



## **NORTH SYDNEY LOCAL PLANNING PANEL – PLANNING PROPOSALS**

### **DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL MEETING HELD IN THE COUNCIL CHAMBERS, NORTH SYDNEY, ON WEDNESDAY 14 AUGUST 2019, AT 12.00PM**

#### **PRESENT**

##### **Chair:**

Jan Murrell in the Chair.

##### **Panel Members:**

Ian Pickles, Panel Member  
Kenneth Robinson, Community Representative

##### **Staff:**

##### **Administrative Support**

Melissa Dunlop, Governance Co-ordinator

##### **Not Present for Determination Session**

Marcelo Occhiuzzi, Manager Strategic Planning  
Ben Boyd, Executive Strategic Planner  
Joanne Chan, Strategic Planner  
Katerina Papas, Strategic Planner  
Brett Brown, Director, Ingham Planning, Independent Planning Consultant

##### **Apologies:**

Nil.

#### **1. Minutes of Previous Meeting**

The Minutes of the NSLPP - Planning Proposal Meeting of 13 February 2019 were confirmed following that meeting.

#### **2. Declarations of Interest:**

Nil.

### 3. Business Items

*On 23 February 2018, the Minister for Planning released a Section 9.1 Direction which outlines the instance when a Planning Proposal must be referred to a Local Planning Panel for advice prior to a Council determining as to whether that Planning Proposal should be forwarded to the Department of Planning and Environment for the purposes of seeking a Gateway Determination.*

*The Panel has considered the following Business Items and provided recommendations on each matter as described in these Minutes.*

#### **ITEM 1**

<b>PP No:</b>	2/19
<b>ADDRESS:</b>	Alfred Street Precinct – 263-283 Alfred Street & 4 Little Alfred Street, North Sydney
<b>PROPOSAL:</b>	<p>To amend North Sydney Local Environmental Plan 2013 as follows:</p> <ul style="list-style-type: none"> <li>• Rezoning the site from B3 Commercial Core to B4 Mixed Use.</li> <li>• Increase the maximum building height on the Height of Buildings Map from 13m to:                             <ul style="list-style-type: none"> <li>○ 31m (an 18m increase) at 283 Alfred Street,</li> <li>○ 80m (a 67m increase) at 275 Alfred Street,</li> <li>○ 28m (a 15m increase) at 271-273 Alfred Street, and</li> <li>○ 29m (a 16 increase) at 263-269 Alfred Street/4 Little Alfred Street.</li> </ul> </li> <li>• Increase the maximum floor space ratio on the Floor Space Ratio Map for 275 Alfred Street from 3.5:1 to 7.3:1.</li> <li>• Incorporate a local provision allowing a 2:1 floor space ratio bonus on land at 275 Alfred Street subject to a design excellence competition being held.</li> </ul>
<b>REPORT BY NAME:</b>	Brett Brown, Director, Ingham Planning (Independent Planning Consultant) Council Officer Contact – Ben Boyd, Executive Strategic Planner
<b>APPLICANT:</b>	Mecone Pty Ltd (Kate Bartlett)

#### **Public Representations**

<b>Public Speakers</b>	<b>Applicant/Representative</b>
John Wyndam	Tony Moody (Applicant's Representative)
Barrett Hodson	Kate Bartlett (Applicant)
Rosemary Townsend	

#### **Panel Recommendation to Council:**

The Panel has considered the Consultant's Report, the Addendum Report prepared by Council's Executive Strategic Planner, and has heard from the Proponent's representatives and three local residents. The Panel has also considered the issues raised in two additional submissions received by

Council between the publication of the Assessment Report for the Panel’s consideration and the Panel meeting itself. The Panel inspected the site and the surrounding area.

The Panel is cognisant that the Planning Proposal has strategic merit given its location and context, relating more to the Conservation Area than the CBD from which it is severed by expressways. The Panel notes the Draft Alfred Street Strategic Planning Study in 2018 and that the Proposal takes account of some of the features of that Study.

However, the Panel is not persuaded that the current Proposal, on a site-specific merits assessment, should proceed at this point in time having regard for deficiencies in some of the information on impacts and unacceptable design elements. The performance criteria for the maximum height should be related to maintaining existing solar access for the Alfred Street North Park, in particular this must include the period from 11.00am to 3.00pm on 21 June and the impacts on the Conservation Area.

The Applicant’s Town Planners acknowledged that there are a number of issues that need to be addressed, as identified in the Consultant Planner’s report, and on clarification agreed that this further work could be undertaken and provided to Council to allow a reassessment of the Planning Proposal.

The Panel considers this matter should be deferred to allow the Applicant the opportunity to address outstanding matters and undertake further assessment/analysis.

The issues that need to be addressed and/or require further information and clarification include, but are not limited to, the following:

- 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 in its context and will result in a significant level of public and private amenity impacts.
- It is contrary to the objectives (a) and (b) of the FSR controls under clause 4.4 to NSLEP 2013.
- It is inconsistent with a number of objectives and actions under the relevant Regional and District strategies applying to the land.
- It will have an adverse impact on the adjoining Whaling Road Heritage Conservation Area.
- It will result in overshadowing of adjoining properties including Alfred Street North Park.
- It will have an adverse visual impact and detract from the existing and desired future character of the area.
- It does not encourage the amalgamation of lots to:
  - allow adequate flexibility in the manner in which built form is distributed on the site to minimise impact;
  - minimise vehicular access points and parking related structures on Little Alfred Street; and
  - allow an appropriate and efficient basement parking arrangement.
- Given the location and context the Panel considers a fully amalgamated site to rationalise vehicle access points to the streets and provide a good urban design outcome is favoured. This may also be achieved by a shared basement with limited access points and urban design controls to ensure an appropriate built form over the entire site.
- The current Proposal provides minimal public benefit in that the public accessible areas within the site are mainly thoroughfares that provide access to commercial uses and have limited potential for use as open space through-site links with limited amenity.
- The relationship of the height of the proposed building adjacent to the northern boundary should respect the Heritage Conservation Area to the north and provide a stepping down.
- The Proponent’s request for a bonus of 2:1 FSR is not justified and not supported by the Panel. Certainty must be provided for the built form.
- The Panel supports the principle of rezoning from commercial core to mixed use B4 and recognises the appropriateness of the site in its context as predominantly residential.
- Further consideration needs to be given to the design of a through site link and its location.

- Further consideration must be given to the interface along Little Alfred Street to the Conservation Area.
- If there is to be a tower element this must be carefully considered to ensure a positive urban design outcome as this is a significant site of high visibility.

The resultant floor space ratio sought and heights and their distribution on the site must have regard to all of the above to allow the Planning Proposal to be further assessed.

The Applicant is to address the above and prepare further information and analysis to allow a comprehensive assessment and to allow the matter to come back to the Panel for a recommendation to then be made to the Council.

**RECOMMENDATION TO COUNCIL**

The North Sydney Local Planning Panel recommends to Council that this matter be deferred for the reasons outlined above.

Voting was as follows:

Unanimous

<b>Panel Member</b>	<b>Yes</b>	<b>No</b>	<b>Community Representative</b>	<b>Yes</b>	<b>No</b>
Jan Murrell	Y		Kenneth Robinson	Y	
Ian Pickles	Y				

**ITEM 2**

<b>PP No:</b>	<b>3/19</b>
<b>ADDRESS:</b>	<b>173-179 Walker Street &amp; 11-17 Hampden Road, North Sydney</b>
<b>PROPOSAL:</b>	<p>To amend North Sydney Local Environmental Plan 2013 as follows:</p> <ul style="list-style-type: none"> <li>• Increase the maximum building height on the Height of Buildings Map from 12m to RL 133.</li> <li>• Imposing a maximum floor space ratio on the Floor Space Ratio Map of 6.1:1.</li> <li>• Introduce a new Special Provisions Map within the NSLEP 2013 and identify the Precinct on the map as ‘Area 1’.</li> <li>• Amend Section 6 Additional Local Provisions to include a section ‘6.20 East Walker Street Precinct’ to establish controls associated with amalgamation, overshadowing and community infrastructure, including a height limit of RL 148m and an FSR of 6.9:1.</li> </ul>
<b>REPORT BY NAME:</b>	<p>Brett Brown, Director, Ingham Planning (Independent Planning Consultant)                      Council Officer Contact – Joanne Chan, Strategic Planner</p>
<b>APPLICANT:</b>	Avenor Pty Ltd (Peter Clemesha)

## Public Representations

Public Speakers	Applicant/Representative
Diane Fischer	Kathy Jones (Applicant's Representative)
John Seymour	Tim Blyth (Applicant's Planning Consultant)
	Kim Crestani (Applicant's Architect)

### Panel Recommendation to Council:

The Panel has considered the Consultant's Report and has heard from the Proponent's representatives and two local residents. The Panel inspected the site and the surrounding area.

The Panel notes that the Applicant has engaged in community consultation in the preparation of its Planning Proposal that seeks to significantly increase the building height in the R4 zone.

The Panel is also aware that there are currently a number of studies being undertaken that are relevant to the subject site, in particular the Northern CBD Planning Study which is expected to be completed in mid-2020. It is appropriate that the Panel considers the future of the area and this Planning Proposal in its broader context and be informed by the findings and studies being undertaken.

The Panel generally endorses the Planning Consultant's conclusions and recommends to the Council that it not proceed to a Gateway Determination for the following reasons:

- the indicative building typology does not adequately respond to the existing development controls which apply to the subject R4 zoning and also notes that the extent of view analysis is inadequate and requires further refinement;
- The requested heights do not provide an appropriate transition of building heights from the existing CBD development to across the subject R4 zoned land and the heritage area;
- contrary to the objectives of the R4 zone in that it will '*compromise the amenity of the surrounding area or the natural or cultural heritage of the area*' and will not '*ensure that a reasonably high level of residential amenity is achieved and maintained*';
- contrary to the provisions of NSDCP 2013 in relation to residential flat building development and the Area Character Statement for the Hampden Neighbourhood;
- inconsistent with a number of objectives and actions under the relevant Regional and District strategies applying to the land;
- not adequately demonstrate that it will not result in excessive overshadowing of adjoining dwellings;
- does not adequately demonstrate that it will not result in overshadowing of Doris Fitton Park;
- loss of views for surrounding apartments;
- the benefits of the Special Provisions Design have not been adequately demonstrated;
- the traffic information submitted does not adequately demonstrate that the proposal will not have an adverse impact on the local traffic network; and
- insufficient information has been provided in relation to the uplift in value from the proposed LEP amendments in order for Council to determine if the applicant's public benefit offer is reasonable.

### RECOMMENDATION TO COUNCIL

The North Sydney Local Planning Panel recommends to the Council that the Planning Proposal lacks strategic and site specific merit and should not proceed to a Gateway Determination.

Voting was as follows:

Unanimous

<b>Panel Member</b>	<b>Yes</b>	<b>No</b>	<b>Community Representative</b>	<b>Yes</b>	<b>No</b>
Jan Murrell	Y		Kenneth Robinson	Y	
Ian Pickles	Y				

**ITEM 3**

<b>PP No:</b>	<b>4/19</b>
<b>ADDRESS:</b>	<b>52 Alfred Street South, Milsons Point</b>
<b>PROPOSAL:</b>	<b>To amend North Sydney Local Environmental Plan 2013 as follows:</b> <ul style="list-style-type: none"> <li>• <b>Increase the maximum building height on the Height of Buildings Map from 40m to part RL 84 (to Alfred Street South) and part RL 97 (to Glen Street).</b></li> </ul>
<b>REPORT BY NAME:</b>	<b>Brett Brown, Director, Ingham Planning (Independent Planning Consultant)</b> <b>Council Officer Contact – Katerina Papas, Strategic Planner</b>
<b>APPLICANT:</b>	<b>Milsons Point 2 Pty Ltd (Sara Kwan)</b>

**Public Representations**

<b>Public Speakers</b>	<b>Applicant/Representative</b>
Andy Hanna	Ben Craig (Applicant's Representative)
Thomas Sherwen	Andrew Chung (Applicant's Architect)
Sima Tambrchi	

**Panel Recommendation to Council:**

The Panel has considered the Consultant Planner's report and recommendation and the Advisory Note by Council's Strategic Planning Manager and heard submissions from the Proponent's representatives and three local residents. The Panel has also considered the issues raised in 19 additional submissions received by Council between the publication of the Assessment Report for the Panel's consideration and the Panel meeting itself. The Panel inspected the site and the surrounding area.

It is noted that the Proponent had submitted a previous Planning Proposal involving the same building heights. This proposal was rejected by Council in October 2018 following a recommendation from the Planning Panel that the proposal not proceed to a Gateway Determination.

The Panel notes that a number of changes have been made to the building envelope compared to the previous scheme, including reduced setbacks to Glen Street, increased setback to the northern boundary, a 2-storey tower element above Level 8 and slightly reduced FSR, with changes to the eastern building fronting Alfred Street resulting in no new overshadowing of Bradfield Park. The overall building heights remain unchanged.

However, the Panel is concerned that the new proposal has failed, inter alia, to address issues relating to amenity impact in particular loss of iconic views from living rooms in 37 Glen Street with inadequate photo angles. This issue was highlighted in Council's assessment report concerning the previous

proposal. Furthermore, there is an unacceptable level of solar access to dwellings with some 30% of dwellings receiving no winter sun, although it is recognised that strict adherence to SEPP 65 and the Apartment Design Guide requirements may be unreasonable to achieve in a high density built environment such as Milsons Point. No consideration has been given to the amenity impact involved in a development complying with the current controls.

Whilst it is recognised that an indicative design submitted for the purposes of seeking a Gateway Determination will necessitate refinements at the Development Application (DA) stage, the Panel is not satisfied that this indicative design and the supporting analysis enables an adequate understanding of potential impacts. For example, how loss of iconic views can be resolved at DA stage utilising tenacity principles for view loss assessment, without consequential changes to the design that may result in other unacceptable impacts. It is therefore simplistic to endorse a 99% increase in the building height control without a more thorough and comprehensive understanding of the impacts.

Therefore, the Panel recommends to Council as follows:

1. The applicant has failed to demonstrate how the site could be acceptably developed to the requested heights insofar as the proposed concept design does not adequately respond to the site attributes and constraints and will result in a significant level of amenity impacts to adjoining residents in an already compromised environment;
2. The extent of impacts identified, particularly in relation to loss of iconic views, may not be able to be resolved through the provision of increased building separation and setbacks, without consequential design changes which may result in other unacceptable impacts;
3. To defer further assessment of impacts provides no certainty that the site can appropriately accommodate the height sought;
4. The proposal fails to demonstrate strategic merit insofar that it is:
  - a) inconsistent with a number of objectives and actions under the relevant Regional and District Plans;
  - b) sufficient residential capacity is identified in the *Draft North Sydney Local Housing Strategy (2019)* to meet projected housing demand for the next 20 years, without the need to change the land use mix on the subject site; and
5. It is contrary to the objectives of the Height of Building controls under clause 4.3 to NSLEP 2013 and inconsistent with the Milsons Point Town Centre Character Statement under section 9.1 to Part C of NSDCP 2013;
6. The Planning Proposal, if implemented, could have the potential to create a precedent that could undermine other established policies for the Milsons Point Town Centre and other mixed-use zoned land in highly accessible locations without the benefit of a comprehensive Planning Study.

**RECOMMENDATION TO COUNCIL**

After careful deliberation of the current Planning Proposal this Panel is not persuaded that the matter should proceed because of potential adverse impacts on the public domain and amenity of the area, including view loss.

The North Sydney Local Planning Panel recommends to the Council that this Planning Proposal to increase the height from 40m to between 55.4m to 79.6m not proceed to a Gateway Determination as it lacks strategic and site specific merit.

Voting was as follows:

Unanimous

<b>Panel Member</b>	<b>Yes</b>	<b>No</b>	<b>Community Representative</b>	<b>Yes</b>	<b>No</b>
Jan Murrell	Y		Kenneth Robinson	Y	
Ian Pickles	Y				

The public meeting concluded at 2.35pm.

The Panel Determination session commenced at 2.40pm.

The Panel Determination session concluded at 5.15pm.

Endorsed by Jan Murrell  
North Sydney Local Planning Panel  
**14 August 2019**