



IRF23/906

Gateway determination report – PP-2023-760

North Sydney Centre – Height of Buildings Variation

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Acknowledgement of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

Contents

1	Planning proposal.....	1
1.1	Overview.....	1
1.2	Objectives of planning proposal	1
1.3	Explanation of provisions	1
1.4	Site description and surrounding area.....	3
1.5	Mapping.....	5
1.6	Background	5
1.6.1	Amendment 23	5
1.6.2	Application of Clause 6.3(3) and Clause 4.6	6
1.6.3	DCP – North Sydney CBD Setbacks Amendment.....	6
1.6.4	Gateway Determination (25 August 2022)	6
2	Need for the planning proposal	7
3	Strategic assessment	7
3.1	Regional Plan	7
3.2	District Plan	8
3.3	Local.....	8
3.4	Local planning panel (LPP) recommendation.....	9
3.5	Section 9.1 Ministerial Directions	9
3.6	State environmental planning policies (SEPPs)	10
4	Site-specific assessment	10
4.1	Economic.....	10
5	Consultation.....	11
5.1	Community	11
5.2	Agencies.....	11
6	Timeframe	11
7	Local plan-making authority	11
8	Assessment summary	12
9	Recommendation.....	12

Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Attachment A – Planning Proposal Report (April 2023)
Attachment B – North Sydney Council Letter Requesting Gateway Determination (12 April 2023)
Attachment C – Site Identification Map
Attachment D – Council Report and Resolution (21 February 2022)
Attachment E – North Sydney Local Planning Panel Minutes (29 September 2021)
Attachment F – Previous PP-2022-901 (withdrawn) Gateway Determination (25 August 2022)

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	North Sydney
PPA	North Sydney Council
NAME	North Sydney Centre – Height of Buildings Variation
NUMBER	PP-2023-760
LEP TO BE AMENDED	North Sydney LEP 2013
ADDRESS	North Sydney Centre
RECEIVED	12/04/2023
FILE NO.	IRF23/906
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The objectives of the planning proposal are to:

- rationalise the relationship between Clauses 4.6 and 6.3(3) that enable variations to height in the North Sydney Centre; and
- address the primacy provided to Clause 6.3(3) over clause 4.6 and its narrow set of considerations which have been problematic in development application assessment.

The objectives of this planning proposal are clear and adequate.

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

1.3 Explanation of provisions

The planning proposal seeks to amend the North Sydney LEP 2013 to ensure all development applications that vary building height in the North Sydney Centre are considered in a manner consistent with other applications to vary development standards in the LEP.

Council identifies an increasing number of development applications are seeking variations in height solely under Clause 6.3(3), without consideration being given to Clause 4.6. This is problematic as proponents in the North Sydney Centre are increasingly relying on seeking height standard variations pursuant to Clause 6.3(3) only, which limits the matters for consideration by the consent authority.

Council's planning proposal seeks to clarify that the mechanism to vary any development standard in the LEP is under clause 4.6. Clause 6.3(3) provides a less restrictive approach to seeking height variations in the North Sydney CBD. In this context, Council consider that this is no longer appropriate, and Clause 4.6 can perform the function effectively, as evidenced in most local government areas across NSW.

The proposal as submitted will apply where an applicant proposes to exceed the maximum building height using Clause 6.3 Building heights and massing. Council seeks to formalise its current practice of requiring applicants to prepare a written justification under the matters outlined in Clause 4.6 Exceptions to development standards. The Clause 6.3 solar access test to buildings outside the North Sydney Centre will remain.

The planning proposal presents Council's preferred approach as drafted by Council and provides an indication of the proposed potential amendments to the North Sydney LEP 2013 as follows (~~red strikethrough~~ represents deletion; blue underline represents an addition):

Clause 4.6 Exceptions to development standards

The following is proposed to be added to Clause 4.6 as drafted by Council.

(8A) ~~(Repealed)~~ Development must not be granted consent under this clause for development on land identified in the North Sydney Centre on the North Sydney Centre Map that exceeds the maximum height stipulated on the Height of Buildings Map, unless the consent authority is satisfied that any increase in overshadowing between 9 am and 3 pm from the March equinox to the September equinox (inclusive) will not result in any private open space, or window to a habitable room, located outside the North Sydney Centre receiving—

- (a) if it received 2 hours or more of direct sunlight immediately before the commencement of North Sydney Local Environmental Plan 2013 (Amendment No 23)—less than 2 hours of direct sunlight, or
- (b) if it received less than 2 hours of direct sunlight immediately before the commencement of North Sydney Local Environmental Plan 2013 (Amendment No 23)—less direct sunlight than it did immediately before that commencement.

Clause 6.3 Building heights and massing

The following is proposed to be amended in Clause 6.3 as drafted by Council.

(1) *The objectives of this clause are as follows—*

- (a) *(Repealed)*
- (b) *to promote a height and massing that has no adverse impact on land in Zone RE1 Public Recreation in the North Sydney Centre or land identified as "Special Area" on the North Sydney Centre Map or on the land known as the Don Bank Museum at 6 Napier Street, North Sydney,*
- (c) ~~(Repealed) to minimise overshadowing of, and loss of solar access to, land in Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone R4 High Density Residential, Zone RE1 Public Recreation or land that is located outside the North Sydney Centre,~~
- (d) *to promote scale and massing that provides for pedestrian comfort in relation to protection from the weather, solar access, human scale and visual dominance,*
- (e) *to encourage the consolidation of sites for the provision of high grade commercial space.*

....

- (3) ~~*The consent authority may grant development consent to development on land in the North Sydney Centre that would exceed the maximum height of buildings shown for the land on the Height of Buildings Map if the consent authority is satisfied that any increase in overshadowing between 9 am and 3 pm from the March equinox to the September equinox (inclusive) will not result in any private open space, or window to a habitable room, located outside the North Sydney Centre receiving—*~~

~~(a) if it received 2 hours or more of direct sunlight immediately before the commencement of North Sydney Local Environmental Plan 2013 (Amendment No 23)—less than 2 hours of direct sunlight, or~~

~~(b) if it received less than 2 hours of direct sunlight immediately before the commencement of North Sydney Local Environmental Plan 2013 (Amendment No 23)—less direct sunlight than it did immediately before that commencement.~~

(5 ~~4~~) In determining whether to grant development consent for development on land to which this Division applies, the consent authority must consider the following—

(a1) the objectives of this Division:

- (a) the likely impact of the proposed development on the scale, form and massing of the locality, the natural environment and neighbouring development and, in particular, the lower scale development adjoining the North Sydney Centre,
- (b) whether the proposed development preserves significant view lines and vistas,
- (c) whether the proposed development enhances the streetscape in relation to scale, materials and external treatments.

DPE Comment

The planning proposal should be updated to provide a plain English explanation of the intended outcomes, rather than direct changes to the clause. The planning proposal describes the direct changes to the clauses as preferred by Council who identify alternative drafting approaches are possible.

A condition is recommended to require a plain English explanation of the proposed amendments be included in the planning proposal under the explanation of provisions. The objective of this condition is to facilitate accurate drafting of the amendments to ensure they adequately achieve the intended objectives of the proposal. This explanation should not include the proposed drafting.

A further condition has been included to remove the clauses drafted by Council from the body of the planning proposal and include a note stating the clauses as presented are indicative only and will be subject to drafting by Parliamentary Counsel. The inclusion of draft clauses should take the form of an annexure. It is conditioned that the proposal be returned to the Minister for review and endorsement prior to public exhibition.

1.4 Site description and surrounding area

The planning proposal applies to all land within the North Sydney Centre (**Figures 1 & 2**) as designated by the North Sydney Centre Map (**Figure 3**) established under Division 1 of Part 6 of the North Sydney LEP 2013. The North Sydney Centre comprises the following zoning identified in **Table 3**. A condition has been attached to require the proposal be updated to reflect the new zoning that came into force as part of the employment zones reform on 26 April 2023.

Table 3 North Sydney Centre employment zones reform translation

Previous land zoning	Current land zoning (effective 26 April 2023)
B3 Commercial Core	E2 Commercial Centre
B4 Mixed Use	MU1 Mixed Use
SP2 Infrastructure	SP2 Infrastructure
RE1 Public Recreation	RE1 Public Recreation

North Sydney Centre is largely zoned E2 Commercial Centre, with parts of the northern and western extents zoned MU1 Mixed Use. The Centre is a significant commercial and employment precinct on the North Shore and is identified as being part of the 'Harbour CBD' metropolitan centre in the North District Plan.

It is noted that the North Sydney Centre is immediately adjacent to established residential areas and heritage items / conservation areas. These areas are particularly sensitive to amenity impacts that may result from development that occurs within the North Sydney Centre.

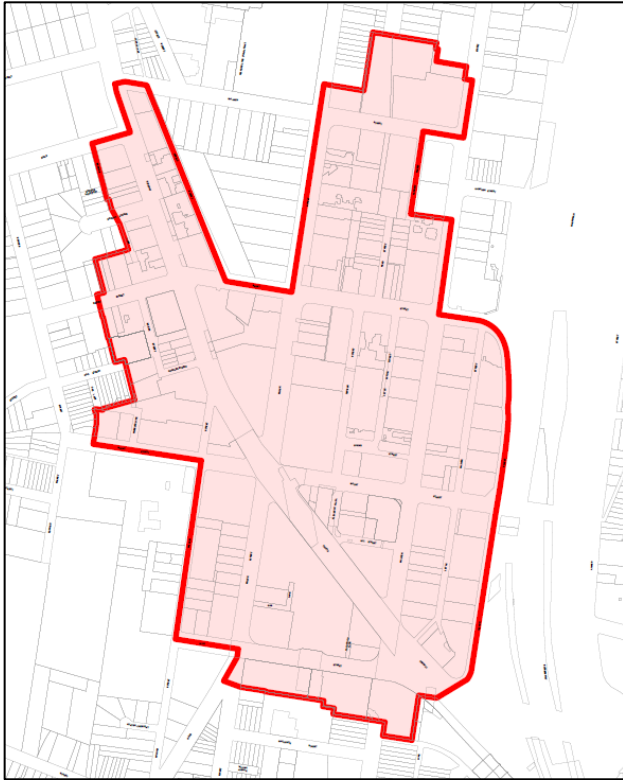


Figure 1 Site identification map
(source: Attachment C)

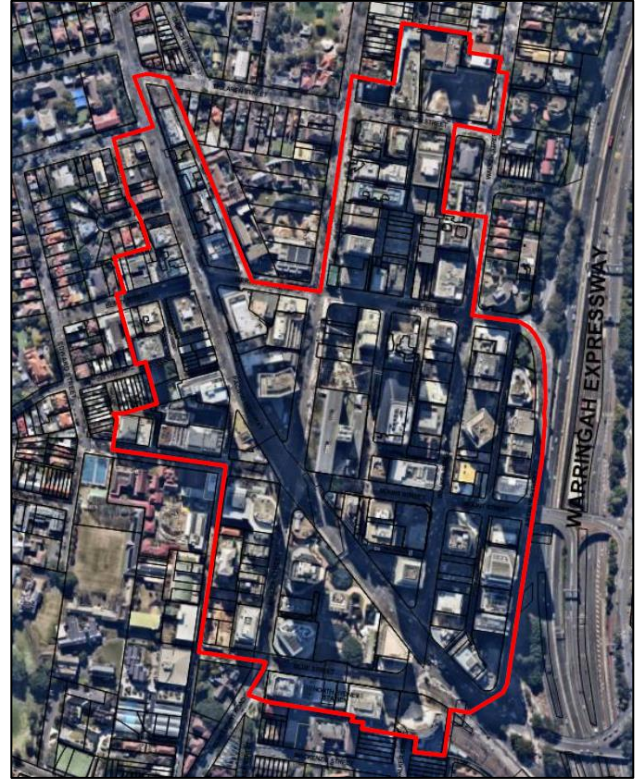


Figure 2 North Sydney Centre aerial photograph
(source: Attachment A)

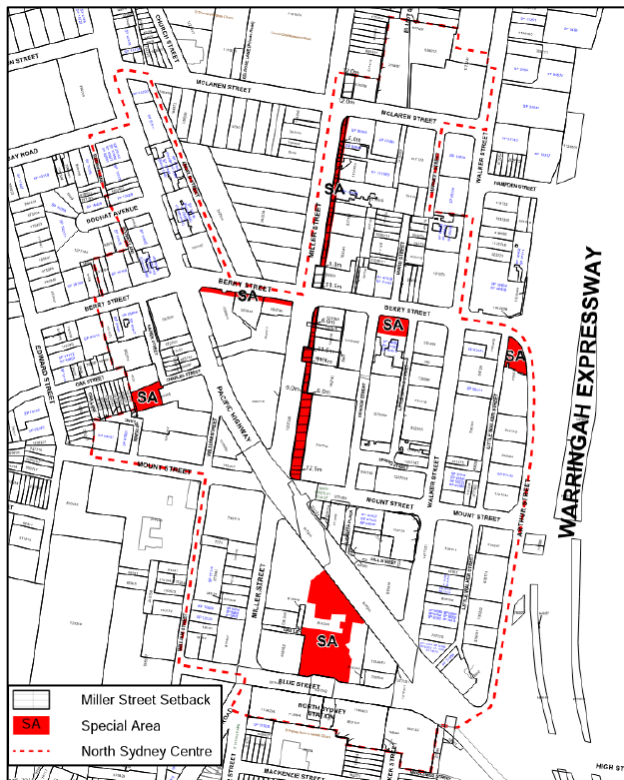


Figure 3 North Sydney Centre Map
(source: Attachment A)

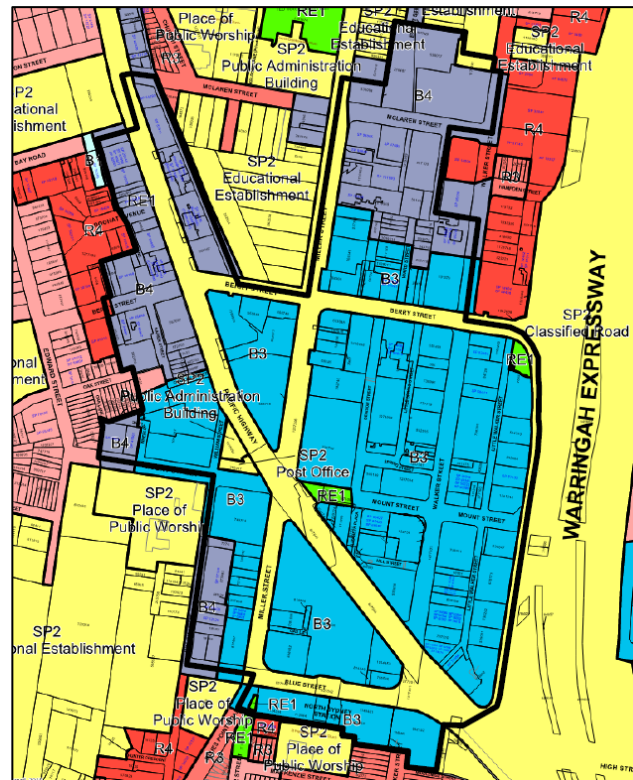


Figure 4 Land zoning of the North Sydney Centre pre employment zones reform
(source: Attachment A)

1.5 Mapping

The planning proposal does not propose amendments to any maps within the North Sydney LEP 2013.

1.6 Background

1.6.1 Amendment 23

Amendment 23 of the North Sydney LEP 2013 was gazetted on 26 October 2018. One of the key objectives of Amendment 23 was the implementation of Council's North Sydney CBD Land Use and Capacity Strategy adopted on 1 May 2017. The strategy sought to provide a framework to allow for the growth of the North Sydney Centre as a resilient, vibrant and globally relevant commercial centre and to accommodate forecast demand for additional commercial/employment floor space.

The intent of Amendment 23 was to increase building heights in parts of the North Sydney Centre that could accommodate additional height, while managing impacts on solar access to surrounding residential areas, and Special Areas within the Centre.

In addition to the increased building heights in North Sydney Centre, Amendment 23 also introduced Clause 6.3(3), which enables a height of building variation with consideration of solar impacts to surrounding residential areas and open space located outside the North Sydney Centre.

As part of the planning proposal for Amendment 23, Council noted that where proposed height variations are considered significant, changes to the planning controls should be made through the planning proposal process rather than through clause 6.3(3). The purpose of the proposed

variation control through clause 6.3(3) was to provide some level of flexibility where it can be demonstrated that residential amenity outside the North Sydney CBD is not unreasonably affected.

1.6.2 Application of Clause 6.3(3) and Clause 4.6

The planning proposal states that Clause 6.3(3) is being relied on in development applications (DAs) in the North Sydney Centre to seek building height variations solely under Clause 6.3(3) and not Clause 4.6. Council considers that Clause 6.3(3) affords a less restrictive approach to development standards and in the context of Amendment 23 enabling a greater development potential. Council concludes clause 6.3(3) is no longer appropriate, and Clause 4.6 is the appropriate mechanism to consider variations to building height development standards.

Council notes there is one undetermined DA at 153-157 Walker Street, North Sydney (DA 393/22) seeking to amend the height of buildings control under Clause 6.3(3) of the North Sydney LEP 2013. The Department notes this DA has been lodged with a Clause 4.6 variation request.

The planning proposal identifies 105 Miller Street, North Sydney (DA 147/20) for demolition of building and construction of a new 27 storey commercial building. This DA was lodged on 7 July 2020 and at the time the planning proposal was published was subject of a deemed refusal and ongoing Land and Environment proceedings. On 3 May 2023 the court published its decision to dismiss the appeal and has determined the DA by refusal of consent.

1.6.3 DCP – North Sydney CBD Setbacks Amendment

On 10 October 2022, North Sydney Council resolved to amend the CBD setbacks as they apply to commercial towers. The intent of this amendment is to provide for improved urban design outcomes, better solar access between buildings and view sharing, as well as amenity for workers.

During exhibition, submissions raised concern that commercial viability may be impacted as a result of the setback amendments, with Council appointing consultants to undertake an independent analysis of this concern. This analysis suggested the North Sydney CBD can comfortably meet the 2036 employment targets set by the Greater Cities Commission, with the amendment not impeding North Sydney's ability to achieve these targets.

The Department notes that although this DCP amendment does not directly influence the planning proposal and its intended outcomes, concerns have previously been raised that the planning proposal in conjunction with the DCP may pose potential barriers to development in North Sydney Centre.

Council has addressed these concerns through including in the planning proposal a consideration of the implications of the DCP on the delivery of commercial floorspace on sites within the North Sydney Centre.

The planning proposal provides that the DCP amendment ensures necessary building setbacks are provided to deliver high quality design and a high level of amenity to public spaces of the CBD, which will contribute to increasing the productivity and commercial viability of North Sydney CBD as it continues to grow.

Council notes that there is a pipeline of approved commercial development within the North Sydney CBD that is yet to begin construction.

1.6.4 Gateway Determination (25 August 2022)

The current planning proposal has been submitted following the withdrawal of a previous planning proposal (PP2021-901) submitted to the Department on 18 March 2022. Unchanged in its objectives, this planning proposal sought to amend Clause 6.3(3) only, in a similar manner to the current proposal however the current proposal seeks to update Clause 4.6 in order to address the identified issues.

A Gateway determination (**Attachment F**) was issued on 25 August 2022 for the planning proposal to proceed subject to conditions. The proposal was recommended to proceed as it was consistent with the relevant strategic plans, section 9.1 Ministerial Directions and allowed variations to building height to continue to be considered under Clause 4.6 of the North Sydney LEP 2013.

Council requested that the previous proposal be withdrawn at the pre-exhibition stage as they identified that the planning proposal could have unintended consequences of applying the solar access test to all DAs in the North Sydney Centre not just those seeking to vary the building height control. Given the Gateway determination's 9 month timeframe for completion, Council formally requested its withdrawal on 14 April 2023 and the Department issued a Gateway alteration for the proposal not to proceed on 21 April 2023.

It is noted that Council's new planning proposal has attempted to address conditions imposed in the previous Gateway determination and avoids the issue of applying to all DAs in the North Sydney Centre.

2 Need for the planning proposal

The planning proposal states there are no known alternative mechanisms available to achieve the intent of the proposal, stating this is the best option to achieve its objectives. The planning proposal also states that it is principally informed by the outcomes of the North Sydney Local Strategic Planning Statement and the North Sydney Centre Capacity and Land Use Strategy.

The planning proposal considers Clause 6.3(3) is a mechanism increasingly used to seek variation to the height of buildings on sites already afforded significant increases in height following the North Sydney LEP 2013 Amendment 23. Council considers Clause 4.6 to be a more effective way to holistically consider DAs seeking building height variation. It is noted there is considerable applicable caselaw to draw on and reference in applying Clause 4.6.

The operation of the current Clause 6.3(3) provision represents a narrower set of matters for consideration which limits the consent authority's discretion.

3 Strategic assessment

3.1 Regional Plan

The following **Table 4** provides an assessment of the planning proposal against relevant aspects of the Greater Sydney Regional Plan.

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
A city supported by infrastructure	The planning proposal does not seek to amend the existing principal controls relating to land zoning, FSR or maximum building height, noting that increased development potential for the North Sydney Centre was provided by North Sydney LEP 2013 Amendment 23.
A city of great places	
A well connected city	The proposal is considered not to adversely impact the growth and investment of the North Sydney Centre and will continue to enable development under Clause 4.6, with the proposal seeking to have all height variations considered in this manner.
Jobs and skills for the city	The proposal states that it seeks to increase transparency in the relationship between Clauses 4.6 and 6.3(3) that perform a similar function.
A city in its landscape	

3.2 District Plan

The site is within the North District and the Greater Cities Commission (formerly the Greater Sydney Commission) released the North District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity, and sustainability in the plan as outlined below.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following **Table 5** includes an assessment of the planning proposal against relevant directions and actions.

Table 5 District Plan assessment

District Plan Priorities	Justification
N6 – Creating and renewing great places and local centres, and respecting the District's heritage	Clause 6.3(2) requires consideration of solar impacts to areas zoned RE1 Public Recreation, Special Areas and the Don Bank Museum prior to development consent. The planning proposal does not propose changes to these provisions.
N20 – Delivering high quality open space	The proposal seeks to ensure that any variations above the maximum building height are submitted with a clause 4.6 assessment as well as requiring the social access outcomes to be achieved
N7 – Growing a stronger and more competitive Harbour CBD	The planning proposal does not seek to amend existing principal controls relating to land zoning, FSR or maximum building height, and is therefore considered to be consistent with these priorities. The proposed approach allows all applications to vary building height to be considered in the same manner.
N8 – Eastern Economic Corridor is better connected and more competitive	The planning proposal is consistent with these directions as Council has demonstrated a commitment to increase capacity as discussed in the North Sydney Centre Land Use and Capacity Strategy and subsequent Amendment 23 increasing building heights in many parts of the North Sydney Centre.
N10 – Growing investment, business, opportunities and jobs in strategic centres	

3.3 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in **Table 6** below:

Table 6 Local strategic planning assessment

Local Strategies	Justification
North Sydney Local Strategic Planning Statement (LSPS)	<p>The North Sydney LSPS was endorsed by the Greater Sydney Commission on 20 March 2020. The LSPS sets the 20-year direction for housing, employment, transport, recreation, environment and infrastructure for the North Sydney LGA.</p> <p>The planning proposal is considered to be consistent with the local planning priorities and actions of the LSPS.</p>

Local Strategies	Justification
North Sydney Centre Capacity and Land Use Strategy	<p>The Capacity and Land Use Strategy was adopted by Council in May 2017, setting out a framework for North Sydney Centre to maintain and improve its status as a significant commercial and employment centre.</p> <p>Amendment 23 of North Sydney LEP 2013 was gazetted on 26 October 2018 to implement the Capacity and Land Use Strategy. This included increasing building heights in parts of North Sydney Centre that could accommodate additional height, while managing impacts on solar access to surrounding residential areas, and Special Areas within the Centre.</p> <p>The planning proposal is not inconsistent with the Land Use Strategy as it does not seek to amend the principal controls relating to land zoning, FSR or maximum building height.</p>

3.4 Local planning panel (LPP) recommendation

The previous planning proposal issued a Gateway determination on 25 August 2022 to amend the LEP Clauses 6.3(3) and 6.3(5) and require all applications that seek to vary the building height development standards to be considered under Clause 4.6, was considered by the North Sydney Local Planning Panel on 29 September 2021 (**Attachment E**).

The Local Planning Panel unanimously supported the proposal for the following reasons:

The Panel considers the proposal to amend Clause 6.3(3) and 6.3(5) provisions of the North Sydney LEP, is the appropriate course of action and will provide greater clarity to the community for variations to be considered under the mechanism of Clause 4.6, which is more comprehensive of the issues to be addressed for such variations.

It is noted the planning proposal subject to this assessment has not been referred back to the LPP. This is considered appropriate as the objectives and intent of the proposal remains as previously considered.

3.5 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed in **Table 7** below:

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.4 Site Specific Provisions	Yes	<p>The planning proposal does not include any provisions that will limit any of the permissible land uses under the E2 Commercial Centre or MU1 Mixed Use land zones within the North Sydney Centre. The maximum building height and FSR controls are not proposed to be amended.</p> <p>The proposal is considered to be consistent with this direction.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
3.2 Heritage Conservation	Yes	<p>There are a number of heritage items located in the North Sydney Centre as identified by the North Sydney LEP 2013. The planning proposal does not propose to alter any controls relating to heritage conservation and is considered to be consistent with this direction.</p> <p>Any DAs for future development in the North Sydney Centre would need to consider impact on heritage items and conservation areas of the subject site of the surrounding area.</p>
6.1 Residential Zones	Yes	<p>Areas of the North Sydney Centre are zoned MU1 Mixed Use where shop top housing and residential flat buildings are permissible.</p> <p>The planning proposal does not seek to amend the principal planning controls relating to permissible use, land zoning, FSR or maximum building height. The proposal continues to require solar issues to surrounding development be considered before the granting of development consent.</p> <p>The proposal is therefore considered to be consistent with this direction.</p>
7.1 Business and Industrial Zones	Yes	<p>The planning proposal does not seek to amend the principal controls relating to permissible use, land zoning, FSR or maximum building height. It therefore does not reduce the total potential floor space area for employment uses and related public services in business zones.</p> <p>The proposal is not inconsistent with the North Sydney Centre Capacity and Land Use Strategy as discussed in Section 3.3 of this report.</p>

3.6 State environmental planning policies (SEPPs)

There are no specific SEPPs that directly relate to the planning proposal. It is considered the planning proposal is not inconsistent with the aims and objectives of the current SEPPs in force.

4 Site-specific assessment

Given the planning proposal does not seek to amend the principal controls relating to permissible use, land zoning, FSR or maximum building height, it is not considered to have significant environmental impact to the North Sydney Centre.

4.1 Economic

North Sydney Land Use and Capacity Study

Council's North Sydney Land Use and Capacity Study supported the introduction of Amendment 23 of the LEP. The intent was to identify and implement policies and strategies to ensure the North Sydney Centre retains and strengthens its role as a key component of Sydney's global economic arc, remains the principal economic engine of Sydney's North Shore, and becomes a more attractive, sustainable and vibrant place for residents, workers and businesses.

Council additionally introduced Clause 6.3(3) into the LEP in 2018 (Amendment 23) to support the framework for the growth of the North Sydney Centre which allows the height of building standard to be exceeded in the North Sydney CBD, subject to the consideration of overshadowing impact on

surrounding development outside the Centre. The intent was to manage impacts on solar access to surrounding residential development, open space and special areas in the CBD.

Council considers that Clause 6.3(3) is increasingly being used to vary heights on buildings that have already been provided with increases in height and considers the clause to be superfluous given the wide acceptance that Clause 4.6 is the mechanism to be used in seeking variations to development standards.

Council's current proposal seeks to insert the provisions previously proposed to be amended within Clause 6.3(3) into Clause 4.6 that will provide the consent authority the opportunity to consider DAs holistically in the context of all applicable clauses. The proposal has adequately considered the potential impacts on current DAs within the North Sydney Centre and notes there is a pipeline of approved commercial development not yet constructed that the proposal will not impact.

5 Consultation

5.1 Community

Council does not specify the number of days proposed for community consultation.

A condition of the exhibition period is to be attached to the Gateway determination for 20 working days.

5.2 Agencies

The proposal does not specifically raise any issues which require agency consultation. Council notes the previous Gateway determination conditioned that consultation with public authorities and agencies was not required.

Consistent with the previous determination, no agency consultation if considered necessary during the public exhibition period.

6 Timeframe

Council's timeline proposes a 12 month time frame to complete the LEP.

The Department recommends a time frame of 9 months to ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the gateway is supported it also includes conditions requiring council to exhibit and report on the proposal by specified milestone dates.

As such, from the date of the Gateway determination, the planning proposal must be:

- exhibited within 3 months; and
- reported to Council for a recommendation within 6 months.

It is recommended that a 9 month timeframe is appropriate for this planning proposal from the date of the Gateway determination.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

Given the nature of the planning proposal and consistent with the previous Gateway determination, the Department does not recommend Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- it is the best means of achieving the intended outcomes, as they cannot be achieved without amendment to the LEP;
- it is consistent with the Region Plan, District Plan, Local Strategic Planning Statement, and North Sydney Centre Capacity and Land Use Strategy;
- it is consistent with all relevant Section 9.1 Ministerial Directions;
- it will allow variations in building heights within the North Sydney Centre to be considered holistically under Clause 4.6 of the North Sydney LEP;
- development applications currently under assessment can still be determined with a Clause 4.6 variation; and
- it is similar in its objectives and intentions to the previous planning proposal issued a Gateway determination on 25 August 2022.

Based on the assessment outlined in this report, the proposal must be updated before exhibition to:

- include a plain English explanation of the intent of the planning proposal under explanation of provisions for the purposes of exhibition and consistent with the LEP Making Guidelines (dated September 2022);
- remove Council's draft clauses from the body of the planning proposal report and include an advisory note that the clauses as presented are indicative only and will be subject to the drafting of the LEP amendment by Parliamentary Counsel. The draft clauses are expected to take the form of an annexure;
- update the proposal to accurately reflect the new land zonings that came into force with the employment zones reform;
- include an updated project timeline.

9 Recommendation

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be updated to address the following and submitted to the Minister for review and endorsement prior to public exhibition:
 - (a) include a plain English explanation of the intent of the provisions and the intended outcomes of the planning proposal under explanations of provisions;
 - (b) remove Council's draft clauses from the body of the planning proposal, include as an annexure and note that they are indicative only and will be subject to drafting by Parliamentary Counsel should the planning proposal proceed to finalisation;
 - (c) update the planning proposal to accurately reflect the current land zonings in the North Sydney Centre following commencement of the employment zones reform on 26 April 2023;
 - (d) include an updated project timeline to ensure completion in a timely manner.

2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 20 working days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).

Exhibition must commence within **3 months** following the date of the gateway determination.

3. No consultation is required with public authorities or government agencies under section 3.34(2)(d) of the EP&A Act.
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. Given the nature of the proposal, Council should not be authorised to be the plan-making authority to make this plan.
6. The planning proposal must be reported to Council for a final recommendation **6 months** from the date of the Gateway determination.
7. The LEP should be completed within **9 months** of the date of the Gateway determination.



16 June 2023

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30 June 2023

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