

## 10.5. Planning Proposal 1/23 - 1-7 Rangers Road & 50 Yeo Street, Neutral Bay

<b>AUTHOR</b>	Katerina Papas, Senior Strategic Planner
<b>ENDORSED BY</b>	Joseph Hill, Director City Strategy
<b>ATTACHMENTS</b>	Nil
<b>CSP LINK</b>	<ol style="list-style-type: none"> <li>1. Our Living Environment             <ol style="list-style-type: none"> <li>1.2 Environmentally sustainable community</li> <li>1.3 Clean and green places</li> <li>1.4 Well utilised open space and recreational facilities</li> </ol> </li> <li>2. Our Built Infrastructure             <ol style="list-style-type: none"> <li>2.1 Infrastructure and assets meet diverse community needs</li> <li>2.2 Vibrant public domains and villages</li> <li>2.3 Prioritise sustainable and active transport</li> <li>2.4 Efficient traffic mobility and parking</li> </ol> </li> <li>3. Our Innovative City             <ol style="list-style-type: none"> <li>3.1 Our commercial centres are prosperous and vibrant</li> <li>3.3 Distinctive sense of place and design excellence</li> </ol> </li> <li>4. Our Social Vitality             <ol style="list-style-type: none"> <li>4.1 North Sydney is connected, inclusive, healthy and safe</li> </ol> </li> <li>5. Our Civic Leadership             <ol style="list-style-type: none"> <li>5.1 Lead North Sydney's strategic direction</li> <li>5.3 Community is engaged in what Council does</li> </ol> </li> </ol>

### PURPOSE:

The purpose of this report is to present to Council the assessment report of Planning Proposal No. 1/23 for 1-7 Rangers Road and 50 Yeo Street Neutral Bay which seeks to amend North Sydney Local Environmental Plan 2013, following its review by the North Sydney Local Planning Panel on 19 April 2023.

### EXECUTIVE SUMMARY:

- On 11 January 2023, Council received a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to 1-7 Rangers Road and 50 Yeo Street Neutral Bay.
- The Planning Proposal seeks to increase the increase the maximum building height control for the site from 16m to part 27m and part 33m; and increase the non-residential floor space ratio control from 0.5:1 to 1.8:1.

- The Planning Proposal includes a part six-storey and part eight-storey mixed-use indicative building comprising a supermarket in the subterranean level, retail and commercial floorspace in the podium, and approximately 63 residential apartments located above. A basement car park comprising 350 car spaces is proposed.
  
- The Planning Proposal is accompanied by a non-binding letter of offer to enter into a Voluntary Planning Agreement (VPA) with Council to deliver a publicly accessible square and pedestrian through-site link connecting Rangers Road to Yeo Street, public wi-fi, and 88 basement car parking spaces for public use, in perpetuity. The Planning Proposal is also accompanied by a draft site-specific Development Control Plan (DCP) to guide the assessment of any future Development Application on the site.
  
- On 19 April 2023, the North Sydney Local Planning Panel (NSLPP) considered the Planning Proposal and agreed that the proposal should not be supported for the following reasons:
  - the Planning Proposal challenges Actions L1.5 and L3.2 of the North Sydney Local Strategic Planning Statement (LSPS), which requires Planning Proposals to be underpinned by an endorsed placed-based strategy;
  - the Planning Proposal is inconsistent with Council’s rescinded MRCPS and the objectives of Council’s renewed Study for the Neutral Bay Town Centre, as it would facilitate an overly intense and visually dominant built form in its context and prevent the delivery of identified high-quality public open space by limiting the capacity of the adjacent site (183-185 Military Road) from contributing to the public domain;
  - the height sought by the proposal is excessive given its stated objectives of achieving a part six-storey and part eight-storey building, and would result in unacceptable overshadowing impacts to residential dwellings to the south;
  - the bulk, scale, and massing of the proposed built form is excessive in its context and does not provide an appropriate interface and transition to the low-scale residential areas immediately to the south of the site;
  - the proposed publicly accessible plaza and pedestrian through-site link is of compromised amenity and reduced public benefit; and
  - the quantum of proposed on-site parking is excessive and not justified in the context of the site’s highly accessible location and cumulative impacts to the surrounding area.
  - The Panel also noted in its recommendations that if a Planning Proposal were to progress for the subject site, an amended site-specific DCP would be appropriate to better guide and manage the bulk and scale, massing, open space, solar access, and pedestrian amenity of any future development on the site.

**RECOMMENDATION:**

**1. THAT** Council resolves to not support the Planning Proposal proceeding to Gateway Determination, for the following reasons:

- the Planning Proposal challenges Actions L1.5 and L3.2 of the North Sydney Local Strategic Planning Statement (LSPS), which requires Planning Proposals to be underpinned by an endorsed placed-based strategy;
- the Planning Proposal is inconsistent with Council’s rescinded MRCPS and the objectives of Council’s renewed Study for the Neutral Bay Town Centre, as it would

facilitate an overly intense and visually dominant built form in its context and prevent the delivery of identified high-quality public open space by limiting the capacity of the adjacent site (183-185 Military Road) from contributing to the public domain;

- the height sought by the proposal is excessive given its stated objectives of achieving a part six-storey and part eight-storey building and would result in unacceptable overshadowing impacts to residential dwellings to the south;
- the bulk, scale and massing of the proposed built form is excessive in its context and does not provide an appropriate interface and transition to the low-scale residential areas immediately to the south of the site;
- the proposed publicly accessible plaza and pedestrian through-site link is of compromised amenity and reduced public benefit; and
- the quantum of proposed on-site parking is excessive and not justified in the context of the site's highly accessible location and cumulative impacts to the surrounding area.

**2. THAT** Council notifies the applicant of Council's determination in accordance with section 9 of the Environmental Planning and Assessment Regulation 2021.

**3. THAT** if a Planning Proposal were to progress for the subject site via an alternate approval pathway, that an amended site-specific Development Control Plan be prepared addressing the matters of concern identified in the Council Officer's assessment report and NSLPP recommendations. This includes:

- reduction of podium height and overall building height;
- removal of two-storey retail structure;
- demonstration of adjacent site integration;
- reconsideration of plaza design;
- provision of through-site link open-to-sky;
- reduction of on-site parking provision;
- maintaining the proposed 1.8:1 non-residential FSR; and
- provision of key worker and affordable housing components.

## Background

This is the second Planning Proposal to be lodged by the applicant, Fabcot Pty Ltd (Woolworths), for the subject site.

The previous Planning Proposal (PP6/22) was lodged with Council on 22 May 2022 and sought to increase the building height on the site from 16m to part 30m and 40m, and increase the non-residential floor space control from 0.5:1 to 1.7:1. The Planning Proposal was refused by Council for strategic and site-specific reasons on 10 October 2022. The applicant subsequently lodged a Rezoning Review application, which was considered by the Sydney North Planning Panel (SNPP) on 7 December 2022.

On 14 December 2022, Council was notified of the SNPP's decision to not support the progression of the Planning Proposal. The SNPP's record of decision stated the following:

*Notwithstanding the erosion of commercial office floor space, the Panel considered the proposal had demonstrated some strategic merit – the previously endorsed Study and Future Directions Report and current work to revise the Study, provide a clear indication of the Council's and Community's desire to revitalise and renew Neutral Bay Town Centre.*

*However, the Panel noted the proposal did not adequately demonstrate Site Specific Merit and remained unacceptable in terms of number of storeys, human-scale frontage to the proposed plaza, incorporation of public land, non-residential FSR, overshadowing, traffic and transition to low-scale residential areas to the south of the site. Accordingly, the Panel resolved that the proposal should not be submitted for Gateway determination.*

*The Panel did note the high level of consultation between Proponent and Council over recent years as the Planning Proposal was progressed and also noted the Proponent's stated willingness to submit a revised proposal to include substantial reductions in height, GFA and number of apartments. While the Panel felt elements of such a revised proposal would have considerable merit, none had been formally submitted or reviewed and the extent of the muted changes were beyond the Panel's discretion to accept as minor changes.*

*Given the long gestation of this project on a key site in the town centre and the timing of changes to Council's relevant planning strategies, the Panel suggests it would be in the community interest for the Proponent, Council and Department to meet as soon as possible to pursue agreement on a revised proposal.*

In response to the Panel's encouragement to "meet as soon as possible to pursue agreement on a revised proposal," Council staff advised the applicant on 15 December 2022 that Council would continue to pursue the preparation and finalisation of the Planning Study as per the timelines presented to the Panel. The applicant was informed that Council staff do not have delegation to negotiate a site-specific Planning Proposal outcome ahead of that process but would be happy to meet to discuss this process.

On 19 December 2022, the applicant advised Council staff that in light of the SNPP's comments on their proposal, specifically that the Panel considered the proposal to have strategic merit, that they had resubmitted a new Planning Proposal (on 19 December 2022). For administrative reasons, the proposal was re-submitted by the applicant on 23 December 2022 and formally accepted by Council for assessment on 11 January 2023.

### **Ministerial Direction**

On 26 November 2021, the Minister for Planning made the Environmental Planning and Assessment (Statement of Expectations) Order 2021. The Order established various expectations in relation to council development assessments, planning proposal and strategic planning roles, and expected levels of performance. In particular, the Minister confirms his expectations that Councils should:

*... make a decision as to whether to support or not a proponent led planning proposal as soon as practical and no longer than 90 days.*

The Order includes an explanatory note which states:

*... If a Council is found to not be meeting these expectations, the Minister can take these matters into consideration as part of determining if it is appropriate to appoint a planning administrator or regional panel to exercise Council's functions.*

In the context of this order, Council staff have sought to finalise its assessment and reporting of the proposal with minimal delay.

### **Report**

#### **1. Planning Proposal**

##### **1.1. Site Description**

The subject site comprises three parcels located at 1-7 Rangers Road and 50 Yeo Street Neutral Bay. It is legally described as Lot 1 in DP 1091373; Lot 2 in DP 1091373; and Lot 3 in DP1091373.

The site is irregular in shape covering an area of 4,207m<sup>2</sup>, with a frontage of 75m to Rangers Road and 89m to Yeo Street. The site also has a frontage to Military Lane which currently functions as a service lane.

There is a gradual fall of approximately 1.5m across the site from north (Rangers Road) to south (Yeo Street).



FIGURE 1: Subject Site



FIGURE 2: Aerial Photo

The south-western allotment (50 Yeo Street) currently accommodates a six-storey commercial building with frontage to Yeo Street. The north-eastern allotment (1-7 Rangers Road) currently accommodates a single-storey supermarket and bottle shop fronting Rangers Road with vehicular access to underground car park from Yeo Street and access to loading dock from Military Lane.

## 1.2. Proposed Instrument Amendment

The Planning Proposal seeks to;

- amend the Height of Buildings Map to NSLEP 2013 such that a maximum building height for 1-7 Rangers Road and 50 Yeo Street is increased from **16m to part 27m and 33m**; and
- amend the Non-residential Floor Space Ratio Map to NSLEP 2013 such that the minimum non-residential floor space ratio for 1-7 Rangers Road and 50 Yeo Street is increased from **0.5:1 to 1.8:1**.

## 1.3. Indicative Concept Scheme

The Planning Proposal is accompanied by an indicative concept scheme to demonstrate what could be achieved if the proposed amendments were implemented. The scheme includes a part six-storey and part eight-storey mixed-use building comprising a supermarket in the subterranean level, retail and commercial floorspace in the podium, and approximately 63 residential apartments located above. A basement car park comprising 350 car spaces is proposed.

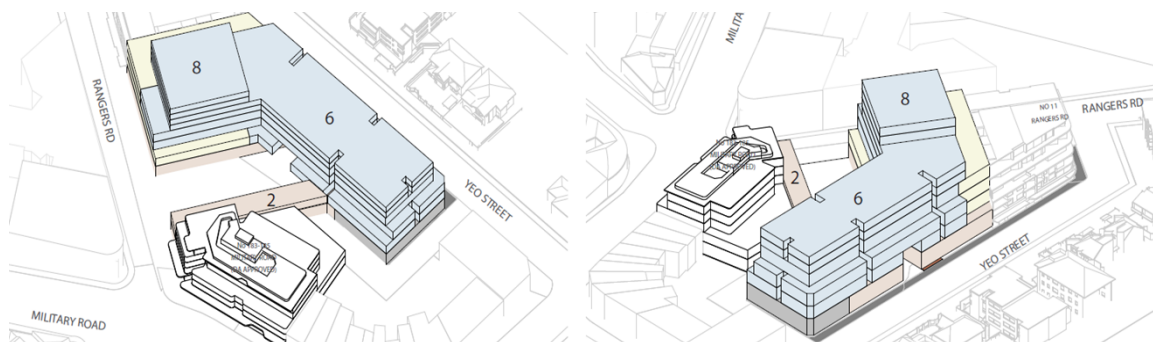


FIGURE 3: Proposed built form - PP1/23 (Applicant's Urban Design Report)

#### **1.4. Voluntary Planning Agreement**

The Planning Proposal is accompanied by a non-binding letter of offer to enter into a VPA with Council to deliver:

- a new publicly accessible square and through-site link, comprising approximately 1,000m<sup>2</sup> of paved landscaped area for public recreation, events, and cultural activities;
- 88 parking spaces for public use, in perpetuity, within the basement of the future development;
- free wi-fi within the site for public use; and
- streetscape upgrades adjacent to the site (Note: these works would be required to be delivered as part of any future DA approval for the site).

The total estimated value of the proposed public benefits is \$6,614,724. This value has been assigned by the applicant and has not been independently reviewed by Council. The offer is in addition to any applicable section 7.11 local infrastructure contributions to be levied with any future DA approval for the site.

#### **2. Assessment**

By Ministerial Direction, all Planning Proposals are required to be referred to the Local Planning Panel for advice prior to council determining whether the planning proposal should be forwarded to the DPE for the purposes of seeking a Gateway Determination.

A detailed assessment of the proposal is provided within the Assessment Report considered by the NSLPP on 19 April 2023, a copy of which is available at:

<https://www.northsydney.nsw.gov.au/downloads/file/2333/pp01-1-7-rangers-road-and-50-yeo-street-neutral-bay-pp123-19-april-2023>.

The assessment report concluded that the Planning Proposal should not be supported.

#### **3. Local Planning Panel**

The NSLPP considered the proposal at its meeting on 19 April 2023, where it recommended that the Planning Proposal should not proceed to Gateway Determination as it fails to demonstrate the necessary strategic and site-specific merit. A copy of the NSLPP recommendation can be found at;

<https://www.northsydney.nsw.gov.au/downloads/file/2367/nslpp-pp-minutes-19-april-2023>.

## 4. Key Issues

### 4.1. Strategic Merit

The North Sydney Local Strategic Planning Statement (LSPS) was adopted by Council on 25 November 2019, and subsequently assured by the Greater Sydney Commission (GSC) on 20 March 2020. One of the key roles of the LSPS is to draw together, in one document, the priorities and actions for future land use planning, and present an overall land use vision for the North Sydney LGA for the next 20 years. The LSPS is required to be consistent with the Regional and North District Plan and provide a clear line-of-sight between the key strategic priorities identified at the regional, district, and local neighbourhood level. The LSPS must be considered as a part of the LEP making process (planning proposals) and forms part of the strategic merit test for a Gateway Determination.

The proposal conflicts with Actions L3.2 and L1.5 of the LSPS. These actions identify undertaking/preparing a planning study for the Neutral Bay and Cremorne Military Road Corridor and that Council only support Planning Proposals that are consistent with Council's endorsed planning studies. These actions were put in place to ensure that any proposed increase to development intensity on a site aligns with the broader strategic vision of the area, which takes into consideration the cumulative impacts of such development and ensures appropriate infrastructure is in place. These actions align with Objective 12 of the Regional Plan and Planning Priority N6 of the North District Plan.

The Military Road Corridor Planning Study – Stage 1 (MRCPS) was endorsed by Council at its meeting on 22 February 2021 after three years of preparation, and provided a basis for Planning Proposals to be considered within its context and hence manage growth and change. However, Council rescinded the Study at its meeting on 24 January 2022 and resolved to further engage with the community and stakeholders to prepare 'a revised recommendation that has a better balance between development height and the provision of additional public open space.' This revised work is currently underway - it is anticipated that the draft Neutral Bay Town Centre Planning Study will be reported to Council for exhibition in September 2023 and finalised in March 2024.

Notwithstanding, the applicant's strategic justification for the proposal is that it responds to and aligns with the objectives of Council's previously endorsed MRCPS, which provided a sound basis for the revitalisation of the Neutral Bay Town Centre in line with the directions and objectives of the Regional and District Plan. The Planning Proposal, however, is inconsistent with the built form and public domain provisions of the rescinded Study and undermines the strategic objectives of Council's renewed Study for the Neutral Bay Town Centre.

A driving principle of the rescinded MRCPS, consistent with Planning Priority N6 of the North District Plan, was to address the ongoing decline in commercial floorspace occurring under Council's existing planning controls to protect and enhance the employment function of the centre and deliver high quality public open space and community facilities. The delivery of additional housing, whilst an outcome of the Study, was not a key driver for the uplift proposed in the Study. The North Sydney Local Housing Strategy (LHS)



identifies sufficient capacity to meet the North Sydney LGA's housing targets to 2036.

To achieve the Study's strategic objectives, the rescinded MRCPS sought to incentivise the amalgamation of the subject site (1-7 Rangers Road) and the adjacent site to the north (183-185 Military Road) through targeted height increases to deliver the following public benefits across the two sites:

- 1,250sqm of public open space (including a public plaza of a minimum 1,000sqm in area, a pedestrian through-site link that is fully open-to-sky, and 2.5m setback along the corner of Military Road and Rangers Road);
- a community facility (minimum 1,000sqm) fronting onto the public plaza; and
- a 14-space public commuter bicycle parking facility.

The Study specified built form requirements for the redevelopment of the two sites, including maximum building heights, podium heights, minimum non-residential FSR, setbacks, and solar access requirements. The rationale for site amalgamation, or (if amalgamation is not possible) facilitating a coordinated design outcome between the two landowners, is to ensure the delivery of a public plaza of an appropriate size, proportions, connections, and solar access, which would be very difficult to achieve if the plaza was delivered on one site alone.

The Planning Proposal is inconsistent with Council's rescinded MRCPS in terms of height and facilitating the provision of 1,250sqm of high amenity public open space which would be required in combination with the adjoining site to the north (183-185 Military Road). If progressed, the proposal would prevent the delivery of identified open space by limiting the capacity of the adjacent site to contribute to the public domain and deliver a community facility that fronts onto and better activates the public domain as envisaged in the rescinded MRCPS. The proposed plaza and pedestrian through-site link are of compromised amenity and reduced public benefit.

## **4.2. Site-specific Merit**

### ***Building Height***

The proposal seeks to facilitate the development of a part six-storey (to Yeo Street) and part eight-storey (to Rangers Road) building, with the intention of implementing a 27m and 33m height limit to facilitate this.

The rescinded MRCPS recommended a maximum building height of six storeys to Yeo Street and eight storey to Rangers Road. However, it is considered that the requested building height of 27m for six storeys and 33m for eight storeys is overly generous and could accommodate a building of seven-eight storeys and nine storeys respectively across the site. It is noted that the adjacent and recently constructed six-storey mixed-use building at 9-11 Rangers Road has a maximum building height of 19.1m.

Height is sensitive in this location and this proposal is excessive for its intended six-storey and eight-storey outcome. The applicant's shadow analysis clearly indicates that the

proposed heights would result in significant and unreasonable overshadowing impacts to residential dwellings on the southern side of Yeo Street.

### ***Bulk, Scale & Massing***

North Sydney DCP 2013 and the rescinded MRCPS required a podium height of four storeys to Rangers Road and three storeys to Yeo Street and Military Lane. The proposal includes a podium height of 20m (for three storeys) to Rangers Road, which aligns with the roofline of the adjacent five-storey mixed use building. A podium height of 16m for four storeys to Yeo Street and Military Lane is proposed, which aligns with the fifth storey of the adjacent mixed-use development. The proposed oversized podium does not reinforce the existing and future desired local character of Neutral Bay, and magnifies the overall bulk and scale of the proposal.

Furthermore, the building facade to Yeo Street presents as a largely unbroken building length of approximately 80m with limited building articulation. Council's rescinded MRCPS required the provision of a pedestrian through-site link connecting Rangers Road to Yeo Street that was fully open-to-sky within increased setbacks. The intent of this link was to provide a clear visual connection from Rangers Road through to Yeo Street and provide a break in the built form fronting Yeo Street to provide an open, permeable, and activated public domain that reinforces the local character of Neutral Bay.

The proposed arcade-style link, whilst generous in size, results in an excessively long, bulky, and visually dominant built form in its context, which lacks clear visual connections to Rangers Road and does not provide an appropriate interface and transition to the low-scale residential areas immediately to the south of the site.

### ***Public Open Space***

As previously discussed in this report, the rescinded MRCPS envisaged the delivery of new public open space with the adjacent site to the north (183-185 Military Road). Whilst the proposal seeks to deliver a new publicly accessible plaza and pedestrian through-site link, it falls significantly short of the specifications within the rescinded MRCPS and is of comprised amenity and reduced public benefit.

In particular, the proposed two-storey retail structure along the entire length of the joint northern boundary results in a square of narrow proportions, limited circulation and poor solar access that is separated from the surrounding public domain. This two-storey structure prevents any future potential connection to and upgrade of Military Lane. It also limits the capacity of the adjacent site to be redeveloped to provide increased setbacks at the ground level to contribute to the public domain, maximise solar access to the plaza, and deliver a community facility that fronts onto the plaza, as envisaged in the MRCPS.

On 6 April 2023, a Planning Proposal (PP4/23) was lodged for the adjacent site at 183-185 Military Road. The Planning Proposal responds to, and seeks to implement, the rescinded MRCPS, and provides an additional 230sqm of public open space and a community facility within the future development. If the subject Planning Proposal were to proceed,

however, it would prevent the adjacent proposal from progressing.

### ***Transport & Traffic***

The proposed oversupply of on-site parking, above Council's maximum parking rates, is not justified in the context of the site's highly accessible location and contrary to the objectives of North Sydney's Transport strategy and principles of transit-oriented development.

The applicant's justification for the oversupply of parking, in particular the proposed 88 'public' parking spaces, is that it will benefit existing businesses and visitors to the Neutral Bay Town Centre and will reduce the demand for on-street parking. Given the location of the additional 'public' parking, it will function as overflow parking for the retail/supermarket used within the development and in effect induce more traffic in the area, negating any public benefit.

### **4.3. Development Control Plan**

The applicant has lodged a draft site-specific DCP to provide further guidance for the future assessment of a Development Application, should the Planning Proposal proceed. As noted by the NSLPP, the site-specific DCP simply reinforces and attempts to 'lock-in' the concept scheme that has been prepared for the Planning Proposal. If supported, or tacitly endorsed, they will take precedence over existing DCP controls, which do not support the design of the concept scheme.

The applicant has indicated the intention to lodge a Rezoning Review. Should any future SNPP support progression of the Planning Proposal, a draft DCP would play a very important role in managing and shaping the massing, bulk and scale, open space, solar access, and pedestrian amenity likely to be provided by the future development on the site.

As this report has highlighted, there are critical design aspects of the proposal that are of concern and need to be addressed if the Planning Proposal were to be supported by the SNPP. If the Planning Proposal were to progress, it is recommended an amended site-specific DCP be prepared to ensure the fundamental built form design issues are addressed at a future DA stage to mitigate impact. This includes:

- reducing the proposed overall height to 21 metres to Yeo Street and 28 metres to Rangers Road plus a lift overrun of 2.5 metres not visible from public domain;
- reducing the bulk, scale, and massing of the development to provide an improved relationship with adjoining developments/streetscape and to ensure a better design, interface, and transition to nearby lower-density development in Yeo Street;
- ensuring a through-site link that is open-to-sky with appropriate setbacks to ensure higher levels of amenity to pedestrians, and provide better visual and physical connections/cues from Rangers Road/Military Road to Yeo Street;
- a public plaza that is more generously and appropriately proportioned to enable a genuine community space that can also accommodate outdoor dining and

- landscaping opportunities without eroding the space's usability, amenity, and public function;
- a public plaza that facilitates the opportunities in the redevelopment of the adjoining site (183-185 Military Road) to enhance and improve its size, proportions, solar access, and visual and physical connections to Military Road and beyond;
  - removal of the north-western two-storey retail structure to enable connectivity with the adjoining site and Military Lane;
  - removing the level of public parking of 88 spaces that is excess of the DCP;
  - maintaining the proposed 1.8:1 non-residential component on the site to provide employment opportunities;
  - demonstration that ADG requirements can be satisfied; and
  - provision of key worker and affordable housing components within the proposal.

## 5. Submissions

There are no statutory requirements to publicly exhibit a planning proposal before the issuance of a Gateway Determination. However, Council sometimes receives submissions in response to planning proposals which have been lodged but not determined for the purposes of seeking a Gateway Determination. The generation of submissions at this stage of the planning process arise from the community becoming aware of their lodgement through Council's application-tracking webpage and on-site signage.

At the time this report was completed, 35 submissions had been received from local residents and the Willoughby Bay, Neutral, Brightmore, and Harrison Precinct Committees, with one submission in support and 34 objecting to the Planning Proposal. A summary of the key concerns raised, and the response provided are contained in the Council Officer's assessment report.

The key concern raised in the submissions received is that the Planning Proposal does not materially address the issues that formed the basis of the previous refusal, and that the proposal needs to be 'scaled back.' The Harrison Precinct committee strongly objected to the proposal and did not agree with any increase in height above five storeys until such time that the community has had the opportunity to provide its view on the level of 'modest' increase in height appropriate for the precinct. The precinct committee did not consider it appropriate for developers to decide the future character of Neutral Bay.

Whilst also strongly objecting to the proposal, the Neutral Bay and Cremorne Progress Association (NBCPA), and Brightmore, Neutral, and Willoughby Bay Precinct Committees, raised concern with the SNPP's decision in December 2022 that the former proposal demonstrated strategic merit but not site-specific merit. In light of this, it was recommended that Council work towards ensuring that, in the event the subject Planning Proposal proceeds, that a site-specific DCP and VPA are put in place that would achieve:

- appropriate building heights and setbacks that mitigate the unreasonable impacts of the proposal;
- provision/dedication of a genuinely public plaza with improved connections; and
- a revised VPA that deletes the 88 'public' parking spaces and provides a cash contribution to be used towards transport infrastructure and community

facilities in Neutral Bay.

## Options

Council has the following options in relation to this matter:

1. Not support the Planning Proposal, associated draft VPA offer and draft site-specific DCP (the recommended option);
2. Support the Planning Proposal, associated draft VPA offer, and draft site-specific DCP, and forward the Planning Proposal to the Department of Planning, seeking a Gateway Determination;
3. The Planning Proposal and site-specific DCP be amended to Council's satisfaction addressing the concerns outlined in the Council Officer's assessment report and NSLPP's recommendations, prior to being forwarded to the DPE with a request for a Gateway Determination. Specifically, the Planning Proposal be amended to:
  - clearly specify a maximum building height control of 21m (Yeo Street) and 28m (Rangers Road), with an additional local provision allowing the maximum building height to be exceeded by no more than 2.5m for the lift overrun;
  - the draft site-specific DCP contain provisions that satisfactorily address the concerns outlined in the Council Officer's assessment report and NSLPP recommendations and mitigate identified adverse impacts; and
  - the indicative concept scheme accompanying the Planning Proposal be amended to demonstrate consistency with the amended draft site-specific DCP.

These options are assessed in the table below.

Option	Finance/Resourcing	Risk/Opportunity	Consultation
1.	Not supporting the Planning Proposal will have a negligible financial impact, although from a resourcing perspective, additional staff time will be required to make representations to the State Government if a Rezoning Review is lodged by the applicant and to prepare a site-specific amendment to NSDCP 2013 to better guide and manage any future development on the site if the Planning Proposal were to progress via an alternate approval pathway.	Should the Applicant lodge a Rezoning Review and the SNPP does not support the progression of the Planning Proposal to a Gateway Determination, the SNPP's decision is final. There is a risk, however, that the SNPP could support the progression of the Planning Proposal contrary to Council's decision. Council would have the ability to prepare a site-specific DCP amendment to better guide and manage the bulk and scale, massing, open space, solar access, and pedestrian amenity of any future development on the site and	Should the Planning Proposal be refused, no further consultation is required beyond this report and notifying the applicant and submitters of Council's decision.  The applicant is invited to comment on the revised Neutral Bay Town Centre Planning Study.

Option	Finance/Resourcing	Risk/Opportunity	Consultation
		mitigate identified adverse planning impacts.	
2.	Supporting the progression of the Planning Proposal will have a negligible financial/resourcing impact. The proposed plaza and pedestrian through-site link would remain in private ownership and any legal costs associated with preparing and administering the VPA is covered by the applicant.	The Planning Proposal is inconsistent with and undermines Council's strategic planning work for the precinct. If progressed, the Planning Proposal will result in an overly intense built form in its context and prevent the delivery of identified public open space.	If progressed, community engagement would be undertaken in accordance with Council's <i>Community Engagement Protocol</i> and the conditions of any Gateway Determination issued by the DPE.
3.	Pursuing an amended Planning Proposal would have a negligible financial impact as the proposed plaza and pedestrian-through site link would remain in private ownership and any legal costs associated with preparing and administering the VPA is covered by the applicant. However, from a resourcing perspective, additional staff time would be required to draft a site-specific amendment to NSDCP 2013 and assess the amended Planning Proposal and concept scheme.	In the absence of an endorsed planning study and in consideration of the timeframes for the renewed Study, the progression of the proposal would be pre-emptive and inappropriate and contribute to ad hoc development in the area.	If progressed in an amended form, Community engagement would be undertaken in accordance with Council's <i>Community Engagement Protocol</i> and the conditions of any Gateway Determination issued by the DPE.

Option 1, is recommended for the following reasons:

- in the absence of an endorsed planning study for the precinct and in consideration of the timeframes for the renewed Study, the progression of the Planning Proposal, VPA, and draft site-specific DCP in its current form, or amended form, would be inappropriate and contribute to ad-hoc development in the area.
- if the applicant lodges a Rezoning Review and the SNPP does not support the progression of the Planning Proposal to a Gateway Determination, the SNPP' decision

is final. If the SNPP supports the progression of the Planning Proposal, Council could still a prepare a site-specific DCP to manage the massing, bulk and scale, open space, solar access, and pedestrian amenity likely to be provided by future development on the site and mitigate identified adverse planning impacts.

### **Consultation requirements**

Should the Planning Proposal be refused, community engagement is not required beyond this report and notifying the applicant and submitters of Council's decision.

### **Financial/Resource Implications**

This report recommends the Planning Proposal not be supported to proceed to a Gateway Determination. As such, there are no direct financial implications for Council. However, from a resourcing perspective, additional staff time will be required to make representations to the State Government if a Rezoning Review is lodged by the applicant and prepare an amendment to NSDCP 2013 to better guide and manage any future development on the site if the Planning Proposal were to progress for the subject site via an alternate approval pathway.

### **Legislation**

The proposal's compliance with the relevant provisions of the Environmental Planning and Assessment Act, 1979 and accompanying Regulations (2021) have been addressed throughout this report.