



INDEPENDENT REVIEW

RECORD OF DECISION

STRATEGIC PLANNING PANEL of the
SYDNEY NORTH PLANNING PANEL

DATE OF DETERMINATION	22 March 2024
DATE OF DECISION	15 March 2024
PANEL MEMBERS	Peter Debnam (Chair), Sue Francis, Glennis James, Karla Castellanos and Che Wall
APOLOGIES	None
DECLARATIONS OF INTEREST	None

INDEPENDENT REVIEW

IR-2024-1 (RR-2024-10) – North Sydney LGA – PP-2024-122

263-283 Alfred Street and 4 Little Alfred Street, North Sydney (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 115 days after the proponent submitted a request to prepare a planning proposal.
- ☐ The council has not submitted the planning proposal for a Gateway determination within 28 days of indicating its support for the proposal.
- ☒ The Department has requested an independent review of the planning proposal.

PANEL CONSIDERATION AND DECISION

The Planning Minister's delegate requested the Panel undertake an independent review of the planning proposal under S2.15(C) of the Environmental Planning & Assessment Act due to the complex and lengthy history of planning for the site.

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

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

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

The decision was 3:2 in favour, with Ms Karla Castellanos and Mr Che Wall considering the proposal did not have strategic merit or site specific merit.

REASONS FOR THE DECISION

The Panel considered the documentation, was briefed by the Department, and heard extensively from North Sydney Council and the Proponent, Mecone and landholder, Benmill Pty Ltd & JB no 3 PTY Ltd.

The issues of zoning, building height, bulk form, setbacks, design excellence and affordable housing were discussed at length.

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The current planning proposal follows previous proposals considered by multiple planning panels and the Panel notes the history and future of this key landmark site has been debated extensively for many years. The proponent also briefed the Panel last year on prospects for the site and the current proposal appropriately reflects feedback from the Panel.

The Panel notes this site has been in need of regeneration for decades and the majority of the Panel believe the current proposal warrants support.

Strategic Merit

The majority of the Panel agreed that the planning proposal had Strategic Merit given that:

- The planning proposal is consistent with applicable strategic planning documents, particularly as they relate to the general objectives for housing. These include the Greater Sydney Region Plan (2018), North District Plan (2018) and North Sydney Local Strategic Planning Statement (March 2020);
- Updating and providing consistency with zoning to MU1 across all sites A,B,C and D
- Delivering housing supply is a priority issue for Sydney for all levels of Government;
- The provision of additional housing in this location has strategic merit;
- The site is well located in proximity to public services and transport, therefore additional development potential is appropriate.

Site Specific Merit

The majority of the Panel agreed that the planning proposal should be able to achieve Site Specific Merit subject to revisions addressing site constraints noting that:

- There is merit in regenerating the site. The existing building at Site B has been highly visible and unattractive for generations and while the current proposal would also deliver a prominent building, it will be subject to design excellence criteria and a design competition should the height exceed RL 101 (up to a maximum RL 120).

Panel recommendations

The majority of the Panel recommends that prior to the Planning Proposal Authority (PPA) submitting the Planning Proposal for a Gateway determination, the Planning Proposal is to be revised to address the following:

- removing the proposed height increase for Site A thereby retaining the current height limit of 13m;
- amending the proposed new Clause 6.19E - Design Excellence so that the Design Competition criteria requires a Design Competition for any height increase over RL 101 up to an absolute maximum including all roof plant of RL 120, whether the existing building is retained and altered or whether the site is redeveloped;
- including a proposed LEP provision for a site specific Development Control Plan (DCP); and
- updating the planning proposal and supporting reports and studies in accordance with the above two points and the LEP Making Guidelines (August 2023) to reflect the Panel's decision.

The majority of the Panel also recommends that:

- the Proponent works with Council to produce a Site Specific DCP and a public benefits offer which may include:
 - affordable housing – contribution rate in perpetuity with a Community Housing Provider; and
 - confirming with Transport for NSW an acceptable non-residential GFA for Site B and the proposed removal of a non-residential GFA for sites A, C & D.
- given the prominence of this site, the very protracted evolution of the planning proposal and the additional height of the current planning proposal, the Panel requests the Department consider identifying Site B for exclusion from further bonus height or FSR available under the amended State Environmental Planning Policy (Housing) 2023.

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The Panel requests it be appointed as the PPA for the planning proposal. Should the Panel be appointed the PPA for this planning proposal, the Panel requires confirmation from the proponent that they agree to:

- a) revise the planning proposal to be consistent with the Panel's recommendations above; and
- b) subsequently provide a revised planning proposal to address the Panel's concerns.

The proponent has up to two weeks from the date of the Panel's appointment as PPA to confirm whether they agree to revise their planning proposal to be consistent with the Panel's recommendations. Should the proponent not agree to revise their proposal, then the Panel will reconvene to determine that the planning proposal does not have site specific merit and will not be submitted for a Gateway determination.

Should the proponent agree to revise their planning proposal to address the Panel's concerns, then the proponent has up to a further month to provide the revised planning proposal, including supporting reports and studies to the Panel.

The proponent is to pay the PPA fee within two weeks of confirming they wish to revise their planning proposal to be consistent with the Panel's recommendations. Should the proponent fail to pay the PPA fee by the designated date, then the Panel will no longer proceed with the planning proposal and the making of a local environmental plan amendment.

REASONS FOR THE DISSENTING DECISION

Panel members Ms Karla Castellanos and Mr Che Wall do not consider that the planning proposal has strategic merit or site specific merit.

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. The removal of the FSR controls, in her view, removes the incentive for the adaptive reuse of the existing building, which in turn can lead to the introduction of a different tower location within the site and a new set of separation and setback relationships to adjacent sites that retain the *status quo* in terms of redevelopment potential.



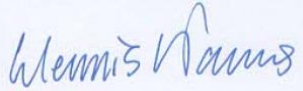


Both Ms Castellanos and Mr Wall disagree that the planning proposal should increase the height of the tower on Site B. Currently, the existing building is out of context, discordant and inharmonious with the height and scale of the surrounding neighbouring buildings and the Whaling Street Heritage Conservation 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. The lack of consistency in the information presented thus far puts into question whether the number of maximum additional storeys possible under RL 120 is in fact accurate and not taller than originally purported. Therefore, the actual visual and transition in scale impacts have not been properly demonstrated.

Both Ms Castellanos and Mr Wall 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.

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The planning proposal should also 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	 Karla Castellanos
 Che Wall	

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SCHEDULE 1		
1	PANEL REF – LGA – DEPARTMENT REF - ADDRESS	IR-2024-1 (RR-2024-10) – North Sydney LGA – PP-2024-122– at 263-283 Alfred Street and 4 Little Alfred Street, North Sydney
2	LEP TO BE AMENDED	North Sydney Local Environmental Plan (LEP) 2013
3	PROPOSED INSTRUMENT	<p>The proposal seeks to:</p> <ul style="list-style-type: none"> • Rezone the Precinct (Sites A, B, C and D) from E2 Commercial Centre to MU1 Mixed Use; • Remove floor space ratio controls from the Precinct (Sites A, B, C and D); • Increase the maximum building height for Sites A and B from 13m to RL 69.00 for Site A and RL 120.00 for Site B; and • Introduce a Design Excellence Clause and Map that requires a Design Excellence Competition to be held where a proposed building on Site B exceeds RL 101.00.
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Rezoning review request documentation • Briefing report from Department of Planning, Housing and Infrastructure, 5 March 2024 • Letter from Mecone (11 March 2024) to Panel in response to North Sydney Council's letter of 2 February 2024 • Mecone briefing presentation
5	BRIEFINGS BY THE PANEL	<ul style="list-style-type: none"> • Briefing with Department of Planning, Housing and Infrastructure (DPHI): 9:30am – 9:48am, 15 March 2024 <ul style="list-style-type: none"> ○ Panel members in attendance: Peter Debnam (Chair), Sue Francis, Glennis James, Karla Castellanos and Che Wall ○ DPHI staff in attendance: Brendan Metcalfe, Kristian Jebbink, Doug Cunningham, Renee Ezzy, Aoife Wynter, Lisa Kennedy & Taylah Fenning ○ Key issues discussed: <ul style="list-style-type: none"> • Approach to this Independent Review • Site & locality – Whaling Road heritage Conservation Area, open space to south and low residential to north • Panel's pre-planning proposal advice of 5 October 2023 • Proposed increase in heights for Site A • North Sydney Council's feedback on proposal • Appointment of a planning proposal authority (PPA) • Briefing with North Sydney Council: 10:00am – 10:28am, 15 March 2024 <ul style="list-style-type: none"> ○ Panel members in attendance: Peter Debnam (Chair), Sue Francis, Glennis James, Karla Castellanos and Che Wall ○ DPHI staff in attendance: Brendan Metcalfe, Kristian Jebbink, Doug Cunningham, Renee Ezzy, Aoife Wynter, Lisa Kennedy & Taylah Fenning ○ Council representatives in attendance: Neal McCarry & Ben Boyd ○ Key issues discussed: <ul style="list-style-type: none"> • Proposed design excellence clause

		<ul style="list-style-type: none"> • FSR requirements – removal on sites C & D, keep for sites A & B • Housing SEPP and bonus storey provisions • Building height & storeys – proposed reuse/knock-down, bonuses • Setbacks to achieve Australian Design Guide requirements particularly to the north of site A • Built form and transition issues to existing lower residential development to the north • Wrong location of potential site through link <ul style="list-style-type: none"> • Briefing with Mecone (Proponent) and Benmill Pty Ltd & JB no 3 PTY Ltd (landholder): 10:31am – 11:21am, 15 March 2024 <ul style="list-style-type: none"> ○ Panel members in attendance: Peter Debnam (Chair), Sue Francis, Glennis James, Karla Castellanos and Che Wall ○ DPHI staff in attendance: Brendan Metcalfe, Kristian Jebbink, Doug Cunningham, Renee Ezzy, Aoife Wynter, Lisa Kennedy & Taylah Fenning ○ Proponent representatives in attendance: Ian Cady, Richard Francis-Jones, Lesli Berger, Harrison Depczynski, Anthony Boskovitz, Sean McPeake & William Nemesh ○ Key issues discussed: <ul style="list-style-type: none"> • Panel’s pre-planning proposal advice of 5 October 2023 and incorporation into plannign proposal • Ownership of site A • Proposed design excellence clause – competition only above RL 101 & up to RL 120 • Setbacks to achieve ADG requirements – solid walls between sites B & C and sites A & B • Height/storey for site B – proponent can’t guarantee adaptive reuse • Proposed building envelope for site B • Affordable housing – not included in planning proposal. Proponent has not yet considered. • Proponent’s public benefits discussion with North Sydney Council • Appointment of a planning proposal authority (PPA) • Panel Discussion: 11:22am – 11.46am, 15 March 2024 <ul style="list-style-type: none"> ○ Panel members in attendance: Peter Debnam (Chair), Sue Francis, Glennis James, Karla Castellanos and Che Wall ○ DPHI staff in attendance: Brendan Metcalfe, Kristian Jebbink, Doug Cunningham, Renee Ezzy, Lisa Kennedy & Taylah Fenning
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