

12 June 2014

**PRE-GATEWAY REVIEW
144-154 PACIFIC HIGHWAY AND 18 BERRY STREET, NORTH SYDNEY**

INTRODUCTION

The subject pre-Gateway review application was lodged by the proponent with the Department of Planning and Environment (the Department) on 9 December 2013. The review was requested because North Sydney Council did not support the proponent's planning proposal.

On 23 May 2014 the General Manager (Metropolitan Delivery) of the Department referred the review to the Planning Assessment Commission (PAC) for advice. Abigail Goldberg (Chair) and Gabrielle Kibble AO constituted the Commission for this matter.

BACKGROUND

The site has been the subject of a number of planning applications, as summarised below:

2013 Court approval

In January 2013 consent was granted by the Land and Environment Court for a mixed use commercial/residential building on the site (with the exception of 154 Pacific Highway).

2013 Planning Proposal

On 18 November 2013 Council resolved not to support a Planning Proposal to reduce the minimum non-residential floor space ratio (FSR) to 0.5:1 on the combined sites.

2013 Joint Regional Planning Panel (JRPP) approval

On 17 December 2013 the JRPP granted consent to the construction of a mixed use building on the entire site (that is, including 154 Pacific Highway). The consent was issued subject to Level 3 (along with levels 1 and 2) being occupied by commercial floor space rather than residential, as proposed. The consent resulted in a commercial FSR of 2.24:1 and a building height that exceeded the maximum building height provided under North Sydney LEP 2013 by 31 metres.

PLANNING PROPOSAL

The site is zoned B4 Mixed Use under North Sydney Local Environmental Plan (LEP) 2013 and is subject to the following FSR controls:

	Minimum non-residential FSR	Maximum non-residential FSR	Proposed non-residential FSR
144-154 Pacific Hwy	3.0:1	4.0:1	0.5:1
18 Berry Street	0.5:1	No maximum	0.5:1 (no change)
Sites combined	2.24:1	4.0:1	0.5:1

The Planning Proposal seeks to reduce the minimum non-residential FSR of 144-154 Pacific Highway from 3.0:1 to 0.5:1, with no restriction on the maximum. The FSR on the remainder of the site (18 Berry Street) would be unaffected by the proposal.

MEETINGS/CONSULTATION

The PAC met with the proponent and representatives on North Sydney Council on 4 June 2014.

Council

The key reasons for Council objecting to the planning proposal were outlined as follows:

- The site has strategically been allocated a minimum non-residential FSR of 3.0:1;
- The reduction in non-residential FSR will have a negative impact on the North Sydney CBD and result in a loss of future employment opportunities;
- The Department has approved residential development on other sites where non-residential was the Council's preferred land use; and
- It will be difficult for the Council achieve state government employment targets if more commercial floor space is lost.

Proponent

The following justification for the proposal was provided by the proponent:

- The site is zoned mixed use and is not located within North Sydney's commercial core;
- The current development consent for the site (issued by the JRPP) has a non-residential FSR of 1.4:1, which exceeds what is requested as part of the Planning Proposal;
- A minimum non-residential FSR of 3.0:1 is not commercially viable due to the lack of demand in the area; and
- Precedents of other sites in North Sydney, including those adjacent to the subject site, where a reduction in non-residential FSR has been approved.

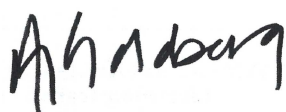
COMMISSION'S COMMENTS

The Commission has carefully considered the Planning Proposal and supporting documentation submitted by the proponent, as well as the Department's pre-Gateway review and the submissions prepared by North Sydney Council.

Having regard to all relevant matters, the PAC has decided that there is adequate justification for the Planning Proposal to proceed to the Gateway for detailed review. In reaching this decision the PAC considered the site's mixed use zoning and its location at the north-western edge of the North Sydney CBD, outside of the B3 Commercial Core zone. In addition, the proposed reduction in non-residential FSR is consistent with the proportion of commercial development required on properties immediately to the north and west, which are subject to a minimum non-residential FSR of 0.5:1.

COMMISSION'S RECOMMENDATION

The Commission considers that the proponent's planning proposal has merit to proceed to the Gateway for determination under section 56 of the *Environmental Planning and Assessment Act 1979*.



Abigail Goldberg
Commission Chair



Gabrielle Kibble AO
Commission Member