



17 May 2021

The General Manager
North Sydney Council
200 Miller Street,
North Sydney, NSW 2060

Attention
Via email

Marcello Occhiuzzi – Manager Strategic Planning
yousay@northsydney.nsw.gov.au

Dear Sir,

SUBMISSION : DRAFT AMENDMENT TO NSDCP 2013 | WARD STREET PRECINCT MASTERPLAN

In June 2020, Podia Developments Pty Ltd ("**Podia**") via its related entity 45 McLaren Pty Limited partnered with the owners of **45 McLaren Street, North Sydney ("the Site")** to redevelop the Site. In October 2020, Podia submitted a Planning Proposal for the site to North Sydney Council ("**NSC**") which is currently under assessment. Podia in its capacity as developer of the Site and on behalf of the owners have prepared the attached submission in response to NSC's draft amendments to the North Sydney Development Control Plan 2013 ("**NSDCP**").

In preparing the submission, Podia has drawn on the expertise of industry leading specialists, **Urbis** (Stephen White), **MinterEllison Lawyers** (Dr. John Whitehouse), **EG Advisory** (Dr. Shane Geha) and architects **Bates Smart** (Guy Lake). The submission is premised on carefully considered analysis and advice from this group of highly regarded experts.

The Site is a 1,792m² island site housing an insignificant and outdated residential flat building that presents poorly to the street and offers no obvious public benefit. **The draft DCP controls create an orphan site in the middle of the evolving and thriving North Sydney CBD.** Given the Site's context, it is unimaginable that a site such as this can be neglected in the planning process and left to decay whilst all else around it thrives.

There are five (5) reasons why the draft DCP amendment should be materially changed, to reflect established, best practice planning procedures:

1. The Proposed Controls Represent Poor Planning Practice

The controls contradict the endorsed WSPMP. They are contrary to the role of DCPs and they set a dangerous precedent. If enacted, the proposed controls will completely sterilise the site.

2. Deprivation of Equity & Fairness

Improperly retrofitting DCP controls creates poor urban design and deprive the community of equitable outcomes. This Site is clearly being held to a different set of planning standards than other sites and as a result is unfairly burdened.

3. Contradiction of Established Solar Access Standards

Tried and tested solar access controls for public spaces which protect solar access year-round from 11:00am to 3:00pm exist in planning policy controls across all of Australia's major capital cities. The



proposed DCP controls ignore current established solar access standards and protect an irrelevant time of day when the sun is at one of its lowest points and still rising.

4. No Significant Public Benefit

The draft controls offer no public benefit as they are incapable of providing solar access at critical times of the day (11:00am to 3:00pm) in June and July. In fact, the draft controls destroy any possibility of a quality urban design outcome being delivered and ignore the arrival of new major public transport less than 100 metres away.

5. Prejudice Against Owners of site

The draft controls prejudice the owners of the Site by allowing major redevelopment to occur surrounding the Site in a CBD location, whilst the owners are deliberately burdened by controls that create a decaying building, totally out-of-step with modern standards and without the possibility of renewal.

Podia's overwhelming preference is to work with NSC to create an exemplary urban design outcome for the Site that will benefit the greatest number of people. Therefore, our submission is recommending three (3) crucial changes to the draft DCP controls. These will enable Podia and NSC to collaborate in a positive manner to deliver the very best outcome.

Right now, Australia and the world are at a crossroads – we are facing an accelerating climate crisis, growing inequality, lack of access to affordable homes and a lack of equal opportunity for all. We are failing as a society to meet the needs of all people, while simultaneously overstretching the finite resources of the planet.

We can continue in this direction, or we can explore a new way forward. Cities are at the heart of this problem but also central to the solution. We have an unprecedented opportunity to innovate, adapt and design our cities to be places that feel better for more people - cities that are easier to commute within, greener, healthier, more sustainable, inclusive, and safe.

Suffice to say, truly great outcomes that benefit the majority can only be delivered when government and private sector work together. Podia and Council have a unique opportunity to deliver a fantastic urban design outcome on the Site and set a precedent for the wider public and private sector to learn from.

On behalf of Podia and our consultants and the owners of 45 McLaren Street, thank you for reviewing our submission and allowing it fair and just consideration.

Yours sincerely,

Podia Developments Pty Ltd

Michael Grassi

Director

Cc: The Strata Committee, 45 McLaren Street North Sydney



ATTACHMENT – Submission to North Sydney Council Draft DCP 2013 Amendments

SUBMISSION ON DRAFT AMENDMENT TO NSDCP 2013 WARD STREET PRECINCT MASTERPLAN

Prepared for
PODIA
17 May 2021

MinterEllison **URBIS**



URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:

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Project Code	P0023365
Report Number	Final

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We acknowledge, in each of our offices, the Traditional Owners on whose land we stand.

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CONTENTS

Executive Summary.....	4
Introduction	8
Recommendation 1: Remove Controls Relating To 45 McLaren Street.....	9
Recommendation 2: Amend The Solar Access Provisions To Key Daytime Hours Of 12pm-2pm.....	10
Recommendation 2A: Adequately Assess the value of Ward Street as a 'Special Area'	16
Recommendation 2B: Council consult with the Proponent in preparing a site-specific DCP to accompany the amended Planning Proposal	17
Recommendation 3: Remove Traffic Generation Provision.....	19
Conclusion	20
Disclaimer.....	21
Appendix A Bates Smart Solar Access	
Appendix B Background & Planning Proposal History	
Appendix C Summary of draft Proposed DCP 2013 Amendments	

FIGURES

Figure 1: Concept scheme presented to Council.....	11
Figure 2: Council's initial Policy Position as per North of Centre Strategy	12
Figure 3: Building Envelope – compliant with draft DCP Amendment	14

TABLES

Table 1: Examples of overshadowing control in various Council jurisdictions	14
Table 2: Current CBD controls v draft Hampden Neighbourhood controls	18
Table 3: Chronology of Planning Proposal history	24
Table 4: Draft Amendments to NSDCP 2013.....	27

EXECUTIVE SUMMARY

This submission has been prepared by Urbis, Minter Ellison Lawyers and EG Advisory on behalf of Podia, the developer of 45 McLaren Street, North Sydney (**"The Site"**). This report is in response to the public exhibition of the Draft Amendment to the North Sydney Development Control Plan 2013 (**"NSDCP"**).

This submission details **three (3) significant recommendations** for Council to adopt in revising the draft DCP Amendment.

Underpinning these recommendations are **five (5) reasons** why the draft DCP Amendment should be materially changed, to better reflect established, best-practice planning procedures.

The five reasons may be summarised as follows:

Key Reasons:

1. Poor Planning Practice

The proposed controls represent poor planning practice for the following reasons:

- **Controls Contradict the WSPMP**
The proposed draft DCP Controls relating to solar access, are in direct contradiction to the endorsed Ward Street Precinct Masterplan (**"WSPMP"**), which stipulates that the solar controls for 45 McLaren Street need to **"minimise solar reductions"** on the new proposed public domain.
- **Contrary to Role of DCPs**
The role of DCPs, as a non-statutory document, is to guide, detailed design and respond to desired local character objectives. In this case, the Draft Controls, will serve to pre-empt amendments to the LEP and stifle the ability of large functional sites such as 45 McLaren Street, to be developed in line with zoning objectives.
- **Sets Dangerous Precedent**
The decision by Council to implement Draft DCP Controls during the assessment of a Planning Proposal ahead of it being supported for Gateway, or the gazettal of the LEP amendments, is without precedent. This is contrary to proper process for all other DCP amendments at this Council and others, which have taken place concurrently with the exhibition of Planning Proposals or carried out post the amendment of an LEP.
- **Controls Sterilise Site**
The enactment of the DCP amendments, as planned, will not allow for the orderly urban renewal of this important part of the Ward St Masterplan to occur. Sterilising sites through excessive control is bad planning.

2. Deprivation of Equity and Fairness

We have extreme concerns about the equity and fairness of Council's proposed DCP controls, for the following reasons:

- **Improper Retrofitting of Controls Creates Poor Urban Design Outcomes**
The Retrofitting of any built-up area with significant height and FSR controls, and imposing stringent shadow limitations onsite, will always severely limit good design. In this case, it also prejudices the development outcomes in that precinct in favour of some sites over others.
- **Site is Unfairly Burdened by the Draft Controls**
The amended PP Concept Design for The Site (submitted to Council on 24th February 2021) has clearly demonstrated to Council that "no shadow impact" is cast on the future Ward Street Public Square (**"The Square"**), during the functional hours of the day, namely: 11:00am to 3:00pm. This is because The Square will already be fully shadowed by surrounding existing structures from 10 am onwards.

Appendix A of this submission contains further solar analysis from Bates Smart Architects, which outline specifically which buildings surrounding The Square, create a shadow impact on 21st June 2021.

Overall, the analysis shows that the impact from The Site is negligible on 21st June (being just over an hour between 9:00 am and 10:15 am). The biggest contributors to shadow impact during the critical hours of the day (12:00 pm-2:00 pm), are existing and newly-approved (under-construction) buildings.

Given that 45 McLaren St casts its shadow outside of the critical period of 12:00pm to 2:00pm, the amenity impacts of this shadow is deemed negligible. This therefore aligns perfectly with the WSPMP objective of **“minimising solar reductions”** on The Square.

- **Site is held to Different Standards**

The Site appears to be held to a very different set of standards to those that exist in both the WSPMP and North Sydney Council’s existing LEP controls.

Many other WSPMP sites, have already achieved significant uplift in FSR and height and currently cast significant shadows on Berry Square and other public places, ignoring current North Sydney LEP prohibition controls. This is also contrary to the solar access analysis done as part of the WSPMP study, which identified ‘Site B’ (201 Miller, 22 Ward St, Bullivant Lane, 56-66 Berry St) as being a location which is currently permitted a 4 hours solar access on June 21st. This is a very different standard to that which 45 McLaren St has been held to.

- **Site’s Development Potential is Destroyed**

The proposed DCP amendments, by unfairly and arbitrarily limiting the potential of the Site, to achieve appropriate height and form, effectively stifle any future development potential at this location.

Essentially, because The Site is the last site to be developed in the Ward St Precinct, it will be forever burdened by these arbitrary and unfair new controls.

3. Contradiction of Established Solar Access Standards

The current suggested, solar-access provision for “maintaining” sunlight at the proposed new Square, is both inconsistent and contrary to all accepted planning practices in Australia’s major capital cities.

Comparably relevant established solar access standards include:

1. City of Sydney (e.g. Martin Place: 14 April to 31 August – 12:00 pm-2:00 pm)¹;
2. City of Parramatta (e.g. Parramatta Square: 12:00 pm-2:00 pm)²
3. City of Chatswood (e.g. Key Public Spaces: 12:00 pm-2:00 pm)³
4. St Leonards & Crows Nest (e.g. Public Open Space: 10:00 am-3:00 pm)⁴
5. City of Melbourne (e.g. Parliament Steps: 22 April to 22 September – 11:00 am-3:00 pm)⁵; and
6. City of Brisbane (e.g. King George Square: 21 June 12:00 pm-2:00 pm)⁶;

Primarily, all of the above controls require sunlight to be provided for 2 to 4 hours a day, from 10:00am onwards, for significant public open spaces and green spaces (i.e. large parks). Worthy of note however, is that the requirement is for several hours only and generally from midday to mid-afternoon, on the shortest day of the year (21st June).

¹ Sydney LEP 2012, cls 6.17 Sun access planes

² Parramatta LEP 2011, cls 7.4 Sun Access

³ Chatswood CBD Strategy 2036

⁴ St. Leonards & Crows Nest Strategy 2036

⁵ Melbourne CBD – Planning Scheme, Table 2 to Schedule 10

⁶ City Centre Neighbourhood Plan (Brisbane CBD), PO23, Ao23

- **Solar Access for Several Hours per Day is Standard**

Current best practice and established standards for solar access to public spaces in Sydney, Melbourne and Brisbane, clearly only require several hours of sunlight per day, as their minimum standard. Nowhere does this practice preclude shadowing prior to 10am on any given day of the year. Therefore such a standard is manifestly unreasonable.

For example, shadowing at Hyde Park, a very important, large, civic, public open space, only stipulates “no shadowing” between 10:00am and 2:00pm. Hyde Park is significantly more important than the Ward St Public Plaza. It is frequented by more people and has a more obvious public benefit than the proposed park in the Ward St Masterplan. Also Martin Place, the most important public square in Sydney’s CBD, has only a 12pm to 2pm control in place outside of the winter months.

Similar arguments are able to be put forward, for both Prince Alfred Park (10:00am to 2:00pm) and Harmony Park in Melbourne (10:00am to 2:00pm).

- **North Sydney LEP Provisions**

Even North Sydney Council’s own LEP Solar Protection Provisions, stipulate minimum solar access to identified outdoor spaces, only during the key daytime hours for all months of the year except the warmer spring and summer months. This is a clear recognition that:

- the lunchtime period is a more valuable period to protect sunlight in the CBD; and
- an acknowledgement that the lunchtime period is when more people do congregate outside in public, communal places.

- **Proposed Controls Protect an Irrelevant Time of Day**

The only benefit that the proposed DCP amendments will create, is to preserve a slither of sunlight for 75 minutes between 9:00am and 10:15am in the cold winter period.

This is at a time when any public square will have minimal use by the public. It is a time that solar access is not currently protected under any standards for solar access, applicable to either business or commercial centres in the Sydney region (including North Sydney); or Melbourne; or Brisbane.

4. No Significant Public Benefit.

The proposed DCP controls do not create a significant public benefit for the following reasons:

- **Controls are Incapable of Providing Benefit at Critical Times**

The Square in the WSPMP is aimed at providing a public space for persons living and working in North Sydney. That public benefit primarily occurs at lunch time between the hours of 12:00pm and 2:00pm. Given that The Square is already completely in shadow between 12:00pm and 2:00pm, the imposition of controls relating to solar access for earlier hours, become pointless. The restrictions proposed are therefore incapable of ever producing sunlight in the proposed public square, within a desirable time frame.

- **DCP Controls Create an Orphan Site**

The DCP controls, as proposed, will inadvertently sterilise the ability of 45 McLaren St, to ever be redeveloped with a proper urban design outcome. The site will over time, become unvisited and fall into a state of disrepair. The site will never offer meaningful engagement with the streetscape, floor space for employment or contribute to the variety of modern dwelling types aimed and desired for the area.

- **The DCP controls ignore the arrival of new major public transport infrastructure**

It is a long established planning intent that sites neighbouring new metro stations such as Victoria Cross Station (120m from the Site) should be permitted to achieve their optimal development potential to house the maximum number of people to use the new public transport provided.

It is not in the public interest for expensive state assets such as new metro stations to not be afforded planning controls that maximise the number of people living and working in close walking distance to support this investment.

5. Prejudice Against Owners of Site.

The current owners of the Site are being prejudiced by the proposed DCP controls in the following ways:-

- **Major redevelopment occurring surrounding the site**
Large scale development has and continues to occur immediately surrounding the Site. Obvious examples are Aqualand's development at 168 Walker Street (29-storey and 25m from the Site) and the Avenor proposal at 173-179 Walker St (29-storey and 50m from the Site).
- **Significant height and density uplift has already been allocated in the WSPMP**
The WSPMP allocates major uplift to the vast majority of the sites surrounding The Site. The proposed controls therefore severely prejudice the ability of The Site to develop in line with all the other properties in the precinct and in line with Council's resolution of the WSPMP controls.
- **Owners Financially Impacted by Onset of Development in Area**
The impact of current and future construction works places an unfair financial burden on the owners of the Site. Acoustic upgrades will have to be undertaken to reduce the impacts of noise. Owners fear that their property values, will drop as a result of new accommodation coming on line in the way envisaged by the proposed DCP.

Recommendations

For reasons stated above, we recommended the below amendments to the DCP controls are enacted by Council.

1. Remove any reference to the Planning Proposal at 45 McLaren Street and the proposed site-specific provisions.
2. Amend the solar protection DCP control to the key daytime hours of 12:00pm – 2:00pm, to reflect standard planning policy; and
 - a) Adequately assess the value of Ward Street as a 'special area,' having regard to the methodology and assessment criteria that has been developed for important areas of outdoor space;
 - b) Council consult with the Proponent of 45 McLaren Street in preparing a site-specific DCP to accompany the amended Planning Proposal
3. Delete the inclusion of control P36, restricting a nett increase in traffic within the Precinct.

Further commentary and analysis is contained in the following report which provides detailed justification of the above recommendations.

INTRODUCTION

This submission has been a collaborative effort. It has been jointly prepared by the following:

- Mr. Stephen White, Director, Urbis
- Dr. John Whitehouse, Partner, Minter Ellison Lawyers
- Dr. Shane Geha, Managing Director, EG Advisory

The submission has been prepared on behalf of Podia, the Proponent, for the Planning Proposal at The Site. This report is in response to the public exhibition of the Draft Amendment to the NSDCP.

This submission details three (3) significant recommendations for Council to adopt in revising the draft DCP Amendment. Underpinning these recommendations are five (5) reasons why the draft DCP Amendment should be materially changed, to better reflect established, best-practice planning procedures.

We would welcome the opportunity to discuss the details of the submission further with Council following its review.

RECOMMENDATION 1: REMOVE CONTROLS RELATING TO 45 MCLAREN STREET

Reason 1 - Poor Planning Practice

The primary purpose of this draft DCP amendment is to provide built form controls that will guide future development within the Ward Street Precinct. The WSPMP has been a Council led master planning process. It was an extensive process, involving multiple public exhibitions and various built form options which ultimately led to the final adoption of the WSPMP.

The site at 45 McLaren Street differs from the other sites in the Ward Street Precinct. Density uplift controls were not assigned to 45 McLaren Street within the adopted WSPMP. Rather, the Council resolution for the final plan provided guidance for the lodgement of a site-specific Planning Proposal. A Planning Proposal was lodged by the Site owners, in accordance with the recommendations of the Council resolution. This Planning Proposal is currently under assessment by Council.

There is no certainty that the Planning Proposal will receive a Gateway Determination and be gazetted. At this point in time, Council has not indicated support for the as-lodged Proposal.

Under these circumstances, it is inappropriate to take steps to enshrine detailed built-form controls for the Site, 'in the event' that the Planning Proposal is supported. This is not standard or accepted planning practice, in fact it is poor planning practice.

The appropriate course of action is for Council to advance both the Planning Proposal for 45 McLaren Street and site-specific DCP controls in tandem, with the latter being contingent upon the outcome of the Planning Proposal. To do otherwise could mean that the DCP may ultimately contain sections of irrelevant planning controls which either reflect unsuccessful planning outcomes or contradict the final development outcomes.

DCP's exist as a non-statutory document for Council to guide the detailed design of development. This is to ensure that the DCP responds to desired local character. It does not exist as a tool to pre-empt outcomes of LEP amendments, or as a means of trying to stymie existing proposals.

It is our strong view, that the most appropriate course of action would be for Council to work with the Proponent to develop site-specific DCP to support the Planning Proposal. The most appropriate way to undertake this, would be to have them prepared concurrently with the amended Planning Proposal that will be submitted to Council. Should the Proposal be supported for Gateway Determination, then the community would have had a clearer understanding of the Proposal, as outlined in the application, collectively with the proposed DCP controls.

The current approach provides the community with absolutely no context for the rationale of the draft site-specific DCP controls for 45 McLaren Street. This will lead to confusion and is poor procedurally as these draft controls are devoid of any adopted strategic policy, such as the WSPMP, as may be needed to inform the DCP controls and their appropriateness.

RECOMMENDATION 2: AMEND THE SOLAR ACCESS PROVISIONS TO KEY DAYTIME HOURS OF 12PM-2PM

The North Sydney LEP currently includes provisions for solar access for key public places (referred to as Special Areas) in the North Sydney Centre. The solar access provisions for the Square should be considered in the context of the LEP, rather than inventing a new approach inconsistent with the LEP which imposes new and unjustified standards for the Square, inconsistent with the approach taken elsewhere in North Sydney, and indeed throughout NSW and in the major cities of QLD & VIC.

This may involve the need for Council to amend the LEP to include 45 McLaren Street in the North Sydney Centre as identified in the LEP and to designate the proposed Square as a Special Area to engage the provisions of Clause 6.3(2) of the North Sydney LEP to protect solar access.

The standards for solar access for key public places have been set for the City of Sydney, Parramatta and other centres as well as the existing provisions in the North Sydney LEP. The solar access provisions in the proposed DCP are inconsistent with these standards. Any controls for solar access for the proposed Square should relate to the key lunch time period of 12:00 noon and 2:00pm when the proposed public square will be principally used, rather than the currently suggested blanket provisions.

The proposed draft DCP solar access provisions deprive the owners of equity and fairness resulting in a prejudicial policy setting against the Site's owners. Further, the draft solar access controls are absent of any discernible public benefit.

Put simply, they are unjust and inappropriate because:

1. They represent a further shifting Council's policy position away from Council's resolution of 24 June 2019; and
2. They are inconsistent with existing solar access provisions in North Sydney, and inconsistent with the application of such provisions in comparable centres, across Sydney.

These views are further discussed below.

Reason 2 - Deprivation of Equity and Fairness & Shifting Council Policy

The approach taken by Council in relation to solar access has been inconsistent with their advice to the Site owners to date and is characterised by shifting goal posts. This approach is hardly designed to engender confidence by landowners in Council processes.

Appendix B to this report provides a detailed chronology of the planning proposal history for the site. It details the continual change in language, further restricting the solar access requirements as the assessment of the Planning Proposal progressed.

As part of the draft WSPMP, the owners had prepared several submissions for Council's consideration. The scheme presented to Council at that time, was for a 25-storey tower (refer to **Figure 1**). It clearly demonstrated that a building envelope can be achieved on the Site, which would result in no overshadowing of The Square between 10:30am – 2:00pm in mid-winter. The building envelope, as then-designed at 25-storey, cast no additional shadow on the proposed central square, outside of the period from the first week of April to the first week of September – i.e through spring, summer and autumn when The Square would be in greatest use.

At that time, Council's policy position was that solar access to the square was to be protected between 10:30am – 2:00pm (refer to **Figure 2**). This was an accepted and clear standard.

This scheme thus formed the basis upon which Council made its resolution to accept a landowner-led Planning Proposal, that minimises solar reductions on the public domain. An extract of this scheme is provided below:

Figure 1: Concept scheme presented to Council



Source: *Ethos Urban*

Figure 2: Council's initial Policy Position as per North of Centre Strategy

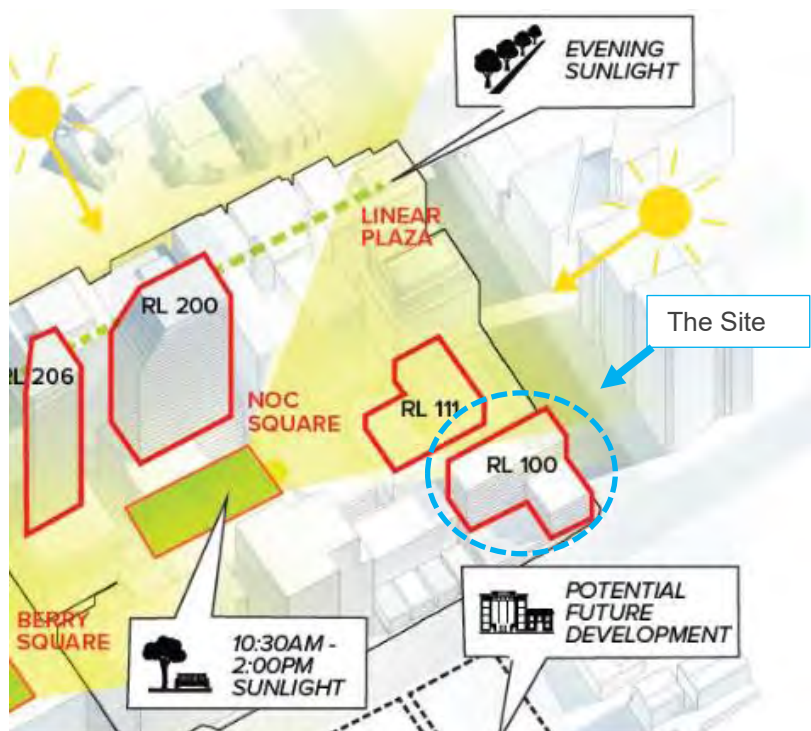


Figure 3 – Solar Access to NOC Square

Source: North Sydney Council

Podia's engagement with Council on the Planning Proposal, as summarised below, reflects a history of changing goal posts on the solar access requirements, as it relates to The Site:

Council's resolution of **24th June 2019** stated that:

despite the preferred Masterplan option, a landowner initiated Planning Proposal may be considered from 4 McLaren Street and may identify how any future redevelopment will:

- I. **Minimise** solar reductions upon new public domain as identified in the Masterplan.*
- II. Minimise solar and privacy impacts upon existing residential development.*
- III. Provide for a commercial component to any redevelopment.*
- IV. Identifies significant public benefits that will arise from the development of the site with particular regard to the objectives of the Masterplan.*

Following this Council resolution and the subsequent pre-lodgement discussion with Council officers, and lodgement of the Planning Proposal, the first RFI letter of **24th November 2020** stated:

"no net additional overshadowing of the proposed public square at any time of the day year round."

During ongoing dialogue with Council, it was clarified that this comment related to the Central Square, given that the Northern Square is proposed to be established with a raised planter bed, acting as a pedestrian corridor rather than a place of activity and congregation.

The concept envelope submitted with the Planning Proposal was amended to ensure that there was no additional overshadowing to the Central Square. This was followed up by another RFI letter of **5th March 2021** which stated:

“ensure any increase in additional overshadowing to the future northern square is minimised to the greatest extent possible”

Some 15 days after issuing the above advice, Council resolved to place the DCP Amendments on exhibition. The correspondence relating to solar access, again shifted. The draft DCP control relating to The Site, now states:

*P4 Development is to be designed to **maintain** solar access year round to the new public squares to be created within the Ward Street Precinct.*

It is clear that the solar protection provisions under discussion for The Site were imposed arbitrarily and changed without justification or any evidence-based studies. At each step, the controls became more onerous and restrictive and the requirements kept shifting. This is unfair and without proper basis.

The draft DCP controls are, as they currently stand, in conflict with Council's own resolution. The Council resolution on 24th June 2019 clearly stipulated that a level of minor shadow impact was acceptable to enable this Site to contribute to the amenity and activation of The Square through the delivery of employment, housing and services.

Site's Development Potential is Destroyed

The proposed DCP Amendments would destroy the Site's appropriate development potential.

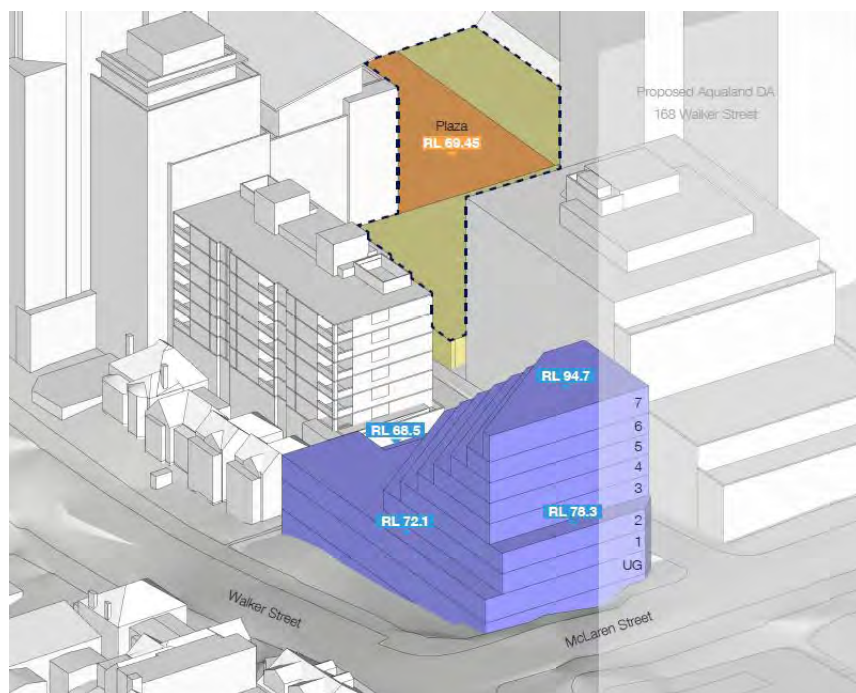
Figure 3 on page 14 below illustrates a building envelope that is compliant with Council's draft DCP controls. The resultant configuration is an inferior and irregular built form that ranges between 3 storeys and 7 storeys, where the upper three levels include floor plates of 160m²-300m², creating bad urban design outcome that is costly and presents difficult floorplates to design. Furthermore, the envelope in **Figure 2** is incapable of complying with SEPP 65 (ADG controls). Accordingly, the DCP controls completely sterilize the site making it undevelopable.

Council's letter to Podia, dated 20th November 2020, confirmed that having regard to the evolving context, a building height of between 8-13 storeys was considered appropriate for the Site. This highlights the shifting Council policy position for this Site and the obvious prejudice against a fair and equitable outcome for owners of the Site.

Adopting such controls, would result in poor planning outcomes, as they would effectively sterilise the potential of a strategically located site at the edge of the North Sydney CBD and within only a short walking distance to the new Metro Station at Victoria Cross. Additionally, it would deny the delivery of public benefit, employment generation, a vibrant streetscape and a new pedestrian pathway to activate a key corner site in the Ward Street Precinct.

The Draft DCP Amendment and its accompanying solar access controls clearly show Council to be establishing controls without adequate testing of the impacts and consequences and without due regards to either established practice or proper process. This has a major impact on the redevelopment of not just this site but all sites within the Precinct.

Figure 3: Building Envelope – compliant with draft DCP Amendment



Source: Bates Smart Architects

Reason 3 - Contradiction of Established Solar Access Standards

The draft DCP Amendment states that development is “*to maintain year round solar access*” to the new public squares.

This proposed DCP control is deemed onerous, as it clearly significantly impacts the redevelopment potential of the Site and others and is inconsistent with widely-endorsed solar access protection mechanisms used across various NSW and Sydney Metropolitan Councils. Council has imposed this control without undertaking a full and proper assessment of the primary use and function of the space at various hours. The value of maintaining solar access outside the key daytime hours has not been quantified.

In support of the above position, research relating to comparable planning policies was undertaken. As documented in **Table 1** below, there is a clear recognition across various Council jurisdictions that solar access provisions, as they relate to the key daytime hours, are typically **12:00pm – 2:00pm**, with minor exceptions granted for highly valued or heritage listed spaces, such as the Don Bank Museum, Macquarie Place, Pitt Street Mall and Sydney Town Hall Steps.

Table 1: Examples of overshadowing control in various Council jurisdictions

Council	Control
North Sydney LEP 2012	<p>6.3 Building heights and massing</p> <p>(2) Development consent must not be granted for the erection of a building on land to which this Division applies if—</p> <p>(a) the development would result in a net increase in overshadowing between 12 pm and 2 pm from the March equinox to the September equinox (inclusive) on land to which this Division applies that is within Zone RE1 Public Recreation or that is identified as “Special Area” on the North Sydney Centre Map, or</p> <p>(b) the development would result in a net increase in overshadowing between 10 am and 2 pm from the March equinox to the September equinox (inclusive) of the Don Bank Museum,</p>

Council	Control
Parramatta LEP 2011	<p><i>Clause 7.4 Sun access</i></p> <p><i>(2) The consent authority must not grant consent to development on any land if the consent authority is satisfied that the development will result in any additional overshadowing, between 12 noon and 2pm, on Parramatta Square, being the land at Parramatta Square shown with blue hatching on the Sun Access Protection Map.</i></p>
Sydney City LEP 2012	<p><i>Clause 6.19 Overshadowing of certain public spaces</i></p> <p><i>Despite clause 4.3, development consent must not be granted to development that results in any part of a building causing additional overshadowing, at any time between 14 April and 31 August in any year, of any of the following locations (as shown with blue hatching on the Sun Access Protection Map) during the times specified in relation to those locations—</i></p> <ol style="list-style-type: none"> <i>a. Australia Square Plaza—between 12.00–14.00,</i> <i>b. Chifley Square—between 12.00–14.00,</i> <i>c. First Government House Place—between 12.00–14.00,</i> <i>d. Lang Park—between 12.00–14.00,</i> <i>e. Macquarie Place (beyond the shadow that would be cast by a wall with a 35 metre street frontage height on the eastern alignment of Loftus Street)—between 10.00–14.00,</i> <i>f. Martin Place (between Pitt Street and George Street)—between 12.00–14.00,</i> <i>g. Pitt Street Mall (beyond the shadow that would be cast by a wall with a 20 metre street frontage height on the eastern and western alignments of the Mall)—between 10.00–14.00,</i> <i>h. Prince Alfred Park (beyond the shadow that would be cast by a wall with a 20 metre frontage height on the boundary between the park and the railway land)—between 12.00–14.00,</i> <i>i. Sydney Town Hall steps—between 10.30–16.00,</i> <i>j. Sydney Square—between 11.00–16.00.</i> <p><i>2. Development results in a building causing additional overshadowing if the total overshadowing of the relevant location during the specified times would be greater after the development is carried out than the overshadowing of that location during the specified times caused by buildings existing on the commencement of this Plan.</i></p>
St Leonards & Crows Nest 2036 Plan	No additional overshadowing of Public Open Space between 10am – 3pm .
Chatswood CBD Strategy 2036	No additional overshadowing and protection in mid-winter of key public spaces between 12pm and 2pm and between 11am and 2pm for Chatswood Oval.

RECOMMENDATION 2A: ADEQUATELY ASSESS THE VALUE OF WARD STREET AS A 'SPECIAL AREA'

Historically, Council has investigated the impacts of solar access provisions on the development potential of sites within the North Sydney CBD. Previously, North Sydney LEP 2001 (**NSLEP 2001**) prohibited solar access to Special Areas between 12:00pm-2:00pm, and only permitted a 15min net increase between 10:00am – 12:00pm. In 2016, Council undertook a review of the Special Areas, as mapped and listed in the NSLEP 2001 and found that these spaces were frequently unused during the early hours of the day and that the impact such controls had on the development potential of site's outweighed the need to protect the areas during those early hours. This led to a change in the solar access provisions in the NSLEP 2012, thus ensuring that strong protection of solar access between 12pm-2pm, being the key daytime hours became the governing LEP control.

Council's current LEP solar protection provisions thus protect solar access for special areas in the CBD between **12:00 pm and 2:00 pm from the March equinox to the September equinox.**

Council's current LEP solar access policy is a clear recognition that:

- the lunchtime period is a more valuable period to protect sunlight in the CBD; and
- the lunchtime period is when more people will congregate outside and dwell in these places; and
- the 'Special Areas' in the CBD receive little or no solar access in the 9:00am-10:00am period, given the low angle of the sun and the dense clustering of tower forms.

The Square in the WSPMP is aimed at providing a public space for persons living and working in North Sydney. That public benefit primarily occurs at lunch time between the hours of 12:00 pm and 2:00 pm. Given that the proposed public square in the WSPMP is already completely in shadow between, 12:00 pm and 2:00 pm, the imposition of controls relating to solar access for earlier hours, become pointless. The restrictions proposed are therefore incapable of ever producing sunlight in the proposed public square, within a desirable time frame.

In 2016 when Council undertook a review of the North Sydney Centre Special Areas, it was recommended that Council investigate the opportunity for a new special area to be created, in line with the outcomes of the WSPMP. Council should be adopting this recommendation rather than creating new controls which lead to confusion and uncertainty and that are inconsistent with the industry solar access standards.

The draft DCP solar access control is therefore inconsistent with Council's evidence-based studies on outdoor spaces and the recommendations for solar access protection. Council has a clear framework and criteria for assessing the value of open spaces and this metric refers to a 12:00pm – 2:00pm solar protection period.

The proposed wording of the Draft DCP Amendment is ambiguous and does not provide an appropriate metric for either allowing or restricting building heights in and adjacent to Ward Street.

Proposed Controls Protect an Irrelevant Time of Day

The only benefit that the proposed DCP amendments will create, is to preserve a narrow slither of between the hours of 9:00 am and 10:15am.

This is at a time when any public square will have minimal use by the public. It is a time that solar access is not currently protected under any standards for solar access, applicable to either business or commercial centres in the Sydney region (including North Sydney); or Melbourne; or Brisbane.

Reason 4 - No significant Public Benefit

The proposed DCP controls do not create a significant public benefit for the following reasons:-

Controls are Incapable of Providing Benefit at Critical Times

- The proposed public square in the WSPMP is aimed at providing a public space for persons living and working in North Sydney. That public benefit primarily occurs at lunch time between the hours of 12:00 pm and 2:00 pm. Given that the proposed public square in the WSPMP is already completely in shadow between, 12:00 pm and 2:00 pm, the imposition of controls relating to solar access for earlier hours,

become pointless. The restrictions proposed are therefore incapable of ever producing sunlight in the proposed public square, within a desirable time frame.

DCP Controls Create an Orphan Site

- The DCP controls, as proposed, will inadvertently sterilise the ability of 45 McLaren St, to ever be redeveloped with a proper urban design outcome. The Site will over time, become unvisited and fall into a state of disrepair. The public space will never offer meaningful engagement with the streetscape, floor space for employment or contribute to the variety of modern dwelling types aimed and desired for the area.

The DCP controls ignore the arrival of new major public transport infrastructure

- It is a long established planning intent that sites neighbouring new rail stations such as Victoria Cross Station (120 m from the Site) should be maximised in terms of density and accommodation as to house the maximum number of people to use the new public transport provided.

It is not in the public interest for expensive state assets such as new rail stations to be sterilised in terms of functionality by poorly conceived planning controls that limit public access to such assets.

Reason 5 - Prejudice Against Owners of Site

The current owners of the Site are being prejudiced by the proposed DCP controls in the following ways:-

Major redevelopment occurring surrounding the Site

- Large scale development has and is occurring immediately surrounding the Site. Obvious examples are Aqualand's development at 198 Walker Street (29-storey and only 25m from the Site) and the Avenor proposal at 173-179 Walker St (29-storey and 50m from the Site).

Significant height and density uplift has already been allocated in the WSPMP

- The WSPMP allocates major uplift to the vast majority of the surrounding sites to 45 McLaren St. The proposed controls therefore severely prejudices the ability of 45 McLaren St to develop in line with all the other properties in the precinct and in line with the intended WSPMP controls.

Owners financially impacted by the onset of development in the area

- The impact of current and future construction works places and unfair financial burden on the owners. Acoustic upgrades will have to be undertaken to reduce the impacts of noise.

RECOMMENDATION 2B: COUNCIL CONSULT WITH THE PROPONENT IN PREPARING A SITE-SPECIFIC DCP TO ACCOMPANY THE AMENDED PLANNING PROPOSAL

The Site has a current R4 High Density Residential land use zoning, and is located within the Hampden Neighbourhood Character Area. The Proponent has indicated that, as part of the amended Planning Proposal (yet to be lodged), that it intends to incorporate a request to rezone the Site from R4 High Density Residential to B4 Mixed Use, in line with Council discussions.

The Site is the only land holding within the Hampden Neighbourhood that is located on the western side of Walker Street. The Draft Amendments to the DCP state that *Consideration be given to the rezoning of 45 McLaren Street to B4 Mixed Use, to align with the zoning in the remainder of the street block* (section 2.4.2; P3).

Logically, rezoning the land to B4 Mixed Use and developing a mixed-use outcome, results in the land being more suited to the Central Business District (**CBD**) Character Area. This is consistent with all land currently included within the Ward Street Precinct. This would require only a minor adjustment to the boundary of the Hampden Neighbourhood Locality Plan, to exclude the Site and have it be included within the CBD Character Area instead.

These characteristics all point to the fact that the most appropriate planning approach to develop DCP controls for the Site, would be to do so in conjunction with the Proponents' Planning Proposal. This is clearly a breach of good process and proper protocols and is characteristic of how Council has undertaken

policy changes in the past and how it is still being undertaken, at the nearby site at 173-179 Walker Street site for Avenor.

The Draft Controls under section 2.4.3 Desired Built Form which relate specifically to the Planning Proposal at 45 McLaren Street (P6(a)-(e) & P8), are generally consistent with those applicable to many other sites reflecting more the CBD Character Area (refer **Table 2**).

Table 2: Current CBD controls v draft Hampden Neighbourhood controls

Street	Current Controls (CBD character area)	Draft Controls (Hampden Neighbourhood character area)	Change
McLaren Street	Match existing – encroachments permitted if it does not go into the drip line of existing Fig trees 3m above podium	0m ground level 1-3 storey podium height with minimum 3m weighted above podium setback	No
Walker Street	7m ground floor 5m above podium	7m landscape setback Podium height must positively relate to the heritage dwellings at 144-150 Walker Street.	No
Harnett Street	0m ground floor 4m above 2-3 storey podium	0m	No
Southern Setback	0m 3m (non-residential), where the adjoining site has balconies or windows to main living areas at the same level Buildings must be setback to conserve views to and the setbacks and settings of heritage items at 86 and 144-150 Walker Street	1.5m setback to enable a widened through site link	Yes

It's therefore unnecessary and unreasonable for Council to insert controls pertaining to the Site within the Hampden Neighbourhood when the Proponent is seeking to achieve a development outcome commensurate with the Site's location within the Ward Street Precinct and therefore is more reflective of the CBD Character. It would be more appropriate for Council to adjust the boundary to exclude the Site entirely from these controls.

Again, this highlights the concerning step that Council is undermining the proper assessment process of this Planning Proposal.

Appendix C sets out all the proposed Draft Amendments to the DCP, which relate directly to the Planning Proposal at 45 McLaren Street or have the potential to impact future development on the Site.

RECOMMENDATION 3: REMOVE TRAFFIC GENERATION PROVISION

The North Sydney Planning Area Character Statement contained within the DCP includes objectives to minimise traffic generation to achieve the desired quality urban environment. Furthermore, Council stipulates maximum parking requirements within Section 10 of the DCP

The draft DCP Amendment included under section 2.1.3 Desired Built Form, is a new provision relating to car accommodation, which states:

P36 "Development within the Ward Street Precinct does not result in a nett increase in traffic generation for the Precinct."

The site is located within the Ward Street Precinct however it is excluded from the Central Business District Character Area provisions. Given that this control is listed within a CBD character area statement of the DCP, technically it should not apply to the site. For transparency and to avoid any confusion at the DA stage, car parking rates should be contained within *Section 10 – car parking and transport* of the DCP.

Notwithstanding, Council notes that the amendments proposed have been foreshadowed by previously adopted studies. However, the traffic studies undertaken by Council for the Ward Street Precinct don't explicitly recommend that future development is not to generate additional traffic within the Precinct. It is unclear what evidence base Council is using to form this position on traffic.

In the absence of any detailed traffic modelling by Council arising from the increased density sought from the WSPMP, we question the logic and reasonableness of this proposed provision.

What would be the 'base level' traffic generation of the precinct, acknowledging that the precinct contains a public car park? Furthermore, the planned changes arising from the Western Harbour Tunnel will also have an impact that will further complicate the assessment process.

If one could establish a base level of existing impact, how would council assess impacts if there was an increase in traffic at certain times of the day and less in other times of the day.

Implications of such controls as that it could completely undermine the intent of the WSPMP to facilitate development in a highly strategic edge of CBD location. There is no evidence of any of comparable policy applying to other land in North Sydney. This provision must be removed and Council continue to apply a more measured and balanced approach to considering impacts of the desired and planned development in this locality.

CONCLUSION

As outlined in this submission, the proposed DCP Amendments are grossly inappropriate. Taking steps to enshrine detailed built form controls on the site 'in the event' that the Planning Proposal is supported is not standard or accepted planning practice, in fact its poor planning practice.

The proponent embarked on the planning proposal process, with a clear understanding of Council's policy position. This position appears to have constantly shift, becoming more stringent and now contradicts the premise upon which the Council resolution was made to enable a planning proposal for the site.

As the planning proposal is still in an early phase of assessment, for the reasons outlined in this letter, there is no sound reason why Council could reasonably create DCP controls for the site as part of the DCP amendments to support the adopted components of the WSPMP.

Draft DCP amendments will be provided and exhibited with the planning proposal as part of a formal public exhibition process should the proposal achieve gateway determination. This is the most appropriate and conventional approach to clear inform the community of the proposal.

Accordingly, we request the following recommendations and offer Council to re-engage with the proponent to work constructively towards an amended planning proposal that strikes the right balance for the site, its locality and Council's vision for Ward Street Precinct:

Recommendation:

1. Remove any reference to the Planning Proposal at 45 McLaren Street and the proposed site-specific provisions.
2. Council amend the DCP control to ensure solar protection between the key daytime hours of 12pm – 2pm, reflective of standard planning policy; and
 - a) Adequately assess the value of Ward Street as a 'special area,' having regard to the methodology and assessment criteria that has been developed for important areas of outdoor space;
 - b) Council consult with the Proponent in preparing a site-specific DCP to accompany the amended planning proposal
3. Delete the inclusion of control P36 restricting a nett increase in traffic within the Precinct.

DISCLAIMER

This report is dated 17 May 2021 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis Pty Ltd (**Urbis**) opinion in this report. Urbis prepared this report on the instructions, and for the benefit only, of PODIA (**Instructing Party**) for the purpose of Submission (**Purpose**) and not for any other purpose or use. To the extent permitted by applicable law, Urbis expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose other than the Purpose, and to any other person which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

In preparing this report, Urbis was required to make judgements which may be affected by unforeseen future events, the likelihood and effects of which are not capable of precise assessment.

All surveys, forecasts, projections and recommendations contained in or associated with this report are made in good faith and on the basis of information supplied to Urbis at the date of this report, and upon which Urbis relied. Achievement of the projections and budgets set out in this report will depend, among other things, on the actions of others over which Urbis has no control.

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This report has been prepared with due care and diligence by Urbis and the statements and opinions given by Urbis in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.

APPENDIX A

BATES SMART SOLAR ACCESS

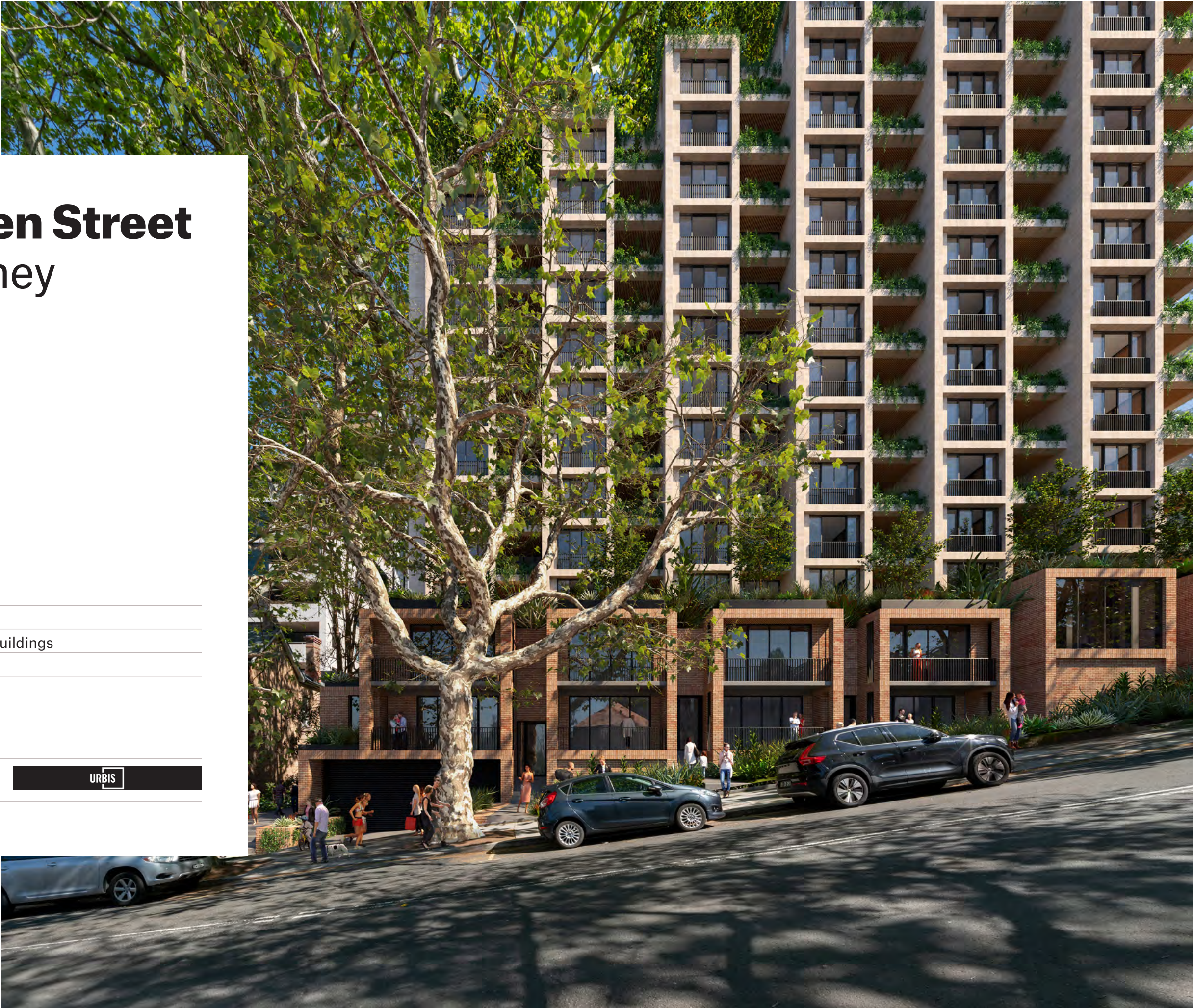
45 McLaren Street North Sydney

Podia
Solar Analysis - Neighbouring Buildings
17 May 2021

BATESSMART™

podia

URBIS



Key Plan

Buildings Overshadowing Plaza

Information Used

Subject Site Proposed Massing, Plaza (Central Square and Green Square) and Context Model - As presented to council on 24 February 2021 in “Planning Proposal - Response to Council feedback” report dated 18 February 2021

Context Buildings - Ward Street Precinct Masterplan issued June 2019

Aqualand Proposed DA for 168 Walker Street - Section 4.55
Architectural drawing set by Woods Bagot dated 22/05/2020

41 McLaren Street - Existing building areas as noted in Architectus report for council dated 23/08/2016

DA for 221 Miller Street - DA Architectural drawing set and area schedule by PTW Architects dated 24/11/2015

DA for 229 Miller Street - DA Architectural drawing set by PA Studio dated 14/07/2016 and SEPP65 statement dated 14/07/2016

144-150 Walker Street - Apartment areas as noted in ABSA report for council dated 19/08/2011

52 McLaren Street - Height as per height documented in Ward Street Precinct Masterplan issued June 2019 (RL119.0)



9:00 am
Winter Solstice - 21 June

45 McLaren Street

Subject Site

Proposed massing as presented to council on 24 February 2021 in “Planning Proposal - Response to Council feedback” report dated 18 February 2021

Building Summary

Height	RL 113.3 (14 Storeys)
Total GFA	12,540m²

Solar Analysis (21 June from 9am)

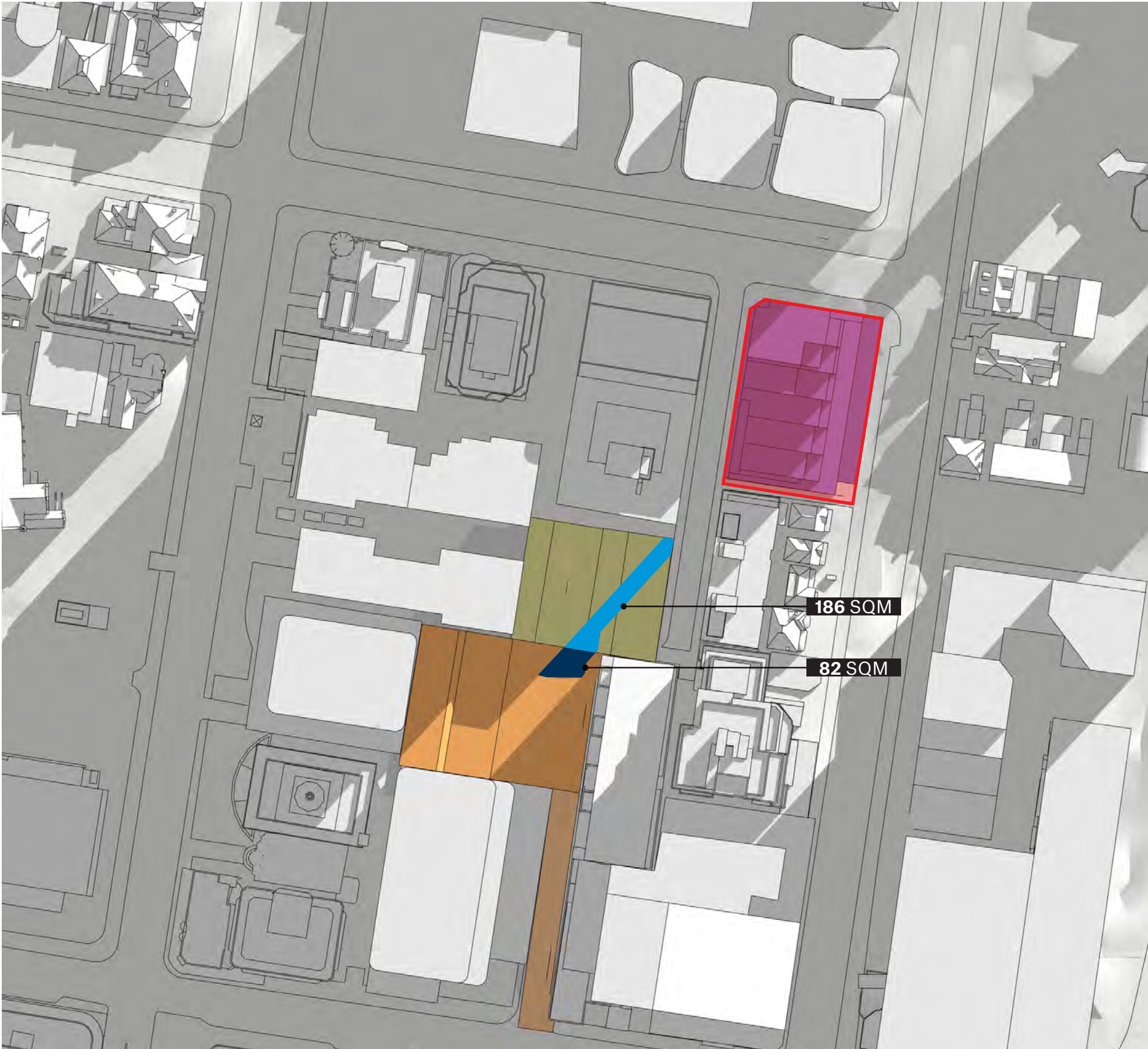
Max. Overshadowing Time (Central Square)	9.00am
Max. Overshadowing Area (Central Square)	82m² / 2,080m²
Max. Overshadowing Area (Green Square)	186m² / 1,155m²
Overshadowing Window (Entire Plaza)	9.00am - 10.15am

Note: This solar analysis begins from 9am. Overshadowing to areas of the plaza may also be present before 9am.

Key

<div></div>	Additional Overshadowing by selected building (to Central Square)
<div></div>	Additional Overshadowing by selected building (to Green Square)
<div></div>	Proposed Central Square (Good Solar Access all year Round as per North Sydney CBD Public Domain Strategy)
<div></div>	Proposed Green Square (Good Solar Access Spring to Autumn as per North Sydney CBD Public Domain Strategy)

Note : Areas of Central Square and Green Square referenced from Ward St Precinct Masterplan issued June 2019



9:00 am
Winter Solstice - 21 June

41 McLaren Street

Building Summary

Height	RL 93.89 (7 Storeys)
Total GFA	8,930m ²

Solar Analysis (21 June from 9am)

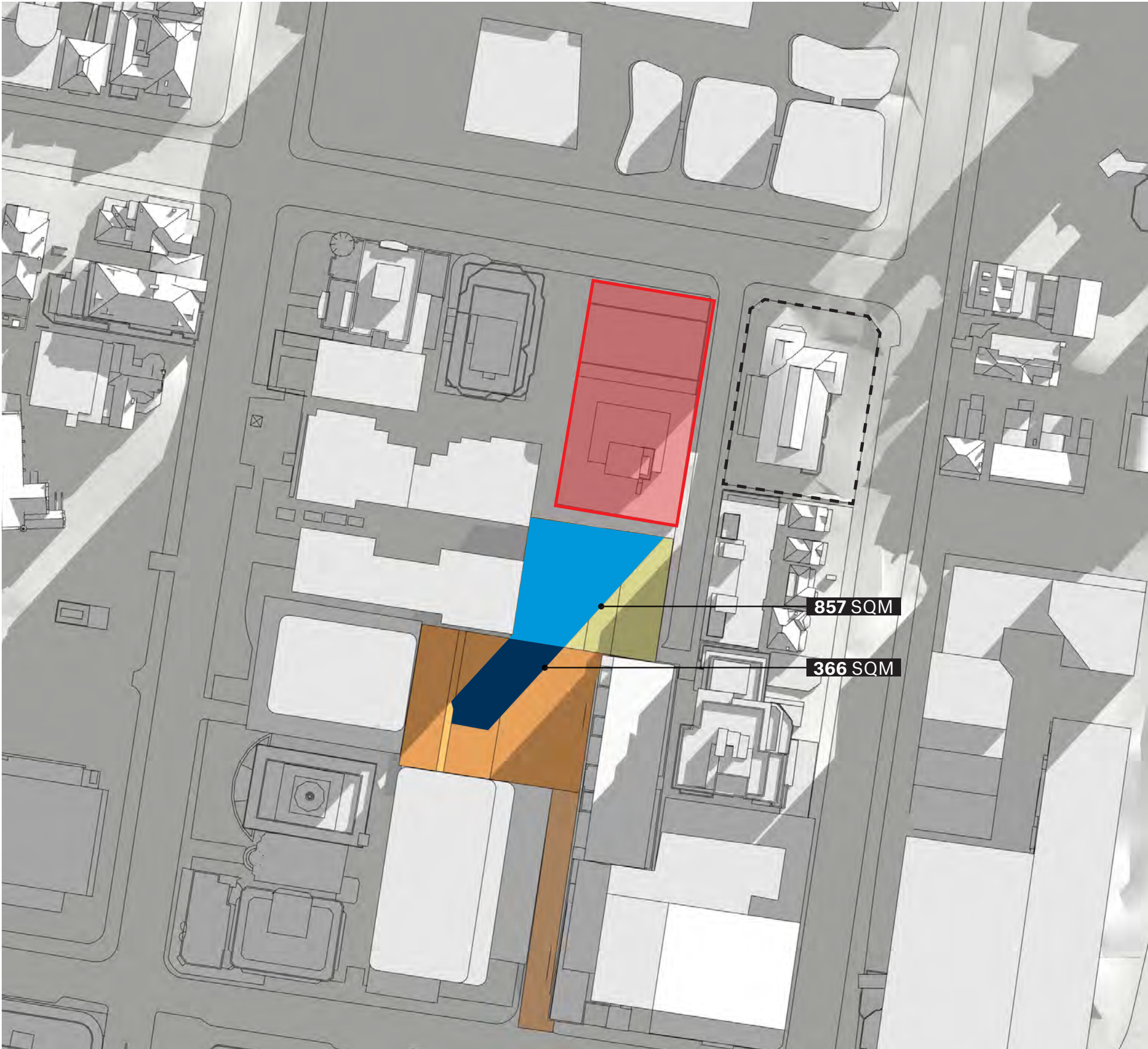
Max. Overshadowing Time (Central Square)	9.00am
Max. Overshadowing Area (Central Square)	366m ² / 2,080m ²
Max. Overshadowing Area (Green Square)	857m ² / 1,155m ²
Overshadowing Window (Entire Plaza)	9.00am - 1.45pm

Note: This solar analysis begins from 9am. Overshadowing to areas of the plaza may also be present before 9am.

Key

<div></div>	Additional Overshadowing by selected building (to Central Square)
<div></div>	Additional Overshadowing by selected building (to Green Square)
<div></div>	Proposed Central Square (Good Solar Access all year Round as per North Sydney CBD Public Domain Strategy)
<div></div>	Proposed Green Square (Good Solar Access Spring to Autumn as per North Sydney CBD Public Domain Strategy)

Note : Areas of Central Square and Green Square referenced from Ward St Precinct Masterplan issued June 2019



9:00 am
Winter Solstice - 21 June

144-150 Walker Street

Building Summary

Height	RL 85.35 (8 Storeys)
Total GFA	3,377m ²

Solar Analysis (21 June from 9am)

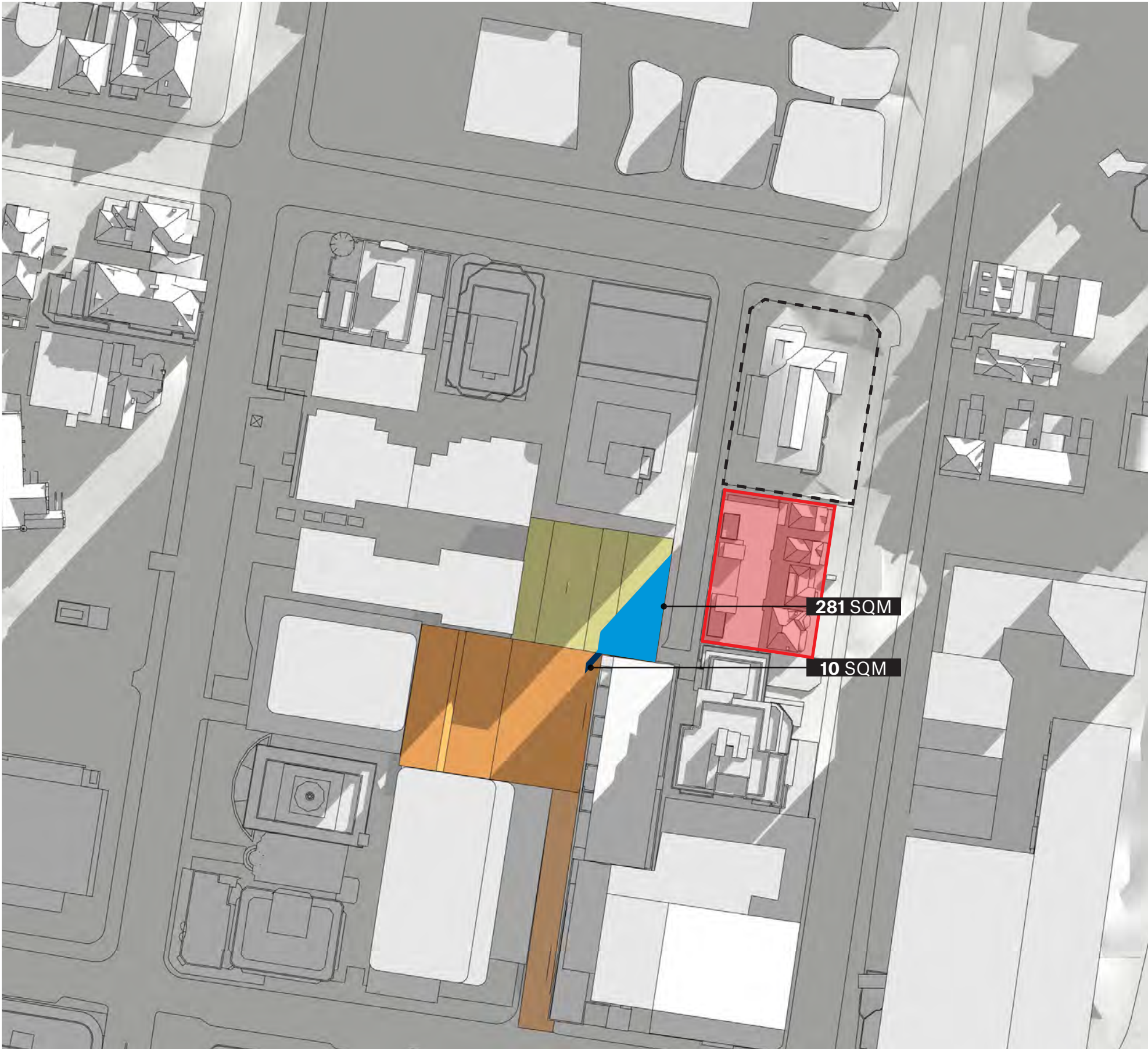
Max. Overshadowing Time (Central Square)	9.00am
Max. Overshadowing Area (Central Square)	10m ² / 2,080m ²
Max. Overshadowing Area (Green Square)	281m ² / 1,155m ²
Overshadowing Window (Entire Plaza)	9.00am - 10.10am

Note: This solar analysis begins from 9am. Overshadowing to areas of the plaza may also be present before 9am.

Key

<div></div>	Additional Overshadowing by selected building (to Central Square)
<div></div>	Additional Overshadowing by selected building (to Green Square)
<div></div>	Proposed Central Square (Good Solar Access all year Round as per North Sydney CBD Public Domain Strategy)
<div></div>	Proposed Green Square (Good Solar Access Spring to Autumn as per North Sydney CBD Public Domain Strategy)

Note : Areas of Central Square and Green Square referenced from Ward St Precinct Masterplan issued June 2019



9:00 am
Winter Solstice - 21 June

3-11 Ward Street

Building Summary

Height	RL 94.0
Total GFA	Electricity Substation (Site Area = 1,214m²)

Solar Analysis (21 June from 9am)

Max. Overshadowing Time (Central Square)	9.00am
Max. Overshadowing Area (Central Square)	469m² / 2,080m²
Max. Overshadowing Area (Green Square)	0m² / 1,155m²
Overshadowing Window (Entire Plaza)	9.00am - 10.10am

Note: This solar analysis begins from 9am. Overshadowing to areas of the plaza may also be present before 9am.

Key

<div></div>	Additional Overshadowing by selected building (to Central Square)
<div></div>	Additional Overshadowing by selected building (to Green Square)
<div></div>	Proposed Central Square (Good Solar Access all year Round as per North Sydney CBD Public Domain Strategy)
<div></div>	Proposed Green Square (Good Solar Access Spring to Autumn as per North Sydney CBD Public Domain Strategy)

Note : Areas of Central Square and Green Square referenced from Ward St Precinct Masterplan issued June 2019



9:00 am
Winter Solstice - 21 June

168 Walker Street

Building Summary

Height	RL 167.5 (30 Storeys)
Total GFA	52,454m ²

Solar Analysis (21 June from 9am)

Max. Overshadowing Time (Central Square)	10.00am
Max. Overshadowing Area (Central Square)	685m ² / 2,080m ²
Max. Overshadowing Area (Green Square)	152m ² / 1,155m ²
Overshadowing Window (Entire Plaza)	9.00am - 11.25am

Note: This solar analysis begins from 9am. Overshadowing to areas of the plaza may also be present before 9am.

Key

<div></div>	Additional Overshadowing by selected building (to Central Square)
<div></div>	Additional Overshadowing by selected building (to Green Square)
<div></div>	Proposed Central Square (Good Solar Access all year Round as per North Sydney CBD Public Domain Strategy)
<div></div>	Proposed Green Square (Good Solar Access Spring to Autumn as per North Sydney CBD Public Domain Strategy)

Note : Areas of Central Square and Green Square referenced from Ward St Precinct Masterplan issued June 2019



229 Miller Street

Building Summary

Height	RL 136.92 (19 Storeys)
Total GFA	8,593m ²

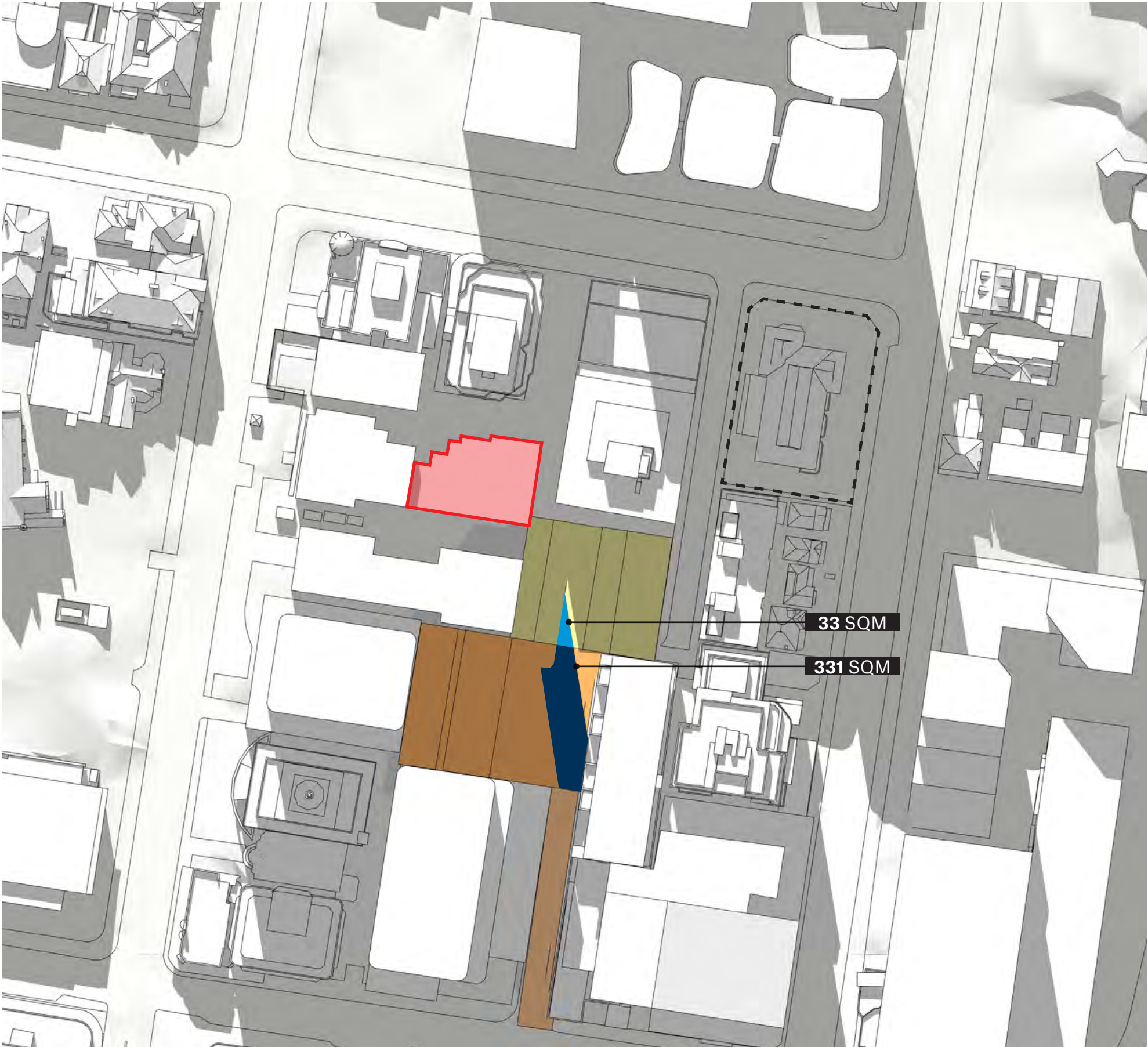
Solar Analysis (21 June from 9am)

Max. Overshadowing Time (Central Square)	12.30pm
Max. Overshadowing Area (Central Square)	331m ² / 2,080m ²
Max. Overshadowing Area (Green Square)	33m ² / 1,155m ²
Overshadowing Window (Entire Plaza)	11.25am - 1.45pm

Note: This solar analysis begins from 9am. Overshadowing to areas of the plaza may also be present before 9am.

Key	
<div></div>	Additional Overshadowing by selected building (to Central Square)
<div></div>	Additional Overshadowing by selected building (to Green Square)
<div></div>	Proposed Central Square (Good Solar Access all year Round as per North Sydney CBD Public Domain Strategy)
<div></div>	Proposed Green Square (Good Solar Access Spring to Autumn as per North Sydney CBD Public Domain Strategy)

Note : Areas of Central Square and Green Square referenced from Ward St Precinct Masterplan issued June 2019



12:30 pm
Winter Solstice - 21 June

221 Miller Street

Building Summary

Height	RL 146.7 (23 Storeys)
Total GFA	19,628m ²

Solar Analysis (21 June from 9am)

Max. Overshadowing Time (Central Square)	12.30pm
Max. Overshadowing Area (Central Square)	1,268m ² / 2,080m ²
Max. Overshadowing Area (Green Square)	75m ² / 1,155m ²
Overshadowing Window (Entire Plaza)	9.00am - 4.05pm

Note: This solar analysis begins from 9am. Overshadowing to areas of the plaza may also be present before 9am.

Key

<div></div>	Additional Overshadowing by selected building (to Central Square)
<div></div>	Additional Overshadowing by selected building (to Green Square)
<div></div>	Proposed Central Square (Good Solar Access all year Round as per North Sydney CBD Public Domain Strategy)
<div></div>	Proposed Green Square (Good Solar Access Spring to Autumn as per North Sydney CBD Public Domain Strategy)

Note : Areas of Central Square and Green Square referenced from Ward St Precinct Masterplan issued June 2019



12:30 pm
Winter Solstice - 21 June

213 Miller Street

Building Summary

Height	RL 180.0 (28 Storeys)
Total GFA	23,400m ²

Solar Analysis (21 June from 9am)

Max. Overshadowing Time (Central Square)	3.30pm
Max. Overshadowing Area (Central Square)	1,149m ² / 2,080m ²
Max. Overshadowing Area (Green Square)	0m ² / 1,155m ²
Overshadowing Window (Entire Plaza)	11.25am - 4.05pm

Note: This solar analysis begins from 9am. Overshadowing to areas of the plaza may also be present before 9am.

Key

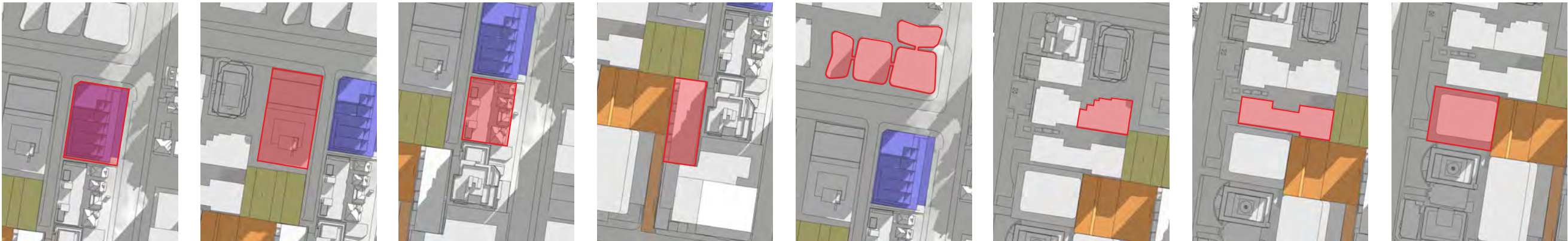
<div></div>	Additional Overshadowing by selected building (to Central Square)
<div></div>	Additional Overshadowing by selected building (to Green Square)
<div></div>	Proposed Central Square (Good Solar Access all year Round as per North Sydney CBD Public Domain Strategy)
<div></div>	Proposed Green Square (Good Solar Access Spring to Autumn as per North Sydney CBD Public Domain Strategy)

Note : Areas of Central Square and Green Square referenced from Ward St Precinct Masterplan issued June 2019



3:30 pm
Winter Solstice - 21 June

Summary



Site Address	45 McLaren St (Subject Site)	41 McLaren St	144-150 Walker St	3-11 Ward St	168 Walker St	229 Miller St	221 Miller St	213 Miller St
Height	RL 113.3 (14 Storeys)	RL 93.89 (7 Storeys)	RL 85.35 (8 Storeys)	RL 94.0 (Substation)	RL 167.5 (30 Storeys)	RL 136.92 (19 Storeys)	RL 146.7 (23 Storeys)	RL 180.0 (28 Storeys)
Total GFA	12,540m ²	8,930m ²	3,377m ²	1,214m ² (Site Area)	52,454m ²	8,593m ²	19,628m ²	23,400m ²
Max. Overshadowing Area (Central Square)	82m ²	366m ²	10m ²	469m ²	685m ²	331m ²	1,268m ²	1,149m ²
Max. Overshadowing Area (Green Square)	186m ²	857m ²	281m ²	-	152m ²	33m ²	75m ²	-
Overshadowing Window (Entire Plaza)	9.00am - 10.15am (1 hr 15 mins)	9.00am - 1.45pm (4 hrs 45 mins)	9.00am - 10.10am (1 hr 10 mins)	9.00am - 10.10am (1 hr 10 mins)	9.00am - 11.25am (2 hrs 25 mins)	11.25am - 1.45pm (2 hrs 20 mins)	9.00am - 4.05pm (7 hrs 5 mins)	11.25am - 4.05pm (4 hrs 40 mins)

APPENDIX B

BACKGROUND & PLANNING PROPOSAL HISTORY

The following table summarises the chronology of advice received from Councillors and Council that has guided the lodgement of the Planning Proposal and the subsequent amendments to the controls:

Table 3: Chronology of Planning Proposal history

	Commentary
24 March 2017 – 3 April 2019	<p>Landowners engaged with Council (via Ethos Urban) as part of the WSPMP preparation, with multiple separate submissions, dated:</p> <ul style="list-style-type: none"> - 24 March 2017 – submission in response to council civic precinct plans - 4 October 2018 – letter of support for masterplan option 1 - 3 April 2019 – further submission on WSPMP
24 June 2019	<p>Council resolved to endorse the Stage 2 WSPMP, being the Central Square option. The Central Square option sought to focus heights and densities at the southern end of the Ward Street Precinct. Future development to the north of the Precinct was restricted due to concerns relating to overshadowing.</p> <p>As such, the finalised WSPMP did not identify any additional uplift or changes to the 45 McLaren Street site. However, the Council's resolution included the following guidance:</p> <p><i>Despite the preferred Masterplan option, a landowner initiated Planning Proposal may be considered from 45 McLaren Street and may identify how any future redevelopment will:</i></p> <ul style="list-style-type: none"> ▪ Minimise solar reductions upon new public domain as identified in the Masterplan. ▪ <i>Minimise solar and privacy impacts upon existing residential development.</i> ▪ <i>Provide for a commercial component to any redevelopment.</i> ▪ <i>Identifies significant public benefits that will arise from the development of the site with particular regard to the objectives of the Masterplan.</i>
March 2020	<p>Meeting with Director of Planning (Joseph Hill) and Manager, Strategic Planning (Marcello Occhiuzzi) to discuss the proponent's vision and proposal outline.</p> <p>High-level support provided at meeting, but Council emphasised the need to "minimise solar reductions" to the new public domain.</p>
10 August 2020	<p>Pre-lodgement meeting</p> <p>Council advice / minutes following meeting:</p> <p><i>"strong preference for no additional overshadowing of the proposed open space identified in the Ward Street Precinct Masterplan year-round"</i></p>
22 October 2020	<p>Planning Proposal (PP6/20) was lodged for 45 McLaren Street, based on Council's resolution</p>
24 November 2020	<p>Council's review of the PP recommended that the <i>"site be rezoned from R4 High Density Residential to B4 Mixed Use"</i> and that the proposal be revised to ensure that there is <i>"no net additional overshadowing of the proposed public square at any time of the day year round."</i></p>

	Commentary
24 February 2021	The proponent reduced the building height by 2 storeys from RL 118.7 to RL 113.9 and reduced the FSR from 7.5:1 to 7:1. The concept envelope was revised so that the proposal results in no net increase in overshadowing during the average winter and reduces the extent of overshadowing to the Central Square to 75 minutes between 9am and 10:15am on June 21 st .
5 March 2021	<p>Council issued further comments on the planning proposal, stating that the proposal must be revised to <i>“ensure any increase in additional overshadowing to the future northern square is minimised to the greatest extent possible.”</i></p> <p>It was also requested that <i>“the upper level setback to the southern boundary be increased from 3m to a minimum of 4.5m to improve sunlight and daylight access to the property to the south”</i>.</p>
The Proponent is currently preparing an amended Planning Proposal package.	

APPENDIX C

SUMMARY OF DRAFT PROPOSED DCP 2013 AMENDMENTS

The follow table identifies the proposed draft amendments to the DCP, which relate directly to the Planning Proposal at 45 McLaren Street **OR** have the potential to impact future development on the land.

Table 4: Draft Amendments to NSDCP 2013

Control	Response
2.1 Central Business District	
<p>2.1.3 Desired Built Form</p> <p>Form, massing and scale</p> <p>P7 – Development is to be designed to maintain year round solar access to the new public squares to be created within the Ward Street Precinct.</p>	<p>Unsupported</p> <p>Refer to Section 3</p>
<p>2.1.3 Desired Built Form</p> <p>Setbacks</p> <p>P9 - Buildings must be setback to conserve views to, and the setbacks and settings of, heritage items at 86 and 144 - 150 Walker Street, 94 Pacific Highway (Post Office), 36 Blue Street (Greenwood), 153 Miller Street (MLC Building), 168 - 172 Pacific Highway and 1-7 Napier Street</p>	<p>Supported.</p>
<p>2.1.3 Desired Built Form</p> <p>Car accommodation</p> <p>P36 - Development within the Ward Street Precinct does not result in a nett increase in traffic generation for the Precinct.</p>	<p>Unsupported.</p> <p>Refer to Section 4</p>
2.4 Hampden Neighbourhood	
<p>2.4.2 Desired Future Character</p> <p>Diversity</p> <p>P3 Consideration be given to the rezoning of 45 McLaren Street to B4 Mixed Use, to align with the zoning in the remainder of the street block.</p>	<p>Supported.</p> <p>Although, it is more logical that the Hampden Neighbourhood boundary be adjusted to remove the site so that it can form part of the CBD Character Area, consistent with the remainder of the block.</p>
<p>2.4.2 Desired Future Character</p> <p>Accessibility and permeability</p> <p>P5 - An east - west pedestrian link from Harnett Street to Walker Street across 45 McLaren Street, to enhance the existing east - west pedestrian link from Harnett Street to Walker Street across 144-150 Walker Street.</p>	<p>Supported.</p>
<p>2.4.3 Desired Built Form</p> <p>Form, scale and massing</p> <p>P4 Development is to be designed to maintain solar access year round to the new public squares to be created within the Ward Street Precinct.</p>	<p>Unsupported</p> <p>Refer to Section 3</p>
<p>2.4.3 Desired Built Form</p> <p>Form, scale and massing</p> <p>P5 Council may consider a Planning Proposal to increase maximum building heights on sites within the Locality Area, but only where the proposal is:</p> <p>(a) generally consistent with the desired built form under an endorsed Planning Study; and</p>	<p>Unsupported</p> <p>(a) Given that the endorsed Planning Study does not include built form controls for the site, the current Planning Proposal would be unable to comply with this provision.</p> <p>(b) Refer to Section 3</p>

Control	Response
(b) the future building envelope maintains solar access year round to the proposed new public squares to be created within the Ward Street Precinct.	
<p>2.4.3 Desired Built Form</p> <p>Form, scale and massing</p> <p>P6 - If 45 McLaren Street is to be redeveloped subject to a planning proposal for a mixed use development:</p> <p>(a) a zero metre setback to Harnett Street and McLaren Streets</p> <p>(b) a 1-3 storey podium height to McLaren Street with a minimum 3m weighted setback above the podium.</p> <p>(c) the podium height to Walker Street must positively relate to the height and scale of the heritage dwellings at 144-150 Walker Street.</p> <p>(d) A minimum 1.5m setback is to be provided to its southern boundary to enable the provisions of a widened through site link between Harnett Street and Walker Street</p> <p>(e) The building's Harnett Street and McLaren Street frontages are activated with non-residential uses.</p> <p>Setbacks</p> <p>P8 - A 7m landscaped setback is to be provided along the western side of Walker Street.</p>	<p>Unsupported</p> <p>Refer to Section 2</p>

MinterEllison

