

|                             |  |
|-----------------------------|--|
| <b>JRPP No:</b>             | <b>2013SYE006</b>  |
| <b>DA No:</b>               | <b>DA.437/12</b>   |
| <b>PROPOSED DEVELOPMENT</b> | <b>Demolition of existing buildings and structures and the erection of an 21 storey mixed use development consisting of commercial and retail space, 173 apartments with 5 levels of basement parking at 221 Miller Street North Sydney.</b> |
| <b>APPLICANT:</b>           | <b>The owners of Strata Plan 49696</b>   |
| <b>REPORT BY:</b>           | <b>Geoff Mossemeneer, Executive Planner, North Sydney Council</b>  |

## **Assessment Report and Recommendation**

---

### **EXECUTIVE SUMMARY**

This application is seeking consent for the demolition of existing commercial building and the construction of a mixed use development in a building consisting of 21 floors, 5 floors of retail/commercial space, 16 residential floors and 5 basement parking floors.

Council's notification of the proposal has attracted 4 submissions raising particular concerns about landscaping, traffic, building separation, privacy 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

This application is seeking consent for the demolition of existing commercial building and the construction of a mixed use development in a building consisting of 21 floors, 5 floors of retail/commercial space, 16 residential floors and 5 basement parking floors.

The proposed development provides:

- A total of 173 residential units consisting of:

- 40 studio units
- 58 x 1 bedroom units
- 71 x 2 bedroom units
- 4 x 3 bedroom units
- including 18 adaptable units;

- Parking for 139 cars;
- Parking for 15 motor cycles;
- 87 bicycle racks/lockers; and
- Associated landscaping.



## **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 within the North Sydney Centre on the eastern side of Miller Street between the intersections of McLaren Street and Berry Street.

The site has a site area of 2,458m<sup>2</sup> and 2,007m<sup>2</sup> when the access handle is excluded. The access handle provides vehicular access to the rear of the subject site via a driveway to McLaren Street.



Access from McLaren Street



The site has the following dimensions:

- Frontage to Miller Street (western boundary): 26.555 metres
- Southern boundary: 74.985 metres
- Eastern boundary: 33.045 metres (Access handle length): 74.37 metres
- Northern side boundary: 68.94 metres
- Access handle frontage to McLaren Street: 6.12 metres wide

The site currently contains a 15 storey commercial building constructed in pre-cast concrete panels. The existing building was constructed in 1968 and was originally called the *Sabemo Centre*. The building is setback approximately 29 metres from the Miller Street boundary and currently contains a grassed area and landscaped forecourt.



Existing building



The eastern side of Miller Street is characterised by high rise commercial buildings and mixed use buildings containing lower level retail/commercial with residential space above. Adjoining the site to the north is 225 Miller Street which contains ground level restaurants with residential levels above. This site adjoins half the subject site whilst 229 Miller Street is located to the rear. 225 Miller Street contains a 5 storey podium with a residential tower above. The tower consists of an additional 15 storeys. 229 Miller Street is a battle axe handle shaped allotment that obtains access from Miller Street and the rear access handle that serves the site. It adjoins the subject site at the eastern end of the northern boundary. It contains a 4 storey residential flat building which addresses the access handle.

Adjoining the subject site to the south is 213 Miller Street which contains a ground level retail level currently occupied by a café, whilst the commercial floors above are occupied by Unisys.

Directly opposite the subject site (on the western side of Miller Street) is the Monte Saint Angelo College.

### Location of Subject Site



## RELEVANT HISTORY

The existing building was constructed in 1968 and was originally called the *Sabemo Centre*. The building is setback approximately 29 metres from the Miller Street boundary and currently contains a grassed area and landscaped forecourt. A search of Council records did not reveal the reason for the substantial setback from Miller Street, there was no control or requirement or condition from Council at the time.

A pre lodgement application was referred to Council's Design Excellence Panel at its meeting of 4 September 2012. The Panel provided the following comments:

*....Having regard to the surrounding development and rear access to the site, the Panel considers that a minimum of 9m setback is necessary from the rear eastern boundary. This would allow for future development to the east and set a reasonable setback for development of 229 Miller Street to the north. The Panel has considered the rear access as similar to a lane and notes that development fronting lanes would normally have a minimum 9m setback from the centre of the lane. The podium facing the laneway should also have a comfortable human scale, by way of articulation, setbacks, landscaping by way of 'green wall' or similar.*

*The ground level entry requires further consideration with a separate entry for the commercial part of the development. A widening of the southern setback at ground level by way of an under-cover walkway is recommended by the Panel to provide a safer and more generous combined residential entry foyer, desirably with some retail activation fronting the walk to the residential lobby. This would also allow space for some planting along the boundary. The best solution for the side entry would be to have a double height setback as this would provide far more openness. This may however reduce the amount of non residential area.....*

The applicant has incorporated the Panel's suggestions in the proposal. The proposal was further considered by the Design Excellence Panel at its meeting of 5 February 2013. Several matters were raised by the Panel as well as concerns from Council about front landscaping, front setback, sub station location and loading facilities.

The applicant formally submitted amended plans on 7 March 2013. The amended plans were submitted with the following covering letter:

*Following the design excellence panel meeting on 5th February 2013 enclosed are amended documents as requested*

*Amendments include*

*Built Form:*

- *Vertical blades in the glazing along the retail facade deleted as it may cause security issues for pedestrians and residents,*
- *The landscaping amended to combination of bamboo and ground covers suitable landscaping for the site.*
- *Amended tapering of the entry from the street to improve weather protection and rounding of the corner of the building.*
- *Residential entry lobbies now combined + expanded to provide for o more generous space.*

*Landscape:*

- *Southern boundary planting amended*
- *Landscaping within the front setback amended to tie in with adjoining sites and the character of Miller Street.*

*Amenity:*

- *Screening to the central area where the balconies and windows are close*

- Solid roof over the roof communal space with a glass wall for shelter,

*Safety and Security:*

- The glazing and the landscaping along the southern boundary amended for security by design.
- Vertical blade walls to ground floor deleted

*Social Dimensions:*

- Solid roof over the roof communal space with a glass wall/louvres for shelter
- The main entry of ground level now more generous in size and provided with seating to ensure that it is a welcoming space for residents and visitors to meet,

*Other matters:*

- The provision of suitable loading facilities for removalist vans
- The location of electricity substation to the rear lane

**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 Engineer has provided comments and agrees with the traffic report and the number of spaces provided. The only issue relates to loading facilities for furniture removalists. The application is not supported until the loading facilities on site are improved to cater for a medium rigid truck (8.8m long and 4.5m high).

### Planning Comment:

The Australian Standard for Parking Facilities (Part 2: Off-street commercial vehicle facilities), AS 2890.2 - 2002 indicates that a design medium rigid truck is 8.8m long having a height clearance requirement of 4.5m. It indicates that "The MRV represents the common service truck having a load capacity of 8T, and typically having a single rear axle and dual tyres. The MRV should be adopted as the design vehicle where there is significant movement of goods but provision for more than the occasional HRV or AV is not necessary."

The loading dock in the approved development has been designed to accommodate an 7.6m long truck. In practice, trucks have varying height clearance requirements and some medium rigid trucks do not require 4.5m height clearance.

The most common uses of the loading dock in the approved development, for which service vehicles will be used, will be for garbage collection and for furniture movement when residents are moving into or out of the building. Most contract garbage collection and furniture removal businesses provide a range of different sized vehicles in their

fleets, including trucks which will be able to use the loading dock with 3.5m height clearance.

The applicant has provided the following:

*TRAFFIX has taken into consideration Council's concern and advises that the development can accommodate a maximum vehicle size of a 6.4m SRV as defined in AS 2890.2 (2002). The 6.4m SRV represents a truck with a maximum capacity of 4.0 tonnes.*

*Based on our enquiries, removalist vehicles of up to 4.5 tonnes are suitable for 2 and 3 bedroom dwellings. It is noted that some companies specify a 6-8 tonne truck for larger units and this would generally be regarded as an 8.8m MRV. The provision of a loading dock to accommodate a 6.4m SRV is therefore deemed satisfactory in these circumstances for the following reasons:*

*It is noted that the majority of removalist companies obtain 4 tonne removal vehicles in their fleet. In particular we draw Council's attention to the response from 'Access Removals Sydney' confirming that a 4 tonne truck with dimensions 6.2m in length, 2.4m in width and 3.4m in height (similar to design vehicle 6.4m SRV) is commonly used for large two bedroom or small three bed dwellings.*

*Council has only raised its concern in relation to the servicing of the three bedroom units. It should be noted that the development proposes only 4 three bedroom units, which represents 2% of the total unit yield of 173 units. This requirement should not therefore dictate the design solution for the building. In addition, assuming a scenario whereby residents occupy the tenancy for 1 year (minimum) then a worst case would arise with only 4 occasions per year where an occupant may need to use the smaller SRV. This would simply involve one additional load on each occasion which will have a negligible impact.*

*It is usual practice for tenants or residents to make prior arrangements when moving and it is entirely acceptable that at the time of booking, the limitations of the dock be advised. This can be dealt with through an appropriate management plan if necessary. However, most removalist companies provide the requisite flexibility to deal with the constraints at any site. Any such plan could also include a requirement for tenants to advise the building manager in advance, when the dock is required.*

The applicant submitted information from operators demonstrating that removal vans suitable for two bedroom apartments will be accommodated with a height clearance of 3.5m. There are very few three bedroom units in the building. The loading dock within the development also provides for trucks to conveniently access the lifts. It will therefore not be necessary for service vehicles to park on the street.

The development will also include a manager whose responsibilities will include co-ordinating the use of the loading dock. This will include the requirement for residents to book the use of the dock when moving into or out of the building. The management plan for the loading dock will include the requirement for on-site garbage collection and removal vehicles to require a height clearance of less than 3.5m.

A 4.5m height clearance in the loading dock for the approved development is not considered to be necessary under the circumstances as appropriate removalist vans can be accommodated on site. Larger vans cannot be accommodated on street to easily access the building.

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

Council's Development Engineer (Z Cvetkovic) 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 site currently contains a 15 storey commercial building constructed in 1968. The proposal is for the demolition of that building and its replacement with a new, 21 storey mixed use building. The new building is consistent, in terms of scale and design, with other recently constructed buildings in the area.

The impact of the proposal on the nearby heritage items has been assessed. Given the context of the site, being surrounded by multi storey buildings of a similar scale and form, the proposal is not considered to have a detrimental impact on the significance, setting, or curtilage of the nearby heritage items. Accordingly, no objections to the proposal are raised on heritage grounds.

## **Landscaping**

Council's Landscape Development Officer (B Smith) has provided the following comments:

It is advised that I have inspected the property with the benefit of the submitted plans and landscape plans and the following observations were made and recommendations provided.

The proposal includes the removal of a number of mature trees, some incidental shrubs and a turf area on the site itself.

- The trees proposed for removal are as follows:
  1. Lemon Scented Gum growing along the northern boundary
  2. Agathis robusta growing along the northern boundary
  3. Atlantic Cedar growing along the northern boundary
  4. Camphor Laurel growing along the northern boundary
  5. Evergreen Alder growing along the southern boundary
  6. Moreton Bay Fig Tree growing adjacent to the south-eastern corner of the property
  7. Camphor Laurel growing along the eastern boundary of the property
  8. Jacaranda growing along the eastern boundary of the property.
- The removal of a Crepe Myrtle and some shrubs and groundcover from Council land adjacent the western boundary of the property.
- The proposal indicates the retention of the existing mature London Plane Tree growing in the footpath area outside the property.

In relation to the removal of the trees on the property itself, I can support their removal as they are all essentially boundary plantings threatening the integrity of built structures both on the property itself and the relevant adjoining property. They are for various reasons, including planting in very confined areas and on shallow soil depths, poor specimens.

In relation to the removal of the existing Crepe Myrtle, shrubs and groundcovers on Council property and their replacement with 2 Water Gums, planted as feature trees within a garden bed area that also extends onto the property itself, this proposal adequately reinstates the lost amenity values provided by the existing plantings.

In conclusion it is my opinion that the works do not threaten Council's existing street tree and the proposed re-landscaping of the property itself and adjacent Council property, represents a satisfactory reinstatement of lost amenity values from both Council property, the property itself and appropriately reintegrates the existing landscape values at the front of the property and Council property.

Therefore I support the approval of the application provided the following conditions are included in the

consent.....

## DESIGN EXCELLENCE PANEL

The application was referred to Council's Design Excellence Panel at its meeting of 5 February 2013. The Panel provided the following comments:

PROPERTY: 221 Miller Street North Sydney

DATE: 5 February 2013 @ 4.00 pm

ATTENDANCE: Panel Members: Philip Graus; Helen Lochhead; David Chesterman; Peter Webber; apology from Russell Olsson  
Council staff: Geoff Mossemeneer (chair); Emma Booth  
Proponents: Aleksander Jelcic (architect); Naoi Sha (owner); Len Thomas (strata manager)

Pre lodgement plans were considered by the Panel on 4 September 2012. The site was inspected by the Panel and Council staff prior to the previous meeting.

This proposal is an application to be determined by the Joint Regional Planning Panel.

### The Proposal:

The development application is for the demolition of the existing commercial building, excavation and construction of 5 levels of basement parking and construction of a 21 storey mixed use building comprising:

- 5 levels of commercial floor space;
- 173 residential apartments over Levels 5-20.

The architect was available for discussion and the architect advised the Panel that the suggestions made at the pre lodgement meeting have been incorporated in the current proposal.

### Panel's Comments

#### Principle 1 – Context:

North Sydney is currently a highly built up area, the proposal is consistent with the surrounding development of this area and Council's desired character for this location.

#### Principle 2 – Scale:

The scale is reflective of surrounding developments. Along Miller Street buildings include 15 storey, 21 storey and 16 storey buildings, while the existing development on the site is a 15 storey building. The proposed 21 storey scale which is consistent with surrounding development is considered an appropriate scale. The front setback reflects the setback of 219 Miller Street and the front setback of the recently constructed 225 Miller Street building. The proposed building is to be compliant with the height, setback and FSR controls according to the NSLEP 2001 and NSDCP 2002. The building has a height of RL140 which is the maximum height provided in the Draft NSLEP 2012.

#### Principle 3 – Built Form:

The 5 podium levels are setback from Miller Street which is consistent with the surrounding development. Residential levels are clearly defined from the podium retail/commercial levels by provision of balconies. It is appropriate to provide commercial and retail uses on the lower floors and residential uses on the upper floors which is consistent with other development in the area.

The entry through a landscaped area encourages public access and clearly defines the public domain. As the ground floor is open to the south via a landscaped area and public thoroughfare, the use of the retail area will be encouraged.

The Panel raised concern about the use of vertical blades in the glazing along the retail facade as it may cause security issues for pedestrians and residents. Similarly the landscaping needs to be designed with security in mind. It was suggested that a combination of bamboo and ground covers might be suitable landscaping for the site.

The Panel also suggested a further tapering of the entry from the street to improve weather protection and rounding at the corner of the building.

The Panel suggested that the residential entry lobbies be combined or expanded to provide for a more generous space.

**Principle 4 – Density:**

The density of the development is consistent with the surrounding size of buildings within North Sydney and it is noted that the building is generally compliant with the relevant controls.

**Principle 5 – Resource, energy and water efficacy:**

The proposal has been designed to provide for cross ventilation for 65% of apartments. A Basix certificate has been submitted with the application.

**Principle 6 – Landscape:**

The Panel raised concern about security along the southern boundary with regard to appropriate planting. Landscaping within the front setback needs to be considered to tie in with adjoining sites and the character of Miller Street.

**Principle 7 – Amenity:**

A variety of different sized apartments and layouts have been proposed and the mix appears appropriate. The Panel felt that some additional screening was required in the central area where the balconies and windows are close. The Panel also recommended a solid roof over the roof communal space with a glass wall for shelter.

**Principle 8 – Safety and Security:**

The development provides causal surveillance through the public space provided on the ground level which adjoins the retail area. The Panel recommended that the glazing and the landscaping along the southern boundary consider security by design with regard to the use of vertical blades and shrubs/planting.

**Principle 9 – Social Dimensions:**

The development provides a variety of housing sizes with a majority as small dwellings. The Panel commends the architect for the communal space provided at roof level. Part of this space should be enclosed to make it useable in wet and windy conditions, and desirably it should be provided with a sink and urn.

The main entry at ground level should be more generous in size and provided with seating to ensure that it is a welcoming space for residents and visitors to meet.

**Principle 10 – Aesthetics:**

The building is very similar to 225 Miller Street in terms of building elements, style, and for that reason contributes to the established streetscape along Miller Street. The colour schedule which includes, a mix of bronze, grey and white are acceptable. The use of glazing for the retail level will assist in activating the Miller Street frontage and the pedestrian thoroughfare along the southern boundary of the site.

**Other matters**

Council staff advised that there are several additional matters requiring attention including the provision of suitable loading facilities for removalist vans; the location of electricity substation (not being in the front setback) and the statutory requirement for a minimum 5m setback from

the front boundary.

### **Conclusion**

The Panel supports the proposal and recommends the applicant make the above modifications as suggested by the Panel.

### **External Referrals**

The application was forwarded to Roads and Maritime Services on 17 January 2013 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 11 January until 25 January 2013. Four submissions were received and are summarised as follows:

#### *Stanton Precinct*

- *Pleased that there are breezeways between the buildings allowing air and view into the street.*
- *Asks that there be provision for car share to be parked off street outside new building.*
- *Questions the number of bike spaces and whether there is safety issue around the CBD.*

#### *11/45 McLaren Street*

- *missed opportunity for design excellence, too much like other recent building around centre*
- *many apartments have no parking, suggest car share spaces be provided*
- *pleased that height control is complied with*

#### *1104/37-39 McLaren Street*

- *increased traffic in access lane*
- *impacts of demolition and construction noise on surrounding residents*
- *loss of privacy*
- *impact on fig tree*
- *seeks limited construction hours to 8am start and no Saturdays*
- *seeks vehicle access from Miller Street and not McLaren Street*
- *seeks retention/protection of tree*

#### *225 Miller Street*

- *Privacy*
- *Overshadowing*
- *Loss of views*
- *SEPP 65 with regard to building separation, balcony widths, solar access and cross ventilation.*

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 7 March 2013 to make some design changes to the building (as outlined above).

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))   | RL131.8 AHD        | RL140 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))                               | 2007m <sup>2</sup> | 2007m <sup>2</sup> | 1000m <sup>2</sup> min.   | YES      |
| Mixed Use Zone   |                    |                    |                           |          |
| Floor Space (Cl. 31) (max)                                     | 3.57:1             | 3.00:1             | Range between 3:1 and 4:1 | YES      |

## DCP 2002 Compliance Table

| DEVELOPMENT CONTROL PLAN 2002  |                 |   |
|--|-----------------|---|
|  | <i>complies</i> | <i>Comments</i>   |
| <b>6.1 Function</b>  |                 |   |
| <b>Diversity of activities, facilities, opportunities and services</b> | Yes             | Communal space provided for residents – extensive commercial and retail space provided  |
| <b>Mixed residential population</b>                                    | Yes             | Generally complies with the recommended dwelling mix in the DCP<br>Provided are:<br><ul style="list-style-type: none"> <li>• studio apartments – 23%</li> <li>• 1 bedroom apartments – 34%</li> <li>• 2 bedroom apartments – 41%</li> <li>• 3 bedroom+ apartments – 2%</li> </ul> 57% of apartments being small apartments have been accepted in the North Sydney Area on the basis on the close proximity to the railway station 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  |
| <b>Noise</b>   | Yes             | Can be conditioned  |
| <b>Acoustic Privacy</b>  | Yes             | Can be conditioned  |
| <b>Visual Privacy</b>  | Yes             | Balconies are predominantly orientated to the east and west towards Miller Street and the rear access handle. North side balconies are provided to units on the southern side, however are located in excess of 8m from the boundary. Windows that are within 6m of the side boundary are either screened, highlight or frosted to preserve the amenity of adjoining development.<br>Privacy screens and balustrading is used to screen the communal open space areas on Level 5 and 20 from residential units. |
| <b>Reflected light</b>   | Yes             | Materials can be conditioned  |
| <b>Artificial light</b>  | NA              | No roof top advertising proposed  |
| <b>Outdoor lighting</b>  | Yes             | The entrance is well lit and open, significantly reducing the shadows in the entry foyer.   |
| <b>Awnings</b>   | Yes             | With setback from street that is required, a continuous awning along the street is not practical. A covered access is provided from the street to the residential side access.  |
| <b>Solar access</b>  | Yes             | There are no single aspect south facing dwellings. No additional overshadowing of the Miller Street "special area".<br>Pergola provided to upper level communal areas.  |
| <b>Views</b>   | Yes             | Communal open space is provided on level 5 and 20 where city views are available.<br>Views from 225 Miller Street currently across the front of the site are not protected under character statement. Current views are not from living areas.  |
| <b>6.3 Quality built form</b>  |                 |   |
| <b>Context</b>   | Yes             | Site analysis undertaken, building in context with desired character for area   |
| <b>Public spaces and facilities</b>                                    | Yes             | Ground level front set back and rear setback provided as required by Council. Communal open   |

|                                      |     |   |
|--------------------------------------|-----|---|
|                                      |     | space and private open space is provided.<br>Through site link proposed that can be provided as public right of way for life of building.   |
| <b>Skyline</b>                       | Yes | Upper levels designed to contribute.  |
| <b>Through-site pedestrian links</b> | Yes | A pedestrian through-link is provided along the southern boundary to link Miller Street to the rear access handle that links McLaren Street and eventually Ward Street  |
| <b>Streetscape</b>                   | Yes | Satisfactory. Supported by Design Excellence Panel  |
| <b>Subdivision</b>                   | Yes | Site area exceeds minimum requirements  |
| <b>Setbacks</b>                      | Yes | The Miller Street setback is a minimum of 5m which is consistent with adjoining buildings and fulfils the aims of the NSLEP 2001. This setback ensures that the Miller Street special area is not overshadowed from 12 noon to 3pm at the winter solstice.<br>A 9m rear setback is provided as identified by the Design Excellence Panel.<br>Side setbacks of 3m are consistent with side setbacks of other mixed use development in Miller Street. |
| <b>Entrances and exits</b>           | Yes | Satisfactory  |
| <b>Street frontage podium</b>        | Yes | Podium level established in amended plans   |
| <b>Laneway frontage</b>              | NA  | No lane but 9m setback from rear boundary as recommended by Design Excellence Panel   |
| <b>Building design</b>               | Yes | Generally satisfactory with regard to amendments in response to Design Excellence Panel comments  |
| <b>Nighttime appearance</b>          | Yes | Can be conditioned  |

#### 6.4 Quality urban environment

|   |     |  |
|---|-----|--|
| <b>High quality residential accommodation</b> | Yes | Apartment areas comply;<br>Less than 10 units per lobby.<br>65% of units are cross ventilated as required by the RFDC.<br>Units are not less than 4m in width.<br>Single aspect units have internal areas within 8m of a window.<br>No lightwells provided.<br>92% of units receive 2 hours of sunlight at the winter solstice |
| <b>Accessibility</b>                          | Yes | Satisfactory<br>10% of the units are adaptable and all the retail and commercial space is accessible.  |
| <b>Safety and security</b>                    | Yes | Satisfactory   |
| <b>Car parking</b>                            | Yes | See detailed comments below about provision and dimensions<br>124 max residential spaces required, 124 residential spaces provided.<br>15.29 max commercial spaces, 15 provided.   |
| <b>Bicycle storage</b>                        | Yes | Satisfactory   |
| <b>Vehicular access</b>                       | Yes | From McLaren Street and not Miller Street  |
| <b>Garbage Storage</b>                        | Yes | Satisfactory   |
| <b>Site facilities</b>                        | Yes | Storage areas provided within basement and within apartments   |

#### 6.5 Efficient use and management of resources

|                          |     |                             |
|--------------------------|-----|-----------------------------|
| <b>Energy efficiency</b> | Yes | 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.

| OBJECTIVE   | RESPONSE   |
|---|--|
| (a) to maintain the status of the North Sydney Centre as a major commercial centre within Australia.  | The proposal 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:<br>(i) be convenient and accessible, and<br>(ii) enable a reduction in dependence on private car travel to the North Sydney Centre, and<br>(iii) be adequate to achieve no increase in car parking, and<br>(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 of this Division) 700,000m <sup>2</sup> 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 <sup>2</sup> .   | The commercial floor plate upon the site exceeds the required 1000m <sup>2</sup> 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.   | 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 side and rear areas 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 7,178m<sup>2</sup> and the proposal has a non residential floor area of 6,027m<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. The development has a 5 metre setback from the property boundary

which augments the approximately 8.8 metre wide footpath area. The development proposal will ensure that the proposal does not overshadow this special area between 12 noon and 3pm at the winter solstice.

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

The proposed development will adjoin a residential development that is in the Mixed Use zone. The development proposal complies with this objective by minimising openings on the northern and southern side boundaries with balconies being orientated to the east and west over Miller Street and towards the access handle. Where north-facing balconies are provided, they are setback approximately 8 metres from the northern boundary to ensure that satisfactory building separation is achieved. The south-facing windows are provided with either highlight windows or frosted glass to promote privacy.

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

The Miller Street footpath does not contain any awning coverage as this would be inconsistent with the landscaped setting of Miller Street, however the through-link along the southern boundary is weather protected to assist in improving the amenity for pedestrians. The proposal contains a 5 storey podium level which contains the retail and commercial floor area. This 5 storey component provides a human scale along the Miller Street frontage and the residential towers above are constructed with a different style and are read separately from the podium level.

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

The width of the subject site is large enough to ensure that commercial floor plates are in excess of 1,000m<sup>2</sup> and that the pedestrian through-link can be provided.

## **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 140 AHD 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 front setback area of Miller Street adjacent to the subject site is listed as "a special area". The proposed development is located on the southern side of a newly constructed building which has a minimum front setback of 5 metres from the Miller Street boundary. The proposed development matches this setback and accordingly will not project any additional overshadowing on the special area of the Miller Street frontage.

- (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 1,000m<sup>2</sup>.*

The subject site is 2007m<sup>2</sup> in area (excluding the access handle) and complies.

### **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 development provides a pedestrian through-link from Miller Street to the access handle to the rear which serves a multi-deck car park off Ward Place. This pedestrian through-link will assist in providing access from this car park through to Miller Street which is a strong pedestrian desire line.

The iconic views of Sydney Harbour are located to the east and south-east of the site. The Monte Saint Angelo College to the west is a low-scale building which does not

enjoy any views towards Sydney Harbour. The adjoining 4 storey residential flat building to the north-east of the site does not enjoy any views of Sydney Harbour. The front setback is consistent with the prevailing front setbacks along Miller Street and accordingly, there will be no impact on public vistas along Miller Street generated by the development proposal.

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

## **CLAUSE 28E - MILLER STREET SETBACK AREA**

### **Objective**

*The specific objective of this clause is to maintain the established setback and landscape setting on the eastern side of Miller Street between McLaren Street and Mount Street.*

The development proposal provides a setback of 5 metres along the Miller Street frontage which is the established setback along Miller Street between McLaren Street and Mount Street.

### **Control**

*A building must not be erected within the Miller Street setback area, as shown on Sheet 3 of the map marked "North Sydney Local Environment Plan 2001 (Amendment No. 9) – North Sydney Centre" unless it is less than 1.5 metres high and is required for access to, or landscaping of, a site.*

Sheet 3 provides a non-scaled plan which shows the setback area along the eastern side of Miller Street which applies to the subject site. The development proposal provides a setback that is consistent with the recently constructed mixed use development to the north where the same setback control applies. Given that the proposal is consistent with the building setback established for this recently constructed building to the north, it is considered that the proposal complies with the Miller Street setback control by providing a 5 metre front setback. It is noted that under Draft NSLEP 2012 a 5metre setback is nominated.

## **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 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. Suitable stairs and lift are included in the public through link to allow for the change in level from the front to rear.

- (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 140 AHD. This 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.*

Sheet 2 of the NSLEP 2001 (Amendment No. 9) indicates that the non-residential floor area has a range of 3:1 – 4:1. The non-residential floor space ratio is 3.00:1 and complies with the provisions of Clause 31.

## **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 221 Miller Street, 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 to the north. 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:

| <b>COMPLIANCE TABLE – DEVELOPMENT STANDARDS</b> |                              |                    |                 |
|---|------------------------------|--------------------|-----------------|
| <b>Development standard</b>                     | <b>Requirement</b>           | <b>Proposed</b>    | <b>Complies</b> |
| <b>Clause 4.3: Height of buildings</b>          | RL 140                       | RL 140             | YES             |
| <b>Clause 4.4: Floor space ratio</b>            | Range 3:1 to 4:1             | 3.00:1             | YES             |
| <b>Clause 6.3: Building heights and massing</b> | 1000m <sup>2</sup> site area | 2007m <sup>2</sup> | YES             |

The proposed development has been considered against the development standards applicable under the Draft LEP and complies.

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.

### **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 were considered by Council's Design Excellence Panel and considered satisfactory subject to some minor modifications that the applicant addressed in the amended plans. The primary design principles 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 to the south and mixed use to the north. 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 Miller Street. The podium configuration responds to the scale and bulk of adjacent developments in the streetscape. The podium height respond to the neighbouring building.

*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.

*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. New street planting and paving to the footpath are proposed 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.

*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*

The Miller Street footpath does not contain any awning coverage as this would be inconsistent with the landscaped setting of Miller Street, however the through-link along the southern boundary is weather protected to assist in improving the amenity for pedestrians.

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

The building is required to be setback 5m at the front and has adopted a side setback on the southern side to provide suitable access to the residential portion of the site and a through site link. There are additional setbacks at ground level to provided weather protection to the entry points of the building

*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 5 levels of the building, which is consistent with surrounding development. The upper levels are setback a minimum of 2.2m to balconies and 5m to living areas with substantial articulation as well as a setback from the eastern, northern and southern boundaries. 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 7,178m<sup>2</sup> and the proposal has a non residential floor area of 6,027m<sup>2</sup> resulting in a decrease over that which currently exists. The contribution is based on the residential component of 40 x studio, 58 x one bedroom apartments; 71 x two bedroom apartments and 4 x three bedroom apartments with an allowance for 1151m<sup>2</sup> of non residential space in the existing commercial buildings:

|  |                    |
|--|--------------------|
| Administration                         | <b>\$15,531.24</b> |
| Child Care Facilities                  | <b>\$21,092.49</b> |
| Community Centres                      | <b>\$75,400.53</b> |
| Library Acquisition                    | <b>\$13,965.10</b> |
| Library Premises & Equipment           | <b>\$43,264.64</b> |
| Multi Purpose Indoor Sports Facilities | <b>\$11,441.65</b> |

|                                   |                       |
|-----------------------------------|-----------------------|
| Open Space Acquisition            | <b>\$505,610.80</b>   |
| Open Space Increased Capacity     | <b>\$1,002,208.47</b> |
| Olympic Pool                      | <b>\$37,271.87</b>    |
| Public Domain Improvements        | <b>\$325,127.43</b>   |
| Traffic improvements              | <b>\$43,735.44</b>    |
| <b>The total contribution is:</b> | <b>\$2,094,649.66</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.

## Building Form and Design

The proposed development contains three distinct building elements. The first element is the podium level which accommodates the five retail/commercial floors, whilst the residential tower levels are divided into two distinct building elements. The northern section of the residential towers contains strong vertical and horizontal elements that frame the balconies of the units, whilst the southern component has stronger horizontal elements which accentuate the recesses in the façade.

There is a narrow vertical break between the two elements of the Miller Street façade of the residential tower which creates the effect that the tower appears to be two buildings. This effect reduces the mass of the tower by providing these articulation zones.

## Schedule of Finishes

The schedule of finishes is included in the architectural plans prepared by ADG. The proposed colours and finishes are surmised below:

### Retail ground floor

- Frameless glass windows with glass sliding doors, framing the glass above is a painted concrete finish in Raku which is a dark grey.

### For commercial floors level 2 – 5

- Glass windows with window frames in anodized aluminium bronze. It is proposed to provide visual interest with the windows at these levels by providing the aluminium frames in irregular sized rectangles.

### Residential Levels

- The northern side of the front façade treatment of the expressed balconies is constructed of cement render painted in Dulux Studio Grey.
- Glass balustrades – Glass sliding doors and windows behind.
- The southern side of the front façade is treated differently to the northern half as every second balcony is framed in a cement render painted in Dulux Vivid White. Every second balcony is frames in an external metal finish in bronze this treatment is matched with the window and door frames.
- Balcony screens are provided and will be constructed with metal louvres in a mixture of white and bronze.
- The southern façade contains a mix of painted finish in a bronze colour and also contains metal cladding in bronze other missionary areas will be painted in Vivid White.

The general theme of the building is glazing at the lower retail and commercial levels with a mixture of bronze, dark grey and white colours for the residential levels above.

### **Open Space and Landscaping**

All the residential units are provided with a private balcony with a minimum area of 9m<sup>2</sup> and a minimum dimension of 2.8 metres. A number of the units have balconies significantly in excess of 9m<sup>2</sup> ranging up to 64m<sup>2</sup>.

Communal open space is provided as follows:

- Basement level adjacent to the pedestrian entry
- Ground level
- Level 5
- Level 20

The full indicative plant schedule and plant location is provided in the Landscape Plan prepared by Melissa Wilson Landscape Architect.

### **SUBMITTERS CONCERNS**

The concerns raised in the submissions have generally been addressed within the assessment report. The concerns are commented on as follows:

*Asks that there be provision for car share to be parked off street outside new building as there are many apartments without parking.*

Forty nine small apartments will not be allocated any parking therefore it may be possible to require one car share space on site (in the location of the courier space that is unlikely to be used). It is preferred that such spaces be provided outside the building so that the surrounding residents can also access the space, however parking in the access road/pedestrian share zone is not considered suitable and there is already a car share space located nearby in McLaren Street.

*Questions the number of bike spaces and whether there is safety issue around the CBD.*

Council policy is to encourage the use of alternative transport to cars to lessen the traffic in the centre. The proposal satisfies Council's DCP requirements and is acceptable with regard to bicycle parking.

*Missed opportunity for design excellence, too much like other recent building around centre*

The proposal is in accordance with the controls relevant to the site and Mixed Use development on the edge of the North Sydney Centre. Council has identified these areas as suitable for higher density development. Council's Design Excellence Panel has considered the proposal prior to and after lodgement of the application. The applicant has responded to all of the comments and suggestions made by the Panel. The design is considered appropriate for the site and consistent with the desired character for the area.

*Increased traffic in access lane, seeks vehicle access from Miller Street and not McLaren Street*

The access lane is part of the site and has always provided its vehicle access. Miller Street is a Major Road and access to McLaren Street is the preferred arrangement from a traffic safety perspective.

*Impacts of demolition and construction noise on surrounding residents, seeks limited construction hours to 8am start and no Saturdays*

The applicant will need to lodge a suitable Construction Management Plan and will be subject to the standard construction hours for sites adjacent to residential development. Demolition is restricted to a 8am start and no Saturdays. It would not be reasonable to restrict construction hours as well. Standard construction hours are limited to a 7am start weekdays to 5pm and 8am to 1pm Saturdays.

*Loss of privacy*

Balconies are predominantly orientated to the east and west towards Miller Street and the rear access handle. North side balconies are provided to units on the southern side, however are located in excess of 8m from the boundary. Windows that are within 6m of the side boundary are either screened, highlight or frosted to preserve the amenity of adjoining development. Privacy screens and balustrading is used to screen the communal open space areas on Level 5 and 20 from residential units.

*Impact on fig tree, seeks retention/protection of tree*

The tree is required to be removed to allow for the basement car park. Alternate planting is proposed at the end of the access way as well as a green wall at the vehicle entrance to the site. The proposal provides some public benefit with a pedestrian through site link. There are a number of trees to be removed from the site as the existing building has an extensive setback from the street. Council's Landscape Officer has provided comments with regard to the proposed landscaping of the site and tree removal.

*Overshadowing*

The building is located to the south of the adjacent residential apartments and therefore will not cause material overshadowing between 9am and 3pm .

### *Loss of views*

Some views will be lost across the site due to the existing large setback being infilled. All rooms affected are bedrooms and not living areas. No views from living areas or balconies off living areas are affected.

### *SEPP 65 with regard to building separation, balcony widths, solar access and cross ventilation.*

The site is located in a mixed use area where it is not possible to provide building separate distances that comply with the rules of thumb of the RFDC. However privacy of the units and surrounding units is preserved using the following techniques:

- Units that are setback 3m from the side boundaries are orientated to the east and west (ie North and south boundaries) towards Miller Street and the rear access handle.
- Windows located 3m from side boundaries are either screened, have obscure glazing or are highlight windows.
- The north side facing balconies are setback 9m from the boundary providing a 12m separation distance from the residential units at 225 Miller Street. To further enhance the privacy of the adjoining units these north facing balconies have either a translucent glass balustrade or metal louvered screens.

The commercial buildings and mixed use development along Miller street all have 3m side setbacks. The proposal development provides minimum side setbacks of 3m. The rear setback of 9m is consistent with the recommendation of the Design Excellence Panel requirements.

The building has a depth of 49m however each unit has a maximum depth of 9m. The design optimises solar access by providing a u shape configuration that allows units on the south to have a north facing balconies. 92% of the units receive 2 hours of solar access at the winter solstice.

The front and rear façade have units that are orientated towards Miller Street and the rear access handle which enhances the view of the development from the public domain.

All balconies have a minimum depth of 2m. 65% of the units obtain natural cross flow ventilation.

## **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 2013SYE006 – North Sydney - Development Application No.437/12 subject to the attached conditions.

**Geoff Mossemenear**  
**EXECUTIVE PLANNER**

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

