

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

JRPP No	2014SYE069
DA Number	DA.292/13/2
Local Government Area	North Sydney
Proposed Development	To modify consent No.292/13 so that development consists of demolition of existing structures and the construction of a mixed use development comprising: basement and ground floor retail/commercial uses; 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 modifications will see a change in the mix of the residential unit component to provide for a total of 211 apartments.
Street Address	225-235 Pacific Highway North Sydney
Applicant/Owner	Greenland (Sydney) Pacific Highway Development Pty Ltd
Number of Submissions	One (1)
Report by	Geoff Mossemenear, Executive Planner, North Sydney Council

Assessment Report and Recommendation

EXECUTIVE SUMMARY

At its meeting of 17 December 2013, the Sydney East Region Joint Regional Planning Panel, as the consent authority, approved 2013SYE075 – North Sydney – Development Application No.292/13 for 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 property was sold and the new owners have submitted a Section 96 application to modify the consent. The application proposes modifications to the building envelope

and façade design, and an internal replanning of the building, resulting in a total of 211 apartments.

The Council's notification of the proposal has attracted one submission raising particular concerns about shadowing impacts on Angelo Street and the enclosure of the area with recent proposals. 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

This application proposes modifications to the building envelope and façade design, and an internal replanning of the building, resulting in a total of 211 apartments. The table below compares the key elements of the approved development and the development as proposed to be modified.

Component		Approved	Proposed
Height	Metres	<ul style="list-style-type: none"> 55.1 m – RL131.20 (highest point of residential accommodation) 57.9 m - RL 135.10 (highest point of roof plant) 	<ul style="list-style-type: none"> 55.1 m – RL 131.20 (highest point of residential accommodation) 58.5 m – RL134.60 (highest point of majority of roof level) 60.75 m – RL 136.85 (highest point of lift overrun and plant)
	Storeys	18	18
Front setback (Pacific Highway)	Ground/podium	0 m – 1.2 m (minimum)	0 m – 1.1 m
	Tower	2 m – 9.5 m (3.2 m weighted average)	2 m – 4.2 m (3.2 m weighted average)
Rear setback (Angelo Street)	Ground/podium	0 m – 7.8 m	0 m – 1.5 m
	Tower	0.8 m – 8.1 m	0 m – 2 m
North side setback	Ground/podium	0 m	0 m
	Tower	0.9 m - 3.85 m	3.5 m – 6 m
South side setback	Ground/podium	0 m	0 m
	Tower	1.45 m – 3 m (2.6 m weighted average)	3.4 m – 5.8 m
Apartments	Studios	15	18
	1 bed	100	107
	2 bed	69	73
	3+ bed	6	11
	Total	190	211
Adaptable apartments		19	22
Car spaces	Residential	139	151
	Retail/commercial	11	5
Motorcycle spaces		14	14
Bicycle spaces		16 visitor, 64 in storage	27 visitor, balance in storage

The following modifications are proposed to the approved development:

Façade/Elevations

The building's façade design has been modified to be more rectilinear, and incorporates a more significant variation between the podium and tower to further differentiate top and bottom of the building. The horizontality of the previous design has been retained, as has the massing and relationship with the adjoining development of Skye and Montrose.

A photomontage of the previously approved design is shown at Figure 1, while the proposed design is shown at Figure 2.

Internal layout

The internal layout of the building has been modified to suit the new façade/elevation alignment. The modified design results in an increase in the number of apartments while maintaining the general location of the lift core and the location and alignment of the lift lobby and corridor. The amended layout also includes the introduction of dual key apartments within some of the two bedroom apartments (podium only).

It is intended that the 2 bedroom dual key apartments will be on the one strata lot, with the proportion of 2 bedroom apartments being dual key being 3.3%. The introduction of dual key apartment types further adds to the diversity and choice of housing types within the development, enabling potential for households that include:

- aged persons - supporting independent living under the care of family members;
- university students - living independently but being supported by family members; and
- other increasing diverse and emerging family arrangements.

The roof of the building has been modified to remove the previous caretaker's apartment, allowing a rooftop pool and gym to be added, affording increased communal facilities for future residents.

Ground plane

The façade realignment has allowed a replanning of the ground plane, resulting in a greater number of at-grade retail tenancies. The previous informal through site access has been strengthened with a clear and formal access maintained from the Pacific Highway to Angelo Street.

Driveway access has been maintained in the same location



Figure 1 – Photomontage of approved development
Source: Spence Pearson



Figure 2 – Photomontage of proposed development
Source: Turner



Angelo Street elevation

STATUTORY CONTROLS

North Sydney LEP 2013 - Zoning – B4 Mixed Use
S94 Contribution
Environmental Planning & Assessment Act 1979
SEPP 1 Objection
SEPP 55 - Contaminated Lands
SREP (2005)

POLICY CONTROLS

North Sydney DCP 2013

CONSENT AUTHORITY

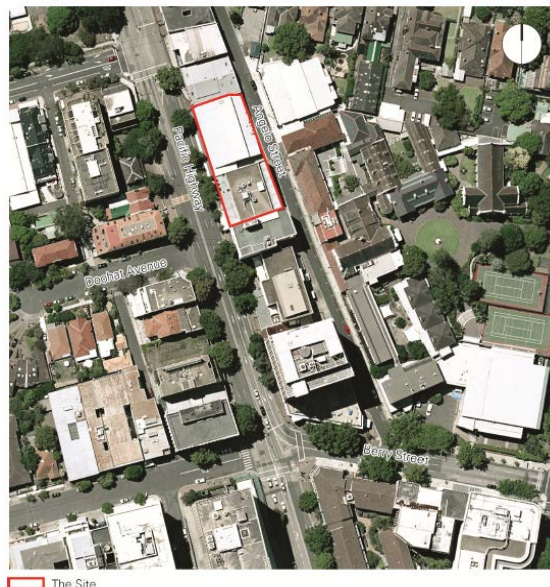
As this proposal has a Capital Investment Value (CIV) of greater than \$20 million the consent authority for the development application is the Joint Regional Planning Panel, Sydney East Region (JRPP).

DESCRIPTION OF LOCALITY

The site 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 1,538m². 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 under construction Montrose to the north and Skye by Crown to the south. Both of these developments have adopted a different interpretation of the planning rules relevant to setbacks and podiums.



BACKGROUND

Development consent 292/13 was granted by the Sydney East JRPP on 17 December 2013 for demolition of existing structures and the construction of a multi-storey mixed use building comprising retail and commercial space, 190 residential apartments, and basement.

Since the consent was issued, Ford Land Group (as the original owners) went through an EOI process for the sale of the site. The successful purchaser was Greenland. Greenland and its project team have identified opportunities to amend the approved development. The applicant had pre lodgement meetings with Council staff and the Design Excellence Panel and responded to the advice given when lodging this Section 96 application.

Further amended plans were submitted on 21 August 2014 involving rationalisation of street trees along Angelo Street; an increase in the amount of streetscape pavement into the site; increase of one car space at B6 and the deletion of a car space at B2. These changes are minor and did not warrant notification. The amended plans are the subject of this assessment.

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 advised that the standard and site specific conditions relating to damage bonds, excavation, dilapidation reports of adjoining properties, construction management plan, vehicular crossing requirements and stormwater management do not require modification.

Parking

In relation to car parking, it is proposed to provide 152 resident spaces, 5 commercial spaces and 1 car wash bay. The commercial and car wash bay remain unchanged from the original proposal. The parking requirements under Council's DCP for the proposed mix of apartments is summarised as follows:

18 studios x 0.5 spaces = 9
109 one bedroom x 0.5 spaces = 55.5
73 two bedroom x 1 space = 73
11 three bedroom x 1 space = 11

Total = 148.5 say 149 spaces. The three additional spaces are acceptable. The parking commences on level B2 therefore it is not practical to require car share spaces. The original consent did not require any car share spaces.

In relation to bicycle parking, the applicant adopted the rates that were used in the approved DA (i.e. the rates as provided by DCP 2002). DCP 2013 increases the bicycle parking requirement substantially – in recognition of this the applicant has attempted to provide bicycle parking above and beyond the DCP 2002 rate where possible.

Based on the DCP 2002 rates, the following table shows the change in the minimum number of spaces required.

Residential	Per Dwelling	Approved	Proposed
Residents	1 space/ 3	64	70
Visitors	1 space/ 12	16	18
Subtotal		80	89
Non-Residential	Per m2	Approved	Proposed
Occupants	1 space/ 600m2	2	2
Visitors	1 space/ 2500m2	1	1
Subtotal		3	3
Total		<u>83</u>	<u>91</u>

As shown, the bicycle parking requirement goes up by eight (8) spaces based on the proposed number of apartments.

The proposed development provides the following bicycle parking:

Basement 1: For visitors & Staff Bicycle racks : 20 (within fenced area) (18 for residential visitors + 2 staff) Bicycle Locker : 1 (Retail visitor)

Basement 1: Residential Storage cages : 1

Basement 2: Residential Storage cages : 25

Basement 3: Residential Storage cages : 15

Basement 4: Residential Storage cages : 23

Basement 5: Residential Storage cages : 23

Basement 6: Residential Storage cages : 22

Total potential Storage Cages for bicycles: 109

Bicycle Racks: 20

Bicycle Locker: 1

Grand Total : 130

In summary, 91 spaces are required under the DCP 2002 rates, but there is provision for a total of 130. The consent should be amended to require a minimum of 91 spaces.

DESIGN EXCELLENCE PANEL

Referred to the Design Excellence Panel meeting on 13 May 2014 and the minutes are reproduced as follows:

“Background:

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 1,538m². 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 under construction (Montrose and Skye by Crown). Both of these developments have adopted a different interpretation of the planning rules relevant to setbacks and podiums.

DA plans were before the Panel at its meeting of 1 October 2013 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 seven levels of basement for building services, storage, car parking, motorcycle parking and bicycle parking and associated public domain and landscape works. The Joint Regional Planning Panel approved the development application on 17 December 2013.

The Proposal

The site has been sold and it is proposed to modify the existing consent to reflect the requirements of the new owners while maintaining the intent of the original DA.

The plans are concept plans of changes that are to be submitted to Council as a Section 96(2) application.

The unit mix will be similar to that approved. The development comprises 210 apartments over 16 storeys. A pedestrian link is provided between the two streets. The main change relates to the geometry of the building. The proposed building is more in keeping with its neighbours.

The Panel and Council staff inspected the site previously.

The architect gave a brief outline of the proposal and was available for questions from the Panel.

Panel Comments:

The Panel felt that the straightened form of the building was preferred to the curvilinear design and the articulation worked well with surrounding sites.

The Panel raised concern with the access to the site from the Highway and preferred that the setback should be increased and at grade with the footpath as much as possible. It was suggested that the stairs be moved back into the site and the ramp be modified to increase the setback of the ramp.

The Panel discussed the materials and finishes proposed and raised concern about the materials being too dark.

The Panel noted that the communal facilities were maintained on the southern tower and that a green roof was maintained on the shorter northern tower.

The Panel also commented on the street awnings and felt that full glass awnings should be avoided as they are difficult to maintain particularly with the street trees.

The Panel did not comment on SEPP 65 matters and expects the amended proposal to meet or exceed the approved design.

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.

Conclusion:

The Panel supports the proposal subject to the above issues being addressed by the architect."

The Panel's specific comments and the applicant's responses are listed in the table below:

Comment	Response
The Panel felt that the straightened form of the building was preferred to the curvilinear design and the articulation worked well with surrounding sites.	The building has specifically been designed to respond to both Montrose and Skye by Crown. The podium steps down along the Pacific Highway to provide a transition between Montrose' six-storey podium and Skye's three-storey podium. The tower in turn steps down from Skye to Montrose, generally following a stepped height plane between the two buildings.
The Panel raised concern with the access to the site from the Highway and preferred that the setback should be increased and at grade with the footpath as much as possible. It was suggested that the stairs be moved back into the site and the ramp be modified to increase the setback of the ramp.	The site's access from the Pacific Highway has been altered to set back both the ramp and stair. Any difference in levels between the site and the footpath has been minimised.
The Panel discussed the materials and finishes proposed and raised concern about the materials being too dark.	The proposed materiality has been lightened while maintaining a contrast between the podium and tower.
The Panel noted that the communal facilities were maintained on the southern tower and that a green roof was maintained on the shorter northern tower.	The locations of the green roof and communal facilities have been maintained in this application.
The Panel also commented on the street awnings and felt that full glass awnings should be avoided as they are difficult to maintain particularly with the street trees.	As suggested by the panel, the glass awning is retained for rain protection, but is lined to the underside with perforated metal to provide a better outlook, but to allow filtered light through.
The Panel did not comment on SEPP 65 matters and expects the amended proposal to meet or exceed the approved design.	The proposed development exceeds both the 70% solar access and 60% natural ventilation rules of thumb, and improves on the solar access and natural ventilation characteristics of the approved building.
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.	Landscape Plans and a Landscape Design Statement have been prepared by Turf Landscape Architects, and are included under separate cover. These plans demonstrate that appropriate treatment and consideration is given to both the Pacific Highway and Angelo Street frontages.

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:-

- concern about the blocks of shadowing caused to Angelo Street and impact on its amenity
- lack of breathing space with amount of development in area.

CONSIDERATION

The proposal is required to be assessed having regard to the following matters.

Section 96(2) of the Environmental Planning and Assessment Act 1979 enables a consent authority to modify a development consent upon application being sought by the applicant or any person entitled to act on the consent, provided that the consent authority:

- is satisfied that the development to which the consent as modified relates is substantially the same development;
- has consulted the relevant Minister, public authority or approval body in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent;
- has notified the application in accordance with the regulations and has considered any submissions made concerning the proposed modification; and
- in determining the application for modification, has taken into consideration such matters referred to under Section 79C(1) as are relevant.

Therefore, assessment of the application to modify the subject development consent must consider the following issues:

Is the proposed development as modified substantially the same development approved?

Although the mix and design of the apartments are different to the original, the proposal is considered to be substantially the same development as approved because the height and envelope of the building are similar, the ground floor is similar, the car access and loading is the same, a through site link is retained as is the 1.5m setback from Angelo Street. The proposal retains the same relationship with the adjoining Skye by Crown and Montrose, in that the height and podium articulation allow the building to effectively transition between the neighbouring developments; the proposal only increases the number of apartments by 11%, with the unit mix remaining generally the same; there is only a minor increase (3.8%) in the number of parking spaces.

The environmental impacts of the modified development are substantially the same as the approved development.

Whether the application required the concurrence of the relevant Minister, public authority or approval body and any comments submitted by these bodies.

The application does not require the concurrence of the Minister, public authority or approval body.

Whether any submissions were made concerning the proposed modification.

The submissions raise concerns/issues about shadow and amenity impact caused by three high rise developments fronting Angelo Street. The Section 96 proposal does not increase these impacts having regard to the approval already granted.

Any relevant considerations under Section 79C(1) of the Environmental Planning and Assessment Act 1979.

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

Compliance Table

North Sydney Centre	Proposed	Control	Complies
Height (Cl. 4.3)	RL 136.85 AHD including plant and roof feature; Approved to RL 135.1	RL 125m AHD	NO
Overshadowing of dwellings (Cl.6.3 (1) (c))	Additional overshadowing is limited to the school and surrounding roads. No dwellings	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 The proposal will not overshadow Don Bank Museum.	Variation permitted	YES
Minimum lot size (Cl.6.3 (2) (c))	1538m ²	1000m ² min.	YES

NORTH SYDNEY LEP 2013

Permissibility within the zone

The proposal is permissible with consent under the B4 Mixed Use zoning.

Clause 4.3 Height of buildings

The height of a building on the subject land is not to exceed 125m AHD.

The proposal has a height is 136.85m AHD. The approved building has a building height of RL135.1. The original proposal was approved under NSLEP 2001. 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 was imminent and certain and weight was given to it by the JRPP when determining the original proposal in December 2013. The following assessment was considered by the JRPP in allowing the variation to height:

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.

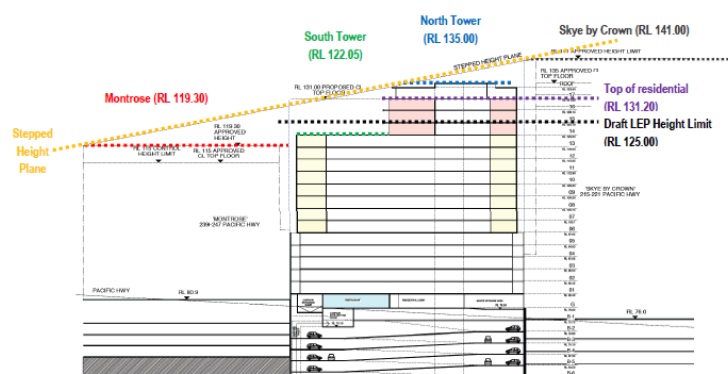
The DCP Character Statement sets a range of street frontage podium heights, depending on the particular circumstances of the site. Most relevant to the subject site, it establishes a maximum street frontage height of five storeys to the Pacific Highway, which then steps down to three storeys along its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

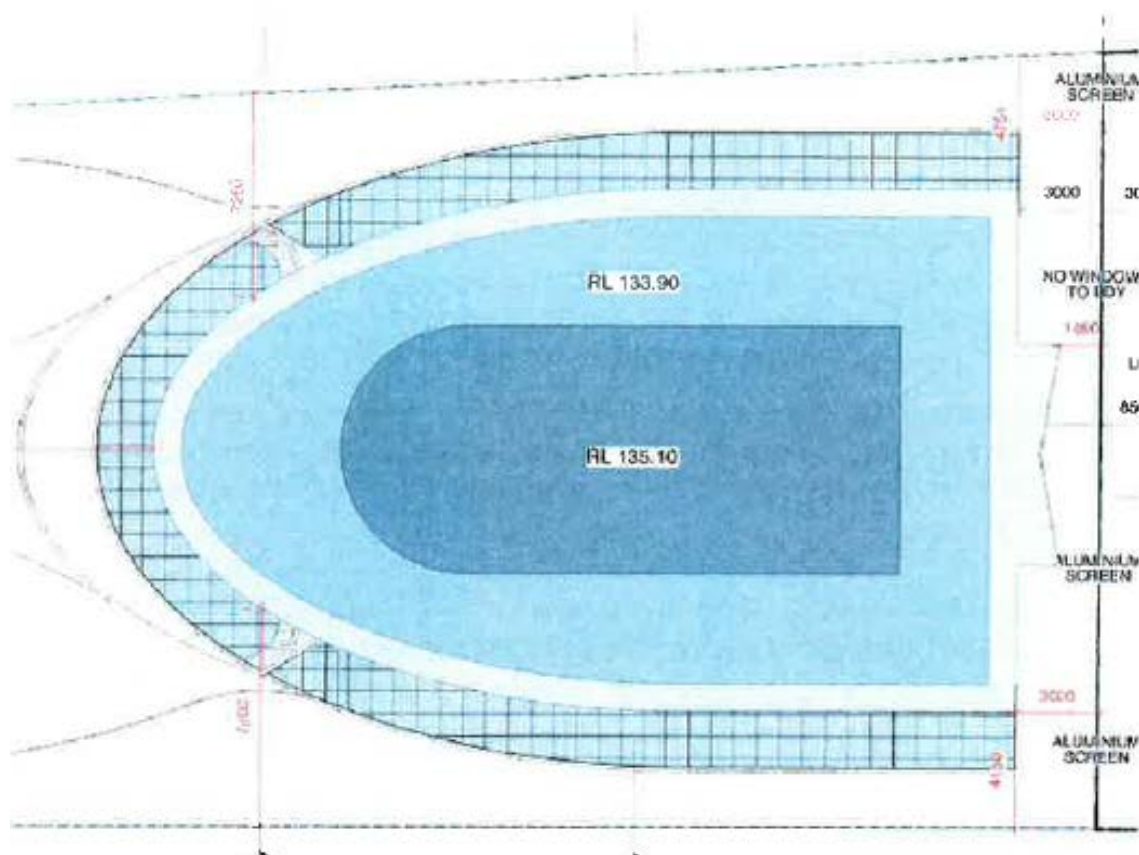


Existing and future site context is a key consideration when determining the appropriateness and necessity of a development standard. The proposed development is consistent with the height control objectives of the LEP:

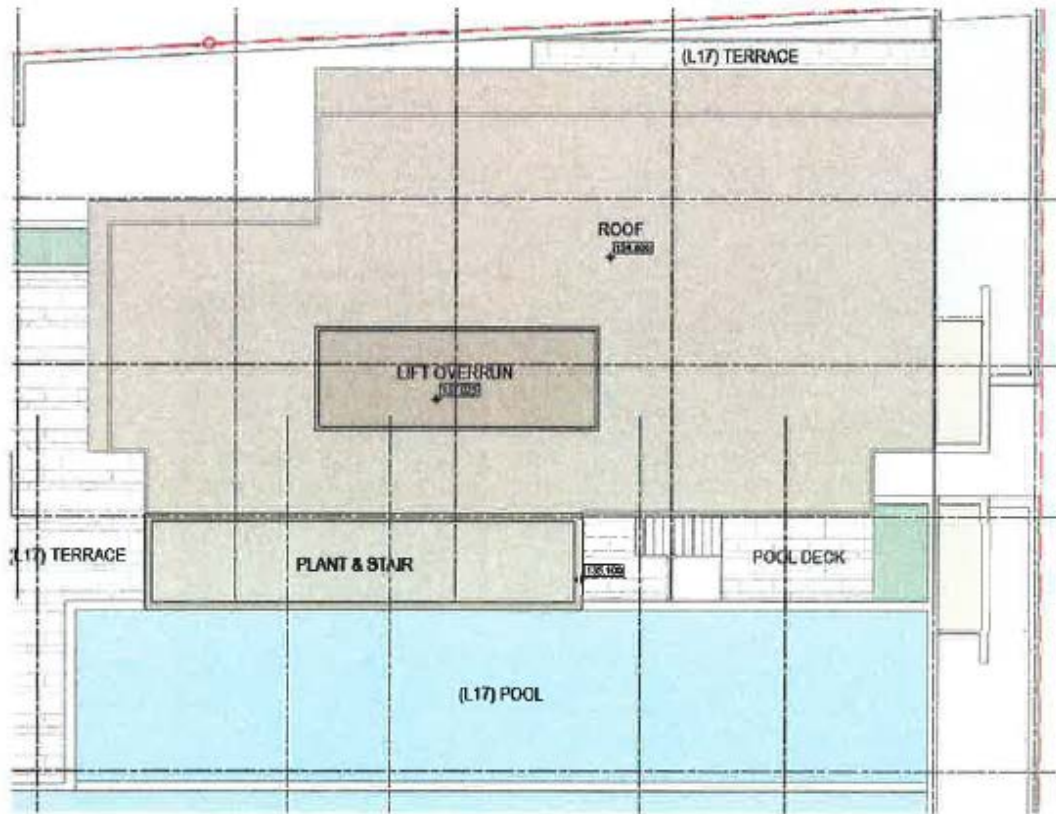
- The proposed development has been designed to step down from the built form to the south and will facilitate an effective future transition from the approved Skye by Crown development to the south, to the Montrose development adjoining the site to the north. From a broader perspective the building 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 be satisfactory with regard to the provisions of the North Sydney Local Environmental Plan 2013.

The approved development currently has upper roof height of predominantly RL133.90, with the centre of the top floor rising to RL 135.10. This is shown below:



The proposed building varies these heights slightly, but will ultimately result in less building massing on the top storey.



In relation to this increase in height:

- A small portion of the roof, namely the lift overrun, extends to RL137.025. Details have been submitted indicating that it was not possible for the lift overrun to be accommodated within RL135.10
- The western side of the roof level, which accommodates the gym, plant and multi-purpose room, will extend to RL134.600, 700mm above the approved height in this area. This increased height will ensure that amenity in the gym and multi-purpose room are maintained to an appropriate level.
- Due to the provision of a pool and barbecue area on the northern and western side of building, these areas are no longer roofed. This results in a significantly smaller built area on the rooftop; the roofed area has been reduced from 670.86m² to 356.43m².

Overall, the building's height is generally consistent with that approved, with some areas that are marginally higher than the approved rooftop. However, these minor height increases are considered acceptable due to the overall reduction in roofed area (and therefore built form).

The development's built form envelope remains generally the same as that approved. The building continues to achieve an appropriate transition in heights from the North Sydney commercial core towards the boundaries of the North Sydney Centre. The building also effectively transitions between the adjoining Skye by Crown and Montrose by following a stepped height plane:



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	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 any 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 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 proposed development will reduce existing non residential floor space.
(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 non residential floor space would be located at and below ground level and unlikely to be 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	The proposal will have a minimal impact on amenity of the residential areas. There are no adjoining residential areas.
(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	The proposed development will result in no additional overshadowing.
(i) to maintain areas of open space on private	No applicable to site

land and promote the preservation of existing setbacks and landscaped areas, and to protect the amenity of those areas	
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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 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,*

No overshadowing.

- (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,*

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.

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

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

(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

(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.

The subject site is 1538m² in area and complies.

(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.....

See detailed discussion above with regard to height non compliance.

(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.

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.

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. 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.

The following setbacks are proposed:

Ground

1.5m to Angelo Street, as required by condition of consent

1.1m to Pacific Highway

Podium

0m to Angelo Street

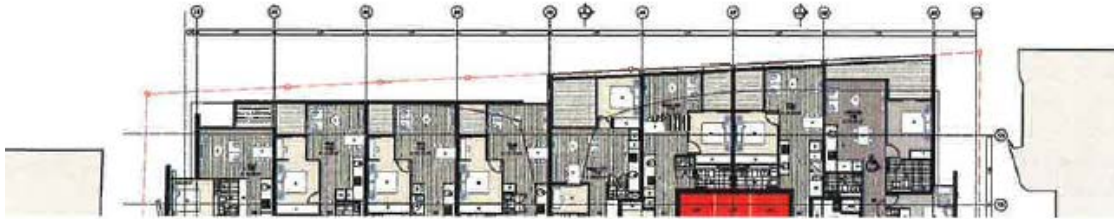
0m to Pacific Highway

Tower

Between 0m and 2m to Angelo Street

3.2 m weighted average setback to Pacific Highway

The Pacific Highway setback remains the same as that approved, with a 0m podium setback and a 3.2 m weighted average tower setback. Ground and podium setbacks to Angelo Street remain the same as those approved, at 1.5 m and 0m respectively. However, tower setback differs slightly; a 2.6 m weighted average setback was previously approved.



As shown, the south-eastern corner of Montrose is setback significantly further than the north eastern corner of Skye by Crown. The proposed building aims to respond to both of these buildings by maintaining a 0m setback on the south-eastern side adjacent to Skye by Crown, and by stepping in on the north-eastern side adjacent Montrose.

The proposed development utilises setbacks to differentiate between the ground level, podium and tower to emphasise the three components of the building and respond to the varying setbacks of Skye and Montrose, especially on Angelo Street.

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 conditioned.

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 and 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 responds 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.

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. 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 overall building form continues to comprise an overall composition of a base, middle and top. This horizontal stratification is also divided vertically with two deep slots, in lieu of the single slot of the DA in order to improve the building amenity for cross-ventilation.

Some of the large-scale forms are given definition by full or partial framing elements. Within these elements there is a language of horizontality through the strong expression of the balustrades, which reflects the current DA architectural expression. Continuous balconies are retained to Pacific Highway above the building base. This horizontal composition strategy is an appropriate response to the context where Skye by Crown has a predominantly vertical emphasis, and Montrose is an assemblage of larger building elements.

The balustrades are made of either perforated metal or fritted/acid etched glass. These

materials provide a sense of visibility from within the balconies, but also privacy from the street, as well as giving the overall building a sense of lightness. The lower levels also include sliding metal screens that provide further privacy, as well as giving the impression of a more solid base.

The solid framing devices are painted precast concrete. To the east, the predominant expression is the expression of protruding transoms. This provides a consistency and horizontality, while also providing solar shading. The composition is given structure by a large scale white framing element to the perimeter. Peripheral balustrade at the higher level utilise the perforated metal, similar to that used to the west.

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 2013. The two key rules-of-thumb that the apartment changes affect are that of cross ventilation and solar access. In each case the new proposal improves on the RFDC percentages.

CROSS VENTILATION

Description	DA quantity	DA percentage	S96 quantity	S96 percentage
Simply cross ventilated	111	58.4%	126	59.7%
Additional elevated apartments not requiring full cross ventilation	15	7.9%	20	9.5%
Additional 'enhanced single sided ventilation' equivalent to cross ventilation	8	4.2%	8	3.8%
Total deemed complying	134	70.5%	154	73.0%

SOLAR ACCESS

Description	DA quantity	DA percentage	S96 quantity	S96 percentage
Units which achieve 3 hours or more sunlight to Living and POS 9am – 3pm	51	26.8%	119	56.4%
Units which achieve 2 hours or more sunlight to Living and POS 9am – 3pm	24	12.6%	3	1.4%
Units which achieve 2 hours or more sunlight to Living and POS 8am – 4pm	56	29.5%	44	20.9%
Additional units which achieve 2 hours or more sunlight to Living, Bedroom and POS 8am – 4pm	30	15.8%	14	6.6%
Total complying with the RFDC and DCP	161	84.7%	180	85.3%

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.

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

Conclusion

The proposed development as modified is considered to be substantially the same development as approved. The modifications do not create additional impacts on surrounding development. The change in mix of dwellings is acceptable. The 7 dual key apartments are acceptable as they will remain on the one strata lot and the two areas have satisfactory amenity, light and ventilation (to the street and not a lightwell). They will provide additional housing choice and possibly improve affordability. Parking will not be affected by the dual key apartments.

The amended plans require the following conditions to be replaced:

- A1 Development in accordance with plans
- A3 Materials and finishes
- A4 Landscaping
- C12 Bicycles storage and parking
- C27 Acoustic privacy
- C31 S94 Contributions
- C32 Security Bond Schedule
- C34 Basix
- G7 Allocation of spaces
- G8 Tree Planting

The Section 96(2) application is recommended for favourable consideration.

RECOMMENDATION

THAT the Joint Regional Planning Panel, as the consent authority, modify its consent dated 20 December 2013 in respect of a proposal for demolition of existing structures, and construction of a mixed use building above basement car parking at 225-235 Pacific Highway North Sydney under the provisions of Section 96 of the Environmental Planning and Assessment Act with regard to 2014SYE069 – North Sydney - Development Application No.292/13/2, only insofar as will provide for the following.

To delete condition A1, A3, A4, C12, C27, C31, C32, C34, G7 and G8 of the consent and insert in lieu thereof the following new conditions namely:

Development in Accordance with Plans/Documentation

- A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions and this consent.

Plan No.	Issue	Title	Drawn by	Dated
DA-110-000	S2	Ground	Turner	20.08.2014
DA-110-001	S1	Level 1 and 2	Turner	06.06.2014
DA-110-002	S1	Level 3	Turner	06.06.2014
DA-110-003	S1	Level 4 and 5	Turner	06.06.2014
DA-110-004	S1	Level 6 - 12	Turner	06.06.2014
DA-110-005	S1	Level 13	Turner	06.06.2014
DA-110-006	S1	Level 14	Turner	06.06.2014
DA-110-007	S1	Level 15 - 16	Turner	06.06.2014
DA-110-008	S1	Level 17	Turner	06.06.2014
DA-110-009	S1	Roof	Turner	06.06.2014
DA-110-B01	S1	Basement 1	Turner	06.06.2014
DA-110-B02	S2	Basement 2	Turner	20.08.2014
DA-110-B03	S1	Basement 3 - 4	Turner	06.06.2014
DA-110-B04	S1	Basement 5	Turner	06.06.2014
DA-110-B05	S2	Basement 6	Turner	20.08.2014
DA-210-001	S1	West Elevation	Turner	06.06.2014
DA-210-002	S1	East Elevation	Turner	06.06.2014

DA-210-003	S1	North/South Elevation	Turner	06.06.2014
DA-310-001	S1	Sections A & B	Turner	06.06.2014
DA-310-002	S1	Sections C & D	Turner	06.06.2014

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

External Finishes & Materials

- A3. External finishes and materials must be in accordance with the drawing numbered DA-800-000 issue S1 dated 6 June 2014, prepared by Turner architects unless otherwise modified by Council in writing.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Landscaping

- A4. Landscaping works on the site are to be undertaken generally in accordance with the landscaping plans numbered L-DA-3 issue D, dated 20 August 2014 and L-DA-4 issue A to L-DA-8 issue A, dated 5 June 2014, drawn by Turf.

Note: The proposed street tree planting shall be altered such that 4 x replenishment trees are provided in accordance with Condition G8 of this consent.

(Reason: To ensure appropriate landscaped area and landscaping amenity at the final inspection stage of the development)

Bicycle Storage and Parking

- C12. The bicycle storage area must accommodate a minimum of 70 bicycles, and a visitor parking bicycle area shall be provided for 18 bicycles. The bicycle storage lockers and bicycle rail shall be designed in accordance with the applicable Australian Standards. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To promote and provide facilities for alternative forms of transport)

Acoustic Privacy

- C27. Noise levels in sole occupancy units of residential apartments must not exceed the following:

Location	Maximum
Habitable Rooms other than Sleeping Areas	40 LAeq (1hr)
Sleeping Areas	35 LAeq (1hr)

The "Maximum" limits are to apply in any hour of a 24 hour period with the windows of the sole occupancy unit closed.

"habitable room" has the same meaning as in the Building Code of Australia.

A floor separating sole occupancy units shall have a weighted standardised impact sound pressure level $L'_{nT,w}$ not more than **55dB** when measured in-situ in accordance with AS ISO 140.7-2006 "Field measurements of impact sound insulation of floors" and rated to AS ISO 717.2-2004 "Rating of sound insulation in buildings and of building elements. Part 2: Impact sound insulation". This clause shall not apply to the floor of a kitchen, bathroom, toilet or laundry in a residential sole occupancy unit.

Mechanical equipment such as lift plant, air conditioning plant servicing the building and pumps shall not be located immediately adjacent bedrooms.

A statement from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, certifying that the acoustic mitigation measures outlined above have been satisfied, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

(Reason: To comply with best practice standards for residential acoustic amenity)

Section 94 Contributions

C31. A monetary contribution pursuant to the provisions of Section 94 of the Environmental Planning and Assessment Act 1979, in accordance with the North Sydney Council Section 94 Contribution Plan for the public amenities/ services detailed in column A below and, for the amount detailed in column B below, must be paid to Council.

A	B (\$)
Administration	\$19,209.61
Child Care Facilities	\$22,766.44
Community Centres	\$96,046.99
Library Acquisition	\$17,736.26
Library Premises & Equipment	\$54,982.28
Multi Purpose Indoor Sports Facility	\$14,341.88
Open Space Acquisition	\$660,825.84
Open Space Increased Capacity	\$1,309,870.44
Olympic Pool	\$46,717.15
Public Domain Improvements	\$379,080.55
Traffic Improvements	\$52,805.37
The total contribution is:	<u>\$2,674,382.81</u>

The contribution MUST BE paid prior issue of any Construction Certificate.

The above amount, will be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution.

A copy of the North Sydney Section 94 Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at www.northsydney.nsw.gov.au.

(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new development)

Security Deposit/Guarantee Schedule

C32. All fees and security bonds in accordance with the schedule below must be paid or in place prior to the issue of the required Construction Certificate:

SECURITY DEPOSIT/GUARANTEE	AMOUNT (\$)
Footpath reconstruction Bond	\$89,000.00
Drainage Construction Bond	\$20,000.00
Engineering Construction Bond	\$95,000.00
TOTAL BONDS	\$204,000.00

Note: The following fees applicable:

FEES

Section 94 Contribution

TOTAL FEES	\$2,674,382.81
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(Reason: Compliance with the development consent)

BASIX Certificate

C34. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in **BASIX Certificate No.1005666902** for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

Allocation of Spaces

G7. Car parking spaces must be provided and maintained at all times on the subject site. The spaces shall be allocated to uses within the building in accordance the following table:

152	-	Residential
5	-	Commercial/Retail
1	-	Car wash bay

The car parking spaces are to be identified on-site by line-marking and numbering upon the completion of the works and prior to issue of Occupation Certificate. Car parking spaces provided must only be used in conjunction with the approved uses contained within the development.

In the case of Strata subdivision any car parking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lot's unit entitlement.

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

Required Tree Planting

- G8. On completion of works and prior to the issue of an Occupation Certificate trees in accordance with the schedule hereunder must be planted in Council's footpath to Council specifications:-

Schedule	Tree Species	Location	Pot Size
4 x	Platanus X hybrida (London Tree)	Pacific Highway outside the property such that they are no closer than 4 metres from any essential service inspection pit and in a location determined by Council. Note: where it is necessary to relocate an essential service inspection pit to accommodate continuity of spacing the works shall be undertaken during the course of Civil works at the cost of the applicant.	200 litre
Minimum of 2 x	Ginkgo biloba "Princeton Sentry"	Angelo Lane frontage of the property in a location determined by Council	100 litre

Note: The trees shall be maintained with an appropriate watering regime for an establishment period of 13 weeks after planting.

The installation of such trees, their current health and their prospects for future survival must be certified upon completion by an appropriately qualified horticulturalist.

Upon completion of installation and prior to the issue of an Occupation Certificate an appropriately qualified horticulturalist must certify that any trees planted in accordance with this condition are healthy and have good prospects of future survival. The certification must be submitted with any application for an Occupation Certificate.

(Reason: To ensure that replacement plantings are provide to enhance community landscaped amenity and cultural assets)

Dual Key Apartments

- I3. Each dual key apartment shall be one strata lot and not subdivided further into separate smaller apartments for sale.

(Reason: To retain an appropriate mix of dwellings in compliance with minimum area requirements in accordance with the consent)

Geoff Mossemeneer
EXECUTIVE PLANNER

Stephen Beattie
MANAGER DEVELOPMENT SERVICES
