

DATE OF DECISION	18 October 2021
PANEL MEMBERS	Peter Debnam (Chair), Brian Kirk, Julie Savet Ward, Kevin Alker and Stephen Barbour
APOLOGIES	Virginia Waller
DECLARATIONS OF INTEREST	Kenneth Robinson declared a conflict of interest because he was a member of the North Sydney Local Planning Panel that rejected this application on 5 May 2021

REZONING REVIEW

Request for a rezoning review - RR-2021-87 – North Sydney Council - 391-423 Pacific Highway, 3-15 Falcon Street and 8 Alexander Street, Crows Nest (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 reviewed the documentation and heard extensively from the Applicant, Council and Department but concluded the planning proposal lacked sufficient strategic merit.






The Proponent sought to rely upon the St Leonards and Crows Nest 2036 Plan (2036 Plan) but failed to convince the Panel that the proposed variations in terms of height and especially FSR were justified.

While the 2036 Plan envisages some variations may be proposed, the Panel believes it is critical that when a Proponent relies on the 2036 Plan it should demonstrate consistency with the Plan or if proposing variations, they must be of minor significance and clearly provide additional public benefit to compensate for the minor variation. That is not the case with the current proposal. Accordingly, the Panel does not consider the planning proposal achieves the overall intent of the Plan, having regard to the Plan's vision, objectives and actions.

The Panel concurred with Council that the proposed variations of height and FSR are not minor at all and are very significant in the case of FSR.

The Panel notes that this site sits outside the corridor between St. Leonards Station and the Crows Nest Metro Station where the 2036 Plan envisages that taller and higher density buildings will be located. However, the Panel noted this is a landmark site not only for the local community but also the wider community of Sydney, given its location on a major thoroughfare. Given the site's importance and also given the very substantial efforts of the Proponent in consolidating this site, its future warrants early discussions between the Proponent and Council to reach agreement on height (in storeys) and FSR to provide an excellent response to both policy and locational context.

The Panel further notes that in undertaking rezoning reviews it is procedurally constrained and cannot act as a mediator to find an acceptable outcome between the parties.

PANEL MEMBERS	
Peter Debnam (Chair) 	Brian Kirk 
Julie Savet Ward 	Kevin Alker 
Stephen Barbour 	

SCHEDULE 1		
1	PANEL REF – LGA – DEPARTMENT REF - ADDRESS	Request for a rezoning review - RR-2021-87 – North Sydney Council - 391-423 Pacific Highway, 3-15 Falcon Street and 8 Alexander Street, Crows Nest
2	LEP TO BE AMENDED	North Sydney Local Environmental Plan 2013
3	PROPOSED INSTRUMENT	<p>The rezoning review request seeks to amend the North Sydney Local Environmental Plan to increase the development standards applying to the site known as the Five Ways Triangle site in Crows Nest. The proposal relates to land at 391-423 Pacific Highway, 3-15 Falcon Street and 8 Alexander Street, Crows Nest. Specifically, the proposal seeks to make the following amendments:</p> <ul style="list-style-type: none"> • Increase the maximum building height control from 16m to 75m; • Apply an overall maximum Floor Space Ratio (FSR) of 9.3:1; and • Increase the minimum non-residential Floor Space Ratio (FSR) from 0.5:1 to 2.5:1
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	<p>Site inspection has been curtailed due to COVID-19. Panel members to undertake site inspection individually.</p> <ul style="list-style-type: none"> • Briefing with Department of Planning, Industry and Environment (DPIE): 13 October 2021 <ul style="list-style-type: none"> ○ Panel members in attendance: Peter Debnam (Chair), Brian Kirk, Julie Savet Ward, Kevin Alker and Stephen Barbour ○ DPIE staff in attendance: Bailey Williams, Charlene Nelson and Brendan Metcalfe • Briefing with Council: 22 September 2021 <ul style="list-style-type: none"> ○ Panel members in attendance: Peter Debnam (Chair), Brian Kirk, Julie Savet Ward, Kevin Alker and Stephen Barbour ○ DPIE staff in attendance: Bailey Williams, Charlene Nelson and Brendan Metcalfe ○ Council representatives in attendance: Joseph Hill, Neal McCarry and Katerina Papa

		<ul style="list-style-type: none">• Briefing with Proponent: 22 September 2021<ul style="list-style-type: none">○ Panel members in attendance: Peter Debnam (Chair), Brian Kirk, Julie Savet Ward, Kevin Alker and Stephen Barbour○ DPIE staff in attendance: Bailey Williams, Charlene Nelson and Brendan Metcalfe○ Proponent representatives in attendance: Greg Colbran, Joseph Hill, Lucy Langley, Annabelle Cooper, Carlina, Stephen Moore, Stephen Cox, Stephen Davies, Anthony Whealy, Malcolm Craig, Stephen Kerr and Nick Turner.• Papers were circulated electronically on 6 October 2021.
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