

<b>JRPP No:</b>	<b>2012SYE095</b>
<b>DA No:</b>	<b>DA.145/11/2</b>
<b>PROPOSED DEVELOPMENT</b>	To modify consent No.145/11 so that development consists of demolition of existing buildings and structures, site amalgamation and the erection of an 11 storey mixed use development with 3 levels of basement parking at 239-247 Pacific Highway North Sydney. The proposed modifications will see a change in the mix of the residential unit component to provide for a total of 104 apartments
<b>APPLICANT:</b>	<b>PD Mayoh Pty Ltd</b>
<b>REPORT BY:</b>	<b>Geoff Mossemeneer, Executive Planner, North Sydney Council</b>

## Assessment Report and Recommendation

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### EXECUTIVE SUMMARY

At its meeting of 6 July 2011, the Sydney East Region Joint Regional Planning Panel, as the consent authority, approved 2011SYE050 – North Sydney – Development Application No. 145/11 for demolition of existing buildings and structures, site amalgamation and the erection of an 11 storey mixed use development with 4 levels of basement parking. The proposal included 791m<sup>2</sup> of commercial or retail space at ground floor level and a residential tower which incorporates a total of 86 apartments. Basement parking was provided for 63 residential parking spaces and 7 non-residential parking spaces, together with bicycle and motor bike parking, storage areas, and garbage storage space.

The property was sold and the new owners have submitted a Section 96 application to modify the consent. The proposed modifications will see a change in the mix of the residential unit component to provide for a total of 104 apartments. The unit mix will comprise 30 studio apartments; 33 x 1 Bedroom units & 41 x 2 Bedroom units. The total proposed residential floor space is 7836m<sup>2</sup> and is less than the approved residential floor space of 7924m<sup>2</sup>. Basement parking is to be provided over 3 levels and includes the provision of 69 residential parking spaces and 8 non-residential parking spaces, together with bicycle and motor bike parking and storage areas.

The application was referred to Council's Design Excellence Panel at its meeting of 2 October 2012. The Panel considered the tower layout to be reasonable and had no issues with the apartments. The communal roof area should potentially provide excellent amenities and social integration opportunities for future residents. A number of suggestions were raised with the architects to improve the design. The applicant lodged amended plans on 31 October 2012 in response to the suggestions from the Design Excellence Panel.

Council's notification of the proposal has attracted two submissions raising concerns/issues about: noise; traffic; amenity and construction impacts.

Following assessment of the amended plans, the development application is recommended for **approval**.

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## DESCRIPTION OF PROPOSAL

The proposal seeks to modify the approved design detailed under DA.145/11. The approved development provided for a residential tower incorporating a total of 86 residential units. The unit mix comprised 20 studio apartments; 27 x 1 Bedroom units; 31 x 2 Bedroom units and 8 x 3 Bedroom units. The total residential floor space as approved was 7924m<sup>2</sup>. The approved development also included 791m<sup>2</sup> of commercial or retail space at ground floor level, which provide for a non-residential floor space of 0.67:1.

The proposed modifications will see a change in the mix of the residential unit component to provide for a total of 104 residential units. The unit mix will comprise 30 studio apartments; 33 x 1 Bedroom units & 41 x 2 Bedroom units. The total proposed residential floor space is 7836m<sup>2</sup> and is less than the approved residential floor space of 7924m<sup>2</sup>.

Basement parking is to be provided over 3 levels and includes the provision of 69 residential parking spaces and 8 non-residential parking spaces, together with bicycle and motor bike parking and storage areas. A garbage storage area is also provided at the ground floor level, accessible off Angelo Street, with the provision for a garbage truck and delivery truck to park off the street.

There is an approved planning proposal which reduces the non-residential floor area requirement to 0.5:1 for the site. The approved non-residential FSR is 0.67:1. The proposed modification will reduce the non-residential floor area to 0.55:1 which more closely aligns with the approved planning proposal for the site.



## **STATUTORY CONTROLS**

North Sydney LEP 2001

- Zoning – Mixed Use
- Item of Heritage - No
- In Vicinity of Item of Heritage - Yes
- Conservation Area - No

S94 Contribution

Environmental Planning & Assessment Act 1979

SEPP 1 Objection

SEPP 55 - Contaminated Lands

SREP (2005)

Local Development

Draft North Sydney LEP 2012

## **POLICY CONTROLS**

DCP 2002

Draft North Sydney DCP 2012

## **CONSENT AUTHORITY**

As this proposal has a Capital Investment Value (CIV) of greater than \$20 million the consent authority for the development application is the Joint Regional Planning Panel, Sydney East Region (JRPP).

## **DESCRIPTION OF LOCALITY**

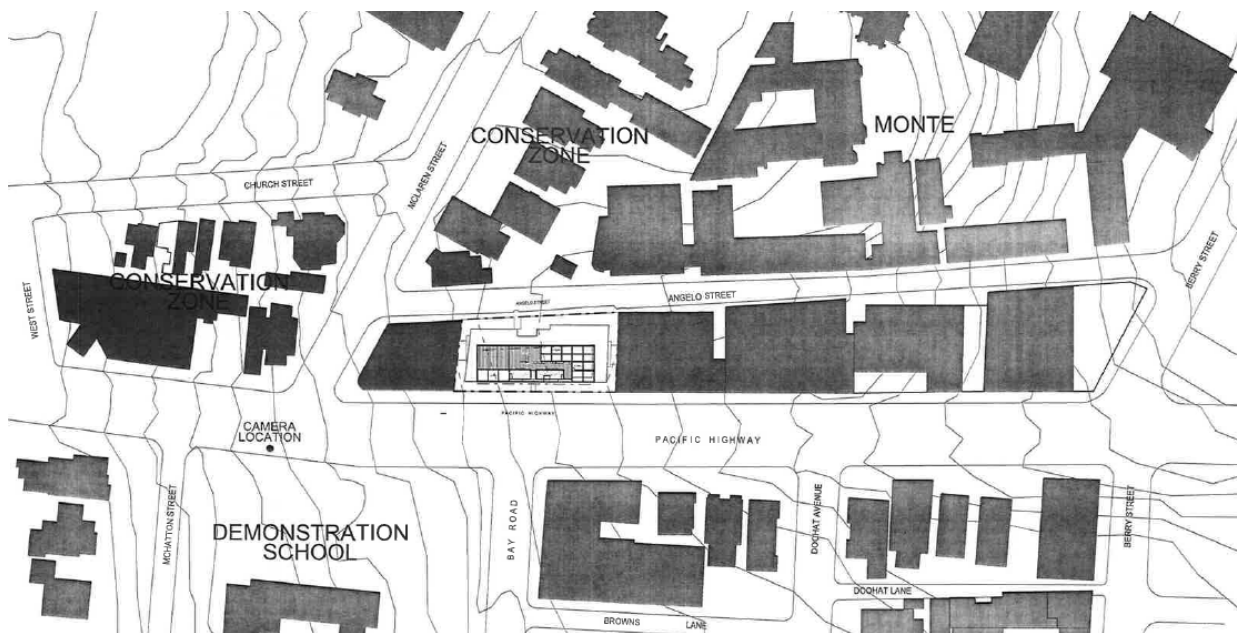
No. 239-247 Pacific Highway North Sydney is located on the eastern side of Pacific Highway, between McLaren and Berry Streets. The combined site is rectangular in shape with the primary frontage to Pacific Highway and a rear frontage to Angelo Street. The site has the following boundary dimensions: Pacific Highway 50.995m (western boundary); Angelo Street boundary 49.17m (eastern boundary); 22.375 m to the northern boundary; 24.79m to the southern boundary. The area of the site is 1173.2m<sup>2</sup>. The land exhibits a cross fall of approximately 3.2m from north to south. The existing buildings on the site comprise 3 x 2 storey commercial buildings with ground level parking at the rear, obscured from the street. These existing buildings comprise rendered masonry, bagged brickwork and face-brick, with flat roofs or shallow pitched roofs.

The site is within a mixed residential / commercial neighbourhood which predominantly consists of residential apartments, office buildings and some dwellings houses within a Conservation Zone, which is located along McLaren Street. The residential development in this locality is relatively mixed, ranging from older style one and two storey dwellings to older three and four storey flat buildings.

To the rear of the site is Monte Sant' Angelo Mercy College. Directly to the north of the site at the corner of McLaren Street and Pacific Highway is a five storey commercial brick building which also backs onto Angelo Street.

Immediately to the south of the site is a single storey commercial building with a height limit of RL 125 under the Draft NSLEP 2012. Further towards the corner of Berry Street and Pacific Highway, the height limit increases to RL 135 and RL 145. The JRPP granted consent to a mixed use development at 211-223 Pacific Highway.

### **Location of Subject Site**



## **REFERRALS**

### **Building**

The application has not been assessed specifically in terms of compliance with the Building Code of Australia (BCA). It is intended that if approved, Council's standard condition relating to compliance with the BCA be imposed and should amendments be necessary to any approved plans to ensure compliance with the BCA, then a Section 96 application to modify the consent may be required.

### **Engineering/Stormwater Drainage/Geotechnical**

Council's Development Engineer (V Ristic) assessed the proposed development and advised that the proposed development can be supported subject to imposition of a number of standard and site specific conditions relating to damage bonds, excavation, dilapidation reports of adjoining properties, construction management plan, vehicular crossing requirements and stormwater management.

### **DESIGN EXCELLENCE PANEL**

The application was referred to Council's Design Excellence Panel at its meeting of 2 October 2012. The minutes are reproduced as follows:

**“PROPERTY:**                **239-247 Pacific Highway North Sydney**

**DATE:**                      2 October 2012 @ 3.10 pm

**ATTENDANCE:**    Panel Members: Russell Olsson; David Chesterman; Peter Webber; Helen Lochhead; apology from Philip Graus.  
Council staff: Geoff Mossemeneer (chair)  
Proponents: Peter Mayoh (architect); Mohammed Chehelnabi

**Background:**

*The Panel considered the original proposal at its meeting of 14 April 2011. The proposal was described as:*

*Demolition of existing buildings and structures, site amalgamation and the erection of an 11 storey mixed use development with 3 levels of basement parking. The podium is at 6 levels (including ground floor level) and is to include 791m<sup>2</sup> of commercial or retail space at ground floor level. A residential tower incorporates a total of 86 residential units. The unit mix comprises 20 studio apartments; 27 x 1 Bedroom units; 31 x 2 Bedroom units and 8 x 3 Bedroom units. Basement parking is provided over 4 levels and includes the provision of 63 residential parking spaces and 7 non-residential parking spaces, together with bicycle and motor bike parking, storage areas, and garbage storage space. A garbage storage area is also provided at the ground floor level, accessible off Angelo Street, with the provision for a garbage truck and delivery truck to park off the street.*

*The Panel considered the proposal to be in keeping with the desired character of the area. The podium and tower height were considered satisfactory. The following issues were raised by the Panel in their discussion with the architects:*

- *The north west corner of level 9 could be reconsidered to be more in line with level 10 as it would be quite visible from the Highway*
- *The vertical garden wall needs to be carefully considered as it faces west and is a prominent part of the building. It needs to work and survive. There were concerns that such walls are difficult to maintain and costly. Should the applicant reconsider the design of this wall, the Panel recommends that different finishes be considered to reduce the impact of large areas of blank wall.*
- *Whether natural light can be provided to the lift lobby on each level.*
- *The provision of a direct link between the lifts on the roof level. As there is only one lift to service each core, consideration is needed to the possible failure of one of the lifts. A link at one of the mid levels (level 5) should also be considered.*
- *The residential entries and location of the letterboxes. Consider arranging so there is a meeting point at the ground level, comfortable seating etc..*
- *Increase awning height at entries to identify the residential entry to the building.*
- *Commercial lift could be relocated to south to allow apartment 105 bedroom to adjoin the terrace.*
- *Activation of Anglo Street retail space. Consider through site access. Better amenity to a café fronting Angelo Street. Treatment of façade at lower levels and upgrade footpath.*

*The applicant lodged amended plans on 17 May 2011 in response to the above suggestions from the Panel. The amended proposal was approved by the Joint Regional Planning Panel.*

*The property was sold and the new owners have submitted a Section 96 application to modify the consent. The proposed modifications will see a change in the mix of the residential unit component to provide for a total of 104 residential units. The unit mix will comprise 30 studio*

apartments; 33 x 1 Bedroom units & 41 x 2 Bedroom units. The total proposed residential floor space is 7836m<sup>2</sup> and is less than the approved residential floor space of 7924m<sup>2</sup>. Basement parking is to be provided over 3 levels and includes the provision of 69 residential parking spaces and 8 non-residential parking spaces, together with bicycle and motor bike parking and storage areas. A garbage storage area is also provided at the ground floor level, accessible off Angelo Street, with the provision for a garbage truck and delivery truck to park off the street.

#### **Panel Comments:**

*The Panel noted that two of the four Panel members present were not part of the Panel meeting that considered the original proposal. Concern was raised with the amenity of the apartments within the podium and it was discussed whether the podium could be revised to provide more articulation at the corners and centre to allow better cross ventilation and solar access. The project architect advised that the application was a Section 96 modification and that the proposal was generally within the envelope approved by the JRPP. He considered that the modifications to the podium were an improvement to the apartments previously approved.*

*The Panel raised concern about some of the deeper single aspect apartments but noted that they complied with the Residential Flat Design Code with regard to the rear of the kitchen being within 8m.*

*The Panel considered the tower layout to be reasonable and had no issues with the apartments. The communal roof area should potentially provide excellent amenities and social integration opportunities for future residents. A number of suggestions were raised with the architects to improve the design including the following:*

- The glazed area between the lifts from level 1 up could be extended by a metre to allow for a window seat*
- The lower level bedrooms on the northern lightwell to be revised with regard to the amount of glazing to improve privacy and acoustic amenity. Details should be on the plan to indicate highlight windows etc..*
- The corridor on levels 2, 3 and 4 should be extended through to the southern lightwell to improve day- lighting and amenity*
- Shop 3 RL is incorrect, Modification required to entry to through link and to glaze northern wall of shop 3 to improve access and openness of link*
- Reconsider the Angelo Street wall to shop 1 and 2 to minimise “dead” area*
- Consider acoustic treatment of plant area on level 6 including floor vibration,*
- Provide steel mesh deck to access plant area between lifts on level 6, to maximize light to the lift lobbies on the floors below.*
- The four Level 1 apartments recessed directly over the loading area and car access would have poor amenity in relation to solar access and noise. Consider acoustic treatment of the soffit of the slab over the loading area. A further option would be to provide four 2-level apartments, combining the four subject units with the area of the four on the floor above. These four would then on balance have good amenity and provide additional diversity in the ‘unit-mix’.*

#### **Conclusion:**

*In summary, the Panel considered the proposal to be generally acceptable as a Section 96 application, subject to the above issues being addressed.*

The applicant lodged amended plans on 31 October 2012 in response to the above suggestions from the Design Excellence Panel. The acoustic report was amended to address the concerns with the apartments directly over the loading dock.

## External Referrals

There were no external referrals required.

## SUBMISSIONS

The application was notified to surrounding owners and residents and all precincts from 21 September until 5 October 2012. Two submissions have been received:

### Stanton Precinct

- *Traffic flows outlined (increases) are not reasonable given planned 104 + restaurant + commercial traffic*
- *No traffic management details. Developer says building will start in February 2013.*
- *Developer is saying outdoor entertainment and cinema but not described this way on plans. This will affect amenity of residents.*
- *Plant and equipment faces existing residential properties causing loss of amenity*
- *Overdevelopment of small site and does not refer to planned AIM development. Effect on residents will be unpleasant in the extreme.*

### 10 McLaren Street

- *The increased traffic flow set out in this modification is not reasonable given the size of the development and the increase in traffic coming from the AIM building.*
- *There is no traffic management plan as yet and with such a sizeable construction (even without considering the concurrent AIM building) the effect on our old homes will be significant.*
- *The dust and noise will make working and living in our front rooms very difficult. We are worried about where the construction traffic will wait.*
- *The Developer is advertising that there will be an outdoor entertainment rooftop area and a cinema but does not outline this in the plans. This is a significant negative effect on our amenity and needs to be addressed.*
- *We have seen how the developers of the 136-142 Walker Street agreed to DA conditions and then once construction starts, apply and receive without any problems, approval to void them. This is not reasonable and needs to be rejected.*
- *This is a huge overdevelopment and while I understand each development is looked at singly, the residents are impacted by multiple developments so that our amenity really needs to be protected solidly.*

Amended plans have been submitted to Council during the assessment period in response to the Design Excellence Panel's comments.

Section 4.2 of the North Sydney Development Control Plan (NSDCP) 2002 provides that

*'if, in Council's opinion, the amendments are considered likely to have a greater adverse effect on or a different adverse effect on adjoining or neighbouring land, then Council will renotify:*

- *Those persons who made submissions on the original application;*

- *Any other persons who own adjoining or neighbouring land and in the Council's opinion may be adversely affected by the amended application.*

*Where the amendments in the Council's opinion do not increase or lessen the adverse affect on adjoining or neighbouring land, Council may choose not to notify or advertise the amendments.*

*Where the amendments arise from a Council-sponsored mediation, and it is considered that the amendments reflect the outcome of the mediation and do not otherwise increase the application's environmental impact, the amendments will not be notified or advertised.'*

In this instance, it is considered that the amendments would be unlikely to materially affect adjoining or neighbouring land compared to the originally notified development and as such, re-notification is not required. The amended plans have been assessed with regard to the submissions received.

## **CONSIDERATION**

The proposal is required to be assessed having regard to the following matters.

Section 96(2) of the Environmental Planning and Assessment Act 1979 enables a consent authority to modify a development consent upon application being sought by the applicant or any person entitled to act on the consent, provided that the consent authority:

- is satisfied that the development to which the consent as modified relates is substantially the same development;
- has consulted the relevant Minister, public authority or approval body in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent;
- has notified the application in accordance with the regulations and has considered any submissions made concerning the proposed modification; and
- in determining the application for modification, has taken into consideration such matters referred to under Section 79C(1) as are relevant.

Therefore, assessment of the application to modify the subject development consent must consider the following issues:

### **Is the proposed development as modified substantially the same development approved?**

Although the mix and design of the apartments are different to the original, the proposal is considered to be substantially the same development as approved because the height and envelope of the building are similar, the ground floor is similar, the car access and loading is the same, a through site link is retained as is the 1.5m setback from Angelo Street.

### **Whether the application required the concurrence of the relevant Minister, public authority or approval body and any comments submitted by these bodies.**



The application does not require the concurrence of the Minister, public authority or approval body.

### **Whether any submissions were made concerning the proposed modification.**

The submissions raise concerns/issues about: noise; traffic; amenity and construction impacts. These issues remain much the same as with the approved plans.

The issues were addressed by the imposition of conditions that will be retained. Even though there is an increase in apartment numbers, there is also a change in the proportion of smaller apartments that do not require additional parking spaces.

The approved plans have 72 parking spaces compared to the proposed 77 spaces. The increase will not result in significant traffic increase as concluded in the traffic report accompanying the application (Terraffix Pty Ltd). The 77 spaces proposed is 3 spaces less than the maximum parking recommended under Council's DCP.

The proposal also reduces the amount of excavation by having one less level than approved which will assist in reducing noise and construction impacts.

### **Any relevant considerations under Section 79C(1) of the Environmental Planning and Assessment Act 1979.**

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

The application has been assessed against the relevant numeric controls in NSLEP 2001 and DCP 2002 as indicated in the following compliance tables. More detailed comments with regard to the major issues are provided later in this report.

### **Compliance Table**

<b>STATUTORY CONTROL – North Sydney Local Environmental Plan 2001</b>				
<b>North Sydney Centre</b>	<b>Existing</b>	<b>Proposed</b>	<b>Control</b>	<b>Complies</b>
Height (Cl. 28D(2)(a))	NA	RL 119.30 AHD	RL 195m AHD	YES
Overshadowing of land (Cl. 28D(2)(b))	-	NO	Variation permitted	YES
Overshadowing of dwellings (Cl. 28D(2)(d))	-	NO	Variation permitted	YES
Minimum lot size (Cl. 28D(2)(e))	1173.2	1173.2	1000m <sup>2</sup> min.	YES
<b>Mixed Use Zone</b>				
Floor Space (Cl. 31) (max)	1.83:1	0.55:1	Minimum 0.5:1	YES

### **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	Ground floor retail spaces provided, roof top communal space provided
<b>Mixed residential population</b>	No	The dwelling yield is in accordance with Council's residential development strategy. The proposed mix of dwellings has more small dwellings than large approx. 60/40 mix. This has been accepted with other recent mixed use developments on the basis of location on the edge of the CBD and excellent public transport facilities.
<b>Maximum use of public transport</b>	Yes	Commercial parking on site decreased; excellent access to public transport
<b>6.2 Environmental Criteria</b>		
<b>Clean Air</b>	Yes	Reduced level of parking, parking to be restricted to less than maximum under DCP
<b>Noise</b>	Yes	Acoustic report submitted, can be conditioned
<b>Acoustic Privacy</b>	Yes	Acoustic report indicates standards can be met
<b>Visual Privacy</b>	Yes	See comments below. There is only one dwelling at No.3 McLaren Street affected with two windows facing Angelo Street. Lower level apartments facing Angelo Street in close proximity to have screens on bedroom windows with all eastern facing balustrades on the levels below the tower to have obscure glazing
<b>Reflected light</b>	Yes	Materials non reflective and can be conditioned
<b>Artificial light</b>	NA	No roof top advertising proposed
<b>Outdoor lighting</b>	Yes	Can be conditioned
<b>Awnings</b>	Yes	Continuous awning provided across Highway frontage
<b>Solar access</b>	Yes	East west orientation allows for 2 hours to all units.
<b>Views</b>	Yes	No significant view loss
<b>6.3 Quality built form</b>		
<b>Context</b>	Yes	Site analysis undertaken, building generally in context with desired character for area
<b>Public spaces and facilities</b>	NA	Site too small to provide spaces
<b>Skyline</b>	Yes	Upper levels designed to contribute
<b>Through-site pedestrian links</b>	Yes	None required but a through site link is proposed that will link to the existing pedestrian crossing at the Highway and Bay Street
<b>Streetscape</b>	Yes	Satisfactory. Activation of both street facades proposed
<b>Subdivision</b>	Yes	Consolidation of sites is consistent with Council's desired subdivision pattern
<b>Setbacks</b>	Yes	Ground level setbacks not required under controls but proposal has been setback at rear to activate Angelo Street façade. Light wells provided from level 1 to level 5 and 6 – satisfactory size and no internal amenity impacts created. 3m setback from side boundaries to allow separation with future development (mainly to south)
<b>Entrances and exits</b>	Yes	Satisfactory
<b>Street frontage podium</b>	Yes	Satisfactory
<b>Laneway frontage</b>	Yes	Satisfactory
<b>Building design</b>	Yes	Generally satisfactory. Supported by Design Excellence Panel
<b>Nighttime appearance</b>	Yes	Can be conditioned
<b>6.4 Quality urban environment</b>		

<b>High quality residential accommodation</b>	Yes	Apartment areas comply
<b>Accessibility</b>	Yes	Satisfactory
<b>Safety and security</b>	Yes	Satisfactory
<b>Car parking</b>	Yes	In accordance with DCP
<b>Bicycle storage</b>	Yes	In basement
<b>Vehicular access</b>	Yes	From Angelo Street
<b>Garbage Storage</b>	No	Separate facilities provided. Garbage can be collected from Angelo Street.
<b>Site facilities</b>	Yes	Storage areas provided within basement and within apartments
<b>6.5 Efficient use and management of resources</b>		
<b>Energy efficiency</b>	Yes	New Basix certificate submitted

## **NORTH SYDNEY LEP 2001**

### **Permissibility within the zone:**

The proposal is permissible with consent under the Mixed Use zoning.

### **CLAUSE 28B - NORTH SYDNEY CENTRE OBJECTIVES**

The proposed development responds to the specific objectives for the North Sydney Centre as described in the following table.

<b>OBJECTIVE</b>	<b>RESPONSE</b>
(a) to maintain the status of the North Sydney Centre as a major commercial centre within Australia.	The proposal results in a major reduction in the commercial floor space existing on site. The site is too small to provide for high quality/large commercial floor plates
(b) to require arrangements for railway infrastructure to be in place before additional non-residential gross floor area is permissible in relation to any proposed development in the North Sydney Centre.	The proposal does not increase the non residential floor area and accordingly arrangements are not required.
(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 and will: (i) be convenient and accessible, and (ii) enable a reduction in dependence on private car travel to the North Sydney Centre, and (iii) be adequate to achieve no increase in car parking, and (iv) have the capacity to service the demands generated by development in the North Sydney Centre.	Council has instigated measures with State Rail to ensure that North Sydney Railway Station is upgraded to improve patronage.
(d) to discourage use of motor vehicles in the North Sydney Centre	The proposed development provides for a reduction in the non residential parking on site
(e) to encourage access to and within the North Sydney Centre for pedestrians and cyclists.	It is not proposed to obstruct any existing pedestrian or cycle routes through the Centre. Cycle facilities are to be incorporated into the development to promote cycling.
(f) to allow for 250,000m <sup>2</sup> (maximum) non residential gross floor area in addition to the estimated existing (as at the commencement	The proposed development will reduce non residential floor space.

of this Division) 700,000m <sup>2</sup> non-residential gross floor area.	
(g) to prohibit further residential development in the core of the North Sydney Centre.	The proposed development incorporates a residential component, however, it is not located within the core of the North Sydney Centre (as identified by a "commercial" zoning).
(h) to encourage the provision of high-grade commercial space with a floor plate, where appropriate, of at least 1000m <sup>2</sup> .	The commercial floor plate upon the site is smaller than the required 1000m <sup>2</sup> threshold (the site area is 1173m <sup>2</sup> and the restricted commercial floor plate is much smaller).
(i) to achieve a variety of commercial space	The commercial components of the proposed building have been designed to be flexible in use.
(j) to encourage the refurbishment, recycling and rebuilding of older buildings.	The existing buildings on the site are to be demolished.
(k) to encourage a diverse range of employment, living, recreation and social opportunities.	The proposed development provides flexible commercial spaces and quality residential apartments.
(l) to promote high quality urban environments and residential amenity	The proposal aims to maximise the amenity to residents internally. The design of the building is contemporary in nature.
(m) to provide significant public benefits such as open space, through-site linkages, childcare and the like.	The site provides for a through site link.
(n) to improve accessibility within and to the North Sydney Centre.	The proposed buildings have been designed to be accessible.
(o) to protect the amenity of residential zones and existing open space within and nearby the North Sydney Centre	The proposal will have a limited impact on amenity of the residential area adjoining to the north east
(p) to prevent any net increase in overshadowing of any land-zoned residential or public open space or identified as a special area.	The proposed development will not result in minor overshadowing of residential premises.
(q) to maintain areas of open space on private land and promote the preservation of existing setbacks and landscaped areas, and protect the amenity of these areas.	Landscaped areas limited to podium and roof.

## CLAUSE 28C - RAILWAY INFRASTRUCTURE

Subclause 28C(2) to the NSLEP states that:

*"... consent must not be granted to the carrying out of development on any land in the North Sydney Centre if the total non-residential gross floor area of buildings on the land after the development is carried out would exceed the total non-residential gross floor area of buildings lawfully existing on the land immediately before the development is carried out".*

The existing buildings on the site have a total non-residential gross floor area of approximately 2,150m<sup>2</sup> and the proposal has a non residential floor area of 652m<sup>2</sup> resulting in a decrease over that which currently exists. The proposal therefore complies with Clause 28C(2).

## CLAUSE 28D - BUILDING HEIGHT AND MASSING

### Objectives

- (a) *to 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 proposed development is considered to have an appropriate overall scale.

- (b) *to promote a 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 map marked "North Sydney Local Environmental Plan 2001 (Amendment No. 9) - North Sydney Centre" or on heritage items.*

The proposed development will not result in any overshadowing of public space zones or special areas.

- (c) *to minimise overshadowing of land in the residential and public open space zones or identified as a special area on Sheet 5 of the map marked "North Sydney Local Environmental Plan 2001 (Amendment No. 9) - North Sydney Centre".*

No public open space zones or "special areas" will be overshadowed by the proposed development.

- (d) *to protect the privacy of residents within and around the North Sydney Centre.*

There is only one dwelling in close proximity to the site that could be impacted by loss of privacy. No.3 McLaren Street is located opposite the site fronting Angelo Street. The dwelling has two windows without obscure glazing facing the street. The yard area is used for parking. Most of the proposed apartments would be located at a distance and at an angle that would not cause privacy concerns. Some of the lower level bedrooms to the eastern boundary at the northern end of the site may need to have external screening to the window to limit impacts. The glazing of all eastern facing balustrades to balconies on the apartments below level 6 should have obscure glazing to restrict view lines for the living areas to the dwelling and school grounds. This can be conditioned.

- (e) *to promote scale and massing that provides for pedestrian comfort, in terms of weather protection, solar access and visual dominance.*

The architect has attempted to ensure that the streetscape has a comfortable human scale when viewed by passing pedestrians. A continuous awning is to be provided along the entire Highway façade to provide weather protection for pedestrians.

- (f) *to encourage consolidation of sites for provision of high grade commercial space and provision of public benefits.*

The subject site comprises the consolidation of 3 allotments. Adjoining sites will not be isolated.

## Development Controls

Subclause 28D(2) sets out the building height and massing requirements for proposed development within the North Sydney Centre. Any development which exceeds these standards can not be consented to.

- (a) *the height of the building will not exceed RL 195 AHD, and*

Utilising the LEP definition, the proposed building will have a maximum RL of 119.3 AHD (to the lift over runs) and therefore complies with this requirement.

- (b) *There is no net increase in overshadowing of any land between the hours of 9am and 3pm, 21 June outside the composite shadow area, as shown on the map marked "North Sydney Local Environmental Plan 2001 (Amendment No. 9)- North Sydney Centre" (except land that is in the Road or Railways Zone).*

The proposed development will not result in overshadowing of land outside the composite shadow area.

- (c) *There is no net increase in overshadowing, between 10am and 2pm, at any time of the year, of any land this 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 map marked "North Sydney Local Environmental Plan 2001 (Amendment No 9)- North Sydney Centre", and*

The proposed development will not overshadow any open space zone nor identified special areas.

- (d) *There will be 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 referred to in paragraph (b), and*

The proposed development will not overshadow any dwelling.

- (e) *The site area is not less than 1,000m<sup>2</sup>.*

The subject site is 1173.2m<sup>2</sup> in area.

- (f) *to encourage consolidation of sites for provision of high grade commercial space and provision of public benefits.*

The subject site comprises the consolidation of 3 allotments. Adjoining sites will not be isolated.

## Building Design and Public Benefits

Subclause 28D(5) requires the consent authority to consider a number of provisions.

- (a) *the impact of the proposed development in terms of scale, form and massing within the context of the locality and landform, the natural environment and neighbouring development and in particular lower scale development adjoining*

*the North Sydney Centre, and*

- (b) whether the proposed development provides public benefits such as open space, through-site linkages, community facilities and the like, and*
- (c) whether the proposed development preserves important view lines and vistas, and*
- (d) whether the proposed development enhances the streetscape in terms of scale, materials and external treatments, and provides variety and interest.*

The application is acceptable with regard to its scale within the context of the locality.

The proposal is well designed and provides quality residential accommodation on the edge of the CBD. The proposal provides direct public benefits with the through site link at ground level from Angelo Street to link with the traffic light pedestrian crossing at the Highway and Bay Street.

There are no view lines or vistas affected by the proposal.

The proposed development will enhance the streetscape with its materials and external treatments and provides variety and interest.

## **CLAUSE 29 - BUILDING HEIGHT**

### **Objectives**

- (a) ensure compatibility between development in the mixed use zone and adjoining residential areas and open space zones, and*

The proposed development incorporates a suitable mix of commercial and residential uses. The building steps down in height as it approaches its residential interface to the north east of the site and is compatible.

- (b) encourage an appropriate scale and density of development for each neighbourhood that is in accordance with, and promotes the character of, the neighbourhood, and*

The proposed development is generally considered to be an appropriate bulk and scale on the northern fringe of the North Sydney Centre.

- (c) provide reasonable amenity for inhabitants of the building and neighbouring buildings, and*

The proposal provides a reasonable amenity and is consistent with SEPP 65 design principles. Any amenity impacts on neighbouring buildings can be resolved with appropriate conditions.

- (d) provide ventilation, views, building separation, setback, solar access and light and to avoid overshadowing of windows, landscaped areas, courtyards, roof*

*decks, balconies and the like, and*

The residential apartments have been designed in accordance with the principles of SEPP 65 and considered satisfactory.

- (e) *promote development that conforms to and reflect natural landforms, by stepping development on sloping land to follow the natural gradient, and*

Satisfactory with regard to this objective.

- (f) *avoid the application of transitional heights as justification for exceeding height controls.*

Pursuant to Clause 28D(2) of the NSLEP, a maximum RL height of 195 AHD applies to the site. The proposed development has a maximum height of RL 119.3 AHD.

### **Building Height Controls**

Subclause 29(2) states that a “building must not be erected in the mixed use zone in excess of the height shown on the map”. The height Map to the North Sydney LEP does not specify a maximum height for the subject site. Height is primarily controlled by the provisions contained within Clause 28D and 29 as discussed above.

### **CLAUSE 30 - BUILDING HEIGHT PLANE**

The objectives to the clause set out in subclause 30(1) are:

- (a) *ensure compatibility between development in the mixed use zone and adjoining residential or open space zones, and*
- (b) *minimise adverse effects on land in adjoining residential or open space zones in relation to ventilation, views, building separation, solar access and light and to avoid overshadowing of windows, landscaped areas, courtyards, roof decks, balconies and the like.*

The proposed development is considered to be compatible with the setbacks of the upper levels above the podium.

### **Building Height Plane Controls**

Subclause 30(2) requires the implementation of a building height plane where a development within the mixed use zone adjoins residential zone. The northern boundary of the site directly adjoins the Residential C Zone. More specifically the clause requires that:

*“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:*



*(b) commencing 1.8 metres above existing ground level, and projected at an angle of 45 degrees, from the centre of any road which separates the land from land within the residential A1, A2, B, D or F zone or open space zone,”*

The proposed development projects through the building height plane at virtually every level.

The Court of Appeal has held that the controls in Division 5 relating to the Mixed Use zone do not apply to land in the North Sydney Centre and that the provisions of Division 4 (which relate to the North Sydney Centre) prevail to the extent of any inconsistency.

Objective a) of Clause 30 is contained within the provisions of Division 4 and needs to be addressed. Objective b) is inconsistent with the provisions of Division 4 and therefore is not relevant to the proposal.

The sites that are zoned residential have frontages to McLaren Street. The land to the east is zoned Special Uses – School. The closest property is used as a single dwelling with the others used for commercial and school purposes. The rear yards of the closest residential properties are located opposite the site and are used for parking. The proposal is separated by Angelo Street and is setback further above the podium. The proposal causes no overshadowing, loss of views or material loss of privacy. The proposal is consistent with the DCP controls and the desired character for the area. The proposal is considered to be compatible with the nearby residential zone.

## **CLAUSE 31 - FLOOR SPACE**

Subclause 31(2) 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.*

A recent planning proposal modified the non-residential component of a development within the mixed use zone on this site to a minimum FSR of 0.5:1. The existing buildings on the site have a total non-residential gross floor area of approximately 2,150m<sup>2</sup> or a FSR of 1.83:1. The proposed development has a non residential floor area of 652m<sup>2</sup> or a FSR of 0.55:1.

## **Clause 39 - Excavation of Land**

The site will be excavated to accommodate the proposed basement car park. Clause 39 provides that excavation must be consistent with the objectives of the clause:

- a) Retain existing vegetation and allow for new substantial vegetation and trees, and*
- b) Minimise the adverse effects of excavation on the amenity of neighbouring properties, and*
- c) Minimise excavation and site disturbance so as to retain natural landforms, natural rock faces, sandstone retaining walls and the like and to retain natural runoff patterns and underground water table and flow patterns, and*
- d) Ensure the structural integrity of adjoining properties.*

There are no trees or vegetation on the site. The excavation for the basement will occur over most of the site however, with the normal procedures in place during construction, the proposal will have a minimized impact on the amenity or structural integrity of adjoining buildings. This can be confirmed by a Geotechnical Report and dilapidation assessment prior to the issue of a Construction Certificate, and by conditions. Runoff and underground water flows will not be adversely affected. The proposed excavation is therefore in accordance with the LEP requirements.

## **CLAUSE 50 - DEVELOPMENT IN THE VICINITY OF HERITAGE ITEMS**

### **Development in Vicinity Controls**

Clause 50 states:

- (2) *When determining a development application relating to land in the vicinity of a heritage item the consent authority must consider the likely effect of the proposed development on the heritage significance of the heritage item and its curtilage.*
- (3) *Before determining a development application relating to land in the vicinity of a heritage item, the consent authority may require the submission of a statement of heritage impact on the heritage item and its curtilage.*

The works to 239-245 Pacific Highway, North Sydney have been assessed in terms of Clause 50 (Development in the Vicinity of Heritage Items) of the North Sydney LEP 2001 and Section 8.8 (Heritage Items and Conservation Areas) of the North Sydney DCP 2002.

The proposal is considered to be acceptable. It should be noted that the proposal is not located within a conservation area but is in the vicinity of heritage items. There is no physical impact on any of the heritage items in the vicinity. This view accords with the position taken with the granting of the original consent.

### **Draft North Sydney Local Environmental Plan 2012**

The Draft North Sydney Local Environmental Plan 2009 was on public exhibition from 20 January 2011 to 31 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. The Draft Plan was amended and is now known as Draft North Sydney Local Environmental Plan 2012. 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 largely reflect and build on the existing planning objectives, strategies and controls in the current NS LEP 2001 in relation to this site. The proposal is considered satisfactory in terms of the Draft LEP 2012.

### **SEPP 55 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 has been used for commercial purposes, contamination is unlikely.

### **SREP (Sydney Harbour Catchment) 2005**

The subject site is not within part of North Sydney that is required to be considered pursuant to SREP (Sydney Harbour Catchment) 2005.

### **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:

#### *Principle 1 — Context*

The subject site is located in an area that has been zoned by Council to facilitate mixed use development. The scale and height of the proposed development is appropriate to its context. The existing context of development near the site is of predominately a commercial character along Pacific Highway. However, the block represents a transitional area between the commercial core of the CBD and the residential development to north.

#### *Principle 2 and 3 — Scale and Built Form*

The proposal establishes a consistent street setback along the eastern side of Pacific Highway. The podium configuration responds to the scale and bulk of adjacent developments in the streetscape. The podium heights of 5 and 6 storeys respond to the neighbouring building and the sloping site, which has a fall of 3 metres along its main façade along Pacific Highway.

#### *Principle 4 — Density*

The design of the proposed development is consistent with the desired future character of the North Sydney's CBD. The site is located in the mixed use zone which is characterised as a transitional zone between the commercial core of the CBD and the residential development surrounding the development. The density achieved is considered to be appropriate within this mixed use area under transition in which the site is located taking into account the controls, environmental and growing urban context in close proximity to North Sydney Station.

#### *Principle 5 - Resource, Energy and Water Efficiency*

A BASIX assessment and report has been submitted with the application. The layout of the units has attempted to maximise solar access and cross ventilation for the maximum number of units. High performance glazing will be provided to reduce heat transfer and external louvres are proposed to control solar access and internal thermal comfort. Because the development has a large frontage facing west, the functionality of glazing, deep balconies and operable external louvres have been considered.

#### *Principle 6 - Landscape*

Landscaping is incorporated into the design at Level 5 (southern elevation) and Level 6 (north, east and west elevations), complementing the built form by providing visual relief at the building's vertical midpoint. Other terrace areas throughout the building provide good opportunity for potted planting. The Communal Roof Garden provides significant landscaping and optimizes usability, privacy and social opportunity. It has equitable access and respect for the neighbour's amenity below. The practicality for the planting to establish and be sustainable is enhanced by the scaled down roof section servicing this area, which provides ample opportunities for sun and rain. Long term management is ensured by the accessibility of this area for maintenance. New street planting and sandstone paving to the footpath are proposed along Pacific Highway to improve the public domain area in front of the site.

#### *Principle 7 — Amenity*

The apartment layouts and services have been laid out based on an open plan format with main living areas opening onto the private balcony. The proposed rooftop garden provides a large communal open space for residents. Balconies are proposed with a solid balustrade to create an acoustic barrier to road noise and provide privacy.

#### *Principle 8 - Safety and Security*

The proposed development ensures casual surveillance of Street while maintaining internal privacy, avoiding dark and non visible areas, maximising activity on streets, providing clear, safe access points, providing public space that cater for activity at street level.

#### *Principle 9 - Social Dimensions*

The proposal incorporates a broad range of retail space at ground level with flexible floor plates so that it may respond to changing market demand. The mix of apartment types (studio, 1 and 2 bedroom), varying in size and position, will support a range of socio-economic groups whilst retaining amenity for all residents. The development is 100% accessible and provides adaptable units.

#### *Principle 10 — Aesthetics*

The building forms properly address the street frontage through the change of materials and colour and create visual interest through appropriately scaled massing and varying setbacks. The elements break up the mass of the proposed development and provide an articulated facade which will complement the surrounding area. The proposed development incorporates varied building elements, textures, materials and finishes which all contribute to a quality development.

#### *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 have been thoroughly assessed above.

### **DEVELOPMENT CONTROL PLAN 2002**

#### **NORTH SYDNEY CENTRE PLANNING AREA / CENTRAL BUSINESS DISTRICT**

The subject site is within the Central Business District which falls within the North Sydney Centre Planning Area. The proposal addresses the character statement as follows:

#### *Provide diverse activities, facilities, opportunities and services*

The mixed use development provides for commercial, retail and residential uses, with a landscaped communal area provided for residents. The new residential accommodation is provided in the fringe of the city centre, and not in the commercial core as per the Development Control Plan.

#### *Promote public transport, reduce long stay commuter parking on site and reduce non residential parking on site*

The site has excellent access to public transport and parking on site is satisfactory subject to the parking being limited to the maximum under the DCP.

#### *Provide continuous awnings to commercial buildings and consider weather protection at entrances*

An awning is proposed over the entrance along the Highway frontage, which is consistent with adjoining buildings.

#### *Allow zero setbacks at ground floor and adjacent to heritage items*

The building will retain the existing zero setbacks to front and side boundaries

#### *Maximum five storey street frontage podium height along Pacific Highway, or may be reduced to that part of the building used for commercial use. Provide average of 5m street frontage setback above the podium in Pacific Highway*

The podium height is five to six storeys to fit with adjoining development. The podium setback varies from 3-5m on the Highway in addition to a 3-5m setback on the Angelo Street side (where there is no requirement under the character statement)

#### *Provide architectural detailing, high quality materials and a visually rich pedestrian environment with active street frontages. Buildings are to be energy efficient, minimise stormwater runoff, recycle where possible, and minimise waste consumption*

The development is of a high quality design, with architectural detailing. The building

provides a good relationship to the street frontage. The building will comply with the energy requirements of BASIX, Appropriate stormwater controls will be installed. Waste will be minimised where possible.

*Have regard to Public Domain. Continue use of tree planting and use of native vegetation to enhance the urban environment*

The development will not hinder the public domain.

## **SECTION 94 CONTRIBUTIONS**

Section 94 Contributions in accordance with Council's S94 plan are warranted and would be based on the total number of apartments with allowance for the reduction in commercial floor space. There are 30 x studio; 33 x one bedroom and 41 x two bedroom apartments with an allowance of 1498m<sup>2</sup> of commercial space.

Administration	<b>\$7,435.85</b>
Child Care Facilities	<b>\$5,316.17</b>
Community Centres	<b>\$40,118.28</b>
Library Acquisition	<b>\$7,354.53</b>
Library Premises & Equipment	<b>\$22,832.70</b>
Multi Purpose Indoor Sports Facilities	<b>\$5,751.73</b>
Open Space Acquisition	<b>\$293,174.24</b>
Open Space Increased Capacity	<b>\$581,122.24</b>
Olympic Pool	<b>\$18,736.04</b>
Public Domain Improvements	<b>\$122,479.71</b>
Traffic improvements	<b>\$20,940.28</b>
<b>Total contribution</b>	<b>\$1,125,261.77</b>

## **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 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 Car parking 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 controls.

As such, consent to the development may be granted.

### **Conclusion**

The proposed development as modified is considered to be substantially the same development as approved. The modifications do not create additional impacts on surrounding development. The change in mix of dwellings is acceptable.

The amended plans require the following conditions to be replaced:

- A1 Development in accordance with plans
- A3 Landscaping
- C5 Bond for works
- C7 Required Infrastructure Works
- C8 Awning

- C26 S94 Contributions
- C27 Security Bond Schedule
- C29 Bicycles storage and parking
- C30 Motorcycle parking
- C32 Line marking
- C37 Privacy
- H1 Allocation of spaces

The Section 96(2) application is recommended for favourable consideration.

## **RECOMMENDATION**

**THAT** the Joint Regional Planning Panel, as the consent authority, modify its consent dated 18 October 2011 in respect of a proposal for demolition of existing structures, amalgamation of the three allotments to make one site and construction of a 11 storey mixed use building above basement car parking at 239-247 Pacific Highway North Sydney under the provisions of Section 96 of the Environmental Planning and Assessment Act with regard to 2012SYE095 – North Sydney - Development Application No.145/11/2, only insofar as will provide for the following.

To delete condition A1, A3, C5, C7, C8, C26, C27, C29, C30, C32, C37 and H1 of the consent and insert in lieu thereof the following new conditions namely:

### **Development in Accordance with Plans**

- A1. The development being carried out in accordance with drawings numbered A100H, A102J, A104N, A110H, A151F, A152E and A153E, dated 10 September 2012, A103M, A105N, A106M, A107M, A108N, A109N, A111H and A150F, dated 26 October 2012, all drawn by PD Mayoh Pty Ltd, landscape plans numbered 1806-LP-01 issue 03 to 1806-LP-05 issue 03, dated 7 September 2012, drawn by John Lock & Associates, and endorsed with Council's approval stamp, except where amended by the following conditions.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

- A3. Landscaping works on the site are to be undertaken generally in accordance with the landscaping plan numbered 1806-LP-01 issue 03 to 1806-LP-05 issue 03, dated 7 September 2012, drawn by John Lock & Associates.

Note:

- The proposed Port Jackson Fig shall be replaced with either a Magnolia "Little Gem" or the like.
- The proposed street tree planting shall be altered such that the northern most tree is deleted and be planted as a replacement tree, 1 metre to the south of the existing street tree growing adjacent to the traffic lights.

(Reason: To ensure appropriate landscaped area and landscaping amenity at the final inspection stage of the development)



## **Bond/Deposit for potential Damage and Completion of Infrastructure Works**

- C5. Prior to the issue of any Construction Certificate the applicant must lodge a total of \$90,000 public infrastructure damage and security bond with Council. This bond is applied pursuant to Section 80A (6) of the EP&A Act of the Local Government Act 1993 to cover the cost of:
1. Making good any damage caused to any property of the consent authority (or any property of the corporation) as a consequence of the doing of (or not doing) anything to which the consent relates,
  2. Completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent,
  3. Remedying any defects in any such public work that arise within 6 months after the work is completed.

The bond is calculated as follows:

<b>Description</b>	<b>Amount</b>
Completion of required infrastructure works	\$60,000
Damage security	\$30,000

The bond shall be lodged in the form of a deposit or bank guarantee and will be refundable following completion of all works relating to the proposed development (that is after issue of Final Occupation Certificate) and at the end of any maintenance period stipulated by consent conditions, upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:

- a) Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
- b) The applicant has not repaired nor commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
- c) Works in the public road associated with the development are to an unacceptable quality.

The Certifying Authority must ensure that bond is lodged with North Sydney Council prior to issue of any Construction Certificate.

(Reason: To ensure security is in place to maintain quality of public infrastructure)

## **Required Infrastructure Works –Roads Act 1993**

- C7. Prior to issue of the Construction Certificate the applicant must have engineering

design plans and specifications prepared by a qualified civil design engineer. The plans and specifications must be to a detail suitable for construction issue purposes and must provide detail and specification for the following infrastructure works to be completed as part of the development.

Prior to the issue of the Construction Certificate, North Sydney Council must issue the applicant with a driveway crossing and road infrastructure works permit to suit the approved off-street parking facilities. To obtain the permit, an application must be made to Council on a '*Vehicular Access Application*' form with payment of the adopted assessment/inspection fees.

### **Road Works on Angelo Street**

- a) The proposed vehicular access ways shall comply with AS 2890.1 and Council's current Vehicular Access Application Guidelines and Specification (gutter bridges not permitted) to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or parking floor.
- b) The redundant layback crossing on Angelo Street must be reinstated as upright kerb gutter and concrete footpath.
- c) The width of the vehicular layback shall be 23.0 m (including the wings) from left hand side boundary facing the property from Angelo Street.
- d) The vehicular laybacks shall be set square to the kerb.
- e) The crossing (between the layback and the property boundary) shall be placed perpendicularly on a single straight grade of approximately 4.5%, falling to the back of the layback.
- f) The boundary footpath levels shall match the existing levels and shall not be altered unless agreed to by Council.
- g) The gutter levels and road shoulder levels on Angelo Street shall stay unchanged.
- h) The kerb, gutter and footpath are to be transitioned as necessary on both sides of the proposed layback crossings to ensure that a minimum longitudinal fall of 1% is achieved to maintain gutter flows. Kerb/gutter and footpath transition works are required to provide continuity on the street.
- i) Any twisting of driveway access to ensure vehicles do not scrape shall occur entirely within the subject property.
- j) All inspection openings, utility services shall be adjusted to match the proposed driveway levels and location.
- k) The design detail has to be provided with "Vehicular access application and must include sections along centre-line and extremities of the crossing at a scale of 1:25. Sections are to be taken from the centre of the roadway through to the parking area itself and shall include all changes of grade and levels, both existing and proposed.
- l) A longitudinal section along the gutter line of Angelo Street at a scale of 1:50 showing how it is intended to transition the layback with the existing gutter levels.
- m) A longitudinal section along the footpath property boundary at a scale of 1:50 is required.
- n) The sections shall show the calculated clearance to the underside of any overhead structure.
- o) All details of internal ramps between parking levels.

- p) A swept path analysis is required demonstrating that an 85th percentile vehicle can maneuver in and out of the garage spaces in accordance with AS 2890.1 2004 "Off Street Parking".

### **Road Works on Pacific Highway**

- a) Construction of a fully new replacement of footpath is required across the entire site frontage in Pacific Highway. A longitudinal section is required along the footpath property boundary at a scale of 1:50 extending 5m past the property boundary line. The footpath shall be designed (at a single straight grade of 3% falling to top of kerb) so that it is uniform without showing signs of dipping or rising particularly at entrances.
- b) The footpath pavement shall be full width constructed of concrete pavers, in accordance with Council's standard drawings No S401, S403, S404 and S405, placed adjacent to the front boundary of the property. In general, the pavers selected should match any pavers already laid in the same city block.
- c) Construction of a fully new kerb and gutter is required across the entire site frontage in Pacific Highway. A longitudinal section is required along the gutter line (existing and proposed levels), at a scale of 1:50 extending 5m past the property boundary line.
- d) Cross sections at a scale of 1:50 along the centre-line of each access point to the building must be provided and are to show the calculated clearance to the underside of any overhead structure. All entry points (from Pacific Highway and Angelo Street) are to comply with the Building Code of Australia (BCA), particularly disability requirements.
- e) The Council approved footpath levels must be accommodated at the building entry points.

All driveway and infrastructure works on the road reserve must proceed in accordance with the terms of the permit issued by Council. Inspections by Council will be required as specified on the permit. The Certifying Authority issuing the Construction Certificate must ensure that the permit issued by Council is obtained prior to its issue, is referenced on and accompanies the Construction Certificate issued.

(Reason: To facilitate appropriate vehicular access to private sites, without disruption to pedestrian and vehicular traffic)

### **Awnings, Footpath Entries and Fire Exit Details**

C8. The following details must be designed by an appropriately qualified and practising Civil Engineer and submitted to the Certifying Authority for approval with the application for Construction Certificate:

1. Cross section along the centre-line of each access point to the building

including fire exits at a scale of 1:50 to be taken from the centre of the road and shall include all changes of grade both existing and proposed.

2. The sections shall show all relevant levels and grades (both existing and proposed) including those levels stipulated as boundary levels.
3. The sections shall show the calculated clearance to the underside of any overhead structure.
4. A longitudinal section along the boundary line in both Angelo Street and Pacific Highway shall show how it is intended to match the internal levels of the building with the boundary footpath levels. The footpath shall be designed (at a single straight grade of 3% falling to top of kerb) so that it is smooth without showing signs of dipping or rising particularly at entrances.
5. A longitudinal section along the gutter and kerb line extending 5 meters past property lines showing transitions.
6. A longitudinal section along the footpath property boundary line extending 5 meters past property lines showing transitions.
7. Awnings edges, parallel to the kerb line must not exceed edges of existing awnings in the same city block or if no other neighboring awnings to compare, the edges of proposed awning must be offset at least 600 mm from the kerb line.
8. Awnings must have a shape to accommodate existing and proposed trees on Pacific Highway.

All details are to be certified as complying with the Building Code of Australia (BCA) and Council's standard footpath specifications. Written concurrence confirming there will be no change to existing boundary and footpath levels is to be provided to North Sydney Council, prior to issue of a Construction Certificate.

(Reason: To facilitate suitable pedestrian and disabled access to private sites, and to ensure that internal levels reflect footpath boundary levels)

## **S94 Contributions**

- C26. A contribution pursuant to the provisions of Section 94 of the Environmental Planning and Assessment Act 1979, as specified under the North Sydney Section 94 Contribution Plan for the services detailed in column A and, for the amount detailed in column B shall be made to Council.

<u>A</u>	<b>B (\$)</b>
Administration	<b>\$7,435.85</b>
Child Care Facilities	<b>\$5,316.17</b>
Community Centres	<b>\$40,118.28</b>
Library Acquisition	<b>\$7,354.53</b>

Library Premises & Equipment	<b>\$22,832.70</b>
Multi Purpose Indoor Sports Facilities	<b>\$5,751.73</b>
Open Space Acquisition	<b>\$293,174.24</b>
Open Space Increased Capacity	<b>\$581,122.24</b>
Olympic Pool	<b>\$18,736.04</b>
Public Domain Improvements	<b>\$122,479.71</b>
Traffic improvements	<b>\$20,940.28</b>
Total	<b>\$1,125,261.77</b>

The contribution SHALL BE paid prior to determination of the application for Construction Certificate, where applicable.

The above amount, if not paid within one calendar year of the date of this consent, shall be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution.

A copy of the North Sydney Section 94 Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at [www.northsydney.nsw.gov.au](http://www.northsydney.nsw.gov.au).

(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new development)

### Security Bond Schedule

C27. All fees and security bonds in accordance with the schedule below must be paid or in place prior to the issue of the required Construction Certificate:

<b>SECURITY BONDS</b>	<b>AMOUNT (\$)</b>
Completion of required infrastructure works	60,000.00
Damage security	30,000.00
<b>TOTAL BONDS</b>	<b>\$90,000.00</b>
<b>FEES</b>	
Section 94 contribution	<b>\$1,125,261.77</b>

(Reason: Compliance with the development consent)

### Bicycle Storage and Parking

C29. The bicycle storage area shall accommodate a minimum of thirty five (35) bicycle lockers, and nine (9) bicycle rails shall be provided, such bicycle storage lockers and bicycle rails to be designed in accordance with AS 2890. Details demonstrating compliance are to be submitted to the Certifying Authority for approval with the Construction Certificate.

(Reason: To promote and provide facilities for alternative forms of transport)

## **Motorcycle Parking**

C30. The parking layout shall provide a minimum of eight (8) motorcycle parking spaces, each space being a minimum of 1.2 metres x 2.5 metres. Details demonstrating compliance are to be provided with the Construction Certificate.

(Reason: To promote and provide facilities for alternative forms of transport)

## **Line Marking**

C32. A maximum of seventy seven (77) off-street car-parking spaces, together with access driveways, shall be constructed, paved, line marked and signposted in accordance with the approved development plans, appropriate Australian Standards and industry best practice as appropriate. The plans shall also nominate the allocation of parking spaces for specific purposes as required by conditions of this consent. A certificate prepared and certified by an appropriately qualified and practising Civil Engineer for the construction of these areas in accordance with this requirement shall be submitted to the Certifying Authority for approval with the Construction Certificate.

(Reason: To ensure ongoing compliance with this development consent and Australian Standards relating to manoeuvring and access of vehicles)

## **Privacy**

C37. Privacy devices shall be provided in the form of fixed louvre screens (openable) over the bedroom windows to apartments 101, 201, 301, 401 and 501, obscure balustrade glazing and/or solid balustrades on the eastern façade of the building up to level 6, to restrict overlooking of No.3 McLaren Street.

Details demonstrating compliance are to be provided to the Certifying Authority for approval of the Construction Certificate.

(Reason: To ensure that the eastern apartments do not impact on the privacy of residents of Nos. 3 McLaren Street)

## **Allocation of Spaces**

H1. Seventy two (77) carparking spaces shall be provided and maintained at all times on the subject site. The spaces shall be allocated in the following proportions:

- 69 - Residential (including 2 disabled spaces)
- 8 - Non residential spaces

Such spaces are to be identified on-site by line-marking and numbering upon the completion of the works and prior to issue of Occupation Certificate. Car parking provided shall only be used in conjunction with the uses contained within the development and in the case of Strata subdivision, shall be individually allocated to residential units. Under no circumstances shall Strata By-Laws be created to grant exclusive use of nominated car share parking spaces to occupants/owners of units or tenancies within the building.

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

**Geoff Mossemeneer**  
**EXECUTIVE PLANNER**

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

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