



**NSLPP MEETING HELD ON 14/09/2022**

**Attachments:**

1. Planning Proposal
2. Architectural Plans

**ADDRESS/WARD:** 1-7 Rangers Road & 50 Yeo Street, Neutral Bay

**PROPOSAL NO:** 6/22

**PROPOSAL:** To amend North Sydney Local Environmental Plan (NSLEP) 2013 as follows:

- Increase the maximum building height control for the site from 16m to part 30m (at 50 Yeo Street) and part 40m (at 1-7 Rangers Road); and
- Increase the minimum non-residential floor space ratio control from 0.5:1 to 1.7:1.

To provide greater certainty over a future built form on the site, the Planning Proposal is accompanied by suite of suggested site-specific development controls to be incorporated within North Sydney Development Control Plan (NSDCP) 2013 and an offer to enter into a Voluntary Planning Agreement (VPA) to deliver a number of public benefits.

**OWNER:** JPS Properties Pty Ltd; Cenijade Pty Ltd; Steven Chambers and Patricia Chambers

**APPLICANT:** Fabcot Pty Ltd (Woolworths)

**AUTHOR:** Katerina Papas, Senior Strategic Planner

**DATE OF REPORT:** 26 August 2022

**DATE LODGED:** 20 May 2022

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## EXECUTIVE SUMMARY

On 20 May 2022, Council received a Planning Proposal seeking to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land at 1-7 Rangers Road and 50 Yeo Street, Neutral Bay. The subject site is located within the area covered by the now rescinded *Neutral Bay Town Centre Future Directions Report* (also referred as *Military Road Corridor Planning Study Stage 1*).

The Planning Proposal seeks to amend NSLEP 2013 as follows:

- Increase the maximum building height control for the site from 16m to part 30m (at 50 Yeo Street) and part 40m (at 1-7 Rangers Road); and
- Increase the minimum non-residential floor space ratio control for the site from 0.5:1 to 1.7:1.

The intent of the proposal, as reflected in the accompanying indicative reference design, is to facilitate the delivery of a part 2, 7 and 10 storey mixed-use development comprising a supermarket at a subterranean level, retail and commercial floor space within the podium and 91 apartments located above. A basement car park containing 350 car parking spaces is proposed.

To provide greater certainty over a future built form on the site, the Planning Proposal is accompanied by a suite of suggested site-specific development controls to be incorporated within North Sydney Development Control Plan 2013 (NSDCP 2013).

The Planning Proposal is also accompanied by non-binding letter of offer to enter into a Voluntary Planning Agreement (VPA) with Council to deliver a number of public benefits including: the provision of 65 car parking spaces for public use, in perpetuity, located within the basement of the future development; a public plaza; an arcade-style pedestrian through-site link; and streetscape upgrades adjacent to the site.

Having consideration of the assessment criteria outlined in the Department of Planning and Environment's '*LEP Making Guideline*' (December 2021), the Planning Proposal is not considered to demonstrate strategic and site-specific merit for the following reasons:

- The proposal is not underpinned by a comprehensive strategic planning study for the locality and if implemented, will undermine the ability to achieve the objectives and actions of high-level strategic planning policies relating to the site, including:
  - Greater Sydney Regional Plan – *A Metropolis of Three Cities*;
  - North District Plan; and
  - North Sydney Local Strategic Planning Statement.
- The proposal is inconsistent with the following section 9.1 Ministerial Directions under the *Environmental Planning and Assessment Act 1979*:
  - *Direction 1.1 – Implementation of Regional Plans*
  - *Direction 5.1 – Integrating Land Use and Transport*
  - *Direction 7.1 – Business and Industrial Zones*

- The indicative concept design fails to demonstrate how the site could be acceptably developed to the requested heights insofar that it does not respond adequately to the site attributes and context and will result in significant level of public and private amenity impacts including dominance of the public domain, overshadowing and traffic generation;
- The proposal would set an unacceptable precedent prior to the establishment of a finalised policy position for future development in the locality, and undermine the future strategic planning work for the Neutral Bay town centre; and
- The proposal undermines the development potential and public benefit opportunities of the immediately adjoining site to the north.

It is recommended that Planning Proposal (PP6/22) not be supported to proceed to Gateway Determination.



## BACKGROUND

### ***Military Road Corridor Planning Study – Stage 1 (Rescinded)***

In 2018, Council resolved to commence the preparation of a planning study for the Military Road Corridor to guide and manage change and growth in the Neutral Bay Town Centre.

When the preparation of the planning study commenced in 2018, there was a recognition that the Neutral Bay Town Centre was experiencing significant development pressure. It was also acknowledged that there was ongoing erosion of employment floor space, facilitated by Council's existing planning controls. There was benefit in preparing a planning study to address these matters and to ensure that development sought to meet the needs and expectations of the community as well as ensuring that tangible public benefits could be derived from any future development to revitalise and enhance the precinct.

The finalised *Neutral Bay Town Centre – Future Directions Report (also known as the Military Road Corridor Planning Study – Stage 1)* was adopted by Council on 22 February 2021. To address the decline in employment floor space it broadly recommended to increase the non-residential floor space ratio from 0.5:1 to 1.2:1 and increase the maximum building height limit from 5 to 6 storeys for most new mixed-use buildings in the Neutral Bay Town Centre. It also identified planning proposal opportunities for three key sites, these being sites identified as able to support taller mixed-use buildings whilst providing much needed new open space and community facilities (refer to Figure 1).

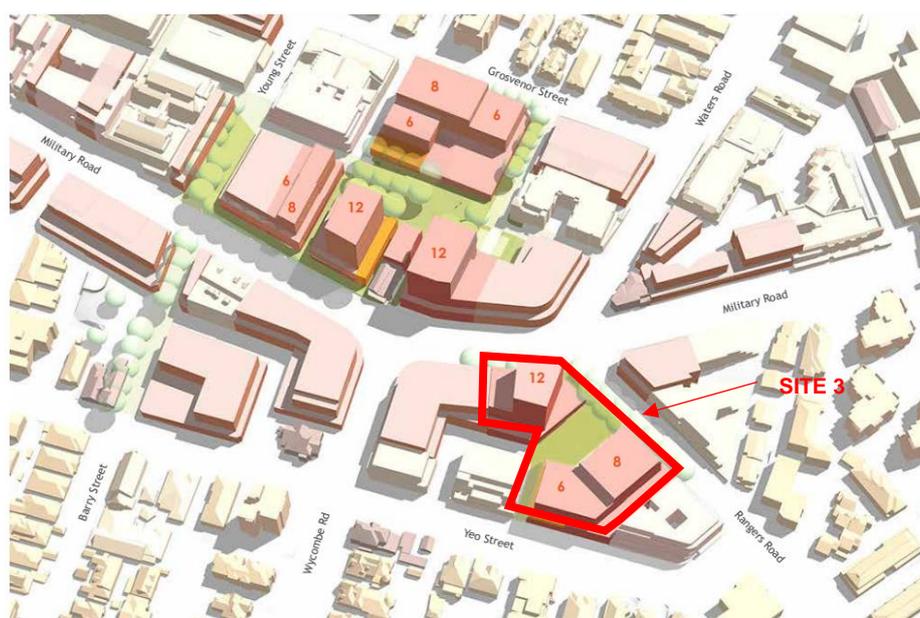


**FIGURE 1:**  
**Identified**  
**'opportunity' sites in**  
**Neutral Bay Town**  
**Centre (source:**  
**Rescinded MRCPS, p.**  
**53)**

The MRCPS provided a suite of objectives and requirements for the redevelopment of identified opportunity sites. In particular, it recommended the redevelopment of 'Site 3' (located at 183-185 Military Road and 1-7 Rangers Road) as follows:

- a minimum non-residential floor space ratio of 2:1
- a maximum building height of 6, 8 and 12 storeys (refer to Figure 2)
- a new community facility (1,000m<sup>2</sup>)

- 1,250m<sup>2</sup> new public domain including:
  - a 1,000m<sup>2</sup> new public plaza with an underground supermarket
  - a through-site link to Yeo Street
  - a 2.5m whole of building setback to allow for an expanded tree canopy along Rangers Road and Military Road
- a 14-space public commuter bicycle parking facility
- activate street edges along Rangers Road, Military Road, the new plaza, through-site link and part of Yeo Street
- loading and basement access through Military Lane or potentially along Yeo Street, subject to a transport study
- mitigate wind impacts to the public plaza
- access to underground uses within a building façade to limit structures on the plaza.



**FIGURE 2: Recommended building envelope for 'opportunity sites' in Neutral Bay Town Centre (source: Rescinded MRCPS, p. 52)**

At its meeting on 24 January 2022, Council formally rescinded the Study and resolved the following:

- 1. THAT** Council notes the submissions received and the issues raised during the exhibition.
- 2. THAT** Council notes the strong community feedback on the height and scale of the existing report received during the recent election.
- 3. THAT** Council does not adopt the Future Directions Report (dated 22 February 2021), as amended, as the strategic development framework for the Neutral Bay town centre.
- 4. THAT** Council conduct a briefing on the rescission of the Future Directions Report prior to proceeding to Point 5 below.
- 5. THAT** Council adds to its program and budget, the creation of an updated strategic development framework for the Military Road Corridor including Neutral Bay centre by engaging with the community and stakeholders to prepare a revised recommendation that has a better balance between development height and the provision of additional public open space.

On 23 May 2022, Council endorsed a scoping framework as the basis to guide the revised planning study for the Neutral Bay Town Centre to guide and manage change and to influence community benefits and public domain improvements in the precinct.

### ***Pre lodgement discussions***

In July 2018, Council was approached by the landowners of 'Site 3' (1-7 Rangers Road and 183-185 Military Road) regarding the future redevelopment of their site. Following Council's endorsement of the preparation of a planning study and associated community consultation work for the Neutral Bay Town Centre, Council advised that it would not provide feedback on any scheme presented until the MRCPS was finalised.

In September 2019, Council met with the different landowners of both 183-185 Military Road (Equitibuild) and the applicant (Fabcot/Woolworths) to discuss the draft MRCPS on exhibition. A subsequent meeting was held in October 2020 to discuss a preliminary concept design which broadly aligned with the draft MRCPS. It proposed to deliver similar building heights (8-12 storeys) and public benefits (public plaza and recreation facility). Council staff encouraged the landowners to defer lodging a Planning Proposal until the MRCPS was finalised and endorsed by Council.

Following the finalisation and endorsement of the MRCPS by Council in February 2021, Council met with the applicant (Fabcot/Woolworths) in August 2021. The applicant advised that attempts to reach a commercial agreement with the adjacent landowners at 183-185 Military Road (Equitibuild) had been unsuccessful and they were now exploring opportunities to amalgamate with the adjacent site at 50 Yeo Street, which was not included as a key site in the MRCPS. A concept scheme was presented for 1-7 Rangers Road and 50 Yeo Street, which included building heights of 6-12 storeys, a 750m<sup>2</sup> public plaza and community centre. Council staff reinforced that the intent of the MRCPS is to deliver public benefits. It was stressed that a minimum 1,000m<sup>2</sup> public plaza, a community centre and appropriate building heights that maintained the village atmosphere would be required. Better consideration of the proposed built form's relationship with 183-185 Military Road was also needed.

In October 2021, the applicant presented a new concept scheme that included 1-7 Rangers Road, 50 Yeo Street and 183-185 Military Road. Buildings with 6, 8, 10 and 12 storeys were proposed with a 1,000m<sup>2</sup> public plaza and a community centre. Basement parking was proposed to be located, in-part, under Military Lane (Council land). Council staff reinforced the expectation of any proposed built form is to comply with ADG requirements and the height controls identified in the MRCPS. Feedback was also provided on overshadowing, setbacks and articulation, access and quality of open space. It was noted that whilst Woolworths had recently amalgamated with 50 Yeo Street, a commercial agreement with Equitibuild had not been reached.

In December 2021, the applicant presented a revised concept scheme for 1-7 Rangers Road, 50 Yeo Street and 183-185 Military Road. Whilst the amended design addressed a number of Council's previous concerns, it still proposed buildings with 6, 8, 10 and 12 storeys inconsistent with the adopted Study. Council staff reiterated the importance of the proposed built form complying with the height controls identified in the MRCPS. It was noted that a commercial agreement with 183-185 Military Road had still not been reached, however the applicant advised they were working to achieve an in-principle agreement by the end of 2021.

On the back of these meetings, the applicant was in the process of refining their plans and preparing a Planning Proposal for submission in early 2022 when Council resolved to rescind the MRCPS on 24 January 2022.

On 2 May 2022, Council invited owners of various sites within the rescinded MRCPS area to present potential development concepts to Councillors.

On 20 May 2022, the applicant lodged the subject Planning Proposal with Council, which excludes 183-185 Military Road.

## DESCRIPTION OF PROPOSAL

The subject Planning Proposal (PP6/22) seeks to amend the North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land at 1-7 Rangers Road and 50 Yeo Street, Neutral Bay as follows:

- Increase the maximum building height control from 16m to part 30m (50 Yeo Street) and part 40m (1-7 Rangers Road); and
- Increase the minimum non-residential floor space ratio control from 0.5:1 to 1.7:1.

The key objectives of the Planning Proposal as described by the applicant are as follows:

- *deliver a built form outcome that responds to the intent of the draft Future Directions Report for Neutral Bay Town Centre;*
- *deliver a high-quality mixed-use development that exhibits design excellence on a site earmarked for high density residential development;*
- *assist in facilitating the evolution of the Neutral Bay Town Centre towards a high-amenity mixed-use centre;*
- *enhance pedestrian amenity and connectivity by providing new north-south pedestrian linkages between Yeo Street and Rangers Road;*
- *enhance the quality of the retail environment within Neutral Bay Town Centre*
- *maintain a viable commercial and retail presence on the site, at a scale that will meet the future needs of permanent new jobs to support the strengthening of the Neutral Bay Town Centre local economy;*
- *deliver residential development in a desirable location that receives ample access to iconic views, public transport and surrounding civic amenities;*
- *deliver a diverse mix of residential apartments that will enjoy excellent amenity, taking advantage of the site's strategic location, proximity to services and the exceptional bus network along Military Road with direct connections to other major employment destinations;*
- *Enable the development of a high performance building in terms of amenity and sustainability.*

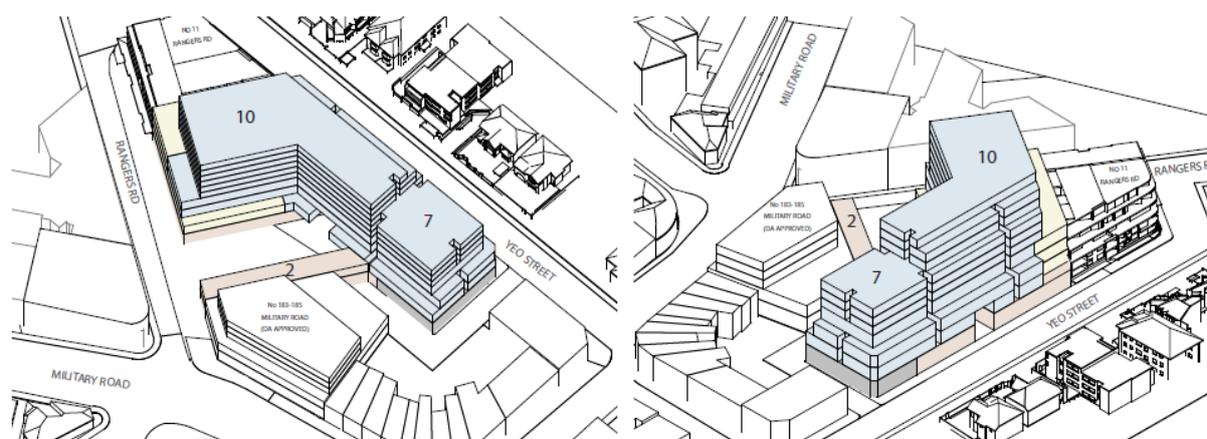
The intent of the proposal, as reflected in the accompanying indicative reference design, is to facilitate the delivery of a part 2, 7 and 10 storey mixed-use development comprising a supermarket at a subterranean level, retail and commercial floor space within the podium and 91 apartments located above, and basement car park for 350 cars.

A numerical overview of the applicant's indicative reference design is outlined in Table 1.

<b>Building Height</b>	41.3m (10 storeys) 30.7m (7 storeys) 9.9m (2 storeys)
<b>Podium Height</b>	
– Rangers Road	4 storeys

<b>TABLE 1 – Numerical overview of applicant’s reference design</b>	
– Yeo Street	4 storeys
– Military Lane	3 storeys
– Around plaza	2 storeys
<b>Setbacks</b>	
– North (Rangers Road)	Podium Nil Tower 5.5m
– South (Yeo Street)	Podium Nil Tower 3.5m
– West (Military Lane)	Podium Nil Tower 3.0m
– East (9-11 Rangers Road)	Podium Nil Tower 9.0m
<b>Gross Floor Area (GFA)</b>	
– Non-residential GFA	7,260m (includes 3,311m <sup>2</sup> supermarket; 1,846m <sup>2</sup> retail; 2,103m <sup>2</sup> commercial)
– Residential GFA	12,682m <sup>2</sup> (91 apartments)
– Total	19,218m <sup>2</sup>
<b>Car Parking</b>	350 car spaces over 4 basement levels

To provide increased certainty over a future built form on the site, the Planning Proposal is accompanied by a suite of suggested site-specific development controls to be incorporated within North Sydney Development Control Plan 2013 (NSDCP 2013). These include provisions relating to site layout, land use, public domain, heights, setbacks and podium treatment, building design, active frontages and parking, access and servicing.



**FIGURE 3: Proposed building massing diagrams (source: Applicant’s Urban Design Report, p. 28)**



**FIGURE 4: Photomontage proposed development concept (as seen from the intersection of Rangers Road and Military Road)**

The Planning Proposal is also accompanied by non-binding letter of offer to enter into a Voluntary Planning Agreement (VPA) with Council to deliver a number of public benefits. This includes provision of 65 car spaces for public use located within the basement of the future development, a public plaza and pedestrian through-site link connecting Rangers Road to Yeo Street, and streetscape upgrades adjacent to the site.

#### **PANEL REFERRAL**

On 23 February 2018, the Minister for Planning released a Section 9.1 Direction which outlines the instances when a planning proposal must be referred to a Local Planning Panel for advice prior to a council determining whether that planning proposal should be forwarded to the Department of Planning, Industry and Environment (DPIE) for the purposes of seeking a Gateway Determination.

All planning proposals are required to be referred to the Local Planning Panel, unless they meet any of the following exemptions:

- the correction of an obvious error in a local environmental plan;
- matters that are of a consequential, transitional, machinery or other minor nature;  
or
- matters that Council's General Manager considers will not have any significant adverse impact on the environment or adjacent land.

The Planning Proposal does not meet any of the exemption criteria and therefore must be referred to the Local Planning Panel for advice prior to Council making any determination on the matter.

## MINISTERIAL ORDER (STATEMENT OF EXPECTATIONS)

On 26 November 2021, the Minister for Planning made the Environmental Planning and Assessment (Statement of Expectations) Order 2021. The Order establishes various expectations in relation to Council's development assessment, planning proposal and strategic planning roles and expected levels of performance. In particular, the Minister confirms his expectations that Councils should:

*...make a decision as to whether to support or not a proponent led planning proposal as soon as practical and no longer than 90 days.*

The Order includes an explanatory note which states:

*...if a Council is found not to be meeting these expectations, the Minister can take these matters into consideration as part of determining if it is appropriate to appoint a planning administrator or regional panel to exercise Council's functions.*

In the context of this Order and the various assessment requirements including internal assessment, referral to the Local Planning Panel and formal reporting to Council to occur within the 90-day threshold, amended plans and negotiations have not been invited and the application has been assessed on the basis of the information as lodged.

## DETAIL

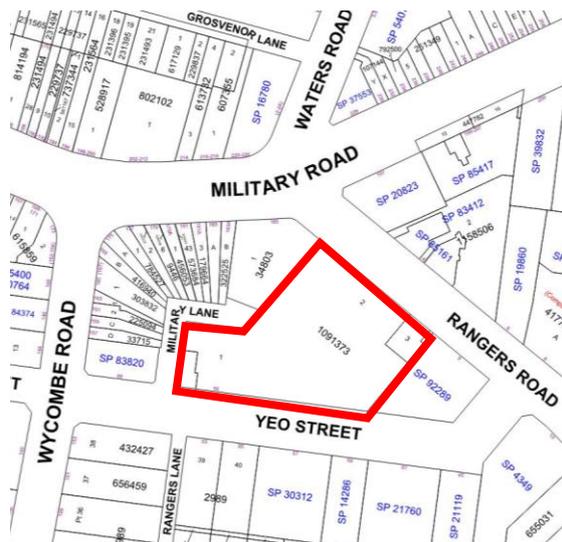
### 1. Applicant

The Planning Proposal was lodged by Fabcot Pty Ltd (Woolworths) on behalf of the landowners of 1-7 Rangers Road and 50 Yeo Street, Neutral Bay. Owners consent has been obtained from all three landowners.

### 2. Site Description

The subject site comprises of three (3) parcels of land. The legal property description and existing development is outlined in the Table 2.

<b>Property Description</b>	<b>Legal Description</b>	<b>Existing Development</b>
50 Yeo Street	Lot 1, DP 1091373	6-storey commercial building with frontage to Yeo Street.
1-7 Rangers Road	Lot 2, DP 1091373	Single-storey supermarket with frontage to Rangers Road and vehicular access to underground car park from Yeo Street and access to loading dock from Military Lane.
	Lot 3, DP 1091373	



**FIGURE 5: Subject Site**



**FIGURE 6: Aerial Photo**

The subject site is bound by Rangers Road to the north-east, Yeo Street to the south and Military Lane to the west. The site is irregular in shape with a 75m frontage to Rangers Road and 89m frontage to Yeo Street. The site also has a frontage to Military Lane, which functions as a service lane. The total site area is approximately 4,207m<sup>2</sup>. There is a gradual fall of approx. 1.5m across the site from north (Rangers Road RL83.5) to south (Yeo Street RL82).

The site contains a single storey supermarket at 1-7 Rangers Road and a 6-storey commercial building at 50 Yeo Street. Both buildings are constructed to address their respective street frontages. Vehicular access to the existing basement carpark at 1-7 Rangers Road is provided from Yeo Street, whilst loading and servicing is provided via loading dock on Military Lane.



**FIGURE 7: Existing Woolworths (1-7 Rangers Road)**



**FIGURE 8: Existing Woolworths underground carpark entry (Yeo Street)**



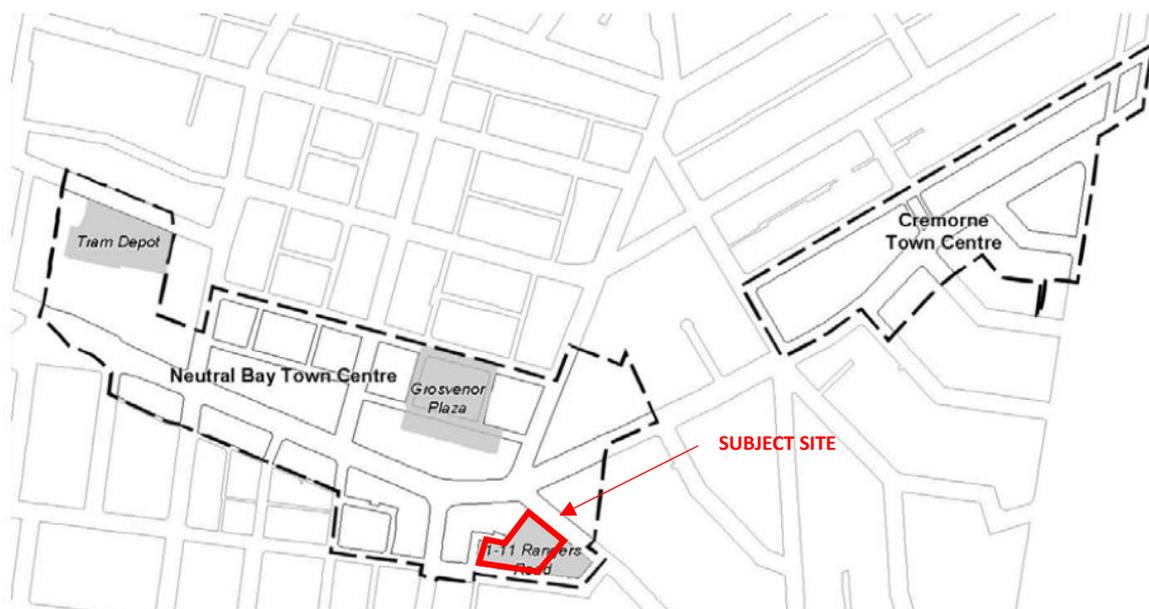
**FIGURE 9: Existing development at 50 Yeo Street**



**FIGURE 10: Military Lane**

### 3. Local Context

The subject site is located in the south-eastern portion of the 'Neutral Bay Town Centre' (refer to Figure 8), which is identified as a 'local centre' under the relevant District Plan and Local Plan.



**FIGURE 11: 'Neutral Bay Town Centre' Locality Area under Part C of NSDCP 2013**

Military Road is located approximately 20m to the north, which provides regular bus services to the south to North Sydney CBD and Sydney CBD, and to the north to Mosman, Chatswood, St Leonards and Manly.

To the north of the subject site, on the adjacent lot at 183-185 Military Road, is a three-storey commercial building constructed in the 1970s with ground level retail and commercial uses above. Further to the north, along Military Road are predominantly two-storey buildings constructed between the 1960s-1980s with small scale retail tenancies at the ground level and commercial uses above.

To the south of the site, on the opposite side of Yeo Street are a series of two-three storey residential flat buildings with north-facing windows and balconies. Adjacent to the subject site, at the corner of Yeo Street and Rangers Road, is a recent 6-storey mixed-use development with ground level retail and residential apartments above with basement parking accessed from Yeo Street.

To the east of the site, on the opposite side of Rangers Road, is a recently completed five-storey mixed-use development.

To the west of the site, is Military Lane providing rear access for a number of buildings fronting Military Road and Wycombe Road. Further to the west of the site, on the corner of Military Lane and Yeo Street, is a recently completed four-storey mixed-use development.



**FIGURE 12: Adjacent development to north (183-185 Military Road)**



**FIGURE 13: Adjacent development to south (9 Rangers Road)**



**FIGURE 14: Residential development on southern side of Yeo Street**



**FIGURE 15: Residential development on southern side of Yeo Street**



**FIGURE 16: Mixed-use development to east along Rangers Road**



**FIGURE 17: Mixed-use development to west at corner Military Lane and Yeo Street**

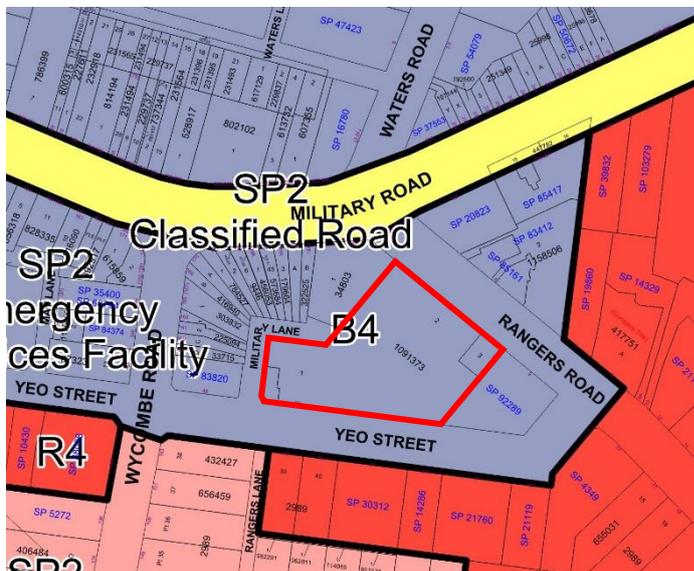
#### 4. Current Planning Provisions

The following subsections identify the relevant planning instruments that apply to the subject site.

##### 4.1 NSLEP 2013

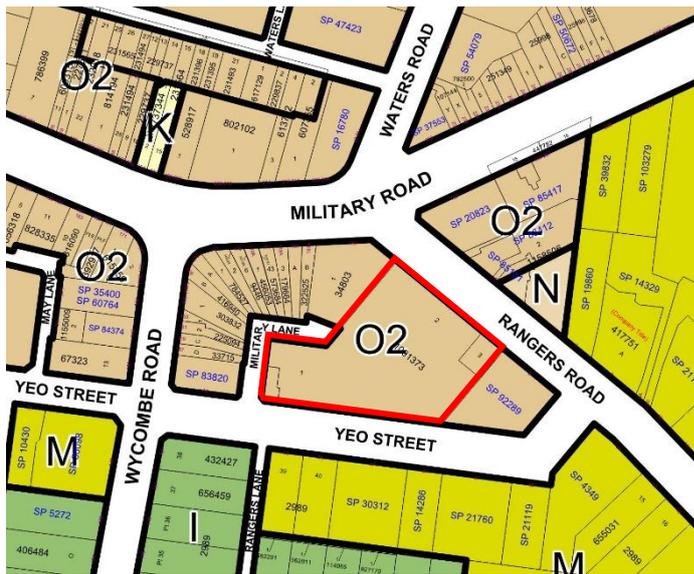
NSLEP 2013 was made on 2 August 2013 through its publication on the NSW legislation website and came into force on the 13 September 2013. The principal planning provisions relating to the subject site are as follows:

- Zoned *B4 - Mixed Use* (refer to Figure 18);
- A maximum building height of 16m (refer to Figure 19); and
- A minimum Non-residential Floor Area of 0.5:1 (refer to Figure 20).



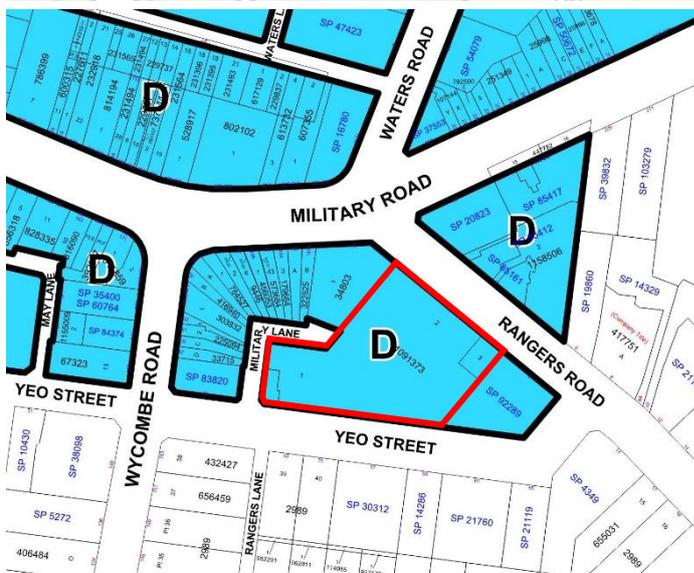
**FIGURE 18:**  
**NSLEP 2013 Zoning Map extract**

**The subject site is zoned B4 Mixed Use.**



**FIGURE 19:**  
**NSLEP 2013 Height of Buildings**  
**Map Extract**

*The subject site has a maximum height of 16m.*



**FIGURE 20:**  
**NSLEP 2013 Non-residential Floor**  
**Space Area Map extract**

*The subject site has a minimum Non-residential Floor Space Area of 0.5:1.*

## 5. Proposed Planning Provisions

### 5.1 Amendment to NSLEP 2013

The Planning Proposal seeks to achieve its objectives and intended outcomes by amending NSLEP 2013 as follows:

- Amend the Height of Buildings Map from 16m to part 30m (50 Yeo street) and 40m (1-7 Rangers Road);
- Amend the Non-Residential Floor Space Ratio Map from 0.5:1 to 1.7:1.

The Planning Proposal anticipates that the Maps to NSLEP 2013 would be amended similar to those depicted in Figures 21 and 22.



**FIGURE 21:**  
 Extract of proposed amendment to  
 Height of Buildings map to NSLEP  
 2013  
 (source: Applicant's Planning  
 Proposal)

 Land subject to a change in  
 maximum building height.

Two new keys would be required as  
 follows:

 30  
 40



**FIGURE 22:**  
 Extract of proposed amendment to  
 Non-Residential Floor Space Ratio  
 Map to NSLEP 2013  
 (source: Applicant's Planning  
 Proposal)

 Land subject to a change in  
 minimum non-residential  
 floor space area.

A new key would be required as  
 follows:

 1.7

## 5.2 Amendment to NSDCP 2013

To provide greater certainty over a future built form on the site, the Planning Proposal is accompanied by a suite of suggested site-specific development controls to be incorporated within Part C of NSDCP 2013.

A summary of the applicant's proposed DCP provisions is provided in Table 3 below.

<b>TABLE 3: Proposed site-specific DCP controls</b>	
	<b>Proposed controls</b>
<b>Site Layout</b>	<ul style="list-style-type: none"> <li>Development within site to be configured as per Figure 23.</li> </ul>
<b>Land Use</b>	<ul style="list-style-type: none"> <li>Retail and commercial uses to be located at ground floor.</li> <li>Supermarket to be located below ground.</li> </ul>
<b>Public Domain</b>	<ul style="list-style-type: none"> <li>A public plaza be provided that is open-to-sky and publicly accessible at all times</li> <li>A north-south arcade link be provided between Yeo Street and the future public plaza that is publicly accessible at all times, with minimum 7m height and 8m width.</li> </ul>

	<ul style="list-style-type: none"> <li>• Combined area of public plaza and arcade link to be no less than 1,000 sqm.</li> </ul>
<b>Heights, Setbacks &amp; Podium</b>	<ul style="list-style-type: none"> <li>• Building heights and setbacks to be provided as per Figure 25.</li> </ul>
<b>Building Design</b>	<ul style="list-style-type: none"> <li>• Buildings to incorporate design measures to visually break long building facades.</li> </ul>
<b>Active Frontages</b>	<ul style="list-style-type: none"> <li>• Location of active frontages at ground floor to be provided as per Figure 26.</li> </ul>
<b>Parking, Access and Servicing</b>	<ul style="list-style-type: none"> <li>• Vehicular access, basement parking and service entry points to be provided as per Figure 27.</li> <li>• A minimum 65 car parking spaces to be provided for public use.</li> <li>• Future development to incorporate a direct-to-boot facility for supermarket at ground level.</li> </ul>



**FIGURE 23: Proposed Site Layout Plan**



**FIGURE 24: Proposed Public Domain Plan**



**LEGEND**

- Site Boundary
- Public Plaza / Arcade
- 10 Storeys
- 9 Storeys
- 7 Storeys
- 4 Storeys
- 3 Storeys
- 2 Storeys

**LEGEND**

- Site Boundary
- Public Plaza / Arcade
- Active Frontage

**FIGURE 25: Proposed Building Heights and Setbacks Plan**

**FIGURE 26: Proposed Active Frontages Plan**



**LEGEND**

- Site Boundary
- Public Plaza / Arcade
- - - - - Pedestrian / Cyclist Access
- - - - - Vehicular / Carpark Access
- - - - - Truck / Loading Access

**FIGURE 27: Proposed Access and Movement Plan**

## 6. Voluntary Planning Agreement (VPA)

The Planning Proposal is accompanied by a non-binding letter of offer to enter into a VPA with Council to deliver:

Proposed public benefits		Applicant's Estimated value
<b>Public car parking</b>	Construction and provision of 65 parking spaces within the basement for public use at all times in perpetuity.	\$4,947,587.
<b>Publicly accessible square and public art</b>	Construction and provision of a new publicly accessible square and through-site link comprising approximately 1,103 sqm of paved landscaped area for public recreation, events and cultural activities.	\$1,219,137 (construction cost)
<b>Public Wi-Fi</b>	Provision of free Wi-Fi service within site for public use.	\$200,000 (over 10 years)
<b>Public Domain Improvements and landscaping</b>	Provision of paving upgrades to footpaths adjacent to site, including street trees and furniture.	\$248,000

The applicant's estimated total value of the proposed offer is in the order of \$6,614,724. This is in addition to applicable section 7.11 and/or section 7.12 local infrastructure contributions.

## 7. STRATEGIC POLICY CONTEXT

### 7.1 Greater Sydney Regional Plan

In March 2018, the NSW Government released *A Metropolis of Three Cities – Greater Sydney Region Plan* (Regional Plan). It provides a long-term vision and plan to accommodate Sydney's anticipated population growth of 1.7 million people and deliver 725,000 new dwellings and 817,000 new jobs by 2036.

*A Metropolis of Three Cities* is built on the vision of three cities – the Western Parkland City, the Central City and Eastern Harbour City – where residents can live within 30 minutes of their jobs, education and health facilities, services and great places. It sets out the framework for five districts within Greater Sydney, and seeks to deliver an infrastructure and collaboration, liveability, productivity and sustainability framework. The District Plans, consistent with the Regional Plan, were released at the same time as the Regional Plan.

### 7.2 North District Plan

In March 2018, the NSW Government released the North District Plan, which covers the LGAs of North Sydney, Hornsby, Ku-ring-gai, Ryde, Hunter Hill, Lane Cove, Willoughby, Mosman and Northern Beaches.

The North District Plan sets the following targets:

<b>Housing Target</b>	<b>North Sydney LGA</b>	<b>North District</b>
5 year (2016-2021)	+3,000 new dwellings	+25,950 new dwellings
20 year (2016-2036)	+11,870 new dwellings (North Sydney Local Housing Strategy)	+92,000 new dwellings

<b>Jobs Target</b>	<b>North Sydney CBD</b>	<b>St Leonards/Crows Nest</b>
20 year (2016 –2036)	+15-600-21,1000 new jobs	+6,900-16,400 new jobs

The North District Plan identifies Neutral Bay as a ‘local centre’ and highlights the importance of sustaining local centres to provide jobs, services and amenity to deliver the Regional Plan’s vision of a 30-minute city.

A key priority of the North District Plan is:

*Planning Priority N6: ‘Creating and renewing great places and local centres, and respecting the District’s heritage.’*

This priority recognises the important role of local centres as social connectors, and their role in providing local employment opportunities, and the need to co-locate social infrastructure with daily needs and other services to build social connections. It also emphasises the importance of place-based, design-led planning to deliver high-quality places that engage and connect people and communities.

The North District Plan envisages the preparation of place-based planning studies for local centres to be led predominantly by local councils, specifically *‘the resolution of which local centres are important to each council will need to be assessed as part of the preparation of local strategic planning statements.’* It also requires place-based planning for local centres to address the following principles:

- *Provide a public realm and open space focus;*
- *Provide community facilities, services, arts and cultural facilities;*
- *Deliver transit-oriented development and co-locate facilities and social infrastructure;*
- *Protect or expand retail and/or commercial floorspace; and*
- *Increase residential development in, or within a walkable distance of, the centre.*

Following the directions of the Greater Sydney Commission (GSC), North Sydney Council has put in place its Local Housing Strategy (LHS) and Local Strategic Planning Statement (LSPS), which forms part of the hierarchy of plans and provides alignment with the North District Plan.

### **7.3 Local Strategic Planning Statement (LSPS)**

The North Sydney LSPS was adopted by Council on 25 November 2019, and subsequently ‘assured’ by the GSC on 20 March 2020.

One of the key roles of the LSPS is to draw together, in one document, the priorities and actions for future land use planning, and present an overall land use vision for the North Sydney LGA for the next 20 years. The LSPS is required to be consistent with the Regional Plan and North District Plan and provide a clear line-of-sight between the key strategic priorities identified at the regional and district level and the local and neighbourhood level.

The LSPS identifies the preparation and implementation of several precinct-based planning studies, including the Military Road Corridor Planning Study (MRCPS), in recognition that the Neutral Bay precinct is experiencing significant development pressure.

#### **7.4 Military Road Corridor Planning Study – Stage 1 (Rescinded)**

On 22 February 2021, Council resolved to adopt a finalised *Neutral Bay Town Centre – Future Directions Report (also known as the Military Road Corridor Planning Study – Stage 1)*.

Consistent with the District Plan’s principles for local centres, the key objectives of the rescinded MRCPS were to:

- address the decline in employment floor space in the centre;
- facilitate carefully planned development while maintaining the village atmosphere of the centre; and
- leverage a range of community benefits and public domain improvements from planned and limited growth.

At its meeting on 24 January 2022, Council resolved to rescind this Study amidst concerns on the height and scale of development envisaged within the Study and further engage with the community and stakeholders to prepare *‘a revised recommendation that has a better balance between development height and the provisions of additional public open space.’*

On 23 May 2022, Council endorsed a scoping framework as the basis for a revised planning study for the Neutral Bay Town Centre. Given that Council has spent the best part of 3 years preparing the MRCPS, including extensive consultation and understanding of the local values, issues and aspirations gained from this process, the revised work is intended to be an extension rather than a completely new and independent planning study. This work is now under way.

The same objectives will be retained in the renewed study as they remain relevant, however, a new objective is to be included relating to *‘targeted modest increases in height and density while maintaining and enhancing the village atmosphere of the centre.’* Whilst this will require adjusted expectations for community benefits to achieve a better balance between height and public benefits, the provision of public open space/plaza will remain a priority in the renewed study as *‘beautiful public spaces’* was the highest ranked future need identified by the community.

It is estimated that the required studies, modelling, consultation and reporting processes will take in the order of 18 months to finalise.

### **8. ASSESSMENT**

#### **8.1 Planning Proposal Structure**

The Planning Proposal has been prepared generally in accordance with the requirements of Section 3.33 of the Environmental Planning and Assessment (EP&A) Act 1979 and *Local Environmental Plan Making Guidelines* (DPE 2021). In particular, the Planning Proposal adequately sets out the following:

- A statement of the objectives or intended outcomes of the proposed local environmental plan;
- An explanation of the provisions that are to be included in the proposed local environmental plan;
- Justification of the proposal’s strategic and site specific merit;
- Identification of associated mapping amendments;
- Details of the community consultation that is to be undertaken in relation to the Planning Proposal;

- A project timeline identifying how the planning proposal is to be implemented, should it progress.

## 8.2 Need for Planning Proposal

A core objective of the Planning Proposal is to *'deliver a built form outcome that responds to the intent of the draft Future Directions Report for Neutral Bay Town Centre.'* Whilst the proposal acknowledges Council's resolution from 24 January 2022 to rescind the *Future Directions Report* as the strategic development framework for the Neutral Bay Town Centre, it states that the applicant does not want to pause the project for another 12-24 months for Council to prepare a renewed study.

The current planning controls do not enable the site to be redeveloped to the requested height, and the intent of the proposal cannot be achieved under *clause 4.6 – Exceptions to development standards* due to degree of variation in height sought.

## 8.3 Assessment Criteria

Part 3 of the DPE's *'LEP Making Guideline'* (December 2021) outlines the criteria for assessing Planning Proposals. For a Planning Proposal to be supported to proceed to a Gateway Determination it must demonstrate both strategic and site-specific merit.

A planning proposal is deemed to have strategic merit where it:

- *gives effect to the relevant District Plan within the Greater Sydney Region, and/or corridor/precinct plans applying to the site; or*
- *demonstrates consistency with the relevant LSPS; or*
- *Responds to a change in circumstances that has not been recognised by the existing planning framework.*

To demonstrate the proposal is suitable for the site, the proposal must give regard and assess impacts to:

- *the natural environment on the site to which the proposal relates;*
- *existing uses, approved uses, and likely future uses of land in the vicinity of the land to which the proposal relates; and*
- *services and infrastructure that are or will be available to meet the demands arising from the proposal.*

Planning Proposals are also required to be consistent with applicable State Environmental Planning Policies (SEPPs) and section 9.1 Ministerial Directions.

Despite Council resolving to rescind the MRCPS and pursue a revised planning study, the principles of the rescinded MRCPS remain a valid consideration in the absence of an endorsed Study for the reasons outlined in section 7.4 to this report.

## 8.4 Building Height, Massing and Transition

A core objective of the rescinded MRCPS was to carefully manage increases in building height in a limited number of locations:

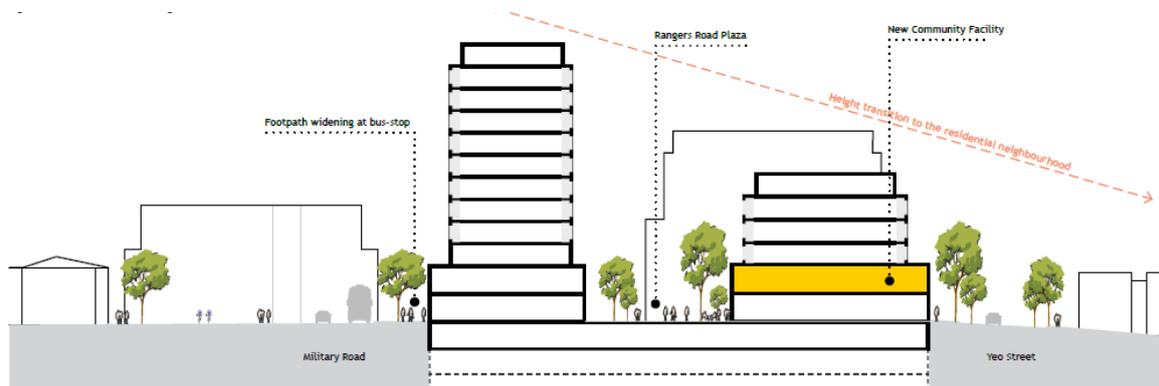
- *to maintain a viable level of employment and residential capacity;*
- *in a manner that does not detract from the village character of the centre; and*
- *that can deliver the public benefits identified within the Study.*

Increases in height were recommended on larger, amalgamated sites where new community facilities and public domain projects could be delivered. As such, the Study clearly expressed that Council would only consider Planning Proposals that seek to increase the heights for sites 1-3 to enable a development up to the maximum number of storeys shown within the Study (refer to Figure 29). For 'site 3', the rescinded MRCPS identified a maximum building height of 12-storeys along Military Road (this site is not included within the subject proposal), 8-storeys along Rangers Road and 6-storeys along Yeo Street, with the proposed heights subject to the solar and setback controls identified in the Study.



**FIGURE 28: Proposed building height controls (in storeys) for Neutral Bay town centre (source: Rescinded MRCPS, p. 45)**

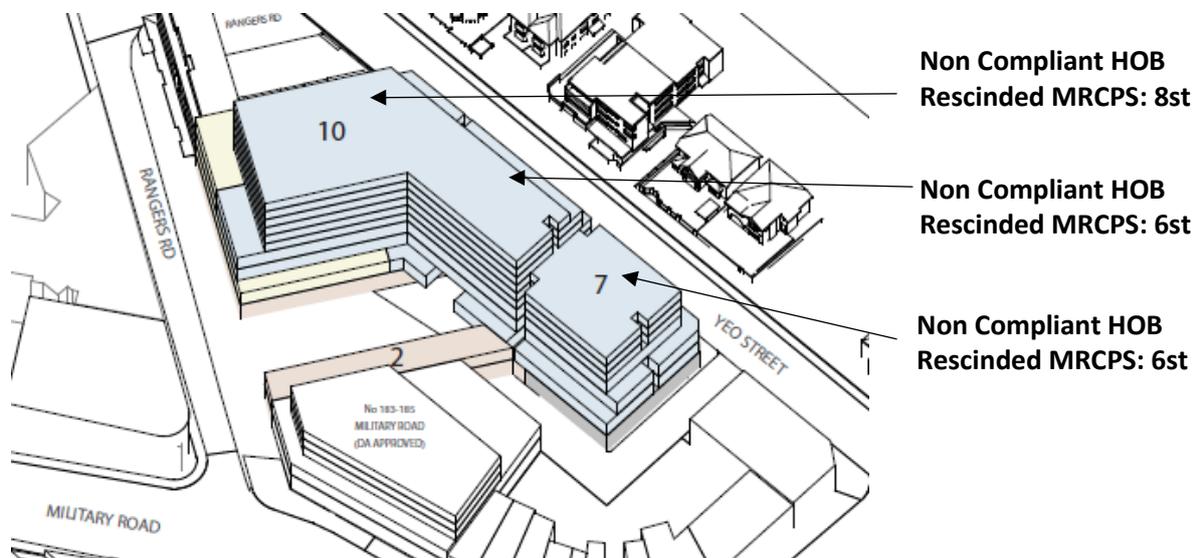
The intent of the staggered building heights and setbacks was to optimise solar access to existing and future public domain. The taller elements to be located away from Yeo Street and along Military Road-Rangers Road to provide an appropriate transition down from Military Road to protect the existing village character of Neutral Bay and minimise impact to surrounding residential areas (refer to Figure 30).



**FIGURE 29: Cross section of 'Site 3' – Rangers Road (source: Rescinded MRCPS, p. 62)**

The Planning Proposal seeks a maximum building height of 40m (at 1-7 Rangers Road) and 30m (at 50 Yeo Street) to accommodate a part 10-storey and part 7-storey building (refer to Figure 31). This exceeds the maximum building heights identified in the rescinded MRCPS by 2 storeys along Rangers Road and up to 4-storeys along Yeo Street.

The proposed 10-storey height along Rangers Road and Yeo Street does not provide a human-scale frontage to the plaza nor an appropriate transition in height and scale to surrounding low-scale residential areas to the south. The proposed height and continuous length of the building along Yeo Street results in a 'long and tall' barrier between the proposed plaza and residential dwellings along Yeo Street (refer to Figure 31).



**FIGURE 30: Proposed Massing Diagram (Applicant's Urban Design Report, p. 28)**

In addition, the requested height of 40m and 30m appears excessive for the number of storeys and could potentially result in a building greater than 10-storeys and 7-storeys respectively across the site.

The applicant's architectural drawings show floor-to-floor heights within the podium well in excess of that required to be provided for commercial spaces (typically 3.7m) and residential spaces (typically 3.1m). In particular, the following floor-to-floor heights are considered excessive and could be reduced:

- Fronting Rangers Road, floor-to-floor heights of 5.5m are proposed at the Ground Level for retail and 4.4m at Levels 1-3 for commercial uses; and
- Fronting Yeo Street, floor-to-floor heights of 7m at the Ground Level are proposed for retail and 4.4m at Levels 1-3 for residential uses.

### **8.5 Non-Residential Floor Space Ratio**

A minimum non-residential FSR of 0.5:1 currently applies to the site under NSLEP 2013. When the preparation of the now rescinded MRCPS commenced in 2018, it was acknowledged Council's existing controls were facilitating the ongoing erosion of employment floor space in the precinct. As part of a broader strategy to protect the employment function of the Neutral Bay Town Centre, the rescinded MRCPS recommended a minimum non-residential FSR of 2:1 for the subject site. The revised planning study will seek to protect and address the decline in employment floor space within the precinct, consistent with the North District Plan's priorities for local centres.

The Planning Proposal seeks a minimum non-residential FSR of 1.7:1 (or 7,152 sqm non-residential GFA). This is approximately 1,262 sqm (or 15%) less than that contemplated under the rescinded MRCPS.

The applicant's reference scheme provides a total 7,260 sqm non-residential GFA (including 3,311m<sup>2</sup> supermarket; 1,846m<sup>2</sup> retail; 2,103m<sup>2</sup> commercial). No details have been provided indicating the extent of non-residential floorspace or the number of jobs currently provided on the subject site. The applicant's Economic Impact Assessment states that the proposed development will result in a net loss of commercial office floorspace (-2,103 sqm) and a net gain of retail floorspace (+1,661 sqm).

The justification provided for the proposed net reduction in office space is that the proposed development still provides for 2,103 sqm of contemporary commercial office space that will be better aligned to modern customer and tenant requirements, and that the development has the potential to generate an additional 113 jobs (FTE) when fully occupied and operational.

### **8.6 Bulk and scale**

To ensure the bulk and scale of buildings reinforces the existing village character of Neutral Bay and maintains an appropriate human scale, the rescinded MRCPS identified podium and setback requirements for 'Site 3'.

An assessment of the proposal's compliance with the rescinded MRCPS podium and setback requirements is provided in Table 5 below.

<b>TABLE 5: Podium and setback requirements for 'site 3'</b>		
	<b>Rescinded MRCPS</b>	<b>Planning Proposal</b>
Rangers Road	4 storey podium Nil whole of building setback 3m setback above podium	<input checked="" type="checkbox"/> 4 storey podium <input checked="" type="checkbox"/> 5.5m setback above podium
Yeo Street	3 storey podium Nil whole of building setback 3m setback above podium	<input checked="" type="checkbox"/> <b>4 storey podium</b> <input checked="" type="checkbox"/> 3.5m setback above 4 storeys
Military Lane	3 storey podium 1.5m whole of building setback 3m setback above podium	<input checked="" type="checkbox"/> 3 storey podium <input checked="" type="checkbox"/> <b>Nil setback at podium</b> <input checked="" type="checkbox"/> 3m setback above podium
Around plaza	2 storey podium with setback above podium	<input checked="" type="checkbox"/> 2 storey podium <input checked="" type="checkbox"/> Setback above podium

### 8.6.1 Podium

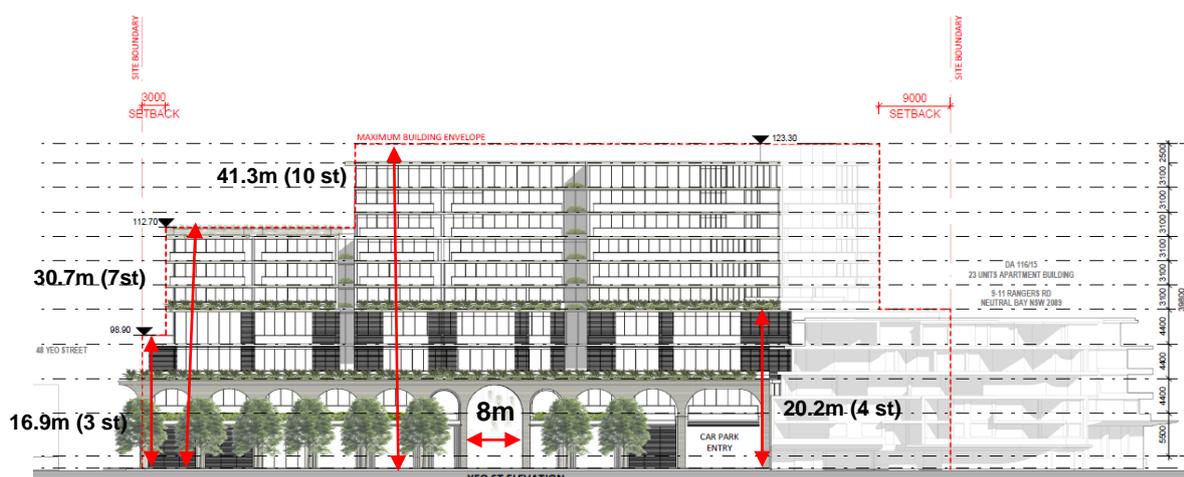
The applicant’s architectural plans show an indicative 4-storey podium to Rangers Road and Yeo Street, 3-storey podium to Military Lane and 2-storey podium around the plaza. For the reasons outlined in section 8.4 of this report, the proposed podium heights are considered excessive for the number of storeys and could be reduced.

The proposed podium height of 19.9m-20.2m for 4-storeys fronting Rangers Road and Yeo Street will create an oversized podium, the equivalent of 5-6 storeys in height that does not appropriately respond to the prevailing or desired scale and village character of Neutral Bay. As shown in Figures 31 and 32 below, the height of the podium exceeds the height of the adjacent 5-6 storey mixed-use development at 9-11 Rangers Road.

The proposed podium height of 16.9m for 3 storeys fronting Military Lane is excessive and equivalent to 4-storeys. The proposed podium height of 9.9m for 2-storeys around the plaza could also be reduced to provide a more appropriate scale.



**FIGURE 31: Applicant elevation plans – Rangers Road**  
 (source: Applicant’s Architectural Plans, p. 19)



**FIGURE 32: Applicant elevation plans – Yeo Street**  
(source: Applicant’s Architectural Plans, p. 20)

It should be noted that the now rescinded MRCPS also envisaged the provision of a minimum 6m wide, open-to-sky pedestrian link to Yeo Street located on the western boundary of 1-7 Rangers Road to provide a visual break in the development fronting Yeo Street, maximise solar access to the public domain and create a more permeable, village atmosphere. The proposal provides an 8m wide arcade-style link to Yeo Street with residential development located above, resulting in an excessively long (approximately 77m), bulky and visually dominant built form in a lower scale context.

### 8.6.2 Setbacks

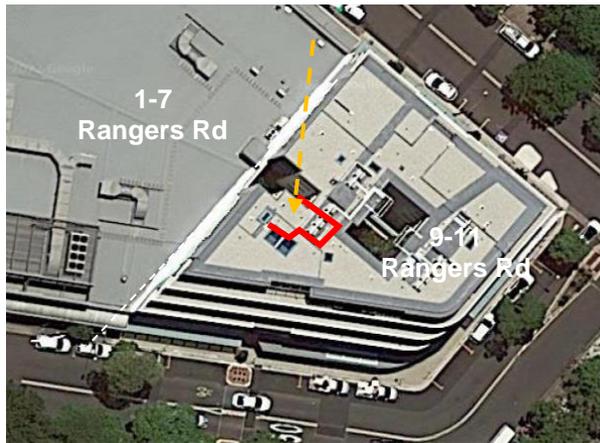
To improve pedestrian amenity to the public domain, the rescinded MRCPS identified setback requirements to the street frontages for ‘Site 3’. Whilst the proposal provides compliant whole of building setbacks to Rangers Road and Yeo Street, the proposed nil setback to Military Lane does not comply with the rescinded MRCPS and NSDCP 2013. The recommended 1.5m setback is to provide the opportunity to widen the laneway, to facilitate improved vehicular turning movement whilst maximising pedestrian safety and amenity and to facilitate future connections between Rangers Road Plaza and Yeo Street.

### 8.6.3 Building separation

The rescinded MRCPS clearly stated that additional setbacks may be required to comply with SEPP 65 and the associated Apartment Design Guidelines (ADG). Similar provisions are also currently included within NSDCP 2013.

The applicant’s reference scheme shows residential apartments with habitable rooms and balconies above the podium (5-10 storeys) along the eastern boundary. SEPP 65 and the associated ADG requires a minimum 9m setback at 5-8 storeys and 12m setback at 9-10 storeys. The applicant’s reference scheme only provides a 9m setback from 5-10 storeys.

Whilst it is noted that the majority of the adjacent building façade at 9-11 Rangers Road is a blank wall, there is a small internal courtyard along the joint boundary which provides solar access to apartments within the development (refer to Figures 33-34). A 10-storey building height with non-compliant building separation at the upper levels (9-10 storeys) will result in unacceptable amenity impacts (solar access) to adjacent apartments.



**FIGURE 33: 9-11 Rangers Road - Top view**



**FIGURE 34: 9-11 Rangers Road – Street view along Rangers Road**

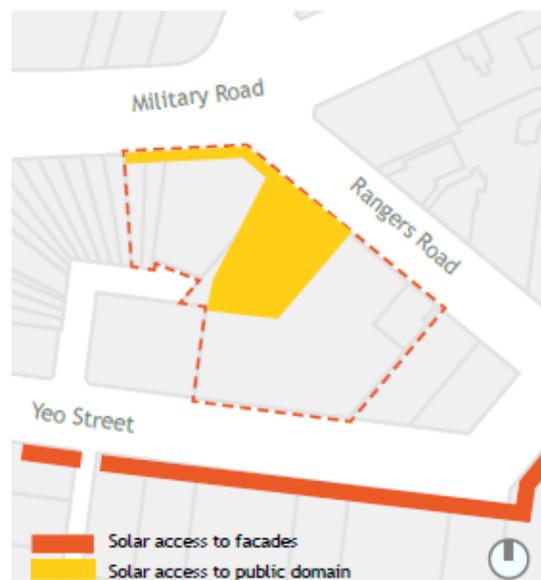
In addition, the proposal does not comply with minimum ADG building separation requirements along its western boundary to Military Lane, where residential apartments with habitable rooms and balconies are proposed from 2-7 storeys.

The ADG requires a minimum 6m setback measured from the centreline of Military Lane up to 4 storeys and 9m setback at 5-8 storeys. The proposed setbacks along the western boundary to Military Lane are 4m at 2-3 storeys, 5.5m at the 4th storey and 7m at 5-7 storeys. Along the northern boundary to Military Lane, the proposed setbacks are 4.5m at the 2nd storey, 5.5m at the 3rd storey, and 7.5m at 4-7 storeys.

Considering the site benefits from two unobstructed street frontages and a significant site area, non-compliance with minimum ADG building separation requirements is unacceptable.

## **8.7 Overshadowing**

One of the detailed design considerations for 'Site 3' in the rescinded MRCPS was that the proposed built form should demonstrate improvements to solar access to the surrounding public domain compared to existing controls. It expressly identified solar access to the building facades along the southern side of Yeo Street and the plaza to be of particular importance (refer to Figure 35).



**FIGURE 35: MRCPS solar access requirements for 'site 3'**  
(source: Rescinded MRCPS, p. 65)

### 8.7.1 Residential facades along Yeo Street

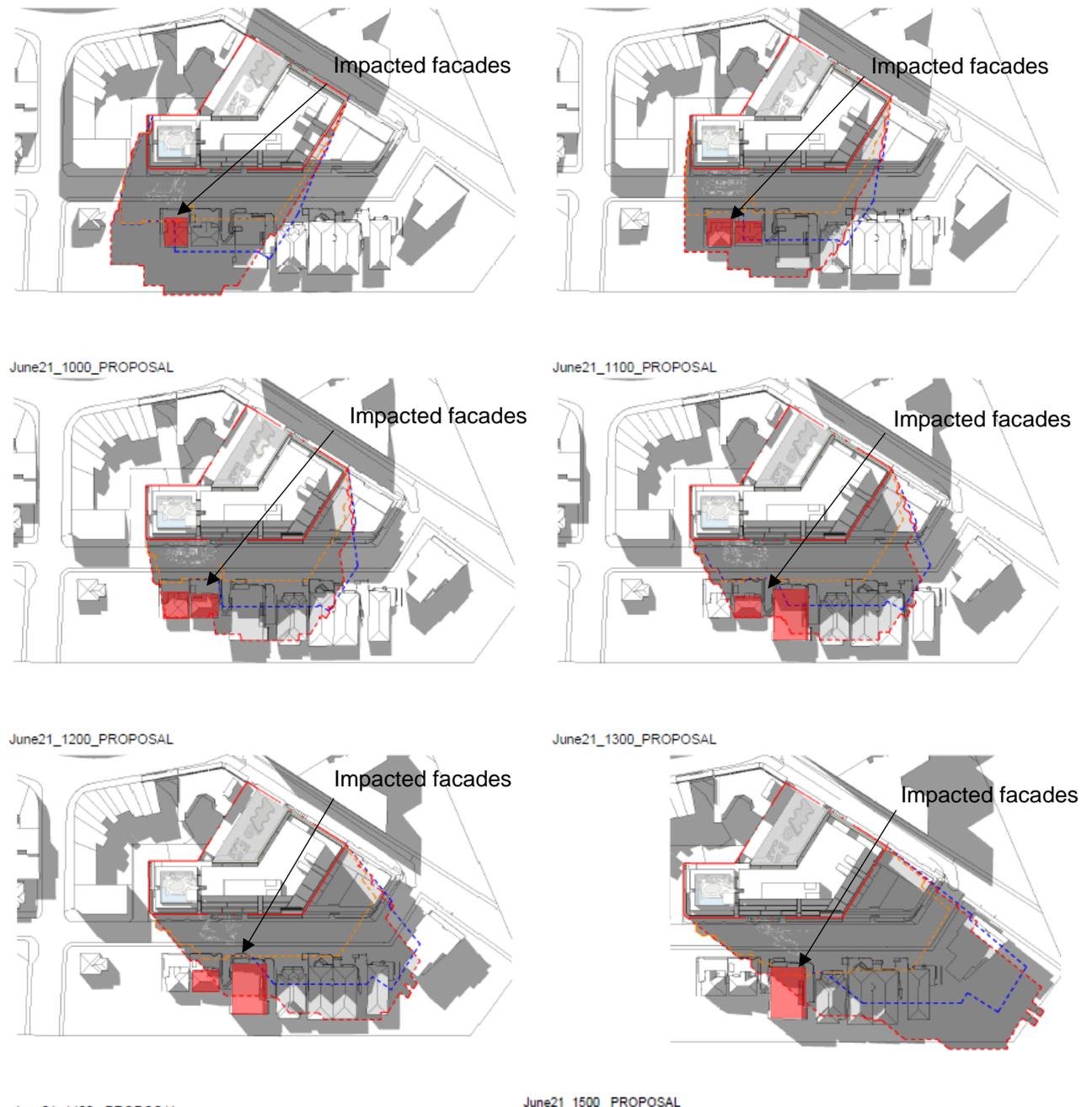
The applicant's shadow diagrams (refer to Figure 36) clearly indicate that the proposal will result in a significant reduction in solar access to residential dwellings on the southern side of Yeo Street between 10am to 3pm in mid-winter. The overshadowing impacts of the proposal are evidently greater than that contemplated under the rescinded MRCPS.

The most significantly impacted residential properties include:

- 53 Yeo Street, between 10 am – 1pm;
- 55 Yeo Street, between 11am – 2pm;
- 57 Yeo Street, between 12 noon – 3pm;
- 59 Yeo Street, between 11am – 1pm;
- 61-63 Yeo Street, between 12 noon – 1pm.

The justification provided by the applicant for the proposed impact is that for the most part, the additional shadows caused by the proposal only falls on rooftops and that shadows are already partially cast by high fencing and street canopy. This justification is immaterial and not accepted. It is evident from the analysis submitted, that existing levels of solar access to the primary living areas, balconies and bedrooms of predominantly north facing dwellings will be significantly reduced and to some dwellings (57-59 Yeo Street) will be in shadow for the entire day, contrary to the objectives and outcomes of the rescinded MRCPS.

It should also be noted that there is an error or misrepresentation in the applicant's shadow diagrams. The rescinded MRCPS recommended a 6m wide open-to-sky pedestrian through-site link along the western boundary of 1-7 Rangers Road which is not included. Therefore, the shadow impacts resulting from the rescinded MRCPS should be less than what is indicated in the diagrams below.



**FIGURE 36: Applicant shadow diagrams (source: Applicant's Architectural Plans, pp. 29-30)**

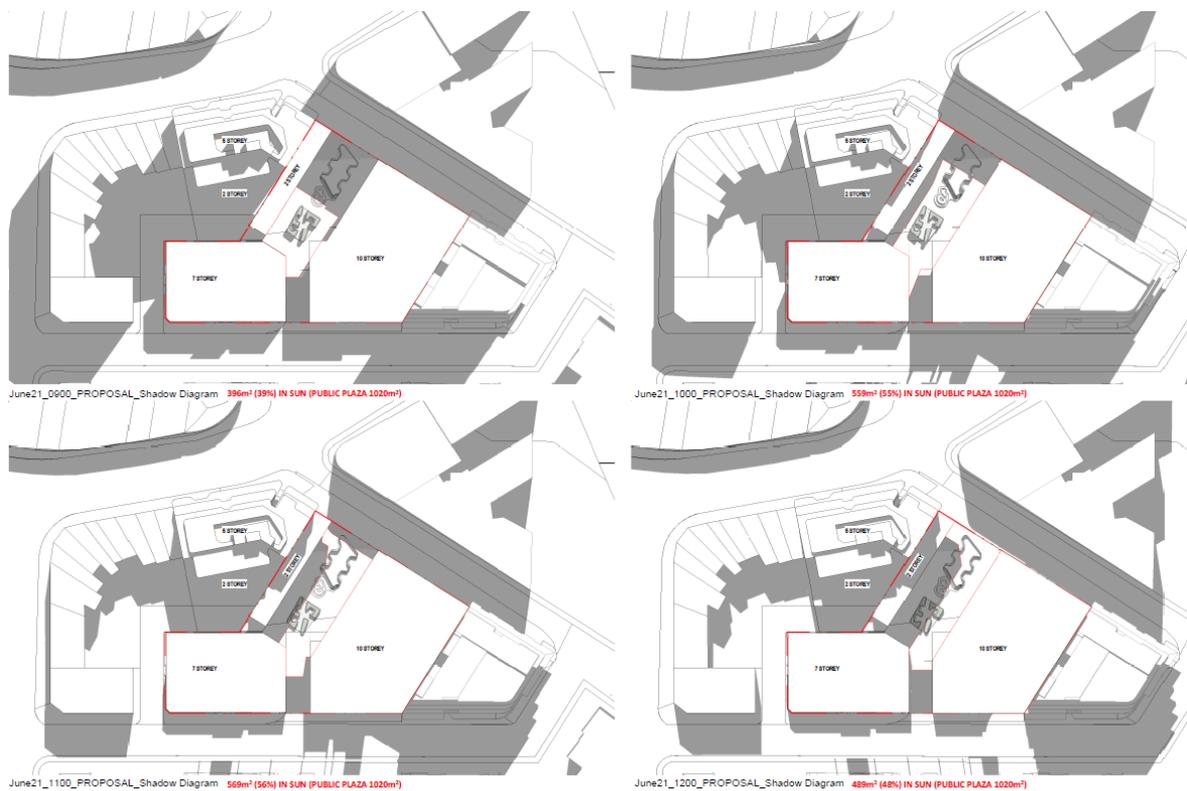
**KEY**

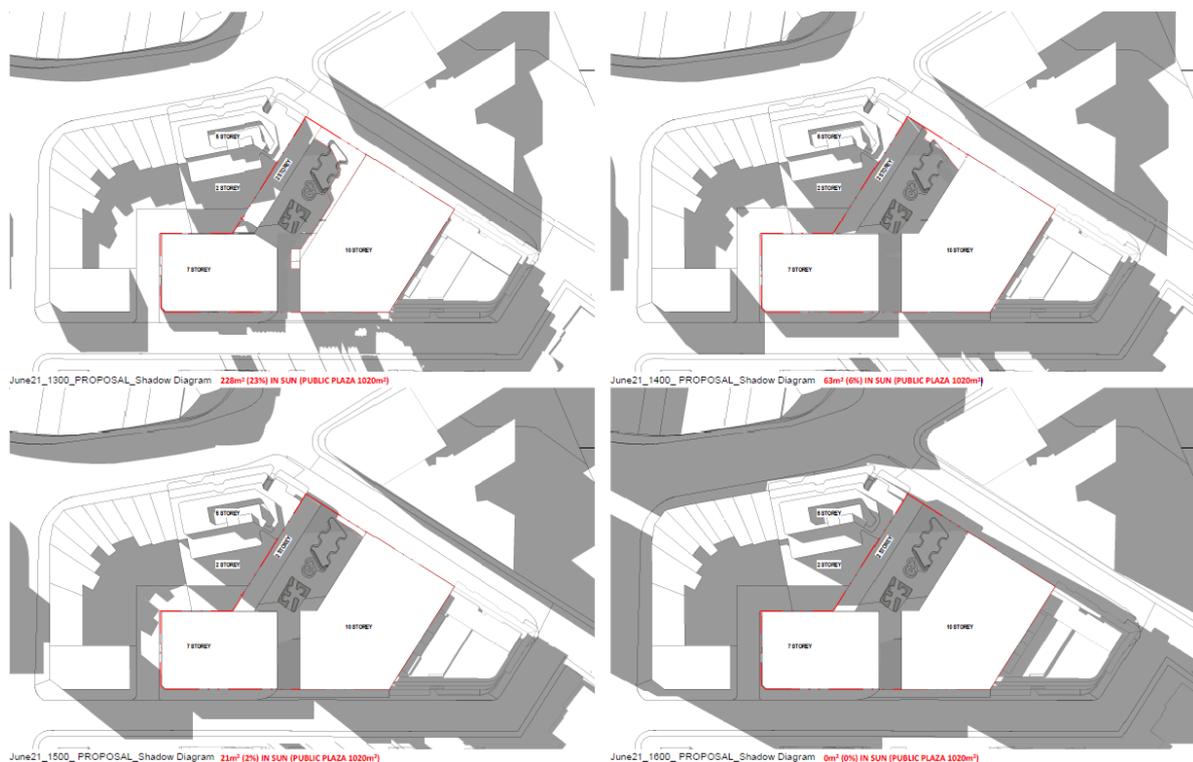
- NSDCP 2013
- Rescinded MRCPS
- Planning Proposal
- Residential dwellings with additional shadow impacts compared to rescinded MRCPS

### 8.7.2 Public plaza

The applicant has submitted shadow diagrams to illustrate the proposal's shadow impacts on the new public plaza. To test the shadow, the approved DA scheme for the adjacent 'Equitibuild' site to the north (at 183-185 Military Road) has been applied. The approved DA is for a 6-storey building that is built to the boundary without the 2.5m whole of building setback and 3m upper-level setback envisaged by the rescinded MRCPS for the site (refer to section 8.8 for further details).

The applicant's shadow diagrams indicate that the Planning Proposal and approved DA at the 'Equitibuild' site would provide limited solar access to the public plaza, particularly between 1-4pm in mid-winter when the public space is likely to be most used. Between 10am-12pm in mid-winter approximately 50% of the plaza would receive solar access. At 1pm, solar access is reduced to 23%. From 2pm, solar access is further reduced to 6% and 2% at 3pm. At 4pm, the plaza is completely in shadow (refer to Figure 37).



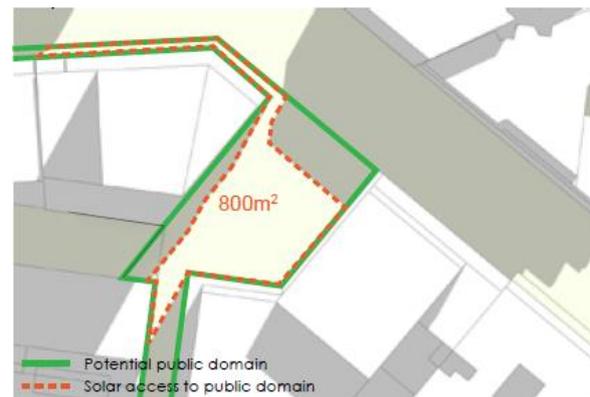


**FIGURE 37: Applicant shadow diagrams of proposed public plaza between 9am-4pm, 21 June.**  
 (source: Applicant’s Architectural Plans, p. 42)

As shown in Figures 38-39 below, a ‘compliant’ scheme under the rescinded MRCPS would enable 80% of the public plaza to receive solar access at 10am in mid-winter, compared to 50% under the applicant’s proposed scheme.



**FIGURE 38: Solar impact on Rangers Road Plaza under existing planning controls.**  
 (10am, 21 June).



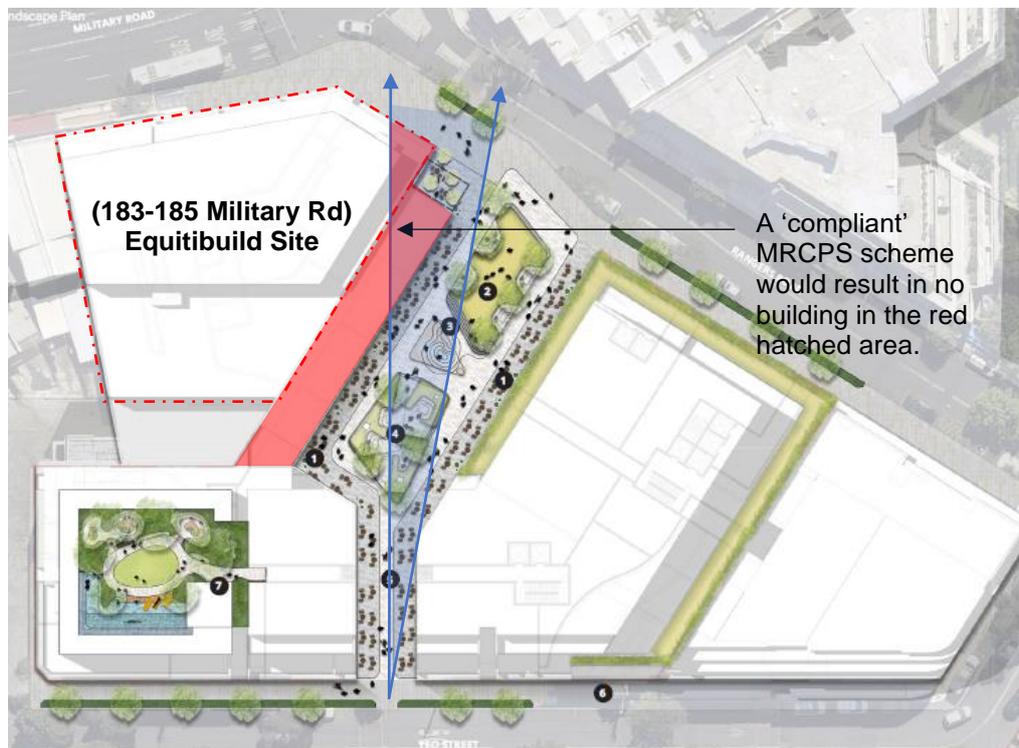
**FIGURE 39: Solar impact on Rangers Road Plaza under rescinded MRCPS controls.**  
 (10am, 21 June).

### 8.8 Site isolation

The rescinded MRCPS envisaged the amalgamation of the subject site with the adjacent ‘Equitibuild’ site to the north (at 183-185 Military Road) to increase the ability to deliver the public benefits identified in the Study and achieve a more contiguous design that reduces overshadowing impacts to the public domain. It specifically emphasised the importance of delivering the public plaza together with the adjacent ‘Equitibuild’ site and applying the following built form controls:

- 2.5m whole of building setback to Military Road and corner of Rangers Road; and
- 2-storey podium and 3m setback above the podium along Military Road and corner of Rangers Road.

The intent of these controls was to deliver a larger, more open and connected public plaza. As shown in Figure 40 below, the recommended setbacks would open the plaza frontage to Military Road and widen the footpath to provide a legible visual connection from the Rangers Road-Military Road intersection to Yeo Street and maximise solar access to the public domain.



**FIGURE 40: Applicant landscape plan for proposed plaza  
(source: Applicant's Urban Design Report, p. 38)**

Whilst a renewed Study is still in progress, the proposal in its current form may, limit the development potential of the adjoining 'Equitibuild' site (which had been identified as suitable to accommodate some increased height and density) and potentially undermines the ability to leverage community benefits and public domain improvements from any future potential growth on that site. By proposing a narrow, two-storey retail strip on the joint northern boundary, the proposal prevents consideration of a genuinely 'public,' high-amenity plaza and the potential for the 'Equitibuild' site to provide a community facility fronting directly onto, and better activate, the public plaza.

The proposed retail strip has a narrow building depth of approximately 4-6.3m which limits the flexibility of use of these spaces. In addition, it results in a narrow and poorly connected plaza. As shown in Figure 40, the proposed plaza is oriented perpendicular to Rangers Road, away from Military Road intersection as the proposed two-storey retail strip along the northern boundary pushes the plaza further east and does not deliver a successful arrival point to the plaza from the Military Road intersection. It also blocks the envisaged connection between Military Lane and the new plaza and undermines the opportunity to potentially upgrade this connection and improve accessibility to the plaza.

## **8.9 Public benefits**

As discussed in section 7.4 of this report, one of the driving considerations when preparing the rescinded MRCPS was to ensure tangible public benefits can be derived from any future development to revitalize and enhance the precinct.

The rescinded MRCPS explored a range of changes to the planning controls and identified potential public benefits achievable through different built form options. The finalised Study identified that the subject site, together with the adjacent site to the north (Equitibuild site), could deliver the following public benefits:

- a 1,000 sqm new community facility
- 1,250m<sup>2</sup> new public domain including:
  - a 1,000m<sup>2</sup> new public plaza
  - a through-site link to Yeo Street
  - a 2.5m whole of building setback along Military Road and the corner of Rangers Road that includes deep soil zones for large trees
- a 14-space public commuter bicycle parking facility

Section 6 of this report provides a detailed summary of the applicant's proposed public benefits, which incorporates 1,103 sqm of public domain including an 880 sqm public plaza and arcade-style pedestrian link to Yeo Street, which falls short of the rescinded MRCPS public domain specifications.

In addition, it is questioned whether the proposed 65 'public' car parking spaces within basement level 4, serve as a genuine public benefit as no justification has been provided for the provision of these spaces, no land use has been assigned to these spaces nor have they been included in the applicant's traffic modelling to determine the impact of the additional loading on the local road network (refer to section 8.10 of this report). The submitted plans also show basement levels 1-5 located in part under Military Lane, which is Council owned land. It may be that given the location of the 'additional' public parking, that it may simply benefit a future supermarket. No commitment has been provided for the encroachment of Council owned land, nor is it supported in the absence of an endorsed study and direct public benefit.

## **8.10 Transport & Traffic Impacts**

The Planning Proposal is accompanied by a Transport Assessment prepared by JMT Consulting. A review of the applicant's transport assessment has been undertaken with the key issues discussed in the subsections below.

### **8.10.1 Parking**

The existing Woolworths supermarket contains approximately 100 on-site car parking spaces with access to the car park provided via Yeo Street.

A total 350 car parking spaces are proposed comprising 87 residential, 167 non-residential and 65 'public' spaces with access provided from Yeo Street. This exceeds the maximum parking rates specified in NSDCP 2013 by 64 spaces as indicated in Table 6 below.

<b>TABLE 6: Parking provision rates applying to site under NSDCP 2013</b>				
<b>Type of Use</b>	<b>DCP Max. Parking Rate</b>	<b>DCP Max. Parking Provision</b>	<b>Proposed Parking Provision</b>	<b>Shortfall/surplus</b>
<b>Residential</b>				
8x 1 bedroom	0.5 space/dw	4	4	
36x 2 bedroom and 47x 3 bedroom	1 space/dw	83	83	
Visitor, Car wash bay (residential component)	4+ dwellings development	1	0	
	<b>Subtotal</b>	<b>88</b>	<b>87</b>	<b>-1</b>
<b>Commercial</b>				
Office (2,103m2)	1 space/60m2 GFA	35	35	
Supermarket (3,311m2)	4 spaces/100m2 GFA	132	132	
Retail (1,846m2)	1 space/60m2 GFA	31	31	
	<b>Subtotal</b>	<b>198</b>	<b>198</b>	<b>0</b>
<b>'Public' Parking</b>				
No known use	N/A	N/A	65	+65
	<b>TOTAL</b>	<b>286</b>	<b>350</b>	<b>+64</b>

The total of the residential and non-residential components comprises 99.6% of the maximum parking rate specified in the NSDCP 2013 with a shortfall of 1 parking space for the residential element. However, the proposal is 64 parking spaces over the maximum 286 spaces. Whilst these parking spaces are dedicated for use as 'public' parking this results in a significant oversupply of parking spaces. Additionally, as these spaces do not have a land use it is unknown whether they will function as overflow parking for the retail/supermarket use and in effect induce more traffic in the area.

### **8.10.2 Traffic generation**

According to the calculations within the applicant's Transport Assessment Report, the net trip generation during the PM peak is a total 103 vehicles per hour and during Saturday PM peak is a total 84 vehicles per hour. The approximate percentage increase during the PM peak is 39.5% and on Saturday a 38.96% increase. It should be noted that these trips do not consider the trips associated with the 65 additional 'public' parking spaces as there is no land use associated with these spaces and trip generation rates have not been applied. If applied and a land use is assigned, this would significantly alter the results of the model with significant impacts to the level of traffic generated.

It should also be noted that the applicant's Transport Assessment Report does not consider the AM Peak in its trip generation modelling.

The applicant has provided a Sidra Modelling summary to compare the network performance with different scenarios (existing and after the proposed development). The result indicates that after an existing + development scenario there would be an increase in traffic flow and the operation of the Military Road-Wycombe Road intersection would change from a Level of Service (LOS) C, free-flow conditions with moderate congestion to (LOS) D, "operating near capacity" condition. Therefore, loading extra traffic from the development (i.e. trips generated by the additional 65 'public' spaces) will further delay the network over and above this level and the overall performance of the intersection, especially the Wycombe Road-Military Road intersection.



**FIGURE 41: Forecast traffic distribution (source: JMT Transport Assessment, p. 23)**

In addition, whilst it is acknowledged that the majority of trips for the other retail uses would likely be associated with the major anchor tenant (Woolworths), the provision of a further 65 'public' parking spaces may encourage users to drive to utilise retail services. This is contrary to Council's endorsed *North Sydney Transport Strategy*, which seeks to minimise the number and distance of vehicular trips generated by prioritising walking and cycling infrastructure within centres, where there is good access to public transport. Given the site's proximity to Military Road, which is well serviced by high-frequency bus services, the proposed number of car parking spaces is considered excessive and could be reduced.

### **8.10.3 Cycling facilities**

In accordance with the requirements of *section 10.5 - Bicycle Parking and Associated Facilities* to Part B of NSDCP 2013 a total of 162 bicycle parking spaces are proposed. The submitted plans have not identified the location or type of bicycle parking facilities (i.e. the location of customer bicycle facilities as compared with employee and resident accessibility). Such details should be provided at this concept stage as it could impact the number of parking spaces and the basement layouts and the public domain.

### **8.10.4 Servicing facilities**

According to *section 10.4 - Loading and Servicing Facilities* to Part B of NSDCP 2013, 'Developments containing more than 60 dwellings must provide at least 1 service delivery space, capable of accommodating at least:

- a) 1 Heavy Ridge Vehicle (HRV); or
- b) 2 Medium Rigid Vehicles (MRV)

The proposed loading dock can accommodate up to three HRV, MRV and SRV vehicles. This has been identified for supermarket loading only. If this area is to be used by other service vehicles, further information would need to be provided. This could be further refined at any future detailed Development Application on the site.

### 8.10.5 Conclusion – Transport and Traffic

It is clear from the analysis undertaken that the proposed number of car parking spaces and associated net traffic generation will have a significant impact on the efficiency and performance of the surrounding road network, in particular the Wycombe Road-Military Road intersection. This is inconsistent with *Ministerial Direction 5.1 – Integrating Land Use and Transport*.

The proposal does not demonstrate how it adequately responds to the site’s public transport accessibility to reduce car dependency and subsequent congestion in accordance with the principles of sustainable transit-oriented development. A draft Green Travel Plan should be prepared for the site to support reduced parking provision and ensuing traffic generation should the Planning Proposal proceed to the next stage.

## 9. Strategic Merit Assessment

The Planning Proposal is not considered to satisfy the following aspects of the strategic merit test:

- The proposal is not underpinned by an endorsed comprehensive strategic planning study for the locality;
- The proposal undermines the ability to achieve the objectives and actions of high-level strategic planning policies relating to the site, including the Greater Sydney Regional Plan and North District Plan;
- The proposal would set an unacceptable precedent prior to the establishment of a desired position for the future development in the locality and undermine the future strategic planning work for the Neutral Bay Town Centre as identified in the North Sydney LSPS.

Further details are provided in the following subsections.

### 9.1 Regional & District Plan Consistency

The Regional and North District Plans emphasise the importance of place-based, design-led planning to deliver liveable, high-quality urban environments that engage and connect people. This is clearly expressed in the following Directions, Objectives and Actions:

<b>Great Sydney Regional Plan</b>	
<i>Direction: A City of great places - Designing places for people</i>	<p><i>Objective 12: Great places that bring people together</i></p> <p><i>Strategy 12.1: Using place-based and collaborative approach throughout planning, design, development and management, deliver great places.</i></p>
<b>North District Plan</b>	
<i>Planning Priority N6: Creating and renewing great places and local centres and respecting the District’s heritage</i>	<p><i>Objective 12: Great places that bring people together</i></p> <p><i>Action 19: Using place-based and collaborative approach throughout planning, design, development and management, deliver great places by:</i></p> <ul style="list-style-type: none"> <li>– <i>prioritising a people-friendly public realm and open spaces as a central organising design principle;</i></li> </ul>

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	<ul style="list-style-type: none"><li>- <i>recognising and balancing the dual function of streets as places for people and movement;</i></li><li>- <i>providing fine grain urban form, diverse land use mix, high amenity and walkability in and within a 10-minute walk of centres;</i></li><li>- <i>integrating social infrastructure to support social connections and provide a community hub;</i></li><li>- <i>recognising and celebrating the character of a place and its people.</i></li></ul> <p><i><u>Action 22:</u> Use place-based planning to support the role of centres as a focus for connected neighbourhoods.</i></p>
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As discussed in section 8.3 to this report, the North District Plan requires place-based studies for local centres to address a number of principles including: providing a public realm and open space focus, providing community facilities and services, and protecting and expanding retail and/or commercial floorspace.

The proposal is considered to be inconsistent with the above applicable Directions, Objectives and Actions of the Regional and North District Plan insofar that it:

- is not underpinned by an endorsed comprehensive place-based study for the locality;
- requests amendments to existing planning controls that will facilitate an overly excessive and intense built form in its context with significant and unreasonable impacts to the public and private domain;
- will result in a net reduction in employment floorspace across the site;
- will deliver public spaces of compromised amenity; and
- undermines the development potential of the immediately adjoining site to the north and the opportunity to leverage and co-locate community facilities in the precinct.

If progressed, the proposal would set an unacceptable precedent and undermine the future strategic planning work for the Neutral Bay Town Centre and the ability to achieve the objectives and actions of the Regional and North District Plan.

## **9.2 North Sydney Local Strategic Planning Statement**

North Sydney Council has a strong and consistent history of preparing comprehensive planning studies that are the subject of strong community consultation and technical analysis. This is to ensure growth is delivered in a structured and co-ordinated manner, meets the needs and expectations of the community, is supported by adequate infrastructure and respects the future desired character and amenity of the surrounding area.

Key actions in the LSPS include:

*Action L3.2 – Continue to prepare and implement place-based planning studies to ensure the delivery of growth and development is balanced and well-managed and has a strong focus on placemaking and community benefit. This includes:*

- *Undertake/implement the Military Road Corridor Planning Study – Stages 1 and 2 (short-medium term)*

*Action L1.5 - Council will only support Planning Proposals that are consistent with Council's endorsed planning studies, that have identified growth being delivered in locations that support the role of centres and have critical infrastructure and services in place to support the North Sydney community.'*

These actions were put in place to ensure growth is responsibly managed by Council and *ad hoc* planning proposals are not supported without an endorsed framework that foreshadows and guides changes to existing planning controls.

In the absence of a current endorsed planning study to coordinate and manage growth in the precinct, any decision which significantly increases the development potential on a key site within the precinct ahead of the revised strategic review would be premature and undermine the future strategic planning work for the Neutral Bay Town Centre, and in turn, the ability to achieve the objectives and actions of the high-level strategic planning policies relating to the site.

### **9.3 State Environmental Planning Policies (SEPP)**

The Planning Proposal is considered to be generally consistent with all applicable SEPPs, with the exception of SEPP No. 65 – Design Quality of Residential Apartment Development.

#### SEPP No. 65 – Design Quality of Residential Apartment Development

The concept proposal appears to comply with some of the key development standards under SEPP No. 65 and the associated ADG, however, there are a number of non-compliances.

As discussed in section 8.6.3 of this report, the concept scheme does not comply with minimum ADG building separation requirements along the eastern and western boundaries. It is also observed that a number of proposed apartments do not comply with minimum ADG building depth requirements and it is questioned whether these apartments are naturally cross ventilated as shown in the submitted plans.

The proposal does not comply with minimum communal open space and deep soil zone requirements. The proposed public plaza should not be included in communal open space calculations and no deep soil zones are proposed within the development including the public plaza. Furthermore, the proposed apartment mix does not comply with the requirements of NSDCP 2013. The lack of studio and 1-bedroom apartments and over provision of 3-bedroom apartments is not supported.

These non-compliances could be addressed at any future detailed Development Application stage.

### **9.4 Section 9.1 Ministerial Directions**

Section 9.1 of the *Environmental Planning and Assessment Act 1979* enables the Minister for Planning to issue directions regarding the content of planning proposals. Each Planning Proposal must identify which Section 9.1 Ministerial Directions are relevant to the proposal and demonstrate how they are consistent with that Direction.

The Planning Proposal is considered to be generally consistent with all relevant Ministerial Directions, with the exception of:

- *Direction 1.1 – Implementation of Regional Plans*
- *Direction 4.4 - Remediation of Contaminated Land*
- *Direction 5.1 - Integrating Land Use and Transport*
- *Direction 7.1 – Business and Industrial Zones*

#### Direction 1.1 – Implementation of Regional Plans

Refer to section 9.1 of this report.

#### Direction 4.4 - Remediation of Contaminated Land

Council records indicate that the subject site may have been used in the past for a potentially contaminating activity.

*Direction 4.4 – Remediation of Contaminated Land* states a Planning Proposal authority must be satisfied that the land is suitable (or will be suitable, after remediation) for all permitted uses within the zone, and of the land requires remediation to be made suitable, the Planning Proposal authority is satisfied that the land will be so remediated before it is used for its intended purpose.

The Planning Proposal is accompanied by a Preliminary Site Investigation Report (PSI) by Geo-Logix, which identifies a number of potential contamination sources on-site and within the vicinity, including hazardous building materials and dry-cleaning operations. The report states there is potential for soil and groundwater contamination from mishandling or inappropriate disposal of dry-cleaning waste.

Due to the presence of a basement car park in the existing building (1-7 Rangers Road), the PSI report states that it is likely that any potentially hazardous building materials would have been removed during its construction. The report also indicates that buried hazardous materials are highly unlikely.

Council's Environmental and Building Compliance Officer has reviewed the submitted PSI report and noted that a further detailed site investigation will be required. Notwithstanding, the presence of dry-cleaning chemicals in soil or groundwater, its presence is unlikely to prevent the development going ahead, and that the land can be made suitable for its intended use. These issues can be further satisfactorily addresses at the Development Application stage following additional investigations.

#### Direction 5.1 - Integrating Land Use and Transport

*Direction 5.1 – Integrating Land Use and Transport* seeks to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- a) Improving access to housing, jobs, and services by walking, cycling and public transport, and*
- b) Increasing the choice of available transport and reducing dependence on cars, and*
- c) Reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and*
- d) Supporting the efficient and viable operation of public transport services, and*
- e) Providing for the efficient movement of freight.*

The Planning Proposal is inconsistent with Direction 5.1, as the proposed number of car parking spaces and associated net traffic generation is considered unreasonable given the site's proximity to high-frequency public transport (refer to section 8.9 of this report).

#### Direction 7.1 – Business and Industrial Zones

*Direction 7.1 – Business and Industrial Zones* seeks to encourage employment growth in suitable locations and protect employment land in business and industrial zones. In particular, subclause (1)(c) states that a Planning Proposal must '*not reduce the total potential floor space area for employment uses and related public services in business zones.*'

Direction 7.1 states that a Planning Proposal may be inconsistent with the terms of the Direction only if the relevant planning authority can satisfy the Planning Secretary that the provisions of the Planning Proposal that are inconsistent are justified by a strategy or study which gives consideration to the objectives of this direction; or in accordance with a relevant Regional or District Plan; or the inconsistency is of minor significance.

The proposal is inconsistent with Direction 7.1 as it will result in a net reduction in floorspace for employment uses (approximately 442 sqm) across the site and the proposed reduction is not justified by an endorsed strategic planning study for the locality. In the context of the North District Plan's objectives for local centres '*to protect and expand retail and/or commercial floorspace*' and the absence of an endorsed study to guide growth and change in the precinct, any reduction in employment generating floorspace across the site would be premature and potentially undermine the ability to achieve the objectives of the future revised MRCPS and high-level strategic planning policies relating to the site.

### **10. Site-specific Merit Assessment**

The Planning Proposal is not considered to satisfy the following aspects of the site-specific merit test:

- The indicative concept design does not demonstrate how the site could be acceptably developed to the requested heights insofar as it will result in an overly excessive and intense built form in its context with unreasonable impacts on the public and private domain;
- The proposal undermines the development potential of the immediately adjoining site to the north; and
- The proposal will deliver public spaces of compromised amenity.

#### **10.1 Environmental Impacts**

As discussed in section 8 of this report, the proposed increase in height and density across the site will result in an excessively tall, bulky and visually dominant built form in its context with unreasonable amenity impacts to the public and private domain (overshadowing, traffic).

#### **10.2 Social Impacts**

The proposal, if progressed would result in the creation of approximately 91 additional dwellings (estimated at 191 persons). This is a considerable increase in density on the subject site and is likely to place additional demand on existing services and facilities. The applicable section 7.11 and 7.12 local infrastructure contributions will help support growth and demands on existing local infrastructure.

Whilst the proposal is accompanied by a non-binding letter of offer to enter into a VPA to deliver a range of public benefits including a new public plaza, the proposed benefits would fall short of those identified in the previously adopted MRCPS.

### **10.3 Economic Impacts**

The proposal is accompanied by an Economic Impact Assessment prepared by Ethos Urban, which estimates that the proposed development would generate an additional 113 local job opportunities and contribute an additional \$12.7 million per annum to the economy (GDP).

It is estimated that the additional 113 workers will generate \$0.27 million per annum in local retail expenditure and the additional residents will generate \$4.1 million in retail expenditure per annum. An overall estimated 749 jobs (direct and indirect) are also expected to be generated during the construction stage of the project.

Notwithstanding, a net reduction in employment generating floorspace is proposed on the site, as such the quantum of local employment opportunities generated by the proposal is less than what could be reasonably expected on the site considering its highly accessible location within the Neutral Bay Town Centre.

### **10.4 Adequacy of Public Infrastructure**

The site is located in close proximity to transport infrastructure, including existing road connections and high frequency public transport. As discussed in section 8.10 to this report, the proposal does not adequately respond to the site's public transport accessibility to reduce car dependency and associated impacts on the surrounding road network. A Green Travel Plan should be prepared for the site to support reduced parking provision and encourage future residents and workers to capitalise on the wide range of infrastructure and services available within the area.

Consultation would be required with utility providers if the proposal progresses and at the Development Application stage to ensure that sufficient capacity exists in water, sewer, gas, telecommunications and other utility services. There is likely to be adequate services and infrastructure in the area to accommodate the proposed increases in demand, alternatively the applicant will be required to pay for any upgrades required.

## **SUBMISSIONS**

There are no statutory requirements to publicly exhibit a planning proposal before the issuance of a Gateway Determination. However, Council sometimes receives submissions in response to planning proposals which have been lodged but not determined for the purposes of seeking a Gateway Determination. The generation of submissions at this stage of the planning process arise from the community becoming aware of their lodgement through Council's application tracking webpage and on-site signage.

At the time this report was completed, 170 submissions had been received from local residents and the Willoughby Bay, Neutral, Brightmore, Harrison and Combined Precinct Committees objecting to the Planning Proposal. A summary of their key concerns is provided in Table 7. These issues are largely addressed in the body of this report.

<b>TABLE 7: Summary of submissions received</b>		
<b>Issue</b>	<b>Key points raised</b>	<b>Council response</b>
<b>Building height and scale</b>	<ul style="list-style-type: none"> <li>The requested height of 40m is excessive for the number of storeys and could potentially accommodate a 12-storey building resulting in an overbearing scale with significant overshooting impacts to residential dwellings on the southern side of Yeo Street;</li> <li>Reduced setbacks are proposed on eastern and western boundaries.</li> </ul>	Refer to section 8.4, 8.6 and 8.7 of this report.
<b>Traffic impacts</b>	<ul style="list-style-type: none"> <li>The proposed number of parking spaces will result in unacceptable traffic impacts to the local road network, in particular Yeo Street and Wycombe Road-Military Road intersection;</li> <li>The submitted Traffic Assessment does not consider impacts to the road network during AM peak or the cumulative impact of future development in Neutral Bay and Cremorne;</li> <li>A Transport Management and Assessment Plan (TMAP) is needed for the Neutral Bay and Cremorne town centres that considers the cumulative effects of increased densities before setting any increase in densities.</li> </ul>	<p>Refer to section 8.10 of this report.</p> <p>The preparation of a TMAP can be undertaken as part of the renewed Planning Study.</p>
<b>Public benefits</b>	<ul style="list-style-type: none"> <li>the proposed public benefits are not commensurate to the quantum of uplift in height sought;</li> <li>Basement parking is proposed to be located in part under Military Lane (a public road);</li> <li>The proposed public plaza does not provide connections to Military Lane or Military Road and will be overshadowed by future development along Military Road;</li> <li>The public plaza is designed to be more of a 'food court' with commercial benefits than genuine public open space;</li> <li>The proposed 65 'public' car spaces is inconsistent with Council's transport strategies and provide commercial benefits, not public benefits.</li> </ul>	Refer to section 8.8, 8.9, 8.10 of this report.
<b>Reduced size of supermarket</b>	<ul style="list-style-type: none"> <li>The proposal seeks to reduce the size of the existing supermarket. A larger supermarket is needed to support Neutral Bay's growing population.</li> </ul>	The concept scheme can be further refined to address these concerns at the detailed DA stage.
<b>Justification for proposal</b>	<ul style="list-style-type: none"> <li>The primary justification for the proposal is that it responds to the intent of the now rescinded MRCPS. The proposal has the potential to set an undesirable precedent.</li> </ul>	Refer to section 9 of this report.

## CONCLUSION

The Planning Proposal (PP6/22) seeks to amend North Sydney Local Environmental Plan 2013 as it relates to land at 1-7 Rangers Road and 50 Yeo Street, Neutral Bay as follows:

- Increase the maximum building height control for the site from 16m to part 30m (at 50 Yeo Street) and part 40m (at 1-7 Rangers Road); and
- Increase the minimum non-residential floor space ratio control from 0.5:1 to 1.7:1.

The proposal is accompanied by a suite of suggested site-specific development controls to be incorporated within North Sydney Development Control Plan (NSDCP 2013).

Having consideration of the assessment criteria outlined in the Department of Planning and Environment's '*LEP Making Guideline*' (December 2021), the Planning Proposal is not considered to demonstrate strategic and site-specific merit for the following reasons:

- The proposal is not underpinned by an endorsed comprehensive strategic planning study for the locality and if implemented, will undermine the ability to achieve the objectives and actions of high-level strategic planning policies relating to the site, including:
  - Greater Sydney Regional Plan – *A Metropolis of Three Cities*;
  - North District Plan; and
  - North Sydney Local Strategic Planning Statement.
- The proposal is inconsistent with the following section 9.1 Ministerial Directions under the *Environmental Planning and Assessment Act 1979*:
  - *Direction 1.1 – Implementation of Regional Plans*
  - *Direction 5.1 – Integrating Land Use and Transport*
  - *Direction 7.1 – Business and Industrial Zones*
- The indicative concept design fails to demonstrate how the site could be acceptably developed to the requested heights insofar that it does not respond adequately to the site attributes and context and will result in significant level of public and private amenity impacts including dominance of the public domain, overshadowing and traffic generation;
- The proposal would set an unacceptable precedent prior to the establishment of a finalised policy position for future development in the locality, and undermine the future strategic planning work for the Neutral Bay Town Centre; and
- The proposal undermines the development potential and public benefit opportunities of the immediately adjoining site to the north.

## RECOMMENDATION

1. **THAT** the Planning Proposal (PP6/22) not be supported to proceed to a Gateway Determination.
2. **THAT** the applicant be invited to comment on the future revised Military Road Corridor Planning Study.