

DECISION OF 3701st COUNCIL MEETING HELD ON 26 MARCH 2018

65. **CiS05: Planning Proposal 4/17 – 41 McLaren Street, North Sydney – Rezoning Review Outcome and Planning Proposal Authority Offer**

Report of Ben Boyd, Executive Strategic Planner

On 1 September 2017, Council received a Planning Proposal, and accompanying draft Voluntary Planning Agreement (VPA), to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land at 41 McLaren Street, North Sydney. In particular, the Planning Proposal sought to:

- Amend the Height of Buildings Map in NSLEP 2013 to allow for a building height of up to RL 226m AHD (a 126m increase); OR
- include a site specific clause under Division 2 to Part 6 – Additional Local Provisions of NSLEP 2013 allowing for a development up to RL 226m, where the development satisfies requirements of heritage conservation and public domain improvements.

On 8 December 2017, the applicant submitted a request to the Department of Planning and Environment (DPE) for a Rezoning Review, due to Council not having made a determination as to whether the Planning Proposal should proceed to Gateway Determination within 90 days.

On 19 February 2018 Council considered an assessment report (https://www.northsydney.nsw.gov.au/Council_Meetings/Meetings/Council_Meeting_s/Council_19_Feb_2018) in relation to the Planning Proposal, wherein it subsequently resolved not to progress the Planning Proposal to Gateway Determination, subject to a number of conditions.

On 7 March 2018, the Sydney North Planning Panel (SNPP) heard the Rezoning Review and subsequently resolved on 9 March 2018 for the Planning Proposal to proceed to Gateway Determination contrary to Council's position. The SNPP also sought Council's position as to whether it would accept the role of Planning Proposal Authority in the progression of the Planning Proposal.

This report recommends that whilst the SNPP's resolution is contrary to Council's position, that Council accept the role of the Planning Proposal Authority to retain control of the plan making process. This will enable Council to have greater management of the content and quality of information provided in the Planning Proposal prior to it being placed on public exhibition. In addition, it would enable the progression of the Planning Proposal to be considered concurrently with the outcomes of the revised Ward Street Masterplan.

It is also recommended that Council write to the DPE requesting that they not issue a Gateway Determination due to the SNPP not having considered Council's assessment report. However, should a Gateway Determination be issued, it is recommended that Council request that the DPE include the conditions outlined in the recommendations below.

Nil.

Recommending:

1. THAT Council accept the role of the Planning Proposal Authority for the Planning Proposal affecting land at 41 McLaren Street, North Sydney.

2. THAT Council write to the Department of Planning and Environment:

- a) with a request that they not issue a Gateway Determination in relation to the Planning Proposal, due to the Sydney North Planning Panel not giving due consideration to Council's assessment report during the Rezoning Review Process and that a site specific proposal leading a more holistic, comprehensive (and imminent) strategic planning process represents fundamentally poor planning; and
- b) that if the Department is of a mind to issue a Gateway Determination, then conditions be added to any Gateway Determination requiring that the:

- i) timing of public exhibition of the Planning Proposal occur concurrently with the future Planning Proposal for the Ward Street Precinct;
- ii) public exhibition of the Planning Proposal only proceed if it is demonstrably consistent with Council's draft Ward Street Masterplan as is endorsed for public exhibition;
- iii) public exhibition of the planning proposal be deferred until a satisfactory arrangement is reached between Council and the applicant with regard to the offer under the Voluntary Planning Agreement; and
- iv) planning proposal is to be amended such that it reflects the preferred approach as outlined in Council's report of 19 February 2018 to include a revised local provision and an incentive heights map.

The Motion was moved by Councillor Barbour and seconded by Councillor Mutton.

The Motion was put and carried.

Voting was as follows:

For/Against 6/0

Councillor	Yes	No	Councillor	Yes	No
Gibson	Y		Barbour	Y	
Beregi	Absent		Drummond	Y	
Keen	Y		Gunning	Absent	
Brodie	Y		Mutton	Y	
Carr	Absent		Baker	Absent	

RESOLVED:

1. THAT Council accept the role of the Planning Proposal Authority for the Planning Proposal affecting land at 41 McLaren Street, North Sydney.

2. THAT Council write to the Department of Planning and Environment:

- c) with a request that they not issue a Gateway Determination in relation to the Planning Proposal, due to the Sydney North Planning Panel not giving due consideration to Council's assessment report during the Rezoning Review Process and that a site specific proposal leading a more holistic, comprehensive (and imminent) strategic planning process represents fundamentally poor planning; and
- d) that if the Department is of a mind to issue a Gateway Determination, then conditions be added to any Gateway Determination requiring that the:
 - i) timing of public exhibition of the Planning Proposal occur concurrently with the future Planning Proposal for the Ward Street Precinct;
 - ii) public exhibition of the Planning Proposal only proceed if it is demonstrably consistent with Council's draft Ward Street Masterplan as is endorsed for public exhibition;
 - iii) public exhibition of the planning proposal be deferred until a satisfactory arrangement is reached between Council and the applicant with regard to the offer under the Voluntary Planning Agreement; and
 - iv) planning proposal is to be amended such that it reflects the preferred approach as outlined in Council's report of 19 February 2018 to include a revised local provision and an incentive heights map.

**Report to General Manager**

Attachments:

1. Rezoning Review – DPE Briefing Report
2. SNPP – Rezoning Review Decision dated 9 March 2018

SUBJECT: Planning Proposal 4/17 – 41 McLaren Street, North Sydney – Rezoning Review Outcome and Planning Proposal Authority Offer

AUTHOR: Ben Boyd, Executive Strategic Planner

ENDORSED BY: Joseph Hill, Director City Strategy

EXECUTIVE SUMMARY:

On 1 September 2017, Council received a Planning Proposal, and accompanying draft Voluntary Planning Agreement (VPA), to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land at 41 McLaren Street, North Sydney. In particular, the Planning Proposal sought to:

- Amend the Height of Buildings Map in NSLEP 2013 to allow for a building height of up to RL 226m AHD (a 126m increase); OR
- include a site specific clause under Division 2 to Part 6 – Additional Local Provisions of NSLEP 2013 allowing for a development up to RL 226m, where the development satisfies requirements of heritage conservation and public domain improvements.

On 8 December 2017, the applicant submitted a request to the Department of Planning and Environment (DPE) for a Rezoning Review, due to Council not having made a determination as to whether the Planning Proposal should proceed to Gateway Determination within 90 days.

On 19 February 2018 Council considered an assessment report (https://www.northsydney.nsw.gov.au/Council_Meetings/Meetings/Council_Meetings/Council_19_Feb_2018) in relation to the Planning Proposal, wherein it subsequently resolved not to progress the Planning Proposal to Gateway Determination, subject to a number of conditions.

On 7 March 2018, the Sydney North Planning Panel (SNPP) heard the Rezoning Review and subsequently resolved on 9 March 2018 for the Planning Proposal to proceed to Gateway Determination contrary to Council's position. The SNPP also sought Council's position as to whether it would accept the role of Planning Proposal Authority in the progression of the Planning Proposal.

This report recommends that whilst the SNPP's resolution is contrary to Council's position, that Council accept the role of the Planning Proposal Authority to retain control of the plan making process. This will enable Council to have greater management of the content and quality of information provided in the Planning Proposal prior to it being placed on public exhibition. In addition, it would enable the progression of the Planning Proposal to be considered concurrently with the outcomes of the revised Ward Street Masterplan.

It is also recommended that Council write to the DPE requesting that they not issue a Gateway Determination due to the SNPP not having considered Council's assessment report. However, should a Gateway Determination be issued, it is recommended that Council request that the DPE include the conditions outlined in the recommendations below.

FINANCIAL IMPLICATIONS:

Nil.

RECOMMENDATION:

1. THAT Council accept the role of the Planning Proposal Authority for the Planning Proposal affecting land at 41 McLaren Street, North Sydney.

2. THAT Council write to the Department of Planning and Environment:

- a) with a request that they not issue a Gateway Determination in relation to the Planning Proposal, due to the Sydney North Planning Panel not giving due consideration to Council's assessment report during the Rezoning Review Process and that a site specific proposal leading a more holistic, comprehensive (and imminent) strategic planning process represents fundamentally poor planning; and
- b) that if the Department is of a mind to issue a Gateway Determination, then conditions be added to any Gateway Determination requiring that the:
 - i) timing of public exhibition of the Planning Proposal occur concurrently with the future Planning Proposal for the Ward Street Precinct;
 - ii) public exhibition of the Planning Proposal only proceed if it is demonstrably consistent with Council's draft Ward Street Masterplan as is endorsed for public exhibition;
 - iii) public exhibition of the planning proposal be deferred until a satisfactory arrangement is reached between Council and the applicant with regard to the offer under the Voluntary Planning Agreement; and
 - iv) planning proposal is to be amended such that it reflects the preferred approach as outlined in Council's report of 19 February 2018 to include a revised local provision and an incentive heights map.

LINK TO DELIVERY PROGRAM

The relationship with the Delivery Program is as follows:

- | | |
|------------|---|
| Direction: | 1. Our Living Environment |
| Outcome: | 1.2 Quality urban green spaces
1.5 Public open space, recreation facilities and services that meet community needs |
| Direction: | 2. Our Built Environment |
| Outcome: | 2.1 Infrastructure, assets and facilities that meet community needs
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
2.4 North Sydney's heritage is preserved and valued
2.6 Improved traffic management |
| Direction: | 3. Our Economic Vitality |
| Outcome: | 3.1 Diverse, strong, sustainable and vibrant local economy
3.2 North Sydney CBD is one of Australia's largest commercial centres |
| Direction: | 4. Our Social Vitality |
| Outcome: | 4.4 North Sydney's history is preserved and recognised |
| Direction: | 5. Our Civic Leadership |
| Outcome: | 5.1 Council leads the strategic direction of North Sydney
5.3 Council is ethical, open, accountable and transparent in its decision making |

BACKGROUND

1. Planning Proposal

On 1 September 2017, Council received a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land at 41 McLaren Street, North Sydney. In particular, the Planning Proposal sought to:

- Amend the Height of Buildings Map in NSLEP 2013 to allow for a building height of up to RL 226m AHD (a 126m increase); OR
- include a site specific clause under Division 2 to Part 6 – Additional Local Provisions of NSLEP 2013 allowing for a development up to RL 226m, where the development satisfies requirements of heritage conservation and public domain improvements.

The Planning Proposal was also accompanied by a Voluntary Planning Agreement (VPA), which sought to offer a contribution to the value of \$10,557,750 to fund the following public benefits:

- 50% of the north-south pedestrian spine between Berry and McLaren Streets / public open space area (i.e. public domain embellishment works) within the Ward Street Precinct; and
- 6 x affordable housing units.

On 8 December 2017, the applicant submitted a request to the Department of Planning and Environment (DPE) for a Rezoning Review, due to Council not having made a determination as to whether the Planning Proposal should proceed to Gateway Determination within 90 days.

Council staff had initially intended to report this matter to Council's meeting of 4 December 2017. However, the immense volume of documentation provided to Council associated with the Planning Proposal, the need to prioritise the progression of the Ward Street Precinct Masterplan work and Council's meeting schedules prevented this from occurring.

On 19 February 2018 Council considered an assessment report (https://www.northsydney.nsw.gov.au/Council_Meetings/Meetings/Council_Meetings/Council_19_Feb_2018) in relation to the Planning Proposal, which recommended that Council refuse the Planning Proposal from proceeding to Gateway Determination for the following reasons:

- *It has the potential to significantly undermine strategic planning work currently being undertaken in the locality, specifically the work relating to the Ward Street Precinct Masterplan and the North Sydney Centre Review;*
- *It is contrary to meeting a number of objectives and actions under the relevant regional and district plans applying to the land. In particular, the proposal does not:*
 - *protect nor promote lands for commercial development within an important existing Strategic Centre on the Global Economic Corridor nor allow for future growth; and*
 - *sufficient residential capacity is already provided under NSLEP 2013 to meet State housing targets, without the need to significantly change the land use mix on the subject site.*
- *It is inconsistent with the desired outcomes of the draft Ward Street Precinct Masterplan. In particular, the proposal:*
 - *does not apply a precinct scale planning approach;*
 - *does not provide clarity on the future growth of the Precinct;*
 - *does not balance growth within the Centre or amenity to surrounding properties;*
 - *may result in poor pedestrian interfaces and connections with future potential public open spaces;*
 - *may not result in a significant public benefit being achieved;*
 - *does not achieve a no nett increase in traffic generation.*
- *It is difficult to determine if the quantum of proposed public benefits identified within the Planning Proposal, which would ultimately form part of a future VPA is reasonable with respect to the anticipated uplift that the Planning Proposal seeks.*

Council subsequently resolved:

1. *THAT Council resolves not to support the Planning Proposal proceeding to Gateway Determination.*
2. *THAT Council advise the Department of Planning and Environment of its decision and be provided with a copy of this report and its resolution in support of Council's position.*
3. *THAT Council notifies the applicant of Council's determination in accordance with clause 10A of the Environmental Planning and Assessment Regulations 2000.*
4. *THAT Council extends an opportunity to the applicant to make a submission to the revised Ward Street Precinct Masterplan once publicly exhibited.*
4. *THAT any changes to the planning controls for the Ward Street Precinct be considered holistically and involve all landowners.*
5. *THAT the applicant be invited to submit a new planning proposal upon the completion of the Ward Street Precinct Masterplan.*

2. Pre-Gateway Review

On 8 December, 2017, the applicant of the Planning Proposal lodged a request for a Rezoning Review (RR_2017_001_00) with the DPE in response to Council not having made a determination as to whether it will support the proposal to proceed to next stage of the plan making process.

On 12 December 2017, the DPE advised Council that the applicant of the Planning Proposal had lodged a Rezoning Review, and was invited to provide comment in relation to this request.

On 7 February 2018, Council submitted a response to the DPE which outlined the key issues identified within its assessment report, which was subsequently considered on 19 February 2018. Council's response noted that the matter was proposed to be reported to Council at its meeting of 19 February 2018 and advised a copy of the report and resolution would be provided once available. A copy of the assessment report and Council's resolution was sent to the DPE on 26 February 2018 via email and post, with a request that it be forwarded on to the Sydney North Planning Panel (SNPP) for its consideration.

A copy of the Department's Briefing Report (refer to Attachment 1) was made available to Council by the SNPP's Secretariat via email on 2 March 2018. Upon reviewing the Briefing Report, Council staff noted that a copy of Council's assessment report and resolution had not been attached to the bundle of documents, nor had it been addressed in the report, other than to say "On 19 February 2018, Council resolved to not support the planning proposal".

On 5 March 2018, Council enquired and was advised that the SNPP hadn't received Council's report and that the SNPP's Secretariat would chase the matter up with DPE staff. Council received no further confirmation as to whether the SNPP had received a copy of the report prior to the hearing taking place.

On 7 March 2018, Council met with the SNPP to discuss the merits of the Planning Proposal. During the hearing, the SNPP confirmed that it had not been provided with a copy of Council's assessment report and resolution. Council advised that it would provide a copy directly to the SNPP, via the Secretariat for its consideration. A copy of the assessment report and resolution was subsequently sent to the Secretariat via email on the 7 March 2018 following the hearing.

On 9 March 2018, the SNPP forwarded a letter (refer to Attachment 2) to Council advising of its decision in relation to the Rezoning Review. The SNPP recommended that the Planning Proposal be submitted for a Gateway Determination, subject to the following recommendations:

1. *That the Planning Proposal for increased height, including the “Alternative Masterplan” which justifies it, proceed to Gateway Determination.*
2. *That the Planning Proposal and Alternative Masterplan not proceed to exhibition until Council exhibits its review of its proposed strategy (which the Panel understands will have multiple options).*
3. *That the Planning Proposal and Alternative Masterplan be exhibited as one of the Precinct options.*
4. *That, in exhibiting the Planning Proposal and Alternative Masterplan, a development standard requiring a minimum of 3:1 floor space ratio be included for non-residential gross floor area.*
5. *Any Precinct Plan should not increase car parking beyond the existing levels.*

It was noted that Council’s report and resolution were absent from the list of materials that had been considered by the SNPP in making their determination (refer to Part 4 to Schedule 1 to the Record of the Decision provided at Attachment 2 to this report).

The letter also invited Council to be the Relevant Planning Authority (now known as the Planning Proposal Authority – PPA) for the Planning Proposal and was given 42 days (19 April 2018) within which to accept the offer. In addition, should Council accept the role, Council would be required to prepare a planning proposal under s.3.33 (formerly s.55) of the EP&A Act and submit it for a Gateway Determination within 42 days of accepting the role of PPA.

The SNPP has recommended that the Planning Proposal proceed to Gateway Determination, subject to being amended to incorporate a minimum non-residential floor space ratio control of 3.0:1 for the subject site.

This report therefore seeks Council’s decision on whether it should accept or decline the role of PPA for the Planning Proposal. It also seeks to inform Council on the adequacy of the SNPP’s consideration of the Rezoning Review.

CONSULTATION REQUIREMENTS

If the Gateway Determination is issued, community engagement will be undertaken in accordance with Council’s Community Engagement Protocol and the requirements of any Gateway Determination issued in relation to the Planning Proposal.

SUSTAINABILITY STATEMENT

The sustainability implications were considered and reported on during the initiation phase of this project.

DETAIL

1. Determination of the PPA role

Following the issue of a Gateway Determination, the PPA would be responsible for progressing the Planning Proposal through the next stages of the plan making process. This includes finalisation of Planning Proposals, consulting with the community and relevant agencies, considering submissions, finalising assessment of the proposal and, should the plan progress to final stage, request the making of the plan (being amendments to NSLEP 2013). The Gateway Determination enables a Planning Proposal to progress to public exhibition and does not necessarily mean that a Planning Proposal will be made.

There are a number of advantages and disadvantages to accepting/declining the role of PPA that should be considered by Council. These are addressed in the following subsections.

1.1. Option 1 - Council accepts the PPA role (Preferred)

1.1.1. Control of the plan making process

If Council resolves to accept the role of PPA, Council will have greater control of the plan making process, including public exhibition, post exhibition report and finalisation of the amendment to the relevant LEP. This is reflective of Council's present role. With the SNPP's requirement to publically exhibit the Planning Proposal concurrently with the revised draft Ward Street Precinct Masterplan, it gives Council the ability to consider the submissions and preferred outcomes of a post exhibition report in relation to both matters at the same time. This would provide the opportunity to ensure that the Planning Proposal ultimately aligns with the outcomes of the adopted Masterplan.

1.1.2. Quality of the Planning Proposal

A PPA must be satisfied with the content of a Planning Proposal and the quality of the information provided in support of the proposal. In addition, it must ensure that the information provided is accurate, current and sufficient for issuing a Gateway Determination. If Council resolves to accept the role of PPA, it would have greater control over the content and quality of information provided in the Planning Proposal prior to it being placed on public exhibition.

Council's assessment of the Planning Proposal identified a number of justifications within the Planning Proposal which are contrary to desired outcomes of the draft Ward Street Precinct Masterplan. This position was supported by the elected Council. However, it is considered that a proponent of a Planning Proposal is unlikely to amend their Planning Proposal to address Council's primary concerns, as it would be generally detrimental to their case. Should Council be perceived to prevent the progression of the Planning Proposal, the DPE has the power to remove the PPA role from Council and reallocate the role to an alternate body. In this case, the alternate body will be the SNPP.

1.1.3. Progression of the Planning Proposal

In considering the post-exhibition report, Council as the PPA, retains the ability to recommend if the Planning Proposal should proceed or not. The same is afforded to the Minister of Planning, who can overturn Council's decision in the making of the plan. This occurred when the Planning Proposals for 144-154 Pacific Highway and 18 Berry Street, North Sydney (Amendment No. 8) and 11 Cowdroy Avenue, Cammeray (Amendment No.21) were

considered and made contrary to Council's decision.

The SNPP's suggested requirement for the Planning Proposal to be publicly exhibited concurrently with the revised Draft Ward Street Precinct Masterplan would enable Council to report the post exhibition reports to both matters back to Council at the same time. Council should be agreeable to this as it would ensure that the outcomes of Ward Street Precinct Masterplan process informs the outcome of the Planning Proposal and not the other way around.

1.2. Option 2 - Council declines the PPA role

If Council resolves not to accept the role of PPA, the DPE may appoint an alternate PPA to prepare the Planning Proposal and undertake the next stages of the plan making process including exhibition, post exhibition report and finalisation of the amendment to the relevant LEP. The SNPP letter clearly indicates that the SNPP will be the alternate PPA in this instance.

Despite not having control of the plan making process or control over the quality of the information provided in the Planning Proposal, Council will still be provided the opportunity to lodge a submission when the Planning Proposal is publically exhibited. This will be in a similar way to Council addressing Development Applications that are determined by the SNPP.

Whilst the SNPP recommends that the Planning Proposal be publically exhibited concurrently with the revised draft Ward Street Precinct Masterplan, there is no restriction as to whether the Planning Proposal would be required to be exhibited for the same length of time or whether the matters should be reported back to Council at the same time post exhibition.

1.3. Failure to Nominate

If Council does not respond to the SNPP's invitation to accept or reject the role of PPA within 42 days (or 19 April 2018), the role will be automatically delegated to the SNPP.

1.4. Previous offers to accept the PPA role

Council has previously considered the question of accepting the role of PPA in relation to planning proposals for land at 18 Berry Street and 144-154 Pacific Highway, North Sydney (Amendment No.8) and 11 Cowdroy avenue, Cammeray (Amendment No.21). Both of these planning proposals had been recommended by the DPE to proceed to Gateway Determination contrary to Council's views. Council subsequently resolved to accept the role of PPA in both instances.

2. Sydney North Planning Panel Determination

As indicated, the SNPP did not have the benefit of considering Council's assessment report and resolution of 19 February 2018 before the Panel met with Council, the applicant and DPE staff members on 7 March 2018 to discuss the merits of the Planning Proposal. Nor does it appear that they have given it any consideration in their determination to progress the matter to Gateway Determination.

On this basis, the SNPP has not given due consideration to all the facts in determining their position in relation to the Rezoning Review. Of particular concern is that the SNPP has allowed a site specific proposal to proceed, which has the perception of driving the outcomes of the revised Ward Street Precinct Masterplan.

The decision to issue a Gateway Determination ultimately rests in the hands of the Minister for Planning or their delegate, with consideration given to the recommendations of the SNPP.

Whilst Council could request that the SNPP reconsider their position before informing the Minister's delegate to issue a Gateway Determination for the Planning Proposal, there is no obligation for it to do so. However, nothing prevents Council from approaching the DPE with a request that a Gateway Determination in relation to the Planning Proposal not be issued on the basis that the SNPP has not given due consideration to all of Council's concerns.

In making its decision, the SNPP made the following comments:

The Panel considers the site and the change in density in the Ward Street Precinct has strategic and site specific merit, having regard to the increased residential and commercial density requirements of the draft District Plan, the location of the new metro access at the corner of Miller and McLaren Streets and the newly adopted North Sydney CBD Local Environmental Plan, which increases heights to a maximum of RL289.

The Panel is aware that the Council has sought a review of its draft Ward Street Precinct Masterplan and that that is currently underway and close to being finalised by April 2018. In this review, the Panel understands, increased heights and a modified Masterplan may ensue.

The Panel accepts that both the Council and the proponent wish to ensure Grade A commercial floorspace is provided in the Precinct and therefore ensuring that a minimum amount of non-residential floor area is provided to the precinct is essential.

The Panel notes that, while the Planning Proposal and the Alternative Masterplan do not provide for separation distances required by the ADG, this is generally true of most sites in the North Sydney CBD.

As concerns the overshadowing of public open space on Council land, the Panel notes that this would be true of any realistic planning option for the precinct.

The justification provided by the SNPP is questioned, as it appears to give the proponent a green light without due regard to the strategic planning processes that are occurring concurrently as part of Council's revised Ward Street Precinct Masterplan. Of particular concern is that the Planning Proposal may potentially be progressed, contrary to the outcomes of the Ward Street Precinct Masterplan once adopted in final form.

This approach is contrary to SNPP's determination in relation to the Rezoning Review for the Planning Proposal at 275 Alfred Street, North Sydney. The SNPP resolved that this Planning Proposal should not proceed to Gateway Determination. Of particular note, the main justification for not allowing the Planning Proposal to proceed was as follows:

The main reason why the Panel does not recommend that this planning proposal proceed to Gateway Determination is that it deals with one site only rather than the area zoned B3 in which it is located. This piecemeal approach is contrary to the strategic intent of zoning decisions. In addition, the planning proposal leads to this site having three times the development potential of the other sites within the B3 zone. It fails to achieve the

desirable separation distances between residential buildings and adversely affects the development potential of the adjoining sites.

The current recommendations of the SNPP give the impression that it is appropriate for developers to lead strategic planning processes and is contrary to its previous position on considering such matters. As indicated in Council's assessment report of the Planning Proposal, the proponent has not considered the wider impacts of their proposal and the proposal has the ability to significantly undermine the attainment of an optimal outcome for the wider community.

Furthermore, as indicated in Council's assessment report of 19 February 2018, the Planning Proposal has not demonstrated sufficient merit to warrant its progression. In particular, it has the ability to significantly undermine the strategic planning work that Council is undertaking in the area. For these reasons, Council should request that the DPE not issue a Gateway Determination for the Planning Proposal.

3. Progression of the Planning Proposal

Should the DPE determine that a Gateway Determination be issued, a number of issues should be considered as outlined in the following subsections. It is recommended that each of the following matters be raised with the DPE prior to issuing any Gateway Determination.

3.1. Timing of Exhibition

The SNPP has requested that the proponent's Planning Proposal and Alternative Masterplan be publicly exhibited concurrently with the draft revised Ward Street Precinct Masterplan and that it form one of the options to the draft revised Ward Street Precinct Masterplan.

Whilst this could be undertaken, it would provide a confusing message to the community.

It is envisaged that the draft revised Ward Street Precinct work would be reported to Council for endorsement for the purposes of public exhibition, with the view to having it placed on public exhibition by mid 2018. Following public exhibition, it is proposed to report the matter back to Council with a recommendation to endorse a Masterplan for the Precinct and to potentially commence the preparation of a Planning Proposal to assist in delivering the outcomes of the Masterplan. It is anticipated that a Planning Proposal for the Ward Street Precinct could be placed on public exhibition in late 2018 or early 2019.

It would be more appropriate to publically exhibit the subject Planning Proposal for 41 McLaren Street at the time that the Planning Proposal associated with the adopted Ward Street Precinct Masterplan is publicly exhibited.

Due to the potential for the final outcomes of the Ward Street Masterplan not aligning with the outcomes of the planning proposal, Council could alternatively request that the DPE defer making a determination on the issue of a Gateway Determination until after the Ward Street Masterplan has been adopted by Council in its final form, and only if the Planning Proposal is consistent with that adopted Masterplan.

3.2. Preferred Approach – Height limit control

The Planning Proposal presents 2 options by which additional height on the subject site could be achieved. Essentially they involved:

- Amending the Height of Buildings Map; or
- Inclusion of a local provision, effectively granting a height bonus if certain criteria can be met.

Council's assessment report of 19 February 2018 stated that the preferred option was to include a local provision. However, the report also recommended that if the Planning Proposal was to progress, then the applicant's clause should be further revised to provide a more desirable and transparent outcome. In particular, it is requested that the proposed local clause be amended to read (insertions underline, and deletions ~~strikethrough~~):

6.20 Development at 41 McLaren Street, North Sydney

- (1) *The objectives of this clause is to provide for additional building height on land at 41 McLaren Street (Lot 1, DP 557103) if the development of the site provides for retention and conservation of 'Simsmetal House' and pedestrian links through the site.*
- (2) *Despite clause 4.3, development consent may be granted to a building on the land with a maximum height of RL 226 metres.*
- (3) *Development consent must not be granted under this clause unless the consent authority is satisfied that the development will:*
 - (a) *Conserve key components and attributes of 'Simsmetal House';*
 - (b) *Be consistent with a heritage management document prepared in accordance with clause 5.10(5);*
 - (c) *Provide publicly accessible, unobstructed external access through the site (a through-site link), but only where*
 - (i) *the consent authority can be satisfied that such access contributes to the provision of a safe, high amenity and continuous path of travel from McLaren Street through to Berry Street; and*
 - (ii) *If provided through a building, must have a minimum unencumbered vertical clearance of at least 6m and a minimum unencumbered width of at least 7m; and*
 - (iii) *such a through site link is publically accessible 24 hours a day; and;*
 - (d) *Provide active uses with frontages at ground level addressing the through-site link.*
- ~~(4) This clause prevails in the result of any inconsistency clause 6.3(3).~~

In addition, it was recommended that a new map be prepared which identifies a bonus height control to aid clarity and transparency. A similar approach has been adopted by The Hills, Ryde and Shoalhaven Councils in their Standard Instrument LEPs.

3.3. Pre-Gateway Determination Requirements

Should Council resolve to accept the role of PPA, Council would be required to prepare and submit, for Gateway Determination, a Planning Proposal, within 42 days of accepting the role of PPA. However, it is unclear if the Planning Proposal is required to be amended prior to, or after, the issue of Gateway Determination.

Given that the original Planning Proposal was not initiated or supported by Council, it is considered that the proponent should be responsible for meeting all the requirements necessary to further their own private application. Therefore, the applicant should be responsible for any amendment to their Planning Proposal.

Council has been successful in the past in requiring such amendments to be incorporated as a condition to the Gateway Determination. It is proposed that a similar request be put to the DPE in this regard.

3.4 Risks

Council has spent considerable time and resources pursuing a holistic and comprehensive plan for a complex city block. The risk here is that a single Planning Proposal can begin to undermine the achievement of a such Masterplan, by facilitating an outcome that is pursued by a much narrower agenda. Council is aware that various landowners are keen to explore development opportunities within this block and the SNPP decision appears to favour a narrower focus which, if applied to the various development interests within the precinct, would make strategic planning superfluous. This is all the more difficult to understand given how imminent the draft Masterplan is to being finalised for public exhibition.

The proponent has made submissions to the previous draft Masterplan and Council now has had the benefit of considering the Planning Proposal. Clearly, the proposal is being taken into account in the drafting of the Masterplan.

If the Planning Proposal is exhibited concurrently with the Masterplan, and the two are inconsistent, the Planning Proposal should not proceed. If this is a reasonable premise, it calls into question why the Planning Proposal should be exhibited at all, if this is indeed the case.

3.5 Draft Voluntary Planning Agreement

The Planning Proposal was accompanied by a draft VPA for various public benefits. In its assessment report of 19 February 2018, Council questioned the level of public benefit being provided as it did not appear to appropriately reflect a reasonable portion of level of uplift that the site would enjoy from the increase in height. Further investigation is required to determine whether the level of the offer is reasonable and in accordance with Council's VPA policy.

If the Planning Proposal is to progress to public exhibition, it is recommended that the Planning Proposal is not publically exhibited until such time as Council had determined that the draft VPA was satisfactory with regards to Council's VPA policy. This will ensure that the full extent of the offer can be considered concurrently with the Planning Proposal, when placed on public exhibition.

It is recommended that Council request that the DPE include a condition on the Gateway Determination, to delay the commencement of the public exhibition of the Planning Proposal until such time as the draft VPA has been renegotiated to offer a more reasonable level of public benefit, consistent with Council's VPA policy.

4. Conclusion

Having completed its assessment of the Rezoning Review for the Planning Proposal relating to 41 McLaren Street, North Sydney, the SNPP has recommended that the Planning Proposal

proceed to Gateway Determination. Council has been asked by the SNPP if it accepts or declines the role of PPA in the next stages of the plan making process.

It is recommended that Council accept the role of PPA to retain control of the plan making process. This would enable Council to have greater management over the content and quality of information provided in the Planning Proposal, timing and undertaking public exhibition actions, and timing of reporting the matter back to Council with due consideration given to the progression of the revised Ward Street Precinct Masterplan.

Despite the requirement to accept the PPA role, it is recommended that Council write the DPE requesting that a Gateway Determination not be issued, due to the SNPP not having given due consideration to Council's assessment report and resolution and that a site specific proposal leading a more holistic, comprehensive (and imminent) strategic planning process represents fundamentally poor planning.

It is also recommended that Council write to the DPE requesting that if the Department is of a mind to issue a Gateway Determination, then conditions be added to any Gateway Determination requiring that the:

- timing of public exhibition of the Planning Proposal occur concurrently with the future Planning Proposal for the Ward Street Precinct;
- public exhibition of the Planning Proposal only proceed, if it is demonstrably consistent with Council's draft Ward Street Masterplan as is endorsed for public exhibition;
- public exhibition of the planning proposal be deferred until a satisfactory arrangement is reached between Council and the applicant with regard to the offer under the Voluntary Planning Agreement; and
- planning proposal be amended such that it reflects the preferred approach as outlined in Council's report of 19 February 2018 to include a revised local provision and an incentive heights map.



REZONING REVIEW – Briefing Report

Date of Referral:	8 December 2017	
Department Ref. No:	RR_2017_NORTH_001_00	
LGA:	North Sydney	
LEP to be Amended	North Sydney Local Environmental Plan 2013	
Address:	41 McLaren Street, North Sydney	
Reason for review:	<input type="checkbox"/> Council notified the proponent that it will not support proposed amendment	<input checked="" type="checkbox"/> Council failed to indicate support for proposal within 90 days, or failed to submit the proposal after indicating its support
Is a disclosure statement relating to reportable political donations under s147 of the Act required and provided?	<input type="checkbox"/> Provided <input checked="" type="checkbox"/> Not required Comment: The application states that there are no reportable political donations or gifts to disclose.	

SUMMARY OF THE PROPOSAL

Background

- On 1 September 2017, Architectus, on behalf of Erolcene Pty Ltd and Claijade Pty Ltd, submitted a planning proposal to amend North Sydney Local Environmental Plan 2013 (North Sydney LEP 2013) to increase the maximum building height control from RL 100m to RL 226m. This is proposed to be implemented either by an amendment to the height of building map or the introduction of a site-specific provision for a mixed-use development.
- The planning proposal is intended to facilitate a mixed-use building allowing for the refurbishment of the existing commercial building and the addition of a residential tower.
- On 8 December 2017, the proponent submitted a rezoning review request (**Attachment C**) as North Sydney Council failed to indicate its support for the proposal within the projected time frame.
- On 12 December 2017, the Department of Planning and Environment wrote to the proponent stating the proposal is eligible and is accepted as a rezoning review (**Attachment D**).

Locality and context

- The site is at the northern extent of North Sydney Centre in an area largely characterised by high-rise commercial and residential development (**Attachment E**).

- To the north of the site on the opposite side of McLaren Street at 168 Walker Street is an 18-storey commercial office building. Approval for redevelopment of this site has been granted for a 29-storey predominantly residential building with a maximum height of RL 167.51m.
- The corner of McLaren Street and Miller Street and to the north is vacant. The site will include the northern access to the Victoria Cross Metro Station.
- Over-station development associated with the Metro Station is located south-west of the site on the corner of Miller Street and Berry Street.
- To the west of the site at 39 McLaren Street is a 15-storey residential building and a concentration of mixed-use towers along Miller Street.
- To the south of the site is Council's Ward Street car park and North Sydney's commercial core.
- To the east of the site is medium-scale residential development. Warringah Freeway is approximately 170m east, providing a separation to the low-density residential area east of the freeway.

Site description

- The site comprises a single rectangular allotment and with a seven-storey commercial office building identified as Simsmetal House.
- The site has two street frontages and is on the corner of McLaren Street (primary frontage) and Harnett Street, a laneway immediately parallel to the site's eastern boundary.
- The site has an area of 2,359m² and is legally described as Lot 1 DP 557103.
- Images of the site and its locality are at **Attachment F**.

Current planning provisions

- The site is zoned B4 Mixed Use under North Sydney LEP 2013.
- The site has a maximum building height of RL 100m.
- The site is not subject to a maximum floor space ratio (FSR).
- The site is listed as a local heritage item (I0889), identified as Simsmetal House. The site is not in a heritage conservation area.
- The zoning and maximum building height maps are provided at **Attachment G**.

Proposed planning provisions

- The proposal seeks to increase the maximum building height from RL 100m to RL 226m. It proposes to seek the amendments to North Sydney LEP 2013 by either:
 - amending the height of buildings map to allow for a maximum building height of RL 226m; or
 - introducing a site-specific clause under division 2 applying to the site that allows for a maximum height greater than that provided by the height of buildings map where heritage conservation and public domain requirements are satisfied.
- The means of amending the maximum building height control of the subject site are provided at **Attachment H**.
- The intended outcome of the proposal is to facilitate additional height to allow for a residential tower above the existing commercial building. The proposed development

represented in the indicative architectural design (**Attachment I**) comprises the following:

- retention of the seven-storey heritage-listed Simsmetal House and 7,285m² (gross floor area) of commercial office space within the podium of the proposed mixed-use building;
- provision of a double height (two-storey) colonnade to function as access to the residential component of the building;
- construction of a 37-storey residential tower containing 224 residential units; and
- excavation for basement car parking and provision of 219 parking spaces.
- The proposed development will facilitate a 46-storey mixed-use development that comprises an approximate total gross floor area (GFA) of 30,902m². A breakdown of the building design and floor plates is provided in the architectural plans (**Attachment J**).

INFORMATION ASSESSMENT

Does the proposal seek to amend a zone or planning control that is less than 5 years old?

- Yes. The proposal seeks to amend North Sydney LEP 2013, which was gazetted on 2 August 2013.

STRATEGIC MERIT TEST

Consistency with the relevant regional plan outside of the Greater Sydney Region, district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment.

Proponents will not be able to depend on a draft regional, district or corridor/precinct plan when the Minister for Planning, Greater Sydney Commission or Department of Planning and Environment have announced that such a plan will be updated before being able to be relied upon.

Revised Draft North District Plan

- The site is within the North District formally identified in the plan.
- The plan identifies the future role of North Sydney to strengthen the district's economic links to the Harbour CBD and its role in the Eastern Economic Corridor. The plan identifies the need to continue to provide housing close to jobs, services and infrastructure.
- The plan identifies North Sydney Centre as a strategic centre with a target of 15,600 – 21,100 additional jobs by 2036, and sets a target of 3,000 additional dwellings by 2021.
- The planning proposal states it is in line with the plan's priorities of growing economic activity in centres within the district by improving housing choice, diversity and affordability through the proposed mixed-use redevelopment of the commercial building.

Consistency with a relevant local strategy that has been endorsed by the Department;

No relevant local strategies that have been endorsed by the Department apply to the site.

Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.

Draft Ward Street Precinct Masterplan (WSPM)

- The site is within the draft Ward Street Precinct Masterplan (WSPM), which aims to improve the public domain offering of North Sydney CBD. Specifically, the draft WSPM

proposes to replace the Ward Street car park with a community facility and a 1,450m² public plaza that is connected by active pedestrian-focused laneways.

- The local strategy is not endorsed by the Department. The draft masterplan was publicly exhibited between 26 January 2017 and 10 March 2017. Council is considering matters raised during consultation.
- The draft WSPM identifies the site for adaptive reuse to retain the existing building and proposes a building height change to RL 111m, which is calculated to be an additional five levels of residential floor space that could accommodate approximately 25-30 apartments.
- The draft WSPM states that the proposed envelope for the site respects the daylight amenity of the development application approved for 221 Miller Street and the new North of Centre (NoC) Square to be situated within the Ward Street Precinct.
- The draft WSPM identifies the site to be used primarily for commercial and residential uses (ground floor retail), including community uses.

Victoria Cross Metro Station

- On 9 January 2017, the then Minister for Planning granted approval under the application of a critical state significant infrastructure for the Sydney Metro City and Southwest (Chatswood to Sydenham).
- The Sydney Metro aims to address a strategic need to significantly increase transport capacity and frequency within the Global Economic Corridor and to drive productivity through integrated transport and land-use planning.
- The future Victoria Cross Metro Station will have a pedestrian entry on the opposite side of McLaren Street approximately 50m from the site.
- The planning proposal states it responds to the investment of new infrastructure and the announcement of the Victoria Cross Metro Station.

SITE-SPECIFIC MERIT TEST

The natural environment (including known significant environmental values, resources or hazards)

The proposal includes technical studies to assess any environmental effects resulting from the proposed development. The relevant effects for analysis include wind, daylight and solar, bulk and scale, views and vistas, acoustic and vibration, stormwater management, ecologically sustainable development, waste, heritage, overshadowing and traffic.

Natural environment

- The site is within the North Sydney CBD, characterised by medium-density to high-density development. The site does not hold any significant environmental values, resources or hazards. The site is not a critical habitat and does not hold any threatened species, populations or ecological communities.

Heritage

- The site is listed as a local heritage item (I0889) identified as Simsmetal House. The site is immediately adjacent to four detached dwellings across Harnett Street, described as items I0987, I0986, I0985 and I0984. The site is not identified within any heritage conservation area. The current heritage map is provided at **Attachment L**.
- A heritage impact statement prepared by GML Heritage (**Attachment M**) notes a range of measures that have been implemented in the design of the future development to

conserve significant building components and attributes to mitigate potential adverse impacts.

- The heritage statement concludes that the proposed development of the site, as envisaged by the architectural scheme prepared by the original architect of the building, Harry Seidler & Associates, represents an appropriate solution to meaningful conservation and long-term maintenance of the existing building.

Solar access and overshadowing

- The proposal includes overshadowing diagrams to provide an understanding of the impacts of the proposal on the surrounding area during the winter solstice. The analysis includes an assessment against the draft WSPM and the proponent's alternative masterplan assessed for its solar impacts on the public domain. Modelling of overshadowing and solar access is provided in the urban design strategy (**Attachment K**) taking into consideration the degree of impact on:
 - Berry Square (approximately 150m south of the site);
 - the proposed public open space within the Ward Street Precinct; and
 - overshadowing of existing and approved residential apartments.

Bulk and scale

- A comparison of the proposed built form controls of the draft WSPM and the planning proposal is provided below:

Draft WSPM	Planning proposal
The draft masterplan proposes to: <ul style="list-style-type: none"> • retain the existing seven-storey building; and • enable a five-storey addition. 	Based on the retention of the existing heritage building, the proposed development will enable a 46-storey development that includes: <ul style="list-style-type: none"> • retaining the existing seven-storey building; and • enabling a 39-storey addition.
Number of storeys: 12 storeys (RL 111m) Potential additional residential GFA = 3,363m ² Typical floor plate = approx. 915m ² & 586m ² Apartment yield = 25-30 residential apartments	Number of storeys: 46 storeys (RL 226m) Potential additional residential GFA = 22,902m ² Typical floor plate = average approx. 636m ² Apartment yield = 224 residential apartments

Table 1: Comparison of potential resultant development under draft WSPM and the proposal.

Wind

- The planning proposal includes a wind assessment prepared by Cermak Peterka Petersen Pty Ltd (**Attachment O**). The report provides detailed wind tunnel testing for sites in the vicinity of the site and has indicated that most sites are classified as suitable for pedestrian standing or walking and pass the relevant distress criterion.

- The assessment report concludes that the narrow plan form of the proposed tower, its orientation relative to prevailing winds and the proposed setbacks from podium edges will mitigate wind impacts at pedestrian level.

The existing uses, approved uses and likely future uses of land in the vicinity of the proposal

- The proposal states it is motivated by the announcement of the new Victoria Cross Metro Station and the key intent of the proposal is to allow an uplift in density for the site commensurate with its location opposite the northern entrance of the station.

The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.

Traffic

- A traffic impact assessment has been prepared for the future development of the site by Ason Group (**Attachment N**). The report concludes that the proposed development will have a negligible impact on the performance of key intersections in the locality, with minor increase to intersection delays and no change to existing service.
- The proposal provides for 219 car parking spaces (including 40 accessible and 22 visitor parking spaces), an increase of 128 parking spaces on the current number. The traffic report confirms the provided car parking spaces are in accordance with the North Sydney Development Control Plan 2013, including an additional 27 car spaces taking into consideration the need for visitor parking.

Infrastructure

- The site is within existing and proposed public transport infrastructure and existing road connections to the site.
- The site is approximately:
 - 650m from North Sydney Train Station;
 - 50m from the northern entrance of the future Victoria Cross Metro Station;
 - 110m from Miller Street bus interchange; and
 - 160m from the Warringah Freeway;
- The planning proposal includes a voluntary planning agreement (VPA) report (**Attachment P**) prepared by Urbis to provide a contribution towards the cost of delivering proposed public open space and associated public domain works within the Ward Street Precinct. The public benefits of the VPA include public domain embellishment, community facilities floor space for childcare or creative space (1250m²), and dedication of 12 apartments for affordable housing.

Services

- The site is in an established urban area and has access to infrastructure, utilities and services.
- The proposal states the revitalisation of the site promotes the efficient use of infrastructure services, reducing the need for consumption of land and housing.
- Service provisions exist for electricity, water, gas, stormwater infrastructure and telecommunications at the site.

VIEWS OF COUNCIL AND AGENCIES

- The Department wrote to Council on 12 December 2017 advising of the rezoning review request. Council responded on 7 February 2018 (**Attachment Q**).
- On 19 February 2018, Council resolved to not support the planning proposal.
- Council has confirmed that the planning proposal and accompanying documentation provided on the Department's website is identical to that submitted to Council on 1 September 2017.
- Council has stated that the site is within the draft Ward Street Precinct Masterplan (WSPM) and Council has engaged design specialists to review the exhibited draft WSPM in accordance with Council's most recent resolution (May 2017).
- Council states that the progression of the site's rezoning as sought has the potential to significantly undermine strategic planning work being undertaken in the locality.
- Council states that the planning proposal is considered to be contrary to several objectives and actions under the relevant regional and district plans applying to the land in that it does not:
 - protect or promote lands for commercial development within an important existing strategic centre on the Global Economic Corridor, or allow for future growth; and
 - sufficient residential capacity is already provided under North Sydney LEP 2013 to meet state housing targets without the need to significantly change the land-use mix on the subject site.
- Council states that the planning proposal is not consistent with the desired outcomes of the draft WSPM because it:
 - does not apply a precinct-scale planning approach;
 - does not provide clarity on the future growth of the precinct;
 - does not balance growth within North Sydney Centre or the amenity of surrounding properties;
 - may result in poor pedestrian interfaces and connections with future potential public open spaces;
 - may not result in a significant public benefit being achieved; and
 - does not achieve a no net increase in traffic generation.
- Council states that there are various landowners in the precinct with an interest in redeveloping their sites and that allowing the proposal to proceed ahead of the draft WSPM is premature, as this would likely undermine Council's efforts to facilitate the best possible outcomes under the draft WSPM.

ATTACHMENTS

- Attachment B – Planning proposal
- Attachment C – Letter from applicant
- Attachment D – Department acceptance of rezoning review
- Attachment E – Locality map

- Attachment F – Site map
- Attachment G – Current LEP map
- Attachment H – Proposed LEP map and site-specific provision
- Attachment I – Architectural design statement
- Attachment J – Architectural plans
- Attachment K – Urban design strategy including Architectus alternative and vision masterplans
- Attachment L – Heritage map
- Attachment M – Heritage impact statement
- Attachment N – Traffic impact assessment
- Attachment O – Wind assessment
- Attachment P – VPA report
- Attachment Q – Council comments

Contact Officer Max Chipchase
Para-Planner, Sydney Region East
Contact: 9274 6304



Adrian Panuccio
General Manager
North Sydney Council
council@northsydney.nsw.gov.au

9 March 2018

Dear Adrian

Request for a Rezoning Review – 2017SNH083 - RR_2017_NORTH_001_00

I refer to the request for a Rezoning Review for a proposal at 41 McLaren Street North Sydney to amend the North Sydney Local Environmental Plan 2013 to introduce a site specific provision to increase the height of building control.

The Sydney North Planning Panel (Planning Panel) has determined that the proposal should proceed to Gateway determination stage. In making this decision, the Planning Panel considered the request and advice provided by Council. A copy of the Panel's decision is attached.

Consequently, Council is invited to be the Relevant Planning Authority (RPA) for this proposal and to advise the Planning Panels Secretariat within 42 days of the date of this letter whether it will accept the role of RPA for this proposal. Should Council agree to be the RPA, it will need to prepare a planning proposal under section 3.33 (formerly section 55) of the *Environmental Planning and Assessment Act 1979*, and submit it for a Gateway determination within 42 days after accepting this role.

If Council does not wish to progress this matter, the Planning Panel will be appointed as the RPA to prepare the planning proposal.

If you have any queries on this matter, please contact Stuart Withington, Manager, Planning Panels Secretariat on (02) 8217 2062 or via email to stuart.withington@planning.nsw.gov.au

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Debanm', written over a light blue horizontal line.

Peter Debanm
Chair, Sydney North Planning Panel

encl. Rezoning Review Record of Decision



REZONING REVIEW
RECORD OF DECISION
 SYDNEY NORTH PLANNING PANEL

DATE OF DECISION	Wednesday 7 March 2018
PANEL MEMBERS	Peter Debnam (Chair), Sue Francis, John Roseth, Veronique Marchandea
APOLOGIES	Michel Reymond
DECLARATIONS OF INTEREST	None

REZONING REVIEW

2017SNH083 – North Sydney - RR_2017_NORTH_001_00 at 41 McLaren Street North Sydney (AS DESCRIBED IN SCHEDULE 1)

Reason for Review:

- ☐ The council has notified the proponent that the request to prepare a planning proposal has not been supported
- ☒ The council has failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal or took too long to submit the proposal after indicating its support

PANEL CONSIDERATION AND DECISION

The Panel considered: the material listed at item 4 and the matters raised and/or observed at meetings and site inspections listed at item 5 in Schedule 1.

Based on this review, the Panel determined that the proposed instrument:

- ☒ **should** be submitted for a Gateway determination because the proposal has demonstrated strategic and site specific merit
- ☐ **should not** be submitted for a Gateway determination because the proposal has
 - ☐ not demonstrated strategic merit
 - ☐ has demonstrated strategic merit but not site specific merit

The decision was unanimous.

REASONS FOR THE DECISION

The Panel considers the site and the change in density in the Ward Street Precinct has strategic and site-specific merit, having regard to the increased residential and commercial density requirements of the draft District Plan, the location of the new metro access at the corner of Miller and McLaren Streets and the newly adopted North Sydney CBD Local Environmental Plan, which increases heights to a maximum of RL289.

The Panel is aware that the Council has sought a review of its draft Ward Street Precinct Masterplan and that that is currently underway and close to being finalised by April 2018. In this review, the Panel understands, increased heights and a modified Masterplan may ensue.




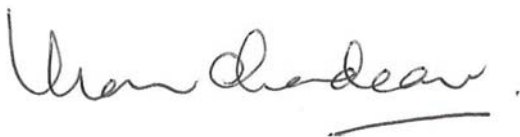
The Panel accepts that both the Council and the proponent wish to ensure Grade A commercial floorspace is provided in the Precinct and therefore ensuring that a minimum amount of non-residential floor area is provided to the precinct is essential.

The Panel notes that, while the Planning Proposal and the Alternative Masterplan do not provide for separation distances required by the ADG, this is generally true of most sites in the North Sydney CBD.

As concerns the overshadowing of public open space on Council land, the Panel notes that this would be true of any realistic planning option for the precinct.

Accordingly, the Panel recommends as follows:

1. That the Planning Proposal for increased height, including the "Alternative Masterplan" which justifies it, proceed to Gateway.
2. That the Planning Proposal and Alternative Masterplan not proceed to exhibition until Council exhibits its review of its proposed Strategy (which the Panel understands will have multiple options).
3. That the Planning Proposal and Alternative Masterplan be exhibited as one of the Precinct options.
4. That, in exhibiting the Planning Proposal and Alternative Masterplan, a development standard requiring a minimum of 3:1 floor space ratio be included for non-residential gross floor area.
5. Any Precinct plan should not increase car parking beyond the existing levels.

PANEL MEMBERS	
 Peter Debnam (Chair)	 John Roseth
 Sue Francis	 Veronique Marchandau

SCHEDULE 1		
1	PANEL REF – LGA – DEPARTMENT REF - ADDRESS	The Rezoning Review request seeks to amend the North Sydney Local Environmental Plan 2013 to introduce a site specific provision to increase the height of building control at 41 McLaren Street North Sydney.
2	LEP TO BE AMENDED	North Sydney Local Environmental Plan 2013
3	PROPOSED INSTRUMENT	The planning proposal seeks to amend the North Sydney Local Environmental Plan 2013 to introduce a site specific provision to increase the height of building control at 41 McLaren Street North Sydney.
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Rezoning review request documentation Briefing report from Department of Planning and Environment
5	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspection: 7 March 2018 at 9.30am <ul style="list-style-type: none"> Panel members in attendance: Peter Debnam (Chair), Sue Francis, John Roseth, Veronique Marchandau Department of Planning and Environment (DPE) staff in attendance: Wayne Williamson, Ellen Jones Briefing meeting with Department of Planning and Environment (DPE): 7 March 2018 at 9.50am <ul style="list-style-type: none"> Panel members in attendance: as above DPE staff in attendance: Wayne Williamson, Ellen Jones Briefing meeting with Council: 7 March 2018 at 10.15am <ul style="list-style-type: none"> Panel members in attendance: as above DPE staff in attendance: as above Council representatives in attendance: Emma Booth, Ben Boyd, Simon Williamson Briefing meeting with Proponent: 7 March 2018 at 10.55am <ul style="list-style-type: none"> Panel members in attendance: as above DPE staff in attendance: as above Proponent representatives in attendance: Geoff Teed, Greg Reed, Rick McEwan, John Curro, Michael Harrison, Taylor Vernon, Steve King.