



IRF 23/2544

Plan finalisation report – PP-2021-3357

52 Alfred Street, Milsons Point

November 2023

Published by NSW Department of Planning and Environment

dpie.nsw.gov.au

Title: Plan finalisation report – PP-2021-3357

Subtitle: 52 Alfred Street, Milsons Point

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Acknowledgement of Country

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

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1 Introduction

Overview

1.1.1 Name of draft LEP

North Sydney Local Environmental Plan 2013 (Map Amendment No. 5).

1.1.2 Site description

Table 1 Site description

Site Description	The planning proposal (PP-2021-3357) applies to land at 52 Alfred Street, Milsons Point (Lot 1 DP 738322) (Attachment A).
Type	Site
Council / LGA	North Sydney Council
LGA	North Sydney

The planning proposal applies to 52 Alfred Street, Milsons Point (Lot 1 DP 738322), consisting of 1 lot with a total area of 2,711m². The site is located in the Milsons Point Town Centre on the western side of Alfred Street, directly west of Bradfield Park and the Sydney Harbour Bridge approach (**Figure 1**).

The primary frontage is to Alfred Street and the site has a secondary frontage to Glen Street (**Figure 2**). The topography of the site falls steeply to the west to Glen Street. A part single and part 13 storey building known as ‘Kimberly Clark House’ occupies the site with approximately 11,091m² of commercial floorspace. The existing building is on the eastern portion of the site with an attached single storey commercial building located on the western side of the site (**Figures 3 & 4**).

Basement parking is accessed from Glen Street and via an open driveway off Alfred Street. The subject site contains a right-of-way for a pedestrian link from Alfred Street to Glen Street.

The site is not heritage listed and is adjacent to a local heritage item, ‘Camden House’. There are numerous other local and State heritage items nearby such as the Sydney Harbour Bridge and structures, Milsons Point Railway Station, Luna Park and Bradfield Park.

Milsons Point Station entrance is approximately 100m to the north-east and the North Sydney CBD is 750m to the north. Milsons Point Wharf is approximately 350m to the south-west with ferry service connections to areas such as Chiswick, Barrangaroo and Circular Quay. Numerous bus routes service the area from Alfred Street to areas such as Mosman, Neutral Bay, Sydney CBD and North Sydney.

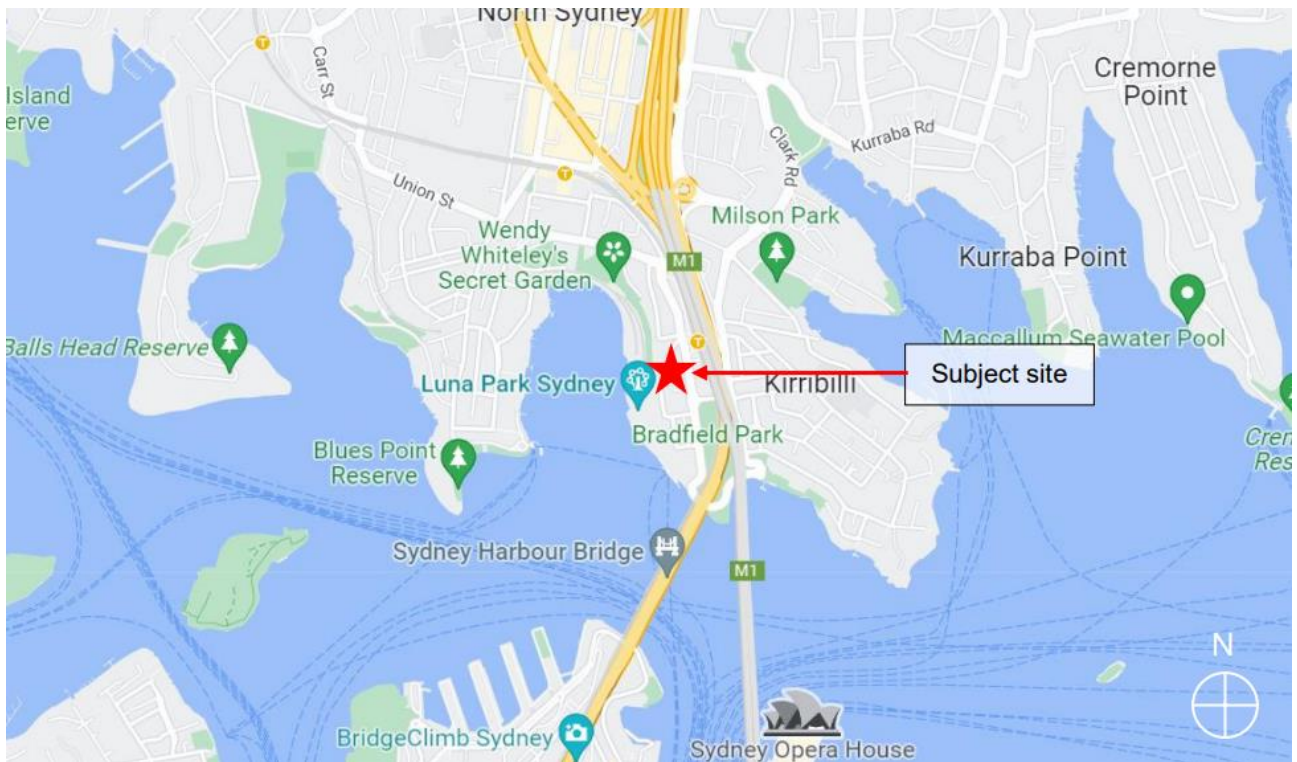


Figure 1 Locality map (source: Google Maps, overlay by the Department)

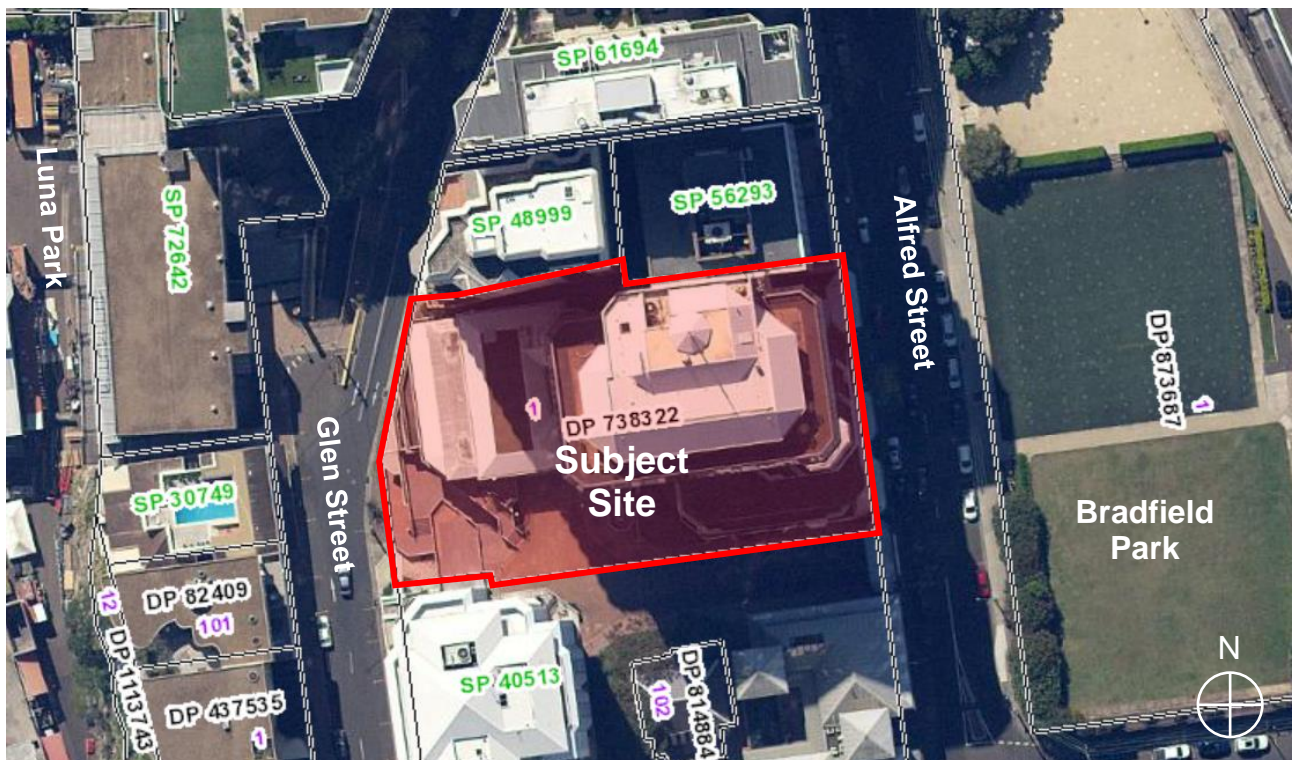


Figure 2 Subject site (source: Six Maps, overlay by the Department)



Figure 3 Subject site – aerial view looking west towards Lavender Bay (source: Google Maps)

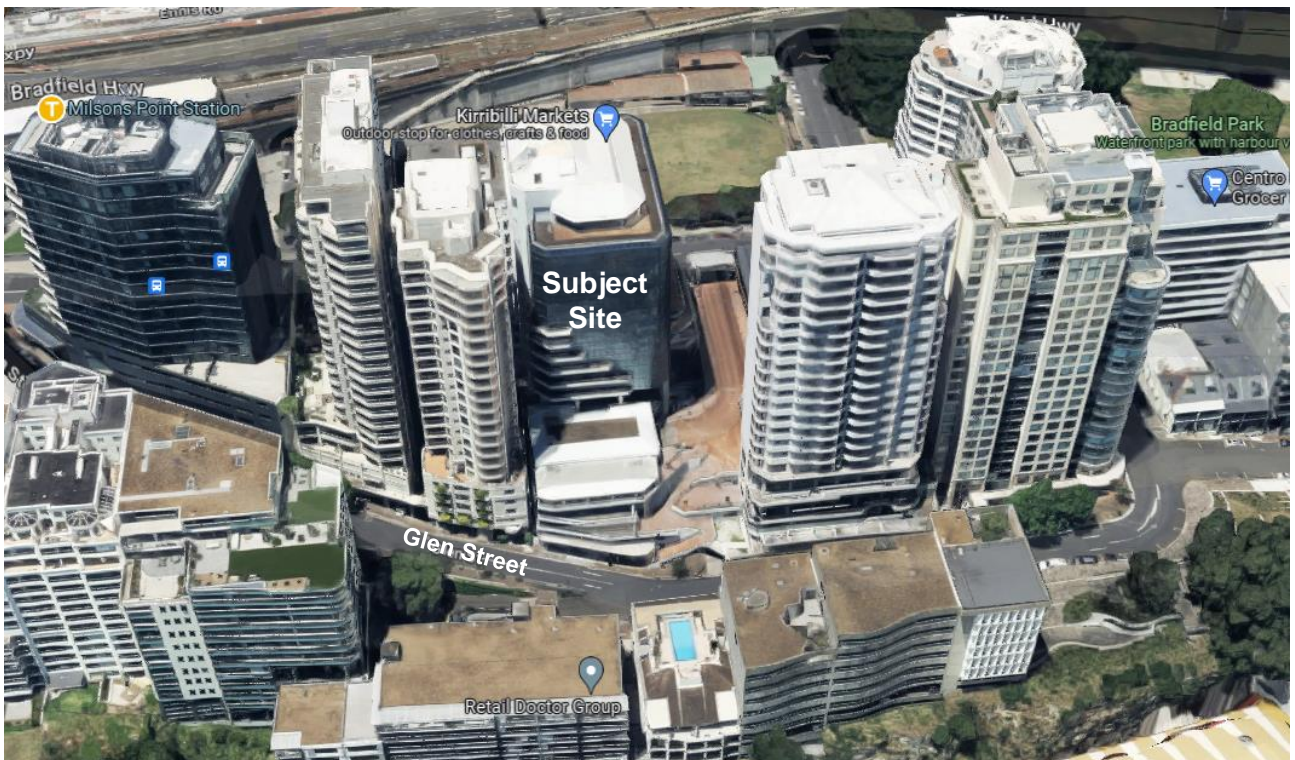


Figure 4 Subject site – aerial view looking east towards the Warringah Freeway and Cahill Expressway (source: Google Maps)

1.1.3 Purpose of plan

The planning proposal will amend the North Sydney LEP 2013 to apply a maximum height of buildings of part RL 84 to Alfred Street and part RL 88 to Glen Street (**Figure 5**). This is to accommodate the proposed heights of RL 83.75 and RL 87.10.

The current maximum building height in the LEP 2013 is 40m and this will increase to approximately 54.42m and 69.99m. The current building is 55.1m and exceeds the 40m existing height limit by approximately 15m. The existing non-residential FSR control of 0.75:1 will be retained.

The proposed current and proposed controls are outlined in **Table 2**.

Table 2 Current and proposed controls

Control	Current	Proposed
Zone	MU1 Mixed Use	MU1 Mixed Use (no change)
Maximum height of building	40m	Part RL84* (54.42m) - 17 storeys to Alfred Street; and Part RL88* (69.99m) - 22 storeys to Glen Street
Minimum non-residential FSR	0.75:1	0.75:1 (no change)
Number of dwellings	N/A (commercial floorspace)	125
Number of jobs	N/A	132

* Heights rounded up



Figure 5 Proposed HOB map applying RL88 to Glen Street and RL 84 to Alfred Street (source: Ethos Urban, planning proposal, 2023)

The concept scheme (**Attachment A3**) provides indicative massing with 2 residential towers of part 17 storeys and part 22-storeys (**Figures 6 to 7**). The proposal comprises 125 apartments and 3,755sqm of non-residential gross floor area (GFA). Currently, a FSR control does not apply to the site and it is not proposed to apply FSR. However, the concept scheme provides an indicative FSR of 6.62:1.



Figure 6: Proposed Alfred Street Building
(Source: KTA, Feb 2023)



Figure 7: Proposed Glen Street Building
(Source: KTA, Feb 2023)

1.1.4 State electorate and local member

The site falls within the North Shore state electorate. Felicity Wilson MP is the State Member.

The site falls within the North Sydney federal electorate. Kylea Tink MP is the Federal Member.

To the team's knowledge, neither MP has made any written representations regarding the proposal.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

2 Background

2.1.1 Rezoning Review

The applicant lodged a rezoning review request which was considered by the Sydney North Planning Panel (the Panel) on 22 September 2021 (**Attachment C**).

The Panel supported the proposal to proceed to Gateway, however noted a number of site constraints and the importance of the design to provide a high level of amenity to future occupants and existing residential towers.

The Panel made recommendations to be addressed in a site specific DCP including the reduction in built form massing and for the development to present as two distinct tower forms above a podium. Further recommendations were made regarding improvements to

the building envelope to respond to view sharing, overshadowing and other amenity impacts.

Council resolved to accept the role of Planning Proposal Authority (PPA) at its meeting on 25 October 2021, as the proposal was lodged prior to the commencement of the Department's Local Environmental Plan Making Guideline 2021.

Council prepared a draft development control plan consistent with the recommendations of the Panel's determination.

2.1.2 Background to planning proposal

A summary of the background of the planning proposal including the rezoning review and updates to the planning proposal is provided in **Table 3**.

Table 3 Summary of the background of the planning proposal

Date	Comment
2 October 2020	A planning proposal was lodged with Council to increase the maximum building height applying to the site.
22 February 2021	Council resolved to not support the planning proposal and not forward it to the Department for a Gateway (Attachment D1). The applicant had already lodged a rezoning review.
22 September 2021	The Panel considered the planning proposal and determined that it should be submitted for a Gateway determination as it demonstrated strategic and site-specific merit (Attachment C).
25 October 2021	Council resolved to accept the role of PPA. Council prepared a draft DCP to address the built form issues raised by the Panel. to be exhibited concurrently with the planning proposal.
25 February 2022	A revised planning proposal was submitted to Council by the proponent to address the recommendations of the Panel. Council also amended its draft DCP to incorporate a view line corridor to and from Glen Street.
28 March 2022	Council resolved to endorse a draft DCP for the site and forwarded the draft DCP to the Department on 11 April 2022. Council requested that conditions be imposed on the Gateway determination to require the applicant to review and re-design the reference scheme consistent with Council's draft DCP and for the DCP to be exhibited concurrently.
11 November 2022	Gateway determination subject to conditions was issued (Attachment B1) with alterations to extend timeframes (Attachments B3a and B3b) subsequently issued in January 2023 and August 2023, due to substantial revisions required.
10 May 2023	Public exhibition commenced with the amended planning proposal (Attachment A1) addressing the conditions of the Gateway determination.
11 September 2023	Council resolved to support the planning proposal to be forwarded to the department for finalisation (Attachment D4).

3 Gateway determination and alterations

The Gateway determination issued on 11 November 2022 (**Attachment B1**) determined that the proposal should proceed subject to conditions.

The Gateway determination was altered on 20 January 2023 (**Attachment B3a**) to extend the timeframe to commence public exhibition from 3 months to 6 months in order to respond to the conditions of the Gateway determination. The completion timeframe was also extended to 4 October 2023.

A second alteration was issued on 3 August 2023 (**Attachment B3b**) to extend the timeframe for reporting to Council and the timeframe for completion. In accordance with the Gateway determination (as altered) the proposal is due to be finalised on 28 November 2023.

Council was not authorised as the local plan-making authority (LPMA) as the site has been the subject of a rezoning review (**Attachment C**).

All the Gateway determination conditions have been met (**Attachment D5**).

4 Public exhibition

In accordance with the Gateway determination (as altered), the proposal was publicly exhibited from 10 May 2023 to 21 June 2023. The draft development control plan prepared by Council was concurrently exhibited.

A total of 40 submissions were received including 34 from the community and 6 agency responses.

A majority of the community submissions raised objections to the planning proposal as outlined in Table 4 (**Attachment D3a**).

A total of 6 agency responses were received (**Attachment D3b**).

3.1 Submissions during exhibition

4.1.1 Submissions supporting the proposal

No submissions were in clear support of the proposal. One submission was neutral and supportive of the positive impact of additional retail.

4.1.2 Submissions objecting to and/or raising issues about the proposal

Council's post-exhibition report outlines the issues raised in submissions (**Attachment D3**). A summary of key issues is outlined in **Table 4**.

Of the submissions objecting to the proposal, 33 submissions were from residents of adjoining buildings, including a submission made on behalf of the Owner's Corporations of 6 and 37 Glen Street, 38 Alfred Street, 48 - 50 Alfred Street, and 70 - 72 Alfred Street Milsons Point.

A submission was received from the Lavender Bay Precinct Committee.

Table 4 Summary of Key Issues – Public submissions

Issue raised (% rounded up)	Responses
View Loss - 65%	<u>Council Response</u>
<i>Concerns were raised that the applicant's view loss assessment</i>	Council carried out a view loss assessment including inspections of properties at 37 Glen Street and 70 - 72 Alfred Street South. It was identified that views to

Issue raised (% rounded up)	Responses
<p><i>contains inaccurate, misleading, and insufficient information – particularly related to 48-50 Alfred Street, 70 Alfred Street and 37 Glen Street.</i></p>	<p>Sydney Harbour from living area windows are currently obstructed by the existing 7 storey heritage listed building at 2-2A Glen Street.</p> <p>Council also undertook an inspection of 70-72 Alfred Street and considered that the proposed height, setbacks and chamfering of the tower at upper levels will mitigate view loss from the dual aspect apartments and further view impact assessment will be undertaken at detailed DA stage.</p> <p>In developing the DCP controls, Council has considered its view impact assessment, the Panel recommendations, the conditions of the Gateway and the attributes of the site, while also considering what is a reasonable level of impact based on established view sharing planning principles.</p> <p>Any future development on the site will be required to submit a detailed view impact assessment of all affected properties at the DA stage for further assessment against established Council's 'view sharing' planning principles.</p> <p>In developing the draft DCP controls, Council has sought to mitigate impacts to identified high-moderate value views from the primary living areas of surrounding apartments whilst still enabling a reasonable level of development for 52 Alfred Street.</p> <p>The draft DCP has been revised to define the commencement of the view line at RL44 and include an objective to clarify the intent of the rear setback/view line to maximise view sharing across the site. Council's rationale for commencing the view line above 8 storeys (RL44) is to align with the rooftop of the existing seven storey commercial building at 2-2A Glen Street.</p> <p><u>Department Response</u></p> <p>Council has responded adequately to this issue. The draft amendment to the DCP has been prepared to guide development on the site to mitigate impacts to views, while still allowing a reasonable level of development on the site at 52 Alfred Street. Further assessment of view sharing will be carried out as part of a future detailed design at DA stage.</p> <p>Council's amendment to the DCP was adopted on 28 March 2022 (Attachment D2).</p> <p>The view loss impact is addressed further in Section 5.</p>
<p>Amenity (solar access, privacy, noise) - 59%</p> <p><i>Concerns were raised that the height, bulk, and scale of the proposal will result in unacceptable amenity impacts to the adjoining buildings such as severe view loss, reduction in solar access and privacy for</i></p>	<p><u>Council Response</u></p> <p>Council note that the planning proposal was supported to proceed by the Panel at rezoning review.</p> <p>The Council DCP responds to the Panel recommendations and establishes parameters to guide the design of a more appropriate built form on the site, with the intent to minimise impact to surrounding properties. The setback distances of the DCP are consistent with those required in the Apartment Design Guide (ADG). The amended scheme is indicative and has resulted in a reduction of 3,918 sqm compared to the original scheme.</p> <p>The NSDCP currently contains solar access controls to ensure no additional overshadowing to Luna Park, Bradfield Park and North Sydney Pool between</p>

Issue raised (% rounded up)	Responses
<p><i>residents in adjoining buildings.</i></p> <p><i>These concerns primarily relate to the new tower to Glen Street, and the lack of separation between the adjoining towers.</i></p>	<p>12pm and 3pm. Council note that the updated shadow diagrams does not result in additional overshadowing impacts to Luna Park or Bradfield Park.</p> <p>A more refined scheme will be required and will be subject to further assessment at the future DA stage.</p> <p><u>Department Response</u></p> <p>Council has responded adequately to this issue in the post exhibition report.</p> <p>In the rezoning review decision of 22 September 2021 (Attachment C), the Panel recommended that the applicant's DCP should be reviewed and amended to address items such as view loss, overshadowing and other impacts to the neighbouring buildings.</p> <p>The department requested that the planning proposal be updated to be consistent with the requirements in Council's DCP. Council's amendment to the DCP was adopted on 28 March 2022 (Attachment D2).</p> <p>Solar access and privacy are further addressed in Section 5.</p>
<p>Wind Impact - 26%</p> <p><i>Concerns were raised that the with the lack of building separation intensifying wind tunnel effects along the shared pedestrian link and that the Wind Impact Assessment was carried out on a similar massing to the existing building.</i></p>	<p><u>Council Response</u></p> <p>Further amendments will be carried out as the proposed concept is indicative. Council commented that further detailed wind analysis will be required at DA stage to assess any future development.</p> <p>A future DA will need to be supported by a wind impact assessment and identify suitable measures to minimise any impacts in and around the site and comply with the NSDCP 2013.</p> <p><u>Department Response</u></p> <p>Council has responded adequately to this issue.</p> <p>The Wind Impact Analysis is a desktop analysis as the concept design is only an indication of a compliant built form. Further analysis can be undertaken at the detailed design phase.</p> <p>The wind impact is addressed further in Section 5.</p>
<p>Construction impacts - 24%</p> <p><i>Concerns were raised with adverse noise, dust, traffic impacts and potential damage to the structural integrity of surrounding buildings and potential contamination issues.</i></p>	<p><u>Council Response</u></p> <p>A Preliminary Site Investigation (PSI) was submitted for the site which found that the risk for contamination was low. Further investigation can be carried out at the DA stage. Conditions will be imposed at the DA stage to manage any impacts at the construction stage.</p> <p><u>Department Response</u></p> <p>Council has responded adequately to this issue.</p> <p>Any impacts during construction will be addressed at a future DA stage. The PSI (Attachment A9) found that the risk for contamination is low. This can be further investigated during and after demolition as part of a future DA.</p> <p>Further geotechnical investigations can also be carried out as part of a DA. This type of investigation will outline recommendations on areas such as excavation procedures and footings required for the proposed development.</p>

Issue raised (% rounded up)	Responses
	<p>North Sydney Council's DCP sets out requirements for the management of construction sites with the preparation of a detailed Construction Management Plan (CMP). The CMP will outline procedures relating to matters such as operating hours, noise and construction.</p> <p>The contamination issue is addressed further in Section 5.</p>

4.1.3 Other issues raised

Other matters of concern raised by submissions included:

- traffic and parking issues (15%);
- height, bulk and scale (15%);
- overshadowing (12%);
- through-site link and right-of-way (12%);
- heritage (12%);
- positive covenant (9%); and
- inconsistency with state policies (9%).

These issues are discussed further in Section 5.

3.2 Advice from agencies

In accordance with the Gateway determination, consultation was required with various agencies. The responses are summarised in **Table 5**.

Responses from the agencies are at **Attachment D3b**. Council's response to all submissions, including the agency submissions is in the report to Council (**Attachment D3a**).

Table 5 Advice from public authorities

Agency Advice raised	Response
<p><u>Transport for NSW (TfNSW)</u></p> <p>TfNSW raised no objection with the planning proposal, however raised several issues with the applicant's 'Traffic and Parking Assessment' including:</p> <ul style="list-style-type: none"> • weekend traffic counts are not included in the Traffic and Parking Impact Assessment (TIA). This should be undertaken as this area is close to a tourist destination; • the intersection of Alfred Street/Lavender Street/Warringah Freeway should be in the network model; • the TIA does not use consistent methods when comparing trips and the AM egress and PM access numbers are not consistent; 	<p><u>Council comment</u></p> <p>Council noted that TfNSW raised several concerns with the applicant's <i>Traffic and Parking Impact Assessment</i> and recommended consideration be given to addressing these issues prior to the DPE's making of the Plan.</p> <p>Council commented that 191 car spaces as proposed exceeds the maximum amount of parking permitted under NSDCP 2013 and is not justified in the context of the site's highly accessible location contrary to the objectives of North Sydney's Transport Strategy and transit-oriented development.</p> <p>Council has adopted an amendment to the NSDCP 2013 which came not effect on 4 May 2023 reducing parking in high accessible locations. Parking and access are matters for the DA stage.</p>

Agency Advice raised	Response
<ul style="list-style-type: none"> consideration should be given to reducing the maximum number of parking spaces due to the proximity of accessible public transport; conflicts may occur with the overlap of the construction of the Sydney Harbour Bridge Cycleway Access Project. 	<p><u>Department comment</u></p> <p>The matters raised by TfNSW with the applicant's <i>Traffic and Parking Impact Assessment</i> are noted and it is considered that an updated Traffic and Transport Impact Assessment will need to accompany a future DA.</p> <p>This will be to the satisfaction of the consent authority, and a more detailed assessment will be undertaken to ensure it accurately reflects the network model, ensures reliable traffic counts to support the proposed dwelling numbers in the development and in comparing trips and the AM egress and PM access.</p> <p>Council has indicated that the proposal is not compliant with its DCP with regard to parking spaces and an assessment of this will be undertaken at DA stage. The adopted revised parking rates are in Table 7.</p> <p>With regard to potential for overlap of the construction of the Sydney Harbour Bridge Cycleway Access Project, this would be a matter best addressed at DA stage with a Construction Management Plan that would be required and any other appropriate conditions to ensure safety and co-ordination during construction of the projects should they occur at the same time.</p>
<p><u>Ausgrid</u></p> <p>Ausgrid raise not objections with the planning proposal but will review any future development applications (DAs).</p>	<p><u>Council comment</u></p> <p>Council noted Ausgrid's comment and commented that a review of the development's compatibility with the existing Ausgrid infrastructure will be undertaken with a future DA.</p> <p><u>Department comment</u></p> <p>Ausgrid's and Council's comments are noted.</p> <p>Further assessment can be carried out at a future detailed design stage.</p>
<p><u>Sydney Water</u></p> <p>Sydney Water note that wastewater assets of potential heritage value traverse the site.</p> <p>Approval and assessments must be obtained to avoid any damage to these assets and an early application should be made to avoid delays. Further review will be required once any DA is referred to Sydney Water.</p>	<p><u>Council comment</u></p> <p>Council noted that an existing 14 storey commercial building and basement structure already exists over the site. Council addressed this submission noting that this matter can be adequately explored and addressed at the DA stage when detailed plans are submitted and a referral under section 78 of the Sydney Water Act 1994 is required.</p>

Agency Advice raised	Response
<p>Sydney Water provided an amended response post exhibition to note that no objection is raised to the proposal, however highlighted that the redevelopment of the site will likely be constrained by asset protection and heritage requirements.</p>	<p><u>Department comment</u></p> <p>Council has adequately addressed the comments from Sydney Water.</p> <p>The department notes further assessment can be carried out at a future detailed design stage and a referral to Sydney Water would be required at DA stage.</p>
<p><u>NSW Department of Education – School Infrastructure NSW (SINSW)</u></p> <p>SINSW requested that Council monitor and consider the cumulative impact of population growth on schools.</p>	<p><u>Council comment</u></p> <p>Council noted SINSW comment.</p> <p><u>Department comment</u></p> <p>SINSW's and Council's comments are noted.</p>
<p><u>NSW Department of Health - Northern Sydney Local Health District (NSLHD)</u></p> <p>NSLHD advised that NSW Health does not own any properties near the site.</p>	<p><u>Council comment</u></p> <p>Council made no comment on NSLHD's response.</p> <p><u>Department comment</u></p> <p>NSW Health's response is noted.</p>
<p><u>Heritage NSW</u></p> <p>Heritage NSW noted that the proposal is close to State Heritage Register listed items and local heritage items.</p> <p>No impacts were identified to the State listed items. The Heritage Impact Statement found that there are no adverse impacts to significant view corridors or to the visual settings of the heritage items.</p> <p>Local items are a matter for Council.</p> <p>A Heritage Impact Statement will be required at the detailed design stage of the development and will include local items.</p>	<p><u>Council comment</u></p> <p>Council noted Heritage NSW comment.</p> <p><u>Department comment</u></p> <p>Heritage NSW's and Council's comments are noted and should be considered at the DA stage.</p>

3.3 Post-exhibition changes

No post-exhibition changes have been made to the planning proposal. Council wrote to the department in a letter on 19 September 2023 (**Attachment D6**), requesting that the plan be made as exhibited.

3.4 Council's Development Control Plan

Council has amended Section 9 of the DCP as it relates to the Lavender Bay Planning Area (**Attachment A11** and **Figure 8**) with a post-exhibition amendment with minor revisions to the wording and to include parking and access relating the covenant and right of carriageway (**Attachment D7**).

This amendment will guide development:

- to respond to the desired future character, design objectives and key principles including matching the scale of the existing buildings, provision of active street frontages and minimising overshadowing;
- provide adequate setbacks and maintain a consistent podium height and podium setbacks to Alfred Street and Glen Street;
- protect views to and from adjacent residential buildings; and
- provide a through-site link from Alfred Street to Glen Street.

Although the amendment to the DCP does not refer to the split heights to identify where the site is divided to apply the varying heights, the mapping indicates this division and applies a split height of RL88 to Glen Street and RL84 to Alfred Street. Council is encouraged to provide further guidance on where the split is located to avoid uncertainty at the DA stage.

Part B Section 10 of the NSDCP was amended to reduce the rate of off-street parking for new high density residential developments in areas having high public transport accessibility which includes this area of Milsons Point.

The revision to the car parking rates for residential development in the E2 Commercial Centre and MU1 Mixed Use zone was adopted by Council on 26 April 2023.

The amended North Sydney DCP requirements relating to setbacks and podium height are in **Table 6**. The new parking rates are outlined in **Table 7**.

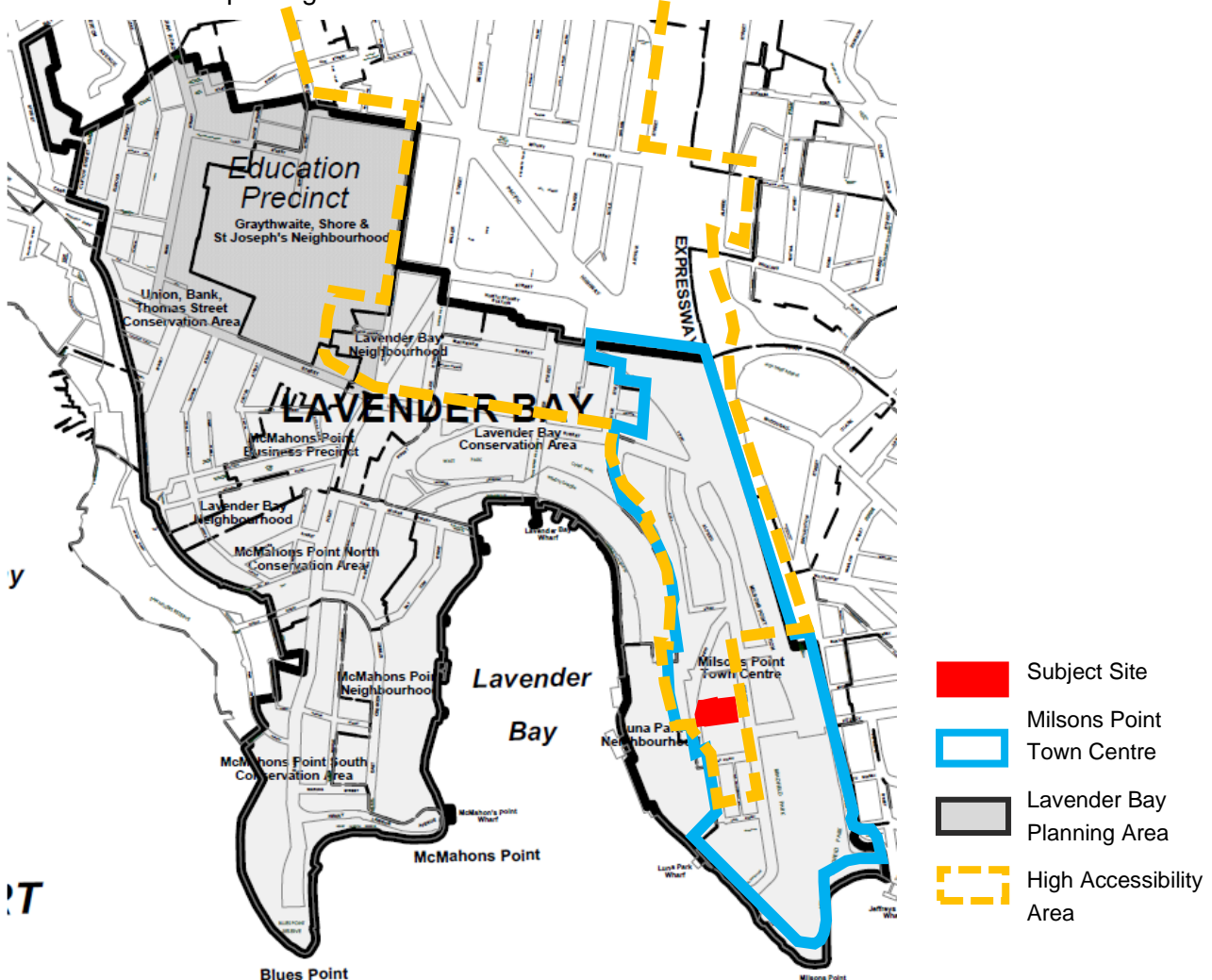


Figure 8: Lavender Bay Planning Area (source: Council)

Table 6 North Sydney DCP setback and podium height requirements

Control		Amended NSDCP 2013	
Setbacks	Alfred and Glen Street	0	
	Southern Boundary	6m	6m
	Northern Boundary (directly adjoining 37 Glen Street)	3m (minimum where directly adjoining 37 Glen Street)	
Podium Height	To Alfred Street	2 storeys	
	To Glen Street	Not exceed 4 storeys	
	Southern boundary (Camden House)	2 storeys	
Above Podium Setback	To Alfred Street	3m	
	To Glen Street	3m	
	Southern Boundary	9m (to 8 storeys) 12m (above 8 storeys)	
	Northern Boundary (directly adjacent to 37 Glen Street)	9m (to 8 storeys) 12m (above 8 storeys)	
Special Provisions	east-west through site link to the southern boundary	Minimum 6m	
	Overshadowing to Bradfield Park	No net increase between 12pm and 3pm	

Table 7 NSDCP revised parking rates

Apartment Type	Previous NSDCP Maximum Spaces per Dwelling	Revised new NSDCP Maximum Spaces per Dwelling
Studio	0.5	0.3
1 Bedroom	0.5	0.4
2 Bedroom	1.0	0.7
3 Bedroom	1.0	1.0
Non-residential	1 per 60m ²	1 per 400m ²

5 Department's assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination and report (**Attachment B1** and **B2**) and subsequent planning proposal processes. It has also been subject to public consultation and engagement.

The following reassesses the proposal against relevant Section 9.1 Directions, SEPPs, Regional and District Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal (as amended).

As outlined in the Gateway determination report (**Attachment B2**), the planning proposal submitted to the Department for finalisation:

- remains consistent with the regional and district plans relating to the site;
- remains consistent with the Council's Local Strategic Planning Statement; and
- remains consistent with all relevant SEPPs.

The planning proposal was updated prior to exhibition to address all relevant section 9.1 directions including 4.4 Remediation of contaminated land, 5.3 Development near Regulated Airports and Defence Airfields and 7.1 Business and Industrial Zones. The proposal is consistent with the relevant Section 9.1 Directions, and is justifiably inconsistent with 7.1 Business and Industrial Zones as outlined in section 5.1.

The following **Tables 8** and **9** identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage. Where the proposal is inconsistent with this assessment, requires further analysis or requires reconsideration of any unresolved matters these are addressed in Section 5.1.

Table 8 Summary of strategic assessment

	Consistent with Gateway determination report Assessment
Regional Plan	<input checked="" type="checkbox"/> Yes
District Plan	<input checked="" type="checkbox"/> Yes
Local Strategic Planning Statement	<input checked="" type="checkbox"/> Yes
Local Planning Panel (LPP) recommendation	<input checked="" type="checkbox"/> Yes Note: The planning proposal remains inconsistent with the Local Planning Panel's resolution of 9 December 2020 in that it did not support the proposal proceeding to a Gateway determination.
Section 9.1 Ministerial Directions	<input checked="" type="checkbox"/> Yes Note: The planning proposal was determined to be inconsistent with direction 7.1 Employment and Industrial Zones. The planning proposal is justifiably inconsistent with this direction.
State Environmental Planning Policies (SEPPs)	<input checked="" type="checkbox"/> Yes

Table 9 Summary of site-specific assessment

Site-specific assessment	Consistent with Gateway determination report assessment
Social and economic impacts	<input checked="" type="checkbox"/> Yes
Environmental impacts	<input checked="" type="checkbox"/> Yes
Infrastructure	<input checked="" type="checkbox"/> Yes

5.1 Detailed assessment

The planning proposal (**Attachment A1**) and Architectural Design Report (**Attachment A3**) were updated to address all the conditions of the Gateway determination (**Attachment B1**).

A summary of the compliance with the Gateway determination is at **Attachment D5**.

5.1.1 Ministerial Directions

7.1 Business and Industrial Zones

The planning proposal was updated to provide further justification for this direction. However, the planning proposal is justifiably inconsistent with this direction.

The existing site is in the MU1 Mixed Use zone supports approximately 11,091m² of commercial GFA. The concept scheme in the planning proposal will resulting in a reduction of employment floorspace of approximately 7,336m².

The planning proposal states that this reduction is justified as:

- the scheme will provide a minimum non-residential FSR of 0.75 equating to 2,642m² commercial GFA with 3,755m² provided in the concept scheme;
- the current vacancy rate of 47.49% of the existing building strongly indicates that the current market trends are influencing the transition for Milsons Point to adapt to becoming a mixed-use locality;
- the increased residential development is appropriate for Milsons as there is a high level of amenity, existing transport connections, high quality open space and a range of shops and services; and
- it is consistent with the intent of the North Sydney CBD Capacity and Land Use Strategy and Planning Proposal which both demonstrated a clear intent to concentrate commercial growth and job creation in the North Sydney CBD.

The Department considers the inconsistency is minor and notes that the delivery of homes in well-located centres near public transport are an essential part of addressing the housing crisis.

5.1.2 Heritage Impact

The site is not listed as a local or state heritage item and is not within a HCA. However, it is near several State and locally listed heritage items.

A Heritage Impact Statement (HIS) undertaken by Wier Phillips Heritage and Planning dated September 2020 (**Attachment A7**) was submitted with the original planning proposal.

The HIS states that the proposal will have an acceptable impact on the adjacent heritage item and the other local and State items in the vicinity.

Heritage NSW stated in their submission (**Table 5**) that no impacts were identified to the State heritage items such as the Sydney Harbour Bridge and approaches to the east and Luna Park to the west.

The proposal was reviewed by Council's Conservation Planner/Heritage Officer who provided comments for the LPP report of 9 December 2020. The Officer considered that the original planning proposal would not impact on the local and State heritage items. In the report to the LPP it was noted that the curtilage of Camden House was already compromised and the proposed two storey podium, separation and through site link will correspond better with an improved setting to the local heritage item.

Further assessment of the impact on the heritage items adjacent to and close to the proposed development can be carried out at a future DA stage.

The department considers that the heritage impact has been appropriately considered and remains consistent with the assessment in the Gateway determination report (**Attachment B2**).

5.1.3 Overshadowing Impact

There will be no additional overshadowing to Bradfield Park between 12noon-3pm in mid-winter.

The shadow diagrams in the amended planning proposal (**Attachment A1**) and the Architectural Design Report (**Attachment A3**) (**Figures 9 to 17**) demonstrate that the concept will result in reduced overshadowing to Bradfield Park between 2pm-3pm compared to existing building:

- 2.00pm a reduction of 24.6m² (**Figure 12**);
- 2.30pm a reduction of 52.2m² (**Figure 14**);
- 3.00pm a reduction of 91m² (**Figure 16**).

The amendment to the North Sydney DCP was adopted on 28 March 2022 (**Attachment D2**) and includes provisions to minimise any overshadowing impact to Bradfield Park and guide future development.

The department is supportive of a built form that is consistent with Council's adopted DCP. The department considers that the proponent has satisfactorily amended the concept scheme and addressed the overshadowing impact. Further assessment can be carried out to Bradfield Park and the neighbouring buildings as part of a future DA.

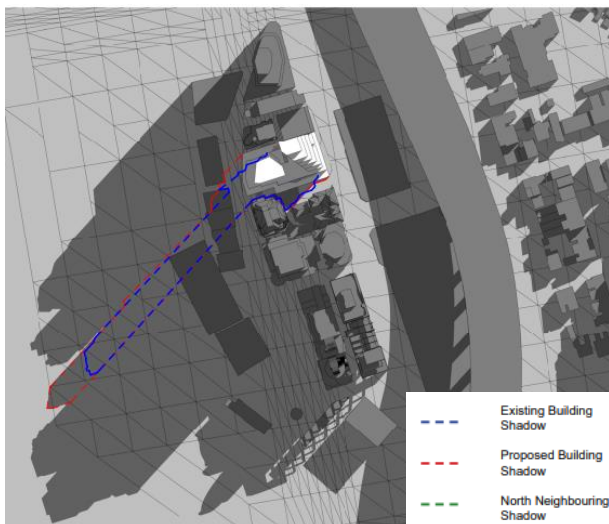


Figure 9: shadow diagram 9am, 21 June (source: KTA)

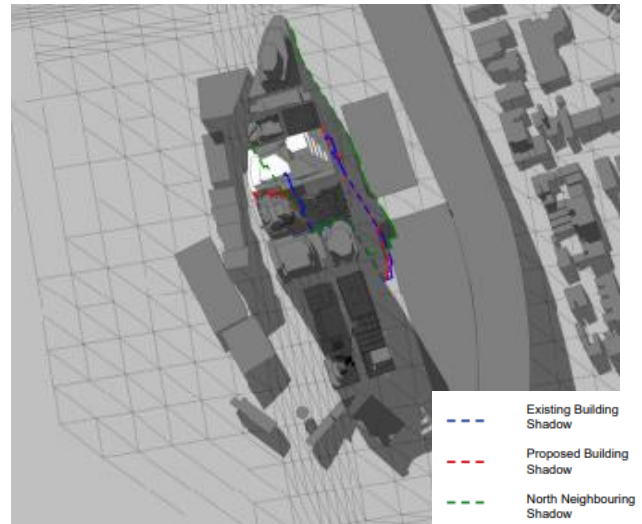


Figure 10: shadow diagram 12pm, 21 June (source: KTA)

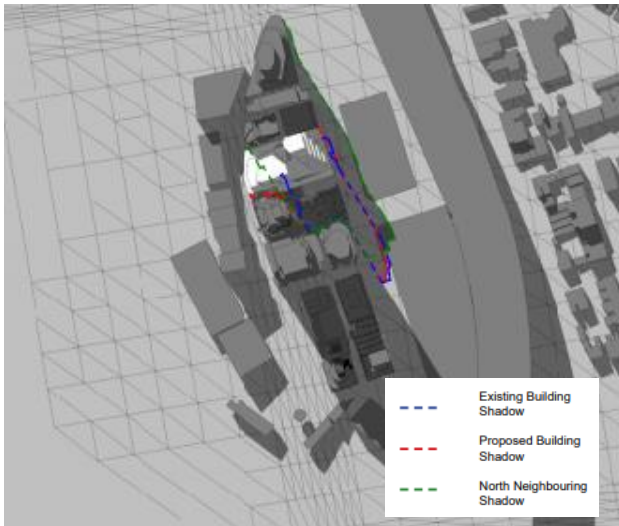


Figure 11: shadow diagram 2pm, 21 June (source: KTA)

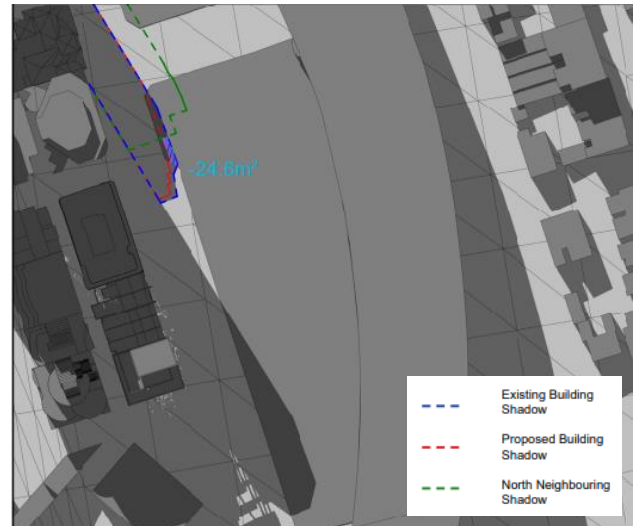


Figure 12: detail of **Figure 11** indicating a reduction in overshadowing of 24.6m² (source: KTA)

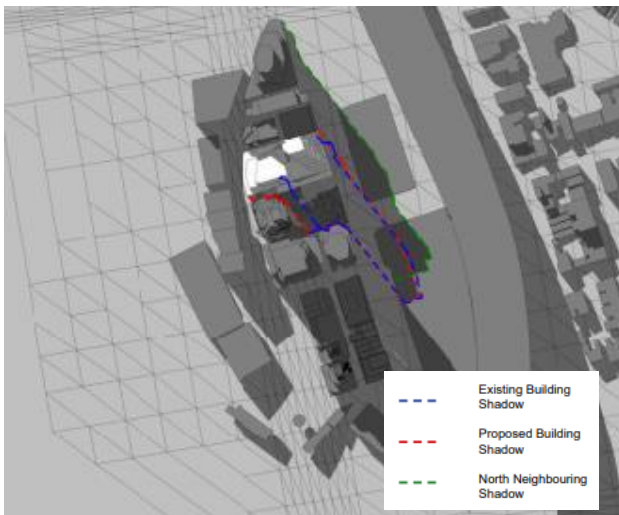


Figure 13: shadow diagram 2.30pm, 21 June (source: KTA)

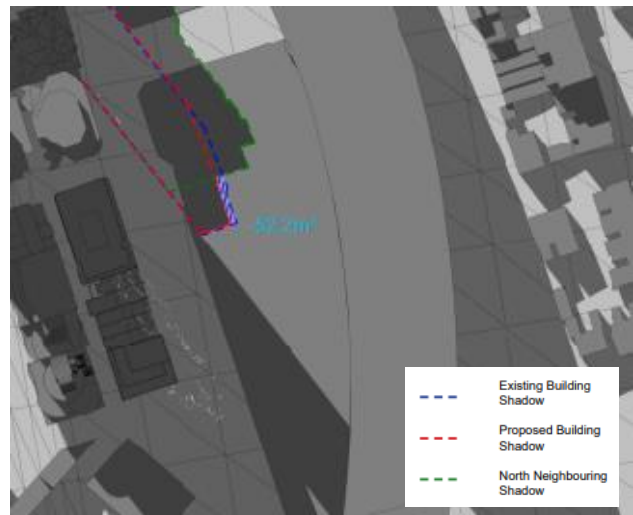


Figure 14: detail **Figure 13** indicating a reduction in overshadowing of 52.2m² (source: KTA)

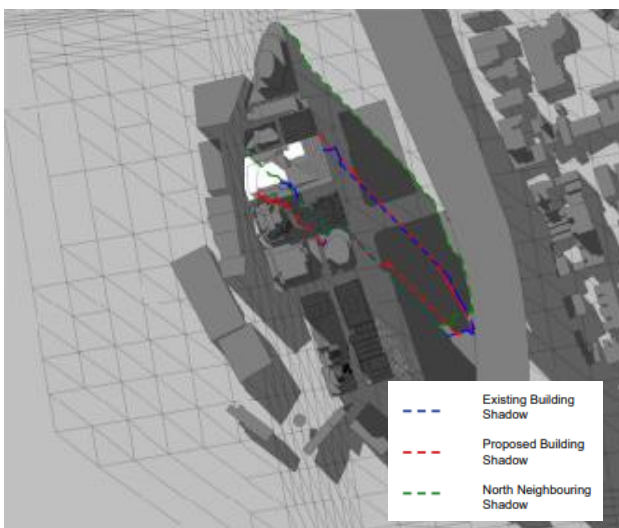


Figure 15: shadow diagram 3pm, 21 June (source: KTA)

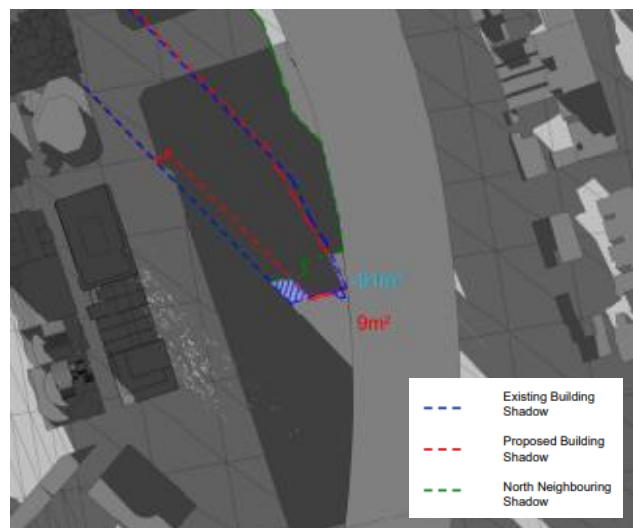


Figure 16: detail of **Figure 15** indicating a reduction in overshadowing of 91m² (source: KTA)

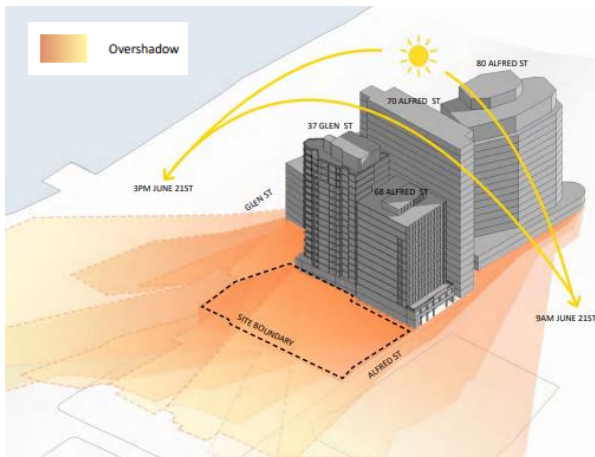


Figure 17: Cumulative overshadowing from the surrounding development (source: KTA)

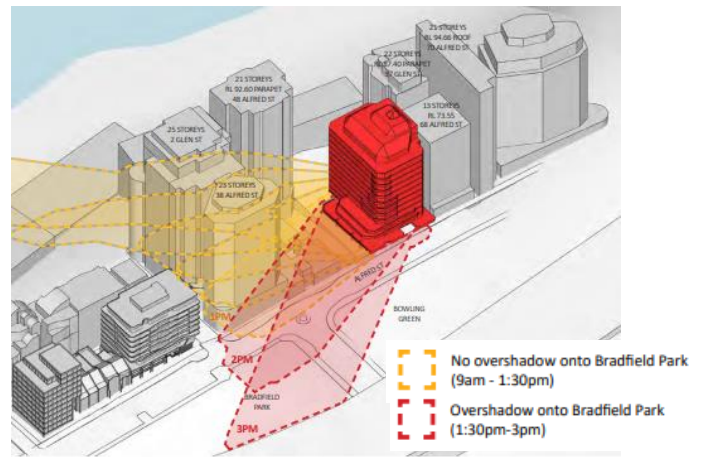


Figure 18: Overshadowing to Bradfield Park (source: KTA)

5.1.4 Solar Access Impact

The amended planning proposal states it is consistent with the ADG, 72% (90 of 125) of units will receive 2 or more hours of sunlight to primary windows and private open space between 9am and 3pm during the winter solstice.

A design criterion of the ADG objectives for solar access in apartment developments in the Sydney Metropolitan Area. this includes that apartment development living rooms and private open spaces of at least 70% of apartments receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter.

This is an improvement on the previous concept that identified that 70% or (111 of 156 apartments) received 2 hours or more of sunlight to primary windows and private open space between 9am and 3pm during the winter solstice.

The department is satisfied that the concept scheme meets the ADG design criterion for 70% of apartments to achieve 2 hours of direct sunlight and that the solar impact has been satisfactorily addressed. Further analysis regarding solar access will be undertaken at the DA stage.

5.1.5 View and Privacy Impact

Council officers carried out a view loss assessment in several of the adjacent residential apartments at 37 Glen Street and 70-72 Alfred Street from the living room, bedrooms and balconies.

As a result of Council's assessment, the DCP includes a setback for view sharing from adjacent residential buildings (37 Glen Street) to allow views to the south and towards the Harbour Bridge (**Figure 20**).

A detailed view impact assessment was not carried out from all surrounding apartments. Council acknowledges that some views towards Lavender Bay from 38 and 48-50 Alfred Street will be impacted and retaining existing views is challenging in a dense urban environment. However, any DA on the site will need to be supported by a detailed view impact assessment of all affected properties. It is unreasonable to expect that views can be retained from all dwellings in an CBD such as North Sydney and Milsons Point.

The concept scheme was amended to align with Council's draft DCP (adopted on 28 March 2022) responding to Council view impact assessment and DCP (**Figure 20**). The extent of the view line with the proposed concept is shown in **Figures 21** and **22**.

5.1.7 Transport and Parking Impact

The Traffic and Parking Impact Assessment Report dated September 2020 (**Attachment A6**) found that the site has excellent access to public transport with the Milsons Point Railway Station approximately 200m north-east across Alfred Street.

The assessment stated that the proposal will generate an additional 24 vehicle trips in the AM peak and 23 vehicles in the PM peak and would not have a significant impact on the adjacent road network.

The provision of on-site parking will need to comply with the DCP. **Table 7** in section 3.5 outlines the revised parking rates in the DCP in areas with highly accessible transport. The final parking number can be determined as part of a future DA.

In their submission during the public exhibition, TfNSW was supportive of measures to encourage public and active transport and reduce private vehicle dependence.

The department considers that the traffic and parking impact has satisfactorily addressed. This can be further assessed in the detailed design phase and in a future DA.

5.1.8 Built Form

The planning proposal was amended to be consistent with Council's now adopted amendment to the DCP. The DCP includes controls to address the Panel's recommendations (**Attachment C**) to protect the amenity of surrounding development and any future development on the site.

The provisions to guide development in the adopted DCP include:

- a built form with appropriate separation to existing and proposed buildings to ensure reasonable privacy, solar access and view are maintained;
- setbacks and podium heights as outlined in **Table 6** and setbacks shown in **Figures 27 to 29**;
- maintain solar access and minimise overshadowing impacts to Bradfield Park (**Figures 9 to 16** and **Figure 18**); and
- provisions of a through-site link from Alfred Street to Glen Street.

Figures 23 to 25 show the amended concept relative to the surrounding existing build form noting that the existing building at 52 Alfred Street exceeds the 40m maximum height of buildings in the LEP by approximately 15m. **Figure 26** shows an east-west section of the building (looking south).

The department considers that the concept has been revised to satisfactorily address the issues raised by the Panel in their determination of 22 September 2021. The revisions to the concept also address Council's concerns with overshadowing, view loss, building separation and associated amenity/visual impacts and compliance with the ADG.

All of the issues raised by Council can be further assessed in the detailed design phase and in a future DA.

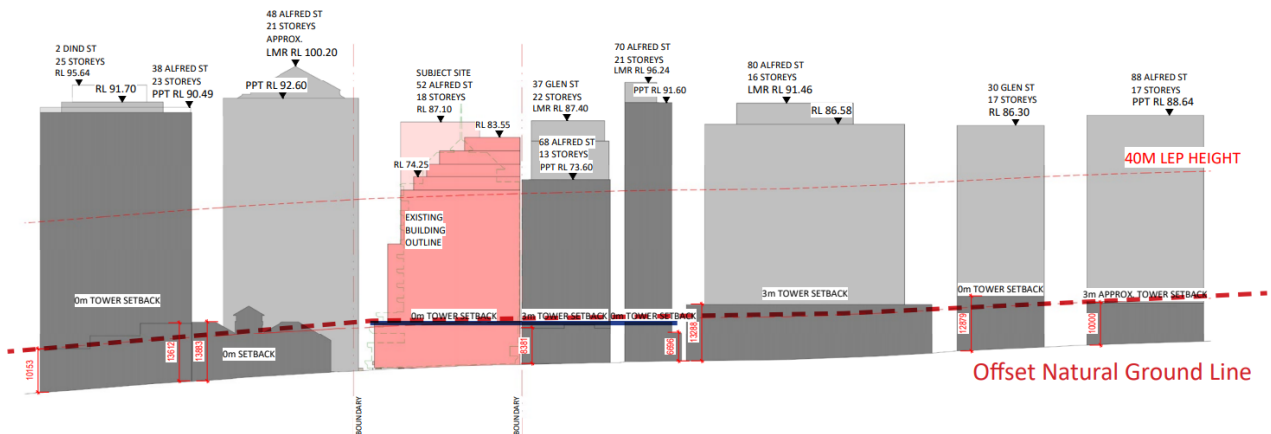


Figure 23: Elevation of Alfred Street indicating the 40m LEP height and podium height in relation the natural ground level (source: KTA)

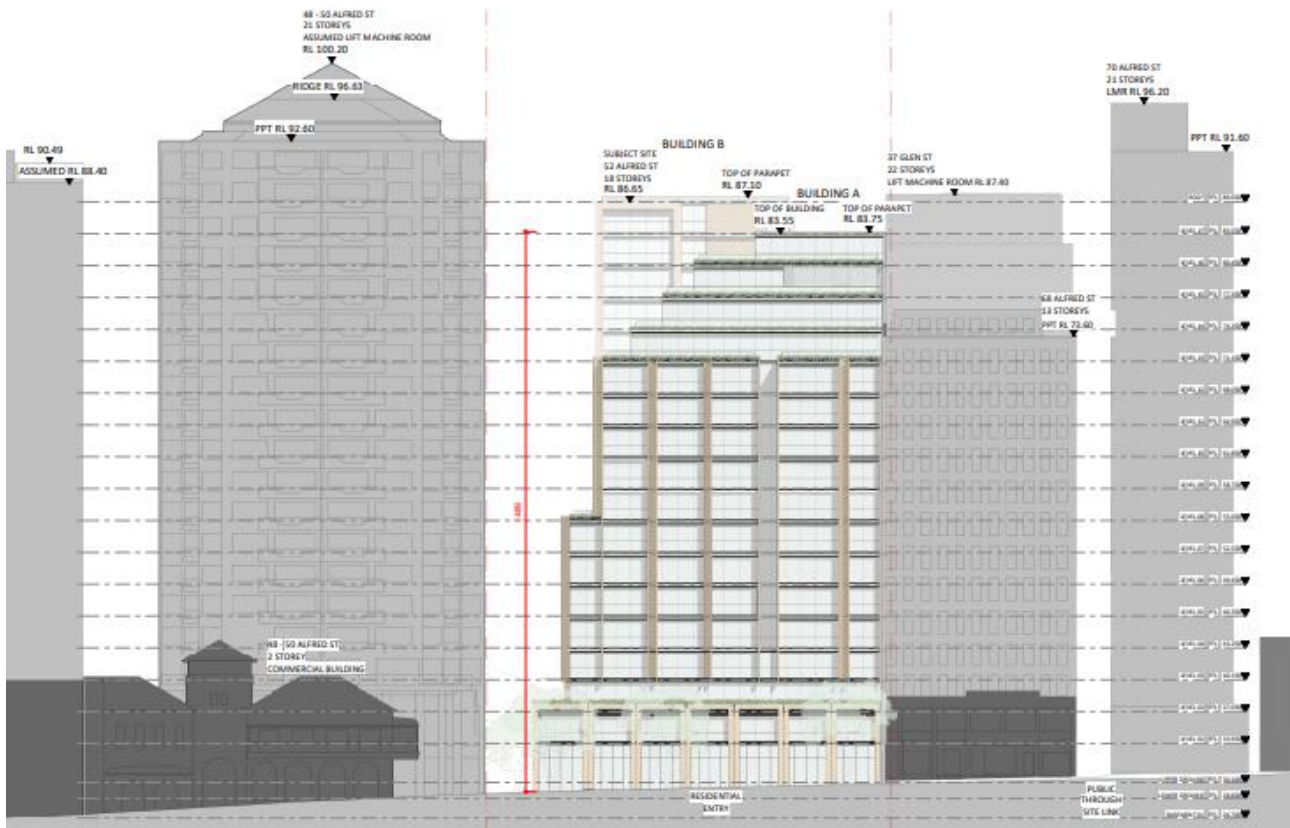


Figure 24: Alfred Street elevation - amended (source: KTA)

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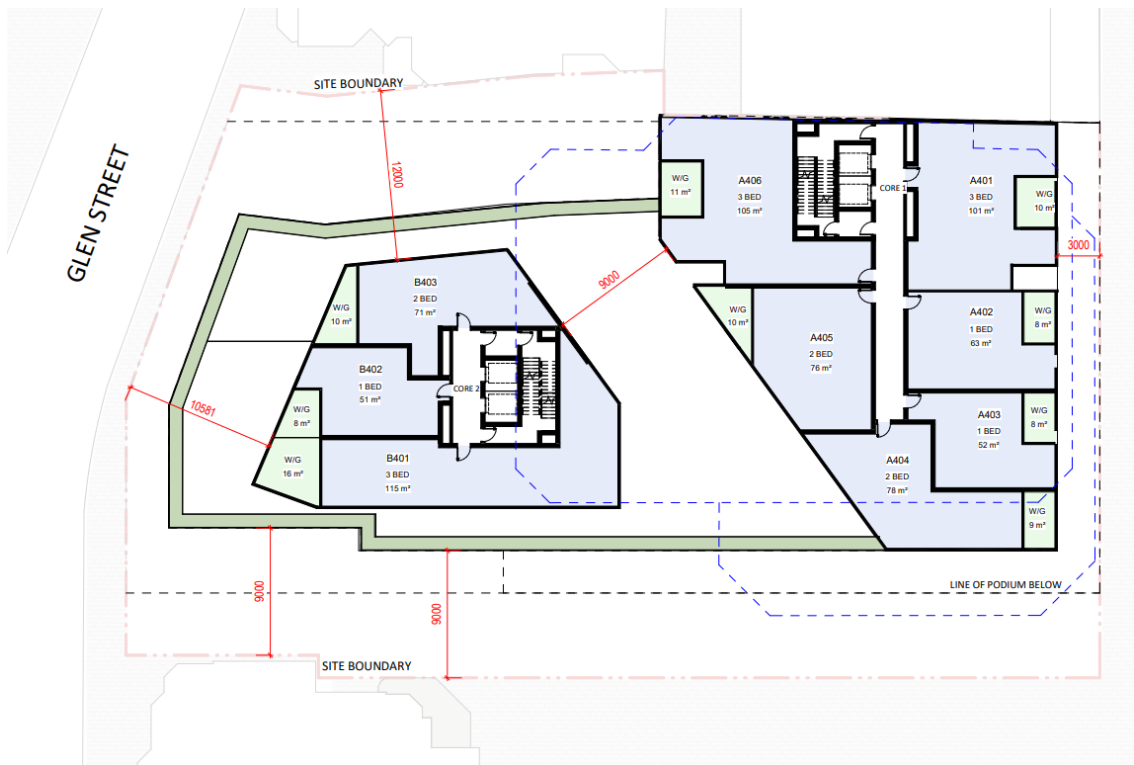


Figure 29: Typical tower floor plan (source: KTA)

5.1.9 Contamination Impact

The Preliminary Site Investigation (PSI) (**Attachment A9**) dated 17 April 2023 was submitted as a condition of the Gateway determination.

The PSI found that:

- an intrusive investigation to assess for potential contamination is not necessary to support the Planning Proposal as the potential for an unacceptable risk to human health and the environment at the site is considered low; and
- future redevelopment may require investigation to assess for potential contamination.

The department considers that the contamination impact has been satisfactorily addressed. Further assessment can be carried out at the DA stage in accordance with chapter 4 of the SEPP (Resilience and Hazards) 2021.

5.1.10 Through-Site Link, Right of Carriageway and Covenant

The redevelopment of the site will also include an upgrade to the existing east-west through-site link from Alfred Street to Glen Street to include new paving, landscaping and spill out dining areas. A new north-south through-site link will connect to Camden House.

The provision of a widened through-site link will not override any existing legal right-of-way on the title of the subject site.

The registered positive covenant on the subject site requires that 63 basement parking spaces be provided for the use of 48-50 Alfred Street (Milson Village) and 56 Alfred Street South (Camden House).

The existing levels of vehicular access and parking spaces on the site are to be maintained and the arrangements were put in place between North Sydney Council and the landowner.

The planning proposal and DCP will not alter the terms of the covenant.

The post-exhibition DCP (**Attachment D7**) now includes a provision to ensure that the existing levels of vehicular access, servicing and parking are maintained for the adjoining development at 48-50 and 56 Alfred Street South.

6 Post-assessment consultation

The Department consulted with the following stakeholders after the assessment.

Table 10 Consultation following the Department's assessment

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	1 map (Attachment Map) has been prepared by Council and reviewed by the Department's GIS Team and meet the technical requirements.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Council	Council was consulted on the terms of the draft mapping amendment under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i> (Attachment F).	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Parliamentary Counsel Opinion	A Parliamentary Counsel Opinion is not required as the LEP Amendment is a Map only amendment. Legal Branch has provided the prepared map only instrument.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Not required

7 Recommendation

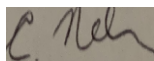
It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- the draft LEP has strategic merit being consistent with the SLCN 2036 Plan, the North Sydney Local Strategic Planning Statement and North Sydney Local Housing Strategy;
- the draft LEP has site-specific merit as it will add 125 new residential dwellings close to accessible public transport with links to strategic centres and employment opportunities such as the St Leonards Health and Education Precinct and the Sydney CBD;
- it is consistent with the Gateway Determination (as altered);
- it will not have an adverse impact on the local and State heritage items in the vicinity; and
- issues raised during consultation have been addressed, and there are no outstanding agency objections to the proposal.

It is considered that the planning proposal should proceed to a local environmental plan amendment as:

- no further matters have been raised since the original assessment of the supporting Heritage Impact Assessment, Pedestrian Wind Impact Assessment and Preliminary Site Investigation;
- the built form, view loss/sharing, solar impact, overshadowing and traffic and parking have been satisfactorily addressed;

- public submissions and submissions from agencies and council have been considered and addressed appropriately;
- the proposed concept is expected to provide 125 residential apartments of varying sizes close to existing accessible transport and other services.



6.11.2023

Charlene Nelson

Manager, Place and Infrastructure, Metro North



15 November 2023

Brendan Metcalfe

Director, Metro North

Metro Central and North

Assessment officer

Christina Brooks

A/Senior Planning Officer, Metro North

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Attachments

Attachment	Document
A1	Revised Planning Proposal – 23 April 2023
A2	Survey Plan - 2017
A3	Revised Architectural Design Report - February 2023
A4	Revised Landscape Concept Report – February 2023
A5	Visual Impact Assessment – September 2020
A6	Traffic and Parking Impact Assessment - September 2020
A7	Heritage Impact Statement - September 2020

Attachment	Document
A8	Pedestrian Wind Impact Analysis – July 2020
A9	Preliminary Site Investigation – 21 October 2021
A9	Geotechnical Report – April 2023
A10	Design Verification Statement – September 2020
A11	Draft Amendment to the North Sydney DCP – adopted 28 March 2022
B1	Gateway determination – 11 November 2022
B2	Gateway determination report – 9 November 2022
B3a	Alteration of Gateway determination – 20 January 2023
B3b	Alteration of Gateway determination – 3 August 2023
C	Rezoning Review – record of decision – 22 September 2021
D1	Council Report and Resolution – 22 February 2021
D2	Council Report and Resolution – draft DCP - 28 March 2022
D3a	Council Report and Resolution – 11 September 2023
D3b	Agency submissions made during the public exhibition
D4	Council Minutes – 11 September 2023
D5	Council - Response to Gateway conditions
D6	Council – request to the department to finalise the plan – 19 September 2023
D7	Council – post-exhibition amended DCP
E	North Sydney Local Planning Panel Report and Recommendation – 9 December 2020
F	Consultation with Council on the draft map amendment
Map	Maximum height of buildings map