



**APPLICATION FORM**

**Planning Proposals  
(Amendments to NSLEP 2013)  
Section 3.33 of the EP&A Act**

**PART A**

**APPLICANT'S DETAILS**

Name:	Mr Peter Clemesha, Mr James Paver	Business Name:	Avenor Pty Ltd
Postal Address:	Level 17, 9 Castlereagh Street	Suburb & Postcode:	Sydney NSW 2000
DX:		Phone No:	+612 9152 8668
Contact Person:	Peter Clemesha, James Paver	Email:	peter.clemesha@avenor.com.au james.paver@avenor.com.au
Applicant's Signature:			

**OWNER'S CONSENT**

As owner of the land to which this application relates, I consent to this application. I also consent for authorised council officers to enter the land to carry out inspections relating to this application. I accept that all communication regarding this application will be through the nominated applicant. Every owner of the land must sign this form or provide authorisation under separate cover.

Name:	<b>LOW SEE CHING</b>	Director, Walker Street No. 100 Pty Ltd
Postal Address:	Oxley Tower, 138 Robinson Road No. 30-01	Suburb & Postcode: Singapore 068906
Phone No		Signature:

**Copyright Note**

The Applicant is advised that Council may make copies (including electronic copies) of the planning proposal and accompanying documents for the purpose of complying with its obligations under the Environmental Planning and Assessment Act 1979, the Local Government Act 1993 and Notification Policy. In addition, the Council may make such further copies as, in its opinion, are necessary to facilitate a thorough consideration of the planning proposal by Council and public participation in the assessment process. This will include making copies of advertised documents, supporting documentation and the determination available on Council's website to be viewed or printed out by members of the public. The Applicant is responsible for obtaining all copyright licences necessary from the copyright owners for this purpose.

**N.B. LACK OF FULL PROPERTY INFORMATION MAY LEAD TO PROCESSING DELAYS**

<b>PRIVACY STATEMENT</b>	
<p>Personal details requested on this form will only be used for the purpose of processing your application. The supply of information by you is voluntary. If you cannot provide or do not wish to provide the information sought, the Council may not be able to process your application. Access to the information is restricted to Council officers and other authorised people. You may make application for access or amendment to information held by Council. Applications by members of the public to view Council's records are subject to the provisions of Council's Privacy Management Plan, Section 18 Government Information (Public Access) Act 2009 &amp; Schedule 1 - Government Information (Public Access) Regulation 2009.</p>	
I have read and understand the Privacy Statement Signed:	Date: <b>21.03.2019</b>

<b>FOR COUNCIL USE</b>				
Total	Receipt Number	Date	Time	Initials
Planning Proposal Cashier Code 784		NSLPP Referral Cashier Code 744		

**Planning Proposals – (Amendments to NSLEP 2013) Section 3.33 of the EP&A Act**

**PART B**

**PROPERTY DETAILS:**

Unit No:	All lots	House No:	Street	173,175,177,179 Walker Street, and 11,15,17 Hampden Street
Suburb:	North Sydney NSW 2060		Lot + DP/SP	Lot 1-6 SP 11082, Lot 1-6 SP 86752, Lot 1-6 SP 9808,
Applicant:	Avenor Pty Ltd			Lot 1-6 SP 64615, Lot 1 DP119732,
Building Name: (if applicable)				Lot 1 DP591516, Lot 2 DP591516

**PROPOSAL**

- YES  NO

• Has the planning proposal been prepared in accordance with Section 3.33 of the EP&A Act and Department of Planning Guidelines (August 2016)?
- YES  NO

• Have you had a pre-application meeting with Council’s Strategic Planning staff? Meetings can be arranged by contacting Council’s Strategic Planning Department on 9936 8100.
- YES  NO

• Have you supplied 3 paper copies and 1 digital copy of the planning proposal and all associated reports and documents with this application?

**FEES 2018/2019**

A planning proposal may fall into one of three categories in terms of fees payable as set out below and in addition, all planning proposals attract a **NSLPP referral fee of \$1500.00 per application**:

- 1. Following a Council Planning Study (e.g. St Leonards/Crows Nest Precincts 1, 2 and 3)**  
Fee = \$50,000.00 at submission

*OR*

- 2. Unsolicited Planning Proposal (Major)\***

**Stage 1**

Lodgement Fee (to accompany application)

\$32,000.00 (incl. GST) fee covers: - Assessment of planning proposal  
 - Correspondence with applicant  
 - Proposal and Report to Council

**Stage 2 – this will be invoiced separately**

Implementation fee (to be paid prior to seeking Gateway Determination)

\$18,000.00 (incl. GST) fee covers:- Planning proposal submission to Department of Planning  
 - Correspondence with applicant/Department of Planning  
 - Consideration of submissions  
 - Exhibition and gazettal

*OR*

- 3. Unsolicited Planning Proposal (Minor)\*\***

**Stage 1**

Lodgement Fee (to accompany application)

\$14,000.00 (incl. GST) fee covers: - Assessment of planning proposal  
 - Correspondence with applicant  
 - Proposal and Report to Council

## NORTH SYDNEY COUNCIL

### Planning Proposals – (Amendments to NSLEP 2013) Section 3.33 of the EP&A Act

**Stage 2 – this will be invoiced separately**

Implementation fee (to be paid prior to seeking Gateway Determination)

\$5,500.00 (incl. GST) fee covers: - Planning proposal submission to Department of Planning  
- Correspondence with applicant/Department of Planning  
- Consideration of submissions  
- Exhibition and gazettal

**OR**

#### 4. Internal Proposals

Council Initiated Proposals – fees may not be payable unless applicable to Council owned land which is intended to increase the development potential of such land.

\* These types of Planning Proposals are generally defined by requests involving more than 10% changes to height or floor space ratio (FSR) and/or zoning changes, any reduction in non-residential FSR. They also include any proposal which involve a Voluntary Planning Agreement.

\*\* These types of Planning Proposals are generally defined by requests involving less than 10% change to height or FSR, or other changes to LEP controls that are likely to be of a relatively minor nature including requests for *Schedule 1 - Additional Permitted Uses*, but only where one additional use is being sought.

If you are unsure as to which fee applies, please contact Council's Strategic Planning Department on 9936 8100.

### **POLITICAL DONATIONS DISCLOSURE**

Have you made a political donation within the last two years or given a gift to any local councillor or Council employee?

YES  NO

If "Yes" a Political Donations Disclosure Form must be completed and attached to this application (available on Council's website)

### **PLANNING PROPOSALS TRACKING**

Council uses Masterview, a software product that allows applicants and the general public to view plans and associated documents to track the progress of a Planning Proposal throughout the assessment process.

It represents key milestones in the Planning Proposal process however, does not provide a detailed history. Persons wishing to confirm information in detail should contact Council via either the email facility at the bottom of the Planning Proposal tracking window, or in writing in order to obtain a written response.

All pages labelled 'External Masterview' will be publicly accessible through Council's website. Please also refer to Part A - Copyright note.



5 January 2019

**Mills Oakley**  
ABN: 51 493 069 734

**Privileged and confidential**

Your ref:  
Our ref: AXGS/3273112

Walker Street No.100 Pty Ltd  
C/- Suite 12 Level 12  
37 Bligh Street  
SYDNEY NSW 2000

All correspondence to:  
PO Box H316  
AUSTRALIA SQUARE NSW 1215

**Partner**  
Aaron Gadiel +61 2 8035 7858  
Email: agadiel@millsOakley.com.au

**By email:** greg.gould@avenor.com.au

**Attention:** Greg Gould

Dear Greg

**Planning Proposal at 173-179 Walker Street and 11-17 Hampden Street North Sydney NSW**

You intend to submit the above 'planning proposal' document to North Sydney Council — and request that it be progressed. You have asked us whether there is a legal requirement for your request to be accompanied by landowner's consent.

**Summary advice**

In our opinion:

- The legislation expressly contemplates that local councils will consider requests made to them for the preparation of planning proposals. **Any person** may make such a request. The ability to make such a request is **not** limited a landowner.
- The statutory 'requirements' issued under the legislation explicitly permit landowners **or** developers to prepare 'planning proposal' documents and submit them to local councils.
- There is no requirement for the proponent to be:
  - a landowner; or
  - acting on behalf of (or with the consent of) a landowner.

It is enough that the proponent is developer.

**Detailed advice**

**1. The legislation**

- 1.1 In a legal sense a 'planning proposal' (to change the provisions of a local environmental plan) is prepared by the 'planning proposal authority' (as per section 3.33(1) of the *Environmental Planning and Assessment Act 1979* (**the EP&A Act**)).
- 1.2 The default 'planning proposal authority' (in the absence of contrary direction) is the local council (section 3.32(2) of the EP&A Act).
- 1.3 The legislation does not require the planning proposal authority to obtain the consent of any landowners prior to the preparation, adoption or submission of a planning proposal.
- 1.4 This is not surprising, since a planning proposal authority will, in many circumstances, prepare planning proposals that are not supported by affected landowners. Ultimately, a

planning proposal authority is expected to act in the public interest — not in the interest of any individual landowners.

- 1.5 The legislation expressly contemplates that local councils will consider requests made to them for the preparation of planning proposals. Clause 10A of the *Environmental Planning and Assessment Regulation 2000* (**the EP&A Regulation**) says:

When a council does not support a written request made to the council **by a person** for the preparation of a planning proposal under Part 3 of the Act, the council is required to notify **the person** as soon as practicable in writing that the proposal is not supported (bold added).

- 1.6 Any 'person' may make such a request. It is not limited a landowner.

## 2. The requirements issued under the EP&A Act

- 2.1 Section 3.33(3) of the EP&A Act says:

The **Planning Secretary** may issue **requirements** with respect to the preparation of a planning proposal (bold added).

- 2.2 There is no provision for any other body to issue such requirements. In our view, the intention of the legislation is that procedural requirements for the preparation of planning proposals will be determined by the Planning Secretary alone (subject to other express provisions of the legislation that are not presently relevant).

- 2.3 Requirements have been formally issued by the Planning Secretary in the form of *Planning Proposals: Guide to Preparing Planning Proposals* (December 2018). Section 1.2 of that document includes the following text:

The Act does not say who must prepare the **information** needed for a planning proposal. In practice, **the planning proposal document can be prepared** by a council, a landowner **or** developer seeking to change the planning controls relating to a particular site, area locality or local government area, or by a third party on behalf of a landowner or council (bold added).

- 2.4 The requirements explicitly permit landowners **or** developers to prepare 'planning proposal' documents and submit them to local councils (as the planning proposal authorities). Local councils are then free to adopt such proposals (with or without changes) under section 3.33(1) of the EP&A Act.
- 2.5 This approach is then carried forward in the DPE's *Local environmental plans: A guide to preparing local environmental plans* (December 2018). Section 6.2 of that document sets out the 'rezoning review' process. It explains (on page 12) that:

The Rezoning Review mechanism allows **proponents** to make a request that an independent body review a request for a planning proposal prior to a Gateway determination being issued (bold added).

- 2.6 Examples of a 'proponent' are given (under the heading 'step 1' on page 12):

eg. developer, landowner

- 2.7 There is **no requirement** under the policy that:

- (a) the proponent be landowner; or
- (b) the proponent be acting on behalf of (or with the consent of) a landowner.

It is enough that the proponent is developer.

Please do not hesitate to contact me on (02) 8035 7858 if you would like to discuss this advice.

Yours sincerely



**Aaron Gadiel**  
**Partner**

Accredited Specialist — Planning and Environment Law

TAX INVOICE/RECEIPT

ABN #:32353260317

North Sydney Council

200 Miller Street

NORTH SYDNEY NSW 2060

Ph 9936 8100 Fax +9936 8177

Email: council@northsydney.nsw.gov.au

Date 22/03/2019 15:02

Receipt 02268319:0001 Terminal 1:4127

Avenor

L 17 9-13 Castlereagh Street

SYDNEY NSW 2000

Details	Amount
Planning Proposals -	32000.00
009,2019,00000003,001	
Referral to NSLPP PP	1500.00
Merchant Service Fee	11.25
	(GST 1.02)
Invoice/Receipt Total:	33511.25
Total Non-Taxable:	33500.00
Total Taxable:	10.23
Total GST Payable:	1.02
Total Value	33511.25
Tendered	
Cheque	32000.00
Credit	1511.25
Change	0.00

Thank You for Your Payment.

GENERAL MANAGER