



## NORTH SYDNEY COUNCIL

Council Chambers  
23 September 2021

I wish to inform you that a Meeting of the **NORTH SYDNEY LOCAL PLANNING PANEL - PLANNING PROPOSALS** will be held in the Supper Room Council Chambers, via zoom, at 12.00pm on Wednesday, 29 September 2021 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**

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### BUSINESS

**1. Minutes**

Confirmation of Minutes of the previous Planning Proposal Meeting held on Wednesday, 5 May 2021.  
(Circulated)

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**2. PP01: 270-272 Pacific Highway, Crows Nest - PP1/21**

Applicant: Keylan Consulting on behalf of the applicant Silvernight (Crows Nest) Landowner Pty Ltd

Report of Jayden Perry, Strategic Planner

Council received a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land at 270-272 Pacific Highway, Crows Nest.

The Planning Proposal seeks to make the following amendments to the North Sydney Local Environmental Plan 2013 (NSLEP 2013):

- Increase the maximum Height of Buildings Map from 16m to 59m;
- Impose a maximum Floor Space Ratio Map of 5.6:1;
- Increase the minimum Non-residential Floor Space Ratio Map from 0.5:1 to 5.6:1;
- Insert a Site-specific clause allowing a maximum FSR of 6.02:1, provided any additional floor space above 5.6:1 is located below ground level and comprises non-residential uses.

The indicative concept scheme accompanying the Planning Proposal includes a 13-storey building, comprising approximately 22,853m<sup>2</sup> Gross Floor Area (GFA), and basement car parking over three basement levels.

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

- A monetary contribution of \$3.0 million for the provision of local infrastructure and facilities.

Having completed an assessment of the Planning Proposal and draft VPA against the DPIE's

2036 Plan and relevant Regional and District Plans, it is recommended that the Planning Proposal be supported to proceed to Gateway Determination.

However, having regard to the sensitivity concerning built form and amenity surrounding the site, it is recommended that a site-specific DCP be developed for the site to help manage the transitional relationship and interface with neighbouring low-density sites including overshadowing impacts. In addition, feedback is sought from the panel on an appropriate height for the site, given the proposed height of 59m is somewhat higher than would be ordinarily expected for a 13-storey commercial tower.

**Recommending:**

For the reasons outlined in this report, it is recommended that the Local Planning Panel support the progression of the Planning Proposal to the DPIE seeking a Gateway Determination, noting a reduction in height from 59m to 54m and the recommendation for site-specific DCP provisions to be prepared to help guide future detailed design and development application assessment process.

**3. PP02: 153 & 157 Walker Street, North Sydney (W) - 4/21**

Applicant: APP Corporation Pty Limited

Report of Ben Boyd, Executive Strategic Planner

On 8 July 2021, Council received a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land located at 153 and 157 Walker Street, North Sydney. In particular, it seeks to insert a new local provision to NSLEP 2013 that would effectively result in a bonus height provision of 23m (RL 215 to RL 238) if the two sites are developed under a single development application and satisfies the following criteria:

- Does not result in additional overshadowing to land zoned *RE1 Public Recreation*;
- A nil setback to the northern boundary where the consent authority can be satisfied that the proposed development exhibits visual articulation to the northern façade;
- At least a 4m setback to a 3-storey podium form to Little Walker Street and a nil setback to the tower levels above;
- At least a 5m minimum setback at the ground level to the southern boundary with a 4m setback to the levels above;
- Provision of a publicly accessible through site link to the satisfaction of the consent authority; and
- The proposal exhibits commitments to sustainable building outcomes that actively reduce energy and water consumption and waste generation.

Having completed an assessment of the Planning Proposal, it is recommended that it 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 a number of key priorities of the North District Plan, namely:
  - Action 11 - as it will result in a negative impact to the amenity of the public domain of Little Walker Street and not positively contribute to the delivery of a comfortable human scale;
  - Action 19 – as it does not use a place-based approach to deliver great places due to its inconsistency with the PDS;
  - Action 36 – as the envisaged built form envelope will not focus on delivering on a human scale public realm or creating a vibrant, safe place or quality public realm.
- The proposed local clause is inconsistent with Section 9.1 Ministerial Direction 6.3 *Site Specific Provisions*.
- The proposal does not demonstrate site specific merit due to the following:
  - the expected reduction in sunlight and daylight access to Little Walker Street resulting from a nil above podium setback to Little Walker Street;

- there is no substantive evidence that that a consolidated proposal can't be feasibly erected under the current controls;
- The proposal is inconsistent with the desired direction to quantify above podium setback and tower separation controls to improve daylight and solar access to the public domain and improve internal amenity to towers. The applicant does not have the consent of the owners of 157 Walker Street and therefore an important planning principle regarding site amalgamation is not able to be complied with.

**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: North Sydney Centre - Height of Buildings Variation (W) - PP8/21**

Applicant: North Sydney Council

Report of Marcelo Occhiuzzi, Manager Strategic Planning

North Sydney Council endorsed the *North Sydney CBD Land Use and Capacity Strategy* in March 2017. The Strategy sought to “provide a framework to allow for the growth of the North Sydney Centre to ensure it maintains and improves its status as a resilient, vibrant and globally relevant commercial centre and to accommodate forecast demand for additional commercial/employment floor space”. One of the important outcomes of this work was the preparation of a Planning Proposal (PP 7/19) to amongst other things, increase building heights in parts of the North Sydney CBD that could accommodate increases, whilst managing impacts on solar access to surrounding residential development and Special Areas within the CBD. PP 7/19 (which resulted in Amendment 23) was gazetted on 26 October 2018.

Clause 6.3(3) of the North Sydney Local Environmental Plan 2013 (NSLEP) contains provisions that enable the consent authority to consider variations to height standards identified on the height of buildings map (clause 4.3) within the North Sydney Centre. Clause 4.6 of the NSLEP represents a more generic mechanism that enables consideration of applications to vary any applicable development standard throughout the Local Government Area including height in the North Sydney Centre.

Clause 6.3(3) is a mechanism that is increasingly being used to vary the height of buildings on sites that have already been afforded significant increases in height.

There is an increasing body of opinion that if clause 6.3(3) can be complied with, clause 4.6 is not required to be considered in varying height limits in the North Sydney Centre. This is problematic as proponents within the North Sydney Centre are increasingly preferring to seek variation to height standards pursuant to clause 6.3(3) and this is limiting the matters for consideration by the consent authority in conducting this assessment. The two clauses have the same capacity to provide a framework for consideration of variation to height standards, but clause 6.3(3) represents a narrower set of matters for consideration which limits the consent authority's discretion considerably. In addition, at a time that significant increases in CBD height limits were pursued

and gazetted to achieve greater development potential, (via Amendment 23) clause 6.3(3) is now considered superfluous as it represents a less restrictive approach to seeking height variations in the North Sydney CBD. Clause 4.6 can perform this function effectively, as it does in virtually every local government area in NSW.

The Planning Proposal is supported as it:

- generally complies with the relevant LEP making provisions under the EP&A Act;
- generally complies with the Department of Planning, Industry and Environment's (DPIE) 'A guide to preparing planning proposals' (December 2018); and
- is unlikely to result in any adverse impacts on the environment or wider community.

For these reasons, the Planning Proposal is considered to be satisfactory and it is recommended that the Local Planning Panel supports the progression of the Planning Proposal to the DPIE seeking a Gateway Determination.

**Recommending:**

That the Panel resolves to support the Planning Proposal being forwarded to the Department of Planning and Environment to seek a Gateway Determination.

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**NORTH SYDNEY LOCAL PLANNING PANEL****DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL MEETING  
HELD IN THE SUPPER ROOM, COUNCIL CHAMBERS, NORTH SYDNEY,  
ON WEDNESDAY 5 MAY 2021, AT 2.00PM.****PRESENT****Chair:**

Grant Christmas

**Panel Members:**

Jan Murrell (Panel Member)

Caroline Pidcock (Panel Member)

Kenneth Robinson (Community Representative)

**Staff:**

George Youhanna, A/Manager Development Services

Robyn Pearson, Team Leader Assessments

David Hoy, Team Leader Assessments

Josh Jongma, Governance Co-Ordinator (Minutes)

**Apologies: Nil****1. Minutes of Previous Meeting**

The Minutes of the NSLPP Meeting of 7 April 2021 were confirmed at that meeting.

**2. Declarations of Interest**

There were no declarations of interest

**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, and acts pursuant to a Direction of the Minister for Planning issued under Section 9.1 of the Act, dated 23 February 2018.*

*Panel Members inspected sites independently and have had access to Council's electronic file, including details of all written submissions, plans, site photographs and supporting documentation. This meeting was recorded for the purposes of preparing minutes in accordance with the NSW Panel Secretariat's Panel Operating Guidelines.*

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

**PLANNING PROPOSAL**

**ITEM 7 (Considered after Development Applications)**

<b>PROPOSAL No:</b>	7/20
<b>ADDRESS:</b>	<b>Fiveways Triangle Site (Land bound by Pacific Highway, Falcon Street and Alexander Street, Crows Nest)</b>
<b>PROPOSAL:</b>	<p><b>To amend North Sydney Local Environmental Plan 2013 as follows:</b></p> <ul style="list-style-type: none"> <li>• Increase the maximum building height on the subject site from 16m to 75m;</li> <li>• Increase the minimum Non-Residential Floor Space Ratio (FSR) on the subject site from 0.5:1 to 2.5:1; and</li> <li>• Establish an overall maximum FSR on the subject site of 9.3:1.</li> </ul>
<b>REPORT BY NAME:</b>	<b>Katerina Papas, Strategic Planner</b>
<b>APPLICANT:</b>	<b>Deicorp Projects (Crows Nest) Pty Limited</b>

**Public Submissions**

**1 Written Submission**

<b>Submitter</b>	<b>Applicant/Representative</b>
John Hancox - Representation from Wollstonecraft Precinct	Fouad Deiri -Deicorp – Applicant
Sue Yelland - Resident of Wollstonecraft	Stephen Kerr - City Plan – Applicant’s Planning Consultant
	Stephen Cox - Turner Architects – Applicant’s Architect

**Panel Recommendation to Council:**

The Planning Proposal seeks to amend NSLEP 2013 as follows:

- Increase the maximum building height control on the subject site from 16m to 75m;
- Increase the minimum Non-Residential Floor Space Ratio (FSR) control on the subject site from 0.5:1 to 2.5:1; and
- Establish an overall maximum FSR control on the subject site of 9.3:1.

The Panel recommends that the Planning Proposal not proceed in its current form and endorses the analysis and reasons provided in the Council Officer’s report.

The Panel considers that the Planning Proposal is unacceptable for the following reasons:

- a) The Panel is not persuaded that the numeric controls of the St Leonards and Crows Nest 2036 Plan (“the 2036 Plan”) can be ignored for a preference to the more general “vision, objectives and actions” in the Plan. The Planning Proposal is inconsistent with 2036 Plan, in particular the metrics relating to the number of storeys and FSR which are an integral part of the 2036 Plan that was developed after years of study, consultation and investigation.
- b) The Planning Proposal if made would create an undesirable precedent and undermine the integrity of the recently adopted 2036 Plan.

- c) The Planning Proposal is also contrary to *Direction 5.10 – Implementation of the Regional Plan* and *Direction 7.11 – Implementation of St Leonards and Crows Nest 2036 Plan* to section 9.1 Ministerial Directions under the Environmental Planning and Assessment Act 1979, which permits Planning Proposals to be inconsistent with the 2036 Plan but only if any inconsistencies are of minor significance.
- d) The Planning Proposal does not satisfy all the requirements under the ADG and urban design excellence has not been established with the intensity of the development proposed.
- e) The 2036 Plan is based on contributions from the uplift of all the sites, having regard to infrastructure, public domain and urban design. The consideration of planning proposals on a site by site basis undermines the integrity of the planning system.

It is noted that the applicant emphasised the public benefit of the Planning Proposal by the doubling of monetary contributions however the Panel does not consider this as justification for a height and FSR exceedance not envisaged in the 2036 Plan.

The Panel does not recommend that the Planning Proposal proceed to Gateway Determination as a site specific planning proposal given the significant processes that have occurred in finalising the 2036 Plan.

Voting was as follows:

<b>Panel Member</b>	<b>Yes</b>	<b>No</b>	<b>Community Representative</b>	<b>Yes</b>	<b>No</b>
Grant Christmas	<b>Y</b>		Kenneth Robinson	<b>Y</b>	
Jan Murrell	<b>Y</b>				
Caroline Pidcock	<b>Y</b>				

The public meeting concluded at 4.05pm.

The Panel Determination session commenced at 4.15pm pm.

The Panel Determination session concluded at 6.03pm.

Endorsed by Grant Christmas  
Chair North Sydney Local Planning Panel  
**5 May 2021**