

<b>JRPP No:</b>	<b>2010SYE088</b>
<b>DA No:</b>	<b>DA 404/10</b>
<b>PROPOSED DEVELOPMENT:</b>	<b>200-220 Pacific Highway, Crows Nest</b> - Partial demolition of existing buildings and construct up to 17 storey mixed use building containing 203 apartments, 7 serviced apartments, ground floor retail and 150 car parking spaces.
<b>APPLICANT:</b>	Barana Group Pty Ltd
<b>REPORT BY:</b>	George Youhanna, Executive Planner, North Sydney Council

## **Assessment Report and Recommendation**

### **EXECUTIVE SUMMARY**

The proposal is for demolition of building 1 (2 storeys) and partial demolition of buildings 2 (7 storeys) and 3 (17 storeys), and a mixed use redevelopment of the site, comprising 203 apartments, 7 serviced apartments, ground floor retail and 150 car parking spaces. The redevelopment will result in a 5 storey building to the Pacific Highway, an 8 storey building to the southern part of the site and a 17 storey tower building.

An existing development consent (DA 274/02) for alterations and additions to convert the existing hotel, office, medical centre and retail development into a 16 storey mixed use development was approved on 13/10/2003 and the approved development has been physically commenced.

The proposal is considered to be acceptable subject to conditions, including with regard to urban design, traffic and parking, privacy, internal amenity and impact on adjoining properties. The modified building envelope results in some additional overshadowing of adjoining properties at midwinter, however the affected properties will continue to receive an acceptable level of solar access. With regard to building design and appearance, the current proposal is an improvement on DA274/02.

With regard to on-site loading, the RTA have not granted concurrence and have requested amended plans indicating that 4.5m vertical clearance can be achieved to the loading bay and manoeuvring area. Council is satisfied that the required 4.5m vertical clearance can be achieved with only minor modification to building 1.

Subject to resolution of the loading bay vertical clearance issue and the subsequent granting of concurrence by the RTA, the proposal is satisfactory and recommended for approval subject to conditions of consent.

### **DESCRIPTION OF PROPOSAL**

The proposal comprises the following elements:

#### **1. Demolition of:**

- Building 1, being the existing two storey podium building to the Pacific Highway
- The existing façade, internal walls and fitout of Building 2 (at 200 Pacific Highway)

- Level 10 and above and the existing façade, internal walls and fitout of Building 3 (being the tower building)
- Basement driveways and other internal basement structures

2. Partial retention of:

- Buildings 2 and 3

3. Construction of:

- A new podium building to the Pacific Highway (Building 1)
- New facade to Building 2, services, and internal walls
- New facade, new Levels 10 to 16, services and internal walls to Building 3
- Basement ramps and internal basement walls

4. Mixed use fitout and occupation of the redeveloped Buildings 1, 2 and 3 to contain:

- 203 apartments (32 x studio, 102 x one bedroom, 68 x two bedroom and 1 x three bedroom)
- 1,412m<sup>2</sup> of non-residential gross floor area which equates to a floor space ratio of 0.42:1 (comprising retail, a cafe and seven serviced apartments)
- 150 car parking spaces (including one space dedicated to a car share scheme)

5. Landscaping works on the Ground Floor; Levels 1, 2, 3 and roof terraces

Details of the three buildings are as follows:

**Building 1** – A new five storey Building 1, addressing the Pacific Highway, is proposed. Retail uses and a cafe are provided at the ground level, with serviced apartments (seven) at Level 1 and apartments at Levels 2 to 4. A patterned gravel roof top is proposed on the roof of Building 1. Apartments in Building 1 are serviced by one lift (which will also provide disabled access to the Level 1 serviced apartments). Access to the serviced apartments is via a dedicated serviced apartment lobby and stair on the ground floor. Building 1 will act as a podium to taller Buildings 2 and 3 behind.

**Building 2** – Retention and conversion of existing Building 2 (at 200 Pacific Highway) into an eight storey mixed use building is proposed. A new street level shopfront is proposed at the Ground Floor. Apartments are proposed at Levels 1 to 7 above.

**Building 3** – Partial retention and residential conversion of existing Building 3 (up to Level 9) and reconstruction of Levels 10 to 16 above is proposed. Levels 10 to 16, currently used as hotel rooms, have floor to ceiling heights of 2.4m or less and will be reconstructed to achieve minimum 2.7m ceiling heights. Apartments and private gardens are proposed above the basement. Building 3 contains residential uses only.



*Existing view of site from Sinclair Street*



*Existing view of site from Pacific Highway*





*Approved and commenced development viewed from Sinclair Street*



*Approved and commenced development viewed from Pacific Highway*

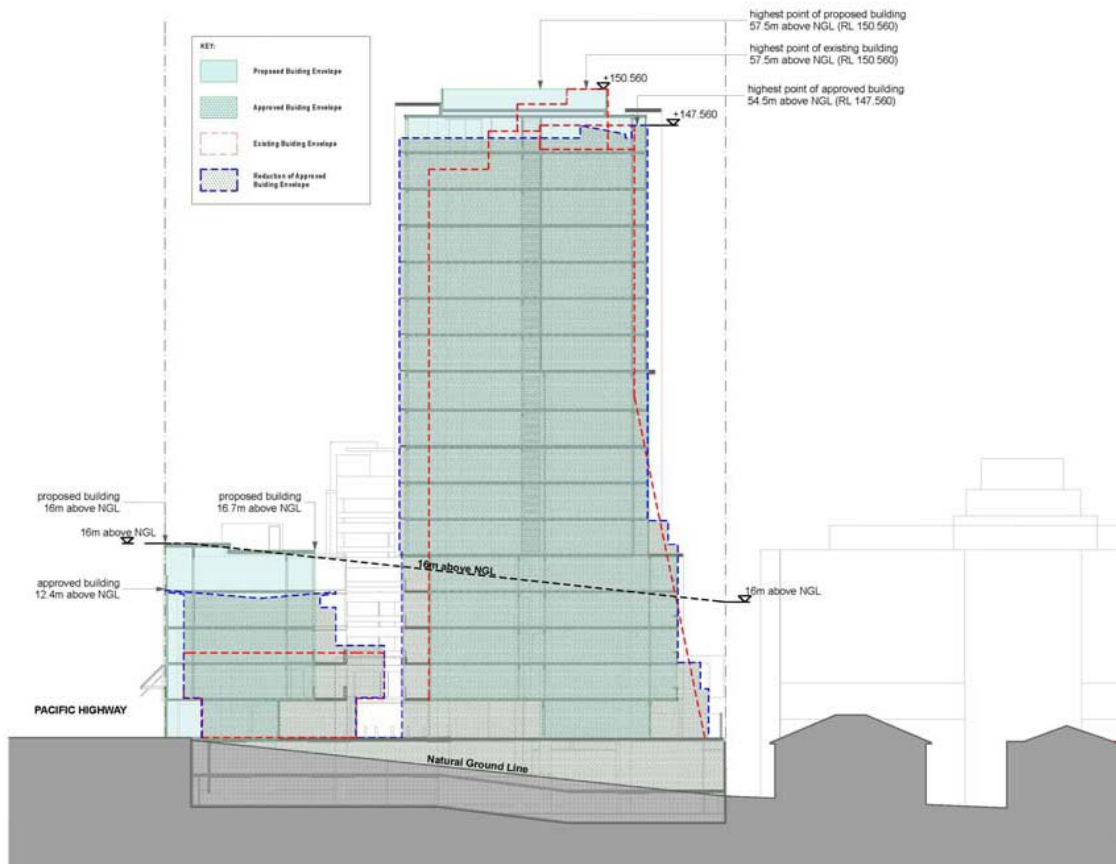




*Proposed development viewed from Sinclair Street*



*Proposed development viewed from Pacific Highway*



*Building 1 & 3 height compliance plan (existing, approved/commenced and proposed)*

## Amended Plans

A number of amendments have been progressively made to the original plans, partly in response to submissions from adjoining properties and comments from the Design Excellence Panel and partly at the applicant's request. The amendments are summarised below:

- Fixed horizontal louvres to south facing windows of building 2
- All windows deleted from southern elevation of building 2 on Levels 3 and 4
- Addition of communal seating area to residential lobby and increased non-residential area
- Addition of private and communal roof terraces to Level 5
- Details of air conditioning plant
- Provision of six adaptable parking spaces at ground level, south of main pedestrian entry
- Translucent glazing to west facing balconies in building 2 at Levels 1-4
- Reconfigured communal rooftop terrace, with central enclosed seating area
- Increased storage areas at Basement Level 1
- Reconfiguration of unit 409 (2 bedroom unit) into two x 1 bedroom units

## STATUTORY CONTROLS

North Sydney LEP 2001

- Zoning – Mixed Use
- Item of Heritage – No
- In Vicinity of Item of Heritage – Yes (North Sydney Girls High School, Pacific

Highway; No.7 Sinclair Street, former Mater Misericordiae Maternity Hospital)

- Conservation Area – No

Section 94 Contributions

Environmental Planning & Assessment Act 1979

SEPP No. 1 – Development Standards:

- Clause 29(2) (Building height)
- Clause 30(2) (Building height plane)
- Clause 31(2) (Floor space)

SEPP No. 55 – Remediation of Land

SEPP No.65 – Design Quality of Residential Flat Development

SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Infrastructure) 2007

Sydney Harbour Catchment REP and DCP

## **POLICY CONTROLS**

DCP 2002

## **CONSENT AUTHORITY**

As this proposal has a Capital Investment Value (CIV) of greater than \$10 million the consent authority for the development application is the Joint Regional Planning Panel, Sydney East Region (JRPP).

## **DESCRIPTION OF LOCALITY**

The site has a legal description of Lot 1 DP 551706, and is commonly known as 200-220 Pacific Highway, Crows Nest. The site is located on the western side of the Pacific Highway, between Rocklands Road and Bruce Street.

The site is rectangular in shape and has a frontage of 73.18m to Pacific Highway and a depth of 45.81m, with an area of 3352.4m<sup>2</sup>. Existing development on the site includes:

- Building 1 – A two storey concrete (podium) building addressing the Pacific Highway. containing retail tenancies on the street level with commercial uses above.
- Building 2 – A seven storey office building on the south side of the property, set back from the front boundary to the Pacific Highway containing medical and other commercial tenants (partially vacant).
- Building 3 – A sixteen storey building occupied by All Seasons Hotel (on part of the ground floor and Levels 12–16) and nine commercial levels. A hotel swimming pool and plant are located on the roof. 145 (approx) car parking spaces contained within two basement levels built to the boundaries and accessed via separate ingress and egress driveways on the Pacific Highway.

To the north of the site is a two storey office building at 222 Pacific Highway, built to the site's northern boundary. A six storey mixed use building is further north at 236 Pacific Highway.



South of the site is a three storey retail/commercial building which includes a dwelling, on the corner of Rocklands Road and the Pacific Highway. The opposite side of this intersection is occupied by a six storey (plus attic) apartment building at 41 Rocklands Road. Mater Hospital is to the south-west, beyond Rocklands Rd.

East of the site on the opposite side of Pacific Highway is North Sydney Girls High School (a heritage item) and commercial/residential uses.

To the west are residential premises along Sinclair Street, comprising an apartment building (7 Sinclair St), townhouses (19-23 Sinclair St) and semi detached dwellings (25-37 Sinclair Street).

The site is located within the Waverton Wollstonecraft neighbourhood, in the Upper Slopes, as per North Sydney Development Control Plan 2002. The subject site and adjacent land to the south and north are zoned 'Mixed Use' pursuant to NSLEP 2001. Sites to the west of the site are zoned for Residential B and C under NSLEP 2001.



## RELEVANT HISTORY

**DA274/02** for alterations and additions to convert the existing hotel, office, medical centre and retail development into a 16 storey mixed use development complex with basement parking was approved at the Council meeting of 13/10/2003.

Details of the approved development under DA274/02 are as follows:

- The existing 2 storey building adjacent to the Pacific Highway frontage to be converted and extended to provide 2 ground level retail premises with a total floor area of 511m<sup>2</sup>; 2<sup>nd</sup> level medical centre of 687m<sup>2</sup>; and new 3<sup>rd</sup> floor level with gymnasium/ indoor pool of 480m<sup>2</sup> for commercial use; new awning to be provided over footpath at Pacific Highway; main entry lobby to both the upper levels of this 3 level building and the residential tower to the rear to be located between the 2 ground level retail premises;
- The existing 7 storey commercial / medical centre building on the south-eastern



side of the site to be converted into 6 apartments, with 1 apartment on each floor except at ground level; a garbage holding bay for residential garbage and recycling is to be located abutting the side boundary adjacent to the landscaped open entry area;

- The rear 17 storey rear hotel/office tower to be converted into 110 apartments on 16 levels with ground floor converted to entry lobbies and car parking, and additional residential floor to replace existing plant and swimming pool located on top level of tower; replacement of the existing lift core with 2 separate lift cores; removal of the existing lift overrun and roof plant; new balconies mainly to the south-west and north-east elevations of the building, those facing south-west or north-west provided with sunshade / privacy louvres or privacy devices; new windows to side (NW and SE) elevations of tower;
- Car parking with associated plant, loading dock, garbage and storage facilities at rear ground level and 2 basement levels, accommodating 104 residential car spaces including 5 disabled spaces, and 14 non-residential spaces, and a further 11 stacked or tandem non-residential spaces; retention of existing separate vehicle entry / exits to the Pacific Highway, with widening of the vehicle cross-overs;
- A communal meeting room of 113 m<sup>2</sup> with attached landscaped terrace of 26m<sup>2</sup> at north-west side of building at level 1; other landscaped areas or terraces adjacent to ground level of the 7 storey building and at the rear of top level of the front 3 storey building.

Evidence has been provided to Council that the approved development has been physically commenced in accordance with the provisions of s.95 of the Environmental Planning and Assessment Act, 1979.

**DA 404/10 (current application)** – A formal community consultation program was undertaken by the applicant prior to lodgement of the subject application, and a Community Consultation Report prepared by Urban Concepts was submitted with the DA.

The scheme was considered at the Design Excellence Panel meeting of 19/8/10, prior to lodgement of the application.

## **REFERRALS**

### **Roads & Traffic Authority**

In accordance with the provisions of Clause 104 of State Environmental Planning Policy (Infrastructure) 2007, the application was referred to the Roads and Traffic Authority (RTA) on 19 October 2010.

Council received a response from the RTA on 30/11/10, advising that concurrence would not be granted pursuant to Section 138(2) of the Roads Act for the following reason:

*The layout of the proposed car parking areas associated with development (including: driveways, grades, turn paths, sight distance requirements, aisle*

*widths, and parking bay dimensions) shall be in accordance with AS 2890.1-2004 and AS 2890.2 — 2002 for heavy vehicle usage.*

*In accordance with AS 2890.2 — 2002 (4.2 Dimensions of Service Bays) the loading bay is required to have vertical clearance of 4.5 metres to accommodate an 8.8 metre long vehicle, The RTA requires the applicant to submit turn paths showing an 8.8 metre service vehicle entering and exiting the site. The turn paths shall also take into consideration the height of the building for removal of the existing driveway accesses on the Pacific Highway.*

The applicant provided a response to the issues raised by the RTA, including inter alia, an argument supporting a 3m high loading bay. In response, the RTA advised on 24/1/11 as follows:

*As the loading bay is restricted in height, the RTA recommends the Local Traffic Committee consider the installation of timed Loading Bay signs to be erected at the site's frontage to allow for removalist vehicles to service the site from the street.*

*Following the Local Traffic Committee's determination the RTA will review its position.*

The matter was therefore considered at the Local Traffic Committee meeting on 4/2/11 where the Committee indicated it did not support on-street loading.

While suitable conditions could be applied to require the provision of a 4.5m vertical clearance to the loading bay, the RTA have requested that amended plans be provided prior to concurrence being granted. In this regard the applicant has undertaken to provide amended plans prior to the JRPP meeting date in order to facilitate the granting of concurrence by the RTA.

## **Heritage**

Council's Conservation Planner has raised no concerns with regard to impact on heritage items within the vicinity of the development.

## **Traffic**

The application was referred to Council's Traffic Engineer who provided the following comments:

### ***Existing Development***

*There is 14,874 m<sup>2</sup> of GFA including 90 hotel rooms, commercial office space and retail space. There are two split-level basement parking floors with parking for 145 vehicles. There are two driveways to the Pacific Highway.*

### ***Previous Approval***

*The previous approval for this site was for 110 residential units, 2,200 m<sup>2</sup> of commercial/ retail floor space and 128 parking spaces. At the time, it was calculated that the previously approved development would generate 53 peak hour vehicle movements.*

## **Proposed Development**

*The proposed development incorporates 209 residential apartments (32 x studio, 107 x 1 bedroom, 69 x 2 bedroom and 1 x 3 bedroom) and 678 m<sup>2</sup> of retail space. Seven of the 1-bedroom apartments are proposed to be serviced apartments.*

## **Parking**

*The North Sydney DCP 2002 outlines a maximum parking space provision as follows:*

<i>Development Component</i>	<i>Parking Rate</i>	<i>Maximum Parking</i>
<i>Retail (678 m<sup>2</sup>)</i>	<i>1 space per 60m<sup>2</sup></i>	<i>11.3</i>
<i>132 x studio &amp; 1 bedroom apartments</i>	<i>0.5</i>	<i>66</i>
<i>70 x 2+ bedroom apartments</i>	<i>1</i>	<i>70</i>
<i>7 x service apartments</i>	<i>0.2</i>	<i>1.4</i>
<i>Total</i>		<i>148.7</i>

*The applicant is proposing the installation of 150 parking spaces which is generally consistent with the DCP and is therefore considered acceptable.*

*It is noted that due to the current configuration of the car park, a number of the parking spaces will be marked as “Small Parking Spaces”. It should be noted that residents who purchase/ lease a property with the associated “Small Parking Space” will **not** be entitled to a resident parking permit if they cannot fit their vehicle into the space.*

## **Car Share**

*I support the provision of a car share vehicle within the development.*

## **Traffic Generation**

*The existing site generates approximately 39 peak hour vehicle trips. The previously approved development would have generated approximately 53 vehicles per peak hour.*

*The applicant has calculated, based on the RTA’s Guide to Traffic Generating Developments that the proposed development will generate approximately 71 peak hour vehicle trips. I generally concur with these calculations.*

*I generally concur with Halcrow that the traffic generation associated with this proposed development can be accommodated within the existing road network.*

## **Driveway Access**

*I support the consolidation of the two driveway access ramps into one. Pedestrians will therefore only need to cross one driveway.*



## **Loading Dock**

*An issue of serious concern with regards to this development is the proposed loading dock which does not adequately provide for furniture removalist vans and delivery vehicles. The applicant has proposed that provision be made for a vehicle which is 8.8 metres long but restricted to just 3.0 metres high.*

*A development of this size with 209 apartments and 678 m<sup>2</sup> of retail space requires provision for a medium rigid truck. That is a vehicle 8.8 metres long and **4.5 metres high** as per Australian Standard 2890.2.*

*The population of North Sydney is highly mobile. Nearly half of all residents rent and, over a five-year period, over 65% move to a new address. This is particularly the case for apartments, and particularly for the smaller apartments included in the proposed development. Smaller apartments are more likely to be utilised by renters, who move in and out more readily. Given that this development is for 209 residential apartments, it could be assumed that there will be a substantial number of residents moving in and out of the building on a weekly basis. It would be entirely unacceptable to have furniture removalist vans parked on the Pacific Highway, Rocklands Road, Sinclair Street or Bruce Street. Further, it is noted that removalist vans often double-park, park in “No Stopping” areas or other undesirable locations if they are unable to obtain a parking space directly in front of the building they wish to service. Furniture would have to be carried from the building to the kerb, across the footpath that is heavily used by pedestrian. Given the significant volume of vehicles and pedestrians that utilise the Pacific Highway, Rocklands Road, Sinclair Street and Bruce Street, this type of impact is unacceptable. The developer is essentially trying to push service vehicles associated with this private development onto the public road, thus taking up a valuable community resource. It is therefore felt that furniture removalist vans must be accommodated on-site.*

*The truck loading bay should be located immediately adjacent to a lift, providing access to the residential floors of the building. Flat or ramped access should be available to the retail/ commercial areas of the building.*

*The truck loading bay as shown on the plans requires trucks to reverse in a “cobblestone” area where the general public and pedestrians can walk. This is unacceptable. All trucks should enter and exit the loading bay in a forwards direction.*

*The Traffic Report states that heavy vehicles will have to either reverse into or out of the site from the Pacific Highway. This is unacceptable. There are high pedestrian and vehicle volumes on the Pacific Highway. All vehicles, including heavy vehicles, must enter and exit the site in a forwards direction.*

## **Queuing Length**

*It is unclear from the plans where the roller door/ security access point to the car park is proposed to be located. There are high pedestrian and vehicle volumes on the Pacific Highway. Therefore it would be unacceptable to have vehicles queuing onto the Pacific Highway or footpath. AS 2890.1 requires queuing length for four vehicles for a car park of this size.*

## **Bikes**

*It is noted that the applicant has included motorbike and bicycle parking. However, it is inappropriate to place some of the bicycle parking on the very bottom level of the basement parking, forcing cyclists to travel the greatest distance to reach. It is therefore recommended that this parking be provided on the top level of the basement or the applicant is to place the bicycle storage immediately adjacent to the lifts. The lift must accommodate a bicycle and rider.*

## **Conditions of Approval**

*Should this development be approved it is recommended that the following conditions of approval be imposed:*

- 1. That a loading dock which accommodates a Medium Rigid Vehicle which is 8.8 metres long and 4.5 metres high as per Australian Standard 2890.2 be provided on-site.*
- 2. That all vehicles, including heavy vehicles, delivery vehicles and garbage vehicles, must enter and exit the site in a forwards direction.*
- 3. That all heavy vehicles must enter and exit the loading dock such that no pedestrians enter the zone of reversing heavy vehicles.*
- 4. That residents will not be entitled to resident parking permits even if their allocated parking space is smaller than the Australian Standard.*
- 5. That residents will not be entitled to a resident parking permit even if their vehicle does not fit into the mechanical stacker.*
- 6. That all tandem, shuffle and stacker parking spaces must be able to be accessed independently of each other through mechanical means OR linked to the same residential apartment.*
- 7. That all bicycle parking be provided on the top level of the basement or immediately adjacent to a lift.*
- 8. That a deferred commencement condition be set which states: A Construction Management Program shall be prepared and submitted to Council for approval by the North Sydney Traffic Committee. Any use of Council property shall require appropriate separate permits/ approvals.*
- 9. That all aspects of parking spaces for people with disabilities comply with the Australian Standard AS 2890.6. In particular, headroom is to be a minimum of 2.3 metres.*
- 10. That all aspects of the bicycle parking and storage facilities comply with the Australian Standard AS2890.3.*
- 11. That the developer pay to upgrade the street lighting on the Pacific Highway, adjacent to the site, to the appropriate standard and to the satisfaction of Council.*
- 12. That a deferred commencement condition be set which states: A Transport Management Plan for residential deliveries and removalists, retail service, delivery and garbage vehicles to the site shall be prepared and submitted to Council for approval by Council's Traffic Committee.*
- 13. The location of any security access point/ intercom/ roller door for driveway entry to the car park should be located 24 metres within the boundary of the property, such that four queued vehicles can be contained wholly within the boundary of the property, as per AS2890.1.*

14. *The location of any security access point/ intercom/ roller door for driveway entry to the loading dock should be located 9.0 metres within the boundary of the property, such that queued trucks can be contained wholly within the boundary of the property, as per AS2890.1.*
15. *The loading dock is to be available for moving/delivery vehicles for the residential component of the development, as well as the commercial and retail components of the development.*
16. *That signs be installed at the exit to the driveway and stating "Stop – Give Way to Pedestrians"*

## **Building**

The applicant has provided a BCA report which concludes that the proposal is capable of achieving compliance with the provisions of the BCA. The application has not been specifically assessed for full compliance with the BCA, and any changes necessary for compliance with the BCA may require the submission of an application to modify the development consent.

## **Development Engineer**

Council's Development Engineer has raised no objection to the proposed development, subject to imposition of detailed engineering conditions being imposed on any consent.

## **Waste Management**

Council's Environmental Education Officer has advised that as the domestic garbage storage facilities are located within the basement level 1B, and a garbage holding bay has not been provided within two metres of the street alignment, Council is unable to access the garbage storage facilities and therefore cannot provide the development with a garbage/recycling collection service.

Consequently, the developer is required to advise potential buyers via a s.88B instrument that they would be paying two garbage fees, one for the private waste contractor and another for Council's domestic waste charges.

## **Design Excellence Panel**

Council's Design Excellence Panel (DEP) considered the application at its meeting on 24/11/10. The minutes of the meeting are as follows:

*The proposed development is summarised as conversion with alterations and additions of the existing buildings on the site 200-220 Pacific Highway, Crows Nest, to a mixed use development comprising a retail/commercial component of 1270m<sup>2</sup> and 202 apartments with parking for 150 vehicles.*

*The Panel considered a proposal at its meeting of 17 September 2009 to convert the existing buildings to a seniors housing complex. That proposal is no longer being pursued for various reasons. The Panel visited the site on 19 August 2010 for a pre application meeting to consider the current proposal.*

*There is an existing consent DA274/02 for a mixed use development.*

*The proposal seeks to limit the alterations and additions largely to the envelope*



*approved by DA 274/02 with additional floor space created in the front building and some infill at the lower levels. The applicant intends to establish that any additions beyond the envelope will have no additional material amenity or other impact on neighbours, and that generally the impact of the proposal will be no greater than the impact of the existing approved development. Additional floor space is also proposed on the corners of the tower on its eastern side to maximize the available views.*

*The project architect Dennis Rabinowitz provided a presentation of the proposal and was available for questions and discussion with the Panel.*

**Panel Comments:**

*The Panel felt that the main issue is the internal amenity of the residents of the buildings particularly the apartments on the lower levels facing the Highway and the lower level east facing units in the main tower. The proposed balcony louvres to the Highway sides are supported. The applicant should consider some privacy control measures on the balconies of the lower level east facing units in the main tower, even having regard to the privacy screening proposed on the open corridors opposite. These measures should also allow occupants to reduce potential noise penetration from the communal courtyard. The amenity of these lower apartments are only accepted by the Panel as the proposal involves a conversion of an existing building and the Panel notes that the architects have made significant efforts to maximise the amenity of the apartments.*

*There was still concern with the amount of parking provided on the ground level between the buildings. This parking should be limited to the north of the entrance to the tower only, with the other spaces to the south to be landscaped as an extension of the proposed public /private courtyard. The courtyard area would provide for a more pleasant outlook from the internal facing apartments above as well as providing a meeting area for residents and their visitors. The introduction of cars (particularly visitors) near the main pedestrian entry to the main building could not be supported. The Panel would prefer to see a slight shortage in parking and the provision of another car share space which would be useful for the number of dwellings proposed.*

*The Panel understood that the design of the tower is still developing, however the Panel considers the design of the eastern Highway building to be appropriate and well developed.*

*The following issues or additional details were identified by the Panel that need to be addressed by the architects:*

- Include seating alcove adjacent to lift lobby on residential floors.*
- Proposed meeting room at ground level would not be inviting as proposed. The suggested enclosed roof-top space would be preferable.*
- Elevator service to roof level should be provided. A small enclosed space should also be included as a part of the communal facilities, as well as for any formal meetings. This would have excellent views and good solar access.*
- Environmental initiatives beyond Basix requirement strongly encouraged, greening of all rooftops, grey water recycling etc.*
- Privacy issues on the southern elevation with windows on boundary.*

- *The tower should be simple and elegant fitting in with non residential buildings in the area. The Panel felt that the architects were on the right track with the design which is an improvement on the previous approval.*

### **Conclusion:**

*In summary, the Panel considered the bulk and size of the proposal to be generally acceptable having regard to the existing buildings and approved buildings.*

## **SUBMISSIONS**

The owners of adjoining and nearby properties and the Edward and Union Precinct Committees were notified of the proposed development from 22/10/10 to 5/11/10. A total of 25 submissions were received with the main issues raised being summarised as follows:-

### **Name & Address of Basis of Submissions**

#### **Submittor**

Shirley Abbott 61/7-17 Sinclair Street	<ul style="list-style-type: none"> <li>• Increased height</li> <li>• Increased overshadowing</li> <li>• Serviced apartments may lead to parties at New Year etc.</li> </ul>
Martin Griffiths 17 Hayberry Street, Crows Nest	<ul style="list-style-type: none"> <li>• Building is un-neighbourly and intrusive</li> <li>• Non compliance with height and building height plane controls;</li> <li>• Visual privacy, additional windows</li> <li>• Enlarged building footprint and height</li> <li>• Visual impact on Hayberry Precinct</li> </ul>
John and Christine Hargreaves 45/7-17 Sinclair Street	<ul style="list-style-type: none"> <li>• Increased height</li> <li>• Increased overshadowing</li> <li>• Privacy and noise</li> <li>• Addition of balconies to tower building</li> <li>• Occupants likely to be more transient due to many studio and 1 bed apartments</li> <li>• Traffic impacts</li> </ul>
Stephen Arnold 25 Sinclair Street	<ul style="list-style-type: none"> <li>• Overshadowing</li> <li>• Inaccurate plans and images in relation to 25 and 27 Sinclair Street</li> <li>• Solar access</li> <li>• Noise from occupants and balconies</li> <li>• Traffic</li> </ul>
GW Largent 37 Sinclair Street	<ul style="list-style-type: none"> <li>• Existing building an example of bad planning and proposed increase in bulk and balconies would make it worse</li> <li>• Privacy</li> <li>• Increased overshadowing</li> <li>• Traffic impacts</li> <li>• Existing commercial use has minimal impact</li> <li>• Safety during construction</li> <li>• Visual impact</li> </ul>

Denise Shaw  
35 Sinclair Street

- Privacy
- Addition of balconies to north and west elevations
- Existing commercial use has minimal impact
- Noise from cafe
- Increased noise from balconies and units
- Wind vibrations and structure borne noise
- Air conditioning noise
- Overdevelopment of tower building
- Inaccurate drawings/plans re dwellings in Sinclair Street.
- Non-compliance with SEPP 1
- Objection to excessive studio and 1 bedroom units geared towards renters
- Rubbish would be thrown from balconies
- Increased footprint at ground level western elevation and levels 1-4, and addition to north
- Demolition works will be a safety issue, with dust and falling debris
- Traffic and parking
- Fire safety issue due to demolition of pool (loss of static water supply)
- Fire safety hazard of timber deck on rooftop
- Noise from rooftop parties
- Suicides from rooftop
- Light intrusion from new dwellings
- Previous approval was for over 65s
- Current proposal will have greater impact due to unit mix and younger occupants
- Traffic and parking
- Building bulk
- Noise impact
- Not consistent with LEP

Andrew Allen  
45 Sinclair Street

- Traffic and parking
- Privacy
- Light intrusion from new dwellings
- Noise impact
- Health issues during demolition from dust and noise
- Increased bulk, building an eyesore

Penny FitzGerald & T.G.  
Chapman  
47 Sinclair Street

Ian Ibbett  
29 Sinclair Street

- Privacy
- Solar access
- Noise impact
- Traffic and parking
- Greater impact than retirement village
- Exceeds height and envelope of approved DA
- Solar access
- Additional building between Buildings 2 and 3
- Additional storey to Building 2
- Unit mix is unsatisfactory
- Location of air conditioning plant
- Traffic and parking

Elaine and Laurence Newman  
Unit 58 / 7-17 Sinclair Street



Guy Rotenberg  
25/7-17 Sinclair Street

- Privacy
- Privacy and noise impacts
- Solar access
- Traffic and parking
- Occupants likely to be young renters creating noise
- Property values and quality of life adversely affected
- Double glazing should be provided to adjoining properties

Paul & Pauline Ibbetson  
67/7-17 Sinclair Street

- Traffic and parking
- Impact from balconies and transient tenants, missiles thrown
- Despite reduced GFA, greater impact than previous DA

Marlene Watson  
8/19-23 Sinclair Street

- Privacy and noise impacts
- Safety due to objects thrown from balconies
- Solar access
- Construction noise and pollution
- Property value affected
- Open car park should not overlook rear of property
- Damage during construction

Rachel Fox  
27 Sinclair Street

- Privacy and noise impacts
- Solar access
- Safety due to objects thrown from balconies
- Façade only slight improvement over existing which resembles a 1960's nuclear power plant
- Height excessive and out of character
- Unit mix is unsatisfactory
- Likely high turnover of occupants
- Parking and traffic
- Construction noise, dust and traffic
- Solar access

Carol Pryor  
21/7-17 Sinclair Street

Nick and Philippa Perry  
1/198 Pacific Hwy  
(52 Rocklands Road)

- Property identified as 2 storey retail, not residential
- Solar access
- Privacy
- Traffic and parking
- Construction safety
- Height excessive
- Overdevelopment of site

Matt Robertson  
69/236 Pacific Highway  
Cindy Pollard  
65/236 Pacific Highway  
Petra Schmidt  
64/236 Pacific Highway

- Privacy and noise
- Privacy and noise
- traffic
- Excessive height
- Parking and traffic
- Inadequate public transport
- Should be higher quality sustainable structure
- Inadequate infrastructure
- View loss (harbour, Anzac Bridge, Star City, etc)
- Construction noise and dust for possibly years
- Health impacts

Peter Johnson PO Box 379, Crows Nest	<ul style="list-style-type: none"> <li>• Traffic</li> <li>• Redevelopment of upper levels inappropriate and non-compliant</li> <li>• Balconies will create a safety issue for neighbours</li> <li>• Approved DA has lapsed</li> </ul>
Wollstonecraft Precinct Philip Sarbutt Unit 64, 236 Pacific Highway	<ul style="list-style-type: none"> <li>• Parking and traffic</li> <li>• Did not expect the building to be redeveloped</li> <li>• Noise and disturbance from prolonged construction</li> <li>• Traffic</li> <li>• Property value</li> <li>• Privacy and noise from occupants</li> <li>• Reflected light and glare</li> <li>• </li> </ul>
Asa Linden 41 Rocklands Road	<ul style="list-style-type: none"> <li>• Prolonged construction noise and dust</li> <li>• Parking and traffic</li> <li>• Public transport unsatisfactory</li> <li>• Privacy</li> <li>• Solar access</li> <li>• Exceeds height limit</li> </ul>
Danko Pavlovic 60/41 Rocklands Road	<ul style="list-style-type: none"> <li>• Traffic and pedestrian safety</li> <li>• Increased density will increase noise</li> <li>• Parking</li> <li>• Pollution due to increased traffic</li> </ul>
Kevin Little 95/41 Rocklands Road	<ul style="list-style-type: none"> <li>• Excessive height, non-compliances</li> <li>• Parking and traffic</li> <li>• Construction noise, air pollution, dirt, loss of peace and privacy</li> <li>• Village atmosphere of Crows Nest will be affected</li> </ul>

## CONSIDERATION

The relevant matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

### NORTH SYDNEY LEP 2001

The application has been assessed against the relevant numeric controls in NSLEP 2001 as indicated in the following compliance table. More detailed comments with regard to the major issues are provided later in this report.

### Compliance Table

STATUTORY CONTROL – North Sydney Local Environmental Plan 2001				
Site Area – 3352.4m <sup>2</sup>	Existing	Proposed	Control	Complies
Mixed Use Zone				

<b>Building Height</b> (Cl. 29) (max):				
Building 1	7m	15.5m -16.7m	16m	NO*
Building 2	29.2m	29.2	16m	NO*
Building 3	57.5m	57.5m	16m	NO*
<b>Building Height Plane</b> (Cl. 30):				
Building 1	Within rear boundary plane	Within rear boundary plane	3.5m/45° plane	YES
Building 2	14m non compliance	14m non compliance	3.5m/45° plane	NO*
Building 3	46m non compliance	46m non compliance	3.5m/45° plane	NO*
<b>Floor Space</b> (Non residential - Cl. 31) (range)	-	0.42:1	0:5 - 2:1	NO*
<b>Design of development</b> (Cl.32) (applicable to new buildings)				
Mix of uses	Non-residential only	Residential and non-residential	Residential and non-residential	YES
Location of uses	All non-residential	Non-residential and 7 residential units at rear of ground level (in existing building 3)	For new buildings, non-residential at lower levels / no residential at ground level	YES
Entry location	N.A.	Residential entry separate	Residential entry separate	YES
Podium requirement	N.A.	5 storey podium to Pacific Highway	Building set behind a podium	YES

\*SEPP 1 objections lodged – discussed later in this report.

## DCP 2002 Compliance Table

DEVELOPMENT CONTROL PLAN 2002		
	<b>Complies</b>	<b>Comments</b>

<b>6.1 Function</b>		
<b>Diversity of activities, facilities, opportunities and services</b>	Yes	The proposed development incorporates a suitable diversity of uses. The proposal includes appropriate retail and non-residential uses on the ground and first floors of the development in accordance with the DCP. The proposal has incorporated an appropriate communal space for future residents within the development.
<b>Mixed residential population</b>	No*	The proposed dwelling yield of one unit per 82m <sup>2</sup> of residential GFA is greater than the DCP range of one unit per 100m <sup>2</sup> -150m <sup>2</sup> .  *This is a function of the proposed unit mix, as discussed below.
	Yes	The proposal includes 15.8%(32) x studio, 50.2%(102) x 1 bedroom, 33.5%(68) x 2 bedroom and 0.5%(1) x 3 bedroom. The application includes specialist advice on the appropriateness of the proposed unit mix, and concludes that there is considerable demand for studio, 1 bedroom and 1 bedroom plus study apartments on the lower north shore and that this demand will continue for a number of years, due to a number of factors. The proposed unit mix is considered acceptable in this instance.
		The development incorporates a total of 20 adaptable units in accordance with the requirements of the DCP.
<b>Maximum use of public transport</b>	Yes	Non-residential parking is limited to the ground level and the site has excellent access to public transport.
<b>6.2 Environmental Criteria</b>		
<b>Clean Air</b>	Yes	Satisfactory.
<b>Noise</b>	Yes (with conditions)	An Acoustic Report prepared by Arup was submitted with the application. The report indicates that the proposal is capable of satisfying the DCP noise mitigation requirements subject to construction recommendations.
<b>Acoustic Privacy</b>	Yes (with conditions)	As noted above, an Acoustic Report prepared by Arup was submitted with the application. The report indicates that subject to appropriate glazing and acoustic treatment, the proposal is

		capable of satisfying the DCP acoustic privacy requirements.
<b>Visual Privacy</b>	Yes (with conditions)	<p>Building separation distances to the north and west are detailed in Appendix J – Setback Plans, and range from 8.192m to 16.223m, measured horizontally.</p> <p>The proposal includes appropriate privacy mitigation measures, such as the use of translucent balcony glazing and privacy “shelves” located on the inside of the balcony balustrades of affected units at levels 1-4. Fixed horizontal louvres are proposed to the south facing windows of building 2 and a glass balustrade with planter box and landscaping behind prevents overlooking from the roof of building 2 onto the private open space of the dwelling at 1/198 Pacific Highway.</p> <p>The use of privacy screens and planter boxes/landscaping to roof terraces generally, combined with appropriately located windows results in an acceptable impact on the privacy of adjoining properties.</p> <p>Additional conditions will be applied in relation to the provision of translucent glazing to west facing balustrades on levels 1-4 in building 3, and the provision of privacy screening to the southern side of units 209, 309 and 409.</p>
<b>Wind Speed</b>	Yes	A Wind Impact Assessment has been provided. The report concludes that no additional mitigation works are required and that wind impact is acceptable.
<b>Awnings</b>	Yes	An appropriate awning is proposed along the Pacific Highway frontage.
<b>Solar access</b>	Yes	<p>Detailed shadow diagrams and an overshadowing impact assessment were submitted with the application. As there is an existing 17 storey building on the site, the main focus of the overshadowing analysis is the additional shadowing from the modified tower envelope, the additions to the north and south of the tower and the partial additional storey and bulk to Building 2.</p> <p>As demonstrated in the shadow</p>



		<p>diagrams, due to the orientation and siting of the subject and adjoining properties, additional overshadowing requiring analysis will predominantly occur between 9am and 12 noon at midwinter.</p> <p>In particular, the properties at 7-17, 19-23 and 25-27 Sinclair Street will be subject to additional overshadowing during this period. The extent of additional overshadowing depicted in the shadow diagrams is consistent with both the azimuth and altitude of the sun at midwinter (19° altitude/43° azimuth at 9am/3pm and 33° altitude/0° azimuth at noon) and the proposed additional building bulk.</p> <p>Buildings 1 and 2 will also overshadow the residential dwelling at No.1/198 Pacific Highway. The extent of additional overshadowing is, however, acceptable as the affected roof level deck will receive at least 2hrs of solar access between 9am and 11am, midwinter.</p> <p>It is considered that the proposal is satisfactory with regard to solar access, as the additional overshadowing will not reduce solar access to main internal living areas and principal private open spaces to less than 2hrs at midwinter, in accordance with section 6.3H. It is noted that the Residential Flat Design Code also provides for a minimum of 2hrs in dense urban areas.</p> <p>The proposal incorporates an appropriate communal roof-top garden above the podium for use by residents, which receives adequate solar access.</p>
<b>Views</b>	Yes	<p>The proposal does not adversely affect any existing views.</p> <p>A detailed analysis of view impact is included later in this report.</p>
<b>6.3 Quality built form</b>		
<b>Context</b>	Yes	Given the existing building and the approved and commenced DA, the

		proposal is considered to appropriately respond to the existing characteristics, opportunities and constraints of the site. The current building and façade design is preferable to the approved and commenced development. Both the approved and currently proposed developments are preferable to the existing development with regard to building design.
<b>Public spaces &amp; facilities</b>	Yes	Appropriate integration of the non-residential areas with the public domain is proposed.
<b>Skyline</b>	Yes	In the context of the existing building and the approved/commenced development, the proposed building skyline is appropriately designed and satisfactory. The rooftop structures are set back from the sides of the building.
<b>Streetscape</b>	Yes	Appropriate activation of the Pacific Highway frontage is achieved. The proposed removal of a driveway crossing would improve activation at the street frontage, and reduce potential for vehicle/pedestrian conflict. Additionally, the proposed retail uses have a nil setback to the street frontage.
<b>Setbacks</b>	Yes	Appropriate setbacks are proposed, within the context of the existing and approved buildings.
<b>Entrances and exits</b>	Yes	Satisfactory.
<b>Street frontage podium</b>	Yes	The proposed 5 storey podium (building 1) is consistent with the 16m height limit and is an appropriate base for the tower element.
<b>Building design</b>	Yes	The proposed building design is satisfactory, with the podium built to the front boundary and the building façades contributing positively to the streetscape and character of the area.
	No	The proposed retail area at ground floor level has a 3.0m ceiling height and the serviced apartments and residential levels have 2.7m ceiling heights. While not satisfying the 3.3 metre ground floor requirement, the proposed height is satisfactory and would allow a range of retail uses.
<b>6.4 Quality urban environment</b>		
<b>High quality residential</b>	No	A number of the proposed studio and

<p><b>accommodation</b></p>	<p>No</p>	<p>one bedroom units are marginally below the recommended minimum size. 11 out of 32 studios are 1m<sup>2</sup> below the required 40m<sup>2</sup>, and 45 out of 101 one bedroom units are up to 7.15m<sup>2</sup> below the DCP required 55m<sup>2</sup>. However, the RFDC requirement for one bedroom units is 50m<sup>2</sup>, and on this basis only 3 out of 101 units are below the requirement, by 2.15m<sup>2</sup>. The units are considered satisfactory with regard to internal amenity and the proposal is considered satisfactory with regard to minimum unit sizes despite minor non-compliance.</p> <p>56.9% of units receive 2hrs solar access at midwinter between 9am and 3pm.</p> <p>When this period is extended from 7.30am to 4.30pm, 89% of units achieve 2hrs. This approach is considered reasonable in the circumstances given the unusual tower height which will result in a large number of units receiving solar access beyond the usual 9am to 3pm time span. Due to the anomalous height of the building, it is unlikely that future development would adversely affect the proposed solar access between 7.30am and 4.30pm. Additionally, it is noted that AMCORD provides for consideration of solar access between the period of 9am to 5pm.</p> <p>In relation to energy efficiency, a valid BASIX Certificate has been provided.</p> <p>With regard to all of the above considerations, the proposed solar access is considered acceptable in the circumstances.</p> <p>No</p> <p>The common corridors to buildings 2 and 3 have varying widths, from 2.355m in front of the lifts, reducing to a minimum of 1.4m in front of apartment entries. Building 1 has uniform 2m wide corridors.</p> <p>The building 2 and 3 corridors are wider</p>
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		<p>than the required 2m width at the lift lobby area and reduce in width further away from the lift core. In relation to circulation and furniture transport, this allows for improved access at the lift entry while providing adequate corridor width.</p> <p>No</p> <p>Levels 1-4 in building 3 have up to 16 units accessed from a single corridor, which is acceptable due to the constraints of the existing building structure. All other levels have no more than 8 units per corridor, being below the maximum of 10 per corridor.</p> <p>Yes</p> <p>Conventional cross-ventilation to 51.5% of units is proposed. An additional 19.8% of units will have cross-ventilation via the use of automatic mechanically operated louvers (based on prevailing wind pressure) at the ends of the corridor and a grille over the unit entry door and into the unit ceiling cavity. Computer modeling indicates that units can draw available light winds occurring 70% of the time to achieve effective cross-flow ventilation. On this basis, a total of 71.3% of units will be cross ventilated.</p> <p>No</p> <p>3 single aspect units have a depth slightly greater than 8m (8.9m) which is satisfactory having regard to the unit configurations.</p>
<b>Balconies</b>	<p>No</p> <p>Yes</p>	<p>198 of 203 units have balconies that meet the 2m minimum depth control and 190 units meet the 8m<sup>2</sup> minimum area requirement. The applicant has indicated that all units also have access to the ground floor and rooftop communal open space. Given the minor extent of non-compliance, the proposal is considered satisfactory.</p> <p>Balconies do not extend within the prescribed setback above the podium.</p>
<b>Accessibility</b>	Yes	<p>Although no accessibility report has been submitted with the application, lift access is proposed to all levels and level access is provided from the street entrance of the building, with 20</p>

		adaptable apartments provided.
<b>Safety and security</b>	Yes	Satisfactory.
<b>Car parking</b>	Yes	<p>The proposal provides a total of 150 parking spaces, comprising 83 single spaces, 45 shuffle spaces, 16 vertical stacker spaces and 6 tandem spaces. One space is allocated to a car share service (Go Get). 8 of the single spaces are accessible (although only 2 accessible spaces are required.)</p> <p>As advised by Councils' Traffic Engineer, the proposal generally complies with the DCP parking requirements and is acceptable in this regard, subject to the provision of a loading bay with a vertical clearance of 4.5m.</p>
<b>Bicycle parking</b>	Yes	Satisfactory.
<b>Vehicular access</b>	Yes	The two existing crossings will be reduced to a single crossing, which is an improvement and is satisfactory.
<b>Garbage Storage</b>	No	As addressed previously within this report within the Waste Management referral comments, the proposed residential garbage storage area is not provided in an appropriate location to meet the requirements of Council. It is proposed to use a private waste collection service. However, apartment owners will be subject to the standard Council waste levy in addition to the cost of the private service. A suitable condition will be applied.
<b>Commercial garbage storage</b>	Yes	Garbage storage for the non-residential uses will be located within the basement and will be collected by a private contractor.
<b>Site facilities</b>	Yes	Satisfactory.
<b>6.5 Efficient use and management of resources</b>		
<b>Energy efficiency</b>	Yes	A BASIX certificate for the residential component of the development has submitted and an appropriate condition can be imposed to ensure compliance with these commitments.

## **NORTH SYDNEY LEP 2001**

### **1. Permissibility within the zone:**

The subject site is zoned Mixed Use pursuant to NSLEP 2001. Development for the purposes of the construction of a mixed use building is permissible with the consent of



Council. The proposed uses are also permissible under the zoning with Council consent.

## **2. Objectives of the zone**

The particular objectives of the Mixed Use zone, as stated in clause 14 of NSLEP 2001, are:

- “(a) encourage a diverse range of living, employment, recreational and social opportunities, which do not adversely affect the amenity of residential areas, and*
- (b) create interesting and vibrant neighbourhood centres with safe, high quality urban environments with residential amenity, and*
- (c) maintain existing commercial space and allow for residential development in mixed use buildings with non-residential uses at the lower levels and residential above, and*
- (d) promote affordable housing.”*

The proposed mixed use development is consistent with the objectives of the zone.

## **3. Building Height**

Clause 29(2) of NSLEP 2001 states that:

*“A building must not be erected in the mixed use zone in excess of the height shown on the map.”*

Pursuant to Map 2 – ‘Floor Space Ratios, Heights and Reservations’ of NSLEP2001, a maximum height of 16 metres is applicable to the subject site.

The tower element of the proposed development (existing, approved and proposed) has a maximum height of 57.5 metres, being 41.5m above the height limit. The new podium would extend to a maximum height of 16.7 metres being in part 700mm above the height limit, and building 2 (existing, approved and proposed) has a height of 29.2m, being 13.2m above the height limit.

A SEPP 1 objection has been submitted with the application and is attached to this report. The SEPP 1 objection discusses in detail how the proposal satisfies the objectives of the control, despite non-compliance with the height limit. The SEPP 1 objection is considered to be well founded and the proposed building height is considered acceptable in the circumstances.

## **4. Building Height Plane**

Clause 30(2) of NSLEP 2001 states:

*“A building must not be erected in the mixed use zone, on land that adjoins or is adjacent to land within a residential or open space zone, if any part of the building will exceed a building height plane:*

- (a) commencing 1.8 metres above existing ground level, and projected at an angle of 45 degrees, at all points from each of the boundaries of the site that adjoin land within the residential A1, A2, B, D or F zone or open space zone, or ...*

*(c) commencing 3.5 metres above existing ground level, and projected at an angle of 45 degrees, at all points from each of the boundaries of the site that adjoin land within the residential C zone”*

The site is subject to clauses 30(2)(a) and (c) of NSLEP 2001, in relation to building height plane controls. The adjoining properties at Nos.19-29 Sinclair Street are zoned Residential B (1.8m/45° plane) and Nos. 7-17 Sinclair Street are zoned Residential C (3.6m/45° plane).

The existing, approved and proposed developments breach the applicable building height plane to a substantial degree.

A SEPP 1 objection has been submitted with the application and is attached to this report. The SEPP 1 objection discusses in detail how the proposal satisfies the objectives of the building height plane control, despite non-compliance with the standard. The SEPP 1 objection is considered to be well founded and the proposed building height plane breaches are considered satisfactory in the circumstances.

## **5. Floor Space**

Clause 31(2) of NSLEP 2001 states:

*“A building must not be erected in the mixed use zone if the floor space ratio of the part of the building to be used for non-residential purposes is not within the range specified on the map.”*

Pursuant to Map 2 – ‘Floor Space Ratios, Heights and Reservations’ of NSLEP 2001, the non-residential component for a development on this site must have a floor space ratio (FSR) of between 0:5 and 2:1. The proposed development has a non-residential FSR of 0.42:1, comprising retail, café and mixed use, serviced apartments and a car share facility.

A SEPP 1 objection has been submitted with the application and is attached to this report. The SEPP 1 objection discusses in detail how the proposal satisfies the objectives of the FSR control, despite non-compliance with the standard. The SEPP 1 objection is considered to be well founded and the proposed FSR is considered satisfactory in the circumstances.

## **6. Design of Development**

Clause 32 of NSLEP 2001 provides a number of objectives and controls with regard to the design of development in the mixed-use zone. The objectives seek to promote development containing a mix of residential and non-residential uses, the protection of amenity to residents and the concentration of the non-residential components of any development in the mixed-use zone at the lower levels of a building.

The proposal is considered to be consistent with the design objectives, which specifically relate to new buildings.

## **6. Excavation**

Clause 39 of NSLEP 2001 provides a number of objectives and controls with regard to minimising excavation and ensuring land stability and the structural integrity of

neighbouring properties.

In this instance, the proposal retains the two existing basement levels and does not propose any further excavation.

## **7. Heritage**

Council's Conservation Planner has raised no concerns with regard to the impact of the proposal on nearby heritage items. The proposal is therefore considered to satisfy the provisions of Clause 50 (*Development in the vicinity of heritage items*) of NSLEP2001.

### **SEPP No.55 (Remediation of Land) and Contaminated Land Management Issues**

The subject site has been considered in light of the Contaminated Lands Management Act and it is considered that as the site based on the previous uses of the site, contamination is unlikely to be an issue.

### **SEPP 65 – Design Quality of Residential Flat Development**

State Environmental Planning Policy No. 65 aims to improve the design quality of residential flat development in New South Wales by recognising that the design quality of residential flat development is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design. The SEPP aims to:-

- (a) *to ensure that it contributes to the sustainable development of New South Wales:*
  - (i) *by providing sustainable housing in social and environmental terms, and*
  - (ii) *by being a long-term asset to its neighbourhood, and*
  - (iii) *by achieving the urban planning policies for its regional and local contexts, and*
- (b) *to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and*
- (c) *to better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities, and*
- (d) *to maximise amenity, safety and security for the benefit of its occupants and the wider community, and*
- (e) *to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions.*

The primary design principles being Context, Scale, Built Form, Density, Resource Energy & Water Efficiency, Landscape, Amenity, Safety & Security, Social Dimensions, Aesthetics are discussed as follows:

#### *Principles 1, 2, and 3: Context, Scale and Built Form:*

The context, scale and built form is generally consistent with the existing and approved developments on the site, with the exception of building 1 which is proposed to be 5 storeys in height, consistent with the height limit on Pacific Highway.

#### *Principle 4: Density*

There is no density control applicable to the overall development. The proposed residential density is considered satisfactory.

*Principle 5: Resource, Energy and Water Efficiency*

A BASIX certificate for the proposal is submitted under separate cover which outlines all energy and water saving commitments.

*Principle 6: Landscaping*

The communal courtyard and rooftop garden, private terraces and balconies, and planter boxes will be landscaped, providing a satisfactory level of plantings.

*Principle 7: Amenity*

The scheme is satisfactory with regard to room dimensions and configuration, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas.

*Principle 8: Safety and Security*

Overlooking of public and communal spaces has been provided: balconies and living areas in building 1 are oriented to look towards the street front. Entrance ways and ground areas will be well lit and security systems provided to all vehicle and pedestrian entrances.

*Principle 9: Social Dimensions*

The proposal will result in significant upgrading of a relatively unattractive development and is satisfactory with regard to social dimensions.

*Principle 10: Aesthetics*

The façade treatment, composition of building elements and use of modern materials and finishes will result in a high quality external appearance of an attractively modulated residential tower above an appropriate podium.

*Residential Flat Design Code 2002*

The controls and objectives of the code are similar to many of the controls included in Council's Local Environmental Plan and Development Control Plan 2002 that has been thoroughly assessed above.

**SEPP (Building Sustainability Index: BASIX) 2004**

A suitable BASIX Certificate has been submitted with the application. In the event of approval, a condition would be imposed requiring compliance with the commitments contained in the certificate.

**SEPP 2007 (Infrastructure)**

SEPP2007 (Infrastructure), among other things, establishes a framework for certain types of development to be referred to the Traffic Authority for consideration.

Given the nature of the proposed development and number of parking spaces proposed, the proposal is within the categories that require referral under Clause 104(3) of this SEPP. As noted previously in this report, the RTA has considered the proposed development and grants concurrence subject to a number of conditions.\*\*

**SREP (Sydney Harbour Catchments) 2005**

The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP. The site, however, is not located close to the foreshore and the application is considered acceptable with regard to the aims and objectives of the SREP.

### **Draft NSLEP 2009**

The Draft North Sydney Local Environmental Plan 2009 is currently on public exhibition from 20 January 2011 to 3 March 2011, following certification of the plan by the Director-General of the Department of Planning. It is therefore a matter for consideration under S.79C of the Environmental Planning and Assessment Act 1979. However at this stage little weight can be given to the plan since the final adoption of the plan is neither imminent nor certain.

The provisions of the draft plan have been considered in relation to the subject application. Draft LEP 2009 is the comprehensive planning instrument for the whole of Council's area which has been prepared in response to the planning reforms initiated by the NSW state government.

The provisions of the Draft Plan largely reflect and carry over the existing planning objectives, strategies and controls in the current NS LEP 2001 in relation to this site, including the mixed use zoning, minimum non-residential FSR of 0.5:1 and the 16m height limit. Building height plane controls have been moved to the Draft DCP.

The proposal is satisfactory with regard to Draft NSLEP 2009.

### **Suspensions of Covenants, agreements and similar instruments**

Council is unaware of any covenants, agreements or the like which may be affected by this application.

### **DEVELOPMENT CONTROL PLAN 2002**

The application has been assessed against the relevant controls in DCP2002 as indicated in the foregoing DCP 2002 compliance table.

### **Relevant Planning Area (Waverton Wollstonecraft Planning Area)**

In relation to built form, the Waverton Wollstonecraft Planning Area Character Statement states the following:

#### ***Built form***

- *any development that occurs reflects and reinforces the existing distinctive built form/landscape areas and distribution of accommodation types.*
- *cohesiveness throughout the area and its many built forms is achieved through landscaping and street tree planting.*
- *major views from lookouts and other vantage points are not obscured by structures or landscaping.*
- *man-made features such as the railway cutting at Waverton Station and the tank cuttings on the BP site are maintained as local landmarks important to the community.*



Additionally, the Upper Slopes character statement in relation to building typology states:

**Function**

**a. Building typology**

- i. Apartment buildings on garden lots, according to zone*
- ii. Attached dwellings, according to zone*
- iii. Detached houses and duplexes particularly in the Balfour and Carlyle Street area*
- iv. Rows of semi-detached housing in Sinclair Street*
- v. Some residential growth in the form of attached dwellings and apartments.*
- vi. Hospital development on the Mater Hospital land or school development on the Bradfield College land is residential in scale, similar to attached dwellings and smaller apartment buildings - with bulk and scale of larger buildings broken down into a number of elements.*

With specific regard to the existing and approved developments, the proposal is not inconsistent with the above provisions.

**SECTION 94 CONTRIBUTIONS**

Section 94 Contributions in accordance with Council's S94 plan are applicable should the Panel consider the development application worthy of approval. The contribution is based on 1,408m<sup>2</sup> of non-residential space plus a residential component of 32 x studios; 102 x 1 bed; 68 x 2 bed; 1 x 3 bed, with a credit for existing non-residential GFA.

<b>The total contribution is:</b>	<b>\$1,612,836.44</b>
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**APPLICABLE REGULATIONS**

Clauses 92-94 of the EPA Regulation 2000 require that Council take into consideration Australian standard AS 2601-1991: *the demolition of structures*, as in force at 1 July 1993. As partial demolition of the existing structures are proposed, a suitable condition should be imposed.

**DESIGN & MATERIALS**

The design and materials of the buildings have been assessed as being acceptable.

**ALL LIKELY IMPACTS OF THE DEVELOPMENT**

All likely impacts of the proposed development have been considered within the context of this report.

**ENVIRONMENTAL APPRAISAL**

**CONSIDERED**

- |  |     |
|--|-----|
| 1. Statutory Controls  | Yes |
| 2. Policy Controls   | Yes |
| 3. Design in relation to existing building and natural environment | Yes |

4.	Landscaping/Open Space Provision	Yes
5.	Traffic generation and Carparking provision	Yes
6.	Loading and Servicing facilities	Yes
7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8.	Site Management Issues	Yes
9.	All relevant S79C considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

#### **CLAUSE 14 NSLEP 2001**

##### ***Consistency With The Aims Of Plan, Zone Objectives And Desired Character***

The provisions of Clause 14 of NSLEP 2001 have been examined.

It is considered that the development is consistent with the specific aims of the plan and the objectives of the zone and of the controls.

As such, consent to the development may be granted.

#### **SUBMITTORS CONCERNS**

Twenty four (24) submissions were received in relation to the proposed development raising concerns including building height and bulk, privacy, overshadowing, traffic, parking, visual impact, construction impacts, and a number of other issues. These issues have been mostly addressed within this report. Additional relevant issues raised are addressed as follows:

- Occupants likely to be more transient and have greater impact due to many studio and 1 bed apartments

##### **Planning comment:**

This concern relates to the nature and behaviour of the occupants and suggests that the occupants of studio and 1 bedroom apartments are more likely to have an adverse impact on surrounding properties. As the apartments are for residential use only, there is no town planning based reason to assume that normal use of the studio and 1 bedroom apartments will have any greater adverse impact on surrounding properties than 2 or 3 bedroom units. The claim that rubbish would be thrown from balconies should not be given determinative weight.

- Demolition works will create a safety issue, with dust and falling debris

##### **Planning comment:**

While it is acknowledged that demolition and construction works, as with any redevelopment, could temporarily affect adjoining properties with regard to dust and noise, suitable conditions will be imposed if consent is granted which will provide guidelines to avoid adverse impacts on surrounding properties. Safety measures will

need to be implemented during the demolition and construction stages to avoid the risk of damage to persons or property.

- Fire safety issues (loss of pool, proposed timber deck)

**Planning comment:**

The proposed development is required to meet the BCA requirements with regard to fire safety and is therefore satisfactory in this regard.

- Noise from rooftop parties, suicides from rooftop, noise from units.

**Planning comment:**

The accessible part of the rooftop area is 17 storeys above ground level and set back from all edges of the roof level, with a 1.8m high glass screen. The use of the building for residential purposes is unlikely to generate adverse noise impacts on surrounding properties. The claimed issue of potential suicides from the rooftop should not be given determinative weight.

- Light intrusion from new dwellings

**Planning comment:**

With regard to the separation distances between the subject and adjoining/surrounding dwellings and the relative levels of the proposed and adjoining dwellings, the proposed development is considered satisfactory with regard to light intrusion, particularly with regard to the residential use of the site.

- Impact on property value

**Planning comment:**

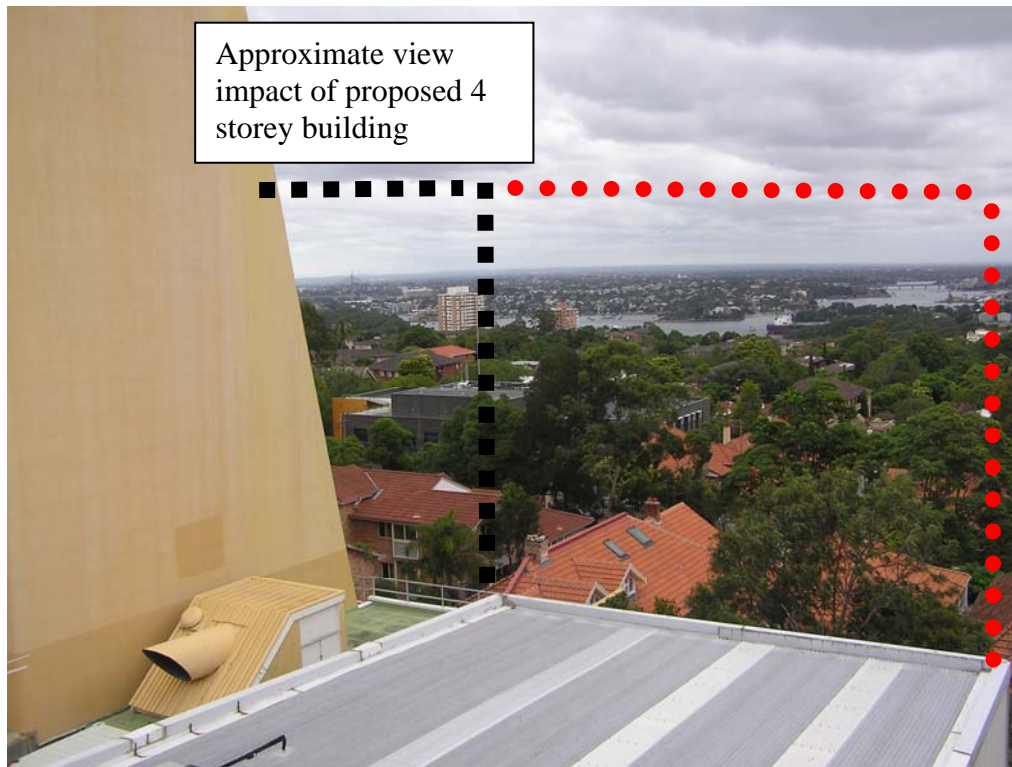
Claimed impact on property value is not a valid matter for consideration under s.79C of the Environmental Planning and Assessment Act, 1979.

- View loss

**Planning comment:**

The proposal will affect views from No.64/236 Pacific Highway. The Land and Environment Court planning principle on view loss provides a useful test for the assessment of view loss to No.64/236 Pacific Highway. The views to be affected include distant views of the harbour and foreshores, the Anzac Bridge and Star City.

Approximate view impact of future 16m high development of No.222 Pacific Hwy
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*Photo provided by owner – taken from Level 7 balcony looking across adjoining sites, with approximate view impact superimposed*

The affected views are obtained from the bedrooms, living area and balcony. The views are obtained across the side boundary, generally in a southerly direction, over the existing 2 storey building at No.222 Pacific Highway and then over the northern part of subject site.

The extent of the impact is considered to be moderate, as there are substantial remaining views available from the property in a westerly direction, generally being the orientation of the dwelling. It should be noted that any future development of No.222 Pacific Highway would have much greater impact on views, as discussed below.

The proposed part of the development causing the view loss complies with the height control of 16m, but in part does not comply with the building height plane control. However, the adjoining building at No.222 Pacific Highway is currently only 2 storeys in height and any redevelopment of No.222 approaching the 16m height limit would have a far greater impact on the subject views than the current proposal, as indicated on the above photo. It is noted that Draft NSLEP 2009 confirms the mixed use zoning and 16m height limit for the subject sites.

With regard to the above test, and given that the views are obtained across 2 adjacent properties with any future development of the adjoining property likely to have a significantly greater impact than the current proposal, the impact on view loss is considered acceptable with regard to all relevant circumstances.

- Approved DA has lapsed / approved DA was for retirement village

#### **Planning comment:**

The approved development application (DA274/02) is for a mixed use development and satisfactory evidence has been provided that the development has been physically

commenced.

## **CONCLUSION**

The application has been assessed against the relevant statutory controls and with regard to the existing and approved developments. The SEPP 1 objections are well founded and can be supported. The application was referred to Council's Design Excellence Panel for comment. Some minor modifications were suggested and there was support for the proposal by the DEP as an improvement on the approved and commenced development, despite minor non compliances with a number of amenity standards. The applicant has responded to the DEP suggestions and remaining issues can be addressed by conditions. The application is recommended for favourable consideration by the Panel.

## **RECOMMENDATION**

PURSUANT TO SECTION 80 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

**THAT**, subject to adequate loading bay clearance being achieved and the subsequent granting of concurrence by the RTA, the Joint Regional Planning Panel, as the consent authority, assume the concurrence of the Director General of the Department of Planning and invoke the provisions of SEPP 1 with regard to Clauses 29(2), 30(2) and 31(2) and grant consent to 2010SYE088 - Development Application No.404/10, subject to the attached conditions.

**George Youhanna**  
**EXECUTIVE PLANNER**

**Stephen Beattie**  
**MANAGER DEVELOPMENT SERVICES**

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