

8.16. Draft Development Control Plan - 173-179 Walker and 11-17 Hampden Streets, North Sydney

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ATTACHMENTS:

1. Draft DCP - 173 - 179 Walker and 11-17 Hampden Streets North Sydney - 12 May 2021 [8.16.1 - 2 pages]

PURPOSE:

To seek Council's endorsement of a draft amendment to North Sydney Development Control Plan (NSDCP) 2013 to help guide the future development assessment of 173-179 and 11-17 Hampden Street, North Sydney and place that draft amendment on public exhibition.

EXECUTIVE SUMMARY:

On 22 March 2019, Council received a Planning Proposal to amend *North Sydney Local Environmental Plan 2013* (NSLEP 2013) as it relates to 173-179 Walker Street and 11-17 Hampden Street, North Sydney. The Planning Proposal sought the following amendments to NSLEP 2013:

- Increase the maximum building height from 12m to RL133 (representing approximately 62- 72m of additional height)
- Establish a minimum floor space ratio of 6.1:1
- Introduce a new special provision to establish controls for the site relating to overshadowing, and allowance for maximum height and FSR greater than the above associated with amalgamation of all lots within the site.

Council refused the Planning Proposal at its meeting on 26 August 2019. In response, the applicant lodged a Rezoning Review with the Department of Planning, Infrastructure and Environment on 2 September 2019.

On 12 February 2020, the Rezoning Review request was considered by the Sydney North Regional Planning Panel (SNRPP), which recommended that the Planning Proposal progress to Gateway Determination.

A Gateway Determination was then issued on 6 July 2020 enabling the Planning Proposal to be exhibited subject to various conditions. Following the exhibition of the Planning Proposal, to which 139 objections were received, the SNRPP conducted a public hearing on 17 March 2021 and on 23 March 2021, issued a report recommending that the Planning Proposal proceed to be made.

Whilst Council has previously objected to the proposal, the provision of site-specific development controls may help mitigate some of the impacts of any future built form arising

on the site as a result of the Planning Proposal. It is therefore recommended that the attached draft amendments to the DCP be adopted by Council and placed on public exhibition.

FINANCIAL IMPLICATIONS:

There will be relatively minor expenses arising with respect to the public exhibition of the DCP amendment and its implementation. These can be funded through existing operational budget lines.

RECOMMENDATION:

1.THAT Council resolves to endorse the draft amendments to the NSDCP 2013 as provided at Attachment 1, for the purposes of public exhibition.

2.THAT the draft amendments to the NSDCP 2013 be placed on public exhibition for a period of 28 days.

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

1. Our Living Environment
 - 1.3 Quality urban greenspaces
 - 1.4 Public open space and recreation facilities and services meet community needs
2. Our Built Infrastructure
 - 2.1 Infrastructure and assets meet community needs
 - 2.2 Vibrant centres, public domain, villages and streetscapes
 - 2.3 Sustainable transport is encouraged
3. Our Future Planning
 - 3.1 Prosperous and vibrant economy
 - 3.4 North Sydney is distinctive with a sense of place and quality design
4. Our Social Vitality
 - 4.1 North Sydney is connected, inclusive, healthy and safe
 - 4.4 North Sydney's history is preserved and recognised
5. Our Civic Leadership
 - 5.1 Council leads the strategic direction of North Sydney
 - 5.2 Council is well governed and customer focused

BACKGROUND

1. Planning Proposal

On 22 March 2019, Council received a Planning Proposal to amend North Sydney Local Environmental Plan (NSLEP) 2013 as it relates to 173-179 Walker Street and 11-17 Hampden Street, North Sydney. The Planning Proposal sought the following amendments to NSLEP 2013:

- Increase the maximum building height from 12m to RL133 (approximately 62-72m of additional height)
- Establish a minimum floor space ratio of 6.1:1
- Introduce a new special provision to establish controls for the site relating to overshadowing, community infrastructure and allowance for maximum height and FSR greater than the above associated with amalgamation of all lots within the site.

At its meeting on 26 August 2019, Council resolved to refuse the Planning Proposal.

2. Rezoning Review

On 2 September 2019, the applicant lodged a Rezoning Review with the Department of Planning, Industry and Environment (DPIE), in response to Council's refusal. At its meeting on 12 February 2020, the Sydney North Regional Planning Panel (SNRPP) recommended that the Planning Proposal proceed to Gateway Determination.

3. Planning Proposal Authority (PPA)

At its meeting of 6 April 2020, Council resolved that it would not be performing the role of the Planning Proposal Authority (PPA). A Gateway Determination was subsequently issued on 6 July 2020 by DPIE in the further processing of the Proposal. The SNRPP was appointed the PPA for this Proposal. The Planning Proposal was publicly exhibited from 29 October to 26 November 2020.

On 30 November 2020, Council considered a report on the public exhibition of the proposal and resolved to object to the proposal.

Following the exhibition of the Planning Proposal, to which 139 objections were received, the SNRPP conducted a public hearing on 17 March 2021 and on 23 March 2021, issued a report recommending that the Planning Proposal proceed to be made.

Subsequent to this decision, Council has made written representations to the Minister for Planning, Infrastructure and Environment, Local members and the Greater Sydney Commission re-iterating its strong concern over the proposal.

4. Voluntary Planning Agreement

The Planning Proposal was accompanied by letter of offer to enter into a draft Voluntary Planning Agreement (VPA) to provide the following contributions:

- Dedication of 5% of the residential yield to affordable housing in accordance with Council's Affordable Housing Policy 2013 (or provision of a monetary contribution to go towards affordable housing); and
- Monetary Contribution for the provision of community infrastructure at a rate of \$15,100 per net additional dwelling. Depending on the final design and approval process this may equate to approximately \$3.1-\$3.3 million.

On 26 October 2020, Council considered a report on this offer and resolved to endorse, in principle, the offer for the purposes of public exhibition. The detailed terms of the offer have now been resolved and it is anticipated that the draft VPA be publicly exhibited concurrently with the draft DCP amendments the subject of this report.

5. Development Control Plan

A suite of draft DCP provisions was initially provided by the applicant to accompany the Planning Proposal. Due to Council's non-support of the scale and intensity of development proposed on the site, including its inconsistency with indicative built form envisaged under Council's Civic Precinct Planning Study, a detailed review of the draft DCP was not undertaken previously.

CONSULTATION REQUIREMENTS

Community engagement will be undertaken in accordance with Council's Community Engagement Protocol.

DETAIL

Role of the Development Control Plan

Provisions contained in a Development Control Plan (DCP) are intended to support and facilitate the relevant development envisaged under the higher-order planning controls applying to a site. These are established in the Local Environmental Plan (LEP) and typically include zoning which establishes permissibility, maximum building height and density (floor space ratio).

A DCP generally contains more detailed design parameters to help assist in the development application process. Under the Environmental Planning and Assessment Act (EP&A Act), a DCP cannot contain provisions that unreasonably restrict or seek to undermine the development provisions of an LEP.

Potential Built Form(s) – 173-179 Walker and 11-17 Hampden Streets North Sydney

Accompanying the Planning Proposal were a number of reference designs which were prepared by the applicant to demonstrate potential built forms that may be able to be achieved on the site as a result of the amendment to the LEP (examples at Diagrams 1 and 2 below).

As a result of the conditions of the Gateway Determination, revisions were made to these reference designs to respond to the Panel's concerns.

Due to the structure of the Planning Proposal, which seeks a maximum building height of up to RL 133 (approx. 24 storeys) on 173-179 Walker Street as well as a greater building height of up to RL 148 (29 storeys) if the site is amalgamated with No's 11-17 Hampden Street, quite different built forms could be sought on the site. Below are extracts of the potential built forms and layouts that may potentially be achieved on the site. As a result of this variability, the drafting of useful and effective DCP provisions has presented a challenge.



Diagram 1 - Extract from applicant's Urban Design Report – Amalgamated site option – single tower form



Diagram 2 - Extract from applicants Urban Design Report – Un-amalgamated site scenario – dual tower form

Draft DCP amendments

Part C of the NSDCP 2013 implements a ‘place management’ planning approach. It contains a suite of Area Character Statements whereby controls are tailored to achieve a desired character that is unique to each place in the Local Government Area (LGA).

The DCP’s Area Character Statements are divided into 9 Planning Areas, which generally reflect the extent of each official suburb in the LGA. Each Planning Area is further subdivided into 61 Locality Areas, which generally reflect:

- a heritage conservation area;
- an area with common land uses under the Local Environmental Plan (LEP); or
- an area exhibiting a generally consistent character.

The area the subject of this development sits within the ‘Hampden Neighbourhood’ as outlined in Diagram 3 below.

2.4 HAMPDEN NEIGHBOURHOOD

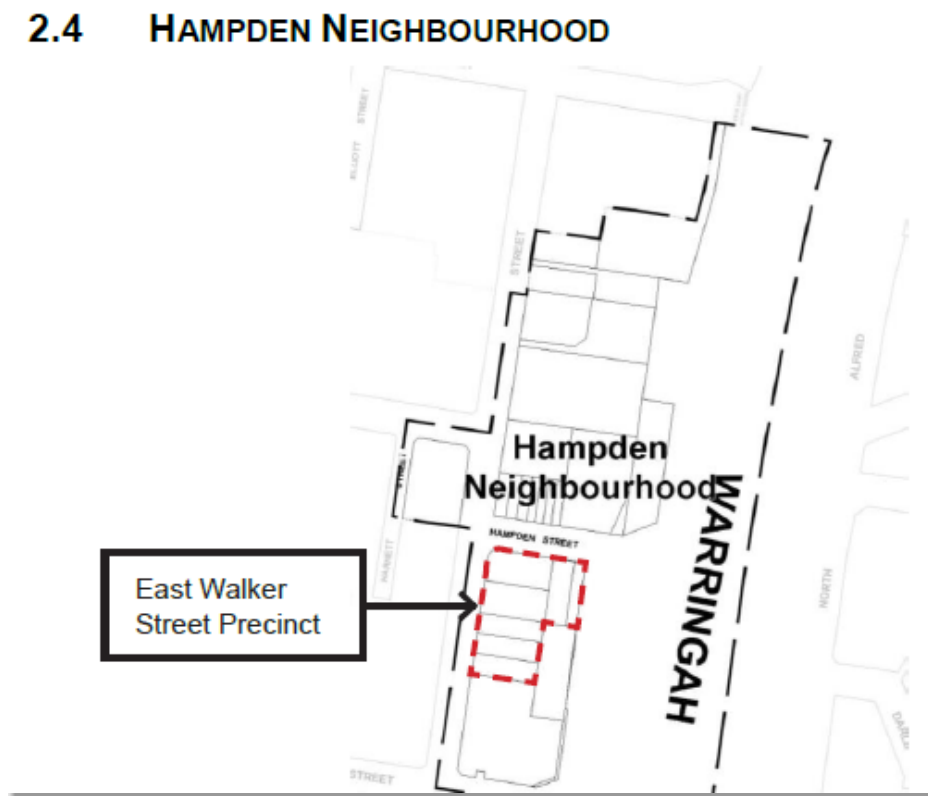


Diagram 3 – Amended extract from the North Sydney DCP 2013 – Hampden Neighbourhood

It is proposed to identify the development site (labelled East Walker Street Precinct) and provide numeric building setbacks from relevant property boundaries (front, side and rear) as well as street wall heights (podium elements), upper-level setbacks and building separations. These are structured in a manner so as to provide the same numeric controls for the two potential development scenarios (i.e. an amalgamated site development or progression of the site as two separate development sites). Other relevant provisions such as the SEPP 65 – Apartment Design Guidelines, will still need to be satisfied. These include detailed provisions with respect to solar access, privacy, cross ventilation, design, materials, building separation and the like.

It is acknowledged that the potential adoption of DCP provisions will not address Council's previously expressed concerns. However, in light of the circumstances the inclusion of these provisions may help guide a better built form outcome than may occur in their absence.

The draft amendments are contained at Attachment 1 to this report. It is recommended that the draft amendments be placed on public exhibition for a period of 28 days in accordance with the Environmental Planning and Assessment (EP&A) Act and Regulations.

Conclusion

It is noted that Council has consistently raised objection to the progression of the Planning Proposal for the subject site, however, the endorsement of DCP provisions to help guide a future development application assessment process, is considered necessary and does not

represent a tacet endorsement of the Planning Proposal. Once an amendment is made, a development application can be prepared and will be lodged with Council and ultimately determined by the Sydney North Planning Panel (due to the estimated value of the works). In noting the unusual circumstances, it is recommended that Council adopt the attached draft amendments and they be placed on public exhibition.

North Sydney Development Control Plan 2013

Area Character Statements - North Sydney Planning Area



2.4 HAMPDEN NEIGHBOURHOOD



2.4.1 Significant elements

Land Use

- P1 Residential accommodation.
- P2 Educational establishments.

Topography

- P3 Moderate falls to the south from Ridge Street and steep falls to the east from Walker Street to the Warringah Expressway.

Views

- P4 The following views and vistas are to be preserved and where possible enhanced:
 - (a) Maintain views of Kirribilli and the Harbour from Walker Street.
 - (b) Strong vista along Walker Street to southern part of CBD.

Identity / Icons

- P5 North Sydney Club
- P6 Warringah Expressway, a major arterial thoroughfare.
- P7 Sandstone wall in the middle of Walker Street

Streetscape

- P8 Tree lined streets with grassed verges and concrete footpaths.
- P9 Split level streets to Hampden Street.
- P10 Landscaped medians on Hampden Street.
- P11 Double rail timber fences on Hampden Street.

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North Sydney Development Control Plan 2013**Area Character Statements - North Sydney Planning Area****Noise**

P12 Elevations of buildings fronting the Warringah Freeway are to be designed and incorporate design features to minimise traffic noise transmission (e.g. the use of cavity brick walls, double glazing, minimal glazing, solid core doors, concrete floors, enclosed balconies etc).

2.4.4 East Walker Street Precinct Controls

Where there is an inconsistency between the East Walker Street Precinct Controls and the Hampden Neighbourhood Controls, the East Walker Street Precinct Controls prevail.

Building Setbacks

Front setbacks

- P13 2m landscaped setback to Walker Street
 P14 2m landscaped setback to Hampden Street

Side setbacks

- P15 Nil side setbacks to the eastern side property boundary of 17 Hampden Street
 P16 6m side setback to the southern boundary of 173 Walker Street, above Level 1

Rear setbacks

- P17 12m for Walker Street properties (173-179 Walker Street)
 P18 12m for Hampden Street properties (15-17 Hampden Street)

Street wall height (podium)

- P19 2 storey street wall height for Walker Street
 P20 2-3 storey street wall height for Hampden Street
 P21 The Hampden Street podium is to respond to the rhythm and grain of the adjacent heritage properties through the incorporation of vertical proportions.

Upper level Setbacks

- P22 3m upper level podium setback

Building separation

- P23 12m separation distance above the podium base, is to be provided between the two building forms
 P24 The building separation is to provide a view corridor through the site