

REZONING REVIEW – Briefing Report

Date of referral	23 December 2020	
Department ref. no.	RR-2021-69	
LGA	Woollahra	
LEP to be amended	Woollahra Local Environmental Plan 2014	
Address	252-254 New South Head Road, Double Bay	
Reason for review	<input checked="" type="checkbox"/> Council notified the proponent it will not support the proposed amendment	<input type="checkbox"/> Council failed to indicate support for the proposal within 90 days, or failed to submit the proposal after indicating its support
Is a disclosure statement relating to reportable political donations under s10.4 of the Act required and provided?	<input type="checkbox"/> Provided <input checked="" type="checkbox"/> Not required Comment: No donations or gifts to disclose.	

1. SUMMARY OF THE PROPOSAL

This Rezoning Review request was submitted to the Department of Planning, Industry and Environment (the Department) relating to a planning proposal seeking to amend development standards within the *Woollahra Local Environmental Plan (LEP) 2014* as it applies to 252-254 New South Head Road, Double Bay to:

- Increase the maximum permissible floor space ratio (FSR) from 1.3:1 to 2.6:1;
- Increase the maximum permissible building height from 13.5 metres to 22 metres; and
- Introduce a secondary height control of reduced level (RL) 45.90 Australian Height Datum (AHD) to a portion of the site at the New South Head Road frontage. The proponent has presented two options to implement this control:
 - **Option A:** RL 45.90 AHD within an area 11m perpendicular to both the southern and south-eastern boundaries (**Figure 1**); or
 - **Option B:** RL 45.90 AHD within an area south of a line 5m from the southern and south-eastern boundaries, running across the site (**Figure 2**).

If approved, the concept plans envisage a part 7-storey, part 8-storey residential flat building, with a part 5-storey, part 6-storey street wall height at the New South Head Road frontage,

due to the proposed secondary height control.

The proponent has indicated they are willing to initiate discussions with Council regarding a potential voluntary planning agreement (VPA) for the planning proposal.



Figure 1: Building height strategy – Option A (Source: Proponent’s rezoning review request letter)

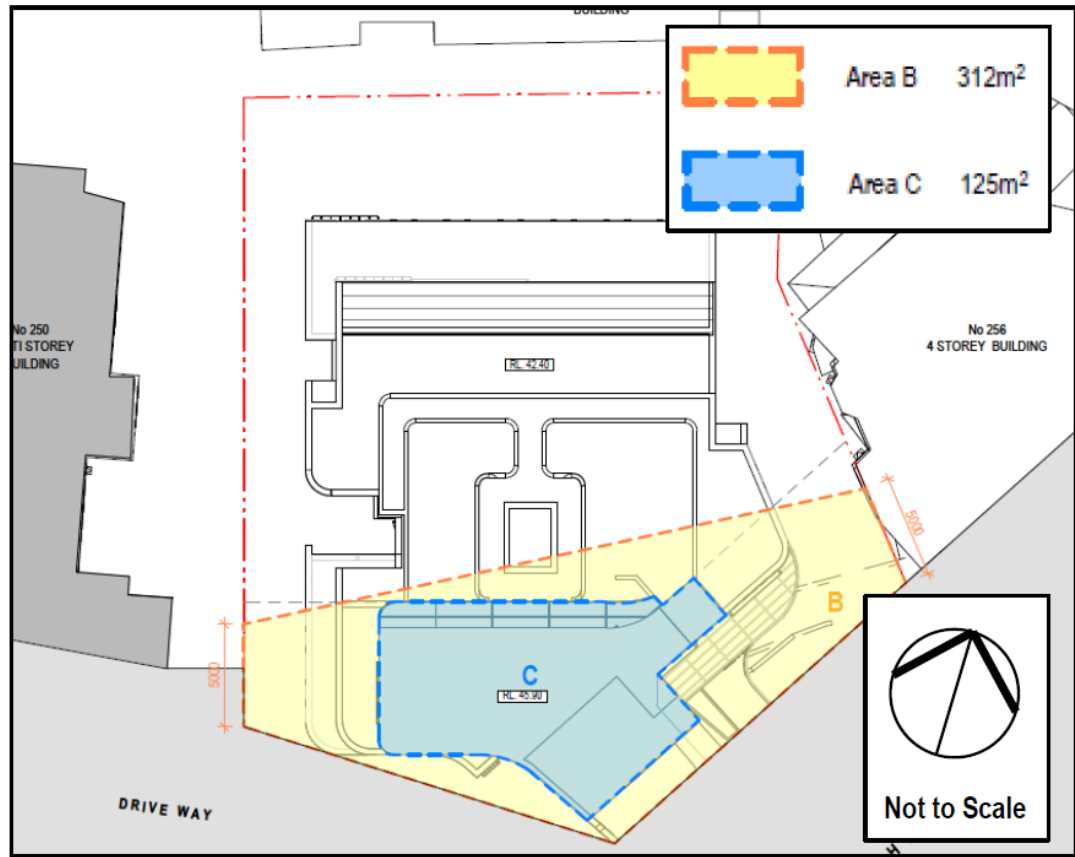


Figure 2: Building height strategy – Option B (Source: Proponent’s rezoning review request letter)

The following table outlines the planning proposal and supporting concept scheme:

Table 1: Outline of the current and proposed controls.

Control / concept scheme	Current	Proposed
Number of dwellings	8 units (existing)	33 units
Dwelling mix	Three-bedroom units	14 studios 13 one-bedroom units 6 two-bedroom units
Gross Floor Area	N/A	2,431m ²
Zone	R3 Medium Density Residential	R3 Medium Density Residential (no change)
Maximum building height	13.5m (4 storeys)	22m (7/8 storeys)
Secondary height control	N/A	RL 45.90 AHD along New South Head Road (5/6 storeys)
Maximum FSR	1.3:1	2.6:1

The rezoning review request was submitted on 23 December 2020, as Council resolved not to support the proposal at its meeting on 23 November 2020. The proponent was notified of this decision on 30 November 2020. The rezoning review request contains supplementary information (**Attachments F1-F15**).

1.1 Background

14 August 2019

A planning proposal pre-application consultation meeting was held between Council staff and the proponent. Following the meeting, the proponent was advised in a letter dated 5 September 2019 that Council staff would not support the proposal for the following reasons:

- The proposed FSR in conjunction with the requested building height would result in an excessive bulk and scale, which is inconsistent with the existing and desired future character of the Double Bay residential precinct identified in the *Woollahra Development Control Plan 2015* (DCP).
- The concept proposal illustrates an excessive site coverage when compared with the surrounding residential context.
- View sharing, solar access and overshadowing must be assessed based on the maximum building envelope created by the requested planning controls, not the envelope of the concept building.
- A traffic and transport report based on the maximum permitted development under the requested planning controls must be provided.
- The concept proposal could detrimentally impact the landscape character of the subject site and its surroundings. An arboricultural consultant must be engaged to determine the retention value of all existing trees and vegetation, especially along New South Head Road.
- Negotiations for a Voluntary Planning Agreement (VPA) should be anticipated to

account for value uplift of the subject site, should the project be approved.

17 March 2020

The proponent submitted a request for a planning proposal. The submitted proposal requested an identical height and FSR to the pre-application proposal, with an additional (lower) secondary height control of RL 45.90m AHD at the New South Head Road frontage.

24 April 2020

Council staff requested additional information, including:

- Evidence of consultation with surrounding property owners;
- A disclosure statement;
- A survey plan;
- An addition to the planning proposal report to address the Woollahra Local Strategic Planning Statement (LSPS) 2020;
- Confirmation of the number of dwellings on the site; and
- Revised photomontages, view analysis and shadow diagrams.

Council also suggested initiating negotiations for a VPA.

12 June 2020

The proponent submitted additional information responding to Council's request. The proponent advised that consultation with surrounding property owners is not a requirement of the planning proposal. Among other documents, streetscape illustrations depicting the maximum proposed building height/FSR envelope were submitted. The proponent also advised that they are willing to discuss with Council regarding a potential VPA, however, no details of benefits were mentioned.

Council staff receipted payment for a planning proposal.

2 November 2020

The planning proposal was considered at the Woollahra Environmental Planning Committee (EPC) meeting of 2 November 2020. The Committee recommended Council to not support the request for a planning proposal and to notify the applicant accordingly.

23 November 2020

Council resolved to refuse the request to prepare a planning proposal for the site for the following reasons:

- *The proposed maximum building height and FSR standards are excessive and would create a building envelope with excessive bulk and scale.*
- *The requested increase in both the maximum building height and FSR standards are inconsistent with the existing and desired future character of the Double Bay residential precinct.*
- *The proposed standards would create a building envelope that will adversely impact on the site and its surroundings, particularly with regard to streetscape; landscape character and views.*

23 December 2020

A rezoning review application was lodged with the Department.

1.2 Locality and context

The subject site is located approximately 2.8km east of the Sydney CBD and has frontage to New South Head Road, within the Woollahra Local Government Area (LGA) (**Figure 3**). The site sits approximately 200m east of Edgecliff train station and is approximately 700m south of Double Bay wharf, which provides ferry services to Rose Bay, Watsons Bay and Circular Quay.

New South Head Road is a main arterial road providing access from the city through the eastern suburbs to Vaucluse. It is well serviced by public buses, including bus routes 323, 324, 325, 326 and 327, which connect with the surrounding suburbs with several stops within 100m of the site. The bus services in the vicinity to the site also provide access to Bondi Junction. Bus services are available seven days a week and are typically available every 10 minutes during peak hour and every half hour off-peak.

The site is located to the east of the ridge line where New South Head Road descends towards the lower lying basin of the Double Bay Town Centre. The street frontage of the site is elevated above the rest of the property.

The site is not located within a heritage conservation area, however, there are several heritage items in the vicinity. The closest heritage item is a four-storey brick commercial building to the southwest at 287-289 New South Head Road (item 240, Former Post Office and interiors) (**Figure 4**).



Figure 3: The locality and context of the subject site (Source: Nearmap, 2020)

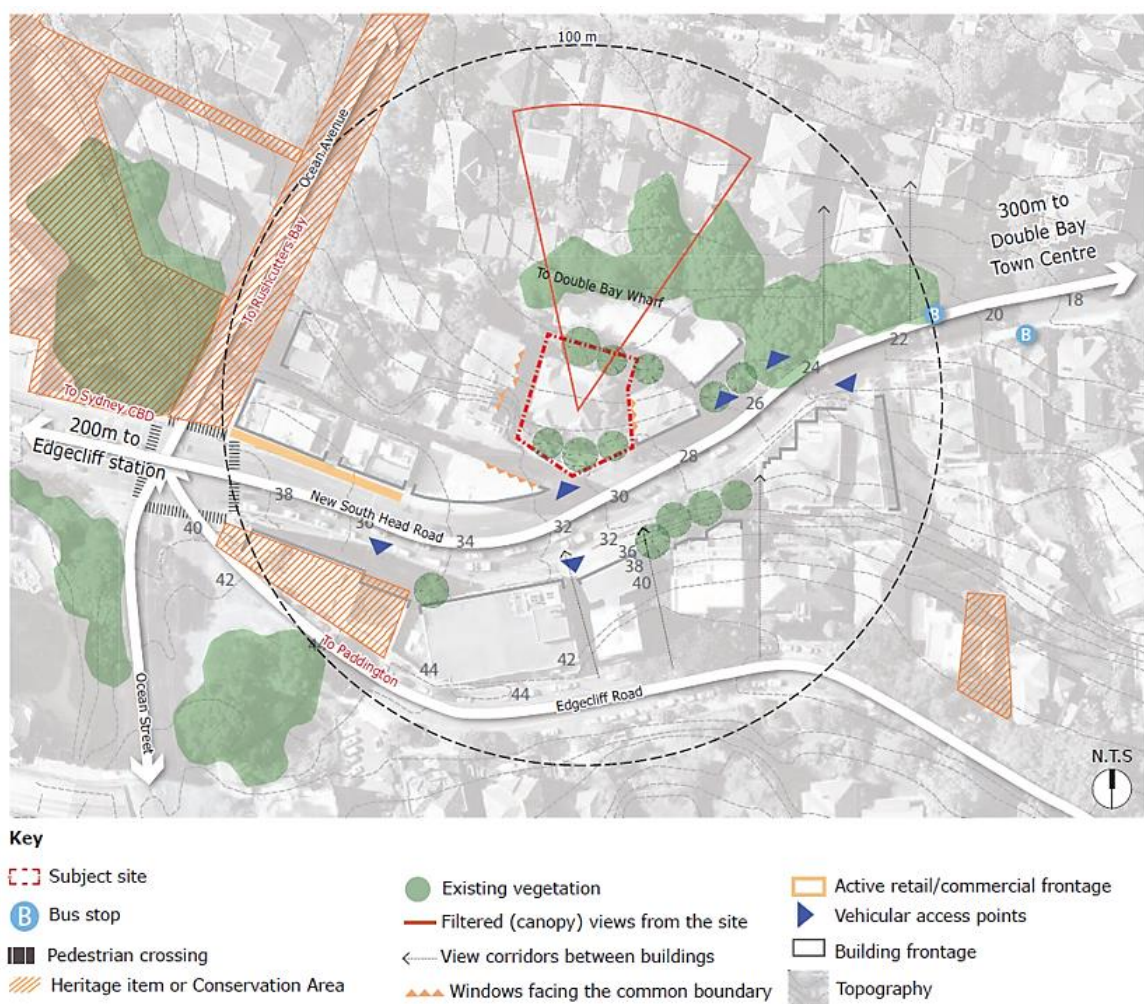


Figure 4: The key characteristics and immediate context of the site. The light brown hatchings identify nearby heritage items and the green shading identifies existing vegetation (Source: Proponent's Urban Design Report).

1.3 Site description

The subject site is located at 252-254 New South Head Road, Double Bay, and is legally described as SP11702.

The site is irregular in shape and has a total area of 934.9 m².

The site is occupied by a four-storey residential flat building with a hipped tile roof, known as the 'Dalkeith Building'. The existing building contains eight units and is accessible via two pedestrian entrances at its frontage on New South Head Road.

There is no vehicle parking available on the site (**Figures 5-9**).



Figure 5: The subject site, looking north-east from New South Head Road (Source: Google Maps 2020)



Figure 6: The subject site (containing the Jacaranda tree), looking north-west from New South Head Road (Source: Google Maps 2020)



Figure 7: The subject site as viewed from the adjoining property at 250-256 New South Head Road, looking east (Source: Proponent's planning proposal report).



Figure 8: The western and southern elevations of the building on the site. The existing building contains three levels below street entry level (Source: Proponent's planning proposal report).



Figure 9: The front (southern) elevation of the building on the site (Source: Proponent's Urban Design report).

The subject site is adjacent to several residential flat buildings ranging from two to seven storeys on both the northern and southern side of New South Head Road (**Figure 10**).



Figure 10: A detailed aerial view of the subject site (outlined in red), relative to surrounding development (Source: Nearmap 2021).

Northern side of New South Head Road

The streetscape character of the northern side of New South Head Road includes a combination of older buildings alongside larger scale contemporary development. The street setbacks vary and generally increase as New South Head Road descends east towards Double Bay.

The land immediately to the east of the subject site, at 256-258 New South Head Road, consists of a three-storey inter-war residential flat building with a hipped tile roof (**Figure 11**). The land to the northeast of the site, at 260 New South Head Road, consists of a three-storey walk-up residential flat building (**Figure 12**). To the west of the site include a recently developed part five-, part six-storey residential flat building with 19 units at 240-246 New South Head Road (**Figure 13**), and a three-storey walk-up residential flat building at 248-250 New South Head Road which has an access handle directly adjacent to the southern portion of the subject site (**Figure 14**).



Figure 11: 256-258 New South Head Road, a three-storey inter-war residential flat building directly east of the site, as seen from New South Head Road (Source: Google Maps 2020).



Figure 12: 260 New South Head Road, a three-storey residential flat building northeast of the site, as viewed from New South Head Road (Source: Google Maps 2020).

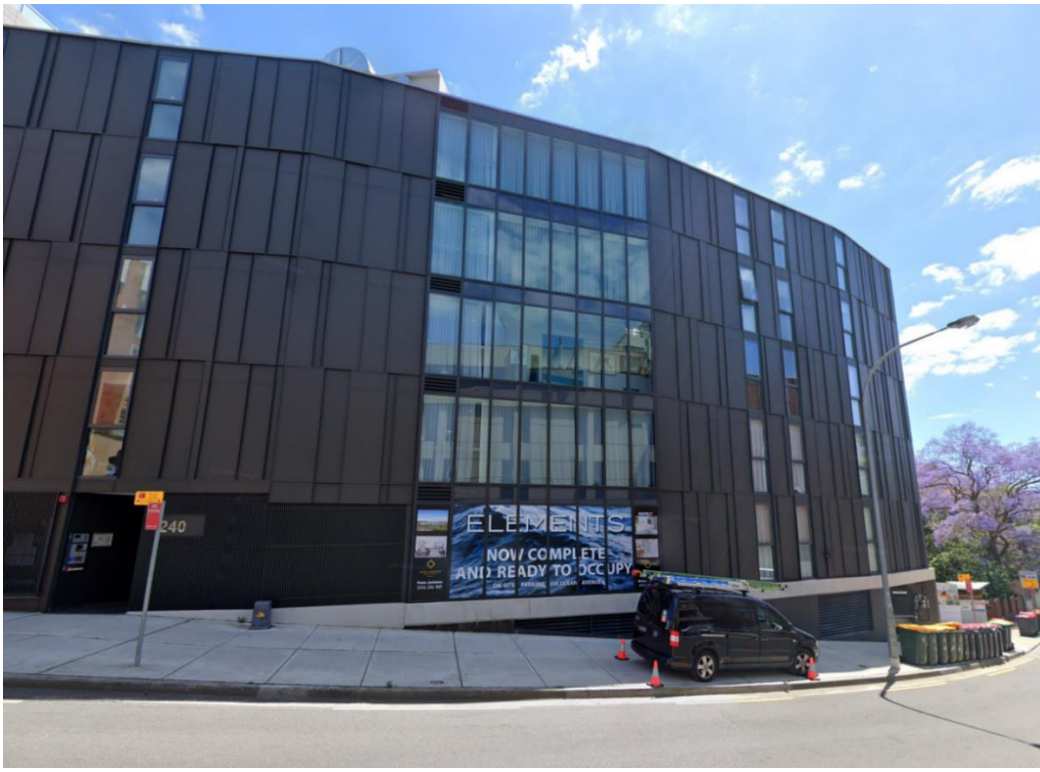


Figure 13: 240-246 New South Head Road, a recently completed residential flat building directly west of the site, as viewed from New South Head Road (Source: Google Maps 2020).



Figure 14: 248-250 New South Head Road, a residential flat building northwest of the site, with an access driveway running along the southern portion of the subject site (Source: Proponent's planning proposal report).

Southern side of New South Head Road

The southern side of New South Head Road has variation in heights and setbacks, like the northern side. However, due to the sloping topography, developments fronting Edgecliff Road are visible and form part of a layered streetscape profile when viewed from New South Head Road.

The development directly opposite the subject site, at 311 New South Head Road, consists of the 'Edgecliff Towers', being two eight-storey residential flat buildings facing New South Head Road and Edgecliff Road at the rear respectively (**Figure 15**). To the southwest, at 287-289 New South Head Road, are a heritage listed four-storey commercial

building (item 240, Former Post Office including interiors) (**Figure 16**) and a four-storey Telstra telephone exchange at 297 New South Head Road (**Figure 17**). To the southeast, at 315-317 New South Head Road, is a contemporary four-storey residential flat building (**Figure 18**).



Figure 15: 311 New South Road (with 365A Edgecliff Road at the rear), two eight-storey residential flat buildings on the southern side of the street, as seen from New South Head Road (Source: Google Maps 2020).



Figure 16: 287-289 New South Head Road, a heritage-listed four-storey commercial building southwest of the subject site, as seen from New South Head Road (Source: Google Maps 2020).



Figure 17: 297 New South Head Road, a four-storey Telstra telephone exchange building to the southwest of the site (Source: Google Maps 2020).



Figure 18: 315-317 New South Head Road, a contemporary four-storey residential flat building to the southeast of the site, as viewed from New South Head Road looking west (Source: Google Maps 2020).

1.4 Current planning provisions

Under the Woollahra LEP 2014, the following controls apply to the site:

- R3 Medium Density Residential zoning (**Figure 19**)
- Maximum building height of 13.5m (**Figure 20**)
- Maximum FSR of 1.3:1 (**Figure 21**)

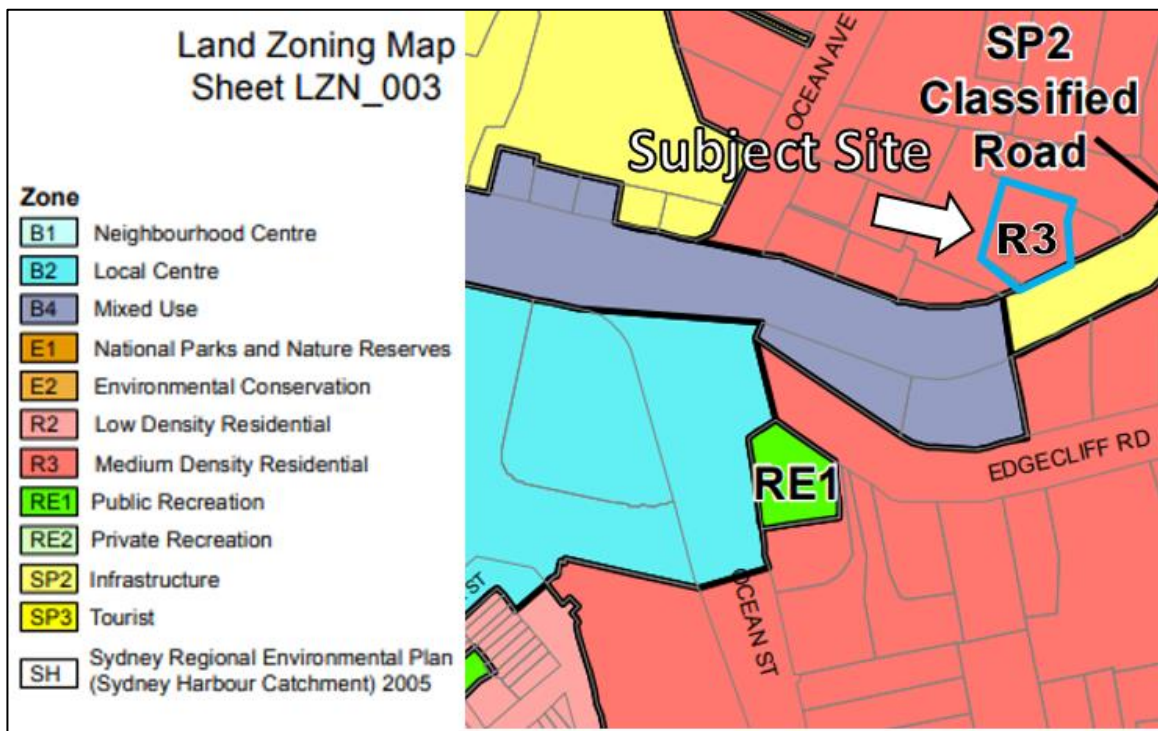


Figure 19: Current land zoning map under the Woollahra LEP 2014, with the site outlined in blue

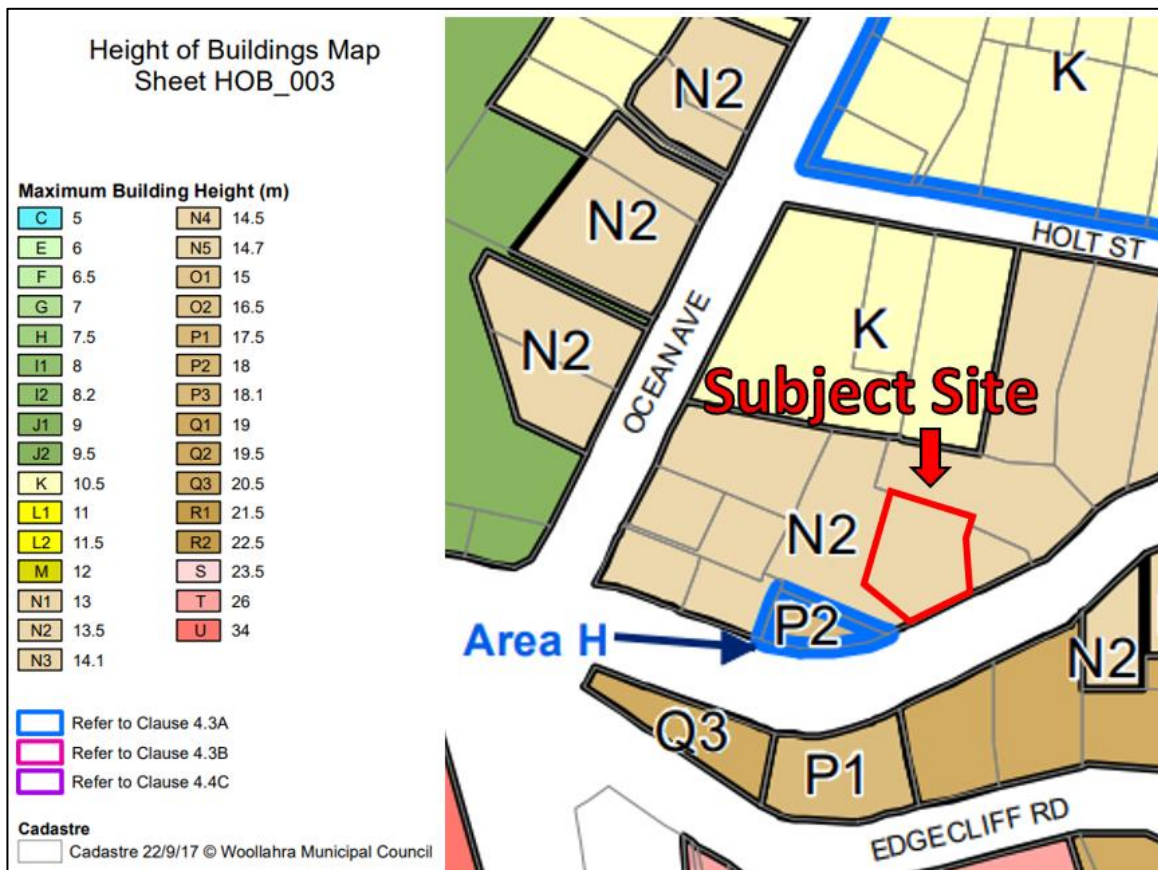


Figure 20: Current height of buildings map under the Woollahra LEP 2014, with the site outlined in red

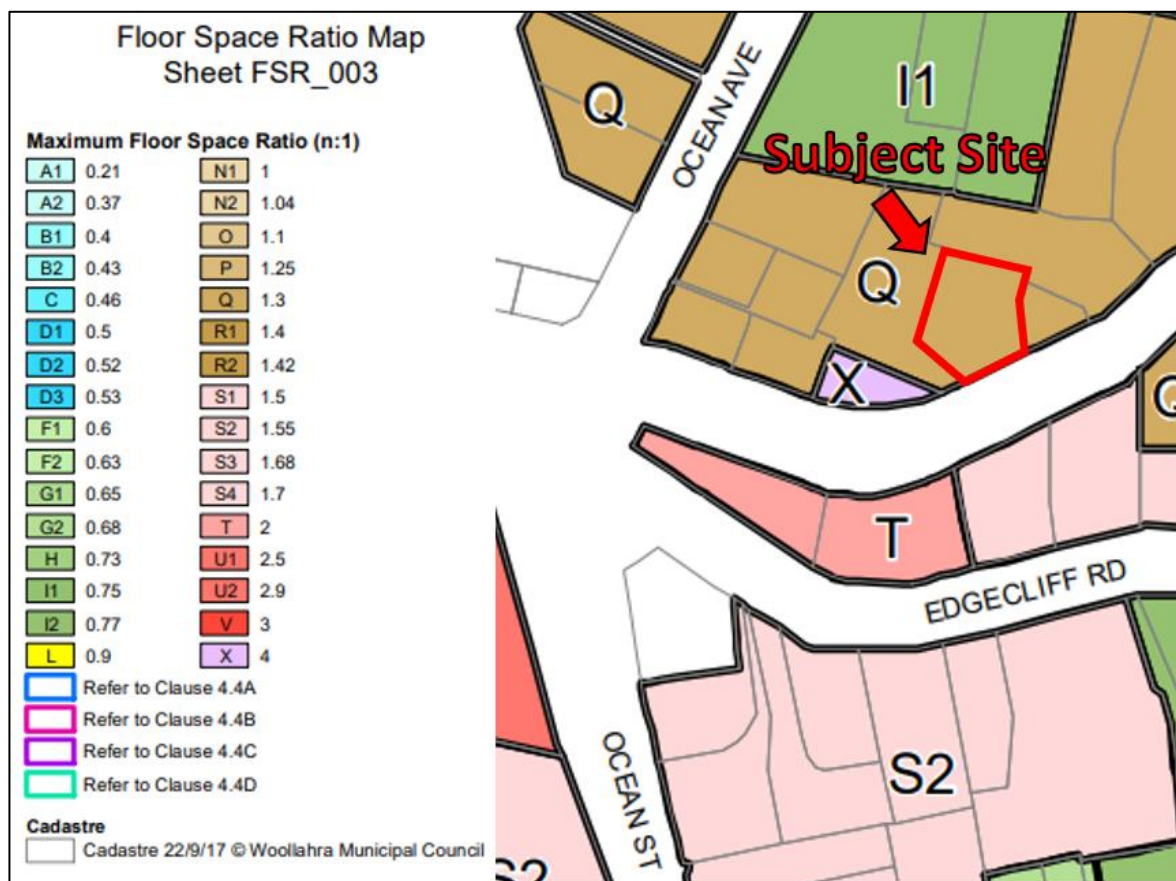


Figure 21: Current FSR map under the Woollahra LEP 2014, with the site outlined in red

1.5 Proposed planning provisions

The planning proposal seeks to amend the Woollahra LEP 2014 to:

- Increase the maximum permissible floor space ratio (FSR) from 1.3:1 to 2.6:1;
- Increase the maximum permissible building height from 13.5 metres to 22 metres; and
- Introduce a secondary height control of reduced level (RL) 45.90 Australian Height Datum (AHD) to a portion of the site at the New South Head Road frontage. The proponent has presented two options to implement this control:
 - **Option A:** RL 45.90 AHD within an area 11m perpendicular to the southern boundaries; or
 - **Option B:** RL 45.90 AHD within an area south of a line 5m from the southern boundaries, running across the site.

It is proposed to include a subclause under *Clause 4.3A Exceptions to building heights* in the LEP, to prescribe the secondary height control. While the proposal (see **Figures 22 and 23**) describes the area subject to the control as “Area A” and “Area B”, the subclause refers to the height control as “Area J”. The proposed changes to the LEP clause are underlined below:

- **Option A (Figure 22)**

4.3A Exceptions to building heights (Areas A–J)

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

- (a) *to ensure new development is consistent with the desired future character of the neighbourhood,*

- (b) to ensure new development is consistent with the surrounding buildings and the streetscape,
- (c) to protect views and vistas that are in the public domain.
- (2) This clause applies to land identified as “Area A”, “Area B”, “Area C”, “Area D”, “Area E”, “Area F”, “Area G”, “Area H” and “Area J” on the Height of Buildings Map.
- (3) Despite clause 4.3, the height of a building on land to which this clause applies, in an Area indicated in Column 1 of the table to this clause, at the highest part of the land (exclusive of any access handles), must not exceed the height shown opposite that Area in column 2.

Column 1	Column 2
Area A	3.0 metres
Area B	4.0 metres
Area C	6.5 metres
Area D	7.5 metres
Area E	8.0 metres
Area F	10.5 metres
Area G	11 metres
Area H	14 metres
Area J	<u>22 metres, other than an area measured 11m perpendicular to the southern and south-eastern boundaries, which must not exceed RL45.90AHD.</u>



Figure 22: Building height strategy – Option A (Source: Proponent’s Rezoning Review letter)

- **Option B (Figure 23)**

4.3A Exceptions to building heights (Areas A–J)

- (1) The objectives of this clause are as follows:
- (a) to ensure new development is consistent with the desired future character of the neighbourhood,

- (b) to ensure new development is consistent with the surrounding buildings and the streetscape,
- (c) to protect views and vistas that are in the public domain.
- (2) This clause applies to land identified as “Area A”, “Area B”, “Area C”, “Area D”, “Area E”, “Area F”, “Area G”, “Area H” and “Area J” on the Height of Buildings Map.
- (3) Despite clause 4.3, the height of a building on land to which this clause applies, in an Area indicated in Column 1 of the table to this clause, at the highest part of the land (exclusive of any access handles), must not exceed the height shown opposite that Area in column 2.

Column 1	Column 2
Area A	3.0 metres
Area B	4.0 metres
Area C	6.5 metres
Area D	7.5 metres
Area E	8.0 metres
Area F	10.5 metres
Area G	11 metres
Area H	14 metres
Area J	<u>22 metres, with reference to Clause 4.3A(4).</u>

- (4) Despite clause 4.3(3), the height of a building in Area J indicated in Column 1 of the table to this clause, must not exceed the height shown in Column 2, for the area as specified below.

Column 1	Column 2
<u>Area J</u>	<u>RL45.90AHD: for the area between a line drawn from the eastern and western boundaries, measured 5m from the intersections of those boundaries with the southern and south-eastern boundaries; and the southern and south-eastern boundaries.</u>

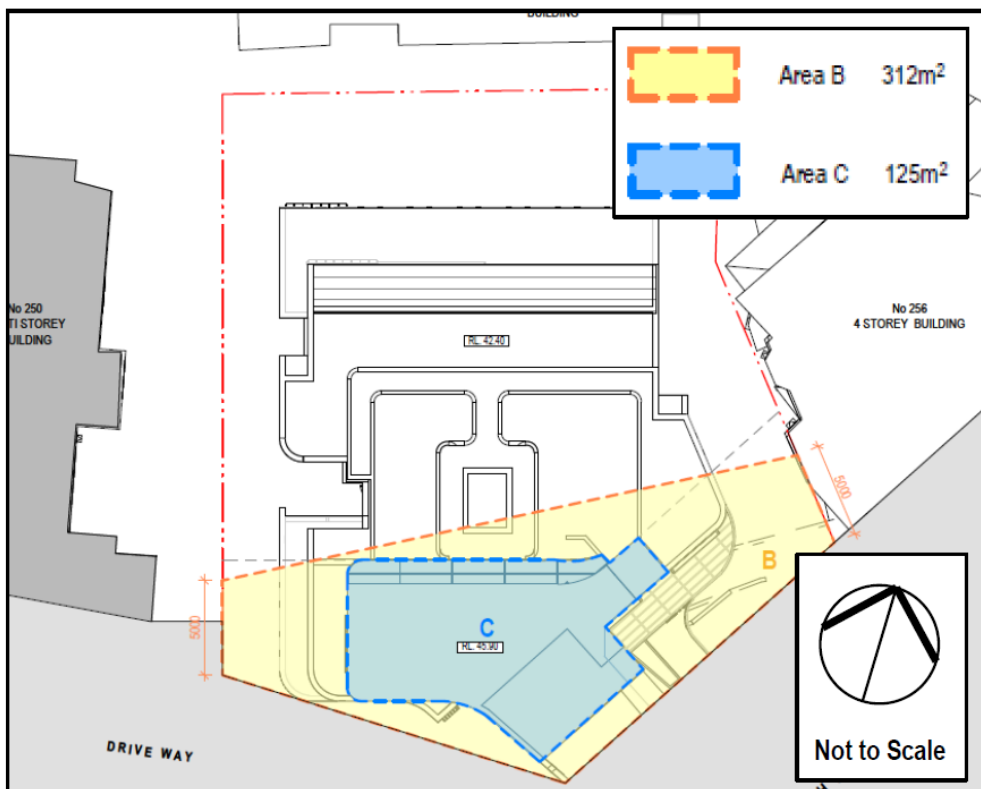


Figure 23: Building height strategy – Option B (Source: Proponent's Rezoning Review letter).

No change to the existing land use zoning is proposed.

No draft LEP maps in standard format were provided as part of the planning proposal.

The planning proposal was accompanied by concept plans that envisage a part 7-, part 8-storey residential flat building with a street wall scale of part 5, part 6 storeys at the New South Head Road frontage, as a result of the RL 45.90m AHD secondary height control (Figures 24-25).



Figure 24: Perspective image of the proposed building (Source: architectural drawing set).



Figure 25: Proposed building envelope, with the 22m maximum height limit shown in dashed lines and secondary height plane of RL 45.90m AHD shown in green (Source: Urban Design Report).

The proponent states that the master plan seeks to provide a built form which is compatible with the streetscape scale and responds to the various alignments created by the irregular site edges (**Figure 26-27**), as follows:

- Part 5, part 6-storey street wall scale at the New South Head Road frontage;
- A smaller footprint for the upper level to minimise visual bulk;
- Pedestrian entry at the southern corner of the site, where the existing Jacaranda tree will be retained;
- Vehicular entry located by adjoining the driveway of the neighbouring site to the southwest;
- 3m to 4.5m setbacks for improved side boundary conditions, accommodating buffer vegetation and improving amenity; and
- A built form response to the sloping terrain, ensuring the form ‘steps’ with the topography, taking advantage of the northern aspect and view opportunities.

Proposed built form outcomes include:

- A maximum height of up to 8 storeys (maximum RL 46.15 including plant and lift overrun);
- A maximum of 6 storeys to the street (RL 45.90);
- A minimum setback of 1.6m to the southern (front) boundary;
- A minimum setback of 6m to the northern (rear) boundary;
- A minimum setback of 3m to the eastern boundary;
- A minimum setback of 3m to the western boundary;
- Vehicle access from New South Head Road; and
- Communal open space on roof top (RL 42.40).

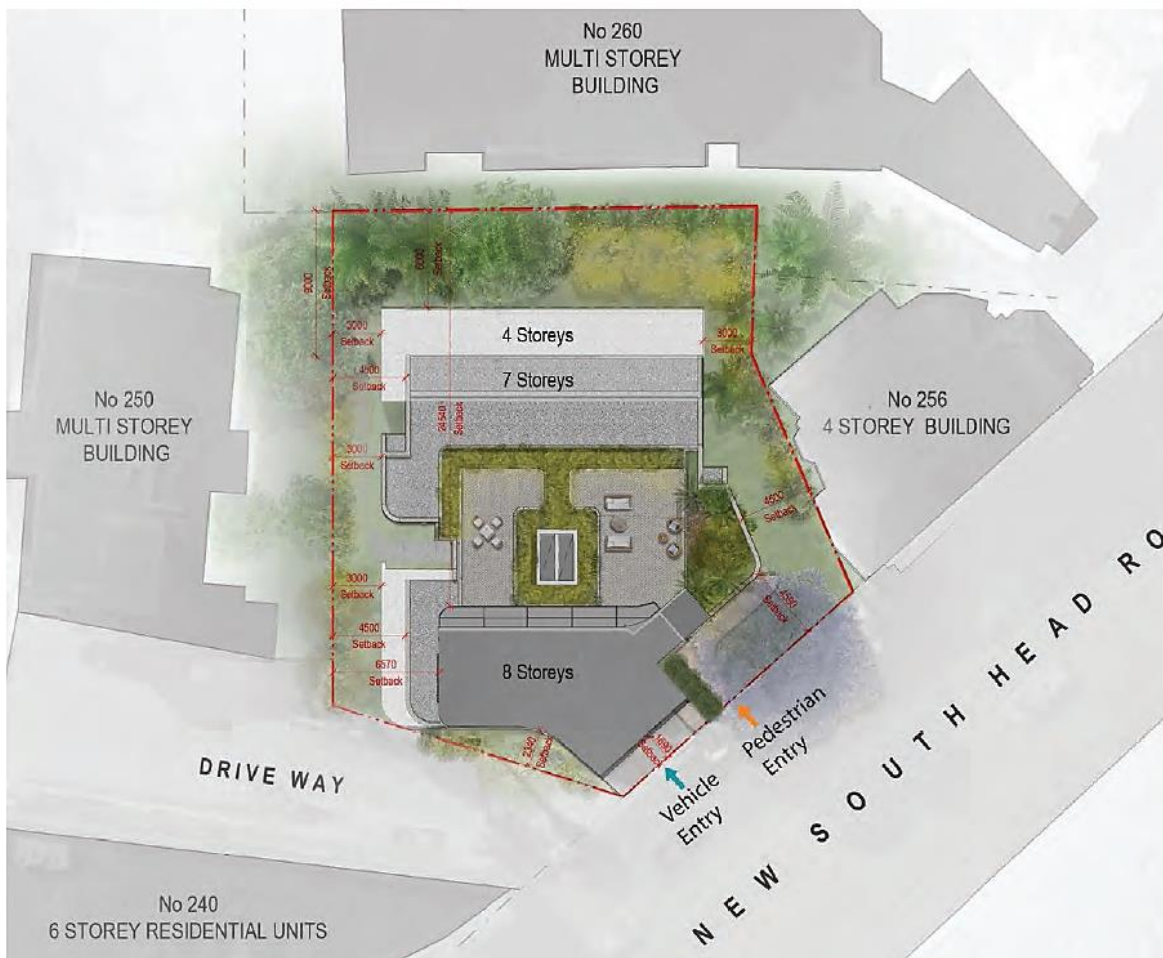


Figure 26: Diagram showing the concept masterplan (Source: architectural drawing set).

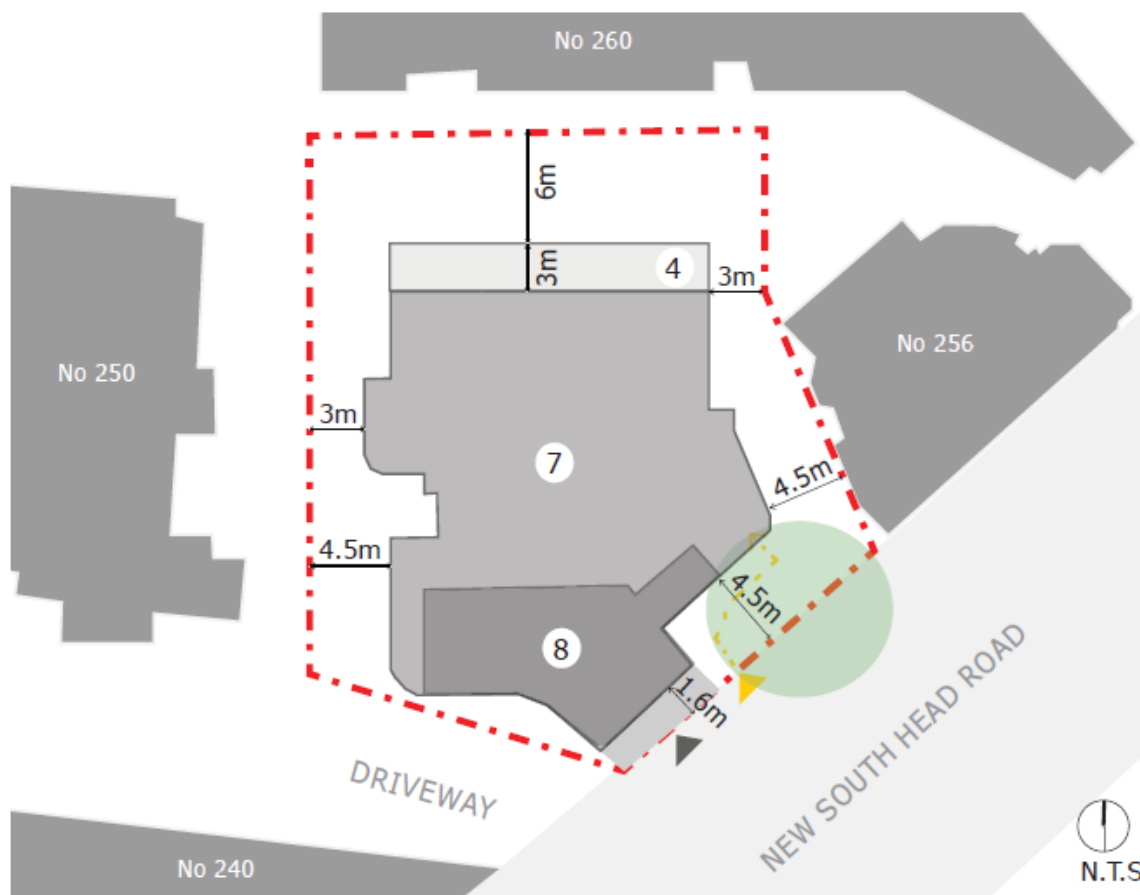


Figure 27: Diagram showing the preferred site configuration (Source: Urban Design Report).

A comparison between the current and proposed controls is provided in **Table 2** below.

Table 2: Comparison between existing and proposed planning controls

Control	Current	Proposed
Zone	R3 Medium Density Residential	R3 Medium Density Residential
Maximum building height	13.5m (approx. 4 storeys)	22m (approx. 7/8 storeys)
Secondary height control	N/A	RL 45.90 AHD along New South Head Road (approx. 5/6 storeys)
Maximum FSR	1.3:1	2.6:1

2. INFORMATION ASSESSMENT

Does the proposal seek to amend a zone or planning control that is less than five years old?

No. The Woollahra LEP 2014 commenced on 23 May 2015.

2.1 Strategic merit test

Consistency with the relevant regional plan outside the Greater Sydney region, district plan within the Greater Sydney region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment.

Proponents will not be able to depend on a draft regional, district or corridor/precinct plan when the Minister for Planning and Public Spaces or the Department of Planning, Industry and Environment have announced that such a plan will be updated before being able to be relied on.

Greater Sydney Region Plan and Eastern City District Plan

The Greater Sydney Region Plan - *A Metropolis of Three Cities* identifies a vision of three cities where most residents live within 30 minutes of their jobs, education and health facilities, services and great places. The Eastern City District Plan (District Plan) is one of five district plans to guide implementation of the Region Plan.

The proponent's comments on the planning proposal's consistency with the District Plan within the Rezoning Review request letter (by GSA) are summarised in the table below. Direct quotes are presented in *italics* (**Table 3**).

Table 3: Alignment of the planning proposal with the Region Plan and District Plan

Greater Sydney Region Plan Objective	Eastern City District Planning Priority	Proponent response
Objective 4 Infrastructure use is optimised	Planning Priority E1 Planning for a city supported by infrastructure	The site is located approximately 300m from Edgecliff Train Station. It is well-serviced by buses and is close to various parks, facilities and services. Further, it is unlikely that the proposed development will generate increased demand for public infrastructure.
Objective 7 Communities are healthy, resilient and socially connected	Planning Priority E4 Fostering healthy, creative, culturally rich and socially connected communities	The planning proposal seeks to increase the residential capacity in the Double Bay. Future development on the subject site will also feature adaptable apartments and lift access, ensuring it is safe and inclusive.
Objective 10 Greater housing supply Objective 11 Housing is more diverse and affordable	Planning Priority E5 Providing housing supply, choice and affordability, with access to jobs, services and public transport	The proposal will enable the redevelopment of the site to provide additional housing and broaden the choice of housing in Double Bay, which has access to jobs, services and public transport.
Objective 12 Great places that bring people together	Planning Priority E6 Creating and renewing great places and local centres, and respecting the District's heritage	Double Bay is identified as a local centre in the District Plan, and it is intended that the planning proposal will contribute to the desired balance of land uses in the centre. Further, the proposal is consistent with actions that seek to encourage stronger local communities through a place-based planning approach. The proposal will also ensure that a collaborative approach is undertaken throughout each phase of the development process. <i>The report concludes that: the concept design addresses New South Head Road and will better contribute to the streetscape. The concept built form will increase available residential accommodation, which is important to enhance the capacity of Double Bay local centre. The local centre vision is for an appealing place where people want to live, and that meet the needs of residents. The planning proposal facilitates future redevelopment to achieve that outcome.</i>
Objective 31 Public open space is accessible, protected and enhanced	Planning Priority E16: Protecting and enhancing scenic and cultural landscapes	The concept design ensures that views to the harbour and foreshore are protected and maintained for surrounding developments and public spaces. The concept design will also contribute to the evolving cultural landscape of New South Head Road, which currently contains a variety of contemporary mixed-use and residential flat buildings.

Consistency with a relevant local strategy that has been endorsed by the Department.

Woollahra Local Strategic Planning Statement

The *Woollahra Local Strategic Planning Statement* (LSPS) was finalised by Council in March 2020 and subsequently assured by the Greater Sydney Commission. The LSPS sets out a 20-year land use vision to guide land use planning for the LGA.

The following information is based on the Rezoning Review letter dated 23 December 2020, outlined (in *italics*) below (**Table 4**).

Table 4: Alignment of proposal with Woollahra Local Strategic Planning Statement

Planning Priority	Response
Liveability	
Planning Priority 1: Planning for integrated land use and transport for a healthy, sustainable, connected community and a 30-minute city.	<i>The proposal will provide new housing in close proximity to buses along New South Head Road, and the Edgecliff Railway Station and Bus Interchange. These services provide connections to a range of local centres, and the Sydney CBD. Accordingly, additional dwellings with easy access to a range of economic centres and employment opportunities will contribute to the plan for an integrated and sustainable 30 minute city.</i>
Planning Priority 2: Planning for a community supported by infrastructure that fosters health, creativity, cultural activities and social connections.	<i>The planning proposal will provide a range of housing options for young professionals, couples, and downsizers. Generous internal and external communal space is proposed in the concept plans associated with the planning proposal, to foster social interaction and connections between neighbours. The site's proximity to the vibrant Double Bay Centre and nearby parks encourages healthy lifestyles, and provides opportunities for participation in recreational and cultural activities for future residents.</i> <i>Accordingly, in our opinion, the proposal contributes to the relevant planning priorities for infrastructure and collaboration, and will assist in achieving a 30-minute city.</i>
Productivity	
Planning Priority 5: Conserving our rich and diverse heritage.	<i>The subject site and existing building are not heritage items and are not within a heritage conservation area. The planning proposal will permit a future contemporary, architecturally-designed residential flat building that aligns with the desired future character of the area.</i> <i>Accordingly, the proposal will give effect to the LSPS by providing additional housing in an ideal location and will strategically align with State Government Plans, including the Eastern City District Plan.</i>

The following local strategic plan is relevant to the planning proposal. However, it is not endorsed by the Department:

Woollahra Community Strategic Plan 2030

The *Woollahra Community Strategic Plan 2030* identifies the strategic direction and integrated planning framework for the Woollahra Municipality. The planning proposal notes that the key relevant opportunities and challenges include:

- *Responding to the housing targets set by the State Government.*
- *Providing a diverse range of housing choices to meet the variety of household types, income and lifestyles.*

According to the proposal, the future development will provide approximately 33 new studio, one-, and two-bedroom apartments. This is an additional 25 residential apartments compared to the existing building. Revitalising the site will also help deliver a new building with enhanced amenities, improved accessibility and new apartments to cater to a mix of population types with varying incomes.

Responding to a change in circumstances, such as investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.

The planning proposal notes that the current zoning, building height and FSR of the site do not reflect its future development potential. Therefore, the proposal responds to the strategic planning opportunities for the site and its suitability for future medium density residential development in a location where there is strong identified demand for increased housing stock and diversity.

Recent Council strategic planning studies

Council has recently released two strategic planning documents relevant to the proposal.

The “*Review of the Edgecliff Commercial Centre Planning Controls*” was reported to Council’s Strategic and Corporate Committee on 29 March 2021. The Committee resolved to recommend Council to exhibit the Review documents.

The “*Review of the Double Bay Planning Controls*” was also reported to Council’s Strategic and Corporate Committee on 29 March 2021. The Committee resolved to defer the matter to the 19 April 2021 Strategic and Corporate Committee meeting. At the 19 April 2021 meeting, the Committee resolved to recommend to Council:

“That Council reviews and reaffirms the existing controls in the Woollahra LEP 2014 and the Woollahra DCP 2015 consistent with the desired future character, and that we make it clear to all approval authorities that these should remain in force.”

The subject site is outside the study area boundaries of both strategic planning reviews.

2.2 Site-specific merit test

The natural environment (including known significant environmental values, resources or hazards).

The planning proposal states that the subject site is within an established residential and commercial area that is not identified by Council as having any particular ecological significance or environmental hazards. Therefore, a site-specific increase in building height and FSR would have no effect on the natural environment.

Trees and vegetation

An Arboricultural Impact Assessment (**Attachment F15**) was undertaken due to the Tree Preservation Order enforced in the Council area. The assessment concluded the following (**see Figure 28**):

- The Jacaranda tree at the front of the site is recommended for retention due to its vegetation value. There will be an acceptable level of impact on this tree from the development proposed.
- Two palm trees are nominated as having medium priority for retention and are located within the proposed building footprint at the New South Head Road frontage. The report recommended that these trees be relocated to the rear of the site.
- All trees in adjoining sites will not be impacted during construction and future development will not impact their long-term viability.
- Nine trees are nominated as having a low value rating and have been recommended for removal for the following reasons:

- Six trees are proposed for removal to facilitate development within the proposed building footprint; and
- Three trees are recommended for removal as they do not meet the requirements of the assessment.
- The proposal will also include the provision of a landscaped area on the New South Head Road frontage, and a future development application will include consideration of landscaping to enhance the character of the site.

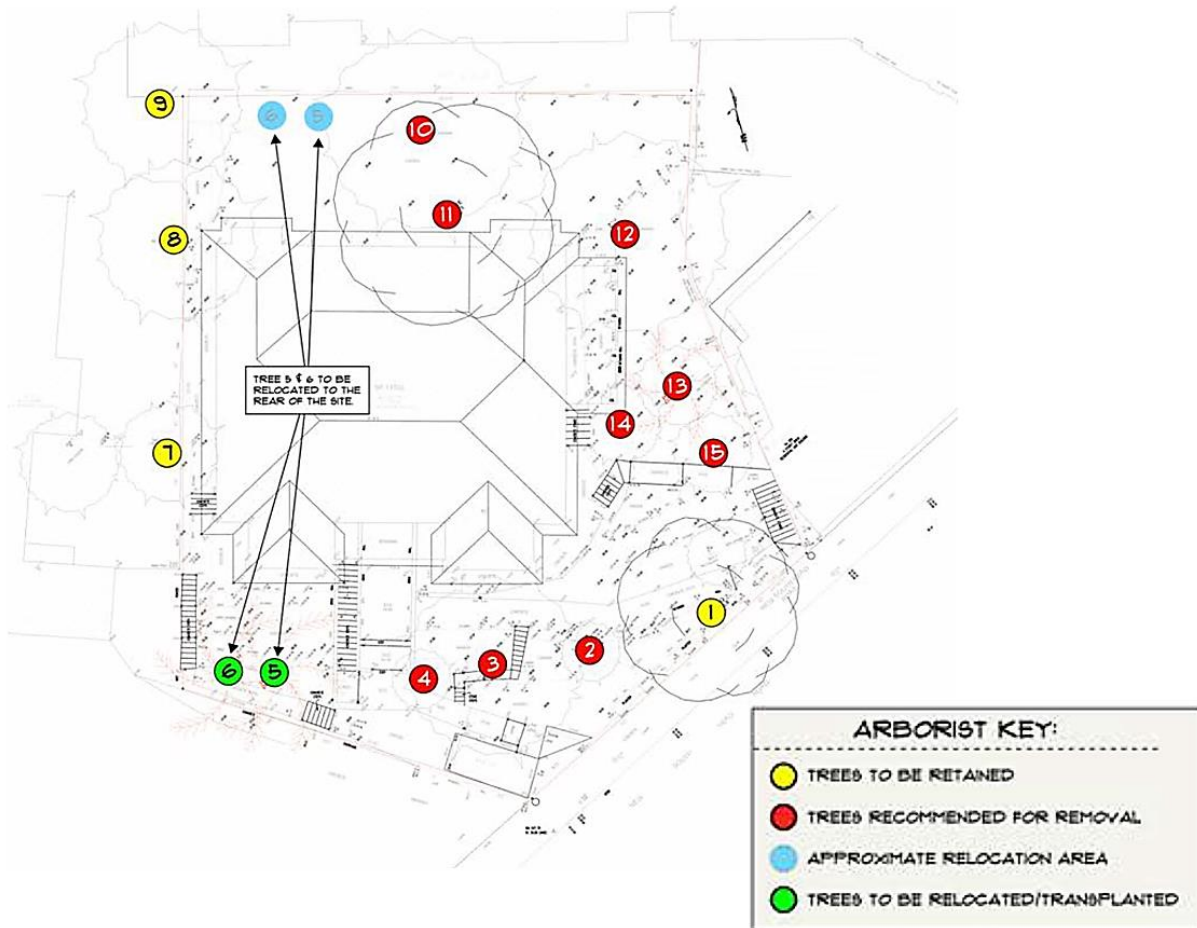


Figure 28: The site survey within the Arborist Report outlining the proposed vegetation management strategy.

The existing uses, approved uses and likely future uses of land in the vicinity of the proposal.

Urban design

The planning proposal includes an Urban Design Report (**Attachment F7**). The report concludes that the scale of the development proposed will improve the streetscape profile by transitioning to taller development in proximity to the Edgecliff and Double Bay Centres, and responding to recent approvals in the vicinity of the site. This report prepared by the proponent also states:

- The changes to the planning controls will facilitate the development of a part 7- and part 8-storey residential flat building with a contemporary built form and shared car parking spaces at street level (Level 4).
- A height limit of RL 45.90 AHD has been proposed at the New South Head Road frontage to ensure the maximum building height will adhere to Council's desired streetscape outcomes, resulting in a proposed frontage ranging from 4 to 6 storeys. This will be consistent with adjacent wall heights, which range from 2 to 8 storeys (**Figure 29**).

- The height amendments will provide a building envelope consistent with the evolving nature of the streetscape, through consideration of the character and future use of Double Bay as a local centre with a perimeter of increased residential density. The concept proposal below shows the streetscape elevation of the proposed development (Figure 30).

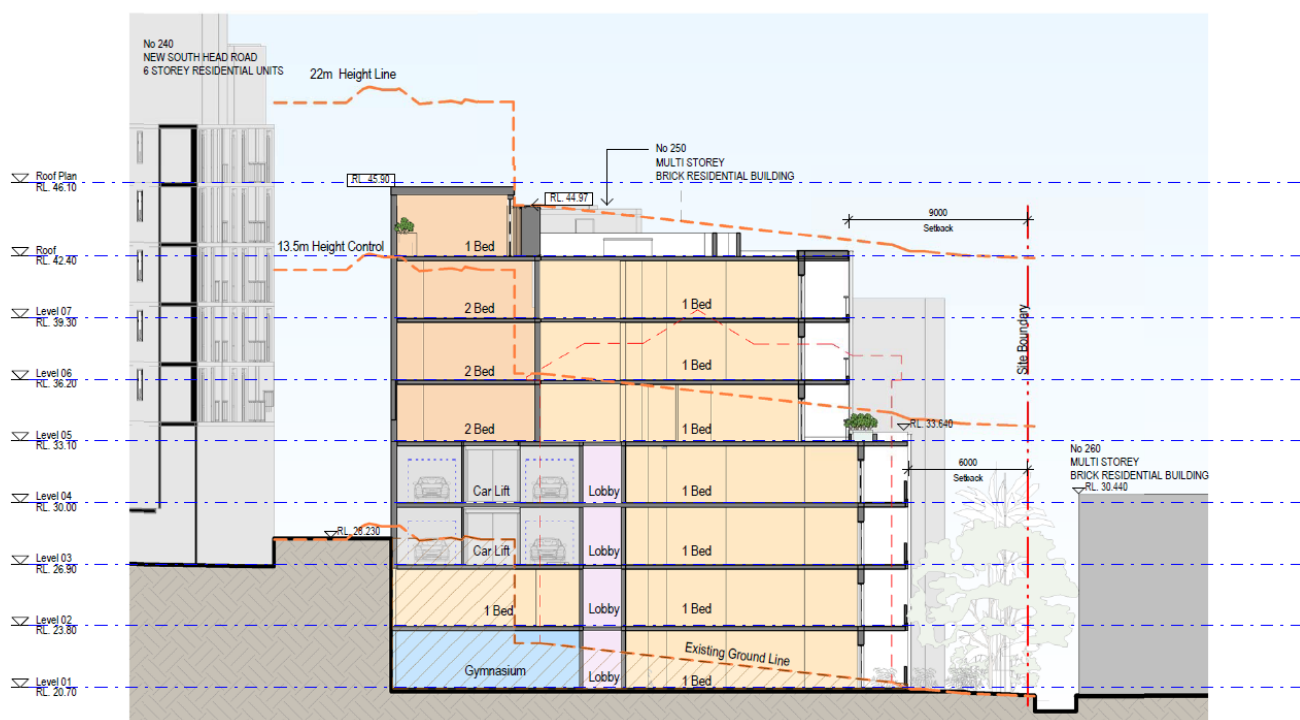


Figure 29: Cross-section of the concept scheme (Source: Architectural drawing set).

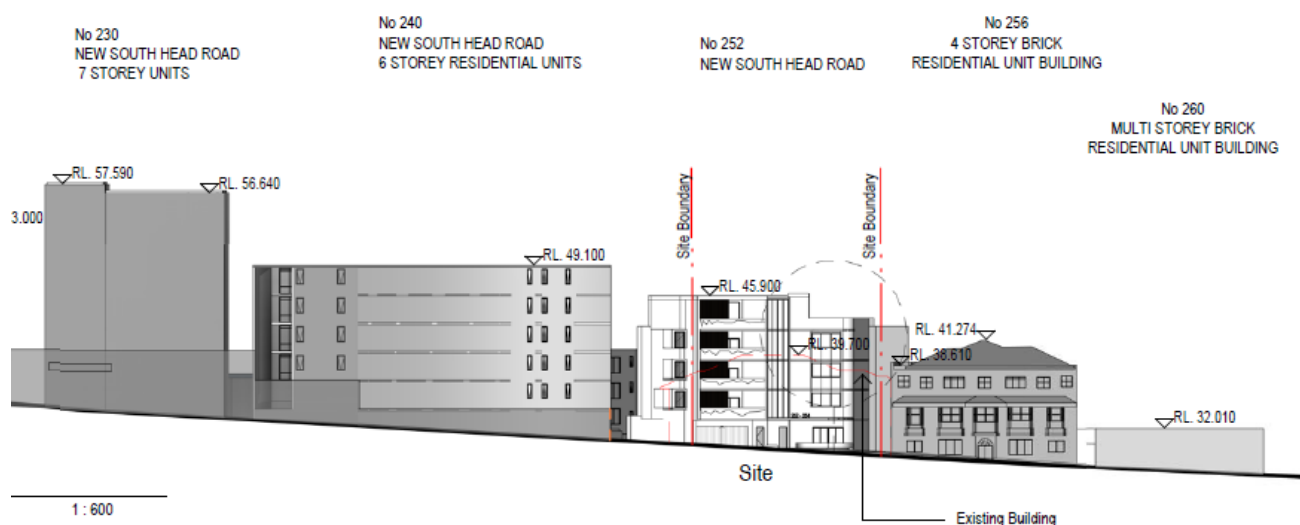


Figure 30: Streetscape elevation with RL 45.90 AHD building height (Source: Architectural drawing set)

- The amendments proposed to the FSR are to accommodate the increased height towards the middle and rear of the site, due to the steep topography.
- The Urban Design report refers to Council's Opportunity Sites Study (2010). This study identified sites with potential for increased dwelling capacity to meet the housing targets set out by the NSW Government at the time. Around Edgecliff, 4 sites were identified in the above document:
 - The Edgecliff Centre: 203-233 and 235-285 New South Head Road;

- Eastern Gateway: 240-246 New South Head Road (located directly west of the subject site);
- Western Gateway: 73-79 New South Head Road; and
- Western Gateway: 2-14 New South Head Road.

Only the “Eastern Gateway” site has been redeveloped, as the remaining three sites were deferred by Council for an investigation into the existing and future height profiles and densities along New South Head Road. The proponent contends that the subject site should be considered as part of this investigation, due to its proximity to the Eastern Gateway site.

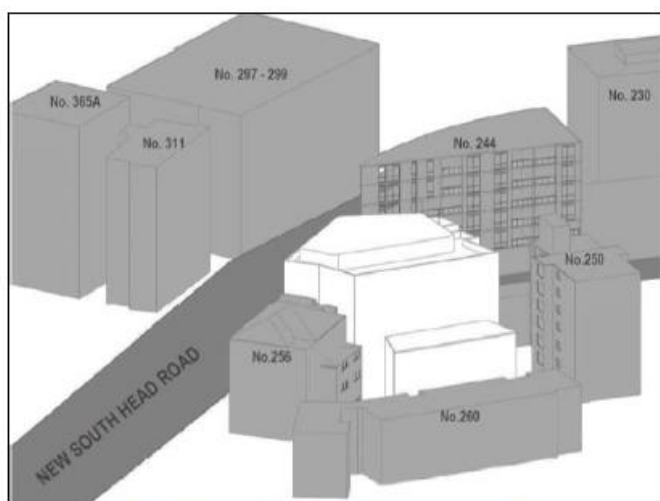
Solar access and natural ventilation

The planning proposal includes a test of the Apartment Design Guide (ADG) requirements for solar access and cross ventilation, and states that these requirements are complied with. The findings are summarised below:

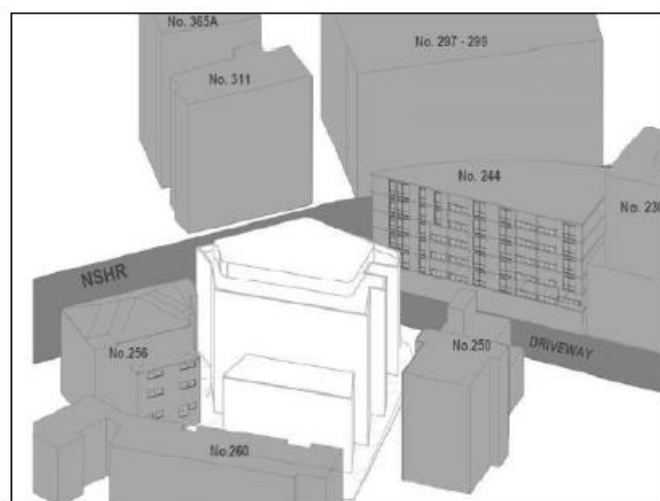
- 78.8% of units (26 out of 33 units) achieve minimum 2 hours of sunlight during mid-winter;
- 2 units (6%) receive less than 15 minutes of solar access;
- 233.8 sqm of communal open space is provided, which equates to 25% of the total site area. Testing demonstrates that 100% of the rooftop and 20% of the ground floor communal open space will receive direct sunlight in mid-winter (an average of 37% of total communal open space); and
- 60.6% of units (20 out of 33 units) achieve natural cross ventilation; it is noted that two of the top floor units rely on operable skylights to achieve cross flow.

Overshadow and solar access to neighbouring properties

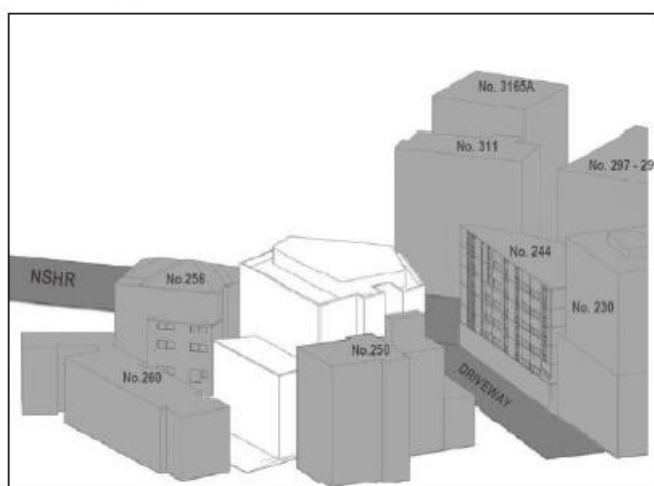
The planning proposal was supported by “sun’s eye” diagrams (**Attachment F8**), prepared hourly between 9:00am and 3:00pm on 21st June (**Figure 31**).



9.00am Sun's Eye Analysis



12.00pm Sun's Eye Analysis



3.00pm Sun's Eye Analysis

Figure 31: Sun's Eye Analysis of the concept scheme (Source: Urban Design report)

The Urban Design Report also includes plan-view shadow diagrams describing potential overshadowing to the public domain and adjacent residential properties based on the concept scheme. The report concludes that potential overshadowing to residential dwellings at 240-246 New South Head Road will occur in the morning to 'a few units', and overshadowing impacts to 256-258 New South Head Road will occur in the afternoon (**Figure 32**).

No detailed discussion of impacts to the residential dwellings at 250 New South Head Road was provided, however, the shadow diagrams indicate that any overshadowing will occur in the morning period.

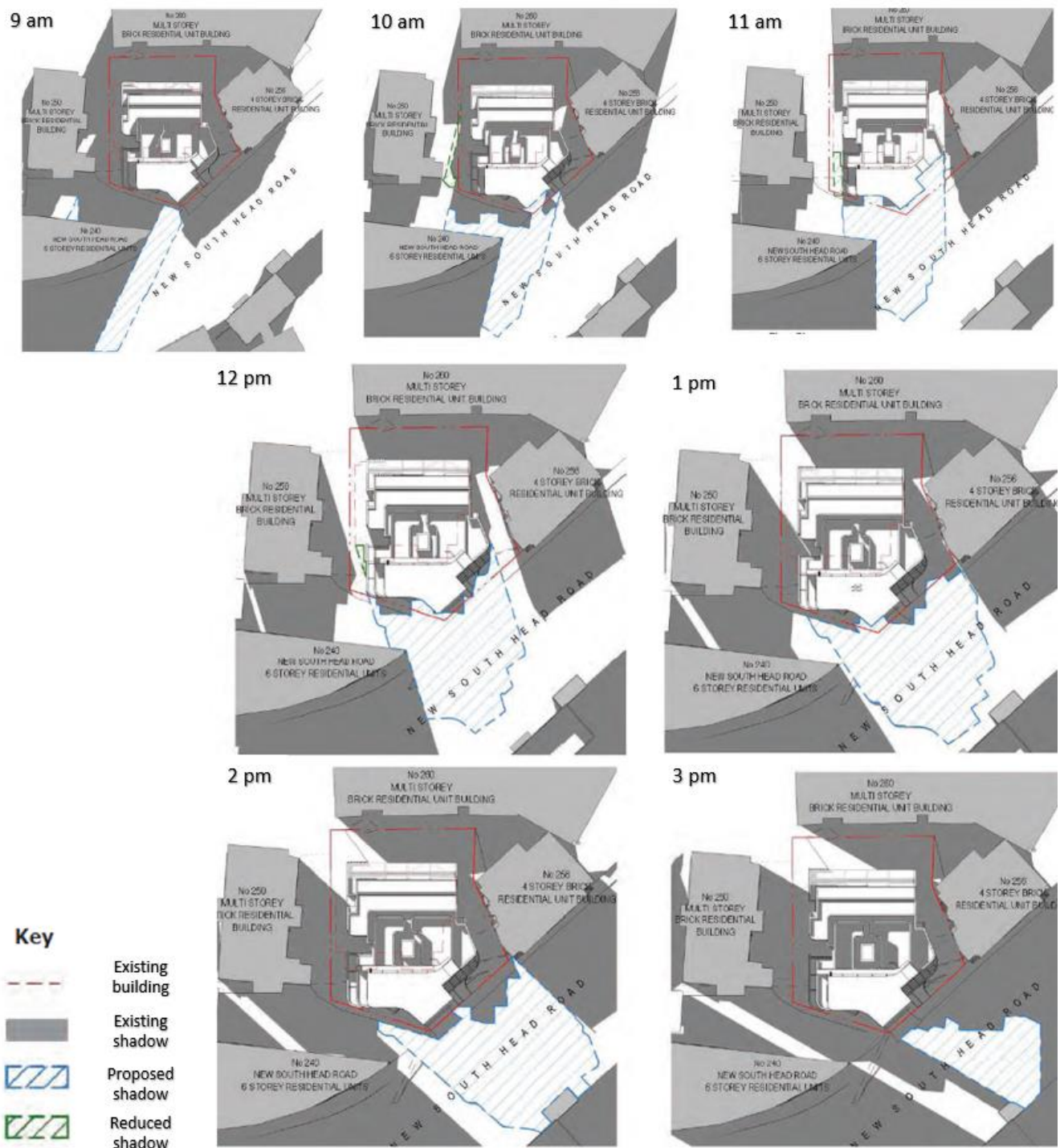


Figure 32: Shadow diagrams illustrating the shadow impacts of the concept scheme on 21 June (Source: Urban Design report).

Views

The planning proposal includes a View Impact Analysis (**Attachments F9 and F10**), which provides an assessment against the planning principles outlined in *Tenacity v Warringah Council* [2004] NSWLEC 140. The view analysis depicts the anticipated impacts on No. 240 New South Head Road and No. 365A Edgecliff Road. The analysis describes the impacts based on the concept scheme as well as 'maximum building envelope'.

Traffic

The planning proposal was supported by a Traffic Impact Assessment (**Attachment F12**). The assessment concludes the following:

- By applying the Woollahra DCP controls for residential apartments within 400m of a railway station to the concept scheme, the proposal will generate a demand for maximum 37 car spaces. A total of 6 parking spaces are proposed (4 resident spaces and 2 car share spaces). The proposal justifies the proposed parking provision based on access to public transport (high frequency bus services along New South Head Road and proximity to Edgecliff Station) and the on-site car share spaces.
- The proposal will have no material impact on the performance of the external road network or key intersections in the locality. As such, no external improvements will be required to facilitate the development.

Noise

The planning proposal was supported by an Acoustic Assessment Report (**Attachment F14**). The assessment concludes that anticipated noise impacts from road traffic can be managed through appropriate building design, consistent with the relevant standards and Council's guidelines.

In terms of noise emissions from future mechanical plant and equipment, it is feasible to manage emissions from the subject site in compliance with relevant requirements.

The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.

The proposal notes that existing utility services will adequately support the future development or will be upgraded or augmented as required.

The proponent has made an offer to enter into a Voluntary Planning Agreement with Council in accordance with guidelines provided by the Department. However, no details on public benefits offer were given.

3. COUNCIL VIEWS

On 16 February 2021, the Department wrote to Woollahra Municipal Council advising of the rezoning review request and seeking Council's comments. Council provided a response on 15 March 2021 (**Attachment E**).

Council staff confirmed that the planning proposal submitted with the rezoning review request *"is generally the same as described in the application... formally lodged with Council on 12 June 2020."*

The key comments provided by Council are:

- In relation to strategic merit, the long term land use vision for the Woollahra LGA is set out in the Woollahra Local Strategic Planning Statement (LSPS), which seeks to protect and enhance local character and the landscape setting.
- The proposed changes would permit development which is inconsistent with the low scale and leafy character of the subject residential precinct, and negatively impact on the urban tree canopy cover and landscaping. This will be inconsistent with the following planning priorities in the Woollahra LSPS 2020:
 4. *Sustaining diverse housing choice in planned locations that enhance our lifestyles and fit in which our local character and scenic landscapes.*
 6. *Placemaking supports and maintains the local character of our neighbourhood and villages whilst creating great places for people.*
 11. *Conserving, enhancing and connecting our diverse and healthy green spaces and habitat, including bushland, tree canopy, gardens and parklands.*
- In relation to site-specific merit, *"the proposed standards would create a building envelope that will adversely impact the site and its surroundings, particularly with regard to the streetscape, landscape character and views."* This is not consistent

with the desired future character under the Woollahra DCP 2015, particularly the following objectives under section B1.3.2:

O1 *To respect and enhance the streetscape character and key elements of the Precinct.*

O5 *To ensure that rooflines sit within the predominant street tree canopy.*

O9 *To retain and reinforce the green setting of mature street trees, private trees and garden plantings.*

- The subject site is located within the low scale Double Bay Residential Precinct under the Woollahra DCP 2015. While the character of New South Head Road in both the Double Bay Centre and the Edgecliff Commercial Corridor is evolving, the site is not located in either of these precincts. The proposal is not consistent with the desired future character of this precinct.
- The desired future character objectives for this precinct requires “a consistent building scale within the streets” and that “rooflines sit within the predominant street tree canopy.” The proposal would create a street wall height that dominates and disrupts the established tree canopy along New South Head Road. It fails to enhance the streetscape and landscape character of the residential precinct.
- The rezoning review references Council’s *Opportunity Sites Study* (2010), which was to inform preparation of the Woollahra LEP 2014. However, in July 2011, Council decided not to proceed with these proposed changes unless “strong and supportable reasons” were provided. Notwithstanding, the subject site is neither within nor adjoins an opportunity site. Council sees no relevance of this study to the assessment of this proposal.
- Council staff requested studies and analyses supporting the requested amendments must relate to the maximum proposed building height and FSR envelope, as well as the concept plan envelope. Council considers that it is misleading to prepare a view analysis for a building envelope that is smaller than one which the proposal could facilitate. A comprehensive view sharing assessment could potentially identify greater view impacts on the surrounding properties.
- Council also states that its staff have provided clear and consistent feedback about the excessive bulk and scale over a period of 20 months.

ATTACHMENTS

Attachment A – Locality Map

Attachment B – Site Map

Attachment C – Current LEP Maps

Attachment D – Images of the concept scheme

Attachment E – Council response to the Rezoning Review application

Attachment F – Rezoning Review application documents

- F1 – Rezoning Review application form
- F2 – Cover letter – Rezoning Review request (December 2020)
- F3 – Donations Disclosure form
- F4 – Planning Proposal application form to Woollahra Municipal Council
- F5 – Planning Proposal report (March 2020)
- F6 – Cover Letter (lodgement of additional information, June 2020)
- F7 – Urban Design Report (March 2020)
- F8 – Architectural Drawings (February 2020)
- F9 – View Analysis Report (June 2020)
- F10 – View Analysis Diagrams (June 2020)
- F11 – Survey Plan (September 2019)
- F12 – Traffic and Parking Impact Assessment (March 2020)
- F13 – Hydraulic Drawings (February 2020)
- F14 – Acoustic Report (March 2020)
- F15 – Arborist Report (March 2020)

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