

DECISION OF 3648th COUNCIL MEETING HELD ON 19 MAY 2014

172. **PDS02: Planning Proposal - 200-220 Pacific Highway, Crows Nest**

Report of Ben Boyd, Executive Strategic Planner

On 28 April 2014, Council considered an assessment of a Planning Proposal for the site known as 200-220 Pacific Highway Crows Nest. The Planning Proposal sought to amend the non-residential floor space ratio range requirements of North Sydney Local Environment Plan 2013 (NSLEP 2013) from 0.5:1 - 2:1 to 0.2:1 - 2:1. It was proposed to achieve this by amending clause 4.4A and the *Non-residential Floor Space Ratio Range Map* (LCL_001) to NSLEP 2013. The intent of the Planning Proposal was to allow the conversion of 6 approved serviced apartments to residential accommodation.

The report recommended the following:

1. THAT Council resolve to forward the attached Planning Proposal to the Minister for Planning and Infrastructure in order to receive a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act, 1979, subject to the following amendment:

a. The non-residential floor space ratio range for the subject site be amended to 0.24:1 – 2:1.

2. THAT Council include a review of the non-residential floor space requirements of mixed use areas during the undertaking of the Planning Study for Precinct 4 of the St Leonards / Crows Nest Town Centres.

3. THAT Council undertake a planning study that reviews the non-residential floor space requirements of mixed use areas as required.

4. THAT Council undertake a review of planning controls relating to serviced apartments with the aim to amend Council's planning controls so that developments incorporating serviced apartments do not undermine Council's ability to meet employment targets.

Council resolved (Min. No.124) to:

1. THAT Council include a review of the non-residential floor space requirements of mixed use areas during the undertaking of the Planning Study for Precinct 4 of the St Leonards / Crows Nest Town Centres.

2. THAT Council undertake a planning study that reviews the non-residential floor space requirements of mixed use areas as required.

3. THAT Council undertake a review of planning controls relating to serviced apartments with the aim to amend Council's planning controls so that developments incorporating serviced apartments do not undermine Council's ability to meet employment targets.

Council did not make a resolution with respect to Recommendation No.1, on which the report relies. Accordingly, this report seeks Council's determination with respect as to whether or not it should proceed with the Planning Proposal.

Recommending:

1. THAT Council determine its position with respect to the Planning Proposal. In particular, that Council resolves to do one of the following:

a. forward the attached Planning Proposal to the Minister for Planning and Environment in order to receive a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act, 1979, subject to the following amendment:

i. The non-residential floor space ratio range for the subject site be amended to 0.24:1 - 2:1.

b. defer the Planning Proposal from proceeding to Gateway Determination to enable the following to be undertaken:

i. Council include a review of the non-residential floor space requirements of mixed use areas during the undertaking of the

Planning Study for Precinct 4 of the St Leonards / Crows Nest Town Centres.

- c. refuse the Planning Proposal from proceeding to Gateway Determination.

Mr Shand addressed the meeting.

It was moved by Councillor Gibson and seconded by Councillor Bevan.

1. THAT Council resolves to forward the attached Planning Proposal to the Minister for Planning and Environment in order to receive a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act, 1979, subject to the following amendment:

- i. The non-residential floor space ratio range for the subject site be amended to 0.24:1 - 2:1.

It was moved as an amendment by Councillor Reymond and seconded by Councillor Baker

1. THAT a precinct based Planning Study, similar to that undertaken for Cliff Street, Milsons Point, be undertaken and funded by the applicant.

2. THAT if the Planning Study as required by Resolution No.1 meets with the approval of Council's Director Planning and Development Services in supporting the Planning Proposal's objectives, delegated authority be granted to the General Manager to forward the attached Planning Proposal to the Minister for Planning and Environment in order to receive a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act, 1979, subject to the following amendment:

- i. The non-residential floor space ratio range for the subject site be amended to 0.24:1 - 2:1.

3. THAT Council include a review of the non-residential floor space requirements of mixed use areas during the undertaking of the Planning Study for Precinct 4 of the St Leonards / Crows Nest Town Centres.

4. THAT Council undertake a planning study that reviews the non-residential floor space requirements of mixed use areas as required.

5. THAT Council undertake a review of planning controls relating to serviced apartments with the aim to amend Council's planning controls so that developments incorporating serviced apartments do not undermine Council's ability to meet employment targets.

The amendment was put and **carried**.

Voting on the amendment was as follows: For/Against 10/1

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

The amendment thereupon became the motion, was put and **carried**.

Voting was as follows: For/Against 10/1

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

RESOLVED:

1. THAT a precinct based Planning Study, similar to that undertaken for Cliff Street, Milsons Point, be undertaken and funded by the applicant.

2. THAT if the Planning Study as required by Resolution No.1 meets with the approval of Council's Director Planning and Development Services in supporting the Planning Proposal's objectives, delegated authority be granted to the General Manager to forward the attached Planning Proposal to the Minister for Planning and Environment in order to receive a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act, 1979, subject to the following amendment:

- i. The non-residential floor space ratio range for the subject site be amended to 0.24:1 - 2:1.

3. THAT Council include a review of the non-residential floor space requirements of mixed use areas during the undertaking of the Planning Study for Precinct 4 of the St Leonards / Crows Nest Town Centres.

4. THAT Council undertake a planning study that reviews the non-residential floor space requirements of mixed use areas as required.

5. THAT Council undertake a review of planning controls relating to serviced apartments with the aim to amend Council's planning controls so that developments incorporating serviced apartments do not undermine Council's ability to meet employment targets.

ADOPTED

**Report to General Manager**

Attachments:

1. Previous report 28 April 2014 (PDS01)

SUBJECT: Planning Proposal - 200-220 Pacific Highway, Crows Nest**AUTHOR:** Ben Boyd, Executive Strategic Planner**ENDORSED BY:** Joseph Hill, Acting Director Planning and Development Services**EXECUTIVE SUMMARY:**

On 28 April 2014, Council considered an assessment of a Planning Proposal for the site known as 200-220 Pacific Highway Crows Nest. The Planning Proposal sought to amend the non-residential floor space ratio range requirements of North Sydney Local Environment Plan 2013 (NSLEP 2013) from 0.5:1 - 2:1 to 0.2:1 - 2:1. It was proposed to achieve this by amending clause 4.4A and the *Non-residential Floor Space Ratio Range Map* (LCL_001) to NSLEP 2013. The intent of the Planning Proposal was to allow the conversion of 6 approved serviced apartments to residential accommodation.

The report recommended the following:

1. THAT Council resolve to forward the attached Planning Proposal to the Minister for Planning and Infrastructure in order to receive a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act, 1979, subject to the following amendment:

- a. The non-residential floor space ratio range for the subject site be amended to 0.24:1 – 2:1.*

2. THAT Council include a review of the non-residential floor space requirements of mixed use areas during the undertaking of the Planning Study for Precinct 4 of the St Leonards / Crows Nest Town Centres.

3. THAT Council undertake a planning study that reviews the non-residential floor space requirements of mixed use areas as required.

4. THAT Council undertake a review of planning controls relating to serviced apartments with the aim to amend Council's planning controls so that developments incorporating serviced apartments do not undermine Council's ability to meet employment targets.

Council resolved (Min. No.124) to:

1. THAT Council include a review of the non-residential floor space requirements of mixed use areas during the undertaking of the Planning Study for Precinct 4 of the St Leonards / Crows Nest Town Centres.

2. THAT Council undertake a planning study that reviews the non-residential floor space requirements of mixed use areas as required.

3. THAT Council undertake a review of planning controls relating to serviced apartments with the aim to amend Council's planning controls so that developments incorporating serviced apartments do not undermine Council's ability to meet employment targets.

Council did not make a resolution with respect to Recommendation No.1, on which the report relies. Accordingly, this report seeks Council's determination with respect as to whether or not it should proceed with the Planning Proposal.

FINANCIAL IMPLICATIONS:

Nil.

RECOMMENDATION:

1. THAT Council determine its position with respect to the Planning Proposal. In particular, that Council resolves to do one of the following:

- a. forward the attached Planning Proposal to the Minister for Planning and Environment in order to receive a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act, 1979, subject to the following amendment:
 - i. The non-residential floor space ratio range for the subject site be amended to 0.24:1 - 2:1.
- b. defer the Planning Proposal from proceeding to Gateway Determination to enable the following to be undertaken:
 - i. Council include a review of the non-residential floor space requirements of mixed use areas during the undertaking of the Planning Study for Precinct 4 of the St Leonards / Crows Nest Town Centres.
- c. refuse the Planning Proposal from proceeding to Gateway Determination.

LINK TO DELIVERY PROGRAM

The relationship with the Delivery Program is as follows:

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

Direction : 3. Our Economic Vitality

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

BACKGROUND

On 28 April 2014, Council considered an assessment of a Planning Proposal for the site known as 200-220 Pacific Highway Crows Nest. The Planning Proposal sought to amend the non-residential floor space ratio range requirements of North Sydney Local Environment Plan 2013 (NSLEP 2013) from 0.5:1 - 2:1 to 0.2:1 - 2:1. It was proposed to achieve this by amending clause 4.4A and the *Non-residential Floor Space Ratio Range Map* (LCL_001) to NSLEP 2013. The intent of the Planning Proposal was to allow the conversion of 6 approved serviced apartments to residential accommodation.

The report recommended the following:

1. THAT Council resolve to forward the attached Planning Proposal to the Minister for Planning and Infrastructure in order to receive a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act, 1979, subject to the following amendment:

a. The non-residential floor space ratio range for the subject site be amended to 0.24:1 – 2:1.

2. THAT Council include a review of the non-residential floor space requirements of mixed use areas during the undertaking of the Planning Study for Precinct 4 of the St Leonards / Crows Nest Town Centres.

3. THAT Council undertake a planning study that reviews the non-residential floor space requirements of mixed use areas as required.

4. THAT Council undertake a review of planning controls relating to serviced apartments with the aim to amend Council's planning controls so that developments incorporating serviced apartments do not undermine Council's ability to meet employment targets.

Council resolved (Min. No.124) the following:

1. THAT Council include a review of the non-residential floor space requirements of mixed use areas during the undertaking of the Planning Study for Precinct 4 of the St Leonards / Crows Nest Town Centres.

2. THAT Council undertake a planning study that reviews the non-residential floor space requirements of mixed use areas as required.

3. THAT Council undertake a review of planning controls relating to serviced apartments with the aim to amend Council's planning controls so that developments incorporating serviced apartments do not undermine Council's ability to meet employment targets.

Council did not make a resolution with respect to Recommendation No.1, to which the report ultimately relates. Accordingly, this report seeks Council's determination with respect to whether or not the Planning Proposal should proceed to Gateway Determination.

CONSULTATION REQUIREMENTS

Should Council determine that the Planning Proposal can proceed, 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

Under s.56 of the Environmental Planning and Assessment Act 1979 (EP&A Act), Council's are required to consider and make a determination on any Planning Proposal that it receives. Whilst consideration was given to the Planning Proposal on 28 April 2014 (refer to attached report), no formal determination was made as to whether it should:

- forward the Planning Proposal to the Minister for Planning and Environment in order to receive a Gateway Determination
- defer the Planning Proposal from proceeding to Gateway Determination to enable additional work to be undertaken
- refuse the Planning Proposal from proceeding to Gateway Determination

Accordingly, to ensure compliance with the requirements of the EP&A Act, Council should determine its position in relation to the Planning Proposal.

Where a Council does not make a determination within 90 days of a Planning Proposal's lodgement, the applicant may seek to have the Planning Proposal reviewed by the Department of Planning and Environment and obtain a determination as to whether or not the Planning Proposal should proceed to Gateway Determination. Applicants may also seek a review if Council determines not to allow the Planning Proposal to proceed to Gateway Determination.

As at the time that this report is considered, Council will have taken a total of 87 days to assess the Planning Proposal, but only 79 days once consideration is given to request for additional information from the applicant. Accordingly, if Council refuses or defers making a determination in relation to this Planning Proposal, the applicant would have the ability to have the determination or non-determination reviewed by the Department of Planning and Environment.