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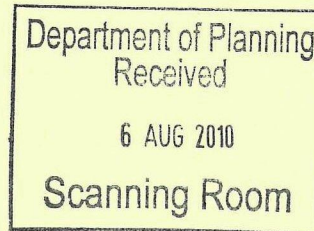
ABN 32 353 260 317

Mr Michael Woodland
Director - Urban Assessments
Department of Planning
GPO Box 39
SYDNEY NSW 2001



NR1 (PDS)

4 August 2010



Dear Mr Woodland

**RE: PROPOSED MAJOR PROJECT APPLICATION MP09_0214
177-199 PACIFIC HIGHWAY, NORTH SYDNEY**

The abovementioned application was the subject of a report considered by Council at its meeting held on 2 August 2010.

At this meeting Council resolved as follows:-

- A. **THAT** Council resolves to **OBJECT** to the proposed Part 3A major development application (MP 09_0214) at No. 177-199 Pacific Highway, North Sydney on the following grounds:
1. The proposed development does not satisfy the objective (c) of the Commercial zone as it does not minimise adverse effects of development on existing residents and occupiers. As such, the proposal does not satisfy the provisions of Clause 14 of NSLEP 2001 – *Consistency with aims of plan, zone objectives and desired character*.
 2. The proposed development fails to satisfy objectives (o) and (p) of Clause 28B of NSLEP2001 – *North Sydney Centre objectives*, in that the proposal does not protect the amenity of residential zones and existing open space, and does not prevent any net increase in overshadowing of residential zoned land, public open space and identified special areas.
 3. The proposed development fails to satisfy objectives (b) and (c) of Clause 28D(1) of the NSLEP2001 - *Building heights and massing*, in that the proposal does not promote a height and massing that has no adverse impact on land zoned public open or identified as a special area or heritage items and does not minimise overshadowing of land in the residential and public open space zones or identified as a special area.



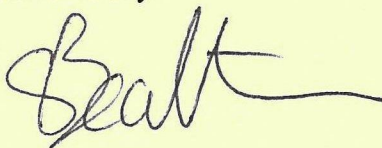
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4. The proposed development fails to satisfy controls (b), (c) and (d) of Clause 28D(2) of the NSLEP2001 - *Building heights and massing*, in that the proposed building envelope will result in a net increase in overshadowing of land outside the composite shadow area between 9am and 3pm, will result in a net increase in overshadowing of land zoned public open space and identified special areas between 10am and 2pm, and will increase overshadowing of residential dwellings outside the North Sydney Centre resulting in a loss of amenity to these properties.
5. The proposed development fails to satisfy control (a) of Clause 28D(5) of the NSLEP2001 - *Building heights and massing*, in that its scale, form and massing is inappropriate and results in adverse shadowing impacts.
6. The proposed development is considered unacceptable due to non-compliance with the following sections of the NSDCP 2002:
 - a. Section 20.2(h) Solar access
 - b. Section 20.3(g) Setbacks
7. The proposed development is considered unacceptable as it fails to satisfy the following development controls contained within the North Sydney Centre Area Character Statement:
 - a. Solar access
 - b. Above podium setbacks, street frontage
8. The proposed development fails to satisfy controls (a), (b) and (c) of Clause 6.4(2) of Draft LEP 2009 - *Building height and massing controls*, in that the proposed building height will exceed the height for the land shown on Height of Buildings Map (of RL 85 and RL 190) and does result in a net increase in shadows to the Special Areas of Miller Street and Don Bank Museum.
9. The proposed development cannot be supported in its current form given the following concerns with the design raised by Council's Design Excellence Panel:
 - a. Provision of additional documentation to indicate the number of minutes and number of days either side of Equinox that the proposal would result in overshadowing (particularly to the Special Areas of Miller Street and the Don Bank Museum)
 - b. Lack of setback of the tower on the Pacific Highway frontage with regard to its bulk and scale impact and context when viewed from ground level
 - c. Insufficient information provided on the integration of disability access into the design of the podium areas of the garden plaza.

10. Insufficient information has been submitted to enable an accurate or detailed assessment of potential view loss from the apartments within the Beau Monde building at No. 77-81 Berry Street, North Sydney.
- B. **THAT** Council urge the Minister of Planning to refuse development application MP 09_0214 for the additional following reasons:
- Overshadowing of adjoining residential properties and special sites (Miller Street & Don Bank).
 - Emphasising relevant height controls of DLEP 2009 for the site of RL 85 and RL 190 to reinforce overshadowing controls,
 - Council is not satisfied that the proposed garden plaza is a public benefit as currently proposed it is a foyer to a commercial building and Council seeks that the garden plaza be open on Berry Street and Pacific Highway.
- C. **THAT** Council resolves that the Department of Planning be requested to forward any amended plans received to Council for comment.

Should you have any queries, Council's Senior Assessment Officer, Nicola Reeve will be handling the matter and can be contacted on telephone 9936-8335 and email: Nicola.Reeve@northsydney.nsw.gov.au.

Yours faithfully



Stephen Beattie
MANAGER DEVELOPMENT SERVICES