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11 May 2023

Mr Adam Iskander
Department of Planning and Environment
12 Darcy Street, Parramatta
Locked Bag 5022
Parramatta NSW 2124

Dear Adam,

PP-2021-5353 - RESPONSE TO NORTH SYDNEY COUNCIL'S SUBMISSION - 378-390 PACIFIC HIGHWAY, CROWS NEST - ADDENDUM

1. INTRODUCTION

This letter has been prepared by Urbis on behalf of Futuro Capital for Planning Proposal PP- 2021-5353 relating to land at 378- 390, Pacific Highway, Crows Nest. Planning Proposal PP- 2021-2026 was on public exhibition from 10 February to 10 March 2023.

A letter was submitted by the Applicant to the Department of Planning and Environment on 14 April 2023 which responded to the seven government agency and 24 public objections received during the exhibition period.

This addendum letter has been prepared in response to North Sydney Council's submission received on 4 May 2023.

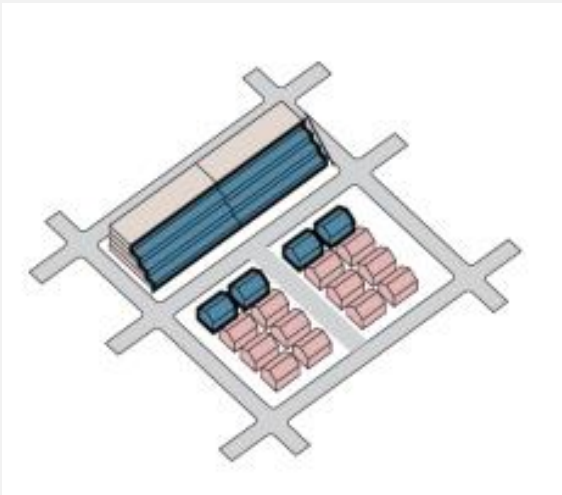
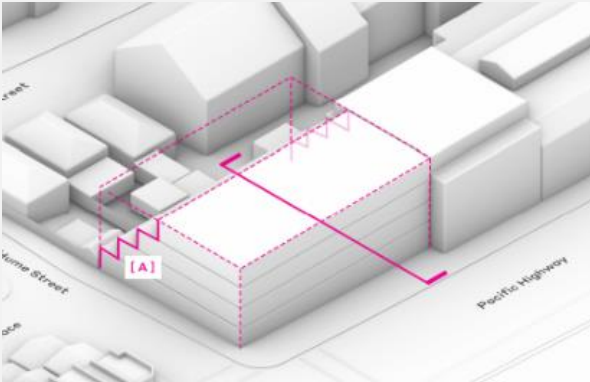
2. RESPONSE TO NORTH SYDNEY COUNCIL'S SUBMISSION

Table 1 provides a response to the issues raised by North Sydney Council during the public exhibition period.

Table 1 – Response to Public Submissions

Matter	Applicant Response
Strategic Merit Council notes the Sydney North Planning Panel position that the Planning Proposal demonstrates strategic merit. It is North Sydney Council's position that the site is considered to have strategic merit as it broadly gives effect to the 2036 Plan which was prepared in response to the new Crows Nest Metro Station. The Planning Proposal,	As noted in the Planning Proposal documentation, the proposed built form outcome is entirely consistent with the numerical provisions contained within the Plan, as they relate to building height, FSR, setbacks and overshadowing. Section 3.3.1 of the Gateway Determination Report prepared by the Department clearly outlines the proposals consistency with the vision, design


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<p>however, is not considered to be consistent with Ministerial Direction 7.11 - St Leonards, Crows Nest 2036 Plan as it does not ensure a suitable interface and transition to the west and therefore does not meet the objectives and actions of the 2036 Plan.</p>	<p>principles and design criteria that are established within the Plan.</p> <p>The provisions in the Plan which relate to “transition and interface” specifically make reference to sites with a heritage interface and reference how the heights within the Plan itself have provided for height transitions to lower scale developments.</p> <p>The proposed building envelope is entirely consistent with the 24 storey building height mapped for the site. It is acknowledged that the Plan has mapped the western site to increase to 4 storeys, confirming that the DPE had carefully considered the adjoining site relationship when establishing the height for the subject site.</p> <p>Nevertheless, in order to more thoroughly address this specific consideration, the proponent has prepared a site-specific DCP that has been exhibited as part of the Planning Proposal package, includes the following principles:</p> <ul style="list-style-type: none"> • A terraced podium form that gradually increases in the separation from the west, with a 0m setback at the lower level to an 11.9m setback at the upper level, consistent with the podium interface illustrated in the Plan which would normally be applied for developments that have a heritage interface. • The increased setback provides for a variation in the built form and perceived height. • A 1m wide landscape planter box at the edge of each terraced podium level to soften the appearance of the built form and provide for increased privacy and visual screening. • An elevated tower form with a minimum 10m void between the tower and podium form to allow for small – medium sized plants to be established within the podium, whilst also allowing opportunities for increased daylight and ventilation.

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	<p data-bbox="798 470 1362 539">Figure 1: Transition typically applied to heritage areas, as noted in the Plan</p>  <p data-bbox="798 1077 1342 1146">Figure 2: Proposed concept podium transition response</p>  <p data-bbox="798 1574 1406 1756">In addition to the above podium transition arrangements, the tower form has also adopted a stepping in the building setbacks, which range from 6m at the southern edge to 10m at the northern edge, providing an average 8m rear tower setback.</p> <p data-bbox="798 1785 1378 1924">The combination of these skilful design elements demonstrates a well-design interface that is consistent with the principles and objectives for transitions and interfaces.</p>

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	As such, the Planning Proposal is consistent with Ministerial Direction 7.11 - St Leonards, Crows Nest 2036 Plan.
<p>Site Specific Merit Issues – Height</p> <p>The concerns expressed in Council's letter of 6 July 2022 remain. The proposed height assigned to the site is well in excess of that required to accommodate a 24-storey building on the site.</p> <p>The accompanying reference design, as amended, includes an 11.3m 'transition' between the podium and tower components. The reference scheme also has no formal status so this design feature may not ultimately be delivered.</p>	<p>The Plan maps the site for 24 storeys. The proposed concept envelope and the mapped LEP heights are entirely reflective of a building with a height of 24 storeys.</p> <p>It is noted that in response to Council's earlier concerns in relation to the building height, the Proponent reduced the height from 91.5m to 87m / RL176. Council, in their letter, dated 6 July 2022, states that this is <i>"numerically consistent with the height contained in the 2036 Plan."</i></p> <p>A sectional diagram of the building envelope is provided in Figure 3 below which clearly demonstrates that the floor-to-floor heights are standard and the building is of 24 storeys in height, as mapped under the Plan.</p> <p>Further to this, Council states that the reference scheme has "no formal status." This ignores the fact that a site-specific DCP has been exhibited with the Planning Proposal which has very clear and definitive design controls pertaining to the above podium void, which was introduced based on the recommendations of the Panel at the rezoning review phase. The controls within the site-specific DCP therefore gives certainty and clarity on the ultimate development outcome that will be delivered.</p>

<p>Matter</p>	<p>Applicant Response</p>
	<p>Figure 3: Section diagram clearly illustrating a building form that is 24 storeys in height, as per the Plan.</p> <p>The diagram illustrates a 24-storey building with the following details:</p> <ul style="list-style-type: none"> Levels and Heights: <ul style="list-style-type: none"> Roof & Plant: 4.0m L23 to L07: 3.2m per level (18 levels) L06 to L01: 3.2m per level (5 levels) G: 5m Base: 2.46m Total Height: 86.85m Floor Area Calculations: <ul style="list-style-type: none"> L23 to L07: 425m² per level L06 to L01: 502m², 626m², 651m², 651m², 651m² G: 739m² Site Information: <ul style="list-style-type: none"> RL +175.4 RL 107.400 RL 91.000 RL 88.540 (lowest site RL)
<p>Site Specific Merit Issues – Building transition and setbacks</p> <p>The concerns expressed in Council's letter of 6 July 2022 remain. It is noted that the reference design was amended following the panel's initial consideration of the Planning Proposal and the overall FSR reduced (by approx. 25sqm per level) however the relationship, and concerns arising, of the tower component to neighbouring sites remain ostensibly the same.</p> <p>Due to the site not incorporating either No 398 Pacific Highway (to the north) or No's 29-33 Nicholson Street (to the west), the Planning Proposal will facilitate a building form that does not comply with the State Government's Apartment Design Guide. The proposal will result in a poor and</p>	<p>As outlined in Urbis' response to public submissions letter dated 18 April 2023, the Proponent has made multiple attempts to negotiate with the northern and western neighbours. This correspondence has been provided to the Department as part of that RtS.</p> <p>Despite the northern neighbour making a submission on the application, they themselves have made no attempt to offer the Proponent a fair and reasonable price for the sale of their land.</p> <p>Notwithstanding this, Council notes in their assessment of the Planning Proposal that the northern site is not an isolated site and there remains substantial development potential for that site to develop with the northern most property.</p> <p>It is reiterated that there are no requirements for site amalgamation, statutory or otherwise and commentary with respect to site amalgamation in the</p>

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<p>unresolved interface with the adjacent lower density areas to the west and southwest.</p>	<p>precinct was purposefully removed as part of the finalisation of the Plan.</p> <p>Contrary to Council's claims, the concept envelope and the tower form is compliant with the ADG separation requirements to the north and this has been established in earlier submissions to the DPE and Council as part of the rezoning review process.</p> <p>The ADG clearly states that non-habitable rooms above 9 storeys are required to have a minimum 6m setback. The concept envelope has a 6m setback.</p> <p>The internally planning and layout has been purposefully designed so that those northern apartments are cross-through apartments with an eastern and western orientation to avoid reliance on the northern outlook. This was a key design move that was made at during the rezoning process and prior to exhibition to further alleviate these concerns.</p>
<p>Site Specific Merit Issues – Overshadowing</p> <p>Due to the heights identified in the 2036 Plan, significant solar access impacts are anticipated. The proposed maximum height in this Planning Proposal adds unnecessarily to the overall building height which results in shadow length 34m longer than is necessary to accommodate a 24-storey tower. A reduction in the proposed height would assist in reducing the extent of overshadowing impacts.</p>	<p>As illustrated in Figure 3, the sectional diagram clearly illustrates a building form that is 24 storeys in height.</p> <p>Hourly overshadowing diagrams are included within Section 4 of the submitted Urban Design Report which show in the yellow outline, the extent of the overshadowing impact, which is commensurate with a 24 storey building height.</p> <p>The SLCN Plan includes a control which states that overshadowing cannot extend beyond the boundary of the Plan. The pink outline shows theoretically what the extent of an envelope could be if it was developed in accordance with that control. As evident in the diagram, the concept envelope has a reduced shadow impact comparative to what would be achieved under that control.</p> <p>As stated in the Departments Gateway Report, the planning proposal “<i>facilitates a tall slender built form resulting a faster moving shadow and</i></p>

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	<p><i>overshadowing limited to an approximate 2 hour window."</i></p> <p>Figure 4: Overshadowing at 1pm on June 21st showing that the proposed envelope results in a reduced impact.</p> 
<p>Exhibition Process</p> <p>The exhibition material and documentation are presented in a confusing and in some cases incorrect manner. Specific examples include;</p> <ul style="list-style-type: none"> the notification letter incorrectly describes the proposed non-residential floorspace ratio as being amended from '1:5 to 2:1' whereas should read 1.5:1 to 2:1. the planning portal describes the Planning proposal as 'Mixed Development at 378-390 Pacific Highway.' This is inconsistent with Departments 'Local Environmental Plan Making Guideline' which (refer stage 5 - Public Exhibition and Assessment) requires notice on the portal to describe the objectives or intended outcomes of the Planning Proposal. 22 of the 25 documents available during the exhibition contain the primary title of 'Gateway Determination Report'. Adding further confusion to the community is the sub titling of these documents 	<p>Noted. This comment is related to DPE's administration and is not relevant to the Proponent.</p>

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where it is unclear as to content versions, use of opaque acronyms and no sequence or logic to the order or hierarchy of the documents.	

3. SUMMARY

This letter provides a response to North Sydney Council's submission during the public exhibition of PP- 2021-5353 for 378- 390, Pacific Highway, Crows Nest.

The Proponent has had ongoing discussions with Council since 28 May 2021, prior to the lodgement of the Planning Proposal. A Planning Proposal was formally lodged with the Council on 27 August 2021 and was subsequently amended in December 2021, following post-lodgement feedback.

The concept design presents a scheme that is fully compliant with the overall vision, objectives and site specific built form provisions within the St Leonards Crows Nest 2036 Plan and is consistent the relevant design criteria or design guidance within the Apartment Design Guidelines.

In summary, the Planning Proposal and the concept envelope has been designed in accordance with the mapped planning controls for the site. The development will deliver significant public benefit by providing necessary residential accommodation adjacent to the metro station, facilitating the redevelopment of a key urban renewal site. Finally, the development will ultimately contribute to the identified upgrades and improvements to the local infrastructure network for the centre.

Kind regards,



Sophy Purton
Associate Director
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spurton@urbis.com.au

From: Burke, Henry <Henry.Burke@colliers.com>
Sent: Thursday, December 8, 2022 12:19 PM
To: stewchung@gmail.com
Subject: FW: Rezoning Review - PP-2021-5353 - RR-2022-11 - Letter to Proponent advising panel appointed as PPA.pdf

Hi Stewart,

I just tried calling to discuss the below email but missed you.

Further to our recent conversations in relation to meeting with Futuro to discuss the development potential of your site and also obtain an update from them in relation to progress on their site I have now received the below email from Futuro requesting a meeting with you and your family.

Please see email below from Ben at Futuro providing a quick update and also requesting a time to meet.

Can you please confirm if you and your family will be willing to meet with Futuro. If so I will arrange a suitable location, date and time.

Regards,
Henry

Henry Burke

National Director, Development Sites
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From: Ben Hopkins <Ben@futurocapital.com.au>
Sent: Thursday, 8 December 2022 11:35 AM
To: Burke, Henry <Henry.Burke@colliers.com>
Subject: RE: Rezoning Review - PP-2021-5353 - RR-2022-11 - Letter to Proponent advising panel appointed as PPA.pdf

Dear Henry

We understand you have tried multiple times to arrange a meeting with our western neighbour's (being 29-33 Nicholson street, Crows Nest) of our property (being 378-390 Pacific Hwy Crows Nest) to discuss a possible amalgamation and rezoning.

Our property is now being forwarded for a Gateway Determination by the Department of Planning. This will mean that our site will be rezoned in line with the 2036 plan. Our neighbour's property can also get their land rezoned in line with the 2036 plan.

We have previously made multiple offers through Colliers, to them to amalgamate, the highest offer being \$12.42m, once their site is rezoned. You informed us that that they require \$16.5m, which is circa 30% above market for this type of property and unfeasible for us. We will not be able to purchase their site but if they want to participate in a rezoning exercise we are happy to engage with them, however they will have to pay their own costs to do the rezoning.

Please inform me if all three owners can meet to discuss?

Regards
Ben

From: Ben Hopkins
Sent: Monday, 22 August 2022 4:45 PM
To: Burke, Henry <Henry.Burke@colliers.com>
Subject: Rezoning Review - PP-2021-5353 - RR-2022-11 - Letter to Proponent advising panel appointed as PPA.pdf

Henry

As discussed, the first letter outlines that our Planning Proposal has now been approved to move to Gateway determination. The Second letter outlines that the Panel (not Council) as delegate of the Minister for Planning and Public Spaces has determined to appoint itself as the PPA to finalise this matter Planning Proposal.

We will be submitting our revised proposal to The Panel on the 6th September, which will then go to Public Exhibition (with support from the Panel). Now that the 24 stories and 7.5 FSR has been set and will move forward, we are happy to talk to the Western Boundary neighbour if they want to work on a commercial outcome for their site. We don't want to have long drawn out discussions, we are happy to provide them with what impact this outcome has on their property and if they want to participate.

Regards
Ben

Ben Hopkins
Executive Director | **Futuro Capital**
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m: +61 431 555 307

FUTURO
CAPITAL

From: Burke, Henry <Henry.Burke@colliers.com>

Sent: Wednesday, December 14, 2022 3:08 PM

To: Ben Hopkins <Ben@futuromcapital.com.au>; Phil George <Phil@futuromcapital.com.au>

Subject: 29, 31 & 33 Nicholson Street, Crows Nest

Hi Ben,

Confirming the following minutes from this morning's meeting between Futuro & the owners of 29, 31 & 33 Nicholson Street, Wollstonecraft.

Attendees

Ben Hopkins (Futuro)

Phil George (Futuro)

Stewart Chung (Owner - Son)

Daisy Chung (Owner – Mother)

Henry Burke (Colliers)

Apologies

Mr Chung (Father)

Daughter

Location: Colliers Head Office, Level 30, Grosvenor Place, 225 George Street, Sydney

Time: 11.00am - 11.45am

Discussed Items

- Futuro confirmed that they have progressed the planning with DPIE and have achieved gateway endorsement
- Talked about the St Leonards / Crows Nest 2036 plan and the rezoning process.
- Futuro outlined time frame for planning to get gazettal / DA. Total will be approx.. 3 years
- Talked about the amalgamation of the site and the potential planning benefits for 29, 31 & 33 by aligning with 378-390 Pacific Highway
- Futuro outlined that the time to align is short and they will need an answer before they progress to the next stage of planning.
- Futuro confident of getting a planning outcome and want to know if the land owners want to be included in the rezoning.
- Land owners confirmed they do not want to develop themselves.
- Land owners have no intention of running the planning themselves. Mentioned that they do not have the capital or expertise
- Futuro confirmed they have sent multiple offers with no response or counter offer.
- Land owners mentioned that they will sell at a price.
- Land owners could not give a price and will need to confirm with their family members prior to responding.

Action Items

- Land Owners to confirm a price at which they will sell and respond to the email.
- Futuro will respond and provide Yes / No once land owners have confirmed price for their properties.

Should you require any further detail from the meeting please feel free to email or call.

Regards,
Henry

Henry Burke

National Director, Development Sites
Residential

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