



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