

## JOINT REGIONAL PLANNING PANEL (East)

JRPP No	<b>2015SYE095</b>
DA Number	<b>256/15</b>
Local Government Area	<b>North Sydney Council</b>
Proposed Development	<b>Demolition the existing building and construct a 22 storey mixed use development including retail at ground level; 100 serviced apartments, 183 residential apartments and basement parking.</b>
Street Address	<b>221 Miller Street North Sydney</b>
Applicant/Owner	<b>Yuhu Group (Australia) Pty Ltd</b>
Number of Submissions	<b>Three to original plans, One to amended plans</b>
Regional Development Criteria (Schedule 4A of the Act)	<b>Capital Investment Value &gt; \$20M</b>
List of All Relevant s79C(1)(a) Matters	<b>North Sydney LEP 2013 - Zoning – B4 Mixed Use North Sydney DCP 2013 S94 Contribution SEPP 65 SEPP 55 - Contaminated Lands SREP (2005)</b>
List all documents submitted with this report for the panel's consideration	<b>Plans Clause 4.6 request Conditions</b>
Recommendation	<b>Approval</b>
Report by	<b>Geoff Mossemeneer, Executive Planner, North Sydney Council</b>

**Assessment Report and Recommendation**

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## EXECUTIVE SUMMARY

The application seeks approval for demolition of the existing office building and the erection of a 22 level mixed use building above basement parking.

The new building comprises:

- Basement car parking accommodating, plant and servicing equipment, with access provided via the access handle from McLaren Street.
- A dedicated serviced apartment lobby at the lower ground floor
- Ground floor plaza incorporating a pedestrian through site link towards the northern boundary and an active retail tenancy fronting Miller Street.
- Residential lobby and communal open space provided at the ground floor.
- 100 serviced apartments,
- 183 residential apartments comprising 27 studios, 71 one-bedroom, 76 two-bedroom and 9 three-bedroom units,
- North facing common roof terrace on Level 21 able to accommodate a range of passive recreational activities including BBQ facilities, seating and dining areas.
- Basement parking for 108 car parking spaces, 2 car share spaces, 222 bicycle spaces, plant and servicing equipment

Council's notification of the original proposal (consisting of 102 serviced apartments and 180 apartments) attracted three submissions raising particular concerns about access from McLaren Street, traffic, construction hours, noise and boundary setbacks. Council's Design Excellence Panel also raised a number of concerns to be resolved before the proposal could be supported. The applicant responded to the DEP suggestions and other issues raised by Council with amended plans submitted on 24 November 2015. Notification of the amended proposal (consisting of 100 serviced apartments and 183 apartments) attracted one submission about access from McLaren Street. The amended plans have resolved the concerns raised by the DEP and Council staff.

The assessment of the proposal has considered the concerns raised by submitters as well as the performance of the application against Council's planning requirements. Following assessment of the amended plans, the development application is recommended for **approval**.

## DESCRIPTION OF PROPOSAL

The proposed development is summarised as follows:

- Demolition the existing building on the site and construct a 22 storey mixed use development.
- Basement car parking accommodating, plant and servicing equipment, with access provided via the access handle from McLaren Street.
- A dedicated serviced apartment lobby at the lower ground floor
- Ground floor plaza incorporating a pedestrian through site link towards the northern boundary and an active retail tenancy fronting Miller Street.
- Residential lobby and communal open space provided at the ground floor.
- 100 serviced apartments,
- 183 residential apartments comprising 27 studios, 71 one-bedroom, 76 two-bedroom and 9 three-bedroom units,
- North facing common roof terrace on Level 21 able to accommodate a range of passive recreational activities including BBQ facilities, seating and dining areas.
- Basement parking for 108 car parking spaces, 2 car share spaces, 222 bicycle spaces, plant and servicing equipment



## **STATUTORY CONTROLS**

North Sydney LEP 2013 - Zoning – B4 Mixed Use  
S94 Contribution  
Environmental Planning & Assessment Act 1979  
SEPP 65  
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 within the North Sydney Centre on the eastern side of Miller Street between the intersections of McLaren Street and Berry Street.

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

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

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

The eastern side of Miller Street is characterised by high rise commercial buildings and mixed use buildings containing lower level retail/commercial with residential space above. Adjoining the site to the north is 225 Miller Street which contains ground level restaurants with residential levels above. This site adjoins half the subject site whilst 229 Miller Street is located to the rear. 225 Miller Street contains a 5 storey podium with a 15 storey residential tower above and is generally representative of the anticipated outcome of the zone. 229 Miller Street is a battle

axe handle shaped allotment that obtains access from Miller Street and the rear access handle that serves the site. It adjoins the subject site at the eastern end of the northern boundary. It contains a 4 storey residential flat building which addresses the access handle.

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

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



## Background

Development consent (DA.437/12) was granted by the JRPP on 3 April 2013 for the redevelopment of the subject site involving the demolition of the existing building and the construction of a 21 storey mixed use development, comprising residential, retail and commercial uses accommodating 173 residential units, 4 floors of commercial office use, ground floor retail tenancies and 5 levels of basement car parking for 139 vehicles.

The site was sold and the new owners propose a different development to that approved.

The applicant had a pre lodgement meeting with the Design Excellence Panel on 23 June 2015. The plans presented to that meeting were similar to the original application other than the treatment of the through site link and landscaping. The serviced apartments and residential tower and its setbacks remain the same.

Following a preliminary assessment of the application and consideration of the

comments raised by the Design Excellence Panel, the applicant was advised on 23 September 2015 of the following outstanding issues:

- The provision of only two lifts for 180 apartments.
- South facing units proposed on the residential levels with a 3m setback to the side boundary. The separation distance to side boundary is well under the recommended side and rear setback under ADG (9m – 12m). South facing apartment living areas will only be accepted when fronting a street or lane and not a side boundary unless the full required setback is provided.
- The units proposed in the centre, opposite the lift core with a setback of 5.2m from the northern boundary is well under the Apartment Design Guide provisions, and will clearly result in a very poor environment for the units. The previous consent allowed a greater setback and adoption of a similar envelope and layout, would resolve the concerns.
- A 6m setback to the rear eastern boundary, with living areas facing east is well under the 12m recommended in the ADG. A 9m setback was accepted under the previous scheme and should be regarded as the minimum.
- The creation of a driveway across the Miller Street footpath is not supported, due to conflict with considerable pedestrian traffic as well as its impact on the Miller Street public domain. The RMS has also refused its concurrence so the vehicle access should be deleted.
- The amount of paving proposed in the front setback area is a concern. It is proposed to excavate under the 5m required setback for storage tanks that would not allow deep planting. Removal of the driveway would allow more landscaping. Deep planting within the 5m setback needs to be accommodated. The setback area should be in the main unexcavated.
- A height standard of RL 140 applies to the site. The maximum height of the development is RL 149.7. The proposal breaches the height control by 2 full residential levels. The previous consent was height compliant. There does not appear to be any sufficient environmental planning grounds to support such a variation.

For the abovementioned reasons, the proposed development could not be supported. The applicant was requested that either amended plans be provided to address all of the above issues or the application be withdrawn.

The applicant responded by submitting amended plans on 24 November 2015. In summary, the key refinements from the DA originally submitted can be summarised as follows:

- Removal of the one way driveway from Miller Street adjacent the northern boundary and its replacement with landscaping and a pedestrian footpath which now constitutes the east-west through site link.
- Relocation of the serviced apartment lobby from the lower ground floor to the ground floor.
- Relocation of the hire room from the ground floor to the lower ground floor.



- Provision of two lifts to service the serviced apartments on Levels 1 – 5 and the introduction of two cores for residential component on Levels 5 - 21. Each core is proposed to be serviced via two lifts.
- A reduction in the number of storeys, from 23 to 22, representing a decrease in the overall height from RL 149.7 to RL 146.7 to the top of the plant screen parapet.
- An increase in the rear setback from 6m to 9m on Levels 6 - 21.
- An increase in the north (side) setback from 5.6m to 9m associated with the residential levels towards the middle of the site.
- Reconfiguration of the apartment levels to remove the single aspect south facing apartments and their replacement with cross-over apartments.

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 (Z Cvetkovic) has assessed the proposed development and advised of suitable standard and site specific conditions relating to damage bonds, excavation, dilapidation reports of adjoining properties, construction management plan, vehicular crossing requirements and stormwater management.

### **Landscaping**

Council's Landscape Development Officer (B Smith) has advised as follows:

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

- In relation to the proposed removal of trees within the property including the access handle I support the removal of the trees as proposed of various reasons including their health, age, condition, damage to property or adjacent properties or design considerations .
- The Crepe Myrtle is growing adjacent to the western boundary appears to be retained on the demolition plan, however on the Landscape Plan it is shown as removed.
- The removal of the Liquidambar growing in the access handle along the western boundary is necessary to successfully provide appropriate vehicular access and egress for the property.

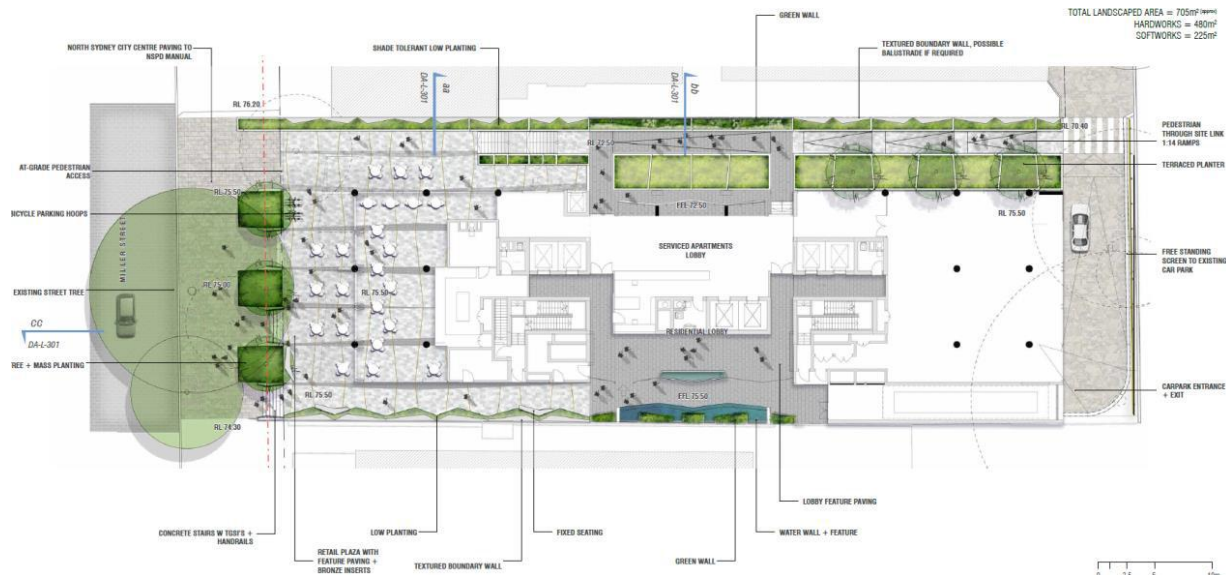
However the ability to retain the trees along eastern boundary will at least preserve some of the amenity values the avenue of existing trees provide to the neighbouring properties.

- The Crepe Myrtle growing adjacent to the western boundary along the Miller Street frontage of the property plays a role in the streetscape and provide local amenity value and its retention is not any great impediment to the re-development development of the site. The tree is not large enough to be covered by Councils T.P.O and can be removed without Council Permission.
- The Crepe Myrtle tree does provide streetscape value along with the numerous number of other mature trees growing in the existing soft landscape area between the existing building and the Miller Street frontage.
- The drainage plans clearly indicate that the removal of the Crepe Myrtle will be necessary.
- The Landscape Plans indicate the provision of two new feature trees at the front of the property in raised planter boxes. In between the trees and to the south side of the southern tree is proposed to build stairs to provide pedestrian access to the property and egress from the property.
- The relationship between the existing footpath levels outside the property and of the property itself is relatively similar thus indicating that the provision of garden beds and pedestrian access to the site could be reasonably managed without the need for steps.

In conclusion I will support the removal of trees on the property as proposed provided that within the 5 metre setback from the boundary the area is predominantly reserved for the planting of trees in a soft landscape setting whilst also providing appropriate pedestrian access to the site.....

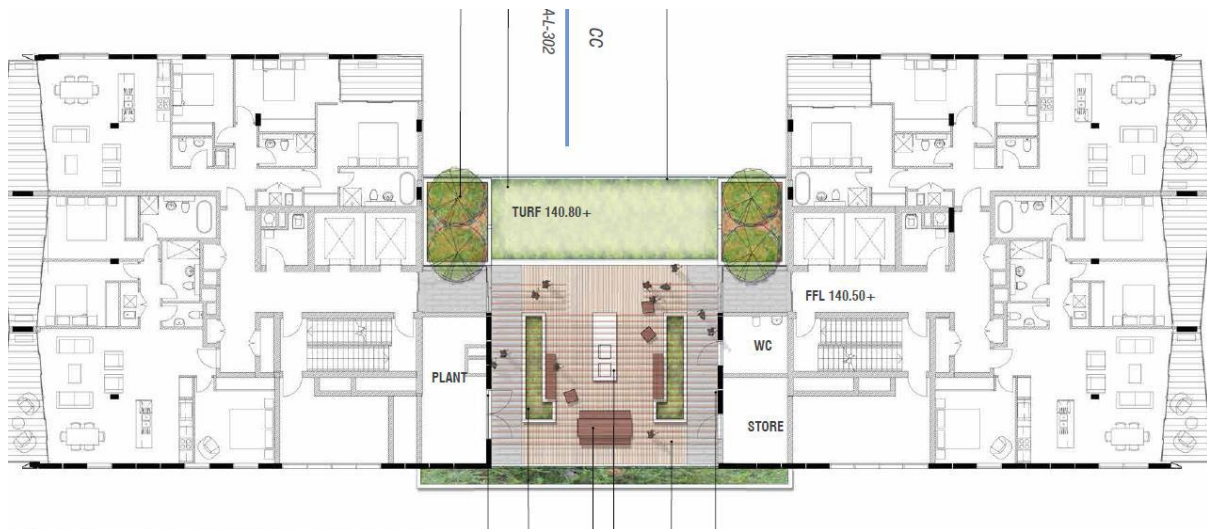
#### Comment:

The amended landscape design incorporates three trees and mass planting towards Miller Street. In addition the pedestrian east-west through-site link comprises terraced planters, mass planting, a textured boundary wall and a green wall, which all serve to enhance the amenity of this space.



A north facing common open space area of 213sqm will be provided on Level 21 for use by residents of the apartments. This area incorporates BBQ facilities, a raised lawn area, fixed and moveable furniture, in addition to a timber pergola. Tree planting is proposed to the north of the roof terrace and climbers are proposed to the pergola.





## Traffic/Parking

Council's Traffic and Transport Engineer has provided the following comments:

I refer to your request for traffic comments on the proposed development at 221 Miller Street North Sydney (DA 256115). I have read the Traffic and Parking Assessment Report prepared by GTA Consultants dated 10 July 2015.

### Existing Development

The subject site at 221 Miller Street North Sydney currently has a 15 storey commercial building with onsite car parking provided in its basement which can be accessed via a 6.2 m wide driveway handle to McLaren Street. The site has a total area of 2,485m<sup>2</sup> inclusive of handle or 2,007m<sup>2</sup> excluding the access handle.

### Proposed Development

In April 2013 a development approval was granted for a mixed used development comprising of a 21 storey building with 173 residential units, 4 floors of commercial office use, ground floor retail outlets and 5 levels of basement car parking for 139 vehicles. The current proposal is to modify the previous approval by provision of serviced apartments, residential apartments and ground floor retail through a new development application.

### 1. Projected Traffic Generation

#### a) Existing Site Traffic Generation Potential

GTA Consultants undertook a survey of the existing site traffic generation by observation during AM and PM peak in June 2015. The survey indicated the following:

- AM Peak Hour: 30 vehicles/hour
- PM Peak Hour: 25 vehicles/ hour

It was also noted that the parking spaces were fully utilised despite building not being fully occupied.

#### b) Road Network Operation

In their report the GTA consultants confirmed by way of observations the results of a SIDRA intersection analysis undertaken by another consultant for a different site (211 Miller Street).

The results show the following results:

- Miller Street/McLaren Street intersection the delay was 17.7 seconds/vehicle showing the level of service in category B in AM peak and 72.4 seconds/vehicle giving service level A.
- Walker Street/McLaren Street intersection indicated delays of 8.8 to 10.4 seconds/vehicle for PM and AM peaks respectively giving a category A service level.

The above results indicate that the intersections surrounding the site operate satisfactorily in both AM and PM peak hours. I concur with the results.

### c) Access to Public Transport

The development site is within a walking distance of approximately 650 metres from the North Sydney railway station. Also Miller Street is well serviced by buses and taxis. Consequently it is not unreasonable to accept that the proposed development site is considered to be well located with regard to good access to public transport services.

### 2. Traffic Generation Implications

Considering the RMS's traffic generation rates for high density residential developments in which residential apartments generate in the order:

- AM peak hour: 34 vehicle/hour
- PM peak hour: 27 vehicle/hour

The above rates do not reflect the relatively low rates of parking provisions for this site. With 7 car parking spaces being allocated to non-residential uses, the total number of vehicles accessing the car park is estimated in the order of 30-40 per peak hour which are close to the existing flows. This suggests that the Traffic Generation Impacts of the new development are minimal especially considering other means of transport such as buses, trains, cycling and walking.

In summary I concur with the Consultant that the Impact of Traffic Generation due to the proposed development will have a minimal impact on the current traffic conditions.

### 3. Onsite Parking Provisions

#### Parking Provisions for the Proposed Development

The proposed onsite parking provision and DCP requirements are set out below

Type of Parking	Proposed by Developer			North Sydney Council DCP 2013 Requirement	
	Off-street	On-street	Total		
Shop top housing( Studio & 1 bedroom)	44	0	44	0.5 space / 1-2 bedroom for 88 dwelling= $88 \times 0.5 = 44$	44
3 Bedroom dwellings	92	0	92	1 space/ apartment for 92 of 2 bedrooms dwellings = $92 \times 1 = 92$	92
Car wash	1	0	1	(min of 1 space)	1
Serviced Apartment	3	0	3	1 space per 5 apartment for 105 $105 \times 1/5 = 21$	21
Retail outlets	2	0	2	1 space/50 m <sup>2</sup> for 203 m <sup>2</sup> = $203 \times 1/50 = 4$	4
Car Share		0			
<b>Total car parking</b>	<b>114</b>	<b>0</b>	<b>114</b>	<b>Car Share to be added to this score</b>	<b>162+</b>

The proposal includes 27 Adaptable Housing parking spaces and 11 Motor Bike parking spaces as per the DCP 2013.

However, the parking provision of 114 parking spaces proposed by the applicant is significantly less than the parking requirements of 162 spaces as per the North Sydney DCP 2013. The applicant's Traffic Engineer justifies this difference quoting North Sydney Council's DCP clause 10.2.1 suggests parking provisions significantly below maximum rates specified in Table B 10. I in the DCP will only be considered if the development has good access to public transport; due to the unmet onsite parking demand may have on surrounding residential street, if viable alternative transport modes are not available.

While the proposed development site has access to public transport modes, proposed provision of

114 spaces are 30% less than the DCP requirement and are not supported. As a consequence, Council would support the following:

**TABLE (A)**

Type of parking	Proposed by Developer	North Sydney Council Requirement
Shop to housing	44	44
3 bedroom dwellings	92	92
Car wash	1	1
Serviced Apartment	3	10
Retail outlets	2	3
Car Share		2
<b>Total Car Parking</b>	<b>114</b>	<b>147</b>
<b>Motor Bikes</b>	<b>11</b>	<b>11</b>

#### Conclusion

The traffic aspects of this development will be considered compliant subject to Table A and should Council decide to approve this development, the following should be included:

- Disabled parking to be provided as per Council's DCP and 452890.6 2009
- The applicant is to provide a Construction Traffic Management Plan prior to Construction Certificate is issued by Council.
- No driveway for entry/ exit is to be provided from Miller Street

#### Comment:

The amended plans provide for the following:

##### CAR PARKING

RESIDENTIAL	NO. APTS	MAX DCP RATE	CLASS (AS 2890.1)	REQUIRED	PROVIDED
STUDIO	27	0.5	1A	14	0
1 BR	71	0.5	1A	36	0
2 BR	76	1	1A	76	96
3 BR	9	1	1A	9	9
NOTE: INCLUSIVE OF 27 ADAPTABLE SPACES (15% AS PER NS DCP 2013)			SUB TOTAL	135	104
CAR WASH BAY			SUB TOTAL	1	1
			TOTAL	136	105

	NO. ROOMS	MAX DCP RATE	CLASS (AS 2890.3)	REQUIRED	PROVIDED
SERVICED APARTMENTS	100	1 PER 5 APTS	2	20	1
NOTE: INCLUSIVE OF 1 ADAPTABLE SPACE (NS DCP 2013 12.4.3 P1, Table 3.2 BCA Class 3)					
CAR SHARE		N/A			2
GFA (m <sup>2</sup> )					
RETAIL	203	1 PER 50m <sup>2</sup> GFA	1	4	2
				TOTAL	24
					5

##### MOTORCYCLE PARKING

	MAX DCP RATE	REQUIRED	PROVIDED
RES/ APT	1 PER 10 CARS	14	13
		TOTAL	14
			13

The amended proposal provides 104 spaces for 183 apartments and only 1 space for 100 serviced apartments. Having regard to the close proximity to North Sydney Station and even closer to the proposed station (corner of Miller Street and Berry Street); Council could accept less spaces than the maximum permitted. These spaces should be allocated at one space per 2 or 3 bedroom apartment = 85 spaces with the 20 remaining spaces being allocated at 6 spaces for the 100 serviced apartments and 14 spaces for the 14 adaptable 1 bedroom apartments. The applicant also proposed 2 car share spaces on site that will be used by a number of the residential apartments that does not have a car. The motor cycle parking and bicycle parking are compliant.

## **DESIGN EXCELLENCE PANEL**

The development application was before the Panel on 8 September 2015 and the minutes of the meeting are reproduced as follows:

### **Details of Proposal**

The subject property is located on the eastern side of Miller Street, south of McLaren Street at the northern end of the North Sydney Centre. Currently occupying the site is multi storey commercial building. The surrounding development consists of similar sized commercial and residential buildings. The site is a rectangular shaped allotment, with the exception of a 6.12m wide access handle from McLaren Street. The site has a total area of 2,485m<sup>2</sup> inclusive of the access handle or 2,007m<sup>2</sup> excluding the access handle.

This is a development application to be determined by the Joint Regional Planning Panel. The proposed development is summarised as follows:

- Demolition the existing building on the site and construct a 23 storey mixed use development.
- Basement car parking accommodating, plant and servicing equipment, with access provided via the access handle from McLaren Street.
- A dedicated serviced apartment lobby at the lower ground floor with associated port cochere with access for drop-off/pick-up vehicle access provided via a one way driveway from Miller Street.
- Ground floor plaza incorporating a pedestrian through site link towards the northern boundary and an active retail tenancy fronting Miller Street.
- Residential lobby and communal open space provided at the ground floor.
- 102 serviced apartments within Level 1-5 of the building,
- 180 residential apartments of varying configurations and sizes within Levels 6-22

### **Background**

Development consent (DA.437/12) was granted on 3 April 2013 for the redevelopment of the subject site involving the demolition of the existing building and the construction of a 21 storey mixed use development, comprising residential, retail and commercial uses accommodating 173 residential units, 4 floors of commercial office use, ground floor retail tenancies and 5 levels of basement car parking for 139 vehicles.

The site is zoned B4 Mixed Use under NSLEP 2013. The height standard in the LEP is RL 140. The LEP requires a minimum 3:1 non-residential FSR. The LEP requires a 5m setback be provided to Miller Street, with no structures above a height of 1.5m permitted in this setback area.

The applicant had a pre lodgement meeting with the Design Excellence Panel on 23 June 2015. The

plans presented to that meeting are similar to the current application other than the treatment of the through site link and landscaping. The serviced apartments and residential tower and its setbacks remain the same.

The applicant, Yuhu (Australia) wished to discuss the following matters prior to proceeding with the detailed design:

- The location of the east-west pedestrian through site link;
- The rear building setback (eastern boundary);
- Overall height of the proposal;
- Provision of serviced apartments for the non-residential component;
- Secondary vehicle access from Miller Street; and
- Treatment of the public realm fronting Miller Street and the inclusion of an awning within this setback area.

The Panel responded with the following comments:

*The location of the east-west pedestrian through site link*

The Panel was concerned about the 'public access' because the sight lines and planting are such that the access appears more private than public and will read as cars only. A good example of a publicly accessible link with driveway and drop off adjacent is the Sydney Hilton through site link. The sightlines for the pedestrian link are direct with minimal interruptions. The line of sight would be improved with the removal of landscaped planters as well as increase the safety. The Panel requested a series of cross sections through the driveway along its length and building to better understand the levels involved and a longitudinal section to also check sight lines. The Panel noted that the view presented was looking up the drive way not up the pedestrian path. The Panel had no issue with the public through site link being on the northern side. Public access should be continued across the whole of the access handle to link to McLaren Street and Council's Ward Street site.

*The rear building setback (eastern boundary)*

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

*Overall height of the proposal*

The Panel does not have an issue with height provided it can be adequately supported with a Clause 4.6 variation as it is two floors over the height control at RL140. This is a matter for Council to consider with regard to impacts on surrounding sites and being consistent with context with existing and desired character of area.

*Provision of serviced apartments for the non-residential component*

The provision of serviced apartments is a matter for Council to be satisfied. The amenity of the serviced apartments would not be appropriate to satisfy SEPP 65 standards and could therefore not be converted or separately strata titled. Note also that sufficient front and back of house facilities are required for the proper operation of a serviced apartment facility. The layout of the serviced apartments within the podium level should be flexible to allow conversion to office or other non residential uses should the serviced apartments fail. Separate lobby and lift access

is required from the residential apartments. The drop off provision to the lobby is usually provided for hotels rather than serviced apartments as hotels generally would have greater turnover in guests, and the Panel expressed concern about the potential conflict of traffic with pedestrians and how this is intended to be resolved.

#### *Secondary vehicle access from Miller Street*

As advised by Council, approval from RMS is required. The Panel raised concern with the creation of a driveway across the Miller Street footpath that has considerable pedestrian traffic as well as its impact on the Miller Street public domain.

#### *Treatment of the public realm fronting Miller Street and the inclusion of an awning within this setback area.*

The Panel raised concern with the blade walls and landscaping protruding into pedestrian access. There is a desire to read Miller Street as a part of the CBD public domain strategy with consistent paving treatment between private and public spaces. The width of the "at grade" connection between planter and driveway wall should also be maximised providing a generous entry. Currently the landscape design forms a 'wall' to the building when viewed obliquely up the street. The Panel considers that the landscape design is too complicated given the complexity of the topography and the need for simple benching on Miller Street so that the building relates to the street as a whole.

#### *Other concerns*

The units proposed in the centre opposite the lift core were of great concern to the Panel, as their apparent setback of 5.2m from the boundary is well under the Apartment Design Guide considerations, and will clearly result in a very poor environment for the units. The amenity is further diminished by being directly above a driveway. There will be acoustic issues from the driveway but potentially also from any towers to the north or south if there is such a reduced level of separation. The south facing apartments also do not have adequate separation from adjacent development and is well under the Apartment Design Guide considerations, and will clearly result in a very poor environment for the units. There needs to be a total reappraisal of the floor layout to reach an acceptable standard of design.

The development application was lodged with Council on 15 July 2015. A series of section and elevation diagrams have been included to demonstrate that clear sightlines are provided through the through-site link. The landscape treatment to Miller Street has been modified so that clear unobstructed pedestrian access is provided from the boundary to the through-site link. As suggested the landscaping has been modified to provide for a 'cleaner' and 'simpler' design.

The Panel and Council Officers inspected the site prior to the meeting. The proponent provided a presentation to the Panel and was available for questions from the Panel.

### **Panel Comments**

The Panel's comments relate to the key issues or concerns with the proposal.

The provision of only two lifts for 180 apartments is not supported. The previous approved developed provided 4 lifts for 173 apartments. The ADG recommends the maximum number of apartments sharing a single lift to be 40 apartments.

South facing units proposed on the residential levels with a 3m setback to the side boundary are not supported. The separation distance or side boundary is well under the recommended side and rear setback under ADG (9m – 12m). The JRPP previously allowed a 3m setback to bedrooms and not living areas on this site with no south facing apartments. South facing apartment living areas should only be accepted when fronting a street or lane and not a side boundary unless the full required



setback is provided.

The units proposed in the centre opposite the lift core with a setback of 5.2m from the northern boundary is well under the Apartment Design Guide considerations, and will clearly result in a very poor environment for the units. The previous consent allowed a greater setback and adoption of a similar envelope and layout would resolve the concerns.

A 6m setback to the rear eastern boundary with living areas facing east is well under the 12m recommended in the ADG. A 9m setback was acceptable under the previous scheme. This would allow for future development to the east and set a reasonable setback for development of 229 Miller Street to the north. The Panel considered the rear access as similar to a lane and noted that development fronting lanes would normally have a minimum 9m setback from the centre of the lane.

The creation of a driveway across the Miller Street footpath is not supported due to conflict with considerable pedestrian traffic as well as its impact on the Miller Street public domain. The RMS has refused its concurrence so the vehicle access should be deleted. It is noted that access is still available at the rear for a drop off area at the eastern end of the proposed driveway, and the applicant advised that the rear access would adequately cater for vehicle movements in and out of the building. Also there is an existing taxi rank in McLaren Street opposite the vehicle access to the site.

A height standard of RL 140 applies to the site. The maximum height of the development is RL 149.7. The proposal breaches the height control by 2 residential levels. The previous consent was height compliant. There does not appear to be any sufficient environmental planning grounds to support such a variation. The height controls are detailed for all sites within the CBD and the LEP is quite recent. Such a variation should be the subject of a planning proposal for Council to consider if a change to the height controls within the surrounding area is warranted.

There was concern that the serviced apartments are proposed to have mechanical ventilation only with no openable windows.

The landscaped pedestrian link is supported without the vehicle access to Miller Street.

Provision for a north facing communal roof terrace was seen as a positive aspect, but given the large number of units and limited access to sun and views, it was felt that an extension of this would be appropriate to create outdoor space more aligned with the development's future population and able to share the significant views east and south to the harbour.

The proposed materials and finishes were supported.

## **Conclusion**

The application needs to be amended to overcome the above issues. The previous proposal was considered to be much better with regard to amenity and side/rear setbacks. The application is not supported.

Comment:

The amended plans have fully addressed the issues raised by the DEP as detailed previously. The amended plans were presented to the Panel at its meeting of the 8 December 2015 and the Panel was satisfied with the applicant's response.

## **EXTERNAL REFERRALS**

Roads and Maritime Services has reviewed the application and advised:

Roads and Maritime has reviewed the proposal for a new driveway access to Miller Street, and advises that current practice is to limit the number of vehicular conflict points along the arterial road network to maintain network efficiency and road safety.

This current practice is reflected in Section 6.2.1 of Roads and Maritime current publication of the Guide to Traffic Generating Developments, which states 'access across the boundary with a major road is to be avoided wherever possible'.

In addition to the above, the Australian Guidelines 'Planning for Road Safety' is based on the widely accepted principle of conflict reduction by separating the traffic movement and land access functions as much as possible.

Friction along arterial roads is reduced by limiting the number of driveways and intersections on arterials and highways of through traffic is of great importance.

As the site has an alternative vehicle access to McLaren Street, Roads and Maritime will not grant concurrence under Section 138 of the Roads Act 1993 to a proposal for a new driveway access to Miller Street.

The applicant has amended the proposal to delete the proposed vehicle access to Miller Street and will rely on the existing access to McLaren Street.

#### Ausgrid advised:

.....A review of the development has been undertaken in relation to potential impacts or interfaces with Ausgrid's electricity infrastructure. Ausgrid has identified 132,000 volt cables and 33,000 volt cables, which reside within the property proposed for demolition.

Typically a development demolished or built close to Ausgrid's infrastructure requires Ausgrid to provide significant ongoing guidance, which requires a cost and resource commitment by Ausgrid.

Ausgrid requires that Council make it a condition of consent that the Yuhu Group (Australia) Pty Ltd (Proponent) enter into a "Contractual Agreement" with Ausgrid, to allow Ausgrid to recover these costs.

In general, Ausgrid will provide consent to the development provided that the Proponent meets the following conditions (as applicable):

- i. confirmation of the location and status of existing Ausgrid infrastructure;
- ii. confirmation of any infrastructure which requires relocation;
- iii. provision of a design taking into consideration electric and magnetic fields (EMF), stray currents and induction associated with Ausgrid's infrastructure;
- iv. agreement on appropriate work methodologies and risk mitigation actions for works in the vicinity of Ausgrid's infrastructure (including, and not limited to vibration); and
- v. provision of evidence outlining that the proposed development has no impact to the safe operation and maintenance of Ausgrid's infrastructure.

Ausgrid would like to advise the Council and the Proponent that Ausgrid reserves the right under the Electricity Supply Act (1995) to intervene in any cases which risks interference with or could impact the safety of Ausgrid's infrastructure.....

#### Sydney Water has reviewed the application and provides the following comments:

.....We have reviewed the application and provide the following comments for your consideration:

Water

- The drinking water main available for connection is the 150mm main on the eastern side of Miller Street.
- Drinking water amplifications may be required in accordance with the Water Supply Code of Australia WSA 03-2011-3.1 (Sydney Water Edition -2012)
- Detailed drinking water requirements will be provided at the Section 73 application phase

#### Wastewater

- The wastewater main available for connection is the 225mm main traversing through the property.
- The proposed development site is traversed by a 225mm wastewater main. 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.
- Detailed wastewater requirements will be provided at the Section 73 application phase....

## SUBMISSIONS

The application was notified to the Edward, CBD and Union precincts and surrounding owners and residents in accordance with Council policy. Three submissions were received as follows:

PA Studio  
Suite 11, Level 2  
20 Young Street  
Neutral Bay

.....we have recently submitted a Section 96 Application for number 231 Miller Street. This site is located in close proximity to the north of the subject site.

In general we have no comments to make with regards to the development that is currently proposed, however there are a couple of issues that we would like to raise with Council, as outlined below.

The rear (eastern) setback that is currently proposed is 6m from the property boundary. The approved building on the site allows for a 9m setback. We note that the current proposal is to reduce this setback to 6m. This will potentially create an inconsistent building line along the access handle at the rear of the site, and will also potentially compromise the dimensions and the character of the pedestrian through-site link which we understand will, in the future, connect Miller Street and McLaren Street to Berry Street via Ward Street. We believe that it is important that the opportunity for this through-site link to be implemented is maintained.

The proposed 6m setback will also create quite a narrow distance between the building and the Council car park site, which is likely to undergo redevelopment in the near future. A reduced setback on the subject site may potentially restrict development on the car park site, as the greater setback would need to be provided on that site to compensate for the reduced setback being proposed on the 221 Miller Street site. We believe that the approved 9m setback is more appropriate, as it would provide for a greater level of privacy and amenity for future residents.

Piper Alderman Lawyers  
Level 23  
Governor Macquarie Tower  
1 Farrer Place  
Sydney

On behalf of Strata Plan 56005 (237 Miller Street):

.....Our client has two important concerns in respect of the DA which it sees as presenting.

First, from experience, and from direct observation of recent developments in the North Sydney precinct, trucks intended to service properties the subject of development applications arrive well prior to the approved commencement time and inevitably emanate very loud noise. The noise is a product of both the trucks themselves as well as workmen preparing for commencement (which often includes preparing machinery and tools, again producing a high volume of noise).

Given that the DA in this instance proposes ingress to the site via the laneway adjacent to 39 McLaren Street, this has the potential to create an extreme amount of pre-commencement noise in what is primarily a residential area.

We therefore strongly suggest that Council propose development consent conditions which prohibit use by the applicant, its servants or agents of either McLaren Street or the laneway for parking or at any time. It will be completely unacceptable in our view for early-arriving vehicles to park on McLaren Street, in particular, and create noise. While Council always stipulates commencement hours on any development consent, in almost every instance loud noises are created well before the schedule start time and residents in McLaren and Miller Sts have found this utterly unacceptable in recent months.

Second, access to the underground parking for the subject site will result in a significant increase in traffic down the rear lane behind 39 McLaren St. This will result in a volume of traffic that is most likely well in excess of what the lane can structurally and physically handle. Ingress via Miller St should be considered or, alternatively, the applicant should fund a re-development of the laneway.....

J.G. Koch  
1201/39 McLaren Street

..... wish to object to any plans that involve access to the site of 221 Miller Street North Sydney through the lane that runs between our building & number 41 McLaren Street. Part of that laneway is owned by our building & rights of way are held over the rest.

It is completely inappropriate that the laneway is modified to enable access beyond the current arrangements as it will result in unsafe access into & out of our building. Additionally, expansion of the use of the lane will add to the hazards experienced by pedestrians on the lane.....

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

J.G. Koch  
1201/39 McLaren Street

Wish to repeat my objection to one aspect of the proposed development-the apparent plan to access the building site via the laneway between our building (39 McLaren St) & the adjoining building (41 McLaren St). As I understand it the plan includes demolition of the beautiful trees on the Middle of the lane.

My primary objection to the proposed access is that it would result in a dangerous situation for cars exiting our building. The laneway is also used by pedestrians & the plan will result

in increased danger. There would also be an increased hazard for pedestrians on McLaren Street.

My secondary objection is that the proposed demolition of the trees in the centre of the lane would seriously damage the environment. It would appear that the obvious access to the site should be via Miller Street as was the case with the recent Meriton development on Miller Street.

## 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.146.7 to the top of the plant screen parapet and RL.144.1 to the top of the uppermost level of residential accommodation on Level 21	RL 140m AHD	NO
Non Residential Floor Space (Cl.4.4a)	3.04:1	Minimum 3:1	YES
Overshadowing of dwellings (Cl.6.3 (1) (c))	The proposal has no detrimental shadow impacts upon any land zoned R2, R3, R4 of RE1 or land identified as a Special Area, with any shadow impact due to the proposal falling within existing shadows.	Variation permitted	YES
Overshadowing of land (Cl.6.3 (2) (a) and (b))	The diagrams demonstrate that the development will have no net increase in overshadowing between 12 pm and 2 pm on the land marked 'Special Area' on the North Sydney Centre Map. The proposal will not overshadow Don Bank Museum.	Variation permitted	YES
Minimum lot size (Cl.6.3 (2) (c))	2007m <sup>2</sup>	1000m <sup>2</sup> min.	YES
Setback to Miller Street (Cl.6.4)	The proposal provides an awning with a height greater than 1.5m above existing ground level within the front 5m of the subject site and provides a landscaped setting within that 5m setback	5m setback to allow for landscaping and access	NO, can be conditioned to delete awning. Clause 4.6 request received it vary height

## DCP 2013 Compliance Table

<b>DEVELOPMENT CONTROL PLAN 2013 – Part B Section 2- Commercial and Mixed Use Development</b>		
	<b><i>complies</i></b>	<b><i>Comments</i></b>
<b>2.2 Function</b>		
<b>Diversity of Activities</b>	Yes	The proposal satisfies these requirements with the lower v levels suited for retail. Residential uses are located above the non-residential uses and no blank walls are proposed facing street. Appropriate accessibility is provided in all communal residential areas and non-residential uses at ground level and residential above.
<b>Maximise Use of Public Transport</b>	Yes	The proposal satisfies these requirements, proposing less parking than permitted and making appropriate provision for bicycle storage as well as providing a shower for end of trip usage. Parking for apartments is below the maximum required.
<b>Mixed Residential Population</b>	Yes	<p>Studio 10%-20% = 27 (15%)            1 Bedroom 25%-35% = 71 (39%)            2 Bedroom 35%-45% = 76 (42%)            3 Bedroom 10%-20% = 9 (5%)</p> <p>As can be seen, the proposal is generally compliant with the above required development mix. Notwithstanding the minor variation to the standard, it is considered that an appropriate mix of dwelling types and sizes is provided.</p> <p>A minimum of 15% of dwellings are to be adaptable housing under the provisions of the DCP and 28 adaptable apartments are proposed, with 14 x 1 bedroom and 14 x 2 bedroom apartments.</p>
<b>2.3 Environmental Criteria</b>		
<b>Awnings</b>	No	Requires the provision of a continuous 2m wide awning, however in the circumstance where the building is setback 5m from Miller Street it is not appropriate to provide an awning. The proposed awning within the 5m setback can be conditioned to be deleted.
<b>Solar Access</b>	No	<p>Requires development in the Central Business District to comply with the height and shadowing requirements of clauses 4.3 and 6.4 of the LEP. These clauses have been addressed below.</p> <p>The provisions require spaces to be created between taller buildings to allow daylight penetration, for setbacks to be provided between buildings above podium level and to avoid apartments with only southerly orientation. The proposal provides a setback above the podium to the street façade and the</p>



		eastern façade. The proposal has no apartments that are solely oriented to the south. 62% of apartments should receive 2 hours of sunlight.
<b>Views</b>	Yes	The proposed building will change the outlook of adjacent buildings. The views are affected by the compliant part of the building and not where the height control is exceeded. Current views are not from living areas.
<b>Visual Privacy</b>	Yes	Requires buildings to be designed to avoid direct or close overlooking into windows, balconies or private open space of adjoining dwellings. The plans demonstrate that adjoining windows and balconies have been appropriately screened.
<b>2.4 Quality built form</b>		
<b>Context</b>	Yes	The building is in context with surrounding development.
<b>Setback</b>	No	Setbacks are to be provided in accordance with the character statement, with setbacks to consider the setbacks of adjacent buildings. A zero front setback is to be provided for the podium unless a character statement requires an alternate setback. The LEP requires a front setback of 5m from Miller Street that has been provided. The podium is setback 3m from the side boundaries and 6m from the rear boundary. The character statement requires adequate setbacks above the podium to provide for residential amenity. The DCP adopts the RFDC (now ADG) separation distances between buildings that cannot be complied with due the narrowness of the site and existing setbacks of adjacent buildings. The setbacks for the residential tower include a minimum of 9m from the side and rear boundaries for living areas and balconies. The setbacks are consistent with the previous recent consent and are acceptable to the Design Excellence Panel and are considered appropriate.
<b>Podiums</b>	Yes	Requires podiums to be provided as required in the character statement and for podiums to match adjoining buildings. Satisfactory.
<b>Building Design</b>	Yes	Requires floor to ceiling heights of 3.3m at ground and first floor and 2.7m at upper levels and requires facades to be appropriately articulated. The lower ground level contains non-residential floor space and has a floor to ceiling height of 2.7m. The ground floor has a floor to ceiling height of 3.7m. The building contains serviced apartments and then residential apartments at the upper levels which have floor to ceiling heights of 2.7m, complying with the control. The facades of the development are appropriately articulated by the provision of the podium and materials and accepted by the DEP.
<b>Balconies - Apartments</b>	Yes	Requires balconies to be incorporated within the envelope and not be located on roofs, podiums

		or be cantilevered. The proposal is compliant with the requirement.
<b>Entrances and Exits</b>	Yes	Satisfactory
<b>2.5 Quality Urban Environment</b>		
<b>Accessibility</b>	Yes	Satisfactory
<b>Safety and Security</b>	Yes	Visible entry to building on both sides. Retail space provide for surveillance.
<b>High Quality Residential Accommodation</b>	Yes	The controls require that apartments generally have the following minimum sizes and corridors are to have a width of 2m and have no more than 10 dwellings accessible from a single common lobby. The maximum depth of a habitable room from a window is 10m and apartments are to have a minimum width of 4m. Studios 40m <sup>2</sup> 1 bed 50m <sup>2</sup> 2 bed 80m <sup>2</sup> 3 beds 100m <sup>2</sup> The proposal provides 1.8m wide corridors, but no more than 6 dwellings, they are considered to be of appropriate width. The design provides for minimum apartment widths of 4m, The apartments comply with the minimum size requirement of ADG.
<b>Vehicular Access</b>	Yes	No direct access permitted from Miller Street. Access provided via access handle from McLaren Street
<b>Car Parking</b>	Yes	Parking provided and under the maximum permitted. See comments under traffic.
<b>Garbage Storage</b>	Yes	Garbage chute provided with compactor.
<b>2.6 Efficient Use of Resources</b>		
<b>Energy Efficiency</b>	Yes	Basix certificate submitted
<b>Natural Ventilation</b>	Yes	Satisfactory within development.
<b>Green Roofs</b>	Yes	Communal space and non trafficable green roof provided

## NORTH SYDNEY LEP 2013

### Permissibility within the zone

The proposal is permissible with consent under the B4 Mixed Use zoning as retail on the ground level with service apartments and shop top housing above.

### Zone B4 Mixed Use

#### Objectives of zone

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To create interesting and vibrant mixed use centres with safe, high quality urban environments with residential amenity.*

- *To maintain existing commercial space and allow for residential development in mixed use buildings, with non-residential uses on the lower levels and residential uses above those levels.*

The design provides a flexible cafe/retail space, and residential apartments which are compatible uses with each other and surrounding land uses. The site is well located for access to public transport, being close to North Sydney Railway Station and being serviced by bus routes along Miller Street and Pacific Highway. The proposal is consistent with the objectives of the B4 zone.

### **Clause 4.3 Height of buildings**

Clause 4.3 sets a maximum height for buildings on the subject site of RL 140m AHD. The amended application proposes a building height of RL.146.7 to the top of the plant screen parapet and RL.144.1 to the top of the uppermost level of residential accommodation on Level 21. Level 21 now comprises communal open space and six apartments and the uppermost level comprises roof plant equipment and lift overrun and motor room. Accordingly, only part of one storey of residential floorspace is proposed above the height standard.

Clause 4.6 permits variations to development standards, of which the RL 140 height control is one, in order to provide an appropriate degree of flexibility in applying development standards and in order to achieve better outcomes for and from development by allowing flexibility.

The applicant has submitted the following written request:

In summary the proposed scale and visual impact of the proposal will be acceptable in the locality and provides an appropriate contextual fit between the buildings fronting Miller Street. The shadow cast by the proposed building envelope is generally consistent with the previous approval and will maintain a *State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development* (SEPP 65) compliant level of solar access to the residential property at 136-142 Walker Street to the southeast.....

.....The height variation is attributed to the redistribution of floorspace from the lower levels to the uppermost level. ....a generously proportion pedestrian through-site link from Miller Street is proposed. This will be made accessible 24 hours a day via an easement benefiting pedestrian access. We understand that Council would seek to redevelop the Ward Street carpark site in the future and may seek to link McLaren Street to Berry Street for improved mid block connectivity. To facilitate this connection, the proponent is willing to upgrade and dedicate this access handle to Council.....

.....The proposed variation to the Height of Building development standard will be in the public interest because it does not prevent the satisfaction of the B4 Mixed Use zone objectives (see clause 4.6(4)(ii)). Specifically, the proposal addresses each of zone objectives in the following ways:

- *To provide a mixture of compatible land uses.*

The proposal provides for a mixture of retail premises, serviced apartments and residential uses. All of these are considered compatible uses because the retail can service the other building uses and operating together they will not detract from the amenity the building provides.

- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

The proposal integrates retail, residential and other development in an accessible location being located within 700m of North Sydney Railway Station and on Miller Street which has a number of bus routes.

The proposal encourages bicycle usage through the provision of a compliant number of bicycle spaces for residents, guests, employees and visitors.

The dedication of a right of way and the rear lane to Council encourages walking and integration of current and future uses by permitting access from Berry and Ward Street to Miller Street and Pacific Hwy bus routes.

*•• To create interesting and vibrant mixed use centres with safe, high quality urban environments with residential amenity.*

The proposal creates vibrancy and interest by proposing a mix of uses in the mixed use centre and through the provision of an active ground floor and through site link. The through site link has been designed to maximise sightlines and satisfy CPTED principles make it safe and of high urban quality.

The dedication of the access handle to Council will facilitate a publically accessible link between McLaren Street and Berry Street, as part of the Ward Street carpark redevelopment.

The dedication of this link will provide great flexibility to Council in planning for pedestrian access through this street block adding to vibrancy and interest in the nearby vicinity and ensuring residential amenity is assured.

*•• To ensure the viability of centres.*

The provision of 100 serviced apartment units and 183 residential units with an active retail ground floor and thru site links will increase the permanent and transient population of North Sydney. This will in turn support the viability of the centre as a whole by creating demand for services in the centre and preventing site isolation.....

.....The development is generally consistent with the objects of the EP&A Act, in respect to the following:

••The site is located within an established urban and high density environment and is presently developed for commercial purposes. The redevelopment of the site for retail, serviced apartment and residential uses contributes to urban consolidation and may contribute to reducing demand to develop more environmentally sensitive lands.

••The delivery of new housing and jobs within an established urban environment located near public transport options without significant or unreasonable environmental impact is considered to be both orderly and economic use of urban land.

••The thru site link and dedication of the access way to Council promotes and enables Council to coordinate the orderly use of the land by enabling future pedestrian and vehicular connections and preventing site isolation.....

.....Compliance with the development standard is considered unreasonable and unnecessary in the circumstance of the application based on the following:

••The proposal is consistent with the objectives of the development standard as provided in clause 4.3 (1) of the NLEP 2013. Refer to discussion in Section 4.3 above.

••The height of building standard, adopted under clause 4.3 of the NLEP 2013 was informed by the North Sydney CBD Composite Shadow Line (Composite Shadow Line) that existed under the North Sydney Local Environmental Plan 2001 (NLEP 2001). Subclause 28D 2(b) of the NLEP 2001 required that there be no net increase in overshadowing of any land between the hours of 9am and 3pm, 21 June outside the composite shadow area. For this purpose a Composite Shadow Line was prepared to show the maximum heights permissible in light of the composite shadow control. The Composite Shadow Line was superseded with maximum RL building heights upon commencement of the NLEP 2013. Accordingly, the maximum building RLs were informed by the Composite Shadow Line. The proposal complies with the Composite Shadow Line which suggests the breach of the standard is not

unreasonable or unnecessary. The proposed variation is similar to the scope of the variation approved at 231 Miller Street, Sydney. This development was approved with an RL 132.33 to the roof of Level 18 (being the upmost level of residential accommodation), RL 135.22 to the top of the plant room/common room and RL 136.222 to the lift, exceeding the height standard of RL 130 by 2.33m, 4.22m and 6.22m respectively.

- The development proposes a maximum height of RL 144.1 to the roof of Level 21 (being the upmost level of residential accommodation/common open space) , RL 146.7 to the top of the plant room, exceeding the height standard by 4.1m and 6.7m, but not for the whole level

- ....., the proposal incorporates a generously proportioned through site link and rear set back, which allows for clear sightlines from Miller Street to the rear and vice versa. Consequently, floorspace lost as a result of the dual height through site link has been partially redistributed to the upper levels.

When compared to the approved scheme the proposal seeks to create a more slender tower form when viewed from Miller Street or the rear. This is achieved by providing 3m side setbacks to Levels 1–5. The floorspace that is foregone at the lower podium levels as a result of the setbacks and the generously proportioned through-site link is partially offset by relocating to the topmost residential level.

- When compared to the approved scheme the podium setback of 3m improves sightlines from Miller Street to the rear and vice versa and results in an improved amenity outcome for pedestrians using the through site link.

- Level 21, which exceeds the height standard comprises part communal open space, which will be available for all residents of the building. Given this level is located one storey above the maximum height of the building to the north (225 Miller Street), it will enjoy excellent solar access and regional views. The relocation of the common open space below the height standard would require additional screening and is likely to result in adverse privacy impacts for the residents of 225 Miller Street. Accordingly, the proposed height exceedance is considered a better planning outcome. The SEE demonstrates that any impacts associated with the proposed development are acceptable, particularly given there are no significant solar access impacts on residential properties when compared to the previous approval or a height compliant development. The proposal complies with Clause 6.3 of the NLEP 2013 in that there will be no net increase of the Miller Street (special area) between 12 noon and 2pm.

- The visual impacts associated with the additional height are negligible, particularly as the screened plant equipment is setback from the levels below. The setting back of these levels assist in providing for modulation in the roof form and improves visual interest when the site is viewed in a regional perspective.

- The setback from the northern boundary of 3m for the podium levels provides an improved separation between buildings when compared to the approved scheme. By contrast to the approved scheme, which provided a nil setback to the northern boundary for the podium levels, this proposal allows for views through the site. These changes are considered to be a better planning outcome than the development that was previously approved on this site.....

.....Yes, there are sufficient environmental planning grounds to justify the contravening development. These include:

- The proposed height is visually acceptable when viewed from the surrounding locality. The height of the new tower provides for an appropriate contextual fit, noting that it is likely to be less than the height of a future tower on the neighbouring site to the south, which is provided with a building height standard of RL of 150.

- The proposal is considered an improved planning outcome when compared to the previously approved planning outcome by providing a more slender tower through the introduction of 3m to 6m side setback to the northern boundary at the podium levels. Furthermore, the relocated eastwest

through site provides for enhanced sightlines and will achieve greater levels of natural light than the through site in the previously approved scheme.

- The proposal is in the public interest as it will provide a generously proportioned through site link along its northern boundary, which improves pedestrian connectivity within the North Sydney city centre. Furthermore, the proponent is proposing to dedicate the access handle to Council, which will assist with the future redevelopment of the Ward Street carpark site. The overshadowing associated with the height above the RL 140 standard has a negligible impact on surrounding properties and maintains a compliant level of solar access to residential properties (refer to shadow diagrams submitted with amended drawings).

- The solar compliance analysis prepared by PSN Matter .... demonstrates that when the residential buildings not part of the North Sydney CBD are excluded to allow a free extension of the shadow, there is no additional shadow outside of the Composite Shadow Line as a result of the increased height.....

..... Under Clause 4.6 (5)(b) there must be consideration of the public benefit associated with maintaining the development standard. If the standard was maintained, then such a high quality mixed use development that has an active, safe and functional through site link and dedication of land to Council for the future Ward Street car park redevelopment would not occur. That is, there would be no public benefit in applying the control strictly. Furthermore, as to consistency in approach in maintaining the standard, we note that the extent of the variation is consistent with the extent of previous approved variations. Appropriate built form design elements, visual analysis and consistency with the broader controls supports the view that there is public benefit in approving the variation and not maintaining the standard.....

.....Public interest or benefits will be achieved by the proposal (among other things) as follows:

- The proposal to dedicate the access handle to Council in fee simple will grant Council the control over this space which will assist in the redevelopment plans for the Ward Street carpark site and allow the orderly and integrated development of this land in the future.
- Through the introduction of an active through site link and public domain improvements this proposal will enhance pedestrian access through city centre generally.

These public benefits associated with the east-west link would not be achieved without flexibility given to the height control.....

The request is considered well founded. The increase in height does not provide any additional density as the 3m side setbacks of the podium and the minimum FSR requirement for non residential floor space impact on the residential density. The communal space is provided on the roof to the benefit of future residents. The through site link has an impact on the scale of the building and provides a public benefit. The variation is supported. There are sufficient environmental planning grounds, particular to the circumstances of the proposed development to warrant flexibility in the application of the development standard.

#### **Clause 4.4A Non-residential floor space**

The provisions of clause 4.4A set requirements for floor space for non-residential uses, in this case the non-residential floor space ratio must not be less than 3:1. The site has an area of 2007m<sup>2</sup> and as such the non-residential floor space is required to be a minimum of 6021m<sup>2</sup>. The proposal provides 6093m<sup>2</sup> (3.04:1) of non-residential floor space, complying with the control.



On 27 November 2015, Amendment No.10 to NSLEP 2013 was made and came into force. The key amendments that comprise Amendment No.10 are as follows:

- Amending the land use table to the *B4 Mixed Use* zone to permit 'residential flat buildings' with development consent;
- Inclusion of a new clause, that prevents development consent from being granted for a 'residential flat building' in the B4 Mixed Use zone, unless:
  - it forms part of a 'mixed use development'; and
  - no part of the ground floor of the building that is facing a street is used for residential accommodation;
- Removal of the maximum non-residential floor space ratio controls (minimums are to be retained);
- Excluding 'serviced apartments' that contain less than 50 serviced apartments from the calculation of a development's non residential floor space ratio.

As the number of serviced apartments proposed exceeds 50, the total floor space of the serviced apartments is included in the calculation of the development's non residential floor space ratio.

### **Cause 5.1 Heritage conservation**

The provisions of clause 5.1 address heritage conservation and require consideration of the impact of developments within the vicinity of items of heritage. The subject site is located within the vicinity of a number of items of heritage, opposite the site in Miller Street at Nos. 128 Miller Street (Monte Sant Angelo Group), 192 Miller Street, 196 Miller Street and 200 Miller Street (North Sydney Council Chambers and fountain) and to the rear at No. 41 McLaren Street (Simsmetal House). Whilst the subject site is within the visual catchment of all of the above items of heritage, it is not considered that the proposal will have a detrimental impact on the heritage items or their settings as the building proposed is of commensurate height and design to surrounding development.

### **Clause 6.1 Objectives of Division (North Sydney Centre)**

<b>Objective</b>	<b>Comment</b>
(a) to maintain the status of the North Sydney Centre as a major commercial centre	Proposal consistent with zoning
(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	No additional non residential floor space
(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 non residential gross floor area does not affect the 250,000m <sup>2</sup> limit. There will be a loss of some 1085m <sup>2</sup> non residential floor area.
(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	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 car parking on

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	site exceeding the maximum permitted.
(e) to encourage the provision of high-grade commercial space with a floor plate, where appropriate, of at least 1,000 square metres	Serviced apartments proposed
(f) to protect the privacy of residents, and the amenity of residential and open space areas, within and around the North Sydney Centre	Satisfactory.
(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	No impacts
(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	Not 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 provides for an appropriate transition of heights from the centre of North Sydney Centre to the boundaries.

*(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 height proposed has no adverse impacts upon any land zoned RE1 or identified as a Special Area.

*(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,*

The proposal has no detrimental shadow impacts upon any land zoned R2, R3, R4 of RE1 or land identified as a Special Area, with any shadow impact due to the proposal falling within existing shadows.

*(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 proposal provides a compliant podium at 5 storeys and as such provides for an appropriate "human scale" within the visual context of Miller Street. Awning not required due to 5m setback requirement.

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

The width of the subject site is large enough to ensure high grade commercial floor space and that the pedestrian through-link can be provided.

*(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*

The proposed building does not overshadow land zoned RE1 or any Special Area between 12pm and 2pm.

*(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 2007m<sup>2</sup> in area (excluding the access handle) 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.....*

The shadow diagrams provided with the application show that between 9am and 3pm at midwinter the shadows cast by the portion of the building that exceeds the height control will not reduce the amenity of any dwelling located on land outside the North Sydney Centre

*(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 scale, form and massing of the proposed development is reflective of the scale, form and massing of the adjoining buildings which have been developed recently and as such will sit comfortably within that setting.

*(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 proposal will complete this section of the streetscape of Miller Street (in conjunction with the recently approved building at No. 231 Miller Street). The scale is compatible with the surrounding buildings and the proposed materials and external treatments are appropriate for the setting.

#### **6.4 Miller Street setback**

*(1) The objective of this clause is to maintain the established setback and landscaped setting on the eastern side of Miller Street between McLaren Street and Mount Street.*

*(2) Development consent must not be granted for the erection of a building on land identified as "Miller Street Setback" on the North Sydney Centre Map unless:*

*(a) the building height will be less than 1.5 metres, and*

*(b) the part of the building that will be on that land is used only for access to the building or landscaping purposes.*

The proposal provides provides a landscaped setting within that 5m setback, complying with the control. An awning with a height greater than 1.5m above existing ground level within the front 5m of the subject site is proposed. The awning has a height of between 3.1m and 3.5m and is setback between 3.2m and 4m from Miller Street. The applicant has submitted a Clause 4.6 request for variation of the 1.5m height limit.

The applicant has submitted the following:

While the proposal seeks a minor variation to the numerical Miller Street setback standard, it is consistent with the objective of the control (Clause 6.4 (1) of the NLEP 2013) as outlined below:

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

The proposal will not compromise the objective from being satisfied given the building has been setback a minimum of 5m from Miller Street in accordance with the standard. As demonstrated in the Landscape Plan the setback area comprises landscape features, including high quality paving, seating, trees and ground cover plantings.

The awning is sufficiently setback from the existing streets trees and has been designed so that it will not compromise the canopy of the proposed trees.

The awning does not compromise the open landscaped quality that is intended along the Miller Street frontage.

.....the awning will not obstruct pedestrian movements or reduce the provision of landscaping.

The strict application of the Miller Street setback standard would compromise the façade design and potentially deter persons from using this space.

The proposed landscape character of the Miller Street setback area strikes an appropriate balance of landscaping that is open as well as providing an opportunity for outdoor dining that is weather protected with an awning.

Clause 4.6 (3) (b) of the NLEP 2013 requires that a proposed variation to a development standard must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard.

The following outlines the key reasons the proposed development is appropriate for the site and a departure from the strict application of the development standard is reasonable:

The proposed awning comprises glass, permitting solar access and natural light to penetrate the ground floor. Whilst the awning may generate some additional overshadowing, it is noted that this would be minor. The overshadowing diagrams demonstrate that there would be no net increase in overshadowing on the Miller Street (special area) between 12 noon and 2pm.

The awning provides for modulation to the façade and comprises high quality materials.

Under Clause 4.6 (5)(b) the consent authority must consider if there is public benefit associated with maintaining the development standard. Given the nature of the proposed variation, which will deliver a high quality mixed use development that provides for an active ground floor and through site link and weather protected outdoor seating to help activate the Miller Street frontage, there would no public benefit in applying the control strictly. The provision of an awning is considered to be in the public interest for the reasons outlined throughout this document.

The request is considered well founded. The awning will not prevent access or landscaping. The variation is supported. There are sufficient environmental planning grounds, particular to the circumstances of the proposed development to warrant flexibility in the application of the development standard.

## **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.....*

The existing buildings on the site have a total non-residential gross floor area of approximately 7,178m<sup>2</sup> and the proposal has a non residential floor area of 6,093m<sup>2</sup> resulting in a decrease over that which currently exists. There is no additional non residential floor space proposed and accordingly certification is not required.

## **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 primary design principles are discussed as follows:

### *Context*

The design addresses the Miller Street desired future character by providing activation at ground level with an open retail forecourt with pedestrian amenity via a new though the site link to the north and landscaped areas at ground. The proposed buildings scale, use and design will respond to the existing context and be consistent in character with the surrounding developments.

### *Built Form and Scale*

The site is surrounded by a mix of medium to high density mixed use residential and commercial developments. The overall building composition has been considered in terms of the existing and future development. The scale of the building provides opportunities for expansive city skyline views and appropriate for the site and context. The building is divided into four distinct elements via facade treatment and design; the base or ground level, the serviced apartments, the typical residential and the penthouses. The built form is consistent with the objectives of the development controls for the area.

### *Density*

The density proposed is consistent with the development standards established by the controls.

### *Sustainability*



The core principles of the proposal establish key sustainable factors that satisfy the SEPP 65 requirements for both natural cross ventilation and sunlight. A Basix Certificate has been submitted with the application. On site detention is proposed for stormwater management.

### *Landscape*

A Landscape Concept Design and detailed landscape proposal has been provided. The amended landscape design incorporates three trees and mass planting towards Miller Street. In addition the pedestrian east-west through-site link comprises terraced planters, mass planting, a textured boundary wall and a green wall, which all serve to enhance the amenity of this space. The majority of the through site link is accessible at-grade, with use of stairs limited. Accordingly, due to the gradient of the site, only one lift is required to be provided to meet accessibility requirements. The through site link provides clear sightlines and incorporates feature landscaping, ensuring it will be an attractive and safe link. A north facing common open space area of 213sqm will be provided on Level 21 for use by residents of the apartments. This area incorporates BBQ facilities, a raised lawn area, fixed and moveable furniture, in addition to a timber pergola. Tree planting is proposed to the north of the roof terrace and climbers are proposed to the pergola.

### *Amenity*

Apartments have been designed to allow for natural light and ventilation. The sizes of the residential units satisfy the minimum requirements of ADG. All balconies are orientated towards the road frontages or screened to minimise potential privacy impacts on surrounding residents and these have a minimum depth of 2m. The balconies facing north and east have a minimum setback of 9m.

### *Safety and Security*

The proposed design addresses safety and security requirements by providing ground floor lobbies for each residential and services apartments and are appropriately lit to provide access to persons with disabilities. The ground floor lobbies visually connect through north and south link of the site. Pedestrian access points to the building are available at clearly defined entries on Miller Street.

### *Housing Diversity and Social Interaction*

Smaller apartments without parking have been provided for the allowance of low to medium cost units located close to the CBD. The apartment design provides a mix of one, two and three bedroom dwellings that satisfies Council's DCP. Fifteen percent (15%) are capable of adaptation for access for all age groups and degrees of mobility each unit will have a dedicated secure disabled car space in the basement. A variety of private, communal and public landscaped areas are provided within the site. The proposed building provides opportunities for enhanced social interaction within the public and communal domain. Also, pedestrian linkages through the site have been maintained to connect the public open spaces.

### *Aesthetics*

The proposed palette of materials consists of off form concrete, timber, charcoal & neutral colours with accent metallic screens and metallic colours to vertical and

horizontal façade elements. The building is divided into four distinct facades zones in terms of treatment and design; the base or ground level, the serviced apartments, the typical residential and the penthouses.

The typical residential levels are differentiated from the serviced apartment's podium with a warmer colour scheme. Fixed louvres with operable perforated metallic screens and colourable glass provide privacy while providing visual interest. The proposed design provides achieve the aesthetic objectives of the planning controls. The DEP supports the design and aesthetics of the building.

The amended proposal responds to the ADG in the following ways:

- Solar access compliance is improved when compared to the previously submitted proposal given the single aspect south facing units have been replaced with north facing cross-through apartments. 62% of apartments should receive 2 hours of sunlight.
- A total of 25 residential units (49%) on Levels 5, 6, 7 and 8 are naturally cross ventilated. Whilst this represents a variation, of the 183 apartments proposed, 157 are naturally cross ventilated in accordance with the Apartment Design Guidelines (ADG). This is equivalent to 86%. Accordingly, the majority of the units within the development will be naturally cross ventilated.
- The proposal provides 213sm of communal open space in the form of a roof terrace, which represents an increase from the 86sm roof terrace provided previously.

### **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.

### **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 statement for the Central Business District indicates that the land use should be predominantly high rise commercial

development with medium to high rise mixed commercial and residential development at the fringes. As the site is one at the fringes of the Central Business District, it is compatible with this land use intent, being a high rise mixed use development.

The statement further indicates that views between buildings on the east side of Miller Street, between Berry Street and McLaren Street are to be preserved. The existing building has side setbacks to the north and south and as such views or vistas are provided over the site. The proposal has side setbacks from the ground up and the vistas are retained.

The statement also indicates that streetscapes should include wide fully paved footpaths, active street frontages and continuous awnings, with irregular street tree planting. The proposal provides for a wide paved footpath and front setback, allowing activation of the street frontage whilst still allowing for heavy pedestrian usage. An awning is proposed as discussed above and the existing street tree planting is retained by the proposal.

The proposed development is consistent with the desired future character, providing a high rise mixed use development, with appropriate non-residential uses at the lower level

## **Setbacks**

Setbacks are to be provided in accordance with the character statement, with setbacks to consider the setbacks of adjacent buildings. A zero front setback is to be provided for the podium unless a character statement requires an alternate setback. The LEP requires a front setback of 5m from Miller Street that has been provided. The podium is setback 3m from the side boundaries and 6m from the rear boundary. The character statement requires adequate setbacks above the podium to provide for residential amenity. The DCP adopts the RFDC (now ADG) separation distances between buildings that cannot be complied with due the narrowness of the site and existing setbacks of adjacent buildings. The setbacks for the residential tower include a minimum of 9m from the side and rear boundaries for living areas and balconies. The setbacks are consistent with the previous recent consent and are acceptable to the Design Excellence Panel.

## **Shadow impacts**

The shadow diagrams indicate that the impacts of the proposed building envelope will maintain a compliant level of solar access, in accordance with the ADG to the residential property at 136-142 Walker Street.

## **SECTION 94 CONTRIBUTIONS**

Section 94 Contributions in accordance with Council's S94 plan are warranted should the Panel consider the development application worthy of approval. The existing buildings on the site have a total non-residential gross floor area of approximately

7,178m<sup>2</sup> and the proposal has a non residential floor area of 6,093m<sup>2</sup> resulting in a decrease over that which currently exists. The contribution is based on the residential component of 27 x studio, 71 x one bedroom apartments; 76 x two bedroom apartments and 9 x three bedroom apartments with an allowance for 1085m<sup>2</sup> of non residential space in the existing commercial buildings:

<b>Administration</b>	\$ 18,439.91
<b>Community Centres</b>	\$ 88,644.39
<b>Childcare Facilities</b>	\$ 26,074.79
<b>Library and Local Studies Acquisitions</b>	\$ 16,434.87
<b>Library Premises and Equipment</b>	\$ 50,905.85
<b>Multi Purpose Indoor Sports Facility</b>	\$ 13,526.15
<b>Olympic Pool</b>	\$ 44,055.91
<b>Open Space Acquisitions</b>	\$ 589,197.51
<b>Open Space Increased Capacity</b>	\$ 1,167,891.06
<b>North Sydney Public Domain</b>	\$ 393,229.32
<b>Traffic Improvements</b>	\$ 51,293.73
<b>Total</b>	<b>\$ 2,459,693.49</b>

## **DESIGN & MATERIALS**

The Design Excellence Panel raised no concern about the materials and finishes.

There are no objections to the proposed materials.

## **Serviced Apartments**

The proposal includes the provision of serviced apartments, being self contained accommodation to tourists or visitors on a commercial basis that is regularly serviced or cleaned. The serviced apartments within the building shall be used for temporary or short term accommodation not exceeding ninety days.

A generic plan of management has been prepared by Yuhu Group, to identify the operation and management provisions that aims to minimise impacts on adjoining owners and ensure that a suitable amenity is maintained for residents living within the visitor and tourist accommodation.

The objectives of the operation and management provisions are:

- To ensure requirements under Occupational Health and Safety legislation are satisfied;
- To provide proper management to maintain acceptable standards of operation, administration, cleanliness, safety and amenity of the surrounding area; and
- To provide an adequate level of fire safety for the occupants of the premises.

In summary the serviced apartment component features:

- The serviced apartment lobby is located on the ground floor. Pedestrian access is provided via the through site link from both Miller Street and McLaren Street. Guests will utilise the two lifts and access the serviced apartments via this lobby.
- Storerooms, a workshop, staff change rooms, administrative facilities and meeting rooms are provided on the lower ground floor.
- A hire room with associated outdoor space and a gymnasium is provided on the ground floor.
- A total of 100 serviced apartments are provided on Levels 1 – 5. This includes 11 studio apartments, 15 one bedroom apartments and 74 dual key apartments. Each serviced apartment features a kitchenette and bathroom facilities as a minimum.

### **Public Right of Way**

The through site link associated with the amended proposal is located adjacent to the northern boundary. The majority of the through site link is accessible at grade, with use of stairs limited. Accordingly, due to the gradient of the site, only one lift is required to be provided to meet accessibility requirements. The through site link provides clear sightlines and incorporates feature landscaping, ensuring it will be an attractive and safe link. A through site link on this property was identified in the North Sydney Centre Character Statement. The right of way will link with the access handle to McLaren Street that has been freely offered by the applicant as a dedication to Council. Council's Director of Engineering and Property Services supports the dedication as it would assist in the future master plan for Council's Ward Street properties.

### **Screen wall to Council carpark at rear**

A free standing screen wall is shown on the landscape plan but not shown in elevation. The applicant has advised:

- The screen is intended as a freestanding structure set within the boundary just off the façade of the existing car park;
- It is intended to extend to the top of the brick car park structure in the order of 8-9m high;
- The screen will have vertical steel supports with steel mesh or perforated steel infill panels which complement the language of the building and treatment to the north and south boundary walls;
- The screen would be designed to be removable in the event of the redevelopment of the car park site to enable access to this site from the rear access handle.

The screen wall is appropriately designed and supported.

## 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

Issues raised in the submissions that have not already been addressed throughout this assessment are addressed as follows:

*The rear (eastern) setback that is currently proposed is 6m from the property boundary. The approved building on the site allows for a 9m setback. We note that the current proposal is to reduce this setback to 6m. This will potentially create an inconsistent building line along the access handle at the rear of the site, and will also potentially compromise the dimensions and the character of the pedestrian through-site link which we understand will, in the future, connect Miller Street and McLaren Street to Berry Street via Ward Street. We believe that it is important that the opportunity for this through-site link to be implemented is maintained.*

This has been resolved with the amended plans. The podium levels retain a 6m setback to level 5 with the residential tower setback 9m. The setbacks are acceptable to the DEP. The right of way is on the northern boundary of the site and will link with the end of the proposed dedication of the access handle as a lane.



*.....trucks intended to service properties the subject of development applications arrive well prior to the approved commencement time and inevitably emanate very loud noise. The noise is a product of both the trucks themselves as well as workmen preparing for commencement (which often includes preparing machinery and tools, again producing a high volume of noise).*

This is a matter for conditions and the Construction Management Plan that can stipulate that trucks do not stand in surrounding streets waiting to deliver goods, collect demolition material or before constructions hours.

*.....access to the underground parking for the subject site will result in a significant increase in traffic down the rear lane behind 39 McLaren St. This will result in a volume of traffic that is most likely well in excess of what the lane can structurally and physically handle. Ingress via Miller St should be considered or, alternatively, the applicant should fund a re-development of the laneway.....*

This has been addressed by Council's Traffic and Transport Engineer:

.....The above rates do not reflect the relatively low rates of parking provisions for this site. With 7 car parking spaces being allocated to non-residential uses, the total number of vehicles accessing the car park is estimated in the order of 30-40 per peak hour which are close to the existing flows. This suggests that the Traffic Generation Impacts of the new development are minimal especially considering other means of transport such as buses, trains, cycling and walking.

In summary I concur with the Consultant that the Impact of Traffic Generation due to the proposed development will have a minimal impact on the current traffic conditions.

The applicant proposes to pave the lane with new kerb as part of the landscape treatment of the site

*.....the proposed demolition of the trees in the centre of the lane would seriously damage the environment.*

The removal of the trees is necessary to ensure a two way movement of vehicles from the three sites that access the lane.

## **Conclusion**

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

There are 2 Clause 4.6 written requests with regard to the height controls. The first relates to the overall height of the building and the second to a proposed awning within the 5m front setback. Both requests are considered to be well founded and supported.

Council's Design Excellence Panel raised a number of concerns to be resolved before the proposal could be supported. The applicant responded to the DEP suggestions and other issues raised by Council with amended plans that were submitted on 24 November 2015. The mature proposal is considered well reasoned and an appropriate response to the constraints of the site. The result will be a high quality building with additional benefits for the general community.

## **RECOMMENDATION**

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

**THAT** the Joint Regional Planning Panel, as the consent authority, assume the concurrence of the Secretary of the Department of Planning and Environment and invoke the provisions of Clause 4.6 with regard to the exception to the development standard for height and grant consent to 2015SYE095 – North Sydney - Development Application No.256/15 subject to the attached conditions.

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

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

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