



NORTH SYDNEY COUNCIL

Council Chambers
7 April 2022

I wish to inform you that a Meeting of the **NORTH SYDNEY LOCAL PLANNING PANEL** will be held in the Supper Room, North Sydney at 2.00pm on Wednesday 13 April 2022 when your attendance is requested.

Your attention is directed to the accompanying statement of the business proposed to be transacted at such meeting.

KEN GOULDTHORP
GENERAL MANAGER

BUSINESS

1. Minutes

Confirmation of Minutes of the previous Planning Proposal Meeting held on Wednesday 9 March 2022.
(Circulated)

2. PP01: 378-390 Pacific Highway, Crows Nest (W) - PP No. 7/21

Report of Neal McCarry, Team Leader Policy

On 7 September 2021, Council received a Planning Proposal to amend the *North Sydney Local Environmental Plan 2013* (NSLEP 2013) as it relates to land at 378-390 Pacific Highway, Crows Nest. The site is located within the *St Leonards and Crows Nest 2036 Plan* released by the Department of Planning and Environment (DPE) on 29 August 2020. It is accompanied by a Section 9.1 Ministerial Direction which requires planning decisions be made consistent with the Plan, unless considered of minor significance.

The original Planning Proposal sought to:

- amend the maximum building height from 16m to RL180 (24 storeys)
- establish a maximum floor space ratio control of 8.6:1
- amend the minimum non-residential floor space ratio control from 1.5:1 to 2:1.

Following discussions with Council officers, a revised Planning Proposal was received on 20 December 2021, which included a reduction to the proposed Floor Space Ratio from 8.3:1 to 7.5:1, a reduction in height from RL180 to RL176, and a revised concept design showing a higher atrium/void between the podium and tower elements.

The indicative concept scheme accompanying the revised Planning Proposal seeks to provide a 24-storey mixed-use commercial and residential building incorporating a four-storey podium, amenities levels and 16 residential floors. Having completed an assessment of the revised planning proposal against the 2036 Plan, strategic planning documents and relevant planning policies, it is not recommended that the proposal receive support to proceed to a Gateway Determination. While the height and FSR are compliant with the 2036 Plan, the proposal fails to adequately demonstrate that the site can accommodate a building at the height and density requested. In this sense, the proposal demonstrates strategic merit but not site-specific merit.

The design concept accompanying the proposal illustrates a building of excessive bulk and lack of transition to the western boundary in particular which is inconsistent with Precinct Objectives of the 2036 Plan requiring that suitable interface to sensitive places are achieved. The reference design is non-compliant with State Environmental Planning Policy 65, specifically the setbacks contained in the Apartment Design Guide. This is not considered to be a minor deviation from the 2036 Plan as outlined in the Ministerial Direction.

Council is cognisant of the difficult balance required in considering this proposal against the need to deliver timely transit-oriented development adjoining the new metro station and has attempted to negotiate a more suitable outcome with the proponent to no avail. If supported, the proposal would set a poor standard and a negative precedent for the renewal of built form in the Crows Nest Precinct. Refusal is therefore recommended.

Recommending:

It is recommended that the Local Planning Panel refuse to support the progression of the Planning Proposal to DPE seeking a Gateway Determination as it is inconsistent with the *Ministerial Direction 7.11 - St Leonards and Crows Nest 2036 Plan* in that it has not demonstrated consistency with the objectives

and actions ensuring that a suitable interface and transition to the western boundary can be achieved. The proposal as lodged represents a poor planning outcome and approval would set a negative and detrimental precedent for similar tower forms across the precinct.

3. PP02: 20 Berry Street, North Sydney - PP No. 3/21

Report of Jayden Perry, Strategic Planner

On 15 April 2021, Council received a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land located at 20 Berry Street, North Sydney. In particular, the Planning Proposal seeks to amend North Sydney Local Environmental Plan (NSLEP) 2013 as it applies to the subject site as follows:

- Increase the maximum height control for the site from RL 145 to RL 172;
- Rezone from B4 Mixed Use to B3 Commercial Core;
- Include a new Special Area at 20 Berry Street on the NSLEP 2013 North Sydney Centre map.

Having completed an assessment of the Planning Proposal, it is recommended that the Planning Proposal not be supported to proceed to Gateway Determination for the following reasons:

- The proposal does not demonstrate strategic merit as it challenges the implementation of a number of recently adopted policies including the *North Sydney Local Strategic Planning Statement* (LSPS) and would significantly undermine the extensive place-based strategic planning work that has been undertaken in the locality which is enshrined within the LSPS, particularly the *North Sydney CBD Public Domain Strategy* (PDS).
- The proposal is contrary to delivering on the key priorities of the North District Plan, namely:
 - it will not deliver a great place, through the proposal's lack of prioritising a people-friendly public realm as a central organising design principle, nor comfortable human scale, due the excessive bulk and associated impacts along Berry Street; and
 - it will reduce the amenity of the public domain in terms of reduced access to sunlight and daylight; and
- The proposal does not demonstrate site specific merit due to the following:
 - the expected reduction in sunlight and daylight access to Berry Street resulting from the proposal; and
 - The proposed height is excessive and will result in overshadowing to the Berry Street (West) Special Area with potential to overshadow the Miller Street Special Area;
 - The proposal will result in a built form that does not adhere to established or envisioned urban design elements including podium heights and setbacks, tower setbacks and the provision of awnings;
- The proposed new Special Area does not provide a high enough level of public amenity to warrant classification as a Special Area nor does it adequately offset the reduction in solar access to the existing Berry Street (West) Special Area.

Recommending:

That the Panel resolves not to support the Planning Proposal being forwarded to the Department of Planning, Industry and Environment seeking a request for a Gateway Determination.

4. PP03 12-14 Waters Road, Neutral Bay - PP No. 2/22

Report of Jayden Perry, Strategic Planner

On 29 December 2021, Council received a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land located at 12-14 Waters Road, Neutral Bay. The Planning Proposal seeks to amend North Sydney Local Environmental Plan (NSLEP) 2013 as it applies to the subject site as follows:

- Increase the maximum height control for the site from 16m to 26m;
- Introduce a minimum 1.2:1 Non-residential Floor Space Ratio Standard.

The indicative concept scheme accompanying the Planning Proposal includes a 6-storey mixed use building, comprising approximately 7,312m² Gross Floor Area (GFA), and basement car parking over four basement levels.

The Planning Proposal is accompanied by a draft Voluntary Planning Agreement (VPA) (Attachment 3) offer which proposes to provide:

- A 1.5m wide building setback from Waters Lane with an easement for public access;
- Embellishment of the public domain within the Neutral Bay Town Centre to a value of \$1,925,000.00 (excl. GST) which would include the full length of Waters Lane and either a portion of Grosvenor Street or Grosvenor Plaza (to the agreement of Council).

The Planning Proposal includes a draft site-specific Development Control Plan (DCP) (Attachment 4) which proposed to introduce built form controls to give clarity to the proposed concept scheme.

Having completed an assessment of the Planning Proposal, it is recommended that the Planning Proposal not be supported to proceed to Gateway Determination for the following reason:

- The proposal does not demonstrate strategic merit as it challenges the implementation of Action L1.5 of the *North Sydney Local Strategic Planning Statement* (LSPS). In particular, it seeks to progress a planning proposal that is not endorsed by any planning study. This would result in the haphazard redevelopment of the area and would result in poor outcomes for the Neutral Bay community.
- The proposal does not demonstrate site specific merit due to the following:
 - the height being sought by the proposal is excessive given its stated objectives of achieving a single additional storey; and
 - the proposed underground portion of commercial floor space is of sub-standard quality.

Recommending:

That the Panel resolves not to support the Planning Proposal being forwarded to the Department of Planning, Industry and Environment seeking a request for a Gateway Determination.



NORTH SYDNEY LOCAL PLANNING PANEL

PLANNING PROPOSAL

DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL MEETING HELD IN THE COUNCIL CHAMBERS, NORTH SYDNEY, ON WEDNESDAY 9 MARCH 2022, AT 12.00PM.

PRESENT

Chair:

Jan Murrell in the Chair.

Panel Members:

Peter Brennan, Panel Member
Kenneth Robinson, Community Representative

Staff:

Administrative Support

Ben Boyd, Executive Strategic Planner
Neal McCarry, Team Leader Policy
Peita Rose, Governance Officer (Minutes)

In accordance with the Covid 19 Public Health Order this meeting was conducted by remote (Zoom) means.

1. Minutes of Previous Meeting

The Minutes of the NSLPP Meeting of Wednesday, 23 February 2022 were confirmed following that meeting.

2. Declarations of Interest

Nil

3. Business Items

The North Sydney Local Planning Panel is a NSW Government mandated Local Planning Panel exercising the functions of North Sydney Council, as the Consent Authority, under Section 4.8(2) of the Environmental Planning and Assessment Act, 1979 as amended in relation to development applications, and acts pursuant to a Direction of the Minister for Planning issued under Section 9.1 of the Act, dated 23 February 2018 in relation to Planning Proposals.

The Panel has considered the following Business Items and resolves to recommend each matter as described within these minutes.

ITEM 1

PP No:	4/21
ADDRESS:	153 and 157 Walker Street, North Sydney
PROPOSAL:	To amend North Sydney Local Environmental Plan 2013 by inserting a site specific clause to permit a 23m height bonus at 153 and 157 Walker Street, if the two properties are redeveloped under a single proposal and meet a number of criteria relating to setbacks delivery of a through site link and sustainability outcomes.
REPORT BY NAME:	Ben Boyd, Executive Strategic Planner
APPLICANT:	APP Corporation Pty Limited

No Written Submissions

Submitters	Applicant/Representative
	James Kingston - Shaw Reynolds Lawyers – for the applicant
	Marko Damic - Architectus
	Jacob Dwyer - Town Planner speaking for owners of 157 Walker Street
	Nathan Michael – Applicant, Acquisition Manager - Marprop Pty Ltd – While registered did not attend the meeting as an observer of speaker
	Rick Miller - Observing for 153 Walker St

Background

The Applicant's solicitor, James Kingston advised that a review of the rezoning application was made to the Department within a few days of the additional information being uploaded to the Portal in February. Mr Kingston requested that the Panel defer the matter if it is minded to recommend the matter not proceed to Gateway.

The Panel does not agree to a further deferral and it is appropriate it makes a recommendation to allow the Council to consider it in a timely manner.

The North Sydney Local Planning Panel in September 2021 deferred the matter to allow issues identified in the Council report to be addressed and for the Applicant to have a meaningful dialogue with the owner of No. 157 Walker St, as owner's consent for this site had not been obtained at that time, or now. The Panel notes that owner's consent is not a requirement to lodge a planning proposal and this in itself is not a reason for not supporting the Proposal. It is noted at the meeting the representative for the owner of 153 Walker Street advised the Panel that there is "no aspiration to develop the site at this time".

It is also noted the Applicant has engaged in informal discussions with the owner of the adjoining site. The Applicant submits the Proposal will allow the two sites to be incentivized to amalgamate with the uplift and this will provide sizable floor plates and prevent site isolation.

Panel Recommendation:

The Panel members have undertaken independent site inspections prior to the meeting and the Panel has considered all written and oral submissions made on the Planning Proposal in making its recommendation to Council.

Council Officers Report is endorsed and the Panel recommends the Planning Proposal not proceed to Gateway for the reasons outlined in the Officer's Report, except reference to the lack of owner's consent. This Panel notes the other matters requiring information as identified in the September report have not been adequately satisfied to warrant the Proposal proceeding to Gateway.

The Panel agrees with the Council Officer's report that the Proposal does not have strategic or site-specific merit and these sites should be considered in the context of the studies for the North Sydney CBD. Furthermore, the Panel considers it inappropriate to include the site-specific envelope controls in the LEP, as this is contrary to the Ministerial Direction. A fixed envelope as proposed should be subject to a merits assessment at the development application stage rather than being contained in an LEP. For example, the envelope of the Proposal has negative public domain outcomes including overshadowing. The site isolation of No.153 is a matter that would need to be addressed for a development application.

Furthermore it has not been demonstrated that the current controls would not allow sustainable development to achieve a through site link.

The Panel notes that Council staff would not object to an increase in building height, where consistent with achieving adopted existing overshadowing policies for the North Sydney CBD.

The Panel considers that the Planning Proposal is premature and not in the public interest given the studies and reviews currently being progressed and the subject of future consideration by Council. This will provide a more comprehensive context for the future development of sites in the CBD, including these sites, in an economic and orderly manner.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Ken Robinson	Y	
Peter Brennan	Y				

ITEM 2

PP No:	4/22
ADDRESS:	All land zoned R3 Medium Density Residential throughout the entire North Sydney local government area.
PROPOSAL:	To amend North Sydney Local Environmental Plan 2013 by prohibiting residential flat buildings within the R3 Medium Density Residential zone throughout the local government area.
REPORT BY NAME:	Marcelo Occhiuzzi, Manager Strategic Planning
APPLICANT:	North Sydney Council

Public Submissions

No persons elected to speak on this item.

1 Written Submission**Panel Recommendation:**

The Panel members have undertaken independent site inspections where considered necessary prior to the meeting, and the Panel has considered the one submission received made on the Planning Proposal in making its recommendation to Council.

The Council Officer's Report is endorsed by the Panel and the Planning Proposal should proceed to Gateway Determination to allow public exhibition. The Panel notes it would appear in the light of community concerns, that Council resolved that the recent amendment in June 2021 to the LEP made residential flat buildings an additional permissible use in the R3 Zone. This Planning Proposal would have the effect of deleting this. The Panel also notes that when the June 2021 amendment was made that Council resolved to review this provision.

The Panel notes that this Planning Proposal to remove residential flat buildings as a permissible use in the R3 zone will not impact on Council's Housing Strategy. This additional use was not calculated into the number of dwellings and is therefore not relied on to provide additional housing supply for Council as part of its housing strategy.

The Panel notes that since the amendment to the LEP in June 2021 that recent case law for existing use rights provisions have been interpreted differently and this, together with submissions received during the exhibition can be further considered following exhibition. The one submission already received raises concern about current applications continuing to be being assessed and determined under the existing controls that permit RFB’s.

Voting was as follows:

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Ken Robinson	Y	
Peter Brennan	Y				

The public meeting concluded at 12.45pm.

The Panel Determination session commenced at 12.45pm.

The Panel Determination session concluded at 1.45pm.

Endorsed by Jan Murrell
 North Sydney Local Planning Panel
9 March 2022