

## **8.15. Planning Proposal 7/20 – 391-423 Pacific Highway, 3-15 Falcon Street and 8 Alexander Street, Crows Nest. Site known as “Fiveways Triangle Site”**

**AUTHOR:** Katerina Papas, Strategic Planner

To present to Council the assessment of a Planning Proposal which seeks to amend *North Sydney Local Environmental Plan 2013* (NSLEP 2013) as it relates to land at 391-423 Pacific Highway, 3-15 Falcon Street and 8 Alexander Street, Crows Nest (site known as “Fiveways Triangle Site”) following its review by the North Sydney Local Planning Panel.

On 4 December 2020, Council received a Planning Proposal to amend NSLEP 2013 as it relates to land bound by Pacific Highway, Falcon Street and Alexander Street, Crows Nest, known as the ‘Fiveways Triangle Site’.

The subject site is located within the area covered by two recently adopted and important planning instruments, being:

1. the *St Leonards and Crows Nest 2036 Plan* (2036 Plan), adopted by the Department of Planning, Industry and Environment (DPIE) on 29 August 2020; and
2. the *Civic Precinct Planning Study* (CPPS) adopted by Council on 30 November 2020.

The Planning Proposal seeks to amend NSLEP 2013 as follows:

- Increase the maximum building height control on the subject site from 16m to 75m;
- Increase the minimum Non-Residential Floor Space Ratio (FSR) control on the subject site from 0.5:1 to 2.5:1; and
- Establish an overall maximum FSR control on the subject site of 9.3:1.

The intent of the Planning Proposal is to deliver a 19-storey mixed-use development with a 3-4 storey commercial podium and 16-storey residential tower above. The indicative concept scheme submitted in support of the amendment, includes 233 residential apartments with a residential Gross Floor Area (GFA) of 21,818 sqm, a non-residential GFA of 8,002 sqm, and 385 car parking spaces over 7 basement levels.

The Planning Proposal is accompanied by an offer to enter into a Voluntary Planning Agreement (VPA) to provide either a monetary contribution for the purposes of improved open space and community facilities, or the dedication to Council of an unspecified number of 1 bedroom apartments within the proposed development for affordable key worker housing.

On 26 February 2021, Council wrote to the applicant to advise that it had undertaken a preliminary assessment of the Planning Proposal against the outcomes of the 2036 Plan and that it could not be supported in its current form. The applicant was requested to either withdraw their Planning Proposal or re-submit a revised Planning Proposal that is compliant with the 2036 Plan. No withdrawal request or revised scheme has been submitted.

An assessment of the Planning Proposal has been completed against the 2036 Plan and relevant Regional, District and Local Plans. It is recommended that the Planning Proposal not be supported to proceed to a Gateway Determination for the following reasons:

- The Planning Proposal is significantly inconsistent with the outcomes of the 2036 Plan in relation to the degree of non-compliance with building height and FSR. These non-compliances result in significant amenity impacts as detailed in this report.
- If such non-compliances are supported to any degree, the Planning Proposal will create a precedent for significant non-compliances with the maximum building height and FSR controls contained within the 2036 Plan and undermine the integrity of all strategic planning policies relating to the precinct including:
  - Greater Sydney Regional Plan ('A Metropolis of Three Cities') and North District Plan;
  - St Leonards and Crows Nest 2036 Plan and accompanying Special Infrastructure Contribution (SIC) Scheme;
  - North Sydney Local Strategic Planning Statement (LSPS); and
  - Civic Precinct Planning Study (CPPS).
- The Planning Proposal is inconsistent with *Direction 5.10 – Implementation of the Regional Plan* and *Direction 7.11 – Implementation of St Leonards and Crows Nest 2036 Plan* to section 9.1 Ministerial Directions under the Environmental Planning and Assessment Act 1979 (EP&A Act), which requires Planning Proposals to be consistent with the 2036 Plan and Greater Sydney Regional Plan.

The North Sydney Local Planning Panel (NSLPP) considered the Assessment Report on 5 May 2021 and resolved not to support the progression of the Planning Proposal to a Gateway Determination. The NSLPP agreed with the analysis and reasons for not supporting the Planning Proposal outlined in this report.

Despite the above, the applicant has lodged a request for a rezoning review with the DPIE. Council is yet to be advised when the review is likely to be considered by the Sydney North Planning Panel.

Nil

## **RECOMMENDATION:**

**1.THAT** Council receive and consider the advice provided by the North Sydney Local Planning Panel at its meeting of 5 May 2021, in relation to this Planning Proposal.

**2.THAT** Council resolves not to support the Planning Proposal proceeding to Gateway Determination for the following reasons:

- The Planning Proposal is significantly inconsistent with the outcomes of the 2036 Plan in relation to the degree of non-compliance with building height and FSR.

- If such non-compliances are supported to any degree, the Planning Proposal will create a precedent for significant non-compliances with the maximum building height and FSR controls contained within the 2036 Plan and undermine the integrity of all strategic planning policies relating to the precinct including:
  - Greater Sydney Regional Plan ('A Metropolis of Three Cities') and North District Plan;
  - St Leonards and Crows Nest 2036 Plan and accompanying Special Infrastructure Contribution (SIC) Scheme;
  - North Sydney Local Strategic Planning Statement (LSPS); and
  - Civic Precinct Planning Study (CPPS).
- The Planning Proposal is inconsistent with *Direction 5.10 – Implementation of the Regional Plan* and *Direction 7.11 – Implementation of St Leonards and Crows Nest 2036 Plan* to section 9.1 Ministerial Directions under the Environmental Planning and Assessment Act 1979 (EP&A Act), which requires Planning Proposals to be consistent with the 2036 Plan and Greater Sydney Regional Plan.

**3.THAT** Council advise the Department of Planning, Industry and Environment of its decision and be provided with a copy of this report and its resolution in support of Council's decision.

**4.THAT** Council notifies the applicant of Council's determination in accordance with clause 10A of the Environmental Planning and Assessment Regulation 2000.

The Recommendation was moved by Councillor Keen and seconded by Councillor Barbour.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 7 / 0

**For:** Councillor Gibson, Councillor Keen, Councillor Brodie, Councillor Carr, Councillor Barbour, Councillor Drummond, Councillor Mutton

**Against:** nil

**Absent:** Councillor Beregi, Councillor Gunning and Councillor Baker

#### **101. RESOLVED:**

**1.THAT** Council receive and consider the advice provided by the North Sydney Local Planning Panel at its meeting of 5 May 2021, in relation to this Planning Proposal.

**2.THAT** Council resolves not to support the Planning Proposal proceeding to Gateway Determination for the following reasons:

- The Planning Proposal is significantly inconsistent with the outcomes of the 2036 Plan in relation to the degree of non-compliance with building height and FSR.
- If such non-compliances are supported to any degree, the Planning Proposal will create a precedent for significant non-compliances with the maximum building height and FSR controls contained within the 2036 Plan and undermine the integrity of all strategic planning policies relating to the precinct including:
  - Greater Sydney Regional Plan ('A Metropolis of Three Cities') and North District Plan;
  - St Leonards and Crows Nest 2036 Plan and accompanying Special Infrastructure Contribution (SIC) Scheme;
  - North Sydney Local Strategic Planning Statement (LSPS); and

- Civic Precinct Planning Study (CPPS).
  - The Planning Proposal is inconsistent with *Direction 5.10 – Implementation of the Regional Plan* and *Direction 7.11 – Implementation of St Leonards and Crows Nest 2036 Plan* to section 9.1 Ministerial Directions under the Environmental Planning and Assessment Act 1979 (EP&A Act), which requires Planning Proposals to be consistent with the 2036 Plan and Greater Sydney Regional Plan.
- 3.THAT** Council advise the Department of Planning, Industry and Environment of its decision and be provided with a copy of this report and its resolution in support of Council’s decision.
- 4.THAT** Council notifies the applicant of Council’s determination in accordance with clause 10A of the Environmental Planning and Assessment Regulation 2000.