

8.15. Planning Proposal 360 Pacific Highway Crows Nest

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ATTACHMENTS: Nil

PURPOSE:

To present to Council the assessment report of Planning Proposal 9/21 at 360 Pacific Highway, Crows Nest which seeks to amend North Sydney Local Environmental Plan 2013, following its review by the North Sydney Local Planning Panel on 8 June 2022.

EXECUTIVE SUMMARY:

On 8 December 2021, Council received a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land at 360 Pacific Highway, Crows Nest. The site is located within the area covered by the *St Leonards Crows Nest 2036 Plan (2036 Plan)*, adopted by the then Department of Planning, Industry and Environment (DPIE) on 29 August 2020. It is accompanied by a s9.1 Ministerial Direction which requires planning decisions be made consistent with the Plan.

The Planning Proposal seeks amendment of NSLEP 2013 to:

- the maximum building height from 10m to RL 166m (18 storeys);
- establish a maximum Floor Space Ratio (FSR) of 5.5:1; and
- the minimum non-residential FSR from 0.5:1 to 2:1.

The Planning Proposal seeks to deliver an 18-storey mixed-use commercial and residential building with a 3-storey podium and tower above. The indicative reference design scheme includes 42 residential apartments with a 4,921m² Gross Floor Area (GFA), 2,812m² non-residential GFA and approximately 80 car parking spaces.

A detailed assessment of the Planning Proposal has been undertaken in the report referred to the North Sydney Local Planning Panel (NSLPP) for its consideration on 8 June 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/8_june_2022/pp02 - 360 pacific highway crows nest pp921 rpt.pdf](https://www.northsydney.nsw.gov.au/files/assets/public/docs/1_council_meetings/committees/nslpp/8_june_2022/pp02_-_360_pacific_highway_crows_nest_pp921_rpt.pdf)

The NSLPP agreed with the recommendations outlined in 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 planning proposal will likely result in the isolation of neighbouring sites to the north (366-376 Pacific Highway), which have the same density and height uplift potential under

the 2036 Plan as the subject site. This is not considered to be a satisfactory strategic planning outcome as it undermines the ability to achieve the housing objectives of several high-level planning policies including the Greater Sydney Regional Plan and North District Plan, the North Sydney Local Strategic Planning Statement, the 2036 Plan and accompanying Ministerial Directions 1.1 and 1.13; and

- The accompanying indicative reference design does not demonstrate how the site could be acceptably developed to the requested height and density controls without resulting in reduced amenity outcomes and inappropriate interface and transition outcomes. The cumulative impacts of the proposal are not considered to be of minor significance and has the potential to undermine the overall intent of the 2036 Plan and the achievement of the Plan's vision, objectives and actions.

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/8_june_2022/final_minutes_jm_8_june_2022dl_13june.pdf

Whilst the planning proposal site is located within a block considered appropriate for increased height and density given its proximity to the future Crows Nest Metro, the planning proposal as submitted, does not adequately demonstrate satisfactory strategic and site-specific merit.

The panel also provided comments and concerns to the impact of the proposal on adjacent and nearby heritage items as well as the desirability of undertaking a more holistic approach to the implementation of the 2036 Strategy to ensure the objectives and actions of the Strategy are more sensitively resolved.

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.

The Planning Proposal is subject to the State Infrastructure Levy for the provision of local infrastructure and facilities within the St Leonards and Crows Nest Precinct, as well as Council's section 7.11 infrastructure contributions levied at the Development Application stage of the development process.

RECOMMENDATION:

1.THAT the Planning Proposal not be supported to proceed to a Gateway Determination as it is inconsistent with Ministerial Direction 7.11 - St Leonards and Crows Nest 2036 Plan in that it has not demonstrated consistency with the objectives and actions of the 2036 Plan as it will result in isolation of the sites to the north and does not ensure that a suitable interface and transition to the west can be achieved.

2.THAT the proposal as lodged is not supported as it represents a poor planning outcome and approval would set a negative and detrimental precedent for similar tower forms across the precinct.

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 Council notifies the applicant of Council's determination in accordance with section 9 of the of the Environmental Planning and Assessment Regulation 2021.

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

1. Our Living Environment

1.2 North Sydney is sustainable and resilient

2. Our Built Infrastructure

2.2 Vibrant centres, public domain, villages and streetscapes

2.3 Sustainable transport is encouraged

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

3.5 North Sydney is regulatory compliant

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

5.3 Community is informed and consulted

BACKGROUND

In August and October 2021, the proponent met with Council officers to present and discuss a preliminary concept for the site.

Further details are provided in the detailed report to the North Sydney Local Planning Panel.

Description of Planning Proposal

On 8 December 2021, the Planning Proposal was lodged with Council and sought to amend the North Sydney Local Environmental Plan 2013 (NSLEP 2013) to:

- the maximum building height from 10m to RL 166m (18 storeys);
- establish a maximum Floor Space Ratio (FSR) of 5.5:1; and
- the minimum non-residential FSR from 0.5:1 to 2:1.

The Planning Proposal is accompanied by a concept design to demonstrate what could be achieved on the site if the proposed amendments were implemented. It includes an 18-storey mixed use development with a 3-storey podium and tower above; 42 residential apartments and approximately 80 car parking spaces accommodated within 4 basement levels.

A numerical overview of the concept design is provided in Table 1 below.

TABLE 1: Key design elements	
Land uses	Commercial office / retail, residential apartments
Indicative yield	42 residential apartments
Gross floor area (GFA)	Residential – 4,921sqm Commercial/Retail – 2,812sqm Total – 7,733sqm
Floor space ratio (FSR)	5.5:1
Non-residential FSR	2:1
Built form	3-storey commercial/retail podium Podium garden 14-storey residential tower
Building heights	A maximum building height of RL 166m (18 storeys)*
Car parking rates	Indicatively 80 spaces
Podium Setback	Pacific Highway (east): 0m Northern boundary: Nil Southern boundary: Nil Nicholson Place (west): 3m
Above Podium (tower) Setbacks	Setback to Pacific Highway: 3m Northern boundary: 12m Southern boundary: 9m Nicholson Place (west): 6m

* Applicant provided an amended concept design (March 2022) demonstrating a maximum building height of 163.8m.

Various discussions were held with the proponent and project team throughout early 2022 to discuss Council’s preliminary assessment feedback, including interface and amenity issues resulting from the stark transition between high and low built form, insufficient setbacks on the western boundary, and response to the heritage streetscape and existing built form on site. In response to Council concerns, the applicant provided (March 2022) a revised reference design demonstrating a maximum building height of RL 163.8m.

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 DPIE 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 the Planning Proposal must be referred to the Local Planning Panel for advice prior to Council making any determination on the matter.

CONSULTATION REQUIREMENTS

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

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/8_june_2022/pp02 - 360 pacific highway crows nest pp921 rpt.pdf](https://www.northsydney.nsw.gov.au/files/assets/public/docs/1_council_meetings/committees/nslpp/8_june_2022/pp02_-_360_pacific_highway_crows_nest_pp921_rpt.pdf)

On 8 June 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/8_june_2022/final minutes jm 8 june 2022dl 13june.pdf](https://www.northsydney.nsw.gov.au/files/assets/public/docs/1_council_meetings/committees/nslpp/8_june_2022/final_minutes_jm_8_june_2022dl_13june.pdf)

The Panel recommended the following;

The Panel members have undertaken independent site inspections prior to the meeting.

The Council Officer's Report is endorsed for the reasons in the report and the following comments (are made).

The Panel considers that the heritage listed sites immediately to the north would become isolated and, in any event, the proposed development does not have adequate regard to the existence of the heritage items on these sites. The proposed 3 metre setback of the tower from the Pacific Highway is considered inadequate in relation to these heritage items and the heritage items in the streetscape to the south. A tower of this scale with limited setbacks would inevitably have adverse impacts on those nearby heritage items, contrary to the objectives of the 2036 Strategy, notwithstanding that the tower form numerically complies with the minimum setbacks within the Strategy. A more acceptable streetscape design would require a greater setback for the tower from the Pacific Highway boundary. The Panel also

considers the built form has not adequately considered the streetscape, laneway and the lower scale of development to the west.

The Panel acknowledges that higher densities are appropriate having regard to the nearby public investment in infrastructure. Nevertheless, the Panel considers that in order to achieve the high quality outcomes envisaged by the 2036 Strategy, further analysis of the site in its context is required. The Panel's recommendation to the Council is that this Planning Proposal not proceed to Gateway.

By way of comment the Panel considers that a more holistic approach to the implementation of the 2036 Strategy should be embarked upon to facilitate appropriate built form outcomes. This could be undertaken on a block by block basis to ensure the objectives and actions of the Strategy are more sensitively resolved.

It is noted that a comment was made by the NSLPP at its meeting of 8 June 2022 in relation to another Planning Proposal which is of relevance. Whilst it is not replicated in the minutes for this matter, it is of relevance and equally applies to this site. An extract is provided below;

By way of comment, the Panel encourages Council to review its DCP for parking rates, as a matter of priority, to exclude the area covered by the 2036 Strategy in the DCP, to ensure reduced maximum parking rates apply, in line with the principle contained in the 2036 Strategy.

This commentary is consistent with Council's North Sydney Transport Strategy.

2. Key Issues

The key issues, as detailed in Council's assessment report include the isolation of the sites to the north of the application site, the appropriateness of the setbacks of the tower element and the resulting transition or interface with the lower density development to the west. Below is a diagram illustrating the indicative setbacks provided in the reference design accompanying the planning proposal.

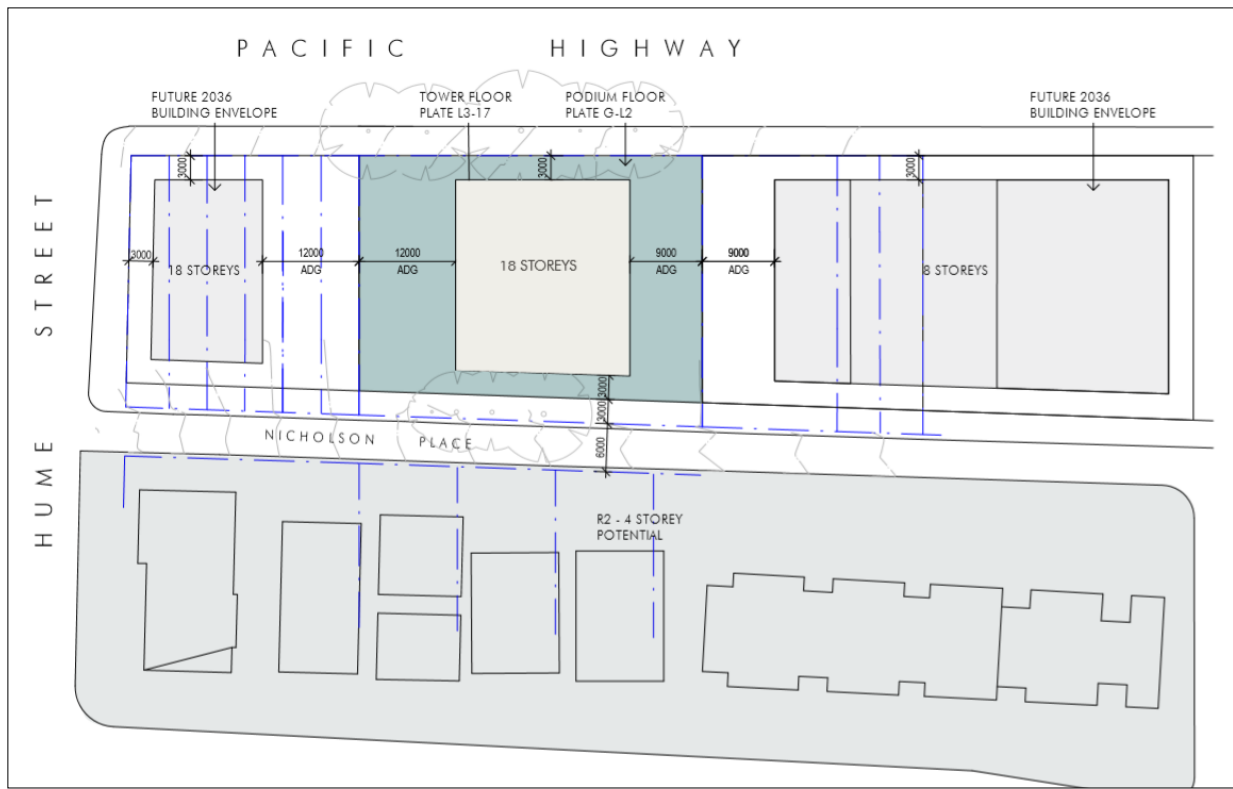


Figure 1 – setbacks to proposed tower (source: Nettleton Tribe)

The panel was in agreement with the issues raised in the assessment report and also expressed concern that the resulting built form was particularly challenging having regard to the adjacent and nearby heritage items by virtue of its scale (height) and above podium setback proposed to the rear or west (3m).

The panel acknowledged that higher densities are appropriate having regard to the nearby public investment in infrastructure, however, questioned the suitability of the built form outcomes arising and the need for these to be more sensitively resolved through a more holistic approach to the implementation of the *St Leonards Crows Nest 2036 Plan*.

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.

These submissions are normally considered as part of Council's assessment report for a Planning Proposal, to illustrate the level of public interest in the matter before Council makes its determination.

No submissions have been received at the time of reporting.

CONCLUSION

The Planning Proposal seeks to amend NSLEP 2013 to increase the maximum building height and to incorporate new FSR and non-residential FSR as it relates to the subject site. The proposal is accompanied by an indicative reference scheme to demonstrate how the site could be developed to the requested height and density controls.

Whilst the planning proposal site is located within a block considered appropriate for increased height and density given its proximity to the future Crows Nest Metro station, the planning proposal as submitted, does not adequately demonstrate satisfactory strategic and site-specific merit for the following reasons:

- The planning proposal will likely result in the isolation of neighbouring sites to the north (366-376 Pacific Highway), which have the same density and height uplift potential under the 2036 Plan as the subject site. This is not considered to be a satisfactory strategic planning outcome as it undermines the ability to achieve the housing objectives of several high-level planning policies including the Greater Sydney Regional Plan and North District Plan, the North Sydney Local Strategic Planning Statement, the 2036 Plan and accompanying Ministerial Directions 1.1 and 1.13; and
- The accompanying indicative reference design does not demonstrate how the site could be acceptably developed to the requested height and density controls without resulting in reduced amenity outcomes and inappropriate interface and transition outcomes. The cumulative impacts of the proposal are not considered to be of minor significance and has the potential to undermine the overall intent of the *2036 Plan* and the achievement of the Plan's vision, objectives and actions.