

## DECISION OF 3700<sup>th</sup> COUNCIL MEETING HELD ON 19 FEBRUARY 2018

### 9. **CiS04: Planning Proposal 4/17 – 41 McLaren Street, North Sydney**

Report of Ben Boyd, Executive Strategic Planner

On 1 September 2017, Council received a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land at 41 McLaren Street, North Sydney. In particular, the Planning Proposal seeks to:

- Amend the Height of Buildings Map in NSLEP 2013 to allow for a building height of up to RL 226m AHD (a 126m increase); OR
- include a site specific clause under Division 2 to Part 6 – Additional Local Provisions of NSLEP 2013 allowing for a development up to RL 226m, where the development satisfies requirements of heritage conservation and public domain improvements.

The Planning Proposal was also accompanied by a Voluntary Planning Agreement (VPA), which sought to offer a contribution to the value of \$10,557,750 to fund the following public benefits:

- 50% of the north-south pedestrian spine between Berry and McLaren Streets / public open space area (i.e. public domain embellishment works) within the Ward Street Precinct; and
- 6 x affordable housing units.

On 8 December 2017, the applicant submitted a request to the Department of Planning and Environment (DPE) for a Rezoning Review, due to Council not having made a determination as to whether the Planning Proposal should proceed to Gateway Determination within 90 days. This report seeks to obtain Council's response to the Planning Proposal. In the interim, on 7 February 2017, Council submitted a response to the DPE effectively outlined the key issues as identified within this report. In addition, Council advised that it would provide the DPE with an unendorsed version of this assessment report, to meet the DPE's reporting timeframes to the North District Planning Panel which is scheduled to meet on 7 March 2018 to determine the applicant's review request.

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:

- It has the potential to significantly undermine strategic planning work currently being undertaken in the locality, specifically the work relating to the *Ward Street Precinct Masterplan* and the *North Sydney Centre Review*;
- The *Ward Street Precinct Masterplan* review process commenced in December 2017 and is expected to be completed for exhibition by mid-2018. A holistic and integrated outcome on this Master planning process will not be able to be achieved if individual landowners pre-empt the process by lodging individual Planning Proposals such as that being considered for 41 McLaren Street. In this context, the proposal for 41 McLaren Street unfairly burdens the future development potential capacity of adjoining sites, including Council land;
- It is contrary to meeting a number of objectives and actions under the relevant regional and district plans applying to the land. In particular, the proposal does not:
  - protect nor promote lands for commercial development within an important existing Strategic Centre on the Global Economic Corridor nor allow for future growth; and
  - sufficient residential capacity is already provided under NSLEP 2013 to meet State housing targets, without the need to significantly change the land use mix on the subject site.
- It is inconsistent with the desired outcomes of the *draft Ward Street Precinct Masterplan*. In particular, the proposal:

- does not apply a precinct scale planning approach;
- does not provide clarity on the future growth of the Precinct;
- does not balance growth within the Centre or amenity to surrounding properties;
- may result in poor pedestrian interfaces and connections with future potential public open spaces;
- may not result in a significant public benefit being achieved;
- does not achieve a no nett increase in traffic generation.
- It is difficult to determine if the quantum of proposed public benefits identified within the Planning Proposal, which would ultimately form part of a future VPA is reasonable with respect to the anticipated uplift that the Planning Proposal seeks.

Although the Planning Proposal has not yet been formally exhibited, Council has received nine (9) submissions objecting to the Planning Proposal on a number of grounds. In particular, it was identified that the Planning Proposal has the potential to significantly undermine Council's strategic planning processes for the locality. Whilst there is no legislative requirement to consider these submissions, the degree of objection indicates that the proposal is not necessarily in the public interest.

It is noted that there are various landowners in the Precinct with a keen interest to redevelop their sites. Allowing this to occur, including 41 McLaren Street, would be premature as this would likely undermine Council's efforts to facilitate the best possible holistic outcomes for the precinct.

**Recommending:**

**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** Council extends an opportunity to the applicant to make a submission to the revised *Ward Street Precinct Masterplan* once publicly exhibited.

**5. THAT** any changes to the planning controls for the Ward Street Precinct be considered holistically and involve all landowners.

**6. THAT** the applicant be invited to submit a new planning proposal upon the completion of the *Ward Street Precinct Masterplan*.

Mr R McEwen addressed Council.

Mr M Harrison addressed Council.

A Motion was moved by Councillor Baker, seconded by Councillor Beregi and carried that Mr Harrison be permitted to distribute a proposed recommendation regarding this matter.

The Motion in Council's Report was moved by Councillor Barbour and seconded by Councillor Baker.

The Motion was put and carried.

Voting was as follows:

For/Against 10/0

Councillor	Yes	No	Councillor	Yes	No
Gibson	Y		Barbour	Y	
Beregi	Y		Drummond	Y	
Keen	Y		Gunning	Y	
Brodie	Y		Mutton	Y	
Carr	Y		Baker	Y	

**RESOLVED:**

- 1. THAT** Council resolves not to support the Planning Proposal proceeding to Gateway Determination.
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**Report to General Manager**

Attachments:

1. Planning Proposal Overview
2. Submissions Table

**SUBJECT:** Planning Proposal 4/17 – 41 McLaren Street, North Sydney**AUTHOR:** Ben Boyd, Executive Strategic Planner**ENDORSED BY:** Joseph Hill, Director City Strategy**EXECUTIVE SUMMARY:**

On 1 September 2017, Council received a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land at 41 McLaren Street, North Sydney. In particular, the Planning Proposal seeks to:

- Amend the Height of Buildings Map in NSLEP 2013 to allow for a building height of up to RL 226m AHD (a 126m increase); OR
- include a site specific clause under Division 2 to Part 6 – Additional Local Provisions of NSLEP 2013 allowing for a development up to RL 226m, where the development satisfies requirements of heritage conservation and public domain improvements.

The Planning Proposal was also accompanied by a Voluntary Planning Agreement (VPA), which sought to offer a contribution to the value of \$10,557,750 to fund the following public benefits:

- 50% of the north-south pedestrian spine between Berry and McLaren Streets / public open space area (i.e. public domain embellishment works) within the Ward Street Precinct; and
- 6 x affordable housing units.

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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:



- It has the potential to significantly undermine strategic planning work currently being undertaken in the locality, specifically the work relating to the *Ward Street Precinct Masterplan* and the *North Sydney Centre Review*;
- The *Ward Street Precinct Masterplan* review process commenced in December 2017 and is expected to be completed for exhibition by mid 2018. A holistic and integrated outcome on this Masterplanning process will not be able to be achieved if individual landowners pre-empt the process by lodging individual Planning Proposals such as that being considered for 41 McLaren Street. In this context, the proposal for 41 McLaren Street unfairly burdens the future development potential capacity of adjoining sites, including Council land;
- It is contrary to meeting a number of objectives and actions under the relevant regional and district plans applying to the land. In particular, the proposal does not:
  - protect nor promote lands for commercial development within an important existing Strategic Centre on the Global Economic Corridor nor allow for future growth; and
  - sufficient residential capacity is already provided under NSLEP 2013 to meet State housing targets, without the need to significantly change the land use mix on the subject site.
- It is inconsistent with the desired outcomes of the *draft Ward Street Precinct Masterplan*. In particular, the proposal:
  - does not apply a precinct scale planning approach;
  - does not provide clarity on the future growth of the Precinct;
  - does not balance growth within the Centre or amenity to surrounding properties;
  - may result in poor pedestrian interfaces and connections with future potential public open spaces;
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- It is difficult to determine if the quantum of proposed public benefits identified within the Planning Proposal, which would ultimately form part of a future VPA is reasonable with respect to the anticipated uplift that the Planning Proposal seeks.

Although the Planning Proposal has not yet been formally exhibited, Council has received nine (9) submissions objecting to the Planning Proposal on a number of grounds. In particular, it was identified that the Planning Proposal has the potential to significantly undermine Council's strategic planning processes for the locality. Whilst there is no legislative requirement to consider these submissions, the degree of objection indicates that the proposal is not necessarily in the public interest.

It is noted that there are various landowners in the Precinct with a keen interest to redevelop their sites. Allowing this to occur, including 41 McLaren Street, would be premature as this would likely undermine Council's efforts to facilitate the best possible holistic outcomes for the precinct.

## **FINANCIAL IMPLICATIONS:**

Nil.

**RECOMMENDATION:**

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- 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** Council extends an opportunity to the applicant to make a submission to the revised *Ward Street Precinct Masterplan* once publicly exhibited.
- 5. THAT** any changes to the planning controls for the Ward Street Precinct be considered holistically and involve all landowners.
- 6. THAT** the applicant be invited to submit a new planning proposal upon the completion of the *Ward Street Precinct Masterplan*.

## LINK TO DELIVERY PROGRAM

The relationship with the Delivery Program is as follows:

- |            |   |
|------------|---|
| Direction: | 1. Our Living Environment   |
| Outcome:   | 1.2 Quality urban green spaces<br>1.5 Public open space, recreation facilities and services that meet community needs   |
| Direction: | 2. Our Built Environment  |
| Outcome:   | 2.1 Infrastructure, assets and facilities that meet community needs<br>2.2 Improved mix of land use and quality development through design excellence<br>2.3 Vibrant, connected and well maintained streetscapes and villages that build a sense of community<br>2.4 North Sydney's heritage is preserved and valued<br>2.6 Improved traffic management |
| Direction: | 3. Our Economic Vitality  |
| Outcome:   | 3.1 Diverse, strong, sustainable and vibrant local economy<br>3.2 North Sydney CBD is one of Australia's largest commercial centres   |
| Direction: | 4. Our Social Vitality  |
| Outcome:   | 4.4 North Sydney's history is preserved and recognised  |
| Direction: | 5. Our Civic Leadership   |
| Outcome:   | 5.1 Council leads the strategic direction of North Sydney<br>5.3 Council is ethical, open, accountable and transparent in its decision making   |

## BACKGROUND

### *Ward Street Precinct Masterplan*

The Ward Street Precinct forms the northern end of North Sydney Centre, within which the subject site is located. The Precinct supports a mix of privately owned commercial, mixed use and residential development. It also contains the Ward and Harnett Street car parks, which are in Council ownership.

The Precinct is undergoing significant and transformational changes, including:

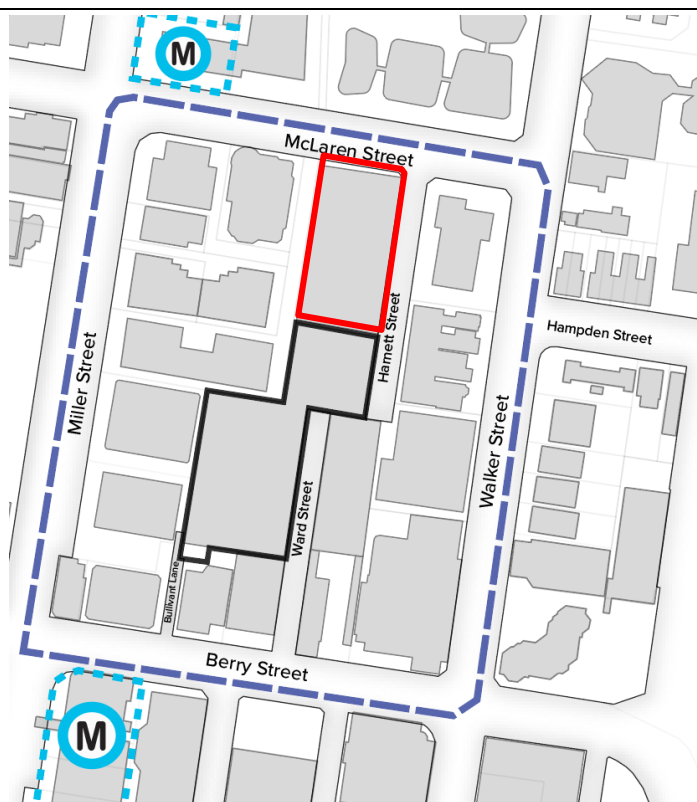
- **Return of a major Council asset:** There is a need to plan for the long-term future of the Council-owned Ward and Harnett Street car parks. The Ward Street car park will return to Council control in 2020.
- **New transport infrastructure:** The proposed Victoria Cross Metro Station will provide faster and more frequent services to the city and major business centres of

Sydney's northwest, Macquarie Park and Barangaroo. The station is to be located just outside the Ward Street Precinct and is due to open in 2024.

- **Strong private development interest:** Private development interest from within the precinct continues to be strong, with a number of possible 'opportunity sites' for redevelopment.
- **Decommissioned substation:** Ausgrid has advised the decommissioned portion of the substation fronting Berry Street is surplus to its needs. The site is likely to be sold following decommission.
- **Objectives for the public domain and through-site links:** Ongoing development approvals are restricting the opportunity to cohesively address Council's public domain and pedestrian permeability objectives within the precinct. A Masterplan provides an opportunity to more effectively plan for a meaningful public domain with plaza(s) and linkages.

In light of these changes, Council resolved on 14 June 2016 to prepare a masterplan for the Precinct to ensure that an appropriate strategic direction is set for its future redevelopment.

On 5 December 2016, Council resolved to adopt the *draft Ward Street Precinct Masterplan* (draft WSP Masterplan) and to place the draft WSP Masterplan on public exhibition. The draft WSP Masterplan was the result of a collaborative effort of Council staff and a multi-disciplinary consultant team led by Roberts Day Urban Designers.



**FIGURE 1: Draft Ward Street Precinct Masterplan**

*The subject site (highlighted in red) is located within the draft Masterplan Area*

The WSP Masterplan seeks to balance a number of objectives and principles into a cohesive and succinct strategy to integrate the Precinct into the wider urban fabric. The following objectives and principles were identified to guide the WSP Masterplan:

### **Objectives**

*Our objectives for the Ward Street Precinct and its role in the evolving city centre will include:*

- a) Building on the outcomes of the North Sydney Centre review and applying a precinct scale methodology.*
- b) Assisting property owners and Council by providing clarity on the future strategic growth of the precinct.*
- c) Providing a bold and vibrant public domain and built form response to the proposed Victoria Cross Metro Station.*
- d) Ensuring a built form response that effectively balances growth within the Centre and amenity to surrounding properties.*
- e) Improving the public domain across the precinct by identifying the precinct as a destination, via high quality new and embellished public spaces, that prioritise pedestrians.*
- f) Encouraging public and private development outcomes that activate the precinct, stimulating North Sydney Centre as a destination.*
- g) Ensuring that significant public benefit is achieved as a result of development that is seeking to amend the planning controls.*
- h) Identifying opportunities for the Council-owned Ward and Harnett Street car parks.*
- i) Ensuring that community benefit is a key project driver.*
- j) Ensuring that a financial return to Council is a key project driver.*

### **Principles**

*Council is committed to undertaking the Masterplan according to the following principles:*

- P1 Advocate design excellence, best practice and sustainability in both the built form and public domain.*
- P2 Capitalise on placemaking and land use opportunities associated with the proposed Victoria Cross Metro Station.*
- P3 Facilitate safe, attractive and high quality public and community spaces to best practice standards.*
- P4 Require universal access principles govern all new public and community spaces.*
- P5 Ensure transparency where the leveraging of public benefits is pursued in exchange for additional development potential.*
- P6 Prioritising pedestrian amenity.*
- P7 Advocate for a mix of uses to revitalise the precinct, with a focus on employment generation, community spaces and the 18 hour economy.*
- P8 Acknowledge that commercial amenity and viability of the North Sydney Centre is critical to future investment and prosperity.*
- P9 Ensure that total parking provision, including public and private parking assets, delivers no net increase in traffic generated with the Ward Street Precinct and responds to the Victoria Cross Metro Station.*

The draft WSP Masterplan was placed on public exhibition between 26 January and 10 March 2017.

The applicant of the Planning Proposal made a submission in response to the public exhibition of the draft WSP Masterplan, details of which have been incorporated into the Planning Proposal documentation. In particular, they sought to provide two alternative masterplans with a focus on the redevelopment of their own site and Council's land.

On 1 May 2017, Council considered an interim post-exhibition report in relation to the draft WSP Masterplan. In response to the submissions received, Council resolved:

**1. THAT** Council note the issues raised by the community as part of the exhibition of the draft Ward Street Precinct Masterplan.

**2. THAT** Council resolve to take steps toward the finalisation of the draft Masterplan through further specialist input and design development that responds to community, industry and landowner feedback, according to the following:

- The content and strategic direction identified in the draft North District Plan inform the refinement of the Masterplan.
- The scope of opportunity sites be expanded to ensure opportunities are investigated on all sites within the Precinct.
- The scope of design investigation include the potential for a greater variety of site amalgamation options for opportunity sites.
- The relationship of the Ward Street Masterplan and the Capacity and Land Use Study be clarified, with the development potential of all sites within the Masterplan area identified.
- The East Walker Street opportunity site be detached from the Ward Street Precinct Masterplan project and separately pursued by Council staff.
- The boundary of the North Sydney Centre, as defined in NSLEP 2013, be reviewed for potential expansion to the east.
- The actions identified in this report in pages 9-14.

**3. THAT** a final draft Masterplan be prepared and reported to Council for the purposes of exhibition.

In response to Resolution No.2 Council engaged Hassell in December 2017 to prepare the revised WSP Masterplan.

Council is endeavouring to have a revised draft WSP Masterplan for endorsement in the first half of 2018, such that it can be placed on public exhibition.

### ***Pre Lodgement***

Prior to and during the preparation of the draft WSP Masterplan, Council had meet with the applicant of the Planning Proposal on at least 6 occasions to discuss the potential redevelopment of the site and surrounding land.

The applicant first approached Council on 12 November 2014 with a proposal to have the site delisted as a heritage item to allow its demolition and increasing the height controls to enable its subsequent redevelopment, along with the adjoining Council car park site. Council initially advised the applicant that:

- A planning proposal to consider delisting the property would be Council's preferred process;
- A position on the future development potential of the site (regardless of any heritage delisting process) would be formed during the preparation of the WSP Masterplan, which was expected to begin in 2015/16;
- The potential loss of commercial floor space is a concern and consideration should be given to retaining the existing quantum in any future scheme;
- The future metro strategy for Sydney will provide some clarity as to future land use;

- The *Community Uses on Council Land* project currently underway will establish preferred uses and principles for the Ward Street Car Park;
- The *North Sydney Centre Review* work will also consider this Precinct in terms of land use, capacity and built form.

On 18 July 2016, the applicant presented a number of revised schemes to Council, with input from Harry Seidler & Associates Architects. The key attributes of the revised schemes presented included:

- Various iterations of the existing heritage podium, some involving removal, others involving adaptation of the heritage item as a podium (with the applicant claiming that the retention of the podium is difficult due to its poor structural condition);
- A commercial component at podium level, with residential tower above;
- A scale of up to 35 floors;
- A desire to obtain 35,500 square metres of residential floor space, eventuating in a floor space ratio of roughly 15:1;
- A relatively thin building with 750 square metre floor plates; and
- Adding additional levels to the basement parking.

The proponents expressed their eagerness to push forward with a preferred proposal and raised concern that their work programme is outpacing that of Council's WSP Masterplan work. Council staff responded to the revised schemes as follows:

- Staff were not in a position to indicate whether the proposed scale was suitable, prior to the completion of the WSP Masterplan work;
- A position on the future development potential of the site (regardless of any heritage delisting process) would be formed during work on the WSP Masterplan, which was anticipated to be exhibited before the end of 2016;
- A reduction in parking would be preferred given the site's location in relation to the new Victoria Cross Metro Station;
- Further consideration needs to be given to the potential impacts upon 45 McLaren Street;
- Further consideration is to be given to overshadowing impacts upon the Berry Square Special Area;
- The potential loss of commercial floor space is a concern, and consideration should be given to retaining the existing quantum in any future scheme; and
- Opening an invitation to seek further meetings surrounding the Masterplan work in the future.

On 21 January 2017, Council staff met with the applicant to discuss the outcomes of the draft WSP Masterplan which had been adopted by Council on 5 December 2016. The applicant expressed their disappointment with the outcomes of the draft WSP Masterplan and would seek to lodge a planning proposal seeking their desired outcomes for the site whilst concurrently providing a detailed submission to the draft WSP Masterplan.

On 4 June 2017, Council staff meet with the applicant to discuss their submission to the draft WSP Masterplan. The applicant again expressed their intention to lodge a planning proposal, potentially accompanied by a development application. They expressed that their timeframe requirements were relatively short and indicated that they could not wait for Council to finalise the WSP Masterplan. Council staff advised that this was not a desirable outcome given

Council's efforts to apply a greater strategic plan to the Precinct, and the likelihood that the applicant's course of action would pre-empt that plan.

### ***Current Planning Proposal***

On 1 September 2017, Council received an application for the subject Planning Proposal (refer to Attachment 1).

At the request of the applicant, Council staff attended a short presentation on 21 November 2017, which included viewing a short video (which was also submitted with the planning proposal documentation at time of lodgement) and a physical 3D model of the proposal, which included a contextual analysis of existing and proposed developments in the immediate locality.

On 8 December 2017, the applicant submitted a request to the Department of Planning and Environment (DPE) for a Rezoning Review, due to Council not having made a determination as to whether the Planning Proposal should proceed to Gateway Determination within 90 days.

Council staff had initially intended to report this matter to Council's meeting of 4 December 2017. However, the immense volume of documentation provided to Council associated with the Planning Proposal, the need to prioritise the progression of the Ward Street Masterplan work and Council's meeting schedules prevented this from occurring. The applicant was made aware of these issues.

## **CONSULTATION REQUIREMENTS**

Should Council determine that the Planning Proposal can proceed, community engagement will be undertaken in accordance with Council's Community Engagement Protocol and the requirements of any Gateway Determination issued in relation to the Planning Proposal.

## **SUSTAINABILITY STATEMENT**

The following table provides a summary of the key sustainability implications:

<b>QBL Pillar</b>	<b>Implications</b>
Environment	<ul style="list-style-type: none"><li>• If implemented, the proposal has the ability to increase traffic congestion.</li><li>• If implemented, the proposal has the potential to adversely overshadow a future public open space in the Ward Street Precinct.</li></ul>
Social	<ul style="list-style-type: none"><li>• If implemented, the proposal has the ability to provide much needed affordable housing to be dedicated to Council.</li><li>• If implemented, the proposal has the potential to improve the vitality of the locality through increased activation of the public domain interface.</li></ul>
Economic	<ul style="list-style-type: none"><li>• The applicant has offered to enter into a Voluntary Planning Agreement relating to the provision of affordable housing and money towards the provision of a pedestrian link between McLaren and Berry Streets.</li></ul>
Governance	<ul style="list-style-type: none"><li>• If implemented, the proposal has the potential to significantly undermine strategic planning processes which are currently being undertaken in the North Sydney Centre, specifically within the Ward Street Precinct.</li></ul>



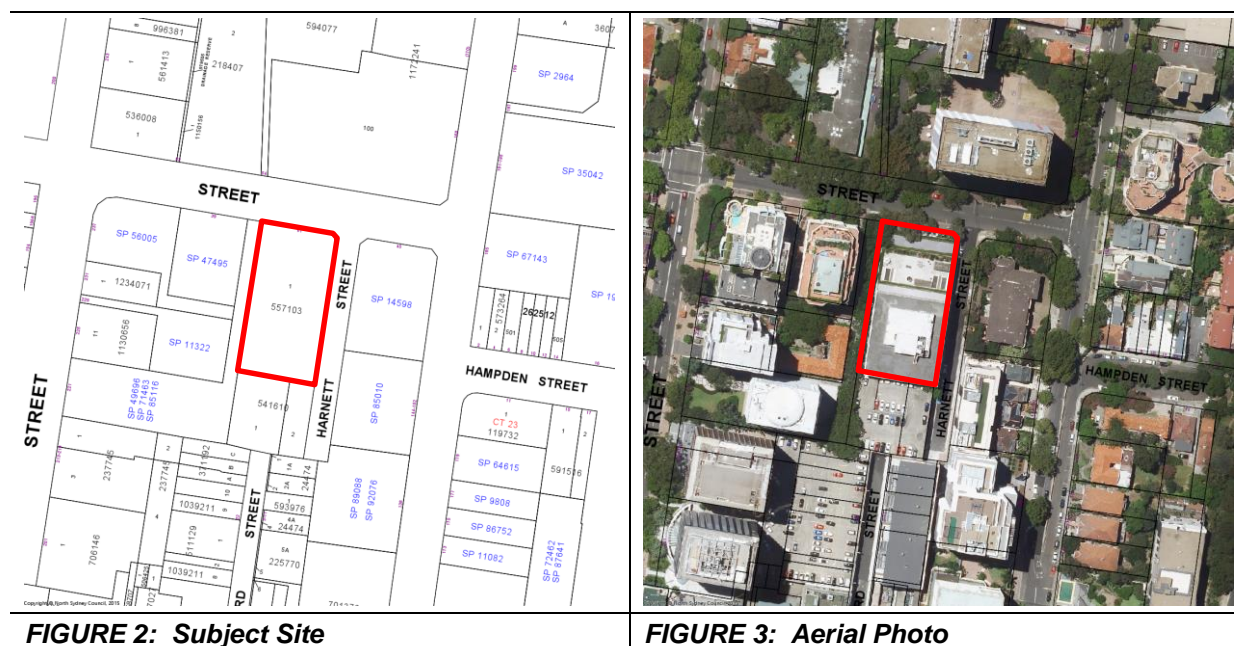
## DETAIL

### 1. Applicant

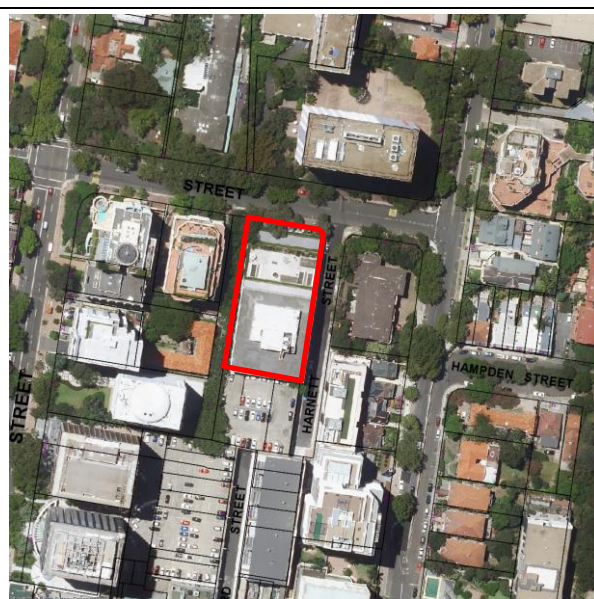
The applicant for the proposal is Erolcene Pty Ltd and Claijade Pty Ltd, who are also the owners of 41 McLaren Street, North Sydney as referred to in Section 2 of this report.

### 2. Site Description

The subject site is located at 41 McLaren Street, North Sydney and is legally described as Lot 1, DP 557103.



**FIGURE 2: Subject Site**



**FIGURE 3: Aerial Photo**

The site is bound by McLaren Street to the north, Harnett Street to the east, a three-level commercial car park to the south and an access handle to No.221 Miller Street to the west. The site is 2,368sqm in area. It is generally rectangular in shape with a width of approximately 35m and a depth of approximately 68m. The land generally falls in a south-easterly direction from its western boundary down to the south-eastern corner of the site. There is a 2m fall eastwards across the site's McLaren Street frontage and a 2.5m fall southwards along its Hampden Street frontage.

The site contains a terraced 8-storey commercial office building known as *Simsmetal House*. The building was designed by Harry Seidler in 1971 in the Twentieth Century International style and comprises a concrete framed building with brick veneer walls. It contains a number of strong horizontal and vertical architectural elements reinforced by overhanging exposed concrete slab floors, recessed external walls and the incorporation of repetitive vertical masonry fins to control sunlight access. The building is setback approximately 3m from McLaren Street and its western boundary, 4m from its southern boundary and is built to its boundary along Hampden Street. The building steps back from its northern façade as building height increases, creating a number of landscaped terraces. Two basement levels provide parking for 90 vehicles. The building is principally used for offices, with a small shop located off McLaren Street. The building has a gross floor area of appropriately 10,148sqm with a net lettable area of 8,282sqm.

### **3. Local Context**

The subject site is located on the northern portion of the North Sydney Centre, which is a major commercial centre in the Sydney Metropolitan area and is identified as a *Metropolitan City Centre* under the relevant Regional Plan and draft District Plan. The area is currently undergoing a significant transformation from typically 10-20 storey commercial buildings constructed between the 1960s and 1980s with contemporary mixed use buildings up to 30 storeys in height, with generally 1 to 4 levels of commercial floor space at the lower levels of the building and residential apartments above.

North Sydney Railway Station is located approximately 770m walk to the south, which provides regular services to the south to Sydney City CBD, and to the north to Chatswood, Macquarie Park and Hornsby. An access point to the future Victoria Cross Metro Station is proposed to be located approximately 80 m to the west of the site, with the main station entry off Miller Street being located approximately 300m walk to the south.

To the north of the subject site, on the opposite side of McLaren Street, is 168 Walker Street. This site currently contains an 18 storey commercial building which is proposed to be replaced with a 29 storey mixed use building. Also on the opposite side of McLaren Street is 52 McLaren Street, which is devoid of any structures. Approval had been granted for an aged care facility in a series of buildings ranging up to 15 storeys in height. Despite all of the former buildings having being demolished, this development is currently on hold until the northern portal to the Victoria Cross Metro Station has been designed and approved. Further to the north lie a mixture of 2-4 storey commercial buildings and mixed use buildings fronting Miller Street, 1-4 storey educational buildings comprising Wenona School, single storey federation bungalows fronting Ridge Street, and St Leonards Park.

To the east of the subject site, on the opposite side of Harnett Street is a 5-storey residential flat building at 45 McLaren Street and a part 2-storey and part 8-storey mixed use development at 144-152 Walker Street. Further to the east are a mixture of aging low scale residential buildings and the Warringah Freeway.

Directly to the south of the subject site, is a multi-level commercial car park, accessed from Ward Street off Berry Street. Further to the south are predominantly commercial buildings ranging in height from 8 to 30-storeys, a sub-regional electricity substation and a 37-storey mixed use tower (Beau Monde). A number of new commercial buildings are currently under construction up to 39-storeys in height.

Directly to the west of the site is an access handle to No.221 Miller Street with a number of established and new mixed use developments up to 20-storeys in height located on the other side fronting Miller Street. Further to the west are the grounds of Monte School and a number of small commercial buildings.

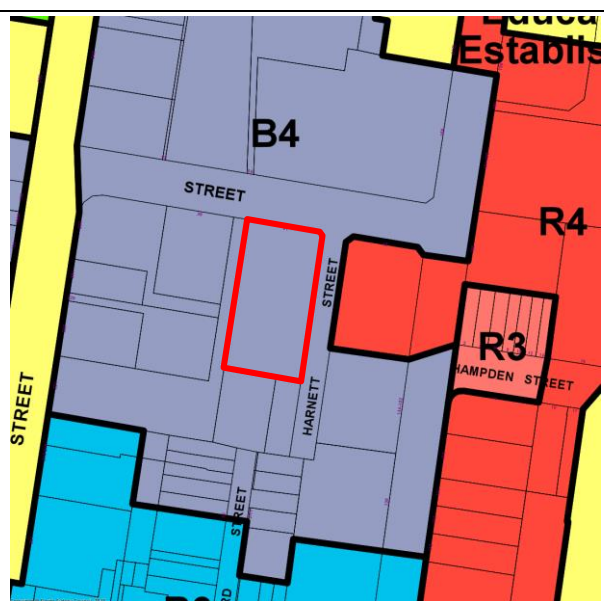
### **4. Current Planning Provisions**

The following subsections identify the relevant principal planning instruments that apply to the subject site.

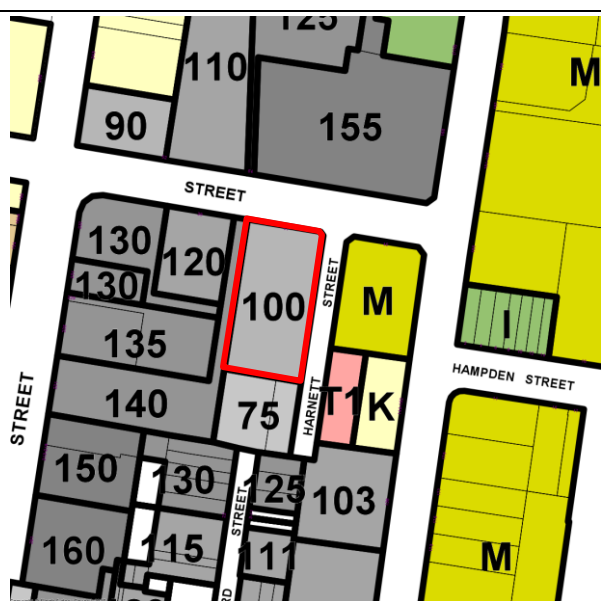
#### 4.1. NSLEP 2013

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 *B4 Mixed Use* (refer to FIGURE 4);
- A maximum building height of RL 100m (refer to FIGURE 5);
- A minimum non-residential floor space ratio of 0.5:1 (refer to FIGURE 6);
- Heritage item (refer to FIGURE 7); and
- North Sydney Centre (refer to FIGURE 8)



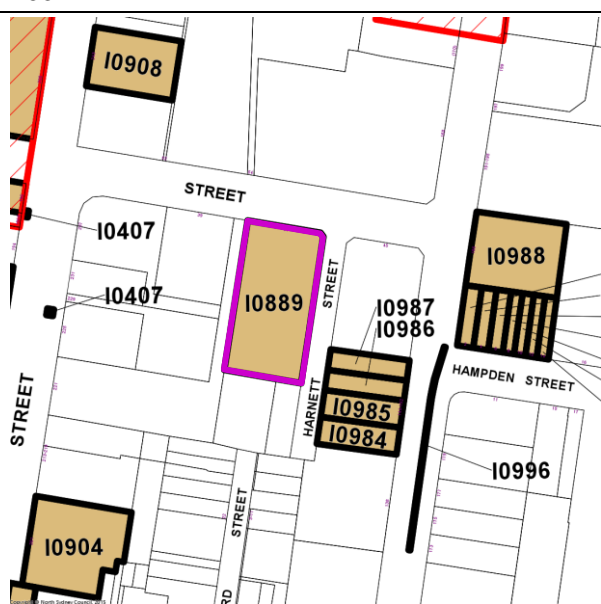
**FIGURE 4: NSLEP 2013 Zoning Map extract**  
 The subject site is zoned B4 Mixed Use



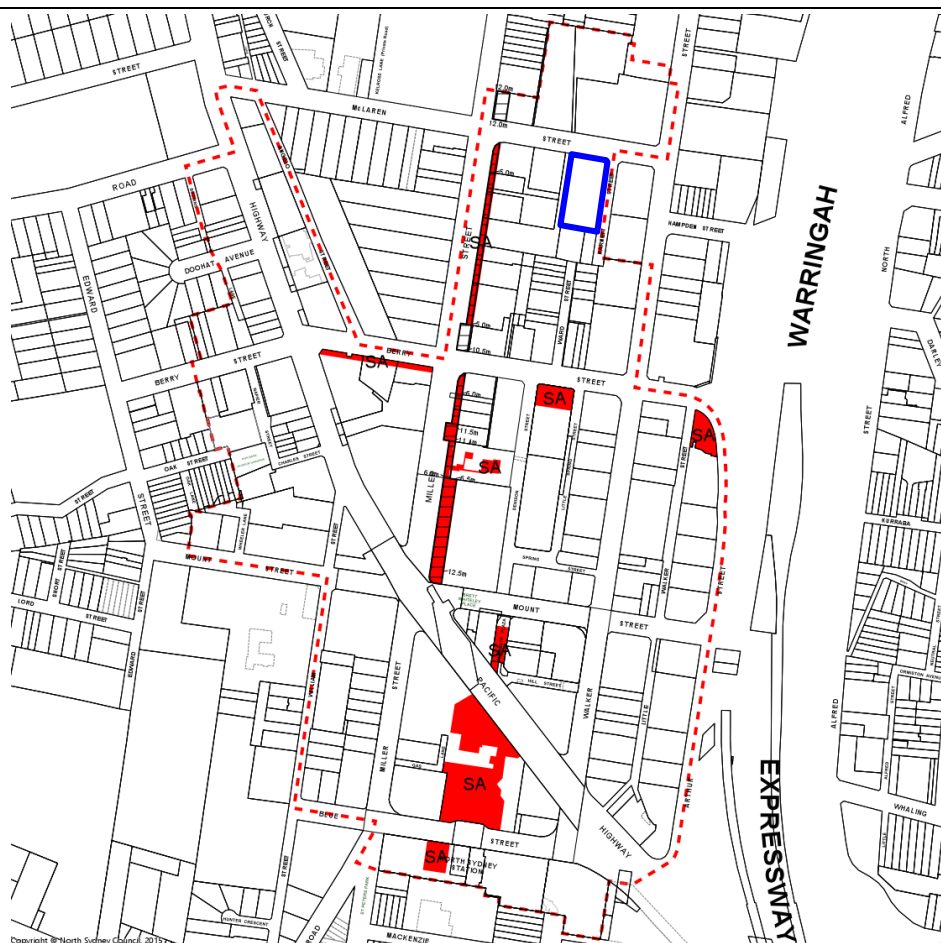
**FIGURE 5: NSLEP 2013 Height of Buildings Map extract**  
 The subject site has a maximum height of RL 100m



**FIGURE 6: NSLEP 2013 Non-residential Floor Space Ratio Map extract**  
 The subject site must provide a minimum non-residential floor space of 0.5:1



**FIGURE 7: NSLEP 2013 Heritage Map extract**  
 The subject site is identified as a local heritage item



**FIGURE 8: NSLEP 2013 North Sydney Centre Map extract**

*The subject site is located within the North Sydney Centre*

## 5. Proposed LEP Amendment

The primary intent of the Planning Proposal as described by the applicant is as follows:

*The Planning Proposal aims to facilitate the redevelopment of the site, including retention of the existing heritage listed commercial building, with the addition of a residential tower above.*

*Key objectives of this proposal are to:*

- *Provide opportunity for increased residential dwelling provision to meet growing demand and support renewal of the subject site;*
- *To allow an uplift in density for the site commensurate with its location opposite the new planned Victoria Cross Station; and*
- *To allow holistic planning of the site in conjunction with the renewal of the Ward Street Precinct*

It principally seeks to achieve these goals by amending NSLEP 2013 as follows:

- introduction of a site-specific local clause allowing for a development up to RL 226m (despite the Height of Buildings Map), where the development satisfies certain requirements; OR
- to amend the Height of Buildings Map to allow for a building height of up to RL 226m.

### 5.1. Site-specific local clause

The Planning Proposal states that should Council consider that a site-specific local clause is the most appropriate means for achieving the objectives and intended outcomes of the Planning Proposal, then the suggested wording could be as follows:

#### *6.20 Development at 41 McLaren Street, North Sydney*

- (1) The objectives of this clause is to provide for additional building height on land at 41 McLaren Street (Lot 1, DP 557103) if the development of the site provides for retention and conservation of 'Simsmetal House' and pedestrian links through the site.*
- (2) Despite clause 4.3, development consent may be granted to a building on the land with a maximum height of RL 226 metres.*
- (3) Development consent must not be granted under this clause unless the consent authority is satisfied that the development will:*
  - (a) Conserve key components and attributes of 'Simsmetal House';*
  - (b) Be consistent with a heritage management document prepared in accordance with clause 5.10(5);*
  - (c) Provide publicly accessible, unobstructed external access through the site (a through-site link); and*
  - (d) Provide active uses with frontages at ground level addressing the through-site link.*
- (4) This clause prevails in the result of any inconsistency clause 6.3(3).*

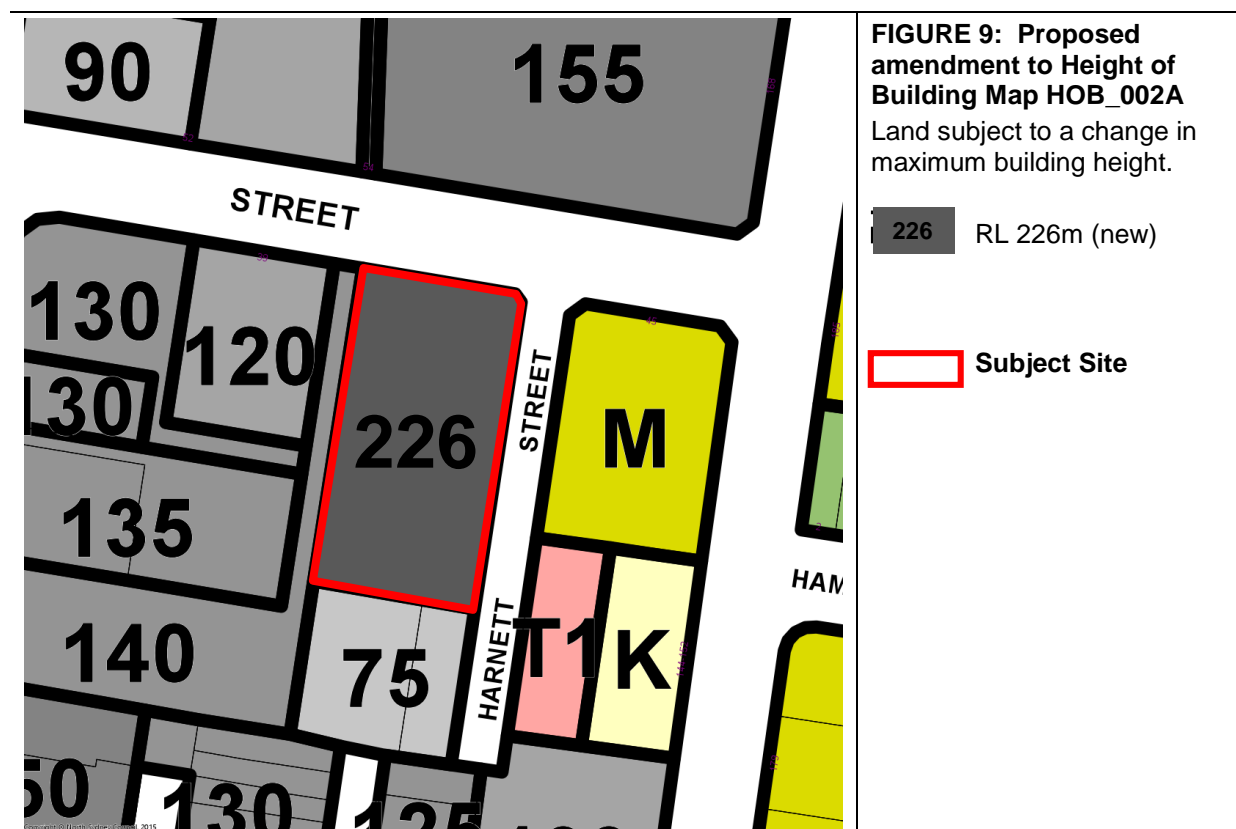
It was also suggested that there is the possibility that the development may also include community uses and/or affordable housing as part of a Public Benefit Offer negotiated through a separate process with Council. A site-specific provision would also seek to encapsulate any such use.

### 5.2. Mapping Amendments

Alternatively, it is suggested that the Height of Buildings Map (ref: 5950\_COM\_HOB\_002A\_005\_20161118) to NSLEP 2013 be amended such that the maximum building height to 41 McLaren Street is increased from RL 100m to RL 226m. It is also noted that Figure 28 to the Planning Proposal suggests that the height limit should be increased to RL 230m. It is considered that the number cited in Figure 28 has been made in error as it is not referenced anywhere else in the Planning Proposal documentation. Therefore, a maximum height of RL 226m has been adopted for the purposes of this assessment.

The applicant's Planning Proposal anticipates that the Map would be amended similar to that depicted in FIGURE 9. However, the colours and references within FIGURE 9 have been amended to align with the DPE's *Standard Technical Requirements for Spatial Data Sets and Maps v1.0*.





## 6. Planning Proposal Structure

The Planning Proposal (refer to Attachment 1) is considered to be generally in accordance with the requirements under Section 55(2) of the Environmental Planning and Assessment (EP&A) Act 1979 and the Department of Planning and Environment's (DPE's) 'A guide to preparing planning proposals' (August 2016). 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
- Details of the community consultation that is to be undertaken on the Planning Proposal.

## 7. Justification of the Planning Proposal

### 7.1. Objectives of the Planning Proposal

Part 4 to the Planning Proposal sets out the objectives and intended outcomes of the Planning Proposal. Part 5 provides an explanation of the proposed amendments to NSLEP 2013 to achieve the objectives and outcomes within Part 4.

On balance, the proposed amendments to NSLEP 2013 achieve the objectives and intended outcomes of the Planning Proposal. However, the proposal does not "allow holistic planning of the site in conjunction with the renewal of the Ward Street Precinct". The design of the

concept proposal, that relies on the proposed revised planning controls, makes a number of assumptions which have little to no certainty at this point in time. In particular, the proponent is seeking to force an outcome over the Ward Street Precinct to their advantage with minimal regard to the remainder of the area.

Whilst Council acknowledges the extensive work that the proponent has made to contribute to the WSP Masterplan, it does not adequately consider the wider implications on the locality, over which they have no control. This could ultimately lead to a poorer planning outcome for the wider community.

## **7.2. Building Height**

It is proposed to increase the maximum building height limit on the site from RL 100m to RL 226m.

The proposed height limit generally appears to correspond with reasonable floor to floor height assumptions made by the applicant and reflected in its concept proposal. Therefore, the proposed height limit is satisfactory in this regard.

However, allowing an increase to the height limit will ultimately result in additional overshadowing and view impacts. These issues are addressed in the following subsections.

### **7.2.1. Overshadowing**

The proposed height limit appears to be principally based on the proponent's desired overshadowing outcomes. However, these outcomes are inconsistent with Council's current endorsed policy with regard to the extent of overshadowing impact from development located within the North Sydney Centre.

In particular, the applicant is relying on proposed future changes to the overshadowing controls (clause 6.3 to NSLEP 2013) for development located within the North Sydney Centre. In particular, the proposal relies on:

- A reduction in the extent of no additional overshadowing permitted to dwellings located outside of the Centre from 9am and 3pm to 10am and 2pm;
- A change to the bounds of the North Sydney Centre to incorporate the residentially zoned land located to the east of Walker Street;
- An increase in the extent of no additional overshadowing permitted to Berry Square under the draft WSP Masterplan from 12pm and 2pm to 10am and 2pm;

These proposed changes are still being considered by Council and are in no way certain and imminent. Therefore, the proposed heights for the subject site, if implemented, may never be able to be achieved.

The overshadowing diagrams provided by the applicant make it difficult to determine the true extent of overshadowing by the proposed increase in height. This is largely due to the shadow diagrams incorporating shadows from proposed building envelopes on other sites that are the result of the draft WSP Masterplan or the applicant's alternative built form envelopes made in response to the draft WSP Masterplan. As there is no certainty that these shadows will even be created, it would appear that the true extent of the overshadowing impact of the proposal remains unclear at this stage.

The Planning Proposal has only focused on the overshadowing impacts to three immediately adjoining buildings located at 136-140 Walker Street, 221 Miller Street and 229 Miller Street. The extent of impact is unreasonable in terms of meeting the minimum targets (at least 2 hours to at least 70% of apartments) set by the Apartment Design Guidelines. These buildings already do not meet these requirements and the proposal will only worsen the situation.

The proposal will also have a significant impact upon the solar access to the residential apartments at 45 McLaren Street and 144-152 Walker Street. This has not been addressed by the applicant and are likely to result in those developments not being able to achieve the minimum solar access targets set by the Apartment Design Guidelines.

Whilst the applicant has considered the overshadowing impact of a future open space within the Ward Street Precinct, the final location and design of such a space has yet to be determined. Regardless of where it is eventually located, the proposal is likely to have a significant impact on any future open space provided within the Precinct, due to the site lying centrally along the Precinct's northern boundary.

#### **7.2.2. Draft Ward Street Precinct Masterplan**

The exhibited version of the draft WSP Masterplan, envisaged an additional 10m over the subject site (from RL 100m to RL 110m). The suggested height control over the subject site under the draft WSP Masterplan was initially set to ensure a stepping down of height from Miller Street to the Warringah Freeway, whilst also considering solar access to a future public open space within the precinct between McLaren and Berry Streets.

The Planning Proposal seeks to significantly breach this draft envisaged control.

It is noted that Council received a total of eight (8) submissions in response to the public exhibition of the draft WSP Masterplan which related to the scale and density of the envisaged building envelopes (including height). Of those submissions, five (5) stated that the scale and density of the building envelopes were excessive, whilst three (3) submissions expressed concern that those same envelopes were too complicated and conservative and therefore not be economically viable.

It is noted that the applicant of the Planning Proposal specifically objected to the proposed height controls for the subject site under the draft WSP Masterplan. The applicant's alternative solutions are replicated in the accompanying documentation to the Planning Proposal.

In considering these submissions, Council identified that:

*Ultimately, a balance of economic viability in building forms and protection of surrounds must be struck through a design-led process.*

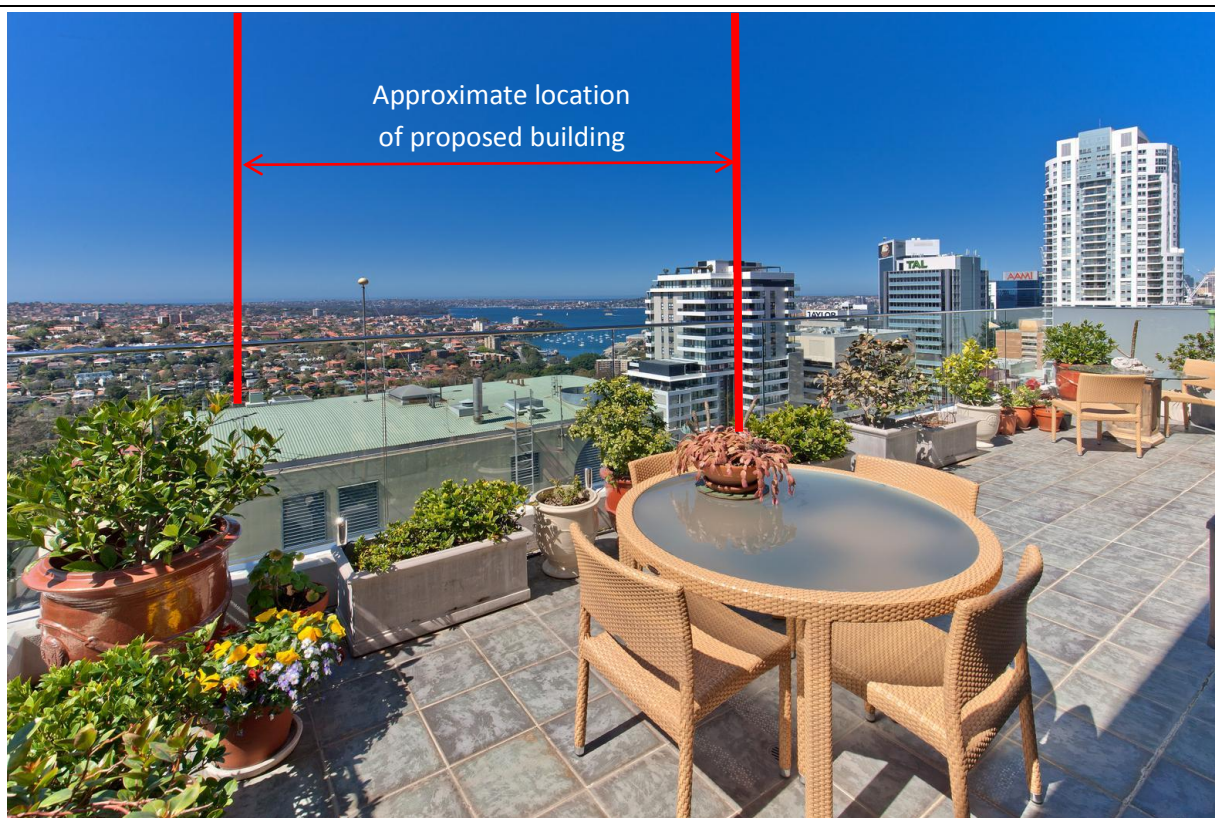
*Action – Pursue further design refinement to ensure the Masterplan is envisaging commercially attractive envelopes that appropriately manage surrounding amenity.*

Given that the WSP masterplanning process has yet to be completed, it is not yet certain as to what level of height would be appropriate for the subject site in the context of all other opportunities and constraints. Therefore, it would be premature to approve the Planning Proposal until this detailed analysis has been completed.



### 7.2.3. Views

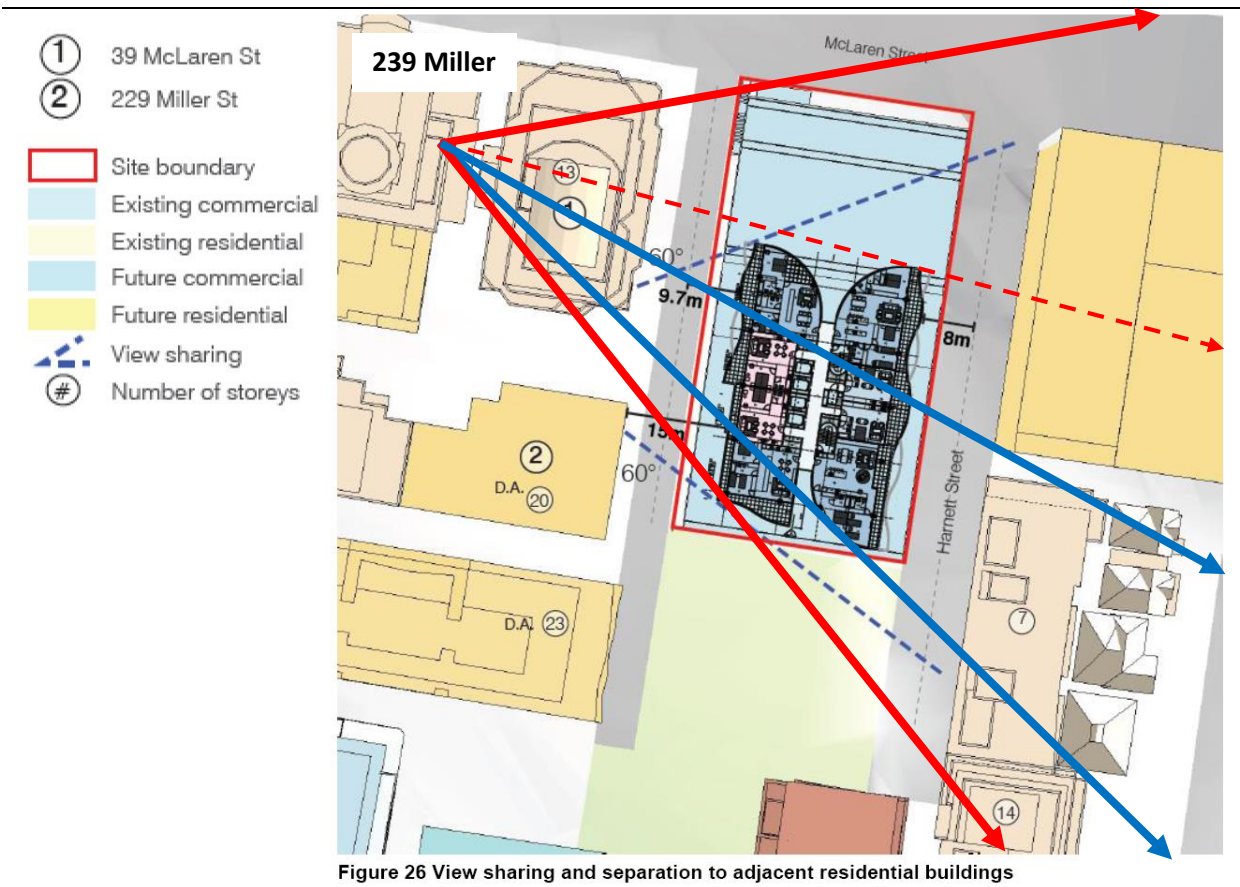
The Planning Proposal states that the proposal will only have an impact upon the views from dwellings at 39 McLaren and 229 Miller Street. Furthermore, it stated that the concept proposal has been designed to retain 60 degree angle views in Plan for these buildings, which is considered acceptable.



**FIGURE 10: Loss of Harbour View**




*Image taken from the main balcony of the top level of 239 Miller Street. The concept building proposal would result in the complete loss of the harbour views from this location.*

Base Image Source: Raine & Horne sales brochure for the apartment (Oct 2017)



**FIGURE 11: Loss of Harbour View – as it relates to Figure 10**

**Legend**

-  Total view angle to the east
-  Total view lost to the east
-  Harbour view lost

Base Image Source: Architectus Planning Proposal

However, the proposed increase in height would result in views to Sydney Harbour (extending from Rushcutters Bay out to Sydney Heads) being blocked. These Harbour views would also be lost to residential dwellings located at the upper levels of 231 and 239 Miller Street. FIGURES 10 and 11 illustrates the extent of the potential loss of Harbour views from the eastern apartment located on the top floor of 239 Miller Street. A building mass located further to the north, may result in these Harbour views being retained.

Whilst no-one has a “right to a view”, it does not mean it is an irrelevant consideration. The Land and Environment Court has established principles with regard to maintaining and sharing of views.

Given the subject site’s location in a dense urban environment and the need to accommodate more development to satisfy State targets for housing and employment, there is a reasonable expectation that views may be impacted upon. However, the degree of impact should be determined as part of a wider strategic process, rather than on a site by site basis. As a standalone site, the proposed level is deemed unreasonable and alternative outcomes may be able to be achieved.

#### 7.2.4. Scale of development

The Planning Proposal includes an assessment of the potential visual impact of a building on the subject site consistent with the proposed height. This assessment was made within the context of future development within the Ward Street Precinct as suggested under the applicant's "Alternative Masterplan" for the Precinct. Given that the Masterplan is currently being reviewed and refined, there is no guarantee that the applicant's "Alternative Masterplan" will be pursued. Furthermore, the assessment assumes that the over station development site on Miller Street will accommodate a 60 storey commercial tower (to RL 300m), when in reality it will be closer to 40 storeys at RL 230m which is consistent with the outcomes of the North Sydney Centre Review and the concept proposal issued by Transport for NSW with respect to obtaining the Secretary's Environmental Assessment Requirements for the over-station development. This is a significant misrepresentation of the future context of the North Sydney skyline.

Building heights should generally be highest within the geographical middle of commercial centres and taper down towards its edges. The proposed height over the subject site is too high, given the Metro Station site would approximately represent the geographical middle of the Centre (the corner of Berry and Miller Streets) and presently it is proposed to accommodate a tower to RL 230m. FIGURE 12 represents the degree of contextual misrepresentation that the applicant has provided and indicates that the height proposal would be out of context with the remainder of development within the North Sydney Centre.

- (A) Indicative Metro Tower
- (B) Ward Street Tower
- (C) 41 McLaren St

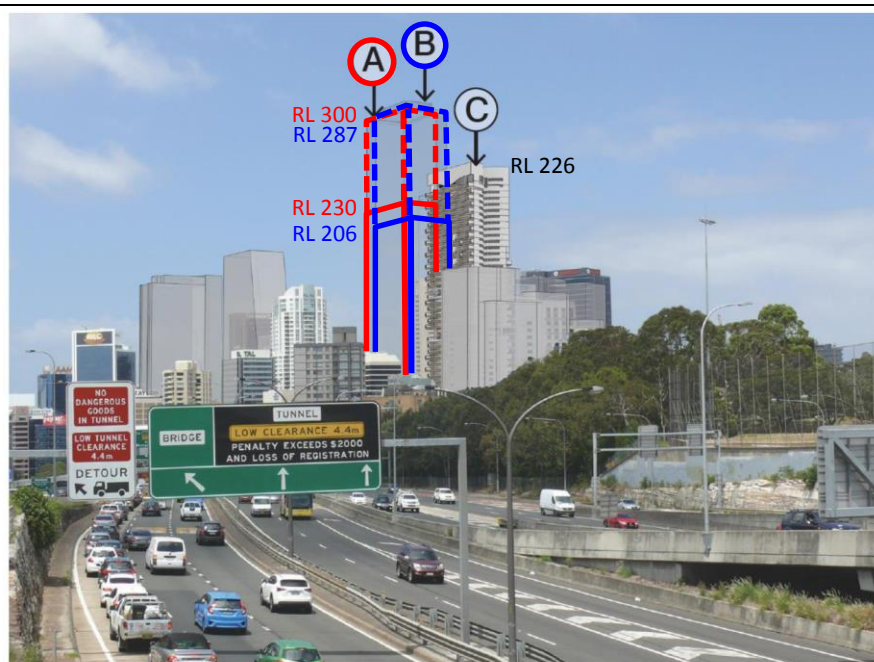


Figure 25 View looking southwest from Falcon Street overpass

#### FIGURE 12: Visual impact

##### Legend

- Anticipated to height to be achieved on the Metro Tower site.
- - - Extent of height over that likely to be realised on Metro Tower site.
- Anticipated to height to be achieved on Ward Street Tower site.
- - - Extent of height over that likely to be realised on Ward Street Tower site

Base Image Source: Architectus Planning Proposal



### **7.3. Non-Residential Development**

The site currently has a minimum non-residential floor space ratio control of 0.5:1. The Planning Proposal suggests that the concept proposal would provide 7,285sqm of non-residential gross floor space, resulting in a non-residential FSR of 3.08:1.

Whilst this clearly complies with the current control, there is potential that the level of non-residential floor space could be further significantly reduced. Given the site's proximity to the northern portal of the Victoria Cross Metro Station, it would be more appropriate to retain as much non-residential floor space as possible to maximise access to jobs. The current review of the Ward Street Masterplan is considering how Council can accommodate growth in employment/commercial floor space within the precinct given the improved public transport to the precinct post 2024.

Should Council be of a mind to progress the Planning Proposal, it is recommended that the Planning Proposal be amended to apply a minimum non-residential FSR of 3:1 across the entire site.

### **7.4. Alternative Options**

The DPE's *A guide for preparing planning proposals* (2016) requires Planning Proposals to consider if there are alternative options to achieving the intent of the proposal. The Planning Proposal provides two options to achieve the intent of the Planning Proposal each of which are further discussed in the following subsections.

#### **7.4.1. Option 1: Site Specific Local Clause (Preferred)**

This option could be likened to a bonus provision within NSLEP 2013, whereby additional height would be permitted on the site, but only if the consent authority could be satisfied as to the meeting of a number of criteria. In particular, the Planning Proposal suggests that the following criteria should be met:

- (a) *Conserve key components and attributes of 'Simsmetal House';*
- (b) *Be consistent with a heritage management document prepared in accordance with clause 5.10(5);*
- (c) *Provide publicly accessible, unobstructed external access through the site (a through-site link); and*
- (d) *Provide active uses with frontages at ground level addressing the through-site link.*

This option provides a reasonable level of certainty for the developer of the site, but only if the criteria can be satisfactorily met. However, it does not provide a reasonable level of certainty for the wider community who may be impacted upon by any additional increase in height. It also does not provide any clarity for the wider community, as the absolute height standard will not be mapped. It may be possible that the bonus height control could be mapped similar to that used by The Hills, Ryde and Shoalhaven Councils in their Standard Instrument LEPs. This would greatly improve clarity for the wider community if this option is pursued.

Criteria (a) and (b) relate to the conservation of the heritage item. Whilst clause 5.10 to NSLEP 2013 seeks to protect and conserve items of heritage significance, nothing prevents the consent authority from granting approval to demolish the heritage item, should it be of a mind to do so. By including these criteria, it would ensure that the heritage item is protected and conserved.

However, it is also noted that approximately 75% of the existing commercial building is to be demolished, leaving an approximately 4m deep section of the existing building being retained along its eastern, western and northern facades. This leads to the question as to whether the significance of the heritage item will be compromised. It is noted that Council's Conservation Planner has raised issue with this approach. This is discussed further in section 7.6 of this report.

Criteria (c) and (d) are largely dependent upon how land to the south of the subject site will be redeveloped. Whilst Council has indicated through its first iteration of the *WSP Masterplan* that it seeks to provide a north-south pedestrian spine connecting St Leonards Park, Berrys Square, Brett Whitely Place, Greenwood and North Sydney Railway Station and a public square, there is no guarantee that this outcome will be achieved, nor whether it is the most desirable outcome. This is due to the WSP Masterplan being subject to revision to determine the most optimal public domain and built form outcomes across the precinct. A through-site link would only be workable if it can be guaranteed that the properties to the south of the subject site also achieve a through-site link and achieves Council's stated objectives and principles for the precinct.

Given that the WSP Masterplan has yet to be completed and the overall outcomes have yet to be resolved, it would be prudent to wait until this project is completed before committing to the provision of a through-site link just on 41 McLaren Street.

On this basis, should this option be pursued, it is recommended that the criteria be further refined to ensure the entire anticipated pedestrian spine can actually be completed and with a relative level of amenity. On this basis, the criteria should be revised (insertions underline, and deletions ~~striketrough~~) to state:

- (c) *Provide publicly accessible, unobstructed external access through the site (a through-site link), but only where:*
  - (i) the consent authority can be satisfied that such access contributes to the provision of a safe, high amenity and continuous path of travel from McLaren Street through to Berry Street; and
  - (ii) If provided through a building, must have a minimum unencumbered vertical clearance of at least 6m and a minimum unencumbered width of at least 7m; and
  - (iii) such a through site link is publically accessible 24 hours a day; and;
- (d) *Provide active uses with frontages at ground level addressing the through-site link.*

This option also includes the following subclause:

- (4) *This clause prevails in the result of any inconsistency clause 6.3(3)*

The inclusion of this clause would remove the need to consider any additional overshadowing of residential dwellings located outside of the North Sydney Centre, which is currently restricted between 9am and 3pm, with the view to reducing this timeframe to between 10am and 2pm under the North Sydney Centre Planning Proposal, which is being considered separately. On pages 42-43 of the Planning Proposal, it states that the concept proposal would result in overshadowing of development outside of the North Sydney Centre particularly those located east of Walker Street and north of Berry Street and that the level of impact is acceptable given:

- *the land is already substantially overshadowed by the approved development of 168 Walker Street;*
- *that densification and increased heights are likely for this land in the future; and*
- *that overshadowing of this land from any development of 41 McLaren Street would not preclude any future residential development on the land from achieving solar access in accordance with the ADG.*

The inclusion of such a clause would set an unreasonable precedent, opening the door for others to ignore the strong policy position Council has enforced since 2001 to provide a balance between increasing densities within the North Sydney Centre, whilst maintaining some level of protection to the amenity of residents adjoin the Centre. The inclusion of subclause (4) is therefore not supported.

If subclause (4) is removed, then a development on the site is unlikely to achieve a maximum height of RL 226m. Therefore, if the Planning Proposal is to progress, the Planning Proposal should be amended to reflect Council's endorsed policy position to not result increased overshadowing to residentially zoned land located outside of the North Sydney Centre.

#### **7.4.2. Option 2: Amendment to the Heights of Building Map**

Just pursuing a change to the height of buildings map provides a high level of certainty and clarity for the developer of the site and the wider community. However, there is minimal guarantee that a through site link would actually be provided and retention of the heritage item.

Furthermore, a development on the site may not be able to achieve the new maximum height limit due to the operation of clause 6.3(3), due to adverse overshadowing of residential properties located outside of the North Sydney Centre. An exemption to this requirement is not appropriate due to the precedent that it would set to ignore a longstanding policy by endorsed by Council and the wider community.

#### **7.4.3. Option 3: Amendment to the Heights of building map & Local Provision**

This option would involve a combination of Options 1 and 2. In particular, it would involve:

- Amending the Height of Buildings Map such that a maximum height limit of RL 226m applies to the subject site; and
- Incorporating a local provision that prevents the granting of development consent to a development greater than RL 100m on the subject site, despite the maximum height imposed on the Heights of Building Map, unless certain criteria can be met.

This is a similar approach to that adopted in the North Sydney Centre Planning Proposal, where by development in the North Sydney Centre may not be approved beyond a height of 45m unless the site has an area of at least 1,000sqm. The clause was adopted to ensure the consolidation of sites to provide suitable commercial floorplates and to provide additional flexibility to the redevelopment of sites within the Centre over the current level of control.

The suggested wording of the local clause could be as follows:

- 6.# *Development at 41 McLaren Street, North Sydney*
- (1) *The objectives of this clause is to restrict additional building height on land at 41 McLaren Street (Lot 1, DP 557103) if the retention and conservation of 'Simsmetal House' and provision of public benefits are not incorporated.*

- (2) *Despite clause 4.3, development consent must not be granted to a building on the land with a height greater than RL 100 metres, unless:*
- (a) *key components and attributes of ‘Simsmetal House’ are retained and conserved;*
  - (b) *the development is consistent with a heritage management document prepared in accordance with clause 5.10(5);*
  - (c) *publicly accessible, unobstructed external access is provided through the site (a through-site link), but only where:*
    - (i) *the consent authority can be satisfied that such access contributes to the provision of a safe, high amenity and continuous path of travel from McLaren Street through to Berry Street; and*
    - (ii) *If provided through a building, must have a minimum unencumbered vertical clearance of at least 6m and a minimum unencumbered width of at least 7m; and*
    - (iii) *such a through site link is publically accessible 24 hours a day; and*
  - (d) *Active uses with frontages at ground level addressing the through-site link are provided.*

Pursing this option is not considered to be appropriate as there is poor level of certainty. There would also be a general presumption that a building constructed to RL 226m could be achieved regardless of the criteria that need to be addressed to obtain the full height limit.

#### **7.5. Voluntary Planning Agreement (VPA)**

The Planning Proposal indicates that the proponent intends to enter into a VPA with Council with the view to providing a number of public benefits to assist with the provision of local services and facilities outside of the scope of Council’s Section 94 Contributions Plan. In particular, the offer involves a contribution to the value of \$10,557,750 to fund the following public benefits:

- 50% of the north-south pedestrian spine/open space (public domain embellishment works); and
- 6 x affordable housing units.

No breakdown of costs have been provided to determine the split between these two public benefit works.

The VPA also includes a bonus public benefit outcome to the value of approximately \$26,125,000, should the maximum height of buildings control on the subject site be increased to RL 250m in accordance with the applicant’s Visionary Masterplan for the Ward Street Precinct. In particular, the following works are identified:

- Public domain embellishments (\$9,650,000);
- 1,250sqm of floor space for community facilities such as a child care or creative space (\$4,375,000);
- 12 affordable housing units (\$12,000,000).

Based on the breakdown of costings for the bonus public benefits, the cost breakdown of the base VPA includes \$4,557,750 for the public through site link works and \$6,000,000 for the affordable housing units.

The base cost of VPA equates to \$83,790 per additional metre over that currently permitted and the bonus cost of the VPA equates to \$173,300 per additional metre over that currently permitted. This would indicate that the value of the base level of the contribution is significantly undervalued, given that the Bonus only seeks an additional 24m.

It is difficult to quantify the costs of providing a future north-south pedestrian spine and public open space areas to the south of the subject site as the details of these spaces has yet to be determined. These details will not be known until the WSP Masterplan has been completed. Therefore, the value of the contribution may be more than or less than that being suggested.

No details have been provided to indicate what the uplift in value the site will be, resulting from an increase in maximum building height. This makes it difficult for Council to make an informed decision as to whether the value of the offer is reasonable or not.

It is therefore recommended that the Planning Proposal not proceed without first receiving sufficient information that clearly indicates the feasibility of the development and Council staff have determined if the amount of public benefits appropriately reflects the level of uplift that the change to the planning controls will have.

#### **7.6. Heritage Implications**

The Planning Proposal seeks to partially retain the existing heritage listed commercial building and incorporate it as a podium to a new mixed use development with a residential tower above. It is also suggested that original design elements that contribute to the significance of the building could be reinstated.

The concept proposal involves the demolition of approximately 75% of the existing building, leaving only the outer eastern, western and southern facades largely intact.

The Planning Proposal was referred to Council's Conservation Planner for comment. Their comments are provided as follows.

Consideration of the Planning Proposal to increase the height and floor space ratio of the site is not supported on heritage grounds on the basis that:

- Although the proposed new tower building above the existing heritage item will appear to be a distinct element, the extent of adaptation to enable the existing building to function as a podium to the tower above will have a detrimental impact on heritage significance. The extent of demolition works associated with the adaptation works are excessive resulting in the loss of much of the existing structure, layout and landscaping that give it significance. As such, whilst the adoption of the Burra Charter approach to design the tower component to appear 'distinct from the heritage podium' is acceptable, the extent of demolition resulting from the 'adaptation' work to enable the existing building to function as a heritage podium is contrary the provisions of the Burra Charter as the work will down-grade the heritage significance of the place and the components that make it significant. Effectively, what will remain is the façade.
- The Planning Proposal is developer led and seeks approval in isolation of other proposed changes in the Ward Street Precinct Masterplan area. The proposed scale and height is excessive in the context of the heritage items in the vicinity of the Study Area and will have a detrimental impact on their significance and be incongruent within its site context as part of the Masterplan area. The proposed tower building will be a



visually prominent feature and inconsistent with the approach to the Masterplan which seeks a holistic planning approach and outcome for the study area.

- The Planning Proposal does not meet the provisions set out in Planning Priority N6 of the draft *North District Plan* relating to heritage which seeks to understand heritage values early in the process to ensure fine grain outcomes to urban form that is place based. In this regard, a review of the understanding of the cultural significance of the Ward Street Precinct Study Area and its immediate vicinity in relation to twentieth century architecture should be undertaken to 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.

## **7.7. Transport Implications**

The Planning Proposal is accompanied by a Traffic Impact Assessment (TIA) which states that the concept proposal is likely to have a negligible impact on the surrounding road network and performance of key intersections in the locality. The Planning Proposal was referred to Council's Strategic Transport Planner for comment. Their comments are provided in the following subsections.

### **7.7.1. Travel Planning**

The Planning Proposal is not accompanied by a draft "Green Travel Plan", which would generally be required for a proposal of this scale and is a requirement under Provision P1 (b) and (c) of NSDCP 2013. A draft Green Travel Plan would allow a preliminary assessment to be made of the type/scale of soft engineering interventions that the proponent expects to be delivered as part of the proposal. In particular, consideration needs to be given as to how the applicant intends to reduce car reliance; increase uptake of walking, cycling, public transport, and car sharing and further reduce on-site car ownership/parking demand/parking supply for the site.

### **7.7.2. Walking**

Council is in the process of preparing the Ward Street Precinct Masterplan which will identify an overarching pedestrian management plan for the Ward Street Precinct. Until this work is completed, the applicant is unable to adequately demonstrate how proposed walking facilities are consistent with the aims of the Masterplan. Even at this stage, the proposed through-site link is not supported for the following reasons:

- 1) legal provisions safeguarding 24hr access to the through site link would need to be negotiated (this would have security implications for the proposed development);
- 2) incorporation of the through-site link within under-croft area provides poor visual cues regarding the nature of this "public" thoroughfare from McLaren Street; and
- 3) the enclosed nature of the through-site link and the positioning of columns in the centre of this thoroughfare has implications for crime and personal security. CCTV will not provide an adequate alternative to general on-street activity and passive surveillance from adjacent buildings.

Consideration should be given to how a priority crossing for pedestrians might be provided across McLaren Street to improve pedestrian safety and amenity between the site and the Metro Station's northern portal.

### 7.7.3. Cycling

Whilst the proposal provides a sufficient level of bicycle parking in terms of overall numbers, the location of the 19 resident visitor parking spaces within the basement of the building is unacceptable and contrary to the locational requirements under NSDCP 2013 which require such spaces to be provided externally, near to main entrances to their associated land use. However, such issues may be able to be satisfactorily addressed during the development of a future DA.

### 7.7.4. Public Transport

The subject site currently has high levels of access to public transport (Miller Street bus services and North Sydney T1 Rail Station). This will further improve in future with the opening of the Victoria Cross Metro Station and it's northern portal, which is to be located almost directly opposite the subject site on the other side of McLaren Street. A draft Travel Plan for the concept proposal should be provided and include details of how the applicant intends to promote the increased uptake of public transport by residents, workers and visitors to the site as well as reducing car reliance, car ownership, parking demand and parking supply for the site.

### 7.7.5. Car Parking

NSDCP 2013 adopts maximum car parking rates with the principle aim to curb traffic generation within the LGA. The concept proposal currently exceeds the maximum parking requirements and applicant should be required to re-visit their proposal in order to accommodate less parking than permitted.

Based on the site's B4 Mixed Use zoning and its location within the North Sydney Centre under NSLEP 2013, NSDCP 2013 currently permits a maximum level of parking to be provided as outlined in Table ...

TABLE ...: NSDCP 2013 Parking Requirements					
Use		NSDCP Parking Rate	Proposal Base	Requirement	Provision
Residential	Studio / 1 bed	0.5 / dwelling	100	50	
	2 bed +	1 / dwelling	124	124	
	<i>Subtotal</i>			174	175
	Visitor	No requirement	-	-	22
	Motorcycle	1 / 10 spaces	174	18	18
Commercial	North Sydney Centre	1 / 400sqm GFA	7285	19	22
	Motorcycle	1 / 10 spaces	19	2	6
Total			<i>Vehicles</i>	193	197
			<i>Motorcycle</i>	20	24

However, due to the site's proximity to the North Sydney CBD and the future Victoria Cross Metro site, it would be more appropriate for the developer to apply the maximum parking controls currently adopted for development within St Leonards Precincts 2 & 3. Under these controls, a more appropriate number of parking spaces for the proposed development would be as outlined in TABLE ...

TABLE ... NSDCP 2013 Parking Requirements - Alternative					
Use		NSDCP Parking Rate	Proposal Base	Requirement	Provision
Residential (St Leonards Precincts 2&3)	Studio / 1 bed	0.25 / dwelling	100	25	
	2 bed +	0.5 / dwelling	124	62	
	<i>Subtotal</i>			87	175

TABLE ... NSDCP 2013 Parking Requirements - Alternative					
Use		NSDCP Parking Rate	Proposal Base	Requirement	Provision
Commercial	Visitor	No requirement	-	-	22
	Motorcycle	1 / 10 spaces	87	9	18
	North Sydney Centre	1 / 400sqm GFA	7285	19	22
	Motorcycle	1 / 10 spaces	19	2	6
Total			<i>Vehicles</i>	106	197
			<i>Motorcycle</i>	11	24

A “Draft Travel Plan” should be prepared and used to help justify a reduced parking supply and demonstrate how this will help to reduce car reliance and increase uptake of public transport by occupants, workers and visitors to the development.

#### 7.7.6. Car Share

NSDCP 2013 permits extensive use of car share vehicles to address resident mobility requirements. The applicant should consider that a single car share vehicle can replace more than 3-4 private vehicle spaces on the site. Justification of car share provisions and how they relate to reduced car parking provisions for the site should be investigated as part of a draft Green Travel Plan.

#### 7.7.7. Traffic Generation

Recent 2016 Census Journey to Work data for Statistical Area 1141703, within which the site is located, suggests that less than 20% (19.3%) of residents use their cars to commute to work. Applying this rate to the proposed development would demonstrate a lower level of traffic generation than under the proposed methodology addressed in the TIA. However, it should be expected that the introduction of the Victoria Cross Metro Station’s northern portal in such close proximity to the site will change travel behaviour at this site significantly. This should be considered both in the development of the “traffic generation” component of this report and in the development of a draft Travel Plan for the site that, again, demonstrates how reduced car reliance and increase uptake of public transport will minimise traffic generation associated with the applicant’s proposals.

### 7.8. Policy and Strategic Context

#### 7.8.1. Section 117 Directions

Section 117 of the Environmental Planning and Assessment Act 1979 enables the Minister for Planning to issue directions regarding the content of Planning Proposals. There are a number of s.117 Directions that require certain matters to be addressed if they are affected by a Planning Proposal. Each Planning Proposal must identify which s.117 Directions are relevant to the proposal and demonstrate how they are consistent with that Direction.

The Planning Proposal is considered to be generally consistent with all relevant s.117 Directions, with the exception of Direction 1.1 – Business and Industrial Zones and Direction 3.5 – Development near Licensed Aerodromes as discussed in the following subsections. In particular, the applicant’s justification for supporting inconsistencies with the Directions are not supported.

#### **7.8.1.1. Direction 1.1 – Business and Industrial Zones**

Direction 1.1 – *Business and Industrial Zones* applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone. The specific objectives of the Direction are to:

- (a) *encourage employment growth in suitable locations,*
- (b) *protect employment land in business and industrial zones, and*
- (c) *support the viability of identified strategic centres.*

Subclause (4) to the Direction states:

*A planning proposal must:*

- (a) *give effect to the objectives of this direction,*
- (b) *retain the areas and locations of existing business and industrial zones,*
- (c) *not reduce the total potential floor space area for employment uses and related public services in business zones,*
- (d) *not reduce the total potential floor space area for industrial uses in industrial zones, and*
- (e) *ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.*

The subject site currently has a minimum non-residential floor space requirement of 0.5:1. The existing building has a non-residential floor space of 10,148sqm resulting in a non-residential FSR of 4.28:1. The concept proposal envisages a non-residential floor space of 7,285sqm resulting in a non-residential FSR of 3.08:1. Accordingly, despite complying with the minimum requirement, the concept proposal would result in a nett loss in commercial floor space on the subject site.

If the entire concept proposal was to be used as a commercial building, as permitted in the *B4 Mixed Use* zone, then an FSR of 13.06:1 (based on a GFA of 30,922sqm) would be achieved.

Whilst the Planning Proposal does not technically result in a potential employment floor space loss, the concept proposal will see the level of commercial floor space on the subject site being reduced. In addition, there is no guarantee that a future development will seek to maintain a non-residential FSR of 3.08:1.

If proceeded with, to reinforce the objectives of this direction, it is recommended that the minimum non-residential floor space requirement for the subject site be increased from 0.5:1 to 3:1. This increase in the FSR control is justified with consideration to the site's close proximity to the future northern entrance to the Victoria Cross Metro Station and it would reinforce the directions and actions of the relevant regional and subregional plans.

#### **7.8.1.2. Direction 3.5 – Development near Licensed Aerodromes**

Direction 3.5 – *Development near Licensed Aerodromes* applies when a relevant planning authority prepares a Planning Proposal that that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome. In particular, subclause (4) to this Direction states:

*In the preparation of a planning proposal that sets controls for the development of land in the vicinity of a licensed aerodrome, the relevant planning authority must:*

- (a) *consult with the Department of the Commonwealth responsible for aerodromes and the lessee of the aerodrome,*
- (b) *take into consideration the Obstacle Limitation Surface (OLS) as defined by that Department of the Commonwealth,*
- (c) *for land affected by the OLS:*
  - (i) *prepare appropriate development standards, such as height, and*
  - (ii) *allow as permissible with consent development types that are compatible with the operation of an aerodrome*
- (d) *obtain permission from that Department of the Commonwealth, or their delegate, where a planning proposal proposes to allow, as permissible with consent, development that encroaches above the OLS. This permission must be obtained prior to undertaking community consultation in satisfaction of section 57 of the Act.*

Despite not being located in close proximity to Sydney Airport, the subject site is affected by an Obstacle Limitation Surface (OLS) of 156m AHD. The Planning Proposal seeks to introduce new maximum building height of RL 226m AHD on the subject site, which exceeds the OLS by 70m. It is also considered that any activities associated with the construction of the concept proposal would further encroach above the OLS on a temporary basis.

The Planning Proposal has addressed the Direction as follows:

*The proposed maximum building height of RL 226 metres AHD is above the Obstacle Limitation Surface (OLS) for North Sydney of 156 metres AHD, but below the Procedures for Air Navigation Systems Operations (PANOPS) surface of 335.2 metres AHD.*

*The direction provides that a planning authority must consider the OLS in preparing development standards, including height. It is noted that a large number of sites in the North Sydney Centre currently have maximum heights above the level of the OLS and that the site is located within a cluster of both existing and future tall buildings. The inconsistency is therefore considered of minor significance and consultation with the relevant Commonwealth Department is recommended following a Gateway determination.*

The Planning Proposal has not been referred to the Commonwealth Department of Infrastructure and Regional Development, nor the Sydney Airport Corporation for their comment and permission in accordance with subclauses (4)(a) and (d) of the Direction.

Notwithstanding, referral can still be undertaken and permission obtained as a requirement of any future Gateway Determination consistent with the requirements of the Direction.

### **7.8.2. A Plan for Growing Sydney**

In December 2014, the State Government released *A Plan for Growing Sydney* (Regional Plan) covering the North Sydney LGA. The Plan replaced the former *Metropolitan Plan for Sydney 2036* and *Draft Metropolitan Strategy for Sydney to 2031*.

The Regional Plan seeks to provide an additional 664,000 homes and 689,000 new jobs by 2031. No targets are set for any of the subregions (now known as Districts), of which the North Sydney LGA is part of the Inner North subregion. Revised Draft District Plans, consistent with the Regional Plan have recently been placed on public exhibition. North Sydney is identified as a *CBD* (the highest order Centre) under the Regional Plan.

Goals, Directions and Actions identified in the Regional Plan which are relevant to the Planning Proposal are as follows:

***Goal 1: A competitive economy with world-class services and transport***

- ***Direction 1.1:*** Grow a more internationally competitive Sydney CBD
  - ***Action 1.1.1:*** Create new and innovative opportunities to grow Sydney CBD office space by identifying redevelopment opportunities and increasing building heights in the right locations
- ***Direction 1.6:*** Expand the Global Economic Corridor
  - ***Action 1.6.1:*** Grow high-skilled jobs in the Global Economic Corridor by expanding employment opportunities and mixed-use activities
  - ***Action 1.6.2:*** Invest to improve infrastructure and remove bottlenecks to grow economic activity
- ***Direction 1.7:*** Grow strategic centres – providing more jobs closer to home
  - ***Action 1.7.1:*** Invest in strategic centres across Sydney to grow jobs and housing and create vibrant hubs of activity
- ***Direction 1.10:*** Plan for education and health services to meet Sydney's growing needs
  - ***Action 1.10.2:*** Support the growth of complementary health and tertiary education activities in Strategic Centres

***Goal 2: A city of housing choice, with homes that meet our needs and lifestyles***

- ***Direction 2.1:*** Accelerate housing supply across Sydney
  - ***Action 2.1.1:*** Accelerate housing supply and local housing choices
- ***Direction 2.2:*** Accelerate urban renewal across Sydney – providing homes closer to jobs
  - ***Action 2.2.2:*** Undertake urban renewal in transport corridors which are being transformed by investment, and around strategic centres
- ***Direction 2.3:*** Improve housing choice to suit different needs and lifestyles
  - ***Action 2.3.3:*** Deliver more opportunities for affordable housing

***Goal 3: A great place to live with communities that are strong, healthy and well connected***

- ***Direction 3.1:*** Revitalise existing suburbs
  - ***Action 3.1.1:*** Support urban renewal by directing local infrastructure to centres where there is growth
- ***Direction 3.2:*** Create a network of Interlinked, multipurpose open and green spaces across Sydney
  - ***Action 3.2.1:*** Deliver the Sydney Green Grid Project
- ***Direction 3.3:*** Create healthy built environments
  - ***Action 3.3.1:*** Deliver guidelines for a healthy built environment

The Planning Proposal is considered to be generally consistent with the above goals, directions and actions of the Regional Plan, in so far that it will provide development opportunities to increase residential accommodation in the outer periphery of a major Centre in close proximity of high frequency public transport, without adversely impacting upon the provision of active street frontages.

However, the Planning Proposal is also contrary to the relevant goals, directions and actions of the Regional Plan, in so far that it will minimise employment opportunities within the heart of a CBD located within the Global Economic Corridor. Whilst the proponent advises that they would seek to retain the existing level of commercial floor space on the site, there is a potential

that it could be reduced in the future due to the very low minimum non-residential floor space control applying to the subject site (0.5:1). The retention of this existing employment floor space could be further protected if the minimum non-residential FSR control was also increased to generally reflect the level that is proposed to be retained (approximately 3:1).

Direction 1.6 indicates that by 2030, there will be demand for an additional 190,000 new stand-alone office jobs, of which approximately 75% (142,500) will be located in 10 major office markets, which includes North Sydney. With respect to Action 1.6.1, it states that where residential pressure is being experienced in major suburban office markets, critical retail business and office space needs to be protected. The proposal seeks to introduce residential accommodation on the subject site in-line with its current zoning. However, with the current minimum non-residential FSR control, it could result in a significant loss of commercial floor space within 80m of a future Metro station entry which is contrary to this Action.

The desire to retain a commercial presence on the site is currently being determined as part of the revision of the draft WSP Masterplan. In particular, there is a need to revisit the land use mix within the Precinct due to the approval of the northern portal to the Victoria Cross Metro Station.

Of further note, whilst housing can essentially be accommodated anywhere, it's far more difficult to appropriately locate employment generating floor space. Given the importance of locating employment generating floor space close to public transport, greater weight should be given to retaining existing employment related functions over housing, especially within and adjacent to existing commercial centres. These issues are further exacerbated by strata titling of residential development rarely being converted back for commercial purposes.

If preference is given to the provision of housing over employment generating opportunities, the strategic economic importance of identified centres under the Regional Plan will be undermined.

The Regional Plan also sets out a number of priorities for the North Subregion (now known as the North District) and CBDs within the District. The relevant Priorities as they relate to the subject site are as follows:

**Priorities for the North Subregion [North District]**

***A competitive economy***

- *Preserve the corridor for Sydney Rapid Transit including a second harbour rail crossing.*

***Accelerate housing supply, choice and affordability and build great places to live***

- *Work with councils to identify suitable locations for housing and employment growth coordinated with infrastructure delivery (urban renewal) and train services, established and new centres, and along key public transport corridors including the North West Rail Link, the Western Line, the Cumberland Line, the Carlingford Line, the Bankstown Line and Sydney Rapid Transit.*

**Priorities for Strategic Centres – Global Sydney (North Sydney CBD)**

- *Work with the City of Sydney and North Sydney Council to:*
  - *recognise and plan Global Sydney as a transformational place;*

- *plan Sydney CBD as Australia's premier location for employment, supported by a vibrant mixture of land uses and cultural activity, and iconic places and buildings including Sydney Harbour, the Opera House and the Sydney Harbour Bridge;*
- *provide capacity for long-term office growth in Sydney CBD;*
- *provide capacity for additional mixed-use development in the precincts that make up Global Sydney for offices, retail, tourism, arts, culture, services and housing;*
- *improve access to the CBD including through Sydney Rapid Transit and the CBD and South East Light Rail;*
- *improve walking and cycling connections between Global Sydney precincts and to the surrounding area.*
- *Retain a commercial core in North Sydney CBD for long-term employment growth.*
- *Investigate potential future employment and housing opportunities associated with a Sydney Rapid Transit train station at Victoria Cross (North Sydney).*

The Planning Proposal is unlikely to adversely impact upon the implementation of these priorities, with the exception of potentially impacting upon the retention of a commercial core to provide the required level of employment opportunities which is contrary to addressing the priorities of District. Whilst not currently located within the commercial core of the North Sydney Centre, there is a need to revisit land use mix within the Ward Street Precinct due to the approval of the northern portal to the Victoria Cross Metro Station.

### **7.8.3. Draft Greater Sydney Region Plan**

In October 2017, the State Government released *A Metropolis of Three Cities – Draft Greater Sydney Region Plan* (Draft Regional Plan) covering the North Sydney LGA. The Draft Regional Plan is to replace the former *Regional Plan for Sydney – A Plan for Growing Sydney*.

The Draft Regional Plan seeks to provide an additional 725,000 homes and 817,000 new jobs by 2036. No targets are set for any of the Districts, of which the North Sydney LGA is part of the North District. Revised Draft District Plans, consistent with the Draft Regional Plan have recently been placed on public exhibition. North Sydney is identified as a Metropolitan City Centre (the highest order Centre) under the Draft Regional Plan.

The Directions, Objectives and Strategies identified in the Draft Regional Plan which are relevant to the Planning Proposal are as follows:

#### ***Infrastructure and collaboration***

##### ***Direction 1: A city supported by infrastructure***

##### ***Objective 4 Infrastructure use is optimised***

***Strategy 4.1*** *Maximise the utility of existing infrastructure assets and consider strategies to influence behaviour changes, to reduce the demand for new infrastructure, including supporting the development of adaptive and flexible regulations to allow decentralised utilities*

#### ***Liveability***

##### ***Direction 2: A city for people***

##### ***Objective 6: Services and infrastructure meet communities' changing needs***

***Strategy 6.1:*** *Deliver social infrastructure to reflect the needs of the community now and in future*

***Strategy 6.2:*** *Optimise the use of available public land for social infrastructure*

##### ***Objective 7: Communities are healthy, resilient and socially connected***



***Strategy 7.1:** Deliver inclusive places for people of all ages and abilities that support healthy, resilient and socially connected communities by providing walkable places with active street life and a human scale; and co-locating schools, social, health, sporting, cultural and shared facilities*

**Direction 3:** *Housing the city*

**Objective 10:** *Greater housing supply*

**Objective 11:** *Housing is more diverse and affordable*

**Direction 4:** *A city of great places*

**Objective 12:** *Great places that bring people together*

**Strategy 12.1:** *Deliver great places by:*

- a) *Prioritising a people-friendly public realm and open spaces as a central organising design principle*
- b) *Recognising and balancing the dual function of streets as places for people and movement*
- c) *Providing fine grain urban form, high amenity and walkability*
- d) *Integrating social infrastructure to support social connections and provide a community hub*
- e) *Encouraging contemporary interpretation of heritage where possible*
- f) *Using a place-based and collaborative approach throughout planning, design, development and management*

**Strategy 12.2:** *In Collaboration Areas, Priority Precincts and planning for centres:*

- a) *Investigate opportunities for precinct based provision of adaptable car parking and infrastructure in lieu of private provision of car parking*
- b) *Ensure parking availability takes into account the level of access by public transport*
- c) *Consider the capacity for places to change and evolve, and accommodate diverse activities over time*

**Objective 13:** *Environmental heritage is conserved and enhanced*

**Strategy 13:** *Conserve and enhance environmental heritage by:*

- a) *Engaging with the community early in the planning process to understand Aboriginal, European and natural heritage values*
- b) *Conserving and interpreting Aboriginal, European and natural heritage to foster distinctive local places*

**Productivity**

**Direction 5:** *A well connected city*

**Objective 14:** *A metropolis of three cities – integrated land use and transport creates walkable and thirty-minute cities*

**Strategy 14.1:** *Integrated land use and transport plans to deliver the 30-minute city*

**Objective 15:** *The Eastern, GPOP and Western Economic Corridor are better connected and more competitive*

**Objective 17:** *Regional transport is integrated with land use*

**Strategy 17.1:** *Investigate and plan for the land use implications of potential long-term transport connections*

**Direction 6:** *Jobs and skills for the city*

**Objective 18:** *Harbour CBD is stronger and more competitive*

**Strategy 18.2:** *Develop and implement land use and infrastructure plans which strengthen the international competitiveness of the Harbour CBD and grow its vibrancy by:*

- a) further growing an internationally competitive commercial sector to support an innovation economy*
- b) providing residential development without compromising the objectives for commercial development*
- c) providing a wide range of cultural, entertainment, arts and leisure activities*
- d) providing for a diverse and vibrant night-time economy, in a way that responds to potential negative impacts.*

**Objective 22:** *Investment and business activity in centres*

**Strategy 22.1:** *Provide access to jobs, goods and services in centres by:*

- a) attracting significant investment and business activity in strategic centres to provide jobs growth*
- b) diversifying the range of activities in all centres*
- c) creating vibrant, safe places and quality public realm*
- d) balancing the efficient movement of people and goods with supporting the liveability of places on the road network*
- e) improving the walkability within and to the centre*
- f) completing and improving a safe and connected cycling network to and within the centre*
- g) improving public transport services to all strategic centres*
- h) creating the conditions for residential development within strategic centres and within walking distance, but not at the expense of the attraction and growth of jobs, retailing and services; where appropriate, strategic centres should define commercial cores informed by an assessment of their need.*

### **Sustainability**

**Direction 7:** *A city in its landscape*

**Objective 30:** *Urban tree canopy cover is increased*

**Strategy 30.1:** *Expand urban tree canopy in the public realm.*

**Objective 31:** *Public open space is accessible, protected and enhanced*

**Direction 8:** *An efficient city*

**Objective 33:** *A low-carbon city contributes to net-zero emission by 2050 and mitigates climate change*

**Strategy 33.1:** *Support initiatives that contribute to the aspirational objective of achieving net-zero emissions by 2050 especially through the establishment of low-carbon precincts in Priority Growth Areas, Priority Precincts and Collaboration Areas.*

**Direction 9:** *A resilient city*

**Objective 38:** *Heatwaves and extreme heat are managed*

**Strategy 38.1:** *Mitigate the urban heat island effect and reduce vulnerability to extreme heat.*

The Planning Proposal is considered to be generally consistent with the above Directions, Objectives and Strategies of the draft Regional Plan, in so far that it will provide development opportunities to increase residential accommodation in the outer periphery of a major Centre in proximity of high frequency public transport, without adversely impacting upon the provision of active street frontages.

However, the Planning Proposal is also contrary to the relevant Directions, Objectives and Strategies of the draft Regional Plan, in so far that it will minimise employment opportunities within the heart of a Centre located within the Global Economic Corridor. The recent approval to provide a northern entrance to the Victoria Cross Metro Station almost opposite the site has resulted in the need to further review the land use mix and development potential of sites in the vicinity of this entrance, to ensure that the patronage of this asset is maximised for both residents and workers.

#### **7.8.4. Revised Draft North District Plan (2017)**

In November 2017, the NSW Government released a revised version of the draft North District Plan (draft NDP), which was originally first exhibited in November 2016. The North Sydney LGA is located within the North District along with the other LGAs of Hornsby, Ku-ring-gai, Ryde, Hunter Hill, Lane Cove, Willoughby, Mosman and Northern Beaches. The draft NDP sets the following relevant targets:

- **Employment:** an additional 15,600-21,100 jobs by 2036 in the North Sydney CBD; and
- **Housing:** an additional 3,000 dwellings by 2021 for the North Sydney LGA; an additional 25,950 dwellings by 2021 for the North District; and an additional 92,000 dwellings by 2036 for the North District.

Priorities and actions identified in the revised draft NDP which are relevant to the Planning Proposal are as follows:

#### ***Planning Priority N1: Planning for a city supported by infrastructure***

**Action 2:** *Sequence growth across the three cities to promote north-south and east-west connections*

**Action 6:** *Maximise the utility of existing infrastructure and consider strategies to influence behaviours changes, to reduce the demand for new infrastructure, including supporting the development of adaptive and flexible regulations to allow decentralised utilities*

#### ***Planning Priority N4: Fostering healthy, creative, culturally rich and socially connected communities***

**Action 10:** *Deliver inclusive places for people of all ages and abilities that support healthy, resilient and socially connected communities by providing walkable places with active street life and a human scale; and co-locating schools, social, health, sporting, cultural and shared facilities.*

**Action 13:** *Facilitate opportunities for creative and artistic expression and participation, wherever feasible with a minimum regulatory burden, including creative arts and cultural enterprises and facilities, creative interim and temporary uses, and appropriate development of the night-time economy.*

**Action 14:** *Strengthen social connections within and between communities through better understanding in local places.*

#### ***Planning Priority N5: Providing housing supply, choice and affordability, with access to jobs and services***

***Planning Priority N6: Creating and renewing great places and local centres, and respecting the District's heritage***

***Action 17: Deliver great places by:***

- a) Prioritising a people-friendly public realm and open spaces as a central organising design principle*
- b) Recognising and balancing the dual function of streets as places for people and movement*
- c) Providing fine grain urban form, high amenity and walkability*
- d) Integrating social infrastructure to support social connections and provide a community hub*
- e) Encouraging contemporary interpretation of heritage where possible*
- f) Using a place-based and collaborative approach throughout planning, design, development and management*

***Action 18: Conserve and enhance environmental heritage by***

- a) Engaging with the community early in the planning process to understand Aboriginal, European and natural heritage values*
- b) Conserving and interpreting Aboriginal, European and natural heritage to foster distinctive local places*

***Action 19: Use place-based planning to support the role of centres as a focus for connected neighbourhoods***

***Action 20: In Collaboration Areas, Priority Precincts and planning for centres***

- a) Investigating opportunities for precinct-based provision of adaptable car parking and infrastructure in lieu of private provision of car parking*
- b) Ensure parking availability takes into account the level of access by public transport*
- c) Consider the capacity for places to change and evolve and accommodate diverse activities over time*

***Action 21: Use flexible and innovative approaches to revitalise high streets in decline***

***Planning Priority N7: Growing a stronger and more competitive Harbour CBD***

***Action 22: Grow economic development in North Sydney CBD to:***

- a) Maximise the land use opportunities provided by the new station*
- b) Grow jobs in the centre and maintain a commercial core*
- c) Strengthen North Sydney's reputation as an education centre, to grow jobs and add diversity*
- d) Expand after hours' activities*
- e) Encourage growth in business tourism as conference location that takes advantage of North Sydney's identity as a business hub, its location, access and views*
- f) Provide a variety of high quality civic and public spaces benefitting a globally-oriented CBD, which can be utilised for a range of cultural and entertainment activities*
- g) Improve amenity by reducing the impact of vehicle movements on pedestrians*
- h) Create capacity to achieve job targets by reviewing the current planning controls*

***Planning Priority N10: Growing investment, business, opportunities and jobs in strategic centres***

***Action 32: Provide access to jobs, goods and services in centres by:***

- a) Attracting significant investment and business activity in strategic centres to provide jobs growth*
- b) Diversifying the range of activities in all centres*
- c) Creating vibrant, safe places and quality public realm*
- d) Balancing the efficient movement of people and goods with supporting the liveability of places on the road network*
- e) Completing and improving a safe and connected cycling network to and within the centre*
- f) Improving public transport services to all strategic centres*
- g) Creating the conditions for residential development within strategic centres and within walking distance, but not at the expense of the attraction and growth of jobs, retailing and service, but not at the expense of the attraction and growth of jobs, retailing and service: where appropriate, strategic centres should define commercial cores informed by an assessment of their need*

**Action 34:** *Engage with the retail sector on its changing planning requirements and update planning controls as required*

**Action 35:** *Prioritise strategic land use and infrastructure plans for growing centres, particularly those with capacity for additional retail floor space*

**Action 36:** *Encourage opportunities for new smart work hubs*

**Action 37:** *Review the current planning controls and create capacity to achieve the job targets for each of the District's strategic centres*

**Planning Priority N12:** *Delivering integrated land use and transport planning and a 30-minute city*

**Action 47:** *Integrate land use and transport plans to deliver the 30-minute city*

**Action 50:** *Plan for urban development, new centres, better places and employment uses that are integrated with, and optimise opportunities of, the public values and use of Sydney Metro City & Southwest, as well as other city shaping projects*

The Planning Proposal was lodged prior to the release of the revised draft NDP and therefore has not been addressed by the applicant. However, the Planning Proposal had addressed the former version of the draft NDP released in November 2016. Should the Planning Proposal proceed, the Planning Proposal should be amended to address the current draft NDP.

The Planning Proposal is considered to be generally consistent with the above Priorities and Actions of the draft NDP, in so far that it will:

- Provide development opportunities to increase residential accommodation within a Strategic Centre and assist in delivering Council's 5 yearly housing target;
- Capitalising on the location of the future northern entry to the Victoria Cross Metro Station;
- Increase the provision of social housing; and
- Potentially facilitating future improved pedestrian connectivity across the site.

However, the Planning Proposal is also contrary to the above Priorities and Actions of the revised draft NDP, in so far that it will hinder appropriate growth and change in strategic centres. In particular, it:

- Could result in a loss of non-residential commercial floor space over that currently exists on the subject site;
- Will not strengthen the employment role of a Strategic Centre located within the Global Economic Corridor; and
- Does not seek to minimise traffic generation from the site through reduced parking levels.

It is noted that the draft NDP states that '*North Sydney's CBD's strong commercial core is thriving. Its ongoing protection and growth is key to its prominent role in the Greater North Sydney Office market*'. Whilst the zoning of the site enables the accommodation of both residential and non-residential uses, the current minimum non-residential FSR control, could result in a significant loss of commercial floor space within 80m of a future Metro station entry which is contrary to this Action. Council is currently considering the desire to retain a commercial presence on the site as part of the revision to the draft WSP Masterplan. This has arisen due to the approval of the northern entrance to the Victoria Cross Metro Station. On this basis there is an ability for the proposal to be contrary to achieving the Priorities and Actions of the revised draft NDP. To counter balance this issue, it is recommended that if the Planning Proposal is to proceed, that it be amended to change the minimum non-residential FSR control from 0.5:1 to 3:1 to reflect the level of non-residential floor space provided in the concept proposal.

Whilst there is no specific requirement to do so, the draft NDP envisages the provision 5-10% of all dwellings as affordable rental housing throughout the Sydney region. The Proposal proposes to provide 6 affordable rental apartments as part of a VPA offer. This represents 2.6% of the dwellings within the concept proposal. If concept proposal complied with the future vision of the draft NDP, the concept proposal should provide in the order of 11-22 apartments for affordable rental housing.

#### **7.8.5. Residential Development Strategy**

The North Sydney Residential Development Strategy (RDS) identifies the potential for an additional 6,199 dwellings in the North Sydney LGA by 2031 under the provisions of NSLEP 2013. The RDS identifies that North Sydney, incorporating the subject site, has the capacity to supply 2,097 additional residential dwellings over the next 14 years, of which 2,023 are identified in the *B4 Mixed Use* zone and 187 dwellings across all land that currently has a non-residential FSR range of 0.5:1 – 4:1.

No additional residential accommodation was envisaged to be located upon the subject site, due to it being identified as a heritage item under NSLEP 2013.

The concept proposal envisages the accommodation of 224 apartments on the subject site. This equates to approximately 11% of the anticipated dwellings to be accommodated within the *B4 Mixed Use* zone in North Sydney on a single site not originally identified to accommodate any additional residential accommodation. This is over and above that originally anticipated.

The State Government has previously indicated that Council needs to accommodate an additional 5,500 dwellings between 2004 and 2031 (draft Inner North Subregional Strategy) and more recently 3,000 dwellings between 2016 and 2021 (revised draft NDP). As indicated above, NSLEP 2013 has sufficient capacity to easily accommodate this target, without having to increase residential densities elsewhere.

It is also of relevance that capacity identified by the RDS does not establish any reliance on dwelling yield obtained through substantial non-compliances with core development controls, either through planning proposals, court based planning approvals or PAC/SPP determinations which overturn assessment officers' recommendations. In particular, substantial numbers of additional dwellings approved above and beyond that originally envisaged by NSLEP 2013 include the following:

- 6-16 Atchison Street, St Leonards
- 7-19 Albany Street, St Leonards
- 545 Pacific Highway, St Leonards
- 144-154 Pacific Highway & 18 Berry Street, North Sydney
- 200-220 Pacific Highway, Crows Nest

#### **7.8.6. North Sydney Local Development Strategy**

The North Sydney Local Development Strategy (LDS) reflects the outcomes sought by the former Regional Plan, the former District Plan and Council's RDS. These issues are addressed in the previous subsections to this report.

#### **7.8.7. State Environmental Planning Policies**

Each Planning Proposal must identify which State Environmental Planning Policies (SEPP) are relevant to the proposal and demonstrate how they are consistent with that SEPP. The Planning Proposal is considered to be generally consistent with all relevant State Environmental Planning Policies, with the exception of *SEPP 65 - Design Quality of Residential Apartment Development*.

##### ***SEPP 65***

The Planning Proposal provides a reasonable assessment against the provisions of SEPP 65, including the Apartment Design Guide. Whilst the concept proposal generally appears to comply with some of the key development standards, there are a number of inconsistencies and non-compliances, including:

- ***Building separation*** – the concept proposal provides insufficient separation to the residential developments located at 39 McLaren Street and 229 Miller Street. Internally, the concept proposal results in a number of habitable windows of different apartments looking directly into one another;
- ***Building setback*** – The residential tower is not setback a sufficient distance from its eastern, western and southern boundaries;
- ***Solar access*** – the concept proposal will result in adjoining residential developments not achieving the minimum requirements of solar access; and
- ***Circulation and servicing*** – The concept proposal only provides 4 residential lifts to service the development when 6 are required.

Despite these non-compliances, these issues may be able to be satisfactorily resolved at the development application stage. But in doing so, the concept proposal may never be able to achieve the proposed height requested.

#### **7.8.8. North Sydney Development Control Plan**

The Planning Proposal is generally consistent with the requirements of North Sydney Development Control Plan 2013 (NSDCP 2013). However, the concept proposal does not comply with the following built form requirements:

- **Car parking** - the concept proposal provides 219 car spaces, which is 27 spaces in excess of the maximum permitted;
- **Building separation** – the concept proposal provides insufficient separation to the residential developments located at 39 McLaren St and 229 Miller Street. Internally, the concept proposal results in a number of habitable windows of different apartments looking directly into one another; and
- **Solar access** – the concept proposal will result in adjoining residential developments not achieving the minimum requirements of solar access.

### 7.8.9. Draft Ward Street Precinct Masterplan

On 5 December 2016, Council resolved to adopt a draft Masterplan for the Ward Street Precinct and to place that draft Masterplan on public exhibition. The proposal's consistency with the objectives and principles to the draft WSP Masterplan is provided in TABLE 1 below.

TABLE 1: Assessment of draft Ward Street Precinct Masterplan Desired Outcomes		
Criteria	Comment	Complies
<b>Objectives</b>		
a) <i>Building on the outcomes of the North Sydney Centre review and applying a precinct scale methodology</i>	The proposal does not adequately consider the redevelopment of the Precinct as a whole, nor has it adopted realistic built form outcomes as progressed under the North Sydney Centre Review.	<b>NO</b>
b) <i>Assisting property owners and Council by providing clarity on the future strategic growth of the precinct</i>	The planning proposal may significantly undermine the strategic planning processes that Council is currently undertaking and thereby reduce the level of clarity for the wider community.	<b>NO</b>
c) <i>Providing a bold and vibrant public domain and built form response to the proposed Victoria Cross Metro Station</i>	The concept proposal has the potential to capitalise on the future Metro Station through increased height. However, the successful delivery of the proposed through site link is dependent upon the final outcomes of the WSP Masterplan. The proposal also has the potential to adversely impact on a potential future public open space and north-south pedestrian link between the equinox and winter solstice.	<b>NO</b>
d) <i>Ensuring a built form response that effectively balances growth within the Centre and amenity to surrounding properties</i>	The concept proposal adversely affects the amenity of neighbouring residential apartments through insufficient setbacks, increased overshadowing, loss of views and privacy impacts. It will unfairly reduce the development potential of adjacent sites through non-compliant separation distances. It will also adversely impact on solar and daylight access to a future public square and pedestrian spine to the south of the subject site.	<b>NO</b>
e) <i>Improving the public domain across the precinct by identifying the precinct as a destination, via high quality new and embellished public spaces, that prioritise pedestrians</i>	Whilst the concept proposal seeks to provide a publicly accessible through-site link, the concept proposal has the potential to adversely impact on solar and daylight access to a future public square to the south of the subject site.	<b>NO</b>
f) <i>Encouraging public and private development outcomes that activate the precinct, stimulating North Sydney Centre as a destination</i>	The concept proposal has the potential to provide an activated through site link. However, there is currently no guarantee that it will eventually link through to Berry Street. Furthermore, the concept proposal would result in a poor interface with a potential future open space if located directly to the south of the subject site, due to the location of the commercial lift core.	<b>Maybe</b>



<b>TABLE 1: Assessment of draft Ward Street Precinct Masterplan Desired Outcomes</b>		
<b>Criteria</b>	<b>Comment</b>	<b>Complies</b>
<i>g) Ensuring that significant public benefit is achieved as a result of development that is seeking to amend the planning controls</i>	As indicated at section 7.5 to this report, the extent of public benefit being provided via a VPA is questioned. Therefore, it is difficult to determine if the level of offer is appropriate.	<b>NO</b>
<i>h) Identifying opportunities for the Council-owned Ward and Harnett Street car parks</i>	Whilst the Planning Proposal is largely based on a submission made to the draft WSP Masterplan, which include alternative solutions for the use of Council's land, the final adopted position will not be realised until the completion of the revision of the WSP Masterplan. The proposal unfairly restricts Council's options for strategic renewal of this site and other sites within the Precinct.	<b>NO</b>
<i>i) Ensuring that community benefit is a key project driver</i>	As indicated at section 7.5 to this report, the extent of public benefit being provided via a VPA is questioned. Therefore, it is difficult to determine if the level of offer is appropriate. The proposal also has the potential to jeopardise the delivery of a considered community benefit.	<b>NO</b>
<i>j) Ensuring that a financial return to Council is a key project driver</i>	The Planning Proposal suggests that current draft WSP Masterplan does not result in a financially viable outcome for Council and has suggested some alternative solutions. These issues are subject to further discussion as part of Council's review and revision of the draft WSP Masterplan.	<b>NO</b>
<b>Principles</b>		
<i>P1 Advocate design excellence, best practice and sustainability in both the built form and public domain</i>	Whilst the concept proposal has the potential to meet this principle on the subject site, it could have an adverse impact upon a future public open space located to the south of the subject site. In particular overshadowing and potential wind impacts.	<b>NO</b>
<i>P2 Capitalise on placemaking and land use opportunities associated with the proposed Victoria Cross Metro Station</i>	The site is well located to take advantage of its proximity to the northern portal to the new Metro Railway station and an increase in development potential could be considered. However, there is also a need to balance this potential with the need to address the other relevant objectives and principles of the WSP Masterplan. As demonstrated in this table the proposal does not satisfactorily address the other objectives and principles of the WSP Masterplan	<b>NO</b>
<i>P3 Facilitate safe, attractive and high quality public and community spaces to best practice standards</i>	This is an issue for consideration at the development application stage. Whilst the concept proposal has the potential to achieve this principle, the future revised WSP Masterplan may identify a better means of achieving this principle.	<b>Maybe</b>
<i>P4 Require universal access principles govern all new public and community spaces</i>	This is an issue for consideration at the development application stage. However, the concept proposal has the potential to achieve this principle. Furthermore, if proceeded with, the proposed through site link would dictate what is to occur to the south of the subject site, which may not be in the public's interest.	<b>Maybe</b>
<i>P5 Ensure transparency where the leveraging of public benefits is pursued in exchange for additional development potential</i>	As indicated at section 7.5 to this report, the extent of public benefit being provided via a VPA is questioned. Therefore, it is difficult to determine if the level of offer is appropriate.	<b>NO</b>
<i>P6 Prioritising pedestrian amenity</i>	The concept proposal has the potential for prioritising pedestrian amenity through the provision of an undercover through-site link. However, the successful delivery of the proposed through site link is also dependent upon the final outcomes of the WSP Masterplan.	<b>Maybe</b>

TABLE 1: Assessment of draft Ward Street Precinct Masterplan Desired Outcomes		
Criteria	Comment	Complies
<i>P7 Advocate for a mix of uses to revitalise the precinct, with a focus on employment generation, community spaces and the 18 hour economy</i>	The concept proposal satisfactorily meets this principle as a standalone site. However, further revision would be required if the subject site required to address a potential future public open space directly to the south of the site.	<b>YES</b>
<i>P8 Acknowledge that commercial amenity and viability of the North Sydney Centre is critical to future investment and prosperity</i>	The concept proposal seeks to retain the majority of existing non-residential floor space on the site which will help to maintain the viability of the Centre. However, the non-residential floor space ratio control applying to the site should be revised, if the planning proposal is progressed, to ensure that it is protected.  In light of the recent decision to include a northern portal to the Victoria Cross Metro Station location, there is a need to revisit the land use mix within the Ward Street Precinct which will be reviewed as part of preparing the revised WSP Masterplan. Therefore there is a potential for the site to deliver significantly less non-residential floor space than may be envisaged under the revised WSP Masterplan, reducing Council's ability to meet the employment targets under the draft Revised North District Plan.	<b>Maybe</b>
<i>P9 Ensure that total parking provision, including public and private parking assets, delivers no net increase in traffic generated with the Ward Street Precinct and responds to the Victoria Cross Metro Station</i>	The proposal seeks to significantly increase the number of parking spaces located on the site (and beyond that permitted under NSDCP 2013) and therefore will result in increased traffic generation.	<b>NO</b>

As indicated within TABLE 1, the proposal is largely inconsistent with the objectives and principles of the draft WSP Masterplan.

On 1 May 2017, Council considered an interim post-exhibition report in relation to the draft WSP Masterplan. Council resolved to revise the draft WSP Masterplan through further specialist input and design development that responds to community, industry and landowner feedback. It is anticipated that the future built form outcomes for the Precinct would be significantly amended from that first originally exhibited, however, the likely objectives and principles are likely to remain unchanged.

Therefore, it would be premature to support such a significant change in the height controls on the subject site, without having first given consideration to an endorsed set of desired future built form outcomes for the Precinct, which has also been subject to community consultation.

The Planning Proposal was also reviewed by Hassell, who is preparing the revised version of the WSP Masterplan. In particular, they strongly recommended that the Planning Proposal not progress, until the WSP masterplan is complete. They also highlighted a number of issues with the Planning Proposal as follows:

***Unfair burden placed on adjacent sites***

*The proposal relies on the Ward Street Carpark being dedicated as public space or not being developed. This unfairly restricts council's options for the strategic renewal of this site.*

*Furthermore, the non-compliant separation proposed between residential apartments at 41 McLaren street unfairly restrict redevelopment on adjacent sites by pushing the burden for providing compliant separation onto 144-150 McLaren St [Walker Street], 45 McLaren St and Council's Ward Street Carpark Site (see Figure 13 below).*

***Lack of amenity to adjoining sites***

*Privacy between buildings under the proposed design is inadequate.*

*The annotated dimensions on the site plan for the proposed architectural design do not comply with the specified requirements for building separation under objective 3F-1 of the NSW Apartment Design Guidelines. The extent of non-compliance is greater than identified as separation is required to be measured from edges of habitable balconies under objective 3F-1 of the NSW Apartment Design Guidelines as opposed to the method employed which only notes dimensions between the primary glass line and adjacent sites or buildings and ignores the distance from habitable balcony in its assessment. In addition to privacy, the proposed mass inappropriately overshadows the existing residential adjacent and further south of the subject site.*

***Poor quality public open space***

*The planning proposal relies on the provision of public open space on Council's land which in its proposed form and location, is unlikely to be an appealing or pleasant environment for workers or residents due to almost complete overshadowing between the equinox and winter solstice and negative wind impacts as a result of the proposed height of development, bulk and minimal setbacks to council land.*

***Proposed uses not aligned with strategic requirements of site***

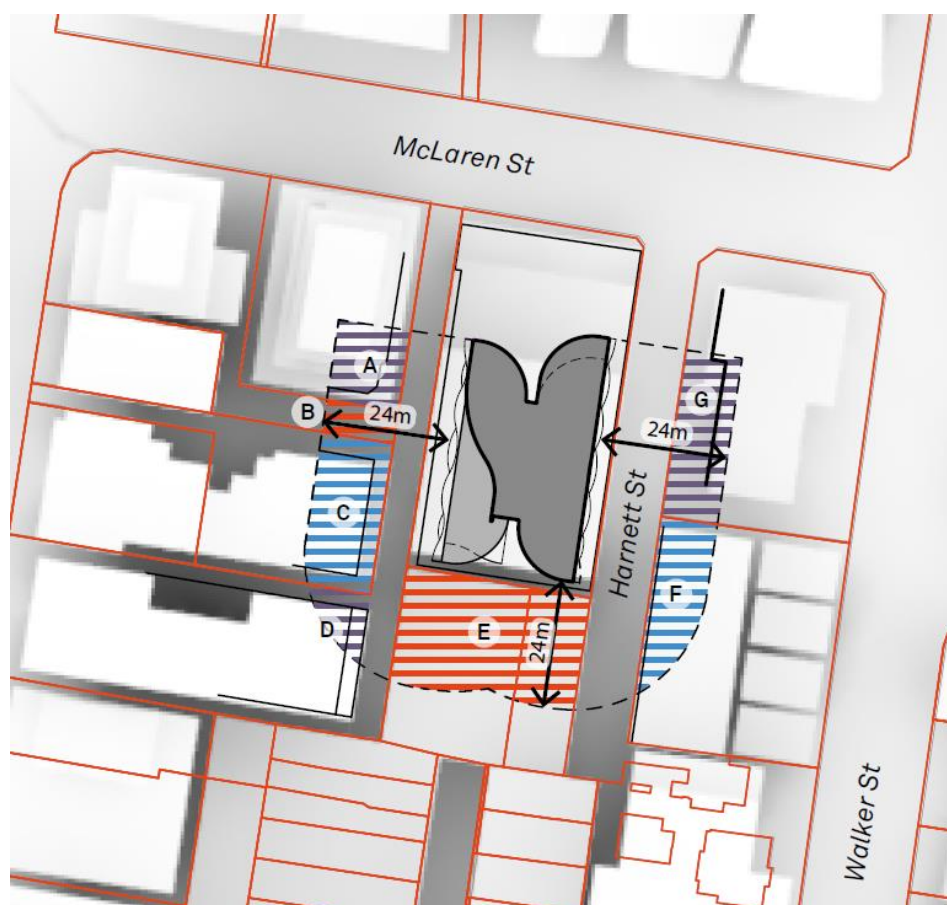
*The proposed extent of residential on the subject site does not align with Council's strategic requirements to deliver additional commercial floor space within the CBD as specified under the Greater Sydney Commission's A Plan For Growing Sydney and the Draft North District Plan.*

***Limited public benefit***

*The proposed through site link is one of many options open to council to increase permeability throughout the precinct and the proposed public benefit of a 'through site link' within the existing building is not commensurate with the commercial value of the requested uplift.*

*We believe potential public benefits provided by 41 McLaren Street should be reconsidered following the completion of the masterplan and prioritisation of council's objectives for the site.*

This further demonstrates that the proposal should not proceed at this point in time.



**Figure 13 – Separation impacts upon adjoining sites**

Schedule of Land Affected by Planning Proposal at 41 McLaren Street		
Plan Reference	Property Address	Undevelopable area*
A.	37 McLaren Street	207 sqm
B.	231 Miller Street	82 sqm
C.	229 Miller Street	384 sqm
D.	221 Miller Street	115 sqm
E.	22 Ward Street	757 sqm
F.	144-150 Walker Street	298 sqm
G.	45 McLaren Street	342 sqm
<b>TOTAL</b>		<b>2,185 sqm</b>
<b>NOTES:</b> * Extent of undevelopable area is based upon the provision of compliant building separation for buildings above 9 stories as stipulated under Objective 3F-1 of the NSW Apartment Design Guideline		

## 8. Public Submissions

Nine (9) submissions were received in response to the lodgement of the Planning Proposal, despite not having being placed on public exhibition. The submissions have been made as a result of residents and property owners being informed of the proposal's lodgement via Council's Planning Proposal Tracking website.

Of additional note, two submissions were received in response to the public exhibition of Planning Proposal 2/17 - North Sydney Centre. These identical submissions, raised concern with regard to subject Planning Proposal (PP 4/17) and its potential to overshadow 136-140 Walker Street. The authors to these submissions had not lodged a submission to the subject Planning Proposal.

Whilst there are no statutory requirements to publicly exhibit a planning proposal or consider any submissions made in relation to a planning proposal before the issuance of a Gateway Determination, the issues raised in the submissions have been considered as part of this report.

All submissions objected to the Planning Proposal from proceeding in its current form. A summary of the submissions and response to the issues raised is provided in Attachment 2 to this report. In summary, the key issues raised include:

- Inconsistency with the desired outcomes of the draft WSP Masterplan and North Sydney Centre Review;
- Undermining of Council's strategic planning processes;
- Overshadowing impacts;
- View loss;
- Privacy impacts to existing residences;
- Visual impact;
- Misleading information and unreasonable assumptions;
- Traffic impacts;
- Heritage impacts;
- Design outcomes; and
- Impacts on property values.

A copy of the submissions made have been provided for the Councillors information in the Councillor Room.

## **9. Pre-Gateway Review**

On 8 December, 2017, the applicant of the Planning Proposal lodged a request for a Rezoning Review (RR\_2017\_001\_00) with the DPE in response to Council not having made a determination as to whether it will support the proposal to proceed to next stage of the plan making process.

On 12 December 2017, the DPE advised Council that the applicant of the Planning Proposal had lodged a Rezoning Review, and was initially given 21 days within which to comment. Due to the impending Christmas holiday period, Council requested an extension within which to provide comment. The DPE granted an extension to provide comment until the 2 February 2018.

On 7 February 2017, Council submitted a response to the DPE. Council's response effectively outlined the key issues identified within this report. In addition, Council advised that it would provide the DPE with an unendorsed version of this assessment report, to meet the DPE's reporting timeframes to the North District Planning Panel.

The next stage will involve the North Regional Planning Panel setting a date for the matter to be heard with the applicant, Council and staff from the DPE. This is currently scheduled to occur on 7 March 2018.

## 10. Conclusion

The Planning Proposal seeks to amend the building height requirements to NSLEP 2013 as it relates to the subject site.

The Planning Proposal is generally consistent with the relevant requirements under s.55(2) and 55(3) of the EP&A Act.

Whilst the Planning Proposal would result in the increased provision of residential accommodation in close proximity to transport, services and facilities, the Planning Proposal cannot be supported for the following reasons:

- It has the potential to significantly undermine strategic planning work currently being undertaken in the locality, specifically the work relating to the Ward Street Precinct Masterplan and the North Sydney Centre Review. In this context, the proposal for 41 McLaren Street unfairly burdens the future development potential capacity of adjoining sites, including Council land;
- It is contrary to meeting a number of objectives and actions under the relevant regional and district plans applying to the land. In particular, the proposal does not:
  - protect nor promote lands for commercial development within an important existing Strategic Centre on the Global Economic Corridor nor allow for future growth; and
  - sufficient residential capacity is already provided under NSLEP 2013 to meet State housing targets, without the need to significantly change the land use mix on the subject site.
- It is inconsistent with the desired outcomes of the *draft Ward Street Precinct Masterplan*. In particular, the proposal:
  - does not apply a precinct scale planning approach;
  - does not provide clarity on the future growth of the Precinct
  - does not balance growth within the Centre or amenity to surrounding properties;
  - may result in poor pedestrian interfaces and connections with future potential public open spaces;
  - may not result in a significant public benefit being achieved;
  - does not achieve a no nett increase in traffic generation.
- It is difficult to determine if the quantum of proposed public benefits identified within the Planning Proposal, which would ultimately form part of a future Voluntary Planning Agreement (VPA) is reasonable with respect to the anticipated uplift that the Planning Proposal seeks.

It is therefore recommended that Council resolve not to support the forwarding of the Planning Proposal to the DPE, seeking a Gateway Determination under s.56 of the EP&A Act. In addition, the applicant should be encouraged to lodge a submission to revised draft WSP Masterplan and a new Planning Proposal that better aligns with the adopted outcomes of that Masterplan.



Planning Proposal

41 McLaren Street, North Sydney

Prepared for  
Erolcine Pty Ltd and Claijade Pty Ltd

Date  
1 September 2017



Architectus Group Pty Ltd  
ABN 90 131 245 684

Level 18, MLC Centre  
19 Martin Place  
Sydney NSW 2000  
Australia  
T +61 2 8252 8400  
F +61 2 8252 8600  
sydney@architectus.com.au

architectus.com.au

#### Report Contact

Taylor Vernon  
Senior Urban Planner  
taylor.vernon@architectus.com.au

This report is considered a draft unless signed by a Director



Michael Harrison, Director Urban Design and Planning

#### Revision history

Issue Reference	Issue Date	Issue Status
A	25 August 2017	Draft Issue to Client
B	1 September 2017	Final for submission to NS Council



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# Attachments

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Attachment A –	Urban Design Report, prepared by Architectus
Attachment B –	Architectural Drawings, prepared by Harry Seidler & Associates
Attachment C –	Architectural Design Statement, prepared by Harry Seidler & Associates
Attachment D –	Site Survey, prepared by Frank M Mason & Co Pty Ltd
Attachment E –	Economic Viability, prepared by Colliers
Attachment F –	Independent Market Report, prepared by Knight Frank
Attachment G –	Development Feasibility, prepared by Hill PDA
Attachment H –	Public Art Strategy, prepared by Fine Art Studio
Attachment I –	Public Domain Landscape Plans, prepared by Spackman Mossop Michaels
Attachment J –	Landscape Plans (future development of 41 McLaren Street), prepared by Spackman Mossop Michaels
Attachment K –	Heritage Assessment, prepared by GML Heritage
Attachment L –	Heritage Impact Statement, prepared by GML Heritage
Attachment M –	Traffic Impact Assessment, prepared by Ason Group
Attachment N –	Wind Impact Assessment, prepared by CPP
Attachment O –	Acoustic Assessment, prepared by Wood & Grieve
Attachment P –	SEPP 65, ADG, LEP and DCP Compliance
Attachment Q –	Extract Sydney LEP 2012 – APDG Site
Attachment R –	BCA Report (For information purposes only), prepared by Newland Wood
Attachment S –	Stormwater Plans (For information purposes only), prepared by Wood & Grieve
Attachment T –	Stormwater Management Report (For information purposes only), prepared by Wood & Grieve
Attachment U –	Structural Report, prepared by TTW (for information purposes only)
Attachment V –	BASIX Report (for information purposes only)

## Separately Provided

1. VPA Report
2. Video
3. Physical Model

# Executive summary

This Planning Proposal has been prepared by Architectus on behalf of Erolcene Pty Ltd and Claijade Pty Ltd to present to North Sydney Council in relation to a proposed mixed use development at 41 McLaren Street, North Sydney. The Planning Proposal seeks Council support to progress an amendment to the North Sydney Local Environmental Plan (LEP) 2013.

## The site

This report relates to the site at 41 McLaren Street, North Sydney, which is bound by McLaren Street to the north, Harnett Street to the east, by a Council owned car park to the south and by existing and proposed mixed-use developments to the west. The site is currently occupied by a commercial office building known as Simsmetal House, which was designed in 1971 by Harry Seidler. The site is located within the 'North Sydney Centre', a major commercial centre, as defined by the North Sydney LEP 2013. An aerial photograph of the site is provided in **Figure 1** below.



**Figure 1** 41 McLaren Street, North Sydney

Source: Six Viewer, NSW Government

The site is currently subject to a maximum building height of RL 100 metres under the North Sydney LEP 2013. The site is zoned B4 Mixed Use, permitting a range of uses including child care centres, commercial premises, residential flat buildings, seniors housing, serviced apartments, and shop top housing.

### Strategic and planning context

The site is located approximately 50 metres from the future Victoria Cross Metro Station, which has an entry on the opposite side of McLaren Street. The site is also located within the Ward Street Precinct, which forms a vital part of the North Sydney Centre and is anticipated to undergo significant transformation. The Precinct, roughly covering 0.9 square kilometres, has been identified as being capable of accommodating a substantial uplift in residential and employment densities as a result of delivery of the Victoria Cross Metro Station and its associated increased public transport capacity for the North Sydney Centre.

North Sydney is identified as a Strategic Centre within the metropolitan strategy, *A Plan for Growing Sydney*. The strategy states that 'investigating potential future employment and housing opportunities associated with a Sydney Rapid Transit train station (now known as Sydney Metro) at Victoria Cross is a priority for Global Sydney. Likewise, the draft North District Plan released by the Greater Sydney Commission identifies North Sydney as a Strategic Centre and outlines the need to maximise land use opportunities presented by the Sydney Metro Station at Victoria Cross.

This proposal is seen to be in line with the strategic vision for Sydney as introduced under Sydney's current Metropolitan Strategy, *A Plan for Growing Sydney*, which recommends the following:

- Direction 2.1: Improve housing supply across Sydney
- Direction 2.2: Ensure more homes closer to jobs
- Direction 2.3: Improve housing choice to suit different needs and lifestyles

The proposal is seen to be in line with the strategic vision and priorities of the draft North District Plan, that is to improve housing choice, improve housing diversity and affordability, and to grow economic activity in centres in the district.

### Strategic merit test

This Planning Proposal has been motivated by the announcement of the Victoria Cross Metro Station, which will have its northern access approximately 50 metres from the site, and Council's own investigations into allowing increased capacity in the North Sydney Centre. Accordingly, the Proposal relates specifically to a change in circumstances not recognised by the existing controls and on this basis, is considered to have strategic merit. It is also considered to be consistent with the relevant State and local plans and policies.

The Sydney Metro aims to address a strategic need to significantly increase transport capacity and frequency within the Global Economic Corridor and to drive productivity through integrated transport and land use planning. The *Chatswood to Sydenham EIS* provides that the opportunity for urban development around the proposed stations is a key benefit of the project and also that, through the application of transit oriented development principles, the project will support the Government's objectives to achieve more sustainable and efficient use of land to meet Sydney's growth.

The EIS also details the site-selection process which was undertaken for the North Sydney Centre, comparing the Victoria Cross site with alternate options within the locality. It goes on to state, in support of the chosen site, that:

***"Victoria Cross was considered superior as it has a greater catchment area and a greater potential for residential, commercial and transit oriented development."***

It is acknowledged that North Sydney Council is undertaking its own process to review opportunities for increased development capacity within the Ward Street Precinct, and the North Sydney Centre more broadly. The Planning Proposal is considered to be generally consistent with the aims and intent of the North Sydney Centre CLU Strategy, being generally to promote balanced growth within the Centre with protection of amenity.

As detailed at length in the Urban Design Study at **Attachment A**, Architectus considers that the potential for the Ward Street Precinct as a vibrant mixed-use destination is unlikely to be realised under the draft *Ward Street Precinct Masterplan* (WSPM), given it fails to adequately consider the economic feasibility of delivering the Masterplan and it

under-delivers on additional commercial and residential floor space. Comparatively, it is considered that the Architectus Alternative Masterplan provides a vital north-south link through the Precinct, alleviating the need for agreements to be made with multiple landowners to achieve the mid-block public open space connection, and also that amalgamation of the 20 Ward Street, 55 Berry Street & 66 Berry Street achieves a far superior development outcome and allows for almost double the amount of public open space compared to the draft WSPM.

#### **Site-specific merit test**

The Ward Street Precinct, within which 41 McLaren Street is located, presents a unique opportunity to deliver a vibrant mixed-use community through provision of high quality public open space, highly accessible employment generating floor space at the southern end of the precinct where it adjoins the existing commercial core of the North Sydney Centre and by providing for a range of uses, including residential, at its northern extent, in close proximity to the northern access to Victoria Cross Station – therefore promoting the use of public and active modes of transport, reducing dependence on private vehicle use and providing for the efficient and sustainable use of land.

The Heritage Assessment Report by GML Heritage prepared in April 2017 and provided at **Attachment K** identifies that the site should be afforded uplift to ensure that the heritage building is appropriately maintained. The report also states that future planning for the site must consider the scale of changes to the statutory planning environment of the site since its construction, for the original Simsmetal House now no longer relates to the scale and character of its setting.

The proposed amendments to the North Sydney LEP 2013 seek to improve and revitalise the existing building, now listed as a local heritage item, to become more adaptable and sustainable within its changing surrounding context, and will also enable the delivery of a key through-site link between McLaren Street in the north and Berry Street in the south, improving the accessibility of the future public space in the Ward Street Precinct.

There are no environmental constraints which would reasonably preclude the proposed development, nor the Architectus Alternative Masterplan.

#### **Proposed amendments to the North Sydney planning controls**

The following amendments to the North Sydney Local Environmental Plan (LEP) 2013 are proposed to facilitate the proposal and the effective utilisation of the site:

- Height of buildings – to amend the North Sydney LEP 2013 to increase the maximum height of buildings to allow for the proposed development; or built form and public domain outcomes, and to facilitate a redevelopment and renewal of the site; or
- Clause amendment to the North Sydney LEP 2013 – inclusion of a site-specific clause applying to the site that allows for a building to have a maximum height greater than that provided by the Height of Buildings Map where heritage conservation and public domain requirements are satisfied.

Council may wish to impose site-specific provisions under the North Sydney Development Control Plan (DCP) 2013 to ensure that the future development of the site is consistent with the Planning Proposal, in which case an amendment to the DCP could be undertaken through a separate process.

#### **Assessment**

The Planning Proposal, Urban Design Report and supporting technical reports provide the detailed consideration and analysis of environmental opportunities and constraints which have informed the design of the future development of 41 McLaren Street and also the Architectus Alternative Masterplan for the Ward Street Precinct.

It is noted that the supporting technical reports generally contain a level of detail appropriate for a Development Application and that a Planning Proposal would typically contain only conceptual detail. This level of detail has been provided to ensure that all relevant issues have been comprehensively addressed, including impacts on heritage, views, and in respect to the design quality of the proposed building.

Given the proposal will provide for substantial public benefits associated with the development of the Ward Street Precinct, it is considered that the environmental impacts of the proposal are acceptable.

**Recommendation**

It is recommended that North Sydney Council resolve to support the Planning Proposal and forward it to the Department of Planning and Environment for a Gateway determination.

The architectural design by Harry Seidler and Associates submitted with the Planning Proposal is for the best residential/mixed use tower on the North Shore and ideal to attract people downsizing from their family homes, thus releasing needed housing accommodation.

# 1. Introduction

## 1.1 Preliminary

This Planning Proposal has been prepared by Architectus on behalf of Erolcene Pty Ltd and Claijade Pty Ltd (owners of 41 McLaren St) to present to North Sydney Council requesting an amendment to the North Sydney Local Environmental Plan (LEP) 2013 in relation to a proposed mixed use development at 41 McLaren Street, North Sydney. The Planning Proposal has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and *A Guide to Preparing Planning Proposals*, August 2016.

## 1.2 Structure of this report

This report is prepared in accordance with the NSW Government's '*A Guide to Preparing Planning Proposals*', and is set out as follows:

- **Section 2:** The site and context – provides an overview of the site to which the Planning Proposal is intended to apply.
- **Section 3:** The vision for the site – outlines the design principles and built form philosophy that have been identified to inform the Architectus Alternative Masterplan for the Ward Street Precinct and also for the proposed development of 41 McLaren Street.
- **Section 4:** Objectives or intended outcomes – provides a concise statement of the proposal objectives and intended outcomes.
- **Section 5:** Explanation of provisions – outlines the proposed amendments to the planning provisions within the North Sydney Local Environmental Plan 2013 to achieve the proposal.
- **Section 6:** Justification – provides the urban planning argumentation/reason to support the proposal.
- **Section 7:** Mapping – existing and proposed North Sydney Local Environmental Plan 2013 mapping.
- **Section 8:** Consultation – outlines the community consultation program that should be undertaken in respect of the proposal.
- **Section 9:** Project Timeline – outlines expectations for timeframe of the progression of the proposal.
- **Section 10:** Conclusion – concludes the report with a summary of findings and recommendations.

This report should be read in conjunction with **Attachments A to V**.



### 1.3 Preparation of the proposal

This Planning Proposal has been prepared by Taylar Vernon, Senior Urban Planner. The report has been reviewed by Jane Fielding, Senior Associate and Urban Planner and Michael Harrison, Director Urban Design and Planning.

#### Project team

The Project team is set out below:

**Table 1 Project team**

Applicant	Erolcene Pty Ltd and Claijade Pty Ltd
Owners	Erolcene Pty Ltd and Claijade Pty Ltd
Project Manager	RBG Services Group Pty Ltd
Architects	Harry Seidler & Associates
Landscape Architects	Spackman Mossop Michaels
Urban Planning and Urban Design	Architectus
Surveyor	Frank M Mason & Co. Pty Ltd
Heritage	GML Heritage
Traffic Engineer	Ason Group
BCA Consultant	Newland Wood Certification Pty Ltd
Structural Engineer	Taylor Thomson Whitting
Civil Engineer	Wood & Grieve Engineers
Wind Consultant	Cermak Peterka Petersen
Quantity Surveyor	Rider Levett Bucknall
Geotechnical Engineer	JK Geotechnics
Acoustic Consultant	Wood & Grieve Engineers
VPA Strategy	Urbis

## 2. The site and context

*This section includes details about the site and its surrounding context. It also contains relevant Mapping images to identify the intent of the planning proposal and the area to which it applies.*

### 2.1 Site details

#### Existing land use

The site is currently occupied by an existing seven to eight-storey commercial office building designed by Harry Seidler in 1971 and completed in 1972, known as Simsmetal House. The existing building is identified as an item of local environmental heritage under the North Sydney LEP 2013 and is proposed to be retained.

The Planning Proposal is intended to facilitate a mixed-use building allowing for the refurbishment of the existing commercial building and the addition of a residential tower above.

An image of the existing building viewed from McLaren Street is provided in **Figure 2** below.



**Figure 2 View of 41 McLaren Street, North Sydney (the site)**

The site as viewed from McLaren Street.

Source: Google streetview.

#### Legal description

The subject site is a rectangular shaped allotment having an area of 2,359sqm and is legally described as Lot 1 in Deposited Plan 557103.

#### Land ownership

The site is owned by two owners, Erolcene Pty Ltd and Claijade Pty Ltd, who are also the applicants for this Planning Proposal.

## 2.2 Local context and site surrounds

The site is located at the northern extent of the North Sydney Centre, being a major commercial centre. The area is characterised by primarily mixed use buildings of commercial, retail and residential uses, as well as a diversity of lower-scale residential developments, sport fields and parklands.

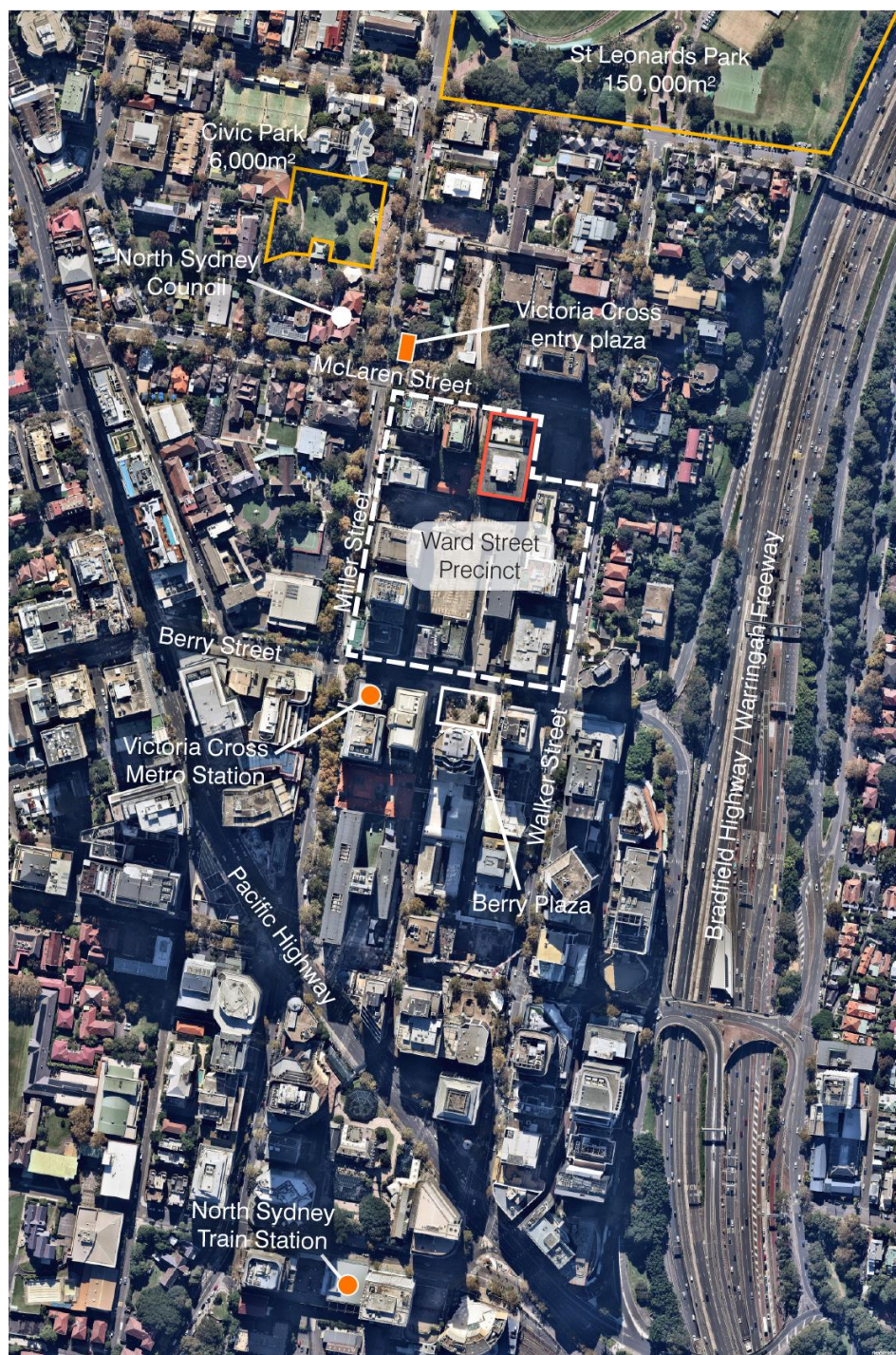
The subject site is located at the corner of McLaren Street (primary frontage) and Harnett Street, a laneway. The site lies on a street block that is bound also by Miller Street, a major street, and local roads Walker Street and Berry Street (south). Council's Ward Street Carpark adjoins south of the site.

To the north of the site, on the opposite side of McLaren Street, 168 Walker Street (located at the corner of McLaren Street and Walker Street) is an existing 18-storey commercial office building which was approved for redevelopment by the Sydney East Joint Regional Planning Panel at its meeting of 12 July 2016 for a 29-storey predominantly residential building with a maximum height of RL 167.51 metres (maximum building height 99 metres), and a vacant site at the corner of McLaren Street and Miller Street which will be developed as the northern access to the Victoria Cross Metro Station and a future over-station development.

The primary pedestrian access to the future Victoria Cross Station is located approximately 200 metres to the south of the site, at the intersection of Berry Street and Miller Street. Architectus considers that a future over-station development of that site should be for a commercial office building, or mixed-use building of between 40 and 60 storeys. A 40-storey commercial building on the site would be of a similar scale to the commercial building currently under construction at 100 Mount Street, so it is therefore considered to be an appropriate scale of commercial development for the North Sydney Centre. A building up to 60-storeys would allow for a mixed-use building, potentially with hotel and/or residential uses above commercial office uses. Architectus considers that the future development of this site will establish a new context for building height in the North Sydney Centre and the potential development of Council's Ward St carpark site.

The site is also located 500 metres north of Greenwood Plaza Shopping Centre, which has been recently redeveloped and contains 101 retailers.





**Figure 3 Local context plan**

Site outlined in red.

Source: Nearmap 2017

### 2.3 Regional context

The subject site is located within North Sydney Centre, approximately 3 kilometres to the north of the Sydney CBD. It is Sydney's third largest commercial floor space market with a growing mixed use/residential periphery. The suburb is identified as a Strategic Centre within the metropolitan strategy, *A Plan for Growing Sydney* as being located within 'Global Sydney' and the Global Economic Corridor.

North Sydney is likewise identified as a strategic centre in the Draft North District Plan, recently released by the Greater Sydney Commission.

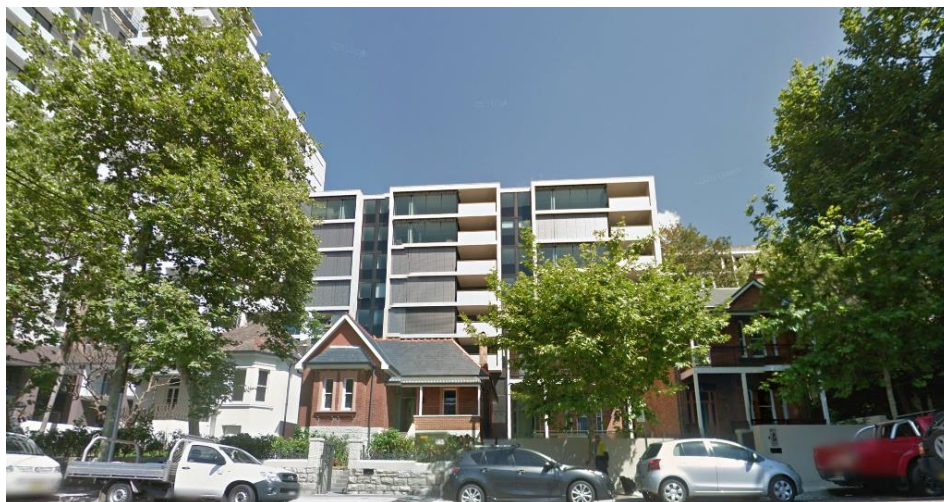
The site is well positioned within a cluster of economic centres containing knowledge-intensive and professional jobs, such as St Leonards and Chatswood to the north, and Central Sydney to the south.



### Heritage context

The site does not lay within a heritage conservation area but contains the Simsmetal House, which is listed as a local heritage item (I0889) under the North Sydney LEP 2013. A Heritage Impact Statement has been prepared by GML Heritage and is provided as **Attachment J**.

Heritage buildings within the vicinity include four detached dwellings across Harnett Street, described as items I0987, I0986, I0985 and I0984. These are separated from the site by more recent apartment buildings, adjoining the rear of these dwellings. It is not considered that that the proposal will impact upon these items.



**Figure 4 Heritage detached dwellings along Walker Street**

Four detached dwellings listed as heritage items within the NS LEP 2013. Newer apartment buildings line the rear. The site lies behind these newer buildings across Harnett Street. Source: Google streetview.

### Traffic and transport context

The site is well connected to Central Sydney via the existing North Sydney Train station, as well as buses primarily servicing inter-regional journeys.

It is also located opposite the future Victoria Cross Metro Station, which will have its northern access located at the intersection of McLaren Street and Miller Street, approximately 50 metres west of the site. This new rail service will span from Bankstown to Rouse Hill via Central Sydney and provide new stops at North Sydney, Crows Nest and Barangaroo. It is anticipated the new metro rail network will service a target capacity of more than 40,000 customers per hour in each direction and up to 60 trains per hour (30 trains in each direction from Victoria Cross) during peak times.

The Sydney Metro project will be a major catalyst for urban renewal and densification within its corridor, resulting in significant change to the urban form within the walkable catchment of its stations. The Environmental Impact Statement (EIS) for the project provides that creating opportunities for urban development, particularly around the new stations at Crows Nest, Victoria Cross, Barangaroo and Waterloo is a key benefit of the project.

The EIS also details the site-selection process which was undertaken for the North Sydney Centre, comparing the Victoria Cross site with alternate options within the locality. It goes on to state, in support of the chosen site, that:

***“Victoria Cross was considered superior as it has a greater catchment area and a greater potential for residential, commercial and transit oriented development.”***

Currently, the strategic positioning of the site within the North Sydney Centre makes it highly accessible to public transport, private vehicle and active transport modes.

North Sydney Train Station, which lies 650 metres to the south of the site, is located on the North Shore Line and provides journeys to the north and north western regions of

Sydney, as well as toward Central Sydney. This proximity to Central Sydney means that the journey time is 5-10 minutes.

A number of bus services surround the site. Buses primarily service inter-regional journeys toward the Northern Beaches (from Miller Street) and Chatswood and Lane Cove (from North Sydney train station). Some buses journey toward Central Sydney and Botany (from Pacific Highway).

The site is most accessible by pedestrians via footpaths alongside Miller Street and Walker Street, which act as two main north-south connections beginning from North Sydney Station. The Ward Street Precinct Masterplan (WSPM) identifies the need for a mid-block north-south connection between Berry Street and McLaren Street. There is currently an informal 'ant track' path through the Council car park, being the preferred path for many pedestrians given the steep incline on both Miller and Walker Streets. The WSPM thoroughfare relies on agreements being made with multiple private property owners, while the Architectus Alternative Masterplan overcomes this issue by providing a through-site link which would connect directly with the future public domain within the Ward Street Precinct.

Metered parking is available on both sides of McLaren Street. A taxi zone additionally is located on McLaren Street opposite the site.

A Traffic Impact Assessment Report has been prepared by Ason Group and is provided at **Attachment L**.

## 2.4 Legislation

The EP&A Act is the overarching body of planning legislation applicable within NSW. It provides under Section 55 that a Planning Proposal is required before an environmental planning instrument is made which explains the intended effect and provides justification for the proposed instrument. Specifically, a Planning Proposal is to include:

- *a statement of the objectives or intended outcomes of the proposed instrument,*
- *an explanation of the provisions that are to be included in the proposed instrument,*
- *the justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will comply with relevant directions under section 117),*
- *if maps are to be adopted by the proposed instrument, such as maps for proposed land use zones; heritage areas; flood prone land—a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument,*
- *details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.*

It is considered that this Planning Proposal comprehensively addresses these requirements.

## 2.5 Planning context

The following legislation, planning instruments and planning controls are applicable to the proposal:

<b>Strategic plans</b>	<ul style="list-style-type: none"> <li>– Sydney Metropolitan Strategy: <i>A Plan for Growing Sydney</i></li> <li>– Towards our Greater Sydney 2056</li> <li>– Draft North District Plan</li> <li>– North Sydney Community Strategic Plan: 2013-2023</li> </ul>
<b>Current planning controls</b>	<u>Environmental Planning Instruments:</u> <ul style="list-style-type: none"> <li>– North Sydney Local Environmental Plan 2013</li> <li>– State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (and associated NSW Apartment Design Guide)</li> </ul>

<u>Development Control Plans:</u>	
	– North Sydney Development Control Plan 2013
<b>Legislation</b>	– Environmental Planning and Assessment Act 1979 (EP&A Act)
<b>Other plans and policies</b>	– North Sydney Centre Capacity and Land Use Study (NSCCLUS)
	– Draft Ward Street Precinct Masterplan (WSPM)

The above legislation, planning instruments and planning controls are addressed in the paragraphs below.

## 2.6 Strategic planning context

### Sydney Metropolitan Strategy: A Plan for Growing Sydney

*A Plan for Growing Sydney*, (the Sydney metropolitan strategy) was released in December 2014 and is the NSW Government's 20-year plan for the Sydney Metropolitan Area. It provides direction for Sydney's productivity, environmental management, and liveability; and for the location of housing, employment, infrastructure and open space. The Plan identifies that by 2031 there is a need to create an additional 664,000 new dwellings and 689,000 new jobs.

The Metropolitan Strategy's vision for Sydney is "a strong global city, a great place to live". The Strategy identifies goals, directions and principles which inform the future growth and development of Sydney. The key matters which relate to the subject site are as follows:

#### Goal 1: A competitive economy with world-class services and transport

- Direction 1.7: Grow strategic centres – providing more jobs closer to home

#### Goal 2: A city of housing choice, with homes that meet our needs and lifestyles

- Direction 2.1: Accelerate housing supply across Sydney
- Direction 2.2: Accelerate urban renewal across Sydney – providing homes closer to jobs

#### Goal 3: A great place to live with communities that are strong, healthy and well connected

- Direction 3.1: Revitalise existing suburbs
- Direction 3.2: Create a network of interlinked, multipurpose open and green spaces across Sydney

#### The Planning Principles that will guide how Sydney Grows

- Principle 1: Increasing housing choice around all centres through urban renewal in established areas;
- Principle 2: Stronger economic development in strategic centres and transport gateways; and
- Principle 3: Connecting centres with a networked transport system.

The Proposal will support the intended outcomes of the Strategy as it:

- Seeks to increase the supply of housing while also retaining employment generating floor space, in the North Sydney Centre, being a major commercial centre within Sydney. The Proposal responds to the new planned Metro station at Victoria Cross and provides for density of development commensurate with a significant increase in public transport capacity.
- Allows for public domain works and new open spaces in the form of the creation of a new pedestrian spine in line with the Draft Ward Street Precinct Masterplan.

## Towards our Greater Sydney 2056

*Towards our Greater Sydney 2056* outlines a draft amendment to the current metropolitan strategy, *A Plan for Growing Sydney*. The vision for Greater Sydney to 2056 represents the economic, social and environmental integration of a metropolis of three cities, the established Eastern City, which includes the North Sydney Centre and Central Sydney; the developing Central City, with Parramatta and the Olympic Peninsula as its heart; and the emerging Western City, focused around the centres of Penrith, Blacktown, Liverpool and Campbelltown, as well as the Western Sydney Airport.

The vision for Sydney 2056 can be delivered through the metropolitan priorities in the table provided at **Figure 5** below.

A Productive Sydney	A Liveable Sydney	A Sustainable Sydney
A growing city A city with smart jobs A 30-minute city	An equitable, polycentric city A city of housing choice and diversity A collaborative city	A city in its landscape An efficient city A resilient city

**Figure 5 Metropolitan priorities for Greater Sydney 2056**

(source: *Towards our Greater Sydney 2056*, Greater Sydney Commission)

The following metropolitan priorities are of relevance to the Planning Proposal:

### Metropolitan Priority: A Growing City

As Sydney's population grows, so too does the number of workers. New jobs need to be located in a way that meets the needs of businesses while also providing access and choice for workers. By 2035, this metropolitan priority has the following aims:

- support the generation of over 817,000 additional jobs;
- accommodate 1.74 million additional people and more than 725,000 new homes;
- increase Greater Sydney's economic growth rate; and
- increase total economic activity by 75% to approximately \$655 billion.

The Planning Proposal supports these objectives by facilitating increased mixed-use density, providing both employment and housing in a highly accessible location. The alignment of Sydney Metro, providing high frequency and high capacity public transport through Sydney's Global Economic Corridor is such that focusing growth within the walkable catchment of future Metro Stations will achieve significant productivity gains for Greater Sydney, and allow a greater proportion of the population to be able to access a greater range of employment opportunities.

### Metropolitan Priority: A 30-minute City

This metropolitan priority aims to increase the proportion of people with good access to jobs and to improve the ability to walk to local services and amenities. As provided above, allowing increased densities within the Metro Corridor, and particularly for sites such as 41 McLaren Street, being located opposite the northern entry to the future Victoria Cross Metro Station, will allow a greater proportion of Sydney's population to be able to access jobs within 30-minutes.

Additionally, 41 McLaren Street is located within the Ward Street Precinct, which is capable of providing a range of services and facilities which will benefit the local community, and is also within the North Sydney Centre which offers a wide variety of services and amenities within walking distance.



Accelerating Housing Opportunities

*Towards our Greater Sydney 2056* states the following:

*“Greater Sydney is experiencing a step change in its growth, with natural increases (that is, an increase in the number of births) a major contributor. We need to recognise that the current and significant levels of growth, and the forecast higher rates of growth, are the new norm rather than a one-off peak or boom.”*

It then goes on to state:

*“To accommodate new housing growth while also responding to housing affordability, there is a need to accelerate housing supply across Greater Sydney.”*

The vision is that opportunities for accommodating additional housing is intrinsically linked to planning for and integrating with new infrastructure and services. One of the ways this growth is to be achieved is through urban renewal, with the vision recognizing that the need for additional capacity is greatest in the North and Central Districts, and further that growth should be aligned with investment in infrastructure, such as the Sydney Metro, and within walking distance of centres.

Metropolitan priority: An equitable, polycentric city

This priority focuses on the growth of Sydney's many centres, to provide more equitable access to jobs and education in centres and to plan for infrastructure as growth occurs. The North Sydney Centre, being a key centre within the Global Economic Corridor plays a key role in the economy of Greater Sydney. It is essential that productivity gains be maximised for the North Sydney Centre by capitalizing on the delivery of the Sydney Metro, and enhanced connections this will create with Sydney's North-West and South-West.

Metropolitan priority: A city of housing choice and diversity

The population of Greater Sydney could be as high as eight million by 2056, it is therefore important to plan for more housing options in close proximity to jobs and services. And also to provide for a range of housing options to suit a range of needs.

In the context of an aging population and declining household size, the proposed development provides an opportunity to provide for a variety of unit types and sizes and close to existing services and facilities, and also existing and proposed public transport infrastructure, that will accommodate a range of household types, including those seeking to downsize from larger homes in less accessible locations in the surrounding localities.

**Draft North District Plan**

The *Draft North District Plan* was released by the Greater Sydney Commission in November 2016 and supports *A Plan for Growing Sydney* by providing regional strategic planning across Sydney's six Districts. The Plan identifies North Sydney as a Strategic Centre in which the identified job target is 15,600 – 21,100 additional jobs by 2036.

The Plan also identifies that single persons (43%) and couple only (26%) households comprise the largest number of household types in North Sydney. Apartments account for 71% of the existing housing stock in North Sydney and the Plan notes that housing to accommodate smaller households – such as apartments or terrace/row housing – is in the greatest demand in North Sydney. The Plan also states that the creation of these ‘should consider proximity to public transport, day-to-day needs, health, education, infrastructure and services’. The proposal is consistent with this by providing for additional housing which is suited to smaller households, strategically located on the fringe of the North Sydney Centre, and in close proximity to both the existing North Sydney Train Station and the planned Metro station.

The proposal also assists in allowing the North District's five-year housing supply target to be achieved, noting that the target for North Sydney is anticipated at 3,000 new dwellings.

### North Sydney Community Strategic Plan 2013 – 2023

The North Sydney Community Strategic Plan (NS CSP) is Council's strategic document identifying the community's main priorities and aspirations for its future. Its vision is to shape a North Sydney that is 'progressive, diverse and vibrant'. In this it sees new priorities to revitalise and reposition the North Sydney CBD from a purely commercial centre to a place for both business and entertainment.

It sets five Key Directions, comprising Our Living Environment, Our Built Environment, Our Economic Vitality, Our Social Vitality, and Our Civic Leadership. Within these are outcomes and strategies which provide benchmarks for progress. Relevant outcomes are considered in **Section 6.2**.

### 2.7 Current planning controls

#### State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development

The State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (SEPP 65) applies to all land within New South Wales identified as land for urban purposes with exceptions and conditions listed under clause 4 of the SEPP.

It seeks to improve the design quality of residential development in NSW including through the achievement of better built forms and aesthetics of buildings, as well as of the streetscapes and public spaces they define, and by better satisfying increasing demand.

Its nine (9) design quality principles are as follows:

- Principle 1: Context and neighbourhood character
- Principle 2: Built form and scale
- Principle 3: Density
- Principle 4: Sustainability
- Principle 5: Landscape
- Principle 6: Amenity
- Principle 7: Safety
- Principle 8: Housing diversity and social interaction
- Principle 9: Aesthetics

The proposal will facilitate the feasible redevelopment of the site by allowing a residential tower to be developed while retaining and investing in the conservation of the existing heritage commercial office building. The proposal provides an opportunity for the creation of high quality housing within the North Sydney Centre that responds to the changed character of the area since the site's construction. These matters are further considered and discussed in **Section 6.2**.

#### North Sydney Local Environmental Plan 2013

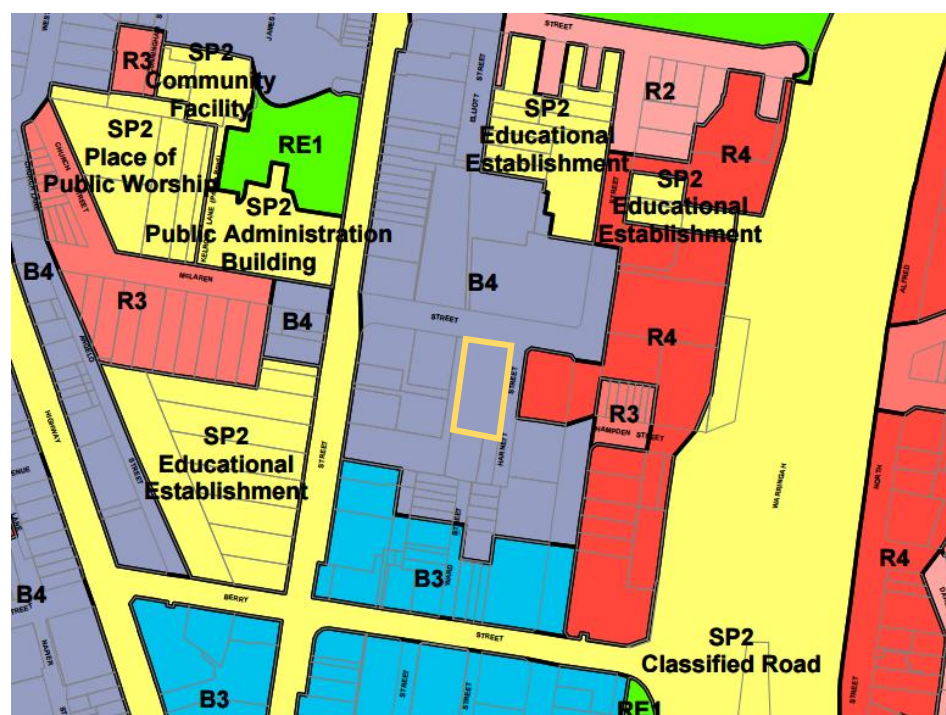
The North Sydney LEP 2013 applies to this proposal as the primary environmental planning instrument. An assessment of the proposed development of 41 McLaren Street against the relevant provisions of the LEP 2013 is provided at **Attachment P**. An overview of the key provisions is provided below.

### Zoning

The subject site is currently zoned as **B4 Mixed Use**.

<b>Objectives of the zone</b>	<ul style="list-style-type: none"> <li>– To provide a mixture of compatible land uses.</li> <li>– To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.</li> <li>– To create interesting and vibrant mixed use centres with safe, high quality urban environments with residential amenity.</li> <li>– To maintain existing commercial space and allow for residential development in mixed use buildings, with non-residential uses concentrated on the lower levels and residential uses predominantly on the higher levels.</li> </ul>
<b>Permitted without consent</b>	Nil
<b>Permitted with consent</b>	Car parks; Child care centres; Commercial premises; Recreation areas; Recreation facilities (indoor); Residential flat buildings; Respite day care centres; Roads; Seniors housing; Serviced apartments; Shop top housing; Signage
<b>Prohibited</b>	Any development not specified in item 2 or 3

Refer to the LEP zoning map of the site and surrounds provided at **Figure 6** below.



**Figure 6 Land Use Zoning Map (site outlined in yellow)**

Source: North Sydney LEP 2013, Sheet LZN\_002A

### Building height

The site is currently subject to a height of **RL 100 metres**.

The maximum height of building controls under Clause 4.3 are as follows:

(1) *The objectives of this clause are as follows:*

- a) *to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*
- b) *to promote the retention and, if appropriate, sharing of existing views,*
- c) *to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,*
- d) *to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,*
- 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.*

(2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

(2A)–(2C) *(Repealed)*

The height of buildings map applying to the site and surrounding area is illustrated at **Figure 7**. Note that the site-specific height limits are provided as RL metres.



**Figure 7 Height of Buildings Map (site outlined in yellow)**

Source: North Sydney LEP 2013, Sheet HOB\_002A

The existing height limit applying to 41 McLaren Street of RL 100 metres roughly aligns with the height of the existing building.

Floor space ratio

The site is not subject of a maximum floor space ratio under clause 4.4 of the LEP.

Clause 4.4A and the associated Non-Residential Floor Space Ratio Map prescribes provides a minimum Non-Residential FSR of 0.5:1 for the site. Clause 4.4A states the following:

- 1) *The objectives of this clause are as follows:*
  - a) *to provide for development with continuous and active street frontages on certain land in Zone B1 Neighbourhood Centre, Zone B4 Mixed Use and Zone SP2 Infrastructure,*
  - b) *to encourage an appropriate mix of residential and non-residential uses,*
  - c) *to provide a level of flexibility in the mix of land uses to cater for market demands,*
  - d) *to ensure that a suitable level of non-residential floor space is provided to promote employment and reflect the hierarchy of commercial centres.*
- 2) *The non-residential floor space ratio for all buildings within a site on any land must not be less than the ratio shown for the land on the Non-Residential Floor Space Ratio Map.*
- (3), (4) *(Repealed)*
- 5) *Development consent must not be granted to the erection of a building on land in Zone B1 Neighbourhood Centre or Zone B4 Mixed Use unless the consent authority is satisfied that the building will have an active street frontage after its erection.*
- 6) *Despite subclause (5), an active street frontage is not required for any part of a building that is used for any of the following:*
  - a) *entrances and lobbies (including as part of a mixed use development),*
  - b) *access for fire services,*
  - c) *vehicular access.*
- 7) *In this clause, a building has an **active street frontage** if no part of the ground floor of the building facing a street is used for residential accommodation.*
- 8) *In this clause, **non-residential floor space ratio** means the ratio of the gross floor area of that part of a building used or proposed to be used for any purpose in all buildings within a site to the site area, other than for any of the following purposes:*
  - a) *residential accommodation,*
  - b) *serviced apartments, if less than 50 serviced apartments are or will be contained within the site,*
  - c) *a car park,*
  - d) *a telecommunications facility.*

The Proposal includes a Non-Residential FSR of 3.1:1 and therefore complies with this provision.

An extract from the LEP Non-Residential Floor Space Ratio Map is provided in **Figure 8** below.



**Figure 8 Non-Residential Floor Space Ratio Map (site outlined in yellow)**

Source: North Sydney LEP 2013, Sheet LCL\_002A



The site is not identified within any heritage conservation area. The site is listed as a local heritage item (I0889), known as the 'Simsmetal House'.

The LEP heritage map is illustrated at **Figure 9** below.



**Figure 9 Heritage Map (site outlined in blue)**  
**Source: North Sydney LEP 2013, Sheet HER\_002A**

North Sydney Centre

The site is located within the North Sydney Centre as defined by the LEP.

The objectives for the North Sydney Centre are found under clause 6.1 as below:

*The objectives of this Division are as follows:*

- a) *to maintain the status of the North Sydney Centre as a major commercial centre,*
- b) *to require arrangements for railway infrastructure to be in place before any additional non-residential gross floor area is permissible in relation to any proposed development in the North Sydney Centre,*
- c) *to permit an additional 250,000 square metres of non-residential gross floor area in addition to the estimated existing (as at 28 February 2003) 700,000 square metres of non-residential gross floor area,*
- d) *to ensure that transport infrastructure, and in particular North Sydney station, will enable and encourage a greater percentage of people to access the North Sydney Centre by public transport than by private transport and:*
  - (i) be convenient and accessible, and*
  - (ii) ensure that additional car parking is not required in the North Sydney Centre, and*
  - (iii) have the capacity to service the demands generated by development in the North Sydney Centre,*
- e) *to encourage the provision of high-grade commercial space with a floor plate, where appropriate, of at least 1,000 square metres,*
- f) *to protect the privacy of residents, and the amenity of residential and open space areas, within and around the North Sydney Centre,*
- g) *to prevent any net increase in overshadowing of any land in Zone RE1 Public Recreation (other than Mount Street Plaza) or any land identified as "Special Area" on the North Sydney Centre Map,*
- h) *to prevent any increase in overshadowing that would adversely impact on any land within a residential zone,*
- i) *to maintain areas of open space on private land and promote the preservation of existing setbacks and landscaped areas, and to protect the amenity of those areas.*

Provisions for building heights and massing are found within clause 6.3 and provided below:

*(1) The objectives of this clause are as follows:*

- a) *to achieve a transition of building heights generally from 100 Miller Street and 79–81 Berry Street to the boundaries of the North Sydney Centre,*
- b) *to promote a height and massing that has no adverse impact on land in Zone RE1 Public Recreation or land identified as "Special Area" on the North Sydney Centre Map or on the land known as the Don Bank Museum at 6 Napier Street, North Sydney,*
- c) *to minimise overshadowing of, and loss of solar access to, land in Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone R4 High Density Residential, Zone RE1 Public Recreation or land identified as "Special Area" on the North Sydney Centre Map,*
- d) *to promote scale and massing that provides for pedestrian comfort in relation to protection from the weather, solar access, human scale and visual dominance,*
- e) *to encourage the consolidation of sites for the provision of high grade commercial space.*



(2) Development consent must not be granted for the erection of a building on land to which this Division applies if:

- a) the development would result in a net increase in overshadowing between 12 pm and 2 pm on land to which this Division applies that is within Zone RE1 Public Recreation or that is identified as "Special Area" on the North Sydney Centre Map, or
- b) the development would result in a net increase in overshadowing between 10 am and 2 pm of the Don Bank Museum, or
- c) the site area of the development is less than 1,000 square metres.

(3) Development consent for development on land to which this Division applies may be granted for development 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 is not likely to reduce the amenity of any dwelling located on land to which this Division does not apply.

The North Sydney Centre Map is illustrated below at Figure 10.



**Figure 10 Foreshore Building Line Map, North Sydney Centre Map, Exceptions to Development Standards Map (site outlined in blue)**

Source: North Sydney LEP 2013, Sheet CL1\_002A

### North Sydney Development Control Plan 2013

The North Sydney Development Control Plan (DCP) 2013 applies to all sites within the North Sydney LGA. The DCP was adopted by North Sydney Council on 2 September 2013 and came into effect on 13 September 2013.

The DCP applies to the wider North Sydney LGA and provides for a range of controls relating to site suitability, built form, site density and other matters. It focuses planning controls in two ways: for general developments and types; and toward desired future outcomes for neighbourhoods which display distinct characteristics, such as for the *'North Sydney Planning Area'* within which the site is located. This area generally comprises the North Sydney CBD and is bound by the Warringah Freeway, Pacific Highway and Falcon Street.

New development should result in outcomes such as a diverse range of living, employment, recreation and social opportunities that contribute to the vibrancy of and meet demand in the Centre. Parks and public spaces should allow a range of social and recreational activities. Further, residential development is encouraged to be concentrated in areas zoned mixed-uses, rather than within the commercial core, and provide housing choice.

The Architectus Alternative Master Plan for the Ward Street Precinct provided in the Urban Design Report at **Attachment A**, of which the proposed development of 41 McLaren Street forms a part, is consistent with the objectives and intent of the DCP as it seeks to add value to the Centre and to enable the creation of a new pedestrian spine, increase the area of public open space in the Centre and revitalise the area occupied by the Council-owned Ward Street car park by allowing for high-quality and economically viable development outcomes.

An assessment of the proposed development of 41 McLaren Street against the relevant provisions of the DCP is provided at **Attachment P**.

## 2.8 Other plans and policies

### Draft Ward Street Precinct Masterplan

The *Draft Ward Street Precinct Masterplan* (WSPM) was publicly exhibited by North Sydney Council in January 2017 with its key objectives being to provide a balanced public domain and built form response to the proposed Victoria Cross Metro Station and to ensure a built form response that effectively balances growth within the Centre and amenity to surrounding properties.

The WSPM provides that the precinct currently contains:

- 1,115 dwellings
- 3,700 jobs
- 1,890 parking spaces (existing and approved) / 925 public parking spaces
- 20 sqm of public open space

Additionally, the WSPM notes that the following are located within 50 metres of the Precinct:

- 960 additional dwellings (existing and approved)
- 1 Metro station (planned)
- 2 independent schools

The Masterplan goes on to state that it provides the following:

- 5,100 sqm of new community floor space
- 2,100+ sqm of public open space and plaza
- Pedestrian permeability
- New landscaped open space opportunities

- Temporary event and pop-up spaces
- 30,600 sqm of new commercial floor space
- 2,000+ sqm of new retail space
- 150 - 220 new dwellings

It is noted that Architectus provided a submission to the public exhibition of the draft WSPM based on detailed analysis of the exhibited material which concluded that the net increase of office space resulting from the draft Masterplan amounted to 6,545sqm GFA.

The draft WSPM is discussed in detail (including an overview of Architectus' submission) within the Urban Design Strategy prepared by Architectus and provided as **Attachment A**.

Following exhibition and consideration of the draft Masterplan, North Sydney Council, at its meeting of 1 May 2017 considered an interim report and resolved to take steps toward the finalisation of the draft Masterplan incorporating matters raised during consultation. A further report will be considered by North Sydney Council at some point (the timing of which is unknown at this time) which outlines Council's proposed response to these issues, after which consultants will be appointed to revise the Masterplan.

### **North Sydney Centre Capacity and Land Use Strategy**

The *North Sydney Centre Capacity and Land Use Strategy* (CLU Strategy) was endorsed by North Sydney Council on 1 May 2017 following a process of public consultation which involved exhibition of a Draft Capacity and Land Use Study, to which Architectus made a submission on behalf of the owners of 41 McLaren Street (provided as an attachment to the Urban Design Report at **Attachment A**).

The CLU Strategy seeks to:

- Develop a framework that allows for the growth of the North Sydney Centre to ensure it maintains and improves its status as a resilient, vibrant and globally relevant commercial centre;
- Accommodate forecast demand for additional commercial floor space in the North Sydney Centre;
- Inform and respond to district planning, particularly employment and commercial floor space targets for the North Sydney Centre;
- Take advantage of planned infrastructure upgrades by intensifying land use around significant transport infrastructure;
- Offset commercial floor space losses in the mixed use zone of the Centre;
- Identify residential development opportunities in the mixed use periphery; and
- Identify and facilitate specific land uses to contribute to the Centre's diversity, amenity and commercial sustainability.

To achieve these objectives, the following strategies are proposed:

#### Strategy 1

Apply new height controls to the North Sydney Centre based on the following:

- A 10 am to 2 pm restriction on additional overshadowing to residential land outside of the North Sydney Centre; and
- The continued prohibition of additional overshadowing to land identified as special areas under NSLEP 2013.
- Any other measure identified as a result of further detailed consideration.

Strategy 2

Apply new height controls via the following mechanisms:

*B3 Commercial Zone*

New heights controls will be applied via a Council initiated planning proposal.

*B4 Mixed Use*

The achievement of potential additional height identified by the Study will be subject to the consideration of a proponent-initiated planning proposal, where appropriate land uses and development mix can be assessed and assured.

Strategy 3

- Amend the Special Areas Map of NSLEP 2013 to remove Blue Street and Elizabeth Plaza special areas and add the green space at the rear of 100 Pacific Highway.
- Revisit Miller Street Central and Tower Square special areas to align with the public domain outcomes of the Victoria Cross Metro station.
- Review Berry Square as part of the Ward Street Masterplan.

Strategy 4

Prohibit the development of serviced apartments within the B3 Commercial Core zone.

Strategy 5

Undertake a review of North Sydney DCP 2013 *Part B Section 2 Commercial Development* and *Part 3 Section 2 North Sydney Planning Area Character Statement*, to further consider built form issues within the Centre.

At its meeting of 1 May 2017, North Sydney Council resolved to adopt a Planning Proposal seeking to give statutory effect to the CLU Strategy and to forward the Planning Proposal to the Department of Planning and Environment seeking a Gateway determination. A Gateway Determination was subsequently issued for the proposal on 20 July 2017 and is currently with North Sydney Council for implementation. It is noted that the CLU Strategy deferred consideration of the planning controls relevant to sites within the Ward Street Precinct for consideration and review as part of the Ward Street Precinct Masterplan process.

**2.9 Demographic profile and trends**

The Draft North District Plan notes that the aggregate population growth within North Sydney LGA is set to be 19,600 by 2036.

2016 Census data for the North Sydney suburb (SSC) revealed that the residential population was approximately 7,705 persons, of which the median age was 35.

The household composition comprised of: families (54.9%); single or lone persons (37.8%); and group households (7.2%). Family household compositions were distributed as follows:

- Couples without children (58.1%)
- Couples with children (29.8%)
- One parent families (9.3%)
- Other families (2.7%)

Additionally, the dwelling structure was as follows:

- Flat or apartments (79.9%)
- Semi-detached, row or terrace houses, townhouses etc. (12.5%)
- Separate houses (6.8%)
- Other dwelling (0.4%)

Of occupied private dwellings, the number of bedrooms were:

- 1 bedroom (30.4%)
- 2 bedrooms (37.0%)
- 3 bedrooms (20.5%)
- 4 or more bedrooms (4.6%)
- Not stated/none (7.5%)

The Plan notes that housing to accommodate smaller households – such as apartments or terrace/row housing – is in the greatest demand in North Sydney. The Plan also states that the creation of these ‘should consider proximity to public transport, day-to-day needs, health, education, infrastructure and services’.

# 3. The proposal

*This Section provides an overview of the need for a Planning Proposal and identifies the design philosophy to inform the redevelopment of the site.*

## 3.1 Need for redevelopment

The owners of 41 McLaren St, Erolcene Pty Ltd and Claijade Pty Ltd, have within the last three years undertaken meetings with senior Council officers over the future of Council's Ward Street Carpark and the broader Ward Street Precinct, being the land bound by McLaren Street to the north, Miller Street to the west, Walker Street to the east and Berry Street to the south. Council has recognised that a number of significant and transformational changes, such as the return of the Ward Street carpark to Council control in 2020 and the announcement of the Victoria Cross Metro station, have and will continue to affect the Precinct, making it well suited to a masterplan which considers how potential development sites may develop in a complementary manner.

Architectus considers that both 41 McLaren St and the Ward Street carpark site represent a unique opportunity to deliver significant public benefit for the wider community including, but not limited to, a fine grain of connected lanes and ground level uses, public open space, community facilities, child care and revitalised through-site connections providing easy access to the Metro Station.

Between 26 January and 10 March 2017 North Sydney Council publicly exhibited the *Draft Ward Street Precinct Master Plan*, which includes 41 McLaren Street. Architectus prepared a submission in March 2017 to the draft Master Plan and raised a number of concerns, including:

- The additional height in storeys and RL proposed for 41 McLaren St at 5 storeys and up to RL110 were incorrect (5 additional storeys above the existing building cannot be achieved under RL 110 metres) and additionally not viable given the costs of an additional lift core, plant relocation and structural strengthening;
- There was no discussion of the range of criteria used for setting building heights, such as the consideration of aviation height limits, whether it may be more appropriate to establish maximum building heights based on contextual considerations, growth needs, or protection of solar amenity of existing residential uses;
- There was no discussion of potential development scenarios for tower(s) above the future Metro station, which will influence the height of future towers within the Precinct; and
- The draft Masterplan provides for very little additional commercial floor space (just 6,545sqm additional GFA) and would generally be of a low quality, due to floorplate sizes and lack of street address.

This submission forms the basis of the Urban Design Report provided at **Attachment A**.

Recognising the implications and limitations of the WSPM, Architectus' submission includes a proposed Alternative Master Plan, which is discussed throughout this Planning Proposal. While it is not the intent of the Planning Proposal to implement the Alternative Masterplan, the proposed development of 41 McLaren Street has been

designed to enable achievement of the Alternative Masterplan, should Council consider that it would be an appropriate outcome for the Precinct.

### 3.2 The Alternative Masterplan

The Architectus Alternative Masterplan for the Ward Street Precinct was developed in response to exhibition of the Draft WSPM by North Sydney Council to address a number of concerns, including the quality and economic viability of envisaged development outcomes, limitations on being able to achieve high quality public open space (which was dependent upon the development of 56 & 66 Berry Street with insufficient uplift to make such a development viable), and a lack of realisation of urban renewal and densification in the walkable catchment of the Victoria Cross Metro Station, having been a key factor in the determination of the metro site.

Key objectives and outcomes which informed the Alternative Masterplan include:

#### Public Domain

- Increased the area of public domain compared with the draft WSPM by almost double.
- Direct line of sight between Berry Street and McLaren Street (via a double height colonnade through 41 McLaren Street aligned with the Ward Street Precinct open space spine).

#### 20 Ward Street/56 Berry Street/66 Berry Street

- Provide planning controls to enable the amalgamation of the three sites to achieve a high quality mixed-use tower comprising 'A' Grade commercial office tower and hotel uses above
- Balance solar access to Berry Square by increasing sunlight to part and reducing to part.
- Incorporate community uses within podium levels
- Provide retail and lobbies with potential tunnel connecting into Metro Station concourse alleviating pedestrian crowding on Berry Street.

#### 41 McLaren Street

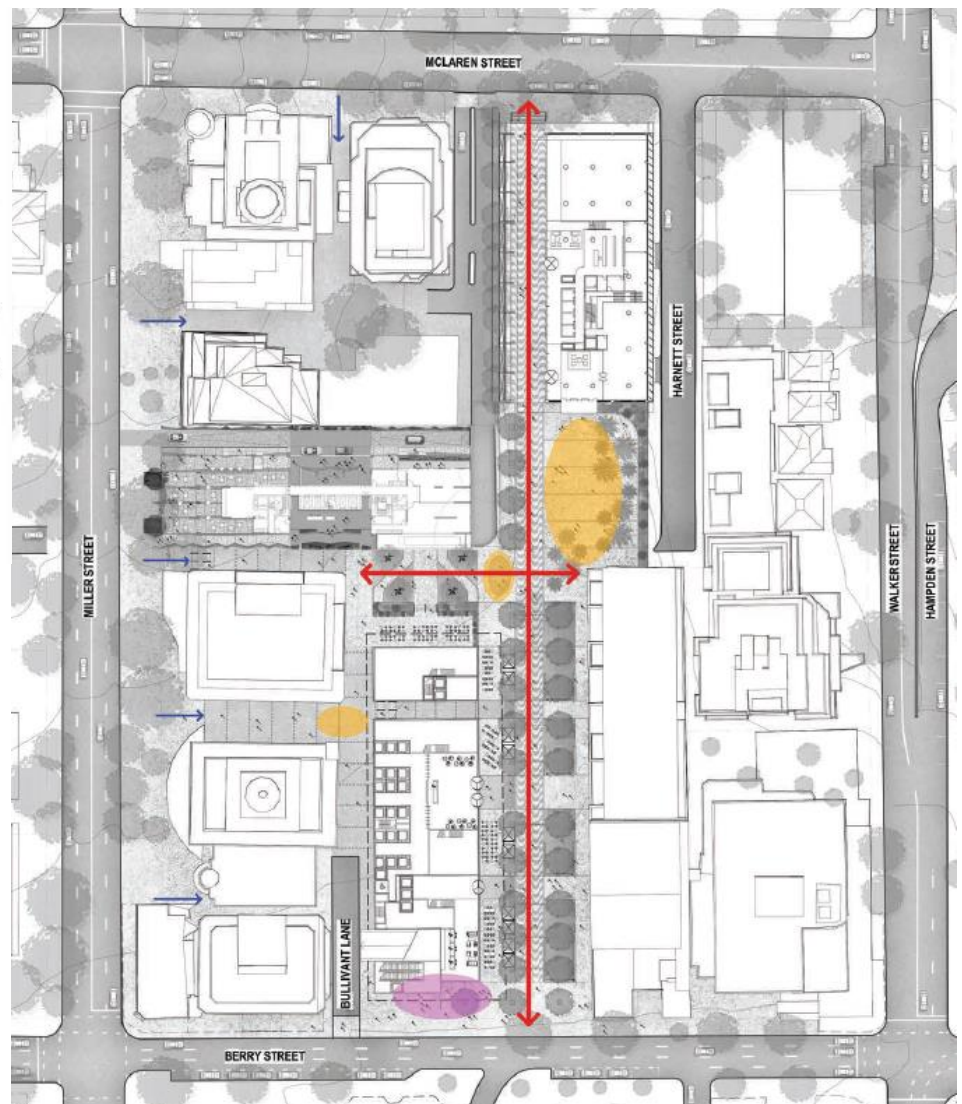
- Allow development uplift to incentivise heritage conservation works to the existing heritage building by allowing for a residential tower above the existing heritage building.
- Provide for a range of uses to contribute to the 18-hour economy of the precinct.
- No additional overshadowing of Berry Square between 12pm and 2pm midwinter.
- Achieve quality outcomes for the heritage building, and a high quality residential tower above, while retaining commercial uses within the heritage podium, to contribute to the redevelopment of the wider Ward Street Precinct.

The design principles for the public domain treatment of the Architectus Alternative Masterplan are provided in **Figure 11** below.

**41 MCLAREN STREET DESIGN PRINCIPLES**

1. DESIGN AXIAL PATHWAYS AND PEDESTRIAN STREETS TO EMPHASISE THE SITE'S TOPOGRAPHY AND PROVIDE CLEAR SIGHTLINES
2. PROVIDE VISUAL LANDMARKS AND WAYFINDING TO GUIDE PEOPLE THROUGH THE SITE AND TO PUBLIC TRANSPORT CONNECTIONS
3. CREATE FLEXIBLE OPEN SPACE FOR PROGRAMMING SUCH AS NIGHT MARKETS, LUNCH TIME PERFORMANCES, CINEMA SCREENINGS, OUTDOOR GALLERIES, ETC.
4. PROVIDE UNIVERSAL ACCESSIBILITY THROUGH GRADING AND LANDFORM IN ORDER TO REDUCE THE NEED FOR HANDRAILS AND OTHER VISUAL CLUTTER
5. ENCOURAGE SITE ACTIVATION THROUGHOUT THE DAY AND NIGHT WITH SHOPS, RESTAURANTS, BARS, ARTWORK, AND CREATIVE LIGHTING IN ORDER TO ATTRACT LOCAL RESIDENTS, VISITORS, AND WORKERS
6. PROVIDE MULTISCALE SPATIAL SCALES AND ACTIVITIES, FROM EXPANSIVE GATHERING SPACES TO FINE-GRAN LANEWAYS AND SITTING NOOKS

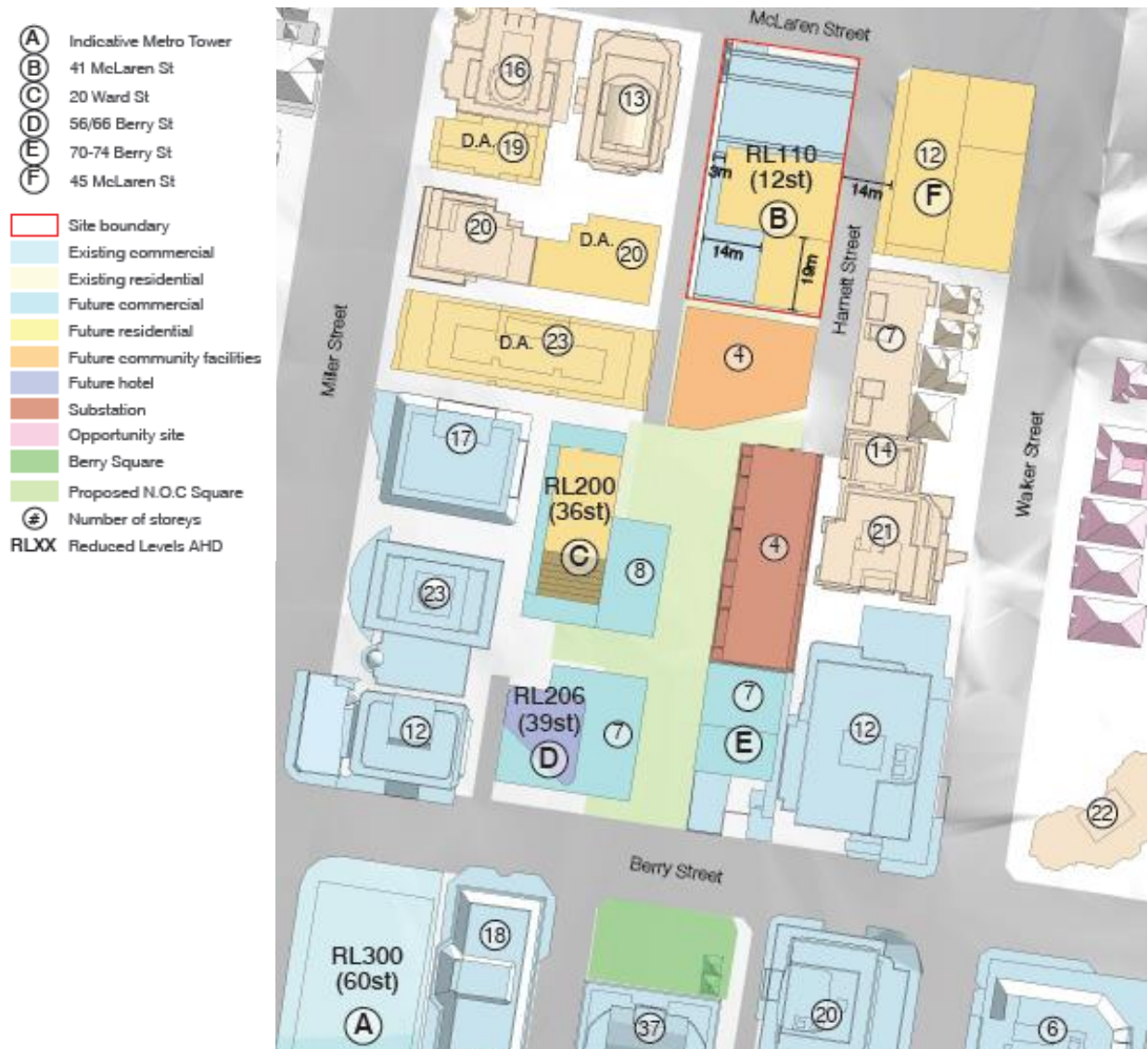
-  PRIMARY CIVIC PEDESTRIAN AXIS  
 SITE ENTRY POINTS AND LANEWAY CONNECTIONS  
 FLEXIBLE OPEN SPACES  
 KEY LANDMARKS AND METRO

**Figure 11 Public domain principles**

Source: Spackman Mossop Michaels Public Domain Plan

A comparison between the draft WSPM as exhibited by North Sydney Council and the Alternative Masterplan prepared by Architectus can be seen in **Figure 12** and **Figure 13** below.



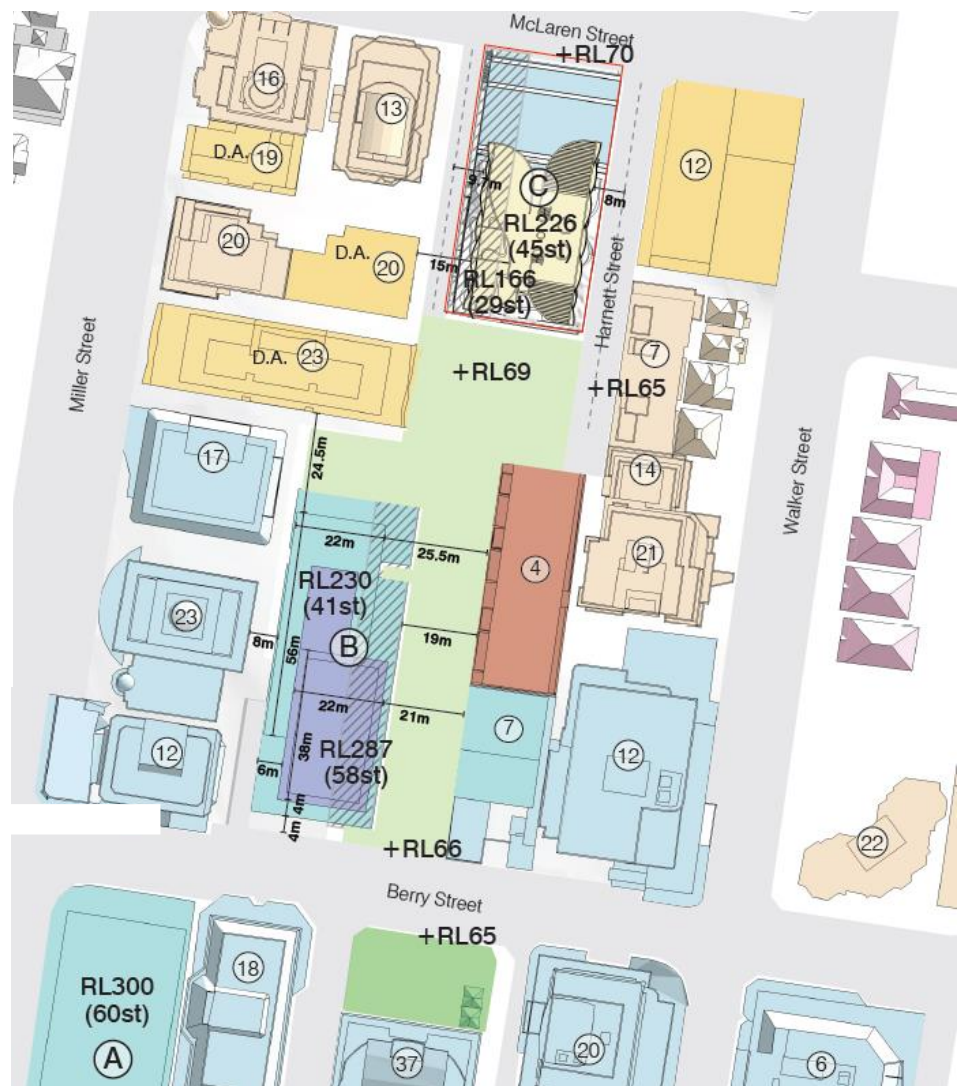


**Figure 12 Draft Ward Street Precinct Masterplan (as exhibited) – Site plan**

Source: Architectus Urban Design Strategy (adapted from exhibited Roberts Day plan)

**Note:** This illustration by Architectus is based on the draft Ward St Precinct Master Plan. The notation of Building A is Architectus' view of the potential height of the over station development above Victoria Cross Rail Station which could be 40-60 commercial storeys.

- (A) Indicative metro tower  
 (B) 20 Ward St/56 Berry  
 (C) St/66 Berry St  
 41 McLaren St
- Site boundary  
 Alternative proposal on 41 McLaren St  
 Existing commercial  
 Existing residential  
 Future commercial  
 Future residential  
 Future community facilities  
 Future hotel  
 Substation  
 Opportunity site  
 Berry Square  
 Proposed N.O.C Square  
 Double height colonnade for visual connection and weather protection for pedestrians  
 # Number of storeys  
 RLXX Reduced Levels AHD



**Figure 13 Architectus Alternative Masterplan – Site plan**

Source: Architectus Urban Design Strategy

The Planning Proposal, while relating only to the proposed development of 41 McLaren Street, is intended to support the future delivery of the Alternative Masterplan for the Ward Street Precinct.

A 3D perspective of development of the Ward Street Precinct and surround under the Alternative Masterplan is provided at **Figure 14** below.

- (A) Indicative Metro Tower
- (B) Ward Street Tower
- (C) 41 McLaren St
- Proposed on Site
- Existing commercial
- Existing residential
- Future commercial
- Future residential
- Future community facilities
- Future hotel
- Substation site
- Opportunity site
- Berry Square
- Proposed N.O.C Square
- # Number of storeys
- RLXX Reduced Levels AHD



**Figure 14 Architectus Alternative Masterplan – 3D View**

Source: Architectus Urban Design Strategy

### 3.3 The Visionary Masterplan

The Architectus Visionary Masterplan for the Ward Street Precinct was developed to examine the potential uplift in capacity for the Ward Street Precinct, where the potential height of a future over-station development above the Victoria Cross Metro site at the intersection of Berry Street and Miller Street (up to 60-storeys, or RL 300 metres) is taken to establish the context for tower height in the precinct, and where Council supports the removal of sun access controls for Berry Square.

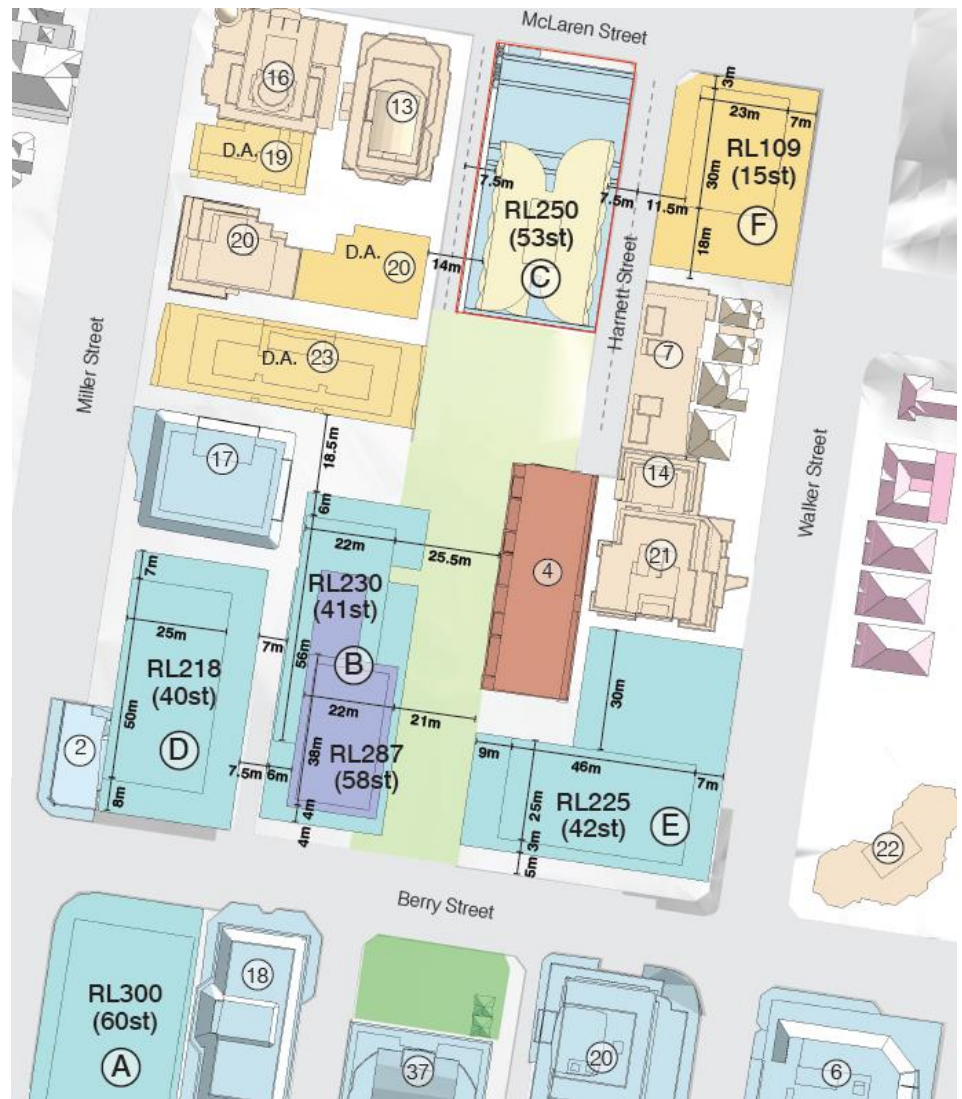
Architectus considers that the Berry Square sun access control should be removed for the benefit of the Precinct, to allow for significant development uplift for the wider Ward Street Precinct and to allow the potential for the precinct to achieve a density of development suitable for its location and the investment in infrastructure which is occurring.

The public benefit associated with the protection of sun access to a relatively small, privately-owned forecourt, which is largely overshadowed by existing buildings, is insignificant in comparison with the public benefit that could be provided through the redevelopment of the Ward Street Precinct, which is heavily constrained in terms of future development potential by protection of sun access to Berry Square (it is noted, however, that the Architectus Alternative Masterplan ensures no additional overshadowing of the Berry Square).

Architectus' Visionary Masterplan is depicted in **Figure 15** and **Figure 16** below.



- (A) Indicative metro tower
  - (B) 20 Ward St/56 Berry St
  - (C) 41 McLaren St
  - (D) Corner Berry St/Miller St tower
  - (E) Corner Berry St/Walker St/Ausgrid tower
  - (F) 45 McLaren St tower
- Site boundary
  - Proposed on site
  - Existing commercial
  - Existing residential
  - Future commercial
  - Future residential
  - Future community facilities
  - Future hotel
  - Substation site
  - Opportunity site
  - Berry Square
  - Proposed N.O.C Square
  - # Number of storeys
  - RLXX** Reduced Levels AHD



**Figure 15 Architectus Visionary Masterplan – Site plan**

Source: Architectus Urban Design Strategy



**Figure 16 Architectus Visionary Masterplan – 3D View**

Source: Architectus Urban Design Strategy

### 3.4 Proposed development

This Planning Proposal seeks to facilitate the development of 41 McLaren Street as per the Architectural Drawings prepared by Harry Seidler & Associates and provided at **Attachment B**, which includes the following:

- Retention of the heritage listed ‘Simsmetal House’ and commercial office uses within the podium of a mixed-use building;
- Provision of a double-height colonnade with a vertical clearance of approx. 5.8 metres and minimum width of approx. 7.5 metres, which will function as the principal access to the building and also provide a through-site link to the future public open space to the south of the site;
- Construction of a residential tower, containing 224 residential units (22 x studio; 78 x 1-bedroom; 86 x 2-bedroom; 32 x 3-bedroom; and 6 x 4-bedroom) across 37 levels of residential units above the existing commercial building;
- 7,285sqm of commercial office space within the building podium;
- Heritage conservation and restoration works to the existing building;



- Excavation for basement car parking and provision of 219 car parking spaces (including 40 accessible spaces and 22 visitor parking spaces), an increase of 128 car parking spaces above the existing; and
- Associated site-works and landscaping.

The proposed development of 41 McLaren Street is illustrated in **Figure 17** and **Figure 18** below.



**Figure 17 Proposed development of 41 McLaren Street**

*Source: Harry Seidler & Associates Architects*



**Figure 18 Proposed development of 41 McLaren Street**

*Source: Harry Seidler & Associates Architects*

### 3.5 Design philosophy

Harry Seidler & Associates (HSA) Architects have sought to retain the heritage values of the existing building in the design of the proposed development while also creating a distinctive, high quality residential tower.

The design principles which informed the preparation of the architectural scheme provided at **Attachment B** are detailed in the Architectural Design Statement, also prepared by HSA Architects and provided at **Attachment C**.

In summary, the design principles guiding the building design are as follows:

- Maintaining the McLaren Street streetscape character by providing a generous front setback to the tower form;
- Extend the existing undercroft area and increase the height to two-storeys, to provide a through-site link and a scale commensurate with the new entry functions of the residential lobby, commercial lobbies and an expanded food and beverage offering. Public art by renowned Australian Artist Robert Owen and installation of distinctive wavy paving will add to the visual interest of the space;
- Re-landscaping of the podium terraces to enrich these spaces, consistent with the original concept of the building;
- Utilisation of the podium roof for communal recreation and open space;
- A residential tower which 'floats' above the commercial podium in a tall slender structure comprising two narrow wings with curved ends returning to a naturally lit central core lift lobby – the slim proportions of the building utilise the long sides of the site to maximise exposure and ensure suitable building separation; and
- Stepping down of the west wing of the tower to prevent overshadowing of Berry Square.



# 4. Objectives and intended outcomes

*This section outlines the objectives of the Planning Proposal and provides detail on the proposed planning control provisions to achieve these objectives and outcomes.*

## 4.1 Intended outcomes

This Planning Proposal seeks to amend the planning controls applicable to 41 McLaren Street to achieve the following:

### Maximum building height

The current controls applying to the site allow a maximum building height of up to RL 100 metres (7 storeys). This does not allow for development to meet market expectations, particularly considering the site's changing surrounds and the announcement of the future Victoria Cross Metro Station, which has its northern access on the opposite side of McLaren Street.

It is proposed to amend the LEP 2013 to facilitate the redevelopment of the site in accordance with the architectural scheme prepared by Harry Seidler & Associates and provided at **Attachment B**, which achieves a maximum height of RL 225.8 metres.

### Mix of uses

It is not proposed to amend the zoning of the land. The redevelopment of the site should see the introduction of compatible land uses that are consistent with its current B4 Mixed Use zoning. This planning proposal will enable the sustainable redevelopment of the site to accommodate residential dwellings that cater to the future growth of the North Sydney Centre.

### Built form

The proposed development includes retention of the existing heritage listed building with a tower above, containing 37 levels of residential units.

The design of the tower relates to the site context and minimises view-loss and amenity impacts for both existing and approved residential developments surrounding the site.

The western wing of the building has a modulated form that scallops inward and steps down toward the south to preserve solar access to Berry Square.

### Overshadowing of land outside of the North Sydney Centre

It is noted that the Planning Proposal currently being advanced by North Sydney Council as an outcome of the North Sydney Centre CLU Strategy seeks to amend clause 6.3(3) of the LEP to stipulate that development consent must not be granted to development which exceeds the maximum height of buildings as provided by the Height of Buildings Map.

It is acknowledged that the Planning Proposal would likely result in an increase in overshadowing of the East of Walker Street land identified and discussed in **Section 6.3** of this Planning Proposal.

it is considered that the impact on this land is acceptable, given the land is already substantially overshadowed by the approved development of 168 Walker Street; that densification and increased heights are likely for this land in the future; and that overshadowing of this land from any development of 41 McLaren Street would not preclude any future residential development on the land from achieving solar access in accordance with the ADG. Accordingly, should a site-specific amendment to the LEP be preferred to a change to the Height of Buildings Map (see discussion under **Section 5.1** of this Planning Proposal), then the proposed development of 41 McLaren Street would need to be excluded from the application of this proposed clause.

#### **Public benefit**

It is considered that the Planning Proposal is in the public benefit as it would:

- Allow for essential heritage conservation and restoration works;
- Provide a vital through-site link via a double height colonnade at the ground level of the building which will provide a connection from McLaren Street to the proposed public open space to the south of the building; and
- Allow for a density and mix of uses commensurate with its located opposite the future Victoria Cross Metro Station and also contribute positively to the development of the Ward Street Precinct, a precinct which is envisaged to include high quality public domain and a vibrant day and night economy.

A landscape concept for the Architectus Alternative Masterplan has been prepared by Spackman Mossop Michaels Landscape Architects to highlight the potential for the precinct to achieve superior outcomes under the Alternative Masterplan. An extract is provided in **Figure 19** below and detail provided in the Urban Design Report at **Attachment A**.

Urbis has prepared a VPA Report which is provided under separate cover which provides a rationale for the appropriate funding mechanism to allow for value capture associated with uplift in the Ward Street Precinct to fund the provision of community facilities and public domain works. The development of 41 McLaren Street will contribute to the delivery of this infrastructure by means of either a monetary contribution paid to Council, or as works in kind. This will be negotiated with Council through a separate process, concurrent to consideration of the Planning Proposal.

**LEGEND**

1. PEDESTRIAN AXIS "MAIN STREET"
2. LANEWAYS
3. OUTDOOR DINING / CAFE SPACE
4. TERRACED SEATING
5. STEPPED SEATING & VIEWING SPACE
6. PART-TIME WATER FEATURE / FLEXIBLE SPACE
7. LARGE FLEXIBLE OPEN SPACE
8. COLONADE
9. 221 MILLER STREET (OCULUS)



**Figure 19 The Public domain concept plan**

A pedestrian spine is proposed as well as increased pedestrian connections and activated open spaces.

Source: Spackman Mossop Michaels Landscape Architects

## 4.2 Objectives of the proposed controls

The Planning Proposal aims to facilitate the redevelopment of the site, including retention of the existing heritage listed commercial building, with the addition of a residential tower above.

Key objectives of this proposal are to:

- Provide opportunity for increased residential dwelling provision to meet growing demand and support renewal of the subject site;
- To allow an uplift in density for the site commensurate with its location opposite the new planned Victoria Cross Station; and
- To allow holistic planning of the site in conjunction with the renewal of the Ward Street Precinct.

## 4.3 Potential future amendments to planning provisions to achieve the Alternative Masterplan

Although it is not proposed by this Planning Proposal, Architectus considers that it would be appropriate to introduce alternative development controls for the development of sites within the Ward Street Precinct where development is proposed which is in accordance with the Masterplan. This could be implemented by providing for increased building heights where the amalgamation of sites is proposed and the delivery of public benefits ensured.

This approach has been applied in other local government areas to promote urban renewal and encourage the amalgamation of sites through planning incentives to achieve balanced and desirable outcomes which are also economically viable. An example of this is the development of the “APDG Block” in the City of Sydney, being the block bound by Alfred Street, Pitt Street, Dalley Street and George Street in Central Sydney. Refer to clause 6.25 of the Sydney Local Environmental Plan 2012 provided at **Attachment Q**.

In relation to 20 Ward Street, 56 Berry Street and 66 Berry Street, a maximum building height could apply to an amalgamated site which is greater than that provided under clause 4.3 – Maximum height of buildings and the associated Height of Buildings Map, but only where the development relates to the Ward Street car park site and one or both of the Berry Street sites (56 & 66), and provided suitable public benefit, such as the provision of public open space and community uses within the podium of the building. Similarly, a maximum building height of RL 226 metres would apply to 41 McLaren Street where the development involved heritage restoration and conservation works, provision of a through-site link and contributions to the proposed open space to the south.

#### **4.4 Summary**

The objective and intended outcome of the Planning Proposal is to allow for:

- The delivery of a mixed-use development of 41 McLaren Street which is complementary to the development of the broader Ward Street Precinct, being of an appropriate density given its location relative to the Victoria Cross Metro Station;
- Appropriately address impacts on surrounding private land and public places;
- Provide potential for, and contribute to, the future delivery of high quality public domain and links through the precinct which provide active uses and vibrant day and night economy; and
- Retention and conservation of the heritage significance of the existing commercial office building.

To allow for the delivery of these changes, the Planning Proposal seeks to allow for increase in the maximum building height applicable to 41 McLaren Street.

# 5. Explanation of provisions

*This section gives a detailed statement of how the objectives or intended outcomes are to be achieved by means of amending the existing LEP.*

## 5.1 Proposed amendments to the LEP planning controls

There are two potential means of amending the North Sydney LEP 2013 to achieve the objectives and intended outcomes of the Planning Proposal, being:

- Through the introduction of a site-specific clause under Division 2 General provisions of the LEP allowing for a development up to RL 226 metres (despite the height of buildings map), where the development satisfies certain requirements; **or**
- To amend the height of buildings map to allow for a building height of up to RL 226 metres (as illustrated in **Section 7** of this Planning Proposal).

### Site-specific clause

Should Council consider that a site-specific clause is the most appropriate means for achieving the objectives and intended outcomes of the Planning Proposal, then a clause such as the following is recommended as appropriate:

#### *6.20 Development at 41 McLaren Street, North Sydney*

- (1) *The objectives of this clause is to provide for additional building height on land at 41 McLaren Street (Lot 1, DP 557103) if the development of the site provides for retention and conservation of 'Simsmetal House' and pedestrian links through the site.*
- (2) *Despite clause 4.3, development consent may be granted to a building on the land with a maximum height of RL 226 metres.*
- (3) *Development consent must not be granted under this clause unless the consent authority is satisfied that the development will:*
  - (a) *Conserve key components and attributes of 'Simsmetal House';*
  - (b) *Be consistent with a heritage management document prepared in accordance with clause 5.10(5);*
  - (c) *Provide publicly accessible, unobstructed external access through the site (a through-site link); and*
  - (d) *Provide active uses with frontages at ground level addressing the through-site link.*
- (4) *This clause prevails in the result of any inconsistency clause 6.3(3).*

There is the possibility that the development may also include community uses and/or affordable housing as part of a Public Benefit Offer negotiated through a separate process with North Sydney Council. A site-specific provision would also seek to encapsulate any such use.

Amendment to the Height of Building Map

Should an amendment to the Height of Buildings Map be the preferred option for achieving the objectives and intended outcomes of the Planning Proposal, this would require an amendment to the Height of Buildings Map – Sheet HOB\_002A as illustrated in **Section 7** of this Planning Proposal.

# 6. Justification

This section provides justification of the Planning Proposal in line with the ‘*questions to consider when demonstration justification*’ set out within the NSW Government’s ‘*A guide to preparing planning proposals*’.

## 6.1 Section A – Need for the Planning Proposal

### *Is the planning proposal a result of any strategic study or report?*

This Planning Proposal has resulted from the following strategic studies and reports:

#### **North Sydney Centre Capacity and Land Use Strategy (CLU Strategy)**

The *North Sydney Centre Capacity and Land Use Strategy* (CLU Strategy) was endorsed by North Sydney Council on 1 May 2017 following a process of public consultation which involved exhibition of a Draft Capacity and Land Use Study, to which Architectus made a submission on behalf of the owners of 41 McLaren Street (provided as an attachment to the Urban Design Report at **Attachment A**).

The CLU Strategy seeks to:

- *Develop a framework that allows for the growth of the North Sydney Centre to ensure it maintains and improves its status as a resilient, vibrant and globally relevant commercial centre;*
- *Accommodate forecast demand for additional commercial floor space in the North Sydney Centre;*
- *Inform and respond to district planning, particularly employment and commercial floor space targets for the North Sydney Centre;*
- *Take advantage of planned infrastructure upgrades by intensifying land use around significant transport infrastructure;*
- *Offset commercial floor space losses in the mixed use zone of the Centre;*
- *Identify residential development opportunities in the mixed use periphery; and*
- *Identify and facilitate specific land uses to contribute to the Centre’s diversity, amenity and commercial sustainability.*

The CLU Strategy deferred detailed consideration of the built form controls applicable to the separate but related Ward Street Precinct master planning process. Detailed discussion of the CLU Strategy is provided in Section 4.1 of the Urban Design Strategy at **Attachment A**.

#### **North Sydney Centre Ward Street Masterplan Consultant Brief, dated April 2016**

In April 2016 North Sydney Council released a Consultant Brief for the Ward Street Precinct, which sought for urban planning and design assistance to prepare a precinct master plan. The Brief outlined major factors necessitating the need for the preparation of a cohesive strategy for the precinct, which are summarised as follows:

1. *The return of a major Council asset (Ward/Harnett Street car park) in 2020 and subsequent need to plan for its long-term future and redevelopment opportunities, including those of adjacent opportunity sites.*
2. *New transport infrastructure, being the proposed Victoria Cross Metro Station.*
3. *Strong private development interest from within the Ward Street Precinct.*



4. *Ability to set the direction for contemporary, best practice planning for the Ward Street precinct.*
5. *Activation of North Sydney Centre as a destination for commercial and economic activity.*

The Brief further notes that, in relation to the wider North Sydney Centre, that 'Council's policies seek to grow and strengthen the commercial core of the Centre, whilst encouraging new mixed use development within that zone.' The opportunity to redevelop the Ward Street car park site has also been identified as having incredible opportunity to provide significant public benefit, as well as becoming 'integral to the movement and congregation of people through and within the precinct' and 'to house a number of uses essential to the improvement of the Centre'.

This Planning Proposal has thus been informed by this brief, as well as the subsequent Draft Ward Street Precinct Masterplan, by seeking to introduce residential accommodation to the existing commercial building at 41 McLaren Street, complementing the site's B4 mixed use zoning under the NS LEP 2013. This Planning Proposal is also intended to contribute to and deliver substantial public benefits envisaged for the Ward Street Precinct and detailed within the brief and the Draft WSPM.

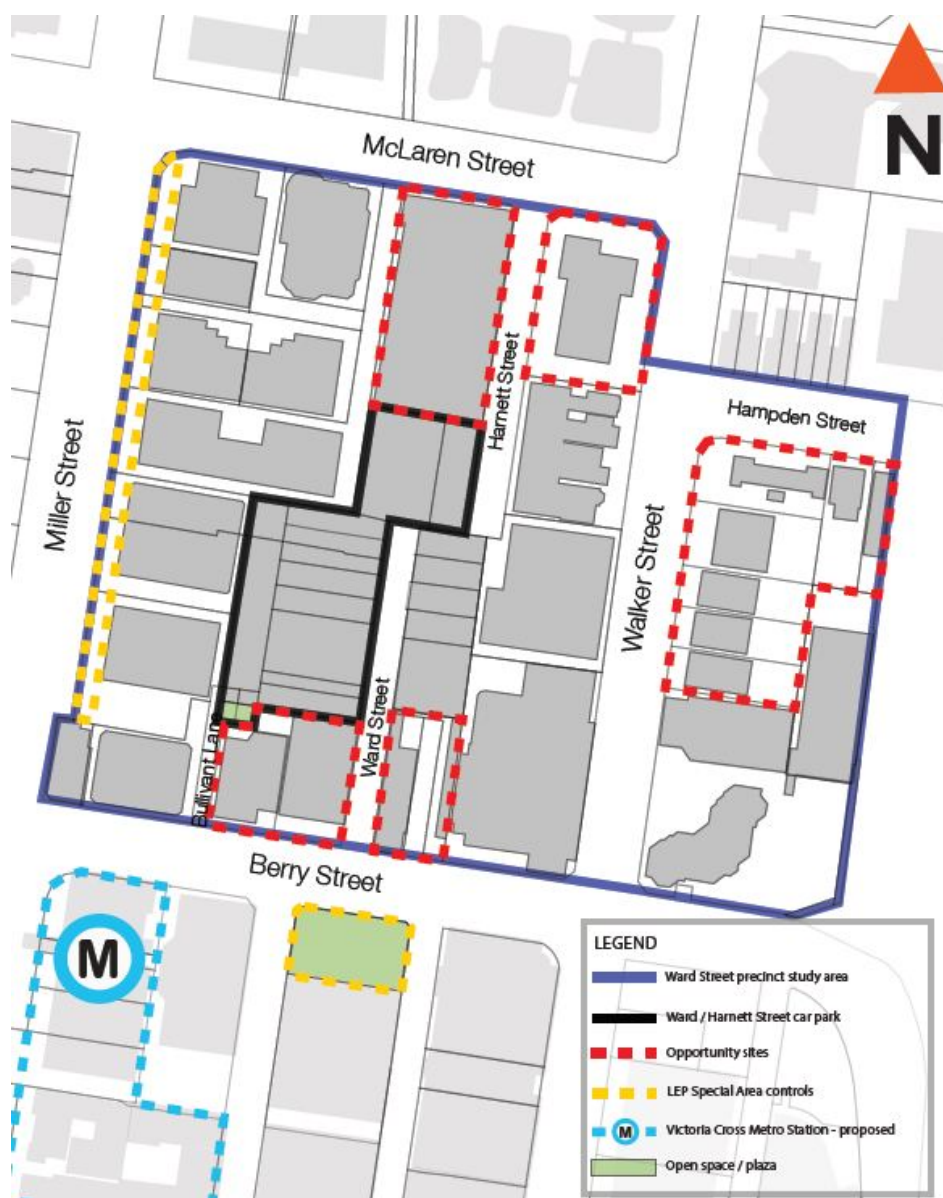
#### **Draft Ward Street Precinct Masterplan (WSMP)**

The Draft WSPM, publicly exhibited by North Sydney Council between 26 January and 10 March 2017, was undertaken by Council as a response to the following:

- The return of the Ward Street car park to Council control in 2020
- The approved Victoria Cross Metro Station
- Strong private development interest
- The activation of the North Sydney CBD and implementation of the directions set out by the North Sydney Centre Review.

Focusing upon the Ward Street car park, it proposed to replace this with a '*major new community facility and a 1450 square metre public plaza that is connected by active, pedestrian focussed laneways*'. It also proposes revised planning controls for a number of sites within the precinct, including 41 McLaren Street.

Refer **Figure 20** below for the context analysis map.



**Figure 20 Context analysis of Ward Street Precinct**

Source: Draft Ward Street Precinct Masterplan, North Sydney Council

In March 2017 Architectus provided a submission toward the Draft Masterplan, highlighting that the additional capacity envisaged by the WSPM would be unlikely to be realised due to built form outcomes which fail to constitute economically viable development, and that the WSPM would therefore be unlikely to facilitate the necessary redevelopment of existing buildings to allow the public benefits envisaged by Masterplan to be achieved. For further discussion of the draft WSPM refer to the Urban Design Report at **Attachment A** and the Development Feasibility Report prepared by Hill PDA at **Attachment G**.

#### Urban Design Strategy and Alternative Master Plan, Architectus, August 2017

An Urban Design Strategy containing an Alternative Master Plan has been prepared on behalf of the owners of 41 McLaren Street, North Sydney, Erolcene Pty Ltd and Claijade Pty Ltd, and is based on the recent submission to North Sydney Council regarding the public exhibition of the Draft WSPM. It provides the strategic planning context and basis for this Planning Proposal toward the site at 41 McLaren Street, North Sydney.

The Strategy acknowledges that while the objectives and principles in the Draft Ward St Precinct Master Plan are supported, the Masterplan does not deliver effectively on jobs or housing, with particular consideration to the new Metro station and appropriate levels of development uplift which would be considered appropriate given this level of investment in public transport and the increased public transport capacity this will provide for the North Sydney Centre.

This Planning Proposal is thereby an outcome of the Urban Design Study, to which it also supports the Alternative Masterplan in light of its better outcomes for the Precinct.

The Urban Design Strategy is provided as **Attachment A** to this Planning Proposal.

***Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?***

The objectives and intended outcomes of the proposal can only be achieved through an increase in height beyond those achievable under the current North Sydney Local Environmental Plan 2013.

The current maximum building height applying to the site is RL 100m (7 storeys). This would not allow for any additional development above that which is existing on the site.

## **6.2 Section B – Relationship to strategic planning framework**

This section provides a summary of the strategic planning framework within which the Planning Proposal outcomes for the site have been considered.

***Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?***

Yes. The Planning Proposal is consistent with the objectives and actions of the following strategies:

### **Sydney Metropolitan Strategy**

The applicable current regional strategy is the NSW Government's *A Plan for Growing Sydney* (2014). Relevant directions from the Metropolitan Plan are noted at **Table 2** below.

**Table 2 A Plan for Growing Sydney**

Goals and Directions	Consistency	Comment
<b>Goal 1: A competitive economy with world-class services and transport</b>		
<b>Direction 1.7: Grow strategic centres - providing more jobs closer to home</b>	Yes	The proposal seeks to increase residential capacity of the site, located within the North Sydney CBD, comprising one of the highest concentration of jobs in Sydney.
Action 1.7.1: Invest in strategic centres across Sydney to grow jobs and housing and create vibrant hubs of activity	Yes	<p>North Sydney is identified as a strategic centre. The Action notes the following:</p> <p>'Unlocking developable land by consolidating fragmented sites for redevelopment and improving planning policies and regulations will encourage flexibility, higher density and a more diverse range of activities.'</p> <p>This proposal has been informed by an Alternative Master Plan, which seeks to consolidate the site with the Ward Street carpark to create a better outcome than proposed within the Draft Ward Street Precinct Master Plan.</p> <p>Further, the Action notes that 'better governance of centres will help to improve the public spaces in and</p>

		<p>around centres and improve the walkability of centres.'</p> <p>This proposal will further facilitate the creation of well-designed public spaces through the contributions made by the redevelopment of the 41 McLaren Street site.</p>
<b>Goal 2: A city of housing choice, with homes that meet our needs and lifestyles</b>		
<b>Direction 2.1: Accelerate housing supply across Sydney</b> Action 2.1.1: Accelerate housing supply and local housing choices	Yes	<p>The proposal presents an opportunity to create new dwellings in a strategically located site within the North Sydney Centre that is also well-connected to jobs and public transport.</p> <p>As such, this responds effectively to this action.</p>
Action 2.1.3: Deliver more housing by developing surplus or under-used government land	Yes	<p>The Ward Street carpark, a major Council asset, will be returned to Council in 2020 and has been identified by Council and other consultant studies as having significant opportunities for redevelopment.</p> <p>This proposal is informed by the Alternative Master Plan which seeks to consolidate the site with the Ward Street carpark. This has been explained as allowing the feasible redevelopment of the 41 McLaren Street site and introduction of residential accommodation on would otherwise be a constrained site and surrounds.</p>
<b>Direction 2.2: Accelerate urban renewal across Sydney – providing homes closer to jobs</b> Action 2.2.2: Undertake urban renewal in transport corridors which are being transformed by investment, and around strategic centres	Yes	<p>The proposal seeks to allow for the urban renewal of the site as a low-lying commercial building built in the 1970's and utilise site potential to deliver housing within a job-rich strategic centre. In addition, this will:</p> <p>Connect new homes to the planned new Sydney Metro station; and</p> <p>Provide new housing which will support the development of the Ward Street Precinct Masterplan.</p>
<b>Direction 2.3: Improve housing choice to suit different needs and lifestyles</b>	Yes	<p>The proposal allows the introduction of a range of apartment types and sizes, which are appropriate additions atop the existing commercial building.</p>
<b>Goal 3: A great place to live with communities that are strong, healthy and well connected</b>		
<b>Direction 3.1: Revitalise existing suburbs</b>	Yes	<p>It is anticipated that the increased residential densities that can be achieved through this planning proposal will contribute to the revitalization of the locality in tangent with the Ward Street Precinct Masterplan.</p>
<b>Direction 3.2: Create a network of interlinked, multipurpose open and green spaces across Sydney</b>	Yes	<p>Previous studies have noted that the North Sydney Centre currently lacks sufficient provisions of open space.</p> <p>The proposal will facilitate the development of the pedestrian spine within the Ward Street Precinct, which will include a number of open and green spaces.</p> <p>Refer Landscape concept for the Ward Street Precinct prepared Spackman</p>

		Mossop Michaels and contained within the Urban Design Report at <b>Attachment A.</b>
<b>Direction 3.3: Create healthy built environments</b>	Yes	The redevelopment of the site will result in the creation of mixed-uses that will provide opportunities for a range of daily activities via the retail, restaurant and bar uses, a through-site link at ground level, and other public domain contributions.

### **Draft North District Plan**

The *Draft North District Plan* was released by the Greater Sydney Commission in November 2016 and supports *A Plan for Growing Sydney* by providing regional strategic planning across Sydney's six Districts. The site is located within the North District and subject to the Plan. Relevant directions from the District Plan are noted at **Table 3** below.

**Table 3 Draft North District Plan**

<b>Liveability priorities</b>	<b>Consistency</b>	<b>Comment</b>
<b><i>Improve housing choice</i></b>		
Deliver North District's five-year housing supply target	Yes	This proposal will contribute to the housing supply targets for the North District due to its facilitation of increasing residential capacity on site.
– Plan to provide sufficient capacity and monitor delivery of the five-year housing targets		
<b>Create housing capacity in the North District</b>	Yes	This proposal will increase housing capacity via its amendment to LEP planning controls to the site, and subsequent introduction of residential accommodation atop the existing commercial building.
<b><i>Improve housing diversity and affordability</i></b>		
<b>Plan for housing diversity</b>	Yes	The proposal will facilitate the creation of a diverse range of apartment types and sizes of 1, 2 and 3 bedroom apartments and studios.
– Deliver housing diversity		Affordable housing may be provided as part of the future development, subject to negotiations with North Sydney Council.
<b>Support planning for adaptable housing and aged care</b>	Yes	Adaptable housing is capable of being provided within the future development.
<b>Deliver Affordable Rental Housing</b>	Yes	The site is capable of including the provision of affordable rental housing as part of a Public Benefit Offer to be negotiated with North Sydney Council.
– Implement the Affordable Rental Housing Target		
<b>Support social housing in the North District</b>		
– Increase social housing provision		
<b><i>Create great places in the North District</i></b>		
<b>Provide design-led planning</b>	Yes	This proposal is the result of numerous discussions with Council regarding the redevelopment potential of the site and contribution to the greater precinct.
		This proposal has additionally been supported by an Urban Design Report (see <b>Attachment A</b> ) as well as being heavily informed by the Draft Ward

		Street Precinct Master Plan, and is evidential of design-led planning.
<b>Plan for safe and healthy places</b> – Facilitate the delivery of safe and healthy places	Yes	<p>This proposal also facilitates the integrated planning and design of the Ward Street Carpark site, to which the 41 McLaren Street site will be able to contribute via public domain works and increased permeability in its surrounds.</p> <p>This includes the new north-south pedestrian spine beginning from the site down to Berry Street, which will encourage pedestrian activity and add toward making safe and healthy places within the North Sydney Centre.</p>
<b>Enhance walking and cycling connections</b> – Facilitate enhanced walking and cycling connections	Yes	<p>See above response.</p> <p>The proposed redevelopment of the site incorporates a public through-site link, which is intended to enhance permeability and will easily connect the Victoria Cross Metro Station to the Ward Street Precinct.</p> <p>In conjunction with the shared access way to the west of the site, these enhance north-south pedestrian accessibility and complements the objectives of the precinct master-planning.</p> <p>Refer Architectural Design Statement at <b>Attachment C</b>.</p>
<b><i>Foster cohesive communities in the North District</i></b>		
<b>Conserve and enhance environmental heritage including Aboriginal, European and natural</b> – Conserve heritage and unique local characteristics	Yes	<p>The proposal respects the existing locally heritage listed commercial building.</p> <p>The Architectural Design Statement notes that a structural methodology (not included as part of this Planning Proposal) has been developed to retain the significant structure of the building, with changes seeking to support the functional and structural requirements of the new residential tower.</p> <p>See Architectural Design Statement at <b>Attachment C</b> and Heritage Impact Assessment at <b>Attachment N</b>.</p>
<b>Create opportunities for more recreation and community facilities</b>	Yes	<p>The pedestrian spine that will be enabled as part of the redevelopment of the site will include various public open spaces, seating areas and features which will encourage opportunities for recreation.</p> <p>See below.</p>
<b><i>Respond to people's need for services</i></b>		
Plan for the provision of early education and child care facilities capacity across the District	Yes	<p>There may be the possibility for community uses/facilities to be provided as part of the development. The draft WSPM identifies a need for community facilities within the Precinct, however, the proposed location is poorly considered. It is recommended in the Alternative Masterplan that community uses be contained within</p>

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the podium of a mixed-use development on 20 Ward Street/56 & 66 Berry Street to allow for additional public open space. There is the potential that uses could be contained within the podium of 41 McLaren Street, should Council consider this appropriate and subject to a Public Benefit Offer associated with the Planning Proposal – to allow the vision for the Ward Street Precinct to be achieved.

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***Does the proposal have strategic merit? Is it:***

- ***Consistent with 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***
- ***Consistent with a relevant local council strategy that has been endorsed by the Department; or***
- ***Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.***

Part 3 of *A Guide to Preparing Planning Proposals* provides the above as criteria for determining whether a Planning Proposal has strategic merit. It is noted that demonstrating that a proposal has strategic merit is of particular relevance where it proposes to amend an LEP which is less than five (5) years old. The North Sydney LEP was gazetted on 2 August 2013 and is therefore approximately four (4) years old.

This Planning Proposal has been motivated by the announcement of the Victoria Cross Metro Station, which will have its northern access approximately 50 metres from the site, and Council's own investigations into allowing increased capacity in the North Sydney Centre. Accordingly, the proposal relates specifically to a change in circumstances not recognised by the existing controls and on this basis, is considered to have strategic merit. It is also considered to be consistent with the relevant State and local plans and policies.

The Sydney Metro aims to address a strategic need to significantly increase transport capacity and frequency within the Global Economic Corridor and to drive productivity through integrated transport and land use planning. The *Chatswood to Sydenham EIS* provides that the opportunity for urban development around the proposed stations is a key benefit of the project and also that, through the application of transit oriented development principles, the project will support the Government's objectives to achieve more sustainable and efficient use of land to meet Sydney's growth.

The EIS also details the site-selection process which was undertaken for the North Sydney Centre, comparing the Victoria Cross site with alternate options within the locality. It goes on to state, in support of the chosen site, that:

*“Victoria Cross was considered superior as it has a greater catchment area and a greater potential for residential, commercial and transit oriented development.”*

The proposed amendment to the North Sydney LEP 2013 is considered to be consistent with relevant strategic plans, including the *Sydney Metropolitan Strategy: A Plan for Growing Sydney* and the *Draft North District Plan*.



North Sydney is identified as a Strategic Centre within the metropolitan strategy, *A Plan for Growing Sydney*. The strategy states to 'investigate potential future employment and housing opportunities associated with a Sydney Rapid Transit train station (now known as Sydney Metro) at Victoria Cross' as a priority for Global Sydney. A priority for the North Subregion also is to 'work with councils to identify suitable locations for housing and employment growth coordinated with infrastructure delivery (urban renewal) and train services' that include the Sydney Metro. Likewise, the draft North District Plan released by the Greater Sydney Commission identifies North Sydney as a Strategic Centre and outlines the need to maximise land use opportunities presented by the Sydney Metro Station at Victoria Cross.

It is acknowledged that North Sydney Council is undertaking its own process to review opportunities for increased development capacity within the Ward Street Precinct, and the North Sydney Centre more broadly. The Planning Proposal is considered to be generally consistent with the aims and intent of the North Sydney Centre CLU Strategy, being generally to promote balanced growth within the Centre with protection of amenity. While not formally endorsed by the Department of Planning and Environment, the CLU Strategy relates to a Planning Proposal being advanced by North Sydney Council which was given a Gateway determination on 20 July 2017. It is noted that the Strategy deferred detailed consideration of land within the Ward Street Precinct to the separate but related WSPM process and that the WSPM has not yet been adopted by Council.

As detailed at length in the Urban Design Study at **Attachment A**, Architectus consider that the potential for the Ward Street Precinct as a vibrant mixed-use destination is unlikely to be realised under the draft WSPM, given it fails to adequately consider the economic feasibility of delivering the Masterplan. Comparatively, it is considered that the Architectus Masterplan provides a vital north-south link through the Precinct, alleviating the need for agreements to be made with multiple landowners to achieve the mid-block public open space connection, and also that amalgamation of the 20 Ward Street, 55 Berry Street & 66 Berry Street achieves a far superior development outcome and allows for almost double the amount of public open space.

***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.***

The Ward Street Precinct, within which 41 McLaren Street is located, presents a unique opportunity to deliver a vibrant mixed-use community through provision of high quality public open space, highly accessible employment generating floor space at the southern end of the precinct where it adjoins the existing commercial core of the North Sydney Centre and by providing for a range of uses, including residential, at its northern extent, in close proximity to the northern access to Victoria Cross Station – therefore promoting the use of public and active modes of transport, reducing dependence on private vehicle use and providing for the efficient and sustainable use of land.

It will be proposed through a separate Voluntary Planning Agreement (VPA) process to provide a contribution towards the cost of delivering proposed public open space and associated public domain works within the Ward Street Precinct, in addition to providing a double-height colonnade to establish a vital connection between McLaren Street in the north to Berry Street in the south. Urbis have prepared a comprehensive VPA Report which is intended to inform the appropriate approach to levying development within the Ward Street Precinct to fund delivery of public and community facilities and public domain works within the precinct. The report is provided under separate cover.

There are no environmental constraints which would reasonably preclude the proposed development, nor the Architectus Alternative Masterplan. It is considered that the environmental impacts of the proposal have been comprehensively addressed in **Section 6.3** and in the Urban Design Report provided as **Attachment A**.

The Heritage Assessment Report by GML Heritage prepared in April 2017 and provided at **Attachment K** identifies that the site should be afforded uplift to ensure that the heritage building is appropriately maintained. The report also states that future planning for the site must consider the scale of changes to the statutory planning environment of the site since its construction, for the original Simsmetal House now no longer relates to the scale and character of its setting. Further, the report states that the 3-5 storey addition to 41 McLaren Street suggested by the draft WSPM is an inappropriate response to the heritage significance of the building.

The proposed amendments to the North Sydney LEP 2013 seek to improve and revitalise the existing building, now listed as a local heritage item, to become more adaptable and sustainable within its changing surrounding context, and will also enable the delivery of a key through-site link between McLaren Street in the north and Berry Street in the south, improving the accessibility of the future public space in the Ward Street Precinct.

***Is the planning proposal consistent with a Council's local strategy or other local strategic plan?***

North Sydney Council's *Community Strategic Plan 2013-2023* (NS CSP) is Council's strategic document identifying the community's main priorities and aspirations for its future and provides strategies and outcomes. Relevant directions from the Plan are noted at **Table 4** below.

**Table 4 North Sydney Community Strategic Plan 2013-2023**

NS CSP 2013 – 2023	Consistency	Comment
<b>Direction 1: Our Living Environment</b>		
Outcome 1.2 Quality urban greenspace	Yes	The proposal will facilitate the urban renewal of the Ward Street Carpark and the creation of the Ward Street Precinct as a vibrant, attractive mixed-use precinct characterised by high-quality public open space. The landscape concept for the Architectus Alternative Masterplan is provided in the Urban Design report at <b>Attachment A</b> .
Outcome 1.5 Public open space, recreation facilities and services that meet community needs	Yes	The proposal allows for the feasible redevelopment of the site, allowing for public domain works that cater to a range of needs and uses via flexible and open spaces as well as seating. It also allows for. The Alternative Masterplan also includes the provision of community uses which could provide for a range of needs.
<b>Direction 2: Our Built Environment</b>		
Outcome 2.2 Improved mix of land use and quality development through design excellence	Yes	This proposal seeks to make amendments to Council's NSLEP 2013 to allow the site to redevelop feasibly within its changing context, to which current LEP controls do not allow for the site nor reflect its strategic location within an urban environment characterised by recent tower development and opposite the future Victoria Cross Metro Station.
Outcome 2.4 North Sydney's heritage is preserved and valued	Yes	The proposal intends to retain and refurbish the existing heritage listed commercial building onsite and integrate a new residential tower above.
Outcome 2.5 Sustainable transport is encouraged	Yes	The proposed development, being in close proximity to the North Sydney Centre, the existing North Sydney railway station and the future Victoria Cross Metro Station is ideally located to promote the use of active and public transport.

NS CSP 2013 – 2023	Consistency	Comment
<b>Direction 4: Our Social Vitality</b>		
Outcome 4.1 Community is connected	Yes	The proposal's facilitation of public domain improvements to the Ward Street Carpark via the new pedestrian spine is intended to connect communities and encourage pedestrian use of the new link, which is supplemented by outdoor eating and seating areas, and public open spaces.
<b>Direction 5: Our Civic Leadership</b>		
Outcome 5.1 Council leads the strategic direction of North Sydney	Yes	The Alternative Masterplan provides a significantly improved outcome over the draft WSPM in terms of development returns, including for the Council-owned Ward Street car park site. Additionally, allowing for economically feasible development outcomes for the remaining sites within the precinct will allow Council to levy the developers of these sites to contribute to the cost of providing the public open space and community facilities identified in the draft WSPM, which achieves improved financial returns from a development perspective
Outcome 5.2 Council is financially sustainable	Yes	As above.

***Is the planning proposal consistent with applicable State Environmental Planning Policies?***

The consistency of the Planning Proposal with the applicable State Environmental Planning Policies is discussed within **Table 5** below.

**Table 5 State Environmental Planning Policies**

State Environmental Planning Policy	Consistency	Comment
State Environmental Planning Policy No 1—Development Standards	N/A	N/A
State Environmental Planning Policy No 14—Coastal Wetlands	N/A	N/A
State Environmental Planning Policy No 19—Bushland in Urban Areas	N/A	N/A
State Environmental Planning Policy No 21—Caravan Parks	N/A	N/A
State Environmental Planning Policy No 26—Littoral Rainforests	N/A	N/A
State Environmental Planning Policy No 30—Intensive Agriculture	N/A	N/A
State Environmental Planning Policy No 33—Hazardous and Offensive Development	N/A	N/A
State Environmental Planning Policy No 36—Manufactured Home Estates	N/A	N/A
State Environmental Planning Policy No 44—Koala Habitat Protection	N/A	N/A
State Environmental Planning Policy No 47—Moore Park Showground	N/A	N/A
State Environmental Planning Policy No 50—Canal Estate Development	N/A	N/A

State Environmental Planning Policy	Consistency	Comment
State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and Water Management Plan Areas	N/A	N/A
State Environmental Planning Policy No 55—Remediation of Land	Yes	<p>SEPP 55 provides that a planning authority must consider whether land is within an investigation area, or whether there is a history of potentially contaminating uses on the land, when preparing an environmental planning instrument which would permit a change of use of the land. This Planning Proposal is not seeking any change to the zoning of the land or to the types of development which will be permissible with consent on the land. The Planning Proposal is seeking only to amend the maximum building height applying to the land.</p> <p>The site is currently occupied by a commercial office building completed in 1973, which will be retained as part of a future development of the site, with residential uses provided within a tower above. Given the history of use of the land and that there is no proposed change to the permissible uses of the land, the Planning Proposal is considered to be consistent with SEPP 55.</p>
State Environmental Planning Policy No 62—Sustainable Aquaculture	N/A	N/A
State Environmental Planning Policy No 64—Advertising and Signage	N/A	N/A
State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development	Yes	<p>The Planning Proposal is not considered to hinder the application of this SEPP or the accompanying Apartment Design Guide. Compliance with the policy and guideline will be assessed and considered as part of a future development application for the proposed development.</p> <p><b>Attachment P</b> provides a compliance table for SEPP65 and the ADG</p>
State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)	N/A	N/A
State Environmental Planning Policy No 71—Coastal Protection	N/A	N/A
State Environmental Planning Policy (Affordable Rental Housing) 2009	Yes	<p>Discussions with North Sydney Council in relation to a potential public benefit offer, which may include the provision of affordable housing units, will occur as a separate process, concurrent to consideration of the Planning Proposal. Should the applicant and Council determine that the provision of affordable housing units as part of the proposed development is appropriate, this will form part of</p>

State Environmental Planning Policy	Consistency	Comment
		a future development application.
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes	Although not required until a future DA is lodged for the proposed development, a BASIX Certificate is provided at <b>Attachment V</b> to demonstrate that the building complies with the requirements of the SEPP.
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	N/A	N/A
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	N/A	N/A
State Environmental Planning Policy (Infrastructure) 2007	Yes	Given the proximity of the site to the proposed Victoria Cross Metro Station and underground rail tunnels, and that the future development of the site will include excavation for additional basement car parking, it is recommended that consultation be undertaken with Sydney Metro as part of the Planning Proposal process.
State Environmental Planning Policy (Integration and Repeals) 2016	N/A	N/A
State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007	N/A	N/A
State Environmental Planning Policy (Kurnell Peninsula) 1989	N/A	N/A
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	N/A	N/A
State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007	N/A	N/A
State Environmental Planning Policy (Penrith Lakes Scheme) 1989	N/A	N/A
State Environmental Planning Policy (Rural Lands) 2008	N/A	N/A
State Environmental Planning Policy (State and Regional Development) 2011	N/A	N/A
State Environmental Planning Policy (State Significant Precincts) 2005	N/A	N/A
State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011	N/A	N/A
State Environmental Planning Policy (Sydney Region Growth Centres) 2006	N/A	N/A
State Environmental Planning Policy (Three Ports) 2013	N/A	N/A
State Environmental Planning Policy (Urban Renewal) 2010	N/A	N/A
State Environmental Planning Policy (Western Sydney Employment Area) 2009	N/A	N/A
State Environmental Planning Policy (Western Sydney Parklands) 2009	N/A	N/A

***Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?***

A review of the consistency of the Planning Proposal with the Ministerial Directions for LEPs under Section 117 of the EP&A Act 1979 is discussed at **Table 6** below.

**Table 6 Section 117 Directions**

No.	Direction	Objectives	Consistency	Comment
<b>1</b>	<b>Employment and Resources</b>			
1.1	Business and Industrial Zones	<ul style="list-style-type: none"> <li>– Encourage employment growth in suitable locations;</li> <li>– Protect employment land in business and industrial zones; and</li> <li>– Support the viability of identified strategic centres.</li> </ul>	Yes	The Planning Proposal does not propose to significantly reduce the total potential floor space area for employment uses and is consistent with the objectives of the direction as it protects employment land within the B4 zone will support the viability of the North Sydney Centre. It is noted that the NSLEP requires a minimum of 0.5:1 non-residential FSR and the proposed development provides approx. 3.1:1 commercial uses, and is therefore compliant with this provision.
1.2	Rural Zones	<ul style="list-style-type: none"> <li>– Protect the agricultural production value of rural land.</li> </ul>	N/A	The Planning Proposal does not affect land within an existing or proposed rural zone.
1.3	Mining, Petroleum Production and Extractive Industries	<ul style="list-style-type: none"> <li>– Ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.</li> </ul>	N/A	The Planning Proposal does not relate to the mining of coal or other materials, production of petroleum or extractive materials.
1.4	Oyster Aquaculture	<ul style="list-style-type: none"> <li>– Ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered when preparing a planning proposal; and</li> <li>– Protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.</li> </ul>	N/A	The Planning Proposal does not relate to oyster aquaculture.

No.	Direction	Objectives	Consistency	Comment
1.5	Rural Lands	<ul style="list-style-type: none"> <li>– Protect the agricultural production value of rural land; and</li> <li>– Facilitate the orderly and economic development of rural lands for rural and related purposes.</li> </ul>	N/A	The Planning Proposal does not apply to an existing or proposed rural or environmental protection zone.
<b>2 Environment and Heritage</b>				
2.1	Environment Protection Zones	<ul style="list-style-type: none"> <li>– Protect and conserve environmentally sensitive areas.</li> </ul>	N/A	The Planning Proposal does not apply to land within an environmental protection zone or identified for environmental protection purposes.
2.2	Coastal Protection	<ul style="list-style-type: none"> <li>– Implement the principles in the NSW Coastal Policy.</li> </ul>	N/A	The Planning Proposal does not apply to land within the coastal Zone.
2.3	Heritage Conservation	<ul style="list-style-type: none"> <li>– Conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</li> </ul>	Yes	The Planning Proposal does not propose to amend the heritage status of the subject site, or any site in the vicinity.
2.4	Recreation Vehicle Areas	<ul style="list-style-type: none"> <li>– Protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.</li> </ul>	N/A	The Planning Proposal does not seek to enable land to be developed for the purposes of a recreation vehicle area.
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	<ul style="list-style-type: none"> <li>– The objective of this direction is to ensure that a balanced and consistent approach is taken when applying environmental protection zones and overlays to land on the NSW Far North Coast.</li> </ul>	N/A	The Planning Proposal does not apply to land on the NSW Far North Coast.
<b>3 Housing, Infrastructure and Urban Development</b>				
3.1	Residential Zones	<ul style="list-style-type: none"> <li>– Encourage a variety and choice of housing types to provide for existing and future housing needs;</li> <li>– Make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services; and</li> <li>– Minimise the impact of residential development on the environment and resource lands.</li> </ul>	Yes	The Planning Proposal will allow for additional housing in close proximity to the future Victoria Cross Metro Station, the existing North Sydney train station and the North Sydney Centre, therefore promoting the efficient use of infrastructure services reducing the need for consumption of land for housing and associated urban development on Sydney's urban fringe to accommodate the City's growth. Further, the Planning Proposal



No.	Direction	Objectives	Consistency	Comment
				allows for an appropriate mix of apartment types as part of a future DA.
3.2	Caravan Parks and Manufactured Home Estates	<ul style="list-style-type: none"> <li>– Provide for a variety of housing types; and</li> <li>– Provide opportunities for caravan parks and manufactured home estates.</li> </ul>	N/A	The Planning Proposal does not relate to the location or provision for caravan parks or manufactured homes.
3.3	Home Occupations	<ul style="list-style-type: none"> <li>– Encourage the carrying out of low-impact small businesses in dwelling houses.</li> </ul>	N/A	The Planning Proposal does not seek to change the permissibility of home occupations in dwelling houses.
3.4	Integrating Land Use and Transport	<ul style="list-style-type: none"> <li>– Improving access to housing, jobs and services by walking, cycling and public transport;</li> <li>– Increasing the choice of available transport and reducing dependence on cars;</li> <li>– Reducing travel demand including the number of trips generated by development and the distances travelled, especially by car;</li> <li>– Supporting the efficient and viable operation of public transport services; and</li> <li>– Providing for the efficient movement of freight.</li> </ul>	Yes	<p>The Planning Proposal will improve access to housing, jobs and services by walking, cycling and public transport and reduce dependence on private vehicles. The Planning Proposal is consistent with the aims, objectives and principles of:</p> <ul style="list-style-type: none"> <li>– <i>Improving Transport Choice – Guidelines for Planning and Development</i> (DUAP 2001); and</li> <li>– <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001)</li> </ul>
3.5	Development Near Licensed Aerodromes	<ul style="list-style-type: none"> <li>– Ensure the effective and safe operation of aerodromes;</li> <li>– Ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity;</li> <li>– Ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.</li> </ul>	See comment.	<p>The proposed maximum building height of RL 226 metres AHD is above the Obstacle Limitation Surface (OLS) for North Sydney of 156 metres AHD, but below the Procedures for Air Navigation Systems Operations (PAN-OPS) surface of 335.2 metres AHD.</p> <p>The direction provides that a planning authority must consider the OLS in preparing development standards, including height. It is noted that a large number of sites in the North Sydney Centre currently have maximum heights above the level of the OLS and that the site is located within a</p>

No.	Direction	Objectives	Consistency	Comment
				cluster of both existing and future tall buildings. The inconsistency is therefore considered of minor significance and consultation with the relevant Commonwealth Department is recommended following a Gateway determination.
3.6	Shooting Ranges	<ul style="list-style-type: none"> <li>– Maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range;</li> <li>– Reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land; and</li> <li>– Identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.</li> </ul>	N/A	The Planning Proposal does not relate to land adjacent to or adjoining an existing shooting range.
<b>4 Hazard and risk</b>				
4.1	Acid Sulfate Soils	<ul style="list-style-type: none"> <li>– Avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</li> </ul>	N/A	The Planning Proposal does not apply to land identified as having a probability of acid sulfate soils.
4.2	Mine Subsidence and Unstable Land	<ul style="list-style-type: none"> <li>– Prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.</li> </ul>	N/A	The Planning Proposal does not apply to land that is within a mine subsidence district or that has been identified as being unstable.
4.3	Flood Prone Land	<ul style="list-style-type: none"> <li>– Ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005</li> <li>– Ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</li> </ul>	N/A	The Planning Proposal does not seek to create, remove, or alter a zone or provision that affects flood prone land.

No.	Direction	Objectives	Consistency	Comment
4.4	Planning for Bushfire Protection	<ul style="list-style-type: none"> <li>– Protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas;</li> <li>– Encourage sound management of bush fire prone areas.</li> </ul>	N/A	The Planning Proposal relates to a site in a highly urban context, being located within the North Sydney Centre. The land is not identified as bush fire prone land.
<b>5 Regional Planning</b>				
5.1	Implementation of Regional Strategies	<ul style="list-style-type: none"> <li>– Give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.</li> </ul>	N/A	The Planning Proposal does not apply to land to which a regional strategy relates.
5.2	Sydney Drinking Water Catchment	<ul style="list-style-type: none"> <li>– Protect water quality in the Sydney drinking water catchment.</li> </ul>	N/A	The Planning Proposal does not apply to land in the Sydney drinking water catchment.
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	<ul style="list-style-type: none"> <li>– Ensure that the best agricultural land will be available for current and future generations to grow food and fibre;</li> <li>– Provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning;</li> <li>– Reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas.</li> </ul>	N/A	The Planning Proposal does not apply to land in the nominated Council areas.
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	<ul style="list-style-type: none"> <li>– Protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route;</li> <li>– Prevent inappropriate development fronting the highway;</li> <li>– Protect public expenditure invested in the Pacific Highway;</li> <li>– Protect and improve highway safety and highway efficiency;</li> <li>– Provide for the food, vehicle service and rest needs of travellers on the highway; and</li> </ul>	N/A	The Planning Proposal does not apply to land in Council areas on the north Coast.

No.	Direction	Objectives	Consistency	Comment
		<ul style="list-style-type: none"> <li>Reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.</li> </ul>		
5.5	Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	(Revoked 18 June 2010)		
5.6	Sydney to Canberra Corridor	(Revoked 10 July 2008)		
5.7	Central Coast	(Revoked 10 July 2008)		
5.8	Second Sydney Airport: Badgerys Creek	<ul style="list-style-type: none"> <li>Avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek</li> </ul>	N/A	The Planning Proposal does not apply to land in the vicinity of Badgerys Creek.
5.9	North West Rail Link Corridor Strategy	<ul style="list-style-type: none"> <li>Promote transit-oriented development and manage growth around the eight train stations of the North West Rail Link (NWRL)</li> <li>Ensure development within the NWRL corridor is consistent with the proposals set out in the NWRL Corridor Strategy and precinct Structure Plans.</li> </ul>	N/A	The Planning Proposal does not apply to land within the Hornsby Shire, Hills Shire or Blacktown Council areas.
5.10	Implementation of Regional Plans	<ul style="list-style-type: none"> <li>The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</li> </ul>	N/A	The Planning Proposal relates to land within Metropolitan Sydney.
<b>6</b>	<b>Local Plan Making</b>			
6.1	Approval and Referral Requirements	<ul style="list-style-type: none"> <li>Ensure that LEP provisions encourage the efficient and appropriate assessment of development.</li> </ul>	Yes	The Planning Proposal does not include any provisions which would require the concurrence, consultation or referral of any development application to a Minister or public authority and does not identify any development as designated development.
6.2	Reserving Land for Public Purposes	<ul style="list-style-type: none"> <li>Facilitate the provision of public services and facilities by reserving land for public purposes; and</li> <li>Facilitate the removal of</li> </ul>	Yes	The Planning Proposal does not propose to create, alter or reduce any existing zoning or reservation on the land for a public purpose.

No.	Direction	Objectives	Consistency	Comment
		reservations of land for public purposes where the land is no longer required for acquisition.		
6.3	Site Specific Provisions	– Discourage unnecessarily restrictive site specific planning controls.	N/A	The Planning Proposal does not propose any unnecessarily restrictive site specific planning controls. Should it be considered that a site-specific provision be the preferred option to implement the Planning Proposal, the intent of that site-specific provision is to ensure that the heritage value of the existing Harry Seidler designed building is retained as part of any future development of the site and also that the future development of the site is consistent with the objectives and vision for the precinct as envisaged by the Alternative Ward Street Precinct Masterplan prepared by Architectus.
<b>7 Metropolitan Planning</b>				
7.1	Implementation of <i>A Plan for Growing Sydney</i>	– Give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in <i>A Plan for Growing Sydney</i>	N/A	The Planning Proposal will enable development that is consistent with the key directions of the metropolitan Strategy, <i>A Plan for Growing Sydney</i> . This is discussed elsewhere within <b>Section 6.2</b> of this report.
7.2	Implementation of Greater Macarthur Land Release Investigation	– Ensure development within the Greater Macarthur Land Release Investigation Area is consistent with the Greater Macarthur Land Release Preliminary Strategy and Action Plan (the Preliminary Strategy)	N/A	The Planning Proposal does not apply to land in the vicinity of the Macarthur land release area.
7.3	Parramatta Road Corridor Urban Transformation Strategy	– Facilitate development within the Parramatta Road Corridor that is consistent with the Parramatta Road Corridor Urban Transformation Strategy (November, 2016) and the Parramatta Road Corridor	N/A	The Planning Proposal does not apply to land in the Parramatta Road Corridor.

No.	Direction	Objectives	Consistency	Comment
		Implementation Tool Kit; <ul style="list-style-type: none"> <li>– Provide a diversity of jobs and housing to meet the needs of a broad cross-section of the community; and</li> <li>– Guide the incremental transformation of the Parramatta Road Corridor in line with the delivery of necessary infrastructure.</li> </ul>		
7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	<ul style="list-style-type: none"> <li>– The objective of this direction is to ensure development within the North West Priority Growth Area is consistent with the North West Priority Growth Area Land Use and Infrastructure Strategy (the Strategy).</li> </ul>	N/A	The Planning Proposal does not apply to land in the North West Priority Growth Area.

### 6.3 Section C – Environmental, social and economic impact

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

There are no impacts envisaged. The site to which this Planning Proposal relates is located in a highly urban context, within a cluster of buildings on a block in the North Sydney Centre.

***Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?***

The Planning Proposal has considered the potential environmental impacts of the proposal and it is concluded that the potential impacts are acceptable, given the site's location in a highly urban context and the need to achieve growth and renewal in the Wad Street Precinct, given its strategic location and potential as a vibrant mixed-use destination providing high levels of amenity. The potential environmental impacts of the proposal are considered and discussed below:

#### **Heritage**

A Heritage Impact Assessment has been prepared by GML Heritage and is provided at **Attachment L**. The report states that based on the nature and degree of the heritage significance of the existing building and the various physical, financial, technical, functional and contextual challenges it currently faces, the site has a need for sufficient additional development to achieve appropriate long-term conservation outcomes. The report recognises the unique opportunity for the site to develop in a complementary manner to the surrounding Ward Street Precinct and to provide a vital through-site link to the proposed public open space to the south of the site. The report notes that a range of measures have been implemented in the design of the future development to conserve significant building components and attributes and mitigate potential adverse impacts, including:

- Retention and conservation of the three-storey front block with terraced roofs;
- Removal of intrusive/unsympathetic alterations to external areas, including balustrades, landscaping structures, modern planter boxes etc. and

replacement with fewer, more appropriately detailed components based on the original form and layout of the building;

- Retention and reconstruction/adaptation of the original covered colonnade as the primary pedestrian entry point and thoroughfare for the site, providing protected and secure access to waiting areas, lift lobbies etc. and ground floor tenancies;
- Retention and appropriate reconstruction/adaptation of the vertical sun-shading blades on the east and west elevations, reinstating elements with complementary form, size/massing, visual character and detailing. Noting that adaptation of materials and construction (e.g. Use of lightweight concrete pre-cast elements) may be used.

The report concludes that the proposed development of the site, as envisaged by the architectural scheme prepared by Harry Seidler & Associates and provided at **Attachment B**, represents an appropriate solution for the meaningful conservation and long-term maintenance of the existing building.

### Solar Access and Overshadowing

Protection of solar access to Berry Square (located approximately 150 metres south of 41 McLaren Street); to the proposed public open space within the Ward Street Precinct; and overshadowing of existing and approved residential developments have been guiding principles in the design of the proposed mixed-use tower and detailed modelling of overshadowing and solar access is provided in the Urban Design Report at

#### Attachment A

#### Berry Square

Clause 6.3(2) of the North Sydney LEP 2013 stipulates that development consent must not be granted to the erection of a building within the North Sydney Centre which would result in a net increase in overshadowing of land identified as a “special area”, of which Berry Square is one, between 12pm and 2pm. Architectus has undertaken detailed analysis of solar access to Berry Square (refer to the Urban Design Study at **Attachment A**) to determine the amount of sunshine reaching Berry Square as a result of the Draft WSMP and found that the Square receives reasonable levels of sunlight between 11am and 12.30pm, but for the majority of the protected time (between 12pm and 2pm) during mid-winter, the Square is largely in shadow. Solar access to Berry Square during the protected times is provided in **Figure 21** below.



**Figure 21 Overshadowing of Berry Square under Draft WSMP**

Source: Architectus Urban Design Study 2017



The *North Sydney Centre Capacity and Land Use Study* preempted preparation and exhibition of the Draft WSPM and stated that the Master Plan would “review the Berry Square Special Area in terms of whether the existing constraints on development to the north should be relaxed in order to realise wider public benefits arising from the redevelopment of the precinct.” Subsequent to this, the Draft WSPM proceeded to recommend that the protected times be extended to protect solar access between 10.30am and 2pm, with significant resultant implications on the development capacity of the Ward Street Precinct. While it noted that the proposed development of 41 McLaren Street does not result in any net increase in overshadowing of Berry Square during the currently protected times of 12pm to 2pm, Architectus does not support the principle of significantly restricting the development capacity of the Ward Street Precinct in order to protect solar access to a small, privately owned building forecourt, and considers that there are significant public benefits to be achieved from allowing additional capacity to be delivered in the Ward Street Precinct, adjacent to the future Victoria Cross Metro Station.

It is further noted that Berry Square was added as a “Special Area” in the 2013 LEP. At the same time, the special area controls for the North Sydney Centre, which previously restricted any net increase between the hours of 10am and 2pm, were reduced to 12pm to 2pm to ensure strong protection during the times when the spaces are most commonly used. Given the relatively small size and value of Berry Square as an area of open space, particularly given the envisaged future public open space within the Ward Street Precinct, Architectus considers it an unreasonable constraint on development of the Precinct to protect solar access between the hours of 10.30am and 2pm as proposed.

#### Proposed Public Open Space

By rationalising and consolidating potential development footprints, the Architectus Alternative Masterplan for the Ward Street Precinct provides for a significantly larger area of public open space (approx. 3,900sqm) compared with the draft WSPM exhibited by North Sydney (approx. 2,100sqm open to the sky). While the development of 41 McLaren Street is taller than that which would be permitted under the draft Masterplan exhibited by Council, and therefore casts a longer shadow in mid-winter, by increasing the width and size of the public open space the result is that a comparable area of the proposed public open space receives direct sunlight. A comparative analysis of the solar access to the proposed public open space under the exhibited draft WSPM and the Alternative Masterplan is provided in **Figure 22** below. (Note: the area of solar access achieved under the draft Masterplan differs between the exhibited draft Masterplan and Architectus’ built form model, which was purchased for the purpose of undertaking this project. Given the model was prepared based on recent survey data, this should be the most accurate information available and should therefore be more accurate than the figures provided by Council’s consultants in preparing the draft Masterplan.)

Solar access to NOC Square (sqm) - New Ward St open space - midwinter				Solar access to NOC Square (sqm) - New Ward St open space - equinox			
Time	Draft Master Plan (from document)	Draft Master Plan (from Architectus model)	Alternative Master Plan	Time	Draft Master Plan (from document)	Draft Master Plan (from Architectus model)	Alternative Master Plan
9am	151	79	121	9am	433	415	1,254
9.30am	233	209	270	9.30am	666	793	1,648
10am	154	58	406	10am	934	1,149	1,890
10.30am	824	856	315	10.30am	1,276	1,462	1,664
11am	1,362	1,401	86	11am	1,577	1,576	874
11.30am	1,470	1,437	930	11.30am	1,686	1,736	1,715
12pm	797	664	1,177	12pm	989	1,043	1,681
12.30pm	77	22	219	12.30pm	159	195	654
1pm	-	-	-	1pm	-	6	227
1.30pm	-	-	-	1.30pm	-	-	-
2pm	-	-	-	2pm	-	-	-
<b>Total</b>	<b>5,068</b>	<b>4,726</b>	<b>3,524</b>	<b>Total</b>	<b>7,720</b>	<b>8,375</b>	<b>11,607</b>

**Figure 22 Solar access to proposed public open space**

Source: Architectus Urban Design Strategy

While there is a slight reduction in solar access to the proposed public open space at midwinter for the Alternative Masterplan compared with the draft WSPM, there is a significant increase at the equinox. On balance considering the significantly larger public open space provided under the Alternative Masterplan and that the Alternative Masterplan establishes a key link in the north-south spine absent from the Draft WSPM (which relies on agreements being made with multiple private landowners to achieve the mid-block link) the impacts are considered acceptable.

#### Existing Residential

As detailed in the Urban Design Study at **Attachment A**, there are four areas of existing residential development which could be potentially effected by overshadowing from tower development in the Ward Street Precinct, including 41 McLaren Street, being:

- Residential areas east of Warringah Freeway (Area 1)
- Existing and future residential along the east side of Walker Street (Area 2)
- Existing residential along the west side of Walker Street (Area 3)
- Existing and future residential along Miller Street (Area 4)

These areas are identified in **Figure 23** below, as well as a summary of the impacts on each of these areas. For further analysis and discussion refer to the Urban Design Report at **Attachment A**.



**Figure 23 Areas of existing residential for studying shadow impacts**

Source: Architectus Urban Design Study

#### East of Warringah Freeway (Area 1)

It is noted that the NSCCLUS proposes a control on no additional overshadowing of areas outside of the North Sydney Centre between 10am and 2pm. The Architectus Alternative Masterplan and the proposed development of 41 McLaren Street do not cause any overshadowing of land east of the Warringah Freeway between these hours.

### East of Walker Street (Area 2)

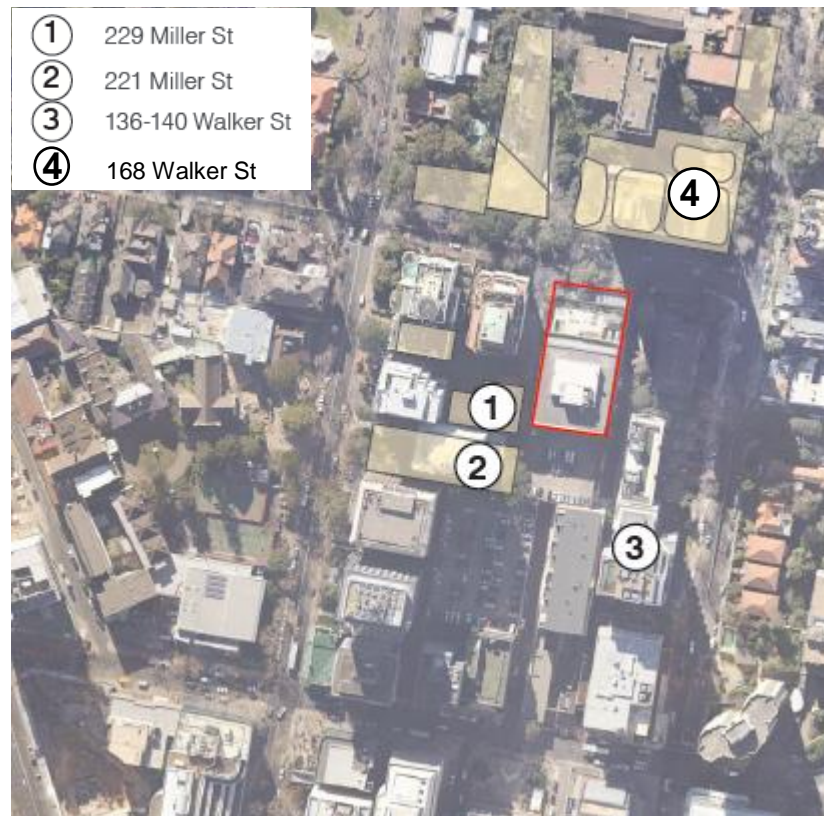
It is considered that the land east of Walker Street and shown as Area 2 in **Figure 23**, would logically form part of the North Sydney Centre. This area was identified in the NSCCLUS as an area likely to undergo significant change and redevelopment, and therefore accommodate some of the necessary growth in the capacity of the North Sydney Centre, with the Study noting that further consideration of this would be deferred to the WSPM.

The Council Report of 5 December 2016 relating to the WSPM again deferred further consideration of development potential for this land to “further discussions with relevant landowners who may seek to initiate a planning proposal”. Given the North Sydney Centre boundary has not been expanded to include this land, the proposed no additional overshadowing control would have significant and unreasonable impacts on any potential for redevelopment of 41 McLaren Street and for potentially for the future over-station development on the northern side of McLaren Street.

Given this land is already substantially overshadowed by the approved development of 168 Walker Street, that densification and increased heights are likely for this land in the future, and that overshadowing of this land from any development of 41 McLaren Street would not preclude any future residential development on that land from achieving solar access in accordance with the ADG, it is considered that the impact on this land is acceptable.

### West of Walker Street (Area 3) & Miller Street (Area 4)

Adjoining the site to the west on land at 229 Miller Street is an existing low-scale residential flat building which has been approved for redevelopment to accommodate a twenty-two (22) storey residential building. To the south of that site is a currently under construction residential flat building of a similar height and scale at 221 Miller Street. To the south-east of the site is an existing residential flat building at 136-140 Walker Street. The location of these buildings relevant to 41 McLaren Street is illustrated in **Figure 24** below.



**Figure 24 Location of existing and proposed residential flat buildings**

Source: Architectus Urban Design Strategy

Analysis of the impact on solar access to units within these developments has been undertaken to determine the likely impacts of the proposed development of 41 McLaren Street. Architectus' analysis concludes that 221 and 229 Miller Street would not achieve 2 hours of direct solar access to 70% of apartments between 9am and 3pm at midwinter as per the Apartment Design Guide under the draft WSPM. Much of the impact results from the now approved development of 168 Walker Street. There would be a modest reduction to solar access under the Architectus Alternative Masterplan, in part due to the increased tower height on 41 McLaren Street. In total the Architectus Alternative Masterplan would result in a reduction of 9% of units at 229 Miller Street receiving 2 hours of solar access between the specified times and a 16% reduction for 221 Miller Street.

Under the draft WSPM Architectus estimate that 73% of units at 136-140 Walker Street receive 2 hours of solar access, and this would be reduced to 69% as a result of the Alternative Masterplan.

It is considered that a reduction of the magnitude proposed is reasonable for development in a dense urban environment and that this loss of amenity is negated by the improved amenity that would be afforded to residents through an enhanced Ward Street Precinct and access to the new Metro Station.

### Visual Impact

A series of views are provided as part of the Urban Design Study at **Attachment A** illustrating the proposed development within the context of the future development of the Ward Street Precinct under the Alternative Masterplan, approved developments in the vicinity such as 168 Walker Street, and also the likely development scenario for an over-station development on the northern side of McLaren Street and above the main entrance to the Victoria Cross Station at the intersection of Berry Street and Miller Street.

It is considered that the proposed height and scale of 41 McLaren Street is appropriate for the changing character of the North Sydney Centre, as a result of future development which appropriately relates density to accessibility of high frequency and high capacity public transport, services and employment, associated with the construction of the Victoria Cross Metro Station.

In the context of future development in the North Sydney Centre, the height and scale of the development is considered appropriate and will not result in any unsatisfactory visual impact. An indicative view of the proposed development looking southwest from the Falcon Street overpass is provided in **Figure 25** below.



- (A) Indicative Metro Tower
- (B) Ward Street Tower
- (C) 41 McLaren St



**Figure 25 View looking southwest from Falcon Street overpass**

Source: Architectus Urban Design Strategy

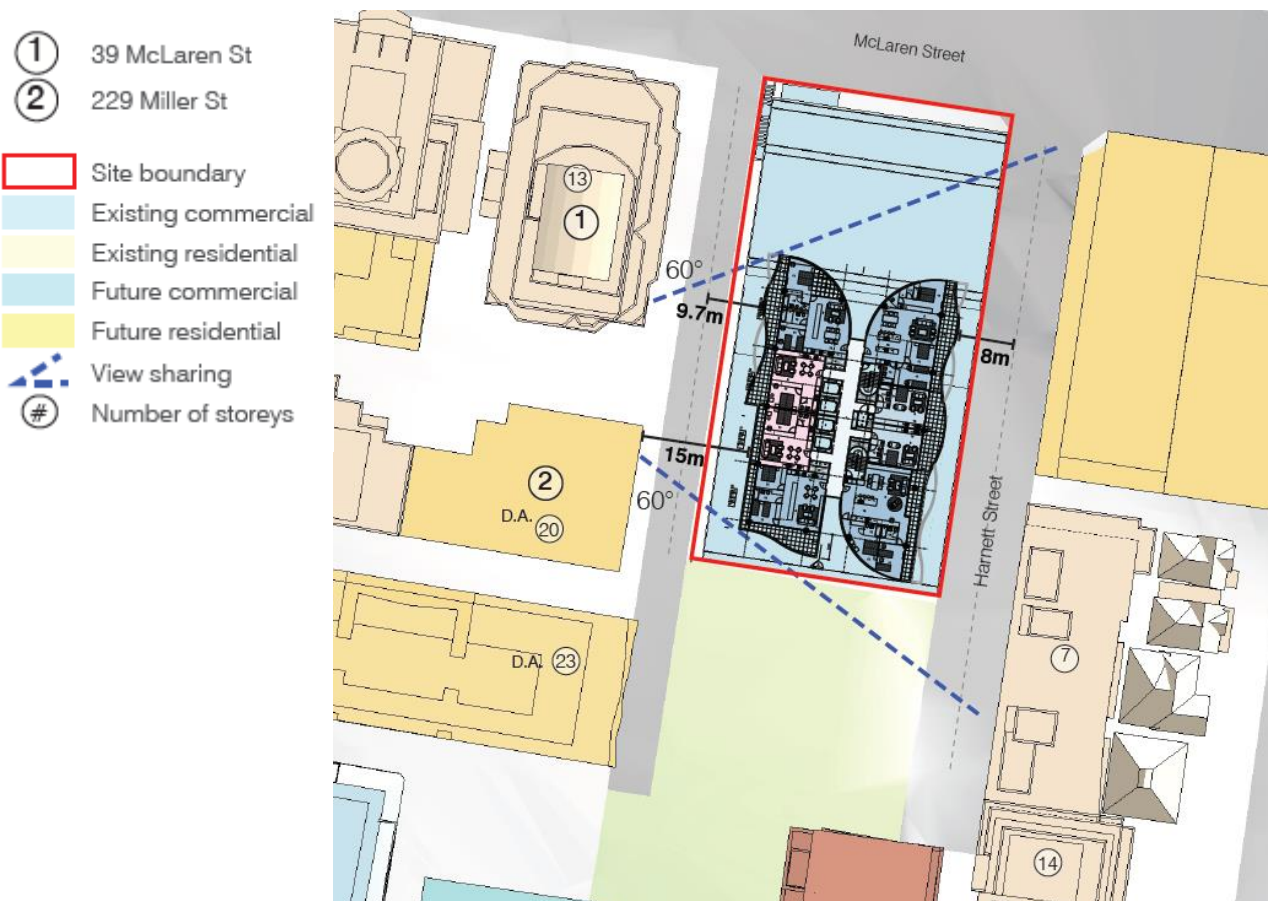
### Views

Impact on neighbouring residential views are discussed in Section 8.9 of the Urban Design Report provided at **Attachment A**.

There are two residential buildings which will have their views impacted by the proposed development of 41 McLaren Street, being:

- 39 McLaren Street (existing); and
- 229 Miller Street (DA approved)

As illustrated in **Figure 26** below, the tower has been designed to retain 60 degree angle views in plan for these buildings. It is considered that this is an appropriate balance to share views and provide outlook.



**Figure 26 View sharing and separation to adjacent residential buildings**

Source: Architectus Urban Design Strategy

### Noise

An Acoustic Report prepared by Wood & Grieve and is provided at **Attachment O**. The report finds that a future development of the site will be capable of complying with the relevant internal noise levels as provided by the North Sydney DCP 2013 and AS/NZS2107, and also that the traffic generated by the proposed development will comply with the NSW Road Noise Policy.

### Traffic

A Traffic Impact Assessment has been prepared for the future development of the site by Ason Group and is provided at **Attachment M**. The report considers the impact of the proposed development on the surrounding road network and finds that the proposed development will have a negligible impact on the performance of key intersections in the locality, with only minor increases to intersection delays and no change to existing Levels of Service.

### Wind

A Wind Assessment has been undertaken for the proposed development by Cermak Peterka Petersen Pty Ltd and is provided as **Attachment N**. The report provides that detailed wind tunnel testing for sites in the vicinity of 41 McLaren Street has indicated that most sites are classified as suitable for pedestrian standing or walking from a comfort perspective, and pass the relevant distress criterion. Integrating the expected directional wind conditions around the proposed development with the wind climate, it is considered likely that wind conditions will remain in these categories for the majority of locations around the proposed development.

It is considered unlikely that the existing wind conditions around the site would meet the 13 m/s criterion provided by the NSDCP 2013 and this would likely be unchanged with the inclusion of the proposed development.

Protection to pedestrians from the effects of downwash may be required and this will be determined through detailed design and further analysis of the proposed development on wind conditions. This will be addressed as part of a future development application. It is

noted that the narrow plan form of the proposed tower, its orientation relative to prevailing winds, and the proposed setbacks from podium edges will each assist in ameliorating wind impacts at pedestrian level.

***Has the Planning Proposal adequately addressed any social and economic effects?***

This Planning Proposal will facilitate a proposed residential tower form which will contribute to the delivery of the Alternative Masterplan for the Ward Street Precinct, with its significant public benefits to which the development of 41 McLaren Street would contribute.

Market analysis and commercial viability analysis of the draft WSPM has been undertaken separately by both Colliers International Consultancy (**Attachment E**) and Knight Frank Consulting (**Attachment F**). These reports highlight a number of issues with the Masterplan, including:

- Small and irregular commercial plates
- Small hotel floorplates unlikely to achieve desirable operation efficiency
- Insufficient uplift to encourage redevelopment

Specifically, it is noted that demand from commercial tenants is typically for larger floorplate buildings. It is further noted that there has not been an A Grade or Premium Grade commercial building built in North Sydney with a floor plate of less than 1,053sqm since 1988, and that the average floorplate size in the 2018 - 2020 development phase is 1,550sqm. The average of the Ward Street car park site and 56 & 66 Berry Street is just 914sqm across all floors (with tower floorplates for the commercial building of just 626sqm GFA) and therefore does not reflect market trends and demand.

These reports suggest that in order to achieve a high quality commercial development, the Ward Street car park site and 56 & 66 Berry Street should be amalgamated to allow a single tower to be built across these sites. This is further reinforced by the Development Feasibility Report prepared by HillPDA and provided as **Attachment G**, which concludes that of all the proposed built form amendments under the draft WSPM, only the car park site would result in an economically feasible development outcome (although it is noted that this still not an ideal development outcome as it does not reflect market trends and demand as outlined above).

Based on the economic input provided by Colliers, Knight Frank and Hill PDA, it can be reasonably assumed that the additional capacity envisaged for the Precinct by the draft WSPM is unlikely to be realised and public benefits such as proposed community facilities, key through-site links and public domain works would not be likely to be delivered.

These issues are comprehensively addressed by the Alternative Master Plan for the Ward Street Precinct prepared by Architectus, which provides for economically viable outcomes which will allow the envisaged public benefits, such as public open space and community facilities, to be delivered as part of the development of the Precinct.

The development of 41 McLaren Street will also allow a density of land uses commensurate with a site being located opposite the northern entrance to the future Victoria Cross Metro Station and for an uplift in density which would enable essential heritage restoration works to be undertaken to the existing commercial building and provide a key through-site link to activate the precinct.

The mixed use combination of a new residential tower atop the commercial podium, combined with improved permeability in the site surrounds, further will encourage the growth of a 24/7 vibrant centre. Use of the new café, restaurant and bar facilities within the commercial podium will be encouraged to the public realm, and are anticipated to generate opportunities for social interaction.

#### 6.4 Section D – State and Commonwealth interests

##### *Is there adequate public infrastructure for the planning proposal?*

The Planning Proposal will result in the addition of higher residential densities on the site. The site is currently strategically located within North Sydney Centre, being within walking distance from North Sydney Train Station and approximately 50 metres from the northern entrance to the future planned Victoria Cross Sydney Metro station. The site also enjoys access to frequent bus services to the west along Miller Street. Accordingly, consultation will be required with Council, Transport for NSW and the RMS in relation to roads, traffic and transport.

The impact of the Planning Proposal on traffic in the vicinity of the site has been undertaken (**Attachment M**) which concluded that the Planning Proposal would have a negligible impact on traffic conditions in the surrounding road network.

As part of a future DA consultation will occur with utilities providers to ensure that sufficient capacity exists in water, sewer, gas, telecommunications, and all other utilities.

##### *What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?*

There has been no advice sought on State and Commonwealth views at this stage. Any State and Commonwealth comments regarding the proposal will be gathered during the consultation program of the preparation of the Draft Local Environmental Plan, as discussed in **Section 8** of this report.



## 7. Mapping

This Planning Proposal provides two options through which its objectives and intended outcomes might be achieved. These are outlined below:

- Amend the current Height of Buildings map; or
- Introduction of a site-specific clause (detailed within **Section 5: Explanation of Provisions**).

This section illustrates **Option 1** and provides the following maps that identify the site, the current development standards relating to the site, the proposed amendment to the zone and proposed development standards.

### 7.1 Existing and proposed LEP maps

Height of building

The current maximum building height (shown as metres RL) as per the Height of Buildings Map is shown at **Figure 27** below.



**Figure 27 Height of Buildings Map (North Sydney LEP 2013, Sheet HOB\_002A)**  
(Site outlined in yellow)

The proposed maximum building height (in metres RL) is shown at **Figure 28** below.



**Figure 28 Proposed Height of Buildings Map (North Sydney LEP 2013, Sheet HOB\_002A)**  
(Site outlined in yellow)

#### Notes:

- 168 Walker Street, directly north of the site (shown as RL 155 metres) was approved for redevelopment for a 29-storey, predominantly residential building having a maximum height of **RL 167.51** metres by the Sydney East Joint Regional Planning Panel at its meeting of 12 July 2016.
- 50 McLaren Street, located opposite the subject site and adjoining 168 Walker Street to the west (shown as RL 110 metres) is the site of a future over station development, associated with Sydney Metro. Sydney Metro has sought consistently to maximise development outcomes above its proposed stations in order to maximise the efficiency benefits of the project and to contribute to the cost of delivering the project. Accordingly, it is considered likely that a future development of this site could potentially be of a similar height the approved building which adjoins it to the east (168 Walker Street), or as a minimum the height of a building on this site could be RL 130 - 150 metres.
- The land at the south-eastern corner of the intersection of Berry Street and Miller Street (shown as RL 120 metres) is the site of the future primary pedestrian access to the Victoria Cross Metro Station and an over-station development. As provided throughout this Planning Proposal, Architectus considers that an appropriate building height on this site would be 40-60 storeys (approx. RL 300 metres).
- The Council-owned Ward Street car park site is shown as RL 115 & RL 130 metres. An appropriate height for the future development of this site would be RL 230 – 287 metres, as provided by and detailed in the Alternative Masterplan.

# 8. Consultation

*This section provides information regarding consultation with council, stakeholders, residents and the community which has informed the preparation of this Planning Proposal.*

## 8.1 North Sydney Council

The owners of 41 McLaren Street and Architectus have engaged with North Sydney Council on a quarterly basis over a 3-year period in relation to a future development of 41 McLaren Street and the renewal of the Ward Street Precinct. Key aspects of this consultation are summarised as follows:

### 2014

- Identified need to holistically plan for development of the Ward Street car park site and the development of surrounding sites, specifically future change in building heights.

### 2015

- Discussion of options by Architectus for Council-owned land and 41 McLaren Street.

### 2016

- Initial design concept by Harry Seidler & Associates for 41 McLaren Street prepared and discussed

### 2017

- Architectus provide submission to the draft WSPM and commence preparation of Planning Proposal

## 8.2 Relevant Commonwealth and State public authorities

Consultation with public authorities will be undertaken in accordance with the requirements of a Gateway determination.

It is recommended that the following public authorities be consulted with in considering the Planning Proposal:

- Transport for NSW (including Sydney Metro)
- Department of Planning and Environment
- Ausgrid
- Roads and Maritime Services
- Office of Environment and Heritage
- Department of Infrastructure and regional Development (in relation to the Obstacle Limitation Surface)
- The Greater Sydney Commission

## 8.3 Consultation strategy

Confirmation of the public exhibition period and requirements will be provided as part of a Gateway determination and public consultation will be undertaken in accordance with these requirements.

It is anticipated that the Planning Proposal will be publicly exhibited for a period of 28 days on the North Sydney Council website and in newspapers circulated within the North Sydney Local Government Area (LGA). It is also anticipated that adjoining and nearby property owners will be notified in writing of the Planning Proposal.

# 9. Project timeline

## 9.1 Timeline

The timeframe for amendment of the NSLEP 2013 is expected to be dependent on the consideration by Council of the Planning Proposal and the progression of any additional information requested by Council to satisfy any matters required to be addressed as part of a Gateway determination.

It is considered that the technical studies required to progress the Planning Proposal to a Gateway determination have been submitted along with this Planning Proposal.

## 9.2 Staging

Detail on projected project timeframes are provided **Table 7** below.

**Table 7 Staging of Planning Proposal**

Stage	Timing	Responsible Organisation
Lodgment of Planning Proposal with North Sydney Council	1 September 2017	Architectus
Consideration by Council	November to December 2017	North Sydney Council
Lodgment for Gateway Determination	December 2017 to January 2018	North Sydney Council
Anticipated commencement date (date of Gateway determination)	January to February 2018	Minister (or delegate)
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	February to March 2018	Applicant and North Sydney Council
Commencement and completion dates for public exhibition period	February to March 2018	North Sydney Council
Timeframe for the consideration of a proposal post exhibition	April to May 2018	North Sydney Council
Anticipated date Relevant Planning Authority will make the plan (if delegated)	April to May 2018	North Sydney Council

# 10. Conclusion

This Planning Proposal has been prepared in accordance with Section 55 of the Environmental Planning and Assessment Act 1979 and the Department of Planning publication *'A Guide to Preparing Planning Proposals'* dated August 2016.

The objective of this proposal is to facilitate the mixed-use development of 41 McLaren Street, North Sydney – comprising the adaptation of the heritage-listed Simsmetal House and the construction of a residential tower above. The proposed development of 41 McLaren Street contributes positively toward Architectus' Alternative Masterplan for the Ward Street Precinct through the provision of a double-height colonnade, being a key link through the Precinct which will enable activation of the future public open space. To achieve the objectives and intended outcomes of the Planning Proposal an amendment to the NSLEP 2013 is required which would permit a greater maximum building height than is currently permitted by clause 4.3 and the associated Height of Buildings Map. Two options are presented which would enable this to occur:

- To amend the Height of Buildings Map to allow for a building height of up to RL 226 metres; or
- Through the introduction of a site-specific clause under Division 2 - General provisions of the LEP allowing for a development up to RL 226 metres (despite the height of buildings map), where the development satisfies certain requirements.

It is considered that this Planning Proposal report is sufficient for a Gateway determination to be issued. It is recommended that Council support this Proposal to allow the proposed development to proceed and to allow for additional housing to be delivered in a strategic location, on the fringe of the North Sydney Centre and in close proximity to the future Victoria Cross Metro Station. It is also recommended that Council consider advancing its own Planning Proposal to implement the Architectus Alternative Masterplan, which allows for substantial public benefits and a density of commercial, community and residential uses commensurate with its location adjacent the future metro station.

Architectus has considered the impact of the amendments to maximum height on surrounding land uses. In summary, Architectus consider that the environmental impacts resulting from the proposal are acceptable under the circumstances and also that the potential impacts of the Alternative Masterplan are comparable to those of the draft WSPM, but with the advantage of providing for economically viable development outcomes which will facilitate the delivery of significant benefits to the resident, worker and visitor populations of the North Sydney Centre.

Through the application of this framework, the Planning Proposal is considered to be justified and recommended for support.

## **Recommendation**

Architectus recommends that Council support this Planning Proposal and resolve to submit it to the Department of Planning and Environment for a Gateway determination.

## Attachment A – Urban Design Report, prepared by Architectus



## Attachment B – Architectural Drawings, prepared by Harry Seidler & Associates

## Attachment C – Architectural Design Statement, prepared by Harry Seidler & Associates

## Attachment D – Site Survey, prepared by Frank M Mason & Co Pty Ltd

## Attachment E – Economic Viability, prepared by Colliers

## Attachment F – Independent Market Report, prepared by Knight Frank

## Attachment G – Development Feasibility, prepared by Hill PDA

## Attachment H – Public Art Strategy, prepared by Fine Art Studio



# Attachment I – Public Domain Landscape Plans, prepared by Spackman Mossop Michaels

## Attachment J – Landscape Plans (future development of 41 McLaren Street), prepared by Spackman Mossop Michaels

## Attachment K – Heritage Assessment, prepared by GML Heritage

## Attachment L – Heritage Impact Statement, prepared by GML Heritage

## Attachment M – Traffic Impact Assessment, prepared by Ason Group

## Attachment N – Wind Impact Assessment, prepared by CPP

## Attachment O – Acoustic Assessment, prepared by Wood & Grieve



## Attachment P – SEPP 65, ADG, LEP and DCP Compliance

## Attachment Q – Extract Sydney LEP 2012 – APDG Site

# Attachment R – BCA Report (For information purposes only), prepared by Newland Wood

## Attachment S – Stormwater Plans (For information purposes only), prepared by Wood & Grieve

# Attachment T – Stormwater Management Report (For information purposes only), prepared by Wood & Grieve

## Attachment U – Structural Report, prepared by TTW (for information purposes only)

## Attachment V – BASIX Report (for information purposes only)

Under Separate Cover – VPA  
Report, prepared by Urbis



**ATTACHMENT 2**

**Planning Proposal 4/17 to amend North Sydney Local Environmental Plan 2013  
- 41 McLaren Street, North Sydney  
Summary of public submissions received prior to issue of Gateway Determination**

The following criteria are used to analyse all submissions received, and to determine whether or not the planning proposal would be amended:

1. The Planning Proposal to amend North Sydney Local Environmental Plan 2013 **would be** amended if issues raised in the submission:
  - a provided additional information of relevance.
  - b indicated or clarified a change in government legislation, Council's commitment or management policy.
  - c proposed strategies that would better achieve or assist with Council's objectives.
  - d was an alternate viewpoint received on the topic and is considered a better option than that proposed in the Planning Proposal or;
  - e indicated omissions, inaccuracies or a lack of clarity.
2. The Planning Proposal to amend North Sydney Local Environmental Plan 2013 **would not be** amended if the issues raised in the submission:
  - a addressed issues beyond the scope of the Planning Proposal.
  - b was already in the Planning Proposal or will be considered during the development of a subordinate plan (prepared by Council).
  - c offered an open statement, or no change was sought.
  - d clearly supported the Planning Proposal.
  - e was an alternate viewpoint received on the topic but the recommendation of the Planning Proposal was still considered the best option.
  - f was based on incorrect information.
  - g contributed options that are not possible (generally due to some aspect of existing legislation or government policy) or; involved details that are not appropriate or necessary for inclusion in a document aimed at providing a strategic community direction over the long term.

ATTACHMENT 3: PLANNING PROPOSAL 4/17 TO AMEND NSLEP 2013 – 41 McLAREN STREET, NORTH SYDNEY PUBLIC SUBMISSIONS TABLE						
No.	Name	Issue	Key Points Raised	Council Response	Recommended Action	Criteria
1		<b>Objection</b>	Objects to the Planning Proposal with specific regard to the following: <ul style="list-style-type: none"> <li>Traffic Impacts.</li> </ul>	Issues addressed below.	See below	
		<b>Traffic</b>	<p>Objects to the analysis undertaken within the Traffic Impact Assessment (TIA) that accompanies the Planning Proposal for the following reasons:</p> <p>1) the traffic modelling used in the TIA is flawed as it does not take into account margins of error.</p> <p>2) The TIA is based on "as is today" conditions, and does not take into account all developments and traffic density when ALL developments within the Precinct are complete. This fact alone should disqualify the TIA from being authoritative.</p> <p>3) The TIA does not take into account localised conditions. In particular, it:</p>	<p>This claim is based on two references within the TIA which state "<i>Error! Reference source not found</i>". This text relates to a broken electronic link within the written document and does not relate to the figures used within the report.</p> <p>It is difficult to determine a reasonable level of impact based on the overall development potential within a precinct, due to various factors. However, it is noted that the TIA does not consider the potential impacts from developments that have been approved in the vicinity of the site but not yet constructed, such as 168 Walker St, 221 and 229 Miller St.</p> <p>On this basis, the proposal should not be progressed, until such an appropriate assessment has been undertaken.</p>	<p>Nil</p> <p><b>Refuse the application from progressing to Gateway Determination</b></p>	<p>2F</p> <p>1E</p>

**ATTACHMENT 3: PLANNING PROPOSAL 4/17 TO AMEND NSLEP 2013 – 41 McLAREN STREET, NORTH SYDNEY**  
**PUBLIC SUBMISSIONS TABLE**

No.	Name	Issue	Key Points Raised	Council Response	Recommended Action	Criteria
			a) does not consider the need to model and analyse extended peak hour periods due to the location of nearby schools when traffic can be much greater than at just peak business hours. This has the result of increasing intersection delays, causing further grid lock and increasing potential for accidents, whilst minimising the safety of school goers.	It is considered that the extended peak hours attributed to the nearby schools should be factored into the traffic analysis and should be completed prior to determining whether to proceed with the proposal.  Furthermore, no details have been provided as to the date range when the traffic surveys were undertaken. If these surveys were undertaken outside of school terms, then the results would not present the worst case scenario.	<b>Refuse the application from progressing to Gateway Determination</b>	1E
			b) assumes that traffic movements are based on a 1 resident / 1 vehicle ratio, despite their being an average of 2 residents per apartment, thereby underestimating potential traffic generation.	Proposed traffic movements are largely dictated by the supply of parking spaces made available on a site. The TIA accurately reflects these assumptions, given the very restrictive level of parking that could be accommodated on the site in accordance with Council's controls.	Nil	2E
			c) fails to understand the demography of the constituents who will occupy the residential components of the building. It is unlikely that not all occupiers of the building will be public transport users as suggested. For example, they will not use public transport to do their weekly grocery shop.	The level of parking provided in any future development on the site will largely dictate the take up of public transport patronage and has little to do with demography. Council has a long standing policy to minimise traffic congestion and this is largely achieved through implementing restrictive parking rates and managing on street parking.	Nil	2E
			4) There is only one main artery (the Expressway) that services vehicles into and out of North Sydney. This issue has been ignored in the TIA and is a major issue for resident and commercial owners alike. A more holistic approach needs to be considered.	Given the level of uplift sought, and the level of increased parking anticipated to be provided on the site, the level of assessment on only two intersections is considered inadequate. Consideration should also be given to the impacts on other local intersections at Walker/Berry, Walker/Ridge, Ridge/Miller, McLaren/Pacific, Berry/Miller	<b>Refuse the application from progressing to Gateway Determination</b>  <b>If the Planning Proposal is to be progressed, then a more detailed TIA is required to be prepared which looks at the additional intersections as indicated.</b>	1E

ATTACHMENT 3: PLANNING PROPOSAL 4/17 TO AMEND NSLEP 2013 – 41 McLAREN STREET, NORTH SYDNEY PUBLIC SUBMISSIONS TABLE						
No.	Name	Issue	Key Points Raised	Council Response	Recommended Action	Criteria
2		<b>Overshadowing</b>	The proposed increase in building height will lead to increased overshadowing of the submitters property.	<b><i>Refer to s.7.2.1 of the main report</i></b> The Planning suggests that 69% of apartments to 136-140 Walker Street will be able to maintain at least 2 hours of solar access, which is marginally non-compliant of the 70% that the Apartment Design Guide suggests is reasonable. Given the minor technical nature of the non-compliance in a highly urbanised environment, the degree of impact upon the submitter's building is considered reasonable in this instance. It is unclear how much the submitter's property will be impacted upon, due to the lack of detail in the submission.	Nil	2E
		<b>Privacy</b>	Concern raised that if the building height is increased it will lead to increased privacy impacts to their property.	The proposed increase in height and addition of residential units on the site will result in increased privacy concerns. However, addressing of privacy concerns is primarily a matter for consideration at the DA stage and may be able to be partly addressed through appropriate design solutions. The residential component of the concept proposal is located a minimum of 31m away from the submitter's building, which is more than sufficient separation in line with the requirements of the Apartment Design Guide, indicating that the level of impact could be reasonable.	Nil	2E
		<b>Traffic</b>	Concern raised that if the building height is increased it will lead to increased traffic congestion.	<b><i>Refer to s.7.7 of the main report</i></b> An increase in the provision of on-site car parking will ultimately lead to an increase in traffic congestion and not just an increase in height. The proposal seeks to significantly increase the number of parking spaces on site, thereby leading to increased traffic congestion. This is contrary to Council's desire to achieve a zero nett increase in traffic generation as part of the WSP Masterplan.	<b>Refuse the application from progressing to Gateway Determination</b>	1A

ATTACHMENT 3: PLANNING PROPOSAL 4/17 TO AMEND NSLEP 2013 – 41 McLAREN STREET, NORTH SYDNEY PUBLIC SUBMISSIONS TABLE						
No.	Name	Issue	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Ward Street Masterplan</b>	Suggests that the proposal appears to be contrary to the outcomes of the Ward Street Masterplan.	<b><i>Refer to s.7.8.9 of the main report</i></b> The Planning Proposal is generally inconsistent with the objectives and principles of the draft WSP Masterplan, which are unlikely to significantly change within a future revised version. Consistency with the suggested built form outcomes of the draft Masterplan is irrelevant at this point, as they will be subject to further revision.	<b>Refuse the application from progressing to Gateway Determination</b>	1A
3		<b>Objection</b>	Objects to the Planning Proposal with regard to the following: <ul style="list-style-type: none"> <li>• Traffic Impacts; and</li> <li>• Strategic Planning Processes;</li> <li>• Overshadowing.</li> </ul>	Issues addressed below.	See below	
		<b>Traffic</b>	The area will be unable to cope with the increased traffic resulting from the proposed new population density. Streets and intersections are already at capacity in the locality during certain peak periods and is always busy, especially during school periods. Other traffic assessments previously done by or submitted to Council substantiate this situation, as exemplified by that attached to the WSP Masterplan.  It is questioned why the TIA uses 2011 Census data to support proposed traffic levels, which is significantly out of date.	<b><i>Refer to s.7.7 of the main report</i></b> An increase in the provision of on-site car parking will ultimately lead to an increase in traffic congestion. This is contrary to Council's desire to achieve a zero nett increase in traffic generation as part of the Ward Street Precinct Masterplan exercise.  The TIA requires further revision to determine the full extent of the impact upon the surrounding road system.	<b>Refuse the application from progressing to Gateway Determination</b> <b>If the Planning Proposal is to be progressed, then a more detailed TIA is required to be prepared which looks at the additional intersections as indicated.</b>	1C

ATTACHMENT 3: PLANNING PROPOSAL 4/17 TO AMEND NSLEP 2013 – 41 McLAREN STREET, NORTH SYDNEY PUBLIC SUBMISSIONS TABLE						
No.	Name	Issue	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Strategic Planning Process</b>	<p>Questions what value residents can put on Council's planning processes when the current height envelope can be so easily and dramatically set aside.</p> <p>The proposed change to the height limit is clearly at odds with the long-stated position of the Council as put to residents.</p> <p>If the development needs to double in height to be commercially viable then Council should take heed of the market signs if it is to avoid devaluing the assets of the area</p>	<p>Nothing prevents the applicant from submitting a Planning Proposal to amend the planning controls applying to the site. Council has consistently sought to refuse planning proposals which do not align with strategic planning policies for a locality, even if those policies are in draft form. In addition, where applicants have sought a Rezoning Review, the Sydney Planning Panel has generally supported Council's view in this regard.</p> <p>In this particular instance, the planning proposal would have negative implications for delivering the WSP Masterplan and North Sydney Centre Review.</p>	<b>Refuse the application from progressing to Gateway Determination</b>	1C
		<b>Overshadowing</b>	<p>The proposed development will dramatically overshadow many parts of the locality, including the new precinct laneway development now in planning, potentially reducing the amenity of this major Council development.</p>	<p><b>Refer to section 7.2.1 of the main report</b></p> <p>The proposal is largely contingent on a number of draft planning policies which seek to change the planning controls in relation to overshadowing from development within the North Sydney Centre.</p> <p>As these policies are neither certain and imminent, there is no guarantee that the concept proposal can be delivered through the DA process.</p>	Nil	2A

ATTACHMENT 3: PLANNING PROPOSAL 4/17 TO AMEND NSLEP 2013 – 41 McLAREN STREET, NORTH SYDNEY PUBLIC SUBMISSIONS TABLE						
No.	Name	Issue	Key Points Raised	Council Response	Recommended Action	Criteria
4		<b>Solar access - Berry Square</b>	<p>The submitter states that the planning proposal provides a limited and unbalanced analysis of the proposal's potential impact on the Berry Square Special Area, other than to state that it should be removed.</p> <p>The Urban Design Report suggests that there will be no additional overshadowing of Berry Square at the critical times of 12 noon to 2pm, but will result in unacceptable overshadowing between 11.30am and 12 pm which is inconsistent with the draft WSP Masterplan.</p> <p>The submitter has advised that it is contributing \$2m to the upgrade of Berry Square.</p> <p>Overshadowing of Berry Square is unacceptable given its importance as one of a limited number of public spaces to cater for the workers and residents of the North Sydney Centre.</p>	<p>Special Areas identified within the North Sydney Centre represent a mixture of public and private open spaces that are publically accessible, highly used and provide a reasonable level of amenity for its users.</p> <p>The North Sydney Centre currently has a lack of publicly accessible open spaces that are provided with high levels of amenity and a high level of accessibility for the majority of the working population within the North Sydney Centre.</p> <p>Whilst it is acknowledged that solar access to Berry Square is compromised at certain times during the day, there is no reason why this level of solar access should be further reduced at critical usage times, especially due to the lack of centrally located accessible publicly accessible spaces within the Centre for workers who are unlikely to walk to St Leonards Park as suggested by the applicant. The decision to increase the level of solar protection to this Special area is still subject to further debate as part of the revision to the draft WSP Masterplan.</p>	<b>Refuse the application from progressing to Gateway Determination</b>	1C
			<p>The importance of the space is reflected by its protection under cl.6.3 of NSLEP 2013 and identification for further protection under the draft Ward Street Masterplan.</p> <p>Requested that solar access to Berry Square is protected between 10.30am and 2pm consistent with the outcomes of the draft Ward Street Precinct Masterplan.</p>	Increasing the level of overshadowing protection would be more appropriately addressed through the preparation of a revised Draft Ward Street Precinct Masterplan where the cumulative impacts can be considered more holistically.	Nil	2A
5		<b>Objection</b>	<p>Objects to the Planning Proposal based on the conclusions of Submission No.4. A copy of Submission No.4 was attached to this submission.</p>	Refer to Submission 4.	Refer to Submission 4	1C / 2A

ATTACHMENT 3: PLANNING PROPOSAL 4/17 TO AMEND NSLEP 2013 – 41 McLAREN STREET, NORTH SYDNEY PUBLIC SUBMISSIONS TABLE						
No.	Name	Issue	Key Points Raised	Council Response	Recommended Action	Criteria
6		<b>Excessive height and density</b>	The proposal would result in a building eight (8) times the height of the existing building and is inconsistent with recent strategic planning documents in the locality.	<b><i>Refer to s.7.8.9 of the main report</i></b> The Planning Proposal is generally inconsistent with the objectives and principles of the draft WSP Masterplan, which are unlikely to significantly change within a future revised version. Consistency with the suggested built form outcomes of the draft Masterplan is irrelevant at this point, as they will be subject to further revision.	<b>Refuse the application from progressing to Gateway Determination</b>	1C
		<b>Strategic Planning Processes</b>	The Planning Proposal is significantly inconsistent with Council's strategic planning processes in the locality including the draft Ward Street Precinct Masterplan, North Sydney Centre Land Use and Capacity Study and associated Strategy.  Council has made it clear that individual planning proposals are strongly discouraged within the Ward Street Precinct as they will undermine the ability of Council to prepare and implement a holistic vision for the Precinct. The Planning Proposal is pre-empting the finalisation of Council's strategic planning work and would result in a poor planning outcome for the North Sydney Centre.  It is questioned why the applicant is not seeking to work with Council, rather than undermine the strategic planning process.	<b><i>Refer to s.7.8.9 of the main report</i></b> Despite the draft Ward Street Precinct Masterplan being subject to future change, the Planning Proposal is inconsistent with the objectives and principles that have been established for draft WSP Masterplan.  The Planning Proposal if implemented has the ability to significantly undermine the desired future outcomes for the locality which have yet to be finalised.	<b>Refuse the application from progressing to Gateway Determination</b>	1C



ATTACHMENT 3: PLANNING PROPOSAL 4/17 TO AMEND NSLEP 2013 – 41 McLAREN STREET, NORTH SYDNEY PUBLIC SUBMISSIONS TABLE						
No.	Name	Issue	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Misleading information</b>	It is not clear as to what maximum height is being proposed, due to a number of different heights being referred to. For instance, the concept proposal has a maximum of RL 226m, the proposed height map a maximum of RL 230m and the VPA refers to a maximum of RL 250m.	Upon a detailed review of the documentation, the proposal is specifically seeking to impose a maximum height of RL 226m over the subject site. It is assumed that the map reference to RL 230m was made in error and relates back to the submission made to the draft Ward Street Precinct Masterplan. The reference to RL 250m relates back to a potential response made in relation to the draft Ward Street Precinct Masterplan if certain controls are dispensed with.	<b>If proceeded with, the Planning Proposal should be amended such that all references to amending the building height be changed to a maximum of RL 226m.</b>	1A
			The supporting documentation that has been submitted considers the future development on the site within the context of the applicant's "Alternative Masterplan" and "Visionary Masterplan" options for the site, made in response to the public exhibition of the Draft Ward Street Precinct Masterplan. The applicant's masterplans contain a number of assumptions on the redevelopment potential of other sites in the locality and how the proposal on the subject site relates to those revised development options, many of which are significantly greater than what could ever be actually achieved. Therefore, the applicant's assessment is not based on actual development potential and is misleading in terms of its actual impact under the current set of controls.	Council staff concur with this statement. The proposal should be considered in its current context. The assumptions of development potential on other sites is inconsistent with the desired future outcomes as identified in the North Sydney Centre Land Use and Capacity Study. Furthermore, the desired future character of the Ward Street Precinct is yet to be determined and may have significant implications for the subject site.	<b>Refuse the application from progressing to Gateway Determination</b> <b>If proceeded with the Planning Proposal should be amended to provide a clear indication of the concept proposal's impact over that which currently exists and not what may happen in the future.</b>	1C

ATTACHMENT 3: PLANNING PROPOSAL 4/17 TO AMEND NSLEP 2013 – 41 McLAREN STREET, NORTH SYDNEY PUBLIC SUBMISSIONS TABLE						
No.	Name	Issue	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Overshadowing - General</b>	<p>Whilst the documents state that that the proposal will result in increased overshadowing, it dismisses the impact as being acceptable due to properties already being substantially overshadowed.</p> <p>It is questioned why the proposal should be granted an exemption to the requirements of clause 6.3 of NSLEP 2013. In particular, it only considers overshadowing impacts between 10am and 2pm.</p> <p>Requests that Council undertake independent shadow modelling as the submitter does not believe that the applicant's diagrams show the full extent of the impacts that would be caused by the proposed built form.</p> <p>Objects to applicant's assertion that overshadowing impacts to Berry Square should be dismissed as it is in private ownership.</p>	<p><b>Refer to s.7.2.1 of the main report</b></p> <p>The Planning Proposal is largely relying on the outcomes of another planning proposal (North Sydney Centre) which is neither certain and imminent. On this basis, the proposed height could not be achieved under the current controls for the North Sydney Centre.</p> <p>Further, an exception to cl.6.3 is not considered acceptable as described in section 7.4.1 to the main report.</p> <p>Council staff acknowledge the difficulty in interpreting the shadow diagrams provided and, if progressed, would require a more detailed assessment which clearly indicates the proposal's impact with regard to the current situation and not an unendorsed future scenario.</p>	<p><b>Refuse the application from progressing to Gateway Determination</b></p> <p><b>If proceeded with the Planning Proposal should be amended to provide a clear indication of the concept proposal's impact over that which currently exists and not what may happen in the future.</b></p>	1C
		<b>Views</b>	<p>The proposal will have significant impacts on views from surrounding properties, especially those to the west.</p>	<p><b>Refer to s.7.2.3 of the main report</b></p> <p>The actual impact on views is difficult to determine due to a lack of information provided by the applicant.</p> <p>Notwithstanding, the proposal will have a significant impact on regional views from upper level apartments located to the west of the site. In particular, the proposal will completely obstruct existing harbour views to some apartments, located to the west.</p> <p>Whilst there is no legal right to a view, the degree of impact upon these views would be better addressed through the WSP Masterplan process. However, there is an expectation that there would be some level of impact in a dense urban environment such as North Sydney.</p>	<p><b>Refuse the application from progressing to Gateway Determination</b></p>	1C

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No.	Name	Issue	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Visual impact</b>	The proposed built form will have a significant visual impact on the skyline of North Sydney. Whilst the applicant has argued that the building will be “the best building on the North Shore”, there is no guarantee that this will occur. The accompanying plans are indicative only and the applicant’s opinion on the aesthetics of an indicative future building is not a valid planning reason for such a huge variation in building height.	<p><b><i>Refer to s.7.2.4 of the main report</i></b></p> <p>The aesthetics of a building are difficult to quantify and should not be a reason for stopping the progression of the planning proposal. What is important, is to establish an appropriate scale for a building on the subject site.</p> <p>The Planning Proposal seeks to impose a height that steps up to the proposed Metro Station height (assumed at RL 300m). However, the Planning Proposal at RL 226m would almost match the anticipated height over the Metro Station at around RL 230m (at 70m than that suggested by the applicant). Given that the Metro Station site is located almost at the geographical middle of the North Sydney Centre, building height should step down from this location. This would suggest that the proposed height is too high in this context. Notwithstanding, given that a northern entrance is being proposed to the Metro Station a review of the height limitations in the locality is warranted. This would be more appropriately done as part of the Ward Street Precinct Masterplan exercise to ensure that the cumulative impacts of height can be considered more holistically.</p>	<b>Refuse the application from progressing to Gateway Determination</b>	1C

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No.	Name	Issue	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Assumptions</b>	<p>The applicant has stated that the future development over the Victoria Cross Metro Station will set the appropriate scale of development in the vicinity of the Metro Station. They have assumed a building of up to RL 300m. This assumption pre-empts the strategic planning work that Council is undertaking. It is further recommended that the applicant's masterplan visions should not be used for contextual purposes as it has no status in the planning process being undertaken and distorts the context of the proposed building height.</p> <p>The applicant should not rely on proximity to the Metro Station entry alone as a reason for an increase in height.</p>	<p>The proposed heights for the development over the Victoria Cross Metro Station have been set at a maximum of RL 230m as indicated in the North Sydney Centre Planning Proposal currently being considered by Council and the documentation accompanying the SEARS for the over station development as sought by Transport for NSW.</p> <p>The Planning Proposal seeks to impose a height that steps up to the Metro Station height. However, the Planning Proposal at RL 226m would almost match it at RL 230m. This would suggest that the proposed height is too high in this context. Notwithstanding, given that a northern entrance is being proposed to the Metro Station a review of the height limitations in the locality is warranted. This would be more appropriately done as part of the Ward Street Precinct Masterplan exercise to ensure that the cumulative impacts of height can be considered more holistically.</p>	<b>Refuse the application from progressing to Gateway Determination</b>	1C
		<b>Constructability</b>	<p>It is questioned how the exiting building is to be maintained, given the extent of works being proposed to cater for the residential tower above and additional basement levels below. The applicant has not submitted an engineering report to support the concept proposal.</p> <p>It is unclear how the existing heritage building can be protected during construction.</p>	<p>Attachment B illustrates the extent of the existing building to be demolished, which includes the majority of the internal structure.</p> <p>Attachment U comprises a Structural Report which provides an extremely brief description of how they propose to support that part of the existing building to be retained, while they construct the new portion of the building. Additional details are also contained in the Heritage Impact Assessment that accompanies the Planning Proposal (Attachment L).</p> <p>Further details regarding the actual protection would typically be addressed at the DA stage.</p>	Nil	2E

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PUBLIC SUBMISSIONS TABLE						
No.	Name	Issue	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Disingenuous strategy</b>	It is assumed that the applicant has requested a height limit for the site well in excess than Council would accept and that a reduced height could be negotiated between the applicant and Council.  This approach would result in a poor outcome for the wider community and send a message that it is an appropriate strategy to be used by others in the future.	Council has assessed the proposed height with regard to the site's location in relation to existing and proposed future strategic context. It is considered appropriate in this instance to defer committing to any increase in height on the subject site, until such time as the WSP Masterplan has been completed.	<b>Refuse the application from progressing to Gateway Determination</b>	1C
		<b>Heritage</b>	Whilst it is noted that the applicant's heritage report concludes that the site should be afforded additional uplift "to ensure the heritage building is appropriately maintained", the level of uplift is questioned to allow this objective to occur.	Council staff recognise that there is sometimes a need to allow some additional uplift to assist with conserving the key elements of the building which have heritage significance.  However, given the proposed extent of demolition to the existing building, the level of uplift required could be considered relatively minimal.  Furthermore, no financial analysis has been provided to justify the level of uplift requested for the project to be financially viable.	<b>Refuse the application from progressing to Gateway Determination</b>	1C
		<b>Building design Outcomes</b>	The application is heavily laden with development application type details, however, despite only seeking an amendment to the height of buildings control. There is no guarantee that the that any future development application would be of such a high architectural standard.	In amending planning controls, Council often requests the provision of concept proposals to accompany a Planning Proposal to demonstrate how a site can be redeveloped. It also enables Council to determine the potential impacts of any future development on the site.  Any future development application for the site would need to be considered by Council's Design Excellence Panel, which provides a level of independent analysis of a building's design prior to being approved. This ensures that quality outcomes can be achieved in the long term.	Nil	2E

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No.	Name	Issue	Key Points Raised	Council Response	Recommended Action	Criteria
7		<b>Objection</b>	<p>Objects to the Planning Proposal with regard to the following:</p> <ul style="list-style-type: none"> <li>• Consistency with the North Sydney Centre Capacity and Land Use Strategy;</li> <li>• Consistency with the draft WSP Masterplan;</li> <li>• Misleading information as to the proposed height sought;</li> <li>• Inconsistency with the NSLEP 2013 objectives and <i>B4 Mixed Use</i> zone objectives;</li> <li>• Building form outcomes;</li> <li>• View impacts;</li> <li>• Overshadowing; and</li> <li>• Heritage.</li> </ul>	Issues addressed below.	See below	
		<b>North Sydney Centre Capacity and Land Use Strategy</b>	<p>The proposal is inconsistent with the outcomes of the <i>North Sydney Centre Capacity and Land Use Strategy</i> which forms part of Council's North Sydney Centre Planning Review 2014.</p> <p>In particular, the Strategy identifies that potential development uplift within the Ward Street Precinct should not be determined, until the outcomes of the WSP Masterplan have been finalised.</p>	Agreed. Enabling the planning proposal to proceed will pre-empt planning outcomes for this locality which have not been subject to community involvement.	<b>Refuse the application from progressing to Gateway Determination</b>	1C

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No.	Name	Issue	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Draft Ward Street Precinct Masterplan</b>	<p>The proposal is inconsistent with the desired outcomes of the Draft Ward Street Precinct Masterplan.</p> <p>In particular, the concept plans identify maximum height and scale of potential future development sites with consideration given to shadow impact and layout of land uses within the Precinct. The Draft Masterplan identifies 41 McLaren Street as being suitable for an additional 11m on the northern portion of the existing building.</p> <p>The submitter notes that the Draft Masterplan is currently in the process of being revised by Council and it would be premature for a site-specific Planning Proposal to be considered.</p> <p>It is further noted that the Planning Proposal is accompanied by a proposed “visionary master plan”, which appears to be an alternative to Council’s own draft document. This “visionary” master plan has no status as a planning strategy.</p>	<p><b><i>Refer to s.7.8.9 of the main report</i></b></p> <p>The draft Ward Street Precinct Masterplan is currently in the process of being amended in light of submissions made to its public exhibition. Therefore, there is no way to tell if the proposal will be consistent with the revised Masterplan.</p> <p>Accordingly, the proposal should not be approved until it has been considered with regard to a finalised Masterplan having been adopted by Council.</p>	<b>Refuse the application from progressing to Gateway Determination</b>	<b>1C</b>
		<b>NSLEP 2013 - height confusion</b>	<p>There is confusion as to the proposed height actually being sought. The planning proposal refers to a height of RL 230m, the VPA indicates a height of RL 250m, and the concept proposal has a height of RL 226m.</p>	<p>Upon a detailed review of the documentation, the proposal is specifically seeking to impose a maximum height of RL 226m over the subject site. It is assumed that the map reference to RL 230m was made in error and relates back to the submission made to the draft Ward Street Precinct Masterplan. The reference to RL 250m relates back to a potential response made in relation to the draft Ward Street Precinct Masterplan if certain controls are dispensed with.</p>	<b>If proceeded with, the Planning Proposal should be amended such that all references to amending the building height be changed to a maximum of RL 226m.</b>	<b>1A</b>

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No.	Name	Issue	Key Points Raised	Council Response	Recommended Action	Criteria
		- <b>Objectives</b>	The proposed height variation is significant and contrary to the aims of NSLEP 2013 and the objectives of the B4 Mixed Use zone.	The Planning Proposal is generally consistent with the aims of NSLEP 2013, however should the Planning Proposal be implemented, any future development constructed would generally be inconsistent with objectives (2)(a), 2(b)(i-ii), 2(c)(i-ii) which largely relate to development that is appropriate to its context and impacts upon residential amenity.  The Planning Proposal is generally consistent with the objectives of the B4 zone, as it will enable a mixture of uses and retention of commercial floor space.	<b>Refuse the application from progressing to Gateway Determination</b>	<b>1C</b>
		- <b>Is the policy contemporary?</b>	Given the LEP is a recent planning instrument the Planning Proposal should not proceed in its current form until further work for the Ward Street Precinct has been completed.	The current controls for the North Sydney Centre were revised less than 5 years ago. Council has recognised the need to review the controls for the North Sydney Centre as a result of triggering the review mechanism (clause 6.4) under NSLEP 2013 and a separate need to review the controls in the Ward Street Precinct as a result of development pressure and the need to review potential future outcomes for a major Council asset.  Progressing the planning proposal could potentially undermine this strategic planning work and result in a poor planning outcome.	<b>Refuse the application from progressing to Gateway Determination</b>	<b>1C</b>



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No.	Name	Issue	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Built Form and Context</b>	<p>The proposed building form is inconsistent with the future pattern of development envisioned by the draft Ward Street Masterplan, and would introduce a structure more than double the height than is currently envisioned by NSLEP 2013.</p> <p>The draft Ward Street Masterplan considered a revised building envelope over the subject, enabling an additional five stories above the existing building to RL 111m. This would enable a suitable and appropriate transition in building height from the North Sydney CBD to the northern portion of the Ward Street Precinct.</p>	<p>The proposal actually results in an increase in height by approximately 6 times the current limits.</p> <p>The final outcomes of the Ward Street Precinct Masterplan are yet to be finalised. It would be premature to approve any planning proposal seeking to amend the controls in this locality development prior to these strategic planning outcomes having being resolved and endorsed, subject to wider community consultation.</p>	<b>Refuse the application from progressing to Gateway Determination</b>	<b>1C</b>
		<b>Views</b>	<p>The proposal would unreasonably impact upon the significant harbour views currently enjoyed by upper level apartments located at 237 Miller St and 39 McLaren St and the future views from upper level apartments within the approved and under construction buildings at 229 and 231 Miller St.</p> <p>The applicant's suggestion that only 60% of the views from 39 McLaren St will be retained if the proposed height limit is achieved is questioned.</p> <p>The submitter noted that in Council's Pre-exhibition Report for the draft Ward Street Precinct Masterplan, the proposed height and building envelope for 41 McLaren St (RL 111m) would still present view sharing implications to the mixed-used buildings to the east and west, but which would not be considered "unreasonable in the scope of the increasing density around the new Victoria Cross Metro Station". On this basis the submitter concluded that the proposed heights under the planning proposal are unacceptable.</p>	<p><b>Refer to s.7.2.3 of the main report</b></p> <p>The proposal will result in view losses to the existing and future residential apartments located to the west of the subject site. In particular, it will result in the complete loss of harbour views to some apartments.</p> <p>In preparing the revised draft WSP Masterplan, the impact of views will be considered in determining any future heights within the Precinct. It is not considered appropriate to amend the heights on the subject site until this work has been completed and to ensure that a balanced outcome is achieved.</p>	<b>Refuse the application from progressing to Gateway Determination</b>	<b>1C</b>

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No.	Name	Issue	Key Points Raised	Council Response	Recommended Action	Criteria
			Property values would also decline for those properties that would lose their views in whole or part.	<p>Council acknowledges that those properties which would lose some their views could result in a potential reduction in their value. However, this issue is not typically a planning matter for consideration.</p> <p>There is an expectation that within a dense urban environment like North Sydney that tall new buildings will be built and thereby result in potential impacts on views. Further, it would be difficult to meet the State targets for the provision of jobs and housing without having some level of impact upon views in such a location.</p>	Nil	2E

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No.	Name	Issue	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Overshadowing</b>	<p>The proposed increase in building height would present an unreasonable and excessive level of overshadowing on surrounding mixed use buildings, as well as future public open spaces.</p> <p>The proposal is contrary to desired outcomes of the <i>Draft Ward Street Precinct Masterplan</i> which set a height limit of RL 111m for the subject site.</p> <p>This height limit would enable a small increase in floor space, whilst avoiding substantial solar access implications to the proposed area of public open space over the site immediately to the south and existing/approved residential and mixed-use development to the east and west.</p> <p>Council has clearly demonstrated that, regardless of the subject site's heritage status, a tower outcome on the subject site resulted in a substantial and unacceptable level of overshadowing to the proposed public square to the south. Additionally, an undesirable level of solar impact to the east facing elevations of existing and approved mixed use buildings fronting Miller Street occurred.</p> <p>It is difficult to confirm the accuracy of the overshadowing diagrams provided within the Planning Proposal, and it would appear that the overall solar access impacts would result in an unacceptable shadowing impact upon the existing residential units to the west of the subject site.</p>	<p>The planning proposal clearly demonstrates that it will have a detrimental impact on solar access to the two buildings currently under construction at 221 and 229 Miller Street, with the apartments receiving less than the minimum for apartments in dense urban areas as required by the Apartment Design Guide.</p> <p>The Planning Proposal also has the potential to adversely impact on solar access to an area of future public open space to be located to the south of the subject site as desired under the <i>Draft Ward Street Precinct Masterplan</i>. As the location, size and shape of this future public open space has yet to be determined, it would be premature to progress the planning proposal at this point in time as a less than desirable planning outcome may result.</p>	<b>Refuse the application from progressing to Gateway Determination</b>	<b>1C</b>

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No.	Name	Issue	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Heritage</b>	<p>The accompanying Heritage Assessment Report suggests that any development on the site should appropriately maintain the heritage item, and that the item now no longer relates to the scale and character of its setting.</p> <p>The proposal purports to maintain the heritage item. However, the proposal also requires the construction of additional basements under the existing basement and associated footings and foundations to support a significant earthquake resistant building up to 59 storeys high. No engineering documentation has been provided to demonstrate how this can be achieved. It is suggested that in event that any significant increase in height were to be approved, subsequent applications will seek demonstrate the impracticability of retaining the existing building, leading to its demolition.</p> <p>The draft WSP Masterplan enables additional floor space to be accommodated on the site, which would better allow the retention of the existing heritage building, such that the additional floors will not impose loads that cannot be accommodated without demolition of the base building.</p> <p>It is considered that the scale of development in the draft WSP Masterplan allows for a more appropriate built form that respects and responds to the existing heritage item on the subject site, and is in keeping with the future envisioned character of development within the northern edge of the Ward Street Precinct.</p>	<p>Attachment B illustrates the extent of the existing building to be demolished, which includes the majority of the internal structure.</p> <p>Attachment U comprises a Structural Report which provides an extremely brief description of how they propose to support that part of the existing building to be retained, while they construction the new portion of the building.</p> <p>Further details regarding the actual protection would typically be addressed at the DA stage.</p> <p>Council staff recognise that there is sometimes a need to allow some additional uplift to assist with conserving the key elements of the building which have heritage significance.</p> <p>However, given the proposed extent of demolition to the existing building, the level of uplift required could be considered relatively minimal.</p> <p>Furthermore, no financial analysis has been provided to justify the level of uplift requested for the project to be financially viable.</p> <p>The planning proposal does include an option to only permit additional height on the site if the existing heritage building is conserved. This is the preferred option if the planning proposal is progressed. The heritage issues associated with this are further discussed in the body of the report at section</p>		

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No.	Name	Issue	Key Points Raised	Council Response	Recommended Action	Criteria
8		<b>Objection</b>	<p>Objects to the Planning Proposal with regard to the following:</p> <ul style="list-style-type: none"> <li>Undermines strategic planning processes;</li> <li>Poor strategic merit;</li> <li>Misleading information as to the proposed height sought;</li> <li>Consistency with the draft WSP Masterplan;</li> <li>Impact on property values;</li> <li>View impacts;</li> <li>Overshadowing impacts; and</li> <li>Cumulative impacts.</li> </ul>	Issues addressed below.	See below	
		<b>Strategic Planning Process</b>	<p>Ambit claims that seek to undermine and override Council's own strategic planning process should not be accepted.</p> <p>The Proposal clearly fails to meet the requirements of the strategic merit test and is contrary to the Department of Planning and Environment's – Planning Circular PS 16-004.</p> <p>In particular, the applicable North Sydney planning controls are less than 5 years old and the proposal does not meet with the above requirements. It should therefore be rejected by the Council on these grounds.</p>	<p>Despite being less than 5 years old, Council commenced the review of the North Sydney Centre planning controls in 2014, within which the subject site is located. The subject site is also located within the Ward Street Precinct, which is subject to a more detailed review than the overall North Sydney Centre. Council is currently seeking to revise the draft WSP Masterplan in light of submissions made to its public exhibition. It would be premature to progress the Planning Proposal until this strategic planning work has been completed.</p> <p>This assumes that all relevant impacts are adequately considered for a precinct and a balanced outcome is achieved.</p>	<b>Refuse the application from progressing to Gateway Determination</b>	<b>1C</b>
		<b>Misleading information</b>	<p>The documentation is in our view disingenuous. While a detailed study of documents makes the intent clear – the presentation itself is highly misleading.</p> <p>In particular, concept development proposal indicates that it has a height of RL 226m, the planning proposal suggests it is seeking a proposed height of RL 230m, and further reading would suggest that a proposed height of RL 250m is sought.</p>	<p>The proposal seeks to increase the proposed height limit from RL 100m to RL 226m. It is believed that the reference to RL 230m was made in error and only relates to the original submission made to the draft Masterplan.</p> <p>Despite the wording within the VPA, the planning proposal does not seek the implementation of a height limit of RL 250m.</p>	<b>If proceeded with, the Planning Proposal should be amended such that all references to amending the building height be changed to a maximum of RL 226m.</b>	<b>1A</b>

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		<b>Draft Ward Street Precinct Masterplan</b>	The proposal fails to meet the objectives of the draft Ward Street Precinct Masterplan. Far from providing certainty for landowners, an ambit claim such as this is incredibly de-stabilising and unsettling for the surrounding community.	<b><i>Refer to s.7.8.9 of the main report</i></b> As indicated at section 7.8.9 of this report, the proposal is largely inconsistent with the objectives and principles of the draft Ward Street Precinct Masterplan. As this masterplan is proposed to be revised and replaced on public exhibition, progression of the planning proposal may jeopardise the outcomes of this strategic planning process.	<b>Refuse the application from progressing to Gateway Determination</b>	<b>1C</b>

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No.	Name	Issue	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Effect on Sales and Marketing</b>	<p>Purchasers of new apartments 'Off the Plan' want to know what effect any prospective developments may have on their purchase. They rely on s.149 Planning Certificates and information in the LEP and DCP's to form a view of any changes that are likely to occur in the vicinity.</p> <p>As the developer of the approved mixed use buildings at 229 and 231 Miller St, the submitter advised purchasers of the apartments within these developments that any redevelopment of 41 McLaren St would not exceed the bulk indicated in the North Sydney Centre Planning Proposal and the recently released draft Ward Street Masterplan.</p> <p>This advice was given based on the applicable provisions in NSLEP 2013, the site's heritage listing and outcomes of Council's Capacity and Land Use Strategy are relatively recent and the WSP Masterplan had proposed only a 5 storey increase in height over a part of the subject site.</p> <p>If this Proposal were to be approved in any form, it would send a clear signal to prospective purchasers of apartments throughout Sydney that recently adopted or draft planning controls and provisions cannot be relied on to control development which will have a serious impact on the value and amenity of a recently purchased property, even before it is built.</p>	<p>The Planning Proposal has not yet reached the point where it is required to be placed on public exhibition (this normally occurs after the issuing of a Gateway Determination) and therefore necessitate the placing of a notation upon a s.149 Planning Certificate advising as such.</p> <p>Should the Planning Proposal proceed and a Gateway Determination be issued, the Planning Proposal can then be placed on public exhibition and property owners will be given the opportunity to comment.</p> <p>With regard to the draft WSP Masterplan, Council has resolved to defer recommending making any changes to its planning controls until further work is undertaken in light of submissions made to its public exhibition.</p> <p>Accordingly, the advice provided by the submitter to its purchasers is reasonable in the light of events that have transpired.</p> <p>Council has been pro-active in keeping the community informed, by placing all applications for Planning Proposals lodged with Council on a public tracking system, despite there being no legislative requirement to do so.</p>	Nil	2F

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		<b>Views</b>	<p>The impact that the proposal would have on the views from apartments in adjoining buildings would be significant. The view diagrams that have been provided do not show the full extent of these impacts.</p> <p>In reality, the majority of apartments that have been purchased off the plan in the 229 and 231 Miller St developments will have their harbour views and outlook totally eliminated.</p>	<p><b><i>Refer to s.7.2.3 of the main report</i></b></p> <p>It is acknowledged that the proposal will have significant impacts on some property's views to the east, particularly those with harbour views.</p> <p>As a site specific amendment, the extent of view loss appears to be unreasonable. However, as height controls are considered more holistically in the context of the Ward Street Precinct Masterplan and North Sydney Centre Review, there is some expectation that there may be a potential for view loss in a dense urban environment such as North Sydney.</p> <p>Therefore, a determination of an appropriate height on the subject site should be determined through these strategic processes, rather than on an ad hoc basis.</p>	<b>Refuse the application from progressing to Gateway Determination</b>	<b>1C</b>



ATTACHMENT 3: PLANNING PROPOSAL 4/17 TO AMEND NSLEP 2013 – 41 McLAREN STREET, NORTH SYDNEY PUBLIC SUBMISSIONS TABLE						
No.	Name	Issue	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Overshadowing</b>	<p>Questions the accuracy of the shadow diagrams.</p> <p>It is believed that the overshadowing impacts would be much greater than that shown in the documentation. There is very little justification provided for the overshadowing impacts that the built form would have on the surrounding area, other than the claim that the building approved on the SAP site will create a large degree of overshadowing. In fact, there is little overshadowing on the 229 Miller St Development from the SAP building.</p> <p>This is not an acceptable justification for a proposal that so significantly exceeds the height limit and the scale of any building in the vicinity.</p> <p>The solar access for apartments within the approved development on 229 Miller St would be seriously affected as a result of the proposal. Again, the applicant has dismissed this impact, claiming the development at 229 Miller St does not comply with the SEPP 65 requirements and therefore Council should not be concerned about a further reduction in the level of solar access. This is not an acceptable planning justification</p>	<p><b><i>Refer to s.7.2.1 to the main report</i></b></p> <p>Council staff agree that the overshadowing impact to the buildings at 229 is unreasonable and the applicant's justification for the non-compliance is not supported.</p> <p>Should the planning proposal progress, it should result in a reduction in height such that sufficient solar access is provided to adjoin buildings.</p>	<b>Refuse the application from progressing to Gateway Determination</b>	<b>1C</b>

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		<b>Cumulative Impacts</b>	While the impacts of the Planning Proposal for 41 McLaren St would be significant, these would be greatly exacerbated when considered in combination with those of the approved building on the SAP site, and the Planning Proposal submitted for 173-179 Walker St, North Sydney. Combined, developments of such outrageous height and density would change the face of North Sydney. The area would be nothing like the Council's strategic planning documents envision, and the character and amenity for the future would be seriously compromised.	The planning proposal relies on a number of documents that either considers or ignores the impacts arising from the approval of new developments which are under construction, and conceptualised building envelopes based on the applicant's own assumptions. This makes it difficult to determine the true impact of the development on the current situation. This way the proposal appears to be hiding much of its impact behind some future assumptions that may not even occur.	<b>Refuse the application from progressing to Gateway Determination</b>	<b>1C</b>
9		<b>Objection</b>	Objects to the Planning Proposal on the following grounds. Existing heights should be maintained, which currently cascade down with the fall of the land.			
		<b>Strategic Planning Process</b>	The current planning controls are less than 5 years old and they should provide some level of certainty when making large financial decisions (i.e. buying a property)	Whilst the current height limits are less than 5 years old, they are currently under review as part of the North Sydney Centre Review and Ward Street Precinct Masterplan.  The amendment of height controls on the subject site should be deferred until these strategic planning studies have been completed to ensure a balanced planning outcome can be achieved for the wider community.	<b>Refuse the application from progressing to Gateway Determination</b>	<b>1C</b>

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		<b>Views</b>	A significant portion of the existing views to Sydney Harbour will be obscured.	<p><b><i>Refer to s.7.2.3 of the main report</i></b></p> <p>It is acknowledged that the proposal will have significant impacts on some property's views to the east, particularly those with harbour views.</p> <p>As a site specific amendment, the extent of view loss appears to be unreasonable. However, as height controls are considered more holistically in the context of the Ward Street Precinct Masterplan and North Sydney Centre Review, there is some expectation that there may be a potential for view loss in a dense urban environment such as North Sydney.</p> <p>Therefore, a determination of an appropriate height on the subject site should be determined through these strategic processes, rather than on an ad hoc basis.</p>	<b>Refuse the application from progressing to Gateway Determination</b>	<b>1C</b>
		<b>Solar access</b>	The proposal will impact upon morning solar access to the property.	An increase in building height on the subject site will not impact upon morning solar access to the submitter's property at the critical times due to the bulk of the concept residential tower being located to the south of the submitter's property.	Nil.	<b>2F</b>

IT IS RECOMMENDED THAT COUNCILLORS REFER TO THE COMPLETE SUBMISSIONS MADE AVAILABLE TO THEM, AND TO THE REPORT TO COUNCIL, WHICH EXPANDS ON THE ISSUES RAISED IN THE SUBMISSIONS.