



NORTH SYDNEY LOCAL PLANNING PANEL – PLANNING PROPOSALS

DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL MEETING HELD IN THE SUPPER ROOM, NORTH SYDNEY, ON 9 DECEMBER 2020, AT 12PM.

PRESENT

Chair:

Jan Murrell in the Chair.

Panel Members:

Grant Christmas, Panel Member
John McInerney, Panel Member
Veronique Marchandau, Community Representative

Staff:

Marcelo Occhiuzzi, Manager Strategic Planning
Karen Buckingham, Executive Strategic Planner
Neal McCarry, Team Leader, Policy, Strategic Planning
Jayden Perry, Strategic Planner

Administrative Support

Peita Rose, Governance Officer (Minutes)

Apologies: Nil.

1. Minutes of Previous Meeting

The Minutes of the NSLPP - Planning Proposal Meeting of 1 July 2020 were confirmed following that meeting.

2. Declarations of Interest

Nil.

3. Business Items

On 23 February 2018, the Minister for Planning released a Section 9.1 Direction which outlines the instance when a Planning Proposal must be referred to a Local Planning Panel for advice prior to a Council determining as to whether that Planning Proposal should be forwarded to the Department of Planning and Environment for the purposes of seeking a Gateway Determination.

The Panel has considered the following Business Items and provided recommendations on each matter as described in these Minutes.

ITEM 1

PP No:	PP2/20
ADDRESS:	1A Little Alfred Street North, North Sydney
PROPOSAL:	<p>The Planning Proposal seeks to make the following amendments to the North Sydney Local Environmental Plan 2013 (NSLEP 2013):</p> <ul style="list-style-type: none">• allow ‘Serviced apartments’, ‘Office premises’ and ‘Boarding House’ as additional permissible uses on the site. Should the Housing Diversity SEPP be finalised and gazetted, the newly defined use of ‘co-living’ be added to the permissible land uses;• amend the Height of Buildings Map with a maximum height of 15m on the western portion of the site; and• amend the Floor Space Ratio Map with a maximum FSR of 0.62:1 on the western portion of the site.
REPORT BY NAME:	Jayden Perry, Strategic Planner
REASON FOR NSIPP REFERRAL:	The proposal has been referred to NSLPP as per the Ministerial Direction requiring all planning proposals to be referred to the local planning panel for advice.
APPLICANT:	Bernard Gallagher of Ethos Urban on behalf of Tooma and Tooma Pty Ltd

Public Submissions

1 written submission

Submitter	Applicant/Representative
John Kluver - Owner 7 Whaling Road	Bernard Gallagher - Applicant - Ethos Urban
Beth Powell - Neighbour	Michael Tooma - Owner
Therese Curtis - Owner 4E/10 Whaling Road	Shaun Carter - Architect
Beth Bromiley - Owner 11 Whaling Road	

Panel Recommendation to Council:

The Panel members have undertaken independent site inspections prior to the meeting and have noted the submissions both oral and written.

The Council Officer's Report is noted. The majority of the Panel considers that the Planning Proposal could only be supported in part. That is, subject to the additional use limited to 'serviced apartments' and the future built form on the western portion of the site only limited to a maximum of 12.5m with a maximum of three storeys and a FSR of 0.9:1 confined to that portion of the site. This additional use is seen to complement the permissible uses in the RE2 zone.

Furthermore, a restriction would need to be placed on the title to ensure the site is to remain in single ownership with no future subdivision, either Torrens Title or Strata Title. This is to ensure that the tennis court is maintained and available to the public for the life of the development in conjunction with the permissible RE2 uses on the site.

Only on the conditions above does the majority of the Panel consider this additional use of 'serviced apartments' has both site specific and strategic merit having regard to the zone objectives and broader relevant strategic considerations.

The Panel also recommends that a DCP be prepared to accompany the exhibition of the LEP if Council proceeds with seeking a Gateway Determination.

While the applicant seeks the use of office premises as an additional use, the Panel considers that use should only be ancillary to the serviced apartment component and other recreational uses permitted in the RE2 Zone.

The Panel considers that the definition of 'serviced apartments' provides the opportunity for appropriate co-location with the recreational purposes of the site. The Panel does not consider that more permanent accommodation such as boarding houses would be consistent with the objectives of the zone and may conflict with the permissible RE2 uses.

The Panel notes the applicant's offer to enter into a VPA with Council.

The Panel notes the unique location and constraints of this parcel of land and the need for complementary uses to activate the site to ensure access and safety for use as a recreational area.

If the Council considers the Planning Proposal as restricted above, still does not warrant support then alternatively, the Council may in the future, when it undertakes a comprehensive review of the LEP, rezone the site for public recreation RE1 if it is considered suitable for this purpose..

Voting was as follows:

3/1

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Veronique Marchandeanu		N
Grant Christmas	Y				
John McInerney	Y				

The Community Representative Veronique Marchandeanu is not in agreement with this recommendation for the reasons outlined in the Council Officer's Report. In particular, inconsistency with the objectives of the RE2 zone and the objectives of the adjacent area and the loss of scarce and much needed private recreational area.

ITEM 2

PP No:	PP5/20
ADDRESS:	52 Alfred Street North, Milsons Point
PROPOSAL:	Planning Proposal PP5/20 seeks to amend the North Sydney Local Environmental Plan 2013 (NSLEP) as it relates to land at 52 Alfred Street North, Milsons Point. In particular, the Planning Proposal seek the following changes to NSLEP 2013: <ul style="list-style-type: none">• Increase the maximum building on the Height of Buildings Map from 40m to RL86.65 (54.43 metres).
REPORT BY NAME:	Karen Buckingham, Executive Strategic Planner
REASON FOR NSIPP REFERRAL:	Planning Proposal PP5.20 is referred to the NSLPP for advice prior to reporting to Council in accordance with the Environmental Planning & Assessment Act 1979.
APPLICANT:	Milsons Point 2 Pty Ltd

Public Submissions

4 Written Submissions

Submitter	Applicant/Representative
Tom Sherwen - Owner - U 2002 /37 Glen Street	
Pierre Le Bas - Director & Legal Counsel - Turnbull Planning	
Nic Najjar - Town Planner - Turnbull Planning	

The Panel members have undertaken independent site inspections prior to the meeting and have noted the submissions both oral and written.

Panel Recommendation to Council

The Panel endorses the Officer's Report and Recommendation.

The Panel requested the applicant's representatives be contacted during the meeting and this resulted in a response that the Applicant did not seek to address the Panel.

For the reasons outlined in the Officer's Report the Panel recommends to Council that the Planning Proposal does not warrant support going forward to a gateway.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Veronique Marchandean	Y	
Grant Christmas	Y				
John McInerney	Y				

The public meeting concluded at 1.30pm.

The Panel Determination session commenced at 1.45pm.
The Panel Determination session concluded at 3.15 pm.

Endorsed by Jan Murrell
North Sydney Local Planning Panel, 9 December 2020



NSLPP MEETING HELD ON 9/12/2020

Attachments:

1. Planning Proposal
2. Architectural Drawings
3. Visual Impact Assessment

ADDRESS/WARD: 52 Alfred Street South, Milsons Point (W)

PROPOSAL NO: 5/20

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

- Increase the maximum building height on the Height of Buildings Map from 40m to RL 87 (55 metres). This represents an increase of 15 metres above the existing maximum height control.

OWNER:



APPLICANT: Milsons Point 2 Pty Ltd

AUTHOR: Karen Buckingham – Executive Strategic Planner

DATE OF REPORT: 1 December 2020

DATE LODGED: 2 October 2020

EXECUTIVE SUMMARY

On 2 October 2020, Council received a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land located at 52 Alfred Street South, Milsons Point. In particular, the Planning Proposal seeks the following amendment to NSLEP 2013:

- Increase the maximum building height on the Height of Buildings Map from 40m to RL 87 (55 metres). This represents an increase of 15 metres above the existing maximum height control.

Planning Proposal PP5/20 includes a site-specific Development Control Plan (DCP) amendment which attempts to demonstrate how the indicative concept design would be realised in a DCP amendment and control the potential build form outcomes on the subject site.

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

- *The Planning Proposal and Site-Specific DCP amendment fails to demonstrate how the site could be acceptably developed to ensure that the height proposed would not have a significant detrimental impact on the character of the area and impact on public and private amenity.*
 - *It is contrary to the objectives of the Height of Building controls under clause 4.6 to NSLEP 2013;*
 - *It is inconsistent with the Milsons Point Town Centre Area Character Statement under Section 9.1 to Part C of NSDCP 2013;*
 - *It is inconsistent with a number of objectives and actions under the relevant Regional and District strategies applying to the land;*
 - *Sufficient residential capacity is already provided under NSLEP 2013 and identified in the NSLHS to meet State housing targets, without the need to change the land use mix on the subject site; and*
 - *The Planning Proposal if implemented, could have the potential to create a precedent that could undermine other established policies for the Milsons Point Town Centre and other mixed use zoned land in highly accessible locations without the benefit of a comprehensive planning study of Milsons Point.*
-

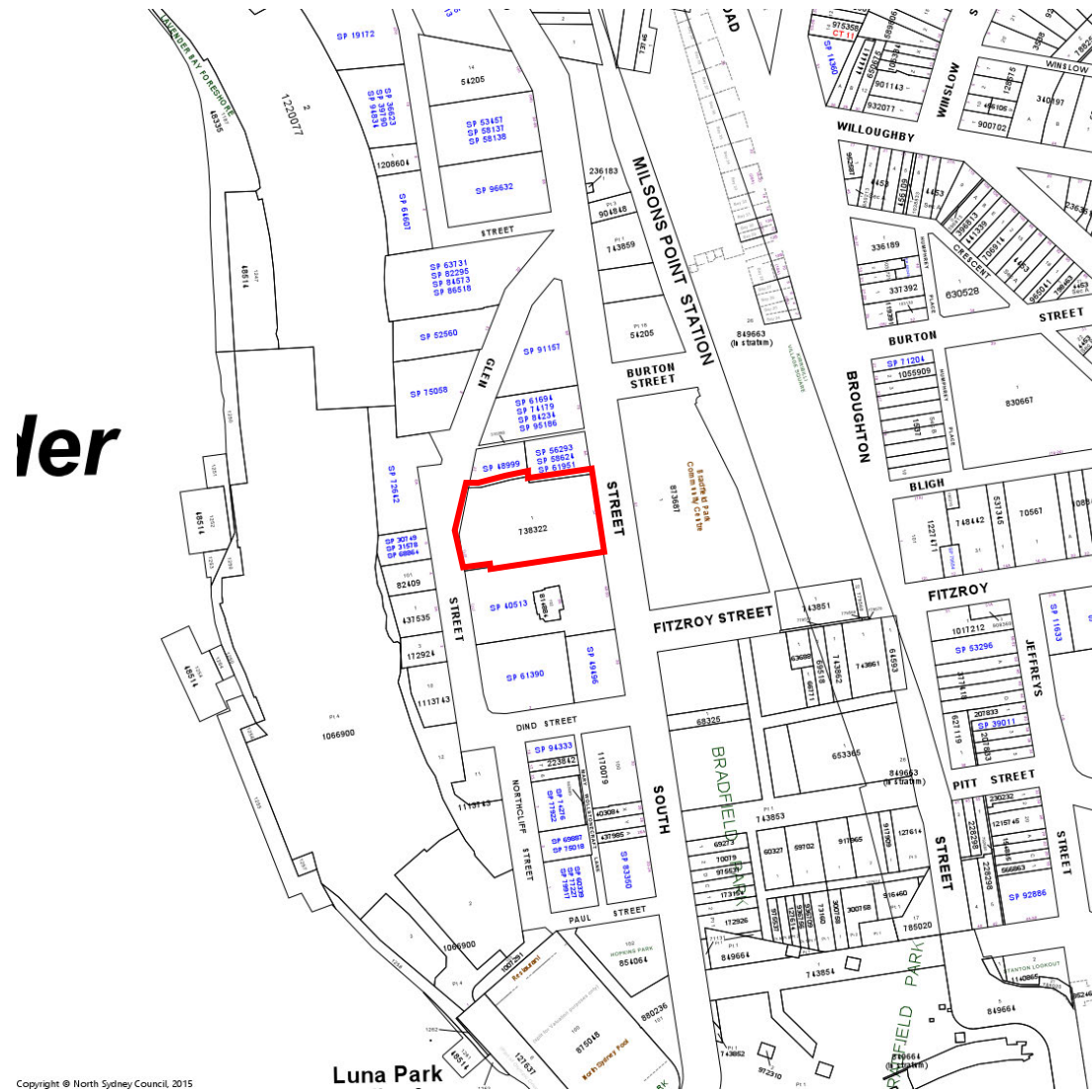


FIGURE 1: Location map

DESCRIPTION OF PROPOSAL

Planning Proposal 5/20 seeks to amend the NSLEP 2013 as it relates to land located at 52 Alfred Street South, Milsons Point. In particular, the Planning Proposal seeks the following amendments to NSLEP 2013:

- Increase the maximum building height on the Height of Buildings Map from 40m to RL 87 (55metres). This represents an increase of 15 metres above the existing maximum height control.

The objectives of the Planning Proposal as described by the applicant are as follows:

- *deliver a maximum height control and a built-form outcome consistent with the established built form in the locality;*
- *provide for a built form that responds to the relevant character statement in the NSDCP 2013 whilst taking into account the existing character of the area;*
- *contribute to the achievement of the objectives contained within the North Sydney Residential Development Strategy (RDS); LSPS and Housing Strategy;*
- *deliver a high-quality mixed-use development that exhibits design excellence on a site earmarked for high-density residential development;*
- *enable the development of a high-performance building;*
- *contribute to community infrastructure in the form of a through-site link in the Milsons Point Town Centre;*
- *maintain solar access to key public spaces including the adjacent Bradfield Park;*
- *protect heritage values of Camden House by ensuring compatible podium design to the existing streetscape facades;*
- *provide for an active retail frontage that will improve the vitality of the streetscape and complement existing retail uses;*
- *facilitate the delivery of residential development in a desirable location that receives ample access to iconic views, public transport and surrounding civic amenities; and*
- *increase the provision of high-quality commercial floorspace in Milsons Point.*

The Planning Proposal is accompanied by an indicative concept design to demonstrate what could be achieved on the site if the proposed amendments were implemented. The scheme is summarised in the following table from the applicant (see **Figure 2**). The built form, as outlined in the Planning Proposal, is described as:

- *A built form across the subject site comprising a part three storey podium (fronting Alfred Street) and four storey podium (fronting Glen Street) with a residential tower above. As the site has a dual frontage, the eastern component fronting Alfred Street reaches a maximum height of 18 storeys and the western component fronting Glen Street reaches a maximum height of 16 storeys.*
 - *Together the two building components provide a stepped built form that descends from west to east to the street frontages and also from north to south. It provides a reduced bulk at Alfred Street that corresponds with the scale of the existing building and aligns with the height plane established by adjoining developments.*
-

- *The tower component fronting Alfred Street South adopts a terraced form that steps down in height from north to south to correspond with the sloping topography of Alfred Street South.*
- *A building podium that respects the podium building line established by adjacent properties to protect view corridors.*
- *Provision of an upgraded existing east-west through-site link and new north-south through-site link with comprehensive landscaping and public domain improvements which accommodates both an existing and new connections across the site.*
- *Ground floor retail tenancies at the site's ground floor plane that will facilitate the activation of the through-site links and Alfred Street South.*
- *Provision of basement level parking accessed from Glen Street to prevent additional traffic congestion along Alfred Street South.*

A numerical overview of the indicative development concept is provided below.

Component	Development Concept
Maximum overall height (storeys)	18
Maximum overall height (RL)	87.10 RL (54.43m)
Maximum podium height (storeys) (RL)	4 (fronting Glen Street)
Maximum podium height	37.55 RL
<ul style="list-style-type: none"> • GFA (total) • Retail/Commercial GFA • Residential GFA • Amenities GFA 	<ul style="list-style-type: none"> • 23,771m² • 2,642m² • 20,603m² • 526m²
<ul style="list-style-type: none"> • Apartments (total) • Studio • 1 bed • 2 bed • 3 bed 	<ul style="list-style-type: none"> • 159 • 0 (0%) • 12 (8%) • 71 (45%) • 76 (48%)
Car parking	191

FIGURE 2: Extract – Table 10 of PP5.20 - Development concept information

The proposal is further discussed below, including the changes that have been made from the previously refused Planning Proposal.

PANEL REFERRAL

On 23 February 2018, the Minister for Planning released a section 9.1 Direction that outlines the instances when a Planning Proposal must be referred to a Local Planning Panel for advice prior to a council determining whether that planning proposal should be forwarded to the Department of Planning, Industry and Environment (DPI&E) for the purposes of seeking a Gateway Determination.

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

- the correction of an obvious error in a local environmental plan;

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- matters that are of a consequential, transitional, machinery or other minor nature; or
 - matters that Council's General Manager considers will not have any significant adverse impact on the environment or adjacent land.

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

BACKGROUND

Prior Planning Proposals

The subject site has been the subject of two previously refused Planning Proposals which are discussed below.

Prior Planning Proposal 52 & 74-80 Alfred St, Milsons Point

On 12 December 2017, a Planning Proposal was lodged by Ethos Urban on behalf of the landowner (Element Property Australia) to amend NSLEP 2013 as it relates to land at 52 Alfred Street South, Milsons Point. The Planning Proposal sought to amend the maximum building height control applying to the site from 40m to a split height control across the site of RL93/RL90.

Following feedback from Council staff and the Design Excellence Panel, the Planning Proposal was amended and resubmitted on 8 August 2018. The revised Planning Proposal sought to amend the maximum building height control from 40m to a split height control across the site of RL97/RL84.

The applicant's amended concept proposal included:

- A mixed-use tower of 17 storeys (RL83.55) to Alfred Street South and 25 storeys (RL96.05) to Glen Street;
 - 3 storey podium to Alfred Street South and 4 storey podium to Glen Street;
 - Retail, foyer spaces and a residential gym occupying the ground floor and commercial office space occupying 3 levels of the podium to Glen Street;
 - 186 residential units occupying the remaining podium levels and tower above;
 - 191 car spaces over 4 basement levels; and
 - Upgrade of the existing through-site link between Alfred Street South and Glen Street.
-

A numerical overview of the previous amended concept scheme is provided in **Figure 3**:

Height	Approx. 54.95m to Alfred Street South Approx. 78.65m to Glen Street
Gross Floor Area (GFA)	25,419m ² <ul style="list-style-type: none">• 2,053m² Non-Residential• 22,718m² Residential• 648m² Amenities
Floor Space Ratio (FSR)	Approx. 9.4:1
Non-Residential FSR	Approx. 0.76:1

FIGURE 3: Numerical overview of the previous amended concept scheme.

On 26 September 2018, the North Sydney Local Planning Panel (NSLPP) considered a Council Officer's assessment report and accompanying recommendations. The report recommended that the Planning Proposal not proceed to Gateway determination for the following reasons:

- *The indicative concept design fails to demonstrate how the site could be acceptably developed to the requested heights insofar that it does not respond adequately to the site attributes and context and will result in a significant level of public and private amenity impacts;*
- *It is contrary to the objectives of the Height of Building controls under clause 4.6 to NSLEP 2013;*
- *It is inconsistent with the Milsons Point Town Centre Area Character Statement under Section 9.1 to Part C of NSDCP 2013;*
- *It will result in a reduction of commercial floor space over the site which is inconsistent with Direction 1.1 – Business and Industrial Zones to the section 9.1 Ministerial Directions under the Environmental Planning and Assessment Act 1979;*
- *It is inconsistent with a number of objectives and actions under the relevant Regional and District strategies applying to the land;*
- *Sufficient residential capacity is already provided under NSLEP 2013 to meet State housing targets, without the need to change the land use mix on the subject site; and*
- *The Planning Proposal if implemented, could have the potential to create a precedent that could undermine other established policies for the Milsons Point Town Centre and other mixed use zoned land in highly accessible locations without the benefit of a comprehensive planning study of Milsons Point.*

The Panel supported the Council Officer's recommendation and made the following recommendation to Council:

“The Panel has considered the Council Officer's Report and Recommendation and the submissions and presentation to the public meeting. A site inspection was undertaken earlier in the day by the Panel.

The Panel recommends that Council not proceed with the Planning Proposal for the reasons outlined in Council's officer's report. The Panel is not persuaded that the increase in height is justified in the circumstances of the case having regards to its context. The increase in height is not supported because of the need to carefully consider impacts on the heritage item to the south, the residential to the north in terms of view loss, and the properties to the west and also importantly, overshadowing of Bradfield Park is not acceptable given the importance of this public domain area.

The Panel recommends to the Council that this planning proposal to increase the height from 40m to between 55.4m - 79.6m not proceed to a Gateway Determination.”

On 29 October 2018, Council resolved to adopt the following recommendation:

1. *THAT Council resolves not to support the Planning Proposal proceeding to Gateway Determination.*
2. *THAT Council advise the Department of Planning and Environment of its decision and be provided with a copy of this report and its resolution in support of Council’s position.*
3. *THAT Council notifies the applicant of Council’s determination in accordance with clause 10A of the Environmental Planning and Assessment Regulations 2000.*

Prior Planning Proposal PP4/19

On 26 March 2019, a Planning Proposal was lodged by Ethos Urban on behalf of the landowner (Milsons Point 2 Pty Ltd) to amend NSLEP 2013 as it relates to land at 52 Alfred Street South, Milsons Point. The Planning Proposal sought to amend the maximum building height control applying to the site from 40m to part RL 84 (to Alfred Street South) and part RL 97 (to Glen Street).

The applicant’s amended concept proposal included:

- A mixed-use tower of 17 storeys (RL84) to Alfred Street South and 25 storeys (RL97) to Glen Street;
- A maximum podium height of 4 storeys to Glen Street;
- Retail/Commercial, Residential and Amenity space;
- 173 residential units occupying the remaining podium levels and tower above;
- 191 car spaces over 4 basement levels; and
- Upgrade of the existing through-site link between Alfred Street South and Glen Street.

A numerical overview of the previous concept scheme under PP4/19 is provided below in **Figure 4:**

Component	Development Concept
Maximum overall height (storeys)	25
Maximum overall height (RL)	96.05 RL
Maximum podium height (storeys) (RL)	4 (fronting Glen Street)
Maximum podium height	40.15 RL
<ul style="list-style-type: none">• GFA (total)• Retail/Commercial GFA• Residential GFA• Amenities GFA	<ul style="list-style-type: none">• 24,054m²• 2,431m²• 21,550m²• 478m²
<ul style="list-style-type: none">• Apartments (total)• Studio• 1 bed• 2 bed• 3 bed	<ul style="list-style-type: none">• 173• 14 (8%)• 1 (0.5%)• 86 (49.5%)• 72 (42%)
Car parking	191

FIGURE 4: Numerical overview of the concept scheme for prior Planning Proposal PP4/19.

Due to the high levels of work being undertaken by Council staff at the time of lodgement, including Council's need to meet the tight NSW Government imposed deadlines for the adoption of the draft Local Strategic Planning Statement and Local Housing Strategy, Council engaged an independent planning consultant (Ingham Planning) to undertake the assessment of this planning proposal in order to provide a timely response.

The North Sydney Local Planning Panel (NSLPP) considered the Assessment Report prepared by Ingham Planning on 14 August 2019. The Ingham Planning Assessment Report identified various impact and design concerns that did not warrant support of the Proposal in its current form. It did, however, recommend that the Planning Proposal could be supported to proceed to Gateway Determination subject to:

- the Applicant be invited to formalise their offer to enter into a Voluntary Planning Agreement (VPA) including details of the value uplift of the property resulting from the proposed height increases;
- submitting a request to the Department of Planning, Industry and Environment (DPIE) that conditions be imposed as part of the Gateway Determination, that prior to the commencement of the public exhibition process, that the Applicant be required to undertake the following for inclusion in the public exhibition material:
 - details of community consultation within the block bound by Alfred, Glen and Dind Streets and 2–12 Glen Street;
 - a more detailed assessment of impacts (including but not necessarily limited to view loss, overshadowing and preserving views through the site);
 - details of any amendments to the proposed height and proposed building setbacks and building separation considered to be necessary as a result of the consultation and further assessment;
 - details of proposed amendments to North Sydney Development Control Plan 2013 (NSDCP 2013) necessary to ensure any future Development Application (DA) will be subject to adequate planning controls;
 - any draft VPA as agreed to by Council.

The Assessment Report was also accompanied by an Advisory Note from Council's Manager of Strategic Planning, which provided comments in relation to the consultant's assessment and recommendation.

Following its meeting on 14 August 2019, the NSLPP resolved to recommend to Council that the Planning Proposal not proceed to Gateway Determination. The Panel's reasons for not supporting the Planning Proposal are outlined below.

The Panel recommends to Council as follows:

1. *The applicant has failed to demonstrate how the site could be acceptably developed to the requested heights insofar as the proposed concept design does not adequately respond to the site attributes and constraints and will result in a significant level of amenity impacts to adjoining residents in an already compromised environment;*

2. *The extent of impacts identified, particularly in relation to loss of iconic views, may not be able to be resolved through the provision of increased building separation and setbacks, without consequential design changes which may result in other unacceptable impacts;*
3. *To defer further assessment of impacts provides no certainty that the site can appropriately accommodate the height sought;*
4. *The proposal fails to demonstrate strategic merit insofar that it is: a) inconsistent with a number of objectives and actions under the relevant Regional and District Plans; b) sufficient residential capacity is identified in the Draft North Sydney Local Housing Strategy (2019) to meet projected housing demand for the next 20 years, without the need to change the land use mix on the subject site; and*
5. *It is contrary to the objectives of the Height of Building controls under clause 4.3 to NSLEP 2013 and inconsistent with the Milsons Point Town Centre Character Statement under section 9.1 to Part C of NSDCP 2013;*
6. *The Planning Proposal, if implemented, could have the potential to create a precedent that could undermine other established policies for the Milsons Point Town Centre and other mixed-use zoned land in highly accessible locations without the benefit of a comprehensive Planning Study.*

RECOMMENDATION:

After careful deliberation of the current Planning Proposal this Panel is not persuaded that the matter should proceed because of potential adverse impacts on the public domain and amenity of the area, including view loss. The North Sydney Local Planning Panel recommends to the Council that this Planning Proposal to increase the height from 40m to between 55.4m to 79.6m not proceed to a Gateway Determination as it lacks strategic and site specific merit.

On 26 August 2019, Council resolved to adopt the following recommendation:

1. THAT Council resolves not to support the Planning Proposal proceeding to Gateway Determination for the reasons outlined in the Manager's Advisory Note (included in Attachment 2).
2. THAT Council advise the Department of Planning, Industry and Environment of its decision and be provided with a copy of this report and its resolution in support of Council's position.
3. THAT Council notifies the applicant of Council's determination in accordance with clause 10A of the Environmental Planning and Assessment Regulation 2000.

Due to Council not having made a determination within 90 days, the applicant lodged a request for a Rezoning Review with the Department of Planning, Industry and Environment on 1 July 2019.

On 11 March 2020 the Sydney North Planning Panel briefing was held to consider the Rezoning Review lodged. A decision was issued on 12 March 2020. The Panel determined that the proposed instrument should not be submitted for Gateway Determination because the proposal has demonstrated strategic merit but not site specific merit. The decision was unanimous.

The reason for the Panel decision was that:

An increase in height on the site has strategic and site specific merit but the proposed height of the western Glen Street frontage is excessive. The report prepared by Brett Brown of Ingham Planning presented a substantive argument in favour of proceeding to Gateway with some caveats. While the Panel generally concurs with his reasoning, the Panel considers it imperative that in addition to the Brett Brown caveats, a site specific indicative Development Control Plan should also form part of a new planning proposal to show the distribution of mass and height across the site.

Current Planning Proposal

The current Planning Proposal was lodged on 2 October 2020 without a pre-lodgement process.

The details of the current Planning Proposal have been outlined in the *Description of Proposal* section of this report and seek the following amendment to NSLEP 2013:

- Increase the maximum building height on the Height of Buildings Map from 40m to RL 86.65 (54.43 metres) above the existing maximum height control. It is noted that the proposed amendment, as set out in Part B of the Planning Proposal Application Form does not accord with the proposed amendment to RL 87.10, as outlined in the proponents Planning Proposal Report and associated concept scheme.

The built form, as outlined in the Planning Proposal's indicative concept design comprises:

- *A built form across the subject site comprising a part three storey podium (fronting Alfred Street) and four storey podium (fronting Glen Street) with a residential tower above. As the site has a dual frontage, the eastern component fronting Alfred Street reaches a maximum height of 18 storeys and the western component fronting Glen Street reaches a maximum height of 16 storeys.*
- *Together the two building components provide a stepped built form that descends from west to east to the street frontages and also from north to south. It provides a reduced bulk at Alfred Street that corresponds with the scale of the existing building and aligns with the height plane established by adjoining developments.*
- *The tower component fronting Alfred Street South adopts a terraced form that steps down in height from north to south to correspond with the sloping topography of Alfred Street South.*
- *A building podium that respects the podium building line established by adjacent properties to protect view corridors.*
- *Provision of an upgraded existing east-west through-site link and new north-south through-site link with comprehensive landscaping and public domain improvements which accommodates both an existing and new connections across the site.*
- *Ground floor retail tenancies at the site's ground floor plane that will facilitate the activation of the through-site links and Alfred Street South.*
- *Provision of basement level parking accessed from Glen Street to prevent additional traffic congestion along Alfred Street South.*

A numerical overview of the indicative development concept proposal in this current Planning Proposal, as shown in Table 10 of the Planning Proposal is set out in figure 5 below. The apartment mix outlined Table 10 of the Planning Proposal does not align with the apartment mix outlined in the Development Summary at Section 1.3 of the Architectural Design Report and Drawings prepared by Kochi Takada Architects (KTA), as shown in Figure 6.

Table 10 Numerical overview of the indicative development concept (awaiting development schedule)

Component	Development Concept
Maximum overall height (storeys)	18
Maximum overall height (RL)	87.10 RL (54.43m)
Maximum podium height (storeys) (RL)	4 (fronting Glen Street)
Maximum podium height	37.55 RL
<ul style="list-style-type: none"> GFA (total) Retail/Commercial GFA Residential GFA Amenities GFA 	<ul style="list-style-type: none"> 23,771m² 2,642m² 20,603m² 526m²
<ul style="list-style-type: none"> Apartments (total) Studio 1 bed 2 bed 3 bed 	<ul style="list-style-type: none"> 159 0 (0%) 12 (8%) 71 (45%) 76 (48%)
Car parking	191

Figure 5: Numerical overview of the subject Planning Proposal PP5/20 – extract from Table 10 of the Planning Proposal

PP5/20 is the third Planning Proposal submitted for the site. To demonstrate the degree of amendments proposed in the subject Planning Proposal compared to the previous proposals, a numerical comparison of the indicative development concept compared with the two previous Planning Proposal is set out below in Figure 6.

PP number and address	PP 52 & 74-80 Alfred St, Milsons Point	PP4/19 52 Alfred St South, Milsons Point	PP5/20 52 Alfred Street South, Milsons Point
Maximum overall height (RL)	Submitted scheme from 40m to a split height control across the site of RL93/RL90. Amended scheme to RL97/RL84.	From 40m to part RL 84 (to Alfred Street South) and part RL 97 (to Glen Street)	From 40m to RL 86.65 (54.43 m) as stated in Part B of the Planning Proposal Application Form. The Planning Proposal and associated concept plans state to RL87
Maximum overall height (storeys)	25 Storeys (split)	25 Storeys (16 storeys plus 4 basement car parking storeys to Alfred St and 21 storeys plus 4 storey podium to Glen Street)	22 Storeys (16 storeys plus 4 basement car parking storeys to Alfred Street and 18 storeys plus 4 storey podium to Glen Street)
Maximum podium height (RL)		RL 40.15	RL 37.55

Maximum podium height (storeys)	4 (fronting Glen Street)	4 (fronting Glen Street)	4 (fronting Glen Street)
Floor Space Ratio (FSR)	9.4:1	8.87:1	8.77:1
GFA (total)	25,419m ²	24,054sqm	23,771sqm*
Retail / Commercial GFA	2,053m ²	2,431m ²	2,642m ²
Residential GFA	22,718m ²	21,550sqm	20,603sqm
Amenities GFA	648m ²	478m ²	526m ²
Apartments	186	173	159
Car parking	191	191	191

Figure 6: Numerical comparison of the subject Planning Proposal PP5/20 against the two prior Planning Proposals.

*The above table highlights that the GFA has been reduced from the previous Planning Proposal by only 283sqm, as discussed overleaf.

As shown in figure 6, the revised indicative concept scheme proposed has, from a density perspective, only undergone a modest reduction and been slightly amended from the previous Planning Proposal (PP 4/19), as refused by NSLPP, Council and the SNPP at Rezoning Review.

The primary changes cited in the Planning Proposal include:

- A reduced height of building concept for the western tower fronting Glen Street, from 21 storeys to 18 storeys [Please see comments below regarding incorrect or inaccurate information].
- A reduction in residential yield from 173 to 159 apartments (although this can change significantly depending on the dwelling mix and unit sizes as part of any future development application.
- Inclusion of a new north-south ground floor through site link through the centre of the site connecting the existing pedestrian access to Glen Street down to Camden House;
- Inclusion of a site specific Development Control Plan that includes detailed controls to guide and regulate future massing and development on the site to ensure the realisation of an outcome that is consistent with massing set out in the Indicative Reference Scheme.

Other changes include:

- Change in the residential mix. Three bedroom apartments make up 48% of the dwelling mix, no studio apartments and only 12 one bedroom apartments (8%).
- Increased the massing and reduced separation between the two proposed towers. To reduce the height from (97 RL to 87.10 RL), with minimal reduction in the overall GFA (283sqm), the massing has been increased between the two towers. The two towers are one built form up to and including level 12, as shown on Drw. No A104, Revision K, 'Level 12 Floor Plan'.

Incorrect or inaccurate information:

- As outlined above, it is to be noted that the proposed increase the maximum building height on the Height of Buildings Map from 40m to RL 86.65 (54.43 metres) above the existing maximum height control, as set out in Part B of the Planning Proposal Application Form does not accord with the proposed amendment to RL 87.10, as outlined in the proponents Planning Proposal Report and associated concept scheme.

- The apartment mix outlined Table 10 of the Planning Proposal does not align with the apartment mix outlined in the Development Summary at Section 1.3 of the Architectural Design Report and Drawings prepared by Kochi Takada Architects (KTA).
- The applicant states in the Planning Proposal (page 60), that the maximum building height fronting Alfred Street is 18 storeys and 16 storeys fronting Glen Street. This is an error in the Planning Proposal. The Indicative Concept Scheme, at Appendix A, includes sections that demonstrate that the proposal seeks to achieve a 16 storeys maximum building height fronting Alfred Street, with 4 true basement car parking levels and 18 storeys maximum building height fronting Glen Street, with 4 further levels referred to as basement levels that all project above ground level at RL18.01. Importantly, the maximum building height fronting Glen Street will be read as a true 22 storey tower, not an 18 storey tower, as contended.
- Section 8.6, of the Planning Proposal includes an Indicative Concept Scheme compliance table with the Apartment Design Guide (ADG). Please note that this information is contained with Table 11, page 69 and highlights that with regard to Solar and Daylight Access, the proposal fails to be consistent with Objective 4A-1 of the ADG design criteria requiring, *‘a maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid- winter’*.

An alternative solution to this non-compliance is stated to be detailed at Section 10.7 and Appendix D of the Planning Proposal. However, the Planning Proposal report does not include a Section 10.7 (concluding at Section 10) and the Heritage Assessment Report is at Appendix D, not a solar impact assessment (SIA). Section 9.6 of the Planning Proposal report (page 89) also makes reference to an SIA prepared by KTA at Appendix D. The SIA and alternative solution to non-compliance with Objective 4A-1 of the ADG does not appear to be contained within the subject Planning Proposal. It is considered that reference to an alternative solution to non-compliance is contained within Appendix D of a previous Planning Proposal on the site (PP52 & 74-80 Alfred St).

What is clear, in the Planning Proposal report and KTA report is that a total of 30% of apartments would receive no direct sunlight between 9am and 3pm at mid-winter.

- View 5 in the Visual Impact Assessment (VIA) at Appendix E, is excluded from Table 21 of the Planning Proposal report – summary of impacts on 37 Glen Street. This impact is recorded as high-moderate in the VIA, given the partial loss of view of an iconic Sydney landmark and should accordingly have been included in the summary of impacts in the report. The only impacts recorded in the summary are the impacts that are assessed as negligible, low and moderate.

DETAIL

1. Applicant

The applicant for the proposal is Milsons Point 2 Pty Ltd, who is also owner of the subject land, for which owner's consent has been provided.

2. Site Description

The subject site comprises a single allotment of land legally described as Lot 1, DP 738322 and otherwise known as 52 Alfred Street South, Milsons Point.

The site is generally rectangular in shape with a 39.4m frontage to Alfred Street South, a 41.7m rear frontage to Glen Street, an approximate depth of 70m and a site area of 2,711m². The site falls steeply to the west towards its frontage to Glen Street.

A part single and part 12 storey commercial building (originally approved and constructed under DA1180/85) occupies the site over basement car parking. The 12 storey commercial office tower, also known as ‘Kimberley Clark House,’ is positioned over the eastern portion of the site with an attached single storey commercial building located over the western portion of the site. The buildings are built to the northern and western boundaries and set back from the eastern and southern boundary. Basement parking is accessed from Glen Street and also via the open driveway from Alfred Street South. There are numerous easements relating to access and parking within the basement. These include:

- the provision of 63 car spaces within the existing basement – 10 spaces are to be made available for use exclusively by the registered proprietor and other lawful occupiers of Camden House (56 Alfred St). 26 spaces are to be made available for use exclusively by the registered proprietor and other lawful occupiers of Lots 1–19, 21/SP 40513 (48–50 Alfred St). These lots are shops within the ground, first and second floor of ‘Milson Village.’ 27 spaces are to be made available between 6:00pm and 8:00am every day for use exclusively by the registered proprietor and other lawful occupiers of Camden House and the above mentioned lots within ‘Milson Village’ between the hours of 6pm–8am;
- a driveway from Alfred Street South to a car parking area for No 52 which acts as part of the pedestrian link to Glen Street. There are rights of way on both the subject site and 48–50 Alfred Street South relating to this. It is noted that the existing stairs on the subject site that link this driveway to Glen Street do not appear to have any formal easement for public access.

A total of 11,091m² of non-residential floor space (as determined from DA 1029/81 and subsequent approvals) is provided across the site resulting in an existing non-residential FSR of 4.091:1.



FIGURE 7: Subject site



FIGURE 8: Aerial photo



FIGURE 9: View of subject site from Sydney Harbour Bridge approach.

3. Local Context

The subject site is centrally located within the Milsons Point Town Centre, which is situated approximately 200m south of the (LEP defined) North Sydney Centre (Figure 10). The Milsons Point Town Centre is long and narrow in shape, constrained by its location between the northern approach to the Sydney Harbour Bridge to the east and Luna Park and Lavender Bay railway yards to the west.

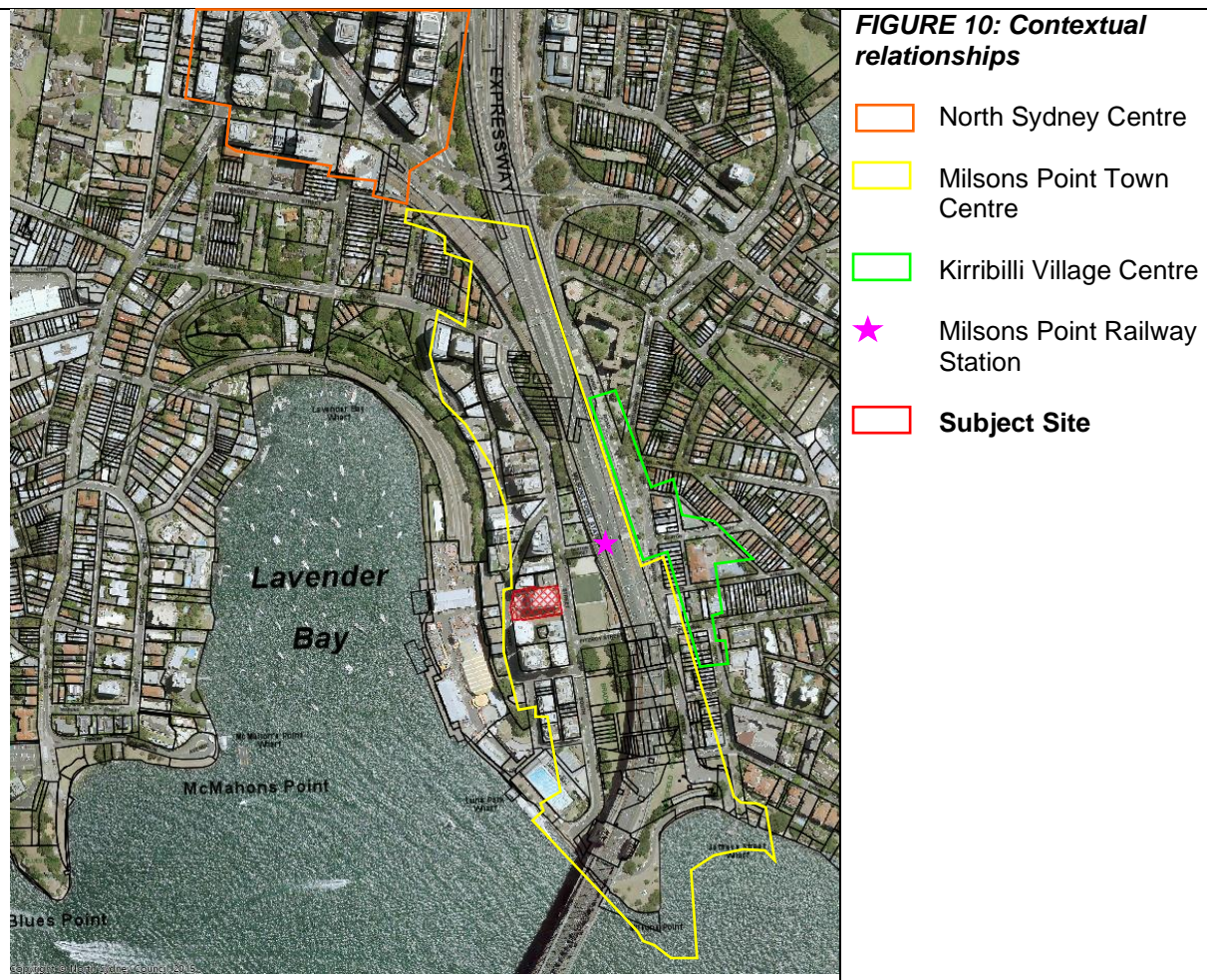
Under the North District Plan 2018, Milsons Point maybe interpreted as comprising part of the North Sydney CBD, which is identified as forming part of the ‘Harbour CBD’ under the Greater Sydney Region Plan (A Metropolis of Three Cities) and North District Plan.

To the immediate north of the subject site is a 22 storey residential tower at 37 Glen Street and 14 storey commercial office building at 68 Alfred Street South. Further to the north is a 21 storey residential tower at 70 Alfred Street South.

Bradfield Park and Milsons Point Railway Station are located to the east of the subject site on the opposite side of Alfred Street South. Further to the east lies the Kirribilli Village Centre which contains predominantly mixed-use buildings up to 3 storeys in height.

To the immediate south of the subject site is a 3 storey commercial and retail centre (‘Milson Village’), a 2 storey historic house (‘Camden House’) and a 21 storey residential tower with a commercial tenancy fronting Glen Street (‘The Milson’). These all previously formed part of one site, together with the subject site, for which approval was originally obtained in 1985 (DA 1180/85) for a mixed commercial, retail and residential development that was later subdivided. Further to the south is a 23 storey residential tower at 38 Alfred Street South and 25 storey residential tower at 2 Dind Street.

To the west of the subject site, on the opposite side of Glen Street, are predominantly 4–8 storey residential, commercial and mixed-use commercial and residential buildings. Further to the west lies Luna Park, the Lavender Bay Railway holding lines and the waters of Lavender Bay.



4. Current Planning Provisions

The following identifies the relevant local planning provisions that apply to the subject site.

4.1 NSLEP 2013

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

- Zoned *B4 – Mixed Use* (refer to **Figure 11**);
- A maximum building height of 40m (refer to **Figure 12**); and
- A minimum non-residential floor space ratio of 0.75:1 (refer to **Figure 13**).

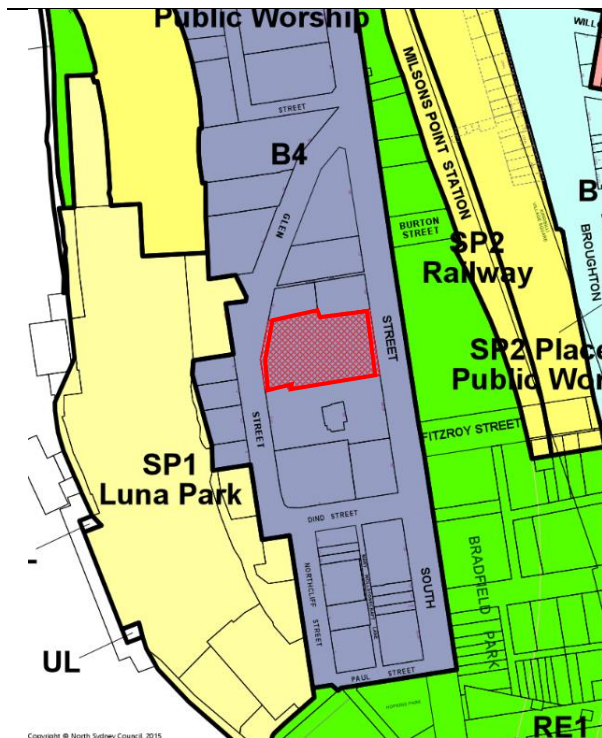


FIGURE 11: NSLEP 2013 Zoning Map extract
The subject site is zoned B4 – Mixed Use

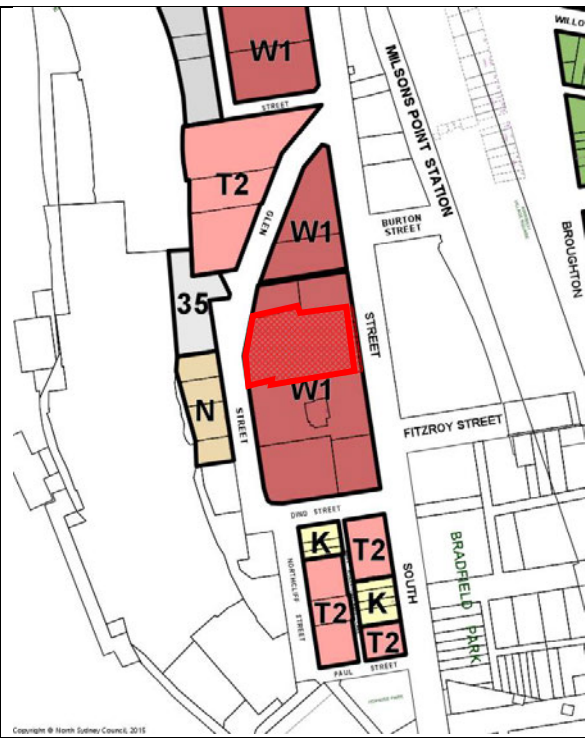


FIGURE 12: NSLEP 2013 Height of Buildings Map extract
The subject site has a maximum building height of 40m

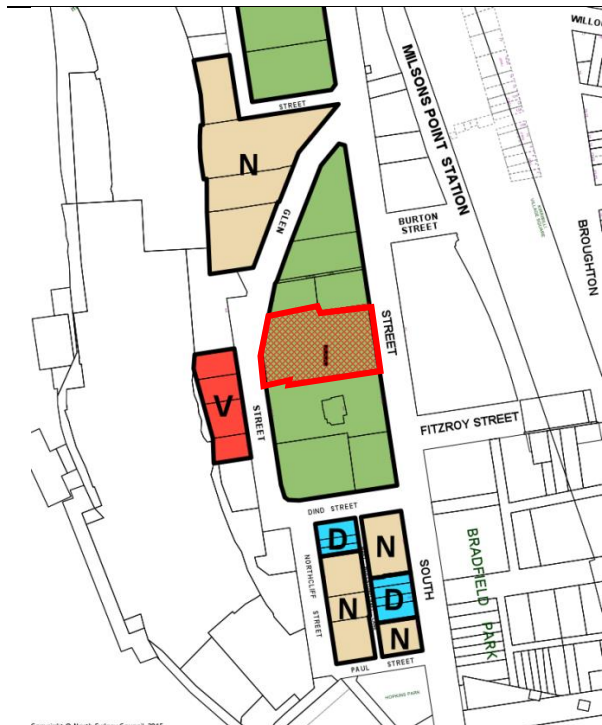


Figure 13: NSLEP 2013 Non-Residential FSR Map extract
The subject site has a non-residential FSR of 0.75:1

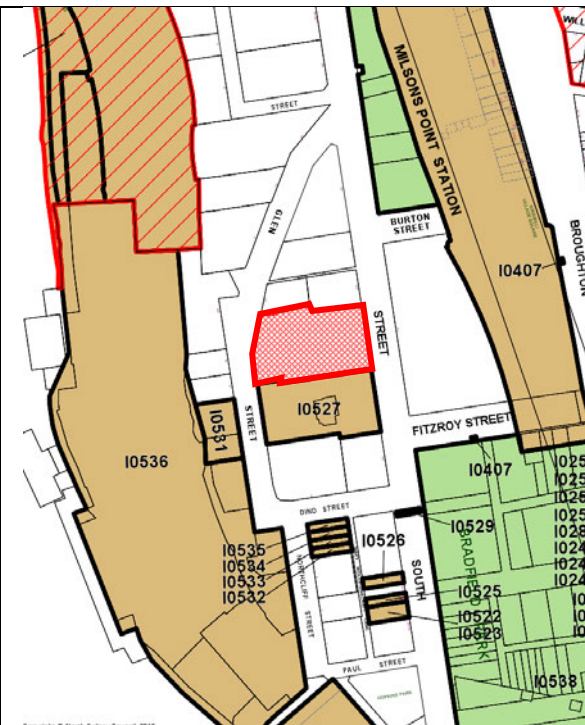


Figure 14: NSLEP 2013 Heritage Map extract
The subject site is identified as being in the vicinity of a number of local and State significant heritage items

Whilst the subject site is not identified as a heritage item under NSLEP 2013 (refer to **Figure 14**), it is located within close proximity to a number of local and State significant heritage items including:

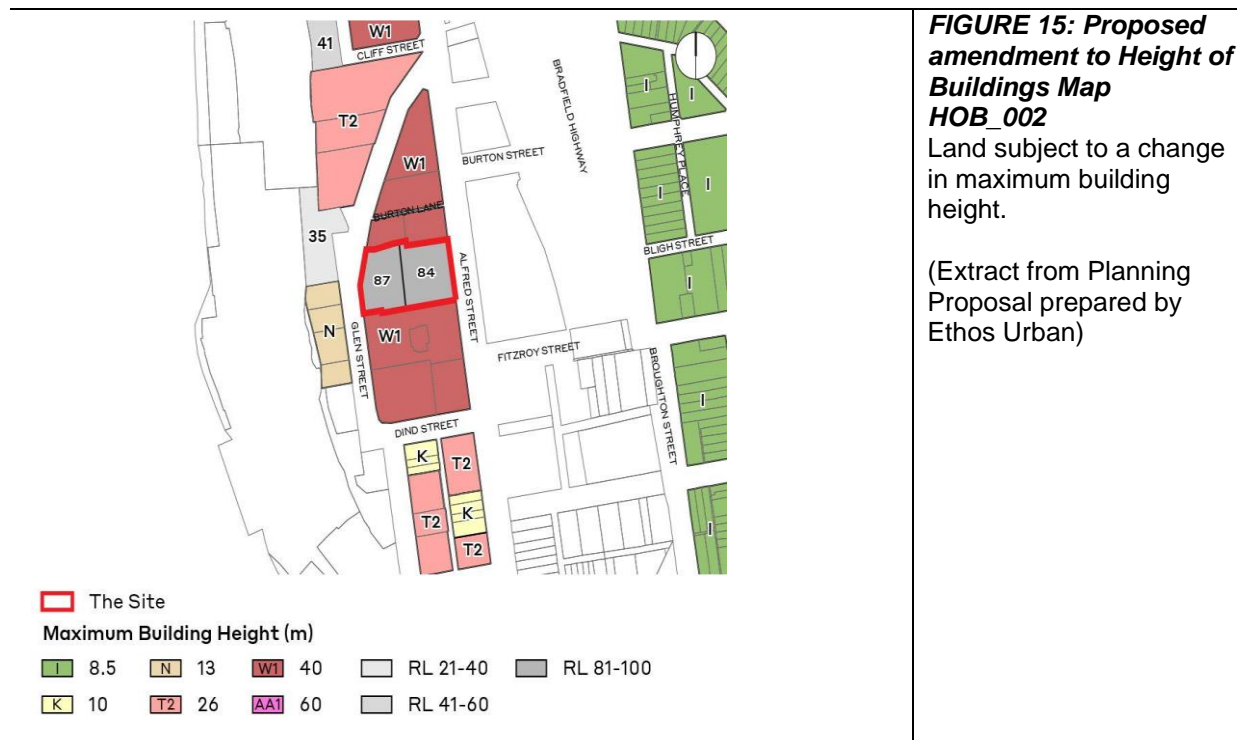
Item No.	Address	Item name	Significance
I0527	48 and 56 Alfred Street South	Camden House	Local
I0529	Intersection Alfred Street South, Dind Street and road reserve	Alfred Street South (entrance to Luna Park South)	Local
I0530	Sydney Harbour Bridge and approach viaducts, including 2–4 Ennis Road and 2–74 Middlemiss Street	Sydney Harbour Bridge approach viaducts, arches and bays under Warringah Freeway	State
I0531	2–2A Glen Street	Commercial Building	Local
I0536	1 Olympic Drive	Luna Park	State
I0538	Alfred Street South	Bradfield Park (including northern section)	Local
I0407		Milsons Point Railway Station Group	State

5. Proposed Instrument Amendment

The objectives of the Planning Proposal have been noted above. It principally seeks to achieve these goals by amending NSLEP 2013 as follows:

- increase the maximum building height from 40m to RL87 and RL 84, equating to a 36% increase in the maximum building height.

Only one LEP map is proposed to be amended – Height of Buildings. The proposed change is indicated in **Figure 15**.



6. Draft Voluntary Planning Agreement (VPA)

The applicant has proposed to reconfigure the existing through-site link between Alfred and Glen Streets, incorporating a Civic Square (Camden Plan / forecourt). However, it is noted that the majority of the works indicated are not located within the subject site but on the neighbouring site to the south (48–50 Alfred Street South). Therefore the owners' consent for these works would be required as part of any future DA.

The Planning Proposal is not accompanied by a VPA offering public benefits. Where a proponent seeks to significantly increase the capacity of a site, Council generally invites the proponent to consider offering a public benefit reflective of the increase in intensity of the potential development of the land.

The applicant has noted that they are “willing to enter into a Voluntary Planning Agreement (VPA) with Council at the time of gateway determination. This agreement could make provision for local services and/or facilities outside the scope of Council's Local Contributions Plan.” No details, however, have been submitted.

ASSESSMENT

7. Planning Proposal Structure

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

- A statement of the objectives or intended outcomes of the proposed local environmental plan;
- An explanation of the provisions that are to be included in the proposed local environmental plan;
- Justification for those objectives, outcomes and provisions and the process for their implementation; and
- Details of the community consultation that is to be undertaken on the Planning Proposal.

8. Justification of the Planning Proposal

8.1 Objectives of the Planning Proposal

The applicant's stated objectives for the Planning Proposal have been noted above. For the reasons given in this assessment, it is considered that the majority of these objectives can be achieved.

8.2 The Need for the Planning Proposal

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

The applicant's Planning Proposal report fails to acknowledge the reference to an 'endorsed' study or strategy and simply refers to the reports that they have undertaken. The more accurate response to this question is no – there are no specific local studies or strategies that provide any basis for the Planning Proposal. Council's Residential Development Strategy (RDS 2009) is referenced in the Planning Proposal. The RDS identifies that significant upzonings in the B4 zone of Milsons Point have already been implemented. Milsons Point has accommodated much of North Sydney's growth in residential dwellings. The RDS identified a residential capacity of 326 dwellings over the next 12 years (2031), of which 200 are identified in the B4 zone. This low level of additional dwelling in Milsons Point reflects the fact that the area has reached or is near to its development capacity. Since 2009, Council has approved 182 dwellings in B4 zone.

The RDS has been largely superseded by Council's GSC Assured Local Strategic Planning Statement (LSPS) and Council's Adopted Local Housing Strategy (LHS). The LHS demonstrates North Sydney LGA has the capacity to deliver the housing supply needed to meet projected housing demand to 2036 within existing zones and planned precincts, without having to increase residential densities elsewhere. This issue is further discussed in **Section 8.3.1** below.

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

The applicant has considered and discussed alternatives to the proposal, but none that include alternate designs that address all the concerns identified in the two previous Planning Proposals and Rezoning Review Panel Decision.

8.3 Relationship to the Strategic Planning Framework

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

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

The applicant has provided an overview of the consistency of the proposal with this document. It is considered that the Planning Proposal is only partly consistent with the objectives of the Regional Plan. In this regard, it will be consistent with the Regional Plan in relation to:

Infrastructure – the Planning Proposal will make use of existing infrastructure in that it is located within walking distance of Milsons Point railway station, regional road networks and other established infrastructure including schools and hospitals.

Liveability - Council is ‘on track’ to meet the current housing targets. This has been confirmed in Council’s Local Strategic Planning Statement (LSPS), as assured by the Greater Sydney Commission (GSC) and Council’s Adopted Local Housing Strategy (LHS). The LHS identifies housing growth to 2036 and does not rely on the redevelopment of this site to meet the targets.

Heritage – as noted below, Council’s Heritage officer does not have significant concerns regarding impacts on environmental heritage.

Productivity – whilst the site is well located, consistent with the desire for a ‘30 minute city’, the potential loss of employment generating uses will not be as efficient in terms of maximising existing connections, regardless of the slight increase in commercial in GFA from the previous scheme (PP4/19).

Sustainability – the proposal indicates that adequate landscaping can be provided on the site (given the existing character to the area and B4 zoning). The Planning Proposal does not provide for any specific sustainability outcomes other than compliance with BASIX. The Planning Proposal provides minimal public benefit, though the applicant’s ‘willingness’ to enter into a VPA could assist in improving the quality of existing green space in proximity to the site.

The proposal is considered to be partly consistent with the Regional Plan but inconsistent with key objectives including Liveability and Productivity. Importantly, the Planning Proposal lacks consistency with the North Sydney Local Strategic Planning Statement which provides a line of sight between the key strategic priorities identified at the regional, district and local level.

North District Plan (District Plan) March 2018

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

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

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

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

North Sydney Local Strategic Planning Statement

The North Sydney Local Strategic Planning Statement (LSPS) was adopted by Council on 24 March 2020, following a letter of assurance from the Greater Sydney Commission (GSC) on 20 March 2020.

One of the key roles of the LSPS is to draw together, in one document, the priorities and actions for future land use planning, and present an overall land use vision for the North Sydney LGA for the next 20 years. The LSPS is required to be consistent with the Regional Plan and North District Plan and provide a clear line-of-sight between the key strategic priorities identified at the regional and district level and the local and neighbourhood level.

The LSPS must be considered as part of the LEP making process (planning proposals) and forms part of the strategic merit test for a Gateway Determination.

Of relevance, the LSPS incorporates the North Sydney Local Housing Strategy into the strategic planning framework and directly links its implementation to the planning priorities under the North District Plan and the objectives of the Regional Plan. The LSPS includes the following planning priorities:

Local Planning Priority L1 'Diverse housing options that meet the needs of the North Sydney community' includes:

- *Action L1.1 'Implement the North Sydney Local Housing Strategy (2019) to achieve the housing directions, objectives and actions of the GSC's Regional and North District Plans and deliver 0-5 and 6-10 year housing supply targets'; and*
 - *Action L1.5 'Council will only support Planning Proposals that are consistent with Council's endorsed planning studies, that have identified growth being delivered in locations that support the role of centres and have critical infrastructure and services in place to support the North Sydney community'.*
-

The LSPS Planning Priority L1 and actions directly ties in to Planning Priority N5 of the North District Plan *‘Providing housing supply, choice and affordability with access to jobs, services and public transport’*.

As outlined below, the Planning Proposal is contrary to the North Sydney Local Housing Strategy and is not supported by a Council endorsed planning study identifying additional growth to be delivered in this locality and is, therefore, contrary to the GSC Assured LSPS.

North Sydney Local Housing Strategy (LHS)

The North Sydney Local Housing Strategy (LHS) was adopted by Council on 25 November 2019 and has been submitted to DPIE for endorsement.

The LHS establishes Council’s vision for housing in the LGA over the next 20 years and is a mandated strategy which aligns with the housing objectives and targets set out in the North District Plan. The LHS is required to deliver the North District Plan 0-5-year housing target of 3,000 dwellings, identify and deliver on a 6-10-year housing target to meet demand, contribute to the District’s 20-year target and inform affordable housing targets.

The LHS identifies that Council will meet the dwelling targets. DPIE identified that 11,450 additional dwellings would be required for North Sydney by 2036 (DPIE implied dwelling requirements, 2016). The LHS demonstrates that the LGA is on track to exceed requirements and deliver 11,870 dwellings within the currently proposed controls and studies. These findings are supported by the Local Strategic Planning Statement (LSPS). A housing supply gap has not been identified.

The supply of housing does not specifically rely on the redevelopment of the subject site to meet the targets, as no additional residential accommodation was envisaged to be located on the subject site.

The Planning Proposal is only partially consistent with the Regional and District Plan and is generally not consistent with the GSC Assured North Sydney Local Strategic Plan (LSPS) or Adopted Local Housing Strategy. The Planning Proposal will provide dwellings which are not required to meet the targets identified in the Regional Plan and District Plan, as confirmed in the LSPS and Adopted LHS. The proposal is also not responding to a change in circumstances or changing trends. Given the inconsistency with the regional, district plans and LSPS, it is not considered that the Planning Proposal has Strategic Merit.

b) Does the proposal have site-specific merit, having regard to the following?

- *the natural environment (including known significant environmental values, resources or hazards); and*
 - *the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal; and*
 - *the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.*
-

Information submitted with the Planning Proposal outlines that there will be a small reduction in overshadowing to Bradfield Park from the existing building envelope. However, as discussed further in this report, the Planning Proposal report also stated that, *‘the massing and resultant shadow impacts are indicative and the design of the envelope is capable of further refinement at detailed design phase’*. A further assessment of this impact would be considered at Development Assessment stage, although the overall impact of the height proposed fails to be assessed under this proposal and it is questioned as to whether the stated small reduction in overshadowing to Bradfield Park can be achieved.

Amended plans, considered under this Planning Proposal also address previous concerns with regard to the heritage impact of the proposal development. Again, this is in response to the Indicative Concept Scheme and associated Site Specific DCP amendment. As highlighted in the Planning Proposal, the scheme is indicative only and could be varied at Development Application stage, giving rise to potential heritage impacts.

Whilst acknowledging that this Planning Proposal has attempted to address some site specific impacts raised in the previous Planning Proposals, it does not overcome the significant impacts that the proposed increase in height would have on the public domain, amenity of the area, including view loss and impact on amenity for both future residents and neighbouring occupiers.

A Site Specific Development Control Plan has been submitted to show the distribution of mass and height across the site. However, this only compounds the impact of the proposed development by attempting to legitimise a scheme which would otherwise fail to be compliant with the North Sydney Development Control Plan. Importantly, there has been only a modest reduction to the GFA. Given the majority of issues arise from or are a result of the proposed bulk and scale of the proposal, addressing this impact would be a more effective approach to reviewing the scheme.

Having regard to the above, the Planning Proposal is not considered to have site specific merit.

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

The submitted documentation has adequately demonstrated consistency with the relevant SEPPs, with the exception of SEPP 65. In relation to SEPP 65 and the associated Apartment Design Guide (ADG), the following extract of commentary has been provided by Council’s Executive Planner Development Assessment.

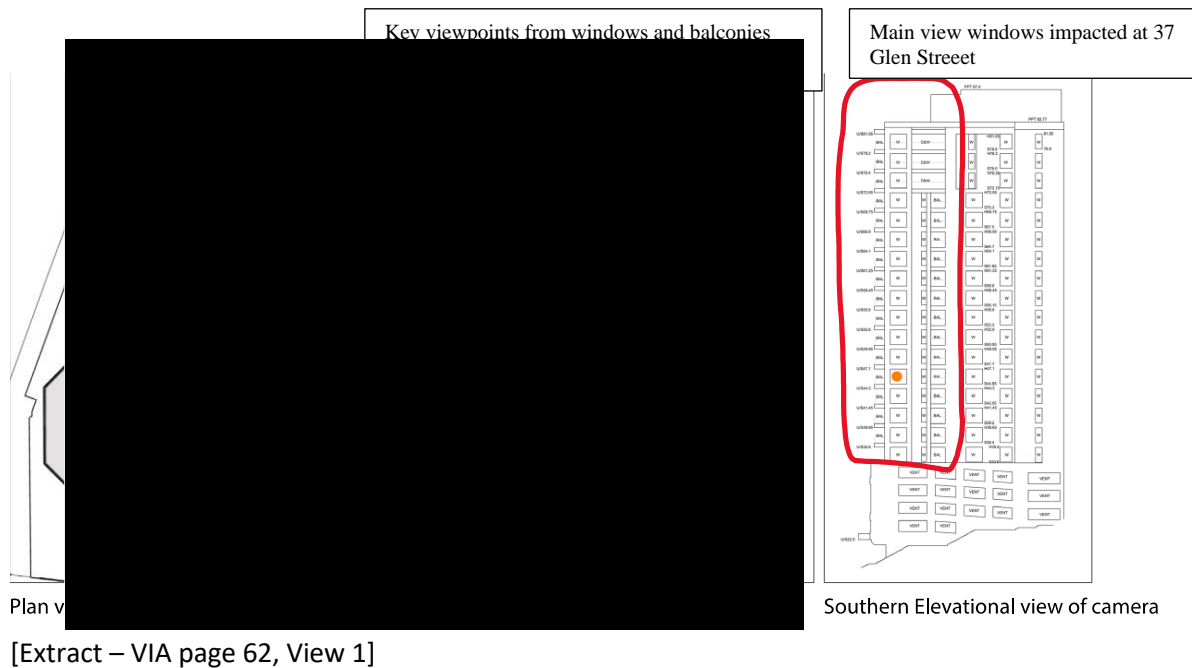
The North Sydney DCP 2013 requires that there is to be no increase in overshadowing to Bradfield Park between the time of 12pm and 3pm. The revised Indicative Concept Scheme claims that a building can be accommodated within the proposed height(s) without resulting in additional overshadowing to the surrounding public domain.

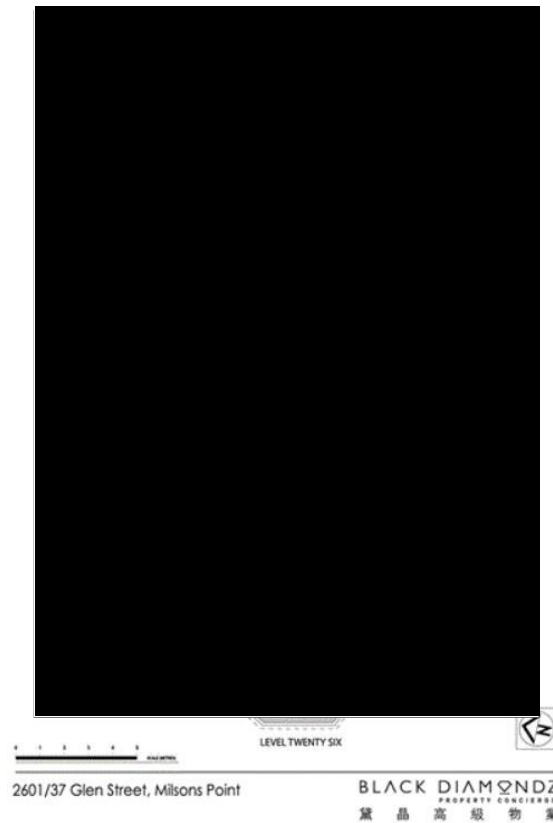
With regard to the Milsons Point Character Statement, the proposal is generally compliant with podium controls other than the requirement for the tower fronting Alfred Street to have a 3m setback. Only 2m is proposed.

The amended concept plans tendered for the planning proposal still exhibit a number of issues with regard to the design principles set out in SEPP 65 and associated Apartment Design Guidelines which may not be able to be supported within the scope of a development application. These include (but are not limited to)

- *Building Separation distances substantially under the minimum requirements.*
- *Inadequate separation should not unreasonably result in the loss of existing views from adjoining apartments.*

The concept scheme shows some consideration of the views currently enjoyed by 37 Glen Street. The plans below show the layout of the apartments in 37 Glen Street.





Apart from the views from the living room there are also views from the main bedroom.

It may be difficult to protect the above view from a building that is compliant with the 40m height control and compliant building setbacks. I believe that these views could be maintained with additional side setbacks of the proposed tower at the north west corner of the Glenn Street tower. A view line needs to be established at the corner that is setback [at least] 3m from the street and 12m from the side boundary up to a height of 25m and a corner set back 3m from the street and 18m from the side boundary for heights over 25m.

The Concept Scheme shows how the Alfred Street façade needs to be designed to minimise additional shadow on Bradfield Park. There should be no additional shadow. The larger tower should also have no additional shadow on the park.

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

Should an increase in height be supported, the following criteria are recommended:

- *No variation to height by Clause 4.6*
- *No additional shadow on Bradfield Park from both buildings.*
- *Existing views from all living areas including the main bedrooms of 37 Glen Street be protected having regard to view lines from a compliant building (front setback NSDCP and ADG separation distances).*

Additional comments provided by Council's Executive Planner – Development Application include the following:

The floor to floor height of 3.1m is the minimum that the Design Excellence Panel considers acceptable. Queries are raised as to whether the proposal could achieve the cross ventilation and solar access percentages claimed.

Single aspect apartments below level 9 cannot be counted for cross ventilation. It would seem that with dividing walls separating the balconies, the sun would be unlikely to fall on the balcony, and certainly not much into the living areas. It is questionable whether the Design Excellence Panel would accept the figures.

It is noted that only 8% of apartments are one bed with 92% larger apartments. This is contrary to the DCP mix significantly.

191 car spaces are proposed that is slightly below the maximum allowed. Having regard to the location with the railway and Ferries, no more than one car space should be allocated to each apartment.

Reducing the tower setback from Alfred Street from 3m to 2m is not supported.

Comments:

Solar access – Proposed apartments

The information provided indicates that 70% of apartments will receive the required solar access and that 30% of apartments will receive no solar access. The Solar Impact Assessment prepared by KTA is not at Appendix D and does not appear to have been submitted as an appendix to the subject Planning Proposal, as cited on page 14 of this report. A solar access summary is provided at Appendix A of the Architectural Design Report and Drawings prepared by KTA. The only additional information provided within this summary is a solar access summary table which confirms that 49 of the 159 apartments (30.82%) will receive no direct sunlight between 9am-3pm at mid-winter.

From the information submitted, the Indicative Concept Scheme fails to comply with the ADG requirements of a 15% maximum of apartments with no sun. The level of impact is double what is considered acceptable.

Solar access – Neighbouring buildings

The information provided by the applicant in the Planning Proposal indicates that the proposal will maintain solar access to the 38 Alfred Street South apartments for a minimum of 2 hours between 9am and 3pm at midwinter. In relation to 2 Dind Street, the quantity of apartments anticipated to receive a compliant amount of solar access is expected to reduce by 3.2%.

In relation to 48–50 Alfred Street South, the applicant relies upon a report prepared by Mr Steven King for the previous Planning Proposal. However, as highlighted in the assessment of PP4/19, the building envelopes have changed and as such the previous analysis is no longer valid. Further to this, as outlined above, the analysis referred to is cited to be at Appendix D of the first Planning Proposal lodged on the subject site, PP 7/17. Only information submitted as part of this subject Planning Proposal can be assessed. Notwithstanding this, the information submitted in this Planning Proposal states that, ‘the Amenity and Overshadowing Analysis concluded that the Indicative Concept Scheme would reduce the percentage of apartments receiving a compliant amount of solar access by 11%.

Insufficient information has been submitted to fully assess the impact on solar access to neighbouring buildings under subject Planning Proposal.

Privacy Impacts

The proposal does not fully comply with the visual privacy setback requirements of the Apartment Design Guide (ADG). The Planning Proposal refers to an alternative solution to the lack of compliance with the ADG at Section 10.3. However, as outlined above, the Planning Proposal report concludes at Section 10 and an Appendix to the report is not referred to and has not been provided.

As shown on Table 16, page 83 of the Planning Proposal, the building separation distances to 48-50 Alfred Street South, the residential tower to the south of the site, fails to comply with ADG controls. It is argued that the reason for a reduced building separation of 4.3m-6m is due to the building at 48-50 Alfred Street South incorporating blank walls and that a greater setback of 6m is provided where the adjoining development incorporates a living window that is oriented directly to the site.

However, ADG building separation requirements for a building of nine storeys and above (over 25m) are 24m between habitable rooms / balconies; 18m between habitable and non-habitable rooms and 12m between non-habitable rooms. A building separation distance of 4.3-6m is well below the requirements. Although, it is acknowledged that the ADG specifies that, ‘*no building separation is necessary where the building types incorporate blank party walls. Typically this occurs along a main street or at podium levels within the centre*’, this isn’t the case with the subject Planning Proposal. Balconies and living areas are located along the northern façade of 48-50 Alfred Street South and the Indicative Concept Scheme does not incorporate blank party walls and is not along a main street or at podium levels with a centre. The outlook and amenity from the balconies and living room windows of the adjoining building at 48-50 Alfred Street will be significantly compromised as a result of the siting of the proposed development.

Cross ventilation

ADG compliance is achieved with in excess of 67% of apartments being cross ventilated or deemed to be cross ventilated (being above 9 storeys). However, as highlighted by Council’s Executive Planner – Development Assessment, given the Indicative Concept Scheme submitted, there are doubts that this level of cross ventilation could be achieved in practice.

Ceiling heights

The indicative floor to floor heights suggest that the ADG recommended ceiling heights can be achieved. It is important to note that floor to floor heights of 3.1m is the minimum that the North Sydney Design Excellence Panel generally considers acceptable.

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

Section 9.1 of the *Environmental Planning and Assessment Act 1979* enables the Minister for Planning to issue directions regarding the content of planning proposals. There are a number of Section 9.1 Directions that require certain matters to be addressed if they are affected by a planning proposal. Each planning proposal must identify which Section 9.1 Directions are relevant to the proposal and demonstrate how they are consistent with that Direction.

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

The current building on the site contains approximately 11,091sqm of commercial floorspace and serves a useful employment function, in close proximity to Milson's Point Station.

Whilst Council's current B4 zoning regime only mandates 0.75:1 of non-residential floorspace on the site, the current building on the site is understood to be largely let and this loss of employment generating floorspace is also an important strategic planning consideration.

In relation to heritage conservation, as noted below, Council's heritage advisor does not have significant concerns in relation to this issue.

8.4 Environmental, Social and Economic Impact

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

No, there is no important ecology on the site.

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

Transport, Traffic and parking

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

Travel Planning

A draft "Green Travel Plan", in line with the requirements of Provision P1 (b) and (c) of the North Sydney DCP 2013 (NSDCP2013), should be submitted to Council as part of the PP to demonstrate how the applicant intends to reduce car reliance; increase uptake of walking, cycling, public transport, and car sharing; and further reduce on-site car dependency, car ownership, parking demand and parking supply for the site.

Walking

The location of the main residential entry to the building is unclear from “indicative Alfred Street elevations”. While simplification of the shared vehicle access, creation of the shared zone and delivery of the east-west through site link are all positive outcomes, the main approach and, therefore, main pedestrian entry to the proposed building should remain on Alfred Street.

Cycling

There seems to be some confusion regarding the number of cycle parking spaces and end of trip facilities that the applicant is required to/intends to provide as part of the proposed development. The following table provides some clarification of North Sydney DCP requirements.

<i>Land Use</i>	<i>Requirement</i>
<i>Residential (159 apartments)</i>	<i>1/1 dwelling = 159 resident cycle parking spaces</i>
<i>Commercial (1,674m²)</i>	<i>1/150m² = 12 worker spaces</i>
<i>Retail (968m²)</i>	<i>1/250m² = 4 retail worker spaces</i>
<i>Residential Visitor</i>	<i>1/10 dwellings = 16 resident visitor cycle parking spaces</i>
<i>Commercial Visitor</i>	<i>1/400m² = 5 commercial visitor spaces</i>
<i>Retail Visitor</i>	<i>2 + 1/100m² over 100m² = 11 retail visitor spaces</i>
<i>Commercial/Retail Worker End of Trip Facilities</i>	<i>16 commercial/retail worker cycle parking spaces = 16 lockers & 2 shower/changing rooms</i>

Public Transport

The subject site currently has high levels of access to public transport (suburban rail). The draft Travel Plan for the concept proposal should detail how the applicant/future occupants will deliver hard and soft engineering measures that promote increased uptake of public transport by occupants, workers and visitors to the development in order to reduce car reliance, parking demand and parking supply for the site.

Car Parking

There seems to be some confusion regarding the maximum number of car parking spaces that the applicant is allowed to provide as part of the proposed development. The following table provides some clarification of North Sydney DCP requirements.

<i>Land Use</i>	<i>Maximum Allowance</i>	<i>Proposed Car Parking</i>
<i>Residential (12 1-bed apartments + 147 2-3 bedroom apartments)</i>	<i>0.5 per 1 bedroom dwelling + 1 per 2&3-bedroom dwelling = 153 resident parking spaces</i>	<i>113 car parking spaces - complies</i>
<i>Commercial (2,642m²)</i>	<i>1/400m² = 7 worker spaces</i>	<i>15 car parking spaces – does not comply</i>
	<i>Minimum Requirement</i>	
<i>Motorcycle Parking</i>	<i>1 motorcycle parking space/10 car parking spaces = 16 motorcycle parking spaces</i>	<i>18 motorcycle parking spaces - complies</i>

The draft travel plan for the site should demonstrate how providing this amount (or less) parking; can be supported by the provision of other hard and soft engineering measures at the site; how this will result in reduced car use at the site; and how this will result in increased uptake of walking, cycling and public transport by occupants, workers and visitors to the development.

Car Share

NSDCP2013 permits extensive use of car share vehicles to address worker mobility requirements. The applicant should consider that a single car share vehicle can replace more than 3-4 private vehicle spaces at the site. Justification of car share provisions and how they relate to reduced car parking provisions for the site should be provided as part of a draft travel plan for the applicant's proposal.

Comment – Insufficient information has been submitted to fully consider the implications of the subject Planning Proposal on transport, traffic and parking as set out in Council's Senior Strategic Transport Planner's internal referral response above. Although it is acknowledged that many of these issues could be considered at Development Application stage, the indicative concept scheme accompanying this proposal may not be able to be implemented if these issues cannot be addressed within the limitations of these concept proposals.

The site specific DCP amendment prepared to support the indicative concept scheme accompanying the subject Planning Proposal does not adequately address the matters raised by Council's Senior Strategic Transport Planner and concerns regarding non-compliance with the NSDCP have been raised.

Acoustic Environment/Impacts

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

Shadow Impacts

The impact on neighbouring properties has been addressed above. In relation to the overshadowing of Bradfield Park, the information provided by the applicant indicates that the indicative scheme would result in a net reduction in the overshadowing of the park.

The previous Planning Proposals considered on the subject site were rightly assessed noting that the impact of overshadowing on the park did not relate to the proposed change to the LEP height control and that a building built to the proposed controls could have a significant impact on Bradfield Park. It is highlighted by the applicant in this Planning Proposal that ‘the massing and resultant shadow impacts are indicative and the design of the envelope is capable of further refinement at detailed design phase.

Consequently, the subject Planning Proposal, with regard to the Indicative Concept Scheme submitted and associated Site Specific DCP amendment submitted, are considered to not create an unacceptable level of overshadowing to Bradfield Park. However, should this Planning Proposal progress to Gateway Determination, a site specific mechanism should be included to ensure no additional overshadowing can occur.

Privacy Impacts

As noted above, the proposal does not comply with the visual privacy setback requirements of the Apartment Design Guide (ADG).

View Impacts to neighbouring dwellings

37 Glen Street, Milsons Point

37 Glen Street is significantly affected by the proposal, which has west facing apartments that enjoy harbour and district views to the west and south, across the site. Some apartments have views of the southern part of the Sydney Harbour Bridge, restricted to some extent, by the existing building at 48–50 Alfred Street South.

As highlighted, under non-compliance with SEPP 65 and associated ADG:

- *Building Separation distances substantially under the minimum requirements.*
- *Inadequate separation should not unreasonably result in the loss of existing views from adjoining apartments.*

The main view impacts are to the west facing apartments and affect the views currently enjoyed from the living rooms and main bedrooms.

Examples given in this report are of the impact from the living rooms of two apartments on level 12 are shown at **Figure 16 and 17** and extracted from the applicant’s View Impact Assessment report, at Appendix E of the Planning Proposal. The plan view of the camera in Figure 16 below is as shown in Council’s Development Assessment referral response.



FIGURE 16: Extract from View 1 (page 62 of VIA) Indicative view impact of proposal from level 12 apartment at 37 Glen Street

Figure 16: A significant portion of the view from the living room window has been obscured by the proposed development. The view impact assessment also shows the mass of the proposed built form oblique rather than in solid form which incorrectly interprets the actual impact that would occur. It is recognised that the existing building to the south of the site does have an impact on the existing view, but a partial view of Sydney Harbour Bridge and the skyline that is currently enjoyed and would be lost.



Figure 17a: Extract from View 5 page 71 of VIA - Existing view from balcony of level 12 apartment at 37 Glen Street



Figure 17b: Extract from View 5 page 71 of VIA Indicative view of proposal from balcony of level 12 apartment at 37 Glen Street

Figure 17: The view of the Sydney Harbour Bridge has been totally obscured by the proposed development. Although there are still views of the harbour, this doesn't overcome the loss of an iconic view element which the bridge is recognised as being. It is also concerning to see that this viewpoint (View 5 in the Visual Impact Assessment) is excluded from Table 12 of the Planning Proposal report – summary of impacts on 37 Glen Street. This impact is recorded as “high-moderate” in the VIA, given the partial loss of view of an iconic Sydney landmark and should accordingly have been included in the summary of impacts in the report. The only impacts recorded in the summary are the impacts that are negligible, low and moderate. It is also noted that the position of the viewer in Figure 17b, is to the extreme north of the balcony. This view would be further impacted as one moves along to the south of this balcony.

Whilst an assessment of the ‘reasonableness’ of the impact has been undertaken, there has been no consideration of whether ‘a more sensitive design’ could reduce the impacts. The only approach to overcome this impact has been to introduce a modest increase in set back from the previously proposed development, under PP4/19 which doesn't adequately address this issue.

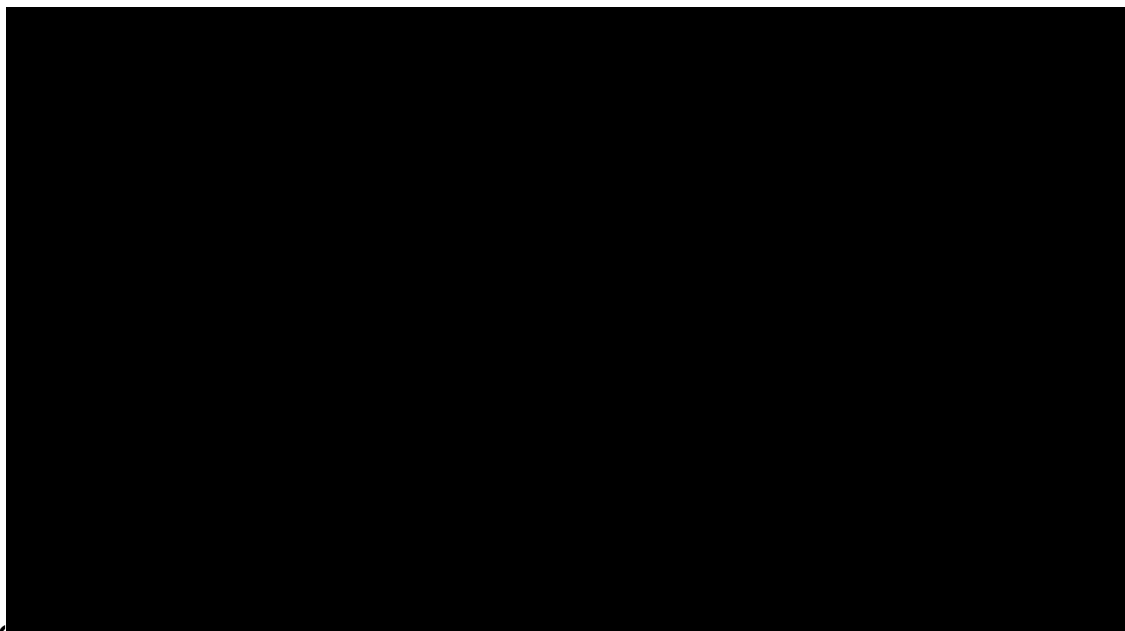
It is submitted that any view loss, particular for development over the existing height limit, should be avoided altogether, rather than being “minimised”. This is especially so for iconic and significant views such as those presented in this report. The test for view impacts for planning proposals, which are challenging existing and understood height limits, should be a different threshold to that applied to development applications which work within a context of gazetted height limits.

70 Alfred Street South, Milsons Point

The views from apartments on 70 Alfred Street South, directly to the north of 37 Glen Street were not detailed in the View Impact Assessment at Appendix E. Detailed assessment from photos, as part of a VIA, to ascertain the degree of impact to the occupiers of 70 Alfred Street cannot be made and assessment is limited to the information contained within the Planning Proposal report and extracted from the report presented to the NSLPP for consideration of PP4/19.

It is acknowledged in the Planning Proposal report at Section 9.9.4 that, *‘where views are accessible, they are considered to be of a high value given they are likely to feature iconic landmarks such as the Sydney Harbour Bridge and land-water interfaces’*.

Ethos Urban’s assessment concludes that, *‘view corridors obtained from the habitable rooms located along the south elevation of the affected property will remain consistent to that existing or will experience a minor change which can reasonable be expected given the density of the development in the wider context’*.



FIG

70

Alfred Street South across the front of 68 Alfred Street South

Council officers have previously undertaken a detailed photographic audit of existing views from several apartments in both 37 Glen Street (The Peninsula) and 70 Alfred Street (Grandview). The modified proposal is likely to continue to result in significant view impacts.

Visual impacts/Character from key viewpoints

The VIA undertaken as part of this Planning Proposal includes an assessment from identified key viewpoints. The applicant has undertaken a detailed assessment of the visual impact of the proposal from various vantage points and the assessment concludes that the impact is generally low, with the impact on one view being low/moderate.

It is agreed that the visual impact of the proposed changes to the height controls is not in direct contrast to the existing height of surrounding built form. It is also agreed that the viewpoint analysis did not highlight significant impacts on the character of the area, when viewed from the identified viewpoints by virtue of the proposed development.

However, this is not reason enough to warrant what is considered excessive additional height controls in an area and compound the impacts that have arisen from the existing built form. In the same vein, it is also the lack of separation between buildings proposed that will impact on the visual amenity and the character of the area contrary to the DCP requirement to: *Preserve existing views of Lavender Bay and Sydney Harbour along the railway track from the north side of the Sydney Harbour Bridge to North Sydney Station.*

Additionally, the key viewpoint analysis excludes the impact on views currently enjoyed from the Lavender Bay, west of the Luna Park foreshore and along the important foreshore walkway from the Sydney Harbour Bridge, past Luna Park and towards Blues Point.

As the VIA submitted has not included this key viewpoint in their analysis it is difficult to fully assess this impact. What is evident, when standing at the foreshore, is that the break in built form, at the subject site, is the only relief afforded from the continued built development in this part of Milsons Point. Additional information is required to fully assess this impact and a site visit, as part of the assessment of this Planning Proposal, should include this viewpoint.

Heritage impacts

Council's Conservation Planner / Heritage Officer comments are provided below.

1. Heritage Status and Significance

The subject property is not a scheduled heritage item and is not located in a heritage conservation area. It is however located in the vicinity of various heritage items as noted below. The existing building has no heritage significance and hence, no objection is raised to its demolition.

a) North Sydney LEP 2013 Clause 5.10

It is considered that the environmental heritage of North Sydney will be retained as the impact to the nearby heritage items is considered to be low to negligible.

b) North Sydney DCP 2013

An assessment of the proposal, with reference to Part B Section 13 of the North Sydney DCP 2013 has been made with the following elements of the DCP being of note:

13.4 Development in the Vicinity of Heritage Items- The following heritage items are located in the immediate vicinity:

Sydney Opera House (UNESCO listing) - The subject site is located outside the Sydney Opera House Buffer Zone. There will be no direct impact to the Opera House or to its expanded curtilage.

Sydney Harbour Bridge (State listing) - The proposed new development will introduce no new heritage impacts to the Harbour Bridge than the existing building.

Camden House (Local listing I0527)- This is one of the earliest surviving houses on the Lower North Shore however, the existing development has already severely compromised the curtilage of this Victorian Regency sandstone villa. The proposed new development will have a two storey podium which will give more scale to Camden House and an improved setting. The proposed separation between the development and the rear of Camden House will also be improved by the through-site link.

Luna Park Precinct (State listing SHR01811 and Local listing I0536)- The proposed new development will have low impact upon the significance of the buildings and trees associated with Luna Park as they will have adequate physical separation.

Luna Park Entrance Arch (Local listing I 0529) – There will be negligible change to the impacts between the existing development and the proposed development to the arch.

Milsons Point Railway Station Group (State listing SHR 01194) – The proposed development will create no impacts upon the heritage significance of the Railway Group.

Bradfield Park (Local listing I0538) – The proposed development will have no impact upon the historical, aesthetic, associative and social significance of Bradfield Park.

Northcliff Street Terraces (Local listing I0532-I0535) – There is adequate physical separation between the proposed development and these terraces such that their aesthetic and historical significance is retained.

Alfred Street Terraces (Local listing I0522-0526)- There is adequate physical separation between the proposed development and these terraces such that their aesthetic and historical significance is retained

Comments: Council's Conservation Planner / Heritage Officer does not have any significant concerns regarding the heritage impacts of the subject Planning Proposal. However, it should be noted that this assessment is made with regard to the Indicative Concept Scheme submitted. A further assessment at Development Application stage would be required.

Wind Impact

The submitted wind assessment indicates that the proposed form will result in adverse wind conditions at various locations. Subject to appropriate mitigation, the overall outcome should be acceptable. Further and more detailed investigation of this issue would be undertaken as part of any future DA however, it should be acknowledged that the applicant doesn't have any control over land outside of their ownership. Conditions, as part of any future DA, cannot rely on mitigation measures outside of the site boundary.

Consistency with North Sydney Local Environmental Plan (LEP) and Development Control Plans (DCP) controls

LEP controls

The Planning Proposal is considered to be consistent with some of the aims and objectives of the LEP and inconsistent with others. In particular the proposal will not be consistent with:

- Clause 1.2 Aim (2)(c)(i) to: *“ensure that new development does not adversely affect residential amenity in terms of visual and acoustic privacy, solar access and view sharing”*.
- Clause 4.3 Objectives (1)(b) and (c)
(b) to promote the retention and, if appropriate, sharing of existing views,
(c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,

The Planning Proposal is partly consistent with the objectives of the B4 Mixed Use zone which are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To create interesting and vibrant mixed use centres with safe, high quality urban environments with residential amenity.*
- *To maintain existing commercial space and allow for residential development in mixed use buildings, with non-residential uses concentrated on the lower levels and residential uses predominantly on the higher levels.*

However, as discussed previously, the proposal does include a significant reduction in viable existing commercial space and doesn't comply in this regard.

Council's Senior Strategic Transport Planner has requested additional information be submitted.

The indicative scheme reflects the requirement of Clause 4.4A to have a minimum FSR of 0.75:1.

Clause 5.10 relates to heritage conservation. As indicated above, Council is of the view that the proposal will not have any significant heritage impacts.

Clause 6.12A relates to residential flat buildings in Zone B4 Mixed Use. The indicative scheme is consistent with this clause as non-residential uses are at ground floor level of the street frontages.

DCP controls

In relation to the DCP, Section 2 Commercial & mixed use provides general controls for this type of development. The requirements of this section have either been addressed through consideration of other documents (such as the ADG) or can be addressed as part of the DA process. There are more specific requirements in Section 9 of the DCP – the Area Character Statement for the Lavender Bay Planning Area, and more specifically the Milsons Point Town Centre.

The indicative scheme, although consistent with the requirements relating to podium heights, is not consistent with the setback to Alfred Street which requires a 3 metre setback rather than 2, as proposed. It is also unclear, even with the Site Specific DCP controls proposed that the solar access to Bradfield Park will be maintained in accordance with the DCP.

Furthermore, the development does not step down in height from Alfred Street South toward the foreshore, with the Glen Street building being higher than the Alfred Street building.

The Planning Proposal and associated Site Specific DCP amendment also fail to comply with the following controls:

P4 Preserve and create spaces between buildings above podium height that will offer views of the Harbour and its foreshore areas to help break up the wall of development along Alfred Street.

P17 Spaces between buildings preserve views to Sydney Harbour, Sydney Opera House and Lavender Bay.

P19 Preserve existing views of Lavender Bay and Sydney Harbour along the railway track from the north side of the Sydney Harbour Bridge to North Sydney Station.

As the rear of the land is presently open, there are views through the site to Lavender Bay and looking back from Lavender Bay, as outlined previously, in addition to further afield from various vantage points. This key viewpoint analysis requires further investigation.

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

Social Considerations

The proposal will have no specific social benefit other than the potential to provide more housing or commercial floor space. No commitment has been put forward in this planning proposal to provide a percentage of the proposed additional dwellings as affordable housing.

There will be some public benefit in terms of the improvements to the through-site link; however, it is noted that the majority of the area is not located on the subject site and would require the agreement of the adjoining owner.

Where a proponent seeks to significantly increase the capacity of a site, Council encourages the proponent offer a public benefit proportionate to the increase in value of the land, in the form of an offer to enter a VPA. No details have been provided to indicate what the uplift in value of the site will be resulting from an increase in maximum building height. This makes it difficult for Council to make an informed decision as to what level of public benefit may be considered reasonable. It is noted that the applicant has advised that they are “willing to enter into a Voluntary Planning Agreement (VPA) with Council at the time of gateway determination. This agreement could make provision for local services and/or facilities outside the scope of Council’s Local Contributions Plan.”

Economic impacts

There is likely to be positive economic impacts from the proposal during the construction phase of the development; however, the nature of longer terms impacts will depend on the mix of uses that are ultimately proposed. As outlined in this report, the proposal, by virtue of the Indicative Concept Scheme proposed, would result in a loss of employment space currently occupied. It should therefore be recognised that the loss of employment use on the site could result in negative economic impacts in the long term.

8.5 State and Commonwealth Interests

8.5.1 Is there adequate public infrastructure for the planning proposal?

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

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

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

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

8.6 Mapping

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

8.7 Community Consultation

The level of community consultation will be determined as part of the Gateway determination; however, due to the main impacts being related to views and overshadowing, to allow the applicant to be able to better address issues arising from these matters, it is recommended that the applicant undertake its own Community Consultation prior to the formal public exhibition.

9. SUBMISSIONS

There are no statutory requirements to publicly exhibit a Planning Proposal before the issuance of a Gateway Determination.

However, Council sometimes receives submissions in response to planning proposals which have been lodged but not determined for the purposes of seeking a Gateway Determination. The generation of submissions at this stage of the planning process, arise from the community becoming aware of their lodgement through Council's application tracking webpage.

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

At the time of reporting, no submissions have been received.

CONCLUSION

Whilst the new proposal demonstrates no net additional overshadowing to Bradfield Park and no significant impact on the heritage significance within the vicinity of the site, the proposed development does continue to have a significant and unacceptable impact on the amenity of the surrounding environment, neighbouring occupiers and future residents.

The applicant's assessment, particularly in relation to solar access and view loss, is insufficient to determine the true extent of impact but the information submitted supports the concerns expressed in this assessment report.

The proposal demonstrates an unacceptable level of impact in that 30% of proposed apartments will receive no sun, this is significantly beyond ADG requirements (a maximum of 15% apartments to receive no sun).

To progress with this proposal in its current form would create an undesirable precedent and a high level of uncertainty for the broader community. The scheme has not adequately addressed the previous reasons for refusal and still maintains a desire to accommodate an excessive height increase to the rear of the site fronting Glen Street, without regard to the significant solar access and view loss impacts on the proposed and adjoining developments.

It is acknowledged and accepted that any redevelopment to the current 40m height limit will have some impact, however, the proposal introduces a far greater level of impact than one might reasonably expect under the current planning controls. The applicant's indicative concept scheme demonstrates that some level of height increases along the eastern portion of the site (fronting Alfred Street South) may be able to be acceptably accommodated on the site but with a compliant set back.

The current building on the site contains approximately 11,091sqm of commercial floorspace and serves a useful employment function, in close proximity to Milson's Point Station.

Whilst Council's current B4 zoning regime only mandates 0.75:1 of non-residential floorspace on the site, the current building on the site is understood to be largely let and this loss of employment generating floorspace is also an important strategic planning consideration.

Further, Council's Adopted Local Housing Strategy indicates that housing supply to 2036 is already planned for without the inclusion of this site. The clear impacts on future residents, residents of surrounding development and on the amenity of the wider area arising from the Planning Proposal, are not considered to be justified.

RECOMMENDATION

That the Panel resolves to recommend that PP5/20 not proceed to Gateway Determination for the following reasons:

- *The Planning Proposal and Site-Specific DCP amendment fails to demonstrate how the site could be acceptably developed to ensure that the height proposed would not have a significantly detrimental impact on the character of the area and impact on public and private amenity.*
- *From the information submitted, the Planning Proposal, indicative concept design and associated Site-Specific DCP amendment do not respond adequately to the site attributes and context and will result in a significant level of public and private amenity impacts;*
- *It is contrary to the objectives of the Height of Building controls under clause 4.6 to NSLEP 2013;*
- *It is inconsistent with the Milsons Point Town Centre Area Character Statement under Section 9.1 to Part C of NSDCP 2013;*
- *It is inconsistent with a number of objectives and actions under the relevant Regional and District strategies applying to the land;*
- *Sufficient residential capacity is already provided under NSLEP 2013 and identified in the NSLHS to meet State housing targets, without the need to change the land use mix on the subject site; and*
- *The Planning Proposal if implemented, could have the potential to create a precedent that could undermine other established policies for the Milsons Point Town Centre and other mixed use zoned land in highly accessible locations without the benefit of a comprehensive planning study of Milsons Point.*

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Karen Buckingham
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