

Our Ref: M200392

16 March 2021

The General Manager  
Northern Beaches Council  
PO Box 82  
Manly NSW 1655

Attn: Northern Beaches Local Planning Panel Members

Dear NBLPP Members,

#### LATE CORRESPONDENCE

#### ITEM 3.3 – 27 BELLEVUE AVENUE, AVALON (DA 1162/2020)

We act as town planning consultants to the owner of the above property and have provided this late correspondence to foreshadow our oral submission. In summary, whilst we consider that the proposed development is entirely capable of conditional approval, we respectfully request that the Northern Beaches Local Planning Panel (NBLPP) defer consideration of DA1162/2020 to allow the applicant and Council additional time to provide a mutually beneficial outcome.

Despite the recommendation for refusal, we would like to thank Council staff for working with us on this project, which I believe it is fair to say, presented a number of unique challenges. The process started with a Pre-DA with Council in September 2019 which presented a very different scheme to the one before Council and included four (4) seniors dwellings. It took us almost a year to refine the plans and undertake the necessary supporting reports before lodging the original DA in September 2020. We have been working with Council staff ever since to come to mutually beneficial solutions, however, it came as quite a surprise to be informed that Council would no longer be working with us and had put the DA on the agenda for 17 March 2021 NBLPP with a recommendation for refusal based on referral officer comments. We feel it was an unfortunate position for Council to take and halted any goodwill and momentum that had been achieved in resolving issues throughout this process.

Without diminishing the importance of the comments of the referral officers, an analysis of the NBLPP Assessment Report finds that the unresolved issues can be distilled to three (3) issues relating to trees, stormwater and waste. These unresolved issues are not issues that would be considered insurmountable or jurisdictional matters that preclude development consent, but rather relate more to design “details” that could have been addressed by the applicant had additional time been provided by Council. Importantly, an analysis of the NBLPP Assessment Report finds that the remainder of the proposal, including the built form of the proposed Seniors Development, is considered to be entirely reasonable and this is reflected by the fact that built form issues are not raised as reasons for refusal.

We are of the opinion that the fact that the only remaining issues to be resolved relate to trees, stormwater and waste and OSD is also not lost on Council. Page 90 of the printed agenda discusses the suitability of the site for development and concludes as follows:

*The suitability of the site in terms of likely impacts on the environment and character has been discussed in detail in the various section of this report. In summary, the suitability of the site for the development as proposed in its current form remains uncertain, due to fact that the proposal has not fully addressed the environmental impacts of the proposed development.*



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*In this regard, under the circumstances, the site is not considered to be suitable for this particular form and scale of development, given that Council's Landscape Team do not support the proposal due to the environmental impacts caused on high retention value trees.*

*Therefore, a conclusive determination that the site is suitable cannot be made at this stage." (emphasis added)*

In our opinion, it is clear that Council's Planning Staff have reached a level of satisfaction in relation to the built form and character of the proposed development, but the unresolved issues from trees, stormwater and waste make it unclear if the site is suitable for development. We therefore respectfully request that the NBLPP members defer determination of this matter to allow the applicant additional time to resolve the remaining issues to demonstrate that subject site is in fact suitable for redevelopment.

In relation to the remaining issues, our architect and relevant experts already have solutions in relation to landscaping, waste management and the relocation of the OSD tank which has been prepared and submitted for consideration with this submission. The one outstanding issues appears to be trees. Despite the fact that the referral responses on Pages 94-104 of the printed agenda appear to be "cut off" which may prejudice the applicant in providing a full and robust response, we have distilled the main issues in relation to the trees.

Whilst we do not proffer to be experts in trees especially in relation to retention and life expectancy, our interpretation with regards to the Landscape Referral Officer comments is not so much that the trees are to be retained (as there does not appear to be any issues raised in this regard), but it is more to do with the life expectancy and possible future applications to remove trees in close proximity to built form. That is, the fact there is no argument about the retention of the trees means the life expectancy and future applications are subjective considerations that our experts believe can be resolved. In this regard, any specific questions can be deferred to our Arborist who will be available to speak at the NBLPP meeting if required.

Our clients desire to live in one of the apartments in the development (if approved) and are drawn to the area for its leafy aspect. Whilst we understand the good intentions of the owners may not be sufficient evidence for Council, our clients suggested and are were willing to accept a Positive Covenant condition on title which would not only alert future owners that the trees are to be retained but bind the trees to the site. This we believe is a suitable compromise to ensure the canopy trees and leafy character of the locality will be retained.

We understand the NBLPP determination timeframes and whilst we consider the proposed development is entirely capable of conditional approval, we would respectfully request a deferral to the April NBLPP meeting or a suitable time as determined by Council staff and NBLPP. Our clients seek a speedy resolution of this matter by would rather achieve a mutually beneficial outcome working with Council and the NBLPP rather than starting again with a new DA or going through the Court process.

We will be available to answer questions and the NBLPP and thank you for your time and consideration.

Yours faithfully,  
Planning Ingenuity Pty Ltd



David Waghorn  
**ASSOCIATE DIRECTOR**

