

**DECISION OF 3670th COUNCIL MEETING
HELD ON 19 OCTOBER 2015**

379. CiS05: Planning Proposal and draft Voluntary Planning Agreement - 31-33 Albany Street, Crows Nest

Report of Mark Yee, Strategic Planner

Council has received a Planning Proposal and draft Voluntary Planning Agreement (VPA) for the site at 31-33 Albany Street, Crows Nest.

The site is located within the study area of 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 implement the Built Form Masterplan and Open Space and Pedestrian Masterplan for Precinct 1 to the fullest extent practicable.

This report recommends that Council supports the Planning Proposal and draft VPA and that it be forwarded to the Minister for Planning for a Gateway Determination.

The Planning Proposal is accompanied by a draft Voluntary Planning Agreement that proposes a monetary contribution of \$1,150,000 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 forwards 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 associated draft Voluntary Planning Agreement be exhibited concurrently with the subject Planning Proposal conditioned on it receiving a Gateway Determination.

A Motion was moved by Cr Gibson, seconded by Cr Baker

1. THAT Council forwards 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 associated draft Voluntary Planning Agreement be exhibited concurrently with the subject Planning Proposal conditioned on it receiving a Gateway Determination.

3. THAT Council thank staff for their efforts in this matter.

The Motion was put and carried

Voting was as follows:

For/Against 8/0

Councillor	Yes	No	Councillor	Yes	No
Gibson	Y		Beregi	Y	
Reymond	Y		Barbour	Y	
Clare	Y		Morris	Y	
Baker	Y		Marchandean	Y	
Carr	Absent		Bevan	Absent	

RESOLVED:

1. THAT Council forwards 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 associated draft Voluntary Planning Agreement be exhibited concurrently with the subject Planning Proposal conditioned on it receiving a Gateway Determination.

3. **THAT** Council thank staff for their efforts in this matter.



Report to General Manager

Attachments:

1. Planning Proposal - 31-33 Albany Street, Crows Nest
2. Draft Voluntary Planning Agreement - 31-33 Albany Street, Crows Nest
3. Shadow diagrams

SUBJECT: Planning Proposal and draft Voluntary Planning Agreement - 31-33 Albany Street, Crows Nest

AUTHOR: Mark Yee, Strategic Planner

ENDORSED BY: Joseph Hill, Director City Strategy

EXECUTIVE SUMMARY:

Council has received a Planning Proposal and draft Voluntary Planning Agreement (VPA) for the site at 31-33 Albany Street, Crows Nest.

The site is located within the study area of 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 implement the Built Form Masterplan and Open Space and Pedestrian Masterplan for Precinct 1 to the fullest extent practicable.

This report recommends that Council supports the Planning Proposal and draft VPA and that it be forwarded to the Minister for Planning for a Gateway Determination.

FINANCIAL IMPLICATIONS:

The Planning Proposal is accompanied by a draft Voluntary Planning Agreement that proposes a monetary contribution of \$1,150,000 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 forwards 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 associated draft Voluntary Planning Agreement be exhibited concurrently with the subject Planning Proposal conditioned on it receiving a Gateway Determination.
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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

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;
- 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.

This is the fourth Planning Proposal and VPA received seeking to take advantage of, and implement, the St Leonards / Crows Nest Planning Study - Precinct 1. Other Planning Proposals / VPAs in Precinct 1 include:

- 545-553 Pacific Highway, St Leonards;
 - 7-19 Albany Street, St Leonards; and
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- 521 Pacific Highway, Crows Nest.

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 Environment.

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 31 July 2015 relating to the site at 31-33 Albany Street, Crows Nest (see location plan at Figure 1).

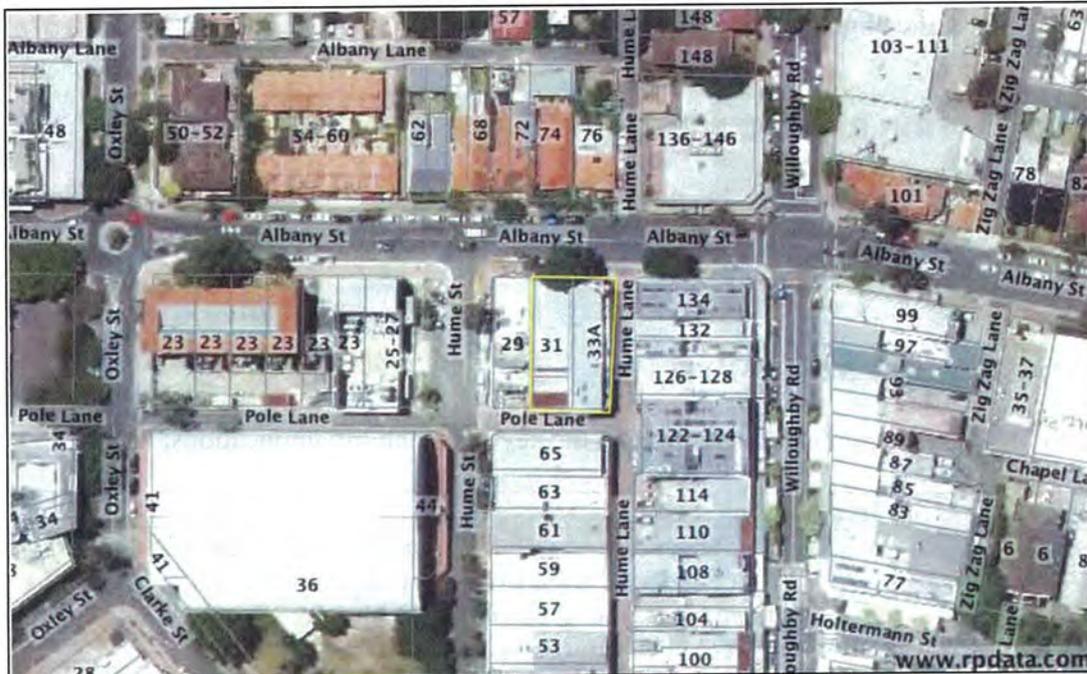


Figure 1: Location plan extract from Planning Proposal

1. Proposed LEP amendment

The Planning Proposal seeks the following amendments to NSLEP 2013:

- An increase in the height control from 13 metres to 26 metres;
- The introduction of a floor space ratio (FSR) control of 4.27:1.

An indicative concept scheme is provided at Figure 2 below.



Figure 2: Concept scheme extract from Planning Proposal (subject to Development Application assessment and approval)

2. Draft Voluntary Planning Agreement

The draft VPA contains provision for:

- A monetary contribution of \$1,150,000 to be paid to Council for the purposes of providing new open space within the precinct;
- A setback of 3 metre from Hume Lane to allow for increased footpath width and greater separation to buildings to the east of the site.

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'.

3.1. Consistency with St Leonards/Crows Nest Planning Study

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?

The site has street frontage of 20 metres.

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?

The site includes two lots (31 & 33 Albany Street) in a block of three lots. The other lot (29 Albany Street) was recently developed and it is therefore considered that the development will not isolate, sterilise or restrict this adjoining parcel. No other lots adjoin the subject site.

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

The Planning Proposal seeks to increase the maximum height limit for the subject site from the present 13 metres to 26 metres consistent with the height identified for the site under the St Leonards/Crows Nest Planning Study - 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?

The Planning Proposal seeks to introduce a site specific floor space ratio control of 4.27:1. Built form modelling indicates that a development constructed under the existing planning controls applying to the site, including the existing 13 metre height control, could accommodate an FSR of 2.88:1.

The methodology identified in the Built Form Masterplan for calculating a maximum FSR under a new height control of 26 metres results in an FSR of 4.27:1. This figure has been arrived at by taking into consideration the impact that the proposed 3 metre setback from Hume Lane will have on the building envelope. This proposed FSR therefore represents an appropriate amount of floor space to be accommodated within the proposed building envelope and is consistent with the upper FSR envisaged by the planning study.

Given the proposed public domain improvements, including the 3 metre setback from Hume Lane (which is not required by the planning study but is considered worthy of support), and the contribution towards new open space proposed by the Planning Proposal and associated draft VPA, the proposed floor space is considered to be reasonable and worthy of support.

It should be noted that the proposed FSR control represents an absolute maximum that may not be wholly achievable due to urban design and other 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?

The site is only 20 metres in width and is constrained due to the adjoining development at 29 Albany Street. Further, the draft VPA proposes a 3 metre setback from Hume Lane which will further constrain development on the site.

It is considered that the resulting building envelope will facilitate an appropriate built form which will minimise overshadowing of surrounding sites (see shadow diagrams at Attachment 3). There are no significant views obtained across the site.

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

The St Leonards / Crows Nest Planning Study: Precinct 1 states the following:

... a planning proposal accompanied by a proposed voluntary planning agreement (VPA) made in accordance with Council's voluntary planning agreements policy may constitute satisfactory arrangements for the provision of new open space within Precinct 1 if the proposed VPA:

1. *Contributes to the costs associated with land acquisition required to achieve a new plaza and pedestrian link to Willoughby Road as envisaged by the Open Space and Pedestrian Masterplan ...*

Yes. The draft VPA submitted with the Planning Proposal provides for a monetary contribution of \$1,150,000 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)?

Since adoption of the St Leonards / Crows Nest Planning Study - Precinct 1, DCP controls requiring the ground level setbacks identified in the study have been brought into force. Site specific DCP controls are therefore no longer necessary.

Regardless, the draft VPA contains clauses requiring any future building to be setback 3 metres from Hume Lane. This setback is a fundamental component of the proposal and key to obtaining Council support.

To provide greater certainty regarding the setback area, Council's lawyers have included clauses within the draft VPA which require a covenant restricting the erection of any structures or buildings in the setback area.

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 requirement for a 4 storey podium height to the primary street frontage and a 3 storey podium height to laneways will continue to apply as per existing provisions within DCP 2013.

3.2. Environmental impacts

No significant views are obtained across the subject site. The proposal will not therefore affect views.

It is noted that the proposed 3 metre setback from Hume Lane will provide for a greater setback to properties fronting Willoughby Road (should they ever be redeveloped for residential purposes) than would normally be required.

The proponent has provided shadow diagrams which appropriately demonstrate the likely impact on surrounding properties (see Attachment 3). It is considered that the impact is reasonable in the circumstances of the case.

There are no other foreseeable environmental impacts at this stage as the proposal is very

much in keeping with Council's endorsed strategy. Notwithstanding, it is noted that the public exhibition process will provide an opportunity for input from the public. Further, any future development on the site will be subject to an assessment at Development Application stage.

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.
