

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

JRPP No	2014SYE007
DA Number	DA.446/13
Local Government Area	North Sydney
Proposed Development	Construction of a 29 storey building containing 218 serviced apartments.
Street Address	80 Arthur Street North Sydney
Applicant	Karimbla Constructions Services (NSW) Pty Ltd
Number of Submissions	Six (6)
Report by	Geoff Mossemenear, Executive Planner, North Sydney Council

Assessment Report and Recommendation

EXECUTIVE SUMMARY

This development application seeks approval to construct a 29 storey building containing 218 serviced apartments. Consent for the demolition of the existing building has been granted by Council under a separate DA.

The Council's notification of the proposal has attracted 6 submissions raising particular concerns about traffic, height, lot size, loss of views, shadowing, loss of privacy and impacts from construction.

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 development comprises a total of 218 serviced apartments in a mix of 1 bedroom, 1 bedroom plus study and 2 bedroom configurations. Due to the slope of the site from west to east, the proposed building has a height above ground level of 29 storeys fronting Arthur Street and 28 storeys fronting Little Walker Street. The proposal includes provision of an indoor pool and spa, a sauna and a gymnasium.

The proposal includes a cafe fronting Little Walker Street, and various back of house facilities. A double height lobby entry is proposed which has its primary access point from Arthur Street via large glass revolving doors. A loading back and garbage storage room is proposed off Little Walker Street. Four levels of basement parking are proposed, providing accommodation for 47 vehicles. Basement parking is also provided for bicycles and motorcycles.



STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning – B3 Commercial Core
- Item of Heritage – No
- In Vicinity of Item of Heritage – No
- Conservation Area – No

Environmental Planning & Assessment Act 1979

POLICY CONTROLS

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, known as 80 Arthur Street, North Sydney, being Lot 1 in DP 539110, is located on the eastern edge of the North Sydney Central Business District, on the western side of Arthur Street and also has a frontage to the eastern side of Little Walker Street.

The site overlooks the Warringah Freeway to the east of Arthur Street, and there are a number of high rise commercial developments to the north, south and west.

The site is rectangular in shape with a site area of 891 m², and has a 22.925m frontage to Arthur Street, a 22.97m frontage to Little Walker Street, and northern and southern side boundaries of 38.96m and 38.77m respectively. The site has a total cross fall of 4.1m from the Little Walker Street boundary to the Arthur Street boundary.



Erected upon the site is a 15 level office tower constructed in the 1960's, comprising a gross floor area of 6,000 m², and 64 car spaces within the basement with vehicle access from both Arthur Street and Little Walker Street.

Adjacent development comprises multi-storey office buildings at No. 1 Pacific Highway to the south and at 90 Arthur Street to the north.



BACKGROUND

The existing office building on the site was erected over 40 years ago.

DA.250/08 for the demolition of the existing building and the construction of a multi storey office building with basement parking was approved by Council on 8 March 2010. The consent was surrendered by the then owner on 26 September 2013.

DA.377/13 for the demolition of the existing building was approved under delegation on 19 December 2013.

The applicant did not have pre lodgement meetings with Council staff and the Design Excellence Panel prior to lodging the development application.

In letter dated 3 February 2014, the applicant was advised that the application cannot be determined until the Director General has certified that satisfactory arrangements are in place that will provide for the increased demand for railway infrastructure generated by the proposed development. The Developer Commitment Deed must be completed and signed with a Bank Guarantee prior to the application being reported to the Joint Regional

Planning Panel. The applicant completed the deed with a bank guarantee and the Director General's certification was sought on 18 March 2014.

In letter dated 17 February 2014, a number of concerns were raised with the proposal following the initial assessment of the application, submissions received, comments 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 19 March 2014.

The proposed signage scheme for the development has been amended by:

- Reducing the size of the southern sign from 27 metres long to 17 metres long (37% reduction) and positioning it centrally;
- Deleting the Meriton crown logo from the eastern signage; and
- Reducing the size of the northern sign from 21 metres long to 17 metres long (19% reduction).

The proposal retains 3 signs, contrary to the DCP controls. The eastern sign is small but is considered necessary to clearly identify the building for guests trying to locate the building. The signage on the northern elevation is attached to the proposed textured concrete façade. The signage on southern elevation is to be attached to the clear glass wall that forms part of the architectural roof feature. The signage on the eastern elevation is attached to a smooth concrete spandrel wall.

The potential privacy impacts between the residents of 93 Pacific Highway and the serviced apartments in the proposed development has been addressed by the installation of directional louvres on the southern elevation of the proposed development.

Further information and detailed material changes to the corner balconies with regard to the podium setback at Little Walker Street were included in the amended plans.

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 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.

Landscaping

Council's Landscape Development Officer (B Smith) has advised that there is no objection to the removal of the two (2) Plane trees within Council's footpath at the Arthur Street frontage of the site. In this regard they are not particularly good specimens, are likely to be damaged during demolition and construction, and are better replaced with new semi-mature Plane trees at the construction stage. The trees have been removed as part of the demolition works.

Traffic/Parking

Council's Traffic and Transport Engineer (X Philp) has provided the following comments:

Traffic Generation

While the traffic generation impacts of development are likely to have a negligible impact to the existing road network the reasoning behind this shown in the report is inadequate given the scale of development. The rate for traffic generation has been pulled from "studies" but no reference has been made to what these studies are. Additionally no counts, or even approximations, have been provided by the consultant for the existing traffic flow on Arthur Street and Little Walker Street to compare the existing situation with the proposed.

Parking Supply & Design.

The amount of car, disabled, motorbike & bicycle parking spaces provided in the proposed development complies with the DCP requirements. The general design and layout of the parking spaces also complies with the relevant Australian Standards, however, it is hard to gauge the transition length of the ramps within the car park looking at the submitted plans.

Loading Facilities

The loading bay shown does not meet the vertical clearance requirements for a SRV loading area in accordance with table 4.1 of AS 2890.2 which requires 3.5m for SRV and 4.5m for MRV. The suggested use of SRV only (stated in the traffic report) for the loading dock is considered to be not adequate given the nature of the building a MRV loading area would be required to cater for removals, fit-outs, large deliveries etc likely to occur during the buildings lifespan. Turning paths for a MRV need to be provided, the current loading bay area would suit a MRV in terms of length and width but height will be an issue.

The comment that "Refuse will be removed from the street by Council's collection contractor" contradicts the statements made in the Waste Management Report submitted as part of the development application as well as the SEE which states that the loading bay will cater for MRV. Comments need to be sought from Council's Waste Service section on this matter.

Drop Off Area proposed on Arthur Street The indented setdown/pickup bay in Arthur Street shown on the submitted plans is likely to not be supported by Council. This bay would result in the relocation of an existing mail zone and street posting box and would also reduce the footpath width to approximately 1.3m which is inadequate for CBD conditions. It is suggested that a setdown/pickup bay be provided within the site to cater for this demand for short-term parking.

Conclusion

In conclusion, I would support the proposed development provided that issues with the loading bay area and indented setdown/pickup bay are resolved.

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:

Meriton's traffic consultant has prepared a response in relation to the issue of traffic generation raised above. That response also includes turning paths for an MRV, which show successful

manoeuvrability into the dock. The dock has a minimum height clearance of the required 4.5 metres. This is confirmed in the traffic report and on the amended architectural plans. The amended architectural plans show clear transition length of the ramps within the car park. They also show the removal of the set-down bay on Arthur Street.

The additional information is satisfactory to Council's Traffic and Transport Engineer.

Health

Council's Team Leader - Environmental Health (F Mulcahy) has provided the following comments:

I have read through the contamination report attached to this application. The report identifies the potential for various contaminants in the sub surface soil but no soil or ground water testing has been carried out to identify the extent of any contamination.

It is recommended therefore, as per the CES contamination report that a Preliminary Site Investigation of soil and ground water be carried out, in accordance with the relevant guidelines, to determine the presence, nature and extent of any potential contamination identified. A remedial action plan should be compiled identifying the contaminants of concern and the planned method for removal of such and site validation. The remedial action plan should identify whether the site, post remediation, is fit for it's intended use.

Two underground petroleum storage tanks have been identified on the site. These need to be removed in accordance with EPA guidelines and relevant Australian Standard. The CES contamination report makes recommendations re the removal of the USTs and subsequent soil testing, validation sampling and laboratory analysis. These recommendations should be incorporated into the Remedial Action Plan.

External Referral

RMS advised:

RMS does not support the proposed indented bay on Arthur Street for safety reasons, therefore, plans need to be modified to remove the indented bay and be re-submitted to RMS for review. Furthermore, use of holding bays, as detailed in the traffic report, to address vehicle turning deficiency is not considered appropriate as drivers using the serviced apartments will not be aware of the deficiency. Council should ensure that this issue is addressed and rectified so there is no conflict between vehicles.

The plans need to be modified to remove the indented bay on Arthur Street.

The indented bay on Arthur Street has been deleted as shown in the amended architectural plans. Meriton's traffic consultant has prepared a response in relation to the issue of holding bays in the basement of the building.

Sydney Water advised:

The 150mm drinking water main fronting the proposed development in Arthur Street does not comply with the Water Supply Code of Australia WSA 03-2011-3.1 (Sydney Water Edition - 2012) requirement for minimum sized mains for the development.

The drinking water main needs to be upsized to a 200mm main from point 'A' to point 'B'. The wastewater main available for connection is the 225mm main constructed under CONT.208.

Where proposed works are in close proximity to a Sydney Water asset, the developer may be required to carry out additional works to facilitate their development and protect the wastewater main. Subject to the scope of development, servicing options may involve adjustment/deviation and

or compliance with the Guidelines for building over/adjacent to Sydney Water assets. The proponent will need to refer to a Water Servicing Coordinator for details of requirements.

These issues can be suitably addressed by imposing relevant conditions on any development consent issued.

DESIGN EXCELLENCE PANEL

Referred to the Design Excellence Panel meeting on 4 February 2014 and the minutes are reproduced as follows:

PROPERTY: 80 Arthur Street North Sydney

DATE: 4 February 2014 @ 4.50pm

ATTENDANCE: Panel Members: Philip Graus, Russell Olsson, David Chesterman, Peter Webber, Jan McCredie and Jon Johannsen.
Council staff: Geoff Mossemeneer (chair); Emma Booth.
Proponents: Tony Caro (architect); Walter Gordon (planner).

The Proposal:

The subject site is located on the western side of Arthur Street, to the north of the intersection of High Street and the Pacific Highway and to the west of the Bradfield Highway. The site has a secondary frontage to Little Walker Street.

The development comprises a total of 218 serviced apartments in a mix of 1 bedroom, 1 bedroom plus study and 2 bedroom configurations. Due to the slope of the site from west to east, the proposed building has a height above ground level of 29 storeys fronting Arthur Street and 28 storeys fronting Little Walker Street. The proposal includes provision of an indoor pool and spa, a sauna and a gymnasium.

The proposal includes a cafe fronting Little Walker Street, and various back of house facilities. A double height lobby entry is proposed which has its primary access point from Arthur Street via large glass revolving doors. A loading back and garbage storage room is proposed off Little Walker Street. Four levels of basement parking are proposed, providing accommodation for 47 vehicles. Basement parking is also provided for bicycles and motorcycles.

A site inspection was carried out by the Panel and Council staff prior to the meeting.

Panel Comments:

Redevelopment of the adjoining site at No1 Pacific Highway has a potential to build to a height of RL115 (15m below proposal) with a reduced side setback to the subject site's southern boundary which would have severe impact on amenity of the serviced apartments facing the southern boundary. The Panel enquired whether there was any protection of the air space over the existing terrace adjacent to the southern boundary. A search of Council records by Council staff did not reveal any requirement for the use of the terrace as a public space. The 1984 consent only contained a condition requiring the terrace be made available to the public during office hours.

The Panel commented on the air conditioning units on balconies and that they need to be screened from view.

The Panel raised concern about the wind impacts from the proposal particularly on Little Walker Street. The application was accompanied by a Wind Impact report prepared by SLR Consulting Pty Ltd. The report concluded:

Existing Wind Environment

Existing street level wind conditions in the vicinity of the site are likely less than or to be close to the 16 m/sec 'walking comfort' criterion for southerly wind direction due to the alignment of the streets with the prevailing, resulting to winds channelling along the streets.

Existing upper level wind conditions at the site are likely to exceed the 16 m/sec "walking comfort" criterion for stronger prevailing wind directions (eg south) given the absence of surrounding buildings of significant height in those directions.

FUTURE Wind Environment

In terms of future wind environment with the proposed development, the following features of the development are noted as being of most significance:

- Many internal areas such as the upper levels balconies within the development may be prone to varying wind conditions due to limited shielding at this height. The corner balconies are designed as winter garden to mitigate these areas from strong winds.*
- Existing conditions are winds channelling along Little Walker and Arthur Streets.*

Accordingly, it has been predicted that ground levels wind speeds within all public access areas surrounding the development should remain at their present levels with the addition of the proposed development and its wind mitigation treatments

The report did not recommend any mitigation treatments as necessary in Arthur Street or Little Walker Street. The amenity of the terrace on the neighbouring property is also important, and wind impacts on this space should also be investigated.

The Panel recommends that a continuous awning in Arthur Street linking adjacent awnings be provided. No mention of these is made in the Site Analysis diagram, but it is very important that there should be continuity to provide reasonable amenity for pedestrians. Given the hilly terrain in North Sydney, the varying street widths, the differing lengths of frontages and the huge range of existing awnings it is suggested that NSC provide design parameters for the awning design.

The Panel raised concern about the glass colour. The glass should not be too dark.

The Panel commended the architect for design details in the drawings for the various parts of the facades. These details must to be conditioned in the consent to ensure that they are not modified without Council consent.

The Panel commented on the size of the roof sign. Any signs should be in keeping with surrounds and Council's DCP controls.

The Panel also suggested that it might be worth considering that part of the upper level could be used as a communal facility (such as bar or meeting area) for the serviced apartments. The top level might also provide a recessive band that could help lighten the roof expression of what will be a prominent building.

It is important that buildings in the CBD core do not just go to residential. The Panel felt that there needs to be strong controls that ensure that this stays short stay accommodation

Conclusion:

The Panel supported the proposal subject to the applicant responding to the above concerns. As this building fails to comply with many SEPP65 criteria and RFDC standards, it is not suitable for permanent occupation. This should be clearly noted on any consent granted.

Response:

In relation to the issue of the adjoining site at No. 1 Pacific Highway, any future redevelopment of that site will require inclusion of setbacks from its northern side boundary to comply with the building separation distance requirements of Council's DCP.

With respect to the visual treatment of the air-conditioning condensers, Meriton's preferred solution is to install custom made covers over the condensers to visually screen them (detail provided).

Meriton's environmental environment consultant has prepared a response in relation to the issue of wind in the pedestrian environments of Arthur and Little Walker Streets. A continuous awning is now proposed along the Arthur Street frontage as shown on the amended plans, as well as an improved awning on Little Walker Street. In relation to wind impacts, Meriton's consultant says that the awnings will improve wind environment conditions. It has also been confirmed that the setback of the building from the southern boundary and the landscaping on the southern edge of the podium will ensure that wind effects on the outdoor terrace area of the adjoining property will be minimised.

Meriton does not seek to use dark glass on the building. The shade of glass will be selected to comply with the energy efficiency requirements of Section J and the Building Code of Australia.

The issue relating to signage addressed in the amended plans.

Meriton is not of the opinion that the top floor would be successful as a bar or other public space. The most beneficial use of the top floor is for apartments.

The comments in relation to permanent residential occupation are noted.

SUBMISSIONS

The application was notified to all precincts and surrounding owners and residents in accordance with Council policy from 10 January 2014 until 10 February 2014. Six submissions were received with the main issues being summarised as follows:-

- **Non compliance with minimum site area of 1000m²**

The proposed development is inconsistent with clause 6.3(2)(c) of the North Sydney LEP 2013 as "the site area of the development is less than 1,000 square metres". The applicant admits this noting the site is just 891 square metres. The proposed development is thus inconsistent with the specific objective of clause 6.3 of the North Sydney LEP 2013 "to encourage the consolidation of sites for the provision of high grade commercial space". Reference is also made to 6.1(e) of the North Sydney LEP 2013 "to encourage the provision of high-grade commercial space with a floor plate, where appropriate, of at least 1,000 square metres". Further, the North Sydney DCP 2013 states "Development sites should be of a size which enables the creation of large high quality floor plates which helps to reinforce the Centre's role as a Global City as identified within the Metropolitan Strategy." Under "Desired Built Form" in 2.1.3 PI of the Area Character Statement - North Sydney Planning Area. This specific objective is consistent with the objectives of Zone B3 Commercial Core and of the EP&A Act, 1979-

These objectives require strict compliance. This is quite obvious as the Council has just adopted the LEP. If, say, 850 or 900 square metres was Council's minimum, then Council would have adopted that measure and not one 10.8% larger.

Contrary to the submission of the Applicant at p27 of the Applicant's Statement of Environmental Effects, compliance with clause 6.3(1)(e) of the North Sydney LEP 2013 is both reasonable and necessary as the proposed development is not consistent with the desired future scale of development within the locality'

While the adjoining properties exceed the minimum site area, approval of the application will not encourage the consolidation of sites for the provision of high grade commercial space. It will signal that significant development can occur without compliance, within months of the Council's

adoption of the LEP to "encourage the provision of high-grade commercial space with a floor plate, where appropriate, of at least 1,000 square metres".

- **Loss of views**

The North Sydney DCP 2013 states "There is an opportunity to enjoy the views from and within the area towards the Sydney CBD, Sydney Harbour, heritage items and surrounding areas" under "Built Form" in 2.0 of the Area Character Statement – North Sydney Planning Area.

The effect of a maximum height building in the south east of the Central Business District, will be that everybody else will be deprived of some of those views.

Although the North Sydney DCP 2013 at 2.3.8 states "when considering impacts on views, Council will generally not refuse ... on the grounds that the proposed development results in the loss of views, where that development strictly complies with the building envelope controls applying to the subject site", the Applicant is not proposing strict compliance.

The submitted development application documentation does not provide analysis of potential view loss to the occupiers of 90 Arthur Street. Views and amenity of neighbouring properties must all be considered in the assessment of the current development application.

It is therefore requested that Council request the applicant to undertake a view analysis prior to consideration of the DA by the Joint Regional Planning Panel (JRPP), which contains photomontages of existing and proposed views from within 90 Arthur Street at the south eastern corner of the building.

- **Residential development in disguise**

The Applicant's Statement of Environmental Effects states "The proposal will be operated in a similar fashion to a hotel". This being so, the Council should consider the objective at 2.2.4 of the North Sydney DCP 2013 'to ensure that hotels are not used or converted for permanent residential accommodation' and that objective should equally apply to serviced apartments.

In particular the ownership, leasing, tenancy, occupancy and management structure for the units/apartments in the proposed development should support this objective and for example, the maximum period of tenure for guests must not exceed 13 weeks. The development should not be allowed to become the equivalent of a strata plan.

- **Impact on apartments at 93 Pacific Highway**

A review of the DA and supporting documents reveals a fundamentally incorrect assumption that the only buildings adjacent to the proposed development are commercial buildings. As an owner of an apartment in the residential building at 93-95 Pacific Highway (No.93), the closest building to the proposed development and the building therefore most likely to be negatively impacted by it, I am concerned that many aspects of the planning assessments fail entirely to address concerns specific to local residents, as opposed to local commercial tenants.

There must be adjustment to the proposed plans or appropriate compensation to owners of apartments in No.93 to account for the very significant negative impact on their ability to enjoy peaceful occupation and protect the value of their homes if the proposed development goes ahead.

- **Loss of outlook**

The DA fails to take any account of the loss of enjoyment and value that would be engendered by the proposed development. Apartments in No. 93 will necessarily decline in value (both as rental properties, and on re-sale) if their district and harbour views are obstructed. It is apparent that No.93 's views will be significantly impaired by the proposed development.

- **Loss of privacy**

Privacy will be severely impacted by the erection of a serviced apartment building with its proposed window and balcony angles and design.

Once again, the analysis is severely flawed by its failure to take into account the fact that the closest neighbour of the proposed development is not a commercial building, but a residential one, where privacy concerns are heightened. Residents have a reasonable expectation and right to expect that their privacy will not be significantly impacted by future developments.

Concerns in relation to residential and commercial amenity issues created by overlooking and

privacy between levels 3 to 16 of 90 Arthur Street and the proposed serviced apartments that have direct frontage at these levels. Visual privacy between the development site and our clients site requires greater resolution, particularly as both are conflicting land uses.

- **Shadow**

The proposed development will block all sunlight to No.93 during winter, and all but very early morning sunlight during summer months.

One of the most valuable aspects of No. 93 is its substantial morning sunlight which is vital for lighting and atmosphere in such a narrow building. The proposed development would leave No. 93 with no direct sunlight and shadows over the building at all times of day.

- **Traffic**

The effect of up to 560 people with only 47 car spaces and an Arthur St driveway and no or insufficient provision for off road stopping, standing, picking-up or setting-down or taxi rank. The Applicant's Statement of Environmental Effects states "The proposal will be operated in a similar fashion to a hotel and will be operational 24 hours a day, seven days a week. Guests will arrive and depart via lift from the basement or directly from the Arthur Street frontage", the Applicant's Statement of Environmental Effects states that there will be 218 units with a total of 250 bedrooms. It may be assumed that at maximum occupancy there will be two persons per bedroom so 500 people. It is stated that there will be employment for some 60 people. Thus there could be up to 560 people on the site.

Pedestrian and vehicle conflict on Arthur Street and Little Walker Street - an additional 47 vehicles entering and exiting off Arthur Street daily and delivery vehicles to Little Walker Street will contribute to the already existing cumulative traffic impacts in the area.

- **Impacts from construction**

Construction hours noise level during construction will be excessive having regard to the fact that the adjacent building is residential. Noise during construction will exceed permitted levels and impact severely on the peaceful enjoyment of No.93.

The construction management plan contemplates Saturday construction hours of 8am to 5pm. The same report notes that the EPA's recommendation is that Saturday construction hours be limited to 8am to 1pm. Once again, a fundamental assumption which underpins the Construction Management Plan appears to be that the surrounding buildings are commercial buildings; this has lead the writer to conclude, incorrectly, that Saturday construction will have minimal impact. Saturday hours should be limited from 8am to 1pm.

- **Building signage**

Supports appropriate building signage and a consistent approach for building signage within the North Sydney CBD in accordance with Council's planning guidelines. We note that the proposed development incorporates a building signage which does not comply with Council's guidelines in a number of important aspects; Only one large building and/or business identification sign per building is permitted, however 3 signs are proposed. The south facing sky sign is large and non-compliant as it is greater than 20sqm in size. The sky sign is located above the maximum height limit on the architectural feature of the building. The proposed sign does not meet the performance based provision of "improving the finish and appearance of the building and the streetscape".

- **Height exceeds control**

There is a skyline character established by existing buildings to the north and south of the subject site (including the existing building on site) that needs to be observed. The proposal far exceeds the established height transition lines and building forms that exist in the locality.

The height of the building exceeds the maximum height control of 130RL and should be reduced by 10% from 130RL having regard for the reduced site area;

- **Impact on existing signage at No.90 Arthur Street**

The building at 90 Arthur Street, North Sydney currently have commercial agreements in place for building name "sky signage" for Hitachi (multinational power tool equipment manufacturer) that

include ensuring the signs exposure when viewed from all points of the compass, in particular it's southern elevation. As the proposed future development of the subject site is for a 29 storey serviced apartment tower, our client wish to inform North Sydney Council that the loss of exposure of the sign must form a Matter for Consideration pursuant to S79c of the Environmental Planning & Assessment Act 1979. Should Council or the JRPP choose to support the proposed development application, the favourable determination of such an application should not come at the expense of existing building name "sky signage" that exists in this section of North Sydney.

Full copies of the submissions have been forwarded to the Joint Regional Planning Panel.

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.

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 2013 and DCP 2013 as indicated in the following compliance tables. More detailed comments with regard to the major issues are provided later in this report.

Compliance Table

North Sydney Centre	Proposed	Control	Complies
Height (Cl. 4.3)	RL 130 AHD plus plant and roof feature	RL 130m AHD	YES
Overshadowing of dwellings (Cl.6.3 (1) (c))	Additional overshadowing is limited to the adjacent commercial properties and surrounding roads. Some additional overshadowing of the R4 zoned properties located to the south-east on the opposite side of the freeway will occur at 3pm mid-winter. However in accordance with this objective, additional overshadowing is considered to be 'minimal' as those properties will continue to receive solar access from 9am to 3pm.	Variation permitted	YES
Overshadowing of land (Cl.6.3 (2) (a) and (b))	The proposal does not result in any additional overshadowing of the RE1 zoned land or mapped Special Areas between 9am and 3pm. The proposal will not overshadow Don Bank Museum.	Variation permitted	YES
Minimum lot size (Cl.6.3 (2) (c))	891.4m ²	1000m ² min.	NO Refer to Clause 4.6 request to vary development control

DCP 2013 Compliance Table

DEVELOPMENT CONTROL PLAN 2013		
	<i>complies</i>	<i>Comments</i>
Environmental Criteria		
Wind Speed	Yes	Wind Impact report submitted and satisfactory
Reflected light	Yes	Solar reflectivity report submitted and can be conditioned
Artificial light	Yes	Roof top signage proposed and illumination to be curfewed at 1am by condition. Appropriate lighting will be provided to identify the building entrance at street level whilst preventing concealment opportunities and glare impacts.
Awnings	Yes	Continuous awning provided to both street frontages in response to DEP comments
Solar access	Yes	Satisfactory Complies with the height and

		overshadowing requirements contained within cl.4.3 As indicated in the submitted shadow diagrams, the majority of the shadows cast by the building fall onto existing commercial sites or surrounding roads. No overshadowing of public open space areas will result.
Quality built form		
Context	Yes	Site analysis undertaken, building in context with desired character for area. Refer to separate discussion with regard to area character statement.
Setbacks	Yes	Zero setback proposed to both street frontages. Zero setback proposed for a portion of the northern side boundary where it adjoins the adjacent building. Otherwise, a 3m setback is proposed to the remainder of the northern boundary and for the entire southern boundary.
Building design	Yes	Ground floor ceiling height (Arthur Street) - 4.2m . Ground floor ceiling height (Little Walker St) - 2.75m. All remaining levels, ceiling height- 2.75m. Lower floor to ceiling heights are acceptable in developments that receive satisfactory natural day lighting (as opposed to direct solar access) and ventilation. In this regard, all serviced apartments benefit from extensive areas of glazing and have living areas and bedrooms that will be exposed to natural light. This includes 4 corner apartments at each building level as well as east and west facing apartments. The development contains a number of south facing apartments which will benefit from large areas of glazing and have been designed to capture views of Sydney Harbour. All serviced apartments will have operable windows and a balcony which will offer natural ventilation. The proposal therefore satisfies the DCP criteria that allows for flexibility in floor to ceiling heights.
Skyline	Yes	Upper levels designed to contribute well to skyline
Streetscape	Yes	Satisfactory. Active street frontages proposed. Supported by Design Excellence Panel
Entrances and exits	Yes	Visible from Highway and Street
Street frontage podium	Yes	No podium required for Arthur Street frontage
Laneway frontage	Yes	No setback required under character statement at ground level. Podium setback provided similar to adjoining sites. See discussion under area character statement. Podium height is satisfactory
Nighttime appearance	Yes	Full height glazing is proposed at both street frontages
Public spaces and facilities	Yes	The proposed is consistent with the building density and height provisions of the LEP and is also in accordance with the zone objectives. The proposal is therefore of an appropriate scale, density and character.
Quality urban environment		
Accessibility	Yes	Accessibility report submitted
Safety and security	Yes	Satisfactory. Building entrance points are clearly visible from each street frontage and the serviced apartments will operate on a 24 hour basis, 7 days

		<p>a week. The basement layout is regular in its design and contains minimal concealment opportunities. The basement can be painted white and illuminated to ensure safety of the guests and employees.</p> <p>Fire escapes are not recessed, Clear sight lines available between pedestrians and vehicles using the basement ingress and egress point,</p>
Vehicular access	Yes	As described on the submitted architectural plans and photomontages, the basement entry is designed as an integral part of the Arthur Street façade. Acceptable to RMS. Loading facilities provided at rear via Little Walker Street.
Garbage Storage	Yes	<p>Satisfactory. Garbage storage and collection is proposed adjacent to Little Walker Street. Waste generation, requirements for storage and collection are detailed in the Waste Management Plan.</p> <p>The garbage storage room is enclosed and is not visible from the street.</p>
Efficient use and management of resources		
Energy efficiency	Yes	Energy Efficiency commitment table submitted with application and should be imposed by conditions.
Waste management	Yes	Waste Management Plan submitted.
Storm management	Yes	Can be conditioned
Building Materials	Yes	Sustainable building materials will be incorporated into the construction where possible.
Public Domain		
Paving	Yes	All footpath paving along property frontages must be provided in accordance with Council's specifications. To be conditioned.
Signage		
Building identification/roof signs	Yes Subject to condition	Amended plans show reduced size for three signs. A maximum of 2 roof signs are recommended under the DCP. The northern sign on the wall should be deleted by condition.
Parking		
Car parking	Yes	<p>Application of the DCP criteria for 218 serviced apartments indicates a provision of 44 spaces and 3 spaces for the café (116.6m²). In accordance with Council's requirements, it is proposed to provide 47 parking spaces in 4 basement levels including 2 disabled parking spaces.</p> <p>Council's DCP also specifies provision of motorcycle parking spaces at 1 space per 10 car spaces and it is proposed to provide 5 spaces</p>
Bicycle storage	Yes	Provision of bicycle parking spaces at 1 per 3 staff (Class 2) and 1 per 10 beds for guests (Class 3). It is proposed to provide 25 bicycles on Basement Level 1

NORTH SYDNEY LEP 2013

Permissibility within the zone

The proposal is permissible with consent under the B3 Commercial Core zoning. The proposed café is permissible as a *commercial premises*, which by definition includes

retail premises and food and drink premises. Serviced apartments are a permissible land use.

Zone B3 Commercial Core

Objectives of zone

- *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- *To encourage appropriate employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To prohibit further residential development in the core of the North Sydney Centre.*
- *To minimise the adverse effects of development on residents and occupiers of existing and new development.*

The site is surrounded by a variety of uses which predominantly comprise of commercial and retail uses, with residential uses dispersed throughout. The proposal is for a non-residential development and includes serviced apartments and ancillary facilities/areas, and a café. Such uses will meet the needs of the surrounding community whilst also offering a variety of accommodation for tourists. Combined, the serviced apartments and café use will provide employment generating opportunities for some 60 people (in a variety of full time and part time positions).

The proposal is compliant with the maximum permitted envelope and building height standards of the LEP and will therefore be a form of development that is reasonably anticipated on the site. The proposal is consistent with the objectives of the B3 zone.

Clause 4.3 Height of buildings

The height of a building on the subject land is not to exceed 130m AHD.

The proposal has a height of 130m AHD. This excludes the *architectural roof feature*, which is defined by Clause 5.6 of NSLEP as follows:

- (a) *the architectural roof feature:*
 - (i) *comprises a decorative element on the uppermost portion of a building, and*
 - (ii) *is not an advertising structure, and*
 - (iii) *does not include floor space area and is not reasonably capable of modification to include floor space area, and*
 - (iv) *will cause minimal overshadowing, and*
- (b) *any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.*

The proposal is consistent with above requirements as:

- The roof is designed as an architecturally designed decorative element and does not contain an advertising structure (proposed signage is defined as *building identification signage* for the proposed serviced apartments);

- It does not include calculable floor space as all roof top plant is excluded from GFA calculations (as defined by the NSLEP);
- The architectural roof feature will cause negligible additional overshadowing and will not create any overshadowing of the Special Areas identified on the LEP maps; and
- The rooftop building identification signage and plant is entirely contained within and integrated into the proposed *architectural roof feature*.

Clause 6.1 Objectives of Division (North Sydney Centre)

Objective	Comment
(a) to maintain the status of the North Sydney Centre as a major commercial centre	Proposal consistent
(b) to require arrangements for railway infrastructure to be in place before any additional non-residential gross floor area is permissible in relation to any proposed development in the North Sydney Centre	The applicant has entered into a Railway Infrastructure Commitment Deed to contribute on the basis of additional floor area created (10,357m ²)
(c) to permit an additional 250,000 square metres of non-residential gross floor area in addition to the estimated existing (as at 28 February 2003) 700,000 square metres of non-residential gross floor area	The additional non residential gross floor area is within the 250,000m ² limit.
(d) to ensure that transport 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: (i) be convenient and accessible, and (ii) ensure that additional car parking is not required in the North Sydney Centre, and (iii) 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. The proposal does not provide for excessive car parking on site.
(e) to encourage the provision of high-grade commercial space with a floor plate, where appropriate, of at least 1,000 square metres	The site cannot be consolidated with adjacent sites and cannot provide for large commercial floor plates. The proposal does not include office space.
(f) to protect the privacy of residents, and the amenity of residential and open space areas, within and around the North Sydney Centre	This has been addressed in the amended plans and by additional condition.
(g) to prevent any net increase in overshadowing of any land in Zone RE1 Public Recreation (other than Mount Street Plaza) or any land identified as "Special Area" on the <u>North Sydney Centre Map</u>	The proposed development will result in no additional overshadowing.
(h) to prevent any increase in overshadowing that would adversely impact on any land within a residential zone	Additional overshadowing is limited to the adjacent commercial properties and surrounding roads. Some additional overshadowing of the R4 zoned properties located to the south-east on the opposite side of the freeway will occur at 3pm mid-winter. However in accordance with this objective, additional overshadowing is considered to be 'minimal' as those properties will continue to receive solar access from 9am to 3pm.
(i) to maintain areas of open space on private land and promote the preservation of existing setbacks and landscaped areas, and to protect the amenity of those areas	No applicable to site

6.3 Building heights and massing

(1) *The objectives of this clause are as follows:*

(a) *to achieve a transition of building heights generally from 100 Miller Street and 79–81 Berry Street to the boundaries of the North Sydney Centre,*

The proposal has compliant height and creates the desired transition in building heights for the City Centre.

(b) *to promote a height and massing that has no adverse impact on land in Zone RE1 Public Recreation or land identified as “Special Area” on the North Sydney Centre Map or on the land known as the Don Bank Museum at 6 Napier Street, North Sydney,*

The proposal will not overshadow any RE1 zoned land, any of the Special Areas as mapped by the LEP or the Don Bank Museum.

(c) *to minimise overshadowing of, and loss of solar access to, land in Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone R4 High Density Residential, Zone RE1 Public Recreation or land identified as “Special Area” on the North Sydney Centre Map,*

Additional overshadowing is limited to the adjacent commercial properties and surrounding roads. Some additional overshadowing of the R4 zoned properties located to the south-east on the opposite side of the freeway will occur at 3pm in winter. However in accordance with this objective, additional overshadowing is considered to be ‘minimal’ as those properties will continue to receive solar access from 9am to 3pm.

(d) *to promote scale and massing that provides for pedestrian comfort in relation to protection from the weather, solar access, human scale and visual dominance,*

Both street frontages offer weather protection at the building entrance points, including the primary entry from Arthur Street which includes a double height space with the façade setback 3m from the street boundary. The proposal has an architecturally defined base which creates human scale and is a clearly legible pedestrian entry point to the building.

(e) *to encourage the consolidation of sites for the provision of high grade commercial space.*

Both adjoining sites already have commercial floor plates and are not available for redevelopment so consolidation is not practical.

(2) *Development consent must not be granted for the erection of a building on land to which this Division applies if:*

(a) *the development would result in a net increase in overshadowing between 12 pm and 2 pm on land to which this Division applies that is within Zone RE1 Public Recreation or that is identified as “Special Area” on the North Sydney Centre Map, or*

As indicated on the submitted shadow diagrams, the proposal does not result in any additional overshadowing of the RE1 zoned land or mapped Special Areas between 9am and 3pm.

(b) the development would result in a net increase in overshadowing between 10 am and 2 pm of the Don Bank Museum, or

The proposal does not overshadow Don Bank.

(c) the site area of the development is less than 1,000 square metres.

Site has an area of 891.4m². Refer to justification provided under Clause 4.6 below.

(3) Development consent for development on land to which this Division applies may be granted for development that would exceed the maximum height of buildings shown for the land on the Height of Buildings Map if the consent authority is satisfied that any increase in overshadowing between 9 am and 3 pm is not likely to reduce the amenity of any dwelling located on land to which this Division does not apply.....

Compliant building height is proposed.

(5) In determining whether to grant development consent for development on land to which this Division applies, the consent authority must consider the following:
(a) the likely impact of the proposed development on the scale, form and massing of the locality, the natural environment and neighbouring development and, in particular, the lower scale development adjoining North Sydney Centre,

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

(b) whether the proposed development preserves significant view lines and vistas,

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

(c) whether the proposed development enhances the streetscape in relation to scale, materials and external treatments.

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

4.6 Exceptions to development standards

(1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Director-General has been obtained.

A written request for variation to the development standard requiring a minimum site area of 1000m² was submitted with the application. The subject site has a site area of 891.4m².

The written request justifies the contravention of the development standard by demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the development standard.

The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Compliance with the development standard is unreasonable and unnecessary in the circumstances of the case given that the subject site is of a size that easily accommodates the proposed development, will not result in the isolation of adjoining sites from redevelopment and the resultant built form will be of a bulk and scale that is appropriate to the North Sydney Centre and desired future character.

The written request is considered well founded and is supported.

6.5 Railway infrastructure

(1) The objective of this clause is to require satisfactory arrangements to be made for the provision of railway infrastructure to satisfy needs that arise from development in North Sydney Centre.

(2) Development consent must not be granted for development on land to which this Division applies 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, unless:

- (a) the Director-General has certified, in writing to the consent authority, that satisfactory arrangements have been made for railway infrastructure that will provide for the increased demand for railway infrastructure generated by the development, and*
 - (b) the consent authority is satisfied that the increase in non-residential gross floor area authorised under the development consent concerned when added to the increases (reduced by any decreases) in non-residential gross floor area authorised under all consents granted since 28 February 2003 in relation to land in the North Sydney Centre would not exceed 250,000 square metres.*
- (3) In determining whether to certify arrangements in accordance with subclause (2)*
- (a), the Director-General must consider the views of:*
 - (a) Transport for NSW, and*
 - (b) any other public authority the Director-General considers relevant.*
- (4) The Council is to review this Division to determine whether the policy objectives of the Division remain valid and whether the terms of the Division remain appropriate for securing those objectives. The review is to be undertaken as soon as practicable after development consent has been granted that would result in the sum of increases (reduced by any decreases) in the non-residential gross floor area authorised under all consents granted in relation to land in the North Sydney Centre since 28 February 2003 exceeding 200,000 square metres.*
- (5) For the purposes of this clause:*
- (a) an increase in non-residential gross floor area is the amount by which the non-residential gross floor area authorised on land after a development consent is granted exceeds the non-residential gross floor area authorised on the land immediately before the development consent was granted, and*
 - (b) a decrease in non-residential gross floor area is the amount by which the non-residential gross floor area authorised on land after a development consent is granted is less than the non-residential gross floor area authorised on the land immediately before the development consent was granted, and*
 - (c) a development consent does not include a development consent that has lapsed or been surrendered.*
- (6) In this clause, **non-residential gross floor area** means that part of the gross floor area of a building that is used for the purposes of business premises (excluding funeral homes), hotel or motel accommodation, office premises, retail premises (excluding pubs), serviced apartments or recreation facilities (indoor) (but only where those facilities are used for the purpose of gain).*

The existing buildings on the site have a total non-residential gross floor area of 6381m² and the proposal has a non residential floor area of 16,738m² resulting in an increase of 10,357m².

Pursuant to Clause 6.5(2) of NSLEP 2013, Council must not grant consent for development within the North Sydney Centre which exceeds the non-residential gross floor area of the building that lawfully existed on the site before the development is carried out. The proposed development will substantially increase the existing level of

non-residential gross floor area currently in existence on the site. The increased gross floor area for the site has been certified at 10,357m².

Subclause (2) of the clause allows for an increase in non residential gross floor area to occur only if the Director-General has first certified, in writing, to the consent authority, that satisfactory arrangements have been made for the increased demand for railway infrastructure generated by the development. The normal 'satisfactory arrangement' is a Developer Commitment Deed to pay a contribution for railway infrastructure.

The JRPP is unable to approve the proposal without the certification of the Director General that satisfactory arrangements have been made. Should the Panel favour the application a commitment deed will need to be certified by the Director General before consent can be granted.

The applicant submitted the developer commitment deed with a bank guarantee and the Director General's certification was sought on 18 March 2014.

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 given the site's history of use, there is potential for contamination and further investigation of the site is required. Consulting Earth Scientists completed a preliminary assessment of the site and recommended actions and further investigative procedures are provided within the aforementioned report. Suitable conditions have been recommended should approval be granted.

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 other than as part of the North Sydney Centre skyline and the application is considered acceptable with regard to the aims and objectives of the SREP.

DEVELOPMENT CONTROL PLAN 2013

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 is generally consistent with the character statement other than a podium setback at the Little Walker Street elevation. The podium height to Little Walker Street and the treatment of the three other elevations are considered satisfactory.

The character statement recommends a weighted average of 4m as a podium setback (no setback is required to Arthur Street). The other recent development to the north at 100 Arthur Street had a weighted average of 2.2m setback and Council had accepted a similar setback for a commercial building on the subject site approved in 2010.

The applicant was requested to provide further details on how the setback requirement

has been addressed.

Amended plans were submitted on 3 March 2014 with the following submission:

The proposal results in a weighted setback of 1.8 metres. However, the building footprint has been designed to relate to the adjoining development by incorporating a deep 6 metre rear setback alongside the northern side boundary and a full separation from the southern boundary (3 metre side setback). The remainder of the façade incorporates setback elements of varying amounts. This creates a well-articulated façade that responds to the adjoining development and provides an appropriate response to Little Walker Street.

Tony Caro Architects has provided the following statement in relation to a comparison with the building at 100 Arthur Street, which is the most recent development with a rear alignment with Little Walker Street.

The proposal's podium treatment is similar to that of the building at 100 Arthur Street. In the case of 100 Arthur St, a large stone clad portal forms the podium element while, above the podium, the building's character is glassy. In the case of the proposal, the podium is clad in a custom perforated metal screen which renders the podium monolithic. Above the podium, the facade recedes and takes on a feathered, open language. This change in character delineates the podium datum in a similar way to 100 Arthur Street.

The above statement is reinforced by a comparison of the existing building at 100 Arthur Street with the submitted photomontage of the proposal as it presents to Little Walker Street. The comparison shows a clearly similar language between the two buildings that will read to provide a cohesive urban design response along Little Walker Street.

On the basis of the above, it is considered that the proposed variation of the DCP control will be acceptable in this instance.



Figure 1: Proposed development as presenting to Little Walker Street



Figure 2: The existing building at 100 Arthur Street as it presents to Little Walker Street

Further amendments were sought to improve the rear facade and setback. Amended plans were submitted on 19 March 2014 with the following comments:

The attached compares the original proposal with a proposed amended scheme that reduces visual elements in the façade to help it recede from the street.

We have:

- kept the white slab edge but removed the black soffit treatment;
- shortened the concrete spandrel wall to the balconies;
- provided full glazed balustrades;

- kept the directional louvres light; and
- made the glass fully transparent to the balconies.

The visual result in a much lighter elevation treatment that helps the façade to visually recede from the boundary.

ORIGINAL PROPOSAL



AMENDED PROPOSAL



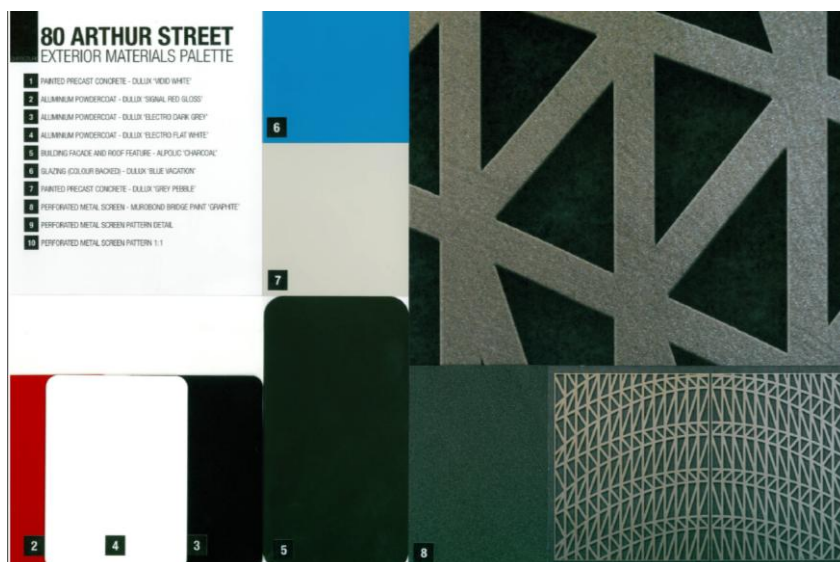
Having regard to the amendments and the above submissions, the podium setback is considered to be acceptable and is supported. The average setback would appear to be greater than the setback for the commercial building approved by Council in 2010.

SECTION 94 CONTRIBUTIONS

Section 94 Contributions in accordance with Council's S94 plan are warranted and are based on the increase in non residential gross floor area. The contributions are detailed in the attached conditions.

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

SUBMITTERS CONCERNS

The issues raised are addressed within the report and as follows:

Construction management

The construction management plan submitted with the Development Application provides details in relation to redevelopment of the site for the proposal. The Panel may impose further and/or more specific conditions that need to be addressed in relation to construction management. Compliance with those conditions would ensure that the proposal is constructed in accordance with Council requirements and expectations, and in a manner that minimises adverse impacts on neighbouring properties. Having regard to the close proximity of residential to the site. Saturday construction hours should be restricted to between 8am and 1pm.

Geotechnical assessment

The geotechnical report submitted with the Development Application provides a desktop assessment of the subject site. A detailed geotechnical assessment could not be completed at the time the Application was lodged with Council because the building was occupied. The desktop geotechnical report provides all relevant geotechnical considerations. The Panel can impose a condition on any consent granted to ensure

that a detailed geotechnical report is prepared. The Panel may also impose a condition in relation to preparation of dilapidation reporting.

Building signage

Concern has been raised in relation to the proposed signage and its illumination. The proposed signage has been amended. The amended signage will have a reduced impact on neighbouring properties. The proposed signage is located on the rooftop of the building, which does not have any direct relationship with residential dwellings in the area that may be affected by light spillage. The apartments at 93 Pacific Highway terminate at a height equivalent to level 19 in the proposed development some 12 storeys below the top of the proposed development. The signage has been incorporated into the design of the rooftop architectural feature in accordance with clause 5.6 of Council's LEP. Three signs on the roof are not supported and the northern sign should be deleted.

Building height

Issue has been raised that the building is too high and does not comply with Council's controls. The proposal complies with the maximum LEP height control. The rooftop structure has been designed in accordance with clause 5.6 of Council's LEP.

Site area

Concern has been raised at non-compliance with the minimum site requirements of clause 6.3 of Council's LEP. The Development Application includes a variation under clause 4.6 of the LEP to the development standard. The proposal ensures that the development is consistent / compliant with all the relevant objectives of clause 6.3. No adverse impacts will result in this regard and the written request is considered well founded.

Privacy

Concern has been raised with regards to privacy impacts. The proposal includes windows on the northern elevation to capture solar access. These windows look towards the building at 90 Arthur Street, which is an office building. The glazing on those northern windows could be treated with an obscure glazing to a height of 1500mm above floor level to ensure that the privacy impacts are minimised. The nature of the use of serviced apartments dictates some form of privacy protection.

The potential privacy impacts between the residents of 93 Pacific Highway and the units in the proposed development has been addressed by the installation of directional louvres on the southern elevation of the proposed development – refer amended architectural drawings. These directional louvres will be installed at an angle and separation to prevent any overlooking. The rear corner balconies are only 1m deep and unlikely to be used extensively so screening is unnecessary.

View loss

Concern has been raised at view loss from the south eastern corner of the adjoining site at 90 Arthur Street. The proposed setbacks to Arthur Street are in accordance with the DCP requirements, with an additional Arthur Street setback at the northern end of the proposal. This setback is greater than previously proposed in the commercial building approved by Council in 2010.

Residents of 93 Pacific Highway have also raised concern at view loss. However, any

development erected on the site in accordance with Councils controls would result in some interruption of localised views from that building. It is noted that the envelope of the building is less than previously approved on the site with the tower now having a smaller floorplate with a 3m setback along the length of the southern boundary.

Car parking

The proposal fully complies with the parking requirements. All parking is below ground and is accessible from Arthur Street, preventing any interference with traffic movement in Little Walker Street at the rear of the site. Loading activities will occur at the rear of the site, but these should not result in any adverse impacts.

Land Use

Concern has been raised that the proposal could be used as a residential building. The proposed use as serviced apartments will be confirmed with any appropriate conditions in any consent granted for the development.

Overshadowing

The submission from 93 Pacific Highway has stated that the proposal will entirely eliminate any solar access to the apartments. Some of the apartments look directly north along Little Walker Street. This 'corridor' will offer solar access around mid day. The proposal has been setback from the southern boundary and there is a substantial separation to the tower of No.1 Pacific Highway that will retain the current outlook. The height of the proposal is compliant and the controls are concerned with shadow impacts on residentially zoned properties and special areas. Residential development within the commercial core is no longer permissible.

Reflectivity

Concern is raised from 93 Pacific Highway about reflectivity impacts from the building. A solar reflectivity report is included with the Development Application. The report concludes that any glare events will be within acceptable limits. Conditions are also recommended.

Conclusion

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

The written request under Clause 4.6 for an exemption to the **site area** development standard 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.

Following assessment of the amended plans, the development application is recommended for **approval** upon receipt of certification of the Director General

The JRPP is unable to approve the proposal without the certification of the Director General that satisfactory arrangements have been made with regard to Railway

Infrastructure. The applicant has entered into a commitment deed with Council and certification from the Director General has been sought. Should the Panel favour the application a commitment deed will need to be certified by the Director General as “satisfactory arrangements” before consent can be granted.

RECOMMENDATION

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

THAT upon receipt of certification from the Director General of Planning and Infrastructure pursuant to Clause 6.5 (2) of NSLEP 2013, the Joint Regional Planning Panel, as the consent authority, assume the concurrence of the Director General of Planning and Infrastructure and invoke the provisions of Clause 4.6 with regard to the site area control and grant consent to 2014SYE007 – North Sydney - Development Application No.446/13 subject to the attached conditions.

Geoff Mossemeneer
EXECUTIVE PLANNER

Stephen Beattie
MANAGER DEVELOPMENT SERVICES
