

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSNH-294
DA Number	32/22
LGA	North Sydney
Proposed Development	Demolition of existing building and works, and construction of a commercial building of 48 levels above ground (including plant), with spaces for retail and business premises, a basement of 6 levels, and (half of) a pedestrian laneway shared with development of adjoining land.
Street Address	100 Walker Street, North Sydney
Applicant/Owner	Pro-invest Cam (St) Pty Ltd C/- Urbis Pty Ltd
Owner	Pro-invest Cam Pty Ltd (St) as Trustee for Pro-invest 100 Walker Office Trust
Date of DA lodgement	27 January 2022
Number of Submissions	6 (1 withdrawn)
Recommendation	Approval
Regional Development Criteria (Schedule 4A EP&A Act)	Capital Investment Value (CIV) greater than \$30 million (\$280,635,694.00)
List of all relevant s4.55(1)(a) matters	<ul style="list-style-type: none"> • North Sydney LEP 2013 • SEPP (Transport and Infrastructure) 2021 • SEPP (Biodiversity and Conservation) 2021 • SEPP (Resilience and Hazards) 2021 • North Sydney DCP 2013
List all documents submitted with this report for the Panel's consideration	<ol style="list-style-type: none"> 1. Conditions of Consent 2. Report of the North Sydney Council Design Excellence Panel (08/03/22) 3. Architectural Plans - Bates Smart (01/08/22) 3A. Response to North Sydney Council -, Bates Smart 3 June 2022 4. Clause 4.6 request - Urbis (25/02/22) 5. Detailed DA Design Report - Bates Smart (December 21) 6. Landscape Design Report & Plans - Aspect Studios (16/12/21) 7. Civil Engineering Design Report - Enstruct (17/12/21) 8. Traffic and Transport Assessment - ARUP (17/12/21) 9. Construction and Demolition Management Plan - Tactical Group (16/12/21)
Report prepared by	Jim Davies, Executive Assessment Planner, North Sydney Council
Report date	15 August 2022

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 (S7.24)?

No

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?

Note: 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 **Yes**

EXECUTIVE SUMMARY

The application seeks consent for:

- Demolition of all existing buildings and structures on the subject land,
- Excavation to a depth of about 35m,
- Construction of a commercial building of 48 levels, including, rooftop plant, comprising 42,573m² of gross floor area, including:
 - 35 levels of office accommodation and 4 levels of plant,
 - Retail premises on upper ground, lower ground and basement 1 levels,
 - Pedestrian access to the building from several points, on Walker Street, the proposed pedestrian laneway on the northern site boundary and Little Spring Street,
 - Vehicle access from Walker Street,
 - A 6-level basement, accommodating 74 car parking spaces, 2 loading bays, 397 bicycle parking spaces and associated 'end of trip' facilities, storage, services and housing of an existing electricity substation, and
 - An architectural rooftop feature.
- Upgrade of a through-site pedestrian link from Walker Street to Little Spring Street, a space to be jointly redeveloped with the approved development at 110-122 Walker Street (PPSSNH - 191, DA 19/21, approved 3 June 2022) the site's northern neighbour, connecting to No. 1 Denison Street and the Victoria Cross Metro Station (under construction).
- Landscaping at ground level, on upper-level terraces and removal of 2 trees on Walker Street.
- A public lift providing universal access between basement level 1, lower ground and upper ground levels, directly between Little Spring Street and the pedestrian laneway.

The proposed building has a maximum height of RL 239m with no habitable levels above the maximum permitted height of RL 227m. Measured from the lower ground, Walker Street level, the height of the proposed building is 184.7m. Permitted height above ground level is 162.7m.

The building comprises 42,573m² of gross floor area (GFA) for office use and 1,097m², for business, retail and food and drink premises. With the site measuring 1,392m² (by survey) this total GFA represents a floor space ratio of 30.6:1. For comparison, the approved development at 110-122 Walker Street has an FSR of 29.7:1.

Council advertised and notified the application. Six submissions were received. Issues of concern included:

- Non-compliance with the height control.
- Inadequate setbacks and building separation.
- Traffic generation and congestion.
- Loss of amenity, concerning loss of sunlight/overshadowing, views and privacy.

Issues raised by submissions have been considered in the application's assessment.

Council's Design Excellence Panel considered the proposed development on two occasions:

- before the DA was lodged, in September 2021, and
- following submission of the DA, in March 2022.

In summary issues raised by the Panel include:

- Resolution of the pedestrian laneway with neighbouring developers
- Height and scale
- Removal of trees from Walker Street
- Configuration and pedestrian access
- Awnings

The recommendations and comments of the panel are considered later in this report.

A request to exceed the building height maximum of RL 227m has been received from the applicant, seeking to justify contravening the standard by 12.0m (5.3%, as defined by the LEP, or approximately 13% above the height permitted, above existing the ground level). The request is considered well founded, having established that compliance is unnecessary and that environmental planning grounds are sufficient to justify the contravention. The request results in no effective increase in yield.

The provisions of cl. 4.6 North Sydney Local Environmental Plan 2013 (the LEP) have been satisfied and consent is able to be granted despite the proposed development's non-compliance with the height of building development standard.

Should consent be granted, the Panel may assume concurrence of the Secretary of the Department of Planning Industry and Environment, the proposal raising no matters of regional or state planning significance.

The proposed development has been assessed regarding applicable provisions of the Environmental Planning & Assessment Act 1979 (the Act), State Environmental Planning Policies (SEPPs), the LEP, the North Sydney Development Control Plan 2013 (the DCP) and the North Sydney Local Infrastructure Contributions Plan and was found to be acceptable.

Approval is recommended, subject to the conditions (Attachment 1). In summary these conditions are necessary to ensure acceptable environmental impact, maintain public safety, convenience and amenity, and compliance with applicable provisions of the North Sydney Local Environmental Plan and Development Control Plan, and other relevant policies.

THE PROPOSAL

Evolution of the application

The application was lodged on 27 January 2022. During assessment, additional information was submitted 25 February and 6 June 2022. The information clarified certain matters relating to the proposal and provided further information having regard to the proposal's relationship and aggregate environmental impacts with neighbouring development at 110 Walker Street (PPSSNH-191, DA 19/21 determined by the Sydney North Planning Panel 3 June 2022). On neither occasion was the development the subject of the application altered. Re-notification was not required.

Per-lodgement meeting

At the applicant's request a development application pre-lodgement meeting was held on 9 September 2021. Key issues identified were:

- Non-compliance with the height standard, variations only being considered for non-habitable space above the maximum height.
- DCP requirements for podium and tower setbacks should be observed, including an increased tower setback to Walker Street, noting the merits of every proposal need to be considered individually (and their cumulative impact).
- Podium height of 5 storeys to Walker Street, stepping with the street's slope was supported. A 3-storey podium to Little Spring Street should be provided.
- The setback of 3m to the north (for the pedestrian laneway) was supported.
- Universal access to and from the laneway is required, and levels require co-ordination with the neighbouring development. The access to and from the lift needs to be clearer and more direct, than proposed.
- Shadow analysis is required to demonstrate compliance with cl. 6.3 of the LEP.
- Some form of public art should be considered as set out by the DCP (Part B cl. 2.7.3).
- Vehicle access off Walker Street, in the centre of the building was not supported, noting it is identified as a key pedestrian link in Council's adopted CBD Public Domain Strategy.
- No net increase in parking and travel demand should be demonstrated, as part of a Green Travel Plan.
- Concern was expressed regarding use of a car lift for 7 levels of basement parking.
- Further detail addressing urban design for the frontage to Little Spring Street was required.
- A 'zero' setback to Walker Street was encouraged for a consistent street-wall effect.
- The design must address the relationship with adjoining development.
- Walker Street activation requires improvement.
- Climatic conditions need to be considered, for the design of the main entry from Little Spring Street, from the west (from the Victoria Cross Metro Station).
- The height of the building provides an effective transition between 88 Walker Street (the southern neighbour) and 110 Walker Street (the northern neighbour).
- Village decks help articulate the façade and were supported.

Design Excellence Panel: First Review

On 28 September 2021, Council's Design Excellence Panel reviewed the proposal and proffered the following advice to the applicant:

- The application requires the support of shadow, view and wind impact studies.

- The concept behind the design, of a series of "...multiple stepped and stacked volumes is successful in mitigating the perceived bulk of the development," was supported.
- No public benefit was evident in response to the height of the plant as proposed, above the maximum height permitted by the LEP.
- "The varied front setback to Walker Street up to 5 storeys in height (podium) and Little Spring Street up to 3 storeys in height (podium), creates a fine grain podium response and is successful in managing the ground level changes across the site."
- "Above podium setbacks to Walker Street and Little Spring Street are inadequate, with the majority of setback at 2m only. Maintaining the integrity of the 3 stacked "tower" expression should be achievable while also providing compliant setbacks."
- Building separation needs to be considered along the street, to avoid a "wall of towers".
- Permeability and activation of the ground plane and sustainability initiatives were supported.
- A lift is needed to provide access to and from the pedestrian link, for full accessibility.
- Appropriate wind protection of the ground plane, supported by modelling, is necessary.
- Floor to ceiling heights appear too small and require clarification.
- Generally, more attention to creating active street edges, including the through site link, was deemed necessary.
- A case for providing parking is necessary given the high level of access to public transport and scenarios examined to ensure and support the most appropriate form of vehicle access having regard to site constraints.
- A continuous awning should be provided over the Walker Street footpath.
- Materials, colours and composition of podium and tower forms as proposed were considered by the Panel to be of high quality.

Concept development application

A 'concept' development application was submitted on 18 October 2021 and subsequently withdrawn on 28 January 2022, following submission of the subject application the day before.

Meetings were held with the applicant which reiterated and expanded upon previous advice, regarding:

- Height and setbacks, and
- Consideration of other options for vehicular access to the proposed building.

DA Lodgement & second review of the Design Excellence Panel

The DA was lodged on 27 January 2022 and considered by the Design Excellence Panel on 8 March 2022. Their advice is summarised below.

- The height of the building was noted as satisfactory, subject to approval of 110 Walker Street (since approved at the same height as proposed, RL 270.3m).
- Setback to Walker Street should match the setback of 110 Walker, having considered the applicant's advice that the proposed setback was arrived at from careful contextual site and visual analysis, and wind studies.
- The panel suggested vertical shading of the western façade, where shown by modelling to be exposed.
- The Panel noted the applicant had carefully considered options for locating the building core, with the south-western corner selected as having optimum performance in terms of ground-level activation, open floor plates and presentation to the three active frontages (with the core located adjacent and with a zero setback to the core of 88 Walker Street to the south).

- Vehicle access was not discussed, although the applicant did present findings of their analysis of various options, demonstrating that the access proposed at the southern corner of the Walker Street frontage is the optimum location for basement access, with ramp access instead of the previously proposed car lift system.
- Again, the Panel commended the applicant on their overall design approach, architectural expression and use of materials, while suggesting warmer colours could be considered.

Briefing of the Sydney North Planning Panel

The Sydney North Planning Panel was briefed regarding the application on 16 March 2022.

Key issues identified for consideration at the briefing, were:

- Setbacks, building separation, vehicle access.
- Clause 4.6 for height non-compliance.
- Public benefit through-site link needs resolution and will require discussion with adjacent site. Consistent levels between the site and neighbouring Stockland site need to be addressed.
- Design Review Panel (Council's Design Excellence Panel) content with ground plane, accessibility, and environmental performance.
- Council is yet to undertake its full application assessment, so this record is not a final list of the issues they will need to consider, to draft their recommendation.
- The application is yet to be considered by the Sydney North Planning Panel and therefore future comment will not be limited to the detail contained within.

DEVELOPMENT THE SUBJECT OF THIS REPORT

The application was submitted on 27 January 2022. In February and June, following informal discussions with Council and considering the advice received from prior formal communications, further information was provided to clarify certain aspects of the development. These are outlined below.

Consent is sought for:

- Demolition of all existing buildings and structures on-site,
- Excavation to a depth of about 35m,
- Construction of a commercial building of 48 levels including rooftop plant, comprising 42,573m² of gross floor area, including:
 - 35 levels of office accommodation and plant,
 - Retail premises on upper ground, lower ground and basement 1 levels,
 - Pedestrian access to the building from several points on Walker Street, the proposed pedestrian laneway on the northern site boundary and Little Spring Street,
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- Landscaping at ground level, on upper-level terraces and removal of 2 trees on Walker Street.

- A public lift providing universal access between basement level 1, lower ground and upper ground levels, directly between Little Spring Street and the pedestrian laneway.

Architectural plans (Attachment 3) illustrate the proposed development. To complement these plans, address compliance with applicable planning provisions and potential environmental impacts of the proposal, several documents accompanied the application:

- Clause 4.6 request to contravene the height standard (Attachment 4),
- Detailed design report (including visual impact assessment) (Attachment 5),
- Landscape design report & plans (Attachment 6),
- Civil engineering design report & plans (Attachment 7),
- Traffic impact assessment (Attachment 8),
- Demolition and construction management plan (Attachment 9),
- North Sydney DCP compliance assessment,
- ESD report,
- BCA compliance report,
- DDA accessibility report,
- Fire engineering report,
- Geotechnical report,
- Contamination investigation,
- Reflectivity report,
- Environmental wind study,
- Acoustic report,
- Arboricultural impact assessment,
- Public art strategy, and
- Operational waste management plan.

SITE AND LOCALITY

Site

The site is Lot 1 DP 542915, located at 100 Walker Street North Sydney. Situated on the western side of Walker Street, the subject land is almost square in shape with a Walker Street frontage of 38.66m and an area of 1,392m². The site's Walker Street frontage is oriented towards the east-southeast. On the northern side, is a pedestrian link between Little Spring Street and Walker Street. On the southern boundary, the redevelopment of 88 Walker Street abuts the site's boundary.

There is no vegetation of note on the site. Two London Plane trees are on the footpath on Walker Street immediately adjacent the site.

The land generally falls from northwest to southeast with a fall of 5.55m. The site is able to drain to Walker Street.

Currently occupying the site is a commercial building of 14 storeys with basement level parking and an entry driveway from Walker Street and an exit driveway to Little Spring Street.

Locality

The image below (Figure 1) shows the site's location.

West of the site is the recently completed building known as 1 Denison Street. On the site's northern boundary is 110-122 Walker Street, the subject of a development application (DA 19/21) approved 3 June 2022. South of the site is the development at 86-88 Walker Street, under construction. East of the site on Walker Street are several office buildings of varying age and height.

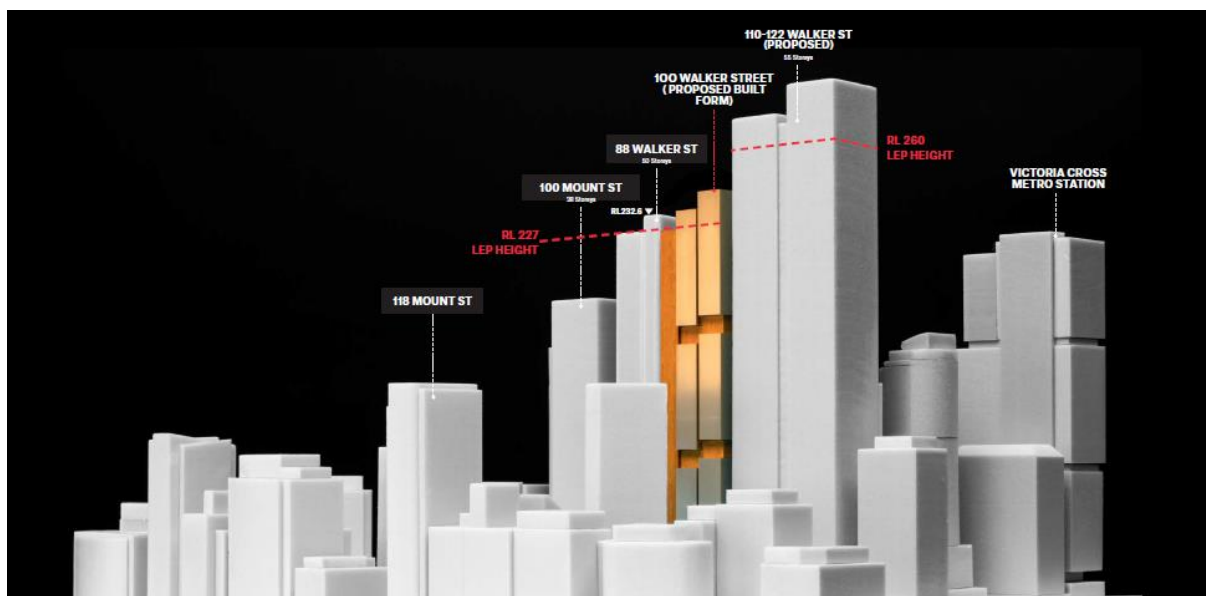


Figure 1: Aerial image of the site outlined in red (Urbis).

Recent Development in the Locality

In a broader context, as shown in Figure 2, other development either recently approved, under construction or completed includes:

- The Victoria Cross Metro Station and over station development
- 100 Mount Street
- 118 Mount Street



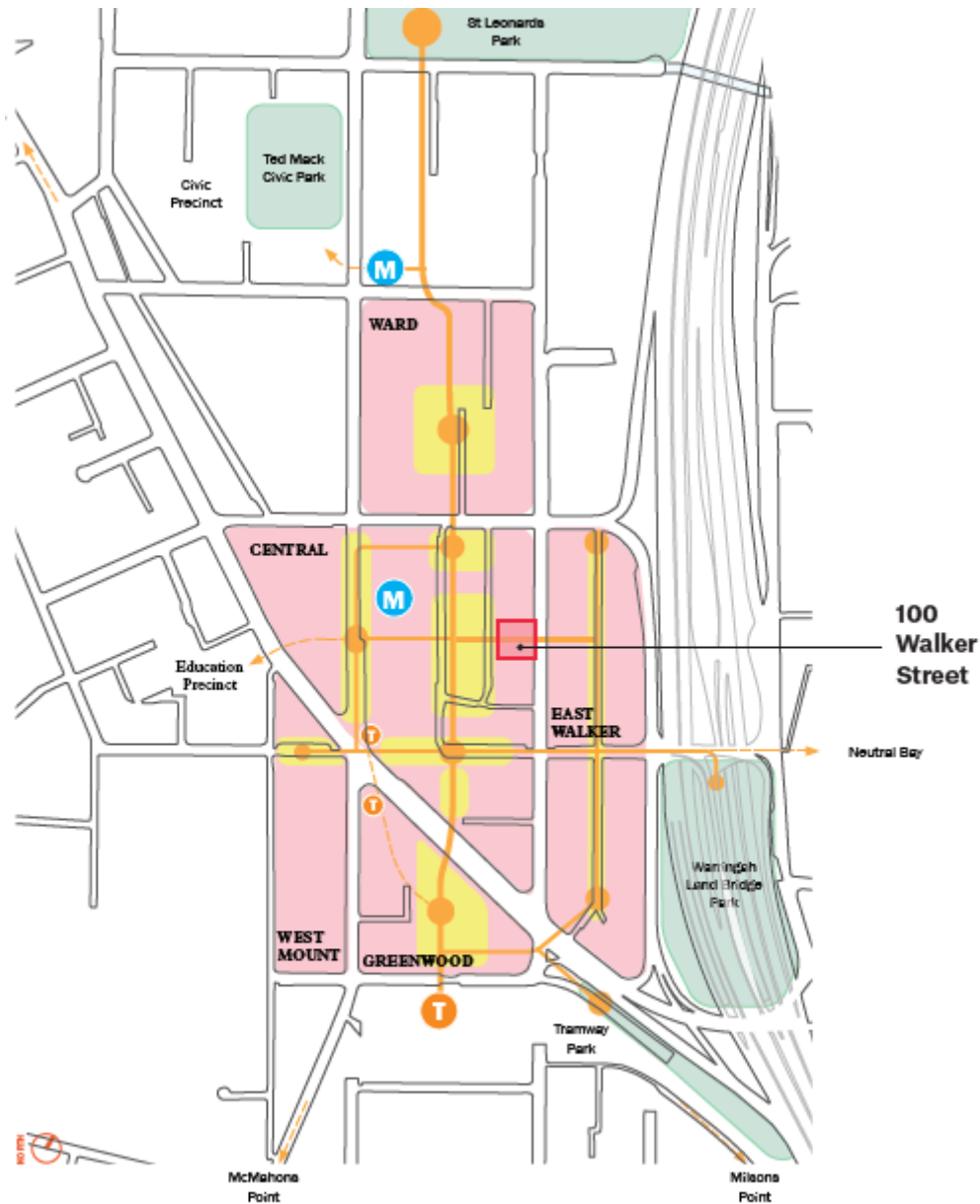
North Sydney Centre Public Domain Strategy

Figure 3 shows the public domain around the site, including elements of Council's adopted Public Domain Strategy, namely its pedestrian routes and key nodes. The diagram shows the site and the pedestrian laneway between the site and the neighbouring site at 110-122 Walker Street to the south, the image identifying a 'key node' where the pedestrian laneway terminates at Walker Street.

Other 'key nodes' the strategy seeks to improve pedestrian connectivity between in the "North Sydney Laneways Precinct" (of which the site is a part) are Berry Square, north west of the site, Brett Whiteley Place to the south and the Victoria Cross Metro Station to the west.

Denison Street is the main north-south connection through the precinct with Little Spring Street planned to be upgraded and to continue to perform a shared function, as a walkway and provider of vehicular access to development either side. Recently approved development gains vehicle access from Little Spring Street in the precinct, in contrast to the subject development, which proposes upgrading existing vehicle access from Walker Street.

The strategy nominates Walker Street as a key route for improving pedestrian amenity, while acknowledging its role as a link in the local road network and connecting key routes of the metropolitan road network, existing and planned.



Public Domain Strategy - Structure Diagram

Figure 3 Extract showing movement corridors and pedestrian nodes (Bates Smart)

The Strategy also identifies Walker Street as an 'active perimeter' dedicated to street activation through retail and dining opportunities with footpaths providing a commercial, interactive edge. This is consistent with Provision P6 in Part C, Section 2.1.3 in NSDCP 2013, which states buildings are to have a "zero setback to all street frontages at the ground floor level".

The proposal activates the corner of Walker Street and the pedestrian laneway, which continues along the upgraded walkway to the west. Otherwise, activation is limited by the moderate grades along the Walker Street footpath and is however optimised with a prime pedestrian entry from Walker Street. This is considered an improvement on current conditions.

The applicant presented the results of options studies for vehicle access, the result being to maintain and upgrade the driveway location off Walker Street at the south eastern site corner. The key reasons this location was selected was its operation in concert with the building core, it not compromising activation of key pedestrian areas, especially along the walkway and the main entry to the building off Little Spring Street, as would a vehicle entry off Little Spring Street.

STATUTORY CONTROLS

- Airports (Protection of Airspace) Regulations 1996 (C'wlth)
- Environmental Planning & Assessment Act 1979 (the Act)
- North Sydney Local Environmental Plan 2013 (the LEP)
 - Zoning - B3 Commercial Core
 - Building height - RL 227
 - Exceptions to development standards
 - Item of Heritage - No
 - In Vicinity of Heritage Item - Yes (Firehouse Hotel 86 Walker Street)
 - Conservation Area - No
 - Architectural roof features
 - North Sydney Centre - Objectives, Building heights and massing
 - Earthworks
- SEPP (Biodiversity and Conservation) 2021
- SEPP (Transport and Infrastructure) 2021
- SEPP (Resilience and Hazards) 2021

POLICY CONTROLS

North Sydney Development Control Plan 2013 (the DCP)
North Sydney CBD Public Domain Strategy
North Sydney Local Infrastructure Contributions Plan 2020

CONSENT AUTHORITY

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

REFERRALS

Building

Documents submitted with the development application have been reviewed and the proposed building is capable of compliance with the National Construction Code, the Building Code of Australia and the Disability Discrimination Act 1992 (C'wealth). Compliance with these codes and legislation is ensured via recommended conditions of consent.

Civil Engineering, Stormwater Drainage & Geotechnical Stability

Council's Senior Development Engineer has assessed the proposal and does not object to the development, subject to recommended conditions. These conditions address compliance with various Australian Standards for the basement and parking design, maintaining geotechnical stability, reducing risk of damage to adjoining property, public and private, and its repair if required, stormwater being retained and discharged into Council's infrastructure and imposition of bonds to protect public assets and construction of new footpaths and the like according to Council's public domain style manual.

Landscape

No objection to approval of the application was raised by Council's Landscape Officer, again, subject to conditions. The two trees on the Walker Street footpath are proposed to be removed. However, conditions are recommended to retain the northern-most of the two trees (Tree No 1, as identified by the submitted arborist's report) and the planting of two new trees (advanced specimens, in 200 litre pots), with one to be planted either side of the driveway off Walker Street, to replace Tree no 2, the removal of which is recommended.

Transport, Traffic and Parking

Council's Traffic and Transport Engineer advised:

- Trip generation has been underestimated, as indicated in the following table:

	Arup		RTA-based calculation	
	AM	PM	AM	PM
Existing development (10,000 GFA)	41	82	17	14
Proposed development (42,573 GFA)	30	60	73	60
	-11	-22	+56	+46

- 74 car parking spaces are provided.
- There is a car parking deficit of 52 spaces, based on the above analysis, noting that parking provided is the basis of ARUP's analysis and Council that has relied on rates recommended by Transport for NSW (formerly the RTA).
- The cycle parking/storage is 1% (2 spaces) in deficit relating to the minimum required by the DCP.
- Provision of street/ground level bike parking is recommended.
- Motorcycle parking requires 13 spaces to be provided.
- Deliveries should be managed to minimise traffic generation and potential for congestion, due to limited loading and unloading facilities.
- The steps proposed at the western end of the pedestrian walkway should have a narrow ramp installed/fitted, to allow cyclists to manoeuvre their bikes easily up and down the steps.
- Make a parking space available for a car-share vehicle.
- Consider electric vehicle charging points in the basement.
- Provide seating in the public domain of the development for pedestrians to rest.
- Standard conditions are also recommended, addressing traffic management during demolition and construction, compliance with Australian Standards, and compliance with the Council's Public Domain Strategy for the design of the pedestrian laneway.

Comment

Proceeding from discussions with the applicant regarding Council's traffic assessment, the following was provided:

- *The (reduced) parking provided is reasonable for the same reasons provided to justify reduced traffic generation, as a means of reducing travel by car. This is a key aim of the proponent, as submitted by their transport consultants, also responding to Council's traffic engineer's comments regarding trip generation:*

"Private parking availability is a key driver of vehicle trips particularly in urban areas due to the lack of long stay on street parking and charges associated with public car parks. This tends to discourage employees from driving to work if they do not have a space provided within their place of work. All these factors are key drivers for using a trip generation rate influenced by parking availability within the development. This aligns with wider aspirations for the development to encourage travel by sustainable modes as North Sydney is already well served by public transport and this will be further improved with the introduction of Sydney Metro services at Victoria Cross Station. In addition to this, high quality end of trip facilities that support walking and cycling for all employees will (be) provided in the basement.

"Given the above, we believe a parking space trip rate is more appropriate for a development of this nature and that the Transport Impact Assessment submitted remains valid."

Regarding other matters raised by the transport engineer, the assessing planner notes:

- *A 2-space deficit is satisfactory for bike storage, given there is arguably an 'aspirational' component to the total number required by the DCP, as discussed in relation to the DA for 110 Walker Street. The minor variance does not prevent the development from providing for sustainable transport choices, as outlined in the Green Travel Plan appended to the traffic report (Attachment 8). The proposal is also consistent with relevant objective of the DCP (cl 10.5), "to encourage the use of bicycles as an environmentally beneficial form of transport and an alternative to the use of private motor vehicles."*

The applicant noted that in their calculation, the number of bike spaces proposed, 397, exceeds the number required by the DCP, by 4 spaces. Either way, proposed provision for bicycles is acceptable.

- *The applicant submits that deliveries and pickups for businesses in the building will occur outside commuter arrival and departure periods, so little congestion should occur. Traffic management measures included in the proposal feature give way signs, a suitably located convex mirror, and separation of service and tenant/vehicle areas upon entry to the building.*
- *For safety reasons, the applicant contends that a ramp for bicycles may compromise safety on the stairway between the pedestrian lane and Little Spring Street.*
- *Motorcycle parking (13 spaces) is provided in the basement as required.*
- *While providing for electric vehicle charging and car sharing services are not DCP requirements, the applicant is prepared to consider vehicle charging facilities. As the number has not been determined at this stage, a condition is recommended for details to be submitted with a construction certificate.*
- *Seating will be made available in public areas within the development, as indicated by the plans.*
- *Installation of bollards at either end of the walkway is recommended by another condition, for pedestrian safety.*
- *A car-share space is not proposed, the applicant has advised, as the submitted Green Travel Plan (appended to the traffic report) includes initiatives such as car-pooling to reduce trips and manage*

travel demand. A condition is accordingly recommended, to ensure implementation of the Green Travel Plan, and consideration of including car-sharing and electric vehicle charging in a revised plan, to be submitted to the certifier before an occupation certificate is issued.

Environmental Health

No objection was raised to the proposal from Council's Environmental Health Officer, provided nominated conditions are included.

Regarding concerns about mechanical plant and ducting, the applicant provided the following regarding this issue:

- *The kitchen exhaust will be provided for each of the F&B tenancies located on the lower and upper ground floors, capped off at high level within the tenancy. The tenant is to provide kitchen exhaust hoods and ductwork from the capped provision to suit their fit-out, and they are to provide the necessary maintenance regimes. The ductwork will either be taken to roof to discharge at roof level, or it will be discharged horizontally via one of the low-rise, mid-rise or crown plant rooms, with suitable provisions for filtering, discharge louvre clearances and ozone additives to counteract unwanted odours, as per AS1668.2-2012 requirements. It will be the responsibility of the tenant to install and maintain the systems serving the retail or food and drink areas.*
- *Make-up air shall be provided via intake louvres on the façade with tenant connection by the tenant in future retail fit-out.*
- *Outdoor air will be provided via louvres located on the façade with tenant connection by the tenant in future retail fit-out.*

Notwithstanding, a condition is recommended to ensure exhaust equipment is not installed on any façade of the building (except those that must be, such as air inlets and exhaust outlets), noting rooftop plant will be effectively screened.

Regarding non-office use of any part of the building another condition requires submission and approval of separate development applications for the use and fit-out for the purposes of retail premises or business premises.

Public Art

Council's Acting Team Leader Arts and Culture has considered and supported the Public Art Strategy submitted with application. An appropriate condition is recommended to ensure the strategy's implementation in accordance with Council's Public Art Policy.

Waste Management

No objections were made regarding the proposal by Council's Waste Management Officer provided a condition is included in the consent, which ensures waste collection vehicles can access waste storage areas, and that those areas are adequately sized. Such a condition is recommended. Smaller vehicles are only provided for in the loading dock, not large rigid vehicles, as typically pick-up wastes and recyclables. However, as this matter will be managed via a commercial arrangement, it will be up to the building operator to contract suitable waste management and disposal that can be accommodated within the building.

Strategic Planning - Urban Design

The strategic urban design team made the following assessment, which is also commented upon below.

- The massing and stepped form is a strong contextual response and provides an appropriate transition between its adjoining sites, 88 Walker Street and 110 Walker Street, to create a unique stepped skyline.
- Tower separation as proposed was considered reasonable.
- Concerns were maintained regarding above podium setbacks.

Comment

These issues were discussed thoroughly with the applicant, including consideration of design alternatives illustrated in the document "Response to North Sydney Council", 3 June 2022, Bates Smart (Attachment 3A). Based on the analysis therein and the discussions held, the proposed development, as submitted, was agreed to be the preferred option terms of massing and form, setbacks and height.

Below are images comparing the form of the DCP envelope and the proposed development.

DCP Envelope



Proposed Built Form



Figure 4: Comparison of built form, of the DCP envelope and the proposed building (Bates Smart)

- Concerns were expressed regarding lack of activation on Walker Street and the pedestrian laneway.

Comment

The activation is considered acceptable given the site's conditions and requirements for servicing the building. Activation of the ground level plane is illustrated below.



Figure 5: Activation to Walker Street. The frontage is open onto the street from the corner of the walkway to the driveway to the left (Bates Smart).



Figure 6: Pedestrian activation with food and drink premises along the northern walkway (Bates Smart).



Figure 7: Main pedestrian lobby off Little Spring Street (the illustration assumes Little Spring Street has been redeveloped as a share-way) (Bates Smart).

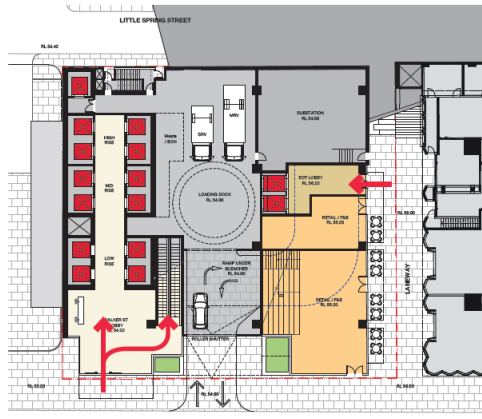
- That the proposed means of access from Walker Street has been the subject of options-testing and subsequent agreement by Council's Development Services team was noted, despite this access being contrary to Walker Street's planned function and a primary pedestrian route.

Comment

As shown below, the diagrams comparing various means of access tested and analysed indicate the proposed access has the least impact on pedestrian amenity and the safety and efficiency of the existing and planned pedestrian network.

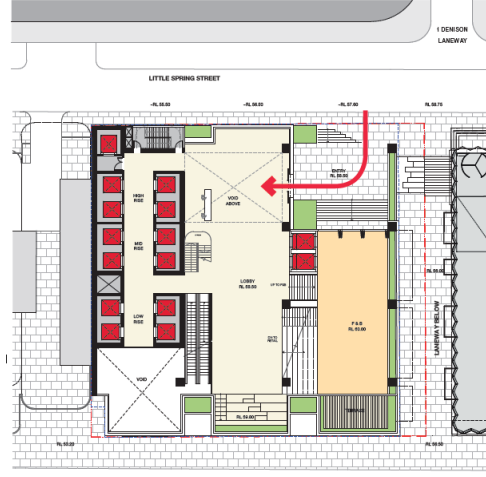
To provide background, the original concept design proposed a centrally located driveway in the Walker Street façade, which was unacceptable, as it compromised activation and pedestrian safety. The applicant was consequently asked to consider a range of options and present a preferred option for vehicle access, which was duly undertaken and presented to Council in December 2021, as part of the (since withdrawn) concept DA's assessment.

Option 1 East Mid Frontage Vehicle Entry



Lower Ground

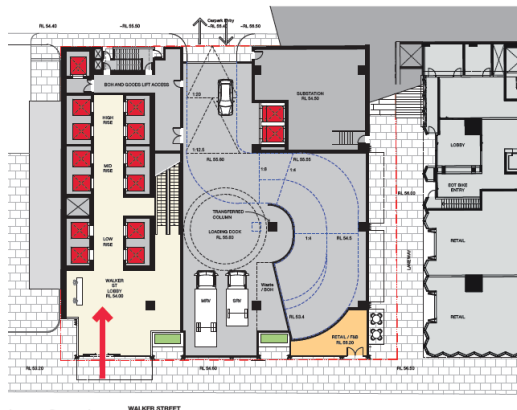
- Activated frontage to Laneway and Walker St ✓✓
- On-grade lobby access from Little Spring St ✓✓✓
- Pedestrian movement unencumbered by vehicles ✓



Upper Ground

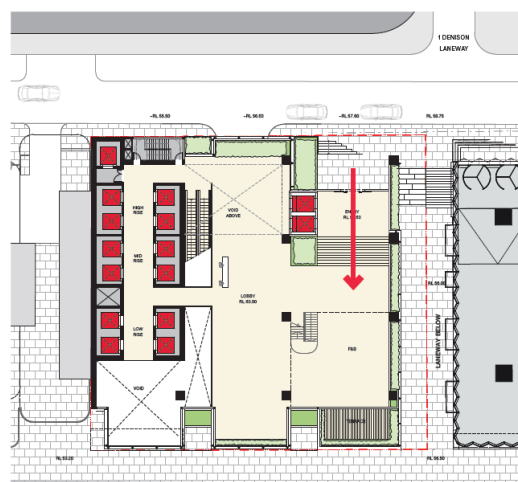
Option 2 Little Spring Street Vehicle Entry

- 2m Level change from main entry up to lobby



Lower Ground

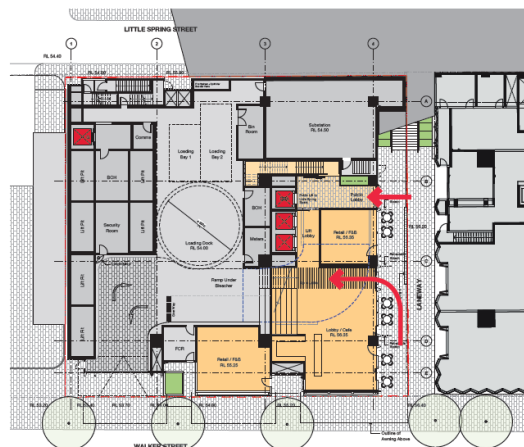
- Pedestrian movement unencumbered by vehicles ✗
- Active street frontage to Walker St and Laneway ✗
- On-grade access to main entry lobby ✗



Upper Ground

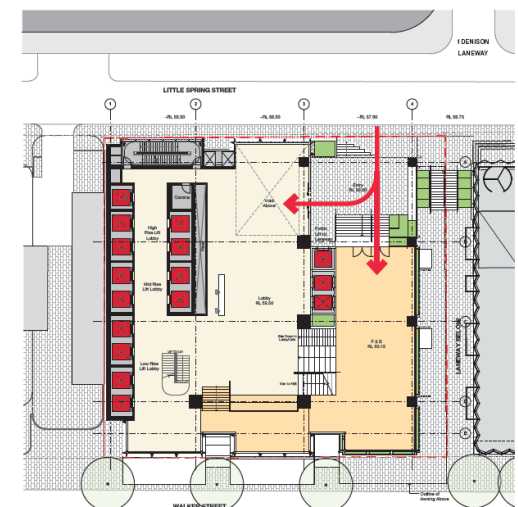
Option 3 (Proposed) South East Vehicle Entry

- Vehicle entry in the same location as existing



Lower Ground

- Pedestrian movement unencumbered by vehicles ✓
- Activated frontage to Laneway & Walker Street ✓✓
- On-grade lobby access from Little Spring St ✓✓✓



Upper Ground

Figure 8: Options examined to provide vehicle access to the site (Bates Smart).

Design Excellence Panel

The Design Excellence Panel's report (Attachment 2) of 8 March 2022, concluded in offering qualified support for the proposal. Qualifications involved the applicant further refining certain aspects of the design, summarised below, which have been satisfactorily addressed.

- The building generally conforms with the emerging commercial character in North Sydney, with several other new office developments in the pipeline.
- Applicants for these projects (88 Walker St and 110 Walker St) argued the height breaches are justified, inter alia, by climbing up the hill in line with ground-level topography, thus creating a stepped skyline. The proposal's height and stepped crown, in this context, is reasonable.
- The panel noted that proposed setbacks were the result of detailed analysis of the site and surrounding conditions and environmental (wind) modelling. Increases to setbacks were suggested, along Walker Street and Little Spring Street. As noted above, Council's strategic urban designers maintained their concerns over the proposed setbacks.
- Sustainability and energy efficiency initiatives integrated into the design were noted and commended, as was the overall design approach and execution, and materials to be used. A request was however made, to consider a warmer colour palette.
- Awnings were thought to be too high to offer adequate weather protection and that it is important to consider design with that of the awnings of the neighbouring development (110 Walker).

Comment

Council's strategic planning team had also raised tower setbacks as an issue of concern. Setbacks proposed and awning design are addressed later in this report.

External Referrals

Transport for NSW

Roads

The application was referred to TfNSW, as required by SEPP (Transport & Infrastructure) 2021. No objection was raised to the application as it was considered unlikely to have a significant impact on the classified road network. The advice also requested that pedestrian safety be considered, and that on-site parking be provided to Council's satisfaction.

Parking and pedestrian safety have been considered in the design and are satisfactory. Conditions are recommended to ensure vehicle access and parking design conform to applicable Australian Standards.

Sydney Metro

The application was referred to the Sydney Metro office, who advised the proposal's location is sufficiently distant from the rail corridor to avoid adverse impacts.

Sydney Water Corporation

Sydney Water's reply did not identify any impediments to the proposed development. Amplification and extension of water and sewer infrastructure are expected to be addressed when a section 73 application is made. A condition is recommended requiring the applicant to make such an application.

Energy and Other Services

Ausgrid advised Council there are underground cables and a substation existing on the site, in Walker Street and in Little Spring Street, which must be protected during and after construction. That another substation may be required to service the development was advised, as was the need to conduct further investigations into this matter.

Again, a condition is recommended requiring the applicant to consult with Ausgrid and any other service providing or regulating authority and obtain any approval required for the development to proceed. Any approvals and accompanying plans are to be submitted to the certifying authority before a construction certificate is issued.

Sydney Airport

The applicant has obtained approval from the Commonwealth for the proposed building, as it protrudes into prescribed airspace, being taller than RL 156m. The approval was granted subject to conditions, that the building does not exceed RL 239m (the proposed height) and be obstacle-lit at the highest point of the building during hours of darkness.

SUBMISSIONS

Council notified occupants of premises in the local area in writing of and exhibited the application publicly via its website for a period of 21 days from 11 February 2022 until 4 March 2022.

Six submissions were received. One, from Channel 9 at 1 Denison Street adjacent the site, was subsequently withdrawn. Withdrawal was conditional upon the applicant committing to on-going consultation with Channel 9 during construction. The applicant is understood to have agreed with this request and a condition is accordingly recommended.

Two submissions were from the Edward and Lavender Bay Precinct Committees. The other three were from residents of the North Sydney CBD.

Issues of objection and concern included:

- Exceeding the North Sydney LEP 2013 height restriction.
- The development creating “an unwanted density of commercial structures close to a major residential structure...the Alexander Apartments”.
- The setback to Little Spring Street being inadequate.
- The development impacting visual amenity.
- The development creating unwanted traffic in Little Spring Street.
- Reasonable solar access being reduced, and unnecessary overshadowing being caused.
- An oversupply of commercial floor space being created in North Sydney’s commercial core because of the proposal.
- “Edward Precinct considers that North Sydney development needs to be better controlled with over-development particularly on Miller and Walker Streets avoided.”
- The 48-storey proposal not adequately responding to its location, not reflecting heights of new buildings at 100 Mount Street and 1 Denison Street, and nearby residential development, Berry Square, and the Ward Street precinct.
- Walker Street traffic congestion being worsened, noting that additional traffic load resulting from traffic from the Western Harbour Tunnel and the Northern Beaches Link.
- The building adding to the “wall of structures along Walker Street and adds bulk, scale and density.”

- A “canyon effect” being created, by this and other buildings.
- Wind tunnel effects and views of the sky being affected.
- Issues can be addressed by increased setbacks on all sides and reducing the height of the building.
- Lavender Bay Precinct Committee stated: “Precinct reiterates its previous position that the impacts of this building would have on the local community are negative, with no benefit to the community, including shadows cast and the lack of a positive contribution to the LGA at street level.”

EVALUATION OF THE PROPOSED DEVELOPMENT

The relevant matters under Section 4.15 of the Act are considered in this section of the report. The application has been assessed against the relevant provisions of the LEP and DCP, and other environmental planning instruments that apply to the site and the proposal.

SEPP (Transport and Infrastructure) 2007

As noted in the external referrals section above, Transport for NSW did not object to the proposal, subject to conditions. This agency was consulted regarding traffic generation the site being on Walker Street which intersects with Berry Street, a classified road, and the development proposing more than 2,500m² of commercial gross floor area.

SEPP (Resilience and Hazards) 2021

The detailed site investigation lodged with the application noted and recommended:

- *Further groundwater assessment including intrusive sampling. If contamination of the groundwater is identified, then it is anticipated that this could be remediated under the provisions of a suitable remediation action plan. Given the site remains occupied by the existing building and that access to some areas is limited, we recommend that the groundwater assessment is undertaken following demolition of the building, or once the entire site footprint becomes more readily accessible,*
- *Review of the existing Hazardous Material Survey report prepared by ADE and any relevant Hazardous Material Registers and Management Plan. If not made available, a hazardous building materials assessment is required for the existing buildings. Hazardous materials, if present, will need to be removed in accordance with relevant legislation and guidelines prior to demolition and managed appropriately in the interim or where buildings are to be retained,*
- *Post-demolition inspection of the building footprints by an Environmental Consultant, for any signs of contamination (if required). Additional sampling and testing in these areas may be required to fill data gaps, and*
- *Any soil to be removed offsite as part of the works is subject to a formal waste classification prior to disposal.*

Accordingly, a condition is recommended to require implementation of the report’s recommendations.

SEPP (Biodiversity and Conservation) 2021

The site is axiomatically located in the Sydney Harbour catchment. The site is not located close to the foreshore and will form part of a distant skyline view of North Sydney and Milsons Point, from the Harbour and other vantage points on harbour foreshores and within the waterway’s visual catchment, from all points of the compass.

Furthermore, as proposed the development should effectively treat the quality and quantity of stormwater before discharge to the public drainage system and the harbour. The application is consistent with relevant aims, objectives and principles of the SEPP.

NORTH SYDNEY LOCAL ENVIRONMENTAL PLAN 2013

Permissibility

The proposal is permissible with consent in the B3 Commercial Core zone that applies to the site.

Objectives of the B3 Commercial Core zone

The site is surrounded by a variety of commercial, business and retail uses, with one of a few residential towers in the CBD, the Alexander Apartments, being located north-west of the site, at 79-81 Berry St.

The proposal is a form of development reasonably anticipated for the site and is generally consistent with the objectives of the B3 zone, as discussed below.

Height of buildings - Clause 4.3

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

The top of the building's facades, being at the apex of the glass screen that surrounds the highest part of the building, is at RL 239m.

Exceptions to development standards - Clause 4.6

A written request was submitted with the development application (Attachment 4) in accordance with the provisions of cl. 4.6 - Exceptions to Development Standards, of the LEP. The request seeks a variation to the height of building development standard, as provided by cl. 4.3 of the LEP.

- Maximum permitted height: RL 227m.
- Proposed maximum height: RL 239m.
- Proposed contravention: 12.0m or 5.3% (based on RL height, as defined by the LEP).

As the panel would be aware, numerous decisions of the Land & Environment Court (the Court) have assisted in the interpretation and application of clause 4.6, a provision common to most, if not all LEPs in NSW.

Criteria for approval under clause 4.6

For consent to be granted, the following criteria must be observed:

1. The consent authority must be satisfied, according to cl. 4.6 (2):
 - (a) the provision for which non-compliance is sought is a development standard as defined by the Environmental Planning and Assessment Act 1979 (the Act), and
 - (b) the development standard in question is not excluded from being varied, by cl. 4.6 (6) or (8).

2. The applicant's written request must, according to cl. 4.6 (3):
 - (a) demonstrate that compliance is unreasonable or unnecessary in the circumstances of the case, and
 - (b) demonstrate that there are sufficient environmental planning grounds to justify the contravention.
3. As required by cl. 4.6 (4) (a), the consent authority must be satisfied that:
 - (a) the applicant's request has satisfactorily addressed these matters, and
 - (b) that the development is in the public interest, being consistent with the objectives of the standard and the zone in which the development is proposed.
4. As a delegate of the Planning Secretary, in accordance with cl. 4.6 (5), the consent authority must consider the following in deciding whether to grant concurrence:
 - whether a matter of State or regional significance is raised by the standard's contravention,
 - the benefit in maintaining the standard, and
 - any other matters.

Evaluation of the applicant's written request

An evaluation of the proposal regarding the requirements of the LEP to contravene a development standard follows.

Criteria 1(a): Only a development standard can be varied

The maximum height of buildings is a development standard as defined by the Act, as it fixes a maximum height for development on the site.

Criteria 1(b): The development standard must not be excluded from cl. 4.6's application

Of relevance to the subject application, only the provisions of cl. 6.3 (2) (a) & (b) of the LEP are excluded from the operation of cl. 4.6. These provisions do not permit granting of consent when a development will increase shadows cast on specifically mapped "special places" or public open space in the North Sydney Centre, as identified by the LEP. The proposal complies with these provisions of clause 6.3, as assessed later.

Criteria 2 (a): Compliance would be unreasonable or unnecessary

The applicant's written request submits that the proposal is consistent with the objectives of the standard. This is one of the methods suggested by the Court to establish that compliance with the standard is unnecessary or unreasonable.

Objectives (cl. 4.3 (1) of the LEP) of the building height maximum are:

- (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,*
- (g) *to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone E4 Environmental Living.*

The applicant's request to depart from the height standard, regarding the development standard's objectives, is considered sufficient to satisfy the terms of clause 4.6.

To summarise, key elements of the submission, in response to paragraphs (a) - (f) (noting paragraph (g) does not apply) include:

- The top of the building follows the form of the topography, via the stepped building crown.
- Additional height proposed does not disrupt views from other buildings in the North Sydney CBD.
- Overshadowing of dwellings (outside the North Sydney CBD), public reserves and streets will not result from the height departure, between 9am and 3pm, from the autumn to the spring equinox.
- Amenity of residences (the nearby apartments at 79-81 Berry Street are referred to) is not affected by the additional 12m of height, noting the site is one of a group or cluster of sites on which significantly tall buildings are permitted.
- The additional height creates "an appropriate transition" with adjacent buildings at 88 and 110 Walker Street.
- The proposed height is consistent with the emerging character of the North Sydney CBD.
- The part of the building above the height limit does not contain habitable (lettable) space, except for about 0.6m of the floor to ceiling height (0.9m of the floor-to-floor height) of the top habitable floor, level 43).
- The building's crown, which includes the top two commercial floors (substantially below the height limit) and the plant facilities (above the height limit), is a lightweight glass structure which contrasts with the strong horizontal and vertical framing of the habitable levels below, (arguably) making a feature of the crown.
- To not permit the height variation would result in the loss of about 3 storeys of high-quality, in-demand floor space.

Criteria 2(b): Sufficient environmental planning grounds

The applicant's written request submits the following to demonstrate sufficient environmental planning grounds to contravene the standard:

- The quantum of the contravention is relatively minor at about 5% of the maximum height permitted.
- No environmental harm is caused by the contravention, the written request details how the proposal has acceptable impacts on:
 - Solar access and overshadowing,
 - Heritage,
 - Views, and
 - Wind effects (on the pedestrian environment).
- The objects of the Act are better achieved by increasing the height above the maximum permitted.
- Clause 5.6 of the LEP permits architectural roof features to exceed the height limit, and the proposal is consistent with these requirements.

- The application satisfies the provisions of cl 6.3 of the LEP, in that open space and “special areas” within the CBD will not be subjected to additional overshadowing, and that no additional overshadowing of residential zoned land outside the CBD during specified times of the day and year will result from the development.

Comment:

Roof top architecture is discussed later.

Regarding access to sunlight, minor and reasonable additional shadowing occurs for a short period on winter mornings (see diagrams page 20, Attachment 4), to a relatively small residential-zoned area. A minimum 2 hours of sunlight as required for residential areas by the LEP is maintained, between 9am and 3pm, from the March to the September equinox.

Shadow diagrams (DA 21.001 of the Architectural Drawings (Attachment 3) indicate no net increase in overshadowing of open space or land designated as a “special area”.

Regarding the percentage of height variation, that the variation is around 13%, when the height is measured above existing ground level, and 5% under the RL control which applies to the site, is noted. In either case the contravention is relatively modest.

To conclude, the applicant’s request is concurred with and the request has shown there are sufficient grounds to vary the height standard.

Criteria 3 (a): The applicant must demonstrate satisfaction of criteria 2(a) and 2 (b)

As outlined, the applicant’s written request satisfies these criteria.

Criteria 3 (b): Consistency with the development standard’s objectives

Approval would be in the public interest, as the proposal is not inconsistent with relevant objectives of the standard.

As outlined above, the applicant’s request to contravene the standard demonstrates the proposal is consistent with relevant objectives.

Criteria 3 (b): Consistency of the development with zone objectives

Approval would be in the public interest, as the proposal is not inconsistent with relevant objectives of the B3 Commercial Core zone.

The zone’s objectives are:

- *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 proposal is consistent with these objectives, as the development:

- Will offer spaces for a range of retail, food and drink and office activities to service the needs of the local and wider community.
- Creates employment during construction and will accommodate job-creating enterprises throughout the life of the building.
- Assists to facilitate alternative sustainable modes of transport and optimise the development's location close to public train and bus services.
- Does not include residential development.
- Will have reasonable and manageable environmental impacts and either avoids or minimises other potential harmful impacts, including on the amenity of occupants of new and existing development.

Granting of concurrence

Criteria 4 (a): Matters of state or regional planning significance

Despite the proposed building height exceeding the maximum permitted, the development's height is not inconsistent with that intended in the North Sydney Centre, a centre of metropolitan significance. Matters of state or regional significance are not raised.

Criteria 4 (b): Benefit of maintaining the standard

The applicant's submission shows that the objectives of the standard are achieved, and the environmental performance of the proposal is acceptable, despite contravention.

Arguably, a benefit that could be said to arise from the standard being maintained is preservation of the height control's efficacy in a regionally significant locality. In other words, the standard being upheld would help ensure the standard is not "...abandoned or destroyed...", by this, previous and future decisions, which have allowed or will allow the height standard to be breached.

To date, determination of height breaches proposed in the North Sydney CBD have been consistent since the modification of the LEP's CBD height limits in 2018. Variations of height have been approved when substantively non-habitable space only, is proposed above the maximum height prescribed.

Criteria 4(c): Other matters to be considered

Breaching the height standard on this occasion raises no other matters requiring consideration.

Approval, despite contravening the development standard

Should the Panel so resolve, consent may be granted to the development, as in balance, the criteria or preconditions of cl.4.6 have been satisfied.

In summary:

- building height is a development standard as defined by the Act and is capable of being contravened, as it is not excluded from the application of cl. 4.6,
- the proposal does not contravene other LEP provisions excluded from cl. 4.6's operation,
- the applicant's written request to contravene the maximum building height has demonstrated that compliance is unnecessary and that there are sufficient environmental planning grounds to justify building above the permitted height,

- the proposal can be considered in the public interest, as the development is consistent with zone and standard objectives, and
- there are no matters raised of regional or state planning significance or other matters raised requiring consideration. Although it can be said that there is benefit in maintaining the standard, this is not considered to be of sufficient weight to warrant denying the clause 4.6 request, considering the public domain and economic benefits the development would contribute to the community.

Part 5 Miscellaneous provisions

Cl. 5.6 Architectural roof features

This clause enables development which proposes to exceed the height permitted by clause 4.3, when an architectural roof feature is included, with consent. In granting such a consent the consent authority must be satisfied certain criteria are met, which are considered below:

The feature must be a decorative element at the top of the building.

The applicant, in the submission made under cl. 4.6, submits that the feature is "...a distinct and separate architectural feature to the remainder of the tower, achieved through a unique façade design". The application's statement of environmental effects notes the roof feature and plant that exceed the height limit do not have adverse environmental impacts and meet the LEP's other qualifications of a roof feature.

The design report (Attachment 5) features several images illustrating the contrast between the roof feature and the levels below.

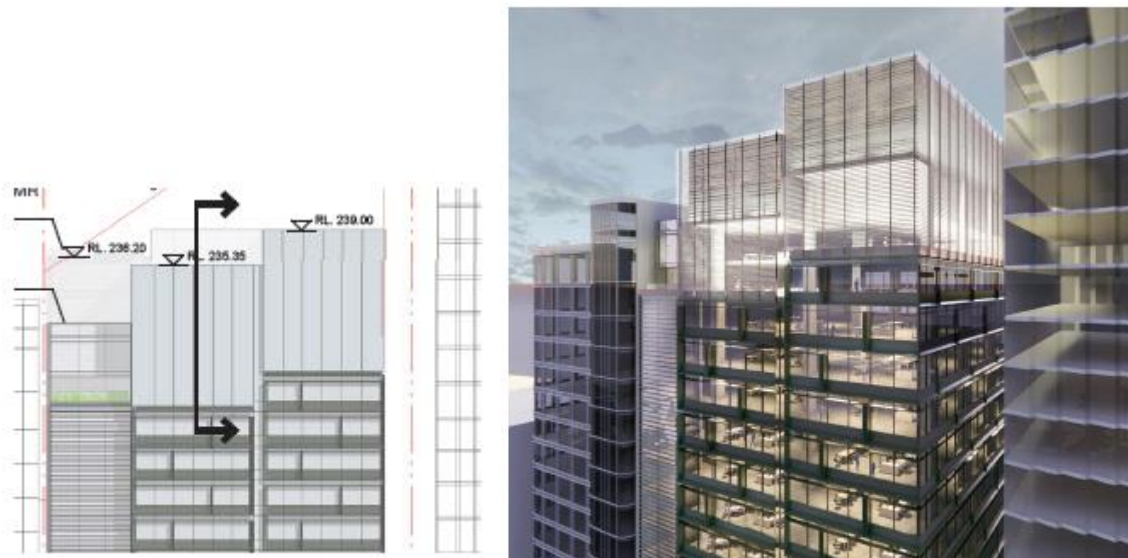


Figure 9: Building crown illustrations (Bates Smart)

The building-top's treatment is certainly different to the levels below. Whether it is decorative is arguable. However, as the development includes and submits the treatment is decorative, it is deemed so for the purpose of this assessment, given that it is satisfactory in terms of the other criteria and as the development's excess height is apt in terms of clause 4.6.

As the development satisfies clause 4.6 the application may still be approved if the architectural roof feature is not deemed to satisfy all requirements of clause 5.6. In other words, the application could be considered to not include an architectural roof feature, in the granting of consent – the clause would simply cease to apply and compliance with its provisions would become superfluous.

Is not an advertising structure

No advertising structure or material is included in the application, neither is any area on the building nominated for advertising structures or material.

Does not include floorspace or space capable of conversion to floorspace

No floor space or area capable of being converted to floorspace is above the height limit. This is acceptable and compliant, despite part of the building crown (the feature) wrapping around the two top habitable levels.

Will cause minimal overshadowing

In the next section of the report cl. 6.3 below is discussed therein indicating the proposal keeps overshadowing to a minimum.

Building identification signage and rooftop building-servicing equipment is fully integrated into the roof top feature

As the building crown does not include signage and fully screens building servicing equipment, the equipment is held to be “fully integrated” into the roof feature.

Part 6 Additional local provisions**Division 1 North Sydney Centre**

This division of the LEP sets out requirements which specifically apply to the key commercial hub of northern Sydney. The following assessment addresses provisions applicable to the proposal.

Objectives of Division 1 North Sydney Centre (cl. 6.1)

Objective	Evaluation
(a) to maintain the status of the North Sydney Centre as a major commercial centre	The proposal is consistent with this objective, as it provides new office space to meet the demands of businesses requiring contemporary office accommodation and ancillary facilities in a highly accessible location.
(b) to maximise commercial floor space capacity and employment growth within the constraints of the environmental context of the North Sydney Centre	The site is moderately sized and somewhat constrained. Despite limitations, the design successfully optimises creation of contemporary, lettable floor space. The design of the proposal avoids unacceptable impacts on the local environment and amenity.
(c) to encourage the provision of high-grade commercial space with a floor plate, where appropriate, of at least 1,000m ²	The site has an area of 1,392m ² . High-quality office space is proposed, with a commercially viable and competitive floor plate, the applicant has advised.
(d) 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 North Sydney Centre Map.	The proposed development will result in no additional overshadowing of places nominated by this clause of the LEP.
(e) to ensure any land in a residential zone is afforded reasonable solar access.	Minor and acceptable additional overshadowing (affecting a small area and only for a brief period) is caused to residential areas adjacent to the North Sydney Centre.

(f) 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. However, the existing walkway will be upgraded, to a design developed in collaboration with the neighbouring developer of 110 Walker Street.
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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.*

Assessment

The proposal will not cause additional overshadowing of any RE1 zoned land, any of the Special Areas as mapped by the LEP, or the Don Bank Museum. This is demonstrated by the shadow diagrams in the architectural drawing set (Attachment 3).

(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.*

Assessment

Additional overshadowing of residentially zoned land is restricted to a brief period between 9.30am and 10.00am and after 3.00 pm during the winter solstice, as shown in the shadow diagrams (Attachment 3), thus not causing reduction of sunlight to less than two hours in the critical hours between 9am and 3pm. As shadows are shorter in autumn and spring, the development does not affect sunlight access from 21 March until 21 September, as required.

(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,*

Assessment

The design has been developed in consultation with Council and refined using wind modelling and spatial analysis to create a building that satisfies this objective.

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

Assessment

The site has an area greater than 1,000m² and can provide for premium office space, complemented by business, retail and food and drink premises.

- (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 12.00 pm and 2.00 pm from the March equinox to the September equinox (inclusive) 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*

Assessment

As indicated by the submitted shadow diagrams (Attachment 3), the proposal does not result in any additional overshadowing of the RE1 zoned land or mapped Special Areas between the nominated times and during the period of the year specified.

- (b) *the development would result in a net increase in overshadowing between 10.00 am and 2.00 pm of the Don Bank Museum, or*

Assessment

The proposal does not overshadow the Don Bank Museum.

- (c) *the site area being less than 1,000 m² and any development being no higher than 45m.*

Assessment

The site area is 1,392m², this provision does not apply.

- (3) *The consent authority may grant development consent to development on land in the North Sydney Centre 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 two hours or more of direct sunlight immediately before the commencement of North Sydney Local Environmental Plan 2013 (Amendment No 23) - less than two hours of direct sunlight, or*
- (b) *if it received less than two 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.*

Assessment

As outlined above in relation to the objective of paragraph (1) (c) and shown in the shadow diagrams (Attachment 3) residential areas will continue to receive more than the minimum solar access specified.

- (4) **Brett Whiteley Plaza** Development consent may be granted to development on land at 105-153 Miller Street, North Sydney, known as the MLC Building, that would result in a net increase in overshadowing of the land known as Brett Whiteley Plaza that is within Zone RE1 Public Recreation from the March equinox to the September equinox (inclusive).

Assessment

The site is not land specified by this clause.

- (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,*

Assessment

The proposed building's scale and form is compatible with its environmental context, as it:

- Will have acceptable impacts on the microclimate and amenity of the public domain and buildings adjacent to the site,
- Will realise the potential of the site, in conjunction with redevelopment of adjoining land north of the site, to improve pedestrian amenity and convenience in accordance with Council's adopted strategies for the North Sydney CBD's public domain,
- Is of a scale, form and massing which has:
 - acceptable impacts on built and natural environments, and
 - sufficient detailing of the tower facades.

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

Assessment

The proposed development, despite breaching the height limit would have no further impact on view lines and vistas to and from the CBD, when compared to a compliant development, as envisaged when the height limits were revised in 2018.

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

Assessment

See comments regarding paragraph (a).

Division 2 General provisions

Earthworks - Clause 6.10

The earthworks clause's purpose is ensuring development does not detrimentally affect the environment, neighbouring land uses, cultural or heritage items, or features of surrounding land. Its

provisions apply to earthworks requiring consent, or development requiring consent that involves ancillary earthworks. The latter includes the subject proposal.

Below is an assessment of the proposed development regarding matters to be considered as set out in cl. 6.10 (3).

Likely disruption to drainage patterns and soil stability

The proposed entries along Walker Street and Little Spring Street prevent waters entering the premises during the probable maximum flood event.

Groundwater is not expected to be encountered below the site. Drainage measures are however recommended by the submitted geotechnical report, to minimise impacts on groundwater as some degree of seepage through the rock to the water table is expected to occur.

Natural features and vegetation of the site and adjoining land

Being in a high-density, highly modified urban location, the site and adjoining land are not occupied by natural features or indigenous vegetation.

Effect of development on the likely future use or redevelopment of the land

The excavation would likely influence redevelopment of the land. However, the life expectancy of the building is expected to be at least 50 years. Just as the current proposal must deal with current site conditions, including drainage and excavation, so too will the next iteration of the site's use and development.

Quality of fill or material to be removed

The geotechnical report describes the site's geology as being derived from and mainly consisting of hard, high quality Hawkesbury sandstone.

Likely effects on existing and likely amenity of adjoining properties

A geotechnical report was submitted with the application. Measures are recommended to ameliorate impacts on adjoining land, including noise and vibration of earth and rock removal.

Source of fill and destination of excavated material

No fill will be required as excavation of the site is proposed to a depth of about 35m below the surface. Excavated material will have to be appropriately transported to a suitable location, details of which must be provided in a waste management plan, as required by a recommended condition of consent.

Proximity to and potential adverse effects on waterways, drinking water catchment, or environmentally sensitive land

Proposed soil erosion control during demolition, excavation and construction will prevent or reasonably minimise effects on water quality and more generally effects on surrounding land and development, there being no "environmentally sensitive" land near the site.

These aspects of the development are addressed in a preliminary construction and demolition management plan (Attachment 9), lodged with the development application. The plan also addresses

potential environmental impacts including hazardous materials, discharge, dewatering, dust suppression, waste and recycling, dilapidation reporting and monitoring of off-site impacts of earthworks, and public safety.

Upon completion and occupation of the building, on-site detention and associated water quality control facilities and waste management procedures will enable the development to eliminate or minimise impacts on Port Jackson and the local environment, to the standards prescribed by regulation and/or Australian Standards. These measures are detailed in the civil engineering report (Attachment 7).

Measures to avoid, minimise, or mitigate impacts of the development

Implementing recommendations of the engineering and geotechnical reports and management of spoil from the site via a suitably comprehensive waste management plan, as recommended, will effectively manage likely impacts of the development.

NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013

Below is an assessment of the application regarding applicable provisions of the North Sydney DCP 2013.

Compliance Table

DEVELOPMENT CONTROL PLAN 2013 - Part B Sections 2 and 9		
<i>Provision</i>	<i>Complies</i>	<i>Comments</i>
2.2 Function		
Diversity of Activities	Yes	Spaces for a mix of office, business, retail and food and drink premises are provided in the proposal. The size and distribution of space for various activities suits the development's location in the heart of North Sydney.
Maximise Use of Public Transport	Yes	The development is within 400m (a 5-minute walk) of North Sydney railway station and bus interchange, and the future Victoria Cross Metro Station. End of trip facilities are provided for cyclists, runners and walkers.
2.3 Environmental Criteria		
Clean Air	Yes	An ESD report was submitted with the application, which includes means of attempting to achieve 'best practice' regarding environmental performance, including air quality, addressing design and management of natural ventilation and air-conditioning.
Noise	Yes	The acoustic report submitted indicates compliance will be achieved in respect of the DCP's and other applicable standards, provided its recommendations are implemented. This report is recommended to be included in the consent, as part of condition A1.
Wind Speed	Yes	The design has been devised and refined using wind modelling. The analysis indicated that safe and comfortable conditions at ground level are provided.

DEVELOPMENT CONTROL PLAN 2013 - Part B Sections 2 and 9

Provision	Complies	Comments
		<p>A modified design was also tested, with an increased setback to Walker Street. Modelling of this alternative design did not detect any improvement in pedestrian comfort and safety from wind impacts.</p> <p>Around the site on Walker and Little Spring Streets, comfort ratings were found to be acceptable for walking and standing pedestrians, and not for seated pedestrians or al fresco dining.</p> <p>At the corner of Little Spring Street and the pedestrian link, high-level awnings are proposed to improve pedestrian amenity at this main entry to the building from the west (Metro station).</p> <p>Protected by high-level glass awnings and relocatable/operable glazed screens at ground level, outdoor seating and tables are proposed adjacent to the proposed building along the walkway.</p>
Reflectivity	Yes	Reflectivity modelling was undertaken for the design and was found to be within the required 20% threshold. A condition is included to ensure compliance is achieved.
Artificial Illumination	Yes	Illumination in relation to signage or outdoor parts of the building has not been considered by the application. Accordingly, a condition is recommended stating no signage or signage zones are approved should consent be granted, and that a separate development application will be required for lighting and signage. Other recommended conditions require compliance with relevant Australian Standards.
Awnings	No	Awnings are satisfactory, despite not complying with the prescribed maximum height above the footpath. These have been modelled and designed to provide adequate weather protection, their design having been co-ordinated with the neighbouring developer at 110 Walker Street.
Solar Access	Yes	As discussed in relation to the LEP, the proposal results in acceptable impacts on sunlight and daylight access within and outside the North Sydney CBD. Despite variations to building height and setback controls, provision of solar access and the degree of overshadowing have been shown to conform with specified criteria.
Views	Yes	As detailed in the design report's visual impact analysis (Attachment 5), the proposal has impacts on views that would be anticipated from a development that complies with applicable controls. The height above the maximum permitted does not have additional view impacts, and neither does proposed variation of tower

DEVELOPMENT CONTROL PLAN 2013 - Part B Sections 2 and 9

<i>Provision</i>	<i>Complies</i>	<i>Comments</i>
		setbacks. Views of the building and its impact on the North Sydney skyline is further considered below this table.
2.4 Quality built form		
Setbacks	Yes	Although the proposed development does not comply with numerical setback controls, the assessment that follows this table concludes the building envelope proposed satisfies LEP and DCP objectives for built form, streetscape, skyline and environmental performance.
Building Design	Yes	<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, from the ground level to the top of the building.</p> <p>The floor-to-floor height of typical habitable levels shown on the plans (Attachment 3) is 3.65m.</p> <p>Proposed floor to ceiling glazing and openness of the office levels ensures adequate natural lighting will reach the centre of the building.</p> <p>The diagram on page 73 of the design report (Attachment 5) indicates good access to natural light, 92% of each floor is within 12m of a glazed façade.</p> <p>Although the proposal is numerically inconsistent with the DCP, submitted information indicates satisfactory performance.</p>
Skyline	Yes	<p>This building will be visible as a group of the tallest buildings in the North Sydney CBD, from vantage points from a large visual catchment, spanning all points of the compass.</p> <p>A building of the height proposed, despite exceeding the standard to a degree of some 5% (13% above ground), will contribute to a skyline otherwise permitted and hence envisaged by the North Sydney Centre planning framework.</p>
Streetscape	Yes	<p>The proposal achieves the objectives of the DCP, with:</p> <ul style="list-style-type: none"> - activation of, the upgraded pedestrian laneway, about two-thirds of the Walker Street frontage and the corner of the walkway and Little Spring Street, - a well-considered and articulated podium that offers opportunities for people to interact on lower and upper ground levels, - a podium that is dynamic and controllable in being responsive to climatic conditions, - provides 'colour and movement' in its design and materials, and

DEVELOPMENT CONTROL PLAN 2013 - Part B Sections 2 and 9		
<i>Provision</i>	<i>Complies</i>	<i>Comments</i>
		- maintains utility infrastructure below ground level.
Entrances and exits	Yes	The requirements of the DCP are generally satisfied.
Public Spaces and Facilities	Yes	The laneway, with access to the below ground level lobby, with retail and food and drink premises provided for at this level, above, and below in the basement, are well-integrated and provide a highly accessible, high-quality addition to the public spaces of North Sydney.
2.5 Quality Urban Environment		
Accessibility	Yes	Reports addressing the BCA and Disability Discrimination Act 1992 (C'wealth) were submitted with the application. The studies conclude that the proposal can comply with the code and legislation. The need for performance-based solutions for some aspects of the development was identified. These are most appropriately addressed post-development consent.
Safety and Security	Yes	Security for the building during construction is to be provided according to the demolition and construction management plan (Attachment 9). The proposal is capable of being operated safely, provided suitable lighting and security are provided at night (a condition is recommended). Informal surveillance of the public domain is well-executed, for times when the building is occupied.
Vehicular Access	Yes	As discussed, of the options considered, optimum access to the building is provided via upgrading the existing driveway from Walker Street.
Car Parking	Yes	Vehicle manoeuvring and parking arrangements are satisfactory, as discussed.
Garbage Storage	Yes	A waste management plan has been prepared for the proposal. A condition is recommended for a detailed plan to be submitted with the construction certificate.
2.6 Efficient Use of Resources		
Energy Efficiency	Yes	<p>The proposed development achieves a 5 Star Green Star rating. A 5 Star NABERS rating is the commitment and aim of the developer as the design is further refined, post-consent.</p> <p>Various initiatives are detailed in the submitted ESD report, addressing alternative transport, reducing greenhouse gas emissions, minimising waste from demolition, construction and operations, water conservation and quality of stormwater, passive environmental design, natural ventilation and energy efficiency, and measures promoting the health and wellbeing of the building's occupants.</p>
Water Management and Minimisation	Yes	As discussed, the demolition and construction management plan (Attachment 9) addresses waste, having been prepared in response to applicable regulations and Council requirements, including the

DEVELOPMENT CONTROL PLAN 2013 - Part B Sections 2 and 9		
<i>Provision</i>	<i>Complies</i>	<i>Comments</i>
		DCP. Condition A1 includes this document in the consent.
Stormwater Management	Yes	<p>The civil engineering report (Attachment 7) addresses stormwater management. Stormwater mitigation measures are required, for:</p> <ul style="list-style-type: none"> - Erosion and sediment control, - On-site detention, - Stormwater filtering and rain-water reuse, and - Flood management, having adopted the probable maximum flood (PMF) for design. <p>A raft of conditions is recommended by Council's development engineer to ensure proper water cycle management throughout the lifecycle of the development.</p>
2.7 Public Domain		
Street Furniture, Landscaping Works, Public Art	Yes	<p>The centrepiece proposed as a contribution to the public domain, complemented by spaces for public art and landscaping, is the pedestrian link, the redevelopment of which is to be shared with the development of neighbouring land to the north, at 110-122 Walker Street.</p> <p>Other elements of the building including the 'village decks' offer openings and landscaping on selected levels above the ground plane.</p> <p>As discussed, a public art strategy has been submitted and is to be implemented in accordance with Council's public art policy.</p>

DCP: Detailed assessment

Setbacks

At ground level, the DCP requires zero-metre front, side and rear setbacks on the site, except 3.0m is required for the pedestrian link on the northern boundary. For the tower component of a building, setbacks required to Walker and Little Spring Streets, are respectively 5.0m and 4.0m. No numerical provision is made of side boundary setbacks. The following diagram shows the building envelope permitted by the DCP, with the LEP, as interpreted by the applicant.

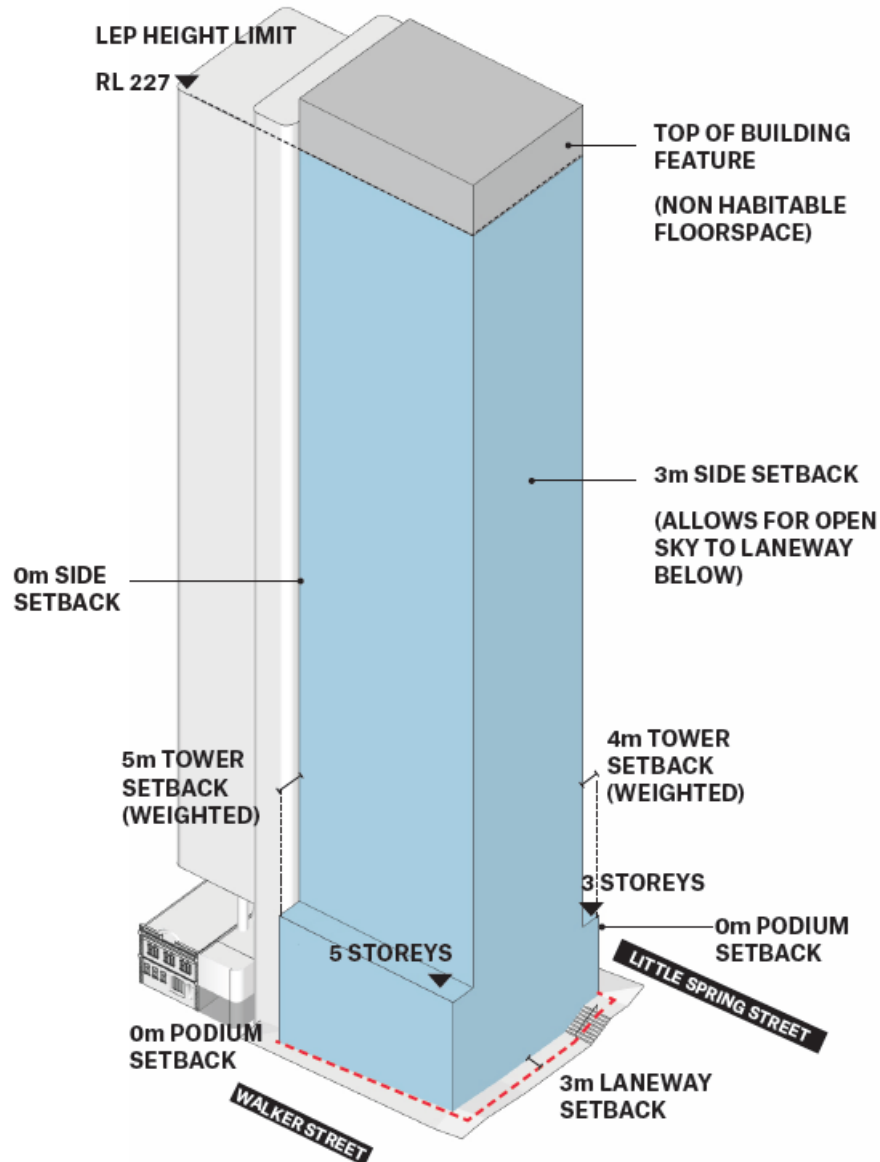


Figure 10: Building envelope with DCP controls (Bates Smart)

The public domain strategy for the North Sydney CBD identifies that the pedestrian link on the site's northern edge should be at least 6.0m wide. Therefore 3.0m is to be provided from the boundary with the adjacent property, at 110-122 Walker Street.

Side boundary setbacks are guided by desired urban design outcomes, as expressed by the objectives of the DCP for setbacks:

- *To enable a reduction in the impact of scale.*
- *To ensure adequate ventilation, solar access, privacy, view sharing and a reduction of adverse wind effects.*
- *To improve pedestrian flow and amenity and allow a range of activities to be accommodated.*

DCP amendments exhibited in 2021 proposed 6.0m tower setbacks. These bear no weight in this assessment, as the DCP amendments have not been adopted and enforced by publication.

The diagram below, from Bates Smart's Detailed DA Design Report (Attachment 5) show proposed podium and tower setbacks.

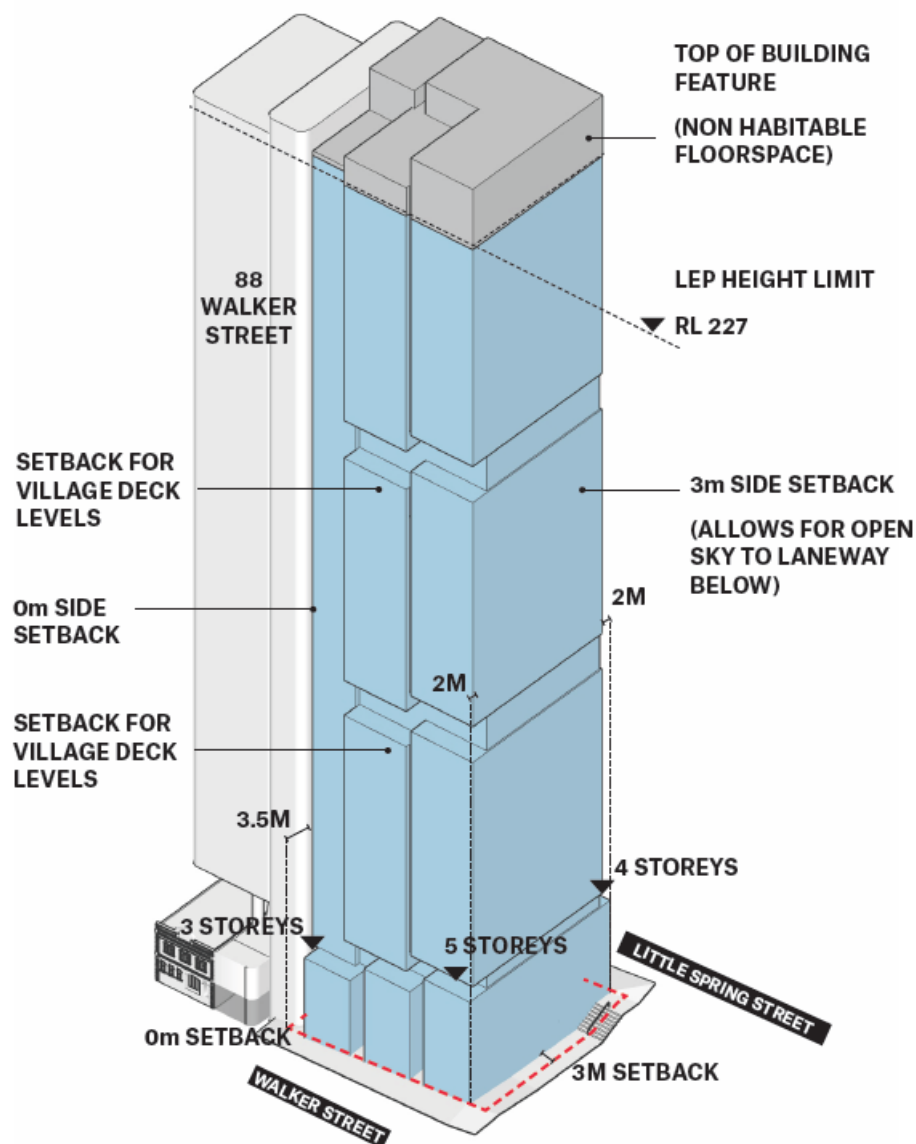


Figure 11: Proposed setbacks (Bates Smart).

As these diagrams indicate, proposed setbacks do not comply with the minima specified by the DCP. In support of these variations, the applicant submits the building's design represents an appropriate response to the surrounding built form context and emerging character.

In support of this contention, and in discussions with Council's assessment team, the applicant submitted a study that compared the proposed form (Figure 11) with a form modified to be more compliant with the DCP, without unreasonably compromising the floorplate size (lettable space) of the office levels. Below is the submitted modified form.

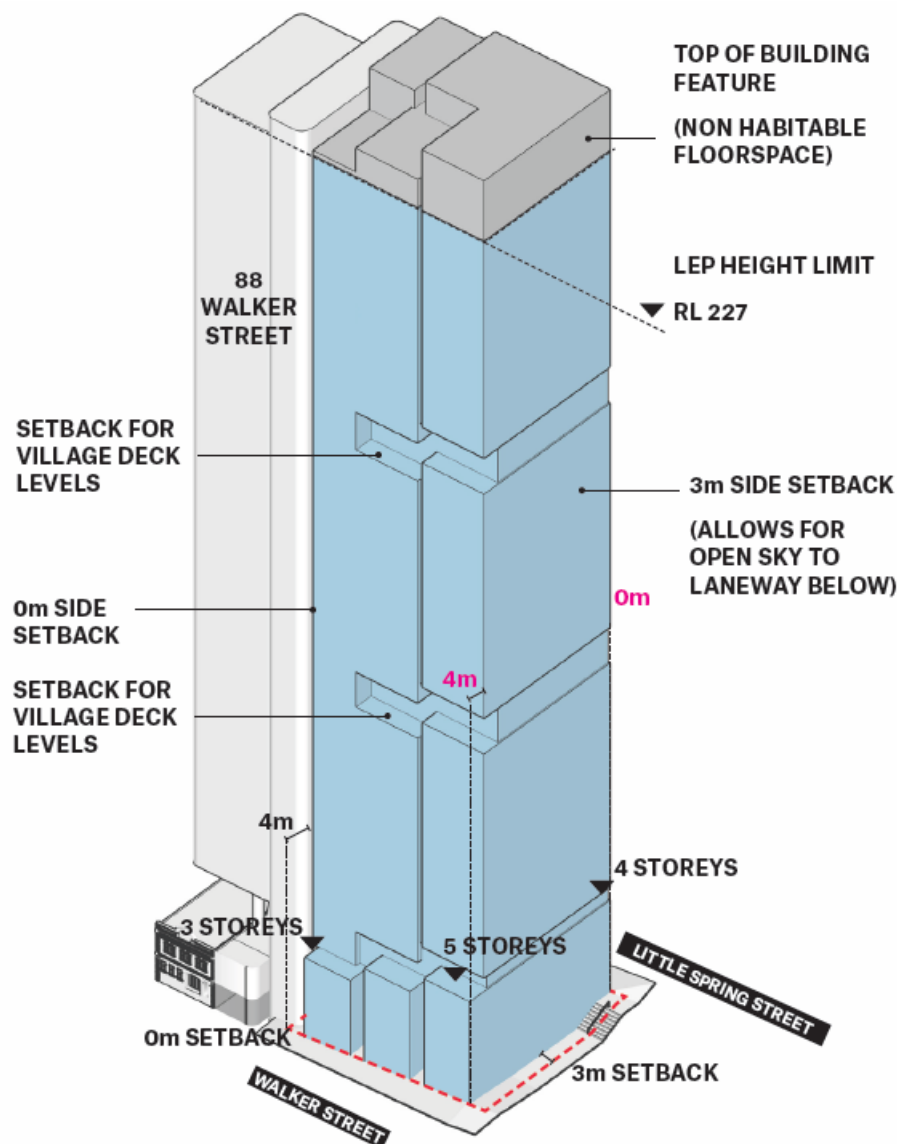


Figure 12: Alternative built form including a 4.0m tower setback to Walker Street (Bates Smart)

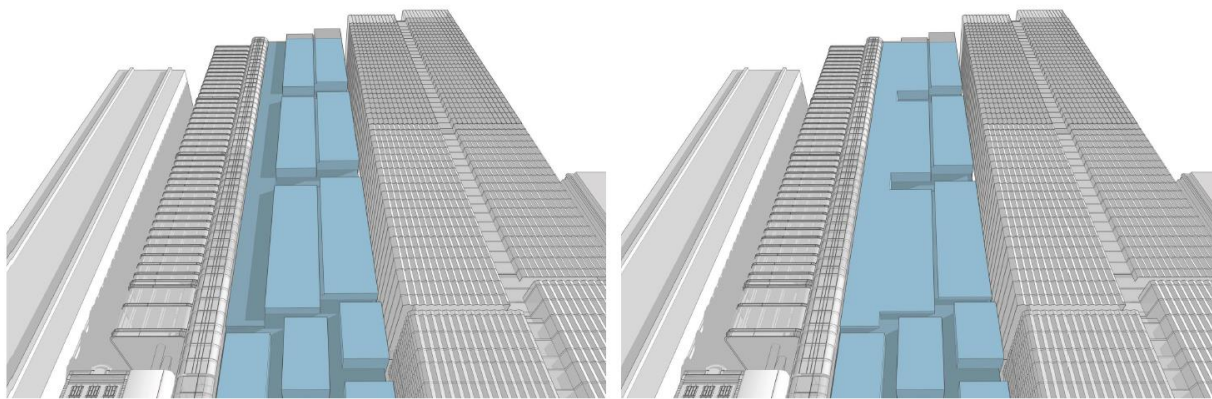
As can be observed by comparing the above images, and according to the applicant's submission, the alternative causes:

- A flattened and less-articulated tower form being presented to Walker Street,
- Reduced effectiveness of the transition of form with 88 Walker Street,

- The reduction of the Little Spring Street setback from 2.0m to 0.0m would have a slightly overbearing and imposing impact on the access road's streetscape.
- The already compact services core is unable to be moved further west, already positioned on the Little Spring Street boundary. *

* This would mean relocating the lift core, having further impacts on the floorplate size, which as Council had been consistently advised by the applicant, would compromise the competitiveness of the project.

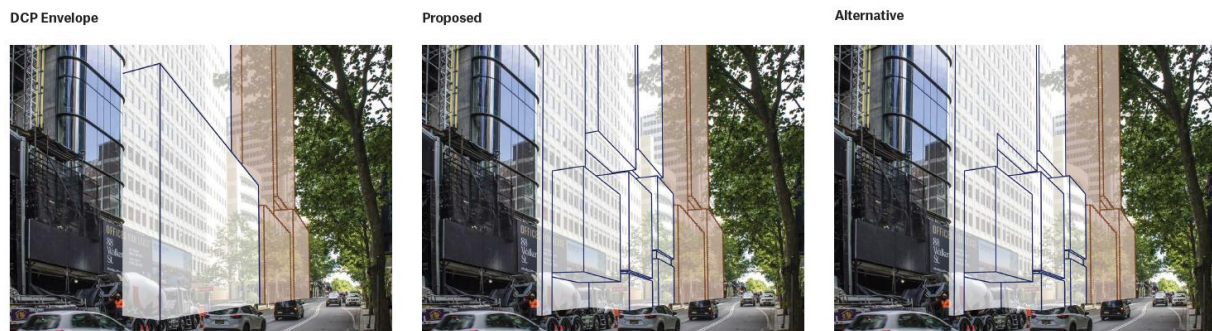
Below are images comparing the proposed and more-compliant envelopes, for the tower when viewed from opposite the site, and from north and south of the site, in Walker Street. When compared and for the reasons outline above the proposed form is the preferred option, mainly due to enhanced articulation and improved relationship with adjacent development. Accordingly, the inconsistencies with the DCP's numerical requirements are acceptable and the corresponding objectives satisfied.



Proposed Massing

Alternative Massing (4m Setback to Walker Street)

Figure 13: Eastern tower facades, proposed (left) and alternative (right) forms (Bates Smart)



DCP Envelope

Proposed

Alternative

Figure 14: View of the proposed building's form (cream), from south of the site on Walker Street, comparing DCP, proposed and alternative envelopes. The beige form represents the approved form of development at 110-122 Walker Street. Left of the site is the service core of the building at 88 Walker (Bates Smart).



Figure 15: View of the proposed building's form (cream), from north of the site on Walker Street, comparing DCP and proposed envelopes. Again, the beige form represents the approved form of development at 110-122 Walker Street. (Bates Smart).

The above images indicate a DCP compliant building does little to improve the building's impact on the streetscape. Although located slightly forward of its neighbours (hardly perceptible in the above images), the articulation proposed will offset this, considered to have a more positive effect on the streetscape. These design elements are further complemented by cantilevering the podium over the footpath and driveway, and the indenting/opening of the floor plate at the corner of Walker Street and the proposed laneway, to invite pedestrians into the building and the laneway. These details represent an improved outcome and vary what would otherwise and potentially may have been a less interesting although compliant form.

Impacts on public views

The following series of images illustrate the impact of the building within the context of the buildings approved either side, north and south of the site. Despite numerical inconsistency with the planning framework, the images, in addition to preceding assessment, indicate satisfactory performance against LEP and DCP objectives.

DCP Envelope



Proposed Built Form



Figure 16: A ‘helicopter view’ of the North Sydney CBD, showing the proposal and approved development at 88 and 110 Walker Streets to the site’s south and north (grey), and the building under construction above the Victoria Cross Metro station (also grey), to the right of the proposed building (beige). The upper image shows a DCP compliant envelope and the lower, the proposed envelope (Bates Smart).

DCP Envelope**Proposed Built Form**

Figure 17: View of the CBD skyline from Forsyth Park, Neutral Bay. Again, the two images compare the DCP compliant envelope with the proposed built form (Bates Smart).

North Sydney Planning Area Part C Section 2

The site is in the Central Business District, which is in the DCP's North Sydney Planning Area.

The desired future character statement for the North Sydney Central Business District is the key provision to be considered. There are also built form provisions, already assessed above, regarding the LEP and DCP. Several other provisions are relevant to the proposal's assessment, which are considered in the following table.

Assessment Table - Desired future character (cl. 2.1.2)

Provision	Compliance	Comments
P1 High rise and medium density, commercial and mixed-use developments.	Yes	
P2 Provision of a variety of different sized office, retail, community and entertainment spaces.	Yes	
P3 Provision of a variety of outdoor and indoor community spaces (e.g., urban plazas, gymnasium; gardens; outdoor and indoor dining areas and food courts).	Yes	
P4 The commercial focus of the CBD is to be enhanced by preventing any further residential development from occurring in its core (i.e., the B3- Commercial Core zone).	Yes	
P5 Development above the Victoria Cross metro station will provide significant commercial floorspace, as well as retail, dining and community uses that will contribute to the overall amenity and vitality of the CBD.	N/A	

Provision	Compliance	Comments
P6 Council will pursue its vision for Miller Street as the civic heart of North Sydney. This will involve significant interventions and public domain improvements aimed at creating a vibrant place for people, with vehicle movements removed or minimised as much as practicable and both sides of Miller Street activated.	N/A	
P7 Brett Whiteley Place is a key public space for the North Sydney CBD which will incorporate an expanded Elizabeth Plaza, as well as portions of Denison Street and Mount Street. This expanded plaza will provide dedicated space for outdoor dining, large and small events, and other activities.	N/A	The proposal would not affect Brett Whiteley Plaza.
P8 The Central Laneways precinct will become a major focal point of pedestrian activity and amenity.	Yes	
P9 Active frontages to the Metro site, 1 Denison Street and the MLC building will contribute to the activation of the public domain in the Central Laneways Precinct.	N/A	
P10 A new laneway is provided across the redevelopment of 1 Denison Street to link the Metro site, Denison Street, Little Spring Street and Walker Street	N/A	
P11 Alternatives to the current entry of the commercial car park entry at 100 Miller Street (Northpoint) will be pursued to reduce or remove traffic on Miller Street and improve pedestrian amenity.	N/A	
P12 Public open space and a community facility is provided at Ward Street Plaza (car parking station site).	N/A	
P13 Provide roof top gardens and/or public facilities that allow the public and/or residents to access district views.	No	<p>The development does not provide high-level facilities enabling district views. However, it does contribute to the public domain by delivering half the walkway between Walker Street and Little Spring Street.</p> <p>With the facilities proposed next door at 110 Walker Street, including a 'rooftop' garden and restaurant/ entertainment venue, another rooftop venue at the site could be superfluous.</p>
P14 Development should maximise opportunities to incorporate retail, restaurant, bar facilities and other non-residential floor space at ground level to promote street level activation, amenity, diversity and place making objectives.	Yes	
P15 Provide a diverse mix of higher density, non-residential land uses in the B4 Mixed Use zone of the Education Precinct, including education, shops, cafes, gyms, entertainment and small businesses.	N/A	
P16 Provide continuous active uses such as shops and cafes at the ground level of all buildings along Pacific Highway, Berry Street and Napier Street, especially within the Education Precinct.	N/A	
P17 Consideration should be given to the inclusion of educational or community-related purposes in the	N/A	

Provision	Compliance	Comments
redevelopment of 110, 112, 116 and 120 Pacific Highway and 9 Napier Street.		
P18 Victoria Cross Metro station is designed to enhance the North Sydney CBD as a major commercial centre and further encourage the use of public transport. Pedestrians are prioritised throughout the CBD with a number of interconnected pedestrian routes that facilitates all direction movement and encourages fine grain retail and dining uses.	Yes	
P19 Barriers to pedestrian movement, particularly Miller Street, Berry Street and the Pacific Highway, will be reimagined such that their function and treatment favour pedestrian movement and amenity.	N/A	
P20 New development focuses on the use of public transport, cycling and walking.	Yes	
P21 Pick up and drop off points for public transport and taxi ranks are located as close as possible to public spaces and activities, and main building entries.	N/A	
P22 Loading and delivery facilities should be located away from the street and where possible be located underground.	Yes	
P23 The following through site link is to be provided, retained and enhanced: (n) A widened and improved pedestrian link from Little Spring Street and Walker Street across 100 Walker and 110 Walker Street.	Yes	
P24 Consideration should be given to the provision of an east - west pedestrian link from the Pacific Highway to Napier Street across either the northern side of 120 Pacific Highway or the southern side of 33 Berry Street.	N/A	
P25 Consideration should be given to the demolition of the single storey structure at the northern end of 105 Miller Street (MLC Building) to improve accessibility and permeability to Miller Street and the Victoria Cross metro station.	N/A	

Assessment Table - Desired built form (cl. 2.1.3)

Provision	Compliance	Comments
P1 Development sites should be of a size which enables the creation of large high quality floor plates which helps to reinforce the Centre's role as a Global City as identified within the Metropolitan Strategy.	Yes	
P2 Development on small sites should not detrimentally impact on the long-term ability of the amalgamation of sites for significant commercial development.	Yes	Exceeding 1,000m ² , the site is not considered small.
P3 Buildings should be carefully designed to minimise the impact of their height and bulk on surrounding residential areas.	Yes	
P4 Roof design contributes to building's appearance from a regional view catchment.	Yes	Despite the proposed height variation, the building has an acceptable effect on the regional view catchment, being compatible with and

Provision	Compliance	Comments
		contributing to the skyline envisaged by recently increased heights in the North Sydney CBD, as shown in the images above (Figures 16 & 17).
P5 Buildings on 116 and 120 Pacific Highway and 9 Napier Street should be designed such that their bulk steps down from the Pacific Highway to Napier Street to protect sunlight access to the Don Bank Museum and enhance pedestrian amenity to Napier Street.	N/A	
P6 Zero setback to all street frontages at the ground floor level and adjacent to heritage items, with the following exceptions: no exceptions apply to the site.	No	Minor variations are proposed, to enable a nuanced design that contributes positively to the public domain and provides a better relationship with adjoining development.
P7 Buildings must be setback to conserve views to, and the setbacks and settings of, heritage items at 86 and 146 - 150 Walker Street, 94 Pacific Highway (Post Office), 36 Blue Street (Greenwood), 153 Miller Street (MLC Building), 168 - 172 Pacific Highway and 1-7 Napier Street.	N/A	
P8 The setback of new buildings or alterations and additions to existing buildings on land fronting McLaren Street between Miller and Walker Streets are to match that existing to protect the existing fig trees. Encroachments will only be permitted where the development does not cover the drip line of any of the existing trees.	N/A	
P9 A maximum podium of 5 storeys to all streets, with a weighted setback of 5m above the podium with the following exceptions: (a) & (b) do not apply (c) A podium of between 2 and 3 storeys to Wheeler Lane and Angelo, Charles, Denison, Harnett, Napier, Little Spring and Little Walker, Spring, Ward Streets, with a weighted setback of 4m above the podium	No	A podium height equivalent to 4 and 5 storeys is proposed to Little Spring Street. This is considered acceptable as it relates well to adjacent development, particularly the tall podium (5 storeys) approved at 110 Walker Street.
P10 Podium heights should match or provide a transition in height between immediately adjacent buildings.	Yes	As above.
P11 Podium heights should match the height of adjacent heritage items.	N/A	
P12 Podium height may be reduced to that part of the building devoted to commercial use in mixed-use buildings.	N/A	
P13 If there is no commercial component, and therefore no podium, adequate side separation should be provided for residential amenity.	N/A	
P14 Architectural detailing, high quality materials and ornamentation provide a rich visual texture and a symbolic/decorative reference to the history of the place, the building's use or occupant.	Yes	See the Design Excellence Panel's comments (Attachment 2).
P15 Provide a visually rich intimate pedestrian environment with active street frontages at ground level.	Yes	

Provision	Compliance	Comments
P16 The natural rock outcrop at 136 Walker Street should be incorporated into the design of any redevelopment proposal for the site.	N/A	
P17 Continuous awnings must be provided to all commercial buildings, except on the eastern side of Miller Street between the Pacific Highway and McLaren Street.	Acceptable on merit.	Awning design was coordinated with the neighbouring development at 110 Walker Street. Although not numerically compliant with the DCP, the awnings better-suit the architecture of both buildings, strike a balance between protection and openness on the pedestrian lane, and have been modelled to show that they will provide adequate weather protection. Awning depth is 3.0m - 3.6m. A condition required gaps in the awning to accommodate tree growth on the Walker Street footpath.
P18 Consideration should be given to the provision of weather protection at the pedestrian entrances or over outdoor seating areas for buildings fronting Miller Street between the Pacific Highway and McLaren Street.	N/A	
P19 A 'sense of arrival' is established at North Sydney Station with strong linkage to the north to connect with the pedestrian bridge over Pacific Highway and Denison Street.	N/A	
P20 The Greenwood historic school building and large Moreton Bay Figs are retained and incorporated as the southern pedestrian gateway to the North Sydney CBD.	N/A	
P21 The intersection of Miller Street and Pacific Highway forms an important focal point of the North Sydney Centre with a distinctive character reinforced by the Post Office and the MLC building.	N/A	
P22 Improve amenity and safety by installing lighting, public art and/or landscape along the eastern facade of 12-14 Mount Street.	N/A	
P23 Provide a consolidated green space over the Don Bank Museum and 100 Pacific Highway. Consideration should be given to extending this green space over the western side of 1 Wheeler Lane to allow for a more direct north - south pedestrian link from Charles/Napier Street to Wheeler Lane.	N/A	
P24 33 Berry Street should be designed such that Napier Street is activated by non-residential tenancies such as commercial or educational facilities (At least 50% of its frontage should comprise of non-residential tenancies at the ground level).	N/A	
P25 Have regard to Public Domain designed in accordance with the <i>North Sydney Centre Public Domain Strategy</i> and <i>North Sydney Council Infrastructure Manual</i> .	Yes	A condition is recommended to ensure street improvements are designed and constructed as required by Council's "Public Domain Style Manual", which is the current document relevant to public infrastructure works.

Provision	Compliance	Comments
P26 Continued use of tree planting and use of native vegetation to enhance the urban environment and attract birdlife.	Yes	Condition A1 includes the landscaping report and plans in the consent, which incorporate a detailed planting schedule.
P27 Choice of trees and vegetation in accordance with <i>North Sydney Centre Public Domain Strategy, Street Tree Strategy</i> and <i>North Sydney Council Infrastructure Manual</i> .	Yes	As above.
P28 Short stay parking spaces should be located within or as close as possible to meeting places.	No	No short-stay parking is proposed, loading facilities have been assessed as sufficient for the proposal.
P29 Reduce the amount of long stay commuter parking on site.	Yes	74 parking spaces are proposed, for tenants only, significantly less than the maximum permitted by the DCP – 126.
P30 Reduce the amount of non-residential parking on site.	N/A	

OTHER ENVIRONMENTAL PLANNING INSTRUMENTS

LOCAL INFRASTRUCTURE CONTRIBUTIONS

The existing building has a gross floor area (GFA) of 11,116m² and the proposal has a GFA of 42,573m², consisting of 41,476m² office floor area and 1,097m² for retail and business premises. In accordance with Council's Local Infrastructure Contributions Plan the net increase in non-residential GFA would require a payment of a section 7.11 contribution of \$6,188,280.00, should the application be approved. A recommended condition requires payment of the contribution.

ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been appropriately considered by 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

Submitters

Key issues raised by submissions have been considered in this assessment. The development proposed is unlikely to significantly impact the amenity of nearby residential apartments, beyond those impacts envisaged by the zoning and the underlying controls. Impacts of the proposal's departures from setback and height controls are negligible, when compared to a development fully compliant with those controls. The resultant impacts on streetscape, sunlight access, visual amenity and scenic impacts on the CBD skyline and in the harbour catchment are satisfactory. No impacts on traffic are anticipated and Transport for NSW has not objected to the proposal, having considered the proposal's impact on the metropolitan road network.

CONCLUSION

The proposed development has been assessed with respect to relevant provisions of the Act, and applicable provisions of relevant SEPPs, the LEP, and the DCP. The North Sydney Local Infrastructure Contributions Plan and strategic documents related to the North Sydney CBD have also been considered.

The applicant has submitted a request in accordance with clause 4.6 of the LEP to exceed the building height development standard of RL 227m by 12.0m, or 5.3%.

Non-compliance with the maximum height development standard does not cause, or contribute to:

- Unreasonable additional overshadowing of land within and outside the North Sydney Centre,
- Adverse impacts on the built environment, in terms of its bulk, scale, form and massing,
- An increase in anticipated yield,
- Negative impacts on significant view lines and vistas from the public domain, and
- Views from nearby buildings and views of the building and the North Sydney CBD.

Concurrence of the Secretary of the Department of Planning Industry and Environment can be assumed, and consent can be granted.

In addition to the height variation, the proposal is inconsistent with tower and podium setbacks of the North Sydney DCP. As concluded by this report, these variations are considered acceptable.

The development stands to make a significant contribution to North Sydney's built environment, it's economic and community life. Approval is accordingly recommended.

RECOMMENDATION

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

THAT the Sydney North Planning Panel, as the consent authority, can be satisfied the applicant's submission meets the requirements of clause 4.6 of the North Sydney Local Environmental Plan 2013, and grant consent to Development Application No.19/21, subject to the conditions recommended in Attachment 1 to this report.

Date 10 August 2022