



IRF22/3239

Gateway determination report – PP-2021-2926

253-267 Pacific Highway, North Sydney

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

Contents

1	Planning proposal.....	1
1.1	Overview.....	1
1.2	Objectives of planning proposal	1
1.3	Explanation of provisions	2
1.4	Site description and surrounding area.....	3
1.5	Mapping.....	7
1.6	Background	11
2	Need for the planning proposal	12
3	Strategic assessment	13
3.1	Regional Plan	13
3.2	District Plan	14
3.3	Local plans and endorsed strategies.....	16
3.4	Local planning panel (LPP) recommendation.....	18
3.5	Section 9.1 Ministerial Directions	19
3.6	State environmental planning policies (SEPPs)	21
4	Site-specific assessment	22
4.1	Environmental.....	22
4.2	Social and economic.....	24
4.3	Infrastructure	24
5	Consultation.....	25
5.1	Community	25
5.2	Agencies.....	25
6	Timeframe	25
7	Local plan-making authority	25
8	Assessment summary	25
9	Recommendation.....	26

Table 1 Reports and plans supporting the proposal

Attachment	Title
A1	Planning Proposal - Rezoning Review (4 April 2022)
A2	Planning Proposal (13 December 2021)
B	Gateway determination
C	Letter to Sydney North Planning Panel as PPA
D	Sydney North Planning Panel Decision (12 July 2022)
E	Proposed Draft Site Specific DCP
F	Example North Sydney DCP St Leonards
G	Council Assessment Report & Minutes (10 February 2022)
H	Council Determination (Extract) 28 March 2022

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	North Sydney
PPA	Sydney North Planning Panel
NAME	253-267 Pacific Highway (37 homes and 118 jobs)
NUMBER	PP-2021-2926
LEP TO BE AMENDED	North Sydney Local Environmental Plan 2013
ADDRESS	253-267 Pacific Highway, North Sydney
DESCRIPTION	<p>The site comprises five (5) lots as follows:</p> <ol style="list-style-type: none"> 1. 253 Pacific Highway - SP 16134 2. 255-259 Pacific Highway - SP 22870 3. 261 Pacific Highway - Lot 51, DP 714323 4. 265 Pacific Highway - Lot B, DP 321904 5. 267 Pacific Highway - Lot 10, DP 749576
RECEIVED	19/09/2022
FILE NO.	IRF22/3239
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal (**Attachment A**) contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objective of the planning proposal is to amend the height, FSR and non-residential FSR controls in the *North Sydney Local Environmental Plan (LEP) 2013* to enable the future redevelopment of the site for a 3, 8 and 10 storey mixed-use development. There is no change to the current zoning.

The objectives of the planning proposal are to amend the North Sydney Local Environmental Plan 2013 to:

- Align with the indicative built form and massing envisaged under Council's Civic Precinct Planning Study 2020 (CPPS) strategic framework.

- Provide compatible land uses that contribute to the creation of a vibrant and active community.
- Provide a consolidated development solution across multiple sites to enable a cohesive development and improved public domain outcomes.
- Capitalise on the development potential of the site.
- Provide commercial and retail spaces, close to the North Sydney CBD, which activates West Street and the Pacific Highway.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the North Sydney Local Environmental Plan (LEP) 2013 per the changes below:

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	B4 Mixed Use	B4 Mixed Use
Maximum height of the building	10m	15m, 29m, and 37m (3 storey; 8 storey and 10 storey built form)
Floor space ratio (residential)	Nil	4.83:1 for 253-261 Pacific Highway 1.83:1 for 265-267 Pacific Highway (Total 3,893sqm residential floor area).
Floor space ratio (non-residential)	0.5:1	1:1 (Total 1,775sqm commercial/retail floor space).
Number of dwellings	0	37
Number of jobs	95	118

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

The planning proposal will amend the North Sydney Local Environmental Plan 2013 to:

- Apply maximum building heights of 15 metres, 29 metres and 37 metres
- Apply maximum floor space ratio (FSR) controls of 4.83:1 (253-261 Pacific Highway) and 1.83:1 (265-267 Pacific Highway)
- Increase the minimum non-residential FSR control from 0.5:1 to 1:1

The planning proposal is supported by a concept reference scheme to deliver an 8-10 storey mixed use commercial and residential building, with a 2 storey commercial podium and residential above (**Figure 10** below). The proposal will provide 37 residential apartments, 1,775 sqm of non-residential floor space and 38 car parking spaces.

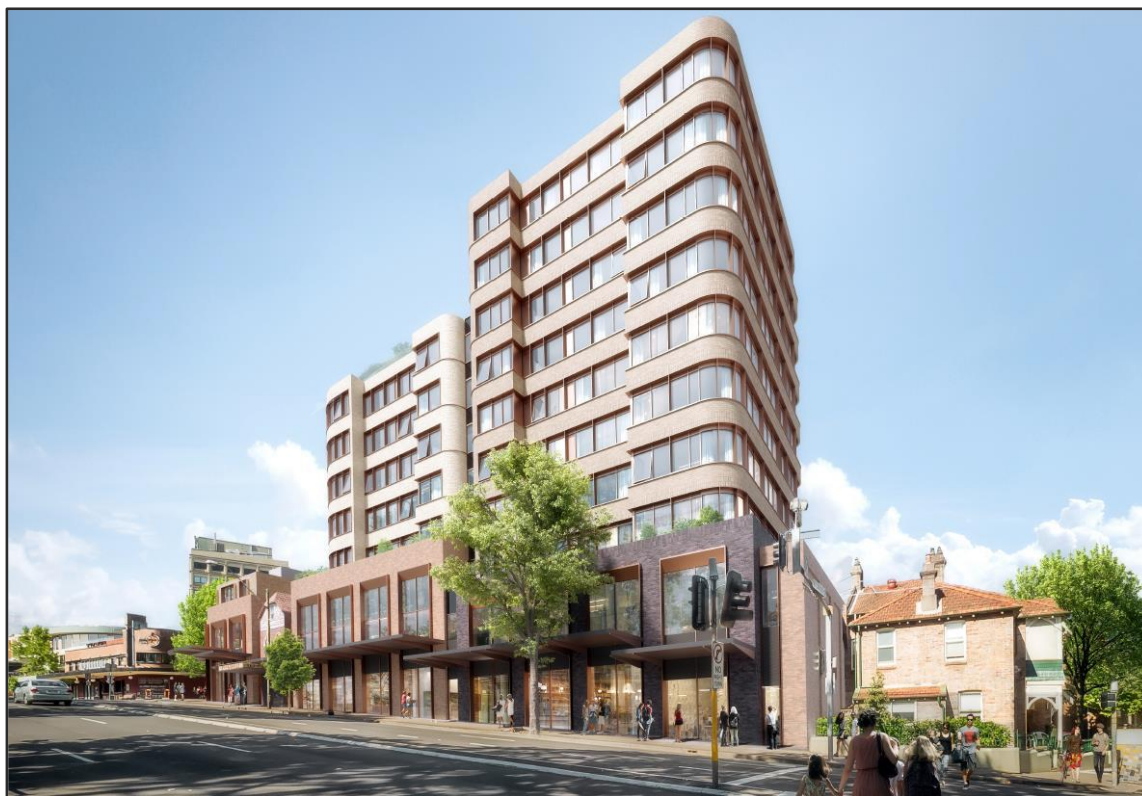


Figure 1: Development Concept scheme (source: Planning Proposal, Urbis)

1.4 Site description and surrounding area

The site is 253-267 Pacific Highway, North Sydney, to the north of the North Sydney Central Business District and within the boundaries of the Civic Precinct. The site has a primary frontage to the Pacific Highway (60m) and secondary frontages to Church Lane (65m) and West Street (23m) (**Figure 1**). The site has total approximate area of 1,469sqm and comprises five (5) lots (lot and DP numbers listed in **Table 2** above). Church Lane provides access to the lots.

The site currently contains two 3-storey and three 2-storey commercial buildings. The site at 265 Pacific Highway is a locally listed heritage item, I0959 “The Cloisters”, a terrace in the Victorian Free Gothic style.

The site is in North Sydney, within the North Sydney Local Government Area. The site is approximately 4.5km north of the Sydney CBD, on the northern side of the Sydney Harbour Bridge and within Sydney’s Lower North Shore. The site is approximately 400 metres from the North Sydney CBD and approximately 800m northwest of North Sydney Train Station.

To the south and east of the site is the McLaren Street heritage conservation area (CA19). The two lots on the block directly south adjacent to the site are part of this area. To the west of the site and Pacific Highway is the Crows Nest heritage conservation area (CA23). To the north of the site is The Union Hotel (Heritage item I0960), is an early example of the international style that is identified as an icon within the character area in North Sydney Council’s Development Control Plan (DCP) 2013.

The site is within Council’s Civic Precinct Planning Study (CPPS) area which was adopted by Council in November 2020.

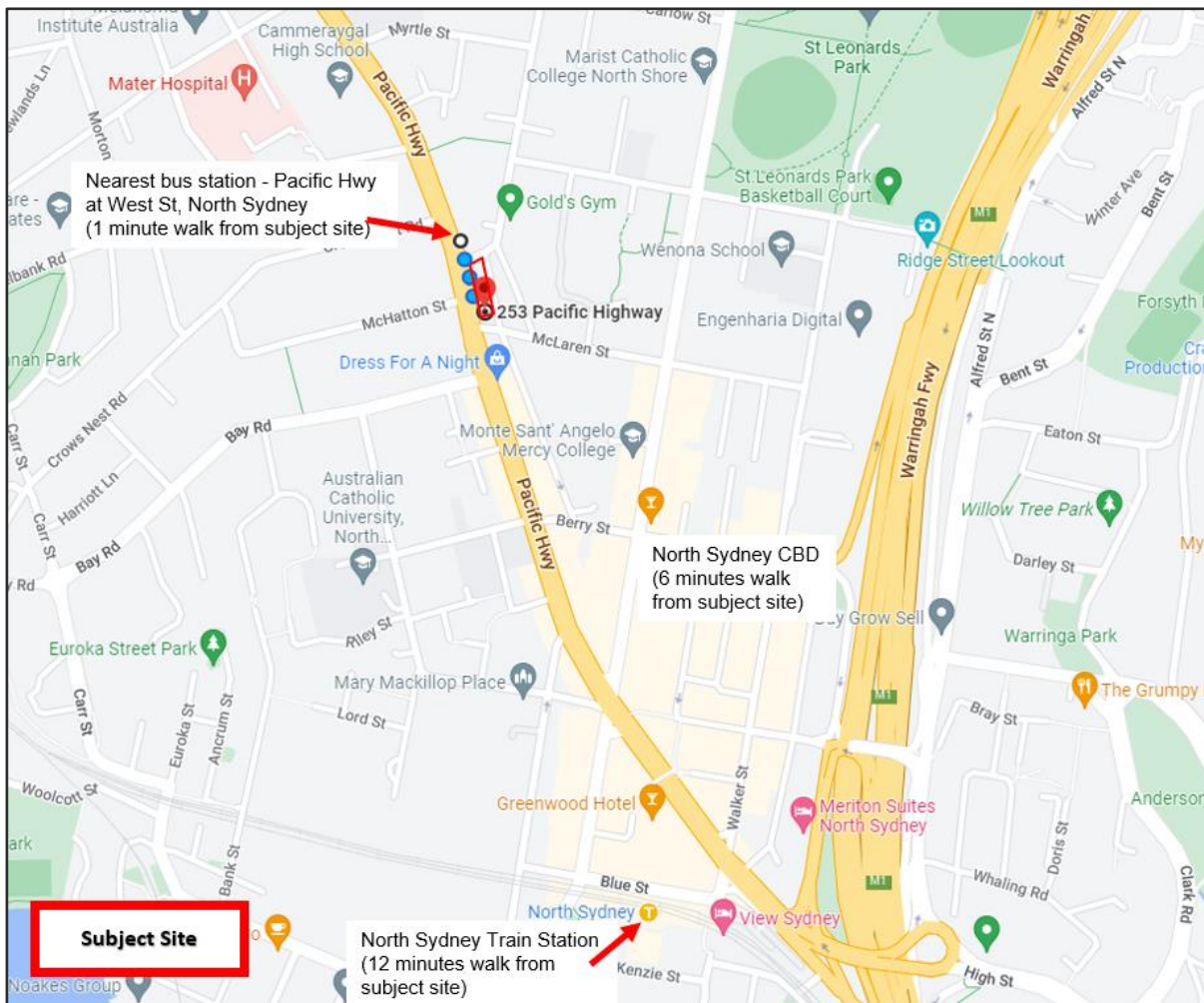


Figure 1: Site context at 253-267 Pacific Highway (source: Google Maps)

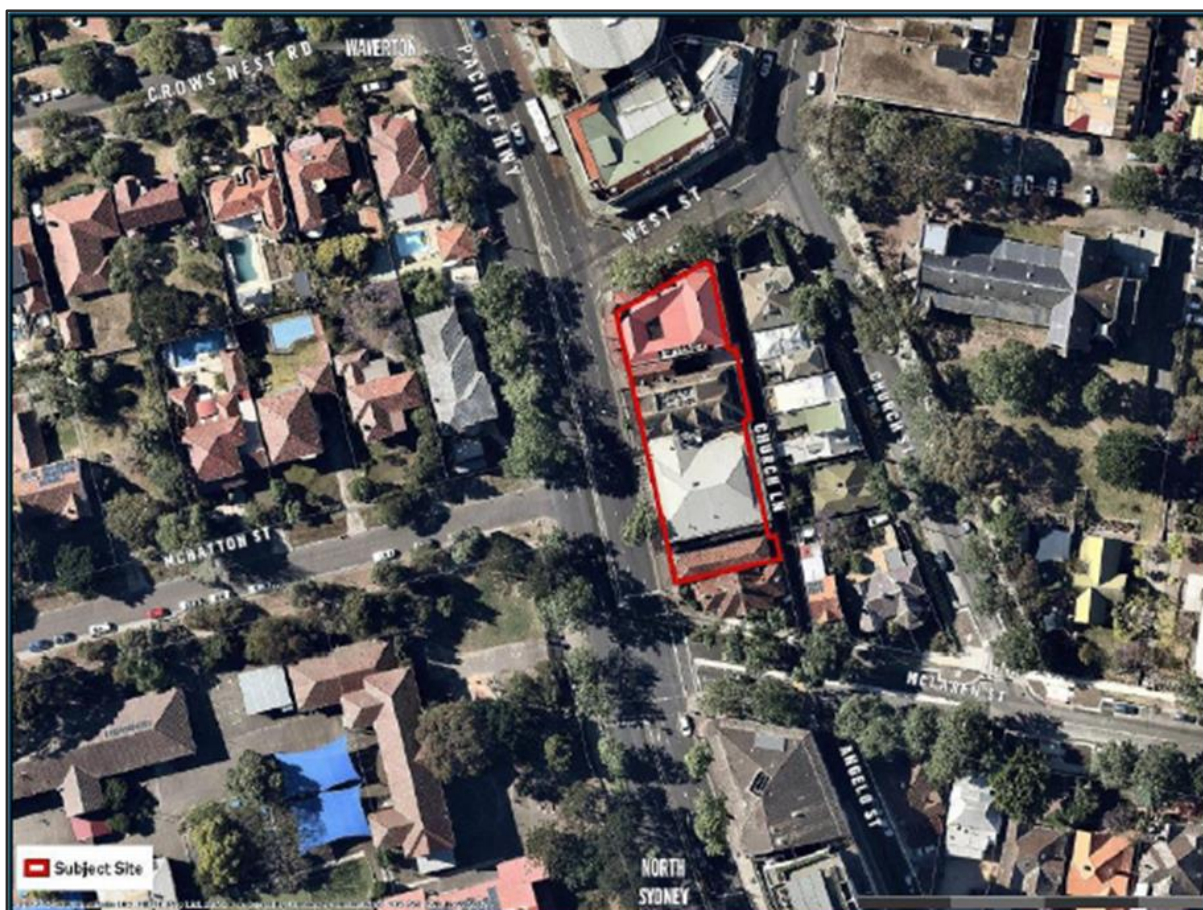


Figure 2: Subject site at 253-267 Pacific Highway (source: AK Planning on behalf of North Sydney Council)

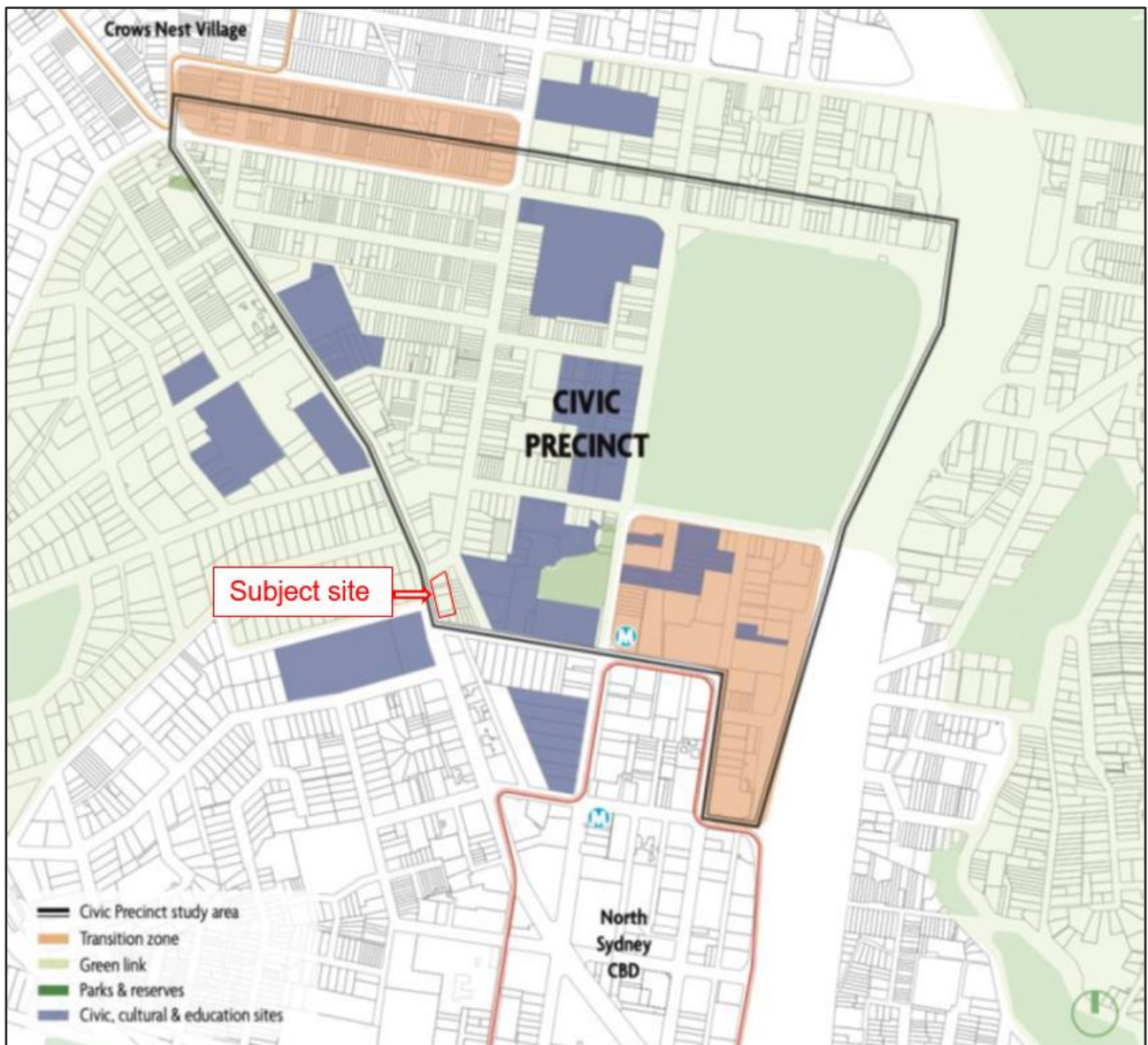


Figure 3: Civic Precinct boundaries (source: Council's CPPS)



Figure 4a & 4b: Existing properties on the site (sources: Planning proposal; Google maps)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Height of Buildings and Floor Space Ratio maps, which are suitable for community consultation.

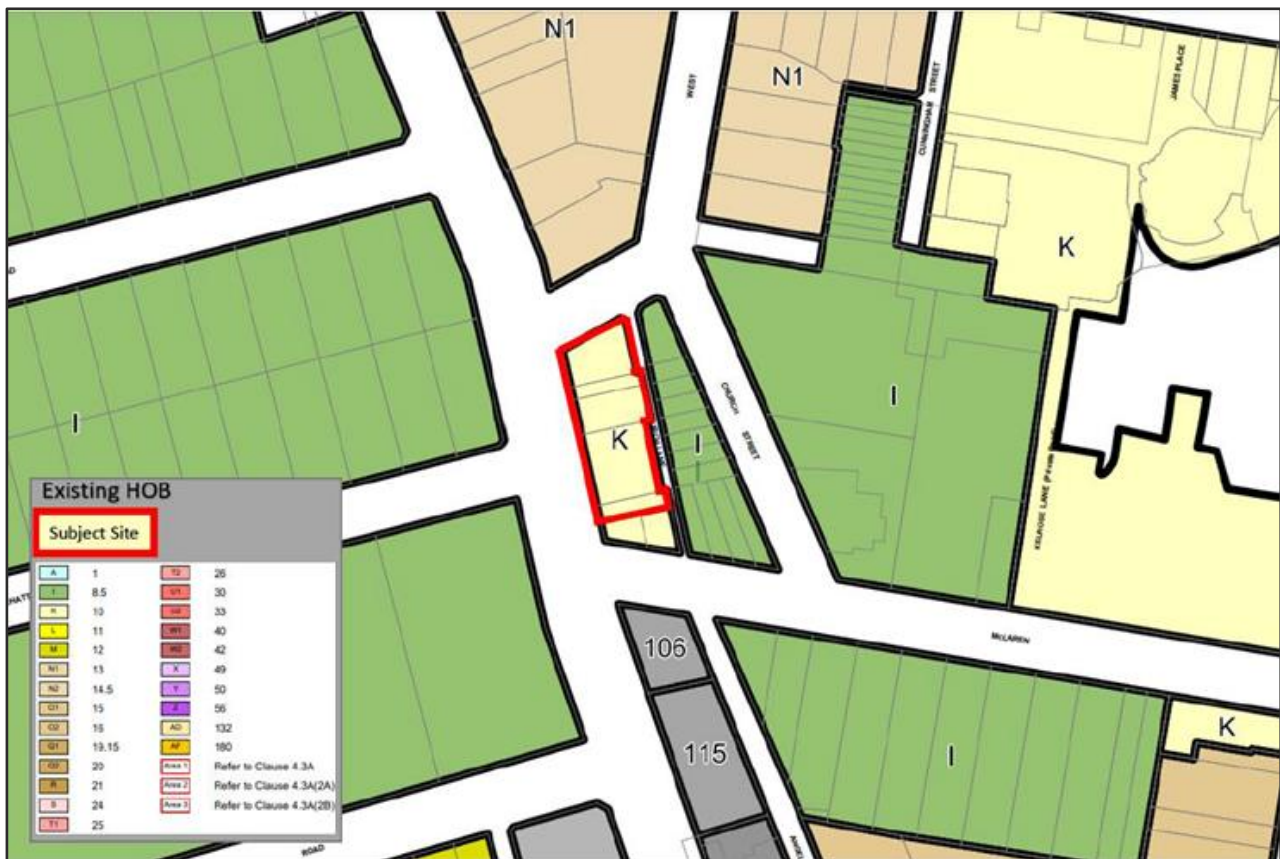


Figure 4 Current height of building map



Figure 5: Proposed height of building map



Figure 6: Current floor space ratio map



Figure 7: Proposed floor space ratio map

KEY

Zone

B1	Neighbourhood Centre
B3	Commercial Core
B4	Mixed Use
E2	Environmental Conservation
E4	Environmental Living
IN2	Light Industrial
IN4	Working Waterfront
R2	Low Density Residential
R3	Medium Density Residential
R4	High Density Residential
RE1	Public Recreation
RE2	Private Recreation
SP1	Special Activities
SP2	Infrastructure
UL	Unzoned Land

Subject site- 253-267 Pacific Highway

SP2 Educational Establishment

SP2 Place of Public Worship

SP2 Community Facility

SP2 Public Admini Building

Zone Labels: B1, B3, B4, R2, R3, R4, RE1, RE2, SP1, SP2, UL

Street Labels: ROAD, PACIFIC HIGHWAY, WILKINSON, ANFIELD, CARPENT STREET, JAMES PLACE, CONNOR STREET

NSW Department of Planning and Environment | 10

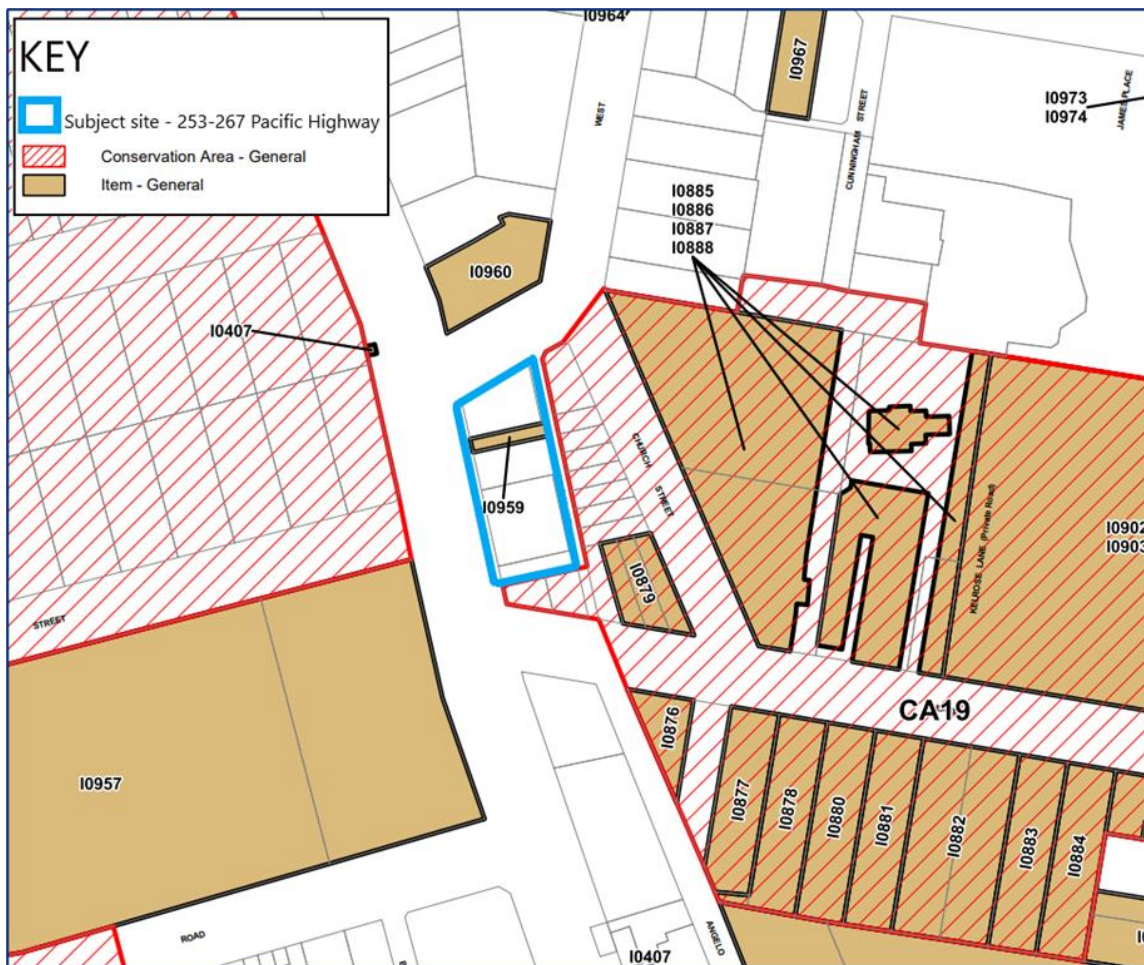


Figure 10: Current heritage map

1.6 Background

A brief history of the proposal is outlined in the table below:

Table 4 Overview of Events

Date	Event
2018	A previous proposal was submitted but not supported by Council. This was pursued to a Rezoning Review which was not supported by the Panel.
2018-2020	Council developed the Civic Precinct Planning Study (CPPS).
November 2020	Council resolved to adopt the CPPS.
Jan – March 2021	Multiple pre-lodgement meetings and engagement with Council officers.
12 April 2021	Planning proposal was lodged with Council.
8 June 2021	The proponent met with Council's Design Excellence Panel (DEP).

Date	Event
July – September 2021	The proponent met with Council. Comments are received and discussed from Council's independent assessor and from DEP. The proponent submits additional information, and the proposed building envelope is revised.
12 October 2021	A second meeting is held between the proponent and DEP. An amended Planning Proposal (including contextual massing studies and shadow studies) is referred to the DEP.
14 December 2021	Amended Planning Proposal is submitted to Council.
10 February 2022	The Council Assessment Report recommends the proposal proceed to Gateway, with conditions.
23 February 2022	The proposal is referred to the North Sydney Local Planning Panel (NSLPP) who recommend the Proposal proceeds to Gateway.
28 March 2022	At the North Sydney Council Meeting Councillors unanimously resolve to not support the Proposal.
2 May 2022	Proposal submitted to the Department for Rezoning Review.
12 July 2022	The Sydney North Planning Panel determined the proposal should proceed to Gateway Determination. The Sydney North Planning Panel determined the proposal should be accompanied by a revised site-specific DCP which considers the issues of height, storeys, and further setback of the tower above the podium on the Pacific Highway to provide façade articulation and wind mitigation.

2 Need for the planning proposal

Is the planning proposal a result of an assured local strategic planning statement, or Department approved local housing strategy, employment strategy or strategic study or report?

On 30 November 2020, Council adopted the CPPS which applies to the area directly north of North Sydney CBD to Crows Nest where the planning proposal site is located (**Figure 3**). The proposal is consistent with Council's CPPS in terms of the maximum building height and retention of the on-site heritage item.

Council's CPPS was prepared in response to the construction of the Victoria Cross Metro Station northern portal with the intent of developing a holistic and long-term framework for guiding future development and improvements within the study area. The planning proposal site is located within good proximity to existing infrastructure for increased commercial and residential density, being:

- 260m from the Victoria Metro Station (due to open in 2024).
- 800 metres from North Sydney Station (approx. 12 minutes' walk).
- Less than 100 metres from the nearest bus station (Pacific Hwy at West St, North Sydney, approx. 1 minute walk).
- 400 metres from the North Sydney CBD (about 6 minutes' walk)

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

The proposal was supported by the Sydney North Planning Panel at rezoning review (**Attachment D**) to proceed to Gateway determination as the it was considered to have strategic and site specific merit. The Panel has been appointed as the Planning Proposal Authority (PPA).

The planning proposal is the best means of achieving the intended outcomes. The proponent considered lodging a development application under the current North Sydney LEP 2013; however, these controls were foreshadowed to be amended by the strategic framework provided by the CPPS. The planning proposal is generally consistent with the design guidelines and strategic assessment undertaken as part of Council's CPPS.

Should the Proponent and Council agree to an offer of public benefit, a draft Voluntary Planning Agreement (VPA) would be separately placed on public exhibition prior to the exhibition of the planning proposal. The VPA which the Proponent has currently offered includes:

- Construction of a portion of new road within the boundaries of the site to widen Church Lane from 3-4.5m to 6m. This involves the excision of approximately 130sqm of land from the site area for dedication to Council.
- Embellishment of approximately 200m of footpaths and public domain around the site on the Pacific Highway, West Street, Church Lane, and McLaren Street, and,
- Adaptive re-use of the heritage item "The Cloisters" at 265 Pacific Highway. This will involve removal of the surrounding development that physically abuts the heritage item, conserving the significant fabric, primary shop space and internal spaces, joinery elements and finishes, and reconstructing the rear balcony off the first floor, and the rear façade generally.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Greater Sydney Region Plan (A Metropolis of Three Cities).

Table 5 Regional Plan assessment

Regional Plan Objectives	Justification
A city supported by infrastructure	<p>The site is approximately 260m from the Victoria Metro Station, which is due to open in 2024. The proposal increases residential and commercial density in a location which is well serviced by multiple means of transport (Victoria Metro Station, North Sydney Station, and bus stations on the Pacific Highway). The location is also walking distance from the North Sydney CBD.</p> <p>Delivering density in this location will help to drive better travel behaviour, encouraging increased reliance on active and public transport.</p>

A collaborative city	The proposal is a good opportunity for collaboration between governments, community, and business. It will contribute to meeting Council's CPPS guidelines and fulfilling housing and employment target policy. The proposal will support the community through the provision of road widening along Church Lane, and the embellishment of footpaths. Businesses will be positively impacted by the proposal as it will provide commercial spaces close to North Sydney CBD, activating West Street and the Pacific Highway.
Housing the city	The proposal increases housing supply within Council's Civic Precinct by an additional 37 dwellings. The provisions of the North Sydney DCP 2013 will apply regarding dwelling mix.
A city of great places	The proposal enables site renewal, allows appropriate residential and commercial uplift in an area which can accommodate it, conserves the heritage significance of the heritage item at 265 Pacific Highway, and respects the surrounding heritage conservation areas.
A well connected city	The proposal provides housing within proximity to high frequency public transport, jobs, services, and facilities.
Jobs and skills for the city	The additional density and housing would assist with meeting the short term (construction) and long term (operation) job targets outlined in the draft North District Plan and in local strategic plans. The development will enable 118 jobs.
A city in its landscape	The proposal allows for the widening of Church Lane to achieve a consistent lane width of 6m. DCP provisions will apply regarding building articulation, breaks provided for view sharing, and achieving a high quality landscaped outcome.
An efficient city	The proposal applies to land near North Sydney Railway Station, several bus stations, and the future Victoria Metro Station (approximately 260m), reducing the need for private vehicle usage.
A resilient city	Any development application would be required to be consistent with the building sustainability, energy, water supply and waste requirements of the North Sydney DCP and be consistent with any applicable sustainability provisions of the Housing SEPP.

3.2 District Plan

The site is within the North District and the Greater Sydney Commission released the North District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic, and environmental assets.

The planning proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity, and sustainability in the plan as outlined below.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table includes an assessment of the planning proposal against relevant directions and actions.

Table 6 District Plan assessment

District Plan Priorities	Justification
<p>Planning Priority N1</p> <p>Planning for a city supported by infrastructure</p>	<p>The proposal would not add to public infrastructure requirements beyond existing planning controls. The site is within walking distance of public transport (trains and buses), and a range of services in the North Sydney CBD, which is located 400 metres away, about 6 minutes' walk from the site.</p>
<p>Planning Priority N3</p> <p>Providing services and social infrastructure to meet people's changing needs</p>	<p>The proposal would provide commercial floorspace close to North Sydney CBD, activating West Street and the Pacific Highway. The proposal will also support the community through the provision of road widening along Church Lane, and the embellishment of footpaths.</p>
<p>Planning Priority N5</p> <p>Providing housing supply, choice, and affordability, with access to jobs, services, and public transport.</p>	<p>The proposal will facilitate delivery of 37 dwellings within walking distance to public transport and a range of services in the North Sydney CBD. This is in accordance with Council's strategic planning for the area, as outlined by the CPPS.</p>
<p>Planning Priority N6</p> <p>Creating and renewing great places and local centres and respecting the District's heritage.</p>	<p>The proposal provides increased density in an appropriate location and at an appropriate scale, as indicated by Council's CPPS.</p> <p>The proposal retains and adaptively reuses the local heritage item "The Cloisters" at 265 Pacific Highway. Adequate provisions for the legibility and articulation of the podium level to highlight the heritage item should be articulated as part of the site specific DCP accompanying the proposal.</p>
<p>Planning Priority N10</p> <p>Growing investment, business opportunities and jobs in strategic centres.</p>	<p>The CPPS identifies the site as one which can assist in meeting the housing targets identified for North Sydney under the North District Plan. The proposal will provide housing supply and choice. The development will also enable 118 jobs.</p>
<p>Planning Priority N13</p> <p>Supporting growth of targeted industry sectors.</p>	<p>The proposal provides contemporary and flexible employment space to promote diversity in industries and provide a variety of job opportunities located in proximity to the North Sydney CBD.</p>
<p>Planning Priority N21</p> <p>Reducing carbon emissions and</p>	<p>The proposal is near North Sydney Railway Station, several bus stations, and the future Victoria Metro Station (approximately 260m), reducing the need for private vehicle usage.</p> <p>Any development application would be required to be consistent with the building</p>

managing energy, water and waste efficiently.	sustainability, energy, water supply and waste requirements of the DCP and be consistent with any applicable sustainability provisions of the Housing SEPP.
Planning Priority N22 Adapting to the impacts of urban and natural hazards and climate change.	Any development application would be required to be consistent with the building sustainability, energy, water supply and waste requirements of the DCP and be consistent with any applicable sustainability provisions of the Housing SEPP.

3.3 Local plans and endorsed strategies

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 7 Local strategic planning assessment

Local Strategies	Justification
North Sydney Local Strategic Planning Statement (LSPS)	<p>The North Sydney Local Strategic Planning Statement 2020 (LSPS) sets out a 20-year vision for land use in North Sydney. The proposal is consistent with the LSPS as it provides housing and jobs close to transport and services.</p> <p>The proposal adaptively reuses the local heritage item “The Cloisters” at 265 Pacific Highway and includes the widening of Church Lane and embellishment of footpaths and public domain around the site on the Pacific Highway, West Street, Church Lane, and McLaren Street.</p>
North Sydney Local Housing Strategy (LHS)	The North Sydney Local Housing Strategy (LHS) establishes Council’s vision for housing and delivers the objectives of the District Plan. The North Sydney LHS identifies the potential for an additional 11,870 dwellings by 2036 under the provisions of North Sydney LEP 2013. The proposal is consistent with this plan as it is consistent with Council’s CPPS built form controls and facilitates delivery of 37 additional dwellings.

Council's
Civic
Precinct
Planning
Study
(CPPS)

Council adopted the Civic Precinct Planning Study (CPPS) on 30 November 2020. The CPPS focuses on the area directly north of North Sydney CBD to Crows Nest and includes the “southern transition area”, in which the proposal is located (**Figure 11** below).

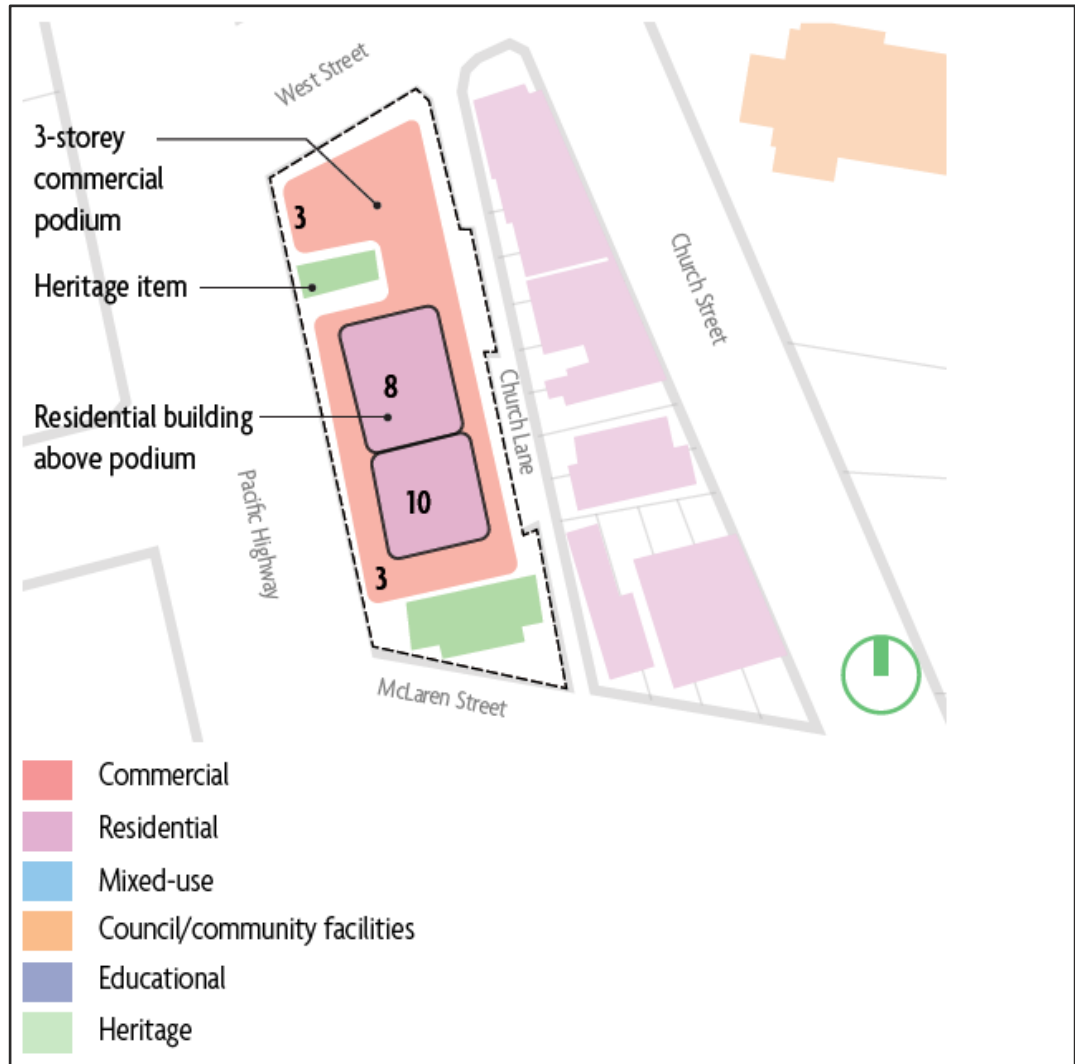


Figure 11: The southern transition area from Council's CPPS (Source: CPPS: 2020, p.34)

The Civic Precinct southern transition site design guidelines in Council's CPPS includes the following requirements:

- A maximum built form height of 10 storeys stepping down to 8 further north towards the Civic Precinct, as per **Figure 11**, above.
- The site should be developed as one single, mixed use building with a commercial podium and a residential component above.
- The podium should be 3-storeys in height to align with the streetscape to the north and the mid-block heritage item.
- The podium is to be aligned with the existing heritage item and present no setback to Pacific Highway. The built form above the podium is to be set back a minimum of 3 metres.
- An adequate transition to the conservation area to the east should be provided in the form of a podium with significant above podium setbacks.

	<p>The proposal is consistent with the 8 storey and 10 storey height limits for the 'southern transition' site. Council officers have previously noted in the Council Officer's Assessment Report (Attachment H; p. 45) that the proposed massing does not result in additional overshadowing over and above that anticipated by the CPPS and as such the height as proposed is appropriate.</p> <p>The CPPS was prepared in response to the construction of the Victoria Cross Metro Station northern portal with the intent of developing a holistic and long-term framework for guiding future development and improvements within the study area.</p> <p>The proposal is considered appropriate under the CPPS in terms of the building design and massing. DCP controls relating to the podium, façade articulation, wind mitigation, building setbacks and the building separation to the heritage item at 265 Pacific Highway are to be included as part of the site specific DCP controls. The proponent has provided a site-specific DCP in response to conditions of the North Sydney Local Planning Panel approval for the proposal to proceed to Gateway (Attachment E). This draft site-specific DCP will need to be updated before exhibition with additional detail as detailed below to meet the requirement of the Sydney Local Planning Panel.</p>
North Sydney Development Control Plan (DCP) 2013	<p>The Sydney North Planning Panel decision, dated 12 July 2022, stipulated that a revised site-specific DCP should be prepared to accompany this proposal to Gateway. The DCP controls were to give <i>"full consideration to the issues of height, storeys and further setback of the tower above the podium on the Pacific Highway to provide façade articulation and wind mitigation"</i>. The proponent has provided a draft site-specific DCP (Attachment E) which needs to be updated with additional details before exhibition.</p> <p>In addition to the information covered by the draft site-specific DCP, the following items should also be included.</p> <ul style="list-style-type: none"> • Elevations should be included showing total building height, the building storeys, and the floor-to-ceiling height of each level. Podium height should be noted. These elevations should convey the building form, massing, articulation, and human scale of the proposal. • Provisions should be included regarding building articulation, breaks provided for view sharing, and achieving a high quality landscaped outcome. • Provisions should be included for the legibility and articulation of the heritage item from the podium. • Plans should be included illustrating the building and podium setbacks, as illustrated in Council's DCP. An example of this is included at Attachment F, Figures C-3.2, C-3.3, and C-3.4, p.8-10. <p>The draft DCP amendments will be exhibited concurrently with the planning proposal.</p>

3.4 Local planning panel (LPP) recommendation

On 23 February 2022, the North Sydney Local Planning Panel (LPP) supported the Council Officer's report and the proposal being forwarded to the Department for Gateway Determination (**Attachment G**).

The LPP recommended site specific DCP provisions be considered to help guide future detailed design and a maximum height of 37m be supported for the proposal to accommodate the sloping topography, lift overrun and a floor-to-floor height of 4.4m for the ground floor.

The LPP also recommended some minor alterations be made to the setback of the tower on the Pacific Highway elevation, i.e. the setback of the tower on the Pacific Highway elevation to be

modified to provide a minimum tower setback above the podium of 1m, with at least 30% of the envelope setback to 3m, to provide façade articulation and wind mitigation.

The council officer report of 10 February 2022 did not support the Panel's second recommendation as it was contrary to their previous design advice on the proposal. This advice was that a greater separation was required between the McLaren Street heritage conservation area (the land adjoining Church Lane), and the new (above podium) tower elements. To achieve a podium setback to the McLaren Street heritage conservation area, Council officers recommended a reduction to the required above podium setback along the Pacific Highway.

The CPPS design guidelines were consistent with Council advice and required that the podium is aligned with the existing heritage item and present no setback to Pacific Highway. The CPPS requires the built form above the podium to be set back a minimum of 3 metres, which the planning proposal is consistent with.

It is recommended that before the proposal proceed to exhibition the draft site-specific DCP be updated to include elevations showing the proposed building and podium setbacks. These elevations should convey the building form, heights, massing, articulation, and human scale of the proposal.

3.5 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 8 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Direction 1.1 – Implementation of Regional Plans	Yes	The Planning Proposal would result in increased commercial and residential density in proximity to the North Sydney CBD, North Sydney Railway Station a major transport node, and the future Victoria Metro Station. The proposal is consistent with the objectives of the Greater Sydney Regional Plan and North District Plan.
Direction 3.2 – Heritage Conservation	Yes	<p>The heritage item at 265 Pacific Highway is to be preserved, integrated, and appropriately adapted for re-use. The proposal will facilitate the conservation of the heritage item and is consistent with this direction.</p> <p>Adequate provision for the legibility and articulation of the podium level to highlight the heritage item should be addressed as part of the site specific DCP controls.</p>

Direction 4.4 – Remediation of Contaminated Land	No	<p>A preliminary site investigation indicated that the properties located at 267 Pacific Highway and 255-259 were utilised for potentially contaminated land uses.</p> <p>Further investigations are required before the finalisation of the planning proposal and at any future development application stage. These will include a hazardous materials survey of the building structures.</p> <p>Before the planning proposal is finalised, a detailed site investigation by a suitably qualified environmental consultant and a Remediation Action Plan (RAP) needs to be prepared to demonstrate the land is suitable in its contaminated state, or will be suitable, after remediation, for all the purposes proposed.</p> <p>A condition has been attached to require a detailed site investigation and any further required studies to be provided prior to finalisation of the planning proposal, in accordance with the requirements of the direction.</p>
Direction 5.1 – Integrating Land Use and Transport	Yes	<p>The proposal enables increased commercial and residential density near North Sydney Railway Station, North Sydney CBD, and the future Victoria Metro Station. The proposal is consistent with this direction as it encourages a walkable neighbourhood, reducing the need for car dependency.</p>
Direction 7.1 – Business and Industrial Zones	Yes	<p>The proposal aims to deliver development with commercial and residential uplift, and community benefits. The proposal will facilitate delivery of 37 dwellings within walking distance to public transport and a range of services in the North Sydney CBD. The proposal will create jobs in the short and enable 118 jobs in the long term.</p>

3.6 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 9 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Building Sustainability Index: BASIX 2004	(2) The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State.	Yes	This SEPP is applicable to the proposal but not relevant at this stage.
Housing 2021	Chapter 1 – Preliminary 3 Principals of Policy (d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services.	Yes	The proposal provides additional housing and commercial space to satisfy demand in a location near services, transport, and retail.
No 65— Design Quality of Residential Apartment Development (2002 EPI 530)	(1) This Policy aims to improve the design quality of residential apartment development in New South Wales.	Yes	Apartment Design Guide standards should be considered in relation to: <ul style="list-style-type: none"> - Building separation - Communal open space - Sunlight access for living rooms and private open spaces - Natural ventilation - Ceiling heights - Apartment size and layout, and - Private open space and balconies The building heights and massing of the proposal are not foreseen to result in additional overshadowing over and above that anticipated by Council's CPPS.
Transport and Infrastructure 2021	The aim of this Chapter is to facilitate the effective delivery of infrastructure across the State.	Yes	An acoustic report should be prepared at development application stage identifying measures to remedy potential traffic noise and emissions from the Pacific Highway.

4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 10 Environmental impact assessment

Environmental Impact	Assessment
Built Form	<p>The proponent notes that the building heights proposed are in line with heights anticipated by Council under their CPPS. It is noted that the site topography is sloping.</p> <p>Previous Council officer comments have noted that larger floor-to-floor height assumptions have been made for the non-residential components of the building and that all reasonable efforts should be made to reduce the height of the proposal. The Department supports this assessment and notes that some members of the Sydney North Planning Panel expressed concern with the proposed height, scale, and bulk of the proposal.</p> <p>To address these concerns the Panel recommended that a site-specific DCP be drafted, considering the issues of height, storeys, and further setback of the tower above the podium on the Pacific Highway to provide façade articulation and wind mitigation.</p> <p>The proponent has provided a site-specific DCP in response to conditions of the North Sydney Local Planning Panel approval for the proposal to proceed to Gateway (Attachment E). This draft site-specific DCP will need to be updated before exhibition with additional detail to meet the requirement of the Sydney Local Planning Panel. The following items should be included in the site-specific DCP:</p> <ul style="list-style-type: none"> • The total building height(s) needs to be addressed. Elevations should be included showing building storeys and the floor-to-ceiling height of each level. • Provisions regarding building articulation, breaks provided for view sharing, and achieving a high quality landscaped outcome. • Provisions for the legibility and articulation of the heritage item from the podium. • Elevations illustrating the building and podium setbacks as well as podium height should be included. These elevations should convey the building form, massing, articulation, and human scale of the proposal. • A building setbacks plan and building podium plan should be included, as illustrated in Council's DCP. An example of this is included at Attachment F, Figures C-3.2, C-3.3, and C-3.4, p.8-10. <p>The draft DCP amendments will be exhibited concurrently with the planning proposal.</p>

Over-shadowing and Solar Access

A shadow analysis prepared by PTW Architects (**Figure 11**) demonstrates some additional overshadowing beyond the existing school buildings and the projected CPPS shadow occurs briefly during the 8:15am period. This additional shadow is not considered to have a material impact as at 8:30am the proposed shadow aligns with the anticipated CPPS shadow.

The proposed building envelope will not result in any significant overshadowing to the adjacent school playground at the North Sydney Demonstration School and will not result in any adverse impacts.

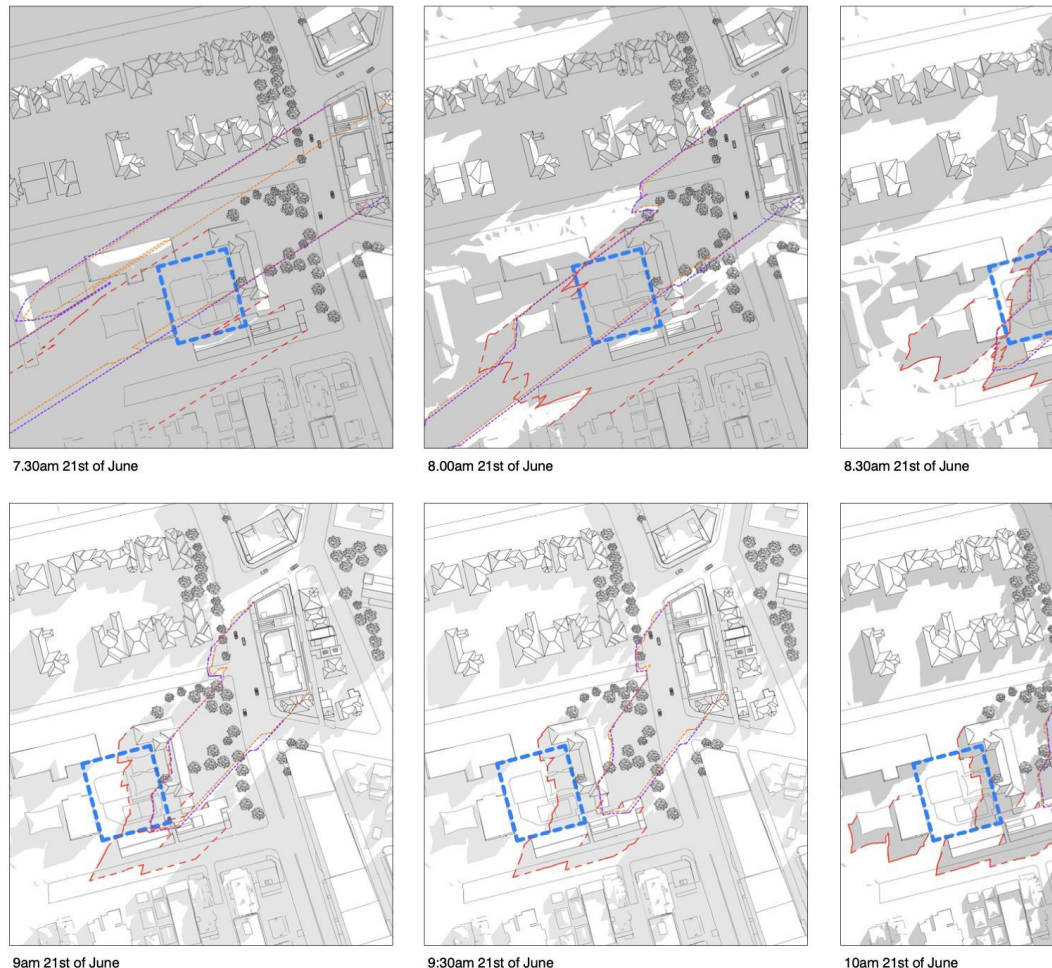


Figure 11 Shadow analysis of the North Sydney Demonstration School's playground. Source: PTW Architects.

Heritage

The proposal retains and adaptively reuses the local heritage item I0959, "The Cloisters" at 265 Pacific Highway. Further setback of the tower above the podium on the Pacific Highway to provide façade articulation, wind mitigation, and separation from the heritage item should be illustrated as part of the site-specific DCP.

The proposed building envelopes and setbacks were generally considered to be acceptable by Council's heritage planner. The implications for the surrounding conservation areas are considered minimal.

Traffic and Local Road Network	<p>The proposal is in proximity to existing and planned infrastructure including the Victoria Metro Station (due to open in 2024), North Sydney Station, numerous bus stops, and North Sydney CBD.</p> <p>The proposal allows for vehicular entries off Church Lane via a proposed access ramp vehicle travel paths and the specifics of traffic circulation through the site will be determined at the development application stage.</p>
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4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 11 Social and economic impact assessment

Social and Economic Impact	Assessment
Social and Community Benefit	<p>The proposed development will deliver public domain improvements as part of a Voluntary Planning Agreement (VPA). These benefits include:</p> <ul style="list-style-type: none"> Construction of a portion of new road to widen Church Lane from 3-4.5m to 6m, dedicating approximately 130sqm land to Council. Embellishment of footpaths and public domain around the site on the Pacific Highway, West Street, Church Lane, and McLaren Street. Adaptive re-use of the heritage item “The Cloisters” at 265 Pacific Highway. This will involve removal of the surrounding development that physically abuts the heritage item, conserving the significant fabric, primary shop space and internal spaces, joinery elements and finishes, and reconstructing the rear balcony off the first floor, and the rear façade.
Economic Impact	<p>Businesses will be positively impacted by the proposal as it will provide commercial spaces close to North Sydney CBD, activating West Street and the Pacific Highway.</p>

4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

Table 12 Infrastructure assessment

Infrastructure	Assessment
Public Infrastructure	<p>Services are available in the vicinity of the site. The proposal would not impose any unacceptable additional demand on local infrastructure, public or community services. The site is near existing bus and train services and the future Victoria Metro Station.</p>

5 Consultation

5.1 Community

A community consultation period of 30 days is proposed.

The exhibition period forms part of the conditions of the Gateway determination.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 days to comment:

- Transport for NSW
- Sydney Water
- Endeavour Energy

6 Timeframe

The Department recommends a time frame of **9 months** to ensure the proposal is completed in line with its commitment to reduce processing times. It is recommended that Council exhibit and report on the proposal by specified milestone dates.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

The Sydney North Planning Panel approved this proposal to proceed to Gateway.

As the proposal is the result of a rezoning review the Department will be the local plan-making authority.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The heights, setbacks and building massing proposed are largely consistent with Council's *Civic Precinct Planning Study* (CPPS).
- The proposal is in good proximity to existing and planned infrastructure including the future Victoria Metro Station, North Sydney Station, numerous bus stops, and North Sydney CBD.
- The proposed building envelope will not result in any significant additional overshadowing to the school playground at the North Sydney Demonstration School. The proposal does not increase overshadowing from that which Council envisaged under the CPPS.
- The proposal retains the local heritage item at 265 Pacific Highway.
- The implications of the proposal for the surrounding heritage conservation areas are considered minimal.
- The proposal will deliver public domain improvements, provision of road widening along Church Lane, and the embellishment of adjacent footpaths.

As discussed in the previous sections, the Sydney North Planning Panel recommended that the proposal be updated to include a site-specific DCP.

This draft site-specific DCP provided needs to be updated prior to exhibition. The following items should be addressed:

- Elevations should be included showing total building height, the building storeys, and the floor-to-ceiling height of each level. Podium height should be noted. These elevations should convey the building form, massing, articulation, and human scale of the proposal.
- Provisions should be included regarding building articulation, breaks provided for view sharing, and achieving a high quality landscaped outcome.
- Provisions should be included for the legibility and articulation of the heritage item from the podium.
- Plans should be included illustrating the building and podium setbacks, as illustrated in Council's DCP. An example of this is included at **Attachment F**, Figures C-3.2, C-3.3, and C-3.4, p.8-10.

The draft DCP amendments will be exhibited concurrently with the planning proposal.

9 Recommendation

It is recommended the delegate of the Minister

- Note that the inconsistency of the planning proposal with section 9.1 Direction 4.4 – Remediation of Contaminated Land is unresolved and will require justification prior to finalisation of the planning proposal. A condition has been recommended to require that the detailed investigations and any further studies be adequately provided in order to correctly address this Direction.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1.
 - (a) Prior to community consultation, the draft site-specific development control plan is to be updated to address the following items:
 - i. Elevations should be included showing total building height, the building storeys, and the floor-to-ceiling height of each level. Podium height should be noted. These elevations should convey the building form, massing, articulation, and human scale of the proposal.
 - ii. Provisions should be included regarding building articulation, breaks provided for view sharing, and achieving a high quality landscaped outcome.
 - iii. Provisions should be included for the legibility and articulation of the heritage item from the podium.
 - iv. Plans should be included illustrating the building and podium setbacks.
 - (b) Prior to community consultation the planning proposal should also be updated to reflect the most recent SEPPs and S9.1 directions and conditions are recommended to:
 - i. Update to address the consolidated and updated SEPPs since the planning proposal was prepared.
 - ii. Updated references to the Ministerial Directions and address any new Directions since the planning proposal was prepared.
2. Prior to finalisation of the LEP, prepare detailed a detailed site investigation by a suitably qualified environmental consultant and, if required a Remediation Action Plan (RAP) to

demonstrate the land is suitable in its contaminated state, or will be suitable, after remediation, for the purposes proposed.

3. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as basic as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 30 days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).

Exhibition must commence within 30 days following the date of the Gateway determination.

4. Consultation is required with the following public authorities:

- Transport for NSW
- Sydney Water
- Endeavour Energy

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 days to comment on the proposal.

5. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
6. The timeframe for completing the LEP is to be **9 months** from the date of the Gateway determination.

25 October 2022

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12 October 2022

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