

<b>DATE OF DETERMINATION</b>	18 December 2023
<b>DATE OF DECISION</b>	14 December 2023
<b>PANEL MEMBERS</b>	Peter Debnam (Chair), Donna Rygate, Greg Woodhams, Che Wall and Karla Castellanos
<b>DECLARATIONS OF INTEREST</b>	None

### PLANNING PROPOSAL

PP-2022-4350 - 1–7 Rangers Road and 50 Yeo Street, Neutral Bay

The updated planning proposal (9 October 2023) seeks to amend the North Sydney Local Environmental Plan 2013 to:

- increase the maximum building height from 16m to part 26m and part 31m; and
- increase the minimum non-residential Floor Space Ratio (FSR) from 0.5:1 to 1.8:1.

### PANEL CONSIDERATION AND DECISION

The Strategic Planning Panel of the Sydney North Planning Panel (Panel) met with the Department of Planning and Environment (Department), North Sydney Council (Council) and the proponent (Ethos Urban - consultant and Woolworths - landholder) for a Pre-Gateway briefing to consider whether the additional information provided by the proponent had addressed the Panel's conditions from the Rezoning Review of 15 September 2023.

The 15 September 2023 Rezoning Review conditions to be complied with prior to the planning proposal proceeding to a Gateway determination are:

- A reduction in the maximum building height to no more than part 26m (6 storeys) and part 31m (8 storeys);
- The retention of a minimum non-residential FSR of 1.8:1.; and
- The proposed changes to the planning proposal as detailed in the Proponent's letter (from Ethos Urban) dated 4<sup>th</sup> September 2023.

The 15 September 2023 Rezoning Review also recommended that prior to public exhibition, the Site Specific Development Control Plan (DCP) be amended to include:

- Changes to the planning proposal as detailed in the Proponent's letter (from Ethos Urban) dated 4 September 2023 including:
  - Removal of the two (2) storey retail podium component to improve the size and amenity of the public domain;
  - Reduction in floor-to-floor heights to further reduce the overall building height;
  - Increased building articulation along the Yeo Street frontage;
  - Increased northern setbacks on level 4 fronting Rangers Road to 3m;
  - Increased setback to the edge of the eastern terraces facing 9-11 Rangers Road to 6m; and
  - Provision of a minimum of two (2) building slots of 3.5m wide to the Yeo Street façade;
- Removal of the additional 88 car spaces and compliance with the North Sydney DCP car parking rates; and
- Provisions requiring changes to the indicative Yeo Street façade to ensure no further overshadowing of any north facing windows in any residential property in Yeo Street at mid

winter above and beyond that projected by Council's rescinded Military Road Corridor Planning Study including the existing building at 50 Yeo Street and the additional floor to floor reductions (1.7-1.9m) proposed in the Proponent's letter dated 4 September 2023.

The proponent requested, in the Ethos Urban letter of 6 December 2023, that 'the Panel includes an additional recommendation that public exhibition of the Planning Proposal is to include the site-specific Development Control Plan that has been prepared by the Proponent and which has formed part of the Planning Proposal that was considered by the Planning Panel.'

As the Planning Proposal Authority, the majority of the Panel determined on 14 December 2023 to submit the revised planning proposal to the Department for a Gateway determination, noting that revisions are still required to the Site Specific DCP to address the Panel's Rezoning Review conditions b) carparking and c) overshadowing, prior to public exhibition. In particular, the majority of the Panel resolved to remove the reference to the additional 88 car spaces from the site specific DCP and acknowledged car parking rates will be considered by Council at a later stage in assessing the development application proposal and the VPA. The majority of the Panel also resolved that the Site Specific DCP should be amended to confirm solar access to the Yeo Street properties in full compliance with the Apartment Design Guide to ensure that the north facing living rooms and private open spaces in the Yeo Street properties, "receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter".

The Panel's decision was 4-1 in favour, with Che Wall against the decision.

#### **REASONS FOR THE DECISION**

The Panel discussed the Department's Pre-Gateway Determination Briefing Report, the proponent's revised planning proposal and supporting documents, and Council's response. Concerns of the proponent and of Council were discussed extensively especially in relation to height changes, overshadowing and car parking.






The majority of the Panel concurred with the Department's assessment that the proposal has been revised to meet the Panel's Rezoning Review conditions in relation to maximum height of building, minimum non-residential FSR and in accordance with the proponent's letter.

The majority of the Panel concurred with the Department's recommendation that whilst the proponent had not technically satisfied the Panel's Rezoning Review conditions regarding the revisions to the Site Specific DCP prior to public exhibition, the planning proposal should proceed to a Gateway determination.

In relation to car parking, the Panel resolved to remove the reference to the additional 88 car spaces from the site specific DCP. The Panel acknowledged the proponent's request that 88 additional car spaces be reinstated. Further to this issue, the Panel acknowledged car parking rates will be considered by Council at a later stage in assessing the development application proposal and the VPA.

In relation to overshadowing of residences in Yeo Street, the Site Specific DCP (which will be exhibited with the planning proposal) should be amended to confirm solar access to the Yeo Street properties in full compliance with the Apartment Design Guide to ensure that the north facing living rooms and private open spaces in the Yeo Street properties, "receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter" and be in accordance with the proponent's revised planning proposal masterplan (Planning Proposal Issue 3 dated 05/10/23 involving the removal of 2 two additional residential units).

In dissenting from the majority, Panel Member Che Wall did not support the decision to proceed and considered the currently proposed heights to remain excessive and would result in impacts to solar access on Yeo Street that could be mitigated through further consideration of the planning.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Donna Rygate
 Greg Woodhams	 Che Wall
 Karla Castellanos	

SCHEDULE 1		
1	LGA – ADDRESS	PP-2022-4350 – North Sydney LGA 1–7 Rangers Road and 50 Yeo Street, Neutral Bay
2	LEP TO BE AMENDED	North Sydney Local Environmental Plan 2013
3	PROPOSED INSTRUMENT	The revised planning proposal (9 October 2023) seeks to amend the North Sydney Local Environmental Plan 2013 to: <ul style="list-style-type: none"> <li>increasing the maximum building height from 16m to part 26m and part 31m; and</li> <li>increasing the minimum non-residential Floor Space Ratio (FSR) from 0.5:1 to 1.8:1.</li> </ul>
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Department of Planning and Environment Pre-Gateway Determination Briefing Report including the revised planning proposal and supporting documents; Proponent’s further information 27 November 2023; and North Sydney Council’s letter 22 September 2023</li> <li>Urban Ethos letter, 6 December 2023</li> <li>Ethos Urban Slide Presentation for briefing 14 December 2023</li> </ul>
5	BRIEFINGS BY THE PANEL	<ul style="list-style-type: none"> <li><b>Briefing with Department of Planning and Environment (DPE):</b> 9:00am – 9:26am, 14 December 2023 <ul style="list-style-type: none"> <li>Panel members in attendance: Peter Debnam (Chair), Donna Rygate, Greg Woodhams, Che Wall and Karla Castellanos</li> <li>DPE staff in attendance: Derryn John, Matthew Rothwell, Louise Mc Mahon, Doug Cunningham, Tim Coorey, Lisa Kennedy and Adam Williams</li> <li>Key issues discussed: <ul style="list-style-type: none"> <li>history of, and changes to, planning proposal - previous planning proposal December 2022 and revised August 2023;</li> <li>non-compliance with Panel’s conditions from Rezoning Review of 15 September 2023;</li> <li>overshadowing along Yeo Street – modelling by Council &amp; proponent</li> <li>carparking – DCP &amp; VPA conditions;</li> <li>Commercial floorspace – proposed reduction</li> <li>Preparation of site specific development control plan</li> </ul> </li> </ul> </li> <li><b>Briefing with North Sydney Council and Urban Ethos (Proponent):</b> 9:30am – 10:42am, 14 December 2023 <ul style="list-style-type: none"> <li>Panel members in attendance: Peter Debnam (Chair), Donna Rygate, Greg Woodhams, Che Wall and Karla Castellanos</li> <li>DPE staff in attendance: Derryn John, Matthew Rothwell, Louise Mc Mahon, Doug Cunningham, Tim Coorey, Lisa Kennedy and Adam Williams</li> <li>Council representatives in attendance: Katerina Papas, Neal McCarry and Ben Boyd</li> <li>Proponent representatives in attendance: Ben Craig, Josh Milston, Pierre Abrahamse, Nicholas Steele, Rafe Wilson, and Alex Liu</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>○ Key issues discussed by Council: <ul style="list-style-type: none"> <li>• public benefit of a plaza – integration with 183-185 Military Road site, landscape &amp; urban design;</li> <li>• height – built form, requested reduction height;</li> <li>• overshadowing – impacts on 53, 55 &amp; 57 Yeo St residences;</li> <li>• carparking – Council oppose additional 88 car spaces;</li> <li>• consolidation of commercial floor space from 3 storeys to 2 storey</li> </ul> </li> <li>○ Key issues discussed by Proponent: <ul style="list-style-type: none"> <li>• Revised planning proposal to address Panel’s conditions</li> <li>• Height &amp; overshadowing – solar modelling, proposal’s financial feasibility, dwelling yield, change built form;</li> <li>• car parking – no impacts on traffic</li> <li>• DCP – request Panel makes the DCP, clauses to address over-shadowing</li> <li>• Commercial floor space – 1<sup>st</sup> storey &amp; part each of 2<sup>nd</sup> and 3<sup>rd</sup> storeys</li> <li>• Heights - taken from Rangers Road</li> </ul> </li> <li>• <b>Panel Discussion:</b> 10:43am – 11.00am, 14 December 2023 <ul style="list-style-type: none"> <li>○ Panel members in attendance: Peter Debnam (Chair), Donna Rygate, Greg Woodhams, Che Wall and Karla Castellanos</li> <li>○ DPE staff in attendance: Derryn John, Matthew Rothwell, Louise Mc Mahon, Doug Cunningham, Tim Coorey, Lisa Kennedy and Adam Williams</li> </ul> </li> </ul>
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