

JRPP No:	2012SYE097
DA No:	DA.343/12
PROPOSED DEVELOPMENT	Demolish existing buildings and construct a multi storey mixed use building comprising retail and commercial space, 228 apartments, basement parking at No.211-223 Pacific Highway, North Sydney
APPLICANT:	Crown North Developments Pty Ltd
REPORT BY:	Geoff Mossemeneer, Executive Planner, North Sydney Council

Assessment Report and Recommendation

EXECUTIVE SUMMARY

This development application seeks approval to demolish the existing commercial building, and construct a twenty (20) storey mixed use development. The building will consist of 228 residential apartments above commercial and retail tenancies. Car parking for 189 vehicles and 25 motorbikes will be provided over 6 basement levels.

Council's notification of the proposal has attracted 2 submissions raising particular concerns about landscaping, dust and noise from construction. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.

Following this assessment the development application is recommended for **approval**.

DESCRIPTION OF PROPOSAL

The proposed development is for the demolition of existing buildings and the erection of a twenty (20) storey mixed use building consisting of basement car parking, ground floor retail, commercial on part of level 1, and residential development from level 1 to 18.

The project includes communal open space for the residential tenants at the roof level. The dwelling mix consists of:

10 x studios

77 x one bedroom apartments

137 x two bedroom apartments

4 x three bedroom apartments



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

The site is located on the eastern side of the Pacific Highway between McLaren Street to the north and Berry Street to the south. It also has a frontage to Angelo Street at the rear.

The site consists of 2 allotments:

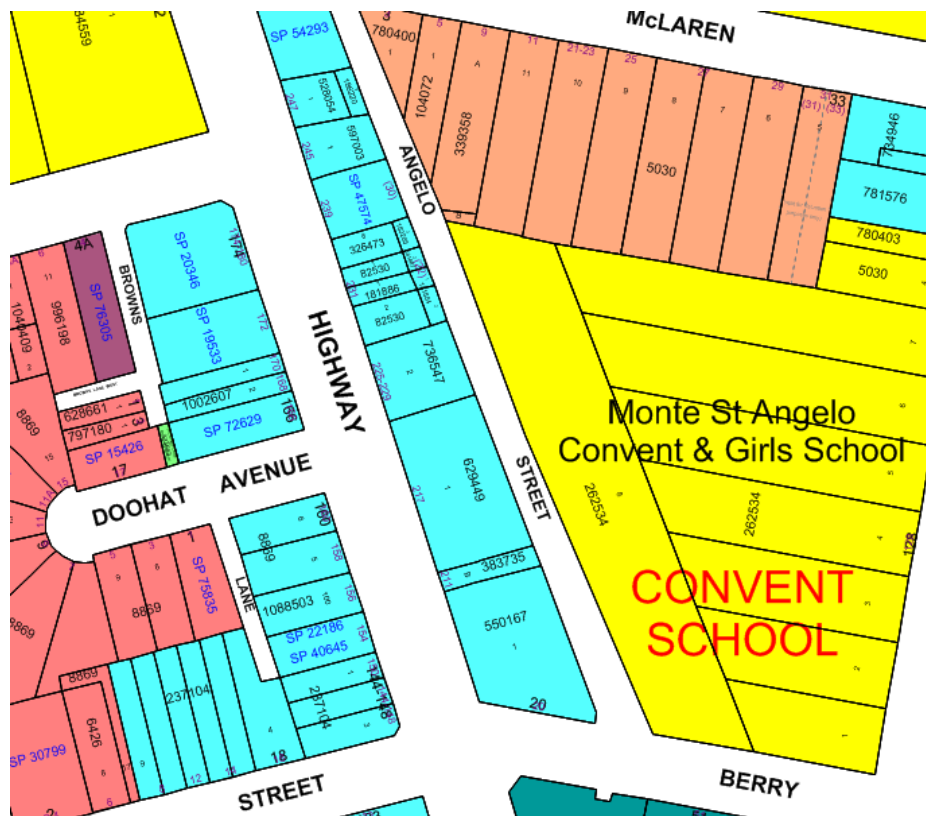
- DP 383735 (211 Pacific Highway)
- DP 629449 (215-223 Pacific Highway)

The site has a frontage of 54.5m to the Highway, frontage of 55.9m to Angelo Street, depths of 27.8m and 30.7m, and a total area of approximately 1,616 m².

Currently, the site at 211 is vacant. The site at 215 Pacific Highway is occupied by a 5 storey building with a GFA of 2,302m². The site at 223 is occupied by a 6 storey building with a GFA of 2,330m².

The subject site is located within the North Sydney CBD. It is surrounded by commercial development as well as the Mount St Angelo Catholic Girls School to the east and southeast. The character of the area is consistent with its Mixed Use zoning.

Location of Subject Site



RELEVANT HISTORY

At its meeting of 29 April 2011, the Sydney East Region Joint Regional Planning Panel, as the consent authority, approved 2010SYE112 – North Sydney – Development Application No.503/10 for demolition of existing buildings and structures, site amalgamation and the of an 18 Storey mixed use building consisting 4 levels of basement car parking, ground floor retail (two restaurant tenancies), commercial (office space) development on levels 1 to 3, and residential development from level 4 to 17. The proposal included 144 apartments.

The property was sold and the new owners have submitted this development application seeking consent for demolition of existing buildings and structures, site amalgamation and the erection of an 21 storey mixed use development consisting of commercial and retail space, 32 serviced apartments, 200 apartments with 6 levels of basement parking.

The main issues with the submitted application relate to the height (being 10m above the height specified in Draft NSLEP 2012), permissibility of the serviced apartments, parking and Urban Design.

The applicant was advised in letter dated 21 November 2012 that the application cannot be supported unless the issues are addressed:

- Height – The overall height is 10m above the height control under Council's Draft North Sydney Local Environmental Plan 2012 which is on exhibition until 25 November 2012. The breach cannot be supported. It is recommended that at least all residential floors are under the draft height control of RL135, therefore one residential floor needs to be deleted from the proposal.

- Serviced apartments – The proposal does not satisfy the definition of hotel and serviced apartments are prohibited under the current LEP. The planning proposal was recently gazetted and it appears that there is now no need to have the apartments on levels 2 and 3 designated as serviced apartments. It is recommended the serviced apartments be shown as apartments and that the non residential floor space on level 1 be increased by taking some of the residential facilities area to ensure that there is a minimum non residential floor space ratio of 0.5:1.
- Parking – The proposal exceeds the maximum parking requirements under Council's DCP. The Parking needs to be reduced so that there is no visitor parking and only 0.5 spaces per studio and one bedroom apartment and one space per two and three bedroom apartment. Commercial parking is provided at the rate of one space per 400m².
- Urban Design – The issues relating to front podium, at grade setback at front and rear, articulation of rear elevation as detailed in the minutes from the Design Excellence Panel.

The applicant prepared amended plans in response to the above issues that were presented to the Design Excellence Panel on 11 December 2012.

The applicant formally submitted amended plans on 25 January 2013. The amended plans were submitted with the following covering letter:

We refer to the abovementioned Development Application (DA). During the assessment and detailed design process the applicant (Crown North Development Pty Ltd) has worked with Council and its Design Excellence Panel on a number of items which has resulted in amendments to the plans that were originally lodged in September 2012.

Accordingly, and pursuant to clause 55 of the Environmental Planning and Assessment Regulation 2000, Crown North seeks to amend the DA to reflect the changes made during the assessment and detailed design process which include:

- ☐ *Reduction in the height of the tower (by one storey), ensuring that all residential floors are under the draft North Sydney LEP 2012 height control of RL135.*
- ☐ *Removal of the serviced apartment's component of the proposal, with all residential floors now comprising traditional apartments. Compliance achieved within minimum non-residential floor space requirement of 0.5:1.*
- ☐ *Refinement and reconfiguration of ground floor plane, including improving the accessibility and interface with the street level.*
- ☐ *Refinement and reconfiguration of basement car park, including reducing the number of residential car parking spaces from 202 to 186 to be compliant with North Sydney DCP requirements.*
- ☐ *Providing for a more readable and traditional podium and tower form.*
- ☐ *Providing for increased articulation of the rear elevation, achieved through the removal of the curtain glass wall and emphasising the facades verticality.*

- ☐ *Increase in the width of the street awning to Pacific Highway, to comply with North Sydney DCP requirements.*
- ☐ *Adjustment to balcony configuration along western elevation in order to improve access from the living area.*
- ☐ *Providing fritted glazing to lower levels in order to improve privacy for future residents.*
- ☐ *Façade development rationalisation.*
- ☐ *Refinement of ground floor level and rooftop level landscape design.*

The amended plans are the subject of this assessment report.

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/Traffic

Council's Traffic Manager (A Lindaya) provided the following comments in relation to the development application:-

"Car Parking

The TTPA bases their parking rates on the draft North Sydney Development Control Plan (NSDCP) 2010. As this document has not been formally endorsed by Council, the most appropriate guideline/ code of practice would be the North Sydney Development Control Plan (NSDCP) 2002.

That maximum parking provision permissible under the NSDCP 2002 is 179 car parking spaces. The proposed development provides 217 parking spaces which exceeds the Council's maximum rate by 21.2%. This is unacceptable to Council's Traffic Planning Section.

The parking rates in NSDCP 2002 were a deliberate policy decision of Council to restrict car parking and therefore car ownership and commuting by car in the busy CBD/ retail areas close to good public transport. Council's strategic plan, the 2020 Vision states, "Public transport and alternative means of transport are the mode of choice for trips to, from and within North Sydney. The community's reliance on the car has reduced. Considerable effort has been made to improve public transport and reduce traffic congestion, particularly through the use of more innovative and environmentally friendly systems."

Council must consider this development in North Sydney area as a whole. Traffic generation is one of the key impacts associated with new developments and traffic congestion and traffic generation issues are of particular concern to the community and impact greatly on resident amenity

Accordingly the proposed development should be restricted to having a maximum of 179 car parking spaces.

Motorcycle Parking

The NSDCP 2002 requires *Mixed Use Zones* to provide parking for motorcycles at a minimum rate of 1 space per 10 cars.

The proposed development provides 25 motorcycle spaces which complies with the NSDCP 2002.

Bicycle Parking

The development site is located along a major bicycle corridor and should incorporate bicycle facilities as far as possible.

The NSDCP 2002 requires *Mixed Use Zones* to provide 1 bicycle locker per 3 dwellings and 1 bicycle rail per 12 dwellings for visitors. Further, commercial/ retail areas are to provide 1 bicycle locker per 600m² and 1 bicycle rail per 2500m² for visitors.

The proposed development also makes provision for a total of 98 bicycle parking spaces comprising of 80 bicycle parking spaces for residents and 18 bicycle parking spaces for visitors.

Although the NSDCP states that bicycle lockers should be used, bicycle cages are a better form of parking facility as it is a more efficient use of space.

To comply with the NSDCP 2002, the development should incorporate a bicycle cage(s) capable of storing 80 bicycles and 20 bicycle rails for visitors.

Traffic Generation

The report's traffic generation methodology (*RMS Guide to Traffic Generating Developments*) is acceptable to Council's Traffic Planning Section.

The traffic report has calculated the trips generated by the development to be in the order of 82 vehicle trips in peak hour (vtp).h).

Given the proximity of the site to the state road network, and the fact that the existing sites currently generate 93 vtp, I concur that the additional traffic generated by the development can be accommodated on the road network.

Queuing Length

It is unclear from the diagrams where it is intended to install an intercom/ security access point to the residential and commercial basement car park. There are high pedestrian volumes on Angelo Street. Therefore it would be unacceptable to have vehicles queuing onto Angelo Street or the footpath.

If an intercom/ security access point to the residential and commercial car park is proposed, then its location must comply with AS 2890.1.

Service Vehicles and Loading Area

The population of North Sydney is highly mobile. Nearly half of all residents rent and, over a five-year period, over 65% move to a new address. This is particularly the case for apartments, and particularly for the smaller apartments included in the proposed development. Smaller apartments are more likely to be utilised by renters, who move in and out more readily. Given that this development is for residential apartments, it could be assumed that there will be a substantial number of residents moving in and out of the building on a weekly basis.

An on-site courier/loading area capable of accommodating the Australian Standard

AS2890.2:2002 8.8m long Medium Rigid Vehicle (MRV) is proposed adjacent to the main vehicle access driveway off Angelo Street.

Conclusion

It is recommended that the development not be approved until the following issues are addressed.

- That the proposed development be restricted to a maximum of 179 car parking spaces in accordance with the North Sydney Development Control Plan 2002.

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

Planning Comment: The applicant has reduced the amount of parking in the amended plans to be compliant with Council's DCP. The above-mentioned conditions should be imposed as conditions of consent should the development application be approved. The access to the loading dock has been assessed and it is considered that a medium rigid vehicle can enter and leave the site in a forward direction.

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. These conditions of consent should be imposed should the development application be approved.

Heritage

The works to 211-223 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.

DESIGN EXCELLENCE PANEL

The minutes are reproduced as follows:

“PROPERTY: 211-223 Pacific Highway North Sydney

DATE: 11 December 2012 @ 4.00pm

ATTENDANCE: Panel Members: Philip Graus; Russell Olsson; David Chesterman and Peter Webber. Apology from Helen Lochhead.
Council staff: Geoff Mossemeneer (chair); Emma Booth.
Proponents: Koichi Takada (architect); Georgia Wilson (architect); Alexis Cella (town planner).

Background:

The current proposal was previously before the Panel at its meeting of 13 November 2012. The Panel felt that amendments and further details were required as follows:

- The scale and height of the proposed development exceeds the Draft North Sydney LEP height limit of RL 135 by 10m.
- The serviced apartments were not required to meet the reduced non residential floor space ratio (minimum 0.5:1) and that the minimum could be achieved with some additional floor area at level 1.
- The serviced apartments proposed do not meet the requirements of a hotel (separate entrance and LEP definition) and should be considered as apartments.
- The front setback should be at grade with the footpath as much as possible to provide better amenity and to allow for street trees to be located away from the road to avoid damage and permit more comfortable pedestrian circulation.
- The planter to Angelo Street should be deleted to allow for better activation of the commercial space and to provide a minimum setback of 1.5m from the boundary (to allow for widening of footpath).
- The street awning be provided over the public footpath (having regard to the street trees).
- The lack of a podium on the design.
- Concern about the rear elevation being all glazing with minimal articulation.
- The location and size of the kitchens in the studio and one bedroom apartments and whether this could be improved.
- The location of the balconies on the western elevation with regard to having the main access from the bedroom and the minimal size of the balconies.
- The extensive use of glass on both elevations and how the enclosed balconies and apartments would resolve the requirements for thermal comfort, particularly given the direct exposure to eastern and western summer sun.
- No details were available at the meeting with regard to Basix. No details were provided about the type of glass and the colour of the glass.
- No details of suitable solar screening were provided.
- No details of air conditioning and where the plant will be located were provided.
- The clear glass balustrades to balconies would give no privacy to residents, and the clear glass walls to living rooms and bedrooms would mean that blinds would need to be drawn for most of the day and night, particularly at lower levels and on both eastern and western elevations.

The Proposal:

The proposal has been reconsidered and amended plans were provided to the Panel showing a drop in height of the building by 3.1m; apartment numbers being reduced to 228 and modifications to the lower levels of the building and the rear elevation. Further detailing of finishes and the window glass was also provided.

The architect provided an outline of the amended proposal and their response to the Panel's previous comments.

Panel Comments:

The Panel noted that the majority of the issues raised previously have been addressed and the Panel commends the architect for resolving these concerns.

The Panel felt that further detail of the street awning should be provided with the amended plans and that glass should not be the major material of the awning.

The Panel commented that the applicant should consider wind impact on the through site link.

The Panel recommended a consistent system for blinds to the windows and balconies be included in the design as they will be highly visible at both street elevations.

Conclusion:

The Panel supports the amended proposal."

External Referrals

The application was forwarded to Roads and Maritime Services on 5 October 2012 in accordance with Clause 104 of the SEPP (Infrastructure) 2007 for consideration and advice. Concurrence was received by the RMS subject to conditions.

SUBMISSIONS

The application was notified to surrounding owners and residents and all precincts from 12 October until 12 November 2012. Two submissions were received and are summarized as follows:

- Loss of sunlight
- Noise dust and dirt from construction
- Landscaping of site

It is noted that the no existing dwellings will be affected by overshadowing, construction issues are addressed by suitable conditions and landscaping on mixed use site is restricted due to the amount of site cover. None of the submissions would appear to warrant refusal of the application.

Amended plans have been submitted to Council during the assessment period in response to the Design Excellence Panel's comments and the issues raised by Council. Further amended plans were lodged on 25 January 2013 to make some design changes to the building including a reduction in the overall height.

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 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

STATUTORY CONTROL – North Sydney Local Environmental Plan 2001				
North Sydney Centre	Existing	Proposed	Control	Complies
Height (Cl. 28D(2)(a))	RL 108.13m AHD	RL 141.8m 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))	1616m ²	1616m ²	1000m ² min.	YES
Mixed Use Zone				
Floor Space (Cl. 31) (max)	2.87:1	0.5:1	Minimum of 0.5:1	YES

DCP 2002 Compliance Table

DEVELOPMENT CONTROL PLAN 2002		
	complies	Comments
6.1 Function		

Diversity of activities, facilities, opportunities and services	Yes	Communal space provided for residents – extensive commercial and retail space provided
Mixed residential population	Yes	Generally complies with the recommended dwelling mix in the DCP
Maximum use of public transport	Yes	Commercial parking on site decreased; excellent access to public transport
6.2 Environmental Criteria		
Clean Air	Yes	Reduced level of parking
Noise	Yes	Acoustic report submitted, can be conditioned
Acoustic Privacy	Yes	Acoustic report indicates standards can be met
Visual Privacy	Yes	No dwellings in close proximity. Viewing into School restricted by distance, angle and school buildings and roofs
Reflected light	Yes	Materials can be conditioned
Artificial light	NA	No roof top advertising proposed
Outdoor lighting	Yes	Can be conditioned
Awnings	Yes	Continuous awning provided across Highway frontage
Solar access	Yes	Satisfactory
Views	Yes	Minimal impacts to any views from dwellings
6.3 Quality built form		
Context	Yes	Site analysis undertaken, building in context with desired character for area
Public spaces and facilities	No	Not required but large retail space at ground level available for possible café use.
Skyline	Yes	Upper levels designed to contribute.
Through-site pedestrian links	NA	None required, however one tenancy (possible café) does provide link from Highway to Angelo Street
Streetscape	Yes	Satisfactory. Supported by Design Excellence Panel
Subdivision	Yes	Site area exceeds minimum requirements
Setbacks	Yes	Generally compliant with character statement. Weighted average less than 5m
Entrances and exits	Yes	Visible from Highway
Street frontage podium	Yes	Podium level established in amended plans
Laneway frontage	Yes	No setback required under character statement at ground level. 1.5m provided. Podium height is satisfactory
Building design	Yes	Generally satisfactory with regard to amendments in response to Design Excellence Panel comments
Nighttime appearance	Yes	Can be conditioned
6.4 Quality urban environment		
High quality residential accommodation	Yes	Apartment areas comply;
Accessibility	Yes	Accessibility report submitted
Safety and security	Yes	Satisfactory
Car parking	Yes	See detailed comments below about provision and dimensions
Bicycle storage	Yes	Satisfactory
Vehicular access	Yes	From Angelo Street and not the highway
Garbage Storage	Yes	Satisfactory
Site facilities	Yes	Storage areas provided within basement and within apartments
6.5 Efficient use and management of resources		
Energy efficiency	Yes	Basix certificate submitted

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.

OBJECTIVE	RESPONSE
(a) to maintain the status of the North Sydney Centre as a major commercial centre within Australia.	The proposal results in a reduction in the commercial floor space existing on site. The site is consistent with controls
(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 ² (maximum) non residential gross floor area in addition to the estimated existing (as at the commencement of this Division) 700,000m ² non-residential gross floor area.	The proposed development will reduce existing non residential floor space.
(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 ² .	The commercial floor plate upon the site exceeds the required 1000m ² threshold.
(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 is 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 is not large enough to provide any real public benefits as suggested. Although a through site link is provided.
(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 minimal impact on amenity of the residential areas. There are no adjoining residential areas.
(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 result in no additional overshadowing.
(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 street planting and roof top communal spaces.

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 4638m² and the proposal has a non residential floor area of 812m² 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.

The proposed development does not adjoin residential development and is separated by the highway. There are no privacy issues.

(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 are not 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 cannot 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 141.8 AHD (to the top of roof treatment) 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 does not overshadow any residential premises outside the North Sydney Centre falling within the composite shadow area.

- (e) *The site area is not less than 1,000m².*

The subject site is 1616m² in area and complies.

- (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 to create a commercial floor plate. Adjoining sites are not 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 provides no direct public benefits other than it is well designed and provides quality residential accommodation on the edge of the CBD. An informal through site link would be provided through the ground level tenancy.

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 and west 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.

- (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 141.8 AHD. This is to the top of the plant room and roof architectural detailing and is consistent with the desired height controls for the area.

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 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 Planning Proposal was gazetted in October 2012 (Amendment 49) that reduced the required floor space ratio to a minimum of 0.5:1. The amended proposal satisfies the minimum requirement.

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 211-223 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.

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. It was re-exhibited in November 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 have been considered in relation to the subject application, Draft LEP 2012 is the comprehensive planning instrument for the whole of Council's area which has been prepared in response to the planning reforms initiated by the NSW state government.

The provisions of the Draft Plan largely reflect and carry over the existing planning objectives, strategies and controls in the current NSLEP 2001 in relation to this site.

The site is identified under Draft LEP 2012 as being included within the B4 mixed use zone as are adjoining sites. The proposed development is permissible in the draft zone.

The development standards applicable to the site under the Draft LEP (DLEP) 2012 generally reflect those which currently apply to the site under the current North Sydney Local Environment Plan 2001 (NSLEP) 2001. The development standards which apply to the proposed development under the DLEP are identified in the following compliance table:

COMPLIANCE TABLE – DEVELOPMENT STANDARDS			
Development standard	Requirement	Proposed	Complies
Clause 4.3: Height of buildings	RL 135	RL 141.8	NO
Clause 4.4: Floor space ratio	Minimum 0.5:1	0.5:1	YES
Clause 6.3: Building heights and massing	1000m ² site area	1616m ²	YES

The proposed development has been considered against the development standard applicable under the Draft LEP and does not comply with the provisions of Clause 4.3. The departure to the height control is supported as it is only the plant room and communal roof facilities that exceeds the height. **The roof of the apartments is within the control. There are no adverse impacts caused with the breach of the height control by other non habitable elements of the building.**

Having regard to the provisions of section 79C of the Environmental Planning and Assessment Act 1979, the proposed development is considered to satisfactory with regard to the provisions of the Draft North Sydney Local Environmental Plan 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. It is noted that part of the site that is now vacant did have some contamination from a petrol storage tank and pump that has been removed. With the extensive excavation for the car parking now proposed, all contaminated material will be removed from the site.

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 height 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 blinds 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 windows have been considered.

Principle 6 - Landscape

Landscaping is incorporated into the design at street level. 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 to be enclosed with glazing with solid balustrades to the east 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, 2, and 3 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 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 has 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 rooftop landscaped communal area provided for all 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

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 rear and southern side boundaries. A setback of 3.5m is proposed for the majority of the frontage to provide for adequate access to the site and allowing for the slope along the frontage. There is no requirement for a setback at ground level at Angelo Street, however it is noted that there is a minimum setback of 1.5m.

Maximum five storey street frontage podium height along 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 on Highway

The podium height will apply to the lower 3 levels of the building, which is consistent with surrounding development. The upper levels are setback a minimum of 1.5 - 3m with substantial articulation as well as a setback from the northern boundary. The podium configuration responds to the scale and bulk of adjacent developments in the streetscape.

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. Appropriate street planting will be

required and can be conditioned.

SECTION 94 CONTRIBUTIONS

Section 94 Contributions in accordance with Council's S94 plan are warranted should the Panel consider the development application worthy of approval. The existing buildings on the site have a total non-residential gross floor area of approximately 4638m² and the proposal has a non residential floor area of 812m² resulting in a decrease over that which currently exists. The contribution is based on the residential component of 10 x studio, 77 x one bedroom apartments; 137 x two bedroom apartments and 4 x three bedroom apartments with an allowance for 3826m² of non residential space in the existing commercial buildings:

Administration	\$17,477.36
Child Care Facilities	\$10,953.94
Community Centres	\$95,587.13
Library Acquisition	\$17,501.29
Library Premises & Equipment	\$54,347.75
Multi Purpose Indoor Sports Facilities	\$13,606.72
Open Space Acquisition	\$705,533.42
Open Space Increased Capacity	\$1,398,488.57
Olympic Pool	\$44,323.58
Public Domain Improvements	\$277,177.29
Traffic improvements	\$49,393.04
The total contribution is:	\$2,684,390.09

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

CLAUSE 14 NSLEP 2001

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

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

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

As such, consent to the development may be granted.

CONCLUSION

The application has been assessed against the relevant statutory controls. The application was referred to Council's Design Excellence Panel for comment and there was support for the proposal by the DEP. The applicant had a pre lodgement meeting with the DEP and responded to all the suggestions in the submitted plans. The application is recommended for favourable consideration by the Panel.

RECOMMENDATION

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

THAT the Joint Regional Planning Panel, as the consent authority, grant consent to 2012SYE097 – North Sydney - Development Application No.343/12 subject to the attached conditions.

Geoff Mossemenear
EXECUTIVE PLANNER

Stephen Beattie
MANAGER DEVELOPMENT SERVICES
