

Post-Exhibition Report – PP 2021-2926

The planning proposal seeks to facilitate the redevelopment of 253-267 Pacific Highway, North Sydney.

1 Introduction

The purpose of this report is to provide a summary of the key matters raised by members of the public, and public agencies during the public exhibition of the planning proposal for 253-267 Pacific Highway, North Sydney (the site), and to make a recommendation to the Sydney North Planning Panel (Panel) to submit the proposal to the Department for finalisation following relevant updates.

Table 1 – Timeline of the planning proposal

Element	Description
Date of request to exhibit PP	13 December 2021
Date of panel determination on rezoning review	12 July 2022
Planning Proposal no.	PP-2021-2926
LGA	North Sydney
LEP to be amended	North Sydney Local Environmental Plan (LEP) 2013
Address	253-267 Pacific Highway, North Sydney
Brief overview of the timeframe/progress of the planning proposal	<p>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.</p> <p>Jan – March 2021 - Pre-lodgement engagement with Council officers.</p> <p>12 April 2021 - Planning proposal was lodged with Council.</p> <p>June – October 2021 - Based on meetings with Council's Design Excellence Panel and staff, the proponent submitted additional information.</p> <p>14 December 2021 - Amended Planning Proposal is submitted to Council.</p> <p>23 February 2022 - North Sydney Local Planning Panel recommend the proposal proceeds to Gateway.</p>

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Element	Description
	<p>28 March 2022 - North Sydney Council resolved to not support the proposal.</p> <p>8 April 2022 - Proponent submitted Rezoning Review request in Portal.</p> <p>12 July 2022 - The Panel determined the proposal should proceed to Gateway Determination.</p> <p>1 August 2022 - Panel appoints itself PPA.</p> <p>24 October 2022 - Proposal is submitted to the Department for Gateway Determination.</p> <p>28 October 2022 - Gateway determination issued.</p> <p>18 November 2022 - Revised planning proposal provided by proponent.</p> <p>07 December 2022 – Public exhibition of proposal commenced.</p> <p>03 February 2023 - Public exhibition of proposal finished.</p>
Finalisation date required by Gateway Determination	28 July 2023
Department contact:	Renee Ezzy, Senior Planning Officer, Agile Planning

1.1 The Site and local context

The site (**Figure 1**) at 253-267 Pacific Highway, North Sydney comprises 5 lots (refer to **Table 1**) with a total site area of 1,469m². The site has a primary frontage to the Pacific Highway and secondary frontages to Church Lane and West Street. The site currently comprises commercial buildings, including a locally listed heritage item, I0959 “The Cloisters” at 265 Pacific Highway.

The site is located within the North Sydney Local Government Area on Sydney’s lower north shore, approximately 400m from the North Sydney CBD, 800m northwest of the North Sydney Train Station and 4.5km north of the Sydney CBD.

The McLaren Street Heritage Conservation Area (CA19) is located to the south and east of the site while the Crows Nest Heritage Conservation Area (CA23) is located to the west. The locally listed Union Hotel (I0960) is located to the north of the site at the corner of Pacific Highway and West Street (**Figure 2**).

The site is located within the Civic Precinct Planning Study (CPPS) area adopted by Council in November 2020.

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1.2 Planning proposal

Table 2 – Overview of planning proposal

Element	Description
Site Area	1,469m ²
Site Description	<p>The site comprises of 2 strata plans and 3 lots as follows:</p> <ol style="list-style-type: none">1. 253 Pacific Highway, North Sydney – SP 161342. 255-259 Pacific Highway, North Sydney – SP 228703. 261 Pacific Highway, North Sydney – Lot 51, DP 7143234. 265 Pacific Highway, North Sydney – Lot B, DP 3219045. 267 Pacific Highway, North Sydney – Lot 10, DP 749576
Proposal summary	<p>The objectives of the planning proposal are to:</p> <ul style="list-style-type: none">• Align with the indicative built form and massing envisaged under Council's 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. <p>The planning proposal (Attachment A) seeks to amend the North Sydney LEP 2013 to enable the future redevelopment of the site for a 3, 8 and 10 storey mixed-use development by:</p> <ul style="list-style-type: none">• Increasing maximum height of buildings limit to 15 metres, 29 metres, and 37 metres respectively.• Including a FSR limit for residential floor area to 4.83:1 at 253-261 Pacific Highway and 1.83:1 at 265-267 Pacific Highway. Allowing for a total residential floor area of 3,893m².• Increasing the FSR for non-residential floor area to 1:1. Allowing for a total commercial/retail floor area of 1,775m². <p>The planning proposal is supported by a concept development scheme which envisages a mixed-use development of 8-10 storeys, comprising of:</p> <ul style="list-style-type: none">• 37 residential units• 1,775m² of non-residential floor space• 38 car parking spaces.

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Element	Description
Relevant State and Local Planning Policies, Instruments	<ul style="list-style-type: none">Greater Sydney Region Plan (A Metropolis of Three Cities)North District PlanSection 9.1 Ministerial DirectionsSEPP No 65 – Design Quality of Residential Apartment DevelopmentNorth Sydney Local Environmental Plan 2013 (NSLEP 2013)North Sydney Local Strategic Planning Statement (LSPS)North Sydney Local Housing Strategy (LHS)Council's Civic Precinct Planning Study (CPPS)North Sydney Development Control Plan (DCP) 2013

The planning proposal (**Attachment A** and **Table 1**) seeks to amend the NSLEP per the changes in **Table 3** below.

Table 3 – Current and proposed controls

Control	Current	Proposed
Zone	B4 Mixed Use	B4 Mixed Use (no change)
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.

1.2.1 Mapping

The planning proposal includes amendments to the following maps:

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Figure 3 – Current floor space ratio map, with subject site outlined in red (source: Gateway determination report October 2022)



Figure 4 – Proposed amendment to the floor space ratio map, with subject site outlined in red (source: Gateway determination report October 2022)

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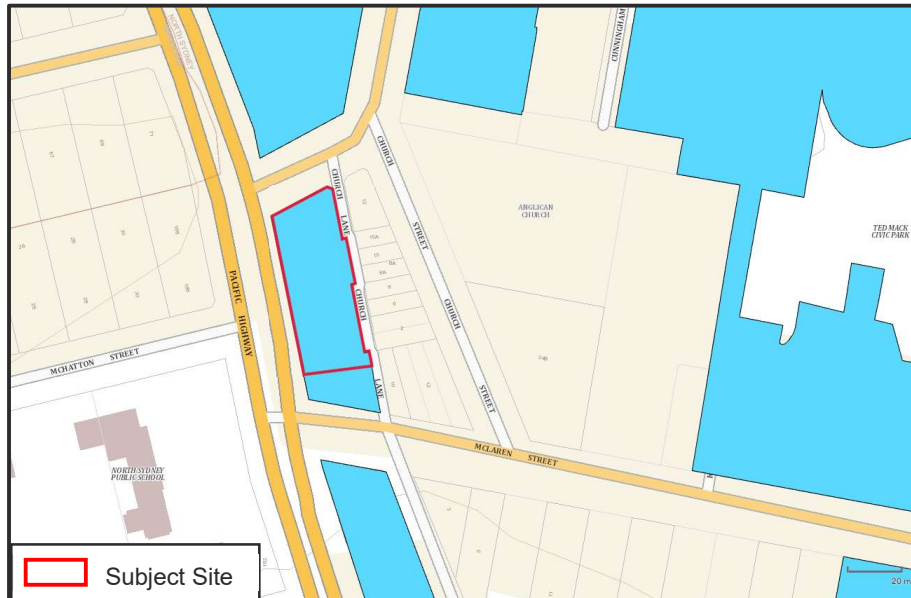


Figure 5 – Existing minimum non-residential floor space ratio map
(source: Planning Portal, 30 March 2023)



Figure 6 – Proposed minimum non-residential floor space ratio map
(source: Gateway determination report October 2022)

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- the proposal is suitable to proceed to Gateway Determination. In addition, and as recommended by Council Officers, the NSLPP and the Independent Design Review, the proposal should be accompanied by a revised site-specific DCP which gives 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.

The Panel's determination and reasons for its decision are provided in **Attachment B**.

The Panel appointed itself as the planning proposal authority (PPA).

The proposal was submitted to the Department for a Gateway determination on 12 July 2022.

1.4 Gateway determination

The Gateway determination issued on 28 October 2022 (**Attachment C**) determined that the proposal should proceed subject to the following conditions:

- Prior to community consultation, the planning proposal is to be updated to address the following:*
 - The draft site-specific DCP is to be updated to provide additional detail including:*
 - Elevations 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 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.*
 - Plans illustrating the building and podium setbacks.*
 - Update to address the consolidated and updated state environmental planning policies.*
 - Update the references to the Section 9.1 Ministerial Directions and address relevant new Directions issued since the proposal was prepared.*
- Prior to finalisation of the planning proposal, the proposal is required to be updated to ensure consistency with Direction 4.4 – Remediation of Contaminated Land. A detailed site investigation by a suitably qualified environmental consultant and a Remediation Action Plan must be provided to demonstrate the land is suitable in its contaminated state, or will be suitable, after remediation, for the purposes proposed.*
- Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:*
 - 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*
 - 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.

- 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.*

The Gateway determination identifies that the proposal is to be finalised before 28 July 2023.

The Gateway determination incorrectly included a referral to Endeavour Energy instead of Ausgrid who are the relevant electricity authority. A referral was sent to Ausgrid on 2 February 2023.

The Proponent provided an updated planning proposal in accordance with the Gateway conditions on 16 November 2022.

In response to Gateway condition 2, the proponent on 29 March 2023, submitted to the Department a Detailed Site Investigation and Remediation Action Plan prepared by JBS & G (**Attachment I**) which confirms that the site can be made suitable for the proposed land use.

All conditions of the Gateway determination have been met (see **Attachment D**).

2 Community Consultation

2.1 Public Exhibition

In accordance with the Gateway determination, the planning proposal and supporting material were publicly exhibited on the NSW Planning Portal for 58 days, from 7 December 2022 to 3 February 2023.

3 Submissions

3.1 Submissions during exhibition

There were 54 submissions received during the exhibition period from individuals, organisations and government agencies, including Sydney Water, Ausgrid and Transport for NSW.

Of the individual submissions, 35 objected to the proposal (69%) and 16 supported the proposal (31%). A petition with 88 signatures objecting to the proposal was also received.

A table summarising the Department and Proponent's response to submissions is provided as **Attachment E** and the Proponent's response to the submissions is provided at **Appendix H**. It is noted that the proponent's initial response identifies a different number of submissions and petition signatures, it has been since confirmed with the proponent the correct submission numbers and no further response was provided by the proponent.

3.1.1 Submissions from the public

A total of 51 public submissions (including a petition with 88 signatures) were received during the exhibition period. Out of the 51 individual public submissions, 16 submissions were supportive of the proposal, identifying the need for new development in the area including more housing.

Reasons for community support include:

- Supplying housing to young professionals moving to the area
- Revitalising and modernising North Sydney
- The development will support an increased use of public transport
- Businesses will benefit from increased people in the suburb
- The widening of Church Lane will provide safety to cyclists and pedestrians.

The remaining 35 submissions raised objections to the proposal. Key issues raised in public submissions included:

- Building height, and scale
- Overshadowing
- Impact on existing character and heritage
- Traffic flow, congestion, parking and pedestrian safety
- Heritage impacts
- Loss of views.

Redacted copies of the public submissions are provided at **Attachment G**.

3.1.2 Submissions from Agencies and Council

In accordance with the Gateway Determination, the following agencies were consulted:

- Transport for NSW
- The relevant service providers, including Sydney Water and Ausgrid.

North Sydney Council confirmed by email on 6 March 2023 that Council would not provide a submission on the proposal.

Submissions were received from the following agencies:

- Transport for NSW
- Sydney Water
- Ausgrid.

No issues were raised by the relevant agencies. All agency submissions are provided in full at **Attachment F**.

3.1.3 Submissions raised via a petition

A petition with 88 signatures, was submitted during the exhibition period. The petition objects to the increased height considering it inconsistent with the character of the area and the existing step down between the North Sydney CBD and Crows Nest.

The petition proposed changing the maximum height to between 12 metres and 18 metres (up to 5 storeys). The petition recommends this alternative as a way to achieve the strategic planning goals of the site whilst avoiding the potential overshadowing of the proposed concept scheme.

Potential height and scale impacts are considered in further detail in **Section 3.2** below.

3.2 Key Issues from submissions

The key issues raised in community submissions are discussed below.

3.2.1 Issue No.1 – Building height and scale

The proposed maximum building heights are not appropriate for this location.

Community view

- The proposed maximum building heights are excessive.
- The increased height will not allow for a gradual height increase between Crows Nest and the North Sydney CBD.
- The proposed building height increase would set a precedent for the area and surrounding sites, such as 1 McLaren Street, North Sydney.

Proponent view

- The proposed building heights:
 - are based on the urban design framework adopted by North Sydney Council in the CPPS, which identifies the site as a transition site with an opportunity for density uplift
 - will provide increased opportunities for height and density within 300 metres of the station to contribute to the transit-oriented development around the new Metro Station
 - respond to the role of Pacific Highway within North Sydney CBD whilst also transitioning from the increased height of the CBD to the city edge
 - achieve an appropriate built form relationship to the existing heritage items and conservation areas consistent with the character of North Sydney
 - minimise any adverse shadow impacts to the adjoining houses and school, and
 - moderate scale to the laneway.
- The tailored building height controls provided in the draft site-specific DCP will further ensure that any future development provides a contextually appropriate outcome having regard to the future higher building heights to the south and the established residential area to the east of the site.

Department Response

- The increased height limit for the site provides an appropriate transition to the North Sydney CBD which will support the activation of the CBD precinct. The height will enable the delivery of 37 new dwellings, supported by accessibility to jobs, services, transport, social infrastructure and recreational areas in the North Sydney LGA where there is a growing demand for new housing.
- As part of the Gateway Determination issued by the Department a condition was included to require updates to the draft site-specific DCP to address a variety of design related requirements including but not limited to building heights, including building articulation and a building setback plan. This updated draft site-specific DCP has been submitted and was included as part of the community consultation material. Whilst the draft DCP is not endorsed by Council it sets the design intent for the site and will be finalised by Council to ensure the built form outcomes for the site are appropriate in the site context.
- The site is located outside of the McLaren Street Heritage Conservation Area, however the proposal incorporates the adaptive reuse of the local heritage item “The Cloisters” at 265 Pacific Highway. The design has considered the podium height and setback from the local

heritage item in accordance with the CPPS and the draft site-specific DCP included further detailed built form controls for the future design of the site.

- 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. The proposal is consistent with Council's CPPS in terms of the maximum building height.
- The proposed amendments respond to nearby ongoing infrastructure development in the North Sydney area (eg. construction of Victoria Metro Station) and will allow for a moderate increase to housing supply within the North Sydney Civic Precinct.

3.2.2 Issue No.2 – Overshadowing

The proposed height increase will result in overshadowing impacts to nearby residential apartments and the North Sydney Public School playground area.

Community view

- Concern is raised that future development in accordance with the increased building heights will result in excessive overshadowing to surrounding residential dwellings (including rooftop areas) and to the playground of the North Sydney Public School.

Proponent view

- The potential overshadowing impacts have been extensively considered. The design was amended resulting in reduced podium height, increased setbacks and lower building height, which ultimately ensures that the site will achieve an acceptable impact on the locality, consistent with that envisaged by Council when adopting the CPPS.
- The shadow study submitted with the planning proposal demonstrates that no additional overshadowing will impact the primary school play areas during school hours 9am – 3pm during mid-winter. During school hours, the overshadowing caused by the proposal will fall within the existing shadow of the school building. Between 8:30am and 9am, a minor area of additional overshadowing will impact the southwestern corner of the school site however, the additional overshadowing falls within the overshadowing cast by the building envelope anticipated in Council's CPPS.

Department Response

- The submitted shadow analysis prepared by PTW Architects demonstrates some additional overshadowing beyond the existing school buildings on to the school playground which occurs briefly between 7:30 to 8:30am period. This additional shadow is not considered to have a material impact beyond that considered by the CPPS as at 8:30am the proposed shadow aligns with the anticipated CPPS shadow.
- The Department accepts that the proposed building envelope will not result in any significant overshadowing to the North Sydney Public School playground during school hours (9:00am to 3:00pm) and generally aligns with the overshadowing impacts envisaged in the CPPS.

3.2.3 Issue No.3 – Impact on existing character

The proposed building height increases are not in keeping with the character of the area.

Community view

- Concerns were raised that the proposed building heights are inconsistent with character of the locality and that the area should be protected from development.

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- The proposed amendments were considered to erode and shift the transition point between the North Sydney CBD and Crows Nest.

Proponent view

- The indicative reference design was previously amended in response to feedback received during earlier stages of the process resulting in reduced podium height, increased setbacks and lower building height. These changes ensure an acceptable impact on the locality, consistent with that envisaged by Council when adopting the CPPS.
- The reference scheme and proposed building heights have been designed to achieve a human scale podium level, building heights and breaks which provide for view sharing, to promote a shared and active environment and a high-quality landscaped outcome within both the public and private domain.

Department Response

- The proposed mixed-use outcome on the site seeks to bridge the gap and provide a transition between the mid-rise residential buildings to the south of Pacific Highway and the low-scale environment of the North Sydney Civic Precinct to the north. The concept reference scheme provided with the planning proposal is generally consistent with the CPPS design guidelines through the development of a mixed-use building.
- The proposed building envelopes and setbacks are consistent with the evolving and desired future character of the area in line with the vision established in Council's strategic plan. With the construction of the Victoria Cross Metro Station being a catalyst for change in the precinct.
- The proposed building envelopes and setbacks included in the site-specific DCP support Council's vision for a medium-scale building and are generally consistent with the CPPS.

3.2.4 Issue No. 4 – Traffic flow, congestion, parking and pedestrian safety

The proposal will add to the existing traffic congestion problems in the area and lacks adequate parking

Community view

- The proposal lacks adequate parking and development of the site would put increased pressure on the availability of on-street parking in the area.
- Submissions questioned the findings of the traffic modelling that future development would result in only 11 extra car trips per hour during peak.
- Increases in traffic will add to congestion, exacerbating existing traffic congestion in the area from the Western Harbour Tunnel and impacting on the Pacific Highway and Berry Street, as well as Bay Road, Rocklands Road and Shirley Road.

TfNSW view

- Loading and servicing demands should be accommodated within the site and not rely on kerbside space. Spaces for freight and service vehicles should be provided within the development.
- Cycling facilities should be provided above the minimum required by Council's DCP to encourage active transport, as the site is located close to North Sydney Station. Suggested provisions for the draft DCP and/or future DA for the site include:
 - i. A minimum of 1 secure bicycle space per 100sqm of commercial/retail floor space;
 - ii. Adequate end of trip facilities including lockers, showers, etc. for use by commercial or retail tenants; and

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- iii. Providing a bicycle rack within the site boundary for use by visitors/customers.
- The proposal is adjacent to cycle links that have been identified by Council along both the Pacific Highway and Church Lane, in Council's Integrated Cycling Strategy. The cycling link may form part of TfNSW's strategic cycleway corridors network.
- An increase in residential density and therefore vehicle use resulting from the development may negatively impact the proposed cycle link along Church Lane.
- TfNSW recommends that the proponent note the cycling connections surrounding the site in their proposal and acknowledge the potential negative impacts by identifying suitable mitigations such as the installation of a 10kmh shared zone on Church Lane.

Proponent view

- Under the indicative architecture concept, vehicle access would be provided off Church Lane to minimise conflicts with pedestrians and general traffic along the Pacific Highway.
- The site is located in close proximity to various public transport facilities, including North Sydney transport interchange, nearby bus stops and the future Victoria Cross Metro station only 260m away, with any future development not expected to generate significant traffic impacts.
- Analysis indicates that the potential increase in traffic as a result of the planning proposal is an additional 11 vehicles in the AM peak hour and 10 vehicles in the PM peak hour. This volume of additional traffic is considered negligible in the context of existing traffic flows and would not impact the operation of the surrounding road network.
- The proposed on-site parking provision is based on the reference design prepared for the planning proposal, which is less than the maximum permissible under Council's DCP parking rates for B4 zoned areas.
- Service vehicle parking is proposed in accordance with the requirements set out in the DCP.
- Secure bicycle parking would be provided as a component of any future proposed development, in line with rates specified in the North Sydney DCP.

Department Response

- The Traffic Impact Assessment prepared by JMT Consulting forecasted travel demand across all travel modes, including public and active transport which is expected to account for 79% of all residential morning trips, with cars representing only 18% which is reflected in the vehicle generation rates provided. It is acknowledged that this proposal will result in a slight increase of traffic movements in the area, however TfNSW have not indicated concerns over the proposal and along with the Council's DCP car parking rates including a maximum car parking requirement, the Department is satisfied that there is likely to be minimal adverse traffic impacts from this proposal.
- 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 the North District Plan and the CPPS as it is accessible to public transport and encourages a walkable neighbourhood to reduce the need for car dependency.
- Any potential noise impacts associated with the increased traffic travelling to and from the site should be adequately investigated and assessed at the DA stage.
- The Department is satisfied that any future proposed development would be required to address the car parking requirements of Council's DCP, which specifies a maximum car parking requirement for the site. Car parking requirements can be further resolved and assessed at the DA stage.

3.2.5 Issue No. 5 – Heritage impacts

The proposal will lead to a loss of character to surrounding conservation areas and impact on nearby heritage items.

Community view

- The site contains a building of historic interest which will be impacted by future development.
- The proposed amendments will have an adverse visual impact on nearby heritage items and adjoining heritage conservation areas.
- Consideration of the sandstone church is requested.

Proponent view

- A Heritage Impact Statement (HIS) prepared by NBRS concludes that the proposal will have an acceptable impact in relation to the curtilage and relationship to the existing heritage item on the site at No. 265 Pacific Highway North Sydney and its height relationship with the adjoining heritage conservation area.
- The Proponent notes that the heritage item on site will be retained and integrated as part of the podium development and states that adequate legibility and articulation are provided at the podium level to highlight the heritage item. The single form with appropriate setbacks to the heritage item, conservation area and the laneway will support the desired intensification around the station whilst responding to the heritage and conservation area context.
- The Proponent considers the proposed development will:
 - provide an appropriate curtilage around the heritage item
 - continue the visual connection between McLaren Street and Crows Nest Conservation areas, and
 - concentrate height and scale along the Pacific Highway frontage to maximise separation to the conservation area.

Department Response

- The proposal seeks to retain and adaptively reuse the local heritage item I0959, “The Cloisters” at 265 Pacific Highway North Sydney.
- The draft site-specific DCP requires a maximum 2 storey street wall height at the interface with 6-8 McLaren Street. A 1.3m setback of the podium from The Cloisters is shown in Figure C-2.3.3, with a further setback of 1m from the podium facing The Cloisters. This will provide façade articulation, wind mitigation, and separation from the heritage item is illustrated as part of the draft site-specific DCP.
- The proposal is an indicative built form only. The impact of any future development on the surrounding heritage items and conservation areas will be further addressed and assessed at the DA stage.

3.2.6 Issue No. 6 – Loss of views

The proposal will impact on existing views and set a precedent for view loss in the area.

Community view

- The development will result in loss of views and set a precedent for destruction of views in the area.

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- Allowing the 253 Pacific Highway site such a significant increase in height it will block district views to the north and set a precedent for the No. 1 McLaren Street site to also request an increased building height.
- The project will interrupt the northerly view from the rooftop entertainment area of 245 Pacific Highway which is a key building feature and asset.

Proponent view

- The proposed building achieves reasonable separation, amenity and outlook for neighbouring dwellings.
- To address visual privacy concerns of surrounding developments, the following mitigation measures have been incorporated into the design:
 - an increased secondary setback to Church Lane (east) has been provided as part of the vertical tower articulation zones fronting Church Lane
 - the internal layout locates the lift core to the eastern side of the tower building
 - a blank feature wall is also provided to part of the upper levels of the eastern façade and all apartment balconies have been oriented away from the eastern boundary to minimise the potential for overlooking
- A draft site-specific DCP has been prepared by the Proponent which provides additional detailed built form controls to ensure that any future development on the site has regard to the visual privacy of adjoining residences.

Department Response

- The proposal is to amend the maximum building height, FSR and minimum non-residential FSR applicable to the site. The concept reference scheme supporting the proposal is an indicative built form only. View sharing should be adequately investigated and assessed at the DA stage.
- The existing North Sydney DCP requires any commercial and residential development likely to affect views from either public or private land to give consideration to the Land and Environment Court's Planning Principles for view sharing established in *Rose Bay Marina Pty Ltd v Woollahra Municipal Council* [2013] NSWLEC 1046 and *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140.

4 Next Steps

The Department is the Local Plan-Making Authority (LPMA) for this planning proposal.

The Panel's decision and the final planning proposal will be submitted to the Department through the NSW Planning Portal for finalisation.

The Department will prepare a finalisation report in accordance with the LEP Making Guidelines (September 2022) and will determine whether to make the LEP, with or without variation. The Department may defer the inclusion of a matter in the proposed LEP or not make the LEP.

In accordance with section 3.36(1) of the EP&A Act, the Department will organise drafting of the LEP and finalisation of maps and will consult the panel on any draft instrument.

5 Recommendation

Based on this post-exhibition report, it is recommended that the Sydney North Planning Panel determine that the planning proposal be submitted to the Department for finalisation.

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The planning proposal is considered suitable for finalisation because:

- The proposal demonstrates strategic and site specific merit.
- The conditions of the Gateway have been met.
- Agency and community consultation has occurred in accordance with the Gateway determination.
- Submissions raised have been adequately addressed and the proposal warrants support.

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5.1 Attachments

Attachment A – Planning Proposal (November 2022)

Attachment B – Rezoning Review Record of Decision (July 2022)

Attachment C – Gateway Determination (October 2022)

Attachment D – Assessment Against Gateway Determination

Attachment E – Summary of community submissions and responses

Attachment F – Agency submissions

Attachment G – Community submissions (redacted)

Attachment H – Proponent response to submissions (February 2023)

Attachment I – Detailed Site Investigation and Remediation Action Plan (March 2023)




(Signature)

____17/04/2023_____
(Date)

Douglas Cunningham

A/Specialist Planning Officer, Agile Planning



(Signature)

18/4/2023

(Date)

Louise McMahon

Director, Agile Planning

Assessment officer

Renee Ezzy

Senior Planning Officer, Agile Planning

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