

**JOINT REGIONAL PLANNING PANEL  
(Sydney East Region)**

<b>JRPP No</b>	<b>2013SYE075</b>
<b>DA Number</b>	<b>DA.292/13</b>
<b>Local Government Area</b>	<b>North Sydney</b>
<b>Proposed Development</b>	<b>Demolition of existing structures and the construction of a mixed use development comprising: basement and ground floor retail/commercial uses; 190 residential apartments; communal facilities (including rooftop deck and entertaining spaces); excavation and construction of basement for building services, storage, car parking, motorcycle parking and bicycle parking and associated public domain and landscape works.</b>
<b>Street Address</b>	<b>225-235 Pacific Highway North Sydney</b>
<b>Applicant/Owner</b>	<b>Ford Pacific Pty Ltd</b>
<b>Number of Submissions</b>	<b>One (1)</b>
<b>Report by</b>	<b>Geoff Mossemenear, Executive Planner, North Sydney Council</b>

**Assessment Report and Recommendation**

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**EXECUTIVE SUMMARY**

The proposal is for the demolition of existing structures and the construction of a mixed use development comprising: basement and ground floor retail/commercial uses; 190 residential apartments; communal facilities (including rooftop deck and entertaining spaces); excavation and construction of basement for building services, storage, car parking, motorcycle parking and bicycle parking and associated public domain and landscape works.

The Council's notification of the proposal has attracted one submission raising particular concerns about drainage and construction concerns. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.

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

## **DESCRIPTION OF PROPOSAL**

The proposal is for the demolition of existing structures and the construction of a mixed use development comprising: basement and ground floor retail/commercial uses; 190 residential apartments; communal facilities (including rooftop deck and entertaining spaces); excavation and construction of basement for building services, storage, car parking, motorcycle parking and bicycle parking and associated public domain and landscape works.

The proposed building is 18 storeys in height and reaches a maximum height of RL135.10. The building will use a combination of contemporary materials consistent with the existing surrounding and future built form character, including precast concrete, glass and aluminium.

## **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

North Sydney LEP 2013 - Zoning – B4 Mixed Use

## **POLICY CONTROLS**

DCP 2002

North Sydney DCP 2013

## **CONSENT AUTHORITY**

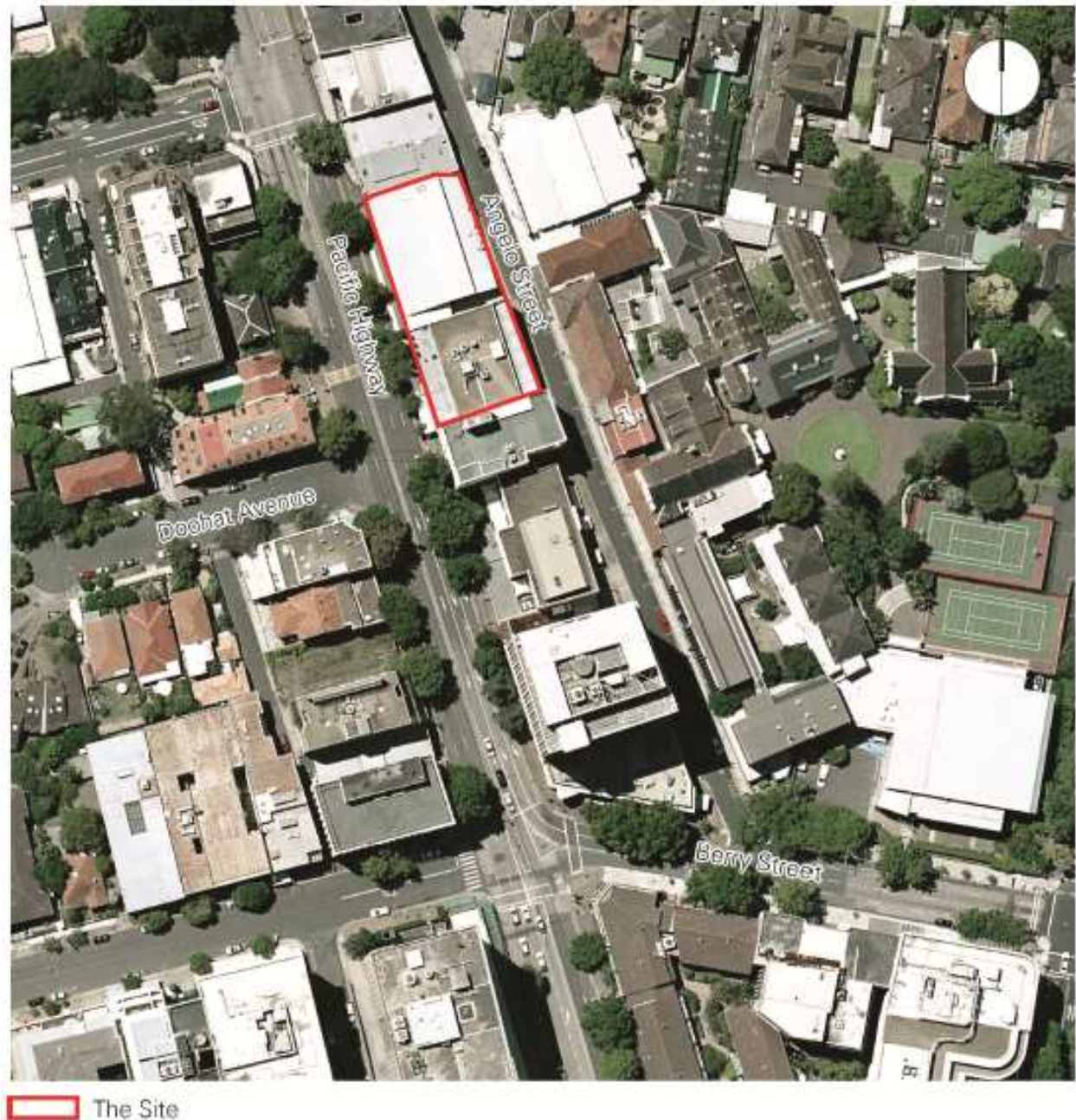
As this proposal has a Capital Investment Value (CIV) of greater than \$20 million the consent authority for the development application is the Joint Regional Planning Panel, Sydney East Region (JRPP).

## **DESCRIPTION OF LOCALITY**

The site is located on the eastern side of the Pacific Highway, between McLaren Street (to the north) and Berry Street (to the south).

The site area is 1,538m<sup>2</sup>. It is generally rectangular in shape with a frontage of approximately 59m to the Pacific Highway and 58m to Angelo Street. The site slopes approximately 3.3m from a high point (RL 79.59) in the north east to a low point (RL 76.14) in the south west corner.

The site is set between two adjacent developments that are either under construction (Montrose) or due to commence (Skye by Crown). Both of these developments have adopted a different interpretation of the planning rules relevant to setbacks and podiums.





## BACKGROUND

The applicant had pre lodgement meetings with Council staff and the Design Excellence Panel and responded to the advice given when lodging the development application.

A number of concerns were raised with the proposal following the initial assessment of the application and comments received from the Design Excellence Panel, Council's Engineer and Traffic Manager.

The applicant responded to the concerns raised with amended plans received by Council on 18 November 2013. The changes relate to minor changes at ground level and changes in the basement with a reduction in parking. The changes are detailed in the referral comments that follow. The changes did not create additional impacts and did not require further notification. **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/Stormwater Drainage/Geotechnical

Council's Development Engineer (V Ristic) has assessed the amended proposed development and provided a number of specific conditions. Should the development application be approved, the 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 would be required.

### Heritage

Council's Conservation Planner (L Trueman) has provided the following assessment:

*"The subject property is not listed as a heritage item and is not located within a conservation area. However, it is located within the vicinity of a heritage item, being Monte St Angelo College (directly across Angelo Street), and the McLaren Street Conservation Area.*

*The proposed multi-storey building is located across Angelo Street from the Monte St Angelo site. The building is separated from the significant buildings on the school site by more recent contemporary buildings along Angelo Street. The proposed building is consistent, in terms of height and scale, with other approved development along this part of the Pacific Highway.*

*The proposed building will not have a detrimental impact on the curtilage or significance of the heritage item or conservation area in the vicinity. Accordingly, no objections are raised to the proposal on heritage grounds."*

### Landscaping

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

*I have inspected the properties in relation to their proposed consolidation and redevelopment. The following observations were made, conclusions drawn and recommendations provided.*

- The proposal has indicated the retention of a number of existing street trees growing along the Pacific Hwy frontage of the property, the removal of two of those trees, the planting some further trees and the planting of two new trees along the Angelo Street frontage. The new trees are proposed to be Ginko*

*biloba (The Ginko) as opposed to London Plane Trees. I have discussed their proposal with Councils Tree Management Officer and it was agreed that the use of Ginkgo along the Angelo Street frontage, is supported, provided the following cultivar "Princeton Sentry" is used. This species is one that Council will be using in areas similar to Angelo Street (rear lane access to C.B.D development where overhead power lines are less problematic).*

- It was also determined that the retention of the London Plane Tree as the species selection is more appropriate to ensure the existing street tree planting theme is retained, as opposed to the proposed inter planting of Ginkgo biloba with the London Plane Trees proposed for retention.*
- I have assessed the existing age, size, and health, canopy spread, apparent structural defects or wounds on all of the existing trees growing along the Pacific Hwy frontage of the property. Furthermore I have assessed any overhead essential service lines, hazards and essential service pits in the footpath. All the aforementioned assessments need to be taken into account in relation to the successful retention of existing trees as part of a major development of such sites. It should be noted that the construction works on a project such as this will be substantial including the hoarding of the site such that it is safe to use adjoin roads and footpaths, removal of waste materials, delivery of materials and the use of fixed and mobile cranes, concrete pumps.*

*The five existing trees growing in the footpath vary in size from 4-25 metres, two of which are only about 4 metres tall, the remaining trees are between 15 -25 metres tall. The trees are not planted at continuous centres of the same distance, and some cases too close to essential service inspection pits.*

*Essentially the smaller of the trees will not fare well with up to 18 months of construction in their vicinity, have been planted too close to essential service inspection pits and only 5 metres apart. The largest of the trees (closest to the n.w corner of the property) has apparent damage and scarring from passing trucks, buses and the like at about 3.5 metres above ground, furthermore any attempt to appropriately reinstate the footpath and carry out any kerb works would be severely hampered. The second and third largest of the trees will require substantial pruning of secondary trunks to enable an appropriate hoarding/scaffold structure to be erected the enable the existing building to be demolished and the proposed new building erected. One of these two trees has also grown with a lean to the road (to be expected) such that within the next 2-3 years it will also pose a hazard to passing Trucks and Buses, and indicated with the largest of the trees.*

*In conclusion, whilst the removal of all of the existing street trees growing outside the property along the Pacific Hwy frontage of the property and their replacement with new trees, will be a loss to immediate and local amenity values in the first instance. I believe that the removal of all of the trees and their replacement with new trees planted with new soils, protective barriers, appropriately located away from essential services, the kerb, planted to Council specifications including new soils root protective barriers and mulches along with the reinstatement/ reconstruction of Councils Infrastructure, will result a new invigorated streetscape for many years to come.*

*Therefore I raise no objections to submitted development application subject to the following conditions being included as part of the consent.....”*

## **Traffic/Parking**

Council's Traffic Manager has provided the following comments:

*“I refer to your request for comments on the proposed development at 225-235 Pacific Highway, North Sydney (DA292/13). I have read the traffic report, prepared by John Coady Consulting Pty Ltd, dated 23 August 2013. My comments are as follows:*

### Existing Site

*The existing site comprises of two allotments, 225-229 Pacific Highway and 231-234 Pacific Highway, which are commercial buildings with floor areas of 1500m<sup>2</sup> and 1650m<sup>2</sup> respectively.*

### Proposed Development

*The proposed development includes the demolition of the existing buildings on the two sites and constructing a new mixed-use building comprising of 190 residential apartments (15 x studio, 100 x one-bedroom, 69 x two-bedroom, and 6 x three-bedroom), 224m<sup>2</sup> of commercial area, 302m<sup>2</sup> of restaurant, 85m<sup>2</sup> of café area and 256m<sup>2</sup> of bar.*

### Parking

*The North Sydney DCP 2002 (NSDCP) outlines a maximum car parking provision as follows:*

		<b>No</b>	<b>Rate</b>	
<b>Residential</b>	Studio	15	0.5	7.5
	One-bedroom	100	0.5	50
	Two-bedroom	69	1	69
	Three-bedroom	6	1	6
<b>Commercial</b>	Commercial	224	0.0025	0.56
	Restaurant	302	0.02	6.04
	Cafe	85	0.02	1.7
	Bar	256	0.01	2.56
<b>Maximum Permissible</b>		<b>Parking</b>		<b>144</b>

*The development proposes to provide 200 spaces which exceeds Council's maximum allowable provision by 56 car spaces. This is unacceptable given the site's close proximity to the North Sydney train station and major bus stops.*

*I do not agree with the Traffic Report and calculations based on apartments in residential zones. Further, I do not agree that the parking entitlements of the existing*

site (22 parking spaces) should be taken into account in the proposed development.

The parking rates in NSDCP 2002 were a deliberate policy decision of Council to restrict car parking and therefore car ownership and commuting by car in the busy CBD/ retail areas close to good public transport. Council's Strategic Plan, the 2020 Vision states, "Public transport and alternative means of transport are the mode of choice for trips to, from and within North Sydney.

The community's reliance on the car has reduced. Considerable effort has been made to improve public transport and reduce traffic congestion, particularly through the use of more innovative and environmentally friendly systems."

Council must consider this development in the context of the North Sydney CBD as a whole.

Traffic generation is one of the key impacts associated with new developments and traffic congestion and traffic generation issues are of particular concern to the community and impact greatly on resident amenity

**Accordingly the proposed development should be restricted to having a maximum of 144 car parking spaces.**

#### Motorcycle Parking

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

The traffic report remains silent on the provision of motorcycle parking spaces (there are some motorcycle spaces indicated on the plans).

**The development must provide a minimum of 14 motorcycle parking spaces.**

#### Bicycle Parking

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 the size and land use type would require a minimum of:**

- **A secure bicycle compound (Class 2 as defined in AS2890.3) capable of storing 64 bicycles for residents**
- **Bicycle racks/rails (Class 3 as defined in AS2890.3) capable of storing 16 bicycles for resident's visitors**
- **2 x bicycle locker (Class 1 as defined in AS2890.3) for commercial staff**
- **1 x bicycle rack/rail (Class 3 as defined in AS2890.3) for visitors to the commercial component.**



*The traffic report remains silent on the provision of bicycle parking facilities.*

*All aspects of bicycle parking facilities should comply with AS2890.3*

*The development site is situated along a major cycle route and with the development of the North Sydney cycleway network and the Northern Regional Bicycle Network it is expected that bicycle traffic will increase.*

*It is therefore important that the development include some form of end of trip facilities for staff and visitors to the commercial component of the development. This may include shower facilities, change rooms and lockers, near the bicycle parking area in close proximity to the commercial component of the development.*

#### *Loading Bay Provision*

*The traffic report outlines that an on-site pick-up zone, capable of accommodating a Medium Rigid Vehicle (MRV), as defined in the Australian Standard 2890.2) will be provided along the Angelo Street frontage at the southern end of the site.*

***The applicant must provide an auto turn/ auto track simulation of a standard 8.8m MRV truck entering and leaving the space in a forward direction. In addition, further details of the type of vehicle crossing used for this pick up zone must be provided.***

#### *Traffic Generation*

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

*Application of the RMS Guide to Traffic Generating Developments reveals that a development of this size and land use type will generate approximately 82 vehicle trips in the peak hour.*

*Taking into account the traffic generated by the existing commercial land-use and the restrained car parking provision of 144 vehicles, the additional traffic generation potential of the proposed development can be accommodated on the road network.*

#### *Conclusion*

*It is recommended that this development be refused until the following issues are addressed:*

- The development proposes to provide 200 spaces which exceeds Council's maximum allowable provision by 56 car spaces. This is unacceptable given the site's close proximity to the St Leonards train station and other major bus routes. **The proposed development should be restricted to having a maximum of 144 car parking spaces.***

- *The applicant must provide an auto turn/ auto track simulation of a standard 8.8m MRV truck entering and leaving the space in a forward direction. In addition, further details of the type of vehicle crossing used for this pick up zone must be provided.*

*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 pays to upgrade the lighting levels on Angelo Street and the Pacific Highway adjacent to the site, to the satisfaction of Council.*
- 3. **That a maximum of 144 car parking spaces be provided on-site.***
- 4. That the development includes **a minimum of 14 motorcycle parking spaces** within the basement car park.*
- 5. That the development includes a **bicycle cage capable of storing a minimum of 64 bicycles for residents, a minimum of 16 x bicycle racks for resident's visitors, a minimum of 2 x bicycle locker for retail tenants and a minimum of 1 x bicycle rack for retail tenant's visitors.** The bicycle racks for visitors should be located on-site, on the ground floor, in a safe, attractive and accessible location along the Atchison Street frontage. The bicycle cage should be located within the basement in a safe, attractive and assessible location.*
- 6. That end-of-trip bicycle facilities be provided for staff working in the commercial component of the development.*
- 7. That all aspects of the carpark comply with the Australian Standard AS2890.1 Off-Street Parking.*
- 8. That all aspects of the access driveway, including width and grades, comply with AS2890.1*
- 9. That all aspects of parking spaces for people with disabilities comply with the AS 2890.6.*
- 10. That all aspects of the bicycle parking and storage facilities comply with the AS2890.3.*
- 11. 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.*
- 12. The driveway to the site must be designed as a "driveway" in accordance with NSC Specification Drawing S101A and not a road.*
- 13. That "STOP" control treatment ("STOP" sign and "STOP" pavement markings) be installed in accordance with AS2890.1 at the driveway exit.*
- 14. 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.*
- 15. That the footpaths, kerb and gutter and any other public infrastructure be designed and installed in accordance with the NSC Public Domain Style Manual and NSC Infrastructure Specification for Roadworks, Drainage and Miscellaneous Works 2013-2014 to the satisfaction of Council's Engineering Infrastructure Manager."*

The applicant has responded to the concerns raised in the above comments with the submission of amended plans. The applicant responded to the issues as follows:

*The proposed development should be restricted to having a maximum of 144 car parking spaces.*

Car parking for the proposed development has been significantly reduced in response to Council's request. The basement design and configuration has been amended which has involved:

- deletion of Basement Level 7
- reconfiguration of the car park to provide more effective and accessible layout;
- reconfiguration of storage areas;
- reconfiguration of Basement Level 1 to accommodate additional bicycle parking facilities and storage.

As a result the changes the new six level basement now incorporates 150 car spaces, being six spaces above the 144 required by the DCP. These additional spaces are to be allocated to the 6 x 3 bed apartments within the development. Accordingly each 3 bed apartment will be provided with two car spaces.

The additional six spaces are considered acceptable as they will not result in a significant increase in traffic generation nor do they represent a significant variation from the DCP requirement. Furthermore it will provide an outcome consistent with that of the approved Skye by Crown development, in which each 3 bed apartment is serviced by 2 car spaces.

*The development must provide a minimum of 14 motorcycle parking spaces*

Fourteen motorcycle spaces are provided on Basement Level 1.

*The development must provide a minimum of:*

- 64 secure residents bike parking spaces/compounds
- 16 bike racks/rails for residents visitors
- 2 bike lockers for commercial staff
- 1 rack/rail for commercial visitor

The proposed development 1 has been amended to incorporate the required number of bicycle parking facilities. As shown on Plan No's DA101 and DA102:

- An enlarged bicycle storage compound is now included in Basement Level 1, providing for 66 secure spaces for residents;
- a separate bicycle area for residential visitors is provided on Basement Level 1 that accommodates 16 bicycles;
- two commercial staff bicycle lockers are now provided on Basement Level 1; and
- street level bicycle rack for visitors of the non-residential uses are provided along the site's Pacific Highway frontage and will accommodate 3 bicycles.

The proposed development therefore complies with the relevant DCP requirements.

*The applicant must provide an auto turn/ auto track simulation of a standard 8.8m MRV truck entering and leaving the space in a forward direction. In addition, further details of the type of vehicle crossing used for this pick up zone must be provided.*

A swept path analysis has been included on DA102 which illustrates the turning path of an 8.8m MRV in and out of the site. As demonstrated by this plan an MRV will be able to access the site with relative ease. It is noted that there will be a rolled kerb along this part of the Angelo Street frontage to maximise vehicle accessibility to this part of the site.

### **External Referral**

RMS; Ausgrid and Sydney Water – Responses received, no issues

### **DESIGN EXCELLENCE PANEL**

Referred to the Design Excellence Panel meeting on 1 October 2013.

Pre lodgement plans were before the Panel at its meeting of 4 June 2013. The plans were similar to the DA plans. The Panel was supportive of the design in principle and the building envelope subject to a number of matters being addressed.

The Panel at its previous meeting supported the height treatment and felt that the vertical proportion works well. The Panel also supported the proposed green roof on the northern tower and the communal space on the southern tower. The Panel commended the architect for the design of the ground level lobby.

The development application has provided further detail to the previous plans. The following issues were raised by the Panel to be addressed by the architect:

- Landscaping along the Highway should be limited to the Plane trees only
- Landscaping in Angelo Street could be increased and considered with regard to a Council study/master plan for Angelo Street. The opportunity to create an attractive streetscape should not be lost having regard to the redevelopment of the adjacent sites representing a good portion of the block between McLaren Street and Berry Street
- All three developments need to consistent with the footpath and internal paving
- Awning along the Highway should be continuous and widened over the public footpath more
- Ground floor circulation on the northern side is cluttered and tight (based on geometry) could make more of space by relocating stair
- Support columns obstruct pedestrian movement
- Bollards in Angelo Street do not allow access to loading/drop off area
- Acoustic and visual privacy at lower levels
- Option for louvres at lower levels particularly on western elevation
- Colour of balustrades should not be a stark white to avoid a black and white

stripe effect on the elevations

The Panel supports the design provided that the ground level issues are resolved, and in particular that the landscape and building elements respond sensitively to the two different contexts to the Highway and Angelo Street with regard to paving, awnings, trees, seating etc.

The applicant has responded to the Panel's comments in the amended plans as follows:

- An updated Landscape Plan has been prepared by Clouston Associates and is attached to this letter. Amended Plan S13-0066 SK5 now incorporates Plane Trees for the full frontage of Pacific Highway. These trees have replaced the previously proposed Genko Trees.
- Landscaping along Angelo Street is proposed to be retained in its current form. The two proposed Genko Trees are considered to provide sufficient soft landscaping for this frontage given the laneway context of Angelo Street.
- As shown in Plan DA102, the awning over the Pacific Highway footpath has been widened in the middle section to provide a more continuous shelter for the full length of the site, whilst retaining its curved design that is integral to the overall building design.
- The combination of a 1.5m footpath and a 1.5m setback (3.0m total) to the building will ensure that there is sufficient space for uninterrupted pedestrian movement along the Angelo Street frontage. Coupled with this the 3.0m clearance height and the curvature of the columns will ensure minimal conflicts with pedestrians.
- As shown on Plan No DA102 the bollards have been relocated to in front of the outdoor café dining. These bollards will provide a safety barrier to the café area whilst also allowing vehicles to access the loading area as and when required.
- It is proposed to have a solid balustrade at the lower levels of the building. This combined with the double glazed windows will ensure future residents are provided with appropriate visual and acoustic privacy.
- The colours of the balustrades will not be a 'stark white'. Final colours will be chosen to provide a soft natural palette that will work well with the proposed bronze colour of the glazing. It is considered that the colour palette chosen will not result in a black and white stripe effect.

## **SUBMISSIONS**

The application was notified to the Edward, CBD and Union precincts and surrounding owners and residents in accordance with Council policy. One submission was received with the main issues being summarised as follows:-

- It seems there is an underground stream that will show itself once the digging commences. It impacted the construction times on the adjoining Montrose site.
- There is no information on the combined impact of three major developments in Angelo Street on residents and neighbours.

The objector raised their concerns with the Department of Planning. The Department



provided the following response:

*"The council officers assessing the DA are required to take into account noise and traffic impacts prior to submitting their assessment report to the JRPP. If several DAs are being assessed within the same locality the combined impacts should form part of each assessment. Additionally, if these issues are raised in submissions during the exhibition period or at a meeting of the JRPP then the JRPP will consider them prior to making its decision.*

*While a determining authority may approve a DA it cannot stipulate that X Development is to be built before Y Development and after Z Development. This is really a matter for the developers and often tied to the demands of the market and their financial arrangements. They will all have to comply with their consent conditions relating to noise levels, operating hours and construction traffic management."*

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.

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	Proposed	Control	Complies
Height (Cl. 28D(2)(a))	RL 135.1m 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))	1538m <sup>2</sup>	1000m <sup>2</sup> min.	YES
Mixed Use Zone			
Floor Space (Cl. 31) (max)	0.56:1	Range between 3:1 and 4:1	NO

## 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 – commercial and retail space provided. Activation to both frontages
<b>Mixed residential population</b>	Yes	Generally complies with the recommended dwelling mix in the DCP. It is proposed to have a dwelling mix of 8% x studios, 53% x 1 bedroom apartments, 36% x 2 bedroom apartments and 3% x 3 bedroom apartments. There is an increased number in the smaller apartments. Council has accepted a similar mix in recent nearby developments on the basis of location and closeness to railway.
<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	Acoustic report submitted, can be conditioned
<b>Acoustic Privacy</b>	Yes	Acoustic report indicates standards can be met
<b>Visual Privacy</b>	Yes	No dwellings in close proximity. Viewing into School restricted by distance, angle and school buildings and roofs
<b>Reflected light</b>	Yes	Materials can be conditioned
<b>Artificial light</b>	NA	No roof top advertising proposed
<b>Outdoor lighting</b>	Yes	Can be conditioned
<b>Awnings</b>	Yes	Continuous awning provided across Highway frontage
<b>Solar access</b>	Yes	Satisfactory
<b>Views</b>	Yes	Minimal impacts to any views from dwellings
<b>6.3 Quality built form</b>		
<b>Context</b>	Yes	Site analysis undertaken, building in context with desired character for area and particularly adjacent mixed use proposals
<b>Public spaces and facilities</b>	No	Not required but large retail space at ground level available for possible café use.
<b>Skyline</b>	Yes	Upper levels designed to contribute well to skyline
<b>Through-site pedestrian links</b>	NA	None required, however one tenancy (possible café/ restaurant) does provide link from Highway to Angelo

		Street
<b>Streetscape</b>	Yes	Satisfactory. Supported by Design Excellence Panel
<b>Subdivision</b>	Yes	Site area exceeds minimum requirements
<b>Setbacks</b>	Yes	Generally compliant with character statement. Similar to recent adjoining approvals. Weighted average less than 5m
<b>Entrances and exits</b>	Yes	Visible from Highway and Street
<b>Street frontage podium</b>	Yes	Podium level established to link the varying podium heights of adjacent developments
<b>Laneway frontage</b>	Yes	No setback required under character statement at ground level. 1.5m provided similar to adjoining sites. Podium height is satisfactory
<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;
<b>Accessibility</b>	Yes	Accessibility report submitted
<b>Safety and security</b>	Yes	Satisfactory
<b>Car parking</b>	Yes	See detailed comments above.
<b>Bicycle storage</b>	Yes	Satisfactory
<b>Vehicular access</b>	Yes	From Angelo Street and not the highway
<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
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### **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 results in a reduction in the commercial floor space existing on site. The site is consistent with controls
(b) to require arrangements for railway infrastructure to be in place before additional non-residential gross floor area is permissible in relation to any proposed development in the North Sydney Centre.	The proposal does not increase the non residential floor area and accordingly arrangements are not required.
(c) to ensure that railway infrastructure, and in particular North Sydney Station, will enable and encourage a greater percentage of people to access the North Sydney Centre by public transport than by private transport and will: (i) be convenient and accessible, and (ii) enable a reduction in dependence on private car travel to the North Sydney Centre, and (iii) be adequate to achieve no increase in car parking, and (iv) have the capacity to service the demands generated by development in the North Sydney Centre.	Council has instigated measures with State Rail to ensure that North Sydney Railway Station is upgraded to improve patronage.
(d) to discourage use of motor vehicles in the North Sydney Centre	The proposed development provides for a reduction in the non residential parking on site
(e) to encourage access to and within the North Sydney Centre for pedestrians and cyclists.	It is not proposed to obstruct any existing pedestrian or cycle routes through the Centre. Cycle facilities are to be incorporated into the development to promote cycling.
(f) to allow for 250,000m <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 non residential floor space would be located at and below ground level and unlikely to be office space.
(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 as it cannot be adapted to a compliant development.
(k) to encourage a diverse range of employment, living, recreation and social opportunities.	The proposed development provides flexible commercial spaces and quality residential apartments.
(l) to promote high quality urban environments and residential amenity	The proposal aims to maximise the amenity to residents internally. The design of the building is contemporary in nature.
(m) to provide significant public benefits such as open space, through-site linkages, childcare and the like.	The site is not large enough to provide any real public benefits as suggested. The public domain is improved with a widening of the footpath areas
(n) to improve accessibility within and to the North Sydney Centre.	The proposed buildings have been designed to be accessible.
(o) to protect the amenity of residential zones and existing open space within and nearby the North Sydney Centre	The proposal will have a minimal impact on amenity of the residential areas. There are no adjoining residential areas.

(p) to prevent any net increase in overshadowing of any land-zoned residential or public open space or identified as a special area.	The proposed development will result in no additional overshadowing.
(q) to maintain areas of open space on private land and promote the preservation of existing setbacks and landscaped areas, and protect the amenity of these areas.	Landscaped areas limited to street planting and roof top communal spaces.

## CLAUSE 28C - RAILWAY INFRASTRUCTURE

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

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

The existing buildings on the site have a total non-residential gross floor area of approximately 2898m<sup>2</sup> and the proposal has a non residential floor area of 867m<sup>2</sup> resulting in a decrease over that which currently exists. The proposal therefore complies with Clause 28C(2).

## CLAUSE 28D - BUILDING HEIGHT AND MASSING

### Objectives

- (a) *to achieve a transition of building heights generally from 100 Miller Street (Northpoint) and 79 - 81 Berry Street (being the location of the tallest buildings) stepping down towards the boundaries of the North Sydney Centre.*

The proposed development is considered to have an appropriate overall scale.

- (b) *to promote a height and massing that has no adverse impact on land in the public open space zone or land identified as a special area on Sheet 5 of the map marked “North Sydney Local Environmental Plan 2001 (Amendment No. 9) - North Sydney Centre” or on heritage items.*

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

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

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

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

The proposed development does not adjoin residential development and is separated



by the highway. There are no privacy issues.

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

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

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

The subject site comprises the consolidation of allotments. Adjoining sites are not isolated.

### **Development Controls**

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

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

Utilising the LEP definition, the proposed building will have a maximum RL of 135.1 AHD (to the top of roof treatment) and therefore complies with this requirement.

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

The shadow footprint of the building is contained within the composite shadow area between 10am and 2pm, with only minor protrusions outside the composite shadow area outside these hours.

- (c) *There is no net increase in overshadowing, between 10am and 2pm, at any time of the year, of any land this is within the North Sydney Centre and is within the public open space zone or within a special area as shown on Sheet 5 of the map marked "North Sydney Local Environmental Plan 2001 (Amendment No 9)- North Sydney Centre", and*

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

- (d) *There will be no increase in overshadowing that would reduce the amenity of any dwelling that is outside the North Sydney Centre and falls within the composite shadow area referred to in paragraph (b), and*

The proposed development does not overshadow any residential premises outside the North Sydney Centre falling within the composite shadow area.

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

The subject site is 1538m<sup>2</sup> in area and complies.

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

The subject site comprises the consolidation of allotments. Adjoining sites are not isolated.

### **Building Design and Public Benefits**

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

- (a) *the impact of the proposed development in terms of scale, form and massing within the context of the locality and landform, the natural environment and neighbouring development and in particular lower scale development adjoining the North Sydney Centre, and*
- (b) *whether the proposed development provides public benefits such as open space, through-site linkages, community facilities and the like, and*
- (c) *whether the proposed development preserves important view lines and vistas, and*
- (d) *whether the proposed development enhances the streetscape in terms of scale, materials and external treatments, and provides variety and interest.*

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

The proposal provides no direct public benefits other than it is well designed and provides quality residential accommodation on the edge of the CBD. An informal through site link would be provided through the ground level tenancy.

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

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

## **CLAUSE 29 - BUILDING HEIGHT**

### **Objectives**

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

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

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

*neighbourhood, and*

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

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

The proposal provides a reasonable amenity and is consistent with SEPP 65 design principles.

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

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

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

Satisfactory with regard to this objective.

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

Pursuant to Clause 28D(2) of the NSLEP, a maximum RL height of 195 AHD applies to the site. The proposed development has a maximum height of RL 135.1 AHD. This is to the top of the plant room and roof architectural detailing and is consistent with the desired height controls for the area.

## **Building Height Controls**

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

## **CLAUSE 31 - FLOOR SPACE**

Subclause 31(2) states:

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

The proposed non-residential floor space is below the 3:1 – 4:1 FSR required by this Clause. A SEPP 1 Objection for the non-compliance has been submitted with the application.

The proposed development provides 867m<sup>2</sup> of non-residential floor space (retail/commercial), which equates to an FSR of 0.56:1.

The proposed non-residential FSR is therefore below the minimum non-residential floor space range under NSLEP 2001. Whilst this is the case the amount of commercial and retail floor space is above the minimum 0.5:1 required by the new LEP, which came into force on the 13th September 2013.

The new LEP can be regarded as certain and imminent for the purpose of the savings clause and therefore reflects the present strategic requirements of Council. In addition the current non residential floor space requirement under LEP 2001 is now considered to be unreasonable as the proposed development achieves the objectives of the control, which are to ensure a mix of uses in the building and to minimise traffic impacts associated with commercial development. The proposed non residential floor space is considered acceptable and the SEPP 1 objection is well founded.

## **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 subject property is not listed as a heritage item and is not located within a conservation area. However, it is located within the vicinity of a heritage item, being Monte St Angelo College (directly across Angelo Street), and the McLaren Street Conservation Area.

The proposed multi-storey building is located across Angelo Street from the Monte St Angelo site. The building is separated from the significant buildings on the school site by more recent contemporary buildings along Angelo Street. The proposed building is consistent, in terms of height and scale, with other approved development along this part of the Pacific Highway.

The proposed building will not have a detrimental impact on the curtilage or significance of the heritage item or conservation area in the vicinity.

### **North Sydney Local Environmental Plan 2013**

The North Sydney Local Environmental Plan 2013 was gazetted on 2 August 2013. NSLEP 2013 came 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 under the savings provisions.**

The site is identified under LEP 2013 as being included within the B4 mixed use zone as are adjoining sites. The proposed development is permissible in the zone.

The development standards applicable to the site under LEP 2013 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 new LEP 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 125	RL 135.1	NO
<b>Clause 4.4: Floor space ratio</b>	Minimum 0.5:1	0.56:1	YES
<b>Clause 6.4: Building heights and massing</b>	1000m <sup>2</sup> site area	1538m <sup>2</sup>	YES

The proposed development has been considered against the development standard applicable under the new LEP and does not comply with the provisions of Clause 4.3. The heights were based on modeling having regard to the current requirements under both NSLEP 2001 and NSDCP 2002. The main objective is the stepping down of heights from the south adjoining the commercial centre to the north adjoining the residential zones.

At the upper levels the tower has been designed to step down in form and height in order to provide an appropriate transition between the taller Skye by Crown development to the south and the shorter Montrose development to the north. Stepping of the roof is a key feature of the design and has allowed them to create a roofscape that will make a significant positive contribution to North Sydney's urban fabric and skyline.

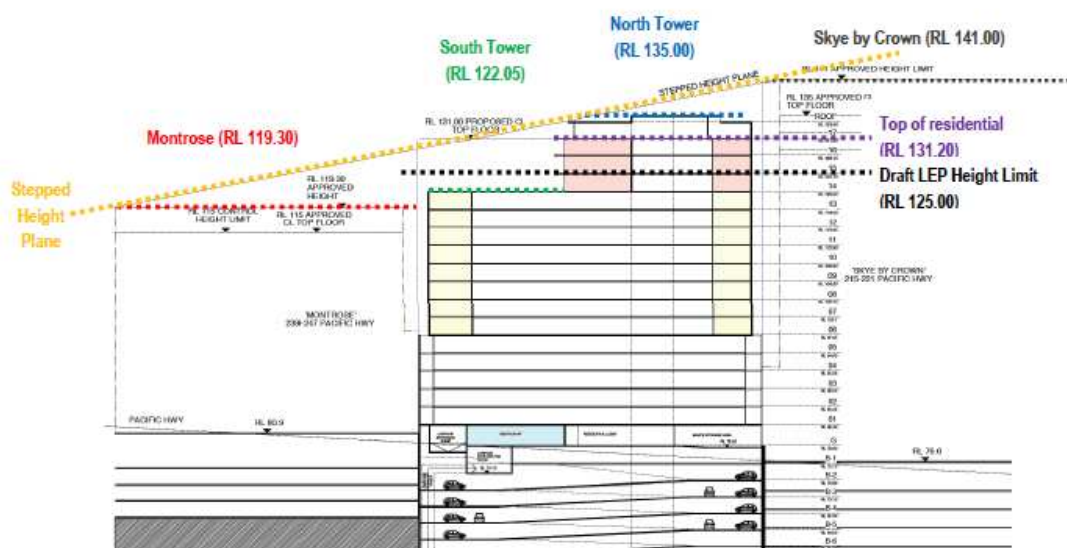
The DCP Character Statement sets a range of street frontage podium heights, depending on the particular circumstances of the site. Most relevant to the subject site, it establishes a maximum street frontage height of five storeys to the Pacific Highway, which then steps down to three storeys along its boundary with 215- 221 Pacific Highway





The stepping down of the podium height along the Pacific Highway ensures the proposed development provides a consistent street wall height with the adjacent buildings, and ensures an effective transition in height from the north to the south. The curved nature of the building façade also contributes to providing visual relief

Key to this is the stepped nature of the building and the fact that only the south tower component exceed the height limit with a maximum height of RL135.1. It is noted that the northern tower sits approximately 3m below the LEP height limit of RL 125. When viewed from ground level will have little if any adverse visual or environmental effect. The northern tower of the proposed building sits 2.95m below the maximum height, while the southern tower exceeds the LEP height limit by 10.1m. Whilst this is the case the building form is a deliberate design strategy that seeks to provide an appropriate transition down in height from Skye to the south, to the Montrose building to the north.



Existing and future site context is a key consideration when determining the appropriateness and necessity of a development standard. The proposed development is consistent with the height control objectives of the LEP:

- The proposed development has been designed to step down from the built form to the south and will facilitate an effective future transition from the approved Skye by Crown development to the south, to the Montrose development adjoining the site to the north. From a broader perspective the building will also support the transition in height from the North Sydney commercial core to the residential area to the north.
- The proposed development will not result in any adverse impacts on existing significant views to, from or through the site.
- The proposed development incorporates adequate separation from surrounding development, particularly the adjacent approved developments to the north and south, and will ensure that privacy is achieved for any future surrounding residential developments.
- The proposal is compatible with the surrounding development, from both a land use and built form perspective.

The departure to the draft height control is supported as it does not undermine the purpose of the control and can be justified through a lack of material impact. 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 North Sydney Local Environmental Plan 2013.

### **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 site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP. The site, however, is not located close to the foreshore and will not be readily visible from any part of the harbour and the application is considered acceptable with regard to the aims and objectives of the SREP.

### **SEPP 65 – Design Quality of Residential Flat Development**

State Environmental Planning Policy No. 65 aims to improve the design quality of residential flat development in New South Wales by recognising that the design quality of residential flat development is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design. The SEPP aims to:-

- (a) *to ensure that it contributes to the sustainable development of New South Wales:*
  - (i) *by providing sustainable housing in social and environmental terms, and*
  - (ii) *by being a long-term asset to its neighbourhood, and*

- (iii) *by achieving the urban planning policies for its regional and local contexts, and*
- (b) *to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and*
- (c) *to better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities, and*
- (d) *to maximise amenity, safety and security for the benefit of its occupants and the wider community, and*
- (e) *to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions.*

The primary design principles being Context, Scale, Built Form, Density, Resource Energy & Water Efficiency, Landscape, Amenity, Safety & Security, Social Dimensions, Aesthetics are discussed as follows:

#### *Principle 1 — Context*

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

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

The proposal establishes a consistent street setback along the eastern side of Pacific Highway. The podium configuration responds to the scale and bulk of adjacent developments in the streetscape. The podium height respond to the neighbouring building and the sloping site.

#### *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 (see comments below). The building has been designed to provide sunlight and shade that provides a balanced mix of winter sunlight penetration and summer shading. The use of restricted air conditioning and ceiling fans will further reduce energy use provide alternate means of comfort.

#### *Principle 6 - Landscape*

Landscaping is incorporated into the design at street level. The Communal Roof terrace optimizes usability, privacy and social opportunity. The roof planting is intended as both

insulation to the units immediately below and as a foreground to the district views available for the communal roof terrace on Level 17. Access will be restricted to maintenance only and rain water collected from the roof above will allow gravity fed watering. New street planting and paving to the footpath are proposed along both frontages to improve the public domain area.

#### *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 terrace 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 groups whilst retaining amenity for residents. The development is 100% accessible and provides for adaptable units.

#### *Principle 10 — Aesthetics*

The building design has been selected through a proponent initiated architectural design competition. A split height podium provides a street wall to the Pacific Highway and Angelo Street and allows for an effective transition between the approved adjacent buildings at 215-223 Pacific Highway (Skye by Crown) and 239-247 Pacific Highway (Montrose). The podium is further varied through the incorporation of a curved elevational treatment that leads to a central reveal along the building's façade.

This central recess separates the building into two distinct vertical components and provides visual relief in the building façade. Above podium level, the tower is setback from the Pacific Highway and Angelo Street frontages and is characterised by two distinct vertical elements. These two components together with the reveal, express the verticality of the scheme.

At the upper levels the tower has been designed to step down in form and height in order to provide an appropriate transition between the taller Skye by Crown development to the south and the shorter Montrose development to the north.

The use of a variety of building materials, finishes and textures help to articulate the building's appearance. A varied roof form with roof garden to the north and communal roof terrace to the south adds to the building visually and the North Sydney Skyline.

#### *Residential Flat Design Code 2002*

The controls and objectives of the code are similar to many of the controls included in Council's Local Environmental Plan and Development Control Plan 2002 that have

been assessed above. Comments are provided on specific important aspects of the code.

#### *Solar Access*

NSDCP 2002 requires the site layout and building orientation allow for maximum solar access to dwellings and their living areas. The DCP also requires that all balconies must receive two hours of sunlight per day measured on 21 June.

The RFDC requires that 70% of apartments in the building receive more than two hours of sunlight per day to living rooms and private open spaces on the 21 June between 9am and 3pm, in dense urban areas. A detailed analysis of the building's solar access performance has been undertaken by Mr Steve King. In Mr King's report he undertakes assessment of the proposal in accordance with the relevant Land and Environment Court Principle (The Benevolent Society vs Waverley Council [2010] NSWLEC 1082), which established what is 'effective sunlight' for determining compliance. Based on this court judgement Mr King has generally characterised development as complying when sun access is over three hours total of partially or fully sunlit glazing between 9am and 3pm mid winter for the Angelo Street façade, and between 9am and 4pm for the Pacific Highway façade.

Using this approach Mr King concludes in his report that across all apartments:

- None of the apartments have the living room window(s) facing towards the south, which is within the 10% limit.
- 84.7% of the apartments (161 out of 190) achieve at least 2 hours of direct solar access to living, bedrooms and private open space.

The proposed development is considered to provide an appropriate outcome that will comply with solar access objectives set out in SEPP 65 and the North Sydney DCP.

#### *Cross Ventilation*

NSDCP 2002 requires that 75% of residential apartments be cross-ventilated and apartments that do not provide cross ventilation provide ceiling fans. The RFDC recommends that 60% of residential apartments be cross-ventilated.

Based on Mr King's assessment, 111 of the 190 apartments (58.4%) are simply cross-ventilated, falling just short of the required 60% set out by the RFDC Rule of Thumb. Whilst this is the case Mr King also notes that elevated apartments above Level 10 are considered to benefit from satisfactory ventilation. These 15 apartments equate to a further 7.9%.

Overall, an acceptable level of ventilation is considered to be achieved, particularly when considering site constraints such as the sites shallow depth and long frontage which create a building form where it is difficult to achieve high level of cross ventilation.

#### *Wind Impact*

A Pedestrian Wind Environment Statement has been undertaken by Windtech. The findings can be summarised as:

##### *Pacific Highway*

- The pedestrian footpath along the Pacific Highway is expected to benefit from shielding from the easterly winds by the proposed building.



- Wind conditions along the Pacific Highway pedestrian footpath are expected to be exposed to direct southerly winds.
- The existing tree planting (and protection of these trees as a result of the awning positioning) provides additional shielding from these winds in the summer months.

#### Angelo Street

- The pedestrian footpath along Angelo Street is expected to benefit from shielding from the westerly winds by the proposed building.
- The current construction of a number of similar height buildings to the north and south of the site may potentially direct the north-easterly winds along Angelo Street.
- The inclusion of trees along Angelo Street is expected to assist in mitigating the potential direct wind effect.

#### Private Terrace and Balcony Areas

- Adequate wind conditions are expected to be experienced for the majority of the private balcony areas proposed on all aspects of the development due to the effective design including blade walls and privacy screens between the recessed balconies.
- As with all high rise developments, balconies will be exposed to winds from different directions throughout the year, however the inclusion of impermeable balustrades on select apartments (namely corner and upper level curved balconies) will assist in providing adequate conditions for use by the occupants.

#### Communal Terrace Areas on Level 17

- The communal terrace area located on Level 17 will be exposed to the north easterly and westerly winds due to its elevated location and exposure in these directions.
- Use of an impermeable balustrade around the perimeter of the communal terrace together with vegetation and select use of screening will help to breakup any potential side-streaming winds around the curved aspects of the communal area. Inclusion of the proposed canopy will also assist in reducing the potential adverse wind conditions.

In summary, the results of the study indicate that the proposed development is not expected to have any adverse impact on the wind conditions currently experienced within the local vicinity of the site.

#### *Noise & Vibration*

A Noise Assessment has been prepared for the proposed development by Wilkinson Murray. The Noise Assessment addresses noise emissions from the site associated with mechanical services, the potential impact from external noise sources on the proposed development (e.g. road traffic from the Pacific Highway), and the internal acoustic amenity of future residents. Wilkinson Murray conclude that control of noise egress and ingress can be managed by a number of design treatment measures, including adoption of engineering noise controls on plant and the incorporation of glazing and acoustic seals on the building elevations, particularly to the lower levels of the Pacific Highway façade. The report also notes that standards for internal noise isolation between apartments can be achieved based on Council and BCA requirements.

## 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 landscaping and communal area provided for all residents. The new residential accommodation is provided in the fringe of the city centre, and not in the commercial core as per the Development Control Plan

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

The site has excellent access to public transport and parking on site is satisfactory

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

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

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

The North Sydney Character Statement seeks a zero setback at ground floor. The proposed development provides for an outcome that is consistent with this requirement, with the building podium being built to the front property boundary. A recessed ground floor frontage ensures that the building podium together with the awning provide a comfortable sheltered environment for pedestrians. A curved building façade results in the centre of the building being setback from the boundary, however this is considered acceptable as the building is built to the boundary for the most part.

*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 Character Statement sets a range of street frontage podium heights, depending on the particular circumstances of the site. Most relevant to the subject site, it establishes a maximum street frontage height of five storeys to the Pacific Highway, which then steps down to three storeys along its boundary with 215-221 Pacific Highway. The stepping down of the podium height along the Pacific Highway ensures the proposed development provides a consistent street wall height with the adjacent buildings, and ensures an effective transition in height from the north to the south. The curved nature of the building façade also contributes to providing visual relief

Above podium, the building has a weighted average setback of 3.2m from the street frontage to the main building element (along the Pacific Highway). The proposed variation to the weighted average 5m front setback control is considered appropriate because:

- the shallow depth of the site makes it difficult to provide the full extent of setback without losing depths to the apartments;

- the development provides a podium and tower form and will therefore continue a continuous street and human scaled space along the Pacific Highway;
- the building elevation is highly articulated in its shape and form, creating a built form that positively compliments the adjacent approved buildings.

*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 and are based on the total number of apartments with an allowance for the reduction in commercial floor space. The contributions are detailed in the attached conditions.

## **APPLICABLE REGULATIONS**

Clauses 92-94 of the EPA Regulation 2000 require that Council take into consideration Australian standard AS 2601-1991: *the demolition of structures*, as in force at 1 July 1993. As demolition of the existing structures are proposed, a suitable condition should be imposed.

## **DESIGN & MATERIALS**

The design and materials of the buildings have been assessed as being acceptable.

## **ALL LIKELY IMPACTS OF THE DEVELOPMENT**

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

## **ENVIRONMENTAL APPRAISAL**

## **CONSIDERED**

- |    |   |     |
|----|---|-----|
| 1. | Statutory Controls  | Yes |
| 2. | Policy Controls   | Yes |
| 3. | Design in relation to existing building and natural environment | Yes |

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

#### **CLAUSE 14 NSLEP 2001**

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

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

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

As such, consent to the development may be granted.

#### **SUBMITTORS CONCERNS**

The issues raised are addressed as follows:

*It seems there is an underground stream that will show itself once the digging commences. It impacted the construction times on the adjoining Montrose site.*

Planning Comment:

The applicant has provided a drainage and stormwater plan as part of the proposal. Council's Engineer has considered the plans and recommended appropriate conditions. The applicant's Geotech and Hydraulic consultants will need to respond to any constraint/issue that arises during the excavation of the site.

*There is no information on the combined impact of three major developments in Angelo Street on residents and neighbours.*

Planning Comment:

Each approval granted for these sites is valid for 5 years and it is up to the developer if and when the consent is commenced. Conditions are imposed to control construction hours and there is always a requirement for a construction and traffic management plan. The Construction Management Plans are considered by Council's Traffic Manager for approval by the Local Traffic Committee. The Traffic Manager would be well aware of recent consents and the likelihood of developments proceeding at the same time and take this into account when assessing and determining the Construction Management Plans.

## **Conclusion**

The application has been assessed against the relevant statutory controls and with regard to the existing and approved developments nearby.

The SEPP 1 objection to vary the FSR is well founded and can be supported. The application was referred to Council's Design Excellence Panel for comment. Some minor modifications were suggested and the proposal was supported by the DEP. The applicant responded to the DEP suggestions and other issues raised by Council with amended 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, assume the concurrence of the Director General of the Department of Planning and invoke the provisions of SEPP 1 with regard to Clause 31 and grant development consent to 2013SYE075 - Development Application No.292/13 to demolish existing structures and the construction of a mixed use development comprising: basement and ground floor retail/commercial uses; 190 residential apartments; communal facilities (including rooftop deck and entertaining spaces); excavation and construction of basement for building services, storage, car parking, motorcycle parking and bicycle parking and associated public domain and landscape works at 225-235 Pacific Highway North Sydney subject to the attached conditions.

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

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