

10.3. Planning Proposal 6/22 - 1-7 Rangers Road and 50 Yeo Street, Neutral Bay

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ATTACHMENTS: Nil

PURPOSE:

To present to Council the assessment report of Planning Proposal 6/22 at 1-7 Rangers Road and 50 Yeo Street, Neutral Bay, which seeks to amend North Sydney Local Environmental Plan 2013, following its review by the North Sydney Local Planning Panel on 14 September 2022.

EXECUTIVE SUMMARY:

On 20 May 2022, Council received a Planning Proposal to amend the North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land at 1-7 Rangers Road and 50 Yeo Street, Neutral Bay. The site is located within the area covered by the now rescinded Neutral Bay Town Centre Future Directions Report (also referred to as Military Road Corridor Planning Study Stage 1).

The Planning Proposal seeks to amend NSLEP 2013 to:

- increase the maximum building height control for the site from 16m to part 30m (at 50 Yeo Street) and part 40m (at 1-7 Rangers Road); and
- increase the minimum non-residential floor space ratio control for the site from 0.5:1 to 1.7:1.

The intent of the Planning Proposal, as reflected in the accompanying indicative concept scheme, is to facilitate the delivery of a part 2 ,7 and 10 storey mixed-use development comprising a supermarket at a subterranean level, retail and commercial floor space within the podium and approximately 91 apartments located above. A basement car park containing 350 car parking spaces is proposed.

To provide greater certainty over a future built form on the site, the Planning Proposal is accompanied by suite of suggested site-specific development controls to be incorporated within North Sydney Development Control Plan 2013 (NSDCP 2013).

It is also accompanied by a non-binding letter of offer to enter into a Voluntary Planning Agreement (VPA) with Council to deliver a number of public benefits including: the provision of 65 car parking spaces for public use in perpetuity, located within the basement of the future development; a public plaza; an arcade-style pedestrian through-site link; and streetscape upgrades adjacent to the site.

A detailed assessment of the Planning Proposal was undertaken and referred to the North Sydney Local Planning Panel (NSLPP) for its consideration on 14 September 2022. That report can be viewed via the following link:

https://www.northsydney.nsw.gov.au/files/assets/public/docs/1_council_meetings/committees/nslpp/14_september_2022/pp02_1-7_rangers_road_and_50_yeo_st_neutral_bay_pp622_rpt.pdf

The NSLPP agreed with the recommendations outlined in the Council officer's detailed assessment report and **recommended the Planning Proposal not be supported** to proceed to a Gateway Determination for the reasons contained in the report. They were:

- The proposal is not underpinned by a comprehensive strategic planning study for the locality and if implemented, will undermine the ability to achieve the objectives and actions of high-level strategic planning policies relating to the site, including:
 - Greater Sydney Regional Plan – A Metropolis of Three Cities;
 - North District Plan; and
 - North Sydney Local Strategic Planning Statement.
- The proposal is inconsistent with the following section 9.1 Ministerial Directions under the Environmental Planning and Assessment Act 1979:
 - Direction 1.1 – Implementation of Regional Plans
 - Direction 5.1 – Integrating Land Use and Transport
 - Direction 7.1 – Business and Industrial Zones
- The indicative concept design fails to demonstrate how the site could be acceptably developed to the requested heights insofar that it does not respond adequately to the site attributes and context and will result in significant level of public and private amenity impacts including dominance of the public domain, overshadowing and traffic generation;
- The proposal would set an unacceptable precedent prior to the establishment of a finalised policy position for future development in the locality, and undermine the future strategic planning work for the Neutral Bay town centre; and
- The proposal undermines the development potential and public benefit opportunities of the immediately adjoining site to the north.

A copy of the NSLPP Minutes and Recommendation is available via the following link:

https://www.northsydney.nsw.gov.au/files/assets/public/docs/1_council_meetings/committees/nslpp/14_september_2022/nslpp_-_planning_proposal_jm_minutes_14_september_22_003_-_nmc_edit.pdf

FINANCIAL IMPLICATIONS:

The costs associated with the administration and any exhibition of the Planning Proposal and DCP will be drawn from existing budget lines which anticipate this type of activity.

RECOMMENDATION:

1. THAT the Planning Proposal (PP6/22) not be supported to proceed to a Gateway Determination.

- 2. THAT** Council notifies the applicant of Council's determination in accordance with clause 10A of the Environmental Planning and Assessment Regulation 2000.
- 3. THAT** Council advise the Department of Planning and Environment of its decision and be provided with a copy of this report and its resolution in support of Council's decision.
- 4. THAT** the applicant be invited to comment on the future revised Military Road Corridor Planning Study.

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

2. Our Built Infrastructure

2.1 Infrastructure and assets meet diverse community needs

2.2 Vibrant public domains and villages

2.3 Prioritise sustainable and active transport

3. Our Innovative City

3.1 Our commercial centres are prosperous and vibrant

3.3 Distinctive sense of place and design excellence

5. Our Civic Leadership

5.1 Lead North Sydney's strategic direction

5.3 Community is engaged in what Council does

BACKGROUND

Military Road Corridor Planning Study (MRCPS) – Stage 1 (Rescinded)

On 22 February 2021, Council resolved to adopt the Neutral Bay Town Centre – Future Directions Report (also known as the Military Road Corridor Planning Study – Stage 1). The MRCPS envisaged increases in height on three (3) amalgamated sites where new community facilities and public domain projects could be delivered. The subject site (1-7 Rangers Road) and adjacent site to the north (183-185 Military Road) were identified as a key site, referred to as "Site 3."

At its meeting on 24 January 2022, Council resolved to rescind the MRCPS amidst concerns on the height and scale of development envisaged within the Study and further engage with the community and stakeholders to prepare *"a revised recommendation that has a better balance between development height and the provisions of additional public open space."*

On 23 May 2022, Council endorsed a scoping framework as the basis for a revised planning study for the Neutral Bay Town Centre. The revised work is intended to be an extension rather than a completely new planning study. The same objectives will be retained in the renewed study as they remain relevant, however, a new objective is to be included relating to *"targeted modest increases in height and density while maintaining and enhancing the village atmosphere of the centre."*

The revised work is now under way. It is estimated that the required studies, modelling, consultation and reporting processes for the renewed study will take in the order of 18 months to finalise.

Pre-lodgement Discussions

Following the adoption of the MRCPS in February 2021, Council met with the Applicant (Fabcot Pty Ltd/Woolworths) on three (3) separate occasions. In August 2021, the Applicant advised

Council staff that attempts to reach a commercial agreement with the adjacent landowners at 183-185 Military Road (Equitibuild) had been unsuccessful and they were now exploring opportunities to amalgamate with the adjacent site at 50 Yeo Street, which was not included as a key site in the MRCPS. A concept scheme was presented to Council staff for 1-7 Rangers Road and 50 Yeo Street, which included building heights of 6-12 storeys, a 750m² public plaza and community centre. Council staff reinforced that a key intent of the MRCPS is to deliver public benefits. It was stressed that a minimum 1,000m² public plaza, a community centre and appropriate building heights that maintained the village atmosphere would be required as per the MRCPS. Better consideration of the proposed built form's relationship with 183-185 Military Road was also needed.

In October and December 2021, the Applicant advised Council staff that whilst a commercial agreement between the Applicant and Equitibuild had not been reached, they were working to achieve an in-principle agreement by the end of 2021. The Applicant was in the process of refining their plans and preparing a Planning Proposal for submission in early 2022 when Council resolved to rescind the MRCPS on 24 January 2022.

On 20 May 2022, the applicant lodged the subject Planning Proposal with Council, which excludes 183-185 Military Road.

On 2 May 2022, Council invited owners of various sites within the Neutral Bay Town Centre to present potential development concepts to Councillors. This briefing occurred on 14 June 2022.

Applicant letter of intent to submit amended plans

On 8 September 2022, following publication of Council officers detailed assessment report to the North Sydney Local Planning Panel, Council received a letter from the Applicant to advise that:

"...it is willing to amend the proposal to reduce the height from the proposed 7-10 storey concept, to a 6-8 storey concept that is directly in line with the massing espoused for the site under the previously endorsed Military Road Corridor Planning Study and Neutral Bay Future Directions Report."

No amended plans have been received by Council and the application has been assessed on the basis of the information formally lodged by the applicant.

Description of Planning Proposal

The subject Planning Proposal (PP6/22) was lodged by Fabcot Pty Ltd (Woolworths) on behalf of the landowners of 1-7 Rangers Road and 50 Yeo Street, Neutral Bay on 20 May 2022. Owner's consent has been obtained from all three landowners.

The Planning Proposal seeks to amend NSDCP 2013 as it applies the subject site as follows:

- increase the maximum building height control from 16m to part 30m (at 50 Yeo Street) and part 40m (at 1-7 Rangers Road); and
- increase the minimum non-residential floor space ratio control from 0.5:1 to 1.7:1.

The Planning Proposal is accompanied by an indicative reference design to demonstrate what could be achieved on the site if the proposed amendments to NSLEP 2013 were implemented. It would accommodate a part 2, 7 and 10 storey mixed-use development comprising a supermarket at a subterranean level, retail and commercial floor space within the podium and approximately 91 apartments located above, and basement car park for 350 cars.

TABLE 1 – Numerical overview of applicant’s reference design	
Building Height	41.3m (10 storeys) 30.7m (7 storeys) 9.9m (2 storeys)
Podium Height	
1. Rangers Road	4 storeys
2. Yeo Street	4 storeys
3. Military Lane	3 storeys
4. Around plaza	2 storeys
Setbacks	
5. North (Rangers Road)	Podium Nil Tower 5.5m
6. South (Yeo Street)	Podium Nil Tower 3.5m
7. West (Military Lane)	Podium Nil Tower 3.0m
8. East (9-11 Rangers Road)	Podium Nil Tower 9.0m
Gross Floor Area (GFA)	
9. Non-residential GFA	7,260m ² (includes 3,311m ² supermarket; 1,846m ² retail; 2,103m ² commercial)
10. Residential GFA	12,682m ² (91 apartments)
11. Total	19,218m ²
Car Parking	350 car spaces over 4 basement levels

The proposal is also accompanied by suggested amendments to North Sydney Development Control Plan 2013 (NSDCP 2013) to assist in the future assessment of any development application. The proposed controls relate to site layout, land use, public domain, heights, setbacks and podium treatment, building design, active frontages and parking, access and servicing.

PANEL REFERRAL

On 23 February 2018, the Minister for Planning released a section 9.1 Direction which outlines the instances when a Planning Proposal must be referred to a Local Planning Panel for advice prior to a council determining whether that Planning Proposal should be forwarded to the Department of Planning and Environment (DPE) for the purposes of seeking a Gateway Determination.

All Planning Proposals are required to be referred to the Local Planning Panel, unless they meet any of the following exemptions:

- the correction of an obvious error in a local environmental plan;
- matters that are of a consequential, transitional, machinery or other minor nature; or
- matters that Council's General Manager considers will not have any significant adverse impact on the environment or adjacent land.

The Planning Proposal does not meet any of the exemption criteria and therefore must be referred to the Local Planning Panel for advice prior to Council making any determination on the matter.

MINISTERIAL ORDER (STATEMENT OF EXPECTATIONS)

On 26 November 2021, the Minister for Planning made the Environmental Planning and Assessment (Statement of Expectations) Order 2021. The Order establishes various expectations in relation to Council's development assessment, planning proposal and strategic planning roles and expected levels of performance. In particular, the Minister confirms his expectations that Councils should:

...make a decision as to whether to support or not a proponent led planning proposal as soon as practical and no longer than 90 days.

The Order includes an explanatory note which states:

...if a Council is found not to be meeting these expectations, the Minister can take these matters into consideration as part of determining if it is appropriate to appoint a planning administrator or regional panel to exercise Council's functions.

In the context of this Order and the various assessment requirements including internal assessment, referral to the Local Planning Panel and formal reporting to Council to occur within the 90-day threshold, amended plans and negotiations have not been invited and the application has been assessed on the basis of the information as lodged.

CONSULTATION REQUIREMENTS

Should Council determine that the Planning Proposal proceeds, community engagement will be undertaken in accordance with Council's Community Engagement Protocol and the requirements of any Gateway Determination issued by the Department of Planning and Environment (DPE).

DETAIL

1. Panel recommendation

Council officers prepared a detailed assessment report which was presented to the North Sydney Local Planning Panel (NSLPP). That report can be viewed via the following link:

https://www.northsydney.nsw.gov.au/files/assets/public/docs/1_council_meetings/committees/nslpp/14_september_2022/pp02_1-7_rangers_road_and_50_yeo_st_neutral_bay_pp622_rpt.pdf

On 14 September 2022, the NSLPP considered this report to assist with its deliberations. A copy of the NSLPP Minutes and recommendation is available via the following link:

https://www.northsydney.nsw.gov.au/files/assets/public/docs/1_council_meetings/committees/nslpp/14_september_2022/nslpp_-_planning_proposal_jm_minutes_14_september_22_003_-_nmc_edit.pdf

The Panel provided the following advice:

The Panel's recommendation to the Council is that the matter does not proceed to 'Gateway' for the reasons outlined in the Council's Officer's report. The Panel notes that the Applicant has publicly advised that the number of storeys would be reduced in a revised scheme. The Panel, however, is not privy to any details and it does not constitute an amended planning proposal and as such, the Panel can only consider the planning proposal as submitted.

The Panel notes that the Neutral Bay Military Road Corridor Planning Study was rescinded by Council in January 2022, after being adopted February 2021, and this was after three years of preparation and consultation. The Proponent of this planning proposal is concerned about the time lag for another strategy to be endorsed and adopted by Council. At the same time the Panel notes the current planning proposal does not reflect the urban design outcomes envisaged by the now rescinded Military Road Corridor Planning Study.

The Panel understands that the Council is seeking to incentivise site amalgamation and uplift to facilitate the provision of community facilities including open space, a through-site link, public domain improvements, a meeting place and the like in an overall strategy.

Panel Recommendation:

The Panel urges the Council to finalise its strategy and plans as a matter of priority for all stakeholders, including the community. The Panel recognises the importance of strategic planning to guide change and future development having regard to providing certainty on a comprehensive basis, to deliver improved built form outcomes, function and accessibility for the centre as whole.

The Panel considers the planning proposal does not demonstrate either site specific or strategic merit to justify a spot rezoning for this site in isolation, given its location within the Neutral Bay Town Centre.

2. Key issues

Strategic Merit

The Planning Proposal is not considered to satisfy the following aspects of the strategic merit test:

- The proposal is not underpinned by an endorsed comprehensive strategic planning study for the locality;
- The proposal undermines the ability to achieve the objectives and actions of high-level strategic planning policies relating to the site, including the Greater Sydney Regional Plan and North District Plan;
- The proposal is inconsistent with North Sydney Local Strategic Planning Statement (LSPS);
- The proposal would set an unacceptable and undesirable precedent prior to the establishment of an established and endorsed position for the future development in the locality and undermine the future strategic planning work for the Neutral Bay Town Centre as identified in the North Sydney LSPS, and the ability to achieve the objectives and actions of high-level strategic planning policies relating to the site.

Furthermore, the Planning Proposal is inconsistent with the following section 9.1 Ministerial Directions:

Ministerial Direction	Consistency
<i>Direction 1.1 – Implementation of Regional Plans</i>	<input checked="" type="checkbox"/> The proposal is not underpinned by an endorsed comprehensive place-based study for the locality and will facilitate an overly intense built form in its context with significant and unreasonable impacts to the public and private domain.
<i>Direction 5.1 - Integrating Land Use and Transport</i>	<input checked="" type="checkbox"/> The proposal does not demonstrate how it adequately responds to the site’s public transport accessibility to reduce car dependency and subsequent congestion in accordance with the principles of sustainable transit-oriented development. The proposed number of car parking spaces and associated net traffic generation will have a significant impact on the efficiency and performance of the surrounding road network.
<i>Direction 7.1 – Business and Industrial Zones</i>	<input checked="" type="checkbox"/> The proposal will result in a net reduction in floorspace for employment uses across the site. The proposed reduction is not justified by an endorsed strategic planning study for the locality.

Site Specific Merit

The Planning Proposal is not considered to satisfy the following aspects of the site-specific merit test:

- The indicative concept design does not demonstrate how the site could be acceptably developed to the requested heights insofar as it will result in an overly excessive and intense built form in its context with significant and unreasonable impacts to the public

and private domain, including dominance of the public domain, overshadowing and traffic generation.

- The proposal undermines the development potential of the immediately adjoining site to the north (183-185 Military Road), and the opportunity to maximise community benefits and public domain improvements from any future potential growth on that site. Specifically, the consideration of a genuinely ‘public,’ high-amenity plaza and the potential for the adjacent site to provide a community facility fronting directly onto, and better activate, the public plaza.

The Panel recognised the importance of strategic planning to guide change and future development, and was in agreement that the planning proposal demonstrates neither site-specific or strategic merit to justify a spot rezoning for the site in isolation, particularly given its location within the Neutral Bay Town Centre.

SUBMISSIONS

There are no statutory requirements to publicly exhibit a Planning Proposal before the issuance of a Gateway Determination. However, Council sometimes receives submissions in response to planning proposals which have been lodged but not determined for the purposes of seeking a Gateway Determination. The generation of submissions at this stage of the planning process arise from the community becoming aware of their lodgement through Council’s application tracking webpage and on-site signage.

At the time this report was completed, 204 submissions had been received from local residents and the Willoughby Bay, Neutral, Brightmore, Harrison and Combined Precinct Committees objecting to the Planning Proposal. A summary of their key concerns is provided in Table 2. These issues are largely addressed in the body of Council’s detailed assessment report.

TABLE 2: Summary of submissions received

Issue	Key points raised	Council response
Building height and scale	<ul style="list-style-type: none"> • The requested height of 40m is excessive for the number of storeys and could potentially accommodate a 12-storey building resulting in an overbearing scale with significant overshadowing impacts to residential dwellings on the southern side of Yeo Street; • Reduced setbacks are proposed on eastern and western boundaries. 	Refer to section 8.4, 8.6 and 8.7 of Council’s detailed assessment report.
Traffic impacts	<ul style="list-style-type: none"> • The proposed number of parking spaces will result in unacceptable traffic impacts to the local road network, in particular Yeo Street and Wycombe Road-Military Road intersection; • The submitted Traffic Assessment does not consider impacts to the road network during AM peak or the cumulative impact of future development in Neutral Bay and Cremorne; • A Transport Management and Assessment Plan (TMAP) is needed for the Neutral Bay and Cremorne town centres that considers the cumulative effects of 	<p>Refer to section 8.10 of Council’s detailed assessment report.</p> <p>The preparation of a TMAP can be undertaken as part of the renewed Planning Study.</p>

	increased densities before setting any increase in densities.	
Public benefits	<ul style="list-style-type: none"> the proposed public benefits are not commensurate to the quantum of uplift in height sought; Basement parking is proposed to be located in part under Military Lane (a public road); The proposed public plaza does not provide connections to Military Lane or Military Road and will be overshadowed by future development along Military Road; The public plaza is designed to be more of a 'food court' with commercial benefits than genuine public open space; The proposed 65 'public' car spaces is inconsistent with Council's transport strategies and provide commercial benefits, not public benefits. 	Refer to section 8.8, 8.9, 8.10 of Council's detailed assessment report.
Reduced size of supermarket	<ul style="list-style-type: none"> The proposal seeks to reduce the size of the existing supermarket. A larger supermarket is needed to support Neutral Bay's growing population. 	The concept scheme can be further refined to address these concerns at the detailed DA stage.
Justification for proposal	<ul style="list-style-type: none"> The primary justification for the proposal is that it responds to the intent of the MRCPS, however the MRCPS has been rescinded. The proposal has the potential to set an undesirable precedent. 	Refer to section 9 of Council's detailed assessment report.

CONCLUSION

The Planning Proposal (PP6/22) seeks to amend NSLEP 2013 to increase the maximum building height and minimum non-residential FSR as it relates to the subject. The proposal is accompanied by an indicative concept scheme to demonstrate how the site could be developed to the requested height and a suite of suggested site-specific development controls to provide greater certainty over a future built form on the site.

The Planning Proposal as submitted, does not adequately demonstrate satisfactory strategic and site-specific merit for the following reasons:

- The proposal is not underpinned by a comprehensive strategic planning study for the locality and if implemented, will undermine the ability to achieve the objectives and actions of high-level strategic planning policies relating to the site, including:
 - Greater Sydney Regional Plan – A Metropolis of Three Cities;
 - North District Plan; and
 - North Sydney Local Strategic Planning Statement.
- The proposal is inconsistent with the following section 9.1 Ministerial Directions under the Environmental Planning and Assessment Act 1979:
 - Direction 1.1 – Implementation of Regional Plans

- Direction 5.1 – Integrating Land Use and Transport
 - Direction 7.1 – Business and Industrial Zones
- The indicative concept design fails to demonstrate how the site could be acceptably developed to the requested heights insofar that it does not respond adequately to the site attributes and context and will result in significant level of public and private amenity impacts including dominance of the public domain, overshadowing and traffic generation;
- The proposal would set an unacceptable precedent prior to the establishment of a finalised policy position for future development in the locality, and undermine the future strategic planning work for the Neutral Bay town centre; and
- The proposal undermines the development potential and public benefit opportunities of the immediately adjoining site to the north.