



TOWN PLANNING
AND URBAN DESIGN

PLANNING PROPOSAL

Proposed Site Specific Rezoning

Land bounded by Falcon Street, Alexander Street, Burlington Street and Willoughby Lane, Crows Nest

for Fabcot Pty Ltd

May 2012

PROJECT NO: 209.058.17 - PP

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1. INTRODUCTION

1.1 OBJECTIVES OR INTENDED OUTCOMES

This report constitutes a Planning Proposal (PP) accompanying an application for the rezoning of land prepared on behalf of Fabcot Pty Ltd by The Planning Group NSW Pty Ltd (TPG NSW). This PP is submitted to North Sydney Council for assessment and determination under Part 3 of the *Environmental Planning and Assessment Act, 1979* (EP&A Act).

The objective of this planning proposal is to amend the existing planning controls to enable a replacement supermarket, an above ground multi-level public car parking facility, replacement specialty shops and electrical substation as part of the redevelopment of the land. A concept design (referred to in this report as "concept") has been prepared, refer to **Appendix B**.

The PP is to rezone land bounded by Falcon Street, Alexander Street, Burlington Street and Willoughby Lane, Crows Nest. The concept comprises:

1. Woolworths supermarket over two levels – some 3,996 square metres;
2. Replacement and additional public car parking in an above ground parking facility over 4 levels;
3. New arcade/mall with access at Burlington Street frontage;
4. New specialty retail shops with frontage to Burlington Street and mall – some 465 square metres;
5. Lift access to all levels and public car parking;
6. New accessible public toilet amenities; and
7. Relocate substation from Willoughby Lane frontage to below street level chamber at corner of Burlington and Alexander Streets.

The objectives of this Planning Proposal report include:

- To describe the subject site, the locality in which it is situated, current zoning and explain the current planning control limitations;
- To request a rezoning of the land to permit a retail development with an above ground public parking facility having a height of 19.15m and reaffirm the classification of the land;
- To address the "Gateway" assessment criteria under Part 3 of the *Environmental Planning and Assessment Act, 1979*;



- To provide justifications for the site specific rezoning and demonstrate the Net Community Benefits which will follow from allowing the rezoning; and
- To support the planning proposal with a concept design and technical advice including an Economic Needs Assessment and Transport Report.

1.2.1 Local and Regional Context

Figures 1 provides an aerial view of the subject site in its Crows Nest context, as follows:



Figure 1: Aerial Site Location Plan (Site defined by red outline) NTS
Source: Google Maps

Figure 2 demonstrates the subject site in its Crows Nest context, as follows:



Figure 2: Site Location Plan (Site defined by red outline) NTS
Source: Google Maps

1.3 THE EXISTING DEVELOPMENT

The subject site can be described as currently containing:

- a Woolworths supermarket building fronting Falcon Street and Alexander Street, with loading facilities utilising a portion of Willoughby Lane;
- Bravo restaurant building over three levels fronting Falcon Street;
- North Sydney Council's Alexander Street above ground multi-deck public car park for 132 cars fronting Alexander Street, Burlington Street and a portion of Willoughby Lane;
- three specialty shops fronting Burlington Street;
- two specialty shops fronting Alexander Street;
- access/egress to the upper level car parking spaces via Alexander Street;
- access/egress to the ground level car parking spaces via Alexander Street;
- an amenities block fronting Burlington Street; and

- an existing electricity substation fronting Willoughby Lane.

1.3.1 Site Description

The portion of the site which contains the existing Woolworths supermarket is known as 10 Falcon Street, Crows Nest. The property description is Lots 1, 2 and 3 in Deposited Plan No. 455869; and Lot 13 in Section 4 of Deposited Plan No. 1265. The existing supermarket is some 1,385 square metres in floor area.

The land which contains the existing North Sydney Council Alexander Street car park has a street address of 34-42 Alexander Street, Crows Nest, and its property description is Lots 10, 11 and 12 In Section 4 of Deposited Plan No. 1265, Lot 1 in Deposited Plan No. 185720 and Lot 1 in Deposited Plan No. 1081820. The existing car parking structure provides 132 spaces and retail specialty shop space for approximately 309 square metres.

The land which contains the existing substation does not have a street address but has frontage to Willoughby Lane and its property description is Lot 1 in Deposited Plan No. 104029. Lot 1 in Deposited Plan No. 314750 contains a retail building commonly known as Bravo Restaurant.

The site can be summarised as shown in Table 1:

Table 1: Site Summary

Address	Lot/DP
6-8 Falcon Street	Lot 1 DP 314750
10 Falcon Street	Lot 1 DP 455869
	Lot 2 DP 455869
	Lot 3 DP 455869
	Lot 13, Sec 4, DP 1265
Willoughby Lane	Lot 1 DP 104029
34-42 Alexander Street	Lot 10 Sec 4 DP 1265
	Lot 11 Sec DP 1265
	Lot 12 Sec 4 DP 1265
	Lot 1 DP 1081820
	Lot 1 DP 185720

Detailed survey plans have been prepared for the site and reduced copies can be viewed at **Appendix A** of this report.

As can be noted from the following series of photographs of the site, the existing supermarket building, car park structure and associated shops are constructed from concrete, masonry, metal sheeting and glazing.

The frontage of the land to its Alexander Street address in part contains at the ground floor level two specialty shops, with the first and second floor levels consisting of decks within the Alexander Street Car Park as depicted in Photograph 1.



Photograph 1: View of existing car parking structure looking south along Alexander Street.

The frontage of the land to its Burlington Street address contains at the ground floor level three specialty shops and a public amenities block, with the first and second floor levels consisting of decks within the Alexander Street Car Park as depicted in Photograph 2. The site has a frontage of some 36.6m to Burlington Street. A taxi rank is located adjacent to the Burlington Street frontage of the specialty shops.



Photograph 2: View of the existing car park structure and shops looking west to the Burlington Street frontage.

The frontage of the land to its Burlington Street address contains at the ground floor level three specialty shops and a public amenities block, with the first and second floor levels consisting of decks within the Alexander Street Car Park as depicted in Photograph 3. The site has a frontage of some 36.6m to Burlington Street. A taxi rank is located adjacent to the Burlington Street frontage of the specialty shops.



Photograph 3: View of Burlington Street frontage from northern side of Burlington Street looking south-east towards existing amenities.

The frontage at the ground floor level of the Alexander Street car park includes the access/egress point to parking spaces at the upper levels and a specialty shop.



Photograph 4: View of existing entrance to Alexander Street car park levels 1 and 2 Woolworths located at Alexander Street frontage from eastern side of Alexander Street looking west.

The frontage at the ground floor level of the Alexander Street car park includes the access/egress point to parking spaces at the ground level.



Photograph 5: View of existing entrance to Alexander Street car park ground level at Alexander Street frontage from eastern side of Alexander Street looking west.

The frontage of the Woolworths building to Alexander Street does not contain any windows. A State Transit bus stop is located adjacent to the Alexander Street frontage of the existing supermarket building.



Photograph 6: View of existing Woolworths located at Alexander Street frontage from eastern side of Alexander Street looking south-west.

The frontage of the existing Woolworths to its Falcon Street façade contains the entrance to the supermarket. A State Transit bus stop is located immediate adjacent to the entrance of the supermarket.



Photograph 7: View of Falcon Street frontage of existing Woolworths.

The frontage of the Energy Australia substation site to Willoughby Lane land includes a gate, roller door and door access in a single storey structure, as depicted in Photograph 8.



Photograph 8: View of Willoughby Lane frontage of the existing Energy Australia substation site.

The frontage of the existing car park structure to the Willoughby Lane frontage is depicted in Photograph 9.



Photograph 9: View of Willoughby Lane frontage of the Woolworths loading dock and car park.

1.4 SURROUNDING DEVELOPMENT

The site is located in a well-established urban area characterised by predominantly retail and commercial development to the north and south along Alexander Street, and to the east and west of the site along Falcon Street. The main street within the Crows Nest Village is Willoughby Road which is one block to the west of the site. Minimal change has occurred in this portion of Crows Nest, with a mixed use development having been completed at the corner of Burlington and Alexander Streets opposite the site in the last three years.

The Crows Nest village is located approximately 4 kilometres in a straight line distance north-west of the Sydney CBD.

The subject site is located in the Crows Nest village, a district suburban retail/service centre containing specialty stores, historical properties, restaurants and community services along the Pacific Highway, Willoughby Road, Falcon Street, Alexander Street, and Burlington Street. Other major land uses in the vicinity of the site include the former Macro food store - now Thomas Dux and the Crows Nest Hotel.

The neighbourhood character is one of traditional strip retail and commercial office development mainly 2-3 storeys in height. There are also some isolated mixed use residential developments in the surrounding area, many of which have adapted the traditional development. The site is surrounded by a mix of building types, varying in height and usage. Some buildings have been developed for the purposes of walk-up style residential flats, some have been developed for commercial purposes and others have been developed for retail purposes.

Photographs 10 to 19 (locations shown in Figure 3 as follows) demonstrate the existing development styles, heights of buildings and uses of building on properties immediately surrounding the subject site.



Figure 3: Aerial Location of Photographs
Source: Google Maps

NTS



Photograph 10: View of buildings on eastern side of Alexander Street opposite subject site from intersection with Burlington Street.



Photograph 11: View of buildings located on western side of Alexander Street, north of subject site and pedestrian crossing.

As previously discussed, the site is located in the village of Crows Nest. The area is well connected by the Pacific Highway and Falcon Street, as well as a number of local streets that provide good access to the location. The character of development along Willoughby Road and Alexander Street is defined by traditional strip retail and commercial office development generally 2-3 storeys in height. Photographs 11 and 18 depict the typical style of development in the area. There are some cafés/restaurants interspersed on the ground level of many of these developments. An example of this is provided in photograph 14.



Photograph 12: View of existing 5 level mixed use building at the north-western corner of Alexander Street with Ernest Street.



Photograph 13: View of existing 4 level office building opposite the site at the north-eastern corner of Alexander Street and Falcon Street.

There are some isolated mixed use residential developments in the surrounding area, include buildings up to 5 levels in height. Photographs 12 and 15 are representative of this style of development. The surrounding streetscape is accessible to pedestrians through the provision of wide paved walkways, traffic islands and pedestrian crossings. Photograph 14 provides an example of a mixed use residential development; and one of many pedestrian crossings in the local area. In addition to this, the section of Willoughby Road, a block to the west of the site, has been designed to allow for one way traffic and has engaging shop fronts, reinforcing the notion of pedestrian accessibility. Refer to photograph 18.



Photograph 14: View of existing 2 and 3 level building opposite subject site in Burlington Street.



Photograph 15: View of existing 4 level mixed use building diagonally opposite site at north-eastern corner of Alexander Street and Burlington Street.



Photograph 16: View of Falcon Street facing west showing 4 level office building opposite existing Woolworths at south-western corner of Alexander Street and Falcon Street. The photograph also demonstrates the relationship between buildings on the northern and southern side of Falcon Street.



Photograph 17: View of relationship between subject site, adjoining property at 6-8 Falcon Street and hotel at the corner of Willoughby Road and Falcon Street. The photograph also demonstrates the height relationship between the Crows Nest Hotel, restaurant building and the existing supermarket fronting Falcon Street.



Photograph 18: View of existing shopping strip looking south along Willoughby Road to the Pacific Highway from the intersection at Burlington Street. Note location of pedestrian crossing.



Photograph 19: View of relationship between subject site and building to the east on Alexander Street at the intersection with Falcon Street.

Alexander Street

Alexander Street runs in a north-south direction to the east of the site. It is a 4 lane wide road however the majority of traffic movements are restricted to 2 lanes as parking and/or bus lanes occupy the outside lane in both directions. There is a bus stop on Alexander Street adjacent to the Woolworths building on the site. As previously mentioned there are two entry/exit points to the existing car park on the site, both of which are on Alexander Street. There is also pedestrian access to the car park from Alexander Street.

The development opposite the site in Alexander Street includes buildings which vary in styles, scale and height. In particular, the building located at the north-east corner of Alexander Street with Falcon Street has been developed for the purposes of a four level building with a visible lift overrun. This building has an overall height of RL 114.13, which is equivalent to approximately 17m.

Falcon Street

Falcon Street runs in an east-west direction to the South of the site. It is 4 lanes wide, though as with Alexander Street, parking occupies the outside lanes in most locations however during peak periods no parking is permitted. Falcon Street is linked to the Pacific Highway to the west of the site, and is a busy sub-arterial connection road for traffic travelling east-west. The Woolworths supermarket has a frontage to Falcon Street and is accessible to the general public from this location only.

Bravo Trattoria, a restaurant located in the south western section the site, also fronts Falcon Street to the immediate west of the subject site. The property opposite the subject site at the south-west corner of Falcon and Alexander Streets has been developed for a four level office building. This building has an overall height of RL 113.69, which is equivalent to approximately 16.2m.

The Crows Nest Hotel is located to the west of the site at the corner of Falcon Street and Willoughby Lane. This site is nominated as a heritage item under the NSLEP and has an overall maximum height of RL 114.87, which is equivalent to approximately 16.3m.

Burlington Street

Burlington Street bounds the site to the north and runs in an east-west direction. There are 3 retail stores on the site that have a frontage to this street. It is 4 lanes wide in the section outside the site; however the majority of traffic movements are generally restricted to the centre 2 lanes because taxi/bus zones and parking occupy the outside lanes. There is a taxi rank directly adjacent to the site. There is one bus stop on the southern side (closest to the site) of the street and 2 bus stops on the northern side of the street.

The property on the northern side of Burlington Street directly opposite the site consists of a 3 level building, which has an overall height of RL 109.76 which is some 11.4m above the existing foot path level.

The property located on the north-eastern corner of Burlington Street and Alexander Street has been more recently developed for a 4 level mixed use building with ground floor retail and commercial premises and upper levels residential apartments. This building has an overall height of RL111.74 which when compared to the footpath level is some 14.5m. This building is located at the edge of the Crows Nest Village and adjoins lower scale residential dwelling located to the east along Burlington Street.

Willoughby Lane

Willoughby Lane runs in a north-south direction and is one-way only south from Burlington Street to Falcon Street. The lane is generally used by service and delivery vehicles in relation to the businesses that adjoin it. As previously mentioned the existing Woolworths supermarket's loading facilities are in this location. Pedestrian access is provided from Willoughby Lane to the amenities, car park; and also to the Energy Australia substation.

1.5 SITE HISTORY

10 Falcon Street, Crows Nest – Woolworths land

The recent planning history of this site has been obtained via review of Development Consents held on Council's files. As a result of this file review it was revealed:

1. Based on a Council assessment report dated 30 June 1998, which describes the site history, Council granted approval to use the site at 10 Falcon Street, Crows Nest for a supermarket in 1965. Prior to this the site was used as a theatre/cinema. The 1965 consent included two conditions, one requiring the provision of off-street loading and unloading facility and the other requiring the provision of off-street parking. In both cases, no details survive as to the required facilities which were apparently set out in the plans comprising the application.



2. Council granted approval via Development Consent No. 198/98 dated 15 July 1998 for proposed refurbishment and alterations to existing supermarket, subject to conditions.
3. Council granted approval via Development Consent No. 565/01 dated 1 August 2001 for proposed advertising signage to existing building, subject to conditions. This is the last known development consent issued for the land at 10 Falcon Street.

34-42 Alexander Street, Crows Nest – North Sydney Council car park

The history of the site development for the Council public car parking station at 34-42 Alexander Street is complex and has an extended history which has not been reproduced in this report.

Recently, North Sydney Council considered a report being Item PDS04 at its meeting held on 24 November 2008 regarding the classification of the land under the Local Government Act, 1993. This report alludes to the site history and Council resolved to include the subject site within Schedule 4 of Draft North Sydney Local Environmental Plan 2009.

It should be noted that Draft North Sydney Local Environmental Plan 2009 is not a public document and has not obtained a Section 65 Certificate at the time of writing this planning proposal report.

2. EXPLANATION OF PROVISIONS

This rezoning requests that Council vary the provisions of the existing statutory planning documents governing the land, which can be summarised as follows:

1. **LEP Change 1:** Rezone the land from Mixed Use and Special Uses – Parking to Commercial under the North Sydney LEP 2001 to enable site redevelopment as proposed in the Concept at **Appendix B**;
2. **LEP Change 2:** Seek the inclusion of a site specific provision enabling development for the purposes of a car park as an additional permitted use on the site;
3. **LEP Change 3:** Seek the modification of the site specific height control provisions of the North Sydney LEP 2001 and associated map as it applies to the land to allow 19.15m;
4. **LEP Change 4:** Reaffirm the classification of the land as "operational" under the *Local Government Act, 1993*; and
5. **DCP Changes:** Seek changes to the provisions of the NSDCP 2002, (as considered necessary by Council) which may include:
 - Modify the NSDCP 2002 provisions to enable a 19.xm height, average setback of 4m at the upper level and other related provisions.

- Public car parking. It is considered that Council should give consideration to the inclusion of specific provisions within the NSDCP 2002 related to public car parks which are owned and operated by Council so as parking provided above Council's DCP standard where allocated for public car parking can be allowed, does not result in new floor space, and enables public parking to be provided in the form of an above ground car parking design.

2.1 NORTH SYDNEY LOCAL ENVIRONMENTAL PLAN 2001 AND REQUESTED CHANGES

Zoning

The current environmental planning instrument which covers land within the local government area of North Sydney is known as the North Sydney Local Environmental Plan 2001 (NSLEP 2001), which was gazetted on 1 June 2001.

The subject site is currently shown on the NSLEP 2001 Map as having two zones. The southern portion of the site, fronting Falcon Street, is zoned Mixed Use, and the northern portion of the site is zoned Special Uses - Parking. The zoning of the land is identified in Figure 4, as follows:

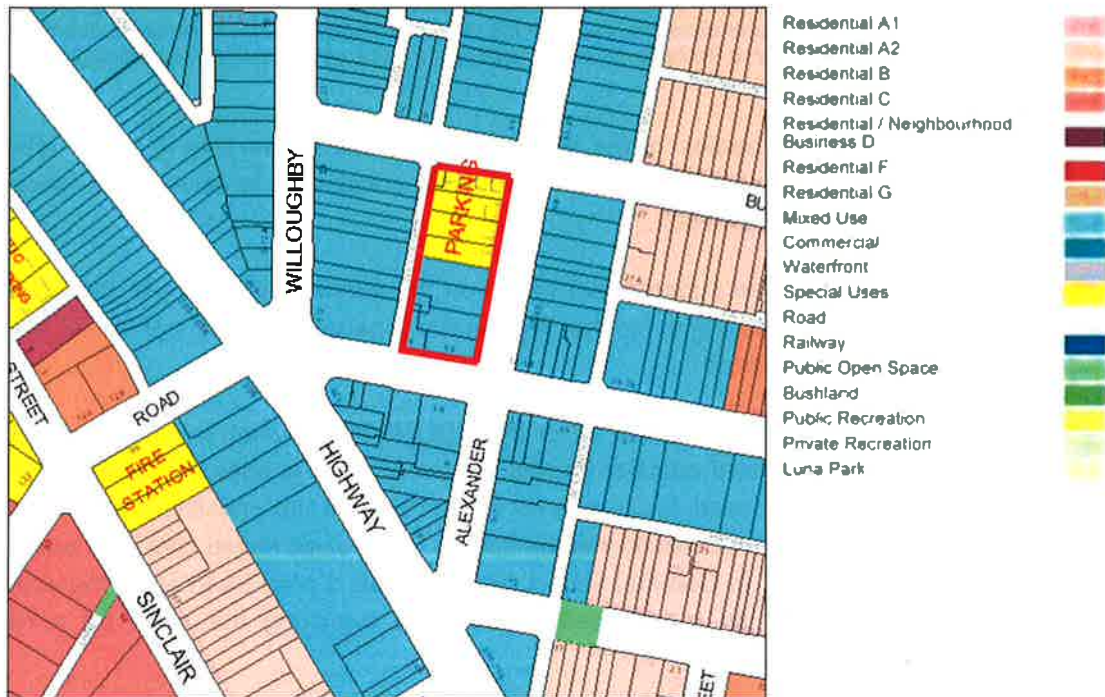


Figure 4: Site Zoning Details (subject site outlined in red) NTS

Source: North Sydney Council website -

<https://ecouncil.northsydney.nsw.gov.au/eservice/mapping/mapDisplay.jsp>



2.1.1 LEP CHANGES 1 and 2

Permissibility

1. Woolworths and Energy Australia Land

With respect to the southern portion of the site – the Mixed Use zoned land. Clause 14 of the NSLEP 2001 is followed by a zoning and permissibility table which indicates the portion of the site zoned Mixed Use permits the following permissible uses:

2 Development which may be carried out in this zone

Development for the purpose of:

advertisements; apartment buildings; attached dwellings; boarding-houses; business identification signs; child care centres; clubs; commercial premises; community facilities; community notice signs; duplexes; dwelling-houses; drainage; educational establishments; home industries; home occupations; hospitals; hotels; medical centres; open space; places of assembly; places of public worship; real estate signs; recreational facilities; refreshment rooms; remediation; restricted premises; shops; showrooms; take-away food shops; taverns; telecommunications facilities; temporary signs; utility installations, other than gas holders or generating works.

Schedule 2 of the NSLEP 2001 includes shop which is defined as follows:

***shop** means a building or place used for the purpose of selling, exposing or offering for sale by retail, goods, merchandise or materials, but does not include a building or place elsewhere specifically defined in this Schedule or a building or place used for a land use elsewhere specifically defined in this Schedule.*

It is noted that the portion of the site currently zoned Mixed Use is being used for the purposes of a Woolworths supermarket which is considered to constitute a "shop" for the purposes of the NSLEP 2001.

As such, the proposed supermarket based on the permissibility table of the NSLEP 2001 under the Mixed Use zone for the Woolworths/Energy Australia portion of the land is permissible with consent.

Due to the provisions of Clause 32 of the NSLEP 2001 (which is discussed later in this report), as the proposed concept for this portion of the site does not involve a residential component, the proposed concept in its current form is not consistent with Clause 32 of the NSLEP 2001. As Clause 32 relates only to land zoned Mixed Use, it is proposed that the land be rezoned to Commercial – **LEP CHANGE 1** – so as to allow the supermarket as a type of shop as a permissible use while removing the need for a residential component.

The proposed car park is not permissible under the current Mixed Use zoning. The proposed car park is also not permissible under the proposed Commercial zoning. For this reason, this Planning Proposal seeks the inclusion of a site specific provision enabling development for the purposes of a car park as an additional permitted use on the site – **LEP CHANGE 2**.

2. North Sydney Council owned land Alexander Street Car Park

The northern portion of the land zoned Special Uses – Parking permits the following under the development table:

2 Development which may be carried out in this zone

Development for the purpose of:

- (a) on all sites in the zone—apartment buildings; attached dwellings; duplexes; dwelling-houses; open space; remediation; telecommunications facilities; utility installations, other than gas holders or generating works, and*
- (b) on sites shown on the map with red lettering—the land use indicated by red lettering on the map.*

The red lettering on the map is “parking”. It is noted that the current use of this portion of the land for the purposes of a public car park is permissible given the zoning, however, the current other uses of the land for the purposes of a five specialty shops are not consistent with the provisions under the development table for the zone. (Note: it is necessary to reference Clause 56 of the NSLEP 2001 for further information on permissibility).

The proposed concept for this portion of the land includes a new supermarket, new specialty shops, new amenities block and enlarged public car park. The uses of this portion of the site other than the public car park as proposed, including the new supermarket and specialty shops and amenities block are not consistent with the permissible uses identified under the zoning and permissibility table.

Despite the provisions of the zoning and permissibility table, Clause 56 of the NSLEP 2001 provides for the following associated with the Alexander Street car park site:

56 Hume Street and Alexander Street car parks

(1) Subject land

This clause applies to the following land:

- (a) the Hume Street Car Park, being the land bounded by Hume Street, Clarke Street, Oxley Street and Pole Lane at Crows Nest, and*
- (b) the Alexander Street Car Park, being Lots 9–12, section 4, DP 1265, having frontage to Alexander and Burlington Streets, Crows Nest.*

(2) Objective

The specific objective of the controls in relation to the land is to ensure that the land can continue to be used for a range of uses consistent with the amenity of surrounding areas.

(3) Control

Despite the Table to Part 2, development for the purpose of the following is permitted, with development consent, on the land:

child care centres; commercial premises; educational establishments; professional consulting rooms; public buildings; refreshment rooms; shops; take-away food shops.



As such, the current usage of this portion of the site for shops is permissible. The proposed concept for the purposes of shops and car parking are permissible and the provisions of Clause 32 of the NSLEP 2001 do not apply. As such, the portion of the land zoned Special Uses – Parking enables the proposed concept for the proposed uses without necessarily the need for a rezoning based on permissibility, however for consistency for the entire “street block”, it is proposed to be rezoned from Special Uses – Parking to Commercial under the NSLEP 2001 – **LEP CHANGE 1**.

Clause 32 – Design of Development

The provisions of Clause 32 currently affect the portion of the land zoned Mixed Use. The concept design does not involve any residential component and therefore the concept in its current form would not comply with the provisions of Clause 32. It is noted that the provisions of Clause 32 state:

32 Design of development

(1) Design objectives

The specific objectives of the design of development in the mixed use zone controls are to:

- (a) promote development containing a mix of residential and non-residential uses, and*
- (b) protect the amenity and safety of residents, and*
- (c) concentrate the non-residential component of development in the mixed use zone at the lower levels of a building.*

(2) Design controls

A new building in the mixed use zone must not be erected unless:

- (a) the building contains both residential and non-residential uses, and*
- (b) the non-residential component of the building is provided at the lower levels of the building and the ground level is not used for residential purposes, except access, and*
- (c) the residential component of the building is provided with an entrance separate from the entrances to the remainder of the building, and*
- (d) the building is set back above a podium.*

(3) Despite any other provision of this plan, any development in the mixed use zone may contain both residential and non-residential uses.

(4) Prohibited development

Development that contravenes subclause (2) (a) is prohibited development.

It is requested that the zoning of the land be changed from Mixed Use and Special Uses – Parking to Commercial under NSLEP 2001 and this would resolve the conflict with Clause 32(4) as detailed above – **LEP CHANGE 1**.

2.1.2 LEP CHANGE 3 – Building Height

Clause 29 – Building Height

Under the provisions of Clause 29 of the NSLEP, a building height control applies to portion of the land current zoned Mixed Use, based on the following:

29 Building height

(1) Building height objectives

The specific objectives of the building height controls in the mixed use zone are to:

- ensure compatibility between development in the mixed use zone and adjoining residential areas and open space zones, and
- encourage an appropriate scale and density of development for each neighbourhood that is in accordance with, and promotes the character of, the neighbourhood, and
- provide reasonable amenity for inhabitants of the building and neighbouring buildings, and
- provide ventilation, views, building separation, setback, solar access and light and to avoid overshadowing of windows, landscaped areas, courtyards, roof decks, balconies and the like, and
- promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient, and
- avoid the application of transitional heights as justification for exceeding height controls.

(2) Building height controls

A building must not be erected in the mixed use zone in excess of the height shown on the map.

An extract of the NSLEP 2001 Map, appears in Figure 5, as follows:



Figure 5: Site Floor Space Ratio and Height Details (subject site outlined in red) NTS

Source: North Sydney Council website -

<https://ecouncil.northsydney.nsw.gov.au/eservice/mapping/mapDisplay.jsp>



No specific height control is applicable to the portion of the site currently occupied by the Alexander Street Car Park, however due to the provisions of Clause 34 a maximum height control for this portion of the land is 10m.

As this Planning Proposal seeks to change the zoning of the land from Mixed Use and Special Uses – Parking to Commercial, the provisions of Clauses 29 and 34 of the NSLEP 2001 no longer apply.

Council at its meeting held on 23 April 2012 considered a report by the General Manager titled "Joint Redevelopment of the Alexander Street Car Park: Legal Agreements, PPP Submission and Façade Design" – Item G01.

The Executive Summary of the report advised:

In May 2011, The Council resolved to agree to the commercial terms to jointly redevelop the Alexander St Car Park and the adjacent Woolworth Supermarket. These terms were set out in the Woolworths "letter of offer" dated 4/5/2011.

Based on the letter of offer, legal documents have now been drafted covering all aspects of the proposed joint redevelopment. There is an overarching Development Deed, and associated Lease, Building Management Statement, Call Option and First Right of Refusal.

On Council's approval of the legal documents, a final Public Private Partnership submission must be made to the Division of Local Government of the Department of Premier and Cabinet seeking approval under section 358 of the Local Government Act 1993 for Council to enter into a joint venture with Woolworths.

The letter of offer also gave Council the right to review the car park layout and the façade design of the proposed development. Council's appointed architects, Architects+ Partners, completed the review of the façade design and on 31 October 2011, Council resolved to work with Woolworth's Project Architects to incorporate the design elements/features into the project design. The facade design has now been completed, consistent with the concepts of Council's architects.

This flagged to the Councillors attention that a crucial step in the process associated with the site redevelopment had been completed with the façade design review and this process has informed the preferred design concept which now forms part of this PP at **Appendix B**.

The General Manager's report also provided a summary of the background to the process which had been undertaken to review the façade design, as follows:

Council has been investigating the possible joint redevelopment of the Alexander St Car Park and the Woolworth Supermarket site since 2007. On the 16/5/2011 Council resolved:

1. THAT Council agree to the commercial terms of the project for the joint redevelopment of the Alexander St Car Park and the Woolworths Supermarket site in Crows Nest as set out in the Woolworths letter of Offer dated the 4/05/2011.

2. THAT Council resolve to enter into a Public /Private Partnership process with Fabcot Pty Limited for the joint redevelopment of the Alexander Street Parking Station and adjoining Woolworths supermarket site at Crows Nest by lodging a Formal Project Proposal with The Department of Local Government for Initial Assessment, and that the General Manager be given delegated authority to finalise the legal agreement with Fabcot Pty Limited.

The submission of the formal Project Proposal was made to the Division of Local Government on 10 June 2011, and the DLG responded on 23 August 2011 giving in principle support to the Public Private Partnership, subject to a final submission with the



agreed legal documents being required for Ministerial approval under section 358 of the Local Government Act 1993.

The legal agreements have been negotiated with Fabcot Pty Ltd, and comprise an overarching Development Deed and associated Lease, Building Management Statement, Call Option and First Right of Refusal. The Development Deed also covers the leasing of the sub-station site by Council to Ausgrid subject to the Conditions Precedent under the Development Deed being satisfied.

Included in the 4 May 2011 letter of offer from Woolworths were two provisions. These were, firstly, the right of Council to review the layout of the public car park and secondly, the right of Council to review the façade design.

Council engaged two separate consultants to provide advice to Council on the Car Park Layout and the Facade design. The matter was reported to the 3590th Council Meeting on the 31 October 2011. At this meeting the Council resolved:

THAT Council, in consultation with Woolworths, work with the Project Architects, The BN Group to progress the project design by incorporating the following elements/features into the façade design:

- maximize the glazing on the ground level street façade so as to activate the street frontage,*
- a small section "green wall" to be incorporated into the Alexander St frontage at Ground level.*
- a curvilinear awning and façade design is preferred over a rectilinear design,*
- a facade design for the car park component comprising of vertical colour elements mounted perpendicular to the building and capped with a curvilinear top element,*

The facade design has now been completed, consistent with the concepts of Council's appointed architects, Architects+ Partners and reviewed by Council's appointed Building Quality Management consultants, D5D.

The General Manager's report specifically advised in relation to the façade design, as follows:

2. Façade Design and Carpark Layout

The proposed carpark layout was reviewed by consultants, Parking and Traffic Consultants, and Councillors briefed on the outcome of the review on 5 September 2011.

The key findings of the review was that, given the constraints, the carpark layout, as prepared by the Project Architects, has maximized the number of spaces and provides the most functional layout.

Architects+Partners were appointed by Council to review and develop alternate façade designs for the proposed development. They completed their initial review and prepared three alternate concept designs for Council's consideration. These were presented to Councillors at a briefing on Thursday the 29/9/2011 and a follow up briefing on the 17/10/2011. The Councillors present expressed their opinion regarding what elements they would like to see incorporated into the final design. A report to Council on 5 December 2011 with a facade design interpretation by the Project Architects was deferred because the design was not acceptable to Councillors. The conceptual façade design work completed by Architects+Partners has, with the assistance of Council's Building Quality Management consultant, D5D, provided Councillors through further briefings on 14 February 2012 and 2 April 2012 with independent creative concepts that have been translated into the final facade design by the Project Architects

Attached is advice regarding the facade design from Council's Building Quality Management consultant, D5D. Images of the final facade design incorporating all the design elements chosen by Councillors are also attached to this Report.



The General Manager's report further advised Council with respect to the need to consider a Planning Proposal as part of the redevelopment of the site:

5. Planning Proposal and Development Application

In November 2009 Council adopted the Crows Nest Town Centre proposal, giving effect to zoning changes in the North Sydney Draft Comprehensive Local Environmental Plan 2009 and supporting a separate Planning Proposal to amend NSLEP 2001 and NSDCP 2002 that relates to the proposed development site.

Woolworths/Fabcot prepared and lodged with Council a specific Planning Proposal relating to the development site on the 19/11/2009. In the report to Council on the 7/12/2009, subject to some minor amendments being made to the Planning Proposal, it was resolved that it be forwarded to the Minister for Planning requesting a Gateway Determination in accordance with section 56 of the EPA Act 1979. Council received the Gateway Determination to proceed with the exhibition of the Planning Proposal on the 11/2/2010. This Gateway Determination expired in 30 September 2010.

Council received the Section 65 Certificate for the Draft 2011 LEP and resolved to put this on Public Exhibition in mid January 2011. However given the likelihood that the DLEP will need to be re-exhibited, it is unlikely that this DLEP will be gazetted in the near future. To provide a greater level of certainty on the delivery time for this project, it is proposed that Woolworths/Fabcot submit an amended Planning Proposal to Council so that Council can consider applying to obtain a new Gateway Determination from the Department of Planning and Infrastructure.

Council resolved in respect to Item G01 at this meeting, as follows:

- 1. THAT** Council agree to the design of the building façade as set out in the drawings in Appendix 15 of the final PPP Submission to the Department of Local Government.
- 2. THAT** Council approve the amended Management Structure for the Joint Redevelopment Project
- 3. THAT** Council request Woolworths to amend and resubmit the Planning Proposal for the proposed redevelopment. Without limitation, the amended Planning Proposal is to encompass the amended building design and information concerning the classification of Council's Alexander St Car Park Site.
- 4. THAT** Council submit the final Public Private Partnership Submission to the Division of Local Government seeking Ministerial approval under section 358 of the Local Government Act 1993 to enter into a joint venture with Woolworths for the redevelopment project.
- 5. THAT** subject to the approval of the Minister of Local Government under section 358 of the Local Government Act 1993:
 - a. Council execute the Development Deed for the joint redevelopment of the Council's Alexander Street Car Park site, the Woolworths supermarket site and the AusGrid substation site in Crows Nest together with the Call Option and First Right of Refusal.
 - b. Council hereby authorise its Official Seal to be affixed to the Development Deed under the signature of the Mayor and the General Manager together with the Call Option and First Right of Refusal.
 - c. Council agree to the leasing of the Substation site to Ausgrid together with an Agreement for Easement as set out in the lease and an Agreement for Easement attached to the Development Deed on the basis that the Developer must not instruct Ausgrid to commence works (other than design) prior to satisfaction of the Conditions Precedent under the Development Deed.
 - d. Council sign owners' consent on the Development Application for the proposed joint redevelopment.
- 6. THAT** Council approve the documentation and contents of the final Public Private Partnership Submission to the Division of Local Government.



The preferred concept design at **Appendix B** includes the façade details required by Council as a result of the review detailed above.

Therefore, this height change is requested as a result of the close consultation between Fabcot and Council with respect to the preferred concept design for the replacement above ground public car parking structure and in particular the façade detail as this has been the subject of an independent review by architects engaged by Council.

As a result of this architectural review the façade design has a maximum height of 18.45m. However, it should be noted that the plant area which sits well behind the façade has an overall height of 19.15m.

As such, a variation to the provisions of the NSLEP 2001 and associated Map are requested to enable a height of 19.15m – **LEP CHANGE 3**.



2.1.3 LEP CHANGE 4 – Classification of Land

Clause 57 – Operational Land

It is requested that Council reaffirm that the subject land is Operational for the purposes of the *Local Government Act 1993*, under the provisions of Clause 52 of the NSLEP 2001 and inclusion of the site under Schedule 11. Clause 52 states:

52 Operational land

(1) Operational land Schedule

The public land described in Schedule 11 is classified, or reclassified, as operational land for the purposes of the Local Government Act 1993.

(2) Removal of public reserve status and other restrictions under amended section 30

In accordance with section 30 of the Local Government Act 1993, a parcel of land described in Part 2 of Schedule 11, to the extent (if any) that it is a public reserve, ceases to be a public reserve on the commencement of the relevant amending plan and, by the operation of that plan, is discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land and any part of the land, except for:

(aa) those trusts, estates, interests, dedications, conditions, restrictions and covenants (if any) specified in relation to a parcel of land described in Part 2 of Schedule 11, and

(a) any reservations that except land out of a Crown grant relating to the land, and

(b) reservations of minerals (within the meaning of the Crown Lands Act 1989).

(3) Before the relevant amending plan that inserted the description of a parcel of land into Part 2 of Schedule 11 was made, the Governor approved of subclauses (2) and (4) applying to the land.

(4) In this clause, the relevant amending plan, in relation to a parcel of land described in Part 2 of Schedule 11, is the local environmental plan that inserted the description of the parcel of land in that Part.

(5) Land classified or reclassified under original section 30

Land described in Part 1 of Schedule 11 is not affected by the amendments made by the Local Government Amendment (Community Land Management) Act 1998 to section 30 of the Local Government Act 1993

As such, this request is to seek **LEP CHANGE 4** to reaffirm the classification, as part of an amendment to the NSLEP 2001.

LEP Change 4 will involve listing the Council owned portion of the subject site within Part 2 of Schedule 11 of NSLEP2001. This is to ensure that any trusts, easements, covenants and restrictions burdening the Council owned portion of the subject site are extinguished to allow the unfettered redevelopment of the land.

2.2 ZONING HISTORY

Prior to the gazettal of the NSLEP 2001, the main environmental planning instrument which affected the land was the North Sydney Local Environmental Plan 1989 (NSLEP 1989) which was gazetted on 3 November 1989. This plan was accompanied by a map which zoned the subject land as follows in Figure 6:



Figure 6: NSLEP 1989 Site Zoning Details (subject site outlined in red) NTS

Source: North Sydney Council website - <https://ecouncil.northsydney.nsw.gov.au>

The portion of the site at 10 Falcon Street was zoned Commercial A – 3(a) and the portion of the site at 34-42 Alexander Street was zoned Special Uses 'A' Parking – 5(a) under NSLEP 1989.

Under the provisions of the NSLEP 1989 the Table included the following for land zoned 3(a):

1 Without development consent

Home occupations.

2 Only with development consent

Adult services; advertisements; airline terminals; attached dwellings; backpackers' accommodation; boarding houses; brothels; bus stations; car parking; car repair stations; child care centres; clubs; commercial premises; drainage; dwellings; educational establishments; hotels; housing for aged or disabled persons; light industry not exceeding 100 sq metres use; motels; open space; places of assembly; places of public worship; professional consulting rooms; public buildings; public utility undertakings; recreational facilities; refreshment rooms; residential flat buildings; roads; service stations; serviced apartments; shops; showrooms; take-away food shops; taverns; transport terminals; trade or craft workshops; utility installations, other than gas holders or generating works; warehouses.

3 Prohibited

Any purpose other than a purpose included in item 1 or 2.



It is noted that shops and commercial premises were permitted with consent and that there was no requirement for a residential component for the land. There was however an FSR control of 1.5:1 and a height control of 3 storeys.

Whereas the car park land zoned 5(a) under the NSLEP 1989 stated:

1 Without development consent

Dwelling-houses.

2 Only with development consent

The particular purpose indicated by red lettering on the map; any purpose ordinarily incidental or subsidiary to the purpose indicated on the map; attached dwellings; boarding houses; child care centres; drainage; infill development; recreation areas; residential flat buildings; roads; utility installations, other than generating works or gas holders.

3 Prohibited

Any purpose other than a purpose included in Item 1 or 2.

It is noted that commercial premises and shops are not permitted, however Clause 45 enabled certain purposes, as follows:

45 Alexander Street carpark

- (1) *This clause applies to land situated in the Municipality of North Sydney having frontage to Alexander and Burlington Streets, Crows Nest, being lots 9–12, section 4, DP 1265, and known as "The Alexander Street Carpark".*
- (2) *Nothing in this plan prevents a person, with the consent of the Council, from carrying out development on the land to which this clause applies for any of the following purposes:*
Advertisements; car parking; child care centres and kindergartens; commercial premises; Council and community facilities; educational establishments; landscaping; public buildings; professional consulting rooms; recreational and sporting facilities; refreshment rooms; utility installations; sandwich and take-away foods shops.

Therefore, prior to the gazettal of the NSLEP 2001, the land could be used for commercial, retail and car parking purposes without the need to include a residential component.

2.3 NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2002 AND REQUESTED CHANGES

It is requested that as a result of the requested changes to NSLEP 2001 that Council also undertake changes to the NSDCP 2002, which may include:

- Modify the NSDCP 2002 provisions to enable a 16m height, the setbacks at the upper level and other related provisions.
- Public car parking. It is considered that Council should give consideration to the inclusion of specific provisions within the NSDCP 2002 related to public car parks which are owned and operated by Council so as parking provided above Council's DCP standard where allocated for public car parking can be allowed, does not result in new floor space, and enables public parking to be provided in the form of an above ground car parking design.

JUSTIFICATION

SECTION A NEED FOR THE PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

Council at its meeting held on 17 August 2009 resolved to exhibit a Draft Proposal for Crows Nest Town centre and associated Traffic Study. These documents were exhibited from 2 September 2009 until 3 October 2009.

The Council considered a report on the submissions received during the exhibition of the Draft Proposal (Item PDS05) at its meeting held on 9 November 2009 regarding the appropriateness to vary a number provisions which would affect the land:

- the zoning of the subject land from Mixed Use and Special Uses – Parking to Commercial;
- the height of development permitted on the land; and
- setback changes.

Council resolved as follows:

1. *THAT Council amend the draft proposal so that the upper level setbacks are reduced from 6 metres to 4 metres and that the 4 metre upper level setback control be calculated by averaging the setback along the length of any street frontage excluding the Willoughby Lane frontage.*
2. *THAT Council give effect to the setback changes contained in the draft proposal, as amended, by incorporating such changes in the North Sydney draft Development Control Plan 2009.*
3. *THAT Council give effect to the height and zoning changes contained in the draft proposal, as amended, by incorporating such changes in the North Sydney draft Comprehensive Local Environmental Plan 2009.*
4. *THAT Council supports a separate Planning Proposal to amend NSLEP 2001 and NSDCP 2002 that reflects the above as it relates to the block bounded by Falcon, Alexander and Burlington Streets and Willoughby Lane (i.e. the Woolworths site and the Alexander Street Car Park site).*

Council exhibited Draft North Sydney Local Environmental Plan 2010 (Draft Plan) until 31 March 2011. The Draft Plan seeks to rezone the subject site B3 Commercial, a Height of Building of 16m and reaffirm the classification of the land as operational. Council adopted the Draft Plan at its meeting held on 4 July 2011 and forwarded the adopted Draft Plan to the Department of Planning and Infrastructure (DoPI) on 21 July 2011. The Draft Plan is under consideration by the DoPI at the time of preparing this Planning Proposal.

Council considered a report from the General Manager Item G01 at its meeting held on 23 April 2012, which advised in relation to the need for a Planning Proposal as follows:



Council received the Section 65 Certificate for the Draft 2011 LEP and resolved to put this on Public Exhibition in mid January 2011. However given the likelihood that the DLEP will need to be re-exhibited, it is unlikely that this DLEP will be gazetted in the near future. To provide a greater level of certainty on the delivery time for this project, it is proposed that Woolworths/Fabcot submit an amended Planning Proposal to Council so that Council can consider applying to obtain a new Gateway Determination from the Department of Planning and Infrastructure.

Council resolved in relation to Item G01 as follows:

- 1. THAT** Council agree to the design of the building façade as set out in the drawings in Appendix 15 of the final PPP Submission to the Department of Local Government.
- 2. THAT** Council approve the amended Management Structure for the Joint Redevelopment Project
- 3. THAT** Council request Woolworths to amend and resubmit the Planning Proposal for the proposed redevelopment. Without limitation, the amended Planning Proposal is to encompass the amended building design and information concerning the classification of Council's Alexander St Car Park Site.
- 4. THAT** Council submit the final Public Private Partnership Submission to the Division of Local Government seeking Ministerial approval under section 358 of the Local Government Act 1993 to enter into a joint venture with Woolworths for the redevelopment project.
- 5. THAT** subject to the approval of the Minister of Local Government under section 358 of the Local Government Act 1993:
 - a. Council execute the Development Deed for the joint redevelopment of the Council's Alexander Street Car Park site, the Woolworths supermarket site and the AusGrid substation site in Crows Nest together with the Call Option and First Right of Refusal.
 - b. Council hereby authorise its Official Seal to be affixed to the Development Deed under the signature of the Mayor and the General Manager together with the Call Option and First Right of Refusal.
 - c. Council agree to the leasing of the Substation site to Ausgrid together with an Agreement for Easement as set out in the lease and an Agreement for Easement attached to the Development Deed on the basis that the Developer must not instruct Ausgrid to commence works (other than design) prior to satisfaction of the Conditions Precedent under the Development Deed.
 - d. Council sign owners' consent on the Development Application for the proposed joint redevelopment.
- 6. THAT** Council approve the documentation and contents of the final Public Private Partnership Submission to the Division of Local Government.

As such, this Planning Proposal has been prepared and the concept plan (refer to **Appendix B**) has been prepared so as to implement Council's resolutions.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

It is expected that dealing with the planning proposal as a spot rezoning to amend the NSLEP 2001 (along with the associated amendments to North Sydney DCP 2002), are the best means of achieving the objectives and intended outcomes.



3. *Is there a net community benefit?*

It is envisaged that this proposal will result in an overall net community benefit.

It is considered that the spot rezoning will bring about a number of net community benefits, including:

- Significant improvement in the range of retail facilities that will be available to local residents particularly in terms of convenient supermarket retailing. Currently, residents of the region have limited choice in terms of supermarkets, and the expansion of the Crows Nest Woolworths supermarket will likely improve choice and also allow for price competition.
- Residents of the locality and region would be provided with a wider range of conveniently located food and grocery items within close proximity to their homes.
- The creation of additional employment which will result from the project, both during the construction period, and more importantly, on an ongoing basis once the centre is completed and operational. This includes a number of youth employment opportunities with retail developments generally employing a large number of younger staff.
- The provision of additional publicly accessible and controlled parking.

It is concluded that the combination of the substantial positive economic impacts serve to more than offset the trading impacts that could be anticipated for a small number of the existing facilities in the region. Further, the impacts would not threaten the viability of any of these retailers or centres.

An Economic Needs report associated with the concept has been prepared and is attached at **Appendix D**. This outlines a number of benefits which will result from the proposal.

SECTION B RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

4. *Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

The Sydney Metropolitan Strategy (SMS) *City of Cities – A Plan for Sydney's Future* was released by the NSW Government in December 2005 and updated in December 2010 with the Metropolitan Plan for Sydney 2036.

The SMS provided the overall guiding vision for the future strategic planning of Sydney over a 25 year period. The SMS was a broad framework to promote and manage



sustainable growth. The SMS set the platform for more detailed planning in ten sub-regions.

On December 16, 2010, the NSW Government launched the Metropolitan Plan for Sydney 2036 (Metropolitan Plan) to shape the future growth of Australia's major global city and update the SMS.

The Metropolitan Plan incorporates the fully funded \$50.2 billion Metropolitan Transport Plan. It will make Sydney a more connected, sustainable city as the population grows over the next 25 years.

The publication of the Metropolitan Plan for Sydney 2036 followed a scheduled five-year update of the 2005 Sydney Metropolitan Strategy. The Metropolitan Plan advises:

By 2036, Sydney will be more compact, networked city with improved accessibility, capable of supporting more jobs, homes and lifestyle opportunities within the existing urban footprint.

The Metropolitan Plan seeks to address the challenges facing Sydney through an integrated, long-term planning framework based on a number of key directions and key policy settings, including:

1. The Plan advises in relation to "strengthening a city of cities":

This Metropolitan Plan recognises the contribution of the entire 'Global Sydney Region' including all its centres, employment lands and resources in building the productivity and status of the city region. It aims to strengthen Sydney's city of cities structure by:

- *Promoting the regional cities to underpin sustainable growth across Sydney*
- *Achieving a compact, connected, multi-centred and increasingly networked city structure*
- *Containing the urban footprint and achieving a balance between greenfields growth and renewal in existing urban areas*
- *Supporting, protecting and enhancing nationally and internationally significant infrastructure in the metropolitan area*
- *Identifying and planning for infrastructure to support Global Sydney*
- *Constantly strengthening Sydney's capacity to attract and retain global businesses and investment*
- *Strengthening Sydney's role as a hub for NSW, Australia and South East Asia through better communications and transport connections*
- *Strengthening Sydney's position as a contemporary global tourism destination*
- *Ensuring Sydney continues to support major events in iconic locations and remains competitive in the global event and convention market*
- *Planning and coordinating delivery of infrastructure to meet metropolitan housing and employment growth targets*

2. The Plan advises in relation to centres:

The Metropolitan Plan aims to grow and renew Sydney's network of centres by:

- *Locating at least 80 per cent of all new housing within the walking catchments of existing and planned centres of all sizes with good public transport*



- *Focusing activity in accessible centres and limiting out-of-centre commercial development*
- *Planning for centres to grow and change over time*
- *Planning for new centres in existing urban areas and greenfield release areas*
- *Planning for urban renewal in identified centres where public transport capacity exists or is being expanded*
- *Identifying urban renewal opportunities on State and Commonwealth Government land*
- *Maximising urban renewal opportunities in social housing areas by including other Government services in renewal programs*
- *Using urban renewal of social housing to better meet the needs of Aboriginal people*
- *Providing for the protection and adaptive reuse of heritage items in centres undergoing urban renewal*
- *Investigating the economic case for targeted State investment in urban renewal in more challenging localities*
- *Providing sufficient capacity for the clustering of businesses and knowledge-based activities in Major and Specialised Centres*
- *Promoting identified future directions for Major and Specialised Centres through subregional and local planning, infrastructure planning and location of services*

3. The Plan advises in relation to "transport for a connected city:

This Plan will build on Sydney's transport network by:

- *integrating transport and land use planning and decision-making to increase public transport use*
- *implementing the \$50.2 billion package of measures in the NSW Government's Metropolitan Transport Plan, including major rail expansion projects and road upgrades to increase capacity across the transport system*
- *focusing urban renewal opportunities around existing and planned transport capacity*
- *identifying key corridors for future expansion of the transport network and identifying corridors with long-term transformative potential for future investigation*
- *working with the Federal Government to deliver further transport infrastructure and improvements*
- *developing a 25 year freight strategy to support the growing freight task and a productive economy, focusing on initiatives to get more freight onto rail*
- *investigating further measures to encourage a shift to public transport and active transport including a metropolitan parking policy, modal strategies for rail, bus and roads, workplace travel plans, NSW BikePlan and State Walking Strategy*
- *implementing the bus priority program and other measures across key bus corridors to improve reliability and travel times*
- *continuing to roll out the 1,000 new buses focusing on growth corridors linking to employment areas*
- *delivering an electronic integrated ticketing system for the metropolitan public transport network by 2014*
- *ensuring coordinated timetabling across rail, bus and ferry services and implement the Mode Interchange Program to improve the customer experience*

It is noted that the Plan seeks to identify key corridors of which Parramatta Road is one as shown in the following Figure 5:

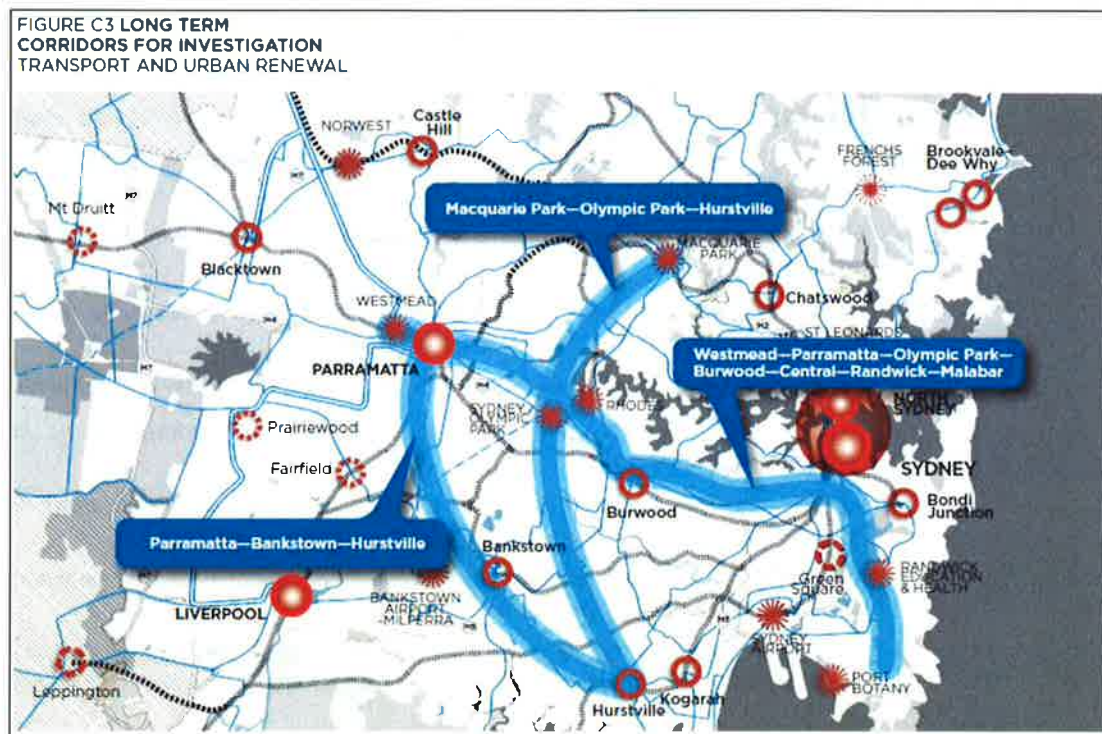


Figure 5: Metropolitan Plan for Sydney 2036 – Extract Figure C3

4. The Plan advises in relation to housing Sydney's population:

The Metropolitan Plan will help meet Sydney's future housing needs by:

- Locating at least 70 per cent of new housing within existing urban areas and up to 30 per cent in new release areas
- Locating at least 80 per cent of new homes within the walking catchments of existing and planned centres of all sizes with good public transport
- Setting new housing targets in Subregional Strategies and Local Environmental Plans
- Ensuring local planning controls include more low rise medium density housing in and around smaller local centres
- Examining ways to achieve the Federal targets for disability-friendly housing
- Improving housing affordability by exploring incentives to deliver moderately priced rental and purchase housing across all subregions
- Setting affordable housing targets for State urban renewal projects on a case by case basis
- Improving the quality of new housing development and urban renewal by strengthening the Government's role in ensuring good design outcomes
- Appointing SEPP 65 Design Review Panels for areas of high growth, including the Strategic Centres
- New urban renewal mechanisms including the Sydney Metropolitan Development Authority

5. The Plan advises in relation to growing Sydney's economy:

The Metropolitan Plan will help maintain Sydney's strong and dynamic economy by:



- *Ensuring adequate land for economic activity, investment and jobs in the right locations using new subregional employment capacity targets*
- *Promoting employment in Western Sydney by facilitating growth in strategic centres and developing greenfield employment lands with detailed land use and infrastructure plans*
- *Establishing a new Employment Lands Task Force to promote and ensure the orderly development of employment lands*
- *Ensuring an adequate supply of retail, office space and business parks focusing Sydney's economic growth and renewal, employment and education in highly accessible strategic centres*
- *Delivering spatial components of the NSW Business Sector Growth Plan*
- *Strengthening clusters of activity in Specialised Centres, particularly those for high growth and high value sectors, and supporting the emergence of new clusters*
- *Promoting development of education, research and development clusters around TAFEs, universities and health infrastructure in accessible centres to foster skills development, capacity for innovation and lifelong community learning*
- *Preparing and implementing measures to assist development of low cost space for creative industries and business start-ups*
- *Strengthening existing and emerging freight and industry clusters*
- *Exploring options to increase the diversity and accessibility of higher education options in Western Sydney*
- *Working with the Commonwealth to support Sydney's nationally significant economic gateways, including meeting future aviation infrastructure needs and building capacity in and around Sydney Airport and Port Botany*
- *Planning for long-term capacity improvements for Port Kembla and Port of Newcastle, as part of the NSW Freight Strategy*
- *Building the capacity of Sydney's rail freight network*

6. The Plan advises in relation to tackling climate change and protecting Sydney's natural environment:

This Metropolitan Plan will address climate change and protect Sydney's environment by:

- *Developing a climate change adaptation strategy for Sydney in collaboration with Councils*
- *Incorporating climate change adaptation into centre renewal*
- *Examining a minimum sustainability benchmark for new commercial buildings*
- *Capitalising on one-off abatement opportunities from major projects*
- *Reducing industrial emissions by encouraging sharing of energy and by-products*
- *Continuing to promote the uptake of low emissions and renewable energy technology*
- *Establishing a program for updating BASIX to expand its scope and improve its stringency*
- *Promoting street tree planting and other green cover opportunities in grants programs, especially in Western Sydney*
- *Developing and adopting Sustainability Guidelines to guide major project assessment*
- *Integrating environmental targets into infrastructure and land use planning*



- *Achieving water quality outcomes by embedding water sensitive urban design and principles and stormwater targets in local plans*
- *Implementing the Metropolitan Water Plan to ensure water supply for the next 25 years*
- *Ensuring integrated water cycle management for new release and urban renewal areas*
- *Implementing the NSW Biodiversity Strategy to protect identified priority conservation areas and guide land use planning*
- *Planning appropriately for development adjacent to very busy roads*
- *Avoiding noise-based land use conflict through strategic planning and the development assessment processes*

7. The Plan advises in relation to achieving equity, liveability and social inclusion:

The Metropolitan Plan aims to deliver a more equitable, liveable and inclusive city by:

- *Ensuring equity, liveability and social inclusion are integrated into plan making and planning decision-making*
- *Preparing criteria to identify major developments that require formal social impact assessment*
- *Setting equity, liveability and social inclusion targets for major urban renewal proposals*
- *Ensuring the special needs of particular groups are considered in plan making and planning decision-making*
- *Ensuring Aboriginal Community Action Plans developed under the Partnership Community Program align with Subregional Strategies*
- *Implementing the NSW Homelessness Action Plan and Regional Homelessness Action Plans*
- *Ensuring appropriate social infrastructure and services are located near transport, jobs and housing*
- *Delivering parks, playing fields and public spaces that suit new multiple uses*
- *Developing Western Sydney Parklands as a major asset for Western Sydney*
- *Encouraging regional Aboriginal cultural heritage assessments and develop new tools and protocols for inclusion in LEPs and other planning instruments*
- *Ensuring Western Sydney's cultural and artistic life is strengthened and encouraged to support future urban growth*
- *Strengthening cultural and related activities through identification and protection of appropriate venues, places and clusters*

8. The Plan advises in relation to balancing land uses on the city fringe:

This Metropolitan Plan will achieve sustainable outcomes on the city's fringe by:

- *Focusing most greenfield land release and urban development in the North West and South West Growth Centres*
- *Planning for at least 70 per cent of Sydney's new homes to be in existing urban areas*
- *Simplifying the land release process to ensure sufficient land is in the pipeline to meet housing requirements and avoid price pressures*



- *Delivering an Agriculture Policy for Sydney to help maintain viable local food production*
- *Mapping areas to inform future strategic policy making with respect to agricultural activities and resource lands*
- *Promoting agricultural activities positively in Sydney to reduce land use conflict*
- *Preparing and releasing guidance on planning for agricultural activities*
- *Planning for the sustainable management of construction materials*
- *Finalising and implementing the NSW Soils Policy*

9. The Plan advises on delivering the plan:

The Metropolitan Plan provides the vision and spatial context for whole of Government decisions which ensure Government investment priorities are focused on the Plan's outcomes. The Plan will maximise the affect of Government involvement in the transformation of Strategic Centres and sites, especially urban renewal and greenfield release areas and ensure strategic directions are reflected in local plans.

Clear pathways for decision-making and practical means of implementation are essential to deliver the Plan's vision and strategic directions, with specific implementation approaches accompanying the objectives and actions in each chapter. This Plan will ensure delivery of its objectives by:

Focused investment:

- *integrating decision-making across government agencies*
- *developing strongly integrated land use and infrastructure planning processes*
- *prioritising nationally significant infrastructure*
- *implementing organisational arrangements to ensure well integrated land use and infrastructure planning*
- *strengthening strategic infrastructure planning processes through a centralised infrastructure planning capability*
- *enhancing processes for strategic infrastructure project assessment and selection*

State involvement in strategic places, urban renewal and land release:

- *introducing new mechanisms to achieve urban renewal: the Sydney Metropolitan Development Authority and the Urban Renewal State Environmental Planning Policy*
- *streamlining and delivering a more transparent annual land release process*
- *establishing a Land and Housing Supply Taskforce and an Employment Lands Taskforce*
- *reviewing the precinct planning sequence in Sydney's Growth Centres*

Implementation through local plans:

- *driving implementation through Subregional Strategies*
- *aligning subregional planning with the strategic directions of the Metropolitan Plan*
- *preparing revised Subregional Strategies in partnership with local government and State agencies*
- *ensuring LEPs deliver the intent and yield anticipated under the Metropolitan Plan*

Monitoring and review:

- *establishing a representative group to oversee and publicly report to Government annually on the progress of the Metropolitan Plan*

- *undertaking a comprehensive review of the Plan every five years to draw on new Census data*
- *adjusting the Metropolitan Plan to enable adaptation to any major challenges in line with COAG criteria to identify critical review trigger points*
- *engaging the public in the Metropolitan Plan five yearly review*

The NSW Government placed on public exhibition in July 2007, the draft Inner North Subregional Strategy (Draft INSRS). The Draft INSRS seeks to provide:

- *A vision for the future role of the sub-region;*
- *Clarity on the future roles of centres;*
- *Staging and prioritisation of renewal;*
- *A framework for potential agreements between local governments concerning:*
 - *Coordinating planning*
 - *Funding and development contributions*
 - *Local transport*
 - *Open space networks*
 - *Biodiversity*
- *A framework for prioritisation of State infrastructure;*
- *Housing targets (amount, distribution, and mix); and*
- *Employment capacity targets for local planning (amount, distribution, and mix).*

The Draft INSRS is the NSW Government's long term use plan for the region, which covers the North Sydney, Hunters Hill, Mosman, Willoughby, Lane Cove and Ryde local government areas. The Draft INSRS is the applicable strategy for the locality.

The subregional strategy contains policies and actions designed to cater for the subregion's projected housing and employment growth over the period to 2031.

Key directions include:

- *Strengthening the employment role of the global economic corridor from North Sydney to Macquarie Park;*
- *Improving housing choice and creating liveable and sustainable communities;*
- *Encouraging public transport use;*
- *Protecting and promoting the Subregion's harbour setting;*
- *Supporting the Subregion's knowledge assets such as the Royal North Shore Hospital and Macquarie University*

Crows Nest has been identified as a village centre under the SMS and the Metropolitan Plan. The Draft INSS has specified an employment target of 15,000 jobs by 2031 for North Sydney and a housing growth target of 5,500 by the year 2031.

Based on the information gathered by Council for the purposes of the Draft RDS (as formally adopted by Council on 20 June 2011), Council has, without changing the existing planning controls or zoning, been able to identify housing for in excess of 7,000 dwellings in the North Sydney Local Government Area by 2031. Therefore, even with the proposed rezoning to enable the site to be developed without a residential component, the Draft INSS will be easily accommodated.



In terms of employment generation, the proposed development will result in 194 additional job on-site, as referenced at page 33 of the Economic Needs Assessment prepared by Pitney Bowes MapInfo at Appendix D.

The planning proposal is considered to be consistent with the Draft INSRS, as summarised:

- The Draft INSRS identifies Crows Nest as a 'village'. A village is defined as:
A strip of shops and surrounding residential area within a 5 to 10 minute walk contains a small supermarket, hairdresser, take-away food shops. Contain between 2,100 and 5,000 dwellings.

The site is within a nominated "Village" Centre. Providing improved retail options may encourage increased services such as child care centres and other shops or the like within the established Crows Nest village, ultimately improving the village atmosphere.

It is acknowledged that the Draft INSRS identifies that a "contains a small supermarket", however this restriction has since been lifted from subsequent Regional and Subregional Policies. It is noted that the Department of Planning in a subsequent Regional Strategy "Mid-North Coast" (March 2009) and Draft Subregional Strategies for Sydney City and Inner West has removed this restrictive limitation on the number of supermarkets within a "Village".

With respect to the Draft Inner West Subregional Strategy this now states in relation to Village, "Villages are smaller settlements which have limited local services."

5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Council resolved to vary the zoning of the subject land and the height provisions as they currently apply under the NSLEP 2001.

Council resolved that the zoning of the land be changed back to Commercial and this zoning form part of the Draft North Sydney Local Environmental Plan 2011. In addition, Council resolved to consider a planning proposal for the subject land to amend NSLEP 2001 and NSDCP 2002.

As such, this planning proposal seeks to implement Council's resolution via an amendment to NSLEP 2001.

This planning proposal is considered to be consistent with the desired outcomes for Crows Nest.

The Planning Proposal is also considered to be consistent with the 2020 Vision: North Sydney Community Strategic Plan 2009 – 2020.



6. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

There are no existing State Environmental Planning Policies (SEPPs) or known draft policies that would prohibit or restrict the planning proposal. An assessment against relevant SEPPs is provided below:

The proposal is consistent with the relevant State Environmental Planning Policies (SEPPs) as follows:

SEPP (Infrastructure) 2007

The concept development resulting from a rezoning may be 'traffic generating' as per this SEPP, as such consultation will be undertaken with the NSW Roads and Traffic Authority to manage any relevant issues.

SEPP 55 (Remediation of Land)

Appendix C includes a Transport Report. **Appendix E** provides a summary of consistency with all SEPPs.

Draft Centres Policy

The Draft Centres Policy provides that sound planning outcomes should promote development in 'a network of centres' in order to accommodate 'the broad future pattern of future growth in each region and Council area'.

The view of the Draft Centres Policy is that the commercial make-up and functions of each centre will vary according to their scale and nature and the catchment they serve; whilst a large town centre area may provide a wide range of shopping and commercial activities commensurate with its role in the city/town, a group of local shops/takeaway stores may provide convenience services to a small section of the community in which it is based.

The Draft Centres Policy recommends that:

- the planning system should be flexible enough to enable centres to grow and new centres to form
- the planning system should ensure that the supply of available floor space always accommodates the market demand, to help facilitate new entrants into the market and promote competition and
- retail and commercial development should be well designed to ensure it contributes to the amenity, accessibility, urban context and sustainability of centres.

7. Is the planning proposal consistent with applicable Ministerial Directions (s117 directions)?

1.1 Business and Industrial Zones

- The concept development will encourage employment growth in a recognised village centre; and
- Will not reduce employment related floor space – it will increase employment related floor space.

- It increases supermarket and retail choice in Crows Nest within close proximity to residential areas, therefore encouraging pedestrian transport;
- Two bus stops are located adjacent to the site on the Falcon Street and Alexander Street frontages, which are identified as a strategic bus corridors; and
- Consolidates the number of vehicle trips needed as it incorporates a variety of retail uses and choices.



6.3 Site Specific Provisions

This Planning Proposal seeks the inclusion of a site specific provision enabling development for the purposes of a car park as an additional permitted use on the site. This renders the proposal justifiably inconsistent with this direction. The proposal is otherwise consistent with this direction as it proposes to rezone the site to an existing zone already applying in the environmental planning instrument without imposing any development standards or requirements in addition to those already contained in that zone.

Appendix F provides a summary of consistency with all Section 117 Directions.

SECTION C ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

There are no critical habitat or threatened species, populations or ecological communities or their habitats on the site. There does not appear to be a need for a Local Environmental Study.

It is considered unlikely that the site will contain critical habitat as it has been cleared of vegetation as part of urbanisation of Crows Nest many years ago.

9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No other likely environmental effects are envisaged as a result of the planning proposal.

This planning proposal is not located on land that is affected by any land use planning constraints or subject to natural hazards. The land is not identified as Bushfire Prone Land, nor is it affected by potential Flood inundation or subject to potential landslip.

A Traffic Report assessing the impacts of the proposed Concept (dated October 2008 based on a design which allowed for slightly more parking spaces at the upper level) has also been prepared and can be found at **Appendix C**.

10. How has the planning proposal adequately addressed any social and economic effects?

The planning proposal will lead to positive social and economic effects.

This planning proposal will achieve an immediate economic stimulus and overall benefit to the community as it will provide much needed shopping and parking facilities in the area as well as generating employment opportunities for local residents, while at the same time providing for choice and competition in the local market.



This planning proposal will enable a retail facility to be located on the site which, when operational, will generate 205 jobs. The employment generating capacity of the development has been specifically considered in the economic impact assessment prepared by Pitney Bowes MapInfo which can be found at **Appendix D** of this report.

The proposal will have a positive social impact for the Crows Nest area. Positive social impacts include the following:

- The site's well positioned location in Crows Nest with ready access to the Pacific Highway and Falcon Street will ensure that the proposed retail development and public car parking facility will not impact on local roads, residential properties or existing development, and will service the needs of the Crows Nest business and residential population while not threatening the existing retail offer in Crows Nest or the existing and future retail offer of other nearby centres.
- The site is adjacent to existing business and community facilities located in Crows Nest. This enables a clustering of services and provides convenient access to a wide range of services.
- The concept proposes to accommodate the existing bus facility at its frontages to Alexander Street and Falcon Street, and the taxi stand facility at its Burlington Street frontage. Pedestrian access to the proposed retail facility has been accommodated within the concept design with clear paths of travel.
- The concept includes capacity to link pedestrian access to the existing bus stop facility at the Alexander Street and Falcon Street frontages of the site with Burlington Street, and capacity to link to cycle networks, so as to encourage a range of modes of transport to access the site.
- The concept will allow for shared trips due to the site's proximity/access to the Pacific Highway and Falcon Street which includes existing road, cycle and bus networks.
- New and vibrant streetscape presentations to each street frontage with design elements addressing the major focal points at each corner to the retail facility.

There are no known items or places of European or aboriginal cultural heritage. Therefore, it is not envisaged that this planning proposal will have any adverse impacts on such items.

The Draft Centres Policy relevant principles are discussed below demonstrating this.

- **Principle 1** – *Retail and commercial activity should be located in centres to ensure the most efficient use of transport and other infrastructure, proximity to labour markets, and to improve the amenity and liveability of those centres.*



The rezoning is consistent with this Principle.

- **Principle 2** – *the planning system should be flexible enough to enable all centres to grow, and new centres to form.*

A provision, such as Clause 32 of the NSLEP 2001 which requires floor space within an employment generating development to be allocated to residential usage, is contrary to this principle, especially considering the forecasted population growth for the locality. .

- **Principle 4** - *The planning system should ensure that the supply of available floor space always accommodates the market demand, to help facilitate new entrants into the market and promote competition.*

Competition between businesses is the most effective means of delivering efficient, customer focused goods and services. Greater competition, with more operators in a market, creates incentives for business to seek the most efficient methods of production and produce goods and services that customers want. This should result in greater choice and higher quality and cheaper goods and services for consumers.

A provision, such as Clause 32 of the NSLEP 2001 is contrary to this principle.

- **Principle 5** – *The planning system should support a wide range of retail and commercial premises in all centres and should contribute to ensuring a competitive retail and commercial market.*

A provision, such as Clause 32 of the NSLEP 2001, is contrary to this principle as it prohibits the opportunity for competition by requiring a portion of the available floor space to be allocated for a residential purpose.

Further, the Draft Centres Policy moves away from the earlier 'hierarchy of centres' and now identifies a more flexible 'network of centres' in its 'typology of centres'. Section 3 of the Draft Centres Policy states:

The centre typology has been designed as a descriptive tool to categorise the likely future function of centres, not a prescriptive tool to limit the growth of those or other centres in the future. The categorisation of a centre as a particular typology is not intended to limit the future growth or diversity of that centre.

Refer to **Appendix G** for assessment against Evaluation Criteria provided in NSW Department of Planning Draft Centres Policy, Planning for Retail and Commercial Development.

SECTION D STATE AND COMMONWEALTH INTERESTS

11. Is there adequate public infrastructure for the planning proposal?

Adequate public infrastructure is provided for the planning proposal:

- The site has a central location in Crows Nest with ready access to the Pacific Highway and Falcon Street;
- The site is adjacent to existing commercial, retail and community facilities in Crows Nest. This enables a clustering of services and provides convenient access to a wide range of services;



- The concept for the site includes the provision of parking facilities;
- New and accessible public amenities/toilet facilities are included in the concept design;
- Additional demand on community services will be addressed through Council's Section 94 Contribution Plan which applies to the land.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

State and Commonwealth public authorities will be consulted following the outcomes of the gateway determination. Consultation will be carried out in accordance with Section 57 of the *EP&A Act*.



3. CONCLUSION

This Planning Proposal has been prepared to request Council amend the existing zoning and planning controls contained within the North Sydney LEP 2001 and North Sydney Development Control Plan 2002 to enable on the land bounded by Falcon Street, Alexander Street, Burlington Street and Willoughby Lane to be redeveloped as per the concept plan to comprise:

1. Woolworths supermarket over two levels – some 3,996 square metres;
2. Replacement and additional public car parking in an above ground parking facility over 4 levels;
3. New arcade/mall with access at Burlington Street frontage;
4. New specialty retail shops with frontage to Burlington Street and mall – some 465 square metres;
5. Lift access to all levels and public car parking;
6. New accessible public toilet amenities; and
7. Relocate substation from Willoughby Lane frontage to below street level chamber at corner of Burlington and Alexander Streets.

It is concluded that this planning proposal is:

- prepared to ensure all matters required to be addressed under the requirements for a planning proposal have been adequately addressed;
- consistent with State Government policies;
- consistent with all Ministerial Directions;
- consistent with a decision already made by council in relation to local planning;
- suitable for the site and will not adversely impact any existing or future centres in North Sydney; and
- appropriate, as it will bring about a number of net community benefits.

As such, it is requested that Council support the planning proposal.