

Purpose: To outline the planning proposal, the reasons why the original Gateway determination was made, and the views of the North Sydney Council (if the review was proponent-initiated) and to consider and assess the request for a review of a Gateway determination.

Dept. Ref. No:	PP_2015_NORTH_009_00	
LGA	North Sydney	
LEP to be Amended:	North Sydney LEP 2013	
Address/ Location:	31-33 Albany Street, Crows Nest	
Proposal:	The Planning Proposal sought to increase the maximum building height control to 26 metres; and impose a maximum floor space ratio of 4.27:1.	
Review request made by:	<input checked="" type="checkbox"/>	The council
	<input type="checkbox"/>	A proponent
Reason for review:	<input type="checkbox"/>	A determination has been made that the planning proposal should not proceed.
	<input type="checkbox"/>	A determination has been made that the planning proposal should be resubmitted to the Gateway.
	<input checked="" type="checkbox"/>	A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered.

Background information

Details of the planning proposal	To increase the maximum building height control to 26 metres and to impose a maximum floor space ratio of 4.27:1.
Reason for Gateway determination	The Gateway determination was issued on 28 January 2016 subject to certain conditions.

Views of council

Date council advised of request:	Council is the proponent.
Date of council response:	9 March 2016
Council response: List issues / points provided in response	

Proponent justification

<p>Details of justification:</p>	<p>North Sydney Council's justification report states that the Gateway Determination includes various standard conditions, except the following two conditions:</p> <ol style="list-style-type: none"> 1. <i>Prior to undertaking public exhibition the planning proposal is to be updated to:</i> <ol style="list-style-type: none"> a. ...; and b. <i>Include a satisfactory arrangements provision for contributions to designated State public infrastructure identified as part of a draft or final strategic planning review for St Leonards.</i> 2. <i>Prior to finalisation, the planning proposal is to be amended to demonstrate consistency with any available findings of the St Leonards planning review work being undertaken by the Department in consultation with North Sydney, Lane Cove and Willoughby councils.</i> <p>The concerns with the above conditions raised by North Sydney Council are as follows:</p> <ul style="list-style-type: none"> ○ It introduces a high level of uncertainty for the proponent and for Council and highlight a lack of transparency in the process; and these conditions were not endorsed by Council and in Council's opinion, represent a material change to the Planning Proposal. ○ The current planning proposal is consistent with the adopted St Leonards/Crows Nest Planning Study and the negotiated outcome between council and the developer. The Planning Study provides an unambiguous framework for new development, clear communication to landowners and neighbours about likely change and a plan for the significant improvement of the public domain. ○ There is no indication of whether the proposed provision for state infrastructure contributions is to only apply to the subject site or the wider St Leonards area. It is recommended that if the Department seeks to apply this provision to the wider area of St Leonards, then the Department should prepare a separate planning proposal to ensure that the intent of the provision is applied in a clear, transparent and holistic way. ○ There are no details as to what infrastructure is to be provided as it will be determined through the Department's St Leonards strategic planning review. Therefore it is inequitable to impose such a requirement on a planning proposal when the outcomes of such a review are completely unknown and premature if the review finds that no additional state or regional infrastructure is required as a result of the proposed development. ○ The above conditions undermine the level of confidence of the Gateway process in progressing the planning proposal to the next stage. ○ It is unreasonable to require the holding back of the planning proposal to await the outcome of a Review that has little to no status or momentum at present and would be contrary to achieving the Objects of the Act. ○ The planning proposal is unlikely to meet Condition 6 of the Gateway Determination which provides a 12 month timeframe to complete the LEP as the St Leonards strategic planning review will extend the process. <p>North Sydney Council's justification is provided at Tab Post-Gateway Review Request and Justification – 9 March 2016.</p>
<p>Material provided in support of application/proposal:</p>	<ul style="list-style-type: none"> - Tab Post-Gateway Review Request and Justification – 9 March 2016 - Tab Letter from North Sydney Council – 5 February 2016

Assessment Summary

<p>Department's assessment</p> <p>Provide a summary assessment of the department's position/views on the request for review</p>	<p>The Department considers the Gateway determination should not be altered for the following reasons:</p> <ul style="list-style-type: none"> ○ On 6 February 2016, Government endorsed expanding the use of determinations of special infrastructure contributions (SICs) to priority precincts and priority growth areas to contribute towards the cost of State and regional infrastructure (Condition 1b). ○ The subject land is located within the St Leonards and Crows Nest Station Precinct investigation area, for which a strategic planning review is underway and the proposed development would need to comply with the future strategy (Condition 2). ○ The Department does not support the removal of the two Gateway Determination conditions as the above conditions will be standard within the investigation area for the subject councils of North Sydney, Willoughby and Lane Cove and apply to new and currently assessed planning proposals in these areas. ○ The Department is undertaking a review of "A Guide to Preparing Planning Proposals". The revised guide will contain a section stipulating that planning proposals within priority precinct or strategic review investigation areas will be required to include a provision for state infrastructure contributions and be consistent with the findings for the strategic review. ○ Before imposing any state infrastructure contributions, the Government assesses the viability and impacts on development delivery before imposing this requirement.
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RECOMMENDATION

Reason for Review: A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered.

Recommendation:	<input type="checkbox"/>	Requirements should be imposed or variations made to the planning proposal
		<input type="checkbox"/> no amendments are suggested to original determination. <input type="checkbox"/> amendments are suggested to the original determination.
	<input checked="" type="checkbox"/>	The suggested requirements or variations of the original Gateway determination are not necessary and the planning proposal should proceed past Gateway in accordance with the original submission.

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 4 July 2016
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