

Item **PP03** - REPORTS - **14/08/19**

N O R T H S Y D N E Y C O U N C I L R E P O R T S

NSLPP MEETING HELD 14/08/19

Attachments:

1. Planning Proposal
2. Urban Design Report

ADDRESS/WARD: 173-179 Walker Street & 11-17 Hampden Street, North Sydney (W)

PROPOSAL NO: 3/19

PROPOSAL: To amend North Sydney Local Environmental Plan 2013 as follows:

- Establish a maximum height of RL133 for the Precinct (an increase of 62-72m); and
- Establish a maximum FSR of 6.1:1 for the Precinct;
- Introduce a new Special Provisions Map within the NSLEP 2013 and identify the Precinct on the map as 'Area 1;' and
- Amend Section 6 Additional Local Provisions to include a section '6.20 East Walker Street Precinct' to establish controls associated with lot amalgamation, overshadowing and community infrastructure, including a height limit of RL148m (an increase of 77-87m) and an FSR of 6.9:1.

OWNER: Walker Street No100 Pty Ltd; Jeremy Paul Taylor-Riley; Martin Leach & Catherine Leach; Lee-Anne Maureen Kent; Elizabeth Pender & Lorenzo Mrdjen; Pascal Paulin Bourgeat & Julie Lynne Bourgeat; Harley Chamberlain Wright; Michael John Waslin; Nola Stewart; Sharyn Barkl; G'halli Rangappa Rajasekariah & Poornima Rajasekariah; Richard Teague; James Headley Wiseman; Christie Renee Fischer; Alena Tichy; Marton Toth Kaufmann; Konangaroo Pty Ltd Superannuation; Tung Sing Wong & Siew Kit Foo; Diane Sandra Fischer.

APPLICANT: Avenor Pty Ltd

AUTHOR: Brett Brown, Director Ingham Planning Pty Ltd (Independent Planning Consultant)

DATE OF REPORT: 2 August 2019

DATE LODGED: 22 March 2019

EXECUTIVE SUMMARY

On 22 March 2019, Council received a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land located at 173-179 Walker Street & 11-17 Hampden Street, North Sydney. In particular, the Planning Proposal seeks the following amendments to NSLEP 2013:

- Establish a maximum height of RL133 for the Precinct (an increase of 62-72m); and
- Establish a maximum FSR of 6.1:1 for the Precinct;
- Introduce a new Special Provisions Map within the NSLEP 2013 and identify the Precinct on the map as 'Area 1;' and
- Amend Section 6 Additional Local Provisions to include a section '6.20 East Walker Street Precinct' to establish controls associated with lot amalgamation, overshadowing and community infrastructure, including a height limit of RL148m (an increase of 77-87m) and an FSR of 6.9:1.

The Planning Proposal is considered to have Strategic Merit as it proposes to increase density in an appropriate location adjoining the existing North Sydney CBD and in close proximity to the new Victoria Cross Metro Station. However, the Planning Proposal lacks site specific merit as the proposed building height and typology are more consistent with the type of development that exists within the CBD B4 Mixed Use zone. The proposed forms ignore the current R4 High Density Residential zoning (to which no change is proposed) and the related development controls. They are also contextually inappropriate. The Planning Proposal also has unreasonable impacts on surrounding properties as a result of the excessive built form.

If forms which are not consistent with the R4 zoning were to be considered, this could only follow a broader study of the area, such as is presently being undertaken by Council for the Northern CBD, and a conclusion reached that the CBD boundary be altered to include the subject land. In the absence of this, buildings would need to be lower than surrounding buildings, with generous separation of forms to allow for more landscaping, greater view preservation and higher levels of amenity for future and existing dwellings, in order to be more consistent with existing planning requirements.

Having completed an assessment of the Planning Proposal, it is recommended that the Planning Proposal not be supported to proceed to Gateway Determination for the following reasons:

- The requested heights do not provide an appropriate transition of building heights from existing CBD development to the subject R4 zoned land;
 - The indicative building typology does not adequately respond to the existing development controls that apply to the subject R4 zoning resulting in excessively large building forms that are out of keeping with the existing and desired future character of the area and will have an unacceptable visual impact;
 - It is contrary to the objectives of the R4 zone in that it will '*compromise the amenity of the surrounding area or the natural or cultural heritage of the area*' and will not '*ensure that a reasonably high level of residential amenity is achieved and maintained*';
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RE: PP3/19 - 173-179 Walker Street & 11-17 Hampden Street, North Sydney

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- It is contrary to objectives (c), (e) and (f) of the Height of Building controls under clause 4.3 to NSLEP 2013;
 - It is contrary to the objectives (a) and (b) of the FSR controls under clause 4.4 to NSLEP 2013;
 - It is contrary to the provisions of NSDCP 2013 in relation to residential flat building development and the Area Character Statement for the Hampden Neighbourhood;
 - It is inconsistent with a number of objectives and actions under the relevant Regional and District strategies applying to the land;
 - It does not adequately demonstrate that it will not result in excessive overshadowing of adjoining dwellings;
 - It does not adequately demonstrate that it will not result in overshadowing of Doris Fitton Park;
 - It will result in unreasonable loss of views for surrounding apartments;
 - The benefits of the Special Provisions Design have not been adequately demonstrated;
 - The traffic information submitted does not adequately demonstrate that the proposal will not have an adverse impact on the local traffic network; and
 - Insufficient information has been provided in relation to the uplift in value from the proposed LEP amendments in order for Council to determine if the applicant's public benefit offer is reasonable.
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DESCRIPTION OF PROPOSAL

Planning Proposal 3/19 seeks to amend the North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land located at 173-179 Walker Street & 11-17 Hampden Street, North Sydney. In particular, the Planning Proposal seeks the following amendments to NSLEP 2013:

- Establish a maximum height of RL133 for the Precinct (an increase of 62-72m);
- Establish a maximum FSR of 6.1:1 for the Precinct;
- Introduce a new Special Provisions Map within the NSLEP 2013 and identify the Precinct on the map as 'Area 1;' and
- Amend Section 6 Additional Local Provisions to include a section '6.20 East Walker Street Precinct' to establish controls associated with lot amalgamation, overshadowing and community infrastructure, including a height limit of RL148m (an increase of 77-87m) and an FSR of 6.9:1.

Effectively, there are two different potential outcomes based on the above:

1) Reference Design: Height RL133, FSR 6.1:1

that demonstrates development under the base controls without relying on full amalgamation ie the Hampden Street properties (11-17 Hampden Street) and the Walker Street properties (173-179 Walker Street) would be developed separately

2) Special Provisions Reference Design: Height RL 148, FSR 6.9:1

that demonstrates development under the Special Provisions for additional height and FSR in the event of full amalgamation of the precinct

The applicant also proposes amendments to the DCP provisions to include setback controls, however these only appear to reflect the Reference Design, not the Special Provisions Design.

The intended outcome of the Planning Proposal as described by the applicant is as follows:

To amend the 'Height of Buildings' and 'Floor Space Ratio' provisions that apply to the Precinct, under the North Sydney Local Environmental Plan 2013. This will facilitate the comprehensive and timely redevelopment of the site to accommodate a high quality residential development that successfully integrates with the emerging context of the North Sydney CBD and the Ward Street Precinct.

Furthermore, as part of this Planning Proposal request, it is proposed to introduce a new 'Special Provisions' map and specific additional 'Local Provisions' within Part 6 of the NSLEP 2013, to incentivise large lot amalgamation within the Precinct.

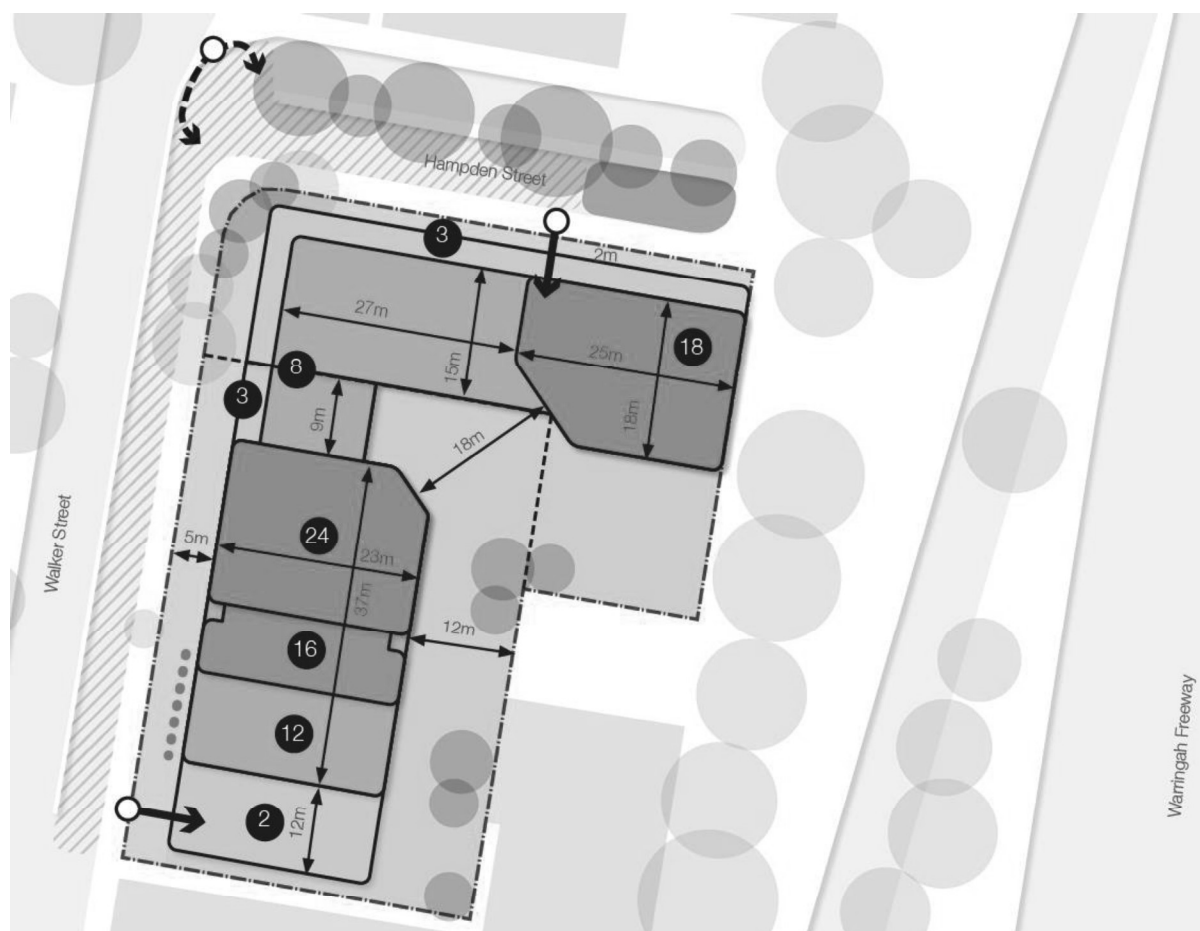
Ultimately, this will enable the achievement of a range of regional and local strategic planning objectives including housing growth within an accessible and connected location. The outcome would be the renewal of the Precinct to provide new residential apartments that would complement the increased commercial floor space envisaged within the North Sydney CBD and Ward Street Precinct. The development would be at an appropriate scale, transitioning from the building heights within the Ward Street down to the east, whilst also enhancing the public domain, street frontages, pedestrian linkages and activating the 18-hour economy.

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The Planning Proposal is accompanied by an indicative concept design to demonstrate what could be achieved on the site if the proposed amendments were implemented. In regard to the Reference Design, site is capable of achieving two towers; an 18 storey tower within the north eastern corner fronting Hampden Street and a 24 storey tower fronting Walker Street. The two towers are connected by an 8 storey built form that wraps around the corner of Walker Street and Hampden Street.

Fronting Walker Street, the 24 storey tower steps down to 16 storeys, 12 storeys and 2 storeys. Under this scenario, a storey street wall height of 3 storeys and a 3m podium setback is established along the Hampden Street frontage, wrapping around to the interface of the Walker Street tower (see **Figures 2 and 3**).



Source – Urban Design Report by SJB

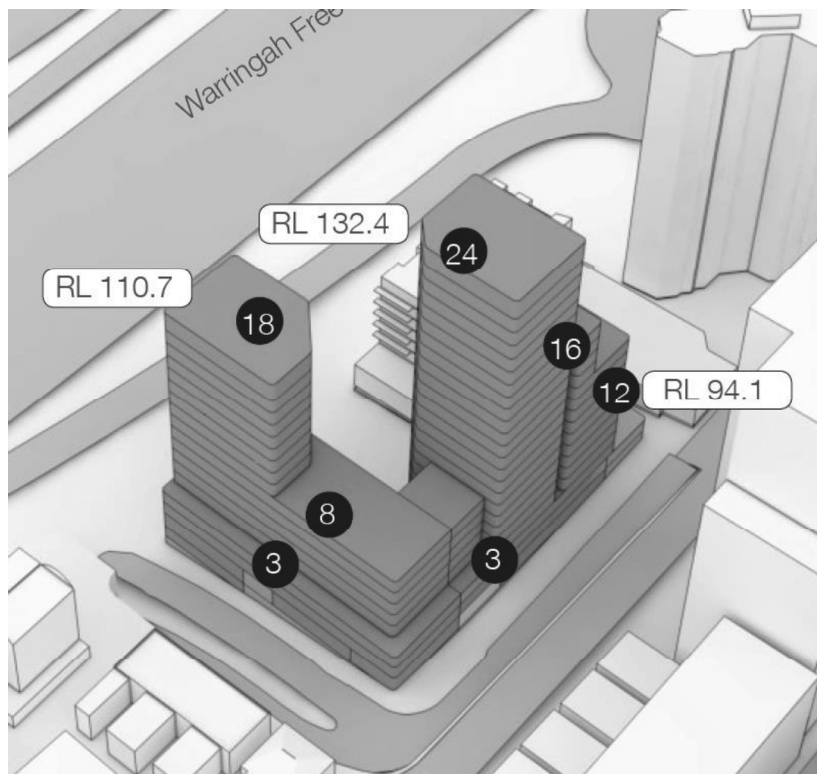
Figure 2 – Reference Design plan view

In regard to the Special Provisions Design, it adopts a single tower form on the corner of Hampden Street and Walker Street, with a maximum height of 29 storeys (RL147.9) (see **Figure 4 and 5**). The built form steps down from north to south at 27 storeys, 25 storeys, 20 storeys and 8 storeys.

The eastern portion of the Precinct as it fronts Hampden Street, will maintain a maximum height of 9 storeys. Under this scenario, a full 3m street wall height to both Walker Street and Hampden Street will be established, with an above street podium setback of 3m.

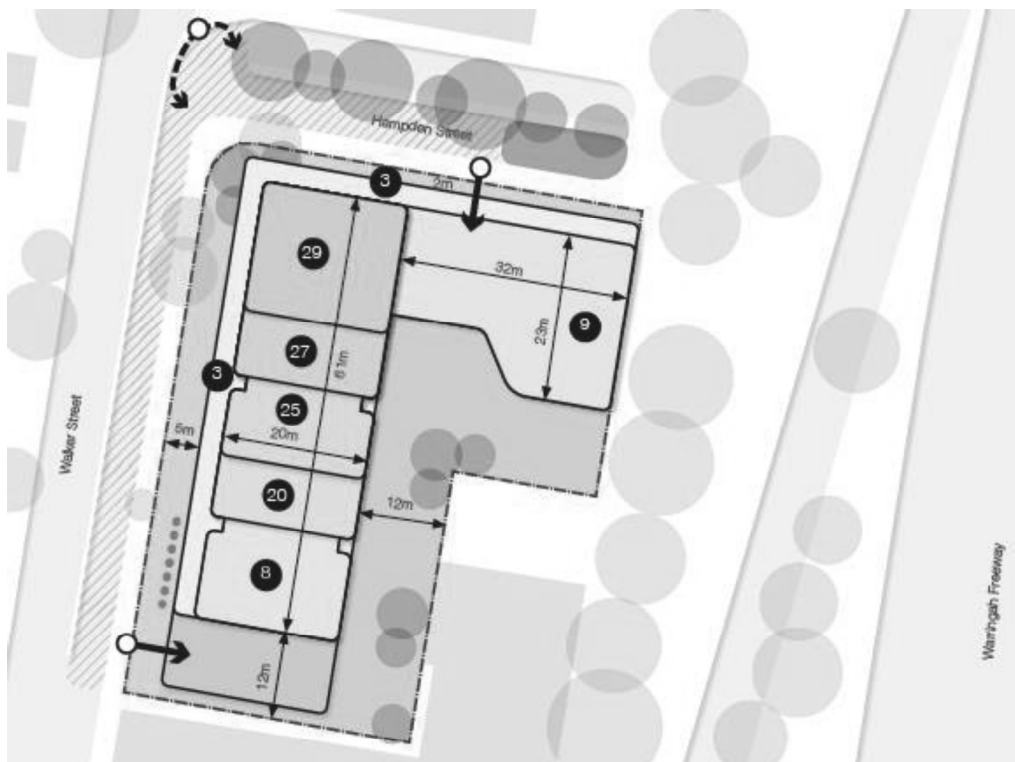
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Source – Urban Design Report by SJB

Figure 3 – Reference Design 3D view



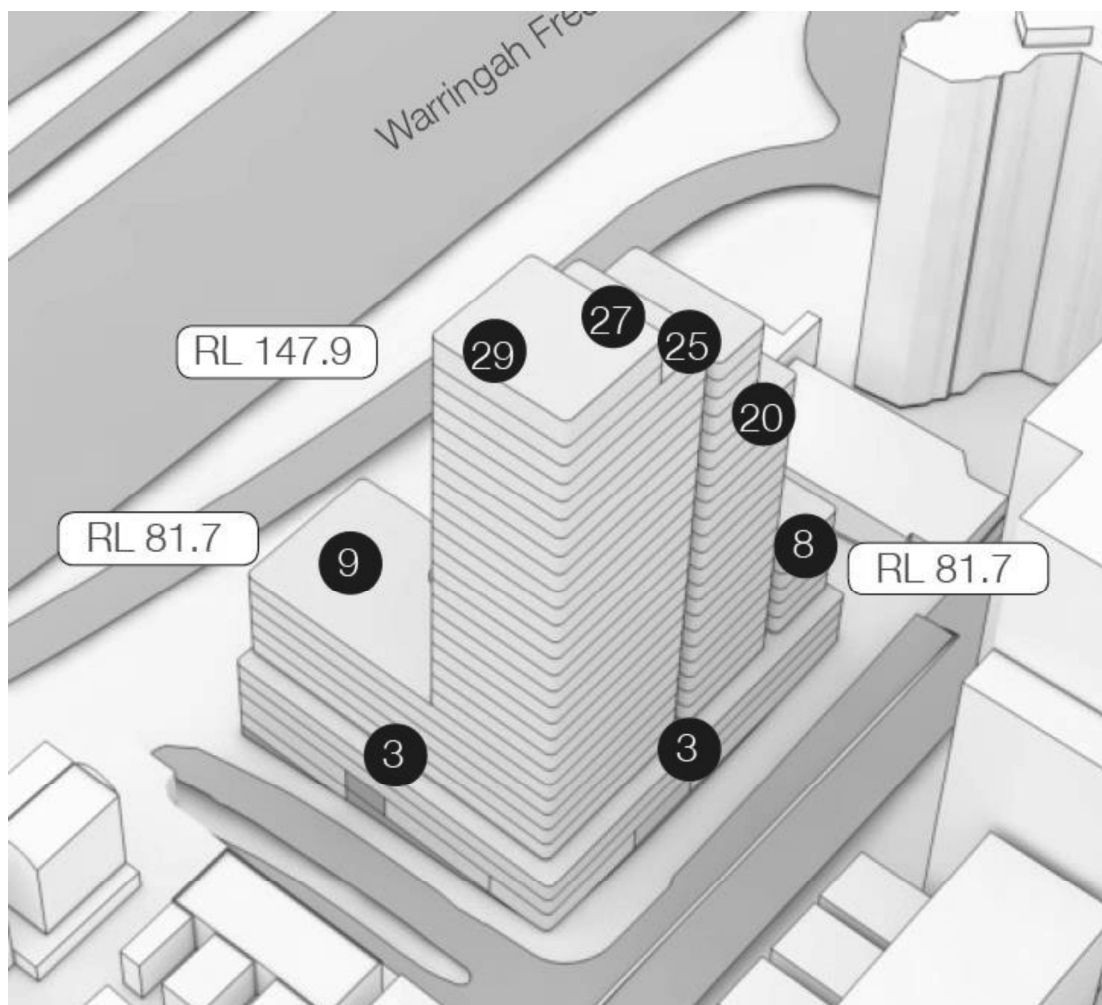
Source – Urban Design Report by SJB

Figure 4 – Special Provisions Design plan view

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Source – Urban Design Report by SJB

Figure 5 – Special Provisions Design 3D view

PANEL REFERRAL

On 23 February 2018, the Minister for Planning released a section 9.1 Direction which outlines the instances when a planning proposal must be referred to a Local Planning Panel for advice prior to a council determining whether that planning proposal should be forwarded to the DPE for the purposes of seeking a Gateway Determination.

All planning proposals are required to be referred to the Local Planning Panel, unless they meet any of the following exemptions:

- the correction of an obvious error in a local environmental plan;
- matters that are of a consequential, transitional, machinery or other minor nature; or
- matters that council's general manager considers will not have any significant adverse impact on the environment or adjacent land.

The Planning Proposal does not meet any of the exemption criteria and therefore the Planning Proposal must be referred to the Local Planning Panel for advice prior to Council making any determination on the matter.

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BACKGROUND

Prior Planning Proposal

The previous Planning Proposal included the following:

- Establishing a site-specific height control, with a maximum height of RL210 (an increase of 140m); and
- Establishing a maximum floor space ratio (FSR) control for the site of 13.63:1.

The Planning Proposal was accompanied by an offer to enter into a Voluntary Planning Agreement (VPA), which included:

- A dedication of 5% (a minimum of 14 apartments) of the residential yield to affordable rental accommodation, in accordance with the North Sydney Affordable Housing Strategy 2015;
- Dedicating 1,515m² of gross floor area to Council to be utilised for community facilities;
- Providing 865m² of landscaped publicly accessible space; but
- Excluding the application of section 94 contributions pertaining to any future development applications for the development of the site facilitated by the planning proposal owing to the material public benefit value of the items above.

On 19 February 2018, it was resolved by North Sydney Council:

- 1. THAT Council resolves not to support the Planning Proposal proceeding to Gateway Determination.*
- 2. THAT Council advise the Department of Planning and Environment of its decision and be provided with a copy of this report and its resolution in support of Council's position.*
- 3. THAT Council notifies the applicant of Council's determination in accordance with clause 10A of the Environmental Planning and Assessment Regulations 2000.*
- 4. THAT any changes to the planning controls for the wider Ward Street Precinct be considered holistically and involve all landowners and stakeholders in and adjacent to the precinct.*
- 5. THAT Council reaffirm its position on separately pursuing the East Walker Opportunity Site from the Ward Street Precinct Masterplan project as per Council resolution dated 1 May 2017.*

Following a request to the Sydney North Planning Panel (SNPP) to review Council's decision, the SNPP determined that the Planning Proposal should not be submitted for a Gateway determination as it did not adequately demonstrate site specific merit (it was considered to achieve strategic merit). The reasons given for this decision are noted and discussed below.

- 1. The planning proposal should incorporate the current site and the adjacent properties on Hampden Street*

Consultant planner's comment – Yes, requirement achieved.

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2. Consolidation of the site with the adjacent properties on Hampden Street

Consultant planner's comment – No. The sites have not been consolidated. However the Planning Proposal includes provisions that encourage amalgamation. These are discussed further in Section 8.4.2 below.

3. The site is more suited to residential than commercial use.

Consultant planner's comment – Yes. The Planning Proposal is predominantly residential and includes only a small neighbourhood shop which is a permissible use in the R4 zone. It is noted that Council is currently in the process of preparing a Northern CBD Planning Study which will help inform suitable and appropriate uses for the site and its precinct.

4. Height transition down to the east from 41 McLaren Street, as proposed, and 168 Walker Street

Consultant planner's comment – Yes. However, it is noted that 41 McLaren Street, which was supported by the SNPP, has recently been rejected by the Independent Planning Commission (IPC). A further discussion of height is provided at Section 8.4.2.

5. Views from the west should be maximised through the site

Consultant planner's comment – No. The view impact analysis undertaken is considered to be inadequate as discussed in Section 8.4.2 below. Further the nature of the indicative building form is inconsistent with the existing R4 zone controls and does not facilitate retention of views.

6. Vehicle and pedestrian access into and around the site should be further reviewed including consultation with RMS

Consultant planner's comment – The applicant's documentation advises that RMS have been consulted. A summary of key items discussed between the applicant and RMS are provided on page 2 of the Traffic and Transport Impact Assessment (TIA). Traffic issues are discussed in Section 8.4.2.

7. Public consultation should be undertaken prior to consideration of a further proposal

Consultant planner's comment – Yes. The applicant advises: “KJA have held two community information sessions, initially presenting the key design principles to gain feedback on important local issues to be address, and secondly to present the proposed scheme and refine the proposal with inclusion of feedback for final submission. The Proponent has consulted with stakeholders and interest groups including the Stanton Precinct Committee, Local Strata Committees and residents in Hampden and Walker Street. A project website has been established at www.eastwalkerstreet.com.au which contained project information and an online survey for feedback.”

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8. Overshadowing east of the freeway should be minimised

Consultant planner's comment – Yes. The submitted material indicates that both schemes only overshadow properties east of the freeway after 2pm. However, the proposal is not compliant with Clause 6.3(3) of NSLEP 2013 which is further discussed in Section 8.4.2 of this report.

9. Any future proposal should include a draft DCP

Consultant planner's comment – Yes. The submitted details include draft provisions to be included in the DCP. However, it is considered that these provisions are inadequate as they relate only to the Reference Design and in any event, they are based on a design which is considered to be inappropriate.

10. Provision of well-connected open space on the site

Consultant planner's comment – No. The proposed linear park along Walker Street is not appropriate as discussed in Section 8.4.2.

Current Planning Proposal

Further to the details provided above, the applicant provides the following summary of the proposal:

Indicator	Development outcome	
Land Use	Residential accommodation Neighbourhood shop	
Height	RL133 / 24 storeys, with bonus provisions of up to RL148 / 29 storeys	
FSR	Total FSR of 6.1:1 plus bonus provisions of up to 6.9:1	
GFA	Residential Neighbourhood shop	23,964m ² 80m ²
Apartments	211 - 284 apartments, A mix of dwelling typologies will be provided in accordance with the NSDCP 2013.	
Car parking rates	Studio / 1 bed 2 – 3+ bed Visitor Total: Bicycle Total:	0.5 / dwelling 1 / dwelling 0 203-229 1 per dwelling + 1 per 10 visitors 261:

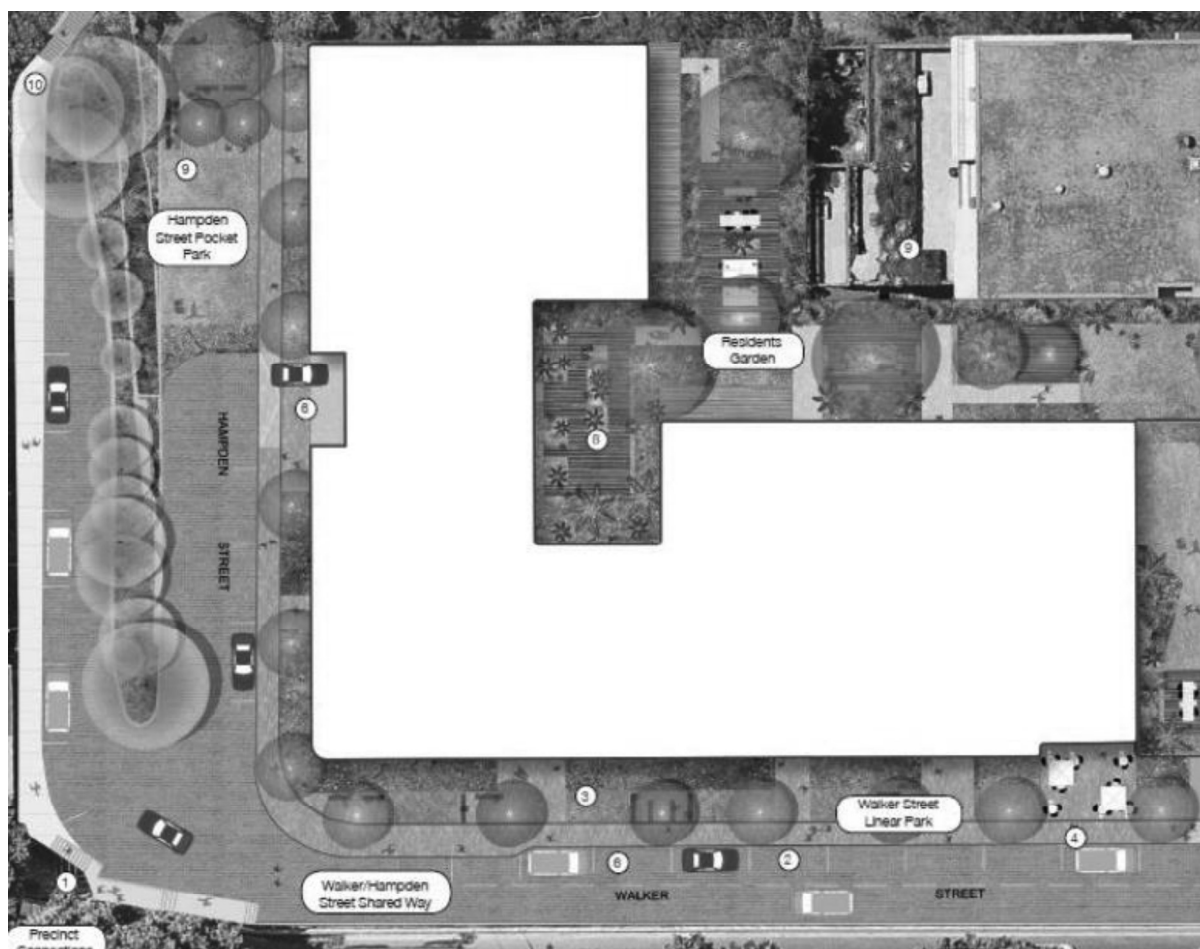
Other key aspects of the proposal include:

- Residential GFA – 23,964sqm over 8-24 storeys (Reference Design), 27,044sqm over 8-29 storeys (Special Provisions Design);
 - A neighbourhood shop at the Walker Street frontage;
-

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- An offer to enter into a Voluntary Planning Agreement providing the following public benefits:
 - Dedication of 5% of the residential yield to affordable housing in accordance with Council's Affordable Housing Policy 2013;
 - Monetary contribution for the provision of community infrastructure at a rate of \$15,100 per net dwelling over land at 173-179 Walker Street;
- The concept plans include details of a linear park along Walker Street and a pocket park to be created by the closure of the end of Hampden Street (see **Figure 6** below). However the arrangements for these spaces would have to be the subject of further discussion as the linear park is not part of the VPA offer and the pocket park is on Council land.



Source – Planning Proposal Report by Urbis

Figure 6 – Indicative Open Space

Following a meeting with the applicant on 27 June 2019, the Planning Consultant, through Council, requested further information regarding overshadowing, view impacts and the benefits of the Special Provisions Design. By way of letter dated 19 July 2019, the applicant responded to these matters.

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Moratorium on Residential Planning Proposals

Council has a long held position of not supporting the progression of planning proposals to Gateway Determination, which seek departures from current planning controls and are not supported by an endorsed precinct wide based planning study. This position was reinforced at Council's meeting of 30 July 2018, wherein it resolved to not accept any new planning proposals involving a residential use, until the earlier of 1 July 2020 or the completion of any gazetted amendments to the North Sydney LEP in respect of any Land Use and Infrastructure Plan produced by the Department of Planning's Priority Precinct planning process.

Council received a response to its position of 30 July 2018 from the Minister for Planning dated 16 November 2018, which indicated that the Minister would seek further advice from the Greater Sydney Commission before considering their position.

DETAIL

1. Applicant

The applicant for the proposal is Avenor Pty Ltd. The applicant has been engaged by Oxley Holdings Limited who own land comprising 173-179 Walker Street, North Sydney. A copy of the owner's consent was provided as part of the application.

On 17 July 2019, the applicant provided owner's consent for 11 Hampden Street, 15 Hampden Street and 17 Hampden Street. It is noted that 11 Hampden Street is subject to company title and only the director's consent of this property has been provided. The applicant has submitted legal advice stating that there is no legal requirement to provide the consent of all landowners to submit or determine a Planning Proposal. Despite this, Council's long-standing policy requires all landowners consent to be provided as part of the Planning Proposal application.

2. Site Description

The submitted Planning Proposal provides the following details regarding the subject land.

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Address and legal description	Existing development and access arrangements
173 Walker Street (SP 11082) 517.82m ²	<ul style="list-style-type: none"> • Three storey residential flat building comprising 6 strata titled units. • Pedestrian access to the second floor, with on-street parking provided along Walker Street
175 Walker Street (SP 86752) 505.69m ²	<ul style="list-style-type: none"> • Three storey residential flat building comprising 6 strata titled units. • Pedestrian access to the second floor, with on-street parking provided along Walker Street.
177 Walker Street (SP 9808) 506.06m ²	<ul style="list-style-type: none"> • Three storey residential flat building comprising 6 strata titled units. • Pedestrian access to the second floor, with on-street parking provided along Walker Street
179 Walker Street (SP 64615) 809.33m ²	<ul style="list-style-type: none"> • Three storey residential flat building comprising 6 strata titled units. • Pedestrian access to the second floor, with on-street parking provided along Walker Street
11 Hampden Street (Lot 1 in DP119732) 800m ²	<ul style="list-style-type: none"> • Part three, part four storey residential flat building comprising 19 apartments • Vehicular access off Hampden Street
15 Hampden Street (Lot 1 in DP591516) 542m ²	<ul style="list-style-type: none"> • Single storey detached dwelling • Vehicular access off Hampden Street
17 Hampden Street (Lot 2 in DP591516) 267m ²	<ul style="list-style-type: none"> • Single storey detached dwelling

An aerial view of the site is shown at **Figure 7**. The older style nature of the existing development on the site can be seen at **Figure 8**. The site slopes moderately from the southern boundary towards Hampden Street and then to the east towards the gully along the eastern boundary. The high point in the south-western corner on Walker Street is RL58.56m to the low point in the south-east corner near the gully is RL48.32m, a total difference of over 10m.

The site contains a mixture of native and exotic vegetation. There are no trees of particular significance, however, there are number of substantial specimens that assisting in breaking up the built form from the street and adjoining properties.

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Source – Planning Proposal Report by Urbis

Figure 7 – Aerial view of site



Source – Planning Proposal Report by Urbis

Figure 8 – view of site from 138 Walker Street

3. Local Context

The site is located to the east of the existing North Sydney CBD between Walker Street and the Warringah Freeway (see **Figure 9**).



Source – Planning Proposal Report by Urbis

Figure 9 –location of site east of North Sydney CBD



Figure 10 –Century Plaza building to south of site

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The land east of Walker Street and north of Berry Street is residential in nature and contains a wide variety of building types from the high rise towers such as the Century Plaza building directly to the south (see **Figure 10**) to the low scale heritage terraces opposite the site in Hampden Street (see **Figure 11**).



Figure 11 – Heritage terraces to the north of the site in Hampden Street

The buildings to the west, within or north of the CBD are generally larger in scale and comprise a mix of commercial and residential uses. However there are still some lower scale heritage buildings opposite the site in Walker Street (with the Heritage Apartments behind)(see **Figure 12**). This area is within a precinct known as the Ward Street Masterplan area which is currently being investigated by North Sydney Council for increased development and public open space.

Generally the site is highly accessible, being only 600m to North Sydney railway station and 200m to the new Victoria Cross Metro Station (see **Figure 13**).

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Figure 12 – heritage buildings and apartments opposite site at Walker Street with the larger building at 168 Walker Street at the far right

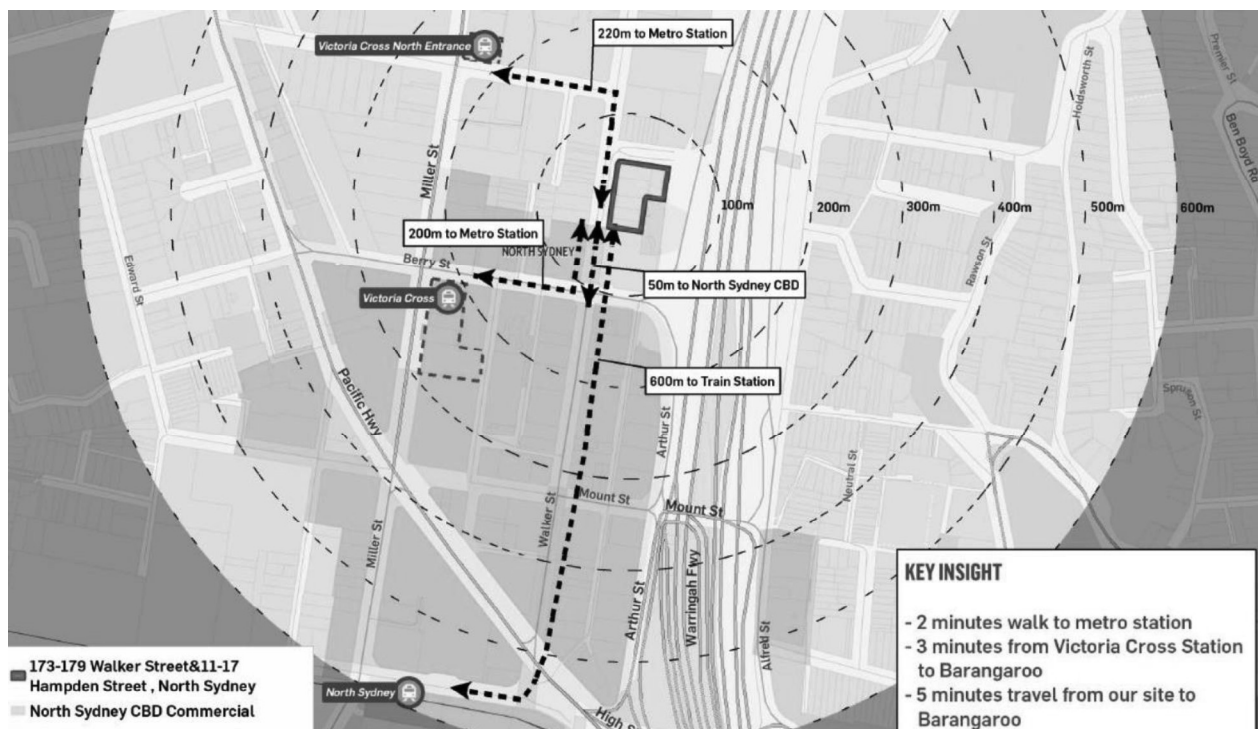


Figure 13 – proximity of site to transport

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4. Current Planning Provisions

The following subsections identify the existing local relevant planning provisions that apply to the subject site.

4.1 NSLEP 2013

NSLEP 2013 was made on 2 August 2013 through its publication on the NSW legislation website and came into force on the 13 September 2013. The principal planning provisions relating to the subject site are as follows:

- Zoned R4 High Density Residential (see **Figure 13**)
- Permitted Building Height – 12m (see **Figure 14**)
- Permitted FSR – NA
- In the vicinity of heritage items including stone retaining wall directly adjoining site in Walker Street (see **Figure 15**)



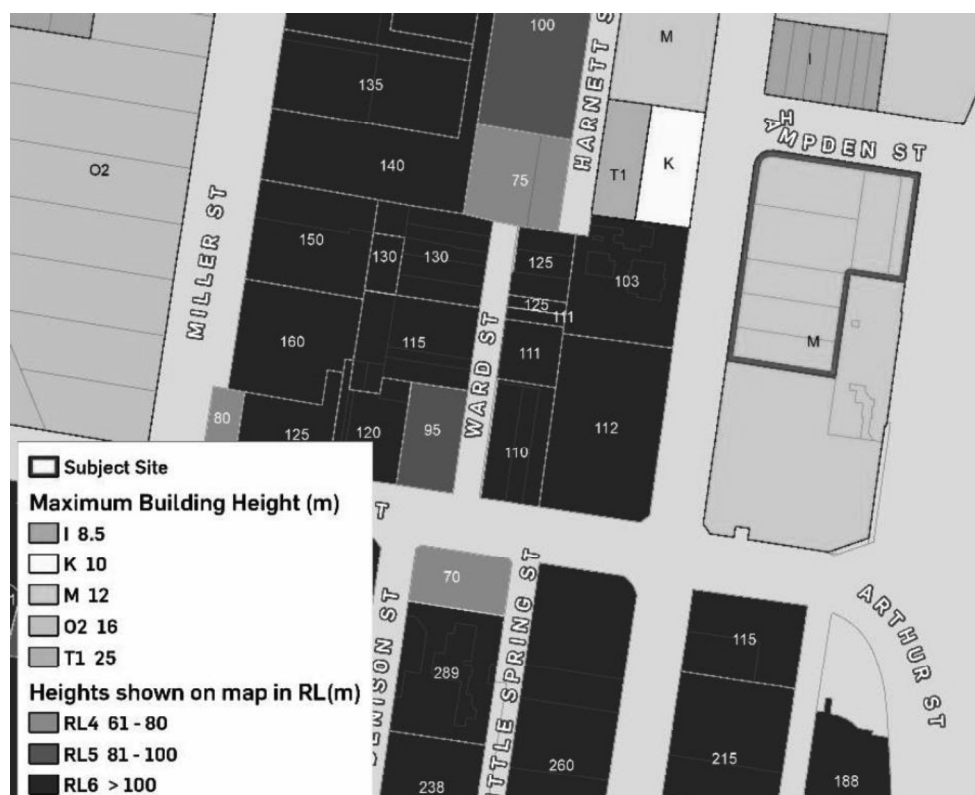
Source – Planning Proposal Report by Urbis

Figure 13 – Zoning LEP 2013

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Source – Planning Proposal Report by Urbis

Figure 14 – Height of Buildings map LEP 2013



Source – Planning Proposal Report by Urbis

Figure 15 – Heritage map LEP 2013

4.2 North Sydney Development Control Plan (DCP) 2013

The DCP came into force on 13 September 2013. It provides more detailed controls than the LEP and has specific provisions relating to residential flat buildings in the R4 zone. This and other relevant provisions will be addressed in Section 8 of this report.

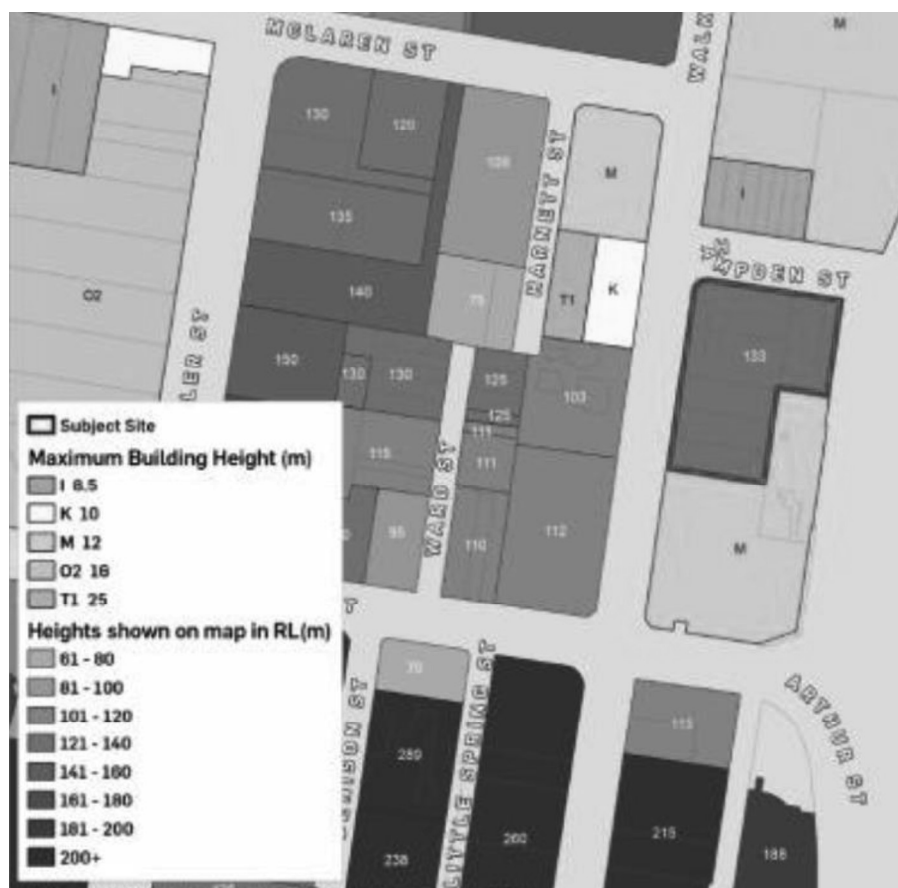
The applicant also proposes amendments to the DCP provisions to include setback controls, however these only appear to reflect the Reference Design, not the Special Provisions Design.

5. Proposed Instrument Amendment

The primary intent of the Planning Proposal as described in the “Description of Proposal” section of this report is proposed to be achieved by:

- Amend the NSLEP 2013 ‘Height of Buildings Map – Sheet HOB_002A’. It is proposed that the existing ‘Height of Buildings Map’ be amended to provide a maximum building height of RL133 across the Precinct (see **Figure 16**).
- Amend the NSLEP 2013 ‘Floor Space Ratio Map – Sheet FSR_002A’. It is proposed that the existing ‘Floor Space Ratio Map’ be amended to provide a maximum FSR of 6.1:1 across the Precinct (see **Figure 17**).
- Introduce a new Special Provisions Map within the NSLEP 2013 and map the East Walker Street Precinct as “Area 1;” and
- Amend Part 6 Additional Local Provisions – Division 2 General Provisions to include:
 - Establish a maximum height of RL133 for the Precinct (an increase of 62-72m); and
 - Establish a maximum FSR of 6.1:1 for the Precinct;
 - Introduce a new Special Provisions Map within the NSLEP 2013 and identify the Precinct on the map as ‘Area 1;’ and
 - Amend Section 6 Additional Local Provisions to include a section ‘6.20 East Walker Street Precinct’ to establish controls associated with lot amalgamation, overshadowing and community infrastructure, including a height limit of RL148m (an increase of 77-87m) and an FSR of 6.9:1.

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Source – Planning Proposal Report by Urbis

Figure 16 – Proposed amendment to Height map LEP 2013



Source – Planning Proposal Report by Urbis

Figure 17 – Proposed amendment to FSR map LEP 2013

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6. Draft Voluntary Planning Agreement (VPA)

The applicant has offered to enter into a draft VPA including the provision for:

- Dedication of 5% of the residential yield to affordable housing in accordance with Council's Affordable Housing Policy 2013 or the Equivalent Net Value as a monetary contribution;
- Monetary contribution for the provision of community infrastructure at a rate of \$15,100 per net dwelling over land at 173-179 Walker Street. The applicant has advised that community Infrastructure in this instance means development within the North Sydney Centre and/or within the Hampden Neighbourhood for the purposes of public road improvements, public domain improvements, public open space upgrades, community garden improvements and residential parking improvements, or other community facilities.

The above offer is made on the basis that it will not affect payment of normal Section 7.11 contributions.

It should also be noted that the applicant's offer does not relate to the Hampden Street properties.

Council encourages the proponent to offer a public benefit proportionate to the increase in value of the land. No details have been provided to indicate what the uplift in value of the site will be resulting from an increase in maximum building height and FSR. The only details provided relate to the value of the proposed contributions themselves. This makes it difficult for Council to make an informed decision as to what level of public benefit may be considered reasonable.

Any offer should not include any public domain improvements that would be required as part of the normal DA process. If the Planning Proposal proceeds, a final draft would need to be negotiated with Council, by all landowners, in order for it to be publicly exhibited with the Planning Proposal. Further consideration of the reasonableness of the offer would occur as part of the negotiation process.

ASSESSMENT

7. Planning Proposal Structure

The Planning Proposal is considered to be in generally accordance with the requirements of s.3.33 of the Environmental Planning and Assessment (EP&A) Act 1979 and DPE's '*A guide to preparing planning proposals*' (December 2018). In particular, the Planning Proposal adequately sets out the following:

- A statement of the objectives or intended outcomes of the proposed local environmental plan;
 - An explanation of the provisions that are to be included in the proposed local environmental plan;
 - Justification for those objectives, outcomes and provisions and the process for their implementation; and
-

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- Details of the community consultation that is to be undertaken on the Planning Proposal.

8. Justification of the Planning Proposal

8.1 Objectives of the Planning Proposal

The applicant's stated objectives/intended outcome for the Planning Proposal have been noted above. Whilst it is considered that these have not been clearly expressed, in any event, for the reasons given in this assessment, it is considered that only some of these objectives/outcomes can be achieved.

8.2 The Need for the Planning Proposal

8.2.1 Is the Planning Proposal a result of an endorsed local strategic planning statement, strategic study or report?

The applicant's Planning Proposal report fails to acknowledge the above reference to an 'endorsed' local study or strategy. Whilst the site was part of the Stage 1 Ward Street Master Plan (WSMP), it is not part of the Stage 2 Master Plan which has now been endorsed by Council. The final WSMP is shown below.

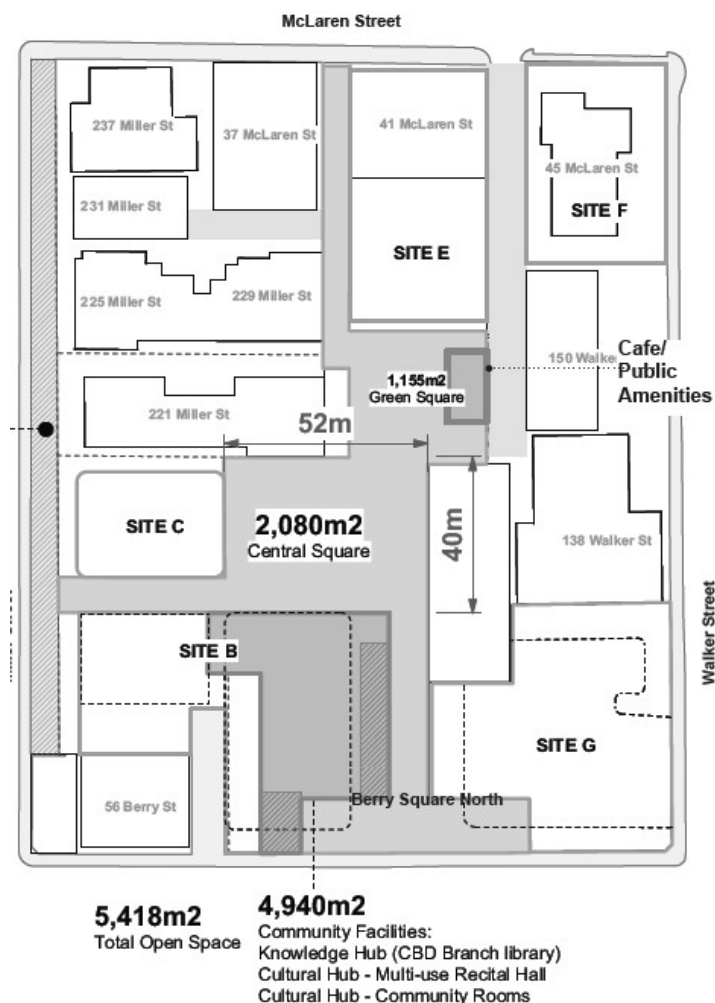


Figure 18 – Final Ward Street Master Plan

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Sites E and F are excluded from the WSMP area and any uplift would be the subject of separate Planning Proposals. However one of the reasons these sites were excluded (and a reason why the Planning Proposal for 41 McLaren was rejected) was due to the potential overshadowing impacts on the public spaces that are the core of the WSMP. It is also noted that there are no major pedestrian linkages through to Walker Street planned in the WSMP.

It is also noted that Council is in the process of preparing a Northern CBD Planning Study which will include the subject site. It is envisaged that this precinct-wide study will provide further context in relation to heights and land uses and help inform suitable redevelopment outcomes within this site, its surrounds and community consultation. Any details on community needs that arise from the Study can be addressed through the contributions in the VPA offer and normal Section 7.11 contributions.

It is noted that the NSPP did not require the consideration of the wider area in their reasons for rejecting the previous Planning Proposal, only the Hampden Street properties which now form part of the Planning Proposal. However, this decision was prior to Council commencing the Northern CBD Planning Study.

There are some generalised local studies including the North Sydney Residential Strategy (2009) (RDS), North Sydney Local Development Strategy (2009) and the North Sydney Capacity and Land Use Study (2017). It is noted that RDS did not rely upon the redevelopment potential of this site to meet the housing targets outlined in the study.

Further, Council's Local Strategic Planning Statement (LSPS) and Local Housing Strategy (LHS) are now endorsed draft local strategies. Whilst it is acknowledged that the Planning Proposal was submitted before these documents became 'endorsed', the LHS identifies housing growth for the next 10 years and does not rely on the development of this site to meet the targets. Further comments on housing targets are made in Section 8.3.1 below.

8.2.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The applicant has considered and discussed alternatives to the proposal including an option which does not provide for a Special Provisions Design. Given that one of the objectives is 'timely' redevelopment and that the Metro Station is due for completion in 2024, it is considered that a site specific Planning Proposal is the best means of achieving redevelopment in the shorter term. Of course this relates to the applicant's objectives, not necessarily those of Council. For the reasons discussed below the applicant's objectives may be better served by considering the site as an extension of the CBD. However to do this Council would have to consider the wider context and implications and the Northern CBD Planning Study is the appropriate context for this.

In relation to the Special Provisions Design, the submitted documentation has not adequately justified the benefit of this scheme compared to the Reference Design. The main arguments put forward relate to the consolidation of the tower elements from 2 to 1. However, the single tower has a considerably larger footprint, creating an element of excessive bulk and scale. Further, the benefits of removing the Hampden Street tower are questioned. These matters are explored in further detail in Section 8.4.2.

8.3 Relationship to the Strategic Planning Framework

8.3.1 Will the Planning Proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

A Metropolis of Three Cities – the Greater Sydney Region Plan (GSRP) March 2018

The applicant has provided an overview of the consistency of the proposal with this document. It is considered that the Planning Proposal is generally consistent with the objectives of the GSRP. The main categories in the Plan are discussed below.

Infrastructure – the Planning Proposal will make use of existing infrastructure in that it is located within walking distance of North Sydney CBD and public transport services and has access to regional road networks and other established infrastructure including schools and hospitals. Any specific additional demand identified by Council through the Northern CBD Planning Study or otherwise can be addressed through the VPA offer and standard contributions.

Liveability – the Planning Proposal will encourage diverse and connected communities. Also the broader issues of liveability can be addressed by Council through the Local Strategic Planning Statement (LSPS) process and other studies being undertaken. However the proposed building forms will have adverse visual and overshadowing impacts and view loss which have not been adequately documented and considered. Whilst, some impacts can be expected from significant redevelopment such as this, they need to be commensurate with the nature of the contexts. In this regard a balance needs to be achieved between, the expectations of existing residents, who may not have expected development on the site beyond the current controls and the location at the edge of a major CBD where significant new infrastructure is soon to be operational (ie the Metro).

The proposal will provide additional housing, which will assist Council in meeting and/or exceeding the relevant targets of the Plan. The housing is ‘in the right location’ in accordance with the recommendations of the GSRP. However the Greater Sydney Commission has advised Council that it is on-track to meeting its housing targets and the recent LHS which identifies housing growth for the next 10 years, does not rely on the development of this site to meet the targets. Notwithstanding this, as the GSRP/NDP targets are only a minimum, it is considered that additional housing should be considered where strategic and site specific merit can be demonstrated.

The implications of the above is that there is no urgency to proceeding in this case, and it is not unreasonable to take additional time to ensure that the site specific issues for this precinct can be resolved.

The indicative scheme provides for some housing diversity and the VPA offer includes provision for 5% affordable housing.

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Productivity – the site is well located, consistent with the desire for a ‘30 minute city’. The applicant has assessed the potential for use of the site for commercial use however it is noted that the NSPP has indicated residential use as appropriate for this location. Notwithstanding, Council has indicated that given that the location of the site is in close proximity to the CBD and the Victoria Cross Metro station, an element of commercial is likely desirable. This will be further investigated and best informed by the future outcomes of the Northern CBD Planning Study.

Sustainability – The Planning Proposal does not provide for any specific sustainability outcomes other than compliance with BASIX (which will be mandated at DA stage).

In relation to the environment, the submitted information does not provide any assessment of the existing vegetation on the site and it appears that the indicative footprints (including the basement) will result in the removal of most vegetation on the site. Whilst there do not appear to be any trees of particular significance, in terms of mitigating impacts on neighbours and streetscapes, appropriate setbacks and provisions relation to preservation of trees need to be specified in the DCP.

North District Plan (NDP) March 2018

The NDP is consistent with the GSPR but provides more detail. However, there are no specific details that are particularly relevant to the Planning Proposal beyond the issues discussed above in relation to the GSRP.

The DP&E’s *Guide to Preparing Planning Proposals* includes Assessment Criteria to be considered in the case where the relevant strategy plan does not have Sustainability Criteria. The North District Plan does not have Sustainability Criteria. This Assessment Criteria is otherwise known as the ‘Strategic/Site Specific Merit Tests’ and are noted and considered below.

a) Does the proposal have strategic merit? Will it:

- *give effect to the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or*
- *give effect to a relevant local strategic planning statement or strategy that has been endorsed by the Department or required as part of a regional or district plan or local strategic planning statement; or*
- *respond to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing strategic plans.*

As noted above, the Planning Proposal will generally give effect to the GSRP and NDP but is not a response to an endorsed local strategy. The proposal is partly in response to a change in circumstance which is the construction of the new Metro and a station within 200m of the site. Given the overall consistency with the regional and district plans and proximity to the Metro, it is considered that the Planning Proposal has Strategic Merit. This conclusion is consistent with the previous NSPP determination.

- b) *Does the proposal have site-specific merit, having regard to the following?*
- *the natural environment (including known significant environmental values, resources or hazards); and*
 - *the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal; and*
 - *the 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.*

These matters are addressed as follows.

Natural Environment

There are two environmental values of relevance – landscaped character/vegetation and heritage. Whilst not predominantly ‘natural’, heritage is an accepted environmental value that needs to be taken into account. These two issues are discussed below.

Landscape Character/Vegetation

It is considered that the Planning Proposal does not adequately respond to the difference in landscape character between the CBD and adjoining areas. As can be seen in **Figure 18**, green space is far more prevalent in the areas outside the CBD than within the CBD. This is to be expected given the zoning within the CBD which is predominantly B3 Commercial Core or B4 Mixed Use. Typically development within this area is either street wall buildings (ie tall building with little or no setbacks) or podium and tower typologies. Either way there is little opportunity for landscaping within these areas.

By contrast, development outside the CBD, at least in areas zoned Residential R3 or R4, tend to be lower scale buildings with landscaped setbacks that allow provision of large scale planting. The DCP controls that apply to such areas aim to maintain this type of landscaped character. These include a site cover limit of 45% and landscaped area requirement of 40%.

It is noted that the applicant does not seek to change the zoning of the land and yet is proposing a type of building form more in common with those from across Walker Street within the B3/B4 zones. Whilst some effort has been made with the provision of a deep soil zone to Walker Street, there is minimal deep soil to Hampden Street, no landscaped area to the southern boundary to Century Plaza or the eastern boundary and no landscaping between building forms within the site. It is noted that in its first Planning Proposal pre-lodgement meeting with the applicant, the length of the proposed podium elements was raised. The Special Provisions Design also has a lack of deep soil area to the western boundary of No 88 Berry Street.

This is not to say that it is necessary to strictly apply the DCP requirements in this circumstance, however, the general outcomes associated with the R4 zone need to be more adequately considered in the design. The landscaped character is the starting point and extends to the configuration of the built form also. This is discussed further in Section 8.4.2.

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Heritage

The following comments have been provide by Council's Heritage Planner.

The PP site is in the vicinity of the following relevant heritage items

ITEM	DESCRIPTION	STATEMENT OF HERITAGE SIGNIFICANCE	NSLEP 2013 SCH 5 REF NO.
185 Walker Street House		<i>A good example of a late Nineteenth Century stone cottage in the Victorian Regency style, a rare survivor in the area.</i>	I0998
Walker Street Road reserve (near Hampden Street)		<i>Stone Wall</i> <i>(The stone wall is a retaining wall that marks the two differing levels of Walker Street near Hampden Street and provides a transition between lower density dwellings and the more recent multi storey mixed use development along the western edge of Walker Street).</i>	I0996
144 -150 Walker Street Houses		<i>An example of a single storey house in the Federation Queen Anne one of a pair with 144 Walker Street. One of a group of late nineteenth century houses displaying the design of quality housing of the late nineteenth century, and representative of the form of housing which was typically built in this part of North Sydney. Interior room configuration still evident and detailing, although quite dilapidated by Aug 2011. They have aesthetic qualities which contribute to the attractive streetscape in this vicinity and relate to their siting and harbour views. See also Group Listing 1409.</i>	I0984 - I0987
2-14 Hampden Street Houses		<i>An example of two storey brick terrace houses in the Federation Filigree style. Part of Hampden Street Terraces Group, see listing 1413</i>	I0840 - I0846

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<p>41 McLaren Simsmetal Street House</p>	<p><i>A good example of a five storey, concrete framed office building in the Twentieth Century International style with strong horizontality in its elevations. An example of the work of the prominent Sydney architect, Harry Seidler. An office building of distinction which by its strong horizontality and the integration of much planting, is pleasant and attractive not only as streetscape but spatially as well.</i></p>	<p>10889</p>
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As a group in their context, 173-179 Walker Street have streetscape and historical qualities. As mentioned in the statement of significance above, this group of buildings represents an earlier period of rapid development that demonstrates the second phase of residential development in the area that occurred in the first half of the twentieth century. The group of buildings at 173-179 Walker Street have aesthetic value as a representative group of flats that indicate the emerging trend of the time, towards multiple building development.

The future guidelines put forward in the North Sydney Draft Local Strategic Planning Statement relating to heritage are set out in Planning Priority L4: Preserving, maintaining and celebrating North Sydney's history and heritage which state the following:

Objective

North Sydney's Indigenous and European heritage is identified, protected, maintained and celebrated

The significance of these buildings presents gaps in the available research and analysis to better understand the influence of twentieth century architecture on the character of North Sydney. In this regard, a review and study to better inform an understanding of the cultural significance of this area in relation to twentieth century architecture, and with regard to the nearby Ward Street Precinct Study Area, should be undertaken. 173-179 Walker Street is located outside of the Ward Street Precinct Masterplan area. Such a study will inform and assist in establishing clear policies and guidelines that define the acceptable limits to change that protects the heritage of North Sydney for future generations.

3. Conclusions & Recommendations

The heritage implications of the subject PP will have a detrimental impact on the setting and context of the group of four Inter-war residential buildings representative of North Sydney's twentieth century architecture that influenced the character of this part of North Sydney and in relation to which 179 had previously been identified as a heritage item. The early development and evolution of this part of Walker Street and Hampden Street is interrelated in terms of the low scale and transitional nature of this precinct when considered against the denser development within the North Sydney CBD area and to the Ward Street Precinct Masterplan. The heritage items and the subject properties are designed in response to the natural topography of the area. The excessive scale and height of any new development would have a detrimental impact on this setting and on the existing heritage items in the vicinity of the site.

The subject PP would be contrary to the provisions set out in North Sydney's Draft Local Strategic Planning Statement in particular, Planning Priority L4: Preserving, maintaining, and celebrating North Sydney's history and heritage.

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It is recommended that a heritage study that builds on the Heritage Council's state-wide history of modern architecture in NSW from 2013 be undertaken. Such a study will improve on our understanding of the cultural significance and relevance of twentieth century architecture of this area and with regard to the nearby Ward Street Precinct Study Area, that protects the heritage of North Sydney for future generations.

In light of the heritage implications of the current PP and its impact on the heritage significance and character of this part of North Sydney, the comments relating to the previous PP still stand. The subject PP is not supported on heritage grounds.

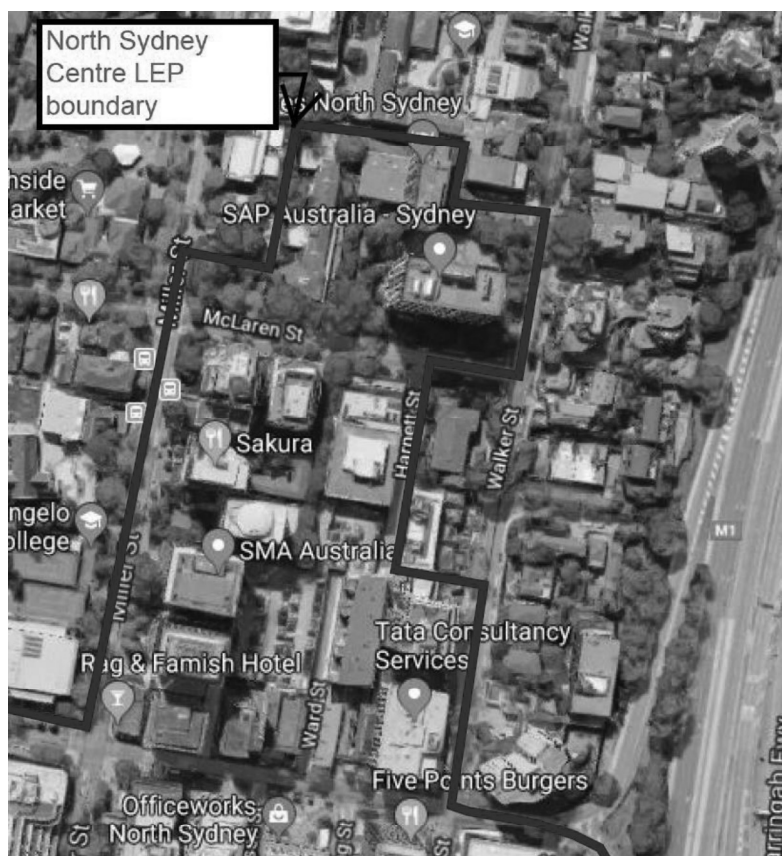


Figure 19 – Aerial view of northern CBD and adjoining areas

Nature of Uses

The existing use of the site and the areas to the north and south is exclusively residential. The areas to the west are used for a combination of residential and commercial uses however No 150 Walker Street and 45 McLaren Street are exclusively residential. It is not likely that these uses will change in the future. The proposal is consistent with the type of uses on the site and surrounding area and any significant commercial use would be considered to be inappropriate without a broader strategic decision to extend the CBD. Council is currently in the process of preparing a Northern CBD Planning Study and it is envisaged that this study will help further inform the most suitable uses of the site and its respective precinct.

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Adequacy of arrangements for services and infrastructure

The Planning Proposal will make use of existing infrastructure in that it is located within walking distance of North Sydney CBD and public transport services (including the new Metro) and has access to regional road networks and other established infrastructure including schools and hospitals. Any specific additional demand identified by Council through the Northern CBD Planning Study or otherwise can be addressed through the VPA offer and standard contributions.

Site Specific Merit Conclusion

Having regard to the above, the Planning Proposal is considered to have some site specific merit, however the proposed building configuration, height and bulk is considered to be excessive and will have adverse visual and streetscape impacts and may result in unreasonable view loss and overshadowing.

8.3.2 Is the planning proposal consistent with applicable state environmental planning policies?

The submitted documentation has adequately demonstrated consistency with the relevant SEPP's, with the exception of SEPP 55 and SEPP 65.

In relation to SEPP 55 Remediation of Land, the submitted Environmental Assessment notes the following: *The contaminants that may be present in some of these areas were considered to be of low significance in terms of risk to the human and environmental receptors identified. Therefore, a Detailed Site Investigation (DSI) is required to confirm the presence and extent of contamination in order to determine the suitability of the site for the proposed development application and to address the data gaps identified.*

However, Clause 6 of SEPP 55 requires the consent authority to be satisfied that "*the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used*". Therefore if the Planning Proposal was to proceed it would need to be subject to undertaking a Detailed Site Investigation.

In relation to SEPP 65 and the associated Apartment Design Guide (ADG), the applicant's documentation only addresses the requirements of these documents at a high level, and compliance with solar access and cross ventilation is not specified in detail. The setbacks provided comply with the ADG requirements for buildings of this scale. The separation between the proposed towers is technically less than required by the ADG, however the concept plans indicate blank walls so direct viewing is not possible. Notwithstanding, full compliance may be necessary to allow for improved view sharing between buildings. Confirmation of compliance with other key amenity indicators could be provided during the Planning Proposal process.

8.3.3 Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 Directions)?

The submitted documentation has adequately considered the relevant Section 9.1 Directions.

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Regarding heritage see the comments above.

8.4 Environmental, Social and Economic Impact

8.4.1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?

No, there is no important ecology on the site.

8.4.2 Are there any other likely environmental effects because of the planning proposal and how are they proposed to be managed?

In addition to those matters raised above, the following issues require discussion.

Shadow Impacts

The proposal fails to adequately demonstrate that the shadow impacts of the proposal are acceptable. In relation to overshadowing to the east of the freeway it is noted that NSLEP 2013 includes the following requirement for development in the city centre:

(3) 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.

Whilst the site is not located within the city centre, this clause was not previously applied to the site because height limits applicable would not generate shadows of this length. Given the heights sought, it is therefore reasonable to extend this provision from a policy perspective.

In relation to the overshadowing of adjoining properties, the proposed schemes have the potential to impact adversely on 169 Walker Street (Century Plaza) and 88 Berry Street. The information provided is limited to a 'solar insolation' diagram accompanied by the comment that: *"Shadow analysis undertaken for 171 Walker and 88 Berry identify development under the proposed planning controls is capable of achieving ADG compliance. Note: This analysis is not typically required at the pre-Gateway Determination stage. ADG requirements will continue to apply and will have to be addressed at a DA stage."*

It is noted that a lack of adequate assessment was a reason for rejection of the previous PP for the Walker Street properties.

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As the requested height and FSR are potential contributors to removing solar access to existing residences, it is important that it is demonstrated that, at a minimum, compliance with the ADG can be achieved. In this regard it needs to be demonstrated that at least 70% of dwellings in each of the affected buildings will maintain a minimum of 2 hours solar access between 9am and 3pm at midwinter (Part 4A of the ADG) and where existing solar access is less than 2 hours, that solar access is not reduced by more than 20% (Part 3B of the ADG). As noted, this should be taken as the minimum required outcome as the ADG applies to land subject of established planning controls not proposed controls. In this case there is a reasonable expectation by neighbours that any impacts would be limited to the existing development controls.

It is also noted the applicant's assessment includes shadows from the Planning Proposal for 41 McLaren Street which was rejected by the IPC, as 'existing'. This provides an inaccurate depiction of the true impacts on overshadowing that the proposal may have on surrounding developments. It is also noted that there is a difference in the overshadowing indicated in the original documentation and the further information dated 19 July 2019. Whilst both sets of plans indicate no additional overshadowing of Doris Fitton Park, the discrepancy brings into question the accuracy of the information and given that the shadows come very close to the park, any diagrams should be certified for accuracy.

Privacy Impacts

The proposal complies with the ADG setback requirements. Whilst the separation between the proposed towers is technically less than required by the ADG, the concept plans indicate blank walls so direct viewing is not possible.

View Impacts

The level of assessment undertaken is not sufficient to determine whether the proposed scheme will have an unreasonable level of impact on existing views. It appears that no iconic Harbour Bridge or Opera House views would be affected as any views in the direction of these structures would already be blocked by existing CBD development. However it seems that upward of 100 dwellings could have their easterly views affected by the proposed schemes, including harbour views. Despite this, the submitted Visual Impact Assessment provides an assessment of only 5 views and one of these is 2 Hampden Street which can only view into the site (see **Figure 20**).



Source – Visual Impact Assessment by RLA

Figure 20 – View impact from Reference Design on 2 Hampden Street

Of the other views, 3 are from the same building – 150 Walker Street (Apartments 302 and 1516 and the roof top terrace), with the other being from 168 McLaren Street. No details have been provided as to precisely where the photographs have been taken. The applicant was advised in the Council's rejection of the previous Planning Proposal that the extent of the view loss assessment was inadequate.

Notwithstanding, the following comments are provided in relation to the views that have been assessed.



Source – Visual Impact Assessment by RLA

Figure 21 – View impact from Reference Design on 302/150 Walker Street

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From the above figure it appears that the Reference Design would take away much of the existing district views from this property, however as the image does not contain the full extent of the view, this cannot be confirmed. In any event it is clear that even a moderately tall building (6 storeys) would impact on this view. Given the quality of the view and the attributes of this site that make it suitable for increased height and density, it would be unreasonable to limit development potential in relation to this impact. It is noted that the alternative schemes have similar impacts. Having said that, the impacts could be reduced and an improved outlook provided if the building typology more closely resembled typical R4 zone style development ie smaller floorplates with separation between buildings, rather than street wall style development.

The following image is from the rooftop of 150 Walker Street. It shows that there is no impact on this view. This is also the case for the alternative schemes.



Figure 22 – View impact from Reference Design on roof terrace of 150 Walker Street

The following image is from 1516/150 Walker Street. It shows the impact from the Reference Design. The quality of the photograph is poor and does not show the full extent of the view affected. Notwithstanding, it appears that the most important component of the view is retained. The impact from the Special Provisions Design is reduced, but not in any meaningful way.



Figure 23 – View impact from Reference Design on 1516/150 Walker Street

The following image is from 168 Walker Street which is located to the north-west of the site and shows the Reference Design.



Figure 24 – View impact from Reference Design on 168 Walker Street

The following image shows the Special Provisions Design. The full extent of the existing view is not shown and as such a proper Tenacity assessment is difficult. Certainly there are large parts of the existing harbour views retained in both scenarios. There may be slightly less loss of water view with the single larger tower, however its bulk is imposing and the overall outcome from the two options is considered to be reasonably balanced.



Figure 25 – View impact from Special Provisions Design on 168 Walker Street

Notwithstanding the lack of information, in order to provide a balance between the amenity of existing dwellings and the broader benefits of allowing redevelopment, it would be appropriate to consider some guiding principles that may assist in determining an acceptable outcome from future built form. As noted in *Tenacity* water views are more highly prized than other views and so in this case it is appropriate to consider these types of views differently.

District views – these are likely to be available from dwellings in the lower to mid-levels of the surrounding buildings. These views are going to be difficult to be maintain with any significant redevelopment of the site (as in the example above for 302/150 Walker Street where only a small part of the view is retained). In such cases it is not the height of the buildings that will create the impact (assuming that more than low rise redevelopment is considered appropriate), it is the separation between buildings. As discussed in relation to landscaped character above, the building typology for the site should be more in line with typical R4 zone development, where footprints are smaller and there is good separation between buildings. This could assist in maintaining some views through the site or at the very least reduce the visual bulk of the built to offset the loss of views.

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Water views – in case where water views are available, the majority of existing views should be retained. In the examples provided above, it is demonstrated that higher buildings can be accommodated without significant adverse impact on water views. Of course this outcome may be more difficult to achieve on the lower levels of some buildings that have not been assessed.

Height

The submitted documentation indicates that at RL133, the tallest building is 24 storeys. Assuming a 3.1m floor to floor height, this equates to 74.4m. Within the area of the site that is intended to accommodate the 24 storey element, the highest existing ground level is about RL55m. Allowing for 3m of plant/roof structure, this equates to RL132.4m. Therefore the height of RL133m sought is accurate for the highest building. However, as the site falls by about 10m overall, if the height control is provided in the form of an RL, then potentially buildings could be accommodated with more storeys than indicated. Whilst the different site levels are reflected in some of the drawings, in order to ensure the intended outcome of the Planning Proposal is achieved, the DCP should include provisions that include the concept drawings to ensure that the building heights shown in the concept are carried through to DA stage.

As the information relating to overshadowing and view loss is inadequate, it is not possible to come to a fully considered conclusion regarding building height. Also the site is within an area which is outside the current CBD boundaries and one that contains predominantly lower to midrise residential development (Century Plaza being the exception). This area is part of the Hampden Neighbourhood identified in the DCP. The requirements relevant to height are:

Topography

P3 Moderate falls to the south from Ridge Street and steep falls to the east from Walker Street to the Warringah Expressway.

Views

P4 The following views and vistas are to be preserved and where possible enhanced:

- (a) Maintain views of Kirribilli and the Harbour from Walker Street.*
- (b) Strong vista along Walker Street to southern part of CBD.*

2.4.2 Desired Future Character

Diversity

P1 A mixture of modern multi-level residential flat buildings with older low rise residential flat buildings.

P2 Retention of the 2-3 storey original attached dwelling houses on Hampden Street.

2.4.3 Desired Built Form

Form, scale and massing

P1 Early and original residential buildings complement the topography to maintain views and easy access.

P2 Ground floors may not relate to street level due to topography of the area, with high sandstone retaining walls at ground level.

P3 Generally a maximum of 2 storeys on Hampden Street.

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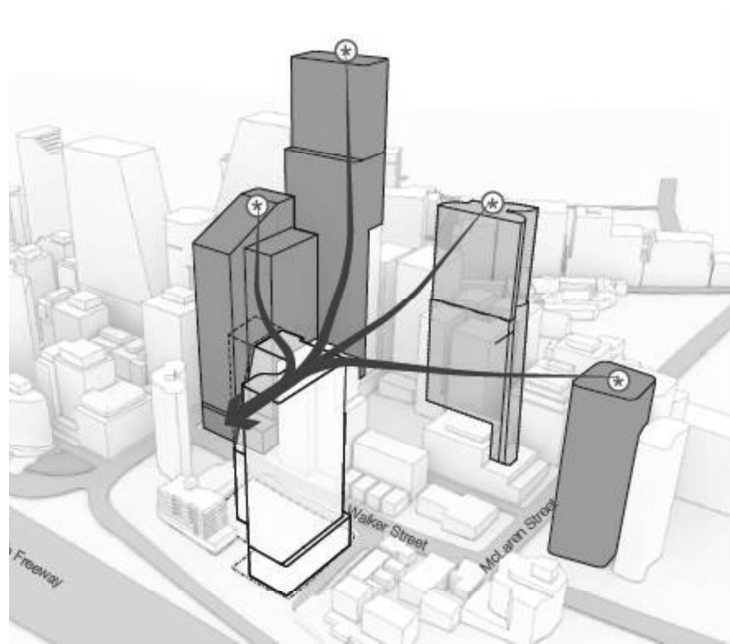
Council has not undertaken any Study to suggest that the character of this area should change or that it become part of the CBD. However, the Northern CBD Planning Study is currently underway. This study will likely help inform of any potential changes to the future character of the Hampden Street neighbourhood in the North Sydney Development Control Plan.

Nevertheless, it is acknowledged that the existing controls were created before the plans for a new Metro Station were announced. Therefore whilst the changed locational attributes of the site are an important consideration, this needs to be balanced having regard to the existing character and controls.

Notwithstanding the above, the applicant's methodology for establishing an appropriate height is considered to be flawed, partly because the justification relies upon the height outlined in the Planning Proposal for 41 McLaren Street. In this regard in rejecting the previous Planning Proposal for the subject site, the SNPP provided the following guidance: *Height transition down to the east from 41 McLaren Street, as proposed, and 168 Walker Street.* However the SNPP supported 41 McLaren Street. As this Planning Proposal has now been rejected by the IPC and regard given to the intended outcomes of the WSMP to provide solar access to proposed public spaces, no assumptions can be made regarding buildings above the current height controls for the sites at 41 and 45 McLaren Street.

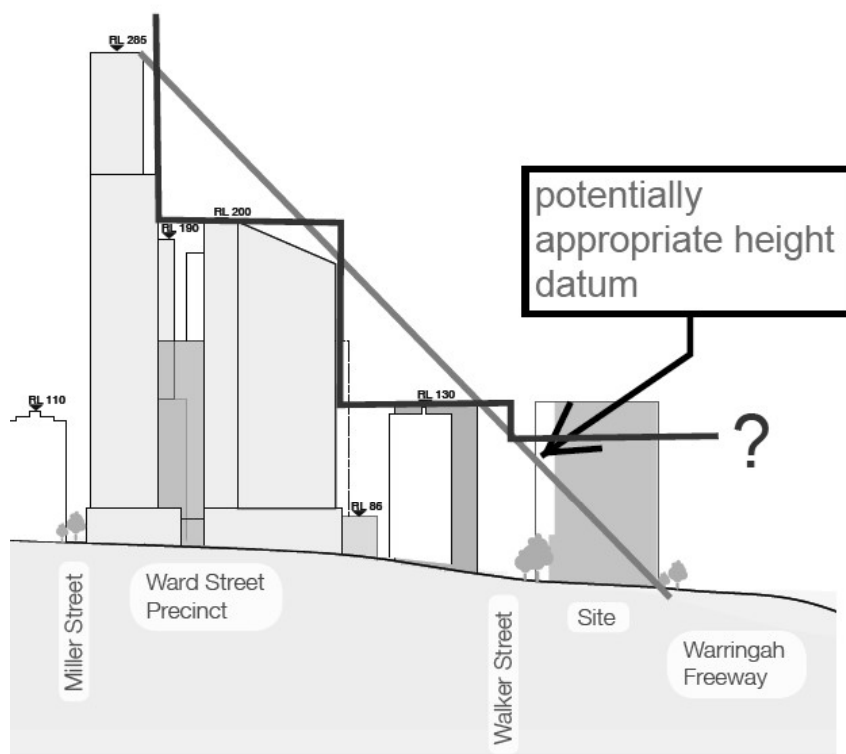
As indicated in the following figure from the applicant's Urban Design Study (**Figure 26**), the buildings used to establish appropriate building height are all separated from the site and the intervening building heights have been ignored in the consideration. To provide an appropriate transition from the CBD to the freeway, it is appropriate that the building heights on the site are lower than the building heights that already existing/are permitted on the current edge of the CBD. The 'edge' of the CBD relevant to the subject site, are the developments at 61 Berry Street (at the corner of Walker Street) to 138 Walker Street. It being noted that further to the north the Heritage Apartments and 45 McLaren Street are not part of the CBD.

The highest of the 'edge' buildings is 138 Walker Street which has an RL of 130m. The Reference Design is higher than this at RL133m. The lack of transition can be seen in **Figure 27** (taken from the Urban Design Report). To establish a reasonable transition from the taller proposed buildings to the west, through to the existing buildings on the western side of Walker Street, to the site, a green line has been overlaid to (somewhat crudely) reflect this height transition. This does not indicate an envelope but rather an appropriate datum for height over the whole site based on the Walker Street frontage. The alternative would be to consider the manner in which building heights step down from west to east (indicated by the blue line). Whilst any building should be lower than RL130m, the most appropriate height should be determined with regard to the other issues that have been raised and, if building typologies which are inconsistent with the R4 zoning are contemplated, the future outcomes of the Northern CBD Planning Study.



Source – Urban Design Report by SJB

Figure 26 – Key Principle-Height transition



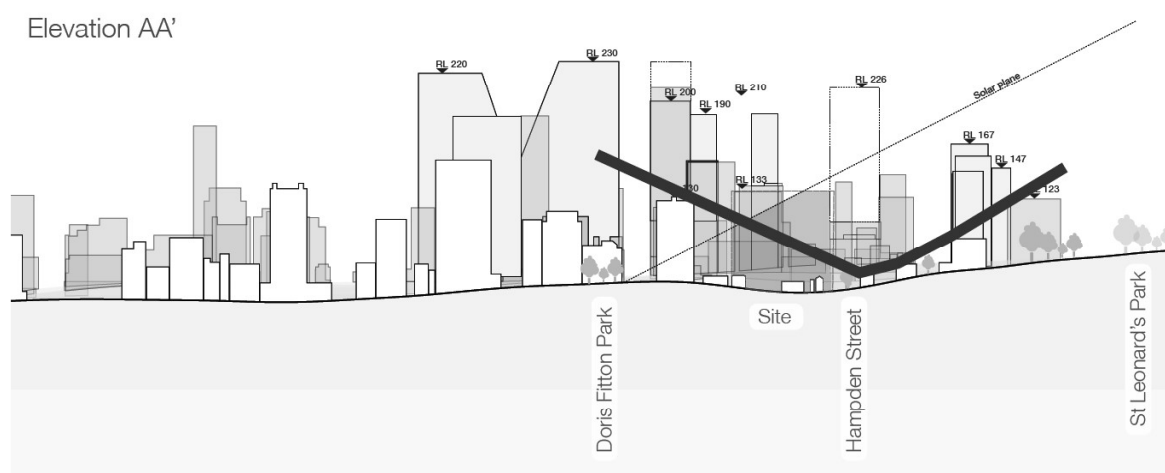
Source – Urban Design Report by SJB

Figure 27 – Skyline Study-South Elevation

Also having regard to the north/south transition (although these areas are also outside the CBD), the following figure from the Urban Design Report (**Figure 28**) shows the height relationship with existing buildings. The blue line indicates a transitional height line.

Importantly this reflects the predominantly low scale nature of this precinct which includes the heritage items in Hampden Street. It also reflects the topography and it is important that building heights respond to this characteristic, particularly given the location of the site at the bottom of a gully.

The highest building in this north/south elevation, Century Plaza, is an anomaly in this area but is partly justified by the higher buildings in the CBD to the south and west. Notwithstanding this, given the locational attributes of the site, it would be considered unreasonable to limit the height to the blue line. Rather it should be regarded as providing a transition principle for the site, with a low scale interface being provided to the heritage buildings and other lower scale development to the north.



Source – Urban Design Report by SJB

Figure 28 – Skyline Study-East Elevation

The submitted scheme partly responds to the above, providing a 3 storey podium element to Hampden Street and an 8 storey element along the bulk of the frontage, with the higher buildings further to the south. Conflicting with this is the 18 storey element at the eastern end of Hampden Street. The benefits of placing a tower here are understood, however the issue of an appropriate transition needs to be further considered in the broader reconsideration of building height and form suggested by this assessment. In regard to the Special Provisions Design, that same comments apply except that the tower is relocated to the corner of Hampden Street and is 11 storeys higher. The benefits of the highest element in this location compared to the Reference Design have not been adequately established. In fact, there is a lack of justification generally in regard to the benefits of the Special Provisions scheme compared to the Reference Scheme.

By way of comparison, the building heights intended to be permitted near the Crows Nest Metro Station are shown on **Figure 29**. Whilst it is acknowledged that North Sydney is a much larger centre than Crows Nest, there are many areas in similar proximity to the new Crows Nest station, as the subject site is to Victoria Cross, that will not be the subject of increased density and will remain as low density. The point of this discussion is to highlight that the presence of a new Metro Station is not the only consideration as to whether increased height and density is necessary or appropriate. Further, the Northern CBD Planning Study being prepared by Council will help inform suitable height and density within this precinct.

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Source – St Leonards Crows Nest 2036 draft Plan 2018

Figure 29 – Proposed Height of Buildings (in storeys) around Crows Nest Metro Station

Further to the above, the following comments have been provided by Council's Development Assessment team.

Separate Land Holding.

This concept design is based on the event that the Hampden Street Properties do not amalgamate.

Under this scenario, the Walker Street Properties (Site A) remain the same as in the Reference Design, being a single tower form of up to 24 storeys (RL132.4), stepping down to 16, 12 and 2 storeys at the interface of the southern boundary. Adjoining the boundary of Site B, an 8-storey built form is proposed which supports built-to boundary of any future redevelopment of 11 Hampden Street.

Having regard to the heritage values to the west, this portion of the built form will maintain a three-storey street wall height with a podium setback of 3m.

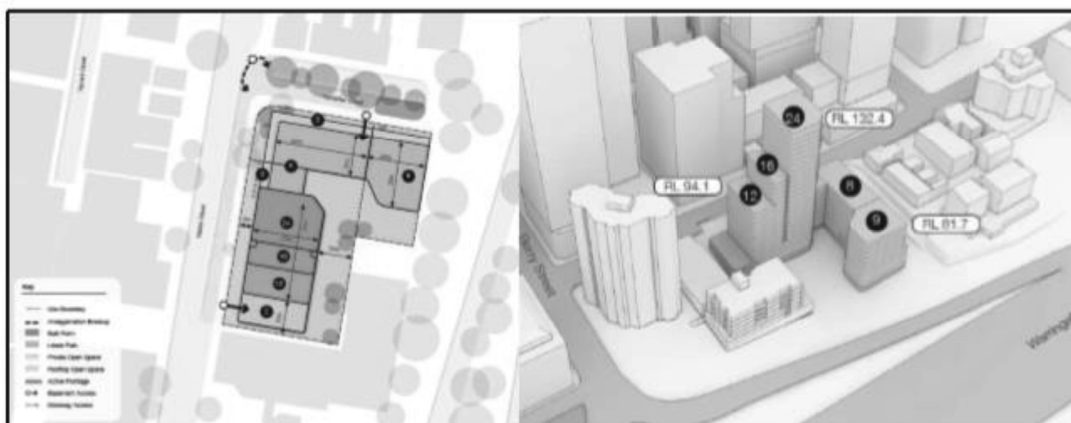
The three-storey street wall height will wrap around the corner of Walker Street and Hampden Street, extending to the eastern end of Hampden Street. Residential development addressed to Hampden Street will maintain the podium setback of 3m, with a maximum building height of 8 – 9 storeys (RL81.7).

The built form provides front setbacks of 5m to Walker Street and 2m to Hampden Street and a rear setback of 12m to 88 Berry Street.

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Figure 25: Potential building envelope where development is carried out independently



Reference Design

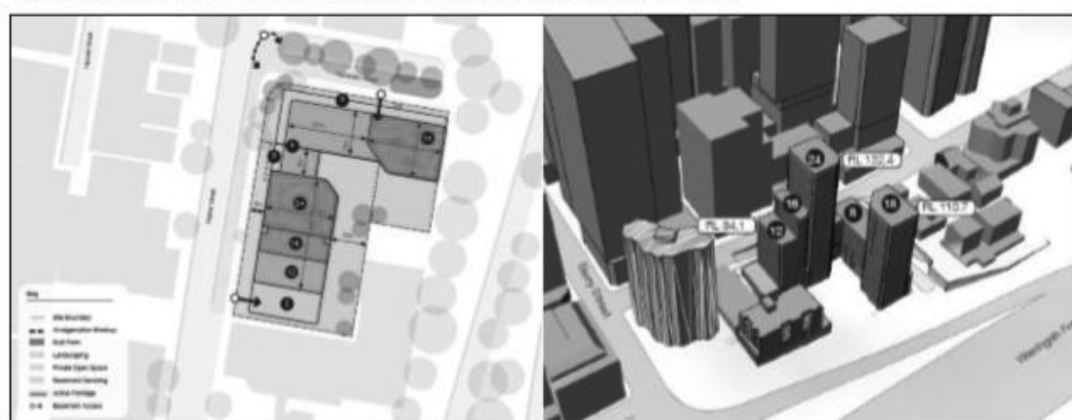
This concept assumes the redevelopment of Precinct into two landholdings, being Walker Street Properties and Hampden Street Properties. The Reference Design would be developed in accordance with the proposed new base building height and FSR controls, not the incentive full amalgamation controls.

Under this scenario, the applicant claims that the site is capable of achieving two towers; an 18-storey tower within the north eastern corner fronting Hampden Street and a 24-storey tower fronting Walker Street. The two towers are connected by an 8-storey built form that wraps around the corner of Walker Street and Hampden Street.

Fronting Walker Street, the 24 storey tower steps down to 16 storeys, 12 storeys and 2 storeys.

Under this scenario, a storey street wall height of 3 storeys and a 3m podium setback is established along the Hampden Street frontage, wrapping around to the interface of the Walker Street tower.

Figure 23: Potential building envelope for two towers under the Reference Design



Special Provisions Reference Design

In the event that full site amalgamation occurs within the Precinct, the proponent seeks to access the incentive provisions proposed under Clause 6.20 East Walker Street Precinct of the NSLEP 2013.

This concept design adopts a single tower form on the corner of Hampden Street and Walker Street, with a maximum height of 29 storeys (RL147.9), the built form steps down from north to south at 27 storeys, 25 storeys, 20 storeys and 8 storeys. The building envelope is contained within the solar access plane, ensuring that the development will not result in any additional overshadow of Doris Fitton Park between 12pm – 2pm on June 21st. The eastern portion of the Precinct as it fronts Hampden Street, will maintain a maximum height of 9 storeys.

Figure 24: Potential building envelope where utilising the incentive provisions



An inspection was carried out of the sites and surrounds. It is noted that existing buildings are below street level. The Hampden Street properties on the southern side are much lower than the northern side terraces and the end of the street in front of the site is lower still. The Hampden Street properties are directly opposite Heritage Items to the north and west.

Having regard to the surrounding development and residential towers recently approved in the area, it is considered that the PP as submitted cannot be supported. Of the 3 designs proposed above, the closest scale of development considered reasonable would be the first design (separate land holding). This is based on the site being amalgamated and the following criteria for development:

- *The 5m setback from Walker Street and 2m setback from Hampden Street shall be at grade with the footpath and not below street level.*
- *All apartments are above the street level and not subterranean.*
- *A podium of 3 storeys only with the storeys above providing for adequate separation.*
- *The site opposite the heritage items in Hampden and Walker Streets being no higher than 8 storeys (similar scale to 88 Berry Street and tower behind 150-154 Walker Street) with a 3m setback from the 3-storey podium to the remaining 5 storeys.*

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- *The maximum height on the remainder Walker Street frontage shall be RL 130 which is consistent with most of the recent residential towers in North Sydney (albeit they are mixed use zonings). Instead of 3 towers stepping down, perhaps 2 towers with separation between might be preferred to improve view sharing and shadow impacts*
- *Buildings to have adequate SEPP 65 separation above the podium level.*
- *The proposal fully satisfies the provisions of the Apartment Design Guide with regard to cross ventilation. This could require the street walls to be broken up or have more articulation above the podium level.*
- *With the introduction of the Metro nearby and having regard to the location of the site on the edge of the CBD commercial core, more significant employment opportunities/commercial floor space need to be provided as is the case with the Ward Street Precinct. The PP would then be a mixed-use zone allowing shoptop housing rather than the R4 zone.*
- *If a residential zone is to be maintained. Site cover and landscape controls should be included to ensure the building envelope is consistent with any acceptable concept plan.*
- *Vehicle access to the site is poor and the additional traffic from the site needs to be carefully managed. A lower scale development in Hampden Street would lessen the impacts.*

The proposal for a 18-storey tower in Hampden Street or a 29-storey tower on the corner of Hampden Street cannot be supported and are totally inconsistent with the surrounding development. The PP is seeking a substantial increase in density which should only be considered if all the sites are developed rather than on an ad hoc basis with different owners. The density should be reduced if a full amalgamation cannot be achieved. This is the incentive for development, not increasing development further for full amalgamation.

If Council was to consider an alternative of having 2 amalgamated sites (The Walker Street site and the Hampden Street site), then the FSR on each site would be reduced with side setbacks between the sites having to comply with SEPP 65 at least above the podium height.

The issue with any Planning Proposal is that the DA submitted may not be the same as the concept scheme supporting the PP. Any proposal should be subject to criteria established by Council. The PP could be referred to the Design Excellence Panel for comment and advice on acceptable objectives or criteria for development.

Consultant Planner Comments

The above comments are generally concurred with, however any redesign needs to have closer regard to the current R4 zoning and the related development controls, the heights of buildings in the immediate context and the amenity impacts discussed elsewhere in this assessment. If mixed use zoning and the 'street wall' building typology that is consistent with this zoning was considered desirable, this change would have to be informed by a broader study such as the Northern CBD Study currently being undertaken.

Visual impacts/Character

These issues have already been partly addressed in relation to the discussion of landscaped character and height above. Essentially the Planning Proposal represents CBD style development within an R4 High Density Residential zone that is outside the CBD. As a result the buildings are excessively bulky and do not allow adequate views and separation

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between built form elements. Closer regard to the R4 controls and the DCP controls for the Hampden neighbourhood would assist. Whilst there is no specific control on the length of buildings, consideration of these provisions, the objectives of the R4 zone and the character of the area generally would encourage smaller footprint buildings with planting in between.

Transport, Traffic and parking

Council's Senior Strategic Transport Planner has provided the following comments:

The Planning Proposal includes a Traffic Impact Assessment (TIA) prepared by ARUP. Some general comments on the assessment:

- The traffic data was collected in 2014, 5 years before the submission of the current planning proposal. Analysing the traffic situation using more recent data would be appropriate.*
- The assessment states that there will be about 1 car every two minutes and would not cause queues on Walker Street. This assumption is based on 25 cars entering the development per hour during the evening peak time. Typically, cars entering/departing a building (or intersection) exhibit a Poisson distribution. Assuming the same average entry rate: 25 cars per hour, the probability of 0-7 cars entering the building is shown in Figure 1. There is a 4.2% probability of 3 cars entering the building. This is not insignificant. Good practice in infrastructure planning dictates planners ensure extreme events are accounted for.*

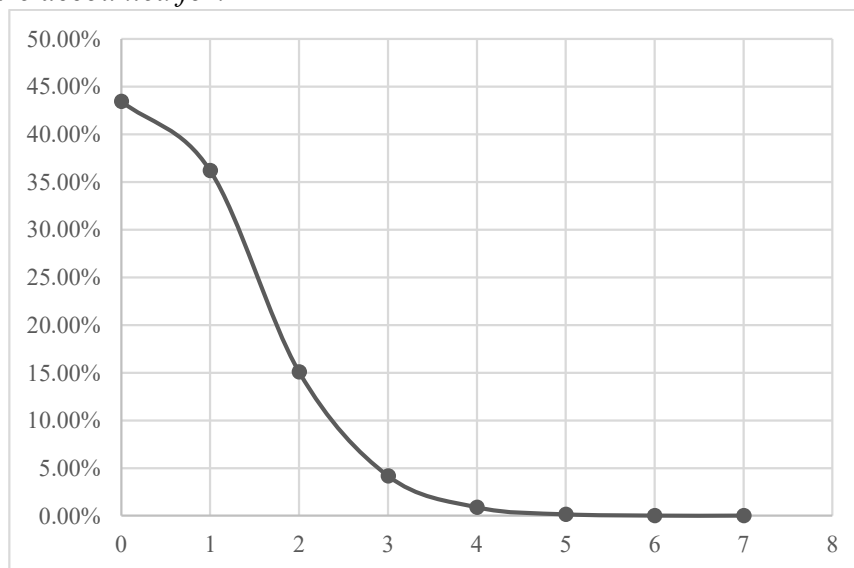


Figure 1

- To avoid queuing and ensure access to properties on Walker Street, cars looking to turn right will have to wait before the entry into the off-street parking garage opposite the development [refer Figure 2, which co-incidentally shows where a car should wait]. In between the two markings, there is space for one car. If one were to assume that three cars enter the development in any two-minute window, the queue could build up and reach Berry Street.*

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Figure 2

- *The movement summary data in the assessment suggests that a total of 452 vehicles approach Walker Street from the South and 407 from the north in the evening peak. Assuming a Poisson distribution (Figure 3), up to 20 vehicles could approach the development from the North, and up to 22 vehicles could approach the development from the South in any two-minute window. Intuitively, these numbers suggest that the effect of queues can be extremely detrimental to the operations of the road.*
- *It is also important to highlight that the proposed Walker Street driveway (southern) is near three other existing driveways that provide access to 14-21 storey commercial and residential buildings. These generate high levels of traffic. The applicant should consider alternatives to this proposed southern driveway. The TIA suggests that the southern access point is optimal for two reasons:*
 - *“the low level of traffic generation by the development will not cause queuing back to Berry Street with a maximum PM peak hour queue estimated to be 1 vehicle”*
 - *“The existing traffic arrangement allows for north bound vehicles to pass any vehicles that are waiting to turn into the Precinct”*

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As noted earlier, the applicant should analyse for the possibility of 3 cars queuing. The cars cannot queue on the entries to the surrounding buildings, which affects overtaking for through traffic.

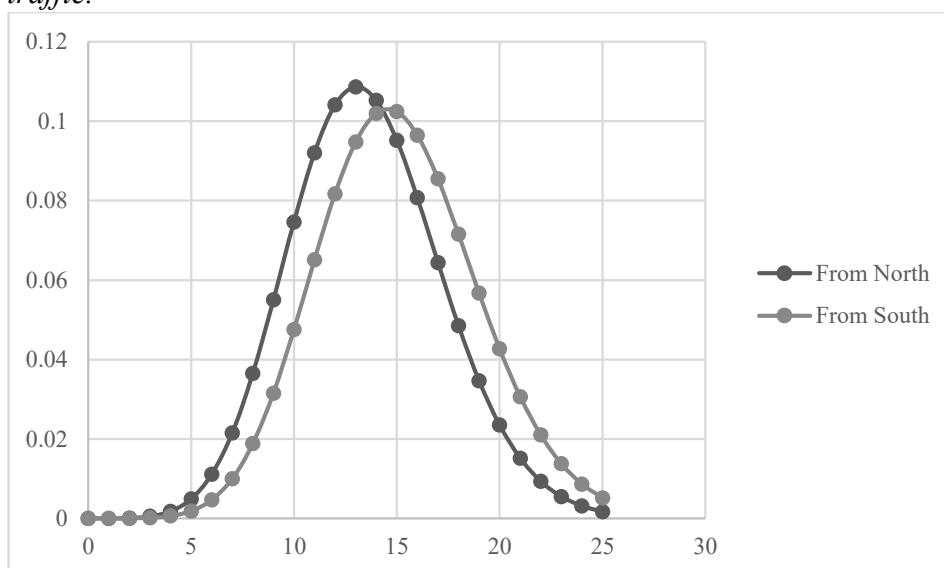


Figure 3

- The figure on page 24 of the TIA suggests that it is possible for vehicles to overtake vehicles waiting to turn right into the development. This assumes only one vehicle will be waiting. It would more appropriate to plan for three vehicles queuing up to turn right. Nevertheless, vehicles would queue as shown in Figure 4. The on-street parking next to this area would complicate overtaking for through traffic.*

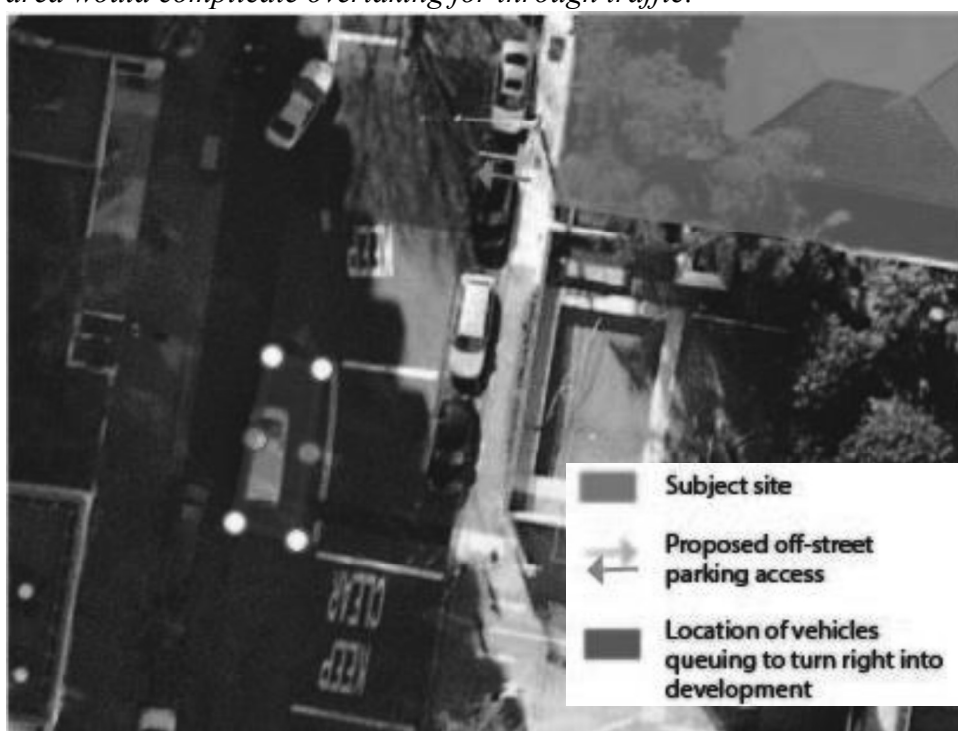


Figure 4

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Car Parking

The TIA proposes 203 car parking spaces for the concept proposal (reference design case) based on the controls for Residential Flat Buildings (RFB) located in the residential zones under NSDCP 2013. The TIA acknowledges previous communications with Council regarding the use of more restrictive parking controls for RFBs in the B4: Mixed Use (St Leonards Precincts 2&3) due to its proximity to the new metro station. However, resorts back to providing less restrictive parking spaces. Table 1 provides a comparison of the number of car parking spaces required under the proposed parking rates for the East Walker St Precinct as produced by the applicant (these rates are unendorsed by Council) and the B4 Mixed Use (St Leonards Precincts 2 & 3) rates, 102 car parking spaces would be suitable for the reference design, not 203 as proposed. The proposal should reconsider the level of car parking provision in light of its proximity to mass public transport.

	Units		Proposal (proposed parking rates for East Walker St Precinct produced by applicant)		B4: Mixed use (St Leonards precincts 2&3)	
	Ref design	Specific provisions	Ref design	Specific provisions	Ref design	Specific provisions
1 br	68	111	34	56	17	28
2 br	83	102	83	102	42	51
3 br	86	71	86	71	43	36
Total	237	284	203	229	102	115

Table 1

Bike Parking

The TIA proposes to provide 237 bike parking spaces on Basement Level 1 which is acceptable. The 24 visitor bicycle parking spaces must be provided at street level, close to a major public entrance.

Car Share

The TIA states that provisions for car share will be explored during the development application stage. The Council's DCP allows the applicant to provide up to 6 car share spaces which could eliminate 24 car parking spaces (based on the Ref Design, B4: Mixed use (St Leonards precincts 2&3) in Table 1). This further reduces the number of car parking spaces by 18.

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Consultant Planner Comments

In light of the above comments, it has not been adequately demonstrated that the redevelopment of the site to the level proposed, can occur without unreasonable impacts on traffic movements around the site. Further given the age of the traffic data, it is unlikely that the implications of traffic related to the proposed Metro Station have been taken into account.

Site Amalgamation

The Planning Proposal assesses a number of scenarios with regard to this issue, 2 of which are proposed to be included as amendments to the LEP (ie the Reference Design and the Special Provisions Design). Whilst the benefits of an amalgamated site to the landowners is clear- greater height and FSR, the benefits of the larger scale alternative are not made clear in the submitted documentation.

It is noted that the existing LEP provisions in Clause 6.12 would ensure that both single dwelling house sites at 15 and 17 Hampden Street would have to be part of any redevelopment. A minimum lot size provision could also be introduced to ensure that each development parcel was of a size that would allow a good planning outcome.

Acoustic Environment/Impacts

The subject land adjoins a high volume road (Warringah Expressway) and as such any future development may need to provide appropriate noise mitigation to ensure an acceptable level of acoustic amenity.

Wind Impact

The submitted wind assessment includes the following comment: *several outdoor trafficable areas within and around the subject development precinct that are potentially exposed to a variety of adverse wind effects due to the interaction of the prevailing winds with the built form*". Mitigation measures include: *"Impermeable awnings along the Walker Street and Hampden Street frontages of the precinct."* However such structures would not be acceptable inclusions within the street setbacks. It is not clear to what extent the proposed unbroken long street elevations of the proposed forms contribute to the adverse wind environments.

Open Space Provision

The 'public' open space indicated in the form a linear park along Walker Street is not considered to be appropriate as this area should form part of a landscaped setback that would ensure greater consistency with the existing character of the area. Further, there are interface issues with apartments facing directly into the public space. Whilst the benefits of surveillance are acknowledged, apartment privacy could be compromised.

Consistency with North Sydney LEP and DCP Controls

The Planning Proposal is considered to be consistent with some of the aims of the LEP and inconsistent with others. In particular the proposal will not *"ensure that new development is compatible with the desired future character of an area in terms of bulk, scale and appearance"*.

As noted above the Planning Proposal is not consistent with the objectives of the R4 zone including:

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- *To encourage the development of sites for high density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*
- *To ensure that a reasonably high level of residential amenity is achieved and maintained.*

Clause 4.3 Height of buildings. It is considered that the proposed building heights will be contrary to the following objectives for the height standard contained in the LEP:

- (c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,*
- (e) to ensure compatibility between development, particularly at zone boundaries,*
- (f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.*

Clause 4.4 Floor space ratio – It is considered that the proposed building heights will be contrary to the following objectives for the FSR standard contained in the LEP:

- (a) to ensure the intensity of development is compatible with the desired future character and zone objectives for the land,*
- (b) to limit the bulk and scale of development.*

Clause 5.10 relates to heritage conservation. As indicated above, a Council's Heritage Planner is of the view that the Planning Proposal will have unacceptable heritage impacts.

In relation to the DCP, Section 1 Residential Development provides general and specific controls for this type of development. As noted previously the building typology proposed is not consistent with these controls. Section 9 of the DCP relates to Area Character Statements and provides more specific controls. The subject site is within the Hampden Neighbourhood and as noted above there are a number of height related controls that the Planning Proposal is inconsistent with. The following further controls should also be considered in a re-assessment of an appropriate built form for the site.

Streetscape

P8 Tree lined streets with grassed verges and concrete footpaths.

P9 Split level streets to Hampden Street.

P10 Landscaped medians on Hampden Street.

P11 Double rail timber fences on Hampden Street.

P12 Low front fences of brick or masonry on Walker Street.

P13 Residential flat buildings are setback from the boundary and aligned with the street frontage.

Setbacks

P4 Maintain existing setbacks from property boundary along the eastern side of Walker Street and the northern side of Berry Street.

(Desired Future Character)

Streetscape

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P11 Heritage features such as Walker Street and Hampden Street sandstone walls.

P12 Substantial gardens within front setback area.

P13 Steps and pathways along Walker and Hampden Streets are maintained.

P14 Landscaping in front gardens/private open space.

P15 Tree lined streets and mature vegetation on median enhances area.

The parking requirements of Section 10 of the DCP have been considered and are addressed in Council's Traffic expert's comments above.

8.4.3 Has the planning proposal adequately addressed any social and economic effects?

Social Considerations

The Planning Proposal includes an offer to enter into a VPA that include provision of affordable housing and other contributions that can potentially be used to address social needs within the local community. Standard 7.11 contributions could also be utilised for this purpose. However, the applicant has not provided details to indicate the uplift in value that will result from an increase in maximum building height. Therefore, Council cannot make an informed decision as to whether the value of the offer is reasonable.

Economic Impacts

The construction of a new development will be of benefit to the local and regional economy. New residents will also contribute to the local economy. These and other benefits are discussed in detail in the submitted Economic Impact Assessment.

Services

The applicant has submitted a report regarding the existing services available to the site. The sewer and stormwater systems will require changes as the result of the proposal.

8.5 State and Commonwealth Interests

8.5.1 Is there adequate public infrastructure for the planning proposal?

There is likely to be adequate services' infrastructure in the area to accommodate the proposed increases in demand, alternatively the applicant will be required to pay for any upgrades required.

In terms of social infrastructure, the relevant state agencies would be consulted if the Planning Proposal proceeded and any issues could be addressed at that stage. In terms of local services, whilst Section 7.11 contributions would be payable, these will be beyond the scope of what has been planned for and there may be other local services or facilities that may be required as a result of the proposal. As noted above Council encourages the proponent offer a public benefit proportionate to the increase in value of the land, in order to assist in meeting increased demand for services and facilities.

8.5.2 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

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Under the Gateway process the views of State and Commonwealth public authorities are not known until after the initial Gateway determination. This section of the planning proposal will be completed following consultation with those public authorities nominated by the Gateway Determination (should the proposal proceed).

8.6 Mapping

The applicant has prepared appropriate mapping indicating the changes that are required to the LEP height maps to facilitate the Planning Proposal.

8.7 Community Consultation

The level of community consultation will be determined as part of the Gateway determination (should the proposal proceed).

9. MORATORIUM ON PLANNING PROPOSALS

As previously indicated, Council has resolved to not accept any new planning proposals involving a residential use, until the earlier of 1 July 2020 or the completion of any gazetted amendments to the North Sydney LEP in respect of any Land Use and Infrastructure Plan produced by the DPE's Priority Precinct planning process.

Whilst the above is acknowledged, this is a matter for Council to consider.

10. 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.

These submissions are normally considered as part of Council's assessment report for a Planning Proposal, to illustrate the level of public interest in the matter before Council makes its determination.

At the time of reporting, 1 submission has been received. The submission raises the issues of lack of consultation and excessive building height. Should the Planning Proposal proceed, there will be public consultation required. Regarding building height, as indicated above, it is agreed that the proposed building heights are excessive.

CONCLUSION

The Planning Proposal seeks to amend NSLEP 2013 as it relates to the subject site as follows:

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- Establish a maximum height of RL133 for the Precinct (an increase of 62-72m); and
- Establish a maximum FSR of 6.1:1 for the Precinct;
- Introduce a new Special Provisions Map within the NSLEP 2013 and identify the Precinct on the map as 'Area 1;' and
- Amend Section 6 Additional Local Provisions to include a section '6.20 East Walker Street Precinct' to establish controls associated with lot amalgamation, overshadowing and community infrastructure, including a height limit of RL148m (an increase of 77-87m) and an FSR of 6.9:1.

The Planning Proposal is generally consistent with the relevant requirements under s3.33 of the EP&A Act. The Planning Proposal is considered to have Strategic Merit as it proposes to increase density in an appropriate location adjoining the existing North Sydney CBD and in close proximity to the new Victoria Cross Metro Station. However, the Planning Proposal lacks site specific merit as the proposed building height and typology are more consistent with the type of development that exists within the CBD B4 Mixed Use zone. The proposed forms ignore the current R4 High Density Residential zoning (to which no change is proposed) and the related development controls. They are also contextually inappropriate. The Planning Proposal also has unreasonable impacts on surrounding properties as a result of the excessive built form.

If forms which are not consistent with the R4 zoning were to be considered, this could only follow a broader study of the area, such as is presently being undertaken by Council for the Northern CBD, and a conclusion reached that the CBD boundary be altered to include the subject land. In the absence of this, buildings would need to be lower than surrounding buildings, with generous separation of forms to allow for more landscaping, greater view preservation and higher levels of amenity for future and existing dwellings, in order to be more consistent with existing planning requirements.

RECOMMENDATION

THAT Panel resolves not to support the Planning Proposal being forwarded to the Department of Planning and Environment seeking a request for a Gateway Determination for the following reasons.

- The requested heights do not provide an appropriate transition of building heights from existing CBD development to the subject R4 zoned land;
 - The indicative building typology does not adequately respond to the existing development controls that apply to the subject R4 zoning resulting in excessively large building forms that are out of keeping with the existing and desired future character of the area and will have an unacceptable visual impact;
 - It is contrary to the objectives of the R4 zone in that it will '*compromise the amenity of the surrounding area or the natural or cultural heritage of the area*' and will not '*ensure that a reasonably high level of residential amenity is achieved and maintained*';
 - It is contrary to objectives (c), (e) and (f) of the Height of Building controls under clause 4.3 to NSLEP 2013;
 - It is contrary to the objectives (a) and (b) of the FSR controls under clause 4.4 to NSLEP 2013;
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Report of Brett Brown, Director Ingham Planning Pty Ltd (Independent Planning Consultant)

RE: PP3/19 - 173-179 Walker Street & 11-17 Hampden Street, North Sydney (56)

- It is contrary to the provisions of NSDCP 2013 in relation to residential flat building development and the Area Character Statement for the Hampden Neighbourhood;
- It is inconsistent with a number of objectives and actions under the relevant Regional and District strategies applying to the land;
- It does not adequately demonstrate that it will not result in excessive overshadowing of adjoining dwellings;
- It does not adequately demonstrate that it will not result in overshadowing of Doris Fitton Park;
- It will result in unreasonable loss of views for surrounding apartments;
- The benefits of the Special Provisions Design have not been adequately demonstrated;
- The traffic information submitted does not adequately demonstrate that the proposal will not have an adverse impact on the local traffic network; and
- Insufficient information has been provided in relation to the uplift in value from the proposed LEP amendments in order for Council to determine if the applicant's public benefit offer is reasonable.

Brett Brown
DIRECTOR INGHAM PLANNING PTY LTD
(Independent Planning Consultant)
