

JRPP No:	2012SYE086
DA No:	DA 272/12
LGA:	North Sydney
PROPOSED DEVELOPMENT:	8-10 Berry Street, North Sydney Alterations and additions to educational establishment involving three additional floors, internal reconfiguration, reduction of parking and changing vehicle access to rear
APPLICANT:	ACU C/- Hassell
SUBMISSIONS:	Three (3)
RECOMMENDATION	Approval with conditions
REPORT BY:	George Youhanna, Executive Planner North Sydney Council

Assessment Report and Recommendation

Attached: SEPP 1 objections (Building height plane, non-residential FSR, site area)

EXECUTIVE SUMMARY

The subject development application seeks approval for substantial alterations and additions to the existing educational establishment building at 8-10 Berry Street, North Sydney, including the addition of three new storeys comprising 420.6m² (Level 4), 474.1m² (Level 5) and 459.6m² (Level 6), refurbishment of the existing building to incorporate new facilities, relocation of vehicular access through the right of way over No.12-16 Berry Street (via Doohat Lane), a new accessible pedestrian access off Berry Street, a reduction of 14 car spaces in the basement level (reduced to 4 spaces), and use of the additional floor space as an educational establishment. It is also proposed to erect building identification signs for the Australian Catholic University (ACU) on the western and southern facades, consisting of "ACU" and the ACU Logo. The signage will not be illuminated. The proposed works have a CIV of \$10.1 million and the application is Crown Development under the Environmental Planning and Assessment Regulation 2000.

The subject site is Lots 8 and 9 DP 237104, and is known as 8-10 Berry Street, North Sydney. Existing development on the site comprises a 3 level brick and concrete building addressing Berry Street, which is owned by the ACU. The site has a total area of 626m². The ACU North Sydney Campus consists of one main campus on Edward Street with other accommodation within buildings on Berry and Napier Street, as well as Mount Street and Pacific Highway.

The subject application was notified and advertised in accordance with North Sydney DCP 2002 and three submissions were received, two originating from the adjoining mixed use development currently under construction at No.12-16 Berry Street. The proposal was considered by the North Sydney Design Excellence Panel on two occasions prior to DA lodgement.

The proposal seeks to expand the existing educational establishment use and is considered an appropriate development on the subject site, in the context of the North Sydney CBD and the existing ACU Campus. The proposed building is considered satisfactory with regard to impact on surrounding development, including the mixed use

building under construction at No.12-16 Berry Street. The SEPP 1 objections to the building height plane, non-residential FSR and minimum site area are considered to be well founded and are supported.

The development application is considered to be satisfactory and is recommended for **approval** subject to conditions.

LOCATION MAP

† Property/Applicant ● Submitters - Properties Notified

DESCRIPTION OF PROPOSAL

The subject development application seeks approval for alterations and additions to the existing educational establishment building at 8-10 Berry Street, North Sydney, including the addition of three new storeys comprising 420.6m² (Level 4), 474.1m² (Level 5) and 459.6m² (Level 6) to a height of RL104.15 (main building) and RL106.00 (top of plant), refurbishment of the existing building to incorporate new facilities, alterations to vehicular access through the car park of 12-16 Berry Street, via Doohat Lane, a new accessible pedestrian access off Berry Street, a reduction of 14 car spaces in the basement level (leaving 4 spaces), and use of the additional floor space as an educational establishment. It is also proposed to erect building identification signs for the Australian Catholic University (ACU) on the western and southern facades, consisting of "ACU" and the ACU Logo. The signage will not be illuminated. The proposed works have a CIV of \$10.1 million and the application is Crown Development under the Environmental Planning and Assessment Regulation 2000.

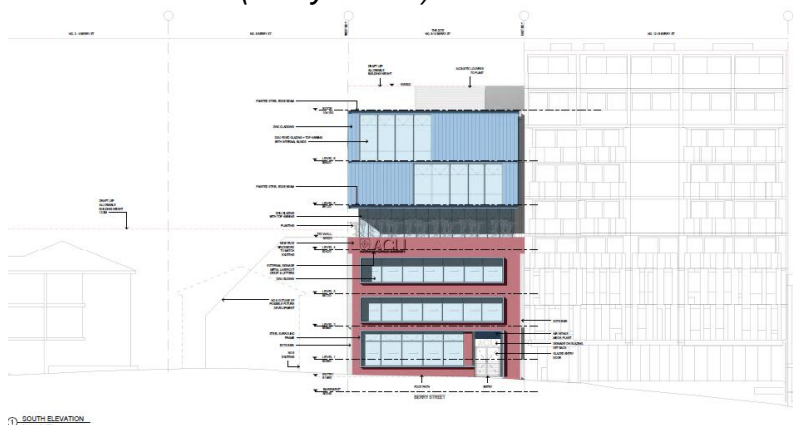
Building and use

The proposed development incorporates a mixture of flexible teaching facilities and associated allied health services facilities. The allied health services facilities have been positioned on the lower floors to activate the street frontage. The proposed development introduces a podium height that will address the streetscape and form a transition between the neighbouring developments. The building form is designed to provide a transition in height and scale between the commercial developments to the east and the residential developments to the west.

The MacKillop Community Centre will be located on the ground floor and the proposed clinic will be a 'university teaching clinic' associated with the tertiary education activities of ACU. The primary purpose of the clinic will be to provide clinical education to the allied health students of ACU and allied health services will be available from the clinic to members of the community. The services will be operated by staff and students, under the supervision by accredited and registered practitioners. The clinic operators will provide either a free service and/or bulk bill to Medicare. It is noted that the MacKillop Community Centre was originally approved as part of DA329/11.

A cafe is proposed on Level 6, serving coffee and pre-made sandwiches with the food being prepared in the main campus cafeteria.

South elevation (Berry Street)



Perspective: Berry Street (South-west corner)



Perspective: North-west corner



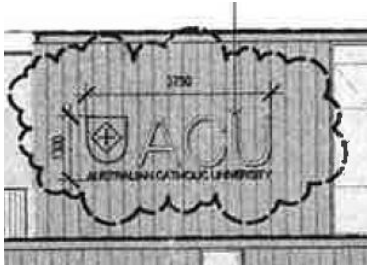
Parking and access

The pedestrian entry to the building will be modified to an accessible entry, replacing the existing driveway entry of Berry Street. The proposal will retain 4 car parking spaces within the basement level of the building (currently 18 spaces) and this parking will be reserved for staff only, with many of the staff continuing to park on the main campus at 40 Edward Street. Vehicular access is proposed to be gained via an existing right of way from the north eastern corner of the site across Nos. 12-16 Berry Street, to Doohat Lane.

Signage

The proposal seeks approval for building identification signage for the Australian Catholic University, including on the western facade at level 6 and the southern facade at level 4. The signage is proposed to be laser cut metal and will consist of

the university name and the ACU Logo. The signs are not proposed to be illuminated.



Materials

The proposed development will including the following materials:

- Levels 1-3: Double Brick Facade
- Levels 1-6: High performance double glazing
- Level 4 Western and North Facade: High Performance double glazing with interstitial blinds, and
- Levels 5-6: Pre-weathered Zinc Cladding.

STATUTORY CONTROLS

North Sydney LEP 2001

- Zoning – Mixed Use
- Item of Heritage – No
- In Vicinity of Item of Heritage – Yes (49-67Edward Street)
- Conservation Area – No
- FSBL – No

Environmental Planning & Assessment Act 1979

SEPP No. 1 Objection

SEPP (Infrastructure) 2007

SEPP No. 55 - Contaminated Lands

SEPP 64 – Advertising and Signage

SREP (Sydney Harbour Catchment) 2005

Draft North Sydney LEP 2012

Local Development

POLICY CONTROLS

DCP 2002

DESCRIPTION OF LOCALITY

The site is located on the northern side of Berry Street, between Edward Street and the Pacific Highway. The site has a primary frontage of 14.63m to Berry Street and a depth of 43.08m to 43.265m, with a total area of 626m². The site is located on the western periphery of the North Sydney CBD and is occupied by an existing three storey building, constructed of brick and concrete with basement car parking for 18 vehicles. The building is set back from its northern boundary by 2.027m and the existing floor space of the building is 1668m². Pedestrian and vehicle access is from Berry Street. The site slopes from west to east and has a building height on the western boundary of 9.8m and on the eastern boundary of 10.3m. There is an existing right of way from the north eastern corner of the site across Nos. 12-16 Berry Street, to Doohat Lane.

The site is approximately 650m from North Sydney railway station and the main (Mackillop) Campus is approximately 150m to the west. The site is also within an area west of the Pacific Highway that Council has identified as an emerging education precinct. No master plan exists for the precinct at this time, however, both the community and Council see this as a desirable objective.



The locality is characterised by a mix of uses comprising predominantly dwellings to the west, mixed use to the south and north and commercial uses to the north, east and south. Photos of the site and surrounds are shown below:

Subject site:



Adjoining site at No.6 Berry Street:



Adjoining site at No.12-16 Berry Street (under construction):



Existing development opposite on Berry Street:



RELEVANT HISTORY

Other applications on No.8-10 Berry Street

On 31 January 2012, Council granted approval to DA329/11 for a change of use from commercial to an educational establishment and clinic, with associated demolition works, fire upgrade, and alterations and additions on the subject site. The development consent has been commenced, as advised by the applicant.

Subject application

The subject DA was lodged on 17 August 2012 and additional information in relation to the use of the building, signage, garbage collection and parking was requested by Council 12/9/12.

Council received additional information on 26/9/12, 25/10/12, 26/10/12 and 5/11/12.

REFERRALS

Design Excellence Panel

The proposal was considered by the DEP on two occasions prior to lodgement, being 10 April 2012 and 3 July 2012. The following comments were provided:

A site inspection was previously carried out by the Panel and Council Staff prior to the 10 April 2012 meeting.

The site is located on the northern side of Berry Street between Edward Street to the west and the Pacific Highway to the east. The site is generally rectangular in shape, with a frontage of 14.63m to Berry Street, depth of 43.26m, and site area of 626m².

The site is occupied by a 3-storey brick commercial building (c.1969), with basement parking for 18 cars accessed from Berry Street. The building is rectangular in plan, constructed around a central lightwell, and generally built to boundary with the exception of a rear setback of approximately 2m.

The locality is characterised by a mix of commercial and residential uses. Adjoining the site to the west are a dwelling and low-rise apartments. To the east are commercial office buildings (with a recent approval for mixed use development. Opposite the site on Berry Street are multi-storey mixed use buildings. Generally low-rise dwellings are located to the north of the site, on Doohat Avenue.

The site is zoned Mixed Use and is on the boundary of a Residential C zone to the north and west. A building height plane applies at both these boundaries.

The proposal involves additions and alterations to the building involving an additional three levels to the building and moving the vehicle access from Berry Street to a right of way on the eastern boundary towards the rear. Estimated cost of development is likely to be > \$5m which would require determination of the development application by JRPP.

The architects were available for questions and discussion with the Panel. A model was produced by the architects that the Panel found to be most helpful in explaining the

proposal.

Background

The original concept design was previously considered by the Panel on 10 April 2012 and the following advice was provided:

The Panel considers a contextual study is required to drive the design response; the study should have regard to the site's location at the interface between the Mixed Use and Residential C zone. The proposed institutional/health use will be located between residential development to the west and the approved mixed use (DA494/10) at No's.12-16 Berry Street. An appropriate built form transition between the three sites should be examined. This would include future building heights and the potential location of courtyards and rear setbacks. Architectural drawings should provide details of the approved DA494/10 at No's. 12-16 Berry Street, and the development potential of adjoining site to the west at No.6 Berry Street. Any proposed building must be transitional in scale.

The non-compliances with Building Height Plane controls must address impacts on neighbours, in particular, view impacts, overshadowing and privacy.

The Panel suggested that privacy impacts could be reduced by the use of deep horizontal or appropriately angled fixed louvres, which would also be useful for sunshading at the northern and western elevations.

The Panel felt that the building's vertical proportions are problematic, as they are approximately half/half in terms of new to existing, The proposed mansard roof/wall is a monumental form due to it being continuous over 3 storeys. The Panel recommends that the vertical proportions be re-considered in terms of the building's relationship to future adjoining building heights and the possibility of creating proportions approximating two-thirds/one-third. Also, a lightweight "lantern" addition in the top two floors could assist with structural adequacy of existing building to support new loads.

The Panel is concerned that the proposal will be excessively overbearing on the apartments in the southern building of the approved DA494/10 at No's. 12-16 Berry Street. It is recommended that the internal planning of the proposed development aim to mitigate this potential impact by possibly setting back from the boundary and reconsidering the placement of service functions.

The concept of the two internal light-wells is attractive, however they appear to restrict flexibility and are likely to create noise problems. Clarification of uses within the building is required to ensure that the design response is appropriate in terms of student circulation, teaching spaces, facilities, clinic spaces, etc. BCA issues need to be addressed as part of design process in order to work out the location of core, services, fire stairs and circulation, drenchers and the like

The car parking levels and ramp needs to be clearly shown in relation to the levels of right of carriageway through No's.12-16 Berry Street.

The Panel recommends green initiatives that could include a green wall at the rear boundary to soften the facade and reduce impacts on adjoining residential uses, and natural ventilation of services and toilets at upper level.

The Panel would welcome the proponent to present an amended design response having regard to the above comments.

Panel's Comments

The Panel notes that the previous request for a contextual study and consideration of an appropriate transitional built form on the site has been addressed and that this information has informed the revised concept design in a positive manner. The three additional levels are proposed to have a maximum height of RL 104 which is 2m below the DLEP height of RL 106.

The Panel considers that the proposal is a significant improvement over the previous scheme and commends the architect for the revisions.

In relation to restricting overlooking of neighbours from within the building, the Panel feels that the height and depth of any fixed horizontal privacy shelf may need to be increased in order to function effectively as privacy device.

The Panel is concerned that the setback to the west may be inadequate and that this should be considered further, particularly in relation to transitioning down to the adjoining residential zone. It is noted by the Panel that the existing structure places some restrictions on design options and alternative internal configurations. The 2.5m setback from the eastern boundary opposite the approved lightwell at No.12-16 Berry Street is an improvement on the previous setback.

The Panel favours the proposed "green" level above the podium as the landscaping will provide increased internal amenity and will improve the appearance of the development when viewed externally. In this regard it is important that the design and dimensions of the planter beds are adequate to sustain landscaping in the long term, particularly to the western elevation, and with regard to the need for watering and regular maintenance. Cross sections should be provided that include all services (eg, a.c. provision, ceilings, etc), and the proposed planter beds.

The Panel considers that increased space around student circulation areas and the amended internal configuration is an improvement over the previous design.

The Panel is generally supportive of the revised concept design and would encourage the applicant to further refine the scheme having regard to the above comments.

Comment – The applicant has adequately responded to the DEP comments by way of amendments to the design and the proposal is satisfactory with regard to the matters raised by the Panel.

Roads & Maritime Services (RMS)

The RMS raises no objection to the development and has granted its concurrence, subject to conditions.

Building

The application was referred to Council's Building Surveyor (Fire Safety) who has provided the following comments:

In regard to the proposed Development (that is essentially a new building) and Davis Langdons BCA comments where by it has not identified any non compliances with the existing building or any concessional requests that could be made under Section 94 of the EP&A Regulation, in order to address Council's Assessment that the proposed development is capable of compliance with the BCA a condition is to be placed that the building is to be made fully compliant with the BCA.

An example of possible existing non compliance would be no protection of window openings in the rear wall which has not been mention in the report.

A comment of particular note within Davis Landon report is that the proposal includes alteration of existing building and three additional storeys leaving existing compliances out of the assessment where essentially we are dealing with a new building as it is only the existing walls and slabs that remain.

Two examples of particular concern is:

1. The construction of the fire isolated passageway that is not compliant with the deem to satisfy requirements of the BCA in that Clause D1.7 (b) states that fire isolated passage leads directly to a road or open space. Although it is reasonable that an alternative solution would address the final exit door non compliance the same could not be side for the egress from the stair and the carpark into the centre of the building reception area.

2. Rear basement egress through the carpark of the adjoining separately owned property. This has been discussed on a previously submission. Please refer to BCA comments made on DA 329/11.

Traffic Planning

The application was referred to Council's Manager Traffic Planning who has provided the following comments:

Existing Development

The existing development is a three-storey building, providing nursing education for the Australian Catholic University (ACU). The building also contains an additional basement level of car-parking.

Proposed Development

The ACU's proposed alterations and additions of 8-10 Berry Street include the following

- *Addition of three new modernised levels on top of the existing building*
- *Retrofitting of existing levels to incorporate new facilities (Speech Pathology, Physiotherapy and Occupational Therapy)*
- *Alterations to vehicular access, which is provided via a right of carriageway through the car park of 12-16 Berry Street from Doohat Lane at the rear of the site. This car park is planned to be demolished and the access to the site would be an open air access in the future.*
- *Alterations to pedestrian access, with an entrance provided on Berry Street in the place of the existing vehicular basement ramp, which is to include an accessible pedestrian access.*
- *A loss of 14 basement car parking bays associated with the building works taking the total of on-site parking provision to 4 bays.*

Car Parking

Despite the increase in floor space associated with proposed works, no increase in the overall parking provision is proposed. Following the completion of the additional floors at 8-10 Berry Street, the car park is proposed to be reduced in size from 18 car spaces to four car spaces.

Although the proposed parking provision, of this component of the ACU development, is not in accordance with the parking rates specified in the North Sydney Development Control Plan (NSDCP) 2002, I concur that the proposal is acceptable from a traffic/parking planning perspective. This is provided that the applicant supports sustainable transport initiatives as far as possible. These sustainable transport initiatives are discussed in greater detail in the report and are recommended as conditions of development consent.

It should be noted that the development currently provides parking spaces in the basement car park for staff only. Students are not able to access these spaces. The TTA report states that the staff that currently have access to a parking space at 8-10 Berry Street will be able park on the main campus at 40 Edward Street. It is recommended that a component of parking spaces at 40 Edward Street, or at 8-10 Napier Street, be allocated for mobility impaired people.

Bicycle Parking

Given the proposed development reduces that site's parking supply, bicycle parking should be provided in accordance with best practice.

Unfortunately the NSDCP 2002 does not specify bicycle parking rates for an educational facility. It would be appropriate to provide a "Facility Class 2" type bicycle parking arrangement, as detailed in AS2890.3, capable of storing a minimum of 10 bicycles for staff and "Facility Class 3" type bicycle parking (rails/racks) capable of storing 20 bikes should be provided for students and visitors. The racks/rails should be located in a prominent, safe, accessible and convenient location. In addition, end of trip facilities consisting of change rooms, showers, toilets and lockers should be provided for student and staff.

If this is not achievable, then the applicant must submit an amended Traffic and Transport Assessment report how their proposed bike parking provision meets or exceeds best practice.

Traffic Generation

The TTA report states that as there is no increase in parking supply as part of this development application, there is no increase to the total site traffic generation compared with the existing levels from the proposed alterations and additions.

Although I agree that fundamentally the total site traffic generation is limited by the development's restrained parking provision, there is anecdotal evidence to suggest that students and staff of the ACU are affecting the road network in terms of traffic and parking.

To protect and maintain residential amenity and promote sustainable transport systems, green travel plans, and the like, should be implemented as part of this Development Application.

Sustainable Transport Initiatives

The TTA report indicates that travel guidance is currently place, via the ACU's website, to manage travel demand. The TTA report mentions that given the increase in site users, more detailed travel guidance could be provided on the ACU website.

To ensure that the travel demand management mechanisms for the site is appropriate, the development must include a Green Travel Plan (GTP), prepared to the satisfaction of Council's Director Engineering and Property Services. The GTP must be prepared by a suitably qualified person and must encourage the use of non-private vehicle transport modes by the staff, students and visitors of the ACU campuses. The plan must include:

- *A description of the location in context of alternative modes of transport and objectives for the Green Travel Plan*
- *Provision of a designated 'manager' or 'champion' responsible for co-ordination and implementation of the Green Travel Plan.*
- *Staff and student welcome packs – including provision of Public Transport maps, timetables and/or real time information of nearby services (including train, buses,*

ferries, cycling and walking routes) to be provided to purchasers and/or occupiers upon occupation of a dwelling.

- *Staff travel allowances as part of salary packages to encourage public transport use.*
- *Full details of other possible incentives and how they will be implemented.*
- *Details of bicycle parking facilities on the land and bicycle routes.*
- *Details of Green Travel Plan funding and management responsibilities, including ongoing monitoring and review.*
- *Details of annual reporting.*
- *Include provisions to be updated not less than every 2 years.*

Construction Traffic Management Plan

The Construction Traffic Management Plan is an important aspect of the development's condition of approval. It has been brought to the attention of Council's Traffic Planning staff that there are instances (where Council is not the determining authority) where the determining authority choose to omit the condition of consent requiring the CTMP to be approved by Council's Traffic Committee. Referring the CTMP to the Traffic Committee for approval ensures that construction traffic is appropriately managed to reduce the impacts on residents and the community.

CONDITIONS OF APPROVAL

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

1. *That a Demolition and Construction Management Program be prepared and submitted to Council for approval by the North Sydney Traffic Committee prior to the issue of the Construction Certificate. Any use of Council property shall require appropriate separate permits/ approvals.*
2. *That an Operational Transport Management Plan for heavy vehicles including garbage vehicles, retail deliveries and residential removalists to the site be prepared and submitted to Council for approval by the North Sydney Traffic Committee prior to the issue of an Occupation Certificate.*
3. *A Green Travel Plan, as detailed in the traffic comments above, is to be developed to highlight to staff, students and visitors of the ACU of the available public and alternative transport options for travelling to the site. This is to be submitted to Council for approval by the Director of Engineering and Property Services prior to the issue of the Occupation Certificate.*
4. *That a "Facility Class 2" type bicycle parking arrangement, as detailed in AS2890.3, be provided capable of storing a minimum of 10 bicycles for staff. Bicycle rails (AS 2890.3 - facility type 3) capable of storing 20 bikes should be provided for students and visitors. The racks/rails should be located in a prominent, safe, accessible and convenient location.*
5. *That "End of Trip" facilities be provided for staff, students and visitors of the ACU who ride bicycles.*

6. *That all vehicles, including heavy vehicles, delivery vehicles and garbage collection vehicles must enter and exit the site in a forwards direction, unless under the direct supervision of an RTA accredited traffic controller..*
7. *That all aspects of the carpark comply with the Australian Standard AS2890.1.*
8. *That all aspects of parking spaces for people with disabilities comply with the Australian Standard AS 2890.6.*
9. *That all aspects of the bicycle parking and storage facilities comply with the Australian Standard AS2890.3.*
10. *All materials and equipment are to be loaded and unloaded within the boundaries of the site.*
11. *That all vehicles, including delivery vehicles and garbage collection vehicles must be no greater than a 6.4 metre SRV, as defined in Australian Standard AS2890.2.*
12. *That the developer pays to upgrade the street lighting on Berry Street, adjacent to the site, to the Australian Standard. The design is to be submitted to Council for approval by the Director of Engineering and Property Services prior to the issue of the occupation certificate.*
13. *Access to all properties which have access via the right-of-way (ROW) in Doohat Lane, or any other road in the North Sydney LGA, must be maintained at all times.*
14. *The driveway access to the proposed car park and loading dock is to comply with Council's Infrastructure Specification for Roadworks, Drainage and Miscellaneous Works and Council's Vehicular Access Application.*
15. *Concrete pumps which are less than 2.5 metres wide may be parked within any approved Work Zone. Concrete pumps which are greater than 2.5 metres wide and/or parked outside of any approved Work Zone must have a Council approved Stand Plant Permit.*
16. *Closure of the footpath on the northern side of Berry Street is not permitted. When the footpath must be closed for safety purposes, a traffic control plan must be approved by Council and traffic controllers are to be in place to direct pedestrians.*
17. *Pedestrian access and the diversion of pedestrians shall be carried out in accordance with Australian Standard 1742.3 and 1742.10. If pedestrians are diverted, pram ramps must be provided in accordance with Australian Standard 1428.1*
18. *Any plant or equipment stored outside the closed work area in Berry Street, Doohat Lane, or any other road must have a Council approved Stand Plant Permit.*

Development Engineer

The application was referred to Council's Development Engineer who raised no objection subject to conditions.

Health

The application was referred to Council's Environmental Health Officer who provided the following comments:

The acoustic report advises that significant noise control measures will be required to the plant located on the roof to meet the EPA Industrial Noise Policy requirements. It is further advised that the suggested noise control measures may have ramifications for the current height restrictions on the building.

The report goes on to say that the project specific noise levels selected for this development should reflect the times when the building is in use and subsequently the mechanical plant in operation. It is presumed that the ACU building will be entitled to operate at night and on weekends when back ground noise levels in the area are lower.

Therefore I recommend the noise criteria (intrusive or amenity, whichever is deemed to be the most stringent) should apply at all times – not only at the times it is envisaged the building will be in operation. From the data given in the acoustic report, the amenity criteria is the most stringent and therefore represents the Project Specific Criterion to be met by the development.

SUBMISSIONS

The owners of adjoining properties and the Edward Precinct were notified of the proposed development between 31 August and 14 September 2012. The notification resulted in **three (3) submissions**.

Name & Address of Submitter	Basis of Submissions
Besgate Group Pty Ltd Nos.12-16 Berry Street	<ul style="list-style-type: none">• Building height• Building height plane• Streetscape• Bulk and scale• Privacy• Security• Noise and vibration impacts• Overshadowing• Garbage collection
Emmanuel Hours 1 Moondo Street, Greenacre (purchaser of a unit in 12-16 Berry Street)	<ul style="list-style-type: none">• Commercial use inappropriate in residential street• Inadequate parking• Security issues• Privacy• Garage door location• Building height• Bulk and scale• Noise and vibration

Name & Address of Submitter	Basis of Submissions
--------------------------------------------	-----------------------------

Caroline Thornton 43 Edward Street, North Sydney	<ul style="list-style-type: none">• Privacy impacts for residents of Berry, Edward and Doohat Streets.• Haphazard growth of ACU/no masterplan• Parking issues from increased student numbers
--------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

CONSIDERATION

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

SEPP (Infrastructure) 2007

The aims of the SEPP include, relevantly, the provision of greater flexibility in the location of infrastructure and service facilities, the identification of matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and the provision of consultation with relevant public authorities.

Part 3 Division 3 of the SEPP provides development controls for educational establishments. The proposed use falls within the meaning of an “educational establishment” as defined in Clause 27. The development is also identified as traffic-generating development in accordance with Schedule 3 of the SEPP. The development is assessed against the relevant matters for consideration contained in Clause 104(3), as follows:

- (i) **Any submission of the RTA.** The RMS has granted concurrence subject to conditions.
- (ii) **Accessibility of the site, including:**

 - (A) **Efficiency of movement of people to and from the site and the extent of multi-purpose trips.** The subject site is in close walking distance to North Sydney railway station, the main Mackillop Campus and other University buildings. Students can be expected to travel on foot between the various locations, accessing student services, lectures, and library facilities.
 - (B) **Potential to minimise the need for travel by car.** The site is centrally located in relation to existing University buildings and is very well serviced by public transport and a Green Travel Plan has been provided. Conditions are recommended for the provision of bicycle parking, in accordance with the advice of Council’s Manager Traffic Planning.
- (iii) **Potential traffic safety, road congestion or parking implications of the development.** The proposal is satisfactory with regard to traffic safety, congestion and parking, subject to conditions including requirements for the provision of bicycle parking and Construction Traffic Management Plan.

The proposed development is generally consistent with the relevant provisions contained within the SEPP.

SREP (Sydney Harbour Catchment) 2005

The site falls within the Sydney Harbour Catchment Area and is subject to the provisions of the Policy. Clause 25 of the SREP outlines matters to be taken into consideration in relation to the maintenance, protection and enhancement of the scenic quality of foreshores and waterways.

The proposed development will not have any adverse impact when viewed from the Harbour.

SEPP 55 and Contaminated Land Management Issues

Given the commercial history of the site it is unlikely that the site is contaminated.

SEPP 64 – Advertising and signage

Under the provisions of SEPP 64 the two proposed signs are defined as “building identification signs” and not an “advertisement”, as follows:

advertisement means signage to which Part 3 applies and includes any advertising structure for the advertisement.

building identification sign means a sign that identifies or names a building, and that may include the name of a business or building, the street number of a building, the nature of the business and a logo or other symbol that identifies the business, but that does not include general advertising of products, goods or services.

The objectives of the Policy are specified in Clause 3 as follows:

3 Aims, objectives etc

- (1) *This Policy aims:*
 - (a) *to ensure that signage (including advertising):*
 - (i) *is compatible with the desired amenity and visual character of an area,*
and
 - (ii) *provides effective communication in suitable locations, and*
 - (iii) *is of high quality design and finish...*

Comment - The proposed ACU signs are considered to be compatible with the desired amenity and visual character of the North Sydney Centre and of a high quality design and finish (laser cut metal), compatible with the architecture of the building. The building identification sign is suitably located and appropriately communicates the occupant of the building.

Clause 8 relates to the granting of consent:

8 Granting of consent to signage

A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

- (a) *that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and*

(b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.

Part 3 of SEPP 64 does not apply to building identification signs, however, the proposal is subject to Schedule 1 (which applies to all forms of signage), as follows:

1 Character of the area

- Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*
- Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

Comment - The proposed building identification sign is compatible with the existing and desired future character of the North Sydney CBD.

2 Special areas

- Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?*

Comment – The proposed signage is appropriately located and is not excessive in dimensions. Further, the signs are not illuminated.

3 Views and vistas

- Does the proposal obscure or compromise important views?*
- Does the proposal dominate the skyline and reduce the quality of vistas?*
- Does the proposal respect the viewing rights of other advertisers?*

Comment – The proposal does not obscure important views and does not dominate the skyline.

4 Streetscape, setting or landscape

- Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?*
- Does the proposal contribute to the visual interest of the streetscape, setting or landscape?*
- Does the proposal reduce clutter by rationalising and simplifying existing advertising?*
- Does the proposal screen unsightliness?*
- Does the proposal protrude above buildings, structures or tree canopies in the area or locality?*
- Does the proposal require ongoing vegetation management?*

Comment – The proposed signage is appropriately located on the building facade and the scale of the signage is in keeping with the scale of the building and surrounding building identification signs.

5 Site and building

- *Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*
- *Does the proposal respect important features of the site or building, or both?*
- *Does the proposal show innovation and imagination in its relationship to the site or building, or both?*

Comment – As discussed above, the proposed signage is appropriately located and the scale of the signage is in keeping with the scale of the building.

6 Associated devices and logos with advertisements and advertising structures

- *Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?*

Comment – The proposed signage is not an advertisement under SEPP 64.

7 Illumination

- *Would illumination result in unacceptable glare?*
- *Would illumination affect safety for pedestrians, vehicles or aircraft?*
- *Would illumination detract from the amenity of any residence or other form of accommodation?*
- *Can the intensity of the illumination be adjusted, if necessary?*
- *Is the illumination subject to a curfew?*

Comment – The proposed signage is not illuminated.

8 Safety

- *Would the proposal reduce the safety for any public road?*
- *Would the proposal reduce the safety for pedestrians or bicyclists?*
- *Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?*

Comment – The proposal is satisfactory with regard to safety.

NORTH SYDNEY LEP 2001

1. Permissibility within the zone

The proposed development for the purpose of an *educational establishment* is permissible with consent in the Mixed Use zone.

2. Mixed Use Zone Objectives

The proposed development is generally consistent with the objectives of the Mixed Use zone contained in Clause 14. In particular:-

- (a) ***Encourage a diverse range of living, employment, recreational and social opportunities, which do not adversely affect the amenity of residential areas.***

The development will increase the range of uses within the Mixed Use zone, in particular, adding educational uses in the North Sydney Centre.

The development will not have any adverse impact on residential amenity, subject to conditions in relation to privacy, noise and bicycle parking, inter alia.

- (b) ***Create interesting and vibrant neighbourhood centres with safe, high quality urban environments with residential amenity.*** The proposed expansion of the existing educational use will further enliven the neighbourhood. Amenity will be maintained through the building design and conditions of consent.

- (c) ***Maintain existing commercial space and allow for residential development in mixed use building with non-residential uses at the lower levels and residential above.*** The proposal is for expansion of the existing educational establishment.

- (d) ***Promote affordable housing.*** N.A.

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, subject to conditions. As such, consent to the development may be granted.

3. North Sydney Centre Objectives

The development satisfactorily responds to the specific objectives for the North Sydney Centre contained in Clause 28B of NSLEP 2001, as discussed in the following table:-

North Sydney Centre Objective	Response
(a) To maintain the status of the North Sydney Centre as a major commercial centre within Australia	The development will not adversely affect the status of the North Sydney Centre as a major commercial centre.
(b) To require arrangements for railway infrastructure to be in place before additional non-residential GFA is permissible	Non-residential GFA means floor space that is used for the purposes of "commercial premises" for the purpose of gain pursuant to Clause 28(C)(8) of the LEP.
(c) To ensure that railway infrastructure, and in particular North Sydney Station, will enable and encourage a greater percentage of people to access the North Sydney Centre by public transport than by private transport	Consistent with previous approvals, the proposed floor area is defined as an educational establishment and is not characterised as "commercial premises" and therefore would not trigger a railway infrastructure contribution.
(d) To discourage the use of motor vehicles in the North Sydney Centre	It is proposed to reduce the number of car parking spaces by 14, from 18 to 4 spaces.

North Sydney Centre Objective	Response
(e) To encourage access to and within the North Sydney Centre for pedestrians and cyclists	Satisfactory subject to conditions re bicycle parking.
(f) To allow for 250,000m ² (max.) non-residential GFA in addition to the existing	Council's Strategic Planner advises that 201,284m ² of additional non-residential GFA in the North Sydney Centre has been approved (as at 11/7/12). The proposed addition of 1354m ² floor space will not result in exceedance of the maximum 250,000m ² provided for in the LEP.
(g) To prohibit further residential development in the core	No residential floor space is proposed.
(h) To encourage provision of high-grade commercial space with a floor plate, where appropriate, of at least 1,000m ²	The development is for an educational establishment, not commercial floor space.
(i) To achieve a variety of commercial space	The development is for an educational establishment, not commercial floor space.
(j) To encourage refurbishment, recycling and rebuilding of older buildings	The application largely retains the external fabric of the existing three storey building.
(k) To encourage diverse range of employment, living, recreation and social opportunities	The development will expand the existing educational establishment use, consistent with this objective.
(l) To promote high quality urban environments and residential amenity	The proposal represents a satisfactory architectural treatment of the existing commercial building with a positive streetscape impact to Berry Street. Residential amenity impacts are satisfactory subject to conditions, particularly in relation to potential noise impacts.
(m) To provide significant public benefits such as open space, through-site links, childcare, etc.	The proposal includes a clinic as previously discussed, providing a valuable community service.
(n) To improve accessibility within and to the North Sydney Centre	
(o) To protect the amenity of residential zones and existing open space	The adjoining residential units under construction are also within a Mixed Use zone, and the impacts of the proposed development are acceptable.
(p) To prevent any net increase in overshadowing of any land zoned residential, public open space, special area	The shadow diagrams indicate that the development will not result in any significant increase in overshadowing of residential, open space or special areas.
(q) To maintain areas of open space, on private land and promote preservation of existing setbacks and landscaped areas	The development will maintain existing building setbacks to the west and increase the northern (rear) setback.

4. NSLEP 2001

The application has been assessed against the relevant numeric controls in NSLEP 2001 as indicated in the following compliance table.

STATUTORY CONTROL – North Sydney Local Environmental Plan 2001				
Site Area – 626m ²	Existing	Proposed	Control	Complies
North Sydney Centre				
Building Heights & Massing (Cl.28D)	RL 92.17	RL 106	RL195 (AHD)	Yes
Overshadowing (Cl.28D(2)(b)-(d))	Existing	No net increase	No net increase	Yes
Site area (Cl.28.D(2)(e))	626m ²	No change	1,000m ²	No*
Mixed Use Zone				
Building Height Plane (Cl.30)				
• West Elevation	-	Up to 18.5m protrusion through plane	45° height plane at 3.5m above boundary adjoining Residential C zone	No*
• North Elevation	-	Up to 12m protrusion through plane		No*
Non-Residential Floor Space (Cl.31) (max)	2.66:1 (1,668m ²)	4.89:1 (3059m ²)	3:1 – 4:1	No*

*SEPP 1 objection submitted.

5. Building Height

The proposed development is well below the maximum building height limit applicable to the site and is generally consistent with the objectives of the height controls contained in Clause 28D(1) of NSLEP 2001.

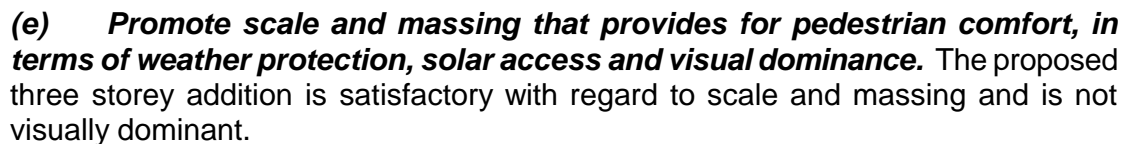
(a) Achieve a transition of building heights generally from 100 Miller Street (Northpoint) and 79-81 Berry Street (being the location of the tallest buildings) stepping down towards the boundaries of the North Sydney Centre. The development will maintain the existing hierarchy of building heights and appropriately transitions between 12-16 Berry Street to the east and 6 Berry Street to the west, as indicated in this elevation which includes the potential envelope on No.6 Berry Street, which would also benefit from being able to build to the eastern boundary:



(b) Promote the height and massing that has no adverse impact on land in the public open space zone or land identified as a special area on Sheet 5 of the LEP map or on heritage items. The submitted shadow diagrams indicate that the proposed development satisfies this clause.

(c) Minimise overshadowing of land in the residential or public open space zones or identified as special area on Sheet 5 of the LEP map. The development will not adversely overshadow any residential zones or sites, as depicted in the submitted shadow diagrams.

(d) Protect the privacy of residents within and around the North Sydney Centre. The proposal has an acceptable privacy impact on adjoining and surrounding properties. Design measures have been incorporated to prevent or reduce overlooking to an acceptable degree:



The development has been assessed against the building heights and massing controls contained in Clause 28D(2) of NSLEP 2001.

(b) No net increase in overshadowing, between 10am and 3pm, 21 June outside the composite shadow area on the LEP map. No new shadows will be cast outside of the composite shadow area indicated in the LEP map.

(c) No net increase in overshadowing between 10am and 2pm, at any time of the year, of any land that is within the North Sydney Centre and is within the public open space zone or within a special area as shown on Sheet 5 of the LEP map. Complies.

(d) No increase in overshadowing that would reduce the amenity of any dwelling that is outside the North Sydney Centre and falls within the composite shadow area on the LEP map. As indicated on the shadow diagrams, the additional shadow cast by the development is minor and acceptable and is satisfactory with regard to this clause.

(e) The site area is not less than 1,000m². The site area is 626m² and a SEPP 1 objection has been submitted in this regard. There is no opportunity to amalgamate the site with adjoining sites in order to achieve a site area of 1000m².

With regard to the above the proposed development will not have any material adverse impacts on neighbouring properties arising from the proposed building height.

6. Building Height Plane

The site is within the Mixed Use zone and adjoins the Residential C zone to the west and north. Building Height Plane (BHP) controls apply at these boundaries pursuant to Clause 30(2) of NSLEP 2001.

The applicant has submitted a SEPP No.1 objection seeking to vary the BHP development standard. The impacts of the non-compliance have been examined against the objectives in Clause 30(1) of NSLEP 2001.

(a) Ensure compatibility between development in the mixed use zone and adjoining residential or open space zones. The proposal expands the existing educational establishment use in an appropriate manner with minimal and acceptable impact on the adjoining residential area, thereby maintaining the existing level of compatibility between the site and adjoining residential zones.

(b) Minimise adverse effects on land in adjoining residential or open space zones in relation to ventilation, views, building separation, solar access, light, and avoid overshadowing of windows, landscaped areas, courtyards, roof decks, balconies and the like. The proposed breaches of the BHPs to the west and north do not have an unacceptable adverse impact on any adjoining residential or open space zone. The mixed use building at No.12-16 Berry Street has been designed with regard to a likely redevelopment of No.8-10 to a height of RL106, as indicated on the s.96 plans for No.12-16 Berry St, approved on 30/8/12.

The SEPP No.1 objection with regard to the building height plane is considered to be well-founded and is supported.

7. Floor Space

Clause 31(2) of NSLEP 2001 states that a building must not be erected on the subject site if the floor space ratio (FSR) of the part of the building to be used for non-residential purposes is not within the range specified in the map, in this case being 3:1-4:1. The proposal has a non-residential FSR of 4.89:1.

The applicant has submitted a SEPP No.1 objection seeking to vary the non-residential FSR development standard. The impacts of the non-compliance are examined as against the specific objectives of the control contained in Clause 31(1) of NSLEP 2001, as follows:

- (a) ***Ensure a diverse mix of uses in each building in the mixed use zone.*** The development seeks to expand the existing educational establishment and will not alter the current mix of uses within the building. As such, the proposal is satisfactory with regard to diversity of uses.
- (b) ***Minimise traffic generation from commercial development.*** The proposal satisfies this requirement by reducing on-site parking provision from 18 spaces to 4 spaces, with a commensurate reduction in traffic generation from vehicles parking on-site. The proposed reduction in on-site parking is satisfactory, as previously discussed.

The SEPP No.1 objection with regard to non-residential floor space ratio is considered to be well-founded and is supported.

8. Design of Development

Clause 32 of NSLEP 2001 provides specific objectives and controls for the design of new buildings in the mixed use zone, primarily relating to the provision of both residential and non-residential uses. As the proposed development is not for a new building, the provisions are not relevant or applicable. The existing building does not contain any residential floor space, and none is proposed.

9. Contaminated Land

Council is unaware of any contamination affecting the site which would be likely to require remediation resulting from this development proposal.

10. Excavation of Land

Clause 39 of NSLEP 2001 seeks to control the excavation of land in order to minimise adverse effects on the amenity of neighbouring properties, to ensure the structural integrity of adjoining properties, and to minimise site disturbance and allow for substantial vegetation and trees.

The application does not involve any excavation. The refurbishment of the forecourt, including landscape planters, will be wholly above the existing basement car park.

11. Suspensions of Covenants, agreements and similar instruments

Council is unaware of any covenants, easements or the like, which may be affected by the proposed development.

12. Heritage Conservation

The proposal satisfies Clauses 49 and 50 of NSLEP 2001, and would not have an adverse impact on the significance of nearby items. A Heritage Impact Statement by Weir Phillips has been provided in this respect.

DRAFT NORTH SYDNEY LEP 2012

The Draft NSLEP 2012 is a matter for consideration under Section 79C of the Environmental Planning and Assessment Act 1979. The Draft LEP, as amended, was adopted by Council (with some exceptions not relevant to the subject application) at its meeting on 15 October 2012, whereby it was resolved to place the altered Draft LEP on public exhibition for a period of 28 days in accordance with the Act and Regulations.

The provisions of the altered Draft LEP largely reflect and carry over the provisions of the Draft NSLEP 2009 and existing planning objectives, strategies and controls in the current North Sydney LEP 2001 in relation to this site. In particular, the provisions of the Draft LEP carry over the current provisions in relation to zoning and non-residential FSR, and reduces the height limit to RL 106.

The proposed development is generally consistent with the draft provisions.

DEVELOPMENT CONTROL PLAN 2002

The application has been assessed against the relevant controls in NSDCP 2002 as indicated in the following compliance table.

DCP 2002 Compliance

DEVELOPMENT CONTROL PLAN 2002		
<i>Mixed Use Development</i>	<i>Complies</i>	<i>Comments</i>
6.1 Function		
Diversity of activities, facilities, opportunities and services	Yes	The development will expand educational facilities (with ancillary clinic services)
Maximum use of public transport	Yes	The development will reduce the number of car spaces on-site and allocate car spaces to staff and visitors. No student parking will be permitted and conversion of car spaces to bicycle parking will be required, via condition .
6.2 Environmental Criteria		
Clean Air Noise	Yes	The development is capable of complying with relevant clean air and noise criteria.
Acoustic Privacy	Yes	Council's Environmental Health Officer has reviewed the submitted acoustic report and has advised that noise impacts arising from the roof plant (overlooked by one level of residential at 12-16 Berry Street) may be adequately mitigated by way of conditions of consent, as discussed in the Referrals section in this report.

DEVELOPMENT CONTROL PLAN 2002		
<i>Mixed Use Development</i>	<i>Complies</i>	<i>Comments</i>
Visual Privacy	Yes	The development will not give rise to any adverse visual privacy impacts due to the use of privacy shelf devices and the limited viewing angles from within the building to surrounding private open space and living areas.
Reflected light	Yes	A condition requiring low-reflectivity glazing is recommended.
Artificial light Outdoor lighting	Yes (via condition)	A condition will be applied to limit amenity impacts.
Awnings	Yes	No awning is proposed or required in this location.
Solar access	Yes	The applicant has provided shadow diagrams demonstrating that the proposed development will not cast any additional shadows on any special area.
Views	Yes	No adverse impact on views.
6.3 Quality built form		
Context	Yes	The proposal appropriately transitions between the taller mixed use development to the east and the potential 12m development to the west.
Public spaces and facilities	Yes	The development will increase activation of the Berry Street frontage.
Skyline	Yes	The proposed rooftop plant will be set back from the building perimeter at roof level and will have an acceptable impact on the skyline when viewed from a distance.
Streetscape	Yes	The development will activate and enliven the streetscape.
Setbacks	Yes	<p><u>Northern setback</u> The northern setback of 6.7m to the north (levels 4-6) is satisfactory</p> <p><u>Western setback</u> The western side setback maintains the nil setback of the existing building and is satisfactory with regard to the future development potential of No.6 Berry Street to 12m and impact on surrounding development.</p> <p><u>Eastern setback</u> The eastern nil setback includes a 1.3m x 6.35m recess opposite the light well on No.12-16 Berry Street, which is satisfactory.</p>

DEVELOPMENT CONTROL PLAN 2002		
Mixed Use Development	Complies	Comments
Entrances and exits	Yes	The proposal will remove the existing driveway and improve pedestrian access while maintaining vehicular access via the right of way.
Street frontage podium Laneway frontage	Yes	The proposal includes an appropriate 3 storey podium to Berry Street.
Building design	Yes	The building design has architectural merit and is a well designed form that has been refined in response to the comments of Council's DEP.
Nighttime appearance	Yes	The building will have a satisfactory night time appearance and will add visual interest to the street by night. A condition is recommended to regulate the hours and degree of illumination so as to prevent objectionable glare.
6.4 Quality urban environment		
Accessibility	Yes	The development will include accessible continuous paths of travel from the main street frontage, elevators and new disabled toilets. An access report has been submitted with the application.
Safety and security	Yes	Satisfactory.
Car parking	Yes	Refer to Section 9.2 (below).
Bicycle storage	Yes	A condition is recommended requiring the provision of end-user facilities to meet the minimum requirements of the DCP and relevant standards. Refer to Traffic Referral section in this report.
Vehicular access	Yes	It is proposed to use the existing right of way via Doohat Lane.
Garbage Storage Commercial garbage storage	Yes	No change is proposed to the approved garbage storage within the basement, with collection from Berry Street.
6.5 Efficient use and management of resources		
Energy efficiency	Yes	Adaptive re-use of the building is supported. The glazed addition will achieve good passive solar penetration.

DEVELOPMENT CONTROL PLAN 2002		
<i>Mixed Use Development</i>	<i>Complies</i>	<i>Comments</i>
9.2 Car Parking		
Non-residential zones	Yes	<u>Staff parking</u> The proposed provision of 4 staff car parking spaces is satisfactory, as previously discussed, in the context of staff parking on the other ACU premises in the vicinity.
	Yes	<u>Student parking</u> No student parking is proposed.
	Yes	<u>Accessible parking</u> Accessible parking spaces and building access from the basement are proposed.
	Yes	<u>Motorcycle parking</u> The DCP requires parking for motorcycles at the minimum rate of 1 space per 10 cars, or part thereof, with each bay being 1.2m x 3m. No motorcycle parking is indicated on the submitted plans; however, the basement car park is able to accommodate a motorcycle space. A condition is recommended.
	Yes	<u>Service vehicles</u> No dedicated loading space is provided. This is satisfactory in the circumstances and context of the site.

North Sydney Centre Planning Area (Central Business District)

The proposal is generally consistent with Part B of NSDCP 2002, in particular, the Character Statement in Sections 1 & 1.1 which provide for the CBD in the North Sydney Centre Planning Area. In particular, the development will:

- add to the diversity of non-residential premises and uses within the CBD;
- limit the provision of parking so as to encourage the use of active and public transport;
- not adversely impact on adjoining heritage items;
- provide adequate separation to adjoining development; and
- incorporate high quality materials and detailing so as to enhance visual interest and pedestrian amenity.

SECTION 94 CONTRIBUTIONS

No section 94 contributions apply to the proposed development.

APPLICABLE REGULATIONS

Crown DA

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

SUBMITTORS CONCERNS

The issues raised in the submissions have largely been addressed in this report. The proposal will not have an adverse impact on the residential dwellings at No.12-16 Berry Street, subject to conditions of consent. The proposal will not have an adverse impact on dwellings in Edward Street.

CONCLUSION

The development application has been assessed against the North Sydney Local Environmental Plan 2001 and the North Sydney Development Control Plan 2002. Consideration has also been given to the relevant controls in the Draft North Sydney Local Environmental Plan 2012 and all applicable State policies.

The variations to the building height plane, non-residential FSR and site area development standards are justifiable in the circumstances of the case and will not have an unreasonable impact on the amenity of surrounding development.

The height of the building is consistent with the Draft LEP height of RL106 and is an appropriate transitional form between the mixed use development at No.12-16 Berry Street and a future 12m high development at No.6 Berry Street.

Having regard to the provisions of Section 79C of the Environmental Planning & Assessment Act 1979, the application is considered to be satisfactory and therefore can be approved.

RECOMMENDATION

PURSUANT TO SECTION 89 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

- A. **THAT** the Joint Regional Planning Panel (East Sydney Region), as the consent authority, assume the concurrence of the Director General of the Department of Planning and invoke the provisions of SEPP 1 for the building height plane, non-residential floor space and minimum site area development standards and grant consent to Development Application No. **272/12** subject to the attached conditions.

George J Youhanna
EXECUTIVE PLANNER

Stephen J Beattie
MANAGER DEVELOPMENT SERVICES
