

JRPP No:	2013SYE041
DA No:	DA 126/13
LGA:	North Sydney
PROPOSED DEVELOPMENT:	74-80 Alfred Street, Milsons Point Adaptive re-use of existing building to accommodate a 16 storey mixed use development comprising retail and commercial, 129 units and basement parking
APPLICANT:	Bridgehill Milsons Point Pty Ltd C/- Urbis
SUBMISSIONS:	Fourteen (14)
RECOMMENDATION	Approval, subject to conditions
REPORT BY:	George Youhanna, Executive Planner North Sydney Council

Assessment Report and Recommendation

Attached: SEPP 1 objections (Building height, building height plane)

EXECUTIVE SUMMARY

The subject development application seeks approval for adaptive re-use of the existing commercial building to accommodate a 16 storey mixed use development, comprising retail and commercial uses, 129 units and basement parking, at 74-80 Alfred Street, Milsons Point. The proposed works have a CIV of more than \$20m (\$37,190,650).

Council's notification of the original and amended proposal has attracted a total of 14 submissions raising particular concerns about views, overshadowing, privacy, building separation, parking, noise, amenity, construction impacts and other issues. The assessment has considered these concerns as well as the performance of the application against the applicable planning requirements.

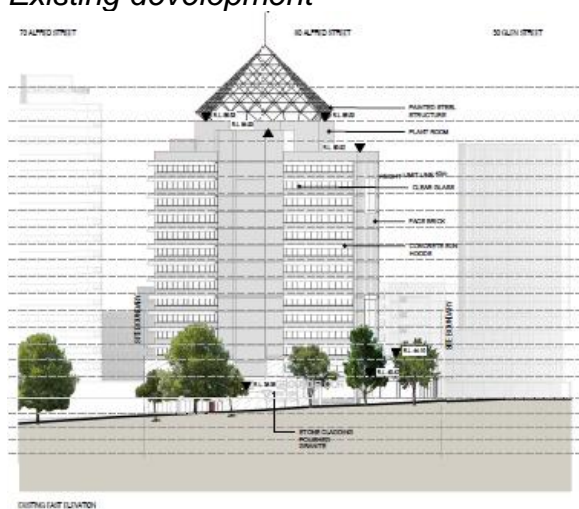
Following this assessment the development application is recommended for **approval** subject to conditions.

DESCRIPTION OF PROPOSAL

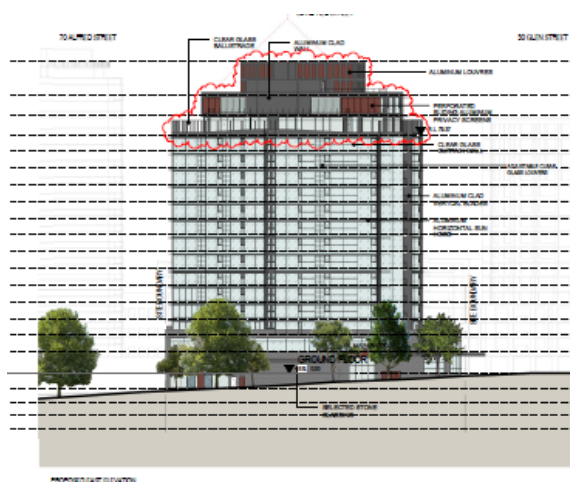
This application is seeking consent for adaptive re-use of the existing commercial building to accommodate a 16 storey mixed use development (including removal of the pyramid structure and the addition of 2 residential levels), comprising retail and commercial uses, 129 units and basement parking. The proposed development provides:

- A total of 129 residential units consisting of:
 - 16 studio units
 - 45 x 1 bedroom units
 - 62 x 2 bedroom units
 - 6 x 3 bedroom units
 - including 12 adaptable units;
- Parking for 59 cars, including 2 car-share scheme spaces;
- Parking for 10 motor cycles;
- 90 bicycle racks; and
- Communal open space on the rooftop.

Existing development



Proposed development





Details of the proposal are as follows:

Basement carpark level 4 (RL 26.5)

- Car parking (including 6 tandem spaces), loading bay, storage, commercial and residential waste storage, lift and stairs

Basement carpark level 3 (RL 28.93)

- Car parking (including 6 tandem spaces), storage, bicycle racks, plant rooms, lift and stairs

Basement carpark level 2 (RL 31.35)

- Car parking (including 2 tandem spaces), motorcycle parking, storage, plant rooms, lift and stairs

Basement carpark level 1 (RL 33.82)

- Car parking, two (2) car share spaces, motorcycle parking, storage, retail floor space, retail storage, plant rooms and substation, lifts and stairs

Ground floor (RL 36.45 to RL 36.93)

- Commercial and retail floor space, residential apartments, lobby and concierge, building manager's office, amenities, lifts and stairs

Level 1 (RL 40.37)

- Commercial floor space, residential apartments, lifts and stairs

Level 2 (RL 43.37)

- Residential apartments (including translucent glazing and fixed aluminium vertical louvres to the southern elevation), above podium terraces and landscaping, lifts and stairs

Levels 3-6 (RL 46.37 to RL 55.37)

- Residential apartments (including translucent glazing and fixed aluminium vertical louvres to the southern elevation), lifts and stairs

Levels 7-13 (RL 58.37 to RL 76.37)

- Residential apartments (including translucent glazing and fixed aluminium vertical louvres to the southern elevation), lifts and stairs

Level 14 (RL 79.37)

- Residential apartments and rooftop terraces (including an approximately 1800mm high translucent glass balustrade to the southern elevation), lifts and stairs

Level 15 (RL 82.97)

- Residential apartments and rooftop terraces (including perforated sliding aluminium privacy screens to the eastern elevation), lifts and stairs

Plant level (RL 86.570)

- Plant room, lift overrun, communal room and terrace.

STATUTORY CONTROLS

North Sydney LEP 2001

- Zoning – Mixed Use
- Item of Heritage – No
- In Vicinity of Item of Heritage – Yes (Bradfield Park, Harbour Bridge)
- Conservation Area – No

Environmental Planning & Assessment Act 1979

SEPP No. 1

SEPP (Infrastructure) 2007

SREP (Sydney Harbour Catchment) 2005

North Sydney LEP 2013

Local Development

POLICY CONTROLS

DCP 2002

DCP 2013

DESCRIPTION OF LOCALITY

The site is irregular in shape and has a primary frontage of approximately 52m to Alfred Street, 66m to Glen Street and a maximum depth of approximately 40m (southern boundary), with a total area of 1309m². The site comprises Lot 1 DP499547 and Lot 2 DP547912, and is known as No.74-80 Alfred Street, Milsons Point.

The subject site is located on southern corner of the intersection of Alfred Street and Glen Streets. The Milsons Point area is characterised by multi-storey buildings, being a mix of commercial and residential uses. The subject site is occupied by a multi-storey commercial building. To the south the site adjoins a residential tower ("Grandview"). To

the north and west of the site on the opposite side of Glen Street there are further multi-storey residential developments. Located to the east of the site on the opposite side of Glen Street is Bradfield Park with Milsons Point station located behind.



Subject site:



RELEVANT HISTORY

23 October 2012 – Pre-DA meeting held between proponents and Council.

3 March 2013 – Proposal reviewed by the North Sydney Design Excellence Panel (DEP).

1 May 2013 – DA 126/13 lodged.

17 May to 31 May 2013 – DA advertised and notified.

4 June 2013 – DEP reviews the proposed development and raises a number of matters to be considered by the applicant.

26 June 2013 – Letter issued to applicant raising a number concerns with the proposal, including DEP issues, overshadowing of Bradfield Park, solar access to Grandview and car parking.

26 July 2013 – Amended plans and additional information received. Amendments can be summarised as follows:

- Increased motorcycle parking to 10 spaces
- Provision of 2 car share scheme spaces on Basement Level 1 for use by building residents
- Stair access between the Ground Floor and Level 1 provided
- Reconfiguration of Level 14 including relocating floor space to the western side to reduce overshadowing of Bradfield Park and increasing separation to Grandview
- Reconfiguration of Level 15 including relocating floor space to the western side to reduce overshadowing and increasing separation to Grandview.

2 August 2013 to 16 August 2013 – Amended DA advertised and notified

20 August 2013 – Amended privacy measures submitted to Council

REFERRALS

Design Excellence Panel

A preliminary proposal was considered by the DEP prior to lodgement, on 3 March 2013. The following comments were provided:

Panel comments

The Panel notes that the proposed height exceeds the height control of 40m and although not an issue to the Panel aesthetically or in relation to a reasonable urban design outcome, it is recognised that a breach of the applicable LEP controls is a matter for Council and the proposal needs to be within Council's guidelines and controls. Any increase in height needs to demonstrate that there are no adverse amenity impacts with regard to privacy, overshadowing or views.

The Panel supports adaptive reuse of the building. The following matters need to be considered by the applicant when developing the design for submission as a DA:

- *Colour of the glass – special performance glass, is it clear and will it comply with Basix?*

- *Colour of finishes – consider that the colours of surrounding developments are generally lighter.*
- *Consider the privacy aspect of residents within the building with glass balustrades*
- *Wind protection of cantilevered balconies on northern side*
- *Need for detailed information of levels at entry points and street levels*
- *Consider a more generous residential entry. The alternative scheme as tabled is strongly preferred.*
- *Need to separate commercial and residential areas*
- *Consider commercial lobby with access from single lift separate to double lift*
- *Need to justify the absence of cross ventilation of single aspect apartments*
- *If possible in replanning allow natural light to internal corridors on residential floors.*
- *Demonstrate how windows can work so they are sheltered when open*
- *Consider a communal sheltered space on the upper level for the use of all residents (particularly for those with limited amenity through limited views/solar access)*

Conclusion

The Panel recommends the above matters be considered in the further development of the scheme.

DA 126/13 was considered by the Panel on 4 June 2013 and the following comments were provided:

The Proposal

The proposal has been submitted as a development application and is to be determined by the Sydney East Joint Regional Planning Panel.

The proposal is described as follows:

Adaptive re-use of the existing building to accommodate a 16 storey mixed use residential building comprising the following:

- ☐ *293sqm of retail floor space across the Ground and Basement Level 1;*
- ☐ *693sqm of commercial floor space across the Ground and First Floor Levels;*
- ☐ *129 residential apartments contained on the Ground Level and Levels 1 - 15; and*
- ☐ *59 car spaces contained in four Basement Levels.*

The applicants provided the following responses to the matters raised by the Panel

Matters	Response
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<i>Colour of the glass – special performance glass, is it clear and will it comply with BASIX?</i>	<i>The glass is highly transparent and has a light blue tint which will provide a distinct and refreshing contemporary hue to the building. The proposal complies with BASIX. The SJB Architects Design Verification & SEPP 65 Compliance Report contains photos of the glazing to be used.</i>
<i>Colour of finishes – consider that the colours of surrounding developments are generally lighter</i>	<i>The proposed building has been designed with regard to the existing surrounds and the opportunity provided by this location. It aims to be reflective of a contemporary design which achieves a distinctive building through a variation in the use of materials and shape. The proposed finishes are considered to be appropriate for the location and the design.</i>
<i>Consider the privacy aspect of residents within the building with glass balustrades</i>	<i>Glass balustrades have been provided to reduce the perceived building bulk. They are consistent with the glass balustrades incorporated on the Grandview apartments south of the site.</i>
<i>Wind protection of cantilevered balconies on northern side</i>	<i>The Wind Impact Study indicates that the wind conditions for the majority of the trafficable private balcony areas within the site will be acceptable for its intended uses due to the shielding provided by the surrounding developments, and effective use of wind mitigating devices such as blade walls, louvers, full-height screens and recessed setback incorporated into the design of the developments.</i>
<i>Need for detailed information of levels at entry points and street levels</i>	<i>The BCA Compliance Statement prepared by Tom Miskovich and Associates indicates that the proposal is able to comply with the relevant requirements. The plans provide the RL information on levels at entry points</i>
<i>Consider a more generous residential entry. The alternative scheme as tabled is strongly preferred.</i>	<i>A generous entry and reception lobby has been provided as presented at the design excellence panel meeting.</i>
<i>Need to separate commercial and residential areas</i>	<i>The commercial and residential areas have been separated where possible. Design constraints resulting from the location of the existing central lift core have necessitated the provision of shared lobbies on the ground and first level of the proposal. Separate access is available to the commercial suites on Ground and Level 1 from Alfred Street</i>

<i>Consider commercial lobby with access from single lift separate to double lift</i>	<i>Existing conditions have prevented the provision of a separate lift to the commercial areas.</i>
<i>Need to justify the absence of cross ventilation of single aspect apartments</i>	<i>Above 60% of the units achieve the natural ventilation requirements. An assessment of the proposal's performance has been completed by Floth. The single aspect apartments will provide good levels of internal amenity. A Natural Ventilation and Thermal Comfort Analysis Report is provided</i>
<i>If possible in replanning allow natural light to internal corridors on residential floors.</i>	<i>The existing structural conditions restricted the ability to allow natural light to the internal corridors.</i>
<i>Demonstrate how windows can work so they are sheltered when open</i>	<i>The proposal will contain internal screens which will be able to be drawn to assist with solar control and weather protection</i>
<i>Consider a communal sheltered space on the upper level for the use of all residents (particularly for those with limited amenity through limited views/solar access)</i>	<i>This report argues that there are excellent Council, community and private facilities in the surrounding area to meet the requirements of the future residents. The site is located close to Bradfield Park and foreshore walkways, which offer recreational opportunities for future residents.</i>

Panel comments

The Panel noted the responses from the proponents to the matters raised previously.

There was a concern raised about the accuracy of the photomontages, whether the height of the proposed building was accurate. It was suggested that the photomontages be certified by a third party to be accurate.

The Panel considered that the shadow information submitted was incomplete. The whole of the additional shadow over the park needs to be shown on the shadow study.

As indicated previously, any increase in height above the control could not be

supported if there was any additional shadow on the Park. The upper floor and plant room need to be reconsidered and modeled so as to have no additional shadow on the Park.

The Panel did not agree with the proponent that the availability of public community facilities could justify the lack of provision of a communal space and facilities in the building, -and argument that could be advanced in relation to most other applications. . The Panel recommended that the redesign of the plant room and upper levels must include the provision of adequate communal space.

The Panel noted that the proposal was significantly short of the requirement of the planning controls for on site parking. . Given the location with its excellent and immediate access to a variety of public transport modes this was not considered to be a critical issue. It was suggested that in partial compensation a minimum of at least two 'car share' spaces be provided on site for the benefit of the large number of apartments without allocated parking. The Panel also recommended that generous provision should be made for bicycle parking, given the extensive use of bicycles in the area and the access close by to the Harbour bridge cycleway.

The Panel raised concern about the inadequate access to level 1 commercial space in that it relied entirely on lift access and an internal stair from the café. It was strongly recommended that a generous open stair be provided from the lobby to level 1 as it would invite the majority of visitors/occupants to access by stairs whilst still maintaining the lifts as an alternative when required.

Conclusion

The Panel supports the adaptive reuse of the building subject to the above matters being satisfactorily being resolved.

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

Traffic Planning

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

Existing Development

The existing site development comprises of a 13-storey commercial building with a total floor area of 9,457 m² incorporating 9,290m² of commercial floor space and 167m² of retail floor space. The existing development is served by a total of 83 off-street car parking spaces comprising 49 single spaces and 34 stacked spaces. The car parking area is accessed via a single width driveway access on Glen Street.

Proposed Development

The proposed development comprises the adaptive re-use of the existing commercial floorspace to residential floorspace and incorporates: 2 x retail shops (293m²), 2 x commercial offices (693m²) and 129 residential apartments (12 x studio, 49 x one-bedroom, 62 x two-bedroom and 6 x three-bedroom).

Car Parking

The North Sydney Development Control Plan (NSDCP) 2002 outlines that a development of this size and landuse type should provide a maximum parking provision of 102 car parking spaces.

The proposed development makes provision for a total of 59 resident parking spaces, a shortfall of 43 parking spaces. This shortfall is considered unacceptable to Council's Traffic Planning Department for the following reasons:

- The DCP states that on-site carparking provision significantly below maximum rates will generally not be accepted due to the impact that additional vehicle parking may have on the surrounding residential streets.*
- The proposed parking arrangement includes "stacked" parking. Allocating "stacked" parking spaces to the same residential apartment (a logical NSDCP requirement) results in uneven parking space allocation between apartments (i.e – some apartments will be allocated two spaces and some will be allocated no parking spaces).*
- A percentage of the proposed parking spaces include small car parking spaces. These spaces are generally not recommended for newer type developments. Council, through the Resident Parking Review Panel, is constantly dealing with residents who purchase vehicles which cannot physically fit into their off-street parking spaces. If Council were to support approving small car parking spaces, residents with larger vehicles are likely to complain to Council that their vehicles cannot physically fit into their parking space.*
- Some stacked parking spaces are designated as small car parking spaces. These spaces would be extremely tight and many residents would avoid parking in these types of spaces.*
- All aspects of the car park design (including aisle widths, ramps, car parking spaces, headroom, disabled parking spaces, etc) should be certified and endorsed by a suitably qualified traffic engineer.*

The traffic report outlines the benefit of car share pods, which have been installed on-street in the vicinity of the site. These car share spaces are an on-street parking initiative for the use of the general public. These spaces have been installed by Council to address the growing on-street parking problem where the parking supply does not meet the demand for parking spaces.

All new developments should be able to address their parking requirements on-site.

Motorcycle Parking

The NSDCP 2002 requires a development of this type to provide a minimum of 10 motorcycle parking spaces. The proposed development makes provision for 6 motorcycle parking spaces.

The proposed development should increase the amount of motorcycle spaces to a minimum of 10 motorcycle parking spaces in-line with the NSDCP.

Bicycle Parking

The proposed development makes provision for a total of 90 bicycle racks.

The NSDCP requires mixed use developments to provide on-site, secure bicycle parking spaces and storage at the following rate for residential component - 1 bicycle locker per 3 dwellings and 1 visitor bike rack per 12 dwellings. For the mixed-use/commercial component the development requires 1 bicycle locker per 600m² GFA and a visitor bike rack per 2500 GFA.

A development of this size and landuse type should provide a minimum of:

- *A bicycle cage capable of storing 43 bicycles for residents*
- *11 x bicycle racks for resident's visitors.*
- *2 x bicycle lockers for retail tenants*
- *1 x bicycle rack for retail tenant's visitors.*

Service Delivery Parking

The proposed development includes a new off-street courier/ loading area measuring approximately 12m long x 5.25m wide and 4.6m high. The proposed service delivery parking area is adequate from a traffic planning perspective.

Traffic Generation

The traffic report outlines a modified traffic generation rate based on comparing RMS's traffic generation and parking rates

Using the RMS' Guide to Traffic Generating Developments, the new proposed development would generate 31 vehicle trips during the peak hour, which is a reduction on the existing commercial office building (66 vehicle trips during the peak hour). Accordingly, the subject application is considered to have fewer traffic impacts as a result of the reduced traffic generation.

Conclusion

It is recommended that the development be refused until the following matters have been addressed:

- *Inadequate car parking space provision as detailed in the report; and*
- *Inadequate motorcycle space provision as detailed in the report.*

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

- 1. That a Construction Management Plan be prepared and submitted to Council for approval by the North Sydney Traffic Committee prior to the issue of the Construction Certificate. Any use of Council property shall require appropriate separate permits/ approvals.*
- 2. That the developer pay to upgrade the lighting levels on Alfred Street and Glen Street, adjacent to the site, to the satisfaction of Council.*
- 3. That the development includes 10 motorcycle parking spaces within the basement car park.*
- 4. That the development includes a bicycle cage capable of storing a minimum of 43 bicycles for residents, a minimum of 11 x bicycle racks for resident's visitors, a minimum of 2 x bicycle lockers for retail tenants and a minimum of 1 x bicycle rack for retail tenant's visitors.*
- 5. That all aspects of the carpark comply with the Australian Standard AS2890.1 Off-Street Parking.*
- 6. That all aspects of the access driveway, including width and grades, comply with AS2890.1*
- 7. That all aspects of parking spaces for people with disabilities comply with the AS 2890.6.*
- 8. That all aspects of the bicycle parking and storage facilities comply with the AS2890.3.*
- 9. The driveway to the site must be designed such that there are minimum sight lines for pedestrian safety as per Figure 3.3 of AS 2890.1.*
- 10. That "STOP" control treatment ("STOP" sign and "STOP" pavement markings) be installed in accordance with AS2890.1 at the driveway exit.*
- 11. That the location of any gate, intercom or security access point for driveway entry to the car park should be located a minimum 12 metres within the boundary of the property, such that two queued vehicles can be contained wholly within the boundary of the property, as per AS2890.1.*

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

In relation to the amended proposal, the introduction of 2 car share spaces within the building is strongly supported. While the shortfall of 43 parking spaces remains a concern to Council, given the development's close proximity to the Milsons Point Train Station, bus and ferry services, as well as the Harbour Bridge cycle path and pedestrian path, and with regard to the existing and proposed car share spaces, the proposed parking provision does not warrant refusal of the application. In this regard, the development must not be approved in its current form if future residents will be expecting to participate in Council's Resident Parking Scheme.

Should this development be recommended for approval, then the developer should, as far as possible, provide and promote sustainable transport. Bicycle facilities, end of trip facilities, car share, transport access guides, etc.

1. *A condition should be imposed requiring a s.88B restriction on the title of all residential units advising that they are not entitled to any Resident Parking Scheme permits under the terms of Council's Policy.*
2. *the car share spaces should if possible be located in a publicly accessible location and be linemarked and pavement marked with the text "CAR SHARE VEHICLE ONLY"*
3. *all other conditions outlined in my previous memo*

Comment – Council's Resident Parking Scheme does not provide any resident permits to units in the Mixed Use zone and advice of such will be required to be conveyed to purchasers via a s.88B restriction on the unit titles. In relation to the car share spaces, the applicant has advised of difficulty in providing the two on-site car share spaces for public access, due to the unusually constrained nature of the existing car park. It is acknowledged that it would be difficult to secure the remainder of the car park while maintaining unimpeded public access to the two identified car share spaces.

Development Engineer

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

Heritage

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

The property is not listed as a heritage item, nor is it located within a conservation area. However, it is located within the vicinity of several heritage items, being Bradfield Park and Milson's Point Station (directly across road), 48 - 50 Alfred Street, 100 Alfred Street and Luna Park.

The proposal is to convert an existing building from commercial use to mixed use residential, including a new facade and an additional two storeys.

The proposed works will result in a building that is consistent with the scale and character of the Alfred Street South precinct. The change of use, and the proposed works will not impact on the curtilage or significance of the nearby heritage items.

Accordingly, no objections are raised to the proposal on heritage grounds.

SUBMISSIONS

The owners of adjoining properties were notified of the proposed development between 17 May and 31 May 2013. The notification resulted in fourteen (14) submissions.

Name & Address of Submitter	Basis of Submissions
Bill, Robyn, Helen, Henry, Chynna & James McGowan 254/70 Alfred Street	<ul style="list-style-type: none">• Insufficient parking• Over reliance on car share scheme to address shortfall• Noise from air conditioning plant• Car spaces should not be sold to non-residents of the development• View loss• Privacy and amenity• Solar access• Building separation• Waste collection• Construction impacts
Robert and Cynthia Corkery PO Box 239 BROOKLYN NSW	<ul style="list-style-type: none">• Inadequate parking
Eyal Levy 7604/30 Glen Street	<ul style="list-style-type: none">• Loss of privacy• View loss from bedroom• Loss of light
Stephen Gorner 2607/30 Glen Street	<ul style="list-style-type: none">• Views• Height• Car parking• Facade treatment• Building bulk• SEPP 1 objections and SEE flawed
P and P Reuben 18c/70 Alfred Street	<ul style="list-style-type: none">• Inadequate parking• Noise from air conditioning plant• Reduced building separation• Additional glass will create more heat• Additional height and Glen St corner infill will reduce light to area
Andy Hogendijk 701/12 Glen Street	<ul style="list-style-type: none">• Parking deficiency• Impact on business due to lack of parking• 90+ parking permits will be issued• Loss of commercial use and jobs/imbalance between residential and commercial.
Amanda Kwiatkowski 504/8 Glen Street	<ul style="list-style-type: none">• Inadequate parking• Over reliance on GoGet scheme• Noise from air conditioning plant
Mr. Chen Lim 2302/30 Glen Street	<ul style="list-style-type: none">• Loss of privacy• Overshadowing• Social issues from increased density• Inadequate parking

Name & Address of Submitter	Basis of Submissions
Jeff Fry 101/12 Glen Street	<ul style="list-style-type: none">• Insufficient parking• Over reliance on GoGet scheme• Parking ratio would be better if additional bulk/units deleted• Loss of commercial space undesirable
Lavender Bay Precinct	<ul style="list-style-type: none">• View loss• Solar access• Increased height and bulk• Overshadowing of Bradfield Park and surrounds• Impact on essential services• Parking deficiency• Increased pressure on on-street parking
S and G Huxley 28/70 Alfred Street	<ul style="list-style-type: none">• Extension of building envelope vertically and horizontally• Wind tunnelling effect• Overshadowing of Bradfield Park• Inadequate parking
Boston Blythe Fleming Town Planners and Eagle Consulting Group Pty Ltd on behalf of Grandview Apartments, 70 Alfred Street	<ul style="list-style-type: none">• Inadequate building separation and visual bulk• Height• Visual and acoustic privacy• Existing noise impacts from roof plant• Noise from new plant and air conditioning• Amenity impacts• View loss• Privacy measures unclear/conflicting on plans• Overshadowing / solar access impacts• Shadow diagrams understate impact on Grandview• Wind tunnelling impacts/noise from shutters• Parking inadequate• Waste management plan inadequate• Construction impacts• Dilapidation reports required• Guarantee for cleaning of Grandview to be provided• SEE inaccurate• Reduced property value• Overdevelopment of site• Excessive number of units• Units too small• Reflectivity impact• Residential use will increase identified impacts to 24hrs, seven days per week• Possible use as serviced apartments•

Name & Address of Submitter	Basis of Submissions
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David Bowman 21/70 Alfred Street	<ul style="list-style-type: none">• Solar access• Increased height and bulk increase• Setbacks• Privacy and amenity• Parking deficiency• Waste management
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S and G Huxley 28/70 Alfred Street	<ul style="list-style-type: none">• Extension of building envelope vertically and horizontally• Wind tunnelling effect• Privacy• Overshadowing of Bradfield Park• Inadequate parking
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Amended plans:

Following the receipt of amended plans on 26 July 2013, the owners of adjoining properties were notified of the amended proposal between 2 August and 16 August 2013. The notification resulted in five (5) submissions.

Eyal Levy 7604/30 Glen Street	<ul style="list-style-type: none">• View loss from bedroom• Loss of light
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Bill, Robyn, Helen, Henry, Chynna & James McGowan 254/70 Alfred Street	<ul style="list-style-type: none">• Insufficient parking• Over reliance on car share scheme to address shortfall• Noise from air conditioning plant• Car spaces should not be sold to non-residents of the development• Construction impacts
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David Bowman 21/70 Alfred Street	<ul style="list-style-type: none">• Solar access• Increased height and bulk increase• Setbacks• Privacy and amenity• Parking deficiency• Waste management
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Grandview Apartments (Strata Plan 61594) and Eagle Consulting Group Pty Ltd	<ul style="list-style-type: none">• 80 Alfred St is a class 5 and 7A building• Flagpole structure is not a roof/ fire safety issues• Draft NSLEP 2012 not addressed• Inadequate building separation and visual bulk• Height• Visual and acoustic privacy• Existing noise impacts from roof plant• Noise from new plant and air conditioning• Amenity impacts• View loss• Privacy measures unclear/conflicting on plans• Overshadowing / solar access impacts• Medical evidence not provided for the 2hr minimum solar access requirement• Shadow diagrams understate impact on Grandview• Shadow from existing pyramid structure is not material• Wind tunnelling impacts/noise from shutters• Parking inadequate• Waste management plan inadequate• Construction impacts• Dilapidation reports required• Condition for cleaning of Grandview to be included• SEE inaccurate• Reduced property value• Overdevelopment of site• Excessive number of units• Units too small• Reflectivity impact• Residential use will increase identified impacts to 24hrs, seven days per week• Possible use as serviced apartments – should be prohibited by condition• Communal open space to be screened and 10pm curfew applied
S and G Huxley 28/70 Alfred Street	<ul style="list-style-type: none">• Extension of building envelope vertically and horizontally• View loss images inaccurate• Wind tunnelling effect• Privacy• Overshadowing of Bradfield Park• Inadequate parking

CONSIDERATION

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

NORTH SYDNEY LEP 2001

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

Compliance Table

STATUTORY CONTROL – North Sydney Local Environmental Plan 2001				
Site Area – 1309m²	Existing	Proposed	Control	Complies
Mixed Use Zone				
Building Height (Cl. 29) (max)	61.8m To top of plant room (RL 86.57) 75.3m to top of roof pyramid (RL 100.1)	67.8m To top of plant room (RL 92.57)	40m	NO *
Building Height Plane (Cl. 30)	Protrusion through plane of approximately 43m	Protrusion through plane of approximately 49m	1.8m/45 ⁰ plane from centre of Alfred Street	NO*
Non-Residential Floor Space (Cl. 31) (max)	-	0.75:1	0.75:1 to 2:1	YES
Design of Development (Cl. 32)	N/A	Building has both residential & non-residential uses, with non-residential (retail and serviced apartments) at lower levels; Separate residential entries; Tower is set back above podium	Building to have residential and non-residential uses, with non-residential at lower levels; Separate entrance for residential; Building to be set back above podium	YES YES YES

* SEPP No 1 objection received from applicant

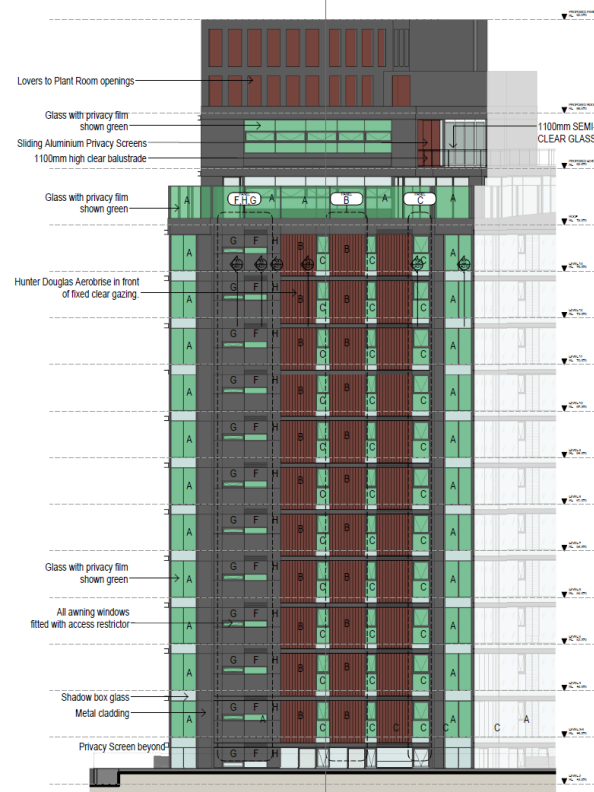
DCP 2002 Compliance Table

DEVELOPMENT CONTROL PLAN 2002		
	Complies	Comments
6.1 Function		

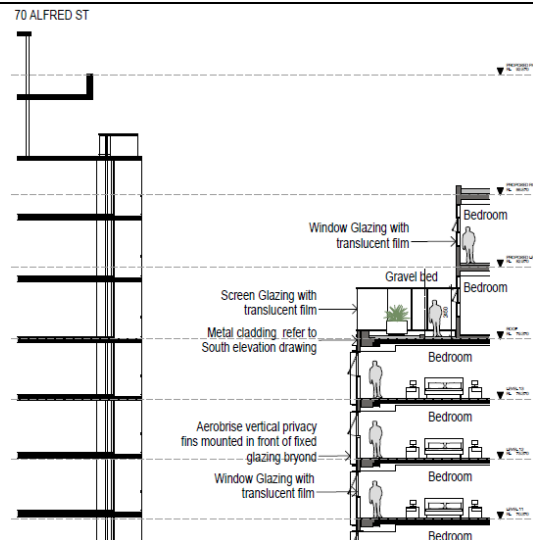
Diversity of activities, facilities, opportunities and services	Yes	<p>This mixed use proposal incorporates retail and commercial floor space on the ground and first floors, thus providing an adequate diversity of non-residential spaces and activities.</p> <p>An appropriate communal space has been provided on the roof level.</p>
Mixed residential population	Yes	The proposed dwelling yield of one unit per 92.8m ² of residential GFA (11,965m ²) is slightly greater than the DCP range of approximately 1 unit per 100m ² -150m ² gross GFA.
	Yes	The proposed dwelling mix of 16 studio units, 45 x 1 bedroom units, 62 x 2 bedroom units and 6 x 3 bedroom units equates to 61 “small” units (studio and 1 bedroom) and 68 “large” units (2 and 3 bedroom) and is satisfactory with regard to providing a range of dwelling sizes.
	Yes	Twelve (12) adaptable units are provided and an additional 1 adaptable unit will be required by condition, in accordance with the DCP 10% minimum requirement (13 units).
Maximum use of public transport	Yes	The parking provision does not exceed the DCP maximum parking control and the site has excellent access to public transport, located opposite Milsons Point railway station and in close proximity to bus and ferry routes as well as the Harbour bridge cycle and pedestrian paths.
6.2 Environmental Criteria		
Clean Air	Yes	Satisfactory.
Noise and acoustic privacy	Yes	An Acoustic Report prepared by Acoustic Logic was submitted with the application. The report indicates that the proposal is capable of satisfying the DCP noise and acoustic privacy requirements subject to adopting the recommendations contained in the report. Suitable conditions have been applied.
Visual Privacy	Yes	The proposal includes design and privacy mitigation measures to ensure adequate visual privacy for occupants and

neighbours. The separation distance between the towers of the development and the adjoining building at No.70 Alfred Street ranges from approximately 9.2m at the eastern end up to 13m at the western end. Additional details of the privacy treatment of the southern elevation of the building have been provided by the applicant and the privacy measures include the use of fixed and awning windows and screens, with translucent privacy film, and fixed aluminium vertical louvres (*Hunter Douglas Aerobrise*) set at 45° which direct views in a south-westerly direction.

South elevation privacy treatment:



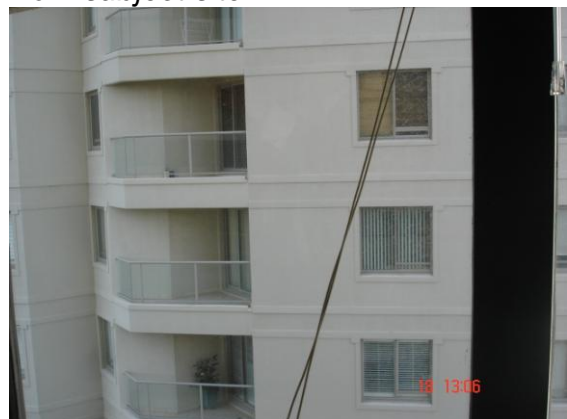
Section view:



The use of translucent glazing rather than the proposed use of “translucent privacy film” applied to clear glazing is considered preferable in terms of long term durability, maintenance and privacy, and a suitable condition will be applied in this regard.

Other relevant considerations relating to privacy include the current privacy impact from the commercial use of the building and the current separation distance. At present there are no permanent privacy measures and the commercial floors look directly across at the dwellings in No.70 Alfred Street.

Existing overlooking of No.70 Alfred St from subject site:

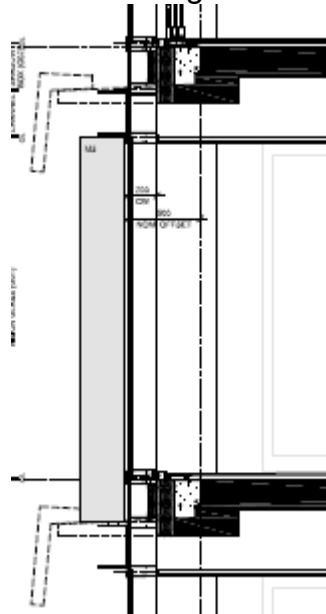




The proposed development would provide a significant improvement in privacy to the apartments opposite.

In relation to the existing separation distance between towers, the proposal *technically* increases separation in relation to the removal of the existing concrete shade hoods which presently extend approximately 800mm from the southern facade. However, the glazing line is to be extended towards the south by approximately 500mm, as shown below, marginally reducing the separation distance between habitable rooms.

Section showing existing concrete hoods(dashed outline), proposed vertical louvres and glass line:



		<p>In the context of adapting an existing commercial building for residential use and with regard to the related design and construction constraints, the proposed placement of the external glass line and the consequential minor reduction in separation distance is considered acceptable, particularly given the proposed privacy measures which will significantly improve privacy at all times of the day.</p> <p>The proposed balconies located on the south-eastern and south-western corners of the building will have translucent glass privacy screens to the southern ends.</p>
Wind Speed	Yes	A wind impact assessment prepared by Windtech was provided with the application. The report concludes that the wind impact will be acceptable and includes recommendations in relation to level 14. Conditions will be applied in relation to the recommendations.
Awnings	Yes	The proposal includes awnings over the Alfred Street footpath, extending around the northern end of the site into Glen Street.
Solar access	Yes	Following concerns expressed by the DEP and Council, the proposal was amended to substantially reduce overshadowing of Bradfield Park at mid winter. The submitted shadow diagrams and associated analysis demonstrates that the amended proposal will now have a minor and acceptable impact on Bradfield Park.
Views	Yes	The proposed rooftop communal room will provide views for residents and the proposed development will not adversely affect views from public areas.
6.3 Quality built form		
Context	Yes	The proposed height and scale is considered satisfactory and represents a suitable response to the site's context, despite being substantially in excess of the 40m height limit.

Skyline	Yes	The architectural treatment of the façade and upper levels of the proposed building would result in a satisfactory skyline appearance. The rooftop plant will be fully enclosed.
Public spaces & facilities	Yes	Appropriate integration of the retail/commercial areas and residential entry with the public domain is proposed.
Through-site pedestrian links	Yes	A through-site link is not identified in the DCP as being required on this site.
Streetscape	Yes	An acceptable degree of activation of the Alfred Street frontage is provided. The existing driveways on Glen Street limit additional activation of this secondary frontage.
Setbacks	Yes	<p>The submitted shadow diagrams and accompanying table indicate that the proposal will, despite an increase in overshadowing, have an acceptable impact on the adjacent dwellings to the south, particularly the single aspect north units.</p> <p>A minimum of 2 hours of sunlight between 9am and 3pm at midwinter is required in Mixed Use areas under NSDCP 2002, and also the SEPP 65 Residential Flat Design Code in relation to dense urban areas. The minimum 2 hour requirement at mid-winter in dense urban areas is a widely accepted standard.</p> <p>It should be noted that in relation to overall unit amenity, a number of the single aspect north units will receive sunlight prior to 9am and after 3pm midwinter, although this is not taken into account in assessing the adequacy of the proposed development.</p>
Entrances and exits	Yes	Access is satisfactory, with residential entry provided from Alfred Street.
Street frontage podium	Yes	The existing three storey podium is satisfactory.
Building design	Yes	The building has satisfactory floor to

		ceiling heights and the podium is built to all boundaries. All residential floors will have the required minimum 2.7m floor to ceiling height
6.4 Quality urban environment		
High quality residential accommodation	Yes	The proposed unit sizes are satisfactory with regard to internal amenity and generally consistent with the 'rule of thumb' minimum sizes in the SEPP 65 Residential Flat Design Code.
	Yes	80% of the units will receive at least two hours of solar access in midwinter, with no single aspect south facing units.
	Yes	Cross-ventilation to 60% of the apartments is proposed, as detailed in the submitted Natural Ventilation and Thermal Comfort Analysis prepared by Floth Sustainable Building Consultants. The inclusion of single aspect units is acceptable given the findings of the above report and the likely wind conditions that would be experienced in the tower.
Balconies	Yes	The balconies have been designed within the constraints of the existing building structure and all apartments have functional balconies which can accommodate a table and chairs, despite being in part below the minimum dimension. The addition of balconies on the south-eastern and south-western corners of the building are also satisfactory.
Accessibility	Yes	Accessible units and parking spaces have been provided and suitable conditions will also be applied to ensure that the development will comply with the requirements of AS1428.3 for disabled access. Lift access is proposed to all levels.
Safety and security	Yes	Satisfactory.

Car parking	Yes	<p>The proposed development makes provision for a total of 59 resident parking spaces, a shortfall of 43 parking spaces. In response to concerns from Council, the amended proposal includes 2 car share spaces within the building. As previously discussed, while the shortfall of 43 parking spaces remains a concern to Council, given the development's close proximity to the Milsons Point Train Station, bus and ferry services, as well as the Harbour Bridge cycle path and pedestrian path, and with regard to the multiple existing and two proposed on-site car share spaces, the proposed parking provision does not warrant refusal of the application.</p> <p>Conditions will be applied in relation to the proposed on-site parking.</p>
Bicycle parking	Yes	90 bicycle racks are proposed and conditions will be applied as per previous Traffic comments.
Vehicular access	Yes	The existing driveway locations are satisfactory with regard to the proposed car parking configuration. The loading dock has adequate width, height and length dimensions to accommodate a Medium Rigid Vehicle.
Garbage Storage	Yes	<p>A Waste Management Plan has been submitted, outlining the management of waste and recycling materials generated on site. The residential levels are provided with a garbage chute on each floor and the central garbage room and compactor is located on basement level 4. Garbage would be collected from the loading bay on a weekly basis.</p>
Commercial garbage storage	Yes	The proposal includes a separate commercial garbage room for the development at basement level 4.
Site facilities	Yes	Satisfactory.
6.5 Efficient use and management of resources		

Energy efficiency	Yes	A BASIX certificate for the residential component of the development has been submitted and an appropriate condition will be imposed to ensure compliance with these commitments.
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NORTH SYDNEY LEP 2001

1. Permissibility within the zone:

The subject site is zoned Mixed Use pursuant to NSLEP 2001. Development for the purposes of the construction of a mixed use building is permissible with the consent of Council. The proposed uses are also permissible under the zoning with Council consent.

2. Objectives of the zone

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

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

The proposed development is consistent with the objectives of the zone as the development would provide a benefit in terms of increasing the range of living, employment, recreational and social opportunities, providing good amenity for future residents of the development, and improving the vibrancy of the Milsons Point area.

3. Building Height

Clause 29(2) of NSLEP 2001 states that:

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

Pursuant to Map 2 – ‘Floor Space Ratios, Heights and Reservations’ of NSLEP2001, a maximum height of 40 metres is applicable to the subject site.

The maximum height of the proposed development is 67.8m to the top of the plant room. Consequently, the overall height of the proposal would exceed the maximum 40m building height specified in NSLEP 2001 by up to 27.8m.

The applicant has submitted an amended SEPP No 1 objection relating to the amended plans, in respect of the variation from the building height control. This objection seeks support for the non-compliance based on the existing building height (61.8m to top of plant and 75.3m to top of pyramid), compatibility with surrounding development, appropriate scale and density and the absence of adverse amenity or view impacts associated with that part of the building exceeding the height limit. The submitted SEPP No.1 objection to clause 29(2) is considered to be well founded and approval of the development application would be consistent with the aims of SEPP No.1. Additionally, in relation to granting concurrence under clause 8 of SEPP No.1, the proposed non-compliance with the development standard does not raise any matter of significance for State or regional environmental planning, and the public benefit of maintaining the planning controls has been taken into consideration.

In relation to view impact, significant views are available from a number of surrounding residential buildings, including the adjoining building at No.70 Alfred Street. The configuration of units in No.70 Alfred Street is such that there are single aspect north facing units up to level 23. These units generally face the subject building and have angled views to the east and west, including some water views. The applicant has provided a modelled view analysis assessing impacts on views from those units. The Owners Corporation of No.70 Alfred Street has provided a detailed view impact analysis prepared by Eagle Consulting Group. The Owners Corporation also invited Council to view the impacts from No.70 Alfred Street.

The main issue in relation to view impact on No.70 Alfred Street relates to the balcony additions to the south-eastern and south-western corners of the tower, which widen the building envelope by approximately 3m at each end. While it is agreed that the widened envelope reduces the extent of available views, particularly from the single aspect north units located centrally in No.70 Alfred Street, the impact of that view loss is considered acceptable, with regard to the test established in *Tenacity Consulting Pty Ltd v Warringah Council* [2004] NSWLEC 140.

The existing views from the balcony of unit 17C, which is a single aspect north unit on the eastern side of the building extend to the east and west, as shown in the following photos:

View to the east:



View to the north-east:



View to the north:



View to the north-west:



View to the west:



An assessment of view impacts on No.70 Alfred Street with regard to all of the considerations set out in the test established in *Tenacity* has been provided within the addendum SEE, as follows:

Assessment of view impacts

Step 1: The view to be affected

70 Alfred Street is the tallest residential building in the surrounding area. From its eastern and western facades and all upper levels the Grandview enjoys iconic panoramic views across Sydney Harbour and its surrounds. The views relevant to the assessment are less valuable and vary from panoramic regional views across the Lower North Shore from the upper northern facade, to partial district views to the north east of Neutral Bay environs and the north west of the North Sydney CBD and Lavender Bay from the mid and lower levels.

Views enjoyed in the north westerly direction are towards the North Sydney CBD and are not considered to be landmark or iconic in nature.

Refer to 3D perspectives of views for Levels 17-28 and to the photographs of typical views in the public submissions received on the DA.

Step 2: The part of the property from which views are obtained

- Centrally located apartments with balconies on Levels 10-17 that have either a north easterly or north-westerly aspect are potentially impacted by the additional balconies in the south eastern and south western corners of the proposed development. These new balconies result in a widening of the building, and extend marginally into the views from apartments at those levels;
- Centrally located apartments with balconies on Levels 18-23, have both a north easterly and north westerly outlook are potentially impacted by the additional balconies in the south eastern and south western corners of the proposed development. These new balconies result in a widening of the building, and extend marginally into the views from apartments at those levels;
- The corner apartments at Levels 10-27 have balconies that look towards the east and west. The views to the east and west are of greater value as they capture the land / water interface between the harbour and the foreshore;

- The impacted views from Levels 23-27 are of buildings within the North Sydney CBD to the north west are the result of additional bulk at Levels 14 and 15,
- The Level 28 penthouse has views available in all directions. With the removal of open roof plant and the pyramid structure, views over the top of the proposed building will be enhanced, not diminished. There may be some loss of some of the view of Lavender Bay from a particular position, however, views of Lavender Bay are maintained from a large portion of the western parts of the apartment.

Step 3: The extent of the impact

TABLE 15 – EXTENT OF IMPACT TO 70 ALFRED STREET

BUILDING LEVEL	EXTENT OF IMPACT
Mid – Levels	<p>The additional bulk at Levels 14 and 15 and the new roof plant level will result in a minor reduction in the views enjoyed from the mid-levels of 70 Alfred Street.</p> <p>A slight narrowing of the view corridor between buildings will occur at Levels 10-23.</p>
Upper Levels	<p>The additional bulk will reduce the partial views across the Lower North Shore that are enjoyed from the upper levels of 70 Alfred Street.</p>

Step 4: The reasonableness of the proposal

The additional balconies on the south eastern and south western corner of the buildings are comply with the Council DCP setback control from Alfred Street and Glen Street boundaries. The additional bulk at Levels 14 and 15 and the new roof plant level is amended to reduce overshadowing impacts on Bradfield Park. The stepped form of the these levels to the east will effectively reduce view impacts form apartments at Levels 18-28 that enjoy a north easterly aspect, when compared to the existing building.

View impacts of the additional bulk at Levels 14, 15 and the new roof plant level, which has shifted to the western side of the tower are considered reasonable, as the views currently enjoyed are of buildings in the North Sydney CBD, which is not considered an iconic view and the extent of views form these upper levels apartments Levels 24-28 are extensive. The amended DA will result in a minor reduction in the extent of views currently enjoyed from the upper levels of the Grandview apartments.

Conclusion

In conclusion, it is considered that the additional building bulk will result in a minor and reasonable level of view impact. An assessment of the proposal in accordance with the *Tenacity Principles* demonstrates that the view impact is generally in accordance with the existing development, does not impede iconic views and is therefore considered minor.

As a result of the above considerations, the assessment determines that the amended proposal is reasonable. The variations to the LEP development standards, considered in full in **Appendix B** and **C**, are adequately justified.

The submitted test against the principles established in *Tenacity* is considered to be generally well founded and the conclusion is supported. The additional building bulk above the 40m height limit as well as the larger building envelope have an acceptable impact on views from No.70 Alfred Street.

Assessment of view impact from No.12 and No.30 Glen Street has also been provided in the SEE. It is accepted that the proposed increase in the building height and envelope will, with regard to the principles set out in *Tenacity*, have an acceptable impact on the existing views from these two properties.

4. Building Height Plane

Clause 30(2) of NSLEP 2001 states:

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

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

The site is subject to clause 30(2)(b) of NSLEP 2001, in relation to building height plane controls as it is located opposite land zoned open space.

Both the existing and proposed developments breach the applicable building height plane to a substantial degree.

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

Shadows at 1pm, 2pm and 3pm midwinter:

FIGURE 11 – WINTER SOLSTICE 12.00PM

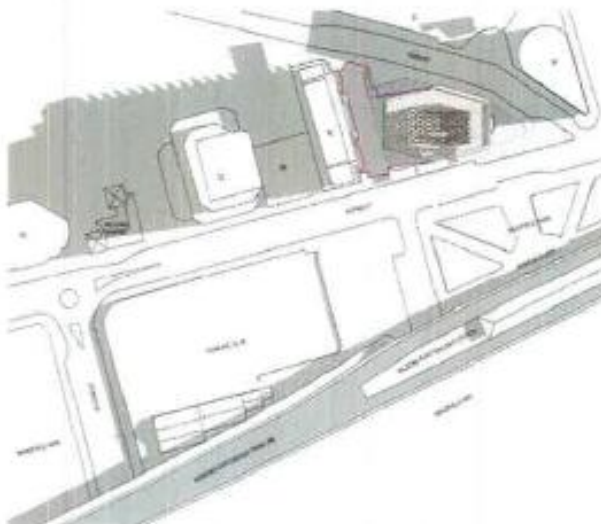


FIGURE 12 – WINTER SOLSTICE 1.00PM

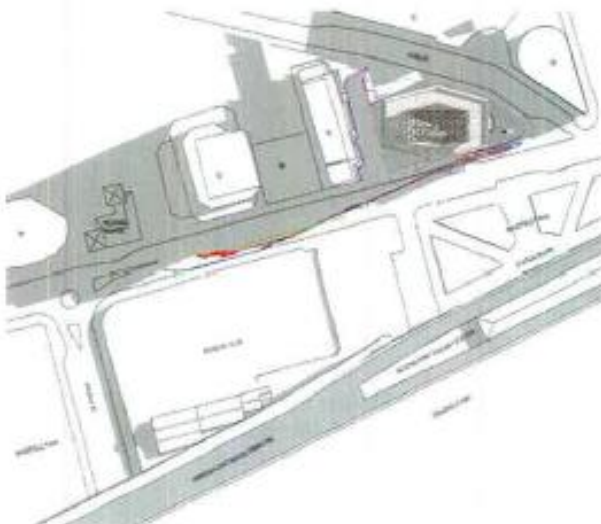


FIGURE 13 – WINTER SOLSTICE 2.00PM

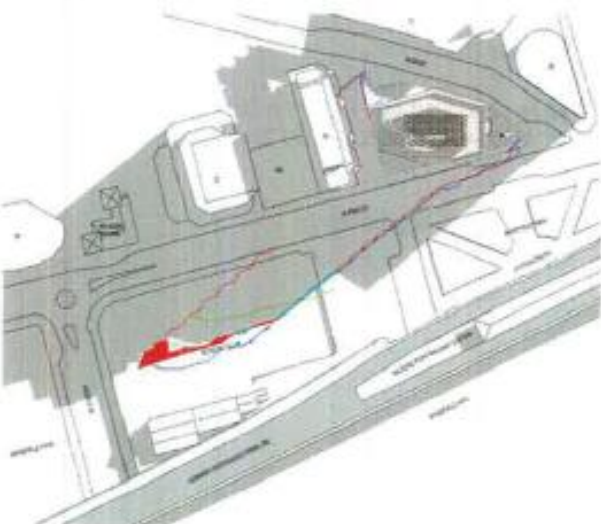
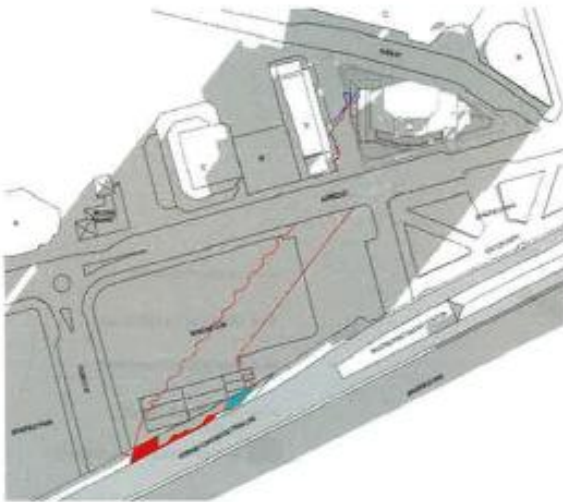


FIGURE 14 – WINTER SOLSTICE 3.00PM



5. Floor Space

Clause 31(2) of NSLEP 2001 states:

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

Pursuant to Map 2 – ‘Floor Space Ratios, Heights and Reservations’ of NSLEP 2001, the non-residential component for a development on this site must have a floor space ratio (FSR) of between 0.75:1 and 2:1. The proposed development has a non-residential FSR of 0.75:1, and is compliant with Clause 31 of NSLEP 2001.

6. Design of Development

Clause 32 of NSLEP 2001 provides a number of objectives and controls with regard to the design of development in the mixed-use zone. The objectives in clause 32(1) seek the following

- (a) *promote development containing a mix of residential and non-residential uses, and*
- (b) *protect the amenity and safety of residents, and*
- (c) *concentrate the non-residential component of development in the mixed use zone at the lower levels of a building.*

It is considered that the proposed development is generally consistent with these objectives.

In relation to the controls for the design of development in Clause 32 (2), the proposal is assessed as follows:

A new building in the mixed use zone must not be erected unless:

(a) *the building contains both residential and non-residential uses,*

Comment: While the proposal is not for a new building, the proposal complies in this regard with both apartments and non-residential uses within the development.

(b) *the non-residential component of the building is provided at the lower levels of the building and the ground level is not used for residential purposes, except access,*

Comment: The proposed development contains residential use at the rear of the ground level, which is acceptable in an existing building. Commercial and retail uses are appropriately located on the Alfred Street frontage.

(c) *the residential component of the building is provided with an entrance separate from the entrances to the remainder of the building,*

Comment: The commercial floor space is accessible by stairs which were added in response to the DEP comments.

(d) *the building is set back above a podium.*

Comment: The existing and proposed development includes a tower element above a podium.

In summary the proposed development is considered satisfactory in relation to the design controls and objectives of Clause 32 of NSLEP 2001.

7. Heritage

The site is not a heritage or contributory item and will not adversely affect any heritage item.

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

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

SEPP No.65 (Design Quality of Residential Flat Development)

The application has been assessed by Council's Design Excellence Panel in terms of the Design Quality Principles set out in SEPP 65.

Assessment is summarised as follows:

Principles 1, 2 and 3: Context, Scale and Built Form: The context is set by the development surrounding the site and the development controls for the site. The proposal is in context with existing surrounding development and consistent with building heights for the precinct containing the subject site. The existing and

proposed buildings are in context with surrounding development and consistent with the scale and built form of surrounding development.

Principle 4: Density: The density is slightly greater than the dwelling yield envisaged for mixed use development in the Residential Development Strategy for North Sydney, as expressed in Section 6.1 of the NSDCP 2002, and is acceptable.

Principle 5: Resource, energy and water efficiency: A BASIX Certificate has been provided with the application. The design provides for satisfactory natural ventilation and solar access to most apartments.

Principle 6: Landscape: There is no scope for the provision of ground level landscaping due to the existing development.

Principle 7: Amenity: The units would generally have a high level of amenity, as none of the units have a single aspect south orientation. Natural ventilation, balconies and storage areas are all satisfactory.

Principle 8: Safety and Security: The proposed development is considered to provide adequately for the safety and security of future residents.

Principle 9: Social Dimensions: The development responds satisfactorily to the social context, with a satisfactory mix of dwelling types given the demography of the area. A well designed communal area for residents at the roof level is proposed to promote social interaction and provide greater amenity for residents.

Principle 10: Aesthetics: The proposed development is an appropriate architectural design with regard to the site constraints and would improve the appearance of the existing building significantly. The aesthetics of the building are considered satisfactory and no objections were raised by the DEP in this regard.

SEPP (Building Sustainability Index: BASIX) 2004

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

SEPP (Infrastructure) 2007

SEPP (Infrastructure) 2007 establishes a framework for certain types of development to be referred to the RTA for consideration.

Given the nature, location and size of the proposed development and number of parking spaces proposed, the proposal is not within the categories that require referral under Clause 104(3) of this SEPP.

Issues regarding parking and traffic raised by Council's Manager Traffic Planning have been addressed and appropriate conditions as recommended by the Council's Manager Traffic Planning are proposed if approval is granted.

SREP (Sydney Harbour Catchments) 2005

The proposal will not have an adverse impact on Sydney Harbour.

North Sydney Local Environmental Plan 2013

The North Sydney Local Environmental Plan 2013 was gazetted on 2 August 2013. NSLEP 2013 will come into force on 13 September 2013, 42 days after the gazettal notification.

The NSLEP 2013 is now imminent and certain and considerable weight must be given to it particularly where the new plan will act in a negative sense to the prospects of an application.

Any application lodged up to the commencement date must be considered under NSLEP 2001. However, Council must also consider the provisions of the new LEP, including the zoning and development standards applicable to the development.

Consideration of the relevant provisions of the NSLEP 2013 is as follows:

(a) Part 2 – Land-use table and zoning

B4 Mixed Use

The site is identified under the LEP as being included within the B4 Mixed Use zone. The proposal is permissible in the zone.

(b) Part 4 - Principle development standards

The development standards under the NSLEP 2013 relate to subdivision lot size; height of buildings and floor space ratio.

It is considered that the proposal is consistent with the relevant provisions in the LEP in that they are the same as North Sydney Local Environmental Plan 2001 in relation to height and non-residential FSR.

A detailed assessment of the matters relating to departures/non-compliances with the current development standards/controls has been provided above in this report.

Having regard to the above, the proposal is considered satisfactory with regard to the provisions of the NSLEP 2013.

Suspensions of Covenants, agreements and similar instruments

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

DEVELOPMENT CONTROL PLAN 2002

The application has been assessed against the relevant controls in DCP 2002 as indicated in the DCP 2002 compliance table provided earlier in this report.

Relevant Planning Area (Milsons Point Town Centre)

The proposal is generally consistent with the Milsons Point Town Centre Character Statement.

The specific Character Statement for the Milsons Point Town Centre identifies a number of design controls. Of particular relevance are the following:

- Setbacks: The proposal is generally consistent with the setback provisions, with the exception of the separation requirement, which has been previously discussed in this report. The proposed setbacks are acceptable.
- Building design: The building design is considered satisfactory and the podium and tower will read as distinct elements. Additionally, Council's DEP are satisfied with the appearance of the building.
- Characteristic building height: The proposal exceeds the 40m height limit, as discussed in detail in this report, however, the existing building also exceeds the height limit and the proposed development will remain consistent with the height of surrounding development. The proposal is satisfactory in this regard.

In conclusion the development is satisfactory with regard to the provisions of the Milsons Point Town Centre Character Statement.

SECTION 94 CONTRIBUTIONS

Section 94 Contributions in accordance with Council's S94 plan are applicable. A suitable condition would be applied if consent is granted.

DESIGN

The design is considered to be suitable for the proposed site and of high quality.

MATERIALS

The application is acceptable with regard to materials.

ALL LIKELY IMPACTS OF THE DEVELOPMENT

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

ENVIRONMENTAL APPRAISAL CONSIDERED

1.	Statutory Controls	YES
2.	Policy Controls	YES
3.	Design in relation to existing building and natural environment	YES
4.	Landscaping/Open Space Provision	YES
5.	Traffic generation and Car parking provision	YES
6.	Loading and Servicing facilities	YES
7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	YES
8.	Site Management Issues	YES
9.	All relevant S79C considerations of Environmental Planning and Assessment (Amendment) Act 1979	YES

CLAUSE 14 NSLEP 2001

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

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

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

SUBMITTERS' CONCERNS

The concerns raised with regard to the impacts of the proposed building height, additional bulk, building separation, parking provision and related concerns have been addressed in detail within this report. Additional matters are discussed as follows:

- Noise from rooftop plant

Planning comment:

The rooftop plant area is to be completely enclosed and will be subject to conditions of consent requiring noise emissions to meet applicable standards. The proposed redevelopment will address the long term issue of plant noise from the roof of the existing building.

- Waste collection

Planning comment:

The application includes a Waste Management Plan prepared by Elephant's Foot Waste Compactors Pty Ltd. The applicant consulted Council in relation to waste handling and collection prior to lodgement of the development application and the proposal is satisfactory with regard to waste management. Council's Waste Officer has advised that the garbage storage areas and collection from the loading bay are satisfactory.

- Construction impacts

Planning comment:

It is acknowledged that there are likely to be a number of impacts on surrounding development during the course of a large scale development, such as construction noise, construction related traffic, dust, traffic disruption, etc. A number of conditions of consent will be applied if consent is granted to minimise the extent of the impact on surrounding dwellings and buildings.

- Loss of commercial floor space/imbalance between residential and commercial

Planning comment:

The subject site is zoned Mixed Use under North Sydney Local Environmental Plan 2001 and also under North Sydney LEP 2013. The provision of 0.75:1 non-residential (commercial and retail) floor space meets the minimum requirement under both LEPs and is satisfactory with regard to the strategic direction of development in the area.

- Social issues from increased density

Planning comment:

It is considered unlikely that the proposed increase in residential density as a result of this development will lead to any adverse social issues in the Milsons Point locality.

- Loss of property value

Planning comment:

This is not a valid matter for consideration under s.79C of the Environmental Planning and Assessment Act, 1979.

- Privacy measures unclear/conflicting on plans

Planning comment:

Amended plans have been provided which clearly indicate the type and location of the proposed privacy measures, which are considered satisfactory with regard to impact on Grandview at No.70 Alfred Street.

CONCLUSION

This application has been refined to address concerns raised by Council and the Design Excellence Panel and is now considered a satisfactory form of development, subject to conditions of consent. The application has been assessed against the relevant statutory controls and with regard to surrounding development. The SEPP 1 objections to the building height and building height plane standards are considered to be well founded and are supported.

The application is recommended for approval by the Joint Regional Planning 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 development consent to 2013SYE041 - Development Application No.126/13 for adaptive re-use of the existing building to accommodate a 16 storey mixed use development comprising retail and commercial, 129 units and basement parking, subject to the attached conditions:

George J Youhanna
EXECUTIVE PLANNER

Stephen J Beattie
MANAGER DEVELOPMENT SERVICES
