8.9. Readoption of draft amendment to NSDCP 2013 - 11-17 Hampden St & 173-179 Walker St

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ENDORSED BY: Joseph Hill, Director City Strategy

ATTACHMENTS:

1. NSDCP 2013 draft amendment for Adoption East Walker Street Precinct [**8.9.1** - 3 pages]

PURPOSE:

To seek Council's re-endorsement of a previously exhibited site-specific amendment to North Sydney Development Control Plan (NSDCP) 2013. The required notification of the amendment to NSDCP 2013 did not occur within the statutory 28-day timeframe.

EXECUTIVE SUMMARY:

On 27 September 2021, Council considered a post exhibition report for a site-specific DCP amendment and associated VPA, related to the progression of a Planning Proposal affecting land at 173-179 Walker Street and 11-17 Hampden Street, North Sydney. At this meeting Council resolved, in regard to the DCP:

> ***1.THAT*** *in accordance with Clause 21 of the Environmental Planning and Assessment Regulation 2000, Council adopts the amendment to North Sydney Development Control Plan 2013 forming Attachment 1 to this report.*
> ***2.THAT*** *in accordance with Clause 25AB of the Environmental Planning and Assessment Regulation 2000, a copy of the adopted amendment to North Sydney Development Control Plan 2013 be forwarded to the Planning Secretary of the Department of Planning, Industry and Environment.*

Clause 21 (2) of the Environmental Planning and Assessment Regulation 2000 (now Clause 14 (2) of the 2021 Regulations) requires Council to publish notice of its decision on its website within 28 days after the decision is made. This did not occur within the specified 28-day timeframe.

In order to ensure procedural correctness, the previously endorsed DCP amendment is being reported back for Council's adoption. The DCP amendment introduces built form controls for the site to help guide the detailed design of the proposal through the Development Application assessment process.

FINANCIAL IMPLICATIONS:

The modest costs associated with the finalisation of the DCP amendment have been covered by existing budget lines.

RECOMMENDATION:

1. THAT Council adopt the draft amendment to NSDCP 2013 as amended, forming Attachment 1 to this report, in accordance with clause 14(1) of the Environmental Planning and Assessment Regulation, 2021.

2. THAT public notice of the publication of the amendment to NSDCP 2013 be given on Council's website in accordance with clause 14(2) of the Environmental Planning and Assessment Regulation, 2021.

3.THAT all submitters be renotified of Council's decision and thanked for their submissions.

4. THAT in accordance with Clause 20(1) of the Environmental Planning and Assessment Regulation 2021, a copy of North Sydney Development Control Plan 2013 as amended be forwarded to the Planning Secretary of the Department of Planning and Environment.

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

1. Our Living Environment
1.3 Quality urban greenspaces

2. Our Built Infrastructure
2.2 Vibrant centres, public domain, villages and streetscapes
2.4 Improved traffic and parking management

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

5. Our Civic Leadership
5.1 Council leads the strategic direction of North Sydney

BACKGROUND

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

- 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 relating to overshadowing, and
- allowance for maximum height (RL 148) and FSR greater than the above associated with amalgamation of all lots within the site.

Despite Council resolving on 26 August 2019 not to support the progression of the Planning Proposal to Gateway Determination, the Department of Planning and Environment (DPE) supported the progression of the Planning Proposal following the successful challenge of Council's determination by the applicant through the Rezoning Review process.

During the progression of the Planning Proposal by the Department of Planning, Council resolved on 24 May 2021 to endorse a site-specific draft amendment to North Sydney Development Control Plan (NSDCP) 2013 and place that draft amendment on public exhibition concurrently with an associated Voluntary Planning Agreement (VPA) for the subject site. The purpose of the draft DCP amendment was to ensure that there were sufficient built form controls in place to mitigate any adverse impacts should the Planning Proposal proceed contrary to Council's position.

The draft DCP amendment and VPA were publicly exhibited between 26 July 2021 and 23 August 2021.

Before Council could consider a post exhibition report, Amendment 31 to NSLEP 2013, giving effect to the intent of the Planning Proposal, was made by the DPE and came into effect on 31 August 2021

On 27 September 2021, Council considered a post exhibition report to the site-specific draft DCP amendment and VPA, where it resolved:

> ***1.THAT*** *in accordance with Clause 21 of the Environmental Planning and Assessment Regulation 2000, Council adopts the amendment to North Sydney Development Control Plan 2013 forming Attachment 1 to this report.*
> ***2.THAT*** *in accordance with Clause 25AB of the Environmental Planning and Assessment Regulation 2000, a copy of the adopted amendment to North Sydney Development Control Plan 2013 be forwarded to the Planning Secretary of the Department of Planning, Industry and Environment.*
> ***3.THAT*** *Council resolve, upon updating new ownership details, to enter into the Voluntary Planning Agreement with the view to have it in force as soon as practicable.*
> ***4.THAT*** *Council notify all submitters of Council's decision.*

A copy of the post exhibition report and its resolution can be found here:

> https://www.northsydney.nsw.gov.au/Council_Meetings/Meetings/Council_Meetings/Council_Reports_27_Sep_2021

Clause 14(2) of the Environmental Planning and Assessment (EPA) Regulation 2021, (formerly Clause 21(2) under the EP&A Regulations 2000) requires a council to publish notice of its decision on its website within 28 days after the decision is made. Clause 14(4) of the EPA Regulation 2021 (formerly Clause 21(4) under the EP&A Regulations 2000) states that a development control plan comes into effect on the date that notice of the council's decision to approve the plan is published on its website, or on a later date specified in the notice.

Despite Council adopting the DCP amendment, it is not able to be enforced, as it had not been published on Council's website within the required timeframe as outlined by the EP&A Regulations.

CONSULTATION REQUIREMENTS

The Planning Proposal and DCP amendments were previously the subject of community consultation, the outcomes of which were detailed in a report to Council on 27 September 2021. Further community engagement is not required.

DETAIL

As detailed in the background section above, this report is presented to Council to address a procedural requirement of the EPA Regulation 2021. Council's re-adoption of the DCP amendment, which is included at Attachment 1, is consistent with its previously adopted position. The DCP amendment seeks to incorporate site specific controls to mitigate potential adverse impacts from the redevelopment of the site in accordance with Amendment 31 to NSELP 2013.

As such, it is recommended that Council endorse the amendment to NSDCP 2013 associated with the Planning Proposal.

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.

P12 Low front fences of brick or masonry on Walker Street.

P13 Residential flat buildings are setback from the boundary and aligned with the street frontage.

Public transport

P14 Development to take advantage of reasonable proximity to high levels of public bus and train services.

P15 Public transport, cycling and walking are the main forms of public transport.

2.4.2 Desired Future Character

Diversity

P1 A mixture of modern multi-level residential flat buildings with older low rise residential flat buildings.

P2 Retention of the 2-3 storey original attached dwelling houses on Hampden Street.

Accessibility and permeability

P3 Pedestrian walk along the western side of Warringah Expressway accessed from Hampden Street.

2.4.3 Desired Built Form

Form, scale and massing

P1 Early and original residential buildings complement the topography to maintain views and easy access.

P2 Ground floors may not relate to street level due to topography of the area, with high sandstone retaining walls at ground level.

P3 Generally a maximum of 2 storeys on Hampden Street.

P4 Development is to be designed to maximise solar access year round to the new public squares to be created within the Ward Street Precinct.

P5 Development must not result in a net increase in overshadowing to the main southern square to be created within the Ward Street Precinct between 9am and 4pm from the March equinox to the September equinox (inclusive).

Setbacks

P6 Maintain existing setbacks from property boundary along the eastern side of Walker Street and the northern side of Berry Street.

Fences

P7 Low fences (max 800mm)

P8 Small picket fences above sandstone bases

Car parking

P9 Located off-street and below ground for all residential flat buildings and multi dwelling housing.

P10 Located on-street parking for all heritage listed attached dwellings.

P11 Short term on-street meter parking.

P12 Existing sandstone retaining walls on street frontages must not be breached to accommodate garages or car parking spaces.

Streetscape

P13 Heritage features such as Walker Street and Hampden Street sandstone walls.

P14 Substantial gardens within front setback area.

P15 Steps and pathways along Walker and Hampden Streets are maintained.

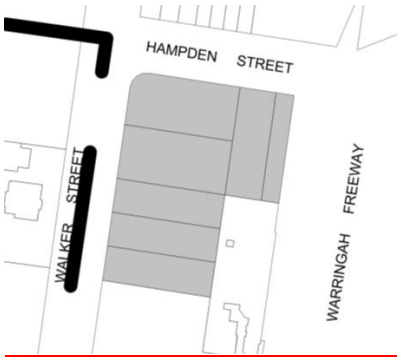
P16 Landscaping in front gardens/private open space.

P17 Tree lined streets and mature vegetation on median enhances area.

Noise

P18 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



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

P1 2m landscaped setback to Walker Street

P2 2m landscaped setback to Hampden Street

Side setbacks

P3 Nil side setbacks to the eastern side property boundary of 17 Hampden Street

Rear setbacks

P4 12m for Walker Street properties (173-179 Walker Street)

P5 12m for Hampden Street properties (15-17 Hampden Street)

Street wall height (podium)

P6 2 storey street wall height for Walker Street

P7 2–3 storey street wall height for Hampden Street

P8 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

P9 3m upper level podium setback

Building separation

P10 12m separation distance above the podium base, is to be provided between the two building forms

~~P1~~P11 The building separation is to provide a view corridor through the site.