

8.16. Planning Proposal Authority Role for Three Planning Proposals

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ATTACHMENTS: Nil

PURPOSE:

This report considers the Department of Planning and Environment's offer to accept the "Planning Proposal Authority" (PPA) role for the Council refused Planning Proposals listed below that are subject to rezoning reviews:

- 253-267 Pacific Highway, North Sydney
- 378-390 Pacific Highway, Crows Nest; and
- 20 Berry Street, North Sydney.

EXECUTIVE SUMMARY:

At its meeting on 28 March 2022, Council resolved to not support the Planning Proposal for 253-267 Pacific Highway North Sydney proceeding to Gateway Determination. Similarly, at its meeting on 26 April 2022, Council resolved that the Planning Proposals for 378-390 Pacific Highway, Crows Nest and 20 Berry Street, North Sydney not be supported to proceeding to Gateway Determination.

All proponents of these Planning Proposals have since lodged rezoning review requests since Council's refusal of these matters. A rezoning review affords applicants an opportunity of having Council's refusal formally reconsidered by the Sydney North Planning Panel (SNPP). Dates are yet to be set on the hearing dates for these.

In advising of the lodgement of these rezoning reviews, the Department of Planning and Environment is also seeking Council's advice with respect to accepting the role of Planning Proposal Authority (PPA). The PPA is responsible for progressing Planning Proposals through the plan making process, including ensuring the Planning Proposal is consistent with the Gateway Determination, hosting the public exhibition process, consideration of submissions and the making of an amendment to Council's Local Environmental Plan.

There are benefits and disadvantages associated with accepting the PPA role. The advantages are largely administrative and associated with the clarity and accuracy in any future public exhibition process. Accepting the PPA role does not confer any additional decision-making leverage or power for Council. The significant disadvantage of accepting the PPA role is that Council's limited resources will largely be utilised in administrative endeavours that generally add very little to Council's resolved position on these Planning Proposals. This will necessarily come at the expense of limited Council resources being devoted to overseeing an exhibition process, dealing with public enquiries, compiling submissions and preparing reports. If Council does not accept the PPA role, it will continue to be a stakeholder with the capacity to

make submissions to the exhibition and have its voice heard. In some ways, submissions made as a third party without the various PPA responsibilities, arguably affords a greater degree of freedom to express objection to the proposal.

In the past, there have been instances where Council has elected to adopt the PPA role given that a draft Voluntary Planning Agreement has been involved or a draft Development Control Plan that has a fundamental role in shaping the future form and performance of the development. This is not the case to any substantial degree with the three Planning Proposals that are the subject of this report.

This report recommends that in the context of a very tight labour resource environment at present, that the PPA role be performed by the Regional Planning Panel and that Council continue to prosecute its resolved position as an important stakeholder in the process.

FINANCIAL IMPLICATIONS:

The Planning Proposal for 20 Berry Street, North Sydney, includes the potential dedication of land adjacent to the site that staff previously reported, has marginal value as a special area. In addition, the Planning Proposal for 253-267 Pacific Highway, includes the potential dedication of a through-site link.

Should Council elect to perform the PPA role in these Planning Proposals, it will represent additional expenditure of a modest nature which can be funded through existing operational budget lines.

RECOMMENDATION:

1. THAT Council not accept the role of the Planning Proposal Authority for Planning Proposals 2/21 – 253-267 Pacific Highway North Sydney, 3/21 - 20 Berry Street, North Sydney and 7/21 - 378-390 Pacific Highway, Crows Nest and that the Department of Planning and Environment be advised accordingly.

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

3. Our Future Planning

3.5 North Sydney is regulatory compliant

5. Our Civic Leadership

5.2 Council is well governed and customer focused

5.3 Community is informed and consulted

BACKGROUND

1.1 Planning Proposals

At its meeting on 28 March 2022, Council resolved to not support the Planning Proposal for 253-267 Pacific Highway North Sydney proceeding to Gateway Determination.

The Planning Proposal seeks to make the following amendments to the NSLEP 2013:

- amend the maximum Height of Buildings from 10m to part 15m; 29m and 37m;
- an increase in the minimum non-residential FSR control from 0.5:1 to 1:1; and
- to establish a site-specific maximum overall FSR of 4.83:1 to 253-261 Pacific Highway and

At its meeting on 26 April 2022, Council resolved to not support the Planning Proposals for:

- 378-390 Pacific Highway, Crows Nest; and
- 20 Berry Street, North Sydney.

The Planning Proposal for 378-390 Pacific Highway, Crows Nest, seeks to make the following amendments to the NSLEP 2013:

- amend the maximum building height from 16m to RL176 (24 storeys)
- establish a maximum floor space ratio control of 7.5:1
- amend the minimum non-residential floor space ratio control from 1.5:1 to 2:1.

The Planning Proposal for 20 Berry Street, North Sydney, seeks to make the following amendments to the NSLEP 2013:

- Increase the maximum height control for the site from RL 145 to RL 172;
- Rezone from B4 Mixed Use to B3 Commercial Core; and
- Include a new 'Special Area' at 20 Berry Street on the NSLEP 2013 North Sydney Centre map.

1.2 Rezoning Review

Following the refusal of these three Planning Proposals, each respective proponent lodged a rezoning review with the Department of Planning and Environment (DPE). These were lodged on the following dates (in brackets):

- 253-267 Pacific Highway, North Sydney (8 April 2022)
- 378-390 Pacific Highway, Crows Nest (12 May 2022)
- 20 Berry Street, North Sydney (12 May 2022)

A rezoning review affords applicants an opportunity of having Council's refusal formally reconsidered by the Sydney North Planning Panel (SNPP) on dates yet to be determined.

Each of these Planning Proposals will now be considered by the Sydney North Regional Planning Panel (SNRPP). At the time of writing this report, Panel hearing dates were yet to be set for any of these matters. At the completion of each hearing, the SNRPP will deliver its recommendation about whether the particular Planning Proposal should proceed to Gateway Determination. If that Panel determines that the particular Planning Proposal should indeed proceed to Gateway Determination, a Planning Proposal Authority (PPA) will be appointed to progress the Planning Proposal.

In advising Council of the lodgement of rezoning reviews for these sites, the DPE has also requested that Council nominate whether it would like to accept the role of PPA for the three Planning Proposals.

CONSULTATION REQUIREMENTS

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

DETAIL

2. Determination of the PPA Role

The Gateway Determination enables a Planning Proposal to progress to public exhibition. Following the issue of a Gateway Determination, the PPA is responsible for progressing a Planning Proposal through the next stages of the plan making process. This includes finalisation of planning proposals, consulting with the community and relevant agencies, considering submissions, finalising assessment of the proposal and, should the plan progress to the final stage, request the making of the plan as amendments to North Sydney Local Environmental Plan (NSLEP) 2013.

3. Accepting the Role of PPA

Council accepting the role of PPA provides it with the opportunity of playing a greater role in the exhibition and finalisation process of the Planning Proposal. This includes preparing

exhibition material, notifying stakeholders, fielding enquiries, preparing reports and liaising with the DPE in finalising the planning proposal and amending the NSLEP 2013.

Previously Council has accepted the PPA role where Voluntary Planning Agreements have been involved, to ensure that the processes are conducted concurrently and can be managed together. Alternatively and sometimes concurrently, the PPA role has been accepted where a draft DCP has performed a fundamental role in the shaping of the ultimate built form to be considered on the particular site. An example of this is the Planning Proposal for 52 Alfred Street, Milson's Point, which is yet to be exhibited.

4. Advantages of Accepting the PPA Role

There are several benefits in Council accepting the PPA role as follows:

- Council would have administrative control of the plan making process, including public exhibition, post exhibition report and finalisation of the amendment to the relevant LEP.
- greater control over the content, quality and clarity of information provided in the Planning Proposal prior to it being placed on public exhibition.
- Council has a broader understanding of its community's concerns and is able to better articulate those concerns with respect to the potential impacts.

5. Disadvantages of Accepting the PPA Role

It is fair to characterise a Planning Proposal process that has already been granted Gateway Determination, as having gained a level of approval momentum that in the case of a previous Council refusal, is generally unlikely to be overturned. In essence, the issue of a Gateway Determination represents a firm indication of the likelihood of the Planning Proposal continuing on to ultimate approval and amendment to the NSLEP 2013.

In this context, it should be stressed that whilst there are advantages of playing this role to ensure that information is accurate and the exhibition process is conducted consistently with Council's normal processes, the PPA role is largely an administrative and time consuming one that does not afford Council any additional decision-making power or leverage.

The DPE's Local Environmental Plan Making Guideline (December 2021) states that if the planning panel recommends that the Planning Proposal should proceed to Gateway determination, it will notify the relevant council that the planning panel will assume PPA role, if in the circumstance the council has refused to support the planning proposal.

In the case of the three Planning Proposals that are the subject of this report, their lodgment occurred prior to December 2021 and the DPE has adopted an approach of considering the guidelines that applied prior to December 2021. In other words, in future, where Council refuses a Planning Proposal, it will not be afforded the option of electing to be the PPA in these instances.

6. Conclusion

It is recommended that the PPA role in these three Planning Proposals, should they be granted Gateway Determination, be performed by the Regional Planning Panel.

Accepting the PPA role will require significant level of human resourcing to be devoted within the Strategic Planning work program which may come at the expense of higher priority projects which Council has a much higher degree of control and autonomy over.

The PPA role is a largely administrative and time-consuming one that, from previous experience, generally adds little value in furthering Council's resolved refusal. For these reasons, this report recommends that the PPA role not be accepted by Council.