



Mr Brendan Metcalfe
Director, North District
NSW Department of Planning and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Our Ref: PP2/23
TM3 (CIS)

(Submitted via the NSW Planning Portal)

18 December 2023

Dear Brendan

**RE: Planning Proposal No. 2/23 – 601 Pacific Highway, St Leonards
(DPE Reference No. PP-2023-92)**

Council is seeking a Gateway Determination for a Planning Proposal which seeks to amend the North Sydney Local Environmental Plan (NSLEP) 2013 as it relates to land at 601 Pacific Highway, St Leonards. The Planning Proposal, as endorsed by Council on 27 November 2023, seeks to:

- Increase the maximum building height from 49 metres to RL259 (equivalent to approximately 171.5 metres) for 42 storeys;
- Impose a maximum floor space ratio of 20:1

Background

The Planning Proposal, as originally lodged with Council on 19 January 2023 by the applicant (Stockland) sought to amend the NSLEP 2013 as follows:

- Increase the maximum building height from 49 metres to RL276.5 (equivalent to approximately 189 metres) for 42 storeys; and
- Impose a maximum floor space ratio of 20:1

In accordance with the Minister's Direction of 27 September 2018 issued under section 9.1 of the Environmental Planning and Assessment Act 1979 (EP&A Act), the Planning Proposal was referred to the North Sydney Local Planning Panel (NSLPP) for its advice on 19 July 2023.

The NSLPP recommended the Planning Proposal be supported to proceed to a Gateway Determination, consistent with the recommendations of a detailed assessment report undertaken by Element Environment (on behalf of Council), subject to a maximum building height of RL259 (i.e. a 17.5 metre reduction) and podium height of 20.5m for 4 to 5 storeys, to ensure consistency with the provisions of the *St Leonards and Crows Nest 2036 Plan*, in particular and reduce overshadowing and visual impacts and provide a better urban design outcome.

At its meeting on 14 August 2023, Council resolved the following;

1. **THAT** the Planning Proposal, including the accompanying indicative concept scheme, be amended to Council's satisfaction addressing the recommendations of the

detailed assessment report undertaken by Element Environment (on behalf of Council). Specifically, the maximum building height be amended to RL259 (equivalent to 171m) and a maximum street wall (podium) height of 20.5m for 4 to 5 storeys.

2. ***THAT*** *the applicant be invited to consider making an offer to deliver public/community benefits via a Voluntary Planning Agreement (VPA) with Council, and that the outcome be reported to Council.*
3. ***THAT*** *upon completion of Recommendations 1 and 2, the report return to Council complete with the offer of any Voluntary Planning Agreement put forward by the Proponent, prior to being forwarded to the Department of Planning and Environment.*

On 29 September 2023, the applicant submitted an amended Planning Proposal, reference design and VPA offer on the NSW Planning Portal. The amended proposal includes an 11.5m reduction in the requested maximum building height for the site, from RL276.5 (approximately 189m) to RL265 (approximately 177.5m), contrary to the NSLPP's recommendation and Council's resolution for the Planning Proposal to be amended to a maximum building height of RL259 (approximately 171.5m) for 42 storeys. A non-binding letter of offer to enter into a VPA was submitted proposing a \$172,000 monetary contribution to Council for the purposes of providing community infrastructure.

At its meeting on 27 November 2023, Council considered the applicant's amended Planning Proposal and VPA offer and resolved the following;

1. ***THAT*** *Council support a Planning Proposal at a maximum building height to RL259 and accept the accompanying VPA offer in-principle, and that the Planning Proposal be forwarded to the Department of Planning and Environment in accordance with section 3.34 of the Environmental Planning and Assessment Act 1979 seeking a Gateway Determination at a maximum building height of RL259, consistent with the recommendations of the detailed assessment undertaken by Element Environment (on behalf of Council) and the North Sydney Local Planning Panel.*
2. ***THAT*** *the General Manager be authorised to negotiate the detailed terms and provisions of a VPA consistent with the applicant's letter of offer (Attachment 3), and as outlined in this report.*
3. ***THAT*** *upon receipt of a Gateway Determination, the associated draft Voluntary Planning Agreement be exhibited concurrently with the Planning Proposal.*
4. ***THAT*** *Council write to the Minister of Planning, to have the whole of the Housing Productivity levy applied directly within the precinct.*

Assessment and Local Planning Panel Recommendation

A detailed assessment of the Planning Proposal was undertaken by Element Environment (on behalf of Council), which included a comparative analysis of other recently approved and constructed premium grade commercial developments in the North Sydney LGA. It was considered that a 42-storey commercial building, inclusive of site considerations (i.e. topographic changes) and plantroom services, could be comfortably accommodated within 171m, and as such a maximum building height of RL259 was recommended. It should be noted that the recently approved 42-storey over-station commercial development at Victoria Cross in the North Sydney CBD, has an overall building height of 170.25m.

The applicant presented an amended reference design with a reduced overall building height of RL265 to the NSLPP at its meeting on 19 July 2023. The justification provided by the applicant was that a double-stacked plantroom at the roof level was required in order to comply with

applicable solar plane provisions. As reflected in the NSLPP Minutes, the Panel determined that the overall height and podium heights should be reduced in accordance with the detailed Assessment Report to provide the necessary transition in overall height as envisaged by the 2036 Strategy, and reduce overshadowing impacts and the podium height reduced to provide a better urban design outcome.

The Panel was of the view that the plant room can be adequately accommodated within the maximum overall height limit of RL259, noting that this could require a reduction in gross floor area, and a reduction in the height of the architectural roof element. The Panel was of the view that the FSR of 20:1 is a maximum that may not be achievable for the subject site given the need to accommodate all the planning considerations and consequential impacts on the St Leonards Centre.

The Panel considered the maximum building height of RL259 to be consistent with the 2036 Plan and other anticipated heights of buildings within the immediate context. Whilst the difference in the applicant's proposed height of RL265 and the recommended height of RL259 is 6 metres, this would result in shadow lengths approximately 18-20 metres longer than is necessary.

Request

In accordance with Resolution 1, Council is seeking a Gateway Determination at a maximum building height of RL259. Council also respectfully requests that a condition be imposed on the Gateway Determination requiring the Planning Proposal be amended to detail a maximum building height of RL259 (inclusive of all rooftop structures) and that the DPE give consideration to the detailed assessment report undertaken by Element Environment, the NSLPP's recommendation and Council's resolution and include any additional matters for potential inclusion as a condition on the Gateway Determination.

To assist with its consideration as to whether to grant a Gateway Determination, please find attached the following documentation:

- Planning Proposal as amended by the applicant;
- Associated draft Voluntary Planning Agreement;
- Council officer's assessment report and the North Sydney Local Planning Panel's advice of 19 July 2023; and
- Council report and resolution of 27 November 2023.

Voluntary Planning Agreement

The Planning Proposal is accompanied by a letter of offer to enter into a Voluntary Planning Agreement (VPA) with Council to provide a \$172,000 monetary contribution towards community infrastructure within the St Leonards and Crows Nest precinct.

The proposed contribution amount, as stated by the applicant, represents the cost estimate for signalised pedestrian improvements at the corner of Albany Street and the Pacific Highway identified in the State Government's now rescinded *Special Infrastructure Contribution Plan for St Leonards and Crows Nest (2018)*.

Whilst Council had suggested a monetary contribution towards the upgrade of Hume Street Park, the applicant submitted that with the completion of Stage 1 works and the absence of costings or timings for Stage 2 works, consideration was given to other identified works to support development arising from the 2036 Plan.

In addition to the public benefits identified within the VPA, the site is subject to the newly adopted Housing and Productivity Contribution (HPC), and Council's Section 7.11 Local Infrastructure Contributions Plan which would be levied with any future Development Application approval.

In accordance with Resolution 4, Council also requests that all funds levied by the Government from the proposal through the Housing and Productivity Contribution (HPC) be allocated toward projects within the St Leonards/Crows Nest areas.

A key justification by the proponent in their amended VPA offer was that it was not envisaged that any additional contribution fees apart from those within Council's Local Infrastructure Contributions Plan 2020 would be applicable to the development, as commercial development was exempt under the former St Leonards/Crows Nest SIC.

The application of the HPC (calculated as \$1.29 million) has reduced Council's capacity to negotiate a higher level of public benefit through the VPA process and facilitate an outcome that would deliver much needed infrastructure to support growth in St Leonards/Crows Nest precinct. The St Leonards/Crows Nest area at present is under significant need of supporting infrastructure following the large number of development approvals and increased density anticipated under the 2036 Plan. This coupled with plans for further increases to density in the area under the Government's recent Transit Orientated Development Program announcement highlights the case for an increased need for funds to cater for infrastructure improvements for St Leonards/Crows Nest.

Should you have any queries, please contact Tom Mojsiejuk of Council's Strategic Planning Department or the undersigned on **9936-8340**.

Yours sincerely

A handwritten signature in black ink, appearing to read 'N. McCarry', with a stylized flourish at the end.

NEAL MCCARRY
ACTING MANAGER - STRATEGIC PLANNING

Electronically generated letter - no signature required