DECISION OF 3604th COUNCIL & COUNCIL (ASSESSMENTS) MEETING HELD ON 25 JUNE 2012

346. G03: Planning and Development Committee Minutes - 18 June 2012

12. PD03: Planning Proposal - Restriction on the use of SEPP 1, St Leonards

Report of Alex Williams, Senior Strategic Planner, 8 June 2012

The recent Part 3A approval at 6-16 Atchison Street sets a potential precedent for further breaches of height controls without due consideration of cumulative impacts and without proper strategic planning having occurred. The approval also compromises Council's ability to restructure the planning framework via the St Leonards/Crows Nest Planning Study to deliver new open space and other public benefits.

The Planning Proposal (Attachment 1) seeks to amend NSLEP 2001 so as to limit the use of State Environmental Planning Policy 1 (SEPP 1) within the St Leonards/Crows Nest Planning Study area in cases where a proposed development breaches the height control. This is to clearly control the ability for developments to be approved beyond the scale and capacity envisaged in the planning controls contained in NSLEP 2001 until such time as the findings of the St Leonards/Crows Nest Planning Study have been appropriately considered.

Under this amendment the use of SEPP 1 to support a breach of the height control within the subject area would be limited to the approval of breaches of 3 metres or less, excluding lift overruns and roof plant. This is to enable approval of habitable storeys which the height limit would dissect, as well as lift overruns and roof plant, where full compliance is considered unreasonable or unnecessary.

Recommending:

1. THAT Council forward the amended 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.

Resolved to recommend:

1. THAT Council forward the amended 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.

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

Voting was unanimous

ADOPTED

NORTH SYDNEY COUNCIL

Report to General Manager

Attachments:
1. Planning Proposal - Restriction on the use of SEPP 1, St Leonards

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SUBJECT: Planning Proposal - Restriction on the use of SEPP 1, St Leonards

AUTHOR: Alex Williams, Senior Strategic Planner, 8 June 2012

EXECUTIVE SUMMARY:

The recent Part 3A approval at 6-16 Atchison Street sets a potential precedent for further breaches of height controls without due consideration of cumulative impacts and without proper strategic planning having occurred. The approval also compromises Council's ability to restructure the planning framework via the St Leonards/Crows Nest Planning Study to deliver new open space and other public benefits.

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RECOMMENDATION:

1. THAT Council forward the amended 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.

Signed: _____

Endorsed by: _____
Manager Strategic Planning

LINK TO DELIVERY PROGRAM

The relationship with the Delivery Program is as follows:

Direction: 2. Our Built Environment

Goal: 2.2 Improve mix of land use and quality development

BACKGROUND

Council at its meeting of 29 November 2010 resolved to undertake a planning study of the St Leonards/Crows Nest area with the following objectives:

- New open space in St Leonards / Crows Nest;
- Increased investment in St Leonards and decreased commercial vacancy rates, with particular focus on the rejuvenation of the Pacific Highway between St Leonards train station and the intersection of Pacific Highway and Willoughby Road;
- Improved connectivity, particularly between St Leonards / Pacific Highway and Willoughby Road;
- Improved urban design and street level amenity particularly in St Leonards and along the Pacific Highway; and
- Improved building design and residential amenity in St Leonards.

The study was commenced in the knowledge that there is a pressing need to re-evaluate the existing statutory planning framework, particularly Council's height controls and the relationship between density and the provision of open space and amenity in the St Leonards / Crows Nest area.

The study is considering additional height and residential capacity in the area in a clear strategic context and seeks to identify mechanisms that would ensure any increase results in tangible public benefit through open space and public amenity gains.

On 1 May 2012 the Planning Assessment Commission (PAC) gave consent to an 82.5 metre high mixed use development at 6-16 Atchison Street, St Leonards. The consent was granted under Part 3A of the Environmental Planning and Assessment Act 1979. The approved development represents a 33.5 metre breach of the 49 metre NSLEP 2001 height control that applies to the site.

Without limitation, the approval at 6-16 Atchison Street sets a potential precedent for when consent authorities are considering further proposed breaches of the height control in St Leonards. The approval means that it is highly likely that further breaches of height controls in St Leonards may eventuate without due consideration of cumulative impacts and without proper strategic planning having occurred. Further, the approved breach of the height limit compromises Council's ability to restructure the planning framework via the St Leonards/Crows Nest Planning Study to deliver new open space and other public benefits.

The Planning Proposal seeks to limit the impact this approval will have on Council's strategic planning for the area by placing a clear restriction on the use of State Environmental Planning Policy 1 (SEPP 1) when consent authorities are considering further proposed breaches of the height control within the St Leonards/Crows Nest Planning Study area.

SUSTAINABILITY STATEMENT

The Planning Proposal will allow for sustainability implications of changes to the planning framework in St Leonards to be considered as part of the St Leonards/Crows Nest Planning Study.

DETAIL

The Planning Proposal seeks to amend NSLEP 2001 so as to limit the use of SEPP 1 within the St Leonards/Crows Nest Planning Study area in cases where a proposed development breaches the height control. This is to control the ability for developments to be approved beyond the scale and capacity envisaged in the planning controls contained in NSLEP 2001 until such time as the findings of the St Leonards / Crows Nest Planning Study have been appropriately considered.

Under this amendment the use of SEPP 1 to support a breach of the height control within the subject area would be limited to the approval of breaches of 3 metres or less, excluding lift overruns and roof plant. This is to enable approval of habitable storeys which the height limit would dissect, as well as lift overruns and roof plant, where full compliance is considered unreasonable or unnecessary.

The proposed restriction on the use of SEPP 1 within the subject area is considered the best means of allowing the St Leonards/Crows Nest Planning Study to be undertaken without being compromised by further non-compliant development consents. It is considered the best way to manage the precedent set by the approval at 6-16 Atchison Street and the best way to provide certainty to applicants, the local community and consent authorities regarding the achievable height and residential capacity of future development.