

COUNCIL ASSESSMENT REPORT

Panel Reference	2018SNH065
DA Number	368/18
LGA	North Sydney
Proposed Development	Construction of a 48 storey hotel and office building
Street Address	86-88 Walker Street North Sydney
Applicant/Owner	Saul Moran/88 Walker Street Investments Pty Ltd; MRAKA Pty Ltd
Date of DA lodgement	6 November 2018
Number of Submissions	Two
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	Capital Investment Value (CIV) of greater than \$30 million
List of all relevant s4.55(1)(a) matters	North Sydney LEP 2013 <ul style="list-style-type: none"> • Zoning – B3 Commercial Core SEPP 55 - Contaminated Lands SREP (Sydney Harbour Catchment) 2005 North Sydney DCP 2013
List all documents submitted with this report for the Panel's consideration	Conditions Plans Clause 4.6 request Design Statement
Report prepared by	Geoff Mossemeneer, Executive Planner North Sydney Council
Report date	16 January 2019

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **Not Applicable**

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

EXECUTIVE SUMMARY

This development application seeks approval to construct a 48 storey development at 88 Walker Street and cantilevering over 86 Walker Street from level 5 and above, including:

- 16 levels of hotel accommodation, with an additional 7 levels of associated facilities including back of house facilities, executive lounge, gym, back of house facilities, a sky lobby and restaurant;
- 21 levels of commercial office space and one level of commercial lobby;
- Provision of a new through site link;
- Ground floor café;
- Rooftop Bar; and
- Construction of a two level basement including associated plant and realignment of the Sydney Water stormwater system;

Alterations and additions to 86 Walker Street (Firehouse Hotel), including:

- Demolition of the rear of the pub to expand the public domain on Little Spring Street;
- Reconfiguration of the ground level gaming rooms, back of house and loading dock;
- External paintwork; and
- Provision of a new pedestrian entry from Little Spring Street;

2 sky signage zones.

The Council's notification of the proposal attracted two submissions concerning the height, wind tunnel affects, traffic, loss of light and major visual impact.

The proposed development has been assessed with respect to the objects and relevant Sections of the EP&A Act, as well as the objectives, merit based outcomes, development standards and prescriptive controls of various State Environmental Planning Policies, the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013. Other plans and policies were also considered such as the North Sydney Section 7.11 Contributions Plan.

The applicant has submitted a Clause 4.6 request with regard to the height of the proposal exceeding the current height control of RL 227 by 5.6m. The request is considered to be well founded with the height breach being defined as architectural roof features and in keeping with the applicable LEP controls.

Council's Design Excellence Panel has considered the proposal on several occasions and fully supports the application.

Following assessment of the plans, the development application is recommended that the Panel may 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.

1. DESCRIPTION OF PROPOSAL

The proposal consists of:

Construction of a 48 storey development at 88 Walker Street and cantilevering over 86 Walker Street from level 5 and above, including:

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2 sky signage zones



Source: Fitzpatrick + Partners



Front Façade - Source: Fitzpatrick + Partners



Rear Façade - Source: Fitzpatrick + Partners

1.1 Components

Component	Proposal
Site area	1,077m ²
GFA	24,042m ²
• Office space	• 13,106m ²
• Hotel space	• 10,381m ²
• Pub space	• 908m ²
Maximum height	RL 227 (RL 232.6 with architectural roof feature)
Number of storeys	48
Floor Space Ratio (FSR)	23.93:1
Tower setbacks	
• North	• Nil
• South	• 3.0m
• East	• 5.0m (weighted)
• West	• 3.7m (weighted)
Hotel rooms	252
Car spaces	0
Bike parking spaces	105

Source: SEE

1.1.1 Office

Commercial office spaces are proposed to occupy Levels 25-33 and 35-46. A typical commercial office floor will have a GFA of 598m², resulting in a total of 13,106m² of GFA across the 21 levels (in addition to commercial lobby space and end of trip facilities).

1.1.2 Hotel

The hotel space will occupy Levels 5 to 23. The rooms themselves will occupy levels 8-23, with each floor replicating a typical layout consisting of 16 rooms of sizes ranging from 19m² to 32m². The hotel is supported by associated facilities including a restaurant, gym, meeting rooms, executive lounge, administration space, staff facilities, waste facilities, baggage storage, bar, laundry and linen storage.

1.1.3 Rooftop Bar

A rooftop bar will occupy Level 47. The bar has a GFA of 505m². The fitout and use of the bar will be the subject of a future development consent.

1.1.4 Pub

The Firehouse Hotel will continue to operate as a pub in accordance with its existing DA consent.

1.1.5 Café

A café is proposed to be located on the ground floor adjacent to the entry to the through site link from Little Spring Street. The café is intended to activate this part of the site in order to positively respond to Council's improvements to the laneways at the rear of the proposed development.

1.1.6 New Tower

The proposed scheme involves a two storey podium and tower cantilevering over the existing Firehouse Hotel. At ground level, the design approach for the new building is to provide a setting for the former fire station which allows it to make a contribution to the streetscape through distinction from its neighbouring building in design and materiality. As part of the architectural expression of the ground floor, the interface with Walker Street is

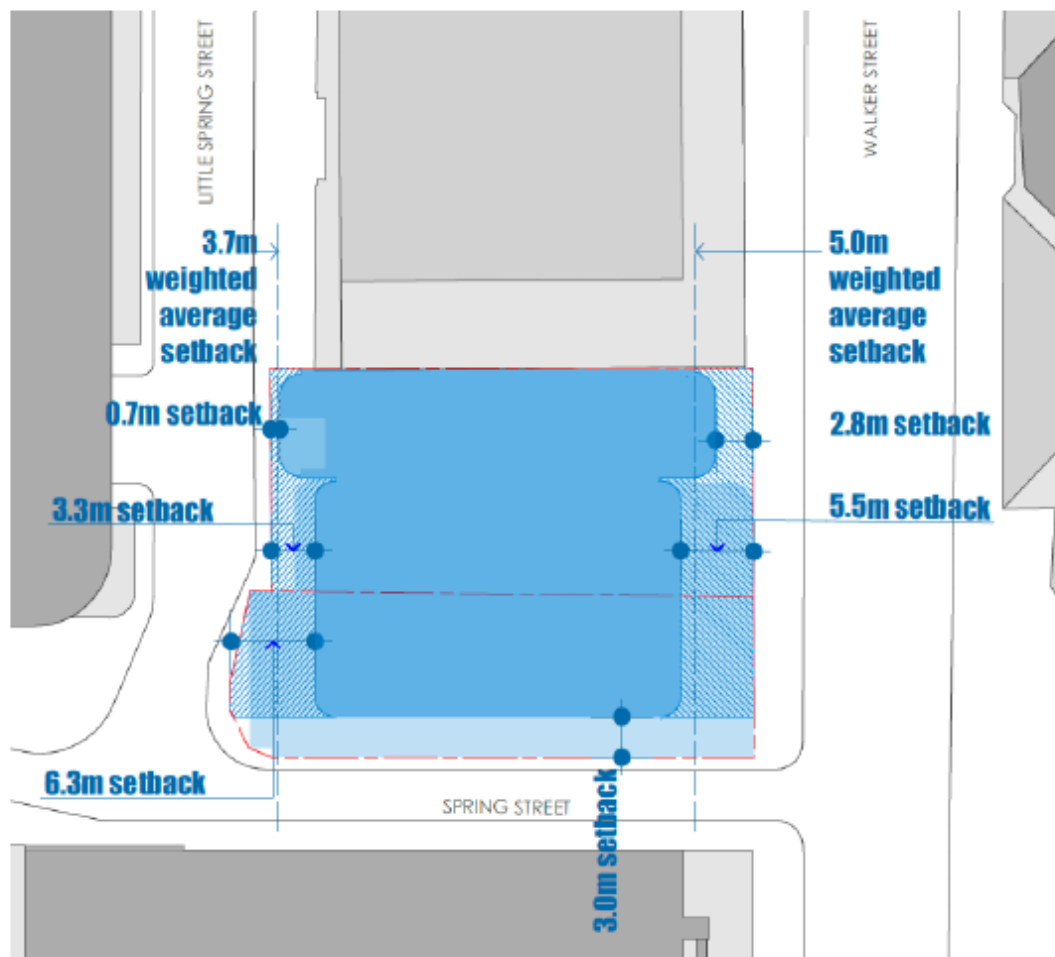
compartmentalised into three main sections: the existing Firehouse Hotel, the main commercial entry and the hotel entry.

The façade above the hotel entry is consistent throughout the height of the building. A significant structural void between Level 2 and Level 5 is above the commercial entry. The purpose of this void is to embellish the heritage significance of the Firehouse Hotel, whereby the commencement of the tower from Level 5 has been purposefully selected in order to provide adequate vertical curtilage twice the height of the existing building.

1.2 Setbacks

At street level the facades are sequentially stepped back to transition between the existing Firehouse Hotel setback and the setback of 100 Walker Street to the north. This includes a 2.8m setback for the hotel/lobby entrance and the remainder of the front façade (i.e. commercial entry) matching the Firehouse Hotel at the property boundary (nil setback).

For the tower, a 5.0m weighted average setback is applied to Walker Street, which includes a 2.8m setback at the hotel/lobby entrance and a 5.5m setback for the remainder of the front façade (i.e. commercial entry). At the rear of the site to Little Spring Street, a 3.7m weighted average setback is applied which includes a 0.7m setback above the loading dock area, a 3.3m setback to the rear entry and a 6.3m setback to the Firehouse Hotel. A 3m setback is applied to Spring Street for the tower. Refer below.



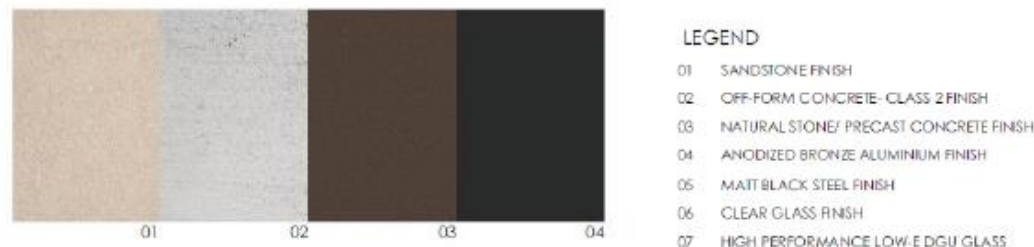
Source: Fitzpatrick + Partners

1.3 Materials and Finishes

The proposed development intends to incorporate the following building materials:

- At roof level: primarily concrete and steel
- Walls: Stone, concrete and aluminium, and
- Floor: primarily concrete

An example swatch of materials is shown below.



Source: Fitzpatrick + Partners

2. STATUTORY CONTROLS

North Sydney LEP 2013

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

Environmental Planning & Assessment Act 1979

SEPP 55 - Contaminated Lands

SREP (Sydney Harbour Catchment) 2005

2.1 POLICY CONTROLS

North Sydney DCP 2013

3. CONSENT AUTHORITY

As this proposal has a Capital Investment Value (CIV) of greater than \$30 million the consent authority for the development application is the Sydney North Planning Panel.

4. DESCRIPTION OF LOCALITY

The land area of 86 Walker Street is 470m² and 88 Walker Street is 607m², totalling 1,077m². Both lots are generally rectangular. The site is legally described as Lot 1 in DP 832416 (88 Walker St) and Lot 1 in DP 857756 (86 Walker St). The registered owner of 88 Walker Street is North Walker Property Pty Ltd and the registered owner for 86 Walker Street is MRAKA Pty Limited.

The site has primary access onto Walker Street and also has rear access to Little Spring Street. The Fire Station (86 Walker Street) is listed as an item (item number I0983) of local heritage significance under the *North Sydney Local Environmental Plan 2013* (NSLEP 2013).

The site is currently occupied by a nine-storey concrete office building (88 Walker Street) and a pub (86 Walker Street). 86 Walker Street is the former North Sydney Fire Station and is a locally listed heritage item. Above the podium of 88 Walker Street, the setback aligns with

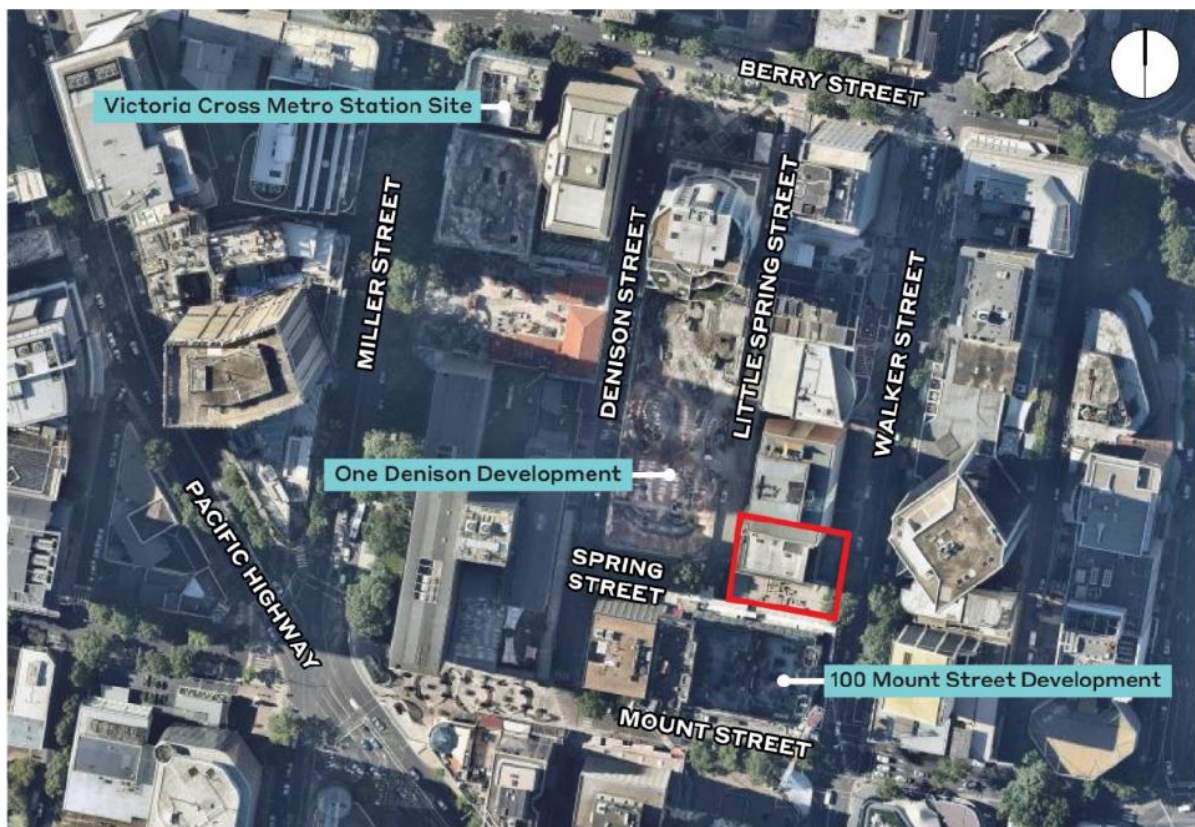
development to the north at 100 Walker Street. An internal car park is accessed from the rear off Little Spring Street to 88 Walker St.

To the immediate north of the site is commercial and mixed-use development along Walker Street. 170m to the northwest is the site of the proposed Victoria Cross Metro Station.

Further to the south is the 100 Mount Street development. 100 Mount Street is currently under construction and is expected to be completed in 2018. The development is a commercial tower of 38 floors and a total tower height of 149m.

To the immediate west of the site is Little Spring Street. On the other side of Little Spring Street is the One Denison Street development. The development is a commercial tower of 39 floors and a total tower height of 158.7m. Further to the west are the MLC Centre and other commercial developments in the North Sydney CBD.

To the east of the site are two blocks of commercial development prior to reaching the Warringah Freeway, which separates the North Sydney CBD from low to medium density residential developments of Neutral Bay and Kirribilli further to the east.



 The Site

5. BACKGROUND

5.1 Part 3A Major Project - Berry Square redevelopment (MP08_0238)

On 25/2/10 Part 3A major development approval was granted by the Department of Planning for demolition of existing buildings and erection of a mixed use development comprising a retail/commercial building at No's.77-81 Berry Street, North Sydney and a **33-storey hotel containing 200 guest rooms on the subject site at No.88 Walker Street.**

A section 75W modification application (**MP08_0238 MOD 5**) was lodged with NSW Planning & Environment on 12/6/14 seeking to delete that part of the development relating to the subject site at No.88 Walker Street, being a hotel building and associated service tunnel beneath Little Spring Street linking to the approved commercial building at No's.71-81 Berry Street.

The Modification Application ("MOD 5") was **approved on 16/3/15** with the effect of deleting any reference to the subject site (or part thereof) in relation to the description of land the subject of the approval, demolition, excavation, and construction of a hotel building and associated service tunnel. In light of the above, the subject site at No.88 Walker Street is taken to be severed from the redevelopment of the Berry Street site.

5.2 DA430/14 for change of use and alterations and additions to existing commercial office building for the purposes of providing new tourist hotel accommodation, was approved by North Sydney Independent Planning Panel at its meeting on 1/4/15.

5.3 DA 90/18 was recently approved for the demolition of the existing nine storey office building at 88 Walker Street.

5.4 DA165/18

In 2014 North Sydney Council commenced a review of the planning controls for the North Sydney Centre. As part of the review Council prepared a North Sydney CBD Capacity and Land Use Strategy which was subsequently followed by a Planning Proposal to amend *North Sydney Local Environmental Plan 2013* (NSLEP 2013). The Planning Proposal included increasing the maximum height of buildings control on the subject site from RL 170 to RL 227.

Due to the protracted timeframe associated with the finalisation of the Planning Proposal, Billbergia lodged a DA165/18 to North Sydney Council on 4 June 2018 for the construction of a 35 storey building compliant with the existing controls under NSLEP 2013. Provision was made within that application to allow it to be converted to a building commensurate with heights envisaged under the North Sydney Centre Planning Proposal at a future time once the Planning Proposal was further progressed.

On the 26 October 2018 NSLEP (Amendment No 23) was gazetted in accordance with the Planning Proposal. Accordingly, the applicant, Billbergia has now withdrawn DA165/18 and this application is submitted under the amended LEP height control.

It is noted that the primary difference between the two applications to achieve the increased height control involves the addition of 14 levels of commercial office space

6. REFERRALS

6.1 Building

The application has not been assessed specifically in terms of compliance with the National Construction Code (NCC). It is intended that if approved, Council's standard condition relating to compliance with the NCC be imposed and should amendments be necessary to any approved plans to ensure compliance with the NCC, then a Section 4.55 application to modify the consent may be required.

6.2 Engineering/Stormwater Drainage/Geotechnical

Council's Development Engineer (H Konsti) has assessed the proposed development and provided a number of specific conditions. Should the development application be approved,

the imposition of a number of standard and site specific conditions relating to damage bonds, excavation, dilapidation reports of adjoining properties, construction management plan, vehicular crossing requirements and stormwater management would be required. The geotechnical conditions of the North Sydney CBD are well understood and no issue is expected to arise here.

6.3 Landscaping

Council's Landscape Officer has provided conditions with regard to the two street trees. There are no trees on the site and limited landscaping opportunities. The applicant has requested removal of the trees and Council's Landscape Officer was requested to provide comment as follows:

Following our discussion of 7/1/19, I visited the site to inspect the 2 x 20m Plane Trees on the Walker Street frontage, and cannot support the removal and the replacement of these trees, I would instead suggest that any works be carried out in such a manner so as not to impact on the trees.

Although the trees in question do exhibit a slight lean towards available light, I can find no evidence contained within the arborists report dated 20/9/18 (McArdle Arborist), in which the trees are assessed as having a TULE of 2d ("Trees that appeared to be retainable at the time of assessment for 15-40 years with low to medium level risk"), and as having Retention Values of "High", nor by my own visual assessment, that would suggest that their removal was warranted.

These trees form part of an avenue planting of Plane Trees along Walker Street and their removal and replacement with immature specimens would negatively impact on the streetscape. I note also that the street view photos used in the arborist report were taken in winter while these deciduous trees were devoid of leaves – seen today in full leaf, their amenity value and contribution to the streetscape is much more appreciable.

The continuing loss of canopy, particularly the loss of trees of this size and maturity in North Sydney, the value of these trees in softening the street frontage, their inclusion in an existing avenue planting, and the ability of this species to thrive in the less than ideal conditions of a heavily built up urban environment, further warrant their retention, and their protection shall be supported as originally conditioned.

6.4 Traffic/Parking

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

I refer to your request for traffic comments in relation to Development Application 368/18 for development at 88 Walker Street, North Sydney. I have read the Traffic Impact Assessment report prepared by GTA Consultants dated 31st October 2018. In assessing this report, architectural plans by Fitzpatrick and partners dated 31st October 2018 have been considered.

Existing Site

The subject site is located at 88 Walker Street, North Sydney. The site occupies around 1,077 square metres with a frontage of 13 metres to Walker Street on its eastern edge and 13 metres to Little Spring Street on the sites western edge. The existing building is currently unoccupied. The surrounding properties predominantly consist of commercial and retail uses, including offices, retail, restaurants and cafes. The area is active throughout the day with high levels of pedestrian movements, characteristic of a central business district.

Proposed Development

The proposed Compliant Scheme includes 5,411 m² GFA (224 rooms) and 10,217 m² GFA (office). and Uplift Scheme includes hotel and office uses which consist of 10,381 m² GFA (252 rooms) and 13,106 m² GFA (office).

The submitted architectural drawings are based on the Uplift Scheme and as such my traffic assessment is based on this scheme.

Parking Provision

This development does not propose any onsite parking spaces.

Traffic Generation

Development does not provide any onsite parking and as such, this could result in reduction of private trip generations to the site.

Traffic generation was assessed using the RMS Guide to Traffic Generating Developments 2013 updated version, the proposed development with the Compliant Scheme is expected to generate about 16 and 13 car trips with 25 and 22 taxi trips in the AM and PM peak hours, respectively. This equates to up to 41 vehicle trips in the peak hour. The result shows that the proposed development does not have any impacts on the existing Traffic.

Bicycle Parking

Council's DCP specifies that all new development is to provide on-site, secure bicycle parking facilities. The minimum required bicycle space for Serviced Apartments, Hotels and motels and Office premises are specified and calculated on the table below.

Development Type	North Sydney Council DCP 2013 (amended Nov 2015)			
	Occupants		Visitors/customers	
Serviced Apartments, Hotels and motels (10,381 m ² GFA (252 rooms, 45 Staff)	1 space / 4 Staff	12	1 space / 20 rooms	13
Office premises 13,106 m ² GFA (office).	1 space / 150m ²	88	1 space / 400m ²	33
Total Bicycle spaces	100		46	

Therefore, a total of 146 bicycle spaces are required for this development to comply with the Council's DCP. A total of 105 bicycle spaces (racks) are provided on levels 2,3 and 4 for occupant and visitors which does not meets the requirements of Council's DCP. The proposal is in shortage of 41 spaces.

Furthermore, type of bicycles spaces as well as changing and shower facilities shall be provided in accordance with Council's DCP. All other requirements for Bicycle parking and associated facilities such as access and design shall be provided in accordance with Council's DCP.

Loading Facilities

Council's DCP does not provide rates for loading and unloading facilities for commercial developments.

The development has provided one loading bay which appears to accommodate up to a Medium Rigid Vehicle (and 8.8 MRV) on site. For the scale of this development with 16 levels of hotel spaces, 21 levels of offices and restaurants, one loading bay seems insufficient. The report has not justified this loading bay. Therefore, it should be noted that the insufficient loading bay may cause traffic issues during operation and needs to be addressed by the applicant prior to determination.

On street drop off/ pick up

The development has proposed a drop off/ pick up (No Parking restricted area) location in Little Spring Street. Drop off/pick up shall be carried out entirely within the site and as such this proposal is not supported by Council.

Conclusion

It is recommended that the proposed development be refused until the applicant addresses the followings:

- The applicant is required to provide additional bicycle spaces as mentioned above.*
- The applicant is required to provide details of proposed bicycle spaces and to comply with the Council's DCP as mentioned above.*
- The provision of loading facilities to be addressed as mentioned above.*
- The applicant is required to provide onsite Drop off/pick up area/s to avoid reliance on the street parking.*

Should Council approve this development it is recommended that the following conditions be imposed:

- 1. That a Construction Management Plan be prepared and submitted to Council for approval by the North Sydney Traffic Committee prior to the issue of the Construction Certificate. Any use of Council property shall require appropriate separate permits/ approvals.*
- 2. That all aspects of loading bay comply with the Australian Standard AS2890.2 Off-Street Parking for Commercial Vehicles and Council's DCP.*
- 3. That all aspects of bicycle parking and storage facilities comply with the Australian Standard AS2890.3 and Council's DCP.*
- 4. Provision of Drop off/ pick up area in Little Spring Street to be approved by Traffic Committee prior to issue of the Occupation Certificate.*

6.4.2 Comment:

A condition is recommended with regard to the Construction Management Plan for approval of the North Sydney Traffic Committee.

The proposal provides for an on-site loading dock for service vehicles and refuse collection. The loading dock has a turntable so vehicles will enter and leave in a forward direction. The loading dock will also provide for deliveries to the Fire House Hotel. Currently deliveries are made on street. There is public benefit in all deliveries being carried out on-site and vehicles not reversing on or off the street. The loading area is designed to comply with the Australian Standards for SRV and this has been conditioned.

105 bike parking spaces are proposed. Whilst it is noted that this is less than the required 146 spaces, this is considered appropriate given the site's location close to regular public transport services. Access to the bike area and end of trip facilities suit occupants of the building and not visitors. Adequate bike provision has been provided for occupants. A condition is included with regard to bike numbers and compliance with Australian Standards.

The North Sydney Traffic Committee will need to consider any drop off areas in Little Spring Street as a separate matter. This will also relate to drop off areas for 1 Denison Street opposite in Little Spring Street.

6.5 Environmental Health

Council's Team Leader Environmental Health has recommended appropriate conditions should consent be granted.

6.6 Heritage

Council's Conservation Planner (L Varley) has provided the following comments:

1. Heritage Status and Significance

The subject property is a heritage item and is a former Fire Station designed in the Victorian Italianate style. The building was designed by architect Charles Hellrich and is similar to his design for the c1894 Balmain Fire Station. It was opened in 1895. The large opening was the entrance to the engine room and the stables were most probably located to its rear. There was a watchroom on the Ground Level with separate access from Walker St. The remaining spaces included bedrooms for single men, a recreation room and a fodder room with the necessary outhouses and hose drying appliances. On the upper level were two apartments accessed from Spring St for married men, each with four rooms and a bathroom. A telephone cable connected the station to the station at Circular Quay and to the Telephone Exchange. Six alarm boxes were installed at regular intervals at important street intersections in North Sydney.

The building was extended in 1901 with an extra horse stall, additional fodder room, store rooms, coal-lockers, a bathroom and sanitary conveniences. A large water tank was sunk into the rear yard and hydrants installed nearby. A ladder wagon formed part of the new equipment.

In 1945, the Fire Station was closed with another 22 stations with the re-organisation of the Sydney Fire District. The building was still used for the housing of plant and equipment plus accommodation for one officer. From 1951 to 1955, the site was used as a Service Maintenance Station depot by the NSW Fires Brigades until its decommissioning. In 1964 the site was sold as a development site to Ferrum Engineering.

In 1971, the building was converted to the Weingarten restaurant, bar and garden incorporating salvaged fine glass windows from the demolished 'Penshurst, the manor house of eminent architect Walter Liberty Vernon in Neutral Bay. The building has had several modifications since that time, with the current form with the First Level rear addition and Ground Level bar being approved in 2005.

There is currently a building height limit of RL170m above the Fire Station. In 2017, the North Sydney Centre Planning Proposal was lodged by North Sydney Council to the Department of Planning & Environment to increase the existing height to RL 227m on the site. This was supported by North Sydney Council partially to take necessary steps to ensure that the potential of the nearby Sydney Metro site realises significant additional commercial floor space.

The heritage significance of the site provides an excellent opportunity to incorporate an interpretative piece of public art in accordance with Council's Public Art Policy and the guidelines in the North Sydney Public Art Trail. Opportunities exist on the facades of the new portion of the building on the southern and western elevations for a bespoke integrated artwork.

2. Heritage Impact Assessment

a) North Sydney LEP 2013 Clause 5.10

An assessment of the proposal, with reference to the following Clause of the North Sydney LEP 2013 has been made:

The proposal is considered to generally satisfy this clause as the works will retain the primary form of the building and result in conservation works to the front façade. Whilst the proposed tower will over-scale the existing two storey form, the visual impact of the height has been ameliorated by the void between the item and the tower and by the setbacks.

The Conservation Management Plan dated May 2018 is satisfactory.

b) North Sydney DCP 2013

An assessment of the proposal, with reference to Part B Section 13 of the North Sydney DCP 2013 has been made with the following elements of the DCP being of note:

13.4 Development in the Vicinity of Heritage Items- The proposed development is located in the vicinity of the locally listed MLC Building at 105 Miller St, North Sydney. The proposed works are considered to be sufficiently physically separated by various laneways and by the proposed 1 Denison St development, so as not to negatively impact upon the significance and curtilage of the MLC Building.

13.5.1 Heritage Items – Objective O1 – Ensure changes to heritage items are based on an understanding of the heritage significance of the heritage item- The proposed tower above the heritage item is obviously not compliant with this heritage control in that the ridge height is not at or below the ridge of the heritage item. No objection is made however, as the additional height to RL 232.60 is only marginally above the maximum permissible height of RL 227.00 which has been adopted by Council. The proposed cantilevered tower, in its amended form is considered to be an acceptable means of obtaining additional commercial floor space whilst retaining the primary form, heritage significance and character of the Fire Station. The amended tower has its structural supports re-designed such that they are not visually competing with the fine grained detail of the Fire Station and such that the tower will appear to hover behind the Fire Station. The demolition of the rear of the Fire Station building will have minimal impact to the significance of the heritage item as it consists of later additions with low heritage significance. The new works to the rear are acceptable as they are set below the height of the Fire Station's parapet wall and are submissive in massing. An indent to clearly separate the new from the old would be a preferred design outcome.

13.5.1 Provision P5 Locate change away from original areas of the heritage item that are intact- The proposed demolition of the rear of the heritage item is acceptable as it is of low heritage significance. The works to the intact portion of the item are acceptable. The front façade is to be acceptably re-painted using black and white photographic records to determine the tonal colour range as paint scrapings did not reveal any earlier schemes.

13.5.2 Form, Massing and Scale - Objective O1 To ensure new development has a compatible and complimentary building form and scale to that which characterises the conservation area-

The enlarged void space between the tower and heritage item, which is equal to the height of the heritage item and cleared of structural supports, is considered to be an acceptable separation between the new development and the original building. This should not however, be used as an acceptable means to achieve additional floor space

for all heritage items as this is a site that Council has specifically identified as requiring additional commercial floor space.

The revised design for the tower's structural supports are also considered to be satisfactory as the visually exposed angled elements have been amended to be located away from the space directly above the heritage item. The resultant design remains visually dynamic but no longer detrimentally competes with the heritage item.

The proposed coffered folded elements on the soffit of the proposed tower are considered to be acceptable as they are sufficiently elevated above the roof of the heritage item and will provide a sense of lightness to the cantilevered tower above.

The proposed setbacks to the tower and adjacent development are considered to be generally adequate, however, a setback of 200 mm on the South Elevation to Spring St that separates the original Fire Station building from the new contemporary works in the location of the proposed Waste Store will allow for greater interpretation of the old from the new.

The curved forms on the Walker St frontage and stepped façade assist in providing a softer massing relative to the heritage item.

The proposed podium height on the Walker St frontage is considered to be acceptable as it has a direct relationship with the parapet wall of the heritage item. The paneled sandstone façade and awning is also considered to have an appropriate relationship to the mouldings on the heritage item façade.

The narrow awning on the Walker St frontage is considered to be acceptable as it does not compete with the heritage item but provides articulation to the proposed façade and will marry with the string course on the Fire Station.

13.5.5 Interior Layouts – Objective O1 To ensure that significant interior elements are retained and preserved- The interior of the heritage item is already highly modified as a result of previous uses and significant modifications that occurred in 1971 when the building was adapted to a restaurant. The proposed changes are acceptable.

13.5.6 Upgrading for Fire Safety, BCA – Objective O1 To ensure that buildings are constructed to an appropriate standard to ensure the safety of its occupants, whilst retaining heritage significance – The proposed location of the fire booster on the north-western corner of the development is acceptable. Any interior changes for fire upgrading are not likely to have a detrimental impact as the building is already so heavily modified.

13.9.3 Verandahs and Balconies- Objective O2 To encourage the retention and reinstatement of original verandahs and balconies, especially where they are significant or contributory to an individual, row or group of buildings- The retention of a rear First Level outdoor terrace is considered to be acceptable with regard to heritage and it also provides activation to the Spring and Little Spring St frontages.

13.9.4 Materials - Objective O1 To ensure that materials and finishes are consistent with the characteristic elements of the heritage item or heritage conservation areas- No objection is raised to the proposed use of sandstone on the Walker St façade. Although there is no exposed sandstone on the heritage item, it provides a link to the traditional palette of materials used in North Sydney, is grounding and has a solid nature similar to the rendered masonry of the heritage item. The alignment of the contrasting metal

strips and awnings should relate to the string course and parapet wall on the facade of the Fire Station as recommended by condition below.

13.9.5 Garages and Carports- Objective O1 To ensure that vehicular accommodation does not detrimentally impact upon the significance of the heritage item or heritage conservation area- No objection is raised to the proposed location of the loading dock as it is set to the rear of the development and away from the heritage item.

13.11.1 Commercial and Office Buildings- Objective O2 Conserve important building elements and features including significant facades, fenestration patterns, decorative details, external materials and internal lobbies- The significant façade of the heritage item is to be retained and the exterior colour scheme upgraded to be more representative of a Victorian period colour scheme.

3. Conclusion

The proposal is considered to require modification:

- Separation between the original Fire Station building and the new as a link element in the location of the Waste Store on the South Elevation should be more clearly defined by either a glazed link and/or a minor setback. A glazed link in the area currently proposed for the Waste Storage would also allow for light spillage into the laneway at night and allow for passive surveillance. A setback may also be necessary for the installation of a 3-dimensional artwork on the South Elevation.*
- A condition has been prepared below for the West Elevational art work.*
- Details of the proposed decorative art screen over opening to the Gaming Room have not been provided. It should be an interpretation of the Fire Station and include lighting.*
- Policy 82 in the CMP is to be amended to include a policy for both advertising signage and building naming signage. It should note that advertising signage is not to be incorporated on the Walker St Elevation or on the fabric described as having moderate significance on the Spring St (South) Elevation.*

7. DESIGN EXCELLENCE PANEL

7.0.1 A DEP meeting was held on 13 March 2018 with respect to the proposed development. The scheme presented to the panel included a building height up to RL 176.3m comprising 35 levels, with the possibility of additional height up to RL 227.0.

The Panel offered qualified support for the proposal, subject to more detailed consideration when the proposal is more resolved. The following feedback was provided in relation to the design at the time:

- Clarification as to any flooding/overland flow impacts on ground floor levels should be addressed to ensure the proposed ground floor treatment is achievable;
- Consideration should be given to providing a greater ground level setback for the Firehouse to improve public domain access;
- The material treatment of the soffit to the tower under croft and lighting needed further resolution;
- The potential of a Level 1 roof terrace to the Firehouse Hotel as viewed from the intersection of Denison Street and Spring Street would positively contribute to the activation of the laneway network; and

- The bicycle parking on Level 2 and the waste room on Level 4 could be more accessible.

7.0.2 Following revisions made with respect to the first DEP meeting and design development associated with the submission of DA 165/18, a second DEP meeting was held on 10 July 2018. At this meeting, the Panel again offered qualified support for the proposal, subject to more detailed consideration when the proposal is more resolved. The following feedback was provided in relation to the revised proposal:

- the proposed backlit glass wall to the pub was not supported. Alternatives such as an elegantly articulated surface, illuminated and possible activated artwork, and 'greening' should be explored.
- successful precedents for small cafes that are located slightly below the adjacent external ground level were discussed. An option to activate this corner may be to relocate the Firehouse WCs fronting Little Spring Street to a basement level and introduce a small scale café or retail use in this location.
- The preliminary proposal of coffered folded elements and integrated lighting to the soffit of the tower under croft is supported. Highly visible from street level, the soffit treatment has potential to positively contribute to the quality of the roof terrace and also to the public domain.

The Panel acknowledged the limited ground level frontage of Little Spring Street and competing functional requirements to be accommodated. Further items for resolution on the Little Spring Street ground level frontage include:

- operation of the loading bay facility relative to the proposed kerb side hotel drop off and pedestrian movement;
- elevational treatment of loading bay door to be of equal quality to the main elevational treatment. Operability of the door is to ensure the loading bay is closed with the exception of entry and exit movements;
- integration of building services such as the fire booster is to ensure such elements do not detract but contribute to a high-quality architectural resolution;
- wind model testing is required to determine that there is adequate comfort at street level and the roof terrace;
- details of privacy screening to the hotel rooms facing south closest to the office tower is needed. Clarification as to the provision of natural ventilation to hotel rooms is recommended;
- the Panel raised a concern about the western façade and solar heat gain
- the Panel did not comment on the height of the building and noted that the height of the building will potentially be increased upon gazettal of the Planning Proposal.

7.0.3 The proposal was considered by Council's Design Excellence Panel at its meeting of 11 December 2018 and provided the following comments:

- The Panel again commended the architect for his response to the Panel's previous comments and for the further refinement of the proposal.
- The Panel considered that the roof terrace achieves a suitable degree of activation of the laneway
- The Panel noted that the roof over the pub is a lighter weight structure and could have a more solid appearance consistent with the remainder of the building base.
- The Panel noted that the proposed glazing should not be too dark and identified the Bates Smart building as an example of a building with excessively dark glazing.

- The Panel noted without comment that the height of the building has been increased, following gazettal of the Planning Proposal.
- The Panel is supportive of the proposal.

7.1 External Referrals

7.1.1 RMS advised:

RMS raised no objections and requested that the proponent be advised that the subject property is within a broad area currently under investigation for the proposed Western Harbour Tunnel and Beaches Link motorway project.

The actual alignment for the proposal has not yet been determined and at present Roads and Maritime advises that the subject property remains within an area of investigation. The design will be finalised following feedback and development of an environmental impact statement. Once Roads and Maritime has more certainty on the properties impacted by the final road design, it will directly advise the owners of those properties.

Conditions were recommended and are included in the recommended conditions of consent.

7.1.2 Sydney Water advised:

Due to the proximity of the proposed development to Sydney Water assets, we recommend that Council imposing the following conditions of consent:

Building Plan Approval

The approved plans must be submitted to the Sydney Water [Tap in™](#) online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

The Sydney Water [Tap in™](#) online self-service replaces our Quick Check Agents as of 30 November 2015.

The [Tap in™](#) service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's [Tap in™](#) online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

Section 73 Certificate

A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water.

It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

These conditions can be imposed on any development consent issued.

7.1.3 Ausgrid

Ausgrid has also provided a set of conditions to be imposed.

7.1.4 Airport

Approval was granted subject to a number of conditions recommended by the Department of Infrastructure, regional Development and Cities

7.1.5 Sydney Observatory

No response was received from the Sydney Observatory.

8. SUBMISSIONS

The application was notified to the Central Business District precinct and surrounding owners in accordance with Council policy from 23 November 2018 until 14 December 2018. Two (2) submissions were received.

8.1 Martin Krause Suite 201, 107 Walker Street North Sydney

"I refer to the abovementioned Development Proposal and strongly object to the construction of a 48 storey building.

The building next door is 38 storeys. With the proposed 48 storey building alongside, this would create a nightmare for wind tunnels and lack of light, not to mention additional traffic congestion."

8.2 John Mariano 2003/55 Lavender Street North Sydney

"The application for increasing this proposal is poorly supported and the documents provided only pay lip service to the major change in height and associated impacts. The proposal is presented as if the approval is a fait accompli.

Massive increase in bulk, major visual impact, loss of light and sun, increased shadowing, huge wind tunnel effects in conjunction with 100 Mount St, poor traffic analysis with a conclusion which spends more time on the number of bike spaces than the real effects of traffic gridlock which will result from the buildings requirements in terms of services, supplies, couriers, kiss and ride, visitors, ride share etc.

This proposal cannot be approved even if the most basic planning principles are applied, let alone if a proper in-depth analysis is applied which must take into account the unknown impacts in combination with 100 Mount Street."

9. CONSIDERATION

The relevant matters for consideration under Section 4.15 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.

9.1 Compliance Tables

North Sydney Centre	Proposed	Control	Complies
Height (Cl. 4.3)	The existing maximum height of building control for the site is RL227. The height of the proposed building to the top of the facade is RL 227, however, utilising both clauses 5.6 and 6.3(3) which provides for additional height above the mapped height limit contains an architectural roof feature that reaches a height of RL232.6.	RL 227 AHD	NO Refer to Clause 4.6 request
Architectural Roof Feature (Cl.5.6)	The proposed development includes an architectural roof feature.	Cl.5.6(2) provides for development that includes an architectural roof feature to exceed the height limits set by clause 4.3 if the roof feature meets the applicable criteria in subclause (3)	YES

North Sydney Centre	Proposed	Control	Complies
Overshadowing of dwellings (Cl.6.3 (1) (c))	Additional overshadowing is limited to the adjacent commercial properties and surrounding roads. Between the hours of 2:30pm and 3:00pm, the shadow cast falls on residential properties outside the centre	Variation permitted	YES
Overshadowing of land (Cl.6.3 (2) (a) and (b))	The proposal does not result in any additional overshadowing of the RE1 zoned land or mapped Special Areas between 12am and 2pm. The proposal will not overshadow Don Bank Museum.	Variation permitted	YES
Minimum lot size (Cl.6.3 (2) (c))	1,076m ²	1000m ² min.	YES

9.2 - DCP 2013 Compliance Table

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 2 and 9		
	<i>complies</i>	Comments
2.2 Function		
Diversity of Activities	Yes	The proposal provides a mix of office and hotel uses, with retail at ground level. The proposed tourist accommodation will contribute to tourism and cultural life of North Sydney
Maximise Use of Public Transport	Yes	The development is within 400m of North Sydney railway station and bus interchange, as well as the proposed Victoria Cross Metro Station. End of Trip facilities are provided.
Hotel Design and Management	Yes	Common facilities proposed under this application include bar and a restaurant in accordance with this clause. Kitchenettes are provided at six of the hotel rooms on Level 23. This represents 2% of all hotel rooms and is below the standard. Of the 252 hotel rooms proposed, 40 rooms (16%) exceed the maximum size for a room under the DCP, which is 27m ² . These rooms range from being 30m ² – 42m ² . The sizing of these room has been informed by feedback and discussions held with hotel operators for the development. As per the Statement of Hotel Management, these rooms will not be converted to a residential use at a future time.

2.3 Environmental Criteria		
Clean Air	Yes	The proposed hotel accommodation will not adversely impact on air quality. New mechanical plant will comply with current standards.
Noise	Yes	The development is capable of complying with this clause. This can be conditioned.
Wind Speed	Yes	<p>The proposed development is supported by a Pedestrian Wind Tunnel Report and Façade Pressure Wind Tunnel Test Report, prepared by CPP. The report details the proposed development's potential effect on the surrounding environment, specifically addressing pedestrian wind environments and the adequacy of selected façade materials.</p> <p>The analysis finds that the wind environment surrounding the proposed development would be similar to, or an improvement on the existing wind environment of the subject site. Further, the report finds that all study areas satisfy the applicable distress and safety requirements, and that the proposed development would result in no adverse impacts to the terrace area of the Firehouse Hotel. The report also finds that the internal wind environment of the through-site link would experience no comfort issues.</p>
Reflectivity	Yes	<p>Solar Reflectivity Assessment has been prepared by Cermak Peterka Petersen (CPP). The purpose of the report is to assess the proposed development to analyse its potential to produce solar reflectivity impacts on surrounding public roadway locations.</p> <p>Clause 2.3.4, promotes the use of non-reflective glass and materials to reduce reflectivity. The primary objective is to minimize the impacts by reflected light and solar reflectivity from buildings on pedestrian and motorists.</p> <p>Assessment has shown the facades of the proposed development have the potential to produce specular solar reflections with varying degrees of glare onto the surrounding public roadways. However, it is expected that the proposed development will not produce significant disability glare onto motor vehicles travelling toward the development along the adjacent public roadways largely due to incident and reflected solar ray blockage. This has the potential to be reduced further via techniques to diffuse reflections, which are able to be selected further during future detailed design.</p>
Artificial Illumination	Yes	Internal light spill from the hotel rooms will not adversely impact on any residential uses
Awnings	Acceptable	No awning is proposed to Walker Street. This variation is the result of discussions between the project architects and Council's heritage advisors on this issue. It was determined that the provision of an awning would not be

		sympathetic to the heritage character of the Firehouse Hotel. A projection is proposed to give a level of protection at the door in line with the cornice line of the Firehouse Hotel; however, this is not likely to give the level of protection required to meet the objective of this clause. In this instance, it is considered appropriate to give priority to the heritage conservation of 86 Walker Street.
Solar Access	Yes	<p>There is no additional shadow as a result of the proposed development on any of the areas identified by the <i>NSLEP 2013</i> provisions.</p> <ul style="list-style-type: none"> The proposed development results in very limited additional overshadowing at any time of year as its shadows largely fall within other existing / approved shadows generated by other buildings in the North Sydney Centre. The proposed development will result in some overshadowing of residential dwellings located beyond the North Sydney Centre, namely to residential dwellings and open space located further south-east of the site. However, it is noted that overshadowing will occur during mid-winter and for a limited period between 2:30pm – 3pm. Accordingly, overshadowing to residential dwellings as a result of the proposed development is considered negligible and consistent with the impacts anticipated as part of NLEP 2013 (Amendment 23). The proposed development will result in a minor net increase of overshadowing due to built form elements (lift overruns and plant) that exceed the RL227m height control (as prescribed by the NSLEP 2013). The majority of overshadowing is caused by built form that is within the RL227m height control with a very minor area of additional shadow occurring between 2:45pm and 3pm. Accordingly, overshadowing specifically cause by built form elements that exceed the height control are considered negligible and will not result in any dwelling receiving less than 2 hours of solar access.
Views	Acceptable	See more detailed comments below
2.4 Quality built form		
Setbacks	Acceptable	See more detailed comments below
Building Design	Acceptable	<p>Table B-2.9 requires all floors in the Commercial Core zone to be a minimum of 3.3m in floor to ceiling height. The majority of floor to ceiling heights comply with this clause with the exception of Levels 8-22, at 3.1m, which represent the hotel room component of the development.</p> <p>The non-compliance in regards to the hotel rooms is considered justified for the following reasons:</p> <ul style="list-style-type: none"> The servicing requirements for hotel rooms

		<p>are not the same as office floors and therefore allow for larger floor to ceiling heights;</p> <ul style="list-style-type: none"> • The size of the floor plate and extent of glazing allows for rooms with excellent access to natural light and amenity. <p>Building setbacks have been addressed below. Careful selection of building materials has been made to preserve the heritage significance of the Firehouse Hotel.</p>
Skyline	Yes	<p>The North Sydney Centre Planning Proposal increases the height control to RL 227. The proposed development has a height of RL 232.6.</p> <p>Roof top plant and associated equipment is concealed by the rooftop façade as demonstrated by the Architectural Plans. The building has been designed to positively contribute to the skyline of the North Sydney CBD.</p>
Streetscape	Yes	<p>The proposal includes a through site link to enhance pedestrian connectivity through and around the site. This is further enhanced by provision for a café to activate the rear entrance to the through site link.</p> <p>Clear site lines are provided. The lobby areas have the capacity to integrate art works in the design to provide further elements to the public domain.</p>
Entrances and Exits	Yes	<p>The primary entrance point to the building is accessible from Walker Street and highly visible from the street frontage. The entrance provides a continuous path of travel, including a through site link to Little Spring Street. These entrances and exits have been designed in accordance with the relevant Australian standards and the DCP controls and will provide a seating and non-slip floor surface.</p>
Public Spaces and facilities	Yes	<p>Significant consideration has been made with regards to ensuring that the front of the proposed development positively interacts with the heritage nature of the Firehouse Hotel.</p> <p>The lobby areas in particular have been designed to reduce clutter and provide visual interest.</p>
2.5 Quality Urban Environment		
Accessibility	Yes	<p>Equitable access will be provided, including entry foyer, passenger lifts, sanitary facilities and hotel rooms.</p>
Safety and Security	Yes	<p>The hotel will be fitted with CCTV and electronic access restrictions. There is good surveillance from the lobby and through site link.</p>
Vehicular Access	Yes	<p>All vehicular access, including loading/service vehicles and set downs will occur in the laneway of Little Spring Street. No vehicular access is provided to Walker Street which is consistent with Council's clear way zone of 7-10am and 3-7pm.</p>
Car Parking	Nil	<p>See detailed comments below</p>
Garbage Storage	Yes	<p>The primary waste storage area for the</p>

		proposed development is located on Level 4. From this level, direct access is available to the loading dock area via the goods lift for removal via Little Spring Street. This storage and movement of waste does not conflict with any main pedestrian paths throughout the development.
2.6 Efficient Use of Resources		
Energy Efficiency	Yes	The proposed development is targeting a NABERS 4.5 Star Energy Commitment Agreement and a Green Star Energy Greenhouse Gas Emissions and Peak Demand Reduction performance.
Water Management and Minimisation	Yes	<p>Construction Waste Management Plan has been prepared by Eccell Environmental Management Pty Ltd. The purpose of the report is to provide practical measures and actions that will be put in place to manage excavation and construction waste on-site and to monitor the waste contractor recycling and disposal of material off site.</p> <p>The proposal is anticipated to generate 6,462m³ of excavated material. This material is anticipated to be excavated and stockpiled on site prior to its complete transfer and reuse off site.</p> <p>An Operational Waste Management Plan has been prepared by Mack Group. The purpose of the report is to describe the waste management system proposed for the project. It is noted that no change is proposed to the existing Firehouse Hotel waste management procedures. Their waste will continue to be taken from the existing waste dock.</p> <p>The proposed development has two primary waste storage areas: Hotel main waste storage area on Level 7; and Office main waste storage area on Level 24.</p> <p>A shared temporary holding area will be located at the loading dock next to the waste collection vehicle parking space. As the temporary shared holding area is not sized to fit all the hotel and office bins simultaneously, it will be shared and a timetable will be prepared by management to this effect.</p>
Stormwater Management	Yes	<p>The existing site is not affected in the 1% AEP flood event. Notwithstanding this, a varying freeboard of +100 to +250mm to the loading dock is proposed in addition to a 150mm freeboard to the Walker Street pedestrian entrance. These site levels will be designed to essentially retain the existing levels and public domain on Walker Street. The carriageway adjacent to the loading bay entrance ramp and 86 Walker Street is to be re-graded to provide an overland flow route to Spring Street, preventing water ingress to the proposed development.</p> <p>Stormwater drainage will be designed to capture all water falling within the building</p>

		footprint. Due to a proposed direct connection between the building drainage and the diverted stormwater pipe, no on-site stormwater detention is required. A rainwater harvesting system will be designed to provide some detention capacity. A rainwater tank will be provided within the building footprint to provide water sensitive urban design benefits.
2.7 Public Domain		
Street Furniture, Landscaping Works, public art	Yes	<p>The proposed development provides a range of measures to respond to Council's plans and enhance the public domain around the site. Specifically, the project will:</p> <ul style="list-style-type: none"> - Demolish part of the existing Firehouse Hotel fronting Little Spring Street to create a widened pedestrian footpath to improve safety and enhance movement through the Laneways precinct; - Enhance the relationship of the rear of the Firehouse Hotel with Little Spring Street by replacing the two storey blank wall with public art and a new entry which provides increased passive surveillance and activation; - Relocate the Firehouse's on-street loading into the new shared loading dock, removing these activities from happening on street; - Provide additional street activation fronting Little Spring Street through the provision of a café; - Provide a through site link to enhance connectivity between Walker Street and the Laneway Precinct / Victoria Cross Metro Station.

9.3 - Parking

The *NSDCP 2013* allows a maximum rate of parking for available land uses. For hotel rooms, this rate is 1 space per 5 rooms. 252 bedrooms are proposed, resulting in a maximum parking requirement of 50 spaces for the hotel component. For commercial/office space, this rate is 1 space per 400m² of GFA. 13,106m² of Commercial GFA is proposed, resulting in a maximum parking requirement of 32 spaces for the commercial/office component. Therefore, a maximum of 82 spaces could be provided in accordance with the *NSDCP 2013* rates.

The development does not propose any off-street parking spaces, which is in accordance with the *NSDCP 2013* as there is no minimum parking requirement. While this may be the case, the lack of parking could raise concern and should be justified. The proposal is located within 400m of both an existing heavy rail station and a proposed Metro station as well as extensive bus services. This accessibility will encourage users to travel to the site via public transport and minimise the reliance on private car usage in accordance with Objectives O2 and O3 of Section B10.2.1.

Further it is noted that because of the Heritage listed Firehouse Hotel, frontage to Walker Street and the Sydney Walter stormwater pipe that runs under the site, it is not practical or perhaps even possible to provide a basement car park.

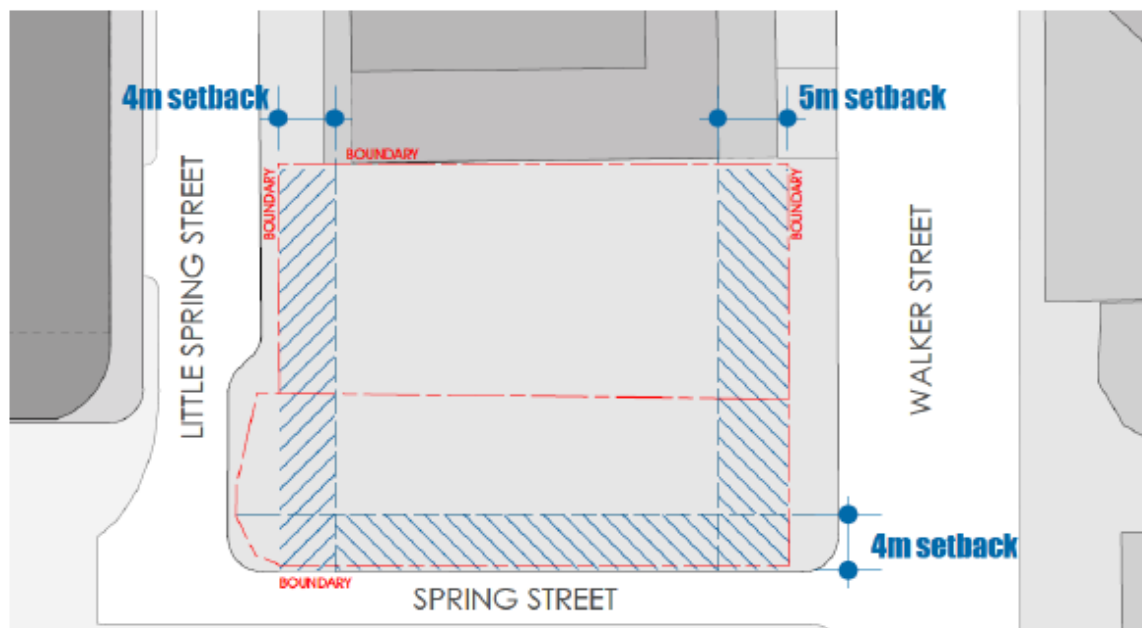
With regards to bicycle parking requirements, the *NSDCP 2013* provides a minimum rate of bicycle parking split by staff and visitors. For hotel rooms, this is 1 space per 4 staff and 1 space per 20 rooms for visitors. 45 staff and 252 rooms are proposed, resulting in a minimum bicycle parking requirement of 25 spaces for the hotel component. For commercial/office space, this rate is 1 space per 150m² for staff and 1 space per 400m² for visitors. 13,106m² of commercial/office GFA is proposed, resulting in a minimum bicycle parking requirement of 121 spaces for the commercial/office component. This results in a total of 146 spaces. 105 bike parking spaces are proposed. Whilst it is noted that this is less than the required 146 spaces, this is considered appropriate given the site's location close to regular public transport services.

9.4 - Setbacks

The DCP requires a zero metre front, side and rear setback at the ground level and adjacent to heritage items. The proposed development's front setback to Walker Street provides a zero metre setback where it adjoins the Firehouse Hotel. From there, it is reduced back to 2.8m as part of the architectural expression of the tower.

A zero metre setback is provided on Spring Street, which reflects the existing Firehouse Hotel. The rear setback to Little Spring Street undulates, however is recessed further than the zero metre setback required under the DCP in part to allow for adequate vehicle manoeuvring into the loading dock area.

Above the podium, the DCP weighted average setbacks are shown in the sketch below:



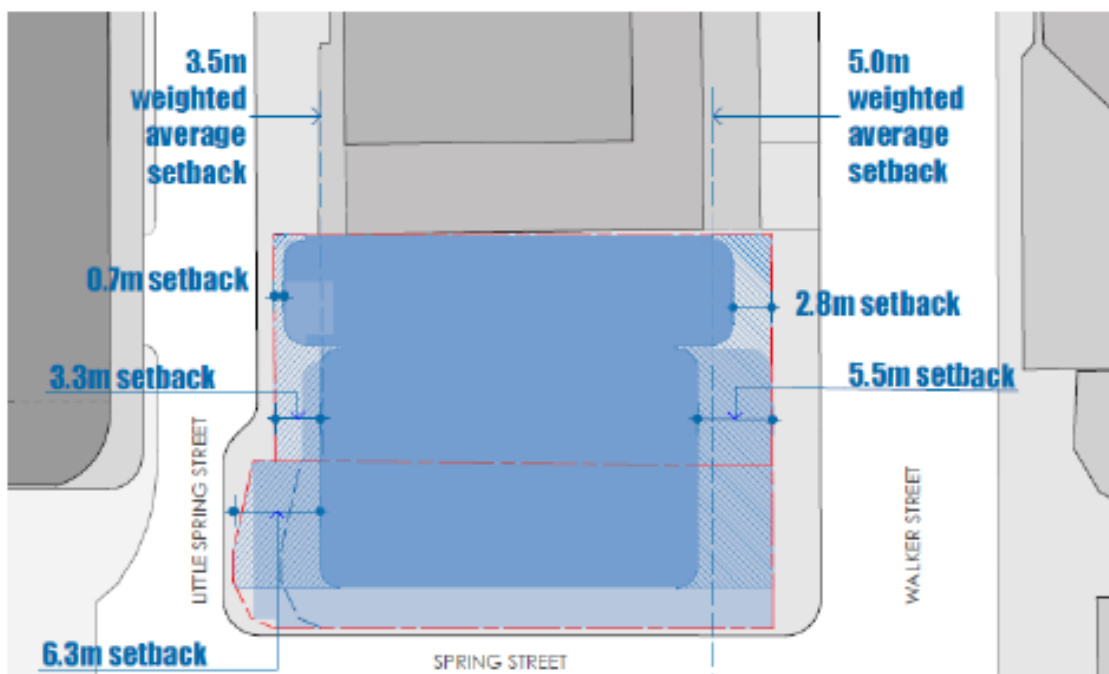
Source: Fitzpatrick + Partners

The proposal provides for a weighted 5m setback to Walker Street.

The podium setbacks to Spring Street (3m) and Little Spring Street (3.5m) are not compliant with the DCP control of 4m.

The setbacks are considered reasonable for the following reasons:

- The setback survey demonstrates that there is no pattern with regards to the setbacks of adjacent buildings on both Spring Street and Little Walker Street that adhering to the DCP setbacks will enhance.
- The setbacks of the tower as a cantilevered element above the Firehouse Hotel are well proportioned, maintain views to the sky and do not result in a form that dominates the streetscape.
- The reduced setbacks (0.5m and 1m) will not give rise to additional privacy issues, noting there is no conflict between office / office levels, and the hotel / office levels will need to be managed with privacy devices such as curtains regardless of whether the development complies with the setback.
- A more generous 6.3m setback is provided from Little Spring Street above the heritage item in order to minimise the impacts of the tower, whilst the tower is brought to the street for part of the 88 Walker Street frontage as part of its architectural expression.
- Due to the narrow width of Spring Street and the absence of a footpath on the northern side, the reduced setback is not perceptible from the public domain.
- Council's Design Excellence Panel has supported the architectural expression of the tower.
- The new developments at 100 Mount Street and 1 Denison Street do not have towers with setbacks to Spring and Little Spring Street.
- The existing building at 88 Walker Street provides a solid 9 storey street-wall with no setback to Little Spring Street.



Source: Fitzpatrick + Partners

9.5 - Views

9.5.1 - Public Views

Clause 6.3(5)(b) of NSLEP 2013 requires the consent authority to consider whether a proposed development preserves important view lines and vistas. The NSDCP 2013 Character Statement for the North Sydney CBD identifies a series of important views and vistas. These are:

- From the plaza at No. 5 Blue Street and located over North Sydney Rail Station to the Sydney Harbour Bridge;
- From Doris Fitton Park (160-166 Arthur Street) to Sydney Harbour and Neutral Bay district;
- Views along the Pacific Highway to the Post Office on Mount Street from the south-east; and
- Views along the Pacific Highway to Sydney Harbour from the intersection with Mount Street.

The proposed development is not positioned within any of the above view corridors and will not have any impact on public views.

9.5.2 - Private Views

The only residential development with views across the site is the recently renamed Alexander Apartments (previously Beau Monde) at 77 Berry Street. This development is located approximately 110m to the northwest of the site. There are 241 residential units in the building; of these 83 units (34% of the total number of apartments) have a south, south-east or south-west aspect.

Views from the Alexander Apartment building to the Sydney CBD or harbour are currently obstructed by the following existing or proposed buildings:

- One Denison Street, North Sydney (159m in height);
- 99 Walker Street, North Sydney (85m in height);
- 141 Walker Street, North Sydney (99m in height); and
- 100 Mount Street, North Sydney (149m in height).

The view analysis undertaken for the One Denison project illustrates that the One Denison development sits between the site and the Alexander Apartments, and the proposed development is not anticipated to further obstruct the views of these residents. At the upper levels of the building the tower may become visible but its view impact will be limited to an area of land on the horizon above 99 Walker Street. The view corridor to the south west between Darling Point and Garden Island will be retained for units with an existing south-east aspect. Further intrusion on views and amenity currently enjoyed by this building are predictable given current planning controls and the recent approval of the Victoria Cross Over Station Development to the immediate west.

9.6 – Signage

Under Section 9 of the DCP, Roof or sky signs are generally not permitted. However, Council may consider new roof or sky signage, but only where:

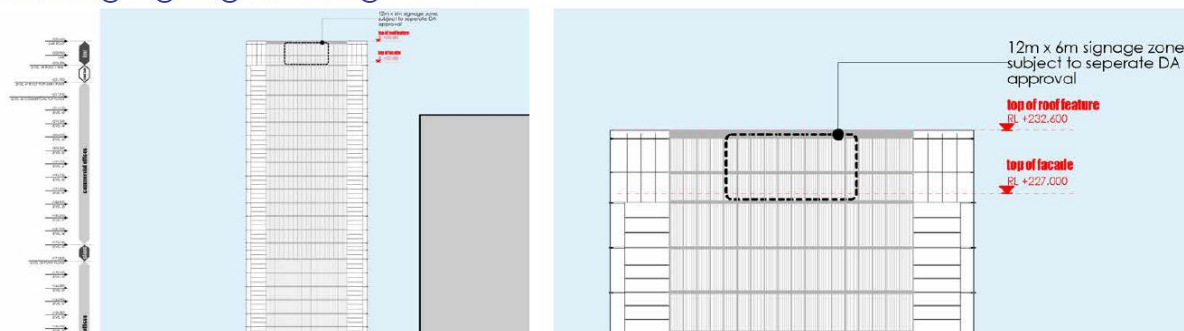
- The new signs replace one or more existing roof or sky signs and improve the visual amenity of the locality; or
- The new signs improve the finish and appearance of the building and the streetscape

Roof or sky signs will only be permitted if they are associated with a non-residential use in the B3 – Commercial Core or B4 – Mixed Use zones.

Roof or sky signs must not be positioned higher than the highest point of any part of the building, including lift overruns or air conditioning plants but excluding flag poles, aerals, masts and the like.

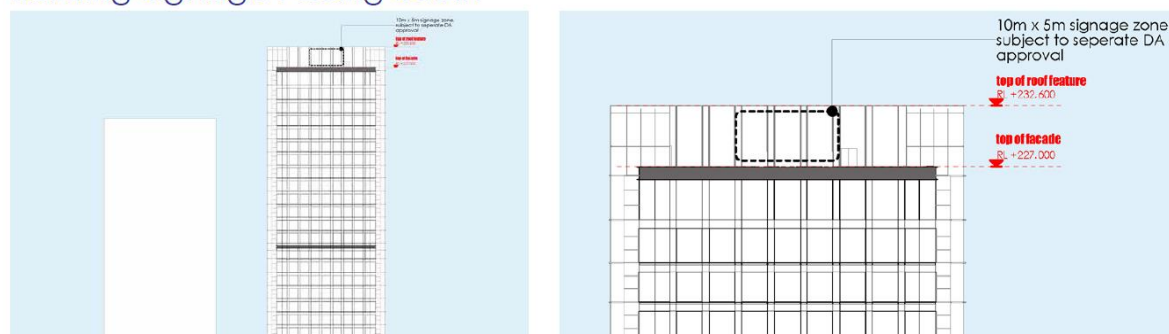
Roof or sky signs must not be wider than any part of the building and also in accordance with the relevant desired character statement in Section 9.2

Building Signage Facing North



Source: Fitzpatrick + Partners

Building Signage Facing South



Source: Fitzpatrick + Partners

The signage zones are associated with a non-residential use in a Commercial Core zone. The zones are not positioned higher/wider than the highest/widest point of any part of the building.

However, the signage zones are quite large and no details are provided about content or the technology. The northern facing sign is either on the boundary or encroaching the boundary and may be covered by future development along Walker Street. It may be best located on the eastern elevation that has a street frontage. The location of the southern sign is more appropriate but approval cannot be recommended without further details. The size of the lettering need to be known. LED screens are unlikely to be supported as they are unlikely to improve the finish and appearance of the building and the streetscape. Signage on the building needs to be the subject of a separate application.

10. NORTH SYDNEY LEP 2013

10.1 - Permissibility within the zone

The proposal is permissible with consent under the B3 Commercial Core zoning.

10.2 - 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 a form of development that is reasonably anticipated on the site. The proposal is consistent with the objectives of the B3 zone.

10.3 - Height of buildings – Clause 4.3

The Height of Building Map sets a height of building standard of RL 227 for the site.

The height of the proposal is RL 232.6 to the top of the plant.

10.4 - Exceptions to development standards – Clause 4.6

10.4.1 A written request was submitted with the development application in accordance with the provisions of Clause 4.6 - Exceptions to Development Standards of the North Sydney Local Environmental Plan 2013 (NSLEP 2013). A copy of the request is attached for the Panel's information. The request seeks a variation to the Height of Building standard, adopted under clause 4.3 of NSLEP 2013 (as amended by amendment 23).

The Height of Building Map sets a height of building standard of RL 227 for the site.

The height of the proposal is RL 232.6 to the top of the plant.

Clause 4.6 of the NLEP 2013 provides flexibility in the application of planning controls by allowing Council to approve a development application that does not comply with a development standard where it can be demonstrated that flexibility in the particular circumstances achieve a better outcome for and from development.

10.4.2 NSW LAND AND ENVIRONMENT COURT: CASE LAW (TESTS)

Several key Land and Environment Court (NSW LEC) planning principles and judgements have refined the manner in which variations to development standards are required to be approached.

WINTEN V NORTH SYDNEY COUNCIL The decision of Justice Lloyd in *Winten v North Sydney Council* established the basis on which the former Department of Planning and Infrastructure's Guidelines for varying development standards was formulated.

These principles for assessment and determination of applications to vary development standards are relevant and include:

- Is the planning control in question a development standard;
- What is the underlying object or purpose of the standard;
- Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act;
- Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case;
- Is a development which complies with the development standard unreasonable or unnecessary in the circumstances of the case; and
- Is the objection well founded

WEHBE V PITTWATER [2007] NSW LEC 827 The decision of Justice Preston in *Wehbe V Pittwater* [2007] NSW LEC 827 expanded on the findings in *Winten v North Sydney Council* and established the five part test to determine whether compliance with a development standard is unreasonable or unnecessary considering the following questions:

- Would the proposal, despite numerical non-compliance be consistent with the relevant environmental or planning objectives;
- Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard unnecessary;
- Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable;
- Has Council by its own actions, abandoned or destroyed the development standard, by granting consent that departs from the standard, making compliance with the development standard by others both unnecessary and unreasonable; or
- Is the "zoning of particular /and" unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable and unnecessary as it applied to that land. Consequently, compliance with that development standard is unnecessary and unreasonable.

FOUR2FIVE PTY LTD V ASHFIELD COUNCIL [2015] NSW LEC More recently in the matter of *Four2Five Pty Ltd v Ashfield Council* [2015] NSW LEC, initially heard by Commissioner Pearson, upheld on appeal by Justice Pain, it was found that an application under clause 4.6 to vary a development standard must go beyond the five (5) part test of *Wehbe V Pittwater* [2007] NSW LEC 827 and demonstrate the following:

- Compliance with the particular requirements of clause 4.6, with particular regard to the provisions of subclauses (3) and (4) of clause 4.6 the LEP; and
- That there are sufficient environment planning grounds, particular to the circumstances of the proposed development (as opposed to general planning grounds that may apply to any similar development occurring on the site or within its vicinity);
- That maintenance of the development standard is unreasonable and unnecessary on the basis of planning merit that goes beyond the consideration of consistency with the objectives of the development standard and/or the land use zone in which the site occurs.

10.4.3 IS THE PLANNING CONTROL IN QUESTION A DEVELOPMENT STANDARD

The planning control in question is clause 4.3 of the NSLEP 2013. Clause 4.3 nominates a maximum Height of Buildings of RL 227 for the site. The planning control specifies requirements or fixes standards in respect of the development and falls within the definition

of a "development standard" such that it is capable of being varied under clause 4.6 of NSLEP 2013.

10.4.4 CONSISTENCY WITH OBJECTIVES OF THE ZONE

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 B3 Commercial zone objectives.

The proposal satisfies the B3 zone objectives as it:

- Provides for a range of retail (at ground floor) and office land uses that will service the needs of the local and wider community
- will directly encourage employment both during construction and throughout the life of the building.
- Limits the provision, of car parking and offers increased bicycle facilities
- Improves streetscape amenity
- The proposal will not result in any undue environmental impact.

10.4.5 WHAT IS THE UNDERLYING OBJECTIVE OF THE STANDARD

The proposed development will be in the public interest because it is considered to be consistent with the relevant objectives of the height control. The objectives of this clause are as follows:

- (a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,
- (b) to promote the retention and, if appropriate, sharing of existing views,
- (c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,
- (d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,
- (e) to ensure compatibility between development, particularly at zone boundaries,
- (f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.

The development conforms to natural landforms. View assessment has been undertaken that demonstrates additional height has limited impact with no loss of iconic views. The additional height will not significantly overshadow dwellings. There is no impact on privacy of residents. The building form is compatible with surrounding and of appropriate scale that promotes the character of the area.

In addition to meeting the underlying objectives of Clause 4.3, clause 5.6 of NSLEP allows for an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3. In order to grant consent pursuant to clause 5.6 the consent authority must be satisfied that the proposal is consistent with the matters set out in Clause 5.6(3):

(3) Development consent must not be granted to any such development unless the consent authority is satisfied that:

(a) the architectural roof feature:

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

- The roof feature is a finely detailed glazed box that will be a decorative element on the uppermost portion of the building
- The roof feature is not an advertising structure
- The roof feature does not include any floor space area and is reasonably capable of modification to include floor space area
- The roof feature will cause minimal overshadowing.
- The lift motor room and plant within the roof feature are fully integrated into its design.

10.4.6 IS COMPLIANCE WITH THE DEVELOPMENT STANDARD CONSISTENT WITH THE AIMS OF THE POLICY AND IN PARTICULAR DOES COMPLIANCE WITH THE DEVELOPMENT STANDARD TEND TO HINDER THE ATTAINMENT OF THE OBJECTIVES SPECIFIED IN SECTION 5(A)(i) AND (ii) OF THE EP&A ACT

The aims and objectives of clause 4.6 are as follows:

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

The objects set down in section 5(a)(i) and (ii) are as follows:

"(a) to encourage

(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural area, forest, mineral, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.

(ii) the promotion and co-ordination of the orderly and economic use and development of land..."

The development is generally consistent with the objectives of the EP&A Act, due to:

- The site is located within an established central business district.
- The proposal provides for the orderly and economic use of land and provides public domain improvements.

10.4.7 IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE

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.
- The visual impacts associated with the additional height are negligible.
- Clause 6.3(3) of NSLEP 2013 states that 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 from the March equinox to the September equinox (inclusive) will not result in any private open space, or window to a habitable room, located outside the North Sydney Centre receiving:
 - (a) if it received 2 hours or more of direct sunlight immediately before the commencement of North Sydney Local Environmental Plan 2013 (Amendment No 23)—less than 2 hours of direct sunlight, or
 - (b) if it received less than 2 hours of direct sunlight immediately before the commencement of North Sydney Local Environmental Plan 2013 (Amendment No 23)—less direct sunlight than it did immediately before that commencement.

This is the case.

10.4.8 IS THE DEVELOPMENT STANDARD A PERFORMANCE BASED CONTROL

No. The development standard is not a performance based control.

10.4.9 ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD?

The following site-specific environmental grounds further justify the proposed variation to the maximum height control:

- The proposed development will not generate any unacceptable adverse environmental impacts to adjoining or nearby landowners;
- The proposal fulfils the objectives of the relevant objectives of the two building height controls applying to the site;
- The breach in building height enables the provision of additional commercial floorspace consistent with the objective of Council's North Sydney CBD Capacity and Land Use Strategy and North Sydney CBD Planning Proposal;
- The breach of building height relates only to a building services zone, and is not in relation to any usable floor area; and
- The proposed variation will not result in a development which is out of character with that envisioned for the North Sydney CBD.

10.4.10 IS THERE A PUBLIC BENEFIT OF MAINTAINING THE PLANNING CONTROL STANDARD?

Under Clause 4.6 (5)(b) there must be consideration of the public benefit associated with maintaining the development standard.

There is no public benefit in maintaining the numerical building height development standard in this instance. Maintaining and enforcing the development standard in this case would unreasonably prevent the orderly and economic development of this site.

10.4.11 IS THE OBJECTION WELL FOUNDED?

This clause 4.6 variation demonstrates that, notwithstanding the non-compliance with the maximum height development standard, the proposed development:

- Is consistent with clauses 5.6 and 6.3(3) of NSLEP which allow for a variation to the maximum height control under certain circumstances;
- Will have an appropriate impact, in terms of its scale, form and massing;
- Will not impact on any significant view lines and vistas from the public domain; and
- Will enhance the streetscape in relation to scale, materials and external treatments.

Under these circumstances, the objection is well founded.

10.5 - Objectives of Division (North Sydney Centre) – Clause 6.1

Objective	Comment
(a) to maintain the status of the North Sydney Centre as a major commercial	Proposal consistent

centre	
(b) to maximise commercial floor space capacity and employment growth within the constraints of the environmental context of the North Sydney Centre,	The proposal provides for a maximum floor space of commercial and a hotel
(e) to encourage the provision of high-grade commercial space with a floor plate, where appropriate, of at least 1,000 square metres	The site cannot be consolidated with adjacent sites and cannot provide for larger commercial floor plates.
(g) to prevent any net increase in overshadowing of any land in Zone RE1 Public Recreation (other than Mount Street Plaza) or any land identified as "Special Area" on the <u>North Sydney Centre Map</u>	The proposed development will result in no additional overshadowing.
(h) to prevent any increase in overshadowing that would adversely impact on any land within a residential zone	Additional overshadowing is limited to the adjacent commercial properties and surrounding roads with minimal overshadowing after 2.30pm
(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

10.6 - Airports Act 1996 and Airports (Protection of Airspace) Regulations 1996

As required by Clause 6.15 of NSLEP 2013, the application was referred to Sydney Airport pursuant to s.186 of the Airports Act 1996 and Airports (Protection of Airspace) Regulations 1996 as the proposal would penetrate the Limitation or Operations Surface of Sydney Airport.

The Outer Horizontal Surface of the OLS above the subject site is at a height of RL 156(AHD) and the prescribed airspace above the site commences at RL 156. At a maximum height of RL 232.6 AHD, the proposal would penetrate the OLS by 76.6m.

The proposed construction of the development would constitute a controlled activity under Section 182 of the Airports Act 1996 (the Act). Section 183 of the Act requires that controlled activities cannot be carried out without approval. Regulation 14 provides that a proposal to carry out a controlled activity must be approved unless varying out of the controlled activity would interfere with the safety, efficiency or regularity of existing or future air transport operations into or out of the airport concerned. Approval may be granted subject to conditions.

The Department has approved the proposal and recommended conditions that are included within the conditions attached.

10.7 - Building heights and massing – Clause 6.3

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

(a) *Repealed*

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

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

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

Additional overshadowing is limited to the adjacent commercial properties and surrounding roads. Shadow diagrams demonstrate that between the hours of 2:30pm and 3:00pm, the shadow cast falls on residential properties. The impact is considered minimal.

- (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 has an architecturally defined base which creates human scale and is a clearly legible pedestrian entry point to the building.

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

The site has an area in excess of 1000m² so consolidation of further sites is unnecessary.

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

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

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

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

The proposal does not overshadow Don Bank.

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

Site has an area of 1076m².

- (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.....*

Shadow diagrams demonstrate that between the hours of 2:30pm and 3:00pm, the shadow cast falls on residential properties. The impact is considered minimal.

- (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. The proposal will affect existing views from other commercial buildings.

(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.

11.0 - SEPP 55 and Contaminated Land Management Issues

The subject site has been considered in light of the Contaminated Lands Management Act and it is considered that given the site's history of use, potential for contamination is unlikely.

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

13.0 - DEVELOPMENT CONTROL PLAN 2013

13.1 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 minor non compliances with podium setbacks at the Spring Street and Little Spring Street elevations.

The setbacks are considered reasonable for the following reasons:

- The setback survey demonstrates that there is no pattern with regards to the setbacks of adjacent buildings on both Spring Street and Little Walker Street that adhering to the DCP setbacks will enhance.
- The setbacks of the tower as a cantilevered element above the Firehouse Hotel are well proportioned, maintain views to the sky and do not result in a form that dominates the streetscape.
- The reduced setbacks (0.5m and 1m) will not give rise to additional privacy issues, noting there is no conflict between office / office levels, and the hotel / office levels will need to be managed with privacy devices such as curtains regardless of whether the development complies with the setback.
- A more generous 6.3m setback is provided from Little Spring Street above the heritage item in order to minimise the impacts of the tower, whilst the tower is brought

to the street for part of the 88 Walker Street frontage as part of its architectural expression.

- Due to the narrow width of Spring Street and the absence of a footpath on the northern side, the reduced setback is not perceptible from the public domain.
- Council's Design Excellence Panel has supported the architectural expression of the tower.
- The new developments at 100 Mount Street and 1 Denison Street do not have towers with setbacks to Spring and Little Spring Street.
- The existing building at 88 Walker Street provides a solid 9 storey street-wall with no setback to Little Spring Street.

14.0 - SECTION 7.11 CONTRIBUTIONS

The demolished building at 88 Walker Street had a GFA of 3,700m² and the proposal has a GFA of 24,042m². Section 7.11 Contributions in accordance with Council's S7.11 plan are warranted and based on the increase in non-residential gross floor area. The total contribution is calculated at \$2,838,349.77. The contributions are detailed in the attached conditions.

15.0 - DESIGN & MATERIALS



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

16.0 - 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 S4.15 considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

17.0 – Submitters

Two submissions were received raising concerns about: *Massive increase in bulk, major visual impact, loss of light and sun, increased shadowing, huge wind tunnel effects in conjunction with 100 Mount St, poor traffic analysis.*

All of these concerns have been addressed within the report. The increase in traffic generation has been assessed in combination with the proposed traffic increases associated with One Denison Street and 100 Mount Street in order to provide a cumulative impact assessment. All three developments will generate up to 138 vehicle trips during the peak hours. There are a number of public parking stations in the vicinity as well as excellent public transport opportunities. The report concludes that the additional traffic generated by the proposed development and other surrounding developments could not be expected to compromise the safety or function of the surrounding road network.

18.0 – Conclusion

The proposed development has been assessed with respect to the objects and relevant Sections of the EP&A Act, as well as the objectives, merit based outcomes, development standards and prescriptive controls of various State Environmental Planning Policies, the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013. Other plans and policies were also considered such as the North Sydney Section 7.11 Contributions Plan.

The Council's notification of the proposal attracted two submissions. The concerns raised have been assessed and do not warrant refusal or modification of the proposal.

The applicant has submitted a Clause 4.6 request with regard to the height of the proposal exceeding the current height control of RL 227 by 5.6m. This clause 4.6 variation demonstrates that, notwithstanding the non-compliance with the maximum height development standard, the proposed development:

- Is consistent with clauses 5.6 and 6.3(3) of NSLEP which allow for a variation to the maximum height control under certain circumstances;
- Will have an appropriate impact, in terms of its scale, form and massing;
- Will not materially increase anticipated yield
- Will not impact on any significant view lines and vistas from the public domain; and
- Will enhance the streetscape in relation to scale, materials and external treatments.

Under these circumstances, the objection is well founded and the strict application of the control is both unreasonable and unnecessary.

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

RECOMMENDATION

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the Sydney North Planning Panel, as the consent authority, assume the concurrence of the Secretary of Planning and Environment and invoke the provisions of Clause 4.6 with regard to the height control and grant consent to 2018SNH065 – North Sydney - Development Application No.368/18 subject to the attached conditions.

Geoff Mossemeneer
EXECUTIVE PLANNER
