowledged but did not ‘fully contemplate’, the impact the proposed amendments would have under Council’s proposal. The Planning Proposal needs to be updated to consider and assess the amendments under Council’s North Sydney Centre Planning Proposal which is expected to be gazetted shortly. Of significance here, is the context diagrams that appear in the proponent’s supporting documentation that wrongly identify heights (in RLs) for various buildings in the vicinity. These include the Metro Over Station Development building which is identified as RL 300, whereas in fact, the recent State Significant Development Application sought a height of RL 230, which is significantly lower. These errors have been perpetuated in the Department’s report at pages 11, 12 and 23.

- **Consistency with WSMP**

Neither one of the current WSMP options align with the scope of the subject planning proposal.

Page 8 of the Department’s report states that ‘Council has advised that solar studies completed for the masterplan showed the addition of a slim tower positioned over the south-east corner of the existing heritage-listed building at 41 McLaren Street would not create unacceptable additional shadowing to the proposed public square during winter.’ The primary square is on Miller Street for option 1 and the central square is the primary open space for option 2. The Planning Proposal outcome is therefore unacceptable and clearly inconsistent with this latter option. Only when modified, would it be acceptable with the WSMP option 1 as described in the Masterplan.

What also needs to be noted is that the building envelope proposed by Masterplan option 1, has a far greater level of compliance with SEPP65 in terms of building separation and solar access than the Planning Proposal.

The outcome envisaged by the Planning Proposal would represent the blocking of the sunlight in the morning to early lunch period which would effectively block all direct sunlight hitting the square envisaged by Masterplan option 2 thus reducing its amenity to an unacceptable level.

The stated objectives or intended outcomes as identified on pages 12 and 13 of the GD Report to ‘Enable redevelopment of the site in conjunction with the renewal of the Ward Street Precinct’ is disingenuous given that it restricts the pursuit of only one identified option under the revised draft WSMP and to a modified extent.

The claim that the revised draft WSPM is not economically feasible (and thus the applicant's alternative masterplan warranted) is now effectively a superseded claim given Council's endorsement of the revised draft WSPM which has revised the height limit and envelope to the subject site under Option 1, to ensure that the development uplift is economically feasible.

The GD report claims that there are a number of parallels between Council's revised draft WSPM and the applicant's alternative masterplan. However, the claim that both options under the revised draft WSMP include a pedestrian through-link across the subject site is incorrect. The draft revised WSPM illustrates that the through-site link is actually located on the adjoining property to the south and does not run through 41 McLaren Street at all.

The key difference between Council's revised draft WSMP and the applicant's alternative masterplan, is that the revised draft WSMP sets out to both protect solar amenity to the proposed open spaces in each of the masterplan options and provide the necessary setback/separation requirements for adjoining sites.

- **SEPP 65**

The Planning Proposal states that it is considered to be consistent with the nine design principles of SEPP 65. However, the proposed development does not comply with the visual privacy objectives, it provides inadequate building separation and setbacks as well as resulting in the adjoining residential developments not achieving the minimum requirements of solar access. Council reiterates that this outcome is unacceptable.

- **Public Benefits**

The analysis and design for both options under the revised draft WSMP do not include a through-site link through 41 McLaren Street. Rather, the two options include the upgrade of a "shared" zone along the 'right of way' through the site comprising 221 Miller Street. This link forms a primary objective of the revised draft WSMP which is to enable a continuous pedestrian 'laneway link' from Brett Whitely Place through Denison Street, Ward Street to McLaren Street. More importantly, such public access is to remain "open to the sky" and is an important design element in both Masterplan options. This was a pivotal piece of the revised draft WSMP and whilst the offer of a through-site link across the subject site would be highly desirable if there were no other alternatives, this is clearly not the case and therefore the claim that this represents a public benefit, is not accepted.

- **Bulk and Scale**

The proposal does not comply with the footprint and public domain expectations of either WSMP that have been exhibited.

Council supports the Department's recommendations that additional assessment be undertaken to consider what impact the proposal may have on these adjoining residential developments and what mitigation measures and built form setbacks could be applied to minimise these impacts.

- **Overshadowing**

Council notes that additional shadow diagrams are requested to review the potential overshadowing by the development on the two options under the revised draft WSMP. Council requests at least the provision of hourly shadowing diagrams from 9am to 3pm to demonstrate the proposal's impact.

Conditions of Gateway Determination

Various conditions attached to the GD (1c, 1d, 1e and 1f) require the submission of additional information and justification that will require an element of qualitative assessment and determination. The level of analysis and discretion required by these conditions is arguably better conducted during the process of assessment of the Planning Proposal and certainly prior to the issue of a GD. The Department is urged to closely consider this and whether it is more prudent to impose more measureable conditions on the GD.

It is the intent to formally lodge a Gateway Review with Council's endorsement. **Please consider this as formal notice of Council's intent to lodge such review in due course.**

Should you have any queries in relation to this application please do not hesitate to contact me on 9936-8100.

Yours sincerely



JOSEPH HILL
DIRECTOR CITY STRATEGY