

<b>DATE OF DECISION</b>	5 October 2023
<b>DATE OF BRIEFINGS</b>	19 September 2023 and 29 September 2023
<b>PANEL MEMBERS</b>	Peter Debnam (Chair), Sue Francis, Glennis James, Che Wall and Karla Castellanos
<b>APOLOGIES</b>	Brendan Metcalfe 29 September 2023
<b>DECLARATIONS OF INTEREST</b>	None

### **PRE PLANNING PROPOSAL**

North Sydney LGA - 263-283 Alfred Street and 4 Little Alfred Street, North Sydney

### **REASON FOR THE BRIEFING**

The Panel has been asked to give its advice as to what form a new planning proposal should take in regards to Maximum Building Height (HOB) and Floor Space Ratio (FSR) across the precinct (Sites A to D), given the protracted history over many years of the previous planning proposal (PP-2020-74) and its eventual non-progression.

### **PANEL CONSIDERATION AND DECISION**

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

The Panel met with the Department of Planning and Environment and Benmill and Mecone (Proponent) on 19 September 2023 to discuss the history of the site, previous planning proposals, the Proponent's current intentions, North Sydney Council's Memorandum of 14 September 2023 and the Department's Memorandum and analysis of 12 September 2023.

The proposed development was discussed at length during which time the Panel identified that further information was required from the Proponent on the proposed relative heights, application of an FSR and floor to floor heights.

The Panel subsequently deferred providing advice on the Proponent's proposed development until it could receive the further information from the Proponent.

The Proponent provided supporting and clarifying information in a Mecone letter dated 28 September 2023. That letter formed the basis of a further briefing and detailed discussions between the Proponent and Panel on 29 September 2023.

During the 29 September 2023 briefing, the Mecone letter was updated to correct typographical errors and further detail the rationale and contingency for the proposed "Topmost part of building roof plant (including lift overrun) Proposed Control RL 120.00 (119.80 rounded up per Council request)".

The Panel then considered the Proponent's proposed development.

The majority of the Panel have provided advice that the Proponent's proposed development should be amended to:

1. Rezone sites A, B, C and D from E2 Commercial Centre to MU1 Mixed Use;
2. Remove FSR controls from sites A, B, C and D;
3. Introduce a Design Excellence Clause and Map into the North Sydney LEP 2013 (similar to Clause 6.19B of the LEP) which includes the requirement for completion of a Design Excellence

Competition to trigger an increase in height for Site B to RL120.00 for the Topmost part of building roof plant (including lift overrun and contingency);

4. Detail a Site Specific MasterPlan for setbacks and podium height of Site B; and
5. Confirm non-residential uses for the ground floor of Site B and application of Transport for NSW's retail cap for each site.

As a result, the majority of the Panel advise that should the Proponent wish to submit a new proposed planning proposal then it should consider the above points and details in the Mecone letter of 29 September 2023.



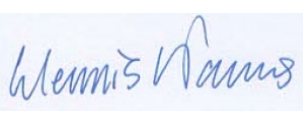


Panel members Che Wall and Karla Castellanos have dissenting views on the proposal.

Ms Castellanos and Mr Wall are of the opinion that the rezoning for additional height and FSR on Site B without a comprehensive master plan for the precinct is tantamount to a 'spot' rezoning, and that the existing building's low aesthetic value on Site B is not a strong enough reason to modify the applicable controls on that site. Ms Castellanos also disagrees that the proposal should proceed without a site-specific Floor Space Ratio (FSR) and Non-Residential FSR.

Both Mr Wall and Ms Castellanos disagree that the Proponent's proposed development should increase the height of the tower on Site B. Currently, the existing building is out of context, discordant and inharmonious with the height and scale of the surrounding neighbouring buildings and the Whaling Street Heritage Conservation Area and Heritage Items. The existing building 'stands out' in isolation due the site's segregated location from the rest of the taller built forms in the North Sydney Central Business District. Any additional height will further exacerbate this adverse relationship making the building even more out of context and discordant.

Both Mr Wall and Ms Castellanos agree with the premise put forward by the NSW Heritage Office publication titled 'Designing in Context – Guidelines for Infill Development in the Historic Environment' which states that "the impact of an inappropriately scaled building cannot be compensated for by building form, design or detailing". These adverse impacts would not be adequately addressed either by an architectural design competition or the re-skinning of the tower, especially if the height relationship is further exacerbated.

The Proponent's proposed development should not result in additional overshadowing over the adjoining public open space to the south of the precinct, or additional visual and transition of scale issues with the Heritage Conservation Area.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Sue Francis
 Glennis James	 Che Wall
 Karla Castellanos	

SCHEDULE 1		
1	LGA – ADDRESS	North Sydney LGA - 263-283 Alfred Street and 4 Little Alfred Street, North Sydney
2	LEP TO BE AMENDED	North Sydney Local Environmental Plan 2013
3	PROPOSED INSTRUMENT	<p>There is no proposed planning proposal.</p> <p>The previous planning proposal, where the Panel was the Planning Proposal Authority (PPA), sought to amend the North Sydney Local Environmental Plan 2013 to:</p> <ul style="list-style-type: none"> <li>• Rezone the site from B3 Commercial Core to B4 Mixed Use;</li> <li>• Increase the maximum building height from 13m to part 28m (Site C), 29m (Site D), 31m (Site A) &amp; 80m (Site B);</li> <li>• Increase the maximum FSR for Building B from 3.5:1 to 7.3:1; and</li> <li>• Introduce a design excellence provision to facilitate a 2:1 FSR bonus for Building B.</li> </ul>
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>○ Memorandum and Attachments A to G from Department of Planning and Environment, 12 September 2023</li> <li>○ Memorandum from North Sydney Council, 14 September 2023</li> <li>○ Letters from Mecone to the Panel in response to the Panel's request for further information (28 September 2023 and revised 29 September 2023)</li> </ul>
5	SITE INSPECTION AND BRIEFINGS BY THE PANEL	<ul style="list-style-type: none"> <li>○ <b>Site inspection with Department of Planning and Environment (DPE):</b> 10:00am – 10:44am, 19 September 2023 <ul style="list-style-type: none"> <li>○ Panel members in attendance: Peter Debnam (Chair), Sue Francis, Glennis James, Che Wall and Karla Castellanos</li> <li>○ DPE staff in attendance: Derryn John, Kristian Jebbink and Lisa Kennedy</li> <li>○ Key issues discussed: history of the planning proposals, rezoning reviews and Panel briefings for the site; precinct planning rather than a spot rezoning for Site B; proposed built form and relative heights rather than storeys; heritage conservation area and heritage items; overshadowing of the neighbouring park and heritage dwellings.</li> </ul> </li> <li>○ <b>Briefing with Department of Planning and Environment (DPE):</b> 12:30pm – 1:14pm, 19 September 2023 <ul style="list-style-type: none"> <li>○ Panel members in attendance: Peter Debnam (Chair), Sue Francis, Glennis James, Che Wall and Karla Castellanos</li> <li>○ DPE staff in attendance: Brendan Metcalfe, Derryn John, Kristian Jebbink, David Burge, Renee Ezzy, Lisa Kennedy and Taylah Fenning</li> <li>○ Key issues discussed: <ul style="list-style-type: none"> <li>• history of the planning proposals, rezoning reviews and Panel briefings for Site B and the precinct</li> <li>• Proponent's proposed development and what the Proponent is seeking from the Panel</li> <li>• Change to zoning of the sites and application of an FSR</li> </ul> </li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>overshadowing of the neighbouring park and heritage dwellings</li> <li>Proposed adaptive reuse of Site B rather than a knockdown and rebuild</li> <li>Apartment Design Guide requirements – setbacks, overshadowing</li> <li>Visual impacts</li> </ul> <ul style="list-style-type: none"> <li>○ <b>Briefing with North Sydney Council:</b> North Sydney Council declined to attend the briefing. Council sent a Memorandum with a number of issues for the Panel's consideration</li> <li>○ <b>Briefing with Mecone (Proponent) and Benmill Pty Ltd &amp; JB no 3 PTY Ltd (landholder):</b> 1:15pm – 2:42pm, 19 September 2023 <ul style="list-style-type: none"> <li>○ Panel members in attendance: Peter Debnam (Chair), Sue Francis, Glennis James, Che Wall and Karla Castellanos</li> <li>○ DPE staff in attendance: Brendan Metcalfe, Derryn John, Kristian Jebbink, David Burge, Renee Ezzy, Lisa Kennedy and Taylah Fenning</li> <li>○ Proponent representatives in attendance: Lesli Berger, Ian Cady, Harrison Depczynski, Esther Cheong, Anthony Boskovitz, Tony Moody, Richard Francis-Jones, Sean McPeake and William Nemesh</li> <li>○ Key issues discussed: <ul style="list-style-type: none"> <li>Proponent's proposed development and what the Proponent is seeking from the Panel</li> <li>Change to zoning of the sites, maximum building heights and application of an FSR</li> <li>overshadowing of the neighbouring park and heritage dwellings</li> <li>Apartment Design Guide requirements – setbacks, separation, overshadowing</li> <li>Urban Design Review – visual impacts, sustainability, wind effects &amp; overshadowing, and access to public transport</li> <li>North Sydney Council's Memorandum (14 September 2023) and identified issues</li> <li>Proposed adaptive reuse of Site B rather than a knockdown and rebuild</li> <li>Precinct planning and amalgamation of sites</li> <li>Non-Residential FSR and retail area based on traffic generation</li> <li>Any community benefits including affordable housing</li> <li>Further information required on relative heights, proposed FSR, retail area ratios for each site, floor to floor heights for additional floors</li> </ul> </li> </ul> </li> <li>○ <b>Panel Discussion:</b> 2:42pm – 2:50pm, 19 September 2023 <ul style="list-style-type: none"> <li>○ Panel members in attendance: Peter Debnam (Chair), Sue Francis, Glennis James, Che Wall and Karla Castellanos</li> <li>○ DPE staff in attendance: Brendan Metcalfe, Derryn John, Kristian Jebbink, David Burge, Renee Ezzy, Lisa Kennedy and Taylah Fenning</li> <li>○ Key issues discussed: The Panel's advice is deferred until the proponent provides further information required on relative heights, proposed FSR, retail area ratios for each site and floor</li> </ul> </li> </ul>
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		<p>to floor heights for additional floors. The Panel will conduct another briefing on 29 September 2023.</p> <ul style="list-style-type: none"> <li>○ <b>Briefing with Mecone (Proponent) and Benmill Pty Ltd &amp; JB no 3 PTY Ltd (landholder):</b> 9:30am – 10:17am, 29 September 2023 <ul style="list-style-type: none"> <li>○ Panel members in attendance: Peter Debnam (Chair), Sue Francis, Glennis James, Che Wall and Karla Castellanos</li> <li>○ DPE staff in attendance: Derryn John, Kristian Jebbink, David Burge, Lisa Kennedy and Taylah Fenning</li> <li>○ Proponent representatives in attendance: Ian Cady, Richard Francis-Jones, Lesli Berger, Harrison Depczynski, Anthony Boskovitz &amp; William Nemesh</li> <li>○ Key issues discussed: <ul style="list-style-type: none"> <li>• Proposed relative heights – RL120 includes lift and access to roof. Proposing 4 levels above existing roof structure &amp; 3 levels in roof structure.</li> <li>• Overshadowing of heritage buildings in Whaling Road</li> <li>• Floor to floor heights</li> <li>• Design Excellence</li> <li>• Transport for NSW’s comments on retail areas and Non-Residential FSR. Proposed retail area for each site.</li> <li>• Adaptive reuse of site B vs demolition and rebuild</li> <li>• Site B – build to rent, build to hold</li> <li>• Removal of FSR controls across precinct</li> <li>• Lodgment of a new planning proposal consistent with the advice from the Panel</li> <li>• Corrections to Mecone letter of 28 September 2023</li> </ul> </li> </ul> </li> <li>○ <b>Panel Discussion:</b> 10:18am – 10:39pm, 29 September 2023 <ul style="list-style-type: none"> <li>○ Panel members in attendance: Peter Debnam (Chair), Sue Francis, Glennis James, Che Wall and Karla Castellanos</li> <li>○ DPE staff in attendance: Derryn John, Kristian Jebbink, David Burge, Lisa Kennedy and Taylah Fenning</li> </ul> </li> </ul>
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29 September 2023

Planning Panels Secretariat  
Sydney North District  
NSW Department of Planning and Environment  
Locked Bag 5022  
Parramatta NSW 2124

**Alfred Street Precinct, North Sydney – Planning Proposal – Proponent Response to SNPP – Building Clarifications**

Dear Sydney North Planning Panel,

We are writing on behalf of Benmill Pty Ltd (**proponent**) regarding the Alfred Street Precinct Planning Proposal and further clarifications requested from the Sydney North Planning Panel (**SNPP**) at the meeting of 19 September 2023.

Specifically, the SNPP requested clarifications on existing and proposed building reduced levels (**RLs**) for Sites A and B. This was followed by an email from Department of Planning and Environment (**DPE**) officers clarifying all additional RL information being requested.

In reference to the DPE's email request, we clarify the responses below in **bold**.

***Additional information required from Mecone/Benmill as per Sydney North Planning Panel Meeting request 19 September 2023.***

1. *Height as per RL for the existing building at site B:*
  - i. *Topmost part of parapet to tower* **RL 92.40**
  - ii. *Topmost part of original building roof plant (including lift overrun)* **RL undetermined – however just below top of signage structure**
  - iii. *Topmost part of signage structure:* **RL 100.97**
  - iv. *Floor to ceiling heights in metres* **Typical existing floor-to-floor height: 3.08m**
  
2. *Height as per RL for proposed building at Site B:*
  - i. *Topmost part of parapet to tower* **RL 119.80**
  - ii. *Topmost part of building roof plant (including lift overrun)* **Proposed Control: RL 120.00.**

**The RL 120.00 includes contingency for all plant, services, lift overruns etc. calculated as  $RL\ 100.97 + 14.08\ (3.52 \times 4) = RL\ 115.05 + 3.5m\ rooftop\ lift\ overrun/ services = 118.55 + 1.45m\ contingency\ allowance = RL120.00.$**

**This is consistent with Part 2C (pg. 31) of the ADG which advises when setting height controls to add additional allowances for services, rooftop articulation and topographic changes (see extract below). This contingency also reflects Council's desire to avoid requests to vary any new height requirements imposed on the site as outlined in their letter to the SNPP dated 14/08/23.**



#### Considerations in setting height controls

Set building heights by adding together the floor to ceiling heights for the desired number of storeys. Add 0.4m per floor for structure, services, set downs and finishes. Add 1m to the total to allow for rooftop articulation. Add 2m to the total to allow for topographic changes where required. Provide additional height in flood prone areas

#### Part 2 of the ADG explains:

*This part explains the application of building envelopes and primary controls including building height, floor space ratio, building depth, separation and setbacks. It provides tools to support the strategic planning process when preparing planning controls*

3. For the proposed addition to the existing building at Site B:
  - i. Height in metres of total additional floors **RL 19.03m**
  - ii. Floor to ceiling heights in metres for each additional floor **Typical proposed floor-to-floor height: 3.52m**
  - iii. View on having additional height determined through design excellence process **Proponent accepts this approach – building height exceeding RL 101.00 (existing topmost building signage RL 100.97 rounded) triggers a design excellence process.**
4. For site A:
  - i. Existing building height as per RL **RL 50.50**
  - ii. Proposed building height as per RL **RL 69.00**
  - iii. Existing FSR as built **2.48:1**
  - iv. Proposed FSR **Retain current planning proposal's proposed FSR of 3.5:1**
5. FSR for the building at Site B:
  - i. Actual FSR of existing building **7.3:1**
  - ii. View on having no FSR apply **The proposal includes an FSR control of 9.3:1 (including Design Excellence bonus) as per standard template practice. However, no specific objection is raised to its removal.**

Regarding the TfNSW request to include a maximum retail cap of 1,200m<sup>2</sup> for the entire precinct. For Sites A and B, the proportional retail cap for each site would be:

- Site A: 200m<sup>2</sup>
- Site B: 300m<sup>2</sup>
- Sites C and D (combined): 700m<sup>2</sup>



## Conclusion

We trust this clarifies the additional information the SNPP were seeking and will enable the planning proposal to proceed to Gateway based on:

- Sites A – D: Rezone to MU1 Mixed Use
- Site A:
  - Building Height: Maximum RL 69.00
  - FSR: Maximum 3.5:1
  - Retail GFA: Maximum 200m<sup>2</sup>
- Site B
  - Building height: Maximum RL 120.00
  - FSR: Maximum 9.3:1 (including Design Excellence bonus)
    - However as per above, no specific objection to removal of FSR control.
  - Design Excellence Process: Required for a proposed building that exceeds RL 101.00
  - Retail GFA: Maximum 300m<sup>2</sup>
- Sites C and D:
  - No change to existing height and FSR.
  - Retail GFA: Maximum 700m<sup>2</sup> (combined)

Yours Sincerely,

**IAN CADY  
DIRECTOR**