

DECISION OF 3794th COUNCIL MEETING HELD ON MONDAY 11 DECEMBER 2023

10.4. Planning Proposal 6/21-52 McLaren Street North Sydney

AUTHOR: Neal McCarry, Acting Manager Strategic Planning

PURPOSE:

The purpose of this report is to present the assessment of Planning Proposal 6/21 for 52 McLaren Street North Sydney which seeks to amend North Sydney Local Environmental Plan 2013, and the accompanying Voluntary Planning Agreement offer to Council, following its review by the North Sydney Local Planning Panel on 31 May 2023.

- On 23 August 2021, Council received a Planning Proposal to amend the North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land at 52 McLaren Street North Sydney. The proposal included two options outlining different commercial/residential mixes with part 14-storey (RL124.2m/RL130.2m) and part 24-storey (RL156m) buildings, with a maximum overall FSR of 6.3:1 and a non-residential component FSR of 1:1.
- On 29 September 2022, the original planning proposal was resubmitted to amend the maximum building height from RL 110m to part RL 107m and part RL 156m (8 and 24 storeys respectively); to apply a maximum overall Floor Space Ratio of 5.3:1 and increase the minimum non-residential FSR from 0.5:1 to 1:1.
- The amended Planning Proposal intends to facilitate the delivery of a part eight-storey and part 24-storey mixed-use development comprising approximately 172 residential apartments above a three-storey podium, and 117 basement car parking spaces.
- On 31 May 2023, the North Sydney Local Planning Panel (NSLPP) considered the Planning Proposal and recommended that it be deferred to allow the proponent an opportunity to consider the possibility of providing affordable housing and a site-specific Development Control Plan to better inform proposed building envelopes.
- The site is located within the area covered by Council's endorsed Civic Precinct Planning Study (CPPS). The Proposal is supported by an offer of public benefit for the provision of a childcare centre to be dedicated to Council and a through-site link on the eastern boundary of the site. A further letter of offer was provided proposing the provision of 5% of the residential component of the development as affordable housing for a period of 10 years. This will equate to approximately seven-nine dwellings.

RECOMMENDATION:

- 1. THAT** Council endorse the Planning Proposal (PP6/21) to amend the North Sydney Local Environmental Plan 2013 to amend the maximum building height from RL110m to part RL 107m and part RL156m (8 and 24 storeys respectively); to apply a maximum overall Floor Space Ratio of 5.3:1; and to amend the minimum non-residential FSR from 0.5:1 to 1:1.
- 2. THAT** Council resolve to forward the Planning Proposal (PP6/21) to the Department of Planning and Environment to seek Gateway Determination.

3. THAT Council advise the applicant to prepare a site-specific Development Control Plan to detail provisions such as siting of building height, setbacks, building length, podium heights, and through-site link design as noted in this report.

4. THAT Council accept in principle, the applicant's Voluntary Planning Agreement offer which includes the provision of a childcare facility, through-site link and 5% of the development as Affordable Housing for a period of 10 years.

5. THAT Council grant delegated authority to the General Manager to negotiate the detailed terms and provisions of the Voluntary Planning Agreement consistent with the applicant's revised letter of offer.

6. THAT upon receipt of a Gateway Determination, the associated Voluntary Planning Agreement be exhibited concurrently with the Planning Proposal and draft Development Control Plan.

The following person spoke on this item as part of the Public Forum:

- Caroline Raymond (local resident)

A Motion was moved by Councillor Baker and seconded by Councillor Beregi:

1. THAT Council endorse the Planning Proposal (PP6/21) to amend the North Sydney Local Environmental Plan 2013 to amend the maximum building height from RL110m to part RL 107m and part RL156m (8 and 24 storeys respectively); to apply a maximum overall Floor Space Ratio of 5.3:1; and to amend the minimum non-residential FSR from 0.5:1 to 1:1.

2. THAT Council resolve to forward the Planning Proposal (PP6/21) to the Department of Planning and Environment to seek Gateway Determination.

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4. THAT Council accept in principle, the applicant's Voluntary Planning Agreement offer which includes the provision of a childcare facility, through-site link and 5% of the development as Affordable Housing for a period of 10 years.

5. THAT Council grant delegated authority to the General Manager to negotiate the detailed terms and provisions of the Voluntary Planning Agreement consistent with the applicant's revised letter of offer.

6. THAT upon receipt of a Gateway Determination, the associated Voluntary Planning Agreement be exhibited concurrently with the Planning Proposal and draft Development Control Plan.

7. THAT, in circumstances in which the subject land is public land, the proponent is a State Government agency (Sydney Metro) and the recent pronouncements from the State Government promoting a minimum of 15% affordable housing in perpetuity on private development around transport hubs and 30% affordable and social housing in perpetuity on government owned land, Council write to the Ministers for Planning and Transport urging the State Government to amend the VPA offer on this Metro site to provide affordable housing (at a minimum of 30% but ideally 100%) and the provision of appropriate community spaces in perpetuity as part of any Gateway Determination.

8. THAT a Councillor Briefing be held to discuss Voluntary Planning Agreements and the challenges of capturing value.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 9 / 1

For: Councillor Baker, Councillor Beregi, Councillor Gibson, Councillor Lamb, Councillor Lepouris, Councillor Mutton, Councillor Santer, Councillor

Against: Councillor Bourke

Absent: Nil

339. RESOLVED:

1. THAT Council endorse the Planning Proposal (PP6/21) to amend the North Sydney Local Environmental Plan 2013 to amend the maximum building height from RL110m to part RL 107m and part RL156m (8 and 24 storeys respectively); to apply a maximum overall Floor Space Ratio of 5.3:1; and to amend the minimum non-residential FSR from 0.5:1 to 1:1.

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8. THAT a Councillor Briefing be held to discuss Voluntary Planning Agreements and the challenges of capturing value.

10.4. Planning Proposal 6/21-52 McLaren Street North Sydney

AUTHOR	Neal McCarry, Acting Manager Strategic Planning
ENDORSED BY	Marcelo Occhiuzzi, Director Community, Planning and Environment
ATTACHMENTS	1. 52 McLaren Street Letters of Offer to enter into VPA [10.4.1 - 3 pages]
CSP LINK	<div>2. Our Built Infrastructure</div> <div>2.1 Infrastructure and assets meet diverse community needs</div> <div>2.2 Vibrant public domains and villages</div> <div>2.3 Prioritise sustainable and active transport</div> <div>3. Our Innovative City</div> <div>3.1 Our commercial centres are prosperous and vibrant</div> <div>3.3 Distinctive sense of place and design excellence</div> <div>4. Our Social Vitality</div> <div>4.1 North Sydney is connected, inclusive, healthy and safe</div> <div>4.2 A centre for creativity and learning</div> <div>5. Our Civic Leadership</div> <div>5.1 Lead North Sydney's strategic direction</div> <div>5.4 Council services are efficient and easy to access</div>

PURPOSE:

The purpose of this report is to present the assessment of Planning Proposal 6/21 for 52 McLaren Street North Sydney which seeks to amend North Sydney Local Environmental Plan 2013, and the accompanying Voluntary Planning Agreement offer to Council, following its review by the North Sydney Local Planning Panel on 31 May 2023.

EXECUTIVE SUMMARY:

- On 23 August 2021, Council received a Planning Proposal to amend the North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land at 52 McLaren Street North Sydney. The proposal included two options outlining different commercial/residential mixes with part 14-storey (RL124.2m/RL130.2m) and part 24-storey (RL156m) buildings, with a maximum overall FSR of 6.3:1 and a non-residential component FSR of 1:1.
- On 29 September 2022, the original planning proposal was resubmitted to amend the maximum building height from RL 110m to part RL 107m and part RL 156m (8 and 24 storeys respectively); to apply a maximum overall Floor Space Ratio of 5.3:1 and increase the minimum non-residential FSR from 0.5:1 to 1:1.
- The amended Planning Proposal intends to facilitate the delivery of a part eight-storey and part 24-storey mixed-use development comprising approximately 172 residential apartments above a three-storey podium, and 117 basement car parking spaces.

- On 31 May 2023, the North Sydney Local Planning Panel (NSLPP) considered the Planning Proposal and recommended that it be deferred to allow the proponent an opportunity to consider the possibility of providing affordable housing and a site-specific Development Control Plan to better inform proposed building envelopes.
- The site is located within the area covered by Council's endorsed Civic Precinct Planning Study (CPPS). The Proposal is supported by an offer of public benefit for the provision of a childcare centre to be dedicated to Council and a through-site link on the eastern boundary of the site. A further letter of offer was provided proposing the provision of 5% of the residential component of the development as affordable housing for a period of 10 years. This will equate to approximately seven-nine dwellings.

RECOMMENDATION:

- 1. THAT** Council endorse the Planning Proposal (PP6/21) to amend the North Sydney Local Environmental Plan 2013 to amend the maximum building height from RL110m to part RL 107m and part RL156m (8 and 24 storeys respectively); to apply a maximum overall Floor Space Ratio of 5.3:1; and to amend the minimum non-residential FSR from 0.5:1 to 1:1.
- 2. THAT** Council resolve to forward the Planning Proposal (PP6/21) to the Department of Planning and Environment to seek Gateway Determination.
- 3. THAT** Council advise the applicant to prepare a site-specific Development Control Plan to detail provisions such as siting of building height, setbacks, building length, podium heights, and through-site link design as noted in this report.
- 4. THAT** Council accept in principle, the applicant's Voluntary Planning Agreement offer which includes the provision of a childcare facility, through-site link and 5% of the development as Affordable Housing for a period of 10 years.
- 5. THAT** Council grant delegated authority to the General Manager to negotiate the detailed terms and provisions of the Voluntary Planning Agreement consistent with the applicant's revised letter of offer.
- 6. THAT** upon receipt of a Gateway Determination, the associated Voluntary Planning Agreement be exhibited concurrently with the Planning Proposal and draft Development Control Plan.

Background

Previously approved DA (67/11) at 50-52 McLaren Street, North Sydney

On 6 July 2011, the Sydney East Region Joint Regional Planning Panel approved the development of the site for a residential aged care facility with a maximum building height comprising part RL 118m and part RL 104m for the rear (northern) and the front (southern) portions of the subject site. The Development Application (DA) was not acted upon and therefore lapsed in 2016.

Civic Precinct Planning Study (CPPS)

In November 2021, Council adopted the Civic Precinct Planning Study (CPPS) which identified maximum building heights of part-14 and part-24 storeys for the subject site for a redevelopment scenario that is capable of delivering community facilities and a through-site link to Faith Bandler Place running through to St Leonards Park.

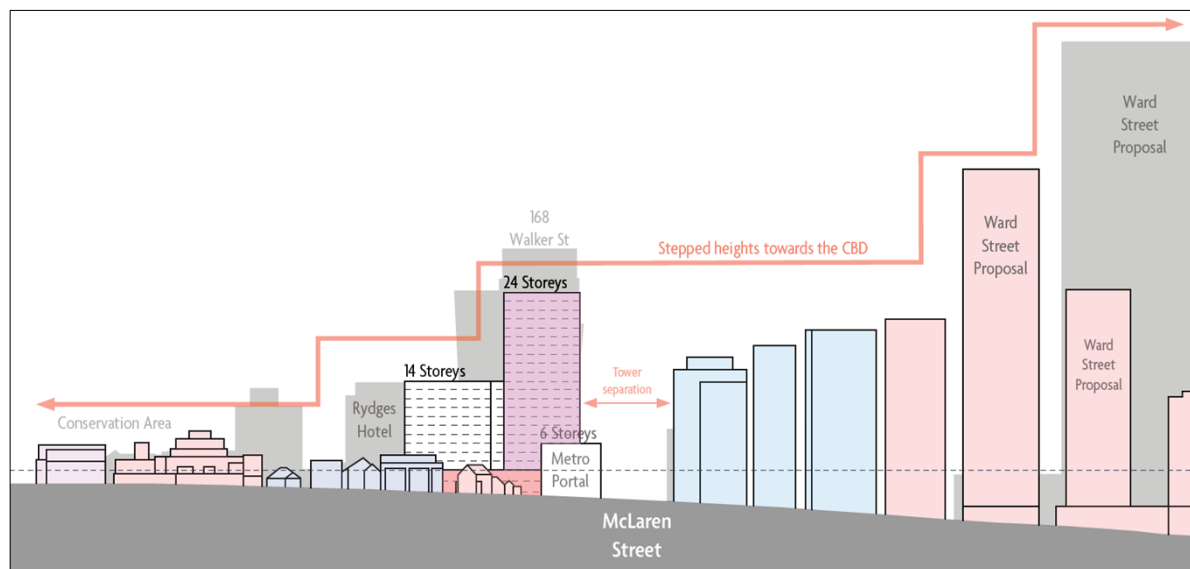


Figure 1: Proposed Maximum Building Heights, view from Miller St (CPPS, p.28)

Refinement of Planning Proposal to date

On 23 August 2021, the original Planning Proposal lodgement included two options for a slightly different commercial/residential mix with part 14-storey (RL124.2m/RL130.2m) and part 24-storey (RL156m) buildings; and a maximum overall FSR of 6.3:1 and a non-residential FSR of 1:1.

Following a preliminary assessment of the original Planning Proposal, extensive design discussions and meetings were held with the applicant between November 2021 to March 2022 to further refine the proposal to address its bulk and scale and relationship to adjacent properties. Revised designs were presented for Council's consideration in January and March 2022.

On 29 September 2022, an updated Planning Proposal was lodged for part RL 107m and part RL 156m (8 and 24 storeys respectively), with a maximum overall FSR of 5.3:1 and a minimum non-residential FSR of 1:1.

Comments from the North Sydney Local Planning Panel

At its meeting of 31 May 2023, the North Sydney Local Planning Panel (NSLPP) considered the Planning Proposal and recommended that prior to progression of the Planning Proposal, the proponent be requested to consider the possibility of providing Affordable Housing at the subject site.

Receipt of public benefit offer for Affordable Housing

In response to the NSLPP's recommendation of 31 May 2023, on 3 October 2023 the Proponent submitted a letter of offer for the provision of Affordable Housing comprising a maximum of 5% of the residential gross floor area to be managed by a Community Housing Provider for a minimum of 10 years.

The offer is in addition to the previously proposed public benefit offering which includes a 900m² childcare facility (or other community use) to be delivered to Council inclusive of dedicated lift access and basement car spaces; and a three metre wide through-site link along the eastern boundary of the site for the purposes of integration with the design for public use and access.

A copy of the letters of offer are included at Attachment 1 of this report.

Environmental Planning and Assessment (Statement of Expectations) Order 2021

On 26 November 2021, the Minister for Planning made the Environmental Planning and Assessment (Statement of Expectations) Order 2021. The Order established various expectations in relation to council development assessments, planning proposals, strategic planning roles, and expected levels of performance. In particular, the Minister confirms his expectations that Councils should:

... make a decision as to whether to support or not a proponent led planning proposal as soon as practical and no longer than 90 days.

The Order includes an explanatory note which states:

... If a Council is found to not be meeting these expectations, the Minister can take these matters into consideration as part of determining if it is appropriate to appoint a planning administrator or regional panel to exercise Council's functions.

In the context of this order, Council staff have finalised its assessment of this Planning Proposal taking into consideration applicant's offer for Affordable housing provisions for Council's consideration.

1. PLANNING PROPOSAL

1.1 Applicant of the Planning Proposal

The Planning Proposal (PP 6/21) was lodged by Sydney Metro, the owners of 52 McLaren Street North Sydney.

1.2 Site Description

The site known as 52 McLaren Street currently comprises five parcels of land. The subject site is an elongated parcel of land with a total area of 3,197m², approximate street frontages of 37m to McLaren Street and 11m to Elliot Street, and slopes south towards McLaren Street. The site is currently vacant and is being used as an overflow site for the construction of the Victoria Cross Metro Station.

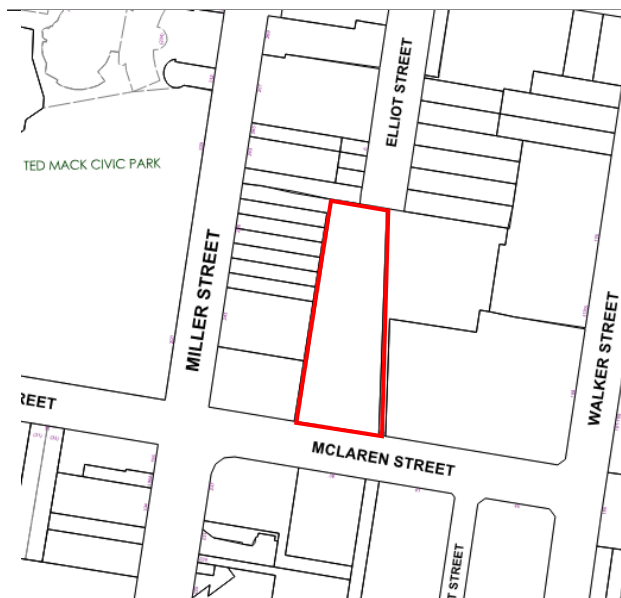


FIGURE 2: Subject site



FIGURE 3: Aerial photo

The subject site is bound by the Wenona School and Elliot Street to the north, McLaren Street to the south, abuts the future Victoria Metro Station to the west, and the existing Rydges Hotel (54 McLaren Street) and Aqualand's under-construction residential development at 168 Walker Street to the east (refer to Figure 2 above).

1.3 Description of Planning Proposal

Planning Proposal

The subject Planning Proposal (PP 6/21) seeks to amend NSLEP 2013 as it relates to land at 52 McLaren Street North Sydney as follows:

- amend the maximum building height from RL 110m to part RL 107m and RL 156m (8 and 24 storeys respectively);
- apply a maximum overall Floor Space Ratio of 5.3:1; and
- amend the minimum non-residential FSR from 0.5:1 to 1:1.

The Planning Proposal does not seek to amend the existing zone MU1 Mixed Use Development.

The intent of the Planning Proposal is to facilitate the redevelopment of the site for part eight and 24-storey mixed-use development, comprising approximately 172 apartments, with a three-storey commercial podium, and a childcare facility on the ground floor of the northern tower. A basement car park with approximately 117 spaces is indicated. A summary of the key elements of the reference design is provided in Table 1 below.

TABLE 1 – Key elements of revised reference design (PP 6/21)	
Land Uses	Mixed-use (commercial/residential)
Indicative yield	172 apartments
Building Height	Elliot Street: RL 106.2m, inclusive of plant (eight storeys) McLaren Street: RL156m, inclusive of plant (24 storeys)
Gross Floor Area (GFA)	Total: 15,868m ² – Retail: 427m ² – Commercial: 2,573m ² – Residential: 13,487m ² – Childcare facility: 910m ² (460m ² internal space and 450m ² external space)
Car Parking	Total: 117 car spaces over three basement levels – Non-residential (retail/commercial): seven spaces – Residential: 104 spaces – Childcare: six spaces

Public Benefit Offer

The Planning Proposal is accompanied by non-binding letters of offer (dated 19 September 2022 and 3 October 2023) to enter into a Voluntary Planning Agreement (VPA) with Council to deliver the following public benefits:

- A 900m² childcare facility (450m² external and 450m² internal space) at the northern end of the ground floor of the building – an extract of the indicative layout and design is provided in Figure 4 below.
- a three metre-wide publicly accessible pedestrian through-site link along the eastern boundary of the site connecting Ward Street Precinct with Elliot Street, to be integrated with landscaping and seating.
- Affordable Housing provision for a maximum of 5% of the residential gross floor area to be managed by a Community Housing Provider for a minimum of 10 years.

Further commentary on the VPA offer is provided at Section 3.2.5 of this report.

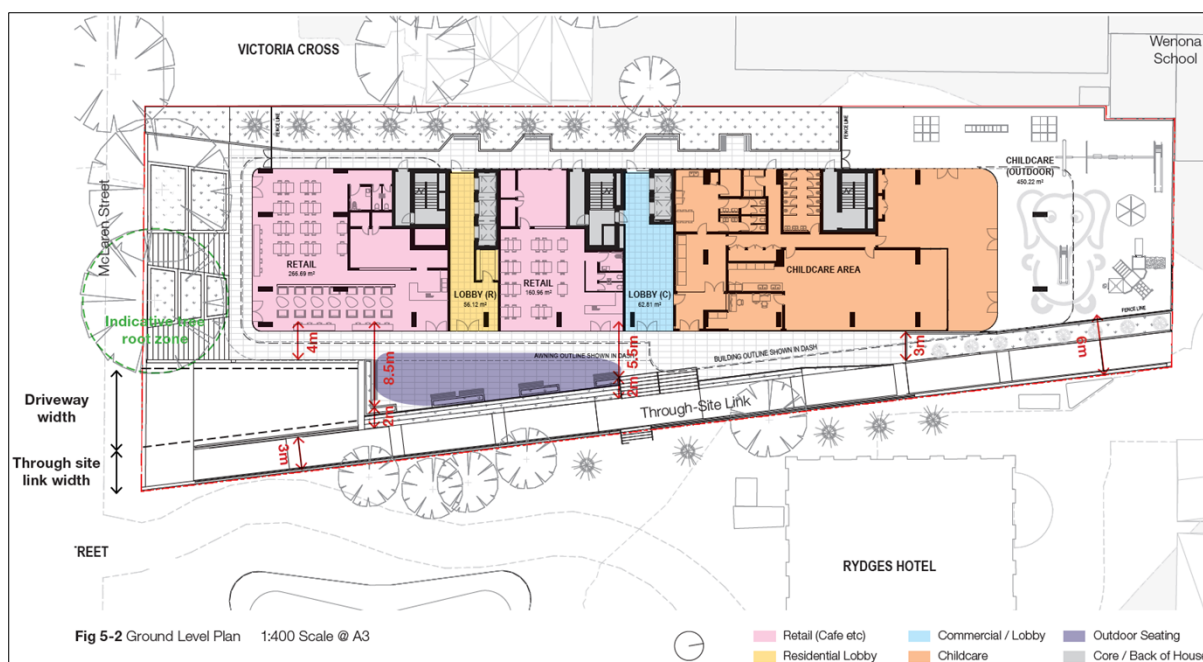


FIGURE 4: Proposed Ground Floor Plan (Applicant's Urban Design Report, p.47)

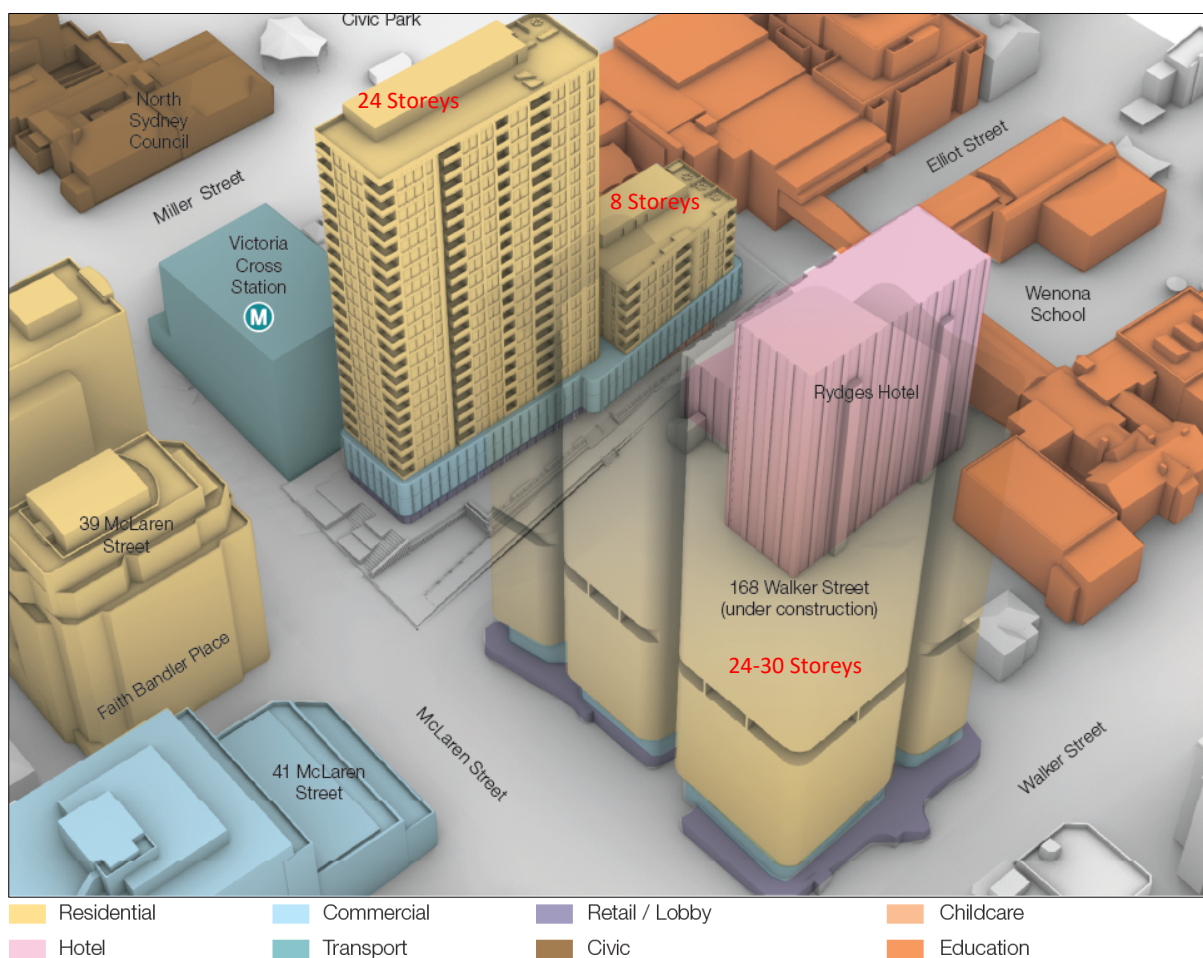


FIGURE 5: Proposed built form – PP 6/21 (Applicant's Urban Design Report, p.39)

2. Assessment

2.1 North Sydney Local Planning Panel

By Ministerial Direction, all planning proposals are required to be referred to the Local Planning Panel for advice prior to Council determining whether the planning proposal should be forwarded to the Department of Planning and Environment (DPE) for the purposes of seeking a Gateway Determination.

On 31 May 2023, the North Sydney Local Planning Panel (the Panel) considered the Council officer's assessment report of the Planning Proposal. A detailed assessment of Planning Proposal considered by the Panel can be accessed via

<https://www.northsydney.nsw.gov.au/downloads/file/2476/pp02-52-mclaren-street-north-sydney-pp621-31-may-2023>

Following consideration of the assessment report, the Panel recommended that the Planning Proposal be deferred to allow the proponent an opportunity to consider the possibility of providing Affordable Housing onsite and a site-specific Development Control Plan to better detail the proposed building envelopes at the subject site. The Minutes of the Panel can be accessed via

<https://www.northsydney.nsw.gov.au/downloads/file/2535/nslpp-planning-proposal-minutes-31-may-2023>.

The following is an extract from the Minutes:

The Panel notes the strategic importance of the subject site, immediately adjacent to the Victoria Cross Metro Station (North Portal), where higher density is appropriate for a transit-oriented development (TOD).

The Panel recognises that there is a need to ensure higher densities on sites that benefit from public investment in infrastructure. But notwithstanding this are also the unique circumstances of this site being surplus to government needs. This provides the ultimate opportunity for a 'whole of government approach' to deliver a minimum of 10% to 20% of the residential GFA of the whole project to be dedicated in perpetuity as affordable housing.

The Panel is cognisant of the fact that the Applicant has invested considerable time in the concept design for the Planning Proposal. However, the Panel considers that this unique opportunity for the matters raised to be addressed are vitally important given the confluence of surplus government land and the current housing affordability issue.

By deferring the PP this provides the opportunity for this TOD site to deliver a component of affordable housing in perpetuity on surplus government land.

Notwithstanding the above fundamental issue, the Panel considers there are site specific matters that would also benefit from further analysis. For example, the inherent constraint of this elongated site may require further consideration of the massing and

design before prescribing a floor space ratio. As such it is recommended a development control plan be prepared simultaneously, and then exhibited with the Planning Proposal, to assist in guiding the controls, to inform a better design outcome including the massing of buildings and articulation of the building envelopes.

In response to the above recommendation, Council received a non-binding a letter of offer on 3 October 2023 from the applicant for the provision of Affordable Housing which proposes up to a maximum of 5% of the residential gross floor area to be managed by a Community Housing Provider for a minimum of 10 years. This equates to approximately 675m² (5% of total residential GFA of 13,487 m²) of affordable housing which, depending on the apartment sizes, might provide in the order of seven-nine units.

3. Summary of key Issues

3.1 Strategic Merit Assessment

The Planning Proposal is generally consistent with both State and local plans and policies including the Greater Sydney Region Plan, North District Plan, Council's Local Strategic Planning Statement, Local Housing Strategy, Community Strategic Plan, Civic Precinct Planning Study (CPPS), and the Ward Street Precinct Masterplan.

The Planning Proposal is also generally consistent with the applicable State Environmental Planning Policies (SEPPs) and the Local Planning Directions (formerly Ministerial Directions), in particular Direction 1.1 - Implementation of Regional Plans, Direction 3.2 - Heritage Conservation, Direction 4.4 - Remediation of Contaminated Land, Direction 5.1 - Integrating Land Use and Transport, and Direction 5.3 Development near Regulated Airports and Defence Airfields.

3.2 Site Specific Merit Assessment

3.2.1 Site Location - Integration of land use and transport

The subject site is located immediately adjacent to Sydney Metro services, presenting a high level of public transport accessibility and subsequent development opportunity for the site.

The Planning Proposal has satisfactorily demonstrated that it is capable of meeting traffic and parking considerations and will encourage the use of public transport and other modes of transport such as carshare and active transport, which will assist in reducing traffic generation from the proposed land-use.

3.2.2. Proposed Building Height

Having regard to the maximum building heights recommended in the CPPS for the site (part 14-storey and part 24-storey) and those approved for the site under a previous DA (part RL 118m and part RL 104m), the detailed assessment has concluded that the proposed part eight and part 24-storey heights are appropriate in the context of built forms within the vicinity including Aqualand (under construction) at 168 Walker Street and the approved planning

proposal at 45 McLaren Street North Sydney. The amendment of the proposal to provide eight storeys for the northern portion (noting the CPPS-identified 14 storeys) is also considered a better contextual response to the lower height buildings fronting Miller Street and Wenona School.

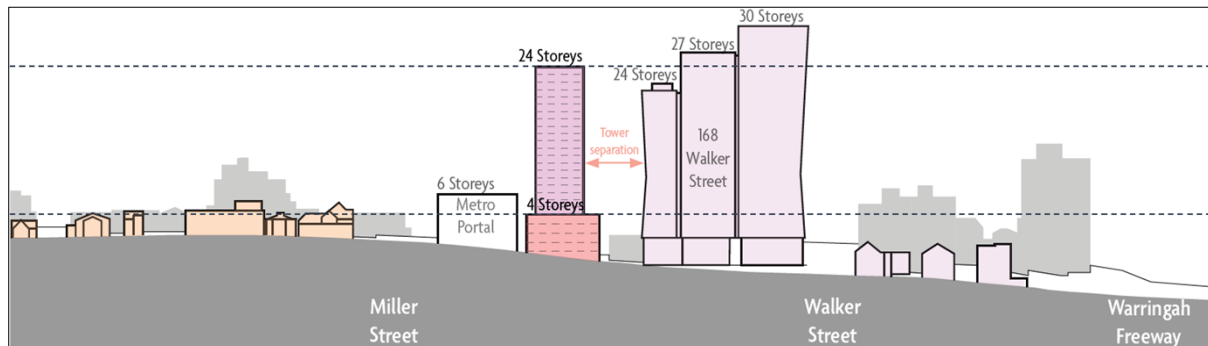


Figure 6: Proposed Maximum Building Heights, view from McLaren St (CPPS, p.28)

3.2.3. Proposed Maximum Floor Space Ratio (FSR)

Non-residential FSR: The applicant's indicative reference design allows for a total of 3,910sqm of non-residential floor space resulting in a FSR of 1.1:1, complying with the minimum non-residential FSR of 1:1 under the CPPS.

Proposed Maximum FSR: The detailed assessment has indicated that the applicant's proposed built form configuration can be accommodated within a maximum overall FSR of 5.3:1. The applicant has reduced the maximum FSR from that originally sought (6.3:1) in response to Council's preliminary assessment.

3.2.4 Setbacks, Bulk and Scale

As detailed further in the assessment contained in the NSLPP report, the intensity and scale of development being sought presents challenges in terms of facilitating significant growth and change whilst still ensuring an appropriate built form and reasonable levels of amenity can be provided.

The application of the proposed front, side, and rear setbacks (refer Figure 4 on page seven of this report) of approximately 10.5m on the southern boundary (McLaren Street), 10m setback at the ground level along the northern boundary (space to be used as an outdoor space for the proposed childcare), 6m whole of building setback western boundary, and 6-14m building setback along the eastern boundaries are considered appropriate. The siting of differing heights, building orientation, presentation on the site, and its relationship to surrounding development seeks to strike a balance between facilitating new development in a well-served location and achieving an overall appropriate planning and built form outcome.

A site-specific DCP will provide further details taking into consideration potential overlooking, overshadowing, acoustic, wind, and amenity impacts to surrounding sites.

3.2.5 Public Benefit offer and Voluntary Planning Agreement

Under Section 7.4 of the EP&A Act, a proponent may enter into a Voluntary Planning Agreement (VPA) where a change is sought to an environmental planning instrument, under which the developer agrees to dedicate land, pay a monetary contribution, and/or provide any other material public benefit in association with the change to the environmental planning instrument.

Childcare centre

Council has engaged an external specialist consultant to review the concept plans for the proposed childcare centre. Based on the concept design, the advice has confirmed that the proposed centre is capable of, subject to further detailed design resolution, providing a high-quality facility compliant with relevant guidelines and best practice operations. Should the Planning Proposal proceed, further detailed design advice from a childcare centre operator including specification details and design refinements will need to be incorporated into any draft Planning Agreement in order to ensure it is delivered to a high standard as a future community asset. This will include consideration of centre design to meet State regulations as well as land tenure arrangements.

Council received some level of support from the community for the study to unlock additional development capacity within the precinct, provided commensurate public benefits are delivered to meet the needs of the community and efforts are made to limit impacts of new buildings. The provision of public benefits in line with the community-endorsed CPPS including community facilities if delivered will, potentially, allow the future rehousing of the existing Kelly's Place facility, freeing up an area for much-needed public open space around the Crows Nest Metro station.

Through-site link

As identified within Council's Civic Precinct Planning Study, the intent behind the through-site link is to connect North Sydney CBD with St Leonards Park, providing an alternative, more comfortable and intimate environment for pedestrians than the more heavily trafficked Miller Street. The pedestrian links identified in the Planning Study would enable the whole precinct to be within an 800 metre walk from either metro station. Additionally, the proposed links would help connect important public spaces, job clusters, education facilities, and public transport nodes, consistent with Council's Public Domain Strategy.

A 24-hour public access easement/positive covenant in perpetuity should be provided on the property title, with maintenance and upkeep terms to be negotiated and clarified as part of the further progression of the VPA.

Affordable Housing

Following consideration of the Planning Proposal by the North Sydney Local Planning Panel on 31 May 2023, the applicant provided a letter of offer on 3 October 2023 for the provision of affordable housing up to a maximum of 5% of the residential gross floor area to be

managed by a Community Housing Provider for a minimum of 10 years. This equates to approximately 675m² (5% of total residential GFA of 13,487 m²) of affordable housing, which, depending on the apartment sizes, might provide in the order of seven-nine units.

NSLPP's suggestion that the provision of affordable housing be considered, specified that this should be provided in perpetuity. The proponent (Sydney Metro) has specified that the offer is for a period of 10 years (to be managed by a community housing provider). The letter further states that any greater extent of public benefit offering in the form of affordable would need to be offset against the other public benefit offering.

The provision of affordable housing in perpetuity would obviously be preferable, however in the context of the overall value and opportunity provided by the other elements of the VPA offer, a 10-year period will still go some way to assisting in meeting an affordable housing need for the future tenants.

The following general conditions would apply to the Planning Agreement:

- the Planning Agreement will apply to Lot 2 in DP 218407 of 52 McLaren Street North Sydney;
- the application of 7.11 and 7.12 contributions will not be excluded as they apply to the land;
- Sydney Metro will pay Council's reasonable legal costs in negotiating, drafting, and preparing the Planning Agreement.

Public Benefit Extent

The applicant has attributed the following values to the different elements of the VPA offer:

- 1) *Child care facility* (including six dedicated carparking spaces and lift access) - \$10million. This has been arrived at by allowing for estimated market value (lost revenue/cost to purchase similar on market) of the space to be dedicated for the childcare centre, along with a commercial rate for the indoor space (plus a cost of fit-out), the parking, and a nominal rate for the outdoor area. The lift access is estimated at cost of construction.
- 2) *Through site link* – Provision of, plus landscaping, seating, embellishment - \$1million. There has been no 'land value' attributed to this element by the applicant nor any more qualitative 'public benefit' beyond the construction costs.
- 3) *Affordable Housing* – 5% for a 10 year period - \$1.5million. This figure has been arrived at by calculating an impact of 1-2% on land value. This estimate on sale price of the site (pre-development) has been provided based on benchmarks on comparable projects. It is not based on the impact or calculation of the value of the units themselves.

The provision of affordable housing on the site was not identified earlier in the assessment process with the applicant as the focus was on resolving built form concerns whilst still ensuring the viability of delivery of a purpose-built childcare facility for community purposes. The applicant has stated that the provision of a greater extent of affordable housing would need to be offset against the other public benefit offering. Having regard to the site circumstances, Council's endorsed-CPPS and the land value uplift being achieved via the Planning proposal as well as the qualitative and social benefit outcomes and opportunity considerations, the proposed public benefit is considered reasonable and appropriate.

3.2.6 Site-Specific Development Control Plan

Should Council support the progression of the Planning Proposal, Council may direct the applicant to prepare site-specific DCP provisions to ensure increased certainty over future built forms for Council's consideration prior to the public exhibition stage.

The need for a site-specific DCP is further reinforced by the recommendations of the Panel at its meeting of 31 May 2023. The site-specific DCP will detail and reinforce the proposed site layout, land uses, setbacks, podium, building design and articulation, active frontages, deep soil zones and landscaping, and site access, including specific requirements relating to childcare facility.

4. Other Matters

Overshadowing

The detailed assessment contained in the NSLPP report notes the following justifiable overshadowing impacts which are considered appropriate for a proposal of this nature.

In a dense urban environment, there is an inevitable degree of overshadowing expected when significant redevelopment occurs. During the preparation of the Civic Precinct Planning Study, it was recognised that, whilst additional height and density may lead to impacts on residential amenity (such as solar access), the concentration of appropriate mixed-use development in close proximity to mass public transport, employment, and services, would better accommodate significant housing and job targets, than dispersing this growth throughout more sensitive neighbourhoods that have lower levels of accessibility.

The delivery of additional housing in well-serviced locations has also been the subject of a heightened level of focus and attention by State and Federal government in the context of record low rental vacancy rates and rising housing prices. The release of new (likely increased) dwelling targets for different districts and Local Government Areas is also anticipated in coming months.

5. 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 submissions received (12) are detailed in the NSLPP report. Concerns raised include traffic, building height, overshadowing, character of the area, and public benefits. These concerns raised are addressed in the detailed report to the North Sydney Local Planning Panel.

Options

Council has the following options in relation to this matter:

1. Do nothing/take no action
2. Delaying the endorsement of the Planning Proposal
3. The recommended option

These options are assessed in the table below.

Option	Finance/Resourcing	Risk/Opportunity	Consultation
1.	Taking no action will have a negligible financial/resourcing impact.	<p>Taking no action on the Planning Proposal is inconsistent with the requirements of the Environmental Planning and Assessment (Statement of Expectations) Order 2021 which requires Council to make a decision as soon as practical on planning proposals.</p> <p>This report notes that the applicant has spent a considerable time revising potential options and public benefit offers as part of this Planning Proposal.</p>	Beyond this report, consultation would not be required should the Planning Proposal be abandoned.
2.	Delaying the endorsement of the Planning Proposal for any reasons, such as further negotiation with Sydney Metro on public benefit offers will have resourcing impact.	<p>Delaying the endorsement of the Planning Proposal is inconsistent with the requirements of the Environmental Planning and Assessment (Statement of Expectations) Order 2021 in terms of Council's obligation on decision making within a specified timeframe.</p> <p>The applicant on their revised letter of offer dated 3 October 2023 noted that any additional discussion on public benefit offer will require re-adjusting the extent of previously proposed public benefit offers.</p>	A public consultation would not be required at this stage, should the Planning Proposal be delayed.
3.	<p>Pursuing the recommended action will have negligible financial/resourcing impacts.</p> <p>Any cost associated with seeking an expert advice on</p>	Endorsing the Planning Proposal to progress it to the DPE to seek Gateway Determination means Council and the applicant would be able to commence preparation of drafting a Planning Agreement and a site-specific DCP.	A comprehensive community and stakeholder consultation would occur in accordance with the requirements set by the DPE in Gateway

Option	Finance/Resourcing	Risk/Opportunity	Consultation
	childcare facility provisions to assist Planning Agreement will be covered within existing budgets.		Determination to be issued.

Option 3 is recommended for the following reasons:

- Pursuing Option 3 will have negligible financial/resourcing impacts as the resourcing requirement is being accommodated within the existing staffing arrangement.
- Option 3 will enable Council and the applicant to commence preparation of drafting a Planning Agreement and a site-specific DCP whilst the Planning Proposal is under consideration by the DPE.

Consultation requirements

Should the Planning Proposal be supported, community engagement will be undertaken in accordance with Council's Community Engagement Protocol and the conditions of any Gateway Determination issued by the Department of Planning and Environment.

Financial/Resource Implications

Progressing and finalising the plan-making process for this Planning Proposal to amend NSLEP 2013 in the manner proposed; and additional technical advice/specification on the childcare facility to inform the Planning Agreement, represents a modest investment in Council resources, which can be accommodated within existing budget lines.

All legal costs associated with the preparation of the Planning Agreement will be borne by the applicant.

Legislation

If the Planning Proposal is endorsed by Council to progress it to the DPE for a Gateway Determination, the LEP making process and Planning Agreement will proceed in accordance with the requirements of the Environmental Planning and Assessment Act 1979.



19 September 2021

Ken Gouldthorp
The General Manager
North Sydney Council
PO Box 12
North Sydney NSW 2059

Attention: Mr Neal McCarry

52 MCLAREN STREET, NORTH SYDNEY – LETTER OF INTENT TO ENTER INTO A VOLUNTARY PLANNING AGREEMENT

Sydney Metro, current landowner of 52 McLaren Street, North Sydney (the Site) write to North Sydney Council (Council) in relation to a public benefit offering as part of the Planning Proposal for the Site. The planning proposal seeks to amend the maximum height of building and floor space ratio maps in accordance with Council's vision and design guidelines as identified in the Civic Precinct Planning Study (CPPS) that apply to the Site.

The site is adjacent to the Victoria Cross Station northern entrance and is currently being used to help construct the metro station. The land will no longer be required for this purpose upon the completion of the metro infrastructure in 2024. Sydney Metro is thus preparing a planning proposal which seeks to amend the North Sydney Local Environmental Plan 2013 by establishing increased maximum height of the building and floor space ratio (FSR) controls and a minimum non-residential FSR control. Site specific development controls will also be prepared and inserted into the North Sydney Development Control Plan 2013 which will identify as a minimum side setback controls, podium height and the requirement to provide a through site link.

The proposal has been developed in line with Council's vision for the site established in Council's CPPS. The CPPS was endorsed in November 2020 and contains a site specific building envelope allowing for a 14 storey and 24 storey building above a podium for the Site. The study seeks to capitalise on the new infrastructure being delivered within the Civic Precinct, in particular Sydney Metro, and the areas in close proximity to the North Sydney CBD, open space and services. In working with Council since the endorsement of the CPPS study and lodgement of plans in August 2021, the Planning Proposal now proposes an 8 storey and 24 storey building above the podium.

This letter constitutes a formal offer to enter into a Voluntary Planning Agreement for the delivery of the public benefits associated with the rezoning of the Site.

The Offer

In return for the additional uplift proposed on the Site, Sydney Metro is offering to enter into a Voluntary Planning Agreement (VPA) with Council which would provide for the following public benefits in any future development on the site:

- 900sqm (450sqm indoor and 450sqm outdoor) floor space in the first floor of the podium level for provision for a future childcare centre or other community use to be delivered by Council. This also includes the dedication of 6 car spaces in the basement level and dedicated lift access; and
- a 3 metre wide through site link along the eastern boundary of the site. This space is to include landscaping, seating and would be integrated with the podium uses.

Sydney Metro

Level 43, 680 George Street, Sydney NSW 2000 | PO Box K659, Haymarket NSW 1240
T 02 8265 9400 | sydneymetro.info | ABN 12 354 063 515

The Details

The letter of offer is made on the following conditions:

1. The VPA will apply to the following land: Lot 2 in DP 218407.
2. The application of 7.11 and 7.12 contributions will not be excluded as they apply to the land.
3. Sydney Metro agrees to pay Council's reasonable legal costs in negotiating, drafting and preparing the VPA.

We look forward to discussing the Planning Proposal and this public benefit offer further with Council and can be available at a time suitable to Council.

Kind Regards,

A handwritten signature in black ink, appearing to read 'Spitznagel', written in a cursive style.

John Spitznagel
Director, Property
Sydney Metro



Neal McCarry
North Sydney Council
200 Miller Street
North Sydney NSW 2060

Re: Planning Proposal 6/21 (pp-2021-5024):52 McLaren Street North
Sydney

3 October 2023

Dear Neal McCarry,

Sydney Metro would like to formally respond to the letter and feedback received as part of the North Sydney Local Planning Panel's comments received at its meeting 31 May 2023.

Sydney Metro reiterates that the existing proposed public benefits, specifically the provision of floorspace for the childcare centre and the through-site pedestrian link was seen by Council as critical items to progress the strategic planning decisions required in the North Sydney local government area (LGA).

Currently, there is no requirement for Affordable Housing in the North Sydney Local Environment Plan (LEP) nor are there any strategies in place that provide a consistent and planned approach to addressing Affordable Housing within the LGA.

Notwithstanding the above, Sydney Metro are prepared to commit to the provision of Affordable Housing on the subject site based upon 5% of the residential gross floor area to be managed by a Community Housing Provider for a minimum of 10 years. This provision of Affordable Housing is in addition to the previously agreed public benefit offering.

Sydney Metro notes the panel's recommendation that the Planning Proposal be deferred to allow the opportunity to consider the possibility of providing Affordable Housing at the subject site and believe the proposed quantum of Affordable Housing addresses the opportunity whilst still maintaining the items within the existing public benefit offering.

Should further Affordable Housing be sought or negotiated in the future, this would come as an offset to previously agreed terms within the public benefit offering as part of this proposal.

Based on this feedback, we would appreciate a timely response to the Planning Proposal and that it progresses to Councillors for consideration at the next Council Meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "John Spitznagel".

John Spitznagel
Director Property
Sydney Metro

Level 43, 680 George Street, Sydney NSW 2000
PO Box K659, Haymarket NSW 1240

OFFICIAL

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