

25 September 2023

General Manager (attn Ben Boyd)  
North Sydney Council  
PO Box 12  
NORTH SYDNEY NSW 2059

cc. Kiersten Fishburn, Secretary, DPE

*Electronic submission*

To whom it may concern

## **Re: Planning Proposal 8/21 North Sydney Centre**

Urban Taskforce Australia objects to Planning Proposal 8/21 as one which seeks to remove an established, flexible approach to building heights in the North Sydney CBD and is contrary to the directions of the new State Government and the significant investment in public transport in the North Sydney Centre.

Council's planning proposal seeks to insert a mechanism whereby variations to any development standards is assessed through Clause 4.6 of the *North Sydney LEP 2013*. Exceptions to development standards is presently assessed under the provisions of Clause 6.3(3) of the LEP – which is a far less restrictive approach to seeking height variations in the North Sydney CBD.

The current approach was introduced in 2017 under a previous Council through Amendment 23 to the North Sydney LEP 2013. This was a concerted effort of Council under its North Sydney CBD Land Use and Capacity Strategy to provide a “framework to allow for the growth of North Sydney centre as a resilient, vibrant and globally relevant commercial centre”.<sup>1</sup> Amendment 23 introduced Clause 6.3(3) introduces flexibility into the LEP that allows a height of building variation with consideration of solar impacts to surrounding residential areas and open space located outside the North Sydney Centre.

The specific Clause Division 1 of Part 6 of the North Sydney LEP contains sufficient provisions to consider additional height in the context of solar access and overshadowing provision.

The language of North Sydney Council is seeking to push through this planning proposal is telling. Using terms as less restrictive and more liberal betrays an intent to wind back the 2017 changes – a retreat from any effort to advance North Sydney as a global CBD.

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<sup>1</sup> DPE, Gateway Determination Report – PP 2023-760, p. 5

The Planning proposal seeks to insert a Clause that will allow Council greater say in rejecting height variations. Whereas Clause 6.3(3) states

*The consent authority may grant development consent to development on land in the North Sydney Centre that would exceed the maximum height of buildings shown for the land on the Height of Buildings Map if the consent authority is satisfied that any increase in overshadowing between 9 am and 3 pm from the March equinox to the September equinox (inclusive) will not result in any private open space, or window to a habitable room, located outside the North Sydney Centre receiving—*

*(a) if it received 2 hours or more of direct sunlight immediately before the commencement of North Sydney Local Environmental Plan 2013 (Amendment No 23)—less than 2 hours of direct sunlight, or*

*(b) if it received less than 2 hours of direct sunlight immediately before the commencement of North Sydney Local Environmental Plan 2013 (Amendment No 23)—less direct sunlight than it did immediately before that commencement*

The new Clause 4.6, which needs to be read in conjunction with Clause 6.3(3) states *inter alia*, that:

*(8A) Development must not be granted consent under this clause for development on land identified in the North Sydney Centre on the North Sydney Centre Map that exceeds the maximum height stipulated on the Height of Buildings Map, unless the consent authority is satisfied that any increase in overshadowing between 9 am and 3 pm from the March equinox to the September equinox (inclusive) will not result in any private open space, or window to a habitable room, located outside the North Sydney Centre receiving—*

*(a) if it received 2 hours or more of direct sunlight immediately before the commencement of North Sydney Local Environmental Plan 2013 (Amendment No 23)—less than 2 hours of direct sunlight, or*

*(b) if it received less than 2 hours of direct sunlight immediately before the commencement of North Sydney Local Environmental Plan 2013 (Amendment No 23)—less direct sunlight than it did immediately before that commencement*

The proposed change represents a shift in emphasis that will create less certainty for those wishing to invest in the future of North Sydney CBD.

The purpose of the proposed variation control through clause 6.3(3) was to provide some level of flexibility where it can be demonstrated that residential amenity outside the North Sydney CBD is not unreasonably affected.

Council's own words betray their lack of support for this flexibility, maintaining that Clause 6.3(3) is being relied as it is a **less restrictive** approach, a **narrower set of considerations**, which **enables greater development potential**.<sup>2</sup>

In the context of North Sydney CBD and the global strategy that is still an endorsed Council strategy, Urban Taskforce maintains this approach is

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<sup>2</sup> North Sydney Council, Planning Proposal, *North Sydney Centre – Heights of Building Variations*, pp.20-21

appropriate. For Council to seek to write off the 2017 Strategy and LEP amendments as “superfluous” is a matter of considerable concern for the Urban Taskforce. Urban Taskforce maintains North Sydney’s 2017 North Sydney CBD Land Use and Capacity Strategy is all the more relevant now with the construction of the Sydney Metro and the even closer linkages between North Sydney CBD and the Sydney CBD.

The potential and the state/national/global significance of North Sydney CBD, soon to be even more symbiotically linked to the Sydney CBD, is irrefutable. It is telling that the Department of Planning and Environment has refused Council’s preferred approach of it being the consent authority for its own planning proposal.

It is the correct approach for the Minister to have the final say on this proposal, to ensure any tinkering with a local environment plan maintains consistency with the State Government’s broader approach to the development of strategic centres like North Sydney CBD.

Underlying the entire critique of this Planning Proposal is that there is no case for change. The proposal contains no evidence provided through number of applications or variations under 6.3, nor any analysis that indicates that an application was successful under Clause 6.3 but would not have been successful under Clause 4.6. The proposal does not like the current approach provided through the specific clause 6.3(3). There is no argument as to why this Clause has a negative impact of the community. The argument falls back on Council wishing to have a greater say on development within the CBD with no justification for the change.

To be a truly global centre, matching the Sydney CBD and comparable with other cities internationally, North Sydney Council should embrace height, density and flexible approaches to planning.

Council must respond to the massive investment in public transport infrastructure in the North Sydney centre, where a metro from the soon to be completed Victoria Cross Metro Station will be a mere 2-minute journey to Barangaroo and 5 minutes to Martin Place. Jobs and homes should be co-located in mixed use developments as a response to demand for more houses close to workplaces and public transport options.

The North Sydney CBD has never matched its potential as set out in the 2017 North Sydney CBD Land Use and Capacity Strategy, namely, to provide for the *“growth of the North Sydney Centre to ensure it maintains and improves its status as a resilient, vibrant and globally relevant commercial centre.”*

What Council policy has produced is a sad, second-rate windswept CBD, devoid of population or activity outside business hours. It is a CBD that tends to look backwards rather than forwards.

The completion of the Metro line should be a springboard for the much needed transformation of the CBD – creating Sydney's sister CBD that is supported by excellent public transport connections.

Yet the intent of this planning proposal seeks to undermine the potential of the North Sydney Centre.

In an environment where the broader community is identifying height and density as a means of transforming the way in which Sydney works, lives and recreates, this planning proposal would work against what the community and the newly elected NSW Government seeks when it comes to planning a future Sydney.

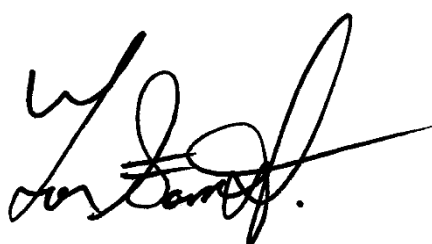
While the City of Sydney has done much of the heavy lifting in terms of housing supply in the Eastern Harbour City, the North Sydney CBD area has not and its exclusion of residential dwellings has rendered it an unattractive ghost-town during the evenings and on weekends,

With the Minns Government vision for a well-connected Sydney and its major CBD's, all based around the principle of transit-oriented development. This Planning Proposal seeks to cut across the grain and its aims and objectives are backward looking and inappropriate for a CBD such as North Sydney.

**Recommendation 1: that North Sydney Council reject Planning Proposal 8/21.**

Should you wish to discuss this matter further, please call our Head of Policy, Planning and Research, Stephen Fenn on 9238 3969 or via email [stephen@urbantaskforce.com.au](mailto:stephen@urbantaskforce.com.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tom Forrest', with a long horizontal flourish extending to the right.

**Tom Forrest**  
Chief Executive Officer