

JOINT REGIONAL PLANNING PANEL (East)

JRPP No	2015SYE162
DA Number	443/14/2
Local Government Area	North Sydney Council
Proposed Development	Section 96(2) application to modify consent for reconfiguration of podium levels and new hotel tower: Alterations and additions to podium to include supermarket, retail and food premises with new hotel
Street Address	100 Miller Street North Sydney
Applicant/Owner	Cromwell Seven Hills Pty Ltd
Number of Submissions	One
Regional Development Criteria (Schedule 4A of the Act)	Section 96(2) Modification application of Capital Investment Value > \$20M
List of All Relevant s79C(1)(a) Matters	North Sydney LEP 2013 - Zoning – B3 Commercial Core North Sydney DCP 2013 S94 Contribution Railway Infrastructure Contribution SEPP 55 - Contaminated Lands SREP (2005)
List all documents submitted with this report for the panel's consideration	Plans
Recommendation	Approval
Report by	Geoff Mossemeneer, Executive Planner, North Sydney Council

Assessment Report and Recommendation

EXECUTIVE SUMMARY

Development consent DA443/14 was granted by the Sydney East Joint Regional Planning Panel on 14 May 2015 for the reconfiguration of the Northpoint Tower podium levels and development of a new hotel.

The modification seeks to amend a number of conditions within the development consent which are largely brought about due to various design changes and amendments. It is also proposed to amend conditions of the consent relating to construction hours and onsite stormwater detention.

Council's Design Excellence Panel considered the amended design at its meeting on 13 October 2015. The Panel is supportive of the proposed changes and raised three matters to consider for the application. These matters included:

- Details of the proposed facade materials and how they relate to the hotel rooms within the 'shards';
- The design/location of the awning; and
- The change in levels of the pavement at the southern corner of the site.

The Council's notification of the proposal has attracted one submission raising concerns about the proposed construction hours and impact on residential amenity. The assessment of the proposal has considered these concerns as well as the performance of the application against Council's planning requirements.

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

DESCRIPTION OF PROPOSAL

This Section 96 (2) modification application proposes a number of amendments to DA443/14 which are described by the applicant below.

Design

A number of modifications relating to the design are proposed across the podium levels and hotel tower, including:

- A reduction in the height of the hotel by three storeys and the relocation of hotel rooms to Level 11 of the Commercial Tower building and the Level 9 'shard' area;
- Inclusion of a full coverage canopy on Pacific Highway addressing Condition B2;
- Tightening of the shard corner street edge to address previous comments raised by the DEP;
- Change of the hotel façade material from 'Parkalex' laminated timber to 'Equitone' due to Fire Engineering restrictions;
- Change of screen material to the plant room from 'Parkalex laminated timber to patterned perforated screen;
- A new supermarket opening to Miller Street;
- A reduction to the supermarket area and introduction of a new second mini major retail space; and
- Inclusion of a new hotel pool within the level 10 shard.

Comparison between approved development and development as proposed to be modified

Component		Approved (subject to conditions)	Proposed under this modification
Maximum Height	Hotel	10 storey addition (RL 104.90)	7 storey addition (RL 96.98)
	Shard Podium	4 storeys (RL 82.58)	4 storeys (RL 82.58)
Hotel Rooms		194	187
New Hotel GFA		9,530.61m ²	9,609.19m ²
Total Additional GFA (retail and hotel)		7,120.87m ²	6,622.69m ²
Total GFA		45,280.47m ²	44,734.52m ²
Removal of car parking		13 spaces	13 spaces

Amended plans reflecting these changes have been prepared by HDR Rice Daubney.

Structural capacity of existing building

A detailed review and testing of the existing basement structure since the development was approved has confirmed that the available capacity is below that which was indicated on the asbuilt structural documentation. Reducing the height of the new tower will lessen the load on the basement structure and the level of strengthening required to the existing structure.

Changes to fire certifications of cladding material

Recent industry scrutiny of the fire performance of external cladding materials has found many commonly used products, including 'Parkalex' laminated timber, do not strictly meet certification requirements. Due to these risks it is proposed to substitute the approved hotel façade and plantroom screen materials to alternative cladding types used elsewhere in the design. The replacement materials will include a mixture of glazing, perforated screens and lightweight solid cladding.

Market viability of upper level retail

Market analysis has found the larger retail tenancies within the Level 9 shard (above the Pacific Highway Ground Level) pose an unacceptable commercial risk to the development. Replacing these tenancies with the balance of hotel rooms increases the critical mass of people in the ground level tenancies, as well as quality of the retail offers.

Construction Hours

The proposal seeks to enable construction hours for internal works to be undertaken between the hours of 7.00am and 4.00am (on the following day) and between 8.00am and 5.00pm on Saturdays. No construction works are proposed on Sundays or Public Holidays. The extended construction hours will be limited to internal works for the relocation of services and basement strengthening only. The works will be wholly contained within the sealed building façade and will therefore not result in any adverse noise impacts to surrounding properties.

The nature of construction works would require large sections of the car park, and occasionally the whole car park, to be closed for multiple months if they are to be undertaken during business hours. Closure of the car park would result in either breaking the public car park lease, resulting in the payment of significant compensation to the tenants, or relocating the tenants to alternative car parks. These are unacceptable outcomes as both involve significant costs that would effectively render the redevelopment commercially unviable.

The relocation of tenants is not practical as we understand that there are not enough surplus parking spaces within walking distance of Northpoint in order to relocate the tenants. Irrespective of this, the North Sydney Centre has a limited supply of car parking in general and therefore the preservation of car parking during business hours is desirable to allow for minimal disruption to the centre throughout the construction period.

Enabling the internal works to be conducted out of hours would allow the car park to remain open during business hours. This is essential as the costs involved in closing the car park for any amount of time would unnecessarily jeopardise the redevelopment.

Stormwater Detention

It is proposed to remove a number of the conditions requiring the provision of additional onsite stormwater detention on top of the existing system for the site. The nature of the development, which involves alterations and additions to the existing building within the constraints of an existing basement means that no OSD or rainwater tanks are proposed. There will be no negative impact on council's drainage system caused by the development. As such, the requirement to provide additional stormwater detention is considered to be an unreasonable burden on the redevelopment.

Awning Design/Corner Treatment

Amendments to the design of the awning structure at the corner of Pacific Highway and Miller Street which in the view of the proponent meets the provision of condition B3 of the consent. It is Council's view that the amended design does not meet the intent of the condition. This remains the sole issue of any contention with these amended plans and is explored in detail later in this report.

STATUTORY CONTROLS

North Sydney LEP 2013 - Zoning – B3 Commercial Core
S94 Contribution
Environmental Planning & Assessment Act 1979
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). This application is a Section 96(2) application for determination by the Panel.

DESCRIPTION OF LOCALITY

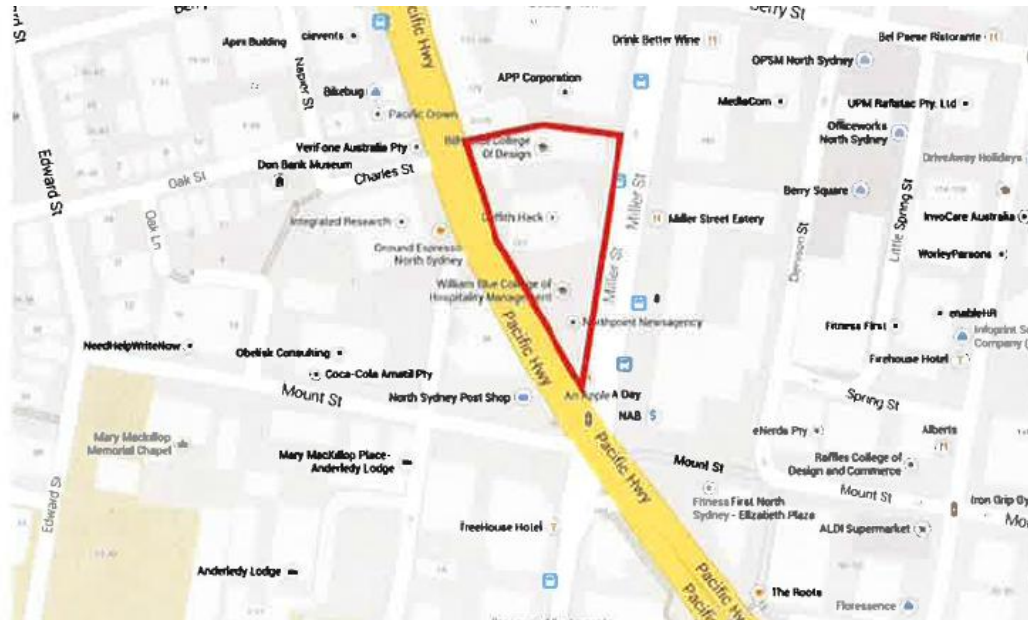
The site is located at 100 Miller Street positioned at the northern corner of the Miller Street and Pacific Highway intersection

The site is legally described as Lot 11 of DP583735 and is owned by Cromwell Northpoint Trust.

The site is a 5,000m² triangular-shaped lot containing a commercial office tower commonly known as 'Northpoint'. Northpoint was originally completed in 1977 and was

last refurbished in 1997. The building contains 34 office levels, consisting of three rises, built above a three storey retail podium.

Vehicle access to the site is gained via a private access lane on the northern border of the site which runs from the Pacific Highway through to Miller Street. The lane, which is part of the site has right of way that benefits 116 Miller Street to the north. Six levels of basement car parking are provided for up to 350 vehicles. The car park operates as a public car park and commercial tenant car park.



Adjoining the north-west corner of the site is 173 Pacific Highway, a four storey commercial building occupied by the Australian Catholic University.

Further to the north is the thirty one storey Leighton's development (currently under construction) at 177-199 Pacific Highway.

116 Miller Street borders the north-eastern corner of the lot and comprises a seven storey commercial development.

Opposite the site, on the eastern side of Miller Street, is the heritage listed MLC Building. The building was constructed in the 1950s and consists of fourteen levels of commercial tenancies.

The North Sydney Post Office is located west of the site, across the Pacific Highway. Constructed in 1889, the heritage listed building is aesthetically significant and makes a substantial contribution to the streetscape of the prominent intersection.

The southern boundary of the site forms the intersection of Miller Street and the Pacific Highway. Greenwood Plaza is located directly opposite and provides a through-link to North Sydney Station located further to the south.

BACKGROUND

Pre lodgement plans were before the Design Excellence Panel meetings held on 7 October and 4 November 2014. The original development application was lodged on 12 December 2014 and was referred to the DEP on 24 February 2015. The DEP did not support the proposal as there were concerns with the treatment of the corner, the lack of continuous street awnings and the lack of setback above podium for the hotel on the Highway frontage. The applicant responded to the DEP suggestions and other issues raised by Council with amended plans only in relation to the treatment of the hotel facade. The applicant did not respond satisfactorily with regard to the treatment of the corner and the street awnings. Conditions were recommended to resolve the concerns.

Development consent DA443/14 was granted by the Sydney East Joint Regional Planning Panel on 14 May 2015 for the reconfiguration of the Northpoint Tower podium levels and development of a new hotel subject to conditions including:

Awning to Pacific Highway to extend full site frontage

- B2. The proposed awning to the Pacific Highway frontage is to be extended to provide for continuous weather protection and refuge to the site frontage. The extended awning sections to the north & south of the hotel and commercial entries must have a low-profile and constructed of either glass or other light-weight material and be at a similar height to the entries at level 9.

Plans detailing the final design of the required awning must be submitted and approved by the Council prior to the lodgement of the relevant Construction Certificate.

(Reason: To provide continuous weather protection and refuge for the entire site frontage as required by the Area Character Statement whilst preserving the architectural integrity of the hotel and podium design)

Canopy and Street Awning at entrance

- B3. The required street awning to the Pacific Highway shall be continued around the southern corner of the site (intersection of Pacific Highway and Miller Street) at or near to level 9 height to the same width as the awning to the Highway and Miller Street as a continuous awning to overlap the lower Miller Street awning. The canopy roof at the southern entry corner for the front section that includes the lifts in front of the bridge link shall be lowered to the level of the bridge link at level 9 and match up with the street awning at the corner to provide continuous weather protection.

Plans detailing the final design of the required awning and canopy must be submitted and approved by the Council prior to the lodgement of the relevant Construction Certificate.

(Reason: To provide continuous weather protection and refuge for the entire site frontage and entry as required by the Area Character Statement and to clearly identify the corner)

REFERRALS

Building

The application has not been assessed specifically in terms of compliance with the Building Code of Australia (BCA). Council's standard condition relating to compliance with the BCA was imposed and should amendments be necessary to any approved plans to ensure compliance with the BCA, then a further Section 96 application to modify the consent may be required.

Engineering/Stormwater Drainage/Geotechnical

Council's Development Engineer (Z Cvetkovic) has assessed the application and agreed to the requested changes and deletion of conditions with regard to stormwater drainage.

HEALTH

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

I've had a look at the acoustic assessment and SEE re this proposal.

I have no objection to them carrying out the proposed activities out of hours on the proviso that work ceases should complaints be received until such time as they can demonstrate that the work can be carried out without causing disturbance to residents.

They have included a standard clause to this effect in the SEE which can be used.

They have also advised that they will letter box drop all affected residents and provide details including a 24 hour contact number, which will also be displayed on the site.

The provisions are included in the consent conditions attached to this report.

DESIGN EXCELLENCE PANEL

The proposal was presented to the North Sydney Design Excellence Panel on 13 October 2015 and the minutes of the meeting are reproduced as follows:

Details of Proposal

The Northpoint development, originally approved by the JRPP on 14 May 2015, has undergone changes that impact on its external appearance.

These changes have been instigated by a number of issues uncovered through the design development process:

- a) Confirmed structural capacity of the existing building*
- b) Changes to fire certifications of cladding materials*
- c) Market viability of upper level retail in the Shard*

d) Improvements in response to previous DEP comments

The response to the above issues results in a slighter smaller development than previously approved. This has allowed the design modifications to respond more favourably to some of the comments raised previously through the DEP review. The changes include a reduction in the height of the hotel tower; relocation of hotel rooms to level 9 over the retail and conversion of more office space to hotel rooms; smaller supermarket with access directly to Miller Street; change to external materials; smaller opening to the corner of the Highway and Miller Street; street awning along Highway and around corner to meet with lower awning in Miller Street.

Background

The proposal involves an increase in retail and hospitality in the form of supermarket; specialty retail; commercial; restaurants; cafes; conference facilities; hotel and roof top bar.

The concept is to open up at the corner of Miller Street and the Highway forming two 'shards' with extensive glazing so that the activity on all levels is highly visible to the street. It is also proposed to provide visible links between the two roads in the form of an "eat street" linking the hotel lobby on the Highway through to Miller Street.

Pre lodgement plans were before the Panel at its meeting of 7 October 2014 and 4 November 2014. The Panel and Council staff inspected the site prior to the first meeting. The Panel considered the development application on 24 February 2015. The Northpoint development was approved by the JRPP on 14 May 2015. The proponent provided a presentation to the Panel and was available for questions from the Panel.

Panel Comments

The Panel is supportive of the various changes. The Panel's comments relate to the key issues or concerns with the proposal.

There are only three matters arising from the proposed changes:

- Details being provided of the proposed materials and how the glazing will work with the various materials behind the glass that allow for tenancies, services and the hotel suites.*
- Concern with the cover and shelter provided at the corner of the site and the height of the awning at the corner that is significantly higher than the Miller Street awning. The corner is south facing and the awning will not provide adequate shelter as proposed. The proponent needs to design an appropriate continuous pedestrian cover around the frontage of the site.*
- The change in levels of the pavement at the corner needs to remove any steps for public safety. The footpath will be replaced as part of the development. The grade of the footpath may be redesigned from the top of gutter that could result in different levels at the boundary of the site. It is recommended that the proponent liaise with Council's Development Assessment Engineer to determine an approved finished level for the entry at the corner.*

Conclusion

The applicant needs to address the above concerns when lodging the Section 96 application.

EXTERNAL REFERRALS

No referrals required

SUBMISSIONS

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

Angus Finney
Edward Precinct

I had a look over this on behalf of precinct. Nice to see the lowering of the hotel which will help with light on the MLC forecourt. Even though was just down to economics of the engineering. Still somewhat of a hotch potch as it moves across three states, ie hotel to semi brutalist Northpoint tower to odd all glass thing. I think we leave design specifics to DEP though noting our continued reservations on treatment between classic GPO and MLC buildings.

In terms of visual was it originally four floors above ground for the southern end? This seems to be higher than existing and all contributes to height separation of the central five points that lead into the centre of Nth Syd. If it is going up a level in my view this should be resisted.

The moving of hotel rooms to the southern shard end sort of makes sense but you need to consider privacy of the community from goings on in the hotel rooms. The MLC will look straight into these for example. The Harbourside is renowned amongst voyeurs for what can go on and is visible from surrounding offices. And it is far higher up and away from street than this site.

The main concern I have though is yet another request for extended hours. We hear the story about only internal work but deliveries are made during this time and workers arrive and leave before after and during this time (4am). And where do they park and or transit through at this time? In the residential areas. We have copped this for three to four years now from Montrose and the one near Doohat. We made applications opposing extended hours for Leightons and they seem to get them anyway. We have had their crane going Saturday afternoons recently. There have been late concrete pours on the Crown or one next door last week as well. As they get higher the noise impacts go well into the residential areas and it has been going on for a long time now. This site shouldn't be able to work these hours. And if they do some serious restrictions should be imposed and regular monitoring my council rangers.

It will be good to get some form of remediation of this site. At the moment though as proposed it will have serious impacts on residential amenity during construction.

CONSIDERATION

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

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

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

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

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

The Land and Environment Court established some key principles to be taken in account when considering what constitutes a modification, these being:

- The verb “modify” means to alter without radical transformation.
- “Substantially” in this context means essentially or materially or having the same essence.
- A development as modified would not necessarily be “substantially the same development” simply because it is for precisely the same use as that for which consent was originally granted.
- A modification application involves undertaking both a qualitative and quantitative comparison of the development as originally approved and modified.
- Environmental impacts of the proposed modifications are relevant in determining whether or not a development is ‘substantially the same’.

The proposal is basically within the same envelope with a reduced hotel tower. The GFA is less than approved. Shadow impacts are reduced. There are no additional traffic impacts.

The proposed development as modified is considered to be substantially the same development as approved.

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

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

Whether any submissions were made concerning the proposed modification.

Notification of the proposal has attracted one submission concerned with the proposed construction hours.

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

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

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)	RL96.98 AHD (Hotel)	RL 200m AHD	YES
Overshadowing of dwellings (Cl.6.3 (1) (c))	Additional overshadowing is limited to the adjacent commercial properties and surrounding roads.	Variation permitted	YES
Overshadowing of land (Cl.6.3 (2) (a) and (b))	The diagrams demonstrate that the proposed modifications to the podium and development of the hotel tower 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. It is noted that existing building does overshadow the special areas, however there will be no net increase in shadows. The proposal will not overshadow Don Bank Museum.	Variation permitted	YES
Minimum lot size (Cl.6.3 (2) (c))	5,000m ²	1000m ² min.	YES

DCP 2013 Compliance Table

DEVELOPMENT CONTROL PLAN 2013		
	<i>complies</i>	<i>Comments</i>
Environmental Criteria		
Wind Speed	Yes	Wind Impact report previously submitted and satisfactory. Changes would not create additional impacts.

Reflected light	Yes	Solar reflectivity report was submitted and conditioned
Artificial light	Yes	Roof top signage and illumination to be curfewed at 1am by condition. Appropriate lighting will be provided to identify the building entrance at street level.
Awnings	NO	Continuous awning is required to be provided to both street frontages in response to DEP comments.
Solar access	Yes	Satisfactory Complies with the height and overshadowing requirements contained within cl.4.3 As indicated in the submitted shadow diagrams, the majority of the shadows cast by the building fall onto existing commercial sites or surrounding roads. No additional overshadowing of public open space areas will result.
Quality built form		
Context	Yes	Site analysis undertaken, scale of building in context with desired character for area. There is concern about the treatment of the corner of the site with regard to shelter and awning treatment.
Building design	NO	Concern raised by DEP with regard to corner and need for continuous awning and shelter along street and at entrances. This has not been satisfactorily addressed.
Skyline	Yes	Does not impact on skyline
Streetscape	NO	Concern raised by DEP with regard to corner and need for continuous awning along street and at entrances.
Entrances and exits	Yes	Visible from Highway and Street
Street frontage podium	NO	Not provided with regard to hotel element to Highway. This was accepted.
Nighttime appearance	Yes	Full height glazing is proposed at both street frontages at corner. Not likely to impact on residential amenity in area.
Public spaces and facilities	Yes	Two through site links in different directions provided

Quality urban environment		
Accessibility	Yes	Accessibility report submitted
Safety and security	Yes	Satisfactory. Building entrance points are clearly visible from each street frontage. Some concern with treatment of levels at corner of site
Vehicular access	Yes	Existing retained as loading and parking facilities remain largely intact.
Garbage Storage	Yes	Satisfactory. Garbage storage and collection is proposed with direct access from loading facilities. The garbage storage room is enclosed and is not visible from the street.
Efficient use and management of resources		
Energy efficiency	Yes	Energy Efficiency report submitted with original.
Waste management	Yes	Waste Management Plan submitted with original.
Storm management	Yes	Conditions under review
Building Materials	Yes	Sustainable building materials will be incorporated into the construction where possible.

Public Domain		
Paving	Yes	All footpath paving along property frontages must be provided in accordance with Council's specifications. To be conditioned.
Signage		
Building identification/roof signs	Subject to condition	Requires separate DA for signage master plan for site
Parking		
Car parking	Yes	No change

NORTH SYDNEY LEP 2013

Permissibility within the zone

The site is zoned B3 Commercial Core. The proposed retail, office and hotel uses are permissible with development consent in the B3 zone.

Zone B3 Commercial Core

Objectives of zone

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

The site is surrounded by a variety of uses which predominantly comprise of commercial and retail uses. The proposal is for a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.

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

Clause 4.3 Height of buildings

The height of a building on the subject land is not to exceed RL200 AHD and the proposed development is well under the maximum permitted.

Clause 6.1 Objectives of Division (North Sydney Centre)

Objective	Comment
(a) to maintain the status of the North Sydney Centre as a major commercial centre	Proposal consistent
(b) to require arrangements for railway infrastructure to be in place before any additional	The applicant has entered into a Railway Infrastructure Commitment Deed to contribute on

non-residential gross floor area is permissible in relation to any proposed development in the North Sydney Centre	the basis of additional floor area created
(c) to permit an additional 250,000 square metres of non-residential gross floor area in addition to the estimated existing (as at 28 February 2003) 700,000 square metres of non-residential gross floor area	The additional non residential gross floor area is within the 250,000m ² limit.
(d) to ensure that transport infrastructure, and in particular North Sydney station, will enable and encourage a greater percentage of people to access the North Sydney Centre by public transport than by private transport and: (i) be convenient and accessible, and (ii) ensure that additional car parking is not required in the North Sydney Centre, and (iii) have the capacity to service the demands generated by development in the North Sydney Centre	Council has instigated measures with State Rail to ensure that North Sydney Railway Station is upgraded to improve patronage. The proposal does not provide for additional car parking on site.
(e) to encourage the provision of high-grade commercial space with a floor plate, where appropriate, of at least 1,000 square metres	The proposal retains the office tower.
(f) to protect the privacy of residents, and the amenity of residential and open space areas, within and around the North Sydney Centre	No impact.
(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	No applicable to site

6.3 Building heights and massing

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

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

The proposal has compliant height and the office tower remains that is basically the tallest building in the North Sydney Centre.

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

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

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

No overshadowing.

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

Weather protection at corner of site and along Highway is unacceptable but can be conditioned.

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

Both adjoining sites already have commercial floor plates and are not available for redevelopment so further consolidation is not practical. The site is already quite large compared to neighbouring sites.

- (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 proposal does not result in any additional overshadowing of the RE1 zoned land or mapped Special Areas between 9am and 3pm.

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

The proposal does not overshadow Don Bank.

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

Site area of 5,000m².

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

Compliant building height is proposed.

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

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

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

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

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

The proposed development will enhance the streetscape with its materials and external treatments and provides variety and interest. Treatment at the corner has not been satisfactorily resolved and could be conditioned.

SEPP 55 and Contaminated Land Management Issues

The subject site has been considered in light of the Contaminated Lands Management Act and it is considered that as the site has been used for commercial purposes, contamination is unlikely.

SREP (Sydney Harbour Catchment) 2005

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

DEVELOPMENT CONTROL PLAN 2013

NORTH SYDNEY CENTRE PLANNING AREA / CENTRAL BUSINESS DISTRICT

The subject site is within the Central Business District which falls within the North Sydney Centre Planning Area. The proposal is generally consistent with the character statement other than a podium setback at the Highway elevation in relation to the proposed hotel and the provision of a suitable continuous street awning that is required for all commercial buildings with the CBD area.

This site is a prominent corner in the CBD that has large numbers of pedestrians crossing the Highway and Miller Street. Concern with the cover and shelter provided at

the corner of the site and the height of the awning at the corner that is significantly higher than the Miller Street awning. The corner is south facing and the awning will not provide adequate shelter as proposed. The proponent needs to design an appropriate continuous pedestrian cover around the frontage of the site.

Built Form

Design Approach for the Southern Corner

It is proposed to reduce the depth of opening into the shard entry to strengthen the street edge as shown in Figure 1. This responds more favourably to comments raised previously through the DEP review in relation to the reinforcement of the street corner and its relationship with the public domain.

The amended design provides for a more usable space that is protected from adverse weather events and consists of a firmly expressed entrance. This provides an appropriate balance between the original design intent of the southern corner and the concerns expressed by the DEP of the space potentially becoming a bleak and uninviting gap.

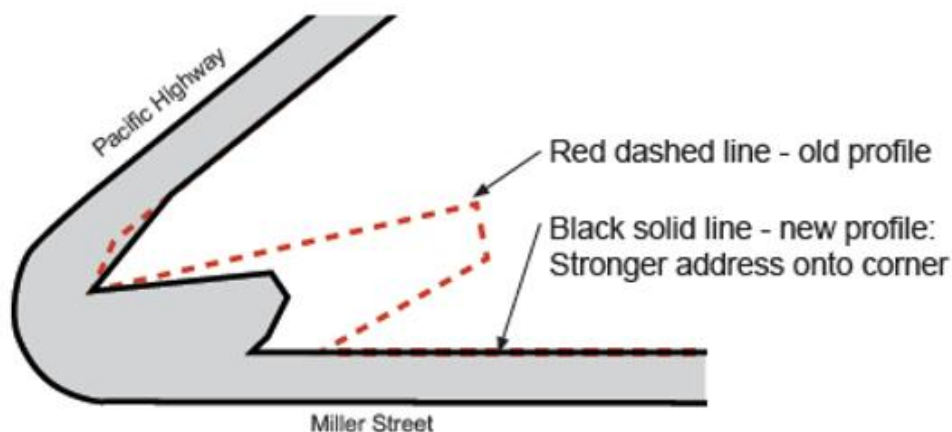


Figure 1 – Old/New Shard corner profile diagram
Source: Rice Daubney

Relationship with Adjacent Buildings

The proposed design modifications, particularly the reduction in height of the hotel tower, will have a positive impact in terms of its relationship to the surrounding built form. The reduction in height of the hotel responds more favourably to the adjacent buildings to the north, as shown in Figures 2 and 3. This is particularly evident on the Miller Street frontage where the proposed reduction results in the hotel tower aligning with the podium of 116 Miller Street.

The proposed setbacks on both Miller Street and the Pacific Highway remain consistent with the approved design.



Figure 2 – As approved
Source: Rice Daubney

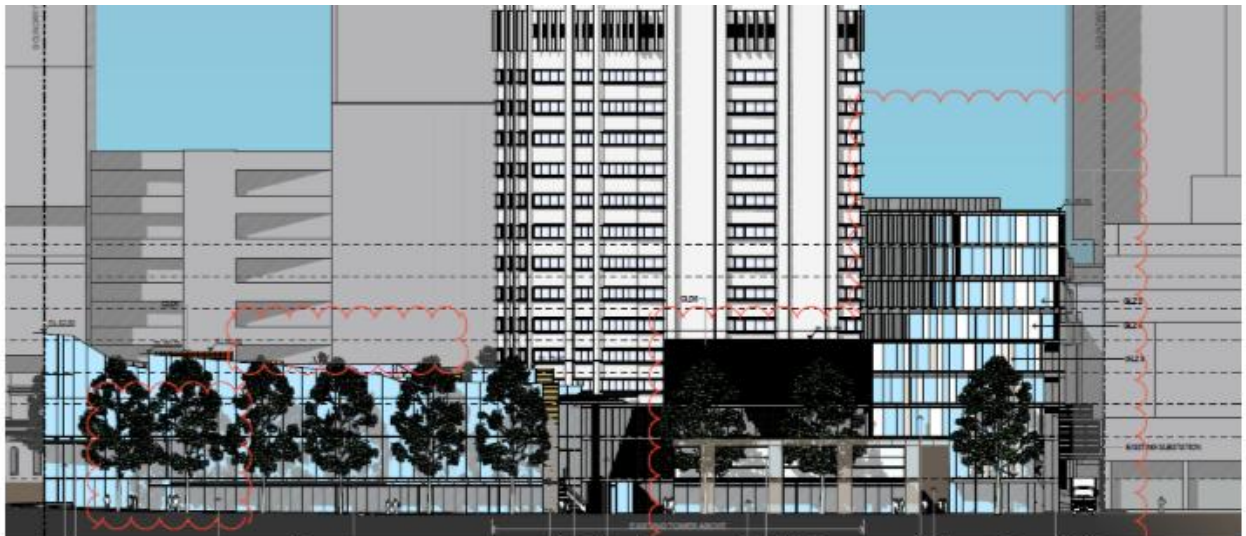


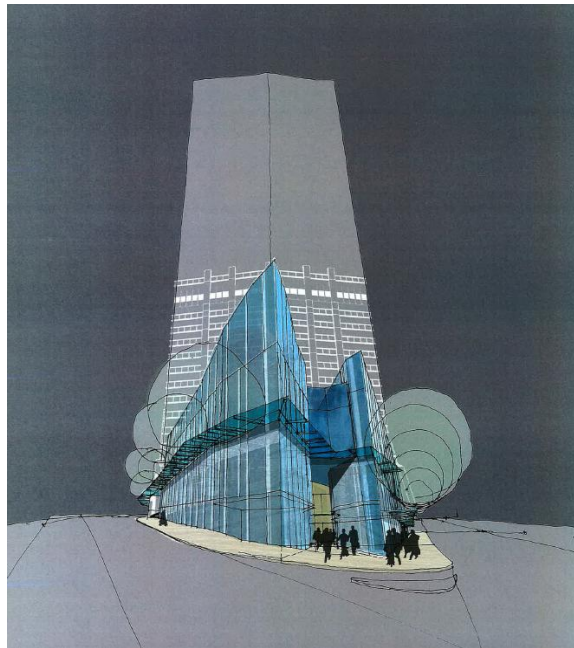
Figure 3 – As proposed to be modified
Source: Rice Daubney

Awning

A new continuous awning is proposed along the Pacific Highway perimeter of the building at Level 9 and which continues at this level around the southern shard entry with an overlap of the Miller Street awning at Level 8 to respond to Conditions B2 and B3 of the consent. The proposed awning is constructed of glass/light-weight material to match the design of the refurbished podium and hotel.

This awning does not satisfy condition B3 in that there is no canopy over the entrance and there is no awning over the public footpath at the entrance. The proposed awning does not address the concerns from the DEP with the cover and shelter provided at the corner of the site and the height of the awning at the corner that is significantly higher than the Miller Street awning. Council's Development Control Plan also calls for a street awning in such circumstances. The corner is south facing and the awning will not

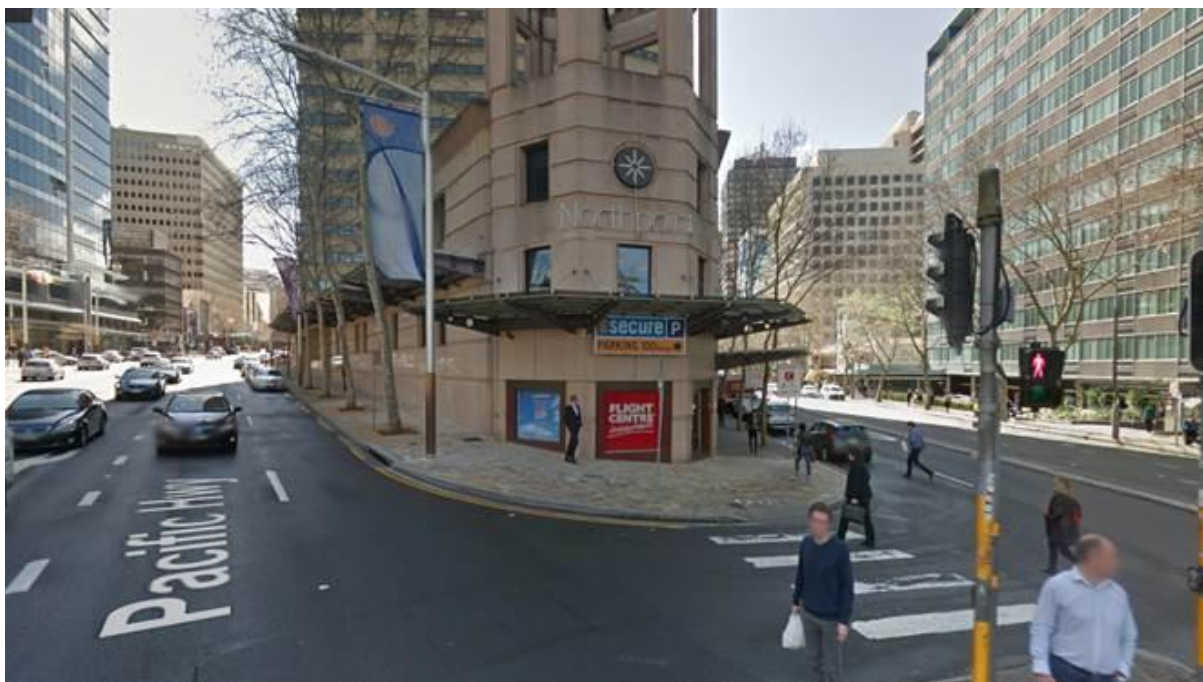
provide adequate shelter as proposed and clearly reduces the standard of protection below that provided by the existing awning.



Rice Daubney sketch of corner treatment

The applicant was advised of these concerns on 24 November 2015 in the following terms:

The only item that is at issue is the awning at the corner of the site. The DEP comments have not been satisfactorily addressed in your statement or on the plans. The awning is too high and inadequate. The preferred solution is to have the awning around the corner no higher than half way between the Pacific Highway awning and the Miller Street awning with overlaps for weather protection in a similar manner to the existing awning.



The awning shall follow the street boundary to provide a consistent width over the public footpath. The height of any roof over the entrance behind the street awning can either be at the same height of the awning or the height of the soffit (FL level 9?).

The plan of the corner does not show sufficient detail. Please provide a larger scale drawing of the corner showing your proposed finished levels and footpath levels.

Amended plans for the corner awning would be appreciated or your further submission including a perspective of the proposed awning addressing how it meets the DEP concerns.

Although the conditions required the awning at the corner to be at FL level 9, in hindsight this height will be too high as shown in the photo above of the existing awning.

The applicant responded on 23 December 2015 providing the following comments from their Architect, Structural Engineer and Head Contractor.

Architect:

In response to the query of having an awning midway between Level 8 and 9 we note the following: The fixing of an awning to the façade between Levels 8 and 9 would result in altering the seamless curtain wall façade, introduce additional spandrels and alter the glass panel break-up.

The spandrels would be required in a stepping or raking angle to allow for an outrigger to hold up the awning that would land in-between the slab floor levels and penetrate the glass façade. This would result in additional panel break-up of glass and aluminium spandrels that don't currently exist in the design which will affect the appearance of a lightweight glass box.

This change would also result in the Café tenancies at Level 8 having an awning midway through their façade line and therefore the view out of the café is struck at the awning line whilst sitting at the window or standing in the tenancy. Our selling point for these retail tenancies is the seamless view onto the five way intersection. We see this as a major compromise to the retail space and may also affect the ability to lease these spaces as we see them as the premium retail location in the development.

Another important element to the design is to be able to see, from the street, people in the café window and should the awning with its frit pattern be placed between the levels this would not allow for a clear view to the activation which is why the awning at Level 9 works for the development.

The awning at Level 9 encompasses the entry as a double height space which has been reduced from the previously designed triple height space on the DA. An awning at Level 8 would cut this volume further and the views into the Commercial lobby beyond.

In response to the query of infilling the awning between the points of the shard:

The corner of the building that addresses the five way intersection is a very important element and showcases the development on approach from the city. In the previous application there was a glass roof that covered the entry area which required columns to support the large area. If this large area is dropped to Level 9 then the columns holding up the roof will affect the way the corner is addressed and the civic feeling that was the desired direction. Our design intent is to make the current awning a 'light' element that doesn't have the structural solution dominate the entry or take focus from the architecture.

Structural Engineer:

I am writing to outline the structural and façade implications of locating the awning to the shard entry mid-way between levels 8 and 9 in order to respond to the recent comments issued by North Sydney Council as part of their review of the Section 96 design.

Shard Awning Midway between levels 8 and 9

If it was mandated that an awning needed to be installed between Levels 8 and 9 at the southern end of the building, the main issue with this from a structural point of view is that there is no available structure between the floors to support the awning outrigger steelwork. We would also have to resolve the issue of how these outriggers penetrate the façade whilst not compromising the building sight lines as we would need to introduce an additional spandrel section between floors. This would significantly impact on the tenant areas on Level 8 which includes future restaurant operators. There would also be issues with how best to treat the penetration of the façade spandrel panel at mid height as it may introduce a point of weakness leading to future maintenance and leaking issues.

To provide support to the awning we would need to introduce vertical structure in the form of steel posts or similar at each outrigger location (approx. 1800mm c/c) to carry the awning reactions. This would then have a significant impact on the architecture of the façade. Another option would be to provide a large horizontal transom between the existing primary columns to support the outriggers however this again would have a significant impact on the architecture and design intent of the façade at this entry point.

Infill Awning between points of shard

enstruct has also investigated the following structural options to infill the area between the points of the shard and present the implications of each of these options;

- Option 1 – Provide rafter between points of the shard*
- Option 2 – Provide hangers to outrigger beams*
- Option 3 – Introduce columns to support the awning structure*

Option 1 – This option would introduce a rafter member to span between the points of the shard. This member would be of the order of 500mm deep in order to support the extended awning along with the introduction of approximately 2.2T of steelwork to the project in addition to the increased area of glass. To have a deep beam at the main entry would again detract from the design intent and also impact on sight lines from within the internal tenant areas.

Option 2 – This option would require the structural depth of the outriggers to be increased as well as the need to introduce hangers to each awning section with the introduction of approximately 1.2T of steelwork to the project in addition to the increased area of glass. This option also has the added complication of requiring the hangers to penetrate the glazed sections at L10 potentially introducing waterproofing and long term maintenance issues and again detracts from the design intent of this opening by complicating the clean lines of the glazed façade at the main intersection of Pacific Highway and Miller Street.

Option 3 – This option would introduce vertical tapered columns to support the awning over the entry. In addition to introducing a number of columns which foul the public domain, additional strengthening would be required to the L7 structure and foundations to support these columns which has further potential impact to the Level 6 space below which is required to support the retail tenants on the floors above. This option would add approximately 3.5T of steelwork to the project in addition to the increased area of glass.

Contractor:

RE: Shard awning midway between Level 8 and 9

We note that North Sydney Council have indicated their desire to drop the awning at the Shard Entry to between Level 8 and Level 9. Considering the initial feedback from the engineers, cost and time implications of this re-design will be prohibitive.

With the programme for the Works about to commence, this re-design will delay the procurement of the façade and structural steel packages along with any additional footings that may be required. This will be a four week delay in design and a further four week delay during construction, incurring both time and cost.

If pursued, the additional structural steel costs along with the cost of the re-augmentation of the façade, and the delay costs would amount to approximately \$1,221,232 based on the agreed rates for delay and this being a compensable cause for delay under the contract.

RE: Infill awning between the points of the Shard

We further note that Council have suggested an infill Awning between the points of the shard.

Once again, working through the structural solution to the issue, we have determined that with either the cross-beam solution or the introduction of additional columns, the additional costs of materials combined with an additional 2 weeks for design and 4 weeks for construction would amount to approximately \$920,000.

The Shard Area, as you know falls under the Critical Path of the whole Project. The time implications for both the design and construction of the changes would significantly hinder the Works

In the interests of the Project we do not support the inclusion of either of the proposed changes due to the detrimental affects against delivery of both time and costs in the order of \$2.1M.

COMMENT:

A street awning for pedestrian protection is required to be provided by Council's DCP. The need for such an awning is likely to have been known to the applicant during the initial design phase. This issue has been raised a number of times through the assessment process and ultimately led to the imposition of conditions B2 and B3 by the JRPP.

This issue was again raised with the applicant by the DEP a month before the Section 96 application was lodged with Council. The applicant was well aware of the issue with the continuous street awning being at an appropriate height. The submitted proposal is the same (with regard to the awning) as the DEP considered in October. Any delays and additional costs are not matters for consideration as the applicant chose not to address the concerns previously raised or to fully comply with condition B2 and B3 that were imposed on the original proposal. The awning does not satisfy condition B3 in that there is no canopy over the entrance and there is no awning over the public footpath at the entrance.

The applicant is claiming that an awning as required would impact on the design of the building. The applicant was requested in late November for more detailed plans involving a montage that showed the corner with the proposed awnings and that could demonstrate a superior aesthetic outcome. The applicant advised on 22 January 2016 that the requested information would not be submitted.

It is considered that the detailing of this major corner needs to be approved rather than impose further conditions that the applicant is not willing to address. This may involve a deferral of the proposal to allow for plans to be submitted. The issue is whether the public benefit of a sheltered corner is more important than the integrity of the design or

as stated by the architect *that the structural solution does not dominate the entry or take focus from the architecture*. Should the Panel support the need for a sheltered corner that meets its purpose then condition B3 needs to be amended as recommended. Should the Panel support the submitted design for the awning following the building façade without a canopy, then condition B3 will require some further modification.

Shard Materials and Relationship with Hotel Rooms

The proposed materials behind the glazing of the shards will ensure that tenancies, services and hotel suits are workable in this location. For the Hotel at the northern end of the site coloured glass is used to conceal walls between rooms and lift risers. The introduction of the terracotta tile in lieu of timber laminate is used to conceal the fire stair/service risers on the façade line and all others services for the Hotel are on the northern boundary wall which is solid cladding to the façade.

Hotel Amenity

The relocation of the hotel rooms will enhance the overall amenity of the hotel by limiting the number of rooms that share an interface with the existing commercial tower. The rooms moved to the shard area will benefit from improved views and solar access. The inclusion of a pool at Level 10 of the southern shard will also increase the level of facilities on offer to guests of the hotel.

Noise Impacts

A Construction Noise and Vibration Impact Assessment have been prepared by Wood & Grieve Engineers. The assessment has assessed the potential impacts of the extended construction hours on the nearby commercial and residential receivers.

The assessment is based on the EPA's Interim Construction Noise Guidelines (ICNG), OEH Industrial Noise Policy (INP) and AS 2436-2010 - Guide to noise and vibration control on construction, demolition and maintenance sites. These documents are widely used to establish construction noise management levels across NSW.

The residential receivers will not be affected by construction noise as the predicted noise during demolition within the basement is lower than 46dB(A) for all receivers.

The extended construction hours will shorten the length of the construction program, ensuring that any public impacts associated with the construction works are minimised. It will also allow for specific works to be scheduled outside core business hours so that existing tenants of Northpoint Tower and surrounding commercial buildings are least impacted.

Having regard to the negligible impact of noise on surrounding properties and the benefit of a shorter construction program and continual operation of the Northpoint car park, it is considered the extended construction hours are appropriate for the

redevelopment. Council's Environmental Health Team Leader concurs with the acoustic report.

Stormwater Management

There will be no negative impact on council's drainage system caused by the development as the new development will be constructed above the existing building podium and therefore not increase the impermeable area of the site. This means the discharge flows post-development will be identical to that of the pre-development case which will remain unchanged with the proposed design modifications. Council's Development Assessment Engineer has considered the engineering reports submitted with the application and agrees with the deleting of certain conditions and the modification of another with regard to stormwater.

Traffic and Parking

A Traffic Impact Assessment (dated 3 December 2014) was prepared by Arup and submitted with the approved DA for the development (DA443/14). Arup have provided an Addendum Letter to this report, confirming there are no impacts or changes to the traffic and parking arrangements in regard to the proposed modifications.

Accessibility

Philip Chun Building Compliance has prepared an Addendum Letter to their original Accessibility Report submitted with the approved DA (dated 2 December 2015). The addendum confirms the proposed modifications to the development have no negative impacts with respect to access for people with disabilities. The modified design is capable of meeting the relevant provisions of the BCA, Premises Standards and DDA.

MATERIALS

NORTHPOINT MATERIAL SCHEDULE – SECTION 96

CODE	LOCATION	DESCRIPTION
GLZ 1	Retail 'shard' Façade	Performance glazing in curtain wall system.
GLZ2	Hotel Façade	Performance glazing in curtain wall system
GLZ3	Hotel Façade	Coloured back panel in curtain wall system
GLZ4	Hotel Façade	Coloured glass in curtain wall system
GLZ5	Miller Street Shopfronts	Non-performance clear glazing for tenant shopfronts
GLZ6	Glass Awnings Miller St + Pacific Hwy	Clear glazing with frit pattern
GLZ7	Glass Roof/Skylight 'shard' + Foodcourt	Performance glazing with frit pattern
CLD1	Retail 'shard' Façade	Terracotta tile (exposed or behind glass)
CLD2	Commercial Entries (through site link) Miller St + Pacific Hwy	Stone cladding
CLD3	Hotel Façade	Light weight cladding - Black
CLD4	Façade screening	Perforated metal panel
CLD5	Plant screening	Vertical metal screen

There are no objections to the proposed materials.

ALL LIKELY IMPACTS OF THE DEVELOPMENT

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

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

Submitters Concerns

The Council's notification of the proposal has attracted one submission raising particular concern with the proposed construction hours. The Construction Noise and Vibration Impact Assessment has assessed the potential impacts of the extended construction hours on the nearby commercial and residential receivers. The residential receivers will not be affected by construction noise as the predicted noise during demolition within the basement is lower than 46dB(A) for all receivers.

The extended construction hours will shorten the length of the construction program, ensuring that any public impacts associated with the construction works are minimised. It will also allow for specific works to be scheduled outside core business hours so that existing tenants of Northpoint Tower and surrounding commercial buildings are least impacted.

The wording of the amended condition will require that work ceases should complaints be received until such time as they can demonstrate that the work can be carried out without causing disturbance to residents. The applicants have also advised that they will letter box drop all affected residents and provide details including a 24 hour contact number, which will also be displayed on the site.

Conclusion

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

The proposed modifications are necessary to permit design changes that have been instigated by a number of issues uncovered through the design development process.

Modifications are also sought to the approved construction hours and provision of onsite stormwater detention.

The proposal is substantially the same development as that originally approved; the proposed modifications are of negligible or no environmental impact; and the design modifications result in a smaller development than approved and responds more favourably to comments raised previously through the DEP review.

The issue of the street awnings has been partially addressed by the applicant but does not satisfactorily respond to the requirements of the DCP or to the concerns raised by the DEP with the cover and shelter provided at the corner of the site and the height of the awning at the corner that is significantly higher than the Miller Street awning. The corner is south facing and the awning will not provide adequate shelter as proposed. The proponent needs to design an appropriate continuous pedestrian cover around the frontage of the site. Upon consideration of all the facts including the applicant's submissions and the requirement of the Development Control Plan 2013, the Design Excellence Panel's view and conditions B2 and B3 of the consent, Council officers have formed the view that the corner treatment is unsatisfactory and needs reconsideration. A better solution is possible all be it at some additional expense.

It is considered that the detailing of this major corner needs to be provided and approved rather than impose further conditions that the applicant is not willing to address. This may involve a deferral of the proposal to allow for plans to be submitted. The issue is whether the public benefit of a sheltered corner is more important than the integrity of the design or as stated by the architect *that the structural solution does not dominate the entry or take focus from the architecture*. The proposed awning treatment at the higher height and following the building's facade is not considered to be a superior aesthetic response. Should the Panel support the need for a sheltered corner that meets its purpose then condition B3 needs to be amended as recommended. Should the Panel support the submitted design for the awning following the building facade without a canopy then condition B3 will require further modification to reflect the current design.

RECOMMENDATION

THAT the Joint Regional Planning Panel, as the consent authority, modify its consent dated 15 May 2015 in respect of a proposal for reconfiguration of podium levels and new hotel tower: Alterations and additions to podium to include supermarket, retail and food premises with new hotel at 100 Miller Street North Sydney under the provisions of Section 96 of the Environmental Planning and Assessment Act with regard to

2015SYE162 – North Sydney - Development Application No.443/14/2, only insofar as will provide for the following:

To delete condition A1, A3, B3, B4, C1, C13, E15 and G4 of the consent and insert in lieu thereof the following new conditions namely:

Development in Accordance with Plans/documentation

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

Plan No.	Issue	Title	Drawn by	Received
DA-10	A	Level 7 demolition	Rice Daubney	12.12.2014
DA-11	A	Level 8 demolition	Rice Daubney	12.12.2014
DA-12	A	Level 9 demolition	Rice Daubney	12.12.2014
DA-13	A	Level 6 basement	Rice Daubney	17.11.2015
DA-14	C	Level 7 retail – Miller St	Rice Daubney	17.11.2015
DA-15	C	Level 8 retail - Highway	Rice Daubney	17.11.2015
DA-16	C	Level 9	Rice Daubney	17.11.2015
DA-17	C	Level 10	Rice Daubney	17.11.2015
DA-18	C	Level 11	Rice Daubney	17.11.2015
DA-19	C	Level 12	Rice Daubney	17.11.2015
DA-20	C	Level 13	Rice Daubney	17.11.2015
DA-21	C	Level 14	Rice Daubney	17.11.2015
DA-23	C	Roof Plan	Rice Daubney	17.11.2015
DA-26	C	Miller St elevation	Rice Daubney	17.11.2015
DA-27	E	Highway elevation	Rice Daubney	17.11.2015
DA-28	F	Highway building elevation	Rice Daubney	17.11.2015
DA-29	D	Miller St building elevation	Rice Daubney	17.11.2015
DA-30	C	Hotel north elevation	Rice Daubney	17.11.2015
DA-31	C	Section – site link north	Rice Daubney	17.11.2015
DA-32	C	Section – site link south	Rice Daubney	17.11.2015
DA-33	C	Section – lobby south	Rice Daubney	17.11.2015
DA-34	C	Section – lobby north	Rice Daubney	17.11.2015
DA-35	C	Section – retail & hotel	Rice Daubney	17.11.2015
DA-36	C	Section – retail & hotel	Rice Daubney	17.11.2015

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

External Finishes & Materials

- A3. External finishes and materials must be in accordance with the submitted schedule prepared by Rice Daubney and received by Council on 17 November

2015 unless otherwise modified by Council in writing.

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

Canopy and Street Awning at entrance

- B3. The required street awning to the Pacific Highway shall be continued around the southern corner of the site (intersection of Pacific Highway and Miller Street) **no higher than half way between the Pacific Highway awning and the Miller Street awning with overlaps for weather protection. The awning shall follow the street boundary to provide a consistent width over the public footpath. The height of any roof over the entrance behind the street awning can either be at the same height of the awning or the height of the soffit (FL level 9).**

Plans detailing the final design of the required awning and canopy must be submitted and approved by the Council prior to the lodgement of the relevant Construction Certificate.

(Reason: To provide continuous weather protection and refuge for the entire site frontage and entry as required by the Area Character Statement and to clearly identify the corner)

Entrance forecourt steps and levels

- C1. The proposed entrance steps and ramping at the western edge of the southern corner entrance shall be moved within the site as much as practical and be designed to comply with the Building Code of Australia. Alternatively, no devices are required if through the alteration of levels of the public domain, the change in levels appropriately address pedestrian safety to Council's satisfaction and to comply with the relevant Australian Standards.

Plans detailing the final design must be submitted and approved by the Certifying Authority prior to the issue of the relevant Construction Certificate.

(Reason: Safety close to corner entry and crossing)

Stormwater Management and Disposal Design Plan

- C13. Prior to issue of the relevant Construction Certificate, the applicant shall have a site drainage management plan prepared by a qualified drainage design engineer. The site drainage management plan must detail the following requirements of North Sydney Council:
- a) Compliance with BCA drainage requirements, Councils Engineering Performance guide and current Australian Standards and guidelines, such as AS/NZ3500.3.2 1998, National Plumbing and Drainage Code.

- b) Any redundant stormwater pipelines within the footpath area shall be removed and the footpath and kerb reinstated.

Details demonstrating compliance are to be submitted with all other drainage details to Council prior to issue of the relevant Construction Certificate.

The Certifying Authority issuing the Construction Certificate must ensure that the approved drainage plan and specifications, satisfying the requirements of this condition, is referenced on and accompanies the Construction Certificate.

(Reason: To ensure controlled stormwater management and disposal without nuisance)

Construction Hours

- E15. Building construction shall be restricted to within the hours of 7.00am to 4.00am (on the following day) Monday to Friday and on Saturday to within the hours of 8.00am to 5.00pm inclusive, with no work on Sundays and Public Holidays.

External demolition and excavation works shall be restricted to within the hours of 7.00am to 6.00pm Monday to Friday only.

Permissible building works between the hours of 6:00 pm and 4:00 am Monday to Friday and from 1.00pm to 5.00pm on Saturdays will be limited to internal works only and shall be wholly contained within the sealed building facade. Work shall be limited to the following:

- Services relocations;
- Basement strengthening works which include demolition works.

Permissible building works between the hours of 1:00 pm and 5:00 pm on Saturdays are also limited to the following:

- Services installation;
- Jumpform works;
- Formwork and reinforcement installation;
- Concrete finishing works;
- Survey;
- Basement construction works;
- Substation works;
- Podium & lobby works;
- Façade installation;
- Plant room and lift works;
- Modification to car park entry ramps; and
- Finishing trades in tower and hotel.

The external use of jack hammers and other noise generating machinery is strictly prohibited after 6:00 pm on weekdays and 1.00pm on Saturdays, to external areas only.

Notes:

For the purposes of this condition:

"Building construction" means any physical activity on the site involved in the erection of a structure, cladding, external finish, formwork, fixture, fitting of service installation and the unloading of plant, machinery, materials or the like.

"Demolition works" means any physical activity to tear down or break up a structure (or part thereof) or surface, or the like, and includes the loading of demolition waste and the unloading of plant or machinery.

"Excavation work" means the use of any excavation machinery and the use of jack hammers, rock breakers, excavators, loaders, or the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site and includes the unloading of plant or machinery associated with excavation work.

The builder shall prepare a Construction Noise and Vibration Management Plan (CNVMP) to include the following:

- Identification of nearby residences and other sensitive land uses;
- Description of approved hours of work and what work will be undertaken;
- Description of what work practices will be applied to minimise noise; and description of the complaints handling process.

A copy of the CNVMP shall be provided to Council.

The builder and excavator shall display, on-site, their twenty-four (24) hour contact telephone number, which is to be clearly visible and legible from any public place adjoining the site.

The builder shall letter box drop affected residents with details of their twenty four (24) hour telephone number.

A permanent register of all complaints received must be held by the applicant/builder and provided to Council upon Council's request. Complaints shall be managed in accordance with the recommended Complaint Handling Procedure contained in the CNVMP.

At Council's sole discretion, should complaints of noise be received from residential users in proximity to the site, particularly between 6pm and 4am weekdays and between 1.00pm and 5.00pm Saturdays, and the complaints can be justified, that excavation/construction work is to cease during these hours

until such time as the site shows they can operate this activity without causing undue disturbance to residential premises.

Car parking associated within the extended construction hours for internal works shall be contained wholly within the subject site on the basement levels.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

Geoff Mossemeneer
EXECUTIVE PLANNER

Stephen Beattie
MANAGER DEVELOPMENT SERVICES
