

DATE OF DECISION	5 August 2021
PANEL MEMBERS	Carl Scully (Chair), Jan Murrell, Roberta Ryan, Jeremy Swan, Lee Kosnetter
APOLOGIES	None
DECLARATIONS OF INTEREST	None

REZONING REVIEW

RR-2021-71 – Waverley – PP-2021-2578 at 439-445 Old South Head Road & 1 The Avenue, Rose Bay (AS DESCRIBED IN SCHEDULE 1)

Reason for Review:

- ☒ The council has notified the proponent that the request to prepare a planning proposal has not been supported
- ☐ The council has failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal or took too long to submit the proposal after indicating its support

PANEL CONSIDERATION AND DECISION

The Panel considered: the material listed at item 4 and the matters raised and/or observed at meetings and site inspections listed at item 5 in Schedule 1.

Based on this review, the Panel determined that the proposed instrument:

- ☐ **should** be submitted for a Gateway determination because the proposal has demonstrated strategic and site specific merit
- ☒ **should not** be submitted for a Gateway determination because the proposal has
- ☒ not demonstrated strategic merit
 - ☐ has demonstrated strategic merit but not site specific merit






The decision was unanimous.

REASONS FOR THE DECISION

- The Panel considers aspects of the concept are worthy of consideration but given concerns about the proposed height and floor space ratio (FSR) it could not come to the view that the Planning Proposal has site specific or strategic merit. Additionally, the Panel is of the view that more work is required to be demonstrated to deliver on public benefits, such as a public plaza and affordable housing contribution.
- The Planning Proposal seeks to rely on existing use rights as opposed to formalising the uses on the site by a local business zone, which is more transparent and provides greater certainty. An alternative zoning would accommodate a concept as presented however the Panel considers that the increase in height to 25 metres and an FSR of 2.5:1 is excessive. Furthermore, the Planning Proposal lacks certainty by maintaining the R3zone with a general increase in FSR and height for the whole site.
- On the matter of site specific merit, the Panel is not satisfied that the height and FSR in the Planning Proposal could be accommodated on the site without adverse impacts.

- The Panel is not satisfied that sufficient reasons are provided in the Planning Proposal to justify the strategic merit of higher density residential for the site while maintaining the current zoning. The Panel agrees with Council that there are aspects to the Planning Proposal that are positive but are insufficient to meet the requirement for strategic merit.

By way of comment, an alternative pathway to a Planning Proposal could be explored given existing use rights and the use of heritage provisions through the development application process.

PANEL MEMBERS	
 Carl Scully (Chair)	 Jan Murrell
 Roberta Ryan	 Jeremy Swan
 Lee Kosnetter	

SCHEDULE 1		
1	PANEL REF – LGA – DEPARTMENT REF - ADDRESS	RR-2021-71 – Waverley – PP-2021-2578 at 439-455 Old South Head Road & 1 The Avenue, Rose Bay
2	LEP TO BE AMENDED	Waverley Local Environmental Plan 2012
3	PROPOSED INSTRUMENT	<p>The Rezoning Review request relates to a Planning Proposal for 439-445 Old South Head Road and 1 The Avenue, Rose Bay to amend the Waverley Local Environmental Plan (LEP) 2012 by:</p> <ul style="list-style-type: none"> • amending the maximum building height control from 12.5m to 25m across the entire site; and • amending the maximum floor space ratio (FSR) control from 0.9:1 to 2.5:1 across the entire site.
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Rezoning review request documentation • Briefing report from Department of Planning, Industry and Environment
5	BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY	<ul style="list-style-type: none"> • Site inspection: panel members visited the site independently prior to 5 August 2021 • Briefing with Department of Planning, Industry and Environment (DPIE): 5 August 2021 <ul style="list-style-type: none"> ○ Panel members in attendance: Carl Scully (Chair), Jan Murrell, Roberta Ryan, Jeremy Swan, Lee Kosnetter ○ DPIE staff in attendance: Simon Ip, Louise McMahon, Rachel Hughes • Briefing with Council and Proponent: 5 August 2021 <ul style="list-style-type: none"> ○ Panel members in attendance: Carl Scully (Chair), Jan Murrell, Roberta Ryan, Jeremy Swan, Lee Kosnetter ○ Council representatives in attendance: Emma Rogerson, Jaime Hogan, George Bramis, Timothy Williams, Francisco Mota, Tony Pavlovic ○ Proponent representatives in attendance: Antonio Pozzi, Isha Sharma Negi, Zack Ashby, Sophie Litherland, Chris Wilson, Stephen Moore, Gregory Gilyou, Sara Wilson, Michael Lee ○ DPIE staff in attendance: Simon Ip, Louise McMahon, Rachel Hughes