

Rezoning Review Briefing Report – RR-2022-12

136-148 New South Head Road, Edgecliff (41 apartments and 955 jobs)

Element	Description
Date of request	31 May 2022 (accepted by the Department on 1 July 2022)
Department ref. no	RR-2022-12 (PP-2022-1646)
LGA	Woollahra Municipal Council
LEP to be amended	Woollahra Local Environmental Plan (LEP) 2014
Address	136-148 New South Head Road, Edgecliff
Reason for review	<input type="checkbox"/> Council notified the proponent it will not support the proposed amendment <input checked="" type="checkbox"/> Council failed to indicate support for the proposal within 90/115 days, or failed to submit the proposal after indicating its support
Has council nominated PPA role	No – Council resolved not to support the planning proposal
Consultation	N/A

Element	Description
<p>Brief overview of the timeframe/progress of the planning proposal</p>	<p>On <u>19 March 2021</u>, a pre lodgement meeting between the proponent and Woollahra Municipal Council (Council) was held.</p> <p>On <u>13 October 2021</u>, a planning proposal request was accepted by Council.</p> <p>On <u>22 April 2022</u>, Council officers’ assessment of the planning proposal request was reported to the Woollahra Local Planning Panel (LPP). Council staff recommended the LPP to advise Council to proceed with the draft planning proposal (prepared by Council officers based on the proponent’s request), and that the proposal, site-specific draft development control plan (DCP) and any draft voluntary planning agreement (VPA) be publicly exhibited concurrently should a Gateway determination be received.</p> <p>The Woollahra LPP did not adopt the staff recommendation and advised that the planning proposal does not have sufficient strategic or site-specific merit to proceed as a stand-alone planning proposal, and it should be incorporated into the Draft Edgecliff Commercial Centre Planning and Urban Design Strategy (the draft ECC Strategy), among other things.</p> <p>On <u>9 May 2022</u>, the proponent lodged the planning proposal on the planning portal (note: the proponent did not submit the planning proposal request on the portal originally).</p> <p>On <u>31 May 2022</u>, the proponent lodged a Rezoning Review request on the planning portal.</p> <p>On <u>1 July 2022</u>, the Department accepted the rezoning review, upon completion of a review of the submitted documentation and receipt of payment.</p> <p>On <u>4 July 2022</u>, Council staff reported to Council’s Environmental Planning Committee (EPC) with a recommendation to refuse the planning proposal request but with wording of an alternative recommendation.</p> <p>The EPC recommended the planning proposal (prepared by Council staff) to be endorsed, subject to an addendum to identify that an increase in the maximum height of buildings and floor space ratio (FSR) is subject to satisfaction of certain requirements via a specific clause in the LEP.</p> <p>On <u>25 July 2022</u>, Council resolved to refuse the planning proposal, and incorporate the site in the post exhibition version of the draft ECC Strategy as a potential uplift site, among other things.</p>
<p>Department contact:</p>	<p>John Doubleday, Planning Officer, 8275 1129</p>

Planning Proposal

Table 1. Overview of planning proposal

Element	Description
Site Area	1,748 square metres (sqm)
Site Description	<p>The site is located at 136-148 New South Head Road, Edgecliff and is legally described as Lot 1 Deposited Plan (DP) 663465 (No. 136), Lot 1 DP 1092694 (No. 138-140), Lot 2 DP 983678 (No. 138-140), Lots A and B DP443992 (No. 142-144 and 146-148).</p> <p>The existing development is located within the Edgecliff commercial centre, and includes 3 separate buildings:</p> <ul style="list-style-type: none"> • A local heritage item (Item No. 238 in the Woollahra LEP 2014) – a two-storey Inter War Functionalist building used for commercial purposes, built in 1940. • A three to four-storey Inter War apartment building built in 1919. • A two-storey Arts and Crafts style building used for commercial purposes, built in 1897. <p>The site has a total land area of 1,748sqm and is irregular in shape. It is bound by New South Head Road to the south, Darling Point Road to the west, a residential tower and associated car park to the north, and a mixed-use building which is part of the commercial centre, to the east.</p> <p>The street frontage to Darling Point Road is approximately 26.9 metres (m) and to New South Head Road is approximately 48.7m. A driveway is located off Darling Point Road providing access to off-street parking at the rear of No. 136. There are 3 large street trees (Brush Box) along the New South Head Road frontage.</p> <p>The site is zoned B4 Mixed Use. The south-western corner of 136 New South Head Road is identified as 'Classified Road (B4)' on the Land Acquisition Reservation Map of the LEP and is subject to Clause 5.1 and 5.1A of the LEP with the relevant acquisition authority being Transport for NSW (TfNSW). No changes to the existing zoning and land reservation affectation are proposed.</p> <p>A site map is provided at Figure 1.</p> <p>The site is located opposite Edgecliff train station and approximately 2 kilometres (km) from Sydney CBD. Surrounding developments include a mix of commercial, residential and institutional buildings varying in age and height from 1-14 storeys. The residential tower to the north of the site is 31 storeys in height. A site context map is provided at Figure 2.</p>

5. Proposal summary

Proposal

The proponent's planning proposal request (refer to planning proposal report in **Attachment A2**)* seeks to amend the Woollahra Local Environmental Plan (LEP) 2014 as it applies to the subject site to:

- increase the maximum height of buildings from 14.5m to 46m.
- increase the maximum FSR from 1.5:1 to 5:1.

*Note: Council officers prepared a draft planning proposal based on the proponent's request, which was reported to the LPP on 22 April 2022, the EPC on 4 July 2022 and Council on 25 July 2022.

The planning proposal seeks to facilitate a 12-storey mixed-use development for the site.

The proponent seeks to include a local provision in response to the Implementation section of the draft ECC Strategy, to support uplift on an amalgamated site. The provision will require the followings to enable increased height and FSR beyond the existing controls to be obtained for the site:

- amalgamation of the existing lots into one lot
- conserve the significance of the existing heritage building on the site
- promote design excellence
- facilitate the provision of additional community infrastructure
- contribute to the growth of the Edgecliff Commercial Centre with additional housing and employment opportunities
- have regard to amenity impacts on surrounding buildings

The planning proposal report acknowledges that it is not the direct result of a strategic study or report, however it is consistent with council's strategic plans for the area, including the draft ECC Strategy, providing additional housing and commercial floor space to the centre.

Voluntary planning agreement

There are ongoing negotiations between the proponent and Council on the Voluntary Planning Agreement (VPA) which may include contributions towards affordable housing, public art, public domain improvements and community facilities. According to the proponent's information (GLN report dated 28 July 2021), the potential terms may include:

- Monetary contribution at 1% of development cost for local public amenities and services, in lieu of s7.12 Contributions (around \$925,000), to be paid prior to the Occupation Certificate.
- Affordable housing equivalent to 3% of proposed residential floor space.

Element	Description
	<p>The total combined value of the VPA would be approximately \$2.705 million.</p> <p><u>Concept scheme</u></p> <p>The concept scheme supporting the proposal indicates a 12-storey mixed-use development with a total gross floor area (GFA) of 8,723sqm (5,872sqm residential and 2,851sqm non-residential). The scheme includes:</p> <ul style="list-style-type: none"> • 41 apartments (net increase of 35) - comprising 9 x 1-bedroom, 18 x 2-bedroom, 12 x 3-bedroom, 1 x 4-bedroom and 1 x 5-bedroom. • 3-4 levels of commercial floor space. • ground level retail floor space. • retention and refurbishment of the existing heritage listed building on the site. • 77 car parking spaces and 8 motorcycle spaces at the basement levels. <p>The proposal is anticipated to generate 852 jobs (212 direct jobs) during construction and 103 (additional) jobs post completion. (Note: based on proponent’s data and is not indicative of full-time equivalent jobs.)</p>
<p>Relevant State and Local Planning Policies, Instruments</p>	<ul style="list-style-type: none"> • Greater Sydney Region Plan: <i>A Metropolis of Three Cities</i>. • Future Transport Strategy 2056. • Eastern City District Plan. • Woollahra Local Strategic Planning Statement. • Woollahra Local Housing Strategy. • Draft Edgecliff Commercial Centre Planning and Urban Design Strategy (Draft ECC Strategy). • State Environmental Planning Policy: Transport and Infrastructure 2021.

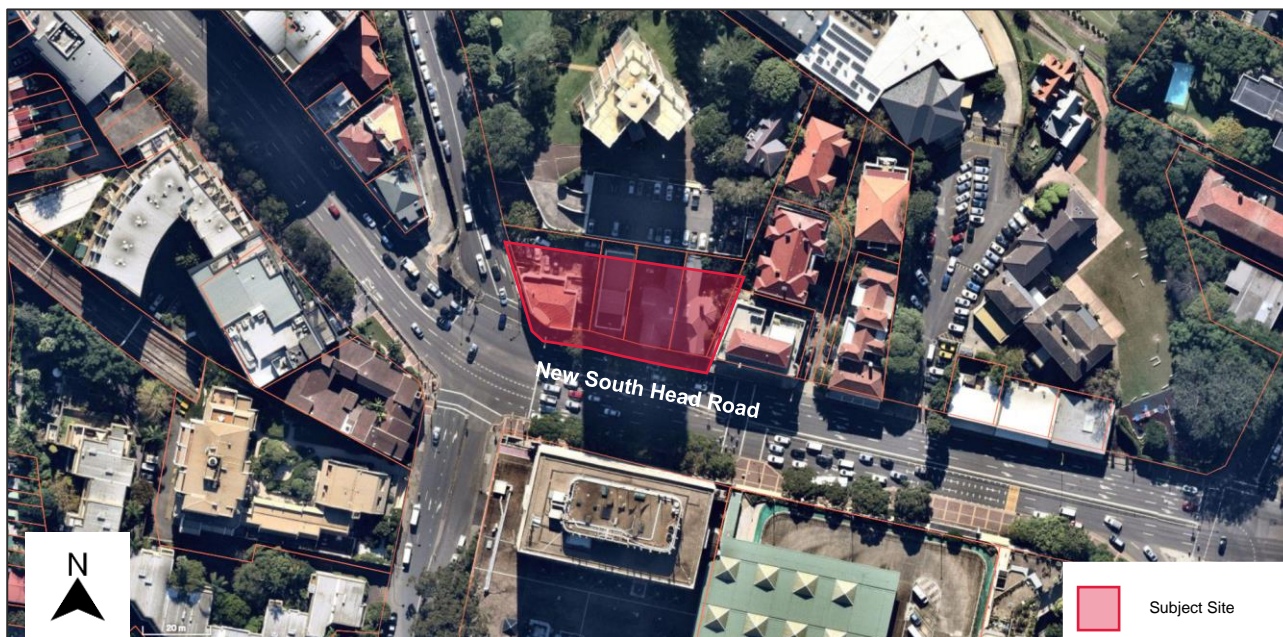


Figure 1. Subject site (source: Nearmap)

The planning proposal seeks to amend the Woollahra LEP 2014 per the changes below.

Table 2. Current and proposed controls

Control	Current	Proposed
Zone	B4 Mixed Use	Unchanged
Maximum height of buildings	14.5m	46m
Maximum floor space ratio	1.5:1	5:1
Heritage	No. 136 (Item No. 238)	Unchanged
Land acquisition reservation	Corner of No. 136	Unchanged
Minimum lot size	N/A	N/A
Reclassify land from	N/A	N/A



Figure 2. Site Context Map (source: Nearmap)

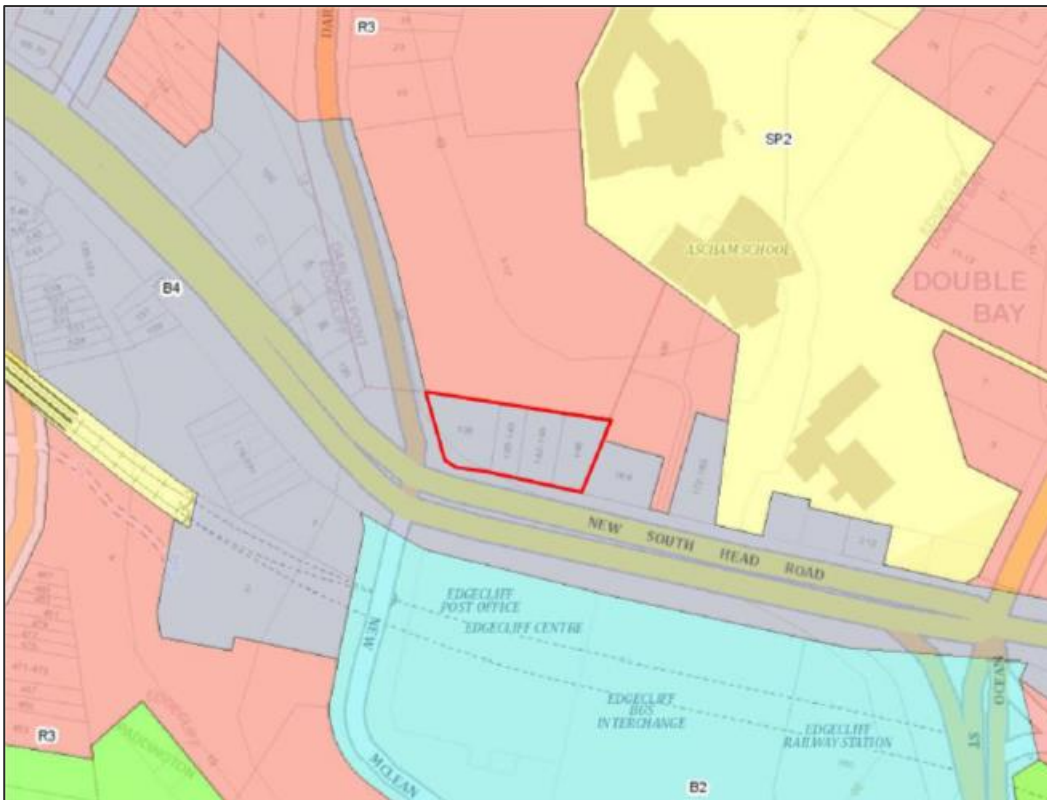


Figure 3. Current zoning (source: Planning Proposal Report)

No proposed height or FSR maps were included in the rezoning review request.

Key Issues

Background

Woollahra Local Planning Panel (LPP) at its meeting of 22 April 2022 (**Attachment A1**) recommended that the planning proposal not proceed; the key reasons provided were:

- It is premature to proceed prior to the adoption of the Draft Edgecliff Commercial Centre Planning and Urban Design Strategy (Draft ECC Strategy).
- Unresolved issues with the capacity of the surrounding road network and the status of Council's planning proposal to remove land acquisition reservations in New South Head Road, Edgecliff (refer to further discussion below).
- 35 net new dwellings do not provide sufficient justification for the proposal to proceed prior to the adoption of the ECC Strategy.

Council's Environmental Planning Committee (EPC) at its meeting of 4 July 2022 (**Attachment D** – see Council's letter dated 5 August 2022) recommended the planning proposal (prepared by Council staff) be endorsed, subject to:

- Council staff preparing an addendum to identify that the increase in maximum height of buildings and FSR is permitted if certain requirements are satisfied under a specific clause; the requirements include: site amalgamation, heritage conservation, minimum non-residential FSR, provision of affordable housing, design excellence, sustainability commitments beyond BASIX, a specific mix of dwelling sizes, and provision of or contribution towards community infrastructure.
- The applicant to submit a further urban design analysis to address whether the 46m height standard is needed to accommodate a 12-storey building and to define an envelope not exceeding an FSR of 5:1 in a tower on podium form.
- The applicant to submit a further traffic analysis to address cumulative transport and traffic implications and mitigation measures.
- Prior to exhibition, Council adopts a site-specific draft DCP that provides detail on the design of any development on the site.

Council considered the proposal and the EPC's recommendation at its meeting of 25 July 2022 (**Attachment D**). Council resolved to not support the planning proposal, and resolved that the site be incorporated into the post exhibition version of the draft ECC Strategy as a potential uplift site.

Council officer's comments

The Department wrote to Council on 15 July 2022 advising the receipt of the rezoning review request and invited Council to provide comments.

Council provided comments on 05 August 2022 (**Attachment D**). Council states that they are satisfied that the proposal is generally the same as that described in the request for a planning proposal lodged with Council, with some exceptions:

- a commercial option (an alternative concept scheme indicating 100% non-residential use) was not part of the original submission to Council and was not considered in the report to the LPP on 22 April 2022.
- Negotiations for a VPA have been ongoing, including consideration of valuations and cost estimates.

Council officers provided copies of their assessment report on the proponent’s planning proposal request, as well as their version of a planning proposal (version 12 April 2022). Copies of late correspondence to the LPP meeting of 22 April 2022 (14 in total), EPC meeting of 4 July 2022 (17 in total) and Council meeting of 25 July 2022 (22 in total) were also forwarded to the Department.

Draft Edgecliff Commercial Centre Planning and Urban Design Strategy (Draft ECC Strategy)

The draft strategy outlines the vision for the Edgecliff Commercial Centre, identifying a number of buildings along New South Head Road with potential uplift (additional height and FSR). The draft strategy was exhibited from 31 May 2021 to 30 September 2021.

The site falls within the ECC study area but is not identified for uplift in the draft Strategy. Council states that this was because at the time of preparing the strategy, the subject site was in multiple ownerships and vehicular access was not available to all four properties. According to Council’s LPP Report (22 April 2022), the site has been brought into single ownership and vehicular access can be obtained from Darling Point Road.

The accompanying Draft ECC Strategy Public Domain Plan outlines guidelines and recommendation to develop the ECC’s public domain elements. The public domain plan identifies an opportunity for active retail or commercial frontage along New South Head Road outside the subject site.

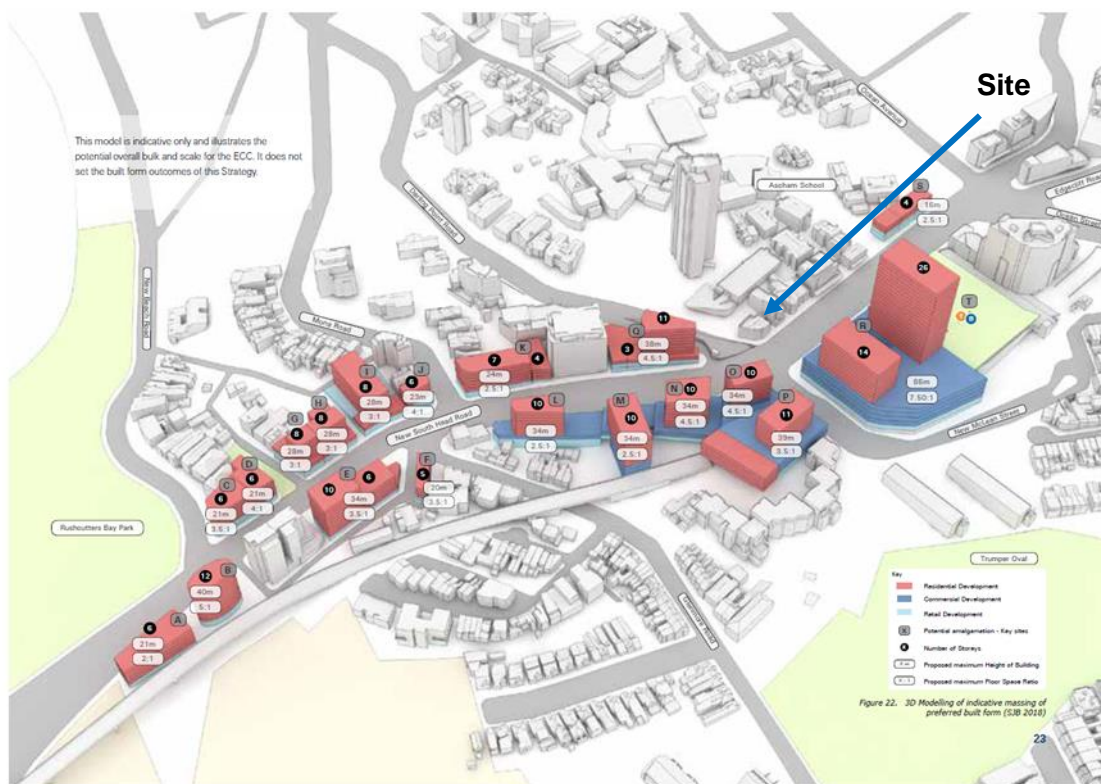


Figure 4. Preferred built form massing diagram in draft ECC Strategy (source: draft ECC Strategy)

Planning Proposal for removal of land acquisition reservation

There are four areas of road reservation along New South Head Road in Edgecliff, one of which affects the south-western corner between Darling Point Road and New South Head Road of No. 136. Council prepared a planning proposal seeking to remove the road reservation by amending the land acquisition reservation map of the Woollahra LEP. On 8 June 2022, the Department issued a Gateway determination that the proposal is not to proceed. One of the reasons of the Gateway is that the subject reservations have been identified by TfNSW as being required for future public and active transport improvements. This proposal is currently the subject of a Gateway determination review requested by Council.

Issue 1: Alignment with the Draft ECC Strategy

The subject site is within the study area of the Draft ECC Strategy but is not identified as a site for potential uplift.

Council's view

- Council resolved to refuse the proposal and to incorporate the site into the post-exhibition version of the Draft ECC Strategy as a potential uplift site.

Proponent's view

- The proponent stated that they engaged in discussions with Council about the proposal before the public exhibition of the Draft ECC Strategy. It was stated that Council staff advised the proposal could be considered on its own merits as the contents of the draft strategy had not been finalised and could not be discussed. Council officers advised that a 12-storey building would be more appropriate for the site, and the proposal has been amended accordingly.

Issue 2: Strategic and site-specific merits

Council's view

- The LPP considered that the proposal does not have sufficient strategic or site-specific merit to proceed as a stand-alone planning proposal. It also considers a net increase of 35 dwellings does not justify the planning proposal.
- Both the LPP and EPC considered that any uplift should only be permitted if certain requirements are met, being:
 - Site amalgamation
 - Retention and conservation of the heritage item on the site and respecting the scale of the item
 - Minimum quantum of non-residential FSR
 - Provision of affordable housing
 - Design excellence (through a competitive design process)
 - Commitments to sustainability beyond those required by BASIX
 - A mix of apartment sizes
 - Provision of or contribution towards community infrastructure

Proponent's view

- The concept scheme has provided for employment generating floor space that would contribute to the ECC.
- The scheme will deliver housing to achieve the housing target for Woollahra. A mixture of apartment sizes has also been provided.
- The scheme will conserve and revitalise the heritage building and provide street activation.
- The proponent's planning proposal report has included a draft clause that would address matters raised by the LPP and EPC. The draft clause seeks to enable uplift if the following requirements are met:
 - Conserving the significance of the existing heritage item
 - Promoting design excellence
 - Facilitating the provision of additional community infrastructure
 - Contributing to the growth of the ECC with additional housing and employment
 - Ensuring building design has regard to amenity impacts on surrounding properties
 - Amalgamating the sites into one lot
- The proponent states that they would agree to a non-residential FSR of 1.5:1.
- Provision of affordable housing could be part of the VPA negotiation.
- Sustainability issues have been discussed in the sustainability report and could be further addressed in the site-specific DCP.

Issue 3: Transport and traffic impacts

Council's view

- The Woollahra LPP raised concerns around the capacity of the surrounding road network and the status of Council's planning proposal to remove the existing road reservations along New South Head Road.
- Both the LPP and EPC recommended additional analysis of the cumulative traffic and transport implications of the proposal and any required mitigation measures, such as reduced car parking provision.

Proponent's view

- The proponent considers that traffic and transport impacts are not an unresolved issue. The proponent's traffic report concludes that the Darling Point / New South Head Road intersection would continue to have a satisfactory level of service.
- While Council's assessment noted that traffic would increase, mitigation measures such as a median strip to enforce left in / left out only access and traffic calming, would improve safety and minimise impacts; no other infrastructure upgrades are deemed necessary.
- Council officers advised the proponent to consider cumulative traffic impacts of the draft ECC Strategy. The proponent's traffic consultant considers that the planning proposal's low traffic generation would not require any additional road or transport work.
- Regarding the existing road reservation on the subject site, the planning proposal does not seek any changes that affect the road reservation.

Issue 4: Urban design impacts

Council's view

- Both the LPP and EPC recommended the applicant submits a further urban design analysis to address:
 - The maximum building height of 46m is beyond what is required for a 12-storey development; and
 - Defining a building envelope which does not exceed the FSR limit of 5:1 and is in the form of a podium with tower.

Proponent's view

- The proponent argues that the proposed height limit was to allow some flexibility in the design, as commercial and residential uses have different ceiling height requirements. A 100% commercial building could only achieve 11 storeys under the proposed height control.
- The proponent states that a site specific DCP could include a 12-storey height control to address Council's concerns. The building envelope generally equates to an FSR of 5:1 but allows some flexibility to determine the final building design. It argues that this is appropriate given the early stage of the process and is an accepted urban design practice.

Attachments

Attachment A1 – Rezoning Review Request package

- a. Rezoning Review Application Form
- b. Rezoning Review Request cover letter
- c. Rezoning Review Report
- d. Rezoning Review – Summary of Council RFIs and Applicant response
- e. Rezoning Review – Summary of VPA negotiations
- f. Rezoning Review – Letter to Council addressing WLPP minutes
- g. Rezoning Review – Appendix Cover sheets
- h. Rezoning Review – Appendix A: WLPP Public Agenda
- i. Rezoning Review – Appendix B: WLPP minutes
- j. Rezoning Review – Appendix C: Traffic response
- k. Rezoning Review – Appendix D: Economic response
- l. Rezoning Review – Appendix E: Planning Proposal draft LEP and DCP provisions
- m. Rezoning Review – Appendix F: Height – commercial option
- n. Rezoning Review – Appendix G: Sustainability Response

Attachment A2 – Planning Proposal package

- a. Planning Proposal – Council letter accepting documents as adequate
- b. Planning Proposal – Council stamped receipt of Planning Proposal documents
- c. Planning Proposal – Application form
- d. Planning Proposal – Political disclosure form
- e. Planning Proposal – Planning Proposal Report
- f. Planning Proposal – Appendix A: Response to Council’s pre-lodgement feedback
- g. Planning Proposal – Appendix B: Site Survey Plan
- h. Planning Proposal – Appendix C: Urban Design Report
- i. Planning Proposal – Appendix D: Indicative Concept Report
- j. Planning Proposal – Appendix E: Traffic and Parking Impact Assessment
- k. Planning Proposal – Appendix F: Heritage Assessment
- l. Planning Proposal – Appendix G: Arboricultural Report
- m. Planning Proposal – Appendix H: Geotechnical Investigation
- n. Planning Proposal – Appendix I: Contamination Investigation
- o. Planning Proposal – Appendix J: Wind Impact Assessment
- p. Planning Proposal – Appendix K: Acoustic Impact Assessment
- q. Planning Proposal – Appendix L: Economic Benefits Assessment
- r. Planning Proposal – Appendix M: ESD Concept Advice

Attachment B – Site/Locality maps

Attachment C – Existing LEP maps

Attachment D – Council’s comments (5 August 2022)

- a. Letter from Council to the Department, dated 5 August 2022
- b. Planning proposal prepared by Council officers, dated 12 April 2022
- c. Council officers' assessment of the planning proposal request, dated April 2022
- d. Late correspondence to the Woollahra LPP meeting of 22 April 2022
- e. Late correspondence to the Woollahra EPC meeting of 4 July 2022
- f. Late correspondence to the Woollahra Council meeting of 25 July 2022

Note: a link to the above documents are available at:

<https://www.planningportal.nsw.gov.au/rezoning-reviews/under-assessment/planning-proposal-136-148-new-south-head-road-edgecliff>



9 August 2022

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9 August 2022

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