

**DECISION OF 3659th COUNCIL MEETING
HELD ON 15 DECEMBER 2014**

SUSPEND STANDING ORDERS

It was moved by Councillor Baker, seconded by Councillor Clare and carried unanimously that Standing Orders be suspended and Items GMO03, CIS04, CIS05, CIS06, CLS01, CLS02, CLS03, CLS04, CLS05, CLS07, CLS08, COS01, COS02, COS03, COS05, COS06, COS07, COS08, EPS01, EPS02, OSE01, OSE02, OSE04, OSE05, OSE06, OSE07, OSE08 (Min. No. 543, 547, 548, 549, 553, 554, 555, 556, 557, 559, 560, 562, 563, 564, 566, 567, 568, 569, 570, 571, 581, 582, 584, 585, 586, 587, 588) be voted on “en globo”.

Voting was as follows:

For/Against 10/0

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

It was moved by Councillor Baker and seconded by Councillor Barbour and carried that Standing Orders be resumed.

Councillor Burke left the meeting at 8.40pm during discussion of Item CIS09 (Minute No. 552) and returned at 8.44pm.

549. CIS06: Planning Proposal and draft Voluntary Planning Agreement - 521 Pacific Highway, Crows Nest

Report of Alex Williams, Team Leader - Policy

Council has received a Planning Proposal and draft Voluntary Planning Agreement (VPA) relating to the site at 521 Pacific Highway, St Leonards. The site is located within the area given focus by the St Leonards/Crows Nest Planning Study - Precinct 1, which was adopted by Council in October 2012.

The Planning Proposal identifies a built form of a maximum height of 40 metres and a floor space ratio control of 5.3:1. It is accompanied by a Voluntary Planning Agreement which proposes various public benefits including a monetary contribution of \$1,600,000 towards the provision of open space in the precinct.

The Planning Proposal and draft VPA have been assessed against the implementation recommendations contained within the St Leonards/Crows Nest Planning Study - Precinct 1. The Planning Proposal and draft VPA are considered to implement the Built Form Masterplan and Open Space and Pedestrian Masterplan for Precinct 1 to the fullest extent practicable. Documentation regarding likely impacts is considered appropriate for the purposes of public exhibition.

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

Recommending:

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

2. THAT the draft Voluntary Planning Agreement between North Sydney Council, LegPro 22 Pty Ltd and Reil Dealership Bonds Pty Limited be exhibited concurrently with the subject Planning Proposal conditioned on it receiving a Gateway Determination.

RESOLVED:

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

2. THAT the draft Voluntary Planning Agreement between North Sydney Council, LegPro 22 Pty Ltd and Reil Dealership Bonds Pty Limited be exhibited concurrently with the subject Planning Proposal conditioned on it receiving a Gateway Determination.



Report to General Manager

Attachments:

1. Planning Proposal - 521 Pacific Highway, Crows Nest

SUBJECT: Planning Proposal and draft Voluntary Planning Agreement - 521 Pacific Highway, Crows Nest

AUTHOR: Alex Williams, Team Leader - Policy

ENDORSED BY: Joseph Hill, Director City Strategy

EXECUTIVE SUMMARY:

Council has received a Planning Proposal and draft Voluntary Planning Agreement (VPA) relating to the site at 521 Pacific Highway, St Leonards. The site is located within the area given focus by the St Leonards/Crows Nest Planning Study - Precinct 1, which was adopted by Council in October 2012.

The Planning Proposal identifies a built form of a maximum height of 40 metres and a floor space ratio control of 5.3:1. It is accompanied by a Voluntary Planning Agreement which proposes various public benefits including a monetary contribution of \$1,600,000 towards the provision of open space in the precinct.

The Planning Proposal and draft VPA have been assessed against the implementation recommendations contained within the St Leonards/Crows Nest Planning Study - Precinct 1. The Planning Proposal and draft VPA are considered to implement the Built Form Masterplan and Open Space and Pedestrian Masterplan for Precinct 1 to the fullest extent practicable. Documentation regarding likely impacts is considered appropriate for the purposes of public exhibition.

FINANCIAL IMPLICATIONS:

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

RECOMMENDATION:

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

2. THAT the draft Voluntary Planning Agreement between North Sydney Council, LegPro 22 Pty Ltd and Reil Dealership Bonds Pty Limited be exhibited concurrently with the subject Planning Proposal conditioned on it receiving a Gateway Determination.

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 meet 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 Community is connected
4.7 Community is active and healthy

BACKGROUND

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 occurring via site specific Planning Proposals and Voluntary Planning Agreements (VPAs).

The first site specific Planning Proposal relating to the site at 545-553 Pacific Highway, St Leonards (NSLEP2001 Amendment No. 54) sought to amend LEP 2001 by increasing the height control from 26 metres to 50 metres, consistent with the Built Form Masterplan, and by introducing a site specific FSR control of 6.6:1. The Planning Proposal was accompanied by a VPA which provides for, among other things, building setbacks to allow for an improved public domain and a monetary contribution towards the provision of new open space in the

precinct.

The amendments to NSLEP brought about by the Planning Proposal came into force on 24 May 2013 and a Development Application for a 50 metre building (DA455/12) was subsequently approved. The Planning Proposal process and associated VPA has ensured that this development is consistent with Council's strategic vision for the area as articulated by the Built Form Masterplan and Open Space and Pedestrian Masterplan contained in the St Leonards/Crows Nest Planning Study - Precinct 1.

A second site specific Planning Proposal relating to the site at 7-19 Albany Street, St Leonards (NSLEP2013 Amendment No. 4) sought to amend LEP 2013 by increasing the height control from 26 metres to 40 metres, consistent with the Built Form Masterplan, and by introducing a site specific floor space ratio control of 5.6:1. The Planning Proposal was accompanied by a VPA which provides for, among other things, building setbacks to allow for an improved public domain and a monetary contribution towards the provision of new open space in the precinct.

The amendments to NSLEP brought about by the Planning Proposal came into force on 11 July 2014 and a Development Application for a 40 metre building (DA167/14) was approved by the JRPP on 6 November 2014. The Planning Proposal process and associated VPA has ensured that the approved development for the site is consistent with Council's strategic vision for the area as articulated by the Built Form Masterplan and Open Space and Pedestrian Masterplan contained in the St Leonards/Crows Nest Planning Study - Precinct 1.

The subject Planning Proposal and draft VPA relating to 521 Pacific Highway, Crows Nest, is the third proposal seeking to implement the St Leonards/Crows Nest Planning Study - Precinct 1.

CONSULTATION REQUIREMENTS

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

SUSTAINABILITY STATEMENT

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

QBL Pillar	Implications
Environment	<ul style="list-style-type: none">• New green spaces in built up areas reduce heat island effects and reduce the need for artificial cooling.• Open space and greening of public domain potentially provides for ecological processes and habitat.

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

DETAIL

Council received a Planning Proposal and draft Voluntary Planning Agreement (VPA) on 14 November 2014 relating to the site at 521 Pacific Highway, 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 LEP2013:

- An increase in the height control from 20 metres to 40 metres;
- The introduction of a floor space ratio (FSR) control of 5.3:1.

2. Draft Voluntary Planning Agreement

The draft VPA contains provision for:

- A monetary contribution of \$1,600,000 to be paid to Council for the purposes of providing new open space within the precinct;
- A 6 metre setback from the Oxley Street frontage to allow for a widened footpath and outdoor seating;
- A 3 metre setback from the Pacific Highway frontage to allow for a widened footpath;
- A restriction on building height below the current permitted height on the southern portion of the site to ensure an appropriate podium and tower building typology is achieved that allows for a number of existing residential units on the eastern side of Clarke Lane to retain a westerly aspect.

3. Planning appraisal

The Planning Proposal as submitted is 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 '*A 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?

Yes. The subject site has a frontage of 50 metres to the Pacific Highway and 30 metres to Oxley Street.

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

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

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

Yes. The Planning Proposal seeks to amend the LEP2013 height control, as it applies to the site, from 20 metres to 40 metres. This is consistent with the recommended height for the subject site identified in the Built Form Masterplan for Precinct 1.

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

The Planning Proposal seeks to introduce a site specific floor space ratio control of 5.3:1. Built form modeling indicates a development constructed under the existing planning controls applying to the site, including the existing 20 metre height control, could accommodate an FSR of 4.3:1. The methodology identified in the Built Form Masterplan for calculating a maximum FSR under a new height control of 40 metres results in an FSR of 5.1:1.

As evident in the concept drawings provided with the Planning Proposal, the proponent is proposing to locate a small amount of non-residential floorspace below ground. It is considered that the restrictions placed on the building envelope via the VPA (discussed below) will prevent an oversupply of GFA above ground thus allowing for an appropriate and well designed built form.

Given the significant public domain improvements, including a 6 metre setback from Oxley Street, and the contribution towards new open space proposed by the Planning Proposal and associated draft VPA, the additional floor space is considered to be reasonable and worthy of support. However, it is 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?

Yes. The draft VPA submitted with the subject Planning Proposal includes a requirement to register a covenant against the title of the land prohibiting any building above RL98.40 on the southern portion of the site as shown at Appendix A of the draft VPA. An excerpt of Appendix A is shown at Figure 2.

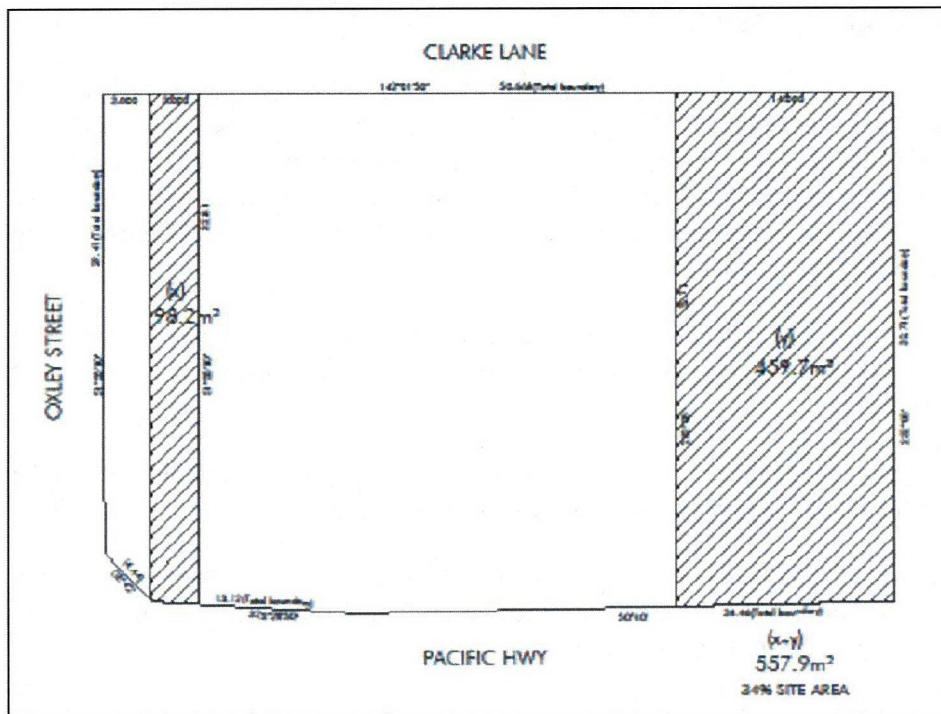


Figure 2 - Excerpt of Appendix A of the draft VPA

An RL of 98.40 equates to a building height of approximately 11 metres on the subject site. Compared to a form of development built to a compliant height of 20 metres across the site, the proposed reduction in the height below the maximum currently permissible across the southern portion of the site would result in less impact on aspects and solar access for some of the units within the Lyall building at No. 22-26 Clarke Street (located on the eastern side of Clarke Lane).

This restriction above podium level will also ensure the resulting tower element will be more slender than would otherwise be the case.

The proponent has also proposed a restriction on the northern side of the site that sits within the 6 metre setback area on the Oxley Street frontage. The wording of the restriction will ensure that this portion of the setback area can be used for outdoor dining and landscaping. This is consistent with the St Leonards / Crows Nest Planning Study - Precinct 1.

The Planning Proposal identifies foreseeable impacts that will result from the proposed increase in the height control. Of note is the impact the proposal will have on the views currently enjoyed from some mixed use buildings to the north of the subject site. Given the location and orientation of the site, it is considered that preservation of these views through a building envelope restriction imposed via the draft VPA would be impractical and would impact on the orderly development of the site.

The Planning Proposal will not be finalised unless the subject VPA has been executed. This provides the necessary certainty that the proposed building envelope restrictions will be reflected in any subsequent development application.

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

Yes. The draft VPA submitted with the Planning Proposal provides for a monetary contribution of \$1,600,000 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 6 metres from the Oxley Street frontage and 3 metres from the Pacific Highway frontage. The VPA will ensure that the setbacks function and are maintained as an extension of the public domain. All design, maintenance and liability issues have been dealt with via the subject VPA.

The draft VPA provides the necessary certainty that the Planning Proposal contains satisfactory arrangements for the provision of the ground level setbacks on the subject site.

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

Since adoption of the St Leonards/Crows Nest Planning Study - Precinct 1, a DCP control requiring a 3 storey podium height for this site has been brought into force. A site specific DCP control is therefore no longer necessary.

3.2. Environmental impacts

The Planning Proposal identifies foreseeable impacts that will result from the proposed increase in the height control. The proponent has gone to some effort to document expected overshadowing and view impacts. Of note is the impact the proposal will have on the views currently enjoyed from some mixed use buildings to the north of the subject site. The Planning Proposal clearly identifies the apartment buildings that will be impacted and the likely degree of impact.

Report of Alex Williams, Team Leader - Policy
Re: Planning Proposal and draft Voluntary Planning Agreement - 521 Pacific Highway,
Crows Nest

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The Planning Proposal is considered to contain sufficient information regarding likely impacts to progress the proposal to public exhibition stage.

4. Conclusion

The Planning Proposal and associated draft VPA are generally 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.
