

**DECISION OF 3768th COUNCIL MEETING
HELD ON MONDAY 14 NOVEMBER 2022**

10.4. Planning Proposal 1/21 - 270-272 Pacific Highway, Crows Nest - Post Exhibition

AUTHOR: Tom Mojsiejuk, Strategic Planner

The purpose of this report is to present to Council the outcomes of the public exhibition of Planning Proposal 1/21, the accompanying draft Voluntary Planning Agreement (VPA), the site-specific DCP amendment for 270-272 Pacific Highway Crows Nest, and to recommend a way forward.

In response to Council's non-determination of the Planning Proposal (PP1/21) lodged for 270-272 Pacific Highway in March 2021, the applicant lodged a "rezoning review" on 11 November 2021. Subsequent to this, Council at its meeting in February 2022, resolved to not support Planning Proposal.

At its meeting on 2 March 2022, the Sydney North Planning Panel recommended that the Planning Proposal should proceed and a Gateway Determination was issued by the Department of Planning and Environment on 16 June 2022, enabling the proposal to be publicly exhibited. The public exhibition occurred between August and September 2022.

The Planning Proposal, as exhibited, seeks to amend *North Sydney Local Environment Plan 2013* (NSLEP 2013) to:

- Increase the maximum Height of Buildings Map from 16m to 54m;
- Impose a maximum Floor Space Ratio Map of 5.6:1;
- Increase the minimum Non-residential Floor Space Ratio Map from 0.5:1 to 5.6:1;
- Insert a site-specific clause allowing a maximum FSR of 6.02:1, provided any additional floor space above 5.6:1 is located below ground level and comprises non-residential uses.

The Planning Proposal is accompanied by a draft Voluntary Planning Agreement (VPA) comprising a monetary contribution of a minimum \$1.0 million, with the potential for a maximum of \$3.0 million (depending on a number of conditions being met including the site being developed to its full potential under the proposed changes to the LEP). The monetary contribution would go towards the provision of local infrastructure and facilities.

A total of 38 submissions were received during the public exhibition with 34 being from the public and 4 from public authorities. All 34 public submissions raised objections and concerns with the planning proposal.

The main issues raised included; overshadowing impacts and loss of solar access, traffic and parking, height and scale of the development, inconsistency with the *2036 Plan*, undesirable precedent and significant impact the Crows Nest Village, impacts to property value, cyclist and pedestrian safety, quality of the documentation provided, the Voluntary Planning Agreement, the need for additional office space in Crows Nest and concerns around amenity impacts including wind tunnel, drainage, visual amenity, construction traffic and privacy.

It is acknowledged that the vast majority of issues raised in the submissions made arise from the development expectations included in the *2036 Plan*. Genuine attempts have been made to manage and ameliorate many of these impacts throughout the assessment process by Council staff. Notwithstanding this, the area is undergoing significant change and the 2036 Plan includes a Ministerial Direction which requires that planning proposals be consistent with the *2036 Plan*.

The issues raised in the submissions, when critiqued against this study and the broader context, are not considered to warrant any significant amendments to the Planning Proposal.

It is therefore recommended that Council resolves to forward the Planning Proposal to the DPE with a request that the Plan be made. Should Council not seek that an amendment be made to the North Sydney Local Environmental Plan 2013, it is likely that the SNPP will assume the role of Planning Proposal Authority.

Should the draft VPA be executed, it will result in monetary contributions to Council, including a monetary contribution of minimum \$1.0 million with the potential for a maximum of \$3.0 million (depending on a number of conditions being met including the site being developed to its full potential under the proposed changes to the LEP). The monetary contribution would go towards the provision of local infrastructure and facilities.

RECOMMENDATION:

- 1. THAT** having completed the community consultation requirements outlined in the Gateway Determination, Council forward the Revised Planning Proposal (Attachment 3) to the Department of Planning and Environment with a request that a Local Environmental Plan be made in accordance with section 3.36 of the Environmental Planning and Assessment Act 1979, to give effect to the Planning Proposal.
- 2. THAT** Council finalise the Voluntary Planning Agreement with the view to have it in force prior to the gazettal of the LEP amendment.
- 3. THAT** Council finalise the draft North Sydney Development Control Plan 2013 amendments with the view to have it come into effect with the gazettal of the LEP amendment.
- 4. THAT** Council notify all submitters of its decision.

The following person spoke on this item as part of the Public Forum:

- John Hancox (local resident)

The Mayor vacated the Chair at 7.27pm in order to move a Motion as Ward Councillor. Councillor Santer (Deputy Mayor) assumed the Chair for this item.

A Motion was moved by Councillor Baker and seconded by Councillor Beregi:

- 1. THAT** Council does not support the making of the amendments to the North Sydney Local Environmental Plan 2013 sought under Planning Proposal 1/21 in respect of 270-272 Pacific Highway, Crows Nest for the following reasons:
 - a) The proposed height is inconsistent with Council's resolved position to oppose the significant increases to the exhibited maximum heights along the western side of the Pacific Highway including the subject site, under the 2036 Plan as resolved at the meeting held on 24 January 2022;
 - b) The excessive height, bulk and scale of the proposed building envelope will result in significant adverse amenity impacts on the neighbouring properties in Sinclair Street including loss of solar access and traffic impacts due to the constrained nature of the shared access and right of way off Bruce Street.

- c) The proposal fails to provide a reasonable transition to the Sinclair Street properties.
- d) The amended proposed height is inconsistent with Council's desired future character for this part of the Pacific Highway and will set an unacceptable precedent for future development in this locality.
- e) The terms of the proposed Voluntary Planning Agreement do not provide sufficient public benefit to mitigate the significant adverse impacts on the locality and the unacceptable precedent that would be set by the proposed changes to NSLEP 2013.

2. THAT Council write to Department of Planning and Environment and to the Minister advising that the Planning Proposal is not supported and providing a copy of this resolution.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 10 / 0

For: Councillor Baker, Councillor Beregi, Councillor Bourke, Councillor Drummond, Councillor Gibson, Councillor Lamb, Councillor Santer, Councillor Spenceley, Councillor Mutton and Councillor Welch

Against: Nil

Absent: Nil

349. RESOLVED:

1. THAT Council does not support the making of the amendments to the North Sydney Local Environmental Plan 2013 sought under Planning Proposal 1/21 in respect of 270-272 Pacific Highway, Crows Nest for the following reasons:

- a) The proposed height is inconsistent with Council's resolved position to oppose the significant increases to the exhibited maximum heights along the western side of the Pacific Highway including the subject site, under the 2036 Plan as resolved at the meeting held on 24 January 2022;
- b) The excessive height, bulk and scale of the proposed building envelope will result in significant adverse amenity impacts on the neighbouring properties in Sinclair Street including loss of solar access and traffic impacts due to the constrained nature of the shared access and right of way off Bruce Street.
- c) The proposal fails to provide a reasonable transition to the Sinclair Street properties.
- d) The amended proposed height is inconsistent with Council's desired future character for this part of the Pacific Highway and will set an unacceptable precedent for future development in this locality.
- e) The terms of the proposed Voluntary Planning Agreement do not provide sufficient public benefit to mitigate the significant adverse impacts on the locality and the unacceptable precedent that would be set by the proposed changes to NSLEP 2013.

2. THAT Council write to Department of Planning and Environment and to the Minister advising that the Planning Proposal is not supported and providing a copy of this resolution.