

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PPSSNH-617
<b>DA Number</b>	350/24
<b>LGA</b>	North Sydney Council
<b>Proposed Development</b>	Part demolition, alteration and construction of a new hotel tower with an overall height of 22 storeys with 249 guestrooms, associated communal/administrative facilities, outdoor dining terrace at Level 3, retention of existing car park and ground floor retail premises
<b>Street Address</b>	20 Berry Street, North Sydney Lot 1 DP 550167
<b>Applicant/Owner</b>	Applicant – Mr. Paul Yousseph Owner – 357 MOUNT STREET PTY LTD
<b>Date of DA lodgement</b>	28 November 2024
<b>Total number of Submissions Number of Unique Objections</b>	Five (5) submissions received.
<b>Recommendation</b>	Approval
<b>Regional Development Criteria Schedule 6 of the SEPP (Planning Systems) 2021</b>	Regional Development is defined in Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021  Development with a capital investment value (CIV) over \$30 million is classified as “Regional”.  The CIV of this development as outlined in the application is \$56,794,322.00 excluding GST.
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Act 1979</li> <li>• Environmental Planning and Assessment Regulation 2021</li> <li>• State Environmental Planning Policy (Planning Systems) 2021</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021.</li> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>• State Environmental Planning Policy (Sustainable Buildings) 2022.</li> <li>• North Sydney Local Environmental Plan 2013</li> <li>• North Sydney Development Control Plan 2013</li> <li>• North Sydney Local Infrastructure Contributions Plan 2020</li> </ul>
<b>List all documents submitted with this report for the Panel’s consideration</b>	<ul style="list-style-type: none"> <li>• Architectural plans and landscape plans</li> <li>• Visual Impact Assessment Report</li> <li>• Preliminary plan of management</li> <li>• Public Submissions</li> <li>• Conditions of consent</li> </ul>
<b>Clause 4.6 requests</b>	N/A
<b>Report prepared by</b>	Damon Kenny

	Executive Assessment Planner
<b>Report date</b>	3 July 2025
<b>Summary of s4.15 matters</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Legislative clauses requiring consent authority satisfaction</b> 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?	<b>Yes</b>
<b>Clause 4.6 Exceptions to development standards</b> 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?	<b>N/A</b>
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (S7.24)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	<b>Not applicable</b>
<b>Conditions</b> Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	<b>No, conditions have been attached which can be viewed when the report is published</b>

### **Executive Summary** **Proposal**

1. Council received a development application (DA350/24) seeking consent for part demolition, alteration and construction of a new hotel tower with an overall height of 22 storeys with 249 guestrooms, associated communal/administrative facilities, outdoor dining terrace at Level 3, retention of existing car park and ground floor retail premises.
2. The plans lodged with the development application are the plans that have been assessed as part of this report.
3. A maximum building height of RL 145m applies to the site. The application proposes a building height of RL 145m which complies with NSLEP 2013.
4. The proposed development will provide a compliant non-residential floorspace, exceeding the minimum 3:1 as set out in Clause 4.4A NSLEP 2013.
5. Building setbacks are considered to provide an acceptable level of compliance with the provisions of NSDCP 2013.
6. The proposed development is considered to provide a reasonable level of compliance with relevant planning controls applying to the site. The bulk, height and scale together with the resultant impacts are considered to be generally an expected outcome of the site.

7. Council received five (5) submissions in relation to advertised scheme and a. Issues raised have been considered within the report and addressed where appropriate with conditions of consent.
8. Whilst it is acknowledged that the proposed development will result in some impacts on the surrounding locality, the proposed development is considered to be generally consistent with the expected outcome of development on the site.
9. On balance, the proposed development is considered to be satisfactory having regard to the relevant Environmental Planning Instruments, Development Control Plans and Council policies and is therefore recommended for approval subject to conditions.

#### **Site and Locality**

10. The site is legally described as Lot 1 in DP 550167 and is known as 20 Berry Street, North Sydney.
11. The site has a total area of 1395 square metres and is trapezoidal in shape with the following street frontages:
  - Berry Street (South): 36.2m
  - Angelo Street (East): 48.6m
  - Pacific Highway (West): 35.6m

The northern site boundary is adjoined by the property at 211-223 Pacific Highway, which accommodates a 21-storey mixed use building known as 'Skye by Crown'.

12. The subject site is surrounded by high-density, mixed-use and commercial developments which is typical for the area given the MU1 Mixed Use zone that it falls under and its close proximity to the E2 Commercial Core zone. It is also located near several educational establishments, with Monte Sant Angelo Mercy College to the east and the Australian Catholic University to the south-west.

#### **State Environmental Planning Policies**

13. The proposal has been considered to be satisfactory in respect to the following policies which have been considered in respect to the application:
  - State Environmental Planning Policy (Planning Systems) 2021
  - State Environmental Planning Policy (Resilience and Hazards) 2021
  - State Environmental Planning Policy (Sustainable Buildings) 2022.
  - State Environmental Planning Policy (Biodiversity and Conservation) 2021.
  - State Environmental Planning Policy (Transport and Infrastructure) 2021.

#### **Zoning and NSLEP 2013 Compliance - LEP**

14. The site is zoned MU1 pursuant to the provisions of the North Sydney Local Environmental Plan 2013. The proposed development, which includes commercial, retail and hotel accommodation, is permissible with development consent within the MU1 Mixed Use zone.
15. The proposed development complies with the maximum permissible building height and minim non-residential floor space ratio of NSLEP 2013.

#### **North Sydney Development Control Plan 2013**

16. The provisions of North Sydney Development Control Plan 2013 are applicable to the proposed development. The proposal is considered to be an acceptable urban design and planning outcome for the site and satisfies the the applicable provisions contained within the NSDCP.

## **Submissions**

17. The application was advertised between 20 December 2024 and 24 January 2025 in accordance with the North Sydney Community Engagement Protocol criterion. Five (5) submissions were received. Issues of concern are addressed latter in this report.

## **Level of Determination**

18. The proposal has a CIV of \$56,794,322.00 (excluding GST). The development application is to be determined by the Sydney North Planning Panel due to the capital investment value (CIV) exceeding \$30 million for a mixed-use development pursuant to the definition of regional development contained within Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021. The CIV has been confirmed and is outlined in the Registered Quantity Surveyors Detailed Cost Report which accompanies the Development Application.
19. A preliminary 'kick off' briefing was held with the Sydney North Planning Panel (SNPP) on 23 April 2025. The Panel identified a number of key issues that needed to be addressed.

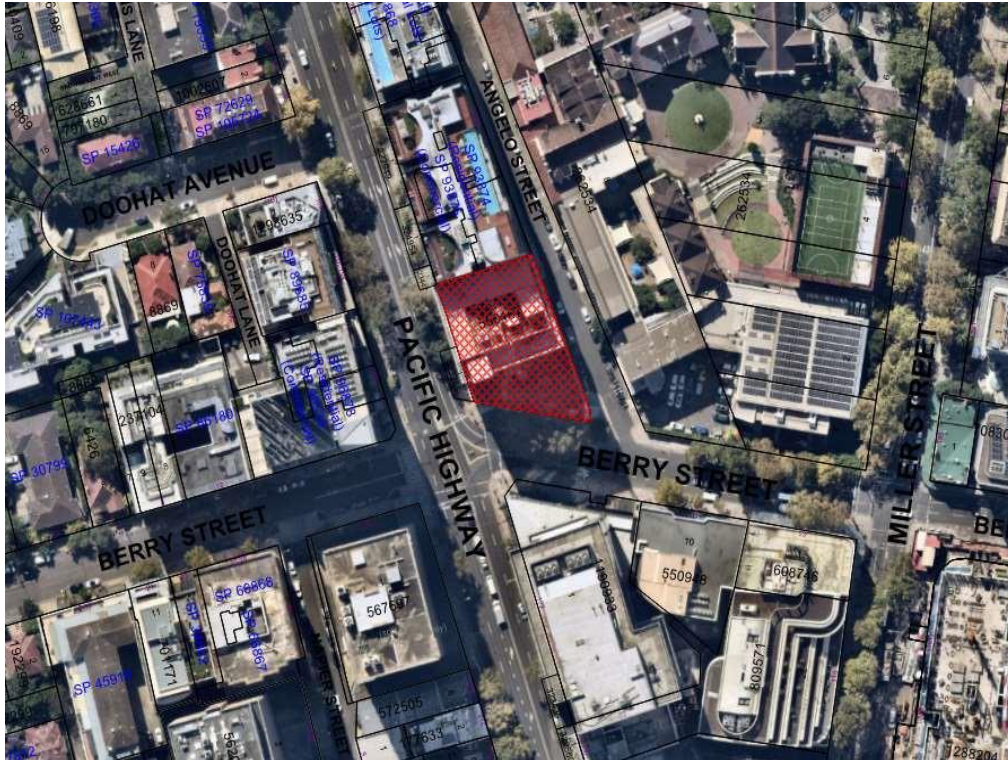
## **Conclusion**

20. The proposed development has been assessed with respect to the objectives and relevant Sections of the EP&A Act, as well as the objectives, merit based considerations, development standards and prescriptive controls of various SEPPs, the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013. The proposed development is considered satisfactory with regard to the above considerations, subject to conditions of consent.
21. The Council's notification of the proposal attracted five (5) submissions. The concerns raised have been considered and addressed and do not warrant refusal or modification of the proposal.
22. The proposed development is consistent with the form of development provided for in the LEP and DCP provisions.
23. Following assessment of the development application, the development is recommended for **approval**, subject to conditions.

## **Report in Full**

### **Site and Locality**

24. The site is legally described as Lot 1 in DP 550167 and is known as 20 Berry Street, North Sydney.



**Figure 1:** Aerial view of subject development site shown hatched in red

25. The site has a total area of 1395 square metres and is trapezoidal in shape with the following street frontages:

- Berry Street (South): 36.2m
- Angelo Street (East): 48.6m
- Pacific Highway (West): 35.6m

The northern site boundary is adjoined by the property at 211-223 Pacific Highway, which accommodates a 21-storey mixed use building known as 'Skye by Crown'.

26. The existing site comprises of a 16-storey mixed-use building which includes a three-level podium. The ground floor is made up of entirely retail tenants while the first and second floor provide 110 car parking spaces which is accessible from Angelo Street, while the 12 levels above are designated for commercial use, with an estimated floor space of 9,723m<sup>2</sup>.

27. The subject site is surrounded by high-density, mixed-use and commercial developments which is typical for the area given the MU1 Mixed Use zone that it falls under and its close proximity to the E2 Commercial Core zone. It is also located near several educational establishments, with Monte Santo Angelo Mercy College to the east and the Australian Catholic University to the south-west.

### **Surrounding Development**

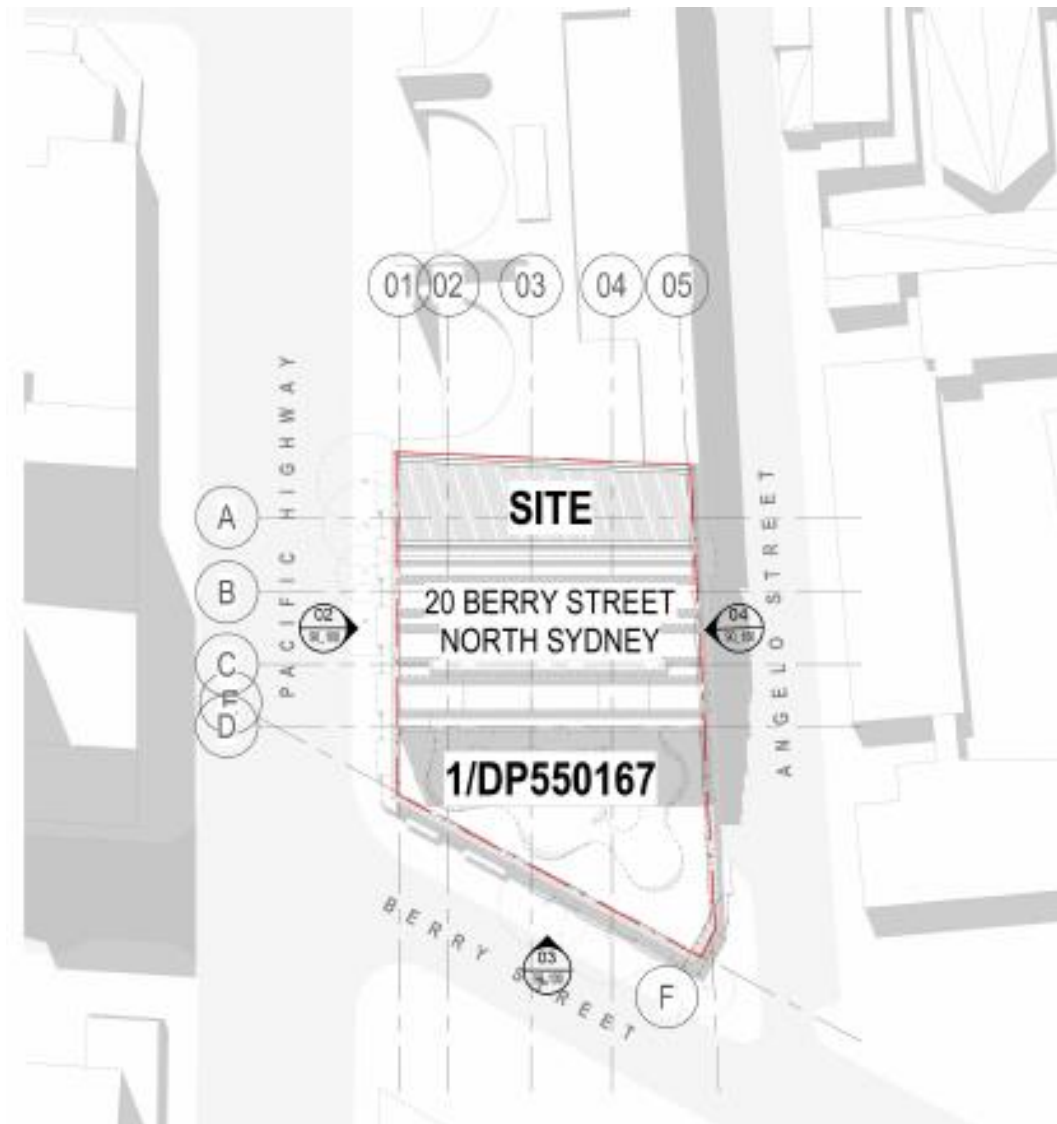
28. The surrounding area includes the following developments:

- 211-223 Pacific Highway ('Skye by Crown' or 'Skye') – Completed in 2016
  - The northern site boundary is adjoined by the property at 211-223 Pacific Highway, which accommodates a 21-storey mixed-use development with 242 apartments and ground level retail. There is an existing pedestrian through-site link within this property between the Pacific Highway and Angelo Street.

- 177 Pacific Highway ('177 Pacific') – Completed in 2017
  - '177 Pacific' is a 30-storey A-Grade commercial office tower that is located to the immediate south of the site across Berry Street.
- 150 Pacific Highway ('Polaris') – Completed in 2018
  - 'Polaris' is a 24-storey mixed-use development with 228 apartments and commercial office floorspace. This development is located to the immediate west of the site across the Pacific Highway.
- Monte Saint' Angelo Mercy College
  - The Monte Saint' Angelo Mercy College campus is located to the immediate east of the site across Angelo Street. Established in 1875 by the Sisters of Mercy, the college is an independent Roman Catholic girls' school with an approximate role of ~1600 students.
  - The campus features a blend of historic and contemporary architectural styles. The 'Monte Saint Angelo Group' is listed as a heritage item of local significance (No. I0895) under Schedule 5 of the North Sydney Local Environmental Plan 2013 (NSLEP 2013).
  - The main entrance to the campus for both vehicles and pedestrians is located on Miller Street. From Angelo Street at the location of the site, most buildings within the campus are not visible at ground level.
- Public Transport:
  - The site benefits from immediate access to the southern entrance of the Victoria Cross Metro Station (~180m to the south), which provides rapid connections between North Sydney CBD and Barangaroo (3 minutes), Martin Place (5 minutes), Chatswood (5 minutes) and the Macquarie Park Corridor (15 minutes).
  - The North Sydney Train Station is situated approximately ~550 meters to the southwest of the site. The area is also well-served by high-frequency bus services that are routed through the North Sydney CBD.

### **Description of Proposal**

29. Development consent is sought for part demolition, alteration and construction of a new hotel tower with an overall height of 22 storeys with 249 guestrooms, associated communal/administrative facilities, outdoor dining terrace at Level 3, retention of existing car park and ground floor retail premises.



**Figure 2:** Site Plan (Source: Studio.SC)





**Figure 3:** Perspective of proposal as viewed from Pacific Highway (Source: Dstudio.SC)

30. The main components of the proposal include:

- Demolition Works, including in relation to the interior (joinery, walls, and other fixtures) and exterior (façade, glazing and building services) of the existing building at the site.
- Construction of 8 additional building levels, including:
  - 6 additional levels that will form part of the proposed hotel.
  - 2 additional levels that will operate as plant rooms.
- The total number of building levels will increase from 14 to 22.
- A revitalised land use offering for the site, which will include:
  - A hotel with 249 guestrooms and associated communal/administrative facilities, including:
    - Refurbished outdoor terrace at Level 3, which will provide an alfresco dining area to adjoin an indoor guest dining space.
    - Gym and locker room.
    - Conference rooms.
    - 324m<sup>2</sup> of retail floorspace at Ground Level.



- The continued operation of a commercial 'pay-for-use' car park facility, with 70 car parking spaces that will utilise the existing point of vehicle access to the site on Angelo Street.

A detailed breakdown of the proposed development is as follows:

#### Demolition

The proposed scope of demolition works include:

##### **Internal Demolition Works:**

Works that are internal to the building will include the demolition of:

- Internal walls.
- Joinery and stairwells.
- Internal finishes and fixtures.

##### **External Demolition Works:**

Works to the exterior of the building will include the demolition of:

- Existing pre-cast concrete panels across the existing building façade.
- Existing glazing.
- Building services at roof level, including the screened enclosure for these services.
- Existing fittings and fixtures on the Level 3 roof terrace.

#### Additional levels

The proposed development will provide 8 additional tower levels above the existing building at the site. These levels include:

##### **6 additional levels, which will accommodate part of the proposed hotel.**

- Level 15, which will accommodate 18 hotel rooms.
- Level 16, which will accommodate 12 hotel rooms (including 2 accessible hotel rooms).
- Level 17, which will accommodate 11 hotel rooms (including 3 accessible hotel rooms).
- Level 18, which will accommodate 9 hotel rooms (including 1 accessible hotel room).
- Level 19, which will accommodate 7 hotel rooms (including 4 accessible hotel rooms).
- Level 20, which will accommodate 5 hotel rooms (including 2 accessible hotel rooms).
- 

##### **2 additional levels that will accommodate plant rooms.**

- Level 21, which will function as a plant room with a floorspace area of 249m<sup>2</sup>.
- Level 22, which will function as a plant room with a floorspace area of 200m<sup>2</sup>.

#### Car parking

The proposed development will retain the podium car parking facility as a pay-for-use offering that is not allocated to retail tenancies or for the exclusive use of a future hotel operator. The layout of this parking facility has been refined to:

- Remove 27 of the existing car parking spaces, resulting in a net reduction to the number of car parking spaces at the site.
- Retain 70 of the existing car parking spaces, which will operate on a public pay-by-use basis. None of the retained car parking spaces have been allocated for the sole use of future tenants.

### Loading and Servicing

Existing arrangements for loading servicing will be retained. The existing loading zone will operate between the hours of 8:30 AM and 6:00 PM, Monday to Friday.

### Operation

A Preliminary Plan of Management (PoM) has been prepared on behalf of the Applicant to support the management of the proposed hotel by a single entity with a central management structure, as required under the *North Sydney Development Control Plan 2013*. Among other provisional operating details, the Preliminary PoM confirms the following:

- Appropriate controlled access arrangements for staff, guests, and visitors will be in place.
- The proposed hotel will operate twenty-four (24) hours a day, seven (7) days a week.
- The proposed retail tenancies will operate daily between six-thirty (6:30 AM) and eleven (11:00 PM).

This DA seeks approval for the operating hours listed above

### **Development Summary**

31. A numerical summary of the proposed development is provided as follows:

Attribute	Description	
Built Form		
Maximum Height	RL145m	
Levels	14 (existing)	22 (total proposed)
	8 (additional)	
Gross Floor Area (GFA)	526m² (retail)	13,746m² (total, rounded)
	13,219m² (hotel)	
Hotel		
Hotel Rooms	249 (total)	12 (accessible)
		140 (king)
		31 (two bay suite)
		66 (typical twin)
Ancillary Guest Facilities (Level 3)	Dining	Indoor Dining Space (249m²)
		Alfresco Dining Space (roof terrace)
	Wellbeing	Hotel Gym (58m²)
		Guest Locker Room (59m²)
	Business	2 Conference Rooms (89m²)

Retail		
Ground Level	Tenancy 1: 69m <sup>2</sup> adjoined to hotel lobby.	
	Tenancy 2: 202m <sup>2</sup> (potential for split tenancy, subject to demand and preference).	
Lower Ground Level	Tenancy 3: 169m <sup>2</sup>	
Parking / Vehicle Access		
Car Parking	70 car parking spaces.	Car and motorcycle parking spaces will continue to operate on a commercial 'pay-for- use' basis.
Motorcycle Parking	8 motorcycle parking spaces	
Bike Storage	Dedicated storage space for 40 bicycles.	
Vehicle Access	To utilise existing point of vehicle access from Angelo Street.	

## Background

### Pre-DA

32. A Pre DA meeting was held with Council Officers on 2 May 2024 to provide an overview of the proposal and discuss key elements of the proposal.

33. The key issues and concerns identified in the meeting were as follows:

- Built Form
- Building Height
- Overshadowing and Solar Access
- Visual Amenity
- Heritage
- Access and Parking

### Current Application

34. DA350/24 lodged with Council on 28 November 2024 seeking development consent for part demolition, alteration and construction of a new hotel tower with an overall height of 22 storeys with 249 guestrooms, associated communal/administrative facilities, outdoor dining terrace at Level 3, retention of existing car park and ground floor retail premises
35. The subject application was notified on 4 December 2024, from 20 December 2024 to 24 January 2024. A total of 5 submissions were received. These submissions are discussed latter in this report.
36. On 11 February 2025, the Development application was reviewed by the Design Excellence Panel (DEP). The Panel did not fully support the proposal and provided recommendations and considerations, this is discussed latter in this report.
37. Sydney North Planning Panel (SNPP) Preliminary 'Kick Off' briefing undertaken on 23 April 2025, during which the following was discussed:

- Heritage matters
- Landscaping

- Design Excellence Panel
- Use of retail
- Operation and fit out plans

38. On 2 May 2025 a request for additional information provided to the Applicant. The key issues of the RFI Letter are listed below:

- Bicycle parking and associated facilities
- Details of fit out and use
- Wind impact report
- BCA Report
- Landscaping matters
- Design Excellence Panel

39. On 22 June 2025 the applicant provided a response to the request for additional information.

### **Statutory Framework**

#### **Environmental Planning and Assessment Act 1979 (EP & A) Act 1979**

40. The proposal has been assessed and considered against the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act), as follows:

### **Compliance and Assessment**

#### **STATE ENVIRONMENTAL PLANNING INSTRUMENTS**

41. The following State Environmental Planning Policies (SEPP) are relevant to this application:

<b>State Environmental Planning Policy</b>
State Environmental Planning Policy (Resilience and Hazards) 2021
State Environmental Planning Policy (Biodiversity and Conservation) 2021
State Environmental Planning Policy (Transport and Infrastructure) 2021
State Environmental Planning Policy (Sustainable Buildings) 2022
State Environmental Planning Policy (Planning Systems) 2021

A summary of the key matters for consideration in relation to these State Environmental Planning Policies are considered in more detail below:

#### **State Environmental Planning Policy (Resilience and Hazards) 2021**

42. The following chapters are relevant to the proposal:

##### Chapter 4 Remediation of Land

43. Chapter 4 of the SEPP relating to remediation applies to the site.

44. Chapter 4 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment. Clause 4.6 requires contamination and remediation to be considered in determining a development application. The consent authority must not consent to the carrying out of development on land unless it has considered whether or not the land is contaminated.

45. A Preliminary Site Investigation (PSI) has been prepared to support this DA, in the event that any excavations are required to make the existing building foundations suitable for the additional structural load of the proposed new building levels.

46. The PSI confirms that, subject to standard management measures, the site can be made suitable for the proposed development.
47. Councils Environmental Health Officer has reviewed this report and concurs with the recommendations and conclusion of the report.

### **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

48. The following chapters are of relevance to the proposal:

#### Chapter 2 Vegetation in non-rural areas

49. Chapter 2 of the SEPP relating to vegetation in non-rural areas applies to the site.
50. Chapter 2 regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
51. The aims of this Chapter are to protect the biodiversity values of trees and other vegetation in non-rural areas of the State and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation. This policy is applicable pursuant to Clause 2.3 of the SEPP as the site is within both North Sydney Council and the MU1 Mixed Use zone
52. Councils Landscape Officer has recommended 2 trees be removed as they have been suppressed by adjacent trees.
53. The tree removal has been assessed by Council's Landscape Officer who raises no objection to the proposal subject to conditions of consent.

#### Chapter 6 Water Catchments

54. Chapter 6 of the SEPP relating to Water Catchments applies to the site.
55. All stormwater from the proposed development can be treated in accordance with Council's Stormwater Management Policy and would satisfy the relevant provisions of Chapter 6.

### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

56. The following chapters are relevant to the proposal:

#### Chapter 2 Infrastructure

57. Chapter 2 aims to facilitate the effective delivery of infrastructure across the State by improving regulatory certainty and efficiency, providing greater flexibility in the location of infrastructure and service facilities, allowing development of surplus government owned land, identifying environmental assessment categories and matters to be considered in assessments, and providing for consultation with relevant public authorities.
58. The application was referred to Ausgrid pursuant to clause 2.48 of the SEPP. No objection was received from Ausgrid.
59. Clause 2.119 relates to Development with frontage to a classified road and Clause 2.122 relates to traffic generating development.
60. The subject site is located on a classified road and the development is traffic generating so the provisions of Clause 2.119 and Clause 2.122 are applicable and a referral to Transport for NSW is required and was effected.



Section 2.119 - Development with frontage to classified road

61. Section 2.119 stipulates that the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that vehicular access to the land is provided by a road other than the classified road and the safety, efficiency and ongoing operation of the classified road will not be adversely affected. The development fronts both Pacific Highway and Berry Street which are classified roads, and vehicular access will remain via Angelo Street.

Section 2.122 - Traffic-generating development

62. Section 2.122 of the SEPP requires that DAs for certain traffic generating development, as set out in Column 1 Schedule 3 of the policy be referred to TfNSW and that any submission from the TfNSW be considered prior to the determination of the application.
63. The application was referred to Transport for NSW who have provided their concurrence subject to requirements and conditions as detailed within their letter.

**State Environmental Planning Policy (Sustainable Buildings) 2022**

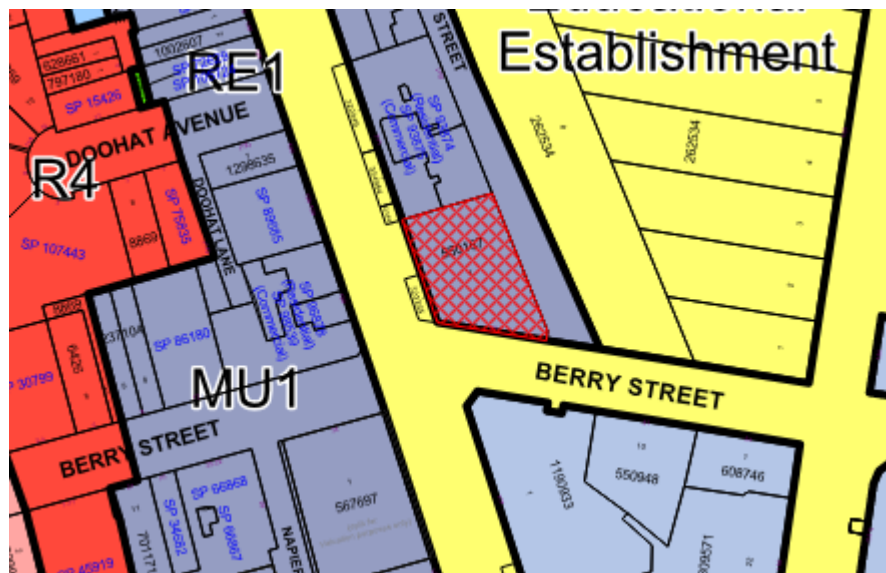
64. The applicant has submitted a NABERS Embodies Carbon Emissions Form to support this DA, to satisfy the requirements of the above SEPP.

**State Environmental Planning Policy (Planning Systems) 2021**

65. The proposal is a regionally significant development pursuant to Clause 2 of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 as it has a CIV of more than \$30 million in accordance with the SEPP.
66. In this case the Sydney North Planning Panel is the consent authority for the subject development application.

**North Sydney Local Environmental Plan 2013 (NSLEP 2013)**

67. The site at 20 Berry Street is zoned MU1 Mixed Use under the NSLEP 2013 as shown in **figure 4** below:



**Figure 4:** Land Zoning map with subject site hatched in red showing MU1 zone.

68. The proposed mixed-use development comprising retail, commercial and hotel is permitted with development consent within the MU1 Mixed Use zone.

The objectives of the MU1 zone are:

- *To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To create interesting and vibrant mixed use centres with safe, high quality urban environments with residential amenity.*
- *To maintain existing commercial space and allow for residential development in mixed use buildings, with non-residential uses concentrated on the lower levels and residential uses predominantly on the higher levels*

The site is surrounded by a variety of commercial, business and retail uses. The proposal is a form of development reasonably anticipated for the site and is generally consistent with the objectives of the MU1 zone. The proposal provides a variety of uses consistent with the MU1 zone.

69. An assessment of the proposal against the relevant LEP clauses and development standards is as follows:

Clause	Standard	Proposal	Complies
<b>2.2 Zoning of Land to which Plan applies</b>	MU1 Mixed Use Zone	Hotels are a type of 'tourist and visitor accommodation', which is a permitted land use in the MU1 Mixed Use Zone. 'Commercial premises', including 'retail premises', are also a permitted land use in the MU1 Zone	Yes
<b>2.3 Zone objectives and Land use table</b>	Objectives of zone to be satisfied	The proposal satisfies the objectives of MU1 zone	Yes
<b>2.7 Demolition</b>	Demolition requires development consent.	Consent for partial demolition	Yes
<b>4.3 Height of Buildings</b>	Maximum permitted height as per height of building map:  RL 145m	The proposed building has a maximum height of RL 145m	Yes
<b>4.4A Non – Residential Floor Space Ratio</b>	Minimum required 3:1 (4,185m <sup>2</sup> )	The proposal provides a minimum non-residential GFA of 13,746m <sup>2</sup> , exceeding the	Yes

		minimum non-residential floor space ratio.	
<b>Part 5: Miscellaneous Provisions</b>			
<b>5.10 Heritage Conservation</b>	<p><b>(5) Heritage assessment</b></p> <p>The consent authority may, before granting consent to any development—</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>	<p>20 Berry Street is not identified as an item of environmental heritage nor located within a heritage conservation area. However, the site is in the immediate vicinity of the heritage item known as the Monte Sant Angelo Group [L0894]. It is significant as an:</p> <p><i>Important regional private school since the 1880s. Contains a significant early mansion, Masalou, as its central building with the Chapel and Mercy Hall, both fine buildings from the turn of the century. O'Regan House is a complementary building to the rest. The group, all in sight of each other, form an impressive precinct within a landscape setting with tall prominent trees and a strong relationship to the Sacred Lawn. The face brick wall and gates along Miller and Berry Streets enclose the site and are a strong streetscape element, enclosing the site.</i></p> <p>The proposal has been considered against the objectives and, with reference to North Sydney LEP 2013 Clause 5.10 (5)(c) Heritage Assessment on land that is in the vicinity of a heritage item. The assessment of the proposal is satisfactory with respect to the heritage context of the site and the environmental heritage of North Sydney. The proposal is assessed to achieve the objectives of Clause 5.10 of NSLEP 2013.</p>	Yes

Part 6: Additional Local Provisions			
Clause 6.3 – Building Heights and Massing	<p>(a) to maintain the status of the North Sydney Centre as a major commercial centre,</p> <p>(b) to maximise commercial floor space capacity and employment growth within the constraints of the environmental context of the North Sydney Centre,</p> <p>(e) to encourage the provision of high-grade commercial space with a floor plate, where appropriate, of at least 1,000 square metres,</p> <p>(g) to prevent any net increase in overshadowing during winter months of any land in Zone RE1 Public Recreation (other than Brett Whiteley Plaza) or any land identified as “Special Area” on the North Sydney Centre Map</p>	<p>The proposal will maintain the commercial centre status.</p> <p>The proposal provides employment growth within the constraints of the environmental context of the North Sydney Centre</p> <p>The proposal provides appropriate commercial space.</p> <p>The proposed development will result in no additional overshadowing of places nominated by this clause of the LEP.</p>	Yes
	<p>Clause 6.3 – Building Heights and Massing</p> <p>((2) Development consent must not be granted for the erection of a building on land to which this Division applies if—</p> <p>(a) the development would result in a net increase in overshadowing between 12 pm and 2 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</p>	<p>In accordance with Clause 6.3(2) of the NSLEP 2013, Development Consent cannot be granted if <i>“the development would result in a net increase in overshadowing between 12 pm and 2 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”</i>.</p> <p>As shown in the Design Report and Architectural Plans that accompany this DA submission, the</p>	

	<p>Area” on the <a href="#">North Sydney Centre Map</a>, or</p> <p>(b) the development would result in a net increase in overshadowing between 10 am and 2 pm from the March equinox to the September equinox (inclusive) of the Don Bank Museum, or</p> <p>(c) the site area of the development is less than 1,000 square metres and any building resulting from the development would have a building height greater than 45 metres.</p>	<p>proposed development will not result in any additional overshadowing to the ‘Special Area’ that opposes the site from across Berry Street.</p> <p>Overall, the proposed development has achieved a net reduction in overshadowing of the Special Area compared to the existing shadow footprint cast from the site.</p> <p>Subclause 6.3(c) does not apply to this DA because the area of the site exceeds 1000m<sup>2</sup>.</p>	
<b>Clause 6.15 – Airspace Operations</b>	Obstacle Limitation Surface (OLS) is 156m AHD	The height of the proposed development (RL 145m) does not project above the OLS.	N/A

### North Sydney Development Control Plan 2013 (NSDCP 2013)

70. The proposed development is subject to the provisions of North Sydney Development Control Plan 2013 (NSDCP 2013).

71. An assessment of the proposal against the relevant DCP clauses is as follows:

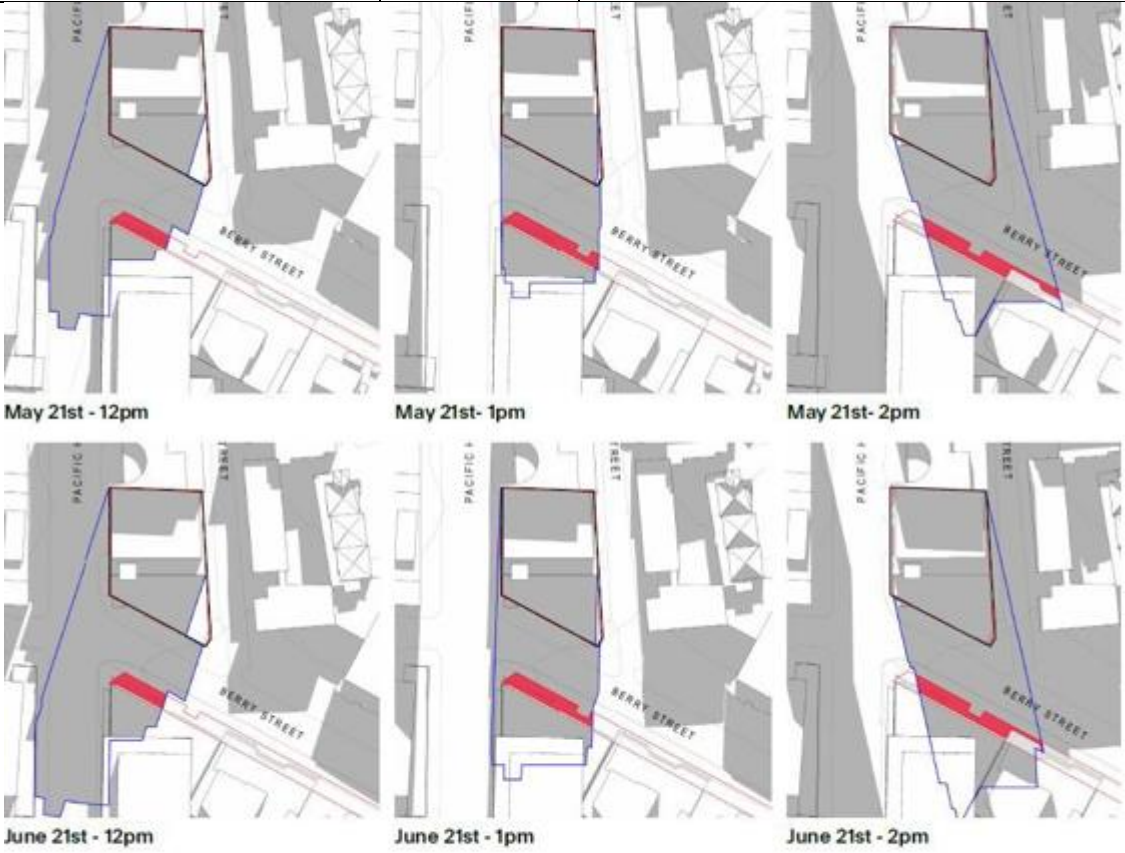
<b>DEVELOPMENT CONTROL PLAN 2013 – Part B Section 2- Commercial and Mixed Use Development</b>			
		<b><i>complies</i></b>	<b><i>Comments</i></b>
<b>2.2 Function</b>			
<b>2.2.1 Diversity of Activities</b>	of	Yes	<p>Retail floorspace is proposed at the Ground Level. Provision P1 has been satisfied by the proposed development, which will retain the podium car parking facility as a pay-for-use offering that is not allocated to retail tenancies or for the exclusive use of a future hotel operator.</p> <p>The proposed development is consistent with the intended effect of Provision P6, insofar as it relates to the scope of this DA, which is seeking approval to refurbish the existing development at the site.</p>
<b>2.2.2 Maximise Use of Public Transport</b>		Yes	The site benefits from immediate access to the southern entrance of the Victoria Cross Metro Station. The proposed development seeks to

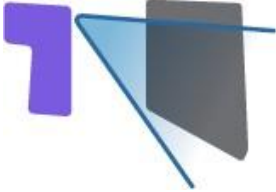
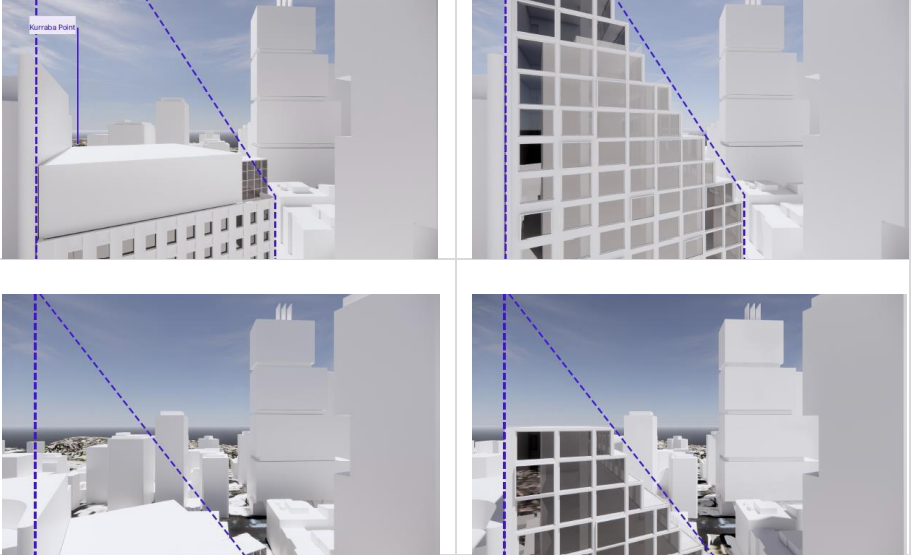


		<p>intensify the use of the site, and this is consistent with the intended effect of Objective O1.</p> <p>The proposed development includes a new bike storage room on the Ground Level. The proposed number of bicycle storage spaces satisfies the requirements for hotels under Section 10 of the NSDCP.</p>															
<b>2.2.4 Design for Tourist and Visitor Accommodation</b>	Yes	<p>The proposed floorplate configurations have been designed to provide hotel rooms are not capable of accommodating residential apartments. The proposed development is consistent with the intended effect of Objective O1.</p> <p>The Hotel Lobby Entry is positioned further north along Pacific Highway to maximise the retail floorspace quantum that is proposed for the ground plane. With three tenancies.</p> <p>The hotel been dimensioned to support an outcome that is consistent with the sizes that are listed within Table B-2.2. All hotel rooms have a 3.5m width based on what is considered efficient for the product.</p> <p><i>Table B-2.2 – Minimum and Maximum Room Sizes</i></p> <table border="1"> <thead> <tr> <th>Number of People</th><th>Minimum Size</th><th>Maximum Size</th></tr> </thead> <tbody> <tr> <td>1</td><td>10.5m<sup>2</sup></td><td>27m<sup>2</sup></td></tr> <tr> <td>2</td><td>16m<sup>2</sup></td><td>27m<sup>2</sup></td></tr> <tr> <td>3</td><td>21.5m<sup>2</sup></td><td>27m<sup>2</sup></td></tr> <tr> <td>4 (Maximum)</td><td>27m<sup>2</sup></td><td>27m<sup>2</sup></td></tr> </tbody> </table> <p>The proposed Hotel delivers a combination of common facilities all on the Level 3 podium including meeting rooms, media room, lounge, gym &amp; locker facilities as well as guest dining and an outdoor podium terrace.</p> <p>The secure entry for hotel staff, accessible via swipe, is located along Angelo Street, leading staff to the Lower Ground Level where end-of-trip facilities are provided. This entrance is separated from the visitor entrance located along Pacific Highway.</p>	Number of People	Minimum Size	Maximum Size	1	10.5m <sup>2</sup>	27m <sup>2</sup>	2	16m <sup>2</sup>	27m <sup>2</sup>	3	21.5m <sup>2</sup>	27m <sup>2</sup>	4 (Maximum)	27m <sup>2</sup>	27m <sup>2</sup>
Number of People	Minimum Size	Maximum Size															
1	10.5m <sup>2</sup>	27m <sup>2</sup>															
2	16m <sup>2</sup>	27m <sup>2</sup>															
3	21.5m <sup>2</sup>	27m <sup>2</sup>															
4 (Maximum)	27m <sup>2</sup>	27m <sup>2</sup>															
<b>2.2.5 Tourist and Visitor Accommodation Management</b>		<p>A Preliminary Plan of Management and a Statement of Hotel Management have been provided to satisfy the provisions of Section 2.2.5. The Preliminary Plan of Management and Statement of Hotel Management have made necessary provision for the operation of the proposed hotel as one entity with a central management structure.</p>															
<b>2.3 Environmental Criteria</b>																	

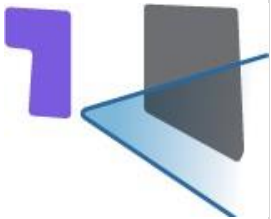
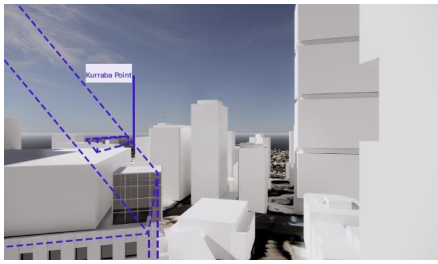

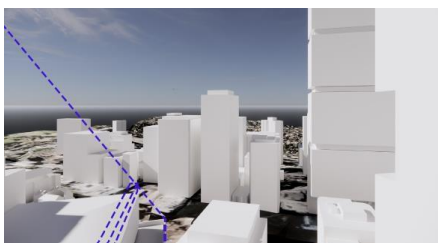

2.3.1 Clean Air	Yes	The proposed development will contain the upper level tower plant rooms within the building form. Mechanical plants can emit exhaust, noise and heat. Containing these plant rooms within the building will achieve an improvement from existing, noting current building plants are currently located above the principal roofline.
2.3.2 Noise	Yes	<p>A Noise and Vibration Impact Assessment (<b>NVIA</b>) has been submitted to support this DA. The assessment and recommendations that are provided by the NVIA confirm that a detailed design outcome will be capable of satisfying the relevant provisions of Section 2.3.2.</p> <p>As mentioned, containing the plant rooms at the upper tower levels within the building form will achieve an improvement from existing with respect to potential acoustic emissions from plant rooms.</p> <p>The NVIA identifies a range of design interventions that will be implemented to support an amenable design outcome that does not compromise the level of acoustic amenity afforded to guests or the residents of surrounding properties.</p>
2.3.3 Wind Speed (no greater than 13m/s at footpaths and outdoor spaces)	Yes	<p>An amended Pedestrian Wind Assessment (<b>Attachment D</b>) has been prepared in response to this item. The following clarifications were provided by RWDI in this regard.</p> <p><i>“The referred criteria of 13m/s is outdated and does not provide probability of occurrence for the wind speed threshold. Refer to Section 4 of the report [the updated Pedestrian Wind Assessment] for additional explanation for the choice of criteria used in the assessment. The selected criteria for the current assessment is in line with other recently tested and assessed projects in North Sydney.</i></p> <p><i>High winds exceeding the comfort and safety limits are likely to occur at the southern corners of both the existing and proposed sites (See Sections 5.3 and 5.4 [of the updated Pedestrian Wind Assessment]). This is primarily due to the existing street wall created in combination with the neighbouring buildings. The addition of 8- storeys above the existing structure is not expected to impact the conditions considering the angled approach of northeast and northwest winds. However, the proposed usage can be impacted by these existing winds. Design advice has been provided in the report [the updated Pedestrian Wind Assessment].</i></p> <p>Subject to the recommendations within the Pedestrian Wind Assessment (as amended), the</p>

		proposed development will sufficiently provide for amenable and safe wind conditions.
<b>2.3.4 Reflectivity</b>	Yes	The proposed development will effectively manage the potential for reflective glare and is therefore consistent with the intended effect of Section 2.3.4 in the NSDCP 2013. A condition is imposed to reinforce this provision.
<b>2.3.5 Artificial Illumination</b>		External lighting fixtures will be located and angled to ensure there are no unacceptable glare impacts on pedestrians and motorists. All illuminated fixtures will comply with Australian Standard AS 4282 – Control of the Obtrusive Effects of Outdoor Lighting. The secure hotel staff entry, accessible via a swipe card, is situated along Angelo Street. This entry leads staff to the Lower Ground Level, where end of trip facilities are available.
<b>2.3.6 Awnings</b>	Yes (conditioned)	In accordance with Provision P10, Section 2.3.3, Part C of the NSDCP 2013, “ <i>consistent awnings along Pacific Highway [are required] to provide shelter from weather conditions</i> ”. The proposed development provides continuous awnings along the Pacific Highway and Berry Street frontages. There is no requirement under Section 2.3.3 to provide continuous awnings along the Angelo Street frontage. The proposed awning height along the Pacific Highway frontage ranges between 2.85m (minimum) and 4.31m (maximum). This variation is due to the sloped topography along this frontage and the need for a visually coherent awning alignment. The height of the continuous awning along the Berry Street frontage is approximately 2.24m. This is not appropriate from a safety point of view, a condition is provided requiring the awning to be at least 3m. The width and setback of the awnings from the kerbside are appropriate to the footpath width and are consistent with what is generally implemented by developments of this scale and nature in the North Sydney CBD.
<b>2.3.7 Solar Access</b>	Yes	The proposed development will satisfy the provisions of Clause 6.3 of the NSLEP 2013 because it will not result in any additional overshadowing to the ‘Special Area’ that opposes the site from across Berry Street. As the development at 211-223 Pacific Highway is located immediately north of the site, the proposed development will not result in unacceptable shadow impacts on the residential dwellings within this building. The development at 211-223 Pacific Highway already adjoins the existing building at the site.

		The same reasoning can be applied in response to Provision P6. The proposed development is consistent with the intended effect of these controls.
 <p>May 21st - 12pm      May 21st - 1pm      May 21st - 2pm</p> <p>June 21st - 12pm      June 21st - 1pm      June 21st - 2pm</p> <p> <span style="color: blue;">■</span> Increased overshadowing to LEP Special Area      <span style="color: blue;">—</span> Existing Envelope Shadow Outline  <span style="color: orange;">■</span> Reduced overshadowing to LEP Special Area      <span style="color: red;">—</span> LEP Special Area  <span style="color: red;">■</span> Existing overshadowing to LEP Special Area from Existing Envelope      <span style="border: 1px solid black;">□</span> Site / Envelope </p>		
<p>The proposed development presents a tapered building form to achieve an acceptable outcome for the site and surrounding development with respect to solar amenity matters. This DA complies with the provisions that apply to the site under Clause 6.3 of the NSLEP 2013, in addition to the maximum permitted building height (RL 145m). The shadow footprint cast by the proposed development is anticipated under the local planning framework and should be supported.</p>		
2.3.8 Views	Yes	<p>Studio SC have prepared a View Loss Analysis to accompany the Architectural Design Report (<a href="#">Appendix C</a>). The View Loss Analysis provides an assessment to determine potential view loss impacts for high-rise residential apartments at 150 Pacific Highway, North Sydney ('Polaris').</p> <p>There are no other properties with residential dwellings within the immediate vicinity of the site that warrant consideration from a view loss perspective. This is because the only residential dwellings that have current access to high-amenity views through the site are located on the high-rise levels of the development at 150 Pacific Highway.</p>

View		Analysis
Facing Southeast		
01	<b>'Polaris'</b> Level 18, RL 129.7.	<p>View 01 will maintain a reasonable open-sky vista, preserving key district views towards the southeast, including the Victoria Cross Metro Over Station Development.</p> <p>The proposed development does not encroach upon any views obtained through airspace outside the permitted building envelope under the NSLEP 2013. The introduction of high-rise development within the North Sydney CBD is consistent with anticipated urban growth patterns and does not constitute an unreasonable visual obstruction within any of the assessed views.</p>
01A	<b>'Polaris'</b> Level 23, RL 145.2.	<p>The nature of visual change observable in View 01A (captured from Level 23) will be even less pronounced than in View 01 (captured from Level 18).</p> <p>There will be no reduction in the observable open-sky vista, as the roofline of the proposed tower will terminate at the horizon line. The extent of visual change will not compromise the fundamental character of district views. No built form projection is proposed beyond the permitted building envelope under the NSLEP 2013.</p>
Viewpoint Direction		<div>Existing</div> <div>Proposed</div>
		
Facing East		
02	<b>'Polaris'</b> Level 18, RL 129.7.	<p>The extent of visual change observable in View 02A is negligible, with a generous proportion of open-sky and district views retained as-is. These view elements will only be reduced where development is proposed within the permitted building envelope under the NSLEP</p>



		2013.
<b>02A</b>	<b>'Polaris'</b> Level 23, RL 145.2.	The extent of visual change presented in View 02A is further diminished compared to what is observed in View 02. There will be no reduction in the observable open-sky vista, as the roofline of the proposed tower will terminate at the horizon line.
Viewpoint Direction		
Existing		Proposed
		
		

The assessment of view loss typically follows the planning principle established by the Land and Environment Court of New South Wales in *Tenacity Consulting v Warringah [2004] NSWLEC 140* ("Tenacity"). In line with the Tenacity principle, the reasonableness of any potential view loss is considered in the context of the proposed development's compliance with the built form provisions set out in the North Sydney Local Environmental Plan 2013 (NSLEP 2013). Key considerations also include the ownership of the land through which views are obtained and the extent of the remaining, unaffected view composition.

The View Loss Analysis supports the following conclusions:

- Views through the site are opportunistic**  
Views obtained from private residences at 150 Pacific Highway ('Polaris') across the subject site are considered fortuitous, as they rely on outlooks across privately owned land.
- View loss is consistent with expectations under local planning controls**  
The proposed development complies with the NSLEP 2013, including Clause 4.3 (Height of Buildings) and Clause 6.3 (Building Heights and Massing). As such, any associated view loss is a reasonable and foreseeable outcome within the local planning context.
- The retained view outlook remains reasonable**  
The assessed views (Views 01, 01A, 02, and 02A) demonstrate that a significant portion of the existing outlook will remain unaffected. Notably, the residual view composition includes open space within the permissible building envelope, especially evident at Level 23 (RL 145.2m), where development is not proposed.

- **The proposal aligns with the evolving high-rise character of the area**  
The site is situated within a precinct characterised by high-rise development, a form expected to intensify with the continued transformation of the North Sydney CBD. When considered in this broader context, the proposal does not result in an unreasonable level of view loss.
- **The development reflects the site's reasonable potential**  
Under the Tenacity framework, the potential for reasonable development on a site is a relevant consideration. The proposal seeks to optimise the site's capacity for permissible uses under the NSLEP 2013 and is consistent with the intended planning outcomes for this location.

In summary, the proposed development delivers an outcome that is both acceptable and expected in terms of view impacts.

<b>2.3.9 Acoustic Privacy</b>	Yes	<p>Section 2.3.9 of the NSDCP 2013 contains provisions that are intended to regulate the potential for acoustic impacts to the residential component(s) of mixed-use developments. This is confirmed by Provision P1 of Section 2.3.9, which states:</p> <p><i>P1. This subsection only applies to the residential component of any mixed-use development.</i></p> <p>No residential dwellings are proposed to form part of the scope of this DA. Accordingly, the provisions of Section 2.3.9 are not relevant to the assessment of this DA and should be disregarded. Other provisions of the NSDCP 2013 that are relevant to acoustic assessment matters for this DA have been addressed by the Noise and Vibration Impact Assessment that accompanies this DA. Conditions are imposed to ensure compliance.</p>
<b>2.3.11 Visual Privacy</b>	Yes	<p>The proposed development achieves building separation distances from residential buildings across Pacific Highway in accordance with the <i>New South Wales Apartment Design Guideline (ADG)</i>.</p> <p>No reduction to residential privacy is proposed that would not be reasonable to anticipate in line with NSW planning jurisprudence.</p> <p>The proposed development is entirely compliant with the applicable built form controls under the NSLEP 2013. No reduction to residential privacy is proposed that would not be reasonable to anticipate under the local planning framework, let alone in relation to a high-density urban environment (i.e. the North Sydney CBD).</p>
<b>2.4 Quality built form</b>		
<b>2.4.1 Context</b>	Yes	The proposed development is considered to be contextually appropriate as it is consistent with the desired future character of North Sydney.

2.4.3 Setbacks	Yes (merit)	<p>Figure C-2.3 of the SDCP 2012 establishes the following above-podium setback controls in relation to the following site frontages:</p> <ul style="list-style-type: none"> <li>▪ 5m above-podium setback to Berry Street.</li> <li>▪ 5m above-podium setback to the Pacific Highway.</li> <li>▪ 4m above-podium setback to Angelo Street.</li> </ul> <p>The proposed development is consistent with the intended effect of the setback provisions of the NSDCP 2013, further noting the alignment of existing development at the site will be retained under this refurbishment DA.</p> <p>The adjoining development at 211-223 Pacific Highway is a high-rise apartment building. None of the apartments in this building are oriented towards the site.</p> <p>Accordingly, the proposed development will not obstruct the level of solar amenity or outlook that is currently afforded to the apartments within this building.</p>						
2.4.5 Building Design	Yes	<p>The section drawings within the Architectural Plans that accompany this DA submission confirm that the minimum floor-to-ceiling heights required (see below) have been met.</p> <p><b>Table B-2.9 – Minimum Floor to Ceiling Height Requirements</b></p> <table data-bbox="858 1088 1461 1211"> <tr> <th>Ground Floor</th><th>First Floor</th><th>Upper Floors</th></tr> <tr> <td>3.3m</td><td>3.3m</td><td>2.7m</td></tr> </table> <p>The Ground Level retail units have a floor-to-ceiling height that exceeds 3.3m.</p> <p>Levels 1-2 will continue to accommodate car parking, which is not intended to be addressed under this control.</p> <p>The floor-to-ceiling heights of hotel levels surpasses 2.7m.</p> <p>Balconies do not project beyond the principal façade alignment.</p>	Ground Floor	First Floor	Upper Floors	3.3m	3.3m	2.7m
Ground Floor	First Floor	Upper Floors						
3.3m	3.3m	2.7m						
2.4.6 Skyline	Yes	<p>The proposed development will result in a reasonable skyline appearance.</p>						
2.4.10 Streetscape	Yes	<p>The proposed podium form responds to the sloped topography between each street frontage with a uniform design outcome that seamlessly addresses level changes across the site.</p> <p>The proposed development presents an appropriate ratio of glazing to solid material at the active site frontages.</p> <p>The proposed development will generally retain the alignment of the existing building on the site; however, the façade will be redesigned. The ground-level retail floorspace will remain</p>						

		constructed to the street alignment ('zero setback'), consistent with the typical profile of development in the local area, including the adjacent building at 211-223 Pacific Highway. The proposed development incorporates an appropriate proportion of solid to void on all façades, utilising a squared 'structural grid' design.
<b>2.4.11 Entrances and Exits</b>	Yes	The proposed development provides equitable access to all persons regardless of ability. The entrances are clearly visible from the street and convey a sense of address.
<b>2.4.12 Nighttime appearance</b>	Yes	The proposed development exemplifies the use of large windows, which are intended to maximise outlook for an enhanced visitor experience. The windows are proportioned to satisfy Provision P1.
<b>2.5 Quality Urban Environment</b>		
<b>2.5.1 Accessibility</b>	Yes	An Access Report has been submitted and concludes the proposal is acceptable.  On this basis, standard conditions of consent can be imposed to require compliance with accessibility.
<b>2.5.2 Safety and Security</b>	Yes	No known issues of safety and security are considered to arise from the proposed development.
<b>2.5.3 Illumination</b>	Yes	No illumination of the building is proposed.
<b>2.5.7 Vehicular Access</b>	Yes	Vehicle access to the site will continue to be provided from Angelo Street, which is a lower-order public interface with respect the hierarchy of street frontages at the site. Service vehicles and regular vehicles (cars) will continue to utilise the same vehicle access point from Angelo Street.
<b>2.5.8 Car Parking</b>	Yes	There is no minimum car parking rate that applies under the NSDCP 2013. The plan is to retain the existing car park, which will continue to be operated privately by Wilson Parking, without allocating any dedicated car spaces for hotel and retail services.  The NSDCP 2013 requires a minimum of 1 motorcycle parking space for every 10 car spaces. Since no car parking spaces will be allocated to the proposed land uses, there are no motorcycle parking spaces designated for the exclusive use of the hotel or retail floorspace. However, as the proposed parking facility will operate with 70 car parks on a pay-by-use basis, a minimum of 7 motorcycle parking spaces is required. The proposed development exceeds this requirement by providing 8 motorcycle parking spaces.

		Council's Traffic Engineer raised no object to the car parking provisions.
<b>2.5.9 Garbage Storage</b>		<i>Appendix 3 – Waste Management Guide (2020)</i> of the NSDCP 2013 has been referenced to calculate the total number of bins required to service the proposed development within the Operational Waste Management Plan ( <b>OWMP</b> ) accompanying this submission. Appropriate waste management arrangements will be in place during operational phases of the proposed development.
<b>2.6 Efficient Use of Resources</b>		
<b>2.6.1 Energy Efficiency</b>	Yes	The applicant has submitted a NABERS Embodies Carbon Emissions Form to support the application which satisfies the provisions of the SEPP.
<b>2.6.2 Passive Solar Design</b>	Yes	The building has been designed to maximise passive solar access.
<b>2.6.7 Stormwater Management</b>	Yes	Appropriate stormwater management is achieved.

## **Part C – Area Character Statements**

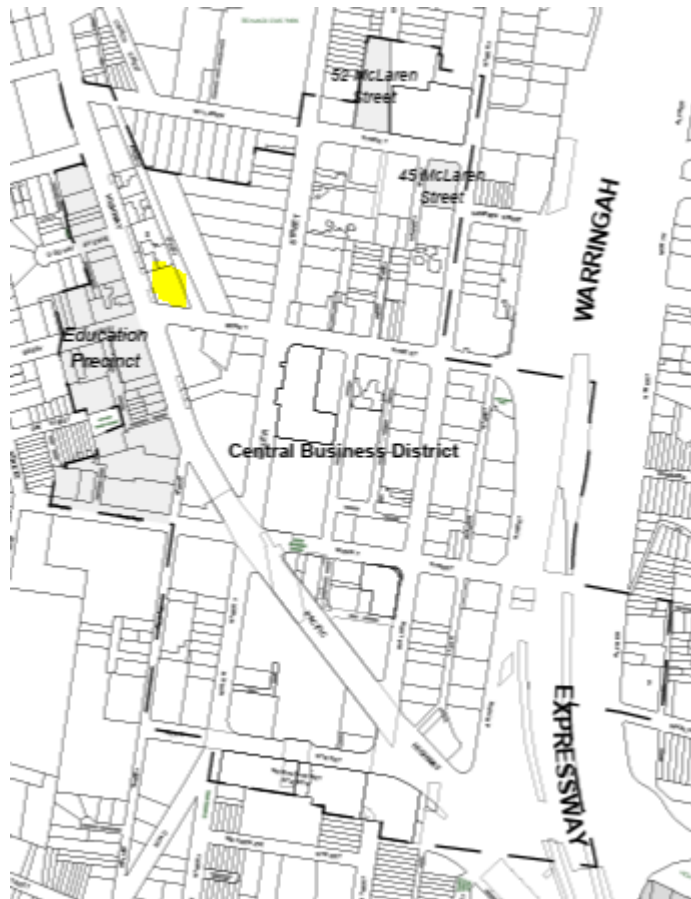
### **Part C – Section 2 North Sydney Planning Area**

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.

Part C Section 2 provides specific planning objectives and controls for the North Sydney Planning Area. If there is a discrepancy between Part B and Part C, the provisions within this Part take precedence over the provisions within Part B of the DCP.

#### **Section 2.1 Central Business District**



**Figure 5:** Locality Area Map for map for Central Business District

DEVELOPMENT CONTROL PLAN 2013 – Part C Section 2- North Sydney Planning Area		
	<i>complies</i>	<i>Comments</i>
<b>2.1.3 Desired Built Form</b>		
P2 Development on small sites should not detrimentally impact on the long-term ability of the amalgamation of sites for significant commercial development.	Yes	The north-adjoining property at 211-223 Pacific Highway has already been developed. The proposed development does not compromise the intended effect of Provision P1.
P4 Buildings should be carefully designed to minimise the impact of their height and bulk on surrounding residential areas.	Yes	Designed accordingly
P5 Roof design contributes to building's appearance from a regional view catchment.	Yes	The building has an acceptable effect on the regional view catchment, being compatible with and contributing to the skyline envisaged by recently increased heights in the North Sydney CBD.
P7 No part of a building located above the podium and which exceeds 45m in height may have a horizontal width of more than 60m.	Yes	The site does not exceed 60m in width or length. The building is proportioned appropriately with respect to existing development at the site and the need for a tapered form that satisfies Clause 6.3 of the NSLEP 2013, and is therefore consistent with the intended effect of Provision P7.

P10 Buildings are to provide a zero metre setback to all street frontages and adjacent to heritage items,	Yes	Complies
P13 Podiums are to be provided in accordance with the Podium Heights Map (refer to Figure C-2.2).	Yes	The proposed development provides a podium form that is consistent with the required height ranges of 2-5 storeys (Pacific Highway) and 2-3 storeys (Angelo Street).
P20 All parts of a building located above the podium are to be setback from the podium's frontage to a street or laneway in accordance with the Above Podium Setbacks Map (refer to Figure C-2.3).	Yes	The required setbacks under Provision P20, as notated on <i>Figure C-2.3: Above Podium Setbacks Map</i> , have been addressed in the rows above. The proposed development is consistent with the intended effect of Provision P20.
<i>P24. Despite P23, no setback is required above the podium level to: (c) the northern boundary of 20 Berry Street (Lot 1, DP 550167) if developed in isolation from the site to the north;</i>	Yes	The proposed development will adjoin the building at 211-223 Pacific Highway, which has not incorporated any setback from the existing development on the site. The proposed development is consistent with the intended effect of the setback provisions of the NSDCP 2013, further noting the alignment of existing development at the site will be retained under this refurbishment DA.
<i>P28 Provide 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.</i>	Yes	The proposed façade design incorporates materials that reflect the culture, local heritage and architectural characteristics of North Sydney.

### Local Infrastructure Contributions Plan

72. The subject application has been assessed against the North Sydney Local Infrastructure Contribution Plan 2020 and is subject to the payment of contributions towards the provision of local infrastructure. A Section 7.12 levy is applicable and has been calculated in accordance with the plan. The contribution payment has been calculated as follows:

<b>s7.12 contribution details</b>	Development Cost:	\$62,473,754.00
(indexed at payment but not consent)	Contribution:	\$624,738.00

### Housing and Productivity Contribution

73. A Housing and Productivity Contribution (HPC) applies in the Greater Sydney, Illawarra Shoalhaven, Lower Hunter and Central Coast regions. Contributions collected help to deliver essential state infrastructure such as schools, hospitals, major roads, public transport infrastructure and regional open space.



74. The contribution applies to development applications for an increase in gross floor area of commercial development (including complying development and state significant development). The HPC is separate to the contributions that developers pay to councils for local infrastructure, such as local roads, drainage and local open space.
75. The site being 20 Berry Street is best defined as a commercial building. The ministerial order for applications lodged on or after 1 July 2024 stipulates the base amount of \$30 per square metre of new GFA. Examples of commercial development which would require a contribution such as the erection of a new building, the alteration, enlargement or extension of an existing building whereby there would be an additional increase in gross floor.
76. The proposed development comprises 2,760m<sup>2</sup> additional floor area therefore an increase in GFA is proposed. The increase in GFA of 2,760m<sup>2</sup> which would equate to a contribution of \$82,800.00. A Housing and Productivity Contribution will therefore be included within the determination.

#### **Adequacy of information**

77. On 2 May 2025 a request for further information was provided to the applicant. Specifically requesting the following:

##### ***Fitout and use***

##### ***Commercial/retail***

*The application proposed operating hours for the commercial/retail premises, however insufficient detail has been provided to properly assess. Further details are required to enable assessment, or a condition can be imposed requiring a separate consent for the use.*

##### ***Guest dining and lobby café***

*No details have been provided for the hotel kitchen associated with the guest dining and the lobby cafe, further details are required to enable assessment, or a condition can be imposed requiring a separate consent for the use.*

##### ***Hotel rooms***

*No details have been provided on the location of amenities for the hotel rooms.*

78. The applicant provided a response requesting Council to condition reasonable operating hours for the uses. No specific details were provided to enable a complete and comprehensive assessment; therefore, conditions are imposed requiring separate consent for all other proposed uses except for the hotel.
79. Indicative floor plans and fit out plans were provided; it was requested by the applicant that these plans not be conditioned and are intended for reference only. As such a condition is imposed prior to the issue of a construction certificate that amenities are to be provided in the hotel rooms in accordance with the National Construction Code.

#### **All Likely Impacts of the development**

80. 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
9.	Relevant S4.15 considerations of the Environmental Planning and Assessment Act 1979	Yes

## SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST

81. On 4 December 2024, Council notified adjoining properties and the Stanton Precinct of the proposed development seeking comment between 20 December 2024 to 24 January 2025. Council received five (5) submissions. Many of the issues raised have been considered in other parts of this report and where relevant are summarised and addressed further below.

- *Floor Plate configuration*

The submitter made the following comment with respect to floorplate configuration:

*Referring to the planning drawings submitted by the developer, there will be only totally 6 hotel rooms at Level 19 and Level 20 which is about 2.4% of the entire hotel rooms with the corresponding GFA of about 5.2% which is minimal as compared with the whole development.*

Massing requirements that apply to the site under Clause 6.3 of the North Sydney Local Environmental Plan 2013 (NSLEP 2013). The scale and form of the proposed development, which is compliant and reasonable to anticipate under local planning controls achieve this suitable outcome.

- *View Loss*

View loss impacts have been addressed in detail within this report. The extent of view loss attributed to the proposed development is acceptable and reasonable under the applicable built form controls. The View Loss Assessment has demonstrated that the proposed development is supportable within established case law principles.

- *Noise*

Impacts regarding noise from the development are considered to be a reasonable and expected. The NVIA provided at DA lodgement has demonstrated that the operational scope of the proposed development will not result in any unacceptable acoustic emissions. With regards to the use of certain areas, conditions are recommended to ensure these spaces will not unreasonably affect adjoining properties.

- *Solar access*

Overshadowing impacts have been addressed in detail within this report. The impacts of the overshadowing result from building elements that will generally comply with the planning controls relating to the site. The overshadowing impacts are generally consistent with the expected outcomes as envisaged by the planning instruments.

- *Construction hours*
- *Impacts from construction including traffic, dust and noise*

Standard construction hours and conditions relating to construction noise are recommended to be imposed. A Construction Management Plan is required to be submitted wherein Council's Traffic Engineer will assess the impacts of the construction impacts on the locality prior to the issue of a Construction Certificate.

- *Traffic and carparking*

The proposed development will generally comply with NSDCP 2013 car parking controls. Any impacts with regards to traffic noise is considered to be a reasonable and expected impact of development on the site.

### **Application Referrals**

82. The application was referred to a number of external agencies and internal officers for comment as follows:

### **Council Referrals**

#### Development Engineer

83. The application was referred to Council's Development Engineer who raised no objection to the proposal subject to conditions of consent.

#### Traffic Engineer

84. The application was referred to Council's Traffic Engineer who raised no objection to the proposal subject to conditions of consent.

#### Conservation Planner

85. Council's Conservation Planner has reviewed the proposed development and raised no objection to the proposal and did not recommend conditions of consent. Council's Conservation Planner conclusion is provided below:

*"With reference to the above, an assessment of the proposal has been undertaken in terms of North Sydney LEP 2013 Clause 5.10 Heritage conservation and North Sydney DCP 2013 Part B: Section 13 Heritage and Conservation. The proposal will not result in any adverse impacts on the setting, curtilage, nor views to or from the identified heritage item. The accompanying HIS also cites the McLaren Street conservation area as being in the vicinity of the site, however, the site context within the North Sydney CBD and its context is such that it will have a nominal impact on the character or significance of the McLaren Street conservation area. The proposal is acceptable on heritage grounds".*

#### Landscape Officer

86. Council's Landscape Officer has reviewed the proposed development and raised no objection to the proposal subject to conditions of consent.

#### Fire Officer

87. Council's Fire Officer has reviewed the proposed development and raised no objection to the proposal subject to conditions of consent.

#### Building Compliance

88. Council's Building Compliance Officer has reviewed the proposed development and raised no objection to the proposal subject to conditions of consent.

#### Environmental Health Officer

89. Council's Environmental Health Officer has reviewed the proposed development and raised no objection to the proposal subject to conditions of consent.

### **External Referrals**

#### Design Excellence Panel

90. Council's Design Excellence Panel (DEP) considered the application at its meeting on 11 February 2025. The Panel provided the following comments:

#### ***"Background:***

- 1. The North Sydney Design Excellence Panel (the Panel) reviewed the documentation provided by the applicant, visited the subject site, and met with the applicant's representatives through an online conference to discuss the proposal.*
- 2. Although not a residential apartment development, the review managed by the Panel and the comments offered below are structured against the 9 Design Quality Principles which are widely accepted principles for reviewing architectural, urban design, landscape design and design excellence merits of a proposal.*
- 3. The Panel recognises that the proposed hotel rooms are not for the purpose of student accommodation or similar longer-term stay. A different legislation (Housing SEPP 2021) with a different set of design requirements apply to such longer-term accommodation. And the recommendations offered by the Panel only apply to the proposed hotel use where there are no minimum requirements for communal open space, common living area, landscaped area, minimum room sizes and other amenity related aspects.*

#### ***Discussion, Comments & Recommendations:***

#### ***Principle 1 – Context and Neighbourhood Character***

- 1. The Panel commends the quality of documentation provided by the applicant's team, including the architectural drawings, design report, 3D views and the DEP presentation. In particular, the built form relationship of the proposal with its immediate site and local context is well documented by the applicant.*

#### ***Design Excellence Merit:***

- 2. As part of the site visit, meeting with the applicant and the debriefing, the Panel most extensively discussed about the stepped building massing and the overall architectural expression, its appeal and appropriateness for the subject site.*
- 3. In the Panel's view, the stepped form appears to be compulsively driven by the statutory solar plane requirement. The Panel expressed reservations for such strategy that aims at gross floor area maximisation within a solar plane. The applicant should develop an alternative strategy where the number of steps can be further rationalised and minimised.*

4. At the same time, the applicant should develop stronger vertical rhythm (through brick pilasters or similar masonry features) with a greater rigour and conviction where the 'architectural form' is prioritised over the amount of gross floor area achieved within the building.

5. The Panel sees rationalisation and reduction in the number of steps will provide opportunities to create larger integrated rooftop terraces where meaningful landscape pockets could be created by planting on structures.

6. For the overall tower form to be successful, the Panel recommends a greater architectural depth is needed to create more 'articulation for substance' and to avoid planar or uniformly flat appearance.

7. The Panel discussed that as part of the architectural expression, the 'pop-out' window shrouds (frames projecting beyond the building plane) should be more frequent to form a stronger and more confident architectural language. The 'pop-out' windows could also be varied to respond to the varying orientations, providing sun shading to east and west and becoming flush to the south

8. The Panel briefly discussed the expression of the top two floors is proposed to accommodate mechanical equipment, and whether alternative strategies could be considered to allow more interesting form and/or uses (for example – spires, observation decks, or other architectural features), given the prominent urban corner site location within the North Sydney CBD. Precedent studies of other successful hotel buildings or CBD towers encouraged by the Panel.

## **Principle 2 – Built Form and Scale**

### **Ground Floor Configuration and Street Awning:**

1. The Panel finds design of the building base is admirable, however the proposed street awning needs stronger street presence, and the applicant should ensure this is achieved through appropriate architectural treatments. As part of the discussion, the Panel suggested increasing depth, developing appropriate sectional details to incorporate lighting (integrated within the awning), and appropriate soffit details. The applicant is encouraged to review other successful precedents within Sydney CBD or similar urban context.

2. In terms of the ground floor configuration, the applicant should investigate opportunities for increasing street activation by reducing the extent of carpark areas addressing the Berry Street and Angelo Street corner, and whether these spaces could be allocated for commercial/retail use. Double height voids could also be considered around the perimeter of the façade to increase street presence of the ground floor tenancies and conceal the car parking. The Panel would support an approach where carparking is reduced and as a balance street activation is increased.

3. The Panel recommends the applicant should investigate whether corner radii at the street intersections (Berry Street and Pacific Highway, and Berry Street and Angelo Street) could be further increased for improving pedestrian safety and sightlines.

## **Principle 4 – Sustainability**

1. The applicant's strategy of alteration and additions to the existing building is commendable given the effort with retention of structures and spaces within the existing building. The Panel recognises that as described by the applicant about 83% structures are retained by the proposal.

2. The Panel expects the applicant to nominate appropriate sustainable targets beyond the minimum targets set within the statutory planning framework (such as BASIX or Section J).

#### **Principle 5 – Landscape**

1. The Panel recommends the revised awning design should be carefully coordinated with location of the proposed street trees, to allow long term growth and sustenance of trees within the streetscape.

2. The landscape architect should ensure that planter boxes and other planting on structures have adequate soil depths to achieve growth for shrubs, small and medium sized trees over the podium and other rooftop terraces.

#### **Principle 6 – Amenities**

1. The Panel expects the internal hotel room layouts to be developed in greater detail, to ensure the internal spaces are well-coordinated with the architectural expression of the building. For example – any fixed furniture or joinery design within the hotel rooms should not conflict with the fenestration design given that large sized openings are considered for the hotel rooms.

#### **Principle 9 – Aesthetics**

1. Refer recommendations within Principle 1 and 2 of this Report.

2. The Panel discussed a strategy to soften the visually weaker base by possibly considering a planter pergola wrapping continuously along the perimeter, to form a visual transition between the 2 forms (the base and the tower) disparity and add a greener edge to the street intersection.

3. The use of precast panels with a brick stamped texture is questioned. The material choices should be reconsidered in response to the other comments provided herein.

4. Several existing columns overlap with the functionality of the plan and conflict with glazed portions of the façade, the column alignments should be properly considered, the floor plan and / or façade should be amended to account for the proposed building structure.

5. The building façade would benefit from greater depth in the façade.

6. Developed architectural drawings should fully describe the design intent and include details of each primary façade type in the form of 1:20 sections and elevations or using appropriate detailed 3D design material – indicating proposed materials, construction systems, balustrade types and fixings, coordination with internal room layouts, balcony edges, window operation, integrated landscape planter beds, junctions, rainwater and balcony drainage, including any downpipes and similar details within the proposal. Typical wall details to be developed to meet NCC2022 requirements.

#### **Conclusion:**

Recognising its independent and advisory-only role, the Panel does not fully support the proposal at this review. The Panel suggests that the applicant amends the proposal to incorporate and/or address the recommendations offered in this report and requests a second-time opportunity to review the overall architectural form and expression for the design excellence merit.”

Planners Comment:

91. The applicant has provided a response to the Design Excellence Panel and is summarised below:

**Overall Design Framework**

Design Principles Acknowledged: The design responds to the 9 Design Quality Principles despite not being residential in nature.

Hotel Use Context: Amenity provisions were developed specifically for short-stay hotel use, not long-term residential.

**Built Form and Massing**

Stepped Form Justification: The massing complies with the solar access plane and presents a resolved, modulated form. The applicant argues that simplifying the form would unnecessarily reduce yield with no real public benefit.

Vertical Rhythm: Verticality is expressed through columns, piers, and grouped windows. Additional 'pop-out' windows have been added to reinforce façade modulation.

Rooftop Terraces and Massing: The proposal maintains a stepped roofline for skyline articulation. Larger rooftop terraces, as suggested, would compromise GFA and are not proposed.

Tower Articulation: Façade articulation has been enhanced with materials, shadows, pop-outs, and depth. The applicant considers the result robust and engaging, requiring no further change.

Top Levels (Plant Area): These levels are reserved for mechanical services, respecting height limits and operational requirements. Alternatives like spires or public spaces are ruled out as impractical.

**Street Interface and Activation**

Awnings: Already designed to align with NSDCP 2013; includes integrated lighting and robust details. Further enlargement is not proposed.

Ground Floor Use: The building features active frontages on Berry Street and Pacific Highway. Car park reduction, as suggested, is not feasible due to structural and operational constraints. Angelo Street remains service-focused with no required activation.

Street Corner Treatment: Increasing corner radii was considered but dismissed to preserve urban form. The proposal already improves safety and sightlines.

Base-to-Tower Transition: Suggestions for a wrap-around pergola were declined due to potential clutter and sightline issues. The transition is managed through material changes and articulation.

**Sustainability and Retention**

Structure Retention: 83% of the building's structure is retained, reducing demolition waste and supporting environmental sustainability. The Panel's commendation of this approach is acknowledged.

**Landscape and Façade**

Street Tree Coordination: Awnings have been designed not to obstruct tree growth. A Project Arborist will oversee tree protection.

Planting on Structures: Soil depths and planter designs have been developed in collaboration with the landscape architect to support viable green spaces.

Precast Panels with Brick Finish: This material choice reflects North Sydney's character while offering modern benefits. No changes are proposed.

Column Integration: Structural columns have been resolved to avoid conflicts with glazing or internal layouts.

Façade Depth and Detail: Additional pop-outs added to enhance depth; further articulation deemed unnecessary. The façade design is complete for this stage.

Documentation and Detail: Detailed architectural documentation has been provided, with additional detail to be resolved during construction certificate phase.

### **Final Remarks**

The applicant reaffirms that the design is contextually responsive, architecturally disciplined, and commercially viable. The adaptive reuse approach and design clarity are presented as core strengths of the proposal.

92. The applicant's response and further refinements are considered reasonable in the context of the site.

### Ausgrid

93. The application was referred to Ausgrid in accordance with Clause 2.48 of State Environmental Planning Policy (Transport and Infrastructure) 2021. Comments were received from Ausgrid on 30 December 2024 advising no objection is raised to the proposed development subject to conditions.

### TfNSW

94. The application was referred to TfNSW in accordance with Clause 2.119 of State Environmental Planning Policy (Transport and Infrastructure) 2021. A formal response was provided on 20 December 2024, where no objection was raised to the proposed development subject to the imposition of conditions.

### **Conclusion and Reasons**

95. The proposed development has been assessed with respect to the objectives and relevant Sections of the EP&A Act, as well as the objectives, merit based considerations, development standards and prescriptive controls of various SEPPs, the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013. The proposed development is considered satisfactory with regard to the above considerations, subject to conditions of consent.
96. The Council's notification of the proposal attracted five (5) submissions. The concerns raised have been considered and addressed and do not warrant refusal or modification of the proposal.
97. The proposed development is consistent with the form of development anticipated by the Planning Proposal process and provided for in the site specific LEP and DCP provisions.
98. The proposed development includes employment-generating floor space, serviced by high-frequency public transport.



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

#### **DETERMINATION**

100. THAT the Sydney North Planning Panel, as the consent authority, grant consent to Development Application No. 350/24 for Part demolition, alteration and construction of a new hotel tower with an overall height of 22 storeys with 249 guestrooms, associated communal/administrative facilities, outdoor dining terrace at Level 3, retention of existing car park and ground floor retail premises on land at 20 Berry Street, North Sydney subject to conditions of consent.