



REZONING REVIEW RECORD OF DECISION

STRATEGIC PLANNING PANEL of the
SYDNEY EASTERN CITY PLANNING PANEL

DATE OF DETERMINATION	31 July 2024
DATE OF DECISION	16 July 2024
PANEL MEMBERS	Carl Scully (Chair), Steve Murray, Sue Francis, Joseph Cordaro and Anthony Bazouni
APOLOGIES	None
DECLARATIONS OF INTEREST	None

REZONING REVIEW

RR-2024-18 – Canada Bay LGA – PP-2023-2889

171-179 Great North Road & 1A – 1B Henry Street, Five Dock NSW (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.

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.

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

The decision was unanimous.

REASONS FOR THE DECISION

The Panel considered the documentation, was briefed by the Department of Planning, Housing and Infrastructure, and heard extensively from the City of Canada Bay Council and the proponent, Traders In Purple Pty Ltd and Mecone (Proponent) and Anglican Property Trust (Landowner).

The Panel notes that the Planning Proposal seeks to amend the Canada Bay Local Environmental Plan 2013 building height and FSR controls to facilitate a high-density mixed use development on land that is adjacent to the Five Dock Metro West station (under construction) and that contains heritage buildings. The Panel accepts that there are opportunities in the area arising from the adjacent Metro station, while balancing core considerations related to heritage assets and impacts, place-making, and wider urban context.

Planning Panels Team

4PSQ 12 Darcy Street, Parramatta NSW 2150 | Locked Bag 5022, Parramatta NSW 2124 | T 02 8217 2060 | strategicpanels@dpie.nsw.gov.au

Strategic Merit

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 Regional Plan (2018), Eastern City District Plan (2018), Canada Bay Local Strategic Planning Statement (2020), Canada Bay Local Housing Strategy (2019) and the Five Dock Local Character Statement and Urban Design Framework (2023).
- Delivering housing supply is a priority issue for Sydney for all levels of Government.
- The provision of additional housing in this location with future access to public transport has strategic merit.

Site Specific Merit

However, having met the strategic merit test, and in accordance with the LEP Making Guideline August 2023, the Panel also considered if the Planning Proposal has site specific merit, having regard to the four site specific assessment criteria being:

- The natural environment on the site to which the proposal relates and other affected land (including known significant environmental areas, resources or hazards);
- the built environment, social and economic conditions;
- existing, approved and likely future uses of land in the vicinity of the land to which the proposal relates; and/or
- services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.

In this case, the Panel was not satisfied that the proposed height and Floor Space Ratio (FSR), shown indicatively in two 20 storey towers, demonstrated appropriate site specific merit having regard to the existing heritage items on the site, the impact on those items and the loss of the curtilage of those items as they present to Great North Road. Further, the Panel considered the height proposed to be inconsistent with the existing and likely future character of the area.

Panel Recommendation

The Panel agreed however, that the Planning Proposal should be able to achieve site specific merit subject to revisions addressing site constraints and likely future character. In this respect the Panel considers the following should form the basis of an amended proposal, both in height and FSR and massing which the Panel would reconsider.

1. The Panel notes that demolition of the St Albans Church Hall (but retention of the shops fronting Great North Road) is acceptable in this case and would allow for the satisfactory amalgamation and re-development of the site. Accordingly, the Planning Proposal should be amended to incorporate the removal of this aspect of the heritage listing currently applying to the site. The Panel also considers that the ground floor of any development to replace the Hall should incorporate a 'community hall' which accesses directly onto an open space to the south.
2. However, the Panel considers it of importance that the two other heritage items (St Albans Church and Rectory) are retained and equally important, that the curtilage of these heritage sites be retained to both East Street and Great North Road
3. In regard to demolition of the Church Hall the Panel considers that a new, integrated built form to a height of 7 storeys could be acceptable (noting that this is the maximum permissible height at present on the site (once amalgamated) and the height that could be developed on the site to the north, on the corner of Great North Road and Henry Street.
4. Notwithstanding the agreement to allow the demolition of the Church Hall, the Panel generally accepts the recommendation of the Canada Bay Local Planning Panel as to the form and location of buildings of future development on the site. However, the Panel would accept an increased

Planning Panels Team

4PSQ 12 Darcy Street, Parramatta NSW 2150 | Locked Bag 5022, Parramatta NSW 2124 | T 02 8217 2060 | strategicpanels@dpie.nsw.gov.au

height of building in the north-western corner to a maximum of 15 storeys (subject to impact testing)

5. In this respect, having regard to the above parameters, the Panel requires further analysis to address the following:-
 - a. an assessment of the impact of a scheme which addresses, the above parameters in respect of, inter alia, overshadowing, privacy, impact on heritage items to be retained and the curtilage thereof and an urban design analysis as to visual impact and context;
 - b. incorporation into the ground floor of any development to replace the Church Hall with a new community facility/Hall. Detail to be provided as to how it would integrate with the proposed open and landscaped areas;
 - c. consideration of the opportunity and benefit if the three lots on the corner of Great North Road and Henry Street, Five Dock were able to be incorporated into the planning proposal/an integrated development with the Church site, particularly in terms of shared basement parking and opening up ground plane linkages and opportunities;
 - d. retention of the current FSR 2.5:1. However, subject to this further analysis, the Panel may not be adverse to an increased FSR subject to impact;
 - e. Identification of the site on the Canada Bay LEP Active Frontages Map;
 - f. Identification of the site on the Canada Bay LEP Clause 6.14 Design Excellence Map; and
6. Update the Planning Proposal and supporting reports in accordance with the above points and the LEP Making Guidelines (August 2023) to reflect the Panel's decision.

The Panel also recommends that:

- a site specific development control plan be prepared and exhibited concurrently with the planning proposal and is to include alterations and extensions to existing heritage buildings; setbacks, heritage and landscape requirements as well as overshadowing limitations to protect Fred Kelly Place between noon-2.00pm mid winter; and
- Provide details of the mechanism and outcome of the offer to provide 15% affordable housing as part of the Planning Proposal. If this is to be via a Voluntary Planning Agreement then details to be provided which may include consideration of a future community hall type facility referred to above.

The Panel will reconvene following the receipt of the revised Planning Proposal to assess and determine whether the Proposal has met the Panel's recommendations and demonstrated site specific merit; to endorse a maximum building height and Floor Space Ratio for the site; and confirm whether the revised planning proposal is suitable for submitting to a Gateway determination.

The City of Canada Bay Municipal Council has been given the opportunity to accept the role of Planning Proposal Authority (PPA) for this planning proposal, and Council has indicated that it would prefer to be the PPA. The Panel is of the view that the PPA role should remain with the Panel to ensure a continuity of consideration and to address the required revisions to the Planning Proposal.






Therefore, in accordance with Section 3.32(1) of the *Environmental Planning and Assessment Act 1979*, the Planning Panel, as delegate of the Minister for Planning, has determined to appoint itself as the PPA for this Planning Proposal.

The Panel requires confirmation from the proponent, within two weeks from the date of this determination, that they agree to update the Planning Proposal consistent with the Panel's recommendations and pay the alternate PPA fee.

Should the proponent fail to revise the Planning Proposal or 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.

Planning Panels Team

4PSQ 12 Darcy Street, Parramatta NSW 2150 | Locked Bag 5022, Parramatta NSW 2124 | T 02 8217 2060 | strategicpanels@dpie.nsw.gov.au

PANEL MEMBERS	
 Carl Scully (Chair)	 Sue Francis
 Stephen Murray	 Joseph Cordaro
 Anthony Bazouni	

Planning Panels Team

4PSQ 12 Darcy Street, Parramatta NSW 2150 | Locked Bag 5022, Parramatta NSW 2124 | T 02 8217 2060 | strategicpanels@dpie.nsw.gov.au

SCHEDULE 1		
1	PANEL REF – LGA – DEPARTMENT REF - ADDRESS	RR-2024-18 – Canada Bay LGA – PP-2023-2889 – 171-179 Great North Road & 1A – 1B Henry Street, Five Dock NSW
2	LEP TO BE AMENDED	Canada Bay LEP Local Environmental Plan (LEP) 2013
3	PROPOSED INSTRUMENT	<p>The proposal seeks to:</p> <ul style="list-style-type: none"> increase the maximum Height of Buildings from 15m to 75m; and increase the maximum Floor Space Ratio from 2.5:1 to 4.5:1.
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Rezoning review request documentation Department of Planning, Housing and Infrastructure, Rezoning Review Briefing Report, 3 July 2024 Slide presentations from DPHI, 16 July 2024; Canada Bay Council, 11 July 2024 and Mecone/Traders in Purple 12 July 2024
5	SITE INSPECTIONS AND BRIEFINGS BY THE PANEL	<ul style="list-style-type: none"> Site inspection with Department of Planning, Housing and Infrastructure (DPHI): 10:36am – 11.09am, 16 July 2024 <ul style="list-style-type: none"> Panel members in attendance: Carl Scully (Chair), Steve Murray, Sue Francis, Joseph Cordaro and Anthony Bazouni DPHI staff in attendance: Thomas Atkinson, Doug Cunningham, Alex Galea, Aoife Wynter and Adam Williams Key issues discussed: <ul style="list-style-type: none"> local character, including building height & bulk details of the neighboring metro development heritage items, their current use and heritage status zoning of site and corner properties urban interface and design outcomes to match local character Briefing with Department of Planning, Housing and Infrastructure (DPHI): 1:00pm – 1:49pm, 16 July 2024 <ul style="list-style-type: none"> Panel members in attendance: Carl Scully (Chair), Steve Murray, Sue Francis, Joseph Cordaro and Anthony Bazouni DPHI staff in attendance: Doug Cunningham, James Shelton, Alex Galea, Jazmin Van Veen, Thomas Atkinson, Aoife Wynter, Lisa Kennedy and Adam Williams Key issues discussed: <ul style="list-style-type: none"> Site details & proposal – new metro station adjoining to the south, proposed 75m includes SEPP Housing bonuses Planning proposal process to date – proponent’s consultation with Council, Department and Metro Sydney West; consideration by Canada Bay Local Planning Panel Canada Bay Council’s Metro Local Planning Study, May 2023 (for the Five Dock Metro catchment) – identified 21m HOB for the site Council’s Five Dock Local Character Statement and Urban Design Framework, May 2023

		<ul style="list-style-type: none"> • Impact of proposed height and scale of development on heritage items and curtilage – removal of St Albans Church Hall; curtilage around St Albans Church and Rectory • Council’s engagement of an Independent urban design review and recommended proposed reduced heights • Public benefits – affordable housing, voluntary planning agreement • Whether an economic feasibility assessment of council controls for the area and revised proposal had been undertaken. <ul style="list-style-type: none"> • Briefing with Canada Bay Council: 2:00pm – 2:53pm, 16 July 2024 <ul style="list-style-type: none"> ○ Panel members in attendance: Carl Scully (Chair), Steve Murray, Sue Francis, Joseph Cordaro and Anthony Bazouni ○ DPHI staff in attendance: Doug Cunningham, James Shelton, Alex Galea, Thomas Atkinson, Aoife Wynter, Lisa Kennedy and Adam Williams ○ Council representatives in attendance: Paul Dewar, Helen Wilkins, Monica Cologna, Diana Griffiths and Kate Higgins. ○ Key issues discussed: <ul style="list-style-type: none"> • Site details & proposal • Strategic merit – Canada Bay Local Strategic Planning Statement; Canada Bay Local Housing Strategy; Local Planning Study Five Dock Metro Precinct; draft Five Dock Masterplan • Site specific merit – heritage; overshadowing; deep soil & tree coverage; streetscape & scale; and affordable housing • Heritage – demolition or adaptive reuse of St Albans Church Hall; significance of buildings and complex including the gardens; complex mapped in LEP rather than as individual buildings • Overshadowing of Fred Kelly Place & future Five Dock plaza • Council officer recommended alternate development scheme – reduced built form, height & FSR; through links • Consideration & recommendations by the Canada Bay Local Planning Panel • Incorporation of corner site (Great North Road and Henry Street) into the planning proposal to consider HOB and FSR provisions • Public benefits - affordable housing; voluntary planning agreement awaiting confirmation of dwelling yield • Briefing with Traders In Purple Pty Ltd and Mecone (Proponent) and Anglican Property Trust (Landowner): 3:00pm – 3:58pm, 16 July 2024 <ul style="list-style-type: none"> ○ Panel members in attendance: Carl Scully (Chair), Steve Murray, Sue Francis, Joseph Cordaro and Anthony Bazouni
--	--	---

		<ul style="list-style-type: none"> ○ DPHI staff in attendance: Doug Cunningham, James Shelton, Alex Galea, Thomas Atkinson, Aoife Wynter, Lisa Kennedy and Adam Williams ○ Proponent representatives in attendance: Ian Cady, Ross Jones, Shaun Carter, Charlie Daoud, Michael Teoh, Frank Xuereb, James Rixon, James Phillips and Tom Zdun. ○ Key issues discussed: <ul style="list-style-type: none"> ● Strategic merit including change in circumstance to deliver housing ● Site specific merit – proposed siting & scale; heritage; potential built form; solar studies & impacts on Fred Kelly Place; Apartment Design Guide criteria ● Heritage - St Albans Church Hall – current/future uses; curtilage around items ● Height – feasibility of proposed heights; character of 20 storey buildings in the locality; TOD sites & increased heights; ● Public benefits – 15% (24 dwellings) affordable housing; new 1,200m² public open space; expanded community facilities; voluntary planning agreement ● Panel Discussion: 3:58pm – 4:38pm, 16 July 2024 <ul style="list-style-type: none"> ○ Panel members in attendance: Carl Scully (Chair), Steve Murray, Sue Francis, Joseph Cordaro and Anthony Bazouni ○ DPHI staff in attendance: Doug Cunningham, James Shelton, Alex Galea, Jazmin Van Veen, Thomas Atkinson, Aoife Wynter, Lisa Kennedy and Adam Williams
--	--	--