

**DECISION OF 3641st COUNCIL MEETING
HELD ON 9 DECEMBER 2013**

778. PDS05: Planning Proposal and draft Voluntary Planning Agreement - 7-19 Albany Street, St Leonards

Report of Alex Williams, Senior Strategic Planner

Council has received a Planning Proposal and draft Voluntary Planning Agreement (VPA) relating to the site at 7-19 Albany Street, St Leonards. The site is located within the area given focus by the St Leonards/Crows Nest Planning Study - Precinct 1, which was adopted by Council in October 2012.

The Planning Proposal and draft VPA have been assessed against the implementation recommendations contained within the St Leonards/Crows Nest Planning Study - Precinct 1. The Planning Proposal and draft VPA are considered to implement the Built Form Masterplan and Open Space and Pedestrian Masterplan for Precinct 1 to the fullest extent practicable.

The Planning Proposal is accompanied by a draft Voluntary Planning Agreement that proposes a monetary contribution to assist Council in meeting the open space objectives for the area as articulated by the St Leonards/Crows Nest Planning Study - Precinct 1.

Recommending:

1. THAT Council forward the Planning Proposal to the Minister for Planning in order to receive a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act 1979.

2. THAT the draft Voluntary Planning Agreement between North Sydney Council and Austino St Leonards Pty Limited be exhibited concurrently with the subject Planning Proposal conditioned on it receiving a Gateway Determination.

The Motion was moved by Councillor Gibson and seconded by Councillor Baker

Voting was as follows:

For/Against 8/0

Councillor	Yes	No	Councillor	Yes	No
Gibson	Y		Morris	Y	
Reymond		Out	Robertson		Out
Clare	Y		Burke		Absent
Baker	Y		Butcher		Absent
Carr	Y		Marchandean		Out
Beregi	Y		Bevan	Y	
Barbour	Y				

RESOLVED:

1. THAT Council forward the Planning Proposal to the Minister for Planning in order to receive a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act 1979.

2. THAT the draft Voluntary Planning Agreement between North Sydney Council and Austino St Leonards Pty Limited be exhibited concurrently with the subject Planning Proposal conditioned on it receiving a Gateway Determination.



Report to General Manager

Attachments:

1. Planning Proposal - 7-19 Albany Street, St Leonards
2. Draft VPA - North Sydney Council and Austino St Leonards Pty Limited

SUBJECT: Planning Proposal and draft Voluntary Planning Agreement - 7-19 Albany Street, St Leonards

AUTHOR: Alex Williams, Senior Strategic Planner

EXECUTIVE SUMMARY:

Council has received a Planning Proposal and draft Voluntary Planning Agreement (VPA) relating to the site at 7-19 Albany Street, St Leonards. The site is located within the area given focus by the St Leonards/Crows Nest Planning Study - Precinct 1, which was adopted by Council in October 2012.

The Planning Proposal and draft VPA have been assessed against the implementation recommendations contained within the St Leonards/Crows Nest Planning Study - Precinct 1. The Planning Proposal and draft VPA are considered to implement the Built Form Masterplan and Open Space and Pedestrian Masterplan for Precinct 1 to the fullest extent practicable.

FINANCIAL IMPLICATIONS:

The Planning Proposal is accompanied by a draft Voluntary Planning Agreement that proposes a monetary contribution to assist Council in meeting the open space objectives for the area as articulated by the St Leonards/Crows Nest Planning Study - Precinct 1.

RECOMMENDATION:

1. **THAT** Council forward the Planning Proposal to the Minister for Planning in order to receive a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act, 1979.
2. **THAT** the draft Voluntary Planning Agreement between North Sydney Council and Austino St Leonards Pty Limited be exhibited concurrently with the subject Planning Proposal conditioned on it receiving a Gateway Determination.

Signed: _____

Endorsed by: _____
Manager Strategic Planning

LINK TO DELIVERY PROGRAM

The relationship with the Delivery Program is as follows:

Direction: 1 Our Living Environment

Outcome: 1.2 Quality urban greenspaces
1.5 Public open space, recreation facilities and services that meets community needs

Direction: 2 Our Built Environment

Outcome: 2.2 Improved mix of land use and quality development through design excellence
2.3 Vibrant, connected and well maintained streetscapes and villages that build a sense of community
2.5 Sustainable transport is encouraged

Direction: 3 Our Economic Vitality

Outcome: 3.1 Diverse, strong, sustainable and vibrant local economy

Direction: 4 Our Social Vitality

Outcome: 4.1 North Sydney community is connected
4.7 North Sydney community is active and healthy

BACKGROUND

Development Applications

On 3 October 2012, the Joint Regional Planning Panel gave consent via DA162/12 to a mixed-use development at 11-19 Albany Street, St Leonards. The approval constitutes a 5.7 metre breach of the existing 26 metre height control. The approval provides little in the way of public benefit and, if constructed, will have significant amenity impacts on apartments to the south of Pole Lane.

On 24 September 2013, a Development Application was lodged for the consolidated 7-19 Albany Street site (DA323/13) which seeks to extend the built form approved via DA162/12 onto land at 7-9 Albany Street. While yet to be determined, the DA323/13 also provides no tangible public benefit and, if approved and constructed, will have significant amenity impacts on apartments to the south of Pole Lane.

St Leonards/Crows Nest Planning Study

The St Leonards/Crows Nest Planning Study - Precinct 1 was adopted by Council on 22 October 2012 and presents an Open Space and Pedestrian Masterplan and a Built Form Masterplan that together provide a holistic approach to planning and development in the precinct. The Masterplans include provision for:

- An expanded Hume Street Park with a pedestrian link to Willoughby Road;
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- Widened footpaths along the Pacific Highway and key pedestrian routes; and
- High amenity mixed use buildings on key sites.

Council staff have been working with developers and property owners in implementing the Built Form Masterplan and maximising open space and public amenity for the community through implementation of the Open Space and Pedestrian Masterplan. The first site specific Planning Proposal and associated Voluntary Planning Agreement relating to the site at 545-553 Pacific Highway, St Leonards, is currently resulting in a development consistent with Council's strategic vision for the area that also contributes to the provision of additional open space in the precinct. The Planning Proposal and Voluntary Planning Agreement relating to 7-19 Albany Street, St Leonards, constitutes the second application relating to a consolidated site resulting from the St Leonards/Crows Nest Planning Study - Precinct 1.

CONSULTATION REQUIREMENTS

Community engagement will be undertaken in accordance with Council's Community Engagement Protocol and any Gateway Determination issued by the Department of Planning and Infrastructure.

SUSTAINABILITY STATEMENT

The following table provides a summary of the key sustainability implications:

QBL Pillar	Implications
Environment	<ul style="list-style-type: none"> • New green spaces in built up areas reduce heat island effects and reduce the need for artificial cooling. • Open space and greening of public domain potentially provides for ecological processes and habitat.
Social	<ul style="list-style-type: none"> • Improved street level amenity will make pedestrian journeys more enjoyable. • Improved linkages between origins and destinations (train station, Willoughby Road, etc) will improve connectivity and make areas of high amenity more accessible for residents/workers. • Rejuvenation and activation of depressed areas will result in improved night-time safety. • New civic and/or open space in areas of high demand will operate as community meeting places. • Improved building design will improve residential amenity.
Economic	<ul style="list-style-type: none"> • Improved amenity in St Leonards will improve its attractiveness for investment and boost local economic activity.
Governance	<ul style="list-style-type: none"> • The Planning Proposal aims to implement higher order policy and strategic documents such as the St Leonards/Crows Nest Planning Study – Precinct 1, the draft INSS and the St Leonards Strategy. • The Planning Proposal is consistent with multiple Directions and Goals contained in Vision 2020 document. • The Planning Proposal progresses many of Council's policies – E.g. there is a strong policy framework acknowledging that additional open space and amenity improvements are required in St Leonards/Crows Nest.

DETAIL

Council received a Planning Proposal and draft Voluntary Planning Agreement (VPA) on 14 November 2013 relating to the site at 7-19 Albany Street, St Leonards (see location plan at Figure 1).

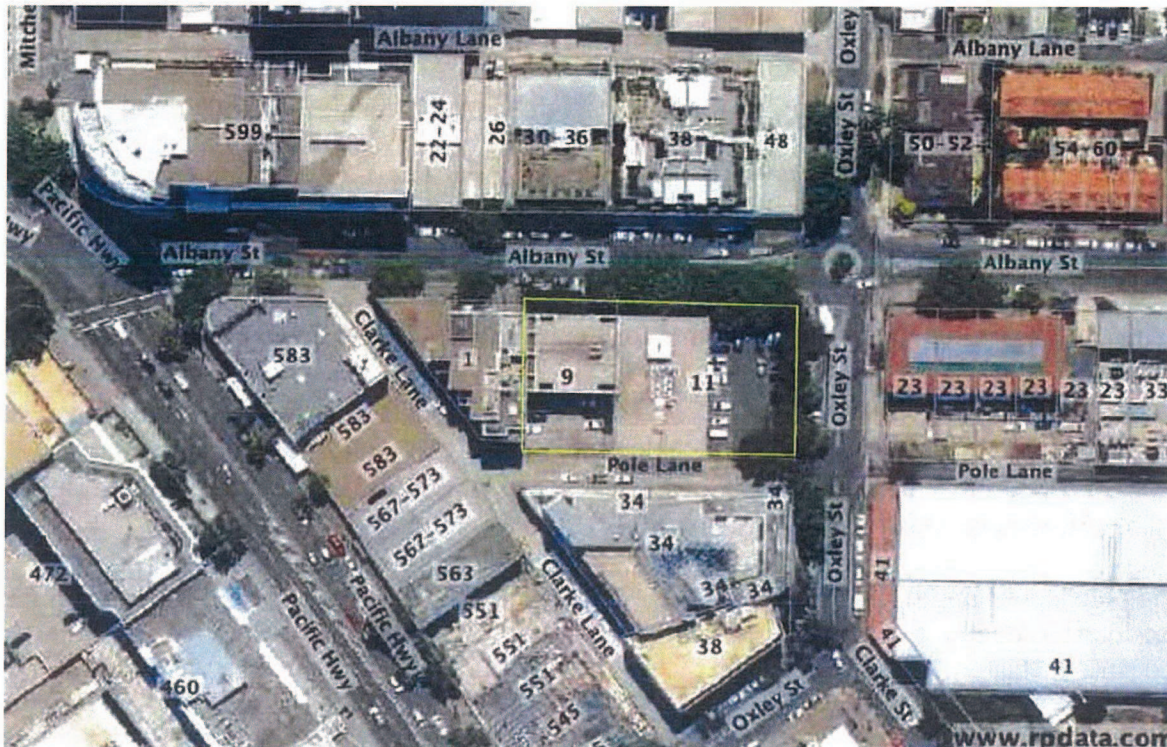


Figure 1: Location plan extract from Planning Proposal

1. Proposed LEP amendment

The Planning Proposal seeks the following amendments to LEP2013:

- An increase in the height control from 26 metres to 40 metres;
- The introduction of a floor space ratio (FSR) control of 5.6:1.

2. Draft Voluntary Planning Agreement

The draft VPA contains provision for:

- A monetary contribution of \$700,000 to be paid to Council for the purposes of providing new open space within the precinct;
- A 3 metre setback from the Oxley Street frontage to allow for a widened footpath and outdoor seating;
- A restriction on building height below the current permitted height on the western portion of the site to ensure solar access to existing residential units on the southern side of Pole Lane.

3. Planning appraisal

The Planning Proposal as submitted is considered to be generally in accordance with the requirements under Section 55(2) of the Environmental Planning and Assessment Act 1979 and the Department of Planning's 2012 'guide to preparing planning proposals'.

The St Leonards/Crows Nest Planning Study - Precinct 1 recommends that the Built Form Masterplan for Precinct 1 be implemented through developer initiated changes to local planning provisions. It states that in order to gain Council's support site specific Planning Proposals should:

- Relate to a parcel of land with a minimum street frontage of 20 metres;
- Relate to a parcel of land that does not isolate, sterilise or unreasonably restrict the development potential of adjacent parcels of land;
- Propose an amendment to the LEP height control consistent with the Built Form Masterplan for Precinct 1;
- Propose a site specific floor space ratio LEP control determined in a manner consistent with that identified in the Built Form Masterplan for Precinct 1;
- Propose mechanisms that ensure slender tower elements retain, where practicable, views and solar access currently enjoyed by existing residents;
- Include satisfactory arrangements for the provision of new open space within Precinct 1;
- Propose a ground level setback DCP control consistent with the Open Space and Pedestrian Masterplan (if applicable); and
- Propose a 3 storey podium height DCP provision consistent with the Built Form Masterplan (if applicable).

It is considered appropriate to assess the Planning Proposal against the above points and to consider the degree to which it implements the Built Form Masterplan and Open Space and Pedestrian Masterplan for Precinct 1.

Does the Planning Proposal relate to a parcel of land with a minimum street frontage of 20 metres?

Yes. The subject site has a frontage of 60 metres to Albany Street and Pole Lane and 33 metres to Oxley Street.

Does the Planning Proposal relate to a parcel of land that does not isolate, sterilise or unreasonably restrict the development potential of adjacent parcels of land?

Yes. Redevelopment of the subject site will not isolate, sterilise or restrict the development potential of other sites in the area.

Does the Planning Proposal propose an amendment to the LEP height control consistent with the Built Form Masterplan for Precinct 1?

Yes. The Planning Proposal seeks to amend the LEP2013 height control, as it applies to the site, from 26 metres to 40 metres. This is consistent with the recommended height for the subject site identified in the Built Form Masterplan for Precinct 1.

Does the Planning Proposal propose a site specific floor space ratio LEP control determined in a manner consistent with that identified in the Built Form Masterplan for Precinct 1?

Yes. The Planning Proposal seeks to introduce a site specific floor space ratio control of 5.6:1. On 3 October 2012, the Joint Regional Planning Panel gave consent to a mixed-use

development at 11-19 Albany Street, St Leonards, (DA162/12) which has a floor space ratio of approximately 5.3:1. A development application has been lodged for the consolidated site seeking to extend the built form onto land at 7-9 Albany Street. While yet to be determined, the proposed FSR of this consolidated scheme is likely to also be approximately 5.3:1.

It is noted that the approval at 11-19 Albany Street provided little in the way of public benefit. Similarly, the development application for the consolidated site that is currently being assessed provides no tangible public benefit. The proponent has argued that the additional floor space proposed in the Planning Proposal should be permitted due to the public benefits that will arise from the Planning Proposal and associated draft VPA.

Given the significant public domain improvements and the contribution towards new open space proposed by the Planning Proposal and associated draft VPA, the additional floor space is considered to be reasonable and worthy of support. It is noted that the proposed FSR control represents an absolute maximum that may not be wholly achievable due to urban design considerations at development application stage.

Does the Planning Proposal propose mechanisms that ensure slender tower elements retain, where practicable, views and solar access currently enjoyed by existing residents?

Yes. The draft VPA submitted with the subject Planning Proposal includes a requirement to register a covenant against the title of the land prohibiting any building above RL103.62 on the western portion of the site as shown at Appendix A of the draft VPA. An excerpt of Appendix A is shown at Figure 2.

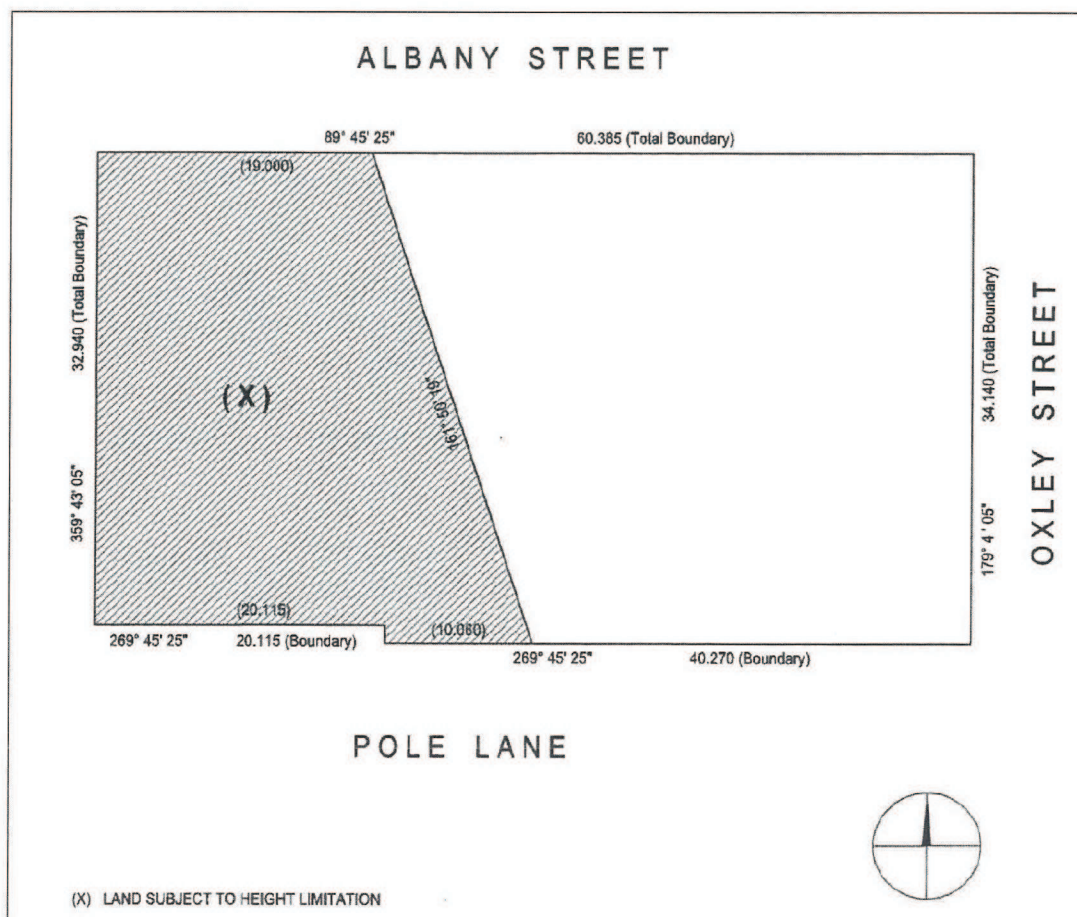


Figure 2 – Excerpt of Appendix A of the draft VPA

An RL of 103.62 equates to a building height of approximately 14 metres on the subject site. Compared to a form of development built to a compliant height of 26 metres across the site, the proposed reduction in the height below the maximum currently permissible across the western portion of the site would result in less impact on aspects and solar access for some of the units within the Precision building at No.34-36 Clarke Street (located on the southern side of Pole Lane).

The Planning Proposal will not be finalised unless the subject VPA has been executed. This provides the necessary certainty that the proposed mechanism will ensure a tower element retains, where practicable, aspects and solar access currently enjoyed by existing residents.

Does the Planning Proposal include satisfactory arrangements for the provision of new open space within Precinct 1?

Yes. The draft VPA submitted with the Planning Proposal provides for a monetary contribution of \$700,000 to be paid to Council for the purposes of providing new open space within the precinct. Taking into consideration expected land acquisition costs the proposed contribution is considered fair and reasonable. These funds will contribute towards the realisation of the expansion of Hume Street Park as outlined within the Open Space and Pedestrian Masterplan for Precinct 1.

The Planning Proposal will not be finalised unless the subject VPA has been executed. This provides the necessary certainty that satisfactory arrangements are in place for the provision of new open space.

Does the Planning Proposal propose a ground level setback DCP control consistent with the Open Space and Pedestrian Masterplan (if applicable)?

The draft VPA contains a clause requiring that any future building be setback 3 metres from the Oxley Street frontage. The VPA will ensure that the setbacks function and are maintained as an extension of the public domain. All design, maintenance and liability issues have been dealt with via the subject VPA.

The draft VPA provides the necessary certainty that the Planning Proposal contains satisfactory arrangements for the provision of the ground level setbacks on the subject site. A site specific DCP control is therefore not required in this instance.

Does the Planning Proposal propose a 3 storey podium height DCP provision consistent with the Built Form Masterplan (if applicable)?

The 3 storey podium height is not applicable to the subject site. A 4 storey podium height control will continue to apply as per existing provisions within DCP2013.

4. Conclusion

The Planning Proposal and associated draft VPA are consistent with the implementation recommendations of the draft St Leonards/Crows Nest Planning Study - Precinct 1 and are considered to implement the Built Form Masterplan and Open Space and Pedestrian Masterplan for Precinct 1 to the fullest extent practicable.

The Planning Proposal and draft VPA should be exhibited concurrently so as to allow the

community a full appreciation of what is being proposed. Council will have the opportunity to execute the draft VPA when the post-exhibition report is reported to Council.