

Ms Faye Roberts
Director Sydney East Region
NSW Department of Planning
GPO Box 39
SYDNEY NSW 2001

Attention: Susan Sky

17 November 2009

Dear Ms Roberts

PLANNING PROPOSAL: 144 - 150 WALKER STREET, NORTH SYDNEY

At its Planning and Development meeting on 2 November 2009, Council considered a report regarding a possible rezoning at 144-150 Walker Street. This rezoning seeks to introduce a 10 metre height limit and a 0 – 2:1 FSR for non-residential uses over the front portion of the site and a 25 metre height limit and a 0 – 2:1 range of non-residential FSR over the rear portion of the site. The site currently has a FSR of 0.5 – 2:1 with a maximum height of 10m.

From this meeting, Council resolved to forward a planning proposal for land at 144-150 Walker Street, North Sydney, in accordance with section 55 of the Environmental Planning and Assessment Act, 1979.

Please find attached the following:

- Officers report to Council including Council's resolution;
- Planning proposal, maps and attachments;

It would be appreciated if the Planning Proposal be referred to the LEP Review Panel for determination under the 'gateway process'.

Enquiries should be directed to Mark Yee or the undersigned of Council's Strategic Planning Department, on 9936 8100.

Yours faithfully

JOSEPH HILL
MANAGER STRATEGIC PLANNING

**DECISION OF 3536th COUNCIL & COUNCIL(ASSESSMENTS)
MEETING HELD ON 9 NOVEMBER 2009**

828. G07: Report of Planning & Development Committee

Re Min No.32 PD07:Planning Proposal at 144-150 Walker Street, North Sydney

Report of Mark Yee, Strategic Planner, 27 October 2009

Recommending:

THAT Council resolve to a planning proposal to the Minister for Planning in order to receive a gateway determination in accordance with Section 56 of the Environmental Planning and Assessment Act, 1979.

Committee recommendation:

THAT the report be adopted.

THAT the matter be deferred to a Councillor inspection.

ADOPTED



Report to General Manager

Planning & Development Committee

Attachments: Planning Proposal

SUBJECT: Planning Proposal at 144-150 Walker Street, North Sydney**AUTHOR:** Mark Yee, Strategic Planner, 27 October 2009**SUMMARY:**

Council has received a request on 29 September 2009, to undertake a planning proposal for the site known as 144-150 Walker Street, North Sydney. The request has been made in order to expedite a rezoning matter that previously formed a part of North Sydney draft LEP Amendment 28 (DLEP 28), which Council on 10 August 2009 resolved to incorporate into the comprehensive North Sydney draft LEP 2009 (DLEP 2009).

The planning proposal seeks to apply height and non-residential Floor Space Ratio (FSR) controls to the site, which would allow for the development of the rear of the site and the retention of the heritage listed items to the front of the site.

As the planning proposal contains the same provisions that were proposed for the site under DLEP 28, it is considered that the planning proposal is satisfactory and should be forwarded to the Department of Planning for gateway determination.

RECOMMENDATION:

THAT Council resolve to a planning proposal to the Minister for Planning in order to receive a gateway determination in accordance with Section 56 of the Environmental Planning and Assessment Act, 1979.

Financial Implications

There are no immediate additional financial implications.

Signed _____

ORIGINAL SIGNED

Endorsed by _____

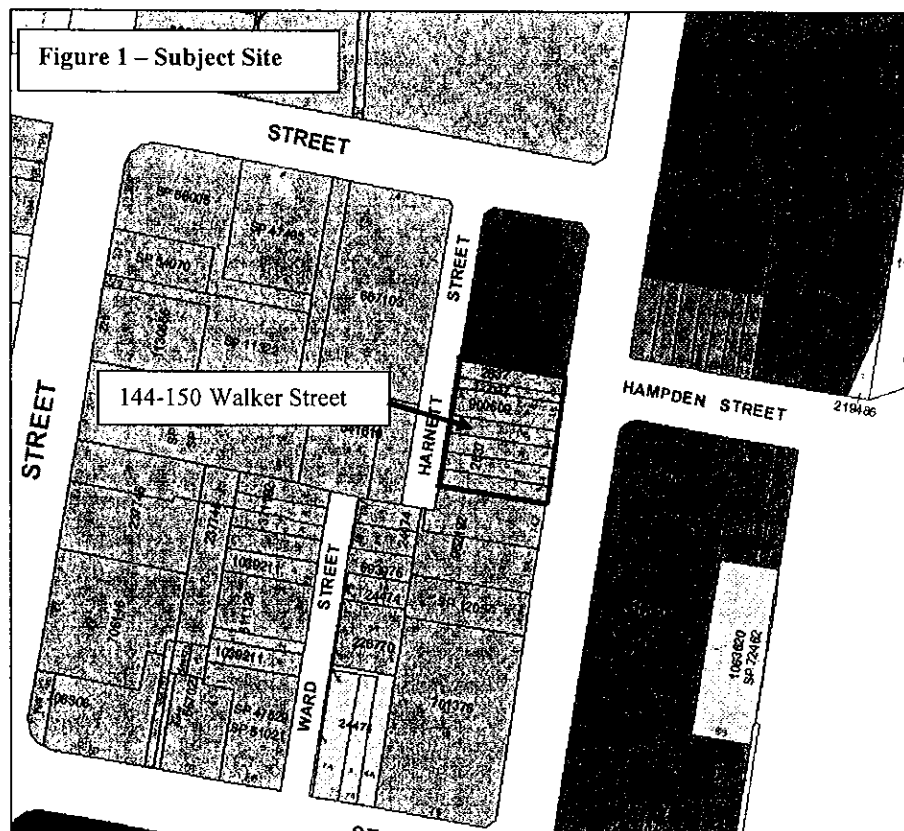
Manager Strategic Planning

INTRODUCTION

Council has received a request to undertake a planning proposal for the site known as 144-150 Walker Street, North Sydney. The request has been made in order to expedite a rezoning matter that previously formed a part of North Sydney draft LEP Amendment 28 (DLEP 28), which Council resolved to incorporate into the comprehensive North Sydney draft LEP 2009 (DLEP 2009).

The planning proposal seeks to amend height and non-residential Floor Space Ratio (FSR) controls to the site, which would allow for the development of the rear of the site and the retention of the heritage listed items to the front of the site.

SITE DESCRIPTION



The site is made up of four street addresses, being 144, 146, 148 and 150 Walker Street, and comprises Lots 1, 4, 5, 6 & 7, DP 2537, Lot 1, DP 900609, and Lot 1, DP 128337. There are four individual buildings with a frontage to Walker Street; all four listed as heritage items in Schedule 4 of LEP 2001.

The site adjoins the North Sydney Centre, but does not lie within it. It is therefore not subject to NSLEP 2001 Division 4 – North Sydney Centre.

BACKGROUND

Despite not being a part of the North Sydney Centre, the land was included in DLEP Amendment 28 – North Sydney Centre, adopted for public exhibition by Council on 8 May 2006. In the report for that meeting, Council considered a number of options for the site, and resolved to apply a height limit of 21 metres at the rear of the property and 10 metres at the front, and apply a non-residential FSR of 0 – 2:1.

In response to submissions received during the public exhibition of a development control plan (DCP) for the North Sydney Centre, Council resolved on 14 August 2006 to rescind DLEP 28 and adopted a revised plan. With regard to the subject site, it was resolved to raise the height limit at the rear of the property from 21 to 25 metres, the height limit remaining at 10m for the front of the site.

Council resolved on 18 June 2007 to refuse a development application for an 8 storey mixed use development on the site which included the retention of the heritage buildings to the front of the site. At its meeting on 10 March 2008, Council subsequently resolved to defer its decision of a section 82A review of determination application, pending the lodgement of amended plans.

The progression of the application has stalled, in part due to its reliance on DLEP Amendment 28 to progress to gazettal. The likelihood of the matter being further delayed by its incorporation into the comprehensive DLEP 2009 has led to a planning proposal being put forward by those acting for the owners of the subject site.

During the most recent public exhibition of DLEP Amendment 28, one submission was received in relation to the subject site, this being in favour of the proposed amendment. Regardless of this, the planning proposal will proceed under the recently amended Part 3 of the Environmental Planning & Assessment (EP&A) Act 1979.

PROPOSED AMENDMENT

The planning proposal contains the same provisions as those previously proposed under DLEP Amendment 28 – North Sydney Centre. The planning proposal seeks to introduce a 10 metre height limit and a 0 – 2:1 FSR for non-residential uses over the front portion of the site and a 25 metre height limit and a 0 – 2:1 range of non-residential FSR over the rear portion of the site. The site currently has a FSR of 0.5 – 2:1 with a maximum height of 10m.

Whilst the provisions have already been adopted by Council as part of Amendment 28 the changed provisions are not part of a separate rezoning. As such the rezoning will have to undergo the process again.

On 1 July 2009, the Department of Planning introduced the “gateway plan-making process” under the recently amended Part 3 of the EP&A Act 1979. This process is aimed at streamlining the rezoning process and provides early feedback from the DoP regarding their support of a rezoning. As part of the gateway process, Council is required to lodge a planning proposal – the equivalent of what has until now been referred to as draft or amending LEPs.

JUSTIFICATION FOR PLANNING PROPOSAL

It is considered appropriate for a planning proposal to proceed for the subject site, as its progression has been hampered by the delays experienced by DLEP Amendment 28 – North Sydney Centre. As DLEP 28 has now been incorporated into DLEP 2009, it will not progress through to gazettal in its own right. This again impedes the provisions of the subject site from being applied in a timely manner, and as such a site-specific planning proposal is considered acceptable.

A copy of the planning proposal is attached to the report.

CONCLUSION

As these provisions have already been adopted as part of Amendment 28 it is recommended that Council proceed to make the LEP amendments for the site known as 144-150 Walker Street and forward a planning proposal to the Department of Planning for gateway determination.

PLANNING PROPOSAL

**144 – 150 WALKER STREET
NORTH SYDNEY**

Prepared by North Sydney Council

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This planning proposal has been drafted in accordance with Section 55 of the Environmental Planning and Assessment Act 1979 (the Act) and the Department of Planning's guide to preparing planning controls. A gateway determination under Section 56 of the Act is requested.

Part 1 – Objectives or Intended Outcomes

The objective of the proposed instrument is to increase the development potential of the site by increasing the height limit over the rear portion of the site and create flexibility for the use of the site by the elimination of the minimum required non-residential FSR.

Part 2 – Explanation of Provisions

The planning proposal seeks to introduce a 10 metre height limit and a 0-2:1 FSR for non residential uses over the front portion of the site and a 25 metre height limit and a 0-2:1 range of non-residential FSR over the rear portion of the site.

The site currently has a non residential FSR of 0.5 – 2:1 with a maximum height of 10m.

Part 3 – Justification

Section A – Need for the Planning Proposal

1. Is the planning proposal a result of any strategic study or report?

Despite not being a part of the North Sydney Centre, the land was included in DLEP Amendment 28 – North Sydney Centre (DLEP 28), which was adopted for public exhibition by Council on 8 May 2006. DLEP 28 proposed various changes to planning controls to sites located within the North Sydney Centre and some adjacent areas including the subject site, to increase their development potential as well and promote flexibility in land use.

The provisions under DLEP 28 will now be incorporated into Council's DLEP 2009 under the Standard Instrument format and will not progress through to gazettal in its own right

The provisions proposed under the Planning Proposal are identical to the controls proposed for the site under DLEP 28. As the introduction of these provisions has been delayed by the Council resolution to incorporate them into DLEP 2009, this has prompted a separate planning proposal for the specific site. This is due to the uncertain timeframe regarding the gazettal of DLEP 2009.

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

Due to the uncertain timeframe regarding the gazettal of DLEP 2009 it is considered that the planning proposal to amend NSLEP 2001 is considered the best means of achieving the intended outcome in a timely manner.

3. Is there a net community benefit?

The planning proposal is for a site well located adjoining the North Sydney Centre. The site is currently zoned mixed use with the surrounding area consisting of a mix of high-density land uses with a blend of commercial, retail and residential land uses.

The site is located within easy walking distance of North Sydney railway station and is well serviced by public bus services. The proposal would increase the development potential of a site that is adjoining a major commercial centre. This increased development potential is considered to be at a suitable location and would not have a detrimental impact to the commercial core of the centre. It is therefore considered that the increased development potential would have a positive impact to the economic vitality of the North Sydney Centre.

The removal of the minimum required non-residential FSR would create flexibility for land use of the site. It would allow the use of the site to be better able to respond to the market demand. As the site is not located within the commercial core of the North Sydney Centre, it is considered that the potential loss of commercial floorspace would not have a significant detrimental impact to the economic viability of the centre.

The changes do not involve a height increase to the front portion of the site, where the site faces opposite to residential properties. As such it is considered that the proposed amendments would not have a detrimental impact to the character of the street.

Furthermore, the potential height increase at the rear would not have a detrimental impact to the amenity of any nearby residential property through loss of views.

Section B – Relationship to Strategic Planning Framework

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

In July 2007, the State Government released the draft Inner North Subregional Strategy covering the North Sydney LGA. The Inner North Subregion is to provide 30,000 new dwellings and capacity for 60,100 additional jobs by 2031. The strategy, amongst other things, aims to focus the majority of new commercial development within the North Sydney and St Leonards CBDs.

It is considered that the planning proposal is consistent with these aims given that it proposes to increase the development potential to a site adjoining the

North Sydney Centre that could accommodate both commercial and residential floorspace.

5. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?

Draft North Sydney Local Development Strategy 2008 - The draft North Sydney Local Development Strategy 2008 generally follows the rationale of the Draft Inner North Subregional Strategy.

The strategy identifies the North Sydney Centre as being a location where future growth for both residential and commercial uses can be accommodated. The strategy also acknowledges the changes proposed under DLEP 28 and the flexibility it introduces.

The Local Development Strategy also states residential development should be encouraged in mixed-use areas outside of the commercial core. The strategy states that this is consistent with the provisions set out in policy B2.1.1 of the draft Inner North Subregional Strategy

6. Is the planning proposal consistent with applicable state environmental planning policies?

The planning proposal is consistent with applicable State Environmental Planning Policies (refer to Appendix 4).

7. Is the planning proposal consistent with applicable Ministerial Directions?

It is considered that the draft proposal is not inconsistent with any s.117 directions. Refer to Appendix 5 - Statement of Consistency with Section 117 Directions.

Section C – Environmental, Social and Economic Impact

8. 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?

No. The planning proposal relates to a site in a fully urbanised environment.

9. Are there any other likely environmental effects as a result of the planning proposal?

The planning proposal would unlikely have any additional environmental effects.

10. How has the planning proposal adequately addressed any social and economic effects?

It is considered that the planning proposal will have a positive effect on the local economy and community.

Section D – State and Commonwealth interests

11. Is there adequate public infrastructure for the planning proposal?

As the planning proposal relates to a site located adjoining a major commercial centre with significant public infrastructure, it is considered that the proposal would not place any significant additional burden on public infrastructure.

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

A gateway determination has not yet been issued.

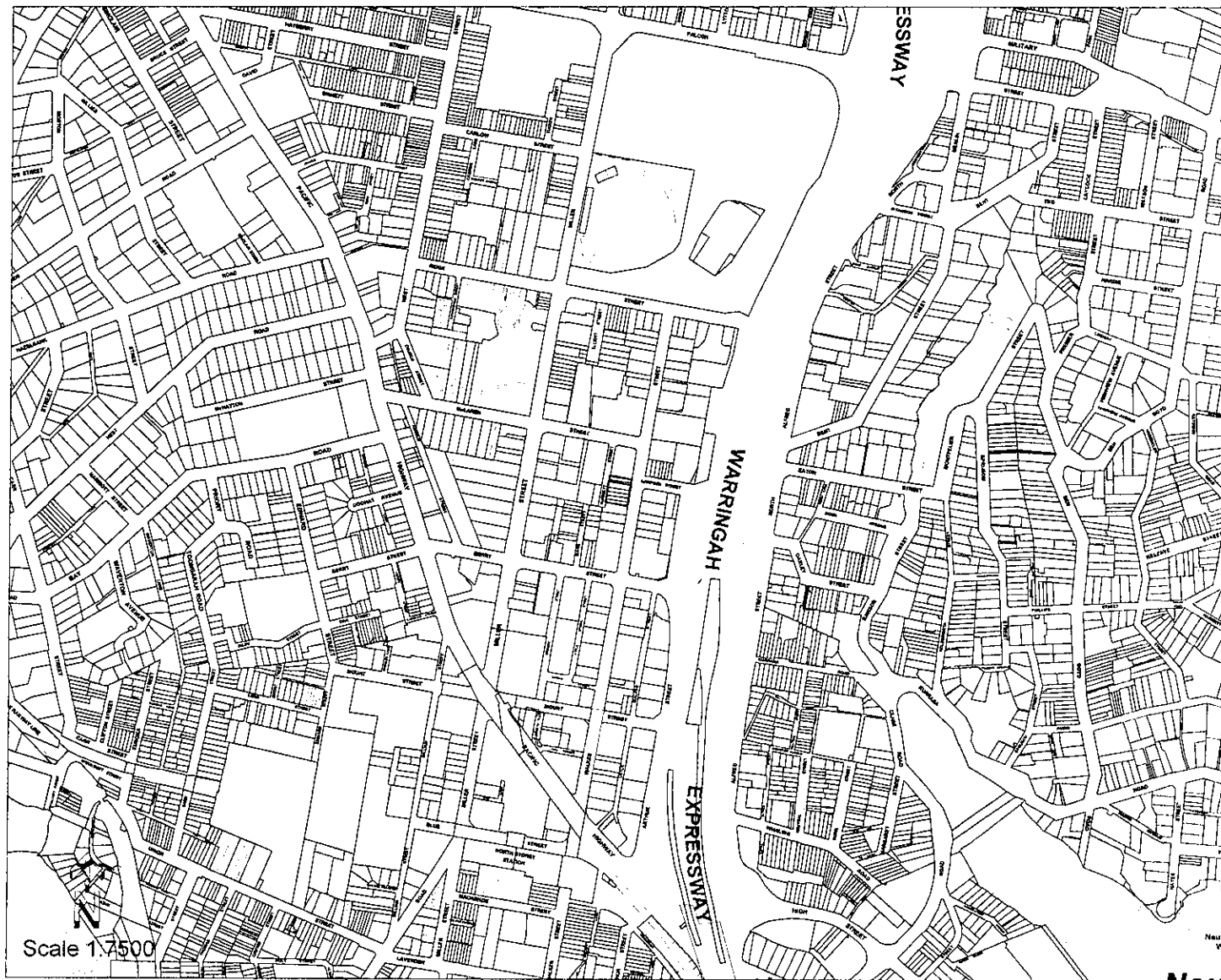
Part 4 – Community Consultation

It is considered that community consultation should involve an exhibition period of 28 days. The community will be notified of the commencement of the exhibition period via a notice in a local newspaper and via a notice on North Sydney Council's website. The written notice will:

- Give a brief description of the objectives or intended outcomes of the planning proposal;
- Indicate the land affected by the planning proposal;
- State where and when the planning proposal can be inspected;
- Give the name and address of the RPA for the receipt of submissions; and
- Indicate the last date for submissions.

During the exhibition period, the following material will be made available for inspection:

- The planning proposal, in the form approved for community consultation by the Director General of Planning;
- The gateway determination; and
- Any studies relied upon by the planning proposal.



Planning Proposal - 144-150 Walker Street, North Sydney

North Sydney Local Environmental Plan 2001 - Location Map

Subject site



LEGEND

ZONES

- Residential A1
- Residential A2
- Residential B
- Residential C
- Residential / Neighbourhood Business D
- Residential F
- Residential G
- Mixed Use
- Commercial
- Waterfront
- Special Uses
- Road
- Railway
- Public Open Space
- Bushland
- Public Recreation
- Private Recreation
- Luna Park

GENERAL

- Local Government Boundary
- Foreshore Building Line
- Open Space Building Line
- Land Affected by Clause 59



Scale 1:3000



Planning Proposal - 144-150 Walker Street, North Sydney

North Sydney Local Environmental Plan 2001 - Zoning

Subject site





Scale 1:3000



Planning Proposal - 144-150 Walker Street, North Sydney

Aerial Photo

Subject site



Appendix 4 – Consideration of State Environmental Planning Policies (SEPPs)

The following SEPPs are relevant to the North Sydney Local Government Area.

Title of SEPP	Applicable to proposal	Consistent	Reason for inconsistency
SEPP No. 1 – Development standards	No	N/A	
SEPP No. 4 – Development without consent and miscellaneous complying development	No	N/A	
SEPP No. 6 – Number of storeys in a building	No	N/A	
SEPP No. 19 – Bushland in urban areas	No	N/A	
SEPP No. 22 – Shops and commercial premises	No	N/A	
SEPP No. 32 – Urban consolidation (re development of urban land)	Yes	Yes	
SEPP No. 33 – Hazardous and offensive development	No	N/A	
SEPP No. 50 – Canal estate development	No	N/A	
SEPP No. 55 – Remediation of land	No	N/A	
SEPP No. 60 – Exempt and Complying Development	No	N/A	
SEPP No. 64 – Advertising and signage	No	N/A	
SEPP No. 65 – Design Quality of Residential Flat Development	No	N/A	
SEPP (Building Sustainability Index: BASIX) 2004	No	N/A	
SEPP (Housing for Seniors or People with a Disability) 2004 – formerly Seniors Living	No	N/A	
SEPP (Major Development) 2005 – formerly Major Projects & State Significant Development	No	N/A	
SEPP (Infrastructure) 2007	No	N/A	
SEPP (Temporary Structures and Places of Public Entertainment) 2007	No	N/A	
SEPP (Affordable Rental Housing) 2009	No	N/A	

The following is a list of the deemed SEPPs (formally Sydney Regional Environmental Plans) relevant to North Sydney Local Government Area.

Title of deemed SEPP, being Sydney Regional Environmental Plan (SREP)	Applicable	Consistent	Reason for inconsistency
SREP (Sydney Harbour Catchment) 2005	No	N/A	

Appendix 5 – Statement of Consistency with Section 117 Directions (144-150 Walker Street, North Sydney)

1. Employment and Resources

1.1 Business and Industrial Zones

The planning proposal is consistent with the objectives of the Direction in that it:

<i>Gives effect to the objectives of this direction</i>	Whilst not located in an existing or proposed Business or Industrial zone it is considered that the planning proposal is consistent with the objectives of this direction.
<i>Retains the areas and locations of existing business and industrial zones</i>	The planning proposal does not propose any change to the area or location of existing business and industrial zones.
<i>Does not reduce the total potential floor space area for employment uses and related public services in business zones</i>	The site is zoned Mixed Use and is located in close proximity to the North Sydney Centre. The proposed changes will allow for greater development potential at the subject site and thereby improve the overall viability of the centre
<i>Does not reduce the total potential floor space area for industrial uses in industrial zones</i>	The planning proposal does not relate to land within an industrial zone.
<i>Ensures that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning</i>	The planning proposal is not expected to increase or reduce employment numbers significantly.

1.2 Rural Zones

The planning proposal is not affected by this Direction.

1.3 Mining, Petroleum Production and Extractive Industries

The planning proposal is not affected by this Direction.

1.4 Oyster Aquaculture

The planning proposal is not affected by this Direction.

1.5 Rural Lands

The planning proposal is not affected by this Direction.

2. Environment and Heritage

2.1 Environmental Protection Zones

The planning proposal is not affected by this Direction.

2.2 Coastal Protection

The planning proposal is not affected by this Direction.

2.3 Heritage Conservation

The existing buildings on the site are identified as heritage pursuant to Schedule 3 of the North Sydney LEP 2001, and the Planning Proposal does not alter the heritage listing of the existing buildings.

2.4 Recreation Vehicle Areas

The planning proposal is not affected by this Direction.

3. Housing, Infrastructure and Urban Development

3.1 Residential Zones

The Planning Proposal facilitates the provision of housing choice, and the land is serviced by all necessary public infrastructure.

3.2 Caravan Parks and Manufactured Home Estates

The planning proposal is not affected by this Direction.

3.3 Home Occupations

The planning proposal is not affected by this Direction.

3.4 Integrating Land Use and Transport

The planning proposal is consistent with the objectives of the Direction in that it:

<i>Improves access to housing, jobs and services by walking, cycling and public transport.</i>	The site to which the planning proposal relates is located within close proximity to North Sydney Railway Station and a number of public bus services.
<i>Increases the choice of available transport and reduces dependence on cars</i>	The site to which the planning proposal relates is well serviced by public transport
<i>Reduces travel demand including the number of trips generated by development and the distances travelled, especially by car</i>	- The planning proposal proposes to increase the development potential of a site well serviced by public transport and in close proximity to services - This location is expected to decrease travel demand as well as encourage travel by public transport.
<i>Supports the efficient and viable operation of public transport services</i>	The planning proposal supports the viability of existing public transport infrastructure by increasing the development potential for a site located in an area that is well-served by public transport.
<i>Provides for the efficient movement of freight</i>	The planning proposal does not propose changes to any existing transport infrastructure that caters for the movement of freight.

Further, it is considered that the planning proposal is consistent with the aims, objectives and principles of:

- Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and
- The Right Place for Business and Services – Planning Policy (DUAP 2001).

3.5 Development Near Licenced Aerodromes

The planning proposal is not affected by this Direction.

4. Hazard and Risk

4.1 Acid Sulfate Soils

The planning proposal is not affected by this Direction.

4.2 Mine Subsidence and Unstable Land

The planning proposal is not affected by this Direction.

4.3 Flood Prone Land

The planning proposal is not affected by this Direction.

4.4 Planning for Bushfire Protection

The planning proposal is not affected by this Direction.

5. Regional Planning

The following Directions do not apply to North Sydney Council

5.1 Implementation of Regional Strategies

5.2 Sydney Drinking Water Catchments

5.3 Farmland of State and Regional Significance on the NSW Far North Coast

5.4 Commercial and Retail Development along the Pacific Highway, North Coast

5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)

5.6 Sydney to Canberra Corridor

5.7 Central Coast

5.8 Second Sydney Airport: Badgerys Creek

6. Local Plan Making

6.1 Approval and Referral Requirements

The planning proposal does not alter provisions relating to approval and referral requirements.

6.2 Reserving Land for Public Purposes

The planning proposal is not affected by this Direction.

6.3 Site Specific Provisions

The planning proposal is consistent with the objectives of the Direction in that it:

Discourages unnecessarily restrictive site-specific planning controls.

- Is not restrictive in that it allows for an increase building height at the subject site therefore creating greater development potential for the site.