



NSLPP MEETING HELD ON 03/03/21

Attachments:

1. Site Plan
2. Architectural Plans
3. Clause 4.6 (Building Height)

ADDRESS/WARD: 229 and 231 Miller Street, North Sydney

APPLICATION NO: DA 5/21

PROPOSAL: Installation of three (3) business identification signs.

PLANS REF:

Drwg No.	Issues	Title	Drawn By	Received
DA.S-01	C	Section A-A and North Elevation	PA Studio	7 January 2021
DA.S-02	C	North and Western Elevation	PA Studio	7 January 2021
DA.S-03	C	Signage Sizes	PA Studio	7 January 2021
SG-01	B	Sky Sign	OMG.CO	7 January 2021
SG-02	B	Awning Sign	OMG.CO	7 January 2021
SG-03	B	Stair Wall Sign	OMG.CO	7 January 2021

OWNER: [REDACTED]

APPLICANT: Platino Properties

AUTHOR: Hugh Shouldice, Development Assessment Officer

DATE OF REPORT: 15 February 2021

DATE LODGED: 7 January 2021

SUBMISSIONS: Twelve (12)

RECOMMENDATION: Approval, subject to conditions.

EXECUTIVE SUMMARY

This development application seeks NSLPP approval for three (3) business identification signs at 229 Miller and 231 Miller Street, North Sydney.

This application is reported to North Sydney Local Planning Panel for determination because the application received twelve (12) submissions during the notification period of the application. The notification of the application has resulted in over ten (10) submissions and is therefore required to be determined by the North Sydney Independent Planning Panel in accordance with the Ministers directions.

The notification of the application is in accordance with the *North Sydney Community Participation Plan 2019*. At the end of the notification period, Council received **twelve (12)** submissions raising particular concerns about loss of residential amenity, uncharacteristic for the area, light spillage/pollution and non-compliances with SEPP 64 - Advertising and Signage. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.

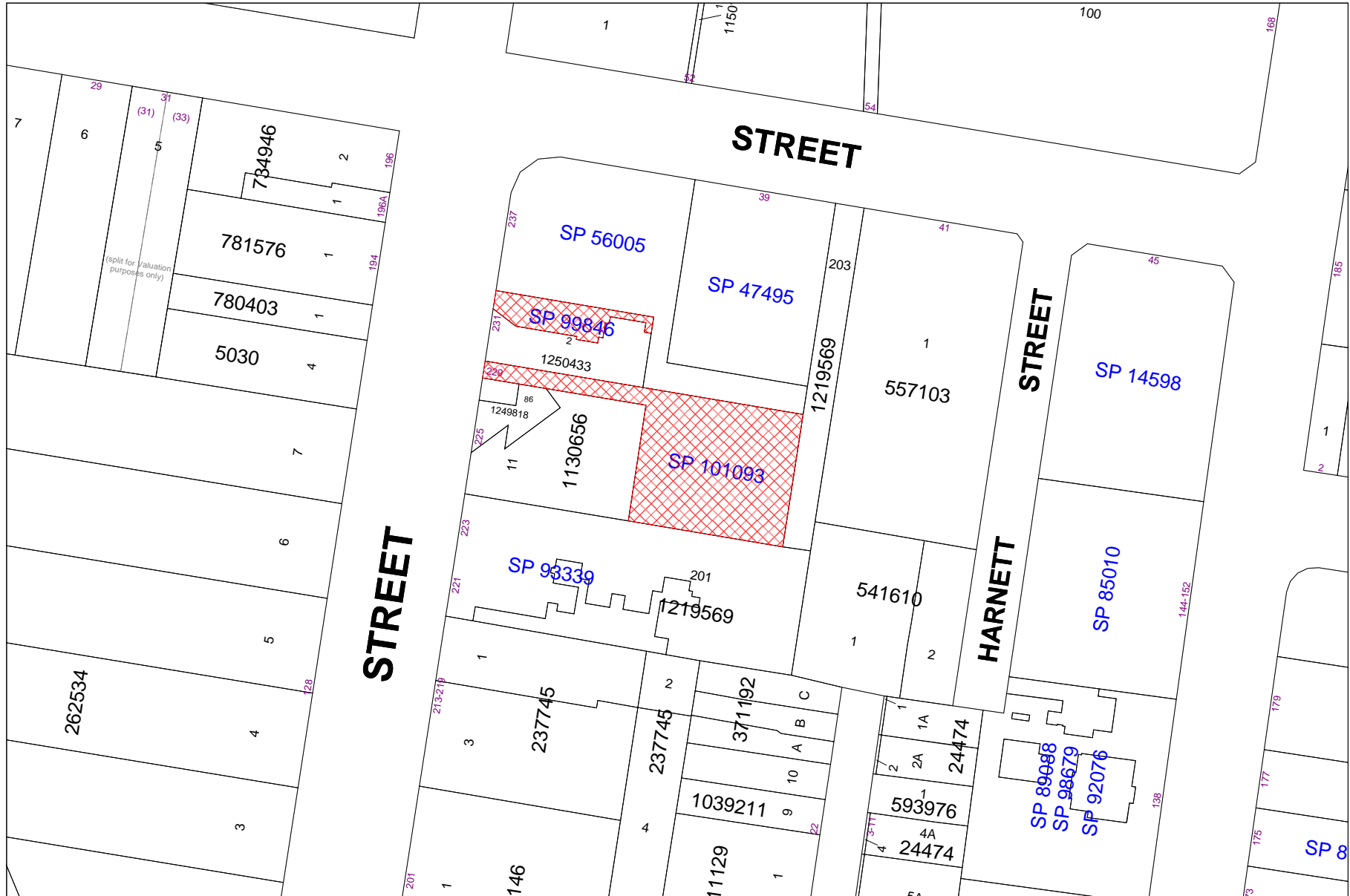
The proposal seeks approval for three (3) business identification signs. Two (2) of the business identifications signs are located on the ground floor and are to be illuminated. The proposed non-illuminated Sign 1 is located on the northern elevation on level 18 above the 130m height limit at No.231 Miller Street, North Sydney. Council requested a Clause 4.6 written variation to the breach to the building height standard. The applicant submitted a written request seeking a variation to the building height development standard in accordance with Clause 4.6 of NSLEP 2013.

The proposed Sign 1 is not supported as the applicant's Clause 4.6 variation statement is considered not to be well-founded, and has not provided sufficient environmental planning grounds to justify a breach of the development standard. In addition, the proposed Sign 1 has been considered to not to be in the public interest, as it is inconsistent with the objectives of the building height development standard and the objectives for the B4 Mixed Use Zone. Even if the Clause 4.6 variation statement was acceptable the proposal, on a whole would remain unacceptable.

The design of the proposed ground floor signage (Sign 2 and Sign 3) is supported as it would identify the commercial tenancy on the ground floor at No. 229 Miller Street as well as being similar to the existing signage in size, colour and dimensions. The design, form and illumination impacts of the proposed signage can be reasonably modified by conditions to address amenity impacts and is consistent with what is reasonable expected in a mixed use zone.

The application is deemed satisfactory and is recommended for approval, subject to conditions.

LOCATION MAP



□ Property/Applicant ● Submitters - Properties Notified

DESCRIPTION OF PROPOSAL

The proposal seeks development consent to install three (3) business identification signs at No. 229 and 231 Miller Street.

Sign No.	Location	Illuminated	Dimension (mm)
1	The top of north elevation of No. 231 Miller Street	No (painted)	4500mm (w) x 5196mm (h) Area: 17.592sqm
2	Above the awning over pedestrian access to No. 229 Miller Street	Yes (internally)	2377mm (w) x 474mm (h) Area: 1.126sqm
3	The bottom of the east elevation of No. 229 Miller Street	Yes (internally)	4000mm (w) x 797mm (h) Area: 3.188sqm

No other works are proposed to the existing buildings as part of the subject development application.

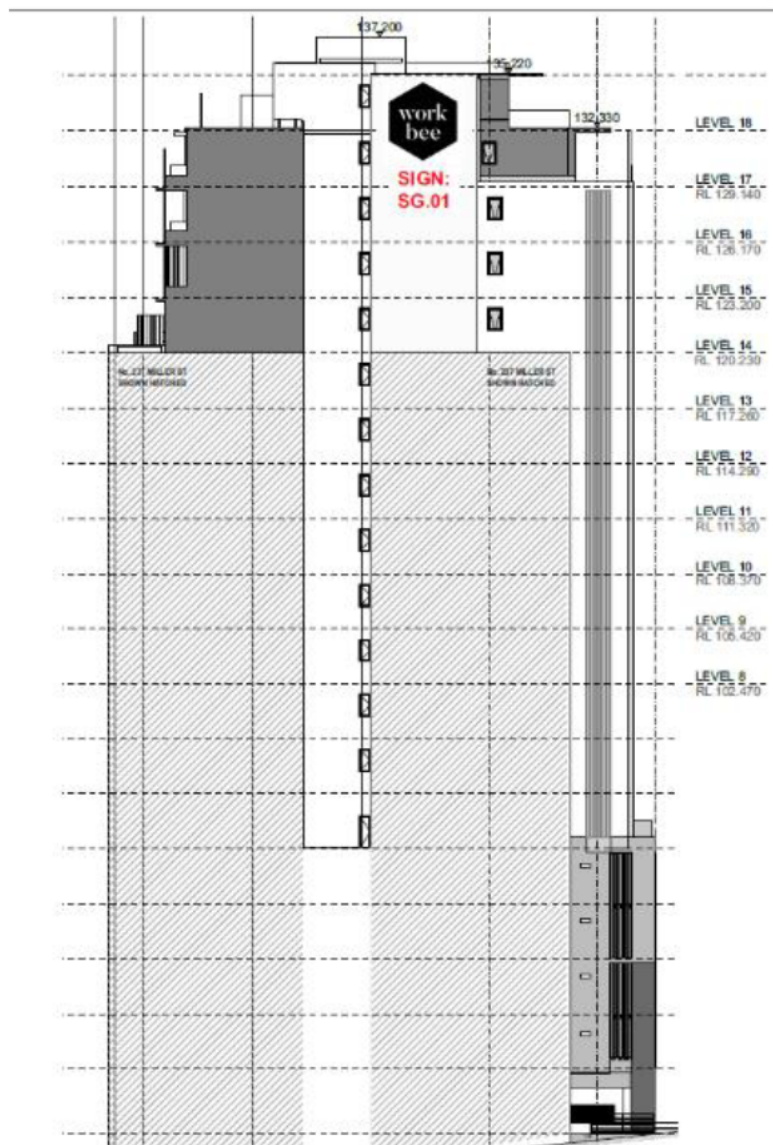


Figure 1 – Proposed Sign 1

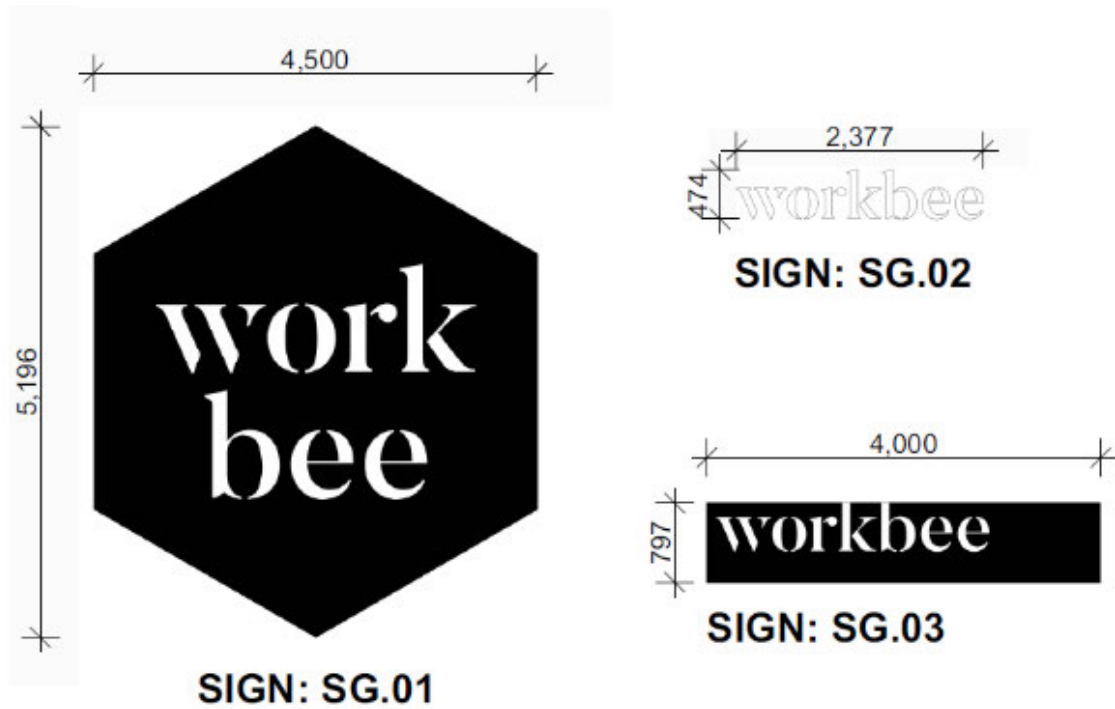


Figure 2 – Proposed Signage Dimensions



Figure 3 – Proposed Sign 3



231 MILLER STREET SCALE 1:250
WEST ELEVATION

Figure 4 – Proposed Sign 2

STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning – B4 Mixed Use
- Clause 4.3 Building Height – 135 m
- Clause 4.4A Non-Residential FSR – min 0.5:1
- Item of Heritage - No
- In Vicinity of Item of Heritage – No
- Conservation Area - No

Local Infrastructure Contributions – Not Required (<\$100,000 value of works)

Environmental Planning & Assessment Act 1979

SEPP No. 55 – Remediation of Land

SEPP 64 – Advertising and Signage

SEPP No.65 – Design Quality of Residential Flat Development

SREP (2005) – Sydney Harbour Catchment

Local Development

POLICY CONTROLS

NSDCP 2013

DESCRIPTION OF LOCALITY

The property is known as No.'s 229 and 231 Miller Street, North Sydney and comprises two lots identified as Lot 2, DP 413512 (SP LI322) and Lot 10 in DP 865610 (SP 54070) respectively. The site is located on the eastern side of Miller Street, one lot to the south McLaren Street.

No. 229 Miller Street is a battle-axe allotment with the main body of the lot being rectangular in shape and has an access handle to Miller Street having a length of 35.4m and a width of 3.66m. The main body of the allotment has a depth of approximately 33.5m and a width of approximately 28.66m. The allotment has a total area of 1091.1sqm and the main body excluding the access handle has an area of approximately 961.0sqm. The site has a fall from Miller Street to the rear of approximately 8m and a fall of approximately 4.2m across the main body of the site. The site also benefits from two rights of-carriageway, over No. 221 Miller Street and No. 41 McLaren Street. Vehicular access is currently available directly from Miller Street via the access handle. No. 231 Miller Street has recently been constructed, whilst 229 Miller is currently under construction.



Figure 5 – Building Height Map (229 and 231 Miller Street are subject to a 130m Height Max.)

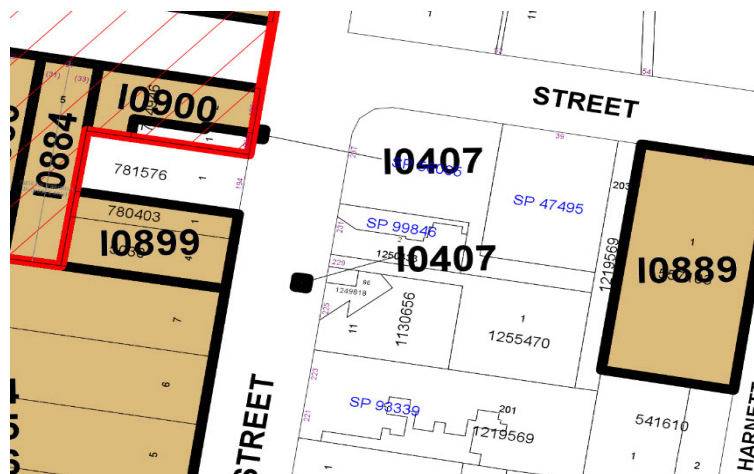


Figure 6 – Heritage Zoning Map (the subject site is not heritage listed or within a Conservation Area)

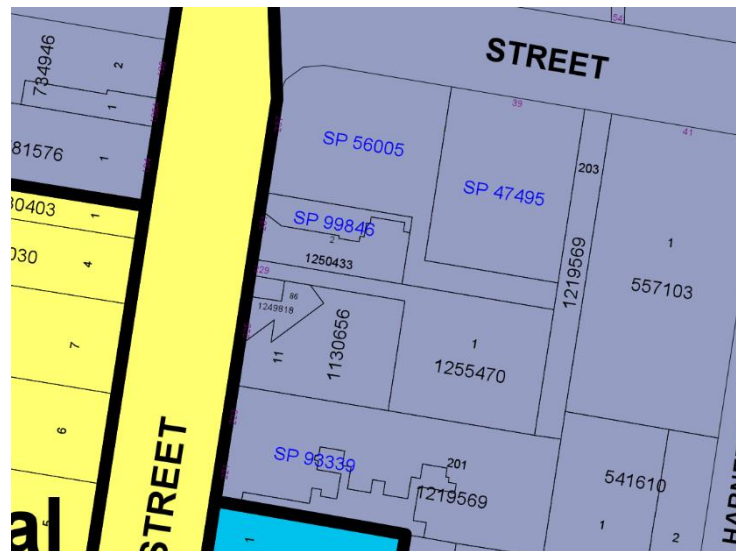


Figure 7 – Land Zoning Map (229 and 231 Miller Street are located in the B4 Zone)

RELEVANT HISTORY

231 Miller Street, North Sydney

DA453/14

DA453/14 (2015SYE006) was lodged at Council on 18 December 2014. At its Meeting held on 1 July 2015 the **JRPP** deferred a 19-storey mixed use building above basement parking consisting of 61 apartments, retail and 39 car-spaces proposal at No. 231 Miller Street, North Sydney to allow the applicant time to submit amended plans. The JRPP made electronic determination of amended proposal on 30 July 2015. It is to be noted that the architect (Platino Properties) for this applicant is the same architect for this earlier application. This is important for noting to the concerns raised with the overall building height and constructability of the residential levels.

229 and 231 Miller Street, North Sydney

DA487/15

On the 18 November 2016, the **JRPP** deferred a proposal for the demolition of an existing residential flat building and the construction of a twenty (20) storey mixed use building consisting of 91 apartments, two floors of commercial space and 80 car spaces. The development application was approved subject to a Clause 4.6 written variation to the building height standard with the original maximum building R.L. approved at R.L. 136.22m.

DA487/15/2

Modification application DA487/15/2 lodged on 19 December 2016 sought various amendments to the approved mixed-use building including an additional level, increase number of apartments and car parking and a rooftop common area. The application being a Section 4.55(2) was required to be determined by the Sydney North Planning Panel.

Critically, the amendments sought to

- incorporate an additional floor into the building with no increase to building height.
- Increase the number of apartments to 101.
- Relocate the approved common room from the top floor to the ground floor lobby.
- New communal area on the roof of the building.
- Increase the parking in the basement levels.

Prior to any consideration being made by the panel, the applicant lodged a deemed refusal appeal to the Land and Environment Court. Via a negotiated outcome under a Section 34 Agreement the modification was approved by the Court on 21 June 2017 to provide for the additional storey, increase in apartments and parking but no relocation of the common room or rooftop terrace.

DA487/15/3 and DA487/15/4

Modification application DA487/15/3 lodged on 23 March 2018 and sought consent for the extension of hours as per the subject application. This application was rejected by Council on the basis it was not supported by enough sufficient information was lodged with the application.

DA487/15/4 was subsequently lodged with further information and was approved under delegated authority on 26 November 2018.

DA487/15/5

Modification application DA487/15/5 was lodged on 10 August 2018 for various modifications around the approved building and change of façade materials to all façade of the building. The submitted stratum plans reflect the current suite of plans associated with this modification. As of writing this report, this application remains undetermined.

DA369/19 – Withdrawn DA

The development application sought consent for new business identification signage at the subject site located at the top of No. 231 Miller Street and ground floor of both No. 231 and 229 Miller Street. The application was due to go to the North Sydney Local Planning Panel. The application later withdrawn on the 26 February 2021 prior to the assessment by the Local Planning Panel.

Current Application:

DATE	APPLICATION HISTORY
7 January 2021	The subject application was lodged with Council.
15 January 2021	Council sent a ‘Stop the Clock’ Letter to the applicant requesting a Clause 4.6 Variation to Development Standards (Building Height).
13 January 2021	The subject application was notified to adjoining property owners and the Stanton Precinct, inviting comments between 22 January 2021 and 5 February 2021. Twelve (12) submissions were received during the notification period.

1 February 2021	The applicant submitted the information requested in the 'Stop the Clock' Letter.
5 February 2020	A site inspection was undertaken at the subject site by the Assessing Officer.

INTERNAL REFERRALS

Building

The application has not been assessed specifically in terms of compliance with the National Construction Code of Australia (NCCA). It is intended that if approved, Council's standard condition relating to compliance with the NCCA be imposed and should amendments be necessary to any approved plans to ensure compliance with the NCCA, then a Section 4.55 application to modify the consent may be required.

EXTERNAL REFERRALS

TfNSW

The application was referred to TfNSW for comment on the 15 January 2021. TfNSW responded with comments on 2 February 2021, which are outlined below:

'TfNSW has reviewed the submitted application and raises no objection to the proposed business identification signs. TfNSW provides the following comments for Council's consideration in the determination of the application:

- 1. TfNSW has previously vested a strip of land as road along the Miller Street frontage of the subject property, as shown by grey colour on the attached Aerial – "X". All buildings and structures (including signage), together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Miller Street boundary.*
- 2. The design and construction of signage structures shall be in accordance with relevant Australian Standards.*
- 3. All works associated with the proposed sign, including maintenance activities, shall be at no cost to TfNSW.'*

Planning Comment:

The comments provided by TfNSW are generally agreed with in this regard. No further comment is required.

SUBMISSIONS

On 13 January 2021 the application was notified to adjacent properties and the Stanton Precinct seeking comments between the 22 January 2021 and 5 February 2021. **Twelve (12)** submissions was received as part of the notification period. Please see **Appendix A** for summary of the submissions.

Basis of Submissions

- The proposal is out of context for the area given the building contains predominantly residential apartments.
- General objection to the illumination of the proposed signs.
- Sign 1 is unsightly and not in keeping with a residential building.
- The proposed Sign 1 is not even for a tenant that is located within the building located at 231 Miller Street.
- Sign 2 would result in amenity impacts to residential units at No. 229 and No. 231 Miller Street and surrounding areas due to the proposed illumination.
- Sign 1 does not comply with the desired amenity and/or visual character of the northern end of Miller Street.
- Sign 1 also does not appear proportionate to the small-scale character of the business located in the neighbouring building at 229 Miller Street.
- Sign 2 will result and add clutter to the narrow walkway leading to the pedestrian entrance of 229 Miller Street. This signage will impact the visible pleasing nature of the streetscape.
- Sign number 3 would make our building look like a commercial building (like Coca Cola). Sign No. 3 would impact dozens of adjoining units in our rear entrance area with light.
- At no point were the 60+ residents at 31 Miller Street consulted nor will there be any benefit to any of the owners at 231 Miller Street from this.

CONSIDERATION

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act were assessed and detailed below.

SREP (Sydney Harbour Catchment) 2005

The proposed building works are considered to be relatively minor and far enough away from the foreshores of Sydney Harbour so as not to have a detrimental impact upon views to/from the Harbour nor have any impacts upon marine life, aquatic vegetation and/or water quality. The proposal is, therefore, considered to be satisfactory having regard to the above SREP.

SEPP 55 – Remediation of Land

The provisions of SEPP 55 require Council to consider the likelihood of land contamination and any remediation necessary to rehabilitate the site. Council's records indicate that the site has previously been used for residential development and as such is unlikely to contain any contamination; therefore, the requirements of the above SEPP have been satisfactorily addressed.

SEPP 64 – Advertising & Signage

The definition of advertising and signage terms under the SEPP are identical to those under NSLEP 2013.

All advertising and signage proposals are required to comply with Parts 1 and 2 of the SEPP, including the Assessment Criteria under Schedule 1.

The proposed Sign 1 and Sign 2 are considered to be defined as an “advertising structure” under the SEPP, it also needs to comply with Parts 3 and 4 of the SEPP. In particular, the proposal would need to consider the provisions under clauses 3, 4, 8, 9, 11, 13, 14, 17, 18 and 21. The relevant matters for consideration are discussed below:

The proposal is considered below having regard to the objectives of the policy as set out in clause 3 (1) (a) of the SEPP –

3 Aims, objectives etc

(1) This Policy aims:

- (a) *to ensure that signage (including advertising):*
 - (i) *is compatible with the desired amenity and visual character of an area, and*
 - (ii) *provides effective communication in suitable locations, and*
 - (iii) *is of high quality design and finish, and*
- (b) *to regulate signage (but not content) under Part 4 of the Act, and*
- (c) *to provide time-limited consents for the display of certain advertisements, and*
- (d) *to regulate the display of advertisements in transport corridors, and*
- (e) *to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.*

(2) This Policy does not regulate the content of signage and does not require consent for a change in the content of signage.

Sign 2 and Sign 3 are considered to be consistent with the aims and objectives for signage development outlined in Clause 3 of SEPP 64. As defined under Clause 4 of the SEPP 64, the proposal is defined as the following:

4 Definitions

‘Advertisement means signage to which Part 3 applies and includes any advertising structure for the advertisement.’

‘Advertising structure means a structure or vessel that is principally designed for, or that is used for, the display of an advertisement.’

‘Roof or sky advertisement means an advertisement that is displayed on, or erected on or above, the parapet or eaves of a building.’

‘Business identification sign means a sign:-

- (a) *that indicates:-*
 - (i) *the name of the person or business, and*
 - (ii) *the nature of the business carried on by the person at the premises or place at which the sign is displayed, and*

- (b) *that may include the address of the premises or place and a logo or other symbol that identifies the business, but that does not contain any advertising relating to a person who does not carry on business at the premises or place.*

The proposed **Sign 1** is located on the northern elevation at No. 231 Miller Street, North Sydney. Correspondence from the applicant states that the business was confirmed as being located on the ground floor tenancy of No. 229 Miller Street, North Sydney. The definition of the a ‘*business identification sign*’ specifies that the sign must indicate:

- ‘(ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed...’*

The proposed **Sign 1** is not considered to be defined as a ‘*business identification sign*’. The proposed Sign 1 is therefore defined as a ‘*advertisement structure*’ or more accurately defined as a ‘*roof or sky advertisement*’ as per the definitions outlined in the SEPP 64.

The proposed **Sign 2** is also not considered to be defined as a ‘*business identification sign*’ due to its location being on the awning structure of the building at No. 231 Miller Street, North Sydney. For that reason, the proposed Sign 2 is therefore defined as a ‘*advertisement structure*’ per the definitions outlined in SEPP 64.

The proposed **Sign 3** is located at the rear of the site of 229 Miller Street, North. The proposed Sign 3 is therefore considered to consistent with the definition of ‘*business identification sign*’ as per the SEPP 64.

8 Granting of consent to signage

A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

- (a) *that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and*
- (b) *that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.*

The proposed signage has been assessed in accordance with the assessment criteria in Schedule 1 under the heading Clause 17, subclause 3 (a) of the Division 3 – Particular Advertisement, which is discussed later in the report.

Part 2 Clause 8 provides that consent must not be granted unless the consent authority is satisfied that the proposal satisfies the relevant objects of the Policy and is consistent with the specified assessment criteria at Schedule 1 of the Plan. Sign 2 and Sign 3 satisfy the criteria and the objectives for SEPP 64. Further discussion is provided in the DCP Compliance Table in this report. The application has been assessed against the relevant numeric controls in NSLEP 2013 and NSDCP 2013 as indicated in the following compliance tables. More detailed comments with regard to the major issues are provided later in this report.

11 Requirement for consent

A person must not display an advertisement, except with the consent of the consent authority or except as otherwise provided by this Policy.

Sign 1 is defined as a ‘*roof or sky advertisement*’, **Sign 2** as an ‘*advertisement structure*’ and **Sign 3** as a ‘*business identification sign*’. All three (3) signs cannot be undertaken under the Exempt and Complying Development SEPP. As such, a development application is required in order to be assessed against the provisions of SEPP 64.

13 Matters for consideration

- (1) *A consent authority (other than in a case to which subclause (2) applies) must not grant consent to an application to display an advertisement to which this Policy applies unless the advertisement or the advertising structure, as the case requires:*
 - (a) *is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and*
 - (b) *has been assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and*
 - (c) *satisfies any other relevant requirements of this Policy.*

- (2) *If the Minister for Planning is the consent authority or clause 18 or 24 applies to the case, the consent authority must not grant consent to an application to display an advertisement to which this Policy applies unless the advertisement or the advertising structure, as the case requires:*
 - (a) *is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and*
 - (b) *has been assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and in the Guidelines and the consent authority is satisfied that the proposal is acceptable in terms of:*
 - (i) *design, and*
 - (ii) *road safety, and*
 - (iii) *the public benefits to be provided in connection with the display of the advertisement, and*
 - (c) *satisfies any other relevant requirements of this Policy.*

- (3) *In addition, if clause 18 or 24 applies to the case, the consent authority must not grant consent unless arrangements that are consistent with the Guidelines have been entered into for the provision of the public benefits to be provided in connection with the display of the advertisement.*

All three (3) proposed signs are considered below, having regard to the objectives of the policy as set out in clause 3 (1) (a) of the SEPP. The proposed signage has been assessed in accordance with the assessment criteria in Schedule 1 under the heading Clause 17, subclause 3 (a) of the Division 3 – Particular Advertisement, which is discussed later in the report.

17 Advertisements with display area greater than 20 square metres or higher than 8 metres above ground

- (1) *This clause applies to an advertisement:*
 - (a) *that has a display area greater than 20 square metres, or*
 - (b) *that is higher than 8 metres above the ground.*
- (2) *The display of an advertisement to which this clause applies is advertised development for the purposes of the Act.*
- (3) *The consent authority must not grant consent to an application to display an advertisement to which this clause applies unless:*
 - (a) *the applicant has provided the consent authority with an impact statement that addresses the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and*
 - (b) *the application has been advertised in accordance with section 79A of the Act, and*
 - (c) *the consent authority gave a copy of the application to RMS at the same time as the application was advertised in accordance with section 79A of the Act if the application is an application for the display of an advertisement to which clause 18 applies.*

The proposed Sign 1 is appropriately defined as a ‘*roof or sky advertisement*’ as per Clause 4 of SEPP 64 as the sign would be attached to the existing architectural roof, which therefore triggers Clause 17, subclause 1 (b) of the Division 3 – Particular Advertisements given the signage is located more than 8m above the ground as outlined below:

- (1) *This clause applies to an advertisement:*
 - (b) *that is higher than 8 metres above the ground.*

The proposal is also subject to Clause 17, subclause 3, which is outlined below:

‘(3) The consent authority must not grant consent to an application to display an advertisement to which this clause applies unless:

- (a) *the applicant has provided the consent authority with an impact statement that addresses the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and*

The applicant has submitted an impact statement addressing the assessment criteria in Schedule 1. Further assessment of the proposal with regards to Schedule 1 of the SEPP is outlined later in the report.

Subject to Clause 17, subclause 3 (a) of the Division 3 – Particular Advertisement, the proposal is to meet the specified assessment criteria at Schedule 1 of the Plan. It is considered that Signs 2 and 3 meet all the objectives of SEPP 64, and meets the relevant assessment criteria and with further details and particulars provided in the **DCP Compliance Table** in this report:

1. Character of an area

- i. Compatible with the existing or desired future character of the area or locality?*
- ii. Consistent with the particular theme for outdoor advertising in the area or locality?*

Comment:

Sign 2 and Sign 3 is considered to be compatible with the desired future character the B4 Mixed Use Zone within the North Sydney Centre given both signs are located on the ground floor and are similar in scale to other business identification located along Miller Street.

Sign 1 is located on the northern elevation of No. 231 Miller Street and is highly visible from the public domain given its size. Currently, there are no recently approved roof or sky advertisement signs located in the B4 Mixed Use Zone. Sign 1 is considered to be out of character for the B4 Mixed Use and is not in the existing or desired future character for the area.

2. Special areas

- i. Detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural areas or residential areas?*

Comment:

The proposed signage will not result in a significant impact to environmentally sensitive areas or any nearby conservation areas. The proposal satisfies subclause (b).

3. Views and vistas

- i. Obscure or compromise important views?*
- ii. Dominate the skyline and reduce the quality of vistas?*
- iii. Respect the viewing rights of other advertisers?*

Comment:

The proposed signage does not impact on views or vistas given it does not protrude further outwards than existing.

4. Streetscape, setting or landscape

- i. Scale, proportion and form appropriate for the streetscape, setting or landscape?*
- ii. Contribute to the visual interest of the streetscape, setting or landscape?*
- iii. Reduce clutter by rationalising or simplifying existing advertising?*

- iv. *Screen unsightliness?*
- v. *Protrude above buildings, structures or tree canopies in the area or locality?*

Comment:

The proposed size, location and design of the Sign 1 and Sign 2 is considered to be satisfactory given that the proposal is similar in scale and form to other business identification signs along Miller Street. The proposed materials reasonably complement the existing building and the size of the signage on the Miller Street elevation at the ground floor level. Sign 2 and Sign 3 is considered to be reasonable in size.

Sign 1 is located on the northern elevation of No. 231 Miller Street and is highly visible from the public domain given its size. Currently, there are no recently approved roof or sky advertisement signs located in the B4 Mixed Use Zone. Sign 1 is considered not to be within the predominately residential setting that is 229 Miller Street and 231 Miller Street.

5. *Site and building*

- i. *Compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*
- ii. *Respect important features of the site or building, or both?*
- iii. *Show innovation or imagination in its relationship with the site or building, or both?*

Comment:

The proposed three signs do not protrude over the existing rooftop structure. The proposed signage in this regard is compatible with the building that it is located.

6. *Associated devices and logos with advertisement and advertising structures*

- i. *Any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?*

Comment:

As per Part 1, Clause 4 of the SEPP 64, Sign 1 is defined as ‘roof or sky advertisement’, meaning an advertisement that is displayed on, or erected on or above, the parapet or eaves of a building. The proposed signage is therefore an “advertisement” under SEPP 64.

7. *Illumination*

- i. *Result in unacceptable glare?*
- ii. *Affect safety of pedestrians, vehicles or aircraft?*
- iii. *Detract from the amenity of any residence or other form of accommodation?*
- v. *Can intensity of illumination be adjusted?*
- vi. *Is illumination subject to a curfew?*

Comment:

The proposal seeks to illuminate Sign 2, which is visible from the Miller Street frontage. However, there are residential units in close proximity to the subject site. The subject site is located within a B4 Zone, with residential units located above the commercial tenancies on the ground floor. The proposed illumination of Sign 2 would have an impact on the amenity of residential units. The illumination impacts of the proposed Sign 2 can be managed by via conditions (see condition set). The proposed signage satisfies the criteria for illumination.

8. Safety

- i. Reduce the safety for any public road?*
- ii. Reduce the safety for pedestrians or bicyclists?*
- iii. Reduce the safety of pedestrians, particularly children, by obscuring sightlines from public places?*

Comment:

The proposed signage would not increase potential impact to traffic sightlines. The proposed signage would not result in being a significant safety distraction to road users, particularly along the Warringah Freeway.

Refer to the **DCP Compliance Table** below for further and detailed discussion.

- (b) the application has been advertised in accordance with section 4.15 of the Act, and*

The development application was notified to adjoining properties and the Anderson / CBD Precinct between the 22 January 2021 and 5 February 2021. The notification of the application received **twelve (12)** submissions. Concerns raised in the submissions are outlined and also responded to later in the report.

- (c) the consent authority gave a copy of the application to RMS at the same time as the application was advertised in accordance with section 79A of the Act if the application is an application for the display of an advertisement to which clause 18 applies.*

Council provided a copy of the application to RMS at the same time as the application was advertised in accordance with the Act. RMS have provided comments on the proposal, which have been included earlier in the report. No issues were raised with proposal in this instance.

18 Advertisements greater than 20 square metres and within 250 metres of, and visible from, a classified road

- (1) This clause applies to the display of an advertisement to which clause 17 applies, that is within 250 metres of a classified road any part of which is visible from the classified road.*
- (2) The consent authority must not grant development consent to the display of an advertisement to which this clause applies without the concurrence of RMS.*
- (3) In deciding whether or not concurrence should be granted, RMS must take into consideration:*

- (a) *the impact of the display of the advertisement on traffic safety, and*
 - (b) *the Guidelines.*
 - (c) *(Repealed)*
- (4) *If RMS has not informed the consent authority within 21 days after the copy of the application is given to it under clause 17 (3) (c) (ii) that it has granted, or has declined to grant, its concurrence, RMS is taken to have granted its concurrence.*
- (5) *Nothing in this clause affects clause 16.*
- (6) *This clause does not apply when the Minister for Planning is the consent authority.*

The proposal requires a referral and the concurrence of RMS. Concurrence from RMS have outlined previously in the report with regard to the proposed signage.

21 Roof or sky advertisements

- (1) *The consent authority may grant consent to a roof or sky advertisement only if:*
- (a) *the consent authority is satisfied:*
 - (i) *that the advertisement replaces one or more existing roof or sky advertisements and that the advertisement improves the visual amenity of the locality in which it is displayed, or*
 - (ii) *that the advertisement improves the finish and appearance of the building and the streetscape, and*
 - (b) *the advertisement:*
 - (i) *is no higher than the highest point of any part of the building that is above the building parapet (including that part of the building (if any) that houses any plant but excluding flag poles, aerials, masts and the like), and*
 - (ii) *is no wider than any such part, and*
 - (c) *a development control plan is in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct and the display of the advertisement is consistent with the development control plan.*
- (2) *A consent granted under this clause ceases to be in force:*
- (a) *on the expiration of 10 years after the date on which the consent becomes effective and operates in accordance with section 83 of the Act, or*
 - (b) *if a lesser period is specified by the consent authority, on the expiration of the lesser period.*
- (3) *The consent authority may specify a period of less than 10 years only if:*

- (a) *before the commencement of this Part, the consent authority had adopted a policy of granting consents in relation to applications to display advertisements for a lesser period and the duration of the consent specified by the consent authority is consistent with that policy, or*
- (b) *the area is undergoing change in accordance with an environmental planning instrument that aims to change the nature and character of development and, in the opinion of the consent authority, the proposed roof or sky advertisement would be inconsistent with that change.*

The proposal is subject to Clause 21 - Roof or Sky Advertisements, which is responded to below:

(1) *The consent authority may grant consent to a roof or sky advertisement only if:*

(a) *the consent authority is satisfied:*

- (i) *that the advertisement replaces one or more existing roof or sky advertisements and that the advertisement improves the visual amenity of the locality in which it is displayed, or*

The proposal seeks to install one (1) new ‘*roof or sky advertisement*’ on the subject building at 231 Miller Street. Sign 1 does not improve the visual amenity of the locality.

- (ii) *that the advertisement improves the finish and appearance of the building and the streetscape, and*

Given the context of the B4 Mixed Use, there are no recently approved sky or roof advertisements in the immediate locality. The proposed roof or sky advertisement sign located on the northern elevation above the height limit does not improve the finish or appearance of the building or streetscape of Miller Street.

(b) *the advertisement:*

- (i) *is no higher than the highest point of any part of the building that is above the building parapet (including that part of the building (if any) that houses any plant but excluding flag poles, aerials, masts and the like), and*

Sign 1 is located under the existing building roof structure. Sign 2 and Sign 3 are located on the ground floor level.

- (ii) *is no wider than any such part, and*

Sign 1 is no wider than the existing building on any of the elevations as shown on the architectural plans. Sign 2 and Sign 3 are located on the ground floor level.

- (c) *a development control plan is in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct and the display of the advertisement is consistent with the development control plan.*

The applicant has submitted documentation addressing subclause (c), being the advertising design analysis in Section 9.2 of the NSDCP 2013. However, due to Section 9.11 of the NSDCP 2013, the proposed signage is considered to be not acceptable given it does not satisfy all of the following criteria outlined below:

'Section 9.11 – Controls for Specific Sign Types

Roof or sky signs

P1 Roof or sky signs are generally not permitted. However, Council may consider new roof or sky signage, but only where:

- (a) *the new signs replace one or more existing roof or sky signs and improve the visual amenity of the locality; or*
- (b) *the new signs improve the finish and appearance of the building and the streetscape.*

P2 Roof or sky signs will only be permitted if they are associated with a non-residential use in the B3 – Commercial Core or B4 – Mixed Use zones.

P3 Roof or sky signs must not be positioned higher than the highest point of any part of the building, including lift overruns or air conditioning plants but excluding flag poles, aerials, masts and the like.

P4 Roof or sky signs must not be wider than any part of the building and also in accordance with the relevant desired character statement in Section 9.2.'

Sign 1 does not satisfy all of the provisions and criteria as outlined above. Sign 1 does not comply with Provision 2 of Section 9.11 of the NSDCP 2013 as the building at No. 231 Miller Street, North Sydney contains predominantly residential units. Sign 1 is considered to be out of character for the B4 Mixed Use and is not in the existing or desired future character for the area.

Transport Corridor Outdoor Advertising and Signage Guidelines

The proposal is considered to be generally consistent with Sections 1 and 2 of the Guidelines as discussed above. The 'Obtrusive Lighting Compliance' report submitted with the DA confirms compliance with the maximum luminance levels for digital advertising specified in the Guidelines.

SEPP (Infrastructure) 2007

The proposal is considered acceptable having regard to Clause 101 of the SEPP as there is no vehicular access to the site and as such there will be no adverse impact on Warringah Freeway. TfNSW has provided concurrence to the proposal, which is referred to earlier in the report.

SEPP 65 - Design Quality of Residential Apartment Development

The proposed development involves the erection of three (3) signs to a mixed-use building. Given that the proposal does not increase the existing height/floor to the building, the SEPP does not strictly apply to the application because it does involve substantial redevelopment or substantial refurbishment of an existing building in accordance with Clause 4(1)(ii) of the SEPP.

CONSIDERATION

The relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

The application has been assessed against the relevant numeric controls in NSLEP 2013 and DCP 2013 as indicated in the following compliance tables. More detailed comments with regard to the major issues are provided later in this report.

North Sydney LEP 2013

Permissibility within the Zone:

The site is zoned **B4 Mixed Use Zone** under the provisions of the North Sydney Local Environmental Plan 2013 (NSLEP 2013). Development for the purposes of sky advertisement sign, advertisement structure and business identification to a mixed-use development is permissible with the consent of Council. Demolition is permissible with consent pursuant to clause 2.7 of the LEP.

Zone: B4 Mixed Use

Objectives of zone

The objectives of the B4 Mixed Use Zone are outlined below:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To create interesting and vibrant mixed-use centres with safe, high quality urban environments with residential amenity.*
- *To maintain existing commercial space and allow for residential development in mixed use buildings, with non-residential uses on the lower levels and residential uses above those levels.*

Sign 2 and Sign 3 are consistent with the objectives of the B4 zone. The proposed signage identifies the commercial premises on the lower levels of the mixed-use building. Sign 1 is defined as a roof or sky advertisement structure in close proximity to residential units. Sign 1 is not proposed to be illuminated; however, the proposed sign is not consistent with the commercial ground floor use at No. 231 Miller Street and does not improve the finish and/or the appearance of the building. Sign 1 is therefore inconsistent with the following objective:

‘To create interesting and vibrant mixed-use centres with safe, high quality urban environments with residential amenity.’

Sign 1 is therefore not supported by Council. Further discussion on Sign 1 is outlined later in the report.

NSLEP 2013 Principle Development Standards

Compliance Table

The application has been assessed against the relevant numeric controls in NSLEP 2013 as indicated in the following compliance table. More detailed comments with regard to the major issues are provided later in this report.

Principal Development Standards				
Site Area: 231 Miller Street – 521.3sqm 229 Miller Street – 342.8sqm	Existing	Proposed	Control	Complies
Clause 4.3 – Heights of Building	RL.137.2m	Sign 1 - 135.12m Sign 2 – 3.2m Sign 3 – 2.95m	RL 130m AHD RL 130m AHD RL 130m AHD	No* Yes Yes

*JRPP (Sydney East Region) approved D453/14 with the height of RL 137.2m

Clause 4.3 - Height

The proposed works are to be carried out at 135.12m, which is 5.12m above the permissible height limit of 130m. The applicant has submitted a Clause 4.6 Variation to the development standard (Building Height). Sign 1 is therefore non-compliant with the building height standard specified in clause 4.3 in NSLEP 2013. Sign 2 and Sign 3 are 2.95m and 3.2m respectively and are compliant with the building height control.

Clause 4.6 – Exceptions to Development Standards

The applicant has submitted a written request seeking a variation to the building height development standard in accordance with Clause 4.6 of NSLEP 2013 (see attachments). The applicant's submission has given considered to the L&E Court's decision in *Four2Five Pty Ltd vs Ashfield Council [2015] NSWLEC 90* in order to justify the proposed variation.

Clause 4.6 (4)(a)(i) states that:

- (4) *Development consent must not be granted for development that contravenes a development standard unless—*
- (a) *the consent authority is satisfied that—*
- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out..'* **(emphasis added)**

Consideration has been given to the applicant's Clause 4.6 submission as to whether it adequately addresses subclause (3) in Clause 4.6 in the NSLEP 2013. The performance of the proposal is assessed against the building height objectives, which are outlined below:

(1)(a) To promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient

The building elements in breach of the LEP building height limit is the proposed Sign 1.

The proposal does not alter the height of the existing roof. The proposed sky or roof advertisement sign is below the height of the existing building, which is 137.2m. The proposal does not alter the building envelope, which allows for the building to appropriately step down the site to the west, which follows the natural gradient of the land.

(1)(b) To promote the retention and, if appropriate, sharing of existing views

The building elements in breach of the LEP building height limit are the roof or sky advertisement sign to a mixed-use building. The building elements in breach of the maximum building height control are unlikely to cause any obstruction to the views given that a majority of the building envelope is being kept as existing.

(1)(c) To maintain solar access to existing dwellings, public reserves and streets, and to promote solar access to future development

The applicant has submitted shadow diagrams showing the overshadowing impacts caused by the proposal from 9.00am to 3.00pm. Given that the building envelope is not significantly altered, there are no additional overshadowing impacts to adjoining properties or the adjoining park to the east or south of the subject site.

(1)(d) To maintain privacy for residents of existing dwelling and to promote privacy for residents of new buildings

The building element in breach of the LEP building height limit is the roof or sky advertisement sign to the existing mixed used building. The proposed building elements above the height limit do not expand the building envelope and do not result visual or acoustic privacy impacts to adjoining properties.

(1)(e) To ensure compatibility between development, particularly at zone boundaries

The subject site is located within a B4 Mixed Use Zone. The proposed works do not compromise the compatibility of development at zone boundaries.

(1)(f) To encourage an appropriate scale and density of development that is in accordance with, and promotes the character of the area

Sign 2 and Sign 3 does not alter the existing building envelope. The proposal reflects an appropriate scale and density of the development located along Miller Street.

Sign 1 is located on the northern elevation of No. 231 Miller Street and is highly visible from the public domain given its size. Currently, there are no recently approved roof or sky advertisement signs located in the B4 Mixed Use Zone. Sign 1 is considered to be out of character for the B4 Mixed Use and is not in the existing or desired future character for the area. Sign 1 is also considered not to be within the predominately residential setting of 229 Miller Street and 231 Miller Street and is therefore inconsistent with sub-clause (1)(f) of Clause 4.3 of the NSLEP 2013.

Sign 2 and Sign 3 do not result in any privacy or overshadowing impacts to adjoining properties. The proposal does not result in any view loss impacts to adjoining properties or impact the existing topography of the subject site. Overall, the proposal is consistent with objectives specified in Clause 4.3 of the NSLEP 2013 as outlined above.

Whether there are sufficient environmental planning grounds to justify contravening the development standard?

The applicant's Clause 4.6 Variation Statement, seeking exception for the building height standard outlined in the NSLEP 2013 for the location of the proposed Sign 1 above the maximum height standard. The applicant's statement includes the following environmental planning grounds in support of the proposed height variation:

SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS

The environmental planning grounds to justify the departure of the height standard are as follows:

- *The proposed signs are to be attached to the facades of the existing building on the site and are located fully within the building envelope;*
- *The sign that is located above RL130 will not be illuminated;*
- *The proposed sign located above RL130 will not have any impact on the amenity of adjoining neighbours and will not result in any overshadowing or loss of privacy for neighbouring properties.*

The Clause 4.6 variation statement however does not provide sufficient environmental planning grounds to justify contravening the building height standard in the NSLEP 2013 in circumstances where the proposed signage would not be consistent with the zone objectives and would adversely affect the character of the zone. In Council's opinion, the environmental planning grounds promoted by the applicant are not sufficient to justify the significant breach to the building height control.

The Clause 4.6 variation statement for the building element (Sign 1) over the building height limit does not satisfy subclause (3) in Clause 4.6 of the NSLEP 2013. Sign 1 is considered not to be in the public interest as it is not consistent with sub-clause (1)(f) of Clause 4.3 of the NSLEP 2013.

Whether the proposed development will be in the public interest?

Sign 1 is considered to be out of character for the B4 Mixed Use and is not in the existing or desired future character for the area. Sign 1 is also considered not to be within the predominately residential setting of 229 Miller Street and 231 Miller Street. Sign 1 is therefore not within the public interest.

Clause 6.1 - Objectives of Division (North Sydney Centre)

Objective	Comment
A) to maintain the status of the North Sydney Centre as a major commercial centre	The proposed signage would contribute to the status of North Sydney Centre as a major commercial centre.
B) to maximise commercial floor space capacity and employment growth within the constraints of the environmental context of the North Sydney Centre.	The proposed signage will not result in any additional non-residential floor space.
E) to encourage the provision of high-grade commercial space with a floor plate, where appropriate, of at least 1,000 square metres.	Serviced apartments on the subject site have been determined under previous consent (DA453/14).
G) to prevent any net increase in overshadowing of any land in Zone RE1 Public Recreation (other than Mount Street Plaza) or any land identified as "Special Area" on the.	The proposed development will result in no additional overshadowing.
H) to prevent any increase in overshadowing that would adversely impact on any land within a residential zone.	The proposed signage will not have a shadowing impact to residential properties.
I) to maintain areas of open space on private land and promote the preservation of existing setbacks and landscaped areas, and to protect the amenity of those areas.	The proposed signage does not seek to change the existing setbacks or landscaped areas that exist on the subject site.

Clause 6.4 - Miller Street Setback

- (1) *The objective of this clause is to maintain the established setback and landscaped setting on the eastern side of Miller Street between McLaren Street and Mount Street.*
- (2) *Development consent must not be granted for the erection of a building on land identified as "Miller Street Setback" on the North Sydney Centre Map unless:*
 - (a) *the building height will be less than 1.5 metres, and*
 - (b) *the part of the building that will be on that land is used only for access to the building or landscaping purposes.*

All of the proposed signs are not located within the Miller Street setback and is therefore not subject to Clause 6.4 – Miller Street Setback. The proposal does not impact the setback or the landscape setting on the eastern side of Miller Street. The proposed signs do not offend the provisions outlined in Clause 6.4 of the NSLEP 2013.

Clause 6.10 – Earthworks

There would be no earthworks arising from the proposal, so there would be no impact in this respect.

Clause 6.12 – Residential Flat Buildings

The proposed works would not cause any site isolation and is therefore compliant with Clause 6.12 in NSLEP 2013.

NSDCP 2013 Compliance Table

DEVELOPMENT CONTROL PLAN 2013		
<i>Advertising & signage</i>	<i>Complies</i>	<i>Comments</i>
<p>B9.2.4 - North Sydney Centre</p> <p><i>Generally, additional signage should be limited to small scale business identification signs at ground floor level to convey messages to potential customers in preference to large scale roof and/or sky signs</i></p>	<p>Yes (subject to conditions)</p>	<p>Sign 2 and Sign 3 are considered to be consistent with the advertising design analysis framework specified in Section 9.2.4 of the NSDCP 2013. Sign 2 and 3 are considered to identify the business located on the ground floor level, which conveys a clear message to potential customers walking up and down Miller Street.</p> <p>Sign 1 is considered to be sky or roof advertisement structure, which is considered to have a large surface area on the northern elevation of No. 231 Miller Street. Sign 1 is considered to be out of context given the sign is located in B4 mixed use zone. Sign's 2 and 3 provides ample opportunities for potential customers to identify the business located on the ground floor of 229 Miller Street. Sign 1 is therefore considered to be an excessive amount of signage for a business located on the ground floor at the neighbouring building. A condition has been recommended to delete Sign 1 from the proposal (see condition set).</p>
<p>B9.4 - Design, Scale & Size</p> <p><i>O1 To ensure that signage does not detract from the architecture of existing buildings, streetscapes and vistas.</i></p>	<p>Yes (subject to conditions)</p>	<p>The size and location of the business identification signage have not been provided. An assessment against the provisions relating to the design, scale and size of the signage is discussed below:</p> <p><i>P1 - Signage attached to buildings is to be designed, scaled and sized having regard to a façade grid analysis –</i></p> <p>The business identification signs will be contained within the boundaries of both 229 and 231 Miller Street.</p> <p><i>P3 - Signage should be visually interesting and integrated with the architecture of the building –</i></p> <p>The proposed signage at lower levels is integrated with the architecture of the existing building, which has been previously discussed in the report. However, the location of Sign 1 is not supported given it is out of character for the B4 Mixed Use Zone.</p> <p><i>P5 - Signage must not dominate the building or site to which it is attached –</i></p> <p>The two (2) signs on the ground floor do not dominate the existing building and building to be constructed given their size, which has been previously discussed in the SEPP 64 section of the report.</p>

		<p>P6 - Do not locate signage where it will obstruct views, vistas or cause significant overshadowing –</p> <p>The proposed signage does not obstruct views or cause any significant overshadowing given the size and location on the both buildings.</p> <p>P7 - Signage must not dominate the skyline or protrude above any parapet or eaves –</p> <p>The signage will not protrude above the building roof.</p> <p>P8 - Signage must not cover any window, other opening or significant architectural features of the building –</p> <p>The sign does not cover any significant architectural features of the building.</p> <p>Overall the proposal satisfies the provisions outlined in Section B9.4 of the NSDCP 2013 and is considered to be acceptable in this regard.</p>
<p>B9.5 - Location</p> <p><i>O1 To establish a consistent approach to the positioning of signage and to enhance the streetscape.</i></p>	Yes	<p>The proposed signs do not obstruct accessible paths of travel for pedestrians or obscure drivers' sightlines.</p> <p>The positioning of the proposed signs are generally consistent with the objectives of the control. However, the location size, proportion of Sign 1 is not supported given it is out of context for the B4 Mixed Use Zone.</p>
<p>B9.6 – Restrictions</p> <p><i>O2 To ensure that advertisements relate to the use of the land on which they are located.</i></p>	Yes (Via Condition)	<p>The objectives outlined Section B9.6 seeks to avoid visual clutter and proliferation of signs, ensure advertisements relate to land use and preserve streetscapes and vistas, by means of placing restrictions on certain signage. The proposed ground floor signage is considered to relate to the tenancy that is operating at No. 229 Miller Street. Sign 1 is considered to be out of context for the B4 Mixed Use Zone and is recommended to be deleted (see condition set).</p>
<p>B9.7 – Content</p> <p><i>P1 All advertising must comply with the requirements of the Australian Association of National Advertisers' Code of Ethics and Outdoor Media Association's Code of Ethics</i></p>	Yes	<p>The proposal complies with the objectives and provisions of Section 9.7 of the NSDCP 2013.</p>
<p>B9.8 - Pedestrian & road safety</p>	Yes	<p>The proposed signage does not impact pedestrians or road safety (subject to conditions).</p>

<p>B9.10 – Illumination</p> <p><i>O1 To ensure that the local amenity is preserved with appropriate levels of illumination.</i></p> <p><i>P1 Signs must not be illuminated between 1.00am and 7.00am</i></p> <p><i>P3 Provide levels of illumination that do not cause light spillage for nearby properties.</i></p>	<p>Yes</p> <p>Via Condition</p>	<p>Locality amenity and appropriate levels of illumination can be preserved by way of conditions, including an illumination curfew between 9.00pm to 7.00am, use of automated timing devices calibrated to the curfew hours, and minimisation of excessive light spill or nuisance (see condition set).</p>
<p>B9.11 – Controls for Specific Sign Types</p> <p><i>Roof or sky signs</i> <i>P1 Roof or sky signs are generally not permitted.</i></p> <p><i>Wall signs</i> <i>P5 Only one wall sign per building elevation.</i></p> <p><i>Under awning signs</i> <i>P10 Under awning signs must be located 2.6m above natural ground level, not exceed 2.5m in length or 500mm in height.</i></p>	<p>Yes</p> <p>(via condition)</p>	<p>Please refer to SEPP 64 Assessment provided earlier in the report, which discusses Section 9.11 of the NSDCP 2013.</p>

DEVELOPMENT CONTROL PLAN 2013		
<i>Commercial Development</i>	<i>Complies</i>	<i>Comments</i>
B2.2 Function		
Diversity of activities, facilities, opportunities & services	Yes	The proposed ground floor signage being Sign 2 and Sign 3 satisfies the objectives and provisions of Section 2.2 of the NSDCP 2013.
B2.3 Environmental criteria		
Noise	Yes	The signage will not result in any material noise emissions.
Wind speed	Yes	The proposed signs will not impact wind speed.
<p>Artificial illumination</p> <p><i>B4 – Mixed Use</i> <i>11.00pm</i></p>	<p>Yes</p> <p>(Via Condition)</p>	<p>The proposed ground floor signage is to be illuminated between 9.00pm to 7.00am only, which is consistent with the NSDCP 2013.</p> <p>The brightness of signs could be adjustable and any impacts from illumination minimised by way of condition, as discussed in the SEPP 64 section in this report.</p>
Solar access/Views	Yes	Given the location and size of the signage, it is unlikely to result in any view or shadow impacts.
B2.4 Quality built form		
<p>Context</p> <p><i>O1 To ensure that the site layout and building design responds to the existing characteristics, opportunities and constraints of the site and within its wider context (adjoining land and the locality).</i></p>	<p>Yes</p> <p>(via condition)</p>	<p>The subject site is located within the North Sydney Planning Area, specifically within Central Business District. The proposed ground floor signs are consistent within the Miller Street context given that it provides street activation and a sense of an address. The two (2) ground floor signs are considered to be within the context of the North Sydney CBD.</p> <p>Given the size of Sign 1 and its location above the permissible height limit specified in the NSLEP 2013, it is considered to be out of context of the B4 Mixed Use Zone and is to be deleted from the proposal (see condition set).</p>

Building design	Yes	The proposal will not impact the overall building design or the floor to ceiling heights.
Streetscape/Nighttime appearance	Yes (via condition)	Sign 2, which is sought to be illuminated, can be addressed via condition to minimize the impact to adjoining residential units (see condition set). The proposed signs do not result in adverse impacts to Miller Street and its nighttime appearance.

Part C – Character Statements

North Sydney DCP Part C Section 2.0 – North Sydney Planning Area

The subject site is located in the Central Business District, which is located within the North Sydney Planning Area. The subject site is located within the North Sydney Planning Area, specifically within Central Business District. The proposed ground floor signs are consistent within the Miller Street context given that it provides street activation and a sense of an address. The two (2) ground floor signs are considered to be within the context of the North Sydney CBD. Given the size of Sign 1 and its location above the permissible height limit specified in the NSLEP 2013, it is considered to be out of context of the B4 Mixed Use Zone and is to be deleted from the proposal (see condition set).

LOCAL INFRASTRUCTURE CONTRIBUTIONS

There are no additional bedrooms proposed Council is unable to impose the North Sydney Local Infrastructure Contributions Plan 2020.

ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL

CONSIDERED

1.	Statutory Controls	Yes
2.	Policy Controls	Yes
3.	Design in relation to existing building and natural environment	Yes
4.	Landscaping/Open Space Provision	Yes
5.	Traffic generation and Car parking provision	N/A
6.	Loading and Servicing Facilities	N/A
7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8.	Site Management Issues	Yes
9.	All relevant S.4.15 considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

PUBLIC INTEREST

The proposal is considered not to be contrary to the public interest.

SITE SUITABILITY

The proposed two (2) ground floor signs are considered to be suitable for the site due to its minor impact on residential amenity with no impact on the streetscape, subject to conditions.

SUBMITTERS CONCERNS

Twelve (12) submissions were received during the notification period to the adjoining properties and the Stanton precinct. The following concerns are responded to below:

Issue: The proposal is out context for the area given the building contains predominantly residential apartments.

Response: The proposed size, location and design of the Sign 2 and Sign 3 is considered to be satisfactory given that the proposal is similar in scale and form to other business identification signs along Miller Street. The proposed materials reasonably complement the existing building and the size of the signage on the Miller Street elevation at the ground floor level. Sign 2 and Sign 3 are considered to be reasonable in size and within the context of Miller Streetscape.

Sign 1 is located on the northern elevation of No. 231 Miller Street and is highly visible from the public domain given its size. Currently, there are no recently approved roof or sky advertisement signs located in the B4 Mixed Use Zone. Sign 1 is considered to be out of context given the proposal is located within a predominately residential setting that is 229 Miller Street and 231 Miller Street. A condition of consent has been recommended to delete Sign 1 from the proposal.

Issue: Sign No.1 is unsightly and not in keeping with a residential building.

Response: Sign 1 is located on the northern elevation of No. 231 Miller Street and is highly visible from the public domain given its size. Currently, there are no recently approved roof or sky advertisement signs located in the B4 Mixed Use Zone. Sign 1 is considered to be out of context given the proposal is located within a predominately residential setting that is 229 Miller Street and 231 Miller Street. A condition of consent has been recommended to delete Sign 1 from the proposal.

Issue: The proposed Sign 1 is not even for a tenant that is located within the building located at 231 Miller Street.

Response: The proposed Sign 1 is located on the northern elevation at No. 231 Miller Street, North Sydney. After correspondence with the applicant, the business was confirmed as being located on the ground floor tenancy of No. 229 Miller Street, North Sydney. The definition of the a 'business identifications sign' specifies that the sign must indicate:

'(ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed...'

With regards to the above, the proposed Sign 1 is not considered to be defined as a ‘*business identification sign*’. The proposed Sign 1 is therefore defined as a ‘*advertisement structure*’ or more accurately defined as a ‘*roof or sky advertisement*’ as per the definitions outlined in the SEPP 64. Roof or sky advertisement structures are not supported within a B4 Mixed Use Zone. A condition of consent has been recommended to delete Sign 1 from the proposal.

Issue: Sign 2 would result in amenity impacts to residential units at No. 229 Miller Street and No. 231 Miller Street due to the proposed illumination.

Response: The illumination of Sign 2 is considered to be acceptable subject to conditions. A condition has been included ensuring that Sign 2 is not illuminated between 9.00pm -7.00am daily.

Issue: Sign 1 does not comply with the desired amenity and/or visual character of the northern end of Miller Street.

Response: Sign 1 is located on the northern elevation of No. 231 Miller Street and is highly visible from the public domain given its size. Currently, there are no recently approved roof or sky advertisement signs located in the B4 Mixed Use Zone. Sign 1 is considered to be out of context given the proposal is located within a predominately residential setting that is 229 Miller Street and 231 Miller Street. A condition of consent has been recommended to delete Sign 1 from the proposal.

Issue: Sign 1 also does not appear proportionate to the small-scale character of the business located in the neighbouring building at 229 Miller Street.

Response: Sign 1 is considered to be sky or roof advertisement structure, which is considered to have a large surface area on the northern elevation of No. 231 Miller Street. Sign 1 is considered to be out of context given the sign is located in B4 mixed use zone. Sign’s 2 and 3 provides ample opportunities for potential customers to identify the business located on the ground floor of 229 Miller Street. Sign 1 is therefore considered to be an excessive amount of signage for a business located on the ground floor at the neighbouring building and is not in keeping with the small-scale business identification signage that is prevalent along Miller Street. A condition has been recommended to delete Sign 1 from the proposal (see condition set).

Issue: Sign 2 will result add clutter to the narrow walkway leading to the pedestrian entrance of 229 Miller Street. This signage will impact the visible pleasing nature of the streetscape.

Response: The proposed ground floor signs are consistent within the Miller Street context given that it provides street activation and a sense of an address. The two (2) ground floor signs are considered to be within the context of the North Sydney CBD. The size of Sign 2 is considered to be of a similar scale to that of IGA. The proposed individual lettering minimises any potential visual cluttering. Sign 2 does not significantly detract from the Miller streetscape and provides a visual reference for potential customers to find the ground floor business located at No. 229 Miller Street.

Issue: Sign number 3 would make our building look like a commercial building (like Coca Cola). Sign No. 3 would impact dozens of adjoining units in our rear entrance area with light.

Response: Sign 3 is proposed not to be illuminated. Sign 3 is compliant with Council's controls and is considered to be acceptable, subject to conditions.

Issue: At no point were the 60+ residents at 231 Miller street consulted nor will there be any benefit to any of the owners at 231 Miller Street from this.

Response: Council cannot enforce the owners of 231 Miller Street to consult with the residents of the building. However, with regards to the subject application, it was notified to adjoining property owners and the Stanton Precinct, inviting comments between 22 January 2021 and 5 February 2021. Twelve (12) submissions were received during the notification period.

CONCLUSION

The development application has been assessed against the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013. As previously detailed in the DCP compliance table and throughout the report, Sign 1 is to be deleted given it does not provide sufficient environmental planning grounds to justify a breach the building height control specified in the NSLEP 2013.

The development application has considered community views and adequately addresses the concerns raised in submissions and will not result in any unreasonable adverse effect on the local built and natural environment.

Conditions of consent have been recommended in the condition set to minimise the amenity impacts to the residential units in close proximity. A condition has been recommended deleting Sign 1 given it is located above the height limit and is out of context for a B4 Mixed Use Zone. These measures seek to minimise amenity impacts to nearby residential properties.

As detailed throughout the report, the application complies with a majority of the criteria and provisions outlined in the SEPP 64, Transport Corridor Outdoor Advertising and Signage Guidelines, North Sydney Local Environmental Plan 2013 and North Sydney Development Control Plan 2013.

The development application has considered community views and is considered to adequately addresses the concerns raised in the submission(s).

The proposal does not result in an overall increase in the height of the building or any additional floor area beyond the exiting footprint of the building. For the reasons outlined throughout the report, Council recommends that the Panel grant consent for the development application subject to the deletion of Sign 1.

RECOMMENDATION

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the North Sydney Local Planning Panel, grant consent to Development Application No. 5/21 for the three (3) new signs on land at No. 229 and 231 Miller Street, North Sydney as shown on the plans and subject to the following site specific conditions and attached standard conditions: -

Delete Sign 1

C1. The Proposed Sign 1 is to be deleted from the proposal. No consent is granted for the erection of Sign 1.

(Reason: Inconsistent with the desire character of the B4 Mixed Use zone and non-compliant with the building height control specified in Clause 4.3 of the NSLEP 2013)

Hours of Illumination

I1. All illuminated signs approved by this consent must cease illumination between the hours of 9.00 pm and 7.00 am daily.

(Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties)

Signage Illumination Intensity

I2. The sign(s) must be installed and used at all times in accordance with AS 4282-1997 control of obtrusive effects of outdoor lighting and must be restricted in accordance with the following:

- (a) At no time is the intensity, period of intermittency and hours of illumination of the sign to cause objectionable glare or injury to the amenity of the neighbourhood.
- (b) The level of illumination and/or lighting intensity used to illuminate the signage must not cause excessive light spill or nuisance to any nearby residential premises.
- (c) The signage illumination must not flash.

(Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties)

Hugh Shouldice
ASSESSMENT OFFICER

David Hoy
TEAM LEADER, ASSESSMENTS

Stephen Beattie
MANAGER DEVELOPMENT SERVICES

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
229 AND 231 MILLER STREET, NORTH SYDNEY
DEVELOPMENT APPLICATION NO. 5/21

A. *Conditions that Identify Approved Plans*

Development in Accordance with Plans/documentation

- A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Drwg No.	Issues	Title	Drawn By	Received
DA.S-01	C	Section A-A and North Elevation	PA Studio	7 January 2021
DA.S-02	C	North and Western Elevation	PA Studio	7 January 2021
DA.S-03	C	Signage Sizes	PA Studio	7 January 2021
SG-01	B	Sky Sign	OMG.CO	7 January 2021
SG-02	B	Awning Sign	OMG.CO	7 January 2021
SG-03	B	Stair Wall Sign	OMG.CO	7 January 2021

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Plans on Site

- A2. A copy of all stamped approved plans, specifications and documents (including the plans, specifications and documents submitted and approved with the Construction Certificate) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the certifying authority upon their request.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance)

No Demolition of Extra Fabric

- A3. Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans.

(Reason: To ensure compliance with the approved development)

**229 AND 231 MILLER STREET, NORTH SYDNEY
DEVELOPMENT APPLICATION NO. 5/21**

Page 2 of 8

Terms of Consent

- A4. Approval is granted for the two ground floor signs (Sign 2 and Sign 3) at No. 229 and 231 Miller Street, North Sydney.

No approval is granted or implied for any additional works not covered by this consent.

(Reason: To ensure that the terms of the consent is clear)

C. *Prior to the Issue of a Construction Certificate (and ongoing, where indicated).***Delete Sign 1**

- C1. The Proposed Sign 1 is to be deleted from the proposal. No consent is granted for the erection of Sign 1.

(Reason: Inconsistent with the desire character of the B4 Mixed Use zone and non-compliant with the building height control specified in Clause 4.3 of the NSLEP 2013)

Bond for Damage and Completion of Infrastructure Works – Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement

- C2. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$1,500.00 to be held by Council for the payment of cost for any/all of the following:

- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and [environmental controls](#)) required in connection with this consent
- c) remedying any defects in any such public work that arise within 6 months after the work is completed.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of 6 months from the issue of any final Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's Engineers.

**229 AND 231 MILLER STREET, NORTH SYDNEY
DEVELOPMENT APPLICATION NO. 5/21**

Page 3 of 8

Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in circumstances including the following: -

- where the damage constitutes a hazard in which case Council may make use of the security immediately;
- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and
- the Certifying Authority must ensure that security is provided to North Sydney Council prior to issue of any Construction Certificate.

(Reason: To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure)

Security Deposit/ Guarantee Schedule

C3. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security deposit/ guarantee	Amount (\$)
Footpath Damage Bond	\$1,500.00
TOTAL BONDS	\$1,500.00

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

Outdoor Lighting

C4. All outdoor lighting must comply with, where relevant AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting and AS4282:1997 Control of the Obtrusive Effects of Outdoor lighting. Details demonstrating compliance with these requirements must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To maintain the amenity of adjoining land uses)

Signage design - Control of the Obtrusive Effects of Outdoor Lighting

C5. The signage must be designed in accordance with AS 4282-1997 control of obtrusive effects of outdoor lighting.

**229 AND 231 MILLER STREET, NORTH SYDNEY
DEVELOPMENT APPLICATION NO. 5/21**

Page 4 of 8

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To maintain the amenity of adjoining land uses)

D. Prior to the Commencement of any Works (and continuing where indicated)**Commencement of Works Notice**

D1. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least 2 days notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

(Reason: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

E. During Demolition and Building Work**Parking Restrictions**

E1. Existing public parking provisions in the vicinity of the site must be maintained at all times during works. The placement of any barriers, traffic cones, obstructions or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council. Changes to existing public parking facilities/restrictions must be approved by the North Sydney Local Traffic Committee. The Developer will be held responsible for any breaches of this condition and will incur any fines associated with enforcement by Council regulatory officers.

(Reason: To ensure that existing kerbside parking provisions are not compromised during works)

Road Reserve Safety

E2. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site.

**229 AND 231 MILLER STREET, NORTH SYDNEY
DEVELOPMENT APPLICATION NO. 5/21**

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Where public infrastructure is damaged, repair works must be carried out in when and as directed by Council officers (at full Developer cost). Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

(Reason: Public Safety)

Noise and Vibration

E3. The works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

No Work on Public Open Space

E4. No work can be undertaken within adjoining public lands (ie. Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the developer is to liaise with Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

(Reason: Protection of existing public infrastructure and land and to ensure public safety and proper management of public land)

Developer's Cost of Work on Council Property

E5. The developer must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

(Reason: To ensure the proper management of public land and funds)

No Removal of Trees on Public Property

E6. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

(Reason: Protection of existing environmental infrastructure and community assets)

**229 AND 231 MILLER STREET, NORTH SYDNEY
DEVELOPMENT APPLICATION NO. 5/21**

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Construction Hours

E7. Building construction and works must be restricted to within the hours of 7.00 am to 5.00 pm Monday to Friday and on Saturday to within the hours of 8.00 am to 1.00 pm inclusive, with no work on Sundays and Public Holidays.

Demolition and excavation works must be restricted to within the hours of 8.00 am to 5.00 pm Monday to Friday only. For the purposes of this condition:

- a) "Building construction" means any physical activity on the site involved in the erection of a structure, cladding, external finish, formwork, fixture, fitting of service installation and the unloading of plant, machinery, materials or the like.
- b) "Demolition works" means any physical activity to tear down or break up a structure (or part thereof) or surface, or the like, and includes the loading of demolition waste and the unloading of plant or machinery.
- c) "Excavation work" means the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders, or the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site and includes the unloading of plant or machinery associated with excavation work.

All builders, excavators must display, on-site, their twenty-four (24) hour contact telephone number, which is to be clearly visible and legible from any public place adjoining the site.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

Plant & Equipment Kept Within Site

E8. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

Details of Council requirements for permits on public land for standing plant, hoardings, storage of materials and construction zones and the like are available on Council's website at www.northsydney.nsw.gov.au.

(Reason: To ensure public safety and amenity on public land)

**229 AND 231 MILLER STREET, NORTH SYDNEY
DEVELOPMENT APPLICATION NO. 5/21**

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F. Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation**National Construction Code**

F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

Appointment of a Principal Certifying Authority (PCA)

F2. Building work, demolition or excavation in accordance with the development consent must not be commenced until the developer has appointed a Principal Certifying Authority for the building work in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Construction Certificate

F3. Building work, demolition or excavation in accordance with the development consent must not be commenced until a Construction Certificate for the relevant part of the building work has been issued in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Occupation Certificate

F4. A person must not commence occupation or use of the whole or any part of a new building (*new building* includes an altered portion of, or an extension to, an existing building) unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifying Authority appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

Critical Stage Inspections

F5. Building work must be inspected by the Principal Certifying Authority on the critical stage occasions prescribed by the EP&A Act and its Regulations, and as directed by the appointed Principal Certifying Authority.

(Reason: Statutory)

**229 AND 231 MILLER STREET, NORTH SYDNEY
DEVELOPMENT APPLICATION NO. 5/21**

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G. Prior to the Issue of an Occupation Certificate

Damage to Adjoining Properties

- G1. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

(Reason: To ensure adjoining owner's property rights are protected)

Compliance with Certain conditions

- G2. Prior to the issue of any Occupation Certificate, Conditions C1, C10, I1 and I2 must be certified as having been implemented on site and complied with.

(Reason: To ensure the development is completed in accordance with the requirements of this consent)

I. On-Going / Operational Conditions

Hours of Illumination

- I1. All illuminated signs approved by this consent must cease illumination between the hours of 9.00 pm and 7.00 am daily.

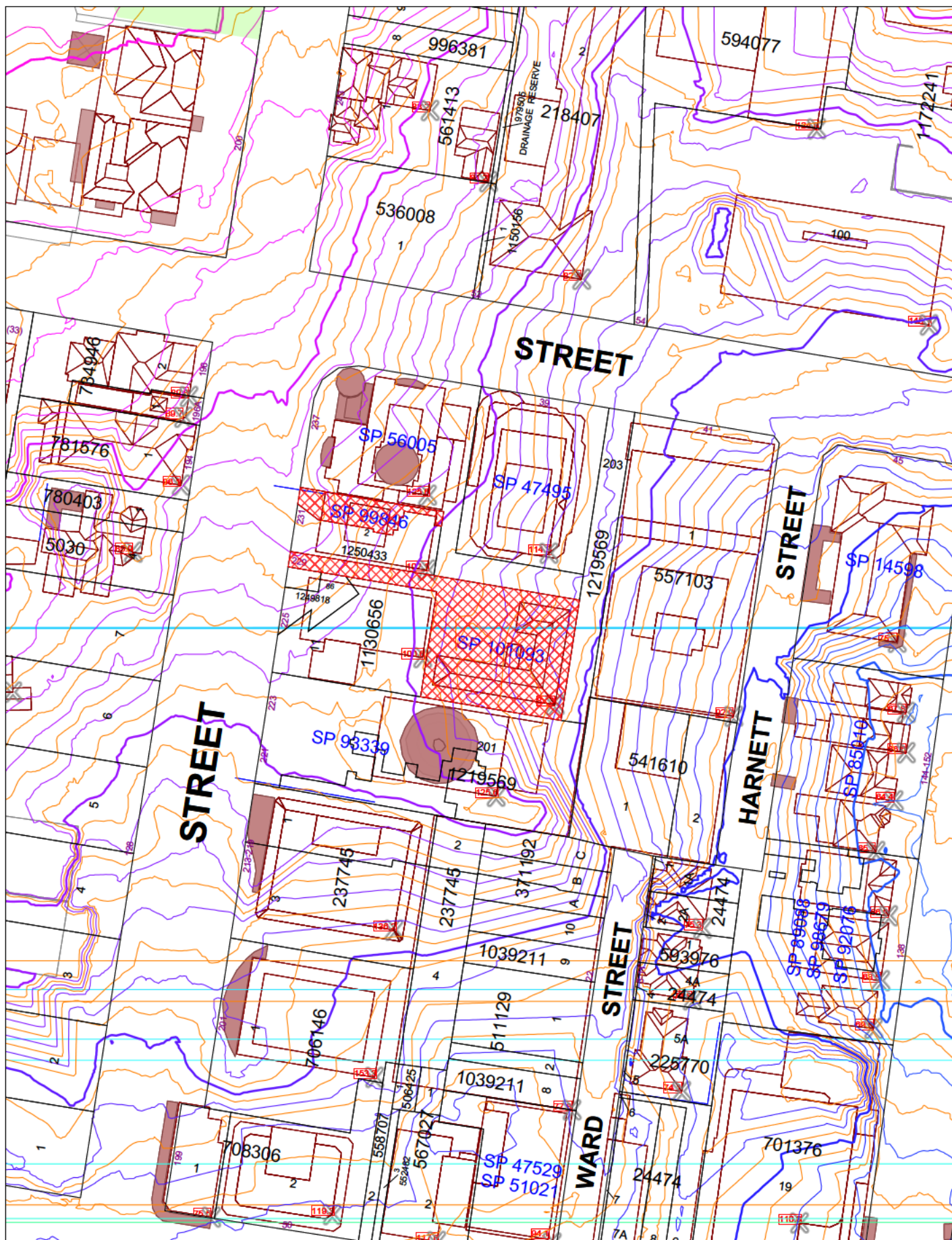
(Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties)

Signage Illumination Intensity

- I2. The sign(s) must be installed and used at all times in accordance with AS 4282-1997 control of obtrusive effects of outdoor lighting and must be restricted in accordance with the following:

- (a) At no time is the intensity, period of intermittency and hours of illumination of the sign to cause objectionable glare or injury to the amenity of the neighbourhood.
- (b) The level of illumination and/or lighting intensity used to illuminate the signage must not cause excessive light spill or nuisance to any nearby residential premises.
- (c) The signage illumination must not flash.

(Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties)



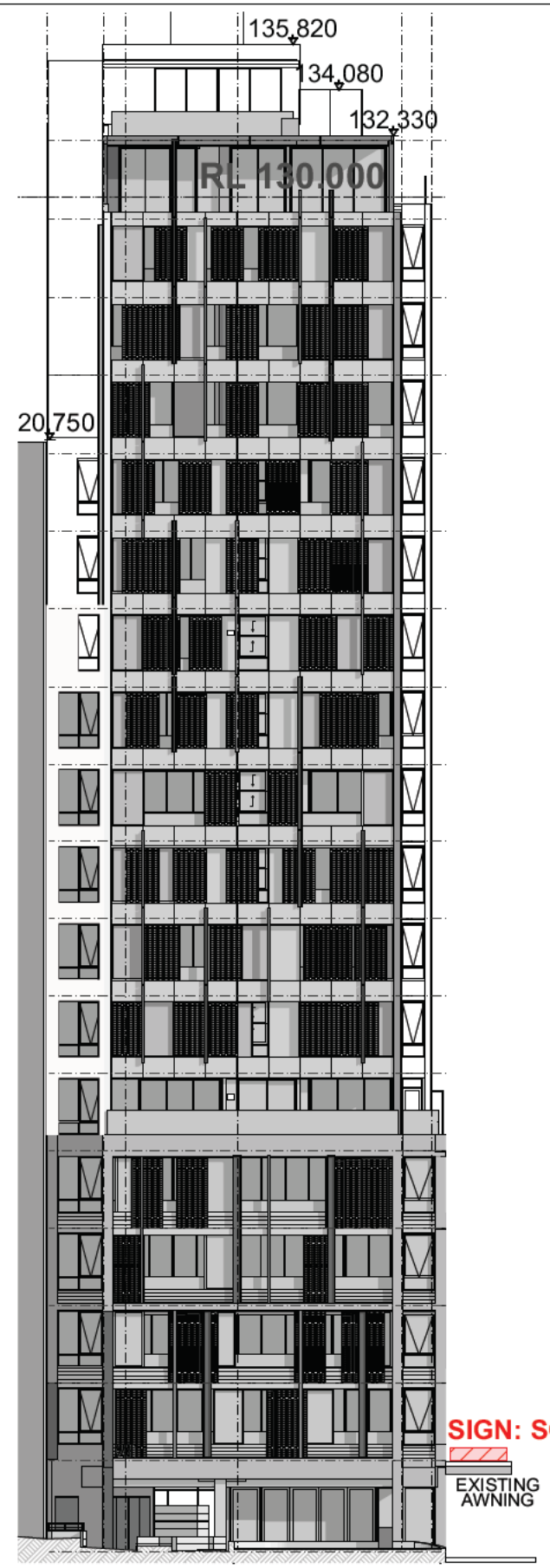
North Sydney Council

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Further details can be obtained by calling (02) 9936 8100 or e mail mapping@northsydney.nsw.gov.au



229 MILLER STREET SCALE 1:250
NORTH ELEVATION EAST ELEVATION



231 MILLER STREET SCALE 1:250
WEST ELEVATION



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ISSUE	REVISIONS	COUNCIL BUILDER OTHERS	DATE	ISSUE	REVISIONS	COUNCIL BUILDER OTHERS	DATE
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				B	FOR DA		14.11.19
				A	FOR DA		29.07.19

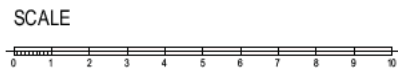
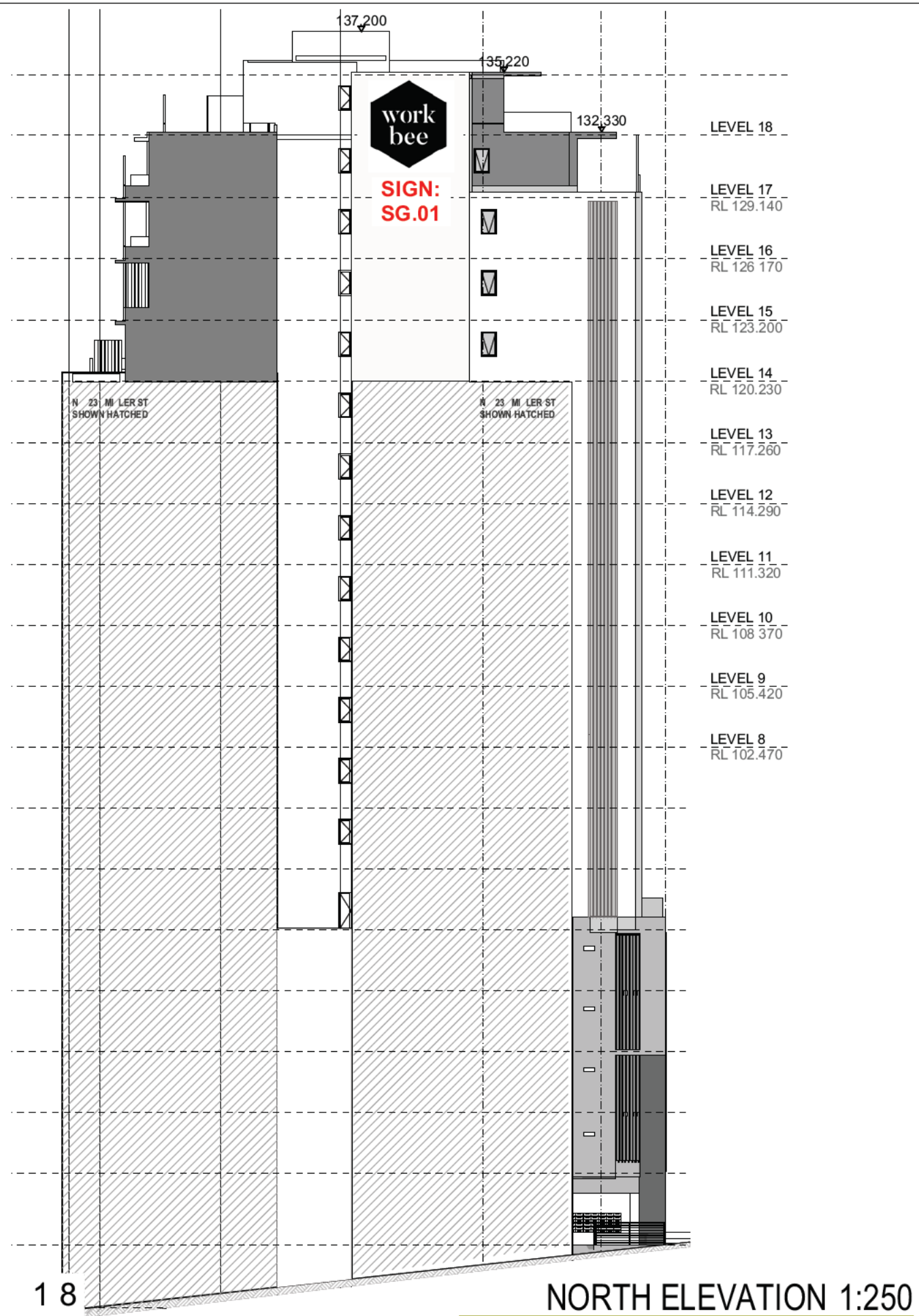
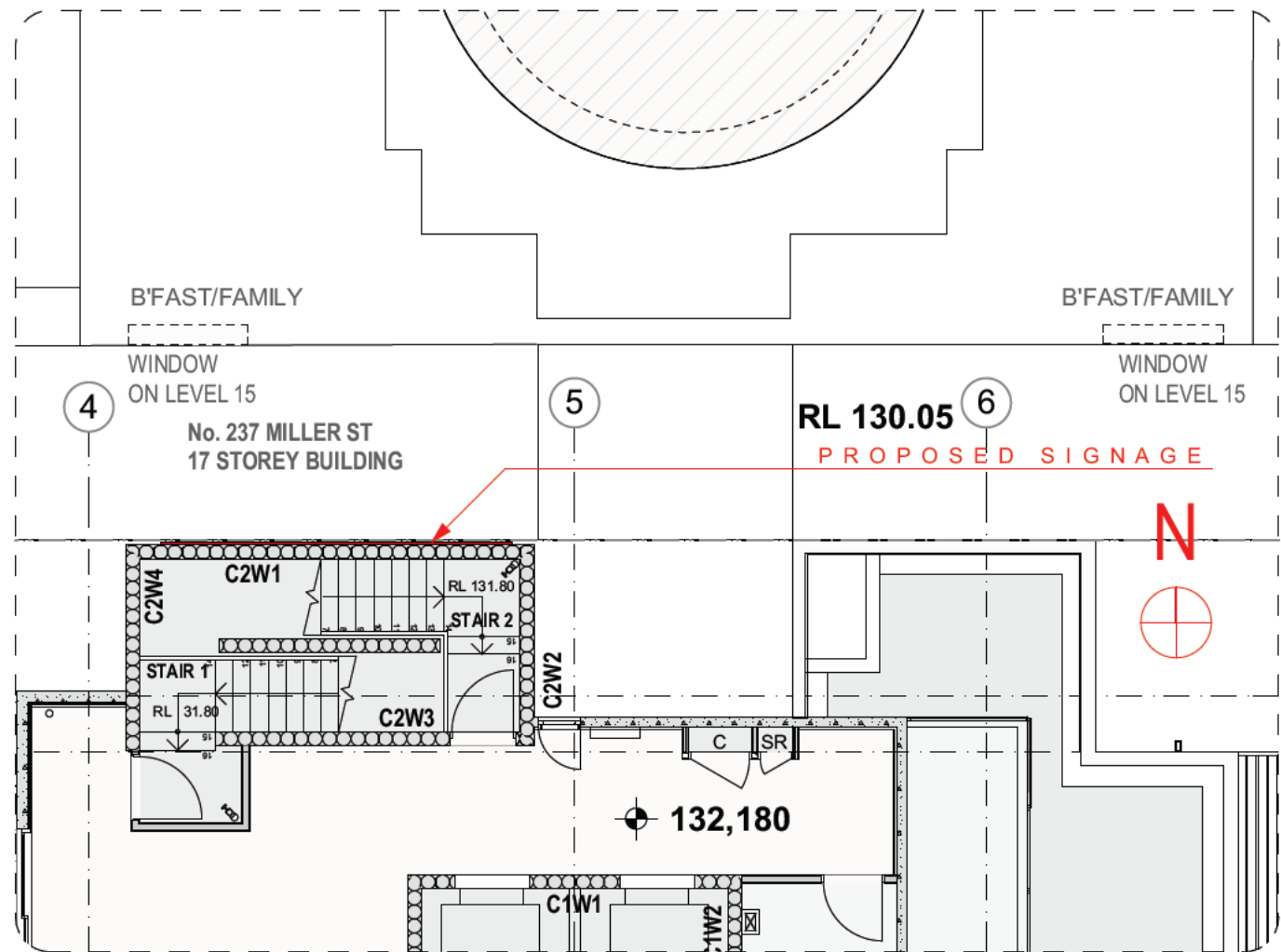
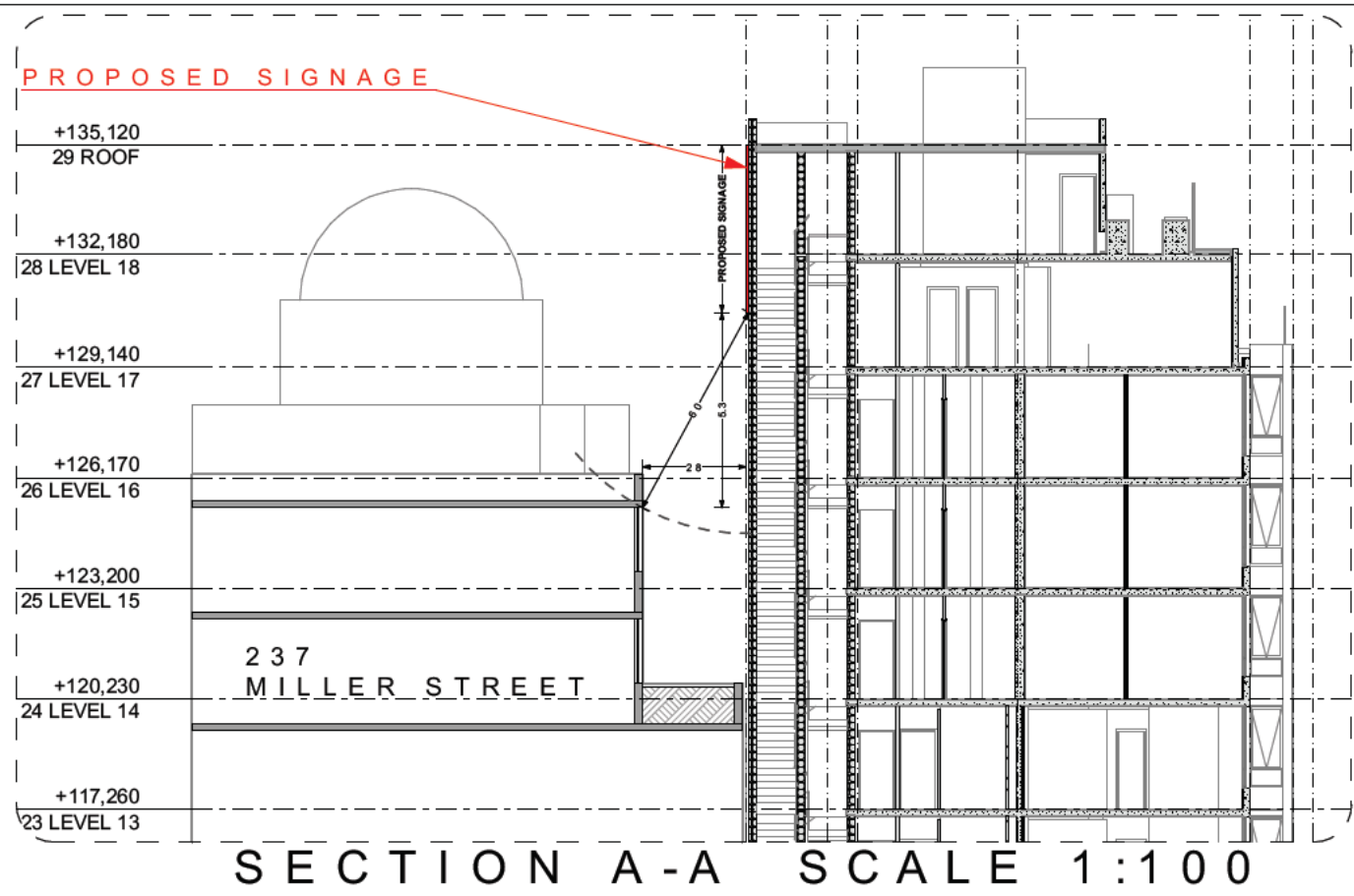
PROJECT:
PROPOSED SIGNAGES FOR
229 MILLER STREET &
231 MILLER STREET, NORTH SYDNEY

SIGNAGE AT 229 MILLER ST, EAST AND NORTH

SCALE: **P A STUDIO**

AS SHOWN LEVEL 2, 20 YOUNG ST NEUTRAL BAY, NSW 2089
TEL 8968 1900 FAX 8968 1999 ACN 603 389 288

DRAWING SET ID:	DA-S	ISSUE
SUBSET: SIGNAGE		
DRAWN BY: DOC/WH	DA.S-02	C
FILE: MIL231 CCv5.pln		



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ISSUE	REVISIONS	DATE	ISSUE	REVISIONS	DATE
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	B	14.11.19			
	A	29.0.19			

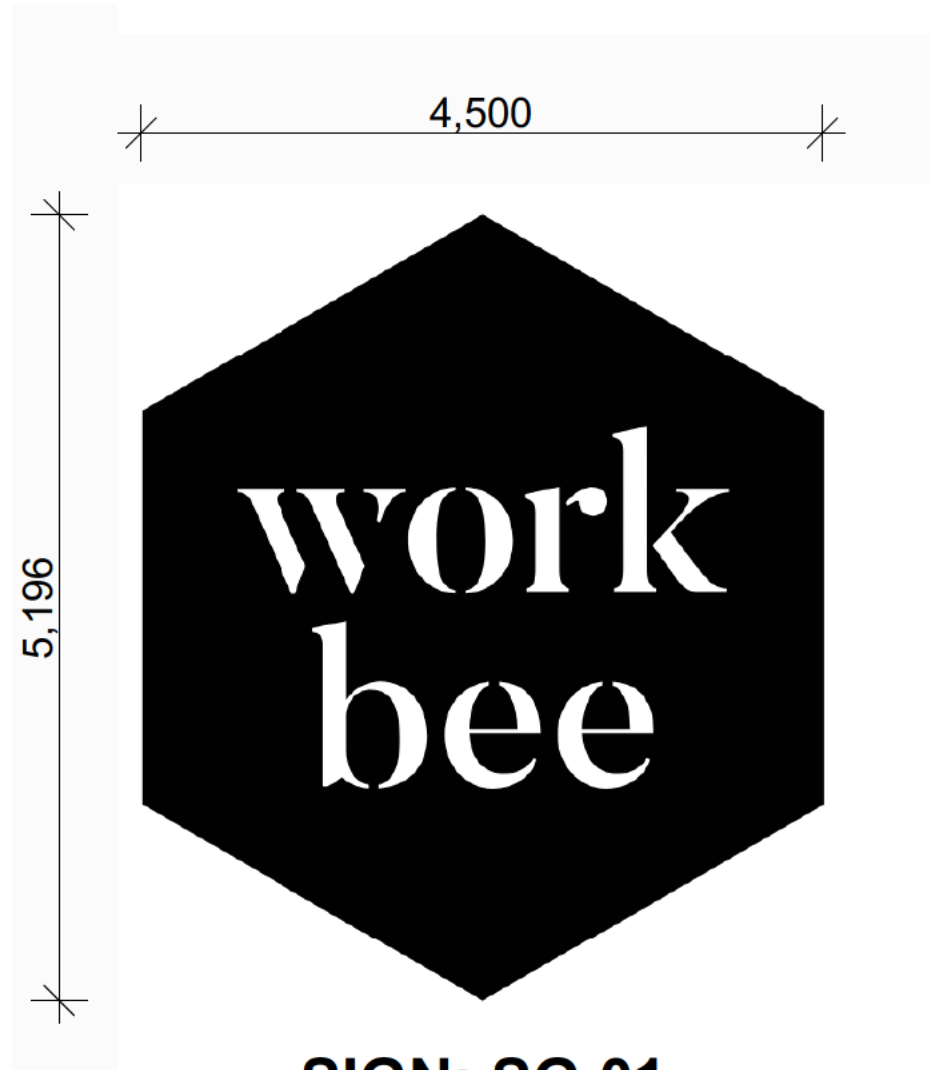
PROJECT:
 PROPOSED SIGNAGES FOR
 229 MILLER STREET &
 231 MILLER STREET, NORTH SYDNEY

SIGNAGE AT 231 MILLER ST, NORTH

SCALE: **P A STUDIO**

AS SHOWN LEVEL 2, 20 YOUNG ST NEUTRAL BAY, NSW 2089
 TEL 8988 1900 FAX 8988 1999 ACN 603 389 288

DRAWING SET ID	DA-S	ISSUE
SUBSET: SIGNAGE	DA.S-01	
DRAWN BY: DOC/WH		
FILE: ML231 CCv5.pln	C	



SIGN: SG.01



SIGN: SG.02



SIGN: SG.03

SCALE



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ISSUE	REVISIONS	COUNCIL BUILDER OTHERS	DATE	ISSUE	REVISIONS	COUNCIL BUILDER OTHERS	DATE
				C	FOR DA		15.12.20
				B	FOR DA		14.11.19
				A	FOR DA		29.07.19

PROJECT:

PROPOSED SIGNAGES FOR
229 MILLER STREET &
231 MILLER STREET, NORTH SYDNEY

SIGNAGE SIZES

SCALE:
AS SHOWN

PA STUDIO
LEVEL 2, 20 YOUNG ST NEUTRAL BAY, NSW 2089
TEL 8988 1900 FAX 8988 1999 ACN 603 389 288

DRAWING SET ID:

DA-S

SUBSET: SIGNAGE

DA.S-03

DRAWN BY: DOC/WH

FILE: ML231 CCv5.pln

ISSUE

C



BUSINESS IDENTIFICATION SIGNAGE 229 and 231 MILLER STREET, NORTH SYDNEY

Clause 4.6 Variation Request Height of Buildings (Clause 4.3) North Sydney LEP 2013

STANDARD TO BE VARIED

The standard that is proposed to be varied is the Height of Buildings development standard which is set out in clause 4.3(2) of the *North Sydney Local Environmental Plan 2013* (NSLEP 2013) as follows:

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

On the 'Height of Buildings Map' the site is located in an area with a height maximum of RL130 metres.

The Height of Buildings development standard to be varied is not identified under sub-clause 4.6(8). The development standard to be varied is therefore not excluded from the operation of clause 4.6 of the NSLEP 2013.

EXTENT OF VARIATION

Under the NSLEP 2013 building height (or height of building) means:

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

While Clause 4.3 sets a height limit of RL130 AHD, Part 6 Division 1 (Clause 6.3) of the NSLEP 2013 clearly states that the consent authority may grant development consent to development on land in the North Sydney Centre that would exceed the maximum height of buildings shown for the land on the Height of Buildings Map if they are satisfied that the proposal will not result in unacceptable shadow impacts (specific limitations apply). Furthermore, Clause 6.2 of the NSLEP provides that *“(2) A provision in this Division prevails over any other provision of*

this Plan to the extent of any inconsistency." Hence Cause 6.3 overrides Clause 4.3 and therefore a Clause 4.6 variation is not required.

Notwithstanding, we have prepared the following assessment for Council's consideration.

The proposed sign to be located on the top of the North elevation of 231 Miller Street (Sign 1) is at a height of between RL 130-135. Details are provided on DA.S-01 submitted with the development application.

UNREASONABLE OR UNNECESSARY

The proposed signs are to be attached to the facades of the existing building on the site and are located fully within the building envelope. They are proposed for the purpose of identifying the key building tenant, Workbee, and will not result in any overshadowing impact or loss of privacy for any existing or future residents. Only one of the proposed signs, SG.01, is non-compliant with the height standard.

The objectives of the development standard are achieved notwithstanding non-compliance with the standard.

The following table considers whether the sign that contravenes the development standard achieves the objectives of the development standard (Test 1 under Wehbe).

Objective	Comment
<i>(a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,</i>	The proposed sign is located fully within the facade of the existing building and does not protrude beyond the building envelope. There is therefore no impact on natural landforms or the slope of the land.
<i>(b) to promote the retention and, if appropriate, sharing of existing views,</i>	The proposed sign is located fully within the facade of the existing building and does not protrude beyond the building envelope. There is therefore no impact on existing views.
<i>(c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,</i>	The proposed sign is located fully within the facade of the existing building and does not protrude beyond the building envelope. There is therefore no impact on solar access to existing or future development in the vicinity.
<i>(d) to maintain privacy for residents of existing dwellings and to promote privacy for</i>	There will be no impact upon privacy for residents of existing or future dwellings as a result of the proposed building identification sign.

<i>residents of new buildings,</i>	
<i>(e) to ensure compatibility between development, particularly at zone boundaries,</i>	The proposed sign will have no impact upon compatibility of existing development within the North Sydney Centre.
<i>(f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of an area.</i>	The proposed sign is located fully within the facade of the existing building and does not protrude beyond the building envelope. There is therefore no impact upon the scale or density of development.

As demonstrated in the table above, the proposed signage has no impact upon the achievement of the objectives of the Height of Buildings development standard.

In accordance with the decision in *Wehbe v Pittwater Council* [2007] NSWLEC and *Initial Action Pty Limited v Woollahra Municipal Council* [2018], therefore, compliance with the development standard is demonstrated to be unreasonable or unnecessary.

SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS

The environmental planning grounds to justify the departure of the height standard are as follows:

- The proposed signs are to be attached to the facades of the existing building on the site and are located fully within the building envelope;
- The sign that is located above RL130 will not be illuminated;
- The proposed sign located above RL130 will not have any impact on the amenity of adjoining neighbours and will not result in any overshadowing or loss of privacy for neighbouring properties.

PUBLIC INTEREST

The proposed signage is considered to be in the public interest for the following reasons:

- The proposal generally complies with the principles and objectives of all relevant planning controls and it has been shown to produce negligible impacts upon the amenity of the surrounding area;

- The proposal will provide temporary construction jobs during the installation phase of works, and on-going jobs in signage maintenance at the project's completion;
- The proposal will provide clear identification for the location of Workbee, one of the major tenants at the site;
- The proposal will activate the northern site frontage and increase the site's overall visual interest within the North Sydney skyline; and
- The proposal will assist in strengthening North Sydney's status as a major commercial centre within Sydney.

STATE OR REGIONAL ENVIRONMENTAL PLANNING

The proposed contravention of the height development standard does not raise any matter of significance for State or regional environmental planning, the public benefit of maintaining the development standard, or any other matters required to be taken into consideration by the Secretary before granting concurrence required by clause 4.6(5).

There is no identified outcome which would be prejudicial to planning matters of state or regional significance that would result as a consequence of varying the development standard as proposed by this application.

As demonstrated already, the proposal is consistent with the objectives of the zone and the objectives of the development standard and in our opinion, there are no additional matters which would indicate there is any public benefit of maintaining the development standard in the circumstances of this application.

CONCLUSION

While we do not consider that the proposed location of Sign 1 contravenes the height standard, by virtue of Clauses 6.2 and 6.3 of the NSLEP2013, this assessment demonstrates that the proposal will not result in any adverse impacts resulting from the location of Sign 1 above the height of RL130.